

INTERPRETATION REQUEST

DEMOLITION EXEMPTIONS FROM COASTAL DEVELOPMENT PERMITS

Code Section(s):

- 20.70.120

Date: December 20, 2006

Requested by: Jennifer Savage

Subject: Demolition Exemptions from Coastal Development Permits

What is the Question?

Can demolition be exempted from a Coastal Development Permit?

Short Answer:

Yes, similar to how additions and accessory structures are treated. In this case, the appropriate entitlement is a Coastal Administrative Permit.

Keep in mind that:

- Non-exempt development noted in each land use Chapter of the CIP (ESHA, slopes, archaeological, etc) takes precedence over exemptions listed Section 20.70.120. For example, demolition of a habitable structure (exempt under 20.70.120) that is located within 100 feet of ESHA requires a CDP; and
- The entire Del Monte Forest is located between the ocean and the first public road (Highway 1) and, therefore, is an exception to the exemption meaning a CDP is required for demolition in this area.

Discussion:

Section 20.70.120 lists projects that are exempt from Coastal Development Permit requirements. Under the Coastal Act, all projects require a Coastal Development Permit. Monterey County created terminology for a Coastal Administrative Permit (CAP) to identify projects that require discretionary review, but not to the level of a Use Permit. Coastal Development Permit (CDP) as used in the County's LCP is equivalent to a Use Permit.

Section 20.70.025 states that: "*All development* as defined by Section 20.06.310 *shall require a Coastal Development Permit* except as exempted by Section 20.70.120." CDP in this context includes CAP and CDP entitlements.

Section 20.06.310.7 defines "Development" to include: construction, reconstruction, *demolition*, or alteration of any structure. Therefore, the demolition of a habitable accessory structure is considered development.

As with all actions that meet the definition of development, we start with the premise that demolition requires a permit prior to applying the exemption criteria as shown below in Section 20.70.120 - Exemptions.

The next step is to see if there is any exemption. Section 20.70.120.A has multiple components to consider:

- 1) Exemption of maintenance, *alteration*, or addition to existing single-family dwellings.
- 2) The exemption is further defined to include:
 - a. establishment or expansion of non-habitable accessory structures not exceeding 1,000 square feet; and
 - b. normally associated with residential uses such as garages, decks, workshops, and storage buildings not exceeding 1,000 square feet.
- 3) Exceptions to this exemption (meaning not exempt and require a permit) include:
 - Structural work or alteration to landforms including removing/planting vegetation on a beach, wetland, or seaward of the mean high tide level, and within 50 feet of a bluff.
 - Expansion or construction of wells and septic
 - Property located between the sea and the first public road (e.g. all of Del Monte Forest).
 - Water using development such as swimming pools, in areas determined to have critically short water supply (North County and Carmel Areas)
 - Additions or expansions requiring permits as a condition of a previous permit.

In conclusion, addition or demolitions of habitable structures as well as non-habitable structures up to 1,000 square feet are exempt from a Coastal Development Permit, except for classes of development listed in Section 20.70.120.A numbered 1 through 6. This exemption does not apply to the entire Coastal portion of the Del Monte Forest area because the entire area is west of the first public road.

Facts of the situation:

A parcel is zoned MDR/2-D(CZ) in the Carmel Land Use Plan area. The parcel has an existing single family dwelling and a legal non-conforming Senior Unit. Although Section 20.64.010.F. states that Senior Units are not allowed in the Carmel Planning Area, this Senior Unit was placed on the property with an approved planning permit. The applicant would like to demolish the Senior Unit.

A senior unit is a habitable accessory structure. Neither the parcel nor the structures meet any of the six exception parameters of Section 20.70.120.A (e.g. not located in the Del Monte Forest). The parcel and the demolition of the Senior Unit also do not fall into the list of non-exempt development. Therefore, a Coastal Development Permit is not required to demo the Senior Unit in this scenario.

Applicable Code Sections:

- 20.06.310 Development (definition)
- 20.06.070 Alteration, Structural (definition)
- 20.12.030 Non-exempt Development (MDR zone)
- 20.70.025 Coastal Development Permits
- 20.70.120 Exemptions from Coastal Development Permits

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Interpretation/Opinion Confirmed by Managers Neil Nuno .