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COASTAL DEVELOPMENT PERMIT APPLICATION

Application number3-01-048, Macondray

Applicant.....Karen Macondray

Project location.....NW corner of San Carlos & 1st Avenue, City of Carmel-by-the-Sea, Monterey County (APN 010-116-006). See Exhibits 1 & 1a.

Project descriptionDemolition of existing 1,433 sq. ft. single-story residence to facilitate construction of a two-story 1,797 sq. ft. residence.

File documents.....Categorical Exclusion E-77-13 for City of Carmel-by-the-Sea; Design Study and Demolition permits: DS 01-06 / RE 00-19.

Staff recommendation ...Denial

Summary: 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 made particularly special by the character of the residential development within its City limits. Homes are nestled into the native Monterey pine/Coast live oak forest on a grid of streets that is executed in a way to yield to trees more than to engineering expediency. This is the context for Carmel's community life and its built character.

The proposal raises questions as to whether this project would protect Carmel's special community character consistent with the Coastal Act Section 30253(5), which requires that special communities be protected. In particular, the project will result in a significant change in architectural character. For example, the existing house is single-story and of board and batten design. The proposed replacement structure is a modern, two-story, eclectic architectural design. Though the replacement structure footprint is simple in design, the roof form is complex, complete with tower element and 25 roof planes. There will also be a significant change in site coverage due to the proposed increase in size, scale, and mass. The existing single-story structure is 1,433 square feet as compared to the replacement house at 1,797 square feet, a 25% increase. Setbacks for the proposed structure are reduced to their minimums, maximizing coverage and minimizing open space.

The cumulative impacts of demolitions like this are also a concern. In the past 16 months, staff has received and processed more than 40 applications for demolitions in Carmel. Most recently, staff has



California Coastal Commission
August, 2001 Meeting in Redondo Beach

Staff: Michael Watson Approved by: C.F.L. 7/25/01

learned that the City is currently processing another 19 applications. By demolishing the subject structure as proposed, its overall contribution to community character will be forever lost. Similarly, because community character has not yet been clearly defined, the overall cumulative effect of demolitions, such as the current project, on Carmel's character is unclear. The project cannot be found to be consistent with section 30253(5) at this time.

Part of the reason for this is that although the elements that define the City's character can be generally described, it has not been determined, for the purposes of the Coastal Act, how these elements interact to make Carmel special. The specific comprehensive planning objectives and standards to protect Carmel's community character are best determined through a community process culminating in a LCP. The City is currently preparing the LCP and expects to submit it to the Commission in December 2001.

Overall, Staff is recommending that the project be denied because it cannot be found to be consistent with 30253(5), and because it will prejudice the ability of the City to prepare a local coastal program that is in conformity with Chapter 3 of the Coastal Act, inconsistent with Coastal Act Policy 30604(a). The denial would be without prejudice to the proposed project inasmuch as once the City's LCP has been finished, and ultimately certified by the Commission, the proposed project could be held up against the applicable LCP standards and evaluated accordingly at that time. Until that time, however, Staff cannot recommend that the Commission find this application consistent with the Coastal Act.

Staff Report Contents

- 1. Staff Recommendation on CDP Application.....3
- 2. Recommended Findings and Declarations.....3
 - A. Project Location and Description.....3
 - B. Standard of Review/LCP History.....4
 - C. Community Character5
 - Cumulative Community Character Impacts.....7
 - Prejudice to LCP Planning Efforts.....7
 - Demolition of Existing House.10
 - Proposed New Structure (Exempt)10
 - Alternatives12
 - D. California Environmental Quality Act (CEQA)13
- 3. Exhibits
 - Exhibit 1: Site Maps
 - Exhibit 2: Site Photos
 - Exhibit 3: Site Elevations



1. Staff Recommendation on CDP Application

The staff recommends that the Commission, after public hearing, **deny** a coastal development permit for the proposed development.

Motion. I move that the Commission approve Coastal Development Permit Number 3-01-048 for the development proposed by the Applicants.

Staff Recommendation of Denial. Staff recommends a **no** vote. Failure of this motion will result in denial of the permit and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution to Deny a Coastal Development Permit. The Commission hereby denies a coastal development permit for the proposed development on the grounds that the project will not conform with the policies of Chapter 3 of the Coastal Act, and will prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit would not comply with the California Environmental Quality Act because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse effects of the development on the environment.

2. Recommended Findings and Declarations

The Commission finds and declares as follows:

A. Project Location and Description

The applicant proposes to demolish an existing single-story residence (approximately 1435 square feet) and construct in its place, a two-story 1,797 square foot single family residence on a 4,000 square foot lot on the Northwest corner of San Carlos & 1st Avenue in the City of Carmel-by-the-Sea. The proposal also includes 400 square feet of walkways, patios, and porches. Total site coverage is estimated at about 1,785 square feet. Proposed floor area and land coverage are at the maximum allowed by City standard; setbacks are at the minimum. A tower element with circular stairway connects the second story with the first floor. Exterior materials include plaster walls, simulated slate roof, wood windows, and Carmel stone. The design also includes four skylights, three oriel windows, and a second floor deck. According to the City staff report, the proposed structure to be demolished was constructed in 1954 and as such does not constitute a historic resource.

The site has a moderate to steep grade of approximately 12% that drops to the southwest corner. Existing development includes a single-story house and carport. A large unimproved right-of-way exists on the



east and south frontages. These are landscaped and support several trees including two small oaks and one large 17" oak near the center of the frontage on San Carlos that spreads well into the lot. Within the 1st Avenue right-of-way there are three large Monterey pines. No trees are proposed for removal.

B. Standard of Review/LCP History

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 with 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 remains uncertified.

The LCP zoning or Implementation Plan (IP) was certified by the Commission with suggested modifications on April 27, 1984. However, the City did not accept the suggested modifications and so the IP, too, remains uncertified.

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

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. 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 frontage, 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 is separately a significant coastal resource worthy of protection in its own right. The City is making progress and anticipates that both the LUP and IP will be submitted for Commission review in December of this year.

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.



C. Community Character

The current project raises doubts about its consistency with Coastal Act Section 30253(5), which protects and preserves the character of special communities and neighborhoods. Coastal Act Section 30253(5) states:

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.

Sections 30251 of the Coastal Act adds further protection to the scenic and view qualities of coastal areas:

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.

Carmel's Community Character

Carmel, of course, is a very popular visitor destination, known 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. The City is considered a "special community" under the Coastal Act due to its unique architectural and visual character. It is often stated that Carmel, along with such other special coastal communities as the town of Mendocino, is one of the special communities for which Coastal Act Section 30253(5) was written. Indeed, Carmel has been, and remains today, a spectacular coastal resource known the world over as an outstanding visitor destination.

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, as various architectural styles present reflect the historical influences that have existed over time. 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.

The demolition and replacement of existing residential buildings in Carmel, such as this project, have great potential to alter this special community character protected by the Coastal Act. In particular, these projects raise questions as to (1) whether or not an existing house represents the historical, architectural,



scale, and environmental character of Carmel; and (2) if a replacement house detracts from Carmel's character because of a modern design, tree removal, proposed house size, or other characteristics.

The impacts of a residential demolition on community character can depend on a variety of factors. For example, there are a number of cases where a house or houses were demolished and a single, much larger house constructed on the site. In other instances, a single house straddling a lot line has been demolished and two new, smaller houses were constructed. In either of these types of instances, the character of Carmel may or may not be preserved, depending on the context, but it is certainly changed, either through the increase in residential density or a change in mass and scale. The size of a house is one aspect of Carmel's character, but not all existing houses in Carmel are small. However, because the lots are almost all relatively small, about 4000 square feet, the general pattern of development is one of smaller houses.

The architectural style of houses in Carmel is another aspect of the City's character. Many of the houses were built in the first quarter of the century in the Craftsman style; others resemble houses that might be found in an English village. Modern style houses, while they do exist, are not prevalent in Carmel. A residential demolition and rebuild project can both remove a structure that expresses the community character, and result in a new structure that may not reflect the surrounding neighborhood character.

A third aspect of Carmel's character is the pine and oak dominated landscape. Although the forest landscape is not all natural – there has been enhancement over the years by tree planting – it pervades the City and is a defining characteristic of Carmel. Demolition often can result in tree damage and/or removal. New construction after demolition also may result in the loss of trees, especially if a new structure is built out to the maximum allowed by the zoning. And, the potential for the growth of the next generation of trees is reduced in proportion to the increase in hardscape because there is less room for seedlings to get started.

The historic resource value of a structure is another important factor to consider when evaluating impacts to community character. In general, structures greater than 50 years old may be considered historic, depending on the results of a specific historic resource assessment. In some cases, depending on the persons associated with a structure, or the significance of a structure to Carmel's local history, a building may be deemed to be a historic resource by the City, the State Office of Historic Preservation, or other public agency. The Carmel Preservation Society also may have identified a structure as an historic structure, or a structure may be eligible for listing in the California Register of Historical Resources (CRHR), particularly if it is found to be a contributing element of the potential District One historical district in Carmel. (One consideration in the City's development of its LCP is the creation of historic districts. The City is assessing the viability of establishing a historic district where a critical mass of historical structures are known to exist. Structures located within one of these districts would be preserved and recognized for their contribution to the historical character of Carmel.) Finally, individual structures may be historically significant because they convey the design principles of a distinctive artistic or architectural style, such as the Arts and Crafts movement, which is typical in Carmel. The landscaping of a site may also be part of such a style.



Cumulative Community Character Impacts

Recent trends in demolitions also raise concerns about the cumulative impacts of individual projects on Carmel's community character. It is important, therefore, that the effect of this particular demolition/rebuild be evaluated within the context of the larger pattern of demolition and rebuild over the years in Carmel.

Over time, the character of Carmel has been changing as its older housing and commercial stock makes way for new, usually larger in size and scale, developments. According to the Commission's permit tracking database, approximately 650 projects involving development have received coastal development permit authorization in Carmel since 1973. The overwhelming majority of these involved residential development of one sort or another ranging from complete demolition and rebuild to small additions to existing structures. It is likely that this number undercounts this trend inasmuch as the Commission's database was created in 1993 and, while every effort was made to capture archival actions, the database may not reflect every single such action taken. In addition, due in part to the City's categorical exclusion, it is not clear how many projects involving substantial remodel (but not complete demolition) have taken place over the years.

In contrast, the Commission's database for the period since 1990 is fairly robust. Since 1990, there have been roughly 185 coastal permit applications in Carmel. Of these, approximately 150 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 14 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 had been fairly constant until 2000. However, in the year 2000 alone, the Commission had received 44 applications; a full quarter of all applications received by the Commission for development in Carmel in the last decade. Of these 44 applications received in the year 2000, 33 of these involved some form of demolition, rebuilding and/or substantial alteration of residential structures. Thus far, in 2001, 13 applications have been received; 8 of these involved residential demolitions/alterations. As of this writing, another 19 demolitions are in various stages of City Planning review. 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 boundaries of this small town. As this trend has continued, it has become increasingly difficult to conclude that the demolition of residential structures is not significantly changing the unique character of Carmel.

Prejudice to LCP Planning Efforts

In addition to the direct concerns with whether a particular demolition is consistent with Coastal Act Section 30253(5), there is real concern that the individual and cumulative impact of changes in community character, primarily through the approval of residential demolitions, in the City of Carmel-by-the-Sea may prejudice the City's efforts to prepare and complete a certified LCP that is consistent with the Coastal Act. The Coastal Act provides in Section 30604(a):



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.

It is not entirely clear whether and to what extent the history of demolition/rebuild/remodel has altered the special community character aesthetic of Carmel that is protected by the Coastal Act. The Commission has not undertaken a formal cumulative impact assessment of such a trend to date. There is little doubt that structures within the City have generally been getting larger, and that many structures of at least some individual historical and other value have been demolished. The difficulty is that the Commission cannot necessarily ensure that continuation of residential demolitions and rebuilds will protect Carmel's community character. In other words, such projects may be prejudicing the City's completion of an LCP that is consistent with the Coastal Act.

Part of the reason for this is that although the elements that define the City's community character can be generally described (as discussed above; e.g., "the City in the forest", architectural style, historic value, scale, etc.), there has yet to be completed a comprehensive assessment and articulation of how all of these factors interact to define Carmel's character. Although individual projects may raise many concerns, depending on the facts of the structure, the nature of the proposal, the context of the development, etc., there are no planning standards and ordinances that provide a clear framework for whether a project meets the requirements of the Coastal Act – i.e., to protect the special community character of Carmel.

To implement the community character protection requirements of the Coastal Act, the Commission has always emphasized the importance of having local communities define their community character through a local planning process, so that a Local Coastal Program, when certified, will meet both the community's vision and understanding of its character, and the requirements of the Coastal Act. Although the Coastal Act provides a more general statewide policy framework for protecting community character, the details, for example, of whether particular types of structures should be deemed to be historic, or whether certain architectural styles reflect the character of a community, need to be developed through a local planning process such as that provided by the LCP process of the Coastal Act.

As mentioned earlier, the City of Carmel is currently finishing up a community planning process to determine, among other things, the basis for defining Carmel's community character, and ways to protect and preserve that character consistent with the Coastal Act. It is anticipated that the City will be submitting both a Land Use Plan and an Implementation Plan to the Commission for review in December of 2001. In the meantime, though, Coastal Act Section 30253 requires that individual projects not have direct or cumulative adverse impacts on Carmel's character; and Section 30604 requires that individual projects not raise significant concerns about consistency with Section 30253, lest



they prejudice the completion of an LCP consistent with the Coastal Act. As discussed above, the cumulative residential demolition trend in Carmel has made it increasingly difficult to conclude that these projects are not significantly changing the special community character of Carmel. Although each project must be judged on its individual circumstances, the cumulative context necessarily shapes these judgements, precisely because the community character of a place is in part the sum total of its parts.

Because the more specific features that define Carmel's character, as well as their relative significance, is yet to be decided, it is important to focus on measures of significant change to community character so that the completion of an LCP consistent with the Coastal Act is not prejudiced. Thus, the Commission can be assured that projects that do *not* result in significant changes in the various features of Carmel's community character, will not prejudice the completion of an LCP consistent with section 30253. Examples of such measures of change in community character include the following types of questions:

Would the proposed project:

- Result in a 10% or greater increase in the gross square footage, height, or footprint (site coverage) from that which is currently present (the 10% measure reflects the standards of the Coastal Act for evaluating replacements of structures destroyed by a disaster (section 30610))?
- Result in the removal of any significant (i.e., 6" or greater in diameter) native pine, willow, cypress, or oak trees? Or, even if no trees are removed, involve sufficient limb removal to be a significant loss of forest canopy?
- Involve a structure greater than 50 years old for which the City has not performed a historic resource assessment (i.e., the potential historic value of the structure is uncertain)?
- Modify a structure deemed to be a historic resource by the City, the State Office of Historic Preservation, the Carmel Preservation Society, or other public agency or knowledgeable entity (since the value of the historic resource within the context of the community has not yet been defined, the demolition of such structures may prejudice the LCP)?
- Not identify a City-approved replacement structure (i.e., the project is a "speculative" demolition and thus by definition has an uncertain impact on community character)?
- Facilitate an increase in residential density (a common type of application is to demolish one house that straddles two parcels, to allow a replacement house on each parcel)?
- Facilitate replacement of traditional architecture style in favor of contemporary or modernistic styles (from the visitor's perspective, rustic cottage and Craftsman styles are those most likely representative of Carmel's architectural traditions)?



Specific Project Impacts and Coastal Act Consistency Analysis

As discussed below, the proposed demolition and rebuild raises significant concerns about consistency with Coastal Act section 30253(5). Because it will result in a number significant changes to aspects of Carmel's community character, it must be denied at this time.

Demolition of Existing House.

The c. 1954 structure is less than 50 years old. A structure must be 50 years or older in order to qualify under the Secretary of Interior's guidelines as a historical resource. Nonetheless, the existing structure is a modest Carmel cottage of board and batten architectural design, typical of the homes in the neighborhood. In fact, the structure proposed for demolition is an excellent example of the Board and Batten architectural style typical of many Carmel cottages from the mid-1900's. The height, scale, and mass of the existing structure are well below the City's current allowable maximum standards (not certified as consistent with the Coastal Act). In its findings, the City described the surrounding neighborhood as "a mix of wood and plaster homes, generally low in scale and unpretentious." The City's site assessment concluded that the slope, the large unimproved right-of-way on the east and south frontages, and the large spreading oak that dominates the San Carlos street frontage, are the dominant features of the site. The right-of-ways support several trees considered to be valuable for the neighborhood forest. The house appears to be in particularly good condition and has recently been owner-occupied.

Although the structure does not qualify as a historical resource under the criteria of the City or the State Office of Historic Preservation, it does exhibit many of the architectural qualities and site characteristics for which Carmel is well known. The structure blends in with, and is subordinate to, the dominant site features rather than attempting to override them. It is modest in size and scale, yet is an excellent example of the charming board and batten architectural design. The house is beautifully maintained and currently inhabited. See Exhibit 2. Demolition of the existing house will almost certainly lead to a change in character at this site, particularly when considered in light of the proposed replacement structure that will be facilitated by the demolition. In addition, when the cumulative impacts of demolitions such as that proposed here are considered, particularly the more recent increase in residential demolitions, it is difficult to conclude that this project would not significantly change the community character of Carmel

Proposed New Structure (Exempt)

Although the proposed replacement structure is excluded from CDP review, several aspects of replacement structures associated with demolition projects are important to evaluating the community character impacts of such demolitions. These include the architectural design and style, and mass and scale of the replacement structure, neighborhood character, landscaping and tree removal.

The applicant proposes to construct a new two-story house with attached garage. The architectural design of the replacement structure is modern, complete with a tower element, circular staircase, simulated slate roof, and Carmel stone chimney, garage, entry, and garden walls. Although the building



footprint is simple, the design incorporates a complex roof form with a tower element and at least 25 roof planes. The proposed replacement is 5 feet greater in height and 365 square feet (25%) larger than the current house on site. Setbacks have been reduced to their minimums. The architectural design though not uncommon in Carmel, is modern and eclectic, atypical of the subject neighborhood. See Exhibit 3. The City's staff report describes the design proposal in the following way:

The tower element, complex roof, and building scale suggest a more formal and visually prominent design treatment than is common in this neighborhood.

The City also expressed uncertainty with respect to design treatment of the replacement home in its response to three critical Municipal Code Findings. Although these Code Findings are not certified by the Commission, they do provide important context for understanding the potential community character impacts of the project. In particular, Section 17.18.170, *Findings Required For Design Study Approval*, require that City evaluate whether the submitted plans support adoption of the findings. Those findings include:

1. *The design is sensitive to site features including topography, slope, access, vegetation, and the site's relationship to adjoining properties.*
3. *All improvements are designed to a human scale and a residential character, and the improvements will not appear excessively massive or dominating, as viewed from adjoining properties or from any public right-of-way.*
9. *The design is compatible with the character of the neighborhood and would not provide an incentive for construction on other sites that would be inconsistent with neighborhood character or the intent of the residential design objectives.*

In each case, there was enough uncertainty regarding the proposed project design that the City could not answer unequivocally, YES. City staff answered MAYBE to each of the three findings suggesting that the proposal may not be in line with the character of neighborhood or community.

Commission staff has had an opportunity to evaluate the application materials submitted for review and concurs with the findings of the City. Aside from the obvious aesthetic changes in architectural style, the scale and mass of the proposed structure would deviate significantly from the character of the neighborhood. As mentioned in the section above, the surrounding neighborhood is a mix of wood and plaster homes, generally low in scale and unpretentious. The proposed replacement structure is 25% greater than the existing house on-site based on square footage. The proposed new structure is designed at maximum height, scale, and mass. Although the bottom-story element enjoys a similar roof-line with the existing structure, the proposed second story and tower element is 5 feet greater in height. The additional height and roughly 365 square feet of the second story increase the mass of the structure dramatically. Furthermore the applicant proposes to minimize the setbacks to accommodate the additional size. This is particularly noticeable on the San Carlos frontage where the proposed setback is 3.75 feet versus an existing setback of 17 feet.



Parcels in the vicinity of the subject parcel are developed with single family dwellings at urban densities. All utilities are connected to the existing house on this site. There are adequate public services for the proposed new house. The proposed project will not have any adverse effect on public coastal views. No trees are slated for removal. Parking is adequate.

Conclusion

Overall, as proposed, the demolition of the existing structure to facilitate construction of the new two-story residence will result in a significant change to the neighborhood's special character. Section 30253(5) of the Coastal Act requires that new development protect the character of special communities and neighborhoods. Whether or not this "change" is appropriate, has yet to be defined by the City of Carmel and the local community through the LCP process. The critical point is that there would be a significant change in community character with this project. If there were no significant changes in the various aspects that together make up community character in Carmel, the project might otherwise be approvable. (For example, in the recent Sparolini case (3-01-006), approved by the Commission, the house proposed for demolition was not particularly representative of the surrounding community character, whereas the replacement was more so. Similarly, there was no significant change in the scale and building from the old to new building, and trees proposed for removal (the tree canopy) were fully mitigated.) Moreover, when the cumulative trend of increasing residential demolitions in Carmel is considered, it is difficult to conclude that this project does not result in significant impacts to community character. As such, the project as currently proposed cannot be found to be consistent with Section 30253(5) of the Coastal Act, either individually or cumulatively, because of uncertainties about what exactly would protect Carmel's character, consistent with 30253(5). Therefore, the project must be denied.

Further, by demolishing the subject structure now, its overall contribution to community character will be forever altered; replaced in some way by the structure meant to take its place at this location. Because community character has not yet been clearly defined, the effect of such a demolition on Carmel's character is unclear. Because it cannot be guaranteed that such a demolition would protect Carmel's community character, consistent with 30253(5), the project will prejudice the ability of the local government to prepare a local coastal program that is in conformity with Chapter 3, and is thus inconsistent with Coastal Act Policy 30604(a) and must be denied. This denial is without prejudice to the proposed project inasmuch as once the City's LCP has been finished, and ultimately certified by the Commission, the proposed project could be held up against the applicable LCP standards and evaluated accordingly at that time. Until that time, however, the Commission cannot find this application consistent with the Coastal Act.

Alternatives

As discussed above, the project must be denied because it cannot be found to be consistent with Coastal Act Section 30253(5) and is inconsistent with 30604(a). The Coastal Act also requires that any action by the Commission not adversely impact or result in a take or damage of private property rights. Coastal Act Section 30010 specifically states:



Section 30010. The Legislature hereby finds and declares that this division is not intended, and shall not be construed as authorizing the commission, port governing body, or local government acting pursuant to this division to exercise their power to grant or deny a permit in a manner which will take or damage private property for public use, without the payment of just compensation therefor. This section is not intended to increase or decrease the rights of any owner of property under the Constitution of the State of California or the United States.

In this case, the Applicant proposes to demolish an existing residence and replace it with another residence of different size and architectural style. Though denial of such a project might result in adverse impacts to the permittee, there are alternatives that would allow for a reasonable economic use of the site.

The first alternative is the "no project" alternative. The current development proposal may have significant adverse effects on community character and/or prejudice the City's ability to prepare and complete an LCP. As an alternative to demolishing the existing home and reconstructing a new house on site, the applicant can live in the existing structure. There was no information provided to suggest that the structure was uninhabitable or in a state of disrepair. In fact, from the information supplied by the applicant, the existing house appears to be in reasonably good condition and has been recently occupied by the applicant. Living in the existing house will maintain the existing character of the neighborhood and have no affect on the City's ability to prepare an LCP.

The applicant may also choose to wait until the City's LCP is complete. The alternative would be to withdraw the current application and keep the existing use with the expectation that the applicant will resubmit after the City's LCP has been certified. Once the City has a certified LCP in place, the application for a CDP (demolition and reconstruction) would be evaluated by the City for consistency with the LCP. The City is diligently working towards a submittal date of its Local Coastal Program to the Commission by December 2001. Certification is expected sometime in spring or early summer 2002.

Thus, though the current project proposal is not consistent with the Chapter 3 policies of the Coastal Act, there are feasible alternatives that would protect against the loss of community character and that would not prejudice the City's ability to prepare and complete its LCP.

D. California Environmental Quality Act (CEQA)

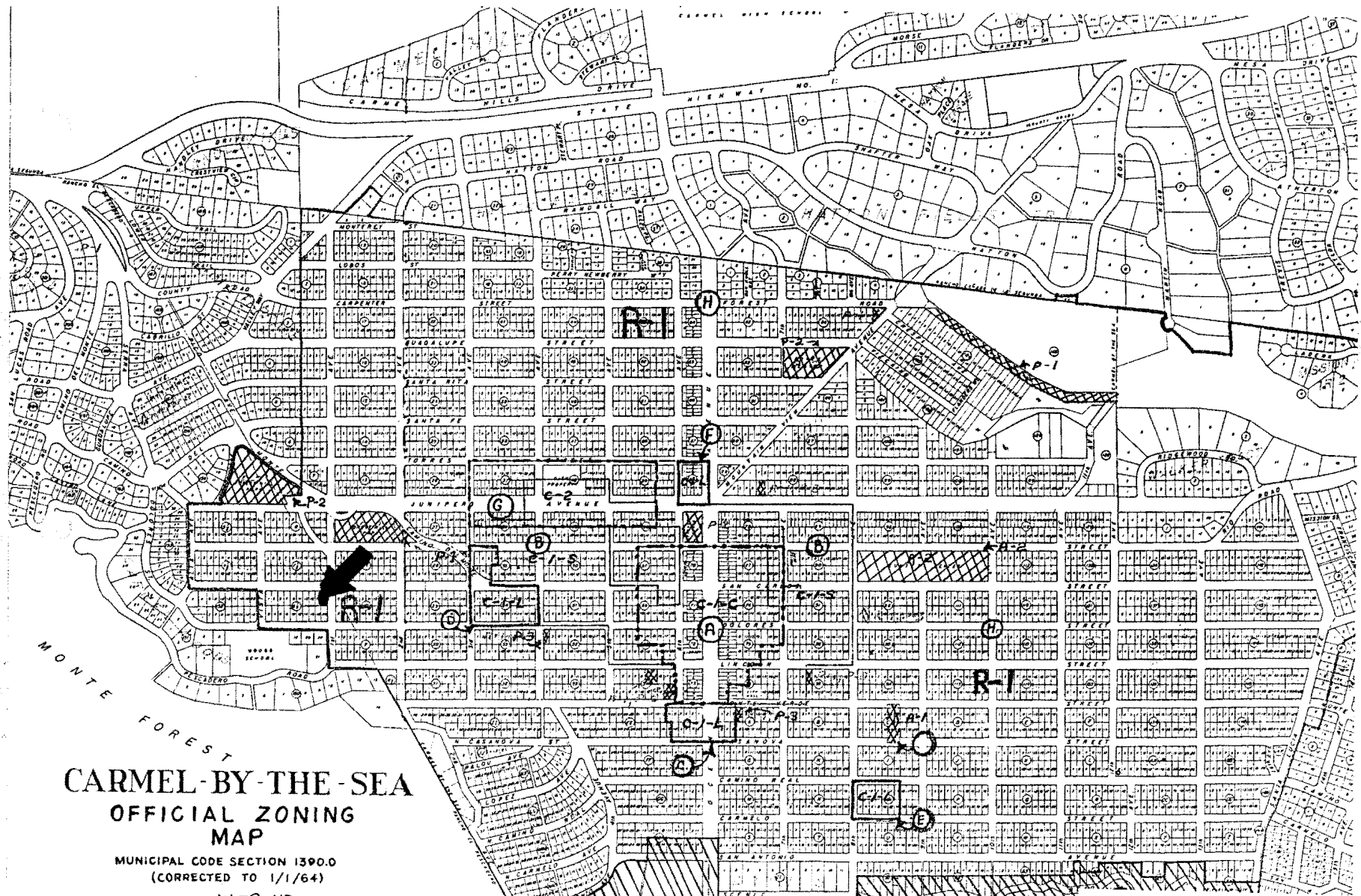
Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development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

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. Notwithstanding the City's adopted CEQA document, the Commission's findings above (incorporated herein by reference) have documented that the proposed project could lead to significant adverse effects to Carmel's community character protected by the Coastal Act, impacts that cannot be adequately evaluated without completion of the City's LCP. Approval of the proposed project in the face of this uncertainty would prejudice the City's LCP planning efforts. All public comments received relevant to this application have been addressed either in these findings or in other correspondence. As such, the Commission finds that the proposed demolition would result in significant adverse effects on the environment within the meaning of CEQA, and that at least two alternatives to the project are available. Accordingly, the proposed project is not approvable under CEQA and is denied.





**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
- ▨ ZONES P (PARKS AND PARKING); ZONES A-1, A-2 (THEATRICAL OF CULTURAL CENTER)
- SERVICE STATION OVERLAY ZONE (AREAS NOT MARKED ARE ZONED R-1)
- ▨ AREA NOT EXCLUDABLE BY LAW OR NOT REQUESTED FOR EXCLUSION

AREAS NOT EXCLUDED
R M E L
G A

EXHIBIT NO. 1
APPLICATION NO.
3-01-048
California Coastal Comm

TAX CODE AREA 1-00

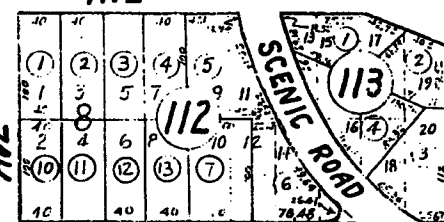
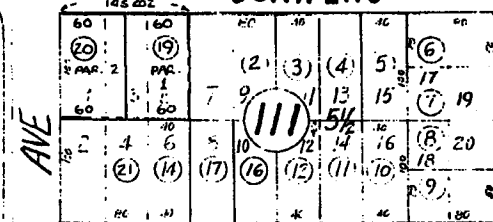
ASSESSOR'S MAP
BOOK 10 PAGE 11

SCALE 1"=700'
9-13

ALTA AVE

JUNIPERO AVE

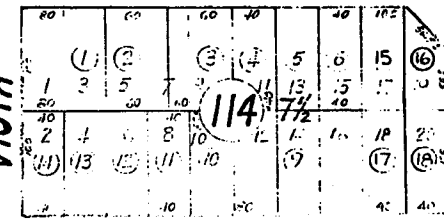
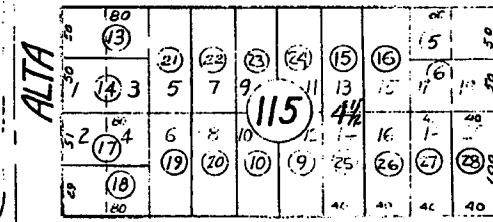
AVE



MISSION ST

ST

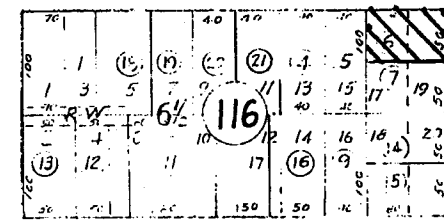
9-10



SAN CARLOS ST

ST.

9-10



DOLORES ST.

9-12

CARMEL BY THE SEA ADD'N NO. 4
BLOCKS 4 1/2, 5 1/2, 6 1/2, 7 1/2 + 8

EXHIBIT NO. 1a
APPLICATION NO.
3-01-048
California Coastal Commission

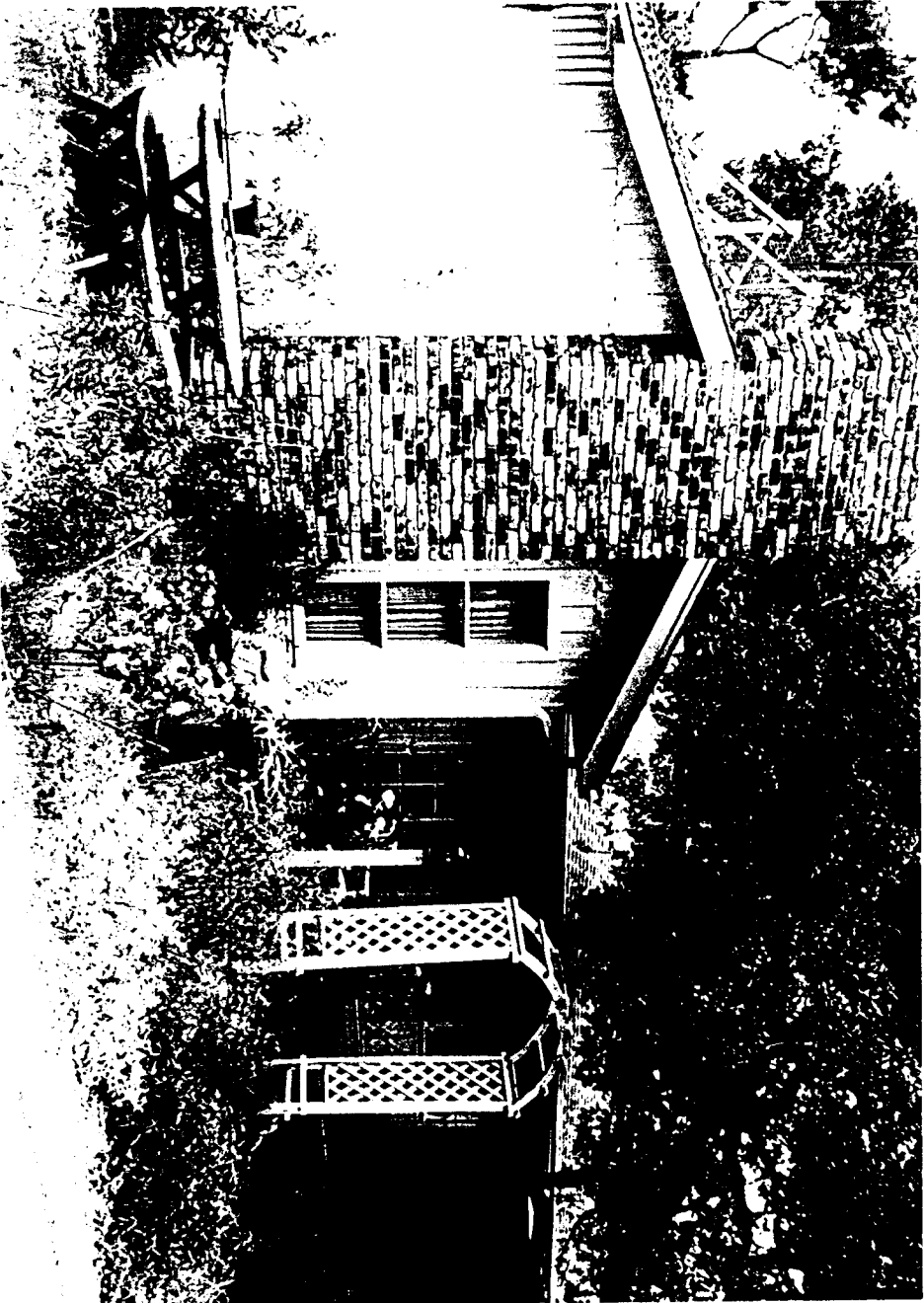


EXHIBIT NO. 2

APPLICATION NO.

3-01-048

 California State Commission



EXHIBIT NO. 2

APPLICATION NO.

3-01-048

 P1 202
California Coastal Commission

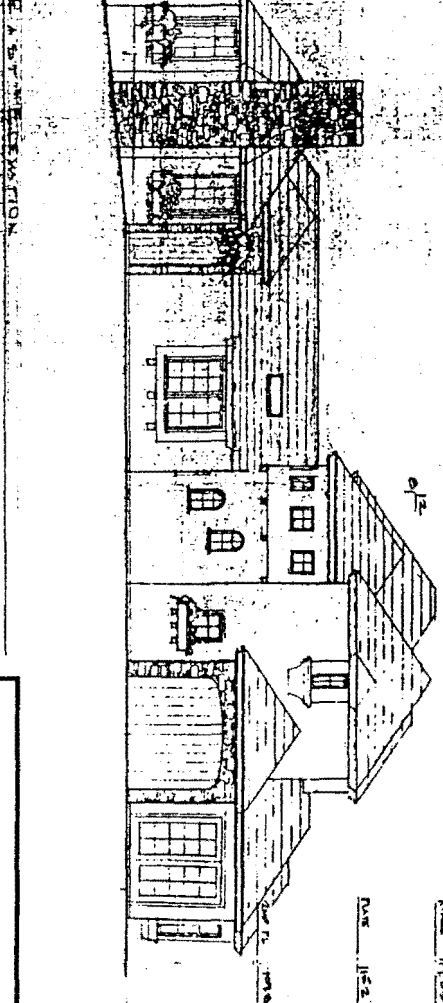
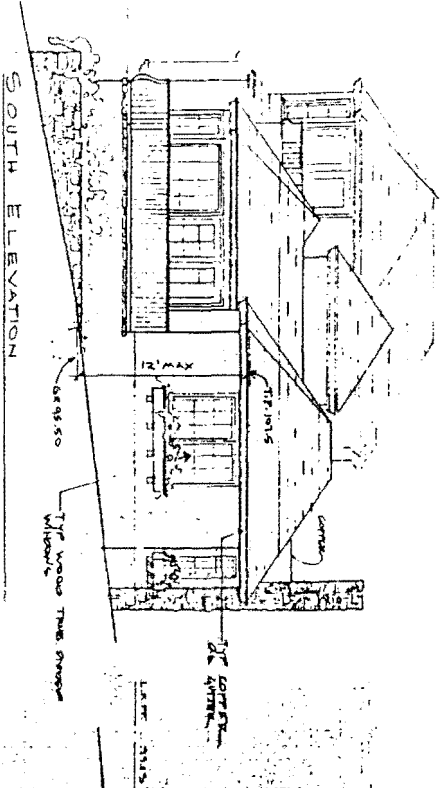
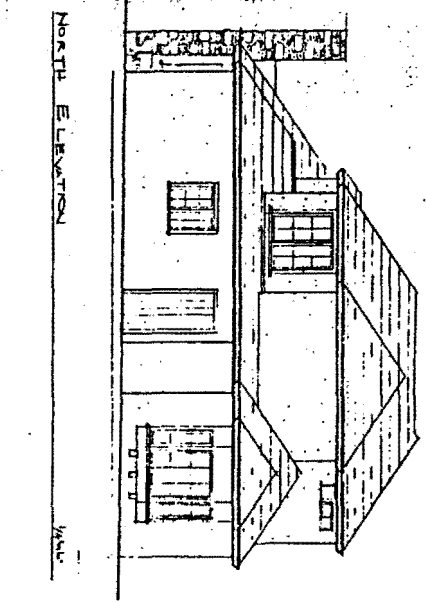
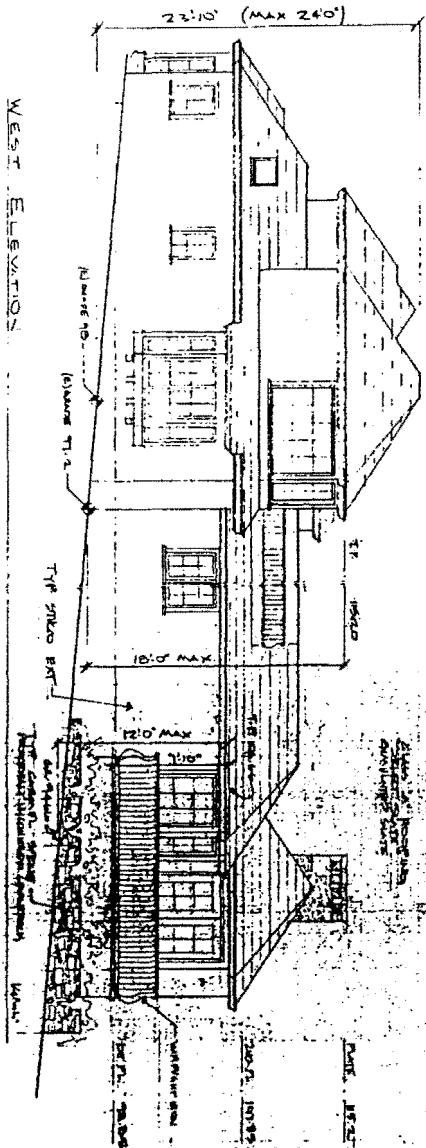


EXHIBIT NO. 3
 APPLICATION NO.
 3-01-048



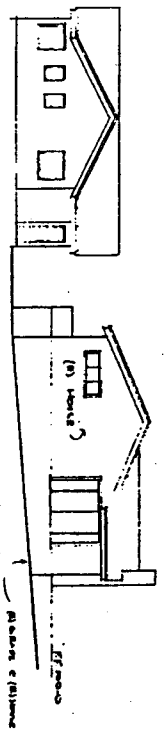
PROJECT NO.	
DATE	
SCALE	
PROJECT NUMBER	

PROPOSED ADDITION FOR
 KAREN MAGONDRAY
 CORNER OF 1ST & SAN CARLOS
 LOTS 17, 18 BLOCK 8 1/2, CARMEL BY THE SEA
 APN: 010-116-008 TEL: 620-1900

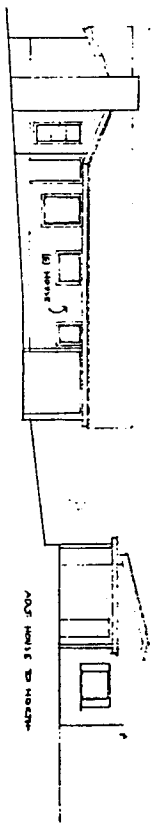
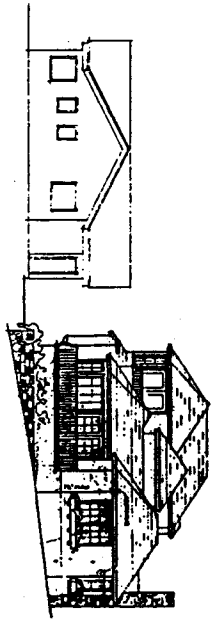
BUILDING DESIGN & CONSULTING
draftact
 2160 SANDEN RD., SUITE 81 / MONTEREY, CA 93940
 (408) 846-8888 FAX 846-8888

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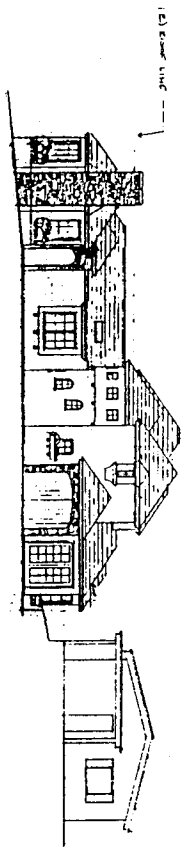
DATE	11-01-02
BY	
CHECKED	
APPROVED	



(2) STREET ELEVATION - 4-27



(3) STREET ELEVATION - SAN CARLOS



(4) EAST SIDE

EXHIBIT NO. 3
APPLICATION NO.
3-01-048
PS 242 California Coastal Commission

ADDITION FOR:
 ANDRAY
 OF 1ST & SAN CARLOS
 CK 6 W, CARMEL BY THE SEA
 PH 820-1900

1-20-01