

CALIFORNIA COASTAL COMMISSION

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W11**November 2, 2000 (for November 15, 2000 Hearing)****To:** Coastal Commissioners and Interested Persons**From:** Tami Grove, Central Coast Deputy Director**Subject: Coastal Development Review and LCP Completion/Protection of Community Character in the City of Carmel-by-the-Sea****Summary**

Recent development trends have raised concerns about the preservation of the unique community character in the City of Carmel-by-the-Sea. Although the City does not have a certified Local Coastal Program (LCP), most development in Carmel is excluded from Commission review by virtue of a categorical exclusion adopted in 1977. Residential demolitions, though, are not excluded from coastal development permit requirements. Such demolitions, and the subsequent replacement homes, have the potential to impact Carmel's community character, particularly if a demolition is proposed for a structure that has special historical significance, architectural style and scale, or if the replacement structure itself does not fit with Carmel's unique character. As of the date of this staff report, there are approximately 17 projects involving residential demolitions pending in the Commission's coastal development review process; the majority of these applications are already (or are about to be) filed and require timely Commission review. These projects have been postponed until the December hearing, to allow for Commission consideration of the question of community character preservation prior to their disposition—and to provide direction to Commission staff accordingly.

Until recently, the Commission has been processing residential demolitions as administrative permit items, or even with coastal development permit waivers, without a public hearing *per se*. The basis for this review was the staff conclusion that residential demolition projects were not individually or cumulatively degrading Carmel's character, in part because of the rigorous local review of such projects, and because no significant character concerns were raised in each specific case evaluated. Where concerns have been raised, particularly about the historical character of buildings, the Commission has issued administrative or regular coastal development permits with appropriate conditions to preserve historical or characteristic elements of such structures.

Carmel's unique character is defined by multiple factors, including the tree canopy and informal streetscape, the scale and style of residential buildings (including the "Carmel cottage"), historical character, and so forth. However, without specific elaboration of this character through a certified Local Coastal Program, it is difficult to conclude whether the Coastal Act requirement to protect community character is being met. The City is currently working to complete its LCP for submittal to the Commission – the target for the Land Use Plan is April 2001, with the complete LCP submitted in December 2001.

Until then, though, for each application approved, the Commission must make a specific finding that such approval would not prejudice the completion of a Local Coastal Program that conforms with Coastal Act



policies. Thus, the Commission must continue to process demolition permits in such a way as to not significantly impact Carmel's special community character.

As discussed below, there are several alternatives for doing so. Because of the rigor of the City's local review process, and assuming no significant change in current demolition trends, it may be reasonable to continue to exercise best professional Commission staff judgment of individual cases approved by the City, but at a higher level of public scrutiny (i.e., public hearings on the Commission's consent calendar for most cases, on the regular calendar if substantial issues of coastal resource protection are evident). This approach may be adequate for addressing the mandate of Coastal Act Section 30253 to protect community character, at least for the limited time until the LCP is completed.

Another approach would entail a much more rigorous consideration of Coastal Act Section 30604(a), the section that requires that coastal development approvals not prejudice the preparation of an LCP. Such approach would entail Staff recommendations for denial on all projects that would significantly change such aspects of Carmel's character as building scale and style, the native tree canopy, or potentially historical structures. While the recommendations would still depend on the facts of each case, the denial recommendations would be accompanied by recommended findings that the changes proposed by the applicant would – at least on a cumulative basis – prejudice the completion of an LCP that meets the community character protection goal of Coastal Act Section 30253.

Overview of LCP Status in Carmel

The City of Carmel-by-the-Sea is located entirely within the coastal zone but does not yet have a certified LCP. The Commission approved a Land Use Plan (LUP) and an Implementation Plan (IP) at different times in the early 1980s, but the Commission's suggested modifications were not accepted by the City. Thus, both the LUP and the IP remain uncertified. Ordinarily, this would mean that the Commission would assume the role for reviewing all development within the City for compliance with the Coastal Act. However, in 1977 the Commission authorized a broad-ranging categorical exclusion within the City of Carmel (Categorical Exclusion E-77-13) that excludes from coastal permitting requirements most types of development not located along the beach and beach frontage of the City.

The City's categorical exclusion was based primarily upon the belief that: (1) there was limited potential for additional development within City limits that would impact coastal resources, given that there were (and are) scarce few vacant parcels; and (2) the City's rigorous review of development proposals would ensure that any so excluded development would be protective of coastal resources in Carmel. Demolitions, though, which tend to raise more concern about the preservation of community character, were not excluded under the order.

The City is currently working on a new LCP submittal (both LUP and IP), funded in part by an LCP completion grant recently awarded by the Commission. The City has made progress on the LCP submittal and—as noted above—has indicated the Land Use Plan is expected to be submitted for Commission review in April 2001, with the Implementation Plan submittal expected by December 2001. However, until the Commission has certified the entire LCP submittal, the Commission retains coastal permitting authority over non-excluded development within the City.



Coastal Resources in the City of Carmel

The City of Carmel-by-the-Sea lies entirely within the coastal zone, and is home to a rich variety of coastal resources protected by the Coastal Act. These include the spectacular public beach and recreational amenities along the City's frontage, the urban forest that uniquely identifies Carmel as the "Village in the Forest," the substantial riparian and habitat areas (such as Mission Trails Nature Preserve and Pescadero Canyon), and the unique community and visual character of Carmel as exhibited by the style, scale, and rich history of its residential, commercial, and civic architecture. Taken as a whole, these resources combine to form the special character of Carmel – a significant coastal resource worthy of protection in its own right.

Applicable Coastal Act Community Character Policies

The Coastal Act requires that the special character of communities such as Carmel be protected. Sections 30253(5) and 30251 of the Act state:

***Section 30253(5).** New development shall where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.*

***Section 30251.** The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality on visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.*

It is often stated that Carmel, along with such other special coastal communities as the town of Mendocino, is one of the special communities for which Coastal Act Section 30253(5) was written. Indeed, Carmel has been, and remains today, a spectacular coastal resource known the world over as an outstanding visitor destination as much for the character of its storied architecture, as for its renowned shopping area and white sand beach. In part, Carmel is made special by the character of development within City limits.

In particular, as a primarily residential community, the web of residential development in Carmel plays a key role in defining the special character of the City. Carmel is distinctly recognized for its many small, well-crafted cottages. These modest, sometimes quaint residences are associated with the era in which Carmel was known for its resident artists and writers, and functioned as a retreat for university professors and other notables. These little homes were nestled into the native Monterey pine/Coast live oak forest, on a grid of streets that was executed in a way that yielded to trees more than to engineering expediency. This was the context for Carmel's community life and its built character.



Development in Carmel under the Coastal Act – A Growing Concern

Over time, Carmel has been changing as its older housing and commercial stock makes way for new, usually larger in size and scale, developments. Based on the Commission's permit tracking database, there have been almost 600 development applications reviewed by the Commission since 1973 in the Carmel area.¹ The overwhelming majority of these involved residential development of one sort or another ranging from complete demolition and rebuild to small additions to existing structures. Of these 600 or so applications, roughly 5 were denied, 25 withdrawn, and about 20 are currently pending; the rest were approved. Unfortunately, due to potential data entry issues with the older data in the Commission's database, this information over the last quarter century should be viewed as background contextual information to the issue only. In addition, due in part to the City's categorical exclusion, it is not clear how many projects involving substantial remodel (but not complete demolition) have taken place since 1977 that would not be present in the Commission's database. In any case, although the City was not able to determine numbers since 1973 with any degree of certainty, the City indicates that it processes far more remodels than demolitions.

In contrast, the Commission's database for the period since 1990 is fairly robust. Although there may be a few projects that weren't entered into the system, the database is a fairly accurate representation of coastal permit applications in Carmel since 1990. As such, the period since 1990 can provide a more meaningful sample for understanding the change issue in Carmel.

Since 1990, there have been 177 development proposals in Carmel. Of these, 145 projects (or over 80%) involve some form of demolition, rebuilding and/or substantial alteration of residential housing stock in Carmel. This comes out to roughly 13 such residentially related projects per year since 1990; nearly all of these have been approved. Other than the three year period from 1992 – 1994 when a total of 13 applications were received, the number of development proposals in Carmel has been fairly constant until 2000. However, in the year 2000 alone, the Commission has received 44 applications so far to date; a full quarter of all applications received by the Commission for development in Carmel in the last decade. Of these 44 applications received in the year 2000, 33 of these involve some form of demolition, rebuilding and/or substantial alteration of residential structures; 16 of the 33 have already been approved this year and 17 remain pending. More applications are arriving as this is written. Clearly the trend for demolition/rebuild/substantial remodel has been magnified in current years as demand for Carmel properties has outstripped the limited supply represented by the approximately 3,200 parcels within the City limits.

Although demolition of existing residential buildings in Carmel is not a recent phenomenon, a series of demolitions in the recent past, and a larger than usual influx of new applications, have engendered controversy over whether or not an existing house represents the historical, architectural, and environmental character of Carmel; and if a replacement house detracts from Carmel's character because of a modern design, tree removal, proposed house size, or other characteristics. City planners now

¹ There is some uncertainty with the data collection due to incomplete data collection and entry for earlier years of Commission permitting. Notwithstanding, there is a clear trend of residential demolition and redevelopment in the City of Carmel.



estimate that as much as one-third of the existing housing stock is comprised of “antiquated” structures, although not all older homes contribute anything in particular to the community’s “special character.” The demolition phenomenon impacts both those structures worth saving, and those that are not. Nonetheless, hundreds of worthy cottages remain. Some have historical credentials, and some – because of their architectural character and context – are contributing characters on the stage.

It is not clear to what extent the history of such demolition/rebuild/remodel has altered the special community character aesthetic of Carmel. A comprehensive cumulative impact assessment of such a trend has not been conducted to date, which would require considerable effort to review local development permitting files and actions. There is little doubt that structures within the City have generally been getting larger. However, up to now, and based on the City’s rigorous design review process as well as Commission staff’s best professional judgement, Commission staff has concluded that the City’s character would not be adversely affected (individually or cumulatively) by the demolitions proposed to date. As such, Commission staff has generally recommended approval (either through formal recommendations to the Commission, administrative permits, or through a determination that a waiver of coastal permit requirements was in order) for such proposed demolitions over the years.

At the Commission’s request, and in tandem with research by the City, Commission staff has looked anew at the issue of demolition/rebuilds in Carmel. Based on this analysis, staff cannot absolutely ensure that continuation of this interpretation will protect the special character of Carmel as required by the Coastal Act. Part of the reason for this is that although the elements that define the City’s character can be generally described (e.g. “Village in the forest”, architecture, beach area, etc.), it has not been determined how these elements interact to make Carmel special. In other words, Carmel’s community character has not yet been defined. The reason for this is because such a definition, as well as a means to adequately protect such character consistent with the Act, is best determined through a community and Commission review process culminating in a certified LCP. As previously described, although such a process is ongoing in Carmel, the LCP has not yet been completed.

Alternatives for Evaluation of Carmel Coastal Development until LCP Completion

As discussed, the City of Carmel does not have a certified LCP. Nonetheless, most coastal development is excluded from permit review by the 1977 categorical exclusion. There is little doubt that the best alternative for addressing the Carmel community character concern is the completion of the LCP. The LCP planning process is the appropriate mechanism for defining and evaluating community character in Carmel. By community development of policies, standards, and development guidelines, and submission for Coastal Commission review, the policy goal of 30253 to protect community character can be resolved.

Staff also does not recommend that the categorical exclusion be removed or modified. Such an effort would take time and resources away from completion of the LCP, which should be given the highest priority in light of limited staff resources. In addition, the City has a well-developed local review process that to date has been understood to be protecting the coastal resources of concern in the excluded area. More important, areas of Carmel where development might impact significant resources, such as along the shoreline, are not excluded. Finally, to the extent that any issues might be raised by the continued implementation of the exclusion, time and effort should be allocated to these issues through the



development and completion of the LCP. (See Exhibit B for more detailed discussion of the categorical exclusion, provided by the City.)

In terms of the more specific issue of community character, the City is currently in the middle of a community planning process to determine, among other things, the basis for defining Carmel's community character and ways to protect and preserve this character consistent with the Coastal Act. There is no question that the demolition of structures in the City if continued indefinitely would significantly change the City of Carmel. However, because community character has not yet been clearly defined, the effect of such change on Carmel's character is unclear when evaluated against the policy objectives of the Coastal Act.

The Coastal Act provides guidance for such a situation. Section 30604(a) of the Coastal Act states

*Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with Chapter 3 (commencing with Section 30200) **and that the permitted development will not prejudice the ability of the local government to prepare a local coastal program that is in conformity with Chapter 3 (commencing with Section 30200).** A denial of a coastal development permit on grounds it would prejudice the ability of the local government to prepare a local coastal program that is in conformity with Chapter 3 (commencing with Section 30200) shall be accompanied by a specific finding which sets forth the basis for that conclusion. [emphasis added]*

Given this Coastal Act requirement, how should non-excluded coastal development be processed by the Commission until completion of the LCP? As already mentioned, the best way to protect community character in Carmel is for the City to complete, and the Commission to certify, an LCP for Carmel. In terms of the Coastal Act, this has been and remains the ultimate and best solution to addressing community character concerns in Carmel. With that in mind, Commission staff seeks guidance with respect to the several alternative approaches that could be implemented by Staff until such time as a LCP has been certified for the City of Carmel. :

Option 1: Continue on a Best Professional Judgement Basis Pending LCP Completion

Under this option, Commission staff would continue to bring forward recommendations on individual projects based on Staff's best professional judgement as to whether the proposed project: (1) would adversely, on an individual and/or cumulative basis, impact the community character of the City of Carmel; (2) would adversely impact any other applicable coastal resources; and (3) would prejudice the City's ability to prepare a LCP consistent with the Act. Based upon the facts of individual cases, staff would either recommend for approval or for denial. In terms of community character, staff would consider the variables described above (mass, scale, trees, history, architecture, etc.) in a way that relies heavily the City's own findings to arrive at a recommendation. This method is akin to the process that staff has been using up to and including the October 2000 hearing. An example of this process is shown in Exhibit C, a typical staff report involving demolition in Carmel from the September hearing (which was approved as an administrative permit). Under this option, Commission staff would schedule any Carmel demolition



applications for full public hearings, either on the regular or consent calendar as appropriate (i.e., there wouldn't be any waivers and/or administrative permits for the typical residential demolitions in Carmel).

Under this method in the past, Commission staff has generally recommended approval (either through formal recommendations to the Commission or through a waiver of coastal permit requirements) for the vast majority of proposed demolitions in Carmel over the years. Part of the reason for this has been the City's rigorous design review and forestry review processes. Together, these processes have for the most part resulted in replacement structures of a similar ilk to that which make up the basic fabric of the City. Staff would be relying in large measure on this existing City review process and ordinances to address community character concerns. Under this approach, Staff would expect that the majority of proposed projects in Carmel in the future would continue to be recommended for approval. In fact, of the 17 applications involving residential demolition currently pending at the Commission level, 11 have been reviewed to the level that would allow for Staff to formulate a preliminary recommendation; of this subset, 9 would be recommended for approval (as submitted) under this method.

Implicit in this approach is the hypothesis, based on staff's best professional judgement to date, that the cumulative adverse effect on community character has been and will continue to be insignificant. In the event the Commission receives more than the approximately 3 demolition applications per month that it has been averaging most recently, it is not clear that the insignificant cumulative adverse effect hypothesis will remain supportable. In fact, one might expect that if the Commission were to pursue such a policy, a spike in demolition proposals may be generated in response to anticipated future limitations on demolition proposals imposed by the e Commission and/or the City. However, it is as difficult to predict such an effect with any degree of certainty as it is to predict the outcome of the City's LCP planning process vis-à-vis community character. In any event, each proposal would be evaluated based upon the relative facts of the case and a decision rendered.

Option 2: The "No Significant Character Changes Until LCP Completion" Approach

Under this scenario, the Commission would strictly apply the "no prejudice" approach required by the Coastal Act by asking whether proposed development within Carmel would significantly change the status quo. The idea here is that if approved development does not unduly change what is present in Carmel now, then the as-yet-to-be-defined community character of Carmel would not unduly change either. In this way, any decision that the Commission would take would not lead to changed character and thus would not be expected to prejudice City efforts to come to grips with defining – and appropriately protecting – this character.

In order to objectively identify those proposals that would *not* result in significant change, a set of common sense, narrowly defined change criteria would be applied to applications received by the Commission. These change criteria would be based on a set of factors (including scale, trees, history, architectural style) known to contribute to the City's special community character as follows:

Would the proposed project:

- Result in a 10% or greater increase in the gross square footage, height, or footprint (site coverage) from that which is currently present?



- Result in the removal of any significant (i.e., 6" or greater in diameter) native pine, willow, cypress, or oak trees? Or, even if no trees are removed, involve sufficient limb removal to be a significant loss of forest canopy?
- Modify a structure deemed to be a historic resource by the City, the State Office of Historic Preservation, or other public agency?
- Involve a structure greater than 50 years old for which the City has not performed a historic resource assessment?
- Not identify a City-approved replacement structure (i.e., speculative demolitions)?

If the answer to any of the above change criteria is yes, the Staff recommendation would be for denial of the proposed project on the grounds that: community character has not yet been defined through the City LCP process; the project would change the character of the City to some degree; because community character remains undefined, the effect of such a project on Carmel's character is unclear; that allowing such a project in the face of such uncertainty over its impact on such a special coastal resource would be imprudent, particularly since the City is well underway in the process of preparing their formal LCP submittal to the Commission; and, because the Commission cannot guarantee that such a project would protect the heretofore undefined community character resource, allowing such a project at this point would prejudice the City's LCP planning process; accordingly, the finding required by Coastal Act Policy 30604(a) can not be made and the application must be denied.

Such a denial would be without prejudice to the proposed project inasmuch as it would be a procedural denial based on the need to protect the City's ability to finish their LCP. This approach would recognize that these permit decisions have the potential—at least cumulatively if not individually—to undermine the potential options for developing and implementing protective policies. Once the City's LCP is finished, and ultimately certified by the Commission, any such denied projects could be resubmitted for review by the City in accordance with the applicable LCP standards. Until that time, however, the staff would recommend that the Commission not approve such projects.

The only exception to such a rule would be in the case of existing structures that are not habitable and/or determined to be public safety hazards—and are clearly not capable of repair, rehabilitation, or other on-site reuse.

Under this scenario, Staff would expect that the majority of proposed demolition projects in Carmel would fail one or more of these tests and would be recommended for denial. In fact, of the 17 residential demolition applications currently pending and preliminarily reviewed by Commission staff, only 4 would be recommended for approval. Staff is not as clear about the range of currently excluded development that would likewise fail these tests. Until the LCP is certified, Staff would expect that, under this approach, demolition applications to the Commission would taper off as potential project proponents come to



understand the Commission's position on prejudicing the LCP and the objective, common sense criteria used to measure community character change.

In any case, staff would schedule any Carmel demolition applications for full public hearings on the regular calendar if the recommendation were to be for denial, and on either the regular or consent calendar if the recommendation is for approval.

Option 3: Other

There may be other approaches, including permutations of those above, that will address community character concerns in Carmel. These range from granting waivers to most of the demolition projects that have been through the City's own design and forestry review processes (as staff did prior to September of this year), to even more rigorous approaches that set the bar at an even higher level. For example, additional "change factors" that could be considered are:

- Any demolition that would facilitate an increase in residential density (a common type of application is to demolish one house that straddles two parcels, to allow a replacement house on each parcel);
- Demolition of any building on the Carmel Preservation Society's historic structure inventory lists; and,
- Any demolition that would facilitate replacement of traditional architecture style in favor of contemporary or modernistic styles (from the visitor's perspective, rustic cottage and Craftsman styles are those most likely representative of Carmel's architectural traditions).

Conclusion

The City of Carmel is a unique coastal jewel, for which the Coastal Act dictates protection of its special community character. This character is generally agreed to be shaped by the City's spectacular public beach, the urban forest dominated by native Monterey pines, the substantial riparian habitat areas, and the unique visual character of Carmel as exhibited by the style, scale, and rich history of its residential, commercial, and civic architecture. However, the necessary standards and measures to protect this special character have not yet been clearly defined by the City's LCP planning process nor certified by the Commission. Part of the reason for this is that Carmel's character is not necessarily expressed by any one aspect, whether that be historical, architectural, environmental, or something else, but is rather a combination of several different aspects, all of which work together synergistically to create the unique ambiance of the City. The correct recipe for protecting this ambiance is not easily derived.

Because of this, the Commission finds itself in the difficult position of making judgements on what will, and what will not, adversely affect this special character of the City absent a certified LCP. Without a clear definition for Carmel's community character established through the LCP, the question of what to be



done in the interim to both protect such character and not prejudice the City's LCP efforts, remains unresolved.

It appears that the Commission has two basic options, with potentially multiple permutations, for approaching this question. As discussed above, these polarities are the 'no changes' option (deny all projects that would significantly alter the character of any particular lot), and the 'best professional judgement' option (trust but verify the City's existing review processes). Staff believes there are valid reasons to support either of these options. Therefore, Staff is asking for guidance from the Commission as to how to proceed.

Upon direction from the Commission, staff will implement whichever approach is agreed upon by the Commission and will bring forward the approximately 17 pending applications as soon as possible. It appears that at least 9 of the applications (including the 6 continued from September) would be scheduled for the December hearing in San Francisco.

Exhibits

Exhibit A: City of Carmel-by-the-Sea location

Exhibit B: City of Carmel-by-the-Sea Response to Issues Raised at the October Commission Hearing

Exhibit C: Example of Staff Methodology – Administrative Permit 3-00-095 (Clendon)

