

# Exhibit B

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# DRAFT RESOLUTION

## Before the Board of Supervisors in and for the County of Monterey, State of California

In the matter of the application of:

**COLLINS JAMES G & SOOK (PLN130339)**

### **RESOLUTION NO. 22-**

Resolution by the Monterey County Board of Supervisors:

- 1) Find the project involves rezoning within the Coastal Zone, which qualifies as a Statutory Exemption pursuant to section 15625 of the CEQA Guidelines and is subject to the requirements of Public Resources Code § 21080.5;
- 2) Adopt a resolution of intent to approve the Local Coastal Program Amendment to rezone the property from Resource Conservation, Coastal Zone [“RC(CZ)”] to Watershed and Scenic Conservation, 40 acres per unit, Design Control, Special Treatment, Coastal Zone [“WSC/40-D-SpTr(CZ)”].

[PLN130339, James G & Sook Collins, 83 Mount Devon Road, Carmel, Carmel Area Land Use Plan (APN: 241-021-007-000)]

**The Collins James G & Sook application (PLN130339) came on for a public hearing before the Monterey County Board of Supervisors on March 08, 2022. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, including the draft zoning ordinance (Attachment 1) and draft zoning map (Attachment 2), the Monterey County Board of Supervisors finds and decides as follows:**

### **FINDINGS**

1. **FINDING:** **PROCESS** - The County has received and processed a Minor and Trivial Amendment to the previously adopted Combined Development Permit (PLN060735), as modified by a 2011 Design Approval (PLN110448) and a 2019 Design Approval (PLN190030), and as extended under PLN150766, in compliance with applicable procedural requirements.  
**EVIDENCE:** a) On November 1, 2021, Robert Carver, on behalf of Gary Collins (“applicant”), submitted an application for a Local Coastal Program Amendment (PLN130339) to HCD-Planning staff. This application requested approval of rezoning the subject property, APN: 241-021-007-000, to from Resource Conservation to Watershed and Scenic Conservation.

- b) Background. In 1966, Monterey County adopts the Monterey Peninsula Area Plan and the property is zoned Agriculture/Residential, Mobile Home Exclusion, 20-acre minimum building site or “K-V-B-5 20-acre min.”

On February 24, 1967 – The Monterey County Foundation, property owner, grants to the County of Monterey a Conservation and Scenic Easement Deed over the entire property. A year later, The Monterey County Foundation grants the property to the Behavioral Science Institute Foundation.

On April 14, 1983, Monterey County adopts the Carmel Area Land Use Plan and the property is rezoned to Resource Conservation, Coastal Zone or “RC(CZ).”

On August 18, 2014, the applicant files an application requesting approval of construction of a single-family dwelling and rezoning of the subject property from Resource Conservation to Watershed and Scenic Conservation.

On September 27, 2017, the Monterey County Planning Commission adopts two resolutions recommending the Board of Supervisors to 1) deny the rezone ordinance and mitigated negative declaration and 2) continue the development portion of the project to a date uncertain (Resolution Nos. 17-037 and 17-038, respectively).

On September 25, 2018, the Monterey County Board of Supervisors adopt a resolution denying the applicant’s request to amend the Local Coastal Program to rezone the property from Resource Conservation [RC(CZ)] to Watershed and Scenic Conservation, Special Treatment, Coastal Zone [WSC/SpTr(CZ)], without prejudice to allow the applicant to reapply for the rezone following a judicial determination that the Conservation and Scenic Easement Deed is or is not in effect (Resolution No. 18-312).

To resolve the Conservation and Scenic Easement’s legitimacy concern, the applicant files a Notice of Termination of the Conservation and Scenic Easement Deed with the County of Monterey Clerk of the Board in 2019.

On April 21, 2021, the U.S. District Court for the Northern District of California finds that 2019 Notice of Termination resulted in the effective termination of the Conservation and Scenic Easement conveyed to the County of Monterey over the entirety of the subject property, based on the terms of Article 7 in the Easement Deed.

- c) The application and related support materials submitted by the project applicant to Monterey County HCD-Planning for the proposed project found in Project File No PLN130339.

2. **FINDING:** **CONSISTENCY AND SITE SUITABILITY** – The Project, as conditioned, is consistent with the applicable plans and policies which designate this area as appropriate for development. The site is physically suitable for the use proposed.

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

- 1982 Monterey County General Plan;
- Carmel Area Land Use Plan;
- Monterey County Coastal Implementation Plan Part 4;
- Monterey County Zoning Ordinance (Title 20); and
- Monterey County Coastal Implementation Plan Part 6, Appendix 13 (Local Coastal Program Amendment Procedures).

The proposed rezone has been found consistent with the applicable plans and policies as more fully described herein.

- b) The property is located at 83 Mount Devon Road, Carmel (Assessor’s Parcel Number 241-021-007-000), Carmel Area Land Use Plan (CAR LUP) and zoning is Resource Conservation, Coastal Zone or “RC(CZ).” The subject property is part of the Behavioral Science Institute lands (BSI property or BSI), which is identified as a Special Treatment area in the Carmel Area Land Use Plan. Existing development on the site consists of over 700-linear feet of the Mount Devon Road right of way and a 50,000-gallon Cal Am municipal water storage tank, meter, and maintenance access. No development is proposed in this rezone application.
- c) The current RC zoning designation prohibits establishment of residential uses. Therefore, the applicant requests a rezone from RC zoning to Watershed Scenic Conservation (WSC).
- d) The applicant requests a Local Coastal Program (LCP) amendment pursuant to Section 30514 of the Public Resources Code, Division 20, California Coastal Act to allow a rezone of the subject property from Resource Conservation, Coastal Zone to Watershed Scenic Conservation, 40 acres per unit, Design Control Overlay, Special Treatment, Coastal Zone or “WSC/40-D-SpTr(CZ).” See Finding No. 4 and supporting evidence for further discussion.
- e) Development Potential. Pursuant to Policy 4.6 of the CAR LUP, a density of 1 unit per 40 acres is required for properties below 1000-foot elevation. The subject property has elevations ranging from 450 feet to 860 feet and is approximately 21 acres. Rezoning the subject property from RC to WSC/40 (1 unit per 40 acres), would restrict the allowed development to one main habitable unit (residential, farm worker, senior care facility, etc). Construction of accessory non-habitable structures such as a guesthouse does

not count towards this density limit and does not apply to the BSI unit cap. Per Gov. Code, § 65852.2, subd. (a)(1)(C), accessory dwelling units (ADU) do not count towards the allowable density for a lot. Monterey County Code only permits one ADU and guesthouse per lot. Therefore, the subject property (21 acres) would be able to construction a single-family dwelling, ADU and guesthouse and still be consistent with the proposed zoning district's density requirement (1 unit per 40 acres).

- f) Consistency with Policy 4.4.3E.6 of the CAR LUP – BSI Residential Development. This policy states: *“The BSI property may be developed for residential use. A maximum of 25 units may be approved; all units shall be sited outside of the view from Highway 1. These units may be used in conjunction with the institutional use. The upper steeper portion shall remain in open space.”* There are currently 12 lots that make up the BSI property, 8 of which are developed with a total of 9 residential units. Although most residential development on the BSI property ranges in elevations of 260-540 feet above sea level (FASL), Assessor's Parcel Number 241-011-009-000 was approved residential development at 845 FASL which is the highest development within the BSI property. The subject property has elevations ranging from 450 feet to 860 feet. Based on Finding No. 5 and supporting evidence, the development potential resulting from the proposed rezone will be consistent with this policy.
- g) Consistency with California Coastal Commission LCP Periodic Review. Application of the 40 acre per unit density restriction will allow for one residential unit to be developed on the subject property, which is consistent with the Coastal Commission's Monterey County LCP Periodic Review (Map LU-12.6). Therefore, approval of the proposed rezone has the potential to increase the number of BSI residential units to 10, which is below the maximum allowance of 25.
- h) Design Control. Section 20.44.020.C.2 of Title 20 states that regulations contained within the Design Control (“D”) district apply to all areas within the Carmel Area Land Use Plan. Therefore, design review of all future development applications is required to assure protection of the public viewshed, neighborhood character, and to assure the visual integrity of certain developments without imposing undue restrictions on the property. See applicable viewshed evidence contained in Finding Nos. 4, 5 and 6.
- i) Environmentally Sensitive Habitat Areas (ESHA). See Finding 4, Evidence “c,” and Finding 6 and supporting evidence.
- j) The project was not referred to the Carmel/Carmel Highlands Land Use Advisory Committee (LUAC) for review. Based on the LUAC Procedure guidelines adopted by the Monterey County Board of Supervisors, this application did not warrant referral to the LUAC because it is exempt from environmental review and does not require a Lot Line Adjustment, Variance or design approval at a public hearing.

- k) Planning Commission Recommendation. Pursuant to Monterey County Code Section 20.94.030, the Planning Commission held a public hearing on the previously proposed amendment. On August 20, 2017, the Planning Commission adopts a motion of intent to deny the rezone request and continue the proposed single-family dwelling and associated site improvements to a later hearing. On September 27, 2017, the Planning Commission adopts a resolution recommending the Board of Supervisors deny the rezone ordinance and mitigated negative declaration but continue the development portion of the project to a date uncertain. Therefore, the proposed rezone has met the review requirements established in MCC 20.94.030 and the Board of Supervisors is the appropriate authority to review and adopt a motion of intent.
- l) No Violations. The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of the County’s zoning ordinance. Staff researched and reviewed Monterey County HCD-Planning and Building Services Department records and conducted a site inspection to assess if any violation exists on the subject property. No violations exist on the property.
- m) The application and related support materials submitted by the project applicant to Monterey County HCD-Planning for the proposed rezone found in Project File PLN130339.

3. **FINDING:** **HEALTH AND SAFETY** - The establishment, maintenance, or operation of the use or structure applied for, will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use; or be detrimental or injurious to property and improvements in the neighborhood; or to the general welfare of the County.

- EVIDENCE:**
- a) The project was reviewed by HCD-Planning which recommended conditions, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood.
  - b) Although the property lies within the Cal-AM Service Area, there is no active connection. The property is not located within the Carmel Area Wastewater District. Future residential developments will require annexation into the appropriate wastewater district or approval of an Onsite Wastewater Treatment System.
  - c) According to Monterey County Geographic Information Science (GIS), the entire property contains slopes that exceed 30 percent slopes and has a high erosion hazard. Therefore, all future development will require approval of a Coastal Development Permit to all development on steep slopes (greater than 30%) due to the subject parcel’s topography. Pursuant to Carmel CIP Section 20.146.080.B.1.b, a geotechnical report shall be prepared for all future development proposals. Future development proposals shall not result in soil erosion caused by grading and land disturbance or the alteration of drainage patterns.

- d) The application and related support materials submitted by the project applicant to the Monterey County HCD - Planning for the proposed development found in Project File PLN130339.

4. **FINDING:** **LOCAL COASTAL PLAN AMENDMENT** – Processing of the Local Coastal Plan (LCP) amendment is consistent with the procedures set forth in Section 30514 of the California Coastal Act and Part 6, Appendix 13 of the Monterey County Coastal Implementation Plan. Approval of the LCP amendment to allow rezoning of the property is consistent with standards by which the adequacy of the local coastal program is determined.

- EVIDENCE:**
- a) The project includes rezoning of 30-acre subject property from Resource Conservation, Coastal Zone [RC(CZ)] to Watershed Scenic Conservation, 40 acres per unit, Design Control Overlay, Special Treatment, Coastal Zone [WSC/40-D-SpTr(CZ)]. Pursuant to Section 30514(d) of the California Coastal Act, an amendment of the LCP includes any action by the local government which authorizes use of a parcel of land, other than that designated in the certified local coastal program, as a permitted use of such parcel.
  - b) Pursuant to Monterey MCC Section 20.02.060 A and B, no building permit, grading permit, land use discretionary permit, coastal administrative permit, coastal development permit, exemption, categorical exclusion, or other permit relative to land use may be approved if it is found to be inconsistent with the Monterey County Local Coastal Program. However, the Board of Supervisors is the appropriate authority to consider appeals where it can be found that the strict application of the area land use plan policies and development standards of this ordinance denies all reasonable use of the subject property. Therefore, all though the proposed rezone is found consistent with the California Coastal Act and Carmel Area Land Use Plan, all future development must also be found consistent. If future development is found to be inconsistent with the Local Coastal Program, the Board of Supervisors shall consider such application request.
  - c) Consistency with the California Coastal Act. The rezone is consistent with the applicable Coastal Resources Planning and Management Policies contained Chapter 3 of the California Coastal Act.

**Article 2 – Public Access.** The subject property is not located in an area where adequate public access or facilities, including parking areas, for the use of the general public exists. Therefore, the rezone would not impact existing or future public access and is consistent with this policy. See Finding No. 7.

**Article 5 – Land Resources.** Environmentally sensitive habitats exist on the site. However, the rezone will not result in a significant disruption of habitat values. See Finding No. 6.



**Article 6 – Development.** Future development resulting from the rezone shall be located adjacent to an existing public road. Evidence of potable water and wastewater service shall be made available (Finding No. 3). Impacts to the viewshed shall not occur (Finding No 4, evidence “c” and Finding Nos. 5 and 6). The site is suitable for the rezone and future development (Finding No. 2) and there is no indication that it will involve a risk to health and safety (Finding No. 3).

- d) Consistency with the Carmel Area Land Use Plan (CAR LUP).  
The rezone is consistent with the applicable standards and policy objectives of the CAR LUP.

**2.2 Visual Resources.** The rezone will not result in an impact to the viewshed. CAR LUP Policy 2.2.2 and 2.2.3.1, requires all development to “conform to the basic viewshed policy of minimum visibility” and “not detract from the natural beauty of the ... undeveloped ridgelines and slopes in the public viewshed.” Although this property is not located within the General Viewshed, portions of its undeveloped slopes and ridges are visible from Highway 1 and Point Lobos. Per CAR LUP Policy 2.2.3.4, “The portion of a parcel least visible from public viewpoints and corridors shall be considered the most appropriate site for the location of new structures.” A visual analysis shall be required for all future development to determine the. Placement of any future driveway or new access road to development must not intrude upon public views from Highway 1 or any other public viewing area, such as Point Lobos. The standard exterior lighting condition of approval shall be applied to future development to ensure that all exterior lighting is shielded or designed near the ground and directed downwards (CAR LUP Policy 2.2.4.10.d). Finally, pursuant to CAR LUP Policy 2.2.3.9 and Carmel Coastal Implementation Plan (CIP) Section 20.146.030.C.9, future development will be required as a condition of approval to convey a conservation and scenic easement to the County of Monterey over the areas of the property that are within the viewshed and on the remaining steep slopes. See Finding Nos. 5 and 6.

**2.3 Environmentally Sensitive Habitats.** The rezone is limited to a change in the subject property’s zoning and will have no direct impact on environmentally sensitive habitat areas. All future development proposals shall include submittal of a biological assessment, subject to the requirements and standards in the CIP, to determine impacts to environmentally sensitive habitat areas. CAR LUP and CIP EHSA Policies and regulations require total avoidance of EHSA for new subdivisions, even on parcels totally within sensitive habitat areas. However, it was anticipated that there would be potential for existing lots to fully contain ESHA and complete avoidance would not be feasible in order to allow reasonable development. Therefore, future development proposals

on the subject property would be considered compatible with the long term maintenance of the resource if: 1) site improvements and vegetation removal were restricted to only the amount needed for reasonable development, thereby reducing ESHA impacts to the greatest extent feasible and 2) the proposal incorporates necessary site planning and design features which protect the habitat and do not set a precedent for continued land development with the potential to degrade the resource. The biologist, in coordination with the California Department of Fish and Wildlife, shall recommend mitigation measures to reduce any potential impact to less than significant (Carmel CIP Section 20.146.040.B.6). Pursuant to CAR LUP Policy 2.3.3.6, the County shall require dedications of permanent conservation easements over environmentally sensitive habitat areas when development is proposed on parcels containing such habitats. The Conservation and Scenic Easement deed shall specifically note that the purpose of the easement is for the long-term preservation of the ESHA and Viewshed in accordance with CAR LUP protection policies and as a direct result of approval of the proposed project. Future development of the property – as proposed, conditioned and/or mitigated – requires consistency with CAR LUP biological resource protection policies and implementation of the respective regulations, ensuring protection, maintenance and enhancement of the area’s environmentally sensitive habitats. See Finding No. 6.

**2.4 Water and Marine Resources.** The rezone will result in no impacts caused by soil erosion and drainage are minimized. All future development shall be found consistent with the goals and policies of this section.

**2.5 Forestry and Soil Resources.** The rezone will have no impact on forest or soil resources. Shall future development require the removal of native trees (12 inches or greater in diameter), a Coastal Development Permit shall be obtained and conditions to require replacement on a 1:1 ratio. Removal of the protected trees requires the Appropriate Authority to find that: 1) tree removal would not result in exposure of structures within the critical viewshed; and 2) removal is limited to that which is necessary for the proposed development. See Finding No. 6.

**2.7 Hazards.** The rezone will not interfere with policies applicable to fire, flood, and/or seismic and geologic hazards. All future development shall be found consistent with the goals and policies of this section.

**2.8 Archaeological Resources.** According to Monterey County Geographic Information System (GIS), the property is located within a high archaeological sensitivity zone. The rezone will have no impact on archaeological or cultural resources. Future

development be subject to the policies requiring protection archaeological resources. See Finding No. 9.

**4.4 Land Use Development Policies.** Rezoning the property from Resource Conservation, Coastal Zone [RC(CZ)] to Watershed Scenic Conservation, 40 acres per unit, Design Control Overlay, Special Treatment, Coastal Zone [WSC/40-D-SpTr(CZ)] is consistent with Policy 4.4.3.E.6 of the CAR LUP, for the development of Behavioral Science Institute (BSI) lands (Finding No. 5). The WSC land use category applies to the upland and mountainous areas east of Highway 1 and allows for rural residences. Although the rezone does not propose any development, application of the WSC/40 zoning district will allow the future development of 1 habitable unit, subject to approval of the appropriate entitlements. All future development shall not conflict with the protection of the watershed, streams, plant communities, and scenic values. See Finding No. 2.

**5.3 Public Access Policies and Recommendations.** The subject property does not meet the public access criteria contained in the CAR LUP. Therefore, the rezone and all future development will not conflict with the protection polices for providing public access. See Finding No. 7.

- e) Establishment of the current Resource Conservation, Coastal Zone or “RC(CZ)” zoning. In 1966, Monterey County adopted the Monterey Peninsula Area Plan and the subject property was zoned Agriculture/Residential. On February 24, 1967, the property owner, The Monterey County Foundation, conveyed the 30-acre parcel to the County by Conservation and Scenic Easement Deed (recorded on Reel 495, Page 586 of the Official Records of Monterey County). On April 14, 1983, Monterey County adopted the Carmel Area Land Use Plan and the property was rezoned to RC(CZ). The CAR LUP provides no explanation for the resulting zoning but identifies the subject property to be part of BSI lands. A comprehensive development plan was not adopted for BSI and there is no indication of policy requirement to restrict development on the property. Based on the available information, staff finds the RC zone was a result of the development restriction contained in the conservation easement.
- f) Establishment of Conservation Easement. Staff found no documenting evidence that conveyance of the Conservation and Scenic Easement was required to implement Monterey County policies and/or as a condition of approval or mitigation resulting from permitted development. However, staff received documentation, as part of public comment of the previously denied Rezone and Coastal Development Permit application, claiming that the conveyance was pursued as a way to conserve the property received by the Monterey County Foundation as a gift from the D’Ambrogio family in memory of Major Charles

(A.K.A Frank) Francis De Amaral, Jr., after he lost his life in battle during the Vietnam War. This information corroborates the lack of documentation addressed above. Therefore, staff finds that establishment of the easement was of a private act.

g) Termination of the Conservation and Scenic Easement Deed.

Article 7 of the Conservation and Scenic Easement Deed states that in the event that the State of California, or any political subdivision thereof, should pass legislation for the purpose of restricting the use of real property to conserve and maintain natural scenic beauty, open space lands, natural resources, and that legislation results in the restriction of use of the subject property for those purposes; the Grantor, or successors in interest, has the option to have the property free from the restrictions imposed by the deed by giving written notice to the Grantee. Upon giving notice, the conveyance shall immediately cease. On December 21, 1990, the previous owner of the property, Walter and Loretta Warren filed a Notice of Termination of Conservation and Scenic Easement Deed (recorded on Reel 2590 Page 780 of the Official Records of Monterey County) pursuant to Article 7 of the deed based upon enactment of the California Coastal Act as the “qualifying legislation.” In 2021, the Court found that the California Coastal Act alone (the basis for Warren's 1990 Termination) was sufficient to trigger the termination provision in the Easement Deed. However, the Court found that the Monterey County Zoning Ordinance is the type of qualifying legislation that would allow for the termination of the Easement, the basis of James Collins’ 2019 Notice of Termination. Therefore, rezoning the property from Agriculture/Residential, which allowed two residential units, to Resource Conservation, which does not allow residential units, restricts the use of the Property, and therefore triggers the condition in Article 7 of the Easement deed required for unilateral termination. Although an argument can be made that the RC zoning ordinance is not more restrictive than the restrictions of the Easement Deed, the Court found that the degree of restriction was immaterial to this determination. Termination of the easement does not intensify the property because it is still restricted by the RC zoning ordinance. Rezoning the subject property to WSC/40-D-SpTr(CZ) will allow for the intensification of one unit.

h) The application and related support materials submitted by the project applicant to the Monterey County HCD - Planning for the proposed development found in Project File PLN130339.

5. **FINDING:**

**BEHAVIORAL SCIENCE INSTITUTE (BSI)**

**DEVELOPMENT** - Establishment of the residential use on the property is consistent with the residential development policy and implementation standards for BSI lands, contained within the Carmel Area Land Use Plan (CAR LUP) and Monterey County Coastal Implementation Plan Part 4 (CIP).

- EVIDENCE:**
- a) The subject property is delineated in Figure 2 – Special Treatment Areas of the CAR LUP and is shown as part of the BSI property.
  - b) Policy 4.4.3E.6 of the CAR LUP states that the BSI property may be developed for residential use. A maximum of 25 units may be approved; all units shall be sited outside of the view from Highway 1. These units may be used in conjunction with the institutional use. The upper steeper portion shall remain in open space. Special Treatment Area Development Standards contained in Section 20.146.120.C.7 of the CIP states that the BSI property may be developed for residential use. A maximum of 40 units may be approved; all units shall be sited outside of the view from Highway 1. These units may be used in conjunction with the institutional use. The upper steeper portion shall remain in open space.
  - c) Unit Cap. The BSI property contains 12 privately owned lots at its current configuration, 8 of which are developed with single family dwellings. Altogether, there are a total of 9 residential units in BSI. The proposed rezone will allow for a development potential of 1 unit, therefore potentially increasing the BSI development to 10 units. This is under the maximum amount of units allowed in the CAR LUP and CIP.
  - d) View from Highway 1. Map A – General Viewshed and data contained in the Monterey County Geographic Information System indicates that a portion of the subject property is located in the “General Viewshed,” a highly sensitive area. The previously denied Rezone and Coastal Development Permit application proposed development in an area that was outside of the viewshed area. Staff confirmed that this previously proposed development was not visible from Highway 1, Highway 1 turnouts, or the Pt. Lobos State Reserve. This provides evidence that there is at least one location on the property that is not visible from the public viewshed. Although future development may not be located in the previously proposed location, this serves as evidence that a portion of the property does meet the policies and goals of the CAR LUP Visual Resources chapter.
  - e) Development Outside of the Upper Steeper Portion. the BSI property contains two peaks of mountainous terrain to the north and south and flatlands to the west. The highest elevation of the northern and southern peak is approximately 860-feet above sea level (FASL), while the lowest elevation of BSI is just under 200-FASL. Based on evidence of the previously denied project and site visits, the upper portion of the subject property has the greatest potential to be visible from the public viewshed. The previous denied project proposed development at approximately 520-FASL, falling just above the mid-range level of the overall elevation of the BSI property. Since adoption of the CAR LUP, 4 developments on BSI property have been approved and occurred in elevations between 260 and 845-FASL, with a calculated average of 552-FASL. Future development proposals shall be

found consistent with all policies and regulations of the CAR LUP, including the BSI development policies.

- f) Open Space Upper Steeper Portion. All future development proposals shall include open space conservation of the upper steeper portions of the subject property. Language in the Conservation and Scenic Easement deed shall specifically note that the purpose of the easement is for the long-term preservation of the ESHA and Viewshed in accordance with CAR LUP protection policies and as a direct result of future development's approval.
- g) The application and related support materials submitted by the project applicant to the Monterey County HCD - Planning for the proposed development found in Project File PLN130339.

6. **FINDING:** **CEQA (Statutory Exemption)** - The project is statutorily exempt from environmental review and no unusual circumstances were identified to exist for the proposed project.

- EVIDENCE:**
- a) Pursuant Section 15265 of the California Environmental Quality Act (CEQA) Guidelines, CEQA does not apply to activities and approvals pursuant to the California Coastal Act.
  - b) This project includes the rezone of a property in the Coastal Zone, which constitutes a Local Coastal Act Amendment. Therefore, this project meets the statutory exemption of Section 15625 of the CEQA Guidelines. However, Staff is required to provide evidence of CEQA compliance to the California Coastal Commission pursuant to Public Resources Code § 21080(b)(15).
  - c) Rezoning the subject parcel from Resource Conservation to Watershed and Scenic Conservation, 40 acres per unit, with a design control and special treatment overlay [WSC/40-D-SpTr (CZ)] will result in no direct impacts on the environment. However, the increased development potential (1 unit) is anticipated to result in impacts.
  - d) Evidence of CEQA Compliance of the proposed project and its potential indirect impacts is provided in the March 08, 2022 Board of Supervisors Staff Report and Exhibits, and Finding 2, 3, 4 and 5 of this Resolution. The March 08, 2022 Board of Supervisors Staff Report and Exhibits analyzes the anticipated indirect impacts as a result of future development (Aesthetics/Viewshed, Biology, and Geology/Soils). The above-mentioned Findings and supporting evidence of this resolution analyze the proposed project's and future development's consistency with the Carmel Area Land Use Plan, Carmel Coastal Implementation Plan, Behavioral Science Institute Development restrictions and the 1982 Monterey County General Plan.
  - e) The provided CEQA evidence evaluates the direct and indirect impacts of the proposed rezone. All future development shall be subject to separate and independent environmental review.
  - f) The application and related support materials submitted by the project applicant to the Monterey County HCD - Planning for the proposed development found in Project File PLN130339.

7. **FINDING:** **PUBLIC ACCESS** – The project is in conformance with the public access and recreation policies of the Coastal Act (specifically Chapter 3 of the Coastal Act of 1976, commencing with Section 30200 of the Public Resources Code) and Local Coastal Program, and does not interfere with any form of historic public use or trust rights.
- EVIDENCE:** a) No access is required as part of the project as no substantial adverse impact on access, either individually or cumulatively, as described in Section 20.146.130.B of the Monterey County Coastal Implementation Plan can be demonstrated.
- b) The subject property is not described as an area where the Local Coastal Program requires public access (Figure 3 in the Carmel Area Land Use Plan).
- c) No evidence or documentation has been submitted or found showing the existence of historic public use or trust rights over this property.
8. **FINDING:** **APPEALABILITY** - The recommendation of the rezone is not appealable.
- EVIDENCE:** a) Action on the rezone does not include approval or denial, only recommendation, and therefore not appealable.

### **DECISION**

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

- 1) Find the project involves rezoning within the Coastal Zone, which qualifies as a Statutory Exemption pursuant to section 15625 of the CEQA Guidelines;
- 2) Adopt a resolution of intent to approve the Local Coastal Program Amendment to rezone the property from Resource Conservation, Coastal Zone [“RC(CZ)”] to Watershed and Scenic Conservation, 40 acres per unit, Design Control Overlay, Special Treatment, Coastal Zone [“WSC/40-D-SpTr(CZ)”].

All of which is in general conformance with the attached draft ordinance and zoning map, all being attached hereto and incorporated herein by reference.

**PASSED AND ADOPTED** upon motion of Supervisor \_\_\_\_\_, seconded by Supervisor \_\_\_\_\_, and carried this 8<sup>th</sup> day of March 2022, by the following vote to wit:

AYES:  
 NOES:  
 ABSENT:  
 ABSTAIN:

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof Minute Book \_\_\_\_\_ for the meeting on March 8, 2022.

Date:  
 File Number:

Valerie Ralph, Clerk of the Board of Supervisors

County of Monterey, State of California

By \_\_\_\_\_  
Deputy



**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA  
AMENDING SECTION 20.08.060 OF TITLE 20 (COASTAL ZONING) OF THE  
MONTEREY COUNTY CODE TO CHANGE THE ZONING CLASSIFICATION OF  
CERTAIN PROPERTY IN THE COUNTY OF MONTEREY**

**County Counsel Summary**

*This ordinance amends Section 20-16 of the Sectional District Maps of Section 20.08.060 of Title 20 (Monterey County Coastal Implementation Plan) of the Monterey County Code to rezone a 21-acre parcel from the “RC(CZ)” [Resource Conservation, Coastal Zone] zoning classification to the “WSC/40-D-SpTr(CZ)” [Watershed Scenic Conservation, 40 acre per unit, Design Control, Special Treatment, Coastal Zone] zoning classification. The property is located at 83 Mount Devon Road, Carmel in the coastal unincorporated area of Monterey County (APN: 241-021-007-000).*

The Board of Supervisors of the County of Monterey ordains as follows:

**SECTION 1. ZONING DISTRICT MAP.** Section 20-16 of the Sectional District Maps of Section 20.08.060 of the Monterey County Code is hereby amended to change the zoning of a 21-acre parcel located at 83 Mount Devon Road, Carmel (Assessor’s Parcel Number: 241-021-007-000) from the “RC(CZ)” [Resource Conservation, Coastal Zone] zoning classification to the “WSC/40-D-SpTr(CZ)” [Watershed Scenic Conservation, 40 acres per unit, Design Control, Special Treatment, Coastal Zone] zoning classification, as shown on the map attached hereto as Exhibit A and incorporated by reference.

**SECTION 2. SEVERABILITY.** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of Supervisors hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

**SECTION 3. EFFECTIVE DATE.** This Ordinance shall become effective on the thirty-first day after its adoption or the day certification by the California Coastal Commission becomes final and effective, whichever is later.

**PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2022 by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

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Mary Adams, Chair  
Monterey County Board of Supervisors

A T T E S T:

Valerie Ralph,  
Clerk of the Board of Supervisors

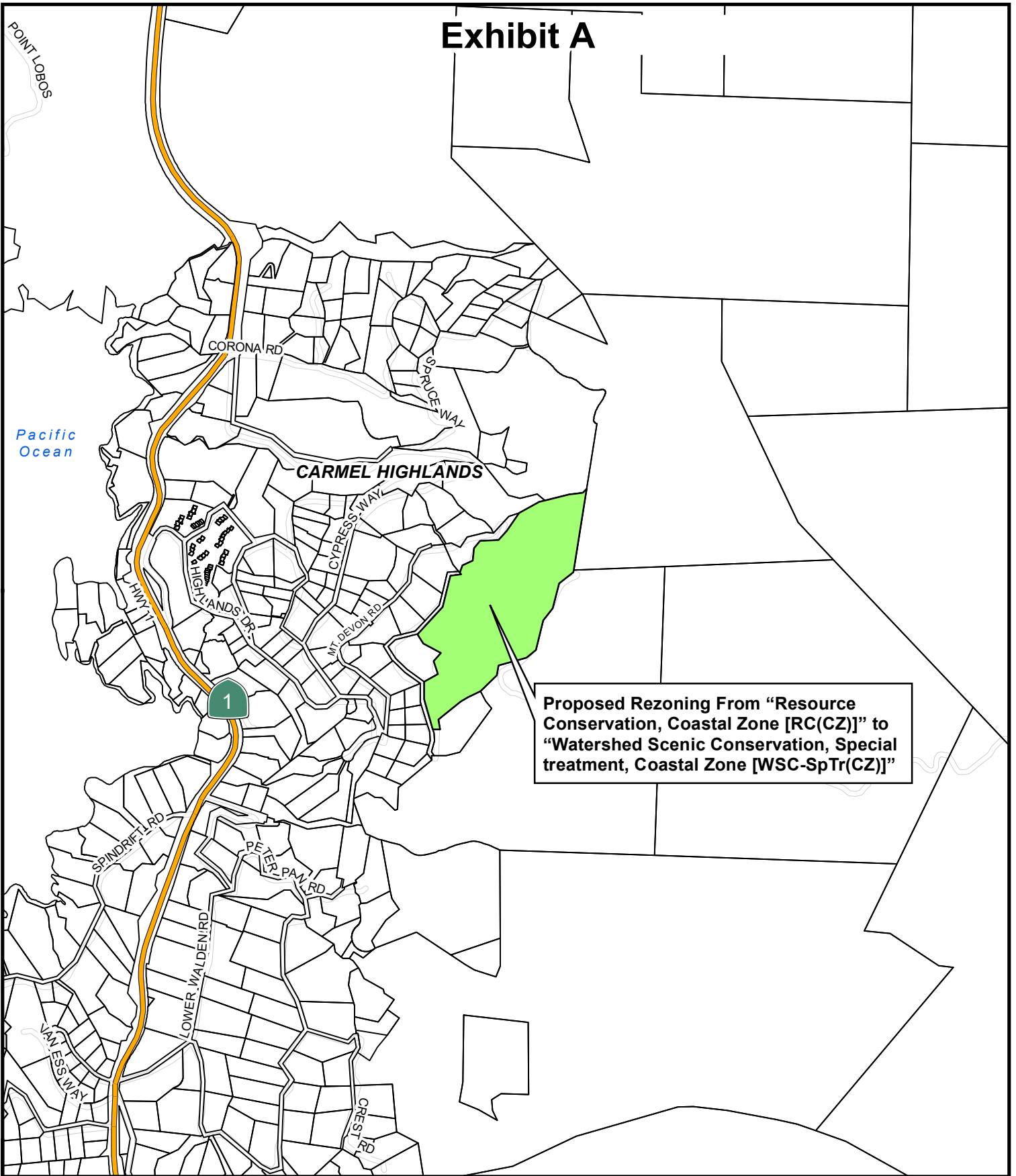
By: \_\_\_\_\_

APPROVED AS TO FORM:



Kelly L. Donlon  
Assistant County Counsel

# Exhibit A

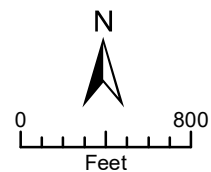


## REZONING: SECTION 20-22 & 20-16, TITLE 20

APN: 241-021-007-000

FILE #

 SUBJECT PARCEL  PARCEL



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