

Exhibit I

This page intentionally left blank.

A-3-MCO-23-0018 (Isabella 2 LLC)

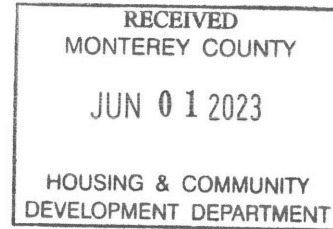
Please include copies of plans, relevant photographs, staff reports and related documents, findings (if not already forwarded), all correspondence, the mailing list used to notice the project, and a list, with addresses, of all who provided verbal testimony.

A Commission staff report and notice of the hearing will be forwarded to you prior to the hearing. If you have any questions, please contact Breylen Ammen at Breylen.Ammen@coastal.ca.gov or by mail at the Central Coast District Office.

cc: Molly Erickson for Concerned Neighbors at Carmel Point
Robert Carver
Isabella 2 LLC
Anthony Lombardo

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
 725 FRONT ST., SUITE 300
 SANTA CRUZ, CA 95060-4508
 (831) 427-4863
 CENTRALCOAST@COASTAL.CA.GOV

**APPEAL FORM**

Appeal of Local Government Coastal Development Permit

Filing Information (STAFF ONLY)

District Office: Central Coast

Appeal Number: A-3-MCO-23-0018Date Filed: 5/25/2023Appellant Name(s): Molly Erickson - for Concerned Neighbors at Carmel Point**RECEIVED**

MAY 25 2023

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA**APPELLANTS**

IMPORTANT. Before you complete and submit this appeal form to appeal a coastal development permit (CDP) decision of a local government with a certified local coastal program (LCP) to the California Coastal Commission, please review the appeal information sheet. The appeal information sheet describes who is eligible to appeal what types of local government CDP decisions, the proper grounds for appeal, and the procedures for submitting such appeals to the Commission. Appellants are responsible for submitting appeals that conform to the Commission law, including regulations. Appeals that do not conform may not be accepted. If you have any questions about any aspect of the appeal process, please contact staff in the Commission district office with jurisdiction over the area in question (see the Commission's contact page at <https://coastal.ca.gov/contact/#/>).

Note regarding emailed appeals. Please note that emailed appeals are accepted ONLY at the general email address for the Coastal Commission district office with jurisdiction over the local government in question. For the Central Coast district office, the email address is CentralCoast@coastal.ca.gov. An appeal emailed to some other email address, including a different district's general email address or a staff email address, will be rejected. It is the appellant's responsibility to use the correct email address, and appellants are encouraged to contact Commission staff with any questions. For more information, see the Commission's contact page at <https://coastal.ca.gov/contact/#/>).

Appeal of local CDP decision

Page 2

1. Appellant information¹

Name: Molly Erickson as attorney for Concerned Neighbors at Carmel Point

Mailing address: Law Office of Molly Erickson, Box 2448, Monterey CA 93942

Phone number: 831-373-1214

Email address: Erickson@stamplaw.us

How did you participate in the local CDP application and decision-making process?

- Did not participate Submitted comment Testified at hearing Other

Describe: Submitted letters to County at the original hearings and at the hearings on the "amendment" (AMD).

Note: the project description on the CCC list of currently appealable projects omits the variance appealed from.

If you did *not* participate in the local CDP application and decision-making process, please identify why you should be allowed to appeal anyway (e.g., if you did not participate because you were not properly noticed).

Describe: _____

Please identify how you exhausted all LCP CDP appeal processes or otherwise identify why you should be allowed to appeal (e.g., if the local government did not follow proper CDP notice and hearing procedures, or it charges a fee for local appellate CDP processes).

Describe: Planning Commission action was appealed to the Board;
2021 Board action was appealed to the Commission; 2023 Zoning Administrator action was appealed to the Board.

¹ If there are multiple appellants, each appellant must provide their own contact and participation information. Please attach additional sheets as necessary.

Appeal of local CDP decision

Page 4

3. Applicant information

Applicant name(s):

Isabella 2 LLC

rep'd by Robert Carver

Applicant Address:

26306 Monte Verde, Carmel, CA 93923

4. Grounds for this appeal⁴

For appeals of a CDP approval, grounds for appeal are limited to allegations that the approved development does not conform to the LCP or to Coastal Act public access provisions. For appeals of a CDP denial, grounds for appeal are limited to allegations that the development conforms to the LCP and to Coastal Act public access provisions. Please clearly identify the ways in which the development meets or doesn't meet, as applicable, the LCP and Coastal Act provisions, with citations to specific provisions as much as possible. Appellants are encouraged to be concise, and to arrange their appeals by topic area and by individual policies.

Describe: The approved development does not conform to the LCP
because it exceeds the 45% floor area ratio by 6%.

There is no precedent for such an exceedance, and the variance
would set a dangerous precedent. Many of the surrounding
properties are at or significantly less than the 45% maximum,
including small properties of sizes similar to the subject property.
The floor area ratio is by definition a ratio, and it can easily be
met by new construction. No other new construction on vacant
lots in the area has received an FAR variance.

Please see attached for further discussion.

⁴ Attach additional sheets as necessary to fully describe the grounds for appeal.

Appeal of local CDP decision

Page 5

5. Identification of interested persons

On a separate page, please provide the names and contact information (i.e., mailing and email addresses) of all persons whom you know to be interested in the local CDP decision and/or the approved or denied development (e.g., other persons who participated in the local CDP application and decision making process, etc.), and check this box to acknowledge that you have done so.

Interested persons identified and provided on a separate attached sheet

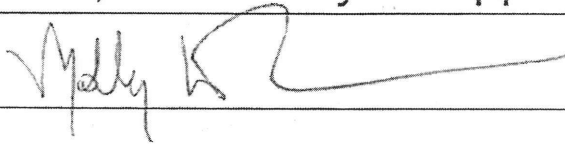
6. Appellant certifications

I attest that to the best of my knowledge, all information and facts in this appeal are correct and complete.

Print name Molly Erickson, as attorney for appellants

/s/ Molly Erickson

Signature



Date of Signature 5-25-2023

7. Representative authorization

While not required, you may identify others to represent you in the appeal process. If you do, they must have the power to bind you in all matters concerning the appeal. To do so, please complete the representative authorization form below and check this box to acknowledge that you have done so.

I have authorized a representative, and I have provided authorization for them on the representative authorization form attached.

^s If there are multiple appellants, each appellant must provide their own certification. Please attach additional sheets as necessary.

^e If there are multiple appellants, each appellant must provide their own representative authorization form to identify others who represent them. Please attach additional sheets as necessary.

Attachment to appeal.

The variance to allow 51% floor area ratio (FAR) is not supported at this site and is not appropriate. 51% is 113% of the 45% maximum FAR in LCP.

Allowed FAR at the site is 1,618 s.f. The County approved a variance for 1,837 s.f., which is 219 s.f. more than allowed.

Granting the special privilege of 51% FAR would give this property a special privilege not enjoyed by other similarly situated properties in the immediate area, and no special circumstances are present that merit a variance.

Floor Area Ratio in the Carmel Area is 45% in the MDR/2 Zoning District. (§ 20.12.060.F).

The County has not granted FAR variances for new development at Carmel Point before now. This Isabella 2 LLC project would be the first FAR variance for new development and would be an unfair special privilege not granted to others, and specifically denied to others, on Carmel Point.

Many lots at Carmel Point are approximately 4,000 sf, which was the size when originally subdivided many decades ago. The current minimum lot size is 6,000 s.f. (§ 20.12.060.A) which is the minimum size throughout the Monterey County coastal zone and does not reflect the small scale of Carmel Point. The establishment of the 6,000 s.f. minimum lot size created hundreds of legal nonconforming lots in the Carmel Area due to their size of less than 6,000 s.f.. Appellant researched public records and provided evidence to the County of the many nonconforming lots at in the immediate vicinity (surrounding blocks) that are developed at 45% FAR or less.

The County FAR maximum treats all lots fairly because the FAR is a ratio. Larger lots get larger houses, smaller lots get smaller houses. This is a vacant never-developed lot, and it can and should comply with the FAR. The applicant can build a house of 1,618 under the 45% FAR. Here, the grounds on which the County gave the applicant a variance of the FAR are not supported. The 2023 County Board resolution's response to 11(c) makes no sense, is not supported by the LCP and its not supported by the evidence or by longstanding principles of good planning. The County has relied on "averages" which is not at issue in a floor area ratio analysis, where the use of a constant ratio solves issues of fairness.

The 2023 Board findings, specifically findings 9, 10 and 11, are not supported by the evidence or by the LCP or by good planning principles. The 2023 County resolution improperly relies on the 2021 County resolution. The 2021 County resolution was appealed to the Coastal Commission and the permit did not become final. Therefore an amendment to the 2021 action is not proper, because amendments can only be made to final permits. This appeal from the 2023 Board action refers to the 2021 action for that reason and also because the 2023 Board action relies on the 2021 Board action in improper ways, such as finding no changed circumstances.

There is no legal or factual support for the variance to the floor area ratio (FAR). An FAR variance for new development is unprecedented at Carmel Point. What the County staff report describes as other "variances" to floor area ratio were for reductions in existing nonconforming FAR for property owners who were making changes to their existing structures, and the structure as modified still would have an FAR of greater than 45%. These are reductions to existing nonconforming structures built prior to the adoption of the current zoning development standards and that already exceed the FAR and that would continue to exceed the FAR subsequent to the proposed structural modifications, albeit to a lesser extent, and the County made the applicants in those circumstances obtain an FAR variance. That is a markedly different variance posture than a new project on a vacant lot like 26308 Isabella. None of the County's past variances support the request for a variance here because all of them were for reduction of existing FAR for pre-existing structures or for other circumstances not present here.

The claims in the Board resolutions about other variances are vague and are not supported by facts. County staff has expressly has recommended against variance applications at Carmel Point in circumstances other than the singular circumstance described above. The County staff analysis of the Cooper project in 2005 reviewed the history of Carmel Point requests for variances and stated this:

the County has a history of allowing Variances to FAR in the vicinity of the subject project for legal non-conforming structures that seek to reduce their FAR yet not fully comply with the current limitation due to special circumstances, and of denying other types of Variances to FAR in this vicinity.

That has long been the rule and practice at the County.

The 2023 resolution relies in material aspects on the 2021 approvals. In 2021,

the reason stated at the Board hearing for the granting of the variance was the fact that the applicant had bought the lot and planned to develop a three-level house that included a basement level, and that subsequent to the July 9, 2020 Coastal Commission action on the three Adamski/Pietro projects, Adamski revised the project to eliminate the basement level and garage. The County approved a modification of parking standards and allowed parking within the front setback. It is basic land use law that there is no entitlement to zoning. There is also no entitlement to a basement at Carmel Point. The first Board resolution cited the Coastal Commission action as evidence supporting the variance. (See 2021 Board Finding 10. FINDING: VARIANCE, evidence (e).) The CCC action is not adequate evidence for a variance.

There is no adequate and proper evidence for a finding that the variance is necessary because the 45% FAR would "deprive the subject property of privileges enjoyed by other property owners in the vicinity under identical zoning classification." The neighboring properties all have the same zoning and they all have to comply with the 45% FAR including those that are less than the current minimum 6,000 sf lot size. No new development has been given for FAR variance at Carmel Point, and thus requiring this property to comply with the 45% FAR is appropriate.

The board resolutions cited the size of the lot, which is not a reasonable basis for the variance in light of the fact that there are dozens of similar nonconforming lots at Carmel Point that are less than the 6,000 sf that is the current minimum size, including some of similar size as the 26308 Isabella lot. The Isabella 2 LLC applicant, Mr. Adamski, is a sophisticated real estate developer and he chose to purchase a small lot knowing the FAR. The 2021 County resolution (on which the 2023 resolution relies) finding 10(b) cites as evidence that "The non-conforming size of the lot constrains the allowed development compared to other lots in the vicinity." This claim is not accurate because the size of the lot is similar to other nearby lots, many of which have development of less than 45% FAR. The mere fact that some nearby parcels are 1.5-lots in size or double lots or triple lots mean that they can build a larger house under the same 45% FAR.

The FAR applies across the board. FAR is a proportion, and thus the allowed development is the same proportion as other lots in the vicinity. The fact that some nearby lots are larger and thus can have a larger house due to the 45% FAR is a fact. It is not a reason to allow an FAR variance here. The County again blamed the Coastal Commission in its variance finding that "Based on the small size of the property and inability to construct a basement as originally proposed, zoning limitations would require a smaller house than other properties in the immediate vicinity ... " Appellants submitted information to the County showing

that many nearby properties that are larger than the subject property have development of well less than the proposed square footage of Isabella 2 LLC. The other properties in the immediate vicinity that have larger houses are on larger lots, and the FAR allows larger houses on those larger lots. Each lot is allowed the same FAR and there is no prejudice to the Isabella 2 LLC property to comply with the same FAR. The Board resolutions ignore this basic fact. In 2021, 2022 and 2023 Appellants submitted evidence to the Board showing the numerous nearby nonconforming lots with less than 45% FAR according to County records.

Zoning limitations provide certainty and reliability as to what each lot can develop. The County's action to allow a very sizable variance of 113% of the allowed FAR is unprecedented and creates uncertainty. It is not supported because the elimination of the basement is not a valid basis for an FAR variance, contrary to the County's action here, and because dozens of lots in the area are the same or similar size and with far less FAR, and because the County has denied FAR variance requests for new construction in the past. As stated above, granting this variance is a special privilege not enjoyed by others in the immediate area. The cumulative impact of all nonconforming lots getting 51% FAR would be significant and has not been analyzed. It would be foreseeable for all lots that are less than 45% FAR now would come in for variances of 51% including all lots up to 6,000 sf, which would treat all those lots specially with privileges not enjoyed by properties that conform to the current minimum lot size. Even if only the lots in the immediate area were to be granted FAR variances of 51% that would be thousands of square feet of additional development, all of which has impacts including on bulk, mass, views, vegetation, shade, and other concerns.

The Board's 2021 finding 11 that "allowing an increase to floor area better achieves the goals and objectives of the Carmel Area Land Use Plan in that it results in the avoidance and preservation of cultural resources" is not supported because increasing the floor area does not affect excavation.

The Isabella 2 LLC site is allowed **1,618 s.f.** under 45% FAR. County gave variance to allow 1,837 s.f. Highlights below show properties in the immediate area with **less than 1,618 s.f.**

**INFORMATION FROM
COUNTY ASSESSOR'S OFFICE**

BLOCK	parcel	address	parcel SF	bldg SF	FAR
451	<u>009-451-005-000</u>	26300 Isabella Ave	3700	1396	38%
		ALBERT DEBORAH GASKELL TR			
	<u>009-451-008-000</u>	26275 Hilltop Pl	4000	1199	30%
		DUNLAP DIANE J TR			
	<u>009-451-009-000</u>	26267 Hilltop Pl	4000	1487	37%
		OCEAN COTTAGE PROPERTIES LLC			
	<u>009-451-011-000</u>	26259 Hilltop Pl	3920	1761	45%
		PELLETIER KENNETH R TR			
	<u>009-451-012-000</u>	26253 Hilltop Pl	4000	1725	43%
		WYKOFF CHARLES			
this	<u>009-451-015-000</u>	26308 Isabella Ave	3538		
property		ISABELLA 2 LLC			
404	009-404-020	26231 Isabella Ave	4000	1442	36%
	009-404-026	26271 Isabella Ave	4000	1556	39%
	009-404-025	26278 Valley View Ave	4000	1600	40%
	009-404-024	26270 Valley View Ave	4000	1596	40%
	009-404-007	26264 Valley View Ave	4000	1778	44%
	009-404-006	26256 Valley View Ave	4000	1417	35%
	009-404-005	26248 Valley View Ave	4000	985	25%
	009-404-021	26225 Isabella Ave	5000	1434	29%
	009-404-022	26217 Isabella Ave	5000	1927	39%
	009-404-014	26212 Valley View Ave	6000	2039	34%
	009-404-015	26226 Valley View Ave	6000	1807	30%
	009-404-016	26240 Valley View Ave	6000	2259	38%
	009-404-030	26180 Valley View Ave	5200	1418	27%
403	009-403-002	26192 Carmelo St	4000	348	9%
	009-403-023	26181 Valley View Ave	4000	1123	28%
	009-403-024	26180 Valley View Ave	4000	1798	45%
	009-403-025	26197 Valley View Ave	4200	1500	36%
	009-403-018	26257 Valley View Ave	5100	1692	33%
	009-403-019	26265 Valley View Ave	5200	1290	25%
	009-403-009	26284 Carmelo St	5320	1134	21%
	009-403-008	26276 Carmelo St	5200	1158	22%
	009-403-007	26268 Carmelo St	5100	2106	41%
	009-403-031	26262 Carmelo St	5080	1674	33%
	009-403-030	26254 Carmelo St	5000	2230	45%
	009-403-029	26246 Carmelo St	4800	2141	45%

	009-403-004	26224 Carmelo St	5000	1512	30%
	009-403-017	26175 Valley View Ave	4900	1652	34%
421	<u>009-421-001-000</u>	2417 San Antonio Ave	4000	1674	42%
	<u>009-421-002-000</u>	2411 San Antonio Ave	4,000	1383	35%
	<u>009-421-005-000</u>	2381 San Antonio Ave	4000	1499	37%
	<u>009-421-010-000</u>	2384 Bay View Ave	4000	1643	41%
431	<u>009-431-003-000</u>	26242 Inspiration Ave	4100	1665	41%
	<u>009-431-004-000</u>	26250 Inspiration Ave	5200	2098	40%
	<u>009-431-005-000</u>	26404 Inspiration Ave	5200	1461	28%
	<u>009-431-011-000</u>	26269 Ocean View Ave	4300	1603	37%
	<u>009-431-024-000</u>	26300 Inspiration Ave	5900	1386	23%
	<u>009-431-025-000</u>	2385 Stewart Way	5900	2557	43%
	<u>009-431-028-000</u>	26294 Inspiration Ave	4000	1543	39%
	<u>009-431-030-000</u>	26291 Ocean View Ave	4600	1407	31%
463	<u>009-463-004-000</u>	26354 Valley View Ave	4500	1553	35%
	<u>009-463-006-000</u>	26410 Valley View Ave	6000	1912	32%
	<u>009-463-013-000</u>	2446 16th Ave	6000	1727	29%
441	<u>009-441-008-000</u>	26337 Ocean View Ave	6000	1707	28%
	<u>009-441-013-000</u>	26392 Isabella Ave	4000	1332	33%
412	009-412-010		4000	1039	26%
421	009-421-010	2384 Bay View Ave	4000	1643	41%
451	009-451-012		4000	1725	43%

CARMEL AREA

Carmel Bay

Carmel Point*

four similar lots on same block are 45% FAR or less

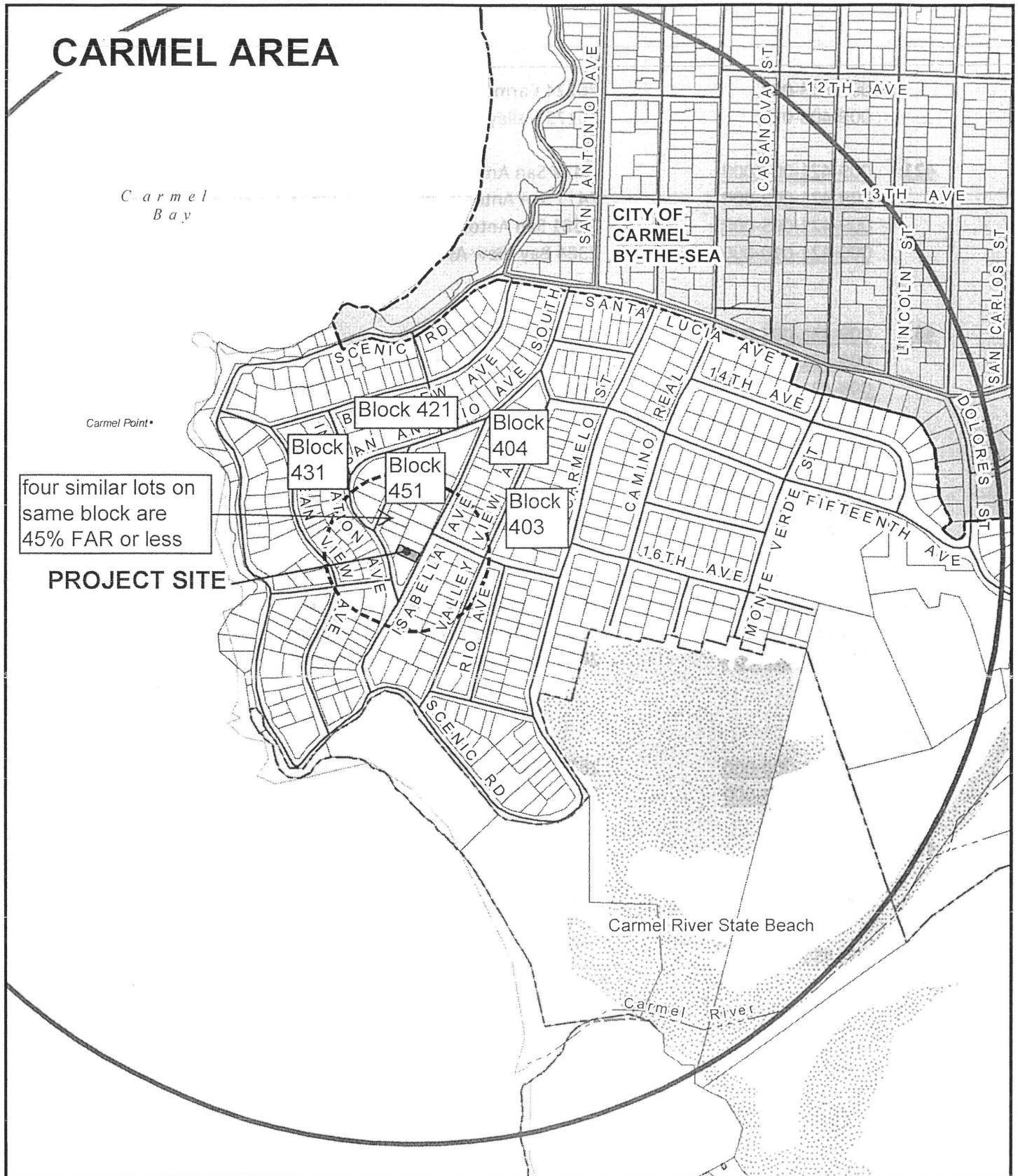
PROJECT SITE

CITY OF CARMEL BY-THE-SEA

Carmel River State Beach

Carmel River

Block 421
Block 404
Block 451
Block 403

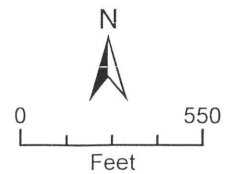


APPLICANT: ISABELLA 2 LLC

APN: 009-451-015-000

FILE # PLN180523

Project Site
 2500' Limit
 300' Limit



PLANNER: BLANCO

This was the list of interested persons submitted on the 2021 appeal . To the best of appellants' knowledge, there are no additions to this list. Appellants will amend if they become aware of any.

Appeal of 26308 Isabella, Carmel Point

Other interested persons:

Applicant:

Chris Adamski and Courtney Adamski (Isabella 2 LLC)
26302 Monte Verde, Carmel, CA 93923

Applicant's representatives:

Tony Lombardo, attorney
ANTHONY LOMBARDO & ASSOCIATES
A Professional Corporation
144 W. Gabilan Street
Salinas, CA 93901
Phone (831) 751-2330
Fax (831) 751-2331
Email tony@alombardolaw.com

Rob Carver, architect
3640 The Barnyard Suite C32
Carmel, Ca 93923
PO BOX 2684, Carmel, CA 93921
info@studiocarver.com

Neighbors:

Mary Ann Dillon, Debbie Lynn Dillon-Adams <ddillonadams@gmail.com> – supported the appeal

Eleanor Doyle <bull340dog@yahoo.com> – agreed with Vicky Thomas, supported the appeal

Marguerite Meyer <marguer@pacbell.net> - agreed with Vicky Thomas, supported the appeal

Vicky Thomas <vickelizabeththomas@gmail.com> – close neighbor on small lot - FAR of 33% – objected to proposed FAR variance

Roxanne and Carroll Wilde, 26288 Inspiration Avenue, Carmel CA 93923 – objected to FAR variance

Appellants: c/o Molly Erickson, Box 2448, Monterey CA 93942
erickson@stamplaw.us

This page intentionally left blank