



# County of Monterey

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

## Legislation Details (With Board Report)

**File #:** PC 18-125 **Name:** PLN170851 - Abernethy 20163 LLC  
**Type:** Planning Item **Status:** Agenda Ready  
**File created:** 11/5/2018 **In control:** Board of Supervisors  
**On agenda:** 11/14/2018 **Final action:**  
**Title:** PLN170851 - ABERNETHY 20163 LLC  
Public hearing to consider additions to an existing two-story single family dwelling with a basement, (64 sq. ft. main level, and Approx. 155 sq. ft. basement), on Carmel Point within 750 feet of known archaeological resources.  
Project Location: 26263 Scenic Road, Carmel Point, Carmel Area Land Use Plan  
Proposed CEQA action: Adopt a Mitigated Negative Declaration

### Sponsors:

### Indexes:

### Code sections:

**Attachments:** 1. Staff Report, 2. Exhibit A - Project Data Sheet, 3. Exhibit B - Draft Resolution, 4. Exhibit C - Vicinity Map, 5. Exhibit D - LUAC Minutes, 6. Exhibit E - Initial Study - MND, 7. RESpc\_18-042\_PLN170851\_111418

Date	Ver.	Action By	Action	Result
11/14/2018	1	Monterey County Planning Commission		

### PLN170851 - ABERNETHY 20163 LLC

Public hearing to consider additions to an existing two-story single family dwelling with a basement, (64 sq. ft. main level, and Approx. 155 sq. ft. basement), on Carmel Point within 750 feet of known archaeological resources.

**Project Location:** 26263 Scenic Road, Carmel Point, Carmel Area Land Use Plan

**Proposed CEQA action:** Adopt a Mitigated Negative Declaration

### RECOMMENDATION:

It is recommended that the Planning Commission adopt a resolution to:

1. Adopt a Mitigated Negative Declaration;
2. Approve a Combined Development Permit consisting of:
  - a. Coastal Administrative Permit and Design Approval to allow the addition of approximately 219 square feet (64 sq. ft. above ground, 155 sq. ft. basement) and minor site improvements to an existing single family dwelling with a basement; and
  - b. Coastal Development Permit to allow development within 750 feet of known archaeological resources; and
3. Adopt a Mitigation Monitoring and Reporting Program.

The attached draft resolution includes findings and evidence for consideration (**Exhibit B**). Staff recommends approval subject to 14 conditions of approval including 4 mitigation measures.

### PROJECT INFORMATION:

**Agent:** Al Saroyan

**Owner:** Abernethy 20163 LLC

**APN:** 009-432-026-000

**Zoning:** Medium Density Residential, 2 Units per Acre, Design Control, 18-foot Height Limit, Coastal

Zone or “MDR/2-D(18)(CZ)”

**Parcel Size:** 0.144 acres

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

**Flagged and Staked:** Yes

#### SUMMARY:

The subject property is located off Scenic Road within an established residential neighborhood on the southwestern portion of the Carmel Point area, south of the intersection of Scenic Road and Bay View Avenue. The parcel is approximately 1.3 miles west of Highway 1 and 925 feet south of the incorporated city of Carmel-by-the-Sea. The project proposal is for approximately 219 square feet of additions and major remodel to an existing 2,135 square foot two-story single family dwelling with a basement and attached garage within 750 feet of known archaeological resources. Of the 219 square feet, approximately 155 square feet of that will be an expansion of an existing basement. During staff’s analysis of the proposed development, three potentially significant issues were found: impacts to aesthetics, archaeological resources and tribal cultural resources. An Initial Study/ Mitigated Negative Declaration (IS/MND) was prepared and circulated for public review. Staff determined that these impacts could be mitigated to a less than significant level. For aesthetics, a non-standard condition has been incorporated requiring windows with lower visual transmittance of light. For Tribal and Archaeological resources, a suite of 4 mitigation measures including additional soil testing and notes on construction plans have been incorporated to reduce impacts to less than significant. The potential impacts and their mitigations are discussed more fully below.

#### DISCUSSION:

The project application consists of approximately 219 square feet of additions and major exterior remodel of an existing 2,135 square foot two-story single family dwelling with a basement and attached garage. Work on the above ground main floor includes the removal of 233 linear feet of exterior walls, stairs and entry deck at the northern elevation, and a side deck at the western elevation, and the addition of 64 square feet. The garage and bedroom at the below ground lower level, or basement, will be maintained in the same location and approximately 155 square feet will be added to enlarge and modify the bathroom and add a wine cellar and elevator for access to and from the main level. Surface grading for the above ground improvements will be minimal, and excavation for the lower floor addition will be at a depth of six to eight feet and approximately 15 cubic yards of dirt.

Additional minor site improvements include:

- Reduction of deck and stairs from 219 square feet to 190 square feet;
- Reduction of an exterior patio and steps from 1,206 square feet to 579 square feet;
- Increase of driveway surface from 495 square feet to 1,011 square feet.
- Existing site walls reduced from 188 square feet to 63 square feet;
- Replacing existing rock wall and stone patio on the southeast corner of the subject property with an ornamental dry creek/bridge landscape feature.

The property is subject to the policies and regulations contained in the 1982 Monterey County General Plan (General Plan), the Carmel Area Land Use Plan (CAR LUP) and Coastal Implementation Plan, Part 4 (CIP) and the Monterey County Zoning Ordinance (Title 20), as well as required by the California Environmental Quality Act (CEQA). Per Section 20.12.140 and 20.44.040 of Title 20, a Coastal Administrative Permit and Design Approval is required for the proposed development and a Coastal Development Permit is required for development within 750 feet of a known archaeological resource per Section 20.146.090 of the CIP.

Staff identified the following issues relative to the proposed development: aesthetics, archaeological resources

and tribal cultural resources.

***Aesthetics (Visual/Design Review):***

Map A of the CAR LUP illustrates that the subject property is located within a viewshed area as seen from Scenic Road and public lands within the Carmel segment and Carmel City Beach, consistent with data contained within the Monterey County Geographic Information System (GIS), indicating that the subject property is located within a Visually Sensitive area. The CAR LUP places great importance on the protection of scenic resources, and the adopted policies provide for careful siting and design of structures. Therefore, consistency with these policies justifies further design control to reduce potential aesthetic impacts through conditions of approval. Further, zoning of the subject property includes a Design Control district overlay “D.” The purpose of this district is to regulate the location, size, configuration, materials, and colors of structures to assure protection of the public viewshed, neighborhood character, and assure the visual integrity of certain development.

To determine the level of impact, if any, analysis of the project included visual inspection of the existing dwelling and man-made improvements in the vicinity in order to place the proposed design in context with the surrounding neighborhood. The proposed bulk, mass, and siting on the property is consistent with the existing conditions of the site and local area. The dwellings along Scenic Road are both single story and two-story. The community character of the area is somewhat eclectic as the architectural designs of the residences vary among Shed, Tudor, gothic, California Ranch, Spanish Revival, and contemporary styles.

The proposed primary elevation, facing Scenic Road, contains one large clerestory window and a garage door matching the exterior siding on the first floor, and 4 large clerestory windows and an exterior glass door on the second floor leading to a 12-foot exterior balcony with horizontal posts in between glass handrails. The exterior colors will be a dark bronze standing seam metal roof, light tan horizontal stucco with tan stone ply exterior wall panels, and dark brown window trimming. The proposed design, colors, and materials will result in a contemporary architectural design, consistent with the surrounding neighborhood character.

The subject property fronts along Scenic Road, a roadway commonly used by the public for both visual and physical access to the shoreline. However, the proposed development would result in the remodel and addition of a structure within the same location (east of the roadway), general footprint, and remain similar in mass and volume to what currently exists. Visual and physical access to the site would not be affected. Point Lobos State Reserve is just under 1.5-miles south of the project; therefore, it is unlikely that the structure would create a visual impact when viewed from Point Lobos with unaided vision. However, as previously discussed, the subject property fronts along Scenic Road and the western elevation faces said roadway and shoreline. The proposed design would have the potential to create an impact on a scenic vista by introducing a new source of light and glare, adversely affecting both daytime and night time views. This potential impact would be addressed by implementation of CAR LUP policies and Carmel CIP regulations. As such, a non-standard condition of approval has been incorporated within the project which would require submittal and approval of a final lighting plan showing all exterior lights to be downlit and unobtrusive, specifying the manufacture for light fixtures to be used, and demonstrating the use of windows with a lower visual transmittance of light (Condition No. 5). Implementation of this condition would result in a less than significant impact to day or nighttime views in the area.

The distinct change of the exterior noted above would result in impacts to the existing visual character and

quality of the site and its surroundings. However, as sited, designed, and condition, this impact would be less than significant.

***Archaeological Resources:***

The subject property is located in the Carmel Point Area. There are a number of recorded archaeological sites on the Carmel Point discovered during earth movement associated with other development. One of which, Archaeological site CA-MNT-16, has been found to extend into the subject parcel. Further, the GIS identifies the subject parcel is within a “high sensitivity zone” for archaeological resources. On October 17, 2017, a Phase 1 Archaeological Assessment (LIB180091) was prepared for the subject parcel. The field assessment consisted of general surface reconnaissance for any visible cultural resources that can be identified without any excavation or vegetation removal. The findings indicated that CA-MNT-16 extended within the subject parcel and the site contained very limited surface evidence of potentially significant archaeological resources. However, based on more than just the evidence found onsite, which includes adjacent parcels with subsurface archaeological findings, and Carmel Point being rich with cultural resources, mitigations were recommended by the archaeologist.

On May 3, 2018, an Archaeological Subsurface Test (LIB180245) was done by John Schlagheck. The testing suggests that the CA-MNT-16 does not extend into the subject parcel beyond sparse shell remains. Five (5) hand auger test probes were completed within a portion of the project area. Four (4) probes reached a depth of 4.3 feet and one (1) probe stopped at 1.5 feet due to an existing utility line. The probes were not conducted in the specific area of excavation for the basement. All probes were found to be negative, and the report concluded that the area in which the project is proposed would also be negative due to lack of evidence of archaeological resources. Even so, Schlagheck also recommend mitigation measures to reduce potential impacts to a less than significant level.

Both archaeologists concluded that due to the recorded boundaries of CA-MNT-16, mitigation measures need to be incorporated to reduce any potential impacts to a less than significant level. Mitigation measures requiring an archaeological monitor onsite during excavation and halting work if resources are uncovered will be implemented to ensure the impacts are reduced.

***Tribal Cultural Resources:***

The subject parcel is located in the aboriginal territory of the Ohlone/Costanoan-Esselen Nation (OCEN). Pursuant to Section 21080.3.1 of the Public Resources Code (often referred to as Assembly Bill 52 or “AB 52”), non-exempt projects subject to environmental review shall request a Tribal Consultation to determine if potential impacts to tribal cultural resources exist. On September 26, 2018, RMA-Planning staff consulted with OCEN to discuss the proposed project. OCEN stated that the entire surrounding area is a sacred burial ground and objected to the expansion of the basement. The development has an existing 670 square foot lower ‘basement’ level and garage area. The proposed addition to this area is minor at approximately 155 square feet. There is a high probability that the area of expansion will occur in previously disturbed soil from the original construction and excavation of the existing basement. However, due to the known high archaeological and tribal cultural sensitivity of Carmel Point, there is still some potential for impacts to resources to occur. After a thorough discussion with OCEN, it is understood that the area is a significant sacred resource to the tribe, but in order to find common ground, and because of the minor amount of excavation associated with the project, OCEN recommended mitigation requiring an OCEN approved tribal monitor to be present onsite during any ground disturbance for the project. Further, since the subsurface testing completed by John Schlagheck was conducted in area where excavation will not be done, it was recommended that the applicant enter into a contract with an archaeological consultant approved by the Monterey County RMA-Planning to conduct additional soil testing within the area of excavation prior issuance of building permits. OCEN requested that if any artifacts are found, they must be returned back to the tribe. These mitigation measures as recommended

will bring the impact of the proposed development to a less than significant level.

It should be noted that RMA Planning staff has been looking at the Carmel Point recently with regard to development impacts on Tribal Cultural Resources. Specifically, the focus has been on determining if basements and other excavation activities are destroying resources due to insufficient mitigation measures, which do not go far enough to protect those resources. Given the proximity to a known site, this project, although small in scope, does still have some potential to impact resources. However, due to the limited investigatory evidence of potentially significant resources, and based on direction from the Planning Commission, mitigation measures have been incorporated to reduce the impact to less than significant. If the Planning Commission chose to do so, additional protections could be put in place, including but not limited to requiring redesign of the project if resources are found or denying the basement component of the project.

#### DEVELOPMENT STANDARDS:

The subject parcel is zoned Medium Density Residential, 2 units per acre with a Design Control overlay and an 18-foot height restriction within the Coastal Zone or “MD/2-D(18)(CZ).” The minimum setback required in this zoning district is a front setback of 20 feet and a side/rear setback of 5 feet. Consistent with these standards, the proposed development maintains a 30 foot front setback, 5 foot side setback and 10 foot rear setback. The maximum building site coverage allowed is 35% and the proposed coverage is at 35%. The maximum Floor Area Ratio (FAR) of the property is 45% and the FAR for the proposed development is at 45%. The proposed height of 18 feet, meets the maximum 18 feet allowed by zoning, and a Condition of Approval has been added to verify this after construction (Condition No. 4).

#### CEQA:

The Abernethy IS/MND (SCH No. 2018101008) was prepared for the subject property and circulated for public review from October 4, 2018 to November 5, 2018. The following environmental factors were analyzed for any potential affect by the proposed development: aesthetics, air quality, cultural resources, geology/soils, greenhouse gas emissions, hazards/hazardous materials, land use/planning, noise, transportation/traffic, tribal cultural resources and mandatory findings of evidence. Of the environmental factors, the IS/MND disclosed that the proposed development would result in potential significant impacts to aesthetics, archaeological resources and tribal cultural resources caused by the proposed materials and site disturbance of the new addition. A non-standard condition and mitigation measures as identified above have been recommended to reduce the impacts to a less than significant level on the environment. Non-substantive comments were received from the NAHC requesting the following changes to Mitigation Measure No. 2: Unidentified Cultural Resources:

- Changing the Public Resources Code Section from 5097.9 and 5097.993 to 5079.98; and
- Modifying Monitoring Action 2b to include *“The MLD shall complete their inspection and make their recommendations or preferences within has 48-hours after being allowed access to the site”*

These changes have been made to the mitigation measures.

#### OTHER AGENCY INVOLVEMENT:

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

RMA-Public Works  
Environmental Health Bureau  
RMA-Environmental Services  
Water Resources Agency  
Cypress FPD  
Carmel Unincorporated/Carmel Highlands LUAC

### LUAC

The project was reviewed by the Carmel Unincorporated/Carmel Highlands LUAC on October 15, 2018 and was given a recommendation of approval by a vote of 5-0-2, with the incorporation of color changes to portions of the façade and roof material. The color changes recommended by the LUAC were accepted by the project applicant and have been incorporated in the project application materials.

Prepared by: Jacquelyn M. Nickerson, Assistant Planner, Ext. 5240

Reviewed by: Brandon Swanson, RMA Planning Services Manager

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

The following attachments are on file with the RMA:

Exhibit A - Project Data Sheet

Exhibit B - Draft Resolution, including:

- Site Plans
- Colors and Materials

Exhibit C - Vicinity Map

Exhibit D - LUAC Minutes

Exhibit E - Initial Study/Mitigated Negative Declaration

cc: Front Counter Copy; Planning Commission; Brandon Swanson, RMA Services Manager; Al Saroyan, Agent; Abernethy 20163 LLC, Owner; The Open Monterey Project (Molly Erickson); LandWatch (Executive Director); Project File PLN170851