

**CITY OF CARMEL-BY-THE-SEA
CITY COUNCIL**

RESOLUTION NO. 2023-099

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA OVERTURNING THE JULY 2023 DECISION OF THE HISTORIC RESOURCES BOARD (RESO. 2023-009-HRB) AND ISSUING A DETERMINATION OF CONSISTENCY WITH THE SECRETARY OF THE INTERIOR'S STANDARDS, WITH NEW FINDINGS AND CONDITIONS, FOR THE CONSTRUCTION OF A MIXED-USE BUILDING WITH SUBTERRANEAN GARAGE ON A PORTION OF THE NORTHERN CALIFORNIA SAVINGS & LOAN COMPLEX SITE LOCATED AT DOLORES STREET 2 SOUTHEAST OF 7TH AVENUE IN THE SERVICE COMMERCIAL (SC) ZONING DISTRICT. APNS 010-145-012, 010-145-023, 010-145-024

WHEREAS, on May 11, 2023, Jason Diaz of International Design Group (IDG), ("Applicant") submitted an application (DR 23-140) on behalf of Esperanza Carmel, on May 24, 2022 requesting the construction of a mixed use building located on Lots 6, 8, and 10 of Block 91; and

WHEREAS, the project is partially location on a historic property is known as the Northern California Savings and Loan Complex ("Complex") which is listed on the Carmel Inventory of Historic Resource and Carmel Register of Historic Resources; and

WHEREAS, the Complex consists of Lots 2, 4, 6, and 8 located on Block 91 and is currently comprised of Assessor Parcel Numbers (APNs: 010-145-002, 010-145-023, 010-145-024); and

WHEREAS, APN 010-145-002 is comprised of lots 2 & 4 and is owned by D&K Dolores, LLC ("D&K Dolores"). APN 010-145-023 and 010-145-024 are comprised of lot 6 and 8 respectively. Both lots 6 & 8 are owned by Esperanza Carmel Commercial LLC ("Esperanza Carmel"); and

WHEREAS, the applicant is proposing to construct a portion of a 15,351-square-foot mixed-use building with a 9,805-square-foot subterranean garage on lots 6 and 8 of the Northern California Savings & Loan Complex site; and

WHEREAS, the project qualifies as a Major Alteration to a Historic Resource pursuant to CMC 17.32.160; and

WHEREAS, pursuant to CMC 17.32.120 (Alteration of Historic Resources), a determination of consistency with the Secretary's Standards shall be obtained prior to altering, remodeling, demolishing, grading, relocating, reconstructing or restoring any historic resource; and

WHEREAS, pursuant to CMC 17.32.120.B, determinations of consistency for major alterations shall be prepared by a qualified professional and shall be supported by written documentation that (1) identifies which of the Secretary of the Interior's Standards for Rehabilitation are applicable to the project, (2) reviews the proposed project, and (3) explains the basis of the determination; and

WHEREAS, a Phase II report was prepared by a qualified professional, Seth Bergstein of PAST Consultants, dated June 30, 2023, and found the proposed amendments to be consistent with the Secretary of the Interior's Standards for Rehabilitation provided the recommendations outlined in the report were carried out; and

WHEREAS, on July 17, 2023, the Historic Resources Board held a duly noticed public hearing to receive public testimony regarding the Determination of Consistency for the application, including without limitation, information provided to the Planning Commission by City staff and through public testimony on the application; and

WHEREAS, on July 17, 2023, the Historic Resources Board adopted Resolution 2023-009-HRB issuing a Determination of Consistency for the construction a 15,351-square-foot mixed-use building with a 9,805-square-foot subterranean garage on a portion of the Northern California Savings & Loan Complex site; and

WHEREAS, on August 3, 2023, during the 10-business day appeal period of the Historic Resources Board's decision, two City Council members requested the Council's Right of Review of the Historic Resources Board's decision consistent with CMC 2.04.160; and

WHEREAS, the Right of Review hearing was scheduled for the next available hearing date, September 12, 2023; and

WHEREAS, on September 1, 2023, a notice of the public hearing scheduled for September 12, 2023, was published in the Carmel Pine Cone in compliance with State law (California Government Code 65091) and mailed to owners of real property within a 300-foot radius of the project indicating the date and time of the public hearing; and

WHEREAS, on or before September 1, 2023, the Applicant posted the public notice on the project site and hand-delivered a copy of the public notice to each property within a 100-foot radius of the project site indicating the date and time of the public hearing; and

WHEREAS, on September 12, 2023, the City Council held a de novo public hearing to receive public testimony regarding the Determination of Consistency for the application, including without limitation, information provided to the City Council by City staff and through public testimony on the application; and

WHEREAS, as part of a Right of Review hearing, the City Council may uphold the decision of the board, commission, or committee, amend the decision and/or conditions attached to the decision, overturn the decision, or remand the matter to the board, commission or committee for further consideration (CMC 2.04.160.B); and

WHEREAS, on September 12, 2023 the City Council moved to continue the project with direction to staff to prepare specific findings and conditions based on the Council discussion overturning the previous Historic Resources Board Determination of Consistency (Resolution 2023-009-HRB), with new findings of Consistency and Conditions of Approval for the project to

be brought back for adoption at the October 3, 2023 hearing in accordance with CMC 17.32.160.B.1.a; and

WHEREAS, while the request for the Right of Review was initiated due to concerns surrounding the ornamented concrete wall ("Wall") at the southwest corner of the Community Room, additional concerns were raised regarding the proposed projects siting and spatial relationships to the Northern California Saving and Loan Complex ("Complex") as a whole; and

WHEREAS, on September 22, 2023, a notice of the public hearing scheduled for October 3, 2023, was published in the Carmel Pine Cone in compliance with State law (California Government Code 65091) and mailed to owners of real property within a 300-foot radius of the project indicating the date and time of the public hearing; and

WHEREAS, on or before September 22, 2023, the Applicant posted the public notice on the project site and hand-delivered a copy of the public notice to each property within a 100-foot radius of the project site indicating the date and time of the public hearing; and

WHEREAS, on October 3, 2023, the City Council held a public hearing to receive public testimony regarding the Determination of Consistency for the application, including without limitation, information provided to the City Council by City staff and through public testimony on the application; and

WHEREAS, this Resolution and its findings are made based upon evidence presented to the City Council at the hearing including, without limitation, the staff report and attachments submitted by the Community Planning and Building Department; and

WHEREAS, the City Council hereby finds that to allow the remaining original intact portion of the ornamented concrete wall to be visible from the public right-of-way, a waiver from the build-to-line requirement (CMC 17.14.130) may be granted by the Planning Commission for portions of the proposed building located on Lot 8, for up to 5-feet from the property line. This waiver and creation of a Design Non-Conformity is granted in accordance with CMC 17.32.100.D, Benefits Available to Historic Resources on the Register and is intended to be a benefit to the applicant and not a mandated requirement; and

WHEREAS, the City Council did hear and consider all said reports, attachments, recommendations and testimony herein above set forth and used their independent judgement to evaluate the project; and

WHEREAS, the California Environmental Quality Act (California Public Resources Code §§ 21000, et seq., "CEQA"), together with State Guidelines (14 California Code Regulations §§ 15000, et seq., the "CEQA Guidelines") and City Environmental Regulations (CMC 17.60) require that certain projects be reviewed for environmental impacts and that environmental documents be prepared; and

WHEREAS, adoption of a finding of consistency is “not a project” pursuant to section 15378 of the CEQA Guidelines. Adoption of a finding of consistency does not grant any permits or entitlements approving a project which would result in a direct or indirect physical change in the environment; and

WHEREAS, the facts set forth in the recitals are true and correct and are incorporated herein by reference.

NOW THEREFORE, BE IT RESOLVED, the City Council of the City of Carmel-by-the-Sea makes the following findings regarding the project:

City Council Findings	
No.	
1.	The use of the ornamented concrete method of construction was used on both the Bank Building and the site walls, and originally linked the building to its surroundings.
2.	The south portion of the ornamented concrete wall remains intact enough to reveal the original stone pattern design and retain its historical significance.
3.	The decision to move the concrete wall is a major alteration to a historic resource and affects the entire Northern California Savings and Loan Complex.
4.	Breaking apart or moving portions of a historic resource destroys the integrity of the resource.
5.	The subject concrete wall is considered a work done by a master craftsman, Brad Bowman, with careful and deliberate thought in the placement of the stones and sand finish.
6.	<p>Moving the subject concrete wall, and in turn the project, would violate three of the Secretary of the Interior’s Standards:</p> <ol style="list-style-type: none"> 1. Standard #2: <i>The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.</i> <ol style="list-style-type: none"> a. Council Finding: The ornamented concrete walls are an original landscape element from the 1972 design that still stands substantially intact today. Further, the spatial relationship between the Community Room and Bank Building are character defining features of the site. These spatial relationships extend beyond the building walls and include the ornamented concrete walls which were part of the original design concept and define the functional space of the complex from the parking lot. 2. Standard #5: <i>Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.</i> <ol style="list-style-type: none"> a. Council Finding: The wall exhibits distinctive materials, features, finishes and construction techniques and is an outstanding landscape feature of the 1972 design.

	<p>3. Standard #9: <i>New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.</i></p> <p>a. <u>Council Finding:</u> The proposed new construction will destroy historic materials if the wall is moved from its intended position. The spatial relationships that bring light and space to the entire complex, and are a character defining feature of the resource, will be forever dwarfed by the overly large and looming structure in the adjoining buildings. The Bank Building and Community Room were designed to be viewed from all four sides. Further, the complex exists on a corner in the downtown area and the environment that surrounds that building, including such landscape features, are also important. The ornamented concrete wall is significant for both its spatial significance on the site as well as the artistic value.</p>
7.	The same reasons for not moving the Community Room, which were found by the City Council on May 2, 2023 (Resolution 2023-052), also apply to the relocation of the wall.
8.	The original intent of the architect’s (Burde & Shaw, whom are listed in the City’s Historic Context Statement) 1972 design must be respected which included the walls as an integral part of the design.
9.	The important spatial relationships of the Northern California Saving and Loan Complex will be altered. The proposed project will loom over the Community Room. Removal of the remaining original concrete wall that shelters the community room on the south side would leave the Community Room windows looking out at the site of a new building instead of the artistic interior of the pebble wall, and eliminate and diminish the character defining spatial relationships of the site.
10.	The ornamented concrete wall is a distinctive feature of the site and a piece of publicly viewed art on private property and is a character defining feature of the site.
11.	The size of the proposed project itself demeans the existing Savings and Loan complex not by changing it, but rather by minimizing it into less significance. The proposed project does not subordinate to the complex but actually overwhelms it and confuses the composition of the entire block.
12.	The proposed project does not respect the space of the environment and the project needs to be modified so that the Bank Building and Community Room maintain their spatial relationships and are not subordinated by the proposed development.
13.	The site is a Historic Resource in the heart of downtown Carmel By the Sea. It is important that the City preserves Historic Resources consistent with municipal code section 17.32.

BE IT FURTHER RESOLVED, that an application to repair the damage to the original ornamented concrete walls as a result of the nails being installed in the wall and used to support the story poles shall be submitted to the Community Planning and Building Department within 30-calendar days of the date of this action. Failure to submit an application within 30-calendar days may result in further enforcement pursuant with CMC 17.32.190.

BE IT FURTHER RESOLVED, based on the above findings and evidence, that the City Council of the City of Carmel-By-The-Sea does hereby **overturn the July 2023 decision of the Historic Resources Board** (Reso. 2023-009-HRB) and **issue a Determination of Consistency with the Secretary of the Interior’s Standards** for the construction of a mixed-use building with subterranean garage on a portion of the Northern California Savings & Loan Complex site. This Determination of Consistency is further predicated on the following Recommendations and Draft Conditions of Approval being incorporated into the project, and accepted and approved by the City of Carmel-by-the-sea Planning Commission as part of the discretionary permit and approval for this project:

City Council Conditions	
No.	
Conditions for Consistency with Secretary’s Standards	
1.	Ornamented Concrete Wall. Prior to review by the Planning Commission, the Design Review plans shall be revised and submitted to the Community Planning and Building Department, so that the original ornamented concrete walls located adjacent to the Community Room are shown to remain in their original locations and configuration.
2.	Preservation of Spatial Relationships. Prior to review by the Planning Commission, the Design Review plans shall be revised and submitted to the Community Planning and Building Department, to preserve the existing spatial relationship of the Northern California Savings and Loan Complex. At a minimum, all proposed structural elements shall be located outside of the Preservation Buffer as depicted in Exhibit A of this resolution. Walkways, at grade stairways, landscaping, paving, and similar features may be allowed within the Preservation Buffer, however, building elements that are defined as building coverage (CMC 17.14.130) shall not be permitted to encroach. Building eaves shall be limited to an encroachment of 18 inches or less.
3.	Preservation of Site Context. To ensure the Northern California Savings and Loan Complex is not subordinated by the proposed development, prior to review by the Planning Commission, the Design Review plans shall be revised and submitted to the Community Planning and Building Department, to preserve the context of the site so that the Saving and Loan Complex remains a prominent feature as viewed from 7 th Avenue and Dolores Street. Changes to be considered should include but are not limited to: articulation of the front elevation to preserve and open the view from Dolores Street looking north, reducing and minimizing the mass of the structure(s) to maintain to not diminish the character of the complex, and further enhancing the open space around the Northern California Savings and Loan Complex.
Conditions of Approval	
4.	Ornamented Concrete Wall. The original ornamented concrete wall located at the southwest corner of the Community Room shall remain in its existing location and configuration. It shall remain unaltered and protected through construction. Site improvements shall not significantly obstruct the wall from public view and the wall shall remain accessible to the public as a piece of public art as part of a courtyard, interblock-walkway, or other means.
5.	Community Room Repairs. If repairs or alteration of any nature are proposed for the Community Room, the applicant shall submit in writing to the Community Planning and Building Department an application outlining the details of any proposed work for review and approval prior to commencement of work. Any deteriorated exterior elements for the Community Room should be repaired, rather than replaced whenever possible.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA this 3rd day of October, 2023, by the following vote:

AYES: Councilmembers Baron, Dramov, Ferlito, and Mayor Potter

NOES: None

ABSENT: None

ABSTAIN: Mayor Pro Tem Richards (recused)

APPROVED:

ATTEST:

Dave Potter
Mayor

Nova Romero, MMC
City Clerk

(Exhibit A attached)

Exhibit A Preservation Buffer Area

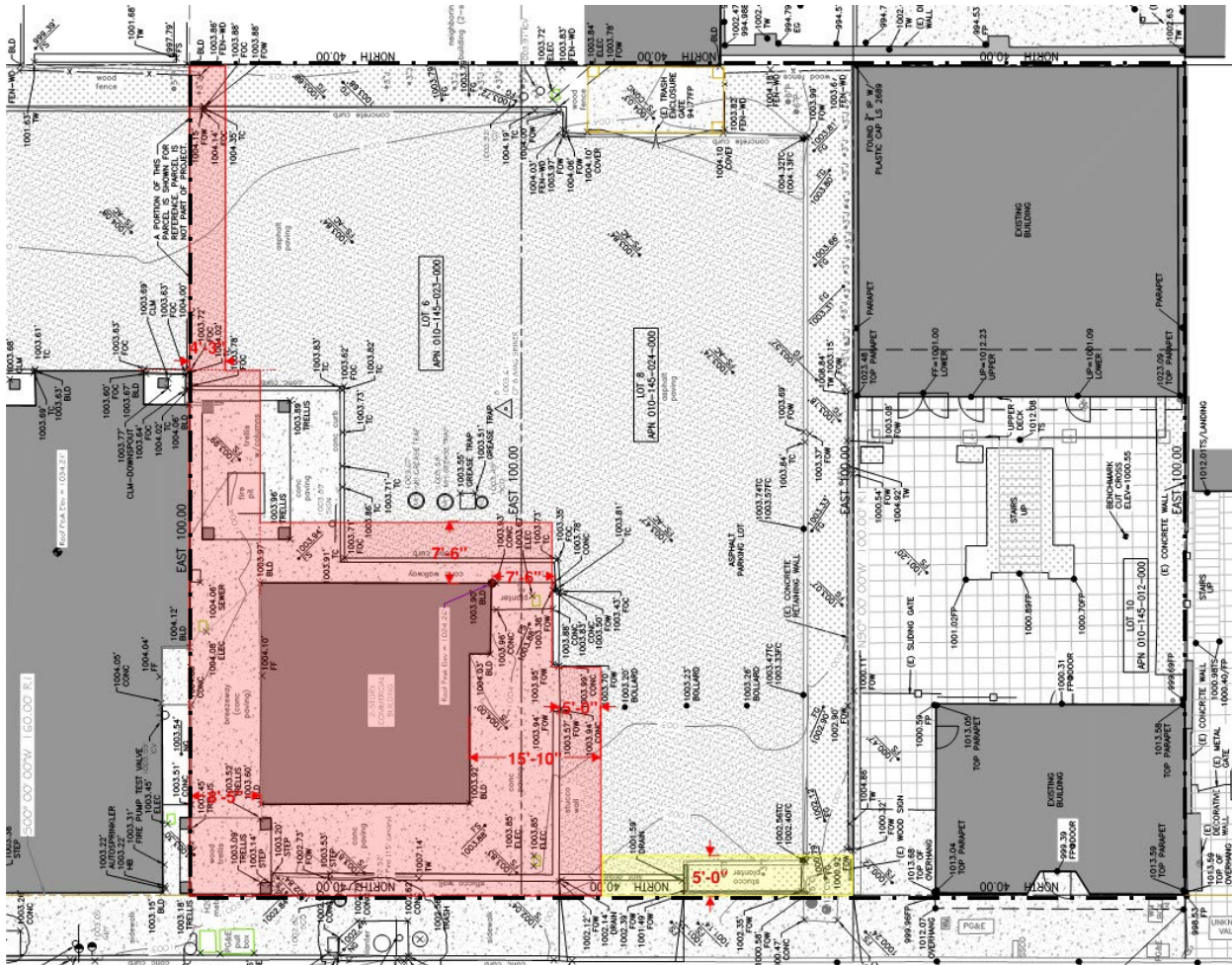


Figure 1. Preservation Buffer from Condition #2 illustrated in red. Build-to-Line waiver area from recitals is shown in yellow.

The buffer includes:

- A minimum setback of 5' from the exterior of the original of the ornamented concrete wall;
- Maintaining the minimum separation around the community room on the south and east side as measured as the minimum distance from Community Room to the non-original (staff estimates 7'6" is the minimum distance from the Community Room to the non-original wall);
- Maintaining the minimum separation between the community room and the bank building (staff estimates this distance is 8'5"); and
- Keeping a 50% buffer of the minimum separation between the community room and the bank building from the northern property line adjacent to the Bank Building site (approximately 50% of the width of separation between the Bank Building and Community Room; staff estimates this distance is 4'3").