

MONTEREY COUNTY ZONING ADMINISTRATOR

Meeting: February 26 , 2009	Time: 1:30 P.M.	Agenda Item No.: 1
Project Description: Combined Development Permit consisting of a Coastal Administrative Permit for the demolition of an existing 2,075 square foot single family dwelling, construction of a new 2,698 square foot, two story single family dwelling, 540 square foot attached garage, 48 square foot covered entry, 128 square foot second floor deck, and 76 square feet of planters; grading for the single family dwelling and driveway (10 cubic yards cut/10 cubic yards fill); A Coastal Development Permit for development within 750' of a known archaeological resource; and Design Approval.		
Project Location: 2691 16 th Avenue, Carmel		APN: 009-394-003-000
Planning File Number: CMB080002		Name: Marvin Freeman, Property Owner; Moore Design Group, Agent
Plan Area: Carmel Land Use Plan		Flagged and staked: Yes
Zoning Designation: : “MDR/2-D (CZ)” [Medium Density Residential, 2 units per acre with a Design Control Overlay(Coastal Zone)]		
CEQA Action: Categorically Exempt per Section 15303 (a)		
Department: RMA - Building Department		

RECOMMENDATION:

Staff recommends that the Zoning Administrator approve the Combined Development Permit based on the Findings and Evidence (**Exhibit B**) and subject to the recommended Conditions (**Exhibit C**).

PROJECT OVERVIEW:

The proposed project consists of the demolition of an existing one-story house for the construction of a new two-story single family dwelling with an attached garage and associated grading (10 cubic yards cut, 10 cubic yards fill). The project originally included a sub-level garage and game-room, however, the basement has been eliminated from the project in response to concerns about the impacts of grading to the area. On July 10, 2008, the Zoning Administrator tabled the project until an uncertain date to give Mr. Freeman time to redesign the project. The project is located on the north side of 16th Avenue, just west of Monte Verde Street in the unincorporated area of Carmel. The proposed dwelling will be constructed on approximately the same footprint as the existing structure. Although the project involves development within 750 feet of a known archaeological resource, no significant issues were identified in the archaeological report prepared for the project. All project work is proposed to occur within an area already disturbed by grading and landscaping; therefore, the potential for inadvertent impacts is limited and can be controlled by the use of standard project conditions.

PUBLIC COMMENT:

Five letters were received regarding this project (**Exhibit D**). The letters expressed concerns about:

- (a) **View Issues.** Due to the height of the proposed dwelling, existing views from adjacent properties may be diminished.
- (b) **Loss of Privacy.** The proposed second story may affect privacy on neighboring lots.
- (c) **Height Issues.** It was believed that properties located on 16th Avenue were restricted to an 18 foot height limit.
- (d) **Inconsistency with the character of the neighborhood.** Concern that the proposed two-story home will not blend in with existing one-story homes in the neighborhood.

- (e) **Cedar Tree.** That the Cedar tree located at the front of the proposed project not be cut down or harmed.

In response to the concerns expressed by the neighbors about the height of the proposed dwelling, the pitch of the roof and the first floor plate height have been reduced, resulting in a ten inch reduction in the ridge height of the two-story wing of the house and a two foot reduction in the ridge height of the one story wing. This will not be the first two-story residence in the neighborhood and at 23 feet-1 inch tall, the proposed residence will be lower than the maximum allowed height of 30 feet. Condition number 8 has been added to ensure that the residence is built to the approved height and condition 5 requires protection of the existing trees on site.

OTHER AGENCY INVOLVEMENT:

- ✓ Carmel Highlands Fire Protection District
- ✓ Public Works Department
- ✓ Environmental Health Division
- ✓ Water Resources Agency

The above checked agencies and departments have reviewed the proposed project. No conditions were recommended or incorporated into the condition compliance reporting plan.

The project was referred to the Carmel Unincorporated/Highlands LUAC. On June 16, 2008, the Carmel Unincorporated/Highlands LUAC unanimously recommended approval of the project with the recommendation that the roof on the west side be changed to a hip roof and that the wood board and batt construction be carried around the house at the first floor level. A copy of the minutes is attached as **Exhibit E**.

Note: The decision on this project is appealable to the Board of Supervisors and to the California Coastal Commission.

Daniel Lister
(831) 759-6617, listerdm@co.monterey.ca.us
February 17, 2009

Cc: Front Counter Copy, Zoning Administrator; Carmel Highland Fire Protection District; Public Works Department; Environmental Health Division; Water Resources Agency; Delinda Robinson, Senior Planner; Daniel Lister, Land Use Technician; Carol Allen, Senior Secretary; Marvin Freeman, Owner/Applicant; John Moore Design, Agent; Planning File CMB080002.

Attachments: Exhibit A Project Data Sheet
Exhibit B Recommended Findings and Evidence
Exhibit C Recommended Conditions of Approval
Exhibit D Letters from the Public
Exhibit E Minutes of the Carmel Unincorporated/Highlands LUAC
Exhibit F Site Plan, Floor Plan and Elevations
Exhibit H Vicinity Map

This report was reviewed by Delinda Robinson, Senior Planner.

EXHIBIT A

EXHIBIT B
RECOMMENDED FINDINGS AND EVIDENCE

1. **FINDING: CONSISTENCY** - The project, as described in Condition No. 1 and as conditioned, conforms to the policies, requirements, and standards of the Monterey County General Plan, the Carmel Land Use Plan, Coastal Implementation Plan (Part 4), and the Monterey County Zoning Ordinance (Title 20) which designates this area as appropriate for residential development.

- EVIDENCE:**
- (a) The text, policies, and regulations in the above referenced documents have been evaluated during the course of the review of applications. No conflicts were found to exist. No communications were received during the course of review of the project indicating any inconsistencies with the text, policies, and regulations in these documents.
 - (b) The property is located at 2691 16th Avenue, Carmel (Assessor's Parcel Number 009-394-003-000), Carmel Area Land Use Plan, Coastal Zone. The parcel is zoned Medium Density Residential, two units per acre, with a Design Control overlay ("MDR/2-D (CZ)") which allows the first single family dwelling per legal lot of record (Section 20.12.040.A) subject to a Coastal Administrative Permit in each case. Therefore, the property is suitable for the proposed development.
 - (c) The project planner conducted a site inspection on April 30, 2008 to verify that the project on the subject parcel conforms to the plans listed above.
 - (d) The materials and colors of the proposed residence are consistent with the materials and colors of other homes in the vicinity. Several other two-story homes exist within a two block radius of the proposed residence.
 - (e) The project site is located within 750 feet of a known archaeological resource; a Coastal Development Permit is included to allow development within this area (20.146.090.A.1 CIP). An Archaeological survey prepared for this project did not identify the potential for impacts to prehistoric resources. The archaeologist will be on site during demolition and grading activities to ensure that no resources are present that could not previously be observed. Conditions recommended in the report have been included as conditions of approval for this project (Conditions #3 & 4) to ensure that if any archaeological resources are found on site they will be protected, therefore, the project is consistent with the applicable policies.
 - (f) The project was referred to the Carmel Unincorporated/Highland Land use Advisory Committee (LUAC) for review. On June 16, 2008, the Carmel Unincorporated/Highlands LUAC unanimously recommended approval with the recommendation that the roof on the west side of the house be changed to a hip roof and that board and batt design shown at the front and sides of the dwelling be continued around the rear of the first story (**Exhibit E**).
 - (g) The applications, plans and related support materials submitted by the project applicant to the Monterey County RMA-Building Services Department for the proposed development, found in the Project File CMB080002.

2. **FINDING: SITE SUITABILITY** – The site is physically suitable for the use proposed.

EVIDENCE: (a) The project has been reviewed for site suitability by the following departments and agencies: RMA - Planning Department, Carmel Highlands Fire Protection District, Public Works, Environmental Health Division, and Water Resources Agency. There has been no indication from these departments/agencies that the site is not suitable for the proposed development. No conditions were recommended or incorporated into the condition compliance reporting plan.

(b) Technical reports by outside archaeological and geological consultants indicated that there are no physical or environmental constraints that would indicate that the site is not suitable for the use proposed. County staff concurs. The following reports have been prepared:

i. "Geotechnical Soil-Foundation & Geoseismic Report" (LIB080341) prepared by Grice Engineering and Geology Inc, Salinas, CA, February 11th, 2008.

ii. "Preliminary Archaeological Reconnaissance" (LIB080216) prepared by Archaeological Consulting, Salinas, CA, September 12, 2007.

(c) Staff conducted a site inspection on April 30, 2008 to verify that the site is suitable for this use.

(d) Materials in Project File CMB080002.

3. **FINDING: CEQA (Exempt):** - The project is categorically exempt from environmental review and no unusual circumstances were identified to exist for the proposed project.

EVIDENCE: (a) California Environmental Quality Act (CEQA) Guidelines Section 15303(a), Class 3 categorically exempts construction of a new single family dwelling.

(b) No adverse environmental effects were identified during staff review of the development application during a site visit on April 30, 2008.

(c) There are no unusual circumstances related to the project or property

(d) The archaeological survey submitted for the project did not reveal any potentially significant resources at the site.

(e) The proposed project is consistent with the Local Coastal Plan governing development at the site (Finding 1) and the site is suitable for the proposed development (Finding 2).

4. **FINDING: NO VIOLATIONS** - The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of the County's zoning ordinance. No violations exist on the property. Zoning violation abatement costs, if any, have been paid.

EVIDENCE: (a) Staff reviewed Monterey County RMA - Planning Department and RMA-Building Services Department records and is not aware of any violations existing on subject property.

5. **FINDING: HEALTH AND SAFETY** - The establishment, maintenance, or operation of the project applied for will not under the circumstances of this particular case be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.

EVIDENCE: (a) Preceding findings and supporting evidence.

6. **FINDING: PUBLIC ACCESS** - The project is in conformance with the public access and public recreation policies of the Coastal Act and Local Coastal Program, and does not interfere with any form of historic public use or trust rights. No access is required as part of the project as no substantial adverse impact on access, either individually or cumulatively, as described in Section 20.70.050.B.4.c of the Monterey County Coastal Implementation Plan, can be demonstrated.

EVIDENCE: (a) The subject property is not described as an area where the Local Coastal Program requires access.

(b) The subject property is not indicated as part of any designated trails or shoreline access as shown in Figure 3, of the Public Access Map and complies with Carmel Area Land Use Plan.

(c) No evidence or documentation has been submitted or found showing the existence of historic public use or trust rights over this property.

(d) Staff conducted a site visit on April 30, 2008.

7. **FINDING: APPEALABILITY** - The decision on this project is appealable to the Board of Supervisors and the California Coastal Commission.

EVIDENCE: (a) Board of Supervisors: Section 20.86.030 of the Monterey County Coastal Implementation Plan - Part 1.

(b) Coastal Commission: Section 20.86.080.A.3 of the Monterey County Zoning Ordinance, because the project involves conditional approval for development within 750 feet of a known archaeological site.

EXHIBIT C
Monterey County Resource Management Agency
Planning Department
Condition Compliance Reporting Plan

Project Name: Marvin Freeman
File No: CMB080002
Approved by: Zoning Administrator

APNs: 009-394-003-000
Date: February 26, 2009

<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (name/date)</i>
1.		<p>PD001 - SPECIFIC USES ONLY The Combined Development Permit (CMB080002) allows for the demolition of an existing 2,075 square foot single family dwelling, construction of a new 2,698 square foot, two story single family dwelling, 540 square foot attached garage, 48 square foot covered entry, 128 square foot second floor deck, and 76 square feet of planters; grading for the single family dwelling and driveway (10 cubic yards cut/10 cubic yards fill). The property is located at 2691 16th Avenue Carmel (Assessors Parcel Number: 009-394-003-000) Carmel Area Land Use Plan. This permit was approved in accordance with County ordinances and land use regulations subject to the following terms and conditions. Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of the RMA - Planning Department. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. To the extent that the County has delegated any condition compliance or mitigation monitoring to the Monterey County Water Resources Agency, the Water Resources Agency shall provide all information requested by the County and the County shall bear ultimate responsibility to ensure that conditions and mitigation measures are properly fulfilled. (RMA - Planning Department)</p>	Adhere to conditions and uses specified in the permit.	Owner/ Applicant	Ongoing unless otherwise stated	

<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (name/date)</i>
2.		<p>PD002 - NOTICE-PERMIT APPROVAL</p> <p>The applicant shall record a notice which states: "A permit Resolution (_____) was approved by the Zoning Administrator for Assessor's Parcel Number 009-394-003-000 on February 26, 2009. The permit was granted subject to (__) conditions of approval which run with the land. A copy of the permit is on file with the Monterey County RMA - Planning Department." Proof of recordation of this notice shall be furnished to the Director of the RMA - Planning Department prior to issuance of building permits or commencement of the use. (RMA - Planning Department)</p>	Proof of recordation of this notice shall be furnished to the RMA - Planning Department.	Owner/ Applicant	Prior to the issuance of grading and building permits or commencement of use.	
3		<p>CULTURAL RESOURCES – NON-STANDARD CONDITION</p> <p>A qualified Archaeologist shall be on site during any demolition and /or grading activities. The Archaeologist shall submit confirmation of his/her presence onsite during this work and indicate what was observed. This letter shall be submitted prior to pouring the concrete slab.</p>	Letter from Archaeologist to be submitted to Monterey County RMA-Planning Department.	Owner/ Applicant	Prior to pouring the concrete slab.	

<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (name/date)</i>
4.		<p>PD003(A) – CULTURAL RESOURCES – NEGATIVE ARCHAEOLOGICAL REPORT</p> <p>If, during the course of construction, cultural, archaeological, historical or paleontological resources are uncovered at the site (surface or subsurface resources) work shall be halted immediately within 50 meters (165 feet) of the find until a qualified professional archaeologist can evaluate it. The Monterey County RMA - Planning Department and a qualified archaeologist (i.e., an archaeologist registered with the Register of Professional Archaeologists) shall be immediately contacted by the responsible individual present on-site. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery.</p> <p>(RMA - Planning Department)</p>	<p>Stop work within 50 meters (165 feet) of uncovered resource and contact the Monterey County RMA - Planning Department and a qualified archaeologist immediately if cultural, archaeological, historical or paleontological resources are uncovered. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery.</p>	<p>Owner/ Applicant/ Archaeologist</p>	<p>Ongoing</p>	

<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (name/date)</i>
5.		<p>PD004 - INDEMNIFICATION AGREEMENT</p> <p>The property owner agrees as a condition and in consideration of the approval of this discretionary development permit that it will, pursuant to agreement and/or statutory provisions as applicable, including but not limited to Government Code Section 66474.9, defend, indemnify and hold harmless the County of Monterey or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees to attack, set aside, void or annul this approval, which action is brought within the time period provided for under law, including but not limited to, Government Code Section 66499.37, as applicable. The property owner will reimburse the county for any court costs and attorney’s fees which the County may be required by a court to pay as a result of such action. County may, at its sole discretion, participate in the defense of such action; but such participation shall not relieve applicant of his obligations under this condition. An agreement to this effect shall be recorded upon demand of County Counsel or concurrent with the issuance of building permits, use of the property, filing of the final map, whichever occurs first and as applicable. The County shall promptly notify the property owner of any such claim, action or proceeding and the County shall cooperate fully in the defense thereof. If the County fails to promptly notify the property owner of any such claim, action or proceeding or fails to cooperate fully in the defense thereof, the property owner shall not thereafter be responsible to defend, indemnify or hold the county harmless. (RMA - Planning Department)</p>	<p>Submit signed and notarized Indemnification Agreement to the Director of RMA – Planning Department for review and signature by the County.</p> <p>Proof of recordation of the Indemnification Agreement, as outlined, shall be submitted to the RMA – Planning Department.</p>	Owner/ Applicant	Upon demand of County Counsel or concurrent with the issuance of building permits, use of the property, filing of the final map, whichever occurs first and as applicable	

<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (name/date)</i>
6.		<p>PD011 – TREE AND ROOT PROTECTION</p> <p>Trees which are located close to the construction site(s) shall be protected from inadvertent damage from construction equipment by fencing off the canopy driplines and/or critical root zones (whichever is greater) with protective materials, wrapping trunks with protective materials, avoiding fill of any type against the base of the trunks and avoiding an increase in soil depth at the feeding zone or drip-line of the retained trees. Said protection, approved by a certified arborist, shall be demonstrated prior to issuance of building permits subject to the approval of the RMA – Director of Planning. If there is any potential for damage, all work must stop in the area and a report, with mitigation measures, shall be submitted by a certified arborist. Should any additional trees not included in this permit be harmed, during grading or construction activities, in such a way where removal is required, the owner/applicant shall obtain required permits. (RMA - Planning Department)</p>	Submit evidence of tree protection to the RMA - Planning Department for review and approval.	Owner/ Applicant	Prior to the issuance of grading and/or building permits	
			Submit on-going evidence that tree protection measures are in place through out grading and construction phases. If damage is possible, submit an interim report prepared by a certified arborist.	Owner/ Applicant/ Arborist	During Construction	
			Submit photos of the trees on the property to the RMA – Planning Department after construction to document that tree protection has been successful or if follow-up remediation or additional permits are required.	Owner/ Applicant	Prior to final inspection	
7.		<p>PD041 – HEIGHT VERIFICATION</p> <p>The applicant shall have a benchmark placed upon the property and identify the benchmark on the building plans. The benchmark shall remain visible onsite until final building inspection. The applicant shall provide evidence from a licensed civil engineer or surveyor, to the Director of the RMA- Building Services Department for review and approval, that the height of the structure(s) from the benchmark is consistent with what was approved on the building permit</p>	1) The applicant shall have a benchmark placed upon the property and identify the benchmark on the building plans. The benchmark shall remain visible onsite until final building inspection	Owner/ Applicant	Prior to the issuance of grading or building permits	

<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (name/date)</i>
		associated with this project. (RMA – Planning Department and Building Services Department)	2) The applicant shall provide evidence from a licensed civil engineer or surveyor, to the Director of the RMA- Building Services Department for review and approval, that the height of the structure(s) from the benchmark is consistent with what was approved on the building permit.	Owner/ Applicant/ Engineer	Prior to the final inspection	