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October 8, 2018

File No. 5064.000

Maira Blanco, Associate Planner
Monterey County Resource Management Agency
1441 Schilling Place
Salinas, CA 93901

Re: Initial Study PLN170611 (Pietro Family Investments)

Dear Maira:

We have reviewed the Initial Study and proposed Mitigation Negative Declaration for the aforementioned project. The following responds to discussion regarding consistency with the LUP policies and to the proposed mitigations related to protection of cultural resources.

Staff has summarized findings of two cultural/archaeological reports on the subject property, to which we note some additional clarification from these reports that was not included in the initial study summaries. Specifically, on Page 40 of the MND, staff notes the "based on Albion's determination that additional testing was needed..." We disagree. In fact, on page 24 of the Albion report, they conclude that "Therefore, it is Albion's judgement that no additional archaeological testing is necessary; however, several protection measure should be implemented for the proposed development project, in an effort to protect cultural resources." On page 41, staff characterizes the report as "positive" based on the discovery of fractured shells (lacking midden), even though the archaeological report specifically notes that the materials lacked integrity. Further, the additional site-specific archaeological survey was obtained by the applicant for the project voluntarily, not as a requirement by staff. This report appears to also be mischaracterized as well on page 41, as "negative with 'see text'." We could find no reference to 'see text' in this report. The report also concluded that "The proposed project should not be delayed for archaeological reasons", and noted similar recommended protection measures for the proposed project. Cumulatively the two archaeological reports recommended the following protective measures:

1. A qualified archaeological monitor should be present during ground disturbing project excavations. The monitor should recover any potentially significant cultural materials that may be found. Excavated soil may be screened to assist in such data recovery. (Both reports)

2. If, at any time, potentially significant cultural materials or features are encountered, work shall be halted until the monitor and/or the principal archaeologist can evaluate the discovery. If the feature is determined to be significant, an appropriate mitigation should be developed, with the concurrence of the lead agency, and implemented. (Both reports)
3. If, at any time, human remains are identified, work must be halted, and the Monterey County Coroner must be notified immediately. If the Coroner determines that the remains are likely to be Native American, the Native American Heritage Commission must be notified as required by law. The Most Likely Descendant designated by the Heritage Commission will provide recommendations for treatment of Native American remains. (Both reports)
4. If collection or analysis of cultural materials is undertaken, a *Final Technical Report* documenting the results of all scientific studies should be completed with a year following completion of monitoring and data recovery field work. (Breschini report)
5. Recovered cultural materials should be curated in the public domain at a suitable research facility. (Breschini report)
6. The creation of a Project specific Archaeological Monitoring Plan. Specifically, the plan should address the following topics: 1) description of cultural resources present; 2) monitoring procedures; 3) the evaluation process; 4) Native American participation; and treatment of human remains. Having an Archaeological Monitoring Plan in place prior to construction activities will ensure that any inadvertent discoveries of cultural resources that may be encountered during Project construction will be dealt with in a respectful and proper manner. The Plan will also reduce construction delays. (Albion report)
7. A representative from the local Native American community should monitor all ground-disturbing activities associated with the redevelopment Project. (Albion report)

Following the narrative given in the MND on these report staff provides extensive narrative regarding the recognized resource CA-MNT-17 (a large swath of Carmel Point), and discusses multiple resources previously located within the boundaries of this resource. We note that to the reader it is not always made clear that these “finds” were not on the subject parcel. Though this parcel is within the boundaries of the designated resource, no significant artifacts or resources have been found on the subject parcel, and items found in the Albion borings were noted to “lack integrity” and to have not existed in concert with midden soils indicative of archaeological/cultural resources.

Based on the narrative given in the report, staff then concludes several times that the proposed project is not consistent with the Carmel LUP Policy 2.8.2, because it is not designed “to avoid impacts” (Section 20.146.090.D.3). Unfortunately, this analysis ignores the requirements of the geologic and geotechnical studies relevant to development of the project site. Specifically, based on the geologic soils borings and geologic conditions, the geotechnical report notes that “The upper 5 to 9 feet of dark brown loose silty sand soil is not adequate for shallow foundation or slab support in their present condition. It is anticipated the bottom of excavation for the basement of the main part of the house (about 12 to 14 feet deep) will encountered firm native soils that are adequate for conventional footing support.”. The report goes on to note that in all areas surrounding the building

where other improvements are planned (patios, other levels of the building, etc.) a "minimum of 4' of excavation is necessary (depth to be determined by geotechnical engineer during excavation)" to effect a solid foundation for improvements. Cross referencing the information and the borings from the geologic report to the borings in the Albion report, which noted potential cultural resources in the upper 80 cmbs; it is evident that elimination of the basement from the plan will not lessen the excavation requirements in the area of soils which may contain cultural resources. With or without the basement, construction of the residence will require excavation down to firm native soil or bedrock. Based on this fact, the appropriate application of 20.146.090.D4 is "Where construction on or construction impacts to a "potential" (not identified) archaeological or paleontological site cannot be avoided, a mitigation plan shall be required for the project", which shall include preservation measures and a final report prepared by the archaeologist.

Based on the aforementioned reports and the recommendations of both archaeologists, the project (with the basement) should not be delayed but should incorporate the recommended mitigations. The added mitigation recommended by staff should be deleted. Staff has added a recommended mitigation measure above those recommended by the professional archaeologists of an HR zoning district overlay for the site, based on 20.146.090.D.2b. This requirement is both premature and counterintuitive. Site studies have not uncovered any significant archaeological or cultural resources on the subject site. Absent such a discovery and absent a listing of CA-MNT-17 as a historical resource, the HR zoning is inappropriate and overly restrictive. Further as it is customary and understood that disclosure of the location of archaeological resources is restricted, a designation of HR for the purposes suggested here (presumption of cultural resources on the site) in effect is disclosure to the general public of information that is protected. In the event that an artifact or resources had been identified on the site that would remain, item c (a conservation easement) might be appropriate, in that it need not specify the existence of a resource. However, in this case, a resource has not been found and there is no basis to require the HR zoning.

In summary, the proposal for a basement in the design does not increase the necessary excavation beyond the geotechnical requirements for the site to be excavated to "firm native soil". The necessary site disturbance will be overseen and fully mitigated through implementation of the recommendations cited by both archaeologists, in compliance with 20.146.090D. Finally, there is no basis for a requirement of an HR zoning for the property.

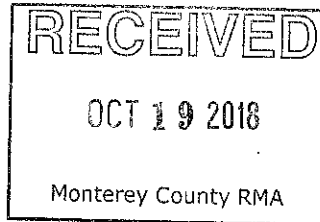
Sincerely,



Gail Hatter,
Sr. Land Use Specialist

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**October 17, 2018**

Maira Blanco
Monterey County Resource Management Agency
141 Schilling Place, 2nd Floor
Salinas, CA 93901

**Subject: Mitigated Negative Declaration (PLNs 170611, 170612, and 170613) 26307
Isabella Avenue, 26338 & 26346 Valley View Avenue, Carmel Point Area,
Monterey County (Pietro)**

Dear Ms. Blanco:

Thank you for the opportunity to comment on the Mitigated Negative Declaration (MND) for the proposed single family residences at 26307 Isabella Avenue and 26338 & 26346 Valley View Avenue in the Carmel Point Area of Monterey County. As we understand it, the proposed projects include the construction of three single-family residences with large basements (1,366 sf, 1,687 sf, and 2,413 sf respectively) on three residentially-zoned lots in the County's medium density residential zone district. The parcels are located roughly one block from Carmel River State Beach and within 750 feet of a known archaeological resource.

The MND raises questions about the suitability of the proposed development, in particular the proposed basements, in an area of known archaeological significance. According to the Carmel Area Land Use Plan (LUP), the shoreline from Carmel Point to Point Lobos contains one of the densest remaining concentrations of shellfish gathering activities in central California and that these deposits have been identified as a highly significant and sensitive resource. The LUP's Key Archaeological Resource Policy 2.8.2 requires that Carmel's archaeological resources be maintained and protected for their scientific and cultural heritage values. This applies to areas considered to be archaeologically sensitive but not yet surveyed and mapped. When site planning constraints do not allow for avoidance of cultural sites, the Carmel LUP requires mitigation and adequate preservation measures to be implemented (LUP Policy 2.8.4.6). Finally, the Local Coastal Program (LCP) requires new development to be designed to avoid or substantially minimize impacts to cultural resources on parcels where archaeological / cultural sites are located (LUP Policy 2.8.3.4 and Coastal Implementation Plan Section 20.146.090 D.3).

As we understand it, an archaeological survey was prepared for the project sites and though it did not observe intact archaeological deposits, it could not rule out the possibility of finding said resources on the subject parcels. A second archaeological survey similarly did not turn-up any materials frequently associated with prehistoric cultural resources. However, based on positive findings on a parcel in the near vicinity and because artifacts were recovered at depths on that parcel, the subsequent report recommended mitigation measures that include having a qualified

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archaeological monitor onsite during ground disturbing activities, and standard recommendations for the inadvertent discovery of human remains. This approach is generally sufficient in most cases to preserve the integrity of cultural resources during construction. We note however that the project impacts and recommended mitigation measures are based solely on an evaluation of project impacts associated with the development of the single-family residences *without* the basements. As such it appears that the analysis of project impacts is incomplete and we recommend that the MND's cultural resource analysis be supplemented to include an evaluation of the *entire* project, including an investigation on how the additional excavation for the basements might impact cultural resources.

Thank you again for the opportunity to comment on the MND. We hope that these comments prove useful as the County evaluates the project for consistency with the LCP. If you have any questions or would like to further discuss this matter, please don't hesitate to contact me at (831) 427-4898.

Regards,

A handwritten signature in black ink, appearing to read "Mike Watson", with a stylized flourish at the end.

Mike Watson
Coastal Planner
Central Coast District Office

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