

## CALIFORNIA COASTAL COMMISSION

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Prepared March 19, 2009 (for April 10, 2009 Hearing)

**To:** Coastal Commissioners and Interested Persons

**From:** Dan Carl, District Manager  
Mike Watson, Coastal Planner

**Subject:** **Appeal A-3-CML-09-011** (Appeal by Marian and Ron Wormser of City of Carmel-by-the-Sea decision granting a coastal development permit with conditions to Jeff Baron and Kevin D'Angelo for an addition to an existing single-family residence (including one- and two-story elements, and a detached studio/office) located on the east side at North Camino Real between 2nd and 4th Avenues in the City of Carmel, Monterey County. Appeal Filed: February 23, 2009. 49th Day: April 13, 2009.

#### Recommendation

Staff recommends that the Commission determine that **no substantial issue** exists with respect to the grounds on which appeal A-3-CML-09-011 was filed. Staff recommends a **YES** vote on the following motion and resolution:

**Motion and Resolution.** I move that the Commission determine and resolve that Appeal Number A-3-CML-09-011 does not present a substantial issue with respect to the grounds on which the appeal has been filed under Coastal Act Section 30603 regarding consistency with the certified Local Coastal Program and/or the public access policies of the Coastal Act.

Passage of this motion and resolution will result in a finding of no substantial issue and adoption of the following findings. By such action, the Coastal Commission declines to take jurisdiction over the coastal development permit (CDP) for this project, the City's action becomes final and effective, and any terms and conditions of the City's decision remain unchanged. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present

#### Findings

On February 3, 2009, the City of Carmel-by-the-Sea approved a CDP authorizing a partial demolition of and an addition to an existing 647 square foot single-family residence on North Camino Real to result in a roughly 2,585 square foot remodeled residence (roughly 400 square feet underground in a basement) with a new detached studio/office (140 square feet) and renovation of an existing detached garage (260 square foot) along with related residential development (i.e., patios, hot tub, landscaping, etc.) (see City's action in Exhibit 1). Pursuant to Coastal Act Section 30603, this approval is appealable to the Commission because it is located between the sea and the first public road paralleling the sea. The Appellants contend that the City's approval is inconsistent with City of Carmel-by-the-Sea Local Coastal Program (LCP) requirements protecting community character and neighboring private views, as well as the LCP's historic resources designation process (see full appeal document in Exhibit 2).



Coastal Act Section 30625(b) requires the Commission to hear an appeal unless it determines that no substantial issue exists with respect to the grounds on which the appeal has been filed.<sup>1</sup> Commission staff has analyzed the City's Final Local Action Notice for the development (Exhibit 1), the Appellants' contentions (Exhibit 2), the Applicants' response to the Appellants' contentions (Exhibit 3), and the relevant requirements of the LCP (Exhibit 4). The appeal raises no substantial issue with respect to the LCP as follows:

With respect to community character and view issues, the City found the project consistent with maintaining public<sup>2</sup> and private views<sup>3</sup>, including in terms of balancing neighbors' sometimes competing private views, and found the project to be sited and designed in such a manner as to appropriately blend into Carmel's established community character and aesthetic (Exhibit 1).<sup>4</sup> The approved project would result in a remodeled main structure that is moderate in size (at about 2,585 square feet<sup>5</sup>) with fairly small out-structures (a 260 square foot-garage and 140 square-foot studio/office) on a 7,200 square foot lot that is generally larger than most in Carmel (see site plans and elevations of the approved project on pages 22 - 29 of Exhibit 1). At a maximum height of just over 20 feet, the proposed design height is nearly 4 feet below the LCP's maximum height limit, and it meets all other applicable residential siting and massing standards (coverage, setbacks, FAR, etc.). The City noted that with the use of basement space and detached structures (garage and studio/office), the development also minimizes the perceived mass of the main residence. The City further found that the building design and use of natural materials would serve to blend into and compliment the surrounding natural and built environments (including the use of natural wood shake siding, unclad wood doors and windows, and composition roof shingles). The studio/office would also include a landscaped "green roof" to further soften any potential impacts in this respect.

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<sup>1</sup> The term "substantial issue" is not defined in the Coastal Act or its implementing regulations. In previous decisions on appeals, the Commission has generally been guided by the following factors in making substantial issue determinations: the degree of factual and legal support for the local government's decision; the extent and scope of the development as approved or denied by the local government; the significance of the coastal resources affected by the decision; the precedential value of the local government's decision for future interpretations of its LCP; and, whether the appeal raises only local issues as opposed to those of regional or statewide significance.

<sup>2</sup> The project is not located where it would have potential impacts on significant public views (e.g., views of the immediate shoreline and ocean, etc.). Rather, in this case, the LCP public view issue is limited exclusively to the manner in which the project would affect Carmel's community character and thus affect public views in that context.

<sup>3</sup> Carmel's LCP is somewhat unique because, as opposed to focusing solely on public view protection as is more common in LCPs, it identifies private view protection as well, including specifically indicating that development "should respect views enjoyed by neighboring parcels" (LCP Section 17.10.1.K. Private Views. See Exhibit 4). It is important to note, though, that private view protection is not mandatory and the LCP does not require private views to be maintained as is. Rather the LCP requires a thoughtful balancing of private view impacts when development is considered.

<sup>4</sup> Prior to taking final action, the City held multiple hearings on the project, and the project was modified several times in response to neighbor and City concerns.

<sup>5</sup> Roughly 2,185 square feet above ground, and a roughly 400 square foot basement below ground.



The remodeled and expanded residence would also step up the gradual slope in roughly the same location of the existing cottage and patio area in the upper portion of the property, where it is nearly surrounded by existing mature oak trees. The Commission concurs that as sited and designed, the project would blend appropriately into the City's established community character, and that the project adequately protects private views, including views from the Appellants' lot to the northeast (see photos of such views in Appendix IV, page 11 of Exhibit 3), to the extent required by the LCP.

With respect to historic resource designation issues, the Appellants raise questions regarding the City's action on April 21, 2008 to remove the existing single-family residence on the site from the City's historic resource inventory. The LCP allows the City to take such action when substantial evidence demonstrates that the structure in question does not meet the LCP's requirements for it to be designated a historic structure. In this case, the City indicates that the structure was originally identified as a historic resource because it was an example of the late residential work of Hugh Comstock. Ultimately, however, upon further review and consideration of additional evidence, the City's Historic Resources Board concluded that the style of the residence was not identified in the historic context statement, that the structure had lost its integrity due to prior alterations, and that there were 27 other, better, examples of Comstock's work on the historic resource inventory. The City's action to remove the structure from the historic resource inventory was consistent with the LCP process for such action.

In conclusion, the City has provided adequate factual and legal support for its decision that the approved development would be consistent with the applicable policies in the certified LCP and, for the reasons stated above, the Commission finds that Appeal Number A-3-CML-09-011 does not present a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the certified LCP and/or the public access policies of the Coastal Act.

Exhibits:

- Exhibit 1: Carmel-by-the-Sea's CDP decision
- Exhibit 2: Appeal of Carmel-by-the-Sea's CDP decision
- Exhibit 3: Applicants response to Appeal Contentions
- Exhibit 4: Applicable Carmel-by-the-Sea LCP policies

Click on the links at left  
to go to the exhibits.

