

MONTEREY COUNTY PLANNING COMMISSION

Meeting: January 8, 2014	Time: 9:00 A.M.	Agenda Item No.: 2
Project Description: Consider an After-the-fact Combined Development Permit (to clear 12CE00009) consisting of: 1) a Coastal Administrative Permit and Design Approval to allow the conversion of an existing 210 square foot attached garage to habitable living space, and the construction of a 557 square foot subterranean garage, including attached storage room, mechanical room, stairwell, railing, and grading (approximately 225 cubic yards of cut); and 2) a Coastal Development Permit to allow development with positive archaeological reports.		
Project Location: 26363 Scenic Road, Carmel		APN: 009-442-017-000
Planning File Number: PLN120519		Owner/Applicant: Bearman, Garth and Diana Agents: Anthony Lombardo & Associates; International Design Group
Planning Area: Carmel Area Land Use Plan		Flagged and staked: No
Zoning Designation: MDR/2-D (18)(CZ) [Medium Density Residential, 2 units per acre with Design Control Overlay and 18-foot height limit (Coastal Zone)]		
CEQA Action: Statutorily Exempt per CEQA Guidelines Section 15270(a)		
Department: RMA - Planning Department		

RECOMMENDATION:

Staff recommends that the Planning Commission adopt a resolution (**Exhibit C**) to:

- 1) Find the project statutorily exempt per CEQA Guidelines Section 15270(a); and
- 2) Deny the Combined Development Permit, based on the findings and evidence (**Exhibit C**).

PROJECT OVERVIEW:

The Applicant proposes to legalize the un-permitted conversion of a 210 square foot attached garage to habitable living space, and to construct a 557 square foot subterranean garage, including attached storage room, mechanical room, stairwell, and railing. The proposed subterranean garage would involve direct impacts to known pre-historic cultural resources. See **Exhibit B** for a more detailed discussion of the project.

OTHER AGENCY INVOLVEMENT: The following agencies and departments reviewed this project:

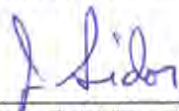
- √ RMA - Public Works
Environmental Health Bureau
- √ Water Resources Agency
Cypress Fire Protection District
California Coastal Commission

Agencies that submitted comments are noted with a check mark (“√”). Due to staff’s recommendation for denial, conditions recommended by RMA – Public Works and Water Resources Agency have not been incorporated into a Condition Compliance/Mitigation Monitoring and Reporting Plan attached to the draft resolution (**Exhibit C**).

The project was referred to the Carmel Unincorporated Land Use Advisory Committee (LUAC) for review. The LUAC, at a public meeting held on November 5, 2012, reviewed and voted to support the project with recommended changes (**Exhibit E**). Archaeological reports are not

forwarded to LUACs, so the LUAC was not able to review and consider the project's potential impacts to cultural resources.

Note: The decision on this project is appealable to the Board of Supervisors and not the California Coastal Commission.



Joseph Sidor, Associate Planner
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December 4, 2013

cc: Front Counter Copy; Planning Commission; Cypress Fire Protection District; RMA-Public Works; Environmental Health Bureau; Water Resources Agency; California Coastal Commission; Laura Lawrence, Planning Services Manager; Delinda Robinson, Senior Planner; Joseph Sidor, Project Planner; Garth and Diana Bearman, Owner; Anthony Lombardo and Associates (Shandell Clark), Agent; International Design Group, Applicant; The Open Monterey Project; LandWatch; Planning File PLN120519

Attachments: Exhibit A Project Data Sheet
Exhibit B Project Discussion
Exhibit C Draft Resolution, including:
• Site Plan, Floor Plan and Elevations
Exhibit D Vicinity Map
Exhibit E Advisory Committee Minutes (Carmel Unincorporated LUAC)
Exhibit F Excerpt from the Carmel Area LUP – Section 2.8 Archaeological Resources

This report was reviewed by Delinda Robinson, Senior Planner.



EXHIBIT A

Project Information for PLN120519

Application Name: Bearman Garth & Diana Trs
Location: 26363 Scenic Rd, Carmel
Applicable Plan: Carmel LUP
Advisory Committee: Carmel/Carmel Highlands Advisory Committee
Permit Type: Combined Development Permit
Environmental Status: Statutory Exemption
Zoning: MDR/2-D(18)(CZ)

Primary APN: 009-442-017-000
Coastal Zone: Yes
Final Action Deadline (884): 1/13/2013
Land Use Designation: Residential - Medium Density

Project Site Data:

Lot Size: 4650
Existing Structures (sf): 2090
Proposed Structures (sf): 557
Total Sq. Ft.: 2647

Coverage Allowed: 1627
Coverage Proposed: 1500
Height Allowed: 18
Height Proposed: N/A

Special Setbacks on Parcel: N/A
FAR Allowed: 2092
FAR Proposed: 2090

Resource Zones and Reports:

Seismic Hazard Zone: UNDETERMINED
Erosion Hazard Zone: High/Moderate
Fire Hazard Zone: N/A
Flood Hazard Zone: X (unshaded)
Archaeological Sensitivity: High
Visual Sensitivity: Sensitive

Soils Report #: LIB120383
Biological Report #: N/A
Forest Management Rpt. #: N/A
Geologic Report #: N/A
Archaeological Report #: LIB120384 / LIB130007
LIB0334 / LIB130343

Other Information:

Water Source: PUBLIC
Water Purveyor: CAL AM
Fire District: Cypress FPD
Tree Removal: 0

Grading (cubic yds.): 225
Sewage Disposal (method): SEWER
Sewer District Name: CAWD

EXHIBIT B DISCUSSION

Project & Site Description

The Applicant proposes to legalize the un-permitted conversion of a 210 square foot attached garage to habitable living space, and to construct a 557 square foot subterranean garage, including attached storage room, mechanical room, stairwell, railing, and associated grading.

The project is located at 26363 Scenic Road, Carmel Point neighborhood, Carmel Area Land Use Plan, Coastal Zone. The parcel is a coastal residential lot, approximately 4,650 square feet (0.107 acre) in size, and located in the developed residential area of Carmel Point. The parcel is located approximately 5,400 feet west of Highway 1, approximately 150 feet east of the Pacific Ocean/Carmel Bay, and approximately 1,500 feet southwest of the city of Carmel-by-the-Sea.

Existing development on the parcel includes a 2,090 square foot single family dwelling, and the parcel is bordered by similar residential development to the north, east, and south. The site also has existing landscaped and hardscape areas that cover the remaining parcel area. The existing residence is served by public water and sewer systems. The existing structure is legal non-conforming with regard to side setback and height limit. However, the proposed subterranean garage would meet current development standards with regard to height and setbacks, and would not change the legal non-conforming elements of the existing structure. In addition, because the proposed garage would be completely below grade, it would not increase the amount of floor area ratio square footage.

The existing development on the parcel, including the un-permitted conversion of the former garage to habitable living space, has resulted in a lack of adequate off-street parking as required by Monterey County Code (MCC) 20.58. Currently, the parcel has no off-street parking, either covered or uncovered. In addition to the un-permitted conversion of the former garage, the former driveway area has been landscaped. Per MCC 20.58, dwellings in MDR zones are required to provide 2 off-street parking spaces, with at least one space covered (e.g., either a carport or garage). The owner proposes to correct the lack of required parking by constructing a 557 square foot subterranean garage. However, the proposed subterranean garage would involve direct impacts to known pre-historic cultural resources. See below for a detailed discussion of the potential impacts and applicable policies.

Project Issue and Report Conclusions

Cultural/Archaeological Resources: The proposed project involves a significant policy issue regarding how the County will address the preservation of pre-historic cultural/archaeological resources. The project site is in an area identified in County records as having a high archaeological sensitivity, and is within the area of a larger cultural site (CA-MNT-17) identified in the archaeological reports prepared for this project. The Applicant submitted four archaeological reports either prepared for the subject parcel/project or the larger cultural site.

In 1979, the Gavilan Foundation (Gary Breschini and Trudy Haversat) prepared an Archaeological Evaluation (LIB130007) for the construction of the original single family dwelling on the subject parcel. Based on field survey work, including excavation of three 50 cm x 50 cm archaeological units, the 1979 report found the site contains a significant archaeological resource (note: the field survey work was completed in the same area as the proposed excavation for the subterranean garage). Resources found included generalized battering tools, lithic waste

flakes, a chert artifact, midden with shell, and abalone layer features. The report also concluded that the results are applicable to the lot as a whole, and recommended no additional excavation on the parcel. The 1979 report also stated, “Because of the extreme amount of historic construction and disturbance that has taken place during the last 75 years, the archaeological resources of Carmel Point have been greatly diminished, and only isolated portions of the original cultural resource remain intact.” The report implies that the Bearman parcel contains one of the remaining intact cultural resources of Carmel Point.

In 2012, Archaeological Consulting (Gary Breschini and Trudy Haversat) prepared an Overview of Archaeological Investigations and Summary of Findings for CA-MNT-17 (LIB130343). This comprehensive report reviewed 18 project-specific reports in the southern Carmel Point area, and divided the overall site into three sub-areas (17A, 17B, and 17C). The Bearman project site is located in sub-area 17A. The report described CA-MNT-17 as “one of the most significant cultural resources on the central coast” and a “multi-component site spanning almost all of the prehistoric occupation of the Monterey Peninsula”, with sub-area 17C being the most significant of the three sub-areas.

Also in 2012, Archaeological Consulting prepared a project-specific report for the subterranean garage (Archaeological Mitigation Plan, LIB120384). This report identified that the project, as proposed, would result in the complete removal of archaeological material from a width of 12 to 20 feet on the southern side of the parcel. This report also concluded the project would have a substantial impact on a portion of CA-MNT-17, and recommended a series of mitigation measures to reduce project impacts to a less than significant level (e.g.; monitoring, radiocarbon dating, and a follow-up report).

In 2013, after discussions with County staff, Archaeological Consulting prepared a follow-up Archaeological Letter (LIB130334) in an attempt to clarify the recommendation in the 1979 report that no additional excavation be allowed on the parcel. According to the consultant, the recommendation against excavation was not intended as a permanent proscription against future projects involving excavation. The recommendation was based on the understanding of CA-MNT-17 in 1979, and that other projects in the area since 1979 have contributed additional information about CA-MNT-17. The letter further stated the cultural resources on the Bearman parcel have the potential to provide information important to ongoing research.

Review of Applicable LUP Policies

The Carmel Area Land Use Plan (LUP), Section 2.8 (see **Exhibit F** of this staff report), describes the archaeological deposits of the Carmel area as a highly significant and sensitive resource, and LUP Key Policy 2.8.2 directs the incorporation of all site planning and design features necessary to minimize or avoid impacts to archaeological resources. The project is not consistent with the LUP Key Policy. As proposed, the project would not minimize or avoid impacts to a known resource. Rather, the project would result in direct and significant impacts to a remaining intact cultural resource of Carmel Point.

LUP Policy 2.8.3.1 directs the County to encourage the timely identification and evaluation of resources in order that these resources be given consideration during the conceptual design phase of land-use planning or project development. Identification and evaluation of the resources on the site and in the larger area occurred in 1979 and in 2012. In these reports, all prepared by the same consulting team, the on-site cultural resources are consistently identified as significant.

LUP Policy 2.8.3.2 directs that surveys/reports prepared for projects should describe the sensitivity of the site and recommend appropriate levels of development and mitigation consistent with the site's need for protection. Again, the reports prepared in 1979 and 2012 describe the site sensitivity as significant. The 2012 project-specific report (Archaeological Mitigation Plan, LIB120384) recommends a series of mitigation measures to reduce project impacts to a less than significant level; however, this report also states the project would result in the complete removal of archaeological material from a width of 12 to 20 feet on the southern side of the parcel. Given the proposed extent of impact (i.e., complete removal), the project clearly does not minimize impacts to the resource. Therefore, RMA – Planning staff views these proposed mitigation measures as inconsistent with the applicable LUP policies that direct minimization or avoidance. In addition, the 1979 report recommended that any additional required parking be located along the front edge of the parcel (i.e., along Scenic Road) without any cutting or grading of the area.

LUP Policy 2.8.3.3 directs that all available measures shall be explored to avoid development on sensitive prehistoric or archaeological sites. The Applicant could restore the former driveway and garage (converted to habitable space without the necessary permits) which would provide the required parking. Another option for the Applicant would be to restore the former driveway and construct a carport in the southeast area of the parcel. Either of these options would avoid development on this sensitive archaeological site.

LUP Policy 2.8.3.4 directs that when a project is proposed on a parcel with a known archaeological site, project design shall be required which avoids or substantially minimizes impacts to the site, and that emphasis should be placed on preserving the entire site rather than on excavation of the resource. As reviewed above, the project is not consistent with this policy. As proposed, the project would not avoid or substantially minimize direct and significant impacts, and would result in excavation rather than preservation of the resource.

In summary, the policy issue is whether the County will allow excavation of known archaeological resources within CA-MNT-17, a cultural site of state-wide significance.

Environmental Review

California Environmental Quality Act (CEQA) Guidelines Sections 15270(a) statutorily exempts projects which a public agency rejects or disapproves. Environmental review would be required if the Planning Commission rejects staff's recommendation to deny the project.

Recommendation

Staff recommends the Planning Commission find PLN120519 statutorily exempt per CEQA Guidelines Section 15270(a), and deny the Combined Development Permit (PLN120519), based on the findings and evidence (**Exhibit C**).

**EXHIBIT C
DRAFT RESOLUTION**

**Before the Planning Commission in and for the
County of Monterey, State of California**

In the matter of the application of:

BEARMAN (PLN120519)

RESOLUTION NO. 14 - _____

Resolution by the Monterey County Planning
Commission:

- 1) Finding the project statutorily exempt per CEQA Guidelines Section 15270(a); and
- 2) Denying an After-the-fact Combined Development Permit (to clear 12CE00009) consisting of a Coastal Administrative Permit and Design Approval to allow the conversion of an existing 210 square foot attached garage to habitable living space, and the construction of a 557 square foot subterranean garage, including attached storage room, mechanical room, stairwell, railing, and grading (approximately 225 cubic yards of cut); and a Coastal Development Permit to allow development with positive archaeological reports;

[PLN120519, Bearman, 26363 Scenic Road, Carmel, Carmel Area Land Use Plan, Coastal Zone (APN: 009-442-017-000)]

The Bearman application (PLN120519) came on for public hearing before the Monterey County Planning Commission on January 8, 2014. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Planning Commission finds and decides as follows:

FINDINGS

1. **FINDING:** **PROJECT DESCRIPTION** – The proposed project is an After-the-fact Combined Development Permit (to clear 12CE00009) consisting of a Coastal Administrative Permit and Design Approval to allow the conversion of an existing 210 square foot attached garage to habitable living space, and the construction of a 557 square foot subterranean garage, including attached storage room, mechanical room, stairwell, railing and grading (approximately 225 cubic yards of cut); and a Coastal Development Permit to allow development with positive archaeological reports.

EVIDENCE: 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 PLN120519.

2. **FINDING:** **INCONSISTENCY** – The Project, as proposed, is not consistent with the applicable plans and policies which designate this area as appropriate for development.

EVIDENCE: a) During the course of review of this application, the project has been reviewed for consistency with the text, policies, and regulations in:

- the 1982 Monterey County General Plan;
- Carmel Area Land Use Plan (LUP);
- Monterey County Coastal Implementation Plan Part 4; and
- Monterey County Zoning Ordinance (Title 20).

Conflicts were found to exist with Carmel Area LUP policies related to the protection of cultural resources. Communications (e.g., technical reports) were received during the course of review of the project indicating inconsistencies with the text, policies, and regulations in these documents.

- b) The property is located at 26363 Scenic Road, Carmel Point neighborhood (Assessor's Parcel Number 009-442-017-000), Carmel Area Land Use Plan, Coastal Zone. The parcel is zoned Medium Density Residential, 2 units per acre with a Design Control Overlay and 18-foot height limit (Coastal Zone) [MDR/2-D (18)(CZ)], which allows attached accessory structures. Therefore, the project is an allowed land use for this site.
- c) Legal Nonconforming Elements of the Existing Single Family Dwelling: The development standards for the MDR zone are identified in Section 20.12.060 MCC. Required setbacks in this MDR zone are 20 feet (front), 10 feet (rear), 5 feet (sides). The existing structure has setbacks of 20 feet (front), 10 feet (rear), 4.2 feet (north side), and 11 feet (south side). The site coverage maximum in this MDR zone is 35 percent, and the floor area ratio maximum is 45 percent. The existing lot is approximately 4,650 square feet, which would allow site coverage of approximately 1,627.5 square feet and floor area ratio of approximately 2,092.5 square feet. The existing single family dwelling with the proposed attached garage would result in site coverage of approximately 1,500 square feet (32.2 percent) and floor area ratio of approximately 2,090 square feet (44.9 percent). The height limit for this property is 18 feet. The existing structure is approximately 21.8 feet tall from average natural grade. Therefore, the existing structure is legal non-conforming with regard to side setback and height limit. However, the proposed subterranean garage would meet current development standards with regard to height and setbacks, and would not change the legal non-conforming elements of the existing structure. In addition, per MCC 20.62.040.D, the proposed spiral staircase may extend into the rear setback not exceeding 6 feet.
- d) The project planner conducted a site inspection on August 24, 2012, to verify whether or not the project on the subject parcel conforms to the plans listed above.
- e) Cultural/Archaeological Resources: Inconsistent - see Finding No. 8.
- f) The project was referred to the Carmel Unincorporated Land Use Advisory Committee (LUAC) for review. Based on the LUAC Procedure guidelines adopted by the Monterey County Board of

Supervisors per Resolution No. 08-338, this application did warrant referral to the LUAC because it involves a Design Approval subject to review by the Zoning Administrator or Planning Commission. The LUAC, at a public meeting held on November 5, 2012, reviewed and voted to support the project with recommended changes. The LUAC recommended the County verify driveway sight distance and apply an applicable condition of approval. Archaeological reports are not forwarded to LUACs, so the LUAC was not able to review and consider the project's potential impacts to cultural resources.

- g) 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 PLN120519.

3. **FINDING:** **SITE SUITABILITY** – The site is not suitable for the use proposed.

EVIDENCE:

- a) The project has been reviewed for site suitability by the following departments and agencies: RMA - Planning, Cypress Fire Protection District, RMA - Public Works, Environmental Health Bureau, and Water Resources Agency. There has been no indication from the Cypress Fire Protection District, RMA - Public Works, Environmental Health Bureau, and Water Resources Agency that the site is not suitable for the proposed development. However, RMA – Planning identified potential suitability issues related to pre-historic cultural resources.
- b) Staff identified potential significant impacts to archaeological/cultural resources. The following reports have been prepared:
 - Archaeological Mitigation Plan (LIB120384) prepared by Archaeological Consulting, Salinas, California, September 12, 2012.
 - Archaeological Evaluation (LIB130007) prepared by the Gavilan Foundation, Soquel, California, May 1979.
 - Archaeological Letter (LIB130334) prepared by Archaeological Consulting, Salinas, California, September 11, 2013.
 - Overview of Archaeological Investigations and Summary of Findings for CA-MNT-17 (LIB130343) prepared by Archaeological Consulting, Salinas, California, February 24, 2012.The above-mentioned technical reports by outside consultants indicated that there are environmental/resource constraints that would indicate that the site is not suitable for the use proposed. County staff has independently reviewed these reports and concurs with the majority of conclusions regarding the significance of identified cultural resources.
- c) Staff conducted a site inspection on August 24, 2012, to verify whether or not the site is suitable for this use.
- d) 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 PLN120519.

4. **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:**
- a) The project was reviewed by RMA - Planning, Cypress Fire Protection District, RMA - Public Works, Environmental Health Bureau, and Water Resources Agency. The respective agencies recommended conditions, where appropriate, to ensure that the project would not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood.
 - b) Necessary public facilities are available. The existing residence has a public water connection (Cal-Am) and a public sewer connection (Carmel Area Wastewater District). The residence will continue to use these same connections. The Environmental Health Bureau reviewed the project application, and did not require any conditions.
 - c) Staff conducted a site inspection on August 24, 2012, to verify whether or not the site is suitable for this use.
 - d) 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 PLN120519.

5. **FINDING:** **VIOLATIONS** - The subject property is not in compliance with all rules and regulations pertaining to zoning uses and/or other applicable provisions of the County's zoning ordinance. Violations exist on the property.

- EVIDENCE:**
- a) Staff reviewed Monterey County RMA - Planning Department and Building Services Department records and is aware of a violation existing on subject property [Code Enforcement (CE) File No. 12CE00009].
 - b) Staff conducted a site inspection on August 24, 2012, and researched County records to assess if any violation exists on the subject property.
 - c) The project, as proposed, would correct an existing violation involving the un-permitted conversion of a 210 square foot attached garage to habitable living space (CE File No. 12CE00009). As proposed, the project would bring the subject property into compliance with applicable site development regulations and would remove the existing violation. However, project implementation would cause direct and significant impacts to known pre-historic cultural resources.
 - d) To avoid impacts to these resources, the Applicant shall either restore the former driveway and garage, or restore the former driveway and construct a carport in the southeast area of the parcel. Implementation of either option would bring the subject property into compliance with applicable site development regulations, remove the existing violation, and avoid impacts to a sensitive archaeological site.
 - e) Zoning violation abatement costs have been paid for the proposed discretionary permit. Additional fees would be required for a ministerial-level construction permit.
 - f) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed

development are found in Project File PLN120519.

6. **FINDING:** **CEQA (Exempt):** - The project is statutorily exempt from environmental review.
- EVIDENCE:**
- a) California Environmental Quality Act (CEQA) Guidelines Section 15270(a) statutorily exempts projects which a public agency rejects or disapproves.
 - b) The project, as proposed, is not consistent with applicable policies of the Carmel Area Land Use Plan regarding protection of cultural resources; therefore, the County has denied the project.
 - c) Potential adverse environmental effects were identified during staff review of the development application during a site visit on August 24, 2012.
 - d) 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 PLN120519.
7. **FINDING:** **PUBLIC ACCESS** – The project is in conformance with the public access and recreation policies of the Coastal Act (specifically Chapter 3 of the Coastal Act of 1976, commencing with Section 30200 of the Public Resources Code) and Local Coastal Program, and does not interfere with any form of historic public use or trust rights.
- EVIDENCE:**
- a) No access is required as part of the project as no substantial adverse impact on access, either individually or cumulatively, as described in Section 20.146.130 of the Monterey County Coastal Implementation Plan can be demonstrated. Denial of the proposed project will not result in an adverse impact on public access.
 - b) The subject property is not described as an area where the Local Coastal Program requires public access (Figure 3, Public Access, in 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) The project planner conducted a site inspection on August 24, 2012.
 - e) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN120519.
8. **FINDING:** **CULTURAL/ARCHAEOLOGICAL RESOURCES** – The subject project does not minimize or avoid impacts to cultural/archaeological resources in accordance with the applicable goals and policies of the Carmel Area Land Use Plan and the associated Coastal Implementation Plan.
- EVIDENCE:**
- a) The project includes application for development within an area of known cultural/archaeological resources. In accordance with the applicable policies of the Carmel Area Land Use Plan and the Monterey County Zoning Ordinance (Title 20), a Coastal Development Permit is required and the criteria to grant said permit have not been met.
 - b) The project site is in an area identified in County records as having a high archaeological sensitivity, and is within the area of a larger cultural site (CA-MNT-17) identified in the archaeological reports prepared for

this project. The Applicant submitted four archaeological reports either prepared for the subject parcel/project or the larger cultural site (LIB120384, LIB130007, LIB130334, and LIB130343). These technical reports found, concluded, or recommended the following:

- CA-MNT-17 is “one of the most significant cultural resources on the central coast” and a “multi-component site spanning almost all of the prehistoric occupation of the Monterey Peninsula”;
 - the project, as proposed, would have a substantial impact on a portion of CA-MNT-17, and would result in the complete removal of archaeological material from a width of 12 to 20 feet on the southern side of the parcel; and
 - no additional excavation be allowed on the parcel.
- c) To clarify the recommendation in the 1979 report that no additional excavation be allowed on the parcel, Archaeological Consulting prepared a follow-up Archaeological Letter (LIB130334). According to the consultant, the recommendation against excavation was not intended as a permanent proscription against future projects involving excavation. The recommendation was based on the understanding of CA-MNT-17 in 1979, and that other projects in the area since 1979 have contributed additional information about CA-MNT-17. The letter further stated the cultural resources on the Bearman parcel have the potential to provide information important to ongoing research.
- d) The Carmel Area Land Use Plan (LUP), Section 2.8, describes the archaeological deposits of the Carmel area as a highly significant and sensitive resource, and LUP Key Policy 2.8.2 directs the incorporation of all site planning and design features necessary to minimize or avoid impacts to archaeological resources. LUP Policies 2.8.3.1, 2.8.3.2, 2.8.3.3, and 2.8.3.4 direct the County to encourage the timely identification and evaluation of resources in order that these resources be given consideration during the conceptual design phase of land-use planning or project development, that surveys/reports prepared for projects should describe the sensitivity of the site and recommend appropriate levels of development and mitigation consistent with the site's need for protection, that all available measures shall be explored to avoid development on sensitive prehistoric or archaeological sites, and that when a project is proposed on a parcel with a known archaeological site, project design shall be required which avoids or substantially minimizes impacts to the site, and that emphasis should be placed on preserving the entire site rather than on excavation of the resource.
- e) The project, as proposed, is not consistent with the LUP Key Policy 2.8.2 and other applicable policies that direct preservation of archaeological resources. The project would not minimize or avoid impacts to a known resource. Rather, the project would result in direct and significant impacts to a remaining intact cultural resource of Carmel Point and CA-MNT-17, a cultural site of state-wide significance.
- f) The technical evaluations of the cultural resources on the site and in the larger area consistently identified the site, area, and resources as significant. Mitigation measures proposed in LIB120384 are inconsistent with the applicable LUP policies that direct minimization or avoidance. The project would not avoid or substantially minimize direct

and significant impacts, and would result in excavation rather than preservation of the resource. Finally, the Applicant has other means available to clear the outstanding code enforcement issue. The Applicant could restore the former driveway and garage, or restore the former driveway and construct a carport in the southeast area of the parcel. Either of these options would avoid direct and significant impacts to sensitive cultural resources.

- g) The project planner conducted a site inspection on August 24, 2012, to verify potential project impacts to cultural/archaeological resources.
- h) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN120519.

9. **FINDING:** **APPEALABILITY** - The decision on this project may be appealed to the Board of Supervisors and not the California Coastal Commission.
- EVIDENCE:**
- a) Board of Supervisors: Per Section 20.86.030 of the Monterey County Zoning Ordinance (Title 20), an appeal may be made to the Board of Supervisors by any public agency or person aggrieved by a decision of an Appropriate Authority other than the Board of Supervisors.
 - b) California Coastal Commission: Per Section 20.86.080.A of the Monterey County Zoning Ordinance (Title 20), the project is not subject to appeal by/to the California Coastal Commission because it does not involve an approved project or a project involving development which constitutes a major public works project or a major energy facility.

DECISION

NOW, THEREFORE, based on the above findings and evidence, the Planning Commission does hereby:

1. Find the project statutorily exempt per California Environmental Quality Act (CEQA) Guidelines Section 15270(a); and
2. Deny an After-the-fact Combined Development Permit (to clear 12CE00009) consisting of a Coastal Administrative Permit and Design Approval to allow the conversion of an existing 210 square foot attached garage to habitable living space, and the construction of a 557 square foot subterranean garage, including attached storage room, mechanical room, stairwell, railing, and grading (approximately 225 cubic yards of cut); and a Coastal Development Permit to allow development with positive archaeological reports.

PASSED AND ADOPTED this 8th day of January, 2014 upon motion of _____, seconded by _____, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Mike Novo, Secretary, Planning Commission

COPY OF THIS DECISION MAILED TO APPLICANT ON _____.

THIS APPLICATION IS APPEALABLE TO THE BOARD OF SUPERVISORS.

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE CLERK TO THE BOARD ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE _____.

THIS PROJECT IS LOCATED IN THE COASTAL ZONE AND IS NOT APPEALABLE TO THE COASTAL COMMISSION. FOR FURTHER INFORMATION, CONTACT THE COASTAL COMMISSION AT (831) 427-4863 OR AT 725 FRONT STREET, SUITE 300, SANTA CRUZ, CA.

This decision, if this is the final administrative decision, is subject to judicial review pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6. Any Petition for Writ of Mandate must be filed with the Court no later than the 90th day following the date on which this decision becomes final.

NOTES

1. No new application for a coastal development permit or any other approval substantially the same as the one or part denied shall be considered for a period of 1 year following such denial.
2. Per Board of Supervisors Resolution No. 13 – 143, Amended Articles of the Monterey County Fee Resolution, an appeal fee shall be required for coastal development permits not appealable to the Coastal Commission.

PLANNING INFO.

- PROPERTY OWNER:
GARTH BEARMAN
C/A INTERNATIONAL DESIGN GROUP
5760 S. PACIFIC AVENUE
PACIFIC GROVE, CA 93950
PH. (831)-646-1251
- PROJECT ADDRESS:
26363 SCENIC ROAD,
CARMEL, CA
- PROJECT SCOPE:
DESIGN A NEW SUBTERRANEAN GAS
GARAGE STORAGE AND MECHANICAL ROOMS
WITH STAIRWELL UP TO REAR YARD
- A.P.N.: 009-442-017
- ZONE: MDR/2-0(18)(C2)
- MAX BLDG. HT: EXISTING TO REMAIN (18'-0" MAX)
- GRADING: 200 CY CUT (FOUNDATION)
25 CY CUT (DRAINWAY)
0 CY FILL
- TREE REMOVAL: NONE - EXISTING TO REMAIN
- TOPOGRAPHY: GENTLY SLOPING
- PROJECT COMPLIANCE:
2010 CBC, CMC, OFC, OFC, CEC, CALIFORNIA
ENERGY CODE, CALIFORNIA
BUILDING CODE & CALIFORNIA ENERGY CODE

LOT SIZE: 4,650 SF (1 AC.)

LOT COVERAGE CALCULATIONS:

RESIDENCE	EXISTING	PROPOSED	PROPOSED	PROPOSED
GARAGE	ADDITION	REMOVAL	TOTAL	TOTAL
	210.0	210.0	0	1,500.0
	1,500.0	210.0	(210.0)	1,500.0
TOTAL				

LOT COVERAGE ALLOWED: 1,627.5 SF (35%)
LOT COVERAGE PROPOSED: 1,500.0 SF (32.2%)

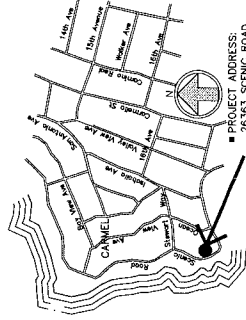
F.A.R. CALCULATIONS:

MAIN BUILDING	EXISTING	PROPOSED	PROPOSED	PROPOSED
UPPER FLOOR	ADDITION	REMOVAL	TOTAL	TOTAL
	390.0	210.0	0	1,900.0
	1,500.0	210.0	(210.0)	1,500.0
TOTAL	2,090.0	720.0	(210.0)	2,490.0

F.A.R. ALLOWED: 2,092.5 SF (45%)
F.A.R. PROPOSED: 2,090.0 SF (44.3%)

SQUARE FOOTAGE NOT
COUNTED TOWARD FAR
DUE TO SUBTERRANEAN
CONDITION.

VICINITY MAP



PROJECT ADDRESS:
26363 SCENIC ROAD
CARMEL, CA, 93923

JUN A. SILLANO, AIA



JOHN E. MATTHEWS
ARCHITECTURE & PLANNING & DESIGN GROUP
751 LUTHER AVENUE
PACIFIC GROVE, CA
93950

PH: (831) 646-1251
FAX: (831) 646-1252
EMAIL: john@idg.com
WEB: www.idg.com

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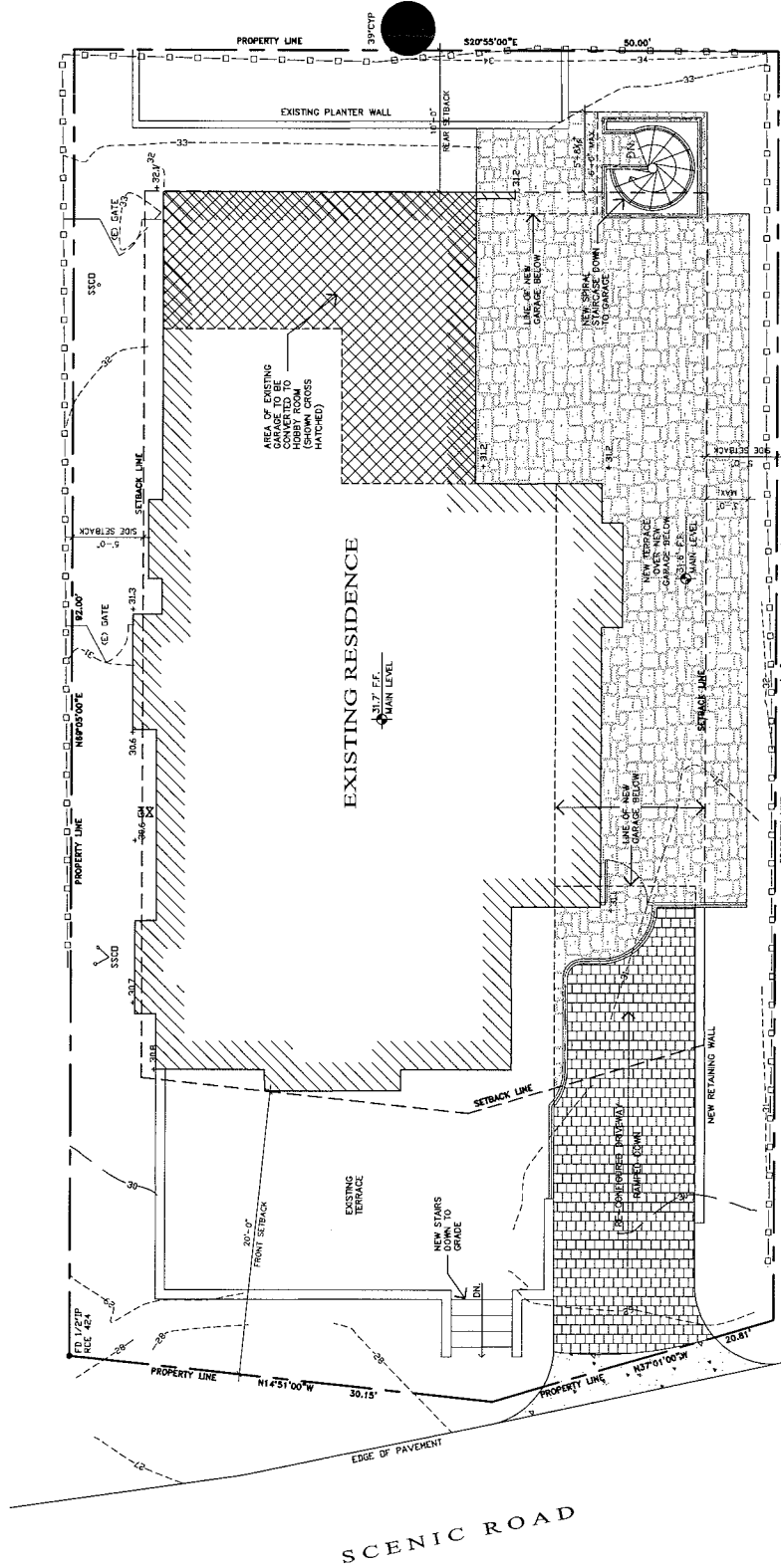
STAMPS:

PROJECT CLIENT:
GARAGE
GARTH
BEARMAN
PROJECT ADDRESS:
26363
CARMEL, CA.
APH: 009-442-017

DATE: AUGUST 03, 2012
PRE - APPLICATION

REVISIONS:
A OCTOBER 10, 2012
PLANNING APPLICATION
B
C
D
E

SITE
PLAN
SHEET NO.
A1.0



MAIN LEVEL PLAN

1/4" = 1'-0"



JUN A. SILLANO, AIA



JOHN E. MATTHEWS

7511 UNIVERSITY AVE
PACIFIC GROVE, CA
95026

PH: (831) 848-1281
FAX: (831) 848-1282
EMAIL: jmatthews@idg.com
WWW: www.idg.com

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STAMPS:

PROJECT CLIENT:
SUTHERLAND
ERIN

GARTH
BEARMAN

PROJECT ADDRESS:

26363
CARMEL, CA.

APN: 009-442-017

DATE: AUGUST 03, 2012

PREP: APPLICATION

REVISIONS:

△ OCTOBER 10, 2012

PLANNING APPLICATION

△

△

△

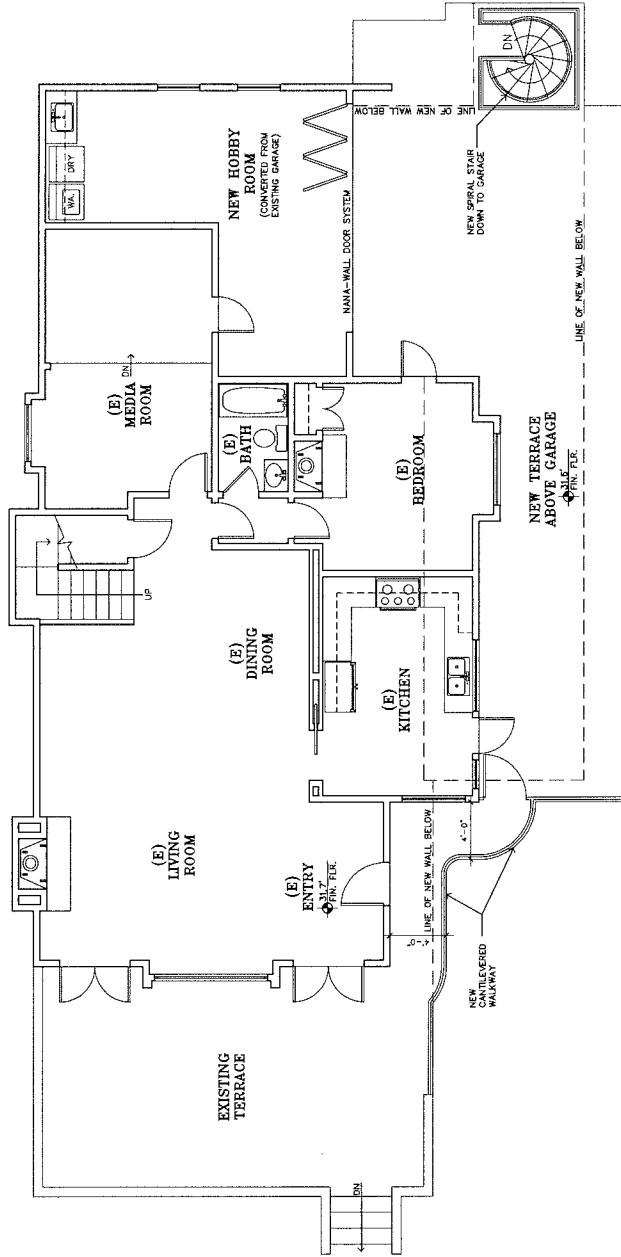
△

△

MAIN LEVEL
PLAN

SHEET NO.

A2.0



WALL LEGEND

- 2X EXISTING WALL TO REMAIN
- 2X6 EXTERIOR STUD FRAMED WALL
- 2X4 INTERIOR STUD FRAMED WALL, U.O.N.
- STONE VENEER



MAIN LEVEL PLAN

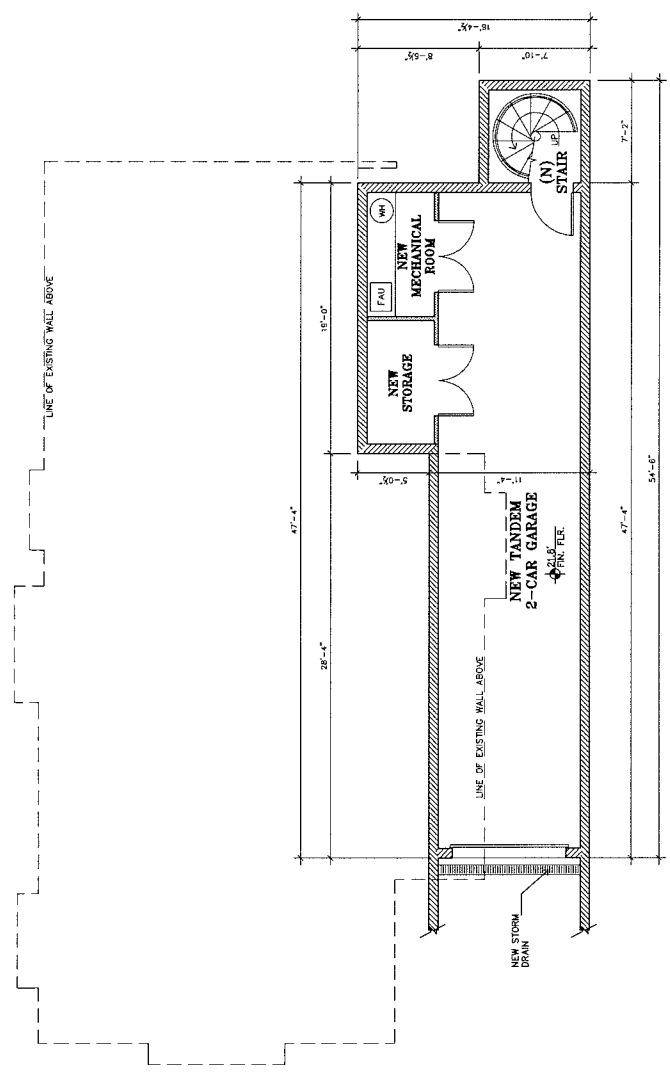
1/8"=1'-0"

PROJECT/CLIENT:
 REMODELED SUBTERRANEAN
 GARAGE
**GARTH
 BEARMAN**
 PROJECT ADDRESS:
**26363
 CARMEL, CA.**
 APN: 099-442-017

DATE: AUGUST 03, 2012
 PRE-APPLICATION

REVISIONS:
 Δ DECEMBER 09, 2012
 PLANNING APPLICATION
 Δ
 Δ
 Δ
 Δ

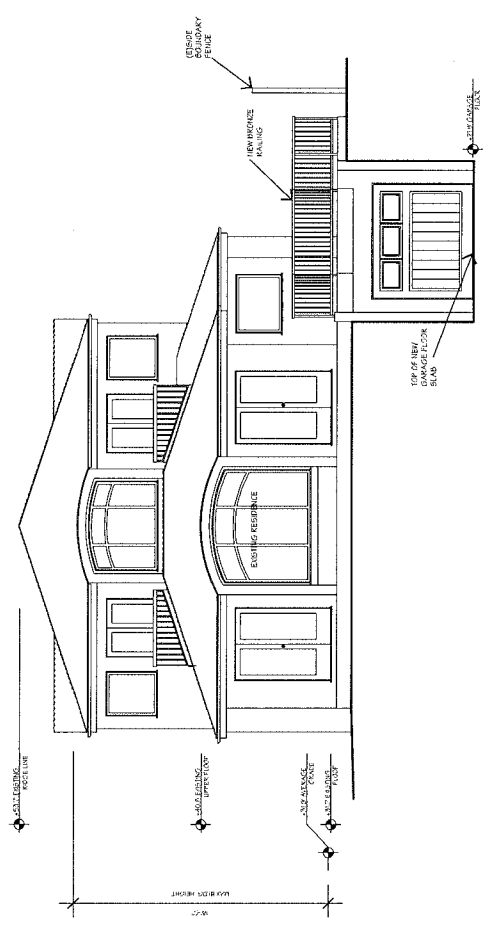
**LOWER LEVEL
 PLAN**
 SHEET NO.
A3.0



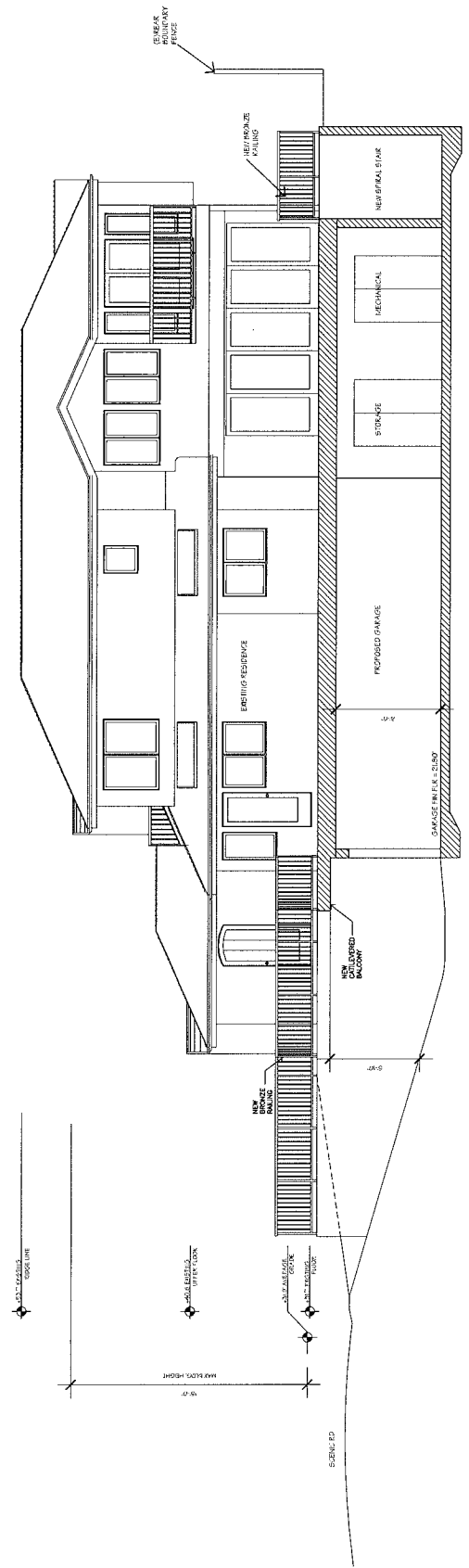
WALL LEGEND
 2X EXISTING WALL TO REMAIN
 2X6 EXTERIOR STUD FRAMED WALL
 2X4 INTERIOR STUD FRAMED WALL U.O.N.
 STONE VENEER



LOWER LEVEL PLAN
 1/4" = 1'-0"



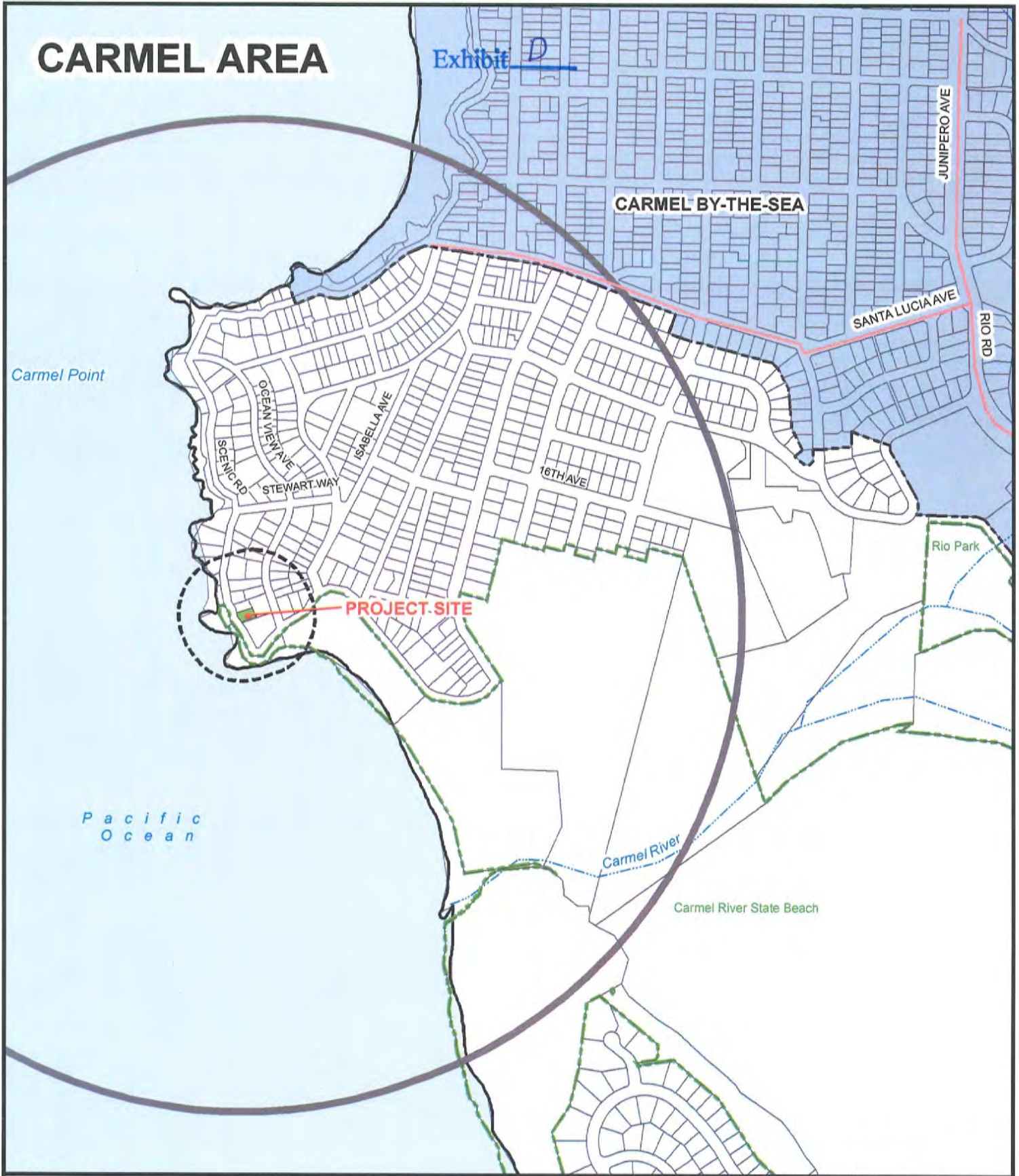
EXISTING WEST ELEVATION
 1/4"=1'-0"



EXISTING SOUTH ELEVATION / SECTION
 1/4"=1'-0"

CARMEL AREA

Exhibit D



APPLICANT: BEARMAN

APN:009-442-017-000

FILE # PLN120519

Water 2500' Limit 300' Limit City Limits

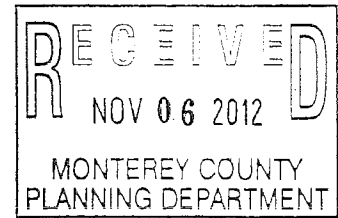


PLANNER: SIDOR

Exhibit D

Exhibit E
Action by Land Use Advisory Committee
Project Referral Sheet

Monterey County Planning Department
 168 W Alisal St 2nd Floor
 Salinas CA 93901
 (831) 755-5025



Advisory Committee: **Carmel Unincorporated/Highlands**

Please submit your recommendations for this application by: **November 5, 2012**

Project Title: BEARMAN GARTH & DIANA TRS

File Number: PLN120519

File Type: ZA

Planner: SIDOR

Location: 26363 SCENIC RD CARMEL

Project Description:

After-the-fact Combined Development Permit (to clear 12CE00009) consisting of: 1) a Coastal Administrative Permit and Design Approval to allow the conversion of an existing 210 square foot attached garage to habitable living space, and the construction of a 557 square foot subterranean garage, including attached storage room, mechanical room, stairwell, and railing; 2) a Coastal Development Permit to allow development with positive archaeological reports; and grading (approximately 225 cubic yards of cut and 0 cubic yards of fill). The property is located at 26363 Scenic Road, Carmel (Assessor's Parcel Number 009-442-017-000), Carmel Area Land Use Plan, Coastal Zone.

Was the Owner/Applicant/Representative present at meeting? Yes No

JUN SILIANO

Was a County Staff/Representative present at meeting? YES. - CRAIG SPENCER. (Name)

PUBLIC COMMENT: N/A

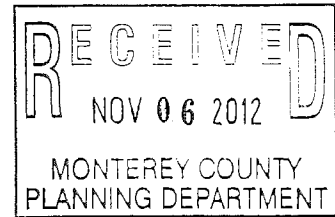
Name	Site Neighbor?		Issues / Concerns (suggested changes)
	YES	NO	

LUAC AREAS OF CONCERN

Concerns / Issues (e.g. site layout, neighborhood compatibility; visual impact, etc)	Policy/Ordinance Reference (If Known)	Suggested Changes - to address concerns (e.g. relocate; reduce height; move road access, etc)
SLOPE OF DRIVEWAY; REVIEWED BY COUNTY. PW. LINE OF SIGHT? E.A.		CONDITION APPROVAL THAT DRIVEWAY ACTUALLY WORKS.
GEOLOGY: APPLICANT STATED SOILS REPORT SAYS SANDY.		⊘
EXT. LIGHTING		⊘

ADDITIONAL LUAC COMMENTS

None



RECOMMENDATION:

Motion by: PETER DAVIS (LUAC Member's Name)

Second by: JACK MEHEEN (LUAC Member's Name)

Support Project as proposed

Recommend Changes (as noted above)

Continue the Item

Reason for Continuance: _____

Continued to what date: _____

AYES: PETER D., JACK M., BARBARA R., DON W., ADAM J. (5)

NOES: ⊘

ABSENT: MICHAEL HIRST (1)

ABSTAIN: ⊘

Excerpt from the Carmel Area Land Use Plan:

2.8 ARCHAEOLOGICAL RESOURCES

2.8.1 Overview

The Carmel area experienced intensive prehistoric use. The aboriginal peoples of this area were called Costanoans, so named by the Spanish because of their coastal habitat. It appears that these people established few permanent coastal villages. Rather, they probably set up temporary villages that were shifted seasonally according to food availability.

The Carmel area shoreline from Carmel Point to Point Lobos Reserve contains one of the densest remaining concentrations of shellfish gathering activities in central California. Point Lobos Reserve supports one site considered to be a permanent village. These archaeological deposits have been identified as a highly significant and sensitive resource.

2.8.2 Key Policy

Carmel is archaeological resources, including those areas considered to be archaeologically sensitive but not yet surveyed and mapped, shall be maintained and protected for their scientific and cultural heritage values. New land uses, both public and private, should be considered compatible with this objective only where they incorporate all site planning and design features necessary to minimize or avoid impacts to archaeological resources.

2.8.3 General Policies

1. Monterey County shall encourage the timely identification and evaluation of archaeological, historical and paleontological resources in order that these resources be given consideration during the conceptual design phase of land-use planning or project development.
2. Whenever development is to occur in the coastal zone, the Archaeological Site Survey Office or other appropriate authority shall be contacted to determine whether the property has received an archaeological survey. If not and the parcel are in an area of high archaeological sensitivity, such a survey shall be conducted to determine if an archaeological site exists. The Archaeological Survey should describe the sensitivity of the site and recommend appropriate levels of development and mitigation consistent with the site's need for protection.
3. All available measures, including purchase of archaeological easements, dedication to the County, tax relief, purchase of development rights, etc., shall be explored to avoid development on sensitive prehistoric or archaeological sites.
4. When developments are proposed f or parcels where archaeological or other cultural sites are located, project design shall be required which avoids or substantially minimizes impacts to such cultural sites. To this end, emphasis should be placed on preserving the entire site rather than on excavation of the resource, particularly where the site has potential religious significance.

5. Archaeological surveys shall be required for all new subdivisions and for all other development within close proximity of known sites. Such surveys shall be performed by qualified individuals.

2.8.4 *Specific Policies*

5. No development proposals in archaeologically sensitive areas shall be categorically exempt from environmental review.
6. When other site planning constraints do not permit avoidance of construction on archaeological or other types of a cultural sites, adequate preservation measures shall be required. Mitigation shall be designed in accord with guidelines of the State Office of Historic Preservation and the State of California Native American Heritage Commission.
7. Off-road vehicle use unauthorized collecting of artifacts, and other activities which could destroy or damage archaeological or cultural sites shall be prohibited.
8. Public access to or over known archaeological or paleontological sites should be limited, and concentrated in areas where supervision and interpretive facilities are available.