CITY OF CARMEL-BY-THE-SEA
CITY COUNCIL AGENDA

Contact: 831.620.2000 www.ci.carmel.ca.us

Mayor Dale Byrne
Councilmembers Jeff Baron, Hans Buder, Bob Delves, and Alissandra Dramov

All meetings are held in the City Council Chambers
East Side of Monte Verde Street
Between Ocean and 7th Avenues

Regular Meeting
Tuesday, April 7, 2026
4:30 PM

HYBRID MEETING ATTENDANCE OPTIONS
This meeting will be held in person and via teleconference ("hybrid"). The public is welcome to attend the meeting in person or remotely via Zoom, however, the meeting will proceed as normal even if there are technical difficulties accessing Zoom. The City will do its best to resolve any technical issues as quickly as possible. To view or listen to the meeting from home, you may also watch the live stream on the City's YouTube page at: https://www.youtube.com/@CityofCarmelbytheSea/streams. To participate in the meeting via Zoom, copy and paste the link below into your browser and enter the passcode.

https://ci-carmel-ca-us.zoom.us/j/83138976374
Webinar ID: 831 3897 6374
Passcode: 862068
Dial in: (253) 215-8782

HOW TO OFFER PUBLIC COMMENT
The public may give public comment at this meeting in person, or use the Zoom teleconference module, provided that there is access to Zoom during the meeting. Zoom comments will be taken after the in-person comments. The public can also email comments to cityclerk@ci.carmel.ca.us. Comments must be received at least 2 hours before the meeting in order to be provided to the legislative body. Comments received after that time and up to the beginning of the meeting will be made part of the record.

CALL TO ORDER AND ROLL CALL

PLEDGE OF ALLEGIANCE

A. Carmel High School Report Out

B. Proclamation recognizing American Red Cross Month

C. Non-Profit Spotlight: Community Human Services, Casa De Noche Buena and Shuman HeartHouse

D. Recognition of the Clean California designation awarded to Carmel-by-the-Sea

PUBLIC APPEARANCES

Members of the public are entitled to speak on matters of municipal concern not on the agenda during Public Appearances. Each person's comments shall be limited to 3 minutes, or as otherwise established by the Chair. While stating your name is optional, it helps to identify speakers in the meeting minutes. Under the Brown Act, public comment for matters on the agenda must relate to that agenda item, and public comments for matters not on the agenda must relate to the subject matter jurisdiction of this legislative body. Remote or in-person participants who do not comply with the requirements of the Brown Act will be muted.

ANNOUNCEMENTS

City Administrator Announcements

City Attorney Announcements

Councilmember Announcements

PUBLIC HEARINGS

1) Consideration of two consolidated appeals, APP 26070 (Hudson and Martin PC, TSD Properties, L.P.) and APP 26071 (Fenton and Keller, A.W. Shucks, LLC), appealing the Planning Commission Resolution No. 2026-04 determining that the “drinking establishment” use (UP 93-45) for A.W. Shucks has been abandoned.

ORDERS OF BUSINESS

Orders of Business are agenda items that require City Council discussion, debate, direction to staff, and/or action.

2) Discussion of draft resolutions and ordinance relating to a potential ballot measure to increase the City’s Transient Occupancy Tax from 10% to 12% and Direction regarding the submission of such ballot measure to the City’s voters at the November 3, 2026, general municipal election

3) Receive an update on the Design Traditions 1.5 project, and review the proposed Plan, defined Scope of Work, and Proposed Timeline to finalize the Residential Design Guidelines 1.5

RECESS

The City Council will take a 30-minute break around 6:30 p.m.

FUTURE AGENDA ITEMS

CLOSED SESSION

4) PUBLIC EMPLOYEE PERFORMANCE EVALUATION PURSUANT TO GOVERNMENT CODE SECTION 54957
Title: Acting City Administrator

5) CONFERENCE WITH LABOR NEGOTIATORS PURSUANT TO GOVERNMENT CODE SECTION 54957.6
Title of unrepresented employee: Acting City Administrator

6) CONFERENCE WITH LABOR NEGOTIATORS PURSUANT TO GOVERNMENT CODE SECTION 54957.6;
Agency Designated Representatives: Acting Assistant City Administrator Marisa Bermudez, Police Chief Todd Trayer, and Zachery Lopes, Burke Williams & Sorensen;
Employee Organization: General Employees Unit, an Affiliated Unit of LiUNA, and Management Employees Unit, an Affiliated Unit of LiUNA

ADJOURNMENT

This agenda was posted at City Hall, Monte Verde Street between Ocean Avenue and 7th Avenue, Harrison Memorial Library, located on the NE corner of Ocean Avenue and Lincoln Street, the Carmel-by-the-Sea Post Office, 5th Avenue between Dolores Street and San Carlos Street, and the City's webpage (http://www.ci.carmel.ca.us) in accordance with applicable legal requirements.

CORRESPONDENCE RECEIVED AFTER THE POSTING OF THE AGENDA
Any correspondence or supplemental materials related to items on this agenda that are received after the agenda has been posted will be distributed to the City Council and made available for public review at City Hall (Monte Verde Street between Ocean and Seventh Avenues) during regular business hours. Written comments emailed to the City Clerk will not be read aloud, but will be posted online with the related agenda at: https://carmelbytheseaca.portal.civicclerk.com/.

SPECIAL NOTICES TO PUBLIC
In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk's Office at 831-620-2000 at least 48 hours prior to the meeting to ensure that reasonable arrangements can be made to provide accessibility to the meeting (28CFR 35.102-35.104 ADA Title II).

A PROCLAMATION OF

THE CITY OF CARMEL-BY-THE-SEA

AMERICAN RED CROSS MONTH, 2026

WHEREAS, during American Red Cross Month, we celebrate by honoring our neighbors who make its humanitarian mission possible in Carmel-by-the-Sea; and

WHEREAS, every day, their acts of kindness change lives, bringing relief, comfort and hope when help can't wait; and

WHEREAS, this compassionate spirit runs deep in our community, just as it has for 145 years through the American Red Cross; and

WHEREAS, the contributions of local Red Cross volunteers (181 in the county) give hope to the most vulnerable in their darkest hours; and

WHEREAS, last year in Monterey County, volunteers helped 49 families affected by 30 home fires by addressing their urgent needs like food and lodging, as well as providing recovery support; and

WHEREAS, in addition, they installed 682 smoke alarms, collected 2,141 blood donations, provided first aid and CPR training to 2,423 residents, and assisted 112 families of our armed forces; and

WHEREAS, these collective efforts are a powerful reminder that the strength of our community lies in our shared commitment to one another; and

WHEREAS, as we mark Red Cross Month, let's celebrate our local heroes and resolve to continue lifting each other up, so no one faces an emergency alone.

NOW, THEREFORE, BE IT PROCLAIMED THAT I, Dale Byrne, Mayor of the City of Carmel-by-the-Sea, on behalf of the City Council and the citizens of Carmel, hereby proclaim March 2026 as Red Cross Month. I encourage all Americans to reach out and support its humanitarian mission.

IN WITNESS WHEREOF, I have hereunto set my hand this 7th day of April, in the year two thousand twenty-five, in Carmel-by-the-Sea, California.

_____

Dale Byrne, Mayor

Gathering for Women Monterey

community human services
hope. help. here.

CASA DE NOCHE BUENA

SHUMAN HEARTHOUSE

Homeless Shelters for Women and Families:

Funding Shortfall and Program Impact

WHAT WE DO

PROGRAM DESCRIPTION

- 35-bed emergency shelters serving homeless women and families
- Typical length of stay: six months
- Annual number served: ~80 (~25 women and ~15 families)
- Stabilize and transition people to permanent housing with improved income, self-sufficiency, and well-being



WRAP-AROUND SUPPORTS

- Basic needs: meals, hygiene supplies, laundry facilities, clothing, and computer / internet access
- Housing-focused supports: case management, housing navigation, and rapid rehousing financial assistance
- Stability supports: connections to physical and behavioral health care, mainstream benefits, employment services, and financial planning

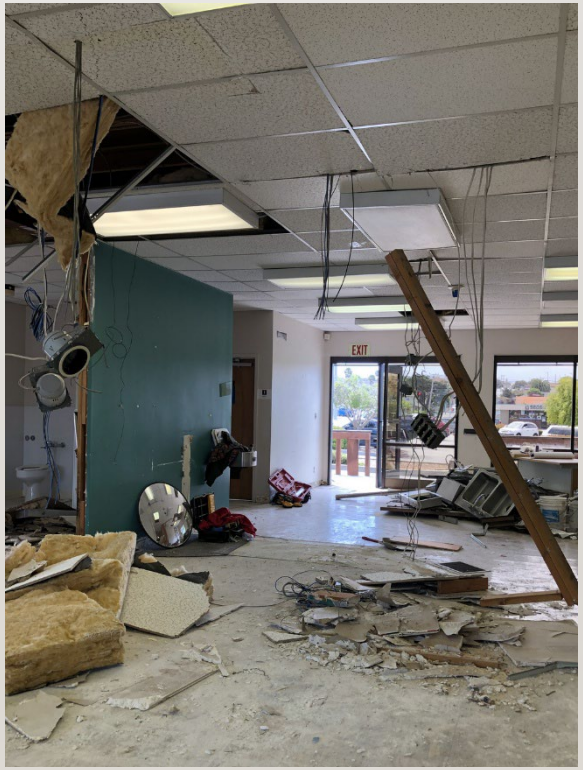
HOW THE SHELTERS CAME TO BE

CASA DE NOCHE BUENA

- Applied/received ~$1.3m of HEAP funding
- Raised additional ~$400k from community
- Renovated the County-owned modular building

SHUMAN HEARTHOUSE

- Developed with private philanthropy funding




Two nonprofits celebrate construction of Monterey Peninsula's first homeless shelter with a virtual groundbreaking.

Pam Marino Jun 4, 2020 0

Robin McRae, CEO of Community Human Services (left), and Staci Alzebler-Perkins, executive director of Gathering for Women, in a screenshot from the virtual groundbreaking of Monterey Peninsula's first homeless shelter for women and families with children.



SUSTAINING SHELTER BEDS

- CDNB and SHH Annual Operating Costs: approx. $1.2m per year each
- CHS and GFW established a Special Purpose Fund through the Community Foundation, for community fundraising
- Government grants including but not limited to: HHAP, ESG, CDBG, community support







CURRENT & NEAR-TERM FUNDING GAP

Annual Operating Costs:

- Approximately $1.2M each

Projected Annual Funding Shortfall *(Non-cumulative; assuming no new funding)*

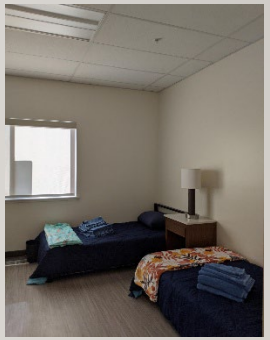
Fiscal Year	CDNB	SHH
2026–27	~$267K	~$655K
2027–28	~$649K	~$905K
2028–29	~$702K	~$958K
2029–30	~$757K	~$1.01M

Key drivers of the gap:

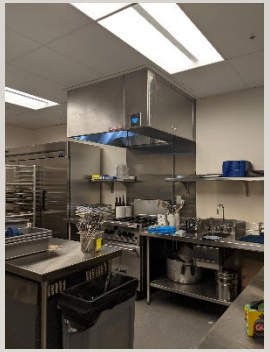
- FY 2025–26: HHAP-5, and City of Monterey PLHA funds are fully depleted.
- FY 2026–27: CDNB Special Purpose Fund ($345,179), HHAP-3 and HHAP-4, and $764,353 deferred revenue are fully depleted.

Without new funding stream(s) this marks the beginning of a structural deficit.









CARMEL



- These programs contribute to a well-functioning community and support workforce stability.
- Many clients of these programs are part of the regional workforce that supports Carmel's visitor economy.
- For context, just over 1% of our homeless services clients are Carmel residents, with most coming from neighboring communities.

HOUSING OUTCOMES

Statewide Benchmark

- 23% to permanent housing *(Cal ICH, FY 2023-24, crisis response exits)*

Casa de Noche Buena *(operated by GFW + CHS)*

- 50% to permanent housing (3-year avg.)
- 24% to temporary housing

Shuman HeartHouse *(operated by CHS)*

- 57% to permanent housing (2-year avg.)
- 17% to temporary housing







IMPACT TO PROGRAMS

Objectives:

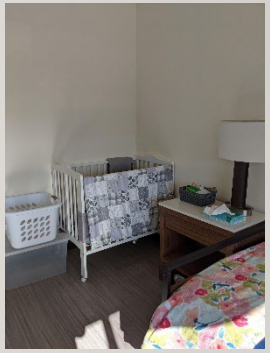
- Avoid service reductions or shelter closure
- Phase in reductions or closure while pursuing funding

Without additional funding or system-level support:

- Reduction in services or capacity
- Elimination of case management
- Conversion to overnight emergency shelter or seasonal shelter
- Partial or full program closure

Any reduction significantly weakens outcomes and increases long-term system costs.







CONCLUSION

WHAT WE ARE ASKING FOR

- Partnership in maintaining CDNB and SHH shelters
- Stabilization or bridge funding for FY26–27
- Exploration of replacement funding or coordinated system solutions
- Commitment to preserving services that foster housing and economic security

info@chservices.org info@gatheringforwomen.org



These programs work.
With support, they remain a pathway to stability.
Without it, homeless families and women remain stuck in crisis and system costs rise.
Thank you for your partnership and consideration.

CITY OF CARMEL-BY-THE-SEA
City Council
Staff Report

April 7, 2026
PUBLIC HEARINGS

TO: Honorable Mayor and City Council Members

SUBMITTED BY: Anna Ginette, Community Planning & Building Director

APPROVED BY: Brandon Swanson, Acting City Administrator

SUBJECT: Consideration of two consolidated appeals, APP 26070 (Hudson and Martin PC, TSD Properties, L.P.) and APP 26071 (Fenton and Keller, A.W. Shucks, LLC), appealing the Planning Commission Resolution No. 2026-04 determining that the "drinking establishment" use (UP 93-45) for A.W. Shucks has been abandoned.

RECOMMENDATION:

Staff recommends the City Council either:

1) Adopt a Resolution (**Attachment 1**):

a) Ordering the consolidation of the appeals filed by TSD Carmel Properties, L. P. (APP 26070) and A.W. Shucks, LLC (APP 26070) of Planning Commission Resolution 2026-004 finding that the drinking establishment at A.W. Shucks Cocktail & Oyster Bar (UP 93-45 Murray/Weaver) has been abandoned;

b) Finding that the proposed action by the City Council is not a project, as defined in Public Resources Code section 21065(c) and therefore is not subject to CEQA, and/or assuming arguendo it is a project, finding it is exempt under CEQA Guidelines sections 15061(b)(3) (Common Sense Exemption), 15301 (Existing Facilities) and 15305 (Minor Alterations in Land Use Limitations) and that none of the exceptions to the exemptions listed in section 15300.2 apply in this case; and

c) Denying the appeals filed by TSD Carmel Properties, L. P. (APP 26070) and A.W. Shucks, LLC (APP 26070) of Planning Commission Resolution 2026-004

finding that the drinking establishment at A.W. Shucks Cocktail & Oyster Bar (UP 93-45 Murray/Weaver) has been abandoned.

d) A.W. Shucks may continue to operate under Use Permit No. UP 93-45 for a period of up to six months from February 11, 2026, the date of adoption of Resolution 2026-04 by the Planning Commission in order to allow acquiring a new use permit.

-- OR --

2) Adopt a Resolution (**Attachment 2**):

a) Ordering the consolidation of the appeals filed by TSD Carmel Properties, L. P. (APP 26070) and A.W. Shucks, LLC (APP 26070) of Planning Commission Resolution 2026-004 finding that the drinking establishment at A.W. Shucks Cocktail & Oyster Bar (UP 93-45 Murray/Weaver) has been abandoned;

b) Finding that the proposed action by the City Council is not a project, as defined in Public Resources Code section 21065(c) and therefore is not subject to CEQA, and/or assuming arguendo it is a project, finding it is exempt under CEQA Guidelines sections 15061(b)(3) (Common Sense Exemption), 15301 (Existing Facilities) and 15305 (Minor Alterations in Land Use Limitations) and none of the exceptions to the exemptions listed in section 15300.2 apply in this case; and

c) Granting the appeals filed by TSD Carmel Properties, L. P. (APP 26070) and A.W. Shucks, LLC (APP 26070) of Planning Commission Resolution 2026-004 finding that the drinking establishment at A.W. Shucks Cocktail & Oyster Bar (UP 93-45 Murray/Weaver) has been abandoned conditional upon TSD Carmel Properties, L. P. and/or A.W. Shucks, LLC applying to the City for an amendment to Use Permit No. 93-45 to omit limited food service and add full line restaurant as an ancillary use that is greater than 10% of the primary use as a drinking establishment.

BACKGROUND / SUMMARY:

EXECUTIVE SUMMARY

The subject of the appeal, A.W. Shucks Use Permit (UP 93-45) for a drinking establishment, was brought before the Planning Commission on October 8, 2025; December 10, 2025; January 21, 2026; and February 11, 2026, as a Director Referral (click on meeting dates to access the respective staff report).

Historical permits, decisions, determinations and the current Carmel-by-the-Sea Municipal Code uses “drinking place” and “drinking establishment” interchangeably. Therefore, both terms are used throughout this staff report.

In summary, the Commission was provided with permitting and operational history of A.W. Shucks, how the existing use has been inconsistent with the use permit approved in the 90's (specifically related to food service) and potential permit remedy options to allow the operation to continue.

During public testimony at each Commission hearing, both the business operator (A.W. Shucks, LLC) and property owner (TSD Carmel Properties, L. P.) expressed their understanding of how the establishment was permitted and how it was, and currently is, consistent with the use permit, building permits, and business licenses as well as the designation as a drinking establishment by the Planning Commission in 2015. Therefore, neither party was agreeable to amending their use permit and relinquishing the drinking establishment use. Moreover, they feel that the existing use (drinking and food service) was consistent with the approved permits and past direction provided by the City, it is their position that the drinking establishment use has not been abandoned.

At the February 2026 hearing, the Commission adopted Resolution No. 2026-04 (see **Attachment 3**) determining that A.W. Shucks' drinking establishment use has been abandoned. On February 26, 2026, a timely appeal was filed by the property owner (see **Attachment 4**, APP 26070). Separately, an appeal was filed by the business operator (see Attachment 5, APP 26071). These appeals assert that the drinking establishment use has continued for over 65 years, that use was never abandoned, the City permitted food service and kitchen facility upgrades, and the Planning Commission erred in their decision finding the use abandoned. Further, the appellants claim that the action of the Commission was a takings and they should have been estopped from making such a decision. See additional details in the Appellant Contentions discussion below.

In accordance with the City code, the appeals are brought forward to the City Council to consider. Based on the similarities of the appellants' contentions, staff recommends the Council consolidate the two appeals.

Similar to the February 11th Planning Commission hearing, staff has provided Council with two draft resolutions; **Attachment 1**, a resolution denying the appeals and upholding the Commission's decision, and **Attachment 2**, a resolution granting the appeals conditioned upon the owner/operator applying for a permit amendment to maintain the drinking establishment use as primary and allow a full line restaurant as ancillary.

The intent of providing these options is to allow Council to weigh the facts and consider the establishment's permitting history, the Commission's rationale of their decision, the appellant's dispute of the Commission's decision, public testimony and deliberation prior to making a decision. In addition, providing the two options allows the City Council to memorialize their action at the April 7th hearing without the need to return at a later date to adopt a resolution.

DETAILED DISCUSSION

FACTUAL CHRONOLOGY

1. Original Approval and Early Modifications (1993-65 year 1996)

1993: The Planning Commission approved Use Permit No. UP 93-45 (Murray/Weaver) authorizing the addition of limited food sales to an existing drinking establishment formerly known as Maxwell McFly's (now A.W. Shucks). The business is located at Ocean Avenue 3 southwest of San Carlos Street, APN 010-146-017-000. Condition of Approval No. 2 of the Use Permit stated: *"The sale and service of food shall [be] limited to the menu submitted with this application. The permittee shall not be authorized to establish a full kitchen with stove, grill or oven. Food services shall be limited to a microwave oven, gas steamer, soup preparation and refrigeration facilities."*

March 3, 1994: The City issued Building Permit No. 94-47 for a commercial interior remodel allowing installation of: soup warmer, prep sink, refer, display rack, prep refer, small steamer, large steamer, stock pot, Type II hood, sink, dishwasher and coffee maker.

November 3, 1995: An application for Building Permit No. 96-81 to allow a commercial kitchen remodel was submitted.

November 20, 1995: A correction list was provided indicating that an application to amend the Use Permit was required.

December 5, 1995: An additional note was added stating that the owner was required to submit a new application for a business license for a full-line restaurant.

May 7, 1996: The City issued Building Permit No. 96-81.

June 14, 1996: Building Permit No. 96-81 was finaled. This permit allowed the installation of a stock pot burner and gas fryer.

2. Further Kitchen Expansion (2008-2009)

July 31, 2008: An application for Building Permit No. 08-168C allowing a commercial kitchen remodel, including the installation of a salamander, char broiler, griddle with 2 burners and an oven, a fryer and stock pot burner was filed.

August 15, 2008: Building Permit No. 08-168C was issued.

February 11, 2009: Building Permit No. 08-168C was finaled.

3. Planning Commission Designation on September 23, 2015

September 23, 2015: At a duly noticed meeting, the Planning Commission determined that A.W. Shucks was one of the three drinking places in the city, the other two were Sade's and Barmel. The Commission found that A.W. Shucks originally operated strictly as a drinking place and by approval of UP 93-45, ancillary food service was allowed. The Commission noted that the establishment is permitted to be open until 12:00 a.m., and the majority of the floor space is occupied by the bar. The Commission approved this designation of these three drinking places with a vote of 4-0-1.

4. Change of Ownership and Planning Director's Determination (2023)

July 1, 2023: Ownership of A.W. Shucks changed from M & M Coastal Enterprises (Mike and Michelle Sapon) to A.W. Shucks LLC (Karen Basi).

August 8, 2023: Business License No. BL 23-041 was issued. This license approved a use classified as a full-line restaurant as the primary use and a drinking place as an ancillary use.

On August 14, 2023: Community Planning and Building Director Brandon Swanson sent an email to property manager John Plastini. In this email, Mr. Swanson stated that he had determined that the City had:

- *"memorialized the additional cooking equipment and restaurant operation by approving a building permit on August 15, 2008 (Permit # 08-168C)";* and
- *"In this case, even though the original Use Permit sets a limit on the type of equipment and menu, the City took an official action to approve the updated kitchen and the menu it was meant to prepare, thereby creating a legal nonconforming situation that is allowed to continue under Chapter 17.36 of the City's Municipal Code."*

August 28, 2023: Director Brandon Swanson sent correspondence to Mr. Plastini stating that as he had stated in his August 14, 2023 email, the menus Mr. Plastini had provided were also approved by the City on August 15, 2008, as part of Permit # 08-168C.

2025/26 PLANNING COMMISSION HEARINGS

October 8, 2025 Planning Commission Hearing

On October 8, 2025, the Director of Community Planning and Building, Anna Ginette referred the permit and operation history of A.W. Shucks Cocktail & Oyster Bar (A.W. Shucks) to the Planning Commission. The referral requested the Commission opine on: 1) is A.W. Shucks operating outside of what is permitted (Use Permit, Building Permits and Business License); and if so, 2) what is the correct vehicle to achieve compliance? The recommendation by the Director in the Staff Report was that the Commission consider approving an amendment to Use Permit No. UP 93-45 to change the allowed use from a drinking establishment with limited food service to a full-line restaurant.

During this hearing, the Commission received comments from the property manager and operator of A.W. Shucks. Specifically, both expressed their disinclination to amend their Use Permit to change the allowed use from a drinking place with limited food service to a full line restaurant. During the Commission's deliberation, several considerations were expressed, such as the permitted use should either be a full line restaurant or a drinking establishment, the operation appears to be a full line restaurant, the operation seems to be neither but more of a mix of the two, and compliance with existing permits. At the end of the deliberation, the Planning Commission's direction was for staff to return with permitting options that would allow A.W. Shucks to operate as they currently are, while maintaining their drinking establishment use.

December 10, 2025 Planning Commission Hearing
On December 10, 2025, staff returned to the Planning Commission as directed and provided 5 potential options for the Commission to consider:

Option 1 – Amend Use Permit No. UP 93-45 to omit limited food service and add full line restaurant as ancillary use that is greater than 10% of the primary use.
Option 2 – Uphold the Planning Commission's 2015 designation that A.W. Shucks is a drinking establishment.
Option 3 – Consider A.W. Shucks as a nonconforming use.
Option 4 – Revert the ancillary use to limited food service.
Option 5 – Amend Use Permit No. UP 93-45 to convert the allowed use from a drinking place to a full line restaurant.

Based on the Commission's direction from the October 8th hearing, staff recommended Option 1, which was consistent with the applicable policies of the Carmel-by-the-Sea General Plan and Local Coastal Program and the applicable requirements contained in the Carmel-by-the-Sea Municipal Code.

During public testimony on the December 10, 2025 Planning Commission hearing, members of the public came forward to speak on the A.W. Shucks hearing item, including the property manager of A.W. Shucks, John Plastini. Mr. Plastini asserted that drinking establishment use was never abandoned and A.W. Shucks has acted in good faith, including as directed by city staff and determined by the Planning Commission. In general, members of the public spoke to the operation of a different drinking establishment in the city. However, a few commentors stated that Option 5 presented to the Commission would be appropriate for A.W. Shucks.

There were numerous public comments regarding Sade's. However, the Commission pointed out that the item that before them was related to A.W. Shucks, not Sade's. Subsequent to public comment and the Commission's deliberation, the Commission expressed that Option 5 was their preference, rather than Option 1 recommended by staff.

January 21, 2026 Planning Commission Hearing
On January 21, 2026, staff was prepared to return with a draft resolution based on the Commission's discussion and preference. However, the day of the hearing staff received correspondence from an attorney, Hudson Martin PC, representing the property owner, TSD Carmel Properties, L.P., asserting that the Planning Commission violated the Ralph M. Brown Act during the December 10, 2025 hearing and that the Commission should be estopped from making a determination of abandonment of the drinking establishment use due to their vested rights. In order to allow sufficient time to review and respond to the correspondence, the Commission continued the hearing to a date uncertain.

February 11, 2026 Planning Commission Hearing
Prior to the February 11th meeting, the Commission had previosuly stated that the concept of limiting drinking establishments in the City is one of critical importance when considering how an allowed drinking establishment operates. Essentially, the limit creates a carve out for 3 drinking establishments which should be discernable when compared to other uses. For example, one Commissioner stated that during their research, 24 restaurants in the city were identified to have a full service bar and that 5 or 6 offer no such alcohol service. The Commission also stated that when compared to a full line restaurant, the age restriction required for bars is a clear difference between the 2 uses. In addition, Commissioners suggested how the different ABC Type licenses could be used to determine whether or not a use qualifies as a bar.

Another Commissioner pointed out Condition of Approval No. 8 of Use Permit UP 93-45 and Carmel-by-the-Sea Municipal Code (CMC) Section 17.36.060 – Legal Nonconforming Uses and Buildings, Abandonment of Use, stating that any change of use must conform to the provisions of the CMC.

While most is correct, the change of use more appropriately falls under CMC Section 17.56.050 – Restricted Commercial Uses, Exercise and Abandonment of Restricted Commercial Uses, specifically subsection "C" which states "[a] restricted commercial use that has been discontinued for a period of six consecutive months shall be considered abandoned unless the property owner has filed a notice of temporary cessation as provided for in this chapter."

CMC Section 17.56.050.C states that a "determination of abandonment by the Director may be appealed to the Planning Commission". The determination of abandonment can be made by the Commission or by the Director. As noted, a determination of abandonment by the Director is appealable to the Planning Commission. CMC Section 17.52.030.L states that the Director has the power to refer any decision to an appropriate higher level, including the Planning Commission. In this case, the Director referred the determination of whether there has been an abandonment of use for this matter to the Commission.

Based on the City Attorney's review of the January 21, 2026 letter from the Hudson firm, it was determined that there were no violation of the Brown Act on December 10,

2025 Commission hearing. Government Code Section 54954.2 provides that a local agency "shall post an agenda containing a brief general description of business to be transacted or discussed at the meeting…." The discussion at the December 10, 2025 Commission meeting was within the scope of the agenda description.

The Hudson letter also asserted that: "The Commission's proposed actions would interfere with A.W. Shucks' and TSD's ability to continue the established business in which they have vested rights and would constitute an improper government taking." The Hudson letter sets forth the basis for the legal position of TSD including references to building permits, the September 23, 2015 Planning Commission determination and the August 2023 email from the Community Planning and Building Director regarding a nonconforming use.

In addition to the claim of vested rights, the Hudson letter contends that the Commission is legally estopped from finding that TSD abandoned the Use Permit, citing legal authority.

The City Attorney has reviewed the assertions by the Hudson firm in regard to vested rights and estoppel. Based upon this review, the City Attorney counseled the Commission, stating if it were to determine that the current uses of A.W. Shucks constitute an abandonment of the drinking establishment, it would be subject to legal challenge based on the record as described in the Factual Chronology discussion above. The outcome of such a legal challenge cannot be predicted with accuracy.

APPELLANT CONTENTIONS FOR COUNCIL HEARING

The following discussion contains contentions and staff responses for both appeals. The first section is TSD Carmel Properties, L.P., and the second section is A.W. Shucks, LLC.

APP 26070 – TSD Carmel Properties, L.P. ("TSD")

On February 26th, TSD filed a timely appeal of the Planning Commission's action memorialized in Resolution No. 2026-04, determining that the drinking establishment use at A.W. Shucks has been abandoned. Below is a summary of the appellant's grounds for appeal, as outlined in **Attachment 4**, followed by staff's response.

Appellant Contention 1 – TSD has leased its property to drinking establishments for decades with City approval, including its current tenant A.W. Shucks.

TSD's appeal states that since 1961, TSD continuously leased the subject property to drinking establishments and the drinking place use permit runs with the land. Moreover, TSD consistently, and in good faith, relied on "representations by City officials that its tenants' operations were consistent with the terms of its drinking place use permit." To support this contention, the appeal cites the Use Permit 93-45 allowing food service, building permits authorizing kitchen expansions, the 2015 Planning Commission determination that A.W. Shucks was one of the three drinking places in Carmel, and a

2023 confirmation by the Community Planning and Building Director that the new owners of the business establishment could continue to operate the business under its existing drinking place use permit.

Staff Response to Contention 1: Based on historical record, it appears that the property has been leased and operated as a bar for over 65 years.

Appellant Contention 2 – The Planning Commission erred in adopting the abandonment resolution because the use permit was never abandoned.

TSD's appeal states that: "TSD and A.W. Shucks have clearly and consistently stated throughout this administrative process that they have not and will not abandon their rights to the drinking place use permit or the right to operate a drinking place." The appeal cites Carmel-by-the-Sea Municipal Code (CMC) Section 17.14.040.I.3.d, which states that if more than 20% of the total number of seats are at a bar or in a separate bar room then the drinking place standards apply. A.W. Shucks has a total of 45 seats, 14 (31%) of which are at the bar. Also referenced is the December 10, 2025 Planning Commission staff report which states that full line restaurants with more than 20% of the seats are located at a bar, the CMC classifies the primary use as a drinking place and ancillary use as a full line restaurant. The appellant asserts that the Planning Commission ignored this section of the code when deeming the use abandoned and instead, based their decision on the language contained in the business license and revenue composition, neither of which are relevant under the CMC.

The appeal also states that "[a] finding of abandonment requires an intent to abandon and an act or failure to act reflecting the intent to abandon an interest in or right to use property" and there was no such act or intent in this case. On the contrary, A.W. Shucks continuously and lawfully operated as a drinking place and therefore the use permit was never abandoned.

Staff Response to Contention 2: The December 10th staff report identified a potential permit path for the operation to continue as it does currently while maintaining the drinking establishment use (Option 1). This permit path is also explained in the August 10, 2022 History and Policies on Alcohol in Carmel-by-the-Sea white paper.

The plain language of CMC Section 17.56.050.C, states:

> *"Abandonment of Use. A restricted commercial use that has been discontinued for a period of six consecutive months shall be considered abandoned unless the property owner has filed notice of temporary cessation as provided for in this chapter. Failure to maintain a valid business license shall be considered substantial evidence of abandonment, and such use shall not be reestablished unless a new application is approved as required by this chapter. Establishment of any different use in a space authorized for occupancy by a numerically limited use shall be considered an abandonment of the numerically limited use. A determination of abandonment by the Director may be appealed to the Planning Commission, as provided for in CMC*

17.56.040."

In considering this language, the Planning Commission considered the fact that A.W. Shucks has operated as it currently does for over 20 years and although the operation was permitted (see the Factual Chronology discussion above), its operation is more similar to a restaurant than a bar. The Commission weighed the length of the operation against the CMC language above and found that that abandonment commenced when the full line restaurant began.

Appellant Contention 3 – The Planning Commission erred in finding that the addition of food service at A.W. Shucks constituted a change in use under the drinking place use permit.

The TSD appeal makes several points under this contention. The appeal asserts that the City repeatedly approved the addition and expansion of food service for decades, citing permitting history and determinations by the Planning Commission and Community Planning and Building Director (see Factual Chronology discussion above). Therefore, the City is estopped from deeming the use abandoned as TSD acted in good faith and relied upon the approvals and determinations in leasing the tenant space. Further, TSD was never notified of any violations of their permit.

The appeal also asserts that the Planning Commission did not fully engage in discussions relative to alternatives. Specifically, Draft Resolution No. 2 of the February 11th Planning Commission staff report, which would have allowed TSD and A.W. Shucks to pursue a use permit amendment to allow a full line restaurant as an ancillary use while maintaining the drinking use as primary.

Staff Response to Contention 3: The Factual Chronology regarding the operations of A.W. Shucks is set forth earlier in this Staff Report. John Plastini, property manager for TSD, testified at the Planning Commission hearing that they "acted in good faith" based on the approvals and direction from the City- including the Planning Commission and Community Planning and Building Director.

Appellant Contention 4 – The abandonment resolution substantially harms TSD.

TSD's appeal asserts that upholding the abandonment resolution would cause economic harm and a substantial adverse impact to their established business operation, resulting in a governmental taking of TSD's property rights.

Staff Response to Contention 4: Tools and resources to verify economic data, or validity of economic assumptions based on land use, real estate and market conditions are not available. Therefore, staff cannot provide an accurate response to economic claims of this contention.

Appellant Contention 5 – The City Council should overturn the abandonment resolution.

This contention summarizes points made in Contentions 1-4, asserting that those points support overturning the Planning Commission's resolution on abandonment. In addition, the appellant provides suggested findings and evidence.

Staff Response to Contention 5: See staff's response to Contentions 1-4.

APP 26071 – A.W. Shucks, LLC
On February 26th, A.W. Shucks, LLC filed a timely appeal of the Planning Commission's action memorialized in Resolution No. 2026-04, determining that the drinking establishment use at A.W. Shucks has been abandoned. Below is a summary of the appellant's grounds for appeal, as outlined in **Attachment 5**, followed by staff's response.

Appellant Contention 1 – The Commission's findings and determination that the Premises' "drinking establishment" use and the use permit were abandoned conflict with the City Code and the express, authorized determinations of the City's Planning Director.

In this contention, A.W. Shucks makes a similar argument as TSD's Contention 2; the number of seats at the bar exceeds 20% therefore the drinking place standards apply, resulting in the drinking establishment as the primary use and full line restaurant as ancillary. As such, the appellant contends that the determination of abandonment was in error and contrary to the CMC. The appeal further states that the alcoholic beverages offered exceed the limits for full line restaurants. CMC Section 17.14.040.I.3.a, states that the sale of alcoholic beverages shall be subordinate to the primary use of the full line restaurant. As evidence, the appellant provides a copy of the A.W. Shucks' drink menu.

A.W. Shucks' appeal states that in 2023, the Community Planning and Building Director did not find the drinking use abandoned and instead, found that the City took an official action to approve the updated kitchen and menus and therefore the operation is allowed to continue. The appellant further contends that pursuant to CMC Section 17.56.050.C, the 2023 Director's determination that the use was not abandoned is legal and binding and that although an opportunity to appeal that determination was available, no appeal was filed.

Staff Response to Contention 1: Based on Business License BL 23-041, the total number of seats in A.W. Shucks is 45, 14 of which (31%) are at the bar while the remaining seats are at high-top tables. Therefore, CMC section 17.14.040.I.2 would apply and A.W. Shucks would be classified as a drinking place as the primary use and full line restaurant as ancillary. However during deliberation at the December 10th hearing, the Planning Commission discussed this point and found that the seats at the "Oyster Bar" are not for "true" bar seating and therefore should not be counted as part of the 31%.

Staff concurs that the menu submitted by the appellant demonstrates extensive options

for alcohol when compared to food offers and that the Community Planning and Building Director did not find the drinking establishment use abandoned in 2023.

Also see staff's response to TSD's Contention 2.

Appellant Contention 2 – The Commission's finding and determination that the Premises' "drinking establishment" use and use permit were abandoned are contrary to the evidence.

In this contention, A.W. Shucks makes a similar argument as TSD's Contention 3. A.W. Shucks' appeal identifies that in 2015, the Planning Commission determined that A.W. Shucks was one of the three drinking establishments in the City, it originally operated strictly as a drinking place and that the Use Permit (UP 93-46) "merely allowed for the addition of food service". Further, building permits allowed for the expansion of the kitchen facility. As such, the City is precluded and estopped from denying the previous admissions. Further, the current use has not changed since 2023 and therefore there is no evidence that the use was abandoned.

A.W. Shucks' appeal asserts that the use permit, or the CMC, does not impose revenue, unit or volume limits on food sales relative to alcohol. Therefore, the comparison should not be considered when determining whether or not the drinking establishment use was abandoned. However, the appeal points out that food is limited when compared to other full line restaurants and the kitchen is only 80 square feet in size. Conversely, A.W. Shucks offers over 400 spirits, 9 martinis, 9 specialty cocktails, 31 wines and ports, 22 beer, 3 oyster shooters and 4 mocktails.

Staff Response to Contention 2: The appellants claims that the Planning Commission determined that A.W. Shucks was one of the three drinking places in Carmel is correct. In addition, evidence on the record supports that the subject property operated as a drinking place prior to approval of UP 93-46, which allowed the addition of limited food service.

Also see staff's response to TSD's Contention 3.

Appellant Contention 3 – A.W. Shucks is lawfully entitled to continue its "drinking establishment" use of the premises without a use permit.

In this contention, the appellant points out that Use Permit UP 93-46 was not related to legalizing the drinking establishment as it was established prior to a use permit requirement and is legal nonconforming. Rather, it was to allow "the addition of the sale of food to an existing drinking establishment". The A.W. Shucks appeal then references CMC Section 17.36.050 – Nonconforming Uses, and asserts that none of the prohibited actions listed in subsections "A" through "E" and therefore a use permit is not necessary for A.W. Shucks to continue the legal nonconforming drinking establishment use.

Staff Response to Contention 3: The appellant's claim that UP 93-46 was not related to legalizing the drinking establishment use is correct.

A drinking establishment is a restricted commercial use and therefore the additional regulations found in CMC Section 17.56.050 – Exercise and Abandonment of Restricted Commercial Uses applies (see staff's response to TSD's Contention 2).

Appellant Contention 4 – A.W. Shucks' existing use of the premises comports with the City's general plan and land use goals, and is not injurious to public health, safety, or welfare.

The A.W. Shucks appeal cites case law (Carlin v City of Palm Springs (1971) 14 Cal.App.3d 706, 711) which affirms that the California Constitution and California Government Code (Title 7 – Planning and Land Use) enables local governments to regulate, restrict or prohibit activities that threaten public health, safety, morals or general welfare. The appeal further explains that evidence in the record, including Planning Commission Resolution 2026-004, does not demonstrate that the current use, including food and drink service, is incompatible with the General Plan or land use goals. Further, it has not been demonstrated that the use is injurious to health, safety or welfare of the City, its residents, property owners, business owners or tourists.

Staff Response to Contention 4: The appellant's claim there is no evidence in the record that operation at A.W. Shucks is injurious to health, safety or welfare is correct.

Appellant Contention 5 – The Commission's action, including the resolution, violates constitutional principles of due process, equal protection, and "taking" private property "without just compensation."

The A.W. Shucks appeal asserts that the City's authority to regulate land use is also limited by the protections of the Fifth and Fourteenth Amendment as well as the California Constitution. These protections provide the property owner with vested rights to continue the drinking establishment use on the property. Therefore, the Planning Commission's decision was arbitrary and capricious. Moreover, the Commission did not identify who abandoned the drinking establishment use or the period of time when the use was abandoned, resulting in insufficient notice to the property owner and business operator as well as a lack of evidence to support the resolution for abandonment.

Staff Response to Contention 5: These issues are related to the claims of vested rights and estoppel which have previously been addressed in this Staff Report.

Appellant Contention 6 – A.W. Shucks will sustain damages arising from the Commission's resolution.

The appellant identifies that use permit provides A.W. Shucks' permissible hours of operations (closing at 11:00 p.m., Sunday through Thursday and closing at 2:00 a.m., Friday and Saturday) and if the City reduces those hours, the establishment would

suffer damage (lost income and business opportunity) resulting in the potential for "economic unviability and unsustainability" of the business. In addition, changes in the business operation as a result of the Planning Commission's resolution would cause similar and additional damage; specifically, the value of the premium purchase price paid by A.W. Shucks, LLC for the drinking establishment rights.

Staff Response to Contention 6: See staff's response to Contention 4 of the TSD appeal.

OPTIONS FOR CITY COUNCIL

Draft Resolution – Attachment 1

a) Ordering the consolidation of the appeals filed by TSD Carmel Properties, L. P. (APP 26070) and A.W. Shucks, LLC (APP 26070) of Planning Commission Resolution 2026-004 finding that the drinking establishment at A.W. Shucks Cocktail & Oyster Bar (UP 93-45 Murray/Weaver) has been abandoned;

b) Finding that the proposed action by the City Council is not a project, as defined in Public Resources Code section 21065(c) and therefore is not subject to CEQA, and/or assuming arguendo it is a project, finding it is exempt under CEQA Guidelines sections 15061(b)(3) (Common Sense Exemption), 15301 (Existing Facilities) and 15305 (Minor Alterations in Land Use Limitations) and that none of the exceptions to the exemptions listed in section 15300.2 apply in this case; and

c) Denying the appeals filed by TSD Carmel Properties, L. P. (APP 26070) and A.W. Shucks, LLC (APP 26070) of Planning Commission Resolution 2026-004 finding that the drinking establishment at A.W. Shucks Cocktail & Oyster Bar (UP 93-45 Murray/Weaver) has been abandoned.
d) A.W. Shucks may continue to operate under Use Permit No. UP 93-45 for a period of up to six months from February 11, 2026, the date of adoption of Resolution 2026-04 by the Planning Commission in order to allow acquiring a new use permit.

Draft Resolution – Attachment 2

a) Ordering the consolidation of the appeals filed by TSD Carmel Properties, L. P. (APP 26070) and A.W. Shucks, LLC (APP 26070) of Planning Commission Resolution 2026-004 finding that the drinking establishment at A.W. Shucks Cocktail & Oyster Bar (UP 93-45 Murray/Weaver) has been abandoned;

b) Finding that the proposed action by the City Council is not a project, as defined in Public Resources Code section 21065(c) and therefore is not subject to CEQA, and/or assuming arguendo it is a project, finding it is exempt under CEQA Guidelines sections 15061(b)(3) (Common Sense Exemption), 15301 (Existing Facilities) and 15305 (Minor Alterations in Land Use Limitations) and none of the exceptions to the exemptions listed in section 15300.2 apply in this case; and

c) Granting the appeals filed by TSD Carmel Properties, L. P. (APP 26070) and A.W. Shucks, LLC (APP 26070) of Planning Commission Resolution 2026-004 finding that the drinking establishment at A.W. Shucks Cocktail & Oyster Bar (UP 93-45 Murray/Weaver) has been abandoned conditional upon TSD Carmel Properties, L. P. and/or A.W. Shucks, LLC applying to the City for an amendment to Use Permit No. 93-45 to omit limited food service and add full line restaurant as an ancillary use that is greater than 10% of the primary use as a drinking establishment.

ENVIRONMENTAL REVIEW

The California Environmental Quality Act (CEQA), specifically Public Resources Code section 21065(c) and CEQA Guidelines section 15378, defines a project as an activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, where such activity involves a discretionary approval in the form of the issuance of a lease, permit, license, certificate or other entitlement for use by a public agency. Should Council adopt the Resolution in Attachment 1, the action would result in a determination that A.W. Shucks' existing drinking establishment use is abandoned, which does not satisfy the definition of a project that is subject to CEQA above because it would involve the abandonment, not issuance, of an entitlement, and also because even with the abandonment of the drinking establishment use there would be no direct, on-the-ground physical change in the environment as A.W. Shucks would still be permitted to continue serving food and drink (including alcohol) under its existing hours and menus (at least for up to six months). The fact that A.W. Shucks may pursue and acquire a new or amended use permit as a result of the adoption of Resolution 1 does not convert adoption of Resolution 1 into a project subject to CEQA because it isn't the adoption of Resolution 1 that will grant such an entitlement, but rather a future City action. It is pure speculation to try to predict whether A.W. Shucks will seek or secure a new or amended use permit and the City will be required to conduct the appropriate level of CEQA review before granting any such new or amended use permit.

Should Council adopt the Resolution in Attachment 2, that action also would not satisfy the definition of a project that is subject to CEQA as it would grant the appeals and maintain the status quo with no on-the-ground physical change in the environment given A.W. Shucks would be permitted to continue operating as a drinking establishment serving food and drink (including alcohol) under its existing hours and menus while it applied for an amended use permit to omit limited food service and add full line restaurant as an ancillary use that is greater than 10% of the primary use as a drinking establishment. The fact that A.W. Shucks may decide not to file an application for an amended use permit in response to the adoption of Resolution 2 does not convert Resolution 2 into a project subject to CEQA because no direct or indirect physical changes could occur unless and until the appeals were brought back to the City Council for further consideration and action and the City will be required to conduct the appropriate level of CEQA review before taking any action that could result in such

a direct or indirect physical change in the environment.

Assuming arguendo that adoption of Resolution 1 and/or 2 does qualify as a project that is subject to CEQA, the project would fall under numerous CEQA exceptions. Indeed, under either Resolution, A.W. Shucks will be permitted to continue operating as it currently does in the short term while it pursues a new or amended use permit to either proceed as a full line restaurant or to continue as a drinking establishment with a full line restaurant as an allowed ancillary use but either way A.W. Shucks will still continue serving food and drink (including alcohol) under its existing hours and menus. The only difference between the two is that if A.W. Shucks is no longer considered a drinking establishment use it would not be allowed to eliminate food service and return to being only a drinking establishment. As such, the project would fall squarely under the common sense exemption found in CEQA Guidelines section 15061(b)(3) as there would be no possibility that the activity would result in any physical changes to let alone any significant adverse effects on the environment. Under these facts, the project would also clearly fall under both the Class 1 categorical exemption in CEQA Guidelines section 15301 (which covers the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing facilities) and the Class 5 categorical exemption in CEQA Guidelines section 15305 (which covers minor alterations in land use limitations) because there would be no change to the existing, baseline conditions at A.W. Shucks, no expansion of and no changes in A.W. Shucks current commercial/retail/hospitality land use. And none of exceptions in CEQA Guidelines Section 15300.2 would negate the project from qualifying from either the Class 1 or Class 5 categorical exemptions as the project site does not entail any unusual circumstances or an environmental resource of hazardous or critical concern, there are no successive projects of the same type in the same place that could result in cumulative impacts, and the subject property does not contain a hazardous waste site or a historic resource, nor is it within an officially designated state scenic highway.

FISCAL IMPACT:

N/A

PRIOR CITY COUNCIL ACTION:

N/A

ATTACHMENTS:

1. DRAFT RESOLUTION NO. 1_final
2. DRAFT RESOLUTION NO. 2_final
3. Resolution 2026-004-PC - 02-11-26 - Director Referral - AW Shucks
4. APP 26070 (AW Shucks - TSD)
5. APP 26071 (AW Shucks)

DRAFT RESOLUTION NO. 1

CITY OF CARMEL-BY-THE-SEA
CITY COUNCIL

RESOLUTION NO. 2026-___

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA ORDERING THE CONSOLIDATION OF THE APPEALS BY TSD CARMEL PROPERTIES, L.P. (APP 26070) AND A.W. SHUCKS, LLC (APP 26071) ("APPEALS") OF PLANNING COMMISSION RESOLUTION 2026-004 FINDING THAT THE DRINKING ESTABLISHMENT AT A.W. SHUCKS COCKTAIL & OYSTER BAR (UP 93-45 MURRAY/WEAVER) LOCATED AT OCEAN AVENUE 3 SOUTHWEST OF SAN CARLOS STREET, IN THE CENTRAL COMMERCIAL (CC) ZONING DISTRICT, APN 010-146-017-000, HAS BEEN ABANDONED; FINDING THE APPEALS ARE HEREBY DENIED; AND FINDING THAT THIS ACTION BY THE CITY COUNCIL IS NOT A PROJECT UNDER CEQA AS DEFINED IN PUBLIC RESOURCES CODE SECTION 21065 AND CEQA GUIDELINES SECTION 15378, AND ASSUMING IT IS A PROJECT, IT IS EXEMPT UNDER CEQA GUIDELINES SECTIONS 15061(b)(3) (COMMON SENSE EXEMPTION), 15301 (EXISTING FACILITIES), 15305 (MINOR ALTERATIONS IN LAND USE LIMITATIONS) AND NONE OF THE EXCEPTIONS TO THE EXEMPTIONS APPLY IN THIS CASE

WHEREAS, on December 8, 1993, the Planning Commission approved Use Permit No. UP 93-45 (Murray/Weaver) authorizing the addition of limited food sales to an existing drinking establishment (formerly Maxwell McFly's, now A.W. Shucks Cocktail & Oyster Bar) and whether or not the operation is consistent with the use approved under Use Permit No. UP 93-45; and

WHEREAS, Condition of Approval No. 2 of UP 93-45 states that "the sale and service of food shall [be] limited to the menu submitted with this application. The permittee shall not be authorized to establish a full kitchen with stove, grill or oven. Food services shall be limited to a microwave oven, gas steamer, soup preparation and refrigeration facilities."; and

WHEREAS, on March 3, 1994, the City issued building permit No. 94-47 for a commercial interior remodel allowing installation of the following: soup warmer, prep sink, refer, display rack, prep refer, small steamer, large steamer, stock pot, Type II hood, sink, dishwasher and coffee maker; and

WHEREAS, on November 3, 1995, an application for building permit No. 96-81 to allow a commercial kitchen remodel was submitted. On November 20th a correction list was provided indicating that an application to amend the Use Permit was required. An additional note was added on December 5, 1995, stating that the owner was required to submit a new application for a business license for a full-line restaurant. The correct list was updated crossing out "use permit" and writing in "business license only" and indicated that compliance was done April 22, 1996. On May 7, 1996, the city issued the building permit and on June 14, 1996, it was finaled. This permit allowed the installation of a stock pot burner and gas fryer; and

WHEREAS, on July 31, 2008, an application for building permit No. 08-168C allowing a commercial kitchen remodel, including the installation of a salamander, char broiler, griddle with 2 burners and an over, a fryer and stock pot burner was filed. This permit was issued August 15, 2008 and finaled February 11, 2009; and

WHEREAS, on September 23, 2015, at a duly noticed meeting, the Planning Commission determined that A.W. Shucks Cocktail & Oyster Bar (A.W. Shucks) was one of the 3 drinking places in the city. A.W. Shucks originally operated strictly as a drinking place and by approval of UP 93-45, ancillary food service was allowed, the establishment is permitted to be open until 12:00 a.m., and the majority of the floor space is occupied by the bar. The Commission memorialized this designation with a vote of 4-0-1; and

WHEREAS, on July 1, 2023, ownership of A.W. Shucks changed from M & M Coastal Enterprises (Mike and Michelle Sapon) to A.W. Shucks LLC (Karen Basi). Business License No. BL 23-041 was issued on August 8, 2023. This license approved a use classified as a full-line restaurant as the primary use and a drinking place as an ancillary use; and

WHEREAS, on August 28, 2023, correspondence was sent to the property manager of the subject parcel stating that the city memorialized the additional cooking equipment and approved the current menu as part of the approval of Building Permit No. BP 08-168C and that A.W. Shucks can continue to operate under UP 93-45, provided there was no change in its then current use and operation; and

WHEREAS, in February 2025, the Director of Community Planning and Building received an inquiry asking if A.W. Shucks is operating consistent with the use as approved and conditioned under Use Permit No. UP 93-45 (Murray/Weaver); and

WHEREAS, at the October 8, 2025, Planning Commission meeting, the Commission received a Director's Referral to discuss the permit and operation history of A.W. Shucks, and a potential amendment to Use Permit No. UP 93-45. Subsequent to their deliberation, the Commission directed staff to return with options to allow A.W. Shucks to operate as they currently are while potentially retaining their Use Permit for a drinking establishment; and

WHEREAS, at the December 10, 2025 Planning Commission meeting, staff returned to the Commission as directed and provided potential options: 1) amend Use Permit No. UP 93-45 to omit limited food service and add full line restaurant as ancillary use that is greater than 10% of the primary use, 2) uphold the Planning Commission's 2015 designation that A.W. Shucks is a drinking establishment, 3) consider A.W. Shucks as a nonconforming use, 4) revert the ancillary use to limited food service, or 5) amend Use Permit No. UP 93-45 to convert the allowed use from a drinking place to a full line restaurant. Staff's recommended Option 1 as it was consistent with the applicable policies of the Carmel-by-the-Sea General Plan and Local Coastal Program and the applicable requirements contained in the Carmel-by-the-Sea Municipal Code (CMC); and

WHEREAS, on December 10, 2025, having considered all the written and documentary evidence, the administrative record, staff report, oral testimony, and other evidence presented, the City of Carmel-by-the-Sea Planning Commission expressed the view that the drinking establishment use has been abandoned and the use shall come into conformance. In addition, the Commission identified that Options 5 would fit the existing model of the business operation; and

WHEREAS, on February 11, 2026, the Planning Commission of the City of Carmel-by-the-Sea approved Resolution 2026-04 determining that the Drinking Establishment at A.W. Shucks has been abandoned; and

WHEREAS, on February 26, 2026, an appeal was filed by A.W. Shucks, LLC of Planning Commission Resolution 2026-04; and

WHEREAS, on February 26, 2026, an appeal was filed by TSD Carmel Properties, L.P. of Planning Commission Resolution 2026-04.

NOW, THEREFORE, BE IT RESOLVED that based on the above findings and evidence, City Council of the City of Carmel-By-The-Sea does hereby:

1. Find the facts ("Facts") set forth in the recitals above are true and correct and are incorporated herein by reference.

2. Find that this action by the City Council is not a project under CEQA as defined in Public Resources Code Section 21065 and CEQA Guidelines Section 15378, and assuming it is a project, that it is exempt under CEQA Guidelines sections 15061(b)(3) (Common Sense Exemption), 15301 (Existing Facilities) and 15305 (Minor Alterations in Land Use Limitations) and that none of the exceptions to the exemptions listed in section 15300.2 apply in this case. Implementation of the City Council's action would result in no change to the existing, on the ground baseline conditions which substantiates that there would be no changes and thus no direct, indirect or foreseeable cumulative impacts or significant effects as a result of the action.

3. Determine that the drinking establishment at A.W. Shucks Cocktail & Oyster Bar (UP 93-45 Murray/Weaver) has been abandoned for more than six months in accordance with Carmel-by-the-Sea Municipal Code Section 17.56.050.C based upon the Facts and following findings:

(1) Use Permit 93-45 (UP 93-45) was adopted on December 8, 1993, to authorize the addition of the sale of food to an existing drinking establishment for a business then known as Maxwell McFly's and now known as AW Shucks ("Business") located at Ocean SW of San Carlos Avenue ("Property").

(2) Condition 2 of UP 93-45 stated: *"The sale and service of food shall [be] limited to the menu submitted with this application. The permittee shall not be authorized to establish a full kitchen with stove, grill or oven. Food services shall be limited to a microwave oven, gas steamer, soup preparation and refrigeration facilities."*

(3) Condition 8 of UP 93-45 stated: *"This use permit shall become void and of no further force or effect upon termination or discontinuance of the use for any period of time exceeding six months."11*

(4) Since 1993, building permits have been issued to this Business for a commercial kitchen including the installation of a salamander, char broiler, griddle with 2 burners and an oven, a fryer and stock pot burner.

(5) On August 8, 2023, Business License No. BL 23-041 was issued which authorized a use classified as a full-line restaurant as the primary use and a drinking place as an ancillary use.

(6) For at least the last six months, AW Shucks has not operated as a drinking establishment with the sale of limited food as approved by UP 93-45.

(7) The uses of the Property where the Business is located are subject to the conditions of UP 93-45.

(8) A Use Permit may only be amended upon application to the City which is approved by the Planning Commission.

(9) UP 93-45 has not been amended since December 8, 1993.

(10) A building permit does not amend a Use Permit.

(11) A business license does not amend a Use Permit.

4. A.W. Shucks may continue to operate under Use Permit No. UP 93-45 for a period of up to six months from February 11, 2026, the date of adoption of Resolution 2026-04 by the Planning Commission in order to allow acquiring a new use permit.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA this 7th day of April 2026, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:	ATTEST:
Dale Byrne, Mayor	Nova Romero, MMC, City Clerk

DRAFT RESOLUTION NO. 2

CITY OF CARMEL-BY-THE-SEA
CITY COUNCIL

RESOLUTION NO. 2026-____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA ORDERING THE CONSOLIDATION OF THE APPEALS BY TSD CARMEL PROPERTIES, L.P. (APP 26070) AND A.W. SHUCKS, LLC (APP 26071) ("APPEALS") OF PLANNING COMMISSION RESOLUTION 2026-004 FINDING THAT THE DRINKING ESTABLISHMENT AT A.W. SHUCKS COCKTAIL & OYSTER BAR (UP 93-45 MURRAY/WEAVER) LOCATED AT OCEAN AVENUE 3 SOUTHWEST OF SAN CARLOS STREET, IN THE CENTRAL COMMERCIAL (CC) ZONING DISTRICT, APN 010-146-017-000, HAS BEEN ABANDONED; GRANTING THE APPEALS CONDITIONAL UPON TSD CARMEL PROPERTIES, L.P AND/OR A.W. SHUCKS, LLC APPLYING TO THE CITY FOR AN AMENDMENT TO USE PERMIT NO. UP 93-45 TO OMIT LIMITED FOOD SERVICE AND ADD FULL LINE RESTAURANT AS AN ANCILLARY USE THAT IS GREATER THAN 10% OF THE PRIMARY USE AS A DRINKING ESTABLISHMENT FOR THE SUBJECT PROPERTY LOCATED AT OCEAN AVENUE 3 SOUTHWEST OF SAN CARLOS STREET, IN THE CENTRAL COMMERCIAL (CC) ZONING DISTRICT, APN 010-146-017-000; AND FINDING THAT THIS ACTION BY THE CITY COUNCIL IS NOT A PROJECT UNDER CEQA AS DEFINED IN PUBLIC RESOURCES CODE SECTION 21065 AND CEQA GUIDELINES SECTION 15378, AND/OR ASSUMING IT IS A PROJECT, FINDING IT IS EXEMPT UNDER CEQA GUIDELINES SECTIONS 15061(b)(3) (COMMON SENSE EXEMPTION), 15301 (EXISTING FACILITIES), 15305 (MINOR ALTERATIONS IN LAND USE LIMITATIONS) AND NONE OF THE EXCEPTIONS TO THE EXEMPTIONS APPLY IN THIS CASE

WHEREAS, on December 8, 1993, the Planning Commission approved Use Permit No. UP 93-45 (Murray/Weaver) authorizing the addition of limited food sales to an existing drinking establishment (formerly Maxwell McFly's, now A.W. Shucks Cocktail & Oyster Bar) and whether or not the operation is consistent with the use approved under Use Permit No. UP 93-45; and

WHEREAS, Condition of Approval No. 2 of UP 93-45 states that "the sale and service of food shall [be] limited to the menu submitted with this application. The permittee shall not be authorized to establish a full kitchen with stove, grill or oven. Food services shall be limited to a microwave oven, gas steamer, soup preparation and refrigeration facilities."; and

WHEREAS, on March 3, 1994, the City issued building permit No. 94-47 for a commercial interior remodel allowing installation of the following: soup warmer, prep sink, refer, display rack, prep refer, small steamer, large steamer, stock pot, Type II hood, sink, dishwasher and coffee maker; and

WHEREAS, on November 3, 1995, an application for building permit No. 96-81 to allow a commercial kitchen remodel was submitted. On November 20th a correction list was provided indicating that an application to amend the Use Permit was required. An additional note was added on December 5, 1995, stating that the owner was required to submit a new application for a business license for a full-line restaurant. The correct list was updated crossing out "use permit" and writing in "business license only" and indicated that compliance was done April 22, 1996. On May 7, 1996, the city issued the building permit and on June 14, 1996, it was finaled. This permit allowed the installation of a stock pot burner and gas fryer; and

WHEREAS, on July 31, 2008, an application for building permit No. 08-168C allowing a commercial kitchen remodel, including the installation of a salamander, char broiler, griddle with 2 burners and an over, a fryer and stock pot burner was filed. This permit was issued August 15, 2008 and finaled February 11, 2009; and

WHEREAS, on September 23, 2015, at a duly noticed meeting, the Planning Commission determined that A.W. Shucks Cocktail & Oyster Bar (A.W. Shucks) was one of the 3 drinking places in the city. A.W. Shucks originally operated strictly as a drinking place and by approval of UP 93-45, ancillary food service was allowed, the establishment is permitted to be open until 12:00 a.m., and the majority of the floor space is occupied by the bar. The Commission memorialized this designation with a vote of 4-0-1; and

WHEREAS, on July 1, 2023, ownership of A.W. Shucks changed from M & M Coastal Enterprises (Mike and Michelle Sapon) to A.W. Shucks LLC (Karen Basi). Business License No. BL 23-041 was issued on August 8, 2023. This license approved a use classified as a full-line restaurant as the primary use and a drinking place as an ancillary use; and

WHEREAS, on August 28, 2023, correspondence was sent to the property manager of the subject parcel stating that the city memorialized the additional cooking equipment and approved the current menu as part of the approval of Building Permit No. BP 08-168C and that A.W. Shucks can continue to operate under UP 93-45, provided there was no change in its then current use and operation; and

WHEREAS, in February 2025, the Director of Community Planning and Building received an inquiry asking if A.W. Shucks is operating consistent with the use as approved and conditioned under Use Permit No. UP 93-45 (Murray/Weaver); and

WHEREAS, at the October 8, 2025 Planning Commission meeting, the Commission received a Director's Referral to discuss the permit and operation history of A.W. Shucks, and a potential amendment to Use Permit No. UP 93-45. Subsequent to their deliberation, the Commission directed staff to return with options to allow A.W. Shucks to operate as they currently are while potentially retaining their Use Permit for a drinking establishment; and

WHEREAS, at the December 10, 2025 Planning Commission meeting, staff returned to the Commission as directed and provided potential options: 1) amend Use Permit No. UP 93-45 to omit limited food service and add full line restaurant as ancillary use that is greater than 10% of the primary use, 2) uphold the Planning Commission's 2015 designation that A.W. Shucks is a drinking establishment, 3) consider A.W. Shucks as a nonconforming use, 4) revert the ancillary use to limited food service, or 5) amend Use Permit No. UP 93-45 to convert the allowed use from a drinking place to a full line restaurant. Staff's recommended Option 1 as it was consistent with the applicable policies of the Carmel-by-the-Sea General Plan and Local Coastal Program and the applicable requirements contained in the Carmel-by-the-Sea Municipal Code (CMC); and

WHEREAS, on December 10, 2025, having considered all the written and documentary evidence, the administrative record, staff report, oral testimony, and other evidence presented, the City of Carmel-by-the-Sea Planning Commission expressed the view that the drinking establishment use has been abandoned and the use shall come into conformance. In addition, the Commission identified that Options 5 would fit the existing model of the business operation; and

WHEREAS, on February 11, 2026, the Planning Commission of the City of Carmel-by-the-Sea approved Resolution 2026-04 determining that the Drinking Establishment at A.W. Shucks has been abandoned; and

WHEREAS, on February 26, 2026, an appeal was filed by A.W. Shucks, LLC of Planning Commission Resolution 2026-04; and

WHEREAS, on February 26, 2026, an appeal was filed by TSD Carmel Properties, L.P. of Planning Commission Resolution 2026-04

NOW, THEREFORE, BE IT RESOLVED that based on the above findings and evidence, City Council of the City of Carmel-By-The-Sea does hereby:

1. Find the facts ("Facts") set forth in the recitals stated above are true and correct and are incorporated herein by reference.

2. Find that the this action by the City Council is not a project under CEQA as defined in Public Resources Code Section 21065 and CEQA Guidelines Section 15378, and assuming it is a project, that it is exempt under CEQA Guidelines sections 15061(b)(3) (Common Sense Exemption), 15301 (Existing Facilities) and 15305 (Minor Alterations in Land Use Limitations) and none of the exceptions to the exemptions listed in section 15300.2 apply in this case. Implementation of the City Council's action would result in no change to the existing, on the ground baseline conditions which substantiates that there would be no changes and thus no direct, indirect or foreseeable cumulative impacts or significant effects as a result of the proposed action.

3. The City Council hereby grants the Appeals filed by TSD Carmel Properties, L.P. (APP 26070) and A.W. Shucks, LLC (APP 26071), conditional upon TSD Carmel Properties, L.P. and/or A.W. Shucks, LLC applying to the City within forty-five (45) calendar days of the date of approval of this Resolution an amendment ("Amendment") to Use Permit No. UP 93-45 to omit limited food service and add a full line restaurant as an ancillary use that is greater than 10% of the primary use as a drinking establishment for the property (APN 010-146-017-000).

4. If TSD Carmel Properties, L.P. and/or A.W. Shucks, LLC files an application for an Amendment to Use Permit No. UP-45 within forty-five (45) calendar days of the date of approval of this Resolution and the Planning Commission approves the Amendment with appropriate findings, then the action by the City Council on this Resolution shall be deemed final as of the date of that action by the Planning Commission subject to a timely appeal of the Planning Commission action on the Amendment to the City Council.

5. If TSD Carmel Properties, L.P. and/or A.W. Shucks, LLC does not file an application for an Amendment to Use Permit No. UP-45 within forty-five (45) calendar days of the date of approval of this Resolution, then staff is directed to issue a notice of further hearing on the Appeals before the City Council for a determination by the City Council of whether to grant or deny the Appeals from Planning Commission Resolution 2026-04.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA this 7th day of April 2026, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

ATTEST:

Dale Byrne, Mayor

Nova Romero, MMC, City Clerk

Docusign Envelope ID: A90E0134-6513-4881-B12F-5CE435FF63B3

CITY OF CARMEL-BY-THE-SEA
PLANNING COMMISSION

PLANNING COMMISSION RESOLUTION NO. 2026-04

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CARMEL-BY-THE-SEA DETERMINING THAT THE DRINKING ESTABLISHMENT AT A.W. SHUCKS COCKTAIL & OYSTER BAR (UP 93-45 MURRAY/WEAVER) LOCATED AT OCEAN AVENUE 3 SOUTHWEST OF SAN CARLOS STREET, IN THE CENTRAL COMMERCIAL (CC) ZONING DISTRICT, APN 010-146-017-000, HAS BEEN ABANDONED AND FINDING THAT THE PLANNING COMMISSION'S ACTION IS NOT A PROJECT UNDER CEQA AS DEFINED IN PUBLIC RESOURCES CODE SECTION 21065 AND CEQA GUIDELINES SECTION 15378, AND ASSUMING IT IS A PROJECT, IT IS EXEMPT UNDER CEQA GUIDELINES SECTIONS 15061(b)(3) (COMMON SENSE EXEMPTION), 15301 (EXISTING FACILITIES), 15305 (MINOR ALTERATIONS IN LAND USE LIMITATIONS) AND NONE OF THE EXCEPTIONS TO THE EXEMPTIONS APPLY IN THIS CASE

WHEREAS, on December 8, 1993, the Planning Commission approved Use Permit No. UP 93-45 (Murray/Weaver) authorizing the addition of limited food sales to an existing drinking establishment (formerly Maxwell McFly's, now A.W. Shucks Cocktail & Oyster Bar) and whether or not the operation is consistent with the use approved under Use Permit No. UP 93-45; and

WHEREAS, Condition of Approval No. 2 of UP 93-45 states that "the sale and service of food shall [be] limited to the menu submitted with this application. The permittee shall not be authorized to establish a full kitchen with stove, grill or oven. Food services shall be limited to a microwave oven, gas steamer, soup preparation and refrigeration facilities."; and

WHEREAS, on March 3, 1994, the City issued building permit No. 94-47 for a commercial interior remodel allowing installation of the following: soup warmer, prep sink, refer, display rack, prep refer, small steamer, large steamer, stock pot, Type II hood, sink, dishwasher and coffee maker; and

WHEREAS, on November 3, 1995, an application for building permit No. 96-81 to allow a commercial kitchen remodel was submitted. On November 20th a correction list was provided indicating that an application to amend the Use Permit was required. An additional note was added on December 5, 1995, stating that the owner was required to submit a new application for a business license for a full-line restaurant. The correct list was updated crossing out "use permit" and writing in "business license only" and indicated that compliance was done April 22, 1996. On May 7, 1996, the city issued the building permit and on June 14, 1996, it was finaled. This permit allowed the installation of a stock pot burner and gas fryer; and

WHEREAS, on July 31, 2008, an application for building permit No. 08-168C allowing a commercial kitchen remodel, including the installation of a salamander, char broiler, griddle with 2 burners and an over, a fryer and stock pot burner was filed. This permit was issued August 15, 2008 and finaled February 11, 2009; and

WHEREAS, on September 23, 2015, at a duly noticed meeting, the Planning Commission determined that A.W. Shucks Cocktail & Oyster Bar (A.W. Shucks) was one of the 3 drinking places in the city. A.W. Shucks originally operated strictly as a drinking place and by approval of UP 93-45, ancillary food service was allowed, the establishment is permitted to be open until 12:00 a.m., and the majority of the floor space is occupied by the bar. The Commission memorialized this designation with a vote of 4-0-1; and

WHEREAS, on July 1, 2023, ownership of A.W. Shucks changed from M & M Coastal Enterprises (Mike and Michelle Sapon) to A.W. Shucks LLC (Karen Basi). Business License No. BL 23-041 was issued on August 8, 2023. This license approved a use classified as a full-line restaurant as the primary use and a drinking place as an ancillary use; and

WHEREAS, on August 28, 2023, correspondence was sent to the property manager of the subject parcel stating that the city memorialized the additional cooking equipment and approved the current menu as part of the approval of Building Permit No. BP 08-168C and that A.W. Shucks can continue to operate under UP 93-45, provided there was no change in its then current use and operation; and

WHEREAS, in February 2025, the Director of Community Planning and Building received an inquiry asking if A.W. Shucks is operating consistent with the use as approved and conditioned under Use Permit No. UP 93-45 (Murray/Weaver); and

WHEREAS, at the October 8, 2025 Planning Commission meeting, the Commission received a Director's Referral to discuss the permit and operation history of A.W. Shucks, and a potential amendment to Use Permit No. UP 93-45. Subsequent to their deliberation, the Commission directed staff to return with options to allow A.W. Shucks to operate as they currently are while potentially retaining their Use Permit for a drinking establishment; and

WHEREAS, at the December 10, 2025 Planning Commission meeting, staff returned to the Commission as directed and provided potential options: 1) amend Use Permit No. UP 93-45 to omit limited food service and add full line restaurant as ancillary use that is greater than 10% of the primary use, 2) uphold the Planning Commission's 2015 designation that A.W. Shucks is a drinking establishment, 3) consider A.W. Shucks as a nonconforming use, 4) revert the ancillary use to limited food service, or 5) amend Use Permit No. UP 93-45 to convert the allowed use from a drinking place to a full line restaurant. Staff's recommended Option 1 as it was consistent with the applicable policies of the Carmel-by-the-Sea General Plan and Local Coastal Program and the applicable requirements contained in the Carmel-by-the-Sea Municipal Code (CMC); and

WHEREAS, on December 10, 2025, having considered all the written and documentary evidence, the administrative record, staff report, oral testimony, and other evidence presented, the City of Carmel-by-the-Sea Planning Commission expressed the view that the drinking establishment use has been abandoned and the use shall come into conformance. In addition, the Commission identified that Options 5 would fit the existing model of the business operation;

and

WHEREAS, in accordance with CMC Section 17.54.010.C, the findings and actions of the Planning Commission shall be final and conclusive from and after the date of final action unless an appeal is filed with the City Council.

NOW, THEREFORE, BE IT RESOLVED that based on the above findings and evidence, Planning Commission of the City of Carmel-By-The-Sea does hereby:

1. The facts ("Facts") set forth in the recitals above are true and correct and are incorporated herein by reference.

2. Find the proposed action by the Commission is not a project under CEQA as defined in Public Resources Code Section 21065 and CEQA Guidelines Section 15378, and assuming it is a project, it is exempt under CEQA Guidelines sections 15061(b)(3) (Common Sense Exemption), 15301 (Existing Facilities) and 15305 (Minor Alterations in Land Use Limitations) and none of the exceptions to the exemptions listed in section 15300.2 apply in this case. The subject property does not contain a hazardous waste site or a historic resource, nor is it within an officially designated state scenic highway. Implementation of the Commission's action would result in no change to baseline conditions which substantiates that there would be no foreseeable cumulative impacts or significant effects as a result of the action.

3. Determine that the drinking establishment at A.W. Shucks Cocktail & Oyster Bar (UP 93-45 Murray/Weaver) has been abandoned for more than six months in accordance with Carmel-by-the-Sea Municipal Code Section 17.56.050.C based upon the Facts and following findings:

(1) Use Permit 93-45 (UP 93-45) was adopted on December 8, 1993 to authorize the addition of the sale of food to an existing drinking establishment for a business then known as Maxwell McFly's and now known as AW Shucks ("Business") located at Ocean SW of San Carlos Avenue ("Property").

(2) Condition 2 of UP 93-45 stated: *"The sale and service of food shall [be] limited to the menu submitted with this application. The permittee shall not be authorized to establish a full kitchen with stove, grill or oven. Food services shall be limited to a microwave oven, gas steamer, soup preparation and refrigeration facilities."*

(3) Condition 8 of UP 93-45 stated: *"This use permit shall become void and of no further force or effect upon termination or discontinuance of the use for any period of time exceeding six months."*

(4) Since 1993, building permits have been issued to this Business for a commercial kitchen including the installation of a salamander, char broiler, griddle with 2 burners and an oven, a fryer and stock pot burner.

(5) On August 8, 2023, Business License No. BL 23-041 was issued which authorized a use classified as a full-line restaurant as the primary use and a drinking place as an ancillary use.

(6) For at least the last six months, AW Shucks has not operated as a drinking establishment with the sale of limited food as approved by UP 93-45.

(7) The uses of the Property where the Business is located are subject to the conditions of UP 93-45.

(8) A Use Permit may only be amended upon application to the City which is approved by the Planning Commission.

(9) UP 93-45 has not been amended since December 8, 1993.

(10) A building permit does not amend a Use Permit.

(11) A business license does not amend a Use Permit.

4. A.W. Shucks may continue to operate under Use Permit No. UP 93-45 for a period of up to six months from the date of this decision in order to allow acquiring a new use permit.

PASSED AND ADOPTED BY THE PLANNING COMMISSION OF THE CITY OF CARMEL-BY-THE-SEA this 11th day of February 2026, by the following vote:

AYES: Ahlborn, Karapetkov, Locke, LePage

NOES: Allen

ABSENT:

ABSTAIN:

APPROVED:

Signed by:
Michael LePage
FE97D7E0A9D499...
Michael LePage
Chair

ATTEST:

Signed by:
Shelby Gorman
6E9202EE446E4EF...
Shelby Gorman
Planning Commission Secretary

CITY OF CARMEL-BY-THE-SEA APPEAL FORM

*Appeals to a Board or Commission must be made by completing and submitting an Appeal Form with the City Clerk. Appeals shall be filed **within 10 calendar days following the date of action** and paying the required filing fee as established by City Council resolution.*

*Appeals to the City Council must be made by completing and submitting an Appeal Form with the City Clerk. Appeals shall be filed **within 10 working days following the date of action** and paying the required filing fee as established by City Council resolution.*

City of ~~Carmel-By-The-Sea~~

TSD Carmel Properties, L.P.

Name of Appellant

FEB 26 2026

Office of the City Clerk

2:37pm

P.O Box 223061, Carmel, CA 93922

Mailing Address of Appellant

(831) 601-1675 tsdcarmelproperties@gmail.com; plastinico@aol.com

Phone Number Email address

Send correspondence to the following party (if different than Appellant):

Hudson Martin P.C.

Name

P.O. Box 112, Monterey, CA 93942

Mailing Address

(831) 375-3151 cgoebelsmann@hudsonmartin.com

Phone Number Email address

Planning Commission

Commission, Board, Official or Department whose action is being appealed

Physical location of property involved (street location or address): OCEAN AVENUE 3 SOUTHWEST OF SAN CARLOS STREET

3, 4, 9, and 11 76 010-146-017-000

Lot Block APN

Date of decision being appealed: 2/11/2026

Specific action or decision being appealed:

Planning Commission Resolution No. 2026-04

Grounds for appeal (attach additional pages if necessary):

See attached documentation setting forth the grounds for the appeal.

Signature of Appellant

Reference Chapter 17.54 of the Carmel-by-the-Sea Municipal Code "Appeals" revised 1/2020

Hudson Martin PC
Est. 1908

February 26, 2026

City of Carmel-by-the-Sea
Attn: City Council
City Hall
Monte Verde Street (between Ocean and 7th Avenue)
Carmel-by-the-Sea, CA 93921

RE: Appeal of Planning Commission Resolution No. 2026-04
Deemed Abandonment of Use Permit (UP 93-45)
Our File No. TSDP10018

Dear City Council:

TSD Carmel Properties, L.P. ("TSD") hereby submits this appeal of the Planning Commission Resolution No. 2026-04, which deemed as abandoned TSD's drinking place use permit (UP 93-45) ("Abandonment Resolution").

TSD respectfully requests that the City Council overturn the Abandonment Resolution because TSD has never abandoned the drinking place use permit. TSD has continuously leased its property to tenants operating under the drinking place use permit for decades, without incident, and has relied in good faith on the representations of City officials that its tenants' operations were consistent with its use permit. The Planning Commission's adoption of the Abandonment Resolution ignores this history and amounts to an unlawful government taking. The Abandonment Resolution also sends the message that TSD, its tenants, and other business owners cannot rely upon prior City approvals, and that the continuation of their businesses is subject to whims of whomever is serving on the Planning Commission. This should not be allowed.

I. TSD Has Leased Its Property to Drinking Establishments for Decades With City Approval, Including to Its Current Tenant A.W. Shucks.

TSD's drinking place use permit runs with the land of the Doud Arcade, located at Ocean Avenue and San Carlos Street in Carmel-by-the-Sea (APN 010-146-017-000). Since 1961, TSD has continuously leased the property to drinking establishments, including Whitney's, Maxwell McFly's, and its current tenant A.W. Shucks Cocktail & Oyster Bar ("A.W. Shucks"). (*See* Ex. 1, Declaration of John Plastini, enclosed herewith and incorporated by reference; Ex. 2, Declaration of Timothy J. Meroney, enclosed herewith and incorporated by reference.)

For decades, TSD has consistently and in good faith relied on representations by City officials that its tenants' operations were consistent with the terms of its drinking place use permit. Since 1993, TSD's tenants have served both alcohol and food as part of their operations. That year, the tenant (then Maxwell McFly's) sought permission from the Planning Commission to add food service (*e.g.*, oysters). The Planning Commission approved the sale of food as an ancillary use under the drinking place use permit, including permitting limited facilities for the

preparation of food in the tenant space. (Ex. 3, Use Permit 93-45.) TSD authorized tenant improvements for these facilities.

In 1994 and 1995, the tenant (A.W. Shucks) sought to expand its food service and the obtained building permits for (i) commercial interior remodeling for food preparation and (ii) a commercial kitchen. The City did not require a new use permit to be issued as part of this remodeling; a notation on the correction list for the 1995 building permit application crossed out a line providing for a new use permit and replaced it with the statement "business license only." The City issued the final building permit in 1996, and the tenant improvements proceeded with TSD's approval. In 2008, the City issued a building permit relating to the tenant's food service, which included City approval of kitchen equipment and a drink and food menu. Notably, notwithstanding the tenant improvements and kitchen equipment changes, the floor space occupied by the kitchen has never increased beyond that approved in 1993.

According to a former Carmel Building Official, "TSD and A.W. Shucks followed all necessary procedures and obtained all approvals necessary to remodel and maintain the Use Permit granted by the City" and "[a]t no point during the past review processes did staff ever consider revoking the Use Permit because A.W. Shucks' operations involved food service." (*See* Ex. 2, Declaration of Timothy J. Meroney, ¶¶ 10, 12.)

In 2015, the Planning Commission designated A.W. Shucks as one of three drinking places in the City. The other drinking places were Barmel and Sade's. At the time of the designation, the Planning Commission was aware that A.W. Shucks served both alcohol and food and that most of its seating was at the bar or in the bar room.

In 2023, A.W Shucks was sold to its current owners. As part of the sale, TSD contacted the City to obtain confirmation that the new owners could continue to operate the business under its existing drinking place use permit. Planning Director Brandon Swanson confirmed to TSD that "even though the original Use Permit sets a limit on the type of equipment and menu, the City took an official action to approve the updated kitchen and the menu it was meant to prepare, thereby creating a legal nonconforming situation that is allowed to continue under Chapter 17.36 of the City's Municipal Code." He further confirmed that the 2023 version of A.W. Shucks' menu was the same as that approved by the City in 2008, and could continue to be served in whole or in part. Following this confirmation, TSD provided a landlord consent and authorization for the assignment of the existing lease to A.W. Shucks' new owners and the business sale closed.

A.W. Shucks' operations have remained unchanged since the 2023 ownership change. The business is continuing to use the same drink and food menu that the City approved in 2008, and continues to devote most of its seats to the bar and bar room, just like in 2015 when the City designated it as one of the three drinking places in Carmel.

Notwithstanding this, in February 2025, the Director of Community Planning and Building opened an investigation into whether A.W. Shucks' operations were consistent with

TSD's drinking place use permit after receiving an anonymous inquiry. The timing of the inquiry coincided with another drinking place, Sade's, seeking a new location from which to operate following the conclusion of its lease on Lincoln Street.[1]

TSD never received formal notification of the inquiry. Instead, one of its owners first learned of the inquiry during a casual conversation at a Carmel Rotary meeting in early October 2025. TSD then reached out to the City to learn more. TSD was initially informed by the City that the matter was scheduled to go before the Planning Commission to "clean up some paperwork" to conform the use permit to requirements in the Carmel Municipal Code. TSD, in good faith, sought to cooperate with both the City, including the Planning Department staff and the Planning Commission, and A.W. Shucks to address the situation.

The matter was initially noticed for the Planning Commission's meeting on October 8, 2025, and later continued to December 10, 2025, January 21, 2026, and finally February 11, 2026. The Planning Commission considered up to five different options to resolve the inquiry. (*See* Ex. 4, December 10, 2025 Staff Report). However, by the February 11, 2026 meeting, these options were reduced to two alternatives: (1) a resolution determining and finding that TSD's drinking place use permit (UP 93-45) had been abandoned (Draft Resolution 1) (*i.e.*, the Abandonment Resolution); or (2) a resolution directing staff to communicate with TSD and A.W. Shucks regarding an amendment of the drinking place use permit to omit limited food service and add full-line restaurant as an ancillary use that is greater than 10% of the primary drinking place use ("Draft Resolution 2"). (*See* Ex. 5, February 11, 2026 Staff Report). Both TSD and A.W. Shucks submitted public comments in advance of the meeting advocating for the adoption of Draft Resolution 2. (*See* Ex. 6, Public Comment from TSD dated February 11, 2026, enclosed herewith; Ex. 7, Public Comment from A.W. Shucks dated February 11, 2026, enclosed herewith; *see also* Ex. 8, Public Comment from TSD dated January 21, 2026, enclosed herewith.)

During the February 11, 2026, meeting, the Planning Commission received an additional presentation from staff, took additional public comments (including from counsel for TSD, A.W. Shucks, and Sade's), and deliberated. The Planning Commission's deliberations focused on the Abandonment Resolution and included minimal discussion of Draft Resolution 2. The Commissioners' comments reflected their beliefs that the drinking place use had been abandoned, that prior acts of City officials (including the now former Planning Director) were not binding, and that there would be no harm to either TSD or A.W. Shucks if the drinking place use permit were deemed abandoned. In a 4 to 1 vote, the Planning Commission adopted the Abandonment Resolution. (*See* Ex. 9, Planning Commission Resolution No. 2026-04.)

[1] Although Sade's owner, Parker Logan, has denied making the inquiry, he and his associates were actively involved in Planning Commission meetings regarding the use permit. He also hired counsel to advocate in favor of the Abandonment Resolution and has attempted to intimidate the owners of TSD and A.W. Shucks, including by causing a disruption at A.W. Shucks after the January 21, 2026, Planning Commission meeting and sending text messages to TSD's owner and manager. (*See* Ex. 1, Declaration of John Plastini [Text Messages].)

II. The Planning Commission Erred in Adopting the Abandonment Resolution Because the Use Permit Was Never Abandoned.

The Planning Commission erred by adopting the Abandonment Resolution because TSD's drinking place use permit was never abandoned and A.W. Shucks has continuously operated as a drinking place, notwithstanding its food service.

TSD and A.W. Shucks have clearly and consistently stated throughout this administrative process that they have not and will not abandon their rights to the drinking place use permit or the right to operate a drinking place. A finding of abandonment requires an intent to abandon and an act or failure to act reflecting the intent to abandon an interest in or right to use property. (*See Hansen Bros. Enters., Inc. v. Bd. of Supervisors* (1996) 12 Cal.4th 533, 569; *Gebhard v. Stephens* (1968) 68 Cal.2d 864, 890–891.) There is no such intent or act here.

Moreover, TSD and A.W. Shucks have, in fact, used the drinking place use permit for decades. Even following its 2023 ownership change, A.W. Shucks has continually operated as a drinking place under the Carmel Municipal Code ("CMC"). The CMC defines drinking places as "Businesses serving beverages for consumption on the premises as a primary use and including on-sale service of alcohol including beer, wine, and mixed drinks" (CMC § 17.68.050), and full-line restaurants as "Restaurants providing a full line of prepared food and drinks using nondisposable plates, glasses and utensils for immediate consumption on the site" (CMC § 17.68.050). If a full-line restaurant has a bar as an ancillary use, the CMC mandates that no more than 20% of the seating be located at a bar or a separate bar room. (*See* CMC § 17.14.040.I.3.d (Full Line Restaurants) ("The applications, menus and plans indicate that the business will primarily be a restaurant – full line, and that no more than 20 percent of the total number of seats are at a bar or in a separate bar room. If the use does not meet this standard, the standards in subsection (I)(2) of this section, Drinking Places, shall also apply to the use."). "If a full-line restaurant provides more than 20% of its seats at a bar [or separate bar room], *the CMC classifies the use as a drinking place as the primary use and restaurant as an ancillary use.*" (Ex. 4, December 10, 2025 Staff Report at p. 2 (emphasis added); *see also* CMC § 17.14.040.I.3.d.) Because a use permit is required for either use, the Planning Commission may authorize the ancillary use (full-line restaurant) to exceed 10% of the primary use for a full-line restaurant that has 20% or more of its seats located in a bar or bar room. (*See* CMC § 17.14.040.B.3.) A.W. Shucks serves alcohol and food in two rooms—a bar room with an alcohol bar, oyster bar, and high-top tables and a dining room with standard dining tables—with more than 20% of its seats located in the bar room. (Ex. 7, Public Comment from A.W. Shucks dated February 11, 2026.) Accordingly, under the CMC, A.W. Shucks is properly classified as a drinking place (primary use) with full-line restaurant as an ancillary use.

In deeming the drinking place use permit abandoned, the Planning Commission ignored the applicable CMC provision classifying A.W. Shucks as a drinking place. The Planning Commission did so despite (i) a staff report and presentation identifying these provisions and applying them to A.W. Shucks' operations (*see* Staff Report for December 10, 2025, Planning Commission Meeting), and (ii) a statement from the City Attorney during the February 11, 2026,

meeting that it was legally permissibly under the CMC to have a drinking place as a primary use and a full line restaurant as an ancillary use even if the ancillary were a greater percentage than the primary use. The Planning Commission instead based its decision on language in A.W. Shucks' business license and testimony from its current owner regarding its revenue composition, even though neither factor is relevant to determining the classification of the business' operations under the CMC. (*See* Ex. 9, Planning Commission Resolution No. 2026-04, ¶ 3(11) ("A business license does not amend a use permit.").)

Given that TSD and A.W. Shucks have never expressed any intent to abandon the drinking place use permit, and A.W. Shucks has continuously operated as a drinking place under the CMC, there is no basis to conclude that TSD's drinking place use permit was ever abandoned.

III. The Planning Commission Erred in Finding that the Addition of Food Service at A.W. Shucks Constituted a Change in Use Under the Drinking Place Use Permit.

The Planning Commission also erred by concluding that the current food service at A.W. Shucks constitutes a "different use" triggering an abandonment of the drinking place use permit, as the City repeatedly approved the addition and expansion of the food service under the use permit over the last several decades.

Over thirty years ago, in 1993, the Planning Commission approved the sale of food as an ancillary use under the drinking place use permit, including permitting limited facilities for the preparation of food in the tenant space. Within the next several years, the City issued building permits authorizing expanded food service facilities (in 1994 and 1995) without requiring the issuance of a new use permit. A notation on the correction list for the 1995 building permit application crossed out reference to a new use permit and instead replaced it with a notation requiring a new "business license only." In 2008, the City issued a building permit for additional kitchen renovations and a drink and food menu. Finally, in 2015, the City designated A.W. Shucks as one of three drinking places in Carmel with full knowledge of its expanded food service (which is the same exact food service offered to date—the menu has not changed since 2008). The Planning Director confirmed in 2023, as part of A.W. Shucks' ownership change, that the expanded food service was permissible. By taking these actions, the City both expressly and implicitly represented that the food service was allowed under the CMC and consistent with the drinking place use permit. TSD and its tenants reasonably relied on these representations.

The City, including the Planning Commission, is bound by the representations and the decisions of its officials, including the Planning Director. The Planning Commission incorrectly concluded during the February 11, 2026 meeting that the (now former) Planning Director's 2023 communication to TSD constituted a non-binding "ministerial act." The Planning Director is a senior official within the Building and Planning Department who has authority to make decisions regarding use permits. (*See* CMC § 17.56.050.) Therefore, Planning Director's representations to TSD regarding A.W. Shuck's food service carried weight and constitute an official decision to which the City is bound. (*Ibid.*)

Furthermore, due to the long history of City approvals and representations at various levels over several decades, the City, and by extension the Planning Commission, is estopped from asserting that the drinking place use permit can be deemed abandoned because of the addition and expansion of food service at A.W. Shucks. (*See e.g., City of Long Beach v. Mansell* (1970) 3 Cal.3d 462, 489 ("Generally speaking, four elements must be present in order to apply the doctrine of equitable estoppel: (1) the party to be estopped must be apprised of the facts; (2) he must intend that his conduct shall be acted upon, or must so act that the party asserting the estoppel had a right to believe it was so intended; (3) the other party must be ignorant of the true state of facts; and (4) he must rely upon the conduct to his injury."); *Driscoll v. City of Los Angeles* (1967) 67 Cal.2d 297, 306 (same).) Estoppel may be applied against the government where justice requires, including to avoid injustice when doing so justifies any adverse impact on the public interest. (*See Driscoll*, 67 Cal.2d at 306; *Schafer v. City of Los Angeles* (2015) 237 Cal.App.4th 1250, 1262–1263.) In this case, the Planning Commission's adoption of the Abandonment Resolution is both unjust and contrary to the public interest.

For decades, TSD has engaged in regular, good faith communications with the City regarding the tenant businesses operating under its drinking place use permit and has relied upon the City's approvals in leasing the tenant space. TSD has followed the City's rules in leasing its property to drinking establishments and has never been notified of any violations. Even when this administrative process began and TSD was informed that the process was intended to "clean up the paperwork" regarding the use permit, TSD, in good faith, sought to cooperate with both the City, including the Planning Department staff and the Planning Commission, and its tenant A.W. Shucks to address the situation. On February 11, 2026, TSD and A.W. Shucks informed the Planning Commission that they were interested further discussing Draft Resolution 2, which would have given TSD and A.W. Shucks the opportunity to engage with staff regarding an amendment of the drinking place use permit to add a full line restaurant as an ancillary use that is greater than 10% of the primary use as a drinking place, consistent with the CMC. Even though TSD told the Planning Commission during the meeting that it wanted clarification about how Draft Resolution 2 would be implemented if agreed upon, the Planning Commission did not engage TSD in a discussion relating to that alternative presented by the Planning Commission. Instead, the Planning Commission deemed the use permit abandoned.

The Planning Commission's complete lack of engagement with TSD regarding Draft Resolution 2 and its decision to ignore decades of representations by the City to TSD suggest that an amendment of the use permit was never genuinely in prospect. The Abandonment Resolution does not even mention the two alternatives presented at the February 11, 2026, meeting and its recitals only refer to discussions and deliberations at the December 10, 2025, meeting. The public record from the December 10, 2025, meeting makes clear that the Planning Commission's proposed decision to deem TSD's drinking place use permit abandoned was influenced by extensive public comments and discussion of non-agenda items relating to Sade's Cocktails, and an interest in making TSD's use permit available to Sade's. In fact, in adopting the Abandonment Resolution, the Planning Commission gave no thought whatsoever to A.W.

Shucks' ability to operate following the deemed abandonment—until the City Attorney raised the practical question of how the business could continue to operate if it did not have a use permit.

The public has a strong interest in the consistent and fair enforcement of laws by its government, free of any appearances of impropriety or preferential treatment. The public should be able to trust and rely upon the representations of its government officials. Local business owners in particular need consistency and reliability to start and thrive, especially when making important decisions on long-term investments in the community. If the City upholds the Abandonment Resolution even though TSD has played by the rules for decades, never received notice of any violations involving its drinking place use permit, and requested the opportunity to amend its use permit consistent with the CMC, the City will be sending a strong signal to all businesses about the reliability of City leadership and the potential risks for operating in this community.[2]

IV. The Abandonment Resolution Substantially Harms TSD.

The Planning Commission's adoption of the Abandonment Resolution interferes with and substantially, adversely impacts TSD's established business operations, and serves as a governmental taking of its property rights.

TSD's interest in the continued operation of its business, specifically leasing its property to drinking establishments, is a personal, vested property right and should be precluded from extinction by municipal action. *(See, e.g., Goat Hill Tavern v. City of Costa Mesa* (1992) 6 Cal.App.4th 1519, 1526-1527 ("Interference with the right to continue an established business is far more serious than the interference a property owner experiences when denied a conditional use permit in the first instance. Certainly, this right is sufficiently personal, vested and important to preclude its extinction by a nonjudicial body."); *cf. Halaco Engineering Co. v. South Central Coast Regional Commission* (1986) 42 Cal.3rd 52, 63 (noting "the vested rights doctrine derives from the constitutional guarantee that property may not be taken without due process and just compensation").) TSD has leased the Doud Arcade tenant space to drinking establishments for seven decades. The City acknowledged this history when it first approved the use permit authorizing the sale of food in 1993, and again when designating A.W. Shucks as one of the three drinking places in Carmel in 2015.

The Doud Arcade is the only property on Ocean Avenue with a drinking place use permit. The property's prime location, paired with its drinking establishment history and current designation as one of only three drinking places in the Carmel, makes the property valuable and attractive to tenants. Given this unique and inimitable combination, the deemed abandonment of the drinking place use permit will not only cause TSD economic harm but will also irreparably change the character of its Property and sever its historic connection to the community.

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[2] If the City Council were to now adopt the change in position and conclude that A.W. Shucks' operations constitute a "different use" under the drinking place use permit despite this factual history, TSD should at least be given the opportunity to file a notice of temporary cessation under CMC 17.56.040 to avoid the loss of the permit.

The economic harm to TSD's established business operations cannot be understated. Due to the Abandonment Resolution, TSD can no longer engage in the business of leasing its property to drinking establishments as it has for the last 65 years. It will no longer be able to market the tenant space to drinking establishments and, to attract other types of businesses, TSD may need to renovate the space or otherwise other improvements (such as the expansion of the food preparation area to accommodate the operations necessary for a full-line restaurant). Further, without the highly-coveted drinking place use permit and associated historic drinking place designation, the property and leasehold interest will be less attractive to future property purchasers and tenants thereby significantly reducing the value of the property and the leasehold interest long-term. Finally, TSD may end up losing its long-standing tenant for three decades, A.W. Shucks. There is uncertainty surrounding A.W. Shucks' continued operation. The business' current owners previously informed the Planning Commission that the drinking place use permit was a factor in their decision to purchase the business and that deeming the drinking place use permit abandoned would adversely impact the business and their investment expectations. (*See* Statement from Karen Basi during the October 8, 2025, Planning Commission Meeting.) Although the Abandonment Resolution gives TSD and A.W. Shucks six months to apply for a new use permit, there is no guarantee that permit will be issued.[3] The Planning Commission assumed during the February 11, 2026, meeting that the permit would be for a full-line restaurant. However, A.W. Shucks does not currently meet the CMC classification for a full-line restaurant because over 20% of its seats are dedicated to a bar room. (*See discussion, supra.*) Under the CMC, A.W. Shucks would instead need to be classified as a drinking place—an impossible outcome given the Planning Commission's resolution and its apparent intent to make the drinking place permit available to a different bar. The only alternative would be for A.W. Shucks to change its business model to satisfy the CMC requirements. This forced change may adversely impact A.W. Shucks' operations, resulting in the sale of its business for a reduced price (A.W. Shucks' owners have advised the drinking place use permit had an estimated value of $250,000 as part of the sale) and either premature termination of or renegotiation of its lease with TSD (which currently has nine years remaining). The total damages to TSD from the loss of the drinking place use permit include not only the $250,000 value of the permit that was estimated as part of the A.W. Shucks' ownership change, but also the lost income from the premature termination of or renegotiation of the A.W. Shucks lease, the reduced rental income for the leasehold space in perpetuity, and the diminution in value in the Doud Arcade.

The Planning Commission erred to the extent that it determined that TSD would not suffer damages if the drinking place use permit were deemed abandoned. To the contrary, the deemed abandonment of the TSD's drinking place use permit constitutes an unlawful taking by the City, for which TSD is in the process of obtaining a professional appraisal for the purposes of seeking renumeration from the City, if the Abandonment Resolution is not overturned.

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[3] When the Planning Commission adopted the Abandonment Resolution, there was discussion of including a provision in the resolution that would waive the new permit application fee. However, the adopted resolution contains no such language.

V. The City Council Should Overturn the Abandonment Resolution.

For decades, TSD has used its drinking place use permit to lease its property to drinking establishments, including A.W. Shucks. The drinking place use permit has never been abandoned and remains in use to date. Further, A.W. Shucks is properly classified under the CMC as a drinking place, the expansion of its food service operations was approved by the City, and, notwithstanding a change in ownership, its operations are the same as when the City designated A.W. Shucks as one of three drinking places in the City in 2015. Given TSD and A.W. Shucks' historic and current operations, and their good faith reliance on the City's representations over the last thirty years, the Abandonment Resolution should never have been adopted by the Planning Commission and will cause significant, unnecessary, and otherwise avoidable harm to TSD and A.W. Shucks if it were go into effect. Accordingly, TSD respectfully requests that the City Council consider adopting the Draft Proposed Findings and Evidence attached hereto and overturn the Abandonment Resolution.

Sincerely,

HUDSON MARTIN PC

Jeannette K. Witten, Esq.
Managing Partner

Christina Goebelsmann, Esq.
Senior Litigation Attorney

Encl.

Cc:
Client
A.W. Shucks c/o Derric Oliver, Fenton & Keller (doliver@fentonkeller.com)

DRAFT PROPOSED FINDINGS AND EVIDENCE

1. Use Permit 93-45 (UP 93-45) was adopted on December 8, 1993 to authorize the addition of the sale of food to an existing drinking establishment for a business then known as Maxwell McFly's and now known as A.W. Shucks ("A.W. Shucks") located at Ocean SW of San Carlos Avenue ("Property"). UP 93-45 runs with the Property.

2. Condition of Approval No. 2 of UP 93-45 states that "the sale and service of food shall [be] limited to the menu submitted with this application. The permittee shall not be authorized to establish a full kitchen with stove, grill or oven. Food services shall be limited to a microwave oven, gas steamer, soup preparation and refrigeration facilities."

3. On March 3, 1994, the City issued building permit No. 94-47 for commercial interior remodeling at the Property allowing installation of the following: soup warmer, prep sink, refer, display rack, prep refer, small steamer, large steamer, stock pot, Type II hood, sink, dishwasher and coffee maker. The City did not require a new use permit or amendment of the existing use permit.

4. On November 3, 1995, an application for building permit No. 96-81 to allow a commercial kitchen remodel was submitted. On November 20th a correction list was provided indicating that an application to amend the Use Permit was required. An additional note was added on December 5, 1995, stating that the owner was required to submit a new application for a business license for a full-line restaurant. The correction list was updated crossing out "use permit" and writing in "business license only" and indicated that compliance was done April 22, 1996. On May 7, 1996, the City issued the building permit and on June 14, 1996, it was finaled. This permit allowed the installation of a stock pot burner and gas fryer. The City did not require a new use permit or amendment of the existing use permit, and a business license does not amend a use permit.

5. On July 31, 2008, an application for building permit No. 08-168C allowing a commercial kitchen remodel, including the installation of a salamander, char broiler, griddle with 2 burners and an oven, a fryer and stock pot burner was filed. This permit was issued August 15, 2008 and finaled February 11, 2009. The City approved a drink and food menu as part of the issuance of this building permit, but did not require a new use permit or amendment of the existing use permit.

6. From 1993 to the present, the Property owner, TSD Carmel Properties L.P., has authorized remodeling and tenant improvements consistent with the issued building

permits. Notwithstanding the commercial kitchen remodeling and installation of kitchen equipment as provided the building permits, the floor space occupied by the kitchen at A.W. Shucks has never increased beyond that approved in 1993.

7. On September 23, 2015, at a duly noticed meeting, the Planning Commission determined that A.W. Shucks was one of the 3 drinking places in the City, as A.W. Shucks originally operated strictly as a drinking place; and by approval of UP 93-45, ancillary food service was allowed, the establishment is permitted to be open until 12:00 a.m., and the majority of the floor space is occupied by the bar. The Commission memorialized this designation with a vote of 4-0-1.

8. On July 1, 2023, ownership of A.W. Shucks changed from M & M Coastal Enterprises (Mike and Michelle Sapon) to A.W. Shucks LLC (Karen Basi).

9. On August 28, 2023, the Planning Director sent correspondence to the Property owner, TSD Carmel Properties L.P., stating that the City memorialized the additional cooking equipment and approved the current menu as part of the approval of Building Permit No. BP 08-168C in 2008, and that A.W. Shucks could continue to operate under UP 93-45, provided there was no change in its then current use and operation.

10. From 2023 to the present, A.W. Shucks has not changed its use or operations. A.W. Shucks has continued to offer the same menu that was approved as part of Building Permit No. BP 08-168C in 2008 and identified in the Planning Director's 2023 correspondence, and continues to have 20% or more of its seats located at the bar or in the bar room.

11. From 1993 to the present, neither the Property owner, TSD Carmel Properties L.P., nor the business operators of A.W. Shucks or its predecessors, have expressed an intent to abandon UP 93-45 or to discontinue the drinking establishment operations at the Property or A.W. Shucks.

12. In February 2025, the Director of Community Planning and Building received an inquiry asking if A.W. Shucks is operating consistent with the use as approved and conditioned under UP 93-45.

13. At the October 8, 2025 Planning Commission meeting, the Commission received a Director's Referral to discuss the permit and operation history of A.W. Shucks, and a potential amendment to UP 93-45. Subsequent to their deliberation, the Commission directed staff to return with options to allow A.W. Shucks to operate as they currently are while potentially retaining their Use Permit for a drinking establishment.

14. At the December 10, 2025 Planning Commission meeting, staff returned to the Commission as directed and provided potential options: 1) amend UP 93-45 to omit limited food service and add full line restaurant as ancillary use that is greater than 10% of the primary use, 2) uphold the Planning Commission's 2015 designation that A.W. Shucks is a drinking establishment, 3) consider A.W. Shucks as a nonconforming use, 4) revert the ancillary use to limited food service, or 5) amend UP 93-45 to convert the allowed use from a drinking place to a full line restaurant. Staff recommended Option 1 as it was consistent with the applicable policies of the Carmel-by-the-Sea General Plan and Local Coastal Program and the applicable requirements contained in the Carmel-by-the-Sea Municipal Code (CMC). Subsequent to their deliberation, the Commission expressed a preference for Option 5 but did not take a vote and instead directed staff to prepare a draft resolution.

15. Prior to the January 26, 2026, Planning Commission meeting, staff received correspondence from counsel for the Property owner, TSD Carmel Properties L.P. In order to allow sufficient time to review and respond to the correspondence, the Commission continued the hearing to a date uncertain as requested by staff.

16. At the February 11, 2026, Planning Commission meeting, staff returned to the Commission with two alternatives for the Planning Commission's consideration: 1) adoption of a resolution determining that the drinking establishment at A.W. Shucks has been abandoned for more than six months, and amendment of UP 93-45 to convert the allowed use from a drinking place to a full line restaurant, subject to the written consent of A.W. Shucks' owner and the Property owner, TSD Carmel Properties, L.P.; or 2) adoption of a resolution directing staff to communication with A.W. Shucks' owner and the Property owner, TSD Carmel Properties, L.P., regarding an amendment to UP 93-45 to omit limited food service and add full line restaurant as ancillary use that is greater than 10% of the primary use. Subsequent to their deliberation, the Commission adopted the a modified draft resolution for the first alternative, with a vote of 4-1-0 (Planning Commission Resolution No. 2026-04).

17. Planning Commission Resolution No. 2026-04 determines that the drinking establishment at A.W. Shucks (UP 93-45) has been abandoned for more than six months in under Carmel-by-the-Sea Municipal Code Section 17.56.050.C, and provides that A.W. Shucks may continue to operate under Use Permit No. UP 93-45 for a period of up to six months from the date of this decision in order to allow acquiring a new use permit.

18. The determination in Planning Commission Resolution No. 2026-04 that the drinking establishment at A.W. Shucks (UP 93-45) has been abandoned for more than six months

is erroneous. A.W. Shucks operations are properly classified as drinking place as a primary use and restaurant as an ancillary use, under Carmel-by-the-Sea Municipal Code Section 17.14.040.I.3.d.

EXHIBIT 1

DECLARATION OF JOHN PLASTINI

I, John Plastini, declare as follows:

1. I am a competent adult who has, and at all times mentioned herein has had, personal knowledge of the facts contained in this declaration. If called upon to testify, I could and would testify competently as to the truth of the facts stated herein.

2. I submit this declaration in support of TSD Carmel Properties, L.P.'s appeal of Planning Commission Resolution No. 2026-04.

3. I am one of the owners of TSD Carmel Properties, L.P. ("TSD"), which owns the Doud Arcade, a commercial property located at Ocean Avenue and San Carlos Street ("Property").

4. Since January 1, 1988, I have been responsible for TSD's day-to-day management and operations. As a result, I am familiar with TSD's historic and current operations, including the Property's history; current and past tenants and leases; tenant operations; tenant improvements, including building permits, use permits, and business licenses; and the drinking place use permit (UP 93-45) ("Use Permit") that runs with the Property.

5. The Property was originally occupied by Whitney's, a bar that was established in the 1940s. Although the original bar was torn down when the Doud Arcade was built in the 1960s, the drinking establishment use continued with Whitney's as a tenant of the Doud Arcade.

6. In fact, since the Doud Arcade opened in 1961, TSD has continuously leased the property to drinking establishments.

7. When Whitney's was sold in 1977 and its lease was assigned to the new owners, the bar was renamed Maxwell McFly's. The bar was part of a three-bar franchise, with the other two locations being Sly McFly's on Cannery Row (still in operation) and Maggie McFly's in Southern California.

8. In 1993, Maxwell McFly's was sold and its lease was assigned to new owners. The new owners sought permission from the Planning Commission to sell food. The Planning Commission approved the sale of food as an ancillary use, including permitting limited facilities for the preparation of food in the tenant space.

9. TSD authorized tenant improvements, including remodeling and the installation of kitchen equipment (*e.g.*, microwave oven, gas steamer, soup preparation and refrigeration facilities) in 1993; remodeling and the installation of kitchen equipment (*e.g.*, a soup warmer, prep sink, refer, display rack, prep refer, small steamer, large steamer, stock pot, Type II hood, sink, dishwasher and coffee maker) in 1994; and remodeling and the installation of kitchen equipment (*e.g.*, stock pot burner and gas fryer) around 1995 to 1996. During this period, the owners changed the bar's name to A.W. Shucks.

10. In 2005, A.W. Shucks was sold and the lease was assigned to the new owners. In 2008, these owners obtained a building permit to change kitchen equipment (*e.g.*, installation of a new griddle, fryer, oven, and salamander, and removal of stock pots and a steamer). TSD accordingly authorized these tenant improvements.

11. Notably, notwithstanding the tenant improvements and kitchen equipment changes, the floor space occupied by the kitchen equipment was never increased beyond that approved in 1993.

12. In 2015, the Planning Commission designated A.W. Shucks as one of three drinking places in the City. A.W. Shucks offered the same drink and food service then as it does now, but it was still considered a drinking establishment because of its bar seating, high-top table seating in the bar room, and its limited food preparation space.

13. In 2023, A.W. Shucks was sold and the lease was assigned to the new owners. As part of this sale and prior to TSD assigning the lease, I contacted the City to obtain confirmation that the new owners could continue to operate the business under the Use Permit. Planning Director Brandon Swanson confirmed that "even though the original Use Permit sets a limit on the type of equipment and menu, the City took an official action to approve the updated kitchen and the menu it was meant to prepare, thereby creating a legal nonconforming situation that is allowed to continue under Chapter 17.36 of the City's Municipal Code." He further confirmed that the 2023 version of the A.W. Shucks' menu was the same as that approved by the City in 2008, and could continue to be served in whole or in part. Following this confirmation, TSD provided a landlord consent and authorization for the assignment of the existing lease to A.W.

Shucks' new owners and the business sale closed. The current lease has approximately nine years remaining in its term.

14. A.W. Shucks' operations have remained unchanged since the 2023 ownership change. It is continuing to use the same menu that the City approved in 2008, is still using the same limited food preparation space to serve this menu, and still has most of its seats at the bar or in the bar room.

15. TSD never received a formal notification from the City that the Director of Community Planning and Building had opened an investigation into whether A.W. Shucks' operations were consistent with the Use Permit. I personally learned about the inquiry during a casual conversation at a Rotary meeting in early October 2025, when another Rotary member commented to me "I see that you're on the Planning Commission agenda for next week's meeting for A.W. Shucks." I did not know what this comment was referring to and contacted A.W. Shucks' current owners for more information. I was informed by the current owners that City staff had stopped by the Property to take pictures, stating that they needed to "clean up some paperwork." Planning Director Anna Ginette confirmed the same two days before the October 8, 2025, Planning Commission meeting.

16. TSD has, in good faith, always sought to cooperate with the City regarding the Property and its tenant operations. I attended the October 8, 2025, Planning Commission meeting with the expectation that there would be a productive discussion with the Planning Commission and staff regarding the Use Permit. During that meeting, I explained the Property's historic operations and how the addition and expansion of food service at A.W. Shucks was welcomed by the City because food helps reduce some of the adverse behavior associated with drinking. I also informed the Planning Commission that, as part of A.W. Shuck's ownership change in 2023, the Planning Director confirmed that the operations were permissible, and that the Use Permit provided value and TSD would be harmed if it were lost. The Planning Commission continued the meeting to December 10, 2025.

17. In advance of the December 10, 2025, the Planning Commission issued a staff report that identified five "Potential Permitting Options," ranging from keeping the status quo, to

amending the Use Permit, to deeming the Use Permit abandoned. I attended the meeting and informed the Planning Commission that the Use Permit and drinking place use had never been abandoned, reminded them of the history and prior communications between TSD and the City, and explained how both businesses have relied, in good faith, on the approvals and directions provided by City officials. Also in attendance in that meeting was Parker Logan, the owner of another bar (Sade's), his attorney, and his supporters who collectively spoke for over an hour about how the Use Permit should be made available for that bar—even though that bar has nothing to do with the TSD or A.W. Shucks. The Planning Commission considered and appeared to be influenced by the comments of these attendees during their deliberations. The meeting was subsequently continued to January 21, 2026.

18. I attended the January 21, 2026, meeting, which the Planning Commission continued to a "date to be determined" after receiving correspondence from TSD's attorneys. Parker Logan was present for the meeting and was upset about the continuance. After the meeting, he and several of his associates caused an incident at A.W. Shucks that resulted in a filing of a violent incident report by the owners of A.W. Shucks. He also sent me a harassing text message, a true and correct copy of which is attached to this declaration.

19. The Planning Commission ultimately reset the Use Permit matter for February 11, 2026. The agenda for the meeting reduced the five "Potential Permitting Options" from the December 10, 2025, meeting to two alternatives: (1) a resolution determining and finding that the Use Permit had been abandoned; or (2) a resolution directing staff to communicate with TSD and A.W. Shucks regarding an amendment of the drinking place use permit to omit limited food service and add full-line restaurant as an ancillary use that is greater than 10% of the primary drinking place use. Both TSD and A.W. Shucks submitted public comments, through their respective attorneys, requesting the adoption of the second alternative.

20. I attended the February 11, 2026 meeting, along with one of TSD's attorneys, and again informed the Planning Commission that the Use Permit had never been abandoned, that the Use Permit had value and TSD would be harmed by a deemed abandonment, and that both TSD and A.W. Shucks wanted to have the opportunity to pursue amendment of the Use Permit as set

forth in the second alternative. I notified the Planning Commission about the intimidating and harassing behavior of Parker Logan that A.W. Shucks and I had experienced since the January 21, 2026, meeting, and underscored that the Use Permit and A.W. Shuck's operations had nothing to do with Sade's. Notwithstanding this, and the comments made by TSD's attorney and A.W. Shucks' attorney, the Planning Commission voted 4 to 1 to adopt the resolution deeming the Use Permit abandoned.

21. The Planning Commission reached the wrong decision during the February 11, 2026, meeting, and the City Council must correct this error.

22. TSD and A.W. Shucks have never expressed any intent to abandon the drinking place use permit, and A.W. Shucks has continuously operated as a drinking place notwithstanding the addition and expansion of food service at the bar.

23. For decades, TSD has followed the rules, engaged with the City, and relied upon the representations by the City officials at various levels—including the Planning Department, the Planning Director, and the Planning Commission—in allowing its drinking establishment tenants to serve food and make tenant improvements to support this food service.

24. TSD has never received any notice of any alleged violation of the conditions in the Use Permit and would have taken corrective action if needed in response to any such notice. Even through this process, TSD has been willing to engage with the City regarding a potential amendment of the Use Permit to allow a full-line restaurant as an ancillary use to help "clean up some of the paperwork" but was denied that opportunity by the Planning Commission.

25. The deemed abandonment of the Use Permit will interfere with and harm TSD's established business of leasing the Property to drinking establishments. With the deemed abandonment, TSD no longer has a drinking place use permit that runs with its land and can no longer market its tenant space to this type of establishment. The loss has a significant, adverse impact on the value of the Property and the associated leasehold interest, as well as the marketability of the tenant space. Further, due to the deemed abandonment, there is uncertainty surrounding A.W. Shucks' continued operations. If that business fails, TSD will lose a long-standing tenant and the value of its current lease.

26. Finally, as I explained to the Planning Commission, I have been subjected to harassment and intimidation tactics surrounding the City's inquiry into the Use Permit by the very person who stands to benefit the most from the unlawful taking of our Use Permit. In advance of submitting this appeal, I received another text message from Parker Logan with a threat to stop pursuing TSD's rights because "otherwise the outcome may not be exactly what you want." A true and correct copy of this text message is attached to this declaration. It is very difficult to understand how the City can show favoritism towards an individual who behaves negatively towards others. It is in particularly difficult on our family to be treated this way and to have our rights taken away without due process having served our City and our community for decades with kindness and honesty.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed at Carmel, State of California, on February 26, 2026.

John Plastini

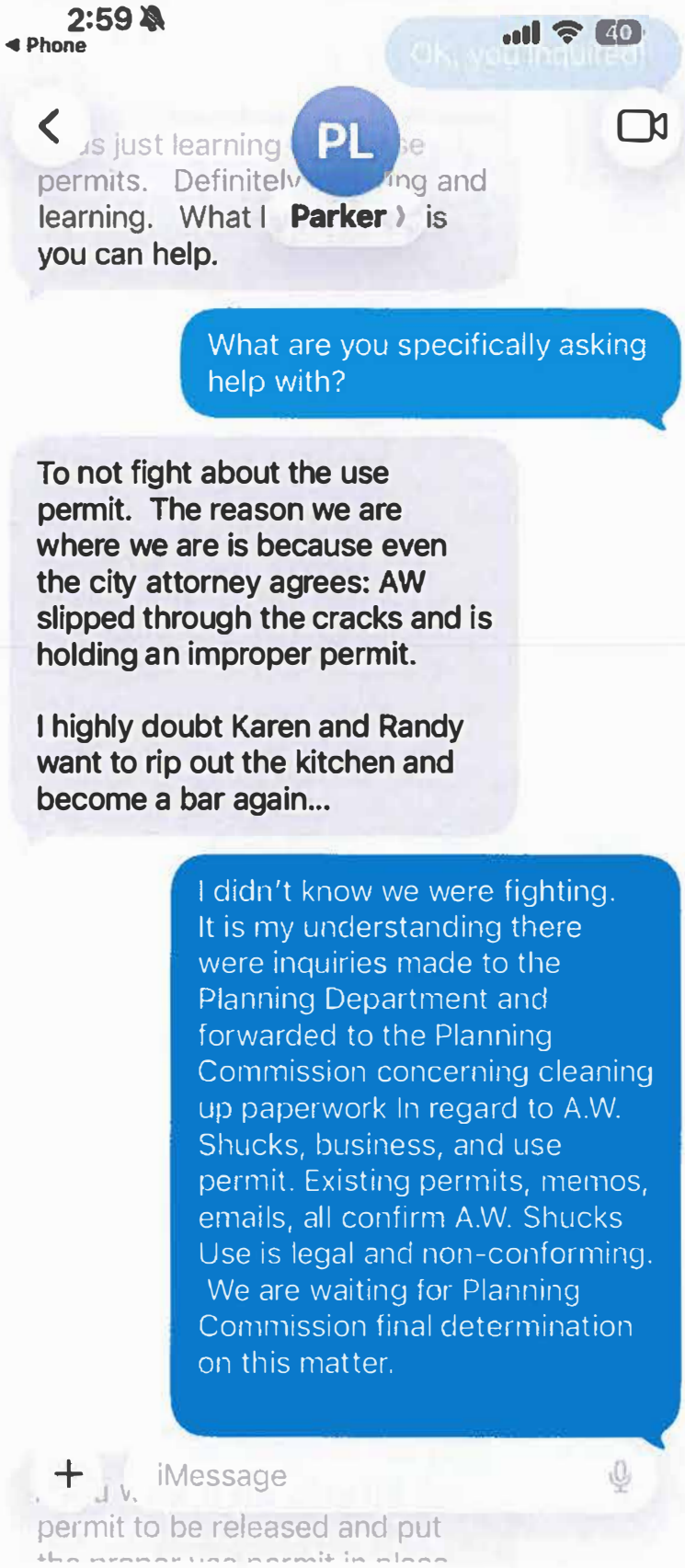


EXHIBIT TO PLASTINI DECLARATION – PAGE 1

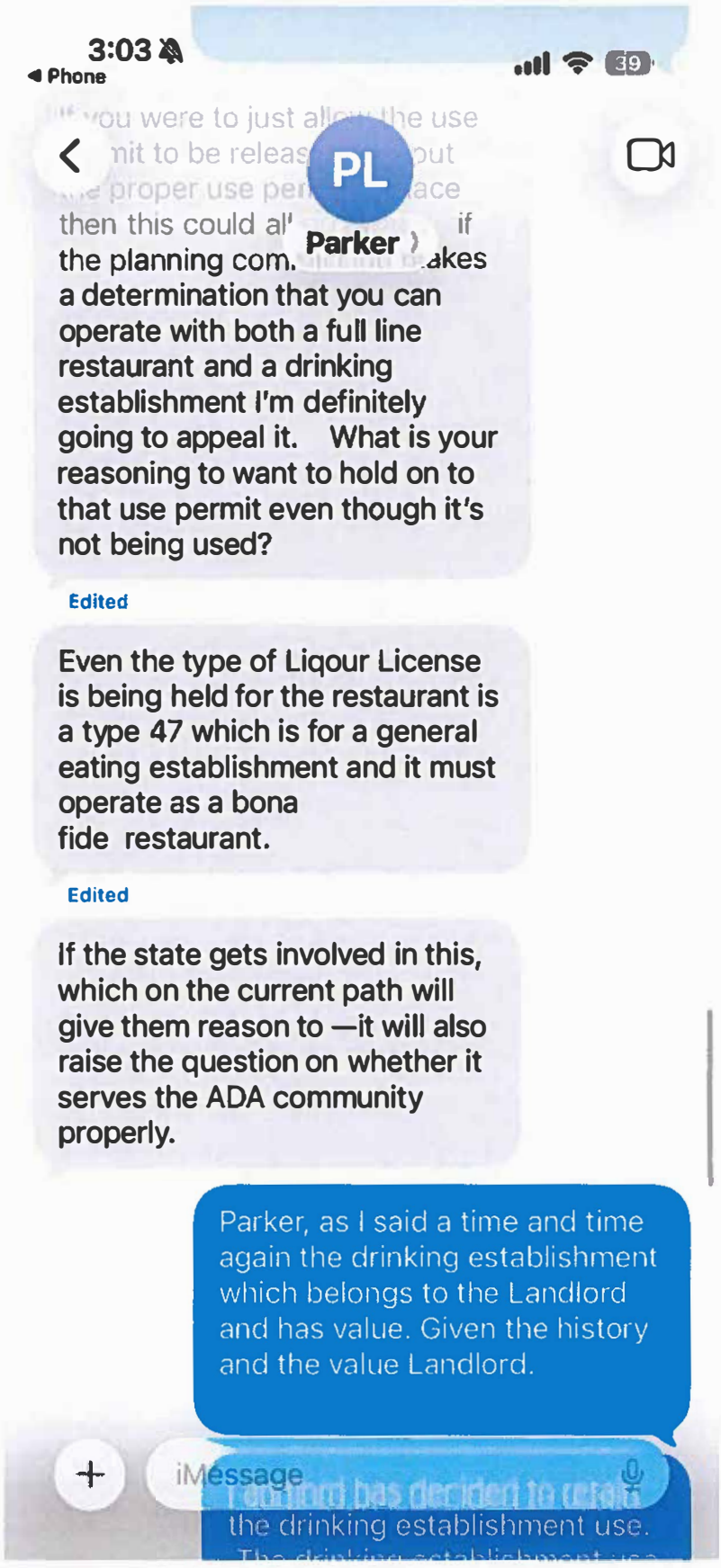


EXHIBIT TO PLASTINI DECLARATION – PAGE 2

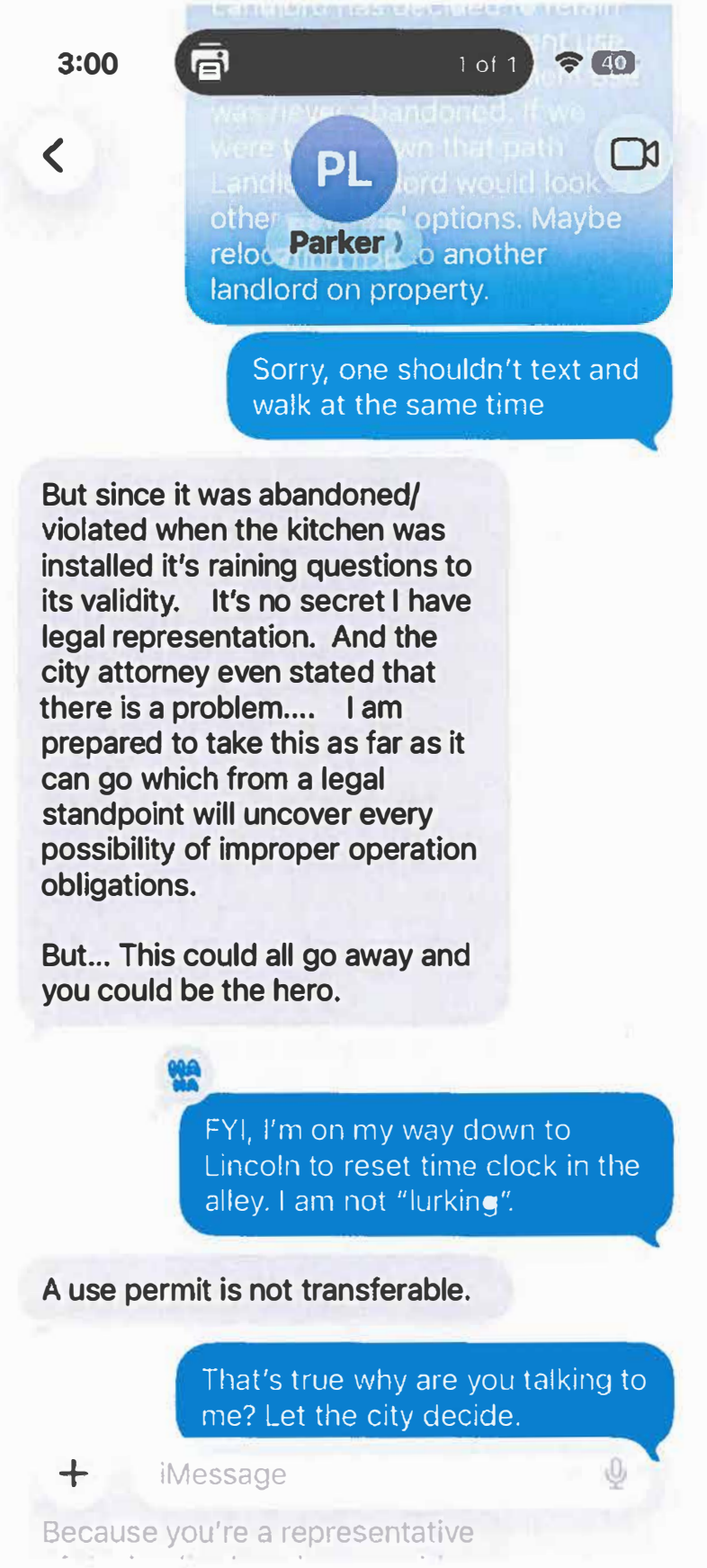


EXHIBIT TO PLASTINI DECLARATION – PAGE 3

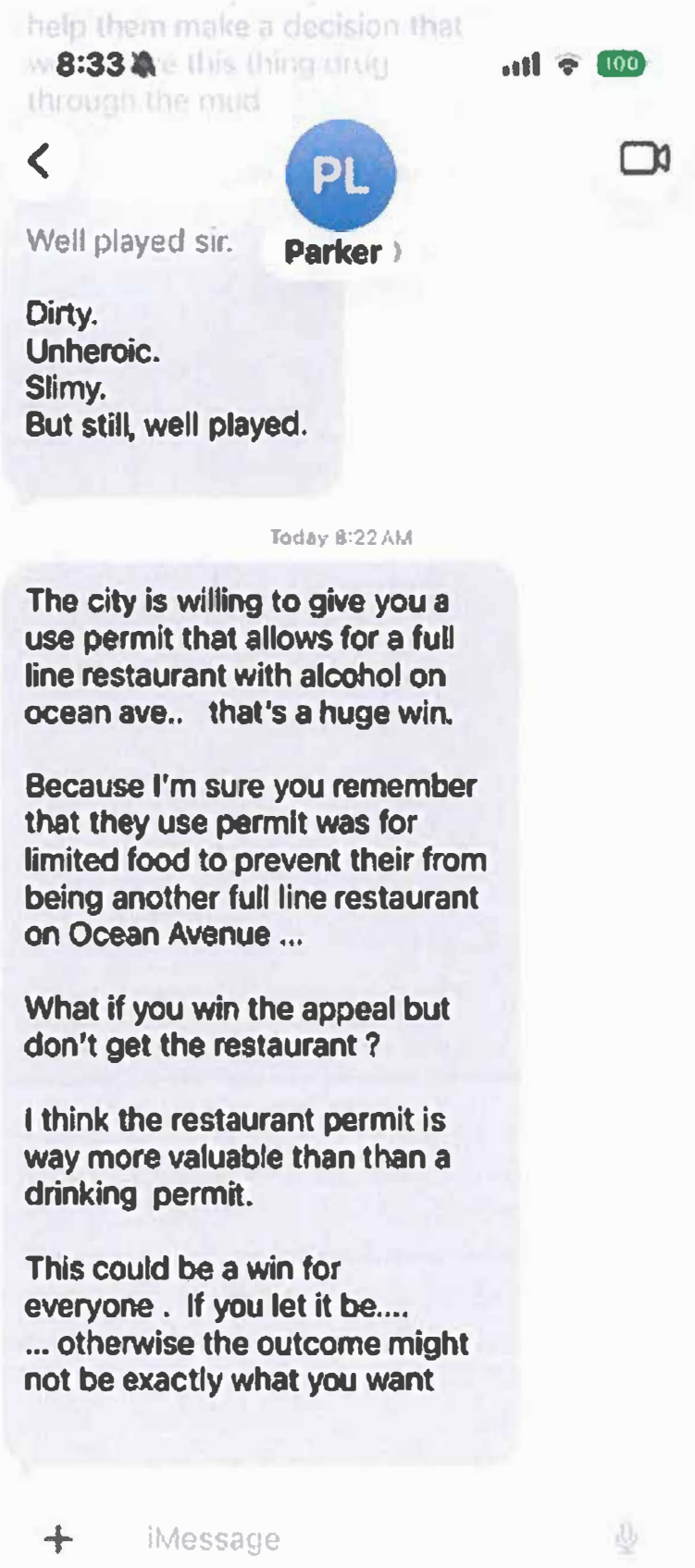

help them make a decision that
8:33
100
through the mud
PL
Parker
Well played sir.
Dirty.
Unheroic.
Slimy.
But still, well played.
Today 8:22 AM
The city is willing to give you a use permit that allows for a full line restaurant with alcohol on ocean ave.. that's a huge win.
Because I'm sure you remember that they use permit was for limited food to prevent their from being another full line restaurant on Ocean Avenue ...
What if you win the appeal but don't get the restaurant ?
I think the restaurant permit is way more valuable than than a drinking permit.
This could be a win for everyone . If you let it be....
... otherwise the outcome might not be exactly what you want
iMessage

EXHIBIT 2

Docusign Envelope ID: 99B60374-D5DA-4CCA-BC67-09013D153565

DECLARATION OF TIMOTHY J. MERONEY

I, Timothy J. Meroney, declare as follows:

1. I am a competent adult who has, and at all times mentioned herein has had, personal knowledge of the facts contained in this declaration. If called upon to testify, I could and would testify competently as to the truth of the facts stated herein.

2. I submit this declaration in support of TSD Carmel Properties, L.P.'s appeal of Planning Commission Resolution No. 2026-04.

3. I served as a Building Official with the Planning and Building Department of the City of Carmel-by-Sea, California from December 1984 to August 2007, when I retired. As a Building Official, I was responsible for reviewing and approving plans and applications for building permits and use permits in the City. Through my position, I gained knowledge of and became familiar with the Carmel Municipal Code, including provisions relating to the issuance of the permits that fell within my area of responsibility. I also gained knowledge of and became familiar with many of the properties and businesses in the City, and their building and use permits, including TSD Carmel Properties, L.P. ("TSD") and A.W. Shucks Cocktail & Oyster Bar ("A.W. Shucks").

4. All plans, applications and approvals that were issued during my tenure as Building Official were approved by both myself, the Planning Department and/or Planning Director at the time of the reviews and approvals. Building permits approved and issued by me were done so after review and approval of the Planning Director and/or Planning Commission each time, unless the application was merely either electrical, mechanical, or plumbing repairs and no use permits were involved.

5. Each and every application that was submitted to our department was reviewed at our weekly staff meeting to evaluate and disseminate to the correct staff for further scrutiny and approval, especially any business that was operating under a use permit. If deemed necessary, the application would be referred to the Planning Commission for further review and approval.

6. Any application submitted for review at our staff meetings prior to processing often would have certain aspects either crossed-out or lined-out since staff determined that no

Docusign Envelope ID: 99B60374-D5DA-4CCA-BC67-09013D153565

further review of that specific item or subject required further scrutiny. If it was determined by Planning Staff and/or the Planning Director, who was always at these meetings, that the application and work proposed would not affect any Use Permit conditions then they would merely "line-out" that category on the application so it could proceed through the permit process and plan-check by me.

7. TSD owns the Doud Arcade located at Ocean Avenue and San Carlos Street ("Property").

8. In the City, use permits run with the land and not individual businesses. A drinking place use permit (UP 93-45) ("Use Permit") runs with TSD's Property.

9. A.W. Shucks is a well-known and well-established bar located at TSD's Property that offers drink and food service.

10. A.W. Shucks has operated with drinking place as a primary use and food service as an ancillary under the Use Permit and other approvals from the Planning and Building Department.

11. During my tenure as Building Official, TSD and A.W. Shucks followed all necessary procedures and obtained all approvals necessary to remodel and maintain the Use Permit granted by the City.

12. For example, during past reviews and approvals, A.W. Shucks was required to maintain a specific number of barstools around the bar and provide additional exiting and accessible restrooms available to patrons. A.W. Shucks and the property owner, TSD, were compliant with these requirements.

13. Based upon the review process discussed above, the issuance of building permits relating to the Property, including any remodeling, necessarily included a review of whether the application and work proposed would affect any Use Permit conditions. To my knowledge, none of the building permits for the Property issued during my tenure were found to affect any Use Permit conditions. And, at no point during the past review processes did staff ever consider revoking the Use Permit because A.W. Shucks' operations involved food service.

//

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14. At A.W. Shucks, the food service has always been ancillary to the bar use, with the bar being the main focus of the business. Customers are allowed to enter the establishment and sit at the bar and enjoy a beverage without ordering food. This is not permitted under the terms of a "restaurant" use. A full-line restaurant may not utilize any bar area for the sole purpose of serving alcoholic beverages only.

15. To the best of my knowledge, TSD and A.W. Shucks have followed all the guidelines pursuant to the approvals granted years ago by myself and the Planning and Building Department and/or Planning Commission. To the best of my knowledge, they still meet those requirements today as set-forth years ago.

16. In my opinion, the Use Permit has not been abandoned. A.W. Shucks remains primarily a "bar" establishment, or "pub" as it were, with food service as an ancillary use. The fact that the establishment can serve alcoholic beverages at the bar without serving food is the primary basis under the Use Permit. This is exactly how it was reviewed and approved through the past permit process.

17. In my opinion, loss of the Use Permit through any deemed abandonment or re-classification of the use would be unfair, a violation of the rights of the approved Use Permit, and a financial detriment to TSD as the property owner and A.W. Shucks as the operating business.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed at Carmel, State of California, on February 26, 2026.

Signed by:
Timothy J. Meroney

Timothy J. Meroney

docusign

Certificate Of Completion

Envelope Id: 99B60374-D5DA-4CCA-BC67-09013D153565 Status: Completed

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Editor Delivery Events	Status	Timestamp

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Envelope Summary Events	Status	Timestamps
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Payment Events	Status	Timestamps

EXHIBIT 3

CITY OF CARMEL-BY-THE-SEA

DEPARTMENT OF COMMUNITY PLANNING AND BUILDING

FINDINGS FOR DECISION

UP 93-45
Murray Weaver/Paul Elliot
S/s Ocean bet. San Carlos and Dolores
Block 76, Lots 3 and 4

ADOPTED: 12/08/93

8 December 1993

CONSIDERATION: Consideration of a use permit authorizing the addition of the sale of food to an existing drinking establishment in the Central Commercial (CC) Land Use District.

FINDINGS OF FACT:

1. That the applicants propose to purchase Maxwell McFly's, an existing bar use that has been in continuous use for many years.

2. That the applicants propose to amend the use to include a seafood menu to be served at an "oyster bar".

3. That the business is located in the Central Commercial (CC) Land Use District in the Doud Arcade on Ocean Avenue.

4. That the use was legally established prior to the need for a use permit.

5. That the applicant has agreed to reduce the hours of operation to 11:00 a.m. to 11:00 p.m., five days a week, and to retain the 2:00 a.m. closing hour only on weekends.

6. That the use receives 4-5 deliveries each week which are made by small truck and unloaded on Ocean Avenue prior to 10:00 a.m.

7. That the total number of seating has not been indicated but a plan indicating the seating will be a condition of approval.

8. That there are two toilets and three sinks on the premises.

9. That other uses in the vicinity include retail uses selling apparel, candles, gifts, and arts and crafts, and a restaurant.

GENERAL FINDINGS (17.18.010 Municipal Code):

1. That the use has existed for a number of years and that the use as existing and with the addition of food would not generate odors, fumes, dust, light, glare, radiation or refuse that would be injurious to surrounding uses or to the district.

2. That the hours of operation of the existing use would be reduced and as modified would not generate levels of noise that adversely affect the health, safety, or welfare of neighboring properties or uses.

3. That the use is existing and would not increase traffic noise in excess of the "normally acceptable" range identified in the General Plan.

4. That the addition of limited food service would not make excessive demands on the provision of public services, including water supply, sewer capacity, energy supply, communication facilities, police protection, and fire protection.

5. That the use has two exits which provide adequate ingress and egress to and from the proposed location.

6. That allowing the addition of limited food service would not conflict with the City's goal of achieving and maintaining a balanced mix of uses that serve the needs of both local and non-local populations. Although provisions of the Municipal Code prohibit of any new food uses on Ocean Avenue, the operation of a drinking place is functionally equivalent to an eating place in terms of altering the balanced mix of uses. Adding limited food sales to a bar would not increase the impact of such uses on Ocean Avenue.

7. That as proposed the use is compatible with surrounding land uses and would not conflict with the purpose established for the district within which it would be located.

8. That the addition of limited food service to a drinking place would not be in conflict with the City's General Plan, nor the Local Coastal Plan.

9. That the proposed change to the use would not be injurious to public health, safety or welfare.

10. That there are no other drinking places in operation located on Ocean Avenue that do not have authority to sell food. That granting the use permit would not set a precedent for the approval of similar uses whose incremental effect would be detrimental to the City, or would be in conflict with the General Plan nor the City's Local Coastal Plan.

11. That use is located in the Central Commercial (CC) Land Use District and there is no off-street parking to accommodate the long-term parking needs of employees or business owners. This is an existing non-conformity and would not be increased through approval of this permit.

12. That the capacity of surrounding streets is adequate to serve the automobile and delivery truck traffic generated by the proposed use.

DECISION: Approve the use permit subject to the following conditions:

1. That the hours of operation shall not exceed 11:00 a.m. to 11:00 p.m., Sunday through Thursday, and 11:00 a.m. to 2:00 a.m., Friday and Saturday.

2. That the sale and service of food shall limited to the menu submitted with this application. The permittee shall not be authorized to establish a full kitchen with stove, grill or oven. Food service shall be limited to a microwave oven, gas steamer, soup preparation and refrigeration facilities. No take-out food shall be allowed.

3. That the applicants shall submit a floor plan prior to issuance of the business license.

4. The use shall be conducted in a manner consistent with the presentations and statements submitted with the application and at the public hearing and any change in the use which would alter the findings or conditions adopted as part of this permit shall require approval of a new use permit by the Planning Commission.

5. The use shall be limited to the space applied for and shall not include any exterior display of merchandise nor shall the use expand unless such expansion is approved by the Planning Commission.

6. All water fixtures within the premises in which the use is located shall be retrofitted with water conservation hardware and shall be inspected for conformance with the standards contained in Section 15.28.020 of the Municipal Code prior to establishment of the use.

7. Approval of this application does not permit an increase in water use on the project site. Should the Monterey Peninsula Water Management District determine that the use would result in an increase in water use as compared to the previous use, this use permit will be scheduled for reconsideration and the appropriate findings will be prepared for review and adoption by the Planning Commission.

8. This use permit shall become void and of no further force or effect upon termination or discontinuance of the use for any period of time exceeding six months.

9. Violations of the terms of this use permit or other ordinances of the City may constitute grounds for revocation of this use permit by the Planning Commission.

10. This use permit supercedes and replaces any previous use permits issued for this site.

11. Upon termination or revocation of this use permit for any reason, the use shall immediately cease and shall not be re-established without issuance of a new use permit.

12. Trash and garbage and containers for recycling materials shall be stored in metal containers on private property, screened from public view and disposed of in the manner established in Chapter 16, Title 8 of the Municipal Code.

13. Prior to the establishment of this use, the business operator exercising the privilege conferred by this permit shall obtain a business license from the City. An active business license shall be maintained in compliance with all applicable City Codes at all times that the use is in operation.

14. The use authorized by this use permit must be established within six months from the date of Planning Commission approval. The Commission may authorize an extension of an additional six months without a new public hearing. Failure to establish the use shall render this permit null and void and without effect.

A.W. Shucks

CITY OF CARMEL-BY-THE-SEA
PLANNING COMMISSION
AGENDA CHECKLIST

BLOCK: 76 LOT: 3 & 4

MEETING DATE: 17 November 1993

FIRST HEARING — CONTINUED FROM:
ITEM NO: UP 93-45 — OWNER: Weaver/Elliot

SUBJECT: CONSIDERATION OF A USE PERMIT AUTHORIZING THE ADDITION OF LIMITED FOOD SERVICE TO AN EXISTING DRINKING PLACE

ENVIRONMENTAL REVIEW: Exempt

LOCATION: S/s Ocean bet. San Carlos & Dolores ZONING: CC

12/8/93

ISSUES:

Would the addition of limited food sales to a bar be consistent with City policy and ordinances?

OPTIONS:

1. Approve the use permit and direct staff to prepare Findings for Approval for adoption at the 8 December 1993 meeting.
2. Do not approve the use permit and adopt the Findings for Denial dated 27 October 1993.
3. Continue Consideration.

RECOMMENDATION:

Option #1

ATTACHMENTS:

1. Staff Report dated 17 November 1993.
2. Staff Report dated 13 October 1993.
3. Application Materials.
4. Findings for Denial dated 27 October 1993.

STAFF CONTACT: Brian Roseth, Director

CITY OF CARMEL-BY-THE-SEA

DEPARTMENT OF COMMUNITY PLANNING AND BUILDING

STAFF REPORT

TO: CHAIRMAN KENNEDY AND PLANNING COMMISSIONERS

FROM: BRIAN ROSETH, DIRECTOR OF COMMUNITY PLANNING AND BUILDING

DATE: 17 NOVEMBER 1993

SUBJECT: UP 93-45/WEAVER/ELLIOT

On 13 October 1993 the Planning Commission reviewed a request to add an oyster bar to a drinking establishment on Ocean Avenue. The Commission voted to deny the request and directed staff to prepare Findings for Denial. On 27 October 1993 the Findings for Denial were pulled from the Consent Calendar and the Commission voted to review the decision before it was final. A public hearing was noticed for this date to allow a second review by the Commission.

When the Commission first reviewed this application staff recommended approval. This recommendation was based on the functional equivalence of a bar to a restaurant when considering the overall mix of land uses on Ocean Avenue. If these uses are viewed as equivalent, approval of food service in a bar would not violate the intent of Measure-H. Staff's recommendation at the end of the 13 October Staff Report that the zoning ordinance be amended if the permit were approved was intended only as a suggestion - not as a legal requirement. Staff recommends that the Commission reconsider the Staff Report of 13 October 1993 and take action to approve or deny the permit based on land use issues, not on whether the Code should be amended.

CITY OF CARMEL-BY-THE-SEA

DEPARTMENT OF COMMUNITY PLANNING AND BUILDING

STAFF REPORT

TO: CHAIRMAN KENNEDY AND PLANNING COMMISSIONERS

FROM: BRIAN ROSETH, DIRECTOR OF COMMUNITY PLANNING AND BUILDING

DATE: 13 OCTOBER 1993

SUBJECT: UP 93-45/MURRAY WEAVER/PAUL ELLIOT

I. INTRODUCTION

The City has received a request for a use permit for the Maxwell McFly's bar on Ocean Avenue. This permit request is triggered by a change of ownership and a proposal to add an oyster bar to the operation. Under the zoning ordinance, the primary use is SIC 5813 - Drinking Place and the oyster bar would be an ancillary use of SIC 5812 - Specialty Eating Place. One issue raised by this application is whether the sale of food can be allowed under the zoning ordinance which prohibits the establishment of any new food uses within buildings facing Ocean Avenue.

II. THE EXISTING OPERATION

Maxwell McFly's has been a long established bar within the City and pre-dates many of the Municipal Code provisions regulating land uses. The operation has no use permit and is considered a legal nonconforming use. The business is operated exclusively as a drinking place with no kitchen, no food preparation or display and no food sales. The use operates daily from 11:00 a.m. to 2:00 a.m. As a nonconformity, changes can only be made upon approval of a use permit. From staff's review the existing operation appears to meet City standards for a drinking place.

III. THE PROPOSED OPERATION

The applicant requests approval to add a light seafood menu to be served at an oyster bar (see attached menu). There would not be a full kitchen but facilities for soup and steamed shellfish would involve some food preparation. The limited nature of the proposal suggests that this function would be ancillary to the primary Drinking Place classification and that the appropriate ancillary classification is Specialty Eating Place. To help reduce impacts on the community, the applicants have suggested a willingness to reduce late hours of operation to 11:00 p.m. (Sunday through Thursday).

Arguments supporting denial of this permit include the following:

1. No food is currently sold and adding food sales would violate Standard No. 9. This use was not one of the fifteen food uses identified in the recent ordinance amending Measure-H.

2. Once this proposal is implemented, food use will become established at this location. If successful, it is likely that future requests will be filed to expand food sales. Eventually, it will become another full restaurant. This is contrary to the intent of the General Plan and the zoning ordinance.

3. The General Plan encourages a reduction in the number of bars. Changes to existing bars should not be allowed if they would extend the life of the use. If this existing bar remains limited in scope its lack of success may ultimately result in its replacement by a conforming use. This would directly implement Policy P1-21 of the General Plan.

VI. RECOMMENDATION

Staff recognizes sound arguments on both sides of this issue. However, the community impacts of a bar are typically greater than those of a food use and any action that the City can take to dilute these impacts appears to offer the greater benefit. Staff recommends that the Commission grant the use permit and allow limited food sales along with a reduction in hours of operation to midnight - Sunday through Thursday. Staff also recommends preparation of an ordinance amending the Municipal Code to recognize that there are sixteen (16) food uses operating on Ocean Avenue rather than the fifteen (15) specified in Ordinance No. 93-26. If the Commission concurs with this recommendation staff will prepare Findings and Conditions for adoption on 27 October 1993.

A.W. SHUCKS--COCKTAIL AND OYSTER BAR
(McFly's)

As purchasers-in contract of McFly's bar at Ocean and San Carlos, we feel the needs of the community (and, of course, ourselves as business operators) would be better served by the introduction of light food as a support function to the bar. While the bar has been in operation for many years, it has shown a marked drop in revenues during the last decade and a further pronounced downward trend since 1989. We believe this reflects not only recessionary factors but more significantly points out the nationwide move away from "drinking bars" in general. Health concerns, drunk driving consequences, law enforcement priorities and a leaning toward moderation have all helped shape the move away from "liquor only" bars.

It is likely the clientele of Ocean Avenue will be better served and with less "bad element" impacts to the neighborhood community if a supplementary food service is added to the existing bar. This service will attract a broader and more desirable customer array for both the tourist pedestrian and Carmel local.

Our concept, then, is to:

1) Redecorate the bar with a more open, light, upscale motif including new lighting, wall treatments and furniture--while keeping the attractive back bar in place.

2) Add a small "oyster bar" counter at the end of the existing bar. This visual but simple addition will serve a limited array of salads, soup and shellfish, requiring minor preparation and will omit the need for any major cooking equipment. Simple, quick, but quality oriented will be the aim of our menu (now being prepared in draft form).

We are looking forward to this venture as we have had previous success with this concept and believe it offers a viable business opportunity with virtually no negative consequences resulting in a small but worthwhile compliment to Ocean Avenue and Carmel--especially given the current use at McFly's.

Yours,

PAUL ELLIOTT

MURRAY WEAVER



CITY OF CARMEL-BY-THE-SEA

DEPARTMENT OF COMMUNITY PLANNING AND BUILDING

FINDINGS FOR DENIAL

UP 93-45
Murray Weaver/Paul Elliot
S/s Ocean bet. San Carlos and Dolores
Block 76, Lots 3 and 4 27 October 1993

CONSIDERATION: Applicant requests a use permit to authorize the addition of the sale of food to an existing drinking establishment located in the Central Commercial (CC) Land Use District.

FINDINGS OF FACT:

1. The existing drinking place (SIC 5813), known currently as Maxwell McFly's, is a long-established use on the property. This use is nonconforming due to lack of a use permit.

2. The existing use is classified as a drinking place and has no ancillary uses. There is no kitchen on site and no food is prepared or served on the premises.

3. The Municipal Code regulates land uses through zoning standards established in Title 17. There are separate standards for eating places (SIC 5812) and for drinking places (SIC 5813).

4. The proposed change of use for which a use permit was requested was to add an oyster bar and to allow the sale of soups, salads and shellfish as an ancillary use.

5. In conformance with Section 17.06.034.E of the Municipal Code, ancillary uses may be authorized only when such uses are allowed as primary uses within the applicable zoning district. The standards for approval of a primary use also must be met when adding an ancillary use.

FINDINGS FOR DECISION (17.06.030)

1. The addition of food sales within the drinking place would add SIC 5812 (eating place) as an ancillary use.

2. Standard #9 for approval of eating places requires that "the use would not increase the number of food stores or eating places within structures facing Ocean Avenue." This requirement was established as an implementation measure of Objective O1-6 of the General Plan.

"O1-6 Protect and enhance the balanced mix of uses in the central business area, particularly along Ocean Avenue to ensure a high quality, pedestrian oriented commercial environment providing a wide variety of goods and services to local residents."

3. The existing use is not a food use within the meaning of Standard #9 for eating places.

4. Approval of the requested permit would add a new food use in a structure facing Ocean Avenue in direct violation of Standards #9 in the Municipal Code.

5. Approval of the permit would be contrary to the intent of the General Plan.

DECISION: Deny the use permit.

EXHIBIT 4

CITY OF CARMEL-BY-THE-SEA
Planning Commission
Staff Report

December 10, 2025
ORDERS OF BUSINESS

TO: Chair LePage and Planning Commissioners
SUBMITTED BY: Anna Ginette, Community Planning & Building Director
APPROVED BY: Anna Ginette, AICP, Director of Community Planning and Building

SUBJECT: **Director Referral:** Continued from the October 8, 2025 Planning Commission hearing, discussion on the determination of the A.W. Shucks Use Permit.

Application:	Director Referral	**Applicant:**	N/A
APN:	010-146-017-000	**Owner:**	TSD Carmel Properties LP
Block & Lot:	Block: 79 Lot: All Lots 3 & 4		
Location:	Ocean Ave 3 Southwest of San Carlos Street		

Recommendation:

Staff recommends the Planning Commission consider additional information provided by staff, consider the potential permit options and deliberate on the permit and operation history of A.W. Shucks Cocktail & Oyster Bar.

Summary, Background, and Project Description:

EXECUTIVE SUMMARY

On October 8, 2025, the Planning Commission was presented with the permit and operation history of A.W. Shucks Cocktail & Oyster Bar (A.W. Shucks). Specifically, is A.W. Shucks operating outside of what is permitted (Use Permit, Building Permits and Business License) and if so, what is the correct vehicle to achieve compliance. During this hearing the Commission received comments from the property manager and operator of A.W. Shucks, which are detailed in the Staff Analysis discussion below. Specifically, both expressed their disinclination to amend their Use Permit to change the allowed use from a drinking place with limited food service to a full line restaurant.

During the Commission's deliberation, several considerations were expressed, such as a permitted use should either be a full line restaurant or a drinking establishment, the operation appears to be a full line restaurant, the operation seems to be neither but more of a mix of the two and compliance with existing permits. At the end of the deliberation, the Planning Commission's direction was for staff to return with options to

allow A.W. Shucks to operate as they currently are.

BACKGROUND AND PROJECT DESCRIPTION

A detailed discussion on permit history was provided in the October 8, 2025, Planning Commission staff report (linked here) for the Commission to consider, weigh the facts before them and provide staff with direction on moving forward.

The discussion below provides a synopsis of the October 8, 2025 Planning Commission hearing, the history of alcohol in the City of Carmel-by-the-Sea, and identifies potential permit options for the applicant.

Staff Analysis:

Property Owner and Business Operator Testimony

During public testimony at the October 10, 2025 Planning Commission hearing, the property manager of A.W. Shucks, John Plastini, provided historical information relative to site's operation as a drinking establishment and testified to how "a straight drinking establishment poses a lot of problems" and "they (the owners) made the determination to soften it on Ocean Avenue and the Commission and City embraced it" (referring to the Planning Commission's approval of Use Permit No. UP 93-45). He further stated that with the added food service, the adverse behavior associated with drinking was reduced. Subsequently, a request to expand the food service was submitted to the city and through working with the Planning Division and Building Division, the expansion was approved. Plastini also identified that in 2015, A.W. Shucks was "established as a drinking establishment" (referring to the 2015 Planning Commission determination) and when ownership changed in 2023, the Director of Community Planning and Building determined that the use was legal nonconforming and the new owner could continue to operation. In conclusion, Plastini stated that "there is value in the Use Permit" and losing it would be "a major concern".

The owner of A.W. Shucks, Karen Basi, also testified. She stated that when she purchased the business from the previous owner, the was no change in the operation. Basi expressed concerns with how a change in a permitted use could result in a negative impact to the value of her business and investment. In summary, Basi testified that the Use Permit for a drinking place was a component in determining the value of the business and her purchase price, and "taking" that use from her will affect her and her investment.

History of Alcohol In Carmel

The Commission found it important to consider the City's history of limiting the number of allowed drinking establishments. A more detailed discussion can be found in Attachment 1 – Alcohol White Paper. In summary, Carmel's restrictions on alcohol go back to the late 1880's where it initially began as "marketing tool" for financial purposes, it progressed into fulfilling a moral responsibility. Property deeds were encumbered by restrictive language prohibiting the sale, exchange or gifting "intoxicating liquor". This language was so restrictive it included a clause allowing the property to revert back to the grantor if the covenant was breached. In 1936, the California Supreme Court found that Carmel's general plan vision of being a "bone dry town" is considered abandoned.

Subsequently (1950's), two liquor licenses were issued for a bar and restaurant and a liquor store by the Alcoholic Beverage Control (ABC). However, City Ordinance No. 122 NS limited the sale of liquor downtown between 6th and 7th streets and Mission and Monte Verde, unless liquor sales were in conjunction with another business. ABC found that the City's ordinance was outside of the city's police powers by implementing regulations under ABC's jurisdiction. The white paper identifies that the restriction on the number drinking places was for the purpose of implementing LUP Policy P1-22. However, it does not discuss how the city came to the decision that three was the appropriate number.
The white paper discusses combining uses within the confines of the CMC (see discussion on page 15 of Attachment 1). This discussion is noteworthy as it is the basis of Option 1 discussed below. Simply put, if a full line restaurant provides more than 20% of its seats at a bar, the CMC classifies the use as a drinking place as the primary use and restaurant as an ancillary use.

Potential Permitting Options
As directed by the Planning Commission, the options below are provided for consideration. It is important to note that the property owner is well within their right to request a proposal that suits their needs and no formal application has been submitted to Community Planning and Building.

Option 1 – Amend Use Permit No. UP 93-45 to omit limited food service and add full line restaurant as ancillary use that is greater than 10% of the primary use.
As discussed in the white paper, CMC section 17.14.040.I.3.d – Restaurant, Full Line, states that no more than 20% of the total number is seats shall be located at the bar and if this standard cannot be met, the standards contained in 17.14.040.I.2 – Drinking Places, shall apply. Essentially, the code language regulates full line restaurants as a drinking place in this case.

Based on Business License BL 23-041, the total number of seats in A.W. Shucks is 45, 14 of which are at the bar. The remaining seats are at high-top tables. The bar seats equate to 31% of the total seats. Therefore, CMC section 17.14.040.I.2 shall apply and A.W. Shucks would be classified as a drinking place as the primary use and full line restaurant as ancillary.

Pursuant to CMC section 17.14.040.B.3, a Use Permit granted by the Planning Commission is required for establishing an ancillary use greater than 10% of the primary use. Applying the bar seating percentage, it would be appropriate for the applicant to request a Use Permit for a full line restaurant as an ancillary use of 69%. This option requires a discretionary decision by the Planning Commission but is within the confines of the CMC. In addition, this option supports the desires of the property owner and operator of the business establishment.

Option 2 – Uphold the Planning Commission's 2015 designation that A.W. Shucks is a drinking establishment.
As discussed in the October 8, 2025, Planning Commission staff report, the

Commission formally considered and designed A.W. Shucks as a drinking establishment. Upholding this decision would require no application by the property owner or action by the Planning Commission. However, it leaves little clarity in terms of the permit record.

Option 3 – Consider A.W. Shucks as a nonconforming use.
As presented by staff and the property manager, the Director of Community Planning and Building provided an email to the property manager on August 28, 2023, stating that the city memorialized the additional cooking equipment and approved the current menu as part of the approval of Building Permit No. BP 08-168C. As defined in CMC Section 17.68-090 a "non-conforming use" is " *[a] use of a structure or land that was lawfully established and maintained, but that does not conform with the currently applicable use regulations for the zoning district in which the use is located by reason of adoption or amendment of this title or by reason of annexation of territory to the City.*" If it is determined that the current operation of the business is a "non-confirming use", this option is similar to Option 2, as no action would be required.

Option 4 – Revert the ancillary use to limited food service.
This option would require A.W. Shucks to pull back their food service, obtain any necessary building permit(s) to removing kitchen/cooking equipment and amend their business permit (including revision to their menu offerings).
As testified by Basi, this option would be detrimental to her operation and would be inconsistent with the business components she purchased and invested in. Although not typically a land use issue, the economic impact of this option could be considered.

Option 5 – Amend Use Permit No. UP 93-45 to convert the allowed use from a drinking place to a full line restaurant.
This option was presented to the Commission on October 8, 2025 for consideration. Based on the testimony of Plastini and Basi, this is not a viable option. In addition, the percentage of bar seats is over the 20% limitation resulting in Option 1 as superior.

Other Project Components:

Environmental Review
This item is limited to a discussion and no action is required by the Planning Commission. Therefore, it is not a project under CEQA as defined in Public Resources Code Section 21065 and CEQA Guidelines Section 15378.

Attachments:

1. Attachment 1_Alcohol Whitepaper_8-10-22

EXHIBIT 5

CITY OF CARMEL-BY-THE-SEA
Planning Commission
Staff Report

February 11, 2026
PUBLIC HEARINGS

TO: Chair LePage and Planning Commissioners
SUBMITTED BY: Anna Ginette, Community Planning & Building Director
APPROVED BY: Anna Ginette, AICP, Director of Community Planning and Building

SUBJECT: **Director Referral:** Continued from the October 8, 2025, December 10, 2025 and January 21, 2026 Planning Commission hearings, consideration and adoption of a resolution regarding A.W. Shucks Cocktail & Oyster Bar (located on Ocean Avenue 3 Southwest of San Carlos Street, in the Central Commercial (CC) Zoning District) including: (1) a resolution determining and finding that the use as a drinking establishment has been abandoned and the resolution would also amend Use Permit No. UP 93-45 to convert the allowed use from a drinking place to a full line restaurant which amendment would be subject to the written consent of AW Shucks or, in the alternative (2) a resolution directing staff to communicate with AW Shucks regarding an amendment to Use Permit No. UP 93-45 to omit limited food service and add a full line restaurant as an ancillary use that is greater than 10% of the primary use.

Proposed CEQA Action: Find that the Planning Commission's determination is not a project subject to CEQA and assuming it is a project it is exempt under CEQA Guidelines sections 15061(b)(3) (Common Sense Exemption), 15301 (Existing Facilities) and 15305 (Minor Alterations in Land Use Limitations).

Application:		**Applicant:**	N/A
APN:	010-146-017-000	**Owner:**	TSD Carmle Properties LP
Block & Lot:	Block: 79 Lot: All of Lots 3 & 4		
Location:	Ocean Avenue 3 Southwest of San Carlos Street		

Recommendation:

Staff recommends the Planning Commission either:

1. Adopt a Resolution (Attachment 1):

a. Finding that the proposed action by the Commission is not a project, as defined in Public Resources Code section 21065(c) and therefore is not subject to CEQA, and/or assuming arguendo it is a project, finding it is exempt under CEQA Guidelines sections 15061(b)(3) (Common Sense Exemption), 15301 (Existing Facilities) and 15305 (Minor Alterations in Land Use Limitations) and that none of the exceptions to the exemptions listed in section 15300.2 apply in this case.

b. Determine that the drinking establishment at A.W. Shucks Cocktail & Oyster Bar (UP 93-45 Murray/Weaver) has been abandoned for more than six months in accordance with Carmel-by-the-Sea Municipal Code Section 17.56.050.C with findings as stated in the Resolution.

c. Amend Use Permit No. UP 93-45 to convert the allowed use from a drinking place to a full line restaurant, subject to the written consent of the AW Shucks business owner and the property owner and subject to a return to the Commission with a proposed amendment to Use Permit No. UP 93-45.

d. If the AW Shucks business owner and the property owners submit to the City written consent to an amendment to Use Permit No. UP 93-45 to convert the allowed use from a drinking place to a full line restaurant, then staff is directed to return to the Commission with an amendment to the Use Permit 93-45 with appropriate findings.

-- OR --

2. Adopt a Resolution (Attachment 2):

a. Finding that the proposed action by the Commission is not a project, as defined in Public Resources Code section 21065(c) and therefore is not subject to CEQA, and/or assuming arguendo it is a project, finding it is exempt under CEQA Guidelines sections 15061(b)(3) (Common Sense Exemption), 15301 (Existing Facilities) and 15305 (Minor Alterations in Land Use Limitations) and

none of the exceptions to the exemptions listed in section 15300.2 apply in this case.

b. Directing staff to communicate with the business owner of AW Shucks and the property owner regarding an amendment to Use Permit No. UP 93-45 to omit limited food service and add a full line restaurant as an ancillary use that is greater than 10% of the primary use as a drinking establishment.

c. If the business owner of AW Shucks and the property submit to the City written consent to an amendment to Use Permit No. UP 93-45 to omit limited food service and add a full line restaurant as an ancillary use that is greater than 10% of the primary use as a drinking establishment, then staff is directed to return to the Commission with an amendment to the Use Permit 93-45 with appropriate findings.

Summary, Background, and Project Description:

October 8, 2025 Planning Commission Hearing

On October 8, 2025, the Planning Commission was presented with the permit and operation history of A.W. Shucks Cocktail & Oyster Bar (A.W. Shucks) (see Planning Commission staff report, linked here), for which the Commission to considered, weighed and provided staff with direction on moving forward. Specifically, is A.W. Shucks operating outside of what is permitted (Use Permit, Building Permits and Business License); and if so, what is the correct vehicle to achieve compliance. The recommendation by the Director in the Staff Report was that the Commission consider approving an amendment to Use Permit No. UP 93-45 to change the allowed use from a drinking establishment with limited food service to a full-line restaurant. This amendment would not result in a change or expansion of the current operation.

During this hearing, the Commission received comments from the property manager and operator of A.W. Shucks. Specifically, both expressed their disinclination to amend their Use Permit to change the allowed use from a drinking place with limited food service to a full line restaurant. During the Commission's deliberation, several considerations were expressed, such as the permitted use should either be a full line restaurant or a drinking establishment, the operation appears to be a full line restaurant, the operation seems to be neither but more of a mix of the two, and compliance with existing permits. At the end of the deliberation, the Planning Commission's direction was for staff to return with options to allow A.W. Shucks to operate as they currently are.

December 10, 2025 Planning Commission Hearing

On December 10, 2025, staff returned to the Planning Commission as directed and provided 5 potential options for the Commission to consider (see Planning Commission

staff report, linked here).

Option 1 – Amend Use Permit No. UP 93-45 to omit limited food service and add full line restaurant as ancillary use that is greater than 10% of the primary use.
Option 2 – Uphold the Planning Commission's 2015 designation that A.W. Shucks is a drinking establishment.
Option 3 – Consider A.W. Shucks as a nonconforming use.
Option 4 – Revert the ancillary use to limited food service.
Option 5 – Amend Use Permit No. UP 93-45 to convert the allowed use from a drinking place to a full line restaurant.

Based on the Commission's direction from the October 8th hearing, staff recommended Option 1, which was consistent with the applicable policies of the Carmel-by-the-Sea General Plan and Local Coastal Program and the applicable requirements contained in the Carmel-by-the-Sea Municipal Code.

During public testimony on the December 10, 2025 Planning Commission hearing, members of the public came forward to speak on the A.W. Shucks hearing item, including the property manager of A.W. Shucks, John Plastini. Mr. Plastini asserts that drinking establishment use was never abandoned and A.W. Shucks has acted in good faith, including as directed by city staff and determined by the Planning Commission. In general, members of the public spoke to the operation of a different drinking establishment in the city. However, a few commentors stated that Option 5 presented to the Commission would be appropriate for A.W. Shucks.

There were numerous public comments regarding Sade's. However, the Commission pointed out that the item that before them was on A.W. Shucks, not Sade's. Subsequent to public comment and the Commission's deliberation, the Commission expressed that as presented, Option 5 was their preference.

January 21, 2026 Planning Commission Hearing

On January 21, 2026, staff was prepared to return with a draft resolution based on the Commission's discussion and preference. On January 21, 2026, staff received correspondence from an attorney representing the property owner, TSD Carmel Properties, L. P. In order to allow sufficient time to review and respond to the correspondence, the Commission continued the hearing to a date uncertain as requested by staff.

FACTUAL CHRONOLOGY

1. Original Approval and Early Modifications (1993-1996)

1993: The Planning Commission approved Use Permit No. UP 93-45 (Murray/Weaver) authorizing the addition of limited food sales to an existing drinking establishment formerly known as Maxwell McFly's (now A.W. Shucks). The business is located at Ocean Avenue 3 southwest of San Carlos Street, APN 010-146-017-000.

Condition of Approval No. 2 of the Use Permit stated: *"The sale and service of food shall [be] limited to the menu submitted with this application. The permittee shall not be authorized to establish a full kitchen with stove, grill or oven. Food services shall be limited to a microwave oven, gas steamer, soup preparation and refrigeration facilities."*

March 3, 1994: The City issued Building Permit No. 94-47 for a commercial interior remodel allowing installation of: soup warmer, prep sink, refer, display rack, prep refer, small steamer, large steamer, stock pot, Type II hood, sink, dishwasher and coffee maker.

November 3, 1995: An application for Building Permit No. 96-81 to allow a commercial kitchen remodel was submitted.

November 20, 1995: A correction list was provided indicating that an application to amend the Use Permit was required.

December 5, 1995: An additional note was added stating that the owner was required to submit a new application for a business license for a full-line restaurant.

May 7, 1996: The City issued Building Permit No. 96-81.

June 14, 1996: Building Permit No. 96-81 was finaled. This permit allowed the installation of a stock pot burner and gas fryer.

2. Further Kitchen Expansion (2008-2009)
July 31, 2008: An application for Building Permit No. 08-168C allowing a commercial kitchen remodel, including the installation of a salamander, char broiler, griddle with 2 burners and an oven, a fryer and stock pot burner was filed.

August 15, 2008: The building permit for this work was issued.

February 11, 2009: The permit was finaled.

3. Planning Commission Designation on September 23, 2015
September 23, 2015: At a duly noticed meeting, the Planning Commission determined that A.W. Shucks was one of the three drinking places in the city, the other two were Sade's and Barmel. The Commission found that A.W. Shucks originally operated strictly as a drinking place and by approval of UP 93-45, ancillary food service was allowed. The Commission noted that the establishment is permitted to be open until 12:00 a.m., and the majority of the floor space is occupied by the bar. The Commission approved this designation of these three drinking place with a vote of 4-0-1.

4. Change of Ownership and Planning Director's Determination (2023)
July 1, 2023: Ownership of A.W. Shucks changed from M & M Coastal Enterprises (Mike and Michelle Sapon) to A.W. Shucks LLC (Karen Basi).

August 8, 2023: Business License No. BL 23-041 was issued. This license approved a use classified as a full-line restaurant as the primary use and a drinking place as an ancillary use.

On August 14, 2023: Planning Director Brandon Swanson sent an email to property manager John Plastini. In this email, Mr. Swanson stated that he had determined that the City had:

- *"memorialized the additional cooking equipment and restaurant operation by approving a building permit on August 15, 2008 (Permit # 08-168C)";* and
- *"In this case, even though the original Use Permit sets a limit on the type of equipment and menu, the City took an official action to approve the updated kitchen and the menu it was meant to prepare, thereby creating a legal nonconforming situation that is allowed to continue under Chapter 17.36 of the City's Municipal Code."*

August 28, 2023: Planning Director Brandon Swanson sent correspondence to Mr. Plastini stating that as he had stated in his August 14, 2023 email, the menus Mr. Plastini had provided were also approved by the City on August 15, 2008, as part of Permit # 08-168C.

Staff Analysis:

On December 10, 2025, the Commission stated that the concept of limiting drinking establishments in the City is one of critical importance when considering how an allowed drinking establishment operates. Essentially, the limit creates a carve out for 3 drinking establishments which should be discernable when compared to other uses. For example, one Commissioner stated that during their research, 24 restaurants in the city were identified to have a full service bar and that 5 or 6 offer no such alcohol service. The Commission also stated that when compared to a full line restaurant, the age restriction required for bars is a clear difference between the 2 uses.

In addition, Commissioners suggested how the different ABC Type licenses could be used to determine whether or not a use qualifies as a bar.

Another Commissioner pointed out Condition of Approval No. 8 of Use Permit UP 93-45 and Carmel-by-the-Sea Municipal Code (CMC) Section 17.36.060 – Legal Nonconforming Uses and Buildings, Abandonment of Use, stating that any change of use must conform to the provisions of the CMC.

While most is correct, the change of use more appropriately falls under CMC Section 17.56.050 – Restricted Commercial Uses, Exercise and Abandonment of Restricted Commercial Uses, specifically subsection "C" which states "[a] restricted commercial use that has been discontinued for a period of six consecutive months shall be considered abandoned unless the property owner has filed a notice of temporary cessation as provided for in this chapter."

CMC Section 17.56.050.C states that a "determination of abandonment by the Director may be appealed to the Planning Commission". The determination of abandonment can be made by the Commission or by the Director. As noted, a determination of abandonment by the Director is appealable to the Planning Commission. CMC Section 17.52.030.L states that the Director has the power to refer any decision to an appropriate higher level, including the Planning Commission. The Director is referring to the Commission the determination of whether there has been an abandonment of use for this matter.

The Commission concluded their deliberation and gave direction to proceed with Option 5, which is included the Resolution attached as Attachment 1.

Correspondence Received for the January 21, 2026 Planning Commission Hearing
On January 21, 2026, staff received correspondence from Hudson Martin PC (Attachment 3), attorneys representing the property owner, TSD Carmel Properties, L. P. (TSD). The January 21, 2026 letter asserts that the Planning Commission violated the Ralph M. Brown Act during the December 10, 2025 hearing.
The City Attorney has reviewed the letter from the Hudson firm and has determined that there were no violations of the Brown Act on December 10, 2025. Government Code Section 54954.2 provides that a local agency *"shall post an agenda containing a brief general description of business to be transacted or discussed at the meeting...."* The discussion at the December 10, 2025 Commission meeting was within the scope of the Agenda description. The City Attorney will be responding to the Hudson firm on behalf of the Commission in regard to the alleged violations of the Brown Act.

The January 21, 2026 Hudson letter also asserts that: "The Commission's proposed actions would interfere with A.W. Shucks' and TSD's ability to continue the established businesses in which they have vested rights and would constitute an improper government taking." The Hudson letter sets forth the basis for the legal position of TSD including references to building permits, the September 23, 2015 Planning Commission determination and the August 2023 email from then Director Brandon Swanson regarding a nonconforming use.

In addition to the claim of vested rights, the Hudson letter contends that the Commission is legally estopped from finding that TSD abandoned the Use Permit citing legal authority.

The City Attorney has reviewed the assertions by the Hudson firm in regard to vested rights and estoppel. Based upon this review, if the Commission were to determine that the current uses of A.W. Shucks constitute an abandonment of this drinking establishment, then this determination would be subject to legal challenge based on the record as described in the Factual Chronology above. While it is not possible to predict with accuracy how a court would rule in the event of such a legal challenge, there is a risk that a court might find that the doctrines of vested rights and/or estoppel apply based on the record.

Draft Resolution – Attachment 1

Staff has prepared a draft resolution (Attachment 1) based on Planning Commission's direction from the December 10, 2025 hearing determining and finding that the use as a drinking establishment has been abandoned and the Resolution, based on Option 5 described in the December 10, 2025 Staff Report, would amend Use Permit No. UP 93-45 to convert the allowed use from a drinking place to a full line restaurant which amendment would be subject to the written consent of A.W. Shucks business owner and property owner. This Resolution includes a provision that the amendment would be subject to the written consent of A.W. Shucks business owner and property owner because there is no provision in the City Municipal Code to allow an amendment to a Use Permit with the consent of the permit holder.

Draft Resolution – Attachment 2

As an alternative, Staff has prepared a draft Resolution (Attachment 2) directing staff to communicate with A.W. Shucks business owner and property owner regarding an amendment to Use Permit No. UP 93-45 to omit limited food service and add a full line restaurant as an ancillary use that is greater than 10% of the primary use. This Resolution is based on Option 1 which was described in the December 10, 2025 Staff Report and would allow A.W. Shucks to continue business based upon its current operations.

Other Project Components:

Environmental Review

Public Resources Code Section 21065(c) defines a project as an activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, where such activity involves the issuance of a lease, permit, license, certificate or other entitlement by a public agency. Should the Commission adopt the Resolution in Attachment 1, the action would result in a determination that the existing use is abandoned, which does not satisfy the definition above. Likewise, the second part of the action, amending the use permit to convert the permitted use from a drinking establishment to a full line restaurant, is subject to the consent of the A. W. Shucks property owner. It is not reasonably foreseeable that the adoption of Resolution in Attachment 1 would result in an indirect physical change in the environment through the future issuance/approval of an amended use permit, thus it does not meet this definition.

Should the Commission adopt the Resolution in Attachment 2, the action would result in staff providing the property owner with the necessary application forms for submittal in order to request a use permit amendment to allow omitting limited food service and add a full line restaurant as an ancillary use that is greater than 10% of the primary use. This action would not meet the definition of a project found in Public Resources Code Section 21065(c).

If A. W. Shucks elects to amend their Use Permit and a full line restaurant is approved (Attachment 1), then there would be no change in the current baseline. This is also the case if the Planning Commission adopts the Resolution in Attachment 2. Pursuant to

CEQA Guidelines Section 15125, the environmental setting (existing physical environmental conditions) constitutes the baseline conditions. This fundamental concept is necessary for environmental review as it provides an understanding of potential impacts resulting from project implementation. In this particular case, evidence on the record corroborates that the current operation of A.W. Shucks includes the preparation, sale and service of food items and beverages, including alcohol.

If it is assumed that an amendment to either allow a full line restaurant (Resolution Attachment 1) or to add a full line restaurant as an ancillary use greater than 10% (Resolution Attachment 2) is a project under CEQA, then the operational component of the business would not change, resulting in no change to the baseline condition. The "General Rule", also referred as the "common sense" exemption, (CEQA Guidelines Section 15061[b][3]) states that CEQA only applies to projects which have the potential to cause a significant effect on the environment and where it can be seen with certainty there is no possibility the activity may have a significant effect on the environment, the activity is not subject to CEQA. Therefore, a project resulting in no change to the baseline condition would not be subject to CEQA under the common sense exemption. Further, the assumed project would qualify for a Class 1 Categorical Exemption pursuant to Section 15301 – Existing Facilities and a Class 5 Categorical Exemption pursuant to Section 15305 – Minor Alteration in Land Use Limitations.

None of the exceptions to the exemptions found in Section 15300.2 apply in this case. The subject property does not contain a hazardous waste site or a historic resource, nor is it within an officially designated state scenic highway. Implementation of the project would result in no change to baseline conditions which substantiates that there would be no foreseeable cumulative impacts or significant effects as a result of the project.

Attachments:

1. Attachment 1 - Draft Resolution (AW Shucks)
2. Attachment 2 - Draft Resolution (AW Shucks)

CITY OF CARMEL-BY-THE-SEA
PLANNING COMMISSION

PLANNING COMMISSION RESOLUTION NO. 2026-XX

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CARMEL-BY-THE-SEA DETERMINING THAT THE DRINKING ESTABLISHMENT AT A.W. SHUCKS COCKTAIL & OYSTER BAR (UP 93-45 MURRAY/WEAVER) LOCATED AT OCEAN AVENUE 3 SOUTHWEST OF SAN CARLOS STREET, IN THE CENTRAL COMMERCIAL (CC) ZONING DISTRICT, APN 010-146-017-000 HAS BEEN ABANDONED AND AMENDING USE PERMIT NO. UP 93-45 TO CONVERT THE ALLOWED USE FROM A DRINKING PLACE TO A FULL LINE RESTAURANT SUBJECT TO THE WRITTEN CONSENT OF THE AW SHUCKS BUSINESS OWNER AND PROPERTY OWNER AND FINDING THAT THE PLANNING COMMISSION'S ACTION IS NOT A PROJECT UNDER CEQA AS DEFINED IN PUBLIC RESOURCES CODE SECTION 21065 AND CEQA GUIDELINES SECTION 15378, AND ASSUMING IT IS A PROJECT, IT IS EXEMPT UNDER CEQA GUIDELINES SECTIONS 15061(b)(3) (COMMON SENSE EXEMPTION), 15301 (EXISTING FACILITIES), 15305 (MINOR ALTERATIONS IN LAND USE LIMITATIONS) AND NONE OF THE EXCEPTIONS TO THE EXEMPTIONS APPLY IN THIS CASE

WHEREAS, on December 8, 1993, the Planning Commission approved Use Permit No. UP 93-45 (Murray/Weaver) authorizing the addition of limited food sales to an existing drinking establishment (formerly Maxwell McFly's, now A.W. Shucks Cocktail & Oyster Bar) and whether or not the operation is consistent with the use approved under Use Permit No. UP 93-45; and

WHEREAS, Condition of Approval No. 2 of UP 93-45 states that "the sale and service of food shall [be] limited to the menu submitted with this application. The permittee shall not be authorized to establish a full kitchen with stove, grill or oven. Food services shall be limited to a microwave oven, gas steamer, soup preparation and refrigeration facilities."; and

WHEREAS, on March 3, 1994, the City issued building permit No. 94-47 for a commercial interior remodel allowing installation of the following: soup warmer, prep sink, refer, display rack, prep refer, small steamer, large steamer, stock pot, Type II hood, sink, dishwasher and coffee maker; and

WHEREAS, on November 3, 1995, an application for building permit No. 96-81 to allow a commercial kitchen remodel was submitted. On November 20th a correction list was provided indicating that an application to amend the Use Permit was required. An additional note was added on December 5, 1995, stating that the owner was required to submit a new application for a business license for a full-line restaurant. The correct list was updated crossing out "use permit" and writing in "business license only" and indicated that compliance was done April 22, 1996. On May 7, 1996, the city issued the building permit and on June 14, 1996, it was finaled. This permit allowed the installation of a stock pot burner and gas fryer; and

WHEREAS, on July 31, 2008, an application for building permit No. 08-168C allowing a commercial kitchen remodel, including the installation of a salamander, char broiler, griddle

with 2 burners and an over, a fryer and stock pot burner was filed. This permit was issued August 15, 2008 and finaled February 11, 2009; and

WHEREAS, on September 23, 2015, at a duly noticed meeting, the Planning Commission determined that A.W. Shucks Cocktail & Oyster Bar (A.W. Shucks) was one of the 3 drinking places in the city. A.W. Shucks originally operated strictly as a drinking place and by approval of UP 93-45, ancillary food service was allowed, the establishment is permitted to be open until 12:00 a.m., and the majority of the floor space is occupied by the bar. The Commission memorialized this designation with a vote of 4-0-1; and

WHEREAS, on July 1, 2023, ownership of A.W. Shucks changed from M & M Coastal Enterprises (Mike and Michelle Sapon) to A.W. Shucks LLC (Karen Basi). Business License No. BL 23-041 was issued on August 8, 2023. This license approved a use classified as a full-line restaurant as the primary use and a drinking place as an ancillary use; and

WHEREAS, on August 28, 2023, correspondence was sent to the property manager of the subject parcel stating that the city memorialized the additional cooking equipment and approved the current menu as part of the approval of Building Permit No. BP 08-168C and that A.W. Shucks can continue to operate under UP 93-45, provided there was no change in its then current use and operation; and

WHEREAS, in February 2025, the Director of Community Planning and Building received an inquiry asking if A.W. Shucks is operating consistent with the use as approved and conditioned under Use Permit No. UP 93-45 (Murray/Weaver); and

WHEREAS, at the October 8, 2025 Planning Commission meeting, the Commission received a Director's Referral to discuss the permit and operation history of A.W. Shucks, and a potential amendment to Use Permit No. UP 93-45. Subsequent to their deliberation, the Commission directed staff to return with options to allow A.W. Shucks to operate as they currently are while potentially retaining their Use Permit for a drinking establishment; and

WHEREAS, at the December 10, 2025 Planning Commission meeting, staff returned to the Commission as directed and provided potential options: 1) amend Use Permit No. UP 93-45 to omit limited food service and add full line restaurant as ancillary use that is greater than 10% of the primary use, 2) uphold the Planning Commission's 2015 designation that A.W. Shucks is a drinking establishment, 3) consider A.W. Shucks as a nonconforming use, 4) revert the ancillary use to limited food service, or 5) amend Use Permit No. UP 93-45 to convert the allowed use from a drinking place to a full line restaurant. Staff's recommended Option 1 as it was consistent with the applicable policies of the Carmel-by-the-Sea General Plan and Local Coastal Program and the applicable requirements contained in the Carmel-by-the-Sea Municipal Code (CMC); and

WHEREAS, on December 10, 2025, having considered all the written and documentary evidence, the administrative record, staff report, oral testimony, and other evidence presented,

the City of Carmel-by-the-Sea Planning Commission expressed the view that the drinking establishment use has been abandoned and the use shall come into conformance. In addition, the Commission identified that Options 5 would fit the existing model of the business operation; and

WHEREAS, in accordance with CMC Section 17.54.010.C, the findings and actions of the Planning Commission shall be final and conclusive from and after the date of final action unless an appeal is filed with the City Council.

NOW, THEREFORE, BE IT RESOLVED that based on the above findings and evidence, Planning Commission of the City of Carmel-By-The-Sea does hereby:

1. The facts ("Facts") set forth in the recitals above are true and correct and are incorporated herein by reference.

2. Find the proposed action by the Commission is not a project under CEQA as defined in Public Resources Code Section 21065 and CEQA Guidelines Section 15378, and assuming it is a project, it is exempt under CEQA Guidelines sections 15061(b)(3) (Common Sense Exemption), 15301 (Existing Facilities) and 15305 (Minor Alterations in Land Use Limitations) and none of the exceptions to the exemptions listed in section 15300.2 apply in this case. The subject property does not contain a hazardous waste site or a historic resource, nor is it within an officially designated state scenic highway. Implementation of the Commission's action would result in no change to baseline conditions which substantiates that there would be no foreseeable cumulative impacts or significant effects as a result of the action.

3. Determine that the drinking establishment at A.W. Shucks Cocktail & Oyster Bar (UP 93-45 Murray/Weaver) has been abandoned for more than six months in accordance with Carmel-by-the-Sea Municipal Code Section 17.56.050.C based upon the Facts and following findings:

(1) Use Permit 93-45 (UP 93-45) was adopted on December 8, 1993 to authorize the addition of the sale of food to an existing drinking establishment for a business then known as Maxwell McFly's and now known as AW Shucks ("Business") located at Ocean SW of San Carlos Avenue ("Property").

(2) Condition 2 of UP 93-45 stated: *"The sale and service of food shall [be] limited to the menu submitted with this application. The permittee shall not be authorized to establish a full kitchen with stove, grill or oven. Food services shall be limited to a microwave oven, gas steamer, soup preparation and refrigeration facilities."*

(3) Condition 8 of UP 93-45 stated: *"This use permit shall become void and of no further force or effect upon termination or discontinuance of the use for any period of time exceeding six months."*

(4) Since 1993, building permits have been issued to this Business for a commercial kitchen including the installation of a salamander, char broiler, griddle with 2 burners and an oven, a fryer and stock pot burner.

(5) On August 8, 2023, Business License No. BL 23-041 was issued which authorized a use classified as a full-line restaurant as the primary use and a drinking place as an ancillary use.

(6) For at least the last six months, AW Shucks has not operated as a drinking establishment with the sale of limited food as approved by UP 93-45.

(7) The uses of the Property where the Business is located are subject to the conditions of UP 93-45.

(8) A Use Permit may only be amended upon application to the City which is approved by the Planning Commission.

(9) UP 93-45 has not been amended since December 8, 1993.

(10) A building permit does not amend a Use Permit.

(11) A business license does not amend a Use Permit.

4. Amend Use Permit No. UP 93-45 to convert the allowed use from a drinking place to a full line restaurant, subject to the written consent of AW Shucks business owner and the property owner and subject to a return to the Commission with a proposed amendment to Use Permit No. 93-45 with appropriate findings.

5. If the AW Shucks business owner and property owner submit to the City written consent to the amendment to Use Permit No. UP 93-45 to convert the allowed use from a drinking place to a full line restaurant, then Staff is directed to return to the Commission with such amendment to Use Permit No. UP 93-45 with appropriate findings.

PASSED AND ADOPTED BY THE PLANNING COMMISSION OF THE CITY OF CARMEL-BY-THE-SEA this 11th day of February 2026, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

Michael LePage
Chair

ATTEST:

Shelby Gorman
Planning Commission Secretary

CITY OF CARMEL-BY-THE-SEA
PLANNING COMMISSION

PLANNING COMMISSION RESOLUTION NO. 2026-XX

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CARMEL-BY-THE-SEA DIRECTING STAFF TO COMMUNICATE WITH THE PROPERTY OWNER REGARDING AN AMENDMENT TO USE PERMIT NO. UP 93-45 TO OMIT LIMITED FOOD SERVICE AND ADD FULL LINE RESTAURANT AS AN ANCILLARY USE THAT IS GREATER THAN 10% OF THE PRIMARY USE FOR THE SUBJECT PROPERTY LOCATED AT OCEAN AVENUE 3 SOUTHWEST OF SAN CARLOS STREET, IN THE CENTRAL COMMERCIAL (CC) ZONING DISTRICT, APN 010-146-017-000. AND FINDING THAT THE PROPOSED ACTION ASSOCIATED WITH THE PLANNING COMMISSION'S DETERMINATION IS NOT A PROJECT UNDER CEQA AS DEFINED IN PUBLIC RESOURCES CODE SECTION 21065 AND CEQA GUIDELINES SECTION 15378, AND/OR ASSUMING IT IS A PROJECT, FINDING IT IS EXEMPT UNDER CEQA GUIDELINES SECTIONS 15061(b)(3) (COMMON SENSE EXEMPTION), 15301 (EXISTING FACILITIES), 15305 (MINOR ALTERATIONS IN LAND USE LIMITATIONS) AND NONE OF THE EXCEPTIONS TO THE EXEMPTIONS APPLY IN THIS CASE

WHEREAS, on December 8, 1993, the Planning Commission approved Use Permit No. UP 93-45 (Murray/Weaver) authorizing the addition of limited food sales to an existing drinking establishment (formerly Maxwell McFly's, now A.W. Shucks Cocktail & Oyster Bar) and whether or not the operation is consistent with the use approved under Use Permit No. UP 93-45; and

WHEREAS, Condition of Approval No. 2 of UP 93-45 states that "the sale and service of food shall [be] limited to the menu submitted with this application. The permittee shall not be authorized to establish a full kitchen with stove, grill or oven. Food services shall be limited to a microwave oven, gas steamer, soup preparation and refrigeration facilities."; and

WHEREAS, on March 3, 1994, the City issued building permit No. 94-47 for a commercial interior remodel allowing installation of the following: soup warmer, prep sink, refer, display rack, prep refer, small steamer, large steamer, stock pot, Type II hood, sink, dishwasher and coffee maker; and

WHEREAS, on November 3, 1995, an application for building permit No. 96-81 to allow a commercial kitchen remodel was submitted. On November 20th a correction list was provided indicating that an application to amend the Use Permit was required. An additional note was added on December 5, 1995, stating that the owner was required to submit a new application for a business license for a full-line restaurant. The correct list was updated crossing out "use permit" and writing in "business license only" and indicated that compliance was done April 22, 1996. On May 7, 1996, the city issued the building permit and on June 14, 1996, it was finaled. This permit allowed the installation of a stock pot burner and gas fryer; and

WHEREAS, on July 31, 2008, an application for building permit No. 08-168C allowing a commercial kitchen remodel, including the installation of a salamander, char broiler, griddle

with 2 burners and an over, a fryer and stock pot burner was filed. This permit was issued August 15, 2008 and finaled February 11, 2009; and

WHEREAS, on September 23, 2015, at a duly noticed meeting, the Planning Commission determined that A.W. Shucks Cocktail & Oyster Bar (A.W. Shucks) was one of the 3 drinking places in the city. A.W. Shucks originally operated strictly as a drinking place and by approval of UP 93-45, ancillary food service was allowed, the establishment is permitted to be open until 12:00 a.m., and the majority of the floor space is occupied by the bar. The Commission memorialized this designation with a vote of 4-0-1; and

WHEREAS, on July 1, 2023, ownership of A.W. Shucks changed from M & M Coastal Enterprises (Mike and Michelle Sapon) to A.W. Shucks LLC (Karen Basi). Business License No. BL 23-041 was issued on August 8, 2023. This license approved a use classified as a full-line restaurant as the primary use and a drinking place as an ancillary use; and

WHERAS, on August 28, 2023, correspondence was sent to the property manager of the subject parcel stating that the city memorialized the additional cooking equipment and approved the current menu as part of the approval of Building Permit No. BP 08-168C and that A.W. Shucks can continue to operate under UP 93-45, provided there was no change in its then current use and operation; and

WHEREAS, in February 2025, the Director of Community Planning and Building received an inquiry asking if A.W. Shucks is operating consistent with the use as approved and conditioned under Use Permit No. UP 93-45 (Murray/Weaver); and

WHEREAS, at the October 8, 2025 Planning Commission meeting, the Commission received a Director's Referral to discuss the permit and operation history of A.W. Shucks, and a potential amendment to Use Permit No. UP 93-45. Subsequent to their deliberation, the Commission directed staff to return with options to allow A.W. Shucks to operate as they currently are while potentially retaining their Use Permit for a drinking establishment; and

WHEREAS, at the December 10, 2025 Planning Commission meeting, staff returned to the Commission as directed and provided potential options: 1) amend Use Permit No. UP 93-45 to omit limited food service and add full line restaurant as ancillary use that is greater than 10% of the primary use, 2) uphold the Planning Commission's 2015 designation that A.W. Shucks is a drinking establishment, 3) consider A.W. Shucks as a nonconforming use, 4) revert the ancillary use to limited food service, or 5) amend Use Permit No. UP 93-45 to convert the allowed use from a drinking place to a full line restaurant. Staff's recommended Option 1 as it was consistent with the applicable policies of the Carmel-by-the-Sea General Plan and Local Coastal Program and the applicable requirements contained in the Carmel-by-the-Sea Municipal Code (CMC); and

WHEREAS, in accordance with CMC Section 17.54.010.C, the findings and actions of the Planning Commission shall be final and conclusive from and after the date of final action unless an appeal is filed with the City Council.

NOW, THEREFORE, BE IT RESOLVED that based on the above findings and evidence, Planning Commission of the City of Carmel-By-The-Sea does hereby:

1. Find the facts ("Facts") set forth in the recitals stated above are true and correct and are incorporated herein by reference.

2. Find that the proposed action by the Commission is not a project under CEQA, as defined in Public Resources Code Section 21065 and CEQA Guidelines Section 15378, and/or assuming it is a project, find it is exempt under CEQA Guidelines sections 15061(b)(3) (Common Sense Exemption), 15301 (Existing Facilities) and 15305 (Minor Alterations in Land Use Limitations) and none of the exceptions to the exemptions listed in section 15300.2 apply in this case. The subject property does not contain a hazardous waste site or a historic resource, nor is it within an officially designated state scenic highway. Implementation of the Commission's action would result in no change to baseline conditions which substantiates that there would be no foreseeable cumulative impacts or significant effects as a result of the proposed action.

2. Direct staff to communicate with the AW Shucks business owner and property owner regarding an amendment to Use Permit No. UP 93-45 to omit limited food service and add a full line restaurant as an ancillary use that is greater than 10% of the primary use as a drinking establishment.

3. If the business owner of AW Shucks and the property owner submit to the City written consent to an amendment to Use Permit No. UP 93-45 to omit limited food service and add a full line restaurant as an ancillary use that is greater than 10% of the primary use as a drinking establishment, then Staff is directed to return to the Commission with such amendment to Use Permit No. UP 93-45 with appropriate findings.

PASSED AND ADOPTED BY THE PLANNING COMMISSION OF THE CITY OF CARMEL-BY-THE-SEA this 11th day of February 2026, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

Michael LePage
Chair

ATTEST:

Shelby Gorman
Planning Commission Secretary

EXHIBIT 6

Hudson Martin PC
Est. 1908

February 11, 2026

City of Carmel-by-the-Sea
Planning Commission
Attn: Chair Michael LePage
P.O. Box CC
Carmel-by-the-Sea, CA 93921
(Via Email: sgorman@ci.carmel.ca.us)

RE: Public Comment for February 11, 2026, Planning Commission Meeting
Agenda Item # 5, A.W. Shucks Cocktail & Oyster Bar / Amendment to UP 93-45
Our File No. TSDP10018

Dear Planning Commission:

This public comment is sent on behalf of our client, TSD Carmel Properties, L.P. ("TSD"), regarding Agenda Item No. 5 on the Planning Commission's agenda for its February 11, 2026 meeting. This agenda item provides for the consideration and adoption of a resolution that either (1) determines and finds that TSD's drinking place use permit (UP 93-45) has been abandoned ("Draft Resolution 1"); or (2) directs staff to communicate with TSD and A.W. Shucks Cocktail & Oyster Bar ("A.W. Shucks") regarding an amendment of the use permit to omit limited food service and add a full line restaurant as an ancillary use that is greater than 10% of the primary drinking place use ("Draft Resolution 2").

For the reasons set forth herein, TSD objects to the adoption of Draft Resolution 1 and, so long as the specific details of Draft Resolution 2 are addressed in a fair and agreeable manner, TSD agrees with the adoption Draft Resolution 2.

I. TSD Objects to Adoption of Draft Resolution 1 Because It Has Not Abandoned Its Drinking Place Use Permit.

As the Commission is well-aware, and as was discussed in TSD's public comment for the Commission's January 21, 2026, meeting, TSD's drinking place use permit runs with the land of the Doud Arcade, located at Ocean Avenue and San Carlos Street in Carmel-by-the-Sea, California (APN 010-146-017-000). TSD has held the drinking place use permit at the Doud Arcade since 1961 and has continuously leased the property to businesses operating under legal and legal non-conforming uses approved by the Commission—including A.W. Shucks.[1]

TSD vehemently opposes any attempt by the Commission to deem TSD's drinking place use permit abandoned. Any such action would interfere with A.W. Shucks' and TSD's ability to

[1] Of note, Carmel Municipal Code section 17.68.050 does not limit "Drinking Places" to bars, but rather defines them as "Businesses serving *beverages for consumption on the premises* as a primary use and *including* on-sale service of alcohol including beer, wine, and mixed drinks." (Emphases added).

continue the established businesses in which they have vested rights and would constitute an improper government taking. *(See, e.g., Goat Hill Tavern v. City of Costa Mesa* (1992) 6 Cal.App.4th 1519, 1529 ("Interference with the right to continue an established business is far more serious than the interference a property owner experiences when denied a conditional use permit in the first instance. Certainly, this right is sufficiently personal, vested and important to preclude its extinction by a nonjudicial body."); *Halaco Engineering Co. v. South Central Coast Regional Commission* (1986) 42 Cal.3rd 52, 63 (noting "the vested rights doctrine derives from the constitutional guarantee that property may not be taken without due process and just compensation").)

For over three decades, the Commission has repeatedly approved legal non-conforming uses under TSD's drinking place permit and TSD has reasonably and in good faith relied on those approvals. The amended use permit was approved in 1993 when the existing tenant business operated a bar and oyster bar. In 1995, the Commission approved a building application allowing the addition of a commercial kitchen and expressly did not require a new use permit as part of this change. A similar building permit was approved in 2008. And, in 2015, the Commission designated A.W. Shucks as one of three drinking places in the City, with full knowledge of the legal non-conforming use of the business as a drinking place with food service. Finally, in 2023, the Commission provided A.W. Shucks and TSD with a written opinion stating that A.W. Shucks' operations were a legal non-conforming use that did not require a new use permit. Nothing about A.W. Shucks' operations has changed since the 2023 approval, and the Commission has not offered any valid basis to reverse its prior decisions.

During the December 10, 2025 meeting, the Commission considered a staff report that offered several options to address the use permit including a option to amend the existing drinking places use permit to omit limited food service and add full line restaurant as ancillary use that is greater than 10% of the primary use, similar to the current Draft Resolution 2. Staff recommended this option and, in response to the Commission's questions about deeming the use permit abandoned, informed the Commission that abandonment would not be supported by the record given the Commission's past actions and TSD's reliance on those actions.

TSD asserted in its prior public comment that Commission is legally estopped from finding that TSD abandoned the use permit, and reasserts that position now. (*See e.g., City of Long Beach v. Mansell* (1970) 3 Cal.3d 462; Cal. Evid. Code § 623.) In the staff report for the February 11, 2026, meeting, staff has recommended adoption of Draft Resolution 2 and noted that "The City Attorney has reviewed the assertions by the Hudson firm in regard[s] to vested rights and estoppel. Based upon this review, if the Commission were to determine that the current uses of A.W. Shucks constitute an abandonment of this drinking establishment, then this determination would be subject to legal challenge based on the record as described in the Factual Chronology above. While it is not possible to predict with accuracy how a court would rule in the event of such a legal challenge, there is a risk that a court might find that the doctrines of vested rights and/or estoppel apply based on the record."

Further, TSD remains concerned about the Commission conflating the issue of A.W. Shucks' legal non-conforming use under TSD's drinking place permit with the availability of drinking place use permits in Carmel-by-the-Sea generally, as evidenced by the extensive public comments and discussion of non-agenda items relating to an unrelated business (Sade's Cocktails) during the Commission's December 10, 2025 meeting. TSD is particularly troubled by the comments made by Chair LePage during the meeting that TSD, in which he stated that TSD would not be harmed, but that the unrelated business (Sade's) would be harmed, if the use permit were deemed abandoned. TSD disputes these comments and reminds the Commission that TSD and A.W. Shucks will be harmed if the use permit is deemed abandoned. TSD also notes that, on January 20, 2026, it sent a cease and desist letter under the Brown Act relating to the Commission's actions during the December meeting, and that, notwithstanding the staff report's statement that "[t]he City Attorney will be responding to the Hudson firm on behalf of the Commission in regard to the alleged violations of the Brown Act," it has yet to receive a response from the Commission.

Finally, even if the Commission had a legal and factual basis to deem TSD's drinking place use permit abandoned, it has no authority to determine and find that the use permit has been abandoned for more than six months. To the contrary, the current owners of A.W. Shucks have continuously operated their business as a legal non-conforming use under the drinking place permit since 2023, and TSD has consistently asserted that the drinking place use permit remains in use and has not been abandoned.

II. TSD Agrees with Adoption of Draft Resolution 2 and is Willing to Engage in Good Faith Discussions with Staff Regarding an Amendment of its Existing Drinking Place Use Permit.

On its face, TSD agrees with Draft Resolution 2, which provides for the adoption of a resolution that (1) "Direct[s] staff to communicate with the AW Shucks business owner and property owner regarding an amendment to Use Permit No. UP 93-45 to omit limited food service and add a full line restaurant as an ancillary use that is greater than 10% of the primary use as a drinking establishment" and (2) "If the business owner of AW Shucks and the property owner submit to the City written consent to an amendment to Use Permit No. UP 93-45 to omit limited food service and add a full line restaurant as an ancillary use that is greater than 10% of the primary use as a drinking establishment, then Staff is directed to return to the Commission with such amendment to Use Permit No. UP 93-45 with appropriate findings." (*See* Attachment 2 - Draft Resolution (AW Shucks).) TSD's support of this draft resolution is conditioned upon obtaining additional, specific details regarding the resolution, as TSD wants to ensure that any corresponding interpretations of the resolution and any potential amendments to its drinking place use permit are addressed in a fair and agreeable manner before it decides whether to consent to any potential amendments.

As noted above, TSD has held its drinking place use permit since 1961 and has engaged in regular, good faith communications with the Commission regarding the tenant businesses operating under the permit. TSD views Draft Resolution 2 as recognizing its rights to the

drinking place permit, while also enabling A.W. Shucks to continue its operations and the City to clarify and conform its record for the use permit. Accordingly, TSD agrees with the adoption of Draft Resolution 2, as TSD would like the opportunity to engage with staff regarding an amendment of its drinking place use permit (UP 93-45) to omit limited food service and add a full line restaurant as an ancillary use that is greater than 10% of the primary use as a drinking place, and after such engagement make an informed decision regarding whether it will consent to any amendments of its drinking place use permit.

Sincerely,

HUDSON MARTIN PC

Jeannette K. Witten, Esq.
Managing Partner

Cc:
Client
Chair Michael LePage, mlepage@ci.carmel.ca.us
Vice Chair Erin Allen, eallen@ci.carmel.ca. us
Commissioner Stephan Karapetkov,
skarapetkov@ci.carmel.ca.us
Commissioner Robert Delves, rdelves@ci.carmel.ca.us
Commissioner Stephanie Locke, slocke@ci.carmel.ca.us
AW Shucks c/o Derric Oliver, doliver@fentonkeller.com

EXHIBIT 7

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JOHN E. KESECKER
ELIZABETH R. LEITZINGER
ANDREW B. KREEFT
KENNETH S. KLEINKOFF
ALEX J. LORCA
DERRIC G. OLIVER
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February 11, 2026

VIA EMAIL (SGORMAN@CI.CARMEL.CA.US)

Carmel-by-the-Sea Planning Commission
c/o City Clerk
P.O. Box CC
Carmel-by-the-Sea, CA 93921

Re: A.W. Shucks Cocktail & Oyster Bar's public comments
Planning Commission Regular Meeting, Feb. 11, 2026, Agenda Item #5 (UP 93-45)
Our File: 60621.71033

Dear Planning Commissioners:

This law firm represents A.W. Shucks, LLC, the owner-operator of A.W. Shucks Cocktail & Oyster Bar ("A.W. Shucks") located at Ocean Avenue 3 Southwest of San Carlos Street in Carmel-by-the-Sea ("City"). This letter offers A.W. Shucks' public comments with respect to Use Permit No. UP 93-45 ("Use Permit"). These comments are in addition to A.W. Shucks' previously-submitted written comments, which are attached and incorporated here for inclusion in the administrative record as **Exhibit A**.

In sum, A.W. Shucks supports and respectfully asks the Planning Commission to adopt City staff's proposed "option 2" resolution directing City staff to "communicate with AW Shucks regarding an amendment to Use Permit No. UP 93-45 to omit limited food service and add a full line restaurant as an ancillary use that is greater than 10% of the primary use." (Staff Report, Attachment 2.) Conversely, A.W. Shucks strongly objects to, and respectfully asks the Planning Commission to reject, the proposed "option 1" resolution "determining and finding that the use as a drinking establishment has been abandoned and convert the allowed use from a drinking place to a full line restaurant." (Staff Report, Attachment 1.)

1. **The A.W. Shucks "drinking place" use is a vested right, independent of the Use Permit, and cannot be unilaterally "taken" by the City.**

The City confirmed that use of the A.W. Shucks site as a "drinking place" was established prior to the City's enactment of the relevant land use regulations. As explained in the Planning Commission Staff Report for the public meeting on October 8, 2025, "On December 8, 1993, the Planning Commission approved Use Permit No. UP 93-45 (see Attachment A) authorizing the addition of food sales to an existing drinking establishment (Maxwell McFly's). Under Finding of Fact No. 4, the Commission found that the use was legally established prior to the need for a Use Permit." (Emphases added.)

Consistent with Finding of Fact No. 4, the proposed "option 2" resolution now at issue includes a recital (top of p. 2), stating: "WHEREAS, on September 23, 2015, at a duly noticed meeting, the Planning Commission determined that A.W. Shucks Cocktail & Oyster Bar (A.W. Shucks) was one of the 3 drinking places in the city. A.W. Shucks originally operated strictly as a drinking place and by approval of UP 93-45, ancillary food service was allowed..." (Emphasis added.) In other words, this recital again confirms A.W. Shucks' use as a "drinking establishment" is a vested right, and that the Use Permit relates to food service, not the "drinking establishment" vested right.

Indeed, A.W. Shucks' "drinking place" use is based upon a vested right, irrespective of the Use Permit, and the City has no legal or constitutional authority to "take" that vested property right. And, importantly, A.W. Shucks reasonably and in good faith relied on the Use Permit and the City's related approvals, actions, and findings in purchasing the business.

2. **The City approved the very same kitchen improvements that form the purported basis for the proposed/alternative "abandonment" finding.**

As explained in the Planning Commission Staff report for the public meeting on December 10, 2025, "the Director of Community Planning and Building provided an email to the property manager on August 28, 2023, stating that the city memorialized the additional cooking equipment and approved the current menu as part of the approval of Building Permit No. BP 08-168C." Similarly, a recital in both of the proposed resolutions states, "WHEREAS, on August 28, 2023, correspondence was sent to the property manager of the subject parcel stating that the city memorialized the additional cooking equipment and approved the current menu as part of the approval of Building Permit No. BP 08-168-C and that A.W. Shucks can continue to operate under UP 93-45, provided there was no change in its then current use and operation."

Significantly, neither of the two proposed resolutions before the Planning Commission today include any recital of any "fact" indicating that A.W. Shucks has, since August 28, 2023, made any "change in its then current use and operation" because no such change occurred. Rather, it appears the only "change" at issue is the City's potential reversal of its long-standing position on this issue, apparently prompted by "an inquiry" presumably filed by one who potentially stands to benefit from any such potential "change." Toward that end, the next recital in both proposed resolutions states, "WHEREAS, in February 2025, the Director of Community Planning and Building received an inquiry asking if A.W. Shucks is operating consistent with the use as approved and conditioned under Use Permit No. UP 93-45 (Murray/Weaver)."

However, the applicable legal standard is not, "rob Peter to pay Paul." Rather, if the City wants to issue a "drinking establishment" use permit for Sade's bar, it should pursue an amendment to the City Code to increase the three "drinking establishment" use permits limit, as further discussed below.

3. A.W. Shucks' "drinking place" use was not "abandoned."

The proposed "option 1" resolution states, in paragraph 3: "Determine that the drinking establishment at A.W. Shucks Cocktail & Oyster Bar (UP 93-45 Murray/Weaver) has been abandoned for more than six months in accordance with Carmel-by-the-Sea Municipal Code Section 17.56.050.C based upon the Facts," which "Facts" include the expansion of food service and the related addition of related kitchen equipment at A.W. Shucks as expressly authorized by the City.[1] In fairness, the City can't, on one hand, issue a business license[2] and building permits authorizing additional food service-related equipment and improvements, while on the other hand, years later, point to those very same City authorizations as evidence that A.W. Shucks abandoned the City-issued Use Permit.

Carmel Municipal Code ("CMC") section 17.56.050.C generally defines "abandonment of use" as one "that has been discontinued for a period of six consecutive months." However, there is no evidence that A.W. Shucks ever "discontinued" its operations as a cocktail and oyster bar. At most, if anything, A.W. Shucks—with City approval—expanded its food service offerings (never a bad idea at a "drinking establishment"). However, expansion of one service (food) does not constitute an abandonment of another service (beverages).[3]

Abandonment of a vested right requires a showing, by clear and convincing evidence, of (1) an intention to abandon; and (2) an overt act, or failure to act, which carries the implication the owner does not claim or retain any interest in the right. (*Hansen Bros. Enters., Inc. v. Bd. of Supervisors* (1996) 12 Cal.4th 533, 569 (lapse of use of vested right in nonconforming use did not constitute abandonment); *Gerhard v. Stephens* (1968) 68 Cal.2d 864, 889 ("abandonment hinges upon the intent of the owner to forego all future conforming uses of his property and the trier of fact must find the conduct demonstrating the intent 'so decisive and conclusive as to

[1] In the Planning Commission Staff Report for the public meeting on January 21, 2026, City staff acknowledges the lack of basis to support an "abandonment" finding, explaining: "Based on previous actions/determinations by the city" [e.g., the City issued building permits] and the lack of a formal determination of abandonment," City staff prepared a proposed resolution of "abandonment."

[2] Of course, a business license isn't a land use permit; as such, it has no bearing on the Use Permit.

[3] It appears some City officials and/or staff interpret the City Code's definition of "drinking places" as limited to bars selling/serving alcohol. However, that interpretation conflicts with the plain language of the "drinking places" definition in CMC section 17.68.050: "Drinking Places. Businesses serving beverages [i.e., not necessarily "alcohol beverages"] for consumption on the premises as a primary use **and including** on-sale service of alcohol…" (Emphasis added.) By the plain language of this definition, a coffee shop in Carmel, for example, whose primary use is "serving beverages" must have a "drinking place" use permit. The point here is that the City can and should reconsider its restricted commercial use permit classifications, definitions, and limitations, and amend City Code to reflect current realities and the desires of the City and its residents and business owners, consistent with CMC section 17.68.020 (Uses Not Classified). For example, the City could create a use specifically for bars, such as Sade's, limiting patrons to those ages 21+ and requiring a type 48 ABC license, which the owner of Sade's apparently holds. Indeed, as explained in the Planning Commission Staff Report for the public meeting on December 10, 2025, the white paper (Attachment 1 to that Staff Report) "does not discuss how the city came to the decision that three was the appropriate number" of "drinking establishment" use permits the City could issue.

indicate a clear intent to abandon.'").) Mere cessation of use does not itself amount to abandonment, although duration of nonuse may be a factor in determining whether the right has been abandoned. (*Ibid.*; *Pardee Constr. Co. v. Calif. Coastal Comm.* (1979) 95 Cal.App.3d 471, 481 (multi-year delay in building additional, previously permitted units did not constitute abandonment of vested right.)

Indeed, one need look no further than its business name ("A.W. Shucks Cocktails & Oyster Bar") or the sign long adorning its entrance (referencing "Bar" and "Cocktails") to confirm that neither A.W. Shucks, nor its predecessor owners/operators, abandoned the "drinking place" business use. A look through the glass windows at A.W. Shucks' entrance confirms the same: it is primarily a cocktails and oyster bar. A look inside A.W. Shucks leads to the same conclusion, as evidenced by the centerpieces of A.W. Shucks' business operation: an expansive bar; large, lighted bar shelves prominently displaying more than 100 bottles of spirits and wine; an 8-tap beer dispenser; barstools; a bartender; a barback; and high-top tables. See photographs, taken February 10, 2025, attached and incorporated here as **Exhibit B.**

Based on the foregoing, there is no evidence, let alone clear and convincing evidence, to establish that A.W. Shucks or its predecessor owners/operators ever intended to abandon its "drinking establishment" use or acted in any way to imply they did not claim or retain any interest in maintaining such use. Therefore, the Planning Commission should reject proposed "option 1" resolution as contrary to the facts and law.

4. The proposed "option 2" resolution is consistent with City Code.

As explained in the Planning Commission Staff Report for the public meeting on January 21, 2026, "Based on the Commission's direct from the October 8th hearing, staff recommended Option 1 [current "option 2"], which was consistent with the applicable policies of the Carmel-by-the-Sea General Plan and Local Coastal Program and the applicable requirements contained in the Carmel-by-the-Sea Municipal Code." This text is also included as a recital in both proposed resolutions before the Planning Commission today.

As explained in the Planning Commission Staff Report for the public meeting on December 10, 2025, "[t]he white paper discusses combining uses within the confines of the CMC (see discussion on page 15 of Attachment 1). This discussion is noteworthy as it is the basis of Option 1 [current "option 2"] discussed below. Simply put, if a full line restaurant provides more than 20% of its seats at a bar [which is and has been the case at A.W. Shucks], the CMC classifies the use as a drinking place as the primary use and the restaurant as an ancillary use."

As also explained in that Staff Report, "the total number of seats at A.W. Shucks is 45, 14 of which are at the bar. The remaining seats are at high-top tables. The bar seats equate to 31% of the total seats. Therefore, CMC section 17.14.040.I.2 shall apply and A.W. Shucks would be classified as a drinking place as the primary use and full line restaurant as ancillary. … Applying the bar seating percentage, it would be appropriate for the applicant to request a Use Permit for a full line restaurant as an ancillary use of 69%. This option requires a discretionary decision by the Planning Commission but is within the confines of the CMC. In addition, this option supports the desires of the property owner and operator of the business establishment."

The foregoing is consistent with the proposed "option 2" resolution, which resolution A.W. Shucks can support.

5. The proposed "option 1" resolution is unfounded, and as drafted, would most likely result in an immediate appeal and a "dual track" process.

The proposed "option 1" resolution (paragraphs 3-4) requires written consent of A.W. Shucks and the property owner, and that the proposed amended Use Permit return to the Planning Commission for further consideration. However, paragraph 2 of the proposed "option 2" resolution includes a Planning Commission determination that the "drinking establishment" use has been "abandoned."

If the Planning Commission were to adopt this proposed "option 1" resolution as drafted, the Planning Commission's action would likely result in "dual track" processes: (1) City Council appeal; and (2) City staff discussions with A.W. Shucks and the property owner regarding the proposed amendment to the Use Permit. The Planning Commission could avoid that undesirable "dual track" by revising the proposed "option 1" resolution to state that the Planning Commission's abandonment determination is merely "preliminary."

* * * * *

In sum, no legal or factual basis exists to require A.W. Shucks (or the owner of the land with which the Use Permit runs) to surrender its legally vested property right to continue its ongoing operations as a "drinking establishment," whether by a finding and determination of "abandonment" or otherwise. If the City's motivation is to enable Sade's to reopen as a bar, the City has other avenues it can pursue to do so—short of violating A.W. Shucks' and/or its landowners rights—to achieve a "win-win" scenario for everyone.

A.W. Shucks appreciates the Planning Commission's consideration of these important issues and sincerely hopes the Planning Commission will act accordingly, starting by rejecting the proposed "option 1" resolution.

Very truly yours,

FENTON & KELLER
A Professional Corporation



Derric G. Oliver

Enclosures

cc: Chair, Michael LePage – mlepage@ci.carmel.ca.us
Vice Chair, Erin Allen – eallen@ci.carmel.ca.us
Commissioner, Stephan Karapetkov – skarapetkov@ci.carmel.ca.us
Commissioner, Robert Delves – rdelves@ci.carmel.ca.us
Commissioner, Stephanie Locke – slocke@ci.carmel.ca.us

CPB Director, Anna Ginette – aginette@ci.carmel.ca.us
City Administrator, Brandon Swanson – bswanson@ci.carmel.ca.us
TSD Carmel Properties, L.P., legal counsel – Jeanette Witten (jwitten@hudsonmartin.com), Christina Goebelsmann (cgoebelsmann@hudsonmartin.com), and Sarah Devine (sdevine@hudsonmartin.com)

EXHIBIT A

Attachment to A.W. Shucks Cocktail & Oyster Bar's Public Comment Letter Dated February 11, 2026

From: **Karen Basi** <karen.basi316@gmail.com>
Date: Fri, Jan 23, 2026 at 2:14 PM
Subject: Planning commision letter
To: Ginette Anna <aginette@ci.carmel.ca.us>, bswanson@ci.carmel.ca.us <bswanson@ci.carmel.ca.us>
Cc: <tsdcarmelproperties@gmail.com>

Hello Anna and Brandon,

I was planning to read the attached statement letter aloud at Wednesday's meeting but because of the delay, I understandably could not do so. However, I feel it is important for the record to have a copy sent to you and the commission. The attachment was written on January 21 and written with respect and discretion as not to mention names per say but I am sure it wouldn't be difficult to know the parties involved. In addition to this letter, I would like to add to my concern that my husband and I were met with an extremely uncomfortable incident;shortly after we left the planning meeting. It was upsetting enough to state that we will now be seeking legal representation.

I tried emailing you yesterday but failed to send so now without further delay, I would like to share the incident just to bring you a heightened awareness regarding actions of the "Inquirer" in this matter. He, along with a large group of "followers" filed into our restaurant shortly after the meeting around 4:45 p.m. Clearly unsettled he approached my husband and I wanting to find out why the meeting was postponed and what we had to do with it. He kept asking and approaching us with questions of which we had no information to offer. This interrogation led to an accusatory verbal confrontation between my husband and the "inquirer". He challenged mine and my husband's integrity with insults and disrespect. It was loud, and witnessed by staff and patrons. He and one woman in his group made sure to all could hear when calling out explicit names directed to my husband as they and the rest of the group got up and left.. Such harassment is not acceptable at any time but especially if it occurs inside your own establishment and disrupts our staff and patrons. This incident led to a workplace violence report along with other statements signed by witnesses documenting the event. I have been very patient, careful not to react and let this matter run its course in what hopefully to be a professional manner but the "inquirer"s issues have greatly interfered with the process resulting in us experiencing unfair and unprovoked publicity and now personal harassment along the way.

With sincerity,

Karen Basi
A W Shucks

<Planning commission letter.pdf>

Good evening, Commissioners,

My name is Karen Basi. My husband Randy and I are the owners of A.W. Shucks.

I would like to state our concern regarding the way this inquiry and investigation have been conducted and the unwelcome ramifications it has caused much anguish and unjustified harm—to us personally, to our business, to our employees, and to the community we serve.

I'd like to share that we feel we were initially misled and not fully informed about the purpose and intent of this inquiry. Nor do we feel proper notifications have been given to us or others involved which included our landlord. What I was told to be a simple fix became something much bigger issue beginning with commentary implying that our business is being operated improperly.

Along with that same indication, my name and business were publicly listed in *The Pinecone* in an article written in a manner that suggested or implied wrongdoing. That publication was damaging to our reputation and subjected us to public scrutiny and embarrassment I or we did not deserve. Such that I have been confronted by customers, acquaintances, local business owners and many readers questioning our operations and has created a divide as to whether A.W. Shucks is a restaurant or a bar with many people eagerly wanting to know what I intend to do next. Including a direct phone call from the inquirer himself quizzing me on my intentions. I/we should not have been or be placed in a position where we must publicly defend ourselves when we have done nothing wrong. Those implications are simply false.

What has been especially troubling is learning that individuals associated with this inquiry again including the inquirer, entered my restaurant multiple times, late at night without notice and while not in my presence to photograph my staff, and bar area, then stand on my barstools to photograph my credentials while customers were inside. These actions were intrusive, inappropriate, and alarming. They created fear, discomfort and aroused uncertainty amongst my employees and patrons. As a result, some of my staff asked what is going to happen to our establishment and whether they should seek employment elsewhere. Customers who love coming have unease of change as well. That is a direct consequence of how this process has been handled.

I will admit at our October meeting, I came in without a full understanding of the history and sequence of events which lead up to the issue of debate but was led to believe there would be a straightforward resolution and would be given specific criteria and options. Instead, at the most recent meeting, we again were caught off guard and met with public testimony that exposed what appeared to be the true motivation behind this inquiry. To take from us and give to another. Then came a determination made by the Commission. A determination that was made without a meaningful consultation or notification with me/us or my landlord.

That shift undermined any confidence I had in a fair and transparent process.

I would like to also remind Commissioners as testified, A.W. Shucks exists in its **current form** because of the desire to provide a unique and inviting atmosphere and experience for its visitors in Carmel by The Sea. This was achieved through proper **permitting and approvals authorized by the City Planning Commission itself.**

We purchased A.W. Shucks 2 1/2 years ago because of that uniqueness and have not materially changed its operations. It is the same as it has been for nearly 3 decades and it remains fully compliant with all business and liquor licensing requirements we've been issued. I'd also like to emphasize our higher purchase price reflected the understanding the use permit would remain as is and that we were legal non-conforming.

When I was explicitly told that the city "dropped the ball" at some point regarding our use-permit and now they need to correct that mistake any change will have a direct impact on the value of our investment, and we would suffer additional damage.

Throughout this entire matter, we have acted in good faith, have been honest and forthcoming and should not be required to defend our integrity, livelihood, or reputation because of miscommunication, procedural failures, or competing interest.

While administrative errors may occur, it is unacceptable that the consequences of those errors being placed squarely on a compliant, law-abiding business owner who is working hard to make a positive not negative impact on this community.

I respectfully ask that the Commission consider not just policy, but the real human and reputational consequences of how this process has unfolded.

In the meantime, although we have endured much angst and unrest and unexpected hardship, my husband and I remain committed to operating a responsible, well-run establishment.

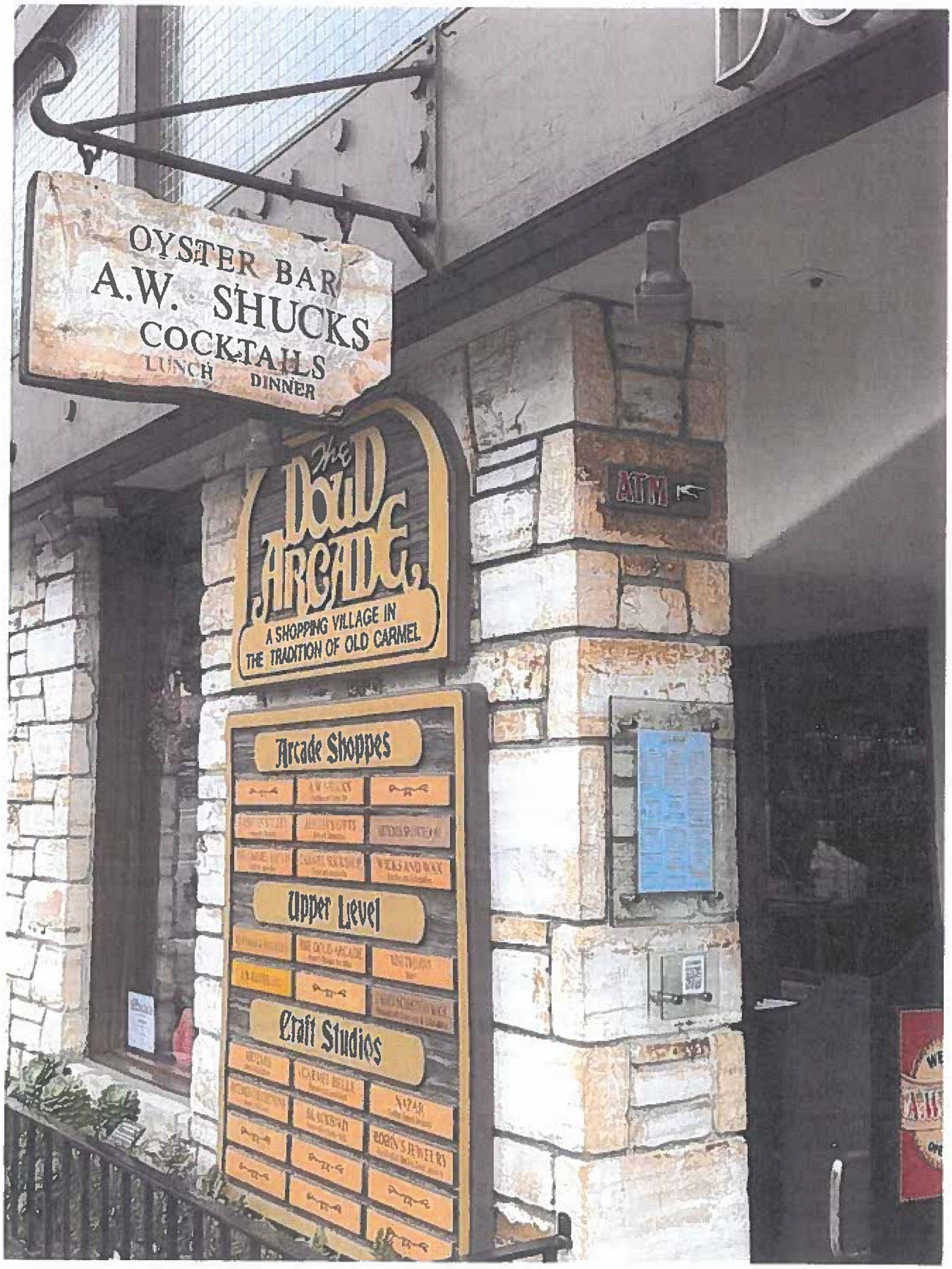
Thank you for your time.

Respectfully submitted,

Karen Basi
Owner, A.W. Shucks

EXHIBIT B

Attachment to A.W. Shucks Cocktail & Oyster Bar's Public Comment Letter Dated February 11, 2026


OYSTER BAR
A.W. SHUCKS
COCKTAILS
LUNCH DINNER
The Old Arcade
A SHOPPING VILLAGE IN THE TRADITION OF OLD CARMEL
ATM
Arcade Shoppes
Upper Level
Craft Studios

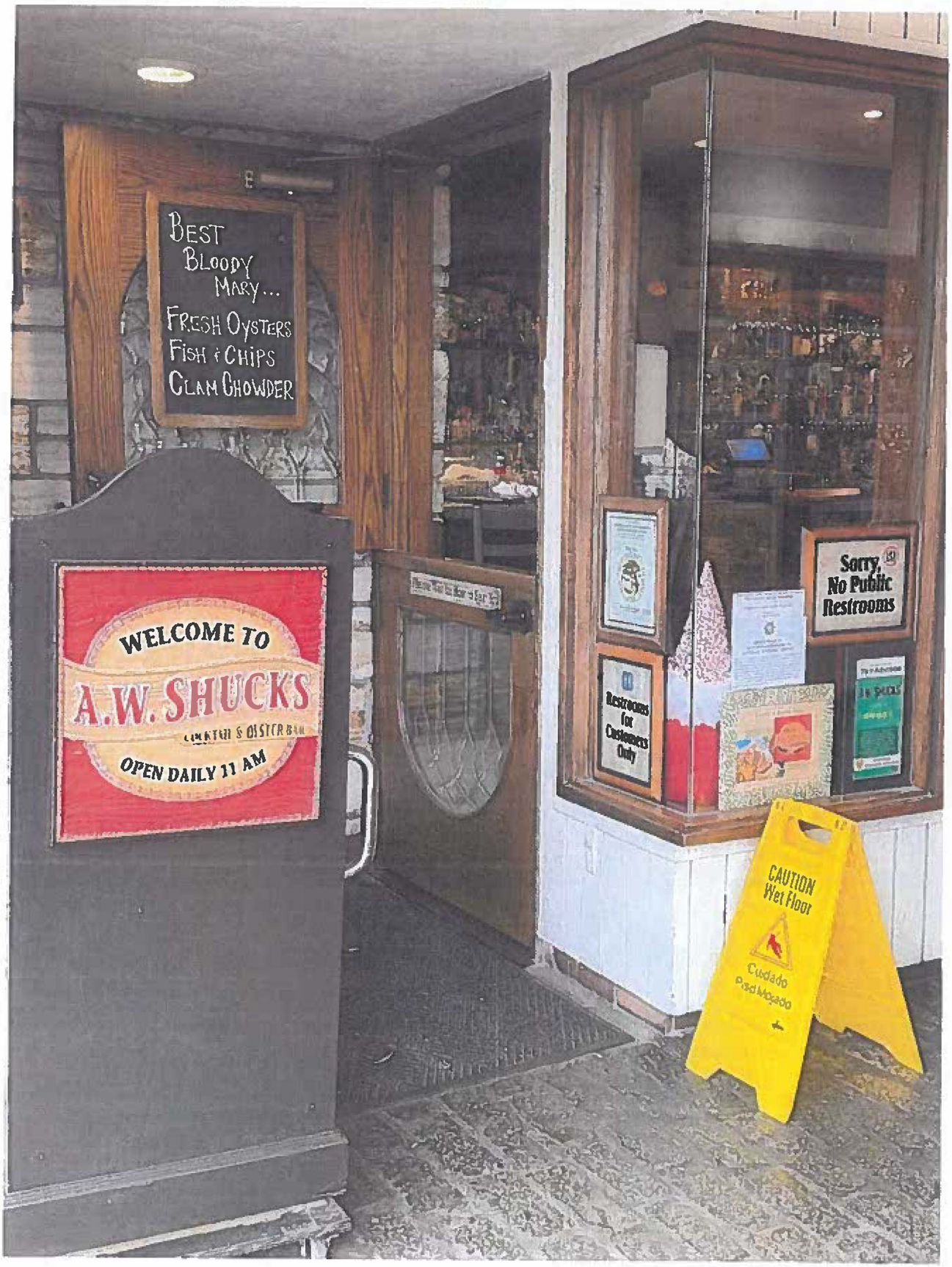

BEST
BLOODY
MARY...
FRESH OYSTERS
FISH & CHIPS
CLAM CHOWDER
WELCOME TO
A.W. SHUCKS
OPEN DAILY 11 AM
Sorry,
No Public
Restrooms
Restrooms
for
Customers
Only
CAUTION
Wet Floor
Cuidado
Piso Mojado









EXHIBIT 8

Hudson Martin PC

January 21, 2026

City of Carmel-By-The-Sea
Planning Commission
Attn: Chair Michel LePage
P.O. Box CC
Carmel-by-the-Sea, CA 93921
(Via Email: sgormanci.carmel.ca.us)

RE: Public Comment for January 21, 2026, Planning Commission Meeting
Agenda Item # 5, A.W. Shucks Cocktail & Oyster Bar / Amendment to UP 93-45
Our File No. TSDP10018

Dear Planning Commission:

This public comment is sent on behalf of our client, TSD Carmel Properties, L.P. ("TSD"), regarding Agenda Item No. 5 on the Planning Commission's agenda for its January 21, 2026 meeting and the related proposed resolution declaring that TSD's drinking place use permit (UP 93-45) has been abandoned.

As the Commission is well-aware, TSD's drinking place use permit runs with the land of the Doud Arcade, located at Ocean Avenue and San Carlos Street in Carmel-by-the-Sea, California (APN 010-146-017-000). TSD has held the drinking place use permit at the Doud Arcade since 1961 and has continuously leased the property to businesses operating under legal and legal non-conforming uses approved by the Commission—including A.W. Shucks Cocktail & Oyster Bar ("A.W. Shucks"). Notwithstanding this, the Commission now intends to reverse decades of prior decisions and deem TSD's drinking place use permit abandoned as of January 21, 2026, based upon a retroactive application of its proposed determination of the same date to require A. W. Shucks to operate under a full line restaurant permit rather than a drinking place use permit.

The Commission's proposed actions would interfere with A.W. Shucks' and TSD's ability to continue the established businesses in which they have vested rights and would constitute an improper government taking. *(See, e.g., Goat Hill Tavern v. City of Costa Mesa* (1992) 6 Cal.App.4th 1519, 1529 ("Interference with the right to continue an established business is far more serious than the interference a property owner experiences when denied a conditional use permit in the first instance. Certainly, this right is sufficiently personal, vested and important to preclude its extinction by a nonjudicial body."); *Halaco Engineering Co. v. South Central Coast Regional Commission* (1986) 42 Cal.3rd 52, 63 (noting "the vested rights doctrine derives from the constitutional guarantee that property may not be taken without due process and just compensation").)

For over three decades, the Commission has repeatedly approved legal non-conforming uses under the drinking place permit and TSD has reasonably and in good faith relied on those approvals. The amended use permit was approved in 1993 when the existing tenant operated

a bar and oyster bar. In 1995, the Commission approved a building application allowing the addition of a commercial kitchen and expressly did not require a new use permit as part of this change. A similar building permit was approved in 2008. And, in 2015, the Commission designated A.W. Shucks as one of three drinking places in the City, with full knowledge of the legal non-conforming use of the business as a drinking place with food service. Finally, in 2023, the Commission provided A.W. Shucks and TSD with a written opinion stating that A.W. Shucks' operations were a legal non-conforming use that did not require a new use permit. (*See* Exhibit A.) Nothing about A.W. Shucks' operations has changed since the 2023 approval, and the Commission has not offered any valid basis to reverse its prior decisions.

In fact, during the December 10, 2025 meeting, the Commission considered a staff report that offered several options to address the use permit including 1) amendment of the use permit to omit limited food service and add full line restaurant as ancillary use that is greater than 10% of the primary use, 2) upholding the Commission's 2015 designation of A.W. Shucks as a drinking establishment without further action, 3) considering A.W. Shucks as a legal, nonconforming use as the Commission has for the last thirty years, 4) reverting the ancillary use to limited food service, or 5) amending the use permit to convert the allowed use from a drinking place to a full line restaurant. Staff recommended Option 1 and, in response to the Commission's questions about deeming the use permit abandoned, informed the Commission that abandonment would not be supported by the record given the Commission's past actions and TSD's reliance on those actions. Indeed, the Commission is legally estopped from finding that the TSD abandoned the use permit. (*See e.g., City of Long Beach v. Mansell* (1970) 3 Cal.3d 462; Cal. Evid. Code § 623 ("Whenever a party has, by his own statement or conduct, intentionally and deliberately led another to believe a particular thing true and to act upon such belief, he is not, in any litigation arising out of such statement or conduct, permitted to contradict it.").)

Concerningly, the Commission has conflated the issue of A.W. Shucks' legal non-conforming use under TSD's drinking place permit with the availability of drinking place use permits in Carmel-by-the-Sea generally, and has improperly relied on the latter to try to justify its proposed actions. The public record makes clear that the Commission's proposed decision to deem TSD's drinking place use permit abandoned was influenced by extensive public comments and discussion of non-agenda items relating to Sade's Cocktails during the Commission's December 10, 2025 meeting. Notably, the December 10, 2025 meeting agenda did not provide notice to TSD that the Commission would be considering a potential government taking of TSD's use permit during the meeting, or that the Commission would be doing so to make the use permit available to Sade's. The January 21, 2026 meeting agenda also fails to clearly notice the proposed taking, though the agenda meeting includes a proposed resolution deeming TSD's use permit abandoned (at pages 71 to 74). As the Commission is undoubtedly aware, the Brown Act prohibits the Commission from taking action on and discussing non-agenda items during its meetings. (Gov. Code § 54954.2, subd. (a)(1)(E)(3); *accord* Gov. Code § 54954.3, subd. (a)(1).) The Commission violated the Brown Act by allowing these discussions in the first place and persists with this violation by now proposing a government taking of TSD's drinking place use permit based upon those discussions. TSD accordingly has sent a cease and desist letter under

the Brown Act relating to the Commission's actions, a copy of which is enclosed herewith for reference.

Finally, even if the Commission had a legal and factual basis to deem TSD's drinking place use permit abandoned, it has no authority to establish January 21, 2026 as the effective date of abandonment. Municipal Code section 17.56.050.C provides, "A restricted commercial use that has been discontinued for a period of six consecutive months shall be considered abandoned unless the property owner has filed notice of temporary cessation as provided for in this chapter. . . . Establishment of any different use in a space authorized for occupancy by a numerically limited use shall be considered an abandonment of the numerically limited use." The Commission authorized A.W. Shucks to operate as a legal non-conforming uses under the drinking place permit in 2023 and is only now proposing to find that its operations constitute "a different use" that require a different use permit. Accordingly, under the Municipal Code, TSD should have six months from the date of the Commission's decision that A.W. Shucks' operations constitute a "different use" to file a notice of temporary cessation to avoid the loss of its drinking place use permit. Municipal Code section 17.56.040 provides permit holders, such as TSD, the opportunity to file a notice of temporary cessation to preserve a use permit pending repairs or improvements to a property, or to conduct a tenant search. TSD is entitled to file such a notice to avoid the loss of its vested property interest in the use permit due to governmental action.

Based upon the foregoing, TSD opposes the Commission's proposed resolution requiring A.W. Shucks' to operate under a full line restaurant permit rather than a drinking place use permit and declaring that TSD's drinking place use permit (UP 93-45) has been abandoned as a result.

Sincerely,

HUDSON MARTIN PC

Jeannette K. Witten, Esq.
Managing Partner

Encl.

Cc:
Client
Chair Michael LePage, mlepage@ci.carmel.ca.us
Vice Chair Erin Allen, eallen@ci.carmel.ca.us
Commissioner Stephan Karapetkov, skarapetkov@ci.carmel.ca.us
Commissioner Robert Delves, rdelves@ci.carmel.ca.us
Commissioner Stephanie Locke, slocke@ci.carmel.ca.us

EXHIBIT A

From: Brandon Swanson <bswanson@ci.carmel.ca.us>
Date: August 28, 2023 at 11:25:02 AM PDT
To: John plastini <plastinico@aol.com>
Subject: A W Shucks LLC Menu

John,

Following up from our phone call just now, this email serves as confirmation that the menus you provided (attached), were also approved August 15th, 2008, as part of Permit # 08-168C. These menus maintain the same legal nonconforming status that I referenced in my previous email sent on August 14th, 2023, therefore they are allowed to be served in whole or in part. Please note that our past practice has been that minor modifications to restaurant menus may be made without the need for City approval.

Take care,

-Brandon

Brandon Swanson [he, him, his]

Director, Community Planning and Building

City of Carmel-by-the-Sea

(831) 620-2024

Please take our **Customer Satisfaction Survey.**

On Mon, Aug 14, 2023 at 4:26 PM Brandon Swanson <bswanson@ci.carmel.ca.us> wrote:

John,

Thank you for sending this. I have not had a chance to write you a formal memo, but I did want to at least respond to you today and confirm that based on the records that we have available, my determination is that the City memorialized the additional cooking equipment and restaurant operation by approving a building permit on August 15th, 2008 (Permit # 08-168C). In this case, even though the original Use Permit sets a limit on the type of equipment and menu, the City took an official action to approve the updated kitchen and the menu it was meant to prepare, thereby creating a legal nonconforming situation that is allowed to continue under Chapter 17.36 of the City's Municipal Code.

Take care,

-Brandon

Brandon Swanson [he, him, his]

Director, Community Planning and Building

City of Carmel-by-the-Sea

(831) 620-2024

Please take our **Customer Satisfaction Survey.**

On Mon, Aug 14, 2023 at 1:52 PM John plastini <plastinico@aol.com> wrote:

Brandon,

Per our conversation, please find email with attachment of A.W. Shucks menu.

Any questions please do not hesitate to contact me as always thank you for the assistance in this matter.

Best,

John Plastini

Sent from my iPhone

Begin forwarded message:

From: Lisa Miller <forefamily@aol.com>
Date: August 14, 2023 at 1:48:09 PM PDT
To: John Plastini <plastinico@aol.com>
Subject: A W Shucks LLC Menu

Hi John

Per your request, please find attached our current menu.

If there is anything else I can provide, just let me know!

We appreciate all of your help!

Lisa

Organic Lemon Drop 14
Crop Organic Meyer Lemon Vodka / Cointreau /
Fresh Pressed Lemon Juice / Simple Syrup

Naked & Famous 14
Mezcal / Chartreuse / Aperol / Fresh Pressed Lime Juice

Ruby Row 13
Finlandia Grapefruit / Cointreau / Fresh Pressed Lime Juice /
Cranberry Juice / Grapefruit Juice

Buffalo Trace Manhattan 14
Buffalo Trace Bourbon / Sweet Vermouth / Bitters

Agave Nectar Margatini 14
Tres Generaciones Tequila / Organic Agave Nectar /
Fresh Pressed Lime Juice / (No Salt Please)

Raz Lemon Drop 13
Svedka Raz Vodka / St. George Raspberry Liqueur /
Triple Sec / Fresh Pressed Lemon Juice / Cranberry Juice

Pink Panties 13
Wheatley Vodka / Dekuyper Watermelon Pucker /
Pineapple Juice

Hawaiian Negroni 13
White Ginger Gin / Campari / Sweet Vermouth

Dirty Margarita 14
Milagro Reposado / Cointreau / Fresh Pressed Lime Juice /
Orange Juice / Olive Brine / Served Up with 2 Olives

Remy Sazerac 14
Remy Martin 1738 Cognac / Simple Syrup / Bitters / Absinthe

Vesper 15
Tito's Handmade Vodka / Nolet's Gin / Lillet

Paper Plane Cocktail 15
Buffalo Trace Bourbon / Aperol / Amaro /
Fresh Pressed Lemon Juice

WE PROUDLY FEATURE
135 Scotches / **18** Irish Whiskeys / **22** Rums
50 Vodkas / **81** Bourbon & Whiskeys / **36** Gins
64 Tequilas / **45** Imported Liqueurs

Beer

Draft Beer
Shuckers Ale / Allagash Wheat /
Firestone Hopnosis IPA / Sculpin IPA
Kona Longboard Lager / Stella Artois **7.5**

Anderson Valley Oatmeal Stout **8.5**

Chimay Trapiste (served in goblet) **8.5**

Bottled Beer (Domestic) 4.5
Bud / Bud Light / Coors Light

Bottled Beer (Hand Crafted Domestic) 6.5
Anchor Steam/ Blue Moon

Bottled Beer (Imported) 6.5
Corona / Corona Light / Heineken / Modelo /
St. Pauli's (Non-Alcohol)

Guinness Draft / Fort Point Hazy IPA (Can) 6.5

Angry Orchard Cider 6.5

New Amsterdam Vodka / Ginger Beer / Fresh Pressed Lime Juice.
(Copper Mug available for purchase at the bar)

ATTACHMENT 4

Cadillac Margarita 15
Tres Generaciones Tequila / Cointreau / Fresh Pressed Lime Juice /
Sour Mix / Grand Gala Float

Shucks Top Shelf 14
Cazadores Blanco / Cointreau / Fresh Pressed Lime Juice /
Sour Mix

Pomegranate Margarita 15
Tres Generaciones Tequila / Pama / Fresh Pressed Lime Juice /
Sour Mix / Cranberry Juice

St. Germain Squeeze 14
Hendrick's Gin / St. Germain / Grapefruit Juice

Long Island Iced Tea 13
Vodka / Gin / Rum / Tequila / Triple Sec / Fresh Pressed
Lemon Juice / Simple Syrup / Coca-Cola

Old Fashioned 13
Knob Creek Rye / Bitters / Orange / Cherry / Sugar

Mai Tai 13
Myers Platinum Rum / Pineapple & Orange Juice /
Grenadine / Whalers Float

Mojito 14
Myers Platinum Rum / Fresh Pressed Lime Juice /
Sugar / Fresh Mint / Soda

Sunsplash 12
Stoli Ohranj Vodka / Cointreau / Orange Juice / Sour Mix

Boulevardier 14
Basil Hayden / Campari / Sweet Vermouth

OYSTER SHOOTERS
13

Bloody Mary Oyster Shooter
Svedka Vodka / House Bloody Mary Mix / Fresh Oyster

Tequila Lime Shooter
Chilled Sauza Tequila / Fresh Oyster / Cocktail Sauce
Horseradish / Salsa
Served Up Martini-Style

Peppar Oyster Shooter
House-infused Peppar Stoli Vodka
Fresh Oyster / Cocktail Sauce / Horseradish / Salsa
Served Up Martini-Style

Beverages

Bottled Water 4.95
Panna (Flat) or Pellegrino (Sparkling) 500ml

Soft Drinks / Tea / Coffee 4.5
Coke / Diet Coke / Sprite / Ginger Ale / Lemonade

Shirley Temple / Roy Rogers 4.75

Ginger Beer / Red Bull 4.75

Henry Weinhard's Root Beer 4.75

Fruit Juice 4.5
Apple / Cranberry / Grapefruit / Orange / Pineapple

STARTERS

Deep Fried Calamari 17
Steamed Artichoke 13
Jumbo Prawn Cocktail 19
Crabmeat Cocktail 22
Dungeness/Rock Crab
Bay Shrimp Cocktail 13
Peel & Eat Prawns 14
Smoked Salmon Plate 17
Chilled Seafood Sampler 30
3 Oysters, Bay Shrimp, Crab, Salmon, and Peel & Eat Shrimp
Crab Cake à la Carte 13

CHOWDER OR CHILI

8.50 CUP / **10.50** BOWL

Clam Chowder
New England (White) | Manhattan (Red)
or Rosé (a special blend of both)

Spicy Vegetarian Chili (Vegan)

SALADS

Dressing: Ranch, Louie, Italian, Blue Cheese, Oil & Vinegar

Shucks Garden Salad 10
Caesar Salad 12
Add the following to above salads:
Chicken (+9) | Bay Shrimp (+8)
Jumbo Prawns (+15) | Dungeness/Rock Crab (+16)
Prawn Louie 26
Crab Louie Dungeness/Rock 29
Crab & Prawn Louie Dungeness/Rock 31
Crab Cake with Caesar Salad 21

"ONLY OTTERS EAT FRESHER OYSTERS"

OYSTERS on the HALF SHELL

FRESH OYSTERS
Selection Varies
Served with House-Made Cocktail Sauce & Mignonette
19 HALF DOZEN | **38** DOZEN

SALSA OYSTER SHOOTER 5

"OYSTERS SHUCKEFELLER"
Broiled in the Shell with Butter, Garlic, Wine, Seasoning and topped with Parmesan Cheese
21 HALF DOZEN | **42** DOZEN

FRIED PACIFIC OYSTERS
Cornmeal-Panko Fried with our House-Special Remoulade
21 HALF DOZEN

Deep Fried Calamari & Chips (or Garden Salad) 20
Beer Battered Jumbo Prawns & Chips (or Garden Salad)
SIX (6) ..... 22 NINE (9) 25
Beer Battered Fish Burger 19
with Fries or Garden Salad (Caesar +2)

FRIED COMBO PLATTER

28
Calamari, Fish, and Prawns
with Fries or Garden Salad

FROM THE GRILL

With Lettuce, Tomato, Onion, and Pickles on Grilled Sesame Seed Bun. Served with Fries or Garden Salad (Caesar +2)

Half Pound Burger 15
Marinated Chicken Breast Burger 15
Vegan Veggie Burger (Whole Wheat Bun) 12
Add Grilled Onions, Cheddar or Jack Cheese to any of the above items (+2 ea) / Blue Cheese, Avocado or Bacon (+4 ea)

PO'BOY SANDWICH

OYSTER *or* **SHRIMP 21**
Cornmeal-Panko Fried, Special-Blend Lettuce, Tomato, and Mayo on a Rustic Ciabatta with House-Made Shucks Sweet & Sour Slaw

SANDWICHES

Served on Toasted Italian Sourdough with Fries or Garden Salad (Caesar +2)

Seafood Salad 18
Rock Crab and Shrimp with Celery, Onions, Mayo & Seasonings, Lettuce, Tomato, and Onion
Albacore Tuna Salad 16
with Lettuce, Tomato & Onion
Albacore Tuna Melt (with Jack Cheese) 18
Smoked Turkey Breast 16
with Jack Cheese, Lettuce, Tomato, and Onion
Grilled Cheese (with Cheddar Cheese) 14

SANDWICH COMBOS

HALF Sandwich: TUNA, TURKEY OR GRILLED CHEESE
(Seafood Salad or Tuna Melt +2.5) with choice of:
Soup ..... **16** CUP | **18** BOWL
Fries 14
Garden Salad 14
Caesar Salad 16

SOUP AND SALAD COMBO

(Caesar +2)

Cup with Garden Salad 15
Bowl with Garden Salad 17

SIDES

French Fries 6
House-Made Sweet & Sour Cole Slaw 4

BROWN ACT LETTER

Hudson Martin PC

January 20, 2026

City of Carmel-By-The-Sea
Planning Commission
Attn: Chair Michel LePage
P.O. Box CC
Carmel-by-the-Sea, CA 93921
Via Certified Mail

RE: Ralph M. Brown Act Cease and Desist Letter
Our File No. TSDP10018

Dear Planning Commission:

This letter is sent on behalf of our client, TSD Carmel Properties, L.P. ("TSD"), to notify you of violations of the Ralph M. Brown Act ("Brown Act") that occurred during a regular meeting of the Planning Commission ("Commission") on December 10, 2025, in which the Commission undertook discussion of multiple items that were not on the meeting agenda.

As you know, the Brown Act is an open meeting law that provides for public attendance at and participation in the meetings of local legislative bodies. Under the Brown Act, the Commission is required to post online, at least seventy-two (72) hours before each meeting, an agenda that contains a brief description of each item of business to be transacted or discussed at the meeting. (Gov. Code § 54954.2, subd. (a)(1).) Additionally, the Commission is required to provide an opportunity for public comment, subject to reasonable restrictions. (*See* Gov. Code §§ 54954.3, subds. (a) & (b).) Importantly, however, "[n]o action or discussion shall be undertaken on any item not appearing on the posted agenda, except that members of a legislative body or its staff may briefly respond to statements made or questions posed by persons exercising their public testimony rights under Section 54954.3." (Gov. Code § 54954.2, subd. (a)(1)(E)(3); *accord* Gov. Code § 54954.3, subd. (a)(1).) The Commission may not act on items not appearing on the agenda absent an emergency, a need for immediate action, or the inclusion of the item on an agenda for a prior meeting that occurred not more than five calendar days prior to the date action is taken. (Gov. Code § 54954.2, subd. (b).)

During the meeting on December 10, 2025, the Commission allowed extensive public comment on and discussion of multiple items that were not on the meeting agenda. The meeting agenda only provided notice of: (i) a tour of inspection; (ii) announcements; (iii) a consent agenda addressing the November 12, 2025, meeting minutes and a monthly activity report; (iv) a "Director Referral: Continued from the October 8, 2025 Planning Commission hearing, discussion on the determination of the A.W. Shucks Use Permit"; (v) public hearings on five matters, namely APP 25328 (Coria), DS 25126 (Chroman), DS 25139 (Kshire Property Investments LLC), DS 25244 (Del Santo), and SI 25276 (Halore); (vi) a director's report; and (vii) future agenda items. A copy of the agenda is enclosed herewith for reference.

Notwithstanding this, the Commission devoted nearly one hour of the allotted meeting time for the A.W. Shucks agenda item to other items that were not on the agenda. When the Commission should have been taking public comment on and discussing whether A.W. Shucks was operating in compliance with the drinking places use permit held by its landlord, TSD, the Commission instead took numerous public comments advocating for "saving" from closure an unrelated business, Sade's Cocktails ("Sade's"). In fact, the Commission spent more time discussing Sade's situation with its owner, Parker Logan, than discussing the noticed agenda item with the owners of A.W. Shucks and TSD.

The Commission ultimately shifted its discussions and deliberations away from the noticed agenda item regarding A.W. Shucks to non-agenda items impacting the rights of TSD and other businesses. First, the Commission discussed whether TSD had abandoned the use permit that runs with its land. As the Commission is aware, TSD has reasonably relied upon a 2023 written opinion from the Commission finding that A.W. Shucks' operations are a legal non-conforming use under the permit and has never expressed an intention to abandon the permit. The meeting agenda did not provide notice to TSD that the Commission would be considering a potential government taking of TSD's use permit during the meeting, or that it would be doing so to make the use permit available to Sade's. It is apparent that the Commission's discussions in this regard were influenced by the public comments relating to Sade's. Notably, Chair LePage even commented during the meeting that TSD would not be harmed if its use permit were deemed abandoned, but that Sade's would be harmed if TSD were to retain the permit. Second, the Commission discussed potential amendments to the Municipal Code that would limit the issuance of drinking place use permits to businesses like Sade's, which holds a Type 48 liquor license. As the Commission knows, of the three businesses currently operating under drinking place use permits in Carmel, only Sade's holds a Type 48 liquor license. The other two businesses—A.W. Shucks and Barmel—hold a Type 47 liquor license. In its apparent efforts to find legislative solutions to benefit Sade's in response to the public comments taken during the meeting, the Commission proceeded with a lengthy discussion of this non-agenda item despite not having provided A.W. Shucks, Barmel, TSD, or the other holders of the existing drinking place use permits notice and the opportunity to be heard on this matter. Finally, the Commission briefly discussed whether other accommodations or Municipal Code amendments could help Sade's to continue in operation, including increasing the total number of drinking place use permits in Carmel from three to four. Again, this item was not included on the agenda and was outside the scope of the noticed agenda items.

As set forth above, the Commission blatantly and repeatedly violated the Brown Act during the December 10, 2025 meeting by engaging in extended discussion and consideration of non-agenda items. Accordingly, TSD hereby demands that the Commission (i) cease-and-desist from engaging in discussions and taking any actions during its meetings on items that are not included in its meeting agendas, and (ii) ensure that any items to be transacted or discussed at the meetings are included on the meeting agendas as required by the Brown Act.

In accordance with Government Code section 54960.2, TSD requests that the Commission respond to this letter within thirty (30) days, or by **February 19, 2026.**

Sincerely,

HUDSON MARTIN PC

Christina Goebelsmann, Esq.
Senior Litigation Attorney

Encl.

Cc:
Client

CITY OF CARMEL-BY-THE-SEA
PLANNING COMMISSION AGENDA

Planning Commissioners Mel Ahlborn, Erin Allen, Stefan Karapetkov, Michael LePage, Stephanie Locke

All meetings are held in the City Council Chambers
East Side of Monte Verde Street
Between Ocean and 7th Avenues

Regular Meeting
Wednesday, December 10, 2025

TOUR - 3:00 PM
MEETING - 4:00 PM

HYBRID MEETING ATTENDANCE OPTIONS
This meeting will be held in person and via teleconference ("hybrid"). The public is welcome to attend the meeting in person or remotely via Zoom, however, the meeting will proceed as normal even if there are technical difficulties accessing Zoom. The City will do its best to resolve any technical issues as quickly as possible. To view or listen to the meeting from home, you may also watch the live stream on the City's YouTube page at: https://www.youtube.com/@CityofCarmelbytheSea/streams. To participate in the meeting via Zoom, copy and paste the link below into your browser.

https://ci-carmel-ca-us.zoom.us/j/85075274055?pwd=xjGuf1VHPManTYPLVc94aalwt24Tld.1
To attend Zoom webinar via telephone, dial +1 (669) 444-9171, Webinar ID: 850 7527 4055, Passcode: 001916

HOW TO OFFER PUBLIC COMMENT
The public may give public comment at this meeting in person, or use the Zoom teleconference module, provided that there is access to Zoom during the meeting. Zoom comments will be taken after the in-person comments. The public can also email comments to sgorman@ci.carmel.ca.us. Comments must be received at least 2 hours before the meeting in order to be provided to the legislative body. Comments received after that time and up to the beginning of the meeting will be made part of the record.

CALL TO ORDER AND ROLL CALL - TOUR

TOUR OF INSPECTION

The Board/Commission will meet and convene the public hearing at the first location listed below on the Tour of Inspection. The public is welcome to join the tour. The tour is intended only to give the Board/Commission an opportunity to view project sites scheduled for a public hearing later that day. No deliberations on the merits of projects will take place during the Tour

of Inspection. Following completion of the tour, the Board/Commission will recess and return to the Council Chambers to reconvene the public hearing at 4:00 p.m., or as soon thereafter as possible.

A. **DS 25126 (Chroman):** Mission Street 2 northwest of 2nd Avenue
B. **DS 25139 (Kshire Property Investments LLC):** Monte Verde Street 4 southwest of 3rd Avenue
C. **DS 25244 (Del Santo):** Northwest corner of Casanova Street and 8th Avenue
D. **APP 25328 (Coria):** Mission Street 3 northeast of 10th Avenue

CALL TO ORDER AND ROLL CALL - CHAMBERS

PUBLIC APPEARANCES

Members of the public are entitled to speak on matters of municipal concern not on the agenda during Public Appearances. Each person's comments shall be limited to 3 minutes, or as otherwise established by the Chair. Persons are not required to provide their names, however, it is helpful for speakers to state their names so they may be identified in the minutes of the meeting. Under the Brown Act, public comment for matters on the agenda must relate to that agenda item and public comments for matters not on the agenda must relate to the subject matter jurisdiction of this legislative body. If a member of the public attending the meeting remotely violates the Brown Act by failing to comply with these requirements of the Brown Act, then that speaker will be muted.

ANNOUNCEMENTS

CONSENT AGENDA

Items on the consent agenda are routine in nature and do not require discussion or independent action. Members of the Commission or the public may ask that any items be considered individually for purposes of Board/Commission discussion and/ or for public comment. Unless that is done, one motion may be used to adopt all recommended actions.

1) November 12, 2025 Regular Meeting Minutes

2) Monthly Activity Report: November 2025

ORDERS OF BUSINESS

3) **Director Referral**: Continued from the October 8, 2025 Planning Commission hearing, discussion on the determination of the A.W. Shucks Use Permit.

PUBLIC HEARINGS

4) **APP 25328 (Coria):** Consideration of an Appeal (APP 25328 (Coria)) filed by Jerome and Rose Politzer for the approval of Landscape Plan Check, LD 24106 (Coria), for the approval of a fence and retaining wall on the southern property line and associated landscaping located at Mission Street 3 northeast of 10th Avenue in the Single-Family Residential (R-1) District. APN: 010-076-014-000

5) **DS 25126 (Chroman):** Consideration of a Track 1 Design Study referral, DS 25126 (Chroman), for the installation of an arbor, fence, and driveway gate in the front setback located at Mission Street 2 northwest of 2nd Avenue in the Single-Family Residential (R-1) District, Park (P) Overlay, and Archaeological Significance (AS) Overlay District. APN: 010-121-015-000

6) **DS 25139 (Kshire Property Investments LLC):** Consideration of a Concept Design Study, DS 25139 (Kshire Property Investments LLC), for the demolition of an existing 1,248-square-foot, one-story single-family residence and 192-square-foot shed, and the construction of a 3,292-square-foot, one-story single-family residence inclusive of a 449-square-foot attached garage located on Monte Verde Street 4 southwest of 3rd Avenue in the Single-Family Residential (R-1) District and Archaeological Significance (AS) Overlay District. APN: 010-223-009. The project additionally includes a detached 800 square-foot accessory dwelling unit.

7) **DS 25244 (Del Santo):** Consideration of a Track 1 Design Study Referral, DS 25244 (Del Santo), for the replacement of windows, reroof, repainting siding, adding a stone veneer, installation of new skylights, installing new tile, and replacement of a glass railing in kind on an existing single-family residence located on the northwest corner of Casanova Street and 8th Avenue in the Single-Family Residential (R-1) District. APN: 010-262-006-000

8) **SI 25276 (Halore):** Consideration of a Sign Permit, SI 25276 (Halore), for three (3) hanging signs on existing brackets in the Carmel Plaza. One (1) sign is proposed to be located at the upper-level entrance, facing the main Carmel Plaza courtyard, and two (2) signs are proposed to be located at the lower-level entrances, facing Mission Street, located between Ocean and 7th Avenues in the Central Commercial (CC) District. APN: 010-086-006-000

DIRECTOR'S REPORT

FUTURE AGENDA ITEMS

9) Next Regular Meeting: January 21, 2025

ADJOURNMENT

This agenda was posted at City Hall, Monte Verde Street between Ocean Avenue and 7th Avenue, Harrison Memorial Library, located on the NE corner of Ocean Avenue and Lincoln Street, the Carmel-by-the-Sea Post Office, 5th Avenue between Dolores Street and San Carlos Street, and the City's webpage (http://www.ci.carmel.ca.us) in accordance with applicable legal requirements.

SUPPLEMENTAL MATERIAL RECEIVED AFTER THE POSTING OF THE AGENDA
Any supplemental writings or documents distributed to a majority of the Planning Commission regarding any item on this agenda, received after the posting of the agenda will be available at City Hall located on Monte Verde Street between Ocean and Seventh Avenues during regular business hours.

SPECIAL NOTICES TO PUBLIC
In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk's Office at 831-620-2000 at least 48 hours prior to the meeting to ensure that reasonable arrangements can be made to provide accessibility to the meeting (28CFR 35.102-35.104 ADA Title II).

CITY OF CARMEL-BY-THE-SEA
Planning Commission
Staff Report

December 10, 2025
ORDERS OF BUSINESS

TO: Chair LePage and Planning Commissioners
SUBMITTED BY: Anna Ginette, Community Planning & Building Director
APPROVED BY: Anna Ginette, AICP, Director of Community Planning and Building

SUBJECT: **Director Referral:** Continued from the October 8, 2025 Planning Commission hearing, discussion on the determination of the A.W. Shucks Use Permit.

Application:	Director Referral	**Applicant:**	N/A
APN:	010-146-017-000	**Owner:**	TSD Carmel Properties LP
Block & Lot:	Block: 79 Lot: All Lots 3 & 4		
Location:	Ocean Ave 3 Southwest of San Carlos Street		

Recommendation:

Staff recommends the Planning Commission consider additional information provided by staff, consider the potential permit options and deliberate on the permit and operation history of A.W. Shucks Cocktail & Oyster Bar.

Summary, Background, and Project Description:

EXECUTIVE SUMMARY

On October 8, 2025, the Planning Commission was presented with the permit and operation history of A.W. Shucks Cocktail & Oyster Bar (A.W. Shucks). Specifically, is A.W. Shucks operating outside of what is permitted (Use Permit, Building Permits and Business License) and if so, what is the correct vehicle to achieve compliance. During this hearing the Commission received comments from the property manager and operator of A.W. Shucks, which are detailed in the Staff Analysis discussion below. Specifically, both expressed their disinclination to amend their Use Permit to change the allowed use from a drinking place with limited food service to a full line restaurant.

During the Commission's deliberation, several considerations were expressed, such as a permitted use should either be a full line restaurant or a drinking establishment, the operation appears to be a full line restaurant, the operation seems to be neither but more of a mix of the two and compliance with existing permits. At the end of the deliberation, the Planning Commission's direction was for staff to return with options to

allow A.W. Shucks to operate as they currently are.

BACKGROUND AND PROJECT DESCRIPTION

A detailed discussion on permit history was provided in the October 8, 2025, Planning Commission staff report (linked here) for the Commission to consider, weigh the facts before them and provide staff with direction on moving forward.

The discussion below provides a synopsis of the October 8, 2025 Planning Commission hearing, the history of alcohol in the City of Carmel-by-the-Sea, and identifies potential permit options for the applicant.

Staff Analysis:

Property Owner and Business Operator Testimony

During public testimony at the October 10, 2025 Planning Commission hearing, the property manager of A.W. Shucks, John Plastini, provided historical information relative to site's operation as a drinking establishment and testified to how "a straight drinking establishment poses a lot of problems" and "they (the owners) made the determination to soften it on Ocean Avenue and the Commission and City embraced it" (referring to the Planning Commission's approval of Use Permit No. UP 93-45). He further stated that with the added food service, the adverse behavior associated with drinking was reduced. Subsequently, a request to expand the food service was submitted to the city and through working with the Planning Division and Building Division, the expansion was approved. Plastini also identified that in 2015, A.W. Shucks was "established as a drinking establishment" (referring to the 2015 Planning Commission determination) and when ownership changed in 2023, the Director of Community Planning and Building determined that the use was legal nonconforming and the new owner could continue to operation. In conclusion, Plastini stated that "there is value in the Use Permit" and losing it would be "a major concern".

The owner of A.W. Shucks, Karen Basi, also testified. She stated that when she purchased the business from the previous owner, the was no change in the operation. Basi expressed concerns with how a change in a permitted use could result in a negative impact to the value of her business and investment. In summary, Basi testified that the Use Permit for a drinking place was a component in determining the value of the business and her purchase price, and "taking" that use from her will affect her and her investment.

History of Alcohol In Carmel

The Commission found it important to consider the City's history of limiting the number of allowed drinking establishments. A more detailed discussion can be found in Attachment 1 – Alcohol White Paper. In summary, Carmel's restrictions on alcohol go back to the late 1880's where it initially began as "marketing tool" for financial purposes, it progressed into fulfilling a moral responsibility. Property deeds were encumbered by restrictive language prohibiting the sale, exchange or gifting "intoxicating liquor". This language was so restrictive it included a clause allowing the property to revert back to the grantor if the covenant was breached. In 1936, the California Supreme Court found that Carmel's general plan vision of being a "bone dry town" is considered abandoned.

Subsequently (1950's), two liquor licenses were issued for a bar and restaurant and a liquor store by the Alcoholic Beverage Control (ABC). However, City Ordinance No. 122 NS limited the sale of liquor downtown between 6th and 7th streets and Mission and Monte Verde, unless liquor sales were in conjunction with another business. ABC found that the City's ordinance was outside of the city's police powers by implementing regulations under ABC's jurisdiction. The white paper identifies that the restriction on the number drinking places was for the purpose of implementing LUP Policy P1-22. However, it does not discuss how the city came to the decision that three was the appropriate number.
The white paper discusses combining uses within the confines of the CMC (see discussion on page 15 of Attachment 1). This discussion is noteworthy as it is the basis of Option 1 discussed below. Simply put, if a full line restaurant provides more than 20% of its seats at a bar, the CMC classifies the use as a drinking place as the primary use and restaurant as an ancillary use.

Potential Permitting Options
As directed by the Planning Commission, the options below are provided for consideration. It is important to note that the property owner is well within their right to request a proposal that suits their needs and no formal application has been submitted to Community Planning and Building.

Option 1 – Amend Use Permit No. UP 93-45 to omit limited food service and add full line restaurant as ancillary use that is greater than 10% of the primary use.
As discussed in the white paper, CMC section 17.14.040.I.3.d – Restaurant, Full Line, states that no more than 20% of the total number is seats shall be located at the bar and if this standard cannot be met, the standards contained in 17.14.040.I.2 – Drinking Places, shall apply. Essentially, the code language regulates full line restaurants as a drinking place in this case.

Based on Business License BL 23-041, the total number of seats in A.W. Shucks is 45, 14 of which are at the bar. The remaining seats are at high-top tables. The bar seats equate to 31% of the total seats. Therefore, CMC section 17.14.040.I.2 shall apply and A.W. Shucks would be classified as a drinking place as the primary use and full line restaurant as ancillary.

Pursuant to CMC section 17.14.040.B.3, a Use Permit granted by the Planning Commission is required for establishing an ancillary use greater than 10% of the primary use. Applying the bar seating percentage, it would be appropriate for the applicant to request a Use Permit for a full line restaurant as an ancillary use of 69%. This option requires a discretionary decision by the Planning Commission but is within the confines of the CMC. In addition, this option supports the desires of the property owner and operator of the business establishment.

Option 2 – Uphold the Planning Commission's 2015 designation that A.W. Shucks is a drinking establishment.
As discussed in the October 8, 2025, Planning Commission staff report, the

Commission formally considered and designed A.W. Shucks as a drinking establishment. Upholding this decision would require no application by the property owner or action by the Planning Commission. However, it leaves little clarity in terms of the permit record.

Option 3 – Consider A.W. Shucks as a nonconforming use.
As presented by staff and the property manager, the Director of Community Planning and Building provided an email to the property manager on August 28, 2023, stating that the city memorialized the additional cooking equipment and approved the current menu as part of the approval of Building Permit No. BP 08-168C. As defined in CMC Section 17.68-090 a "non-conforming use" is " *[a] use of a structure or land that was lawfully established and maintained, but that does not conform with the currently applicable use regulations for the zoning district in which the use is located by reason of adoption or amendment of this title or by reason of annexation of territory to the City.*" If it is determined that the current operation of the business is a "non-confirming use", this option is similar to Option 2, as no action would be required.

Option 4 – Revert the ancillary use to limited food service.
This option would require A.W. Shucks to pull back their food service, obtain any necessary building permit(s) to removing kitchen/cooking equipment and amend their business permit (including revision to their menu offerings).
As testified by Basi, this option would be detrimental to her operation and would be inconsistent with the business components she purchased and invested in. Although not typically a land use issue, the economic impact of this option could be considered.

Option 5 – Amend Use Permit No. UP 93-45 to convert the allowed use from a drinking place to a full line restaurant.
This option was presented to the Commission on October 8, 2025 for consideration. Based on the testimony of Plastini and Basi, this is not a viable option. In addition, the percentage of bar seats is over the 20% limitation resulting in Option 1 as superior.

Other Project Components:

Environmental Review
This item is limited to a discussion and no action is required by the Planning Commission. Therefore, it is not a project under CEQA as defined in Public Resources Code Section 21065 and CEQA Guidelines Section 15378.

Attachments:

1. Attachment 1_Alcohol Whitepaper_8-10-22

EXHIBIT 9

Docusign Envelope ID: A90E0134-6513-4881-B12F-5CE435FF63B3

CITY OF CARMEL-BY-THE-SEA
PLANNING COMMISSION

PLANNING COMMISSION RESOLUTION NO. 2026-04

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CARMEL-BY-THE-SEA DETERMINING THAT THE DRINKING ESTABLISHMENT AT A.W. SHUCKS COCKTAIL & OYSTER BAR (UP 93-45 MURRAY/WEAVER) LOCATED AT OCEAN AVENUE 3 SOUTHWEST OF SAN CARLOS STREET, IN THE CENTRAL COMMERCIAL (CC) ZONING DISTRICT, APN 010-146-017-000, HAS BEEN ABANDONED AND FINDING THAT THE PLANNING COMMISSION'S ACTION IS NOT A PROJECT UNDER CEQA AS DEFINED IN PUBLIC RESOURCES CODE SECTION 21065 AND CEQA GUIDELINES SECTION 15378, AND ASSUMING IT IS A PROJECT, IT IS EXEMPT UNDER CEQA GUIDELINES SECTIONS 15061(b)(3) (COMMON SENSE EXEMPTION), 15301 (EXISTING FACILITIES), 15305 (MINOR ALTERATIONS IN LAND USE LIMITATIONS) AND NONE OF THE EXCEPTIONS TO THE EXEMPTIONS APPLY IN THIS CASE

WHEREAS, on December 8, 1993, the Planning Commission approved Use Permit No. UP 93-45 (Murray/Weaver) authorizing the addition of limited food sales to an existing drinking establishment (formerly Maxwell McFly's, now A.W. Shucks Cocktail & Oyster Bar) and whether or not the operation is consistent with the use approved under Use Permit No. UP 93-45; and

WHEREAS, Condition of Approval No. 2 of UP 93-45 states that "the sale and service of food shall [be] limited to the menu submitted with this application. The permittee shall not be authorized to establish a full kitchen with stove, grill or oven. Food services shall be limited to a microwave oven, gas steamer, soup preparation and refrigeration facilities."; and

WHEREAS, on March 3, 1994, the City issued building permit No. 94-47 for a commercial interior remodel allowing installation of the following: soup warmer, prep sink, refer, display rack, prep refer, small steamer, large steamer, stock pot, Type II hood, sink, dishwasher and coffee maker; and

WHEREAS, on November 3, 1995, an application for building permit No. 96-81 to allow a commercial kitchen remodel was submitted. On November 20th a correction list was provided indicating that an application to amend the Use Permit was required. An additional note was added on December 5, 1995, stating that the owner was required to submit a new application for a business license for a full-line restaurant. The correct list was updated crossing out "use permit" and writing in "business license only" and indicated that compliance was done April 22, 1996. On May 7, 1996, the city issued the building permit and on June 14, 1996, it was finaled. This permit allowed the installation of a stock pot burner and gas fryer; and

WHEREAS, on July 31, 2008, an application for building permit No. 08-168C allowing a commercial kitchen remodel, including the installation of a salamander, char broiler, griddle with 2 burners and an over, a fryer and stock pot burner was filed. This permit was issued August 15, 2008 and finaled February 11, 2009; and

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WHEREAS, on September 23, 2015, at a duly noticed meeting, the Planning Commission determined that A.W. Shucks Cocktail & Oyster Bar (A.W. Shucks) was one of the 3 drinking places in the city. A.W. Shucks originally operated strictly as a drinking place and by approval of UP 93-45, ancillary food service was allowed, the establishment is permitted to be open until 12:00 a.m., and the majority of the floor space is occupied by the bar. The Commission memorialized this designation with a vote of 4-0-1; and

WHEREAS, on July 1, 2023, ownership of A.W. Shucks changed from M & M Coastal Enterprises (Mike and Michelle Sapon) to A.W. Shucks LLC (Karen Basi). Business License No. BL 23-041 was issued on August 8, 2023. This license approved a use classified as a full-line restaurant as the primary use and a drinking place as an ancillary use; and

WHEREAS, on August 28, 2023, correspondence was sent to the property manager of the subject parcel stating that the city memorialized the additional cooking equipment and approved the current menu as part of the approval of Building Permit No. BP 08-168C and that A.W. Shucks can continue to operate under UP 93-45, provided there was no change in its then current use and operation; and

WHEREAS, in February 2025, the Director of Community Planning and Building received an inquiry asking if A.W. Shucks is operating consistent with the use as approved and conditioned under Use Permit No. UP 93-45 (Murray/Weaver); and

WHEREAS, at the October 8, 2025 Planning Commission meeting, the Commission received a Director's Referral to discuss the permit and operation history of A.W. Shucks, and a potential amendment to Use Permit No. UP 93-45. Subsequent to their deliberation, the Commission directed staff to return with options to allow A.W. Shucks to operate as they currently are while potentially retaining their Use Permit for a drinking establishment; and

WHEREAS, at the December 10, 2025 Planning Commission meeting, staff returned to the Commission as directed and provided potential options: 1) amend Use Permit No. UP 93-45 to omit limited food service and add full line restaurant as ancillary use that is greater than 10% of the primary use, 2) uphold the Planning Commission's 2015 designation that A.W. Shucks is a drinking establishment, 3) consider A.W. Shucks as a nonconforming use, 4) revert the ancillary use to limited food service, or 5) amend Use Permit No. UP 93-45 to convert the allowed use from a drinking place to a full line restaurant. Staff's recommended Option 1 as it was consistent with the applicable policies of the Carmel-by-the-Sea General Plan and Local Coastal Program and the applicable requirements contained in the Carmel-by-the-Sea Municipal Code (CMC); and

WHEREAS, on December 10, 2025, having considered all the written and documentary evidence, the administrative record, staff report, oral testimony, and other evidence presented, the City of Carmel-by-the-Sea Planning Commission expressed the view that the drinking establishment use has been abandoned and the use shall come into conformance. In addition, the Commission identified that Options 5 would fit the existing model of the business operation;

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and

WHEREAS, in accordance with CMC Section 17.54.010.C, the findings and actions of the Planning Commission shall be final and conclusive from and after the date of final action unless an appeal is filed with the City Council.

NOW, THEREFORE, BE IT RESOLVED that based on the above findings and evidence, Planning Commission of the City of Carmel-By-The-Sea does hereby:

1. The facts ("Facts") set forth in the recitals above are true and correct and are incorporated herein by reference.

2. Find the proposed action by the Commission is not a project under CEQA as defined in Public Resources Code Section 21065 and CEQA Guidelines Section 15378, and assuming it is a project, it is exempt under CEQA Guidelines sections 15061(b)(3) (Common Sense Exemption), 15301 (Existing Facilities) and 15305 (Minor Alterations in Land Use Limitations) and none of the exceptions to the exemptions listed in section 15300.2 apply in this case. The subject property does not contain a hazardous waste site or a historic resource, nor is it within an officially designated state scenic highway. Implementation of the Commission's action would result in no change to baseline conditions which substantiates that there would be no foreseeable cumulative impacts or significant effects as a result of the action.

3. Determine that the drinking establishment at A.W. Shucks Cocktail & Oyster Bar (UP 93-45 Murray/Weaver) has been abandoned for more than six months in accordance with Carmel-by-the-Sea Municipal Code Section 17.56.050.C based upon the Facts and following findings:

(1) Use Permit 93-45 (UP 93-45) was adopted on December 8, 1993 to authorize the addition of the sale of food to an existing drinking establishment for a business then known as Maxwell McFly's and now known as AW Shucks ("Business") located at Ocean SW of San Carlos Avenue ("Property").

(2) Condition 2 of UP 93-45 stated: *"The sale and service of food shall [be] limited to the menu submitted with this application. The permittee shall not be authorized to establish a full kitchen with stove, grill or oven. Food services shall be limited to a microwave oven, gas steamer, soup preparation and refrigeration facilities."*

(3) Condition 8 of UP 93-45 stated: *"This use permit shall become void and of no further force or effect upon termination or discontinuance of the use for any period of time exceeding six months."*

(4) Since 1993, building permits have been issued to this Business for a commercial kitchen including the installation of a salamander, char broiler, griddle with 2 burners and an oven, a fryer and stock pot burner.

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(5) On August 8, 2023, Business License No. BL 23-041 was issued which authorized a use classified as a full-line restaurant as the primary use and a drinking place as an ancillary use.

(6) For at least the last six months, AW Shucks has not operated as a drinking establishment with the sale of limited food as approved by UP 93-45.

(7) The uses of the Property where the Business is located are subject to the conditions of UP 93-45.

(8) A Use Permit may only be amended upon application to the City which is approved by the Planning Commission.

(9) UP 93-45 has not been amended since December 8, 1993.

(10) A building permit does not amend a Use Permit.

(11) A business license does not amend a Use Permit.

4. A.W. Shucks may continue to operate under Use Permit No. UP 93-45 for a period of up to six months from the date of this decision in order to allow acquiring a new use permit.

PASSED AND ADOPTED BY THE PLANNING COMMISSION OF THE CITY OF CARMEL-BY-THE-SEA this 11th day of February 2026, by the following vote:

AYES: Ahlborn, Karapetkov, Locke, LePage

NOES: Allen

ABSENT:

ABSTAIN:

APPROVED:

Signed by:
Michael LePage
4FE97D7E0A8D499...
Michael LePage
Chair

ATTEST:

Signed by:
Shelby Gorman
B592025E415E4EF...
Shelby Gorman
Planning Commission Secretary

RECEIVED
ATTACHMENT 5
FEB 2 6 2026

CITY OF CARMEL-BY-THE-SEA APPEAL FORM

*Appeals to a Board or Commission must be made by completing and submitting an Appeal Form with the City Clerk. Appeals shall be filed **within 10 calendar days following the date of action** and paying the required filing fee as established by City Council resolution.*

*Appeals to the City Council must be made by completing and submitting an Appeal Form with the City Clerk. Appeals shall be filed **within 10 working days following the date of action** and paying the required filing fee as established by City Council resolution.*

A.W. Shucks, LLC (aka A.W. Shucks Cocktail & Oyster Bar)

Name of Appellant

c/o Fenton & Keller, PO Box 171, Monterey, CA 93942

Mailing Address of Appellant

(831) 373-1241 doliver@fentonkeller.com

Phone Number Email address

Send correspondence to the following party (if different than Appellant):

Derric Oliver, Esq., Fenton & Keller

Name

PO Box 171, Monterey, CA 93942

Mailing Address

(831) 373-1241 doliver@fentonkeller.com

Phone Number Email address

Planning Commission

Commission, Board, Official or Department whose action is being appealed

Physical location of property involved (street location or address): Ocean Ave 3 SW San Carlos St

Lots 3-4 Block 79 010-146-017

Lot Block APN

Date of decision being appealed: February 11, 2026

Specific action or decision being appealed: Planning Commission Res. No. 2026-04 determining that the "drinking establishment" use (UP 93-45) has been abandonded.

Grounds for appeal (attach additional pages if necessary): See attached "Grounds for Appeal"

Signature of Appellant

Reference Chapter 17.54 of the Carmel-by-the-Sea Municipal Code "Appeals"

revised 1/2020

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JOHN E. KESECKER
ELIZABETH R. LEITZINGER
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February 26, 2026

VIA HAND DELIVERY AND EMAIL (CITYCLERK@CI.CARMEL.CA.US)

Carmel-by-the-Sea City Council
c/o City Clerk
P.O. Box CC
Carmel-by-the-Sea, CA 93921

Re: A.W. Shucks, LLC's Grounds for Appeal (attachment to Appeal Form)
Appeal of Planning Commission action, Feb. 11, 2026, Agenda Item #5 (UP 93-45)
Our File: 60621.71033

Dear Honorable Mayor and City Council Members:

This firm represents A.W. Shucks, LLC, the owner-operator of A.W. Shucks Cocktail & Oyster Bar ("A.W. Shucks") located at its leased premises on Ocean Avenue 3 SW San Carlos Street ("Premises") in Carmel-by-the-Sea ("City"). This letter provides A.W. Shucks' "Grounds for Appeal" attachment to the City Appeal Form filed to appeal the City's Planning Commission ("Commission") action on agenda item #5 of its public meeting held on February 11, 2026.

A.W. Shucks' appeal primarily challenges the Commission's adoption of Resolution No. 2026-04 ("Resolution"), thereby revoking the Premises' "drinking establishment" use permit # UP 93-45 ("Use Permit") upon which A.W. Shucks relied, stripping A.W. Shucks and its landlord of their respective rights to continue the multi-decade use of the Premises as a "drinking establishment," and compelling the parties to apply for a new use permit and transform A.W. Shucks into something it is not and has never been: a full-line restaurant. These actions flow from the Commission's findings and determinations that the "drinking establishment" use of the Premises and the Use Permit were abandoned by some unidentified party(ies) at some unspecified time, due to City-approved minor expansions of food service and related equipment at the Premises, the centerpiece of which is… a bar.

A.W. Shucks disputes and objects to the Commission's findings, determinations, and actions as contrary to the evidence and law, and therefore, respectfully asks the City Council to grant the appeal and reverse the Commission's actions, including the Resolution.

I. SUMMARY GROUNDS FOR APPEAL

In addition to the reasons set forth in A.W. Shucks' public comment letter to the Commission on February 11, 2026, and the reasons stated on behalf of A.W. Shucks during the public comment period of the Commission public meeting that same evening, A.W. Shucks' grounds for appeal are summarized as follows:

A. The Commission's findings and determination that the Premises' "drinking establishment" use and the Use Permit were abandoned conflict with City Code and the express, authorized determinations of the City's Planning Director;

B. The Commission's findings and determination that the Premises' "drinking establishment" use and Use Permit were abandoned are contrary to the evidence;

C. A.W. Shucks is lawfully entitled to continue its "drinking establishment" use of the Premises without a use permit;

D. A.W. Shucks' existing use of the Premises comports with the City's general plan and land use goals, and is not injurious to public health, safety, or welfare;

E. The Commission's action, including the Resolution, violates constitutional principles of due process, equal protection, and "taking" private property "without just compensation;" and

F. A.W. Shucks will sustain damages arising from the Commission's Resolution.

For these reasons and those discussed below, A.W. Shucks urges the City Council to reverse the Commission's action and Resolution adopted on February 11, 2026.

Finally, A.W. Shucks respectfully requests that the City Council direct City staff to refund the $2,190 appeal fee paid by A.W. Shucks, consistent with the Commission's repeated acknowledgements, during the public hearing on February 11, 2026, that A.W. Shucks, at all relevant times, followed the rules and properly communicated with City officials. (See Commission hearing video located at https://www.youtube.com/watch?v=0Qj3qGN2Hoc, posted on the City's Official YouTube channel (https://www.youtube.com/@CityofCarmelbytheSea), both of which are incorporated here by this reference for inclusion in the administrative record.

* * * * *

II. GROUNDS FOR APPEAL – DISCUSSION

A. The Commission's findings and determination that the Premises' "drinking establishment" use and Use Permit were abandoned conflict with City Code and the express, authorized determinations of the City's Planning Director

1. A.W. Shucks has more bar seats than full-line restaurants, per City Code and staff

Carmel Municipal Code ("CMC") section 17.14.040(I)(3)(d) defines a full-line restaurant, in relevant part, as, "no more than 20 percent of the total number of seats are at a bar," and, "If the use does not meet this standard, the standards in subsection (I)(2) of this section, Drinking Places, shall also apply to the use." Consistent with that definition, City planning staff explain, in the Commission Staff Report, dated December 10, 2025: "As discussed in the white paper, CMC section 17.14.040.I.3.d – Restaurant – Full Line, states that no more than 20% of the total number is [sic, of] seats shall be located at the bar and if this standard cannot be met, the standards contained in 17.14.040.I.2 – Drinking Places, shall apply. Essentially, the code language regulates full line restaurants as a drinking place in this case."

In that same Staff Report, City planning staff further explains, "the total number of seats in A.W. Shucks is 45, 14 of which are at the bar. The remaining seats are at high-top tables. The bar seats equate to 31% of the total seats. Therefore, CMC section 17.14.040.I.2 shall apply and A.W. Shucks would be classified as a drinking place as the primary use and a full line restaurant as ancillary." Based on the foregoing, the Commission's determination of abandonment of the "drinking establishment" use and the Use Permit was in error and contrary to the CMC.

2. A.W. Shucks' alcoholic beverages offerings relative to its food service offerings exceed the limits imposed on full-line restaurants, per the CMC

CMC section 17.14.040.I.3.a, applicable to full-line restaurants, provides: "Any sale of alcoholic beverages shall be subordinate to th[e] primary use [i.e., a full-line restaurant]." In that regard, A.W. Shucks' menu offers a far more extensive array of alcoholic beverages than food items, meaning A.W. Shucks' food service is subordinate to its "drinking establishment" use and business operation. Further, A.W. Shucks' alcoholic drinks menu offerings are more extensive than full-line restaurants in the City, further confirming A.W. Shucks' primary use of the Premises is as a "drinking establishment." See A.W. Shucks' drinks menu, enclosed and incorporated here as **Attachment 1**. Therefore, the Commission's directive, per the Resolution, that A.W. Shucks apply for a use permit to operate as a full-line restaurant, conflicts with the CMC and the evidence.

3. Neither the "drinking establishment" use nor the Use Permit were "abandoned," as validly and finally determined by the City's Director, per the CMC

CMC section 17.56.050.C defines "abandonment of use" as a "discontinued" use and authorizes the City Director of Community Planning and Building ("Director") to make "abandonment" determinations, subject to appeals to the Commission. Toward that end, in August 2023, the City's then-Director (now City Administrator), Brandon Swanson, confirmed,

in two separate emails enclosed and incorporated here as **Attachment 2**, that neither the "drinking establishment" use nor the Use Permit had been abandoned by virtue of the City-approved additional cooking equipment installed and utilized at the Premises.

Specifically, in his email dated August 14, 2023, and as authorized by CMC section 17.56.050.C, Director Swanson explained, "my determination is that the City memorialized the additional cooking equipment and restaurant by approving a building permit on August 15, 2008 (Permit # 08-168C). In this case, even though the original use permit [the Use Permit] set a limit on the type of equipment and menu, the City took an official action to approve the updated kitchen and the menu it was meant to prepare, thereby creating a legal nonconforming situation that is allowed to continue under Chapter 17.36 of the City's Municipal Code."

Similarly, in his email dated August 28, 2023, Director Swanson wrote, in relevant part, "this email serves as confirmation that the menus you provided (attached), were also approved August 15th, 2008, as part of Permit # 08-168C. These menus maintain the same legal nonconforming status that I referenced in my previous email sent August 14th, 2023, therefore they are allowed to be served in whole or in part. Please note that our past practice has been that minor modifications to restaurant menus may be made without the need for City approval." In sum, as expressly authorized by CMC section 17.56.050.C, Director Swanson determined the additional food offerings by A.W. Shucks constituted "minor modifications" to, not an "abandonment" of, the "drinking place" use of the Premises or the Use Permit.

Pursuant to CMC section 17.56.050.C, the Director's "abandonment" determination, as confirmed by the above referenced email correspondence, was appealable to the Commission. However, no appeal of that determination was timely filed, rendering the Director's decision final and legally binding on the City. As such, the City is estopped from reversing the Director's decision. (See, e.g., *City of Long Beach v. Mansell* (1970) 3 Cal.3d 462; Cal. Evidence Code § 623.) Therefore, the Commission's attempt (via the Resolution) to untimely disavow and reverse the binding decision by the Director are legally misplaced, constitute an abuse of discretion and an action that exceeded the City's jurisdiction, not to mention highly unfair and prejudicial to A.W. Shucks, including financially, such as by lost revenues and business opportunities potentially amounting to hundreds of thousands, if not millions, of dollars.

4. A.W. Shucks is entitled to rely on the Director's valid and final determination.

The legal authority and binding effect of the Director's "abandonment" determination, pursuant to CMC section 17.56.050.C, is clear. Therefore, A.W. Shucks is legally entitled to rely on that determination, notwithstanding the Commission's comments, findings, determinations, and actions to the contrary, including as set forth in the Resolution.

Beyond that, more broadly, if property owners and business operators in the City cannot reasonably rely on written determinations of the City's Director (i.e., the City's senior-most planning manager) made in accordance with the CMC, then the City's words, rules, and processes, and the public's trust and confidence in them, are broken. In this case, unless the Planning Commission's actions are reversed, A.W. Shucks will be rendered a victim of that

"broken" system, despite that, A.W. Shucks, at all relevant times, followed the rules and properly communicated with City officials, as the Commission acknowledged several times during the public hearing on February 11, 2026. For these reasons alone, the Commission's action is in error, and the City Council should reverse.

B. The Commission's findings and determination that the Premises' "drinking establishment" use and Use Permit were abandoned are contrary to the evidence

1. The Commission's express, irrebuttable admissions contradict the Commission's "abandonment" findings and determination

As the Commission admitted in the sixth recital of the Resolution: "WHEREAS, on September 23, 2015, at a duly noticed meeting, the Planning Commission determined that A.W. Shucks Cocktail & Oyster Bar (A.W. Shucks) was one of the 3 drinking places in the city. A.W. Shucks originally operated strictly as a drinking place and by approval of the Use Permit, ancillary food service was allowed, … and the majority of the floor space is occupied by the bar. The Commission memorialized this designation with a vote of 4-0-1."[1]

The City is legally precluded and estopped from now denying those admissions, constituting evidence conclusively establishing: (1) A.W. Shucks originally operated as a drinking establishment without the need for a use permit; (2) the Use Permit merely allowed for the addition of food service, and did not, and could not legally, amend or revoke the pre-existing, legal nonconforming "drinking establishment" use of the Premises; and (3) the majority of the floor space within A.W. Shucks consists of the bar area. This evidence contradicts the Commission's finding that A.W. Shucks abandoned its "drinking establishment" use.

As the Commission admitted in the eighth recital of the Resolution: "WHEREAS, on August 28, 2023, correspondence was sent to the property manager of the subject parcel stating that the city memorialized the additional cooking equipment and approved the current menu as part of the approval of Building Permit No. BP 08-168C and that A.W. Shucks can continue to operate under the Use Permit, provided there was no change in its then current use and operation." See above referenced emails from then-Director Swanson (Attachment 2).

The City is legally precluded and estopped from now denying those admissions, constituting evidence establishing: (1) the additional cooking equipment approved by City Building Permit No. BP 08-168C was consistent with, and not an "abandonment" of, A.W. Shucks' "drinking establishment" use, as determined by then-Director Swanson; (2) the additional cooking equipment approved by City Building Permit No. BP 08-168C was consistent with the Use Permit, as determined by then-Director Swanson; and (3) A.W. Shucks' "drinking establishment" use, as augmented by food service per the Use Permit, can continue so long as A.W. Shucks does not change its current use and operation, as determined by the Director.

[1] See also, History and Policies on Alcohol in Carmel-by-the-Sea, dated August 10, 2022, p. 12, incorporated herein by this reference.

The evidence in the record establishes that A.W. Shucks' current use of the Premises has not changed since August 28, 2023. As such, no evidence exists to support the Commission's findings and determination that the "drinking establishment" use of the Premises, or the additional food service and equipment authorized by the Use Permit, were abandoned.

2. Neither the Use Permit nor the CMC impose upon "drinking establishments" any income limits on food sales relative to alcohol sales

The Use Permit does not impose any revenue, unit, or volume limits on A.W. Shucks' sales of food relative to alcohol. Similarly, no such limits on "drinking establishments" or "full-line restaurants" are imposed by CMC chapter 17.56 (restricted commercial uses), CMC chapter 17.68 (use classifications), CMC section 17.14.040.1 (additional use regulations), or CMC chapter 17.36 (nonconforming uses and buildings). As such, neither the Use Permit nor the CMC supports the Commission's "abandonment" finding and determination based on A.W. Shucks' food sales relative to its alcohol sales.

Similarly, as noted above and further detailed below, A.W. Shucks' alcoholic beverage offerings far exceed its food offerings. Whether A.W. Shucks' primary source of revenue—from day to day, week to week, or month to month, based on ever-changing consumer and economic trends—is alcohol sales or food sales has no bearing on the Use Permit and the above-cited CMC sections. The fact remains, although A.W. Shucks' alcoholic beverages offerings far exceed its food offerings, A.W. Shucks can "lead a horse to drink" but cannot make it do so. To the extent A.W. Shucks' customers choose to consume more alcohol than food—or vice versa—has no impact on whether the "drinking establishment" use or Use Permit were abandoned.

3. A.W. Shucks did not "abandon" (i.e., "discontinue") its "drinking establishment" use of the Premises or the Use Permit

Neither the "drinking establishment" use of the Premises, nor the Use Permit, were "abandoned" or "discontinued." In fact, A.W. Shucks' "drinking establishment" use of the Premises continues today, as it has for years, and as confirmed by the evidence.

Indeed, A.W. Shucks' food preparation facilities are dwarfed by other full-line restaurants in the City, further evidencing the fact that A.W. Shucks is not a full-line restaurant. For example, A.W. Shucks' limited food menu and food preparation facilities—primarily used for preparing oysters and salads, frying calamari and fish and chips (french fries), and warming soup and tuna melts—consists of a mere 8' x 10' (approx.) area, tucked into the front corner of A.W. Shucks' bar. See photographs and City-approved plan sheets enclosed and incorporated here as **Attachment 3** and **Attachment 4**, respectively. In stark contrast to A.W. Shucks, the full-line restaurant, The Grill on Ocean Ave, boasts of a significantly larger, walk-in, back-of-house, full-line kitchen, despite The Grill's comparable size to A.W. Shucks' Premises. See photographs of The Grill on Ocean Ave enclosed and incorporated here as **Attachment 5**.

Similarly, A.W. Shucks' menu offers literally hundreds of alcoholic beverage options—far more than Sade's bar ever offered—including 128 Scotch whiskeys, 99 bourbons and whiskeys, 68 tequilas and mezcals, 39 gins, 36 vodkas, 31 wines and ports, 22 rums, 22 beers, 17 Irish whiskeys, 8 cognacs, 9 martinis, 9 specialty cocktails, and 3 oyster shooters, plus 4 mocktails. See A.W. Shucks' drinks menu (Attachment 1) and photographs (Attachment 3). Again, in stark contrast, A.W. Shucks' bar and array of alcoholic beverage offerings dwarfs those of the full-line restaurant, The Grill on Ocean Ave, whose restaurant bar service area is a fraction of the size of A.W. Shucks' and whose menu identifies only "beer by the bottle" and "draft beer." See photographs of The Grill on Ocean Ave (Attachment 5) and The Grill on Ocean Ave's menu, enclosed and incorporated here as **Attachment 6**.

Beyond that, the administrative record is devoid of any evidence showing that the City-approved minor expansions of food service and related equipment at the Premises converted the Premises or A.W. Shucks' use into a "full-line restaurant."

C. A.W. Shucks is lawfully entitled to continue its "drinking establishment" use of the Premises without a use permit

1. The Commission's "abandonment" findings and determination are contrary to CMC Chapter 17.36 and the related evidence

CMC Chapter 17.36 regulates nonconforming uses and buildings within the City. (CMC § 17.36.010.) "Occupancies and uses lawfully established that do not conform with the current use regulations... may be continued." (CMC § 17.36.020.B.) As admitted by the Commission and Director Swanson, the "drinking establishment" use of the Premises was lawfully established prior to the City's use permit requirements. As such, A.W. Shucks is not legally required to obtain or maintain a use permit to continue its "drinking establishment" use of the Premises.

Moreover, the Use Permit, adopted by the Commission on December 8, 1993, confirms the Use Permit is unrelated to the legally pre-existing "drinking establishment" use and merely authorizes, "the addition of the sale of food to an existing drinking establishment," consisting of "an existing bar use that has been in continuous use for many years" that "was legally established prior to the need for a use permit." (Use Permit, p. 1.)

In addition, as relevant here, CMC section 17.36.050 (Nonconforming Uses), subsection A, provides: "No building that contains a nonconforming use shall be enlarged by increasing the floor area or building envelope or exterior volume. Repairs, remodeling, alterations or maintenance, in any 12-month period, shall be limited to 10 percent of the value of the building, or 10 percent of the value of the portion of the building containing the nonconforming use. The value of improvements shall be determined by the Building Official." Further, CMC section 17.36.050.B provides: "No nonconforming use may be expanded or extended into an existing portion of a building that was not previously occupied by the same nonconforming use."

The Premises has undergone no such prohibited enlargements, expansions, extensions, repairs, remodels, or otherwise, nor has any contention or evidence to the contrary been offered. Based on this information and other evidence in the record, A.W. Shucks' nonconforming use of the Premises remains legally valid, per the CMC, and is based on a legally established vested right, not on a City-issued use permit. Therefore, a use permit is not necessary for A.W. Shucks to legally continue its "drinking establishment" use at the Premises.

D. A.W. Shucks' existing use of the Premises comports with the City's general plan and land use goals, and is not injurious to public health, safety, or welfare

1. The City's "police powers" to regulate land use must relate to public health, safety, and welfare

Local municipalities' authority to regulate land use derives from the general police powers, as set forth in the California Constitution and California's Planning and Zoning Law (Gov. Code §§ 65000-66499.58), and must promote and protect public health, safety, and general welfare. (*Carlin v. City of Palm Springs* (1971) 14 Cal.App.3d 706, 711.) Otherwise, local municipalities, such as the City, lack jurisdiction to regulate land use.

2. The Resolution does not promote or protect public heath, safety, or welfare

No evidence in the record supports finding that A.W. Shucks' existing use of the Premises (e.g., current mix of food and drinks service; permissible hours of operation; signage) are incompatible with the City's general plan or land use goals, or are injurious to the health, safety, or welfare of the City, its residents, property owners, business owners, or tourists.

For example, the Commission did not produce, nor does the Resolution cite to, any evidence to support any findings that A.W. Shucks' existing uses of the Premises:

a. "generate odors, fumes, dust, light, glare, radiation or refuse that [are] injurious to surrounding uses or to the district" (Use Permit, Finding #2);

b. "generate levels of noise that adversely affect the health, safety, or welfare of neighboring properties or uses" (Use Permit, Finding #2);

c. "increase traffic noise in excess of the "normally acceptable" range identified in the General Plan" (Use Permit, Finding #3);

d. "make excessive demands on the provision of public services, including water supply, sewer capacity, energy supply, communications facilities, police protection, and fire protection" (Use Permit, Finding #4);

e. "conflict with the City's goal of achieving and maintaining a balanced mix of uses that serve the needs of both local and non-local populations" (Use Permit, Finding #6);

f. conflict with the City's finding, "the operation of a drinking place is functionally equivalent to an eating place in terms of altering the balanced mix of uses" or "increase the impact of such uses on Ocean Avenue" (Use Permit, Finding #6);

g. are not "compatible with surrounding land uses" or "conflict with the purpose established for the district within which it [is] located" (Use Permit, Finding #7);

h. "conflict with the City's General Plan" (Use Permit, Finding #8);

i. "injur[e] public health, safety or welfare" (Use Permit, Finding #9);

j. conflict with City's finding, "no other drinking places in operation located on Ocean Avenue do not have authority to sell food" (Use Permit, Finding #10);

k. increase the "existing non-conformity" as to "parking to accommodate the long-term parking needs of employees or business owners" (Use Permit, Finding #11); or

l. exceed "the capacity of surrounding streets" to "serve the automobile and delivery truck traffic generated by [A.W. Shucks' existing] use" (Use Permit, Finding #12).

In addition, significantly, in paragraph 2 of the Resolution, the Commission admits, "Implementation of the Commission's action would result in no change to baseline conditions which substantiates that there would be no foreseeable cumulative impacts or significant effects as a result of the action."

Finally, as stated in the ninth recital of the Resolution: "WHEREAS, in February 2025, the Director of Community Planning and Building received an inquiry [from Parker Logan] asking if A.W. Shucks is operating consistent with the use as approved and conditioned under Use Permit No. UP 93-45 (Murray/Weaver)." However, and equally significantly, neither of Mr. Logan's two public comment emails to the Commission, submitted on February 11, 2026, allege any public health, safety, or welfare reason for his request that the Commission strip A.W. Shucks of its "drinking establishment" use of the Premises or the Use Permit. Indeed, based upon the record, it appears the sole basis and motivation for Mr. Logan's request is to privately gain by the City "taking" from A.W. Shucks and its landlord.

In sum, there is no public health, safety, or welfare basis to support the Commission's "abandonment" findings and determination.

E. The Commission's action, including the Resolution, violates constitutional principles of due process, equal protection, and "taking" private property "without just compensation"

A local municipality's authority to regulate land use is further limited by the protections guaranteed by United States Constitution (e.g., Fifth Amendment; Fourteenth Amendment) and the California Constitution (e.g., Art. 1, §§ 1, 7, 19). Those protections apply to A.W. Shucks' and its landlord's vested rights to continue the "drinking establishment" use of the Premises,

which protections the Commission violated in arbitrarily and capriciously adopting the Resolution. (See, e.g., *Goat Hill Tavern v. City of Costa Mesa* (1992) 6 Cal.App.4th 1519, 1529; *Halaco Eng. Co. v. S. Central Coast Reg. Comm.* (1986) 42 Cal.3d 52, 63; *G & D Holland Constr. Co. v. City of Marysville* (1970) 12 Cal.App.3d 989, 944.)

Additionally, in taking away those rights, the Commission did not identify the party or parties who purportedly "abandoned" the "drinking establishment" use of the Premises and the Use Permit, nor did the Commission specify the period during which the purported abandonment occurred. Such failures provide insufficient notice to A.W. Shucks and its landlord and lack substantial evidence required to support and enforce the Resolution.

F. A.W. Shucks will sustain damages arising from Commission's Resolution

Currently, consistent with the Use Permit, A.W. Shucks' permissible hours of operation are Sunday through Thursday from 11:00 a.m. to 11:00 p.m., and on Friday and Saturday from 11:00 a.m. to 2:00 a.m. To the extent the City compels any reductions to these hours arising from the Resolution, A.W. Shucks will consequently suffer damage, including in the form of lost income and business opportunities, which may result in the economic unviability and unsustainability of A.W. Shucks' business.

Similarly, to the extent the City compels any other changes to A.W. Shucks' business operations (e.g., mix of food and beverage service, mix of bar and non-bar seating, signage changes) arising from the Resolution, A.W. Shucks will consequently suffer similar and additional damage, including loss of the value received in exchange for the purchase price premium paid by A.W. Shucks for a business benefitted by "drinking establishment" use rights.

These reasons further support the City Council's reversal of the Commission Resolution.

G. The City Council should refund the $2,190 appeal fee paid by A.W. Shucks

A.W. Shucks respectfully requests that the City, in fairness, refund the $2,190 appeal fee paid by A.W. Shucks, consistent with the Commission's statements made during the public hearing on February 11, 2026.

III. CONCLUSION

As required under California law, the Commission's findings must be supported by substantial evidence in the record and by the relevant law, meaning the Commission "must set forth findings to bridge the analytic gap between the raw evidence and the ultimate decision or order." (*Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 515.) However, the Commission has not satisfied its burden to do so here, as the evidence in the record and the relevant law (e.g., CMC) do not support—and, in fact, squarely contradict—the Commission's findings stated in the Resolution. Accordingly, the Commission abused its discretion, lacked and/or exceeded its jurisdiction, and/or acted arbitrarily and capriciously, in adopting the Resolution.

Prior to, and during the more than three decades since the City issued the Use Permit, A.W. Shucks and its predecessor business owners successfully operated a "drinking establishment" at the Premises and, over time, made minor additions to its food service capabilities pursuant to City-issued permits without issue, objection, or complaint. Then, suddenly, with insufficient notice to, or communication with, A.W. Shucks as to its current operations and future business plans, the Commission unilaterally and without legal or evidentiary basis "pulled the rug out" from under A.W. Shucks, threatening the economic viability and future of a business that has long been a vibrant gathering and drinking place enjoyed and beloved by residents, workers, business and property owners, and tourists alike.

For these reasons, A.W. Shucks urges the City Council to reverse the Commission's action, including the Resolution.

Very truly yours,

FENTON & KELLER
A Professional Corporation



Derric G. Oliver

Enclosures:

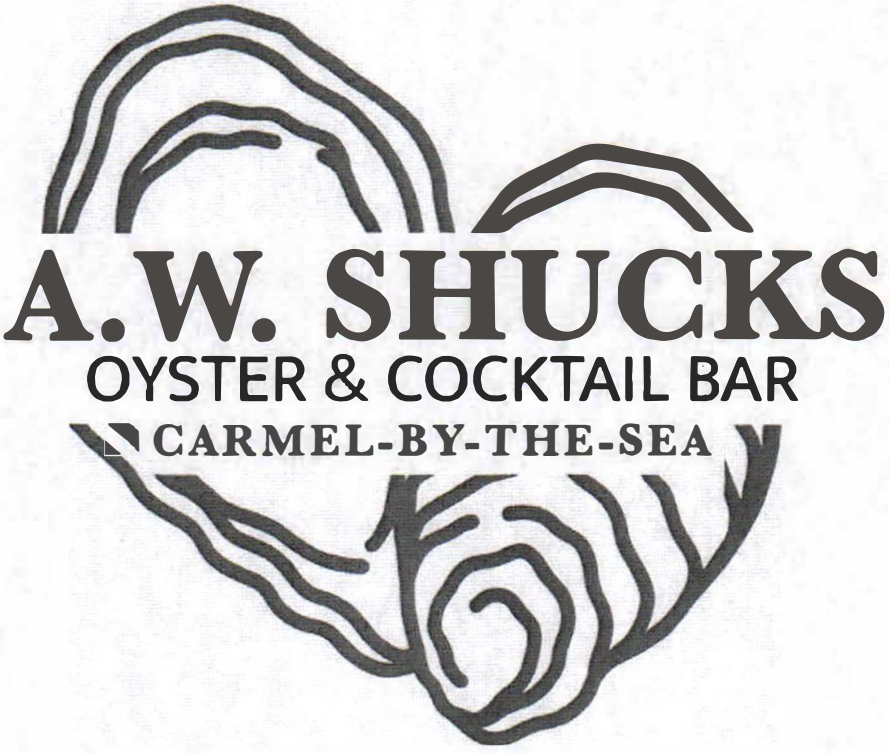
Attachment 1: A.W. Shucks' drinks menu (February 2026)
Attachment 2: City Planning Director's emails determining no "abandonment" (August 2023)
Attachment 3: Photographs of A.W. Shucks' use of the Premises (February 2026)
Attachment 4: City-approved plans for food service equipment at the Premises (1996, 2008)
Attachment 5: Photographs of full-line restaurant, The Grill on Ocean Ave (February 2026)
Attachment 6: The Grill on Ocean Aven menu (February 2026)

cc: Mayor, Dale Byrne - dbyrne@ci.carmel.ca.us
Councilmember, Bob Delves – rdelves@ci.carmel.ca.us
Councilmember, Jeff Baron – jbaron@ci.carmel.ca.us
Councilmember, Hans Buder – hbuder@ci.carmel.ca.us
Councilmember, Alissandra Dramov – adramov@ci.carmel.ca.us
CPB Director, Anna Ginette – aginette@ci.carmel.ca.us
City Administrator, Brandon Swanson – bswanson@ci.carmel.ca.us
TSD Carmel Properties, L.P., legal counsel – Jeanette Witten, jwitten@hudsonmartin.com; Christina Goebelsmann, cgoebelsmann@hudsonmartin.com; Sarah Devine, sdevine@hudsonmartin.com

ATTACHMENT 1

A.W. Shucks, LLC's Grounds for Appeal
(attachment to Appeal Form)
Appeal of Planning Commission action, Feb. 11, 2026,
Agenda Item #5 (UP 93-45)

COME AS A VISITOR,
Leave as a Friend.



(831)624-6605
awshuckscarmel.com

A.W. SHUCKS
OYSTER & COCKTAIL BAR
CARMEL-BY-THE-SEA

MARTINIS

Espresso Martini 16
Reposado Tequila / Borghetti Espresso Liqueur / Frangelico / Espresso / Guinness Float

Lychee Martini 16
Tito's Vodka / St. Germain / Lychee Purée / Fresh Pressed Lime Juice

Bee's Knees 16
Empress Gin 1908 / Fresh Pressed Lemon Juice / House-Crafted Honey Syrup / Lemon Twist

Aviation 16
Empress Gin 1908 / Crème De Violette Liqueur / Fresh Pressed Lemon Juice / Maraschino Liqueur

Peach, Please! 15
Spicy Tequila / French Peach Liqueur / Fresh Pressed Lime Juice

Ruby Row 15
Grapefruit Vodka / Dry Curacao Citrus / Fresh Pressed Lime Juice / Cranberry Juice / Ruby Red Grapefruit Juice

Cucumber Pear Cosmopolitan 15
Pear Vodka / Pear Liqueur / White Cranberry Juice / Fresh Muddled Cucumber / Fresh Pressed Lime Juice
*Like it Spicy? **Add Fresh Thai Chili***

Raz Lemon Drop 15
Raspberry Vodka / Raspberry Liqueur / Triple Sec / Fresh Pressed Lemon Juice

Pink Panties 15
Tito's Vodka / Watermelon Pucker / Pineapple Juice

OYSTER SHOOTERS
14

Bloody Mary Oyster Shooter
Chilled Vodka / House Bloody Mary Mix / Fresh Oyster

Peppar Oyster Shooter
Chilled Peppar Vodka / Fresh Oyster / Cocktail Sauce / Horseradish Salsa / ***Served Up Martini-Style***

Tequila Lime Shooter
Chilled Tequila / Fresh Oyster / Cocktail Sauce / Horseradish / Salsa / ***Served Up Martini-Style***

BEER

Draft Beer 8
Shuckers Ale / Allagash Wheat / Sculpin Ballast Point IPA / Union Jack IPA / Kona Longboard Lager

Stella Artois 9
Guiness (22oz) 9
Chimay Trapiste (Served in Goblet) 9

Bottled Beer (Domestic) 8
Coors Light / Blue Moon / Michelob Ultra / Samuel Adams / 805

Bottled Beer (Imported) 9
Corona / Corona Light / Heineken / Modelo / Dos Equis Lager / Dos Equis Amber / Heineken 0.0 / Guiness 0.0 (Non-Alcoholic)

Cider 12
Aspall: Dry English Cider

REQUIRED BY CALIFORNIA STATE LAW, WATER SERVED UPON REQUEST.
PLEASE, NO HALF ORDER OF ANY BEVERAGE, THANK YOU.
GOVERNMENT WARNING:
(1) ACCORDING TO THE SURGEON GENERAL WOMEN SHOULD NOT DRINK ALCOHOLIC BEVERAGES DURING PREGNANCY BECAUSE OF THE RISK OF BIRTH DEFECTS. (2) CONSUMPTION OF ALCOHOLIC BEVERAGES IMPARS YOUR ABILITY TO DRIVE A CAR OR OPERATE MACHINERY, AND MAY CAUSE HEALTH PROBLEMS.

COCKTAILS

Banana-Infused Old Fashioned 18
Infused with Fresh Banana, Vanilla Bean, and Cinnamon Sticks all used to create the base to this traditional Whiskey Cocktail

Cadillac Margarita 17
Tequila Blanco / Fresh Pressed Lime Juice / Organic Sweet n' Sour / Gala Float

High 5 17
Highland Park 12 Year / Domaine De Canton Liqueur / Pineapple / Honey Syrup / Fresh Pressed Lemon Juice

Michelada 16
Modelo / Tequila / House-Crafted Michelada Mix / Fresh Pressed Lime Juice / ***Add Shrimp (+5)***

Hibiscus Mojito 16
Rum / Mint / House-Crafted Hibiscus Syrup / Fresh Pressed Lime Juice / Soda Water

St. Germain Royal Spritz 16
Elderflower Rosé Gin / St. Germain / Fresh Pressed Lemon Juice / Fever Tree Pink Grapefruit Sparkling Rosé

Whiskey Smash 15
Whiskey / Muddled Lemons / Honey Syrup / Mint

Pomegranate Margarita 15
Tequila / Pama Liqueur / Orange Juice / Cranberry Juice / Fresh Pressed Lime Juice / Organic Sweet n' Sour

A.W. Shucks "Best" Bloody Mary 14
Our House Specialty made with our House-Crafted mix!
*Extra heat? **Add Peppar Vodka (+2)***

MOCKTAILS

Hibiscus Mule Mocktail 10
Hibiscus Syrup / Fresh Pressed Lime Juice / Ginger Beer / Soda Water

Lychee Spritz Mocktail 10
Lychee Syrup / Fresh Pressed Lime Juice / Soda Water / Ginger Ale

Mai Tai Mocktail 10
Pineapple / Orange Juice / Fresh Pressed Lime Juice / Grenadine / Orgeat

Mojito Mocktail 10
Mint / Soda / Fresh Pressed Lime Juice / Fever Tree Grapefruit Soda / Simple Syrup

BEVERAGES

Bottled Water 8
Panna (Flat) or Pellegrino (Sparkling) 750ml

Soft Drinks / Tea / Coffee 6
Coke / Diet Coke / Sprite / Ginger Ale / Lemonade

Shirley Temple / Roy Rodgers 6

Ginger Beer / Red Bull 7

Henry Weinhard's Root Beer 6

Fruit Juice 5
Apple / Cranberry / Grapefruit / Orange / Pineapple

WE PROUDLY FEATURE

An **Extensive** and **Unique** Collection of:
Scotch, Irish, & Bourbon Whiskey,
Rums, Vodkas, Gins, Tequilas, &
Imported Liqueurs

Explore Our Full Spirit List on the Back
Ask Your Server For Recommendations & Pricings!

A.W. SHUCKS
OYSTER & COCKTAIL BAR
CARMEL-BY-THE-SEA

WINE LIST

Oyster Symbol (🦪): Pairs Well

	GLASS	BOTTLE
CHARDONNAY		
🦪 Bernardus, Carmel Valley, CA	18	68
🦪 Folie A Deux Chardonnay, Russian River Valley, CA	15	52
Kendal Jackson Vintner's Reserve, CA	14	48
William Hill, North Coast, CA	13	48
SAUVIGNON BLANC		
🦪 Rombauer Sauvignon Blanc, Sonoma County, CA	16	58
🦪 Bernardus, Sauvignon Blanc, Sonoma County, CA	15	56
🦪 Matanzas Creek Sauvignon Blanc, Sonoma County, CA	15	56
🦪 Ferrari Carano, Fume Blanc, Sonoma County, CA	14	52
🦪 Whitehaven Sauvignon Blanc, Malborough, New Zealand	13	48
CHAMPAGNE / SPARKLING WINE / ROSÉ		
🦪 Clone 236 Pinot Noir Rose SLH, Monterey County, CA	15	56
Personal Bottles (187ml):		
🦪 Moet & Chandon Imperial Rosé Champagne, France		24
🦪 Moet & Chandon Brut Champagne, France		24
🦪 Canella Sparkling Brut Rosé, Italy		14
🦪 Canella Prosecco Superior DOCG		14
🦪 Segura Viudas Reserve Bruit, Spain		13
Bottles (375ml):		
🦪 Taittinger La Francaise Brut Champagne, France		84
Roederer Estate Brut, Anderson Valley, CA		32
Full Bottle (750ml):		
Piper Sonoma Brut, Sonoma County, CA		48
Bortolomiol Prosecco, Italy		66
PINOT GRIGIO / VERMENTINO		
🦪 Santa Margarita DOC Pinot Grigio, Italy	17	64
Sassoregal Vermentino, Tuscany, Italy	15	56
PINOT NOIR		
Jackson Estate Pinot Noir, Anderson Valley, CA	16	60
Hahn Pinot Noir SLH, Monterey County, CA	17	66
Belle Glos Pinot Noir, Arroyo Seco, CA	15	56
CABERNET SAUVIGNON / BLENDS		
Hess Maverick Ranch, Cabernet, Paso Robles, CA	15	56
Carmel Road, Cabernet Sauvignon, Monterey County, CA	14	52
William Hill, Cabernet Sauvignon, North Coast, CA	13	48
Bernardus Marinus Red Blend, Monterey County, CA	21	79
Soul of Mendocino, Mendocino County Blend, CA	16	60
PORTS		
DOW - 20 Year		28
DOW - 10 Year		16

***20% GRATUITY WILL BE ADDED TO PARTIES OF 8 OR MORE**

REQUIRED BY CALIFORNIA STATE LAW, WATER SERVED UPON REQUEST.
PLEASE, NO HALF ORDER OF ANY BEVERAGE, THANK YOU.
GOVERNMENT WARNING:
(1) ACCORDING TO THE SURGEON GENERAL WOMEN SHOULD NOT DRINK ALCOHOLIC BEVERAGES DURING PREGNANCY BECAUSE OF THE RISK OF BIRTH DEFECTS. (2) CONSUMPTION OF ALCOHOLIC BEVERAGES IMPARS YOUR ABILITY TO DRIVE A CAR OR OPERATE MACHINERY, AND MAY CAUSE HEALTH PROBLEMS.

SPIRIT LIST

2 OZ POUR

VODKA

BELVEDERE / BELVEDERE CITRUS / BELUGA / BOYD & BLAIR / CHOPIN / CHOPIN RYE / CIROC / CROP ORGANIC MEYER LEMON / FINLANDIA GRAPEFRUIT / GREY GOOSE / GREY GOOSE L'CITRON / GREY GOOSE L'ORANGE / HANGAR ONE / KETEL ONE / KETEL CITROEN / KETEL ORANJE / MEILI / NEW AMSTERDAM / SEAGRAM'S (WELL) / SKYY / SQUARE ONE ORGANIC / SQUARE ONE ORGANIC BERGAMOT / STOLI / STOLI BLUEBERI / STOLI ELIT / STOLI-HOUSE INFUSED PEPPAR / STOLI OHRANJ / STOLI RAŽBERI / SVEDKA / SVEDKA RASBERRY / 360 VODKA FUDGE / THREE OLIVES / THREE OLIVES VANILLA / TITO'S HANDMADE / WHEATLEY / ZYR

GIN

AUTOMATIC HALFSHELL OYSTER GIN / AVIATION / BAINBRIDGE / BARR HILL HONEY / BARR HILL TOMCAT / BEEFEATER / BLADE / BOLS GENEVER / BOMBAY / BOMBAY SAPHIRE / BOOTHS / BROKERS / CAPROCK / CITY OF LONDON / DAMRAK / EMPRESS 1908 / EMPRESS ROSÉ / FARMERS / FORDS / GRAY WHALE / HAYMANS OLD TOM / HENDRICK'S / MILLERS' / MONKEY 47 / NO. 209 / NOLET'S / NOLET'S RESERVE / PLYMOUTH / RE: FIND / RUSTY BLADE / 17 MILE GIN / SIPSMITH LONDON DRY / SIPSMITH LEMON DRIZZLE / ST. GEORGE / SPIRIT WORKS BARREL GIN / TANQUERAY 10 / TANQUERAY / THE BOTANIST / UNCLE VAL'S

TEQUILA/MEZCAL

AVLON ANEJO, REPOSADO / AZUNIA ANEJO / AZUNIA BLANCO / AZUNIA REPOSADO / AZUNIA 2 YR ANEJO / BACANORA OME NORTE MEZCAL / CABO WABO REPOSADO / CASAMIGOS ANEJO / CASAMIGOS REPOSADO / CAZADORES ANEJO / CAZADORES BLANCO / CAZADORES REPOSADO / CENTENARIO ANEJO / CHAMUCOS ANEJO / CHAMUCOS BLANCO / CHAMUCOS REPOSADO / CHINACO REPOSADO / CLASE AZUL REPOSADO / CORRALEJO ANJEO / CORRALEJO BLANCO / CORRALEJO REPOSADO / CORRALEJO TRIPLE REPOSADO / CORAZON / CORAZON WM LARUE WELLER BARREL ANEJO / DEL MAGUEY MADRECUIXE / DEL MAGUEY MINERO / DEL MAGUEY SANTO DOMINGO ALBARRADAS / DON DILLA EXTRA ANEJO / DON EDUARDO / DON JULIO ANEJO / DON JULIO BLANCO / DON JULIO REPOSADO / DON JULIO 1942 / DON JULIO 70TH / EL JIMADOR / FIDENCIO MEZCAL / FORTALEZA BLANCO, STILL STRENGTH / FORTALEZA REPOSADO, ANEJO / HERENCIA EXTRA ANEJO / HERRADURA ANEJO / HERRADURA BLANCO / LA FAMILIA RESERVE / LOS VECINOS ESPADÍN MEZCAL / MAESTRO DOBEL REPOSADO / MILAGRO SELECT BARREL: ANEJO / MILAGRO SELECT BARREL: REPOSADO / MILAGRO SELECT BARREL: SILVER / MILAGRO SILVER, REPOSADO / MONTELOBOS MEZCAL / PATRON ANEJO / PATRON EXTRA ANEJO / PATRON REPOSADO / PATRON SILVER / PATRON GRAN BURDEOS ANEJO / PATRON GRAN PLATINUM / PATRON PIEDRA ANEJO / PATRON ROCA SILVER / PELETON MEZCAL / RESERVA 1800 / SAUZA / SAUZA COMMEMORATIVO / SAUZA HORNITOS / SUPERBIRD SPICY / TRES GENERACIONES ANEJO / TRES GENERACIONES PLATA

RUM

APPLETON ESTATE / BACARDI / BACARDI LIMON / CAPTAIN MORGAN / DIPLOMATICO RESERVA / DIPLOMATICO ANEJO RESERVA / DIPLOMATICO SINGLE VINTAGE 2000 / FLOR DE CANA 7 YR RESERVE 12, 15, 18 / KRAKEN / MALIBU / MYERS'S / MYERS'S PLATINUM / MOUNT GAY / RON ZACAPA / RON PROHIBIDO / SAILOR JERRY / TEN CANE / WHALER'S / ZAYA

COGNAC

COURVOISIER VS / HENNESSEY VS / HINE VSOP / MARTELL CORDON BLEU / MARTELL VSOP / REMY MARTIN 1738 / REMY MARTIN VSOP / REMY MARTIN XO

IRISH WHISKEY

BUSHMILLS / BUSHMILLS BLACK BUSH / JAMESON / JAMESON 18 YR / JAMESON CHECKMATE / KILBEGGAN / KNAPPOGUE CASTLE 16 YR / MICHAEL COLLINS / PADDY / RED BREAST 12 YR, 21 YR / TEELING / THE SEXTON / TULLAMORE DEW / TULLAMORE DEW SINGLE MALT 14 YR / TYRCONNELL / UISCE BEATHA

BOURBON & WHISKEY

ANGEL'ENVY / BAKER'S / BASIL HAYDEN'S / BASIL HAYDEN 10 YR / BELLE MEADE / BERNHEIM / BIB AND TUCKER / BIG BOTTOM PORT CASK / BLANTON'S / BOOKER'S / BREAKING & ENTERING / BUFFALO TRACE / BULLIET / BULLEIT BARREL STRENGTH / BULLIET RYE / DAD'S HAT RYE / CHARBAY / CHARTER OAK / CREAM OF KENTUCKY 11.5 YR / CROWN ROYAL / DICKEL / E.H. TAYLOR SINGLE BARREL / E.H. TAYLOR SMALL BATCH / E.H. TAYLOR BARREL PROOF / E.H. TAYLOR STRAIGHT RYE / EAGLE RARE / EAGLE RARE 10 YR, 17 YR / ELIJAH CRAIG SMALL BATCH / ELIJAH CRAIG BARREL PROOF / ELIJAH CRAIG RYE / ELMER T. LEE / FOUR ROSES SINGLE BARREL / FOUR ROSES SMALL BATCH / GARRISON SINGLE BARREL / GARRISON SMALL BATCH / GEORGE T. STAGG / GEORGE T. STAGG JR / GENTLEMEN JACK / HANCOCK'S PRESIDENT'S RESERVE / HENRY MCKENNA / HIGH WEST RYE / HIGH WEST CAMPFIRE / HIGH WEST PRAIRIE / HIGH WEST CASK COLLECTION / HIRSCH SMALL BATCH / HUDSON CORN WHISKEY / JACK DANIELS / JACK DANIELS RYE / JACK DANIELS SINGLE BARREL / JEFFERSON'S RESERVE / JOHNNY DRUM / KNOB CREEK / KNOB CREEK RYE / LEOPOLD BROS WHISKEY / LITTLE BOOK / MAKER'S MARK / MASTERSON'S 10 YR RYE / MICHTER'S STRAIGHT RYE / MICHTER'S SOURMASH / MICHTER'S 10 YR RYE / MICHTER'S AMERICAN WHISKEY / MONTEREY RYE / NOAH'S MILL BOURBON / OLD CARTER BACH 2 / OLD FORESTER / ORPHAN BARREL FABLE & FOLLY 14 YR / ORPHAN BARREL SCARLET RYE 14 YR / PAPPY VAN WINKLE 10 YR, 12 YR, 15 YR / PENDLETON CANADIAN RYE / PIKESVILLE 6 YR RYE / REDEMTION RYE / RI (1) RYE WHISKEY / RITTENHOUSE RYE, RYE 25 YR / ROCK HILL FARMS / ROWAN'S CREEK BOURBON / RUSSELL'S RESERVE 6 YR, RYE 10 YR / SAM HOUSTON / SAZERAC RYE, 18 YR / SEVEN STILLS / SPIRIT WORKS RYE / STETSON BOURBON / TEMPLETON RYE / THOMAS H. HANDY SAZERAC RYE / WESTLAND / W.L. WELLER 12 YR / W.L. WELLER SPECIAL RESERVE / WELLER SINGLE BARREL / WILLIAM LARUE WELLER / WILLET RYE / WILLET POT STILL RESERVE / WISER'S RYE / WOODFORD RESERVE / WOODFORD RESERVE RYE / WYOMING SMALL BATCH / UNCLE NEAREST

SCOTCH

ABERLOUR 12 YR, 18 YR / ARDBERG UIGEADAIL / ARDMORE / AUCHENTOSHAN 12 YR / AUCHENTOSHAN THREE WOOD / BALVENIE 12 YR DOUBLE WOOD / BALVENIE 14 YR CARIBBEAN CASK / BALVENIE 15 YR / BALVENIE DOUBLEWOOD 17 YR / BALVENIE PORTWOOD 21 YR / BANK NOTE / BENRIACH 12 YR / BENROMACH 10 YR / BOWMORE 12 YR, 15 YR, 18 YR, 25 YR / BOWMORE LEGEND / BRUICHLADDICH BARLEY / BRUICHLADDICH BERE BARLEY / BRUICHLADDICH LADDIE UNPEATED / BRUICHLADDICH PORT CHARLOTTE / BUNNAHABHAIN 12 YR / BUNNAHABHAIN TOITEACH / BUNNAHABHAIN 2006 / CADENHEAD CAMBELTOWN / CADENHEAD HIGHLAND / CADENHEAD LOWLAND / CADEN HEAD ORD 12 YR / CAOL ILA 2005 CASK STRENGTH/ CAOL ILA 12 YR / CHIVAS REGAL 12 YR, 18 YR / CLYNELISH 14 YR / CRAGGANMORE 12 YR / CRAGGANMORE DISTILLERS EDITION / DALMORE 12 YR, 15 YR, 18 YR / DALWHINNIE 15 YR / DALWHINNIE DISTILLERS EDITION / DEANSTON 12 YR / FAMOUS GROUSE / GEORGE & SMITH GLENLIVET 21 YR / GLEN GRANT 15 YR, 18 YR / GLENBURGIE 10 YR / GLENDRONACH 12 YR / GLENFARCLAS 12 YR, 40 YR / GLENFIDDICH 12 YR, 14 YR, 15 YR, 18 YR, 21 YR, / GLENKINCHIE 12 YR / GLENLIVET 12 YR, 18 YR, 21 YR, 25 YR / GLENMORANGIE 10 YR, 18 YR / GLENMORANGIE '92 LASANTA / GLENMORANGIE NECTAR / GLENMORANGIE SIGNET / GLENROTHES 1985 / GLENROTHES SELECT RESERVE / HAKUSHU 12 YR, 18 YR / HIBIKI HARMONY / HIBIKI 21 YR / HIGHLAND PARK 12 YR, 21 YR / JOHNNIE WALKER BLACK, RED, BLUE, 18 / JOHNNIE WALKER RYE CASK / JURA 18 YR / KILKERRAN CAMPBELTOWN 12 YR / KIKORI / LAGAVULIN 16 YR / LAGAVULIN DISTILLERS EDITION / LAPHROAIG 10 YR, 18 YR, 25 YR / LAPHROAIG CAIRDEAS / LAPHROAIG QUARTER CASK / LAPHROAIG SELECT / LAPHROAIG TRIPLE WOOD / LEDAIG 10 YR / LITTLEMILL 12 YR / MACALLAN 12 YR, 15 YR, 18 YR, 21 YR, 25 YR / MACALLAN HARMONY / MACALLAN RARE CASK / MACKILLOP'S 15 YR CAOL ILA / MACPHAIL'S HIGHLAND PARK 24 YR / MORTLACH 15 YR, 25 YR / NIKKA 17 YR / NIKKA COFFERY GRAIN / OBAN 14 YR / OLD PULTENEY 21 YR / PINCH / RATTRAYS 21 YR BATCH #2 / SAMAROLI CAOL ILA '83 / SAMAROLI EVOLUTION 2013 / SAMAROLI GLEN SCOTIA 21 YR '92 / SAMAROLI 'S PEATY / SCAPA / SCAPA 15 YR 1993 / SCOTT'S BRUICHLADDICH '90 NATURAL CASK / SIGNATORY GLENLIVET 1995 / SIGNATORY LONGMORN 1992 / SIGNATORY MACALLAN 1998 / SPEYBURN 10 YR / SPEYMALT 35 YR MACALLAN '72 / SPEYSIDE 12 YR / SPRINGBANK 10 YR, 15 YR, 18 YR / TALISKER 10 YR / TALISKER DISTILLERS EDITION / TOBERMORY 10 YR / TOMATIN 30 YR / USQUAEBACH CERAMIC / YAMAZAKI 12 YR, 18 YR

EXTREMELY LIMITED AVAILABILITY

HIBIKI 21 YR / LAPHROAIG 18 YR / WELLER SINGLE BARREL / WILLIAM LARUE WELLER / CREAM OF KENTUCKY 11.5 YR / RITTENHOUSE RYE 25 YR VERY RARE / HANCOCK'S PRESIDENT'S RESERVE BOURBON / CORAZON "EXPRESIONES" TEQUILA (ROTATING) / WM LARUE WELLER BARREL AGED ANEJO / EAGLE RARE 17 YR / SAZERAC RYE 18 YR

GOVERNMENT WARNING:
(1) ACCORDING TO THE SURGEON GENERAL WOMEN SHOULD NOT DRINK ALCOHOLIC BEVERAGES DURING PREGNANCY BECAUSE OF THE RISK OF BIRTH DEFECTS. (2) CONSUMPTION OF ALCOHOLIC BEVERAGES IMPARS YOUR ABILITY TO DRIVE A CAR OR OPERATE MACHINERY, AND MAY CAUSE HEALTH PROBLEMS.

ATTACHMENT 2

A.W. Shucks, LLC's Grounds for Appeal
(attachment to Appeal Form)
Appeal of Planning Commission action, Feb. 11, 2026,
Agenda Item #5 (UP 93-45)

From: Brandon Swanson <bswanson@ci.carmel.ca.us>
Date: August 28, 2023 at 11:25:02 AM PDT
To: John plastini <plastinico@aol.com>
Subject: A W Shucks LLC Menu

John,

Following up from our phone call just now, this email serves as confirmation that the menus you provided (attached), were also approved August 15th, 2008, as part of Permit # 08-168C. These menus maintain the same legal nonconforming status that I referenced in my previous email sent on August 14th, 2023, therefore they are allowed to be served in whole or in part. Please note that our past practice has been that minor modifications to restaurant menus may be made without the need for City approval.

Take care,

-Brandon

Brandon Swanson [he, him, his]

Director, Community Planning and Building

City of Carmel-by-the-Sea

(831) 620-2024

Please take our **Customer Satisfaction Survey**.

On Mon, Aug 14, 2023 at 4:26 PM Brandon Swanson <bswanson@ci.carmel.ca.us> wrote:

John,

Thank you for sending this. I have not had a chance to write you a formal memo, but I did want to at least respond to you today and confirm that based on the records that we have available, my determination is that the City memorialized the additional cooking equipment and restaurant operation by approving a building permit on August 15th, 2008 (Permit # 08-168C). In this case, even though the original Use Permit sets a limit on the type of equipment and menu, the City took an official action to approve the updated kitchen and the menu it was meant to prepare, thereby creating a legal nonconforming situation that is allowed to continue under Chapter 17.36 of the City's Municipal Code.

Take care,

-Brandon

Brandon Swanson [he, him, his]

Director, Community Planning and Building

City of Carmel-by-the-Sea

(831) 620-2024

Please take our **Customer Satisfaction Survey**.

On Mon, Aug 14, 2023 at 1:52 PM John plastini <plastinico@aol.com> wrote:

Brandon,

Per our conversation, please find email with attachment of A.W. Shucks menu.

Any questions please do not hesitate to contact me as always thank you for the assistance in this matter.

Best,

John Plastini

Sent from my iPhone

Begin forwarded message:

From: Lisa Miller <forefamily@aol.com>
Date: August 14, 2023 at 1:48:09 PM PDT
To: John Plastini <plastinico@aol.com>
Subject: A W Shucks LLC Menu

Hi John

Per your request, please find attached our current menu.

If there is anything else I can provide, just let me know!

We appreciate all of your help!

Lisa

Cocktails

Standard Cosmopolitan 13
New Amsterdam Vodka / Cointreau /
Fresh Pressed Lime Juice / Cranberry Juice

1951 Martini 14
Plymouth Gin / Cointreau / Anchovy Stuffed Olives

Organic Lemon Drop 14
Crop Organic Meyer Lemon Vodka / Cointreau /
Fresh Pressed Lemon Juice / Simple Syrup

Naked & Famous 14
Mezcal / Chartreuse / Aperol / Fresh Pressed Lime Juice

Ruby Row 13
Finlandia Grapefruit / Cointreau / Fresh Pressed Lime Juice /
Cranberry Juice / Grapefruit Juice

Buffalo Trace Manhattan 14
Buffalo Trace Bourbon / Sweet Vermouth / Bitters

Agave Nectar Margatini 14
Tres Generaciones Tequila / Organic Agave Nectar /
Fresh Pressed Lime Juice / (No Salt Please)

Raz Lemon Drop 13
Svedka Raz Vodka / St. George Raspberry Liqueur /
Triple Sec / Fresh Pressed Lemon Juice / Cranberry Juice

Pink Panties 13
Wheatley Vodka / Dekuyper Watermelon Pucker /
Pineapple Juice

Hawaiian Negroni 13
White Ginger Gin / Campari / Sweet Vermouth

Oirty Margarita 14
Milagro Reposado / Cointreau / Fresh Pressed Lime Juice /
Orange Juice / Olive Brine / Served Up with 2 Olives

Remy Sazerac 14
Remy Martin 1738 Cognac / Simple Syrup / Bitters / Absinthe

Vesper 15
Tito's Handmade Vodka / Nolet's Gin / Lillet

Paper Plane Cocktail 15
Buffalo Trace Bourbon / Aperol / Amaro /
Fresh Pressed Lemon Juice

WE PROUDLY FEATURE
135 Scotches / **18** Irish Whiskeys / **22** Rums
50 Vodkas / **81** Bourbon & Whiskeys / **36** Gins
64 Tequilas / **45** Imported Liqueurs

Beer

Draft Beer
Shuckers Ale / Allagash Wheat /
Firestone Hopnosis IPA / Sculpin IPA
Kona Longboard Lager / Stella Artois 7.5

Anderson Valley Oatmeal Stout 8.5

Chimay Trapiste (served in goblet) 8.5

Bottled Beer (Domestic) 4.5
Bud / Bud Light / Coors Light

Bottled Beer (Hand Crafted Domestic) 6.5
Anchor Steam/ Blue Moon

Bottled Beer (Imported) 6.5
Corona / Corona Light / Heineken / Modelo /
St. Pauli's (Non-Alcohol)

Guinness Draft / Fort Point Hazy IPA (Can) 6.5

Angry Orchard Cider 6.5

On the Rocks

A.W. Shucks "BEST" Bloody Mary 13
Our House Specialty made with our housemade mix is
simply the BEST! *Extra Heat?* Add House-infused Peppar
Stoli Vodka (+2)

Moscow Mule 13
New Amsterdam Vodka / Ginger Beer / Fresh Pressed Lime Juice.
(Copper Mug available for purchase 29.95)

Cadillac Margarita 15
Tres Generaciones Tequila / Cointreau / Fresh Pressed Lime Juice /
Sour Mix / Grand Gala Float

Shucks Top Shelf 14
Cazadores Blanco / Cointreau / Fresh Pressed Lime Juice /
Sour Mix

Pomegranate Margarita 15
Tres Generaciones Tequila / Pama / Fresh Pressed Lime Juice /
Sour Mix / Cranberry Juice

St. Germain Squeeze 14
Hendrick's Gin / St. Germain / Grapefruit Juice

Long Island Iced Tea 13
Vodka / Gin / Rum / Tequila / Triple Sec / Fresh Pressed
Lemon Juice / Simple Syrup / Coca-Cola

Old Fashioned 13
Knob Creek Rye / Bitters / Orange / Cherry / Sugar

Mai Tai 13
Myers Platinum Rum / Pineapple & Orange Juice /
Grenadine / Whalers Float

Mojito 14
Myers Platinum Rum / Fresh Pressed Lime Juice /
Sugar / Fresh Mint / Soda

Sunsplash 12
Stoli Ohranj Vodka / Cointreau / Orange Juice / Sour Mix

Boulevardier 14
Basil Hayden / Campari / Sweet Vermouth

OYSTER SHOOTERS
13

Bloody Mary Oyster Shooter
Svedka Vodka / House Bloody Mary Mix / Fresh Oyster

Tequila Lime Shooter
Chilled Sauza Tequila / Fresh Oyster / Cocktail Sauce
Horseradish / Salsa
Served Up Martini-Style

Peppar Oyster Shooter
House-infused Peppar Stoli Vodka
Fresh Oyster / Cocktail Sauce / Horseradish / Salsa
Served Up Martini-Style

Beverages

Bottled Water 4.95
Panna (Flat) or Pellegrino (Sparkling) 500ml

Soft Drinks / Tea / Coffee 4.5
Coke / Diet Coke / Sprite / Ginger Ale / Lemonade

Shirley Temple / Roy Rogers 4.75

Ginger Beer / Red Bull 4.75

Henry Weinhard's Root Beer 4.75

Fruit Juice 4.5
Apple / Cranberry / Grapefruit / Orange / Pineapple

REQUIRED BY CALIFORNIA STATE LAW, WATER SERVED UPON REQUEST.
NO HALF ORDER OF ANY BEVERAGE.

EXTENSIVE LIQUOR LIST INSIDE FLAP ☞

STARTERS

Deep Fried Calamari 17
Steamed Artichoke 13
Jumbo Prawn Cocktail 19
Crabmeat Cocktail 22
Dungeness/Rock Crab
Bay Shrimp Cocktail 13
Peel & Eat Prawns 14
Smoked Salmon Plate 17
Chilled Seafood Sampler 30
3 Oysters, Bay Shrimp, Crab, Salmon, and Peel & Eat Shrimp
Crab Cake à la Carte 13

CHOWDER OR CHILI

8.50 CUP / **10.50** BOWL

Clam Chowder
New England (White) | Manhattan (Red)
or Rosé (a special blend of both)

Spicy Vegetarian Chili (Vegan)

SALADS

Dressing: Ranch, Louie, Italian, Blue Cheese, Oil & Vinegar

Shucks Garden Salad 10
Caesar Salad 12
Add the following to above salads:
Chicken (+9) | Bay Shrimp (+8)
Jumbo Prawns (+15) | Dungeness/Rock Crab (+16)
Prawn Louie 26
Crab Louie Dungeness/Rock 29
Crab & Prawn Louie Dungeness/Rock 31
Crab Cake with Caesar Salad 21

"ONLY OTTERS EAT FRESHER OYSTERS"

OYSTERS on the HALF SHELL

FRESH OYSTERS
Selection Varies
Served with House-Made Cocktail Sauce & Mignonete
19 HALF DOZEN | **38** DOZEN

SALSA OYSTER SHOOTER 5

"OYSTERS SHUCKEFELLER"
Broiled in the Shell with Butter, Garlic, Wine,
Seasoning and topped with Parmesan Cheese
21 HALF DOZEN | **42** DOZEN

FRIED PACIFIC OYSTERS
Cornmeal-Panko Fried with our
House-Special Remoulade
21 HALF DOZEN

SPLIT CHECKS LIMITED TO TWO (2) PER TABLE
NO SUBSTITUTIONS PLEASE | MENU AND PRICES SUBJECT TO CHANGE
ALL FRIED ITEMS PREPARED IN EXPELLAR PRESSED NON-GMO CANOLA OIL
Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness.
We are unable to guarantee items are 100% free of allergens.
A.W. Shucks is not responsible for lost or stolen items.
***Required by California state law, water served upon request.**

SEAFOOD

Fish, Shrimp, or Vegan Tacos 12
à la Carte, Soft Corn Tortillas
Beer Battered Fish & Chips (or Garden Salad) 19
Alaskan Cod Sauté with Garden Salad 20
Tomatoes, Capers and Garlic
Deep Fried Calamari & Chips (or Garden Salad) 20
Beer Battered Jumbo Prawns & Chips (or Garden Salad)
SIX (6)..... 22 NINE (9) 25
Beer Battered Fish Burger 19
with Fries or Garden Salad (Caesar +2)

FRIED COMBO PLATTER

28
Calamari, Fish, and Prawns
with Fries or Garden Salad

FROM THE GRILL

With Lettuce, Tomato, Onion, and Pickles on Grilled Sesame Seed Bun. Served with Fries or Garden Salad (Caesar +2)

Half Pound Burger 15
Marinated Chicken Breast Burger 15
Vegan Veggie Burger (Whole Wheat Bun) 12

Add Grilled Onions, Cheddar or Jack Cheese to any of the above items (+2 ea) / Blue Cheese, Avocado or Bacon (+4 ea)

PO'BOY SANDWICH

OYSTER *or* **SHRIMP 21**
Cornmeal-Panko Fried, Special-Blend Lettuce,
Tomato, and Mayo on a Rustic Ciabatta
with House-Made Shucks Sweet & Sour Slaw

SANDWICHES

Served on Toasted Italian Sourdough with Fries or Garden Salad (Caesar +2)

Seafood Salad 18
Rock Crab and Shrimp with Celery, Onions, Mayo & Seasonings, Lettuce, Tomato, and Onion
Albacore Tuna Salad 16
with Lettuce, Tomato & Onion
Albacore Tuna Melt (with Jack Cheese) 18
Smoked Turkey Breast 16
with Jack Cheese, Lettuce, Tomato, and Onion
Grilled Cheese (with Cheddar Cheese) 14

SANDWICH COMBOS

HALF Sandwich: TUNA, TURKEY OR GRILLED CHEESE
(Seafood Salad or Tuna Melt +2.5) with choice of:
Soup ..... **16** CUP | **18** BOWL
Fries 14
Garden Salad 14
Caesar Salad 16

SOUP AND SALAD COMBO

(Caesar +2)

Cup with Garden Salad 15
Bowl with Garden Salad 17

SIDES

French Fries 6
House-Made Sweet & Sour Cole Slaw 4

DESSERT

HOUSE-MADE KEY LIME PIE
with Graham-Pecan Crust **10.50**

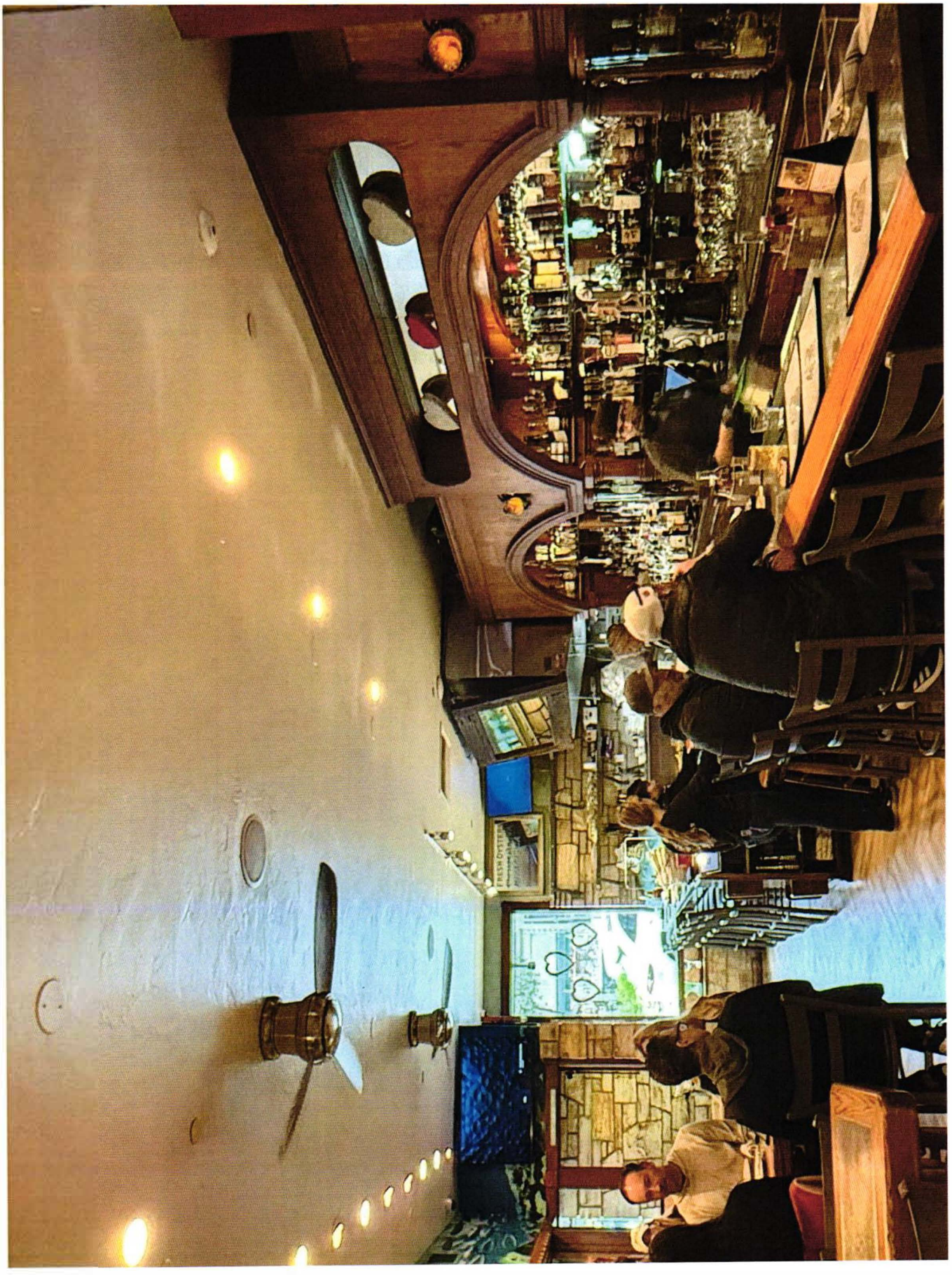
ATTACHMENT 3

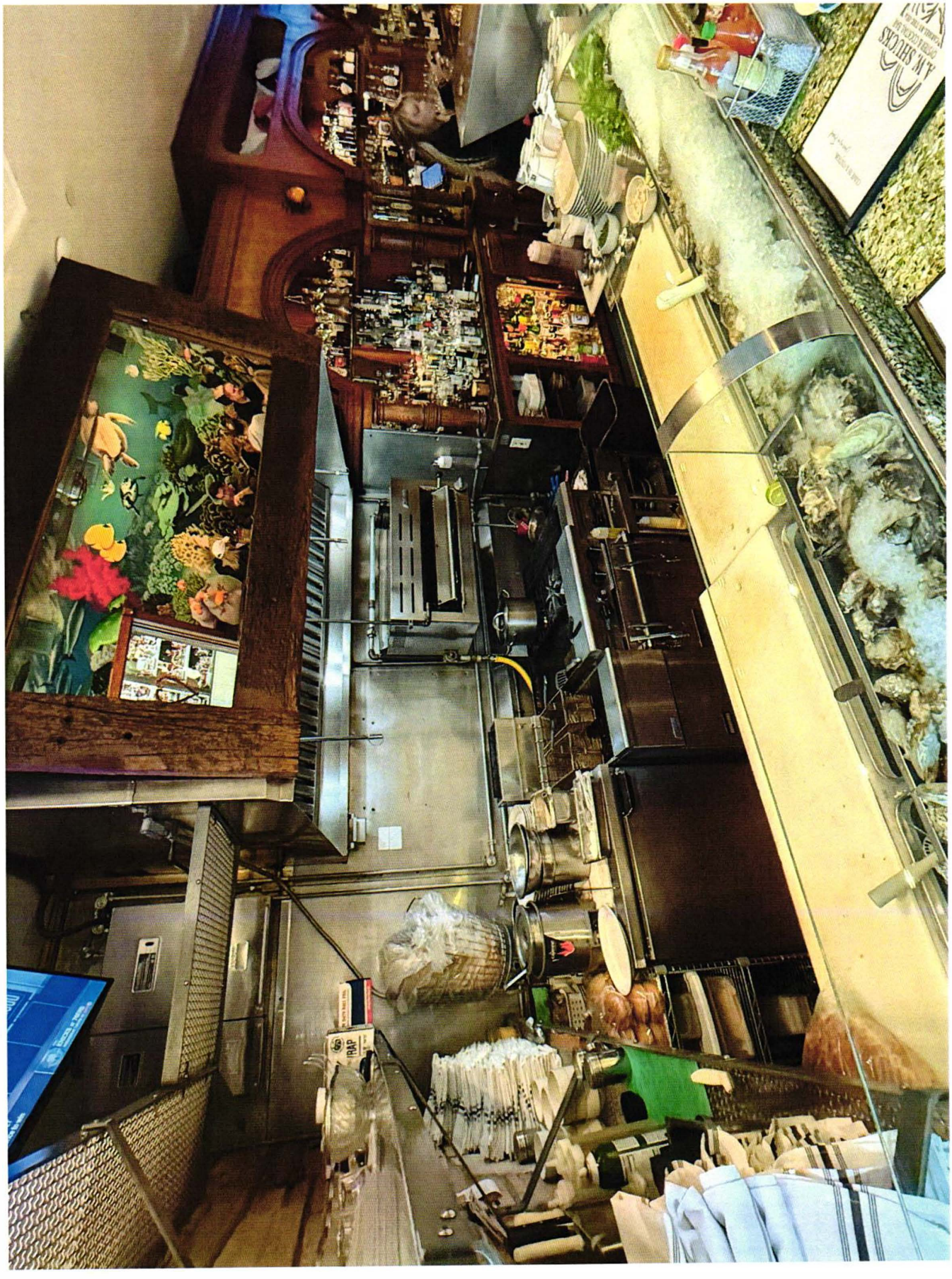
A.W. Shucks, LLC's Grounds for Appeal
(attachment to Appeal Form)
Appeal of Planning Commission action, Feb. 11, 2026,
Agenda Item #5 (UP 93-45)


BEST BLOODY MARY...
FRESH OYSTERS
FISH & CHIPS
CLAM CHOWDER
Please Wait for Host to Seat You
WELCOME TO
A.W. SHUCKS
COCKTAIL & OYSTER BAR
OPEN DAILY 11 AM
Sorry, No Public Restrooms
Restrooms for Customers Only
TripAdvisor
A.W. SHUCKS
CAUTION
Wet Floor
Cuidado
Piso Mojado



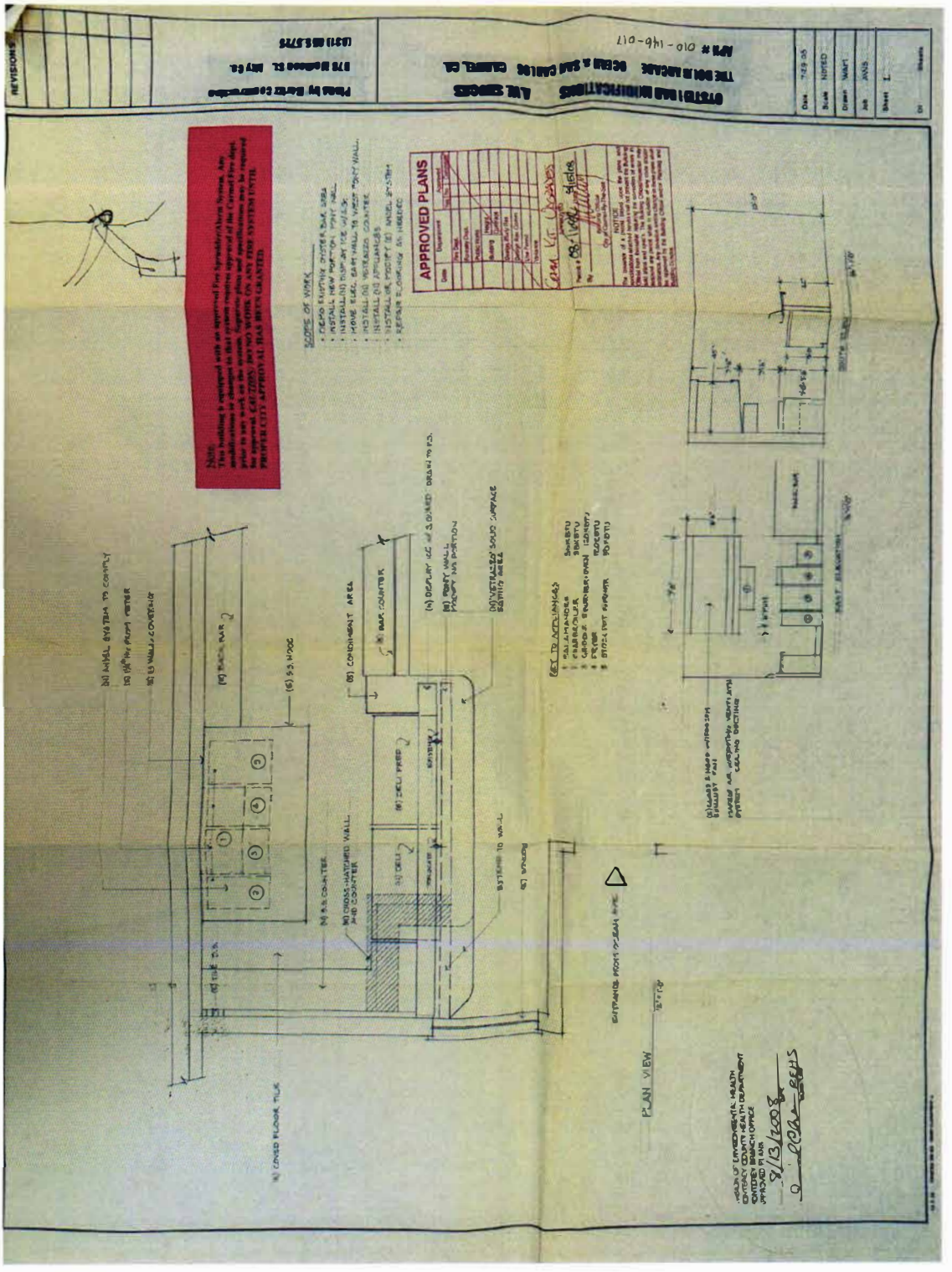


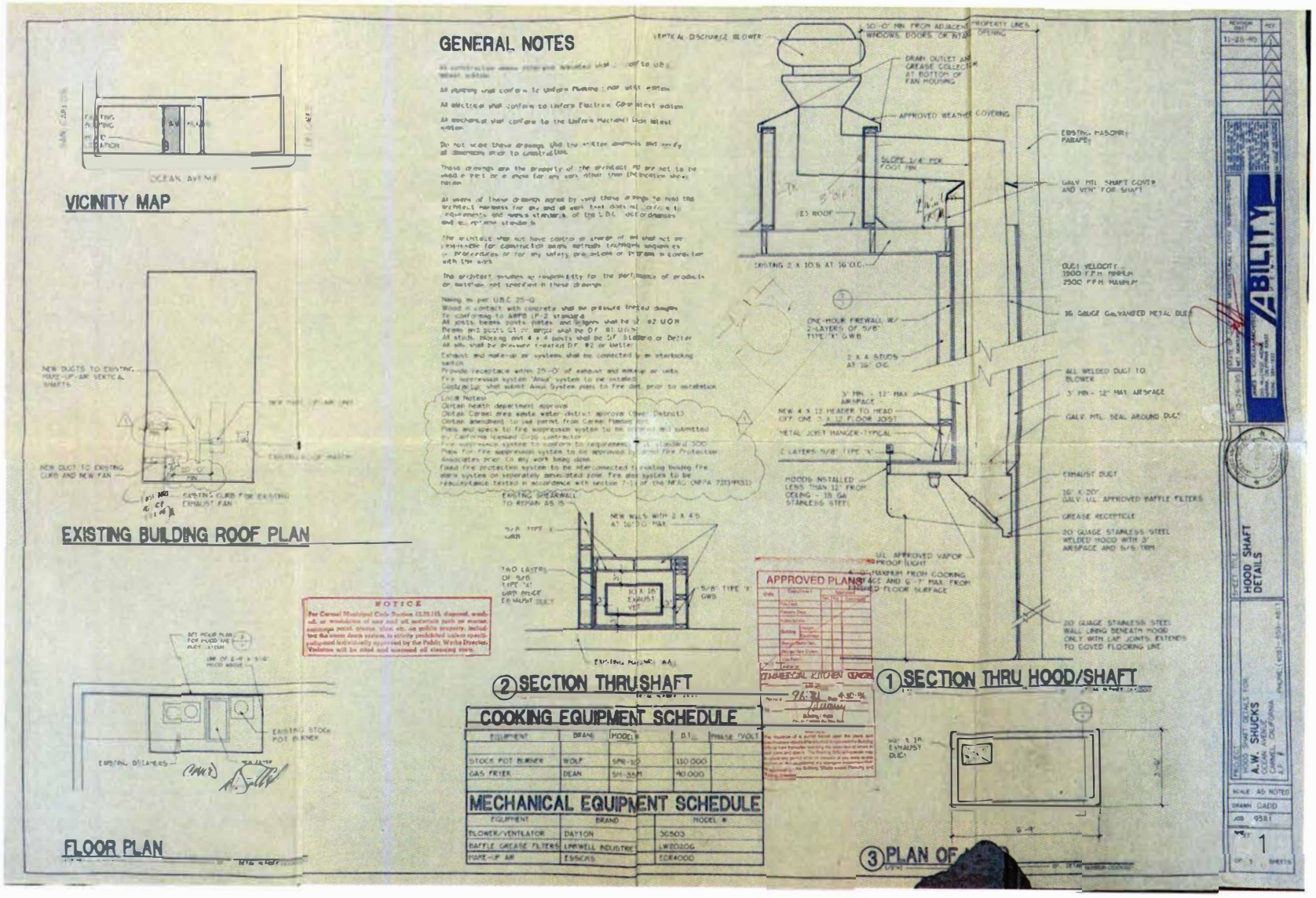




ATTACHMENT 4

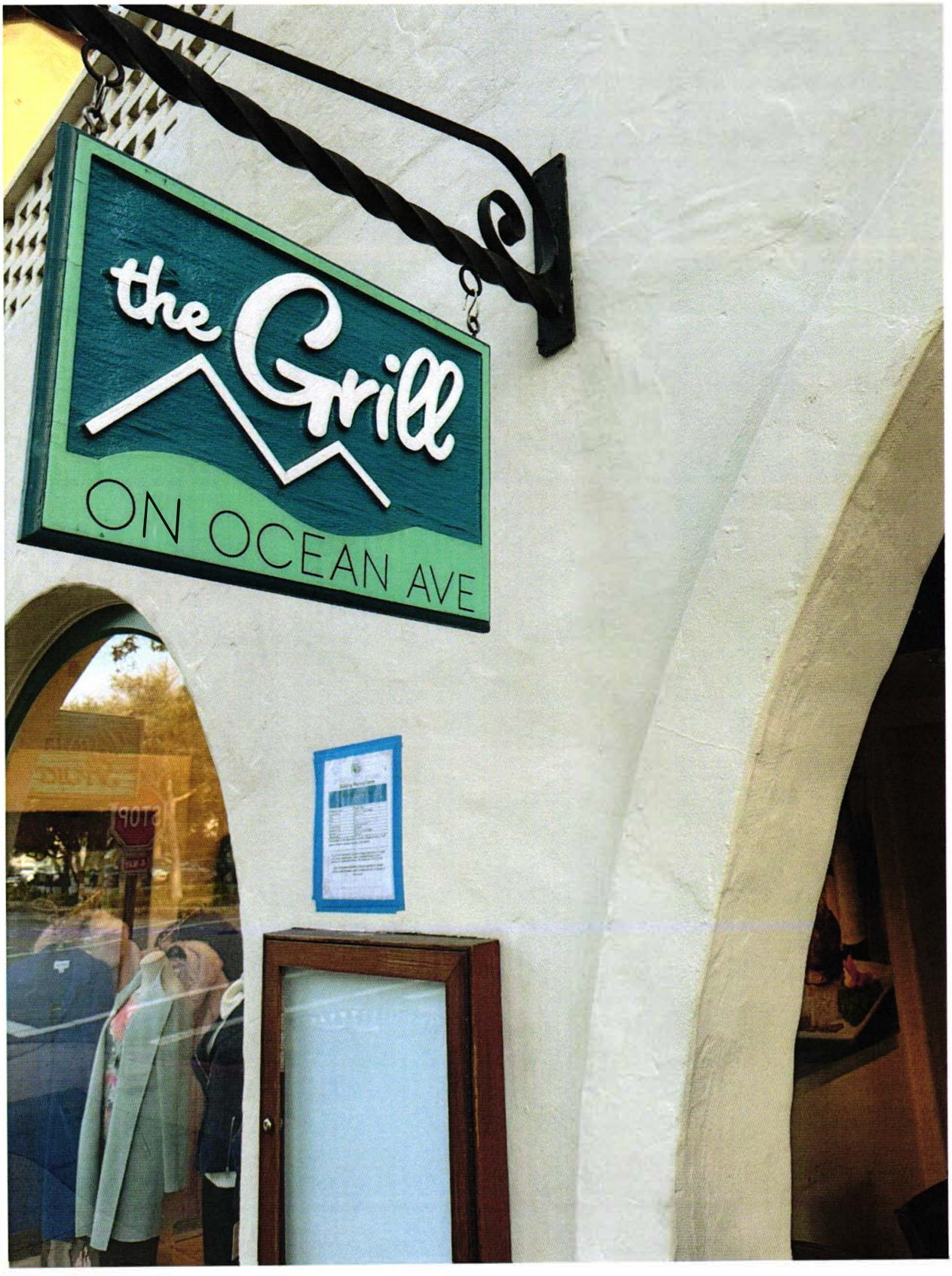
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APPROVED PLANS
PLAN VIEW
SCOPE OF WORK
(E) BAR COUNTER
(E) DELI PREP
(E) SINK
(E) COUNTER
(E) CONDIMENT AREA
(E) BACK BAR
(E) SINK
(E) COUNTER
(E) CROSS-HATCHED WALL AND COUNTER
(E) COUNTER
(E) CONDIMENT AREA
(E) BACK BAR
(E) DELI PREP


GENERAL NOTES
VICINITY MAP
OCEAN AVENUE
EXISTING BUILDING ROOF PLAN
FLOOR PLAN
NOTICE
APPROVED PLANS
2 SECTION THRUSHAFT
1 SECTION THRU HOOD/SHAFT
3 PLAN OF
COOKING EQUIPMENT SCHEDULE
MECHANICAL EQUIPMENT SCHEDULE
HOOD SHAFT DETAILS
A.W. SHUCKS
ABILITY

ATTACHMENT 5

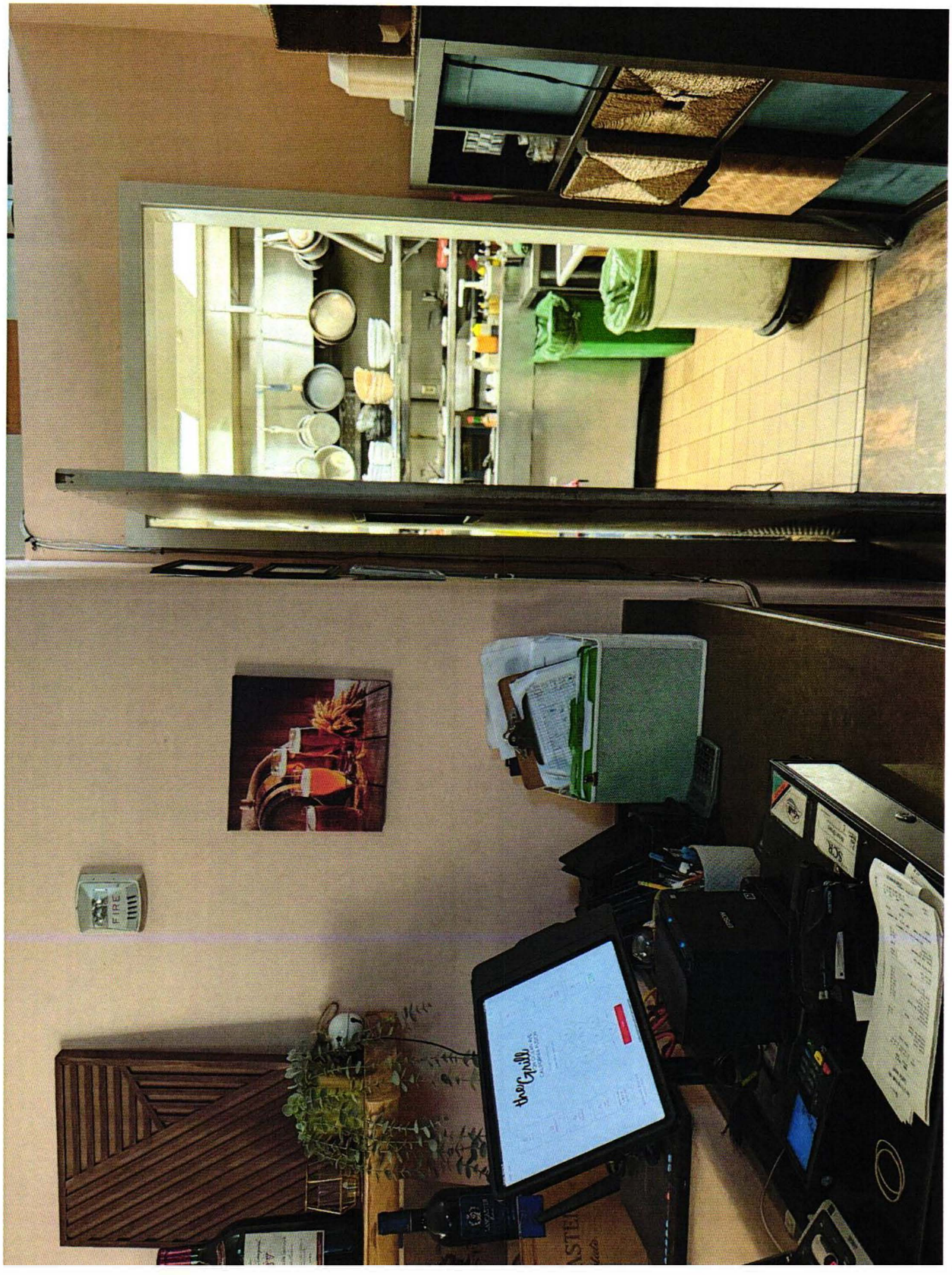
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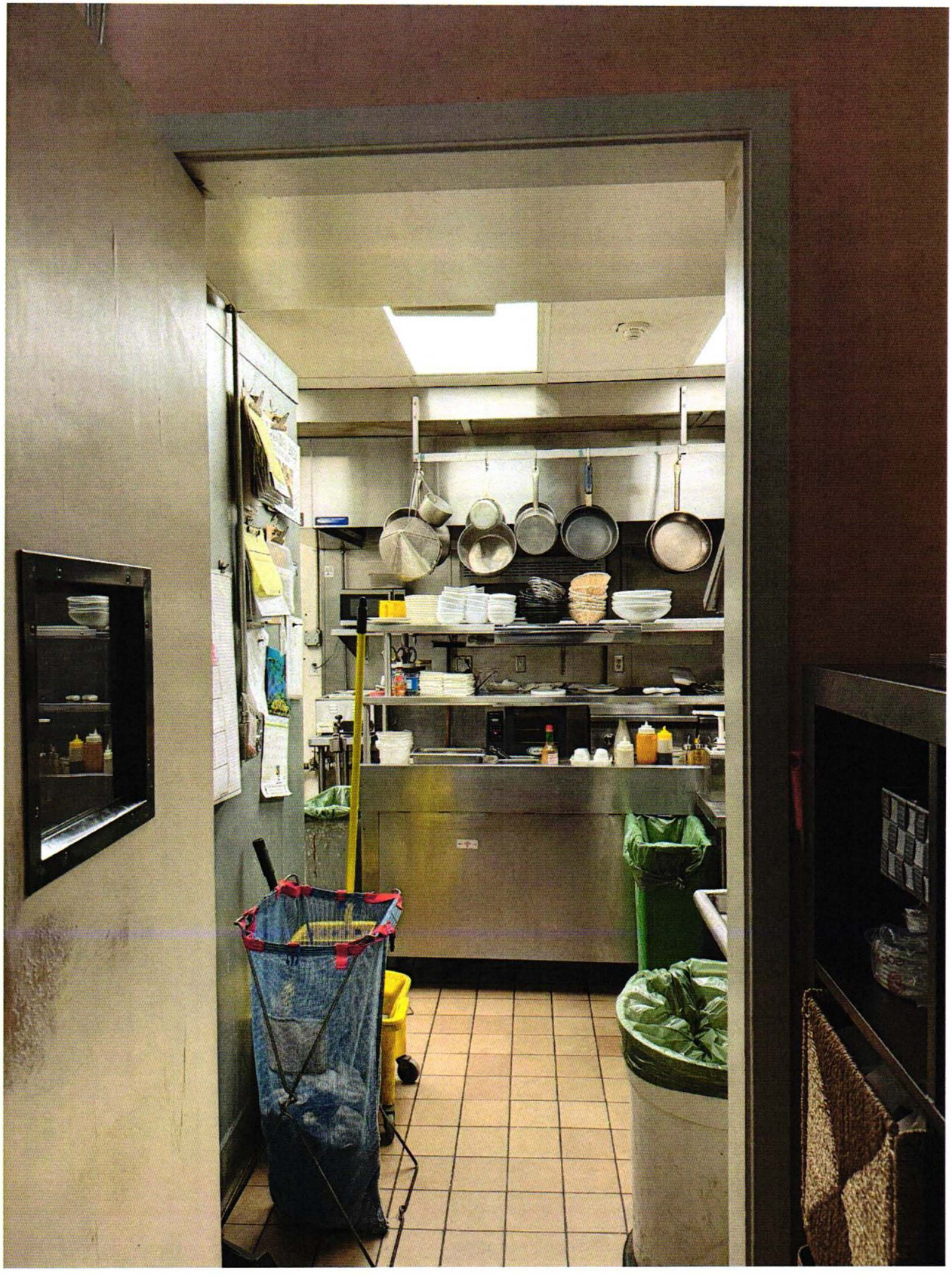

the Grill
ON OCEAN AVE

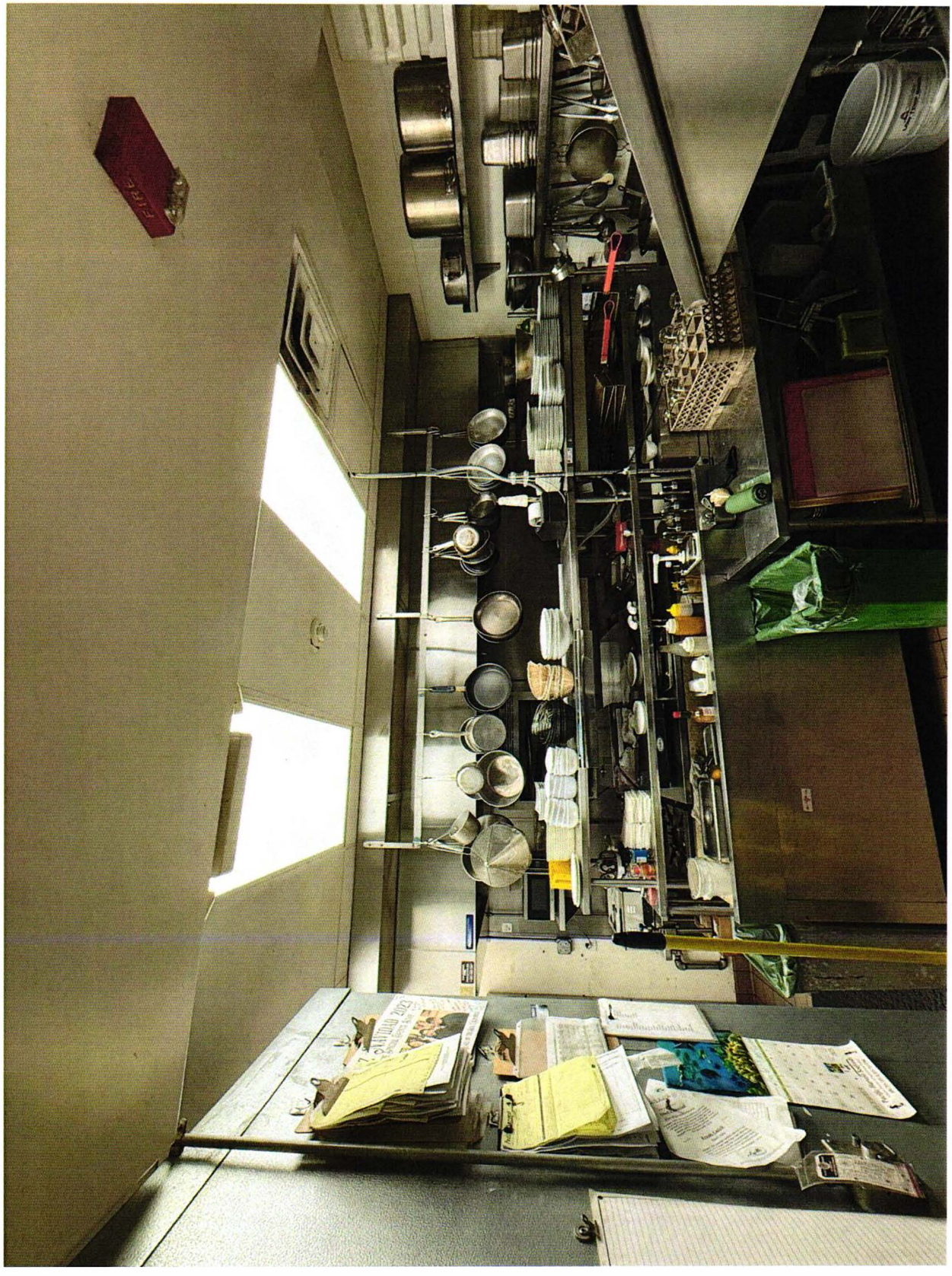

Closed






FIRE




FIRE



ATTACHMENT 6

A.W. Shucks, LLC's Grounds for Appeal
(attachment to Appeal Form)
Appeal of Planning Commission action, Feb. 11, 2026,
Agenda Item #5 (UP 93-45)

ATTACHMENT 5

Starters Menu



Starters

Spinach & Artichoke Dip 17
hroasted artichoke hearts | spinach | three cheese | pita bread

Monterey Bay Calamari 18
locally caught calamari | tartar sauce

Spicy Meditteranean Cauliflower 15
organic cauliflower | aleppo pepper | coriander lemon tahini sauce

Ahi Poke Tower 20
togarashi ahi tuna | sweet wasabi soy | avocado | cucumbers | edamame
crispy wonton chips

ATTACHMENT 5

Hummus Dip 14
chickpea purre | pita bread

Spicy Tandoori Shrimp 19
kashmiri chili marinated shrimp | tzatziki Dip

Chef's Sampler 19
meditteranean dips | pita bread

Beer Battered Onion Rings 12
Coriander Lime Ranch Dip
Basket of French Fries 12
Add Garlic & Truffle Oil 6

Little Grill

(for 10 & under)

Chicken Tenders with French Fries

Grilled Cheese with French Fries

Hamburger with French Fries

Penne Pasta
(choice of Butter Sauce or Marinara)

Chocolate Chip Cookie Ala Mode

Beverages

Soft Drinks 5
Refreshers 5
Strawberry-Watermelon, Cranberry-Orange & Mango-Ginger

Beer by the Bottle 8
Draft Beer 9
Ask the server for the current beer on tap

Hot Beverages

Hot Tea, Coffee, Hot Chocolate 5
Espresso, Cappuccino, Mocha 5

Desserts

ask your server for Gluten free options

Vanilla Creme Brulee
Citrus infused Panna Cota with Fresh Berries
New York Cheesecake | Berry Coulis
Tiramisu
Chocolate Layered Cake
Orange Blossom Infused Vanilla Ice Cream

Location

ATTACHMENT 5

The Grill On Ocean Avenue
3 SW Corner Ocean Ave.
Carmel-By-The-Sea, CA 93923

We reserve the right to change our prices at any time without further notice.
Prices listed in any other websites may not be accepted.

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ATTACHMENT 5

Lunch Menu



Soups & Salads

New England Clam Chowder 10 **Soup of the Day** 9

Carmel Valley Greens 15
market field greens | tomato | cucumber | pickled red onion | pomegranate vinaigrette | candied walnuts

Classic Caesar 15
romaine lettuce | classic caesar dressing | aged parmigiano reggiano | topped with anchovies

Roasted Beet & Citrus 16
mixed roasted beets | citrus segments | goat cheese | pomegranate vinaigrette | toasted pistachios

Falafel Salad 19
chickpea patties | red leaf lettuce | cucumbers | tomatoes | pickeld red onions | tahini dressing

Flatbreads

Carmel Valley Garden Vegetable 17
mushroom | artichoke | tomatoes / mozzarella | fresh basil | herb spread

ATTACHMENT 5

Shrimp & Fire Roasted Tomatoes 21
grilled shrimp | roasted tomato | lemon zest | fresh basil | parmesan cream

Mixed Mushroom & Gilroy Garlic 18
local mushroom medley | roasted garlic | gouda | light gilroy garlic sauce

Chicken & Bacon 19
grilled chicken | applewood bacon | red onion | roasted red peppers | bbq sauce

Steak & Cheese 19
grilled sliced tenderloin | tomato sauce | mozzarella | gouda | red onion | fresh herbs

Lunch Selections

All Sandwiches come with a side of French Fries

Grilled Chicken Sandwich 20
grass fed chicken | herb spread | baby spinach | tomato

Tacos La Playa 23
grilled fish | corn tortilla | cabbage salad | citrus tartar sauce | fresh salsa
(vegetarian option available)

The Grill ½ Pound Burger 22
hand formed patty | brioche bun | burger fixings

Trio Mini Sliders 24
chicken with chipotle spread & onion ring | beef burger w/ tahini lemon | falafel patty

Fish 'n' Chips 25
house battered fish

Mediterranean Sandwich 20
choice of gyro or shawarma chicken

Grilled Fungi Sandwich 20
marinated grilled portobello mushroom | eggplant | roasted red pepper | layered wheat bread
an onion ring

Surf 'n' Turf Fajitas 25
garlic grilled shrimp | flat iron steak | peppers & onions | maize tortillas

Penne Rigate 22
artichokes | bell peppers | kalamata olives | sundried tomato | parmigiano reggiano
choice of tomato basil or alfredo sauce

Shrimp Scampi 28
fresh linguini pasta | jumbo shrimp | lemon beurre blanc cream sauce

Location

The Grill On Ocean Avenue
3 SW Corner Ocean Ave.
Carmel-By-The-Sea, CA 93923

ATTACHMENT 5

Dinner Menu



Soups & Salads

New England Clam Chowder 10 **Soup of the Day 10**
Mixed Green or Caesar 10

Entree Selections

Pan Seared Sea Bass 38
citron burre blanc sauce | almondine rice

Grilled Atlantic Salmon 37
grilled salmon | anchovy & olive puttanesca | rice

Shrimp Scampi 36
fresh linguini pasta | jumbo shrimp
white wine citron butter sauce

ATTACHMENT 5

Pasta Primavera 25
fresh penne rigate | kalamata olives
garden vegetables | marinara or alfredo

Seafood Fettuccine 37
tiger prawns | sea scallops | fresh fish
trio of peppers | tomato basil cream sauce

Bacon CheeseBurger 27
grilled hand formed sirloin | bacon | cheese
golden french fries | all the fix'ns

Center Cut Filet Mignon 44
grass fed petite filet | portabella mushroom
red wine demi glaze | potato gratin

Mediterranean Lamb Shank 42
braised lamb shank | toasted pearl cous cous
seasonal vegetables | feta cheese

Short Rib & Risotto 35
slow roasted | mushroom medley risotto
artichokes & english peas

Grilled Fajitas 38
grilled chicken breast | strips of beef sirloin
jumbo prawns | onions & peppers

Grilled Trio Kabob 39
skewered free range chicken | filet tips | jumbo shrimp
onion & peppers | rice & hummus

Grilled Chicken Piccata 35
free range chicken breast | citron beurre blanc
artichokes & capers | rice pilaf

Location

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3 SW Corner Ocean Ave.
Carmel-By-The-Sea, CA 93923

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CITY OF CARMEL-BY-THE-SEA
City Council
Staff Report

April 7, 2026
ORDERS OF BUSINESS

TO: Honorable Mayor and City Council Members

SUBMITTED BY: Brian Pierik, City Attorney

APPROVED BY: Brandon Swanson, Acting City Administrator

SUBJECT: Discussion of draft resolutions and ordinance relating to a potential ballot measure to increase the City's Transient Occupancy Tax from 10% to 12% and Direction regarding the submission of such ballot measure to the City's voters at the November 3, 2026, general municipal election

RECOMMENDATION:

1. Discuss the attached draft resolutions and ordinance relating to a potential ballot measure to increase the City's Transient Occupancy Tax from 10% to 12%.

2. Motion providing direction regarding the submission of such ballot measure to the City's voters at the November 3, 2026, general municipal election.

BACKGROUND / SUMMARY:

I. BACKGROUND

The City's current Transient Occupancy Tax ("TOT") rate is 10%. Staff requests the City Council discuss and provide direction on the attached draft resolutions and ordinance, which would submit to the City's qualified voters a ballot measure that would increase the TOT rate from 10% to 12% if approved by the voters.

There are two draft Resolutions attached to this Staff Report. Resolution No. 1 would call for the election and submit the ballot measure to the voters (**Attachment 1**). If the Council has already adopted a Resolution calling for the election, Resolution No. 2 would just submit the ballot measure to the voters (**Attachment 2**). Attached to whichever Resolution is adopted would be a proposed Ordinance to increase from 10%

to 12%. A redline version of the Ordinance with track changes of the current City Municipal Code is **Attachment 3**. A clean version of the Ordinance accepting these track changes is **Attachment 4**.

The attached draft Resolutions also request that Monterey County conduct the City's November 3, 2026, General Municipal Election and to consolidate the same with the Statewide General Election to be held on the same date; direct the City Attorney to draft an impartial analysis for the ballot measure; and authorize the drafting of primary arguments and rebuttals. Approval of either Resolution requires an affirmative vote of four members of the City Council. In order for the TOT ballot measure to pass, it will require a 50% plus 1 approval vote from the City's qualified voters.

The City currently imposes and collects a TOT in the amount of 10% of the "rent" paid by each "transient" for the privilege of temporarily occupying (for thirty days or less) a "hostelry" (e.g., a hotel or similar structure), and the City imposes an obligation on each "operator" of a hostelry to collect the TOT from each transient and pay the TOT to the City.

At the City Council meeting on February 3, 2026, the Council directed staff to prepare a ballot measure to be presented to the voters for the general municipal election on November 3, 2026, that increases the TOT rate from 10% to 12% ("TOT Measure"). Consistent with Council direction, the attached draft Resolutions and draft Ordinance were prepared for the City Council's discussion and direction.

If the Council gives direction to return at the Council meeting on May 5, 2026, with one of the draft Resolutions, then staff can determine include in the Agenda Packet for that Council meeting the appropriate Resolution based on whether or not the Council has adopted a Resolution calling for the election.

II. DISCUSSION

In order to submit the TOT measure to the City's qualified voters, the City Council must carry out certain acts, including the adoption of one of the attached draft resolutions sending the TOT measure to the voters. This staff report provides background information that is relevant to the City Council's discussion and direction on the attached draft resolution and ordinance.

A. Votes Required to submit the TOT measure and to Increase TOT Rate

Under Proposition 218[1], the City may only increase a general tax if: (a) two-thirds of the members of the City Council (which would be four affirmative votes) approve placing a tax measure on the ballot for voter consideration, and (b) the ballot measure is approved by a majority vote of the electorate at a general municipal election (for the election of members of Council).[2] The next general election is November 3, 2026.

[1] California Constitution Articles XIII C and XIII D.
[2] California Government Code Sections 53723 and 53724, subject to limited exceptions for the timing of elections for declared emergencies.

B. Current TOT Rate and Proposed Increase

As noted above, the City's existing 10% TOT is codified at Camel-by-the-Sea Municipal Code ("Municipal Code") Chapter 3.32. The proposed increase in the TOT would raise the TOT rate to 12%. The City Council may discuss and provide direction on whether this 2% increase is what the City Council desires to submit to the voters.

C. Form of Ballot Question

The TOT measure's ballot question must meet the following requirements: (1) no more than 75 words and in the format of a "yes" or "no" question; (2) include "the amount of money to be raised annually and the rate and duration of the tax to be levied" [3]; and (3) "be a true and impartial synopsis of the purpose of the proposed measure, and shall be in language that is neither argumentative nor likely to create prejudice for or against the measure." [4] It must also be in the form of "Shall the measure … be adopted?" [5] As such, the City Council should discuss and provide direction on the wording of the ballot question. A sample ballot question for a transient occupancy tax that is a general tax is as follows: [6]

> "Shall the measure providing funding for City of Carmel-by-the-Sea's general government purposes, such as, for example, infrastructure improvements, public safety, and other general municipal purposes by increasing the transient occupancy tax, paid by lodging guests to the operators of hotels and motels, from 10% to 12%, providing approximately $1.9 million annually until ended by voters, be adopted?"

D. Election Procedures

The following section provides information to the City Council on the election procedures that will need to be followed when submitting the TOT measure to the City's qualified voters.

1. Getting the Measure on the Ballot

In order to submit a TOT measure to the voters at the November 3, 2026, general municipal election, the City Council must adopt a resolution that (1) submits the measure to the voters and includes the TOT ordinance increasing the TOT rate; (2) requests the consolidation of such general municipal election with the Statewide General Election on November 3, 2026; and (3) authorizes the drafting of primary arguments by all or some councilmembers, directs the City Attorney to draft an impartial analysis of the measure, and authorizes rebuttal arguments.

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[3] Cal. Elections Code Section 13119(b).
[4] Cal. Elections Code Section 13119(c).
[5] Cal. Elections Code Section 13119(a).
[6] The City is authorized to identify sample expenditures of anticipated TOT revenue without converting the general tax to a special tax, as long as a phrase similar to "and general government use" is included in the list.

This resolution must be approved by a 2/3 vote (i.e., 4/5) of the City Council and submitted to the County no later than 88 days prior to the election.[7] Measures may be withdrawn no later than after the 83rd day prior to the election.[8]

a. Submitting the ballot measure to the voters

The City Council is generally permitted to submit measures to the voters by adopting a

resolution to that effect.[9] This resolution must also include a ballot question pursuant to Elections Code Section 13247, which must meet the requirements referenced and discussed above. The ordinance making changes to the TOT must also be attached to the resolution. However, as stated above, general taxes must be submitted at a general municipal election unless an emergency is unanimously declared by the City Council.

b. Requesting the consolidation of general municipal election with the Statewide General Election on November 3, 2026

The City Council may request that the November 3, 2026, general municipal election be consolidated with the Statewide General Election held on the same date.[10] Although the City will have to pay the County for the associated costs of consolidation, this is a standard practice that virtually all cities in California follow, because the costs for a city to run its own election are typically prohibitive.

c. Authorizing the drafting of primary arguments, directing the City Attorney to draft an impartial analysis of the measure, and authorizing rebuttal arguments

(1) Primary Arguments

Elections Code Section 9282(b) permits the City Council to authorize a member or members to author and submit primary arguments relating to a ballot measure placed on the ballot by the City Council; however, if the City Council authorizes a quorum of its membership to draft the primary argument, such drafting and approval thereof is subject to the Brown Act. In other words, a majority of members of Council must not discuss the arguments outside a public meeting. Such arguments may not exceed 300 words.

If more than one primary argument is submitted, then the City Clerk chooses the argument to appear on the ballot based upon the priorities provided in Elections Code Section 9287. Primary arguments are typically due 14 days after the call of the election pursuant to Elections Code Section 9286(a); however, for consolidated elections, as is the case here, this deadline does not apply. Instead, the City Clerk may set the deadline based upon the election calendar provided by the County. After primary arguments are filed, the 10-day public examination period commences.[11]

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[7] Cal. Elections Code Section 9222.
[8] Cal. Elections Code Section 9605.
[9] Cal. Elections Code Section 9222 and 10201.
[10] Cal. Elections Code Section 10403.
[11] Cal. Elections Code Section 9295.

(2) City Attorney's Impartial Analysis

When a measure qualifies for the ballot, the city attorney, on direction of the City Council, must prepare an impartial analysis of the measure showing the effect of the measure on existing law and the operation of the measure.[12] The impartial analysis must include a statement indicating whether the measure was placed on the ballot by the voters or by the City Council and is limited to 500 words.[13] Similar to the primary arguments, there is a 10-day public examination period after the deadline to impartial analysis.

(3) Rebuttal Arguments

The City Council may also authorize rebuttal arguments.[14] Rebuttal arguments cannot exceed 250 words and may only be written by the authors of the selected primary arguments, and must be filed no later than 10 days after the final filing date for primary arguments.[15] Similar to the primary arguments and impartial analysis, there is a 10-day public examination period after the deadline to submit rebuttal arguments.

E. Informational Activities

It is important to consider that, after a measure is "certified to appear" on a particular election ballot, the City is prohibited from spending any City resources to support or oppose the ballot measure per Government Code Section 54964. Nevertheless, although there is no brightline rule on what is or is not permissible, courts consider the style, tenor, and timing of such materials to determine whether they engage in impermissible campaign advocacy.[16]

Although the City is not able to engage in advocacy as it relates to a ballot measure, the City is able to provide information to the public in a neutral and unbiased manner and in a format that is not argumentative. This involves utilization of the City's standard methods of communication with the public. It is recommended that any informational efforts (e.g., flyers, social media posts, etc.) be reviewed by the City Attorney's Office prior to dissemination.

As noted above, from a broad legal perspective, after a ballot measure is certified to appear before the voters, the City may only use City resources to communicate factual, impartial, and balanced information regarding the ballot measure with a goal of informing the public. The City must not use public resources for the purpose of advocating a particular result for the election.[17]

The City Council should discuss and provide direction as to whether it would like the City to engage in these informational activities.

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[12] Cal. Elections Code Section 9280.
[13] Cal. Elections Code Section 9280.
[14] Cal. Elections Code Section 9285.
[15] Cal. Elections Code Section 9285(a).
[16] Vargas v. City of Salinas (2009) 46 Cal.4th 1, 27.
[17] See League of Women Voters v. Countywide Criminal Justice Coordination Comm. (1988) 203 Cal.App.3d 529.

On March 24, 2026, the Carmel Innkeepers Association submitted a nine-page analysis (**Attachment 5**) expressing opposition to a TOT increase and discussing the potential impacts of total visitor costs on demand, competitive positioning, and long-term tax generation.

FISCAL IMPACT:

If the TOT measure is approved by the voters at the election on November 3, 2026, then the City would annually receive approximately $1.9 million in revenue.

The City would have to pay the County of Monterey for the costs associated with including the ballot measure on the November 3, 2026, ballot and that cost would be between approximately $5,000 to $10,000.

PRIOR CITY COUNCIL ACTION:

At the City Council meeting on February 3, 2026, the Council directed staff to prepare a ballot measure as provided in the attached Resolution to be submitted to the City's qualified voters at the November 3, 2026, general municipal election.

ATTACHMENTS:

Attachment 1: Draft Resolution #1 – Calling the Election/Submitting the Ballot Measure

Attachment 2: Draft Resolution #2 – Submitting the Ballot Measure

Attachment 3: Proposed Redline Version of Ordinance (Exhibit A of Resolution)

Attachment 4: Proposed Clean Version of Ordinance (Exhibit A of Resolution)

Attachment 5: Letter from the Carmel Innkeeper's Association (March 24, 2026)

DRAFT

RESOLUTION # 1 Calling the Election and Submitting TOT Measure

CITY OF CARMEL-BY THE SEA
CITY COUNCIL

RESOLUTION NO. 2026-___

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA CALLING AND GIVING NOTICE OF THE HOLDING OF A GENERAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 3, 2026; ORDERING THE SUBMISSION TO THE QUALIFIED ELECTORS OF THE CITY OF CARMEL-BY-THE-SEA A MEASURE INCREASING THE TAX RATE OF THE CITY'S EXISTING TRANSIENT OCCUPANCY TAX FROM 10% TO 12% AND APPROVING THE FORM OF THE ORDINANCE TO BE SUBMITTED TO THE VOTERS; REQUESTING THE MONTEREY COUNTY ELECTIONS DEPARTMENT TO CONDUCT THE ELECTION AND REQUESTING CONSOLIDATION OF THE GENERAL MUNICIPAL ELECTION WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON NOVEMBER 3, 2026; DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS CONCERNING SUCH MEASURE; AUTHORIZING THE DRAFTING OF PRIMARY ARGUMENTS AND REBUTTALS CONCERNING SUCH MEASURE

WHEREAS, the City of Carmel-by-the-Sea's next general municipal election, in which council members will be elected, is scheduled to be held on Tuesday, November 3, 2026 ("General Municipal Election"); and

WHEREAS, the City imposes a transient occupancy tax pursuant to Chapter 3.32 of the City of Carmel-by- the-Sea Municipal Code ("TOT"); and

WHEREAS, pursuant to Article XIIIC of the California Constitution, Section 53720 et seq. of the California Government Code, the City has the authority to levy a general tax, including, but not limited to, increasing an existing tax; and

WHEREAS, Article XIIIC, Section 2, of the California Constitution requires that the election at which a general tax increase is submitted to the electorate shall be consolidated with a regularly scheduled general election for members of the governing body of the local government, except in cases of emergency declared by a unanimous vote of the governing body; and

WHEREAS, the City Council desires to submit a measure proposing to increase the TOT at the General Municipal Election to be held on November 3, 2026, which is on the same date as the Statewide General Election to be held on November 3, 2026; and

WHEREAS, the proposed measure contemplated by this Resolution establishes a general tax in which the proceeds will be deposited in the City's General Fund for general government use; and

WHEREAS, pursuant to Elections Code Section 10400, whenever two or more elections, including bond elections, of any legislative or congressional district, public district, city, county, or other political subdivision are called to be held on the same day, in the same territory, or in territory that is in part the same, they may be consolidated upon the order of the governing body or bodies or officer or officers calling the elections; and

WHEREAS, pursuant to Elections Code Section 10403, whenever an election called by a district, city or other political subdivision for the submission of any question, proposition, or office

to be filled is to be consolidated with a statewide election, and the question, proposition, or office to be filled is to appear upon the same ballot as that provided for that statewide election, the district, city or other political subdivision shall, at least 88 days prior to the date of the election, file with the board of supervisors, and a copy with the elections official, a resolution of its governing board requesting the consolidation, and setting forth the exact form of any question, proposition, or office to be voted upon at the election, as it is to appear on the ballot. Upon such request, the Board of Supervisors may order consolidation. The resolution requesting the consolidation shall be adopted and filed at the same time as the adoption of the ordinance, resolution, or order calling the election; and

WHEREAS, it is desirable that the General Municipal Election to be held on November 3, 2026, be consolidated with the Statewide General Election to be held on the same date and that within the City the precincts, polling places and election officers of the two elections be the same, and that the County of Monterey Election Department canvass the returns of such General Municipal Election and that the election be held in all respects as if there were only one election; and

WHEREAS, The City Council exercises its independent judgment and finds that this Resolution is not subject to the California Environmental Quality Act ("CEQA"), because the enactment of this Resolution: (1) does not constitute a “project” as defined by CEQA pursuant to Sections 15060(c)(3) and 15378; (2) will not result in a direct or reasonably foreseeable indirect physical change in the environment pursuant to Section 15060(c)(2); and (3) is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment pursuant to 15061(b)(3).

NOW THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA DOES HEREBY:

1. Recitals. The recitals set forth above are incorporated herein by this reference.

2. Submission of Measure. Pursuant to the laws of the State of California, including, but not limited to, Elections Code Section 9222 and 10201, there is called and ordered to be held in the City of Carmel-by-the-Sea, California (“City”) on November 3, 2026, a General Municipal Election for the submission of a ballot measure to the City’s qualified electors increasing the City’s transient occupancy tax, provided in Chapter 3.32 of the City of Carmel-by- the-Sea Municipal Code, from 10% to 12% (“Measure”). As required by Elections Code Section 13247, the abbreviated form of the Measure to appear on the ballot is specified below in Section 3.

3. Question. The City Council hereby orders the following question to be submitted to the voters at the General Municipal Election:

Shall the measure providing funding for City of Carmel-by-the-Sea’s general government purposes, such as, for example, infrastructure improvements, public safety, and other general municipal purposes; by increasing the transient occupancy tax paid by lodging guests to the operators of hotels and motels, from 10% to 12%, providing approximately $1.9 million annually until ended by voters, be adopted?	YES	
	NO	

4. Proposed Measure. The proposed complete text of the Measure with the proposed ordinance to be submitted to the voters is attached to this Resolution as Exhibit A and incorporated herein by this reference.

5. Voter Approval Requirement. The vote requirement for this Measure to pass shall be a majority of those casting ballots on the Measure (50% plus 1).

6. Publication of Measure. The City Clerk is directed to publish a synopsis of the Measure in a newspaper of general circulation in the City of Carmel-by-the-Sea, in accordance with California Elections Code section 12111 at least one time not later than one week before the election.

7. Coordination. The City Clerk is authorized, instructed, and directed to coordinate with the Monterey County Elections Department to procure and furnish and all official ballots, notices, printed matter, and all supplies, equipment, and paraphernalia that may be necessary in order to properly and lawfully conduct the election.

8. Request for Consolidation.

a. Pursuant to the requirements of Elections Code Section 10403, the Board of Supervisors of the County of Monterey is hereby requested to consent and agree to the consolidation of the General Municipal Election with the Statewide General Election on Tuesday, November 3, 2026, for the purpose of submitting to the voters the abovementioned Measure.

b. The Monterey County Elections Department is authorized to canvass the returns of the General Municipal Election. The election shall be held in all respects as if there were only one election, and only one form of ballot shall be used. The election will be held and conducted in accordance with the provisions of law regulating the statewide elections, including, but not limited to, Elections Code Section 10418.

c. The Board of Supervisors of the County of Monterey is requested to issue instructions to the Monterey County Elections Department to take any and all steps necessary for conducting and holding the consolidated election.

d. The City of Carmel-by-the-Sea recognizes that additional costs will be incurred by the County of Monterey by reason of this consolidation and agrees to reimburse the County of Monterey for any costs.

9. Filing with County. The City Clerk shall file a certified copy of this Resolution with the Monterey County Elections Department.

10. Arguments and Impartial Analysis.

a. Primary Arguments.

i. Pursuant to Elections Code Section 9282, the City Council authorizes _____ to author and submit the primary argument in favor and pursuant to Elections Code Section 9285(a) not to exceed 300 words, accompanied by the printed name(s) and signature(s) of the author(s) submitting it, in accordance with Article 4, Chapter 3, Division 9 of the Elections Code, and authorizes the _____ to submit a rebuttal argument to the argument against the Measure pursuant to Section 10(c).

ii. A primary argument in favor or against the Measure shall not exceed 300 words in length and shall be accompanied by the printed name(s) and signature(s) of the author(s) submitting it, or, if on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers who is the author of the argument, in accordance with Article 4, Chapter 3, Division 9 of the Elections Code. Primary arguments shall be accompanied by the Form of Statement to Be Filed By Author(s) of Argument. Submittals of primary arguments are to be delivered to the City Clerk no later than _____ p.m. on _____, 2026, and may be changed or withdrawn up and until such date and time.

iii. In the event that more than one argument in favor or against the foregoing Measure is timely submitted, then consistent with Elections Code Section 9282, the City Clerk shall select the argument to be included with the ballot materials, giving preference and priority first, to arguments submitted by member(s) of the City Council, and second, to individual voters, or bona fide associations of citizens, or a combination thereof, in the order set forth in Elections Code Section 9287.

b. City Attorney Impartial Analysis. Pursuant to Elections Code Section 9280, the City Attorney shall prepare an impartial analysis of the Measure not exceeding 500 words showing the effect of the Measure on existing law and the operation of the Measure. The analysis shall include a statement indicating whether the Measure was placed on the ballot by a petition signed by the requisite number of voters or by the City Council. In the event the entire text of the Measure is not printed on the ballot, nor in the voter information portion of the voter information guide, there shall be printed immediately below the impartial analysis, in no less than 10-point type, the following: “The above statement is an impartial analysis of Ordinance or Measure _____. If you desire a copy of the ordinance or measure, please call the election official’s office at (insert phone number) and a copy will be mailed at no cost to you.” The impartial analysis shall be filed by _____ p.m. on _____, 2026.

c. Rebuttal Arguments. Pursuant to Section 9285 of the Elections Code of the State of California, rebuttal arguments shall be permitted. When the City Clerk has selected the primary arguments for and against the Measure (not exceeding 300 words each), which will be printed and distributed to the voters, the City Clerk shall send a copy of an argument in favor of the Measure to the authors of any argument against the Measure and a copy of an argument against the Measure to the authors of any argument in favor of the Measure immediately upon receiving the arguments. The author or a majority of the authors of an argument relating to a city measure may prepare and submit a rebuttal argument not exceeding 250 words or may authorize in writing any other person or persons to prepare, submit, or sign the rebuttal argument. A rebuttal argument may not be signed by more than five authors. The rebuttal arguments shall be filed with the City Clerk, signed, with the printed name(s) and signature(s) of the author(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers, by _____ p.m. on _____, 2026. The rebuttal arguments shall be accompanied by the Form of Statement to Be Filed By Author(s) of Argument. Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument which it seeks to rebut.

d. Printing. The City Clerk shall cause the City Attorney’s impartial analysis, and duly selected arguments, to be printed and distributed to voters in accordance with State law regarding the same.

11. Polls; Hours of Operation. The vote center locations and hours of operations, ballot drop box locations and hours of operations, vote-by-mail procedures and timing, the election officers, and all other persons and procedures for the Special Municipal Election shall be the same

as those utilized by the County of Monterey and in compliance with the Elections Code of the State of California. In addition, the polls for the election shall be open at seven o'clock a.m. on the day of the election and shall remain open continuously from that time until eight o'clock p.m. of the same day when the polls (vote centers) shall be closed, pursuant to Election Code Section 10242, except as provided in Elections Code Sections 14212 and 14401.

12. Notice of Election. Notice of the time and place of holding the election is given and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in time, form and manner as required by law.

13. Conduct of Election as Provided by Law. In all particulars not recited in this Resolution, the Special Municipal Election shall be held and conducted as provided by law for holding municipal elections.

14. Implementation. The City Clerk and City Administrator are authorized to take all actions as necessary to effectuate the purposes of this Resolution and the election. The City Administrator is authorized to execute all documents and to perform all other necessary City acts to enter into a service agreement for the provision of election services with Monterey County Elections Department. The City Administrator is authorized to make any typographical, clerical, and non-substantive corrections to this Resolution and its exhibits/attachments.

15. All Necessary Services. The City Council of the City of Carmel-by-the-Sea hereby orders that pursuant to Elections Code Section 10002 said governing body hereby requests the Board of Supervisors of the County of Monterey to permit the Monterey County Elections Department to provide any and all services necessary for conducting an election and agrees to pay for said services in full.

16. Printing of Measure. The City Council of the City of Carmel-by-the-Sea hereby requests that the Monterey County Elections Department print the attached full Measure text Exhibit A exactly as filed or indicated on the filed document in the voter information guide for the November 3, 2026 Statewide General Election.

17. Environmental Compliance. The City Council finds the adoption of this Resolution and the Proposed Ordinance are not subject to the California Environmental Quality Act ("CEQA"), because the enactment of this Resolution and the Proposed Ordinance: (1) do not constitute a "project" as defined by CEQA pursuant to Sections 15060(c)(3) and 15378; (2) will not result in a direct or reasonably foreseeable indirect physical change in the environment pursuant to Section 15060(c)(2); and (3) is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment pursuant to 15061(b)(3).

18. Effective Date. This Resolution shall take effect immediately following passage and adoption by the Carmel-by-the-Sea City Council.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA this ____ day of _____ 2026, by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

Dale Byrne, Mayor

ATTEST:

Nova Romero, MMC, City Clerk

Exhibit A

Text of Measure/Ordinance

DRAFT

Resolution #2 Submitting Measure to Voters

CITY OF CARMEL-BY THE SEA
CITY COUNCIL

RESOLUTION NO. 2026-___

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA ORDERING THE SUBMISSION TO THE QUALIFIED ELECTORS OF THE CITY OF CARMEL-BY-THE-SEA A MEASURE INCREASING THE TAX RATE OF THE CITY'S EXISTING TRANSIENT OCCUPANCY TAX FROM 10% TO 12% AND APPROVING THE FORM OF THE ORDINANCE TO BE SUBMITTED TO THE VOTERS; REQUESTING THE MONTEREY COUNTY ELECTIONS DEPARTMENT TO CONDUCT THE ELECTION AND REQUESTING CONSOLIDATION OF THE GENERAL MUNICIPAL ELECTION WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON NOVEMBER 3, 2026; DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS CONCERNING SUCH MEASURE; AUTHORIZING THE DRAFTING OF PRIMARY ARGUMENTS AND REBUTTALS CONCERNING SUCH MEASURE

WHEREAS, the City Council has called a general municipal election on Tuesday, November 3, 2026, for the purpose of electing council members as provided therein ("General Municipal Election"); and

WHEREAS, the City imposes a transient occupancy tax pursuant to Chapter 3.32 of the City of Carmel-by- the-Sea Municipal Code ("TOT"); and

WHEREAS, pursuant to Article XIIIC of the California Constitution, Section 53720 et seq. of the California Government Code, the City has the authority to levy a general tax, including, but not limited to, increasing an existing tax; and

WHEREAS, Article XIIIC, Section 2, of the California Constitution requires that the election at which a general tax increase is submitted to the electorate shall be consolidated with a regularly scheduled general election for members of the governing body of the local government, except in cases of emergency declared by a unanimous vote of the governing body; and

WHEREAS, the City Council desires to submit a measure proposing to increase the TOT at the General Municipal Election to be held on November 3, 2026, which is on the same date as the Statewide General Election to be held on November 3, 2026; and

WHEREAS, the proposed measure contemplated by this Resolution establishes a general tax in which the proceeds will be deposited in the City's General Fund for general government use; and

WHEREAS, pursuant to Elections Code Section 10400, whenever two or more elections, including bond elections, of any legislative or congressional district, public district, city, county, or other political subdivision are called to be held on the same day, in the same territory, or in territory that is in part the same, they may be consolidated upon the order of the governing body or bodies or officer or officers calling the elections; and

WHEREAS, pursuant to Elections Code Section 10403, whenever an election called by a district, city or other political subdivision for the submission of any question, proposition, or office

to be filled is to be consolidated with a statewide election, and the question, proposition, or office to be filled is to appear upon the same ballot as that provided for that statewide election, the district, city or other political subdivision shall, at least 88 days prior to the date of the election, file with the board of supervisors, and a copy with the elections official, a resolution of its governing board requesting the consolidation, and setting forth the exact form of any question, proposition, or office to be voted upon at the election, as it is to appear on the ballot. Upon such request, the Board of Supervisors may order consolidation. The resolution requesting the consolidation shall be adopted and filed at the same time as the adoption of the ordinance, resolution, or order calling the election; and

WHEREAS, it is desirable that the General Municipal Election to be held on November 3, 2026, be consolidated with the Statewide General Election to be held on the same date and that within the City the precincts, polling places and election officers of the two elections be the same, and that the County of Monterey Election Department canvass the returns of such General Municipal Election and that the election be held in all respects as if there were only one election; and

WHEREAS, The City Council exercises its independent judgment and finds that this Resolution is not subject to the California Environmental Quality Act ("CEQA"), because the enactment of this Resolution: (1) does not constitute a “project” as defined by CEQA pursuant to Sections 15060(c)(3) and 15378; (2) will not result in a direct or reasonably foreseeable indirect physical change in the environment pursuant to Section 15060(c)(2); and (3) is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment pursuant to 15061(b)(3).

NOW THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA DOES HEREBY:

1. Recitals. The recitals set forth above are incorporated herein by this reference.

2. Submission of Measure. Pursuant to the laws of the State of California, including, but not limited to, Elections Code Section 9222 and 10201, the City Council hereby orders the submission to the voters of the City of Carmel-by-the-Sea (“City”) a ballot measure increasing the City’s transient occupancy tax, provided in Chapter 3.32 of the City of Carmel-by- the-Sea Municipal Code, from 10% to 12% (“Measure”). As required by Elections Code Section 13247, the abbreviated form of the Measure to appear on the ballot is specified below in Section 3.

3. Question. The City Council hereby orders the following question to be submitted to the voters at the General Municipal Election:

Shall the measure providing funding for City of Carmel-by-the-Sea’s general government purposes, such as, for example, infrastructure improvements, public safety, and other general municipal purposes; by increasing the transient occupancy tax paid by lodging guests to the operators of hotels and motels, from 10% to 12%, providing approximately $1.9 annually until ended by voters, be adopted?	YES	
	NO	

4. Proposed Measure. The proposed complete text of the Measure with the proposed ordinance to be submitted to the voters is attached to this Resolution as Exhibit A and incorporated herein by this reference.

5. Voter Approval Requirement. The vote requirement for this Measure to pass shall be a majority of those casting ballots on the Measure (50% plus 1).

6. Publication of Measure. The City Clerk is directed to publish a synopsis of the Measure in a newspaper of general circulation in the City of Carmel-by-the-Sea, in accordance with California Elections Code section 12111 at least one time not later than one week before the election.

7. Coordination. The City Clerk is authorized, instructed, and directed to coordinate with the Monterey County Elections Department to procure and furnish and all official ballots, notices, printed matter, and all supplies, equipment, and paraphernalia that may be necessary in order to properly and lawfully conduct the election.

8. Request for Consolidation.

a. Pursuant to the requirements of Elections Code Section 10403, the Board of Supervisors of the County of Monterey is hereby requested to consent and agree to the consolidation of the General Municipal Election with the Statewide General Election on Tuesday, November 3, 2026, for the purpose of submitting to the voters the abovementioned Measure.

b. The Monterey County Elections Department is authorized to canvass the returns of the General Municipal Election. The election shall be held in all respects as if there were only one election, and only one form of ballot shall be used. The election will be held and conducted in accordance with the provisions of law regulating the statewide elections, including, but not limited to, Elections Code Section 10418.

c. The Board of Supervisors of the County of Monterey is requested to issue instructions to the Monterey County Elections Department to take any and all steps necessary for conducting and holding the consolidated election.

d. The City of Carmel-by-the-Sea recognizes that additional costs will be incurred by the County of Monterey by reason of this consolidation and agrees to reimburse the County of Monterey for any costs.

9. Filing with County. The City Clerk shall file a certified copy of this Resolution with the Monterey County Elections Department.

10. Arguments and Impartial Analysis.

a. Primary Arguments.

i. Pursuant to Elections Code Section 9282, the City Council authorizes _____ to author and submit the primary argument in favor and pursuant to Elections Code Section 9285(a) not to exceed 300 words, accompanied by the printed name(s) and signature(s) of the author(s) submitting it, in accordance with Article 4, Chapter 3, Division 9 of the Elections Code, and authorizes the _____ to submit a rebuttal argument to the argument

against the Measure pursuant to Section 10(c).

ii. A primary argument in favor or against the Measure shall not exceed 300 words in length and shall be accompanied by the printed name(s) and signature(s) of the author(s) submitting it, or, if on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers who is the author of the argument, in accordance with Article 4, Chapter 3, Division 9 of the Elections Code. Primary arguments shall be accompanied by the Form of Statement to Be Filed By Author(s) of Argument. Submittals of primary arguments are to be delivered to the City Clerk no later than _____ p.m. on _____, 2026, and may be changed or withdrawn up and until such date and time.

iii. In the event that more than one argument in favor or against the foregoing Measure is timely submitted, then consistent with Elections Code Section 9282, the City Clerk shall select the argument to be included with the ballot materials, giving preference and priority first, to arguments submitted by member(s) of the City Council, and second, to individual voters, or bona fide associations of citizens, or a combination thereof, in the order set forth in Elections Code Section 9287.

b. City Attorney Impartial Analysis. Pursuant to Elections Code Section 9280, the City Attorney shall prepare an impartial analysis of the Measure not exceeding 500 words showing the effect of the Measure on existing law and the operation of the Measure. The analysis shall include a statement indicating whether the Measure was placed on the ballot by a petition signed by the requisite number of voters or by the City Council. In the event the entire text of the Measure is not printed on the ballot, nor in the voter information portion of the voter information guide, there shall be printed immediately below the impartial analysis, in no less than 10-point type, the following: “The above statement is an impartial analysis of Ordinance or Measure _____. If you desire a copy of the ordinance or measure, please call the election official’s office at (insert phone number) and a copy will be mailed at no cost to you.” The impartial analysis shall be filed by _____ p.m. on _____, 2026.

c. Rebuttal Arguments. Pursuant to Section 9285 of the Elections Code of the State of California, rebuttal arguments shall be permitted. When the City Clerk has selected the primary arguments for and against the Measure (not exceeding 300 words each), which will be printed and distributed to the voters, the City Clerk shall send a copy of an argument in favor of the Measure to the authors of any argument against the Measure and a copy of an argument against the Measure to the authors of any argument in favor of the Measure immediately upon receiving the arguments. The author or a majority of the authors of an argument relating to a city measure may prepare and submit a rebuttal argument not exceeding 250 words or may authorize in writing any other person or persons to prepare, submit, or sign the rebuttal argument. A rebuttal argument may not be signed by more than five authors. The rebuttal arguments shall be filed with the City Clerk, signed, with the printed name(s) and signature(s) of the author(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers, by _____ p.m. on _____, 2026. The rebuttal arguments shall be accompanied by the Form of Statement to Be Filed By Author(s) of Argument. Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument which it seeks to rebut.

d. Printing. The City Clerk shall cause the City Attorney’s impartial analysis, and duly selected arguments, to be printed and distributed to voters in accordance with State law regarding the same.

11. Polls; Hours of Operation. The vote center locations and hours of operations, ballot drop box locations and hours of operations, vote-by-mail procedures and timing, the election officers, and all other persons and procedures for the Special Municipal Election shall be the same as those utilized by the County of Monterey and in compliance with the Elections Code of the State of California. In addition, the polls for the election shall be open at seven o'clock a.m. on the day of the election and shall remain open continuously from that time until eight o'clock p.m. of the same day when the polls (vote centers) shall be closed, pursuant to Election Code Section 10242, except as provided in Elections Code Sections 14212 and 14401.

12. Notice of Election. Notice of the time and place of holding the election is given and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in time, form and manner as required by law.

13. Conduct of Election as Provided by Law. In all particulars not recited in this Resolution, the Special Municipal Election shall be held and conducted as provided by law for holding municipal elections.

14. Implementation. The City Clerk and City Administrator are authorized to take all actions as necessary to effectuate the purposes of this Resolution and the election. The City Administrator is authorized to execute all documents and to perform all other necessary City acts to enter into a service agreement for the provision of election services with Monterey County Elections Department. The City Administrator is authorized to make any typographical, clerical, and non-substantive corrections to this Resolution and its exhibits/attachments.

15. All Necessary Services. The City Council of the City of Carmel-by-the-Sea hereby orders that pursuant to Elections Code Section 10002 said governing body hereby requests the Board of Supervisors of the County of Monterey to permit the Monterey County Elections Department to provide any and all services necessary for conducting an election and agrees to pay for said services in full.

16. Printing of Measure. The City Council of the City of Carmel-by-the-Sea hereby requests that the Monterey County Elections Department print the attached full Measure text Exhibit A exactly as filed or indicated on the filed document in the voter information guide for the November 3, 2026 Statewide General Election.

17. Environmental Compliance. The City Council finds the adoption of this Resolution and the Proposed Ordinance are not subject to the California Environmental Quality Act ("CEQA"), because the enactment of this Resolution and the Proposed Ordinance: (1) do not constitute a "project" as defined by CEQA pursuant to Sections 15060(c)(3) and 15378; (2) will not result in a direct or reasonably foreseeable indirect physical change in the environment pursuant to Section 15060(c)(2); and (3) is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment pursuant to 15061(b)(3).

18. Effective Date. This Resolution shall take effect immediately following passage and adoption by the Carmel-by-the-Sea City Council.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA this ____ day of _____ 2026, by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

ATTEST:

Dale Byrne, Mayor

Nova Romero, MMC, City Clerk

Exhibit A
Text of Measure/Ordinance

DRAFT – REDLINE VERSION

CITY OF CARMEL-BY-THE-SEA

ORDINANCE NO. 2026-___

AN ORDINANCE OF THE VOTERS OF THE CITY OF CARMEL-BY-THE-SEA AMENDING CARMEL-BY-THE-SEA MUNICIPAL CODE CHAPTER 3.32 (TRANSIENT OCCUPANCY TAX) TO INCREASE THE TRANSIENT OCCUPANCY TAX BY TWO PERCENT, FROM TEN PERCENT TO TWELVE PERCENT

WHEREAS, on _____, 2026, the City Council directed staff to prepare a resolution calling for the placement of a proposed ordinance, as set forth herein, to amend Carmel-By-The-Sea Municipal Code Chapter 3.32 (Transient Occupancy Tax) on the ballot for the November 3, 2026 General Municipal Election; and

WHEREAS, at the November 3, 2026 General Municipal Election, the electorate of the City of Carmel-By-The-Sea did consider this ordinance and approved the actions set forth herein.

BE IT ORDAINED BY THE VOTERS OF THE CITY OF CARMEL-BY-THE-SEA:

SECTION 1. Title 3, Section 3.32.010, Definitions, Subsection E, shall be amended to clarify the definition of "Rent" to read in its entirety as follows:

E. "Rent" means the consideration charged, whether or not received, for the occupancy of space in a hostelry valued in money, whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits and property and services of any kind or nature, without any deduction therefrom whatsoever. Thus, "rent" includes, but is not limited to, any resort fees, cleaning fees, pet fees, extra guest fees, cancellation charges, and any other similar fees, rates or charges.

SECTION 2. Title 3, Section 3.32.020, Tax Imposed, Subsection A shall be amended in its entirety as follows:

3.32.020: Tax Imposed.

A. For the privilege of occupancy in any hostelry, each transient is subject to and shall pay a tax in the amount of ~~10~~ twelve percent of the rent charged by the operator. The tax constitutes a debt owed by the transient to the City which is extinguished only by payment to the operator or to the City.

SECTION 3. For Title 3, Section 3.32.130, Disposition of Proceeds, Subsection A is not amended by this ordinance. However, as an aid to the reader, the existing text of Subsection A is copied below and will remain in effect, as follows:

3.32.130: Disposition of Proceeds.

All moneys collected under and pursuant to the provisions of this chapter shall be deposited in the hostelry tax fund of this City and shall be distributed within the fund as follows:

A. The first six percent to the extent needed:

1. That amount necessary to fund the portion of the municipal budget covering community and cultural and recreation activities including but not limited to Sunset Center and the Forest Theater, parks, public facilities and municipal structures, and parking lots;

2. The remainder to be distributed to fund such acquisition and improvement of parks, recreation land and other municipal purposes as determined from time to time by the City Council; provided, that all such uses shall be in accordance with the General Plan of the City, as it is now or may be hereafter constituted;

SECTION 4. Title 3, Section 3.32.130, Disposition of Proceeds, Subsection B shall be amended in its entirety as follows:

3.32.130: Disposition of Proceeds.

B. ~~The remainder of the first six percent,~~ Excluding the six percent of tax proceeds that is distributed in accordance with subsection (A) of this section, the remaining six percent shall be distributed from the hostelry tax fund to the general fund to be used for unrestricted general governmental purposes of the City. The remaining six percent of tax proceeds subject to this subsection (B) shall include the two ~~additional~~ percent ~~added~~ authorized by Ordinance No. 78-13, the ~~additional~~ two percent ~~added~~ authorized by Ordinance No. 83-22, and the two percent authorized by Ordinance No. ~~shall be added to the General Fund for usual and current expenses~~.

SECTION 5. Scope of Amendments. Unless specifically amended by this ordinance, all other provisions of the Carmel-By-The-Sea Municipal Code Chapter 3.32 remain unchanged.

SECTION 6. General Tax. The proceeds from the tax established by this ordinance shall be for unrestricted general revenue purposes of the City and shall be placed into the General Fund of the City.

SECTION 7. Future Amendments. Pursuant to California Elections Code Section 9217, the City Council is authorized to amend Carmel-By-The-Sea Municipal Code Chapter 3.32 without a vote of the electorate; provided however, that no such amendment shall increase the tax imposed as set forth in Carmel-By-The-Sea Municipal Code Chapter 3.32.

SECTION 8. Severability. The City declares that, should any provision, section; paragraph, sentence or word of this Ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction, or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences and words of this Ordinance shall remain in full force and effect.

SECTION 9. CEQA. The City finds that this Ordinance is not subject to environmental review under the California Environmental Quality Act ("CEQA") because the Ordinance is an activity that is excluded from the definition of a project by Public Resources Code sections 21065 and 21080(b)(8) and California Code of Regulations Sections 15273 and 15378(b) (the “CEQA Guidelines”). The proposed Ordinance includes organizational or administrative activities of government which will not result in direct or indirect physical changes to the environment and are exempt from CEQA under CEQA Guidelines Sections 15060(c)(2) and 15061(b)(3).

DRAFT – REDLINE VERSION

SECTION 10. Effective Date. This Ordinance relates to the levying and collecting of City transient occupancy taxes and shall take effect immediately upon approval by the majority of the electorate.

SECTION 11. Termination Date. The authority to levy the tax imposed by this ordinance shall expire upon an action to terminate as authorized by majority vote of the qualified electors of the City of Carmel-By-The-Sea.

SECTION 12. Adoption. Following a declaration by the City Council that this ordinance was approved by a majority of the voters, as set forth in Elections Code Section 9217, the Mayor is hereby authorized to approve that this ordinance was adopted on November 3, 2026, by signing where indicated below.

PASSED AND ADOPTED BY THE VOTERS OF THE CITY OF CARMEL-BY-THE-SEA this __ day of MONTH, YEAR.

APPROVED:

_____
Dale Byrne, Mayor
City of Carmel-by-the-Sea

ATTEST:

_____
Nova Romero, MMC, City Clerk

DRAFT - CLEAN VERSION

CITY OF CARMEL-BY-THE-SEA

ORDINANCE NO. 2026-___

AN ORDINANCE OF THE VOTERS OF THE CITY OF CARMEL-BY-THE-SEA AMENDING CARMEL-BY-THE-SEA MUNICIPAL CODE CHAPTER 3.32 (TRANSIENT OCCUPANCY TAX) TO INCREASE THE TRANSIENT OCCUPANCY TAX BY TWO PERCENT, FROM TEN PERCENT TO TWELVE PERCENT

WHEREAS, on _____, 2026, the City Council directed staff to prepare a resolution calling for the placement of a proposed ordinance, as set forth herein, to amend Carmel-By-The-Sea Municipal Code Chapter 3.32 (Transient Occupancy Tax) on the ballot for the November 3, 2026 General Municipal Election; and

WHEREAS, at the November 3, 2026 General Municipal Election, the electorate of the City of Carmel-By-The-Sea did consider this ordinance and approved the actions set forth herein.

BE IT ORDAINED BY THE VOTERS OF THE CITY OF CARMEL-BY-THE-SEA:

SECTION 1. Title 3, Section 3.32.010, Definitions, Subsection E, shall be amended to clarify the definition of "Rent" to read in its entirety as follows:

E. "Rent" means the consideration charged, whether or not received, for the occupancy of space in a hostelry valued in money, whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits and property and services of any kind or nature, without any deduction therefrom whatsoever. Thus, "rent" includes, but is not limited to, any resort fees, cleaning fees, pet fees, extra guest fees, cancellation charges, and any other similar fees, rates or charges.

SECTION 2. Title 3, Section 3.32.020, Tax Imposed, Subsection A shall be amended in its entirety as follows:

3.32.020: Tax Imposed.

A. For the privilege of occupancy in any hostelry, each transient is subject to and shall pay a tax in the amount of twelve percent of the rent charged by the operator. The tax constitutes a debt owed by the transient to the City which is extinguished only by payment to the operator or to the City.

SECTION 3. For Title 3, Section 3.32.130, Disposition of Proceeds, Subsection A is not amended by this ordinance. However, as an aid to the reader, the existing text of Subsection A is copied below and will remain in effect, as follows:

3.32.130: Disposition of Proceeds.

All moneys collected under and pursuant to the provisions of this chapter shall be deposited in the hostelry tax fund of this City and shall be distributed within the fund as follows:

A. The first six percent to the extent needed:

1. That amount necessary to fund the portion of the municipal budget covering community and cultural and recreation activities including but not limited to Sunset Center and the Forest Theater, parks, public facilities and municipal structures, and parking lots;

2. The remainder to be distributed to fund such acquisition and improvement of parks, recreation land and other municipal purposes as determined from time to time by the City Council; provided, that all such uses shall be in accordance with the General Plan of the City, as it is now or may be hereafter constituted;

SECTION 4. Title 3, Section 3.32.130, Disposition of Proceeds, Subsection B shall be amended in its entirety as follows:

3.32.130: Disposition of Proceeds.

B. Excluding the six percent of tax proceeds that is distributed in accordance with subsection (A) of this section, the remaining six percent shall be distributed from the hostelry tax fund to the general fund to be used for unrestricted general governmental purposes of the City. The remaining six percent of tax proceeds subject to this subsection (B) shall include the two percent authorized by Ordinance No. 78-13, the two percent authorized by Ordinance No. 83-22, and the two percent authorized by Ordinance No. ____.

SECTION 5. Scope of Amendments. Unless specifically amended by this ordinance, all other provisions of the Carmel-By-The-Sea Municipal Code Chapter 3.32 remain unchanged.

SECTION 6. General Tax. The proceeds from the tax established by this ordinance shall be for unrestricted general revenue purposes of the City and shall be placed into the General Fund of the City.

SECTION 7. Future Amendments. Pursuant to California Elections Code Section 9217, the City Council is authorized to amend Carmel-By-The-Sea Municipal Code Chapter 3.32 without a vote of the electorate; provided however, that no such amendment shall increase the tax imposed as set forth in Carmel-By-The-Sea Municipal Code Chapter 3.32.

SECTION 8. Severability. The City declares that, should any provision, section; paragraph, sentence or word of this Ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction, or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences and words of this Ordinance shall remain in full force and effect.

SECTION 9. CEQA. The City finds that this Ordinance is not subject to environmental review under the California Environmental Quality Act ("CEQA") because the Ordinance is an activity that is excluded from the definition of a project by Public Resources Code sections 21065 and 21080(b)(8) and California Code of Regulations Sections 15273 and 15378(b) (the “CEQA Guidelines”). The proposed Ordinance includes organizational or administrative activities of government which will not result in direct or indirect physical changes to the environment and are exempt from CEQA under CEQA Guidelines Sections 15060(c)(2) and 15061(b)(3).

SECTION 10. Effective Date. This Ordinance relates to the levying and collecting of City transient occupancy taxes and shall take effect immediately upon approval by the majority of the electorate.

SECTION 11. Termination Date. The authority to levy the tax imposed by this ordinance shall expire upon an action to terminate as authorized by majority vote of the qualified electors of the City of Carmel-By-The-Sea.

SECTION 12. Adoption. Following a declaration by the City Council that this ordinance was approved by a majority of the voters, as set forth in Elections Code Section 9217, the Mayor is hereby authorized to approve that this ordinance was adopted on November 3, 2026, by signing where indicated below.

PASSED AND ADOPTED BY THE VOTERS OF THE CITY OF CARMEL-BY-THE-SEA this __ day of MONTH, YEAR.

APPROVED:

_____
Dale Bryne, Mayor
City of Carmel-by-the-Sea

ATTEST:

_____
Nova Romero, MMC, City Clerk

CARMEL INNKEEPERS ASSOCIATION
CARMEL-BY-THE-SEA
PO Box 1362 • Carmel-by-the-Sea • California 93921

Proposed TOT Rate Increase on Hotels in Carmel-by-the-Sea

Preface

The Carmel City Council is considering placing a 20% increase in the Transient Occupancy Tax (TOT) this fall, raising the hotel tax rate from 10% to 12%. With the existing 2% Hospitality Improvement District (HID) assessment, the total effective tax on visitors would increase to 14%.

This paper evaluates the potential impacts of that increase using local operating data, 12-month trailing performance trends, and comparable market case studies. The analysis focuses not just on tax rates, but on **how changes in total visitor cost affect demand, competitive positioning, and long-term tax generation**.

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1. Exhibit A

Strong Organic Growth Without Tax Increases

Exhibit A demonstrates that since the creation of the HID in 2013, Carmel's lodging market has significantly outperformed inflation. RevPAR has grown at an average annual rate of 9.4%, compared to 3.8% CPI, representing a substantial gain in real pricing power.

This growth has occurred despite major disruptions, including COVID and periods of reduced room supply due to renovations. It reflects two structural drivers: targeted marketing through the HID and sustained reinvestment in the lodging product.

Importantly, this RevPAR growth has translated directly into increased TOT revenue without raising tax rates. The data shows that **strong demand and pricing power, not higher tax rates, are the primary drivers of tax revenue growth**.

---

2. Exhibit B

Tax Rate vs. Tax Productivity

Exhibit B compares TOT revenue per room across Monterey Peninsula jurisdictions. Carmel, with a 10% TOT rate, generates significantly more TOT per room than markets with higher tax rates.

For example, jurisdictions with 12% to 14% tax rates produce materially lower TOT per room due to weaker ADR and RevPAR performance. This demonstrates a critical point: **Higher tax rates do not compensate for reduced competitiveness.**

Instead, markets that maintain pricing power and demand generate the strongest fiscal outcomes, even at lower tax rates.

---

3. Exhibit C

Case Study: Occupancy Impact of Tax Differentials

Exhibit C examines Half Moon Bay, where the city increased its TOT from 12% to 14%, and later to 15%, while nearby unincorporated hotels remained at a lower rate.

Prior to the increase, both markets performed similarly. Following the increase, a persistent occupancy gap emerged, with city hotels underperforming nearby competitors by approximately 8 to 10 percentage points.

This case study illustrates how **tax-driven price differences can shift demand across closely competing markets**, resulting in fewer overnight visitors and reduced local economic activity in the higher-tax jurisdiction.

---

4. Exhibit D

Case Study: Competitive Share Loss and Acceleration Effects

Exhibit D evaluates Buellton's TOT increase from 12% to 14% using **share of occupancy and RevPAR within a competitive set of destinations, reported bi-monthly by Visit Carmel and measured on a 12-month trailing basis**.

The data shows that Buellton's occupancy share declines from approximately 17.6% to 17.0%, while Carmel's increases from roughly 17.1% to 17.8%.

The effect is more pronounced in RevPAR share, where Buellton declines from about 8.8% to 8.4%, while Carmel increases from approximately 14.8% to 15.9%.

While some divergence was already present prior to the tax increase, the key insight is that **the rate of divergence accelerates following the increase**, particularly in RevPAR.

Because these metrics measure **relative share within a competitive set**, the shift indicates that demand is not disappearing, it is being redistributed away from higher-cost markets.

---

5. Exhibit E

Modeled Demand and Revenue Impact

Exhibit E applies established price elasticity research to Carmel's lodging market.

A 2% increase in TOT is projected to reduce demand by approximately 1.5% in upscale hotels and 2.7% in luxury hotels. This equates to roughly 5,000 fewer annual room nights.

The estimated financial impact includes:

- $1.8 to $2.1 million in lost hotel revenue
- Approximately $1.5 million in reduced local business revenue
- Secondary reductions in sales tax and broader economic activity

While the City would collect a higher tax rate on remaining demand, a portion of that gain is offset by reduced volume and downstream economic effects.

Conclusion

Across all exhibits, a consistent pattern emerges:

- **Exhibit A** shows that Carmel is already generating strong, above-inflation revenue growth without increasing tax rates.
- **Exhibit B** demonstrates that higher tax rates do not produce higher tax revenue per room.
- **Exhibit C** shows that tax increases can lead to sustained occupancy losses relative to nearby competitors.

- **Exhibit D** confirms that higher tax environments lose share within a competitive set, with effects that accelerate over time, particularly in revenue performance.
- **Exhibit E** quantifies the expected demand and revenue losses from a rate increase.

Taken together, the data indicates that increasing the TOT rate introduces **long-term competitive risk**. It places upward pressure on pricing, reduces demand, and shifts overnight visitors to alternative markets. Over time, this leads to declining share of both occupancy and RevPAR, weakening the very foundation that drives TOT revenue.

Carmel's current model, built on reinvestment, strong pricing power, and disciplined marketing through the HID, is already producing increasing tax revenues and a healthy lodging market.

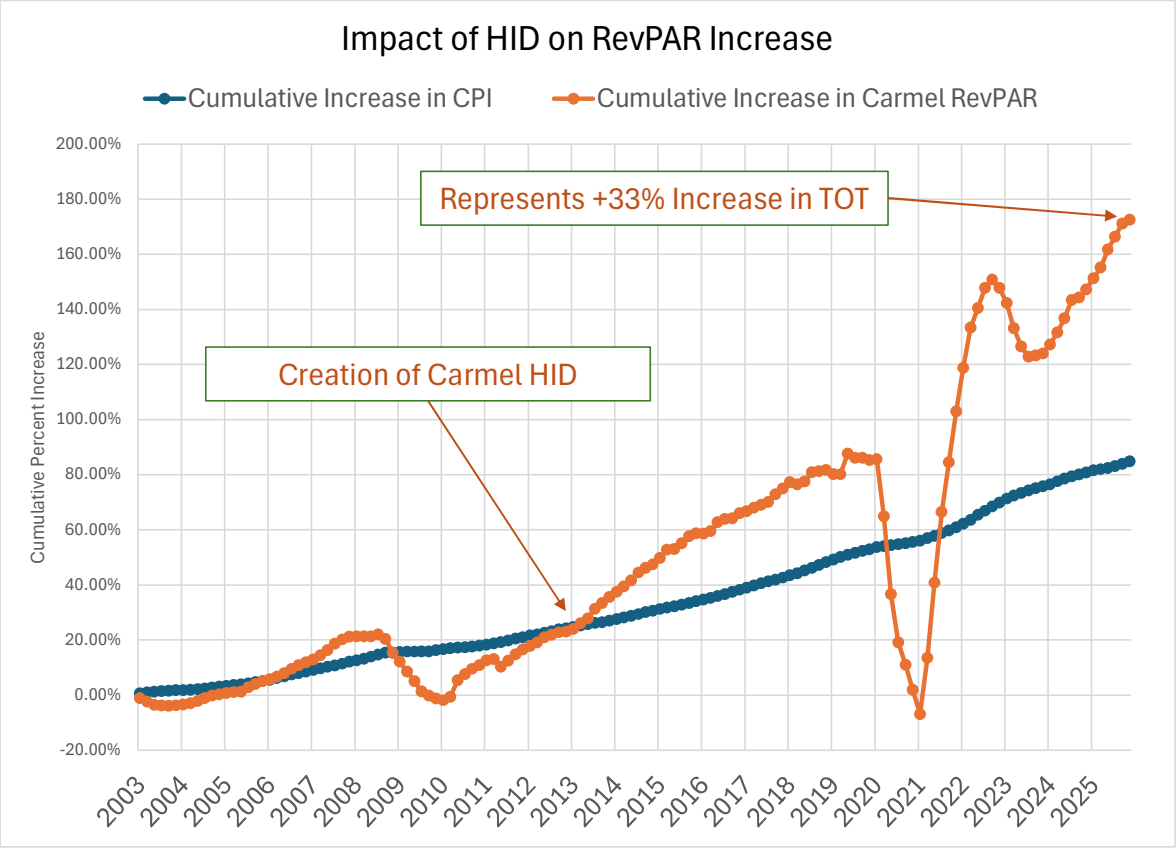
Maintaining that model, rather than increasing the tax burden, is the more reliable path to sustained economic growth and long-term fiscal stability.

Exhibit A

Carmel Hotel RevPAR vs CPI Since Creation of HID

Cumulative, 2003 to Sep-Oct-2025

	Carmel RevPAR	CPI	Delta
Avg 12-Month RevPAR Incr. since HID (2013)	9.4%	3.8%	149.1%
Avg 12-Month RevPAR Increase 2002 to 2012	2.3%	2.4%	-5.0%



Summary

Since the HID's creation in 2013, Carmel hotel RevPAR has grown at an average annual rate of 9.4%, significantly outpacing CPI at 3.8%, a +149% relative gain over inflation. This performance has occurred despite major disruptions, including the COVID-19 downturn and recovery, as well as a multi-year period (2021–2023) when a meaningful share of hotel inventory was offline due to renovations, constraining both demand and available room supply.

This sustained outperformance is not incidental. It reflects two primary structural drivers. First, the creation of the HID enabled hotel operators to self-assess and reinvest directly into targeted marketing, strengthening Carmel's competitive position and increasing market share against other coastal destinations. Second, significant reinvestment in the physical product has elevated the overall quality of the lodging inventory. To date, approximately 127 rooms (13% of inventory) have been renovated. An additional 57 rooms are currently under renovation and expected to return to service before this summer, with another 94 rooms committed to renovation over the next 12 months, further supporting rate growth and demand.

Applying CPI-level growth to the City's 2012 TOT base yields approximately $7.0 million in annual TOT by 2025, while RevPAR-driven growth implies roughly $13.5–$14.0 million, a difference of $6.5–$7.0 million annually. While real-world disruptions limited full realization in certain years, actual TOT still increased by approximately $2.3 million (+33%), demonstrating that stronger RevPAR growth has translated into meaningful tax revenue gains. Looking forward, continued marketing investment through the HID and ongoing property reinvestment position Carmel to sustain above-inflation RevPAR growth and continued expansion in TOT revenues.

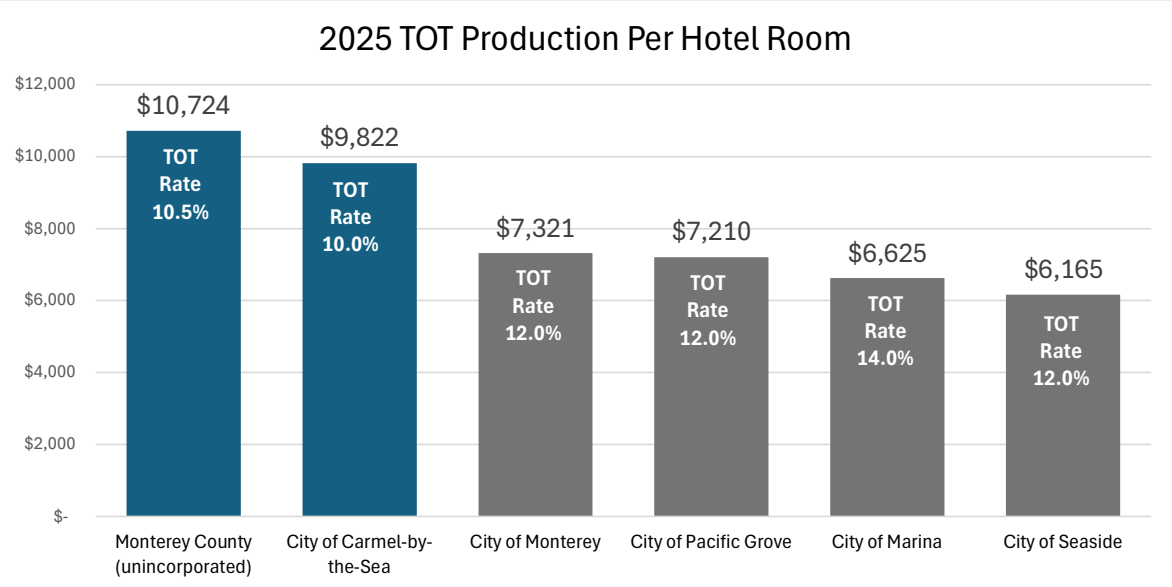
Exhibit B

2025 TOT Production by Jurisdiction

City	Rooms	Occ%	ADR	RevPAR	TOT Rate	TOT	TOT/Rm	Source
Monterey County (unincorporated)	1,815	71.1%	$ 394	$ 279.83	10.5%	$ 19,459,678	$ 10,724	A
City of Carmel-by-the-Sea	**970**	**69.2%**	**$ 381**	**$ 263.58**	**10.0%**	**$ 9,527,386**	**$ 9,822**	**D**
City of Monterey	4,729	71.1%	$ 235	$ 167.14	12.0%	$ 34,620,131	$ 7,321	A
City of Pacific Grove	951	n/a	n/a	$ 164.62	12.0%	$ 6,857,000	$ 7,210	B
City of Marina	980	69.1%	$ 188	$ 129.64	14.0%	$ 6,492,037	$ 6,625	A
City of Seaside	665	n/a	n/a	$ 140.76	12.0%	$ 4,100,000	$ 6,165	C

Source:

A	See Monterey/STR
B	City of Pacific Grove FY 2025-26 Budget, exlcuding Kimpton Hotel
C	City of Seaside FY 2025-26 Budget
D	City of Carmel TOT Reporting, 12 months ending October 2025



Sources: City of Carmel-by-the-Sea and See Monterey

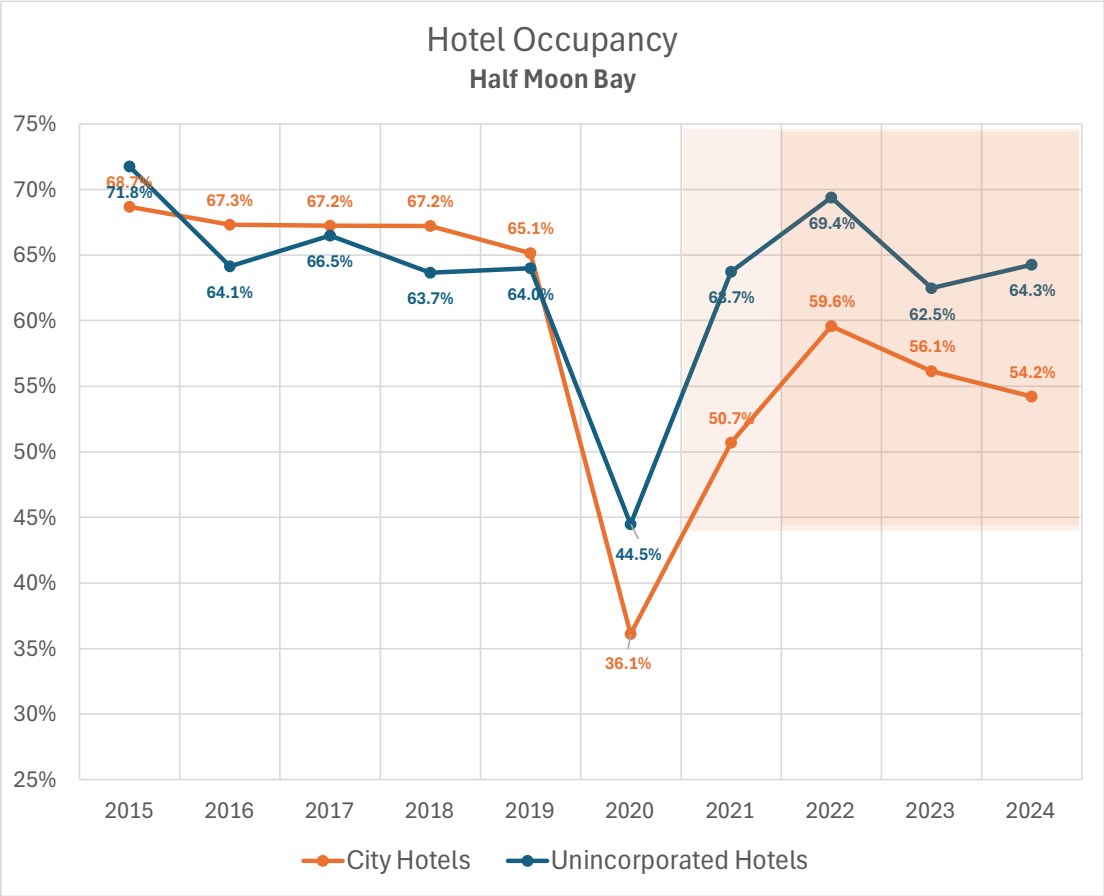
Summary

This analysis highlights a clear and consistent relationship between pricing power, RevPAR, and Transient Occupancy Tax production per room, rather than between higher tax rates and stronger fiscal outcomes. Jurisdictions with the lowest TOT rates and highest RevPAR, notably Carmel-by-the-Sea (10.0%) and unincorporated Monterey County (10.5%), generate the highest TOT per room, at $9,822 and $10,724 respectively. These outcomes are driven by materially higher ADRs and RevPAR, which more than offset their lower tax rates. Carmel serves as the baseline comparator, with several neighboring cities producing 34% to 59% less TOT per room despite higher nominal tax rates.

Conversely, cities that have adopted higher TOT rates (12% to 14%) but operate in lower-ADR, lower-RevPAR markets show substantially weaker per-room tax productivity. Marina, despite the highest TOT rate at 14.0%, generates only $6,625 per room, 48% below Carmel, while Seaside produces just $6,165 per room at a 12.0% rate, 59% below Carmel. The data suggests that raising TOT rates does not compensate for weaker demand fundamentals and may, in fact, reflect structural limitations in pricing power rather than a viable revenue-maximization strategy. The most fiscally efficient jurisdictions remain those that protect rate competitiveness while sustaining strong lodging economics.

Exhibit C

Case Study: Occupancy Impact of Half Moon Bay's TOT Increase



Summary

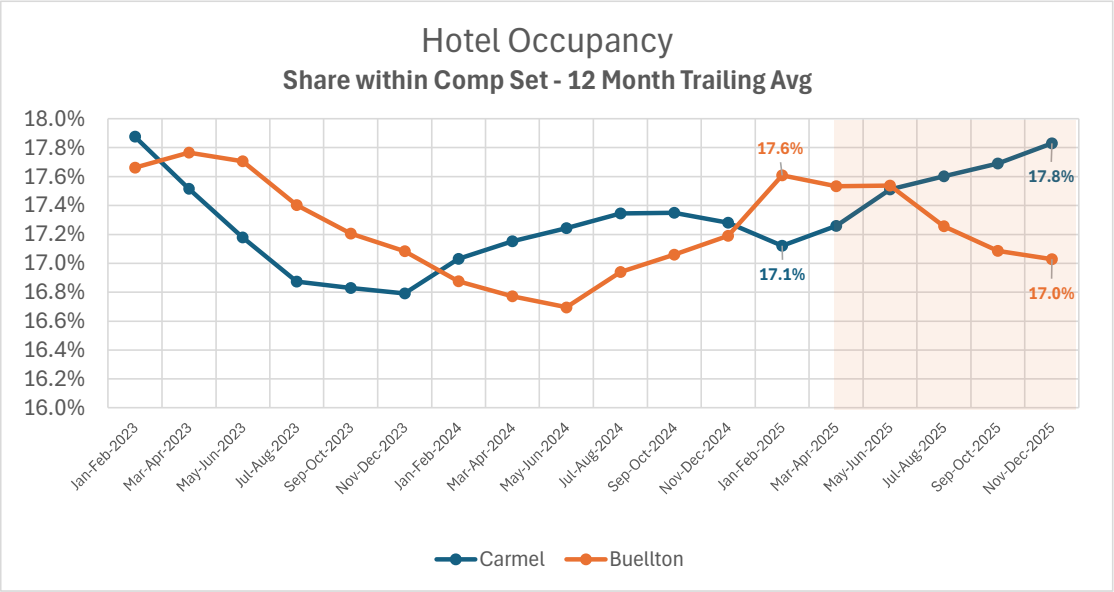
Before the pandemic, hotels inside the City of Half Moon Bay and those in nearby unincorporated areas performed similarly. From 2015 to 2019, city hotels paid a 12% hotel tax, while unincorporated hotels paid 10%, yet both areas recorded occupancy in the mid-60% range. This period establishes a clear baseline showing that the two markets were competitive prior to any tax changes. The sharp decline in 2020 reflects COVID-related shutdowns and is excluded from this comparison.

In July 2021, the City raised its hotel tax from 12% to 14%, while the unincorporated rate remained unchanged. In 2021, city hotels recorded 50.7% occupancy, compared with 63.7% in the unincorporated area. The City increased the tax again in July 2022, raising it to 15%. In 2022, city occupancy reached 59.6%, while unincorporated hotels reached 69.4%. City hotels continued to underperform in 2023 and 2024, trailing the unincorporated area by roughly 8 to 10 percentage points. From 2021 through 2024, city hotels sold approximately 86,000 fewer room nights than they would have if they had matched the occupancy levels of nearby unincorporated hotels. This represents about 10% of the City's potential room nights during that period. Fewer occupied rooms translate into fewer overnight visitors in the City, which has significant implications for businesses that rely on visitor activity. While the data does not prove the tax increases caused the decline, the timing and persistence of the gap raise questions about the impact of higher hotel tax rates on lodging demand.

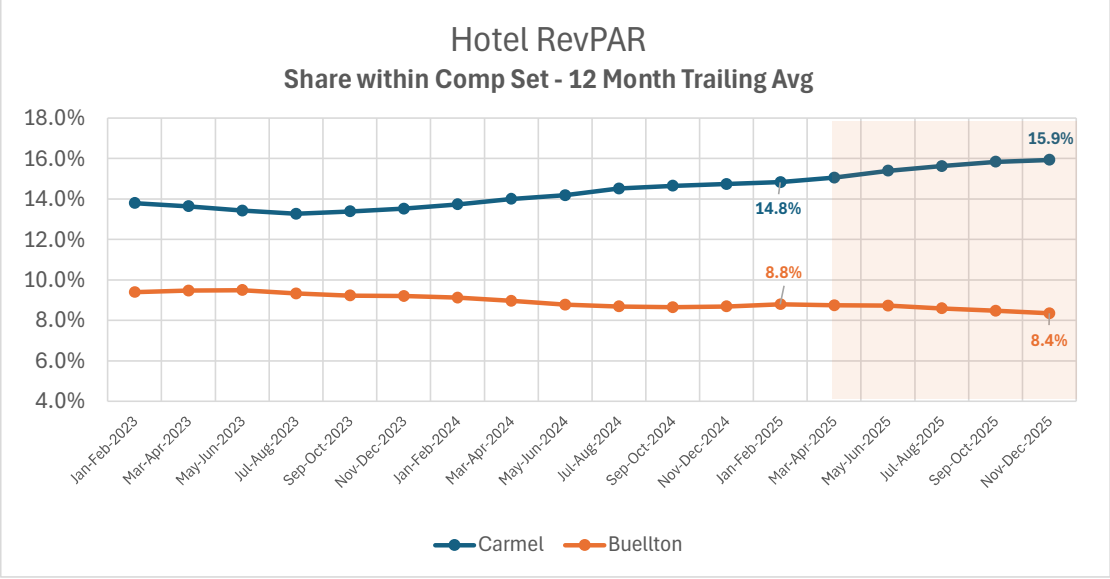
"*The data shows that hotels in the unincorporated County have bounced back better than those inside the City. When the City discussed raising the hotel tax, the Chamber and local hotels warned that higher costs could put City hotels at a disadvantage compared with nearby County properties that stayed at a 10% tax rate. Since then, City occupancy has slipped relative to those properties, which is clear from the data.* " - Krystlyn Giedt, CEO of HMB Coastside Chamber

Exhibit D

Case Study: Buellton TOT Increase and Trending Revenue Decline



Occupancy Comp Set includes: Carmel, Buellton, Calistoga, Monterey, SLO City and Yountville



RevPAR Comp Set includes: Carmel, Buellton, Calistoga, Monterey, Santa Barbara, SLO City and Yountville

Summary

Following Buellton's TOT increase from 12% to 14% in February 2025, its share of room demand within a competitive set of destinations, as reported bi-monthly by Visit Carmel, shows a continued and then accelerated divergence on a 12-month trailing basis. While some softening in occupancy share was already underway prior to the increase, the decline persists and deepens over time, indicating a sustained loss of demand relative to competing markets. Carmel, by comparison, maintains a stable to slightly improving share. The effect is more pronounced in RevPAR share of the comp set. Although modest divergence was visible prior to the tax change, the gap widens more rapidly following the increase, with Buellton's share eroding and Carmel's continuing to strengthen. Because these metrics reflect relative performance across destinations, the post-increase acceleration suggests demand is shifting away from higher-tax markets. Overall, the data indicates that higher TOT rates amplify existing competitive pressures, reducing price competitiveness and leading to a measurable loss of both occupancy and revenue share within the comp set over time.

Exhibit E

Price Elasticity of Demand of Hotel Rooms and TOT Increase

From UMASS Study: https://scholarworks.umass.edu/cgi/viewcontent.cgi?article=1291&context=jhfm

Price Elasticity of Demand = % Change in Quantity Demanded / % Change in Price	
Upscale Hotels	-0.75
Luxury Hotels	-1.36
Price Increase via TOT Increase	**2.0%** (Proposed by Carmel City Council)

Expected % Change in Quantity Demanded	Demand	Inventory	ADR
Upscale Hotels	-1.5%	55%	$ 275.00
Luxury Hotels	-2.7%	45%	$ 530.28

Base for Calculations	12-Months Ended December 2025
City of Carmel TOT	$ 9,533,718
City of Carmel Room Nights	244,531
TOT per Room Night	$ 38.99
Occupancy	69.4%
ADR	$ 389.88

Year 1 Expected Reduction in Room Nights	Demand Lost	Lost Hotel Revenue	Lost Retail Revenue	**Total Lost Revenue**
Upscale Hotels	-2017	$ (554,675)		
Luxury Hotels	-2993	$ (1,587,139)		
Total	-5010	$ (2,141,814)	$ (1,521,081)	**$ (3,662,895)**
Year 1 Lost Tax Revenues from Demand Reduction		$ (214,181)	$ (140,700)	**$ (354,881)**

Resultant TOT @10%	$ 9,319,537
Increase in TOT from Rate Increase (2%)	$ 1,863,907
Reduction in Sales Tax Revenues	$ (140,700)
Effective Net Tax Revenue Increase	$ 1,723,207

Purpose

This one-page summary explains how a TOT increase affects visitor demand, hotel performance, and local tax revenues using elasticity research and Carmel operating data.

How Demand Responds to Higher Prices - Research shows that when total room price rises, demand declines. Luxury coastal markets like Carmel are more price-sensitive than average destinations. A modeled 2% increase in TOT is expected to reduce demand by roughly 1.5% in upscale hotels and 2.7% in luxury hotels.

Estimated Impact on Carmel Lodging - Based on historical occupancy levels, this demand shift equates to approximately 4,900–5,900 fewer annual room nights and about $1.7M–$2.1M in lost hotel revenue. While the City collects a higher tax rate on remaining bookings, reduced demand offsets a portion of that gain.

Secondary Economic Effects - Fewer visitors reduce spending at restaurants, retail shops, and attractions. Estimated merchant revenue reductions approach $1.5M annually. Lower hotel profitability can also limit reinvestment in maintenance, renovations, staffing, and wages.

Long-Term Considerations - If visitor spending grows about 4% annually, a 2% TOT increase effectively captures roughly half of that growth for the City while slowing hotel revenue growth. Over time this may impact competitiveness, reinvestment, and job stability within the tourism sector.

Key Takeaway - A TOT increase may raise municipal revenue in the short term, but elasticity modeling shows it also reduces demand in a price-sensitive luxury market. The net effect includes fewer room nights, lower visitor spending, and potential pressure on the broader local economy.

At the time of the City Council meeting in May of 2024, the prior 12 months had produced $7,741,000 in TOT. The Innkeeper Association requested an opportunity to show that TOT would grow by more than 10% over the next 12 months due to reinvestment. It exceeded this goal, and grew to $9,048,000, or 17%. Through the end of 2025 it has grown to $9,520,000, a 23 % increase in less than two years. Currently, more than 150 hotel rooms are currently under renovation or scheduled for renovation in the coming year, which is expected to produce the same ADR, RevPAR and TOT growth.

CITY OF CARMEL-BY-THE-SEA
City Council
Staff Report

April 7, 2026
ORDERS OF BUSINESS

TO: Honorable Mayor and City Council Members

SUBMITTED BY: Tom Ford, Administrative Analyst

APPROVED BY: Brandon Swanson, Acting City Administrator

SUBJECT: Receive an update on the Design Traditions 1.5 project, and review the proposed Plan, defined Scope of Work, and Proposed Timeline to finalize the Residential Design Guidelines 1.5

RECOMMENDATION:

Receive a presentation and provide feedback on the trajectory of the Residential Design Guidelines 1.5, and specifically:

1. Endorse the formalized project plan, timeline, and the defined scope of work proposed by the Ad-Hoc sponsors, staff and production team to finalize the Residential Design Guidelines 1.5.
2. Provide staff a “wish list” of specific items or issues the City Council would like to see addressed or clarified in the final document.

BACKGROUND / SUMMARY:

At the March 3, 2026 City Council meeting, Council unanimously decided to support moving forward with the Steering Committee draft of the Residential Design Guidelines 1.5. This came following the Planning Commission’s 4-1 vote on February 18, 2026 in recommendation of the Steering Committee draft as well, in which staff presented the Steering Committee draft document in a format comparable to the Nore Winter draft version, in order to make a final decision between the two versions.

As a result of the decision to move forward with the Steering Committee version [**Attachment 1 (link provided) and Attachment 2 (text document)**], Council shifted its focus at their regular March meeting from the document's format to how the final

content editing will be managed. To address the issue of how to best utilize a volunteer production team, Councilmembers Baron and Delves volunteered to form a two-person Ad-Hoc committee, which will serve as project "sponsors" to provide oversight, evaluate the Production Team's process, and ensure the project stays on track to help guide the final phases of the project.

The new Ad-Hoc committee was tasked with returning to the Council with **a formalized project plan, proposed deadline, and defined scope** to ensure completion of the Residential Design Guidelines in an adequate timeframe. The Council agreed that the Planning Commission, as a Primary End-User of the document, should serve as the center point of the project's direction moving forward. Furthermore, Council clarified that a formal "redline" document tracking changes must be created for ultimate certification by the Coastal Commission.

Thus, the same Production Team workgroup (comprised of Steering Committee members, Planning Commissioners, public volunteers, and staff) whose efforts in January and February 2026 resulted in the current draft version, met again in late March to build on that extraordinary work and finalize a plan to finish the Residential Design Guidelines 1.5, a plan which is being presented today.

DEFINED SCOPE OF WORK

The overarching goal of this Production Team workgroup is to address and incorporate feedback from the City Council, Planning Commission, Staff, the Steering Committee, and the Public, to produce a final, adequate, and useful updated Residential Design Guidelines 1.5 **to be presented for adoption at the September 1, 2026 meeting of the City Council.**

The remaining Scope of Work(Pending Tasks) to be completed primarily includes:

- Updating the document to address fire safety and resilience.
- Comparing the Draft Residential Guidelines against the Municipal Code, the Design Guidelines' Strategy Paper, and other City documents to identify consistencies and inconsistencies (as well as identifying needed updates to City documents).
- Creating a "redline" comparison document whose format is visually useful as well as adequate for an amendment to the Local Coastal Plan.
- Adding requested content from the City Council and the Planning Commission (a Primary End-User of the document).
- Conducting a Content Review by Staff (a Primary End-User) to identify outdated elements and address usability.
- Ensuring the architect community's voice is considered and incorporated.
- Reviewing the Planning Process Flowchart and accompanying description.
- Updating the Glossary, Index, and Hyperlinks.
- Final Formatting (which can be done in-house, without paying a consultant).

(Note: The Commercial and Municipal Design Guidelines will be addressed sequentially following Council adoption of the Residential Design Guidelines 1.5).

PLAN METHODOLOGY AND TIMELINE

The process of editing and updating the draft Residential Design Guidelines 1.5 will be driven by four (4) 1-month "sprint cycles" built around the Planning Commission's monthly regular meetings between April 8 and August 12, 2026. These monthly meetings will serve as the basis for gathering feedback and input from both the Commission and the Public on each subsequent draft that is presented.

Extensive efforts will be made to advertise and solicit feedback from residents, architects, and the broader community during these regular meetings, including the use of Pine Cone ads, City website 'ads,' purposeful word-of-mouth invitations, and the Friday Letter.

These repeating monthly "sprint cycles" will begin at the upcoming April 8, 2026 meeting of the Planning Commission.

The cycles can be broken down as follows:

1. The Planning Commission receives a presentation of the most current draft version and provides feedback & recommended edits
2. Staff edits and the Production Team provides feedback and further suggested edits
3. Staff reviews and approves edits and suggestions to create a new draft version that satisfies the recommendations from the Planning Commission
4. The Production Team meets to view the newest draft version, and prepares to present the newest updated version to the Planning Commission at their next regular meeting

Each one-month cycle (Steps 1–4 above) will have targeted goals, focusing on specific Tasks identified by the Planning Commission during their prior month's meeting. This allows staff and the Production Team to then incorporate the Planning Commission's feedback within a guided framework, resulting in an updated draft version for the Planning Commission's review at their next regular meeting.

The Pending Tasks have already been strategically placed throughout the four cycles to create a sequential order or work, with the goal of a streamlined process that reduces repetition (e.g. the Hyperlinks will only be updated after the final approval of the content by the Planning Commission. Following the Hyperlinks update must come final Formatting. Following the Formatting, an update to the Index will be made).

To meet the target adoption date of September 1, 2026 by Council, Staff is currently seeking two specific areas of feedback from the Council today:

1. Does Council endorse the formalized Project Plan that is being proposed today, including whether the timeline is realistic, and if the defined Scope of Work proposed by the Ad-Hoc Sponsors and Staff is believed to be a sufficient process to finalize the Residential Design Guidelines 1.5?
2. Provide a short, refined “wish list” of specific items or issues the City Council would like to see addressed or clarified in the final document.

ACKNOWLEDGEMENTS

Though our sights are set ahead, Staff would like to formally recognize a number of notable contributions from the past several years. A special thanks is due to Nore Winter, whose effort will not be lost; rather, it provided a springboard from which our subsequently appointed Steering Committee refined and restructured his valuable draft into an organic, Carmel-resident-led product, which is the draft we are moving forward with today.

To that end, Staff would also like to formally recognize and thank the Steering Committee members individually: Victoria Beach, Melanie Billig, Don Goodhue, Maryann Schicketanz, and Doug Schmitz, for their tremendous dedication to this project. This project’s efforts are dedicated to the memory of Don Goodhue.

As we move forward toward this common goal of creating a quality, useful update to the Residential Design Guidelines – part of the broader Design Traditions 1.5 project – our Production Team will continue to draw on the contributions of those who led us to where we are today, to create a vision for how we will uphold Carmel’s design traditions in the future.

FISCAL IMPACT:

Pine Cone advertisements, whose budget has already been appropriated in the Planning & Building Department’s Fiscal Year 2025-26 budget.

PRIOR CITY COUNCIL ACTION:

Pertinent Council meetings on this matter include:

March 2022: City Council approved a contract with Winter & Co. to update the City’s Residential and Commercial Design Guidelines, officially launching the Design Traditions 1.5 Project.

April 2022: City Council established the Design Traditions 1.5 Steering Committee and appointed five members to work with staff on the project.

September 2022: City Council and Planning Commission approved the Strategy Paper intended to guide the project.

January 13, 2026: City Council received an update on the draft guidelines, provided feedback, and directed staff to "surge" efforts to create a document comparison so the Planning Commission could recommend their preferred version.

March 3, 2026: City Council unanimously decided to officially support moving forward with the Steering Committee draft of the Residential Design Guidelines 1.5, and formed a two-person Ad-Hoc Committee to act as project sponsors.

ATTACHMENTS:

1. Steering Committee Version (link to file)
2. Steering Committee Draft (Clean)

Attachment 1 - Steering Committee Version of the Design Guidelines

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Design Traditions of Carmel
DESIGN GUIDELINES





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CORE PRINCIPLES

1. ENHANCE, restore, and preserve the native forest in all improvement projects: private, public, and otherwise.

2. SUBORDINATE every built structure to the character and continuity of the forest, natural environment, and to the natural features of its own site.

3. FIT every built structure within its neighborhood context.

4. RETAIN and build upon Carmel s architectural heritage.

5. DESIGN every built structure with modesty.

6. DETAIL every property authentically and consistently.



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KEYS

IMAGE SYMBOLS KEY

- Image and caption describe a SUPPORTED principle.
- Image and caption describe a CONDITIONAL principle.
- Image and caption describe an UNSUPPORTED principle.

LINKED DOCUMENTS KEY

GP	General Plan
HCS	Historic Context Statement
LCP	Local Coastal Plan
MC	Municipal Code
P	Policy

DEDICATION

We dedicate these Design Traditions Guidelines to the memory of the notable architects who both worked tirelessly to create Carmel's legacy of contextual design excellence and still made time to serve as community volunteers to preserve and nurture this legacy.

Most especially, we dedicate this work to our very own paradigm of excellence and service, award-winning architect and fellow guideline Steering Committee member, Donald Bruce Goodhue (1932-2026). His unerring aesthetic judgement and wise counsel will live on in these pages to inspire the very best contributions to Carmel architecture from those who follow behind him.



With enduring gratitude,

Don's Steering Committee Colleagues:

Victoria Beach

Melanie Billig

Mary Anne Schicketanz

Doug Schmitz



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PREFACE

"It has become a symbol of an attitude and an approach.
The attitude is that quality is worthwhile in itself, but that it also makes economic sense."
- Lawrence Halprin, landscape architect, January 1967

From its earliest years, Carmelites sought for their village to be different from other communities, to have originality and uniqueness, to weave pleasantly amongst the natural landscape of sea, hill, tree and beach. Before incorporation as a city in 1916, the Carmel Development Company was aided by the Carmel Civic League, an entity created to protect the physical assets of the village and to advocate for tasteful, person-kind improvements. A dozen years after 1916, Dr. Carol Aronovici, a renowned city planner, addressed members of the community on the civic value of architectural control.

Dr. Aronovici told the assembled mass that good civic design "is the art of conserving all the natural advantages of a city and controlling all building enterprises, whether public or private, so as to blend them into a harmonious whole."

It was the local newspapers which led the effort for community architectural review. By 1929, Perry Newberry had become publisher and part-owner of the Carmel Pine Cone newspaper and began a year-after-year drumbeat for better planning and architecture, calling in editorials for "lines of distinction and individuality" in building design. "There should be some measure of civic control" he wrote in 1935, "which will make Carmel more beautiful."

Newberry was joined in this crusade by Willard K. Bassett, publisher of the Carmel Cymbal, who in 1938 opined in favor of architectural review of buildings in the commercial core. In 1940, Bassett editorialized to "Keep Building Atrocities out of the Business District." And by the end of 1940, the City Council created a process for civic review and approval of new buildings.

The enclosed Design Guidelines are heirs to over a century of our community's want to assure new or remodeled structures meld with Carmel's natural beauty and with their neighboring edifices. Generations and succeeding generations have sought architectural sincerity in what is built.

Our Design Guidelines Committee hopes this booklet assists you in your quest to become part of our heritage by blending your project in amongst its neighbors and within our ancient forest, both on your own property and any adjoining public property. Only with your help and dedication to our shared commons can we preserve and enhance the overall continuity and harmony of the built and especially the natural environment that is our unique legacy.

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A VISUAL HISTORY

Carmel's Natural and Built Environment







Carmel's Natural and Built Environment: A VISUAL HISTORY



Perhaps the first lasting structure in Carmel-by-the-Sea, arriving some 200,000 years ago, was a 25-million-year-old tree species, Pinus radiata or Monterey Pine. It now survives indigenously in only three mainland pockets: the Año Nuevo and Cambria regions, and the Monterey Peninsula, which is thought to be the "Mother Stand" — sustaining the entire mainland species over the millennia *(seen here from Carmel Mission Ranch circa 1900)*. A relative newcomer, Quercus agrifolia or Coast Live Oak, joined the pine plant community around 10,000 years ago *(seen here in an extant local grove)*.





The earliest known human structures in the area also arrived around 10,000 years ago. The Rumsen peoples dwelled respectfully and symbiotically with the oak and pine forest ecology for their food and other essentials. They also built respectfully and very lightly on the land, weaving their temporary homes from the nearly endless supply of tule grass and bent willow branches along the Carmel River *(seen here in a modern reproduction)*. The design, with its overlapping, umbracular layers wrapped in a conical design around a circular chimney oculus in the roof, perfectly expresses the combined functions of shelter against outside elements and warmth for the central fire circle within.

Thousands of years later, when Spanish scouts landed in 1602, the Monterey Pine forest community remained intact and abundant. Noting the "many pines for masts and yards," sea captain Sebastian Vizcaino named the peninsula "Punto de Pinos" or Pine Point. Unlike the gnarled native oaks, tall, straight conifers make excellent building materials. So, when the Spanish returned to found Mission San Carlos de Borromeo in 1770, they initially built it of local, mud-plastered timber with straw or earthen roofing, eventually transitioning their buildings to more solid, adobe brick construction.



The missionaries formed their adobe bricks of natural local materials: clay, sand, and an organic binder such as straw with mortar of adobe mud or of pulverized limestone and abalone shells. They used these materials to build, sometime around 1776, the first permanent residence in California: a simple, boxy, lean-to house for their orchardist. The building *(seen here)* is still standing as a residence today.

Dedicated in 1797, the mission church building is of a still stronger material: native brown sandstone from the Carmel Valley with mortar and plaster derived from abalone shells and local timber roofing members. For this important structure, the padres brought in Guadalajaran master stonemason Manuel Estevan Ruiz — the first

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known building designer in Carmel-by-the-Sea history. Ruiz, working, by definition, in the Mission Style, created a relaxed, asymmetrical design *(seen here today)*, quoting a number of architectural idioms, such as the Moorish bell tower, the Gothic quatrefoil starburst rose window, the Baroque arch flourish atop the Palladian gable, and the Classical retable entrance surround to create an eclectic interpretation of Spanish Colonial style.

Spain ceded California to Mexico in 1821, which then "secularized" the missions in 1834, making their lands available for private use, primarily by ranchers. Around 1846, during this influx of pioneers, Boston sea captain Matthew M. Murphy, built his cabin *(seen here circa 1905)* right on the margin where the open sand dunes met the thick Carmel forest. The single-pen, rectangular plan building of rough-hewn, local, pine logs with v-notched joints was typical of pioneer construction. It was originally used as a barn, later as an art studio, and still stands, albeit greatly modified, as a residence today.





In 1888, brothers Santiago and Bellario Duckworth acquired the development rights to a half-square-mile of Honoré Escolle's ranch and subdivided it into mostly 40 by 100-foot parcels, forming what would become the core of Carmel by the Sea and bringing an acceleration of native wood construction into the forest. That same year, Duckworth tucked his own small, vernacular wood home amongst the large mature pines along Carpenter Street. This vertical board-and-batten, rectangular plan, side-gable home *(seen here)* was so simple that the pedimented window casings and stick-like bracketing on the porch posts were its only concessions to decoration.

The abundance of timber encouraged wood construction beyond small residential buildings. With accommodations for 40, the first hotel in town, El Carmelo Hotel *(seen here in soon after opening in 1889)* was built of wood on the corner of Ocean Avenue and Junipero Street before it was moved down the avenue and fittingly renamed Pine Inn in 1903. Douglas Knox Frasier designed the hotel with horizontal wood shiplap siding and a pyramidal hip roof in an American Foursquare or Prairie-Box house style. This simple style, with its honest construction, basic, boxy form, minimal corridors, and efficient layout is considered a reaction to the ornamental excesses and expense of the Victorian Style.





Real estate developer Abbie Jane Hunter opened her 1889 community bathhouse at the forested edge of Carmel Beach *(seen here soon after construction)*, built by her uncle, Delos Goldsmith. With its honestly expressed, post-and-beam wood construction of recessed infill panels of glass for the public cafe and horizontal wood for the private changing areas, its cross-wing dormer roof, and its deeply overhung central ventilation tower, this low-slung, pavilion style structure, foreshadowed Julia Morgan's craftsman style hall at Asilomar. In 1892 Hunter went on to purchase a full quarter square mile and sold about 300 home parcels, mainly to teachers and writers.



An early exception to the rule of wood construction was the first local brick house, built in 1898 at Monte Verde Street and Fifth Avenue by English master mason Benjamin Turner *(seen here soon after construction)*. The modest gable-and-wing residence was a showcase for his skills with its diamond shaped gable accent and decorative quoining at the corners and at door and window surrounds.



After a nationwide recession in the mid-1890's paused growth, James Franklin Devendorf and Frank Powers, who founded the Carmel Development Company in 1902, bought out the earlier developers. Now the pace of construction could resume. Just as the need increased to harvest timber for buildings *(seen here stacked in Del Monte Forest circa 1900)*, so did the need to clear the land for these buildings and, more significantly, for the streets that connected them.





However, the new town founders were committed to preserving the forest that initially attracted them by continuing to attract only aesthetically discerning residents who could set a "self-perpetuating" "tone," "preventing man and his civilizing ways from...marring the natural beauty lavishly displayed here." To that end, they advertised the place to professors and artists "of all kinds" as "a town in a pine forest" with homes "artistic in character, reflecting the temperament of the town" and "designed by architects who attempted to...fit the local surroundings."

Likewise, although the village streets were laid out in an unremarkable grid on paper, in reality that grid often seems to disappear into a rambling wilderness pathway because of its deliberate deference to the pre-existing forest. This deference was achieved through several creative planning principles: the designation of an oversized public right of way along residential streets, often three times the width of any paving; the occasional narrowing of paving down to one travel lane; the ban on sidewalks so that the paving must be used as a footpath; the curving of paving to the left or right of the street centerline into the public right of way *(seen here on Torres Street)*; the use of one or both sides of the right of way for a continuous native forest greenbelt; the protrusion of existing native trees and undergrowth into the sides of the paving, the splitting of paving around existing plants *(seen here on Mountain View)*; and the compelling of residents to continue the native forest landscape seamlessly into their private parcels to minimize the impact of built structures on forest continuity.

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When trees had to be removed, whether on private or public lands, they were quickly replaced. Devendorf "gave away tree saplings like candy" to newcomers developing their homesites. So, when the forest was cut to lay out Ocean





Avenue *(seen at left in 1888)*, it was soon re-forested with the same species *(seen at right near Monte Verde Street in 1903)*.

The same founding year of the Carmel Development Company, seventeen-year-old, trained carpenter, Michael J. Murphy built his first house: today's "First Murphy House," originally tucked in the forest on Mission Street between Fifth and Sixth Avenue *(as seen here)*. The rectangular plan bungalow in the Anglo-Colonial style was small and pared down with no exposed structural members typical of the Craftsman style or even a porch. Yet, it had understated flourishes such as the decorative glass, the slender, double-ogee wood siding, and the flared or bellcast hip roof. Just two years later, in 1904, Murphy became the chief builder for the Company and went on to construct about 350 buildings in town.





At this same time, Ocean Avenue was emerging as a commercial corridor in the Pioneer style typical of western towns. The wood-framed buildings had horizontal, false-front facades, extended vertically above their front-gabled, pitched roofs and sometimes ornamented with wood trims, panels, and pediments to give them a larger, more prosperous look. This included L.S. Slevin's, the post office and first general merchandise store, Fritz Schweinger's bakery, still operating as a bakery today, and Robert and Fred Leidig's grocery store *(all seen here circa 1910)*.



In 1903, Thomas A. Work built the Carmel Development Company Building, a commercial block on Ocean Avenue and San Carlos Street which housed his hardware store, the Carmel Development Company office, and Devendorf's Preble Grocery. The flat-roofed, three bay, fireproof, rough-textured, concrete cinder-block structure, with its large, plate-glass store windows capped by a ribbon band of transom lights, was Carmel's first truly Modern style building. Unadorned and clear in revealing its purpose, if somewhat formal or classical in its tripartite geometries, it is still in active commercial use today *(seen here soon after construction)*.

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Ever nonconformist, Carmel architecture stepped both forward and backward simultaneously. Also around 1903, but perhaps channeling the Late Neolithic, attorney George Richardson built his L-shaped, 600 square-foot, saddle-notched, hand-hewn log cabin on Monte Verde Street between Fourth and Fifth Avenues (seen here circa 1914). This modest structure was poet Robinson Jeffers' first local rental home.



With a similarly archaic construction technique, Ben Turner (of the aforementioned first brick house) hand-built the tower and other native mudstone elements of a home (now La Playa Hotel) designed by Artist Christian Jorgenson for his wife, the chocolate heiress, Angela Ghirardelli. Both the technique and the quatrefoil window (seen here on the lower left of the tower, circa 1906) replicate the originals of the Mission basilica.



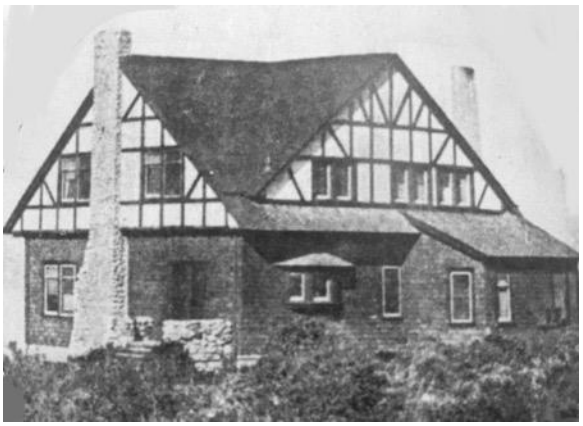
But with modern building techniques also came freedom to explore many architectural styles beyond the traditional or the simple vernacular, some traditional-looking, some not. In 1905, the First Bay Area Regionalist or First Bay Tradition style, an interpretation of the American Shingle Style, appeared at Philip Wilson's real estate office on the corner of Ocean Avenue and Dolores Street (seen here soon after construction, it was briefly the town's first City Hall starting in 1917). With the sculptural qualities of a much smaller, flexible, unit of wood than timber or clapboard, shingles awakened a completely new, uniquely American, direction for architecture. With shingles tautly enveloping all surfaces and junctures, architecture could start to articulate the internal volume of a building, rather than its individual planes or structural components, just as the two dormers appear to swell up from the shingle surface below them to pop through the roof plane. These expressive volumetrics led, in turn, to a relaxation of symmetries and a casual naturalness, apparent in the asymmetrical lower fenestration and emphasized by the untreated, rough and rustic wood, often pre-aged in buttermilk, so that the grays would blend into the local forested surroundings.

This emerging idea that buildings should feel natural, not artificial, should blend exterior and interior, should honestly reveal something intrinsic, such as their internal uses or volumes, this architectural "honesty," was also explored within the American Craftsman style, which exposed the often concealed craft of construction. In his 1905 Gardener house (seen here on San Carlos Street at Santa Lucia Avenue), M.J. Murphy exaggerates its raw, rectilinear materials and the care in their assembly. For example, the roof planes overhang well beyond what the walls require for shelter and the roof beams extend even farther and appear stronger than what those roofing planes require for support. Similarly, the oversized porch posts,



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the deep shadow lines of the vertical siding battens, the change of siding pattern at the foundation, and the bold ganging and framing of the windows all serve to illustrate both how the structure is made and the unadorned, natural purity of what it is made of.



These innovative, architectural experiments coincided with a number of Revivalist styles, forming an Eclectic Era that coincided with a surge in Carmel's development after the Great San Francisco earthquake. Architect Eugenia Maybury designed, also in 1905, a Tudor Revival or Mock Tudor style home for the McGowan sisters on Thirteenth Avenue near San Antonio Avenue (seen here soon after construction). The late-medieval, English vernacular Tutor style relied on a heavy timber post-and-beam, perimeter structure, with wattle and daub unevenly hand-packed between the wood members, leaving them partially exposed for a "half-timbered" appearance. Mock Tutor imitates these cottages of the British underclasses, with their vertically proportioned windows, jettied upper stories, soft thatch roofs, and showy chimneys, but with one important exception. Born of the post-industrial 20th century, Mock half-timbers are no longer timbers, but instead non-structural, decorative, trim pieces applied on top of the smooth stucco finish of ordinary modern construction, making it challenging to capture the irregularity, depth, and authenticity of the original.



Perhaps the earliest Mission Revival style structure appeared, again in 1905, on a Lincoln Street parcel at Seventh Avenue donated by Devendorf to create Carmel's first protestant church (seen here circa 1935 before its eventual demolition). Rather than stylistically diverging, this long-awaited alternative to the town's Catholic church seems, perhaps paradoxically, to exalt its predecessor. Despite the freedoms that its modern wood framing and stucco construction would have afforded, the composition accurately echos the restrictions of the mission's stone construction, with its structural reliance on blank expanses of stacked stone walls and on the narrow, rounded openings of stone arches. And though these openings are so shallow and devoid of shadows that they easily betray the thinness of the modern walls, there remains an earnest homage to the mission's square moorish towers, its asymmetrical massing, and the Baroque arch flourish, reinterpreted here to form the wavy shape of the entire front gable.



By 1911, Frank Devendorf could report that over sixty percent of Carmel residents devoted their lives to work in the "aesthetic arts." His prophecy that the aesthetically educated would be the best stewards of the environment came true when, on October 31st, 1916, residents voted to incorporate the village of Carmel by the Sea, citing as a main reason the failure of Monterey County government to protect and preserve its unique natural character from the destructive forces of "progress." Unsurprisingly, one of the first actions of the new local government was to pass ordinances to protect the ancient Monterey pines. Perhaps nobody epitomized this twin love of art and nature more than Robinson Jeffers (seen here in 1919) who, while not writing poetry, continued the Carmel tradition of hand-made stone towers by building his own out of native granite at his Tor House between Scenic Road and Ocean View Avenue on nearby Carmel Point.





Just a few blocks away and a few years later, Architect Charles Sumner Greene embraced both modern construction and expression. In 1919, on Lincoln Street south of Thirteenth Avenue he built one of the first concrete foundations in town and likely the first prefabricated board-and-batten, wood walls, which were tilted up rather than built in place. He designed the home (seen here soon after construction) as a new interpretation of the u-shaped hacienda ranch homes built by early Mexican-Spanish settlers. Those early ranch buildings used their open courtyards and surrounding porticos to provide shade, to dissipate cooking heat, or to collect water. Here, however, the tree cover precludes the need for roof overhangs, the simple shed roofs direct water away, and, often in Carmel, open courtyards were oriented southward to collect heat.

In 1923, Greene conducted another architectural experiment with the idiosyncratic studio he added to the east side of his property. By applying his considerable personal artisanship to an array of random materials (brick from a demolished hotel, leftover marble from another job, used bottle glass, fence pickets discarded by a ranch, hand-harvested and donated timber and marble scraps), he resourcefully up-cycled these "found objects" into an unusual interpretation of the Mission Style. Though constructed in the stacked-masonry tradition of the adobe and stone missions, with characteristic barrel tile roofs and small, arch-supported openings, the building has the broad front gable and low-slung, overall form of his famous Craftsman bungalows. Unlike either style, the front facade (seen here in a recent view) appears almost hermetically sealed, with its heavy teak door and conspicuously miniscule fenestration with impenetrable tinted glass, perhaps an adaptation to support his artistic concentration or interior acoustics for piano playing and salon gatherings.



Certainly the diversity of architecture in Carmel sprang from the diversity of people building there. But diversity prevailed even within one person's work: M.J. Murphy avoided repetition whenever possible, even though he built more than anyone else. In 1922, he tackled the Monterey Colonial Revival style in the Kluegel home on Camino Real North of Ocean Avenue (seen here in a recent view). Born in California, Monterey Colonial originally fused the shipwright's simple detailing, roofline, and overall form of the early New England Colonial, the long, sometimes full-height openings and double shading provided by a prominent cantilevered balcony of the Caribbean Colonial, and the adobe wall construction of the Spanish Colonial. Here, the Monterey Revival substyle (of Spanish Colonial) repeats these features, though with stucco over modern wood framing, the four-quarter simplicity of the facade supporting its many asymmetries and irregularities.



The same year, J.S. Cone designed her own home at the corner of Monte Verde Street and Thirteenth Avenue (seen here in a recent view). Clad entirely in vertical planks of redwood bark found in nearby groves, the rough, dark exterior of its asymmetric volumes recedes into the forest. However, the plentiful windows with sturdy mullions spaced in scale with the cladding, plus the double-height central hall with full-length balconies concealed within the simple main form, allow for a bright and open interior without compromising the home's unsurpassed deference to the natural site.

Notwithstanding the predominance of the Craftsman style and a general emphasis on simplicity, the Eclectic Era of the early 1900's continued on in the residential neighborhoods.



Meanwhile, a different trend started to develop in the commercial core. For its 1915 Panama-California Exposition, San Diego aptly selected the revival styles of the first European settlers in California to celebrate its auspicious future as the first west coast port for European ships coming through the new Panama Canal. The dazzling success of this architectural spectacle is widely credited for re-popularizing "New World," Mexican and Spanish Revival styles of the Southern hemisphere. Perhaps the first glimpse of this trend in Carmel was in 1922, when architect Thomas Morgan overlaid a Spanish Eclectic facade of stucco and barrel tiles onto a typical, wood-framed, Western false-front, infill structure. The Thomas A. Oakes building (seen here soon after construction) performed important civic functions as the new post office, second city hall, council chambers, and police station. Despite its official role, however, the building did not establish an official style — in contrast to other towns such as Santa Barbara, which legally codified its signature Spanish look in 1925.



Instead, also in 1922, a rival trend emerged downtown looking primarily toward the Northern hemisphere "Old World". Lee Gottfried built and Edward Kuster designed the Tudor Revival Weavers Studio for his spouse Ruth Kuster (seen here in 1923 after relocation and an added ticket booth serving the Golden Bough theater on Ocean Avenue). Perhaps counterintuitively, Tudor Revival style does not revive the Tudor style itself, meaning the late-medieval style of the royal House of Tudor. Rather, the early twentieth century version revives the modest country cottage vernacular style of Tudor England to satisfy what architectural historian Nicholas Pevsner called "the English flight from reality around the 1914-18 war [WWI]." The modest, handcrafted look, a vision of simpler times and places, offered the British an escape from industrial age ordeals and likely resonated similarly with city dwellers seeking respite in Carmel's ancient coastal forest.



A romantic accident of history gave the "old-world" trend a sudden boost in 1924, when Hugh Comstock visited his sister in Carmel and she introduced him to Mayotta Browne. The 27-year-old rancher and the doll-maker were married within a few months. That same year, Comstock, fresh off various handyman gigs in Los Angeles, built his new bride a teeny backyard cottage showroom named "Hansel" on Torres Street near Sixth Avenue (seen here at that time with its owners) for her thriving "Otsy-Totsy" felt doll business.



Its Fairytale or Storybook style, was a brief, inter-war phenomenon dreamed up in Los Angeles by film industry creatives influenced by soldiers returning from their first exposure to European countrysides. (In fact, the famous Hollywood sign originally spelled Hollywoodland and was built in 1923 as an advertisement for the nation's first storybook real estate development.) Thought to be the inspiration for Disney's immersive and lavish "imagineering" approach to set design, this Tudoresque substyle is characterized by exaggeratedly plastic and sometimes cartoonish interpretation of the medieval. Features can include lopsided walls and undulating roofs with deliberately misaligned shingles wrapped over rolled eaves meant to emulate thatch or puckered around eyebrow windows, fanciful roof rake boards, stucco artificially aged through tinting or patination, implausibly sinewy, false half-timbering or window and door surrounds, hand-whittled and possibly charred or distressed to suggest

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age, irregular door and window shapes, sizes, and placements. The labor intensity of its idiosyncratic craftsmanship fit well with Carmel's artistic and bohemian culture, but the difficulty of convincingly replicating it virtually guaranteed the style's demise during the Great Depression. Still, in its decade or so of popularity this theatrical SoCal style spread widely across America, likely finding few places with the deep forest backdrop of actual fairytales to exhibit it so perfectly. Understandably, Comstock was inundated with orders, setting him on a new career path to become Carmel's next-most prolific builder and causing old-world reverberations from backyards to downtown.



And yet, in exactly the same year, 1924, Carmel saw further exploration into the "new-world" styles as well. On Ocean Avenue and Dolores Street, Earl Percy Parkes designed and built a Pueblo Revival gift shop for owner, Mary Dummage (seen here in a recent view). Perhaps, the oldest continuously occupied architectural style in America, Pueblos were made of balled or bricked adobe and timber roofs with few, if any, windows. In the revival style, if adobe is not used, rounded corners, irregular parapets, and thick, battered walls usually stuccoed in earthtones simulate it. Round vigas or roof beam logs or other rough timbers often project through the parapets or under upper stories as corbeling, as seen here, to imply a structural function. However, the plentiful fenestration, without even a pretense of supporting lintels over its wide openings, betrays this particular building's internal wood framing and compromises the credibility of an otherwise easily- and often-reproduced style.



A year later, in 1925, Fred Ruhl constructed the first phase of the aptly-named Normandy Inn on Ocean Avenue at Monte Verde Street (seen here circa 1930). Berkeley-trained architect, Robert Stanton designed the complex in the Normandy Variant of the Tudor Revival style. Because in that region of France country homes were often attached to their barns, this style variant is distinguished primarily by the addition of a tower element, which reinterprets a barn's grain or silage facility, usually as a main entry or stair tower as it appears here to the left of the main entry.



A year after that, in 1926, the City of Carmel held a design competition for its new library building one block uphill from the inn, on Ocean Avenue at Lincoln Street. Unconvinced by all nine of the first-round entries, the City hired emeritus Berkeley professor and famed, stylistically eclectic architect, Bernard Maybeck to partner with contractor M.J. Murphy. When completed in 1928 (seen here around then), the value of the delay was revealed by the building's persuasive fidelity to its style. An essay in dignified restraint, the design derives expressive power through its control of volume, proportion, and measured detail, not complex massing or materials. It celebrates its prominent community purpose with its unabashedly prominent reading room and enormous, steel-framed, front window. The ratio of window to wall, however, remains correctly modest with all glass set back as far as possible so as to accurately evoke both the spanning limitation and the deep thickness of older adobe walls. The weight of the barrel tile roof is properly conveyed by the hefty and genuinely structural roof beams and how they extend beyond the walls to easily support the deep overhangs. The perhaps surprising subordinance of the low, recessive, and dark-shadowed, side entry wing defers to and thereby re-emphasizes the library's mission: reading.

Also in 1926, on Dolores Street south of Ocean Avenue and, Bonnie Lee commissioned Hugh Comstock to design and build her Art Shop. His only Fairy Tale style commercial building (seen here shortly after its 1927 construction), it echos and exaggerates even further the make-believe of Hansel and his other residences. Roofs go from wavy to wandering, doors from curved to camelid, windows from regular rectangles to lawless lozenges, trims from bumpy to bulging, and chimneys from quirky to so impossibly quixotic as to require steel bracing. Now operating as the Tuck Box, the building represents the epitome of Comstock's mischief with this style, inspiring other, though always more demure, commercial development.







The same year that "old-world" style peaked in extravagant fantasy, downtown development in the "new-world" style also began to peak. 1927 saw Oakland architects, Roger Blaine's and David Olsen's Eclectic Spanish Revival designs for Dr. Rudolph Kocher's medical practice at the La Giralda building on the corner of Seventh Avenue and Dolores Street (seen here from each street respectively in recent views), followed, in 1928, by their El Paseo building for L.C. Merrill across Dolores (seen below in a recent view),



and then, in 1929, their building for Robert and Isabel Leidig on Dolores near Ocean on Avenue (seen below in a recent view). These buildings, all primarily concrete, along with several others built around the same period, diverge somewhat in their influences. But, they share the hallmarks of the style: an emphasis on the solidity implied by masonry construction, with its heavily shadowed, small, deep openings in blank expanses of monotone stucco-coated wall, the handmade decorative tile and metalwork, the rough, handcrafted appearance of the clay barrel tile, the irregular massing and openings, and the like. With some details drawn from measurements actually taken on the architects' trips to Spain, the El Paseo building in particular provides a veritable dictionary of vocabulary authentic to its Revival language: the custom metal window grilles with unique twists in each bar, the pre-aged wood banisters, the doors and windows that never match, the eye-catching shadows of scalloped balconies, and the lintel over the passageway entrance sized to properly reflect the spanning strength of wood (though it is painted concrete).





When the Sunset School outgrew its 1906 "new world" Mission style building, the town hired Oakland architect John J. Donovan in 1926, and later Fresno/Monterey architect C.J. Ryland in 1931, to shepherd its large, new campus between Mission and San Carlos Streets, Eighth and Tenth Avenues through its expansions (seen here in 1937). Ryland, architecturally educated in France, mimicked the style of granges dimières cisterciennes (cistercian tithe barns), to give Sunset its dominant, "old-world" character of Cistercian Medieval Revival. Monasteries had pursued the austere Cistercian style, which evolved directly into the early Gothic over a century later, as a pious rejection of Classical ornamentation. And, the abbey barns were even purer expressions of deft, yet practical, engineering. The voluminous spaces (which the church required to store one tenth of local annual produce) found their most sturdy geometry in the massive, triangular roofs that came nearly to the ground, where they received support from disproportionately low, thick, and buttressed walls, in which openings were rare, deep, small, and often ganged together, like the double entry here, usually under larger discharge or relieving arches, all of which also received and expressed the great mass supported above. For these masterfully simple structures, often the only concessions to ornament were the finials atop the gable ends, thought to bring good luck, presumably for abundant harvests.

And so the downtown architecture pendulum swung back and forth for several years between the old world and the new world, albeit with some significant detours. For example, diagonal from the new library at Ocean Avenue and Lincoln Street, contractor Earl Percy Parkes built the Seven Arts complex for arts entrepreneur and Forest Theater founder, Herbert Heron. Designed by Albert B. Coats, the building (seen here in 1926) seems clearly indebted to its Shingle Style neighbor a block uphill: the 1905 Wilson building (see way above). The future mayor, with his principled support for bohemian over business interests, was a logical proponent of this pioneering American style. His building uses the same taut skin, merging into very shallow overhangs to de-emphasize material in favor of overall volume, which is in turn emphasized by the simple, emphatic gables, punctuated only by single openings of multiple ganged windows and by the cyclopean shed dormer that looks as if it emerged as pressure from the spaces below overpowered and pierced through the thin roof plane. The clear difference between the two buildings is the substitution of a wooden skin over wooden framing for a stucco skin over concrete block. This unconventional, if not unique, mutation was perhaps explained by concerns over fire, addressed conveniently by the Carmel Thermotite Company, newly incorporated just a few streets away where it molded its innovative fireproof blocks (also used to construct Flanders Mansion). The building's unusual combination of durability and originality created an enduring symbol of the many artists it hosted so famously for so long.



Another intentional stylistic detour downtown came in 1939, when Carmel's most significant financier, Barnet Segal rejected the Spanish Revival design of his architects, Swartz and Ryland, and ordered them toward Art Moderne. His bank on Ocean Avenue at Dolores Street (seen here after construction) embodies the style, with its horizontal, yet humanist proportions and symmetries, its concrete solidity, along with a neoclassical, near-white color, a rejection of classical ornament in favor of the new decorative arts, as well as curved gestures of glass and stone.



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Around the time this new international style hit downtown, a new, defiantly local, City Council swept into office. Having become the first "poet mayor" of Carmel in 1930, Mayor Heron (of the Seven Arts building above) ran and won again in 1938, in part, to address commercial pressures on the natural environment venerated by Carmel's bohemian residents. The new Council hired the highly acclaimed, Berkeley/Harvard educated Thomas Church, the "first founder" and pioneer of American landscape design and of a movement that became the "California Style." Church famously believed, as Carmelites did, that rather than providing building decoration, "[a] garden should have no beginning and no end." Meaning, it should be physically and visually integrated with the predominant natural environment and allow seamless human movement and inhabitation.



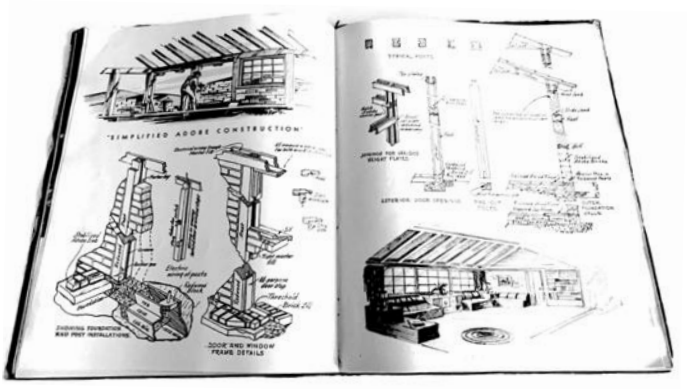


Church answered his assignment — to lessen the visual impact of the cars that now dominated the pine forest landscape — with a native stone planter running up the center of Ocean Avenue (seen here in the 1920s and 1940s). The low height of the wall, the medium height of the native undergrowth, and the columnar forms of the Monterey pine street trees, whose foliage grows primarily quite high, allowed for the clever combination of opacity down at car level and transparency at eye and storefront level, creating both visual access to the commercial corridor and visual screening of the traffic for shoppers.



Throughout the development surge, the same revivalist and eclectic forces in the commercial areas were at work throughout the residential areas as well, including the perhaps unique 1936 example of the Art Moderne style built by M.J. Murphy on Thirteenth Avenue at Dolores Street. Like the Bank of Carmel above, the H. Markham house has the same horizontal emphasis, classical proportions, local symmetries, look of solidity, and monochrome, light color. More spare than the bank, its only curved gesture is the conical chimney accent to the left.

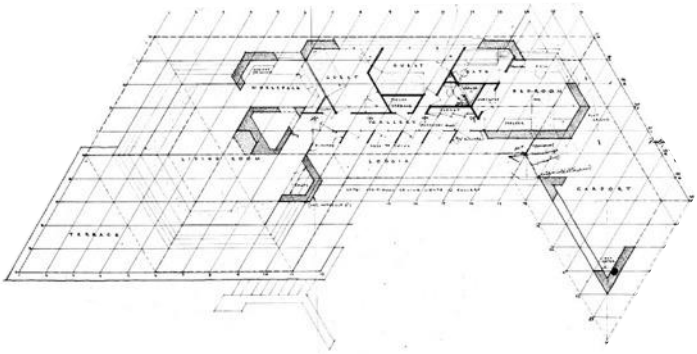
As the second half of the 20th century approached, Carmel's stylistic adventures were just beginning. However, with just a few exceptions such as those just mentioned, Carmel tended to derive its aesthetic direction from local and not international cues. For example, Hugh Comstock, never one to be limited by his Fairytale fame, had always been a stylistically experimental builder and in 1948 he published a trailblazing pamphlet called "Post Adobe" (seen here in a recent view). Within it, he extolled an inventive building technique that wove together two ancient construction techniques based on local materials and labor, timber post and beam with mud masonry, to create something brand new and with potent stylistic implications. He argued that the compressive strength of mud brick,

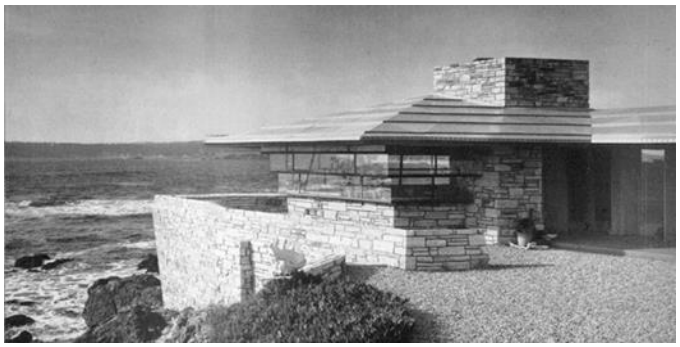




rendered waterproof with bitumen, when aided by the tensile strength and rectilinear guidance of wood could become an inexpensive, easy, and elegant approach suitable for one-story homes and requiring no additional insulation, interior or exterior finishing, or special details. This made his post-adobe a method accessible to laypeople, even to property owners themselves, leading to an emergence and proliferation of the Ranch style throughout town, such as this 1950 example on Scenic Road at Eighth Avenue (seen here in a recent view).

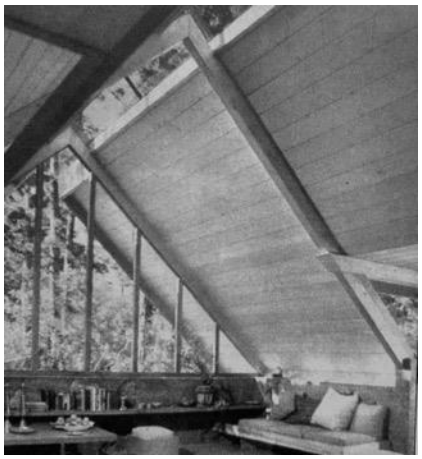
Also in 1948, Frank Lloyd Wright designed "Cabin on the Rocks" (seen here in a recent view) for Della Walker. Della's sister, Alma, had deeded her the property on Scenic Road near Martin Way, under one condition: work with a notable architect. Wright, the first radically original American architect, and his former Taliesin apprentice, Mark Mills, delivered Walker's request for a house "as durable as the rocks and as transparent as the waves" through carefully calibrated responses to the context. To unify the structure into an "organic wholeness" at every scale from the site down to the detail, Wright relied on his signature tool: the Japanese (and later, De Stijl) principle of expressing irregular forms ordered over the rigor of a regular grid, but in this case using the unexpected module of a four-foot by four-foot parallelogram. This infinitely adaptable, geometric technique allowed Wright to take his signature stylistic invention, the Prairie School, which was







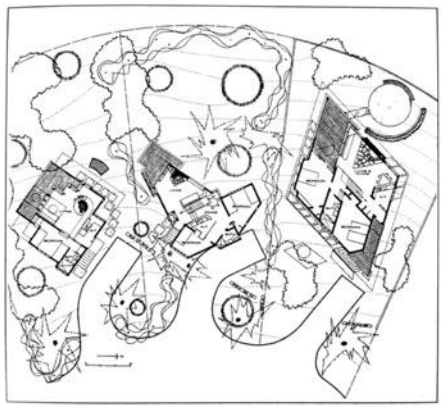
inspired by the flatness of the midwestern plains, and reinterpret it for the flatness of the Pacific shoreline through a casual, natural massing, responsive to the precise location. He also emphasized the low and the horizontal, with a bluish-green copper cantilevered roof floating above minimally-framed glazing and not traditional windows, deeply shadowed, dark-stained, native wood walls, all recessed behind an asymmetrical native-stone base emerging from the existing rocks, which, together, masterfully subordinated his built work to surrounding nature. It is perhaps no accident that the structure points toward Japan, as it was Wright's fascination with the integrating geometries and natural subjects of Japanese prints that catalyzed his entire approach to design: "The print is more autobiographical than may be imagined. If Japanese prints were to be deducted from my education, I don't know what direction the whole might have taken." (Utagawa Hiroshige's 1833 "Driving Rain at Shono" from Wright's collection seen here.) This cross-cultural, cross-discipline sensitivity and synthesis is just one mark of aesthetic genius. Alma Walker can be credited with insisting that such artistry is essential to building in Carmel.



Around 1953, upon completion of Della Walker's home, Mark Mills designed "Woodland House," also for the Walker family, at Mission Street and 13th Avenue (seen here soon after construction). Mills, like Wright, used a roof floating above and around abstracted glazing and nestled within a grounded, solid base of native rock and concrete. This time, however, responding to the verticality of a completely wooded site, the roof tilts upward, sympathetically expresses its heavy timber structure and raw wood finishes, and creates views up into the tree canopy rather than out toward an ocean horizon. Also like Wright, Mills prioritized a building's permanent responsibility to its natural and human community perhaps above its responsibility to any temporary occupant. In fact, Mills famously said that nature is "my silent client" and even "my client is nature," sentiments that tie him closely to the environmental preservation mission of Devendorf and the early forest settlers.



Also in 1953, Clarence Mayhew, a prolific, San Francisco-based and Berkeley-educated architect, designed a home for Helen Proctor between Scenic Road and San Antonio Avenue near Thirteenth Avenue (seen here in a recent view). Like most International Style buildings, the home emphasizes volume of internal space through lightweight, skeletal frames and glazed transparency, rather than mass and solidity; visual interest through functional divergences, rather than applied ornamentation; overall simplification of geometries; and flexible modularity, rather than strict classical symmetry. Yet, the undercurrents of classical composition often strongly order such buildings and Mayhew, educated in classical architecture at L'École des Beaux-Arts prior to Berkeley, would have known the standard facade in canonical ancient temple architecture: the hexastyle portico. This deep porch, with its six columns and five openings resting on a plinth of low windows and topped by a textured pediment of sorts, echos the ancient closely and then diverges to the modern with the addition of a solid, sixth module on the left, a chimney accent on the right, an off-center glass door, and only half a triangle for the roofline. This building, like a temple, follows its own mathematical order to sit in deliberate contraposition to natural disorder and therefore, like the International Style, it functions as an unapologetic "machine for living." However, its modest scale, quirky asymmetry, recessive coloration, and natural wood construction, all push it away from the international and pull it closer to the local and associate the house with the Second Bay Area Regional style.





The Third Bay Area Regional style emerged in Carmel soon thereafter, exemplified by "Three Sisters," a trio of homes on Lopez Street near Fourth Avenue, including Cosmos House (seen here on the right in an original site plan and in a recent view), all designed by Berkeley- and Harvard-trained architect, Henry Hill between 1961 and 1962. This California style, an even more relaxed and warm interpretation of modernism, uses native, unfinished materials and loose geometries to tailor a respectful response to to the natural environment. As the plans show, Hill played freely with an unusual, angled vocabulary to create three completely unique yet complementary compositions that deftly avoid both the existing vegetation and one another. The houses maximize the flow of landscape between them by sharing no parallel exterior walls, which can create confining outdoor corridors. Instead they minimize contact, approaching one another only at sharp corners and exploiting the smallest possible geometric unit: the point.



Also in the Third Bay Tradition, famed architect Charles Moore designed the Warren Saltzman House in 1966, on Palou Street near Casanova Street (seen here in a recent view). Though clad in unfinished wood shingles and nestled well into the existing site as is characteristic of the style, perhaps uncharacteristically the house plays more with traditional domestic shapes, such as the gabled roof (here exaggerated in scale and always in halves). His quotation of historic forms foreshadowed the influence Moore later had in ushering in the reactive Postmodern style of the 1970s to 90s, along with his Princeton colleague Robert Venturi and others. Together they changed the course of modernist architecture with their searing warnings against ignoring traditional urban context and offered instead an architectural language that was extreme in its reference to classical design elements (keystones, pediments, column capitals), often out of proportion or grouped discordantly to highlight the paradox of their resurrection into the modern age.



But Postmodernism did not thrive in Carmel, where the forest context dominated the urban context. Instead, the bohemian residents and their experimental designers continued in the more quirky, organic vocabulary of the Bay Tradition, as architect Mickey Muennig did for his 1974 "Owl House" on Dolores Street near Alta Avenue in nearby Carmel Woods (seen here in a recent view). With even looser geometries than found at the "Sisters", Muennig warps the walls and roofs to create undulations more associated with natural than built forms. The nearly infinite freedom of this architectural language had the capacity to unify a meandering front path between low, woodsy, mute volumes with a starkly contrasting, bold, sweeping arch of a sheer glass escarpment over two stories tall to the rear, allowing the home to echo the topography and provide panoramic views over the forest toward the sea.



Around the same time, architects Walter Burde and Will Shaw found this same organic language appropriate to their 1972 "motor bank" commission for Northern California Savings and Loan. Though in the commercial district, the building could not be a typical party-wall, infill design, because customers would be primarily arriving by car, driving past all facades to reach a drive-through window at the property's interior. So, much like a residential home surrounded by forest, the building (seen here in a recent view) was composed as a stand-alone sculpture, visible in the round from infinite viewpoints. The yin-yang interplay of jauntily angled dark but airy glass-timber sections with light but solid stucco sections creates a family of volumes that provide visual distinction from every perspective as the motorist travels by, yet a strong genetic coherence to the entirety.

Then, in the 1980s, Carmel confronted a new threat: surging commercial speculation in the residential neighborhoods. The March 22, 1990 Pine Cone reported that multiple spec homes developed within months of one another on the "former Countess Kinnoull estate is usually declared the greatest single offender... built to the maximum the code will allow...[with] surrounding vegetation...torn down, leaving



barren what was once a lush greenbelt." (A portion on Torres Street near Eleventh Avenue is shown here in street elevation drawings from the time.) The projects exemplified an alarming trend: tree removal permits for construction rising about 375% over two decades and residential building applications on track to rise 750% in half that time. Carmel Planning Director Diane White warned about the oversized, cookie-cutter approach: "You can tolerate a lot of architectural 'violations 'when the focus is on the landscape. What is happening now is a double-edged sword. We are losing our predominant landscaping as well as getting a narrower architectural style." Carmel City Forester Gary Kelly also warned, "according to the city's tree census...the number of pines on private property is decreasing while the number of ornamentals is increasing...[because] when people come from different areas, they...plant what they are used to. The most serious aspect...is that the medium to small pines...are disappearing. That means we will have fewer trees to replace the mature ones once they die...they are supposed to be replaced. But when I go back to the site, I find that there is no room to plant. We either need to reconfigure the open space or allow for smaller houses." Complaints flooded local newspapers and public meetings about overblown, pretender "cottages" attempting to camouflage their excessive size with often cartoonishly mis-matched and complicated massing, materials, and styles. One local builder explained the powerful economic incentives: "[in 1982] there weren't more than three 'spec 'homes in all of Carmel...[but now] we have builders from the valley, who used to build in Sacramento, Fresno, Bakersfield and maybe make $20,000 a house. They come over here and maybe make $150,000 for a spec house. The same amount of work, they get that much more gain." So, in the mid-1990s, the City conducted a national search for an expert to lead the development of comprehensive design standards that might reverse this "insensitivity" to the natural and built environment. And in 2001, the Council adopted the resulting document "The Design Traditions of Carmel" and legally mandated through its Municipal Code that every required design review "shall" follow it. Many Carmelites had expressed fears that design standards might actually standardize designs. Instead, the ensuing quarter century saw many creative site responses, directly continuing Carmel's legacy of architects sensitive to and responsive to nature.



In 2007, Carmelite architect John Thodos, designed a home for himself and his spouse on Torres Street near Third Avenue (seen here in a recent view). As Carmel Historic Resources Board Chair, Thodos strongly supported the modest scale of village homes and refused to deviate from the small footprint of the unsalvageable, pre-existing structure. Like most self-assured artists, Thodos embraced constraints as "catalysts for creativity" and used the property's limitations to re-invent the very idea of a Carmel Cottage. While maintaining the archetypal elements of the classic house, he deconstructed and expressed all the layers separating inside and outside so as to blur the distinction between them and celebrate the immediate surroundings and regional climate. The home's foundation of exposed-aggregate poured concrete reaches out into the foliage to evoke naturally eroded outcroppings. The abstractly-simple, wooden house-shapes come to rest above just parts of these outcroppings, again emphasizing their role as found site features, not structures designed just to hold up walls. Large expanses of the wood walls then dissolve into air, which is, in turn, re-enclosed by pure miter-jointed glass volumes that float free like light-filled bubbles into the, often foggy, yard. Movement in and out is through elongated door-tunnels that extend and savor the interior/exterior threshold. By interweaving modest rooms so persuasively with the surrounding forest, Thodos transforms a traditional enclosure into something infinitely expansive.



In 2009, Sci-Arc Professor John Bohn took a similarly creative approach to the natural surroundings of "Canopy House" on Ridgewood Road (seen here in a recent view). The site, obstructed throughout by low-hanging oak tree limbs, inspired another reimagining of the simple Carmel Cottage. Hardly a simple task, this time a sophisticated computer model was needed to help break apart and inflect traditional roof shapes and warp them into custom curves around each individual branch. These roof planes, in turn, molded the monochrome walls beneath them into a collection of playfully irregular, modest volumes. Then, in order to fully connect the home with nature, irregular wood beams and posts branch down into the rooms and curved glass clerestories between the roofs and walls make the visual connection between the harvested timbers inside and the live wood elements, still growing undisturbed, outside.



Around 2012, Berkeley/MIT-trained architect, Justin Pauly designed the county's first certified "Passive House"on Eleventh Avenue between Lincoln and Dolores Streets (seen here in a recent view). By meeting strict standards for airtightness, thermal bridging, fenestration, heat recovering ventilation, and insulation, the house remains comfortable in all seasons using virtually no energy. Though technically the structure is radically modern, stylistically, this Carmel Cottage is traditional vernacular. The design is clearly inspired by respect for the natural environment, but in ways independent of the architect's aesthetic approach.





Also around 2012, architect George Brook-Kothlow, in close partnership with landscape designer Barkley David Smith, completed "Arch House" for Jacquelyn Woodward on Seventh Avenue near Forest Road (seen above just after initial plantings). The construction materials palette of the building is raw and natural: self-rusting, uncoated steel, unvarnished wood, unpainted concrete. And, to an unusual degree, the living plants of the site also became part of the construction materials palette. Some walls are made of living plants as is the entire roof of the carport (seen above left). Most of the home's glass-walled interior spaces wander casually around existing trees, incorporating corresponding glass-walled exterior garden spaces into the floorplan. Meanwhile, the main interior space, though set far back on the oversized site, initially appeared more conventionally exposed as a glassy street facade. However, once the native landscape design had matured (seen below in a recent view) the large interior was completed by its corresponding large exterior garden and disappeared from the road, engulfed by nature. Perhaps ironically, this conscious interweaving of building and landscape design pays homage to the most traditional values of the town's founders and yet with a modern approach that they never could have foreseen — though likely would have applauded.

No, the 2001 design standards have not, so far, eliminated the destructive forces and the careless design that emerged in the 1980s. And yet, as the founders predicted, some great aesthetic talents still manage to show us the way. For, Carmel has continued to attract "the right people" who build homes "artistic in character, reflecting the temperament of the town...designed by architects who attemp[t] to...fit the local surroundings...preventing man and his civilizing ways from...marring the natural beauty lavishly displayed here."



Enhance. Subordinate. Fit. Retain. Design. Detail.

FIRE ALERT

When beginning any residential design or remodel in Carmel-by-the-Sea, fire resilience must serve as the premier guide for the proposed project to ensure long-term sustainability and community safety. Because significant portions of the city are classified as an extreme fire danger area, wildfire represents the single greatest threat to both the natural environment and architectural character of the community.

True sustainability is not complete without proactive protection against catastrophic fire risk, necessitating design concepts that prioritize ignition-resistant materials, Class A roofs, and ember-resistant detailing. To address the critical gap in wildfire resilience, applicants must now utilize ignition-resistant products listed by the Office of the State Fire Marshal (OSFM). This allows projects to honor the village's aesthetic legacy—using materials that convey a natural patina and human scale—while meeting the objective safety requirements of the California WUI Code.

Furthermore, the initial design layout should consider defensible space to ensure proper distance between structures and flammable materials such as vegetation, fences, etc. By making fire resilience the primary driver of a design, homeowners can harmonize Carmel's unique aesthetic heritage with the objective regulatory standards required to make the built environment both beautiful and survivable.





I. RESIDENTIAL

Design Guidelines







1. ENHANCE, restore, and preserve the native forest in all improvement projects: private, public, and otherwise

(as seen in the dense, healthy Monterey Pine and Coast Live Oak environment above).

Background: *Few newcomers recognize that Carmel hosts the sole surviving "Mother Stand" of the Monterey Pine forest on planet Earth, an ecosystem that has adapted to 25 million years of climate change, from ice ages to searing droughts. So important is this native ecology today that academic and industrial scientists fly in to study it, to determine how to nurture it, and to grow its species in lumber plantations around the world. So important was this ecology to the early developers that they incorporated the town in 1916 because Monterey County was failing to adequately protect it. In fact, their radical founding idea was to promote this place as a refuge for people to live in harmony with nature amidst a majestic, prehistoric forest -- an idea that ran in very stark contrast to the prevailing "pioneer tradition" of the time, which advocated for the conquest of nature. In times of ongoing climatic stresses, how harmoniously we reside within this international treasure will determine its fate and that of this visionary village.*

Process: *design steps most relevant to this section include...*

- *visiting the site and speaking with neighbors to discover natural assets and shared view issues*
- *commissioning a site survey*
- *conducting preliminary consultations with city forest and planning staff and commissions*
- *obtaining a preliminary assessment report on site conditions, development standards, zoning, and so on*
- *studying the significant tree evaluation inventory worksheet*

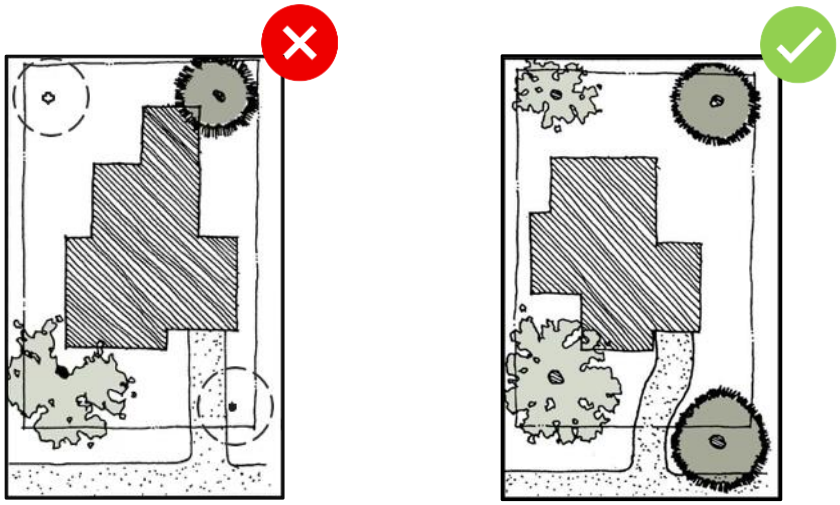
1.1. Preserve all existing healthy upper canopy and lower canopy trees.

1.1.1. Before beginning design work, have a licensed surveyor or engineer prepare the required survey, showing existing site conditions, topography, drainage features, trees, structures, right-of-way edges and character, views, privacy issues, historical evaluations, nonconformities, neighborhood design contexts, and other features useful in designing a project.

1.1.2. Address comments provided by a City Planner and the City Forester on the required survey and on the required City Forester evaluation of existing tree significance and condition on and immediately adjacent to the project site, including in the right-of-way.

1.1.3. Address the Forest and Beach Commission's project review comments on the effects that proposed work will have on significant trees.

1.1.4. Consult the "Preliminary Site Assessment" tree survey when designing and locating new structures and additions to determine which trees are significant and should be protected.



1.1.5. Provide enough open space on each building site to both preserve and add upper and lower canopy trees at sufficient spacings for growth to maturity ***(as shown above right by building footprint and path both altered to preserve existing trees)***.

1.1.6. Locate new construction in accordance with the Land Use Code to minimize impacts on established trees and avoid pruning of limbs and canopies. Set foundations for buildings and walls back far enough from the base of any tree to adequately protect its roots. Plan curb cuts, paving and drainage systems to maintain air transport and water percolation to root systems.

1.1.7. Protect existing vegetation during construction in order to screen buildings, contribute to the forest character of the street, and achieve a settled, mature look upon project completion.

1.1.8. Plan access and site development to protect trees during construction as provided in the Land Use Code. Do not alter the grade level near nor excavate into the root zone or drip-line of any healthy mature tree, whether on or adjacent to the site, including on abutting properties and in the right-of-way.

1.2. Preserve or enhance the informal, vegetated, open space character of the right-of-way.



1.2.1. Preserve vegetation and trees, especially those with canopies over the street, both in the right-of-way and the periphery of the site so that the pavement curves around and emphasizes natural landscape features and topography, creating the appearance of a meandering forested lane with occasional" mini-parks" ***(as shown above by the irregular pavement edges and encroaching vegetation)***.

1.2.2. Remove any excess existing paving and other non-conforming and easily displaced materials, such as gravel per MC 12.24.020.B. Never keep in the right-of-way irrigation equipment or un-permitted paving, gravel, boulders, logs, timbers, planters, fences, retaining walls, other above-ground encroachments, or any hardscape that would widen the street or create a parking space.

1.2.3. Maintain the existing character of street gutters, which is typically a rolled asphalt curb or, more formally, is a channel faced with large native rock, but is never just plain concrete.



1.2.4. To create connectivity with adjacent properties, leave the right-of-way as an unpaved, natural forest floor with an informal edge, consisting of trees, naturally occurring vegetation, and organic surfaces, such as pine needles ***(as shown above by the natural area between the private property line and the street pavement)***.

1.2.5. When adding plantings to the right-of-way use only naturally occurring natives to the Carmel forest: drought-tolerant and non-irrigated, green foliage, ground covers, or low shrubs, informally arranged. Do not use bedding plants and exotic species in the public right-of-way.



1.2.6. Do not remove trees or add gravel or other "hardened" surfaces to provide parking in the right-of-way, but instead reinforce the forest image by separating parking spaces from driveways with plantings and by using natural soil, or fresh, mini-woodchips as surface materials ***(as shown above by a nearly undetectable natural area sized to accommodate parking)***.

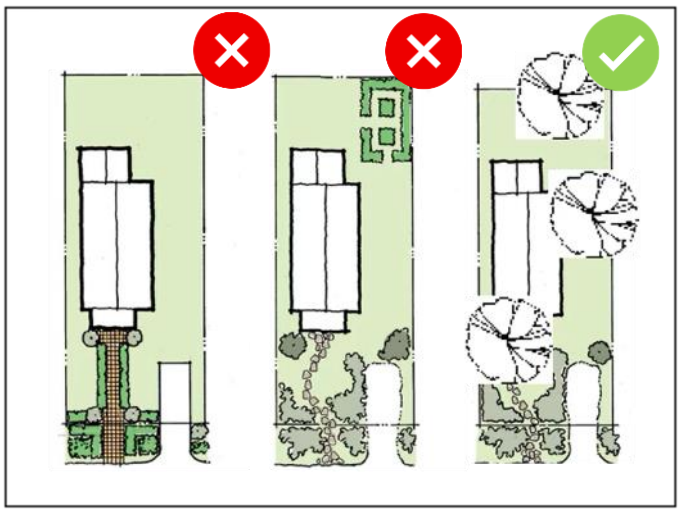


1.3. Preserve and enhance the forested image of the site ***(as shown above by how the home's natural pine-bark siding echoes and the sensitive massing avoids the existing trees).***

1.3.1. Preserve and supplement trees, especially those that arch over the street, and provide a mix of upper canopy trees for scale and multi-stemmed lower canopy trees for screening. The City Forester determines the mix and CM17.48.080 covers tree replacement ratios and species.



1.3.2. Do not wall off properties at the front property lines but instead extend the forest character of the right-of-way into the visible parts of the site by keeping a large portion of each site as open space, with plantings located to filter views of structures ***(as shown above by the unimpeded, vegetated zone between the street on the left and the home on the right).*** Find maximum limits for hardscape site coverage at CM 17.10.030.



1.3.3. Locate plants and ground surfaces in relaxed, informal arrangements that are consistent with the urban forest character ***(as shown above at far right)***, reserving any formal, unnatural arrangements, bedding plants, or exotic flowering plants only for small areas out of public view or small walkway or entry accents ***(as shown above at center)***.

1.3.4. Use site plantings that are native, drought-tolerant species, following the Municipal Codez.

1.3.5. For a forest meadow ground cover, use only informal, no-water varieties kept out of public view and do not use manicured lawns or artificial turf per P 2025-002.

1.3.6. Projects that involve a new building or substantial alteration require a professional landscape plan, which identifies areas for low-scale plants, shrubbery, and trees for initial review and shows specific planting plans for final review. Address the special needs of each species, using, for example, high-water-use plants near redwoods but not near oaks, paving materials that minimize tree root impacts, and best practices for fire mitigation.

1.4. Preserve un-altered, pre-development water drainage ways as site amenities.

1.4.1. Minimize stormwater impacts with Low Impact Development principles, including: addressing stormwater close to the source, installing bio-retention, and other planted drainage areas, and using "sand-set", not "mortar-set", pervious paving materials to percolate water and aerate soil.

1.4.2. Enhance water quality with stormwater management systems that mimic the natural water cycle, filter stormwater into the ground and direct flows through vegetative buffers and rain gardens where plant and tree uptake can remove pollutants.

1.4.3. Design new on-site stormwater control devices to appear naturally integrated into the forest. Use green roofs, retention areas, or landscaped areas to capture flow and prevent new runoff toward adjacent properties per CM 17.43.

1.4.4. For new building or substantial alterations, provide a professional landscape plan that identifies areas for low-scale plants, shrubbery, and trees for initial review and shows specific planting plans for final review. Address the special needs of each species, such as using high-water-use plants near redwoods but not near oaks and paving materials that minimize tree root impacts.



2. SUBORDINATE every built structure to the character and continuity of the forest, natural environment, and to the natural features of its own site *(like how the tree above overshadows the street view of the home).*

Background: *Carmel's native forest hosts a dizzying array of fascinating native species dominated by a towering upper canopy, primarily of Monterey Pine (Pinus radiata), and a sculptural lower canopy, primarily of Coast Live Oak (Quercus agrifolia). The overstory trees perform the vital work of scaling down larger infrastructure elements such as paved areas or commercial buildings, while the understory trees, often comprising multi-stem varieties, work to screen and soften all shapes and sizes of building elements. Quite wise to the important aesthetic functions of a continuous natural forest weaving through and connecting all properties, the town's founding developers were famous for gifting trees to new property owners. As urbanization progressed, their aim was to replace and supplement any trees affected during construction, to keep those new structures nestled within the trees, and to use these trees as well as other site features and siting approaches to preserve as faithfully as possible original natural conditions.*

Process: *design steps most relevant to this section include...*
- *engaging a landscape architect*
- *developing a conceptual landscape plan*
- *taking advantage of the Preliminary Application option to get early feedback on landscape ideas*
- *beginning a Historic Evaluation (if the site was deemed historic)*

2.1. Nestle a building in the trees to minimize the mass visible from public view.



2.1.1. Position buildings to avoid cutting into the canopy of established trees ***(as shown above where the architect laser scanned existing tree branches and computer-positioned roof planes precisely beneath them)***.

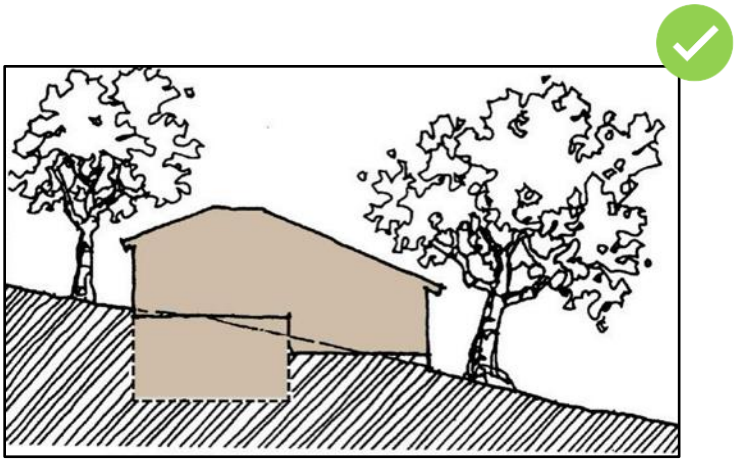
2.1.2. Decrease the apparent size of buildings by building less than the maximum allowable floor area, using a compact footprint, minimizing large volume spaces (high ceilings or steep pitches across wide spans), and eliminating large, unused underfloor areas and extensive cantilevers, especially over cut areas.

2.1.3. Reduce perceptible building height by locating some floor area either fully or partially below grade or at a "garden" level with any walkout area, light well, retaining wall, or terrace concealed to the side or rear. When these locations are not feasible, provide more screening with other building elements or landscaping.

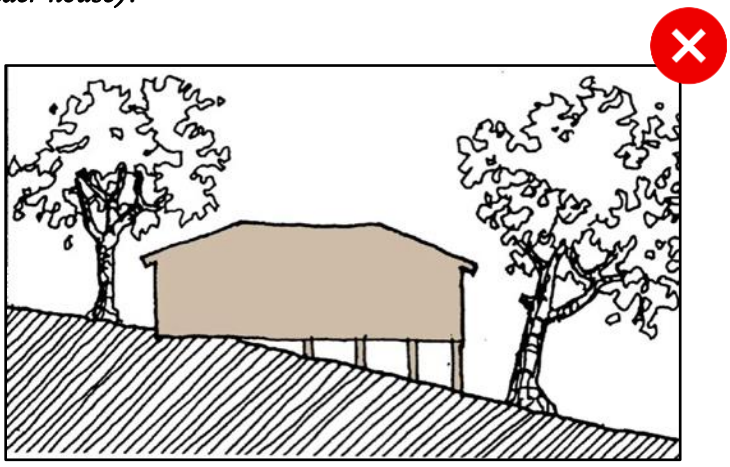
2.1.4. Minimize the visual impacts of retaining walls, garden walls, window wells, and other foundation structures by incorporating sloped, planted areas to create a smooth grade transition. Ensure tall retaining walls, terracing, or revetments are not visible from the public way.

2.2. Follow the site's natural contours.

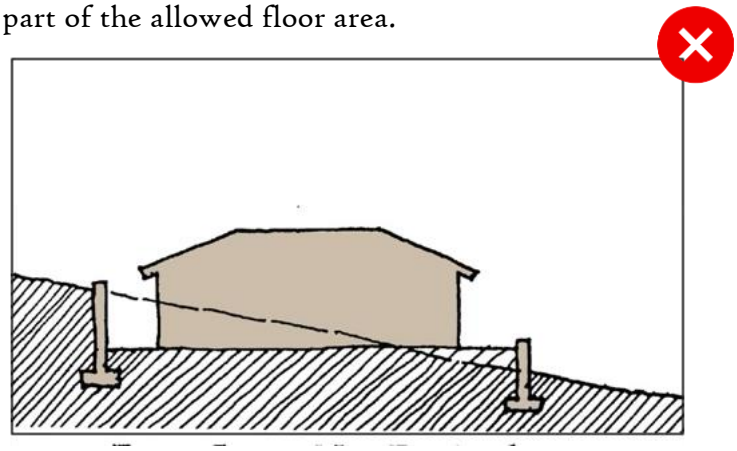
2.2.1. Minimize construction on steep slopes.

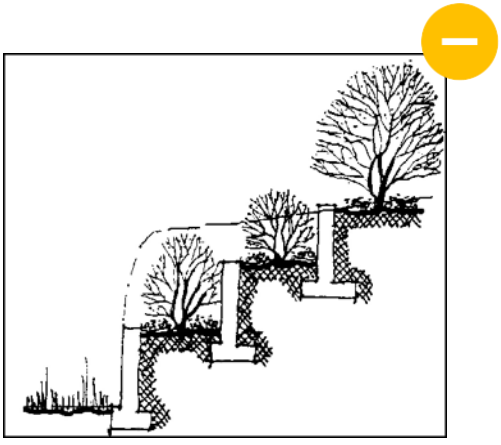


2.2.2. Minimize excavation and fill on a site by maintaining existing topography and keeping all grading and excavation completely within the proposed building footprint ***(as shown above by dashed line directly under house)***.



2.2.3. Step building height, foundations, and floor levels to follow site slopes and contours ***(unlike above, where support posts create a single level floating above a downward slope)***. When floor levels cannot be stepped, larger underfloor spaces ***(as shown above under most of the building)*** count as part of the allowed floor area.





2.2.4. Avoid abrupt changes in grade ***(as shown above left by flattened grade with added retaining walls)*** within a site and between adjoining properties. If such transitions are unavoidable, then use sloped, planted areas. If a stable planted slope cannot be created, then use multiple landscaped terraces rather than a single tall wall ***(as shown by short walls above right)***.

2.3. Subordinate parking facilities to the house and site.





2.3.1. Minimize the impact of a garage or carport by: concealing them from the street, detaching them at the back of the lot or elsewhere, subordinating them into the building design ***(as shown above left)*** tucking them underneath or into the foundation ***(as shown above right)***, or locating them partially below grade (while avoiding any three-story appearance), orienting the garage door away from the street, and, on small lots, using only a single, one-car garage door.

2.3.2. Use parking facilities to maintain or enhance variety along the street edge and to maximize landscaped open space, views, and privacy. If a detached, one-car garage or carport benefits the overall streetscape, the City may determine that it can encroach into the front setback. The City does not allow two-car garages in the front setback.

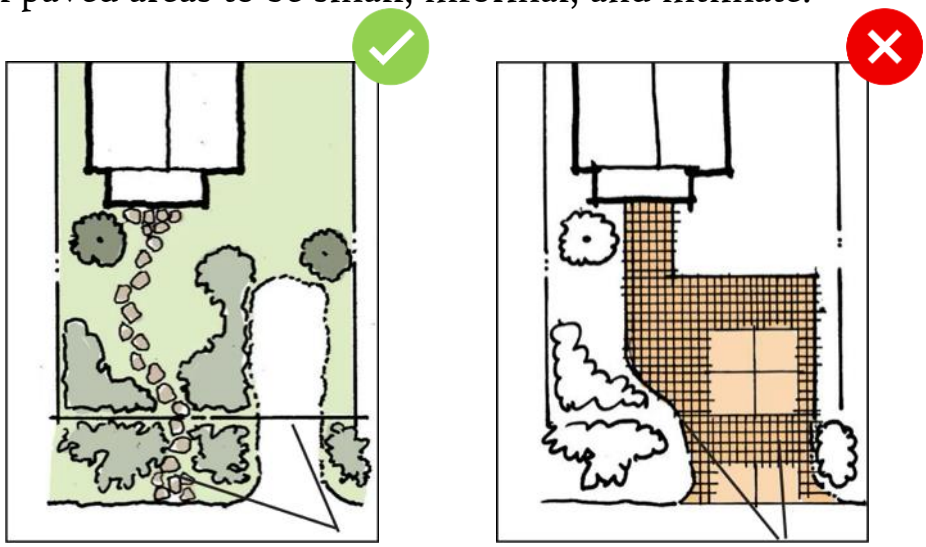
2.3.3. To maintain forest floor continuity, established vegetation, and ample front yard space, keep driveways at grade and without cuts and fills that would create a "ramp" effect or require retaining walls perpendicular to the street.



2.3.4. Minimize the amount of paved surface area for a driveway by using organic materials, "tire track" paving strips, sharing a single driveway between two adjacent properties ***(as shown above by merged surface spanning property line)***, and/or limiting each site to the required single curb cut (unless a corner site requires a "through driveway").

2.3.5. Minimize the visual impacts of retaining walls, garden walls, window wells, and other foundation structures by incorporating sloped, planted areas to create a smooth grade transition. Ensure tall retaining walls, terracing, or revetments are not visible from the public way.

2.4. Design all paved areas to be small, informal, and intimate.



2.4.1. Reduce widths of asphalt or concrete, separate a driveway from a front walkway with plantings, soften paved edges with landscaping ***(as shown above left by planted, and separated, irregular driving and stepstone walking areas)***, and avoid formal or urban paving treatments ***(as shown above right by rectilinear pavers, straight edges, and joined driving and walking areas)***.



2.4.2. Select paving with muted colors and texture authentic to the material ***(unlike faux stone-colored concrete pavers at above far right)***, such as Carmel stone ***(above far left)***, granite cobblestone ***(above center left)***, brick, asphalt, natural-colored poured concrete ***(above center right)***, gravel, decomposed granite, and mulch, keeping easily displaced materials on private property only per M.C. 12.24.020.B.



2.5. Blend private landscape with that of the public right-of-way to make vegetated spaces appear larger and to improve continuity with the forest ***(as shown above by the continuous natural forest floor extending from the public street paving, through the public right-of-way, and into the private property, creating an uninterrupted forest landscape).***

2.5.1. Design without a fence or wall along a street frontage, unless special conditions apply.



2.5.2. Where privacy or enclosure is needed, use native shrubs, hedges, or other vegetated landscaping ***(as shown above by the lush foliage on private property used as a necessary screen to the glass façade).***



2.5.3. If vegetation does not provide sufficient safe enclosure along a street for children, pets, or others, install an informal, unfinished, wood fence ***(such as in the foreground above added into the vegetation)***, which preserves visual access into the front yard and at street intersections, by using open pickets wherein the size of the spaces are at least equal to the size of the material.



2.5.4. When creating an arbor, maintain a narrow, low, light, and open design ***(such as above, where the arbor is styled like the open fencing)***, instead of a tall, wide structure with massive timbers or other heavy elements that dominate the street.



2.5.5. In rare cases, where a fence is needed but the predominant or foundational building material is stone, masonry, or stucco, a low garden wall of the same material and construction may fit into the site if fully integrated with the topography and other hardscape and if kept at four feet or less from grade ***(such as above where a low, vegetated wall of surfacing matching the home is nestled into a gentle slope)***.

2.5.6. Place front yard enclosures (such as hedges, fences, or walls) farther back from the front property lines as they become more solid. Refer to Maximum Building Envelope information to determine allowable heights and placements.



2.6. Preserve the nighttime, "dark-sky" character of neighborhoods ***(as shown above where stars are visible in Carmel by the Sea due to drastically reduced artificial lighting).***

2.6.1. Subdue all exterior lights with shielded and focused fixtures of low lumens and warm white temperatures, as defined in municipal code. Do not use fluorescent lighting.

2.6.2. Use lights only where needed for safety and at outdoor activity areas, such as building entries, gates, terraces, walkways, and patios.

2.6.3. Do not use floodlights, spotlights, or lights to accent or uplight buildings, tree canopies, or other vegetation.

2.6.4. Instead of exposed light sources, locate and shield fixtures, including string lights, to eliminate glare and excess illumination onto neighboring properties and the street.

2.6.5. Size, locate, and shade skylights to eliminate glare or light pollution visible to neighbors or to the public. Use skylights only if interior spaces have no access to exterior windows, such windows have limited access to light, or windows would cause even greater impacts to adjoining homes.



3. FIT every built structure within its neighborhood context

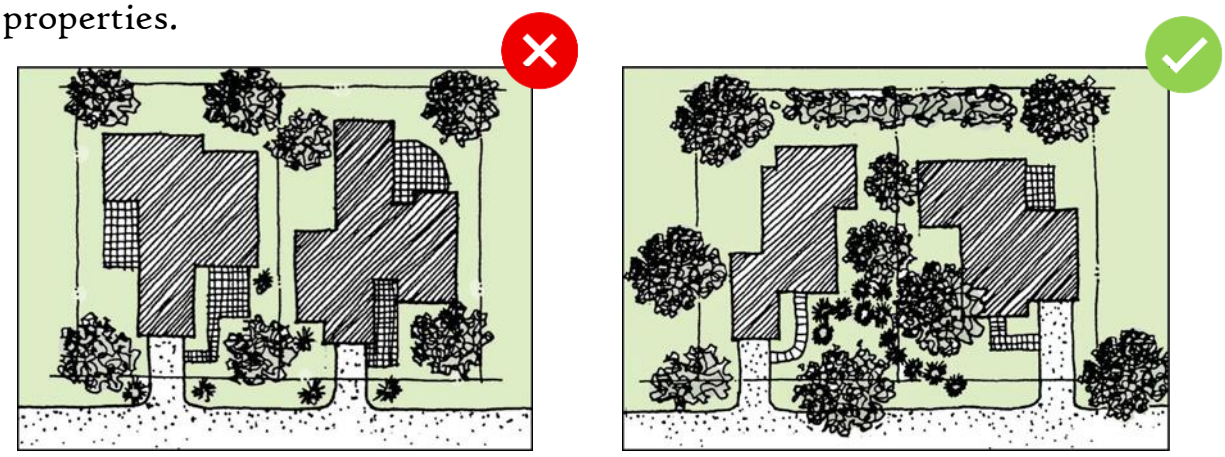
(like how the three homes above relate to one another despite different massing and materials).

Background: *Carmel's founders laid out neighborhoods with small lots anticipating very small homes that would maintain abundant natural views and privacy. A smaller home remains and effective approach. At larger sizes, new structures must work harder to coordinate with existing structures, while the new outdoor spaces that structures define must also work harder to coordinate with existing outdoor spaces. All this work serves to maximize privacy and natural views for individual properties as well as to create a harmonious whole for the community – one that artfully combines private spaces to increase the sense of forested open space and multiply the visual links across every public and private property line.*

Process: *design steps most relevant to this section include...*

- *developing a conceptual siting and massing plan*
- *taking advantage of the Preliminary Application option to get early feedback on siting and massing ideas*
- *beginning a Historic Evaluation (if the site was deemed historic)*
- *considering submittal of a Conceptual Design for feedback from staff and commissioners*

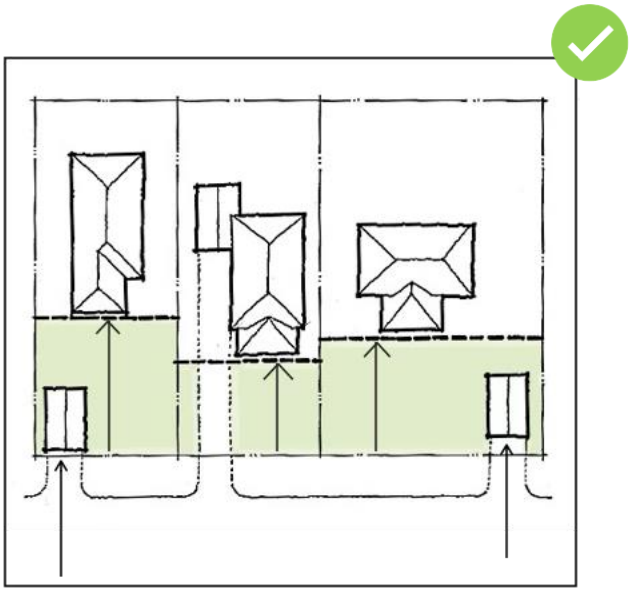
3.1. Locate open spaces so that they visually link with those of adjacent properties.



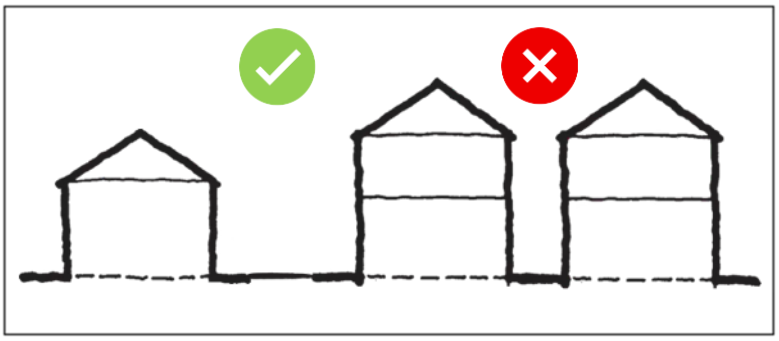
3.1.1. Coordinate open spaces in careful response to other open spaces to have an amplifying effect and combine them to increase their apparent size ***(as shown above right by wide forested space between homes)***, rather than simply maintaining required setbacks ***(as shown above left by narrow space with little room for plantings)***.

3.1.2. On oversized or combined properties, maintain the open space character of Carmel's typical 4,000sf lot sizes, avoiding the appearance of a "compound" or "estate."

3.1.3. Relate a building's mass to the context of other homes nearby. Divide a larger building into forms similar in scale to traditional village houses, placing some mass in a detached secondary structure (garage, guest house, etc.) if necessary to reduce the overall mass of the primary building.



3.1.4. Stagger front setbacks of homes and garages to frame outdoor spaces, avoid uniform alignments, and provide variety in the arrangement of buildings and open spaces along the street ***(as seen above with the three property layouts different from one another)***, unless doing so prevents a visual aggregation of open space or endangers significant trees.

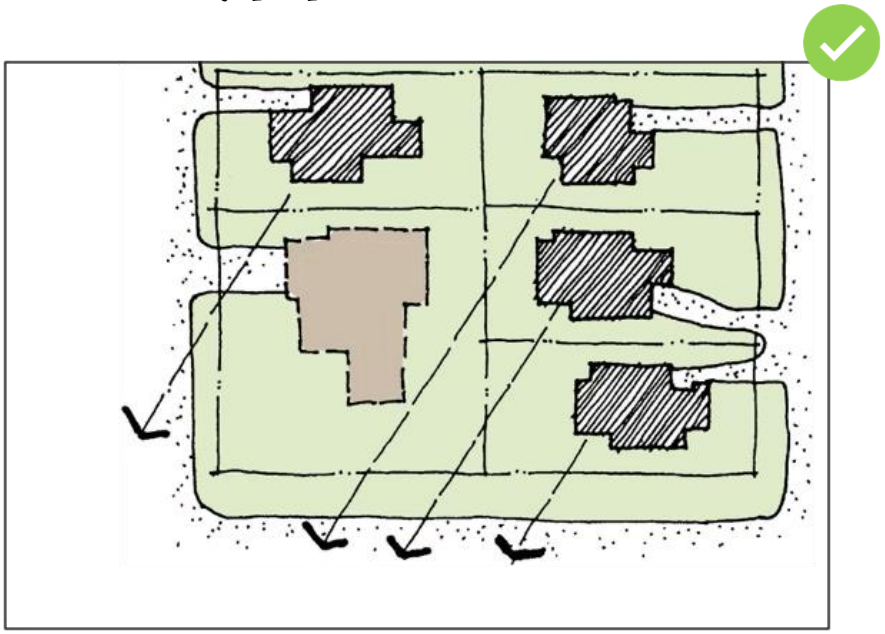


3.1.5. Stagger side setbacks with adjacent properties to avoid the" canyon effect" of a narrow corridor or tunnel between buildings ***(see above right where the homes are too parallel and close together)***. Provide even more open side yard space when buildings on adjacent properties are two stories or close to the joint property line. Refer to the Municipal Code for setback regulations.

3.1.6. Minimize building mass as seen from adjacent properties by: avoiding long, uninterrupted wall planes, placing tall building walls away from the property line and similar walls on neighboring sites, and providing greater setbacks for any chimney directly opposite a neighboring window.

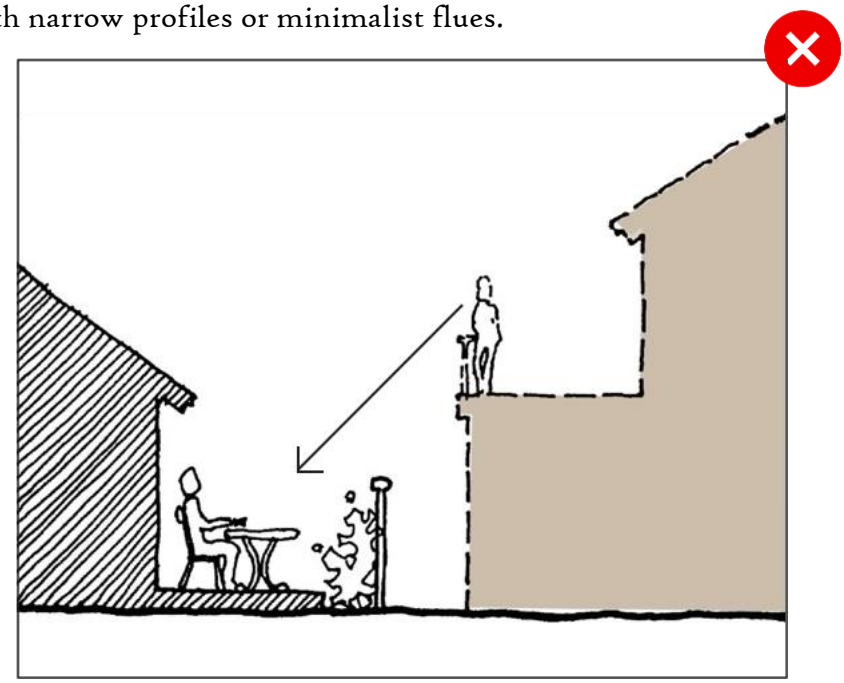
3.1.7. Preserve access to light between properties.

3.2. Preserve views from nearby properties to natural features.



3.2.1. Locate building volumes to make use of views but not substantially block views enjoyed by others ***(like the proposed home shown in brown with dashed lines above, which allows all neighboring homes to preserve the primary view to the bottom right)***, keeping the building height low and the building footprint compact to maintain views over and along sides of properties.

3.2.2. Keep building elements from blocking views with sensitive placement and sizing, for example use chimneys with narrow profiles or minimalist flues.



3.3. Organize functions on a site to preserve reasonable privacy for adjacent properties *(unlike the proposed home shown above in dashed lines with an upper deck that overlooks a neighboring patio).*

3.3.1. Screen patios, terraces, and active areas of adjacent properties through the position of buildings and the preservation of significant trees.

3.3.2. Locate and size windows and skylights to avoid views in or out of neighboring indoor and outdoor active use areas. Limit windows to 12sf or less on side walls adjacent to neighbors.

3.3.3. Locate and screen balconies and decks to avoid overlooking active indoor and outdoor use areas of adjacent properties.

3.4. Minimize negative impacts to surrounding properties.

3.4.1. Fully integrate utilities and services, including gas meters, electrical panels, water heaters, and trash receptacles, into the architectural design of the building.

3.4.2. In cases where full architectural integration is not possible, Eliminate the visual impacts of utilities and services by grouping and shielding them with architectural and landscape elements, such as cabinets, walls, fences, or plantings, of integrated material and color.



3.5. Vary the design of a new building from that of nearby and abutting properties ***(as shown by how the home above left, with its stone walls and roof ridge parallel to the street, varies from the neighboring home above right, with its wood shingles and roof ridge perpendicular to the street).***

3.5.1. Provide variety in building materials along a block.

3.5.2. When using painted or otherwise coated surfaces, provide variety in building color along a block.











4. **RETAIN** and build upon Carmel's <u>established</u> architectural heritage *(as exemplified above clockwise from top left by local masterworks in the traditions of Craftsman , Mission Revival, Fairytale , Organic, and Modern).*

Background: *Carmel's founders explicitly advertised to attract folks working in the "aesthetic arts" in order to achieve homes "artistic in character" and to avoid destructive speculative development. The town's <u>visual history</u> testifies to the individual expressiveness and stylistic eclecticism of the architecture that resulted and that must be carefully studied and interpreted so as to meaningfully contribute to this legacy.*

<u>Process</u>: *design steps most relevant to this section include...*

- *developing a timeless, and perhaps inventive, construction language*
- *assembling a sample materials board*

4.1. Preserve historic and existing resources.



4.1.1. Re-use existing buildings and their components, for example restoring rather than replacing original windows ***(like the restored antique steel casement window in its original adobe home above)***.

4.1.2. Respect adjacent historic resources by preserving adequate, light, open space, and views of and around the structure.

4.1.3. Check zoning standards for related incentives, such as expedited processing.

4.1.4. Follow additional standards for properties recognized as having official historic significance, such as the Municipal Code, the Historic Context Statement, and Historic Review Board consideration.

4.2. Continue Carmel's tradition of architectural diversity.

4.2.1. To avoid uniformity and the appearance of speculative development and to promote individual artistic expression, differentiate a new building's plan, massing, and overall design from that of nearby and abutting buildings.



4.2.2. When reproducing historic architecture, use the same materials and craftsmanship as those of the reproduced period ***(for example, the genuine, handcrafted, rolled wood shingle roof above)***.

4.2.3. For any architectural language, use materials of equivalent quality and craftsmanship to those of historic architecture.

4.2.4. Do not use designs that resemble those in speculative or "McMansion" developments or that present a commercial or industrial appearance.



4.3. Use traditional, natural building materials *(such as the structurally-stacked Carmel stone and the untreated, rough, wood shingles, shown above).*

4.3.1. Use the preferred materials traditionally used in Carmel, such as wood, stone, tile, brick, artistically-crafted concrete, and stucco for walls, patios, and decking, as well as wood shingles and shakes, clay, slate, and concrete tiles for roofs.





4.3.2. Use metal roofs only if they are carefully detailed and handcrafted, devoid of stiffening corrugations or striations ***(unlike the industrial roof shown above left)***, have narrow flat panels, use genuine, field-installed, standing or flat seams or horizontal lapping, are unreflective, and are of integrated, non-coated, earth-toned color such as anodized aluminum, matte galvanized raw steel, or natural metal such as pure zinc ***(like the traditional metal roof shown above right)***.



4.3.3. Choose materials that will form a desired natural patina over time or that can be maintained in their original condition ***(such as the unstained, unevenly weathering, wood siding shown above)***.

4.3.4. Use materials in their natural conditions, scales, and colors.

4.3.5. When adding surface treatments, use matte finishes and muted earth tones, rather than highly polished treatments such as mirrored glass or reflective metals.

4.3.6. Apply materials using methods traditional to Carmel, for example, wood siding in shingles, horizontal clapboard, or board and batten, brick in its traditional modular dimension, or stucco in smooth or lightly textured finishes.

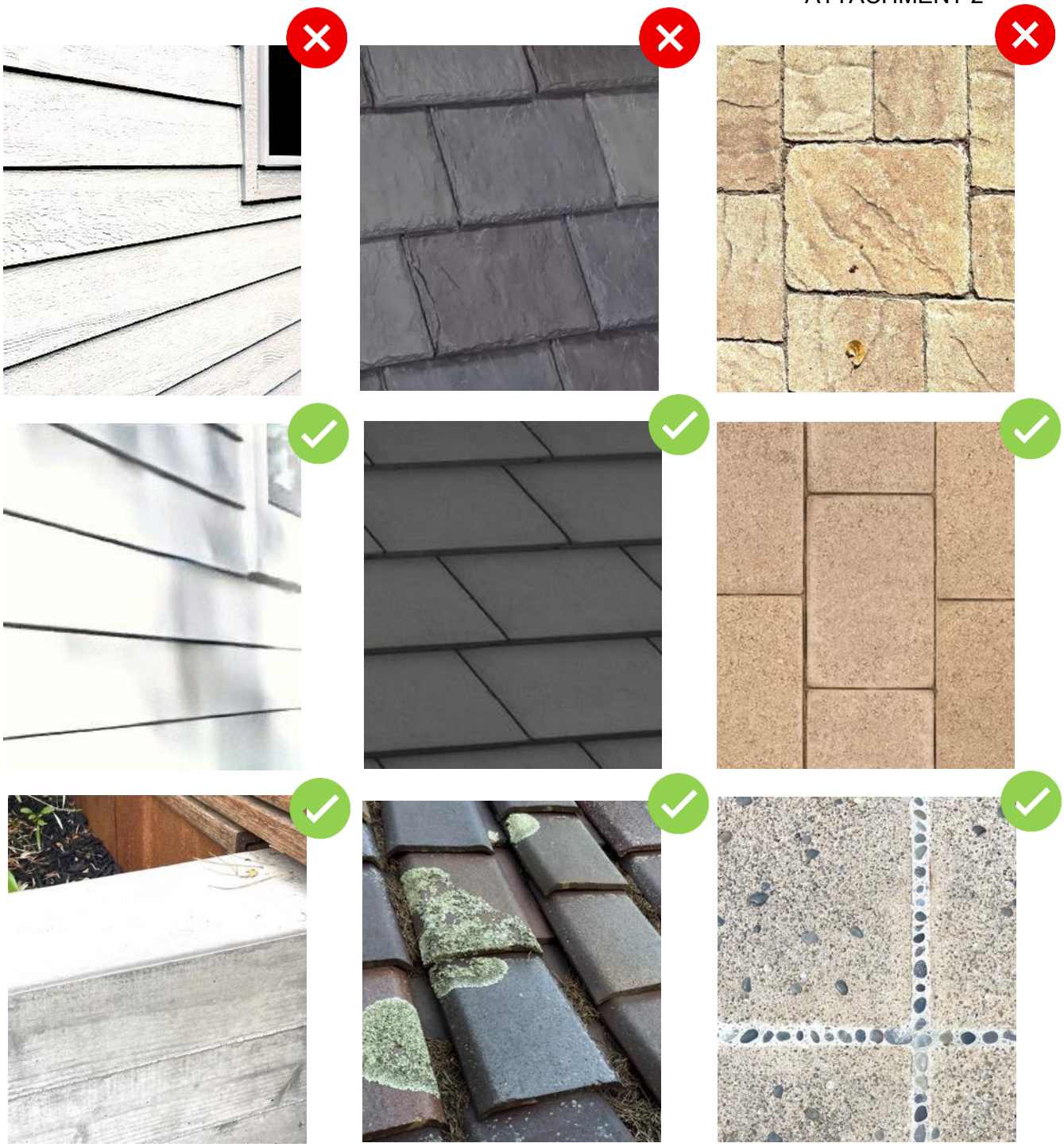
4.3.7. Use unclad wood, solid metal, or recyclable, "designed for disassembly" aluminum-clad wood, with no visible plastic elements, for windows, doors, and garage doors.

4.4. Use manufactured materials according to traditional, natural principles.

4.4.1. Use manufactured materials only if they are ecologically sensitive: able to form a natural patina over time, able to be maintained rather than disposed, able to be fully dismantled and recycled or reused, biodegradable, and environmentally non-toxic or beneficial.

4.4.2. Do not use petroleum-based architectural elements.

4.4.3. Use products that meet or exceed the most current national or international ecological building standards (such as certified Cradle-to-Cradle or Design for Disassembly) meet Carmel standards for manufactured materials.



4.4.4. Do not use manufactured materials that fake or mimic natural or other materials in their textures or finishes, including machine-stamped faux woodgrains ***(like the stamped grain cement clapboard at top left, the faux slate-colored and -textured roof tiles at top center, or the tie-dyed, stamped faux stone pavers at top right)***. Use cast concrete only with monochrome, integral color ***(like the pavers at middle right and the rooftiles at middle center and bottom center)***, or with non-uniform, handcrafted patterns such as those provided by human artistry ***(like the pebbled patio at bottom right)*** or made with genuine wood formwork ***(like the site-poured wall at bottom left)***.

4.4.5. Apply manufactured materials in a manner that conveys a traditional human scale.



5. DESIGN every built structure with modesty *(such as the small-scaled vernacular cottage above with uncomplicated massing, natural materials, and simple construction).*

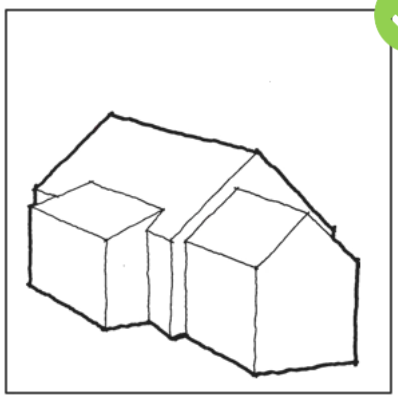
Background: *In Carmel's early days, many of the artistically-inclined newcomers designed, or even built, their own modest cottages. Though this approach has become vanishingly rare, its emphasis on modesty remains. In Carmel, modesty is valued both in itself, as a visual statement of deference to history and to nature, and also as a practical means to achieve that deference. Modesty discourages individual properties from upstaging one another in unwinnable and environmentally destructive contests and helps avoid imported formulas of grandeur that fit better in estate settings. Instead, modesty helps eclectic structures work together to create a unified texture that coheres the town visually and signals community.*

Process: *design steps most relevant to this section include...*
- *drafting final design proposal*
- *incorporating recommendations and/or conditions of approval from Design Concept acceptance.*

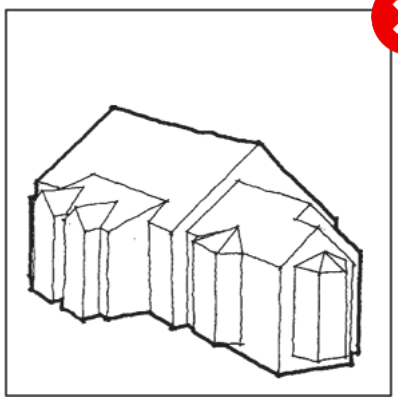
5.1. Restrain building forms, materials, and details



5.1.1. Design a building consistently, with the chosen design concept extending to all sides of the building and with no mixing of architectural languages ***(as shown above by the continuation throughout the entire building of the eccentric, handcrafted masonry vocabulary)***.



5.1.2. Keep primary building volumes simple, as seen traditionally, limiting the number of subordinate volumes ***(see just two above)*** and using basic rectangular, L-, T-, or U-shaped plans.



5.1.3. Avoid visual complexity," busy" building forms ***(like the five protrusions on the two subordinate volumes shown above)***, too many different materials, excessive and overly ornate or ostentatious details, and materials and details that contrast strongly within a single building or with neighboring buildings.

5.1.4. Do not use building elements that are complex, monumental, formal, out-of-scale, or that increase the visual prominence of the building.



5.1.5. Use restraint when introducing variation in building planes, use building offsets only for clear purposes such as avoiding tree limbs or expressing a major change of function. ***(for example, the volume in the foreground above is not an offset but instead clearly provides a separate function with a separate entrance from the building behind)***. Do not use small, purposeless offsets only for visual interest and do not change wall materials at offsets.

5.1.6. Compose roof forms with just a few, simple planes with limited subordinate attachments such as dormers. For example, traditional gable and hip roofs have basic forms while mansard roofs and sloping roof "skirts" that conceal a flat area add too much complexity.

5.1.7. Subdue the character of the garage by using a rectilinear form with materials and colors that do not contrast with the main buildings.

5.2. Ensure that a building appears to be no more than two stories in height, as viewed from the public right-of-way.

5.2.1. Present one-story heights to the street and locate two story elements away from the street, except where this would appear dominant or out of scale when viewed from the public right-of-way or a neighboring home. Remember that a garage, even sunken below grade, counts as a story.

5.2.2. Make detached garages one story, one-car, and small in scale, with the wall plate height no taller than that of the first-story plate of the main house.



5.3. Convey human scale in a building's basic forms ***(as shown above by the unexaggerated, standard dimensions of the doors, windows, and story-heights).***

5.3.1. Use historic Carmel styles only at their traditional, human scales.



5.3.2. Organize building mass into realistic modules to reduce perceived size, breaking a larger house into subordinate modules which appear, not just as minor offsets meant to create interest but instead authentic, in that they reflect real, functioning, interior spaces ***(as shown by the room above, which protrudes to the right in order to center its fireplace in the room within).***

5.3.3. Emphasize the low and horizontal so that buildings appear to hug the ground.

5.3.4. Use a low building plate height, generally not over 8 feet. Keep plate heights and roof eave lines low in scale, tucking upper story rooms under roof slopes, so as to reduce the height of exposed walls. The maximum plate height of 12 established in the Land Use Code is only to accommodate sloping building sites.

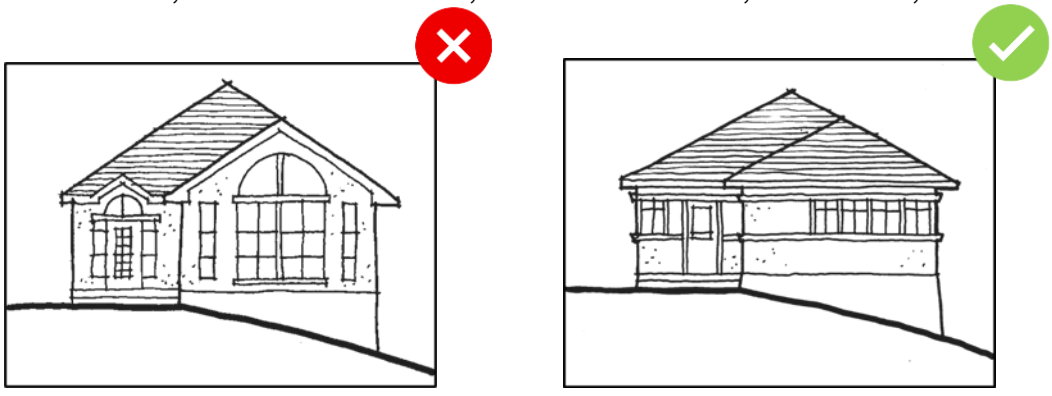
5.3.5. Do not use design features that produce a top-heavy appearance such as large cantilevered building elements, wide chimney structures, or roof forms that dominate the body of the building. Proportion roof forms to the scale of the building.

5.4. Use building details to provide interest but not to exaggerate the scale of a building.

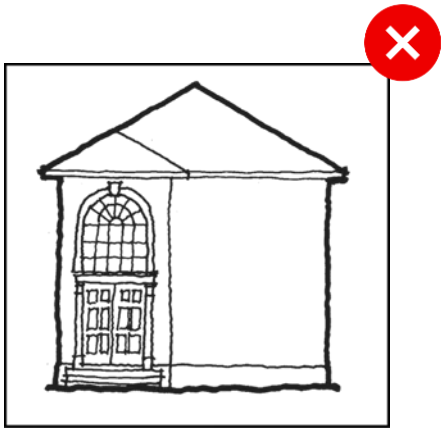


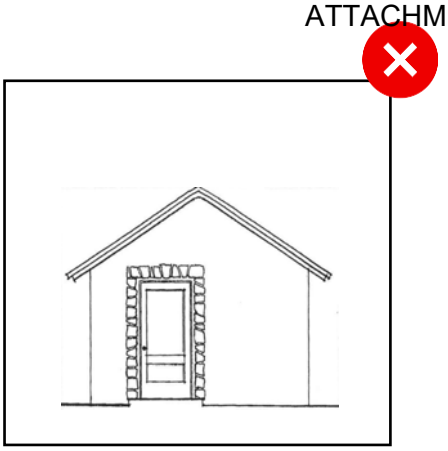
5.4.1. Add details to relieve blank surfaces and achieve a scale compatible with the building's forms and its architecture ***(such as shown above where the wavy half-timbering appropriate to the quirky Fairytale language helps shrink the appearance wall down to the required Elfin scale)***.

5.4.2. Use all materials, natural or man-made, at traditional scales, dimensions, and modules.



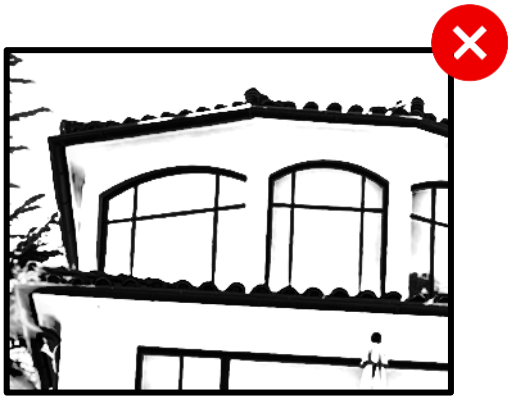
5.4.3. Use appropriately sized, never oversized, building elements, such as windows ***(unlike the out-of-scale arches on an otherwise vernacular home shown above left)***, doors, entries, chimneys, overhangs, dormers, and porches to reduce scale, especially as visible from public view ***(like the appropriately small and architecturally integrated fenestration on the Prairie Style home shown above right)***.





5.4.4. Keep visible openings subordinate in scale to the building. Do not use "grand", oversized entryways, windows, or doors ***(like the enormous entry door and clerestory window combination shown above left nor the anomalous rock border emphasizing the door above right).***





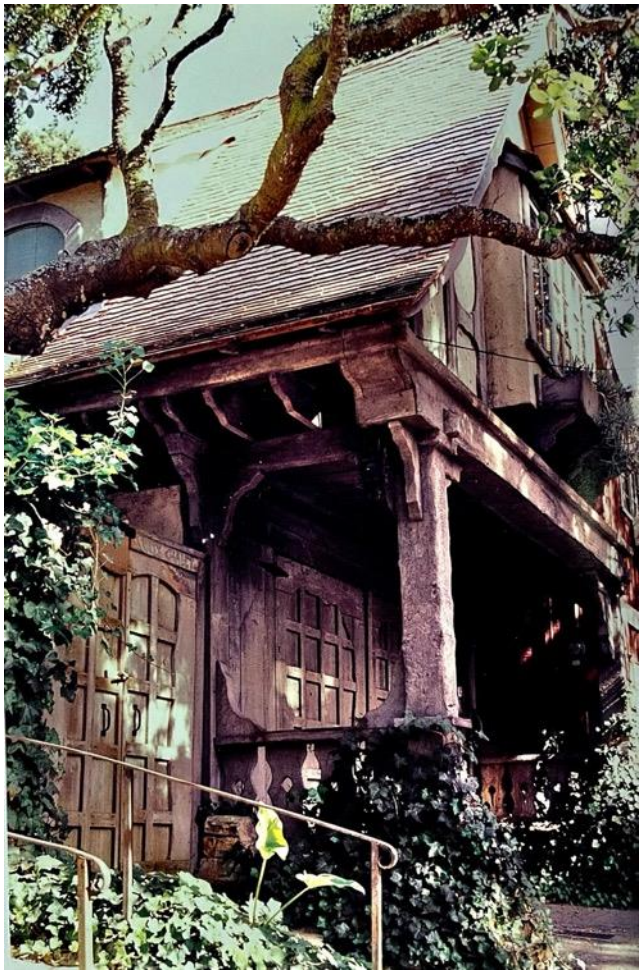
5.4.5. When reproducing historic architecture, limit the dimension of any glass to that which was possible to span using only the original construction techniques of that historic era ***(at the above left Mission Style home very thick areas of stucco surround a small arched window, which authentically reflects the limited spanning strength of heavy masonry traditional in mission construction; while at the above right Mission Style home very thin areas of stucco surround large arched windows, which betrays the long spanning strength of steel construction that could have never be used in mission construction).***

5.4.6. Limit the use of specialty windows that add to building bulk to no more than one visible from the street. Avoid altogether bay and oriel windows facing the street if this would create a repeating pattern within the context of adjacent structures.

5.5. Keep the overall color scheme muted to blend with the forest palette.

5.5.1. Limit the use of bright colors, if any, to key accent features, such as an entry door.

5.5.2. Avoid starkly contrasting color schemes.





6. DETAIL every property authentically and consistently

(like the homes above with expressive wood detailing authentic to their architecture: heavy carved posts, beams, and other details for the revivalist cottage on the left and light smooth siding, fascia boards, and glazing panels for the modern home on the right).



Background: *Due to Carmel's history of handcrafted, modest cottages, the town has amassed an enviable collection of richly detailed homes that avoid the tell-tale flimsiness or cheapness of speculative development. In a village with small properties, where views of and around structures are paramount, all parts of a building matter. Hewing to the timeless materials and assembly techniques of the past even when designing for today's lives ensures that building details remain authentic and inspiring.*

Process: *design steps most relevant to this section include...*
- *submitting final design proposal*
- *receiving official staff report on design compliance*
- *hearing feedback from Forest & Beach, Planning, and Historic Resources (if applicable) Commissioners*

6.1. Use building materials and features in a manner that conveys authenticity.

6.1.1. Convey a sense of true craftsmanship in architectural details.

6.1.2. Do not use fake, purely decorative building elements such as dummy chimneys, doors, windows, or shutters. Size any shutters so that they would cover their entire window, whether or not they are in active use.

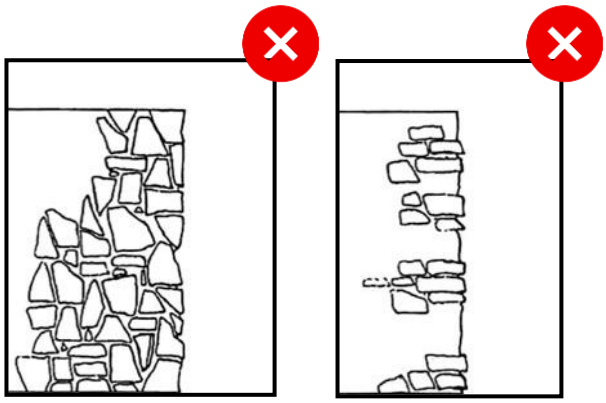
6.1.3. Do not use materials or details inauthentic to the architecture or that appear non-structural, gratuitous, or applied as superficial elements, wall "accents" or veneers.

6.1.4. On multi-paned windows and doors, use true dividers that go from inside to outside between the panes of glass.

6.1.5. Where materials do not simply remain un-coated, finish with a plain, uniform, matte varnish, stain or paint, without faux finishes.



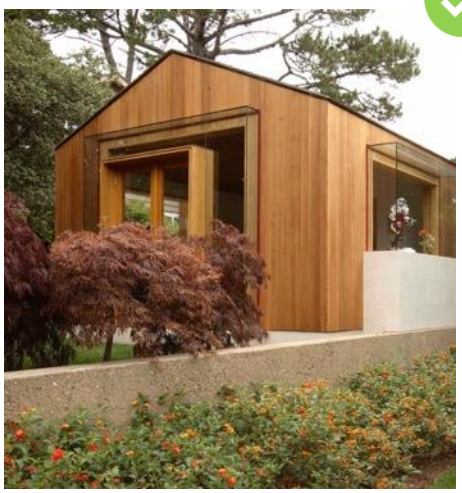
6.1.6. Use details that are-true structural elements, such as natural wood exposed rafter tails, beams ***(like the truly structural roof beams protruding beyond both the house wall and the roof above to provide visual interest),*** or stacked stone foundations. If costs prove prohibitive, simplify the architectural language rather than mimic more costly methods.





6.1.7. Whether on a building or a landscape element, stack stone traditionally so that it appears, or actually is, structurally load-bearing ***(as above right, not wallpapered or sprinkled on as above left).***





6.1.8. Use a" hierarchy" of building materials, with heavier coarser materials below lighter materials ***(such as the wood clapboard over stacked stone shown above left or the vertical wood siding and glass over the poured concrete foundation above right).***

6.1.9. Do not "float" stone above lighter materials or use it purely decoratively, such as framed just around windows or doors, or randomly clustered on corners, walls, or chimneys.

6.1.10. Detail new and/or manufactured materials in ways authentic to their own composition. For example, carefully plan the woodgrain and modules of formwork for exposed poured concrete or use cement board siding with a smooth, untextured surface, rather than an added, faux woodgrain.

6.2. Use building materials or features in a consistent manner.

6.2.1. Use design details and surface materials throughout the full exterior of the building. Do not apply special materials or design treatments to the street facade only.

6.2.2. Do not stop wall materials at corners, instead wrap them around the entire building.



6.2.3. Use only one primary material for all building walls with any additional materials clearly subordinated to foundations and the like ***(as in the above home, clearly identifiable as "stucco", with only one secondary material used only on separate features such as the foundation, chimney, and addition).***

6.2.4. Make window and door styles, materials, and finishes uniform throughout a design.



6.3. Make architectural details integral elements of the overall building design concept ***(such as the corner-mitered glass shown above, which by eliminating an expected structural member, reinforces the lightness and floating of the roof).***





6.3.1. Use window and door proportions, sizes, styles, and materials accurate for the architectural style of the building. Traditional historic styles and their reproductions require small openings, in keeping with older technologies ***(as shown above left by the small punched windows surrounded by enough solid surface to appear like the heavy, stacked, masonry construction -- as seen in traditional Mission Style -- and as shown above right by the use of full glazing rather than actual "windows" filling the space between light, spanning, structural elements -- as seen in modern styles).***



6.3.2. Integrate the primary entrance with the overall design of the house ***(as shown above by the recessed porch of the same material as the overall house, tucked subtly under a slight asymmetrical flare of the roofline and with arched openings of similar height to nearby window openings)***.



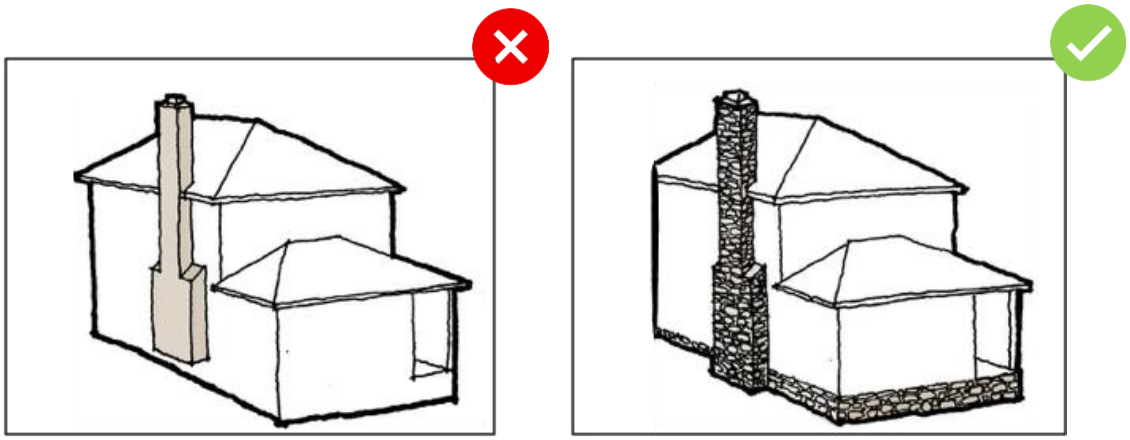
6.3.3. Rather than installing a standard overhead product, craft a garage door either to provide visual interest ***(like the quirk, handmade double doors above)***, to recede completely into the materials and colors of the building wall, or orient it so as not to face the street.



6.3.4. Blend any skylights, their size, shape, placement, number, and framing into the overall roof and building design ***(like the glass ridge integrated into the structural roof members above)***. Preserve the

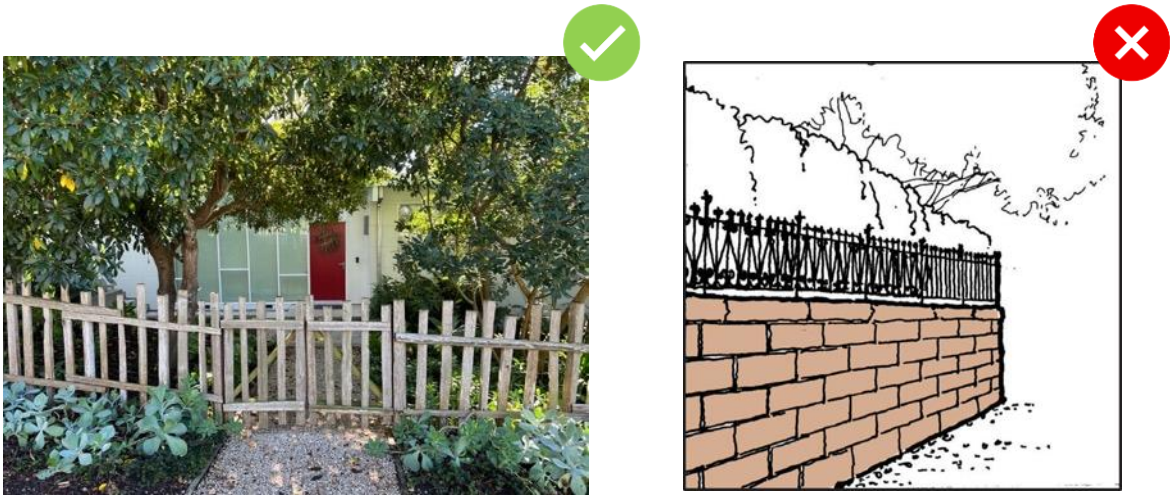
overall roof form by respecting the maximum allowable percentage of skylight area and the minimum allowable distance from eaves. Ensure that skylights do not appear random, visually prominent to the neighbors, nor visible to the street. Do not use unintegrated high profile, domed, or pyramidal units.

6.3.5. Design a balcony to be subordinate in scale and proportion to the house, while using materials and details appropriate to the overall building design.

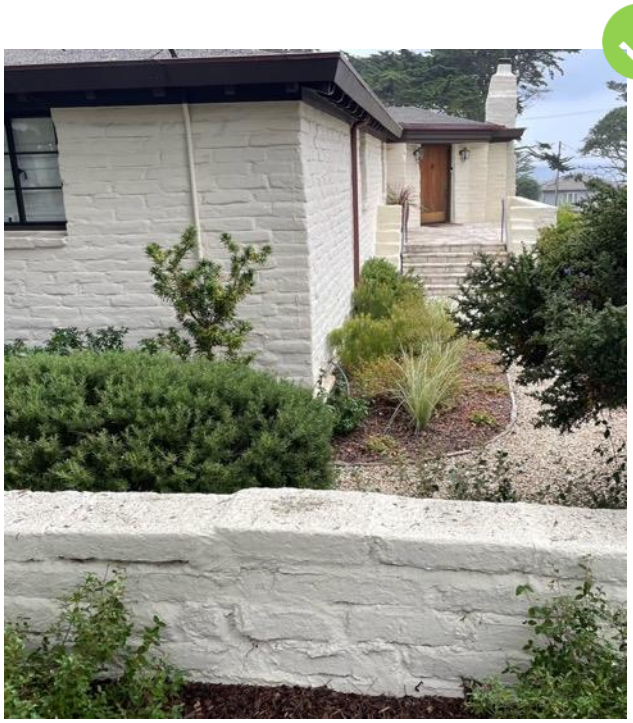


6.3.6. Locate and proportion a traditional chimney and its cap to integrate into the overall building design. Make a chimney attached to the side of a building appear to be self supporting ***(as shown above right where the chimney material sits on the ground and clearly integrates with the foundation material)***, not "floating" above the ground or foundation ***(as shown above left).***

6.3.7. Choose roof materials and installation details accurate to the architectural style of the building. Add new energy conservation and generation technologies, including "cool" and planted areas, to roofs only if subdued in appearance.



6.3.8. Handcraft any fences, using unfinished grapestakes ***(as shown above left)*** or wood pickets and not ornate-wrought iron or chain link ***(as shown above right).***





6.3.9. Integrate any garden wall with the building architecture and materials, using matte-finished native stone, river rock, brick, or plain-textured plastered masonry ***(as shown above left where the low garden wall is of the exact same color, dimension, and pattern of adobe brick as the home itself)***, not unfinished concrete or concrete block ***(as shown by the store-bought industrial retainage above right)***.

6.3.10. Integrate an arbor into the fence or wall design, incorporating vines or other landscaping to blend it into the garden.

6.3.11. Distinguish a gate from the adjoining fence or wall with crafted or individualized details, while maintaining filtered views into the property. Do not use vehicle gates except on unusually large estate properties.

6.3.12. Never use gate posts or columns that are monumental or out-of-scale with the building design, nor stone columns that are not integrated into other stone elements. Keep posts and columns the same height as their adjacent fence or wall.

6.3.13. Use house identification devices, such as name and number signage, that is subordinate to and appropriate to the architecture.



II. COMMERCIAL

Design Guidelines



1. ENHANCE...

future content

future content

future content

future content

future content

future content



III. MUNICIPAL

Design Guidelines







1. ENHANCE...

future content

future content

future content

future content

future content

future content



APPENDICES

Design Guidelines





PREFERRED MATERIALS

Planting & Building



PREFERRED PLANTING MATERIALS

from pages 140-143 of Coastal California's Living Legacy: The Monterey Pine Forest

Scientific Name	Common Name
TREES	
Acer macrophyllum	big-leaved maple
Acer negundo	box elder
Arbutus menziesii	madrone
Aesculus californica	California buckeye
Cupressus goveniana ssp. goveniana	Gowen cypress
Cupressus macrocarpa	Monterey cypress
Myrica californica	Pacific wax myrtle
Quercus agrifolia	coast live oak
Pinus muricata	bishop pine
Pinus radiata	Monterey pine
Platanus racemosa	sycamore
Salix lasiolepis	arroyo willow
Salix scouleriana	Scouler's willow
Sambucus mexicana	blue elderberry
SHRUBS	
Adenostoma fasciculatum	chamise
Arctostaphylos tomentosa ssp. bracteosa	Monterey manzanita (shaggy-barked)
Arctostaphylos hookeri	Hooker's manzanita
Arctostaphylos pumila	sandmat manzanita
Artemisia californica	California sagebrush
Baccharis douglasii	Douglas's baccharis
Baccharis pilularis	coyote brush
Berberis pinnata	California barberry
Ceanothus cuneatus var. rigidus	Monterey ceanothus
Ceanothus thyrsiflorus	blue blossom
Chrysolepis chrysophylla var. minor	chinquapin
Corethrogyne filaginifolia	branching beach aster
Cornus sericea ssp. occidentalis	western red dogwood
Ericameria fasciculata	Eastwood's golden fleece
Eriodictyon californicum	yerba santa
Eriogonum elongatum	long-stem buckwheat
Eriogonum latifolium	coast buckwheat
Eriogonum parvifolium	seacliff buckwheat
Gaultheria shallon	salal
Heteromeles arbutifolia	toyon
Holodiscus discolor	cream bush, oceanspray
Lepechinia calycina	pitcher sage
Lonicera hispidula var. vacillans	hairy honeysuckle
Lotus scoparius	deerweed
Lupinus albifrons	silver bush lupine
Lupinus arboreus	tree lupine
Mimulus aurantiacus	sticky monkey flower
Oemleria cerasiformis	oso berry
Rhamnus californica	coffeeberry
Rhamnus crocea	redberry
Ribes divaricatum	creek gooseberry
Ribes malvaceum	chaparral currant
Ribes sanguineum var. glutinosum	pink-flowering currant
Ribes speciosum	fuchsia-flowered gooseberry
Rosa californica	California wild rose
Rosa gymnocarpa	wood rose
Rosa pinetorum	pine rose
Salvia mellifera	black sage
Salvia spathacea	crimson sage
Solanum douglasii	Douglas' nightshade
Symphoricarpus mollis	creeping snowberry
Symphoricarpos rivularis	common snowberry
Toxicodendron diversilobum	poison oak
Vaccinium ovatum	huckleberry
HERBACEOUS PLANTS	
Achillea millefolium	yarrow
Agoseris grandiflora	mountain dandelion
Allienz hickmanii	Hickman's onion
Arnica discoidea	rayless arnica
Aster radulinus	rough-leaved aster
Calochortus albus	white globe lily, fairy lantern
Calochortus luteus	yellow mariposa lily
Calochortus uniflores	large-flowered star tulip
Calystegia macrostegia ssp. cyclostegia	coast morning-glory
Castilleja affinis	coast paintbrush
Chlorogalum pomeridianum	soaproot
Claytonia perfoliata	miner's lettuce
Cordylanthus rigid ssp.littoralis	seaside bird's-beak
Cynoglossom grande	hound's tongue
Dichelostemma capitatum	blue dicks
Epilobium ciliatum	California willow-herb
Eschscholzia californica	California poppy
Fragaria vesca	wood strawberry
Fritillaria affinis	checker lily, mission bells
Galium californicum	California bedstraw
Horkelia cuneata	wedge-leaved horkelia
Iris douglasiana	Douglas iris
Lomatium parvifolium	small-leaved lomatium
Lotus formosissimus	bicolored lotus, witch's teeth
Lotis stipularis	stipulate lotus
Madia elegans	common madia
Madia madioides	woodland madia
Osmorhiza chilensis	sweet cicely
Pedicularis densiflora	Indian warrior
Piperia elegans	elegant piperia
Piperia elongata	tall rein-orchid
Piperia yadonii	Yadon's rein-orchid
Perideridia gairdneri	Gairdner's yampah
Polygala californica	California milkwort
Potentilla hickmanii	Hickman's cinquefoil
Rubus ursinus	California blackberry
Sanicula crassicaulis	gambleweed
Satureja douglasii	yerba buena
Sidalcea malvaeflora	checkerbloom
Sisyrinchium bellum	blue-eyed grass
Smilacina racemosa	fat solomon
Solidago californica	California goldenrod
Spiranthes romanzoffiana	hooded ladies' tresses
Trifolium polyodon	Pacific Grove clover
Trifolium trichocalyx	Monterey clover
Trillium chloropetalum	giant trillium
Triteleia ixioides	pretty face
Xerophyllum tenax	bear grass
Zigadenus fremontii	Fremont's star lily
FERNS	
Adianturn aleuticum	five-finger fern
Adiantum jordanii	California maiden-hair
Dryopteris arguta	wood fern
Pellaea andromedaefolia	coffee fern
Pityrogramma triangularis	goldback fern
Polypodium californicum	California polypody
Polystichum munitum	sword fern
GRASSES, SEDGES AND RUSHES	
Agrostis pallens	leafy bent-grass
Bromus carmatus	California brome
Calamagrostis nutkaensis	Pacific reed-grass
Carex barbarae	Santa Barbara sedge
Carex brevicaulis	short-stemmed sedge
Carex obnupta	slough sedge
Carex praegracilis	clustered field sedge
Carex tumulicula	foothill sedge
Cyperus eragrostis	tall cyperus
Danthonia californica	California oatgrass
Deschampsia caespitosa	tufted hair-grass
Elymus glaucus	Western ryegrass
Festuca californica	California fescue
Festuca rubra	red fescue
Juncus balticus	wire rush, Baltic rush
Juncus bufonius	common toad rush
Juncus effusus	common rush
Juncus falcatus	sickle-leaved rush
Juncus occidentalis	Western rush
Juncus patens	spreading rush
Juncus xiphioides	iris-leaved rush
Koeleria macrantha	junegrass
Leymus condensatus	giant ryegrass
Leymus triticoides	beardless ryegrass
Luzaida comosa	common wood rush
Melica californica	western melica
Melica imperfecta	Coast-Range melica
Nassella lepida	foothill needlegrass
Nassella pulchra	purple needlegrass
Poa secunda	pine bluegrass
Scirpus cernuus	low club rush
Scirpus amiericanus	three square

Enhance. Subordinate. Fit. Retain. Design. Detail.

PREFERRED BUILDING MATERIALS

MATERIAL	NOTES	USES
NATURAL		
wood	*reclaimed or FSC sustainable redwood or cedar or fir*	posts, beams, siding, trim, un-clad windows, doors, garage doors, fireproofed roof shingles or shakes,
bark	*reclaimed or FSC sustainable redwood or cedar or fir*	siding, roofing
bamboo	*sustainably cultivated*	flooring, siding, structural panels
cork	*sustainably cultivated*	flooring, siding, structural panels
living plants	*drought-tolerant, native species (see Preferred Planting Materials)*	walls, roofs
stone	*local, dry-set or mortared stacked in dry-set structurally-feasible patterns only*	mudstone/golden granite for walls, foundations, driveways, Carmel stone for walls, patios, walkways
earth	*locally sourced cob or rammed soils/sands*	walls
brick	*locally-sourced clay or adobe*	walls, patios, walkways
bale	*locally sourced straw*	walls, insulation
tile	*genuine ceramic, clay, or concrete*	mono-chromatic for roofs, patios, walkways multi-chromatic for decorative accents
basic metal	*uncoated, naturally-aging zinc, bronze, brass, aluminum*	roofing, gutters, hardware, cladding for deconstructable/recyclable wood windows
glass	*low-E, clear, or evenly sandblasted, non-mirrored, non-tinted*	windows and other glazed openings
sealing oil	*penetrating, non-peeling, non-VOC, pure tung, linseed, hemp, teak oils*	exposed wood treatment, when natural aging is undesired
MANUFACTURED		
poured concrete	*artistically-crafted in natural or in uniform, integrated color with only non-uniform, handcrafted textures (as with exposed aggregate or genuine wood formwork)*	walls, patios, walkways, pavers
cast concrete	*integrated, uniform color, and finish without stamped, faux "natural" textures*	walls, patios, walkways, pavers, roof tiles
alt-crete	*e.g. ashcrete, sandcrete, grasscrete, woodcrete, hempcrete: poured or cast, maintain original surface pattern and color*	walls, patios, walkways, pavers, roof tiles
fiber cement	*e.g. Hardiboard, Equitonesmooth texture only, no mimicry of natural materials*	siding
stucco	*uncoated, non-pigmented, smooth textured*	wall coating
advanced brick	*e.g. wool brick, shell brick*	walls, patios, walkways
advanced metal	*steel, galvanized steel, stainless steel, Cor-Ten steel, Zincalume, Galvalume, earth-toned anodized aluminum*	slim-profile windows, siding, landscape elements, standing seam roofing with non-corrugated flat panels, devoid of ribbing
advanced wood	*FSC sustainable: mass timber, industrially-pickled/acetylated, pre-charred/shou-sugi-ban, thermally-modified, bio-based fiberboard super-wood*	posts, beams, siding, trim, un-clad windows, doors, garage doors, fireproofed roof shingles or shakes,
stain	*penetrating, naturally-fading, rather than peeling, monochrome, earthtone pigment*	exposed wood treatment, when added color is desired

PROJECT REVIEW

Process, Checklist, & Narratives

CARMEL BY THE SEA remains beautiful because of the community's rigorous design expectations. These Design Guidelines are a mandated regulatory tool for the CC, SC, and RC districts that conveys these expectations. They also help explain and illustrate design standards in the City's other regulations. Existing projects never establish precedent for proposed projects. Instead, all projects must meet or exceed the expectations described by and under the community's six Core Design Guidelines. Where uncertainty arises, city officials will interpret guideline adherence on a case-by-case basis. Strict adherence to this document and its related, linked regulations will help ensure that a proposed project will meet community expectations and have a smooth approval process.

Project Address: _____

APN: _____

Owner Name: _____

Applicant Name: _____

Date: _____

Core Design Principles Narrative Form

Purpose of Completing This Narrative

This narrative is intended to guide applicants in thoughtfully employing Carmel-by-the-Sea's six core design principles at the earliest stages of project design. For each principle, applicants are asked to briefly describe how their proposed project responds to and harmonizes with that principle. The intent is not for applicants to restate regulations, but to demonstrate design intent and awareness of the heritage that shapes Carmel's built environment. Completing this narrative helps ensure that projects begin in the right direction, are grounded in the spirit of the Design Guidelines, and are developed with sensitivity to the community, the site, and Carmel's village-in-a-forest character.

How to use this form

Please provide a brief written narrative for each principle below describing how your proposed project addresses and complies with that principle. We invite you to include visuals and details that illustrate consistency with the guidelines. If additional space is needed, please attach supplemental sheets.

1. ENHANCE, restore, and preserve the native forest in all improvement projects: private, public, and otherwise.

Design the project as an extension of Carmel's native forest. The upper and lower canopy should remain the primary site feature, with buildings visually secondary. Projects should retain significant trees, supplement the forest with new planting, and reinforce continuity of the forest character across the site and surrounding area.

Describe how the project addresses this principle:

2. SUBORDINATE every built structure to the character and continuity of the forest, natural environment, and to the natural features of its own site.

Ensure all buildings are clearly secondary to the site's natural features and topography. Massing, excavation, and foundations should follow existing slopes, minimize grading, and avoid visual dominance. The design should feel woven into the landscape rather than imposed upon it.

Describe how the project addresses this principle:

3. FIT every built structure within its neighborhood context.

Design the project to respect the scale, massing, setbacks, and open-space patterns of the surrounding neighborhood. New construction should protect neighbors' privacy, views, and access to light while maintaining Carmel's informal streetscape, natural slopes, and forested foreground.

Describe how the project addresses this principle:

4. RETAIN and build upon Carmel's architectural heritage.

Draw from Carmel's tradition of individual expression and eclectic architectural styles. Use forms, materials, and detailing that convey human scale, craftsmanship, and a natural patina, while remaining compatible with the village-in-a-forest setting.

Describe how the project addresses this principle:

5. DESIGN every built structure with modesty and restraint.

Keep building scale, form, and mass restrained and appropriate to the site. Designs should reflect traditional proportions, break larger volumes into realistic components, and avoid oversized or speculative expressions that dominate the street or surrounding landscape.

Describe how the project addresses this principle:

6. DETAIL every property authentically and consistently.

Use architectural details and materials that are genuine, functional, and consistently applied on all sides of the building. Avoid applied or faux elements, and ensure that craftsmanship, materials, and detailing reflect authenticity throughout the entire property.

Describe how the project addresses this principle:

Applicant Certification

I certify that the responses above accurately describe how the proposed project has been designed to comply with the City of Carmel-by-the-Sea's Design Guidelines.

Applicant Signature: _____ **Date:** _____

Project Address: _____

APN: _____

Owner Name: _____

Applicant Name: _____

Date: _____

Core Design Principles Narrative Form

Supplemental Information

1. ENHANCE, restore, and preserve the native forest in all improvement projects: private, public, and otherwise.

Project Address: _____

APN: _____

Owner Name: _____

Applicant Name: _____

Date: _____

Core Design Principles Narrative Form

Supplemental Information

2. SUBORDINATE every built structure to the character and continuity of the forest, natural environment, and to the natural features of its own site.

Project Address: _____

APN: _____

Owner Name: _____

Applicant Name: _____

Date: _____

Core Design Principles Narrative Form

Supplemental Information

3. FIT every built structure within its neighborhood context.

Project Address: _____

APN: _____

Owner Name: _____

Applicant Name: _____

Date: _____

Core Design Principles Narrative Form

Supplemental Information

4. RETAIN and build upon Carmel's architectural heritage.

Project Address: _____

APN: _____

Owner Name: _____

Applicant Name: _____

Date: _____

Core Design Principles Narrative Form

Supplemental Information

5. DESIGN every built structure with modesty and restraint.

Project Address: _____

APN: _____

Owner Name: _____

Applicant Name: _____

Date: _____

Core Design Principles Narrative Form

Supplemental Information

6. DETAIL every property authentically and consistently.

Design Review Tracks

The Design Review process is organized into separate tracks, which correspond to the scale of a project or its complexity.

Some projects may be approved at staff level while others may require comment and/or action by a board, committee or commission of the City. Submittal requirements vary accordingly. Consult with City Planning staff to determine the process for a specific project.

Carmel-by-the-Sea Municipal Code (CMC) Section 17.58.040 Residential Design Review outlines the two established residential design review tracks, Track 1 (Staff Approval) and Track 2 (Planning Commission Approval). Note: Per CMC Section 17.58.040.A.3.b, Track 1 projects that comply with the zoning regulations, but do not comply with the design guidelines or design objectives will be referred to the Planning Commission for resolution or shall be redirected into Track 2.

Track 1 (Staff Approval)

- Staff level discretionary approval
- Limited to:
    - Exterior changes or additions that do not increase the floor are by more than 10%
    - Changes in exterior materials, site coverage, landscaping, fenestrations, chimneys, fences, or walls
    - Minor changes to historic resources

Track 2 (Planning Commission Approval)

- Discretionary review process for project that requires public hearing with the Planning Commission
- Include:
    - All new construction, demolition, and grading over 25 cubic yards
    - Additions that increase building coverage by more than 200 square feet or 10%
    - Projects requiring grading within 6' of a significant tree (as determined by the City Forester)
    - Any project requiring a Coastal Development Permit that is not exempt from Public Hearing

Note:

CMC Section 17.10.010 (Purpose and Design Objectives) establishes the standards and requirements for development in the R-1 district. The Residential Design Guidelines implement these design objectives (CMC Section 17.10.060, Residential Design Guidelines).

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Gaining Project Approval

Each project shall follow a series of steps in order to ensure that the proposed work meets all the relevant design guidelines. Compliance review with relevant zoning code regulations occurs concurrently. Check with Planning Staff for specific submittal requirements.

Step 1: Site Assessment

- Applicant applies for preliminary site assessment. (General Planning application and survey created within a year of application submittal.)
- Planning and Forestry staff assess the site.
- The applicant uses the assessment and the core principles in developing the project design.

Step 2: Concept Review

- Owner develops the Concept Design level information.
- Planning Commission reviews for compliance.
- When approved, applicant continues to Final Design.

Step 3: Final Review

- Owner develops the Final Design, gets a volume study through the city, and addresses any conditions of approval from the Concept Design hearing.
- Planning Commission reviews for compliance.
- When approved, applicant applies for other city permits, including building permit.

GLOSSARY

Selected Definitions





GLOSSARY

E

Eden **E•den** | ˈēd(ə)n | *noun.* 1. a place or state of great happiness; an unspoiled paradise: *pining for the Eden of her childhood.* 2. Carmel-by-the-Sea

Enhance. Subordinate. Fit. Retain. Design. Detail.

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ACKNOWLEDGMENT

It Takes a Village.



Special thanks to...

Carmel-by-the-Sea Community Planning and Building Division:

Brandon Swanson Acting City Administrator
Anna Ginette Community Planning and Building Director
Jake Olander Associate Planner

Planning Commission:

Michael LePage Chair
Stephanie Locke Co-Chair
Mel Ahlborn Member
Erin Allen Member
Stephan Karapetkov Member

Winter & Company of Boulder CO:

Nore Winter Consultant
Julie Husband Consultant

Design Traditions Steering Committee:

Victoria Beach Co-Chair
Doug Schmitz Co-Chair
Melanie Billig Member
Don Goodhue Member
Mary Ann Schicketanz Member

and most importantly to...

The Citizens of Carmel-by-the-Sea whose determination to protect this singular place and whose willingness to volunteer their observations and insights over countless hours inspired every aspect of this crucial document.



