



County of Monterey

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

Legislation Details (With Board Report)

File #:	RES 19-037	Name:	PIETRO & VALLEY POINT - PLN170611 PLN170612 PLN170613
Type:	BoS Resolution	Status:	Passed - RMA Land Use and Community Development
File created:	4/12/2019	In control:	Board of Supervisors
On agenda:	4/23/2019	Final action:	
Title:	PLN170611 & PLN170612 (PIETRO FAMILY INVESTMENTS LP) & PLN170613 (VALLEY POINT LLC) Public Hearing (continued from March 12 and 26, 2019) to consider the appeal by Open Monterey Project and Save Carmel Point Cultural Resources of the December 5, 2018 Planning Commission decisions: a. Approving a Combined Development Permit (PLN170611) to allow construction of a single-family dwelling, attached garage, and basement within 750 feet of known archaeological resources at 26307 Isabella Avenue (APN: 009-463-012-000); b. Approving a Combined Development Permit (PLN170612) to allow construction of a single-family dwelling, attached garage, and basement within 750 feet of known archaeological resources, including abatement of a code enforcement case, at 26338 Valley View Avenue (APN: 009-463-017-000); and c. Approving a Combined Development Permit (PLN170612) to allow construction of a single-family dwelling, attached garage, and basement within 750 feet of known archaeological resources, including abatement of a code enforcement case, at 26346 Valley View Avenue (APN: 009-463-003-000). Project Locations: These projects are located on Carmel Point in the Carmel Area Land Use Plan area Proposed CEQA action: Adopt two Mitigated Negative Declarations, one prepared for PLN170611 and one prepared for both PLN170612 & PLN170613		

Sponsors:

Indexes:

Code sections:

Attachments: 1. Board Report, 2. Attachment A - Discussion, 3. Attachment B - Map of the Subj Parcels & Glossary, 4. Attachment C1 - Draft Resolution PLN170611, 5. Attachment C2 - Draft Resolution PLN170612 & PLN170613, 6. Attachment D - PC Resolutions, 7. Attachment E - Notice of Appeal 1-14-19, 8. Attachment F - IS-MND PLN170611, 9. Attachment G - IS-MND PLN170612 & PLN170613, 10. Attachment H - Carmel Highlands LUAC Minutes, 11. Attachment I - Correspondence re IS & Mitigations, 12. Attachment J - Technical Reports PLN170611, 13. Attachment K - Technical Reports PLN170612, 14. Attachment L - Technical Reports PLN170613, 15. Attachment M - Correspondence for CA Coastal Commission, 16. Attachment N - Correspondence Molly Erickson, 17. Attachment O - Correspondence Public Comment, 18. Attachment P - Correspondence NAHC, 19. Attachment Q - Correspondence OCEN, 20. Attachment R - Correspondence Applicant Submittals, 21. Completed Board Order, Resolution 19-121 & 19-122 for PLN170611, PLN170612, PLN170613 & Conditions of Approval/Implementation Plan/Mitigation Monitoring and Reporting Plan, 22. Item No. 17 Revised Board Resolution No. 19-122

Date	Ver.	Action By	Action	Result
4/23/2019	1	Board of Supervisors	adopted - rma land use and community development	Pass

PLN170611 & PLN170612 (PIETRO FAMILY INVESTMENTS LP) & PLN170613 (VALLEY POINT LLC)

Public Hearing (continued from March 12 and 26, 2019) to consider the appeal by Open Monterey Project and Save Carmel Point Cultural Resources of the December 5, 2018 Planning Commission decisions:

- a. Approving a Combined Development Permit (PLN170611) to allow construction of a single-family dwelling, attached garage, and basement within 750 feet of known archaeological resources at 26307 Isabella Avenue (APN: 009-463-012-000);
- b. Approving a Combined Development Permit (PLN170612) to allow construction of a single-family dwelling, attached garage, and basement within 750 feet of known archaeological resources, including abatement of a code enforcement case, at 26338 Valley View Avenue (APN: 009-463-017-000); and
- c. Approving a Combined Development Permit (PLN170612) to allow construction of a single-family dwelling, attached garage, and basement within 750 feet of known archaeological resources, including abatement of a code enforcement case, at 26346 Valley View Avenue (APN: 009-463-003-000).

Project Locations: These projects are located on Carmel Point in the Carmel Area Land Use Plan area

Proposed CEQA action: Adopt two Mitigated Negative Declarations, one prepared for PLN170611 and one prepared for both PLN170612 & PLN170613

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- 1) Adopt a resolution (**Attachment C-1**) to:
 - a) Deny the appeal by The Open Monterey Project and Save Carmel Point Cultural Resources challenging the Planning Commission's approval of a Combined Development Permit (PLN170611) to allow construction of a single-family dwelling, garage, and basement within 750 feet of known archaeological resources at 26307 Isabella Avenue;
 - b) Adopt a Mitigated Negative Declaration (MND) for the Project (PLN170611);
 - c) Approve a Combined Development Permit (PLN170611) at 26307 Isabella Avenue consisting of:
 - 1. Coastal Administrative Permit and Design Approval to allow construction of a split level, 3,397 square-foot single family dwelling with a 437 square-foot attached garage, 1,366 square-foot basement, and 620 cubic yards of cut; and
 - 2. Coastal Development Permit to allow development within 750 feet of known archaeological resources; and
 - d) Adopt a Mitigation Monitoring & Reporting Program (MMRP) for the project (PLN170611) at 26307 Isabella Avenue; and
- 2) Adopt a resolution (**Attachment C-2**) to:
 - a) Deny the appeal by The Open Monterey Project and Save Carmel Point Cultural Resources challenging the Planning Commission's approval of a Combined Development Permit (PLN170612) to allow construction of a single-family dwelling, garage, and basement within 750 feet of known archaeological resources at 26338 Valley View Avenue;
 - b) Deny the appeal by The Open Monterey Project and Save Carmel Point Cultural Resources challenging the Planning Commission's approval of a Combined Development Permit (PLN170613) to allow construction of a single-family dwelling, garage, and basement within 750 feet of known archaeological resources at 26346 Valley View Avenue;
 - c) Adopt a Mitigated Negative Declaration (MND) for the project (PLN170612 & PLN170613);
 - d) Approve a Combined Development Permit (PLN170612) to abate Code Violation (17CE00360) at 26338 Valley View Avenue and consisting of the following:
 - 1. Coastal Administrative Permit and Design Approval to allow construction of a split level, 2,285 square-foot single family dwelling with a 450 square-foot attached garage, 1,687 square-foot basement, and 830 cubic yards of cut;
 - 2. After-the-fact Coastal Development Permit to allow relocation of a 15" Coast live oak; and
 - 3. After-the-fact Coastal Development Permit to allow development within 750 feet of known archaeological resources;

- e) Approve a Combined Development Permit (PLN170613) to abate Code Violation (17CE00361) at 26346 Valley View Avenue and consisting of the following:
 - 1. Coastal Administrative Permit and Design Approval to allow construction of a split level, 3,028 square-foot single family dwelling with a 440 square-foot attached garage, 2,413 square-foot basement, and 1,255 cubic yards of cut; and
 - 2. After-the-fact Coastal Development Permit to allow development within 750 feet of known archaeological resources;
 - f) Adopt a Mitigation Monitoring & Reporting Program (MMRP) for the project (PLN170612) at 26338 Valley View Avenue; and
 - g) Adopt a Mitigation Monitoring & Reporting Program (MMRP) for the project (PLN170613) at 26346 Valley View Avenue; and
- 3) Grant of the appellant request to not provide postage-paid envelopes as requested by the Clerk of the Board for appeal noticing.

Draft resolutions, including findings and evidence, are attached for consideration (**Attachment C-1** for the Isabella project and **Attachment C-2** for the two Valley View projects). Staff recommends adoption of the Mitigated Negative Declarations and approval of the three Combined Development Permits (PLN170611, PLN170612, and PLN170613) subject to the twenty-seven (27) Conditions of Approval, including four (4) Mitigation Measures, for each of the three (3) projects.

PROJECT INFORMATION:

Agent: Anthony Lombardo, Anthony Lombardo & Associates

Property Owners: PIETRO FAMILY INVESTMENTS LP (26307 Isabella Avenue and 26338 Valley View Avenue) and VALLEY POINT LLC (26346 Valley View Avenue)

Applicants' Representative: Chris Adamski

APNs: 009-463-012-000, 009-463-017-000, and 009-463-003-000

Parcel Sizes: 8,438, 6,420 sf, and 8,839 sf, respectively

Zoning: Medium Density Residential with gross density maximum 2 units/per acre with Design Control overlay and 18-foot maximum height in the Coastal Zone [MDR/2-D(18)(CZ)]

Plan Area: Carmel Area Land Use Plan area

Flagged and Staked: Yes

SUMMARY:

Chris Adamski submitted three applications for Pietro Family Investments LP to develop three vacant parcels each with a new single-family dwelling with attached garage and basement. These three parcels are located on the same block of the Carmel Point area of Monterey County (See **Attachment B** showing locations). Carmel Point is an area with well-documented archaeological resources that has provided scientifically consequential historical information indicating Carmel Point was an Ohlone settlement dating to at least 4,000 years ago and as long ago as 9,300 years before present (YBP). The Carmel Area Land Use Plan Key Policy 2.8.2 considers new land uses compatible with the objective to maintain and protect the scientific and cultural heritage values of archaeological resources (whether mapped or not) only wherein, the project incorporates all site planning and design features necessary to minimize or avoid impacts to archaeological resources. In compliance with State law (AB52), staff consulted with the OCEN tribe which clearly states that OCEN objects to all excavation in known cultural lands, even when they are described as previously disturbed, and of no significant archaeological value. However, avoiding disturbance through no excavation is not an option for construction of the first single-family dwelling on these legal lots of record due to the loose soil conditions that necessitate excavation for a structural foundation or ground disturbance for helical piers. Therefore, staff applied mitigations in accordance with State standards to minimize potential impacts to Cultural and Tribal Cultural

resources.

A total of five archaeological reports (LIB170269, LIB170435, LIB170436, LIB170448, and LIB190038) were prepared by three different archaeological experts. The first archaeological report prepared by Albion (LIB170269) concluded there was no need for further testing, notwithstanding a finding of cultural materials during both a Phase 1 surface reconnaissance and an Extended Phase 1 sub-surface survey using shovel probes (SPs). The cultural material found in the SPs gave inconclusive information as to the certain presence of Cultural or Tribal Cultural Resources. Therefore, Albion recommended protection measures of potential resource finds. All recommendations from the three archaeological experts for protections and monitoring of potential cultural materials are project mitigations that have been incorporated as conditions of approval for all three projects.

Staff presented a report (File No. REF180041, December 5, 2018) to the Planning Commission in response to the question asked by the Commission in August 2018 as follows: Have the Conditions of Approval and Mitigation Measures, applied by the County, protected and preserved the Archaeological Resources at the Carmel Point in accordance with existing policies of the Carmel Area Land Use Plan and State law? Development has uncovered human remains at three different sites during construction of single-family dwellings in the last several years, two of which had positive reports and the third had a negative report. How best to apply the directive of the Carmel Area Land Use Plan Key Policy 2.8.2 to the three subject properties was determined by the Planning Commission during public hearings on October 31 and December 5, 2018. After review of the three applications, all submitted documents, and public testimony, the Planning Commission adopted resolutions to adopt the Mitigated Negative Declarations and approve the projects, as mitigated. An Initial Study/Mitigated Negative Declaration (MND) was prepared for the Isabella project (PLN170611), while the Valley View projects (PLN170612 and PLN170613) were evaluated under a single, separate Initial Study/MND.

Ms. Molly Erickson, representing two entities consisting of the Open Monterey Project and Save Carmel Point Cultural Resources, timely filed one appeal of the Planning Commission decisions on the three projects (**Attachment E**). The appeal contends that there was a lack of fair or impartial hearing, findings or decision or conditions are not supported by the evidence, and the decision was contrary to law. Specifically, the appeal contends there are project inconsistencies with Policies contained in the Carmel Area Land Use Plan, CEQA violations, inappropriate and ineffective mitigations, and procedurally incorrect and improper County processes. These contentions are briefly addressed below and are discussed in detail within **Attachment A**.

Staff has prepared two draft resolutions: one for the MND and Combined Development Permit for the Isabella site, and one for the MND and Combined Development Permits for the two Valley View sites (the Valley View projects are combined into one resolution because a single MND was prepared for the two projects). The resolutions deny the appeal, adopt the MNDs and MMRPs, and approve the Combined Development Permits (PLN170611, PLN170612, and PLN170613), essentially affirming the Planning Commission decisions. Alternatively, if the Board chooses to approve the appeal and disapprove any or all of the Combined Development Permits, the appropriate action would be a motion of intent with direction to staff to prepare a resolution with modified findings and a motion to continue the hearing to a date certain for staff to return with the new resolutions for Board consideration.

BRIEF DISCUSSION

Zoning of the parcels (MDR/2) allows a single-family dwelling (SFD) as a principally permitted use subject to a Coastal Administrative Permit (CAP) in each case. PLN170611, PLN170612 and PLN170613 are applications to build on each parcel a new single family dwelling with an attached garage and basement. Code

Violations 17CE00360-61 on the two parcels located at 26338 and 26346 Valley View Avenue were opened on September 27, 2017 for actions that may cause conditions that lead to accelerated erosion including vegetation clearing, excavation and fill, all in an area of high archaeological sensitivity without the benefit of Coastal Development Permits as required in Monterey County Code. Violations in 2019 at both Valley View parcels include unpermitted excavation within 750 feet of known archaeological resources and at 26338 Valley View, unpermitted relocation of a 15-inch Coast live oak. Combined Development Permit (PLN170612) includes Coastal Development Permits that, upon approval, would allow after-the-fact development within 750 feet of known archaeological resources and after-the-fact oak tree relocation, effectively abating the Code Violation 17CE00360 at 26338 Valley View. Combined Development Permit (PLN170613) includes a Coastal Development Permit that, upon approval, would allow after-the-fact development within 750 feet of known archaeological resources, effectively abating Code Violation 17CE00361 at 26346 Valley View.

County staff scheduled and duly noticed the projects for public hearing before the Planning Commission on October 31, 2018 and December 5, 2018. On December 5, 2018, after review of the application, all submitted documents, and public testimony, the Commission adopted two Mitigated Negative Declarations, approved the three Combined Development Permits to allow the construction of the SFDs including the basements, and adopted one Mitigation Monitoring and Reporting Plan (MMRP) for each of the three projects for a total of three MMRPs (see **Attachment D**, Monterey County Planning Commission Resolution Nos. 18-047, 18-048, and 18-049). The considerations of the Commission are summarized below, and explained in further detail in **Attachment A**.

Construction Permits 18CP01784 and 18CP01785 were issued to the applicant on July 5, 2018 to allow construction of a 400 AMP electrical service panel at the respective parcels, 26338 Valley View Avenue and 26346 Valley View Avenue, and prior to approval of the discretionary permits. The applications for PLN170612 and PLN170613 were in “complete” status at the time Construction Permits 18CP01784 and 18CP01785 were issued. Grading and tree removal activity, in association with the Construction Permits, were reported February 14, 2019. Once appeal of the Planning Commission’s approvals of the Combined Development Permits are filed, the Planning Commission’s approvals are stayed until the Board of Supervisors and/or the Coastal Commission resolves the appeal, pursuant to Section 20.86.090 of Title 20. Thus, the Board needs to act on the appeals prior to further development activity. As a result, RMA issued a “Stop Work” order at both Valley View parcels on February 15, 2019. Reports of code violation at the Isabella property were received by staff on March 7, 2019. Staff made a site visit on both March 6 and March 20, 2019 to the Isabella property and confirmed that no violation exists on the Isabella property.

Monterey County Code requires appeals be brought to hearing before the Board of Supervisors within 60 days of filing (by March 15, 2019), unless both applicant and appellant agree to waive that deadline. The hearing on the appeal of the Planning Commission approval of the three projects (PLN170611, PLN170612, and PLN170613) was scheduled for Board of Supervisors’ meeting of March 12, 2019. However, subsequent to the appeal filing and prior to the appeal hearing, trenching and tree removal was reported at the Valley View properties. A “Stop Work” order was issued on February 15, 2019 to investigate the potential further violation in addition to the existing violations (17CE00360 and 17CE00361) on the parcels. The County Code prohibits approval of a project where a violation of the Title exists on the same property unless the entitlement for the project is part of the administrative remedy for the violation.

The applicant and appellant agreed to continue the hearings of the appeal on the Combined Development Permits (CDPs) for the Valley View projects (PLN170612 and PLN170613) from March 12 to March 26, 2019; however, the applicant did not agree to postpone the hearing on the appeal of the Planning Commission decision to approve a CDP for the Isabella project (PLN170611) and requested it be heard on March 12, 2019, as scheduled. Therefore, staff prepared to bring the project application for Isabella (PLN170611) before the

Board of Supervisors at a duly noticed public hearing on March 12, 2019, while staff recommended continuance of the hearings on project applications PLN170612 and PLN170613 to March 26, 2019. However, staff had provided in the staff report to the Board the original Initial Study/MND prepared for Isabella (PLN170611) rather than the revised Initial Study/MND that was ultimately considered and adopted by the Planning Commission. Staff provided the revised Initial Study/MND to the Board at the March 12 hearing, and to enable time for review of the document and for the three projects to be heard together, the Board continued the hearing of all three projects to March 26, 2019. On March 26, staff requested the hearing on all three projects be continued to April 23, 2019 to allow staff adequate time to fully investigate issues raised on each of the three parcels, address public comments for each of the three projects, and fully analyze all of the issues. Staff consulted the applicant who agreed to this date, and notified the appellant. On March 26, the Board continued the hearing on all three projects to April 23, 2019. Subsequently, staff published notice of the April 23, 2019 hearing.

While one appeal was filed on all three projects together, each permit application (PLN170611, PLN170612, and PLN170613) is subject to a *de novo* hearing and action to approve or deny. As such, each project may be considered separately in accordance with Monterey County Code Section 20.86.070 of Title 20.

BRIEF SUMMARY OF APPEAL CONTENTIONS

Carmel Area Land Use Plan Policies:

The applicant was required to provide archaeological reports covering each of the three parcels pursuant to Carmel Area Land Use Policies 2.8.3.1 & 2.8.3.2. The reports describe sensitivity of the site and recommend appropriate levels of development and mitigation consistent with the site's need for protection. A total of five archaeological reports (LIB170269, LIB170435, LIB170436, LIB170448, and LIB190038) were prepared. Albion (LIB170269) recommended no need for further testing, alongside protection measures of potential resource finds. Breschini (LIB17035, LIB170436 & LIB170448) recommended no delay of the project due to archaeology, along with onsite monitoring during construction. Morley (LIB190038) recommended no delay of the project due to concerns about cultural resources, and mitigation measures that include both an archaeological and a tribal monitor onsite during construction. If Native American remains are uncovered during construction, and if they will stay buried onsite, the owner is required to record a Conservation Easement covering the entire parcel that will retain the remains, excepting those portions developed with structures and landscaping. Further provisions for accidental finding of cultural materials aside from human remains, are within the mitigation measures for the project. These mitigations provide compliance with Policy 2.8.3.3 which requires all available measures be explored to minimize development on sensitive prehistoric or archaeological sites.

Design proposal of the homes includes dark gray standing seam metal roofs. The homes are infill development within an existing Carmel housing tract zoned medium density. The aesthetic of the neighborhood is urbanized rural village with eclectic home designs removed from wooded, rocky visual resources. Standing seam metal roofs are available in a range of color/style combinations that lend the material versatility in a design setting such as unincorporated Carmel. Therefore, use of the standing seam metal roofing material is in accordance with Carmel LUP Policy 2.2.3.6 that requires structures be subordinate to and blended into the environment, using appropriate materials to that effect.

CEQA:

Adoption of a Mitigated Negative Declaration by the County requires finding there is no fair argument based on substantial evidence that the projects, as mitigated, may have a significant effect on the environment. In response to the appellant's contention that an EIR is required due to a disagreement among expert opinion, opinions from the expert archaeologists were in agreement despite the difference in findings. Therefore, staff did not ignore the CEQA directive, "if there is a disagreement among expert opinion support by facts over the

significance of an effect on the environment, the Lead Agency shall treat effect as significant and shall prepare an EIR” (Section 15064(g) of the CEQA Guidelines). Staff found an EIR was not required for review of this project proposal; this is in accordance with Section 15064(f)(2) that requires preparation of a mitigated negative declaration (MND) when substantial evidence exists for a project to have a significant effect on the environment, but the applicant agrees to mitigations that reduce the effects to a point where clearly no significant effect would occur.

Cultural and Tribal Cultural Resources and Monitor:

Performance criteria and standards for a qualified archaeological monitor are listed in the Mitigation Measure Monitoring Action No. 1b, which requires the monitoring contract identify: specific construction activities for which the monitor shall be present, any construction activities for which the monitor will not be present, how sampling of the excavated soil will occur, and any other logistical information, such as when and how work on the site will be halted. In order to participate in AB 52 tribal consultation, a tribe must request, in writing, to be notified by lead agencies through formal notification of proposed projects in the geographic area with which the tribe is traditionally and culturally affiliated. In accordance with AB52 requirements, Ohlone Costanoan Esselen Nation (OCEN) has provided the formal written request to be contacted by the County regarding any project for which a Notice of Preparation, Notice of Mitigated Negative Declaration or Notice of Negative Declaration is filed on or after July 1, 2015. Therefore, when mitigation requires a tribal monitor, the County’s approach has been that this person is a representative from OCEN. Regardless of who serves as monitor, state law (e.g., CEQA Guidelines Section 15064.5(e), Public Resources Code Section 5097.98, and California Health and Safety Code Section 7050.5) prescribes requirements for treatment of any human remains encountered during ground-disturbing activities, to halt further disturbance of the site or any nearby area reasonably suspect to overlie adjacent remains until the County Coroner makes a determination as to origin of the remains and legally required procedures are followed.

Proposal for excavation and Cultural and Tribal Cultural Resources in Carmel Point must be put in the context of Visual Resources, floor area calculations, and soil stability. Carmel LUP Policy 2.2.5.2 requires that in order to provide for more visually compatible structures, the height limit in the Carmel Point Area should be limited to a maximum height of 18 feet from the average natural grade. Developers in the Carmel Point Area have a frequent conflict between competing policies due to the LUP height limitation that protects visual resources and state laws that protect cultural resources. Subgrade square footage is not accounted in floor area calculations. Maximum Floor Area Ratio (FAR) in MDR is 45%. Each of the projects is within the maximum FAR 45% threshold. The basement provides 10.3% to 37.49% additional floor area without exceeding the maximum FAR 45% threshold. Excavation for either the basement or the foundation and ground disturbance for helical piers, as necessary to build a house in the loose soils of each parcel, would require mitigation of avoidable environmental impacts caused by residential use on this lot.

Mitigations:

The appellant contends that the proposed mitigations use unclear and confusing language, are listed as conditions, not enforceable, and not effective for protecting Cultural or Tribal Cultural Resources. In response to the appellant’s contention, staff made revisions for clarification of the conditions of approval and language that amplifies the effectiveness of the mitigation measures. Condition Nos. 9-13 for all three projects (**highlighted headings**) are the Mitigation Measures that have been incorporated as Conditions of Approval, as required by Public Resources Code Section 21081.6(b), and revisions are shown in ~~strike-out~~ and underline (**Attachment C**).

County Processes:

The appellant stated concerns that the County discloses information improperly and operates incorrectly. An account of the procedural background is provided in Finding 7 of the resolution. Moving forward,

staff will include in the project description information, if pertinent, indicating if approval of a proposed permit is part of clearing a code enforcement violation. Staff adheres to state law in requesting reports of expert assessments and in protection of archaeological information.

The projects are located in the coastal zone and in accordance with the Coastal Act, local agencies do not require appeal fees. No appeal fee was required; however, the appellants filed a request to waive the requirement/cost for providing pre-addressed, stamped envelopes. Among other notice requirements for public hearings on land use entitlement applications, Title 20 (coastal zoning ordinance) requires notice of the public hearing to be mailed or delivered “to all owners and legal residents of real property as shown on the latest equalized assessment roll within 300 feet of the real property that is the subject of the public hearing.” As a standard practice, the Clerk of the Board appeal application requires submittal of pre-addressed, stamped envelopes for noticing of appeals, at the time an appeal is filed. Appellants did not provide the stamped envelopes and requested a waiver of this requirement as “illegal and unauthorized.” Cognizant of the potential ambiguity as to whether or not the request for stamped envelopes is an appeal fee, staff recommends the appellant not be required to submit postage-paid envelopes for notice of the appeal.

CONCLUSION

Determination by the Board of whether or not adoption of the Mitigated Negative Declarations is appropriate requires ascertainment if there is a fair argument, supported by substantial evidence, that the project may have an environmental impact. Substantial evidence includes facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts pursuant to Public Resources Code section 21082.2. The existence of public controversy over the environmental effects of a project is not cause for preparation of an environmental impact report if there is no substantial evidence that the project may have a significant effect on the environment. Argument, speculation, unsubstantiated opinion or narrative is not substantial evidence. Accordingly, staff recommends the Board of Supervisors deny the appeal and, with the proposed revisions to the Mitigation Measures in the Conditions of Approval, herein, adopt the Mitigated Negative Declarations and approve Combined Development Permits for the three projects (PLN170611, PLN170612, and PLN170613).

OTHER AGENCY INVOLVEMENT:

Environmental Health Bureau
RMA-Public Works
RMA-Environmental Services
Water Resources Agency
Cal Fire - Coastal
Carmel Area Land Use Advisory Committee
California Coastal Commission

FINANCING:

Funding for staff time associated with this appeal is included in the FY 18-19 Adopted Budget for RMA-Planning.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

This action represents effective and timely response to our RMA customers. Processing this application in accordance with all applicable policies and regulations also provides the County accountability for proper management of our land resources.

Check the related Board of Supervisors Strategic Initiatives:

☐ Economic Development
☒ Administration

☐ Health & Human Services
☐ Infrastructure
☐ Public Safety

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

Reviewed by: Craig Spencer, Acting RMA-Planning Services Manager

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

The following attachments on file with the Clerk of the Board:

Attachment A	Discussion
Attachment B	Map of the Subject Parcels & Glossary
Attachment C-1	Draft Resolution (PLN170611): <ul style="list-style-type: none">• Conditions of Approval with <u>underline</u> and strikethrough• Plan Sets
Attachment C-2	Draft Resolution (PLN170612/PLN170613): <ul style="list-style-type: none">• Conditions of Approval with <u>underline</u> and strikethrough• Plan Sets
Attachment D	PC Resolution No. 18-047, 18-048, 18-049
Attachment E	Notice of Appeal - 1-14-19
Attachment F	IS/MND for PLN170611; Rev. 2 dated 4-12-19
Attachment G	IS/MND for PLN170612/PLN170613; Rev. 2 dated 4-12-19
Attachment H	Carmel Highlands LUAC Minutes
Attachment I	Correspondence re: Initial Study & Mitigations
Attachment J	Technical Reports for Isabella Avenue (PLN170611)
Attachment K	Technical Reports for 26338 Valley View Avenue (PLN170612)
Attachment L	Technical Reports for 26346 Valley View Avenue (PLN170613)
Attachment M	Correspondence re: Appealability to the CA Coastal Commission
Attachment N	Correspondence: Ms. Molly Erickson
Attachment O	Correspondence: Public Comment
Attachment P	Correspondence: Native American Heritage Commission
Attachment Q	Correspondence: Louise J. Miranda, OCEN Tribal Chairwoman
Attachment R	Correspondence: Applicant Submittals

cc: Front Counter Copy; California Coastal Commission; RMA-Public Works and Facilities; Environmental Health Bureau; Monterey County Water Resources Agency; RMA- Environmental Services; Brandon Swanson, Acting RMA Chief of Planning; Craig Spencer, Acting RMA-Planning Services Manager; Jaime Scott Guthrie, Project Planner; Pietro Family Investments LP, Property Owner; Valley Point LLC, Property Owner; Chris Adamski, Applicant; Anthony Lombardo, Attorney for Applicant; Molly Erickson, Appellant; The Open Monterey Project (Molly Erickson); LandWatch (Director); Stacey Schrader, c/o Monterey Coast Realty; Nancy Runyon, c/o Alliance of Monterey Area Preservationists; Project Files PLN170611, PLN170612, and PLN170613