



# County of Monterey

**Item No.**

## Board Report

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

**Legistar File Number: 24-218**

April 16, 2024

**Introduced:** 3/15/2024

**Current Status:** Agenda Ready

**Version:** 1

**Matter Type:** General Agenda Item

- a. Find that execution of the Conservation and Scenic Easement Deed is categorically exempt under CEQA Guidelines section 15317;
- b. Accept the Conservation and Scenic Easement Deed and Map for Van Ess Properties LLC;
- c. Authorize the Chair of the Board of Supervisors to execute the Conservation and Scenic Easement Deed and Map; and
- d. Direct the Clerk of the Board to submit the Conservation and Scenic Easement Deed and Map to the County Recorder for recording with all applicable recording fees paid by the applicant.

(Conservation and Scenic Easement Deed and Map- 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)

**PROJECT INFORMATION:**

**Planning File Number:** PLN230138

**Applicants:** Van Ess Properties LLC

**APNs:** 241-311-036-000 and 241-311-037-000

**Parcel Size:** 3.39 acres and 2.98 acres

**Plan Area:** Carmel Area Land Use Plan

**Flagged and Staked:** No

**CEQA Action:** Find the project Categorical Exempt per CEQA Guidelines section 15317.

**RECOMMENDATION:**

It is recommended that the Board of Supervisors:

- a. Find that execution of the Conservation and Scenic Easement Deed is categorically exempt under CEQA Guidelines section 15317;
- b. Accept the Conservation and Scenic Easement Deed and Map for Van Ess Properties LLC;
- c. Authorize the Chair of the Board of Supervisors to execute the Conservation and Scenic Easement Deed and Map; and
- d. Direct the Clerk of the Board to submit the Conservation and Scenic Easement Deed and Map to the County Recorder for recording with all applicable recording fees paid by the applicant.

**SUMMARY/DISCUSSION:**

The property owner proposes a conservation and scenic easement (CSE) amendment to increase the boundaries of the easement to cover portions of 182 Van Ess Way (Parcel A) and 179 Van Ess Way (Parcel B) that contain slopes in excess of 30 percent and/or environmentally sensitive habitat (ESHA)

while also removing portions of the existing easement boundaries that contain improvements (i.e., hardscape on Parcel A) (**Attachment B, Exhibit C**). The proposed CSE Map Amendment would increase the easement boundaries on Parcels A and B by a total of 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.

The subject properties, under common ownership, are located at 182 and 179 Van Ess Way, Carmel, within the unincorporated of Carmel Highlands. This area of the County consists primarily of residential lots with corresponding residential development. Parcels A and B are currently developed with single family dwellings. Demolition of all structures on Parcel B and a lot line adjustment between Parcels A and B was recently approved by the Monterey County Planning Commission on February 26, 2024 (Resolution No. 24-004).

In 1976, a Conservation and Scenic Easement (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; **Attachment A, Exhibit A**). 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; **Attachment B, Exhibit B**). No adjustments to the CSE on Parcel A were made in 1994.

Based on provided topographic surveys, the CSE boundaries on Parcel A currently do not capture the property's steeper slopes. Additionally, a Biological Assessment (Monterey County Library No. LIB230236) was prepared and determined that the existing CSE boundaries do not include environmentally sensitive habitat area (ESHA) on the property. Additionally, the current easement boundaries include areas of Parcel A that have been legally improved with patios or walkways accessory to the residential use of the property. Consequently, the Applicant proposed to amend the CSE Map.

The CSE deed prohibits new structures in addition to those already in existence, restricts advertising, and requires the landscaping, vegetation, and topography to remain in their then-present conditions. These restrictions limit the property from conducting routine fuel management, removing invasive plant species, or restoration activities. Therefore, the Applicant proposed an amendment to the Easement deed language to allow for these activities. These allowances would be consistent with easement restrictions and exceptions placed on similarly situated and constrained properties within the Coastal Zone of unincorporated Monterey County. The amended CSE 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 (**Attachment B**).

Subsequent to approval, staff determined that, given the age and condition of the existing Easement documents, a new Easement Deed that supersedes the existing Easement Deed, rather than a mere amendment, is more desirable as it will be easier to read and understand. Consequently, acceptance and recordation of the proposed Conservation and Scenic Easement Deed and associated Map would

replace the 1976 Conservation and Scenic Easement (Document No. 33808), as amended by the 1994 Certificate of Correction (Document No. 59263). If approved, this Easement would be the operative Easement conveyed over those real properties illustrated and described in Attachment B, Exhibit B.

The Board of Supervisors is the appropriate authority to consider amendments to CSEs as well as replacement CSEs. Thus, Condition No. 6 was applied to Planning Commission Resolution No. 24-004 to ensure that an Amended CSE Deed and Map reflecting the above-mentioned modifications is accepted by the Board of Supervisors. Therefore, staff recommends that the Board accept, execute, and consent to recordation of the Conservation and Scenic Easement Deed and Map conveying approximately 226,241 square feet (5.19 acres) of the subject properties (**Attachment B, Exhibit C**).

Acceptance of the expanded scenic easement qualifies for a Class 17 categorical exemption under CEQA, because it constitutes the acceptance of an easement to maintain the open space character of the area. (CEQA Guidelines § 15317.)

OTHER AGENCY INVOLVEMENT:

The Office of the County Counsel has approved the Conservation and Scenic Easement Deed as to form.

FINANCING:

Funding for staff time associated with this project is included in the FY2023-24 Adopted Budget within Community Development General Fund 001, Appropriation Unit HCD002, Unit 8543.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

This action represents effective and timely response to our HCD customers. Processing this application in accordance with all applicable policies and regulations also provides the County accountability for proper management of our land resources.

Check the related Board of Supervisors Strategic Initiatives:

- Administration
- Economic Development
- Health & Human Services
- Infrastructure
- Public Safety

Prepared by: Fionna Jensen, Senior Planner

Reviewed by: Lori Woodle, Finance Manager I

Reviewed and Approved by: Craig Spencer, HCD Director

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*Craig Spencer*  
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The following attachments are on file with the Clerk of the Board:

Attachment A - Memorandum to the Clerk of the Board

Attachment B - Conservation and Scenic Easement Deed, including:

- Exhibit A: Planning Commission Resolution No. 24-004

- Exhibit B: Replacement Easement Legal Description & Plat Map

cc: Front Counter Copy; Board of Supervisors; California Coastal Commission; Carmel Highlands Fire Protection District; Environmental Health Bureau; HCD-Engineering Services Works; HCD-Environmental Services; Craig Spencer, Acting Director; 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