

# Exhibit A

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## **EXHIBIT A DISCUSSION**

### VISUAL RESOURCES AND VISUAL PUBLIC ACCESS:

The project is subject to the Visual Resources protection policies of the Carmel Area Land Use Plan (LUP) their implementing regulations in the Monterey County Coastal Implementation Plan (CIP), and a Design Control “D” zoning overlay district, which requires a design review of structures and fences to assure protection of the public viewshed and neighborhood character. The property is within Carmel Highlands area. The dominant visual character of the area is its natural landscape, with its rolling hills, dense vegetation and tree coverage, dramatic rocky granitic cliffs, and the Pacific Ocean. The primary built environment features are Highway 1, access roads, and an eclectic mixture of one and two story custom single-family residences (see Figure 1). No architectural style appears to dominate, with residences that demonstrate neoclassical, Mediterranean revival, and modernist characteristics. Many of the residences feature natural materials such as wood or stone. CIP section 20.146.030.C.1.c. requires that structures in the Carmel Area LUP blend into the site and surroundings and be that building exteriors give the appearance of natural materials.

The residence is a modern style two-story residence comparable to other homes in the area, and in accordance with the CIP has natural materials of smooth and split face stone veneers, teak wood, concrete shaped as natural stone, and stone paving (see Figures 2 and 3). Therefore, the design of the proposed project assures protection of the public viewshed and neighborhood character.

LUP Policy 2.2.3.3 requires that new development on slopes within the public viewshed be sited within forested areas or where it would not be visible from public viewpoints and viewing corridors, and that new development in the Carmel Highlands be carefully sited and designed to minimize visibility. LUP Policy 2.2.4.6 also requires that the existing forested corridor along Highway 1 be maintained as a natural screen for development, with new development sufficiently setback from the highway to preserve the corridor’s effect and minimize visual impact. Consistent with these policies, the project is sited significantly below the elevation of both the highway and vista point, minimizing its visibility. The trees parallel to the highway would also be preserved, maintaining its forested corridor.

LUP Specific Policy 2.2.4.10.a states that buildings located on slopes shall be sited on existing level areas and sufficiently set back from the frontal face. In this case the building has been centrally sited approximately 14 feet away from the edge of the bluff on the most level portion of the property, a small cut and fill pad graded in the 1960’s.

The property is also approximately 140 feet southwest of a visual access point identified in LUP Figure 3 and Section 5.3.4 as an existing bluff top vista point adjacent to the Highland Inn, and adjacent to Scenic Highway 1. LUP Visual Access Policies 5.3.3.4.a and 5.3.3.4.c require that visual access to the shoreline from major viewing corridors be protected for visitors and residents alike, and that structures and landscaping installed west of Highway 1 be sited and designed to retain public views of the shoreline and roads. The home would not obstruct views of the rocky promontories and bluffs along the shoreline that are currently visible from the vista point. Although the structure would be heavily obscured from view by existing trees, it would be partially visible from the overlook. The applicants are also proposing three trees which would further screen

the residence from the overlook.

However, this would not be out of character with the established built environment. Other residences are partially visible from the vista point; accordingly, the proposed project would be consistent with the existing landscape and features currently visible from the vista point and would not degrade the visual quality of the area. The site slopes steeply down from Highway 1 westward, with the edge of the road being at an elevation of approximately 117 feet while the building site is at an elevation of approximately 87 feet. The topmost point of the residence is at an elevation of 108.5 feet. This is 5.25 feet below the maximum allowable height of 113.75 feet and 8.5 feet below the edge of the road. At this height, visibility of the residence from Highway 1 would be minimal, as demonstrated in the photo simulation submitted as part of the project (see Figure 4). Therefore, the project would not impact visual access either from this vista point or along the Highway 1 corridor.



Figure 1: Photos of Neighboring Residences



Figure 2: Project Rendering



CONCRETE SHAPED AS NATURAL STONE

Figure 3: Colors and Materials



SMOOTH STONE VENEER



SPLIT FACE STONE VENEER

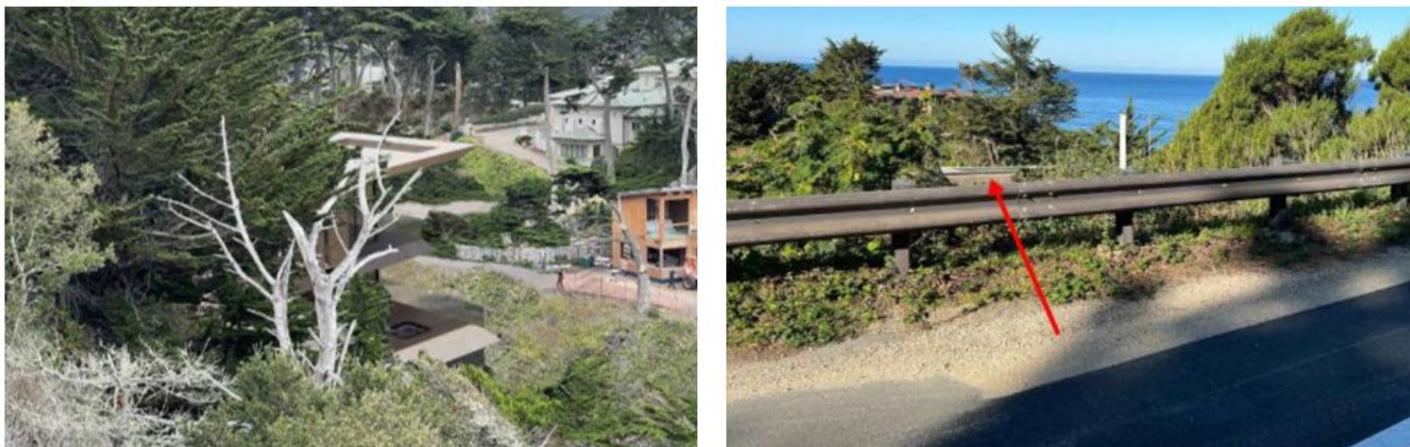


Figure 4: Photo-simulation of Residence from Nearby Vista Point and Highway 1

#### DEVELOPMENT WITHIN 50 FEET OF A BLUFF

The project includes development within 50 feet of a coastal bluff, and site grading would entail 2,305 cubic yards of cut and 355 cubic yards of fill, resulting in net cut of 1,950 cubic yards; approximately 6,758 square feet of this grading would occur on slopes in excess of 30%. LUP Specific Policy 2.7.4.3 and CIP section 20.146.080.B.1 require that all development within 50 feet of a cliff or bluff requires preparation of a geologic report prior to consideration of the proposed project. In conformance with these requirements, coordinated preliminary and final geological (HCD-Planning File Nos. LIB210218 and LIB240060), and geotechnical (HCD-Planning File Nos. LIB210219 and LIB240059) reports have been prepared for the project by Easton Geology, Inc., and Rock Solid Engineering, Inc., respectively. The preliminary versions generally assessed the suitability of the site for single-family residential development, while the final versions contained more detailed hazards analysis and recommendations.

Relative to its geological context, the property is situated on a tall granitic bluff between Highway 1 and the ocean, just north of Wildcat Cove. The bluff was formed over thousands of years through combined geologic processes of fluctuations in sea level, tectonic uplift, and base surf erosion. As previously discussed, grading creating a building pad occurred sometime in the 1960's. The preliminary geotechnical investigation characterized the soil profile as generally consisting of fill, colluvium, and highly weathered granite that becomes less weathered and stronger with depth. Artificial fill was encountered on the west of the graded pad.

The geological report (LIB240059) concludes that primary concerns for the site include slope instability and long-term coastal erosion. The discussions on slope instability and long-term coastal erosion are summarized below and discussed in detail in the Initial Study prepared for the project (**Exhibit C**). In summary both the geological and geotechnical reports considered the site suitable for a single-family residence, provided that the recommendations within them were followed. These included criteria for site preparation, grading, foundations, and other improvements; either siting the residence landward of a projected 100-year bluff setback or embedding of foundations below the projected 100-year bluff erosion profile; direction of concentrated drainage away from the ground surface or steep slopes to prevent shallow landsliding or ponding; and review of grading and foundation plans. The majority of the residence is landward of the 100-year bluff setback shown in Figure 5, but includes a micro-piled

foundation penetrating below the projected 100-year bluff erosion profile as shown in the section view Figure 6. To ensure the geologists and geotechnical engineers recommendations are adhered to, Condition Nos. 10 and 11 are recommended, which would require that the applicant record a notice on the property stating that all development shall be in accordance with the geological and geotechnical reports. Additionally, Monterey County Code section 16.08.110.D shall require that recommendations included in soil engineering reports be included into grading plans and specifications.

### Slope Instability

Strong ground shaking can cause landslides or slope failure. The geological report states that while deep landsliding, incorporating a large part of, or the entire slope is possible, the initiation of new large landslides is exceedingly rare and relatively uncommon in granodiorite. In their on-site investigation, the geologist saw no indicators of previous slides on the site, such as scarps, large bowl-shaped swales, or “hummocky” topography. The geologist concluded that improvements too close to the bluff would have a high risk of damage resulting from bluff instability, however, the likelihood of retreat to impact improvements is low provided any improvement is well founded, below the 100 year bluff profile mentioned above, or adequately setback from the bluff. In this case the application includes foundations which would penetrate below the 100-year projected bluff profile. The geotechnical report also included a quantitative slope stability analysis which indicated that the soil condition and granite slopes meet or exceed the industry standard minimum safety factors for slope failures above weathered granite. Similar to the geological report, the geotechnical report recommends either siting improvements landward of the 100 year bluff setback or embedding their foundations below the 100 year bluff profile to address landslides. Both reports emphasized controlling and not directing drainage toward the steep bluff to prevent erosion and avoid impacts bluff stability. The civil engineer also wrote a letter (**Exhibit H**) describing how the drainage system has been designed to not accelerate erosion, by using rock spreader trenches and multiple points of release, so that the flow of stormwater’s velocity is reduced and it isn’t concentrated on any one area.

### Long-term Coastal Erosion

In accordance with LUP Policy 2.7.4.7, the geologic report includes an analysis of cliff geometry, historic bluff retreat, and foreseeable cliff erosion. The geologist evaluated aerial photographs of the site dating back to 1929, and conservatively estimated that historical bluff retreat has been one foot every 10 years. Using this projection, retreat of the bluff face would be approximately 10 feet over the next 100 years. While not necessarily a representative sample, between 2010 and 2016 retreat of the bluff face near the site was significantly less, approximately one tenth of a foot in 10 years, indicating retreat rates along the granitic coast at the site are very slow. Sea level rise does have the potential to accelerate coastal erosion, however the report concludes that due to the site’s very low bluff erosion rate, a hypothetical erosion rate increase of 25% over the next century (erosion would total approximately 12.5 feet over the next 100 years) would have a negligible impact over the lifetime of the project. The geologist’s bluff retreat analysis also included retreat from potential rock topple or sliding along dipping joint planes. Using these factors, the geologist mapped a geologically feasible building envelope (see Figure 5) but indicated that development seaward of this envelope would be feasible provided that foundation improvements were installed below the 100-year anticipated bluff retreat profile (See Figure 6). Portions of the proposed development are within this

geologically feasible building envelope, while much of the residence is seaward of it. Consistent with the geologist's recommendation, the project includes a micro-pile foundation that would be installed below the 100-year anticipated bluff retreat profile.

#### LUP Policy Analysis

LUP Policy 2.7.3.1 requires that development be sited and designed to minimize risk from geologic, flood, and fire hazards; and that areas of the parcel subject to high hazards be generally considered unsuitable for development. Where development is proposed in high hazard areas, a geotechnical report shall be required prior to County consideration of the project. As discussed above, coordinated geological and geotechnical reports have been prepared to address geotechnical hazards and recommendations for a deep foundation system has been incorporated. The residence has been sited centrally on the flattest portion of the property, and during the development review process was re-sited approximately 12 feet landward, further away from the bluff. Therefore, the development has been sized and designed to minimize geologic hazards.

In accordance with LUP Policy 2.7.3.4, projects shall be conditioned requiring the owner to record a deed restriction describing the nature of identified hazards and long-term maintenance requirements. LUP Policy 2.7.4.10 states that revetments and sea walls shall only be allowed for the protection of existing (rather than new) development. Therefore, Condition 17 is recommended requiring the applicant to record a deed restriction identifying that the site is subject to coastal hazards, assuming the risks of such development, waiving liability, indemnifying the County of Monterey for any damages due to coastal hazards, prohibiting future coastal armoring, requiring further geotechnical analysis evaluating whether existing development is safe should land sliding or bluff erosion threaten it, and re-location/removal should the development become unsafe without the installation of new sea walls or shoreline protective structures.

LUP Policy 2.7.4.1 requires that all development be sited and designed to conform to site topography and minimize grading and other site preparation activities. The residence and improvements have been centrally sited on the flattest portion of the property. Additionally, over the course of the development review, the residence and associated improvements have both been re-sited to minimize slope development, which requires additional fill or excavation: plans submitted to the County dated September 3, 2022 included a total of 7,750 square feet of development on slopes, while the attached plans (**Exhibit B**) have a total of 6,758 square feet, a reduction of 992 square feet (12.8 percent).

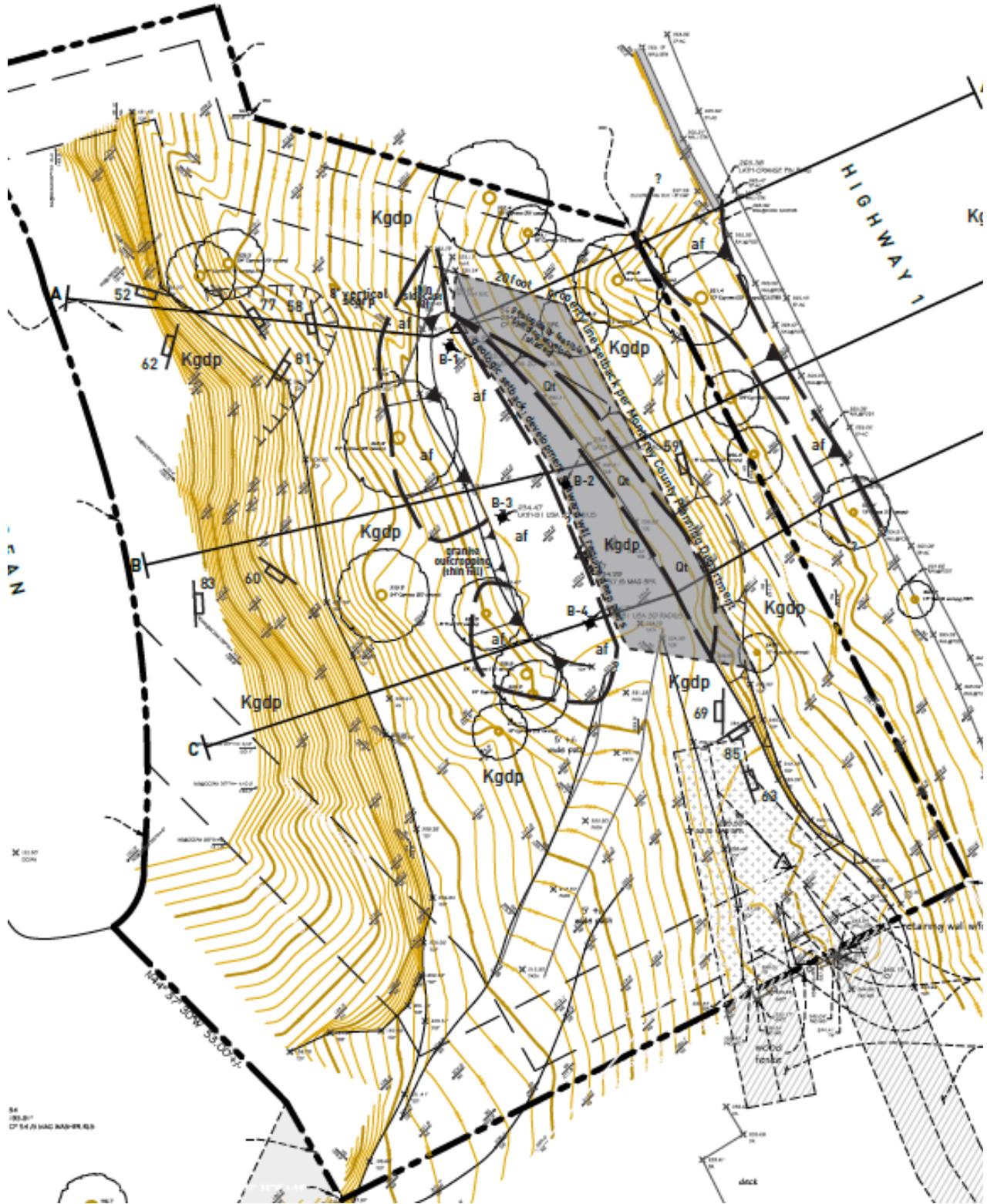


Figure 5: Geologically feasible building envelope

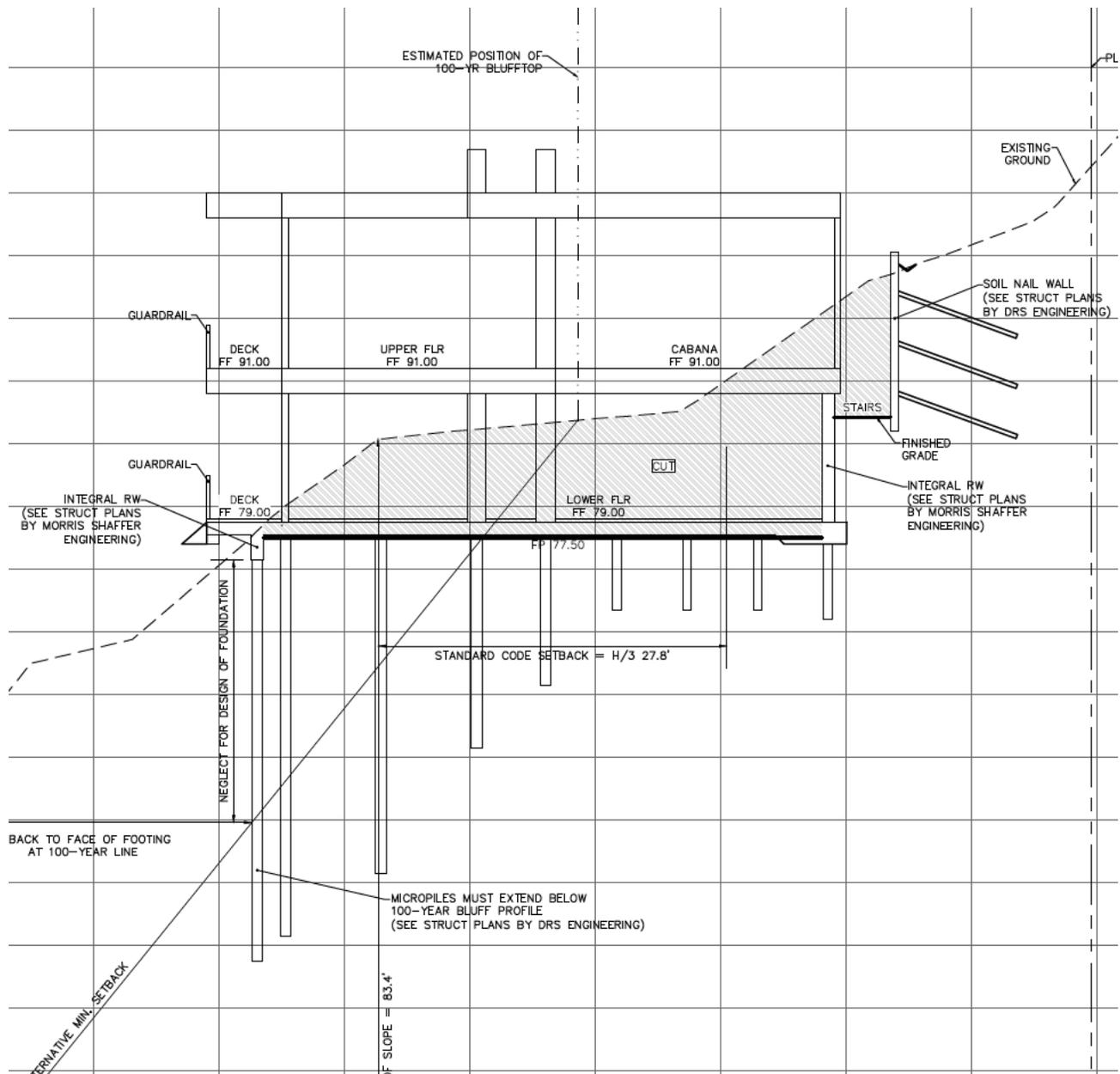


Figure 6: Section view of residence with foundation system

### DEVELOPMENT ON SLOPES

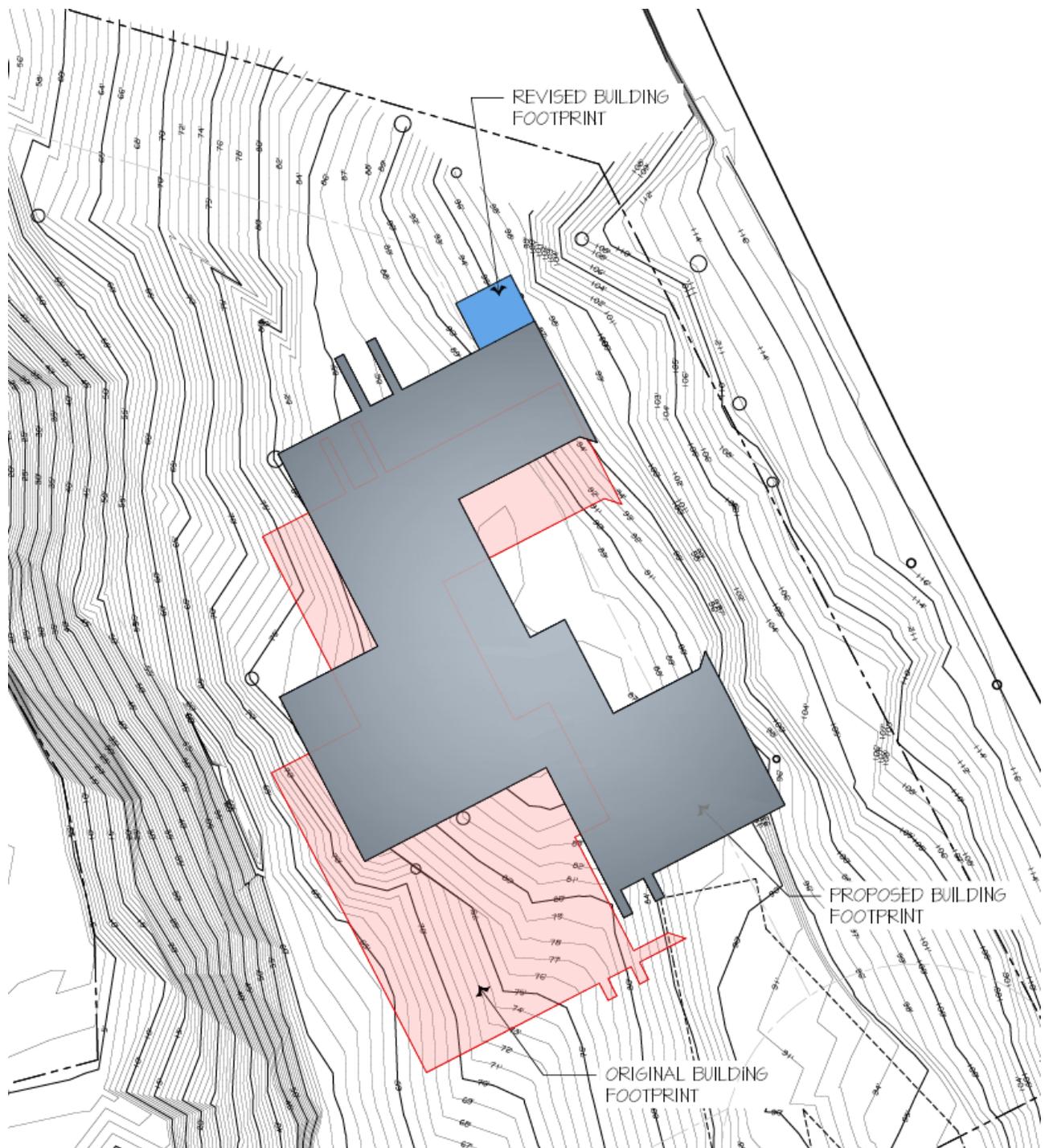
The project includes approximately 6,758 square feet of development on slopes, 1,448 square feet of which is for the residence, 536 square feet is for the retaining walls, and 1,633 square feet is for landscaped areas. Title 20 section 20.64.230 prohibits development on slopes in excess of 30 percent unless a finding can be made that either there is no feasible alternative which would allow development to occur on slopes of less than 30 percent; or the proposed development better achieves the goals, policies and objectives of the County of Monterey Local Coastal Program than other development alternatives. In this case there is no alternative to avoid development on slopes.

The only contiguous area of the site not on slopes in excess of 30 percent is the narrow pad

graded in the 1960's (approximately 1,875 square feet). Remaining areas to the east and west (over 25,000 square feet) are highly constrained by a coastal bluff and steep slopes. This extremely constrained site, combined with the narrow width make it unavoidable to construct a residence and associated site improvements without developing on slopes in excess of 30 percent. Specific site improvements that necessitate development on slopes are detailed below:

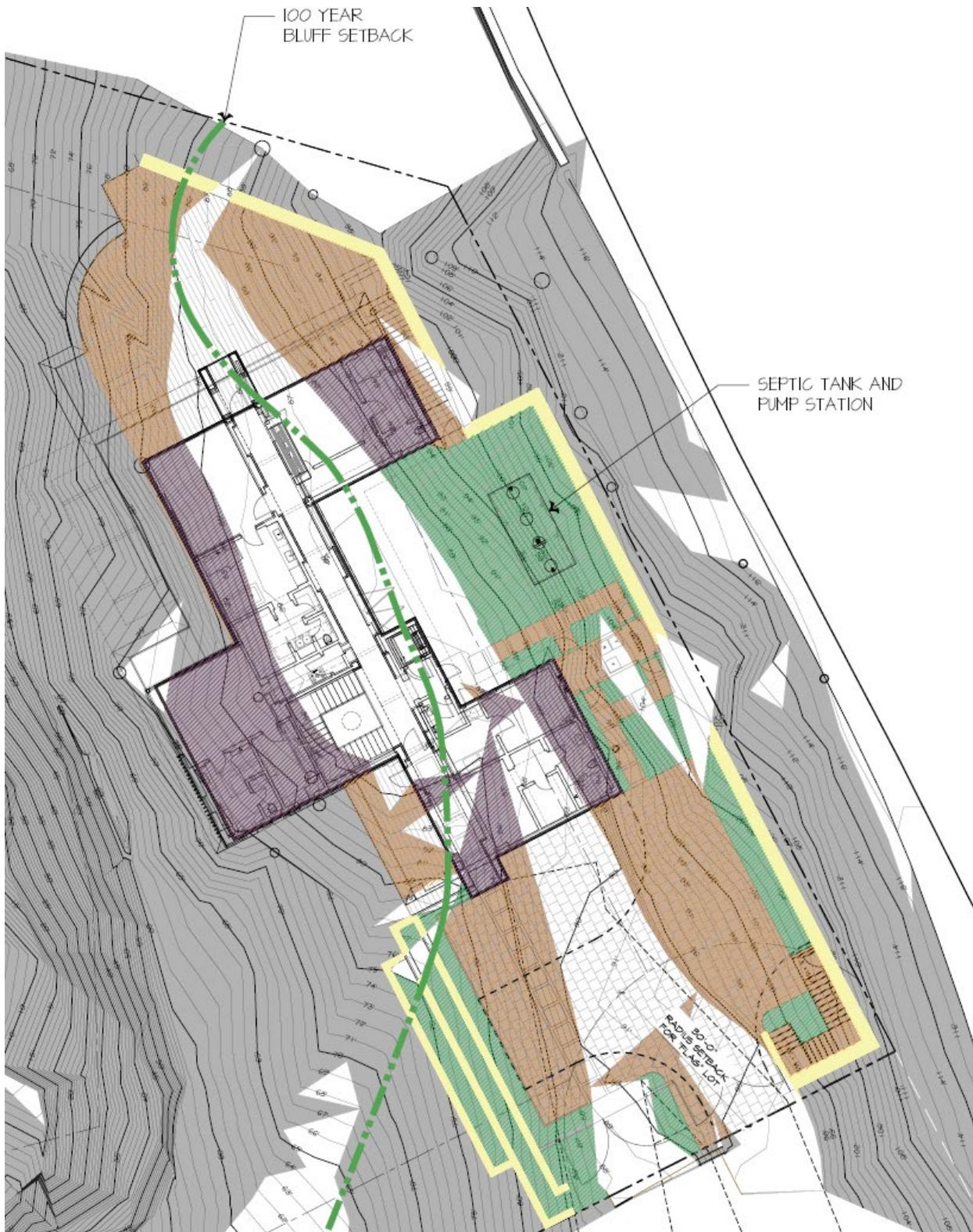
- Proposed development on the sloped southeastern portion of the site consists of an autocourt with a fire truck turnaround and access easement area for the mutual water system well, an emergency access stairway, as well as stepped retaining walls seaward of the turnaround. The autocourt is necessary to allow both the fire truck turnaround and access for maintenance vehicles, a well pump rig, and a well drill rig to the well site when necessary. The retaining walls are necessary to keep this area level and the emergency access stairway provides a secondary means of egress in case of emergency.
- The centralized courtyard contains a septic tank and pump necessary for wastewater service and meets the minimum setback requirements in Monterey County Code Chapter 15.20 Sewage Disposal: 5 feet between the tank and structures (retaining wall) and 100 feet from the tank to a body of water (the Pacific Ocean).
- Cut of slopes for the eastern retaining wall parallel to Highway 1 is required in order to create a building pad suitable for the construction of a residence and septic tank.

Design changes have been made through the development review process, minimizing development on slopes for the residence. Footprint of the residence was reduced by 184 square feet, from 3,376 square feet to 3,192 square feet, and re-sited approximately 12 feet landward to the northeast (see Figure 7). This footprint of the residence that is on slopes by 730 square feet, from 2,178 square feet to 1,448 square feet, and reduced the percentage of the building footprint on slopes from 65% to 46%. Site improvements were also re-designed to further reduce the overall quantity of the development on slopes, from 7,750 square feet (see Figure 8) to 6,758 square feet (see Figure 9), a reduction of 992 square feet.



**Figure 7:** Site plan depicting re-siting of the residence. The original residence footprint is shown in red while the proposed footprint is shown in blue. The siting of the proposed residences was shifted inland further from the bluff and onto the flatter portion of the property





**Figure 9:** The most current slope development diagram Development on slopes is shaded in color, with the residence being purple, paving in orange, retaining walls in yellow, and landscape area in green. This version reduced development on slopes in excess of 30 percent to 6,578 square feet

### SETBACK VARIANCES:

Main structures in LDR zoning require a minimum front setback of 30 feet and side and rear yard setbacks of 20 feet. The property has a unique configuration, with the western side parallel to the Pacific Ocean subject to a side setback, and the far northern property lines subject to a rear yard setback. The property is both a flag lot, being at the end of a driveway access easement, and bounded by Highway 1 along its eastern and northeastern property lines. Front setbacks for flag lots are measured as a radius from the centerline of the access, or “pole” (see Figure 10). The northern and northeastern property lines bounded by Highway 1 are also subject to a front setback.

The residence meets the minimum required rear and side setbacks, as well as the minimum required front setback for the southern flag lot property line. However, the residence does encroach into the front setback from Highway 1 along its eastern and northeastern property line by 10 feet, necessitating a Variance to reduce the setback from 30 feet to 20 feet (see Figure 10).

A retaining wall that ranges in height, with a maximum height of approximately 26 feet, is proposed along the property’s southern, eastern, and northeastern property lines. The retaining wall varies in distance from the property line, with 2 feet at the closest point. An approximately 14 foot tall emergency fire access stairway is located on the southeast corner of the wall, 2 feet from the eastern and southern property lines. The retaining wall and emergency access stairway are all structurally attached to the main residence, requiring them to meet main structure setbacks. This would place the retaining wall and stairway within the 30 foot radius flag lot setback and within the 30 foot Highway 1 setback. Similarly to the residence, a Variance to reduce these setbacks would be required to reduce the setback for these improvements (see Figure 10).

Findings to allow both of these Variances can be met in this case. Neither setback would allow a use or activity not otherwise authorized by base LDR zoning applicable to the property, which principally allows the single-family dwelling on a legal lot of record and non-habitable accessory structures, subject to a Coastal Administrative Permit (Title 20 sections 20.14.040.A. and 20.14.040.F.).

### Special Circumstances, Residence

The property is extremely constrained by slopes in excess of 30 percent and a steep coastal bluff, which is subject to coastal erosion and potential slope instability. Siting the residence inland from the bluff, to keep as much building area as possible landward of the geologically feasible building envelope and to minimize development on slopes in excess of 30 percent necessitates siting the residence closer to Highway 1, therefore encroaching into the 30 foot front setback. This also ensures greater consistency with LUP Policies 2.2.4.10.a and 2.7.4.1. Policy 2.2.4.10.a states that buildings located on slopes shall be sited on existing level areas and sufficiently set back from the frontal face, and specific geological hazards LUP policy 2.7.4.1 by designing the development to conform to the topography to the maximum extent feasible.

Additionally, one of the primary functions of a larger front setback in low density or suburban neighborhoods is to create larger front yards. These allow a uniform aesthetic design for residential neighborhoods and visually distance buildings from the street view. This condition is

not applicable for this setback, as the elevation of the residence would be far below the right of way and pulling the residence closer to the right of way minimizes its potential for visibility.

Therefore, there are unique topographic and geologic conditions on the property wherein denial of the Variance would encourage development further from the highway and closer to a coastal bluff, something not required of neighboring properties and discouraged by the LUP.

#### Special Privileges, Residence

Due to the unique configuration, topography, and access conditions (all of the residences in the neighborhood have access from a shared private driveway), some of these residences have received similar setback reductions so granting the Variance would not grant a special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the property is situated:

- The property most similar to the subject property is located at 243 Highway 1 (Assessor's Parcel Number 241-182-015-000), which is also directly between the Highway 1 right of way and a steep coastal bluff. The residence was approved by PLN070388 which included a Variance from the Board of Zoning Adjustment on October 11, 1960, reducing the front setback from the highway, which was later expanded by the Zoning Administrator on August 18, 1983 (ZA-5576). These Variances remain in effect for that property and, "resulted in the construction of the existing residence almost completely within the front setback."
- The house on the property at 255 Highway 1 (APN 241-182-020-000), west of the subject site and opposite the cove was approved by PLN170428. This approval included three Variances, including a reduction of the front setback for main structures from 30 feet to 6 feet and 7 inches, citing the nature of the site as a steep slope, the private right of way, and bluff as constraining factors.
- The house south of the subject site at 230 Highway 1 (APN 241-182-004-000) was approved by PLN110359. While no Variance was included in this approval, the property is bounded by private road rights of way on both its western and eastern property lines. The residence is sited with a compliant front setback along its western property line, but within the front setback from the 15 foot wide utilities and access right of way along its eastern property line.

#### Special Circumstances, Retaining Wall and Stairs

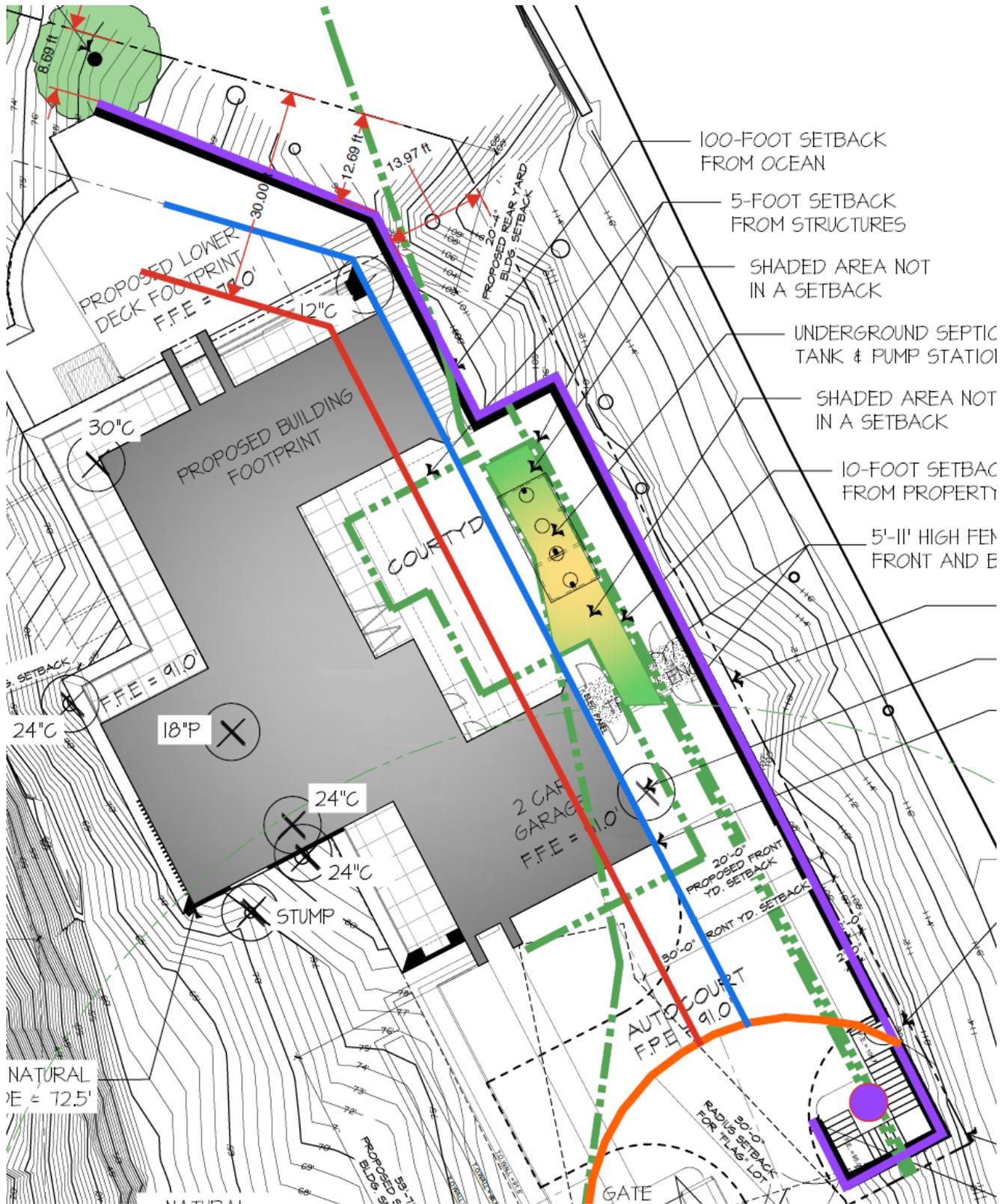
The evidence supporting this finding is similar to that supporting the reduced setback for the residence, including all the discussion regarding the property's steep slopes and coastal bluff. Additionally, the emergency access stairway is a secondary means of access for emergency responders due to the hairpin turn of the access driveway and the siting of the property, accessible only by a narrow 15 foot wide access easement that traverses over two other properties. The narrow roadway would be restrictive for current fire engines and difficult for emergency medical aid removal. This is a condition unique to the subject site. The other two properties that this easement runs through have paved driveway access directly to the private easement that serves this entire area.

### Special Privileges, Retaining Wall and Stair

The setback Variance for the retaining wall and emergency access stairway is a unique condition to the property. However, as previously discussed, due to the unique configuration, topography, and access conditions (all of the residences in the neighborhood have access from a shared private driveway), some of these residences have received similar setback reductions.

The retaining wall and emergency stairway are supporting infrastructure required to develop the site with a single-family residence for health and safety. Each of the 10 developed properties in this neighborhood are constructed with single-family residences. The floor area of the project and the nearby residences (inclusive of any accessory structures) is roughly commensurate with the level of development of other properties in the area, who have similar constraints. All properties are developed with large single-family residences, and the overall size of residences in the area ranges from 2,160 square feet to 8,941 square feet. The average overall was approximately 4,800 square feet (121 square feet less than the project), while the average of properties constructed in the last 10 years was 5,446 square feet (825 square feet more than the project).

The variance for the stairway and retaining wall would allow development of a residence in similar scale to others in the neighborhood allowed under an identical zoning classification, therefore it would not grant a special privilege.



**Figure 10:** The required 30 foot front setback for the residence is shown in red, while the proposed 20 foot front setback is shown in blue. The radius setback for the flag lot is in orange. The reduction in setback for the emergency access stairway and retaining wall varies and is shown in purple