

# The Carmel Pine Cone

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## DISGRUNTLED NEIGHBOR SUES CITY TWICE, CLAIMS HOUSES VIOLATE HER RIGHTS

By MARY SCHLEY

CLAIMING THE city allowed Denny LeVett to build a two-story house on a lot at Lincoln and Fifth because it would benefit from the property taxes, and thereby ruined the value of her property next door, Jacqueline Simonelli filed suit against the city in federal court in March. And on Monday, she sought an injunction in Monterey County Superior Court to halt its construction.

At Tuesday's Carmel City Council meeting, city attorney Don Freeman said LeVett and his group had agreed to cover the costs of the legal fight over the home, which is being built by Chris Tescher.

### A taking?

According to city documents, designer John Mandurrango's plans include a garage 10 feet off the property line, a second story 22 feet from Simonelli's property line to the west of LeVett's 55-foot-wide lot, and a height 2.5 feet lower than the allowed maximum, at 21.5 feet. The 450-square-foot second story, with a balcony and French doors, constitutes 25 percent of the

house's overall floor area. All the dimensions of the house abide by city rules.

But Simonelli argued the house was too large, looming over her home at Monte Verde and Fifth, cutting out the sun and intruding on her privacy. After the city council approved the project despite her objections in February, she filed suit in U.S. District Court March 20, arguing the council "gave property to a private party — a private real estate developer, a view of the ocean — it increased the value of the developer's property, while at the same time increasing the tax revenue to the city."

And that decision "substantially diminished the value of the Simonelli property because the two-story building (with a second-story balcony for the purpose to get a view of the ocean) looms over the Simonelli property and infringes on Simonelli's right to privacy, and rights to solar access, air and light," the lawsuit says.

The approval of LeVett's house violated the municipal code and design guidelines pertaining to privacy, light and air, as well as mass and bulk, she alleged.

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One house is already under construction at Lincoln and Fifth, and a second one is also approved. A neighbor of the projects, Jacqueline Simonelli, claims in two lawsuits that they violate many of her constitutional rights.

PHOTO/MARY SCHLEY

## When you find out your colleague was a spy

By PAUL MILLER  
Tenth in a series

LIKE EVERY other American born since 1950, I was raised on some very basic and universally acknowledged notions of our country's history.

Near the top of the list of things written in stone was that the McCarthy era was a shameful period of paranoid witchhunting and blacklisting based on fabricated or imagined allegations, and that the man it was named for, former Wisconsin Sen. Joseph McCarthy, was one of our greatest villains — a man who saw communists everywhere he looked, and who publicly vilified hordes of perfectly innocent people and ruined their lives for no other reason than his own personal gratification.

What a surprise, then, to find out that one of the most prominent broadcasters of the McCarthy era, and a man I looked up to 25 years later when he was at the height of his career and I was just a kid hanging around the CBS newsroom, had actually been a spy

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PHOTO/CORBIS

Winston Burdett testifying to a congressional committee in 1955 about being a spy for the USSR.

## Dam removal gets final OK

By CHRIS COUNTS

A PLAN to route construction traffic from the San Clemente Dam removal project through Cachagua — which caused a furor last fall in the remote part of Carmel Valley — was officially laid to rest May 8 when the Monterey County Planning Commission unanimously approved the use of an alternate route.

The planning commission also gave the project the final approval it needed for work to begin in August on the largest dam removal project California has ever seen. The cost to taxpayers and Monterey Peninsula water customers will be about \$83 million.

"This is a historic moment for the Carmel River, the community and the state," said Catherine Bowie, a spokeswoman for California American Water.

The decision was welcomed by Cachagua residents — who worried the project's construc-

tion traffic would seriously impact travel in their neighborhoods for three years — and environmental groups, whose members have argued for years that the presence of San Clemente Dam harms steelhead, red-legged frogs and the other flora and fauna. The dam, which belongs to Cal Am, is also seismically unsafe, and the state division of dam safety ordered it to

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PHOTO/PAUL MILLER

San Clemente Dam, built in 1921, will soon be no more.

## Live music permits to expire, but licenses for chickens won't

By MARY SCHLEY

AFTER FLIRTING with the idea of rescinding the every-three-years renewal requirement for live music in the city's bars and restaurants, the Carmel City Council on Tuesday decided the permits should expire after 10 years. But the ordinance itself will be permanent.

The additional tweaking of the law added more time to an already protracted process that began early this year after planner Marc Wiener realized the law "allowing for the playing of music instruments and other live entertainment where alcoholic beverages are sold or served" had expired in November 2011. First adopted with a three-year sunset date in 2005, the ordinance was renewed in 2008, but its expiration in 2011 passed without anyone noticing.

The original law also required permits issued under it be renewed every three years, but the planning commission recommended the council adopt the law without an expiration date or a requirement that permits be renewed.

Trying to act quickly so that establishments with existing permits were not operating illegally, since the law technically wasn't in effect, the council approved the updated ordinance in March, only to have that action invalidated on a technicality. Last month, council members OK'd the first draft of the law again and were set to vote on its final adoption Tuesday, which would have made it effective in early June. (A stopgap emergency ordinance was also approved to cover the gap until the official law takes effect.)

But Carmel Residents Association President Barbara Livingston and CRA member Roberta Miller told the council Tuesday they are worried about restaurants and bars violating the existing ordinance by playing loud music late at night, and they urged the council to tighten it. Livingston also wondered what the "other

live entertainment" the ordinance refers to could be.

"There could be strippers, belly dancers, whatever," she said. "This ordinance started out in a very sweet way: It was to provide soft, soothing music in restaurants and to provide a good dining

See **MUSIC, CHICKENS** page 14A

## Claypole hangs self in jail

■ Dies after being taken off life support

By CHRIS COUNTS

NINE DAYS after allegedly stabbing a cab driver to death in a Monterey parking lot — and six days after hanging himself in his jail cell — Joshua Kannon Claypole of Big Sur, 20, was taken off life support. He was pronounced dead Thursday morning at a San Jose hospital.

Those who knew Claypole as a child and a young man seemingly full of promise struggled this week to understand how his life unravelled. One friend said his descent into drugs and alcohol came quickly, and attempts to help him were unsuccessful. Another tried to focus on the happy times they shared as children growing up down the coast. Some at the Esalen Institute — where Claypole spent much of his life — looked back and wondered what could have been done to offer him more support when it became clear his behavior was spinning out of control. Others simply expressed shock and numbness.

"I tried to reach him, but it was like he

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