

**CALIFORNIA COASTAL COMMISSION**

CENTRAL COAST DISTRICT OFFICE  
725 FRONT STREET, SUITE 300  
SANTA CRUZ, CA 95060  
(831) 427-4863

**W22a**



RECORD PACKET COPY

Filed: 08/10/01  
49th day: 09/28/01  
180<sup>th</sup> day: 02/06/02  
Staff: MW-SC  
Staff report prepared: 08/27/01  
Hearing date: 09/12/01  
Hearing item number: W22a

**STAFF REPORT: REQUEST FOR RECONSIDERATION**

Application number ..... 3-01-032-R

Applicant ..... Gary Martin

Project location ..... S.E. Camino Real & 13th Avenue, Carmel-by-the-Seas (Monterey County)  
APN 010-282-021.

Project description ..... Request for the reconsideration of the denial of a Coastal Development Permit for the demolition of an existing 2,635 square foot single family residence and construction of a new 2,700 square foot single family residence, rehabilitate existing garage, and adjust lot lines.

Local approval ..... City of Carmel-by-the-Sea: DS 01-04 / RE 01-08 / VA 01-03.

File documents ..... Permit File 3-01-032 and Reconsideration Request dated August 10, 2001.

Staff recommendation... Staff recommends that the Commission **approve** the request for reconsideration because additional new information has been identified that has the potential to alter the Commission's decision.

**PROCEDURAL NOTE:** The Commission's regulations provide that at any time within thirty days following a final Commission action on a permit, the applicant may ask the Commission to reconsider all or a portion of their action. (CCR, Title 14, Section 13109.2 ) The grounds for reconsideration are provided in Coastal Act Section 30627, that states in part; " The basis of the request for reconsideration shall be either that there is relevant new information which, in the exercise of due diligence could not have been presented at the hearing on the matter or that an error of fact or law occurred which has the potential of altering the initial decision" ( Public Resources Code, Section 30627 (b) (3) )

**EFFECT OF GRANTING RECONSIDERATION:** If the Commission grants the request for reconsideration, a de novo hearing will be scheduled for a subsequent Commission meeting.



**California Coastal Commission**  
**September 2001 Meeting in Eureka**

Staff: Mike Watson Approved by: *DK 8/30/01*

## I. Summary

The Commission denied an application to demolish an existing 2,635 square foot house in Carmel and construct in its place a new 2,700 square foot residence, rehabilitate an existing garage, and adjust lot-lines at its July 12, 2001 meeting in Santa Rosa. In his reconsideration request dated August 10, 2001 and received in the Santa Cruz office on same date, the applicant contends that the Commission's prior denial (3-01-032, Gary Martin) was based on an error of fact. According to the applicant, correction of these errors has the potential to alter the Commission's decision to deny the project. The applicant is also asserting that there is new relevant information regarding the project that could not have been presented at the July meeting. To summarize:

1. The structure in question is an imminent and uninsurable hazard to life and property.
2. Mr. Martin's home has been red-tagged and is totally unusable.
3. Any finding of prejudice to promulgation of a local coastal plan is insupportable and constitutes an impermissible taking.
4. Additional materials relevant to this application are attached which demonstrates that the structure proposed by applicant is fully consistent with community character and will remove a blight on the community which has been condemned by the City of Carmel.

Each of these contentions is discussed in detail in the Findings (pages 3 through 6 of the Staff Recommendation). Please see also Exhibit 1, Applicant's letter requesting reconsideration. Staff did not find merit to the claim of error in fact, but felt the applicant's request based on new information warrants reconsideration. Thus, this recommendation will focus on whether there exists new information which, in the exercise of due diligence could not have been presented at the hearing on the matter and would have the potential to alter the July decision.

If the Commission determines that grounds for reconsideration exist, the request should be approved and a new hearing on whether to approve a coastal development permit for the project will be scheduled for a subsequent Commission meeting. If the Commission determined that grounds for reconsideration of the June 2000 action do not exist, the initial decision to deny the project stands.



## II. Staff's Recommendation

### MOTION

**MOTION:** I move that the Commission grant reconsideration of Coastal Development Permit 3-01-032-R.

**STAFF RECOMMENDATION:** Staff recommends a YES vote on the motion. Passage of this motion will result in grant of reconsideration and adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

**RESOLUTION TO GRANT RECONSIDERATION:** The Commission hereby grants the request for reconsideration of the Commission's decision on Coastal Development Permit 3-01-032-R on the grounds that there is relevant new information which, in the exercise of reasonable diligence, could not have been presented at the hearing.

## III. Findings and Declarations

- 1. Permit History and Background:** The applicant submitted to the Commission an application for a coastal development permit to demolish an existing single family structure in Carmel-by-the-Sea. The application was filed on May 18, 2001. The application was heard at the July 12, 2001 Commission's hearing in Santa Rosa. As recommended by staff, the Commission denied the application. The primary basis for the denial was the proposed lot-line adjustment and re-siting of the new structure without a City-approved replacement structure in the vacated lot. There were also issues of potential historical associations with notable persons and architectural style relevant to the structure proposed for demolition. And the proposed project also involved the removal of several significant trees.
- 2. Request for Reconsideration:** The Commission's Regulations provide that at any time within 30 days of the Commission's action on a permit, the Applicant may ask the Commission to reconsider all or a portion of its' action. (CCR Title 14, Section 13109.2) In order to file a request for reconsideration, the Applicant must submit a fee as required by CCR Title 14, Sections 13055(a)(11) or (12) and the public noticing materials described in Section 13109.5(a). The grounds for reconsideration are provided in Coastal Act Section 30627 which states in part:

*"The basis of the request for reconsideration shall be either that there is relevant new information which, in the exercise of due diligence, could not have been presented at the hearing on the matter or that an error of fact or law occurred which has the potential of altering the initial decision."*



In this case, the applicant is asserting that both new information is pending and that errors were made that would, if corrected, have the potential to alter the Commission's action on this initial item. The applicant has offered a number of reasons why he believes the Commission should reconsider its' action to deny the permit for the subdivision. Each of these contentions is discussed in the following sections of these findings.

### **Applicant's First Contention**

#### **1. Structure Is A Hazard To Life And Property And Has Been Red-Tagged By The City**

Although the applicant has submitted this contention as two individual arguments, staff is evaluating them together because they present related issues.

The applicant contends that Staff ignored the existence of a letter submitted by a structural engineer regarding the structural soundness of the home. The implication is that Staff erred in ignoring the recommendation of the engineer. The applicant continues that the addendum prepared by Staff addressing the structural deficiencies was not made available to him or his agent prior to the Commission hearing and that as a result of the structural report, the home is uninsurable. Secondly, The applicant has submitted evidence that the structure has been red-tagged by the City of Carmel.

**Analysis:** In this contention the applicant asserts that he submitted reports and materials to support demolishing the existing structure and that those materials were not evaluated. Staff evaluated the contents of the letter sent by the applicant's engineer and prepared an addendum that was promptly mailed to applicant and his agent at the addresses provided in the application. The addendum was likewise made available at the Commission table prior to Mr. Martin's item being heard by the Commission on July 12, 2001. Staff presented the information to the Commission and highlighted the issues contained in the addendum.

A second letter from the applicant's engineer was attached to this request (Exhibit 2) and maintains that the structure is unsafe and poses an imminent risk to life and property. As a result of this recommendation, the applicant complains that the structure is uninsurable. Attached to the request for reconsideration, is a copy of a letter from a State Farm Insurance agent, Tempe Javitz stating that State Farm will not insure the house. Mr. Javitz states: "Now with the structural engineering report by Uyeda & Associates stating that the home is uninhabitable, it is clear that not only State Farm but any other insurance company would not insure the property for fire or liability coverage." See Exhibit 3.

The City issued a red-tag order stating that the building has sustained severe structural damage and that it shall not be entered by any person without written approval of the chief building official. See Exhibit 4. On August 3, 2001, the applicant made a formal request of the city of Carmel to perform a "special inspection" of his home on the S.E. corner of Camino Real and 13<sup>th</sup> Avenue. The inspection evaluated the structural integrity and overall systems condition of the house and garage. Staff obtained a copy of the order and spoke with the City's Building Official, Tim Meroney. It is the opinion of Mr. Meroney that the buildings (garage and house) are in a state of disrepair and dilapidation. He says they are in a



substandard and dangerous condition and not currently habitable. The official also opines that the structures constitute a hazard to life, safety, property and surrounding structures but stops just short of condemning the house. Mr. Meroney's recommendation is that the structures remain vacant pending the issuance of a permit for rehabilitation and/or demolition and requires all permits (for rehabilitation or demolition) to be obtained within 60 days. See Exhibit 5.

Therefore, the adopted findings adequately address the issues raised by Mr. Martin and his associates regarding structural stability and insurability. As a consequence, no error of fact or omission of information occurred. Thus, the request for reconsideration should not be granted based on this contention. However, the issuance of a red-tag constitutes new information that was unavailable at the prior Commission meeting and may be significant enough to alter the outcome of the Commission's prior decision of denial. Thus, based on this new information, the Commission recommends that the request for reconsideration be granted.

### Applicants Second Contention

#### 2. Finding of Prejudice to the LCP is Insupportable and Constitutes Takings

Applicant contends that an error of fact has created a misperception regarding the proposed lot-line adjustment associated with the project. At issue are statements made by Commission staff at the Commission hearing in July 2001. The first statement in question is that the application would "in effect create a new building site." The second statement is that the application would "create a new lot." See Exhibit 6. The applicant maintains that "there have been two lots and buildings sites in this location since early in the last century. The lot line adjustment does not change this fact."

The applicant also suggests that the lot-line adjustment cannot be prejudicial to an LCP because it reflects the City's historical land use planning efforts. Furthermore, he contends that the future LCP could not lawfully undermine the rights of property owners of two lots to use those lots according to original mapping.

**Analysis:** It was clear in the staff report that the project included a lot-line adjustment and that it was not a subdivision. This point was precisely elaborated in staff's addendum. At the Commission hearing on July 12, 2001, staff was careful to point out early in its presentation that the project included a lot-line adjustment. Staff did state that the proposed development would "essentially create a new building site." To say that the development would essentially create a "second" building site, might be a more accurate assessment.

On the second issue of whether the development creates a new lot, the applicant is implying that staff erred and mislead the Commission to believe that the project was a subdivision. The applicant has proposed a lot-line adjustment in conjunction with a proposed demolition and rebuild of a new structure that will result in a vacant lot on which a second structure could be sited but is not identified or approved. Under the current configuration, the existing house and detached garage sit atop lots 2, 4, and



one-half of 6. See Exhibit 7. As noted above, staff was careful to clearly point out to the Commission that the project involved a lot-line adjustment, not a subdivision. In either case, the substantive outcome would be similar even if an error occurred as both involve an increase in building sites and/or density.

In answer to the last complaint regarding the lot-line adjustment, the applicant argues that no future LCP could lawfully restrict his right to develop those properties according to original mapping and for their lawful purpose. The proposed project, (i.e., demolition, lot-line adjustment, and rebuild) essentially creates a second building site without a City-approved replacement structure (i.e., speculative demolition). Any lot-line adjustment resulting in the creation of additional building sites or increasing the allowable density of development on the affected parcels are not excluded under the City's categorical exclusion order E-77-13. Since the City of Carmel-by-the-Sea does not have a certified LCP, the Coastal Commission retains permitting authority over this type of development and by law is required to protect the character of special communities under C.A. Section 30253. These points were clearly identified and elaborated in staff's addendum along with its findings.

Therefore, the Commission finds that no error occurred and the request for reconsideration, based on this issue, is denied.

### **Applicants Third Contention**

#### **3. Additional Material Supporting Replacement Structure is Consistent With Community Character**

The applicant submits photographs of the existing structure in question, other structures with similar material used in their construction, and a color simulation of the proposed structure.

**Analysis:** In its original staff report, the analysis did not dismiss the replacement structure as being out of character for the City of Carmel-by-the-Sea. To the contrary, at the time of the denial, the report noted that structures with similar architectural style and material composition are found in the City and that the proposed replacement structure appeared to be compatible with that general character. See Exhibit 8. The most problematic changes in character however, resulted from the proposed lot-line adjustment with no approved replacement structure, tree removal, and potential historical associations with architecture and persons of the house to be demolished. The information submitted by the applicant is neither new nor compelling. Thus, the Commission finds that this additional information does not have the potential to cause the outcome of its decision to be altered. The request for reconsideration based on this issue is denied.



WENDEL  
ROSEN  
BLACK  
& DEAN  
LLP

Attorneys at Law

RECEIVED

AUG 10 2001

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August 10, 2001

**BY HAND DELIVERY**

California Coastal Commission  
Central Coast District Office  
725 Front Street  
Santa Cruz, CA 95060 4508

Re: Gary A. Martin Request for Reconsideration and Notice of Condemnation  
Application Number: 3-01-032  
Project Location: S.E. Camino Real & 13th Avenue, Carmel-By-The-Sea,  
Monterey County (APN 010-282-021)

Honorable Members of the Commission:

On behalf of our client, Gary A. Martin, we respectfully request reconsideration of the Coastal Commission's decision to deny Mr. Martin's request to demolish and replace an existing home on his property located in Carmel-By-The-Sea (Item 11(f) on the Commission's July 12, 2001 Agenda). This request for reconsideration is made pursuant to Public Resources Code §30627 and California Code of Regulations, Title 14, Chapter 5, §§13109.1-13109.6. Mr. Martin requests reconsideration of the denial of the Coastal Development Permit based on Pub. Res. Code §30627 because such denial was based on errors of fact and law which had the potential of altering the initial decision. Reconsideration is further sought because relevant new evidence exists that could not, in the exercise of reasonable diligence, have been presented to the Commission at an earlier date.

**I. The Structure In Question Is an Imminent and Uninsurable Hazard to Life and Property**

During the original staff investigation and analysis of this Application, Mike Watson, of the Commission's Staff, invited Mr. Martin to obtain and submit a structural engineer's opinion concerning the safety of the structure here in question. This invitation set in motion a process resulting in the issuance of a letter from Yutaka Uyeida, a respected structural engineer, that declared the house unsafe. This letter was promptly provided to Mr. Watson of the Commission's Staff.

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In its original report to this Commission, Staff inexplicably ignored the very existence of Mr. Uyeda's letter report and relied, instead, on an earlier report by a nonengineer home inspector. Although that home inspector report, too, expressed great concern about the stability of the home, Staff adopted an adversarial role and relied heavily on the claim that the home inspector report "does not state that the structure is uninhabitable or that it should be condemned." Staff has never explained why they ignored a structural engineer's report in Staff's possession which said precisely that.

Staff responded to Mr. Martin's letter of July 9, 2001, by preparing an "Addendum." This Addendum was never served on the Applicant or his counsel, despite the fact that Staff had full contact information in their files. Instead, the first time that Applicant saw this Addendum was on the table at the Coastal Commission proceedings in Santa Rosa on July 12 (the day this matter was originally heard). The Addendum, rather than offering or addressing evidence, adopted an adversarial posture toward the Uyeda report and relied on engineering assumptions and conclusions that Staff is simply not qualified to make. Applicant was unable to provide evidence in response to the Staff's Addendum at the time of the hearing because the Applicant was given no copy or notice of the content of that Addendum prior to the hearing.

Attached as **Exhibit 1** is a further letter from Mr. Uyeda dated August 8, 2001, addressed to the Commission's Staff and directly responding to Staff's last minute Addendum. This report confirms that the life/safety threat posed by the structure is severe and imminent.

The Commission's prior decision subjects Mr. Martin and his family, invitees and neighbors to unreasonable and extreme risks against which Mr. Martin cannot even insure. In this regard, attached hereto as **Exhibit 2** is a letter from Tempe Javitz, a licensed insurance agent, confirming that Mr. Martin's Carmel home is uninsurable for either homeowners or liability coverage. This uninsurability is the direct result of the structural engineer's opinion that the Commission Staff invited.

## **II. Mr. Martin's Home Has Been Red Tagged And Is Totally Unusable**

The structure in question has been red tagged. Attached hereto as **Exhibit 3** is a copy of a Public Notice dated August 8, 2001, posted on the structure on that same date prohibiting entry into the structure.

## **III. Any Finding Of Prejudice To Promulgation Of A Local Coastal Plan Is Insupportable And Constitutes An Impermissible Taking**

This Commission was told by Coastal Program Manager Lester on the record on June 12<sup>th</sup> that this application would "in effect create a new building site." **Exhibit 4** at p. 4. Mr. Faust incorrectly advised the Commission that the Application would "create a new lot." **Exhibit 4**, p. 20. These statements are incorrect. As shown by the plat map attached hereto as

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**Exhibit 5**, there have been two lots and building sites in this location since early in the last century. The lot line adjustment does not change this fact.

A lot line adjustment to existing lots cannot be prejudicial to an LCP. In fact, the lot line adjustment at issue here is consistent with and recognizes Carmel's historical land use planning decisions and standards. No future LCP issued by the City of Carmel could lawfully undermine the rights of the owners of two legal lots to use those lots according to original mapping and for their lawful purpose.

**IV. Additional Materials Relevant To This Application Are Attached Which Demonstrate That The Structure Proposed By Applicant Is Fully Consistent With Community Character And Will Remove A Blight On The Community Which Has Been Condemned By The City Of Carmel**

Applicant submits the following additional materials:

- Exhibit 6: Package of Design and Materials for Proposed New Home
- Exhibit 7: Photographs of Existing Structure
- Exhibit 8: Photographs of Similar Existing Stone Cottages Located in Carmel-By-the-Sea

**V. Conclusion**

Mr. Martin's life, health and financial condition and that of his family and neighbors is at risk because of a decision made by this Commission on a 6 to 5 vote. Applicant urges the Commission to grant reconsideration and to take this opportunity to correct this injustice and protect its own institutional credibility.

Very truly yours,

WENDEL, ROSEN, BLACK & DEAN, LLP

Charles A. Hansen

CAH:gcc  
Attachments

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# UYEDA & ASSOCIATES

STRUCTURAL ENGINEERS

659 Abrego Street, Suite 5 • Monterey, CA 93940  
(831) 373-3181 • Fax (831) 373-3188 • Email: yutaka@mbay.net

**RECEIVED**

August 8, 2001

AUG 10 2001

Tami Grove, Deputy Director  
Charles Lester, District Manager  
Mike Watson, Coastal Planner  
California Coastal Commission  
Central Coast District Office  
725 Front Street, Suite 300  
Santa Cruz, CA 95060

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

Ref: Memorandum dated July 5, 2001 for house at S.E. corner of Camino Real & 13<sup>th</sup>  
Carmel-by-the-Sea, CA

Dear Sirs:

After reading your memorandum written in response to my original report, dated May 24, 2001, I find myself shocked and disappointed to see the ignorance of structural principles on the part of people making decisions regarding the safety of a residence.

Clearly, the fact that the house was not obviously damaged in the last big earthquake does not mean that the house is safe. In fact, though there is no obvious damage to this house from the last quake, the occurrence of the quake very likely caused loosening of the structure of the house; another large quake is not required to completely topple the house. A small one will do, and could result in the loss of life.


This house was built with a single wall frame (1" lapped boards to form the wall). The over all thickness of the external wall is less than 3". A second floor was added without new footing and without a new wall. I must assume you have read the original house inspection report by Consumer Home Inspection Service, dated March 1, 2001.

I take great exception to those who with no risk offer their unlicensed opinion as fact.

My profession commits me to protection of the general health and safety of the public, as well as to the fulfillment of obligations to clients rather than to the inanimate building it self. It is factual that this structure poses an imminent risk to its occupants and neighbors and must come down now. To inhibit this outcome is to invite the tragedy of the loss of human life.

Sincerely,

  
Yutaka Uyeda, S.E.

EXHIBIT NO. 2
APPLICATION NO.
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 California Coastal Commission



TEMPE JAVITZ, AGENT, License # 0468718  
Auto-Life-Health-Home and Business  
275 TOWN & COUNTRY VILLAGE---tempe.javitz.b6zc@statefarm.com  
PALO ALTO, CA 94301 PHONE (650) 326-1874 FAX 650-326-0287

August 03, 2001

GARY A MARTIN  
805 VETERANS BLVD STE 20C  
REDWOOD CITY, CA 94063-1736

Dear Gary,

Per our conversation this afternoon in regards to your home in Carmel, again I want to state that State Farm will not insure the house because of its condition. In order to get homeowners and liability coverage on an older structure the home must meet minimum requirements regarding the condition and safety of the home for occupancy. Now with the structural engineering report by Uyeda & Associates stating that the home is uninhabitable, it is clear that not only State Farm but any other insurance company would not insure the property for fire or liability coverage. Most insurance companies are very concerned about the potential fire hazard after an earthquake in homes that are not properly anchored. This definitely is a problem with this home.

I would concur with your original plans, which were to tear the house down and build a new one. The current home is dangerous to reside in and it is improbable in my experience that you could get another insurance company to insure it.

Sincerely yours,

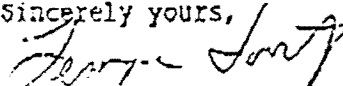

  
Tempe Javitz, Agent

EXHIBIT NO. 3
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# Public Notice

EXHIBIT NO. 4
APPLICATION NO.
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# UNSAFE BUILDING DO NOT ENTER

THIS BUILDING HAS SUSTAINED SEVERE STRUCTURAL DAMAGE AND SHALL NOT BE ENTERED BY ANY PERSON WITHOUT WRITTEN APPROVAL OF THE CHIEF BUILDING OFFICIAL OF THE CITY OF CARMEL-BY-THE-SEA.

Date: 8/8/01 Time: 3:30 PM Inspector: *Murray*

Department of Community Planning and Building... ~~621-6835~~

620-7010



City of Carmel-by-the-Sea  
Planning/Building Division  
P.O. Drawer G  
Carmel, CA 93921  
(831)620-2010 Office  
(831)620-2014 Fax

\*\*\*\*\*

SPECIAL INSPECTION APPLICATION

Property Location: SE CORNER COMMINO, PEAR AND 13TH  
Block: BB Lots 2, 4 AND 1/2 (AND PARCELS 1, 3, 5) Parcel No.: 010-282-021-000  
Applicant: GARY MARTIN Phone: (831) 622-5220  
Mailing Address: 805 VETERANS BOULEVARD, SUITE 200 City: REDWOOD CITY  
State: CA Zip: 94063 Fax No.: (831) 622-5225 FAX  
NOTE: AGENT/ REPRESENTATION: BOLTON DESIGN GROUP, INC.  
Same as Above

Property Owner: SAME AS ABOVE Phone: ( ) \_\_\_\_\_  
Mailing Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

\*\*\*\*\*

OFFICE USE ONLY

Building Official Fee: \$100.00 Receipt #: 1364 Date: 8-3-01 By: AKS NA.  
Planning Staff Fee: \$30.00 Receipt #: \_\_\_\_\_ Date: \_\_\_\_\_ By: \_\_\_\_\_

\*\*\*\*\*

Report Prepared By: [Signature] Date: 8-8-01  
Timothy J. Meroney, Building Official

8/10/01 Photos taken.  
Staff Planner: Chip Rerig  Ben Baro  Brian Roseth  Other

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

SEE REVERSE SIDE OR OTHER SHEET FOR INSPECTION/RESEARCH

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**SPECIAL INSPECTION NARRATIVE**

(This report must be attached to and accompany the application)

Block: BB  
 Lot: 2, 4 pts. of 1,3,5 & 6.  
 APN: 10-282-21  
 Location: S/E corner of Camino real and 13th

**BACKGROUND:**

This inspection was conducted to evaluate the structural integrity and overall systems condition of the dwelling and detached garage on the property.

The house was originally constructed in 1921 with the second floor added in 1936.

Approximately 90% of the wiring and plumbing appear to be original with the house and addition. The heating system appears to have been upgraded at some point after the original construction but is also very old.

The dwelling and garage are constructed as single wall type construction. The walls and sill plates are bolted to the concrete foundation at intermittent intervals.

**SITE CONDITIONS:**

The following is a breakdown of conditions found at the site during the inspection:

A) Under-floor Area and Structural Integrity:

- ◆ There is no foundation wall bracing in the under-floor space of the dwelling. The addition of the second floor has placed excessive stress on all support members that are insufficient for the current dead loads. (See the Uyeda report of May 29, 2001)
- ◆ The anchor bolts are rusted, quite small and spaced sporadically along the perimeter of the building. This poses a hazardous situation in the event of an earthquake since the bolting is very insufficient for the size of the building.
- ◆ The heating system, a horizontal mount forced air furnace, sits on wood 4"x4" blocks with dirt immediately underneath. There are several cracks and breaks in the air plenum due to rust and corrosion. The ducts are deteriorated with damage to the fiber insulation throughout and there are numerous joints where asbestos tape has been used for a seal. The system is not safe for operation and is substandard and dangerous.
- ◆ The existing and original wiring is knob/tube type wiring. The wiring appears to be deteriorated due to heat and use. The insulation is very hard and brittle and shows signs of failure in several locations. There are severe cracks in the insulation posing a potential for fire. The system is substandard and hazardous and shall not be used or energized until replaced or removed.
- ◆ The posts supporting the floor girders are not evenly spaced for proper support and sit upon concrete piers on top of the earth with no footing underneath. This allows for lateral movement of each pier/post posing a hazard to the support of the entire floor structure. There is no gusset connection at the post to girder intersection allowing for breakage and loss of floor support. These are substandard conditions and pose an immediate hazard to structural integrity and safety. (See the Uyeda report of May 29, 2001)

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B) House Interior/Exterior and Structural Integrity:

- ◆ The overall appearance of the interior of the house visually seems in good condition however; due to the excess loading of the second floor on the exterior walls the building shakes and can be "racked" in any direction with pushing on the walls. This indicates a severe overload of the walls and supporting members beyond their capability to be safe for occupancy.
- ◆ The roofing consists of composition shingles over an old wood shingle roof. There is evidence of moss build-up between the two roof coverings causing the latter to lift away from the roof posing a potential for leakage. There is clear evidence that the roofing is substandard and not installed properly.
- ◆ Breakage was found in the plumbing waste and vent system at the exterior of the house. This was originally a galvanized steel piping system and has been repaired using ABS plastic piping. Since the system is exposed at the exterior of the building the ABS plastic is deteriorating due to its exposure to sun and ultraviolet light. The steel galvanized piping is rusted and deteriorated. The plumbing system is substandard and not suitable for use.

C) Garage:

- ◆ The garage was constructed using the same type of single wall construction as the house although it was built in 1936 and is on a concrete slab.
- ◆ The rafters are over-spanned and sagging due to their age and roof loading.
- ◆ The roof covering is in the same condition as the house.
- ◆ The electrical system has been modified with Romex type wiring and is exposed and subject to physical damage posing a fire hazard.

OPINION:

It is my opinion that the dwelling and its detached garage have outlived their usefulness and are in a state of disrepair and dilapidation. There are severe structural deficiencies throughout the buildings placing them in a substandard and dangerous condition.

Based on my field inspection of the buildings and the engineering report submitted by Yutaka Uyeda it is my opinion that these buildings meet the conditions set forth in the Uniform Code for the Abatement of Dangerous Buildings and are substandard and dangerous. They are not habitable and constitute a hazard to life safety, property and surrounding structures. The property has been posted as such and is not to be inhabited or entered until further notice. (A copy of the placard is attached to this report)

RECOMMENDATION:

Pending the issuance of a permit for rehabilitation and/or demolition of the structures they are to remain vacant and uninhabited. The required permit(s) shall be obtained within 60 days of the date of this notice. They shall be immediately secured against unsafe and/or unlawful entry to protect the safety of persons and/or adjacent properties in the event of total structural failure.

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Further, the owner must comply with either of the following portions of Section 401 of the Uniform Code for the Abatement of Dangerous Buildings:


NOTICES AND ORDERS OF BUILDING OFFICIAL

401.2; 3.1...If the building official has determined that the building or structure must be repaired, the order shall require that all permits be secured therefor and the work physically commenced within such time (not to exceed 60 days from the date of the order) and completed within such time as the building official shall determine is reasonable under all of the circumstances.

3.3...If the building official has determined that the building or structure must be demolished; the order shall require that the building be vacated within such time as the building official shall determine is reasonable (not to exceed 60 days from the date of the order); that all required permits be secured therefor within 60 days from the date of the order; and that the demolition be completed within such time as the building official shall determine is reasonable.

  
\_\_\_\_\_  
Timothy J. Meroney, Building Official

8.10.01  
Date

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STATE OF CALIFORNIA  
COASTAL COMMISSION

CERTIFIED COPY

HARVARD INVESTMENT COMPANY )  
CITY OF CARMEL )  
COUNTY OF MONTEREY )

Application No. 3-01-32

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Thursday  
July 12, 2001  
Agenda Item No. 11.f.

Fountain Grove Inn  
101 Fountain Grove Parkway  
Santa Rosa, California

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A P P E A R A N C E S

COMMISSIONERS

Sara Wan, Chair  
Dave Potter, Vice Chair  
Christina Desser  
Shirley Dettloff  
Cecilia Estolano  
Gregg Hart  
Cynthia McClain-Hill  
Patricia McCoy  
Pedro Nava  
Annette Rose, Alternate  
Amanda Susskind, Alternate  
John Woolley  
  
Michael Sweeney, Resources Agency

STAFF

Peter Douglas, Executive Director  
Ralph Faust, Chief Counsel  
Jamee Jordan Patterson, Deputy Attorney General  
Tami Grove, Deputy Director  
Charles Lester, Coastal Program Manager

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Harvard Investment Company -- Application No. 3-01-32

\* \* \* \* \*

4:00 p.m.

DEPUTY DIRECTOR GROVE: That you, very much.  
I believe that should take us to Item 11.f.

COASTAL PROGRAM MANAGER LESTER: Thank you, Madam  
Chair, Commissioners, Item 11.f. is another demolition  
proposed in the City of Carmel of a single family residence,  
and the construction of a comparably sized single family  
residence.

In contrast to the proposal that was just heard,  
this proposal also includes a lot-line adjustment that will,  
essentially create a new building site with nothing proposed  
on that new building site. In addition, two trees are pro-  
posed for removal, associated with the demolition.

In terms of the replacement house, as I mentioned,  
it is of comparable size of the house that is being  
demolished. Also, in terms of the design and the character  
of that replacement house, it is staff's opinion that it is  
generally compatible with the general character of the neigh-  
borhood and the city's R-1 zoning district.

However, the staff assessment of the facts in this  
case are leading us to recommend denial on the basis of pre-

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1       judicing the LCP under Section 30604-A of the Coastal Act.  
 2       In particular, if you look at Exhibit D, on page 3, the house  
 3       is eligible for listing in the CRHR list of historic  
 4       resources as a contributing element of the historic district,  
 5       because it does convey the design principles of the arts and  
 6       crafts movement, the landscape principles of this movement,  
 7       and reflects the design traditions typical of early  
 8       residential development in Carmel.

9               A home inspection report has been prepared, and  
 10       there is also an addendum to this staff report which briefly  
 11       summarizes a response to the structural engineer's inspection  
 12       of the property.

13              Although those inspections have suggested that the  
 14       foundation of the structure, the existing house, are  
 15       compromised and in need of repair. Staff's opinion at this  
 16       point is that the house is habitable, and I don't believe  
 17       that the house has been red tagged as uninhabitable at this  
 18       point.

19              There is also evidence in the record that the  
 20       house has survived a couple of major earthquakes, including  
 21       the Loma Prieta earthquake.

22              I won't go into some of the background that Ms.  
 23       Grove summarized, in terms of this issue, but I would just  
 24       emphasize that in terms of recommending denial, on the basis  
 25       of prejudicing the LCP, the standard is not, necessarily, on

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1 the merits of this case, but rather whether there is a  
 2 significant change proposed, and in this case we feel that  
 3 the facts are indicating a significant enough change to  
 4 warrant a denial on the basis of prejudicing the LCP.

5 That concludes staff's presentation.

6 CHAIR WAN: Any ex-parte communications?

7 COMMISSIONER POTTER: I received a phone call from  
 8 Gary Martin on Tuesday, I believe, but I did not have a  
 9 chance to return a phone call.

10 CHAIR WAN: Any others?

11 [ No Response ]

12 With that, I will call Gary Martin, and how long  
 13 will you need?

14 MR. MARTIN: As much as you can afford.

15 CHAIR WAN: There are two speaker slips. You have  
 16 someone else here representing you?

17 MR. MARTIN: Yes, I do, because of the gravity of  
 18 the matter, I have invited my attorney to join me here.

19 CHAIR WAN: Okay, so between the two of you, how  
 20 long will you need, because the maximum I can give you is 15  
 21 minutes.

22 MR. MARTIN: May I have 15 minutes?

23 CHAIR WAN: Between the two of you, that is  
 24 correct. Go ahead.

25 MR. MARTIN: Madam Chair, members of the

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1 Commission, and members of the staff, my name is Gary Martin.  
2 I own the property at the southeast corner of Camino Real and  
3 Thirteenth. I am the applicant.


4 I would like to review very quickly the sequence  
5 of events that brings me to you, and then defer to my  
6 attorney, who I think needs to discuss other issues with you.  
7 I have invited him to attend, as well, because of the gravity  
8 of the situation, and because of the peril that my family  
9 finds itself in because of the situation that is before us.

10 I have been a visitor to Carmel many, many times  
11 over the years. I have often spoken of moving to Carmel.  
12 That is my desire. About a year ago, I began to look for a  
13 home, and I located a site at the southeast corner of Camino  
14 Real and Thirteenth.

15 Before I purchased that property, I asked for an  
16 audience with the City of Carmel, and its planning staff, and  
17 that audience was granted. And, I met with them, and they  
18 shared with me several things. First of all, they said that  
19 if I were to go forward that any plans that I developed  
20 should be developed fully in compliance with their interests,  
21 that I should work as closely with them as I possibly could.

22 Secondly, I was invited and encouraged to work  
23 with all of my neighbors.

24 The third thing that I was told is that that  
25 particular property had been very carefully studied for the

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1 issue of historicity, and that after careful deliberation  
2 many hearings, it was determined to not have historic value.

3 Based on this information, I went forward with the  
4 purchase of the home, and immediately after I purchased the  
5 home, I interviewed a number of design teams and architects  
6 who could work with me. My desire, as I shared with the  
7 city, and my desire now is to build a modest, but exquisite,  
8 authentic English cotswold cottage out of indigenou  
9 materials to replace the seriously decayed property that is  
10 there.

11 Those plans were shared with all of the neighbors.  
12 They were shared with the forest and beach staff. They were  
13 shared fully with the planning commission.

14 After numerous meetings, and many, many hours of  
15 revisions, we completed our plans, and I think by any  
16 standard of measurement, we have a genuine English Cotswold  
17 cottage, which the village will love. It is my desire to  
18 create a home there for my family that is a credit not only  
19 to the site, but to the neighborhood, to the neighbors, and  
20 to the village.

21 I would like to create, with your permission, and  
22 blessing, I would like to create a home that people who visit  
23 the village will draw pleasure from, simply viewing it. And,  
24 I hope it will serve as a model of what can be accomplished  
25 when a resident will work with his neighbors, and with the

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planning staff, to achieve something quite wonderful.

After the plans were submitted, they went to the forest and beach committee. The forest and beach committee examined the property and determined that they would approve it. Two trees had to be removed. One of them is ill. What staff does not mention is that we have agreed to place 12 new ones, six lower-canopy, six upper-canopy.

It then went to the planning commission, and the planning commission embraced the plan after a rather lengthy hearing, 7 - 0. We were quite pleased with that, but the home truly is lovely, and I think if you will allow us to go forward, and would ever visit, you would agree with us that it is, and will be, one of the loveliest homes in all of Carmel, and that generations to come will enjoy that home.

After the planning commission approved this, we were asked to submit immediately to the Coastal Commission, to this august body, and we did so. Shortly after that submission, Mike Watson sent me a list of items that he very much would like to study, and have for his file. We immediately set about doing that, and I personally delivered all of that material to Mike on May 18.

During that meeting he told me that the project was not controversial, that he saw no problem with it, that there was no opposition to it, and as a matter of fact, volunteered that he thought it might well be handled as an

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1 administrative permit issue. Needless to say, I was  
2 relieved.

3 At the end of the meeting, we discussed other  
4 items that he might like to have for his file, and two items  
5 were requested. First of all, he suggested that we get a  
6 letter from all of the neighbors supporting the project.  
7 That was easy to do, because the plans had already been  
8 submitted through the neighborhood. I was able to do that  
9 within a matter of days, and returned that instrument to Mike  
10 Watson.

11 I was also asked to have the house closely  
12 examined by a state licensed structural engineer to determine  
13 its safety. That was a question. I did that. I employed  
14 one of the most highly thought of structural engineers in the  
15 Monterey Peninsula area, and asked him to go to the home,  
16 examine it thoroughly, and to reach an independent opinion,  
17 so that I could turn that document also to Mike Watson. That  
18 was completed. That analysis determined that the house was  
19 unsafe for occupancy. It is not only unsafe for me and my  
20 family, it is unsafe for my neighbors.

21 And, I would add to that further, that because of  
22 its condition, I am no able to insure it. I can neither buy  
23 fire insurance, nor can I buy liability insurance. That  
24 letter was submitted to Mr. Watson.

25 I called Mr. Watson a week later, and said, "Is

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your report ready? is there anything I can do to help?"  
I was told he had not started his work. I was told nothing  
negative. I called a week later to ask if he had done his  
report, and he told me once again that he had not had a  
chance to consider it, but there was nothing negative.

I called a week later, the same question, and this  
time I was told, rather shockingly, that there was now an  
issue. He said that the issue had to do with the fact that  
there was a lot line adjustment involved in the project, and  
that this was somehow the target of a fresh directive that he  
had received from this group.

I reminded Mr. Watson that the property is already  
two legal properties, together with four other pieces that  
are all together, welded together in a collage, and that the  
reason for two lots coming out of this, ultimately, was an  
agreement between myself and the city to, if you will,  
cleanse the six, merge them into two. We did that.

He then, in a later telephone conversation, raised  
two other issues: historicity, which I responded to and told  
him that what he was relying on was fallacious. He raised  
also community character, and I reminded him at that time  
that the house I proposed to build would be a safe house. It  
would not be threatening of the neighborhood. It would be a  
home that would be purely exquisite, in all respects, and  
asked him to factor in the fact that the house was the same

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1 size as the existing house, it was new, it was safe, it was  
 2 out of Carmel stone -- everybody had embraced the home,  
 3 positively -- and that it was lower in silhouette, so that it  
 4 would be even more attractive. I invited a further dialogue.  
 5 I was told we might have that.

6 I had to leave on business. While I was gone, the  
 7 negative report that you have before you was prepared in my  
 8 absence, and I heard about it only in a foreign state.

9 I came back, and I was shocked to find that the  
 10 structural engineering letter that had been sought from me,  
 11 that I had complied with and submitted, that did, indeed,  
 12 show what we suspected, that the house was unsafe for  
 13 occupancy, and a threat to the neighbors, that that had been  
 14 ignored. I don't know why that letter was ignored. It was  
 15 in staff's file.


16 CHAIR WAN: Just one moment.

17 How much time is left?

18 COASTAL PROGRAM MANAGER LESTER: Seven minutes.

19 MR. MARTIN: I would respectfully request of this  
 20 Commission an open and honest consideration of this  
 21 situation. The house is unsafe. The replacement is  
 22 exquisite in all respects.

23 And, I really, really, don't wish to get caught in  
 24 a contest between this Commission, and anybody else. I get  
 25 destroyed in the process. Please don't throw the baby out

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1 with the bath water. What you do, perspective, is a  
2 different issue.

3 I would defer to Mr. Charles Hansen, my counsel.


4 CHAIR WAN: That is why I gave you some time  
5 warning.

6 MR. HANSEN: Good afternoon, Madam Chair, and  
7 honorable Commissioners. Mr. Martin has covered a lot of  
8 what I was going to cover. I'll try to be very brief.

9 But, I want to start with a note of "realpolitik".  
10 It was impossible to listen to the comments from the  
11 Commissioners on the prior line item without hearing the  
12 sound of the gang plank going up. My plea to you, and my  
13 comment to you is that this is not the matter on which to  
14 raise that gang plank.

15 You have an uncontradicted finding that this  
16 property, that this house, is not safe for occupancy. That  
17 engineer's report was flatly ignored in the original staff  
18 report. And, only after I spoke with Mr. Watson, faxed him a  
19 copy of that engineer's report -- which he had in his file,  
20 but he hadn't mentioned -- last Monday, did he do an  
21 addendum.

22 Now, for reasons I don't understand, that addendum  
23 is dated July 5, but I believe the *Chronicle* was told yester-  
24 day that it was being prepared yesterday. That is not an  
25 accurate date.

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1 We are talking about a situation where you have  
 2 got a house that has been modified at least eight times since  
 3 it was built. It is eclectic, to use the most charitable  
 4 word that you might use. It is basically a Frankenstein's  
 5 monster of additions. It didn't have an original second  
 6 story, now it does. The first floor walls are literally  
 7 bowing under the weight of that second story. It may not  
 8 have been red tagged, but it has been declared unsafe for  
 9 occupancy, and as Mr. Martin has told you, it is uninsurable.  
 10 What are we to do if we become the victim of what seems like  
 11 a de facto moratorium?

12 On the issue of historicity, I want to mention  
 13 that this is one of the rare cases where the icon walked  
 14 right out of the frame. In other words, you heard comments  
 15 earlier, and Enid Sales actually used the term "icon" in  
 16 connection with a prior property. Well, the claim for  
 17 historicity on this property, is that Gus Arriola, the famous  
 18 cartoonist, lived in this home, about one of eight homes that  
 19 he lived in, but he is still alive, and he is still living in  
 20 Carmel.

21 And, among the materials you should have before  
 22 you are a letter, a very detailed letter I wrote, and a  
 23 declaration from Mr. Martin filed on Monday, with a letter  
 24 Mr. Arriola wrote about a year-and-a-half ago. But, I wasn't  
 25 satisfied with that. I put together a detailed declaration

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1 by Mr. Arriola about his attitude towards this supposedly  
2 historical home.

3 That declaration was filed with the Commission  
4 today. It makes it very clear that the Jones and Stokes  
5 report is inaccurate. He was never consulted. This house  
6 had no influence on his work. He attaches no significance to  
7 it.

8 But, maybe the most significant part of Mr.  
9 Arriola's comments are the handwritten note which I had  
10 copied for you, that covers his declaration that he sent back  
11 to me this morning, where he describes the effort to use him  
12 as an icon to make this a historical property as ridiculous.

13 This is not the place, I respectfully submit, for  
14 you to draw the line with the City of Carmel, however, well  
15 justified your concerns might be about that wave of  
16 applications that are coming down the road, this is not a  
17 good test case.

18 And, with that, I thank you.

19 CHAIR WAN: With that, I will close the public  
20 hearing, and return to staff.

21 COASTAL PROGRAM MANAGER LESTER: Again, I would  
22 just emphasize that we are not making a recommendation based  
23 on inconsistency with Section 30253, for example, but rather  
24 with 30604(a) which is the question of whether it prejudices  
25 the completion of an LCP consistent with the Coastal Act.

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1           Based on the evidence that we had in the  
 2 administrative record, including the Johnson Stokes Report  
 3 that concludes again that the house is eligible for listing  
 4 as a contributing element of the District 1 historic district  
 5 because it conveys the design principles of the arts and  
 6 crafts movement, as well as a general evaluation of both the  
 7 general street scape of this project, lead us to believe that  
 8 it was a significant enough change to make the finding, and  
 9 recommendation of denial of prejudicing.


10           I would also point out that in contrast to the  
 11 last project, you do have the lot line adjustment involved  
 12 here, which would in effect create two building sites, as  
 13 opposed to the existing single site now, and inasmuch as that  
 14 is a speculative project, it is difficult to know whether it  
 15 is going to be consistent with an LCP or not.

16           CHAIR WAN: Commissioner Susskind.

17           COMMISSIONER SUSSKIND: I have three questions.

18           I want to understand a bit better about the  
 19 structural engineer's report, and how staff perceived that.  
 20 I don't think the standard is that it has to be red tagged  
 21 for us to find that it is okay to be demolished, if something  
 22 is unsafe. What was the analysis of that, and how did you  
 23 come out feeling differently?

24           COASTAL PROGRAM MANAGER LESTER: I think,  
 25 initially, we looked at that report, and evaluation of the

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1 structural integrity, and didn't have any compelling evidence  
2 that it was not a habitable structure, or rehabilitated.

3 Previous projects that the Commission has con-  
4 sidered rehabilitation has been considered as an alternative.  
5 In terms of the construction of this house, it is not clear  
6 that it is significantly different from similar houses in  
7 California of that era, and --

8 COMMISSIONER SUSSKIND: In other words, it can be  
9 fixed, it doesn't have to be torn down?

10 COASTAL PROGRAM MANAGER LESTER: That is my under-  
11 standing, yes.

12 COMMISSIONER SUSSKIND: Yeah, is there any science  
13 to that conclusion?


14 COASTAL PROGRAM MANAGER LESTER: Science to the  
15 conclusion that --

16 COMMISSIONER SUSSKIND: I mean, does somebody --

17 COASTAL PROGRAM MANAGER LESTER: -- it can be  
18 fixed?

19 COMMISSIONER SUSSKIND: -- did somebody's  
20 structural engineering, with structural engineering  
21 credentials, advise you that?

22 COASTAL PROGRAM MANAGER LESTER: Yes, I believe,  
23 in talking with the structural engineers, that it has been  
24 indicated that it can be rehabilitated, but that that would  
25 be, perhaps, more expensive than demolishing it, and building

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a new house.

COMMISSIONER SUSSKIND: Okay, my other question -- I have two other questions.

One is about historicity -- I am new, so I don't know. It is still my first year here, so I need some help on this. But, if the city -- whether or not something is eligible to be on the register, isn't the test whether it is on the register? whether the city has put it on the register? do we have the capacity to find something is on a register that is not physically on? I mean, was that the only basis for finding historicity? can somebody help me with this?

COASTAL PROGRAM MANAGER LESTER: Particularly, the way that staff has been dealing with this is that the problem with prejudicing LCPs, we don't know what the answer to the question of historicity is, and that there are many indicators or whether something might be historic, including in the city of Carmel, who might have been associated with the structure? lived in the structure? what the structure looked like when it was built? whether it is indicative of a particular architectural movement? A lot of different factors.

But, the standard, in terms of whether it prejudices an LCP, when you don't have an LCP certified that tells you what those standards should be, the approach we have been taking is, is there enough uncertainty about the

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1 level of change involved here, and that there might be a  
 2 significant impact were there to be an LCP certified  
 3 consistent with the Coastal Act that this one would be  
 4 inconsistent.

5 COMMISSIONER SUSSKIND: Well, I don't want to  
 6 dwell on it, but I see this as a different issue from  
 7 cumulative impact in that, you know, something that is in its  
 8 own rights, either historic or not, and if the city has  
 9 determined it isn't, I am not sure what power we have to  
 10 override that particular part of this.

11 My last question is on --

12 [ General Discussion ]


13 -- and, that helps for you to explain.

14 A comment was made back here that it is called  
 15 community character.

16 The last question is about whether we can split  
 17 this, or whether we can approve part of this, and deny part  
 18 of this, and I guess my concern is about the lot line adjust-  
 19 ment there. I totally see the point that you are creating a  
 20 livable lot that there is no future plan for right now, and  
 21 that does concern me, and so I guess, I am wondering, do they  
 22 have to have the lot line adjustment? can we approve this,  
 23 subject to no lot line adjustment?

24 [ No Response ]

25 It is just a question.

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1 CHAIR WAN: Mr. Faust, I see that you want to  
2 answer.

3 CHIEF COUNSEL FAUST: Madam Chair, yes, and I also  
4 wanted to recommend that if the Commission does something  
5 other than approve this project as submitted, that is if it  
6 takes a staff recommendation, or modifies it in some way,  
7 that staff come back with revised findings.

8 I just initiated a conversation with Mr. Lester a  
9 moment ago, with respect to the lot line adjustment, and the  
10 creation of the new lot. It is my view that independent of  
11 the 30604 ground, there is a separate Chapter 3 ground, and  
12 this Commission reviews lot line adjustments and creation of  
13 the new lot under Chapter 3 policies.

14 Because Carmel is an historic community, and you  
15 are creating an additional lot, this Commission should  
16 review, and make a determination, as to whether the creation  
17 of a new lot, and that increase in the density in this area,  
18 will change the character of the community, and that is a  
19 Chapter 3 determination, rather than a prejudicing the LCP  
20 determination.

21 So, if you go in that direction, my recommendation  
22 would be that staff revise the findings, and analyze that  
23 issue in its revised findings, pursuant to the Commission  
24 discussion and decision.

25 CHAIR WAN: Commissioner Potter.

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1 [ MOTION ]

2 COMMISSIONER POTTER: I move that the Commission  
3 approve Coastal Development Permit No. 3-01-032 pursuant to  
4 the staff recommendation, and would direct staff to come  
5 back. And, I would recommend a "No" vote.

6 CHAIR WAN: I have a motion, do I have a "second"?  
7 He is agreeing with staff.

8 [ General Discussion ]

9 COMMISSIONER POTTER: I am moving the staff  
10 recommendation.

11 CHAIR WAN: He is moving the staff recommendation  
12 to deny.

13 COMMISSIONER POTTER: And, then I'll briefly speak  
14 to it, if I get a "second".

15 COMMISSIONER MC COY: Second.

16 CHAIR WAN: Moved by Commissioner Potter, seconded  
17 by Commissioner McCoy.

18 COMMISSIONER POTTER: Okay, I do owe Mr. Martin an  
19 apology for not returning his phone call, and Mr. Martin that  
20 was because you bear the unique distinction of having the  
21 name, identical name, of the local carpenters union repre-  
22 sentative, and your project was registered under Harvard  
23 Investments, and I thought I was getting lobbied by labor on  
24 your project, so I didn't bother to call them back.

25 I want to talk to two things here that lead me to

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1 support the staff recommendation, and one is the historic  
2 aspect of it, and its potential for being listed.

3 But, also, under the heading of community  
4 character is this lot split, and one of the issues that has  
5 been important in the City of Carmel is the ongoing sub-  
6 dividing of Carmel into smaller and smaller parcels, and what  
7 this does is create another 40 by 100, 4000-square foot  
8 parcel, which is a serious eroding of the character of the  
9 City of Carmel, where we had larger lots, with homes situated  
10 in them that didn't damage the resources of the area.

11 In this case, we are perpetuating what has been  
12 bad planning, and that is chopping up the nice parcels into  
13 larger parcels in the city to create smaller parcels, and for  
14 that reason I would not support the lot split. I just think  
15 it further compromises the quality of the community.

16 And, I would base my whole decision here today, as  
17 far as the course of action, other than a lot split, is that  
18 I think that we are doing as Mr. Lester said earlier, under  
19 30604-A and that is prejudicing the local process as far as  
20 being able to prepare an appropriate LCP, because of the  
21 cumulative effects.

22 And, I would ask the staff to come back with  
23 revised findings to support Mr. Faust's concerns.

24 CHAIR WAN: Commissioner Estolano.

25 COMMISSIONER ESTOLANO: Yes, I want to get some

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more clarification on the lot split issue.

Mr. Lester, I am looking at Exhibit B, and it has the hash marks of going over what looks like the six existing lots --

CHAIR WAN: Which exhibit?

COMMISSIONER ESTOLANO: It is Exhibit B.

So, if you look at Exhibit B, you can see that there is, basically, two regular-sized lots, and then pieces of one, two, three, four other lots that are attached to this property, so it is a very irregular lot, and it is going to now be turned into two lots, rather than six. It is going to be 10,400-square feet, and 4000-square feet, correct?

Here is my question --

[ General Discussion ]

COMMISSIONER ESTOLANO: Well, let me --

CHAIR WAN: We have to have this discussion on the

--


COMMISSIONER ESTOLANO: -- get to my question.

Let me make sure I am understanding this. It is my understanding that we are going to have two lots now, rather than, essentially, six, is that correct?

COASTAL PROGRAM MANAGER LESTER: There is currently a house built over multiple lots --

COMMISSIONER ESTOLANO: Correct.

COASTAL PROGRAM MANAGER LESTER: -- so in this

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1 demolition and rebuild, and then a lot line adjustment, you  
2 would, in effect, be creating another buildable lot, because  
3 the new house would be built on one of those lots, and a  
4 second house could, potentially, be built on the other lot.

5 COMMISSIONER ESTOLANO: So, currently, is there  
6 sufficient room on the property -- I am not going to talk  
7 about lots now -- to build a second structure on a second  
8 lot? what I can't tell here is where the footprint of the  
9 existing house is? and maybe there is another exhibit that  
10 tells me that, but where is that structure straddling? and  
11 would they be able, currently, under the current lot  
12 arrangement, to build a second unit?

13 COASTAL PROGRAM MANAGER LESTER: My understanding  
14 is that you couldn't, but I don't know that completely.

15 COMMISSIONER ESTOLANO: Okay, let me pursue this  
16 little bit further.

17 So, if we were to approve this, we would have a  
18 10,400-square foot lot, and a 4000-square foot lot, with this  
19 readjustment, what is the -- am I getting that --

20 [ General Discussion ]

21 Okay, I am sorry, you are right, you are right,  
22 6000 and 4000, basically 6 and 4, I am sorry, you guys.

23 COASTAL PROGRAM MANAGER LESTER: It is 6900 and  
24 4000.

25 COMMISSIONER ESTOLANO: What is the average sized

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1 lots around it? I am really, directly, trying to understand  
 2 this community character issue, because it looks like, if you  
 3 go 6 and 4 that it is going to be the same size of the lots  
 4 around it, and I just don't have the sense of that from the  
 5 staff report, from the exhibits.

6 COMMISSIONER POTTER: If I might, Madam Chair, I  
 7 believe that the dimensions of the lot are listed on the  
 8 plan, unless I am incorrect. It looks like they are pre-  
 9 dominantly 40s.

10 COMMISSIONER ESTOLANO: However, because you are  
 11 looking -- we are also looking at an assessor parcel map, it  
 12 is unclear to me, whether those other lots, similarly have  
 13 houses straddling two lot lines?

14 What I am getting at is, is the size of the lots  
 15 that are being created effectively similar to things  
 16 surrounding it? and secondly, is the house that is being  
 17 proposed similar in size to the houses in the vicinity? And,  
 18 that is not really addressed in the staff report, that I  
 19 could see. That is an important issue, in terms of community  
 20 character, because it directly bears on the lot split, and  
 21 the lot rearrangement. Do you know that, off hand, Mr.  
 22 Lester?

23 COASTAL PROGRAM MANAGER LESTER: The staff report  
 24 does suggest that the replacement house would be compatible  
 25 with the existing residential zoning and character. That is

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1 summarized on page --

2 COMMISSIONER ESTOLANO: Right, No. 6.

3 COASTAL PROGRAM MANAGER LESTER: -- 2.

4 COMMISSIONER ESTOLANO: Okay, right.

5 You know, you guys think this is irrelevant. I  
6 actually think this is very relevant, because I don't -- I  
7 actually don't see the argument for the historicity, and I am  
8 really -- I said that wrong -- but, I am troubled by the  
9 declaration of Gus Arriola. I actually don't know who he is.  
10 I think that is kind of sad I don't. But, I don't know who  
11 he is. I guess he is a famous cartoonist -- maybe it is  
12 before my time?

13 But, so for me the issue is the lot line  
14 adjustment, and I just don't have enough information, but, as  
15 I see it now, it doesn't seem like they are creating a new  
16 lot. It doesn't seem like they are creating more buildable  
17 space than they had before. Maybe they are, but I need a  
18 definitive answer from staff on that latter question.

19 And, it also seems like the size of the current --  
20 of the structure being proposed is consistent with neighbor-  
21 ing houses, so are the two new created lots going to be  
22 consistent with the neighboring lots, as well? Those are the  
23 issues that are on my mind.

24 CHAIR WAN: Let me say something. In this  
25 particular case -- in the last case, I voted to go forward.

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1 In this particular case I am not going to do that.

2 And, the reason I am not going to, aside from the  
3 fact that the lot line adjustment, regardless of the sizes of  
4 the homes that result would be comparable, you are winding up  
5 with an extra home, and you are increasing the density of the  
6 neighborhood, so there is an impact on the neighborhood, from  
7 the presence of an additional unit. So, that is one way you  
8 are affecting the community character.

9 And, the other thing is that we've gone through  
10 this on a number of cases. In this case there is a basis to  
11 say that this is eligible for historic listing, and if you  
12 remove -- whether it has been listed, or it has not been  
13 listed, if it is eligible for listing, it tells me that this  
14 is a particularly significant home, and if I remove it, it is  
15 going to have an even greater impact on community character,  
16 than say a home that is not eligible for listing.

17 So, to me, the community character question  
18 becomes very important, and I cannot support this demolition.  
19 [ General Discussion ]

20 No, I am going to go for denial, okay.

21 [ General discussion ]

22 So, I cannot make the motion --

23 [ General discussion ]

24 Is there a motion?

25 COMMISSIONER POTTER: I made it. And, it was

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1 seconded by --

2 CHAIR WAN: Okay, and would we --

3 I will call for the question.

4 Would you repeat -- let's see the motion is --

5 COMMISSIONER POTTER: Per staff.

6 CHAIR WAN: -- per staff, and the maker of the  
7 motion --

8 COMMISSIONER POTTER: Is asking for a "No".

9 [ General discussion ]

10 COMMISSIONER MC CLAIN-HILL: I have a question.

11 COMMISSIONER ESTOLANO: Commissioner McClain-Hill  
12 has a question for staff.

13 COMMISSIONER MC CLAIN-HILL: Actually, I did.

14 In response to Commissioner Susskind's question,  
15 with respect to the structural engineer, you said you had  
16 some information that the property, you know, could be  
17 repaired, or made sound, or something of that nature? from  
18 where does that information come?

19 COASTAL PROGRAM MANAGER LESTER: I believe it is  
20 in the staff report. I don't have the page reference.

21 COMMISSIONER MC CLAIN-HILL: And, would you tell  
22 me, with respect to -- I mean the applicant also made the  
23 point that this house has been modified eight separate times,  
24 is that correct?

25 COASTAL PROGRAM MANAGER LESTER: I am sorry, could

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1 you repeat the question?

2 COMMISSIONER MC CLAIN-HILL: The house has been  
3 modified eight separate times, correct?

4 COASTAL PROGRAM MANAGER LESTER: That is correct?

5 COMMISSIONER MC CLAIN-HILL: And, other than the  
6 presence of this cartoonist, on what basis are we concerned  
7 about its historic character?

8 COASTAL PROGRAM MANAGER LESTER: Again, in Exhibit  
9 D, page 4, at the bottom of that evaluation, there is a para-  
10 graph, section on significance --

11 COMMISSIONER MC CLAIN-HILL: Un-huh.

12 COASTAL PROGRAM MANAGER LESTER: -- which  
13 concludes not just on the basis of the individual's  
14 association, but rather that the house is eligible for  
15 listing as a contributing element of the District 1 historic  
16 district, because it conveys the design principles of the  
17 arts and crafts movement, the landscaping principles of this  
18 movement, and reflects the design traditions typical of early  
19 residential development in Carmel.

20 COMMISSIONER MC CLAIN-HILL: And, that is not  
21 impacted by all of the various modifications?

22 COASTAL PROGRAM MANAGER LESTER: Not according to  
23 this Johnson Stokes evaluation.

24 If I might --

25 CHAIR WAN: Okay, let me clarify --

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1 Yes, go ahead.

2 COASTAL PROGRAM MANAGER LESTER: On page 9 of the  
3 staff report is the reference to the city finding that the  
4 house is dilapidated, and in a severe state of disrepair.  
5 The city relied on a home inspection report, contends the  
6 foundation and structure of the house has been compromised.  
7 It estimates that a fair amount of reconstruction will be  
8 necessary to rehabilitate the structure.

9 However, that report did not state that the  
10 structure was uninhabitable, or that it should be condemned.

11 CHAIR WAN: Yes, we can vote now.

12 Let's get what the motion is, to move to approve  
13 the Coastal Development Permit, and the staff is recommending  
14 a "No" vote. Correct? that is the proper motion --

15 COMMISSIONER POTTER: Right.

16 CHAIR WAN: -- as per page 3. That is what  
17 Commissioner Potter read.

18 And, so if you -- since we've gone afield here, if  
19 you wish to deny this demolition, you will vote "No". If you  
20 wish to approve the demolition, you will vote "Yes".

21 Call the roll.

22 SECRETARY GOEHLER: Commissioner Estolano?

23 COMMISSIONER ESTOLANO: Yes.

24 SECRETARY GOEHLER: Commissioner Hart?

25 COMMISSIONER HART: Yes.

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SECRETARY GOEHLER: Commissioner Susskind?  
 COMMISSIONER SUSSKIND: Yes.  
 SECRETARY GOEHLER: Commissioner McClain-Hill?  
 COMMISSIONER MC CLAIN-HILL: Yes.  
 SECRETARY GOEHLER: Commissioner McCoy?  
 COMMISSIONER MC COY: No.  
 SECRETARY GOEHLER: Commissioner Nava?  
 COMMISSIONER NAVA: No.  
 SECRETARY GOEHLER: Commissioner Potter?  
 COMMISSIONER POTTER: No.  
 SECRETARY GOEHLER: Commissioner Rose?  
 COMMISSIONER ROSE: No.  
 SECRETARY GOEHLER: Commissioner Woolley?  
 COMMISSIONER WOOLLEY: Yes.  
 SECRETARY GOEHLER: Commissioner Dettloff?  
 COMMISSIONER DETTLOFF: No.  
 SECRETARY GOEHLER: Chairman Wan?  
 CHAIR WAN: No.  
 SECRETARY GOEHLER: Five, six.  
 CHAIR WAN: Which way? All right, the application  
 --  
 CHIEF COUNSEL FAUST: The project is denied.  
 CHAIR WAN: -- is denied.

///

[ Whereupon the hearing concluded at 4:35 p.m. ]

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**NOTICE**

This transcript has been sealed to protect its integrity. Breaking the seal will void the Reporter's Certification below.

To purchase a copy of this transcript please contact the Court Reporter who is the signatory below.

**R E P O R T E R ' S    C E R T I F I C A T E**

STATE OF CALIFORNIA    )  
                                  )    ss.  
COUNTY OF MADERA     )  
                                  )

I, PRISCILLA PIKE, Hearing Reporter for the State of California, do hereby certify that the foregoing 31 pages represent a full, true, and correct transcript of proceedings before the California Coastal Commission, July 12, 2001, as reported by me on that date.

Dated: August 1, 2001

**PRISCILLA PIKE**  
PRISCILLA PIKE

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**Martin Family  
Residence on  
Camino Real**

Southeast corner of  
Camino Real  
& 13th Avenue  
Carmel-by-the-Sea  
California  
93921

DATE: 21 DEC 1999  
DRAWING: 02-032-001

**EXISTING SITE /  
ROOF PLAN**

SCALE: 1/8" = 1'-0"

DRAWN BY:

CHECKED BY:

JOB NO.: 03-02

SHEET NO.: PD-0.2

Do not scale drawings. Verify dimensions, measurements and data in building or site. Report errors and quantities to BDLG, D/C.

The use of these plans and specifications is restricted to the original site for which they were prepared.

All drawings and notes created regarding this project are the property of BDLG, D/C, and the user may not be reproduced, used or distributed without the written consent of BDLG, D/C.

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**PROJECT DATA**

**PROPERTY** City & State  
San Jose, California  
San Jose, California 95128  
San Jose, California 95128

**OWNER** BOLTON DESIGN GROUP, INC.  
1000 West 1st St., Suite 100  
San Jose, CA 95128  
Telephone: 831-622-5220

**DATE** 04-10-99

**JOB ADDRESS** Southeast corner of Camino Real and 13th Avenue  
Carmel-by-the-Sea, California

**AREA** 940 - 280 - 280

**LOT & BLOCK** Lot 2.1 (partly block out of Lot 2, Block 2)  
Camino Real, Carmel-by-the-Sea, CA

**PREPARED BY** Lot 2.1 Addition, Extension of Existing Structure and  
Construction of a New Single Family Dwelling

**SCALE** 3/4" = 1'

**PER DEVELOPMENT INFORMATION**

Lot Area	940 Acres	± 6.00 ac ±
Building Site Coverage	Maximum Allowed 50.00%	2,700.00 ac ±
Floor Area Ratio	Maximum Allowed 0.20 FSR	1,880.00 ac ±
	Proposed 0.17 FSR	1,598.00 ac ±

**PERMITTED DEVELOPMENT**

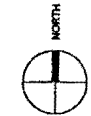
Structure	Plot Area	940
	Max. Floor	2 1/2
	Max. Height	24'
Maximum Site Coverage	Maximum Allowed	50.00 ac ±
	Proposed 0.17 FSR	1,598.00 ac ±

**EXISTING PROPOSED**

Structure	Area	± 1,598 ac ±
Plot Area	± 940 ac ±	
Site Planning	± 1,598 ac ±	

**PRELIMINARY DRAWING SHEET INDEX**

- PD-0.1 EXISTING SITE / ROOF PLAN
- PD-0.2 PROPOSED SITE / ROOF PLAN
- PD-0.3 PROPOSED EXTERIOR ELEVATIONS
- PD-0.4 PROPOSED EXTERIOR ELEVATIONS
- PD-0.5 PROPOSED EXTERIOR ELEVATIONS
- PD-0.6 PROPOSED EXTERIOR ELEVATIONS
- PD-0.7 PROPOSED EXTERIOR ELEVATIONS
- PD-0.8 PROPOSED EXTERIOR ELEVATIONS
- PD-0.9 PROPOSED EXTERIOR ELEVATIONS
- PD-0.10 PROPOSED EXTERIOR ELEVATIONS
- PD-0.11 PROPOSED EXTERIOR ELEVATIONS
- PD-0.12 PROPOSED EXTERIOR ELEVATIONS
- PD-0.13 PROPOSED EXTERIOR ELEVATIONS
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- PD-0.16 PROPOSED EXTERIOR ELEVATIONS
- PD-0.17 PROPOSED EXTERIOR ELEVATIONS
- PD-0.18 PROPOSED EXTERIOR ELEVATIONS
- PD-0.19 PROPOSED EXTERIOR ELEVATIONS
- PD-0.20 PROPOSED EXTERIOR ELEVATIONS

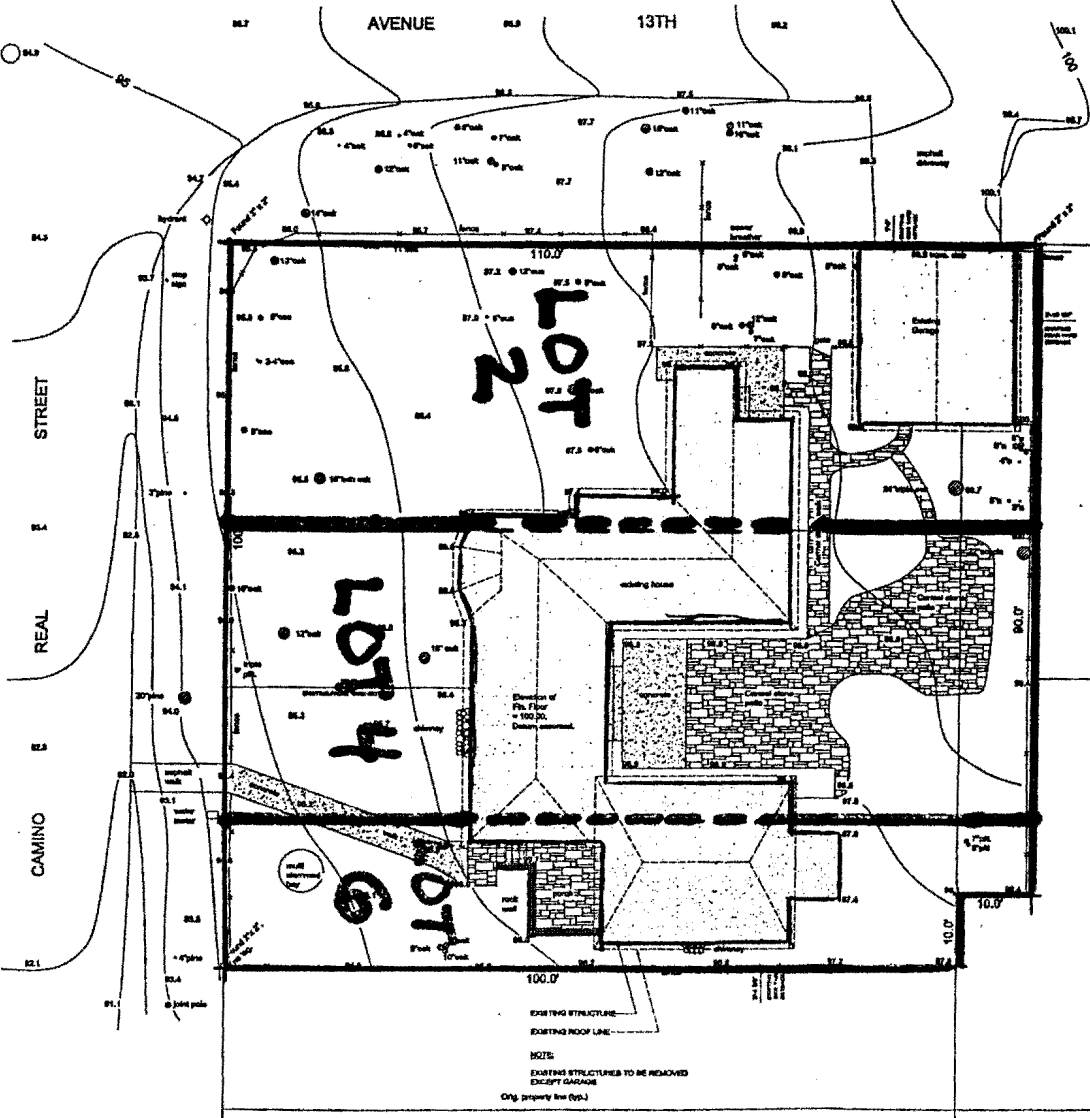


**EXHIBIT NO. 7**

**APPLICATION NO.**

**3-01-032-R**

California Coastal Commission



**EXISTING SITE / ROOF PLAN**  
SCALE: 1/8" = 1'-0"

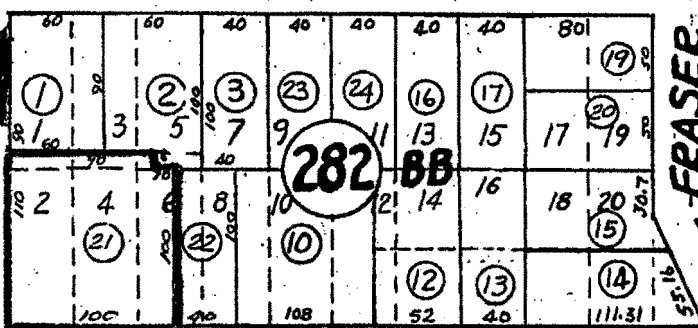
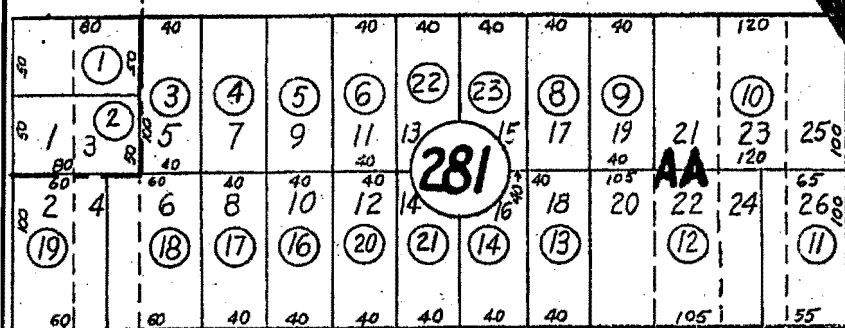
SCALE 1in = 100ft.

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CASANOVA

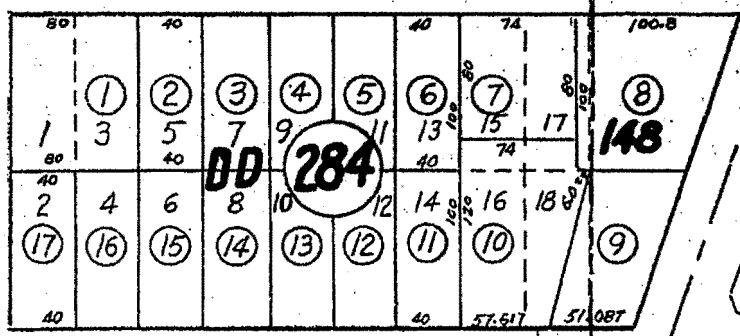
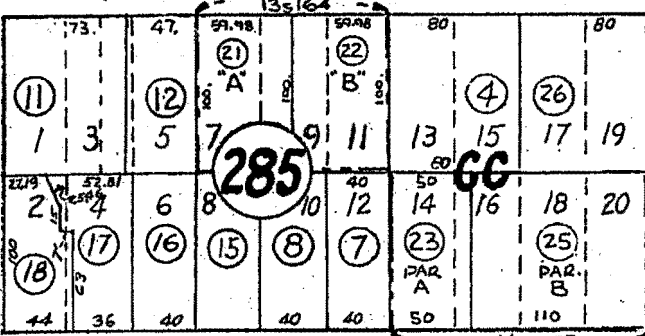
ADD'N No. 2  
ADD'N No. 1 ST.



CAMINO

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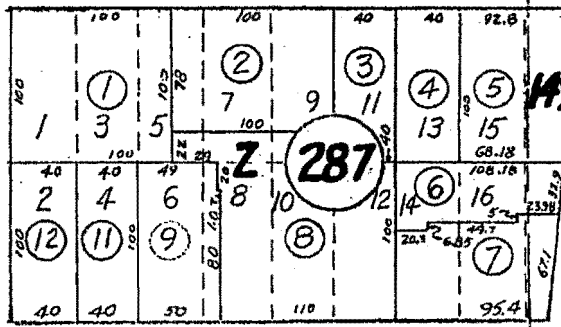
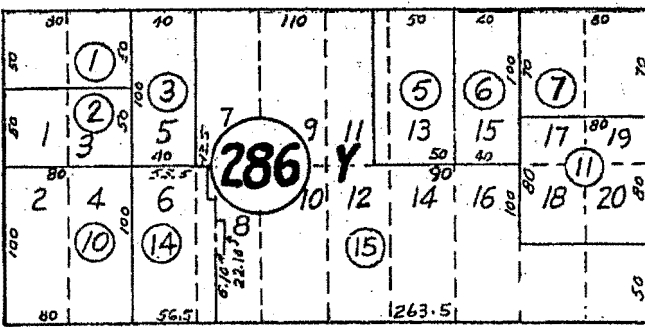


CARMELO

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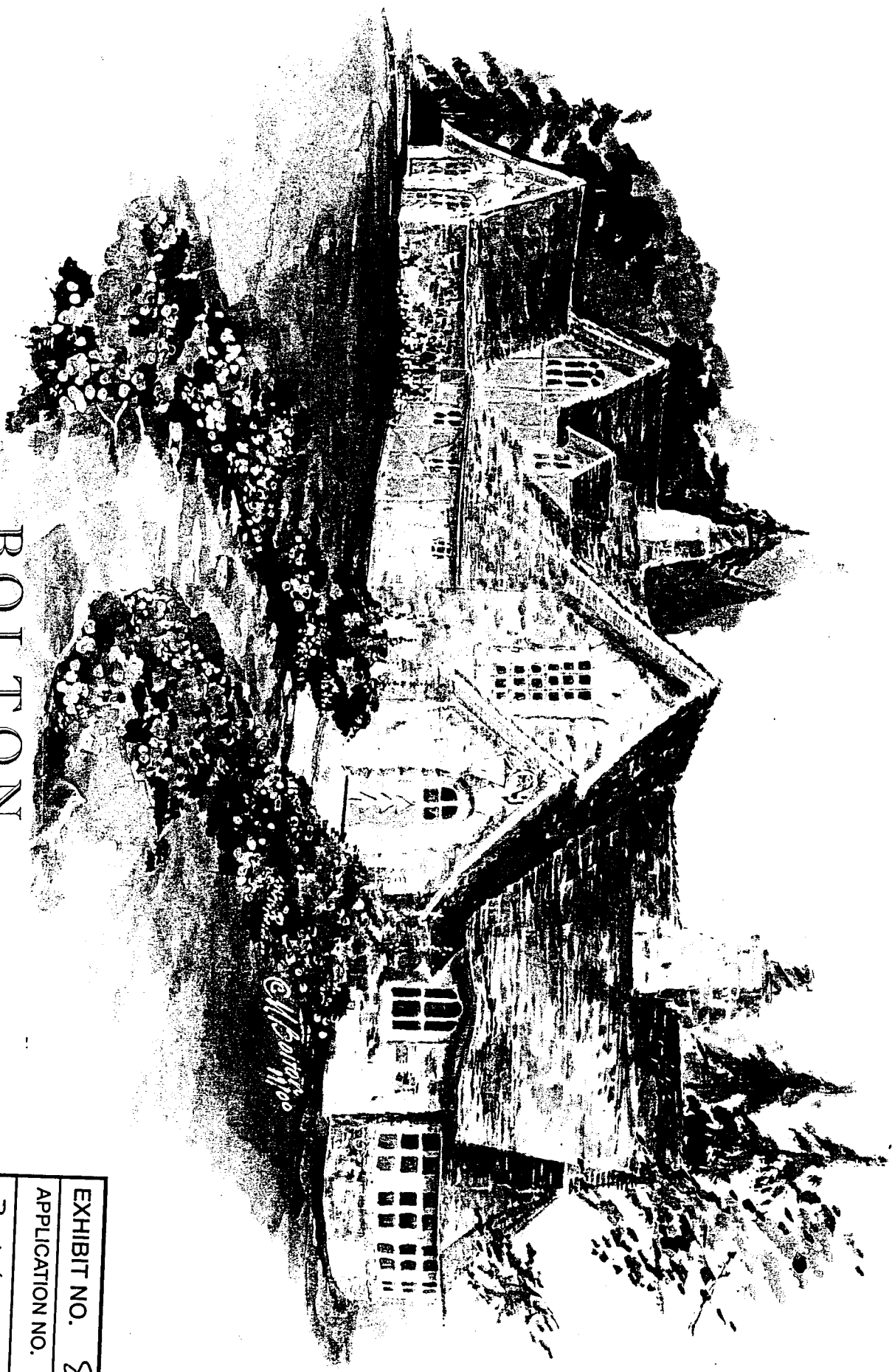
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CARMEL BY THE SEA ADD'N. 1  
 LOTS 2, 4 & 5 TO 26 BLOCK AA  
 BLOCKS BB, CC, DD, Y & Z  
 CARMEL BY THE SEA ADD'N. 2  
 LOTS 1 & 3 BLOCK AA

EXHIBIT NO. 76
APPLICATION NO.
3-01-032-R
California Coastal Commission




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EXHIBIT NO. 8
APPLICATION NO.
3-D(032-R
 California State Bar Commission

