

MONTEREY COUNTY PLANNING COMMISSION

Meeting: October 10, 2007 Time: AM/PM	Agenda Item No.:
Project Description: Deny aesthetic changes to a Combined Development Permit consisting of: 1) a Coastal Administrative Permit and Design Approval to demolish an existing 2,704 sq. ft. single family residence and 426 sq. ft. garage (3,130 sq. ft. total), construct a new 5,167 sq. ft., 3-level single family residence with a 1,498 sq. ft. subterranean garage, grading (400 cubic yards cut); 2) a Variance to reduce the front setback from 20 feet to 3 feet 6 inches along a private easement; and 3) a Coastal Development Permit to allow development with a positive archaeological report. The proposed residence habitable space is split between 3,229 sq. ft. above grade and 1,938 sq. ft. below grade, at the garage level. The property is located at 26195 Scenic Road, Carmel (Assessor's Parcel Number 009-422-023-000), Coastal Zone.	
Project Location: 26195 Scenic Road, Carmel	APN: 009-422-023-000
Planning File Number: PLN040581	Owner: Nancy M. Moellentine Applicants: Lon & Morley Moellentine Agent: Lombardo & Gilles
Plan Area: Carmel Area Land Use Plan	Flagged and staked: Yes
Zoning Designation: : “MDR/2-D (18) (CZ)” Medium Density Residential, 2 units per acre with Design Control, 18-Foot Height Limit (Coastal Zone)	
CEQA Action: Mitigated Negative Declaration	
Department: RMA - Planning Department	

RECOMMENDATION: Staff recommends that the Planning Commission:

- 1) DENY PLN040581 based on the Recommended Findings and Evidence (**Exhibit B**).

PROJECT OVERVIEW:

On December 13, 2006, the Planning Commission conducted a hearing on the Lon & Morley Moellentine project to demolish an existing residence and construct a new residence on a 7,175 square foot, corner parcel. Staff recommended denial of project in part because the design included several variances based on staff’s interpretation of the Zoning Code:

- Reduce the front set back from Scenic Road,
- Reduce the front set back from a private access, and
- Increase building height.

The Planning Commission continued the item to a date uncertain until such time that staff could work with the applicant to resolve factual matters, determine whether the project needed an Initial Study, and then return with a recommendation. One issue that the Commission asked for staff to address is the mass and bulk of the design taking into account the prominent scenic location of this site.

Revised plans were submitted on March 1, 2007 and staff determined that CEQA required the preparation of an initial study, which led to a Mitigated Negative Declaration (MND). The MND (**Exhibit D**) was circulated from July 6, to August 6, 2007. Comments that were submitted are provided as **Exhibit G**. A number of comments were received with respect to visual and historical resources.

Considering the evidence for this project as a whole, staff finds that the project is not consistent with the policies of the Carmel Area Land Use Plan and the applicant has indicated that they do not want to amend their design. Therefore, staff recommends that the Planning Commission deny the application. **Exhibit A** provides a detailed analysis.

OTHER AGENCY INVOLVEMENT:

- ✓ Cypress Fire Protection District
- ✓ Public Works Department
- ✓ Parks Department
- ✓ Environmental Health Division
- ✓ Water Resources Agency

The above checked agencies and departments have reviewed this project.

On August 6, 2007 the Carmel Unincorporated/Highlands Land Use Advisory Committee (LUAC) recommended denial (5 to 0 vote) based on inconsistency of Regulations for Development of the Visual Resources Development Standards (20.146.030 CIP).

The Historic Resources Review Board (HRRB) met on March 1, 2007 to recommend staff prepare an Initial Study. On August 6, 2007, three members of the HRRB submitted comments in response to the Initial Study. **Exhibit A** provides a detailed analysis of their comments.

Elizabeth A. Gonzales, Associate Planner
(831) 755-5102, gonzalesl@co.monterey.ca.us
September 20, 2007

This report was reviewed by Mike Novo, AICP, Interim Planning Director

Note: The decision on this project may be appealed to the Board of Supervisors and the California Coastal Commission.

cc: Planning Commission Members (10); County Counsel; Cypress Fire Protection District; Public Works Department; Parks Department; Environmental Health Division; Water Resources Agency; California Coastal Commission; Carl Holm, Acting Planning & Building Services Manager; Elizabeth A. Gonzales, Planner; Carol Allen; Lon & Morley Moellentine, Applicants; Miriam Schakat, Lombardo & Gilles, Agent; Dave Sweigert, Fenton & Keller; File PLN040581.

Attachments:	Exhibit A	Project Data Sheet
	Exhibit B:	Detailed Discussion
	Exhibit C	Findings & Evidence
	Exhibit D	Initial Study
	Exhibit E	Carmel Unincorporated/Highlands Land Use Advisory Committee Minutes
	Exhibit F	Historic Resources Review Board Comments
	Exhibit G	Initial Study Comments
	Exhibit H	Public Comments
	Exhibit I	Vicinity Map

EXHIBIT B DISCUSSION

A. BACKGROUND

On December 13, 2006, the Planning Commission conducted a hearing on the Lon & Morley Moellentine project to demolish an existing residence and construct a new residence on a 7,175 square foot, corner parcel. Staff identified inconsistency with a number of development standards based on staff's interpretation of the Zoning Code. In addition, a good amount of discussion was directed at the house design due to its prominent location along Scenic Road. Based on testimony at that hearing, this item was continued for staff to try to work with the applicant to resolve factual matters and re-assess whether the project needed an Initial Study.

Staff worked with the applicant on the following issues:

- 1) Front Set Back – Scenic Road. A balcony/porch and a lower level of the house were designed in manner where they extended into the front set back. The design was revised so that the balcony meets the 20-foot set back requirement, but the lower level of the house still extends into the front set back. Light wells created to provide light and ventilation required for living space extend further into the front set back. Staff interprets that the Code requires a building to meet set back requirements even if it is located below grade. An exception provided in the Code would allow light wells limited to extend into the front set back up to six feet, but this design exceeds that limit. (*See Section D1 below*)
- 2) Front Set Back – Easement. Records show that the home across the easement was granted a variance to reduce the set back from the easement. Although the applicant's survey showed the neighbor's house to be set back 3 feet-15/16" of an inch from the easement, staff presented approved building plans that the house was to be set back 3 feet-6 inches. The applicant has re-designed their home to be consistent with the variance granted the neighboring property. (*See Section D2 below*)
- 3) Floor Area Ratio. Based on definition of floor area ratio in the County Codes, the structure has been designed with one of the three levels below grade in order to maximize the size of the home. Ingress/Egress tunnels or light wells are included in order to provide required light and ventilation for habitable spaces located on the lower level. At the time the application was submitted, this was considered acceptable practice. However, managers from the Planning Department have since discussed the intent of how to interpret the Code language. The managers are working on a written policy interpretation that would include floor area below grade as part of the floor area ratio where lighting and ventilation is required. In addition, the tunnel/terrace/light well/patio/etc. used to create the required lighting and ventilation would be subject to the set back standards/exceptions. Using this interpretation, this project would exceed the maximum floor area ratio by 704 square feet (55%). However, staff informed the applicant that we would allow this project to proceed (without requiring a variance) based on the interpretation of rules in place when the project went to hearing; however, the Planning Commission could have a different interpretation.
- 4) Building Height. Staff identified a discrepancy on the points of the site used for determining the average natural grade of the site. Testimony by the applicant's

engineer at the December meeting accurately portrayed how average natural grade is established and the average natural grade was revised based on agreement as to the points of reference discussed at the December hearing. Separate from County regulations, CC&R's recorded on this property further restrict the building height. Although a discrepancy still remains between the applicant and neighbors as to the interpretation of those CC&Rs, staff has determined that the County is not party to that document and the building meets the County's height limit. (*See Section E below*)

- 5) Design. The Commission asked for staff to address the mass and bulk of the design taking into account the prominent scenic location of this site. The applicant added some architectural treatments such as trim moulding in addition to structural elements (balconies) and the V-shaped design in response to this issue. They have also noted how the proposed house is set back further than the existing home to help reduce the bulk as perceived from Scenic Road. A model to help illustrate these points will be presented at the hearing by the applicant. (*See Section F below*)

Revised plans were submitted on March 1, 2007. Staff determined that CEQA required the preparation of an initial study, which led to a Mitigated Negative Declaration (MND). The MND (**Exhibit D**) was circulated from July 6, to August 6, 2007. (*See Section J below*)

B. SITE DESCRIPTION

The subject site is 7,175 square feet in size and is an irregular-shaped parcel located at 26195 Scenic Road, Carmel Point. There is an existing 2,704 square foot single family residence with an attached 426 square foot garage.

A 12-foot wide, private road easement is located along the east side, with the property line located at the center of the easement. By definition, this creates two sides that are required to meet the front set back standards. The other property line intersecting with Scenic Road would be considered a side yard and the property line intersecting with the easement would be considered the rear yard.

The site slopes up from Scenic Road with an elevation of 95 feet at the low point and approximately 106 feet at the high point. This constitutes a change of eleven feet over a distance of 100 feet. Zoning restricts the height of structures in this area to 18 feet in order to protect visual resources in this area.

C. PROJECT DESCRIPTION

Applicant is requesting multiple entitlements consisting of:

- Coastal Administrative Permit and Design Approval to demolish an existing 3,130 square foot single family residence and garage, and construct a 5,167 square foot 3-level single family residence with a 1,498 square foot subterranean garage, [3,229 square feet above grade; 1,938 square feet lower habitable level; and 1,498 square foot garage for a total of 6,665 square feet]; and grading (400 cubic yards cut);
- Variance to reduce a front set back requirement along a private road easement; and

- Coastal Development Permit to allow development with a positive archaeological report.

D. SETBACKS

Staff determined that the subject property is oriented as follows:

- *Front (Scenic)*. The property fronts on Scenic Road, which constitutes one front property line.
- *Front (Easement)*. When an easement (public or private) provides access to multiple properties it is a right-of-way that is subject to front yard setback requirements. There is an existing 12-foot wide private driveway easement encumbering the eastern six feet of the subject property (Moellentine) and western six feet of the neighboring property (McCallister, Parcel 011) that creates a second front property line.
- *Rear*. The house is oriented toward Scenic Road and this is the only portion of the property fronting a public road, the side opposite Scenic Road would be considered the rear yard.
- *Side*. The western property line intersecting with Scenic Road would be considered a side yard.

Section 20.62.040.E of the Zoning Code states that “No interior area of a structure may extend into required front, side or rear setbacks, except for bay windows or cantilevered windows where there is no floor or storage area below the window”. In addition, Section 20.62.040.K of the Zoning Code requires any accessory structure that is structurally attached to the main structure to be subject to the same setback requirements as the main structure. Set back exception in Section 20.62 states that “uncovered decks, porches, or stairways, fire escapes or landing places may extend into any required front or rear setback not exceeding 6 feet, and into any required side setback not exceeding 3 feet”.

- 1) Front (Scenic Road). The required minimum setback from the right-of-way of Scenic Road is 20 feet. This house is designed with three levels, including one level located below grade as viewed from Scenic Road. In order to provide required light and ventilation for the lower level, a light-well is proposed where it would be located 1-foot from the edge of the road easement (7 feet from the property line). As a result, the building extends 5 feet into the front yard setback and the light well encroaches an additional 10 feet. The Planning Department interprets the Zoning Code to require that all of the house must maintain the required set backs even if it is located below grade. Staff finds that the findings necessary to grant a variance from Scenic Road cannot be made and as such cannot support this design.
- 2) Front (Easement). There are three properties that utilize the easement for access to their property, and this creates a front property line that requires a minimum 20-foot setback from the edge of the easement right of way. As designed, the proposed Mollentine residence would have a setback of 3.5-feet from the edge of the easement (9.5 feet from the property line located at the center of the easement). This requires a variance to encroach into the 20 foot front setback requirement.

Applying two front yard set back requirements restricts development of the site. Staff finds that there is precedence along the easement to support a variance to reduce the side setback from 20 feet to 3 feet 6 inches finding that it is similar to privileges enjoyed by other properties in the vicinity. All three properties that utilize this easement have homes located less than 20 feet from the property line/easement:

- Pack/McCallister (Parcel 011) was approved with a minimum 3' 6" setback from edge of the right-of-way easement (9.6 feet from property line).
- Meyer (Parcel 021) was approved with a minimum 16-foot setback from the edge of the easement (22 feet to property line).
- Moellentine (Parcel 023), subject parcel, has an existing residence approved with a minimum 4-foot setback from the edge of the easement (9 feet to property line).

Therefore, staff recommends approval of a variance to reduce the front setback along the easement from 20 feet to 3.6 feet from the easement (9.6 feet from the property line).

E. HEIGHT

The site is located in a district where the height is limited to a maximum of 18 feet in order to protect visual resources. Height is determined using an average between the highest and lowest points of the natural grade of that portion of the building site covered by the structure, to the topmost point of the structure. It excludes certain features specified in Chapter 20.62 (Height and Setback Exceptions). Plans show an "existing" grade from grading work that occurred from the existing residence. A letter report was prepared by Haro, Kasunich and Associates, Inc. (January 26, 2007) for the project. According to the letter, natural grade was calculated to be 100.95 feet. The proposed residence as measured from average natural grade would be 17'- 8 1/8", which is below the 18 foot height limit for structures within the area. The height is based on the assumed natural grade and not the existing man-made grade as established by Haro, Kasunich and Associates, Inc.

Staff concurs and finds that the average natural grade would consist of a high point located at the rear of the garage (103.8 feet) and a low point being the lower terrace (98.1 feet), which results in an average natural grade of 100.95 feet. As such, the maximum building height allowed would be for the roof not to exceed the 118.95-foot elevation. The roof height for this structure is shown on the plans to be at the 118.63-foot elevation, which meets the allowable height requirement.

F. VISUAL DESIGN

Scenic Drive, where the parcel is located, is identified as a scenic viewshed in the Carmel Area Land Use Plan (CLUP). Policies and development standards are established to keep the size and footprint of a house proportional to the size of the lot. For example, this parcel has a height restriction of 18 feet to help retain the scenic resources of this area.

Existing mature cypress trees provide natural screening of the existing residence and will not be removed as part of project development. The plans have been revised to reduce the front lower level retaining wall near the large Cypress trees located on Scenic Road to ensure that the trees are not affected by excavation.

Staff would describe the proposed design as modern, Americanized, Mediterranean style of architecture. A type of modern design is reflected with a cube-type of design including use of a flat roof to help maximize building height. In order to obtain a 3-level design, the site would be graded so part of the structure is below grade. The proposed structure would also be located approximately 9 to 11 feet back from the existing structure which opens up the public viewshed around the point of Scenic Road.

The applicant redesigned the project to be more subordinate with the surrounding viewshed area. This was achieved by adding corbels, reducing the balconies, using appropriate earth tone colors such as dark green siding with a lighter green trim and a third green blended color for the panels to provide shadowing and a staggering appearance. Although changes were made to the structure, the basic design remains the same. Staff finds that the structural design of this house containing three levels and a flat roof with massive columns does not blend with the site and its surroundings. It visually intrudes into the viewshed in comparison to many other more subordinate designs available to the applicant. Policy 2.2.4.10 of the Carmel Area Land Use Plan requires that the height and bulk of buildings be modified as necessary to protect the viewshed. Large flat surfaces create a massive structure facade that is not consistent with the natural setting and scale of the surrounding homes that are also located within the public viewshed.

Staff researched other houses (approximately 32) in the neighborhood that are north and south of the project and located within the public viewshed. We concluded that there were a few 2 story homes with flat surfaces, only one 3-level home and an older French-country style home. As designed, none of these homes seemed out of scale with the lot or neighboring homes, nor did they detract from the natural beauty of the scenic shoreline. (Policy 2.2.3.1 CLUP) Although there were some exceptions, the vast majority of the structures surveyed are smaller in scale, have minimal frontages, have roof lines that are broken up and offset, making them softer in appearance in comparison to the proposed project.

As proposed, staff recommends that the design is inconsistent with the Visual Resources policies of the Carmel Area Land Use Plan (CLUP) and the Carmel Coastal Implementation Plan. Policy 2.2.2 Carmel Area Land Use Plan (CLUP) requires that all future development within the viewshed harmonize and be clearly subordinate to the natural scenic character of the area in order to protect the scenic resources of the Carmel area in perpetuity. Policy 2.2.3.6 CLUP states that structures shall be subordinate to and blended into the environment using appropriate materials to that effect.

Considering the evidence for this project as a whole, staff finds that the project is not consistent with the visual resources policies of the Carmel Area Land Use Plan and recommends that the Planning Commission deny the application.

G. HISTORICAL RESOURCES

The Parks Department originally deemed the project incomplete due to the height and scale of proposed structure negatively impacting the neighboring historic Kuster house (APN: 009-422-

021-000). A historic assessment prepared in response determined that five of the seven aspects of integrity to the Kuster house will be retained. On April 3, 2006, the County's historical preservation staff, Meg Clovis, confirmed these findings, however, recommended confirmation of a structural analysis that excavation of the subterranean garage would not affect the Kuster house. A structural analysis prepared by Haro, Kashunich & Associates, Inc. dated April 26, 2006, confirmed that the proposed development, including the retaining wall excavations, will not cause adverse structural affects to the Kuster property. On March 1, 2007, the Historic Resources Review Board (HRRB) determined that they could not comment on the project without an Initial Study. On August 2, 2007, the HRRB received the Initial Study and three individuals submitted the following comments on August 6, 2007 (Exhibit "F"):

- Per the Secretary of Interior Standards, the site and setting of the Kuster House is compromised by the new structure, those issues have not been adequately addressed. There are Cypress trees on Scenic Drive very close to the proposed retaining walls for the lower level which impact has not been addressed.
- The mitigation measures do not adequately protect the character of this project particularly in regards to grading. The grading activity might very well disturb and cut tree roots once the work is started. Cypress trees stability and health may be compromised.
- Inadequate measures: Measures #1 and #3 do not contain time elements that would specify the length of the monitoring period. In order to control cumulative impact, the Moellentine proposal must undergo further significant modification.

Staff Response: A Phase II Historical Assessment prepared by Sheila McElroy, dated March 16, 2006, determined that five of the seven aspects of integrity will be retained by the Kuster House and, therefore, the impact would be less than significant with mitigation. The plans have been revised to reduce the front lower level retaining wall near the large Cypress trees located on Scenic Road to ensure that the trees are not affected by excavation. Staff agrees that the proposed design must undergo further modifications in order to become visually compatible with its surroundings.

H. ARCHAEOLOGICAL/CULTURAL

A Preliminary Archaeological Reconnaissance was prepared by Archaeological Consulting, on October, 2004. Staff spoke with Mary Doane of Archaeological Consulting on May 5, 2005. The report concludes that the project site is located within a portion of a known archaeological resource area. However, the site encompasses a large geographic area with cultural materials being widely and unevenly disseminated. In addition, numerous studies and test/collection have already occurred, and the likelihood is that additional testing/collection will merely add to the current body of knowledge. Therefore, both staff and Archaeological Consulting concur that the project site is located within a "non-unique" archaeological resource area pursuant to CEQA, and potential development impacts would be considered less than significant. See Initial Study (Exhibit "D")

I. LUAC RECOMMENDATION

Land Use Advisory Committee (LUAC)

The Carmel Highlands/Unincorporated Land Use Advisory Committee (LUAC) reviewed the project for the proposed residence and recommended denial of the project (Exhibit "E"). The Committee's recommendation and concerns are summarized and addressed below.

The LUAC reviewed the project on August 6, 2007, and voted 5-0 to recommend denial. The Committee cited a number of questions and concerns with the proposed project which are addressed below to include staff's response.

- Design: The members of the LUAC feel the proposed design is completely inappropriate for this highly scenic and archaeologically sensitive location. It would be a distraction from natural scenic character of Carmel Point.

Staff Response: The design criteria within the Carmel LUP can be subjective. The project was redesigned to be more subordinate with the surrounding viewshed area. This was achieved by adding corbels, reducing the balconies, using appropriate earth tone painted materials and colors such as dark green siding with a lighter green trim and a third green blended color for the panels to provide shadowing and a staggered appearance. Also, roof eaves will be of a rolled appearance in order to reduce the visual thickness of the roof. However, the bulk and mass of a box-type design did not change the overall appearance and staff recommends that this design is inappropriate for this highly scenic location.

- Tree Removal: No tree removal should be allowed as they help to retain the rustic character of the site and also reduce the visual impacts of such a massive structure as presently proposed. .

Staff Response: The applicant has revised the plans to reduce the front lower level retaining wall near the large Cypress trees located on Scenic Road to ensure that the trees are not affected by excavation.

- Plan not subordinate: This plan is not subordinate to the site as required in the Land Use Plan; Visual Resources Key policy 2.2.2 "protection of Carmel's visual resources may be one of the most significant issues concerning the future of this area. Policy 2.2.1 Overview, in this same section it also states that "architecturally compatible residences are those interrelated elements of the natural mosaic that attracts visitors through out California. This location is considered as "public viewshed" in the Land Use Plan. General Policies 2.2.3 #1 and #6 state siting and design of proposed structures should not detract from the natural beauty of the scenic shoreline, and public viewshed. Modifications of plans shall be required for siting, structural design, color, texture, building materials, access, and screening. – This proposal ignores these policies and requirements as stipulated in the Carmel Area Land Use Plan. Outdoor lighting of entrance, decks and balconies must be adequately shielded and directed downwards.

Staff Response: The project will be located within a sensitive scenic area of the Carmel Area, known as Carmel Point, and has the potential to degrade the area's visual quality. The staking and flagging was visible from three public viewshed vantage points. These included the parking lot at Carmel City Beach, and two intersections along Scenic Road, one at 8th Avenue and one at 13th Avenue. Some of the staking and flagging was obscured by existing mature cypress trees, which would help prevent full visibility of the proposed residence from these vantage points. The proposed roofline was not observed to be visible above the existing cypress trees. The plans have been revised to include reducing the front lower level retaining wall near the large Cypress trees to ensure that the trees are not affected by excavation. The project was redesigned to be

more subordinate with the surrounding viewshed area by adding corbels, reducing the balconies, using appropriate earth tone painted materials and colors such as dark green siding with a lighter green trim and a third green blended color for the panels to provide shadowing and a staggering appearance. Also, roof eaves will be of a rolled appearance in order to reduce the visual thickness of the roof and further blend the residence into the natural landscape. Even with the changes, staff has determined that the structural design containing three levels and a flat roof with massive columns is still not a design that blends into the site and its surroundings.

Public comments at the LUAC meeting:

- Damage will be done to the Kuster with the excavation of the garage;
- Parking will easily be impacted during construction of the project;
- Four skylights on the flat roof of the proposed home will impact the Meyers' (Kuster house) at night.

Staff Response: A structural integrity analysis was performed by Haro, Kasunich and Associates (April 26, 2006) to determine if the potential for proposed grading and construction operations will adversely affect the structural integrity of the neighboring residences, especially the Kuster House. The existing residential structure has been partially sub-excavated into the site, including a 5 foot retaining wall that contains the back excavation adjacent to the Kuster property line. No signs of deterioration or negative impact to the Kuster House currently exist. The Kuster House performed well when the adjacent residence on the north side of the proposed site excavated a subterranean basement/garage. According to the applicant's engineer, the proposed development, including the retaining wall excavations, will not cause adverse structural affects to the Kuster House.

All skylights for this proposal will be required to have low lighting with shaded glass so as not to intrude onto neighboring residences nor affect aerial views.

J. CEQA

Initial Study (Mitigated Negative Declaration)

An Initial Study (Mitigated Negative Declaration) was prepared for this project and circulated for public review on July 6, 2007 to August 6, 2007 (Exhibit "D"). The Initial Study addressed potential impacts related to the proposed residence and the historic structure behind the proposed residence. The Initial Study determined that the project as designed and mitigated reduces impacts to a less than significant level. Topic areas addressed in the Initial Study relative to the proposed residence and historic residence include Aesthetics, Cultural Resources, Geology/Soils, Hydrology/Water Quality, Land Use/Planning, Noise, and Transportation/Traffic and are discussed in the Initial Study (Exhibit "D") and Findings and Evidence of this report. Primary issues discussed above also were primary topics in the environmental review and are not repeated in this section. The issues from public comments are summarized below:

Public Comments

Comments on the mitigated negative declaration were received by the public, City of Carmel-by-the-Sea, and the California Coastal Commission (Exhibits "G"); they raise issues concerning the mass and design of the proposed project; project inconsistency with the CLUP Visual Resources policies, and weak mitigation measures:

With regard to inconsistency with the visual resources, the majority of these comments come to one conclusion: the massive building form and architectural detailing present a monumental appearance that will overwhelm its setting.

Because the subject site is situated on a highly visible promontory along Scenic Drive, the Coastal Commission feels this site requires exacting consideration of the LCP visual resources provisions. They recommend:

- Pulling the second story elements inland from first floor elements to provide articulation to the building façade for both stories;
- Breaking up the design with some area of indent, varied roofline component offsets, and projections that provide shadow patterns;
- Although they support the 3’6” variance for a front setback from the road easement, they recommend all required setbacks be applied to all “interior areas” including below grade floor.

The City of Carmel and Architectural Resource Group of San Francisco argue that mitigation measures #1, #2 and #3 within the Aesthetics section of the Initial Study are inadequate to reduce the impact of the proposed project on the Kuster House, a historic resource and on its setting; it fails to inform the public of exact measures to screen the structure within the scenic resources of Carmel Point to a level of insignificance.

Mitigation Measure #1: *In order to minimize impacts to scenic resources, the applicant shall maintain existing native trees and arrange for additional screening through the planting of native landscaping onsite and within areas visible from the public viewshed. A native vegetation planting plan shall be prepared and implemented by a County-approved landscape architect. The planting plan shall be consistent with surrounding neighborhood landscaped areas. The plan shall specify recommended planting areas and numbers by species. In order to monitor the success of native vegetation planting, the applicant shall arrange for monitoring inspections to be done by a County-approved landscape architect. Success of tree and native vegetation planting shall be assessed on the basis of the residence blending into the environment and percent survival of the planted species.*

Generally, a landscape plan is required prior to final of a building. However, staff would require a conceptual vegetation planting plan prior to issuance of the building/grading permits with the ability to require additional vegetation for screening prior to the final building/grading permits.

Mitigation Measure #3: *In order to ensure that the residence will blend into the surrounding natural landscape, the applicant shall utilize appropriate design techniques and materials and colors which will achieve this. Specifically, the applicant shall adhere to the design techniques and materials and colors approved by the Director of Planning. In addition, all exterior lighting shall be unobtrusive, harmonious with the local area, and constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. Exterior lighting shall be placed at near-ground level, downcast, and shielded behind vegetation and walls.*

Staff agrees that this mitigation measure needs additional wording specific to type of materials and exact colors to be used. Therefore, if the Planning Commission decides to adopt the Mitigated Negative Declaration, staff would recommend adding the italicized wording below: Pursuant to CEQA Section 15073.5, this change does not require recirculation of the Initial Study as it is a replacement with equal or more effective mitigation measures. (See Exhibit “D”)

“Specifically, the applicant shall add corbels, reduce the balconies, use appropriate earth tone painted materials and colors such as dark green siding with a lighter green trim and a third green blended color for the panels to provide shadowing and a staggering appearance. In addition, roof eaves will be of a rolled appearance in order to reduce the visual thickness of the roof and further blend the residence into the natural landscape.”

Comments in Support

Staff also received letters in support of the proposed project. Three of the letters are from immediate neighbors on both sides of the Moellentine property.

“Carmel Point has a wonderful diversity of its architecture. Proposal would definitely enhance the area and the additional 14 feet setback from the existing house will actually dramatically open up the view shed over what currently exists.”

“This Mediterranean home will be refined and delicate, with authentic classical details, and like its adjacent neighbors will add to the much needed architectural purity that will compliment the level of distinctive architecture in this location.”

“This project will appropriately reflect the long-standing architectural heritage of Carmel and will add to the architectural interest and quality of private homes on Scenic Road. One of the best aspects of Carmel is the wonderful eclectic variety of architecture where there is no one dominating or consistent vernacular. The owners are developing a thoughtful and comprehensive landscape plan to aid in melding this home into its surroundings, which will include sensitivity to the neighboring hardscapes and extensive mature native landscape plantings.”

K. CONCLUSION

The project meets the required Site Development Standards of Medium Density Residential, except for a request for a Variance to encroach into the 20 foot road easement setback, which staff is able to support. The proposal is set back from 9 to 11 feet from the existing structure which opens up the existing viewshed around the point.

This parcel is located in the most visible area of Scenic Road. Staff has indicated to the applicant that there are visual issues that need to be addressed. Reducing and breaking up the bulk of the second floor could lead to a positive recommendation. However, the applicant does not want to make any further changes. Design can be subjective; however, the current design is obtrusive and inconsistent with the policies that protect this identified scenic corridor. The initial study addresses all potential impacts from the construction of this project, and most impacts can be reduced to less than significant. Therefore, staff recommends denial of the project.

EXHIBIT C

RECOMMENDED FINDINGS AND EVIDENCE

1. **FINDING: INCONSISTENCY** –The project, as proposed, does not conform to the policies, requirements and standards of the Monterey County Zoning Ordinance, Title 20, the policies of the Carmel Area Land Use Plan, and the Coastal Implementation Plan.

EVIDENCE: (a) The text, policies, and regulations in the above referenced documents have been evaluated during the course of review of applications. Communications were received during the course of review of the project indicating possible inconsistencies with the text, policies, and regulations in these documents.

(b) The property is located at 26195 Scenic Road, Carmel (Assessor’s Parcel Number 009-422-023-000-000), Carmel Area Land Use Plan. The parcel is zoned Medium Density Residential/2 units per acre, Design Control Area/Eighteen Foot Height Limit in the Coastal Zone (“MDR/2-D (18) (CZ)”). The subject property does not comply with all the rules and regulations pertaining to zoning uses and any other applicable provisions of Title 20, or the Carmel Area Land Use Plan.

(c) The project planner conducted a site inspection on April 7, 2006 and August 2, 2007, to verify if the project on the subject parcel conforms to the plans listed above.

(d) Photographic assessment of existing houses on Scenic Road found in Project File PLN040581.

(e) The proposed project is not consistent with the Visual Resources policies of the Carmel Area Land Use Plan (CLUP) and Carmel Coastal Implementation Plan. Specifically, the project is inconsistent with policies 2.2.2, 2.2.3.1, 2.2.3.6, and 2.2.4.10c. (Discussed in Visual Resources Finding #7)

(f) Historic Resources Review Board. Although the proposed structure for demolition is not historic, the Kuster house behind the proposal is considered historic. The HRRB met on March 1, 2007 to recommend staff prepare an Initial Study. On August 6, 2007, three members of the HRRB submitted comments in response to the Initial Study. Their concerns were

- Per the Secretary of Interior Standards, the site and setting of the Kuster House is compromised by the new structure, those issues have not been adequately addressed. There are Cypress trees on Scenic Drive very close to the proposed retaining walls for the lower level which impact has not been addressed.

- The mitigation measures do not adequately protect the character of this project particularly in regards to grading. The grading activity might very well disturb and cut tree roots once the work is started. Cypress trees stability and health may be compromised.

- Inadequate measures: Measures #1 and #3 do not contain time elements that would specify the length of the monitoring period. In order to control cumulative impact, the Moellentine proposal must undergo further significant modification.

A Phase II Historical Assessment prepared by Sheila McElroy, dated March 16, 2006, determined that five of the seven aspects of integrity will be retained by the Kuster House and, therefore, the impact would be less

than significant with mitigation. The plans have been revised to reduce the front lower level retaining wall near the large Cypress tree to ensure the tree is not affected by excavation. Staff agrees that the proposed design must undergo further modifications in order to become visually compatible with its surroundings.

(g) LUAC On August 6, 2007, the Carmel Unincorporated/Highlands Land Use Advisory Committee voted 5-0 to recommend denial of project. Their concerns were:

- Design: The members of the LUAC feel the proposed design is completely inappropriate for this highly scenic and archaeologically sensitive location. It would be a distraction from natural scenic character of Carmel Point.

The design criteria within the Carmel LUP can be subjective. The project was redesigned to be more subordinate with the surrounding viewshed area. This was achieved by adding corbels, reducing the balconies, using appropriate earth tone painted materials and colors such as dark green siding with a lighter green trim and a third green blended color for the panels to provide shadowing and a staggered appearance. Also, roof eaves will be of a rolled appearance in order to reduce the visual thickness of the roof. However, the bulk and mass of a box-type design did not change the overall appearance and this design is inappropriate for this highly scenic location. (See Finding #7)

- Tree Removal: No tree removal should be allowed as they help to retain the rustic character of the site and also reduce the visual impacts of such a massive structure as presently proposed. .

The applicant has revised the plans to reduce the front lower level retaining wall near the large Cypress trees located on Scenic Road to ensure that the trees are not affected by excavation.

- Plan not subordinate: This plan is not subordinate to the site as required in the Land Use Plan; Visual Resources Key policy 2.2.2 “protection of Carmel’s visual resources may be one of the most significant issues concerning the future of this area. Policy 2.2.1 Overview, in this same section it also states that “architecturally compatible residences are those interrelated elements of the natural mosaic that attracts visitors through out California. This location is considered as “public viewshed: in the Land Use Plan. General Policies 2.2.3 #1 and #6 state siting and design of proposed structures should not detract from the natural beauty of the scenic shoreline, and public viewshed. Modifications of plans shall be required for siting, structural design, color, texture, building materials, access, and screening. – This proposal ignores these policies and requirements as stipulated in the Carmel Area Land Use Plan. Outdoor lighting of entrance, decks and balconies must be adequately shielded and directed downwards.

The project will be located within a sensitive scenic area of the Carmel Area, known as Carmel Point, and has the potential to degrade the area’s visual quality. The staking and flagging was visible from three public viewshed vantage points. These included the parking lot at Carmel City Beach, and two intersections along Scenic Road, one at 8th Avenue and one at 13th Avenue. Some of the staking and flagging was obscured by existing mature cypress trees, which would help

prevent full visibility of the proposed residence. The proposed roofline was not observed to be visible above the existing cypress trees. The plans have been revised to include reducing the front lower level retaining wall near the two large Cypress trees to ensure that the trees are not affected by excavation. The project was redesigned to be more subordinate with the surrounding viewshed area by adding corbels, reducing the balconies, using appropriate earth tone painted materials and colors such as dark green siding with a lighter green trim and a third green blended color for the panels to provide shadowing and a staggered appearance. Also, roof eaves will be of a rolled appearance in order to reduce the visual thickness of the roof and further blend the residence into the natural landscape. Even with the changes, the Planning Commission determines that the structural design containing three levels and a flat roof with massive columns does not blend into the site and its surroundings as required by the Local Coastal Program.

- (h) Site Visit The project planner conducted site inspections on April 7, 2006 and August 2, 2007 to verify that the project on the subject parcel conforms to the plans listed above.
- (i) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN040581.

2. FINDING: SITE SUITABILITY – The site is physically suitable for the use proposed.

EVIDENCE: (a) The project has been reviewed for site suitability by the following departments and agencies: RMA - Planning Department, Cypress Fire Protection District, Parks, Public Works, Environmental Health Division, and Water Resources Agency. There has been no indication from these departments/agencies that the site is not suitable for the proposed development. Conditions recommended have been incorporated.

- (b) Technical reports by outside historic, archaeological, geotechnical and geoseismic consultants indicated that there are no physical or environmental constraints that would indicate that the site is not suitable for the use proposed. County staff concurs. The following reports have been prepared.

“Historic Preservation Interpretation” (*LIB060156*) prepared by Kent Seavey, Pacific Grove, CA, November, 2004;

“Phase II Assessment: Preliminary Impact Analysis” (*LIB060156*) prepared by Sheila McElroy, San Francisco, CA, March, 2006;

“Preliminary Archaeological Reconnaissance” (*LIB060155*) prepared by Archaeological Consulting, Salinas, CA, October, 2004;

“Geotechnical Soils-Foundation and Geoseismic Report” (*LIBN060154*) prepared by Grice Engineering, Inc., Pacific Grove, CA, October, 2004;

“Geotechnical Site Reconnaissance” (*LIB070443*) prepared by Haro, Kasunich & Associates, Watsonville, CA, April, 2006.

- (c) Staff conducted site inspections on April 7, 2006 and August 2, 2007 to verify that the site is suitable for this use.
- (d) Materials in Project File PLN040581.

- 3. FINDING: CEQA (Exempt):** - The project is exempt from environmental review.
- EVIDENCE:** (a) California Environmental Quality Act does not apply to projects which a public agency rejects or disapproves per the provisions of Article 18—Statutory Exemptions, Section 15270 (a).
- (b) This section shall not relieve an applicant from paying the costs for a negative declaration prepared for this project prior to the lead agency’s disapproval of the project after normal evaluation and processing.
- (c) The application, plans, and supporting materials submitted by the project applicant to the Monterey County Planning and Building Inspection Department for the proposed development in project file PLN040581.
- 4. FINDING: VARIANCE - (Special Circumstances):** Because of special circumstances applicable to the subject property, including the size, shape, topography, location of the lot, or the surrounding area, the strict application of Section 20.147.030.A.1.b of the Monterey County Coastal Implementation Plan is found to deprive the subject property of privileges enjoyed by other property owners in the vicinity under an identical zoning classification.
- EVIDENCE:** (a) The Moellentine property fronts on Scenic Road, which constitutes a front property line. In addition, there is an existing 12-foot wide driveway easement encumbering the eastern six feet of the subject property (Moellentine) and western six feet of the neighboring property (McCallister, Parcel 011). The subject property has two front setbacks, and would have to maintain 20 feet from each front setback.
- (b) The addition of a second front yard setback restricts development and the site is not adequate in size and shape to support a reasonably sized residence consistent with the existing neighborhood if the full 20-foot setback is required. Because the parcel is pie shaped, this would only allow 36 feet in width.
- (c) Materials and Documents in Project File PLN040581.
- 5. FINDING: VARIANCE - (Special Privileges):** The variance to exceed a front setback requirement of a driveway easement does not constitute a grant of privileges inconsistent with the limitations upon other property owners in the vicinity and zone in which such property is situated.
- EVIDENCE:** (a) There are three properties that utilize the easement for access to their property: Pack/McCallister (Parcel 011) was approved with a minimum 3 feet 6 inches setback from edge of the right-of-way easement (9 feet 6 inches from property line). Meyer (Parcel 021) was approved with a minimum 16-foot set back from the edge of the easement (22 feet to property line). The Moellentine (Parcel 023), subject parcel, has existing residence approved with a minimum 4 foot set back from the edge of the easement (9 feet to property line)
- (b) There is precedence along the easement to support a variance to reduce the set back to 3 feet 6 inches finding that it is similar to privileges enjoyed by other properties in the vicinity. Therefore, staff recommends approval of a variance to reduce the front set back along the easement from 20 feet to 3 feet 6 inches from the easement (9 feet 6 inches from the property line).
- (b) Materials and documents in Project File No. PLN040581.
- 6. FINDING: VARIANCE - (Authorized Use):** The Variance shall not be granted for a use or activity which is not otherwise expressly authorized by the zone regulation governing the parcel of property.

- EVIDENCE:** (a) The project for a new single family dwelling is an allowed use under the Medium Density Residential designation, Section 12.20.040.A of the Monterey County Zoning Ordinance, Title 20.
- (b) Materials and documents in Project File No. PLN040581.

7. FINDING – VISUAL RESOURCES: The subject project is located on Scenic Road which is a “public viewshed” road as illustrated on the General Viewshed Map (Map A) in the Carmel Area Land Use Plan, and therefore, all future development must harmonize and be clearly subordinate to the natural scenic character of the area (Policy 2.2.2 CLUP). In addition, policies require that the design and siting of the structure shall not detract from the natural beauty of the scenic shoreline and that structures shall be subordinate to and blended into the environment, using appropriate materials to that effect (Policies 2.2.3.1 and 2.2.3.6 CLUP).

- EVIDENCE:**
- (a) The bulk and design of the structure is too massive with its large flat surfaces and conflicts with the natural setting and scale of the surrounding homes also located within the public viewshed. Although setback 9 to 11 feet from Scenic Road, the project is still visually obtrusive and intrudes into the viewshed and, therefore, is not subordinate (Policy 2.2.2). The architectural rendering found in the project file shows the house from Scenic Drive to be looming above and much larger than adjacent homes in the neighborhood (Policy 2.2.4.10.c) and, therefore, does not blend in with the neighborhood or surrounding environment.
- (b) The structural design of this house containing three levels and a flat roof with massive columns does not blend with the site and its surroundings. It visually intrudes into the viewshed in comparison to many other more subordinate designs available to the applicant. Policy 2.2.4.10 of the Carmel Area Land Use Plan requires that the height and bulk of buildings be modified as necessary to protect the viewshed. Large flat surfaces create a massive structure facade that is not consistent with the natural setting and scale of the surrounding homes that are also located within the public viewshed. Although changes were made to the design, the project can still be designed to be subordinate (Policy 2.2.3.6). This could be achieved by breaking up the surfaces, setting back the second story with intervening pitched roofs and offsetting design components.
- (c) The revised colors and materials of many shades of green blend better with the surrounding neighborhood; however, the limestone columns, mouldings, cast panels, trim and surrounds, pre-cast limestone ballisters, bronze exterior doors and windows, and stucco siding do not give the general appearance of natural Carmel area materials. Buildings should be of weathered wood or painted in earth tone colors or reflect the Carmel stone contained on many homes in the area (Policies 2.2.3.1 and 2.2.3).
- (d) Photographic analysis of other houses presented to Planning Commission at public hearings on December 13, 2006 and October 10, 2007.
- (e) On August 6, 2007 the Carmel Unincorporated/Highlands Land Use Advisory Committee (LUAC) recommended denial (5 to 0 vote) based on inconsistency of Regulations for Development of the Visual Resources Development Standards (20.146.030 CIP).
- (f) Materials in Project File PLN040581.

8. FINDING PUBLIC ACCESS - The project is in conformance with the public access and public recreation policies of the Coastal Act and Local Coastal Program,

and does not interfere with any form of historic public use or trust rights (see §20.70.050.B.4). No access is required as part of the project as no substantial adverse impact on access, either individually or cumulatively, as described in Section 20.70.050.B.4.c of the Monterey County Coastal Implementation Plan, can be demonstrated.

- EVIDENCE:** (a) The subject property is not described as an area where the Local Coastal Program requires access.
- (b) The subject property is not indicated as part of any designated trails or shoreline access as shown in Figures 3, the Public Access Map, of the Carmel Area Land Use Plan.
- (c) No evidence or documentation has been submitted or found showing the existence of historic public use or trust rights over this property.
- (d) Staff site visits in April, 2006 and August, 2007.

- 9. FINDING: NO VIOLATIONS** - The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of the County's zoning ordinance. No violations exist on the property. Zoning violation abatement costs, if any, have been paid.

EVIDENCE: Staff reviewed Monterey County RMA - Planning Department and Building Services Department records and is not aware of any violations existing on subject property.

- 10. FINDING: HEALTH AND SAFETY** - The establishment, maintenance, or operation of the project applied for will not under the circumstances of this particular case be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.

EVIDENCE: Preceding findings and supporting evidence.

- 11. FINDING: APPEALABILITY** - The decision on this project is appealable to the Board of Supervisors and the California Coastal Commission.

EVIDENCE: (a) Section 20.86.030.A of the Monterey County Coastal Implementation Plan, Part 1 (Board of Supervisors).

(b) Section 20.86.080.A.3 of the Monterey County Coastal Implementation Plan, Part 1 (Coastal Commission). Development that is permitted as a conditional use is appealable to the Coastal Commission. A Coastal Development Permit is required for development on sites with archaeological resources.