



CITY OF CARMEL-BY-THE-SEA APPEAL FORM

Appeals to a Board or Commission must be made by completing and submitting an Appeal Form with the City Clerk. Appeals shall be filed **within 10 calendar days following the date of action** and paying the required filing fee as established by City Council resolution.

Appeals to the City Council must be made by completing and submitting an Appeal Form with the City Clerk. Appeals shall be filed **within 10 working days following the date of action** and paying the required filing fee as established by City Council resolution.

Carmel Preservation Association, Neal Kruse

Name of Appellant

P.O. Box 7239, Carmel, CA 93921

Mailing Address of Appellant

[Redacted]

[Redacted]

Phone Number

Email address

City of Carmel-By-The-Sea

Send correspondence to the following party (if different than Appellant):

ALEXANDER HENSON

APR 24 2024

Name

Office of the City Clerk

P.O. Box 1381, Carmel Valley, CA. 93924

Mailing Address

[Redacted]

[Redacted]

Phone Number

Email address

2:45pm

Planning Commission

Commission, Board, Official or Department whose action is being appealed

Physical location of property involved (street location or address): SAN CARLOS STREET 2 NORTHWEST OF 4TH AVENUE

Block 34, Lots 1, 3, 5, por. of 7, por. of 8, 9, 10, por. of 11, 12, 14 APN: 010-124-001-000 and 010-124-014-000

Lot Block APN

Date of decision being appealed: 4-10-2024

Specific action or decision being appealed: Use Permit Approval

Grounds for appeal (attach additional pages if necessary): See Attachment A and B

[Redacted signature area]

Signature of Appellant SB# 53741

ATTACHMENT A

The issue of this appeal is the failure of the Planning Commission to adequately assess the environmental impacts of the proposed project pursuant to the requirements of the California Environmental Quality Act, Public Resources Code Section 21000 et seq. Specifically this appeal challenges the adoption of the categorical exemption of “infill development” as the basis to not identify and mitigate significant adverse environmental impacts. This project is not an infill development project as defined by the Office of Planning and Research (OPR).

The project as proposed and approved by the Planning Commission may have significant effects from traffic, noise and air quality, asbestos release being an especially significant concern, thus nullifying the use of the “infill” categorical exemption.

Further, there are “unusual circumstances” attendant to this project making a categorical exemption inappropriate pursuant to CCR Section 1500.2, particularly in regards to the demolition and construction phases. Those circumstances are:

1. The proposed project is surrounded by residential dwellings which will be subjected to significant construction noise, and traffic, particularly during excavation for the parking structure, and air quality impacts from dust, diesel exhaust and potentially, asbestos.
2. Given the quantity of dirt to be removed for the parking structure, and the amount of cement needed to build the project, the truck traffic with attendant noise, traffic impacts, and air quality impacts, will be significant along the entire truck route through the town from the construction site to the highway. This could also adversely impact emergency vehicle traffic.
3. The historic façade of the building will be lost unnecessarily. One more piece of Carmel's history obliterated.
4. The plan views are incomplete and fail to accurately portray the building as proposed. In this regard the height limit needs to be accurately assessed on this sloping site.
5. The west side proposes an increase in glass compared to that existing with consequences for the neighbors from increased reflective glare.
6. The impact on parking opportunities during demolition and construction.
7. This project is located between two major streets which serve as ingress and egress to the Village. Where will the construction workers and construction vehicles park and how will they navigate through this very congested part of town. The traffic and circulation of these major demolition and construction vehicles, dump trucks, cement mixers, etc. has not been addressed. We have two inns sharing same the city block with Hofsas and two more on Fourth Avenue, one at intersection with San Carlos and the other at the intersection with Dolores. This area contains multiple inns and is also a residential neighborhood that will be heavily impacted by the project traffic.

ATTACHMENT B

The existing Hofsas House demolition, and construction of the new Carmel Legacy Hotel was approved by the Planning Commission on April 10, 2024. We are appealing this Planning Commission decision to exempt the project from CEQA because the criteria to qualify for the "In-fill development Projects" exemption were misused and misinterpreted. The exemption was therefore applied erroneously. The exemption is also inconsistent with the way similar past projects in Carmel-by-the-Sea were analyzed in Environmental Impact Reports (EIRs) under CEQA.

For historical perspective, there were at least three similar projects in the past for which the City prepared EIRs for environment assessment and mitigation of impacts. Specifically, the scope of these projects included the demolition of existing and old commercial structures followed by the construction of new commercial structures in their places, as follows:

-Sunset Center 10/16/1995

"Demolition of Sunset Theater and construction of a new larger theater building in its place."

-San Carlos Inn Project 3/19/1999

"The project proposed to demolish a small commercial real estate office and two apartments which front San Carlos Street, and a converted single-family residence with attached subordinate unit located within the basement which fronts Mission Street. After demolition, the project proposes to construct a 13-unit residential care facility on 4,335 square feet of a 8,500 square-foot parcel located in the RC District."

-Plaza Del Mar 5/28/2004

"Construct a two-story mixed-use structure with ground floor retail/residential (5 units), second story residential (3 units), over two underground parking levels. Project includes the demolition of existing one-story commercial building and detached office building."

The Hofsas House project also involves demolition and replacement of structures as these three earlier projects did. The City nonetheless did not see fit to do any CEQA analysis, let alone prepare an EIR. Instead, the City concluded that the project was exempt from CEQA based on the exemption for "In-fill Development Projects." However, as described by the State's Office of Planning and Research (OPR): "The term 'infill development' refers to building within unused and underutilized lands within existing development patterns,

typically but not exclusively in urban areas.” The Hofsas House project is not an infill development project.

CEQA documentation should have been more comprehensive, and an EIR should have been considered, especially for a project of this magnitude surrounded by residential neighborhoods. Numerous residents live in homes that are situated directly across the street from the project site and these homes surround the project on all sides. These residents and neighborhoods will be subject to potential adverse demolition and construction related impacts. In addition, residents living in homes along the demolition and construction related truck routes may also be adversely impacted.

A major concern is that the demolition and construction phase was not thoroughly analyzed for potential adverse public health and safety impacts. Demolition in particular could result in considerable particulate emissions and other air pollutants, including asbestos and other toxins, and diesel exhaust from heavy equipment and trucks. In addition, truck traffic and noise are also of concern.

Given that the project site abuts neighborhoods on all sides, toxic pollutants including asbestos and other emissions such as diesel exhaust will likely be dispersed into these residential areas. The demolition and trucks transporting tons of debris from which particulates could escape into neighborhoods could be particularly impactful.

The Hofsas House is a substantial structure with a large footprint of almost an entire city block, and it is literally surrounded by residents. No legitimate health and safety assessment to address the demolition and construction phase of the project was undertaken before the Planning Commission approved the project.

The following statement represents the conclusion of staff that the project was exempt from CEQA requirements:

Carmel-by-the-Sea Planning Commission Staff Report

April 10, 2024

“Staff recommends the project be found categorically exempt from the California Environmental Quality Act (CEQA), State CEQA guidelines and local environmental regulations, pursuant to Section 15332 (Class 32) – Infill Development Projects. The project includes the demolition of a 38-room hotel and the construction of a new 38-room hotel and therefore qualifies for a Class 32 exemption. The proposed project does not present any unusual circumstances that would result in a potentially significant environmental impact, and no exceptions to the exemption exist pursuant to section 15300.2 of the CEQA Guidelines.”

The staff statement above references Section 15332 (infill projects) as the basis for an exemption. However, the demolition and replacement of the Hofsas House with a new

hotel is not an "infill" project and using that category is misuse of a categorical exemption in order to avoid an environmental review and analysis that is otherwise required by CEQA. Furthermore, Section 15332(d) refers to significant effects relating to traffic, noise, and air quality as not qualifying:

**California Code of Regulation - Title 14
Section 15332 - In-Fill Development Projects**

"Class 32 consists of projects characterized as in-fill development meeting the conditions described in this section.

(a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations. (b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses. (c) The project site has no value, as habitat for endangered, rare or threatened species. (d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality. (e) The site can be adequately served by all required utilities and public services."

The proposed project does not qualify for the exemption for "In-Fill Development Projects." It has the potential for significant effects from the demolition and construction phase of the project. The staff also refers to the CEQA Guidelines to claim that there are no "unusual circumstances" to preclude CEQA exemption, but even the Guidelines do not allow for categorical exemptions where there is reasonable potential for significant effects:

Section 15300.2 - Exemptions"(c) Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances."

The "unusual circumstances" in this case are surrounding single family residential neighborhoods immediately adjacent to the project site.