

- b. A Coastal Development Permit to allow development within 750 feet of a known archaeological resource.
The approved permit would serve to correct an existing code enforcement violation, 17CE00140.
- d. Adopt a Mitigation Monitoring and Reporting Program for **PLN170612**; and
- e. Adopt a Mitigation Monitoring and Reporting Program for **PLN170613**.

Two (2) draft are resolutions that include findings and evidence for consideration (**Exhibit E**). Staff recommends approval of PLN170612 subject to 26 conditions of approval, including 4 mitigation measures, and PLN170613 subject to 26 conditions of approval, including 4 mitigation measures.

PROJECT INFORMATION:

Agent: Anthony Lombardo, Esq.

Applicant: Chris Adamski

Property Owners: Pietro Family Investments, LP

APNs: 009-463-017-000 (PLN170612); 009-463-003-000 (PLN170613)

Parcel Size:

- PLN170612: .15 acres (6,420-square feet); and
- PLN170613: .20 acres (8,839-square feet)

Zoning: MDR/2(18)-D (CZ)

Plan Area: Carmel Area Land Use Plan

Flagged and Staked: Yes

SUMMARY:

Two vacant parcels are located on Valley View Avenue in the Carmel Point residential neighborhood. Applications were submitted to develop one single family home on each lot: 1) PLN170612, located at 26338 Valley View Avenue, (“PIETRO 1”), and 2) PLN170613, located at 26346 Valley View Avenue, (“PIETRO 2”). Due to common ownership and adjacent proximity, one environmental document was prepared to assess both projects.

During review of the proposed development, three potentially significant issues were identified on both parcels: Impacts to Archaeological (Cultural), Tribal Cultural Resources and Seismic Hazards. In just the past year, RMA-Planning has received six requests for basement approvals on the Point. The Carmel Area LUP Archaeological Resources key policy 2.8.2 states:

*“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. 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 immediate area surrounding the subject lots are made up of 18 parcels. The subject lots are located in a recorded archaeological site, CA-MNT-17. Staff reviewed the permit history of all 18 parcels bordered by Isabella Avenue, Scenic Road, Valley View Avenue, and 16th Avenue. Almost half (44%) of the parcels yielded archaeological reports with positive identification of cultural material.

Based on the history of this area, staff required Phase I and Phase II archaeological reports. The results of the archaeological reports were inconclusive. However, based on the known sensitivity of this area and the potential impact of a basement, staff is recommending denial of the 1,687-square foot and 2,413-square foot basements as well as recommending two on-site monitors during the excavation phase for the proposed residences. Options for consideration include:

1. No Basements
2. Partial basements
3. 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.
4. Approve basement. If resources are found, then they are removed and cataloged, or relocated (if human remains).

In addition, a potential seismic hazard was independently evaluated by registered and certified geologist and engineers within the context of the projects being proposed (including basement additions). Staff recognizes that the projects as proposed are feasible; however, staff also finds that less excavation/disturbance would be necessary with the exclusion of the basements. Therefore, staff finds the seismic hazard is mitigated with adherence to the recommendations made in the Geologic and Geotechnical reports and the adoption of the proposed conditions of approval.

DISCUSSION

See attached **Exhibit B**.

CEQA

As the lead agency, Monterey County RMA-Planning prepared an Initial Study pursuant to Section 15063 of the California Environmental Quality Act. A combined Draft Mitigated Negative Declaration (“MND”) for PLN170612 and PLN170613 was prepared in accordance with CEQA and was circulated for public review from September 13, 2018 through October 15, 2018.

Potential impacts analyzed in the Mitigated Negative Declaration included: aesthetics, air quality, biological resources, cultural resources, geology/soils, greenhouse gas emissions, hazards/hazardous materials, hydrology/water quality, land use/planning, noise, transportation/traffic and tribal cultural resources.

Of the potential impacts analyzed, staff identified impacts related to Cultural Resources and Tribal Cultural Resources, as discussed above. Mitigations have been incorporated to reduce these impacts to a less than significant level. Staff has made the necessary findings to approve the projects subject to twenty-six (26) conditions each, which includes four (4) mitigation measures applied to each project (**Exhibit D.1**).

Staff added condition nos. 13-15 for RMA-Planning to better comply with the policies of the Monterey County Zoning Ordinance, Title 20. Per Section 15074.1 (c) of the CEQA Guidelines, no recirculation of the proposed mitigated negative declaration is required where the new mitigation measures are made conditions of, or are otherwise incorporated into, project approval.

Staff also added to the text of Mitigation Measure No.3 to make the language more effective (see underlined text). Pursuant to Section 15074.1 (a) of the CEQA Guidelines, prior to approving the project, the lead agency may, in accordance with this section, delete those mitigation measures and substitute for them other measures which the lead agency determines are equivalent or more effective.

PDSP004- MITIGATION MEASURE #3: PROTECTION OF TRIBAL CULTURAL RESOURCES AND SACRED PLACES (OCEN MONITOR)

Condition Text: In order to ensure that Tribal Cultural Resources incur less than significant impacts, an OCEN-approved Monitor shall be onsite during project-related grading and excavation to identify findings with tribal cultural significance. The tribal monitor shall have the authority to temporarily halt work in order to examine any potentially significant cultural materials or features. If resources are discovered, the property owner shall

provide an area for reburial of resources onsite or provide an adequate off-site location for reburial. The tribal monitor shall be given the authority to determine the ultimate disposition of any artifacts or remains onsite. This mitigation is not intended to alleviate the property owner or applicant from contacting the coroner and complying with State law if human remains are discovered.

Staff received two formal comments during the thirty-day public circulation period. These comments (**Exhibit F**) made the following arguments/observations.

- Commentary on the open code enforcement violations
- Disagreement with staff's interpretation of statements made in the initial Albion archaeological report
- Disagreement with staff's interpretation of statements made in the supplemental archaeological report
- Clarification that "finds" discussed in Initial Study background are not on the subject parcel
- Analysis ignores the requirements of the geologic and geotechnical studies relevant to the development of the project site
- Contest the application of the HR zoning district overlay (premature and counterintuitive)

In brief, staff became aware of the code enforcement violations and made the determination to keep them open until the hearing because the only other way to remedy the violation would be to restore the lots to their original state; no fees were incurred during this period. Staff stands by the statements identified in the archaeological reports and does disclose the fact that artifacts associated with CA-MNT-17 were discovered in the near vicinity of the subject parcels, although, as staff detailed above, there are three recorded archaeological sites on Carmel Point and a strong likelihood of continued finds in this area. The geologic and geotechnical studies do suggest that the topsoil is not adequate for a shallow slab foundation but the geotechnical report does offer alternatives. Finally, the HR re-zoning is codified in the Carmel Coastal Implementation Plan and other projects in Carmel Point have been conditioned to request an HR zoning overlay.

For a detailed explanation, see **Exhibit G**.

OTHER AGENCY INVOLVEMENT:

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

- RMA-Public Works
- Environmental Health Bureau
- RMA-Environmental Services
- Water Resources Agency
- Cypress FPD
- Carmel Highlands Land Use Advisory Committee

The subject projects were reviewed by the Unincorporated Carmel Highlands Land Use Advisory Committee (LUAC) on January 16, 2018 and were not given a recommendation of approval based on a number of factors, including the proposed designs and overall aesthetic. A motion to not support the project was made with members voting: 4 ayes and 1 no. The following reasons were cited in the minutes for not supporting the project as proposed:

- Removal of large quantities of soil for construction of large basements could disturb possible archaeological resources in an archaeologically sensitive area.
- Metal roofs may not be appropriate for the area; neighborhood has a rural theme.
- The development's landscaping plan should be a rural design and not an urban design. It should more naturally relate to its surroundings using indigenous plants and upper canopy trees.
- Recommend the Resource Management Agency (RMA) review building techniques on sites such as this one. The contractor stated that due to unstable topsoil extending at least 6 feet below ground level, he would need

to excavate all 6 feet and replace and compact it over the entire footprint of the building. This could, in effect, probably remove most archaeological artifacts if there were any. A basement would require about 10 feet of gross excavation, so the effect on an archaeologically sensitive area could be essentially the same. There are, however, alternative structural systems that are far less intrusive than the proposed excavation solution. These are (a) Caissons and grade beams requiring 12-inch diameter holes; (b) Helical screw anchors and grade beams. Anchors are screwed into the soil requiring less excavation and are less intrusive than the caisson system.

- General recommendation to the Planning Commission to discuss whether to allow or restrict basements close to known archaeological sites and other sensitive areas on Carmel Point.

Several neighbors were also in attendance and voiced concerns regarding project construction management given their experience with previous development in the area (**Exhibit H**).

Prepared by: Maira Blanco, Associate Planner, x5052

Reviewed by: Jacqueline R. Onciano, RMA Chief of Planning & Brandon Swanson, RMA Services Manager

Approved by: John M Dugan, FAICP, RMA Deputy Director Land Use and Community Development

The following attachments are on file with the RMA:

Attachments:

- Exhibit A - Project Data Sheet
- Exhibit B - Discussion
- Exhibit C - Mitigated Negative Declaration, Initial Study
- Exhibit D - Resolution
- Exhibit D1 - Conditions of approval
- Exhibit D2 - Plans
- Exhibit D3 - Colors and Materials
- Exhibit E - Carmel Highlands LUAC Minutes
- Exhibit F - Comments
- Exhibit G - Staff's response to comments
- Exhibit H - Letter from neighbors

cc: Planning Commission; John Dugan, RMA Deputy Director, Land Use & Community Development; Brandon Swanson, RMA Services Manager; Maira Blanco, RMA Associate Planner; Chris Adamski, applicant; Anthony Lombardo, agent; Pietro Family Investments, property owners; Louise Miranda Ramirez, OCEN Tribal Chairwoman; Rudy Rosales, OCENR Tribal member; Mike Watson, California Coastal Commission; Robert Carver, interested party; Barbara Rainer, interested party; The Open Monterey Project (Molly Erickson); LandWatch (Executive Director); John H. Farrow; Janet Brennan; Project File Nos. PLN170612 and PLN170613.