

CALIFORNIA COASTAL COMMISSION
CENTRAL COAST DISTRICT OFFICE
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Hearing date: 1/10/01

COASTAL DEVELOPMENT PERMIT APPLICATION

Application number3-00-145

Applicant.....Ben and Lettia Morton

Project location.....Lobos St. (2SE of 2nd Ave., Block 20, Lot 7), Carmel (Monterey County).

Project description.....Demolition of existing 575 sq. ft. single family residence and detached garage, and removal of 26"dbh oak, in order to facilitate construction of a new 1,800 sq. ft. single family dwelling on 4,000 sq. ft. lot (APN 010-012-017).

File documents.....City of Carmel-by-the-Sea: DS 00-23/RE 00-19, approved on October 11, 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 residential structure, 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, while the project will result in a significant change (more than 300% increase in building scale and loss of one mature oak tree), there are similarly sized structures 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). The existing c. 1938 house does not represent a significant historic resource, and the proposed removal of a significant native tree will be offset by the City's requirements for tree replacement and tree protection (for the large Monterey pines to be retained).

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 3-00-145 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 Lobos St. between 2nd and 3rd Avenues, about 18 blocks inland from the beach, in the northeastern corner of the City of Carmel-by-the-Sea (see Exhibit A). The lot has an existing 575 sq. ft. one-story single family residence with detached garage, proposed for demolition. The existing single-wall residence is not bolted to its foundation, and is reported to suffer wood rot and termite damage.

Two large native Monterey pines are located at the southern and eastern margins of the lot, respectively. A 26" diameter Coast live oak tree is located in the central part of the lot. This tree is also variously described as a 17" multi-stem oak. In any event, the City Forester's report notes this tree as lacking vigor and appearing to be in poor condition. He concluded that the condition of the tree "...does not bode well for its long-term survival."

According to the City staff report, the structure slated for demolition was constructed in 1938 and has not been designated as a historic resource. The City's conditions of

approval require several measures to protect the existing native trees, which will be retained.

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. 1938 structure proposed for demolition is not listed on any roster of historical or architecturally important structures in the City. An evaluation by the Carmel Preservation Foundation concluded that it "...cannot be considered historically significant." See attached Exhibit B for photographs of the existing residence, Exhibit C for photo of oak tree to be removed, and Exhibit D for site street elevation of the

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

The area is developed at urban densities and with urban services in an area able to accommodate the replacement of the existing house with a new one. All utilities are connected to the existing house on this site. There are adequate public services for the proposed new house. 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. Parking is adequate. Additionally, the proposed new house meets City requirements for maximum height, floor area, coverage, and yard setbacks.

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 house with a new one. Therefore, the demolition of the existing structure is consistent with Coastal Act Sections 30251 and 30253(5).

2. 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 1390.0
(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
3-00-145 MORTON

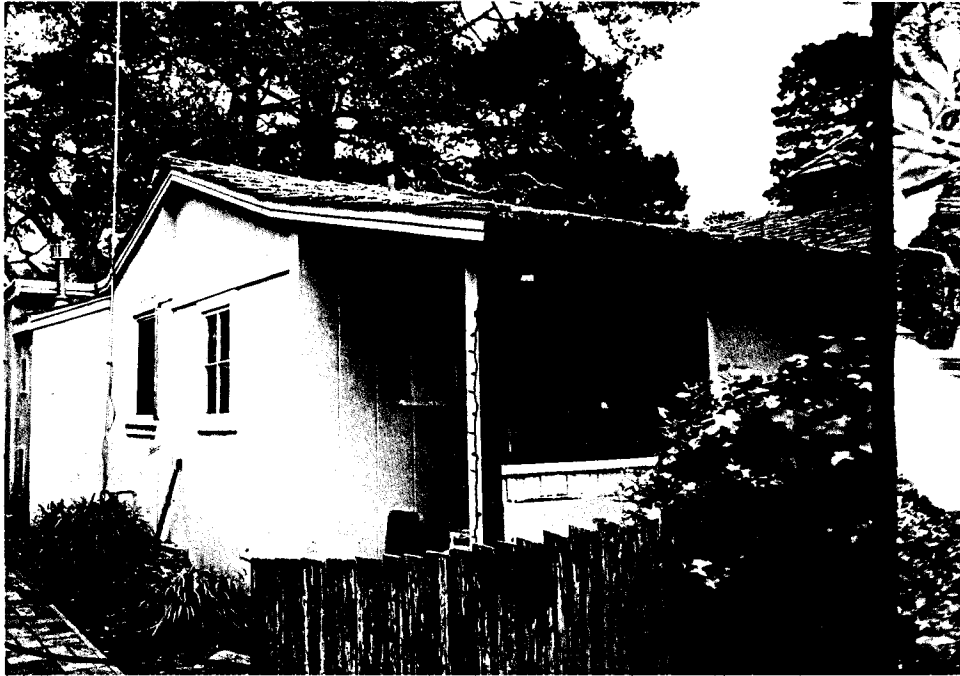



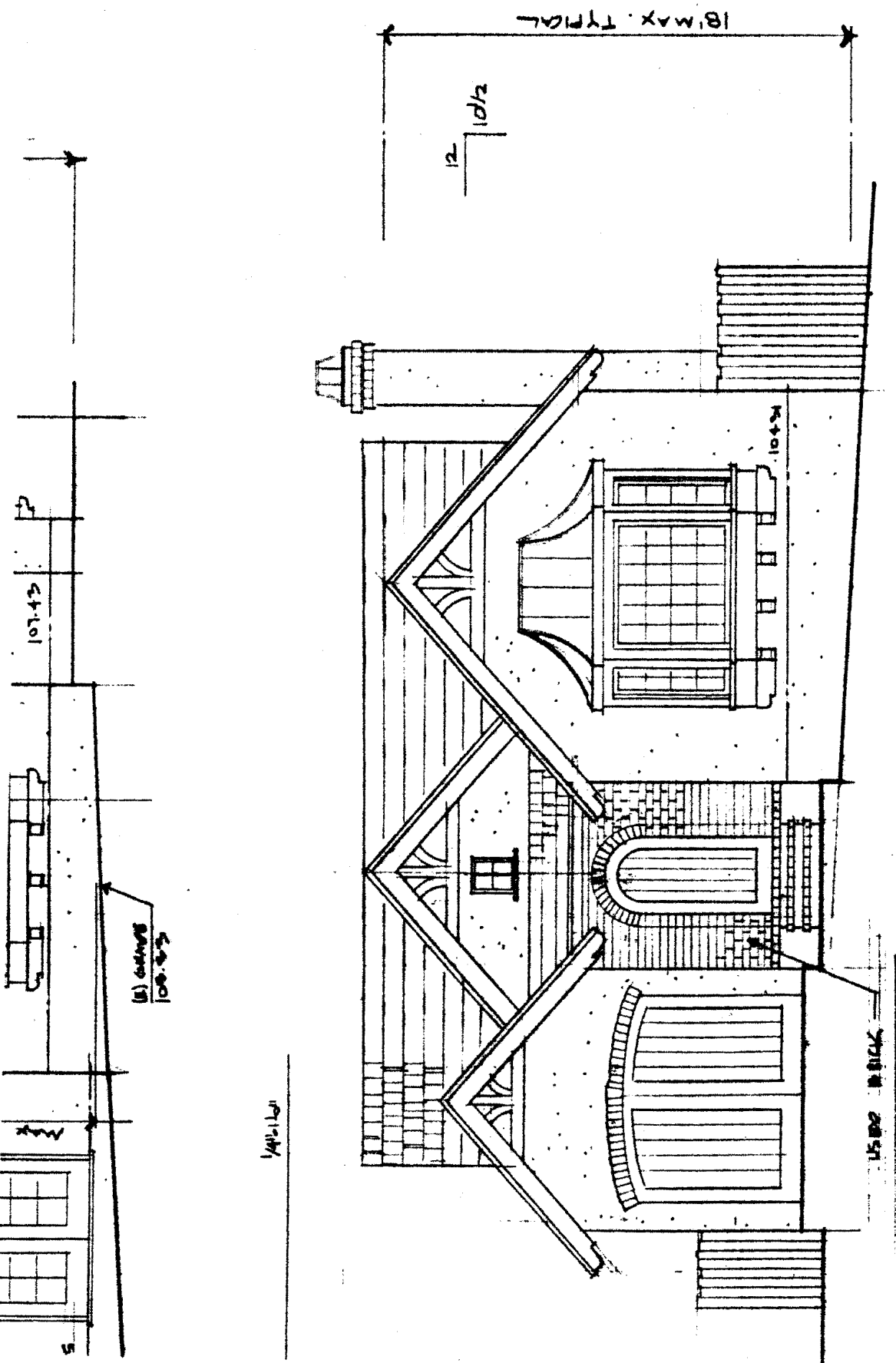
EXHIBIT NO. B
APPLICATION NO. 3-00-145
EXISTING BLDG.
 California Coastal Commission



EXHIBIT NO. C

APPLICATION NO.
3-00-145

MULTI-STEM OAK
TO BE REMOVED



WEST ELEVATION
 1/4" = 1'-0"

EXHIBIT NO. D
 APPLICATION NO.
 3-00-145
 PROPOSED
 RESIDENCE