



Legislation Details (With Board Report)

**File #:** PC 18-028      **Name:** PLN170428 - Cortopassi  
**Type:** Planning Item      **Status:** Agenda Ready  
**File created:** 4/3/2018      **In control:** County of Monterey Planning Commission  
**On agenda:** 4/11/2018      **Final action:**  
**Title:** PLN170428 - CORTOPASSI HEIDE S TR  
Public hearing to consider the demolition and rebuild of an existing single story single family dwelling and construction of a new detached garage. Variances are requested to reduce the front setback for main and accessory structures from 30 and 50 feet to about 6.5 and 5.5 feet, respectively. Development would occur within 750 feet of a known archaeological resource, within 100 feet of environmentally sensitive habitat (ESHA), within 50 feet of a coastal bluff, and on slopes 30% or greater.  
Project Location: 255 Highway 1, Carmel, Carmel Area Land Use Plan  
Proposed CEQA Action: Adopt Mitigated Negative Declaration

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Staff Report, 2. Correct Staff Report, 3. Exhibit A - Project Data Sheet, 4. Exhibit B - Draft Resolution, 5. Exhibit C - Vicinity Map, 6. Exhibit D - Initial Study - Mitigated Negative Declaration, 7. Exhibit E - Reports, 8. Exhibit F - Minutes - Carmel Area LUAC, 6 November 2017, 9. Hearing Submittal PLN170428 - 4-11-18, 10. RESpc\_18-014\_PLN170428\_041118

Date	Ver.	Action By	Action	Result
4/11/2018	1	County of Monterey Planning Commission		
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**Proposed CEQA Action:** Adopt Mitigated Negative Declaration

**RECOMMENDATION**

Staff recommends the Planning Commission adopt a Resolution to:

1. Adopt Mitigated Negative Declaration;
2. Approve Combined Development Permit consisting of:
  - a) Coastal Administrative Permit and Design Approval for a 2,111 square foot two-story single family residence and 724 square foot detached garage, approximately 30 feet from the edge of a bluff, including:
    - i. Demolish existing 961 square foot single-story single-family residence
    - ii. Add 278 square feet of living area to the newly constructed first floor
    - iii. Add 872 square foot second story
    - iv. Construct new 724 square foot detached two-car garage

- v. Construct 51 linear feet to existing retaining walls and planter
  - vi. Plant garage roof with native vegetation
  - vii. Grade approximately 240 cubic yards of cut and 22 cubic yards of fill, exporting 218 cy
- b) Four Coastal Development Permits to allow development:
- i. Within 100 feet of environmentally sensitive habitat (ESHA);
  - ii. Within 50 feet of a coastal bluff;
  - iii. On slopes 30% or greater; and
  - iv. Within 750 feet of known archaeological resources;
- c) Three Variances including:
- i. New front setback variance reducing the main structure from 30 feet to 6 feet-7 inches
  - ii. New front setback variance reducing the non-habitable accessory structure (detached garage) from 50 feet to 5 feet-5inches;
  - iii. Existing south side setback variance from 20 feet to 11 feet-6 inches (Resolution No. BZ-67)
3. Adopt a Mitigation Monitoring and Reporting Program

The attached draft resolution includes findings and evidence for consideration (**Exhibit C**)  
Staff recommends approval subject to 21 conditions and 6 Mitigation Measures.

PROJECT INFORMATION:

**Agent:** Libby Barnes and Daniela deSola, Architects

**Property Owner:** Heide Cortopassi

**APN:** 241-182-020-000

**Parcel Size:** 0.92 acres

**Zoning:** "LDR/1-D(CZ)" (Low Density Residential in the Coastal Zone with a design control overlay, max. gross density 1 acre/unit)

**Plan Area:** Carmel Area Land Use Plan

**Flagged and Staked:** yes

SUMMARY

The subject application is for the demolition of an existing one-story single family dwelling and expansion on the same foundation to a two-story single family dwelling. A new detached two-car garage is proposed to be constructed into a hillside on the property. The existing 961 square foot residence has not been inhabited for many years, leading to dilapidation of the building and unkempt grounds. The parcel is situated on the east-facing cove side of a small peninsular outcropping in the Carmel Highlands neighborhood west of Highway 1, and is completely visible from the Wildcat Cove public viewing area. The property is characterized by steep knolls, proximity to a bluff edge, and the shared road easement access for residents on the western bluff side of the knolls behind the subject property runs through north-south through the middle of the parcel. These site characteristics are special circumstances considered for the variance request to allow reduction of front setbacks. An Initial Study was prepared analyzing the potential of project implementation or operation to cause adverse environmental impacts.

DISCUSSION

Located on a 0.92 acre parcel in the Carmel Highlands area west of Highway 1, the subject property is situated on an east facing coastal bluff of granite outcropping at the west side of Highway 1 north of Wildcat Cove. This parcel is accessed by a shared paved driveway that winds through the small peninsular neighborhood. An existing 961 square foot residence is cut into the hillside creating a flat area set back from a steep bank that descends to a narrow protected beach about 50 feet below. The vertical cut face at the back of the house has

terrace deposits over granite, while at the front of the house, granite was encountered at 23 feet below grade. Construction of the existing 1959 structure took place prior to adoption of Local Coastal Plan (LCP). The legal non-conforming front setback of the existing structure is 11 feet-1 inch, approximately 4.5 feet more than the current request for a 6 feet-7 inch variance. The project proposal includes a retaining wall at the cliff face behind house.

The edge of the bluff is approximately 30 feet eastward of the front side of the existing structure and 75 feet to the cut face slope at the back of the house. A Geological Report was requested for the project and observed the average bluff location appears consistent from the years 1949-2017, concluding that any perceived change is negligible. Therefore, the need for a seawall or armoring within the next 100 years would not likely be required due to bluff retreat. The shared 20-foot wide road easement runs north-south through the middle of the subject property. The edge of the 50-foot high bluff dropping down to the cove is to along the east edge of the road and the steep cliff that rises steeply to about 120 feet elevation is along the west edge of the road. Vegetation is a mix of Monterey cypress and Monterey pine upper and mid-canopy woodland, with mid to lower canopy of both native and exotic shrubs and scrub type flora. Coast live oaks occur infrequently, while invasive ice plant has a strong presence.

The proposed project includes the demolition and rebuild of an existing 961 square foot one-story single family residence. The finished residence, when reconstructed, will be expanded to a 2,111 square foot two-story single family residence. The project includes construction of a new 724 square foot two car garage. Site improvements also include construction of 51 linear feet of new retaining walls, up to 11 feet tall. This applicant would abandon an on-site septic system and connect to the public sewer service, Carmel Area Wastewater District. Estimated grading is 240 cubic yards of cut and 22 cubic yards of fill, with an expected off haul of 218 cubic yards.

A request for two new Variances is also included with this application to reduce the front setback for both the main structure and the garage. The new variances would reduce front setback for the main structure from 30 feet to 6 feet, 7 Inches, and reduce the front setback for the non-habitable accessory structure from 50 feet to 5 feet, 5 inches. In addition, this project includes a reduced south side setback from 20 feet to 11 feet, 6 inches where a variance was approved by County of Monterey Board of Zoning Adjustment on November 10, 1959 (Resolution No. BZ-67), and that entitlement runs with the land. Staff supports the proposed variances because the parcel is one large steeply sloped hill, with the exception of the building envelope and the road easement. Requiring the full front set back would result in greater cuts into the hillside.

Staff recommends approval of the request for the variance pursuant to Title 20 Section 20.78.040 that requires specific findings:

1) **20.78.040.A** - *That because of special circumstances applicable to subject property, including size, shape, topography, location or surroundings, the strict application of this Title is found to deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification.*

The subject property would be deprived the privilege of the maximum building site coverage of 15% enjoyed by other properties in the vicinity and within LDR zoning due to special circumstances applicable to the subject property. Strict adherence to requirements of minimum 30-foot front setback for main structures and 50-foot front setback for non-habitable accessory structures is nearly infeasible due to the special circumstances caused by the size, shape, topography, and location of the parcel, and would deprive the subject property of

implementing a residence and garage enjoyed by other properties in the vicinity.

2) **20.78.040.B** - *That the variance not constitute a grant of special privileges inconsistent with the limitations upon other properties within the vicinity and zone in which such property is situated.*

All properties within the vicinity and zone of the subject property enjoy the same privileges of considering a single family dwelling for feasibility consistent with the limitations set on this project proposal.

3) **20.78.040.C** - *Use or activity not expressly authorized by the zoning regulation governing the subject parcel would not be eligible for a variance.*

A single family residence and garage are principal uses allowed in the LDR zone.

### Initial Study

Land use proposals within ESHA are subject to provisions of CEQA that require environmental review of projects for identification of potentially significant environmental impacts and proposal of mitigations to reduce those potential impacts to less than significant. Staff prepared an Initial Study for the purpose of fulfilling environmental review for CEQA. The Initial Study (IS) for the proposed project identified potentially significant impacts to biological resources and tribal cultural resources. Mitigations were identified that would reduce these impacts to less than significant. Therefore, environmental review resulted in a Mitigated Negative Declaration (MND).

Mitigations identified in the Initial Study for biological resources are:

### **General Best Management Practices (BMPs)**

Project implementation would have potential impacts to sensitive plant and wildlife species habitat identified in the Carmel Area Land Use Plan (LUP). Implementation of General Best Management Practices (BMPs) is consistent with the Carmel Area LUP Key Policy 2.3.2 Environmentally Sensitive Habitats to ensure that land use remains subordinate to the protection of critical biological resources. A contract with an Expert Biologist is required as Mitigation Measure MM001 (Condition number 22) for implementation of the BMPs including onsite monitoring of sensitive habitat identification, exotic plant removal, and protective measure installation. The contract shall include communication with the applicant/owner and contractors for implementation of notes on Demolition and Construction Plans. The way in which mitigation measures are examined for implementation and effectiveness shall be through monitoring and reporting. Therefore, MM002 requires the Expert Biologist contract include a schedule of reporting submittals to RMA-Planning (Condition number 23).

### **Protection of Wildlife Habitats**

The parcel is located within Monterey pine forest and qualifies as environmentally sensitive habitat pursuant to Section 20.146.040.c of the Coastal Implementation Plan (CIP) which requires protection of Monterey pine habitat that has high aesthetic value due to its location in the public viewshed. During site visits for preparation of the biological survey prepared by Rob Thompson (File No. LIB170325), two sea cliff buckwheat plants were found on the parcel either within or directly adjacent to the development footprint. The sea cliff buckwheat plants are habitat for the federally protected Smith's blue butterfly. Therefore, plants that would likely be adversely impacted by development are identified for relocation to an area on the parcel containing sea cliff buckwheat plants at the northern area of the parcel that would not be adversely impacted by development. This is included as an action for Mitigation Measure MM003 (Condition number 24). Although the biological survey reports no observation of nesting birds, there is potential for migratory bird nesting activity in existing tree canopies on the subject property. Migratory bird species are protected by the U. S. Federal government and protection of the migratory bird habitat entails avoidance of construction during times of nesting. Therefore,

Mitigation Measure MM004 requires a nesting survey for potential presence of migratory bird species that may find suitable nesting habitat in trees on the parcel (Condition number 25).

### **Exotic Species Control Plan**

Exotic species control is an integral aspect of maintenance and enhancement of existing native habitats. Eradication of exotic species is consistent with *General Plan* Goal 7 - Vegetation and Wildlife Habitats as a protective measure of environmentally sensitive areas. A sustained effort to abate the presence of invasive non-native and encroaching native plant species, such as the highly prevalent ice plant on the subject parcel, would allow the proposed development to be compatible with the long-term maintenance of sensitive habitats directly on and adjacent to the subject property. Therefore, Mitigation Measure MM005 requires submittal of an Exotic Species Control Plan developed by the Expert Biologist and of evidence that resulting implementation of the Control Plan is in accordance with that reviewed and approved by RMA-Planning (Condition number 26).

Mitigations identified in the Initial Study for tribal cultural resources are:

### **Potential Cultural Value to California Native American Tribe**

The subject parcel is located in the aboriginal territory of Ohlone/Costanoan-Esselen Nation (OCEN). Pursuant to AB 52, tribal consultation took place regarding the proposed project. The outcome of the consultation with OCEN was a recommendation to have a Native American Monitor from OCEN, approved by the OCEN Tribal Council, be present onsite during any ground disturbance for the project. Although the archaeological report stated that there is no known or listed historical resource, the report concludes that there is evidence that significant cultural resources do exist for the OCEN. The archaeological report notes that nine out of ten previous archaeological studies conducted in the immediate vicinity of the project parcel produced evidence that show this site was a tribal Coastal Gathering Site that had been considerably disturbed by construction (File No. LIB170178). This report, when combined with the recommendation from OCEN, is sufficient evidence to support mitigation through monitoring. So, in order to ensure that Tribal Cultural Resources incur less than significant impacts, an OCEN-approved Monitor is required as Mitigation Measure MM006 (Condition number 27). The monitor will only be required on site for up to a maximum 15-foot depth of project-related ground disturbance activities.

Pursuant to §15070(b) of CEQA Guidelines, a mitigated negative declaration may be prepared for a project when the Initial Study identifies potential environmental impacts. Staff identified potentially significant impacts to biological resources and tribal cultural resources, along with Mitigation Measures (MMs). Staff finds that implementation of MMs would reduce impacts on these resources to less than significant.

### *Design Review*

The subject parcel is within the public viewshed as defined in Chapter 2.2 of the Carmel Area LUP. Due to the unique parcel characteristics of shape, slopes, and orientation, structures would be publicly visible in any location on the property. Therefore, site constraints provide no opportunity to reduce the visual impact to aesthetic resources by relocating structures in less visible areas. Siting and design control measures shall be applied in accordance with Policy 2.2.4.10 of the Carmel LUP that are implemented to ensure protection of Carmel Area scenic resources, including shoreline and ocean views. Overhangs are proposed across the roof of the second floor of the eastern facing windows most visible from Highway 1. These design features would provide some shading to reduce daytime glare visible from the public viewing area. Condition number 20 requires the use of tinted windows for diffusion of interior lighting that reduces exterior visibility and the shading from the overhangs contributes to reduced visibility of the windows from public viewing areas. Condition No. 9 has been included to ensure that all exterior lighting is adequately shielded and directed downward to reduce long-range visibility. Furthermore, Condition 21 requires roofs use either non-reflective,

muted earth tone materials or be planted with non-invasive Northern Coastal Scrub species.

Due to site sensitivity to fire hazard in a high-sensitivity State Responsibility Area (SRA) combined with special circumstances caused by the size, shape, topography, and location of the parcel contributing to narrow front setbacks, landscape screening may not be appropriate for additional aesthetic cover. This is due to both reduced fire safety and compatibility with the scenic character of the neighborhood. Standard vegetative buffers around structures for fire safety are 30 feet of irrigated managed landscape and 100 feet of managed landscape. The eastern front sides and rooftops of the structures are completely visible from a public viewing area. However, the 30-foot buffer of fire-defensible space at this front side of the structures contains the 20-foot wide roadway, the edge of which is proposed at 6 feet-7 inches away from the front of the house in which to place irrigated managed landscape. The requirements for design consistency with the neighborhood character encumbers the landscape plan for fuel management in order to balance between visual screening and fire fuel management. The 100-foot buffer for managed landscape around the structures is integrated with the Monterey cypress and Monterey pine forest characterizing the neighborhood vegetation. Condition number 8 requires submittal of a landscape plan that includes the fuel management plan and recommendations for minimizing the extent of non-native plant materials on the subject parcel. This plan shall be submitted prior to building permits for review and approval by RMA-Planning. Staff considers the proposed project, as designed and conditioned, to have less than significant impacts to aesthetic resources.

Proposed colors and materials for the dwelling include dark gray cedar wood siding and overhangs, charcoal gray asphalt shingles, taupe gray stucco siding, beige and gray stone veneer finishes, and black aluminum clad windows and doors. Proposed colors and materials for the garage include gray concrete finish and a roof planted in non-invasive low water use native vegetation. When combined with the proposed natural colors and materials, the height and bulk of the buildings are appropriately sized to integrate with the backdrop of the hillside behind the structures, illustrated in the photo-simulation provided by the applicant included on page 5 of the Initial Study (**Exhibit D**).

The design factors considered for protection of the public viewshed are also considered for consistency with the neighborhood character and to assure visual integrity. A large vegetated knoll is the backdrop of the dwelling. The proposed home is subordinate in height and roofline to the surrounding knoll. The project conforms to height, site coverage, and parking requirements of the zoning code. The earthtone color palette, natural textures, and green garage roof planted with existing Big Sur coastal scrub species provide visual integrity. Staff finds that colors and materials proposed are appropriate for assurance that design is consistent with the neighborhood character.

As of the time that this report was prepared, Staff has received no public comment on the Initial Study. Public review ends 10 April 2018. Comments received after the date of this staff report will be delivered to the Planning Commission prior to the hearing.

#### OTHER AGENCY INVOLVEMENT:

The following agencies have reviewed the project, have comments, and/or have recommended conditions:

- Bureau of Environmental Health
- RMA-Public Works
- Water Resources Agency
- RMA-Environmental Services
- Carmel Highlands Fire Protection District
- Big Sur Coast Land Use Advisory Committee

LUAC: The Carmel Area Land Use Advisory Committee (LUAC) had a split vote of 2 ayes and 2 noes on

whether to recommend approval of the project. The meeting took place on 14 March 2017.

Comments from the LUAC meeting include the following: 1) concerns about hillside location of the new garage, 2) larger land parcels in the vicinity have abundant tree coverage to reduce impacts on visibility which is not a characteristic shared by this development, 3) location of proposed second story impact on public viewshed from public viewing area pullout on Highway 1, commenter suggested redesign and stagger second story addition further to rear hillside bank of property, 4) light gray color stucco wall on second story addition should be darker and more earth tone to blend with rustic setting of the location, 5) concern for runoff from roof and deck down cliff and into Carmel coastal sea waters, commenter suggested water [runoff] be retained on property or channeled into sewer system that serves the parcel.

In response to LUAC comments, the applicant changed the stucco color to less gray and more earth tone, as recommended. As previously mentioned, the subject parcel is characterized by considerable site constraints. These include slopes, shape, size, and location of the road easement on the property. The site constraints push the development into front setbacks creating a situation in which vegetative screening would not be appropriate for fire safety or consistency with neighborhood character. Where possible, vegetation is proposed such as on the garage roof, which is proposed to be planted with non-invasive and low water use Northern Coastal Scrub species. The suggestion to stagger the second story addition further to the rear hillside bank of the property would require an excess of environmental review, reports, grading, and hillside stabilization than is warranted by the current project proposal. Condition numbers 6 and 13 require submittal of an engineered grading plan and geotechnical certification that construction was implemented in accordance with the project Geotechnical report (File No. LIB170306). Condition number 5 requires an engineered drainage plan to handle impervious surface water runoff to be reviewed and approved by Monterey County Water Resources Agency.

Prepared by: Jaime Scott Guthrie, Associate Planner, ext. 6414

Reviewed by: Brandon Swanson, Planning Services Manager

Approved by: John M. Dugan, AICP, Deputy Director of RMA Land Use and Community Development

The following attachments are on file with the RMA:

Exhibit A - Project Data Sheet

Exhibit B - Draft Resolution, including:

- Conditions of Approval
- Site Plans, Elevations

Exhibit C - Vicinity Map

Exhibit D - Initial Study/Mitigated Negative Declaration

Exhibit E - Reports, including:

- E1 - Geological Report, Faust (LIB180081)
- E2 - Geotechnical Report, Odello (LIB170306)
- E3 - Biological Report, Thompson (LIB170325)
- E4 - Historical Report, Seavey (LIB170179)

Exhibit F - Minutes - Carmel Area LUAC, 6 November 2017

cc: Front Counter Copy; Jacqueline R. Onciano, RMA Chief of Planning, Libby Barnes and Daniela deSola, Agents; Heide Cortopassi, Applicant; M R Wolfe & Associates (John Farrow); The Open Monterey Project (Molly Erickson); LandWatch (Executive Director); Project File PLN170428.