

County of Monterey

Government Center - Board Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901



Meeting Agenda - Final

Wednesday, February 28, 2024
9:00 AM

Monterey County Planning Commission

The Recommended Action indicates the staff recommendation at the time the agenda was prepared. That recommendation does not limit the Planning Commission alternative actions on any matter before it.

In addition to attending in person, public participation will be available by ZOOM and/or telephonic means:

You may participate through ZOOM. For ZOOM participation please join by computer audio at: <https://montereycty.zoom.us/j/98927822741>

OR to participate by phone call any of these numbers below:

- + 1 669 900 6833 US (San Jose)
- + 1 346 248 7799 US (Houston)
- + 1 312 626 6799 US (Chicago)
- + 1 929 205 6099 US (New York)
- + 1 253 215 8782 US
- + 1 301 715 8592 US

Enter this Meeting ID number 989 2782 2741 when prompted.

PLEASE NOTE: IF ALL COMMISSIONERS ARE PRESENT IN PERSON, PUBLIC PARTICIPATION BY ZOOM IS FOR CONVENIENCE ONLY AND IS NOT REQUIRED BY LAW. IF THE ZOOM FEED IS LOST FOR ANY REASON, THE MEETING MAY BE PAUSED WHILE A FIX IS ATTEMPTED BUT THE MEETING MAY CONTINUE AT THE DISCRETION OF THE CHAIRPERSON.

If you choose not to attend the Planning Commission meeting in person, but desire to make general public comment, or comment on a specific item on the agenda, you may do so in two ways:

- a. Submit your comment via email by 5:00 p.m. on the Tuesday prior to the Planning Commission meeting. Please submit your comment to the Clerk at pchearingcomments@co.monterey.ca.us . In an effort to assist the Clerk in identifying the agenda item relating to your public comment please indicate in the Subject Line, the meeting body (i.e. Planning Commission Agenda) and item number (i.e. Item No. 10). Your comment will be placed into the record at the meeting.
- b. You may participate through ZOOM or telephonically. For ZOOM or telephonic participation please join by computer audio using the links above.

DOCUMENT DISTRIBUTION: Documents related to agenda items that are distributed to the Planning Commission less than 72 hours prior to the meeting shall be available for public inspection at the meeting the day of the Planning Commission meeting and in the Housing and Community Development Office located at 1441 Schilling Place, 2nd Floor, Salinas California. Documents submitted in-person at the meeting, will be distributed to the Planning Commission. All documents

submitted by the public at the meeting the day of the Planning Commission must have no less than ten (10) copies. Comments received after the agenda item will be made part of the record if received prior to the end of the meeting.

ALTERNATIVE FORMATS: If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 USC Sec. 12132) and the federal rules and regulations adopted in implementation thereof. For information regarding how, to whom and when a person with a disability who requires a modification or accommodation in order to participate in the public meeting may make a request for disability-related modification or accommodation including auxiliary aids or services or if you have any questions about any of the items listed on this agenda, please call the Monterey County Housing and Community Development at (831) 755-5025.

INTERPRETATION SERVICE POLICY: The Monterey County Planning Commission invites and encourages the participation of Monterey County residents at its meetings. If you require the assistance of an interpreter, please contact the Monterey County Housing and Community Development Department by phone at (831) 755-5025. The Clerk will make every effort to accommodate requests for interpreter assistance. Requests should be made as soon as possible, and at a minimum 24 hours in advance of any meeting. **NOTE:** All agenda titles related to numbered agenda items are live web links. Click on the title to be directed to the corresponding staff report and associated documents.

PUBLIC COMMENT: Members of the public may address comments to the Planning Commission concerning each agenda item. The timing of public comment shall be at the discretion of the Chair.

La medida recomendada indica la recomendación del personal en el momento en que se preparó la agenda. Dicha recomendación no limita las acciones alternativas de la Comisión de Planificación sobre cualquier asunto que se le haya sometido.

Además de asistir en persona, la participación del público estará disponible por ZOOM y/o medios telefónicos:

Puede participar a través de ZOOM. Para la participación de ZOOM, únase por computadora en: <https://montereycty.zoom.us/j/98927822741>

O para participar por teléfono, llame a cualquiera de estos números a continuación:

- + 1 669 900 6833 US (San Jose)
- + 1 346 248 7799 US (Houston)
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- + 1 929 205 6099 US (New York)
- + 1 253 215 8782 US
- + 1 301 715 8592 US

Presione el código de acceso de reunión: 989 2782 2741 cuando se le solicite.

TENGA EN CUENTA: SI TODOS LOS COMISIONADOS ESTÁN PRESENTES EN PERSONA, LA PARTICIPACIÓN PÚBLICA DE ZOOM ES SOLO POR CONVENIENCIA Y NO ES REQUERIDA POR LA LEY. SI LA TRANSMISIÓN DE ZOOM SE PIERDE POR CUALQUIER MOTIVO, LA REUNIÓN PUEDE PAUSARSE MIENTRAS SE INTENTA UNA SOLUCIÓN, PERO LA REUNIÓN PUEDE CONTINUAR A DISCRECIÓN DEL PRESIDENTE DE LA REUNIÓN.

Si decide no asistir a la reunión de la Comisión de Planificación en persona, pero desea hacer comentarios públicos generales o comentar sobre un tema específico de la agenda, puede hacerlo de dos maneras:

- a. Envíe su comentario por correo electrónico antes de las 5:00 p.m. del martes anterior a la reunión de la Comisión de Planificación. Por favor, envíe su comentario al asistente de la Comisión de Planificación a: phearingcomments@co.monterey.ca.us . En un esfuerzo por ayudar al asistente a identificar el tema de la agenda relacionado con su comentario público, indique en la Línea de Asunto, la audiencia de la reunión (ejemplo, la Junta de la Comisión de Planificación) y número de artículo (ejemplo, artículo n.º 10). Su comentario se incluirá en el registro de la reunión.
- b. Puede participar a través de ZOOM o telefónicamente. Para ZOOM o participación telefónica, únase por audio de computadora utilizando los enlaces anteriores.

DISTRIBUCIÓN DE DOCUMENTOS: Los documentos relacionados con los temas de la agenda que se distribuyan a la Comisión de Planificación menos de 72 horas antes de la reunión estarán disponibles para inspección pública en la reunión el día de la reunión de la Comisión de Planificación y en la Oficina de Vivienda y Desarrollo Comunitario ubicada en 1441 Schilling Place, 2nd Floor, Salinas California. Los documentos presentados en persona en la reunión se distribuirán a la Comisión de Planificación. Todos los documentos presentados por el público en la reunión del día de la Comisión de Planificación deben tener no menos de diez (10) copias. Las observaciones recibidas después del tema del programa pasarán a formar parte del acta si se reciben antes de que finalice la sesión.

FORMATOS ALTERNATIVOS: Si se solicita, la agenda se pondrá a disposición de las personas con discapacidad en formatos alternativos apropiados, según lo exige la Sección 202 de la Ley de Estadounidenses con Discapacidades de 1990 (42 USC Sec. 12132) y las reglas y regulaciones federales adoptadas en implementación de la misma. Para obtener información sobre cómo, a quién y cuándo una persona con una discapacidad que requiere una modificación o adaptación para participar en la reunión pública puede hacer una solicitud de modificación o adaptación relacionada con la discapacidad, incluidas las ayudas o servicios auxiliares, o si tiene alguna pregunta sobre cualquiera de los temas enumerados en esta agenda, llame al Departamento de Vivienda y Desarrollo Comunitario del Condado de Monterey al (831) 755-5025.

POLÍZA DE SERVICIO DE INTERPRETACIÓN: Los miembros de la Comisión de Planificación del Condado de Monterey invita y apoya la participación de los residentes del Condado de Monterey

en sus reuniones. Si usted requiere la asistencia de un intérprete, por favor comuníquese con el Departamento de Vivienda y Desarrollo Comunitario localizado en el Centro de Gobierno del Condado de Monterey, (County of Monterey Government Center), 1441 Schilling Place, segundo piso sur, Salinas – o por teléfono al (831) 755-5025. La asistente hará el esfuerzo para acomodar los pedidos de asistencia de un intérprete. Los pedidos se deberán hacer lo más pronto posible, y a lo mínimo 24 horas de anticipo para cualquier reunión. **NOTA:** Todos los títulos de la agenda relacionados con los puntos numerados de la agenda son enlaces web en vivo. Haga clic en el título para dirigirse al informe del personal correspondiente y los documentos asociados.

COMENTARIO PÚBLICO: Los miembros del público pueden dirigir comentarios a la Comisión de Planificación sobre cada punto del orden del día. El momento de los comentarios públicos será a discreción del presidente.

NOTE: All agenda titles related to numbered items are live web links. Click on the title to be directed to corresponding Staff Report.

PUBLIC COMMENT: Members of the public may address comments to the Planning Commission concerning each agenda item. The timing of public comment shall be at the discretion of the Chair.

9:00 A.M. - CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

Christine Shaw
Paul C. Getzelman
Ben Work
Ernesto G. Gonzalez
Ramon Gomez
Francisco Javier Mendoza
Martha Diehl
Amy Roberts
Etna Monsalve
Katharine Daniels

PUBLIC COMMENTS

This is a time set aside for the public to comment on a matter that is not on the agenda.

AGENDA ADDITIONS, DELETIONS AND CORRECTIONS

The Commission Clerk will announce agenda corrections, deletions and proposed additions, which may be acted on by the Planning Commission as provided in Sections 54954.2 of the California Government Code.

COMMISSIONER COMMENTS & REQUESTS

This is a time set aside for the Commissioners to comment or request a matter that is on or not on the agenda.

9:00 A.M. – SCHEDULED MATTERS**1. PLN220352 - MA CHUN-TAO & NING ZHANG TRS**

Public hearing to consider establishment of the transient use of a residential property (single family dwelling) for remuneration, commonly known as a short term rental.

Project Location: 26132 Carmel Knolls Drive, Carmel

Proposed CEQA action: Find the project categorically exempt pursuant to Section 15301, Existing Structures, of the CEQA Guidelines.

Attachments: [Staff Report](#)

2. PLN210098 - COCONUT OAK LLC (FORMERLY LB HOMEBUYERS LLC)

Public hearing to consider establishment of the transient use of a residential property (two existing single family dwellings) for remuneration, commonly known as a short term rental.

Project Location: 27610 & 27612 Schulte Road, Carmel Valley

Proposed CEQA action: Find the project Categorically Exempt pursuant to Section 15301 of the CEQA Guidelines and none of the exceptions to the exemptions listed in Section 15300.2 can be made.

Attachments: [Staff Report](#)

3. PLN230138 - VAN ESS PROPERTIES LLC

Continued from February 14, 2024 - public hearing to consider a lot line adjustment between two legal lots of record containing 6.37 acres, resulting in two parcels containing 3.39 acres [Adjusted Parcel A] and 2.98 acres [Adjusted Parcel B], and demolition of all structures on Parcel B.

Project Location: 182 and 179 Van Ess Way, Carmel, Carmel Area Land Use Plan.

Proposed CEQA Action: Find the project Categorically Exempt pursuant to CEQA Guidelines sections 15301(l), 15305(a), and no exceptions pursuant to Section 15300.2 can be made.

Attachments: [Staff Report](#)
[Exhibit A - Draft Resolution](#)
[Exhibit B - Carmel Unincorporated Highlands LUAC Minutes \(October 2, 2023\)](#)
[Exhibit C - Conservation and Scenic Easement deed](#)
[Exhibit D - Vicinity Map](#)

DEPARTMENT REPORT**ADJOURNMENT**



County of Monterey

Item No.1

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: PC 24-018

February 28, 2024

Introduced: 2/16/2024

Current Status: Agenda Ready

Version: 1

Matter Type: Planning Item

PLN220352 - MA CHUN-TAO & NING ZHANG TRS

Public hearing to consider establishment of the transient use of a residential property (single family dwelling) for remuneration, commonly known as a short term rental.

Project Location: 26132 Carmel Knolls Drive, Carmel

Proposed CEQA action: Find the project categorically exempt pursuant to Section 15301, Existing Structures, of the CEQA Guidelines.

RECOMMENDATION:

It is recommended that the Monterey County Planning Commission continue the hearing on this item to the March 27th, 2024, Planning Commission hearing.

PROJECT INFORMATION:

Agent: Aaron Gannage

Property Owner: Chun-Tao & Ning Zhang Trs

APN: 015-293-010-000

Parcel Size: 1.7 Acres

Zoning: Low Density Residential with Design Control, Site Plan Review and Residential Allocation
Zoning overlay districts or "LDR/D-S-RAZ"

Plan Area: Carmel Valley Master Plan

Flagged and Staked: No

Project Planner: Zoe Zepp, Assistant Planner

(831) 755-5198 or Zeppz@co.monterey.ca.us

SUMMARY/DISCUSSION:

The proposed project includes the establishment of a short term rental within an existing single family dwelling. Staff requests the Planning Commission allow a continuance of the hearing to a date certain, March 27, 2024, to allow the applicant to be present at the hearing so that they may speak on their project and answer any questions the Commission or the public may have. Due to unforeseen circumstances, they are no longer able to attend the hearing noticed for February 28th.

Prepared by: Zoe Zepp, Assistant Planner x5198

Reviewed by: Anna Ginette Quenga, AICP, Principal Planner

Approved by: Melanie Beretti, HCD Acting Chief of Planning

cc: Front Counter Copy; Planning Commission, Monterey County Regional Fire Protection District;
HCD-Environmental Services; HCD-Engineering Services; Environmental Health Bureau; Zoe Zepp,

Planner; Anna Ginette Quenga, AICP, Principal Planner; Ma Chun-Tao & Ning Zhang TRS, Property Owner; Aaron Gannage, Agent; The Open Monterey Project; LandWatch (Executive Director); Lozeau Drury LLP; Christina McGinnis; Project File PLN220352



County of Monterey Planning Commission

Item No.1

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Agenda Item No. 1

February 28, 2024

Registrar File Number: PC 24-018

Introduced: 2/16/2024

Current Status: Agenda Ready

Version: 1

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PLN220352 - MA CHUN-TAO & NING ZHANG TRS

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Approved by: Melanie Beretti, HCD Acting Chief of Planning

cc: Front Counter Copy; Planning Commission, Monterey County Regional Fire Protection District;
HCD-Environmental Services; HCD-Engineering Services; Environmental Health Bureau; Zoe Zepp,

Planner; Anna Ginette Quenga, AICP, Principal Planner; Ma Chun-Tao & Ning Zhang TRS, Property Owner; Aaron Gannage, Agent; The Open Monterey Project; LandWatch (Executive Director); Lozeau Drury LLP; Christina McGinnis; Project File PLN220352



County of Monterey

Item No.2

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: PC 24-020

February 28, 2024

Introduced: 2/20/2024

Current Status: Agenda Ready

Version: 1

Matter Type: Planning Item

PLN210098 - COCONUT OAK LLC (FORMERLY LB HOMEBUYERS LLC)

Public hearing to consider establishment of the transient use of a residential property (two existing single family dwellings) for remuneration, commonly known as a short term rental.

Project Location: 27610 & 27612 Schulte Road, Carmel Valley

Proposed CEQA action: Find the project Categorically Exempt pursuant to Section 15301 of the CEQA Guidelines and none of the exceptions to the exemptions listed in Section 15300.2 can be made.

RECOMMENDATIONS

It is recommended that the Planning Commission continue the hearing on this item to a date uncertain.

PROJECT INFORMATION

Agent: Damien Georis, Lewis Builders

Property Owner: Coconut Oak LLC

APN: 416-022-006-000

Parcel Size: 2.028 acres

Zoning: Low Density Residential, 2.5 acres per unit with Design Control, Site Plan Review, and Residential Allocation zoning overlays or "LDR/2.5-D-S-RAZ"

Plan Area: Carmel Valley Master Plan

Flagged and Staked: No

SUMMARY/DISCUSSION:

Subsequent to providing public notice of the February 28, 2024 Planning Commission hearing, HCD-Planning staff received correspondence alleging there were potential violations on the subject property. Pursuant to Monterey County Code section 21.84.120, the County shall not issue or approve permits or entitlements where there is an outstanding violation on the subject property.

Therefore, staff requests the Planning Commission continue the hearing on this item to a date uncertain in order to allow Code Compliance staff sufficient time to fully investigate the potential violation.

Prepared by: Christina Vu, Assistant Planner, x5139

Reviewed by: Anna Ginette Quenga, AICP, Principal Planner

Approved by: Melanie Beretti, AICP, HCD Acting Chief of Planning

cc: Front Counter Copy; Monterey County Regional Fire Protection District; HCD-Environmental Services; HCD-Engineering Services; Environmental Health Bureau; Christina Vu, Planner; Anna Ginette Quenga, AICP, Principal Planner; Coconut Oak LLC, Property Owners; Damien Georis, Lewis Builders, Agent; Interested Party List; The Open Monterey Project; LandWatch (Executive Director); Laborers International Union of North America (Lozeau Drury LLP); Planning File PLN210098



County of Monterey Planning Commission

Item No.2

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Agenda Item No. 2

Legistar File Number: PC 24-020

February 28, 2024

Introduced: 2/20/2024

Current Status: Agenda Ready

Version: 1

Matter Type: Planning Item

PLN210098 - COCONUT OAK LLC (FORMERLY LB HOMEBUYERS LLC)

Public hearing to consider establishment of the transient use of a residential property (two existing single family dwellings) for remuneration, commonly known as a short term rental.

Project Location: 27610 & 27612 Schulte Road, Carmel Valley

Proposed CEQA action: Find the project Categorically Exempt pursuant to Section 15301 of the CEQA Guidelines and none of the exceptions to the exemptions listed in Section 15300.2 can be made.

RECOMMENDATIONS

It is recommended that the Planning Commission continue the hearing on this item to a date uncertain.

PROJECT INFORMATION

Agent: Damien Georis, Lewis Builders

Property Owner: Coconut Oak LLC

APN: 416-022-006-000

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Plan Area: Carmel Valley Master Plan

Flagged and Staked: No

SUMMARY/DISCUSSION:

Subsequent to providing public notice of the February 28, 2024 Planning Commission hearing, HCD-Planning staff received correspondence alleging there were potential violations on the subject property. Pursuant to Monterey County Code section 21.84.120, the County shall not issue or approve permits or entitlements where there is an outstanding violation on the subject property.

Therefore, staff requests the Planning Commission continue the hearing on this item to a date uncertain in order to allow Code Compliance staff sufficient time to fully investigate the potential violation.

Prepared by: Christina Vu, Assistant Planner, x5139

Reviewed by: Anna Ginette Quenga, AICP, Principal Planner

Approved by: Melanie Beretti, AICP, HCD Acting Chief of Planning

cc: Front Counter Copy; Monterey County Regional Fire Protection District; HCD-Environmental Services; HCD-Engineering Services; Environmental Health Bureau; Christina Vu, Planner; Anna Ginette Quenga, AICP, Principal Planner; Coconut Oak LLC, Property Owners; Damien Georis, Lewis Builders, Agent; Interested Party List; The Open Monterey Project; LandWatch (Executive Director); Laborers International Union of North America (Lozeau Drury LLP); Planning File PLN210098



County of Monterey

Item No.3

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: PC 24-019

February 28, 2024

Introduced: 2/16/2024

Current Status: Agenda Ready

Version: 1

Matter Type: Planning Item

PLN230138 - VAN ESS PROPERTIES LLC

Continued from February 14, 2024 - public hearing to consider a lot line adjustment between two legal lots of record containing 6.37 acres, resulting in two parcels containing 3.39 acres [Adjusted Parcel A] and 2.98 acres [Adjusted Parcel B], and demolition of all structures on Parcel B.

Project Location: 182 and 179 Van Ess Way, Carmel, Carmel Area Land Use Plan.

Proposed CEQA Action: Find the project Categorically Exempt pursuant to CEQA Guidelines sections 15301(l), 15305(a), and no exceptions pursuant to Section 15300.2 can be made.

RECOMMENDATION:

It is recommended that the Planning Commission adopt a resolution:

- 1) Finding that the project qualifies as a Class 1 and Class 5 Categorical Exemption pursuant to CEQA Guidelines sections 15301(l) and 15305(a), and there are no exceptions pursuant to Section 15300.2; and
- 2) Approving a Combined Development Permit consisting of:
 - a. A Coastal Administrative Permit to allow demolition of an existing single-family dwelling, garage and shed on Parcel B (APN: 241-311-037-000); and
 - b. A Coastal Development Permit to allow a lot line adjustment between two legal lots of record consisting of Parcel A (APN: 241-311-036-000 - 3.24 acres) and Parcel B (APN: 241-311-037-000 - 3.13 acres), resulting in two parcels containing 3.39 acres (Adjusted Parcel A) and 2.98 acres (Adjusted Parcel B).

Staff has prepared a draft resolution, including findings and evidence, for consideration (**Exhibit A**).

Staff recommends approval of the lot line adjustment subject to nine conditions of approval.

PROJECT INFORMATION:

Property Owners: Van Ess Properties LLC

Agent: Laura Lawrence, The Law Office of Aengus L. Jeffers

APNs: 241-311-036-000 (Parcel A) and 241-311-037-000 (Parcel B)

Zoning: Low Density Residential, 1 acre per unit, with a Design Control overlay (Coastal Zone) [LDR/1-D (CZ)]

Existing Parcel Sizes: Parcel A (3.24 acres) and Parcel B (3.13 acres)

Plan Area: Carmel Area Land Use Plan, Coastal Zone

Flagged and Staked: Not required because the proposed lot line adjustment does not involve any structural development.

Project Planner: Fionna Jensen, Senior Planner

(831) 796-6407 or JensenF1@co.monterey.ca.us

SUMMARY/DISCUSSION:

On February 14, 2024, the Monterey County Planning Commission considered PLN230138, which proposed a lot line adjustment (LLA) between three legal lots of record: Parcel A (3.24 acres), Parcel B (3.13 acres), and Parcel C (4.52 acres), resulting in three lots of record containing 3.39 acres [Adjusted Parcel A], 1.77 acres [Adjusted Parcel B], and 5.73 acres [Adjusted Parcel C]. The existing single-family dwelling on Parcel B would have non-conforming setbacks with implementation of the lot line adjustment and thus, the project also included demolition of all structures on Parcel B (611 square foot main residence, 94 square foot shed, and a 336 square foot garage). Implementation of this project would increase the combined allowed density from 6 units to 9 units. The Commission recognized that the resulting lots are physically constrained by existing topography conditions, existing development, and conservation and scenic easement boundaries, and such constraints could limit the feasibility of fully developing these lots. The Commission raised concerns specific to Adjusted Parcel C and whether it could be developed due to limited buildable area (outside the Conservation and Scenic Easement) and the need to install at minimum a conventional on-site wastewater treatment system, which would likely be on slopes in excess of 30 percent. After public testimony and discussion, the Planning Commission voted to continue the hearing to February 28, 2024, to allow time for staff to prepare a draft resolution reflecting a revised scope of work that removes Parcel C from consideration.

As requested, staff is now returning with a revised draft Resolution (**Exhibit A**). The revised scope of work includes the following: demolition of all structures contained on Parcel B and a lot line adjustment (LLA) between two legal lots of record under common ownership consisting of Parcel A (APN: 241-311-036-000 - 3.24 acres) and Parcel B (APN: 241-311-037-000 - 3.13 acres), resulting in two parcels containing 3.39 acres (Adjusted Parcel A) and 2.98 acres (Adjusted Parcel B). Redevelopment of Parcel B, as well as demolition and redevelopment of Parcel A are being processed under a separate discretionary permit (HCD Planning File Nos. PLN230218 and PLN230217, respectively). Rearrangement of the total acreage (6.37 acres) is being requested to account for siting and location of the proposed development.

As proposed, the resulting lots would remain conforming as to minimum lot size, maximum density, structural coverage, and setbacks. There are no identified impacts to environmental resources. At this time, staff only recommends the granting of the Combined Development Permit to allow the LLA and demolition of structures on Parcel B. Future development on the adjusted parcels would be required to conform to the Monterey County Code requirements in effect at the time and obtain all necessary permits.

Site Development Standards

The two parcels are zoned Low Density Residential, 1 acre per unit, coastal zone or “LDR/1(CZ)”. The LLA would not create new lots (i.e., would not subdivide of the existing parcels), and would decrease the combined level of development allowed on these parcels.

Based on density allowances and existing lots sizes, but not considering site constraints and permitting requirements, existing Parcel A (3.24 acres) and existing Parcel B (3.13 acres) are restricted to three single family dwellings. Parcel A is currently developed with a 5,100 square foot single family dwelling,

while Parcel B is currently developed with a 611 square foot single family dwelling, a 94 square foot shed, and a 336 square foot garage. Both existing parcels conform to the density standard (one dwelling unit per acre). As proposed, this project would demolish all development on Parcel B. Development on Parcel A would remain. Maximum allowed development, based on density, would remain the same for Parcel A with implementation of this LLA since it will continue to exceed 3 acres but not exceed 4 acres. The existing development on Adjusted Parcel A (currently limited to one residence) will continue to conform as to the maximum development density requirement. Approval of this LLA will reduce the maximum development density for Adjusted Parcel B by one unit, for a total of 2 units because the lot size would be reduced from 3.13 acres to 2.98 acres. Implementation of this LLA will reduce the combined maximum development potential from 6 units to 5 units. Any future permitting of additional residences would depend on other factors in addition to zoning (e.g., potable water credits and sewage disposal) and would require separate discretionary review. The resulting lots conform to the maximum allowed density.

Per the zoning district, the minimum lot size is one acre. After the adjustment, there will be two lots of record containing 3.39 acres [Adjusted Parcel A] and 2.98 acres [Adjusted Parcel B]. The existing development on Parcels A and B comply with the required site coverage and floor area ratio requirements (15 percent and 20 percent, respectively). With implementation of the proposed project, development on Adjusted Parcel A will have a site coverage and floor area ratio of 3 percent and 3.6 percent, respectively. Adjusted Parcel B will be vacant within implementation of the proposed project. Therefore, the resulting parcels conform to the maximum allowed site coverage and floor area ratio.

The existing residence on Adjusted Parcel A will continue to meet required setbacks with implementation of the proposed lot line adjustment (29 feet 9 inches [front], 125 feet 10 inches [side], and 193 feet 3 inches [rear]). The existing single-family dwelling on Parcel B will have non-conforming setbacks with implementation of the proposed lot line adjustment. Thus, the project also includes demolition of all structures on Parcel B (611 square foot main residence, 94 square foot shed, and a 336 square foot garage).

Conservation and Scenic Easement

As discussed during the February 14, 2024, Planning Commission hearing, the Applicant/Owner proposes a voluntary Conservation and Scenic Easement (CSE) Amendment. In 1976, a CSE was granted over portions of Parcels A and B to the County of Monterey with the purpose of protecting the properties' natural scenic beauty and slopes in excess of 30 percent (Document No. 33808; Reel 1079, Page 403; **Exhibit C**). It was discovered in 1994 that the CSE boundaries were not correct. The CSE boundaries on Parcel B were adjusted to account for areas of existing development (single family dwelling, garage, and shed) and to better capture the property's steeper slopes. The CSE was corrected through recordation of a Certificate of Correction (Document No. 59263). No adjustments to the CSE on Parcel A was made in 1994.

The CSE boundaries on Parcel A currently do not capture the entirety of the property's steeper slopes. Further, the existing CSE boundaries do not ensure protection of the properties' environmentally sensitive habitat area (ESHA). The proposed CSE Map Amendment would increase its boundaries to cover portions of Parcels A and B that contain slopes in excess of 30 percent and/or ESHA and

remove portions that contain existing permitted development (i.e., hardscape on Parcel A) or are absent of natural resources. The proposed CSE Map Amendment would increase the easement boundaries by 10,472 square feet and better conform to the goals, policies, and text of the Carmel Area Land Use Plan regarding protection of slopes in excess of 30 percent and ESHA. Further, the proposed CSE Amendment would update the easement deed's exceptions and restrictions to meet modern requirements, including invasive plant species removal, fuel management (subject to separate permitting if required), and restoration activities. The amended easement deed would continue to prohibit new structures within the easement boundaries, material alteration of the topography and landscape, and advertising, thus ensuring preservation and conservation of the properties' natural scenic beauty and natural condition in perpetuity. The Board of Supervisors is the appropriate body to consider amendments to CSEs. Neither the LLA nor the proposed demolition work are contingent on amending the CSE. Therefore, Condition No. 6 has been applied to ensure that CSE Amendment is implemented and recorded.

OTHER AGENCY INVOLVEMENT:

The following County agencies or departments reviewed this project:

- HCD-Engineering Services
- HCD-Environmental Services
- Environmental Health Bureau
- Carmel Highlands Fire Protection District

LAND USE ADVISORY COMMITTEE

On October 2, 2023, the Carmel Unincorporated/Highlands Land Use Advisory Committee (LUAC) reviewed the original project scope, which included adjustment of a third parcel under common ownership (Parcel C). At this meeting, members of the public raised questions regarding the development potential of Parcel C, whether CalAm had reviewed the development proposal for Parcels A and B, requested that additional fire water storage be installed by the property owner, and generally noted that Van Ess is a private, narrow road with limited emergency access. The LUAC voted 4-0 to support the project with the change that Parcel C boundaries are not adjusted (**Exhibit B**). The LUAC cited the need maintain or reduce existing combined development potential of these three properties and preserve the open space buffer between surrounding residences and the subject properties' development as a reason why Parcel C should be excluded from the proposed LLA. As directed by the Planning Commission on February 14, 2024, the revised project scope now only includes adjustment of Parcels A and B, not Parcel C. This revision is consistent with the recommendation of the LUAC.

CEQA:

California Environmental Quality Act (CEQA) Guidelines section 15301(1) categorically exempts the demolition and removal of small structures, including single family dwellings. CEQA Guidelines section 15305(a) categorically exempts minor lot line adjustments not resulting in the creation of any new parcel. The applicant proposes demolition of a 611 square foot single family dwelling, 336 square foot garage, and a 94 square shed. Therefore, this portion of the project is consistent with categorical exemption requirements of CEQA guidelines section 15301. Additionally, the proposed project includes a minor lot line adjustment between two legal lots of record: Parcel A (3.24 acres) and Parcel B (3.13 acres), resulting in two lots of record containing 3.39 acres [Adjusted Parcel A] and 2.98

acres [Adjusted Parcel B]. The lot line adjustment will not intensify the level of development allowed on the parcels and no new lots will be created by the lot line adjustment. Therefore, this component qualifies as a Class 5 categorical exemption.

Prepared by: Fionna Jensen, Senior Planner x6407

Reviewed by: Anna Ginette Quenga, AICP, Principal Planner

Approved by: Melanie Beretti, AICP, Acting Chief of Planning

The following attachments are on file with HCD:

Exhibit A - Draft Resolution including:

- Recommended Conditions of Approval
- Project Plans

Exhibit B - Carmel Unincorporated/Highlands LUAC Minutes (October 2, 2023)

Exhibit C - Conservation and Scenic Easement Deed

Exhibit D - Vicinity Map

cc: Front Counter Copy; Planning Commission; California Coastal Commission; Carmel Highlands Fire Protection District; Environmental Health Bureau; HCD-Engineering Services Works; HCD-Environmental Services; Anna Ginette Quenga, AICP, Principal Planner; Fionna Jensen, Project Planner; Laura Lawrence, Agent; Van Ess Properties LLC, Owner; Christina McGinnis, Keep Big Sur Wild; Laborers International Union of North America (Lozeau Drury LLP); The Open Monterey Project (Molly Erickson); LandWatch; Planning File PLN230138



County of Monterey Planning Commission

Item No.3

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Agenda Item No. 3

Legistar File Number: PC 24-019

February 28, 2024

Introduced: 2/16/2024

Current Status: Agenda Ready

Version: 1

Matter Type: Planning Item

PLN230138 - VAN ESS PROPERTIES LLC

Continued from February 14, 2024 - public hearing to consider a lot line adjustment between two legal lots of record containing 6.37 acres, resulting in two parcels containing 3.39 acres [Adjusted Parcel A] and 2.98 acres [Adjusted Parcel B], and demolition of all structures on Parcel B.

Project Location: 182 and 179 Van Ess Way, Carmel, Carmel Area Land Use Plan.

Proposed CEQA Action: Find the project Categorically Exempt pursuant to CEQA Guidelines sections 15301(l), 15305(a), and no exceptions pursuant to Section 15300.2 can be made.

RECOMMENDATION:

It is recommended that the Planning Commission adopt a resolution:

- 1) Finding that the project qualifies as a Class 1 and Class 5 Categorical Exemption pursuant to CEQA Guidelines sections 15301(l) and 15305(a), and there are no exceptions pursuant to Section 15300.2; and
- 2) Approving a Combined Development Permit consisting of:
 - a. A Coastal Administrative Permit to allow demolition of an existing single-family dwelling, garage and shed on Parcel B (APN: 241-311-037-000); and
 - b. A Coastal Development Permit to allow a lot line adjustment between two legal lots of record consisting of Parcel A (APN: 241-311-036-000 - 3.24 acres) and Parcel B (APN: 241-311-037-000 - 3.13 acres), resulting in two parcels containing 3.39 acres (Adjusted Parcel A) and 2.98 acres (Adjusted Parcel B).

Staff has prepared a draft resolution, including findings and evidence, for consideration (**Exhibit A**).

Staff recommends approval of the lot line adjustment subject to nine conditions of approval.

PROJECT INFORMATION:

Property Owners: Van Ess Properties LLC

Agent: Laura Lawrence, The Law Office of Aengus L. Jeffers

APNs: 241-311-036-000 (Parcel A) and 241-311-037-000 (Parcel B)

Zoning: Low Density Residential, 1 acre per unit, with a Design Control overlay (Coastal Zone) [LDR/1-D (CZ)]

Existing Parcel Sizes: Parcel A (3.24 acres) and Parcel B (3.13 acres)

Plan Area: Carmel Area Land Use Plan, Coastal Zone

Flagged and Staked: Not required because the proposed lot line adjustment does not involve any structural development.

Project Planner: Fionna Jensen, Senior Planner

(831) 796-6407 or JensenF1@co.monterey.ca.us

SUMMARY/DISCUSSION:

On February 14, 2024, the Monterey County Planning Commission considered PLN230138, which proposed a lot line adjustment (LLA) between three legal lots of record: Parcel A (3.24 acres), Parcel B (3.13 acres), and Parcel C (4.52 acres), resulting in three lots of record containing 3.39 acres [Adjusted Parcel A], 1.77 acres [Adjusted Parcel B], and 5.73 acres [Adjusted Parcel C]. The existing single-family dwelling on Parcel B would have non-conforming setbacks with implementation of the lot line adjustment and thus, the project also included demolition of all structures on Parcel B (611 square foot main residence, 94 square foot shed, and a 336 square foot garage). Implementation of this project would increase the combined allowed density from 6 units to 9 units. The Commission recognized that the resulting lots are physically constrained by existing topography conditions, existing development, and conservation and scenic easement boundaries, and such constraints could limit the feasibility of fully developing these lots. The Commission raised concerns specific to Adjusted Parcel C and whether it could be developed due to limited buildable area (outside the Conservation and Scenic Easement) and the need to install at minimum a conventional on-site wastewater treatment system, which would likely be on slopes in excess of 30 percent. After public testimony and discussion, the Planning Commission voted to continue the hearing to February 28, 2024, to allow time for staff to prepare a draft resolution reflecting a revised scope of work that removes Parcel C from consideration.

As requested, staff is now returning with a revised draft Resolution (**Exhibit A**). The revised scope of work includes the following: demolition of all structures contained on Parcel B and a lot line adjustment (LLA) between two legal lots of record under common ownership consisting of Parcel A (APN: 241-311-036-000 - 3.24 acres) and Parcel B (APN: 241-311-037-000 - 3.13 acres), resulting in two parcels containing 3.39 acres (Adjusted Parcel A) and 2.98 acres (Adjusted Parcel B). Redevelopment of Parcel B, as well as demolition and redevelopment of Parcel A are being processed under a separate discretionary permit (HCD Planning File Nos. PLN230218 and PLN230217, respectively). Rearrangement of the total acreage (6.37 acres) is being requested to account for siting and location of the proposed development.

As proposed, the resulting lots would remain conforming as to minimum lot size, maximum density, structural coverage, and setbacks. There are no identified impacts to environmental resources. At this time, staff only recommends the granting of the Combined Development Permit to allow the LLA and demolition of structures on Parcel B. Future development on the adjusted parcels would be required to conform to the Monterey County Code requirements in effect at the time and obtain all necessary permits.

Site Development Standards

The two parcels are zoned Low Density Residential, 1 acre per unit, coastal zone or “LDR/1(CZ)”. The LLA would not create new lots (i.e., would not subdivide of the existing parcels), and would decrease the combined level of development allowed on these parcels.

Based on density allowances and existing lots sizes, but not considering site constraints and permitting requirements, existing Parcel A (3.24 acres) and existing Parcel B (3.13 acres) are restricted to three single family dwellings. Parcel A is currently developed with a 5,100 square foot single family dwelling,

while Parcel B is currently developed with a 611 square foot single family dwelling, a 94 square foot shed, and a 336 square foot garage. Both existing parcels conform to the density standard (one dwelling unit per acre). As proposed, this project would demolish all development on Parcel B. Development on Parcel A would remain. Maximum allowed development, based on density, would remain the same for Parcel A with implementation of this LLA since it will continue to exceed 3 acres but not exceed 4 acres. The existing development on Adjusted Parcel A (currently limited to one residence) will continue to conform as to the maximum development density requirement. Approval of this LLA will reduce the maximum development density for Adjusted Parcel B by one unit, for a total of 2 units because the lot size would be reduced from 3.13 acres to 2.98 acres. Implementation of this LLA will reduce the combined maximum development potential from 6 units to 5 units. Any future permitting of additional residences would depend on other factors in addition to zoning (e.g., potable water credits and sewage disposal) and would require separate discretionary review. The resulting lots conform to the maximum allowed density.

Per the zoning district, the minimum lot size is one acre. After the adjustment, there will be two lots of record containing 3.39 acres [Adjusted Parcel A] and 2.98 acres [Adjusted Parcel B]. The existing development on Parcels A and B comply with the required site coverage and floor area ratio requirements (15 percent and 20 percent, respectively). With implementation of the proposed project, development on Adjusted Parcel A will have a site coverage and floor area ratio of 3 percent and 3.6 percent, respectively. Adjusted Parcel B will be vacant within implementation of the proposed project. Therefore, the resulting parcels conform to the maximum allowed site coverage and floor area ratio.

The existing residence on Adjusted Parcel A will continue to meet required setbacks with implementation of the proposed lot line adjustment (29 feet 9 inches [front], 125 feet 10 inches [side], and 193 feet 3 inches [rear]). The existing single-family dwelling on Parcel B will have non-conforming setbacks with implementation of the proposed lot line adjustment. Thus, the project also includes demolition of all structures on Parcel B (611 square foot main residence, 94 square foot shed, and a 336 square foot garage).

Conservation and Scenic Easement

As discussed during the February 14, 2024, Planning Commission hearing, the Applicant/Owner proposes a voluntary Conservation and Scenic Easement (CSE) Amendment. In 1976, a CSE was granted over portions of Parcels A and B to the County of Monterey with the purpose of protecting the properties' natural scenic beauty and slopes in excess of 30 percent (Document No. 33808; Reel 1079, Page 403; **Exhibit C**). It was discovered in 1994 that the CSE boundaries were not correct. The CSE boundaries on Parcel B were adjusted to account for areas of existing development (single family dwelling, garage, and shed) and to better capture the property's steeper slopes. The CSE was corrected through recordation of a Certificate of Correction (Document No. 59263). No adjustments to the CSE on Parcel A was made in 1994.

The CSE boundaries on Parcel A currently do not capture the entirety of the property's steeper slopes. Further, the existing CSE boundaries do not ensure protection of the properties' environmentally sensitive habitat area (ESHA). The proposed CSE Map Amendment would increase its boundaries to cover portions of Parcels A and B that contain slopes in excess of 30 percent and/or ESHA and

remove portions that contain existing permitted development (i.e., hardscape on Parcel A) or are absent of natural resources. The proposed CSE Map Amendment would increase the easement boundaries by 10,472 square feet and better conform to the goals, policies, and text of the Carmel Area Land Use Plan regarding protection of slopes in excess of 30 percent and ESHA. Further, the proposed CSE Amendment would update the easement deed's exceptions and restrictions to meet modern requirements, including invasive plant species removal, fuel management (subject to separate permitting if required), and restoration activities. The amended easement deed would continue to prohibit new structures within the easement boundaries, material alteration of the topography and landscape, and advertising, thus ensuring preservation and conservation of the properties' natural scenic beauty and natural condition in perpetuity. The Board of Supervisors is the appropriate body to consider amendments to CSEs. Neither the LLA nor the proposed demolition work are contingent on amending the CSE. Therefore, Condition No. 6 has been applied to ensure that CSE Amendment is implemented and recorded.

OTHER AGENCY INVOLVEMENT:

The following County agencies or departments reviewed this project:

- HCD-Engineering Services
- HCD-Environmental Services
- Environmental Health Bureau
- Carmel Highlands Fire Protection District

LAND USE ADVISORY COMMITTEE

On October 2, 2023, the Carmel Unincorporated/Highlands Land Use Advisory Committee (LUAC) reviewed the original project scope, which included adjustment of a third parcel under common ownership (Parcel C). At this meeting, members of the public raised questions regarding the development potential of Parcel C, whether CalAm had reviewed the development proposal for Parcels A and B, requested that additional fire water storage be installed by the property owner, and generally noted that Van Ess is a private, narrow road with limited emergency access. The LUAC voted 4-0 to support the project with the change that Parcel C boundaries are not adjusted (**Exhibit B**). The LUAC cited the need maintain or reduce existing combined development potential of these three properties and preserve the open space buffer between surrounding residences and the subject properties' development as a reason why Parcel C should be excluded from the proposed LLA. As directed by the Planning Commission on February 14, 2024, the revised project scope now only includes adjustment of Parcels A and B, not Parcel C. This revision is consistent with the recommendation of the LUAC.

CEQA:

California Environmental Quality Act (CEQA) Guidelines section 15301(1) categorically exempts the demolition and removal of small structures, including single family dwellings. CEQA Guidelines section 15305(a) categorically exempts minor lot line adjustments not resulting in the creation of any new parcel. The applicant proposes demolition of a 611 square foot single family dwelling, 336 square foot garage, and a 94 square shed. Therefore, this portion of the project is consistent with categorical exemption requirements of CEQA guidelines section 15301. Additionally, the proposed project includes a minor lot line adjustment between two legal lots of record: Parcel A (3.24 acres) and Parcel B (3.13 acres), resulting in two lots of record containing 3.39 acres [Adjusted Parcel A] and 2.98

acres [Adjusted Parcel B]. The lot line adjustment will not intensify the level of development allowed on the parcels and no new lots will be created by the lot line adjustment. Therefore, this component qualifies as a Class 5 categorical exemption.

Prepared by: Fionna Jensen, Senior Planner x6407

Reviewed by: Anna Ginette Quenga, AICP, Principal Planner

Approved by: Melanie Beretti, AICP, Acting Chief of Planning

The following attachments are on file with HCD:

Exhibit A - Draft Resolution including:

- Recommended Conditions of Approval
- Project Plans

Exhibit B - Carmel Unincorporated/Highlands LUAC Minutes (October 2, 2023)

Exhibit C - Conservation and Scenic Easement Deed

Exhibit D - Vicinity Map

cc: Front Counter Copy; Planning Commission; California Coastal Commission; Carmel Highlands Fire Protection District; Environmental Health Bureau; HCD-Engineering Services Works; HCD-Environmental Services; Anna Ginette Quenga, AICP, Principal Planner; Fionna Jensen, Project Planner; Laura Lawrence, Agent; Van Ess Properties LLC, Owner; Christina McGinnis, Keep Big Sur Wild; Laborers International Union of North America (Lozeau Drury LLP); The Open Monterey Project (Molly Erickson); LandWatch; Planning File PLN230138

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Exhibit A

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DRAFT RESOLUTION

Before the Planning Commission in and for the County of Monterey, State of California

In the matter of the application of:

VAN ESS PROPERTIES LLC (PLN230138)

RESOLUTION NO. 24 ----

Resolution by the Monterey County Planning
Commission:

- 1) Finding that the project qualifies as a Class 1 and Class 5 Categorical Exemption pursuant to CEQA Guidelines sections 15301(l) and 15305(a), and there are no exceptions pursuant to section 15300.2; and
- 2) Approving a Combined Development Permit consisting of:
 - a. A Coastal Administrative Permit to allow demolition of an existing single-family dwelling, garage and shed on Parcel B (APN: 241-311-037-000); and
 - b. A Coastal Development Permit to allow a lot line adjustment between two legal lots of record consisting of Parcel A (APN: 241-311-036-000 – 3.24 acres) and Parcel B (APN: 241-311-037-000 – 3.13 acres), resulting in two parcels containing 3.39 acres (Adjusted Parcel A) and 2.98 acres (Adjusted Parcel B)

[PLN230138, Van Ess Properties LLC. 182 and 179 Van Ess Way, Carmel (Assessor's Parcel Numbers 241-311-036-000 and 241-311-037-000, Carmel Area Land Use Plan, Coastal Zone)]

The Van Ess Properties LLC application (PLN230138) came on for public hearing before the Monterey County Planning Commission on February 14, 2024 and February 28, 2024. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Planning Commission finds and decides as follows:

FINDINGS

1. **FINDING:** **CONSISTENCY** – The project and/or use, as conditioned, is consistent with the policies of the 1982 Monterey County General Plan, Carmel Area Land Use Plan, and Carmel Area Coastal Implementation Plan (Part 4); the requirements of the applicable subdivision and zoning ordinances (Titles 19 and 20); and other County health, safety, and welfare ordinances related to land use development.
EVIDENCE: a) No conflicts were found to exist. No communications were received during the course of review of the project indicating any inconsistencies with the text, policies, and regulations in these documents.

- b) The project involves a lot line adjustment (LLA) between two legal lots of record: Parcel A (3.24 acres) and Parcel B (3.13 acres). After the adjustment, there will be two lots of record containing 3.39 acres [Adjusted Parcel A] and 2.98 acres [Adjusted Parcel B]. The existing single-family dwelling on Parcel B will have non-conforming setbacks with implementation of the lot line adjustment and thus, the project also includes demolition of all structures on Parcel B (611 square foot main residence, 94 square foot shed, and a 336 square foot garage). Additionally, as conditioned (Condition No. 6), the proposed project includes an amendment to the conservation and scenic easement (CSE) conveyed over portions of Parcel A and Parcel B (see Finding No. 1, evidence “n”).

Redevelopment of Parcel B, as well as demolition and redevelopment of Parcel A are being processed under a separate discretionary permit (HCD Planning File Nos. PLN230218 and PLN230217, respectively). The purpose of the proposed LLA is to avoid the proposed improvements (PLN230317 and PLN230318) from straddling or encroaching across any legal parcels. The LLA accomplishes this by adjusting the lot line between Parcel A and B to consider future development plans and ensure required site development standards are met.

- c) Allowed Use. The properties are located at 182 and 179 Van Ess Way, Carmel Area Land Use Plan (Assessor's Parcel Number 241-311-036-000 and 241-311-037-000), Coastal Zone. The parcels are zoned Low Density Residential, 1 acre per unit, with a Design Control overlay (Coastal Zone) [LDR/1-D (CZ)], which allows lot line adjustments (LLA) with the granting of a Coastal Development Permit. Additionally, demolition of an existing residence in a residential zoning district is allowed, subject to a Coastal Administrative Permit. Therefore, as proposed, the project involves an allowed land use for this site.
- d) HCD-Planning staff conducted a site inspection on November 27, 2023 to verify that the proposed project conforms to the applicable plans and Monterey County Code.
- e) Lot Legality. Consistent with Title 19, section 19.14.045.A1, A2, and A3, the following lot legality determination is derived based on the fact that the parcels were greater than 2.5 acres in size and conveyed prior to March 7, 1972 by a minor land division or less than 2.5 acres in size and conveyed prior to March 3, 1964 by minor land division, complied with applicable Monterey County Code in affect at the time of creation, complied with the provisions of the Subdivisions Map Act (SMA) at the time of creation, and were not combined or merged by the owner. Parcel 1, greater than 2.5 acres, was created as a separate parcel when a portion of the original Van Ess Estate was conveyed as a separate parcel in the Grant Deed from Richard F. McGraw to William G. Webb and Mary G. Webb executed on April 28, 1964 and recorded on May 18, 1964 in the Official Records of the County of Monterey, Reel 322 at Page 117. At the time of creation in May 1964, Parcel 1 (approximately 5 acres) complied with minimum lot size of 1 acre, per the then applicable R-1-D-B-4 zoning designation. Pursuant to Government Code Section 66412.6(a), a parcel is conclusively presumed to be legal if it was

created prior to March 4, 1972 and at the time of its creation there was no local ordinance in effect which regulated divisions of land creating fewer than five parcels all larger than 2.5 acres. Monterey County did not adopt an ordinance pursuant to the SMA regulating divisions of land creating fewer than five parcels, greater than 2.5 acres, until March 7, 1972, and therefore Parcel 1 complied with the SMA. Parcel 2, containing approximately 1.5 acres at creation, was established as a separate parcel pursuant to that certain Grant Deed from Leslie Ragan et. ux. to Richard F. McGraw executed on April 27, 1960 and recorded on May 16, 1960 in Official Records of the County of Monterey, Volume 2052 at Page 603. Parcel 2 complied with the 1-acre minimum lot size requirement for the zoning in effect at that time, R-1-D-B-4. Monterey County did not adopt an ordinance pursuant to the SMA regulating divisions of land creating fewer than five parcels and less than 2.5 acres, until March 3, 1964, or 4 years after creation of Parcel 2. Although Parcels 1 and 2 were under common ownership, they are recognized as separate lots of record pursuant to Government Code § 66451.10 because they complied with the SMA and there is no record of an express intent to merge these parcels. Finally, a lot line adjustment was approved in 1981 to adjust the boundaries of three parcels: Parcels 1, 2, and 3. This lot line adjustment resulted in Parcels A and B, and C (Parcel C is not part of this project) as described in their current configuration and under common ownership. Based on the above evidence, the County recognizes Parcels A and B as legal lots of record.

- f) Subdivision Map Act Consistency. Pursuant to section 66412(d) of the Subdivision Map Act (SMA), the SMA is inapplicable to the lot line adjustment due to the fact that the final outcome of the LLA is not more than four adjoining parcels, and a greater number of parcels than previously existed is not being created. See also Finding No. 7 and supporting evidence.
- g) At this time, the County is only authorizing and granting a Combined Development Permit for a lot line adjustment, demolition of structures on Parcel B, and as conditioned, a CSE Amendment. Future structural development on the adjusted parcels will be required to conform to applicable MCC requirements in effect at the time of the proposed development.
- h) Review of Development Standards – Minimum Lot Size. The development standard for minimum lot size in the LDR zoning district is identified in Title 20 section 20.14.060.A, which identifies a minimum building site of one acre. The two existing legal lots of record exceed the minimum require acreage: Parcel A (3.24 acres) and Parcel B (3.13 acres). After the adjustment, the lots will continue to meet the minimum lot size: 3.39 acres [Adjusted Parcel A] and 2.98 acres [Adjusted Parcel B]. As proposed, the lot line adjustment will rearrange the total acreage (6.37) and result in two lots containing 6.37 acres. Therefore, the resulting parcels exceed the minimum lot size requirement.
- i) Review of Development Standards – Density. Pursuant to Title 20 section 20.14.060.B, the maximum development density shall not exceed the units/acre as shown for the specific “LDR” district as shown

on the zoning map. The subject parcels are zoned LDR/1, which has a maximum gross density of 1 acre per unit.

Existing Parcel A (3.24 acres) and existing Parcel B (3.13 acres) are restricted to three single family dwellings. Parcel A is currently developed with a 5,100 square foot single family dwelling, while Parcel B is currently developed with a 611 square foot single family dwelling, a 94 square foot shed, and a 336 square foot garage. Both existing parcels conform to the density standard (one dwelling unit per acre). As proposed, this project would demolish all development on Parcel B. Development on Parcel A would remain. Maximum allowed development would remain the same for Parcel A with implementation of this LLA and the existing development on Adjusted Parcel A (currently limited to one residence) will continue to conform as to the maximum development density requirement. The LLA will reduce the maximum development density for Adjusted Parcel B by one unit, for a total of 2 units. Implementation of this LLA will reduce the combined maximum development potential from 6 units to 5 units. Any future permitting of additional residences would depend on other factors in addition to zoning (e.g., potable water credits and sewage disposal) and would require separate discretionary review. The resulting parcels conform as to the maximum development density requirement.

- j) Review of Development Standards – Structural Coverage & Floor Area Ratio. Pursuant to Title 20 section 20.14.060.E, the maximum site coverage and floor area ratio in this LDR district is 15 percent and 20 percent, respectively. Development on Parcel A and B are below the allowable coverage and floor area ratio. With implementation of the project, development on Adjusted Parcel A will have a site coverage and floor area ratio of 3 percent and 3.6 percent, respectively. Adjusted Parcel B will be vacant within implementation of the project, except for an existing well and underground water tank. Therefore, the resulting parcels conform to the maximum allowed site coverage and floor area ratio.
- k) Review of Development Standards – Setbacks. Pursuant to Title 20 section 20.14.060.C, the required main structure setbacks in this LDR district are 30 feet (front) and 20 feet (sides and rear). The existing residence on Adjusted Parcel A will continue to meet required setbacks with implementation of the proposed lot line adjustment (approximately 36 feet [front], 29 feet 9 inches and 125 feet 10 inches [east and west sides, respectively], and 193 feet 3 inches [rear]). Adjusted Parcel B will be vacant with implementation of this project.
- l) Design. Pursuant to Title 20 Chapter 20.44, the project parcels and surrounding area are designated as a Design Control Zoning District (“D” zoning overlay), which regulates the location, size, configuration, materials, and colors of structures and fences to assure the protection of the public viewshed and neighborhood character. Although portions of the two parcels are partially visible from Highway 1 or Point Lobos, no structural development is proposed (only demolition) and therefore there will be no visual resource impact through implementation of the LLA and no Design Approval is required.

- m) Historical Resources. A Phase 1 Historical Assessment (LIB230220) was prepared and determined that the circa-1956 residence and garage on Parcel B do not retain any historical significance for the following reasons. Firstly, the 1956 residence and garage were not developed as a result of a significant historic event and do not resemble outstanding examples of architectural design or construction methods. The only ownership period that could be considered significant occurred when Richard Francis McGraw purchased Parcels A and B in 1953. Mr. McGraw founded the McGraw Colorgraph Company in Burbank, California in 1953. The company produced the materials for making photogravures and color prints. Mr. McGraw resided in Burbank, California in the 1950s-1960s and used residences on Parcels A and B as secondary residences. Since Burbank, California was Mr. McGraw's primary residence, the subject property and related development are not considered to be associated with significant persons. associated with the development. Therefore, demolition of the residence, garage, and shed on Parcel B would not impact any historical resources.
- n) Conservation and Scenic Easement. In 1976 a CSE was granted over portions of Parcels A and B to the County of Monterey with the purpose of protecting the properties' natural scenic beauty and slopes in excess of 30 percent (Document No. 33808; Reel 1079, Page 403). The CSE boundaries were adjusted through recordation of a Certificate of Correction (Document No. 59263) to account for areas of existing development on Parcel B and to better capture Parcel B's steeper slopes. The CSE boundaries on Parcel A were not adjusted in 1994 and currently to not capture the entirety of the property's steeper slopes. Further, the existing CSE boundaries do not ensure protection of the properties' environmentally sensitive habitat area (ESHA). As conditioned, the proposed CSE Amendment would revise the deed language and map boundaries. The proposed CSE Map Amendment would increase portions of Parcel A and B that contain slopes in excess of 30 percent or ESHA, and remove portions that contain existing permitted development or are absent of natural resources. This would increase the easement boundaries by 10,472 square feet and better conform to the goals, policies, and text of the Carmel Area Land Use Plan regarding protection of slopes in excess of 30 percent and ESHA. Additionally, the proposed CSE Amendment would update the easement deed's exceptions and restrictions to meet modern requirements, including invasive plant species removal, fuel management (subject to separate permitting if required), and restoration activities. The amended easement deed would continue to prohibit new structures within the easement boundaries, material alteration of the topography and landscape, and advertising, thus ensuring preservation and conservation of the properties' natural scenic beauty and natural condition in perpetuity. The Board of Supervisors is the appropriate body to consider amendments to CSEs. However, neither the LLA nor the proposed demolition work are contingent on amending the CSE and therefore, Condition No. 6 has been applied to ensure that CSE Amendment (deed and associated map) is implemented.
- o) Land Use Advisory Committee. Based on the LUAC Procedure Guidelines adopted by the Monterey County Board of Supervisors, this

application warranted referral to the LUAC because it involves a lot line adjustment in the Coastal Zone. On October 2, 2023, the Carmel Unincorporated/Highlands Land Use Advisory Committee (LUAC) reviewed the original project scope, which included adjustment of a third parcel under common ownership (Parcel C). At this meeting, members of the public raised questions regarding the development potential of Parcel C, whether CalAm had reviewed the development proposal for Parcels A and B, requested that additional fire water storage be installed by the property owner, and generally noted that Van Ess is a private, narrow road with limited emergency access. The LUAC voted 4-0 to support the project with the change that Parcel C boundaries are not adjusted. The LUAC cited the need maintain or reduce existing combined development potential of these three properties and preserve the open space buffer between surrounding residences and the subject properties' development as a reason why Parcel C should be excluded from the proposed LLA. On February 14, 2024, project was revised to only include adjustment of Parcels A and B, not Parcel C. This revision is consistent with the recommendation of the LUAC. The subject property is not required to provide water storage for all residences on Van Ess Way, and the proposed LLA will not further impact emergency access.

- p) The application, project plans, and related support materials submitted by the project applicant to Monterey County HCD-Planning for the proposed development found in Project File PLN230138.

2. **FINDING:** **SITE SUITABILITY** – The site is physically suitable for the use proposed.

- EVIDENCE:**
- a) The project has been reviewed for site suitability by the following departments and agencies: HCD-Planning, HCD-Engineering Services, HCD-Environmental Services, Carmel Highlands Fire Protection District, and Environmental Health Bureau. County staff reviewed the application materials and plans, as well as the County's GIS database, and conducted a site visit on November 27, 2023, to verify that the project conforms to the applicable lot line adjustment plans, and that the subject property is suitable for the proposed development. There has been no indication from these departments/agencies that the site is not suitable for the proposed development. Recommended conditions have been incorporated.
 - b) Potential impacts to historical resources were identified. The following report has been prepared and submitted with the application:
 - Phase I Historical Assessment (LIB230220) prepared by Seth Bergstein, Petaluma, CA, August 25, 2022.
 - c) There are no physical or environmental constraints that indicate that the property is not suitable for the use proposed. See also Finding Nos. 3 and 5, and supporting evidence.
 - d) The application, project plans, and related support materials submitted by the project applicant to the Monterey County HCD-Planning for the proposed development found in Project File PLN230138.

3. **FINDING:** **HEALTH AND SAFETY** – The establishment, maintenance, or operation of the project applied for will not under the circumstances of

this 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, HCD-Engineering Services, HCD-Environmental Services, Carmel Highlands Fire Protection District, and Environmental Health Bureau. Conditions have been recommended, 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) Potable water will continue to be provided by the California American Water. The well and underground water tank on Existing and Adjusted Parcel B will remain and continue to be available for fire suppression. The on-site wastewater treatment system (OWTS) on Adjusted Parcel A will remain, while the OWTS on Adjusted Parcel B will be demolished concurrently with the residence in accordance with Monterey County Code. The Environmental Health Bureau reviewed the project application, found no issues with the proposal, and did not require any conditions of approval. If and when the properties are redeveloped, evidence indicating adequate wastewater and potable water service connections shall be provide to HCD-Planning and the Environmental Health Bureau.
 - c) The project planner reviewed the submitted plans and conducted a site visit on November 27, 2023, to verify that the project, as proposed and conditioned, will not impact public health and safety.
 - d) The application, project plans, and related support materials submitted by the project applicant to the Monterey County HCD - Planning for the proposed development found in Project File PLN230138.

4. **FINDING:** **NO VIOLATIONS** – The subject properties are in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of the County’s zoning ordinance. No violations exist on the properties.

- EVIDENCE:**
- a) County staff reviewed Monterey County HCD-Planning and HCD-Building Services records, and the County is not aware of any violations existing on the subject properties.
 - b) The project planner conducted a site inspection on November 27, 2023, and researched County records to assess if any violations exist on the subject properties.
 - c) The application, plans and supporting materials submitted by the project applicant to Monterey County HCD-Planning for the proposed development are found in Project File PLN230138.

5. **FINDING:** **CEQA (Exempt)** – The project is categorically exempt from environmental review and no unusual circumstances were identified to exist for the proposed project.

- EVIDENCE:**
- a) California Environmental Quality Act (CEQA) Guidelines section 15301(1) categorically exempts the demolition and removal of small structures, including single family dwellings. CEQA Guidelines section

15305(a) categorically exempts minor lot line adjustments not resulting in the creation of any new parcel.

- b) The applicant proposes demolition of a 611 square foot single family dwelling, 336 square foot garage, and a 94 square shed. Therefore, this portion of the project is consistent with the categorical exemption requirements of CEQA guidelines section 15301. Additionally, the project includes a minor lot line adjustment between two legal lots of record: Parcel A (3.24 acres) and Parcel B (3.13 acres), resulting in two lots of record containing 3.39 acres [Adjusted Parcel A] and 2.98 acres [Adjusted Parcel B]. No new lots will be created by the lot line adjustment and therefore this component qualifies as a Class 5 categorical exemption.
- c) The lot line adjustment will not intensify the level of development allowed on the parcels, either individually or cumulatively. After the implementation of the proposed lot line adjustment and demolition, the adjusted/resulting parcels will continue to conform with regard to site coverage, floor area ratio, and setbacks. Therefore, the proposed development is consistent with CEQA Guidelines Section 15305(a) and Title 19 Section 19.09.005.C.
- d) No adverse environmental effects were identified during staff review of the development application or during a site visit on November 27, 2023.
- e) None of the exceptions under CEQA Guidelines Section 15300.2 apply to this project. The project does not involve alterations to a designated historical resource, a hazardous waste site, nor development that would result in a cumulatively significant impact. Although the project would allow development (Title 20 section 20.06.310.4.b, defines a lot line adjustment as development), the lot line adjustment will not intensify the level of development allowed on the parcels, see Finding No. 1, evidence “i”. With implementation of the project, maximum development potential of the combined lots decreases by one unit and therefore wouldn’t contribute to any cumulative environmental effects. As detailed in Finding No. 1, Evidence “m”, the project will not impact the property’s historical resources. There are no unusual circumstances associated with undertaking the project that would create the reasonable possibility that the project would have a significant effect on the environment.
- f) The application, project plans, and related support materials submitted by the project applicant to Monterey County HCD-Planning for the proposed development found in Project File PLN230138.

6. **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 of the Monterey County Coastal Implementation Plan can be demonstrated.

- b) Although the subject properties are shown in an area where the applicable Local Coastal Program requires public access (Figure 3, Public Access, Carmel Area Land Use Plan), no evidence or documentation has been submitted or found showing the existence of historic public use or trust rights over this property. Additionally, the proposed LLA, demolition, and CSE Amendment will not affect the processes of the shoreline.
- c) County staff conducted a site inspection on November 27, 2023, to verify that the proposed project will not impact public access.
- d) The application, project plans, and related support materials submitted by the project applicant to Monterey County HCD-Planning for the proposed development found in Project File PLN230138.

7. **FINDING:** **LOT LINE ADJUSTMENT** – Section 66412(d) of the California Government Code (Subdivision Map Act) and Title 19 (Subdivision Ordinance – Coastal) of the Monterey County Code (MCC) allow a lot line adjustment that meets the following standards:

- 1. The lot line adjustment is between four or fewer existing adjoining parcels;
- 2. A greater number of parcels than originally existed will not be created as a result of the lot line adjustment; and
- 3. The parcels resulting from the lot line adjustment conform to the County’s general plan, any applicable specific plan, any applicable coastal plan, and zoning and building ordinances.

As proposed, the project meets these standards.

- EVIDENCE:**
- a) The parcels are zoned Low Density Residential, 1 unit per acre, with a Design Control overlay (Coastal Zone) [LDR/1-D (CZ)].
 - b) The lot line adjustment is between four or fewer existing adjoining parcels. The two existing legal lots of record have a total combined area of 6.37 acres. After the adjustment, there will be two lots of record containing 3.39 acres [Adjusted Parcel A] and 2.98 acres [Adjusted Parcel B].
 - c) The lot line adjustment will not create a greater number of parcels than originally existed. Two contiguous separate legal parcels of record will be adjusted, resulting in two contiguous separate legal parcels of record. Therefore, no new parcels will be created.
 - d) The proposed lot line adjustment is consistent with the Monterey County Zoning Ordinance (Title 20). County staff verified that the subject property is in compliance with all rules and regulations pertaining to the use of the property, and that no violations exist on the property (see Finding Nos. 1, 2, 3, and 4; and supporting evidence).
 - e) The subject properties are zoned for residential purposes. Public/quasi-public uses, such as hospitals are allowed. Parcel A is currently developed with single family dwelling, which will remain on Adjusted Parcel A. Parcel B contains a single-family dwelling, garage, and shed, which will be demolished with implementation of the proposed project. Adjusted Parcel B will be vacant (except of a well and underground water tanks). No changes in use are proposed. None of the property area is under Williamson Act contract or used for agricultural purposes.
 - f) The proposed lot line adjustment does not interfere with existing access and/or utility easements, which will remain unchanged.

- g) As an exclusion to the Subdivision Map Act, no map is recorded for a Lot Line Adjustment. To appropriately document the boundary changes, execution and recordation of deeds reflecting the lot line adjustment as well as a Certificate of Compliance for each adjusted lot is required per incorporated standard conditions of approval (Condition Nos. 4 and 5; and supporting evidence).
- h) The project planner conducted a site inspection on November 27, 2023, to verify that the project will not conflict with zoning or building ordinances.
- i) The application, project plans, and related support materials submitted by the project applicant to Monterey County HCD-Planning for the proposed development found in Project File PLN230138.

8. **FINDING:** **APPEALABILITY** – The decision on this project may be appealed to the Board of Supervisors and the California Coastal Commission.

- EVIDENCE:**
- a) Board of Supervisors. Section 19.01.050.A of the Monterey County Subdivision Ordinance (Title 19 – Coastal Zone) and Section 20.86.030 of the Monterey County Zoning Ordinance (Title 20) allows an appeal to be made to the Board of Supervisors by any public agency or person aggrieved by a decision of an Appropriate Authority other than the Board of Supervisors.
 - b) Coastal Commission. Pursuant to Section 20.86.080.A.3 of the Monterey County Zoning Ordinance (Title 20), the project is subject to appeal by/to the California Coastal Commission because it involves development that is permitted in the underlying zone as a conditional use.

DECISION

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

- 1) Find that the project qualifies as a Class 1 and Class 5 Categorical Exemption pursuant to CEGQ Guidelines sections 15301(l) and 15305(a), and there are no exceptions pursuant to Section 15300.2; and
- 2) Approve a Combined Development Permit consisting of:
 - a. A Coastal Administrative Permit to allow demolition of an existing single-family dwelling, garage and shed on Parcel B (APN: 241-311-037-000); and
 - b. A Coastal Development Permit to allow a lot line adjustment between three legal lots of record consisting of Parcel A (APN: 241-311-036-000 – 3.24 acres) and Parcel B (APN: 241-311-037-000 – 3.13 acres), resulting in three parcels containing 3.39 acres (Adjusted Parcel A) and 2.98 acres (Adjusted Parcel B).

All of which are in general conformance with the attached sketch and subject to the attached 9 conditions, all being attached hereto and incorporated herein by reference.

PASSED AND ADOPTED this 28th day of February, 2024, upon motion of _____, seconded by _____, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Melanie Beretti, AICP, Planning Commission Secretary

COPY OF THIS DECISION MAILED TO THE APPLICANT ON _____.

THIS APPLICATION IS APPEALABLE TO THE BOARD OF SUPERVISORS.

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE CLERK TO THE BOARD ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE _____.

THIS PROJECT IS LOCATED IN THE COASTAL ZONE AND IS APPEALABLE TO THE COASTAL COMMISSION. UPON RECEIPT OF NOTIFICATION OF THE FINAL LOCAL ACTION NOTICE (FLAN) STATING THE DECISION BY THE FINAL DECISION MAKING BODY, THE COMMISSION ESTABLISHES A 10 WORKING DAY APPEAL PERIOD. AN APPEAL FORM MUST BE FILED WITH THE COASTAL COMMISSION. FOR FURTHER INFORMATION, CONTACT THE COASTAL COMMISSION AT (831) 427-4863 OR AT 725 FRONT STREET, SUITE 300, SANTA CRUZ, CA.

This decision, if this is the final administrative decision, is subject to judicial review pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6. Any Petition for Writ of Mandate must be filed with the Court no later than the 90th day following the date on which this decision becomes final.

NOTE

This permit expires 3 years after the above date of granting thereof unless certificates of compliance are recorded within this period.

County of Monterey HCD Planning

DRAFT Conditions of Approval/Implementation Plan/Mitigation Monitoring and Reporting Plan

PLN230138

1. PD001 - SPECIFIC USES ONLY

Responsible Department: Planning

Condition/Mitigation Monitoring Measure: Combined Development Permit consisting of: 1) Coastal Administrative Permit to allow demolition of an existing single family dwelling, garage and shed on Parcel B; and 2) a Coastal Development Permit to adjust two legal lots of record consisting of Parcel A (Assessor's Parcel Number 241-311-036-000 – 3.24 acres) and Parcel B (Assessor's Parcel Number 241-311-037-000 – 3.13 acres) , resulting in two parcels containing 3.39 acres (Adjusted Parcel A) and 2.98 acres (Adjusted Parcel B). The property is located at 182 Van Ess Way, Carmel (Assessor's Parcel Number 241-311-036-000 and 241-311-037-000), Carmel Area Land Use Plan, Coastal Zone. This permit was approved in accordance with County ordinances and land use regulations subject to the terms and conditions described in the project file. Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of HCD - Planning. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. To the extent that the County has delegated any condition compliance or mitigation monitoring to the Monterey County Water Resources Agency, the Water Resources Agency shall provide all information requested by the County and the County shall bear ultimate responsibility to ensure that conditions and mitigation measures are properly fulfilled. (HCD - Planning)

Compliance or Monitoring Action to be Performed: The Owner/Applicant shall adhere to conditions and uses specified in the permit on an on-going basis unless otherwise stated.

2. PD002 - NOTICE PERMIT APPROVAL

Responsible Department: Planning

Condition/Mitigation The applicant shall record a Permit Approval Notice. This notice shall state:

Monitoring Measure: "A Combined Development Permit (Resolution Number _____) was approved by the Monterey County Planning Commission for Assessor's Parcel Numbers 241-311-036-000 and 241-311-037-000 on February 28, 2024. The permit was granted subject to 9 conditions of approval which run with the land. A copy of the permit is on file with Monterey County HCD - Planning."

Proof of recordation of this notice shall be furnished to the Director of HCD - Planning prior to issuance of grading and building permits, Certificates of Compliance, or commencement of use, whichever occurs first and as applicable. (HCD - Planning)

Compliance or Monitoring Action to be Performed: Prior to the issuance of grading and building permits, certificates of compliance, or commencement of use, whichever occurs first and as applicable, the Owner/Applicant shall provide proof of recordation of this notice to the HCD - Planning.

3. PD003(A) - CULTURAL RESOURCES NEGATIVE ARCHAEOLOGICAL REPORT

Responsible Department: Planning

Condition/Mitigation If, during the course of construction, cultural, archaeological, historical or paleontological resources are uncovered at the site (surface or subsurface resources) work shall be halted immediately within 50 meters (165 feet) of the find until a qualified professional archaeologist can evaluate it. Monterey County HCD - Planning and a qualified archaeologist (i.e., an archaeologist registered with the Register of Professional Archaeologists) shall be immediately contacted by the responsible individual present on-site. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for recovery.
(HCD - Planning)

Compliance or Monitoring Action to be Performed: The Owner/Applicant shall adhere to this condition on an on-going basis.

Prior to the issuance of grading or building permits and/or prior to the recordation of the final/parcel map, whichever occurs first, the Owner/Applicant shall include requirements of this condition as a note on all grading and building plans. The note shall state "Stop work within 50 meters (165 feet) of uncovered resource and contact Monterey County HCD - Planning and a qualified archaeologist immediately if cultural, archaeological, historical or paleontological resources are uncovered."

When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery.

4. LOT LINE ADJUSTMENT DEED (NON-STANDARD CONDITION)

Responsible Department: Planning

Condition/Mitigation Monitoring Measure: Owner(s)/Applicant(s) shall prepare, execute and record deeds that reflect the lot line adjustment as required by California Government Code §66412(d) and request an unconditional Certificate of Compliance for each of the adjusted parcels. (HCD-Planning)

Compliance or Monitoring Action to be Performed:

1. An updated title report (current within 30 days) for each subject parcel of the lot line adjustment.
2. Draft legal descriptions, plats and closure calculations for each newly adjusted parcel of the lot line adjustment for which a Certificate of Compliance will be issued. The legal description, plat, and closure calculations shall be prepared by a professional land surveyor. The legal description shall be entitled "Exhibit A" and shall have the planning permit no. (PLN) in the heading. The plat may be incorporated by reference into Exhibit "A," or be entitled Exhibit "B."
3. Draft deeds for all adjustment parcels, being all areas being conveyed by Owners in conformance to the approved lot line adjustment. The deeds shall contain a legal description and plat of the areas to be conveyed in conformance to the approved lot line adjustment. The legal description, plat, and closure calculations shall be prepared by a professional land surveyor. The legal description shall be entitled "Exhibit A" and shall have the planning permit no. (PLN) in the heading. The plat may be incorporated by reference into Exhibit "A," or be entitled Exhibit "B." The deed shall comply with the Monterey County Recorder's guidelines as to form and content.
 - a. The Owner(s)/Applicant(s) shall be responsible for ensuring the accuracy and completeness of all parties listed as Grantor and Grantee on the deeds.
 - b. Each deed shall state in the upper left corner of the document the party requesting the recording and to whom the recorded document shall be returned.
 - c. The purpose of the deed shall be stated on the first page of the deed, as follows:

"The purpose of this deed is to adjust the parcel boundaries in conformance to the lot line adjustment approved by the County of Monterey, PLN230138. This deed is being recorded pursuant to §66412(d) of the California Government Code and shall reconfigure the subject parcels in conformance to said approved lot line adjustment."

PLEASE NOTE: Owner(s) is/are responsible for securing any reconveyance, partial reconveyance and/or subordination in connection with any loan, mortgage, lien or other financial obligation on all property being transferred between parties.

4. Following review and any corrections of the legal descriptions and plats by County Surveyor:
 - a. Owner/Applicant submit copies of the fully executed and acknowledged deed(s) for the adjustment parcels to the project planner for review & approval by County Surveyor
 - b. Owner/Applicant shall submit the legal description and plat for each Certificate of Compliance to HCD-Planning for final processing.
 - c. Using a title company, execute the deeds before a notary public, and have the deeds recorded.
 - d. Owner/Applicant shall submit copies of all recorded deeds to the project planner.

5. PD045 - COC (LOT LINE ADJUSTMENTS)

Responsible Department: Planning

Condition/Mitigation Monitoring Measure: The applicant shall request unconditional Certificates of Compliance for the newly configured parcels. (HCD - Planning)

Compliance or Monitoring Action to be Performed: Prior to the expiration of the entitlement, the Owner/Applicant/Surveyor shall prepare legal descriptions for each newly configured parcel and submit them to HCD -Planning for review and approval. The legal descriptions shall be entitled "Exhibit A." The legal description shall comply with the Monterey County Recorder's guidelines as to form and content. The Applicant shall submit the legal descriptions with a check, payable to the Monterey County Recorder, for the appropriate fees to record the Certificates of Compliance.

Prior to the expiration of the entitlement and after the Certificates are recorded, the Owner/Applicant shall file a request and pay the fees for separate assessments or combination assessments (for lot mergers) with the Assessor's Office.

6. PDSP001 - CONSERVATION AND SCENIC EASEMENT AMENDMENT

Responsible Department: Planning

Condition/Mitigation Monitoring Measure: The proposed project includes amending the boundaries of the subject conservation and scenic easement (Document No. 33808; Reel 1079, Page 403), as amended by Document No. 59263. The conservation and scenic easement amendment will increase the easement boundaries by 10,472 square feet and better conform to the goals, policies, and text of the Carmel Highlands Land Use Plan regarding protection of slopes in excess of 30 percent and ESHA. The conservation and easement amendment shall also update the deed language to allow invasive plant species removal, fuel management (subject to separate permitting if required), restoration activities, and other activities as approved by HCD-Planning. The amended easement deed shall continue to prohibit new structures within the easement boundaries, material alteration of the topography and landscape, and advertising, thus ensuring preservation and conservation of the properties' natural scenic beauty and natural condition in perpetuity. Within 60 days of project approval, the Board of Supervisors shall consider the proposed conservation and scenic easement amendment (deed and associated map).

Compliance or Monitoring Action to be Performed: Within 60 days of project approval or prior to issuance of construction or grading permit from Building Services, whichever comes first, the Board of Supervisors shall consider the proposed conservation and scenic easement amendment.

7. PD047 - DEMOLITION/DECONSTRUCTION (MBUAPCD RULE 439)

Responsible Department: Planning

Condition/Mitigation Monitoring Measure: In accordance with Monterey Bay Unified Air Pollution Control District Rule 439, construction plans shall include "Demolition and Deconstruction" notes that incorporate the following work practice standards:

1. Sufficiently wet the structure prior to deconstruction or demolition. Continue wetting as necessary during active deconstruction or demolition and the debris reduction process;
 2. Demolish the structure inward toward the building pad. Lay down roof and walls so that they fall inward and not away from the building;
 3. Commencement of deconstruction or demolition activities shall be prohibited when the peak wind speed exceeds 15 miles per hour.
- All Air District standards shall be enforced by the Air District.

(HCD - Planning)

Compliance or Monitoring Action to be Performed: Prior to the issuance of a demolition permit, if applicable, the Owner/Applicant/Contractor shall incorporate a "Demolition/Deconstruction" note on the demolition site plan that includes, but is not limited to, the standards set forth in this condition.

During demolition, the Owner/Applicant/Contractor shall obtain any required Air District permits and the Air District shall conduct all deconstruction or demolition inspection activities as required by the Air District.

8. PD049 - TREE AND ROOT PROTECTION

Responsible Department: Planning

Condition/Mitigation Monitoring Measure: Prior to beginning any tree removal, trees which are located close to trees approved for removal shall be protected from inadvertent damage from equipment or tree removal activity by fencing off the canopy drip-lines and/or critical root zones (whichever is greater) with protective materials. Any tree protection measures recommended by a County-approved tree consultant, in addition to the standard condition, shall be implemented. (HCD - Planning)

Compliance or Monitoring Action to be Performed: Prior to construction or tree removal, the Owner/Applicant/Tree Removal Contractor submit evidence of tree protection to HCD -Planning for review and approval.

After construction or tree removal, the Owner/Applicant/Tree Removal Contractor shall submit photos of the trees on the property to HCD -Planning to document that the tree protection has been successful or if follow-up remediation measures or additional permits are required.

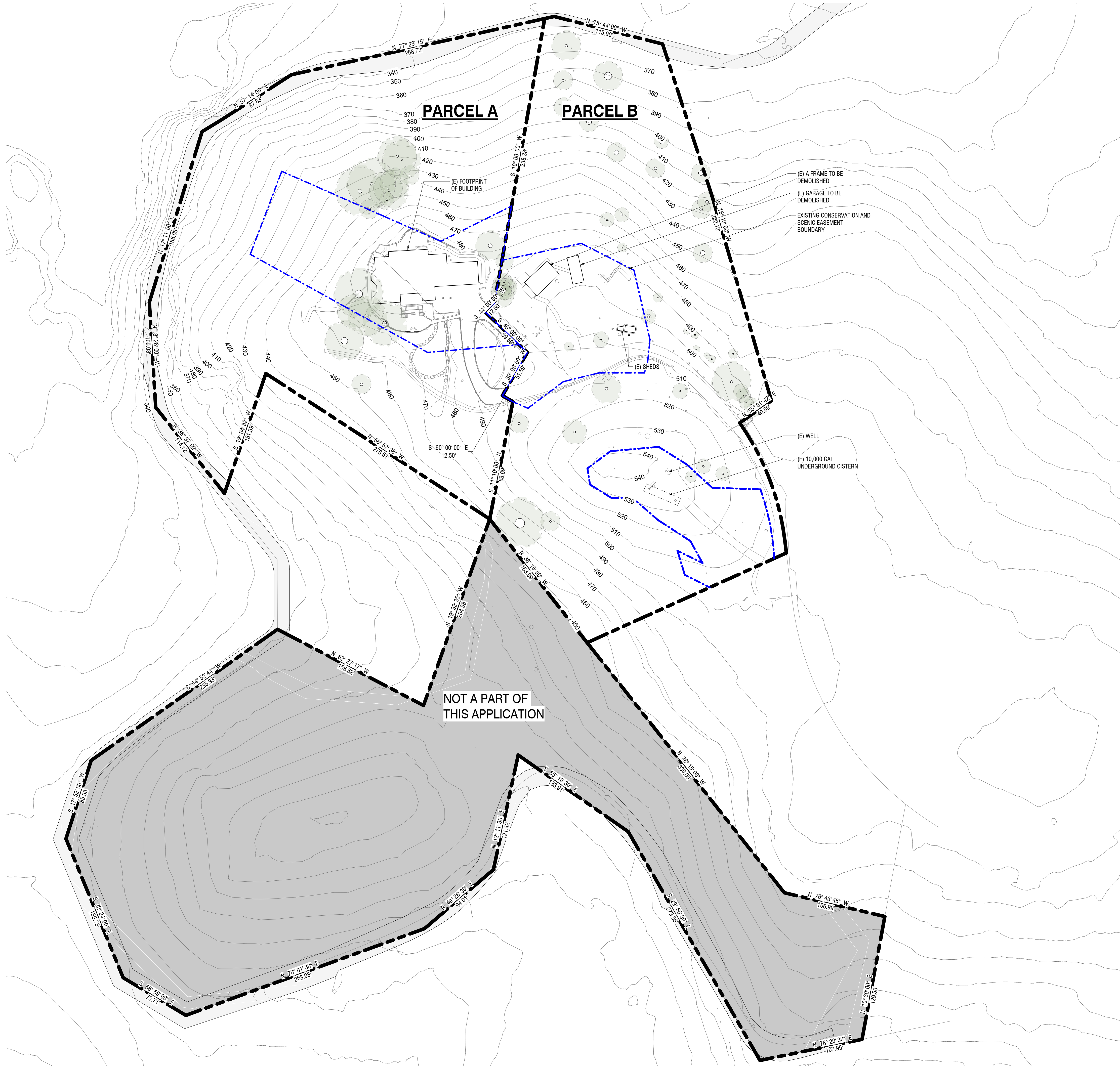
9. CC01 INDEMNIFICATION AGREEMENT

Responsible Department: County Counsel-Risk Management

Condition/Mitigation Monitoring Measure: The property owner agrees as a condition and in consideration of approval of this discretionary development permit that it will, pursuant to agreement and/or statutory provisions as applicable, including but not limited to Government Code Section 66474.9, defend, indemnify and hold harmless the County of Monterey or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees to attack, set aside, void or annul this approval, which action is brought within the time period provided for under law, including but not limited to, Government Code Section 66499.37, as applicable. The property owner will reimburse the County for any court costs and attorney's fees which the County may be required by a court to pay as a result of such action. The County may, at its sole discretion, participate in the defense of such action; but such participation shall not relieve applicant of his/her/its obligations under this condition. An agreement to this effect shall be recorded upon demand of County Counsel or concurrent with the issuance of building permits, use of property, filing of the final map, recordation of the certificates of compliance whichever occurs first and as applicable. The County shall promptly notify the property owner of any such claim, action or proceeding and the County shall cooperate fully in the defense thereof. If the County fails to promptly notify the property owner of any such claim, action or proceeding or fails to cooperate fully in the defense thereof, the property owner shall not thereafter be responsible to defend, indemnify or hold the County harmless. (County Counsel-Risk Management)

Compliance or Monitoring Action to be Performed: Upon demand of County Counsel or concurrent with the issuance of building permits, use of the property, recording of the final/parcel map, or recordation of Certificates of Compliance, whichever occurs first and as applicable, the Owner/Applicant shall submit a signed and notarized Indemnification Agreement to the Office of County Counsel-Risk Management for review and signature by the County.

Proof of recordation of the Indemnification Agreement, as outlined, shall be submitted to the Office of County Counsel-Risk Management



VICINITY MAP

SCOPE OF WORK

LOT LINE ADJUSTMENT BETWEEN PARCELS -036 (3.24 ACRES), -037 (3.13 ACRES), AND -038 (4.52 ACRES) TO THREE PARCELS -036 (3.39 ACRES), -037 (1.77 ACRES), AND -038 (5.73 ACRES), AND AMENDMENT OF THE CONSERVATION AND SCENIC EASEMENT ON PARCEL -036 TO ADD AREAS >30% SLOPE AND OMIT AREAS <30% SLOPE.

PROJECT DATA

PROJECT NAME:	VAN ESS RESIDENCE
SITE ADDRESS:	182 VAN ESS WAY CARMEL HIGHLANDS MONTEREY COUNTY, CA.
ZONING INFORMATION	
A.P.N.:	APN 241-311-036 APN 241-311-037 APN 241-311-038
PARCEL AREA:	PARCEL A (-036) = 3.24 AC (140,986 SF)
EXISTING:	PARCEL B (-037) = 3.13 AC (136,333 SF)
PROPOSED:	ADJUSTED PARCEL A (-036) = 3.39 AC (147,645 SF) ADJUSTED PARCEL B (-037) = 2.98 AC (129,674 SF)
	COMBINED = 6.37 AC
ZONING DISTRICT:	LDR/ 1-D(CZ)

DRAWING INDEX

Sheet Number	Sheet Name
ARCHITECTURE	
AS001-LL	EXISTING PARCEL CONFIGURATION
AS002-LL	PROPOSED PARCEL CONFIGURATION
AS003-LL	PROPOSED CONSERVATION AND SCENIC EASEMENT AMENDMENT
Grand total: 3	

LEGEND

	EXISTING PROPERTY LINE
	EXISTING CONSERVATION AND SCENIC EASEMENT BOUNDARY
	(N) CONTOUR
	FIRE HYDRANT
	WATER VALVE
	UTILITY POLE

KEY PLAN

VAN ESS RESIDENCE

182 Van Ess Way
Carmel-By-The-Sea CA 93923

Date	02/15/24
Drawn by	AC
Scale	As indicated

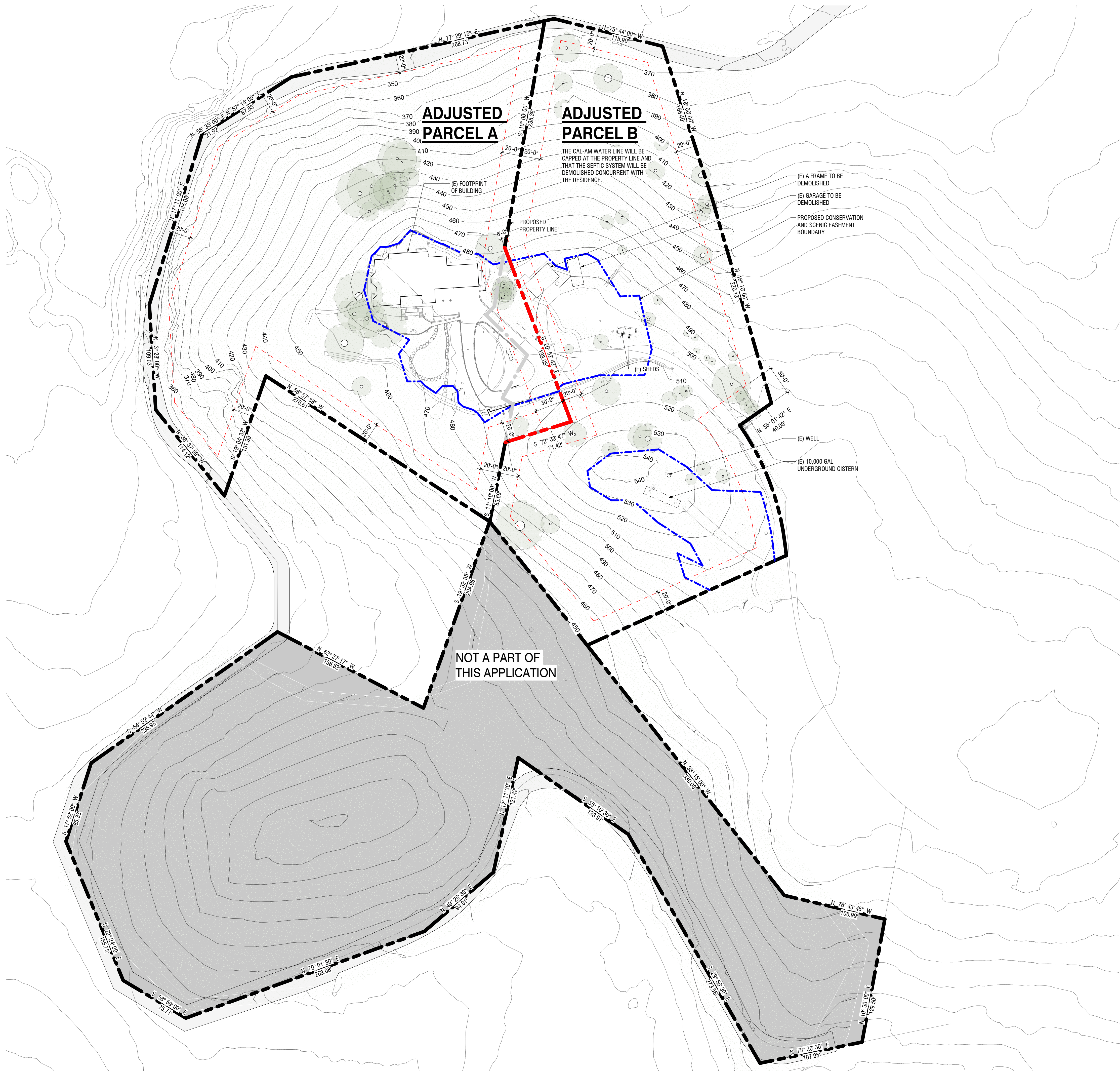
EXISTING PARCEL CONFIGURATION

Sheet number

AS001-LL

These plans are copyrighted and are subject to copyright protection as an "architectural work" under Sec. 102 of the Copyright Act, 17 U.S.C., as amended December 1990 and known as Architectural Works Copyright Protection Act of 1990. The protection includes but is not limited to the overall form as well as the arrangement and composition of spaces and elements of design. Under such protection, unauthorized use of these plans, work or building represented, can legally result in the cessation of construction or buildings being seized and/or

Issue Set / Revisions		
No.	Description	Date
1	PRICING SET	2.17.23
2	PRE-APP SET	05.05.23
3	PLANNING SET	07.30.23
4	PLANNING_SET_REV 1	09.01.23
6	PLANNING_SET_REV 3	02.15.24



1 PROPOSED SITE PLAN LLA
1" = 50'-0"

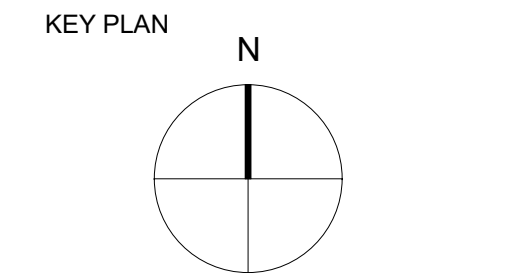
- LEGEND
- EXISTING PROPERTY LINE TO BE REMOVED
 - EXISTING PROPERTY LINE TO REMAIN
 - PROPOSED PROPERTY LINE
 - PROPOSED CONSERVATION AND SCENIC EASEMENT BOUNDARY
 - (N) CONTOUR
 - FIRE HYDRANT
 - WATER VALVE
 - UTILITY POLE

FIELD ARCHITECTURE

974 COMMERCIAL ST. STE 104
PALO ALTO, CA 94303
650.462.9554

These plans are copyrighted and are subject to copyright protection as an "architectural work" under Sec. 102 of the Copyright Act, 17 U.S.C. as amended December 1990 and known as Architectural Works Copyright Protection Act of 1990. The protection includes but is not limited to the overall form as well as the arrangement and composition of spaces and elements of design. Under such protection, unauthorized use of these plans, work or building represented, can legally result in the cessation of construction or buildings being seized and/or

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6	PLANNING SET_REV 3	02.15.24

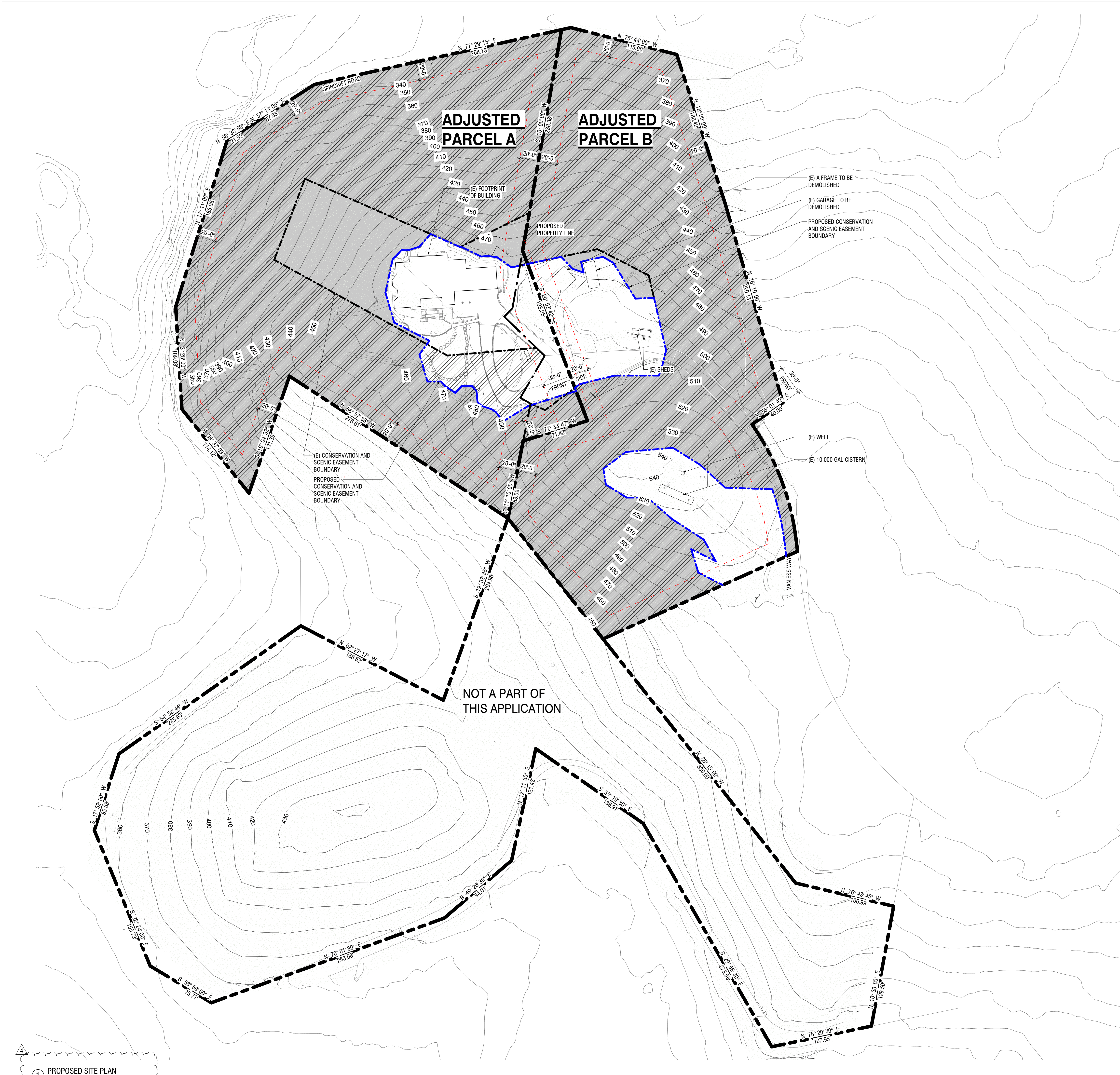


VAN ESS RESIDENCE

182 Van Ess Way Carmel-By-The-Sea CA 93923	
Date	02/15/24
Drawn by	AC
Scale	As indicated

PROPOSED PARCEL CONFIGURATION

Sheet number
AS002-LL



4
1 PROPOSED SITE PLAN
1" = 50'-0"

LEGEND

EXISTING SCENIC EASEMENT
PROPOSED SCENIC EASEMENT
EXISTING PROPERTY LINE
PROPOSED PROPERTY LINE
(E) BLDGS TO BE DEMOLISHED

AREAS
EXISTING EASEMENT - 215,769 SF
PROPOSED EASEMENT - 226,241 SF
NET INCREASE = 10,472 SF

FIELD
ARCHITECTURE

974 COMMERCIAL ST. STE 104
PALO ALTO, CA 94303
650.462.9554

These plans are copyrighted and are subject to copyright protection as an "architectural work" under Sec. 102 of the Copyright Act, 17 U.S.C. as amended December 1990 and known as Architectural Works Copyright Protection Act of 1990. The protection includes but is not limited to the overall form as well as the arrangement and composition of spaces and elements of design. Under such protection, unauthorized use of these plans, work or building represented, can legally result in the cessation of construction or buildings being seized and/or

Issue Set / Revisions		
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5	PLANNING SET_REV 2	11.02.23
6	PLANNING SET_REV 3	02.15.24

KEY PLAN

N

VAN ESS RESIDENCE

182 Van Ess Way
Carmel-By-The-Sea CA 93923

Date 02/15/24
Drawn by AC
Scale As indicated

PROPOSED CONSERVATION
AND SCENIC EASEMENT
AMENDMENT

Sheet number

AS003-LL

2/15/2024 4:56:32 PM

Exhibit B

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MINUTES
Carmel Highlands Land Use Advisory Committee
Monday, October 2, 2023

1. Meeting called to order by Doug Paul at 4:05 pm

2. Roll Call

Members Present:

John Borelli, Dan Keig, Chip Moreland, and Doug Paul (4)

Members Absent:

Clyde Freedman, Norm Leve, (2)

3. Approval of Minutes:

A. July 17, 2023 minutes

Motion: Chip Moreland (LUAC Member's Name)

Second: Dan Keig (LUAC Member's Name)

Ayes: John Borelli, Dan Keig, Chip Moreland, and Doug Paul (4)

Noes: None (0)

Absent: Clyde Freedman, Norm Leve (2)

Abstain: None (0)

4. Approval of Minutes:

A. August 7, 2023 minutes

Motion: Dan Keig (LUAC Member's Name)

Second: Chip Moreland (LUAC Member's Name)

Ayes: John Borelli, Dan Keig, Chip Moreland, and Doug Paul (4)

Noes: None (0)

Absent: Clyde Freedman, Norm Leve (2)

Abstain: None (0)

5. Approval of Minutes:

A. August 21, 2023 minutes

Motion: Dan Keig (LUAC Member's Name)

Second: Doug Paul (LUAC Member's Name)

Ayes: John Borelli, Dan Keig, Chip Moreland, and Doug Paul (4)

Noes: None (0)

Absent: Clyde Freedman, Norm Leve (2)

Abstain: None (0)

4. **Public Comments:** The Committee will receive public comment on non-agenda items that are within the purview of the Committee at this time. The length of individual presentations may be limited by the Chair.
N/A

5. **Scheduled Item(s)**

6. **Other Items:**

A) Preliminary Courtesy Presentations by Applicants Regarding Potential Projects

N/A

B) Announcements

Joint Special Meeting for the LUAC's & Planning Commission - October 25, 2023 at 10:30

Board Chambers at 168 W. Alisal in Salinas

Members were asked who plans on attending -

7. **Meeting Adjourned:** 5:30 pm

Minutes taken by: Doug Paul

Action by Land Use Advisory Committee

Project Referral Sheet

Monterey County Housing & Community Development
1441 Schilling Place 2nd Floor
Salinas CA 93901
(831) 755-5025

Advisory Committee: Carmel Highlands

1. **Project Name:** VAN ESS PROPERTIES LLC
File Number: PLN230138
Project Location: 182 VAN ESS WAY, CARMEL, CA 93923
Assessor's Parcel Number(s): 241-311-036-000, 241-311-037-000 AND 241-311-038-000
Project Planner: FIONNA JENSEN
Area Plan: CARMEL AREA LAND USE PLAN, COASTAL ZONE
Project Description: A Combined Development Permit consisting of: 1) Coastal Administrative Permit to allow demolition of an existing single family dwelling on Parcel B; 2) a Coastal Development Permit to adjust three legal lots of record consisting of Parcel A (Assessor's Parcel Number 241-311-036-000 – 3.25 acres), Parcel B (Assessor's Parcel Number 241-311-037-000 – 3.13 acres) and Parcel C (Assessor's Parcel Number 241-311-038-000 – 4.52 acres), resulting in three parcels containing 3.39 acres (Adjusted Parcel A), 1.77 acres (Adjusted Parcel B) and 5.73 acres (Adjusted Parcel C); and 3) a Conservation and Scenic Easement Amendment to adjust and increase the easement boundaries by 92 square feet.

Was the Owner/Applicant/Representative present at meeting? YES X NO

(Please include the names of those present)

Michelle Always, Dave George, Carol George, Michael Adams, Ames Rossen, Marilyn Rossen & Angus Jeffers

Was a County Staff/Representative present at meeting? Zoe Zepp (Name)

PUBLIC COMMENT:

Name	Site Neighbor?		Issues / Concerns (suggested changes)
	YES	NO	
	X		Several attendees speculated that the owners would build an ADU on lot C and thereby avoiding conditions imposed by the county.

	X		A resident asked if Cal Am had been informed of the building plans and if the plans impact the well, fire hydrant or access the road.
	X		A resident added that the road is private and narrow making it a challenge for emergency vehicles was noted by the neighbors.

LUAC AREAS OF CONCERN

Concerns / Issues (e.g. site layout, neighborhood compatibility; visual impact, etc)	Policy/Ordinance Reference (If Known)	Suggested Changes - to address concerns (e.g. relocate; reduce height; move road access, etc)
Chip Moreland		The architect repeated that there were no plans to build on lot c at this time. However, the architect stressed that although there were no plans at present but there could
All LUAC members		All LUAC members voiced concern over the possibility of building on Lot C.

ADDITIONAL LUAC COMMENTS

There are several comments on this project worth noting for the Planning Commission:

Regarding the Conservation and Scenic easement adjustment of this application. There are several documents that describe different the square footage amounts; on the Land Use Advisory agenda description, the increase of the easement boundaries is stated as 92 square feet; in the Application for the lot line adjustment from the Law office letter to Fionna Jensen dated July 31, 2023, the increase of the easement boundaries is stated as 186 square feet and at the LUAC Meeting on October 2, 2023, the applicants representative, Mr Angus stated the increase of the easement boundaries as 3,350 square feet. The LUAC committee could not resolve what the real number is, that is left to the Planning Commission.

Regarding the LUAC consideration to the Planning Commission for not adjusting Parcel C, it should be noted that this parcel provides a natural habitat barrier for the existing homes on Van Ess and the anticipated re-development of two new homes on parcels A and B. Furthermore, development of parcels A and B are consistent with what has long been established in terms of housing density for Van Ess. Adding additional development on parcel C will add traffic burden to Van Ess, a small and narrow road.

RECOMMENDATION:

Motion by: John Borelli (LUAC Member's Name)

Second by: Chip Moreland (LUAC Member's Name)

 Support Project as proposed

<div>X</div>	<div>Support Project with changes</div> <div>The LUAC supports the lot line adjustment between Parcel A and Parcel B but does not support any lot line adjustment for Parcel C. It should be left as it is and not developed. Additionally, there is concern by the residents of Van Ess that action needs to be taken to enhance (increase) fire hydrant and fire water storage for Van Ess, as there is only one fire hydrant located at Highway One.</div>
	<div>Continue the Item</div> <div>Reason for Continuance:</div>
	<div>Continue to what date:</div>
Ayes:	<div>John Borelli, Dan Keig, Chip Moreland, and Doug Paul (4)</div>
Noes:	<div>None (0)</div>
Absent:	<div>Clyde Freedman, Norm Leve (2)</div>
Abstain:	<div>None (0)</div>

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Exhibit C

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#10

G 33808

REEL 1079 PAGE 403

RECORDED AT REQUEST OF
BOARD OF SUPERVISORS
Before the Board of Supervisors in and for the
County of Monterey, State of California
AUG 30 9 08 AM '76

OFFICE OF RECORDER
COUNTY OF MONTEREY
SALINAS, CALIFORNIA

NO FEE

Conservation and Scenic Easement
Deed from RICHARD F. Mc GRAW for
Property Situated Near Van Ess Way,
in Carmel Highlands, Accepted

REEL 1079 PAGE 403

Upon motion of Supervisor Farr, seconded by
Supervisor Petrovic, and unanimously carried, the Board hereby
accepts the Conservation and Scenic Easement Deed from RICHARD
F. Mc GRAW for property situated near Van Ess Way, in Carmel
Highlands, for open space, and directs the Clerk to record said
Deed.

G 33808

INITIAL FOR
OVAL

COUNTY OF MONTEREY
STATE OF CALIFORNIA

ERNEST A. MAGGINI, County Clerk and ex-officio Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a full, true and correct copy of an original or ler of said Board of Supervisors duly made and entered in the minutes thereof at page ____ of Minute Book 33, on the 20th day of July 1976, and now remaining of record in my office.
Witness my hand and the seal of said Board of Supervisors this 20th day of July 1976.

ERNEST A. MAGGINI,
County Clerk and ex-officio Clerk of the Board
of Supervisors, County of Monterey, State of
California.

LINDA MOUNDAY

CONSERVATION AND SCENIC EASEMENT DEED

THIS DEED made this 24th day of June, 1976, by and between RICHARD F. Mc GRAW as Grantor, and the COUNTY OF MONTEREY, a political subdivision of the State of California, as Grantee;

WITNESSETH:

WHEREAS, the said Grantor is the owner in fee of the real property hereinafter described, situate in Monterey County, California; and

WHEREAS, the said land of said Grantor has certain natural scenic beauty and existing openness; and

WHEREAS, the Grantor and the Grantee desire to preserve and conserve for the public benefit the great natural scenic beauty and existing openness, natural condition and present state of use of said property of the Grantor; and

WHEREAS, the said Grantor is willing to grant to the County of Monterey the scenic use as hereinafter expressed to the said land, and thereby protect the present scenic beauty and existing openness by the restricted use and enjoyment of said property by the Grantor through the imposition of the conditions hereinafter expressed;

NOW, THEREFORE, for and in consideration of the premises, the Grantor does hereby grant and convey unto the County of Monterey an estate, interest, and conservation and scenic easement in said real property of Grantor of the nature and character and to the extent hereinafter expressed, which estate, interest, and easements will result from the restrictions hereby imposed upon the use of said property by said grantor, and to that end and for the purpose of accomplishing the intent of the parties hereto, said Grantor covenants on behalf of itself, its heirs, successors, and assigns with the said Grantee, its successors and assigns to do and refrain from doing severally and collectively upon the Grantor's said property the various acts hereinafter mentioned.

REC-1579 MAR 405

The restrictions hereby imposed upon the use of said property of the Grantor and the acts which said Grantor shall refrain from doing upon their said property in connection herewith are, and shall be as follows:

1. That no structures will be placed or erected upon said described premises except present structures as indicated on Exhibit A or their replacement as indicated on Exhibit A attached to and made a part of this deed.
2. That no advertising of any kind or nature shall be located on or within said property except small For Sale or For Rent or Lease signs.
3. That the Grantor shall not plant or permit to be planted any vegetation upon said premises, except that the grantor may maintain and replace existing vegetation and such other planting of shrubs, trees, flowers and grasses as do not cause major interference with views or detract from the scenic quality of the easement.
4. That, except for the construction, alteration, relocation and maintenance of existing public roads; and the construction, alteration, relocation and maintenance of private pedestrian trails and pathways as Grantors may desire for Grantors use, the general topography of the landscape shall be maintained in its present condition, and no major excavation or topographic changes shall be made
5. That no use of said property which will or does materially alter the landscape or other attractive scenic features of said land other than those specified above shall be done or suffered.

The land of the Grantor hereinabove referred to and to which the provisions of this instrument apply is situate in the County of Monterey, State of California, and is particularly described in Exhibit A and Map attached hereto, and made a part hereof.

Excepting and reserving to the Grantor:

(1) The right of the Grantor and his invitees to maintain and use all existing private roads, bridges, trails and structures upon said land.

(2) The use and occupancy of said land not inconsistent with the

(3) The right to use, maintain, reconstruct and relocate utility lines, pipes, septic tanks and drainfields.

Land uses permitted, or reserved to the Grantor by this instrument shall be subject to the ordinances of Grantee regulating the use of land.

To have and to hold unto the said County of Monterey, its successors and assigns forever. This grant shall be binding upon the heirs and assigns of the said Grantor.

In addition to the foregoing conservation easement a mutual covenant between the owners of adjacent properties not to release said easements will be recorded and is intended by said covenantees to be a covenant running with the lands of each covenantee. The other lands affected are described in Exhibit B, attached hereto.

IN WITNESS WHEREOF, the Grantor(s) ha__ executed this conveyance the day and year first above written.

Signed and Sealed in the presence of:

GRANTOR(S)

Richard F. McGraw
Richard F. McGraw

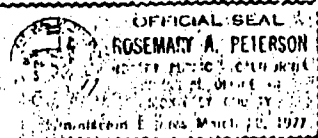
STATE OF CALIFORNIA)

ss.

COUNTY OF MONTEREY)

On this 24th day of July in the year one thousand nine hundred and seventy-six before me, Rosemary A. Peterson, a Notary Public, State of California, duly commissioned and sworn, personally appeared Richard F. McGraw, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal in the County of Monterey the day and year in this certificate first above written.



Rosemary A. Peterson
Notary Public, State of California

My commission expires March 12, 1977

ACCEPTANCE BY THE COUNTY OF MONTEREY

The foregoing Conservation and Scenic Easement Deed is accepted by the County of Monterey this 24th day of July, 1976.

COUNTY OF MONTEREY

BY: *Walter H. ...*
Chairman, Board of Supervisors

STATE OF CALIFORNIA)
COUNTY OF MONTEREY) ss.

DEEL 1079 PAGE 407

On this 20th day of July, 1976, before me,
ERNEST A. MAGGINI, County Clerk of the County of Monterey, and ex-officio
Clerk of the Board of Supervisors and of the Superior Court, in and for said County and State,
personally appeared WARREN CHURCH, known to me to be the Chairman
of said Board of Supervisors of the County of Monterey, and known to me to be the person who
executed the within instrument on behalf of said political subdivision, and acknowledged to
me that such County of Monterey executed the same.

ERNEST A. MAGGINI
County Clerk and ex-officio Clerk of the
Board of Supervisors of Monterey County,
State of California

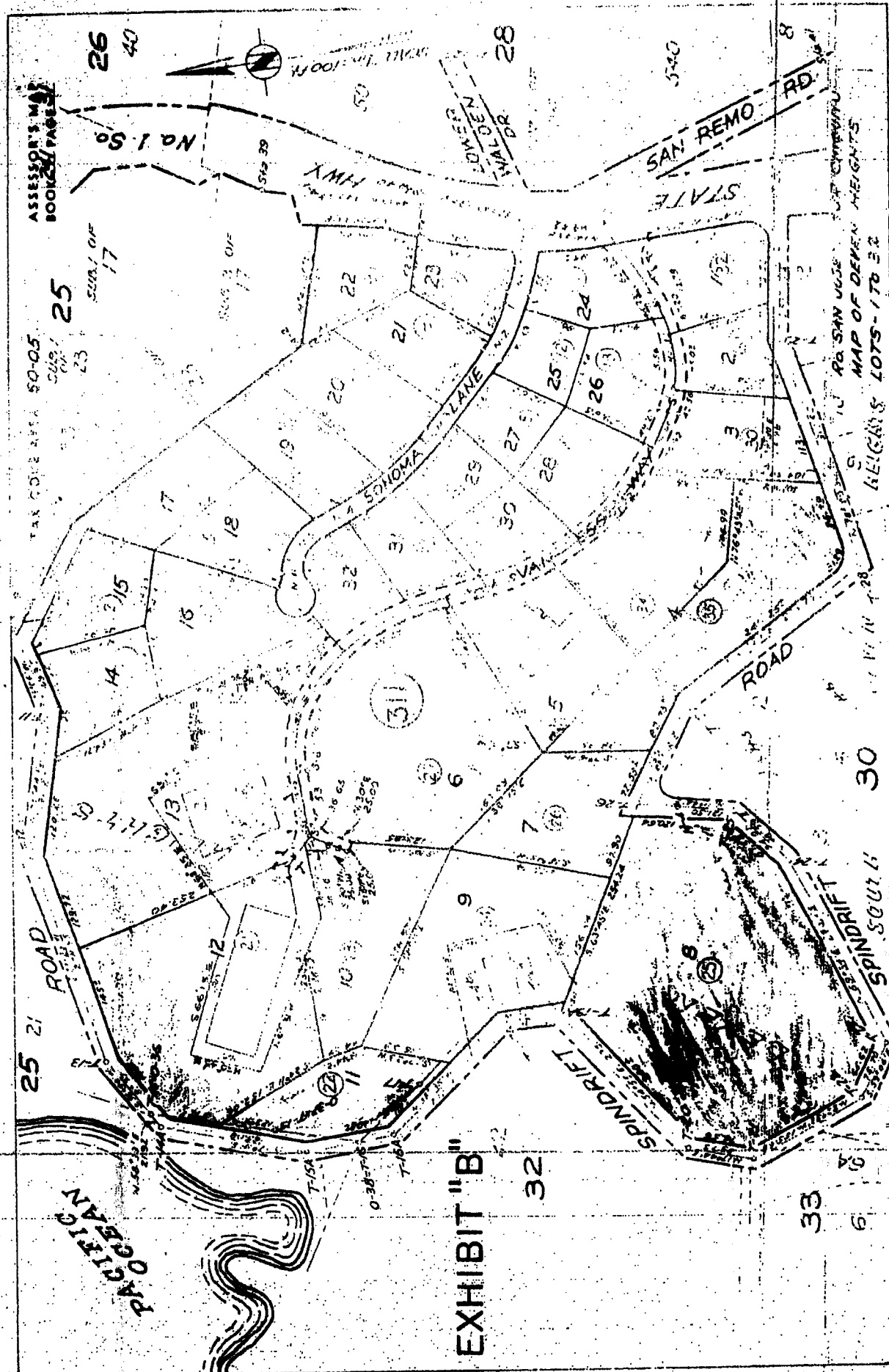
By Linda Mounray
Linda Mounray DEPUTY CLERK

SCENIC EASEMENT - MC GRAW PROPERTY

Exhibit "A"

All that real property situated in the Rancho San Jose Y San Chiquito, County of Monterey as conveyed to Richard F. McGraw by deed recorded in Book 1489, page 546, and Book 2052, page 603, of the Official Records of Monterey County, excepting therefrom that certain property described in deed to Ansel Easton Adams, et al, recorded on Reel 82 page 460 of the Official Records of said county and also excepting therefrom that certain property conveyed to William Webb et al by deed recorded on Reel 322 page 117 of the Official Records of Monterey County and also excepting therefrom the following described property:

Beginning at Station S-7, an intersection point on the centerline of Van Ess Way as said station and line are shown on the Licensed Surveyor's Map of a part of Carmel Highlands and filed for record in Volume 3 of Surveys page 109 Monterey County Records, N 46° 00' W 12.00 feet to a point on said centerline, thence leaving said centerline S 85° 04' W 95.0 feet; thence N 61° 03' W 210.0 feet; thence N 20° 45' E 92.0 feet, thence S 66° 15' E 180.0 feet thence N 63° 35' E 180.0 feet, thence S 31° 05' E 77.0 feet thence S 81° 55' E 85.0 feet, thence S 01° 07' W 90.0 feet thence S 58° 00' W 60.62 feet to a point on the centerline of Van Ess Way; thence following said centerline in a curve to the left to Station S-6 shown on said map; thence following said centerline S 86° 00' W 79.50 to Station S-7 shown on said map, the point of beginning.



END OF DOCUMENT

#12A

59263

REEL 3142 PAGE 1300

WHEN RECORDED MAIL TO:

Nellie

119

R	5
M	1
RF	8
TC	1
L	15

RECORDED AT REQUEST OF

ATTORNEY

AUG 25 10 26 AM '94

OFFICE OF RECORDER
COUNTY OF MONTEREY
SALINAS, CALIFORNIA

Space above this line for use of the County Recorder

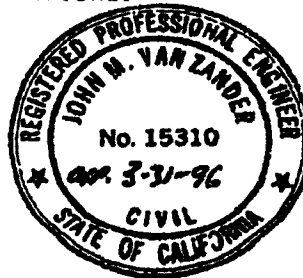
CERTIFICATE OF CORRECTION

Notice is hereby given that a certain Record of Survey Map filed for record on October 20, 1981 in Volume 13 of Surveys at Page 2, Monterey County, California records, is amended in accordance with Section 8770.5 of the Land Surveyors Act and Section 66469 of the Subdivision Map Act as follows:

See attached plat.

The Fee Owner of this property is:

Peter Marcus, a single man.



CERTIFICATE OF THE LAND SURVEYOR--CIVIL ENGINEER

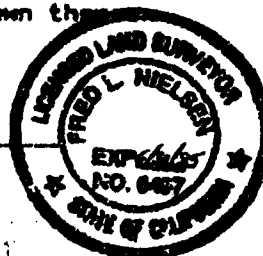
This is to certify that the above Certificate of Correction was prepared by me or under my direction and control.

John M. Van Zander
No. 15310

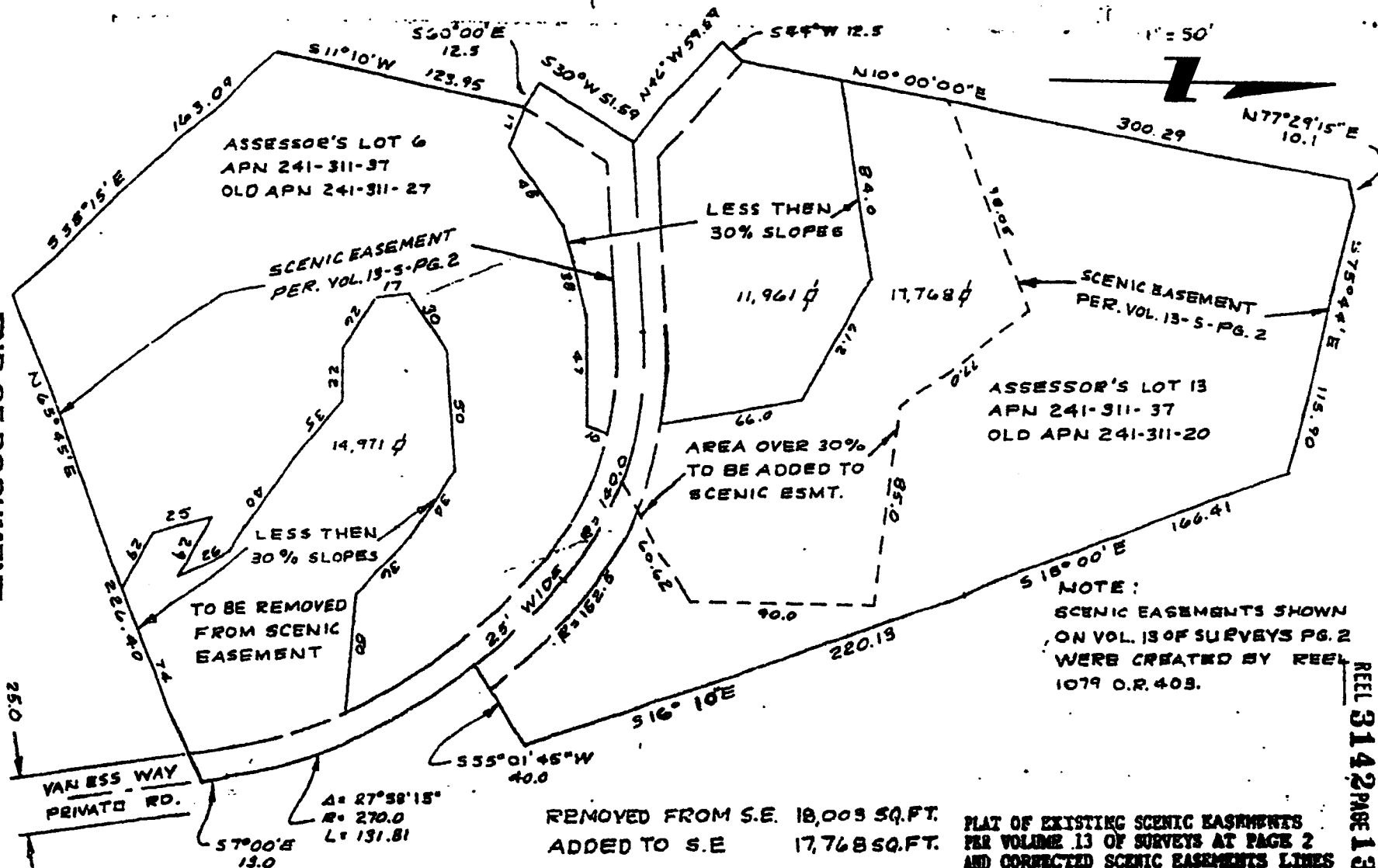
CERTIFICATE OF THE COUNTY SURVEYOR

This is to certify that the above Certificate of Correction has been examined this 21 day of August 1994, for conformance with the requirements of Section 66469 of the Subdivision Map Act, and that the only changes shown there are changes provided for in said Section 66469.

Fred L. Nielsen
County Surveyor



END OF DOCUMENT



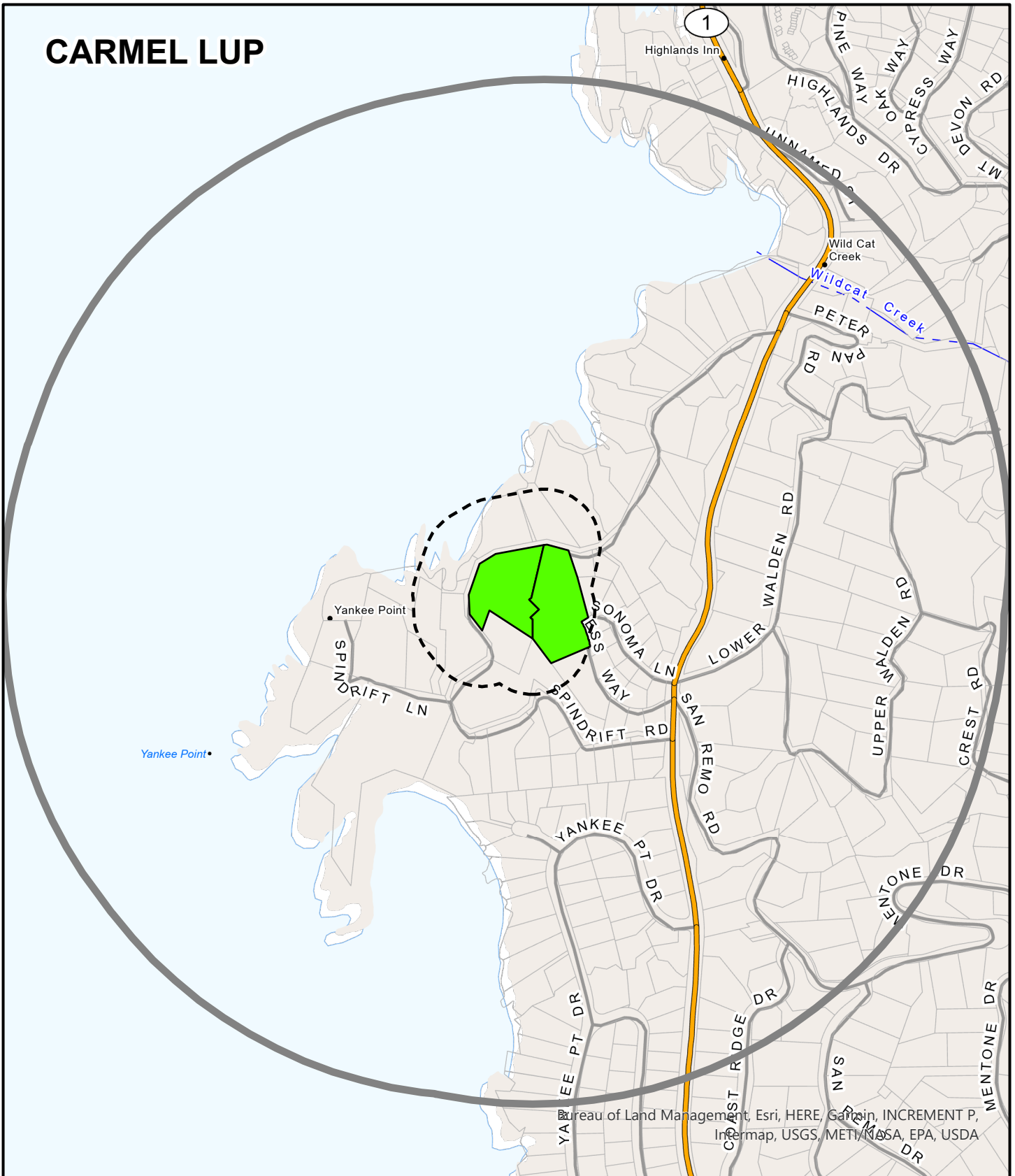
REEL 3142 PAGE 1301

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Exhibit D

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CARMEL LUP





APPLICANT: VAN ESS PROPERTIES LLC

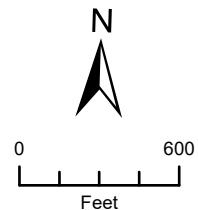
APN: 241311036000, 241311037000

FILE # PLN230138

 Project Site

 300 FT Buffer

 2500 FT Buffer



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