

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

In the matter of the application of:

**VAN ESS PROPERTIES LLC (PLN230138)**

**RESOLUTION NO. 24 - 004**

Resolution by the Monterey County Planning Commission:

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

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

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

**FINDINGS**

1. **FINDING:** **CONSISTENCY** – The project and/or use, as conditioned, is consistent with the policies of the 1982 Monterey County General Plan, Carmel Area Land Use Plan, and Carmel Area Coastal Implementation Plan (Part 4); the requirements of the applicable subdivision and zoning ordinances (Titles 19 and 20); and other County health, safety, and welfare ordinances related to land use development.
 

**EVIDENCE:**

  - a) No conflicts were found to exist. No communications were received during the course of review of the project indicating any inconsistencies with the text, policies, and regulations in these documents.
  - b) The project involves a lot line adjustment (LLA) between two legal lots of record: Parcel A (3.24 acres) and Parcel B (3.13 acres). After the

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

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

- c) Allowed Use. The properties are located at 182 and 179 Van Ess Way, Carmel Area Land Use Plan (Assessor's Parcel Number 241-311-036-000 and 241-311-037-000), Coastal Zone. The parcels are zoned Low Density Residential, 1 acre per unit, with a Design Control overlay (Coastal Zone) [LDR/1-D (CZ)], which allows lot line adjustments (LLA) with the granting of a Coastal Development Permit. Additionally, demolition of an existing residence in a residential zoning district is allowed, subject to a Coastal Administrative Permit. Therefore, as proposed, the project involves an allowed land use for this site.
- d) HCD-Planning staff conducted a site inspection on November 27, 2023 to verify that the proposed project conforms to the applicable plans and Monterey County Code.
- e) Lot Legality. Consistent with Title 19, section 19.14.045.A1, A2, and A3, the following lot legality determination is derived based on the fact that the parcels were greater than 2.5 acres in size and conveyed prior to March 7, 1972 by a minor land division or less than 2.5 acres in size and conveyed prior to March 3, 1964 by minor land division, complied with applicable Monterey County Code in affect at the time of creation, complied with the provisions of the Subdivisions Map Act (SMA) at the time of creation, and were not combined or merged by the owner. Parcel 1, greater than 2.5 acres, was created as a separate parcel when a portion of the original Van Ess Estate was conveyed as a separate parcel in the Grant Deed from Richard F. McGraw to William G. Webb and Mary G. Webb executed on April 28, 1964 and recorded on May 18, 1964 in the Official Records of the County of Monterey, Reel 322 at Page 117. At the time of creation in May 1964, Parcel 1 (approximately 5 acres) complied with minimum lot size of 1 acre, per the then applicable R-1-D-B-4 zoning designation. Pursuant to Government Code Section 66412.6(a), a parcel is conclusively presumed to be legal if it was created prior to March 4, 1972 and at the time of its creation there was no local ordinance in effect which regulated divisions of land creating

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

- f) Subdivision Map Act Consistency. Pursuant to section 66412(d) of the Subdivision Map Act (SMA), the SMA is inapplicable to the lot line adjustment due to the fact that the final outcome of the LLA is not more than four adjoining parcels, and a greater number of parcels than previously existed is not being created. See also Finding No. 7 and supporting evidence.
- g) At this time, the County is only authorizing and granting a Combined Development Permit for a lot line adjustment, demolition of structures on Parcel B, and as conditioned, a CSE Amendment. Future structural development on the adjusted parcels will be required to conform to applicable MCC requirements in effect at the time of the proposed development.
- h) Review of Development Standards – Minimum Lot Size. The development standard for minimum lot size in the LDR zoning district is identified in Title 20 section 20.14.060.A, which identifies a minimum building site of one acre. The two existing legal lots of record exceed the minimum require acreage: Parcel A (3.24 acres) and Parcel B (3.13 acres). After the adjustment, the lots will continue to meet the minimum lot size: 3.39 acres [Adjusted Parcel A] and 2.98 acres [Adjusted Parcel B]. As proposed, the lot line adjustment will rearrange the total acreage (6.37) and result in two lots containing 6.37 acres. Therefore, the resulting parcels exceed the minimum lot size requirement.
- i) Review of Development Standards – Density. Pursuant to Title 20 section 20.14.060.B, the maximum development density shall not exceed the units/acre as shown for the specific “LDR” district as shown on the zoning map. The subject parcels are zoned LDR/1, which has a maximum gross density of 1 acre per unit.

Existing Parcel A (3.24 acres) and existing Parcel B (3.13 acres) meet the minimum density requirements. Parcel A is currently developed with a 5,100 square foot single family dwelling, while Parcel B is currently developed with a 611 square foot single family dwelling, a 94 square foot shed, and a 336 square foot garage. As proposed, this project would demolish all development on Parcel B. Development on Parcel A would remain. The LLA will result in both parcels meeting the minimum density requirement of 1 unit per acre. Any future permitting of additional residences would depend on other factors in addition to zoning (e.g., potable water credits and sewage disposal) and would require separate discretionary review. The resulting parcels conform as to the maximum development density requirement.

- j) Review of Development Standards – Structural Coverage & Floor Area Ratio. Pursuant to Title 20 section 20.14.060.E, the maximum site coverage and floor area ratio in this LDR district is 15 percent and 20 percent, respectively. Development on Parcel A and B are below the allowable coverage and floor area ratio. With implementation of the project, development on Adjusted Parcel A will have a site coverage and floor area ratio of 3 percent and 3.6 percent, respectively. Adjusted Parcel B will be vacant within implementation of the project, except for an existing well and underground water tank. Therefore, the resulting parcels conform to the maximum allowed site coverage and floor area ratio.
- k) Review of Development Standards – Setbacks. Pursuant to Title 20 section 20.14.060.C, the required main structure setbacks in this LDR district are 30 feet (front) and 20 feet (sides and rear). The existing residence on Adjusted Parcel A will continue to meet required setbacks with implementation of the proposed lot line adjustment (approximately 36 feet [front], 29 feet 9 inches and 125 feet 10 inches [east and west sides, respectively], and 193 feet 3 inches [rear]). Adjusted Parcel B will be vacant with implementation of this project.
- l) Design. Pursuant to Title 20 Chapter 20.44, the project parcels and surrounding area are designated as a Design Control Zoning District (“D” zoning overlay), which regulates the location, size, configuration, materials, and colors of structures and fences to assure the protection of the public viewshed and neighborhood character. Although portions of the two parcels are partially visible from Highway 1 or Point Lobos, no structural development is proposed (only demolition) and therefore there will be no visual resource impact through implementation of the LLA and no Design Approval is required.
- m) Historical Resources. A Phase 1 Historical Assessment (LIB230220) was prepared and determined that the circa-1956 residence and garage on Parcel B do not retain any historical significance for the following reasons. Firstly, the 1956 residence and garage were not developed as a result of a significant historic event and do not resemble outstanding examples of architectural design or construction methods. The only ownership period that could be considered significant occurred when Richard Francis McGraw purchased Parcels A and B in 1953. Mr. McGraw founded the McGraw Colorgraph Company in Burbank, California in 1953. The company produced the materials for making photogravures and color prints. Mr. McGraw resided in Burbank,

California in the 1950s-1960s and used residences on Parcels A and B as secondary residences. Since Burbank, California was Mr. McGraw's primary residence, the subject property and related development are not considered to be associated with significant persons. associated with the development. Therefore, demolition of the residence, garage, and shed on Parcel B would not impact any historical resources.

- n) Conservation and Scenic Easement. In 1976 a CSE was granted over portions of Parcels A and B to the County of Monterey with the purpose of protecting the properties' natural scenic beauty and slopes in excess of 30 percent (Document No. 33808; Reel 1079, Page 403). The CSE boundaries were adjusted through recordation of a Certificate of Correction (Document No. 59263) to account for areas of existing development on Parcel B and to better capture Parcel B's steeper slopes. The CSE boundaries on Parcel A were not adjusted in 1994 and currently to not capture the entirety of the property's steeper slopes. Further, the existing CSE boundaries do not ensure protection of the properties' environmentally sensitive habitat area (ESHA). As conditioned, the proposed CSE Amendment would revise the deed language and map boundaries. The proposed CSE Map Amendment would increase portions of Parcel A and B that contain slopes in excess of 30 percent or ESHA, and remove portions that contain existing permitted development or are absent of natural resources. This would increase the easement boundaries by 10,472 square feet and better conform to the goals, policies, and text of the Carmel Area Land Use Plan regarding protection of slopes in excess of 30 percent and ESHA. Additionally, the proposed CSE Amendment would update the easement deed's exceptions and restrictions to meet modern requirements, including invasive plant species removal, fuel management (subject to separate permitting if required), and restoration activities. The amended easement deed would continue to prohibit new structures within the easement boundaries, material alteration of the topography and landscape, and advertising, thus ensuring preservation and conservation of the properties' natural scenic beauty and natural condition in perpetuity. The Board of Supervisors is the appropriate body to consider amendments to CSEs. However, neither the LLA nor the proposed demolition work are contingent on amending the CSE and therefore, Condition No. 6 has been applied to ensure that CSE Amendment (deed and associated map) is implemented.
- o) Land Use Advisory Committee. Based on the LUAC Procedure Guidelines adopted by the Monterey County Board of Supervisors, this application warranted referral to the LUAC because it involves a lot line adjustment in the Coastal Zone. On October 2, 2023, the Carmel Unincorporated/Highlands Land Use Advisory Committee (LUAC) reviewed the original project scope, which included adjustment of a third parcel under common ownership (Parcel C). At this meeting, members of the public raised questions regarding the development potential of Parcel C, whether CalAm had reviewed the development proposal for Parcels A and B, requested that additional fire water storage be installed by the property owner, and generally noted that Van Ess is a private, narrow road with limited emergency access. The LUAC voted 4-0 to support the project with the change that Parcel C

boundaries are not adjusted. The LUAC cited the need maintain or reduce existing combined development potential of these three properties and preserve the open space buffer between surrounding residences and the subject properties' development as a reason why Parcel C should be excluded from the proposed LLA. On February 14, 2024, project was revised to only include adjustment of Parcels A and B, not Parcel C. This revision is consistent with the recommendation of the LUAC. The subject property is not required to provide water storage for all residences on Van Ess Way, and the proposed LLA will not further impact emergency access.

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

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

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

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

- EVIDENCE:**
- a) The project was reviewed by HCD-Planning, HCD-Engineering Services, HCD-Environmental Services, Carmel Highlands Fire Protection District, and Environmental Health Bureau. Conditions have been recommended, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood.

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

4. **FINDING:** **NO VIOLATIONS** – The subject properties are in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of the County’s zoning ordinance. No violations exist on the properties.
- EVIDENCE:**
- a) County staff reviewed Monterey County HCD-Planning and HCD-Building Services records, and the County is not aware of any violations existing on the subject properties.
  - b) The project planner conducted a site inspection on November 27, 2023, and researched County records to assess if any violations exist on the subject properties.
  - c) The application, plans and supporting materials submitted by the project applicant to Monterey County HCD-Planning for the proposed development are found in Project File PLN230138.
5. **FINDING:** **CEQA (Exempt)** – The project is categorically exempt from environmental review and no unusual circumstances were identified to exist for the proposed project.
- EVIDENCE:**
- a) California Environmental Quality Act (CEQA) Guidelines section 15301(1) categorically exempts the demolition and removal of small structures, including single family dwellings. CEQA Guidelines section 15305(a) categorically exempts minor lot line adjustments not resulting in the creation of any new parcel.
  - b) The applicant proposes demolition of a 611 square foot single family dwelling, 336 square foot garage, and a 94 square shed. Therefore, this portion of the project is consistent with the categorical exemption requirements of CEQA guidelines section 15301. Additionally, the project includes a minor lot line adjustment between two legal lots of record: Parcel A (3.24 acres) and Parcel B (3.13 acres), resulting in two lots of record containing 3.39 acres [Adjusted Parcel A] and 2.98 acres [Adjusted Parcel B]. No new lots will be created by the lot line adjustment and therefore this component qualifies as a Class 5 categorical exemption.

- c) The lot line adjustment will not intensify the level of development allowed on the parcels, either individually or cumulatively. After the implementation of the proposed lot line adjustment and demolition, the adjusted/resulting parcels will continue to conform with regard to site coverage, floor area ratio, and setbacks. Therefore, the proposed development is consistent with CEQA Guidelines Section 15305(a) and Title 19 Section 19.09.005.C.
- d) No adverse environmental effects were identified during staff review of the development application or during a site visit on November 27, 2023.
- e) None of the exceptions under CEQA Guidelines Section 15300.2 apply to this project. The project does not involve alterations to a designated historical resource, a hazardous waste site, nor development that would result in a cumulatively significant impact. Although the project would allow development (Title 20 section 20.06.310.4.b, defines a lot line adjustment as development), the lot line adjustment will not intensify the level of development allowed on the parcels, see Finding No. 1, evidence “i”. With implementation of the project, maximum development potential of the combined lots decreases by one unit and therefore wouldn’t contribute to any cumulative environmental effects. As detailed in Finding No. 1, Evidence “m”, the project will not impact the property’s historical resources. There are no unusual circumstances associated with undertaking the project that would create the reasonable possibility that the project would have a significant effect on the environment.
- f) The application, project plans, and related support materials submitted by the project applicant to Monterey County HCD-Planning for the proposed development found in Project File PLN230138.

6. **FINDING:** **PUBLIC ACCESS** – The project is in conformance with the public access and recreation policies of the Coastal Act (specifically Chapter 3 of the Coastal Act of 1976, commencing with Section 30200 of the Public Resources Code) and Local Coastal Program, and does not interfere with any form of historic public use or trust rights.

- EVIDENCE:**
- a) No access is required as part of the project as no substantial adverse impact on access, either individually or cumulatively, as described in Section 20.146.130 of the Monterey County Coastal Implementation Plan can be demonstrated.
  - b) Although the subject properties are shown in an area where the applicable Local Coastal Program requires public access (Figure 3, Public Access, Carmel Area Land Use Plan), no evidence or documentation has been submitted or found showing the existence of historic public use or trust rights over this property. Additionally, the proposed LLA, demolition, and CSE Amendment will not affect the processes of the shoreline.
  - c) County staff conducted a site inspection on November 27, 2023, to verify that the proposed project will not impact public access.
  - d) The application, project plans, and related support materials submitted by the project applicant to Monterey County HCD-Planning for the proposed development found in Project File PLN230138.

7. **FINDING:** **LOT LINE ADJUSTMENT** – Section 66412(d) of the California Government Code (Subdivision Map Act) and Title 19 (Subdivision Ordinance – Coastal) of the Monterey County Code (MCC) allow a lot line adjustment that meets the following standards:
1. The lot line adjustment is between four or fewer existing adjoining parcels;
  2. A greater number of parcels than originally existed will not be created as a result of the lot line adjustment; and
  3. The parcels resulting from the lot line adjustment conform to the County’s general plan, any applicable specific plan, any applicable coastal plan, and zoning and building ordinances.

As proposed, the project meets these standards.

- EVIDENCE:**
- a) The parcels are zoned Low Density Residential, 1 unit per acre, with a Design Control overlay (Coastal Zone) [LDR/1-D (CZ)].
  - b) The lot line adjustment is between four or fewer existing adjoining parcels. The two existing legal lots of record have a total combined area of 6.37 acres. After the adjustment, there will be two lots of record containing 3.39 acres [Adjusted Parcel A] and 2.98 acres [Adjusted Parcel B].
  - c) The lot line adjustment will not create a greater number of parcels than originally existed. Two contiguous separate legal parcels of record will be adjusted, resulting in two contiguous separate legal parcels of record. Therefore, no new parcels will be created.
  - d) The proposed lot line adjustment is consistent with the Monterey County Zoning Ordinance (Title 20). County staff verified that the subject property is in compliance with all rules and regulations pertaining to the use of the property, and that no violations exist on the property (see Finding Nos. 1, 2, 3, and 4; and supporting evidence).
  - e) The subject properties are zoned for residential purposes. Public/quasi-public uses, such as hospitals are allowed. Parcel A is currently developed with single family dwelling, which will remain on Adjusted Parcel A. Parcel B contains a single-family dwelling, garage, and shed, which will be demolished with implementation of the proposed project. Adjusted Parcel B will be vacant (except of a well and underground water tanks). No changes in use are proposed. None of the property area is under Williamson Act contract or used for agricultural purposes.
  - f) The proposed lot line adjustment does not interfere with existing access and/or utility easements, which will remain unchanged.
  - g) As an exclusion to the Subdivision Map Act, no map is recorded for a Lot Line Adjustment. To appropriately document the boundary changes, execution and recordation of deeds reflecting the lot line adjustment as well as a Certificate of Compliance for each adjusted lot is required per incorporated standard conditions of approval (Condition Nos. 4 and 5; and supporting evidence).
  - h) The project planner conducted a site inspection on November 27, 2023, to verify that the project will not conflict with zoning or building ordinances.
  - i) The application, project plans, and related support materials submitted by the project applicant to Monterey County HCD-Planning for the proposed development found in Project File PLN230138.

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

**DECISION**

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

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

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

**PASSED AND ADOPTED** this 28<sup>th</sup> day of February, 2024, upon motion of Commissioner Gomez, seconded by Commissioner Daniels, by the following vote:

AYES: Shaw, Getzelman, Work, Gonzalez, Mendoza, Diehl, Roberts, Monsalve, Daniels, Gomez

NOES: None

ABSENT: None

ABSTAIN: None

DocuSigned by:



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Melanie Beretti, AICP, Planning Commission Secretary

COPY OF THIS DECISION MAILED TO THE APPLICANT ON 03/05/2024.

THIS APPLICATION IS APPEALABLE TO THE BOARD OF SUPERVISORS.

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE CLERK TO THE BOARD ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE 03/15/2024.

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

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

NOTE

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

# County of Monterey HCD Planning

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

PLN230138

### 1. PD001 - SPECIFIC USES ONLY

**Responsible Department:** Planning

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

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

**2. PD002 - NOTICE PERMIT APPROVAL**

**Responsible Department:** Planning

**Condition/Mitigation Monitoring Measure:** The applicant shall record a Permit Approval Notice. This notice shall state:  
"A Combined Development Permit (Resolution Number 24-004) was approved by the Monterey County Planning Commission for Assessor's Parcel Numbers 241-311-036-000 and 241-311-037-000 on February 28, 2024. The permit was granted subject to 9 conditions of approval which run with the land. A copy of the permit is on file with Monterey County HCD - Planning."

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

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

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

**Responsible Department:** Planning

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

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

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

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

<b>4. LOT LINE ADJUSTMENT DEED (NON-STANDARD CONDITION)</b>
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**Responsible Department:** Planning

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

**Compliance or Monitoring Action to be Performed:**

1. An updated title report (current within 30 days) for each subject parcel of the lot line adjustment.
2. Draft legal descriptions, plats and closure calculations for each newly adjusted parcel of the lot line adjustment for which a Certificate of Compliance will be issued. The legal description, plat, and closure calculations shall be prepared by a professional land surveyor. The legal description shall be entitled "Exhibit A" and shall have the planning permit no. (PLN) in the heading. The plat may be incorporated by reference into Exhibit "A," or be entitled Exhibit "B."
3. Draft deeds for all adjustment parcels, being all areas being conveyed by Owners in conformance to the approved lot line adjustment. The deeds shall contain a legal description and plat of the areas to be conveyed in conformance to the approved lot line adjustment. The legal description, plat, and closure calculations shall be prepared by a professional land surveyor. The legal description shall be entitled "Exhibit A" and shall have the planning permit no. (PLN) in the heading. The plat may be incorporated by reference into Exhibit "A," or be entitled Exhibit "B." The deed shall comply with the Monterey County Recorder's guidelines as to form and content.
  - a. The Owner(s)/Applicant(s) shall be responsible for ensuring the accuracy and completeness of all parties listed as Grantor and Grantee on the deeds.
  - b. Each deed shall state in the upper left corner of the document the party requesting the recording and to whom the recorded document shall be returned.
  - c. The purpose of the deed shall be stated on the first page of the deed, as follows:  
 "The purpose of this deed is to adjust the parcel boundaries in conformance to the lot line adjustment approved by the County of Monterey, PLN230138. This deed is being recorded pursuant to §66412(d) of the California Government Code and shall reconfigure the subject parcels in conformance to said approved lot line adjustment."

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

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

**5. PD045 - COC (LOT LINE ADJUSTMENTS)**

**Responsible Department:** Planning

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

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

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

**6. PDSP001 - CONSERVATION AND SCENIC EASEMENT AMENDMENT**

**Responsible Department:** Planning

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

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

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

**Responsible Department:** Planning

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

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

All Air District standards shall be enforced by the Air District.  
(HCD - Planning)

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

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

**8. PD049 - TREE AND ROOT PROTECTION**

**Responsible Department:** Planning

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

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

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

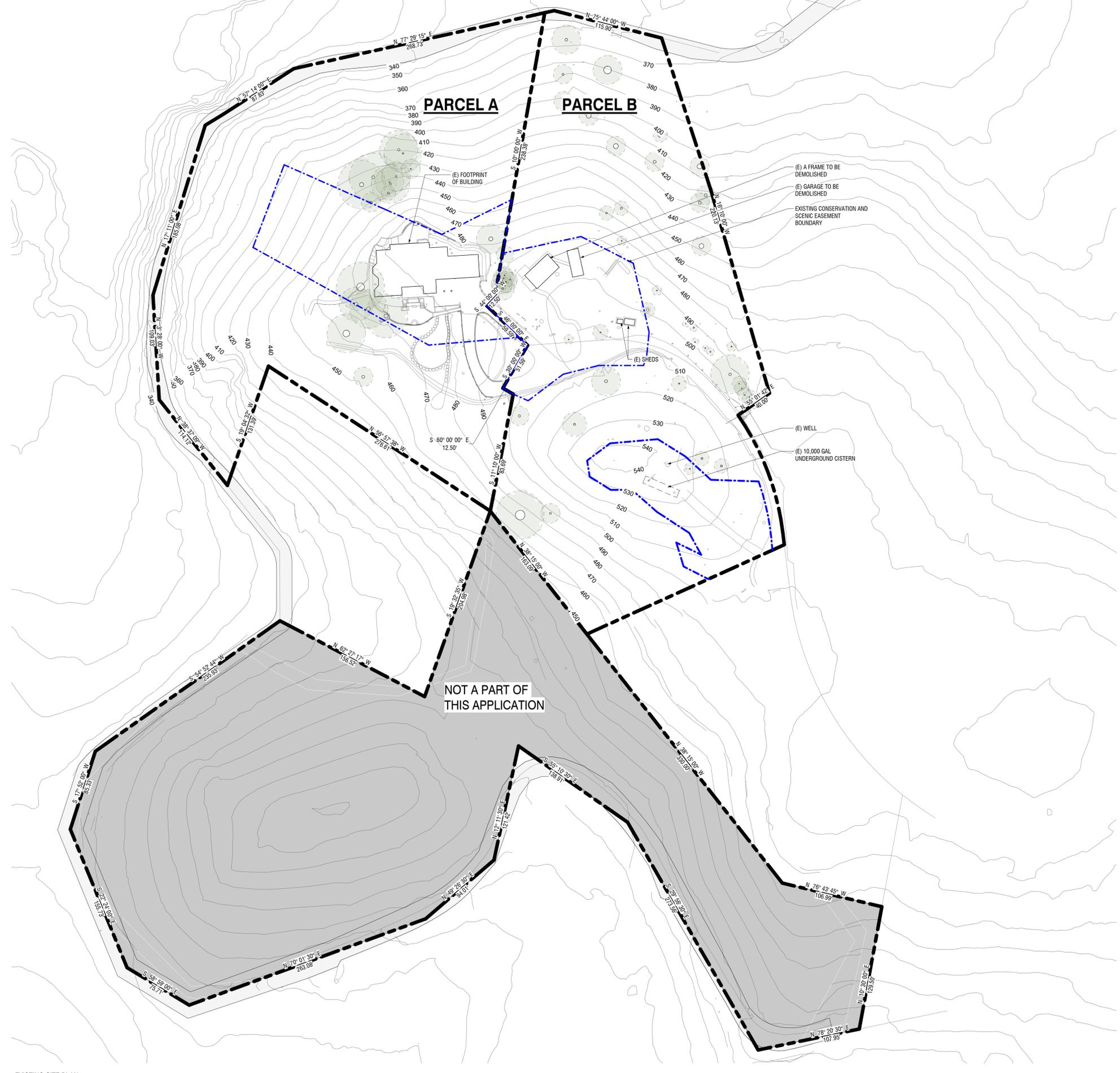
<b>9. CC01 INDEMNIFICATION AGREEMENT</b>
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**Responsible Department:** County Counsel-Risk Management

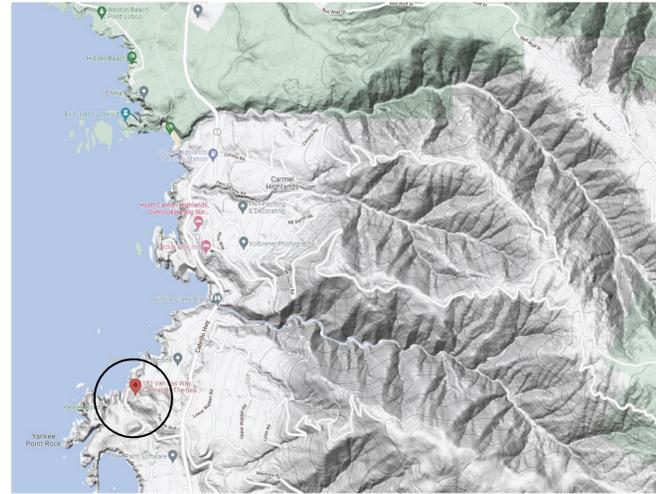
**Condition/Mitigation Monitoring Measure:** The property owner agrees as a condition and in consideration of approval of this discretionary development permit that it will, pursuant to agreement and/or statutory provisions as applicable, including but not limited to Government Code Section 66474.9,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

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

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



### VICINITY MAP



### SCOPE OF WORK

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

### PROJECT DATA

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

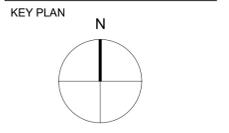
### DRAWING INDEX

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



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

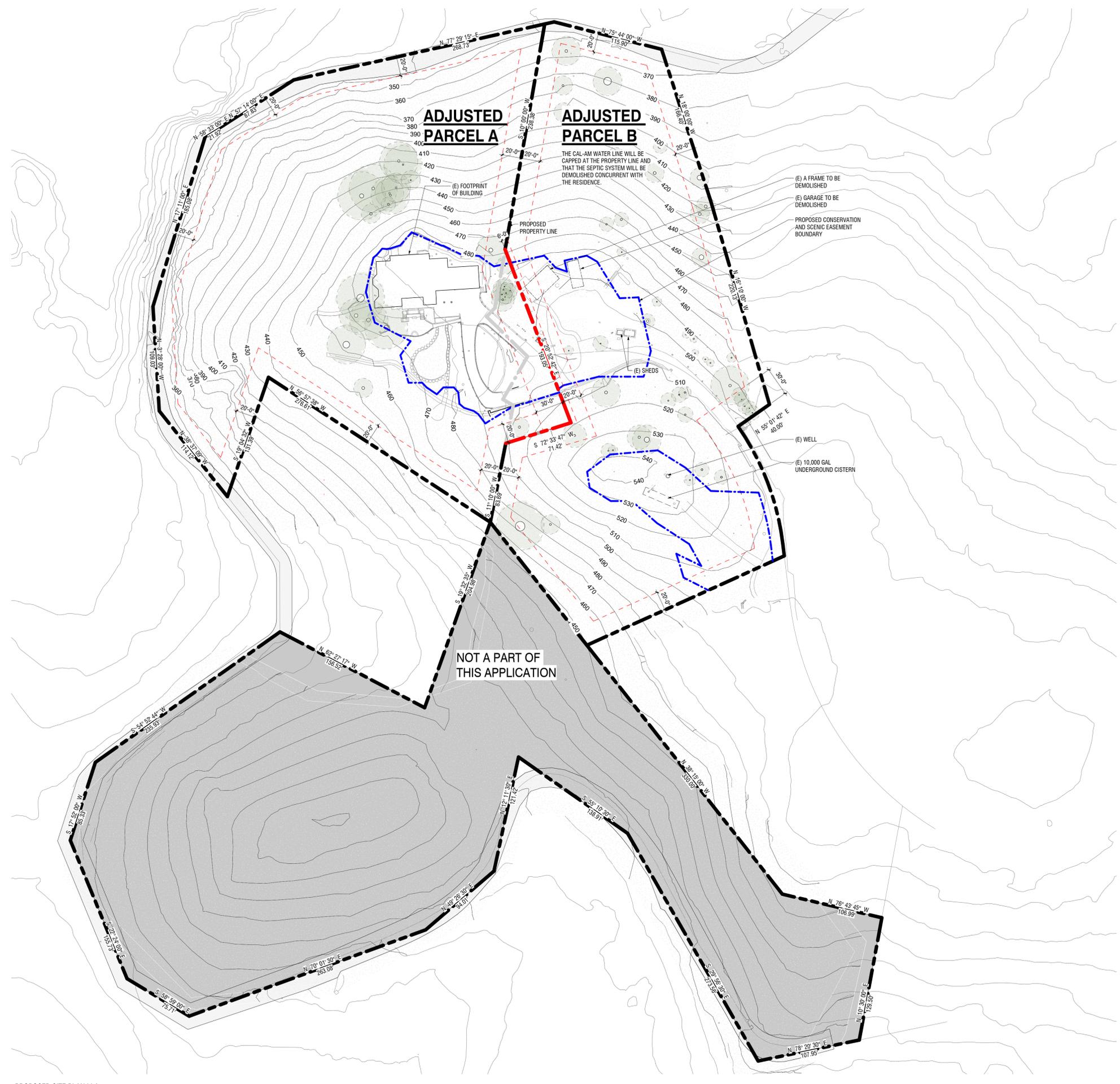
Issue Set / Revisions		
No.	Description	Date
1	PRICING SET	2.17.23
2	PRE-APP SET	05.05.23
3	PLANNING SET	07.30.23
4	PLANNING_SET_REV 1	09.01.23
6	PLANNING_SET_REV 3	02.15.24



<b>VAN ESS RESIDENCE</b>	
182 Van Ess Way Carmel-By-The-Sea CA 93923	
Date	02/15/24
Drawn by	AC
Scale	As indicated

### EXISTING PARCEL CONFIGURATION

Sheet number  
**AS001-LL**



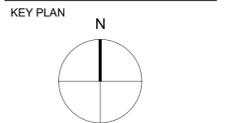
**FIELD**  
ARCHITECTURE

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

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6	PLANNING SET_REV 3	02.15.24



**VAN ESS RESIDENCE**

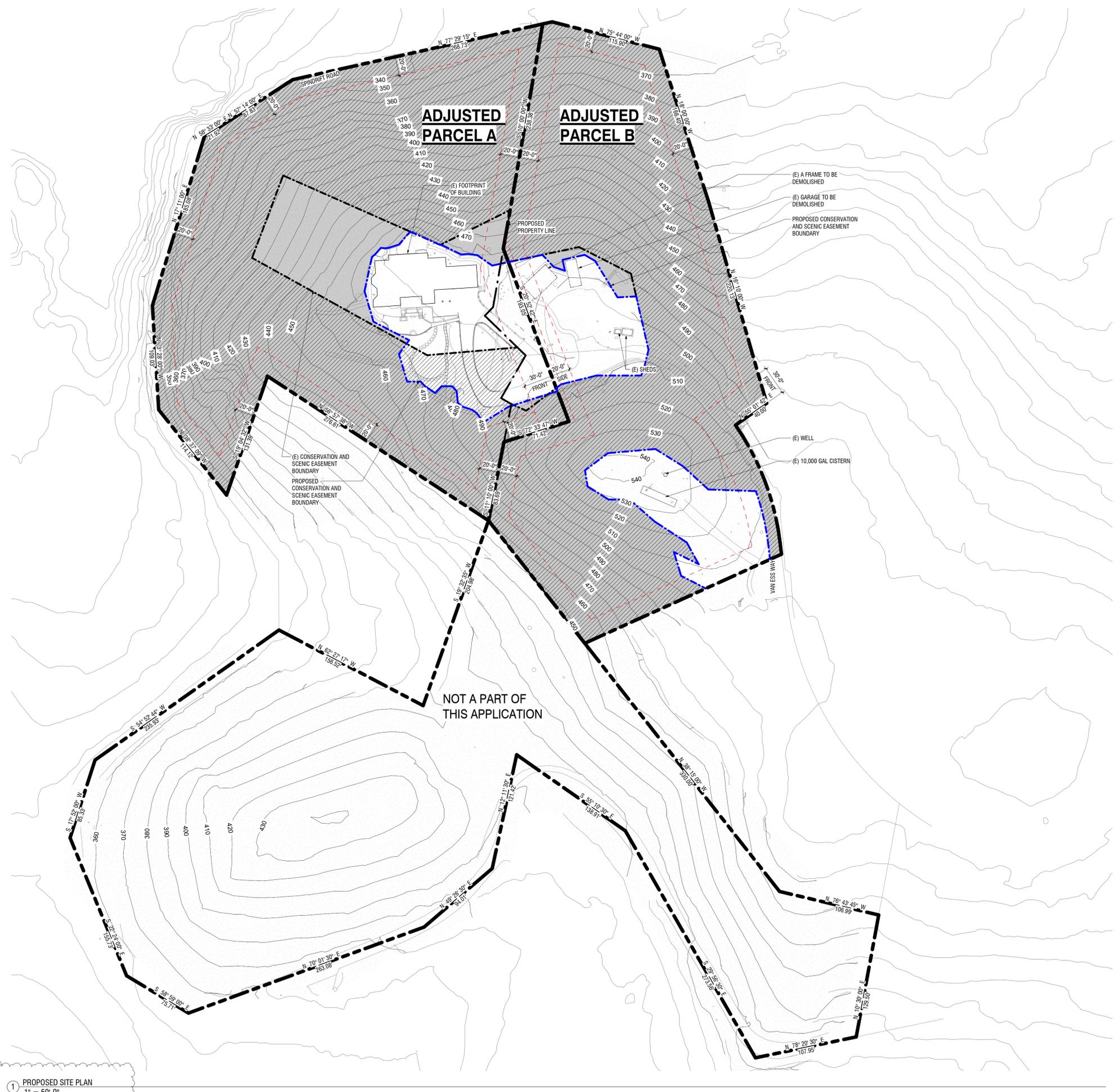
182 Van Ess Way  
Carmel-By-The-Sea CA 93923

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

**PROPOSED PARCEL CONFIGURATION**

Sheet number  
**AS002-LL**

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



**ADJUSTED PARCEL A**

**ADJUSTED PARCEL B**

(E) A FRAME TO BE DEMOLISHED  
 (E) GARAGE TO BE DEMOLISHED  
 PROPOSED CONSERVATION AND SCENIC EASEMENT BOUNDARY

(E) CONSERVATION AND SCENIC EASEMENT BOUNDARY  
 PROPOSED CONSERVATION AND SCENIC EASEMENT BOUNDARY

(E) WELL  
 (E) 10,000 GAL CISTERN

NOT A PART OF THIS APPLICATION

**LEGEND**

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

**AREAS**

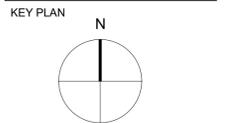
EXISTING EASEMENT - 215,769 SF  
 PROPOSED EASEMENT - 226,241 SF  
 NET INCREASE = 10,472 SF

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

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**VAN ESS RESIDENCE**  
 182 Van Ess Way  
 Carmel-By-The-Sea CA 93923  
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 Drawn by AC  
 Scale As indicated

**PROPOSED CONSERVATION AND SCENIC EASEMENT AMENDMENT**

Sheet number  
**AS003-LL**

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