

# Exhibit A

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## **EXHIBIT A DISCUSSION**

The attached report provides an overview on the status of the Point as it relates to archaeological resources. After decades of archeological investigations, the Point has yielded information that clearly makes it archaeologically significant and deserving of comprehensive protection. The Carmel Point area is presumed to be an Ohlone settlement dating to at least 4,000 years ago and has produced the oldest known archaeological artifact in Monterey County. Carmel Point has a rich archaeological history- there are three, sometimes overlapping, recorded archaeological sites on the Point: CA-MNT-17, CA-MNT-16, and CA-MNT-1286. Cultural resources which have been formally recorded with the Regional Information Center of the California Historic Resources Information System are referenced by this trinomial designation. CA-MNT-17, which extends well beyond the current project area, has been characterized as an expansive and moderately dense accumulation of marine shell, mammal bone, flaked and ground stone tools. The Carmel Area Land Use Plan recognizes the intensive prehistoric use of the Carmel area. According to the Carmel Coastal Implementation Plan (Part 4), the Point is considered a “high sensitivity zone”- an area where archaeological sites are already identified with a strong possibility of prehistoric/historic Native American occupation.

The report summarizes archeological research received by the County to date for individual projects located at or near the Point, and provides information regarding relevant existing policies applicable to the area that require archeological resource protection. It also introduces a newer technology and provides a suite of options that would assist in determining the status of the area and preventing further unintended disturbance to the resource.

The recent slate of projects in this area proposing underground basements and other projects requiring excavation to depths that are not reachable using archaeological investigation methods present a policy challenge: *has the resource been protected using traditional approaches for cultural resource assessment and mitigation? The determination after a systematic review of projects on the Point as detailed in this report is that Monterey County has been applying mitigation that has not protected or avoided these resources, and has been reactive in nature.* Traditional mitigation requiring only a surface (Phase I) walkover, and even a Phase II with limited excavation, has not identified the more deeply buried resources that have been discovered, some including human remains. Unfortunately, this approach that has been incrementally destroying resources, even when an archaeological monitor is required to be present. Additional methods are available to assess the potential for the presence/absence of deeply buried archaeological resources (described in this report, called Geoprobes).

Several projects on the Point have recently proposed development of basements for new homes. In just the past year, RMA-Planning has received six requests for basement approvals on the Point. Carmel’s key policy on Archaeological Resources is such that when development is

proposed for parcels where archaeological or other cultural sites are located, project design shall be required which avoids or substantially minimizes impacts to such cultural sites. The key components of this and other relevant and applicable policies include the following:

#### *Coastal Implementation Plan (CIP)*

- All avoidable measures, including purchase of archaeological easements, dedication to the County; tax relief and purchase of development rights shall be explored to avoid development on sensitive prehistoric or archaeological sites.
- When developments are proposed for parcels where archaeological or other cultural sites are located, project design shall be required to avoid impacts to such cultural sites.

#### *Carmel Area Land Use Plan*

- "... emphasis should be placed on preserving the entire site rather than on excavation of the resource, particularly where the site has potential religious significance".
- ALL available measures, including purchase of archaeological easements, dedication to the County, tax relief, purchase of development rights, consideration of reasonable project alternatives, etc., shall be explored to avoid development on sensitive archaeological sites.

In order to be fully compliant with these policies, all available measures should be taken to determine the presence/absence of resources, and where they are found, they must be avoided.

### **Background**

The purpose of this report is to provide the Monterey County Planning Commission and the public with a briefing on the Carmel Point (Point) area. The Point has a well-documented history of containing numerous archaeological resources within three individually recorded sites and is considered an area with extremely high sensitivity and potential for continued discovery of unknown archaeological resources. The Point has been studied for its archaeological significance for decades. Notably, in 2012, Breschini and Haversat prepared a comprehensive report with an overview of archaeological investigations and a summary of findings for the Point. One of the three known archaeological sites located there is referenced in the Breschini and Haversat report: CA-MNT-17 is *the oldest archaeological site in Monterey County, among the oldest on the central California coast, and contains three subsections, A-C*. The earliest radiocarbon date from CA-MNT-17 is in excess of 9,400 years before present (BP); prehistoric occupation extended as late as 1807 A.D. after establishment of the Mission at Carmel. The Breschini report states that "*it is likely that additional dates obtained from that same general area would extend this age even farther into the past.*" The other two documented sites, CA-MNT-1286 and CA-MNT-16, discovered in the early 1950's, are in close proximity to CA-MNT-17. The exact boundaries of these archaeological resources have not been systematically

defined, as this requires intensive ground surface survey and subsurface boundary testing excavation. While the exact locations of these sites cannot be publically disclosed due to state law regarding their sensitivity and confidentiality, they collectively are extremely important for several reasons.

The information gleaned from these sites located in the Point area indicates that they meet the criteria for listing on the California Register of Historic Resources (CRHR) and the federal National Register of Historic Places (NRHP) as they are capable of “yielding information important in prehistory.” The Breschini and Haversat report considers that the Point area encompassing all of these sites is eligible for listing as an “historic district” per the NRHP definitions, given that prehistoric populations occupied this area for over 9,000 years.

Substantial evidence derived from 18 investigations associated with land use development as summarized by Breschini and Haversat (2012) conclude that a comprehensive synthesis of the data from various projects should be undertaken and all available methods should be used to determine the potential presence and avoidance of cultural deposits in the Point area. The archaeological investigations prepared for these relatively small residential projects on the Point have been modest in scope, have obtained relatively few radiocarbon dates, and have included only limited technical analyses of cultural resources recovered during excavations. As Breschini and Haversat state in their report, “most of these projects have not been able to support the levels of research needed to properly analyze the previous investigations and correlate the scattered information in order to more fully understand this site [CA-MNT-17]”. The report argues how unfortunate this is, given that CA-MNT-17 is a “multi-component site spanning almost all of the prehistoric occupation of the Monterey Peninsula”.

Systematic surveys currently required for all parcels within the Monterey County General Plan Archaeological Resources Moderate and High Sensitivity Zones should include adequate techniques to ensure the identification and whenever possible, and *avoidance* of deeply buried cultural deposits, so that the earliest periods of prehistoric occupation are identified and added to our understanding of local prehistory. There is evidence of prehistoric occupation of the Point area during the Middle Period of California prehistory (200 BC to 700 AD), which is scarce on the Monterey Peninsula, as well as evidence of some occupation during the preceding 1,000 years (1200 BC to 200 BC) when archaeologists have not recorded other evidence in the Point or vicinity. There is also evidence from the early Archaic (prior to 4000 BC), which is extremely rare in this portion of the California central coast. Breschini and Haversat state that any future projects in this area should be aware that there is the *potential for encountering Middle and Early (4000 BC to 1200 BC) Period cultural resources, and therefore should include provisions for addressing the unknown presence of older, sparse deposits in their research designs.*

After decades of archeological investigations, the Point has clearly yielded information that makes it archaeologically significant and deserving of comprehensive protection. Though the prehistoric archaeological occupational sequence is generally established, the reasons why local Native California populations increased or decreased over time are not understood. Possible explanations include climate change that affected food resource availability, population increases and resulting competition for available marine resources, and immigration of outside tribes that could have created competition for available resources. The changing geographic distribution of

archaeological sites over time is also not understood, though it was affected by sea levels that were much lower than today: approximately 200 feet lower 10,000 years ago, and 50-80 feet 7,000 years ago. Sea level reached its modern day elevation by about 3,000 years ago.

Monterey Bay region Native Californians were known Rumsen, Esselen/Excelen, Guacharrones/Wacharon, Ecclemachs, Sakhones, Sureños, and Carmeleños. Today, anthropologists continue to refer to these early inhabitants and their living descendants as ‘Ohlone,’ a name adapted from Latham in 1856 and first consistently applied by Levy in 1978. The tribe’s settlement patterns, as reflected by the distribution of archaeological sites over the landscape and ethnographers interviews of informants in the early 20<sup>th</sup> century is considered to have been “semi-sedentary”: larger village sites have been recorded most often at the confluence of streams and the Pacific Ocean coastline, other prominent landforms such as marine terraces and ridgelines adjacent to streams, or in the vicinity of permanent springs. Smaller, localized seasonal resource gathering and food processing areas and associated temporary campsites are frequently found on the coast and interior areas frequented when seasonal fishing resources were less plentiful.

There are two contemporary Native Californian tribes in the County’s jurisdiction identified by the state Native American Heritage Commission that are consulted when land use projects have the potential to impact their heritage issues: the Salinan Tribe, and the Ohlone/Costanoan-Esselen Nation (OCEN). Monterey County’s Native American Heritage representative for the Point, OCEN, has stated that their priority is to protect and preserve without disturbance their ancestors’ remains. If project excavation is unavoidable, OCEN requests all cultural and sacred items identified during these disturbances be left on site or where they are discovered, with their ancestors.

Information on cultural resources, particularly archaeological (historical) resources, can yield important environmental data, since past ecological conditions often are reflected in archaeological sites. Archeological sites may exhibit evidence of different occupations over different periods of time. These are qualities that address CEQA Guidelines Section 15064.5(3)(d) significance criteria:

*Generally, a resource shall be considered by the lead agency to be “historically significant” if the resource meets the criteria for listing on the California Register of Historical Resources (Pub. Res. Code § 5024.1, Title 14 CCR, Section 4852) including the following:*

*(D) Has yielded, or may be likely to yield, information important in prehistory or history*

At a local level, there has been a question about what constitutes a “unique archaeological resource,” especially when artifacts recovered from a site may seem “insignificant” or otherwise non-substantive. CEQA provides some guidance by definition, as described later in this report.

### *Research Methods*

There are limitations with conventional archaeological excavation methods typically used in the past by archaeologists to access deeply buried cultural resources, which cannot identify soils below 6 feet, and that is only with extensive, expensive mitigation excavations. *However, a technique is available that is less invasive to the site and explore depths not possible using traditional methods to assist in the archaeologists' determination of whether a site may contain deeply buried archaeological deposits that can be avoided. This technique uses **geoprobes** or cores, a method conventionally used by geologists to evaluate soil characteristics to define structural foundation requirements.* The geoprobes can effectively identify soils that may contain habitation debris that can be dated (only one shell or other identified artifact is needed) to contribute to our understanding of archaeological site patterns over time. This technique allows for recovering systematic 2-inch to 6-inch diameter core samples to any depth desired (e.g., to the depth of any proposed over-excavation for a project for an underground garage or basement), and provides a stratigraphy that allows the archaeologist to evaluate if there are indicators of deeply buried resources to help identify sites and avoid them if discovered. The depth of some archaeological sites is up to 10 feet below surface. The deepest resources below surface are the oldest, and least understood.

The following overview provides a general discussion on how archeological investigations are undertaken, and describes some of their limitations.

**Phase 1 Surface Survey.** The ground surface survey only can identify what cultural resources may be on the ground surface. The results of these surveys are often limited by landscaping, paved surfaces, and the like. If the project site topography has been graded or terraced and the resulting cuts are exposed, then the Phase 1 can identify the presence of subsurface deposits within these soils. However, terraced surfaces are normally obscured by retaining walls. The Phase 1 survey can only verify the presence of archaeological remains in ideal survey conditions. If an archeologist is aware that he/she is conducting a survey in a recorded archaeological site, the Phase 1 investigation doesn't indicate the presence/absence and depth of subsurface deposits. The Phase 1 surface survey also cannot define the precise horizontal boundary of a recorded archaeological site. Thus, Phase 1 surface surveys do not adequately provide sufficient evidence of cultural presence/absence, given their limited scope.

**Extended Phase 1 Excavation:** When conducting a survey within a known archaeological site boundary or adjacent to one, excavation must be performed to determine the presence/absence of cultural resources and how deeply they may extend. Secondly, a determination of whether a site has been previously disturbed is also required, as this influences its significance (disturbance to archaeological artifacts can impair their ability to "yield information important in prehistory" if their horizontal and vertical relationships have been lost). There are several ways to conduct an Extended Phase I survey:

Hand augering. This is typically done with a 4- to 6-inch hand auger. It can reach perhaps a depth of 6 feet below surface, and has limited capability to provide an indication of whether the soils have been disturbed (if modern cultural debris such as construction materials are found with the prehistoric remains, then this is possible). The auger does not provide information on the stratigraphy of the soils, which is an important indicator of significance.

Shovel test pits. These are holes dug by archaeologists generally 12- to 16-inches in diameter. They can generally only reach 4-feet below surface. The archaeologist can normally determine the presence of past disturbance to soils, but the limited depth of the excavation technique is a severe drawback when needing to explore substantial proposed excavation areas such as underground garages.

Geoprobos. The probes penetrate through any surface, including pavement, and can reach as deeply as required. Instead of traditional hand-excavation, mechanically driven geoprobes (2- to 6-inches in diameter) are a less invasive method of identifying resources and can better characterize the extent and integrity of archeological resources. In a village site where there are burials, the artifact density is likely sufficiently high and the soils developed with a contrasting color and texture (much like a well-developed compost soil) that the geoprobe would be a very useful investigation technology. It is also quick to implement, since a truck can be ordered and the probes can be completed in one day, providing a solid core of the soils ideal for analyzing stratigraphy and to determine whether a site has been previously disturbed. At the time of this report preparation, the cost of renting a geoprobe rig averages about \$2000/day, and 6 to 8 cores can be dug in one day. The cores should be spaced no greater than 30 feet apart (ideally at shorter intervals) when they are conducted in a known village site or area of high archaeological sensitivity. As an example, if an applicant has a 1,000-square foot envelope, it would require one day of geoprobe core excavations to explore and assess the presence/absence of deeply buried cultural resources; then the archaeologist can assess the significance of the soils recovered in the probes. The cost may be on the higher range of \$5,000-10,000, but there is no other way to explore to the depth of a garage or basement using traditional archaeological survey methods. There is only one report that was found using this technology for the Point, from 2010 when the proposed project included a basement. The cores showed positive archeological results at depths of 10-11 feet. Thus, since this technology has already been utilized at the Point, and has proven to help determine the presence/absence of archaeological deposits, it should be considered for all proposed projects at the Point proposing underground excavation.

The County has received a number of positive archaeological reports (where archaeological deposits were identified) that recommended an archaeological monitor during grading as mitigation for the project after only limited research and excavation [if any], then ultimately found cultural resources and in some cases, human remains. To date, the County records for projects at the Point show that 220 archeological reports have been received for the Point related to individual projects, with a total of 512 parcels located there (note: CSA area 1 contains 380, and 30 are vacant lots). A total of 47 projects on the Point contained a basement, subterranean garage, or underground living space. There were 131 negative reports with no resources identified on the ground surface, and no further investigation conducted (22 of the negative reports contained a basement, subterranean garage, or underground living space). Conversely, there were 87 positive archaeological findings, some including human remains. Of these positive reports, 25 of them included a below-ground basement or garage/dwelling. Auger boring for these positive reports was conducted only 16% of the time, in combination with excavation test units. Excavation test units alone were done 16% of the time, and *the majority of positive reports (52%) were completed using only a surface visual assessment and conducting background research.*



There have been a few particularly controversial reports with positive results for archaeological resources, most of them located in the CA-MNT-17 area after a Phase I completed background research and a surface visual assessment to assess the project site. For example, an original report for CA-MNT-17C stated human remains and artifacts were found and retrieved during construction monitoring from a previous project on the property. The same report stated very little resources were left on site due to the on-going disturbance from past cumulative excavation on the property. *In addition, human remains were also found in one additional site (CA-MNT-17A) during construction monitoring.* Hence, recommending monitoring during construction as a mitigation measure did not achieve the policy requirement of avoiding and preserving the significant archaeological resources on site. In addition, two reports from the CA-MNT-17 area had recommended as mitigation collecting artifacts from the site as a way to “increase the body of knowledge already developing regarding the site”. Cultural materials recovered during monitoring should be curated in the public domain at a suitable research facility.” This recommendation is an example of an archaeological report that conflicts with existing policy directives (see “Applicable Policies” below) and the requests of OCEN.

The sites in and around the Point have been incrementally disturbed in numerous cases by the construction of individual single-family residential projects. The issue at hand is whether or not the current interpretation and application of the policy contained in the Carmel Plan and other Monterey County regulations that apply are adequately protecting Carmel Point archaeological resources. ***The Carmel Land Use Plan’s Key Policy 2.8.2 states that Carmel’s archaeological resources, including those areas considered to be archaeologically sensitive but not yet surveyed and mapped, shall be maintained and protected for their scientific and cultural heritage values.*** Furthermore, new land uses, both public and private, should be considered *compatible with this objective only where they incorporate all site planning and design features necessary to minimize or avoid impacts to archaeological resources.* The policy requires avoidance; however, the practice has typically been to conduct Phase 1 ground surface surveys and when no initial indication of cultural materials is found, to simply require an archaeological monitor during construction. The issue with this approach is that deeper cultural deposits have been repeatedly found, even in light of a negative Phase I survey (as noted above), and even if a positive Phase I is prepared (e.g., discovery of surface indications that resources are likely present), the mitigation is to monitor during construction rather than conducting further significance excavation using all available technology to determine the vertical and horizontal extent of the cultural deposit, as well as understanding what important information it may have to “yield information important in prehistory.”

The key questions to be addressed via the information contained in this report include:

- How can currently available archaeological methodologies used to identify the presence of deeply buried cultural resources help to better inform decisionmakers and RMA planning staff regarding proposed projects located on the Point?
- Given the documented archaeological importance of the Point, should Monterey County proceed with potentially pursuing a comprehensive Historic Resources (HR) site overlay, and/or consider the larger neighborhood eligible for listing on the California Register of

Historic Resources as well as the National Register of Historic Places as an archaeological district? Monterey County has not made a determination on whether the Point, as a whole is an “historic resource” as described by CEQA Guidelines Section 15064.5, and has not pursued elevated official status of the Point. Instead, the County’s practice has been to analyze the potential effects of proposals on archaeological resources on a case-by-case project basis.

- Should other policy issues be considered, such as requiring all projects located on the Point to conduct more intensive Extended Phase 1 archaeological investigations (e.g., Geoprobos), when deeper excavations are proposed?

### **Applicable Policies**

The area is governed by Monterey regulations and policies in the Carmel Coastal Implementation Plan (Part 4), Carmel Area Land Use Plan, 1982 General Plan, and the Monterey County Coastal Zoning Ordinance, Title 20, described briefly below. These policies all address the need to avoid known archaeological resources to the extent feasible through available measures, rather than allowing disturbance to sites with known sensitivity and/or resources. AB 52 is also applicable, and briefly described below.

#### *Coastal Implementation Plan (CIP)*

It should be noted that archaeological sensitivity zones are defined in the CIP as follows: A “Low” sensitivity zone is one in which there is limited probability of finding evidence of past Native American activity. A “Moderate” zone is one in which there is a probability that the area was used by Native Americans for hunting, gathering or collecting. *In a “High” sensitivity zone, there are archaeological sites already identified in the area with a strong possibility that Native Americans lived in and occupied that area. All of the Point is considered a HIGH SENSITIVITY zone, and there is ample evidence in the record to support this.*

In the CIP, Section 20.146.090, development on parcels with an archaeological site, as identified through an archaeological report prepared for the project, shall be subject to certain conditions of approval. The CIP includes the following General Development Standards (Section 20.146.090.D. 1-5) for development on, adjacent, or near archaeological resources [emphasis added in bold/italics where particularly relevant]:

1. ***All avoidable measures, including purchase of archaeological easements, dedication to the County; tax relief and purchase of development rights shall be explored to avoid development on sensitive prehistoric or archaeological sites.***
2. Development on parcels with an archaeological site as identified through an archaeological report prepared for the site, shall be subject to the following conditions of approval to be completed prior to the issuance of building or grading permits:

- a. The recommended mitigation measures contained in the archaeological survey report prepared for the site shall be made a condition of approval.
  - b. The applicant shall request to add the combining “HR” zoning district to the existing zoning on the parcel. The rezoning shall not necessitate an amendment to the Land Use Plan or this ordinance.
  - c. The archaeological site shall be placed in an archaeological easement. The easement shall be required pursuant to Section 20.142.130. Prior to being accepted by the County, the proposed easement area shall be reviewed and verified as adequate to protect the resource by an archaeologist who has been selected from the County’s list of archaeological consultants or who is a member of the Society of Professional Archaeologists [now called the Register of Professional Archaeologists, or RPA].
3. ***When developments are proposed for parcels where archaeological or other cultural sites are located, project design shall be required to avoid impacts to such cultural sites.***
4. Where construction on or construction impacts to an identified archaeological or paleontological site cannot be avoided, as verified in the archaeological report prepared for the project, a mitigation plan shall be required for the project. This mitigation plan shall be required by, submitted to and approved by the County. The plan shall be prepared at the applicants’ expense. Included in the plan shall be recommended preservation measures in accordance with the guidelines of the State of Office of Historic Preservation and the State of California Native American Heritage Commission. The Consulting Archaeologist shall file the report with the State Office of Historic Preservation.
5. Where a mitigation plan has been prepared for a proposed development, a condition of project approval shall be that:
- a. The preservation measures shall be undertaken and completed prior to the issuance of building or grading permits; or,
  - b. Where appropriate, according to the recommendations contained in the mitigation plan, the preservation measures shall be undertaken concurrent with grading or other soil-disturbing activities and shall be undertaken in accordance with the mitigation plan, as a condition of the grading and building permit; and,
  - c. The results of the preservation activities shall be compiled into a final report prepared by the archaeologist and submitted to the County prior to the issuance of building or grading permits. Two copies of the report shall be submitted.

Chapter 20.146 of the Carmel Coastal Implementation Plan defines ‘archaeological sensitivity zones’ and ‘archaeological site,’ in the following ways:

- B. Archaeological Sensitivity Zones: These categories describe the probability of finding archaeological resources throughout the County, as shown on County Archaeological sensitivity maps. In a “High” sensitivity zone, there are archaeological sites already identified in the area with a strong possibility that Native Americans lived in and occupied that area.

- C. Archaeological site: A site of known Native American remains or activity, as evidenced by shells, fire-cracked rocks, other lithic remains, charcoal, bedrock mortars, rock art, quarry sites, etc.

Additionally, the Coastal Development Permit requirement is established for projects within 750 feet of known archaeological resources (via an interpretation request regarding development within 750 feet of a known archaeological resource provided in 2010 by the Monterey County Planning Director).

#### *Carmel Area Land Use Plan*

The Carmel Area Land Use Plan recognizes the intensive prehistoric use of the Carmel area. According to the Carmel LUP, the Carmel area shoreline from Carmel Point to Point Lobos Reserve contains one of the densest remaining concentrations of shellfish gathering activities along the central California coast. These archaeological deposits have been identified as a highly significant and sensitive resource. Carmel Area Land Use Plan Key Policy 2.8.2 (Chapter 2.8 Archaeological Resources) requires the *maintenance and protection of archaeological resources, including those areas considered to be archaeologically sensitive but not yet surveyed and mapped for their scientific and cultural heritage values*. Any proposed development should be considered compatible with the objective of this policy *only when all site planning and design features necessary to minimize or avoid impacts to archaeological resources have been incorporated*. This objective is furthered in General Policies, where Policy 2.8.3. 5 specifically states: ***“to this end, emphasis should be placed on preserving the entire site rather than on excavation of the resource, particularly where the site has potential religious significance”***.

#### *1982 Monterey County General Plan*

The project site is subject to the 1982 Monterey County General Plan (General Plan) which provides a regulatory framework, through goals and policies, for physical development. The goal of the Plan is to encourage the conservation and identification of the County's archaeological resources, with the objective to identify and conserve important representative and unique archaeological sites and features. The policies state that the County shall take such action as necessary to compile information on the location and significance of its archaeological resources so this information may be incorporated into the environmental or development review process, among other policies that require that *ALL available measures*, including purchase of archaeological easements, dedication to the County, tax relief, purchase of development rights, consideration of reasonable project alternatives, etc., *shall be explored to avoid development on sensitive archaeological sites*.

#### *AB 52*

A recent addition to the California Environmental Quality Act ("CEQA") is the Native American Historic Resource Protection Act (Assembly Bill 52), which is intended to minimize conflict between Native American and development interests. AB 52 adds "tribal cultural resources"

("TCR") to the specific cultural resources protected under CEQA, and requires lead agencies to notify relevant tribes about development projects. It also mandates lead agencies to consult with tribes if requested, and sets the principles for conducting and concluding the required consultation process. After July 1, 2015, AB 52 applies to all projects for which a lead agency has issued a notice of preparation of an environmental impact report ("NOP") or notice of intent to adopt a negative declaration or mitigated negative declaration ("NOI"). As described above, our tribal representative for the Point is OCEN.

## *CEQA*

CEQA (Section 15064.5) defines the term "historic resource" as the following:

1. A resource listed in, or determined to be eligible by the State Historical Resources Commission, for listing in the California Register of Historical Resources.
2. A resource included in a local register of historical resources, meeting the requirements of the Public Resources Code, shall be presumed to be historically or culturally significant.
3. Any object, building, structure, site, area, place, record, or manuscript which a lead agency determines to be historically significant or significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California may be considered to be an historical resource, provided the lead agency's determination is supported by substantial evidence in light of the whole record. Generally, a resource shall be considered by the lead agency to be "historically significant if the resource meets the criteria for listing on the CA Register of Historical Resources including the following:
  - a. Is associated with events that have made a significant contribution to the broad patterns of California history and cultural heritage.
  - b. Is associated with the lives of persons important in our past;
  - c. Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values; or
  - d. Has yielded or may be likely to yield, information important in prehistory or history.

The fact that a resource is not listed in, or determined to be eligible for listing in the California Register of Historical Resources, not included in a local register of historical resources of the Public Resources Code, or identified in an historical resources survey of the PRC, does not preclude a lead agency from determining that the resource may be an historical resource as defined in PRC sections 5020.1 or 50241.1.

Under Public Resources Code Section 21083.2 (g), a unique archaeological resource is defined as an archaeological artifact, object, or site where it is clear there is a high probability of the following:

- Has information needed to answer important scientific research questions and public interest exists for that information.
- Has special or particular quality (ex: oldest of its type, best available of its type, etc.)
- Directly associated with a scientifically recognized important prehistoric or historic event or person.

#### *General Plan, 2010 Open Space and Conservation Element*

The County has recognized the need to discover and identify places of historical and cultural significance and to preserve the physical evidence of its historic past. A countywide historic preservation ordinance is implemented by the Parks Department's Historical Coordinator and the Historic Resources Review Board. Policies of this ordinance stress incentives to preserve sites that have proven historical or cultural significance, including any identified as part of an adopted County Historic Preservation Plan.

#### **Summary and Potential Options for Protection of the Archaeological Resources**

*Taken together, the body of evidence available on the Point clearly shows that it is appropriate to consider additional protection mechanisms for the resources.* A range of options exist to achieve this goal, described below.

***Option 1 – Staff recommendation***

***Historic Resource Overlay for the Entire Point***

The first of these options is to create an historic resource, or “HR” overlay for the entire Point, as opposed to the piecemeal approach that has resulted in incremental destruction of these irreplaceable archaeological resources. The CIP currently requires a designation of each individual site to receive an HR overlay, however, this method has not effectively protected these resources from incremental disturbances and significant, adverse impacts. A comprehensive HR overlay would immediately alert all staff who may be reviewing projects at the Point as to their potential sensitivity and significance.

***Option 2 – Staff recommendation***

***Setting forth more stringent requirements for archeological evaluation for development projects proposed on the Point***

As described above, the Extended Phase 1 Geoprobe technology is available to assess the presence/absence of archaeological materials prior to any excavation extending beyond the 4 feet that can feasibly be evaluated by archaeological hand-excavation, or even the need for project design, to determine whether resources can be avoided, in accordance with policy requirements that already exist.

***Option 3 - Staff recommendation***

***Develop conditions of approval that would protect and avoid the resources, including but not limited to the following:***

- a. No Basements
- b. Partial basements
- c. Approve basements subject to a condition that if significant resources are found that the project has to be redesigned around those resources. This will require defining the threshold of significance.
- d. Approve basement. If resources are found, then they are removed and cataloged, or relocated (if human remains).

***Option 4 – For consideration***

***Nomination of the Point in its entirety for listing on the State CRHR and Federal NRHP as an archaeological district***

Staff can prepare an application to designate the Point as an archaeological district for listing on the State California Register of Historic Resources in accordance with the State Historic Preservation Office (SHPO), and if directed, for the federal listing on the National Register of

Historic Places. Staff believes that this process could be undertaken with the information currently available, and that receiving either of these designations at the state and federal levels would assist the County in protecting the Point. Such a designation does not preclude development within the historic resource, but would attribute additional importance to the resources that are likely to exist throughout this community.

### **Conclusion**

Staff awaits direction from the Commission regarding the implementation of additional protection measures for the Point. *Cultural resources are nonrenewable, and this attribute cannot be overestimated when considering the importance of their protection.*



Aerial photo of the Point, and the unincorporated portion of Carmel within County jurisdiction.