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

Mayor Dave Potter, Councilmembers Jeff Baron, Alissandra Dramov, Karen Ferlito, and Bobby Richards
Contact: 831.620.2000 www.ci.carmel.ca.us

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

REGULAR MEETING
Tuesday, March 5, 2024

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.

https://ci-carmel-ca-us.zoom.us/j/89775703025 Webinar ID: 897 7570 3025 Passcode: 297166 Dial In: (253) 215-8782

HOW TO OFFER PUBLIC COMMENT

The public may give public comment at this meeting in person, or using 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.

OPEN SESSION
4:30 PM

CALL TO ORDER AND ROLL CALL

PLEDGE OF ALLEGIANCE

EXTRAORDINARY BUSINESS

A. Carmel High School Report Out

B. "Keep America Beautiful" Proclamation

C. American Red Cross Month Proclamation

D. Presentation from the Carmel Youth Center

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

A. City Administrator Announcements

B. City Attorney Announcements

C. Councilmember Announcements

ORDERS OF BUSINESS

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

1. Receive an update on Car Week 2024

2. Fiscal Year 2023-2024 Mid-Year Budget Report and Resolution 2024-022 Approving FY 2023-2024 Adopted Budget Amendments

3. Receive a presentation on the proposed Fiscal Year 2024/25 Capital Improvement Program and Five-Year Capital Improvement Plan, and provide direction to staff

4. Receive an Update on the 6th Cycle Housing Element (2023-2031), Second Draft Mid-Review Comments from the State Department of Housing and Community Development (HCD)

PUBLIC HEARINGS

5. **MA 23-146 (Lopez 5 NW, LLC):** Consideration of a Mills Act Contract application MA 23-146 (Lopez 5 NW, LLC) for the historic "Cosmas House" located on Lopez Avenue 5 northwest of 4th Avenue in the Single-Family Residential (R-1) District. APN 010-232-028

6. **MA 23-116 (Esperanza Carmel, LLC)**: Consideration of a Mills Act Contract application MA 23-116 (Esperanza Carmel LLC) for the historic "Mrs. Clinton Walker House" located at 26336 Scenic Road in the Single-Family Residential (R-1) District. APN 009-423-001-000

FUTURE AGENDA ITEMS

ADJOURNMENT

7. Correspondence Received After Agenda Posting

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 City Council regarding any item on this agenda, received after the posting of the agenda will be available for public review 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
CITY COUNCIL
Staff Report

March 5, 2024
EXTRAORDINARY BUSINESS

TO:	Honorable Mayor and City Council Members
SUBMITTED BY:	Chip Rerig, City Administrator
APPROVED BY:	Chip Rerig, City Administrator
SUBJECT:	"Keep America Beautiful" Proclamation

RECOMMENDATION:

Present the "Keep America Beautiful" Proclamation.

BACKGROUND/SUMMARY:

The Mayor received a request from Carmel Cares to present a proclamation, symbolizing the City of Carmel-by-the-Sea's commitment to a cleaner environment through active participation in the nationwide "Greatest American Cleanup" event, in partnership with Keep America Beautiful. The proclamation serves as both a call to action and a celebration for residents of our cherished village.

Background

Founded in 1953, Keep America Beautiful (KAB) is a national nonprofit that promotes community enhancement, reducing litter, and recycling. The annual "Great America Cleanup" event involves 20,000 communities across the nation. Initiatives like this provide support for affiliates, such as Carmel Cares, to plan local events focused on recycling, conservation, clean-up, beautification, and community improvement.

Dale Byrne, President of Carmel Cares nonprofit, has generously volunteered to organize three (3) clean-up, recycling, and beautification activities in Carmel, encouraging widespread community and involvement to uphold a clean, green, and beautiful environment. In a discussion with the City Administrator, Mr. Byrne represented that he did not believe the additional public events would impact the capacity of City staff. Accordingly, the City Administrator recommends that the City Council support the Proclamation.

Summary

The Proclamation aims to reaffirm Carmel-by-the-Sea's dedication to a vibrant, environmentally conscious, and interconnected community through active involvement in "The Greatest American Cleanup" in collaboration with Carmel Cares.

FISCAL IMPACT:

None for this action

PRIOR CITY COUNCIL ACTION:

None for this action

ATTACHMENTS:

Attachment 1) Keep America Beautiful Proclamation

CITY OF CARMEL-BY-THE-SEA
CITY COUNCIL

PROCLAMATION
"KEEP AMERICA BEAUTIFUL" GREAT AMERICA CLEAN UP PLEDGE

WHEREAS, the City of Carmel-by-the-Sea recognizes the importance of preserving our natural beauty, enhancing our quality of life, and fostering a sense of civic pride; and

WHEREAS, we acknowledge the increasing concern over litter and its impact on our environment, economy, and overall well-being; and

WHEREAS, we are resolute in our commitment to taking substantial measures to reduce litter and enhance the beauty of our community, thus ensuring a cleaner, more vibrant, and sustainable living environment; and

WHEREAS, embracing the spirit of unity and progress, the City of Carmel-by-the-Sea, in collaboration with Carmel Cares and dedicated community volunteers, pledges to spearhead a concerted effort to achieve a cleaner and more beautiful environment by actively participating in the "The Greatest American Cleanup" in partnership with Keep America Beautiful and communities nationwide; and

WHEREAS, Carmel Cares, a nonprofit City support group, has generously volunteered to organize three (3) clean-up, recycling, and beautification activities in Carmel, encouraging widespread community and City support group involvement to uphold a clean, green, and beautiful environment; and

WHEREAS, in partnership with Carmel Cares and other City Support Groups, this Keep America Beautiful pledge serves as both a call to action and a celebration of the residents our of cherished village.

NOW, THEREFORE, I, Dave Potter, Mayor of the City of Carmel-by-the-Sea, do hereby take the "Greatest American Cleanup" Pledge, reaffirming the City's dedication to fostering a vibrant, environmentally conscious, and interconnected community through active involvement in "The Greatest American Cleanup" with the support of Carmel Cares.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the City of Carmel-by-the-Sea to be affixed on this 5th day of March, 2024.

____

Dave Potter, Mayor

CITY OF CARMEL-BY-THE-SEA
CITY COUNCIL
Staff Report

March 5, 2024
EXTRAORDINARY BUSINESS

TO:	Honorable Mayor and City Council Members
SUBMITTED BY:	Nova Romero, City Clerk
APPROVED BY:	Chip Rerig, City Administrator
SUBJECT:	American Red Cross Month Proclamation

RECOMMENDATION:

BACKGROUND/SUMMARY:

Present the American Red Cross Month Proclamation

FISCAL IMPACT:

PRIOR CITY COUNCIL ACTION:

ATTACHMENTS:

Attachment 1) Proclamation - American Red Cross Month

Attachment 1

CITY OF CARMEL-BY-THE-SEA

A PROCLAMATION OF THE CITY COUNCIL DESIGNATING MARCH AS AMERICAN RED CROSS MONTH

WHEREAS, during American Red Cross month we recognize the compassion of people in Carmel-by-the-Sea and reaffirm our commitment to care for one another in times of crisis; and

WHEREAS, this generous spirit is woven into the fabric of our community and advances the humanitarian legacy of American Red Cross founder Clara Barton — one of the most honored women in our country's history — who nobly dedicated herself to alleviating suffering; and

WHEREAS, the contributions of local Red Cross volunteers (134 in the county) give hope to the most vulnerable in their darkest hours, helping 53 households affected by 39 home fires last year by addressing their urgent needs like food and lodging, as well as providing recovery support; and

WHEREAS, last year the Red Cross also collected 1,560 blood donations, provided first aid and CPR training to 3,243 residents, helped the families of 1,355 students prepare for disasters through our Pillowcase Project, and assisted 272 families of our armed forces; and

WHEREAS, we hereby recognize this month of March in honor of all those who lead with their hearts to serve people in need, and we ask everyone to join in this commitment to strengthen our community.

NOW, THEREFORE, BE IT PROCLAIMED THAT I, Dave Potter, Mayor of the City of Carmel-by-the-Sea, on behalf of the City Council and the citizens of Carmel hereby proclaim March 2024 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 5th day of March, in the year two thousand twenty-four, in Carmel-by-the-Sea, California.

____

Dave Potter, Mayor

CITY OF CARMEL-BY-THE-SEA
CITY COUNCIL
Staff Report

March 5, 2024
EXTRAORDINARY BUSINESS

TO:	Honorable Mayor and City Council Members
SUBMITTED BY:	Nova Romero, City Clerk
APPROVED BY:	Chip Rerig, City Administrator
SUBJECT:	Presentation from the Carmel Youth Center

RECOMMENDATION:

Receive a presentation and update on the Carmel Youth Center.

BACKGROUND/SUMMARY:

FISCAL IMPACT:

PRIOR CITY COUNCIL ACTION:

ATTACHMENTS:

CITY OF CARMEL-BY-THE-SEA
CITY COUNCIL
Staff Report

March 5, 2024
ORDERS OF BUSINESS

TO:	Honorable Mayor and City Council Members
SUBMITTED BY:	Ashlee Wright, Director, Libraries & Community Activities
APPROVED BY:	Chip Rerig, City Administrator
SUBJECT:	Receive an update on Car Week 2024

RECOMMENDATION:

Receive an update on Car Week 2024

BACKGROUND/SUMMARY:

CAR WEEK EVENTS

Since the end of Car Week 2023 staff have been working with event organizers, most of them returning from last year, on Car Week 2024.

The following events are confirmed (permit applications are either complete or substantially complete):

- Tuesday, August 13 Concours for a Cause
- Thursday, August 15 Prancing Ponies on Ocean Avenue
- Thursday, August 15 Ferrari Owners Club Concours Carmel

Concours for a Cause and the Ferrari Owners Club Concours Carmel will be expanding their footprints, and Prancing Ponies will keep its same footprint. These permits are works in progress and event details and dates are subject to change. Staff and event organizers are working hard to get everything nailed down as quickly as possible to provide notice to the community.

Acura, a legacy participant and sponsor of the previous annual Concours on the Avenue event, will be returning either Tuesday and partnering with Concours for a Cause, or setting up on Wednesday solo in Devendorf Park. Staff are just waiting for confirmation one way or another.

Staff is also reviewing an application for a small one block event on Ocean Avenue between Lincoln and Monte Verde featuring Aston Martins on Wednesday, and another application for a Concours sized event that would also potentially be for Wednesday.

Since Car Week 2022 staff have been having conversations with individuals and groups interested in reviving the COTA event, however nothing has come to fruition. COTA was a well organized, well executed event, but it was also a full-time job and only a break even event in terms of finances. At this point in time there is no plan for a COTA scale event in town for Car Week 2024. This does not mean that this type of event will not ever return to Carmel, it just means that the groups interested in working on an event of that magnitude need more time to develop their plans, raise funds, and build their teams.

Consistent with the Council-adopted Special Events Policy, approval of special events occurs at the staff level. However, because of the nature and popularity of Car Week, this report seeks feedback from Council on the proposed plan and slate of events.

PARKING STALL PERMITS

The City rents downtown parking stalls for non-construction purposes or special events, allowing businesses to offer valet services or showcase vehicles during Car Week. To rent a stall, applicants must complete a permit application and, if needed, an Encroachment Permit. Demand for parking stall rentals is highest during Car Week, with few applications throughout the rest of the year.

With the challenges presented by the exotics and illegal street racing car clubs and some of the chaos that surrounds their being parked in rented stalls, staff proposed some options to the Council during the 2023 Car Week After Action report out which the Council recommended moving forward with as follows:

- Requiring that vehicles placed in the rented parking stalls remain in that stall for the entire day unless the spaces are actually being used for valet services.
- Communicating to businesses who rent the parking stalls that they are responsible for whatever happens as a result of that parking stall rental regardless of who owns the vehicle - including providing security to keep onlookers out of the streets. Failure to do so could result in revocation of their permit and potentially a restriction on the rental of stalls for the following year.
- Prohibiting the rental of the green zone 30 minute parking stalls at the corners of blocks, as this contributes to congestion around intersections which can be hazardous to onlookers, as well as through traffic.

MITIGATING TRAFFIC, NOISE, AND SAFETY IMPACTS

Currently, staff is working on the following for this year’s Car Week to try mitigate the some negative effects of the influx of visitors:

- Continuing to refine traffic calming measures in the downtown business district to seriously deter the cruising behavior that draws the exotics or similarly-minded car enthusiasts who come to Carmel to view and film the cars in the evenings.
- Continuing to work with event organizers to ensure security and non-police staffing for their events so that the Police Department can reserve resources for the evenings or other times to ensure Village security and to ensure a timely emergency response.
- Continuing to work with regional and state law enforcement assets to monitor car events and social media for information on illegal car activities.
- Continuing to enforce the “No Tolerance” approach to dangerous or illegal street activity.
- Continuing to work with Peninsula L.E. partners in developing mutual aid responses for partner cities, including more planned resource sharing in the City.
- Continuing to improve signage and messaging through press, media, and social media to directly educate the public and potential visitors on Carmel-by-the-Sea event events and plans for road

closures and police enforcement of traffic and parking rules.

- Deploying speed bumps throughout the village in strategic locations.

FISCAL IMPACT:

There is no fiscal impact by receiving an update on Car Week.

PRIOR CITY COUNCIL ACTION:

The Council received an after action report for Car Week 2023 in October 2023.

ATTACHMENTS:

CITY OF CARMEL-BY-THE-SEA
CITY COUNCIL
Staff Report

March 5, 2024
ORDERS OF BUSINESS

TO:	Honorable Mayor and City Council Members
SUBMITTED BY:	Subbhada Winer, Finance Manager
APPROVED BY:	Chip Rerig, City Administrator
SUBJECT:	Fiscal Year 2023-2024 Mid-Year Budget Report and Resolution 2024-022 Approving FY 2023-2024 Adopted Budget Amendments

RECOMMENDATION:

Receive the Fiscal Year 2023-2024 mid-year budget report and adopt Resolution 2024-022 approving amendments to the FY 2023-2024 adopted budget.

BACKGROUND/SUMMARY:

The purpose of this agenda item is to provide an update regarding the Fiscal Year 2023-2024 budget based upon the revenues received and expenses incurred through the second quarter (July 1 – December 31, 2023) of the fiscal year. Revenue and Expenditures align with budget projections at this time. In addition, staff recommends Council approve budget amendments.

Revenue

The City's three major revenue sources are property taxes, sales and use taxes, and transient occupancy taxes. The City received its first tranche of property taxes in December 2023. Property taxes received to date total $4.9 million, which is 57% of the total budgeted property tax revenue. The State remits sales and use taxes on a quarterly basis. The State sales taxes received to date is for the July – September quarter plus an advance for the October – December quarter. The remaining quarterly balance will be received in February 2024. The $1.3 million received in State Sales Tax thus far aligns with budget projections. Measure C, local sales tax, totals approximately $2.2 million. This also aligns with budget projections, as receipts for November and December will be received January and February 2024 respectively. Transient occupancy tax (TOT) revenue of approximately $3.6 million is currently outpacing it budget target as the revenue to date reflects remittance from the reporting period of July and October 2022. Revenue from Charges for Services totals approximately $1.8 million (63% of the budget) while Other Revenue (which includes Business License Renewals) totals approximately $1.7 million, or 48% of budget. Both of these revenues align with budget projections.

Revenue Category	FY 23-24 Amended Budget	July 1 - Dec 31 Receipts	Percent Received
Property Taxes	$8,493,132	$4,863,485	57%
State Sales & Use Tax	3,679,421	1,266,428	34%
Local Sales Tax - Measure C	5,926,532	2,152,046	36%
Transient Occupancy Taxes	6,801,007	3,602,590	53%
Charge for Services	2,818,593	1,764,209	63%
Other	3,217,517	1,783,744	55%
Total	**$30,936,202**	**$15,432,501**	**50%**

Expenditures
The City's largest expenditure category is salaries and benefits, which account for 36% of the Fiscal Year 2023-2024 Adopted Budget. For the period of July through December, the salaries and benefits expenditures, inclusive of the annual Worker's Compensation insurance premium, total $6.3 million. These expenditures represent 43% of the total budgeted salaries and benefits expense and align with the budget projections. Services and supplies expenditures total $5.3 million, or 46% of the budget. The City paid the annual unfunded pension liability (UAL) payment of approximately $2 million in July and will be making the $1 million payment to the Sec 115 trust in March 2024. Debt service principal payments have all been executed for Fiscal Year 2023-2024. Capital expenses currently reflect savings in spending due to timing. The main expenditures thus far have been the purchase of the new Electric Sweeper and the Police Building Project. An additional $2.5 million is encumbered within Capital Outlay for adopted CIP projects. Worker Comp claims expenditures are far below budgeted expenditures. This is an expenditure category for which it is beneficial to expend below budget.

Expense Category	FY 23-24 Amended Budget	July 1 - Dec 31 Expenses	Percent Expended
Salaries/Benefits	$14,828,309	$6,359,740	43%
Services/Supplies	11,570,740	5,317,437	46%
Pension	2,942,767	1,942,767	66%
Debt Service	528,044	449,965	85%
Capital Outlay	11,013,600	1,204,585	11%
Workers Comp	76,600	14,208	19%
Total	**$40,960,060**	**$15,288,701**	**37%**

Budget Adjustments
Services/Supplies ($579,320 total): As noted above, Services and Supplies expenditures are tracking on target. Some departments have identified additional Services and Supplies expenditures that were not captured in the original FY 2023-24 Adopted Budget and are detailed on the attached Exhibit A. The departments are also seeking to adjust budgets to reflect inflationary increases to the cost of services and goods originally budgeted.

City Council ($5,000): Administration recommends supporting the Monterey County Business Council (MCBC) in its efforts to host the Small Business Development Center for 2024 by making a $5,000 contribution.

City Clerk ($17,000): Costs for agenda packet reproduction are close to exceeding the annually budgeted amount and needs an additional $6,000 if printing needs remain steady. The City Clerk is upgrading the City's agenda management system to a new platform, requiring approximately $11,000 in funds for the transition. The current software will no longer be supported after October 22, 2024. The new system must be implemented before then, leading to additional expenses during the current fiscal year due to overlap between the old and new systems.

IT ($104,000): IT needs additional funds related to contract services, software subscriptions, and the City's telephone expenditures. This adjustment is necessary due costs associated with switching carriers from T-Mobile to Verizon, transitioning contract oversight of software systems (e.g.: iWorq) to the IT department, and additional licensing fees associated with unanticipated cloud migration and storage costs.

Public Works ($261,000): The Public Works department is seeking $200,000 for additional potentially hazardous tree removals resulting from recent storms, and to reduce the significant backlog of stump removals. Additional funding is requested to replace the potentially hazardous Garage roll up door. In addition, it was assumed in the current budget that design and reconstruction of the San Antonio Pathway, between Second and Fourth Avenues, would be reimbursed by FEMA; however, that funding is unlikely. This request is to cover a portion of the structural design fees, and the cost for reconstruction will be a potential new project in the Capital Improvement Plan. Finally, actual fees for monitoring the North Dunes Habitat Restoration site well exceeded the budgeted funds.

Non Departmental ($112,000): Fiscal Year 2023-24 Adopted Budget amounts for Liability Insurance, Property Taxes and Retiree Health Share were underbudgeted and are seeking administrative budget adjustments to bring amounts in line. Additional amounts are also being requested for utilities.

FISCAL IMPACT:

Transient Occupancy Tax (TOT) revenue identified through the end of January already exceeds originally budgeted to-date amounts by approximately $530,000. This City anticipates TOT revenue to continue this trend for the remainder of FY 2023-2024. The additional revenue identified in TOT will offset the mid-year budget adjustments of $594,320. As a result, there is no net increase to the Fiscal Year 2023-2024 budget.

PRIOR CITY COUNCIL ACTION:

Council adopted the Fiscal Year 2023-2024 Budget on June 6, 2023 (Resolution 2023-067) and approved budget adjustments on September 12, 2023 (Resolution 2023-087, Resolution 2023-088) and October 2, 2023 (Resolution 2023-093, Resolution 2023-094, Resolution 2023-097).

ATTACHMENTS:

Attachment 1) Resolution 2024-022
Attachment 2) Exhibit A

Attachment 1

CITY OF CARMEL-BY-THE-SEA
CITY COUNCIL

RESOLUTION NO. 2024-XXX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA RECEIVING THE FISCAL YEAR 2023-24 MID-YEAR BUDGET REPORT AND APPROVING BUDGET AMENDMENTS TO THE FISCAL YEAR 2023-2024 ADOPTED BUDGET

WHEREAS, the City Council adopted Resolution #2023-067 approving the Fiscal Year 2023-2024 annual operating and capital budget on June 6, 2023; and

WHEREAS, the Mid-Year Budget report provides an update regarding revenue and expenditure trends and whether fiscal performance to date aligns with budget assumption; and

WHEREAS, after review of expenditures and revenues as of December 31, 2023; and

WHEREAS, the City requires additional appropriations to increase the budget for the use of contracted services, unanticipated expenses (storm recovery), and unanticipated revenue; and

WHEREAS, the Carmel Municipal Code Section 3.06.030 requires Council to approve all transfers of appropriations between departments.

NOW THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA DOES HEREBY:

Approve budget amendments to Fiscal Year 2023-2024 Budget as shown in the attached Exhibit A.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA this 5th day of MARCH, by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

SIGNED: ATTEST:

____________________________ ____________________________

Dave Potter, Mayor Nova Romero, MMC, City Clerk

General Ledger Account and Description	Purpose	FY 2023/24 Amended Budget	Adjustment Amount	FY 2023/24 Adjusted Budget
101-110-00-42005 General Fund Expenditures City Council: Contract Services	Increase for Community Grant to Monterey Business Council (MCBC) Small Business Development Center management	$100,793	$5,000	$105,793
101-111-11-42001 General Fund Expenditures City Clerk: Contract Services	Increase for update to agenda management system	$39,600	$11,000	$50,600
101-111-11-42403 General Fund Expenditures City Clerk: Printing	Increase for agenda packet reproduction	$5,000	$6,000	$11,000
101-111-14-42001 General Fund Expenditures IT: Contract Services	Increase for Contract Services	$77,000	$34,000	$111,000
101-111-14-42102 General Fund Expenditures IT: Publications & Subscriptions	Increase for IT Subscriptions	$216,245	$50,000	$266,245
101-111-14-42405 General Fund Expenditures IT: Telephone & Communications	Increase for City's telephone expenditures	$80,000	$20,000	$100,000
101-117-00-42001 General Fund Expenditures Fire: Contract Services	Increase for FY 22-23 Final True-up Costs per the Fire Services Agreement with Monterey	$3,018,289	$60,320	$3,078,609
101-117-00-42203 General Fund Expenditures Fire: Vehicle Maintenance	Increase for vehicle maintenance costs incurred on the Fire engine concurrent with increase to the City of Monterey's labor rate	$35,000	$35,000	$70,000
101-119-42-42001 General Fund Expenditures PW Facilities: Contract Services	Increase for Public Works roll up garage door replacement	$587,000	$28,000	$615,000

General Ledger Account and Description	Purpose	FY 2023/24 Amended Budget	Adjustment Amount	FY 2023/24 Adjusted Budget
101-119-43-42001 General Fund Expenditures PW Environmental: Contract Services	Increase for DDA and Native Solutions Fees for North Dunes	$252,250	$20,000	$272,250
101-119-41-42001 General Fund Expenditures PW Streets: Contract Services	Increase for San Antonio Pathway ZFA design	$65,000	$13,000	$78,000
101-119-45-42001 General Fund Expenditures PW Forestry: Contract Services	Increase for additional stump and dead/dying tree removal	$1,028,700	$200,000	$1,228,700
101-130-00-42501 General Fund Expenditures Non-departmental: Liability Insurance Premium	Increase for under budgeted liability insurance premium	$877,965	$69,000	$946,965
101-130-00-42510 General Fund Expenditures Non-departmental: Retiree Health Share	Increase for additional amounts to fund City's share	$79,980	$5,000	$84,980
101-130-00-42510 General Fund Expenditures Non-departmental: Property Tax Assessments	Increase for under budgeted Property Tax Assessments	$83,755	$8,000	$91,755
101-130-00-42510 General Fund Expenditures Non-departmental: County Property Tax Admin Fees	Increase for under budgeted County Property Tax Admin Fees	$74,335	$15,000	$89,335
101-130-00-42505 General Fund Expenditures Non-departmental: Utilities	Increase for under budgeted utilities	$74,335	$15,000	$89,335

General Ledger Account and Description	Purpose	FY 2023/24 Amended Budget	Adjustment Amount	FY 2023/24 Adjusted Budget
102-000-00-31005 Hostelry Fund Revenue: Transient Occupancy Tax	Increase for additional TOT revenue receipts over budget	$6,801,007	$594,320	$7,395,327

CITY OF CARMEL-BY-THE-SEA
CITY COUNCIL
Staff Report

March 5, 2024
ORDERS OF BUSINESS

TO:	Honorable Mayor and City Council Members
SUBMITTED BY:	Robert Harary, P.E, Director of Public Works
APPROVED BY:	Chip Rerig, City Administrator
SUBJECT:	Receive a presentation on the proposed Fiscal Year 2024/25 Capital Improvement Program and Five-Year Capital Improvement Plan, and provide direction to staff

RECOMMENDATION:

1. Receive a report regarding:

   - Capital improvements and key operating budget projects completed, or scheduled to be completed, in Fiscal Year (FY) 2023/24
   - Projects recommended to be cancelled or modified
   - Capital projects funded in (or prior to) FY 2023/24 that are recommended to be carried over, with remaining funds, into FY 2024/25
   - Potential new capital improvement projects for FY 2024/25:
     - Carry-over paving, drainage, and facility renovation projects requiring supplemental funding for construction
     - Potential new projects funded by the Vehicle and Equipment Fund
     - Potential new projects funded by the Capital Improvement Fund
     - Funding and staffing resource limitations to complete additional projects
   - Introduction of the Updated 5-year Capital Improvement Plan (FY 2024/25 through 2028/29)

2. Provide guidance regarding:

   - Total number of FY 2024/25 projects to be funded
   - Funding priorities for future Capital Improvement Projects

BACKGROUND/SUMMARY:

Executive Summary

This report outlines 15 capital improvement projects completed, or will be completed, in FY 2023/24, 14 operating budget projects completed in FY 2023/24, and 4 projects that are recommended to be cancelled or modified. Next, 14 current FY projects, with a remaining balance of approximately $5.9 million, are proposed to be carried over into FY 2024/25.

Key messages/recommendations to highlight in this year's introduction of the FY 2024/25 CIP:

- 6 carry over projects (2 paving, 2 drainage, and 2 facility renovations) are designed and "shovel ready" for construction. However, they require supplemental funding of $1.7M to complete. FY 2024/25 capital funding should be programmed to construct these projects **prior to planning or funding any new projects**.

- 6 new vehicle and equipment funded projects, valued at $545,000, have been identified for consideration for FY 2024/25. Should sufficient funding be available, all of these projects should be considered as the acquisition of vehicles and equipment requires less time and resources versus multi-year infrastructure projects which requires engineering, environmental permitting, public bidding, and construction.

- 12 potential new capital projects, valued at $2.88M, have also been identified for FY 2024/25 capital funds. Staff recognizes all of the projects have merit; however, the total cost of the projects exceeds available funding. More importantly, even without the addition of these new projects, the City's project management resources have **no additional capacity over the next year**.

- Setting funding availability aside, the total number of CIP Projects programmed to begin in FY 2024/25 should be limited to projects that are "shovel ready" and able to be started with the staff resources available. **Therefore, only a minimal number of critical new CIP projects should be added for FY 2024/25.** This approach will ensure a more manageable and achievable plan for the next year.

Capital Project Definition

While reviewing capital projects, it is helpful to have a common understanding of what constitutes a “Capital Project.” The Government Accounting Standard Board uses the term “capital assets” to include “land, improvements to land, easements, buildings, building improvements, vehicles, machinery, equipment, historical treasures, infrastructure, and other tangible or intangible assets that are used in operations and that have initial useful lives extending beyond a single reporting period.”

For the City of Carmel-by-the-Sea, staff recommends that we continue to define a Capital Project, or a Capital Outlay, as an asset with any single component or piece of equipment that costs more than $10,000 and has an expected useful life exceeding ten (10) years.

Some of the projects listed below, such as reports and plans, may not fall under the true definition of a capital project. However, some reports may include recommendations for future capital projects. One example would be the Coastal Engineering Study which has identified numerous physical improvements to be made along the shoreline over the next several years. Other projects are considered one-time special projects designed to meet regulatory requirements, address public safety needs of the community, and/or enhance operational effectiveness.

Infrastructure Needs

A preliminary 5-year Capital Improvement Plan (CIP) is included in **Attachment 1**. This 5-year CIP framework provides information on the needs for necessary infrastructure for the upcoming fiscal year, as well as a forecast for the subsequent four years. Many of these needs have been identified through assessments and plans for City assets, including:

- 2013 Carmel Facilities Assessments
- 2018 ADA Transition Plan
- 2018 MTNP Stream Stability Study
- 2020 Storm Drain Master Plan and 2023 Master Plan Update
- 2022 Climate Action and Climate Adaptation Plans
- 2023 Street Saver Pavement Management Plan/Update
- 2023 Electrical Panel Studies (City Hall, Fire Station, Vista Lobos)
- 2023 Facility Condition Assessments (City Hall, Fire Station, Public Works, Vista Lobos)
- 2023 Police Building Condition Assessment
- 2023-2024 Coastal Engineering Study, Phase I
- City Council Strategic Priorities list

This CIP provides a framework for the Council to allocate funding for the most critical projects over time.

1. Projects Completed in Fiscal Year 2023/24

Fifteen (15) capital improvement projects, with a total value of approximately $2,971,000, were completed in Fiscal Year 2023/24, or are anticipated to be substantially completed by June 30, 2024, as tabulated below:

No.	Project	FY 24 City Funds	Ext. Funds
1	ADAUpgrades,Year6	$20,000	
2	City Hall Retaining Wall Repair	170,000	
3	Coastal Engineering Study, Phase I	233,000	
4	Electrical Panel Assessments: City Hall, Fire Station, Vista Lobos, Ocean/Junipero Median	75,000	
5	FY 22 Paving Project (Junipero, Santa Fe, San Carlos, Camino del Monte/Junipero, San Carlos Bike Lane, 4 Sidewalk Repairs)	878,000	$364,000
6	Harrison Memorial Library Exterior and Partial Interior Painting, and Sunset Center North Wing Exterior Painting	440,000	
7	IT Servers	50,000	
8	MTNP: Water Tank and Pump House Removal and Well Decommissioning	121,000	
9	Police Radios Lease, Year 3	30,000	
10	Sunset Center Bollards (8)	20,000	
11	Sunset Center Carpenter Hall Heater Replacement	45,000	
12	Sunset Center Portico Design	40,000	
13	Sunset Center – Retaining Walls	40,000	

	Repairs Design		
14	Urban Forest Master Plan* (Strategic Priority) * Outreach and Tree Ordinance Updates continues	225,000	
15	Vehicles: 2 Forestry trucks, 2 Police EVs	220,000	
	Total	**$2,607,000**	**$364,000**

Last year, a change in strategy was implemented in which ongoing, maintenance-oriented projects were budgeted into the applicable department's operating budget, rather than including such projects into the Capital Improvement Program, even if the budget for these maintenance-oriented projects exceeded $10,000.

As a review of this change in strategy, the following fourteen (14) additional projects, with a total value of approximately $329,000, were funded in the FY 23/24 Operating Budget and were completed, or are in anticipated to be substantially completed, by June 30, 2024:

No.	Project	City Funds	External Funds
1	Beautification - Ocean Avenue Medians Renovation with Carmel Cares (Strategic Priority)	$25,000	TBD
2	Fire Station Deck Resurfacing	5,000	$5,000
3	Forest Hill Park and North Dunes Split Rail Fences	9,000	
4	Forest Hill Park - Nature Play Equipment (Leadership Carmel Legacy Project Donation)	0	
5	MTNP Eleventh Avenue Footbridge Reconstruction, Entry Road, and Gate	8,000	
6	MTNP Tree Removals (2023 storm-damaged), 36 removals, 7 safety pruning	75,000	
7	North Dunes Habitat Restoration, Year 8	60,000	
8	Park Branch Library Dumbwaiter Decommissioning	15,000	
9	San Antonio Pedestrian Pathway Repairs – Structural Design	25,000	
10	Scenic Pathway Gardeners (Carmel Cares)	28,000	
11	Storm Water Ordinances (Strategic Priority)	0	
12	Sunset Center Fire Pump Recirculation System	8,000	
13	Trash Containers: 20 Dual Trash & Recycling, 10 Trash Only	46,000	
14	Wildfire Risk Assessment Plan (Strategic Priority)	20,000	

		Total	$324,000	$5,000

2. Prior Projects Recommended to be Cancelled or Modified

Four (4) projects are recommended to be cancelled or modified as discussed below.

- **Harrison Memorial Library Backup Generator:** During preliminary design, this project was determined to be cost-prohibitive or too impactful to a historic building. Alternative measures should be included in the planned Library Master Plan renovation projects. Therefore, this separate project should be cancelled.

- **Harrison Memorial Library Carpet Replacement:** Carpeting is planned to be included in the planned Library Master Plan renovation projects. Therefore, this separate project should be cancelled.

- **North Dunes Habitat Restoration Interpretive Signage and Split Rail Fencing ($25,000 donation):** While several small donations have been received over the past two years, none have sufficient to design and install the desired, upgraded interpretive signage. Therefore, this part of the project should be deferred until specific funding has been programmed. The Split Rail Fencing portion of the project was approved by the Forest and Beach Commission in January 2024, and installation is scheduled in the Spring using Public Works/Street Maintenance funds. Furthermore, ongoing habitat restoration is ongoing and will continue to be budgeted under the Public Works/Environmental Programs operating budget.

- **Resilience Infrastructure Planning and Design:** As recommended in the Climate Adaptation Plan, this project involves developing plans for sustainable backup power to provide continued operations of critical facilities. Preliminary review suggests focusing on the Police and Public Works facilities, and potentially include Vista Lobos, in the event of an extended power outage. While this project is still necessary, Staff recommends that this Project be modified by integrating it into the Police Building Project as originally intended along with the remaining balance of approximately $83,000, rather than advancing this into future fiscal years as a separate project.

3. Projects Funded in (or prior to) FY 2023/24 that are recommended to be carried over to FY 2024/25

The following 14 *c*apital improvement projects, funded in, or prior to, Fiscal Year 2023/24, but not fully completed, should be carried over into FY 2024/25. The total FY 2023/24 budget for these projects was $9,761,100 and an estimated balance of $5,872,659 is proposed to be carried over into FY 2024/25. The exact amount of the carry-over will not be known until the end of the current FY.

Vehicle and Equipment Fund:

- **Ambulance and Equipment/AED ($325,000):** A contract to build the new ambulance with equipment for $410,000 was executed last year. Delivery is anticipated in December 2025. Funding of $275,000 from the Vehicle and Equipment Fund and a $50,000 donation will need to be carried forward until the invoice is due. Staff recommends carrying the funding over into FY 2024/25, and placing the estimated $85,000 balance for the ambulance into the 5-year CIP for Fiscal Year 2025/26 (Year 2).

- **Fire Engine (Prepaid $880,000 in prior FY):** In October 2022, Council appropriated this funding and added the fire engine into the FY 2022/23 CIP. The Pierce Manufacturer Enforcer diesel fire engine has been ordered with delivery anticipated by late 2025. Although the purchase is complete, the project is being carried over until delivery of the fire engine.

Capital Improvement Fund:

- **Annual Paving Project, FY 2023/24 ($1,096,000):** At the April 4, 2023 meeting, Council adopted a list of streets to be included in the FY 2023/24 annual paving project. The City's Maintenance of Effort contribution of $657,329 leverages $438,570 of external funds via TAMC from Measure X, Gas Tax, SB 1, and RSTP. The project includes design and construction of asphalt pavement overlays of five roadway segments, including Upper Ocean Avenue and Santa Lucia Avenue between Dolores Street and Rio Road, removal of failed pavement sections and providing a slurry seal on up to 21 road segments predominately in residential neighborhoods, and replacing broken concrete, asphalt, and brick sidewalks with permeable pavers along five road segments in the downtown area. **Status:** Wallace Group submitted the 30% design for City review. Additional funding is needed for construction as discussed in Section 4A below.

- **Coastal Engineering Study, Phase 2 ($500,000 - Strategic Priority):** In March 2024, Council is anticipated to approve Amendment No. 2 to the Professional Services Agreement with EMC Planning Group, with subconsultants Integral Corporation and Haro, Kashunich & Associates, for a not-to-exceed fee of $450,000, to prepare the Coastal Engineering Study, Phase 2. Phase 2 will focus on: hazards policy review and revisions, public outreach and engagement, socio-economic analysis, adaptation strategies and pathway development, and development of the City's Local Coastal Program Amendment. This project is fully funded under a recently-executed Local Coastal Program Grant Agreement by the California Coastal Commission. **Status:** Phase 1 completed in FY 2023/24. Phase 2 to begin upon execution of the Amendment.

- **Concrete Street Repairs (FY 2022/23, $1,005,000)**: In January 2023, Council awarded a $189,667 Professional Services Agreement to BKF Engineers to design this project. The project includes repairs and resurfacing of concrete intersections at Ocean/San Antonio, San Carlos/Fifth, San Carlos/Sixth, and along Ocean Avenue, between Monte Verde and San Antonio, and along San Carlos between Fifth and Sixth. An ADA ramp and bulb outs are also included at the Junipero/Seventh intersection. The total project budget includes $441,300 in external funds (i.e. Measure X, SB-1) plus the Maintenance of Effort requirement of $563,700. During design, the project scope increased along Ocean Avenue to include the three intermittent side streets up to the sidewalks, on both sides of Ocean Avenue. In September 2023, an Amendment was approved with BKF for $49,092. **Status:** Engineering and design are completed and are "shelf ready". However, the cost estimate well exceeds available funding. The balance of this project funding should be carried over into FY 2024/25, and additional funding will need to be allocated prior to advertising for construction bids as discussed in Section 4A below.

- **CIP Contingency Fund ($500,000):** During FY 2023/24, $336,831 of this fund was used as follows: Award bid for FY 2022 Paving Project $262,779, award bid for MTNP Tank and Pump House Removal and Well Decommissioning Project $42,378, $17,860 for the Urban Forest Master Plan to cover unanticipated funding shortfall from CalFire Grant, and final payment of $13,814 for the electric Street Sweeper following 3CE reimbursement. Any balance should be carried over into FY 2024/25. **Status:** The MTNP 3 Stream Stability/Drainage Projects is currently out for bids. It is anticipated that the remaining balance of the Contingency Funds will be exhausted to award this construction contract.

- **Drainage System Repairs ($580,000):** The 2023 City-wide Drainage Master Plan Update identified numerous spot repairs needed for our existing underground storm drain pipes, as well as significant "bottlenecks" in the drainage system. In July 2023, Neill Engineers was issued a $159,100 Amendment to their Professional Services Agreement to design the Acacia Way headwall, and storm drainage upgrades along Eleventh Avenue (Carmelo to San Antonio), along Lincoln Street, from First to Second, along Second Avenue, from Lincoln to Monte Verde, and along Santa Fe from Eighth Avenue to the MTNP outfall. Remaining funding, of approximately $414,000, should be carried over into FY 2024/25 for construction, and additional funding will be required to complete this project. **Status:** Design is 90% complete. Environmental documentation is currently underway for two locations, and one easement will need to be acquired prior to bidding. With a construction cost estimate at roughly $1M, additional funding will be needed as discussed in Section 4A below.

- **Facility Renovation Projects ($649,000):** Six facility renovations were originally programmed with this Project. As noted above, two projects will be completed by the end of FY 2023/24 - the Harrison Memorial Library and Sunset Center painting projects - and two projects are recommended to be cancelled or deferred - the HML Backup Generator and HML Carpet Replacements which are assumed to be integrated into the Library Master Plan Program. Thus, the remaining funds of approximately $283,600 should be carried over into FY 2024/25 to fund construction of the remaining two projects which are for the City Hall Roof Replacement and the Sunset Center Cottage Window Repairs. **Status:** The City Hall Roof contract was extracted from a larger, bundled facilities renovation project which resulted in very high bid proposals which were subsequently rejected by Council. This project is anticipated to be advertised for bids this Spring with construction scheduled for the summer. The Cottage Window Repairs will be advertised for bids following the City Hall roof replacement. Supplemental funding is being requested for the City Hall Roof and Cottage Window Repairs Projects as discussed below in Section 4A.

- **Library Master Plan, Phase II-IV ($100,000)**: This project complements the Library's Strategic Plan objective to develop facility plans for the Harrison Memorial and Park Branch Library buildings. The Harrison Memorial Library is 96 years old, and the Park Branch Library was last significantly remodeled 35 years ago. Phases II-IV will encompass community outreach, conceptual designs, and construction documents for initial renovation contracts. Renovations to the facilities are intended to ensure that both library facilities are able to continue to serve the community well into the future. **Status:** A Request for Proposals is being prepared to retain an architect to design the proposed renovations. Carmel Public Library Foundation will be embarking on a significant fundraising campaign to support proposed renovations to both library buildings.

- **Mission Trails Nature Preserve 3 Stream Stability/Drainage Projects ($85,000):** This project, which consists of the first three of eight stream restoration and erosion control measures recommended by the MTNP Stream Stability Study, is partially funded by a California State Parks Per Capita Grant in the amount of $178,000. Acquisition of three environmental permits from regulatory agencies delayed the project for one year. Remaining funding of approximately $67,000 should be carried over in Fiscal Year 2023/24 for construction. **Status:** This project is currently being advertised for construction bids with an estimated cost of $510,000 and a bid opening scheduled for March 19th. It is anticipated that the remaining CIP Contingency funds will be required to award the construction contract. Further, supplemental funding may be required as discussed in Section 4A below.

- **Police Building Project ($3,239,000 - Strategic Priority):** In January 2023, Council formed an Ad Hoc Committee, and in June 2023, awarded a $300,000 Professional Services Agreement to Indigo Architects. In FY 2023/24, Indigo prepared a draft Condition Assessment Report and developed Police space programming needs. In January 2024, the results of these tasks were introduced to Council with preliminary recommendations for advancing the project into schematic design to consider the possibility of constructing a new Police Building at a different site, or significantly renovating the

Police/Public Works building at the existing site. Several public meetings were held to solicit public input. In addition, a number of urgent safety repairs were completed in the Police Building, including electrical panels, steel doors, security systems, Dispatch Room renovation, and others. The FY 2023/24 project balance of approximately $2.6M to $2.8M should be carried over into FY 2024/25 to cover remaining costs for schematic design, cost estimating, and potentially commencing design development of a selected alternative. Funding should also be earmarked to continue with 4Leaf project management services and to make necessary safety repairs in the building. As listed in Section 4C below, two repairs are proposed to be funding from this project account: replacement of a garage roll up door for $30,000, and installation of a covering over the emergency generator for $15,000. **Status:** Additional public outreach in progress.

- **Scenic Pathway Hardscape Renovations ($100,000 City, $100,000 Donations):** Carmel Cares continues to improve the Scenic Pathway. City expenses to date from this fund in FY 2023/24 has been minimal and includes additional lumber and hardware for barrier rail improvements. Proposed improvements along the Pathway include: signage, irrigation repairs, pathway trim edging, decomposed granite repairs, and other hardscape improvements. Remaining funds should be carried over into FY 2024/25. Also, Council requested staff and Carmel Cares to develop a holistic game plan to cover the complete renovation of the Pathway. **Status:** This game plan is currently under review as it may trigger State public works contracting regulations.

- **Shoreline Infrastructure Repairs ($350,000):** The first phase of the Coastal Engineering Study included a Shoreline Condition Assessment. The Assessment concluded that 2-4 existing seawalls need repairs, with the Fourth Avenue Outfall as the highest priority. Similarly, of the 11 beach access stairs, 9 need repairs with four stairs now closed due to damage resulting from winter storms. Finally, of the 6 rock revetments, 4 need repairs, 3 of which are high priority. Project funding for FY 2023/24 was set at $250,000; however, at the March 4, 2024 meeting, Council is anticipated to reallocate $100,000 that was originally earmarked to launch the Coastal Engineering Study, Phase 2 into this project, because Phase 2 is fully funded by the Coastal Commission LCP Grant. In November 2023, Council awarded an Amendment to the Professional Services Agreement with Wallace Group to provide project management services for this project for a fee of $64,485. The remaining funds should be carried over into FY 2024/25. **Status:** A Request for Proposal required to retain a consultant with expertise in environmental permitting, coastal and structural engineering, and cost estimating has been prepared. RFP release is pending consultation with the California Coastal Commission, staff evaluation of wooded stairs that can be repaired by City crews, and City emergency permitting.

- **Sunset Center – North Lot Electrical Panel ($100,000):** In July 2023, Council awarded a $64,560 Professional Services Agreement to Advance Design Consultants for electrical engineering services associated with three projects, including this project for a fee of $18,240. Based on the 30% design plans and consultations with PG&E and Sunset Center, the project will be able to provide EV charging stations all along the west wall of the parking lot. A two-pronged approach is being pursued. First, the existing, deteriorated electric panel along the Eighth Avenue ADA ramp will be relocated down into the parking lot and rebuilt. This relocated panel will be for commercial service for the parking lot lights. A new PG&E transformer (to be furnished by PG&E at no cost to the City) and electrical panel will also be installed to provide power to the proposed, and future, EV charging stations at discounted energy rates. It is anticipated to 3CE will provide a reimbursement for EV charging stations, but for an amount currently unknown. Remaining funds should be carried over into FY 2024/25. **Status:** Proceeding to 60% design, and engaging PG&E to design the new transformer.

4. **Potential Capital Improvement Projects for FY 2024/25**

While 16 capital improvement projects were completed, or are anticipated to be completed during FY 2023/24, there are still 14 active projects that should be carried over into FY 2024/25. Numerous new projects have been identified, a majority of which were previously included in the prior 5-Year CIP forecast, and all project are needed and worthwhile. The following is a list of the most pressing or urgent projects as identified by staff. Therefore, the list below certainly does not identify all priority projects.

The fiscal impact to the FY 2024/25 Budget for Capital Improvement Projects cannot yet be assessed until specific capital projects are tentatively selected by Council. In other words, screening the projects at the March 5th meeting, and subsequently fine-tuning the list, will allow staff to focus on the highest priority projects, prepare project descriptions, and refine cost estimates for incorporation into the final CIP and Budget for FY 2024/25.

This year, staff will be presenting the proposed projects under three different categories as follows:

- Carry-Over Paving, Drainage, and Facility Renovation Projects described in Section 3 above, but which require additional funding to proceed with construction
- Potential New Projects funding by the Vehicle and Equipment Fund
- Potential New Projects funding by the Capital Improvement Fund

A) Supplemental Funding for Carry-Over Paving, Drainage, and Facility Renovation Projects

No.	Carry Over Paving Project	Project Construction Cost	Available Funding	Additional Funding Needed
1	FY22 Paving 4 Bid Additives: (San Antonio, 4th–8th, Monte Verde, 4th-Ocean, Torres, 2nd – 4th)	$835,000	0	$835,000
2	FY23 Concrete Street Repairs: (Ocean, Monte Verde to San Antonio, San Carlos, 5th to 6th, and Junipero at 7th intersections)	2,815,000	$792,000	2,023,000
3	FY24 Paving Projects: (4 overlays, 21 slurry, 5 sidewalk repairs)	1,682,000	918,000	764,000
4	FY 25 – No new project; MOE ($660k) + TAMC Match ($440k)	0	1,100,000	0
	Paving Subtotals	**$5,332,000**	**$2,810,000**	**$2,522,000**

At the November 2023 meeting, Council awarded a contract in the amount of $1,139,566 to Monterey Peninsula Engineering for construction of the Base Bid work for the FY 22 Paving Project. It was noted in that staff report that bid prices for paving work have significantly escalated since these prior year paving projects were initially estimated. Furthermore, the Concrete Street Repair Project had a significant, but necessary, scope increase associated with Ocean Avenue structural repairs and improvements to transitions to the intermittent side streets. At that time, staff suggested that no additional paving project designs commence for approximately two fiscal years until funding can be programmed to catch up with construction.

Each FY, the City is obligated to invest Maintenance of Effort funding to maintain our transportation infrastructure to qualify for Measure X, SB-1, and other external funding. For FY 2024/25, with a **City MOE of $660,000 plus an estimated TAMC match of $440,000**, the total available to help catch up on the above carry-over projects is $1,100,000.

Staff proposes to reformulate the remaining portion of the FY22 and full FY24 paving projects listed above, and fully fund these two projects for construction in FY 2024/25 as follows. Combine Project 1 (FY 22 Bid Additives) plus Paving Project 3 (FY 24 Paving Projects). Total cost estimate needed for construction = $2,517,000. Funding available for Project 3 ($918,000), plus new MOE and TAMC funding for FY 25 ($1,100,000), plus reallocate $499,000 of the $792,000 from Concrete Streets Project 2, for a total funding of $2,517,000. This approach will allow us to complete two major paving projects next year. However, only $293,000 will remain available for the Concrete Streets, a $2.8M project, for FY 2025/26. Unless other funding is identified to cover this shortfall, the MOE and TAMC match for FY 2025/26 and FY 2026/27 should also be earmarked to cover the cost for construction of the Concrete Streets. This funding strategy is shown in the attached 5-year CIP.

No.	Carry Over Drainage Project	Project Construction Cost	Available Funding	Additional Funding Needed
5	Drainage System Repairs (4): Acacia Headwall, Eleventh Ave, Lincoln/Second, and Santa Fe	$1,052,000	$414,000	$638,000
6	MTNP 3 Stream Stability/ Drainage Projects	510,000	408,000	102,000
	Drainage Subtotals	**$1,562,000**	**$822,000**	**$740,000**

For the Drainage System Repairs Project 5 above, additional funding of **$638,000** is requested for FY 2024/25 to proceed with construction.

For the MTNP Drainage Project 6 above will have more precise costs following the upcoming bid opening. It is anticipated that using the available funding of $67,000 carry-over funding, plus the $178,000 Per Capita Grant (not yet received), plus the remaining balance of the CIP Contingency Fund of $163,000, we should be able to award the Base Bid of two of the three projects, and a supplemental allocation of **$102,000** for FY 2024/25 should be able to cover the third project.

No.	Carry Over Facility Renovation Project	Project Construction Cost	Available Funding	Additional Funding Needed
7	City Hall Roof Replacement	$350,000	$183,000	$167,000
8	Sunset Center Cottages Window Repairs	200,000	100,000	100,000
	Facility Renovation Subtotals	**$550,000**	**$283,000**	**$267,000**

The City Hall Roof Replacement and Sunset Center Cottage Window Repairs were both included in the FY 2023/24 Facility Renovation Project, with four other projects, and which had an initial budget of $649,000.

Two of the four projects are recommended to be cancelled/deferred in Section 2 - Harrison Memorial Library Carpeting Replacement and Backup Generator Project.

A construction contract in the amount of $392,150 was awarded to Color New Company in January 2024 for the Sunset Center North Wing Exterior Painting Project and the Harrison Memorial Library Exterior and Interior Painting Project. A deductive change order of $85,000 was negotiated with the contractor due to the reduction in interior painting in the library. Additional costs for this project included project management services by Ausonio, Inc., architectural services by Ten Over Studio, and hazardous materials testing and abatement monitoring by M3 Environmental. An estimated balance of $283,000 is recommended to be carried over into FY 2024/25 to cover the above Projects 7 and 8; however, a combined Supplemental allocation of **$267,000** will be needed to complete these projects.

Supplemental Funding Summary

No.	Carry Over Projects Summary	Project Construction Cost	Available Funding	Additional Funding Needed
1-3	FY22 Bid Additives + FY24 Paving	$2,517,000	$1,417,000	$660,000
4	FY25 TAMC Match		440,000	
5	Drainage System Repairs (4)	1,052,000	414,000	$638,000
6	MTNP 3 Stream Stability/ Drainage Projects	510,000	408,000	102,000
7	City Hall Roof Replacement	350,000	183,000	167,000
8	SC Cottage Window Repairs	200,000	100,000	100,000
	Additional Allocation Needed	**$4,629,000**	**$2,962,000**	**$1,667,000**

B) Potential New Projects: Vehicle and Equipment Fund

No.	New Project Description	Estimated Cost	Notes
1	Council Chambers AV Upgrade	$60,000	
2	Core Networks (IT)	50,000	
3	Network Firewalls (IT)	180,000	
4	Police EV Patrol Vehicle (2017)	75,000	Assume $15k 3CE Reimbursement
5	Police Radios, Year 4 of 6	30,000	
6	Public Works Dump Truck (1995)	150,000	
	Total	**$545,000**	

C) Potential New Projects: Capital Improvement Fund

No.	New Project Description	Estimated Cost	Services
1	ADA Upgrades, Year 7	$20,000	

2	CIP Contingency Fund FY25	400,000	
3	Junipero Bypass Drainage System	175,000	Design
4	Lincoln/Fourth Trestle Bridge	175,000	Environmental Permits and Design
5	MTNP Laiolo Bridge and Path Realignment	125,000	Environmental Permits and Design
6	Norton Court Garage – Security Access System	15,000	
7	Park Branch Library – Windows & Dry Rot Repairs	45,000	
8	San Antonio Pathway Reconstruction	275,000	PM and Construction
9	Shoreline Infrastructure Repairs, Fourth Avenue Outfall Reconstruction	250,000	PM, Environmental Permits and Design
10	Sunset Center – Portico	450,000	PM, Design, and Construction
11	Sunset Center – Retaining Walls Repairs	550,000	PM and Construction
12	Vista Lobos – EV Chargers Installation and Building Electrical Panel	400,000	Final Design and Construction, Partial 3CE Reimbursement ($60k)
	Totals	**$2,880,000**	

Resource Limitations

Please refer to the Fiscal Impact section of the report for anticipated funding available for the Vehicle and Equipment and Capital Improvement Funds for FY 2024/25. Available funding is recommended to be allocated to already designed, "shovel ready" projects that can proceed into construction with supplemental funding. As shown in Section 4A above, $1,667,000 is needed to complete these projects. Therefore, the list of projects in Sections 4B (Vehicle and Equipment Fund) and 4C (Capital Fund), should be significantly trimmed back to meet the anticipated budget, despite the fact that each project has merit.

Staffing capacity has also an ongoing concern. Since the CIP funding resumed following the Covid Pandemic, the City has relied on three outside project management consultants (4Leaf, Ausonio, Inc., and Wallace Group) to manage (currently) 10 capital projects. While they are providing excellent services, the added cost of outside project management is not sustainable in the long term and has contributed, along with inflation, material availability, and construction labor shortages, to the higher than estimated project costs. Also, the in-house project manager is working on an additional eight capital projects, as well as several large utility permits and special projects. As discussed in Section 3 above, 14 projects are proposed to be carried over into FY 2024/25. Even if no new capital projects are funded for FY 2024/25, there is still a full year of workload for our project manager and project management consultants.

5. Introduction of the Updated 5-Year Capital Improvement Plan

The updated 5-year CIP Exhibit is shown in **Attachment 1**. Although only the first Fiscal Year (2024/2) would be funded as part of the City Budget, the remaining 4 years serve as a planning tool to identify in advance anticipated future projects.

The 5-year CIP is a “snap shot” in time of anticipated needs for future infrastructure revitalization funding in the outer years. As a dynamic planning document, the CIP for Years 2-5 is subject to change as updated information becomes available. A multi-year plan also accommodates scheduling larger projects into multiple years to allow more projects to be underway concurrently, and to allocate construction funding only when those funds are needed.

Note that the needs for infrastructure renewal and facility repairs far exceed the anticipated revenue over the subsequent four years as well.

The following are key projects, by asset category and preliminary budget estimates, for Years 2-5 only:

- **Drainage:** Includes highest priority drainage repairs and upsizing for 20-year storm events as identified in the 2023 Storm Drain Master Plan Update, bottleneck reconfigurations, and CDS reconstruction = **$3.33M.**

- **Streets:** Annual paving MOE and TAMC match funding for Years 2 and 3 are earmarked for the FY 23 Concrete Street Repair Projects. For Years 4 and 5, traditional paving overlays, micro-surfacing treatments, slurry seals, sidewalk repairs, parking lot resurfacing, and a bicycle master plan are proposed = **$3.44M City plus $1.81M external funds via TAMC.**

- **Facilities:** As a placeholder, a total allocation of $22M is included to cover final design and construction of a Police Building Project (whether a new station or renovation of the existing building) plus launching the design of the Public Works building renovations. This major project will obviously require a dedicated funding source once a project concept is approved, and these “plug in” numbers need to be adjusted as more information and scheduling becomes available.

  Additional facility renovation projects include relocation and renovation of the Scout House wherein the sale of the existing parcel may offset the costs for renovation, critical repairs/code corrections to City Hall and the Fire Station, repairs to park restrooms, and facility condition assessments, painting, and railing repairs = **$25.15M.**

- **Forestry Parks, and Beach**: Design and construction of the remaining 5 MTNP stream stability projects should continue during this time. Funding for construction of the MTNP Laiolo Bridge is proposed in Year 2, for a total of = **$1.50M.**

- **Fleet and Equipment:** Replace aging Police, Fire, and Public Works vehicles with Electric Vehicles whenever possible. Replace broken and outdated heavy equipment, including Street’s dump truck and asphalt patch truck, Forestry’s bucket truck and water truck, Police’s speed radar trailer and animal control vehicle, and other vehicles and equipment nearing the end of their useful lives. Complete funding for the Police radios lease and the ambulance purchase = **$1.48M plus $0.12M 3CE rebates**.

- **Environmental and Climate Change:** Shoreline infrastructure repairs, notably reconstruction of the Fourth Avenue outfall/wall, as well as for stairs and revetments, and climate action projects and energy upgrade initiatives = **$3.85M.**

- **IT:** Equipment replacements, security upgrades, Police records management system, and GIS applications expansion = **$0.58M.**

- **Library:** It is difficult to estimate costs for the library as major renovations proposed under the Library Master Plan are largely subject to donor funding. As a placeholder, for Years 2-5, the 5-Year CIP plan assumes the design and construction of the first two or three renovation projects with a cost of $4M, primarily funded by private donations, but with a City matching contribution of $200,000 per year = **$0.8M plus $3.2M donations.** These "plug in" numbers need to be adjusted as more information and scheduling becomes available.

Years 2 - 5 Needs Summary:

The total estimated investment of City funds identified for Years 2-5 is **$42.2M**. This amount clearly exceeds anticipated CIP fund revenues over those four years of **$5.1M** plus any ending fund balance that may be available in those future years. However, without proper investment, the City's infrastructure noted will further decline into worsening conditions with more costly deferred repairs. Therefore, additional revenue sources should be considered.

6. Council Guidance

Staff is seeking Council's direction on the following issues. Note that this is just the first review and screening of potential projects. Staff will return at the April 2, 2024 meeting to refine the potential projects based on comments received on March 5th.

- Acceptance of the 15 capital improvement projects completed, or anticipated to be completed, in FY 2023/24 as listed in Section 1 above

- Confirmation to cancel or modify the 4 projects described in Section 2 above

- Confirmation to carry over 14 projects from FY 2023/24, including their remaining project funds, into FY 2024/25 as described in Section 3 above

- Review potential projects for the FY 2024/25 CIP, including supplemental funding for carry over paving, drainage, and facility renovation projects, and new projects identified for funding by the Vehicle and Equipment and Capital Improvement Funds as listed in Section 4 above

- Review the preliminary 5-Year CIP, **Attachment 1**, including the preliminary list of identified projects for Years 2 - 5 as described in Section 5 above

- Add, delete, or modify identified projects considering public comments and as desired by Council, and direct staff to return at the April meeting to refine the list of proposed projects for a second review

Upon Council's tentative approval in April, the CIP document will be presented to the Planning Commission in May for a General Plan consistency review as required by State law and the City's Municipal Code.

FISCAL IMPACT:

The preliminary amount of CIP project funding available to be carried over into FY 24/25 is approximately $5.9M. This amount will be refined during the remainder of the current FY 23/24. For comparison purposes, approximately $6.8M was carried over from prior fiscal years into the FY 23/24 CIP budget.

The additional fiscal impact for FY 24/25 cannot yet be assessed until specific projects are selected by the City Council.

Carry-Over Paving, Drainage, and Facility Renovation Projects requiring Additional Funding: Staff recommends that the FY22 and FY24 paving projects, two drainage projects, and two facility renovation projects, most of which have already been designed, bid, and/or are “shelf ready” for bidding, be funded before allocating capital funds to new projects that have not yet been started. As noted above a total of $1,667,000 of City funds are needed to complete these projects

Potential New Projects - Vehicle & Equipment Fund: Six (6) new vehicle and equipment projects are proposed for funding at an estimated cost of $545,000. The City recognizes a 10% reserve in the Vehicle and Equipment fund balance for replacements. For FY24/25,
the Vehicle & Equipment Fund reserve balance is estimated to be $310,000.

Potential New Projects - Capital Improvement Fund: Fourteen (14) additional projects were listed above with a total estimated cost of $2,955,000. Staff recommends that this list be slimmed down to fit into the available budget.

PRIOR CITY COUNCIL ACTION:

None for Fiscal Year 2024/25.

ATTACHMENTS:

Attachment 1) Preliminary 5-Year Capital Improvement Plan

City of Carmel-by-the-Sea

Attachment 1

5-Year Capital Improvement Plan

Excluding Operating Budget Projects

		EXTERNAL FUNDING		2/23/24	*For March 5, 2024 Council Meeting*									
Category		Last Fiscal Year	FY 23/24	Status	Year 1	Year 1	Year 2	Year 2	Year 3	Year 3	Year 4	Year 4	Year 5	Year 5
		FY 2023/24	Budget		FY 2024/25	Estimate	FY 2025/26	Estimate	FY 2026/27	Estimate	FY 2027/28	Estimate	FY 2028/29	Estimate
Contingency		CIP Contingency	500	Carry Over	CIP Contingency	400	CIP Contingency	250	CIP Contingency	250	CIP Contingency	250	CIP Contingency	250
$1,900			$ 500			$ 400		$ 250		$ 250		$ 250		$ 250
		Drainage System Repairs (4)	580	Carry Over	Drainage Repairs - Supplemental	638	Junipero Bypass Construct Ph 1	750	Junipero Bypass Construct, Ph 2	1000	Drainage Repairs - Design	250	Drainage Repairs Construct	800
Drainage					Junipero Bypass Pipe - Design	175			4th Ave CDS - Design	75	4th Ave CDS - Construction	450		
$4,718			$ 580			$ 813		$ 750		$ 1,075		$ 700		$ 800
		FY 22 Paving Overlay/Micro Surf	543	Done	FY25 Paving Allocate to FY22 & FY24	660	FY26 Allocate to Concrete Streets	670	FY26 Allocate to Concrete Streets	680	FY28 Paving, Bike, S/W	690	FY29 Paving, Bike, S/W	700
Streets		TAMC: SB1, X, HUTA, RSTP	335	Done	TAMC: SB1, X, RSTIP, HUTA	440	TAMC: SB1, X, RSTIP, HUTA	445	TAMC: SB1, X, RSTIP, HUTA	450	TAMC: SB1, X, RSTIP, HUTA	455	TAMC: SB1, X, RSTIP, HUTA	460
		SC - Retaining Walls - Design	40	Done	SC Retaining Walls - Construction	550	Resurface Parking Lots	300	Bicycle Master Plan	70	Resurface Parking Lots	300		
		FY 23 Concrete Street Repairs	564	Carry Over	San Antonio Pathway - Construction	275			Pavement Survey Update	30				
		TAMC: SB1, X, RSTIP, HUTA	441	Carry Over	Lincoln/4th trestle bridge - Design, Env	175	Lincoln.4th trestle bridge - Const	825						
		FY24 Paving Overlay, Slurry, S/W	657	Carry Over										
		TAMC: SB1, X, RSTIP, HUTA	439	Carry Over										
$11,194			$ 3,019			$ 2,100		$ 2,240		$ 1,230		$ 1,445		$ 1,160
		ADA Updates - Year 6	20	Done	ADA Updates - Year 7	20	ADA Updates - Year 8	20	ADA Updates - Year 9	20	ADA Updates - Year 10	20	ADA Updates - Year 11	25
Facilities		City Hall Retaining Wall Repair	170	Done			Scout House Relocate-PM, Env, Des	250	Scout House Relocation	350	Scout House Renovation	500		
		Elect Panels (CH, FS, VL, Ocean)	75	Done	Vista Lobos: EV Chargers & E Panel	400	Assess Facilities (Flanders, RRs)	85	Sell Scout House Property	TBD				
		Sunset Center Ext Painting	250	Done	3CE EV Chargers & Electrical	60	Fire Station Painting	100	Flanders Structural Repairs	250	FS FCA: Roof, Windows, Alarm	500		
		Sunset Center - 8 Bollards	20	Done	Norton Garage - Secure Access	15	Design Repairs - CH, FS per FCA	150	CH FCA: Fire, Doors, Lighting	400	Sunset Center Railings	225		
		SC - Carpenter Hall Heater	45	Done			Fire Backflows to Code (3 bldgs)	150	Park Restroom Repairs	100				
		Sunset Center - Portico - Design	40	Done	Sunset Center Portico Construction	450	Sunset Ctr Painting, Ph 2	250						
		Police Building Project	3,239	Carry Over	PD/PW Gen Cover (PD)	-	Police Building Project - Design	1000	Police Building - Construction	10,000	Police Building Construction	10000	PW Building Reno - Design	1,000
		Resilience Infr. Pilot Design	85	Merge w/PD										
		City Hall Roof Replacement	160	Carry Over	City Hall Roof - Supplemental	167								
		Sunset Ctr Cottage Windows	100	Carry Over	Sunet Ctr Cottage Windows - Suppl	100								
		Sunset Center - N Lot Electrical	100	Carry Over										
$30,911			$ 4,304			$ 1,212		$ 2,005		$ 11,120		$ 11,245		$ 1,025
		MTNP Tank & Well Demo	121	Done	MTNP Laiolo Bridge - Env, Design	125	MTNP Lailo Bridge Construct	125						
Forestry,		Urban Forest Master Plan	75	Done										
Parks & Beach		Urban Forest MP CalFire Grant	150	Done										
		N Dunes Split Rail + Signage	25	Fence Done	MTNP - 3 Drainage Supplemental	102	MTNP Stream Projects 4-5 Design	125	MTNP - Stream 4-5 Construct	500	MTNP-Stream 6-7-Design	150	MTNP-Stream 6-7-Design	600
		MTNP - Stream 3 Drainage	85	Carry Over										
		MTNP - Stream 3 Drainage Grant	178	Carry Over										-
		Scenic Pathway Hardscape	100	Carry Over										-
		Scenic Pathway Hardscape (CC)	100	Carry Over										
$2,561			$ 834			$ 227		$ 250		$ 500		$ 150		$ 600
		Radios Lease, Year 3	30	Done	Radios Lease, Year 4	30	Radios Lease, Year 5	30	Radios Lease, Year 6	30				
Fleet &		2 Forestry & 2 PD Vehicles	220	Done	PW Dump Truck (1995)	150	Forestry Bucket Truck (1995)	225	Facilities Truck EV (2007)	85	Streets Pickup EV (2005)	75	Streets Pickup EV (2012)	75
Equipment		EV Vehicles - 3CE Grants	25	TBD	Police EV Patrol (2017)	75	Fire Vehicle EV (2010)	75	Fire Inspector Vehcile EV (2012)	75	Forestry Water Truck (1994)	120	PD Detective Veh EV (2017)	75
(Vehicle &		Ambulance & Equipment/AED	275	Carry Over	EV Vehicles - 3CE Grants	15	Ambulance - Balance of $410k	85	PD Admin Vehicle EV (2013)	75	Streets Patch Truck (1999)	100	PD Patrol Vehicle EV (2020)	75
Equipment Fund)		Ambulance (Donation)	50	Carry Over			Ambulance Heart Monitor	35	PD Animal Control Veh (2019)	75	PD Patrol Vehicle EV (2019)	75		
		Fire Engine (Prepaid $880k)	0	Carry Over			PD Motorcycle EV (2008)	30	PD Radar Trailer (2009)	25	PD Parking Vehicle EV (2014)	45		
							EV Vehicles - 3CE Grants	20	EV Vehicles - 3CE Grants	30	EV Vehicles - 3CE Grants	30	EV Vehicles - 3CE Grants	35
$2,470			$ 600		$ -	$ 270	$ -	$ 500		$ 395		$ 445		$ 260
		Coastal Engineering Study, Ph I	133	Done			Climate Action Plan Projects	50	Climate Action Plan Projects	50	Climate Action Plan Projects	50	Climate Action Plan Projects	50
Environmental		Coastal Engineering Study, Ph 2	500	Carry Over			Energy Upgrades	50	Energy Upgrades	50	Energy Upgrades	50	Energy Upgrades	50
& Climate Change		Undergr. Utility Dist. (Rule 20A)	667	Carry Over										
		Shoreline Inf Repairs, Stairs	350	Carry Over	Reconst. 4th Outfall - Env, Design	250	Reconst. 4th Outfall - Const	900						
							Shoreline Inf Repairs - Const 1	750	Shoreline Inf Repairs - Const 2	750	Shoreline Inf Repairs - Const 3	750		
							Shoreline Inf Repairs - Design 2	150	Shoreline Inf Repairs - Design 3	150				
$5,750			$ 1,650		$ -	$ 250	$ -	$ 1,900		$ 1,000		$ 850		$ 100
		HML Generator	-	Cancel	Core Networks	50	IT Network Refresh	60	IT Equipment	75	IT Equipment	80	IT Equipment	85
IT		IT Servers	50	Done	Network Firewalls	180	Wireless Access Point	50	GIS Upgrades	30				
(Vehicle &					Council Chambers AV Upgrade	60	PD Records Management	200						
Equipment Fund)														
$920			$ 50		$ -	$ 290	$ -	$ 310		$ 105		$ 80		$ 85
		HML Carpet	-	Cancel	PBL - Windows, Dry Rot	45								
Library		HML Exterior + Part Interior Paint	140	Done			MP Project #1 - Construction	200	MP Project #2 - Design	200	MP Project #2 - Construction	200	MP Project #3 - Design	200
		Library Master Plan - Phases 2-4	100	Carry Over	Library Master Plan Supplemental	TBD	MP Project #1 - Donations	800	MP Project #2 - Donations	800	MP Project #2 - Donations	800	MP Project #3 - Donations	800
$4,285			$ 240			$ 45		$ 1,000		$ 1,000		$ 1,000		$ 1,000
Grand Totals	$64,709		$11,777			$5,607		$9,205		$16,675		$16,165		$5,280
City Funding	$56,184		$8,892			$5,092		$7,940		$15,395		$14,880		$3,985
External Funding	$8,525		$2,885			$515		$1,265		$1,280		$1,285		$1,295

CITY OF CARMEL-BY-THE-SEA
CITY COUNCIL
Staff Report

March 5, 2024
ORDERS OF BUSINESS

TO:	Honorable Mayor and City Council Members
SUBMITTED BY:	Marnie R. Waffle, AICP, Principal Planner
APPROVED BY:	Chip Rerig, City Administrator
SUBJECT:	Receive an Update on the 6th Cycle Housing Element (2023-2031), Second Draft Mid-Review Comments from the State Department of Housing and Community Development (HCD)

RECOMMENDATION:

Receive an Update on the 6th Cycle Housing Element (2023-2031), Second Draft Mid-Review Comments from the State Department of Housing and Community Development (HCD), and provide direction to staff.

BACKGROUND/SUMMARY:

EXECUTIVE SUMMARY:

This report focuses on changes to the second draft of the 6th cycle Housing Element based on mid-review comments from the State of California Department of Housing and Community Development (HCD) received on February 7, 2024. This review aims to obtain feedback from the City Council and the public on the proposed changes before submitting them to HCD on March 8th. Revisions to the 6th cycle Housing Element are ongoing, and a revised second draft will be posted online at www.HOMECarmelByTheSea.com on March 1st for a 7-day public comment period.

Background:

The City of Carmel-by-the-Sea last updated the General Plan Housing Element in 2015 for the 5th cycle planning period of 2015-2023. Under state law, the Housing Element must be updated every eight (8) years in a manner consistent with the Regional Housing Needs Allocation (RHNA). The 6th cycle planning period is 2023-2031, and the City's RHNA is 349 housing units. The Housing Element includes policies, programs, incentives, and objectives to achieve the City's housing goals, including planning for the creation of 349 new housing units, and must be adopted by the local jurisdiction and certified by the California Department of Housing and Community Development (HCD) by December 15, 2023. A 120-day grace period follows, ending on April 15, 2024.

In 2022, Mayor Potter appointed a Housing Ad-Hoc Committee consisting of Mayor Pro Tem Bobby Richards and Councilmember Karen Ferlito.

On February 7, 2023, the City entered into a Professional Services Agreement with EMC Planning Group to assist the City with preparing the 6th cycle Housing Element Update.

On June 6, 2023, the Public Review Draft of the 6th cycle Housing Element was released for a 30-day public comment period.

On August 2, 2023, the 6th cycle Housing Element was submitted to the State Department of Housing and Community Development (HCD) for a 90-day review period.

On November 1, 2023, the City received HCD's comment letter on the draft Housing Element.

On January 24, 2024, a second draft of the 6th cycle Housing Element was submitted to HCD for a 60-day review period.

On February 7, 2024, the City received mid-review comments from HCD and is preparing a revised second draft for submittal to the State on **March 8th**. The revised second draft will be posted online at www.HOMEcarmelbythesea.com on **March 1st** for a 7-day public comment period. Following the public comment period, the City will submit the revised second draft to HCD, who will complete the formal 60-day review, which concludes on **March 24th**.

Following the 60-day review, the City will either receive a letter of substantial compliance with state law or additional comments. Assuming the former, the City Council would be asked to adopt the updated Housing Element at their regular meeting on **April 2, 2024**. The document would then be submitted back to the State in advance of the April 15th deadline for certification. Once certified, the 6th cycle Housing Element will be submitted to the California Coastal Commission for final approval as part of our Local Coastal Plan.

If the City receives additional comments from HCD, a third draft of the 6th cycle Housing Element will be prepared and submitted for another 60-day review period. This process continues until the City receives a letter of substantial compliance.

Summary of Revisions:
During the initial 90-day review of the City's updated housing element, HCD staff provided mid-review comments, giving City staff an opportunity to make some revisions before the formal comment letter was finalized. Similarly, upon submission of the revised housing element, HCD staff met with City staff and provided mid-review comments on their 60-day review. City staff has made changes to the revised draft, including more robust follow-up actions on various programs and the addition of six new programs. Notable changes are described in further detail below. For a list of the changes, refer to the Reader's Guide (Attachment 1).

Actions to Implement Programs

Program 1.1.B, City Owned Sites identifies three city-owned properties (Sunset Center north and south parking lots and Vista Lobos) as future housing sites. The City is committing to comply with the Surplus Land Act in the development of these sites, adopt development standards for the Sunset Center north and south parking lots, release a Request for Proposals (RFP) by Fall 2024, enter into an agreement with a developer by Fall 2025, and entitle a project by Winter 2026. If these actions have not proven successful, the City commits to alternative actions, including conducting additional outreach to affordable housing developers, issuing a second RFP by Winter 2027, pursuing funding opportunities to assist with entitlement and building permit fees, and developing incentives for developers.

Program 1.1.D, Allow Religious Institution Affiliated Housing Development includes a zoning code amendment to allow religious institution-affiliated housing by-right as an accessory use to a permitted religious institution use. If an application for housing on a religious institution/faith-based site is not received by December 2025, the City commits to expand outreach efforts annually.

Program 1.3.B, Overnight Visitor Accommodation (Conversion) Development Transfer Rights include identifying older hotel properties for conversion to multi-family rental residences and transferring the hotel rooms to another site within the commercial district. The City commits to outreach to property owners and non-profit affordable housing developers annually to identify sites and funding opportunities. If no applications are received by June 2027, the City commits to partnering with a non-profit to identify eligible properties for purchase.

Program 1.3.D, Overnight Visitor Accommodation - Employee Housing Program incentivizes hotel owners/operators to provide one on-site affordable housing unit for an employee in exchange for one new hotel unit. If no applications are received by June 2027, the City commits to amending the municipal code to require an on-site deed-restricted affordable housing unit.

Program 1.4.A, Eliminate Unnecessary Use Permits, includes eliminating the use permit requirement for multi-family residential or mixed-use projects that include 33 dwelling units per acre or more and for underground floors used for parking, storage, or mechanical equipment. The City further commits to amending the use permit findings to remove subjective language and promote approval certainty.

Program 2.4.A, Housing Rehabilitation and Maintenance Information, includes the distribution of information on inspection services, housing rehabilitation programs, and alternative ways to finance home repairs. The City further commits to monitor and conduct outreach to residential units in need of rehabilitation and maintenance.

Program 3.1.C, Density Bonus is a State law that incentivizes the construction of affordable housing by allowing additional units to be built on a property. The City commits to updating its Density Bonus ordinance to reflect recent changes to State law and reevaluating its bonus density ordinance to provide clarity.

<u>New Programs</u>

Program 1.1.E: City Partnership with the Carmel Foundation to Develop Affordable Housing. This program commits the City to working with the Carmel Foundation for the development of 21 lower-income residential units at their existing campus. If by June 2027, building permits have not been issued, the City commits to absorbing the 21 lower-income units on city-owned sites.

Program 1.3.K: Forest and Beach Commission Required Findings. This program commits the City to reevaluate the findings for tree removals to ensure they are not a constraint to the development of multi-family housing.

Program 3.2.B: Housing Mobility. This program includes a suite of actions to expand affordable housing opportunities in lower-density areas, including facilitating housing on a religious institution/faith-based site, pursuing a home-sharing program, preparing pre-approved ADU building plans, offering reduced permit fees for ADUs and JADUs, providing housing resources in multiple languages, adopting a local universal design ordinance, and rezone parcels for up to 10 dwelling units per acre.

Program 3.2.C: Local Universal Design Standards. This program promotes accessible housing for all residents through developing Universal Design Standards that incorporate accessibility design features that exceed the California Building Code requirements.

Program 3.2.D: Family Friendly Housing. This program promotes multi-family housing designs for multigenerational households and provides regulatory incentives to encourage the development of larger units for households of four or more persons.

Program 5.1.D: Farmworker Housing. This program supports Monterey County's efforts to educate the public on resources available for agricultural workers.

Other Revisions

Program 1.3.H has been changed from *Prepare Checklist and Procedures for SB35* to *Senate Bill 35 and Senate Bill 423 Processing Procedure.* Previously, SB 35 did not apply to coastal cities. In October 2023, SB 423 was signed into law, expanding SB 35 to include coastal cities. The change takes effect on January 1, 2025. The City commits to establishing a procedure for processing qualifying projects.

Program 3.1.A: Mixed-Use Affordable Housing has been modified to include specific regional affordable housing organizations including, the County of Monterey Housing Authority Development Corporation (HDC), Woodman Development Company, Inc., Community Housing Improvement Systems and Planning Association, Inc. (CHISPA), Eden Housing, EAH Housing, and Mid-Peninsula Housing.

Program 3.1.F: Expedited Processing Procedures has been modified to include alternatives to story poles for assessing view impacts and engaging a consultant to review the Planning Division's current permitting procedures to identify inefficiencies and make recommendations on process improvements to streamline the permitting process.

Program 3.1.G: Establish Minimum Densities has been modified to include a ministerial approval process and restrict the development of new single-family residential uses in commercial and multi-family districts.

Next steps and Timeline:

The revised second draft of the 6th cycle Housing Element will be posted on the City's website on **March 1st** for the required seven-day public comment period and resubmitted to HCD on **March 8th**. Staff will remain in close contact with HCD staff during the review process to answer any questions or provide clarification.

On or before **March 24, 2024**, the city will receive a letter from HCD that either,

1) finds the draft Housing Element substantially complies with state law, or

2) requires further revisions and outlines what those revisions include.

If HCD finds the document in substantial compliance, the City Council can adopt the Housing Element and submit it back to HCD for certification. If revisions are required, City staff will review the comments, discuss any substantive changes with the City Council and the public, and resubmit the document for another 60-day review by HCD. This process continues until HCD finds the document to substantially comply with state law.

An initial study/mitigated negative declaration has been prepared for the 6th cycle Housing Element update and released for public review on **February 23rd**. The environmental document and 6th cycle Housing Element will be presented to the City Council concurrently for adoption.

Following the City Council's adoption of the 6th cycle Housing Element and HCD certification, staff will submit the document to the California Coastal Commission (CCC) as a Local Coastal Plan (LCP) Amendment. HCD does not require the City to obtain approval from the CCC before adopting or certifying the updated Housing Element.

FISCAL IMPACT:

Consultant fees for the project are $371,931. The cost will be paid with grant funding from SB2, LEAP, and REAP, as well as contract services from the Community Planning & Building Department fiscal year 2023/2024 budget. In 2019 and 2020, the City received three grant awards totaling $290,000 to assist with the cost of updating the Housing Element: SB2 ($160,000), LEAP ($65,000), and REAP ($65,000).

PRIOR CITY COUNCIL ACTION:

On February 7, 2023, the City Council adopted Resolution 2023-024, entering into a Professional Services Agreement with EMC Planning Group for the 6th cycle Housing Element update and General Plan Safety Element update at a cost of $239,145.

On July 11, 2023, the City Council adopted Resolution 2023-074, amending the Agreement to include additional work under the California Environmental Quality Act (CEQA) at an additional cost of $40,455.

On January 9, 2024, the City Council was presented with Resolution 2024-011, amending the Agreement to include additional work in response to the comment letter from the State Department of Housing and Community Development (HCD) for an additional cost of $92,331.

ATTACHMENTS:

Attachment 1) Reader's Guide dated March 5, 2024

6th Cycle 2023-2031 Housing Element Update *(revised)*

Revised Second Draft / Reader's Guide
March 5, 2024

The City is progressing with its 6th cycle 2023-2031 Housing Element update project. The first draft of the updated Housing Element was submitted to the State Department of Housing and Community Development (HCD) on August 3, 2023, and the City received its 90-day initial review letter from HCD on November 1, 2023. The second draft was submitted to HCD on January 24, 2024, and the City received preliminary comments on February 7, 2024. On March 8, 2024, the City will submit a *revised second* draft to HCD. Below, you will find key project dates and a high-level overview of the *revised second* Draft.

Key Project Dates (updated)

01/24/2024: City submitted the second draft of the 6th cycle 2023-2031 Housing Element
02/07/2024: City received preliminary comments on the second draft from HCD
03/08/2024: City will submit a *revised second draft* of the Housing Element
03/24/2024: City will receive formal 60-day second review comments from HCD
04/02/2024: City Council to adopt 6th cycle 2023-2031 Housing Element
04/15/2024: End of the grace period for housing element certification

Overview of the ***revised second draft*** of the 6th Cycle 2023-2031 Housing Element

Chapter 1: Introduction - No substantive changes

Chapter 2: Goals, Policies, and Programs

- Provided more robust follow-up actions for the following programs:
  - Program 1.1.B: City Owned Sites.
  - Program 1.1.D: Allow Religious Institution Affiliated Housing Development.
  - Program 1.3.B: Overnight Visitor Accommodation (Conversion) Development Transfer Rights.
  - Program 1.3.D: Overnight Visitor Accommodation - Employee Housing Program.
  - Program 1.4.A: Eliminate Unnecessary Use Permits.
  - Program 2.4.A: Housing Rehabilitation and Maintenance Information.
  - Program 3.1.C: Density Bonus.
- Added the following new programs:
  - Program 1.1.E: City Partnership with the Carmel Foundation to Develop Affordable Housing.
  - Program 1.3.K: Forest and Beach Commission Required Findings.
  - Program 3.2.B: Housing Mobility.
  - Program 3.2.C: Local Universal Design Standards.
  - Program 3.2.D: Family Friendly Housing.
  - Program 5.1.D: Farmworker Housing.
- Changed Program 1.3.H from Prepare Checklist and Procedures for SB35 *to* Senate Bill 35 and Senate Bill 423 Processing Procedure.
- Program 3.1.A: Mixed-Use Affordable Housing. Identified specific regional affordable housing organizations.
- Program 3.1.F: Expedited Processing Procedures. Provided alternatives to story poles.

- Program 3.1.G: Establish Minimum Densities. Added a ministerial approval process; restrict the development of single-family residential uses in the commercial and multi-family districts.

Appendix A: Housing Needs and Fair Housing Report

- Provided additional information on services available to seniors.
- Expanded on local efforts to improve accessibility for persons with disabilities and provided a list of service providers and programs available in Monterey County to assist residents with disabilities.
- Provided additional analysis on:
    - Larger family household needs.
    - Low-income single-parent households.
- Provided an extensive expanded analysis on farmworkers.
- Expanded the list of supportive housing services in Monterey County.
- Expanded the analysis on:
    - Disparities in access to economic opportunity.
    - Disparities in access to transportation.
    - Residential unit sizes to accommodate larger households.
    - Property maintenance complaints.
    - City's compliance with state fair housing laws.

Appendix B: Housing Constraints

- Provided additional analysis on development standards for multi-family housing and the cumulative impacts of land use controls.
- Provided a list of resources for persons experiencing housing insecurity.
- Provided additional analysis of the city's reasonable accommodation policy.
- Identified constraints to the development of licensed residential care facilities.
- Story poles identified as a potential barrier to the development of housing.
- Significant trees and reviews by multiple hearing bodies identified as a potential barrier to housing development.

Appendix C: Vacant and Available Sites

- Changed the units on the SB10 sites (First Church of Christ Scientist, Red Cross, and American Legion) from lower income to market rate.

No substantive changes to Appendices D–H

- Review of Previous Housing Element
- List of Contacted Organizations
- ECONorthwest Feasibility Study
- Energy and Resource Conservation
- Stakeholder Survey

CITY OF CARMEL-BY-THE-SEA
CITY COUNCIL
Staff Report

March 5, 2024
PUBLIC HEARINGS

TO:	Honorable Mayor and City Council Members
SUBMITTED BY:	Marnie R. Waffle, AICP, Principal Planner
APPROVED BY:	Chip Rerig, City Administrator
SUBJECT:	**MA 23-146 (Lopez 5 NW, LLC):** Consideration of a Mills Act Contract application MA 23-146 (Lopez 5 NW, LLC) for the historic "Cosmas House" located on Lopez Avenue 5 northwest of 4th Avenue in the Single-Family Residential (R-1) District. APN 010-232-028

RECOMMENDATION:

Accept the recommendation of the Historic Resources Board and approve the Mills Act Historical Property Contract MA 23-146 (Lopez 5 NW, LLC) for the historic “Cosmas House” located on Lopez Avenue 5 northwest of 4th Avenue in the Single-Family Residential (R-1) District (APN 010- 232-028-000) and authorize the City Administrator to execute the contract (**Attachment 1**).

BACKGROUND/SUMMARY:

The site is located on Lopez Avenue 5 northwest of 4th Avenue in the Single-Family Residential (R-1) District (**Attachment 2**). The residence, also known as the “Cosmas House,” was designed by architect Albert Henry Hill and his partner, John Kruse, and was built in 1961 by contractor Grove Bishop. The building is one of three unique, adjacent, “Weekend Houses” designed by Hill on Lopez Avenue. The dominant design element of the “Cosmas House” is the steeply pitched roof which folds down over the walls like the wings of a paper airplane. The house has been determined significant as a good example of the Bay Region Modern/Second Bay Region style designed by Henry Hill and John Kruse; both the style and the architects are recognized in the Carmel Historic Context Statement.

A Department of Parks of Recreation (DPR) 523 Form was completed on February 15, 2002 by Richard Janick, who found the property to be significant under California Register criterion 3 (Architecture). In 2003 the house was included in the DOCOMO-MO survey of significant properties of the Modern Movement. In October 2004, the California Coastal Commission accepted the Cosmas House as part of the City’s Inventory of Historic Resources. However, on December 16, 2006, the Historic Resources Board granted an appeal (submitted by the then- property owner) resulting in the property being removed from the City’s Inventory of Historic Resources. The appeal was granted because at that time, the City’s Historic Context Statement did not cover post-1940 development and the residence was only 44 years old. The staff report at that time recommended that the house be re-evaluated once it reached the 50-year threshold and when an updated Historic Context Statement was available.

On June 2, 2021, the new (and current) property owner applied for a Design Study to remodel the lower level of the house and pursue fenestration changes. The Design Study application triggered the re-evaluation of the property, having since crossed the 50-year threshold. An updated Department of Parks and Recreation (DPR) Form 523 was completed for the property in 2021 by Margaret Clovis (**Attachment 3**). The evaluation again determined that the property meets California Register criterion three (Architecture) as a representative of the historic context theme of Architectural Development. A Resolution Designating a Historic Resource for the property on Lopez Avenue 5 northwest of 4th Avenue was recorded with the County Recorder on April 19, 2023 (Document #2023011567).

On May 16, 2023, project architect Karen "KC" Cullen submitted an application for a Mills Act Historical Property Contract on behalf of the property owner. In order to qualify for a Mills Act contract, a property must first be included on the Carmel Inventory and then added to the Carmel Register of Historic Resources. As noted above, the property was added (back) to the Carmel Inventory in 2021. On September 18, 2023, the Historic Resources Board adopted Resolution 2023-014-HRB (**Attachment 5**), adding the property to the Carmel Register and recommending that the City Council enter into a Mills Act Contract with Lopez 5 NW, LLC, for the historic "Cosmas House."

Contract Value

The Monterey County Assessor's Office is responsible for determining the value of a property under Mills Act Contract in accordance with Revenue and Taxation Code sections 439 through 439.4. Properties with a Mills Act Contract are not valued based on sales data; rather they are valued by a prescribed income capitalization method (**Attachment 6**). After a Contract is approved, it is forwarded to the Monterey County Assessor who then determines the Mills Act value.

Contract Summary

A Mills Act contract under State law is an agreement between the City of Carmel and a property owner of a historic building listed on the Carmel Register. In exchange for reduced property taxes, the property owner is contractually obligated to perform annual maintenance on the building. The property owner benefits from a reduction in property taxes. The City benefits from assurance, via contract, that the historic building is rehabilitated, maintained, and preserved with a portion of those property taxes that the city is giving up.

The primary purpose for offering Mills Act contracts in the City of Carmel-by-the-Sea is to assist in and ensure the rehabilitation or restoration and long-term maintenance of historic resources. All properties listed on the City's Historic Register in all districts that have been preserved in their historical size, form, and design without significant alterations are eligible for Mills Act contracts.

All Mills Act contracts have a term of 10 years, and one year is added to this term annually upon each anniversary date of the contract unless one or both parties (City and property owner) have taken action to terminate the contract. The City Administrator is authorized to initiate contract termination on behalf of the City based on recommendations of the Community Planning & Building Department. The contract rights and obligations are binding upon all successive owners of the property during the life of the contract. The property retains the lower Mills Act tax rate when sold. To end a contract, either party may submit a notice of non-renewal to the other party. Such notices shall cause the contract to terminate at the end of the then-current 10-year contract period. Cancellation of a contract by the City due to non-compliance requires a public hearing and, if canceled, results in the immediate termination of the contract and a penalty equal to 12.5 percent of the assessed market value of the property.

The contract requires that the historical elements of the property are maintained in good condition. This includes a plan for rehabilitation and maintenance and may include a program to restore deteriorated features. All recipients of Mills Act contracts are required to implement a rehabilitation/restoration and maintenance plan prepared by a qualified professional. An annual report is submitted to the Community

Planning & Building Department specifying all work that has been done to maintain and preserve the historic resource over the year in compliance with the approved rehabilitation/restoration and maintenance plan. All rehabilitation/restoration and maintenance work must be completed in conformance with the Secretary of Interior's Standards for Rehabilitation, and all proposed projects are subject to a Design Study prior to commencement of work. Minor alterations, as defined in CMC Section 17.32.150, may be approved by staff; however, major alterations (CMC Section 17.32.160) would be reviewed by a qualified professional and presented to the Historic Resources Board for review. All Mills Act contracts must specify that the rehabilitation/restoration and maintenance plan shall be updated at least every ten years by a qualified professional and approved by both parties.

The Historic Resources Board considers each application for a Mills Act contract and provides a recommendation to the City Council to approve, approve with conditions, or deny the application.

The City Council considers the recommendations from the Historic Resources Board at a public hearing and resolves to approve, approve with conditions, or deny the proposed contract with sufficient time for action by the City Clerk so that recordation of approved contracts occurs before December 31st of the year in which the application is received.

Staff Analysis:

Findings

Carmel Municipal Code Section 17.32.100.B.6(c) sets forth findings that the Historic Resources Board and City Council shall make in order to grant approval of a Mills Act Contract. The required findings are listed below followed by a staff response on how the application meets the requirements.

1. The building is designated as a historic resource by the City and is listed on the Carmel Register.

Staff Response: The residence was the subject of a historic evaluation in 2021 by Margaret Clovis and was placed on the Carmel Inventory of Historic Resources in 2021. The Historic Resources Board added the resource to the Carmel Register on September 18, 2023. The application meets this finding.

2. The proposed rehabilitation/restoration and maintenance plan is appropriate in scope and sufficient in detail to guide long-term rehabilitation/restoration and maintenance. Required maintenance and rehabilitation should be more significant than just routine maintenance that would be expected for any property.

Staff Response: The applicant submitted a rehabilitation and maintenance plan (**Attachment 4**). The plan covers a period of 10 years from 2024-2033 and estimates $87,300 in work projects. The plan, compiled by KC Cullen, Architect (and qualified professional), includes rehabilitation and maintenance work including: structural deck/roof wood post repair or replacement; new roof; stain exterior deck and siding; repaint door and window trim; re-paint beams and eaves; termite testing and repairs, landscape maintenance; and sump cleanout/maintenance. All planned rehabilitation and maintenance work will be performed in conformance with the Secretary of Interior's Standards for Rehabilitation. All exterior work is subject to Design Study approval and a determination of consistency with the Secretary of the Interior's Standards for Rehabilitation.

While the repair of the structural wood post qualifies as rehabilitation, the majority of the planned work items qualify as maintenance rather than rehabilitation. Replacement of the roof with treated Cedar shakes and re-staining of the historic Redwood exterior siding and deck would be considered more significant than routine maintenance, whereas re-painting, landscaping, sump cleanout/maintenance, and termite inspection would be considered routine maintenance expected for any property.

The current property owners recently completed a rehabilitation project (BP 21-0440 finaled on May 2, 2023) which resulted in a 2024-2033 Mills Act work plan that contains primarily maintenance rather than rehabilitation items. The Council should consider the purpose of the Mills Act, intended as an incentive program to encourage future rehabilitation work to happen. If an owner was able to successfully complete their project without financial subsidy, there is no established need for granting a Mills Act contract. While the City's municipal code does not explicitly speak to completed work, the code language clearly requires that the *"proposed rehabilitation/restoration and maintenance plan is appropriate in scope and sufficient in detail to guide long-term rehabilitation/restoration and maintenance. Required maintenance and rehabilitation should be more significant than just routine maintenance that would be expected for any property."* The Council should consider whether the plan is satisfactory to meet Finding #2.

3. Alterations to the historic resource have been in the past, and will continue to be in the future, limited to interior work and to exterior rehabilitation and alterations that:

(A) Comply with the Secretary's Standards (future additions only); and

(B) Do not significantly alter, damage or diminish any primary elevation or character- defining feature; and

(C) Do not increase floor area on the property by more than 15 percent beyond the amount established in the documented original or historic design of the resource; and

(D) Do not result in any second-story addition to a single-story historic resource.

Staff Response: The Cosmas House retains a high degree of integrity as few exterior changes have been made to the house since its construction. A new Class A shake roof was added in 2004 (BP 04-9) and fenestration alterations were carried out in 2022-23 (new windows and doors permitted under DS 21-191, on secondary elevations). As noted above, planned rehabilitation and maintenance work will be performed in conformance with the Secretary of Interior's Standards for Rehabilitation. Any future alterations are required to be consistent with conditions A-D above. Minor alterations, as defined in CMC Section 17.32.150, may be approved by staff; however, major alterations (CMC Section 17.32.160) would be reviewed by a qualified professional and presented to the Historic Resources Board for review.

It should be noted that a major rehabilitation occurred in 2022-2023 (Design Study 21-191, BP 21-0220, LeComte/Bergeron), involving the removal of original knob and tube electrical wiring and necessary electrical upgrades; additional concrete footings retrofitted to the existing foundation; and replacement of the main sewer line. The renovation also included the above-mentioned fenestration changes. When the current owner purchased the home in January 2021, it was not a listed historic resource (having been removed following a successful 2006 appeal by previous owners). In June of 2021 they applied for Design Study 21-191, and by August 2021, the property was listed on the Carmel Historic Inventory. The owner did not apply for a Mills Act contract at that time, and instead moved forward with the desired fenestration changes as well as the electrical work, foundation retrofit, and sewer line. The recently completed work (BP 21- 0440 finaled on May 2, 2023) has resulted in a 2024-2033 Mills Act work plan that contains primarily maintenance rather than rehabilitation items.

4. The Mills Act contract will aid in offsetting the costs of rehabilitating and maintaining the historic resource.

Staff Response: Approval of the contract would assist in offsetting the rehabilitation and maintenance costs of preserving the "Cosmas House" by reducing the tax liability on the property thereby freeing up funds for the rehabilitation. The application meets this finding.

5. Approval of the Mills Act contract will represent an equitable balance of public and private interests and will not result in substantial adverse financial impact on the City.

Staff Response: Approval of the Mills Act Contract will be consistent with Goal 1-5 and Objective 1-16 of the Land Use & Community Character Element of the General Plan which encourages providing incentives for property owners to preserve and rehabilitate historic resources. Although the adoption of a Mills Act Contract will decrease property tax revenue to the City, this contract represents an equitable balance of public and private interests:

1) The City Council adopted Resolution 2016-068 on September 13, 2016, limiting the number of Mills Act contracts that can be approved to fifteen (15) in any three-year calendar period. No applications were approved in 2020 or 2021, four applications were approved in 2022, one application has already been approved in 2023 (L'Auberge), and four total applications are currently in review in 2023.

2) Carmel currently has 292 historic resources, and since the adoption of the Mills Act program in 2004, the City has entered into a total of fifteen Mills Act Contracts.

3) The City would continue to receive a portion of the property tax revenue and the investment in rehabilitation and maintenance supports local tourism, which benefits both private and public interests.

4) The value of preserving a historic resource offsets the loss of revenue.

Next Steps:

If the City Council enters into a Mills Act Contract for this property, the contract will be recorded with the Monterey County Recorder and will take effect **January 1, 2025**.

FISCAL IMPACT:

The City will have a diminished tax base from the property at Lopez Avenue 5 NW of 4th Avenue for the term of the contract. The amount is unknown at this point.

PRIOR CITY COUNCIL ACTION:

On March 3, 2020, the City Council adopted standard contract language for Mills Act Contracts.

On April 4, 2023, the City Council reviewed the City's Mills Act Policy and opted not to make any changes.

On October 3, 2023, the City Council continued MA 23-146 to a date uncertain.

On November 7, 2023, the City Council directed the City Attorney to prepare an Urgency Ordinance establishing a moratorium on accepting any new Mills Act contract applications until the policy could be reevaluated. City Attorney Pierik clarified that existing Mills Act applications would be considered under existing rules.

On December 5, 2023, the City Council continued MA 23-146 to a date uncertain, and gave direction to staff to confirm with the Fair Political Practices Commission whether Council member Jeff Baron needed to be recused from the item, as his real property is located less than 500 feet from the Cosmas House. At the December 5, 2023 meeting, the City Council also passed an Urgency Ordinance 2023-008 proclaiming the City will not accept any applications for Mills Act contracts until the City has completed its review of City

Mills Act policies. Urgency Ordinance 2023-008 does not apply to MA 23-146 or any of the applications presented at the October 3, 2023 City Council meeting.

ATTACHMENTS:

Attachment 1) Mills Act Contract
Attachment 2) Exhibit A - Legal property description
Attachment 3) Exhibit B - DPR Form Cosmas House
Attachment 4) Exhibit C - Maintenance Plan
Attachment 5) HRB Resolution
Attachment 6) Guidelines

RECORDING REQUESTED BY
CITY OF CARMEL-BY-THE-SEA

AND WHEN RECORDED MAIL TO

Carmel City Hall
Attn: Community Planning & Building
P.O. Box CC
Carmel-By-The-Sea, CA 93921

This space reserved for the Recorder's use only

CITY OF CARMEL-BY-THE-SEA
MILLS ACT HISTORIC PROPERTY PRESERVATION CONTRACT

THIS AGREEMENT is made and entered by and between the CITY OF CARMEL-BY-THE-SEA a municipal corporation (hereinafter referred to as "City"), and Lopez 5 NW, LLC (hereinafter referred to as "Owner").

<u>RECITALS</u>

(i) California Government Code Section 50280, et seq. (known as the Mills Act) authorizes cities to enter into contracts with the owners of qualified historic properties to provide for their appropriate use, maintenance and restoration such that these historic properties retain their historic characteristics;

(ii) The Owner possesses fee title in and to that certain real property, together with associated structures and improvements thereon, located on Lopez Avenue 5 northwest of 4th Avenue (APN: 010-232-028), Carmel-By-The-Sea, California, (hereinafter referred to as the "Historic Property"). A legal description of the Historic Property is attached hereto, marked as **"Exhibit A"** and is incorporated herein by reference;

(iii) The property is identified as a historic resource on the City of Carmel-By-The-Sea's Historic Inventory and Register of Historic Resources and is further described in the DPR 523 Form attached hereto, marked as **"Exhibit B"** and is incorporated herein by reference;

(iv) City and Owner, for their mutual benefit, now desire to enter into this Agreement both to protect and preserve the characteristics of historical significance of the Historic Property, as it exists at the date of this contract and as described in the City's Register of Historic Resources and the National Register of Historic Places, and to qualify the Historic Property for an assessment of valuation pursuant to the provisions of Article 1.9 (commencing with section 439) of Chapter 3 of Part 2 of Division 1 of the California Revenue and Taxation Code.

NOW, THEREFORE, City and Owner, in consideration of the mutual covenants and conditions contained herein, do hereby agree as follows:

1. **INCORPORATION OF RECITALS**. All recitals are incorporated into this Agreement.

2. **EFFECTIVE DATE AND TERM.** This Agreement shall be effective and commence on the date the Agreement is signed by the City, unless otherwise indicated by the County of Monterey, and shall remain in effect for a minimum term of ten (10) years thereafter.

3. **AUTOMATIC RENEWAL.** Each year, upon the anniversary of the effective date of this Agreement (hereinafter referred to as “annual renewal date”), one (1) year shall be added automatically to the term of this Agreement, unless timely notice of nonrenewal is given as provided in paragraph 4 of this Agreement. The total length of the contract shall not exceed twenty (20) years.

4. **NOTICE OF NONRENEWAL.** If City or Owner desires in any year not to renew this Agreement, that party shall serve written notice of nonrenewal in advance of the annual renewal date of this Agreement as follows: Owner must serve written notice of nonrenewal at least ninety (90) days prior to the annual renewal date; City must serve written notice of the nonrenewal at least sixty (60) days prior to the annual renewal date. If notice is not received, the Agreement shall automatically be renewed for another year. Upon receipt by Owner of a notice of nonrenewal from the City, Owner may make a written protest. At any time prior to the annual renewal date, City may withdraw its notice of nonrenewal.

5. **EFFECT OF NOTICE OF NONRENEWAL.** If either City or Owner serves timely notice of nonrenewal in any year, and this contract is not renewed, this Agreement shall remain in effect shall remain in effect for the balance of the period remaining since the original execution or the last annual renewal date.

6. **FEES**. The City may require that the Owner(s) of the Historic Property pay a fee that shall not exceed the reasonable cost of providing services, such as inspections, pursuant to Government Code Section 50281.1 (Article 12 of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code), for which the fee is charged.

7. **VALUATION OF PROPERTY.** During the term of this Agreement, Owner is entitled to seek assessment of valuation of the Historic Property pursuant to the provisions of Chapter 3 of Part 2 of Division 1 of the California Revenue and Taxation Code.

8. **PRESERVATION OF PROPERTY.** Owner shall preserve and maintain the characteristics of historical significance of the Historic Property and agrees to complete rehabilitation and/or maintenance activities as defined in the Rehabilitation/Restoration and Maintenance Plan attached as **“Exhibit C”**. Requests for revisions to the Maintenance and

Rehabilitation plan shall be reviewed by the Historic Resources Board prior to implementation. In addition, Owner shall comply with the terms of the City's Historic Preservation Ordinance (CMC 17.32). Owners shall not be permitted to further impede any view corridor with any new structure, including but not limited to walls, fences, or shrubbery, so as to prevent the viewing of the Historic Property from the public right-of-way.

9. RESTORATION OF PROPERTY. Owner shall, where necessary, restore and rehabilitate the Historic Property to conform to the rules and regulations of the Office of Historic Preservation of the State Department of Parks and Recreation, U. S. Secretary of the Interior's Standards for Rehabilitation, the State Historical Building Code, and the City of Carmel-by-the-Sea, all as amended.

10. INSPECTIONS. Owner shall allow periodic examinations, at least every five (5) years, with reasonable notice thereof, of the interior and exterior of the Historic Property by representatives of the County of Monterey Assessor and the City of Carmel-By-The-Sea as may be necessary to determine Owner's compliance with the terms and provisions of this Agreement. The City will coordinate inspections by such other agencies that have jurisdiction and will keep them to the minimum necessary to determinate such compliance.

11. PROVISION OF INFORMATION. Owner shall furnish City with any and all information required by City, in order to determine the eligibility of the Historic Property, and that City deems necessary or advisable to determine compliance with the terms and provisions of this Agreement.

12. ANNUAL REPORT. Owner shall submit an annual report at least 90 days prior to each annual renewal date (October 1st) to the Department of Planning and Building specifying all work that has been done to maintain and preserve the historic resource over the preceding year in compliance with the approved maintenance plan.

13. CANCELLATION. The City has the right to cancel the contract if the owner allows the property to deteriorate to the point that it no longer meets the standards for a qualified historical property. The City also has the right to cancel this contract if the owner(s) breaches the provisions of paragraph's # 8, 9, 10 or 12 of this Agreement after the City has provided reasonable notice of any failure to comply with the agreement, and a public hearing. Notice of the hearing shall be mailed to the last known address of each owner of the property, with the notice conforming to the provisions of Government Code section 6061., If after notice and a hearing, the contract is cancelled, termination of the Agreement is immediate, and the owner shall pay a cancellation fee equal to 12.5 percent of the current fair market value of the property, as determined by the Monterey County Assessor as though the property were free of the contractual restriction. The cancellation fee shall be paid to the Assessor, at the time and in the manner that the Assessor shall prescribe. City's right to cancel this Agreement pursuant to this paragraph

shall in no way limit or restrict its rights or legal remedies arising from City's Historic Preservation Ordinance and Municipal Code.

14. ENFORCEMENT OF AGREEMENT. In lieu of and/or in addition to any provisions to cancel this Agreement as referenced herein, City may specifically enforce, or enjoin the breach of, the terms of this Agreement.

15. WAIVER. City does not waive any claim or default by Owner if City does not enforce or cancel this Agreement. All remedies at law or in equity, which are not otherwise provided for this Agreement or in City's regulations governing historic properties are available to City to pursue in the event there is a breach of this Agreement. No waiver by City of any breach or default under this Agreement shall be deemed to be a waiver of any other subsequent breach thereof or default hereunder.

16. BINDING EFFECT OF AGREEMENT. Owner hereby subjects the Historic Property to the covenants, reservations and restrictions set forth in this Agreement. City and Owner hereby declare their specific intent that the covenants, reservations, and restrictions as set forth herein shall be deemed covenants running with the land and shall pass to and be binding upon Owner's successors and assigns in title or interest to the Historic Property. A successor in interest shall have the same rights and obligations under this Agreement as the original owner who executed the Agreement.
Each and every contract, deed or other instrument hereinafter executed, governing or conveying the Historic Property, or any portion thereof, shall conclusively be held to have been executed, delivered and accepted subject to the covenants, reservations and restrictions expressed in this Agreement regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instrument.
City and Owner hereby declare their understanding and intent that the burden of the covenants, reservations and restrictions set forth herein touch and concern the land in that it restricts development of the Historic Property. City and Owner hereby further declare their understanding and intent that the benefit of such covenants, reservations and restrictions touch and concern the land by enhancing and maintaining the cultural and historic characteristics and significance of the Historic Property for the benefit of the public and Owner.

17. NOTICE. Any notice required to be given by the terms of this Agreement shall be provided at the address of the respective parties as specified below, by personal delivery or United States mail, postage prepaid, addressed as follows:

City: Carmel-By-The-Sea
Community Planning & Building Department
Attn: Community Planning & Building Director
P.O. Box CC
Carmel-By-The-Sea, CA 93921

Owner: Lopez 5 NW, LLC
3912 Alamanda Drive
Sarasota, FL, 34238

Notice to successors in interest to either party shall be sent to the appropriate address. In the case of future Owner(s) of the Historic Property, notice shall be sent to the address on file with the county property tax office in power at the time.

18. **RECORDATION.** No later than twenty (20) days after the parties execute and enter into this Agreement, the City shall cause this Agreement to be recorded in the Office of the County Recorder of the County of Monterey. From and after the time of the recordation, this Agreement shall impart a notice thereof to all persons as is afforded under state law.

19. **STATE LAW.** The Owner or agent of Owner shall provide written notice of this Agreement to the State Office of Historic Preservation within six (6) months of the date of this Agreement.

20. **GOVERNING LAW; VENUE.** This Agreement shall be constructed and governed in accordance with the laws of the State of California. Should either party to this agreement bring legal action against the other, the case shall be handled in Monterey County, California and the party prevailing in such action shall be entitled to a reasonable attorney fee which shall be fixed by the judge hearing the case and such fee shall be included in the judgment together with all costs.

21. **AMENDMENTS.** This agreement may be amended in whole or in part, only by a written-recorded instrument executed by the parties hereto.

22. **DESTRUCTION OF PROPERTY; EMINENT DOMAIN; CANCELLATION.** If the Historic Property is destroyed by earthquake, fire, flood, or other natural disaster such that in the opinion of the City Building Official more than sixty percent (60%) of the original fabric of the structure must be preplaced, this Agreement shall be cancelled because the historic value of the structure will have been destroyed. If the Historic Property is acquired in whole or in part by eminent domain or other acquisition by any entity authorized to exercise the power of eminent domain, and the acquisition is determined by the City Council to frustrate the purpose of this Agreement, this Agreement shall be cancelled. No cancellation fee pursuant to Government Code Section 50286 shall be imposed if the Agreement is cancelled pursuant to this paragraph. Such Agreement shall be null and void for all purposes of determining the value of the property so acquired.

23. **INDEMNIFICATION.** Owner shall defend, indemnify, and hold harmless City and its elected officials, officers, agents and employees from any actual or alleged claims, demands, causes of action, liability, loss, damage, or injury to property or persons, including wrongful death, whether imposed by a court of law or by administrative action of any

federal, state or local government agency, arising out of or incident to the direct or indirect use, operation, or maintenance of the Historic Property by Owner or any contractor, subcontractor, employee, agent, lessee, licensee, invitee, or any other person; (ii) Owner's activities in connection with the Historic Property; and (iii) any restriction on the use of development of the Historic Property, from application or enforcement of the City's Municipal Code, or from the enforcement of this Agreement. This indemnification includes, without limitation, the payment of all penalties, fines, judgments, awards, decrees, attorneys' fees, and related costs or expenses, and the reimbursement of the City, its elected officials, employees, and/or agents for all legal expenses and costs incurred by each of them. Owner's obligation to indemnify shall survive the termination, cancellation, or expiration of this Agreement and shall not be restricted to insurance proceeds, if any, received by City, its elected officials, employees, or agents.

24. SEVERABILITY. In the event that any of the provisions of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, or by subsequent preemptive legislation, the validity and enforceability of the remaining provisions, or portions thereof, shall not be affected thereby.

IN WITNESS THEREOF, the City and Owners have executed this Agreement on the day and year written above.

CITY OF CARMEL-BY-THE-SEA:

By: ___________________________ Date: ____________________

Name: Richard L. Rerig ("Chip")
Title: City Administrator

PROPERTY OWNER(S):

By: ______________________________ Date: _____________________

Name: Pierre LeComte, on behalf of Lopez 5 NW, LLC
Title: Property Owner

By: ______________________________ Date: _____________________

Name: Vittoria Bergeron, on behalf of Lopez 5 NW, LLC
Title: Property Owner

EXHIBIT A
LEGAL DESCRIPTION

EXHIBIT B
DPR 523 FORM

EXHIBIT C
MAINTENANCE PLAN

LOT 14, IN BLOCK "LL", AS SAID LOT AND BLOCK ARE SHOWN ON THAT CERTAIN MAP ENTITLED, “MAP OF ADDITION NO. 3, CARMEL-BY-THESEA, MONTEREY COUNTY, CALIFORNIA, SURVEYED DEC. 1906 AND APRIL 1907 BY H.B. FISHER, SURVEYOR & C.E.", FILED AUGUST 12, 1907 IN VOLUME 2, MAPS OF "CITIES AND TOWNS", AT PAGE 5, IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA.

State of California -- The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
PRIMARY RECORD

Primary # ______ Attachment 3
HRI # ______
Trinomial ______
NRHP Status Code ____

Other Listings ____
Review Code ____ Reviewer ______ Date ______

 ***Resource Name or #:** (Assigned by recorder) Cosmas House

P1. Other Identifier: Cosmas House

***P2. Location:** ☐ Not for Publication ☒ Unrestricted ***a. County** Monterey
and (P2b and P2c or P2d. Attach a Location Map as necessary)
***b. USGS 7.5' Quad** Monterey **Date** 2012 **T** ; **R** ; **¼ of** **¼ of Sec** ; Mount Diablo **B.M.**
c. Address Lopez 5NW of 4th City Carmel by the Sea Zip 93921
d. UTM: (Give more than one for large and/or linear resources) Zone ; mE/ mN
e. Other Locational Data: (e.g., parcel #, directions to resource, elevation, etc., as appropriate)
APN 010-232-028, Block LL, Lot 14

***P3a. Description:** (Describe resource and its major elements. Include design, materials, condition, alterations, size, setting and boundaries)

Built in 1961, the two-story Cosmas House has a parallelogram plan set on a diagonal axis across a steep, sloping site. The roof dominates the design and rests on the walls like a paper airplane with wings that almost graze the ground. Redwood decks are located at the front and rear of the house at the points of the parallelogram. The design emphasis is on verticality which is achieved by vertical flush redwood siding and the randomly placed vertical windows. Purple frames outline the windows, and some windows have opaque, colored glass. A wide, Carmel stone chimney breaks up the southwest elevation. The open-framed, overhanging roof eaves, create shadow patterns on the walls and the orange rafters are carried into the house. A wood ramp with sculptural metal railings leads to the front entrance. The house is set in an Oriental-influenced designed landscape accented by native oaks. (Continued on page 3)

***P3b. Resource Attributes:** (List attributes and codes) HP2, Single family residence

***P4. Resources Present:** ☒Building ☐Structure ☐Object ☐Site ☐District ☐Element of District ☐Other (Isolates, etc.)

P5b. Description of Photo: (View, date, accession #) Front Elevation, 07/2021

***P6. Date Constructed/Age and Sources:** 1961 ☒Historic ☐Prehistoric ☐Both
Building Permit

***P7. Owner and Address:**
Lopez 5 NW LLC
3912 Alamanda Drive
Sarasota, FL 34238

***P8. Recorded by:** (Name, affiliation, and address)
Meg Clovis
14024 Reservation Rd.
Salinas, CA 93908

***P9. Date Recorded:** 07/2021

***P10. Survey Type:** (Describe)
Intensive

***P11. Report Citation:** (cite survey report and other sources, or enter "none.") 2002 Intensive Survey by Richard Janick

***Attachments:** ☐NONE ☐Location Map ☐Sketch Map ☒Continuation Sheet ☒Building, Structure and Object Record ☐Archaeological Record ☐District Record ☐Linear Feature Record ☐Milling Station Record ☐Rock Art Record ☐Artifact Record ☐Photograph Record ☐Other (List)

BUILDING, STRUCTURE, AND OBJECT RECORD

***NRHP Status Code:** HP2
***Resource Name or #** (Assigned by recorder) Cosmas House

B1. Historic Name: Cosmas House
B2. Common Name: Cosmas House
B3. Original Use: Residence   B4. Present Use: Residence
***B5. Architectural Style:** Second Bay Area
***B6. Construction History:** (Construction date, alteration, and date of alterations) Constructed in 1961 (BP#3715); Kitchen & stairs remodel in 1991 (BP#91-36); Reroof in 2004 (BP#04-9)

***B7. Moved?** ☒ **No** ☐**Yes** ☐**Unknown Date:**   **Original Location:**
***B8. Related Features:** Designed Garden
B9a. Architect: Albert Henry Hill & John Kruse   b. Builder: Grove Bishop
***B10. Significance: Theme** Architectural Development   **Area** Carmel by the Sea
Period of Significance 1961   **Property Type** Building   **Applicable Criteria** CR 3
(Discuss importance in terms of historical or architectural context as defined by theme, period, and geographic scope. Address integrity.)

The Cosmas House is one of three weekend homes on Lopez Avenue designed by architect Albert Henry Hill and his partner John Kruse. Hill purchased the property to build his own home. When his partner, John Kruse and client John Cosmas wanted to build as well, Hill subdivided his property into three pie-shaped lots and designed three distinct homes for each. Although each house is a unique design, his placement of the buildings on the lots creates an illusion of space between each house.

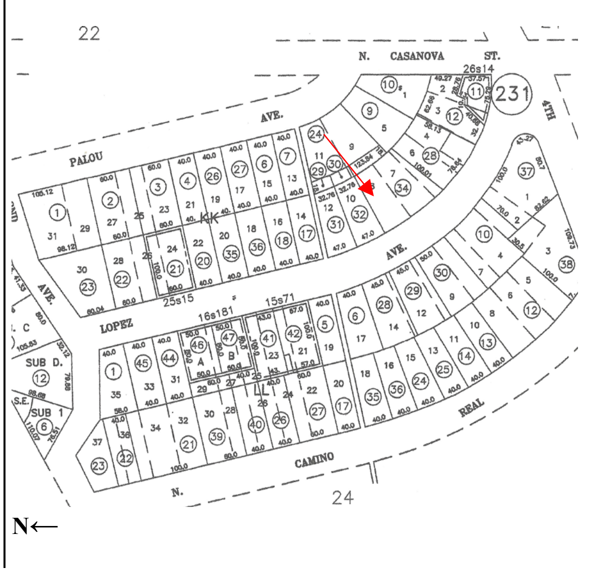
Hill designed the Cosmas family's main residence in Marin's Kent Woodlands. The house was featured on the cover of the March 1953 issue of *Progressive Architecture* magazine. He also designed the Cosmas Office Building in Vancouver, B.C. Mr. Cosmas gave the architect free reign in the design of his beach house, and only requested a sloping roof, which Hill made the dominant design element. The roof folds down over the walls like the wings of a paper airplane.

John Andreas Cosmas (1905 -1967) emigrated from Greece with his wife, Phopho (continued on pg. 3)

B11. Additional Resource Attributes (List attributes and codes): HP2
***B12. References:**
Carmel Context Statement & Historic Preservation Ordinance
Architecture of the Monterey Peninsula, 1976
Building File, Carmel Planning Dept.
National Register Bulletin 15
Environmental Design Archives, UC Berkeley
Cosmas Obit., *Daily Independent Journal,* 11/27/1967, pg. 4
Seavey, Kent. *Carmel: A History in Architecture,* 2007
B13. Remarks
***B14. Evaluator:** Meg Clovis
***Date of Evaluation:** 08/2021

(This space reserved for official comments.)

(Sketch Map with north arrow required.)



P3a. Description:
The Cosmas House retains a high degree of integrity as very few exterior changes have been made to the house since its construction. Permitted changes include:

- Permit #91-36 (3/11/1991): Remodel of kitchen and interior stairs
- Permit #04-9 (1/13/2004): Reroof

<u>Character Defining Features</u>
Character refers to all the visual aspects and physical features that comprise the appearance of a historic building. Character-defining features include the overall shape of the building, its materials, craftsmanship, decorative details, and the various aspects of its site and environment. The Cosmas House reflects many of Henry Hill's distinctive design traits as well as characteristics of the Second Bay Region style as described in Carmel's Historic Context Statement. These include:

- Parallelogram plan and dramatic sloping roof
- Sharp, angular forms and irregular massing
- Vertical redwood siding and wide Carmel stone chimney
- Plate glass window walls with some opaque glazing
- Sculptural metal railings
- Color details such as orange rafters and purple window frames
- Decks set in the points of the parallelogram
- Setting and designed landscape.

B10. Significance:

in 1941 and became a naturalized U.S. citizen. He was a merchant marine captain and wealthy shipping executive. Cosmas was part owner of the Hermes Steamship Agency in San Francisco and President of the Standard Ship Building Corporation in San Pedro.

Albert Henry Hill (1913-1984) was born in England to American parents and came to California at the age of three when his parents divorced. Hill grew up in the Berkeley hills and studied architecture at UC Berkeley. In 1938 he received his master's degree at Harvard, studying with Water Gropius, one of the founders of the International Style at the German Bauhaus. Hill returned to the Bay Area, joining the office of John Ekin Dinwiddie, a pioneering Bay Area modernist. He became a partner in the firm in 1939. During World War II Hill served with the Office of Special Services. After the war he returned to San Francisco and the Dinwiddie firm, where he worked with pioneering modernist Eric Mendelsohn who had fled Nazi Germany.

In 1947 Hill established his own practice designing residences in the Bay Area, California, and throughout the United States. Hills's individual style combined International modernism with regional, vernacular influences, placing him among the second phase of Bay Area regional architecture. His commissions were not limited to private residences. During the 1950s, her served as a consultant to U.S. Steel, and he designed U.S. Embassy staff housing in Vienna for the State Department. In 1955 he won an invitation-only competition to design the hiring hall of the international Longshoreman's and Warehouseman's Union near Fisherman's Wharf in San Francisco. He also designed the AIA award-winning chapel at the public hospital in Moline, IL. Additionally, he served as a lecturer in Architecture at Stanford University from 1948 to 1965.

In 1965, Hill took on long-time associate John (Jack) Kruse as a partner in his architecture practice. Kruse was born in Davenport, Iowa in 1918 and attended Cornell University and MIT. After serving in World War II as a lieutenant in the U.S. Navy, he settled in San Francisco and began working with Hill in 1948. With Hill as the designer and Kruse as the structural expert, the prolific partnership would result in more than 500 residential and commercial buildings in California, Hawaii, Connecticut, Illinois, Kentucky, Quebec, and El Salvador. Hill and Kruse won numerous awards for design throughout their careers, together and individually. Both are listed in Carmel's Historic Context Statement as significant architects.

Henry Hill helped to define the Second Bay Region style, a building tradition that is important to Carmel's architectural chronology. The Historic Context states, "A Bay Region building was viewed as an organic extension of nature. Large expanses of glass window walls, sliding doors and partitions, and lofty ceilings allowed the outdoors to flow flawlessly into interior living spaces. In a place like Carmel where the natural environment reigned supreme, the Bay Region was a perfect fit."

Hill's designs have been described as flamboyant and whimsical. He often started with a hillside lot. From there he added a rectangular box with walls of glass and a roof with wide, overhanging eaves. Details could include lattices and slats arranged vertically and horizontally to create patterns of dappled light, opaque glass to filter light, colored light fixtures, circular stairways, windows with perfectly framed views, and gold leaf fireplaces. Hill was an avid gardener and gardens were integral to his designs, often serving as courtyard atriums. He defined exterior space with mini-walls, free-standing or structural, that extended out from the façade at 90-degree angles. Decks, doorway canopies, and facades were often a series of angles. Hills signature color palette combined natural shades of grays, browns, and golds accented by window frames of orange, purple, or green. He often created total environments, designing, or choosing furnishings, deciding the color of lightbulbs and even where clients should hang their artwork.

In 1971 Hill moved permanently to his home on Lopez Avenue in Carmel. He became active in the community and served on the Carmel Planning Commission from 1972 to 1977. He died of cancer in 1984.

Evaluation for Significance

Historians use National Register Bulletin 15[1] as a guide when evaluating a property's significance whether on a local, state, or national level. As a first step, to determine whether or not a property is significant, it must be evaluated within its historic context and the City of Carmel's Historic Context Statement[2] provides this context. The City of Carmel's Historic Preservation Ordinance (Section 17.32.040) reiterates the role of *National Register Bulletin 15* in the evaluation of historic resources. Adopted eligibility criteria is modeled on the California Register's four criteria with the addition of specific qualifications for criterion 3 (Section 17.32.040.D).

The Cosmas House is eligible for listing in the Carmel Inventory under Criterion Three (architecture) because it was designed by Henry Hill and John Kruse, architects who are recognized as significant in the Historic Context Statement (Carmel Historic Preservation Ordinance Section 17.32.040.D(1)). In addition, it is a good

[1] *How to Apply the National Register Criteria for Evaluation.* National Park Service. 1998.

[2] *Historic Context Statement: Carmel-by-the-Sea (updated).* Adopted by the City Council September 9, 2008.

***Resource Name or #** Cosmas House

***Recorded by** Meg Clovis ***Date** 08/2021 ☒ Continuation ☐ Update

example of the Second Bay Region style which is important in Carmel's architectural legacy and recognized as significant in the Historic Context Statement (Carmel Historic Preservation Ordinance Section 17.32.040.D(3)).

The Cosmas House is not eligible under Criterion One (Event) as no specific event led to the construction of this building and no important event took place in the building. The Cosmas House is not eligible under Criterion Two (Person) as John Cosmas is not individually significant within Carmel's historic context. Mr. Cosmas was a prominent shipping executive in the San Francisco Bay Area and his productive life is best reflected by his permanent residence in Marin County, also designed by Henry Hill, and not his vacation home on Lopez Avenue. The Cosmas House is not eligible for Criterion Four (Information Potential) because there is no evidence of archaeological resources at the site.

To be eligible for the Carmel Inventory a resource must represent a theme in the Context Statement, retain substantial integrity, be at least 50 years old, and meet at least one of the four criteria for listing in the California Register. The Cosmas House represents the theme of Architectural Development, and it is over 50 years old. It meets Criterion Three of the California Register on the local level because it is representative of Carmel's architectural chronology, specifically the Second Bay Region style, as described in the Context Statement. A discussion of integrity follows.

Integrity is defined as the ability of a property to convey its significance. There are seven aspects of integrity: Location, Design, Setting, Materials, Workmanship, Feeling, and Association. To retain historic integrity a property must retain several, if not most of the aspects. As stated in the Description, the Cosmas House has retained a high degree of integrity. Very few changes have been made over time (as outlined in the listing of building permits) and none have affected the building's location, design, setting, materials, workmanship, feeling, and association.

In summary, the Carmel Context Statement, the Carmel Historic Preservation Ordinance, and the historical record support the eligibility of the Cosmas House for the Carmel Historic Inventory.

Mills Act Application
Lopez Avenue 5 NW of 4th Avenue APN 010-232-028-000

This Mills Act Application was prepared by Architect Karen (KC) Cullen and Vittoria Bergeron, one of the property owners. Ms. Cullen is a registered architect with 30 years of experience restoring and renovating Mid-century Modern architecture; and worked on other architectural preservation projects with Palo Alto Stanford Heritage and the Palo Alto Historical Association.

The Lopez Avenue house was designed by Henry Hill and John Kruse along with two adjacent houses in 1961. The house was not on the historic register when the current owners purchased it several years ago. During a design review application in 2021 for remodeling the ground floor rooms, the house was evaluated by Meg Clovis and subsequently added to the Carmel Inventory as the Cosmas House (original owner).

The house had been remodeled on the interior in 1991. The latest remodel completed in 2023 included the addition of new windows at the ground floor level, mainly on the back of the house. During the course of the renovation, several infrastructure issues came up that the owners and contractor had to address immediately, that added significantly to the cost of the renovation.

The owners were not able to apply for Mills Act relief before doing the completed rehabilitation work because the house was not considered historic when they bought it, or when they planned their renovation. The recent work makes it possible for the attached plan to be mostly maintenance.

Rehabilitation Items (Complete):

1. Knob and tube electrical wiring was discovered inside the walls and ceiling, requiring replacement to current code, and an additional $25,000.

2. The structural engineer recommended additional footings retrofitted to the existing foundation, which added $38,000. including the engineering and site visit costs.

3. The main sewer line servicing the bathrooms and kitchen of the upper house as well as the new work had to be replaced to the exterior connection, at a cost of $22,000.

Rehabilitation Items (Remaining):

4. The contractor has observed significant rot to an original structural wood post that supports both the 2nd floor balcony/deck and the roof, at the apex. This will require engineering and creative installation.

Maintenance Items (Planned):

1. Replace roof shakes. New Western Red Cedar pressure treated shakes correctly installed over a fire retardant fiberglass underlayment that meet the Class 'A' rating for fire safety. The new roof will also require periodic inspection and re-coating for fire protection.

2. Re-stain Exterior Siding and Deck. Existing rustic redwood siding is in fairly good shape for its age; periodic inspection and re- staining will ensure it remains so.

3. Re-paint exterior door and window trim. The bright colors of the old doors and window trim need to be painted to look as fresh as the newer window and door trim.

4. Re-paint beams and ceiling. Beams and ceiling are painted the same colors inside and out. The orange color of the beams is a feature of the house and will need to be maintained.

5. Landscape Maintenance. The existing landscaping survived the recent construction fairly well, but will require work in some areas.

6. Sump cleanout/maintenance.

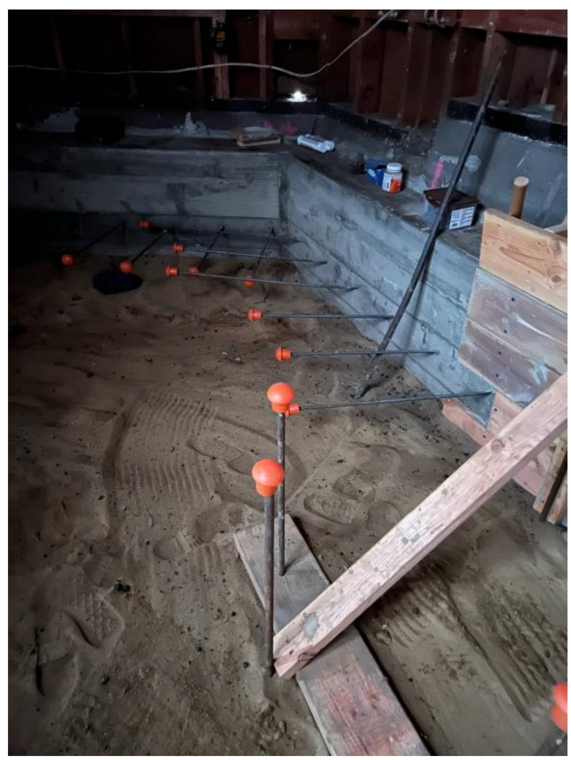
7. Termite inspections and treatment as required.

-KC Cullen

Rehabilitation Item Photos (complete, Building Permit 21-0440 finaled 05/04/2023):

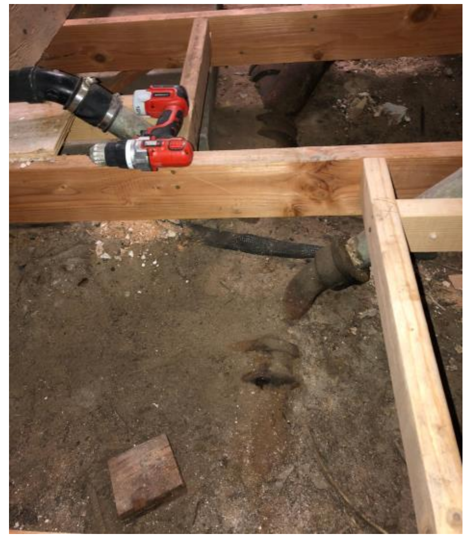
Knob and Tube Wiring

Retrofitting foundation



Retrofitting foundation

Retrofitted foundation



Old sewer line

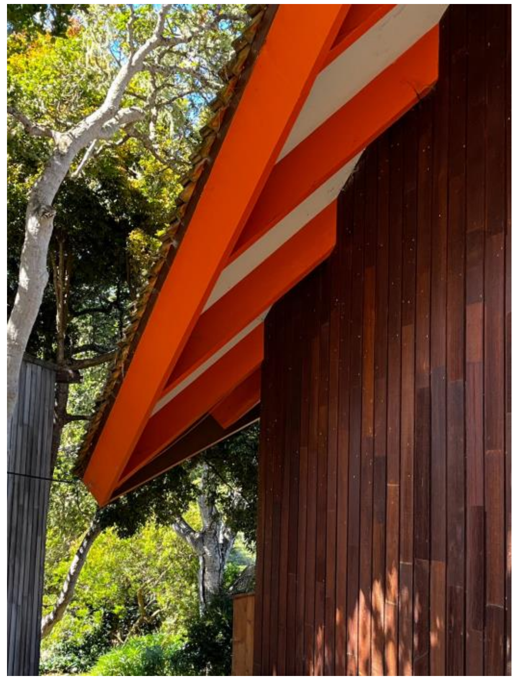
Rehabilitation/Maintenance Item Photos (planned, 2024-2033)

Structural wood post (orange) supporting balcony and roof to be replaced

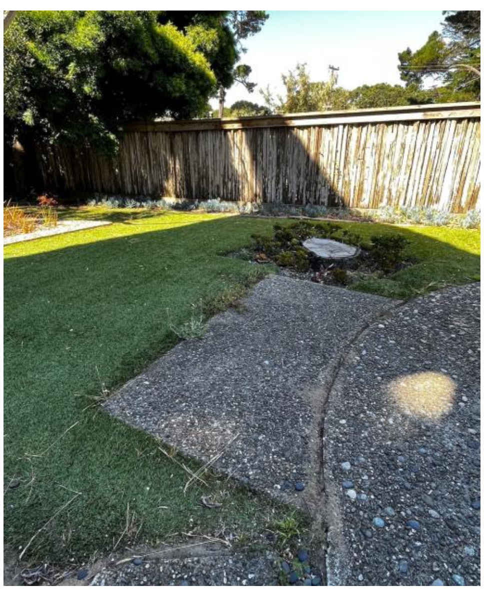
Replace Roof Shakes

Exterior Redwood Siding and Deck

Paint Door and Window Trim



Paint Beams and Ceiling



Maintain Landscape

0 LOPEZ 5 NW OF 4TH AVENUE - 10 YEAR REHABILITATION / MAINTENANCE PLAN

WORK ITEM	YEAR OF COMPLETION										COST ESTIMATE
	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	
RE-STAIN EXTERIOR SIDING	X				X				X		$10,000.00
RE-PAINT EXTERIOR DOORS AND WINDOW TRIM	X								X		$16,000.00
RE-PAINT BEAMS AND CEILING							X				$10,000.00
REPLACE CLASS A ROOF SHAKES				X							$25,000.00
RE-STAIN EXISTING DECK			X				X				$1,000.00
REPLACE STRUCTURAL POST THRU DECK TO ROOF	X									X	$20,000.00
MAINTAIN LANDSCAPING	X	X	X	X	X	X	X	X	X	X	$5,000.00
SUMP CLEANOUT / MAINTENANCE		X		X		X		X		X	$300.00
TERMITE INSPECTION AND TREATMENT					X						$1,200.00
TOTAL											$87,300.00

Attachment 5

CITY OF CARMEL-BY-THE-SEA
HISTORIC RESOURCES BOARD

HISTORIC RESOURCES BOARD RESOLUTION NO. 2023-014-HRB

A RESOLUTION OF THE HISTORIC RESOURCES BOARD OF THE CITY OF CARMEL-BY-THE-SEA ADDING A HISTORIC RESOURCE TO THE CARMEL REGISTER AND RECOMMENDING THAT THE CITY COUNCIL ENTER INTO A MILLS ACT CONTRACT WITH LOPEZ 5 NW, LLC FOR THE PROPERTY LOCATED ON LOPEZ AVENUE 5 NORTHWEST OF 4TH AVENUE (APN 010-232-028).

WHEREAS, on June 2, 2023, KC Cullen, Architect ("Applicant") submitted an application on behalf of Lopez 5 NW, LLC ("Owner") requesting to add the historic "Cosmas House" to the Carmel Register of Historic Resources and enter into a Mills Act contract (MA 23-146, Lopez 5 NW, LLC) described herein as ("Application"); and

WHEREAS, the Application has been submitted for the property located on Lopez Avenue 5 northwest of 4th Avenue, in the Single Family Residential (R-1) District (Block LL, Lot 14, part Lot 12); and

WHEREAS, the Applicant is requesting to add the historic "Cosmas House" to the Carmel Register of Historic Resources; and

WHEREAS, in accordance with Carmel Municipal Code (CMC) Section 17.32.090 (Carmel Register of Historic Resources) the City shall maintain a Register of Historic Resources designated by the City for public recognition and benefits; and

WHEREAS, historic resources identified as significant at a local or regional level shall be eligible for listing in the Register at the request of the property owner and upon approval by the Historic Resources Board; and

WHEREAS, one of the benefits of being included on the Register is the ability to enter into a Mills Act Historical Property Contract with the City; and

WHEREAS, the Applicant is also requesting to enter into a Mills Act contract with the City and in accordance with Carmel Municipal Code (CMC) Section 17.32.100.B.6 (Review Process), the Historic Resources Board shall consider the application and make a recommendation to the City Council to approve, approve with conditions, or deny the application; and

WHEREAS, on September 8, 2023, notice of the September 18, 2023 public hearing was published in the Carmel Pine Cone in compliance with State law (California Government Code 65091), and mailed to owners of real property within a 300-foot radius of the project indicating the date and time of the public hearing; and

WHEREAS, on or before September 8, 2023, the Applicant posted the public notice on the project site and hand-delivered a copy of the public notice to each property within a 100-foot radius of the project site indicating the date and time of the public hearing; and

WHEREAS, on or before September 15, 2023 the meeting agenda was posted in three locations in compliance with State law indicating the date and time of the public hearing; and

WHEREAS, on September 18, 2023, the Historic Resources Board held a public meeting to consider adding the historic "Cosmas House" to the Carmel Register and to consider the application for a Mills Act contract, including without limitation, information provided to the Historic Resources Board by City staff and through public testimony; and

WHEREAS, this Resolution and its findings are made based upon the evidence presented to the Historic Resources Board at the September 18, 2023 meeting including, without limitation, the staff report and attachments submitted by the Community Planning and Building Department; and

WHEREAS, the Historic Resources Board did hear and consider all said reports, attachments, recommendations and testimony herein above set forth and used their independent judgment to evaluate the project; and

WHEREAS, the facts set forth in the recitals are true and correct and are incorporated herein by reference.

NOW, THEREFORE, BE IT RESOLVED, that the Historic Resources Board of the City of Carmel-By-The-Sea does hereby make the following findings and determinations regarding the **Mills Act Contract**:

FINDINGS REQUIRED FOR A MILLS ACT CONTRACT For each of the required findings listed below, staff has indicated whether the application supports the adoption of the findings. For all findings checked "no" the staff report discusses the issues to facilitate the Historic Resources Board's decision-making. Findings checked "yes" may or may not be discussed in the report depending on the issues.		
CMC 17.32.100.B.6.c	**YES**	**NO**
i. The building is designated as an historic resource by the City and is listed on the Carmel Register.	✓	
ii. The proposed rehabilitation/restoration and maintenance plan is appropriate in scope and sufficient in detail to guide long-term rehabilitation/restoration and maintenance. Required maintenance and rehabilitation should be more significant than just routine maintenance that would be expected for any property.	✓	
iii. Alterations to the historic resource have been in the past, and will continue to be in the future, limited to interior work and to exterior rehabilitation and alterations that:	✓	

(A) Comply with the Secretary's Standards (future additions only); and (B) Do not significantly alter, damage or diminish any primary elevation or character-defining feature; and (C) Do not increase floor area on the property by more than 15 percent beyond the amount established in the documented original or historic design of the resource; and (D) Do not result in any second-story addition to a single-story historic resource.		
iv. The Mills Act contract will aid in offsetting the costs of rehabilitating and maintaining the historic resource.	✓	
v. Approval of the Mills Act contract will represent an equitable balance of public and private interests and will not result in substantial adverse financial impact on the City.	✓	

BE IT FURTHER RESOLVED that the Historic Resources Board of the City of Carmel-by-the-Sea does hereby add the historic "Cosmas House" to the Carmel Register of Historic Resources and recommend that the City Council enter into a Mills Act Contract (MA 23-146, Lopez 5 NW, LLC) for the property located on Lopez Avenue 5 northwest of 4th Avenue (APN 010-232-028).

PASSED, APPROVED AND ADOPTED BY THE HISTORIC RESOURCES BOARD OF THE CITY OF CARMEL-BY-THE-SEA this 18th day of September, 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

DocuSigned by:
Jordan Chroman
264F63DE03984A3...
Jordan Chroman
Chair

ATTEST:

DocuSigned by:
Marnie Waffle
D0DC1CEF3EBC469...
for Leah Young
Historic Resources Board Secretary

STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION
PROPERTY AND SPECIAL TAXES DEPARTMENT
450 N STREET, SACRAMENTO, CALIFORNIA
PO BOX 942879, SACRAMENTO, CALIFORNIA 94279-0064
916 445-4982 ● FAX 916 323-8765
www.boe.ca.gov

June 2, 2005

No. 2005/035

TO COUNTY ASSESSORS AND INTERESTED PARTIES:

NOTICE OF BOARD ACTION

GUIDELINES FOR THE ASSESSMENT OF ENFORCEABLY RESTRICTED HISTORICAL PROPERTY

On May 25, 2005, the Board of Equalization approved the following guidelines pertaining to the assessment of enforceably restricted historical property. These guidelines supersede Letter To Assessors No. 77/174 (dated December 19, 1977).

On June 8, 1976, the voters of California approved Proposition 7 which amended section 8 of article XIII of the California Constitution. This amendment requires that enforceably restricted historical property be valued on a basis that is consistent with its restrictions and uses. Sections 439 through 439.4 were added to the Revenue and Taxation Code to implement Proposition 7. These statutes, in particular section 439.2, prohibit a valuation of enforceably restricted historical property based on sales data and instead require that such property be valued by a prescribed income capitalization method.

Staff drafted these guidelines in consultation with interested parties and, after discussions, no issues remained unresolved. The guidelines discuss the enforceably restricted historical property requirements, the income to be capitalized, the capitalization rate, the effect of Proposition 13 upon enforceably restricted historical properties that undergo change in ownership or new construction, and the valuation of property under notice of nonrenewal.

The guidelines are posted on the Board's website at www.boe.ca.gov/proptaxes/guideproc.htm. We hope this information proves useful and promotes uniformity of assessment for these properties. If you have any questions, please contact our Real Property Technical Services Unit at 916-445-4982.

Sincerely,

/s/ David J. Gau

David J. Gau
Deputy Director
Property and Special Taxes Department

DJG:grs
Enclosure

GUIDELINES FOR THE ASSESSMENT OF ENFORCEABLY RESTRICTED HISTORICAL PROPERTY

HISTORY

Effective March 7, 1973, Chapter 1442 of the Statutes of 1972 (also known as the Mills Act) added sections 50280 through 50289 to the Government Code to allow an owner of qualified historical property to enter into a preservation contract with local government. When property is placed under such a contract, the owner agrees to restore the property if necessary, maintain its historic character, and use it in a manner compatible with its historic characteristics.

Prior to the passage of Proposition 7 in 1976, these agreements (i.e., Mills Act contracts) constituted enforceable restrictions on the use of land within the meaning of Revenue and Taxation Code section 402.1[1] (Property Tax Rule 60, repealed January 10, 1978). However, Proposition 7 added the second paragraph to section 8 of article XIII of the California Constitution:

> To promote the preservation of property of historical significance, the Legislature may define such property and shall provide that when it is enforceably restricted, in a manner specified by the Legislature, it shall be valued for property tax purposes only on a basis that is consistent with its restrictions and uses.

To implement Proposition 7, Chapter 1040 of the Statutes of 1977 (Senate Bill 380) added sections 439 through 439.4 to the Revenue and Taxation Code. These statutes, in particular section 439.2, prohibit a valuation of enforceably restricted historical property based on sales data and instead require that such property be valued by a prescribed income capitalization method.

ENFORCEABLY RESTRICTED HISTORICAL PROPERTY

Under section 439, historical property is "enforceably restricted" if it meets the definition of a "qualified historical property" as defined in Government Code section 50280.1 and is subject to a historical property contract executed pursuant to Government Code section 50280 and following. A qualified historical property includes qualified historical improvements and the land on which the improvements are situated, as specified in the historical property contract. If the contract does not specify the land to be included, the qualified historical property includes only a land area of reasonable size to situate the improvements.

A qualified historical property is privately-owned property that is not exempt from property taxation and that also meets either of the following criteria:

- The property is listed in the National Register of Historic Places, or is located within a registered historic district; or

[1] Unless otherwise noted, all statutory references are to the Revenue and Taxation Code.

- The property is listed in any official state, county, city, or city and county official register of historical or architecturally significant sites, places or landmarks, including the California Register of Historical Resources, California Historical Landmarks, State Points of Historical Interest, local landmarks, and local survey listings of historical properties.

The historical property contract must have a minimum term of ten years, and, as applicable, must contain certain other elements, including the following:

- A provision relating to the preservation of the qualified historical property and, when necessary, the restoration and rehabilitation of the property in conformance with state historic preservation guidelines;
- A requirement for the periodic examination of the property to ensure compliance with the agreement;
- A requirement that the historical property agreement be binding upon successor owners of the qualified historical property; and
- A provision for an automatic one-year extension of the contract, with an additional year added to the initial contract term on each anniversary of the contract, unless either party provides notice of nonrenewal. If a notice of nonrenewal is given, the contract runs for its remaining term.

Once a contract is signed, accepted, and recorded, the property subject to the contract must be assessed under section 439.2 on the ensuing lien date. For example, if a contract were recorded in August 2004, the property should have been valued pursuant to section 439.2 for lien date January 1, 2005.

Local authorities may cancel a historical property agreement for breach of contract or failure to protect the historical property. Alternatively, the local entity may take legal action to enforce the contract.

ASSESSMENT

The assessment of an enforceably restricted historical property involves the following aspects: (1) valuing the restricted historical property; (2) properly applying certain assessment provisions relating to article XIII A of the California Constitution (Prop 13); (3) valuing the restricted historical property following a notice of nonrenewal; and (4) valuing the restricted historical property following cancellation of the contract.

Valuing the Restricted Historical Property

Section 439.2 prohibits the assessor from using sales data relating to similar properties, whether or not enforceably restricted, to value an enforceably restricted historical property. Instead, the assessor must annually value a restricted historical property using an income approach that follows the specific provisions of section 439.2. These provisions explicitly address (1) the determination of the income to be capitalized, (2) the development of the capitalization rate, (3) the capitalization technique to be used, and (4) the determination of the restricted historical property's taxable value on each lien date.

Income to be Capitalized

As provided in section 439.2(a), the income to be capitalized when valuing a restricted historical property is the property's fair rent less allowed expenditures, or allowed expenses. In general, section 439.2(a) follows Property Tax Rule 8(c), with fair rent in section 439.2 corresponding to gross return in Rule 8(c); allowed expenditures, or allowed expenses, in section 439.2 corresponding to gross outgo in Rule 8(c); and the income to be capitalized in section 439.2 corresponding to net return in Rule 8(c). In addition, for the purposes here, "gross income" is synonymous with fair rent, and "net operating income" is synonymous with the income to be capitalized.

The parties to a historical property agreement may stipulate a minimum annual income to be capitalized, in which case the income to be capitalized may not be less than the stipulated amount.

Fair rent, or gross income. The gross income of a restricted historical property is the fair rent for the property considering the restrictions on the property's use. When establishing the fair rent for a restricted historical property, the appraiser should consider the actual rent and typical rents in the area for similar properties in similar use, where the owner pays the property taxes.

The actual rent received by the owner of the subject restricted historical property is relevant to an estimate of fair market rent only if the actual rent is the same rent that would be expected if the existing lease were renegotiated in light of current market conditions, including the subject property's enforceable restrictions on use. With respect to rents from similar, or comparable, properties, if such rents are from properties outside the geographic or market area of the subject property, or from properties that are otherwise dissimilar to the subject property, the rents may not be relevant to an estimate of the subject property's fair rent.

Comparable rental data for single-family residences can be obtained from real estate brokers, rental agencies, and newspaper ads. Many assessors offices maintain rental data for commercial properties, and this data may be helpful when establishing the fair rent for restricted historical property when the contract allows a commercial use. Rental data for commercial property also can be obtained from commercial real estate brokers. For the purpose of estimating anticipated market fair rent and expenditures for use in calculating the subject property's value, rental and expense data for existing restricted historical properties, including the subject historical property, can be obtained through an annual questionnaire sent to property owners.

If sufficient rental data are not available, or such data are unreliable, the appraiser must impute a gross income for the subject restricted historical property. The imputed income should be based on what an informed investor would reasonably expect the property to yield under prudent management, given the provisions under which the property is enforceably restricted.

Allowed expenditures. Section 439.2(a)(3) defines allowed expenditures, or allowed expenses, as expenses necessary for the maintenance of the property's income. Allowed expenses are the same as those permitted in Property Tax Rule 8(c).

Typical expenses include the cost of utilities, maintenance and repair, insurance and property management. Allowed expenses also may include amounts owing for special assessments and special taxes. Expenses related to debt service, general property taxes, and depreciation should not be deducted.

In general, to arrive at the net income to be capitalized, allowed expenses are subtracted from the estimated rental income. However, in order to properly process the income, the appraiser must be aware of the structure of the lease with regard to how expenses are shared between the landlord-owner and the tenant.

The proper perspective from which to view the processing of income and expenses is that of the landlord-owner. The objective is to estimate the net income to the landlord-owner—this is the amount that should be capitalized—and the correct question to ask is the following: What, if any, allowed expenses must the landlord-owner pay out of the rental income that he or she receives?

In a gross lease, almost all of the allowed expenses must be paid out of the gross rent and, therefore, must be subtracted from the gross rent to arrive at the net income to be capitalized. In a net lease, relatively few allowed expenses must be paid by the landlord-owner out of the net rent (because the tenant pays most expenses) and only these expenses should be subtracted from the net rent to arrive at the net income to be capitalized. Frequently, there is a hybrid arrangement—some expenses are paid by the landlord-owner and some by the tenant. How expenses are shared often depends upon the property type together with local conventions.

Income to be capitalized, or net operating income. The income to be capitalized, or net operating income, is simply the fair rent, or gross income, described above less the allowed expenditures described above.

Capitalization Rate

The method of developing the capitalization rate to be used when valuing restricted historical property is prescribed by statute; a capitalization rate derived from sales data or the band of investment is not permitted.

Section 439.2 prescribes two types of capitalization rates for restricted historical property: (1) a capitalization rate to be used when valuing restricted historical property that is an owner-occupied single-family residence and (2) a capitalization rate to be used when valuing all other restricted historical property. Both types of capitalization rates include components for interest (i.e., yield), risk, property taxes, and amortization of improvements; in fact, the two rates are identical except for the amount of the risk component. The capitalization rate contains the following components:

- An interest component annually determined by the State Board of Equalization and based on the effective rate on conventional mortgages as determined by the Federal Housing Finance Board. The interest component is announced annually, in a Letter To Assessors, by October 1 of the preceding assessment year.

- A historical property risk component determined by property type. For owner-occupied single-family residences, the rate is 4 percent; for all other types of restricted historical property, the rate is 2 percent.

- An amortization component for improvements defined as a percentage equal to the reciprocal of the remaining life of the improvements (e.g., if the remaining economic life of the improvements were 20 years, the amortization component would be 5 percent). Since the amortization component applies only to improvements, not to land, which is a non-depreciating asset, it is necessary to adjust the amortization component described in the statute. We recommend the following method of adjustment:

    1. Based upon market data, estimate the percentage of total property value attributable to improvements.

    2. Multiply this percentage by the amortization component described in the statute (i.e., by the reciprocal of the remaining life of the improvements). For example, if the remaining life of the improvements was 20 years, yielding a reciprocal percentage of 5 percent, and if 70 percent of the total property value was attributable to the improvements, the adjusted amortization factor would be 3.5 percent (0.05 x 0.70 = 0.035).

    3. Add the adjusted amortization component to the other capitalization rate components to arrive at the total capitalization rate.

- A property taxes component equal to the percentage of the estimated total tax rate applicable to the property for the assessment year multiplied by the assessment ratio. Typically, the property tax component includes the basic tax rate of 1 percent plus an additional ad valorem rate related to any bonded indebtedness pertaining to the tax rate area in which the property is located. Special district assessments and special taxes are not included in the property tax component. As noted above, they should be treated as allowed expenses.

Capitalization Technique

The capitalization technique to be used when valuing a restricted historical property is prescribed by statute and is formulaic. Section 439.2(e) provides that the restricted value shall be the income to be capitalized, or net operating income, developed as prescribed by statute, divided by one of the two types of capitalization rates prescribed by statute. In other words, the restricted value is the simple quotient of the prescribed income to be capitalized and the prescribed capitalization rate.

Determination of Taxable Value on Each Lien Date

Section 439.2(d) provides that a historical property's restricted value may not be enrolled if it exceeds either (1) the value of the subject property as determined under section 110 (i.e., current market value) or (2) the value of the subject property as determined under section 110.1 (i.e., factored base year value). In other words, section 439.2 states that the taxable value of a restricted historical property on each lien date shall be the lowest of its restricted value, current market value, or factored base year value. The factored base year value for an enforceably restricted historical property is the value that was established for the 1975 lien date[2] or as of the date of the most recent change in ownership, whichever is later, adjusted by the annual inflation factor.

Article XIII A (Prop 13) Considerations

This section discusses how three important elements relating to implementation of article XIII A—change in ownership, new construction, and supplemental assessment—relate to the assessment of restricted historical property. Also discussed is the case in which only a portion of a property is subject to the historical property agreement—that is, the case in which a single property unit contains both restricted and unrestricted portions.

Change in Ownership

When a property subject to a historical property contract undergoes a change in ownership, a new base year value should be established for the property as of the date of change in ownership, as provided in section 110.1. Typically, a restricted historical property's base year value will be greater than its restricted value determined under section 439.2 and hence will not be enrolled as the property's taxable value. However, the establishment of a new base year value enables the assessor to perform the three-way value comparison prescribed by section 439.2(d) and described above. The establishment of a base year value is also necessary in order to calculate the assessed values of historical property should the historical property agreement enter nonrenewal status.

New Construction

Section IV of National Register Bulletin #15 defines a "building" as follows:

> A building, such as a house, barn, church, hotel, or similar construction, is created principally to shelter any form of human activity. "Building" may also be used to refer to a historically and functionally related unit, such as a courthouse and jail or a house and barn.

Section IV further specifies that "[b]uildings eligible for the National Register must include all of their basic structural elements. Parts of buildings, such as interiors, facades, or wings, are not eligible independent of the rest of the existing building. The whole building must be considered,

---

[2] Sections 110.1(d) and 405.5 do not apply to historical properties under contract as of lien date 1975 because the constitutional amendment which placed the valuation of historical property under article XIII rather than article XIII A had not yet been passed and, thus, was not in effect for the 1975 lien date.

and its significant features must be identified." Thus, eligibility for the National Register is determined by the extent to which the basic structural elements of an existing building are intact. In general, a newly constructed building would not be eligible because it is not an existing building with basic structural elements.[3]

Also, a newly constructed building is not a historic resource, and, thus, is not a qualified historical property within the meaning of Government Code section 50280.1. For example, a newly constructed detached garage (assuming it is not a reconstruction of a historical garage) clearly would not be eligible because it has no significance in American history or architecture, nor does it meet any of the other requisite criteria.

Bulletin 15, however, does list one type of newly constructed property that may be eligible for inclusion under the Mills Act. A reconstructed historic building is eligible for the National Register if the reconstruction is "accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan, and when no other building or structure with the same association has survived."

The historical property contract typically specifies the scope and type of any work to be performed on the historical improvements. Improvements existing as of the date of the contract would be subject to the provisions of section 439.2 unless specifically excluded by the contract. Any new construction made to the historical structure after the issuing date of the contract would not be subject to the provisions of section 439.2 unless specifically included in the contract or an amendment to the contract. Any questions regarding new construction to enforceably restricted historical structures should be directed to the counsel of the legislative body of the city, county, or city and county that contracted with the property owner.

Assuming that the newly constructed property is subject to the historical property contract, a base year value should be established for the newly constructed portion and this value added to the factored base year value of the existing restricted property.

In some cases, an existing historical property may include a portion that is restricted (i.e., subject to a historical property contract) and a portion that is unrestricted. In this case, separate factored base year values should be maintained for the restricted and unrestricted portions and the base year value of any newly constructed property added to the appropriate portion. The assessment treatment of this type of property is discussed further below.

Supplemental Assessment

Although the assessor is required to establish a new base year value upon a change in ownership or completed new construction involving restricted historical property, such property is not subject to supplemental assessment. As provided in Revenue and Taxation Code section 75.14:

> **Supplemental assessment; limitation**. A supplemental assessment pursuant to this chapter shall not be made for any property not subject to the assessment

[3] National Register Bulletin 15, "How to Apply the National Register Criteria for Evaluation," U.S. Department of the Interior, National Park Service (www.cr.nps.gov/nr/publications/).

> limitations of Article XIII A of the California Constitution. All property subject to the assessment limitations of Article XIII A of the California Constitution shall be subject to the provisions of this chapter, except as otherwise provided in this article.

As discussed above, the assessment of enforceably restricted historical property is subject to the provisions of article XIII, section 8 of the California Constitution, not article XIII A. Thus, section 75.14 precludes the assessor from enrolling supplemental assessments for enforceably restricted historical property.

Historical property not yet under contract that undergoes a change in ownership or new construction is subject to supplemental assessment, even if the property owner later executes a historical property contract in the same fiscal year. Also, any new construction involving a historical property that does not come under the existing historical property contract (e.g., a detached garage added to a restricted historical property) would be subject to supplemental assessment.

When a Property Contains Both Restricted and Unrestricted Portions

When only a portion of a property that would normally be considered a single appraisal unit is restricted by a historical property contract, the assessed value should be determined by making a comparison of three values, determined as follows. First, the portion under contract should be valued using the capitalization method prescribed by section 439.2. Added to this figure should be the lower of the unrestricted portion's fair market value or factored base year value. The resulting sum should be compared to both the fair market value and the factored base year value of the entire property (i.e., both restricted and unrestricted portions) and the lowest of the three figures should be enrolled.

Valuing Property Under Notice of Nonrenewal

As provided in Government Code section 50282, either the owner of a restricted historical property or the local government entity may serve notice that it does not intend to renew the historical property contract. If such notice is not given, another year is automatically added to the term of the initial contract, thus creating a "rolling" contract term that is always equal to the initial contract term.

Section 439.3 prescribes the valuation method for a restricted historical property in nonrenewal status; this valuation method applies until the end of the restricted period (i.e., until the existing contract expires). In essence, the method results in a restricted value that gradually approaches the historical property's factored base year value as the remaining term under the contract decreases. For a property in nonrenewal status, the assessor must annually value the property as follows:

1. Determine the full cash value (i.e., factored base year value) of the property in accordance with section 110.1. (Alternatively, if the property will not be subject to section 110.1 when the historical property agreement expires, determine its fair market value in accordance with

section 110, as if the property were free of the agreement's restrictions; or, if the property will be subject to another type of restricted value standard when the historical property agreement expires, determine the property's value as if it were subject to the new restrictions.)

2. Determine the restricted value of the property by the capitalization of income method provided in section 439.2.
3. Subtract the restricted value determined in Step 2 from the factored base year (or other) value determined in Step 1.
4. Using the amount for the interest rate component (section 439.2(b)(1)) announced by the Board, discount the amount obtained in Step 3 for the number of years remaining until the termination of the contract.
5. Determine the restricted value of the property in nonrenewal status by adding the value determined in Step 2 to the amount obtained in Step 4.

The historical property's restricted value in nonrenewal status—that is, the value determined above, in accordance with section 439.3—should be compared with the historical property's factor base year and current market values, and the lowest of these three values should be enrolled as the property's taxable value.

Cancellation of Contract

The government entity party to a historical property contract may cancel the contract, after notice and a public hearing, if it determines that either the owner has breached the agreement or the property has deteriorated to the extent that it no longer meets the standards of a historical property. If the contract is cancelled, the property owner must pay a cancellation fee equal to 12½ percent of the property's current fair market value as though free of the contractual restriction, such value to be determined by the county assessor. After a contract is cancelled, the lower of the property's factored base year value or current market value should be enrolled for the ensuing lien date.

SUMMARY

The key points contained in these guidelines can be summarized as follows:

1. An owner of qualified historical property may enter into a preservation contract with local government. When property is placed under such a contract, the owner agrees to restore the property if necessary, maintain its historic character, and use it in a manner compatible with its historic characteristics. Such property receives the special valuation treatment prescribed under Revenue and Taxation Code sections 439 through 439.4.
2. Enforceably restricted historical property is to be annually valued by the income capitalization method prescribed in section 439.2, which contains specific instructions with

regard to the income to be capitalized, the capitalization rate, and the capitalization technique to be used. The restricted value must be compared to the property's current market value and factored base year value, with the lowest of these three values enrolled as the property's taxable value.

3. When assessing restricted historical property, the appraiser should consider how three important elements of article XIII A—change in ownership, new construction, and supplemental assessment—relate to the assessment. The appraiser should consider how a property should be assessed when only a portion of it is subject to a historical property agreement.

4. Restricted historical property under a notice of nonrenewal should be valued in accordance with section 439.3.

5. The government entity party to a historical property contract may cancel the contract. The cancellation fee is 12½ percent of the property's current fair market value as though free of the contractual restriction, with such value to be determined by the local assessor.

Additional information about Mills Act contracts may be obtained from the state Office of Historic Preservation, either by telephone at 916-653-6624, or from their website (www.ohp.parks.ca.gov).

(Note: Please see the assessment examples following.)

EXAMPLE 1 (OWNER-OCCUPIED SINGLE-FAMILY RESIDENCE)

Subject Restricted Historical Property
Restored, 105-year-old, Victorian single-family residence. Excellent condition. Under Mills Act contract since 1985 and not in nonrenewal status. Owner-occupied.

Determination of Restricted Value (current lien date)

Gross income (Fair rent)		
$1,500 per month x 12 months =		$18,000
Less: Anticipated vacancy and collection loss		
$18,000 x 5%		- 900
Effective gross income		$17,100
Less: Anticipated operating expenses		
Grounds maintenance	$600	
Fire insurance	400	
Management Fee	360	
Water and garbage	240	
Building maintenance	+ 500	- 2,100
Net Operating Income		$15,000
Restricted Capitalization Rate		
Rate Components:		
Interest rate	.080	
Risk (owner-occupied SFR)	.040	
Property tax (ad valorem)	.015	
Amortization (50-year remaining life; improvements constitute 70% of total property market value; 0.02 x 0.70 – 0.014)	+ .014	.149
Restricted Value		
$15,000 ÷ .149		= $100,671

Taxable Value—Three-Way Value Comparison

Restricted value	$100,671
Factored base year value (based on prior change in ownership)	$357,000
Current market value (based on comparable sales)	$450,000

The lowest of the three possible values is the restricted value. Thus, the net taxable value would be $93,671 ($100,671 restricted value less the homeowners' exemption of $7,000).

Note 1: If this property had been a non-owner-occupied SFR, the only difference in the determination of the restricted value would have been the use of a risk rate component of 2% rather than 4% in the capitalization rate.

Note 2: In this and the following examples, the gross income, or fair rent, is presented on a gross rent basis, that is, under the assumption that the landlord-owner pays all operating expenses out of the gross income.

EXAMPLE 2 (OFFICE USE)

Subject Restricted Historical Property
Multi-tenant, restored historical office building in a downtown commercial district. Under Mills Act contract since 1985 and not in nonrenewal status.

Determination of Restricted Value (current lien date)

Gross Income (Fair rent):			
Offices	140,000 sf @ $1.75/sf = $245,000		
	x 12 months		= $2,940,000
Less: Anticipated vacancy and collection loss			
$2,940,000 x 5%			- 147,000
Effective gross income			$2,793,000
Less: Anticipated operating expenses			
Management	$290,000		
Maintenance	95,000		
Insurance	75,000		
Utilities	360,000		
Janitorial	+ 140,000		- 960,000
Net Operating Income			$1,833,000
Restricted Capitalization Rate			
Rate Components:			
Interest component		.08	
Risk		.02	
Property tax (ad valorem)		.011	
Amortization (50-year remaining life; improvements constitute 75% of total property market value 0.02 x 0.75 = 0.015)		+ .015	.126
Restricted Value ($1,833,000 ÷ .126)			= $14,547,619

Taxable Value—Three-Way Value Comparison

Restricted value	$14,547,619
Factored base year value (based on prior change in ownership)	$18,191,077
Current market value (based on comparable sales)	$21,000,000

The lowest of the three possible values is the restricted value. Thus, the taxable value would be $14,547,619

EXAMPLE 3 (MIXED USE—RESIDENTIAL AND OFFICE)

Subject Restricted Historical Property

Two-story, restored historical property in a downtown district. Upper level is residential unit occupied by owner. Lower level contains three office spaces subject to short-term rental agreements. The income stream for the upstairs unit must be calculated separately from the downstairs unit because the risk rate is different for the owner-occupied unit.

Determination of Restricted Value

Separate restricted values for the upper-level residence and the lower-level office space must be determined, because the risk components are different for the two types of use. The total restricted value is sum of these two values.

Upper-Level Unit

Gross income (Fair rent) based upon comparable rent data		
$975 per month x 12 months =		$11,700
Less: Anticipated vacancy and collection loss		
$11,700 x 5%		- 585
Effective gross income		$11,115
Less: Anticipated operating expenses		
Grounds maintenance	$300	
Fire insurance	200	
Management Fee	180	
Water and garbage	120	
Building maintenance	+ 250	- 1,050
Upper-Level Net Operating Income		$10,065
Restricted Capitalization Rate (owner-occupied SFR)		
Rate components:		
Interest rate	.080	
Risk	.040	
Property tax	.010	
Amortization (50-year remaining life; improvements constitute 70% of total property market value; 0.02 x 0.70 = 0.014)	+ .014	.144
Upper-level Restricted Value ($10,065 ÷ .144)		= $69,895

Lower-Level Offices

Gross income (Fair rent)	
1000 sf @ $1.60/sf = $1,600 x 12 months	$19,200
Less: Anticipated vacancy and collection loss	
$19,200 x 5%	- 960
Effective gross income	$18,240

Less: Anticipated operating expenses		
Grounds maintenance	$300	
Fire insurance	200	
Management Fee	180	
Water and garbage	120	
Building maintenance	+ 250	- 1,050
Lower-Level Net Operating Income		$17,190
Restricted Capitalization Rate		
Rate components:		
Interest component	.080	
Risk	.020	
Property tax	.010	
Amortization (50-year remaining life; improvements constitute 70% of total property market value; 0.02 x 0.70 = 0.014)	+ .014	.124
Lower Level Restricted Value ($17,190 ÷ .124)		$138,629
Add: Upper Level Restricted Value		+ $69,895
Total Restricted Value		$208,524

Taxable Value—Three-Way Value Comparison

Restricted Value	$208,524
Factored base year value (based upon prior change in ownership)	$364,140
Current market value (based upon comparable sales data)	$400,000

The lowest of the three possible values is the restricted value. Thus, the net taxable value would be $201,524 ($208,524 less the homeowners' exemption of $7,000).

EXAMPLE 4 (MIXED VALUATION—PART RESTRICTED AND PART UNRESTRICTED)

Description of Subject Property (Comprises Both Restricted and Unrestricted Portions)

The subject property is a 10-acre parcel with a farmhouse and barn situated on 2 acres; the remaining 8 acres are farmland. The farmhouse and barn are used as an owner-occupied single-family residence; this portion of the property is restricted under a Mills Act contract. The remaining 8 acres of farmland are unrestricted.

Value of Restricted Portion (current lien date)

Gross income (Fair rent) for farmhouse and barn		
$2,000 per month x 12 months =		$24,000
Less: Anticipated vacancy and collection loss		
$24,000 x 5%		- 1,200
Effective gross income		$22,800
Less: Anticipated operating expenses		
Grounds maintenance	$600	
Fire insurance	400	
Management Fee	360	
Water and garbage	240	
Building maintenance	+ 500	- 2,100
Net Operating Income		= $20,700

Restricted Capitalization Rate		
Rate components:		
Interest component	.080	
Risk (owner-occupied)	.040	
Property tax (ad valorem)	.010	
Amortization (50-year remaining life; improvements constitute 70% of total property market value 0.02 x 0.70 = 0.014)	+ .014	.144
Restricted Value ($20,700 ÷ .144)		= $143,750

Taxable Value—Three-Way Comparison

Total Property Restricted Value (sum of restricted value above and lower of FBYV or current market value of unrestricted portion)

Restricted Value (portion under contract)	$143,750
FBYV (unrestricted portion)	+ $102,000
Restricted Value (total property)	$245,750

Factored base year values (based upon a prior change in ownership of the entire property, allocated between restricted and unrestricted portions):

Farmhouse, barn, and 2 acres (restricted portion)	$204,000
8 acres (unrestricted portion)	+ $102,000
Total FBYV (total property)	$306,000

Current market values (based upon comparable sales data):

Farmhouse, barn, and 2 acres (restricted portion)	$230,000
8 acres (unrestricted portion)	+ $120,000
Total Current Market Value (total property)	$350,000

The lowest of the three values is the Restricted Value (total property), $245,750. Thus, the net taxable value would be $238,750 ($245,750 less $7,000 homeowners' exemption).

EXAMPLE 5 (PROPERTY IN NONRENEWAL STATUS)

Description of Subject Restricted Historical Property

The same property as in Example 2, except the property owner has served notice of renewal. The Mills Act contract covering the property was originally executed in September 1995, and the owner served notice of nonrenewal in June 2004. Value the property for the 2005 lien date, reflecting its nonrenewal status. Assume that the property's restricted, current market, and factored base year values from Example 2, provided below, also refer to January 1, 2005.

Restricted value	$14,547,619
Current market value	$21,000,000
Factored base year value	$18,191,077

Restricted Value in Nonrenewal Status

Value as if unrestricted (factored base year value)	$18,191,077
Restricted value	- 14,547,619
Difference	$ 3,643,458
Present worth of difference	
PW1 @ 6.00 %, 9 years (interest component for lien date 2005)	x .591898
	= $ 2,156,555
Plus restricted value	+ $14,547,619
Restricted value in nonrenewal status—lien date January 1, 2005	$16,704,174

Taxable Value

Since the restricted value in nonrenewal status, $16,704,174, is less than either the property's current market value or its factored base year value, this is the taxable value.

CITY OF CARMEL-BY-THE-SEA
CITY COUNCIL
Staff Report

March 5, 2024
PUBLIC HEARINGS

TO:	Honorable Mayor and City Council Members
SUBMITTED BY:	Marnie R. Waffle, AICP, Principal Planner
APPROVED BY:	Chip Rerig, City Administrator
SUBJECT:	**MA 23-116 (Esperanza Carmel, LLC)**: Consideration of a Mills Act Contract application MA 23-116 (Esperanza Carmel LLC) for the historic "Mrs. Clinton Walker House" located at 26336 Scenic Road in the Single-Family Residential (R-1) District. APN 009-423-001-000

RECOMMENDATION:

Accept the recommendation of the Historic Resources Board and approve the Mills Act Historical Property Contract MA 23-116 (Esperanza Carmel, LLC) for the historic "Mrs. Clinton Walker House” located at 26336 Scenic Road (APN 009-423-001-000) and authorize the City Administrator to execute the contract (**Attachment 1**).

BACKGROUND/SUMMARY:

The property is at 26336 Scenic Road in the Single-Family Residential (R-1) District (**Attachment 1, Exhibit A**). The existing residence is known as the “Mrs. Clinton Walker House” and is also referred to as “Cabin on the Rocks.” The low, one-story, concrete, and Carmel stone building is situated on a granite outcropping projecting into Carmel Bay. The residence was designed by world-renowned architect Frank Lloyd Wright in 1948 and was constructed by Miles Bain and Walter Olds in 1951-1952 for the original owner, Mrs. Della Clinton Walker.

A Department of Parks and Recreation (DPR) Form 523 was completed for the “Mrs. Clinton Walker House” in 2001 by Richard N. Janick (**Attachment 1, Exhibit B**), and the property was added to the Carmel Historic Inventory on May 25, 2005. A Resolution Designating a Historic Resource for APN 009-423-001-000 was recorded with the Monterey County Recorder on January 4, 2007 (Document #2007001115).

In order to qualify for a Mills Act contract, a property must first be included on the Carmel Historic Inventory and then added to the Carmel Register of Historic Resources. As noted above, the property was added to the Carmel Inventory in 2005. The property was also listed on the National Register (reference #16000634) and the California Register on September 19, 2016. CMC Section 17.32.090.A.1 states, *“Resources identified as significant at a State or national level in the inventory shall be automatically listed in the register.”* The resource was automatically added to the Carmel Register on September 19, 2016.

On May 28, 2019, then-property owner Charles Henderson, et. al. submitted an application for a Mills Act Historical Property Contract. The Historic Resources Board recommended approval of the contract on June 17, 2019, and on December 8, 2020, the City Council voted to enter into a Mills Act Historical Property Contract with the property owner. However, before the contract was signed and recorded with the County of Monterey, the property owner withdrew the application.

The property was sold to Esperanza Carmel, LLC, on February 17, 2023. On April 20, 2023, Christopher Mitchell, Managing Director of Esperanza Carmel, LLC, submitted a Mills Act application (MA 23-116) on behalf of the current property owner. On August 21, 2023, the Historic Resources Board adopted Resolution 2023-011-HRB (**Attachment 2**), recommending that the City Council enter into a Mills Act Contract with Esperanza Carmel, LLC for the historic "Mrs. Clinton Walker House."

On October 3, 2023, the City Council considered the Mills Act contract application and continued the item with direction to the applicant to provide additional information on the estimated property tax reduction. A Monterey County Assessor's office staff member attended the meeting virtually to answer the Council's questions regarding Mills Act property values but could not provide a preliminary calculation of the tax reduction.

On December 5, 2023, the City Council again discussed the Mills Act contract application and whether the contract represents an equitable balance of public and private interests. For example, the prior ownership volunteered to make the home available for public tours 1-2 times per year, and under the new ownership, a public tour was not offered in 2023.

Another example was the impact a reduction in property taxes would have on local school revenue and whether this constituted a "substantial adverse financial impact on the City" since children in Carmel attend these schools. The Council considered whether direct payments from the property owner to the school district to offset the lost revenue was a viable option.

Finally, the Council discussed the potential tax savings to the property owner being higher than the amount estimated to be spent under the rehabilitation/restoration and maintenance plan.

Staff met with the applicant following the December City Council meeting and discussed the topic of required public tours, equalizing the cost of maintenance with the total tax reduction, and direct payments to the school district. The applicant stated that they are not interested in formalizing either of these requirements in a contract at this time. The applicant also expressed concerns about additional requirements being asked of them that have not been equally applied to other Mills Act contract applicants.

The Council discussed the estimated property taxes being $220,000 per year based on the property's $22 million sales value in February 2023. Staff notes that the property tax increased from $7,544 in 2021/2022 to $73,446 in 2023/2024 and has not yet been adjusted based on the recent sale of the property.

The Council assumed a 70% reduction in property taxes under the Mills Act contract, which would result in a savings of $154,000 annually to the property owner, or $1.54 million over ten years. The rehabilitation/restoration and maintenance plan includes an estimated $1.34 million in rehabilitation/restoration and maintenance work over a 10-year period between 2024 and 2034. The applicant notes that this does not include any costs associated with sea wall repairs to protect access to the residence from potential bluff failure.

According to the Office of Historic Preservation, applicants may realize substantial property tax savings between 40% and 60% of recently purchased properties. If the City assumed a 50% reduction in property taxes, the estimated 10-year savings would be $1.1 million.

Staff notes the prior Mills Act contract applications were not evaluated based on a 1-1 ratio of tax savings to rehabilitation/restoration and maintenance but rather based on whether the proposed 10-year plan included maintenance and rehabilitation more significant than just routine maintenance that would be expected for any property.

Contract Value

The Monterey County Assessor's Office is responsible for determining the value of a property with a Mills Act contract in accordance with Revenue and Taxation Code sections 439 through 439.4. Properties with a Mills Act contract are not valued based on sales data but by a prescribed income capitalization method (**Attachment 3**). After the local jurisdiction approves a contract, it is forwarded to the Monterey County Assessor, who determines the Mills Act value.

Contract Summary

A Mills Act contract under State law is an agreement between the City of Carmel and a property owner of a historic building listed on the Carmel Register. In exchange for reduced property taxes, the property owner is contractually obligated to perform restoration, rehabilitation, and necessary maintenance to preserve and protect the historic resource in accordance with an approved rehabilitation/restoration and maintenance plan prepared or reviewed by a qualified professional. The property owner benefits from a reduction in property taxes. The City and the public benefit from assurance, via contractual obligation, that the historic building is preserved with a portion of the property taxes that the city is giving up.

The primary purpose for offering Mills Act contracts to owners of historic properties in the City of Carmel-by-the-Sea is to incentivize the rehabilitation/restoration and long-term maintenance of historic resources. Historically designated properties may qualify for a Mills Act Contract if, the original historic size of the building has not been expanded by more than 15 percent, among other requirements. For example, the Duckworth Cottage, The Doll House (aka Hansel and Gretel), and the Alfonso Ramirez Cabin (refer to **Attachment 4**) would not qualify for a Mills Act contract because all have additions that exceed 15 percent of the historic building size.

All Mills Act contracts have a minimum term of 10 years, and one year is added to this term annually upon each anniversary date of the contract unless one or both parties (City and/or property owner) have taken action to terminate the contract. The City Administrator is authorized to initiate contract termination on behalf of the City based on recommendations of the Community Planning & Building Department.

The contract rights and obligations are binding upon all successive property owners during the life of the contract. This means the property retains the Mills Act Contract tax rate when sold.

To end a contract, either party may submit a notice of non-renewal to the other party. Such notices shall cause the contract to terminate at the end of the then-current 10-year contract period. Cancellation of a contract by the City due to non-compliance requires a public hearing and, if canceled, results in the immediate termination of the contract and a penalty equal to 12.5 percent of the assessed market value of the property.

The contract requires that the historical elements of the property are maintained in good condition. This includes a plan for rehabilitation/restoration and maintenance. All recipients of Mills Act contracts are required to implement a rehabilitation/restoration and maintenance plan prepared or reviewed by a qualified professional.

An annual report is submitted to the Community Planning & Building Department, itemizing all work that has been done to maintain and preserve the historic resource over the year in compliance with the approved rehabilitation/restoration and maintenance plan. All rehabilitation/restoration and maintenance work must be completed in conformance with the Secretary of Interior's Standards for Rehabilitation, and all proposed projects are subject to a Design Study review prior to commencement of the work. Minor alterations, as defined in CMC section 17.32.150, may be approved by staff; however, major alterations, as defined in CMC section 17.32.160 would be reviewed by a qualified professional and approved by the Historic Resources Board.

The Historic Resources Board also evaluates all applications for a Mills Act contract and recommends that the City Council approve, approve with conditions, or deny the application.

The City Council considers the recommendations from the Historic Resources Board at a public hearing and approves, approves with conditions, or denies the contract. All applications for a Mills Act contract must be submitted no later than June 30th each year to ensure sufficient time to review contracts before December 31st.

STAFF ANALYSIS

Findings

Carmel Municipal Code Section 17.32.100.B.6(c) sets forth five findings that the Historic Resources Board and City Council shall make in order to grant approval of a Mills Act Contract. The required findings are listed below, followed by a staff response on how the application meets the requirements.

1. *The building is designated as a historic resource by the City and is listed on the Carmel Register.*

<u>Staff Response</u>: A DPR 523 form was prepared by Richard N. Janick in 2001 (**Attachment 1, Exhibit B**), evaluating the property for historical significance and finding the property meets the criteria for listing as a local historic resource. The City added the property to the Carmel Inventory on May 25, 2005. A Resolution Designating a Historic Resource for APN 009-423-001-000 was recorded with the Monterey County Recorder on January 4, 2007 (Document #2007001115). The property was also listed on the National Register (reference #16000634) and the California Register on September 19, 2016. CMC Section 17.32.090.A.1 states, *"Resources identified as significant at a State or national level in the inventory shall be automatically listed in the register."* The resource was, therefore, automatically added to the Carmel Register. The application meets finding no. 1.

2. *The proposed rehabilitation/restoration and maintenance plan is appropriate in scope and sufficient in detail to guide long-term rehabilitation/restoration and maintenance. Required maintenance and rehabilitation should be more significant than just routine maintenance that would be expected for any property.*

<u>Staff Response</u>: The applicant submitted a rehabilitation/restoration and maintenance plan (**Attachment 1, Exhibit C**). The plan covers a period of 10 years from 2024-2033 and estimates $1,343,654 in work projects. The plan was prepared by Christopher Barlow, Architect (and qualified professional), on behalf of the applicant. The plan includes routine maintenance (such as exterior painting) as well as more substantial repairs, including replacing the roof, electrical and plumbing upgrades, window rehabilitation and replacement (if deteriorated beyond repair), and replacing the interior boiler. All rehabilitation/restoration and maintenance work will be performed in conformance with the Secretary of Interior's Standards. All exterior work is subject to Design Study approval and a determination of consistency with the Secretary of the Interior's Standards. The application meets finding no. 2.

3. *Alterations to the historic resource have been in the past and will continue to be in the future, limited to interior work and to exterior rehabilitation and alterations that:*

   (A) Comply with the Secretary's Standards (future additions only); and
   (B) Do not significantly alter, damage, or diminish any primary elevation or character-defining feature; and
   (C) Do not increase the floor area on the property by more than 15 percent beyond the amount established in the documented original or historic design of the resource; and
   (D) Do not result in any second-story addition to a single-story historic resource.

Staff Response: Past exterior rehabilitation has not significantly altered, damaged, or diminished any primary elevation or character-defining feature or resulted in a second-story addition. An addition constructed in 1960-1961 by Sandy Walker, AIA, was based on a design by Frank Lloyd Wright and is considered part of the historic fabric of the resource. As noted above, planned rehabilitation/restoration and maintenance work will be performed in conformance with the Secretary of Interior's Standards. Any future alterations are required to be consistent with conditions A-D above. Minor alterations, as defined in CMC section 17.32.150, may be approved by staff; however, major alterations, as defined in CMC section 17.32.160, would be evaluated by a qualified professional and reviewed by the Historic Resources Board. The application meets finding no. 3.

4. *The Mills Act contract will aid in offsetting the costs of rehabilitating and maintaining the historic resource.*

Staff Response: Approval of the Mills Act contract would aid in offsetting the rehabilitation and maintenance costs of preserving the "Mrs. Clinton Walker House" by reducing the tax liability on the property, thereby freeing up funds for rehabilitation. Within the first few years of the contract, the applicant proposes to complete electrical and plumbing upgrades, boiler replacement, window repair (where possible) and in-kind replacement (where deteriorated beyond repair), and façade brickwork maintenance. The application meets finding no. 4.

5. *Approval of the Mills Act contract will represent an equitable balance of public and private interests and will not result in substantial adverse financial impact on the City.*

Staff Response: Approval of the Mills Act Contract is consistent with Goal 1-5 and Objective 1-16 of the Land Use & Community Character Element of the General Plan which encourages providing incentives for property owners to preserve and rehabilitate historic resources. Although approving a Mills Act Contract will decrease property tax revenue to the City, the contract represents an equitable balance of public and private interests:

1) The City Council adopted Resolution 2016-068 on September 13, 2016, limiting the number of Mills Act contracts that can be approved to fifteen (15) in any three-year calendar period. During the three-year period of 2021-2023, six applications were approved. An additional three applications remain under review. No new applications are being accepted at this time.

2) Carmel currently has approximately 292 historic resources. Since adopting the Mills Act program in 2004, the City has entered into a total of fifteen Mills Act Contracts. Three Contracts have completed their ten-year maintenance plans and will be issued nonrenewal notices. A fourth contract will complete their ten-year plan at the end of 2024.

3) The City will continue to receive a portion of the property tax revenue (which has increased following

the February 2023 sale of the property from approximately $7,500/year to $73,500/year). As of the writing of this report, the sale value of the property is not reflected in the most current tax bill.

4) The investment in rehabilitation/restoration and maintenance of the historic Cabin on the Rocks, a home designed by world-renowned architect Frank Lloyd Wright, supports local tourism, which benefits private and public interests.

5) The value of preserving a historic resource is a long-term investment that offsets a temporary loss in property tax revenue.

FISCAL IMPACT:

The City's property tax revenue from 26336 Scenic Road will be reduced for the contract term. The amount is unknown at this time. According to the Office of Historic Preservation, Technical Assistance Bulletin #12, Mills Act Property Tax Abatement Program (**Attachment 5**), the Program is especially beneficial for recent buyers of historic properties. Participants may realize property tax savings between 40 percent and 60 percent each year. Because rental values vary from area to area, property savings will vary from county to county. It is important to note that County Assessors are required to assess all Mills Act contract properties annually. Participants may see a fluctuation in property taxes each year.

PRIOR CITY COUNCIL ACTION:

On December 8, 2020, the City Council voted to enter into a Mills Act Historical Property Contract with the then-property owner. However, before the contract was signed and recorded with the County of Monterey, the property owner withdrew the application.

On March 3, 2020, the City Council adopted standard contract language for Mills Act Contracts.

On April 4, 2023, the City Council reviewed the City's Mills Act Policy and opted not to make any changes.

On December 5, 2023, the City Council adopted Urgency Ordinance 2023-008, stating that the City will not accept or process any applications for Mills Act Contracts except those already in review until the Urgency Ordinance is rescinded.

ATTACHMENTS:

Attachment 1) Mills Act Contract
Attachment 2) Resolution 2023-011-HRB
Attachment 3) Guidelines for the Assessment of Enforceably Restricted Historical Property
Attachment 4) DPR 523A Forms for Duckworth Cottage, Hansel & Gretel, Alfonso Ramirez Cabin
Attachment 5) Technical Assistance Bulletin #12, Mills Act

RECORDING REQUESTED BY CITY OF CARMEL-BY-THE-SEA AND WHEN RECORDED MAIL TO Carmel City Hall Attn: Community Planning & Building P.O. Box CC Carmel-By-The-Sea, CA 93921	This space is reserved for the Recorder's use only

CITY OF CARMEL-BY-THE-SEA
MILLS ACT HISTORIC PROPERTY PRESERVATION CONTRACT

THIS AGREEMENT is made and entered by and between the CITY OF CARMEL-BY-THE-SEA a municipal corporation (hereinafter referred to as "City"), and ESPERANZA CARMEL, LLC (hereinafter referred to as "Owner") on February 6, 2024.

RECITALS

(i) California Government Code Section 50280, et seq. (known as the Mills Act) authorizes cities to enter into contracts with the owners of qualified historic properties to provide for their appropriate use, maintenance, and restoration such that these historic properties retain their historic characteristics;

(ii) The Owner possesses fee title in and to that certain real property, together with associated structures and improvements thereon, located at 26336 Scenic Road (APN: 009-423-001), Carmel-By-The-Sea, California, (hereinafter referred to as the "Historic Property"). A legal description of the Historic Property is attached hereto, marked as **"Exhibit A"** and is incorporated herein by reference;

(iii) The property is identified as a historic resource on the City of Carmel-by-the-Sea Historic Inventory and Register of Historic Resources and is further described in the DPR 523A Form attached hereto, marked as **"Exhibit B"** and is incorporated herein by reference;

(iv) City and Owner, for their mutual benefit, now desire to enter into this Agreement both to protect and preserve the characteristics of historical significance of the Historic Property, as it exists at the date of this contract and as described in the City's Register of Historic Resources and the National Register of Historic Places, and to qualify the Historic Property for an assessment of valuation pursuant to the provisions of Article 1.9 (commencing with Section 439) of Chapter 3 of Part 2 of Division 1 of the California Revenue and Taxation Code.

NOW, THEREFORE, City and Owner, in consideration of the mutual covenants and conditions contained herein, do hereby agree as follows:

1. INCORPORATION OF RECITALS. All recitals are incorporated into this Agreement.

2. EFFECTIVE DATE AND TERM. This Agreement shall be effective and commence on the date the Agreement is signed by the City, unless otherwise indicated by the County of Monterey, and shall remain in effect for a minimum term of ten (10) years thereafter.

3. AUTOMATIC RENEWAL. Each year, upon the anniversary of the effective date of this Agreement (hereinafter referred to as "annual renewal date"), one (1) year shall be added automatically to the term of this Agreement, unless timely notice of nonrenewal is given as provided in paragraph 4 of this Agreement. The total length of the contract shall not exceed twenty (20) years.

4. NOTICE OF NONRENEWAL. If City or Owner desires in any year not to renew this Agreement, that party shall serve written notice of nonrenewal in advance of the annual renewal date of this Agreement as follows: Owner must serve written notice of nonrenewal at least ninety (90) days prior to the annual renewal date; City must serve written notice of the nonrenewal at least sixty (60) days prior to the annual renewal date. If notice is not received, the Agreement shall automatically be renewed for another year. Upon receipt by Owner of a notice of nonrenewal from the City, Owner may make a written protest. At any time prior to the annual renewal date, City may withdraw its notice of nonrenewal.

5. EFFECT OF NOTICE OF NONRENEWAL. If either City or Owner serves timely notice of nonrenewal in any year, and this contract is not renewed, this Agreement shall remain in effect for the balance of the period remaining since the original execution or the last annual renewal date.

6. FEES. The City may require that the Owner(s) of the Historic Property pay a fee that shall not exceed the reasonable cost of providing services, such as inspections, pursuant to Government Code Section 50281.1 (Article 12 of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code), for which the fee is charged.

7. VALUATION OF PROPERTY. During the term of this Agreement, Owner is entitled to seek assessment of valuation of the Historic Property pursuant to the provisions of Chapter 3 of Part 2 of Division 1 of the California Revenue and Taxation Code.

8. PRESERVATION OF PROPERTY. Owner shall preserve and maintain the characteristics of historical significance of the Historic Property and agrees to complete rehabilitation and/or maintenance activities as defined in the Rehabilitation/Restoration and Maintenance Plan attached as **"Exhibit C"**. Requests for revisions to the Maintenance and

Rehabilitation plan shall be reviewed by the Historic Resources Board prior to implementation. In addition, Owner shall comply with the terms of the City's Historic Preservation Ordinance (CMC 17.32). Owners shall not be permitted to further impede any view corridor with any new structure, including but not limited to walls, fences, or shrubbery, so as to prevent the viewing of the Historic Property from the public right-of-way.

9. RESTORATION OF PROPERTY. Owner shall, where necessary, restore and rehabilitate the Historic Property to conform to the rules and regulations of the Office of Historic Preservation of the State Department of Parks and Recreation, U. S. Secretary of the Interior's Standards for Rehabilitation, the State Historical Building Code, and the City of Carmel-by-the-Sea, all as amended.

10. INSPECTIONS. Owner shall allow periodic examinations, at least every five (5) years, with reasonable notice thereof, of the interior and exterior of the Historic Property by representatives of the County of Monterey Assessor and the City of Carmel-By-The-Sea as may be necessary to determine Owner's compliance with the terms and provisions of this Agreement. The City will coordinate inspections by such other agencies that have jurisdiction and will keep them to the minimum necessary to determinate such compliance.

11. PROVISION OF INFORMATION. Owner shall furnish City with any and all information required by City, in order to determine the eligibility of the Historic Property, and that City deems necessary or advisable to determine compliance with the terms and provisions of this Agreement.

12. ANNUAL REPORT. Owner shall submit an annual report at least 90 days prior to each annual renewal date (October 1st) to the Department of Planning and Building specifying all work that has been done to maintain and preserve the historic resource over the preceding year in compliance with the approved maintenance plan.

13. CANCELLATION. The City has the right to cancel the contract if the owner allows the property to deteriorate to the point that it no longer meets the standards for a qualified historical property. The City also has the right to cancel this contract if the owner(s) breaches the provisions of paragraph's # 8, 9, 10 or 12 of this Agreement after the City has provided reasonable notice of any failure to comply with the agreement, and a public hearing. Notice of the hearing shall be mailed to the last known address of each owner of the property, with the notice conforming to the provisions of Government Code section 6061., If after notice and a hearing, the contract is cancelled, termination of the Agreement is immediate, and the owner shall pay a cancellation fee equal to 12.5 percent of the current fair market value of the property, as determined by the Monterey County Assessor as though the property were free of the contractual restriction. The cancellation fee shall be paid to the Assessor, at the time and in the manner that the Assessor shall prescribe. City's right to cancel this Agreement pursuant to this paragraph

shall in no way limit or restrict its rights or legal remedies arising from City's Historic Preservation Ordinance and Municipal Code.

14. ENFORCEMENT OF AGREEMENT. In lieu of and/or in addition to any provisions to cancel this Agreement as referenced herein, City may specifically enforce, or enjoin the breach of, the terms of this Agreement.

15. WAIVER. City does not waive any claim or default by Owner if City does not enforce or cancel this Agreement. All remedies at law or in equity, which are not otherwise provided for this Agreement or in City's regulations governing historic properties are available to City to pursue in the event there is a breach of this Agreement. No waiver by City of any breach or default under this Agreement shall be deemed to be a waiver of any other subsequent breach thereof or default hereunder.

16. BINDING EFFECT OF AGREEMENT. Owner hereby subjects the Historic Property to the covenants, reservations and restrictions set forth in this Agreement. City and Owner hereby declare their specific intent that the covenants, reservations, and restrictions as set forth herein shall be deemed covenants running with the land and shall pass to and be binding upon Owner's successors and assigns in title or interest to the Historic Property. A successor in interest shall have the same rights and obligations under this Agreement as the original owner who executed the Agreement.
Each and every contract, deed or other instrument hereinafter executed, governing or conveying the Historic Property, or any portion thereof, shall conclusively be held to have been executed, delivered and accepted subject to the covenants, reservations and restrictions expressed in this Agreement regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instrument.
City and Owner hereby declare their understanding and intent that the burden of the covenants, reservations and restrictions set forth herein touch and concern the land in that it restricts development of the Historic Property. City and Owner hereby further declare their understanding and intent that the benefit of such covenants, reservations and restrictions touch and concern the land by enhancing and maintaining the cultural and historic characteristics and significance of the Historic Property for the benefit of the public and Owner.

17. NOTICE. Any notice required to be given by the terms of this Agreement shall be provided at the address of the respective parties as specified below, by personal delivery or United States mail, postage prepaid, addressed as follows:

City: Carmel-By-The-Sea
Community Planning & Building Department
Attn: Community Planning & Building Director
P.O. Box CC
Carmel-By-The-Sea, CA 93921

Owner: Esperanza Carmel, LLC
PO Box 134
Carmel, CA, 93921

Notice to successors in interest to either party shall be sent to the appropriate address. In the case of future Owner(s) of the Historic Property, notice shall be sent to the address on file with the county property tax office in power at the time.

18. RECORDATION. No later than twenty (20) days after the parties execute and enter into this Agreement, the City shall cause this Agreement to be recorded in the Office of the County Recorder of the County of Monterey. From and after the time of the recordation, this Agreement shall impart a notice thereof to all persons as is afforded under state law.

19. STATE LAW. The Owner or agent of Owner shall provide written notice of this Agreement to the State Office of Historic Preservation within six (6) months of the date of this Agreement.

20. GOVERNING LAW; VENUE. This Agreement shall be constructed and governed in accordance with the laws of the State of California. Should either party to this agreement bring legal action against the other, the case shall be handled in Monterey County, California and the party prevailing in such action shall be entitled to a reasonable attorney fee which shall be fixed by the judge hearing the case and such fee shall be included in the judgment together with all costs.

21. AMENDMENTS. This agreement may be amended in whole or in part, only by a written-recorded instrument executed by the parties hereto.

22. DESTRUCTION OF PROPERTY; EMINENT DOMAIN; CANCELLATION. If the Historic Property is destroyed by earthquake, fire, flood, or other natural disaster such that in the opinion of the City Building Official more than sixty percent (60%) of the original fabric of the structure must be preplaced, this Agreement shall be cancelled because the historic value of the structure will have been destroyed. If the Historic Property is acquired in whole or in part by eminent domain or other acquisition by any entity authorized to exercise the power of eminent domain, and the acquisition is determined by the City Council to frustrate the purpose of this Agreement, this Agreement shall be cancelled. No cancellation fee pursuant to Government Code Section 50286 shall be imposed if the Agreement is cancelled pursuant to this paragraph. Such Agreement shall be null and void for all purposes of determining the value of the property so acquired.

23. INDEMNIFICATION. Owner shall defend, indemnify, and hold harmless City and its elected officials, officers, agents and employees from any actual or alleged claims, demands, causes of action, liability, loss, damage, or injury to property or persons, including wrongful death, whether imposed by a court of law or by administrative action of any

federal, state or local government agency, arising out of or incident to the direct or indirect use, operation, or maintenance of the Historic Property by Owner or any contractor, subcontractor, employee, agent, lessee, licensee, invitee, or any other person; (ii) Owner's activities in connection with the Historic Property; and (iii) any restriction on the use of development of the Historic Property, from application or enforcement of the City's Municipal Code, or from the enforcement of this Agreement. This indemnification includes, without limitation, the payment of all penalties, fines, judgments, awards, decrees, attorneys' fees, and related costs or expenses, and the reimbursement of the City, its elected officials, employees, and/or agents for all legal expenses and costs incurred by each of them. Owner's obligation to indemnify shall survive the termination, cancellation, or expiration of this Agreement and shall not be restricted to insurance proceeds, if any, received by City, its elected officials, employees, or agents.

24. SEVERABILITY. In the event that any of the provisions of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, or by subsequent preemptive legislation, the validity and enforceability of the remaining provisions, or portions thereof, shall not be affected thereby.

IN WITNESS THEREOF, the City and Owners have executed this Agreement on the day and year written above.

CITY OF CARMEL-BY-THE-SEA:

By: _________________________ Date: ____________________

Name: Richard L. Rerig ("Chip")
Title: City Administrator

PROPERTY OWNER(S):

By: ____________________________ Date: ____________________

Name: Christopher Mitchell on behalf of Esperanza Carmel, LLC
Title: Managing Director

EXHIBIT A
LEGAL DESCRIPTION

EXHIBIT B
DPR 523A FORM

EXHIBIT C
REHABILITATION/RESTORATION AND MAINTENANCE PLAN

All of Block “B-18”, as show on that certain map of Addition No. 7 Carmel-by-the-Sea, in the City of Carmel-by-the-Sea, County of Monterey, State of California, filed for record May 4, 1910 in the Office of the County Recorder of said county in Volume 2 of Maps, “Cities and Towns”, at page 24;
Also that certain strip of land lying between said block “B-18” and the shore line of the Pacific Ocean and bounded on its easterly end by a line running N. 2$_0$ a 17’ W., from the most easterly point of said Block “B-18”; and bounded on its westerly end by the common line between lots 16 and 18 in Block “B-16”, as show on said map, projected northerly to the shore line of the Pacific Ocean.

State of California — The Resources Agency
DEPARTMENT OF PARKS AND RECREATION

PRIMARY RECORD

Primary # Attachment 1
HRI #
Trinomial
NRHP Status Code
Other Listings
Review Code Reviewer Date

***Resource Name or #:** (Assigned by recorder) Mrs. Clinton Walker House

P1. Other Identifier: Cabin on the Rocks

***P2. Location:** ☐ Not for Publication ■ Unrestricted ***a. County** Monterey
and (P2b and P2c or P2d. Attach a Location Map as necessary.)
***b. USGS 7.5' Quad** ____ **Date** ____ **T** ___; **R** ___; ___ ¼ of ___ ¼ of Sec ___; ____ **B.M.**
c. Address N.S.Santa Lucia bet. Martin Way & Bay View City Carmel By The Sea Zip 93921
d. UTM: (Give more than one for large and/or linear resources) Zone ___, ____ mE/ ____ mN
e. Other Locational Data: (e.g., parcel #, directions to resource, elevation, etc., as appropriate)

Monterey County Assessor's Parcel #9-423-1 (Block B, Lot 18)

***P3a. Description:** (Describe resource and its major elements. Include design, materials, condition, alterations, size, setting, and boundaries)

See Continuation Sheet.

***P3b. Resource Attributes:** (List attributes and codes) HP-2 Single Family Residence

***P4. Resources Present:** ■ Building ☐ Structure ☐ Object ☐ Site ☐ District ☐ Element of District ☐ Other (Isolates, etc.)

P5a. Photo or Drawing (Photo required for buildings, structures, and objects.)

P5b. Description of Photo: (View, date, accession #) West Facade 8/14/01 #1857-18

***P6. Date Constructed/Age and Sources:** ■ Historic ☐ Prehistoric ☐ Both
1951-52 "The Cabin on the Rocks" (1994)

***P7. Owner and Address:**
Henderson Family Trust
77 New Place Road
Hillsborough, CA 94010

***P8. Recorded by:** (Name, affiliation, and address)
Richard N. Janick
MARI

***P9. Date Recorded:** 7/20/01

***P10. Survey Type:** (Describe)
Carmel HRI
2001

***P11. Report Citation:** (Cite survey report and other sources, or enter "none.")
Carmel By-The-Sea Survey 1989-1996

***Attachments:** NONE ☐ Location Map ☐ Sketch Map ■ Continuation Sheet ■ Building, Structure, and Object Record ☐ Archaeological Record ☐ District Record ☐ Linear Feature Record ☐ Milling Station Record ☐ Rock Art Record ☐ Artifact Record ☐ Photograph Record ☐ Other (List)

DPR 523A (1/95) *Required information

State of California — The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
Primary #
HRI# Attachment 1

BUILDING, STRUCTURE, AND OBJECT RECORD

Page 2 of 5
*NRHP Status Code 3S
*Resource Name or # (Assigned by recorder) Mrs. Clinton Walker House

B1. Historic Name: Mrs. Clinton Walker House
B2. Common Name:
B3. Original Use: Single Family Residence B4. Present Use: Vacation House
*B5. Architectural Style: Frank Lloyd Wright - Organic Architecture
*B6. Construction History: (Construction date, alterations, and date of alterations)

See Continuation Sheet.

*B7. Moved? ■No □Yes □Unknown Date: Original Location:
*B8. Related Features:
1. The stone work was done by the DeMaria Bros. and was Mrs. Walker's contribution to the design when the "Desert Masonry" proved ineffective. 2. A kitchen door was also fabricated by Mrs. Walker's insistance against Wright's plan.
B9a. Architect: Frank Lloyd Wright b. Builder: Miles Bain (Local) and Walter Olds (Bay Area)
*B10. Significance: Theme "Organic Architecture" Area
Period of Significance Post WW II Property Type S.F.R. Applicable Criteria CR3
(Discuss importance in terms of historical or architectural context as defined by theme, period, and geographic scope. Also address integrity.)

See Continuation Sheet.

B11. Additional Resource Attributes: (List attributes and codes) HP-2 Single Family Residence
*B12. References:

See Continuation Sheet.

B13. Remarks:

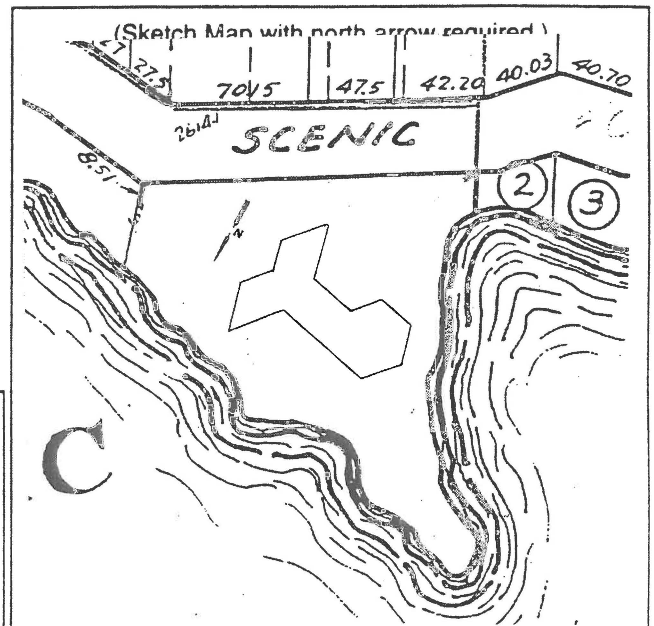
Zoning R-1

*B14. Evaluator: Richard N. Janick, MARI

*Date of Evaluation: Carmel HRI, Summer 2001

(This space reserved for official comments.)

(Sketch Map with north arrow required.)



DPR 523B (1/95)
*Required information

P3a. Description:

A low one-story concrete and "Carmel Stone" house that projects out on a granite outcropping into Carmel Bay. The plan features a hexagonal living room covered by a hexagonal low hipped roof sheathed in weathered copper. The gabled roof bedroom wing extends into a hipped roof carport that features an open window to a Thomas Church-landscaped garden and the ocean. The waves of Carmel Bay break against a triangular ship-like prow of concrete and "Carmel Stone" forming a terrace beyond the panoramic glazed living room. Inverse stepped windows framed in Cherokee-red painted steel enclose and surround the living room. The bedroom wing features a loggia of redwood French doors that open out into the garden and diagonal redwood screens that shield the wind. The master bedroom, the studio addition of 1960–61, features a fireplace and extends at an angle opposite the carport giving the plan a footprint of a "fish" form when seen from above. The stepped in window treatment is used in the master bedroom and two smaller guest bedrooms. A glass and steel screen shields a private patio off the master bedroom accessible through redwood and glass French doors. A long redwood fence and overgrown cypress trees shield the property from Scenic Road and a trapezoidal shaped redwood gate extends from the fence to a concrete and "Carmel Stone" triangular support post that originally contained a circular planter filled with blue-green tinted glass spheres illuminated by recessed lighting. The house sits on a concrete slab foundation and red-tinted concrete floor inscribed by hexagonal patterns and containing copper tubes for radiant heating. From the west, the terrace and living room form a distinct ship cutting through the waves. From the east, the terrace disappears and the long-low roof line and ribboned windows of the guest bedrooms form a natural extension of the rock outcrop that anchors the house to the site.

B6. Construction History:

1. First Rendering and Plans – 1948 – Carport facing southwest copper roof.
2. Revised Rendering and Plans – 1949 – Carport facing southeast copper roof.
3. Working Drawings – Specifications – 1950 – Based on Revised 1949 Plan.
4. Monterey County Zoning Permit Application #C-46, 4/24/50. Architect: Frank Lloyd Wright. Contractor: Miles Bain. Building 2,000 sq. ft. – 9,170 sq. ft. lot. Initial Projected Cost: $35,000.
5. Construction Period (April 1951 to November 1952):

a. "Desert Masonry" changed to "Carmel Stone." Supervising Architects: Aaron Green and Walter Olds.

b. Concrete floor instead of "Green Slate."

c. "Kitchen door" added – against Wright's scheme.

d. Fireplace in bedroom – main fireplace problems (Pole wood).

e. Loggia doors and screens on west versus east.

f. Copper roof changed to "Ludowichi-Celadon" roof. Triangular ceramic glazed interlocking metal panels in blue-green color pattern. Architectural porcelain construction – Oakland – Roos Roofing Co. Final cost $55,000.

g. Tommy Church Landscape.

B6. Construction History (Continued):

h. Roof leaks (May 1956). Replaced with copper panels of original design – P.M.C. Roofing Co., Pacheco, California

i. Studio Addition design to bedroom – November 1956 – later carried out in 1960–61 by Sandy Walker, A.I.A., nephew of Mrs. Walker (Wright died in April 1959. Became Master Bedroom.

j. Mermaid Sculpture on deck – Mrs. Walker acquisition.

k. Permit #97-102 – May 1997 – new copper roof by P.M.C. Roofing, Pacheco, California - $50,000 – original contractors in 1956.

l. New Gate – 1999 – Built to original specifications.

m. Permit # R.E. 00-41 – New fence built to exact specifications of old fence – October 2000 (completed 2001) (horizontal redwood board and batten – 5 ft. high).

6. 1996 – "Frank Lloyd Wright Conservancy" – detailed "as-is" analysis of the house, identifying future maintenance.

B10. Significance:

This house qualifies as both a State Historical Resource and National Historic Resource under Criteria #3 as the only house designed and constructed by Frank Lloyd Wright in Carmel that also relates directly to its seaside location and environment. It has been internationally photographed and published and was even featured in the 1960 motion picture "A Summer Place." The house, originally designed as a vacation home, has been willed to the Henderson Family Trust (Harriet Henderson is Mrs. Clinton Walker's daughter), and continues to be utilized with its original intent. Wright also designed three other houses on coastal sites in the Carmel-Pebble Beach area
1. The John Nesbitt House – "Sea Garden" 1941 – Pebble Beach.
2. The Stuart Haldorn House – "The Wave" 1945 – Carmel Point.
3. The George Clark House – "Sunbonnet" 1952 – Carmel Beach.
that were not built.

The Clark House was adapted to the Arizona Desert for Georgine Boomer in 1955–1956. The Nesbitt and the Haldorn Houses were featured in a color portfolio of Wright's renderings published in the 1960s.

The Walker House fully embodies Wright's concept of "organic" architecture. The *hexagonal plan* derives from the Paul Hanna House. At Stanford University (1937) and the stepped recessed window pattern is seen in the Haldorn House of 1945 and was also utilized at "Kentuck-Nob," S.W. Pennsylvania in the mid-1950s. The walls of native "Carmel Stone" and the natural redwood and Douglas fir trim speak to Wright's use of "natural" materials. Radiant heating and the steel-framed inverse pyramid windows express Wright's innovative use of new technology. The unique siting, it's the only house in complete public view within Carmel City limits on the ocean side, is a masterpiece, as each façade emphasizes its harmony with nature. This house is one of the trademarks within Wright's vast architectural spectrum and universally recognized throughout the world.

B10. Significance (Continued):

THOMAS D. CHURCH
Church was born in 1902 and graduated from the University of California, Berkeley, in 1921. In 1925, he received the degree of Master of Arts in Landscape Architecture from Harvard University. Since 1928, he has practiced in the San Francisco Bay Area and has made a major contribution to the field of modern landscape design, principally in the decades 1930–1960.

The Walker family are descended from the Walker Art Center in Minneapolis, Minnesota, and the Henderson Family Trust also owns houses designed by William Wilson Wurster in Hillsborough, California, and Joseph Frederick in Lake Tahoe, California.

B12. References:

"The Cabin on the Rocks," Chronology of Mrs. Clinton Walker's House, correspondence from Tahesin Archives, compiled by Richard N. Janick, Carmel, California, 1994.

Homes Illustrated: Carmel By The Sea, Home for Mrs. Clinton Walker. Photography by George Seidenech. List of Contractors.

Mills Act Application - Frank Lloyd Wright House 'Cabin on the Rocks'
10 Year Rehabilitation and Maintenance Plan

MAINTENANCE TABLE											
Work Item	**2024**	**2025**	**2026**	**2027**	**2028**	**2029**	**2030**	**2031**	**2032**	**2033**	**Totals**
Year	**1**	**2**	**3**	**4**	**5**	**6**	**7**	**8**	**9**	**10**	
Front Gate Repair & Maintenance (incl. front pedestal light)	$10,000.00	$5,000.00	$500.00	$515.00	$530.45	$546.36	$562.75	$579.64	$597.03	$614.94	**$19,446.17**
Replace Roof						$600,000.00					**$600,000.00**
Roof & Roof Drainage Maintenance Programme	$1,000.00	$1,030.00	$1,060.90	$1,092.73	$1,125.51	$1,159.27	$1,194.05	$1,229.87	$1,266.77	$1,304.77	**$11,463.88**
Electrical Upgrade & Maintenance Programme	$4,000.00	$20,000.00	$1,500.00	$1,545.00	$1,591.35	$1,639.09	$1,688.26	$1,738.91	$1,791.08	$1,844.81	**$37,338.50**
Plumbing Upgrade & Maintenance Programme	$3,000.00	$3,090.00	$10,000.00	$3,278.18	$3,376.53	$3,477.82	$3,582.16	$3,689.62	$3,800.31	$3,914.32	**$41,208.94**
Replace Interior Boiler		$18,000.00									**$18,000.00**
Exterior Window Rehabilitation / Repair & Maintenance	$1,000.00	$1,030.00	$50,000.00	$1,092.73	$1,125.51	$55,000.00	$1,194.05	$1,229.87	$60,000.00	$1,304.77	**$172,976.94**
Brickwork / Façade Maintenance Programme	$2,000.00	$2,060.00	$20,000.00	$2,185.45	$2,251.02	$2,318.55	$2,388.10	$25,000.00	$2,533.54	$2,609.55	**$63,346.21**
Ongoing Patio Restoration & Maintenance Programme	$16,000.00	$16,000.00	$16,000.00	$16,000.00	$16,000.00	$16,000.00	$16,000.00	$16,000.00	$16,000.00	$16,000.00	**$160,000.00**
Exterior Painting Programme		$3,000.00		$3,180.00		$3,370.80		$3,573.05		$3,787.43	**$16,911.28**
Interior Stonework Repair, Cleaning and Restoration	$3,000.00	$3,000.00	$3,000.00	$3,000.00	$3,000.00	$3,000.00	$3,000.00	$3,000.00	$3,000.00	$3,000.00	**$30,000.00**
Interior Wood Panel Restoration Programme		$5,000.00	$5,000.00	$5,000.00	$5,000.00	$5,000.00	$5,796.37				**$30,796.37**
Historic Fireplace Maintenance Programme		$1,030.00		$1,092.73		$1,159.27		$1,229.87		$1,304.77	**$5,816.65**
Exterior Lighting Maintenance / Replacement Programme			$3,182.70			$3,477.82			$3,800.31		**$10,460.83**
Repair Upper Level of existing Stone Steps		$8,000.00									**$8,000.00**
Ongoing Maintenance: House	$5,000.00	$5,150.00	$5,304.50	$5,463.64	$5,627.54	$5,796.37	$5,970.26	$6,149.37	$6,333.85	$6,523.87	**$57,319.40**
Ongoing Maintenance: Grounds	$5,000.00	$5,150.00	$5,304.50	$5,463.64	$5,627.54	$5,796.37	$5,970.26	$6,149.37	$6,333.85	$6,523.87	**$57,319.40**
Administrative budget for new 10 year budget										$3,250.00	**$3,250.00**
Totals	**$50,000.00**	**$96,540.00**	**$120,852.60**	**$48,909.09**	**$45,255.45**	**$707,741.74**	**$47,346.28**	**$69,569.58**	**$105,456.74**	**$51,983.10**	**$1,343,654.56**

Attachment 2

CITY OF CARMEL-BY-THE-SEA
HISTORIC RESOURCES BOARD

HISTORIC RESOURCES BOARD RESOLUTION NO. 2023-011-HRB

A RESOLUTION OF THE HISTORIC RESOURCES BOARD OF THE CITY OF CARMEL-BY-THE-SEA RECOMMENDING THAT THE CITY COUNCIL ENTER INTO A MILLS ACT CONTRACT WITH ESPERANZA CARMEL, LLC FOR THE PROPERTY LOCATED AT 26336 SCENIC ROAD IN THE SINGLE-FAMILY RESIDENTIAL DISTRICT (APN 009-423-001).

WHEREAS, on April 20, 2023, Christopher Mitchell, Managing Director of Esperanza Carmel, LLC (“Applicant”) submitted an application on behalf of Esperanza Carmel, LLC (“Owner”) requesting to enter into a Mills Act contract (MA 23-116, Esperanza Carmel, LLC) described herein as (“Application”) for the historic “Mrs. Clinton Walker House”; and

WHEREAS, the Application has been submitted for the property located at 26336 Scenic Road, in the Single Family Residential (R-1) District (Block B, Lot 18); and

WHEREAS, the historic “Mrs. Clinton Walker House” is listed on the Carmel Inventory and the Carmel Register of Historic Resources; and

WHEREAS, one of the benefits of being included on the Register is the ability to enter into a Mills Act Historical Property Contract with the City; and

WHEREAS, the Applicant is requesting to enter into a Mills Act contract with the City and in accordance with Carmel Municipal Code (CMC) Section 17.32.100.B.6 (Review Process), the Historic Resources Board shall consider the application and make a recommendation to the City Council to approve, approve with conditions, or deny the application; and

WHEREAS, on August 11, 2023, notice of the August 21, 2023 public hearing was published in the Carmel Pine Cone, in compliance with State law (California Government Code 65091), and mailed to owners of real property within a 300-foot radius of the project indicating the date and time of the public hearing; and

WHEREAS, on or before August 11, 2023 the Applicant posted the public notice on the project site and hand-delivered a copy of the public notice to each property within a 100-foot radius of the project site indicating the date and time of the public hearing; and

WHEREAS, on or before August 18, 2023 the meeting agenda was posted in three locations in compliance with State law indicating the date and time of the public hearing; and

WHEREAS, on August 21, 2023, the Historic Resources Board held a public meeting to consider the application for a Mills Act contract, including without limitation, information provided to the Historic Resources Board by City staff and through public testimony; and

WHEREAS, this Resolution and its findings are made based upon evidence presented to the Historic Resources Board at the August 21, 2023 meeting including, without limitation, the staff report and attachments submitted by the Community Planning and Building Department; and

WHEREAS, the Historic Resources Board did hear and consider all said reports, attachments, recommendations and testimony herein above set forth and used their independent judgement to evaluate the project; and

WHEREAS, the facts set forth in the recitals are true and correct and are incorporated herein by reference.

NOW, THEREFORE, BE IT RESOLVED, that the Historic Resources Board of the City of Carmel-By-The-Sea does hereby make the following findings and determinations regarding the **Mills Act Contract**:

FINDINGS REQUIRED FOR A MILLS ACT CONTRACT For each of the required findings listed below, staff has indicated whether the application supports the adoption of the findings. For all findings checked "no" the staff report discusses the issues to facilitate the Historic Resources Board's decision-making. Findings checked "yes" may or may not be discussed in the report depending on the issues.		
CMC 17.32.100.B.6.c	YES	NO
i. The building is designated as an historic resource by the City and is listed on the Carmel Register.	✓	
ii. The proposed rehabilitation/restoration and maintenance plan is appropriate in scope and sufficient in detail to guide long-term rehabilitation/restoration and maintenance. Required maintenance and rehabilitation should be more significant than just routine maintenance that would be expected for any property.	✓	
iii. Alterations to the historic resource have been in the past, and will continue to be in the future, limited to interior work and to exterior rehabilitation and alterations that: (A) Comply with the Secretary's Standards (future additions only); and (B) Do not significantly alter, damage or diminish any primary elevation or character-defining feature; and (C) Do not increase floor area on the property by more than 15 percent beyond the amount established in the documented original or historic design of the resource; and (D) Do not result in any second-story addition to a single-story historic resource.	✓	
iv. The Mills Act contract will aid in offsetting the costs of rehabilitating and maintaining the historic resource.	✓	

v. Approval of the Mills Act contract will represent an equitable balance of public and private interests and will not result in substantial adverse financial impact on the City.	✓	

BE IT FURTHER RESOLVED that the Historic Resources Board of the City of Carmel-by-the-Sea does hereby recommend that the City Council enter into a Mills Act Contract (MA 23-116, Esperanza Carmel, LLC) for the historic "Mrs. Clinton Walker House" located at 26336 Scenic Road (APN 009-423-001).

PASSED, APPROVED AND ADOPTED BY THE HISTORIC RESOURCES BOARD OF THE CITY OF CARMEL-BY-THE-SEA this 21th day of August, 2023, by the following vote:

AYES: Chroman, Dyar, Pomeroy, Goodhue, Hall

NOES:

ABSENT:

ABSTAIN:

APPROVED:

DocuSigned by:
Jordan Chroman
B0C3DE9052B8494...

Jordan Chroman
Chair

ATTEST:

DocuSigned by:
Leah Young
2960DA9BEC1C495...

Leah Young
Historic Resources Board Secretary

Attachment 3

STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION
PROPERTY AND SPECIAL TAXES DEPARTMENT
450 N STREET, SACRAMENTO, CALIFORNIA
PO BOX 942879, SACRAMENTO, CALIFORNIA 94279-0064
916 445-4982 ● FAX 916 323-8765
www.boe.ca.gov

June 2, 2005

No. 2005/035

TO COUNTY ASSESSORS AND INTERESTED PARTIES:

NOTICE OF BOARD ACTION

GUIDELINES FOR THE ASSESSMENT OF ENFORCEABLY RESTRICTED HISTORICAL PROPERTY

On May 25, 2005, the Board of Equalization approved the following guidelines pertaining to the assessment of enforceably restricted historical property. These guidelines supersede Letter To Assessors No. 77/174 (dated December 19, 1977).

On June 8, 1976, the voters of California approved Proposition 7 which amended section 8 of article XIII of the California Constitution. This amendment requires that enforceably restricted historical property be valued on a basis that is consistent with its restrictions and uses. Sections 439 through 439.4 were added to the Revenue and Taxation Code to implement Proposition 7. These statutes, in particular section 439.2, prohibit a valuation of enforceably restricted historical property based on sales data and instead require that such property be valued by a prescribed income capitalization method.

Staff drafted these guidelines in consultation with interested parties and, after discussions, no issues remained unresolved. The guidelines discuss the enforceably restricted historical property requirements, the income to be capitalized, the capitalization rate, the effect of Proposition 13 upon enforceably restricted historical properties that undergo change in ownership or new construction, and the valuation of property under notice of nonrenewal.

The guidelines are posted on the Board's website at www.boe.ca.gov/proptaxes/guideproc.htm. We hope this information proves useful and promotes uniformity of assessment for these properties. If you have any questions, please contact our Real Property Technical Services Unit at 916-445-4982.

Sincerely,

/s/ David J. Gau

David J. Gau
Deputy Director
Property and Special Taxes Department

DJG:grs
Enclosure

GUIDELINES FOR THE ASSESSMENT OF ENFORCEABLY RESTRICTED HISTORICAL PROPERTY

HISTORY

Effective March 7, 1973, Chapter 1442 of the Statutes of 1972 (also known as the Mills Act) added sections 50280 through 50289 to the Government Code to allow an owner of qualified historical property to enter into a preservation contract with local government. When property is placed under such a contract, the owner agrees to restore the property if necessary, maintain its historic character, and use it in a manner compatible with its historic characteristics.

Prior to the passage of Proposition 7 in 1976, these agreements (i.e., Mills Act contracts) constituted enforceable restrictions on the use of land within the meaning of Revenue and Taxation Code section 402.1[1] (Property Tax Rule 60, repealed January 10, 1978). However, Proposition 7 added the second paragraph to section 8 of article XIII of the California Constitution:

> To promote the preservation of property of historical significance, the Legislature may define such property and shall provide that when it is enforceably restricted, in a manner specified by the Legislature, it shall be valued for property tax purposes only on a basis that is consistent with its restrictions and uses.

To implement Proposition 7, Chapter 1040 of the Statutes of 1977 (Senate Bill 380) added sections 439 through 439.4 to the Revenue and Taxation Code. These statutes, in particular section 439.2, prohibit a valuation of enforceably restricted historical property based on sales data and instead require that such property be valued by a prescribed income capitalization method.

ENFORCEABLY RESTRICTED HISTORICAL PROPERTY

Under section 439, historical property is "enforceably restricted" if it meets the definition of a "qualified historical property" as defined in Government Code section 50280.1 and is subject to a historical property contract executed pursuant to Government Code section 50280 and following. A qualified historical property includes qualified historical improvements and the land on which the improvements are situated, as specified in the historical property contract. If the contract does not specify the land to be included, the qualified historical property includes only a land area of reasonable size to situate the improvements.

A qualified historical property is privately-owned property that is not exempt from property taxation and that also meets either of the following criteria:

- The property is listed in the National Register of Historic Places, or is located within a registered historic district; or

[1] Unless otherwise noted, all statutory references are to the Revenue and Taxation Code.

- The property is listed in any official state, county, city, or city and county official register of historical or architecturally significant sites, places or landmarks, including the California Register of Historical Resources, California Historical Landmarks, State Points of Historical Interest, local landmarks, and local survey listings of historical properties.

The historical property contract must have a minimum term of ten years, and, as applicable, must contain certain other elements, including the following:

- A provision relating to the preservation of the qualified historical property and, when necessary, the restoration and rehabilitation of the property in conformance with state historic preservation guidelines;

- A requirement for the periodic examination of the property to ensure compliance with the agreement;

- A requirement that the historical property agreement be binding upon successor owners of the qualified historical property; and

- A provision for an automatic one-year extension of the contract, with an additional year added to the initial contract term on each anniversary of the contract, unless either party provides notice of nonrenewal. If a notice of nonrenewal is given, the contract runs for its remaining term.

Once a contract is signed, accepted, and recorded, the property subject to the contract must be assessed under section 439.2 on the ensuing lien date. For example, if a contract were recorded in August 2004, the property should have been valued pursuant to section 439.2 for lien date January 1, 2005.

Local authorities may cancel a historical property agreement for breach of contract or failure to protect the historical property. Alternatively, the local entity may take legal action to enforce the contract.

ASSESSMENT

The assessment of an enforceably restricted historical property involves the following aspects: (1) valuing the restricted historical property; (2) properly applying certain assessment provisions relating to article XIII A of the California Constitution (Prop 13); (3) valuing the restricted historical property following a notice of nonrenewal; and (4) valuing the restricted historical property following cancellation of the contract.

Valuing the Restricted Historical Property

Section 439.2 prohibits the assessor from using sales data relating to similar properties, whether or not enforceably restricted, to value an enforceably restricted historical property. Instead, the assessor must annually value a restricted historical property using an income approach that follows the specific provisions of section 439.2. These provisions explicitly address (1) the determination of the income to be capitalized, (2) the development of the capitalization rate, (3) the capitalization technique to be used, and (4) the determination of the restricted historical property's taxable value on each lien date.

Income to be Capitalized

As provided in section 439.2(a), the income to be capitalized when valuing a restricted historical property is the property's fair rent less allowed expenditures, or allowed expenses. In general, section 439.2(a) follows Property Tax Rule 8(c), with fair rent in section 439.2 corresponding to gross return in Rule 8(c); allowed expenditures, or allowed expenses, in section 439.2 corresponding to gross outgo in Rule 8(c); and the income to be capitalized in section 439.2 corresponding to net return in Rule 8(c). In addition, for the purposes here, "gross income" is synonymous with fair rent, and "net operating income" is synonymous with the income to be capitalized.

The parties to a historical property agreement may stipulate a minimum annual income to be capitalized, in which case the income to be capitalized may not be less than the stipulated amount.

Fair rent, or gross income. The gross income of a restricted historical property is the fair rent for the property considering the restrictions on the property's use. When establishing the fair rent for a restricted historical property, the appraiser should consider the actual rent and typical rents in the area for similar properties in similar use, where the owner pays the property taxes.

The actual rent received by the owner of the subject restricted historical property is relevant to an estimate of fair market rent only if the actual rent is the same rent that would be expected if the existing lease were renegotiated in light of current market conditions, including the subject property's enforceable restrictions on use. With respect to rents from similar, or comparable, properties, if such rents are from properties outside the geographic or market area of the subject property, or from properties that are otherwise dissimilar to the subject property, the rents may not be relevant to an estimate of the subject property's fair rent.

Comparable rental data for single-family residences can be obtained from real estate brokers, rental agencies, and newspaper ads. Many assessors offices maintain rental data for commercial properties, and this data may be helpful when establishing the fair rent for restricted historical property when the contract allows a commercial use. Rental data for commercial property also can be obtained from commercial real estate brokers. For the purpose of estimating anticipated market fair rent and expenditures for use in calculating the subject property's value, rental and expense data for existing restricted historical properties, including the subject historical property, can be obtained through an annual questionnaire sent to property owners.

If sufficient rental data are not available, or such data are unreliable, the appraiser must impute a gross income for the subject restricted historical property. The imputed income should be based on what an informed investor would reasonably expect the property to yield under prudent management, given the provisions under which the property is enforceably restricted.

Allowed expenditures. Section 439.2(a)(3) defines allowed expenditures, or allowed expenses, as expenses necessary for the maintenance of the property's income. Allowed expenses are the same as those permitted in Property Tax Rule 8(c).

Typical expenses include the cost of utilities, maintenance and repair, insurance and property management. Allowed expenses also may include amounts owing for special assessments and special taxes. Expenses related to debt service, general property taxes, and depreciation should not be deducted.

In general, to arrive at the net income to be capitalized, allowed expenses are subtracted from the estimated rental income. However, in order to properly process the income, the appraiser must be aware of the structure of the lease with regard to how expenses are shared between the landlord-owner and the tenant.

The proper perspective from which to view the processing of income and expenses is that of the landlord-owner. The objective is to estimate the net income to the landlord-owner—this is the amount that should be capitalized—and the correct question to ask is the following: What, if any, allowed expenses must the landlord-owner pay out of the rental income that he or she receives?

In a gross lease, almost all of the allowed expenses must be paid out of the gross rent and, therefore, must be subtracted from the gross rent to arrive at the net income to be capitalized. In a net lease, relatively few allowed expenses must be paid by the landlord-owner out of the net rent (because the tenant pays most expenses) and only these expenses should be subtracted from the net rent to arrive at the net income to be capitalized. Frequently, there is a hybrid arrangement—some expenses are paid by the landlord-owner and some by the tenant. How expenses are shared often depends upon the property type together with local conventions.

Income to be capitalized, or net operating income. The income to be capitalized, or net operating income, is simply the fair rent, or gross income, described above less the allowed expenditures described above.

Capitalization Rate

The method of developing the capitalization rate to be used when valuing restricted historical property is prescribed by statute; a capitalization rate derived from sales data or the band of investment is not permitted.

Section 439.2 prescribes two types of capitalization rates for restricted historical property: (1) a capitalization rate to be used when valuing restricted historical property that is an owner-occupied single-family residence and (2) a capitalization rate to be used when valuing all other restricted historical property. Both types of capitalization rates include components for interest (i.e., yield), risk, property taxes, and amortization of improvements; in fact, the two rates are identical except for the amount of the risk component. The capitalization rate contains the following components:

- An interest component annually determined by the State Board of Equalization and based on the effective rate on conventional mortgages as determined by the Federal Housing Finance Board. The interest component is announced annually, in a Letter To Assessors, by October 1 of the preceding assessment year.

- A historical property risk component determined by property type. For owner-occupied single-family residences, the rate is 4 percent; for all other types of restricted historical property, the rate is 2 percent.

- An amortization component for improvements defined as a percentage equal to the reciprocal of the remaining life of the improvements (e.g., if the remaining economic life of the improvements were 20 years, the amortization component would be 5 percent). Since the amortization component applies only to improvements, not to land, which is a non-depreciating asset, it is necessary to adjust the amortization component described in the statute. We recommend the following method of adjustment:

    1. Based upon market data, estimate the percentage of total property value attributable to improvements.

    2. Multiply this percentage by the amortization component described in the statute (i.e., by the reciprocal of the remaining life of the improvements). For example, if the remaining life of the improvements was 20 years, yielding a reciprocal percentage of 5 percent, and if 70 percent of the total property value was attributable to the improvements, the adjusted amortization factor would be 3.5 percent (0.05 x 0.70 = 0.035).

    3. Add the adjusted amortization component to the other capitalization rate components to arrive at the total capitalization rate.

- A property taxes component equal to the percentage of the estimated total tax rate applicable to the property for the assessment year multiplied by the assessment ratio. Typically, the property tax component includes the basic tax rate of 1 percent plus an additional ad valorem rate related to any bonded indebtedness pertaining to the tax rate area in which the property is located. Special district assessments and special taxes are not included in the property tax component. As noted above, they should be treated as allowed expenses.

Capitalization Technique

The capitalization technique to be used when valuing a restricted historical property is prescribed by statute and is formulaic. Section 439.2(e) provides that the restricted value shall be the income to be capitalized, or net operating income, developed as prescribed by statute, divided by one of the two types of capitalization rates prescribed by statute. In other words, the restricted value is the simple quotient of the prescribed income to be capitalized and the prescribed capitalization rate.

Determination of Taxable Value on Each Lien Date

Section 439.2(d) provides that a historical property's restricted value may not be enrolled if it exceeds either (1) the value of the subject property as determined under section 110 (i.e., current market value) or (2) the value of the subject property as determined under section 110.1 (i.e., factored base year value). In other words, section 439.2 states that the taxable value of a restricted historical property on each lien date shall be the lowest of its restricted value, current market value, or factored base year value. The factored base year value for an enforceably restricted historical property is the value that was established for the 1975 lien date[2] or as of the date of the most recent change in ownership, whichever is later, adjusted by the annual inflation factor.

Article XIII A (Prop 13) Considerations

This section discusses how three important elements relating to implementation of article XIII A—change in ownership, new construction, and supplemental assessment—relate to the assessment of restricted historical property. Also discussed is the case in which only a portion of a property is subject to the historical property agreement—that is, the case in which a single property unit contains both restricted and unrestricted portions.

Change in Ownership

When a property subject to a historical property contract undergoes a change in ownership, a new base year value should be established for the property as of the date of change in ownership, as provided in section 110.1. Typically, a restricted historical property's base year value will be greater than its restricted value determined under section 439.2 and hence will not be enrolled as the property's taxable value. However, the establishment of a new base year value enables the assessor to perform the three-way value comparison prescribed by section 439.2(d) and described above. The establishment of a base year value is also necessary in order to calculate the assessed values of historical property should the historical property agreement enter nonrenewal status.

New Construction

Section IV of National Register Bulletin #15 defines a "building" as follows:

> A building, such as a house, barn, church, hotel, or similar construction, is created principally to shelter any form of human activity. "Building" may also be used to refer to a historically and functionally related unit, such as a courthouse and jail or a house and barn.

Section IV further specifies that "[b]uildings eligible for the National Register must include all of their basic structural elements. Parts of buildings, such as interiors, facades, or wings, are not eligible independent of the rest of the existing building. The whole building must be considered,

---

[2] Sections 110.1(d) and 405.5 do not apply to historical properties under contract as of lien date 1975 because the constitutional amendment which placed the valuation of historical property under article XIII rather than article XIII A had not yet been passed and, thus, was not in effect for the 1975 lien date.

and its significant features must be identified." Thus, eligibility for the National Register is determined by the extent to which the basic structural elements of an existing building are intact. In general, a newly constructed building would not be eligible because it is not an existing building with basic structural elements.[3]

Also, a newly constructed building is not a historic resource, and, thus, is not a qualified historical property within the meaning of Government Code section 50280.1. For example, a newly constructed detached garage (assuming it is not a reconstruction of a historical garage) clearly would not be eligible because it has no significance in American history or architecture, nor does it meet any of the other requisite criteria.

Bulletin 15, however, does list one type of newly constructed property that may be eligible for inclusion under the Mills Act. A reconstructed historic building is eligible for the National Register if the reconstruction is "accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan, and when no other building or structure with the same association has survived."

The historical property contract typically specifies the scope and type of any work to be performed on the historical improvements. Improvements existing as of the date of the contract would be subject to the provisions of section 439.2 unless specifically excluded by the contract. Any new construction made to the historical structure after the issuing date of the contract would not be subject to the provisions of section 439.2 unless specifically included in the contract or an amendment to the contract. Any questions regarding new construction to enforceably restricted historical structures should be directed to the counsel of the legislative body of the city, county, or city and county that contracted with the property owner.

Assuming that the newly constructed property is subject to the historical property contract, a base year value should be established for the newly constructed portion and this value added to the factored base year value of the existing restricted property.

In some cases, an existing historical property may include a portion that is restricted (i.e., subject to a historical property contract) and a portion that is unrestricted. In this case, separate factored base year values should be maintained for the restricted and unrestricted portions and the base year value of any newly constructed property added to the appropriate portion. The assessment treatment of this type of property is discussed further below.

Supplemental Assessment

Although the assessor is required to establish a new base year value upon a change in ownership or completed new construction involving restricted historical property, such property is not subject to supplemental assessment. As provided in Revenue and Taxation Code section 75.14:

> **Supplemental assessment; limitation**. A supplemental assessment pursuant to this chapter shall not be made for any property not subject to the assessment

[3] National Register Bulletin 15, "How to Apply the National Register Criteria for Evaluation," U.S. Department of the Interior, National Park Service (www.cr.nps.gov/nr/publications/).

> limitations of Article XIII A of the California Constitution. All property subject to the assessment limitations of Article XIII A of the California Constitution shall be subject to the provisions of this chapter, except as otherwise provided in this article.

As discussed above, the assessment of enforceably restricted historical property is subject to the provisions of article XIII, section 8 of the California Constitution, not article XIII A. Thus, section 75.14 precludes the assessor from enrolling supplemental assessments for enforceably restricted historical property.

Historical property not yet under contract that undergoes a change in ownership or new construction is subject to supplemental assessment, even if the property owner later executes a historical property contract in the same fiscal year. Also, any new construction involving a historical property that does not come under the existing historical property contract (e.g., a detached garage added to a restricted historical property) would be subject to supplemental assessment.

When a Property Contains Both Restricted and Unrestricted Portions

When only a portion of a property that would normally be considered a single appraisal unit is restricted by a historical property contract, the assessed value should be determined by making a comparison of three values, determined as follows. First, the portion under contract should be valued using the capitalization method prescribed by section 439.2. Added to this figure should be the lower of the unrestricted portion's fair market value or factored base year value. The resulting sum should be compared to both the fair market value and the factored base year value of the entire property (i.e., both restricted and unrestricted portions) and the lowest of the three figures should be enrolled.

Valuing Property Under Notice of Nonrenewal

As provided in Government Code section 50282, either the owner of a restricted historical property or the local government entity may serve notice that it does not intend to renew the historical property contract. If such notice is not given, another year is automatically added to the term of the initial contract, thus creating a "rolling" contract term that is always equal to the initial contract term.

Section 439.3 prescribes the valuation method for a restricted historical property in nonrenewal status; this valuation method applies until the end of the restricted period (i.e., until the existing contract expires). In essence, the method results in a restricted value that gradually approaches the historical property's factored base year value as the remaining term under the contract decreases. For a property in nonrenewal status, the assessor must annually value the property as follows:

1. Determine the full cash value (i.e., factored base year value) of the property in accordance with section 110.1. (Alternatively, if the property will not be subject to section 110.1 when the historical property agreement expires, determine its fair market value in accordance with

section 110, as if the property were free of the agreement's restrictions; or, if the property will be subject to another type of restricted value standard when the historical property agreement expires, determine the property's value as if it were subject to the new restrictions.)

2. Determine the restricted value of the property by the capitalization of income method provided in section 439.2.
3. Subtract the restricted value determined in Step 2 from the factored base year (or other) value determined in Step 1.
4. Using the amount for the interest rate component (section 439.2(b)(1)) announced by the Board, discount the amount obtained in Step 3 for the number of years remaining until the termination of the contract.
5. Determine the restricted value of the property in nonrenewal status by adding the value determined in Step 2 to the amount obtained in Step 4.

The historical property's restricted value in nonrenewal status—that is, the value determined above, in accordance with section 439.3—should be compared with the historical property's factor base year and current market values, and the lowest of these three values should be enrolled as the property's taxable value.

Cancellation of Contract

The government entity party to a historical property contract may cancel the contract, after notice and a public hearing, if it determines that either the owner has breached the agreement or the property has deteriorated to the extent that it no longer meets the standards of a historical property. If the contract is cancelled, the property owner must pay a cancellation fee equal to 12½ percent of the property's current fair market value as though free of the contractual restriction, such value to be determined by the county assessor. After a contract is cancelled, the lower of the property's factored base year value or current market value should be enrolled for the ensuing lien date.

SUMMARY

The key points contained in these guidelines can be summarized as follows:

1. An owner of qualified historical property may enter into a preservation contract with local government. When property is placed under such a contract, the owner agrees to restore the property if necessary, maintain its historic character, and use it in a manner compatible with its historic characteristics. Such property receives the special valuation treatment prescribed under Revenue and Taxation Code sections 439 through 439.4.
2. Enforceably restricted historical property is to be annually valued by the income capitalization method prescribed in section 439.2, which contains specific instructions with

regard to the income to be capitalized, the capitalization rate, and the capitalization technique to be used. The restricted value must be compared to the property's current market value and factored base year value, with the lowest of these three values enrolled as the property's taxable value.

3. When assessing restricted historical property, the appraiser should consider how three important elements of article XIII A—change in ownership, new construction, and supplemental assessment—relate to the assessment. The appraiser should consider how a property should be assessed when only a portion of it is subject to a historical property agreement.

4. Restricted historical property under a notice of nonrenewal should be valued in accordance with section 439.3.

5. The government entity party to a historical property contract may cancel the contract. The cancellation fee is 12½ percent of the property's current fair market value as though free of the contractual restriction, with such value to be determined by the local assessor.

Additional information about Mills Act contracts may be obtained from the state Office of Historic Preservation, either by telephone at 916-653-6624, or from their website (www.ohp.parks.ca.gov).

(Note: Please see the assessment examples following.)

EXAMPLE 1 (OWNER-OCCUPIED SINGLE-FAMILY RESIDENCE)

Subject Restricted Historical Property
Restored, 105-year-old, Victorian single-family residence. Excellent condition. Under Mills Act contract since 1985 and not in nonrenewal status. Owner-occupied.

Determination of Restricted Value (current lien date)

Gross income (Fair rent)		
$1,500 per month x 12 months =		$18,000
Less: Anticipated vacancy and collection loss		
$18,000 x 5%		- 900
Effective gross income		$17,100
Less: Anticipated operating expenses		
Grounds maintenance	$600	
Fire insurance	400	
Management Fee	360	
Water and garbage	240	
Building maintenance	+ 500	- 2,100
Net Operating Income		$15,000
Restricted Capitalization Rate		
Rate Components:		
Interest rate	.080	
Risk (owner-occupied SFR)	.040	
Property tax (ad valorem)	.015	
Amortization (50-year remaining life; improvements constitute 70% of total property market value; 0.02 x 0.70 – 0.014)	+ .014	.149
Restricted Value		
$15,000 ÷ .149		= $100,671

Taxable Value—Three-Way Value Comparison

Restricted value	$100,671
Factored base year value (based on prior change in ownership)	$357,000
Current market value (based on comparable sales)	$450,000

The lowest of the three possible values is the restricted value. Thus, the net taxable value would be $93,671 ($100,671 restricted value less the homeowners' exemption of $7,000).

Note 1: If this property had been a non-owner-occupied SFR, the only difference in the determination of the restricted value would have been the use of a risk rate component of 2% rather than 4% in the capitalization rate.

Note 2: In this and the following examples, the gross income, or fair rent, is presented on a gross rent basis, that is, under the assumption that the landlord-owner pays all operating expenses out of the gross income.

EXAMPLE 2 (OFFICE USE)

Subject Restricted Historical Property
Multi-tenant, restored historical office building in a downtown commercial district. Under Mills Act contract since 1985 and not in nonrenewal status.

Determination of Restricted Value (current lien date)

Gross Income (Fair rent):		
Offices	140,000 sf @ $1.75/sf = $245,000	
	x 12 months	= $2,940,000
Less: Anticipated vacancy and collection loss		
$2,940,000 x 5%		- 147,000
Effective gross income		$2,793,000
Less: Anticipated operating expenses		
Management	$290,000	
Maintenance	95,000	
Insurance	75,000	
Utilities	360,000	
Janitorial	+ 140,000	- 960,000
Net Operating Income		$1,833,000

Restricted Capitalization Rate		
Rate Components:		
Interest component	.08	
Risk	.02	
Property tax (ad valorem)	.011	
Amortization (50-year remaining life; improvements constitute 75% of total property market value 0.02 x 0.75 = 0.015)	+ .015	.126

Restricted Value
($1,833,000 ÷ .126) = $14,547,619

Taxable Value—Three-Way Value Comparison

Restricted value	$14,547,619
Factored base year value (based on prior change in ownership)	$18,191,077
Current market value (based on comparable sales)	$21,000,000

The lowest of the three possible values is the restricted value. Thus, the taxable value would be $14,547,619

EXAMPLE 3 (MIXED USE—RESIDENTIAL AND OFFICE)

Subject Restricted Historical Property

Two-story, restored historical property in a downtown district. Upper level is residential unit occupied by owner. Lower level contains three office spaces subject to short-term rental agreements. The income stream for the upstairs unit must be calculated separately from the downstairs unit because the risk rate is different for the owner-occupied unit.

Determination of Restricted Value

Separate restricted values for the upper-level residence and the lower-level office space must be determined, because the risk components are different for the two types of use. The total restricted value is sum of these two values.

Upper-Level Unit

Gross income (Fair rent) based upon comparable rent data		
$975 per month x 12 months =		$11,700
Less: Anticipated vacancy and collection loss		
$11,700 x 5%		- 585
Effective gross income		$11,115
Less: Anticipated operating expenses		
Grounds maintenance	$300	
Fire insurance	200	
Management Fee	180	
Water and garbage	120	
Building maintenance	+ 250	- 1,050
Upper-Level Net Operating Income		$10,065
Restricted Capitalization Rate (owner-occupied SFR)		
Rate components:		
Interest rate	.080	
Risk	.040	
Property tax	.010	
Amortization (50-year remaining life; improvements constitute 70% of total property market value; 0.02 x 0.70 = 0.014)	+ .014	.144
Upper-level Restricted Value ($10,065 ÷ .144)		= $69,895

Lower-Level Offices

Gross income (Fair rent)	
1000 sf @ $1.60/sf = $1,600 x 12 months	$19,200
Less: Anticipated vacancy and collection loss	
$19,200 x 5%	- 960
Effective gross income	$18,240

Less: Anticipated operating expenses		
Grounds maintenance	$300	
Fire insurance	200	
Management Fee	180	
Water and garbage	120	
Building maintenance	+ 250	- 1,050
Lower-Level Net Operating Income		$17,190
Restricted Capitalization Rate		
Rate components:		
Interest component	.080	
Risk	.020	
Property tax	.010	
Amortization (50-year remaining life; improvements constitute 70% of total property market value; 0.02 x 0.70 = 0.014)	+ .014	.124
Lower Level Restricted Value ($17,190 ÷ .124)		$138,629
Add: Upper Level Restricted Value		+ $69,895
Total Restricted Value		$208,524

Taxable Value—Three-Way Value Comparison

Restricted Value	$208,524
Factored base year value (based upon prior change in ownership)	$364,140
Current market value (based upon comparable sales data)	$400,000

The lowest of the three possible values is the restricted value. Thus, the net taxable value would be $201,524 ($208,524 less the homeowners' exemption of $7,000).

EXAMPLE 4 (MIXED VALUATION—PART RESTRICTED AND PART UNRESTRICTED)

Description of Subject Property (Comprises Both Restricted and Unrestricted Portions)

The subject property is a 10-acre parcel with a farmhouse and barn situated on 2 acres; the remaining 8 acres are farmland. The farmhouse and barn are used as an owner-occupied single-family residence; this portion of the property is restricted under a Mills Act contract. The remaining 8 acres of farmland are unrestricted.

Value of Restricted Portion (current lien date)

Gross income (Fair rent) for farmhouse and barn		
$2,000 per month x 12 months =		$24,000
Less: Anticipated vacancy and collection loss		
$24,000 x 5%		- 1,200
Effective gross income		$22,800
Less: Anticipated operating expenses		
Grounds maintenance	$600	
Fire insurance	400	
Management Fee	360	
Water and garbage	240	
Building maintenance	+ 500	- 2,100
Net Operating Income		= $20,700
Restricted Capitalization Rate		
Rate components:		
Interest component	.080	
Risk (owner-occupied)	.040	
Property tax (ad valorem)	.010	
Amortization (50-year remaining life; improvements constitute 70% of total property market value 0.02 x 0.70 = 0.014)	+ .014	.144
Restricted Value ($20,700 ÷ .144)		= $143,750

Taxable Value—Three-Way Comparison

Total Property Restricted Value (sum of restricted value above and lower of FBYV or current market value of unrestricted portion)

Restricted Value (portion under contract)	$143,750
FBYV (unrestricted portion)	+ $102,000
Restricted Value (total property)	$245,750

Factored base year values (based upon a prior change in ownership of the entire property, allocated between restricted and unrestricted portions):

Farmhouse, barn, and 2 acres (restricted portion)	$204,000
8 acres (unrestricted portion)	+ $102,000
Total FBYV (total property)	$306,000

Current market values (based upon comparable sales data):

Farmhouse, barn, and 2 acres (restricted portion)	$230,000
8 acres (unrestricted portion)	+ $120,000
Total Current Market Value (total property)	$350,000

The lowest of the three values is the Restricted Value (total property), $245,750. Thus, the net taxable value would be $238,750 ($245,750 less $7,000 homeowners' exemption).

EXAMPLE 5 (PROPERTY IN NONRENEWAL STATUS)

Description of Subject Restricted Historical Property

The same property as in Example 2, except the property owner has served notice of renewal. The Mills Act contract covering the property was originally executed in September 1995, and the owner served notice of nonrenewal in June 2004. Value the property for the 2005 lien date, reflecting its nonrenewal status. Assume that the property's restricted, current market, and factored base year values from Example 2, provided below, also refer to January 1, 2005.

Restricted value	$14,547,619
Current market value	$21,000,000
Factored base year value	$18,191,077

Restricted Value in Nonrenewal Status

Value as if unrestricted (factored base year value)	$18,191,077
Restricted value	- 14,547,619
Difference	$ 3,643,458
Present worth of difference	
PW1 @ 6.00 %, 9 years (interest component for lien date 2005)	x .591898
	= $ 2,156,555
Plus restricted value	+ $14,547,619
Restricted value in nonrenewal status—lien date January 1, 2005	$16,704,174

Taxable Value

Since the restricted value in nonrenewal status, $16,704,174, is less than either the property's current market value or its factored base year value, this is the taxable value.

State of California — The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
PRIMARY RECORD

Primary #
HRI #
Trinomial
NRHP Status Code 5S1

Attachment 4

Other Listings
Review Code ____ Reviewer ____ Date ____

Page of **Resource Name or #:** (Assigned by recorder) *Santiago Duckworth Hse.*

P1. Other Identifier:

P2. Location: ☐ Not for Publication ☐ Unrestricted **a. County** *Monterey*

and (P2b and P2c or P2d. Attach a Location Map as necessary.)

b. USGS 7.5' Quad **Date** **T** ; **R** ; **1/4 of** **1/4 of Sec** ; **B.M.**

c. Address: City *Carmel by-the-Sea* Zip *93921*

d. UTM: (Give more than one for large and/linear resources) ; mE/ mN

e. Other Locational Data (Enter Parcel #, legal description, directions to resource, elevation, etc., as appropriate)

3 S of 2nd, w/side Carpenter (Blk 22, Lot 9)

Parcel No. *010-022-022*

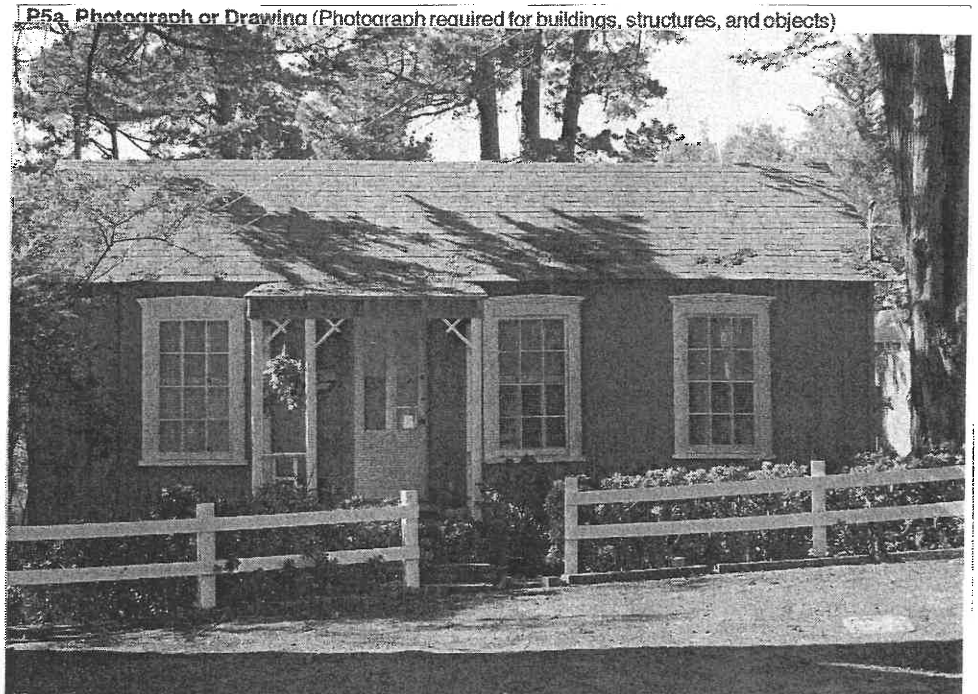
P3. Description (Describe resource and its major elements. Include design, materials, condition, alterations, size, setting, and boundaries)

A one-story, wood-framed vernacular residence, irregular in plan, resting on a cancrete foundation. The exterior wall cladding is a vertical board-and-batten. The medium-pitched side gable roof is covered with composition shingle. The original building envelope was rectangular, but has had at least two additions to the rear. The first addition (undated) included a bathroom, kitchen and bedroom, and the second addition expanded the size of the kitchen in 1952. The roof slope changed to a saltbox form in the 1952 expansion. There is a gable-wall fireplace, located at the NE cr. of the original building envelope. A small, square shed roofed door-hood projects from the east side of the main roof plane over the principal entry, somewhat offset to the south of center. The roof hood is carried on three vertical wood posts, w/simple decorative brackets. The three fixed, multi-paned wood windows (one to the south and two to the north of the entry door), along the facade are capped with slightly pedimented crown moldings. The upper panels of what appears to be the original four panel wood door are glazed, a possible later alteration. The entry porch is raised, and reached by a straight run of wooden steps. The house sits just back from the street, behind a low, horizontal rail fence in an informal landscape setting of mature cypress and pines and low shubbery.

P3b. Resource Attributes: (List attributes and codes)

P4. Resources Present ☐ Building ☐ Structure ☐ Object ☐ Site ☐ District ☐ Element of District ☐ Other (Isolates, etc.)

P5a. Photograph or Drawing (Photograph required for buildings, structures, and objects)



P5b. Description of Photo: (View, date, accession #)

P6. Date Constructed/Age and Sources:
☐ Prehistoric ☒ Historic ☐ Both

1888 Sharron Hale

P7. Owner and Address
Ann M. Peek
P.O. Box 22062
Carmel, CA 93922

P8. Recorded by: (Name, affiliation, and address)
Kent L. Seavey, Preservation Consultant, 310 Lighthouse Ave., Pacific Grove, CA 93950

P9. Date Recorded: *5/12/2002*

P10. Survey Type: (Describe)
Carmel Historic Resource Inventory - 2001

P11. Report Citation: (Cite survey report and other sources, or enter "none")
Carmel by-the-Sea Survey 1989-1996

Attachments ☐ NONE ☐ Location Map ☐ Sketch Map ☐ Continuation Sheet ☐ Building, Structure, and Object Record ☐ Archaeological Record ☐ District Record ☐ Linear Feature Record ☐ Milling Station Record ☐ Rock Art Record ☐ Artifact Record ☐ Photograph Record ☐ Other: (List)

State of California — The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
Attachment 4

BUILDING, STRUCTURE, AND OBJECT RECORD

HRI # **Primary #**

NRHP Status Code 5S1

Resource Name or #: (Assigned by recorder) *Santiago Duckworth Hse.*

B1. Historic Name: *Santiago Duckworth Hse.*
B2. Common Name:
B3. Original Use: *residence* B4. Present Use: *residence*
B5. Architectural Style: *vernacular*
B6. Construction History: (Construction date, alterations, and date of alterations)
Constructed 1888; kitchen wing added to rear 1952 (Cbp#2319)

B7. Moved? ☐ No ☐ Yes ☐ Unknown Date : Original Location:
B8. Related Features: *storage shed added at rear (west) of lot 1959 (Cbp#3301)*

B9a. Architect: b. Builder: *Delos Goldsmith*
B10. Significance: Theme: *Architectural/Economic Development* Area: *Carmel City*
Period of Significance: *1888-1903* **Property Type:** *single family residence* **Applicable Criteria:** *1-3*
(Discuss importance in terms of historical or architectural context as defined by theme, period and geographic scope. Also address integrity.)

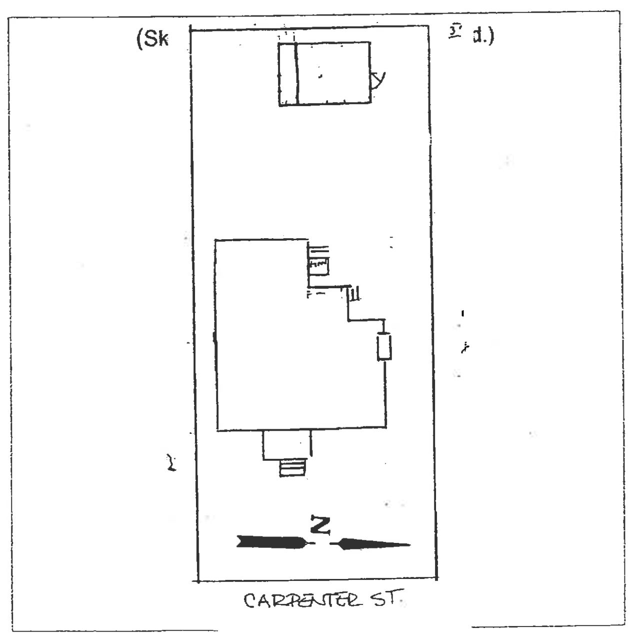
The Duckworth Hse. is significant under California Register criteria 1, in the area of history as one of the first homes constructed in the newly established community of Carmel City in 1888. It is significant under criteria 2 for its association w/Santiago J. Duckworth, founder and original developer of Carmel City, and Delos Goldsmith, arguably the first professional builder in Carmel City. It is also significant under criteria 3 as one of the few remaining examples of residential architecture in Carmel City at the time of its formation in the late 1880s.
In 1888 Monterey real estate agent Santiago J. Duckworth, and his brother Belisario entered into an agreement w/Honre Escolle, to purchase 324 acres of Escolle's Las Manzanitas Rancho. The original subdivision is known as the Carmel City Tract and constitutes the section of the village generally north of Ocean and east of Junipero. With an understanding that the Southern Pacific RR was going to extend their tracks to the Carmel River, Duckworth intended to establish a Catholic summer colony, along the lines of the Pacific Grove Retreat. Duckworth sold corner lots for $25, inside lots for $20, and commercial lots for $50. While the development met with some initial success the RR extention never occurred and Carmel City remained largely a paper town. As the prospect for success diminished, Duckworth was able to unload his project on Abbie Jane Hunter, and her San Francisco Women's Real Estate and Investment Co. in 1892. Duckworth went on to serve one term in the California State Assembly, then worked at appointive governmental positions. Delos Goldsmith, builder of the Duckworth Hse. was the uncle of Wesley Hunter, Abbie Jane Hunter's husband. He was also resposible for the construction of the Hotel Carmelo, Carmel Bathhouse, several carmel City residences, including those of the Robertsons and Hunters, and the original Farm center bldg. in Carmel Valley.

B11. Additional Resource Attributes: (List attributes and codes)
B12. References:
Carmel bldg. records, Carmel Planning Dept., City Hall, Carmel
Carmel Historic Context Statement, 1997
Fink, Agusta, *Monterey, The Presence of the Past*, Chronicle Books:San Francisco, 1972
Hale, Sharron, *A Tribute to Yesterday* Valley Publishers:Santa Cruz, 1980

B13. Remarks: *Zoning R-1*
CHCS (AD/ED)

B14. Evaluator: *Kent L. Seavey*
Date of Evaluation: *5/12/2002*

(This space reserved for official comments.)



DPR 523B (1/95) HistoryMaker 4

B10. Santiago Duckworth's residence employed the vertical board-and-batten look, popular at the time in Pacific Grove. The shaped battens match those widely used in the Methodist Retreat. Goldsmith employed slightly pedimented window casings, found on some of Monterey's earlier adobes, and derived from the Greek Revival style, to add character to the otherwise simple vernacular hse. The traditional New England saltbox roof form of the residence is the product of a 1952 addition. The original roof slope may be present, under the addition. The asymmetry of the facade asserts the eclectic nature of the building. According to Hale, Davenport Bromfield an asst. to Walter Colton Little, the surveyor of the Carmel City subdivision, was assigned the field work, and built himself a small cabin across Carpenter St. from the subject property, sometime before May of 1888, making the Duckworth hse. the second constructed in Carmel City. It is also the first known work in Carmel, by Delos Goldsmith, the first professional builder in Carmel. In spite of additions to the rear, the building appears to be be otherwise unaltered .Its visual appearance evokes a strong sense of time and place, and of feeling and association with the founding of Carmel. The Duckworth hse. clearly reflects the findings of, and is consistant with the 1997 Carmel Historic Context Statement under the themes of architectural development, and economic development.

State of California — The Resources Agency
DEPARTMENT OF PARKS AND RECREATION

PRIMARY RECORD

Primary #
HRI #
Trinomial
NRHP Status Code 5S1/5D1

Attachment 4

Other Listings
Review Code Reviewer Date

Resource Name or #: (Assigned by recorder) *Hansel & Gretel*

P1. Other Identifier:

P2. Location: ☐ Not for Publication ☒ Unrestricted a. County *Monterey*
and (P2b and P2c or P2d. Attach a Location Map as necessary.)
b. USGS 7.5' Quad Date T ; R ; 1/4 of 1/4 of Sec ; B.M.
c. Address: City *Carmel-by-the-Sea* Zip *93921*
d. UTM: (Give more than one for large and/linear resources) ; mE/ mN
e. Other Locational Data (Enter Parcel #, legal description, directions to resource, elevation, etc., as appropriate)
4 & 5 SE of 5th, e/side Torres (Blk 60, Lots 10 npt. 12)

Parcel No. *010-092-010*

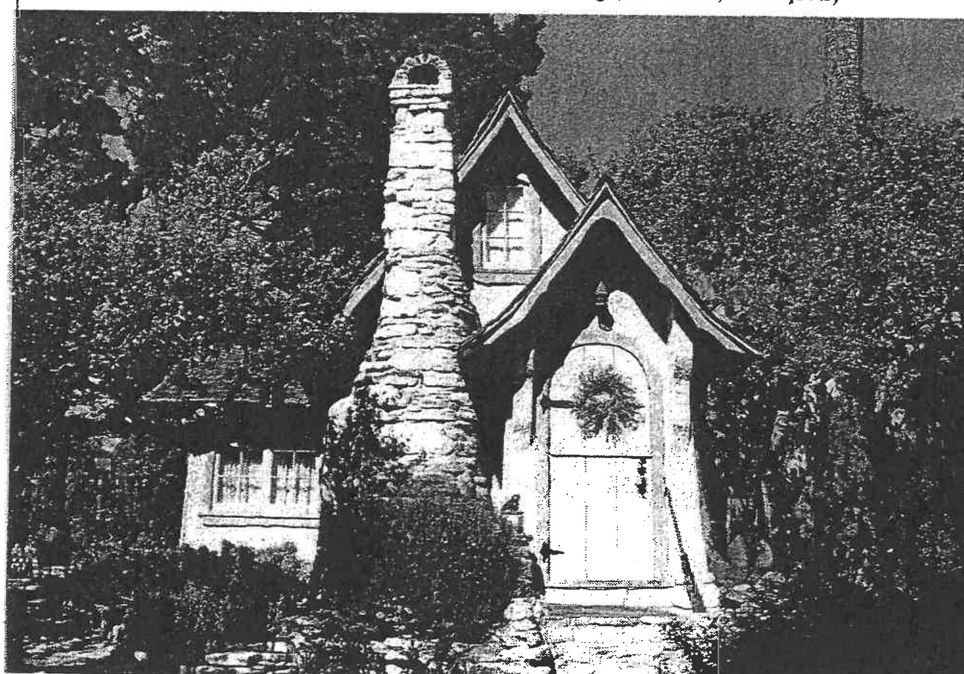
P3. Description (Describe resource and its major elements. Include design, materials, condition, alterations, size, setting, and boundaries)

The Doll House (Hansel) is a one-and-one-half story wood-framed Tudor "Storybook" style residence constructed in 1924, irregular in plan, resting on a concrete foundation. The exterior wall cladding is cement plaster mixed with pine needles, over burlap that was nailed to the redwood walls. The steeply pitched gable roof has an undulating ridge line, with lower projecting bays to the west and south. The wide, overhanging eaves are flared and faced with rustic hand-carved vergeboards. The exposed rafter tails are also hand-carved. All roof surfaces are covered with fire-rated cedar shingle, jig and scroll-sawn into a random staggered pattern. The exterior is characterized by rustic hand-carved door and window casings, and half-timbering in the gable end of the west-facing bay. The south-facing facade is characterized by a lower projecting bay on the east side that frames the arched, wood-plank main door. The flared roof projects over the door, carried on both sides by shaped, plastered brackets. The entry was recently modified to form a Dutch door. A crude, undulating exterior gable wall chimney of Carmel stone, with an arched cap is found immediatly to the west of the entry. The main entry is reached by a straight run of open Carmel stone steps. Additions include a small extention to the west of a rear bay window in 1949, and recent window and door realignment at the rear (north) and on the east side elevation, done to the Secretary of the Interior's Standards for the Treatment of Historic Properties in 1995.

P3b. Resource Attributes: (List attributes and codes) *HP2 - Single Family Property*

P4. Resources Present ☒ Building ☐ Structure ☐ Object ☐ Site ☐ District ☐ Element of District ☐ Other (Isolates, etc.)

P5a. Photograph or Drawing (Photograph required for buildings, structures, and objects)



P5b. Description of Photo: (View, date, accession #)
Looking north at the south facing 3/9/02, #4305-3A

P6. Date Constructed/Age and Sources
☐ Prehistoric ☒ Historic ☐ Both
1924 & 1925, Carmel bldg. records

P7. Owner and Address
Michael Voris
1823 Garden Way
Sacramento, CA 95833

P8. Recorded by: (Name, affiliation, and address)
Kent L. Seavey
Preservation Consultant
310 Lighthouse Ave.
Pacific Grove, CA 93950

P9. Date Recorded: *2/28/2002*

P10. Survey Type: (Describe)
Carmel Historic Resource Inventory - 2001

P11. Report Citation: (Cite survey report and other sources, or enter "none")
Significant Building Survey, 1979

Attachments ☐ NONE ☐ Location Map ☐ Sketch Map ☒ Continuation Sheet ☒ Building, Structure, and Object Record ☐ Archaeological Record ☐ District Record ☐ Linear Feature Record ☐ Milling Station Record ☐ Rock Art Record ☐ Artifact Record ☒ Photograph Record ☐ Other: (List)

BUILDING, STRUCTURE, AND OBJECT RECORD

Primary # Attachment 4
HRI #

NRHP Status Code 5S1/5D1

Resource Name or #: (Assigned by recorder) *Hansel & Gretel*

B1. Historic Name: *The Doll House*
B2. Common Name: *Hansel & Gretel*
B3. Original Use: *retail showroom/office* B4. Present Use: *residence*
B5. Architectural Style: *Tudor (Storybook substyle)*
B6. Construction History: (Construction date, alterations, and date of alterations)
Doll Hse. (Hansel) constructed 1924 (Cbp #828); minor addition 1949 (Cbp #1970); repairs 1953 (Cbp #2442); reroofed 1999 (Cbp #99-310) (Gretel) constructed 1925 (Cbp #924); bedroom addition 1928 (Cbp #2056); bedroom addition 1949 (Cbp #1790); reroofed 1996.
B7. Moved? ☒ No ☐ Yes ☐ Unknown Date : Original Location:
B8. Related Features:

B9a. Architect: *designer/Hugh Comstock* b. Builder: *Hugh Comstock*
B10. Significance: Theme: *Architectural Development* Area: *Carmel-by-the-Sea*
Period of Significance: *1903-1940* **Property Type:** *single family residence* **Applicable Criteria:** *CR 2,3*
(Discuss importance in terms of historical or architectural context as defined by theme, period and geographic scope. Also address integrity.)

The Doll House (Hansel) and Gretel are significant under California Register criteria 2 as the first & third building designs by noted Carmel masterbuilder Hugh Comstock . They are also significant under criteria 3 as the germinal designs for the Tudor Storybook substyle of architecture that would both alter and define the residential character of Carmel for decades to come as a village in a forest.

Hugh White Comstock (1893-1950), was a native of Illinois, who moved to Santa Rosa California at age 14 in 1907. His only experience in building, until he became a contractor, had been in helping construct several farm buildings with his family. He enjoyed both drawing and designing, but had no formal training in either when he arrived in Carmel in 1924 for a visit with his sister, Catherine Seideneck, and her husband George, both artists. Catherine introduced her brother to Mayotta Browne, an entreprenureal doll maker, and before the year was out the couple married. Mayotta's successful line of "Otsy Totsy" rag dolls required expanded storage space and a showcase for the product. She asked Hugh to design and construct, "a fairy-house in the woods" for this purpose. Utilizing his flair for drawing, and an interest in the book illustrations of the English illustrator Arthur Rackham, Comstock came up with what became the Dolls House. The couple did the work with day labor The small building of conventional construction was modified structurally by undulating the ridge line to give a sense of age. door and window casings were hand carved with pocket knives to add rusticity, and the exterior wall cladding was made up of cement plaster mixed with pine needles, troweled over coarse burlap that had been nailed to the walls to create an uneven, strongly textured surface. He made his stonemason build the Carmel stone chimney in an irregular uncoursed pattern that made it appear "stacked" and random, with an arched cap of the same material.

B11. Additional Resource Attributes: (List attributes and codes) *HP2 - Single Family Property*

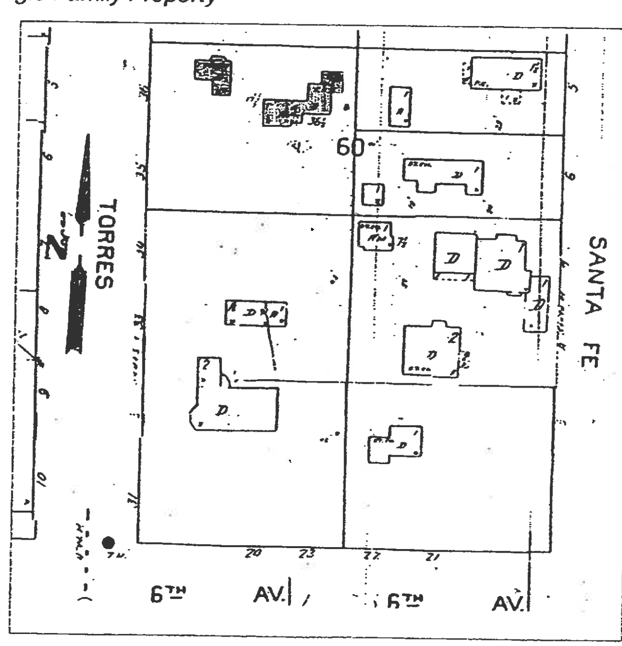
B12. References:

Carmel bldg. records, Carmel Planning Dept., City Hall, Carmel
Hale, Sharron, *A Tribute to Yesterday*, Valley Pub.:Santa Cruz, 1980.
Mathewson, Joanne, *The Fairy Tale Houses of Carmel*, Tuck Box:Carmel, 1977.
Paul, linda L., *Cottages by the Sea*, Universe Pub.:New York, 2000.

B13. Remarks: *Zoning R-1*

B14. Evaluator: *Kent Seavey*
Date of Evaluation: *2/28/2002*

(This space reserved for official comments.)



P3. Fenestration on Hansel is irregular, with a combination of fixed and casement type single and paired multi-paned wood windows. Some of the principal paired windows are flanked by decorative wood plank shutters.
Gretel is a one story wood-framed residence of the same style, constructed on the same parcel in 1925 to the south and east of Hansel. It is irregular in plan and rests on a concrete foundation. The exterior wall cladding is also a cement plaster mixed with pine needles, troweled over burlap that was nailed to the wood walls. Two bedroom additions have been made to the rear (east) of Gretel. The first, in 1928 formed an ell toward the north. The second, in 1949 simply extended the ell at its NE corner. The additions were executed by Hugh Comstock and all exterior finishes match the original cottage. The stepped and intersecting gable roof system features undulating ridge lines, slightly flared eaves with exposed hand-carved rafter tails and hand-carved vergeboards. The roofs are covered in wood shingle with notched butts, in a staggered pattern. The west facing facade is characterized by an arched plank door at the south, with half-timbering suggesting a sunburst above the door, and a multi-paned fixed wood window to the north in a hand-carved casing. All the door and window casings on the cottage are treated in this way. Fenestration is irregular with a combination of fixed and casement type multi-paned wood windows and French doors.
Both cottages sit back from Torres St. behind a rustic redwood grapestake fence in an informal landscape setting of mature oak and pine trees, with a ground cover of shubs and flowers amidst meandering gravel walkways and small Carmel stone patios. The property conveys a strong sense of time and place and of feeling and association as the first design effort by one of Carmel's most noted master-builders, Hugh Comstock.

B6. Gretel constrcted 1925 (Cbp #924); bedroom addition 1928 (Cbp #2056); repairs 1953 (Cbp # 2442); reroofed 1996 (Cbp # 96-193)

B10. The finished showroom was a far cry from the simple gable-and-wing residences, boxy shingle and board-and-batten Craftsman cottages and western false-front business houses that made up the majority of the community's housing stock in 1924. So popular was the end product that Comstock found the independent & creative citizens of Carmel beating at his door for a "fairy-tale" cottage of their own. He constructed his family residence just south of Hansel in early 1925, then built Gretel later that year, as an office for Mayotta, because the "Otsy Totsys" in the Doll House had squeezed her out.
Between 1924 and 1929 Hugh Comstock would design and construct about 20 of his "fairy-tale", or storybook cottages around Carmel, including one business house with related structures, the Tuck Box. Comstock, along with Michael J. Murphy was the most important early uilder in Carmel. To a considerable degree the storybook houses he designed have set the architectural tone for the village to this day. The Doll House (Hansel) and Gretel were the first of Comstock's creations. The two bedroom additions to Gretel, in 1928 and in 1949 were done by Hugh Comstock and maintain the character of the original. Both small residences retain to a high degree their integrity of location, design, setting, materials, workmanship, feeling and association. They convey a strong sense of time and place as the first of Comstock's Carmel storybook cottages. Hansel & Gretel clearly reflect the findings of, and are consistant with the 1997 Carmel Historic Context Statement under the theme of architectural development.

The bathroom addition of Gretel on the east elevation of the original cottage footprint, and the storage room additions located towards the rear of the site on the north and east elevations are not considered historically significant and could be removed or altered in the future consistent with the Secretary of the Interior's Standards.

B12. Rasmussen, Lillian, "Hugh Comstock", unpublished manuscript, MARI, on file at Monterey Peninsula College. nd.
Sanborn Insurance maps of Carmel, 1930, 1930-62

State of California — The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
CONTINUATION SHEET

Primary # Attachment 4
HRI #
Trinomial

 Resource Name or #: (Assigned by recorder) *Hansel & Gretel*

Recorded by: *Kent L. Seavey* **Date** *2/28/2002* ☒ Continuation ☐ Update

Supplemental Photograph or Drawing

Description of Photo: (View, date, accession #)
Looking east at the west facing facade & bedroom additions (left), of Gretel, 3/9/02, #4305-2A

San Buenaventura Research Associates

State of California — The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
PRIMARY RECORD

Primary # Attachment 4
HRI #
Trinomial
NRHP Status Code 5S1

Other Listings
Review Code Reviewer Date

Resource Name or #: (Assigned by recorder) *Alfonso Ramirez Cabin*

P1. Other Identifier:

P2. Location: ☐ Not for Publication ☒ Unrestricted a. County *Monterey*
and (P2b and P2c or P2d. Attach a Location Map as necessary.)

b. USGS 7.5' Quad Date T ; R ; 1/4 of 1/4 of Sec ; B.M.

c. Address: City *Carmel by-the-Sea* Zip *93921*

d. UTM: (Give more than one for large and/linear resources) ; mE/ mN

e. Other Locational Data (Enter Parcel #, legal description, directions to resource, elevation, etc., as appropriate)
3NE of 2nd, e/side of Santa Rita (Blk 23, Lot 16)

Parcel No. *010-025-012*

P3. Description (Describe resource and its major elements. Include design, materials, condition, alterations, size, setting, and boundaries)

A one-story wood-framed vernacular cabin, irregular in plan, resting on a concrete block foundation. The exterior wall cladding is vertical board-and-batten. The side- gabled roof is covered in wood shingle, as is the shed roof of the 1941 kitched addition at the NE cr. of the buildiung. The four panel wood entry door, on the west facing facade, is slightly raised, and reached by two or three open, straight-run masonry steps. The door is offset to the south, between two 6/6 double-hung wood windows. Single windows of similar design are found in the north and south side elevations. The entry is covered by a simple shed roofed door-hood, carried on wood brackets. The kitchen wing has paired 3 light wood casement windows. The tiny cabin is set back from the street, somewhat below grade, in an informal landscape setting of massive conifers and a tangle of large succulent plants and bushes.

P3b. Resource Attributes: (List attributes and codes) *HP2 - Single Family Property* *HP36 - Ethnic minority property*

P4. Resources Present ☒ Building ☐ Structure ☐ Object ☐ Site ☐ District ☐ Element of District ☐ Other (Isolates, etc.)

P5a. Photograph or Drawing (Photograph required for buildings, structures, and objects)

P5b. Description of Photo: (View, date, accession #)
Looking SE at west facing facade, 2/20/01, #9309-2A

P6. Date Constructed/Age and Sources
☐ Prehistoric ☒ Historic ☐ Both
1888E dated historic photo

P7. Owner and Address
Alice L. Meyers
2933 Linden Ave.
Berkeley, CA 94705

P8. Recorded by: (Name, affiliation, and address)
Kent L. Seavey
Preservation Consultant
310 Lighthouse Ave.
Pacific Grove, CA 93950

P9. Date Recorded: *4/30/2001*

P10. Survey Type: (Describe)
Carmel Historic Resource Inventory - 2001

P11. Report Citation: (Cite survey report and other sources, or enter "none")
Carmel by-the-Sea Survey 1989-1996

Attachments ☐ NONE ☐ Location Map ☐ Sketch Map ☐ Continuation Sheet ☒ Building, Structure, and Object Record ☐ Archaeological Record ☐ District Record ☐ Linear Feature Record ☐ Milling Station Record ☐ Rock Art Record ☐ Artifact Record ☐ Photograph Record ☐ Other: (List)

BUILDING, STRUCTURE, AND OBJECT RECORD

Primary # Attachment 4
HRI #

NRHP Status Code *5S1*

Resource Name or #: (Assigned by recorder) *Alfonso Ramirez Cabin*

B1. Historic Name:
B2. Common Name: *Little Barn*
B3. Original Use: *residence*
B4. Present Use: *residence*
B5. Architectural Style: *vernacular*
B6. Construction History: (Construction date, alterations, and date of alterations)
Constructed ca. 1888; kitchen added to NE cr. 1941 (Cbp # 790); foundation added, kitchen reduced in size to meet lot line requirements; interior remodel 1972 (Cbp# 72-90)

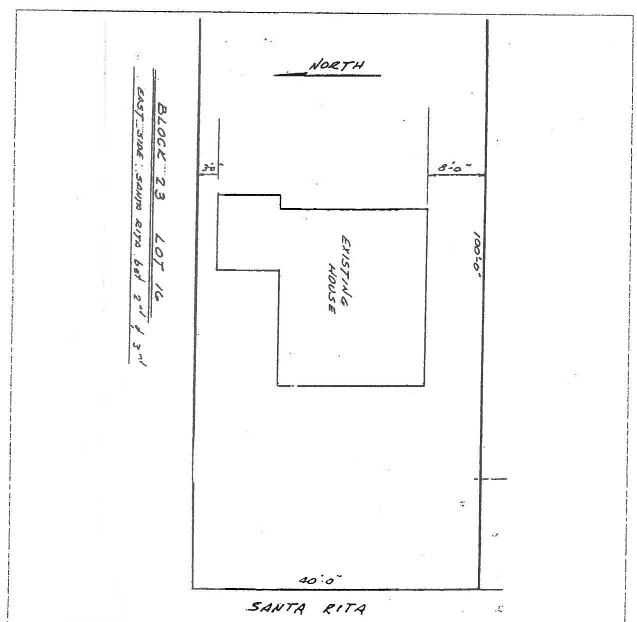
B7. Moved? ☒ No ☐ Yes ☐ Unknown Date : Original Location:
B8. Related Features:

B9a. Architect: b. Builder: *Alfonso Ramirez*
B10. Significance: Theme: *Spanish Settl./Arch. Develop.* Area: *Carmel City*
Period of Significance: *1888-1903* **Property Type:** *single family residence* **Applicable Criteria:** *CR 1,3*
(Discuss importance in terms of historical or architectural context as defined by theme, period and geographic scope. Also address integrity.)

The Ramirez cabin is significant under California Register criteria 1, in the area of history, as one of the few known dwelling houses remaining in Carmel, constructed and occupied by direct descendents of carmel Mission Indian groups. It is also significant as the home of one of the early Carmel stage drivers. It is significant under criteri3, in the area of architecture as one of the very few remaining intact examples of late nineteenth residential dwellings houses in Carmel.
Alfonso Ramierez, owner/builder of the cabin, was a driver with the Monterey-Carmel stage line, and drove the south coast as well. He was related to Manuel ("Panocha") Onesimo, a well known Native American storyteller, whose father had been baptized by Junipero Serra in 1774. Other family connections included the Meadows and Hitchcocks of Carmel Valley, and the Posts at Big Sur. "Panocha'" children were reputed to be the last of the full-blooded Rumsen Indians. Meadows family members also lived in the vicinity of the Ramirez cabin. Further research on Alfonso Ramirez is bound to provide information important to the history of Native American culture in Carmel.
The building itself is little changed, except for the 1941 kitchen addition, from its period of occupancy by Ramirez, and a corral that existed to the rear of the building in which Ramirez kept his horses. It is an excellent example of the early working class housing associated with transportation activities found at the time of the development of Carmel City in the late 1880s.
The Ramirez cabin clearly reflects the findings of, and is consistant with the 1997 Carmel Historic Context Statement. It should, in fact, assist in expanding the context statement in the area of later Native-American and Hispanic contributions to the early settlement of Carmel.

B11. Additional Resource Attributes: (List attributes and codes) *HP2 - Single Family Property*
B12. References:

Carmel bldg records, Carmel Planning Dept., City Hall, Carmel
Carmel Historic Context Statement 1997
Hale, Sharron, *A Tribute to Yesterday*, Valley Publishers: Santa Cruz, 1980
Logan, John "Carmel's Tortilla Flats", unpublished manuscript , 1998



B13. Remarks: *Zoning R-1*
CHCS (PS/AD)

B14. Evaluator: *kent seavey*
Date of Evaluation: *4/30/2002*

(This space reserved for official comments.)

Stephen L. Vagnini
Monterey County Recorder
Recorded at the request of
City of Carmel

CRLUCY
1/04/2007
Attachment 4 10:36:26

DOCUMENT: 2007001177

Titles: 1/ Pages: 1
Fees....
Taxes...
Other...
AMT PAID

Return to:
Carmel City Hall
Post Office Drawer G
Carmel, CA 93921
Attention, Brian Roseth

RESOLUTION

DESIGNATING AN HISTORIC RESOURCE

The Department of Community Planning and Building of the City of Carmel-by-the-Sea completed intensive survey work, received approval from the California Coastal Commission and made an Administrative Determination that the property identified below meets the criteria for an historic resource as established in the City's General Plan, the Municipal Code and the Local Coastal Program for Carmel-by-the-Sea.

Based on this determination, effective 25 May 2005, the Department of Community Planning and Building resolved to designate the property described below as a local resource on the Carmel Inventory of Historic Resources.

This Resolution/Administrative Determination is recorded pursuant to section 5029(b) of the California Public Resources Code that requires the City to record all historic resource determinations. This action also is taken in furtherance of the Local Coastal Program certified by the California Coastal Commission and implemented by the City of Carmel-by-the-Sea Ordinances No. 2004-01 and 2004-02.

Assessor's Parcel Number: 010025012000

Block: 23 **Lot(s)**: ALL LOT 16

Current Owner: MEYERS, ALICE TR

Street Location: E/S SANTA RITA BET. 2ND & 3RD

It is the purpose of this Resolution/Administrative Determination to alert the owner, successors and assigns to the existence of an historic resource on the property. This historic resource is protected under laws of the State of California and of the City of Carmel-by-the-Sea including the California Coastal Act, the California Public Resources Code, the Carmel-by-the-Sea Municipal Code and the Local Coastal Program. Specific regulations affecting remodels, alterations, additions and demolitions can be found in the City of Carmel-by-the-Sea planning documents referenced above.

Certified by:

Brian Roseth

Brian Roseth,
Principal Planner, Carmel-by-the-Sea

END OF DOCUMENT

12

California Office of Historic Preservation
Department of Parks & Recreation

Technical Assistance Series

Mills Act Property Tax Abatement Program

1416 9th St,
Rm 1442-7
Sacramento CA 95814

PO Box 942896
Sacramento CA
94296-0001

phone:
(916) 653-6624
fax:
(916) 653-9824

email:
calshpo@ohp.parks.ca.gov
website:
ohp.parks.ca.gov

This publication has been financed in part with Federal funds from the National Park Service, Department of the Interior, under the National Historic Preservation Act of 1966, as amended, and administered by the California Office of Historic Preservation. The contents and opinions do not necessarily reflect the views or policies of the Department of the Interior, nor does the mention of trade names or commercial products constitute endorsement or recommendation by the Department of the Interior. Under Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973, the U.S. Department of the Interior strictly prohibits unlawful discrimination on the basis of race, color, national origin, age, or handicap in its federally-assisted programs. If you believe you have been discriminated against in any program, activity, or facility as described above, or if you desire further information, please write to Office for Equal Opportunity, U.S. Department of the Interior, National Park Service, Box 37127, Washington DC 20013-7127.

Table of Contents

Mills Act Property Tax Abatement Program

Purpose of the Mills Act Program

Economic incentives foster the preservation of residential neighborhoods and the revitalization of downtown commercial districts. The Mills Act is the single most important economic incentive program in California for the restoration and preservation of qualified historic buildings by private property owners.

Enacted in 1972, the Mills Act legislation grants participating local governments (cities and counties) authority to enter into contracts with owners of qualified historic properties who actively participate in the restoration and maintenance of their historic properties while receiving property tax relief.

Benefits to Local Governments

The Mills Act allows local governments to design preservation programs to accommodate specific community needs and priorities for rehabilitating entire neighborhoods, encouraging seismic safety programs, contributing to affordable housing, promoting heritage tourism, or fostering pride of ownership. Local governments have adopted the Mills Act because they recognize the economic benefits of conserving resources and reinvestment as well as the important role historic preservation can play in revitalizing older areas, creating cultural tourism, building civic pride, and retaining the sense of place and continuity with the community's past.

A formal agreement, generally known as a Mills Act or Historical Property Contract, is executed between the local government and the property owner for a minimum ten-year term. Contracts are automatically renewed each year and are transferred to new owners when the property is sold. Property owners agree to restore, maintain, and protect the property in accordance with specific historic preservation standards and conditions identified in the contract. Periodic inspections by city or county officials ensure proper maintenance of the property. Local authorities may impose penalties for breach of contract or failure to protect the historic property. The contract is binding to all owners during the contract period.

Benefits to Owners

Owners of historic buildings may qualify for property tax relief if they pledge to rehabilitate and maintain the historical and architectural character of their properties for at least a ten-year period. The Mills Act program is especially beneficial for recent buyers of historic properties and for current owners of historic buildings who have made major improvements to their properties.

Mills Act participants may realize substantial property tax savings of between 40% and 60% each year for newly improved or purchased older properties because valuations of Mills Act properties are determined by the Income Approach to Value rather than by the standard Market Approach to Value. The income approach, divided by a capitalization rate, determines the assessed value of the property. In general, the income of an owner-occupied property is based on comparable rents for similar properties in the area, while the income amount on a commercial property is based on actual rent received. Because rental values vary from area to area, actual property savings vary from county to county. In addition, as County Assessors are required to assess all properties annually, Mills Act properties may realize slight increases in property taxes each year.

Qualified Historic Property

A qualified historic property is a property listed on any federal, state, county, or city register, including the *National Register of Historic Places*, *California Register of Historical Resources*, California Historical Landmarks, State Points of Historical Interest, and locally designated landmarks. Owner-occupied family residences and income-producing commercial properties may qualify for the Mills Act program.

OHP's Role

OHP provides technical assistance and guidance to local governments and property owners. OHP maintains a current list of communities participating in the Mills Act program and copies of Mills Act ordinances, resolutions, and contracts that have been adopted. OHP does not participate in the negations of the agreement and is not a signatory to the contract.

For Additional Information

Contact the planning department of the city or county within which the historic property is located.

California's four largest cities (Los Angeles, San Diego, San Francisco, and San Jose) as well as more than 75 other city and county governments have instituted Mills Act programs. A list of communities participating in the Mills Act Program is available online at http://www.ohp.parks.ca.gov/default.asp?page_id=21412 .

For additional information on the Mills Act, please contact Maryln Lortie in the Office of Historic Preservation, PO Box 942896, Sacramento CA 94296-0001, (916) 653-8911, mlort@ohp.parks.ca.gov.

California State Codes Relating to Mills Act Program

California Government Code, Article 12, Sections 50280 - 50290

50280. Restriction of property use.
Upon the application of an owner or the agent of an owner of any qualified historical property, as defined in Section 50280.1, the legislative body of a city, county, or city and county may contract with the owner or agent to restrict the use of the property in a manner which the legislative body deems reasonable to carry out the purposes of this article and of Article 1.9 (commencing with Section 439) of Chapter 3 of Part 2 of Division 1 of the Revenue and Taxation Code. The contract shall meet the requirements of Sections 50281 and 50282.

50280.1. Qualified historic property.
"Qualified historical property" for purposes of this article, means privately owned property which is not exempt from property taxation and which meets either of the following:

(a) Listed in the National Register of Historic Places or located in a registered historic district, as defined in Section 1.191-2(b) of Title 26 of the Code of Federal Regulations.

(b) Listed in any state, city, county, or city and county official register of historical or architecturally significant sites, places, or landmarks.

50281. Required contract provision.
Any contract entered into under this article shall contain the following provisions:

(a) The term of the contract shall be for a minimum period of 10 years.

(b) Where applicable, the contract shall provide the following:

(1) For the preservation of the qualified historical property and, when necessary, to restore and rehabilitate the property to conform to the rules and regulations of the Office of Historic Preservation of the Department of Parks and Recreation, the United States Secretary of the Interior's Standards for Rehabilitation, and the State Historical Building Code.

(2) For the periodic examinations of the interior and exterior of the premises by the assessor, the Department of Parks and Recreation, and the State Board of Equalization as may be necessary to determine the owner's compliance with the contract.

(3) For it to be binding upon, and inure to the benefit of, all successors in interest of the owner. A successor in interest shall have the same rights and obligations under the contract as the original owner who entered into the contract.

(c) The owner or agent of an owner shall provide written notice of the contract to the Office of Historic Preservation within six months of entering into the contract.

50281.1. Fees.
The legislative body entering into a contract described in this article may require that the property owner, as a condition to entering into the contract, pay a fee not to exceed the reasonable cost of administering this program.

50282. Renewal.
(a) Each contract shall provide that on the anniversary date of the contract or such other annual date as is specified in the contract, a year shall be added automatically to the initial term of the contract unless notice of nonrenewal is given as provided in this section. If the property owner or the legislative body desires in any year not to renew the contract, that party shall serve written notice of nonrenewal of the contract on the other party in advance of the annual renewal date of the contract. Unless the notice is served by the owner at least 90 days prior to the renewal date or by the legislative body at least 60 days prior to the renewal date, one year shall automatically be added to the term of the contract.
(b) Upon receipt by the owner of a notice from the legislative body of nonrenewal, the owner may make a written protest of the notice of nonrenewal. The legislative body may, at any time prior to the renewal date, withdraw the notice of nonrenewal.
(c) If the legislative body or the owner serves notice of intent in any year not to renew the contract, the existing contract shall remain in effect for the balance of the period remaining since the original execution or the last renewal of the contract, as the case may be.
(d) The owner shall furnish the legislative body with any information the legislative body shall require in order to enable it to determine the eligibility of the property involved.
(e) No later than 20 days after a city or county enters into a contract with an owner pursuant to this article, the clerk of the legislative body shall record with the county recorder a copy of the contract, which shall describe the property subject thereto. From and after the time of the recordation, this contract shall impart a notice thereof to all persons as is afforded by the recording laws of this state.

50284. Cancellation.
The legislative body may cancel a contract if it determines that the owner has breached any of the conditions of the contract provided for in this article or has allowed the property to deteriorate to the point that it no longer meets the standards for a qualified historical property. The legislative body may also cancel a contract if it determines that the owner has failed to restore or rehabilitate the property in the manner specified in the contract.

50285. Consultation with state commission.
No contract shall be canceled under Section 50284 until after the legislative body has given notice of, and has held, a public hearing on the matter. Notice of the hearing shall be mailed to the last known address of each owner of property within the historic zone and shall be published pursuant to Section 6061.

50286. Cancellation.

(a) If a contract is canceled under Section 50284, the owner shall pay a cancellation fee equal to 121/2 percent of the current fair market value of the property, as determined by the county assessor as though the property were free of the contractual restriction.

(b) The cancellation fee shall be paid to the county auditor, at the time and in the manner that the county auditor shall prescribe, and shall be allocated by the county auditor to each jurisdiction in the tax rate area in which the property is located in the same manner as the auditor allocates the annual tax increment in that tax rate area in that fiscal year.

(c) Notwithstanding any other provision of law, revenue received by a school district pursuant to this section shall be considered property tax revenue for the purposes of Section 42238 of the Education Code, and revenue received by a county superintendent of schools pursuant to this section shall be considered property tax revenue for the purposes of Article 3 (commencing with Section 2550) of Chapter 12 of Part 2 of Division 1 of Title 1 of the Education Code.

50287. Action to enforce contract.

As an alternative to cancellation of the contract for breach of any condition, the county, city, or any landowner may bring any action in court necessary to enforce a contract including, but not limited to, an action to enforce the contract by specific performance or injunction.

50288. Eminent domain.

In the event that property subject to contract under this article is acquired in whole or in part by eminent domain or other acquisition by any entity authorized to exercise the power of eminent domain, and the acquisition is determined by the legislative body to frustrate the purpose of the contract, such contract shall be canceled and no fee shall be imposed under Section 50286. Such contract shall be deemed null and void for all purposes of determining the value of the property so acquired.

50289. Annexation by city.

In the event that property restricted by a contract with a county under this article is annexed to a city, the city shall succeed to all rights, duties, and powers of the county under such contract.

50290. Consultation with state commission.

Local agencies and owners of qualified historical properties may consult with the State Historical Resources Commission for its advice and counsel on matters relevant to historical property contracts.

California Revenue and Taxation Code, Article 1.9, Sections 439 – 439.4

439. Historical Property Restrictions; enforceably restricted property.
For the purposes of this article and within the meaning of Section 8 of Article XIII of the Constitution, property is "enforceably restricted" if it is subject to an historical property contract executed pursuant to Article 12 (commencing with Section 50280) of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code.

439.1. Historical Property; definitions.
For purposes of this article "restricted historical property" means qualified historical property, as defined in Section 50280.1 of the Government Code, that is subject to a historical property contract executed pursuant to Article 12 (commencing with Section 50280) of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code. For purposes of this section, "qualified historical property" includes qualified historical improvements and any land on which the qualified historical improvements are situated, as specified in the historical property contract. If the historical property contract does not specify the land that is to be included, "qualified historical property" includes only that area of reasonable size that is used as a site for the historical improvements.

439.2. Historical Property; valuation.
When valuing enforceably restricted historical property, the county assessor shall not consider sales data on similar property, whether or not enforceably restricted, and shall value that restricted historical property by the capitalization of income method in the following manner:

(a) The annual income to be capitalized shall be determined as follows:

(1) Where sufficient rental information is available, the income shall be the fair rent that can be imputed to the restricted historical property being valued based upon rent actually received for the property by the owner and upon typical rentals received in the area for similar property in similar use where the owner pays the property tax. When the restricted historical property being valued is actually encumbered by a lease, any cash rent or its equivalent considered in determining the fair rent of the property shall be the amount for which the property would be expected to rent were the rental payment to be renegotiated in the light of current conditions, including applicable provisions under which the property is enforceably restricted.

(2) Where sufficient rental information is not available, the income shall be that which the restricted historical property being valued reasonably can be expected to yield under prudent management and subject to applicable provisions under which the property is enforceably restricted.

(3) If the parties to an instrument that enforceably restricts the property stipulate therein an amount that constitutes the minimum annual income to be capitalized, then the income to be capitalized shall not be less than the amount so stipulated. For purposes of this section, income shall be determined in accordance with rules and

regulations issued by the board and with this section and shall be the difference between revenue and expenditures. Revenue shall be the amount of money or money's worth, including any cash rent or its equivalent, that the property can be expected to yield to an owner-operator annually on the average from any use of the property permitted under the terms by which the property is enforceably restricted. Expenditures shall be any outlay or average annual allocation of money or money's worth that can be fairly charged against the revenue expected to be received during the period used in computing the revenue. Those expenditures to be charged against revenue shall be only those which are ordinary and necessary in the production and maintenance of the revenue for that period. Expenditures shall not include depletion charges, debt retirement, interest on funds invested in the property, property taxes, corporation income taxes, or corporation franchise taxes based on income.

(b) The capitalization rate to be used in valuing owner-occupied single family dwellings pursuant to this article shall not be derived from sales data and shall be the sum of the following components:

(1) An interest component to be determined by the board and announced no later than September 1 of the year preceding the assessment year and that was the yield rate equal to the effective rate on conventional mortgages as determined by the Federal Housing Finance Board, rounded to the nearest 1/4 percent.

(2) A historical property risk component of 4 percent.

(3) A component for property taxes that shall be a percentage equal to the estimated total tax rate applicable to the property for the assessment year times the assessment ratio.

(4) A component for amortization of the improvements that shall be a percentage equivalent to the reciprocal of the remaining life.

(c) The capitalization rate to be used in valuing all other restricted historical property pursuant to this article shall not be derived from sales data and shall be the sum of the following components:

(1) An interest component to be determined by the board and announced no later than September 1 of the year preceding the assessment year and that was the yield rate equal to the effective rate on conventional mortgages as determined by the Federal Housing Finance Board, rounded to the nearest 1/4 percent.

(2) A historical property risk component of 2 percent.

(3) A component for property taxes that shall be a percentage equal to the estimated total tax rate applicable to the property for the assessment year times the assessment ratio.

(4) A component for amortization of the improvements that shall be a percentage equivalent to the reciprocal of the remaining life.

(d) Unless a party to an instrument that creates an enforceable restriction expressly prohibits the valuation, the valuation resulting from the capitalization of income method described in this section shall not exceed the lesser of either the valuation that would have resulted by calculation under Section 110, or the valuation that would have resulted by calculation under Section 110.1, as though the property was not subject to an enforceable restriction in the base year.

(e) The value of the restricted historical property shall be the quotient of the income determined as provided in subdivision (a) divided by the capitalization rate determined as provided in subdivision (b) or (c).

(f) The ratio prescribed in Section 401 shall be applied to the value of the property determined in subdivision (d) to obtain its assessed value.

439.3. Historical Property; notice of nonrenewal.

Notwithstanding any provision of Section 439.2 to the contrary, if either the county or city or the owner of restricted historical property subject to contract has served notice of nonrenewal as provided in Section 50282 of the Government Code, the county assessor shall value that restricted historical property as provided in this section.

(a) Following the hearing conducted pursuant to Section 50285 of the Government Code, subdivision (b) shall apply until the termination of the period for which the restricted historical property is enforceably restricted.

(b) The board or assessor in each year until the termination of the period for which the property is enforceably restricted shall do all of the following:

(1) Determine the full cash value of the property pursuant to Section 110.1. If the property is not subject to Section 110.1 when the restriction expires, the value shall be determined pursuant to Section 110 as if the property were free of contractual restriction. If the property will be subject to a use for which this chapter provides a special restricted assessment, the value of the property shall be determined as if it were subject to the new restriction.

(2) Determine the value of the property by the capitalization of income method as provided in Section 439.2 and without regard to the fact that a notice of nonrenewal or cancellation has occurred.

(3) Subtract the value determined in paragraph (2) of this subdivision by capitalization of income from the full cash value determined in paragraph (1).

(4) Using the rate announced by the board pursuant to paragraph (1) of subdivision (b) of Section 439.2, discount the amount obtained in paragraph (3) for the number of years remaining until the termination of the period for which the property is enforceably restricted.

(5) Determine the value of the property by adding the value determined by the capitalization of income method as provided in paragraph (2) and the value obtained in paragraph (4).

(6) Apply the ratios prescribed in Section 401 to the value of the property determined in paragraph (5) to obtain its assessed value.

439.4. Historical Property; recordation.

No property shall be valued pursuant to this article unless an enforceable restriction meeting the requirements of Section 439 is signed, accepted and recorded on or before the lien date for the fiscal year in which the valuation would apply.

CITY OF CARMEL-BY-THE-SEA
CITY COUNCIL
Staff Report

March 5, 2024
ADJOURNMENT

TO:	Honorable Mayor and City Council Members
SUBMITTED BY:	Chip Rerig, City Administrator
APPROVED BY:	Chip Rerig, City Administrator
SUBJECT:	Correspondence Received After Agenda Posting

RECOMMENDATION:

BACKGROUND/SUMMARY:

FISCAL IMPACT:

PRIOR CITY COUNCIL ACTION:

ATTACHMENTS:

Correspondence Received for 2-6-2024 cancelled meeting

Attachment 1

Carmel-by-the-Sea

Nova Romero <nromero@ci.carmel.ca.us>

Correspondence rec'd Feb. 6th meeting

Form submission from: Contact us

1 message

Chris Mack <info@ci.carmel.ca.us> Tue, Feb 6, 2024 at 9:58 AM
Reply-To: [redacted]
To: cityclerk@ci.carmel.ca.us

City of Carmel-By-The-Sea
FEB 06 2024
Office of the City Clerk

02/06/2024 - 9:58am City of Carmel »

WEBFORM SUBMISSION

Submitted by anonymous user: [174.194.131.162]

Your name:
Chris Mack

Your e-mail:
[redacted]

Message:
Dear Council

I believe Esperanza should not get the Mills Act benefits for the Frank Lloyd Wright house. The Mills Act specifies all the benefit money be spent on up keep of house. The house was purchased for approximately $22million. I doubt the applicant is in financial hardship and this applicant would be a fool to let this home fall into disrepair. The property will only increase in value and if the applicant chooses to not up keep the property then it their loss not the cities. I believe the Mill Act is intended to help those property owners who are more financially challenged the this applicant. Besides , maybe the property tax money from this property could be spent on the new police station. I'm not in favor of giving handouts to ultra wealthy property owners. Also didn't Esperanza ask for a mills act for another property? They are gaming the system.

Thank you

Chris Mack
Carmel

Attachment 1

CONTEXT INFORMATION

Profile contacted:
City Clerk

View results   Download results

Carmel-by-the-Sea

correspondence - Feb. 6th meeting rec'd

Attachment 1

Nova Romero <nromero@ci.carmel.ca.us>

The FOA Reference For Fiber Optics - Fiber To The Antenna for Wireless

1 message

Mike McWalters [redacted] Mon, Feb 5, 2024 at 7:40 PM

To: dpotter@ci.carmel.ca.us, brichards@ci.carmel.ca.us, Karen Ferlito <kferlito@ci.carmel.ca.us>, jbaron@ci.carmel.ca.us, adramov@ci.carmel.ca.us, Chip Rerig <crerig@ci.carmel.ca.us>, Robert Harary <rharary@ci.carmel.ca.us>, Brandon Swanson <bswanson@ci.carmel.ca.us>
Cc: Nova Romero <cityclerk@ci.carmel.ca.us>

Hi Nova, Please include this in "Public Correspondence" for the 2/6/24 City Council meeting or if that's cancelled, then the City Council meeting when it's on the agenda. Thank you
https://www.thefoa.org/tech/ref/appln/FTTA.html
Dear Mayor Potter, Mayor ProTem Richards, Councilmembers Ferlito, Baron, Dramov, City Administrator Rerig, Director Harary & Director Swanson,
Please find enclosed an article from The Fiber Optic Association.
Please scroll to the 4th paragraph titled "Fiber to the Antenna".
It became apparent to me after reading this article that the proposed Wave/Astound fiber optic installation is for Verizon. I also learned that Astound is a subcontractor for Verizon.
Verizon's fiber network is the backbone for their wireless network so the project map makes it apparent to me that the route chosen was to hook up the fiber to Verizon's tower on the Dowd Arcade & also to hook up the fiber to Verizon's antennas on the Sunset Center roof.
Why wasn't this explained in the Staff Reports?
Because fiber is the backbone of Verizon's wireless network, this fiber optic project must start over & follow the protocol in our wireless ordinance.
Wave/Astound has to begin again with the CBTS' Planning & Building & then present to the Planning Commission.
There are big gaps in the report besides the Verizon omission.
For example, why isn't there an explanation for not putting all of the fiber optic cable underground?
Why do the telephone poles need guy wires?
How do you stress test the telephone poles to know which ones need guy wires or do they all need guy wires?
From the 10/3/23 Staff Report under "Background Summary", 5th paragraph, is the following sentence:
"Additionally, Wave will install up to 9 support anchors & guy wires to reinforce certain existing power poles." Why?
Why did Wave/Astound pay $19,306 towards an " Encroachment Permit" before the Permit was issued?
Under "Prior City Council Action" from 10/3/23 Staff Report is the following: "In September 2018, Council received a project presentation & authorized issuance of an Encroachment Permit with Special Conditions of Approval for a PG&E gas pipeline project installed across the northern portion of the city."
Why are you mentioning "a gas pipeline project" in a fiber optic staff report?
In the 2/6/24 Staff Report under "Background" is the following sentence: "At the 10/3/23 City Council meeting, Public Works staff & a representative of Wave Astound Broadband (Wave) presented a proposed Fiber Optic Project that has been in review in some form with the City since 2017." Is this supposed to reassure us that Wave/Astound has been properly vetted? It doesn't reassure me.
When Wave/Astound has answered all of our questions & been thoroughly transparent, then our vetting process of them will be complete.
Michael McWalters, Scenic Road 2N of 11th
PS. Has Verizon's lawsuit against us concluded?

Sent from my iPhone

City of Carmel-By-The-Sea
FEB 06 2024
Office of the City Clerk

Correspondence Rec'd February 6th meeting

Attachment 1

Carmel-by-the-Sea

Nova Romero <nromero@ci.carmel.ca.us>

Astound-Safety Dangers

'Tasha Witt' via cityclerk <cityclerk@ci.carmel.ca.us> Fri, Feb 2, 2024 at 3:32 PM
Reply-To: Tasha Witt [redacted]
To: adramov@ci.carmel.ca.us, Bobby Richards <brichards@ci.carmel.ca.us>, Dave Potter <dpotter@ci.carmel.ca.us>, Karen Ferlito <kferlito@ci.carmel.ca.us>, Jeff Baron <jbaron@ci.carmel.ca.us>, City Clerk <cityclerk@ci.carmel.ca.us>

City Clerk please add this public comment to the Astound city council agenda for 2/6.
Thank you

City of Carmel-By-The-Sea
FEB 02 2024
Office of the City Clerk

City Council Members,

The Astound proposal is on the 2/6 City Council agenda #8. The staff report did not address the public and council's questions from the 10/3 meeting concerning safety and responsibility.

Here are some links verifying that the California Public Utilities Commission cannot ensure our safety from electrical risk of overloading our telephone poles with joint utilities. There is a history of electrical fire death and destruction due to overloading telephone poles with joint utilities.

"The general allegation for the cause of the recent fire in 2023 Lahaina, Maui against the telecommunications company is that it overloaded shared utility poles with equipment. The overloaded and destabilized some of the poles. The lawyers said the cables were attached in a way that put too much tension on the poles, causing them to lean and break in the winds on Aug. 8 when flames burneddown much of Lahaina, killing at least 115 people and destroying more than 2,000 structures."

https://www.civilbeat.org/2023/11/spectrum-seeks-to-move-lahaina-fire-case-to-honolulu-court/

Overloaded joint utility poles spark 2007 Malibu fire causing death and destruction:

https://www.latimes.com/local/la-xpm-2011-oct-23-la-me-utility-pole-fines-20111023-story.html

"Poorly maintained utility poles and attachments have caused substantial property damage and repeated loss of life in the state. These safety issues have increased at the same time that advanced telecommunications technologies have driven demand for access to utility poles and conduit to unprecedented levels. Further, there is not a shared data repository to track where the
utility poles are located and information about the condition of the poles."

https://www.latimes.com/local/la-xpm-2011-oct-23-la-me-utility-pole-fines-20111023-story.html

"California has the strictest utility pole safety rules in the country, yet has continually faced disastrous and deadly conditions."

"My CPUC colleagues and I ordered many of these conditions to be fixed, strengthened utility pole safety rules, and increased the authority of the CPUC's Safety and Enforcement Division to hold electric, telecommunications, and Internet companies accountable for CPUC rule violations. Despite these efforts, the CPUC's enforcement process remains hampered by antiquated information systems, spotty reporting of rule violations, limited enforcement resources, aging infrastructure designs and resources, and a system that tolerates rule violations that persist for years."

https://www.scu.edu/ethics/all-about-ethics/principles-for-utility-regulation-in-the-face-of-increasing-wildfire-risk/

Attachment 1

Tasha Witt

Carmel-by-the-Sea

Attachment 1

Nova Romero <nromero@ci.carmel.ca.us>

Request to postpone CC meeting 2/6

'Tasha Witt' via cityclerk <cityclerk@ci.carmel.ca.us> Mon, Feb 5, 2024 at 12:44 PM
Reply-To: Tasha Witt [redacted]
To: City Clerk <cityclerk@ci.carmel.ca.us>, Chip Rerig <crerig@ci.carmel.ca.us>

I apologize for my prior auto spell mistakes. To clarify…

City Administrator and City Clerk,
I request a postponement of the City Council meeting scheduled for 2/6 due to power outage and lack of public access to information.
Thank you,
Tasha Witt
>
> City Administrator and City Clerk,
>
> I request a postpone if the City Council meeting scheduled for 2/6 due to the current power outage due to lack of public access to information.
>
> Tasha Witt
>
> On Feb 5, 2024, at 12:35 PM, Tasha Witt <tashawitt@me.com> wrote:
>
> City Administrator and City Clerk,
[Quoted text hidden]

City of Carmel-By-The-Sea

FEB 05 2024

Office of the City Clerk

Carmel-by-the-Sea

Attachment 1

Nova Romero <nromero@ci.carmel.ca.us>

Fwd: Astound: 4 Reasons for Denial

'Tasha Witt' via cityclerk <cityclerk@ci.carmel.ca.us> Tue, Feb 6, 2024 at 7:33 PM
Reply-To: Tasha Witt [redacted]
To: City Clerk <cityclerk@ci.carmel.ca.us>

Begin forwarded message:

From: Tasha Witt <tashawitt@me.com>
Date: February 3, 2024 at 12:43:57 AM PST
To: Dave Potter <dpotter@ci.carmel.ca.us>, Bobby Richards <brichards@ci.carmel.ca.us>, Jeff Baron <jbaron@ci.carmel.ca.us>, Karen Ferlito <kferlito@ci.carmel.ca.us>, adramov@ci.carmel.ca.us
Subject: Re: Astound: 4 Reasons for Denial

I want to be clear that I am not
opposed to hardwired broadband internet and hardwired telephone service. Carmel residents already have access to hardwired broadband internet and hardwired telephone services from Comcast/Xfinity and AT&T utility services. I'm opposed to unnecessary or redundant industrial clutter. I'm opposed to industrial equipment causing physical hazards. I am for under-grounding all overhead utility equipment to better enjoy our natural aesthetics views and to improve our safety.

Last winter a tree caught on fire near my Carmel neighborhood (I believe from a loose electric cable wire which had been cut by a fallen tree branch). At my previous Carmel residence, a transformer blew on highway 1 and a fire ran up the brush and tree covered hill toward our residence filing our living room with smoke. Fortunately, it wasn't windy in both scenarios and firefighters were able to extinguish the fires in both instances.

Attachment 1

We cannot ignore the risks of adding additional overhead electrical equipment in Carmel.

Our community is too vulnerable to overload our utility poles with more electrical equipment.

As you can see this concern keeps me up late at night writing letters to my council members!

Tasha Witt

Attachment 1

On Feb 2, 2024, at 7:27 PM, Tasha Witt <[redacted]> wrote:

Dear City Council Members,

I have reviewed the "Astound" proposal and construction plans at the Public Works Department.

I am certain that the Astound proposal is a very bad idea for our community and must be denied. The staff report confirms that our community has the right to deny this proposal based on aesthetics and traffic impacts. A third reason for denial is to protect our community's overall safety from electrical fire risk because we our geography makes us uniquely vulnerable. A fourth reason is the community does not need or want this service.

#1) **Deny this proposal because our community's physical geography makes us vulnerable to electrical fire risk.** The California Public Utilities Commission (CPUC) documents they do not have enough systems in place to monitor the safety of increased infrastructure on telephone poles. There is a pattern in which the collective weight of joint utilities has caused telephone pole failure and electrical fire in communities resulting in great destruction and numerous deaths. The 2007 Malibu fire and the recent 2023 Lahaina, Maui Fire are two of the largest examples of death and destruction caused by joint utilities overloading poles coupled with high winds. The CPUC actually recommends all telephone poles be clear of trees. Carmel by the Sea is already vulnerable to electrical fire and power outages by our existing overhead electrical cables entangled through our upper canopy forest AND our high coastal windstorms ever increasing with climate change. There is no reason to put our community in increased danger by adding another joint utility to our telephone poles. Our City Attorney, Brian Pierik and our City Council have a duty to protect our safety.

#2) **Deny this proposal because it does not meet the aesthetic goals of our community.** We do not have to accept Astound's proposal for additional adverse visual clutter against the goals of Carmel's general plan. The public does not want more ugly overhead cable wires, sidewalk ground vaults and 9 additional guy wires extending from telephone poles anchored to the ground.

#3) **Deny this proposal because it impedes precious traffic access within our community.** Carmel is unique is that our roads are narrow and not paved to full width. Our emergency vehicles are unable to make turn outs on our roads and we have limited ingress and egress routes in case of emergency. We cannot accept the 9 additional guy wires on our telephone poles necessary to support the increased structural weight over 56 of our aging poles. We must keep our valuable sidewalks and green spaces clear of guy wire impediments. All green spaces are utilized for valuable parking and pedestrian access. Carmel is uniquely absent of street lamps to preserve the night sky which also makes guy wires an increased pedestrian hazard or vehicle impediment.

#4) **Deny this proposal because the community does not need or want this service.** The Astound proposal meets the applicants business goals, but it does not meet our community's needs or wants, it does not meet our community's aesthetic goals, it does not meet our community's traffic goals or our community safety goals.

You are not required to accept this proposal. You only need one reason to legally deny this proposal and there are 4 clear reasons to deny this proposal to meet the community goals of Carmel by the Sea.

Thank you for your service in protecting our community,
Tasha Witt

Carmel-by-the-Sea

Attachment 1

Nova Romero <nromero@ci.carmel.ca.us>

Fwd: Carmel by the Sea Aesthetics & Overhead Electrical Danger Related to Astound Proposal

'Tasha Witt' via cityclerk <cityclerk@ci.carmel.ca.us> Tue, Feb 6, 2024 at 7:30 PM
Reply-To: Tasha Witt [redacted]
To: City Clerk <cityclerk@ci.carmel.ca.us>

Begin forwarded message:

From: Tasha Witt [redacted]
Date: February 6, 2024 at 2:10:15 PM PST
To: Dave Potter <dpotter@ci.carmel.ca.us>, Bobby Richards <brichards@ci.carmel.ca.us>, Jeff Baron <jbaron@ci.carmel.ca.us>, Karen Ferlito <kferlito@ci.carmel.ca.us>, adramov@ci.carmel.ca.us, Chip Rerig <crerig@ci.carmel.ca.us>, Brian Pierick <bpierik@ci.carmel.ca.us>
Subject: Carmel by the Sea Aesthetics & Overhead Electrical Danger Related to Astound Proposal

City Attorney Brian Pierick, City Administrator Chip Rerig, Mayor Dave Potter and City Council Members Baron, Ferlito and Dramov,

We are depending on our City Council to protect our aesthetics and ensure our safety from overhead utilities.

I would like the City Council to get more information from our City Attorney in regard to our city's rights to be able to protect our community's safety and aesthetics from overhead utility proposals. At the bottom of my letter I have outlined 5 questions for our City Attorney.

The most recent utility proposal to City Council is by Astound Broadband by Wave for overhead fiber optic. It is dangerous to have heavy fiber optic bundle wires overhead. They are much heavier than the Comcast type coaxial cables we currently have. Their fiber optic repeaters are also much heavier. Fiber optic bundles should be undergrounded as other communities require, especially due to our community's unique geographic vulnerabilities.

The 2007 Malibu Fire and the 2023 Lahaina Fire's main cause is overloading of joint utilities on telephone poles coupled with wind. Carmel-by-the-Sea has the added vulnerability of overhead electrical cables routed through its urban forest. The city has plenty of documentation that outlines tree branches cut or pull down overhead wires and/or telephone poles during rain and coastal wind storms.

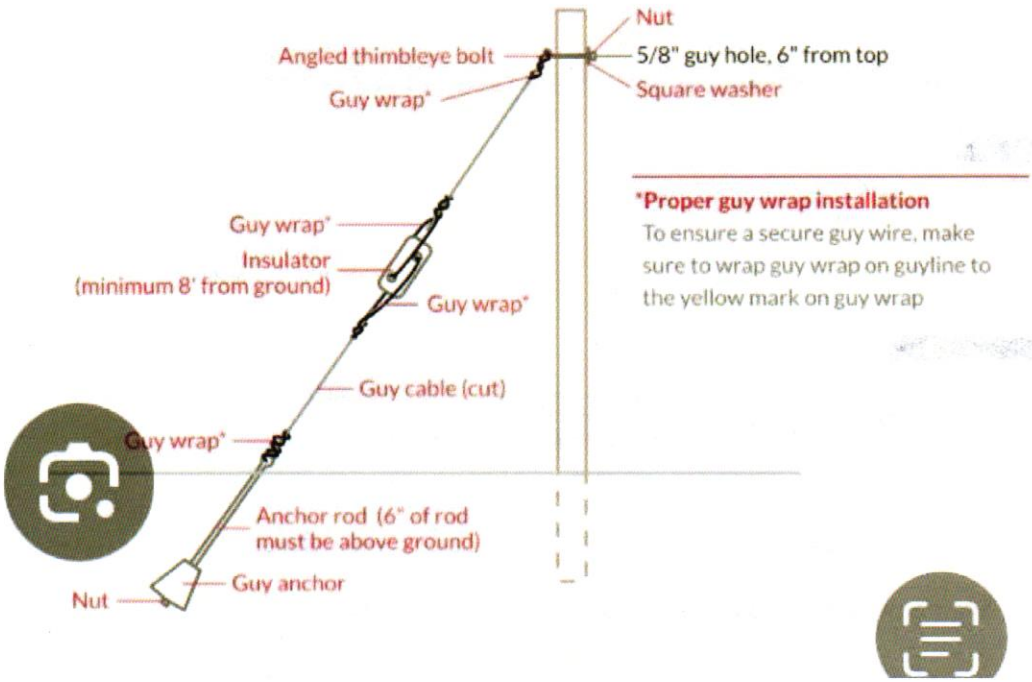
The Astound Broadband by Wave Proposal plans over 11 thousand feet of HEAVY fiber optic bundle wires OVERHEAD on our telephone poles. Also, the fiber optic repeaters are also heavier. We also don't have the company's full infrastructure plans (this appears to be their stage 1 proposal through the north side of town).

Here is a 2020 photo of what fiber optic bundles look like on a pole on Pacific Street in Monterey. This pole came down due to being overburdened by overhead fiber optic bundles which are HEAVY, THICK and UGLY. Photo:

The Astound plans also call for 9 UGLY & HAZARDOUS guy wires above ground to structurally support the increased load of their heavy fiber optic bundles. There are no guy wire elevation views on the Astound plans but here is a sample of a guy wire from the internet:

City of Carmel-By-The-Sea
FEB 06 2024
Office of the City Clerk

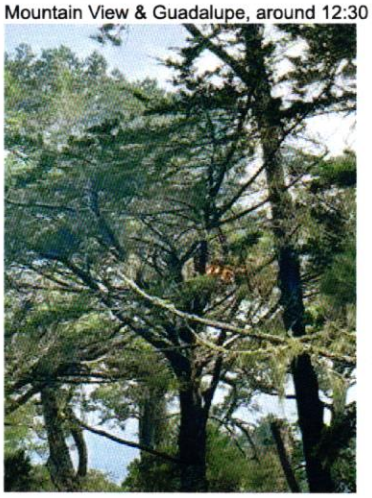
Attachment 1



The Astound project proposes fiber optic bundles running through tree crowns. The CPUC admits that they are not able to keep up with monitoring telephone pole and utility code violations. PG&E is also overwhelmed in being able to properly maintain our overhead utilities.

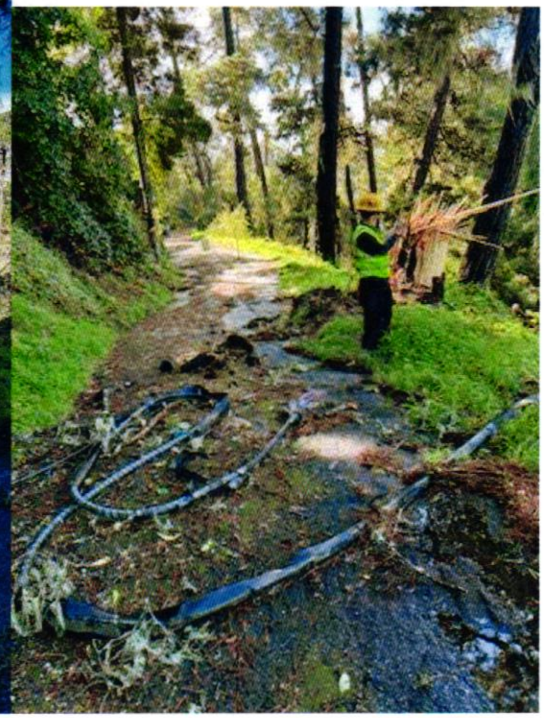
I have included some recent 2/5 storm incidents in Carmel-by-the-Sea depicting exposed overhead electrical wires and trees as evidence of our ongoing fire danger.

Mountain View & Guadalupe, around 12:30 on 2/5 there was a fire in the lines; fire was put out quickly. 3 residences were evacuated. Photo:



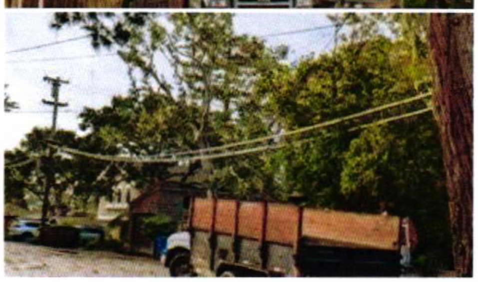
On 2/5 communication lines down in area of 2nd & Pescadero Canyon. A big telephone pole break from a tree and a series of lines yanked down. Photos:

Attachment 1



On 2/5 , the lines yanked down from above photos were also connected to CERT volunteers Deanna Dickman & Diana's block on Palou & N. Casanova which caused a jerk on their lines and broke a rotten cross beam on the pole jerking all of the wires. They have sagging wires and no electricity on this block.
Photos:

Attachment 1



We must require applicants who propose HEAVY fiber optic bundle wires to be underground due to aesthetics and safety. Guy wires are also a pedestrian tripping hazard and vehicular hazard in our green spaces used for pedestrian walking and vehicle parking access.

It would be most helpful if the City Attorney provides the following answers in writing for the public and City Council:

The Astound staff report says "The company has a state franchise to use the public right-of-way for their new fiber optic facilities, **but it is subject to the City's authority** to reasonably determine whether the proposed installations will incommode the public use of the streets. This can include a consideration of aesthetics."

We need further clarification on our city's rights. Can the City Attorney clarify in writing for the public and the council the following?:

1. Can he provide an explanation as to why this project does not have a visual impact?
2. Can he explain why this project will not be a fire safety hazard?
3. Can he explain why this project will not incommode the public?
4. Can he explain whether the applicant has a right to our POW if they haven't proven they have a gap in service or coverage?
5. Can he explain why we can't require this project's fiber optic bundle wires underground?

Thank you for studying this proposal further. Let's remember that Carmel's aesthetics and safety must not be overlooked in favor of for profit utility company proposals.

Thank you for your time.

Concerned Citizen,
Tasha Witt

Carmel-by-the-Sea

Attachment 1

Nova Romero <nromero@ci.carmel.ca.us>

3rd telephone pole & cables down: on Astound telephone pole proposal route

'Tasha Witt' via cityclerk <cityclerk@ci.carmel.ca.us> Thu, Feb 8, 2024 at 7:57 PM
Reply-To: Tasha Witt [redacted]
To: Brian Pierick <bpierik@ci.carmel.ca.us>, Chip Rerig <crerig@ci.carmel.ca.us>, Dave Potter <dpotter@ci.carmel.ca.us>, Bobby Richards <brichards@ci.carmel.ca.us>, Jeff Baron <jbaron@ci.carmel.ca.us>, Karen Ferlito <kferlito@ci.carmel.ca.us>, adramov@ci.carmel.ca.us, City Clerk <cityclerk@ci.carmel.ca.us>

City Attorney Brian Pierick, City Administrator Chip Rerig, Mayor Dave Potter and City Council Members Baron, Ferlito and Dramov,

I tried to send a 3rd photo example of a telephone pole and overhead wires yanked down in our recent 2/5/24 storm. I'm not sure if it went through to you.

This 2/5/24 photo from Carpenter & 4th depicts fire and police on scene for a gas break in the area. It also depicts overhead cables and a telephone pole yanked down apparently by a fallen tree.

This incident is along the same route which Astound proposes their HEAVY overhead fiber optic bundles overhead on our overhead telephone poles.

This is a third photo example I've sent you of telephone poles and cables being yanked down by tree falls. This is further evidence that all overhead utilities must be required underground for our community's safety.

We already have the policy that all new home builds are required to underground their utilities and the cost for trenching goes to the homeowner. Why wouldn't we also require for-profit utility companies to also underground their utilities???

Tasha Witt

2 attachments

image13.jpeg
206K

City of Carmel-By-The-Sea
FEB 09 2024
Office of the City Clerk

Attachment 1

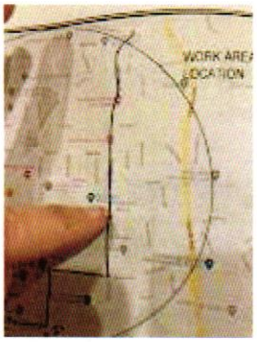


image14.jpeg
84K