

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
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W15d



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Staff: RH
Staff report: 12/14/00
Hearing date: 1/10/01

COASTAL DEVELOPMENT PERMIT APPLICATION

Application number3-00-122

Applicant.....Joe Walters

Project location.....Lincoln St. (2 NE of 13th Ave.), Carmel (Monterey County).

Project description.....Demolition of existing 579 sq. ft. residential accessory structure (former garage), to facilitate construction of a new 1800 sq.ft. two-story single-family residence, on a 4,000 sq.ft. lot (APN 010-171-007).

File documents.....City of Carmel-by-the-Sea: DS 99-60/RE 99-55, approved on June 28, 2000.

Staff recommendation ...Approval with Conditions

I. Summary: The proposed project is located within the City of Carmel-by-the-Sea. Carmel is a very popular visitor destination, as much for the style, scale, and rich history of its residential, commercial, and civic architecture, as for its renowned shopping area, forest canopy and white sand beach. Carmel is especially notable for the character of both public and private development within the context of its native pine forest. In particular, as a primarily residential community, Carmel's predominantly small scale, well-crafted homes play a key role in defining the special character of the City.

Applicant proposes to demolish an existing accessory residential structure (former garage), and to replace it with a new residence on the same site. Pursuant to Categorical Exclusion E-77-13, a coastal development permit is required for the demolition portion of the project (but not the new construction). There is a concern that the existing pattern of such demolitions and rebuilding may prejudice the ability of the City to complete its Local Coastal Program (LCP) in a manner that would be in conformance with Coastal Act policies. In particular, the LCP will need policies that respect and protect the keystone elements of Carmel's special character—the beach, the forest canopy, the compact scale and design of its built environment, the context and integrity of its historic resources. At the same time, the LCP will also need to provide reasonable standards for restoration, additions, or where warranted, replacement. These policies will be determined through a community process that the City expects will culminate with the completion of an LCP Land Use Plan by April, 2001.

In this case, although the project will result in a significant change (an approximately 300% increase in building scale, and an increase in height from one story to two), there are similarly

sized residences close by, and the new structure will still not exceed 1800 sq.ft. (the prevailing maximum for the typical 4000 sq. ft. lot in Carmel). According to the City's staff report, the Carmel Preservation Foundation conducted a historic resource evaluation. It found that the structure to be demolished, while built in 1928, has no historic significance. A 26" dbh Coast live oak, a significant native tree, will be retained, pruned and protected.

Therefore, while the proposed demolition will result in a change of character, such change is not substantial enough to undermine the efforts to complete a certifiable LCP within the timeframe projected by the City. Accordingly, the project is consistent with the policies of Chapter 3 of the Coastal Act and will not prejudice the City's ability to complete its Local Coastal Program.

II. Staff Recommendation on Coastal Development Permit

The staff recommends that the Commission, after public hearing, **approve** the proposed project subject to the standard conditions below. Staff recommends a **YES** vote on the motion below. A yes vote results in approval of the project subject to the conditions below. The motion passes only by affirmative vote of a majority of the Commissioners present.

***Motion:** I move that the Commission approve Coastal Development Permit Number 3-00-122 subject to the conditions below and that the Commission adopt the following resolution:*

***Approval with Conditions.** The Commission hereby grants a permit for the proposed development, subject to the conditions below, on the grounds that the development is consistent with the requirements of Chapter 3 of the California Coastal Act of 1976 (Coastal Act), will not prejudice the ability of the City of Carmel to prepare a local coastal program conforming to Chapter 3 of the Coastal Act, and will not have any significant adverse effects on the environment within the meaning of the California Environmental Quality Act (CEQA).*

III. Conditions of Approval

A. STANDARD CONDITIONS

- 1. Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
- 2. Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

B. SPECIAL CONDITION

None.

IV. Recommended Findings and Declarations

The Commission finds and declares as follows:

A. Project Location and Description

The project site is a standard 4,000 sq.ft. rectangular lot on the east side of Lincoln St., north of 13th Avenue, about 6 blocks inland from the beach, in the south-central part of the City of Carmel-by-the-Sea (see Exhibit A). The lot has an existing 579 sq. ft. residential accessory structure proposed for demolition. This structure formerly served as a garage for the single family residence on the adjacent lot.

A 26" dbh native Coast live oak and a non-native 30" dbh acacia tree are located on the lot. The City is requiring that both trees be retained, with some pruning and various protection measures to protect the trees from trenching and construction impacts.

According to the City staff report, the structure slated for demolition was constructed in 1928, but has been found to have no historic significance (based on a historic resource evaluation by the Carmel Preservation Foundation). Relocation has not been proposed by applicant, nor by the City.

B. LCP History and Status

The entire City of Carmel falls within the coastal zone, but the City does not yet have a certified LCP. Approximately twenty years ago, the City submitted the Land Use Plan (LUP) portion of its LCP for review by the Coastal Commission. On April 1, 1981, the Commission certified part of the LUP as submitted and part of the LUP subject to suggested modifications regarding beach-fronting property. The City resubmitted an amended LUP that addressed the beach-fronting properties provisions, but that omitted the previously certified portion of the document protecting significant buildings within the City. On April 27, 1984, the Commission certified the amended LUP with suggested modifications to reinstate provisions for protecting significant structures. However, the City never accepted the Commission's suggested modifications and so the LUP certification expired.

The LCP zoning or Implementation Plan (IP) was certified by the Commission subject to suggested modifications on April 27, 1984. However, the City did not accept the suggested modifications and so the IP, too, was never certified.

Predating the City's LCP planning efforts, the Commission in 1977 authorized a broad-ranging categorical exclusion covering most of the area of the City of Carmel (Categorical Exclusion E-77-13). E-77-13 excludes from coastal permitting requirements most types of development not located along the beach and beach frontage of the City; not excluded, however, are demolitions such as that proposed in this case.

The City is currently working on a new LCP submittal (both LUP and IP), funded in part by an LCP completion grant awarded by the Commission. According to City representatives, the Land Use Plan is expected to be submitted for Commission review in April 2001, with the Implementation Plan submittal expected by December 2001.

This current City effort is focused on protecting the significant coastal resources found in Carmel, including the spectacular public beach and recreational amenities along the City's shoreline, the urban forest that uniquely identifies Carmel as "the City within the trees," the substantial riparian and habitat areas (such as Mission Trails Nature Preserve and Pescadero Canyon), and the unique community and visual character of Carmel as exhibited by the style, scale, and rich history of its residential, commercial, and civic architecture. Taken as a whole, these resources combine to form the special character of Carmel; a character that comprises a significant coastal resource worthy of protection in its own right.

C. Standard of Review

Unless and until the Commission has certified any future City LCP submittals, the Commission retains coastal permitting authority over non-excluded development within the City. As a result, although the City's current ordinances and policies can provide context and guidance, the standard of review for this application is the Coastal Act.

D. Coastal Development Permit Determination

1. Community Character

Sections 30253 and 30251 of the Coastal Act address the issue of preserving the community character of special communities such as Carmel:

Section 30253(5). New development shall where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.

Section 30251. The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality on visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

The Coastal Act defines special coastal communities in terms of their unique characteristics that make them attractive to the visitor. The City of Carmel is a very popular visitor destination as much for the style, scale, and rich history of its residential, commercial, and civic architecture, as for its renowned shopping area and white sand beach. Carmel is made special, in part, by the character of development within City limits.

In particular, as a primarily residential community, the web of residential development in Carmel plays a key role in defining the special character of the City. Carmel is distinctly recognized for its many small, well-crafted cottages. These modest, sometimes quaint residences are associated with the era in which Carmel was known for its resident artists and writers, and functioned as a retreat for university professors and other notables. These little homes were nestled into the native Monterey pine/Coast live oak forest, on a grid of streets that was executed in a way that yielded to trees more than to engineering expediency. This was the context for Carmel's community life and its built character.

Particulars for this project: In the present case, the c. 1928 structure proposed for demolition is not listed on any roster of historical or architecturally important structures in the City. The pre-WWII origins of the existing structure can be seen in the board-and-bat exterior and other architectural details. See attached Exhibit B for photograph of the existing building, and Exhibit C for street elevation of the replacement structure. The proposed new house meets City requirements for maximum height, floor area, coverage, and yard setbacks.

Therefore, while this represents the replacement of an existing moderately-sized residence with a substantially larger, much taller building, the proposed demolition would not compromise any historic resources that contribute to Carmel's special community character.

Conclusion: The proposed project will not adversely affect the unique characteristics that make Carmel a special community. Neither the demolition nor the new construction would adversely or significantly affect any significant public view. The area is developed at urban densities and with urban services in an area able to accommodate the replacement of the existing structure with a new one. Therefore, the demolition of the existing structure is consistent with Coastal Act Sections 30251 and 30253(5).

2. Urban Services Availability

Section 30250(a) of the Coastal Act provides:

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the useable parcels in the area have been developed and created parcels would be no smaller than the average size of surrounding parcels.

Water demand in the Monterey Peninsula area has grown to the point where no further extractions from the Carmel River underflow are being allowed. The Monterey Peninsula Water Management District allocates the available water resource in the supply system, with a particular share available for use within each of the various municipal boundaries. Each of these local governments uses its regulatory authority to insure that new development "lives within its means" with respect to its allocated share of the limited water supply.

In this case, the applicant also owns two houses on adjacent property (a total of three lots are involved). Apparently, demolition is anticipated on one or both of these, and the water connection would be made available to the lot presently under consideration. The City's staff report contains a detailed water transfer summary, and the City approved the project subject to a condition that states: "Approval of this application does not permit a net increase in water use between the three properties involved in the water transfers. All water reductions on the other sites shall occur prior to the issuance of a building permit for this project."

This action was not without controversy; see attached letter from Robert E. Miller (Exhibit D). Nonetheless, this lot was considered by the City in context, as one of a group of three. The City concluded that (as conditioned) no net increase in water use would result. Overall, the area is developed at urban densities and with urban services in an area able to accommodate the proposed private redevelopment. All utilities are available at the street, and as conditioned by the City for redistribution of water, there are adequate public services for the proposed new house. Parking is adequate.

Conclusion: The area is developed at urban densities and with urban services in an area able to accommodate the replacement of the existing garage structure with a new residence on an existing lot. No net increase in water use would result. The proposed demolition will not open the way to new development that would be growth inducing or lead to compromise of an existing urban-rural boundary. Therefore, the demolition of the existing structure is consistent with Coastal Act Section 30250.

3. Potential for Prejudice to LCP Planning Efforts

Section 30604 of the Coastal Act states in part that a coastal development permit shall be granted if the Commission finds that the development will not prejudice the local government's ability to prepare a Local Coastal Program (LCP) in conformity with the applicable resource protection policies of the Coastal Act. More specifically, Section 30604(a) of the Coastal Act states:

Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with Chapter 3 (commencing with Section 30200) and that the permitted development will not prejudice the ability of the local government to prepare a local coastal program that is in conformity with Chapter 3 (commencing with Section 30200). A denial of a coastal development permit on grounds it would prejudice the ability of the local government to prepare a local coastal program that is in conformity with Chapter 3 (commencing with Section 30200) shall be accompanied by a specific finding which sets forth the basis for that conclusion.

As previously described, the City is currently working on a new LUP submittal. A community planning process is now underway to determine, among other things, the basis for defining Carmel's community character and ways to protect and preserve this character consistent with the Coastal Act.

Each residential demolition results in a significant change to the character of the lot upon which it is situated. In some cases, an existing structure--because of virtues such as architectural style or historical associations--constitutes a significant component of the City's special character all by itself. More commonly, the structure only contributes to the overall impression on the visitor. Thus, the proposed project also affects community character on a cumulative basis. In other words, the effect of this particular demolition/rebuild must be evaluated within the context of the larger pattern of demolition and rebuild in Carmel.

Development trends: Over time, Carmel has been changing as its older housing and commercial stock makes way for new developments, usually larger in size and scale. As such, the period since 1990 can be examined to provide a meaningful sample for understanding the change issue in Carmel.

Since 1990, there have been 177 development proposals in Carmel. Of these, 145 projects (or over 80%) involve some form of demolition, rebuilding and/or substantial alteration of residential housing stock in Carmel. This comes out to roughly 13 such residentially related projects per year since 1990; nearly all of these have been approved. Other than the three year

period from 1992 – 1994 when a total of 13 applications were received, the number of development proposals in Carmel has been fairly constant until 2000. However, in the year 2000 alone, the Commission has received 44 applications as of October. Of these 44 applications received in the year 2000, 33 involved some form of demolition, rebuilding and/or substantial alteration of residential structures; 17 of the 33 have already been approved this year and 16 remain pending. More applications are arriving—the current average is approximately 3 per month.

Clearly the trend for demolition/rebuild/substantial remodel has been magnified in current years as demand for Carmel properties has outstripped the limited supply represented by the approximately 3,200 parcels within the City limits. However, at the expected rate of approximately 3 demolition applications per month, the cumulative amount of overall change by the target submittal date for the Land Use Plan (April 2001), will be relatively limited. Accordingly, the cumulative adverse effect on community character will, for the short term, continue to be insignificant.

In the event the Commission receives more than the expected number of applications that it has been averaging most recently, the Commission can evaluate such a changed circumstance and revise its approach accordingly.

Summary: Reliance on the City's own forestry, design review and historical resource protection procedures, together with monitoring of the application rate trends by Commission staff, will be adequate for addressing the mandate of Coastal Act Section 30253 to protect community character—at least for the limited time until the LCP is completed. Therefore, while the proposed demolition may result in a change of character, such change is not substantial enough to undermine the efforts to complete a certifiable LCP within the timeframe projected by the City. Accordingly, approval of the proposed project will not prejudice the ability of the City to complete its LCP in accordance with Coastal Act requirements.

3. California Environmental Quality Act (CEQA)

Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of CEQA. Section 21080.5(d)(2)(i) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The City found the project to be Categorical Exempt. The Coastal Commission's review and analysis of land use proposals has been certified by the Secretary of Resources as being the functional equivalent of environmental review under CEQA. This report has examined the relevant issues in connection with the environmental impacts of this proposal. The Commission finds that, for the reasons stated above, the proposed project will not have any significant adverse effects on the environment within the meaning of CEQA.

CARMEL-BY-THE-SEA OFFICIAL ZONING MAP

MUNICIPAL CODE SECTION 1590.0
(CORRECTED TO 1/1/64)

LEGEND

- ZONES C-1, C-2, A-1
- SERVICE STATION OVERLAY ZONE
- ▨ ZONES P (PARKS AND PARKING);
ZONES A-1, A-2 (THEATRICAL
OR CULTURAL CENTER)
- ▨ AREA NOT EXCLUDABLE
BY LAW OR NOT REQUESTED
FOR EXCLUSION

(AREAS NOT MARKED ARE ZONED R-1)

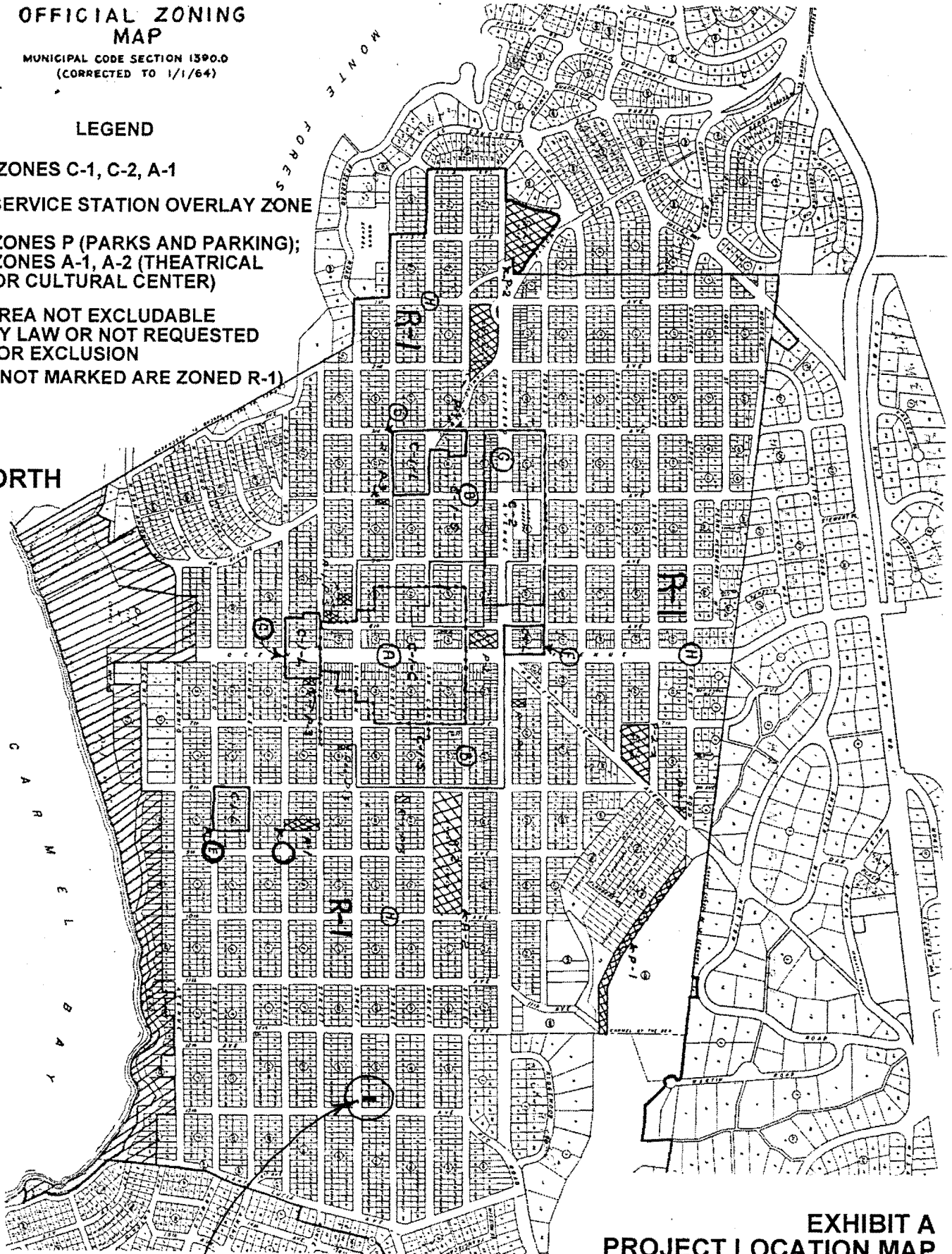


EXHIBIT A
PROJECT LOCATION MAP
3-00-122 WALTERS

SITE

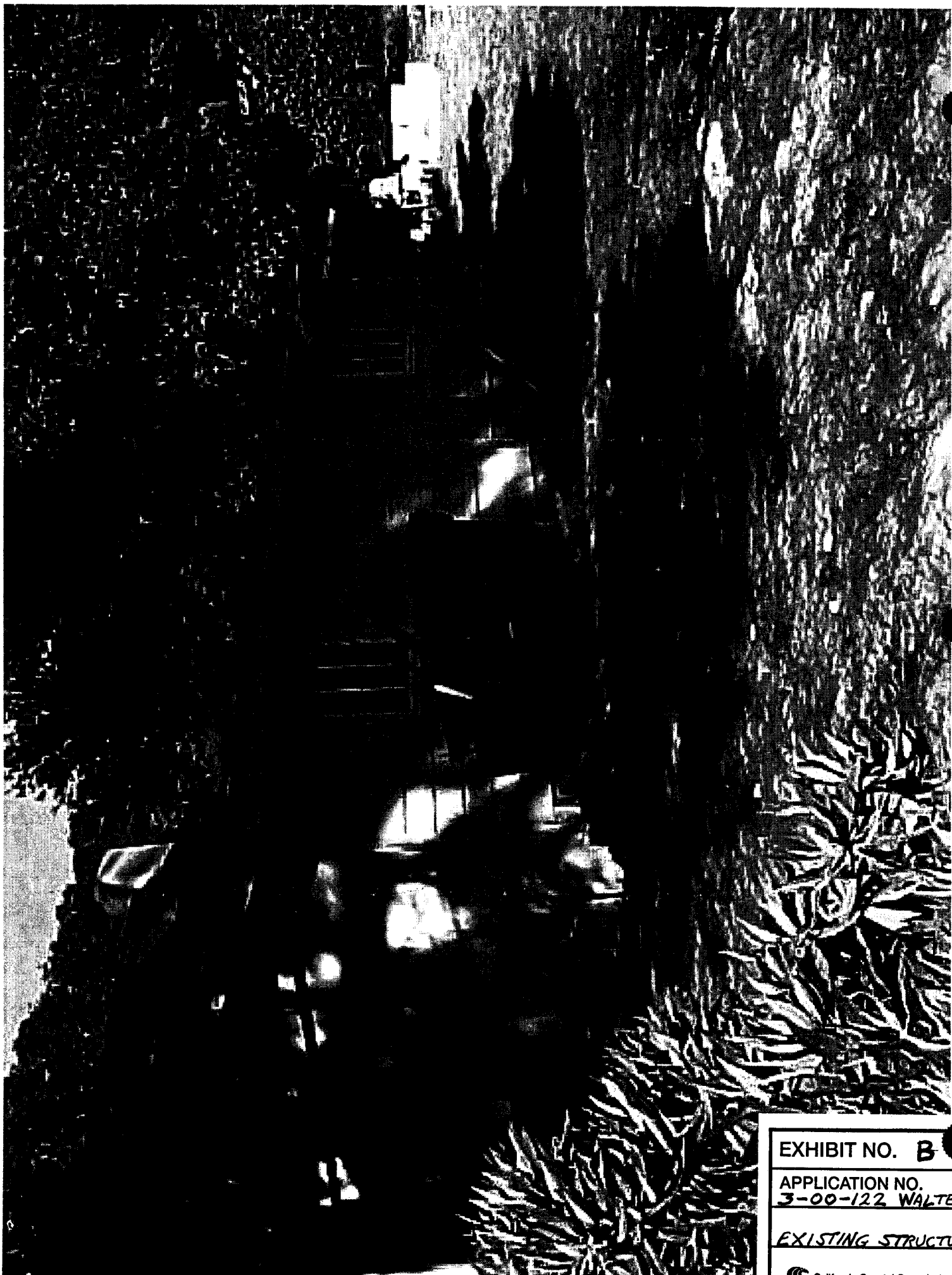
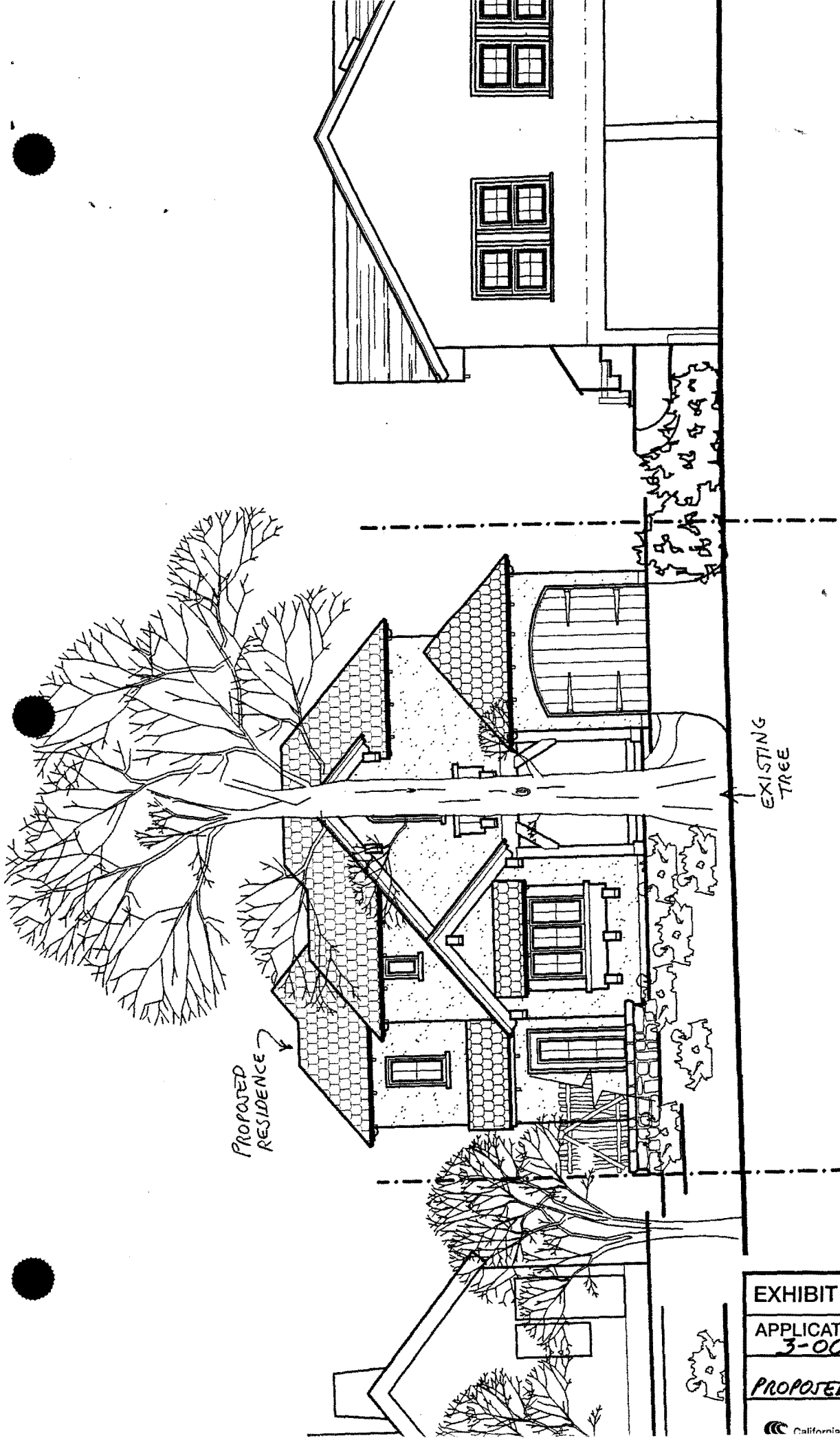


EXHIBIT NO. **B**

APPLICATION NO.
3-00-122 WALTERS

EXISTING STRUCTURE



PROPOSED RESIDENCE

EXISTING TREE

EXHIBIT NO. C
APPLICATION NO. 3-00-122
PROPOSED RESIDENCE
California Coastal Commission

Proposed Lincoln StreetScape

RECEIVED

OCT 11 2000

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Robert E. Miller
PO Box 3761
Carmel-By-The-Sea
CA 93921
831 620 1866

September 26, 2000

California Coastal Commission
Central Coast Area
725 Front Street
Suite 300
Santa Cruz, CA 95060 - 4508

Reference:

Application 8/16/00 for demolition located on 2 NE of 13th on Lincoln Street, Carmel-By-The-Sea, CA

Applicant: J. Mandurrago for Lincoln Street Partners,
Owner Joe Walters

Dear Commission:

Please deny the above application based on the following information.

The history of this property: When this lot was recently purchased, it was originally part of a larger piece of property that included a large home and a garage. It is now evident that the property was purchased specifically for the purpose of development profit. The same owner, Joe Walters and the Lincoln Street Partners have purchased 3 adjacent lots. If you will consult your map of Carmel-By-The-Sea, these properties are located (1) on the corner of 13th Street and Dolores and (2) on the NE corner of Lincoln and 13th which

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EXHIBIT NO. D
APPLICATION NO. 3-00-122
LETTER IN OPPOSITION

includes the lot 2 NE of 13th on Lincoln. (This lot, 2 NE of 13th on Lincoln) had had a garage on it for several years.

Originally, the developers applied for a demolition permit for a single story residence (which incidentally, would have conveniently included at least one bathroom). After several complaints, this convenient mistake was corrected and the above application stands in its place.

Although it probably cannot be considered at the moment, there is evidence that the property located on the NW corner 13th and Dolores may be of historical value to our city.

Aside from the above (13th and Dolores) some of the issues that this new construction needs to address are:

1. The applicants have applied for tree removal and major branch removal of a Coastal Oak in order to build the new structure.

There is a very large pine tree on the front of the property. Only after the neighbors and other concerned citizens voiced *several* complaints was there any effort made to protect the tree from demolition and the construction process of the adjoining house on the property. This tree has been a healthy tree and is now threatened by the development of the property. A request to remove another tree has been denied although it was stated that there was no way to enforce the applicant's care of the tree in the future.

This property and the other above-mentioned lots are directly adjacent to a home that is presently on Carmel-By-The-Sea's list as a candidate for historical designation. The home is one of 3 adjacent homes, all with the same designation. By allowing a 2-story dwelling to be constructed, the second story will be seen not only from the street it faces, but also from the street behind the applicants planned structure. This will have a direct effect on the historical value and significance of surrounding landscaping for these beautiful existing homes.

There are few open areas left in Carmel-By-The-Sea. The present garage was in character with the larger double lots that presently exist on this particular block. There is a beautiful canopy of Coastal Oak growth as well as several large pines including the magnificent specimen mentioned above.

There is open space here that doesn't have to be covered with cement.

- 2. Density: The lot is 40 x 80. The applicant intends to build about 1800 square feet of dwelling.** A two-story dwelling with this much square footage is not appropriate for the area. After the construction of such density, there will be very little land left for landscaping on all sides of the home. As it is, the applicant wants to cut the existing Coastal Oak (they are asking that it be substantially "trimmed" to allow for construction). If the application for this dwelling was for a smaller one story dwelling, there might be enough light and land to grow another tree or trees to replace the ones that will surely die in the competition for light and air.

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EXHIBIT D
3-00-122 WALTERS

3. **Light and air circulation:** If this is approved, this density will have a direct effect on the actual daylight available to the surrounding homes and land. The soft breezes and air circulation will be impaired. The surrounding homes will no longer have the advantage of natural daylight and natural air circulation causing them to rely on electricity instead. This is in direct conflict with the proper use of our natural resources and surely needs to be recognized and addressed before the application is approved.
4. **Wildlife: Our wildlife is rapidly disappearing.** There is no place for them to live. There are several species of birds, which are rapidly disappearing from our area because of over development. There are few squirrels left in this particular area, and we value the ones who live here.
5. **Excessive traffic and litter.** These problems are not just related to the above property. This is becoming a serious issue for the entire City of Carmel-by-the-Sea. Large construction and delivery vehicles are mashing our earth and destroying the branches of any offending tree. These, in many cases, overweight and overheight vehicles are destroying the beautiful canopy of trees that overhang our streets. We have frequently reported trucks that have broken large branches from the trees that were in their way. (There used to be an ordinance in Carmel-By-The-Sea that required large trucks to off load on to smaller trucks for in-City deliveries). The height and weight of these vehicles is having a definite impact on our forest. Another issue is the litter that is accumulating from the construction industry.
6. **There seems to be no way to control the litter that is left behind every day.** Cans, trash, plastic wrappers, bottle caps and the leaks of oil and fluids from barely maintained vehicles are the residue left behind at the end of each day. Leaky Portapotties and their offending chemicals are left behind at the end of the workday for the residents to enjoy in the evening hours. There doesn't seem to be any control for the proper use and disposal of the chemicals used during construction.

An overview of Carmel-By-The-Sea will show that the approval of this application as well as many others that are in process will have a strong impact by making this beautiful natural area into a frugally landscaped desert.. The present over building trend is beginning to affect every aspect of our lives. Soon, there will be little room left for mature trees and natural habitats for our wildlife to exist.. All that we will hear will be the hum of air conditioners and constant noise pollution instead of the sounds of the breeze through the trees and the waves in the distance.

Please consider this application carefully. One by one, approval of these applications are destroying our beautiful land. The sole purpose of this application and many others like it is to make a profit. There is nothing indicated in this particular plan that demonstrates in any way that the applicant has given any attention to creating a dwelling which would have as little impact on our environment as possible. Instead, it is an application for permission to "BUILD TO THE MAX".

Another comment regarding this particular situation. Consider that the plans for another dwelling by the same group (demonstrating many of the same issues) have already been drawn for property adjacent to this existing application package. These plans also include

a 2 story dwelling to be erected in the place of a one level structure which presently exists. This is even more evidence that the applicant is motivated solely by potential profit

I am concerned about this trend. Please give the above issues your attention. We are not trying to stop all construction; simply to make sure that what is being done is in the best interest of our community and the preservation of our natural resources. I am convinced that it is possible, though probably less profitable in the short run, to build dwellings which are more compatible with the present character and environment of our community.

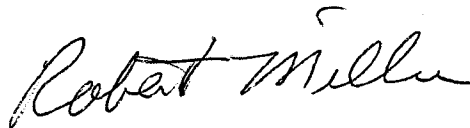
We also implore you to designate the entire City of Carmel-by-the-Sea as a Historical Resource so that we can avoid destroying our heritage. The decisions that are being made today regarding the demolition of our older homes, the overbuilding of the area and the destruction of our urban forest purely for the sake of profit and convenience are clearly having a negative impact on the future of this area.

At the present time, Carmel-By-The-Sea is quickly disappearing into the dust left behind in the race to "BUILD TO THE MAX".

This has become an obscene quest for higher profits, which honors no boundaries and respects nothing. The very essence of our survival as a unique cultural and natural resource is being threatened by the indiscriminate abuse of our natural resources.

I know that limited development can proceed if the always-precarious balance between man and earth can be maintained.

Thank You,



Robert E. Miller
Resident of Carmel-By-The-Sea
Lot 17 & 19 Block 136

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EXHIBIT D
3-00-122 WALTERS

