Attachment D

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NOTICE OF APPEAL

Monterey County Code
Title 19 (Subdivisions)
Title 20 (Zoning)
Title 21 (Zoning)

RECEIVED
MONTEREY COUNTY
JUN - 9 2025
CLERK OF THE BOARD
DEPUTY
VICENTE RAMIREZ

No appeal will be accepted until written notice of the decision has been given. If you wish to file an appeal, you must do so on or before June 9, 2025 (10 days after written notice of the decision has been mailed to the applicant).

Date of decision: May 28, 2025

1. Appellant Name: 230 Highway 1 Carmel LLC
   c/o Rutan & Tucker, LLP
   Address: 455 Market Street, Suite 1400, San Francisco, CA 94105
   Telephone: (650) 798-5669

2. Indicate your interest in the decision by placing a check mark below:

   Applicant _____

   Neighbor XX

   Other (please state) _____

3. If you are not the applicant, please give the applicant's name:

   Hal W. Johnson, Jr. and Allison H. Johnson

4. Fill in the file number of the application that is the subject of this appeal below:

	Type of Application	Area
a)	Planning Commission: PLN 210061	
b)	Zoning Administrator: PLN _____	
c)	Administrative Permit: PLN _____	

Notice of Appeal

5. What is the nature of your appeal?

   a) Are you appealing the approval or denial of an application? Approval

cc: Original to Clerk to the Board; HCD Planning
Revised 5-7-2024

b) If you are appealing one or more conditions of approval, list the condition number and state the condition(s) you are appealing. (Attach extra sheet if necessary)

The appeal is of the entire approval,

6. Place a check mark beside the reason(s) for your appeal:

There was a lack of fair or impartial hearing __XX__
The findings or decision or conditions are not supported by the evidence __XX__
The decision was contrary to law __XX__

7. Give a brief and specific statement in support of each of the reasons for your appeal checked above. The Board of Supervisors will not accept an application for an appeal that is stated in generalities, legal or otherwise. If you are appealing specific conditions, you must list the number of each condition and the basis for your appeal. (Attach extra sheets if necessary)

The project does not conform with key provisions of the Carmel Area Land Use Plan and Monterey County Coastal Implementation Plan pertaining to (1) restriction on developments on slopes exceeding 30 percent-the project involves approximately 3,095 square feet of development on slopes exceeding 30 percent, (2) retention of existing trees and native vegetation to the maximum extent possible—the project results in the removal of four protected trees (three Monterey Cypress and one Monterey Pine), and (3) prohibition on development being visible from scenic vantage points—the Project is visible from Highway 1 and the Vista Point across from the Highland Inn. Additionally, there is a fair argument of significant environmental impacts related to these and other environmental resources requiring an environmental impact report pursuant to the California Environmental Quality Act (CEQA). The Planning Commission approved the project without approving requisite variances or making the findings needed to approve such variances.

8. As part of the application approval or denial process, findings were made by the decision-making body (Planning Commission, Zoning Administrator, or Chief of Planning). In order to file a valid appeal, you must give specific reasons why you disagree with the findings made. (Attach extra sheets if necessary)

The findings for approval are: not supported by substantial evidence; conflict with the LUP, CIP, and County Code; and violate CEQA and the State Planning & Zoning Law. Additional details concerning the invalidity of the findings and the Planning Commission's approval of the project can be found in the August 14, 2024 and May 27, 2025 letters attached hereto and incorporated herein by reference.

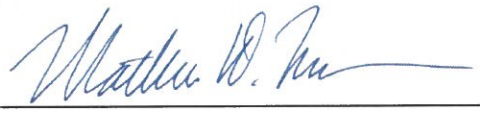
9. You must pay the required filing fee of $3,716.10 (make check payable to "County of Monterey") at the time you file your appeal. (Please note that appeals of projects in the Coastal Zone are not subject to the filing fee.)

N/A

10. Your appeal is accepted when the Clerk to the Board accepts the appeal as complete and receives the required filing fee. Once the appeal has been accepted, the Clerk to the Board will set a date for the public hearing on the appeal before the Board of Supervisors.

N/A

The appeal and applicable filing fee must be delivered to the Clerk to the Board by the deadline. A mailed copy of the appeal and filing fee will be accepted only if it is received by Clerk of the Board by the deadline. The appeal and applicable filing fee should be mailed to PO Box 1728, Salinas CA 93902. A facsimile copy of the appeal will be accepted only if the hard copy of the appeal and applicable filing fee are mailed and received by Clerk of the Board by the deadline.

APPELLANT SIGNATURE  Date: June 5, 2025

RECEIVED SIGNATURE _____ Date: _____

cc: Original to Clerk to the Board; HCD Planning
Revised 5-7-2024

RUTAN
RUTAN & TUCKER, LLP

Matthew D. Francois
Direct Dial: (650) 798-5669
E-mail: mfrancois@rutan.com

August 12, 2024

VIA EMAIL [CEQAcomments@countyofmonterey.gov; AngeloP@countyofmonterey.gov]

County of Monterey
Housing & Community Development
Attn: Philip Angelo
1441 Schilling Pl. South 2nd Floor
Salinas, CA 93901

Re: Johnson Hal W Jr. & Allison H; File No. PLN210061

Dear Mr. Angelo:

We write on behalf of our client, the "Owner" of a single-family residence located at 230 Highway 1, to provide comments on the Mitigated Negative Declaration ("MND") prepared by the County of Monterey ("County") for the proposed residential development at 226 Highway 1 (the "Project"). As you know, the Project is proposed to be developed within a key coastal viewshed a mere few feet from a steeply sloped costal cliff.[1] Similar to the concerns previously raised by Coastal Commission Staff, Owner has serious concerns with the Project's environmental impacts and conflicts with key Coastal Act policies pertaining to geological hazards and visual resources. In order to conform with these policies and avoid significant environmental impacts, the Project, at minimum, needs to be re-sited within and landward (not seaward) of the geologically feasible building envelope. We urge the County to address these serious concerns prior to proceeding with further consideration of the Project.

1. Background

Hal and Allison Johnson, the owners of an approximately 0.63 acre parcel of land located at 226 Highway 1, Assessor's Parcel No. 241-182-003-000 (the "Property"), have submitted an application to the County of Monterey ("County") for a combined development permit to develop the Property with a nearly 5,000 square foot single family residence and associated site improvements. The Property is located within the Coastal Zone, immediately east of the Pacific Ocean and south of a vista point off of Highway 1.

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[1] Figure 5 (Project Elevation Profile) of the MND shows how the majority of the Project extends beyond the geologic setback line, protruding over the steep coastal cliff face. A copy of this figure is attached hereto as Exhibit A.

The Project requires a coastal development permit ("CDP") to allow: (1) development within 50 feet of a steep coastal bluff (with slopes exceeding 200%); (2) 6,758 square feet of development on slopes in excess of 30%; (3) removal of 6 trees, including 5 Monterey Cypress (4 of which are landmark trees), and 1 Monterey Pine;[2] and (4) development within 750 feet of known archaeological resources. All of these approvals would be appealable to the California Coastal Commission. (MND, p. 13.)

Further, the Project requires variances from required setbacks, specifically for the front setback parallel to Highway 1 from 30 feet to 20 feet and the front flag lot setback along the southern property line from 30 feet to 2 feet. The variances are needed to construct a 21 foot tall faux rock retaining wall and emergency fire access stairway in the southeast corner of the site.[3] The retaining wall is taller in height than the height of the proposed Project home measured from grade.

Grading of the Project site would involve excavation of approximately 2,305 cubic yards of cut soil and approximately 355 cubic yards of fill, with approximately 1,950 cubic yards hauled off-site for disposal. The proposed construction management plan relies on construction vehicle staging on the shoulder of Highway 1, which would require an encroachment permit from Caltrans.

Access to the Property would be provided from a private drive off of Highway 1 and through a currently unimproved access easement over Owner's property and immediately adjacent to their home. This access easement is unimproved, consisting of dirt and grass. (*See* photos attached hereto as Exhibit B.)

Water service would be provided from the Highway 1 Water Distribution System No. 12, an existing system designed to serve the Property, Owner's property, and a third property immediately south of Owner's property. The Project applicant would be responsible for obtaining permits for upgrading the existing water treatment system.

Sewer service would be provided through a mixed system. Sewer solid waste would be collected in a septic tank on the Property and disposed of by truck. For effluent disposal, the Project would install an ejector pump and 2 inch diameter force main sewer line traveling through the access easement to a private sewer line owned by the Highland Point Sewer Association, which connects to the Carmel Area Wastewater District ("CAWD") water system. The MND states that the Project applicant will need to secure permission from the property owners served by the Highlands Point Association, including Owner, to connect into the shared

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[2] In addition, an Acacia tree is proposed for removal.

[3] The MND does not appear to consider the impacts of excavation needed for the installation of this wall on the adjacent Highway 1 right-of-way.

private system, and that a coastal development permit will not issue until the Project applicant has received proof of such permission. (MND, pp. 89, 93.)

2. The Project should be revised to conform with key policies concerning geological hazards and re-sited to be located within and landward (NOT seaward) of the geologically feasible building envelope.

The Project conflicts with multiple policies of the Carmel Area Land Use Plan ("LUP") and the Monterey County Coastal Implementation Plan ("CIP") pertaining to geologic hazards that were adopted for the purpose of avoiding or mitigating significant environmental effects.[4]

LUP Section 2.7.4.1 states that "[a]ll development shall be sited and designed to conform to site topography and minimize grading and other site preparation activities." To ensure protection of the Carmel area's scenic resources, buildings located on slopes shall be sufficiently set back from the frontal face. (CIP § 20.146.030.C.1.) In general, development shall not be located on slopes of 30 percent or greater.[5] (*Id.*; LUP § 2.2.4.10.a.) CIP Section 20.146.120.A.6 likewise requires that all parts of a parcel with slopes of 30 percent and greater shall be required to be placed in a scenic easement.

Further, all development must be "sited and designed to minimize risk from geologic, flood, or fire hazards," and "areas of a parcel which are subject to high hazard(s) shall generally be considered unsuitable for development." (LUP § 2.7.3.1; *accord*, CIP § 20.146.080.) For any development proposed in high hazard areas, an environmental or geotechnical report shall be prepared demonstrating compliance with specified policies and associated mitigation measures. (LUP § 2.7.4.3; CIP § 20.146.080.)

Revetments, seawalls, retaining walls and other such construction that alters natural shoreline processes "shall be permitted only where required for the protection of existing development" and "shall respect, to the greatest degree possible, natural landform and visual appearance." (LUP § 2.7.4.10 [emphasis added].)

The MND states the reported "geological concerns" for the site as slope instability, long-term coastal erosion, and seismic shaking. (MND, p. 55.) The MND does not identify this as an impact, as required by CEQA. (*See, e.g.*, Pub. Res. Code §§ 21002, 21064.5; CEQA Guidelines §§ 15070, 15071.) And the MND fails to impose any mitigation of this impact, as also required

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[4] Together the LUP and CIP comprise the County's Local Coastal Program ("LCP"). All coastal development permits must be consistent with the LCP. (LUP § 6.2.1.B; Pub. Res. Code § 30603(b).)

[5] An exception can be granted but only if there is no alternative which would allow development to occur on slopes of less than 30 percent or the proposed development better achieves the resource protection objectives and policies of the LCP. (CIP § 20.146.030.C.1.a.)

by CEQA. (*Id.*) Indicating that a condition will be imposed to comply with the recommendation of the geotechnical report is not the same as imposing a binding and enforceable CEQA mitigation measure. The same comments about the failure to identify impacts and mitigation apply to the analysis of ground shaking on MND page 56, the analysis of bluff erosion on MND pages 57 to 58, the analysis of landslides on MND page 60, the analysis of drainage on MND pages 60 to 61, and the analysis of paleontological resources on MND page 61.

In regard to coastal bluff erosion, the MND cites to figures showing the geologically feasible envelope.[6] While some of the proposed Project is within this envelope, "much of the residence is seaward of it." (MND, p. 57.) Instead of moving the Project to landward of the geologically feasible envelope, the MND cites to the geotechnical report's recommendation to install a micro-pile foundation below the 100-year anticipated bluff profile. (MND, p. 57.) Although clearly needed to mitigate a significant environmental impact to bluff erosion, the MND does not identify an impact or require that this recommendation be adhered to as an enforceable mitigation measure. The MND fails to comply with CEQA in this regard. (CEQA Guidelines § 15070 [agency can rely on MND only if mitigation measures are imposed that would mitigate significant environmental impacts to the point where no significant environmental impacts would occur]; Public Resources Code §21064.5 [same].)

While not included in the MND, the Project grading plans show the estimated position of the 100 year blufftop. (See Exhibit C.) It runs through most of the Project home. And this projection does not appear to be based on conservative sea level rise projections, but rather aerial photographs of the site dating back to 1929. (MND, p. 57). The applicant will not be able to armor the bluff to protect the development, because it is new and not "existing development." (LUP § 2.7.4.10.) So the County is taking the extreme measure of incorporating a condition requiring that development be re-evaluated and removed if/when it becomes threatened by coastal hazards, such as bluff erosion. (MND, p. 58.)

This is a dangerous and risk-prone development that is not being designed to reflect the highly-constrained nature of the site. In its comments on the Project application, Coastal Commission Staff states that the Project is proposed "adjacent to a steep descending coastal bluff in a high erosion hazard area" with the western footprint of the building appearing to be within five feet of the top of the bluff edge on highly erodible soil. (*See* October 21, 2021 email from Alexandra McCoy to Philip Angelo.) Commission Staff recommends moving the Project away from the bluff and towards Highway 1 as much as possible in order to minimize impacts from coastal hazards and states that the lower level should be reduced in order to provide a stair-stepped foundation that would require less grading. (*Id.*) County Staff too advised the applicant to move the Project "as far away as possible" from the bluff edge and closer to Highway 1. (See October 21, 2021 letter from Philip Angelo to Carla Hashimoto.)

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[6] The cross-references to the figures on page 57 of the MND are not accurate. The same comment applies to the figures cited on page 89 of the MND.

The building footprint could easily be shifted landward to the east (i.e., where a courtyard is currently planned) and onto the geologically feasible building envelope, as urged by Coastal Commission Staff. This redesign would have the benefit of avoiding removal of protected Monterey Cypress and other trees.

The MND states that there are no indications of previous landslides in the area. (MND, p. 60.) That is not accurate. A significant slide occurred just south and west of the Project site at 255 Highway 1. (*See* photos attached hereto as Exhibit D.) Coastal Planner Breylen Ammen referenced this slide in her October 24, 2022 email to County Staff, noting that "[r]ecently a landslide occurred on [an] adjacent lot after unpermitted tree removal."

Further, the MND does not analyze the feasibility of soils for the sewer tank. Instead, it assumes the soils would be suitable since there is no indication that they would not be. (MND, p. 61.) Section 20.146.050.E.3.c prohibits new on-site waste disposal systems on slopes exceeding 30 percent. The MND should have included an analysis of this key Project component, including how it conforms to the above-referenced policy, but did not. (*Cf. Save Agoura Cornell Knoll v. City of Agoura Hills* (2020) 46 Cal.App.5th 665, 702 [environmental impact report required where agency fails to gather information and undertake an adequate environmental analysis in its initial study].)

3. The Project Description fails to describe or analyze key Project components.

CEQA forbids piecemeal review of the significant environmental impacts of a project. (*Berkeley Keep Jets Over the Bay Committee v. Board of Port Commissioners* (2001) 91 Cal.App.4th 1344, 1358.) Rather, CEQA mandates that "environmental considerations do not become submerged by chopping a large project into many little ones—each with a minimal potential impact on the environment—which cumulatively may have disastrous consequences." (*Bozung v. Local Agency Formation Commission* (1975) 13 Cal.3d 263, 283-284.) "Improper piecemealing occurs when the purpose of the reviewed project is to be the first step toward future development or when the reviewed project legally compels or practically presumes completion of another project." (*East Sacramento Partnerships for a Livable City v. City of Sacramento* (2016) 5 Cal.App.5th 281, 293.)

In light of the prohibition on piecemealing, the CEQA Guidelines define "project" broadly as the "whole of an action" which has a potential for resulting in a physical change in the environment. (CEQA Guidelines § 15378(a); *see also* MND, p. 20 [noting that the MND "must take into account the whole action involved, including offsite as well as on site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts."]) Courts have construed this to mean that an environmental impact report ("EIR") or MND must examine all relevant parts of a project, including future expansion or later phases of a project that will foreseeably result from project approval. (*Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376 [EIR that analyzed only partial

occupancy of a building by a university lab was invalid for failing to analyze the reasonably foreseeable occupancy of the entire building by the lab].)

It is well settled that a CEQA document must examine the impacts of utilities and other infrastructure that will be constructed to serve the Project. In *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, the court struck down an environmental impact report that did not include an analysis of the construction of sewer lines and expansion of a wastewater treatment plant designed to serve the project. In *Santiago County Water District v. County of Orange* (1981) 118 Cal.App.3d 818, an EIR for a sand and gravel mine was found to be inadequate for failing to describe or analyze the construction of water pipelines that would be needed for mining operations. In *Tuolumne County Citizens for Responsible Growth, Inc. v. City of Sonora* (2007) 155 Cal.App.4th 1214, the court ruled that a proposed home improvement center and the realignment of a road were part of a single project because the home improvement center could not be completed and opened without the realigned road.

Here, the MND fails to consider the impacts of necessary roadway, storm drain, and water treatment system improvements. These necessary infrastructure components of the Project cannot be segmented from the Project. Instead, they must be included in the CEQA review for the Project, but were not.

The MND omits any discussion whatsoever of the necessary roadway improvements that will be needed to access the Property. The Property is currently served by an unimproved dirt and grass road. (*See* photos attached hereto as Exhibit B.) A dirt road is not adequate to serve the Property, including emergency vehicles, fire trucks, and service trucks for the septic tank. (*See* CIP § 20.146.120.A.1.c [new development is permitted only if access roads are constructed to "meet minimum County standards"].) There is no discussion or consideration whatsoever of the necessary roadway improvements and associated infrastructure (e.g., retaining walls) that would be needed to safely access the Property. Likewise, there has been no evaluation or discussion of the potential impacts of the Project's roadway improvements on critical infrastructure supporting Owner's property, including a retaining wall anchored with soil nails. This major omission alone prevents the MND from serving its purpose of informing the County and the public of the environmental impacts of the Project.

The MND also fails to describe and analyze the Project's stormwater system. Controlling drainage is necessary to prevent erosion, which impacts bluff stability. (MND, p. 60.) Yet, this critical issue is being deferred to the post-entitlement phase where it will be reviewed in connection with "ministerial review of grading and building permits." (MND, p. 61.) Omission of this key Project component fails to comply with CEQA. It also fails to comply with CIP Section 20.146.050.E.4.b which requires that an Erosion Control Plan be submitted and approved by the Planning Department prior to the application being deemed complete.

The Project includes significant improvements to a centralized water treatment system. (MND, p. 88.) The water treatment system would include filtration and treatment for iron, manganese, fluoride, and water acidity. (*Id.*) While described in the Utilities and Service Systems section of the MND, the impacts of this off-site Project component are not analyzed anywhere in the MND.

For the reasons stated above, the MND likewise does not provide an accurate, stable, and finite project description, as required by CEQA in order to analyze a project's environmental impacts. (*County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 193; *San Joaquin Raptor/Wildlife Rescue Ctr. v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 730; *Sierra Club v. City of Orange* (2008) 163 Cal.App.4th 523, 533. Additionally, an environmental document's project description, and the accompanying analysis, must be consistent throughout the document. If the project description is inconsistent, these shifts prevent the CEQA document from serving as a vehicle for intelligent public participation in the decision-making process. (*San Joaquin Raptor Rescue Ctr. v. County of Merced* (2007) 149 Cal.App.4th 645, 656; *Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 80; *Citizens for a Sustainable Treasure Island v. City & County of San Francisco* (2014) 227 Cal.App.4th 1036, 1052.)

In addition to failing to incorporate key utility infrastructure into the project description, the MND is inconsistent with respect to the Project construction schedule. On page 9, the construction period is 24 months, but on the next page it is described as 12 months. It is unclear what period of time was actually assumed and used in the environmental analysis.

4. An EIR must be prepared due to a fair argument of significant environmental impacts.

An agency must prepare an EIR and cannot legally rely on an MND if there is a fair argument that the Project may result in significant environmental impacts. (Public Resource Code § 21151; *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 75; *Friends of "B" Street v. City of Hayward* (1980) 106 Cal.App.3d 988, 1002.) Here, there is a fair argument that the Project may result in significant impacts to multiple environmental resources. As such, an EIR must be prepared before the County can legally consider and act on the Project. An EIR is particularly warranted because the Project conflicts with multiple policies of the LUP and CIP that were adopted for the purpose of avoiding or mitigating significant environmental effects.

a. Aesthetics

The Property is situated within the Highway 1 Viewshed and directly visible from a popular pull-out lookout to the north of the site. (*See* LUP, Map A-Carmel Area Local Coastal

Program General Viewshed.)[7] All development within this viewshed "must harmonize [with] and be clearly subordinate to the natural scenic character of the area." (LUP §§ 2.2.2, 2.2.3.3, 2.2.3.4, 2.2.3.6; CIP § 20.146.030.C.1 and C.4.) Existing visual access from scenic viewing corridors and major public view points "shall be permanently protected" for visitors and residents alike. (CIP § 20.146.130.E.5.e; *see also* LUP § 5.3.3.4.c [specifying that structures and landscaping placed on land on the west side of Highway 1 "shall be sited and designed to retain public views of the shoreline from Highway 1 and roads seaward of the Highway."].)

Specifically, new development "within the public viewshed shall be sited within existing forested areas or in areas where existing topography can ensure that structures and roads will not be visible." (CIP § 20.146.030.C.4 [emphasis added]; *accord*, LUP § 2.2.3.3.) CIP Section 20.146.120.A.1 further specifies that new development south of the Carmel River shall be permitted only if various criteria can be "fully met," including that the structure is located outside the public viewshed.

Additionally, structures must be located and designed to minimize tree removal and grading for the building site and access road. (LUP § 2.2.3.7.) LUP Section 2.2.4.10.e states that "[e]xisting trees and other native vegetation should be retained to the maximum extent possible both during the construction process and after the development is completed."] [emphasis added].)

Modification of plans, including siting, shall be required to comply with the above visual policies. (LUP § 2.2.3.6.) "The height and bulk of buildings shall be modified as necessary to protect the viewshed." (CIP § 20.146.030.C.1.)

The MND acknowledges that the Project is visible from motorists on Highway 1 and the scenic overlook/vista point. (MND, pp. 22, 26 [Figure 8], 27 [Figure 9], and 28.) The MND claims that there is no significant aesthetic impact because, among others, the structure will be screened by the planting of 3 new trees and because other development is visible. (MND, pp. 22, 27.) But the LUP requires that new development not be visible under existing conditions. (LUP § 2.2.3.3.; CIP § 20.146.030.C.4.) The Project plainly does not comply with these policies.[8]

The MND also states that the removal of 7 trees (including 4 landmark Monterey Cypress trees) is not significant because they are not visible from the highway. That is not shown by any visual simulations in the MND. Coastal Commission Staff expressed concern that removal of

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[7] (*See also* CIP § 20.146.020.Z [defining "public viewshed" as "those areas visible from major public viewing areas such as . . . Highway 1 Corridor and turn-outs . . .."].)

[8] Also, it is not clear whether these simulations represent the current proposed Project plans or were based on prior Project plans for which staking and flagging was done. If they do not represent current Project plans, new simulations based on new staking and flagging need to be conducted and the MND needs to be recirculated for review and comment. (CIP § 20.146.030.A.1.)

the trees would exacerbate impacts from the public viewshed. (*See* October 24, 2022 email from Breylen Ammen to Philip Angelo.) Photos of the trees to be removed to accommodate the western extension of the home extending over the steep, descending coastal bluff are attached hereto as Exhibit E.

In accordance with LUP Section 2.2.4.10.e, existing trees are to be "retained to the maximum extent possible . . .." If the Project building footprint were shifted landward to the east (i.e., where a courtyard is currently planned) and onto the geologically feasible building envelope, as urged by Coastal Commission Staff, it would avoid removal of all Monterey Cypress and Monterey Pine trees. (*See* Project Plans, Sheet A-1.1.) For instance, in her October 14, 2021 email to County Staff, Coastal Planner Alexandra McCoy recommends that "the structure be sited towards highway 1 as much as possible . . . and that existing trees be retained as much as possible and that the property be landscaped with native, non-invasive plants such that they would screen the development from the highway and adjacent overlook."

b. Biological Resources

The MND acknowledges that removal of 5 Monterey Cypress trees and 1 Monterey pine tree, which are special-status species, would be a significant environmental impact. (MND, p. 38.) The MND similarly concludes that the Project would result in substantial adverse effects to nesting bird species. (*Id.*) The MND states that these impacts are not significant due to conditions of approval that will be imposed later. (*Id.*)

After acknowledging significant impacts, the MND was required to include binding, enforceable mitigation measures detailing how the impacts would be reduced to a less than significant level. (Pub. Resources Code §§ 21002, 21064.5; CEQA Guidelines §§ 15070, 15071.) The MND lacks such information and fails to comply with CEQA. At minimum, the MND must be recirculated with the mitigation measures clearly specified and included for public review. (CEQA Guidelines § 15073.5.)

Further, as noted above, removal of the special status Monterey Cypress and Monterey Pine trees can be avoided. Thus, the Project fails to comply with relevant policies of the LCP. (*See* LUP § 2.2.4.10.e ["Existing trees and other native vegetation should be retained to the maximum extent possible both during the construction process and after the development is completed."] and CIP § 20.146.030.D.1 [prohibits the removal of landmark trees, except where a finding can be made that no alternatives exist where the tree removal can be avoided].) Four of the Monterey Cypress are landmark trees. It appears that removal of all these protected trees can be avoided by shifting the building footprint to the east, on to the geologically feasible building envelope. Thus, alternative do exist where tree removal can be avoided.

c. Cultural Resources

The MND acknowledges that the proposed Project sewer line traverses a mapped archaeological resource. (MND, p. 43.) The resource is comprised of a large precontact shell midden measuring approximately 75 by 32 meters. (*Id.*) The resource is a possible late period coastal gathering site. (*Id.*)

The MND acknowledges that the Project may result in a significant impact to this unique archaeologic resource. (MND, pp. 45-46.) In response, Mitigation Measure CUL-4 requires that a qualified archaeologist prepare an archeological mitigation plan. The goals of the plan are to, "avoid disturbance of resources to the extent feasible, document any unique archaeological resources which would be directly impacted by construction activities, and ensure that the recommendations of the Tribal Cultural Monitor are considered." (MND, p. 49.) Avoidance shall be considered infeasible "if re-design would preclude developing the site with a single-family residence and associated utilities entirely, or result in a reduction of square footage of 10% of the single-family dwelling and attached garage." (MND, p. 50.)

Mitigation Measure CUL-4 conflicts with CIP Section 20.146.090.D.3 which requires that the Project "avoid impacts" to archeological resources. Mitigation Measure CUL-4 also fails to comply with CEQA. CEQA Guidelines Section 15126.4 prohibits the deferral of mitigation measures. The only exceptions are when it is not practical or feasible to include those details during the project's CEQA review and the agency (1) commits itself to the mitigation, (2) adopts the specific performance standards the mitigation will achieve, and (3) identifies the type(s) of potential action(s) that can feasibly achieve that performance standard. Here, the MND does not explain how or why it is not practical/feasible to prepare the archaeological mitigation plan now. Further, Mitigation Measure CUL-4 lacks specific performance standards and fails to specify the actions that would achieve any such standard. In a substantially similar case, the First Appellate District ruled that a mitigation measure that required avoiding an impact to the extent feasible without restricting development potential failed to comply with CEQA's requirement for a clear, objective performance standard. (*East Oakland Stadium Alliance v. City of Oakland* (2023) 89 Cal.App.5th 1226, 1274.)

Mitigation Measure CUL-2 requires an archaeological monitor for any earthwork within 50 feet of the unique archaeological resource. (MND, p. 47.) But the MND later states that the exact location of this resource is not known, and the County did not require further sub-surface investigations despite requests from tribal representative to do so. (MND, pp. 96, 86.) Thus, there is no assurance that this mitigation will avoid or minimize the impact, as stated and as required by CEQA.

d. Geology

The Project's potentially significant impacts to geology and soils are detailed in Section 2, *supra*.

e. Greenhouse Gas Emissions

Contrary to CEQA Guidelines Section 15064.4 and controlling case law, the MND fails to quantify the Project's greenhouse gas emissions or rely on a qualitative analysis or performance based standards. (*Mission Bay Alliance v. Office of Community Investment & Infrastructure* (2016) 6 Cal.App.5th 160.) While the impacts are likely less than significant, the required analysis still must be performed.

f. Hazards

As yet another example of the extremely constrained nature of the site, the MND notes that the Project includes an emergency fire access stairway along the eastern property line parallel to Highway 1 to allow emergency evacuation or secondary access to the site for emergency responders. (MND, pp. 64, 82) The MND fails to explain how a staircase would serve as a functional secondary access to the site for emergency responders. The MND also states that a fire originating upslope would likely travel east to west and away from the Project site. (MND, pp. 65, 95.) It is unclear why this is or would be the case.

g. Hydrology

The Project adds 8,435 square feet of impervious surfaces to the Project site. (MND, p. 68.) As noted previously, the MND contains no detailed description or analysis of the Project's storm drain system. Yet, the MND claims that it "would capture runoff from structures and impervious surfaces in catch basins it toward [sic] dispersion trenches where water would infiltrate into the soil." (MND, p. 68.) On page 89, the MND states the dispersion trenches would be located along the western property line, where captured runoff would percolate into the ground. The western property line is the steep, eroding cliff bluff. Contrary to the MND's findings, this system would likely result in significant, unmitigated impacts to erosion and flooding.

h. Land use

The Property is located between Highway 1 and the Pacific Ocean. Key policies in the LCP emphasize protection of visual resources and minimizing risks associated with geologic hazards. As detailed above, there is a fair argument that the Project conflicts with policies in the LCP that were adopted for the purpose of avoiding or mitigating an environmental impact. As

such, an EIR is needed. (*Cf. Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903 [EIR required due to fair argument of significant impacts related to project's inconsistency with specified land use policies].) Additionally, the Project, as currently designed cannot be approved because it is inconsistent with the LCP. (LUP § 6.2.1.B; Pub. Res. Code § 30603(b).)

i. Noise

The MND states that construction would be allowed on Saturdays, which is not requested in the applicant's construction management plan. (MND, p. 76.) Please confirm that these extended construction hours comply with County Code.

In its comments on the Project application, County Staff registered concerns about the Project's deep piers causing major groundborne vibration. But there is no analysis of the vibration impacts in the MND on neighboring properties, including Owner's property, even though the Project proposes to use the access road immediately adjacent to said property and requests a variance to install Project improvements within 2 feet of the shared property line. The MND states without analysis that "it is not anticipated that localized vibration would be excessive, as the project would utilize standard construction equipment" and vibration would attenuate with distance. (MND, p. 77.) The MND lacks substantial evidence to support this conclusion, and, at minimum, must be revised and recirculated to address it.

j. Tribal Cultural Resources

Despite the very high likelihood of impacts to tribal cultural resources, and the request by tribal representatives to conduct additional sub-surface investigations, the Project applicant was not required to do so. (MND, p. 87.) Under applicable case law, the failure to conduct such studies necessitates preparation for an EIR. (*Save Agoura Cornell Knoll v. City of Agoura Hills* (2020) 46 Cal.App.5th 665, 702 [EIR required where agency fails to gather information and undertake an adequate environmental analysis in its initial study].)

4. Findings for the necessary Project variance would not be supported by substantial evidence.

According to County Staff, the Property has two front setbacks—one from the Highway 1 right-of-way and the other from the southern property line bordering Owner's property. The required front setbacks are 30 feet. (Monterey County Zoning Code ["MCZC"] § 20.14.060.C.1.) The Project request variances to allow a 20 foot setback from Highway 1 and a 2 foot setback from Owner's property. (MND, p. 14.) The County could not justify granting such an immense variance from the setback required to Owner's property.

A variance can be granted only if the following findings can be made: (1) because of

special circumstances applicable to the subject property, including size, shape, topography, location or surroundings, the strict application of the County Zoning Code is found to deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification, (2) the variance does not constitute a grant of special privileges inconsistent with the limitations upon other property in the vicinity and zone in which such property is located, and (3) the use or activity is expressly authorized by the zoning regulations governing the parcel of property. (MCZC § 20.78.040; *see also* Government Code § 65906 ["Variances from the terms of [a] zoning ordinance[] shall be granted only when, because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical classifications."].)

No substantial evidence would support findings for such an enormous variance of the front yard setback to Owner's property. (Code of Civil Procedure § 1094.5(b); *see also Topanga Association for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 522 and *Lucas Valley Homeowners Association v. County of Marin* (1991) 233 Cal.App.3d 130, 142.)

First, the Property's location, size, shape, topography, and/or other physical conditions do not vary substantially from those of other parcels in the same zoning district or vicinity such that special circumstances exist. A pad conforming to the setbacks was previously installed on the site, and there is no reason why the Project cannot be developed in accordance with the controlling setback from the southern property line. Courts have overturned an agency's granting of a variance in similar circumstances when there has been no showing that the property differs substantially from other parcels in the zoning district. (*See, e.g., Topanga Association for a Scenic Community, supra*, 11 Cal.3d at 522; *Orinda Association v. Board of Supervisors* (1986) 182 Cal.App.3d 1145, 1166; and *PMI Mortgage Ins. Co. v. City of Pacific Grove* (1981) 128 Cal.App.3d 724, 731.)

As noted by the First District Court of Appeal in *Orinda Association, supra*, 186 Cal.App.3d at 1166, "the desirability of the proposed development, the attractiveness of its design, the benefits to the community, or the economic difficulties of developing the property in conformance with the zoning regulations, lack legal significance and are simply irrelevant to the controlling issue of whether strict application of zoning rules would prevent the would-be developer from utilizing his or her property to the same extent as other property owners in the same zoning district." [Emphasis added; *accord, Broadway, Laguna, Valley Association v. Board of Permit Appeals* (1967) 66 Cal.2d 767, 775; *Hamilton v. Board of Supervisors of Santa Barbara County* (1969) 269 Cal.App.2d 64, 67; and *Stolman v. City of Los Angeles* (2003) 114 Cal.App.4th 916, 926.)

The Project applicant purchased the Property in 2020, after enactment of the LDR/1-D(CZ) zoning regulations. The applicant knew or should have known of the key limitations on development, including front yard setbacks. Self-induced hardship, as is the case here, is not a sufficient basis on which to grant a variance. (*See, e.g., Broadway, Laguna, Valley Association,*

supra; *San Marino v. Roman Catholic Archbishop* (1960) 180 Cal.App.2d 657; *Minney v. Azusa* (1958) 164 Cal.App.2d 12; and *Town of Atherton v. Templeton* (1961) 198 Cal.App.2d 146.)

Second, contrary to state and local law, the Project would grant the Project applicant special privileges that are inconsistent with the restrictions placed on other parcels in the same zoning district or vicinity. (MCZC § 20.78.040; Government Code § 65906 ["Any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated."].) Based on a survey of surrounding lots, including Owner's property, they all comply with applicable front yard setbacks. Approval of the Project thus would grant the Applicant special privileges inconsistent with other properties in the area.

Third, while the Project home is allowed by zoning, there is no indication that the multiple retaining walls (including the nearly 21 foot one adjacent to Highway 1), are allowed in the LDR-1D (CZ) zone. (MCZC § 20.14.040.)

In short, the County's approval of the Project would violate both state and local law. The Project requires a major variance from the setback required to Owner's property. No substantial evidence would support granting such a variance. (*See, e.g., Topanga Association for a Scenic Community*, *supra*, 11 Cal.3d at 522 [California Supreme Court overturns variances for nonconforming mobile home park development reasoning that the approvals would "radically alter" the nature of the zone and noting that such changes were a "proper subject for legislation, not piecemeal administrative regulations."].)

5. As currently designed, the Project cannot be approved as it is not the least environmentally damaging alternative in regard to views and geologic hazards.

The minimum building site in the LDR-1 zone is one acre. (CIP § 20.14.060.A.) At 0.63 acre, the Property is a substandard (or nonconforming) lot.

MCZC Section 20.02.060.B allows the County to grant an exception to allow for development on substandard lots it if finds that the strict application of the area land use policies or development standards denies all reasonable use of the subject property. The exception may be granted only if the County determines that: (1) the parcel is otherwise undevelopable due to specific policies of the applicable land use plan and development standards of the ordinance, (2) the grant of a CDP would not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and land use designation in which the property is located, (3) "any development being approved is the least environmentally damaging alternative project," and (4) any development being approved is an allowable use and "shall be appealable to the California Coastal Commission." (MCZC § 20.02.060.B.)

In order to make Finding 3, "the development shall be required to minimize development of structures and impervious surfaces to the amount needed to reduce environmental impacts to the greatest extent possible and shall be required to locate the development on the least environmentally sensitive portion of the parcel." (*Id.*)

As noted above, the Project is currently proposed to be situated in a geological hazard area, infringing on a key coastal viewshed area, and resulting in the removal of 6 special status tree species, including 4 landmark Monterey Cypress trees. The Project could be moved landward to avoid all of these impacts. As such, the Project is not being located on the least environmentally sensitive portion of the parcel.

Further, as noted above, there is no indication that the multiple retaining walls (including the nearly 21 foot one adjacent to Highway 1), are allowed in the LDR-1D (CZ) zone. (MCZC § 20.14.040.)

In short, as currently proposed, the County could not make the findings to grant an exception for development on this substandard lot.

****

Thank you for your consideration of our client's views on this important matter. Please add the undersigned to the list of interested parties to receive any and all future notice(s) regarding the Project. Please do not hesitate to contact me with any questions regarding this correspondence.

Sincerely,

RUTAN & TUCKER, LLP

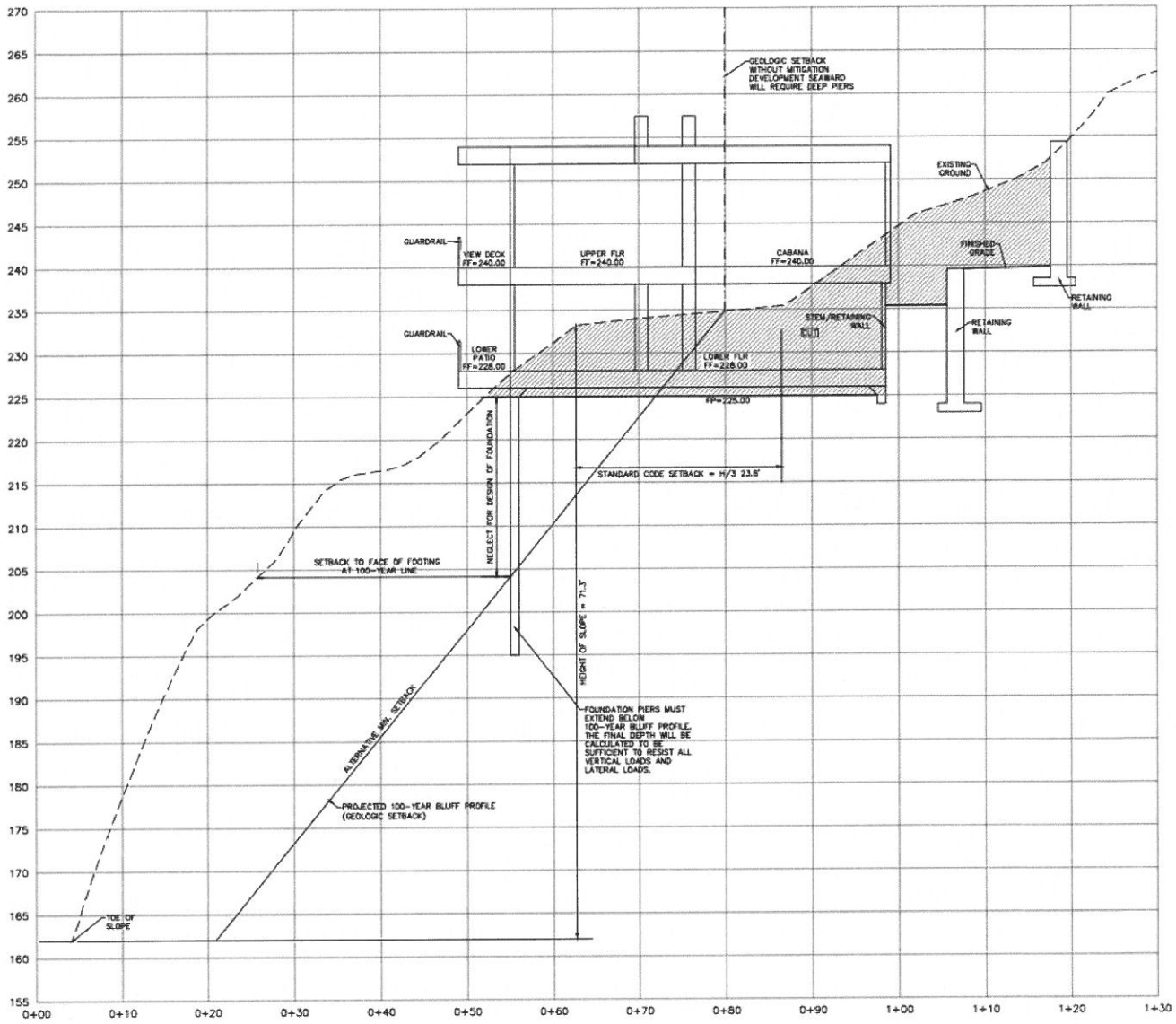
Matthew D. Francois

MDF:bb

cc: Client (*via email*)
Breylen Ammen, Coastal Program Analyst, California Coastal Commission (*via email*)
Katie Butler, District Supervisor, California Coastal Commission (*via email*)
Alan Kwong, California Department of Transportation, District 5 (*via email*)

EXHIBIT A

Figure 5 Project Elevation Profile



Source: IX.39

EXHIBIT B

A1) Easement access to property

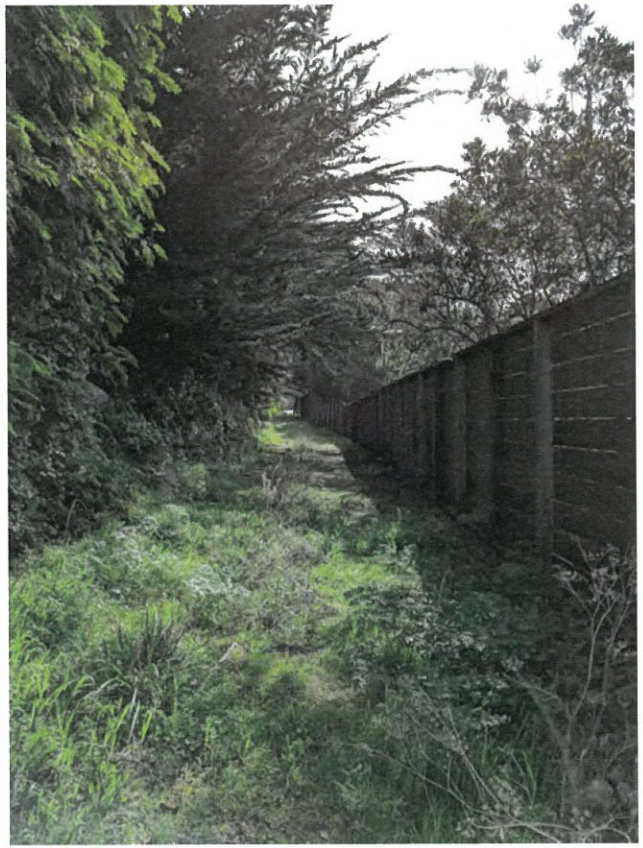


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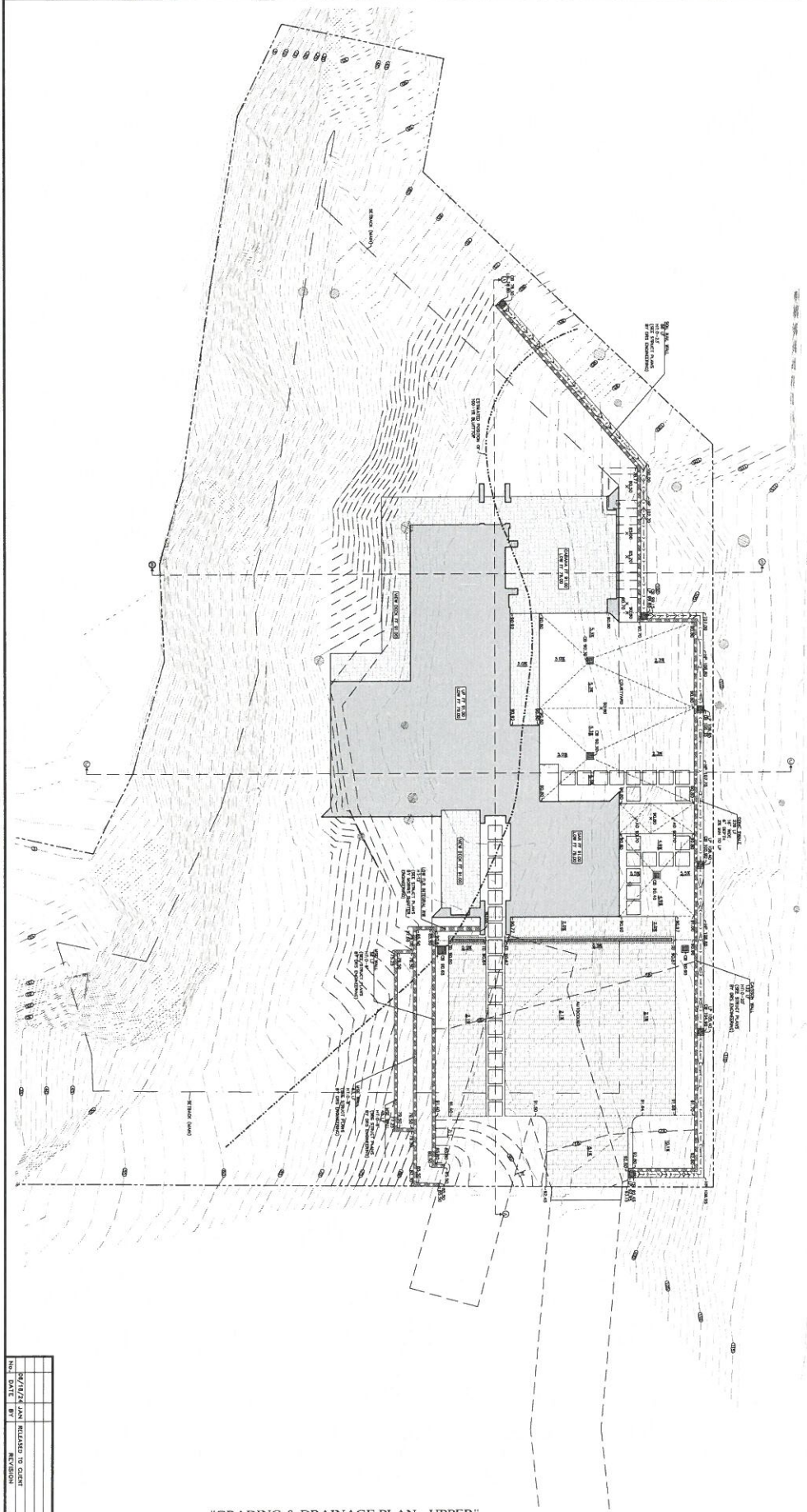
EXHIBIT C



"GRADING & DRAINAGE PLAN - UPPER"

No.	DATE	BY	REVISION
	08/16/24	JAN	RELEASED TO CLIENT

SCALE: 1" = 10'
DATE: JUN 2024
JOB NO: 2288-01
SHEET C3
OF 10 SHEETS

GRADING, DRAINAGE, & EROSION CONTROL PLAN

OF

THE JOHNSON RESIDENCE
A.P.N.: 241-182-003
CARMEL, CALIFORNIA

FOR

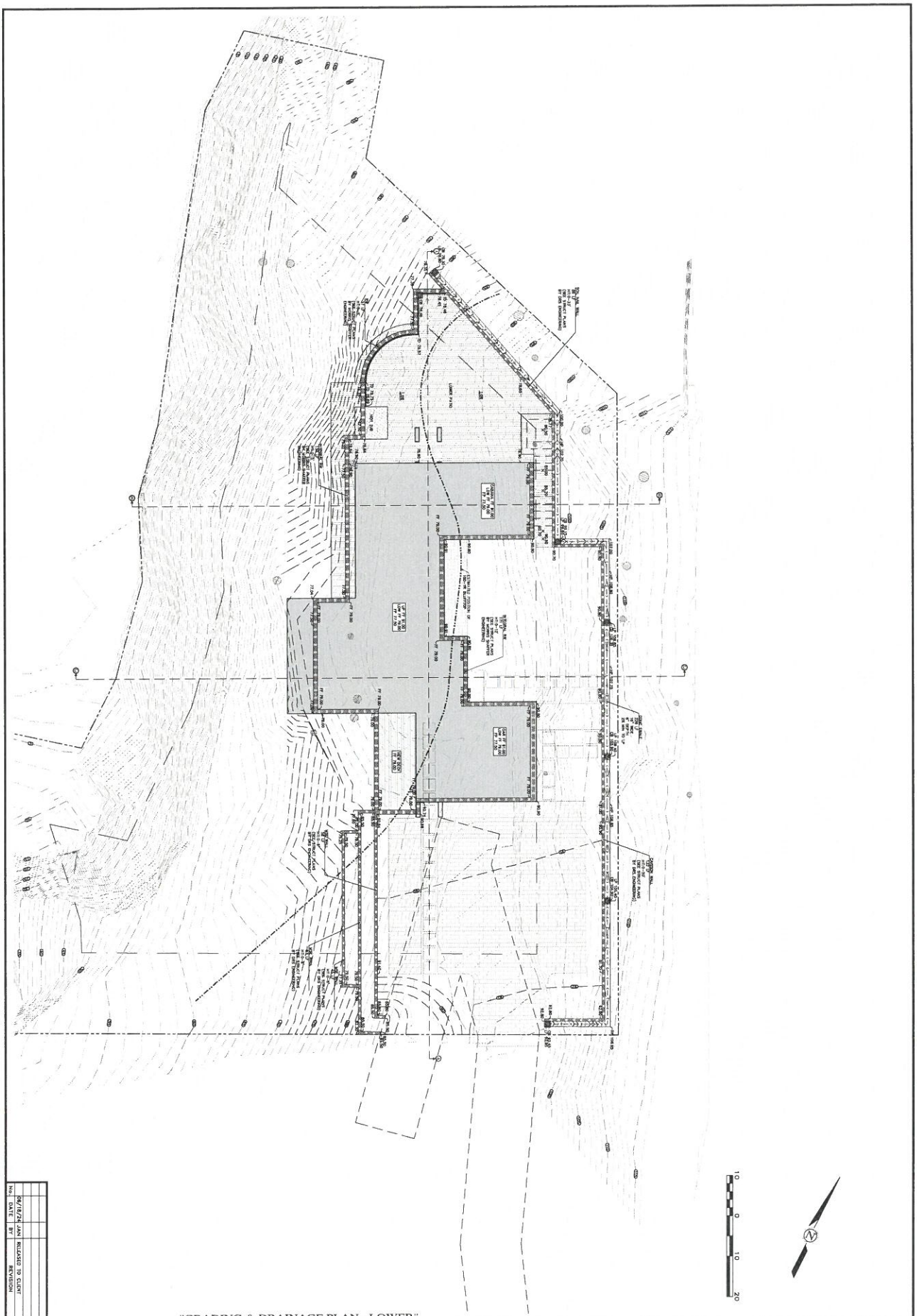
HAL & ALLISON JOHNSON

LANDSET ENGINEERS, INC.
520-B Crazy Horse Canyon Road
Salinas, California 93907
Office (831) 443-0970 Fax (831) 443-3801
www.landseteng.com

APPROVED BY:

GUY R. GIRAUDO

Guy R. Giraudo
No. 59080
Exp. 06-30-25
PROFESSIONAL ENGINEER
STATE OF CALIFORNIA
CIVIL



"GRADING & DRAINAGE PLAN - LOWER"

No.	DATE	BY	REVISION
	09/18/24	JAN	RELEASED TO CLIENT

SCALE: 1" = 10'
DATE: JAN. 2024
JOB NO: 22286-01
SHEET C4
OF 10 SHEETS

GRADING, DRAINAGE, & EROSION CONTROL PLAN
OF
THE JOHNSON RESIDENCE
A.P.N.: 241-182-003
CARMEL, CALIFORNIA
FOR
HAL & ALLISON JOHNSON

LANDSET ENGINEERS, INC.
520-B Crazy Horse Canyon Road
Salinas, California 93907
Office (831) 443-6970 Fax (831) 443-3801
www.landseteng.com

APPROVED BY:

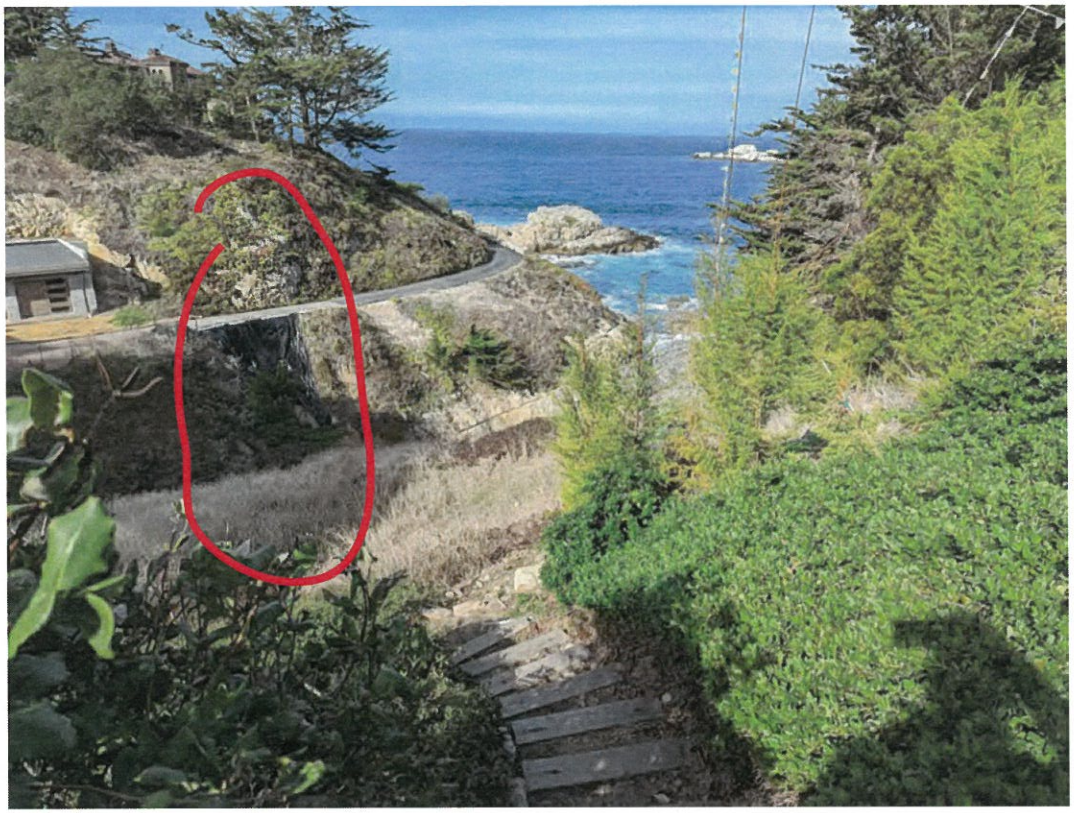
GUY R. GIRAUDO

REGISTERED PROFESSIONAL ENGINEER
GUY R. GIRAUDO
No. 39589
Exp. 06-30-25
CIVIL
STATE OF CALIFORNIA

EXHIBIT D

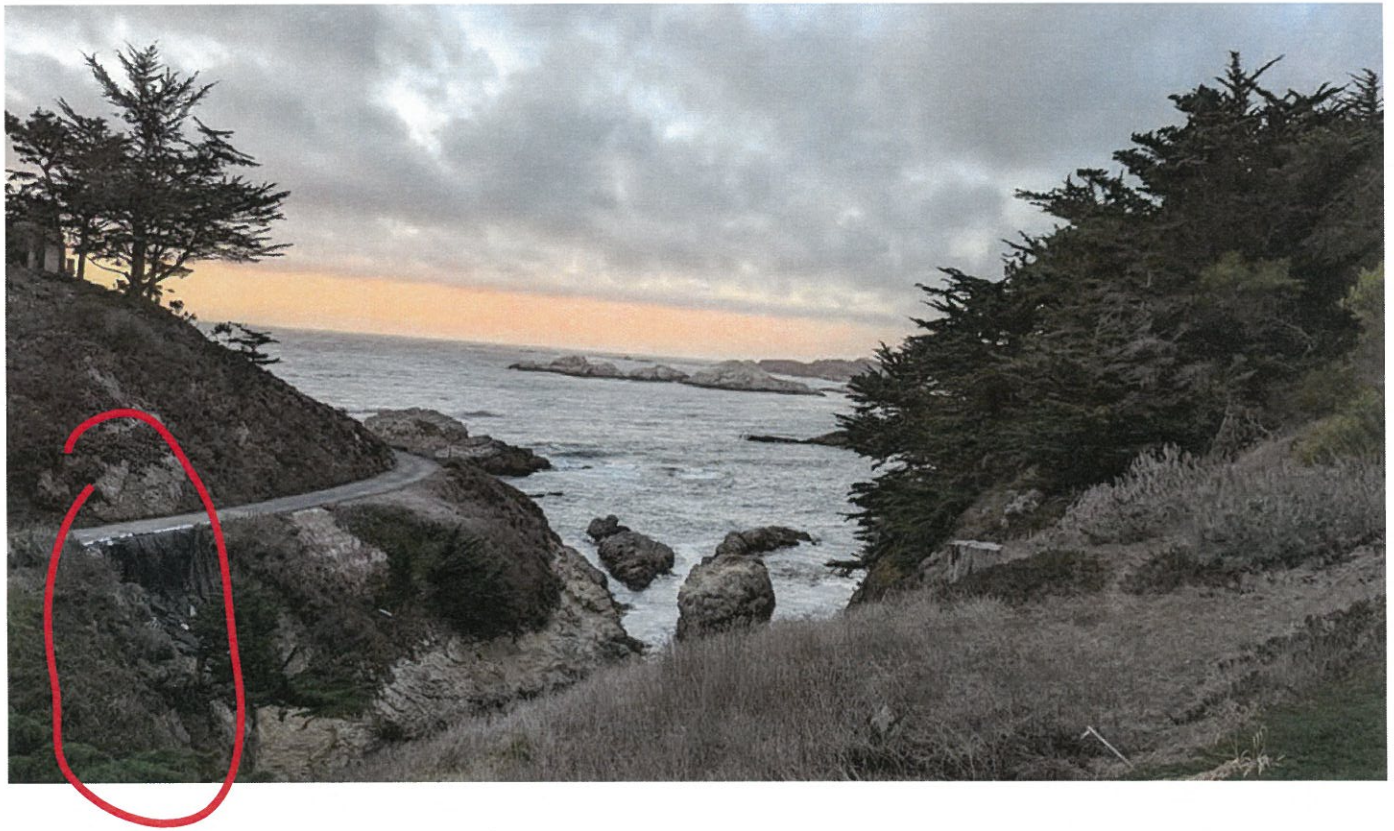
C2) 255 Highway 1 Carmel, CA - Cliff washing out across driveway

C3) 255 Highway 1 Carmel, CA - Cliff washing out across driveway



C4) 255 Highway 1 Carmel, CA - Cliff washing out across driveway

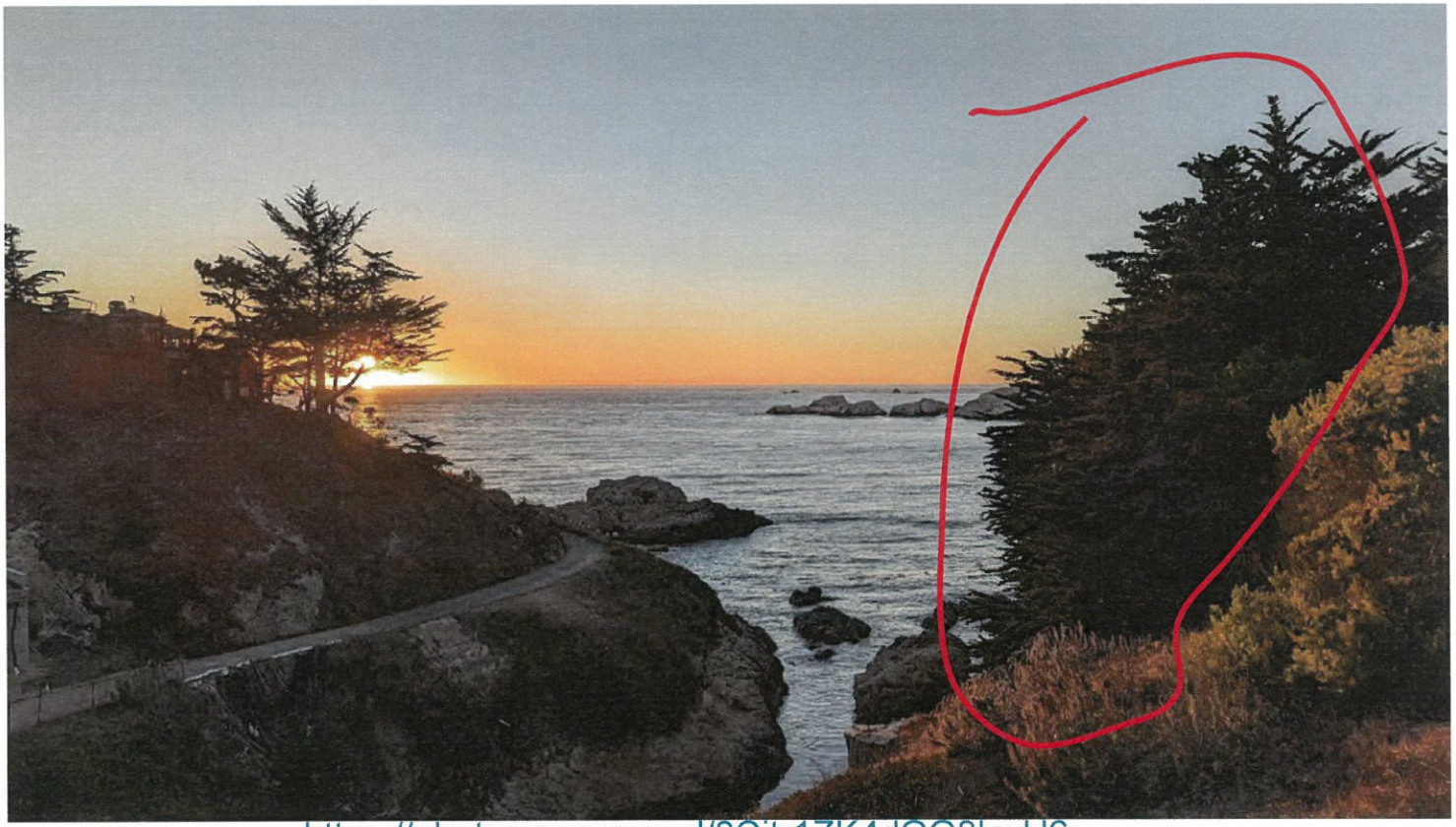
C5) 255 Highway 1 Carmel, CA - Cliff washing out across driveway



C6) 255 Highway 1 Carmel, CA - Cliff washing out across driveway

EXHIBIT E

D1) Cypress to be removed unnecessarily for westward outcropping of house…



https://photos.app.goo.gl/8Citr1ZK4dGG8kwH6

D2) Cypress to be removed unnecessarily for westward outcropping of house…

RUTAN
RUTAN & TUCKER, LLP

Matthew D. Francois
Direct Dial: (650) 798-5669
E-mail: mfrancois@rutan.com

May 27, 2025

VIA EMAIL [pchearingcomments@countyofmonterey.gov]

Honorable Ernesto Gonzalez, Chair
and Members of the Planning Commission
County of Monterey
1441 Schilling Pl. South 2nd Floor
Salinas, CA 93901

Re: Johnson Hal W Jr. & Allison H; File No. PLN210061; May 28, 2025 Monterey County Planning Commission, Agenda Item No. 2.

Dear Chair Gonzalez and Members of the Planning Commission:

We write on behalf of our client, the "Owner" of a single-family residence located at 230 Highway 1, to register our objections to the proposed residential development at 226 Highway 1 (the "Project"). As you know, the proposed 3,525 square foot residential Project would be located within a key coastal viewshed, on slopes exceeding 30 percent slope and within 50 feet of a coastal bluff, and involves the removal of four protected trees (three Monterey Cypress and one Monterey Pine). At its October 30, 2024, the Planning Commission unanimously adopted a motion of intent to deny the Project.

Since the October 30th Planning Commission, the Project applicant has made changes to the plans, which overall are beneficial compared to the prior plans. However, given the site's location and the important Coastal Act policies that pertain, we believe that additional revisions can and must be made to the Project if it were to be approved. A short list of reasonable modifications to the Project conditions is attached hereto as Exhibit A.

As you know, the pertinent Coastal Act policies: (1) restrict development on slopes exceeding 30 percent—the Project involves approximately 3,095 square feet of development on slopes exceeding 30 percent, (2) require that existing trees and native vegetation be retained to the maximum extent possible—the Project results in the removal of four protected trees, and (3) require that new development not be visible from scenic vantage points—the Project is visible from Highway 1 and the Vista Point across from the Highland Inn. (*See, e.g.*, Coastal Implementation Plan §§ 20.146.120.A.6, 20.146.030.C.1, 20.146.030.C.4, 20.146.030.D.1; Carmel Area Land Use Plan Sections 2.2.4.10.a, 2.2.4.10.e, 2.2.3.3, 2.7.3.1, 2.7.4.1); *see also*

Monterey County Zoning Code § 20.02.060.B.)[1] In its comments on the Project, Coastal Commission Staff noted the Project's inconsistencies with these policies.[2] Further, multiple homes in this neighborhood have recently experienced failure at slopes greater than 30 percent. Compared to nearby homes, the Project would involve by far the greatest amount of developments on slopes exceeding 30 percent.

In order to conform with key Coastal Act policies, the Project residence should be shifted further eastward to further avoid 30 percent slopes and to avoid removal of four protected trees. (Staff Report, Exhibit A, p. 11 [area shown in white not containing slopes exceeding 30 percent].) Two of these trees proposed for removal (numbers 51 and 52) are listed in "Good" condition according to the Project arborist.[3] Alternatively, the Project residence can be modified to eliminate a cantilevered roof and balcony overhang along the western elevation. (Staff Report, Exhibit A, p. 11 [labeled Cantilevered Roof and Cantilevered Balcony.) Either of these changes would avoid the removal of four protected trees and would pull the northwestern roof overhang further inland to minimize its visibility from Highway 1 and the Vista Point as required by the Coastal Act Policies.

In terms of replacement trees, we had asked the Project applicant to provide a copy of the Landscape Plan shown on Sheet A1.1. The Project plans currently require four replacement trees. Sheet A1.1 showed three replacement trees on the northern elevation of the Project residence. On May 27, 2025 the applicant's attorney provided a copy of the Landscape Plan dated May 23, 2025 that included the three trees along the north plus four new trees on the south that would block coastal views from Owner's residence. (*See* Exhibit B.) The existing trees proposed for removal do not block such views. We raised these concerns with the applicant's attorney who indicated that the architect may have misunderstood the request and indicated a willingness to work with the Owner on the location of the replacement trees. Along those lines, if the Project were to be approved, we ask that a condition be imposed to require Owner's consent to the location of the replacement trees.

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[1] These policies were discussed in detail in our August 12, 2024 comment letter on the Project Mitigation Negative Declaration ("MND"), which is incorporated herein by reference and attached to the Staff Report as Exhibit F.

[2] (*See*, *e.g.*, October 24, 2022 comment from Coastal Planner Breylen Ammen to County Planner Phil Angelo: "[T]he parcel is largely inappropriate for the intensity of development proposed, and such development would not meet the overarching Carmel LUP Key Policy which requires all future development to be clearly consistent with and subordinate to the foremost priority of protecting the area's scenic beauty and natural resource values." (Staff Report, Exhibit F.)

[3] In an August 25, 2021 email from neighbor Jenny Breitenwischer to County Planner Philip Angelo, Ms. Breitenwischer noted the trees "need to be trimmed but they should not be removed" and stated she had the trees trimmed a couple of years ago with permission from the former property owner "so I know there is nothing wrong with them." (Staff Report, Exhibit F.)

We further agree with the recommendation of the Carmel Area Wastewater District ("CAWD") that the original condition requiring approval of the Carmel Highlands Point Sanitary Association ("Association") be re-inserted as a condition of approval on the Project.[4] As the Can and Will Serve letter from CAWD indicates the Project would be served by the Association's private sewer lateral and so would require approval from the Association members prior to CAWD's issuance of a sewer connection permit. County Staff eliminated this requirement from the condition at the applicant's request. CAWD staff did not see the justification for the change, "as approval from the [A]ssociation would be required for their permit process, and it's an issue the applicant must address regardless." (Staff Report, Exhibit A, p. 21.) In its comments on the Project, Coastal Commission Staff likewise registered concerns with the proposed sewer treatment plan, noting that the Coastal Commission would have to approve annexation of the parcel into the CAWD service area.

Additionally, we do not believe that there is Code support for Staff's interpretation that a retaining wall is not a structure that requires a variance from setback requirements. The Interpretation cited addressed whether structures below grade are subject to the setback requirements and concluded that they were. "Structure" is defined by the County Code as "anything constructed or erected, except fences under six feet in height, the use of which requires location on the ground or attachment to something having location on the ground, but not including any trailer or tent." (County Zoning Code § 21.06.1220.) The plain language of the County Code exempts fences not retaining walls, and the County's interpretation impermissibly adds works to the language of the ordinance. (*See Martis Camp Community Assn. v. County of Placer* (2020) 53 Cal.App.5th 569, 591 and *Watsonville Pilots Assn. v. City of Watsonville* (2010) 183 Cal.App.4th 1059, 1069.)

Further, for the reasons previously set forth in our August 12, 2024 letter, we do not believe the findings for a variance would be justified here. The other projects previously cited by Staff as examples are distinguishable. 255 Highway 1 (PLN170428) had no development on slopes exceeding 30 percent and had a much smaller development footprint and did not encroach on other neighboring development. 243 Highway 1 (PLN070388) likewise involved a much smaller development footprint with development on slopes exceeding 30 percent limited to 300 square feet. The Project has 3,095 square feet of development on slopes exceeding 30 percent.

Finally, the Project necessitates alterations to the existing Mutual Water System to achieve water quality standards. Because the Project results in the need for upgrades to the existing water

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[4] The original MND also stated that the Project applicant will need to secure permission from the property owners served by the Association to connect into the shared private system and that a coastal development permit will not issue until the Project applicant has received proof of such permission. (MND, pp. 89, 93.)

treatment system, all costs associated with such alterations should be borne by the owner/applicant. We request that the Project conditions be modified accordingly.

****

Thank you for your consideration of our client's views on this important matter. Representatives of the Owner, including the undersigned, will be in attendance at your May 28th hearing on the Project. In the meantime, please do not hesitate to contact me with any questions regarding this correspondence.

Sincerely,

RUTAN & TUCKER, LLP

Matthew D. Francois

MDF:mr

cc: Client (*via email*)
Philip Angelo, Senior Planner (angelop@countyofmonterey.gov)
Robert Brayer, Deputy County Counsel (brayerri@countyofmonterey.gov)
Breylen Ammen, Coastal Program Analyst,
California Coastal Commission (breylen.ammen@coastal.ca.gov)
Katie Butler, District Supervisor,
California Coastal Commission (katie.butler@coastal.ca.gov)
Tony Lombardo, Applicant's Attorney (tony@alombardolaw.com)

EXHIBIT A

REVISIONS TO CONDITIONS OF APPROVAL

- Revise Condition 1: "This Combined Development Permit (PLN210061) allows (subject to revisions specified in subsection f):

    - Option 1: "f) The plans shall be revised to shift the residence to the east to avoid 30 percent or greater slopes and to retain four protected trees (Tree Nos. 50, 51, 52, 54)."

      or

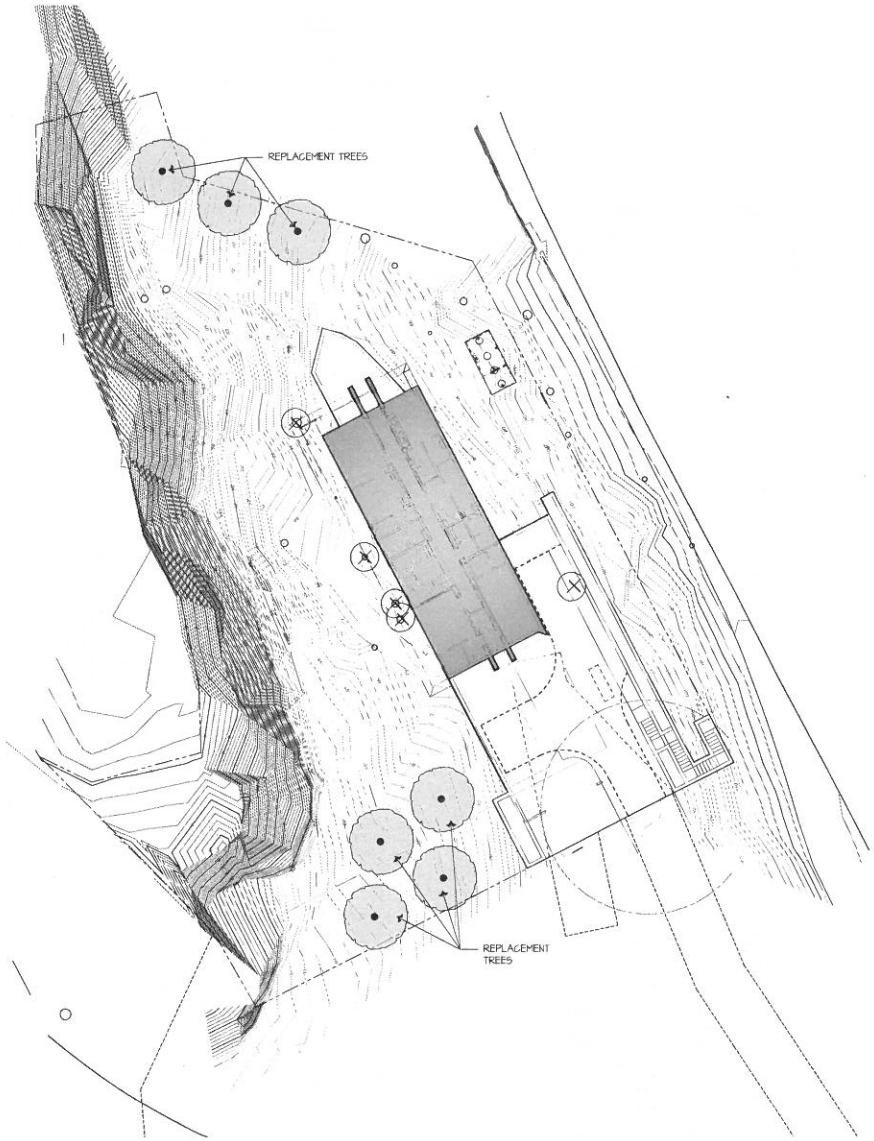
    - Option 2: "f) The Project plans shall be revised to eliminate the Cantilevered Roof and Cantilevered Balcony along the western elevation."

- Revise Condition 13: "Prior to final of construction permits, the applicant shall replace and or relocate each tree approved for removal as follows: - Replacement ratio: 3 Monterey cypress and 1 Monterey pine Replacement tree(s) shall be located within the same general location as the tree being removed while respecting existing views of neighboring property owners. (HCD - Planning) The location of the replacement trees shall be submitted to any affected neighboring property owners for their review and written approval."

- Revise Condition 28: "Prior to issuance of any grading or construction permits, the owner/applicant shall be required to provide evidence that they have appropriate permission to connect to the "Highlands Point Association" private sewer lateral to the satisfaction of the Carmel Area Wastewater District ("CAWD"), and that they have secured a sewer connection permit from the CAWD."

- Add Condition 29: "All costs associated with alterations to the existing constructed Mutual Water System shall be borne by the owner/applicant."

EXHIBIT B



NOTE: ALL REPLACEMENT TREES TO BE THE FOLLOWING:

SPECIES: MONTEREY CYPRESS
SIZE: 15 GAL.
SPACING: 10' MINIMUM

LEGEND

= BUILDING FOOTPRINT

= TREE TO BE REMOVED

= TREE TO BE PLANTED

N

PLANTING PLAN

Ø 8' 16' 32'

SCALE: 1/16" = 1'-Ø"

REVISION	No.

CONSULTANT:

ARCHITECT

ERIC MILLER ARCHITECTS, INC.
211 HOFFMAN AVENUE MONTEREY, CA 93940
PHONE (831) 372-0410 • FAX (831) 372-7840 • WEB www.ericmillerarchitects.com

PLANTING PLAN

JOB NAME: Johnson Residence
226 Highway 1
Carmel, CA 93923
A.P.N. 241-182-003

DATE: 5/23/2025
SCALE: 1/16"=1'-0"
DRAWN: HRM
JOB NUMBER: 20.09

A-1.1a
SHEET OF

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RECEIVED
MONTEREY COUNTY

JUN - 9 2025

CLERK OF THE BOARD

DEPUTY

VICENTE RAMIREZ

(650) 320-1500

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SQUARE, SUITE 200
3000 EL CAMINO REAL
PALO ALTO, CA 94306
UNITED STATES US

SHIP DATE: 06JUN25
ACTWGT: 0.50 LB
CAD: 253678271/WSXI3600

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MONTEREY COUNTY CLERK OF THE BOARD

168 WEST ALISAL STREET, 1ST FLOOR

SALINAS CA 93901

(415) 629-4919

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