Monterey County
Planning Commission

168 West Alisal Street,
1st Floor
Salinas, CA 93901
831.755.5066

Agenda Item No. 5

Legistar File Number: PC 17-074

August 30, 2017

Introduced: 8/21/2017 **Current Status:** Agenda Ready
Version: 1 **Matter Type:** Planning Item

PLN130339 - COLLINS
Public hearing to consider recommendation to the Board of Supervisors to amend the Local Coastal Program rezoning 2.0 acres of a 30-acre parcel from Resource Conservation, Coastal Zone ["RC(CZ)"] to Watershed and Scenic Conservation, Special Treatment, Coastal Zone ["WSC/SpTr(CZ)"] to allow establishment of a domestic well, removal of two Monterey pine trees and construction of a new single-family dwelling where some of the development would occur on slopes in excess of 30% and within 100 feet of an environmentally sensitive habitat area (ESHA).
Project Location: 83 Mt. Devon Road, Carmel (APN: 241-021-007-000)
Proposed CEQA Action: Adopt a Mitigated Negative Declaration

RECOMMENDATION:
It is recommended that the Planning Commission:

1) Adopt the Mitigated Negative Declaration;
2) Recommend the Board of Supervisors adopt a resolution of intent to approve the Local Coastal Program Amendment to rezone the property from Resource Conservation, Coastal Zone ["RC(CZ)"] to Watershed and Scenic Conservation, Special Treatment, Coastal Zone ["WSC/SpTr(CZ)"].
3) Approve the Combined Development Permit, consisting of:
   a. Coastal Administrative Permit and Design Approval to allow construction of a 2,397 square foot two-story single family dwelling with a 409 square foot attached garage and 143 square foot mechanical room;
   b. Coastal Administrative Permit to establish a domestic well;
   c. Coastal Development Permit to allow the removal of one 14-inch and one 18-inch Monterey pine tree;
   d. Coastal Development Permit to allow development within 100-feet of an environmentally sensitive area;
   e. Coastal Development Permit to allow development on slopes in excess of 30%; and
4) Adopt a Mitigation Monitoring and Reporting Program

The attached resolution includes findings and evidence for consideration (**Exhibit C**). Staff recommends approval subject to 27 conditions of approval and 4 mitigation measures. The Planning Commission is the Appropriate Authority to approve the Combined Development Permit (CDP); however, the CDP is contingent on rezoning the property. As such, Planning Commission approval of the CDP would be subject to approval of the Local Coastal Program Amendment by the County Board of Supervisors and California Coastal Commission.

PROJECT INFORMATION:
Agent: Robert Carver
Property Owner: James G & Sook Collins

APN: 241-021-007-000
Parcel Size: 2.98 acres
Zoning: "RC(CZ)" Resource Conservation, Coastal Zone.
Plan Area: Carmel Area Land Use Plan
Flagged and Staked: Yes

SUMMARY:
The subject property is a 30-acre parcel located in the Carmel Highlands area, approximately 1/3 of a mile east of the Highlands Inn (Vicinity Map, Exhibit E). Point Lobos State Park is approximately 1-mile northwest and Yankee Point Drive is less than 1-mile to the southwest. Elevations of the property range between 450 and 850 feet above sea level. Data from Google Earth indicates that the area of proposed development is approximately 520 feet above sea level. Mount Devon Road, a public road right of way, runs along the parcel's western property line, traverses through the property in a north-south direction, then switches back along the eastern property line. Vegetation is comprised of mainly Monterey pine forest and Central Maritime Chaparral. Existing development on the site consists of 100,000-gallon water tank for California American Water and a set of stairs to provide access to the tank.

The property's land use designation, as illustrated in the Carmel Area Land Use Plan (CAR LUP) map, is Resource Conservation - Forest & Upland Habitat and zoning is Resource Conservation, Coastal Zone or "RC(CZ)." The purpose of this zoning district is to protect, preserve, enhance, and restore sensitive resource areas. Of specific concern are areas containing viewshed, watershed, plant and wildlife habitat, streams, beaches, dunes, tidal areas, estuaries, sloughs, forests, public open space areas and riparian corridors. Implementation of RC zoning regulations are intended to result in development that can be achieved without adverse effect while remaining subordinate to the resources of the particular site and area. This district does not list residential development as an allowed use. Other parcels within the BSI boundary have been designated with zoning and/or a Special Treatment overlay that allowed development of single family homes.

Figure 2 - Special Treatment Areas of the CAR LUP demonstrates that the subject property is part of a special treatment area known as the Behavioral Science Institute or "BSI" property (**Exhibit K**). An accompanying residential development policy (Policy 4.4.3E.6 of the CAR LUP) specifies that the BSI property may be developed for residential use, provided the units are outside of the view from Highway 1 and that the "upper steeper portion" remain in open space. In 2003, the Coastal Commission accepted a Periodic Review of the CAR LUP that included a map illustrating that the Collins property as a remaining developable parcel with (1) maximum allowable unit (Map LU-12b, **Exhibit J**). The applicant indicates that these documents are the premise for the proposed request: 1) amend the Local Coastal Program to allow rezoning the property from RC(CZ) to Watershed and Scenic Conservation, Special Treatment, Coastal Zone or "WSC/SpTr(CZ)" and 2) establish a residential use on the site. Staff supports rezoning of the 30-acre parcel and confining development, delineated by a building envelope of approximately 11,000 square feet (containing the driveway, structure, well and well access road, and septic tank) and an additional 2,500 square foot exception area (containing the septic leachfield) located over 120-feet uphill from the building envelope.

The proposed residential development involves cutting into a hillside to construct a three-level

structure comprised of a two-story 2,397 square foot single family dwelling over an attached 409 square foot garage and 143 square foot mechanical room. A domestic well and storage tank, with a separate access road, is proposed to serve the residence with potable water and wastewater service proposed through an onsite wastewater treatment system consisting of a septic tank and a 2,500 square foot geoflow subsurface drip tubing dispersal area, as an alternative to a standard leachfield area. Site improvements also include grading of 943 cubic yards of cut and 79 cubic yards of fill and the removal of one 14-inch Monterey Pine tree. The site plan shows a patio area with an 18-inch Monterey Pine surrounded by a tree well. Although the arborist report indicates it can survive in these conditions, staff has analyzed the project to include its removal based on our belief there is potential for the development to cause this tree to decline.

Several potential issues were identified through staff's analysis. The most significant was the issue of determining if this parcel should allow residential development, or if the land use/zoning was intended to restrict such development here. The subject property is the only parcel zoned RC without a Special Treatment designation, which was either intentional to avoid development or an oversight. If this parcel is to be allowed a Special Treatment overlay to allow development of a residence, then we have to address how the proposed development would, or would not, fit in the policy objectives of the CAR LUP. In order to provide the Planning Commission potential options to consider, staff has laid out the analysis and interpretation of historical background (going back over 50-years) for both the subject property and the BSI property was necessary. Staff finds that there is compelling evidence to indicate the parcel was intended to allow one residence. However, we feel the envelope area should be minimized, which creates another issue of defining a reasonable footprint. Staff feels that approximately 11,000 square feet (with an additional 2,500 square foot exception area for septic only) of the 30-acre parcel is reasonable and is supported by the project plans. Staff recommends applying the Watershed and Scenic Conservation designation as it allows rural residential development in the more remote or mountainous areas in the Coastal Zone, while protecting significant resources such as viewshed, watershed, and plant and wildlife habitat. Only developments that can be achieved without adverse effect and are subordinate to these resources would be allowed. The building area is upslope from Mount Devon Road and siting and design of the structure would result in the view of a 3-level structure. This development is consistent with applicable viewshed policies and reduces the amount of vegetation removal and development on 30% slopes.

Potential impacts resulting from the proposed development were analyzed, the bulk of which is contained within the Initial Study/Draft Mitigated Negative Declaration (IS/MND) prepared for the project (see **Exhibit F**). The IS/MND identified potential impacts to aesthetics, biological resources, and land use planning. However, implementation of mitigation measures; incorporating a conservation and scenic easement, biological resources protection plan, well drilling plan, and restoration plan; would reduce the potential impacts to a less than significant level. The IS/MND was circulated for public review and staff received several comments from neighboring property owners (see **Exhibit G**).

The draft discussion and draft resolution contains evidence of project consistency based on RMA-Planning staff and other agency review. In summary, the comments raised concerns with landslides caused by previous development in the area, reversing the development restriction

through rezoning, development on slopes in excess of 30%, quantity of grading, and the encroachment into the front setback. The applicant has submitted a letter responding to these concerns (**Exhibit H**). Staff has resolved and addressed these comments in the project discussion found in **Exhibit B** and within CEQA findings contained in the draft resolution attached as **Exhibit C**. If the Commission does not support the rezoning, then staff finds that the CDP must be denied since residential development is not allowed in the RC zone. In that case, the Commission could continue the CDP portion until/unless the rezoning is approved by the Board and CCC. The CDP is subject to appeal to the Board and ultimately the CCC.

DISCUSSION:
Detailed discussion is provided in **Exhibit B**.

OTHER AGENCY INVOLVEMENT:
The following agencies have reviewed the project, have comments, and/or have recommended conditions:

- ✓ RMA-Public Works
- ✓ RMA-Environmental Services
- ✓ Water Resources Agency
- ✓ Carmel Highlands Fire Department
- ✓ Carmel Highlands Land Use Advisory Committee

The proposed project was reviewed by Carmel/Carmel Highlands Land Use Advisory Committee on September 15, 2014. The LUAC recommended approval of the project by a vote of 4-0 with no comments (**Exhibit D**).

Prepared by: Anna V. Quenga, Associate Planner ext. 5175
Reviewed by: Brandon Swanson, RMA Planning Services Manager BS
Approved by: Carl P. Holm, AICP, RMA Director

The following attachments are on file with the RMA:

Exhibit A - Project Data Sheet
Exhibit B - Discussion
Exhibit C - Draft Resolution including:
- Attachment 1 - Draft Rezone Ordinance
  - Exhibit A - Proposed Amended Zoning Map Section 20.16
- Attachment 2 - Conditions of Approval
- Attachment 3 - Project Plans

Exhibit D - LUAC Minutes
Exhibit E - Vicinity Map
Exhibit F - Initial Study/Negative Declaration
Exhibit G - Comments on Initial Study/Negative Declaration
Exhibit H - Applicant Response to Comments
Exhibit I - Carmel Area Land Use Plan Findings of Approval (Excerpt)
Exhibit J - LCP Periodic Review Update (Excerpt)
Exhibit K - Figure 2 - Special Treatment Areas of the CAR LUP

cc: Front Counter Copy; Planning Commission; California Coastal Commission; Robert Carver,

Agent; James G. Collins, Applicant/Owner; The Open Monterey Project (Molly Erickson); LandWatch (Executive Director); Jacqueline R. Onciano, RMA Chief of Planning; Brandon Swanson, RMA Services Manager; Anna V. Quenga, Associate Planner; Marc Davidian, Gwyn De Amaral, Meghan De Amaral, Zane De Amaral, Jim and Dolores King; Tracy Piazza-Leaton, Brian Wilson, and Gary Fontana (Interested Parties); Project File PLN130339.

Exhibit A

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EXHIBIT A

Project Information for PLN130339

Application Name:	Collins James G & Sook		
Location:	83 Mt Devon Rd A, Carmel		
Applicable Plan:	Carmel LUP	**Primary APN:**	241-021-007-000
Advisory Committee:	Carmel/Carmel Highlands Advisory Committee	**Coastal Zone:**	Yes
Permit Type:	Combined Development Permit	**Final Action Deadline (884):**	4/27/2016
Environmental Status:	Mitigated Negative Declaration		
Zoning:	RC-D(CZ)	**Land Use Designation:**	Forest & Upland Habitat

Project Site Data:

Lot Size:	30	**Coverage Allowed:**	10%
		Coverage Proposed:	.12%
Existing Structures (sf):	0	**Height Allowed:**	24
Proposed Structures (sf):	1624	**Height Proposed:**	24
Total Sq. Ft.:	1624		
		FAR Allowed:	N/A
Special Setbacks on Parcel:		**FAR Proposed:**	N/A

Resource Zones and Reports:

Seismic Hazard Zone:	III	**Soils Report #:**	LIB140279
Erosion Hazard Zone:	High	**Biological Report #:**	LIB140278
Fire Hazard Zone:	Very High	**Forest Management Rpt. #:**	N/A
Flood Hazard Zone:	X (unshaded)	**Geologic Report #:**	LIB160170
Archaeological Sensitivity:	high	**Archaeological Report #:**	LIB140277
Visual Sensitivity:	Highly Sensitive	**Traffic Report #:**	N/A

Other Information:

Water Source:	WELL	**Grading (cubic yds.):**	1022
Water Purveyor:	PRIVATE	**Sewage Disposal (method):**	SEPTIC
Fire District:	Carmel Highlands FPD	**Sewer District Name:**	N/A
Tree Removal:	2/MONTEREY PINES		

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Exhibit B

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EXHIBIT B
PROJECT DISCUSSION

As stated in the cover staff report, several factors have been analyzed and are presented for consideration by the Planning Commission. In terms of regulation hierarchy, in this particular case, policy objectives of the Carmel Area Land Use Plan (CAR LUP) should be considered, followed by implementation of those policies, including zoning regulations. The Collins' project includes an atypical situation, where there appears to be evidence, that when interpreted, could support or dispute the proposed development.

In an attempt to lessen the complexity of the project's circumstances, staff has divided this exhibit into a 4-part discussion in order allow the Planning Commission to weigh the facts relative to support or denial of rezoning the subject property as well as consider potential impacts resulting from the zone change. Below is a summary of the 4 parts of the discussion:

- PART 1 – BACKGROUND INFORMATION:
    - Background information discussing history of the subject property, the Behavioral Science Institute (BSI) property and its designation as a special treatment area, and previous BSI property developments. This information is presented first to understand how the property was meant to be treated as part of an overall special treatment area.
- PART 2 – ESTABLISHMENT OF RESIDENTIAL DEVELOPMENT:
    - Discussion of anticipated physical changes on the site resulting from establishment of a residential use.
- PART 3 – PROJECT ISSUES:
    - Project issues that were identified through project review and staff's approach to resolving those issues.
- PART 4 – CEQA:
    - Discussion of the outcome of the project's environmental review.

PART 1 – BACKGROUND INFORMATION

Historical Account of Subject Property
The subject property originated as part of a larger property found on Map 3 of Carmel Highlands, recorded on May 2, 1925. Subsequently, and in accordance with the Subdivision Map Act, the current configuration of the property was memorialized in the 1964 Assessor's Parcel Book. After which, the following occurred:

- 1966 – Monterey County adopts the Monterey Peninsula Area Plan and the property is zoned Agriculture/Residential, Mobile Home Exclusion, 20-acre minimum building site or "K-V-B-5 20-acre min."

- February 24, 1967 – The Monterey County Foundation, property owner, grants to the County, a Conservation and Scenic Easement Deed over the entire property.

- February 28, 1977 – The Monterey County Foundation grants the property to the Behavioral Science Institute Foundation.

- April 14, 1983 – Monterey County adopts the Carmel Area Land Use Plan and the property is rezoned to Resource Conservation, Coastal Zone or "RC(CZ)."

- August 16, 1989 – The Behavioral Science Institute Foundation grants the property to Walter Warren and Loretta Warren.

- December 21, 1990 – Walter Warren and Loretta Warren files a Notice of Termination of Conservation and Scenic Easement Deed.

- October 16, 1991 – Highland Partners, by KRWG, Inc. files a Quitclaim Deed to clear the property's title, canceling the covenants, conditions, restrictions, and reservations contained in the Mount Devon Road Maintenance Agreement and Declaration.

- November 23, 1996 – Walter Warren and Loretta Warren grants the property to Jack Kakis and Mira Eva Kakis.

- February 8, 1994 – Jack Kakis and Mira Eva Kakis grants the property to James G. Collins and Sook Collins.

- January 28, 1998 – Monterey County Planning Commission approves a Coastal Development Permit (PLN970487) to replace a 50,000 gallon water tank and install a 100amp electrical meter for California American Water.

- July 7, 1998 – Building permit (BP980368M) issued to replace 50,000 gallon water tank and install a 100amp electrical meter for California American Water. The permit was finaled February 8, 2005.

- December 2003 – California Coastal Commission distributes draft findings of the Monterey County LCP Periodic Review. Map LU-12.6 shows the Collins property as a remaining developable parcel with (1) maximum allowable unit.

- August 18, 2014 – Robert Carver, on behalf of Gary Collins, files an application for the proposed project.

BSI – Special Treatment

The purpose of identifying a special treatment area is to facilitate a comprehensive planned approached for development, allowing a mix of permitted uses while addressing unique natural and scenic resources or significant recreational/visitor-serving opportunities. When the CAR LUP was adopted, polices specifying provisions for development within the BSI property were included and a visual representation of its boundaries were delineated in Figure 2 – Special Treatment Areas of the plan.

The subject property encompasses the southernmost portion of BSI. Although an overall management plan was never prepared for BSI, findings of approval for adoption of the CAR LUP (see **Exhibit I**) demonstrated that the property was allocated 25 residential units for development, resulting net density of 1 unit per acre. This calculation was based on BSI comprising of 6 parcels totaling 140-acres, 113-acres of which were zoned RC and does not allow for residential development.

While one could infer that residential development of BSI was meant to be clustered based on the finding above, specific language of Policy 4.4.3E.6 of the CAR LUP below is ambiguous, leaving room for interpretation.

> *"The BSI property may be developed for residential use. A maximum of 25 units may be approved; all units shall be sited outside of the view from Highway 1. These units may be used in conjunction with the institutional use. The upper steeper portion shall remain in open space."*

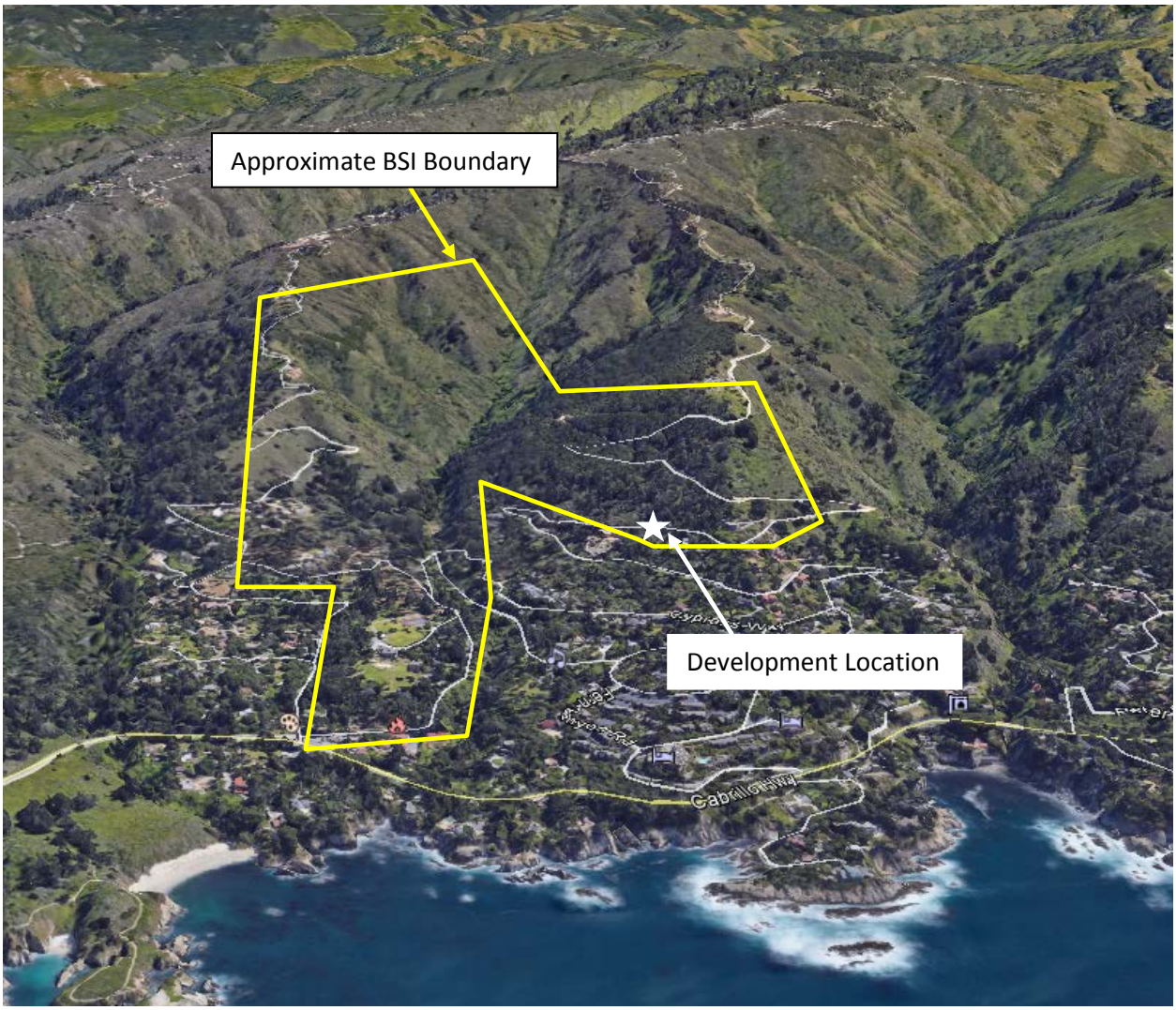

Figure 1. BSI Boundary and Project Site

The three main qualifying statements of the policy are that development: 1) shall be within the unit cap, 2) outside of view from Highway 1, and 3) not located within the upper steeper portion of the BSI property. While the first two qualifiers are clear, there is no definition or identified elevation above sea level of what was meant by "upper steeper portion." Therefore, staff's analysis relied on the overall topography of the BSI property and the elevation of existing BSI development to determine what should be the appropriate elevation of "upper steeper."

As illustrated in Figure 1 (prior page), the BSI property contains two peaks of mountainous terrain to the north and south and flatlands to the west. The highest elevation of the northern peak is approximately 860-feet above sea level and the elevation of the southern peak is approximately 850-feet above sea level, while the lowest elevation of BSI is just under 200-feet above sea level. As discussed below, existing development at the highest elevation is approximately 845-feet above sea level (Assessor's Parcel Number 241-011-009-000).

Development of BSI Properties

Currently there are 12 lots that make up the BSI property, 8 of which are developed with a total of 9 residential units. The table below identifies each developed lot listed by parcel number and owner name and includes the approximate elevation of developed area measured in feet above sea level (FASL), current zoning, and a brief description.

APN/Owner	Elevation	Zoning	Description of Development
241-011-002-000 Janet Bush	540-FASL	LDR/1-D(CZ)	1,993 sq ft SFD & 289 sq ft garage built in 1959. No original permit on file.
241-011-009-000* Donald Fricke	845-FASL	RC/D-SpTr(CZ), LDR/1-D(CZ), WSC/80-D(CZ)	3,648 sq ft SFD & 869 sq ft garage, grading of 1,229 yrds^3 cut & 150 yrds^3 fill, Variance to reduce front yard setback, tree removal, ESHA.
241-021-012-000 Donald Yan	425-FASL	RC/D-SpTr(CZ), LDR/1-D(CZ)	4,232 sq ft SFD & 576 sq ft attached garage, grading, removal of 18 trees, and development on 30% slopes. Subsequent permit for storage building included grading and removal of 5 trees.
241-021-016-000* Ronald Garren	450-FASL	RC/D-SpTr(CZ), LDR/1-D(CZ), LDR/3.5-D-SpTr(CZ)	4,645 sq ft SFD with 862 sq ft garage. Subsequent permits for the removal of 8 dead/hazardous Monterey pines. ESHA
241-021-017-000* KDR Construction	380-FASL	LDR/3.5-D-SpTr(CZ)	4,180 sq ft SFD, 755 sq ft deck, & 648 sq ft detached garage; 1,504 sq ft SFD, 306 sq ft deck, & 576 sq ft detached garage; removal of 10 trees. Subsequent permits for the removal of 9 trees and SFD addition.
241-021-018-000 Paul Goldman	430-FASL	LDR/1-D(CZ)	912 sq ft SFD & 384 sq ft attached garage built in 1960. No original permit on file. Subsequent permit for 720 sq ft detached garage.
241-081-002-000	320-FASL	LDR/1-D(CZ)	3,700 sq ft SFD. No original permit on file.

Paul Hariri Trust			
241-081-003-000 Alan Silvestri	260-FASL	LDR/1-D-SpTr(CZ)	4,681 sq ft SFD & 579 sq ft garage built in 1921. No original permit on file. Subsequent permits for construction of swimming pool, tennis courts, grading, and tree removal.

Other development activities that occurred on the BSI property include adjustments to parcels. In 1992, a Lot Line Adjustment between three parcels was approved (File No. LL92015 Gushman). Also in 1992, the 27.08-acre parcel resulting from the Lot Line Adjustment was rezoned from RC/SpTr(CZ) & LDR/1/SpTr(CZ) to RC/SpTr(CZ) & LDR/3.5/SpTr(CZ), increasing the LDR acreage by 1.1-acres (File No. PC92243Garren). Then in 1994, an application was submitted to subdivide that same 27.08-acre parcel into one 16.4-acre parcel and one 10.6-acre parcel.

PART 2 – ESTABLISHMENT OF RESIDENTIAL DEVELOPMENT

The subject property is a 30-acre parcel located on a western-facing slope. Existing development on the site consists of over 700-linear feet of the Mount Devon Road right of way and a 100,000 gallon Cal Am municipal water storage tank, meter, and maintenance access. Vegetation within the proposed development area is comprised of Central Maritime Chaparral and Monterey Pine Forest. The building area, as shown on **Figure 2**, slopes up from Mount Devon Road with an average slope of approximately 34%. The steepest portion located close to the road.

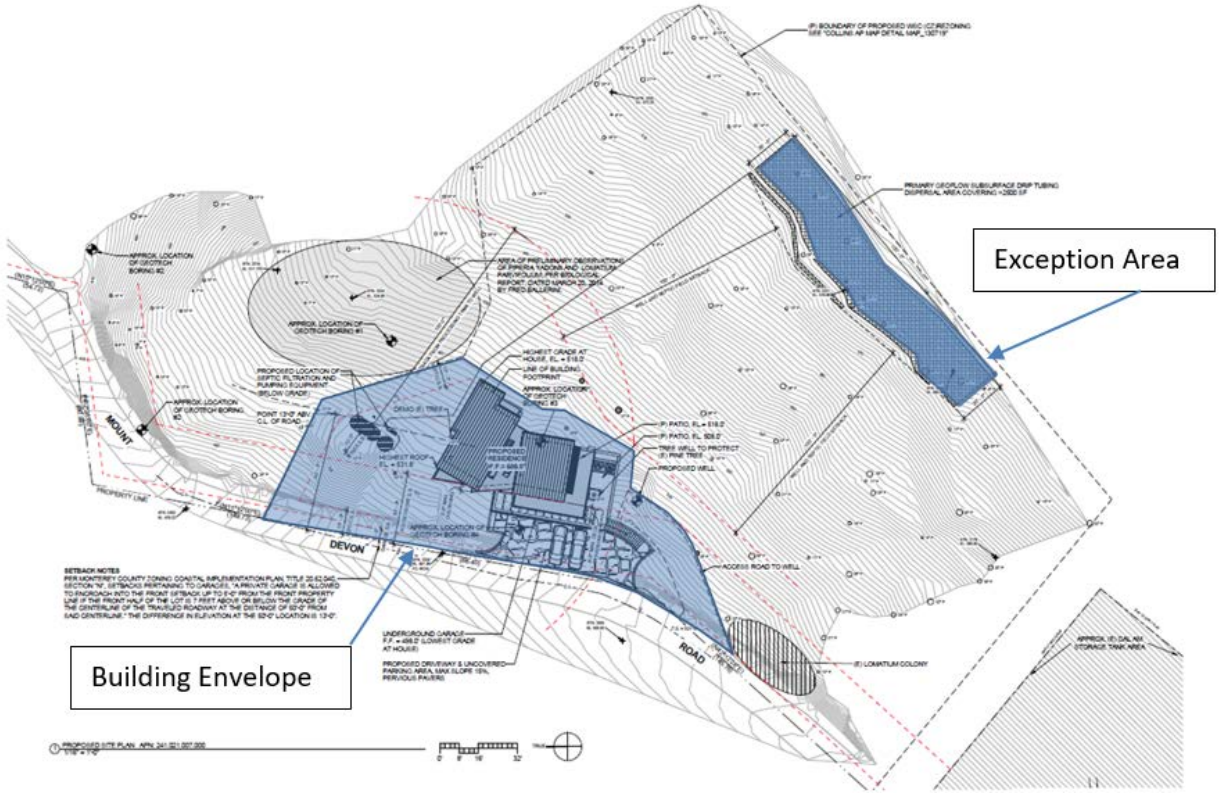

Figure 2. Illustration of Building Envelope and Exception Area

As discussed later, areas outside of the building envelope will be required to be placed within an easement, prohibiting development. However, and exception has been made to allow for future maintenance of the leachfield area.

Proposed Development
Construction of the 2,397 square foot single family dwelling, 409 square foot garage, and 143 square foot mechanical room will require approval of a Coastal Administrative Permit and Design Approval, Coastal Administrative Permit to establish a domestic well; Coastal Development Permit to allow the removal of 2 Monterey pine trees, and a Coastal Development Permit to allow development on slopes in excess of 30%.

In order to reduce the footprint of the structure, the applicant proposes to grade into the hillside east of Mount Devon Road to construct a 3-story structure with the garage and mechanical room almost completely below existing grades, the first floor partially below grade, and the second floor entirely above so that the only portion visible when looking downhill is the top level (see **Figure 3** below).

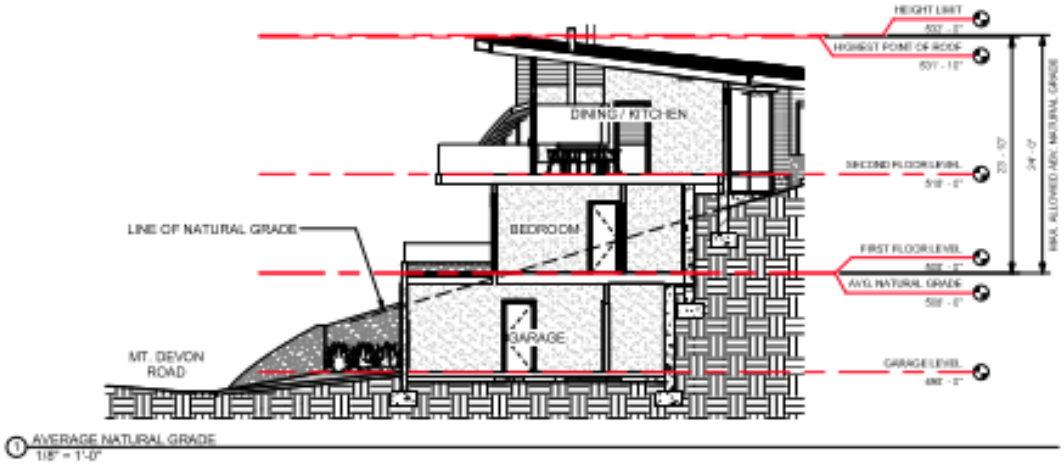

Figure 3. Section View of Proposed Structure.

Grading will consist of 943 cubic yards of cut and 79 cubic yards of fill, requiring 864 cubic yards of dirt to be hauled off-site. Domestic water will be provided by the proposed well to the south of the dwelling. Installation of the well will require grading of an access road and the use of heavy equipment. The project has been conditioned (Condition No. 25, Mitigation Measure No. 2) to ensure impacts resulting from well drilling activities are reduced to less than significant (see CEQA discussion below). Wastewater will be served by an onsite septic facility consisting of an underground septic filtration tank and pumping equipment north of the dwelling and a 2,500 square foot geoflow subsurface dispersal area. Due to the vegetation and topography of the dispersal area, tubing will either be installed by hand trenching or using a specialized tubing injector tool, resulting in minimal amount of disturbance.

A 14-inch Monterey pine tree is located adjacent to the northern portion of the structure. Excavation and construction activities would impact structural roots of this tree; therefore, the applicant proposes its removal. A second 18-inch Monterey pine tree is located in the proposed

patio area, south of the structure. The applicant proposed to retain this tree by constructing a tree well around it. Grading and construction would have to potential damage this tree and reduce its life expectancy. Considering these impacts, staff has analyzed the project to include its removal. Consistent with Part 4 of the Coastal Implementation Plan (CIP), a standard condition of approval (Condition No. 10) has been incorporated requiring the owner/applicant to replace these trees on a 1 to 1 ratio.

The proposed location of the residence has been reviewed for compliance with the site development standards of the WSC zoning district. The project meets all setbacks, height limitation, and maximum lot coverage requirements. In order to reduce the amount of required grading and development on slopes in excess of 30%, the applicant has located the structure 20-feet from the edge of the Mount Devon road right-of-way. Section 20.62.040.N – Height and Setback Exceptions, of the Monterey County Zoning Ordinance (Title 20) states that if in cases where the elevation of the front half of the lot, at a point 50-feet from the centerline of the traveled roadway, is 7-feet above or below the grade of said centerline, a parking space, private garage or carport, attached or detached, may encroach into the front yard setback requirement up to 5 feet from the front line of the lot. The project meets this exception and is therefore consistent.

Section 20.44.020.C.2 of Title 20 states that regulations contained within the Design Control ("D") district apply to all areas within the Carmel Area Land Use Plan. Therefore, design review of the proposed location, size, configuration, materials, and colors of structure is required to assure protection of the public viewshed, neighborhood character, and to assure the visual integrity of certain developments without imposing undue restrictions on the property. The architectural design of the proposed residence is a contemporary take on the Prairie style of architecture, utilizing horizontal lines and sharp angles as the most prominent feature. To add interest, the atrium includes a curved roof with exposed rafters. Materials include a stone veneer retaining wall, exterior horizontal wood siding, large-paned wood clad glass windows and doors, glass handrails at patios, and a metal standing seam roof with skylights. Proposed colors consist of warm shades of browns and grays (see **Figure 4**).

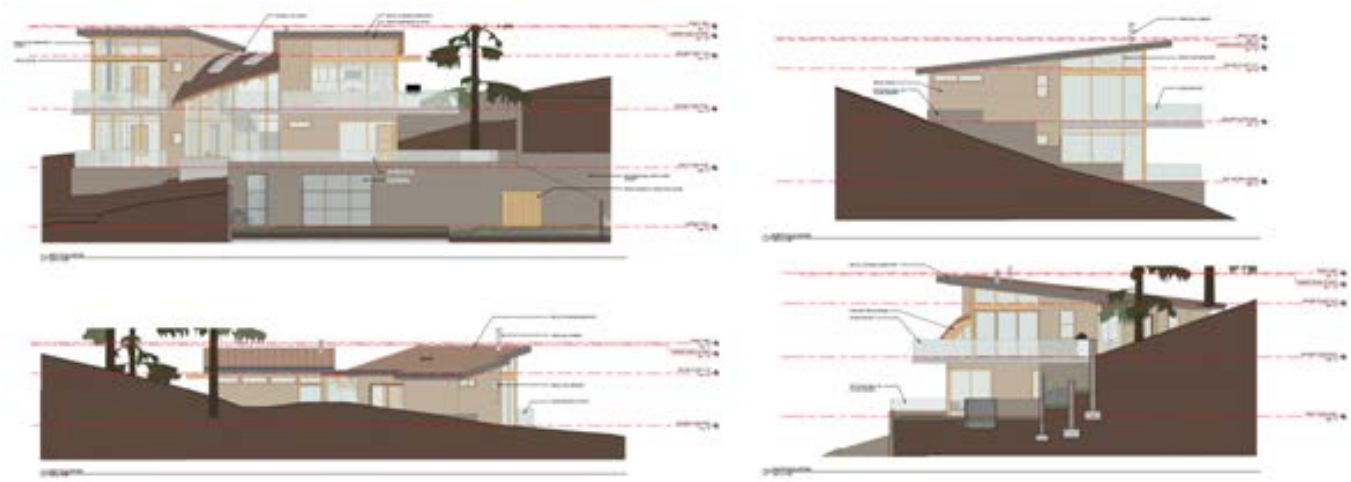

Figure 4. Exterior Elevations.

The overall appearance of the neighborhood is eclectic. Residential developments range in size (18 properties were queried resulting in an average of 2,500 square feet) as well architectural style (e.g. single-storied rustic cabins, multiple-storied A-frames, and single-storied and multiple-storied ranch style dwellings). Therefore, the proposed mass and style of the dwelling would not be out of character for the area. View of the structure would have the greatest impact from Mount Devon Road, however; this would not create an impact to the critical viewshed and is consistent with policies for the protection of scenic resources.

PART 3 – PROJECT ISSUES

Potential issues were identified by staff as well as members of the public. The big picture issue is determining development potential on the site using mainly a qualitative analysis as the BSI development policy is not entirely clear and an overall management plan for BSI does not exist. Next to consider would be site development related issues relative to construction related activities. In addition, the applicant has cited the United States Constitution and identified a potential for the taking of the applicant's right to reasonably use their property if the application is denied (**Exhibit H**).

LCP Amendment – Rezone from RC to WSC

Issue with the proposed rezone goes hand in hand with determining if the residential development is consistent with CAR LUP Policy 4.4.3.E.6 – development of BSI lands. There have been 4 approved developments on BSI since adoption of the CAR LUP that range in elevation from 380-feet to 845-feet. Do these previous developments serve as empirical evidence of what was meant by "upper steeper slopes?" The proposed project is within the unit cap, is not visible from Highway 1, and the elevation of the development area is in the mid-range of the overall BSI property. Therefore, it could be determined to be considered consistent with the BSI development policy. Furthermore, despite the current RC zoning which prohibits residential development, the California Coastal Commission identified the subject property as a "Remaining Developable Parcel" with one allowable unit (**Exhibit J**).

On the other hand, there is the question of the previous conservation and scenic easement and the current RC zoning on the property. Staff could not find documentation of a nexus based on policy (i.e. required as a Condition of Approval) for why the easement was conveyed. There was, however, an origin statement of the conservation easement supplied by a member of the public. This raises the question about the prohibition of development being linked to the BSI development policy?

Evidence supporting the rezone is based on the plain language of Policy 4.4.3.E.6. As described above, there are 9 residential units on BSI property and establishment of the proposed unit would result in a total of 10, which is below the maximum allowance of 25. Map A – General Viewshed, of the CAR LUP indicates that the subject property is outside of the General Viewshed and as demonstrated in the discussion on potential viewshed below, the project staking was not visible from Highway 1, Highway 1 turnouts, or the Pt. Lobos State Reserve. The project has been conditioned to ensure establishment of the structure would not create an impact on the night sky. Therefore, the development would be outside of view from Highway 1 and would not result in an impact to the public viewshed. Data contained within the project plans and obtained

from Google Earth indicates that the proposed development will occur at approximately 520-feet above sea level. When compared to the overall elevation of the BSI property, this falls just above the mid-range level. The subject property is comprised of 30-acres and the proposed location is near the lowest elevation found on the site. Considering other developments on BSI, the proposed location is consistent within their allowed elevation range. In summary, this evidence supports the conclusion that the proposed project is consistent with the CAR LUP policy for BSI development; which begs the next question: "Is project consistency adequate reason to support the rezone?"

Another key piece of evidence relative to the rezone is the previous conservation deed. The subject property was zoned Agriculture/Residential at time of conveyance, which would have allowed establishment of two residential units. Background information on the easement, obtained by submittal of public comment, revealed that the conveyance was pursued as a way to conserve the property received by the Monterey County Foundation as a gift from the D'Ambrogio family in memory of Major Charles (A.K.A Frank) Francis De Amaral, Jr., after he lost his life in battle during the Vietnam War. Correspondence from the family of Major Amaral stated that he grew up in the area and rode his horse on the property as a child; therefore, the purpose of the easement was to "preserve the natural scenic beauty and existing openness." Staff was not able to find documentation corroborating the family's claims, but also has no reason to find their statements inaccurate.

Ten years to the day after establishing the easement, Monterey County Foundation granted the subject property to BSI. Approximately 6-years later, the property was rezoned from Agricultural/Residential to Resource Conservation. Similar to the establishment of the conservation easement, staff found no documentation showing that the rezone was a result from implementation of a required condition of approval or mitigation measure for a previous development of the larger BSI property for the protection of sensitive areas (e.g. steep slopes, critical viewshed, and/or environmentally sensitive habitats). Based on available documentation, the logical conclusion would be that the Resource Conservation zoning designation was due to the conservation easement placed on the property at the time; and although the subject property is part of BSI, the zoning, or easement, was not part of the overall management plan.

If the designation of the conservation easement and RC zoning were in accordance with meeting policy objectives the CAR LUP, then the proposed rezone could not be supported. However, if the conservation easement was a result from the conscious act of private citizens to use their private property as they see fit, then there would be no policy basis[1] to deny the rezone. In conclusion, it is staff's determination that there is sufficient evidence, in this case, to support approval of the proposed rezone.

Potential Impacts Resulting from Construction Activities

During analysis and environmental review of the proposed project, several potential impacts were identified, including: development on slopes in excess of 30%, grading and drainage, impacts on the surrounding area during construction, viewshed, and biological resources. These impacts have been considered, and where appropriate, conditions have been applied in

[1] This would be similar to situations where the County lacks jurisdictional power to enforce CCR's or to protect views from private properties outside of the public viewshed and/or a common public viewing area.

accordance with requires set forth in policy guidance. Relative to environmental impacts, mitigations have been identified to reduce those impacts to a less than significant level.

Development on Slopes in Excess of 30%

The 2-acre area proposed for rezoning contains an average slope of 45%, the location of the proposed dwelling and driveway contains an average slope of 36% (with the steepest area located closest to the road), and the location of the proposed wastewater dispersal area contains an average slope of 47%. Comments received relative of this development identify concerns with the prohibition of this development and approval of such would set a precedent for additional slope development to occur. Pursuant to Section 20.64.230.E.1 of the Monterey County Coastal Implementation Plan, Part 1 (Title 20 Zoning Ordinance), the Planning Commission must find that: 1) *there is no feasible alternative which would allow development to occur on slopes of less than 30%*; or 2) *that the proposed development better achieves the goals, policies and objectives of the Monterey County Local Coastal Program than other development alternatives*. Therefore, there is no outright policy prohibiting such development and approval would not set a precedent as any project on slopes in excess of 30% would require a case by case analysis for meeting the required finding.

In regard to the Collins project, the applicant has selected the proposed development location as it is close to the existing roadway, thus requiring less grading and less disruption of slopes and environmentally sensitive habitats. For example, there is an area northeast of the proposed location that is large enough to support the dwelling that contains an average slope of 22%. However, this area is setback approximately 80-feet from the roadway and access to this location would require development on slopes in excess of 30%. This area is also in proximity to the edge of a ravine and is the only location where Yadon's rein orchid (*Piperia yadonii*), a Federally Listed Endangered plant, is found onsite.

During staff's conversation with a member of the public, the potential for an alternative location was suggested. This location would be further along Mount Devon Road and is at an elevation around 750-above sea level. Based on the development policy for BSI, this area would be considered as the upper steeper area where residential development is prohibited.

The proposed project is consistent with CAR LUP Policy 2.7.4.11 and CIP Section 21.146.080.D.1.k. The soil type found in the subject property is "sheridan coarse sandy loam," and pursuant to the above, developments located on this soil type are restricted to only the building site area and road, and vegetation cover shall be maintained. Based on the evidence above, as well as the discussion below, the proposed development better meets the goals, policies, and objectives for the CAR LUP as it minimizes overall site disturbance, compared to alternative locations.

Grading and Drainage

Grading to allow construction of the driveway and dwelling will primarily be for excavation as the proposed improvements are designed to be partially constructed within the hillside. Staff identified potential impacts caused by soil erosion caused by grading activities and drainage resulting in new impervious surfaces. A neighboring property owner expressed concerns with the potential for landslides due to the disruption of drainage patterns, stating that previous landslide

activity involving a property approximately 1,000-feet west of the project site severely affected his property (see Comment No. 3 found in **Exhibit G**).

The following discussion summarizes the review of the application materials for conformance with application regulations and demonstrates how staff, based on review of the project and applied conditions, finds that potential impacts relative to grading and drainage have been resolved and no issues remain.

A Geotechnical Report was prepared for the proposed project and was submitted as part of the application. The report identified that the site's potential for liquefaction[2] is low and the potential for landslide s is minimal. In addition, the Geotechnical Engineer found no evidence of previous landslides on the site. The report concluded that the site was suitable for the proposed development, provided recommendations for general grading; specific site development, grading pads, and foundation excavations; slope construction; utility trenches; and structural design for foundations and retaining walls were adhered to. Findings of the report were based on the assumption that the Geotechnical Engineer would review building and grading plans and be onsite to observe and test during site preparation, grading, placing of engineered fill, and construction of the foundation. Condition No. 14 has been incorporated requiring the applicant to provide certification by a licensed practitioner that the development occurred in accordance with the Geotechnical Report.

Monterey County RMA-Environmental Services and the Water Resources Agency reviewed the preliminary project application for compliance with regulations for erosion control, grading, and drainage. Both departments found no issues and recommended approval of the project upon the condition that an erosion control plan (Condition No. 13), grading plan (Condition No. 15), and drainage plan (Condition No. 22) are submitted for review and approval prior to the issuance of construction permits.

Pursuant to County requirements contained in Monterey County Code (MCC) Chapter 16.08, the grading plan shall include detailed technical information demonstrating that the nature and extent of grading is in conformance with County requirements. In addition, MCC 16.08.060 states that a grading permit shall not be issued if the Building Official determines that the proposed grading will be hazardous (by reason of flood, geological hazard, seismic hazard or unstable soils); liable to endanger any other property; result in the disposition of debris on public way, property, or drainage course; or otherwise create a nuisance.

Compliance with MCC Chapter 16.12, requires the erosion control plan to delineate the proposed methods that will be utilized to control runoff, erosion, and sediment movement during site disturbance (Condition No. 13). This Chapter also requires County inspections prior to land disturbance (Condition No. 16) to determine potential erosion, during active construction (Condition No. 17) to determine ongoing compliance, and following active construction (Condition No. 18) to ensure compliance with the approved plans and specifications.

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[2] Liquefaction can occur when loose soil is saturated and substantially loses strength and stiffness due to earthquake induced vibrations, causing the soil to behave like a liquid, putting structures in danger of settling or sinking.

As specified in Condition No. 22, the drainage plan shall be prepared by a licensed architect and demonstrate how dispersal of stormwater runoff from impervious surfaces will not conveyed to one concentrated location and impact slopes.

Temporary Impacts During Construction

As previously stated, the majority of grading would be for excavation. Due to the topography and vegetation on the site, it would not be feasible to balance the cut and fill on-site. Therefore, approximately 864 cubic yards of dirt will be required to be hauled off-site. In addition, site improvements will require construction personnel to travel to and from the site, park along Mount Devon Road, and add construction related traffic. Given the site's location and condition of access roadways, staff identified temporary impacts during construction. Neighboring property owners also expressed concerns with potential impacts to the local roadways resulting from grading and construction activities. There are 4 residential properties that require access past the project site.

Mount Devon Road ranges in width between 12 to 16-feet along the development location and off street parking is not readily available as there is a significant slope found on both sides. As demonstrated in **Figures 5** and **6** below, parking in the area is constricted.

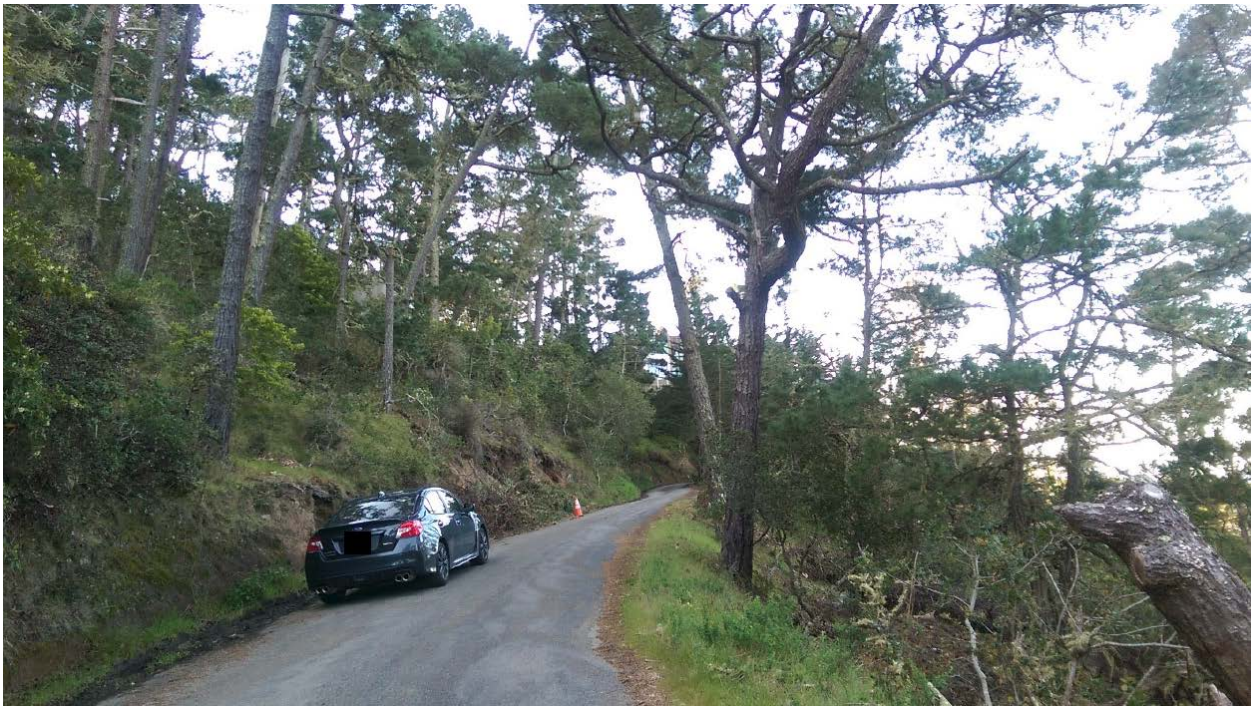

Figure 5. Parking Demonstration

In order to prevent blocking of the roadway for residents of the area, members of the public, and emergency services, a conscious and continuous effort to manage both traffic and parking will be necessary. Monterey County RMA-Public Works has reviewed the project and applied Condition No. 21, requiring submittal of a construction management plan (CMP) for review and approval prior to issuance of construction permits. The CMP shall include information indicating duration of construction, hours of operation, number of estimated truck trips, number of construction

workers, and delineation of parking and truck staging areas. This information will ensure that measures developed to minimize traffic impacts during construction are part of the CMP and will be successful.

In addition to grading and construction for the proposed dwelling, the project also includes drilling of a domestic well. This will also require truck trips, excavation, and production of soil debris. However, an access “road” approximately 70-feet in length and 12-feet in length well be created specifically for the creation and maintenance of the domestic well. While this area appears to have sufficient room for well construction activities, implementation of Mitigation Measure No. 2 (Condition No. 25) will ensure that well drilling will not significantly impact the roadway.

Figure 6. Construction Parking Observed Along Mount Devon Road (Not of the Subject Property).

Ensuring compliance with the above mentioned conditions will ensure the temporary impacts resulting construction activities are kept to a minimum. Therefore, staff finds that there are no remaining issues.

<u>Viewshed</u>
During staff’s site visit, staking and flagging was observed to determine if the project could be seen from Highway 1, turnouts along Highway 1, or Pt. Lobos State Reserve; thus, creating an impact to the protected viewshed by grading and removal of vegetation, creation of the driveway, placement of the structure, and disruption caused by night lighting. The project staking could not be seen from Highway 1, with and without unaided vision.

Figure 7. View of Staking from Road

Figure 8. View from Behind Staking

When viewed from the Mount Devon Road (**Figure 7**), behind the proposed structure is a substantial amount of vegetation and the property rises in elevation by approximately 300-feet. When viewed from behind and slightly above the project staking (**Figure 8**), Highway 1 cannot be seen. In addition, when viewed from the opposite side of Mount Devon Road, views of Highway 1 are also obscured. The project has been conditioned (Condition No. 9) requiring the applicant to submit and exterior lighting plan to ensure exterior lights are downlit and the transmittance of interior light illuminating through the structures' glass windows are reduced. Placement of the proposed structure is located within 20-feet from the road right of way to reduce the amount of grading and development in slopes necessary and installation of the geoflow tubing for wastewater dispersal will not result in a visible change in the proposed area. Therefore, the project as proposed and conditioned, includes siting and design that would not result in a viewshed impact.

In order to anticipate deviation of the proposed project in the future resulting from change of ownership and/or project modification, a mitigation measure (Condition No. 27, Mitigation Measure No. 4) has been incorporated requiring dedication of a conservation scenic easement for all areas outside of the development footprint (see **Figure 2** above). This would restrict development to only the area that has clearly been established to have no impact on the viewshed.

<u>Biology</u>

Information contained in the Monterey County Geographic Information System (GIS) and Map B, Environmentally Sensitive Habitats – Known Locations, of the Carmel Area Land Use Plan (CAR LUP), indicates a potential for environmentally sensitive habitat areas (ESHA) to be onsite. Based on this data and pursuant to Section 20.146.040.A of the Monterey County Coastal Implementation Plan, Part 4 (CIP), a biological survey (*A Biological Assessment of Gary Collins Property*, dated July 15, 2016, prepared by Fred Ballerini Horticultural Services) was submitted with the project application. This assessment evaluated and documented biological resources present on the subject property, as well as identified potential impacts and mitigation measures to reduce those impacts to a less than significant level.

The 30-acre property is almost exclusively native habitat with non-native species present on less than 1% of the area proposed for development. Two distinct overlapping co-dominant vegetation types were found on the subject property: Central Maritime Chaparral and endemic Monterey Pine Forest. Four special status species or habitat were identified on the subject property:

Monterey Pine Forest, Monterey pine (*pinus radiate*), Yadon's rein orchid (*Piperia yadonii*), and Central Maritime Chaparral. In addition, small-leaved lomatium (*Lomatium parvifolium*) was found on the subject property. Although this plant is not considered a special status species (California Rare Plant Rank of 4.2, plants of limited distribution), the biologist felt it necessary to identify potential impacts to this plant as well as include protection measures. No special status animal species or wildlife habitat was observed on the property.

Key Policy 2.3.2 of the CAR LUP states that ESHA of the Carmel Coastal Segment are unique, limited, and fragile resources of statewide significance and shall be protected, maintained, and where possible, enhanced and restored. CAR LUP and CIP EHSA Policies and regulations require total avoidance of EHSA for new subdivisions, even on parcels totally within sensitive habitat areas. However, it was anticipated that there would be potential for existing lots to fully contain ESHA and complete avoidance would not be feasible in order to allow reasonable development. Therefore, project within these areas would be considered compatible with the long term maintenance of the resource if: site improvements and vegetation removal were restricted to only the amount needed for reasonable development, thereby reducing ESHA impacts to the greatest extent feasible and the proposal incorporates necessary site planning and design features which protect the habitat and do not set a precedent for continued land development with the potential to degrade the resource. A public comment identified project consistency with Section 20.146.140(C)(1)(d) [sic 20.146.40(C)(1)(d)] of the CIP, stating that construction on slopes exceeding 30% within "chaparral habitat" is prohibited. However, subsection C.1 (and reference Policy 2.3.4) relates to specific development standards for "Terrestrial Plant Habitats." Map B – Environmentally Sensitive Habitats – Known Locations of the CAR LUP does not list Central Maritime Chaparral within this category. It does, however, list Dwarf Coastal Chaparral, or Chamise-Monterey Manzanita Dwarf Coastal Prairie, as a terrestrial plant habitat. Therefore, this regulation is not considered applicable.

The proposed site improvements will require both development in (Monterey Pine Forest and Central Maritime Chaparral) and near (Yadon's rein orchid) ESHA and the domestic well will occur adjacent to small-leaved lomatium, a plant species recommended for monitoring by the California Native Plant Society. In addition, the project includes the removal of a 14-inch Monterey pine and staff identified the potential need to remove an 18- inch Monterey pine, both of which are protected trees under the CAR LUP.

The proposed location of the development is sited closest to the existing roadway, reducing the amount of driveway, grading, and vegetation removal needed. In addition, the tiered approach in the structure's design reduces the amount of structural coverage to 1,624 square feet, the minimum amount necessary in this case. During staff's analysis of the Coastal Commission's LCP Periodic Review (**Exhibit J**), it was noted that the Commission found the permit process to be less successful in fully achieving LCP policy objectives. This was attributed by approving large "trophy homes" with an average of over 5,000 square feet that required newly graded access roads or driveways, land clearing, and impacts to ESHA and the public viewshed. The proposed development is consolidated and requires the minimum amount of ESHA disturbance; especially when compared to the larger developments identified above.

Mitigation measures have been incorporated to ensure impacts caused by land disturbance are reduced to a less than significant level. Compliance with these mitigations require the applicant to develop, in consultation with a qualified biologist, a Biological Resources Protection Plan (Condition No. 24, Mitigation Measure No. 1), Well Drilling Plan (Condition No, 25, Mitigation Measure No. 2), and Restoration Plan (Condition No. 26, Mitigation Measure No. 3); which will be submitted to RMA-Planning for review and approval. The Biological Resources Protection Plan shall specify logistics relative to flagging of sensitive plant species location and identification for the protection of ESHA during grading and construction of the driveway, structures, and domestic well access road as well as the installation of the geoflow subsurface drip tubing for wastewater treatment. Specifics of the plan shall call out installation of temporary protection fencing, delineate the length of time protection measures will remain in place and when no longer necessary, how removal will occur, and include a biological resources training program component for construction personnel. The Well Drilling Plan is intended to reduce impacts to sensitive plants species during the well drilling process are minimized. The protection measures include retention of well discharge tailings and preventing water from migrating off-site. The Restoration Plan requires replanting and 5-year monitoring of small-leaved lomatium if impacts occur. Implementation and monitoring of this mitigation will ensure the applicant contracts with a project biologist to ensure their involvement prior to land disturbance and during grading and construction, as verification of success of the protection of ESHA.

Since the remaining vegetation on the 30-acre site consists of Central Maritime Chaparral habitat and Monterey Pine Forest, replacement is not a viable option to ensure long-term protection of the site's ESHA. However, in accordance with CAR LUP Policy 2.3.3.6 and Section 20.146.040.B.7 of the CIP, Condition No. 27, Mitigation Measure No. 4, has been incorporated requiring the area outside of the building envelope to be placed within a Conservation and Scenic Easement Deed and that no development, with the exception of required maintenance of the geoflow tubing, shall occur. This deed shall specifically note that the purpose of the easement is for the long-term preservation of the ESHA and Viewshed in accordance with CAR LUP protection policies and as a direct result of approval of the proposed project.

Removal of the 2 protected Monterey pine trees requires the Planning Commission find that: 1) tree removal would not result in exposure of structures within the critical viewshed; 2) removal is limited to that which is necessary for the proposed development; and 3) native trees to be removed, 12-inches or greater, shall be replaced on the parcel. As previously discussed, the proposed development will not create an impact to the viewshed and designed and located to require the minimum amount of disturbance, including tree removal. In addition, Condition No. 10 has been incorporated requiring the applicant to plant 2 replacement Monterey pine trees.

For discretionary projects involving tree removal, it is Monterey County's regulatory standard to incorporate a condition of approval in accordance with the Migratory Bird Treaty Act. Condition No. 12 requires the applicant to retain a County qualified biologist to perform a nest survey within the project site or within 300-feet of proposed tree removal if the activity occurs during the typical bird nesting season. If nesting birds are found on the project site, an appropriate buffer plan shall be established by the project biologist.

In conclusion, staff finds that all identified impacts to biology would be reduced to a less than significant impact with mitigation and conditions incorporated. These actions will ensure immediate impacts caused by construction are reduced as well as the long-term maintenance of ESHA is carried out.

PART 4 – CEQA

During the course of staff's review, potential impacts to aesthetics, biology, and land use/planning caused by the rezone to allow establishment of a residential use and site disturbance resulting from project implementation was identified. Therefore, an Initial Study/Mitigated Negative Declaration (IS/MND) was prepared pursuant to CEQA and circulated for public review from March 29, 2017 to April 28, 2017 (**Exhibit F**).

Staff received several comments (**Exhibit G**) before the public review period ended. The comments received included concerns relative to: impacts caused by previous development in the area, allowing development on a property that was previously encumbered by a conservation and scenic easement deed, setting a precedent by approval of a rezone and development on slopes in excess of 30%, miscalculation of grading quantities, impacts to Mount Devon Road during construction, prohibition of development within Central Maritime Chaparral habitat, and that the CAR LUP development policy for BSI does not provide an exception to allow the rezone, development on slopes in excess of 30%, and/or a Variance to the front setback.

As previously discussed, the project meets the height and setback exception and a Variance to the front setback is not required. In addition, this will not require the structure to be located further into the hillside, causing additional vegetation removal and a substantially larger amount of the grading. There is no prohibition on development within Central Maritime Chaparral and the code section quoted by the commenter is specific to a terrestrial plant habitat, the Dwarf Coastal Chaparral. Comments relative to these issues have been resolved.

The project has been conditioned requiring review, approval, monitoring, and verification of plans and construction, for grading and foundation design, by a Geotechnical Engineer. This will ensure the project meets the California Building Code and, to the furthest extent as possible, prevent slope failure to occur as a result from project implementation.

Also discussed earlier, approval of the project would not set a precedent for similar development. Findings to support approval are based the specific facts of this case, the project location, and background information. Approval does not mean that any project, either located in BSI or not, containing ESHA, slopes in excess of 30%, and/or tree removal can and will be supported in the future.

In conclusion, staff finds that all potential impacts to aesthetics, biology, and land use/planning have clearly been identified and that the implementation of the listed mitigation measures will effectively reduce those impacts to a less than significant level.

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Exhibit C

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EXHIBIT C
DRAFT RESOLUTION

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

In the matter of the application of:
COLLINS (PLN130339)
RESOLUTION NO. ----
Resolution by the Monterey County Planning Commission:

1) Adopting the Mitigated Negative Declaration;
2) Recommending the Board of Supervisors adopt a resolution of intent to approve the Local Coastal Program Amendment to rezone the property from Resource Conservation, Coastal Zone ["RC(CZ)"] to Watershed and Scenic Conservation, Special Treatment, Coastal Zone ["WSC/SpTr(CZ)"];
3) Approving the Combined Development Permit, subject to approval of the Local Coastal Program Amendment, consisting of:
   a. Coastal Administrative Permit and Design Approval to allow construction of a 2,397 square foot two-story single family dwelling with a 409 square foot attached garage and 143 square foot mechanical room;
   b. Coastal Administrative Permit to establish a domestic well;
   c. Coastal Development Permit to allow the removal of one 14-inch and one 18-inch Monterey pine tree;
   d. Coastal Development Permit to allow development within 100-feet of an environmentally sensitive area;
   e. Coastal Development Permit to allow development on slopes in excess of 30%; and
4) Adopting a Mitigation Monitoring and Reporting Program; and

[PLN130339, James G & Sook Collins, 83 Mount Devon Road, Carmel, Carmel Area Land Use Plan (APN: 241-021-007-000)]

The Collins Combined Development Permit application (PLN130339) came on for public hearing before the Monterey County Planning Commission on August 30, 2017. 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, as conditioned, is consistent with the applicable plans and policies which designate this area as appropriate for development.

EVIDENCE:

a) During the course of review of this application, the project has been reviewed for consistency with the text, policies, and regulations in:
   - the 1982 Monterey County General Plan;
   - Carmel Area Land Use Plan;
   - Monterey County Coastal Implementation Plan Part 4;
   - Monterey County Zoning Ordinance (Title 20); and
   - Monterey County Coastal Implementation Plan Part 6, Appendix 13 (Local Coastal Program Amendment Procedures)

   Communications were received during the course of review of the project indicating inconsistencies with the text, policies, and regulations in these documents. However, these comments have been addressed and no conflicts were found to exist.

b) The property is located at 83 Mount Devon Road, Carmel (Assessor's Parcel Number 241-021-007-000), Carmel Area Land Use Plan (CAR LUP) and zoning is Resource Conservation, Coastal Zone or "RC(CZ)." The subject property is part of the Behavioral Science Institute lands (BSI property or BSI), which is identified as a Special Treatment area in the Carmel Area Land Use Plan. Existing development on the site consists of over 700-linear feet of the Mount Devon Road right of way and a 100,000 gallon Cal Am municipal water storage tank, meter, and maintenance access.

c) Development of the site includes the construction of a two-story single family dwelling with an attached partially subterranean garage. Structural coverage will not exceed 1,700 square feet. Site improvements include a driveway apron off Mount Devon Road, establishment of a domestic well and construction of a well access road, installation of a septic tank and geoflow subsurface dispersal area. The current RC zoning designation prohibits establishment of residential uses. Therefore, the applicant requests a rezone and approval of the Combined Development Permit is subject to approval of the Local Coastal Program amendment.

d) The applicant requests a Local Coastal Program (LCP) amendment pursuant to Section 30514 of the Public Resources Code, Division 20, California Coastal Act to allow a rezone of the subject property from Resource Conservation, Coastal Zone to Watershed Scenic Conservation, Special Treatment, Coastal Zone or "WSC(SpTr)(CZ)." See Finding No. 4 and supporting evidence for further discussion.

e) Consistency with WSC(SpTr)(CZ) zoning. Establishment of a single family dwelling is allowed in the WSC district provided a Coastal Administrative Permit is obtained. Therefore, approval of the Combined Development Permit is consistent with this requirement. Section 20.17.060.C.1 of Title 20 establishes minimum setbacks (30-feet from the front, 20-feet from the side, and 20-feet from the rear) and a maximum height limit of 24-feet in the WSC zone. The proposed location of the single family dwelling is 20-feet from the front (Evidence "j" below), over 100-feet from the side and rear, and is 23-feet 10-inches high from average natural grade. Therefore, the project is consistent with the site development standards of the district.

f) Consistency with Policy 4.4.3E.6 of the CAR LUP – BSI Residential Development. This policy allows residential development of the BSI property provided residential units are capped at 25, are sited outside of the view from Highway 1, and the upper steeper portion of BSI lands remain in open space. Based on Finding No. 5 and supporting evidence, the project is consistent with this policy.

g) Tree Removal. The project includes removal of two protected trees. In accordance with Section 20.146.060 of the CIP, the project includes a Coastal Development Permit and required findings for removal have been made. See Finding No. 6 and supporting evidence for further discussion.

h) Development within 100-feet of Environmentally Sensitive Habitat Areas (ESHA). ESHA has been identified onsite. Pursuant to Section 20.146.040 of the CIP, the project includes a Coastal Development Permit to allow development within 100-feet of ESHA. The project meets the required findings to allow such development and evidence to support approval of the permit is contained in subsequent Finding No. 7.

i) Development on slopes in excess of 30%. The project includes grading and construction on slopes in excess of 30% which requires approval of a Coastal Development Permit pursuant to Section 20.64.230 of Title 20. The project includes this required permit and findings and evidence to support approval are contained within subsequent Finding No. 8.

j) Height and Setback Exception. The front setback required by the WSC zoning district is 30-feet and the garage is proposed 20-feet from Mount Devon Road. Section 20.62.040.N of Title 20 allows for an exception to the front setback requirement for properties where the elevation of the front half of the lot, at a point 50-feet from the centerline of the traveled roadway, is 7-feet above or below the grade of said centerline. In these cases, parking spaces, private garages or carports, attached or detached, may encroach into the front yard setback requirement up to 5-feet from the front line. The elevation rises approximately 20-feet from the centerline of Mount Devon Road to 50-feet of the front half of the subject property. Therefore, the project is consistent with this exception.

k) Design Control. Section 20.44.020.C.2 of Title 20 states that regulations contained within the Design Control ("D") district apply to all areas within the Carmel Area Land Use Plan. Therefore, staff reviewed the proposed location, size, configuration, materials, and colors of structure. was required to assure protection of the public viewshed, neighborhood character. The overall appearance of the neighborhood is eclectic as residential developments range in size and architectural style. The proposed mass and style of the dwelling is consistent with the character of the area. View of the structure would have the greatest impact from Mount Devon Road, however; this would not create an impact to the critical viewshed and is consistent with policies for the protection of scenic resources. See applicable viewshed evidence contained in Finding Nos. 5, 6, and 9.

l) The project was referred to the Carmel/Carmel Highlands Land Use Advisory Committee (LUAC) for review. Based on the LUAC Procedure guidelines adopted by the Monterey County Board of Supervisors, this application warranted referral to the LUAC because it involves pubic controversy, is not exempt from environmental review, and approval is required at a public hearing. On September 15, 2014, the was presented to the LUAC for review and recommendation to the Planning Commission and Board of Supervisors. Two members of the public provided comments identifying potential issues relative to the rezone, drainage, erosion, well permit, setbacks, development on slopes in excess of 30%, grading quantities, and requirement of a Variance. The LUAC had comments relative to why the subject property was zoned differently from the rest of the BSI properties and stated that further research to determine this is necessary. The LUAC recommended approval of the project with a vote of 4 ayes and 2 members absent. Concerns of the public and LUAC have been addressed in this resolution.

m) No Violations. The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of the County's zoning ordinance. Staff researched and reviewed Monterey County RMA-Planning and Building Services Department records and conducted a site inspection to asses if any violation exists on the subject property. No violations exist on the property.

n) The project planner conducted a site inspection on February 28, 2017 to verify that the project on the subject parcel conforms to the plans listed above.

o) The application, project plans, and related support materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development found in Project File PLN130339.

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: RMA- Planning, Carmel Highlands Fire Protection District, RMA-Public Works, RMA-Environmental Services, Environmental Health Bureau, and Water Resources Agency. There has been no indication from these departments/agencies that the site is not suitable for the proposed development. Conditions recommended have been incorporated.

b) Staff identified potential impacts to biological resources, archaeological resources, soil/slope stability, and percolation. The following reports have been prepared:

- "Biological Assessment of Gary Collins Property APN: 241-021-007-000" (LIB140278) prepared by Fred Ballerini, Fred Ballerini Horticultural Services, Pacific Grove, CA, May 10, 2014.
- "Preliminary Archaeological Assessment of a Portion of APN 241-021-007-000, Carmel Highlands, Monterey County, California" (LIB140277) prepared by Mary Doane, B.A., and Gary S. Breschini, Ph. D., RPA, Archaeological Consulting, Salinas, CA, January 24, 2014.
- "Geotechnical Engineering Report" (LIB160170) prepared by Beacon Geotechnical, Inc., Paso Robles, CA, December 16, 2013.
- "Percolation Data Sheet" (LIB140279) prepared by Biosphere Consulting, Santa Cruz, CA, January 29, 2014.

The above-mentioned technical reports by outside consultants indicated that there are no physical or environmental constraints that would indicate that the site is not suitable for the use proposed. County staff has independently reviewed these reports and concurs with their conclusions.

c) Staff conducted a site inspection on February 28, 2017 to verify that the site is suitable for this use.

d) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning for the proposed development found in Project File PLN130339.

3. **FINDING:** **HEALTH AND SAFETY -** The establishment, maintenance, or operation of the use or structure applied for, will not, under the circumstances of the 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 RMA-Planning, Carmel Highlands Fire Protection District, RMA-Public Works, Environmental Health Bureau, RMA-Environmental Services, and Water Resources Agency. The respective agencies have recommended conditions, 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) Necessary public facilities will be provided. The project includes installation of a domestic well to provide potable water and an alternative onsite wastewater treatment system (OWTS) for wastewater service. The Environmental Health Bureau has reviewed the project and recommended conditions requiring obtaining permits for the OWTS (Condition No. 28) and domestic well (Condition No. 29) as well as record a deed restriction (Condition No. 30) and provide a maintenance contract (Condition No. 31) for the OWTS. No issues remain.

c) The project includes development on slopes in excess of 30% (Finding No. 8) which would have potential to result in soil erosion cause by grading and land disturbance and altering drainage patterns resulting in new impervious surfaces. The project has been reviewed by RMA-Environmental Services and Water Resources Agency and no issues have been identified. The project includes recommended conditions requiring submittal and approval an erosion control plan (Condition No. 13), grading plan (Condition No. 15), and drainage plan (Condition No. 22). Also incorporated are conditions requiring inspections prior to land disturbance (Condition No. 16) to determine potential erosion, during active construction (Condition No. 17) to determine ongoing compliance, and following active construction (Condition No. 18) to ensure compliance with the approved plans and specifications. Condition No. 14 has also been incorporated requiring certification that development has been constructed in accordance with the recommendations contained in the Geotechnical Engineering Report.

d) Temporary impacts during construction were identified during review of the project. As recommended by Public Works, Condition No. 21 has been incorporated requiring submittal of a construction management plan (CMP) for review and approval prior to issuance of construction permits. The CMP shall include information indicating duration of construction, hours of operation, number of estimated truck trips, number of construction workers, and delineation of parking and truck staging areas. This information will ensure that measures developed to minimize traffic impacts during construction are part of the CMP and will be successful.

e) Staff conducted a site inspection on February 28, 2017 to verify that the site is suitable for this use.

f) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning for the proposed development found in Project File PLN130339.

4. **FINDING:** **LOCAL COASTAL PLAN AMENDMENT –** Processing of the Local Coastal Plan (LCP) amendment is consistent with the procedures set forth in Section 30514 of the California Coastal

Act and Part 6, Appendix 13 of the Monterey County Coastal Implementation Plan. Approval of the LCP amendment to allow rezoning of the property is consistent with standards by which the adequacy of

EVIDENCE: a) The project includes rezoning of 30-acre subject property from Resource Conservation, Coastal Zone [RC(CZ)] to Watershed Scenic Conservation, Special Treatment, Coastal Zone [WSC-SpTr(CZ)]. Pursuant to Section 30514(d) of the California Coastal Act, an amendment of the LCP includes any action by the local government which authorizes use of a parcel of land, other than that designated in the certified local coastal program, as a permitted use of such parcel.

b) Consistency with the California Coastal Act. The rezone is consistent with the applicable Coastal Resources Planning and Management Policies contained Chapter 3 of the California Coastal Act.

Article 2 – Public Access. The subject property is not located in an area where adequate public access or facilities, including parking areas, for the use of the general public exists. Therefore, the rezone would not impact existing or future public access and is consistent with this policy. See Finding No. 10.

Article 5 – Land Resources. Environmentally sensitive habitats exist on the site. However, the rezone will not result in a significant disruption of habitat values. The project as proposed and conditioned results in siting and design preventing impacts which would significantly degrade the habitats and is found to be compatible. See Finding No. 7.

Article 6 – Development. Development resulting from the rezone will be located adjacent to an existing public road. Potable water and wastewater service will be made available (Finding No. 3). Impacts to the viewshed will not occur (Finding Nos. 5, 6, and 9). The site is suitable for the rezone and resulting development (Finding No. 2) and there is no indication that it will involve a risk to health and safety (Finding No. 3).

c) Consistency with the Carmel Area Land Use Plan (CAR LUP). The rezone is consistent with the applicable standards and policy objectives of the CAR LUP.

2.2 Visual Resources. The rezone and resulting development is consistent will not result in an impact to the viewshed. See Finding Nos. 5, 6, and 9.

2.3 Environmentally Sensitive Habitats. The rezone and resulting development minimizes impact on environmentally sensitive habitat areas in accordance with the applicable goals and

policies of the Carmel Area Land Use Plan (CAR LUP) and Coastal Implementation Plan Part 4 (CIP). See Finding No. 7.

2.4 Water and Marine Resources. The rezone and resulting development has been conditioned to ensure impacts caused by soil erosion and drainage are minimized. See Finding No. 3.

2.5 Forestry and Soil Resources. The rezone and resulting development results in removal of the minimum amount of trees necessary. See Finding No. 6.

2.7 Hazards. The rezone and resulting development will not interfere with policies applicable to fire, flood, and/or seismic and geologic hazards. See Finding Nos. 2 and 3.

2.8 Archaeological Resources. The rezone and resulting development he subject property is consistent with policies requiring protection archaeological resources. See Finding No. 9.

4.4 Land Use Development Policies. Rezoning the property from Resource Conservation, Coastal Zone [RC(CZ)] to Watershed Scenic Conservation, Special Treatment, Coastal Zone [WSC-SpTr(CZ)] is consistent with Policy 4.4.3.E.6 of the CAR LUP, for the development of Behavioral Science Institute (BSI) lands (Finding No. 5). The WSC land use category applies to the upland and mountainous areas east of Highway 1 and allows for rural residences. The proposed development resulting from the rezone is consistent with the primary objective of the WSC land use as it will not conflict with the protection of the watershed, streams, plant communities, and scenic values. See Finding No. 1.

5.3 Public Access Policies and Recommendations. The subject property does not meet the public access criteria contained in the CAR LUP. Therefore, the rezone will not conflict with the protection polices for providing public access. See Finding No. 10.

d) <u>Establishment of the current Resource Conservation, Coastal Zone or "RC(CZ)" zoning.</u> In 1966, Monterey County adopted the Monterey Peninsula Area Plan and the subject property was zoned Agriculture/Residential. On February 24, 1967, the property owner, The Monterey County Foundation, conveyed the 30-acre parcel to the County by Conservation and Scenic Easement Deed (recorded on Reel 495, Page 586 of the Official Records of Monterey County). On April 14, 1983, Monterey County adopted the Carmel Area Land Use Plan and the property was rezoned to RC(CZ). The CAR LUP provides no explanation for the resulting zoning but identifies the subject property to be part of BSI lands. A comprehensive development plan was not adopted for BSI and there is no indication of policy requirement to restrict

development on the property. Based on the available information, staff finds the RC zone was a result of the development restriction contained in the conservation easement.

e) Establishment of Conservation Easement. Staff found no documenting evidence that conveyance of the Conservation and Scenic Easement was required to implement Monterey County policies and/or as a condition of approval or mitigation resulting from permitted development. However, staff received documentation, as part of public comment, claiming that the conveyance was pursued as a way to conserve the property received by the Monterey County Foundation as a gift from the D'Ambrogio family in memory of Major Charles (A.K.A Frank) Francis De Amaral, Jr., after he lost his life in battle during the Vietnam War. This information corroborates the lack of documentation addressed above. Therefore, staff finds that establishment of the easement was of a private act.

f) Termination of the Conservation and Scenic Easement Deed. Article 7 of the Conservation and Scenic Easement Deed states that in the event that the State of California, or any political subdivision thereof, should pass legislation for the purpose of restricting the use of real property to conserve and maintain natural scenic beauty, open space lands, natural resources, and that legislation results in the restriction of use of the subject property for those purposes; the Grantor, or successors in interest, has the option to have the property free from the restrictions imposed by the deed by giving written notice to the Grantee. Upon giving notice, the conveyance shall immediately cease. On December 21, 1990, the current owner of the property, Walter and Loretta Warren filed a Notice of Conservation and Scenic Easement Deed (recorded on Reel 2590 Page 780 of the Official Records of Monterey County) pursuant to Article 7 of the deed based upon enactment of the California Coastal Act as the "qualifying legislation."

g) Staff conducted a site inspection on February 28, 2017 to verify that the site is suitable for the proposed rezone.

h) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning for the proposed development found in Project File PLN130339.

5. **FINDING:** **BEHAVIORAL SCIENCE INSTITUE (BSI) DEVELOPMENT -** Establishment of the residential use on the property is consistent with the residential development policy and implementation standards for BSI lands, contained within the Carmel Area Land Use Plan (CAR LUP) and Monterey County Coastal Implementation Plan Part 4 (CIP).

EVIDENCE:

a) The subject property is delineated in Figure 2 – Special Treatment Areas of the CAR LUP and is shown as part of the BSI property.

b) Policy 4.4.3E.6 of the CAR LUP states that the BSI property may be developed for residential use. A maximum of 25 units may be

approved; all units shall be sited outside of the view from Highway 1. These units may be used in conjunction with the institutional use. The upper steeper portion shall remain in open space. Special Treatment Area Development Standards contained in Section 20.146.120.C.7 of the CIP states that the BSI property may be developed for residential use. A maximum of 40 units may be approved; all units shall be sited outside of the view from Highway 1. These units may be used in conjunction with the institutional use. The upper steeper portion shall remain in open space.

c) Unit Cap. The BSI property contains 12 privately owned lots at its current configuration, 8 of which are developed with single family dwellings. Altogether, there are a total of 9 residential units in BSI and the proposed project will result in 10 units. This is under the maximum amount of units allowed in the CAR LUP and CIP.

d) View from Highway 1. Map A – General Viewshed and data contained in the Monterey County Geographic Information System indicates that a portion of the subject property is located in the "General Viewshed," a highly sensitive area. However, the proposed development area sits just outside of the viewshed area. Consistent with County regulations, staking and flagging of the proposed structure was installed and on February 28, 2017, staff preformed a site visit to determine if the project would have an impact to the viewshed. The project staking was not visible from Highway 1, Highway 1 turnouts, or the Pt. Lobos State Reserve. Therefore, the project will not be visible from Highway 1.

e) Development Outside of the Upper Steeper Portion. the BSI property contains two peaks of mountainous terrain to the north and south and flatlands to the west. The highest elevation of the northern peak is approximately 860-feet above sea level and the elevation of the southern peak is approximately 850-feet above sea level (FASL), while the lowest elevation of BSI is just under 200-FASL. Project plans indicate that the proposed development will occur at approximately 520-FASL, falling just above the mid-range level of the overall elevation of the BSI property. Since adoption of the CAR LUP, 4 developments on BSI property have been approved and occurred in elevations between 380 and 845-FASL, with a calculated average of 525-FASL. Therefore, the proposed location is found consistent within the established elevation range allowed for development, supporting the conclusion that the proposed project is consistent with the CAR LUP policy for BSI development.

f) Open Space Upper Steeper Portion. The project includes conservation of the upper steeper portion of the subject property in open space. Condition No. 27, Mitigation Measure No. 4, has been incorporated requiring the area outside of the building envelope (over 29-acres ranging in elevation from 530 to 820-FASL) to be placed within a Conservation and Scenic Easement Deed prohibiting further development; with the exception of the 2,500 square foot geoflow subsurface wastewater dispersal area,

to allow for required maintenance of the geoflow tubing. Language in the deed shall specifically note that the purpose of the easement is for the long-term preservation of the ESHA and Viewshed in accordance with CAR LUP protection policies and as a direct result of approval of the proposed project.

g) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning for the proposed development found in Project File PLN130339.

6. **FINDING:** **TREE REMOVAL** – The subject project minimizes tree removal in accordance with the applicable goals and policies of the Carmel Area Land Use Plan CAR LUP and the associated Coastal Implementation Plan (CIP).

EVIDENCE:

a) The project includes removal of a 14-inch Monterey pine tree, located adjacent to the northern portion of the structure where excavation and construction activities would impact structural roots of this tree. A second 18-inch Monterey pine tree is located in the proposed patio area and the applicant proposed to retain this tree by constructing a tree well. Grading and construction would have to potential damage this tree and reduce its life expectancy. Therefore, staff has analyzed the project to include its removal. In accordance with the applicable policies of the CAR LUP and Section 20.146.060 of the CIP, a Coastal Development is required and the criteria to grant said permit have been met.

b) A Biological Assessment (Finding No. 2, Evidence "b") was prepared and analyzed impacts to individual Monterey pines and the Monterey Pine Forest Habitat within the area of development. This analysis included a "worst case scenario" for the removal of 4 to 5 trees. Both short and long-term impacts were identified and tree protection measures and remedial mitigations were recommended. These recommendations have been incorporated.

c) Removal is the minimum necessary for the proposed development. The proposed development is sited closest to the existing roadway and the tiered design of the structure reduces the amount of structural coverage to less than 1,700 square feet, reducing the amount of vegetation removal needed. In addition, if the proposed construction techniques are effective, retention of the 18-inch pine will be successful; reducing removal to only the 14-inch pine.

d) As provided in Finding No. 5, Evidence "d," development of the single family dwelling, tree removal, will not result in exposure of structures within the critical viewshed.

e) Condition No. 11 has been incorporated requiring implementation of tree protection measures to prevent inadvertent damage from equipment or tree removal activity prior to and during construction.

f) In cases where native trees, 12-inches or greater, are to be removed, the CIP requires replacement on a 1 to 1 ratio, which was also recommended by the project biologist. Therefore, Condition No. 10 has been incorporated requiring the applicant to plant 2 replacement Monterey pine trees on the parcel.

g) In accordance with the Migratory Bird Treaty Act, Condition No. 12 has been incorporated requiring the applicant to retain a County qualified biologist to perform a nest survey within 300-feet of proposed tree removal, if the activity occurs during the typical bird nesting season. If nesting birds are found on the project site, an appropriate buffer plan shall be established by the project biologist.

h) Staff conducted a site inspection on February 28, 2017 to verify that the tree removal is the minimum necessary for the project and to identify any potential adverse environmental impacts related to the proposed tree removal.

i) The application, plans and supporting materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development are found in Project File PLN130339.

7. **FINDING:** **ENVIRONMENTALLY SENSITIVE HABITAT AREAS (ESHA)** – The subject project minimizes impact on environmentally sensitive habitat areas in accordance with the applicable goals and policies of the Carmel Area Land Use Plan (CAR LUP) and Coastal Implementation Plan Part 4 (CIP).

EVIDENCE:

a) A Biological Assessment (Finding No. 2, Evidence b) was prepared for the project and identified two distinct overlapping co-dominant vegetation types on the subject property: Central Maritime Chaparral and endemic Monterey Pine Forest. Four special status species or habitat were identified on the subject property: Monterey Pine Forest, Monterey pine (*pinus radiate*), Yadon's rein orchid (*Piperia yadonii*), and Central Maritime Chaparral. The proposed site improvements will require both development in (Monterey Pine Forest and Central Maritime Chaparral) and near (Yadon's rein orchid) ESHA. In accordance with Section 20.146.040 of the CIP, a Coastal Development is required and the criteria to grant said permit have been met.

b) In accordance with CAR LUP ESHA policies contained on 2.3.3, developments within and/or adjacent to ESHA shall be compatible with the long-term maintenance of the resource, restricted to only areas needed for structural improvements, and allowed only at densities compatible with the protection and maintenance of the adjoining resources. In addition, deed restrictions or dedications of permanent conservation easements shall be required over environmentally sensitive habitat areas where development is proposed on parcels containing such habitats.

c) <u>Compatibility with ESHA.</u> Section 20.146.040.B.3 states that new land uses are considered compatible only in situations in which the proposal incorporates necessary site planning and design features which protect habitat impacts and which do not set a precedent for continued land development with the potential to degrade the resource. Siting of the development is close to the existing roadway, reducing the amount of driveway, grading, and vegetation removal needed. The dwelling is designed to be partially below ground and stepped into the hillside resulting in a structural coverage of less than 1,700 square feet. In accordance

with CAR LUP Policy 2.3.3.6 and Section 20.146.040.B.7 of the CIP, Condition No. 27, Mitigation Measure No. 4, has been incorporated requiring dedication of the area outside of the building envelope (approximately 29.7-acres of the 30-acre parcel) to be placed within a Conservation and Scenic Easement Deed ensuring the long-term preservation of ESHA. Therefore, the project has been found to be located and designed to reduce land disturbance to minimum amount necessary in this case and would not set a precedent for continued land development with the potential to degrade the resource as further development would be restricted.

d) Appropriate Density. The proposed project will result in a density of 1 unit per 30-acres which is an appropriate restriction to protect ESHA while allowing for the minimum amount of development in this case.

e) Short-term ESHA Impacts. The project includes land disturbance within Monterey Pine Forest and Central Maritime Chaparral. The project biologist concludes that avoidance of these areas would not be feasible and identified potential impacts and mitigation measures to reduce those impacts to a less than significant level. Compliance with these mitigations require the applicant to develop, in consultation with a qualified biologist, a Biological Resources Protection Plan (Condition No. 24, Mitigation Measure No. 1) specifying logistics relative to the identification and protection of ESHA during grading and construction and implementation of biological resources training program for construction personnel and a Well Drilling Plan (Condition No, 25, Mitigation Measure No. 2) intended to reduce impacts to sensitive plants species during the well drilling process by retention of well discharge tailings and preventing water from migrating off-site. Construction is not proposed near the area where Yadon's rein orchid is located; however, implementation of the Biological Resources Protection Plan will ensure the plants will be protected during land disturbance. Implementation and monitoring of these mitigations will ensure the applicant contracts with a project biologist to ensure their involvement prior to land disturbance and during grading and construction, as verification of success of the protection of ESHA.

f) Small-leaved lomatium (*Lomatium parvifolium*) was found on the subject property in proximity to the proposed well. Although this plant is not considered a special status species (California Rare Plant Rank of 4.2, plants of limited distribution), the biologist felt it necessary to identify potential impacts to this plant as well as include protection measures. Condition No. 26, Mitigation Measure No. 3 has been incorporated requiring the applicant to submit a Restoration Plan for replanting and 5-year monitoring of small-leaved lomatium, if impacts occur.

g) Staff conducted a site inspection on February 28, 2017 to verify ESHA locations and potential project impacts to ESHA.

h) The application, project plans, and related support materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development found in Project File PLN130339.

8. **FINDING:** **DEVELOPMENT ON SLOPE** – There is no feasible alternative which would allow development to occur on slopes of less than 30%.

EVIDENCE:

a) The location of the proposed dwelling and driveway contains an average slope of 34% and the location of the proposed wastewater dispersal area contains an average slope of 47%. In accordance with the applicable policies of the Plan (CAR LUP) and Coastal Implementation Plan Part 4 (CIP), a Coastal Development Permit is required and the criteria to grant said permit have been met.

b) The proposed improvements are located close to the existing roadway, reducing the amount of grading and disruption of slopes.

c) Staff identified an alternative location for the dwelling which contains an average slope of approximately 22%. However, creating access to this area would still require development on slopes in excess of 30% and the proposed structure would be in proximity of Yadon's rein orchid (*Piperia yadonii*), a Federally Listed Endangered plant. A potential alternative location further along Mount Devon Road was also suggested by a member of the public. This location has an approximate elevation around 750-above sea level. Based on the development policy for BSI, this area would be considered as the upper steeper area where residential development is prohibited. Therefore, these alternative locations do not better meet the goals, policies, and objective of the Local Coastal Program.

d) The application, plans and supporting materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development are found in Project File PLN130339.

9. **FINDING:** **CEQA (Mitigated Negative Declaration) -** On the basis of the whole record before the Monterey County Planning Commission, there is no substantial evidence that the proposed project as designed, conditioned and mitigated, will have a significant effect on the environment. The Mitigated Negative Declaration reflects the independent judgment and analysis of the County.

EVIDENCE:

a) Public Resources Code Section 21080.d and California Environmental Quality Act (CEQA) Guidelines Section 15064.a.1 require environmental review if there is substantial evidence that the project may have a significant effect on the environment.

b) Monterey County RMA-Planning prepared an Initial Study/Mitigated Negative Declaration (IS/MND) pursuant to CEQA. The IS/MND is on file in the offices of RMA-Planning and is hereby incorporated by reference.

c) The IS/MND identified several potentially significant effects, but the applicant has agreed to proposed mitigation measures that

mitigate the effects to a point where clearly no significant effects would occur.

d) All project changes required to avoid significant effects on the environment have been incorporated into the project and are made conditions of approval. A Condition Compliance and Mitigation Monitoring and/or Reporting Plan has been prepared in accordance with Monterey County regulations, is designed to ensure compliance during project implementation, and is hereby incorporated herein by reference. The applicant must enter into an "Agreement to Implement a Mitigation Monitoring and/or Reporting Program" in accordance with Condition No. 6.

e) The Draft IS/MND for PLN130339 was prepared in accordance with CEQA Guidelines and circulated for public review from March 29, 2017 through April 28, 2017 (SCH#: 2017031068).

f) Issues that were analyzed in the IS/MND include: aesthetics, agriculture and forest resources, air quality, biological resources, cultural resources, geology/soils, greenhouse gas emissions, hazards/hazardous materials, hydrology/water quality, land use/planning, mineral resources, noise, population/housing, public services, recreation, transportation/traffic, and utility/service systems.

g) The project was identified to have no impact on agriculture and forest resources, hazards/hazardous materials, mineral resources, population/housing, public services, recreation, transportation/traffic, or utilities/service systems.

h) Less than significant impacts have been identified for air quality, cultural resources, geology/soils, greenhouse gas emissions, hydrology/water quality, and noise. Conditions of approval have been incorporated to assure compliance with County requirements to the extent that they mitigate the identified potential impacts. Therefore, mitigation measures were not necessary to reduce potential impacts to a less than significant level.

i) Potential Impacts to Cultural Resources. Monterey County Geographic Information System indicates that the subject property is located within a high archaeological sensitivity zone. An archaeological survey was submitted (Finding No. 2) with the application and concluded that the project area contains no evidence of potentially significant archaeological resources. Pursuant to State Assembly Bill 52, staff conducted a Tribal Consultation with the Ohlone/Costanoan-Esselen Nation (OCEN). Concerns with the protection of OCEN Ancestral Heritage Sites if resources are accidentally uncovered were conveyed. Therefore, a standard condition of approval requiring halting all work if resources are accidentally uncovered. Implementation of the project would have a less than significant impact on cultural resources.

j) Potential Impacts to Scenic Resources. Site improvements will not create an impact to the general viewshed at its proposed location. However, pursuant to County regulations, approved projects may be amended to allow modification of approved development,

including relocation. This is especially critical because approval of the rezone does not limit development within a specific area, resulting in a potential to impact scenic resources in the future. Therefore, Condition No. 27, Mitigation Measure No. 4, has been incorporated requiring dedication of the area outside of the building envelope (approximately 28.95-acres of the 30-acre parcel) to be placed within a Conservation and Scenic Easement Deed, ensuring the long-term preservation of viewshed.

k) Potential Impacts to Biological Resources. the project would have the potential to impact Monterey Pine Forest, Monterey pine (*pinus radiate*), Yadon's rein orchid (*Piperia yadonii*), and Central Maritime Chaparral. Mitigation measures have been developed based on the recommendations of the project biologist and have been incorporated as conditions of approval and implementation will reduce impacts to these resources to a less than significant level. See Finding No. 7.

l) Potential Impacts to Land Use/Planning. The project includes rezoning of the 30-acre parcel from Resource Conservation, Coastal Zone to Watershed Scenic Conservation, Special Treatment, Coastal Zone. This would allow establishment of a residential use. The rezone does not limit development within a specific area, resulting in a potential to conflict with applicable policies or regulations adopted for the purpose of avoiding or mitigating an environmental effect; specifically, consistency with the BSI residential development policy and policies protecting scenic and biological resources. Therefore, Condition No. 27, Mitigation Measure No. 4, has been incorporated requiring dedication of the area outside of the building envelope (approximately 29.7-acres of the 30-acre parcel) to be placed within a Conservation and Scenic Easement Deed.

m) Evidence that has been received and considered includes: the application, technical studies/reports (Finding No. 2), staff reports that reflect the County's independent judgment, and information and testimony presented during public hearings. These documents are on file in RMA-Planning (PLN130339) and are hereby incorporated herein by reference.

n) Staff analysis contained in the IS/MND and the record as a whole indicate the project could result in changes to the resources listed in Section 753.5(d) of the California Department of Fish and Game (CDFG) regulations. All land development projects that are subject to environmental review are subject to a State filing fee plus the County recording fee, unless the Department of Fish and Game determines that the project will have no effect on fish and wildlife resources. The site supports scenic and biological resources. For purposes of the Fish and Game Code, the project may have a significant adverse impact on the fish and wildlife resources upon which the wildlife depends. The IS/MND was sent to the California Department of Fish and Game for review, comment, and to recommend necessary conditions to protect biological resources in this area. Therefore, the project will be required to pay the State

fee plus a fee payable to the Monterey County Clerk/Recorder for processing said fee and posting the Notice of Determination (NOD).

o) The County has considered comments received during the public review period and they do not alter the conclusions in the IS/MND. See subsequent Evidence "p" through "y."

p) Comments included concerns with previous impacts caused by past development in the area. The project as proposed and condition, meets the California Building Code and, to the furthest extent possible, prevents slope failure to occur as a result from project implementation as discussed in Finding No. 3, Evidence "c."

q) Comments included concerns with allowing development on a property that is currently, and previously, encumbered by a conservation and scenic easement deed. The Conservation and Scenic Easement Deed (recorded on Reel 495, Page 586 of the Official Records of Monterey County) was terminated and restrictions on the property contained in the easement no longer apply (Finding No. 4, Evidence "f").

r) Comments identified that the rezone is unprecedented. The comments stated that the previously approved rezone of BSI property discussed in the IS/MND did not require development on slopes in excess of 30% and or a Variance to setbacks, unlike the proposed project. Therefore, approval of the rezone is not supported. While past approvals could be considered as examples, they cannot be the basis of which similar projects are approved. In addition, reference to the previous rezone was provided for information purposes, it was not used as evidence for no impact, less than significant impact, or as a mitigation.

s) Comments identified that approval of the project would set a precedent for approval of a rezone and/or development on slopes in excess of 30% Approval of the rezone and Combined Development Permit is based on an independent review of specific facts resulting in supporting evidence to find the project consistent with applicable policies and regulation. Approval of this permit does not allow for future projects (similar or not) to be approved without a case by case analysis for meeting required findings. Therefore, approval would not set a precedent. Approval does not mean that any project, either located in BSI or not, containing ESHA, slopes in excess of 30%, and/or tree removal can and will be supported in the future.

t) Comments included a concern with miscalculation of grading quantities. This miscalculation is based on the commenter assuming location of the structure does not meet front setback requirements and approval would require additional grading by located the structure further into the hillside. As discussed in Finding No. 1, Evidence "j," the project meets the height and setback exception for front setbacks and no additional grading or vegetation removal will be required. In addition, granting of a Variance is not required.

u) Comments state that the IS/MND did not address traffic and public safety impacts to Mount Devon Road caused by grading and

during construction. The IS/MND states that the project would result in temporary impacts due to construction. As discussed in Finding No. 3, Evidence "d," standard Condition No. 21 has been incorporated to ensure temporary impacts are controlled through implementation of a Construction Management Plan.

v) Comments state that the subject property is pristine with steep slopes and that there are no existing roads or buildings on the parcel. Therefore, the RC zoning should remain to protect ESHA on the site. As described in Finding No. 1, Evidence "b," existing development on the site consists of portions of Mount Devon Road and a Cal Am water tank. In addition, impacts to ESHA have been identified (see previous Evidence "k") and implementation of mitigations will result in a less than significant impact. Furthermore, as discussed in Finding No. 7, the project as proposed and conditioned, is compatible with the long-term maintenance of the resource.

w) Mitigations measures to reduce impacts to ESHA and development on slopes in excess of 30% do not provide consistency with CAR LUP, stating that staff should not "assume that the protections for such areas that are embodied in the CIP and the Land Use Plan can be overridden by a handful of mitigation measure(s)." Discretionary projects are required to be consistent with the applicable polices and regulations in order for approval. Mitigation measures are tools to reduce environmental impacts identified in an environmental document. Although policy implementation may overlap with mitigations, the project as a whole (proposed, sited, designed, conditioned, and mitigated) must be found consistent. In other words, mitigations alone do not provide policy consistency.

x) Comments state that the CAR LUP prohibits development within Central Maritime Chaparral habitat. The code section quoted by the commenter is specific to a terrestrial plant habitat, the Dwarf Coastal Chaparral. Although protection measures are required, there is no prohibition on development within Central Maritime Chaparral. Comments relative to these issues have been resolved.

y) Comments state that the CAR LUP BSI development policy does not provide an exception to allow rezoning, development on slopes in excess of 30%, and/or a Variance to the front setback. Staff's analysis of project and this policy is relative to consistency. Although the IS/MND identifies that the project shall be consistent, it does not state that consistency is the sole basis for approval.

z) Mitigation Measure No. 1 has been modified and added to the project as Condition No. 24. The revised mitigation measure clarifies that the intent is to ensure impacts to biological resources as a whole and not only specific to a certain plant. In addition, it clarifies that only impacts to Yadon's rein orchid can be avoided; however, with implementation of the mitigation, impacts to Monterey Pine Forest and individual pine trees, Central Maritime Chaparral, and small-leaved lomatium would be reduced to less than significant. The mitigation was modified to read as follows:

"In order to ensure impacts environmentally sensitive habitats are reduced to a less than significant level, ~~to small-leaved lomatium, Yadon's rein orchid, and Monterey pine are avoided,~~ the owner/applicant shall submit a Biological Resources Protection Plan, developed in consultation with the project biologist, prior to the issuance of construction permits. Implementation of the plan shall ensure impacts to Yadon's rein orchid are avoided and impacts to Monterey Pine Forest, individual Monterey pine trees, Central Maritime Chaparral habitat, and small-leaved lomatium are less than significant. This plan shall include information of how sensitive plants species will be identified and protected during grading and construction for the driveway, structures, domestic well access road, and the installation of the geoflow subsurface drip tubing for wastewater treatment. In addition, the plan shall include how a biological resources training program for construction personnel will be implemented and documented."

This revision is more effective in mitigating and avoiding potential significant effects because it better identifies the potential impacts and clarifies the intended mitigation. The revised mitigation measure will not cause any potentially significant effect on the environment.

aa) Monterey County RMA-Planning, located at 1441 Shilling Place, South 2nd Floor, Salinas, California, 93901, is the custodian of documents and other materials that constitute the record of proceedings upon which the decision to adopt the Negative Declaration is based.

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

b) The subject property is not described as an area where the Local Coastal Program requires public access (Figure 3 in the Carmel Area Land Use Plan).

c) No evidence or documentation has been submitted or found showing the existence of historic public use or trust rights over this property.

11. **FINDING:** **APPEALABILITY -** The decision on the Combined Development Permit may be appealed to the Board of Supervisors and the California Coastal Commission. The recommendation of the rezone is not appealable.

EVIDENCE:

a) Section 20.86.030.A of the Monterey County Zoning Ordinance states that the proposed project is appealable to the Board of Supervisors.

b) Section 20.86.080.A.3 of the Monterey County Zoning Ordinance states that the proposed project is subject to appeal by/to the Coastal Commission because the Combined Development Permit involves development as a conditional use.

c) Section 20.86 of the Monterey County Zoning Ordinance is applicable to discretionary decisions made by the Planning Commission. Action on the rezone does not include approval or denial, only recommendation.

DECISION

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

1) Adopt the Mitigated Negative Declaration;
2) Adopt a resolution of intent to approve the Local Coastal Program Amendment to rezone the property from the Resource Conservation, Coastal Zone [“RC(CZ)”] zoning classification to the Watershed and Scenic Conservation, Special Treatment, Coastal Zone [“WSC/SpTr(CZ)”] zoning classification;
3) Approve the Combined Development Permit, subject to approval of the Local Coastal Program Amendment, consisting of:
    a. Coastal Administrative Permit and Design Approval to allow construction of a 2,397 square foot two-story single family dwelling with a 409 square foot attached garage and 143 square foot mechanical room;
    b. Coastal Administrative Permit to establish a domestic well;
    c. Coastal Development Permit to allow the removal of one 14-inch and one 18-inch Monterey pine tree;
    d. Coastal Development Permit to allow development within 100-feet of an environmentally sensitive area;
    e. Coastal Development Permit to allow development on slopes in excess of 30%; and
4) Adopt a Mitigation Monitoring and Reporting Program; and

All of which is in general conformance with the attached plans and subject to the attached conditions**,** all being attached hereto and incorporated herein by reference.

PASSED AND ADOPTED this 30th day of August, 2017 upon motion of _____, seconded by ____, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Jacqueline R. Onciano, Planning Commission Secretary

COPY OF THIS DECISION MAILED TO APPLICANT ON DATE

THIS APPLICATION IS APPEALABLE TO THE BOARD OF SUPERVISORS.

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

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

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

NOTES

1. You will need a building permit and must comply with the Monterey County Building Ordinance in every respect.

   Additionally, the Zoning Ordinance provides that no building permit shall be issued, nor any use conducted, otherwise than in accordance with the conditions and terms of the permit granted or until ten days after the mailing of notice of the granting of the permit by the appropriate authority, or after granting of the permit by the Board of Supervisors in the event of appeal.

   Do not start any construction or occupy any building until you have obtained the necessary permits and use clearances from Monterey County RMA-Planning and RMA-Building Services Department office in Salinas.

2. This permit expires 3 years after the above date of granting thereof unless construction or use is started within this period.

Form Rev. 5-14-2014

ATTACHMENT 1 OF EXHIBIT C

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA AMENDING SECTION 20.08.060 OF TITLE 20 (COASTAL ZONING ORDINANCE) OF THE MONTEREY COUNTY CODE TO AMEND THE ZONING CLASSIFICATION OF CERTAIN PROPERTY IN THE COUNTY OF MONTEREY.

County Counsel Summary

This ordinance amends Section 20-16 of the Sectional District Maps of Section 20.08.060 of Title 20 (Monterey County Coastal Implementation Plan) of the Monterey County Code to rezone a 30-acre parcel from the "RC(CZ)" [Resource Conservation, Coastal Zone] zoning classification to the "WSC-SpTr(CZ)" [Watershed Scenic Conservation, Special Treatment, Coastal Zone] zoning classification. The property is located at 83 Mount Devon Road, Carmel in the coastal unincorporated area of Monterey County (APN: 241-021-007-000).

The Board of Supervisors of the County of Monterey ordains as follows:

SECTION 1. ZONING DISTRICT MAP. Section 20-16 of the Sectional District Maps of Section 20.08.060 of the Monterey County Code is hereby amended to change the zoning of a 30-acre parcel located at 83 Mount Devon Road, Carmel (Assessor's Parcel Number: 241-021-007-000) from the "RC(CZ)" [Resource Conservation, Coastal Zone] zoning classification to the "WSC-SpTr(CZ)" [Watershed Scenic Conservation, Special Treatment, Coastal Zone] zoning classification, as shown on the map attached hereto as Exhibit A and incorporated by reference.

SECTION 2. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of Supervisors hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

SECTION 3. EFFECTIVE DATE. This Ordinance shall become effective on the thirty-first day after its adoption or the day certification by the California Coastal Commission becomes final and effective, whichever is later.

PASSED AND ADOPTED this ____ day of _____, 2017 by the following vote:

AYES:

NOES:
ABSENT:
ABSTAIN:

_____
Mary Adams, Chair
Monterey County Board of Supervisors

A T T E S T:

GAIL T. BORKOWSKI,
Clerk of the Board of Supervisors

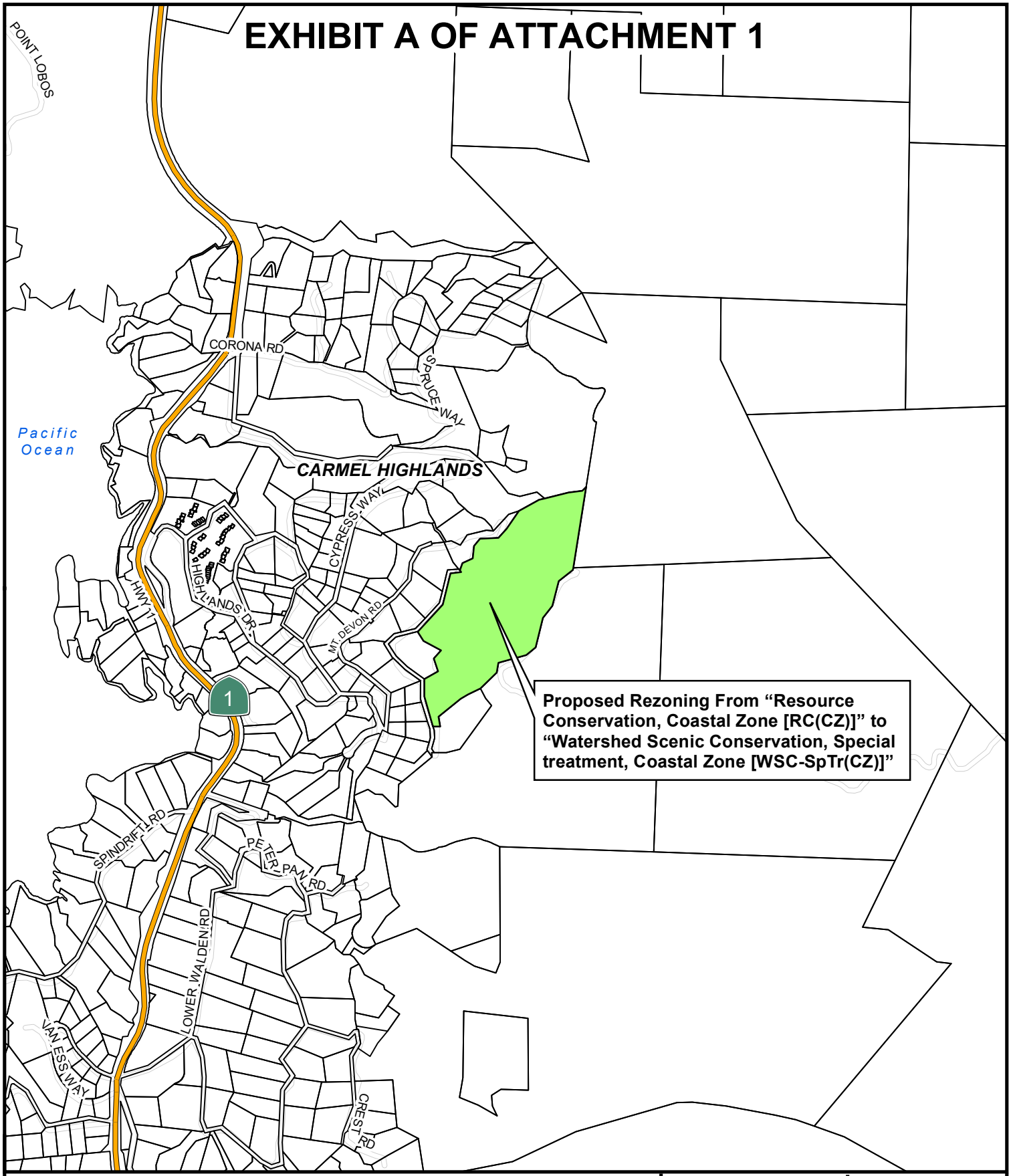
By:_____
Deputy

APPROVED AS TO FORM:

WENDY S. STRIMLING
Senior Deputy County Counsel

Exhibit A of Attachment 1

EXHIBIT A OF ATTACHMENT 1



REZONING: SECTION 20-22 & 20-16, TITLE 20

APN: 241-021-007-000 **FILE #**

SUBJECT PARCEL PARCEL

N

0 800
Feet

Date: 8/21/2017

Monterey County RMA Planning

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

PLN130339

1. PD001 - SPECIFIC USES ONLY

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: This Combined Development Permit (PLN130339) allows: 1) Coastal Administrative Permit and Design Approval to allow the construction of a 2,397 square foot single family dwelling; 2) Coastal Administrative Permit to allow the establishment of a new well; 3) a Coastal Development Permit to allow the removal of one 14-inch and one 18-inch Monterey Pine tree; and 4) Coastal Development Permit to allow development on slopes in excess of 30%. The property is located at 83 Mt Devon Road, Carmel (Assessor's Parcel Number 241-021-007-000), 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 the RMA - Planning Department. 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.
(RMA - Planning Department)

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

2. PD002 - NOTICE PERMIT APPROVAL

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: The applicant shall record a Permit Approval Notice. This notice shall state:
"A Combined Development Permit (Resolution Number ***) was approved by the Board of Supervisors for Assessor's Parcel Number 241-021-007-000 on **********. The permit was granted subject to 31 conditions of approval which run with the land. A copy of the permit is on file with the Monterey County RMA - Planning Department."
Proof of recordation of this notice shall be furnished to the Director of the RMA - Planning Department prior to issuance of building permits or commencement of the use.
(RMA - Planning Department)

Compliance or Monitoring Action to be Performed: Prior to the issuance of grading and building permits or commencement of use, the Owner/Applicant shall provide proof of recordation of this notice to the RMA - Planning Department.

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

Responsible Department: RMA-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. The Monterey County RMA - Planning Department 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.
(RMA - Planning Department)

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 the Monterey County RMA - Planning Department and a qualified archaeologist immediately if cultural, archaeological, historical or paleontological resources are uncovered." When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery.

4. PD004 - INDEMNIFICATION AGREEMENT

Responsible Department: RMA-Planning

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.
(RMA - Planning Department)

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, whichever occurs first and as applicable, the Owner/Applicant shall submit a signed and notarized Indemnification Agreement to the Director of RMA-Planning Department for review and signature by the County.

Proof of recordation of the Indemnification Agreement, as outlined, shall be submitted to the RMA-Planning Department.

5. PD005 - FISH & GAME FEE NEG DEC/EIR

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: Pursuant to the State Public Resources Code Section 753.5, State Fish and Game Code, and California Code of Regulations, the applicant shall pay a fee, to be collected by the County, within five (5) working days of project approval. This fee shall be paid before the Notice of Determination is filed. If the fee is not paid within five (5) working days, the project shall not be operative, vested or final until the filing fees are paid. (RMA - Planning)

Compliance or Monitoring Action to be Performed: Within five (5) working days of project approval, the Owner/Applicant shall submit a check, payable to the County of Monterey, to the Director of RMA - Planning.

If the fee is not paid within five (5) working days, the applicant shall submit a check, payable to the County of Monterey, to the Director of RMA - Planning prior to the recordation of the final/parcel map, the start of use, or the issuance of building permits or grading permits.

6. PD006 - CONDITION OF APPROVAL / MITIGATION MONITORING PLAN

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: The applicant shall enter into an agreement with the County to implement a Condition of Approval/Mitigation Monitoring and/or Reporting Plan (Agreement) in accordance with Section 21081.6 of the California Public Resources Code and Section 15097 of Title 14, Chapter 3 of the California Code of Regulations. Compliance with the fee schedule adopted by the Board of Supervisors for mitigation monitoring shall be required and payment made to the County of Monterey at the time the property owner submits the signed Agreement. The agreement shall be recorded. (RMA - Planning)

Compliance or Monitoring Action to be Performed: Within sixty (60) days after project approval or prior to the issuance of building and grading permits, whichever occurs first, the Owner/Applicant shall:

1) Enter into an agreement with the County to implement a Condition of Approval/Mitigation Monitoring Plan.

2) Fees shall be submitted at the time the property owner submits the signed Agreement.

3) Proof of recordation of the Agreement shall be submitted to RMA-Planning.

7. PD011(A) - TREE REMOVAL

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: Tree removal shall not occur until a construction permit has been issued in conformance with the appropriate stage or phase of development in this permit. Only those trees approved for removal shall be removed. (RMA-Planning)

Compliance or Monitoring Action to be Performed: Prior to tree removal, the Owner/ Applicant/ Tree Removal Contractor shall demonstrate that a construction permit has been issued prior to commencement of tree removal.

8. PD012(D) - LANDSCAPE PLAN & MAINTENANCE (MPWMD-SFD ONLY)

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: The site shall be landscaped. Prior to the issuance of building permits, three (3) copies of a landscaping plan shall be submitted to the Director of RMA - Planning . A landscape plan review fee is required for this project. Fees shall be paid at the time of landscape plan submittal. The landscaping plan shall be in sufficient detail to identify the location, species, and size of the proposed landscaping materials and shall include an irrigation plan. The plan shall be accompanied by a nursery or contractor's estimate of the cost of installation of the plan. Before occupancy, landscaping shall be either installed or a certificate of deposit or other form of surety made payable to Monterey County for that cost estimate shall be submitted to the Monterey County RMA - Planning. All landscaped areas and fences shall be continuously maintained by the applicant; all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition. (RMA - Planning)

Compliance or Monitoring Action to be Performed: Prior to issuance of building permits, the Owner/Applicant/Licensed Landscape Contractor/Licensed Landscape Architect shall submit landscape plans and contractor's estimate to RMA - Planning for review and approval. Landscaping plans shall include the recommendations from the Forest Management Plan or Biological Survey as applicable. All landscape plans shall be signed and stamped by licensed professional under the following statement, "I certify that this landscaping and irrigation plan complies with all Monterey County landscaping requirements including use of native, drought-tolerant, non-invasive species; limited turf; and low-flow, water conserving irrigation fixtures."

Prior to issuance of building permits, the Owner/Applicant/Licensed Landscape Contractor/Licensed Landscape Architect shall submit one (1) set landscape plans of approved by RMA-Planning, a Maximum Applied Water Allowance (MAWA) calculation, and a completed "Residential Water Release Form and Water Permit Application" to the Monterey Peninsula Water Management District for review and approval.

Prior to issuance of building permits, the Owner/Applicant/Licensed Landscape Contractor/ shall submit an approved water permit from the MPWMD to RMA-Building Services.

Prior to occupancy, the Owner/Applicant/Licensed Landscape Contractor/Licensed Landscape Architect shall ensure that the landscaping shall be either installed or a certificate of deposit or other form of surety made payable to Monterey County for that cost estimate shall be submitted to Monterey County RMA - Planning.

On an on-going basis, all landscaped areas and fences shall be continuously maintained by the Owner/Applicant; all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition.

9. PD014(A) - LIGHTING - EXTERIOR LIGHTING PLAN

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: All exterior lighting shall be unobtrusive, down-lit, harmonious with the local area, and constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. The lighting source shall be shielded and recessed into the fixture. Exterior windows on the structure shall be designed to allow a lower visual transmittance of light. The applicant shall submit three (3) copies of an exterior lighting plan which shall indicate the location, type, and wattage of all light fixtures and include catalog sheets for each fixture as well as exterior window information meeting the requirements of this condition. The lighting shall comply with the requirements of the California Energy Code set forth in California Code of Regulations Title 24 Part 6. The exterior lighting plan shall be subject to approval by the Director of RMA - Planning, prior to the issuance of building permits.
(RMA - Planning)

Compliance or Monitoring Action to be Performed: Prior to the issuance of building permits, the Owner/Applicant shall submit three copies of the lighting plans to RMA - Planning for review and approval. Approved lighting plans shall be incorporated into final building plans.

Prior to final/occupancy, the Owner/Applicant/Contractor shall submit written and photographic evidence demonstrating that the lighting has been installed according to the approved plan.

On an on-going basis, the Owner/Applicant shall ensure that the lighting is installed and maintained in accordance with the approved plan.

10. PD048 - TREE REPLACEMENT/RELOCATION

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: Within 60 days of permit approval, the applicant shall replace and or relocate each tree approved for removal as follows:
- Replacement ratio: 1 to 1

Replacement tree(s) shall be located within the same general location as the tree being removed. (RMA - Planning)

Compliance or Monitoring Action to be Performed: The Owner/Applicant shall submit evidence of tree replacement to RMA-Planning for review and approval. Evidence shall be a receipt for the purchase of the replacement tree(s) and photos of the replacement tree(s) being planted.

Six months after the planting of the replacement tree(s), the Owner/Applicant shall submit evidence demonstrating that the replacement tree(s) are in a healthy, growing condition.

One year after the planting of the replacement tree(s), the Owner/Applicant shall submit a letter prepared by a County-approved tree consultant reporting on the health of the replacement tree(s) and whether or not the tree replacement was successful or if follow-up remediation measures or additional permits are required.

11. PD049 - TREE AND ROOT PROTECTION

Responsible Department: RMA-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. (RMA - 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 RMA-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 RMA-Planning to document that the tree protection has been successful or if follow-up remediation measures or additional permits are required.

12. PD050 - RAPTOR/MIGRATORY BIRD NESTING

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: Any tree removal activity that occurs during the typical bird nesting season (February 22-August 1), the County of Monterey shall require that the project applicant retain a County qualified biologist to perform a nest survey in order to determine if any active raptor or migratory bird nests occur within the project site or within 300 feet of proposed tree removal activity. During the typical nesting season, the survey shall be conducted no more than 30 days prior to ground disturbance or tree removal. If nesting birds are found on the project site, an appropriate buffer plan shall be established by the project biologist. (RMA - Planning)

Compliance or Monitoring Action to be Performed: No more than 30 days prior to ground disturbance or tree removal, the Owner/Applicant/Tree Removal Contractor shall submit to RMA-Planning a nest survey prepare by a County qualified biologist to determine if any active raptor or migratory bird nests occur within the project site or immediate vicinity.

13. EROSION CONTROL PLAN

Responsible Department: Environmental Services

Condition/Mitigation Monitoring Measure: The applicant shall submit an erosion control plan in conformance with the requirements of Monterey County Code Chapter 16.12. The erosion control plan shall include: a construction entrance, concrete washout, stockpile area(s), material storage area(s), portable sanitation facilities and waste collection area(s), as applicable. (RMA-Environmental Services)

Compliance or Monitoring Action to be Performed: Prior to issuance of any grading or building permits, the applicant shall submit an Erosion Control Plan to RMA-Environmental Services for review and approval.

14. GEOTECHNICAL CERTIFICATION

Responsible Department: Environmental Services

Condition/Mitigation Monitoring Measure: The applicant shall provide certification from a licensed practitioner that all development has been constructed in accordance with the recommendations in the project Geotechnical Engineering Report. (RMA- Environmental Services)

Compliance or Monitoring Action to be Performed: Prior to final inspection, the owner/applicant shall submit a letter to RMA-Environmental Services for review and approval.

15. GRADING PLAN

Responsible Department: Environmental Services

Condition/Mitigation Monitoring Measure: The applicant shall submit a grading plan incorporating the recommendations in the project Geotechnical Engineering Report prepared by Beacon Geotechnical, Inc. The grading plan shall also address face of structure setbacks from slopes, the requirements of Monterey County Code Chapter 16.08, and the geotechnical inspection schedule shall be included on the plan. The applicant shall provide certification from the licensed practitioner that the grading plan incorporates their geotechnical recommendations. (RMA-Environmental Services)

Compliance or Monitoring Action to be Performed: Prior to issuance of any grading or building permits, the applicant shall submit a grading plan to RMA-Environmental Services for review and approval.

Prior to issuance of any grading or building permits, the applicant shall submit certification from a licensed practitioner that they have reviewed the grading plan for conformance with the geotechnical recommendations.

16. INSPECTION-PRIOR TO LAND DISTURBANCE

Responsible Department: Environmental Services

Condition/Mitigation Monitoring Measure: The applicant shall schedule an inspection with RMA-Environmental Services to ensure all necessary sediment controls are in place and the project is compliant with Monterey County regulations. This inspection requirement shall be noted on the Erosion Control Plan. (RMA – Environmental Services)

Compliance or Monitoring Action to be Performed: Prior to commencement of any land disturbance, the owner/applicant shall schedule an inspection with RMA-Environmental Services.

17. INSPECTION-DURING ACTIVE CONSTRUCTION

Responsible Department: Environmental Services

Condition/Mitigation Monitoring Measure: The applicant shall schedule an inspection with RMA-Environmental Services to inspect drainage device installation, review the maintenance and effectiveness of BMPs installed, and to verify that pollutants of concern are not discharged from the site. At the time of the inspection, the applicant shall provide certification that all necessary geotechnical inspections have been completed to that point. This inspection requirement shall be noted on the Erosion Control Plan.(RMA – Environmental Services)

Compliance or Monitoring Action to be Performed: During construction, the applicant shall schedule an inspection with RMA-Environmental Services.

18. INSPECTION-FOLLOWING ACTIVE CONSTRUCTION

Responsible Department: Environmental Services

Condition/Mitigation Monitoring Measure: The applicant shall schedule an inspection with RMA-Environmental Services to ensure all disturbed areas have been stabilized and all temporary erosion and sediment control measures that are no longer needed have been removed. This inspection requirement shall be noted on the Erosion Control Plan. (RMA – Environmental Services)

Compliance or Monitoring Action to be Performed: Prior to final inspection, the owner/applicant shall schedule an inspection with RMA-Environmental Services.

19. PW0005 - ENCROACHMENT (STD DRIVEWAY)

Responsible Department: RMA-Public Works

Condition/Mitigation Monitoring Measure: Obtain an encroachment permit from the Department of Public Works and construct a standard
driveway connection to Mt. Devon Road.

Compliance or Monitoring Action to be Performed: Prior to Building/Grading Permits Issuance, Owner/Applicant shall obtain an encroachment
permit from DPW prior to issuance of building permits and complete improvement prior to
occupancy or commencement of use. Applicant is responsible in obtaining all permits and
environmental clearances.

20. PW0043 - REGIONAL DEVELOPMENT IMPACT FEE

Responsible Department: RMA-Public Works

Condition/Mitigation Monitoring Measure: Prior to issuance of building permits, applicant shall pay the Regional Development Impact Fee (RDIF) pursuant to Monterey Code Chapter 12.90. The fee amount shall be determined based on the parameters adopted in the current fee schedule.

Compliance or Monitoring Action to be Performed: Prior to issuance of Building Permits Owner/Applicant shall pay Monterey County Building Services Department the traffic mitigation fee. Owner/Applicant shall submit proof of payment to the DPW.

21. PW0044 - CONSTRUCTION MANAGEMENT PLAN

Responsible Department: RMA-Public Works

Condition/Mitigation Monitoring Measure: The applicant shall submit a Construction Management Plan (CMP) to the RMA-Planning Department and the Department of Public Works for review and approval. The CMP shall include measures to minimize traffic impacts during the construction/grading phase of the project and shall provide the following information:
Duration of the construction, hours of operation, an estimate of the number of truck trips that will be generated, truck routes, number of construction workers, parking areas for both equipment and workers, and locations of truck staging areas. Approved measures included in the CMP shall be implemented by the applicant during the Construction/grading phase of the project.

Compliance or Monitoring Action to be Performed:

1. Prior to issuance of the Grading Permit or Building Permit Owner/Applicant/Contractor shall prepare a CMP and shall submit the CMP to the RMA-Planning Department and the Department of Public Works for review and approval.

2. On-going through construction phases Owner/Applicant/Contractor shall implement the approved measures during the construction/grading phase of the project.

22. WR002 - STORMWATER CONTROL

Responsible Department: Water Resources Agency

Condition/Mitigation Monitoring Measure: The applicant shall provide a drainage plan, prepared by a registered civil engineer or licensed architect, to mitigate on-site and off-site impacts. Impervious surface stormwater runoff shall be dispersed at multiple points, on the least steep available slopes, away from and below any septic leach fields. Erosion control shall be provided at each outlet. Drainage improvements shall be constructed in accordance with plans approved by the Water Resources Agency. (Water Resources Agency)

Compliance or Monitoring Action to be Performed: Prior to issuance of any construction permit, the owner/applicant shall submit a drainage plan with the construction permit application.

The Building Services Department will route a plan set to the Water Resources Agency for review and approval.

23. WR049 - WATER AVAILABILITY CERTIFICATION

Responsible Department: Water Resources Agency

Condition/Mitigation Monitoring Measure: The applicant shall provide the Monterey County Water Resources Agency proof of water availability in the form of a complete Monterey Peninsula Water Management District Water Release Form. (Water Resources Agency)

Compliance or Monitoring Action to be Performed: Prior to issuance of any construction permit, the owner/applicant shall submit a Water Release Form to the Water Resources Agency for review and approval.

A copy of the Water Release Form can be obtained at the Monterey Peninsula Water Management District, the Water Resources Agency, or online at: www.mcwra.co.monterey.ca.us.

24. MM001 - BIOLOGICAL RESOURCES PROTECTION PLAN

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: In order to ensure impacts environmentally sensitive habitats are reduced to a less than significant level, the owner/applicant shall submit a Biological Resources Protection Plan, developed in consultation with the project biologist, prior to the issuance of construction permits. Implementation of the plan shall ensure impacts to Yadon's rein orchid are avoided and impacts to Monterey Pine Forest, individual Monterey pine trees, Central Maritime Chaparral habitat, and small-leaved lomatium are less than significant. This plan shall include information of how sensitive plants species will be identified and protected during grading and construction for the driveway, structures, domestic well access road, and the installation of the geoflow subsurface drip tubing for wastewater treatment. In addition, the plan shall include how a biological resources training program for construction personnel will be implemented and documented.

Compliance or Monitoring Action to be Performed: Mitigation Measure Action No. 1a: Prior to the issuance of construction permits for grading or building, the owner/applicant shall include a note on the construction plans encompassing the language contained in Mitigation Measure No. 1. The owner/applicant shall submit plans to RMA-Planning for review and approval.

Mitigation Measure Action No. 1b: Prior to the issuance of construction permits for grading and/or building, the owner/applicant shall submit to RMA-Planning a copy of the contract between the owner/applicant and a qualified biologist (referred to as the project biologist). The contract shall include provisions of consultation of develop and implement the Biological Resources Protection Plan. The contract shall be submitted to the RMA-Planning Department for review and approval. Should RMA-Planning find the contract incomplete or unacceptable, the contract will be returned to the owner/applicant and a revised contract shall be re-submitted for review and approval.

Mitigation Measure Action No. 1c: Prior to the issuance of construction permits for grading and/or building, the owner/applicant shall submit a Biological Resources Protection Plan to RMA-Planning for review and approval. The protection plan shall include: logistics of how flagging of sensitive plant species locations installation of temporary protection fencing will occur, the length of time these measures will remain in place, and when no longer necessary, how removal of the measure will occur. The plan shall also include a biological resources training program for construction personnel on the importance of avoiding the identified protection areas.

Mitigation Measure Action No. 1d: Prior to the issuance of construction permits for grading and/or building, the owner applicant shall submit evidence that the protection measures outlined in the approved Biological Resources Protection Plan have been in place. This evidence shall include an inspection letter from the project biologist with photo documentation of onsite protection measures as well a record of compliance for implementation of biological resources training program for construction personnel.

Mitigation Measure Action No. 1e: Prior to final of construction permits for grading and/or building, the owner applicant shall submit a final inspection letter from the project biologist verifying compliance with Biological Resources Protection Plan.

25. MM002 - WELL DRILLING PLAN

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: In order to ensure impacts to sensitive plant species during the well drilling process are minimized, protection measures shall be installed to retain well discharge tailings and water from migrating off-site. Prior to issuance of the well permit, the owner/applicant shall submit a drilling plan identifying and implementing the following protection measures:

- Installation of tree protection fencing
- Installation of erosion and sediment control devices
- Identify areas where equipment will be restricted to the building envelope and excluded from any coastal scrub habitat zones
- Use of portable retention pits or retention bio bags for well drilling and deposit of well spoils
- Identify locations of portable excavation pits within the building envelope or on existing pavement
- Identify how and when removal of drilling equipment and portable retention pits will occur
- Use of vacuum truck to remove standing water and slurry debris within the portable retention pits
- Removal of drilling equipment and portable retention pits

Compliance or Monitoring Action to be Performed: Mitigation Measure Action No. 2: Prior to issuance of construction permits for grading and/or building, the owner/applicant shall submit a drilling plan all protection measures identified in Mitigation Measure No. 2 to RMA-Planning for review and approval.

26. MM003 - RESTORATION PLAN

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: If during project staging and/or implementation, impacts to small-leaved lomatium occurs, the applicant shall submit a restoration plan with a 2:1 replacement ratio and a 5-year monitoring period to ensure potential impacts to the sensitive species have been sufficiently reduced.

Compliance or Monitoring Action to be Performed: Mitigation Measure Action No. 3a: Prior to issuance of construction permits for grading and/or building, the owner/applicant shall include language contained in Mitigation Measure No. 3 on the site plan.

Mitigation Measure Action No. 3b: Prior to final of construction permits for grading and/or building, the owner/applicant shall submit a letter of verification by the project biologist that either the restoration plan was not necessary or evidence that the restoration plan was implemented.

27. MM004 - CONSERVATION AND SCENIC EASEMENT

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: In order to prevent future development from occurring on the upper stepper areas of the property and to ensure the protection of scenic and biological resources, a Conservation and Scenic Easement shall be placed on the subject property for areas outside of the identified building envelope. This easement shall be developed on consultation with RMA-Planning staff, the project biologist, and a project surveyor and conveyed to the County of Monterey. The easement shall show the exact location of the easement with a metes and bounds description and contain a clear and concise list of prohibited activities and development within the easement area. An exception shall be made for maintenance a repair of the proposed primary geoflow subsurface wastewater dispersal area.

Compliance or Monitoring Action to be Performed: Mitigation Measure Action No. 4a: Prior to issuance of construction permits for grading and/or building, the owner/applicant shall submit the Conservation and Scenic Easement deed to RMA-Planning for review and approval. Subsequent to RMA-Planning's approval, the Board of Supervisors shall accept the conveyance and the deed shall be recorded with the Monterey County Recorder's Office.

28. EHSP01 ALTERNATIVE ONSITE WASTEWATER TREATMENT SYSTEM: OBTAIN PERMIT

Responsible Department: Health Department

Condition/Mitigation Monitoring Measure: The Environmental Health Bureau (EHB) has determined that adequate area exists on the property to accommodate an alternative onsite wastewater treatment system (Alt OWTS).

Submit a completed permit application with applicable fees and the following information for review and approval:

- Proposed wastewater production rates
- Site plan indicating Alt OWTS treatment unit and dispersal proposal, designed by a registered engineer having experience in alternative wastewater treatment and disposal
- Soils and percolation testing report prepared by a qualified individual, which includes a summary of the soil profile extending at least 2' past the bottom of the proposed dispersal field and a determination of the depth to an impervious layer or groundwater if within 10' below the bottom of the proposed dispersal field.
- Linear loading rate evaluation

Compliance or Monitoring Action to be Performed: Prior to issuance of construction permit, submit to EHB for review and approval an Alt OWTS application and pay all associated fees.

Alt OWTS permit shall be issued concurrent with construction permit.

29. EHSP04 WATER WELL CONSTRUCTION PERMIT

Responsible Department: Health Department

Condition/Mitigation Monitoring Measure: Obtain a water well construction permit from the Environmental Health Bureau pursuant to Monterey County Code Chapter 15.08, Water Wells.

Compliance or Monitoring Action to be Performed: Prior to drilling the well, a CA-licensed well drilling contractor shall obtain a water well construction permit from the Environmental Health Bureau on behalf of the owner.

30. EHSPO2 ALTERNATIVE ONSITE WASTEWATER TREATMENT SYSTEM: DEED RESTRICTION

Responsible Department: Health Department

Condition/Mitigation Monitoring Measure: The property owner shall record a deed restriction with the Monterey County Recorder for parcel 241-311-003-000 which indicates that an alternative onsite wastewater treatment system (Alt OWTS) is installed on the property. The deed restriction shall include, but is not limited to, the following details:

- The Alt OWTS is subject to all future federal, state or local laws and ordinances regarding the permitting, operation and maintenance and/or monitoring of Alt OWTS
- The Alt OWTS is subject to an annual operating permit with applicable fees paid to the Environmental Health Bureau
- Property owner agrees to enter into and maintain a maintenance contract with an authorized service provider

Contact EHB to request a copy of the deed restriction template. The property owner will be responsible to pay cost recovery fees associated with review of the deed restriction by County Counsel.

Compliance or Monitoring Action to be Performed: Prior to final inspection of the construction permit the property owner shall sign and notarize the completed deed restriction template and submit the draft for review and approval by the Environmental Health Bureau and County Counsel.

Once approved, the deed restriction shall be recorded with the Monterey County Recorder. Proof of recordation shall be provided to EHB and the Planning Department.

31. EHSPO3 ALTERNATIVE ONSITE WASTEWATER TREATMENT SYSTEM: MAINTENANCE CONTRACT

Responsible Department: Health Department

Condition/Mitigation Monitoring Measure: The proposed alternative onsite wastewater treatment system (Alt OWTS) requires ongoing maintenance and monitoring to function as designed. A signed operations and maintenance contract with an authorized service provider must be submitted to the Environmental Health Bureau (EHB). The contract must include, but is not limited to:

- Contract term, specification of services to be performed and frequency of service
- Statement indicating that EHB will be notified if either party fails to comply with the contract terms
- A monitoring/ maintenance report, including effluent quality as specified by the associated Alt OWTS operating permit, shall be submitted to EHB every 6 months, or as specified by the EHB operating permit
- EHB shall be notified at each contract renewal term, and a copy of the contract shall be submitted to EHB

Compliance or Monitoring Action to be Performed: Prior to final inspection of construction permit, submit an executed operations and maintenance contract with an authorized service provider to EHB for review and acceptance.

Use of these plans and specifications shall be restricted to the original site for which they were prepared and publication thereof is expressly limited to such use. Reproduction or publication by any method, in whole or in part, is prohibited. Title to the plans and specifications remains with the architect without prejudice. Visual contact with these plans and specifications shall constitute prima facie evidence of the acceptance of these restrictions.

ARCHITECTURAL SYMBOLS

TRUE — PROJECT NORTH ARROW

Name Elevation — FLOOR ELEVATION

1 / A — COLUMN GRID SYMBOLS

℄ — CENTER LINE INDICATOR

101 — DOOR TAG

1w — WINDOW TYPE

1i — WALL TYPE

129 — NEW / EXISTING CONTOUR

129 — EXISTING CONTOUR TO BE MODIFIED

1 — KEYED NOTE

FLOOR TRANSITION

ELEV # / SHT # — EXTERIOR ELEVATION

/ SHT # — INTERIOR ELEVATION

DETAIL CALLOUT

2 / A6.1 — VIEW NUMBER / SHEET NUMBER

SECTION VIEW

1 / A101 — VIEW NUMBER / SHEET NUMBER

1 — REVISION INDICATOR

CLOUD AREA OF REVISION

EXISTING CONSTRUCTION TO REMAIN, REMOVE FINISHES

EXISTING TO BE REMOVED

NEW CONSTRUCTION

ARCHITECTURAL ABBREVIATIONS

&	AND
<	ANGLE
@	AT
°	DIAMETER
2CP	2 COAT PLASTER
3CP	3 COAT PLASTER
AB.	AGGREGATE BASE
A.B.T	ANCHOR BOLT
AC.	AIRCONDITIONER
ACD.	ACCESS DOOR
ACT.	ACOUSTIC TILE
AD.	AREA DRAIN
A.D.A	AMERICANS WITH DISABILITIES ACT
ADJ.	ADJUSTABLE
A.F.F.	ABOVE FINISH FLOOR
AL.	ALUMINUM
ANOD.	ANODIZED
A.P.	ACCESS PANEL
ARCH.	ARCHITECTURAL
AVG.	AVERAGE
BO.	BOARD
BITUM.	BITUMINOUS
BLDG.	BUILDING
BLK.	BLOCKING
BM.	BEAM
B.M.	BENCH MARK
B.O.	BOTTOM OF
BR.	BRASS
BRK.	BRICK
B.S.	BOTH SIDES
BSMT.	BASEMENT
B.U.R.	BUILT-UP ROOF
CAB.	CABINET
CAP.	CAPACITY
CAT.	CATALOG
C.C.F.I.	CLOSED CELL FOAM INSULATION
C.B.	CATCH BASIN
CE.	CEDAR
CEM.	CEMENTITOUS
CER.	CERAMIC
CFM.	CUBIC FEET/MIN.
C.I.	CAST IRON
C.L.	CENTERLINE
CLG.	CEILING
CLOS.	CLOSET
CLR.	CLEAR
CLW.	CLEAR FINISH WOOD
C.J.	CONTROL JOINT
CMU.	CONC. MASONRY UNIT
CNTR.	COUNTER
C.O.	CLEANOUT
CONF.	CONFERENCE
COL.	COLUMN
COMM.	COMMUNICATION
CONC.	CONCRETE
CONST.	CONSTRUCTION
CONT.	CONTINOUS
CORR.	CORRIDOR
CPT.	CARPET
CRS.	COURSE
CT.	CERAMIC TILE
CTR.	CENTER
CW	COLD WATER
DBL.	DOUBLE
DEMO	DEMOLITION
DET.	DETAIL
DF.	DOUGLAS FIR
DIA.	DIAMETER
DIAG.	DIAGONAL
DIM.	DIMENSION
DKG.	DECKING
DN.	DOWN
D.O.	DOOR OPENING
DR.	DOOR
D.S.	DOWNSPOUT
DTL.	DETAIL
DWG.	DRAWING
E	EAST
(E)	EXISTING
EA.	EACH
E.J.	EXPANSION JOINT
EL.	ELEVATION
ELEC.	ELECTRICAL
ELEV.	ELEVATOR
EMER.	EMERGENCY
E.M.R	ELEVATOR MACHINE RM.
ENCL.	ENCLOSURE, ENCLOSED
ENGR.	ENGINEER
ENTR.	ENTRANCE
EQ.	EQUAL
EQP.	EQUIPMENT
EST.	ESTIMATE
EX.	EXISTING
EXH.	EXHAUST
EXP.	EXPANSION
EXT.	EXTERIOR
F.A.I.	FRESH AIR INTAKE
F.D.	FLOOR DRAIN
FDN.	FOUNDATION
F.E.	FIRE EXTINGUISHER
FF	FINISH FLOOR OR FINISHED FACE
F.G.	FINISH GRADE
FGL.	FIBERGLASS
F.H.	FIRE HYDRANT, FLAT HEAD
F.H.C.	FIRE HOSE CABINET
FIN.	FINISH
FLR.	FLOOR
FL.	FLUORESCENT
F.O.	FACE OF
F.O.C.	FACE OF CONC.
F.O.M.	FACE OF MASONRY
F.O.S.	FACE OF STUD
F.P.	FIRE PROOFING
FR.	FRAME / FIRE RATED
F.S.	FULL SIZE/SCALE
FT.	FOOT/FEET
FTG.	FOOTING
FXTR.	FIXTURE
GA.	GAUGE
GALV.	GALVANIZED
G.C	GENERAL CONTRACTOR
GEN.	GENERAL
GFCI.	GROUND FAULT CIRCUIT INTERRUPTER
G.I.	GALVANIZED IRON
GL.	GLASS
GLM	GLUELAM
GLZ.	GLAZING
GMT.	GLASS MOSIAC TILE
GR.	GRADE
GT.	GLASS TILE
GWB.	GYPSUM WALL BOARD
GYP.	GYPSUM
HC.	HOLLOW CORE
HD(R).	HEAD(ER)
HDWD.	HARDWOOD
HDWR.	HARDWARE
H.M.	HOLLOW MTL.
HORZ.	HORIZONTAL
HR.	HOUR
H.S.	HEADED STUD
HT.	HEIGHT
HTG.	HEATING
HTR.	HEATER
HVAC	HEATING VENTILATION & AIR CONDITIONING
HW	HOT WATER
IB	IMPERIAL BOARD
I.D.	INSIDE DIAMETER
IN.	INCHES
INSL.	INSULATION
INV.	INVERT
JAN.	JANITOR
JT.	JOINT
IB	IMPERIAL BOARD
I.D.	INSIDE DIAMETER
IN.	INCHES
INSL.	INSULATION
INV.	INVERT
JAN.	JANITOR
JT.	JOINT
L	ANGLE
LB.	POUND
LG.	LONG, LENGTH
LAM.	LAMINATE(ION)
LAV.	LAVATORY
LLH	LONG LEG HORZ.
LLV	LONG LEG VERT.
LT(G)	LIGHT(ING)
LVR.	LOUVER
MACH.	MACHINE
MAX.	MAXIMUM
MECH.	MECHANICAL
MEMB.	MEMBRANE
MEZZ.	MEZZANINE
MFR.	MANUFACTURER
MH.	MAN HOLE
MIN.	MINIMUM
MISC.	MISCELLANEOUS
M.O.	MASONRY OPENING
MTD.	MOUNTED
MTG.	MEETING
MTL.	METAL
N	NORTH
NAT.	NATURAL
N.I.C.	NOT IN CONTRACT
NO.	NUMBER
NOM.	NOMINAL
NRC	NOISE REDUCTION COEFFICIENT
N.T.S.	NOT TO SCALE
O/	OVER
O.C.	ON CENTER
O.D.	OUTSIDE DIAMETER
OFF.	OFFICE
O.H.	OPPOSITE HAND
OPG.	OPENING
OPP.	OPPOSITE
OVHD.	OVERHEAD
PERF.	PERFORATED
PL.	PLATE
PLAS.	PLASTER
PLBG.	PLUMBING
PLG.	PANELLING
PLY	PLYWOOD
PM.	PERF. MTL.
POL.	POLISH(ED)
PR.	PAIR
PT.	PAINTED
PTN.	PARTITION
PW.	PAINTED WOOD
QT.	QUARRY TILE
QTY.	QUANTITY
R	RADIUS / RISER
R.A.	RETURN AIR
R.D.	ROOF DRAIN
REF.	REFRIGERATOR
REINF.	REINFORCED
RES.	RESIN
REV.	REVISED(ION)
REQD.	REQUIRED
RM.	ROOM
R.O.	ROUGH OPENING
S	SOUTH
SAFB	SOUND ATTENTUATION FIRE BLANKET
SC.	SEALED CONCRETE SOLID CORE
SCH.	SCHEDULE
SCP	SKIM COAT PLASTER
SEC.	SECTION
S.F.	SQUARE FEET
SHT.	SHEET
SIG.	SOUND INSULATING GLASS
SIM.	SIMILAR
SIP	Structural Insulated Panel
S.J.	SCORED JOINT
SPKLR.	SPRINKLER
SPKR.	SPEAKER
SQ.	SQUARE
S.S.	STAINLESS STEEL
SMI	SEE MANUFACTURERS INSTRUCTIONS
SED	SEE ENGINEERING DRAWINGS
SSD	SEE STRUCTURAL DRAWINGS
ST	STONE TILE / STONE
STL.	STEEL
STC.	SOUND TRANSMISSION COEFFICIENT
STD.	STANDARD
STOR.	STORAGE
STRUCT	STRUCTURAL
SUSP.	SUSPENDED
SW.	STAINED WOOD
T	TREAD
TB.	TILE BACKER BOARD
T.C.	TERRA COTTA
TEL.	TELEPHONE
TEMP.	TEMPORARY
TERR.	TERRACE
T&G	TONGUE AND GROOVE
THK.	THICK
THRU.	THROUGH
TMPD	TEMPERED
(T)	TEMPERED
T.O.P.	TOP OF PLATE
T.O.S.	TOP OF SLAB
T.O.W.	TOP OF WALL
T.S.S.	TOP OF STRUCTURAL STEEL
TYP.	TYPICAL
TZ	TERRAZZO
UNF.	UNFINISHED
U.N.O	UNLESS NOTED OTHERWISE
UPD.	UPHOLSTERED
VENT.	VENTILATION
VERT.	VERTICAL
VEST.	VESTIBULE
VIF.	VERIFY IN FIELD
V.R.	VENEER PLASTER
V.P.	VENETIAN PLASTER
W	WIDE, WIDTH
W(O)/	WITH (OR WITHOUT)
WA.	WALNUT
W.C.	WATER CLOSET
WD.	WOOD
WDW.	WINDOW
WLP.	WALL PAPER
W.P.	WATERPROOFING
WT.	WEIGHT
W.R.B.	WATER RESISTIVE BARRIER
YD	YARD

PROJECT DATA

OWNER
Mr. & Mrs. Gary Collins
800 South 5th Street
Louisville, KY 40203

ARCHITECT
Studio Carver
Carver + Schicketanz Architects-
A Professional Corporation
P.O. Box 2684, Carmel, CA 93921
Phone: 831-624-2304 Fax: 831-624-0364
E-mail: Robert@StudioCarver.com
Contact: Robert Carver, AIA, Leed AP

SEPTIC
BioSphere Consulting
1315 King Street
Santa Cruz, CA 95060
Phone: 831-430-9116
Email: andrew@biosphere-consulting.com
Contact: Andrew Brownstone

SURVEYOR
Rasmussen Land Surveying, Inc.
P.O. Box 3135
Monterey, CA 93942
Phone: (831) 375-7240
E-mail: info@rasmussenland.com
Contact: Roger Peterson

PROPERTY ADDRESS 83 Mount Devon Road
Carmel Highlands, CA 93924

APN 241-021-007-000

MISCELLANEOUS

NATURAL GAS	PROPANE
WATER SOURCE	PRIVATE WELL w/ ONSITE TREATMENT
SEWER SYSTEM	SEPTIC
TREES TO BE REMOVED	(1) 14" MONTEREY PINE
GRADING ESTIMATES	943 CUBIC YARDS - CUT 79 CUBIC YARDS - FILL 864 CUBIC YARDS - NET CUT

SCOPE OF WORK

Request to rezone a portion of the property zoned Resource Conservation [RC(CZ)] to Watershed and Scenic Conservation [WSC (CZ)] to allow residential development within the specific portion of the property.

SHEET INDEX

G1.0	GENERAL / COVER SHEET
G1.1	PROPOSED SITE PLAN
A1.0	GARAGE LEVEL
A1.1	FIRST FLOOR LEVEL
A1,2	SECOND FLOOR LEVEL
A2.0	BUILDING ELEVATIONS
A2.1	BUILDING ELEVATIONS
A3.1	BUILDING SECTIONS
A4.0	PERSPECTIVES
-	TOPOGRAPHIC SURVEY

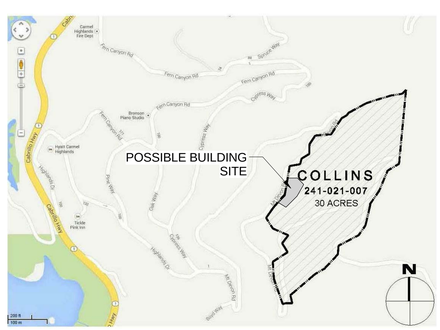
ZONING INFORMATION

EXISTING ZONING	RC-D (CZ)
PROPOSED ZONING	WSC (CZ)
FRONT SETBACK	30'-0"
SIDE SETBACK	20'-0"
REAR SETBACK	20'-0"
MAXIMUM HEIGHT	24'-0"

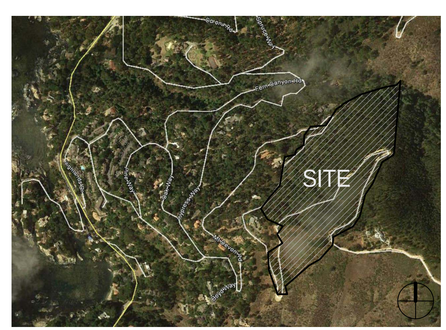
BLDG. CODE INFORMATION

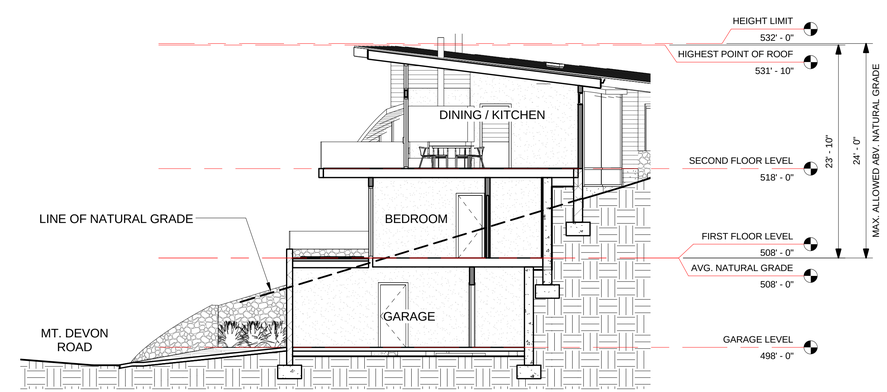
APPLICABLE CODES	2013 CALIFORNIA RESIDENTIAL CODE 2010 CALIFORNIA ENERGY CODE 2013 CALIFORNIA FIRE CODE 2013 CALIFORNIA GREEN BUILDING STANDARDS CODE 2013 CALIFORNIA PLUMBING CODE 2013 CALIFORNIA MECHANICAL CODE 2013 CALIFORNIA ELECTRICAL CODE
OCCUPANCY TYPE	R3 - SINGLE FAMILY RESIDENTIAL

VICINITY MAP



AERIAL PHOTOGRAPH





1 AVERAGE NATURAL GRADE
1/8" = 1'-0"

NOT FOR CONSTRUCTION

COLLINS RESIDENCE

83 MOUNT DEVON ROAD CARMEL HIGHLANDS, CA 93923

LICENSED ARCHITECT ROBERT CARVER C - 18179 REN: 09/30/15 STATE OF CALIFORNIA

SCHEMATIC DESIGN

PO BOX 2684 CARMEL, CA 93921 , USA PHONE: 831 624 2304 FAX: 831 624 0364 WWW.STUDIOCARVER.COM

STUDIO CARVER ARCHITECTURE + PLANNING + INTERIOR DESIGN

REVISION #

ARCHITECTURAL
GENERAL / COVER SHEET

Scale: As indicated @ 24x36
Drawn By: SBP
Job: 1218

G1.0
8/12/14

8/14/2014 2:10:05 PM

PROJECT DATA

AREA

APN: 241.021.007.000
(E) ZONING: RC-D (CZ)
PROPOSED ZONING: WSC (CZ)
DESCRIPTION: MAP 3 CARMEL HIGHLANDS, PARCEL 7.

SINGLE FAMILY DWELLING AND STAIR ACCESS TO GARAGE = 2,397 SF

UNDERGROUND GARAGE AND MECH./STORAGE = 552 SF

PROPOSED GRADING CUT = 943 CU.YDS.
PROPOSED GRADING FILL = 79 CU.YDS.
PROPOSED GRADING NET CUT= 864 CU.YDS.

TREES TO BE REMOVED = (1) 14" MONTEREY PINE

LOT COVERAGE

PARCEL SIZE = 1,306,800 SF (30 ACRES)
PROPOSED PARCEL SIZE ZONED WSC(CZ) = 87,120 SF (2 ACRES)

PROPOSED BUILDING COVERAGE:
HOUSE = 1,361 SF
GARAGE = 263 SF
TOTAL = 1,624 SF

MAXIMUM LOT COVERAGE ALLOWED = 10% (8,712 SF)

TOTAL LOT COVERAGE: 1,624/87,120 = 0.018 OR 1.8%

IMPERVIOUS COVERAGE:
STRUCTURE = 1,624 SF
IMPERVIOUS SURFACES = 1,375 SF
TOTAL = 2,999 SF

REQUIRED PARKING SPACE = 2 SPACES/UNIT
PROPOSED PARKING SPACES = 1 SPACE (COVERED)
3 SPACES (UNCOVERED)
4 SPACES TOTAL

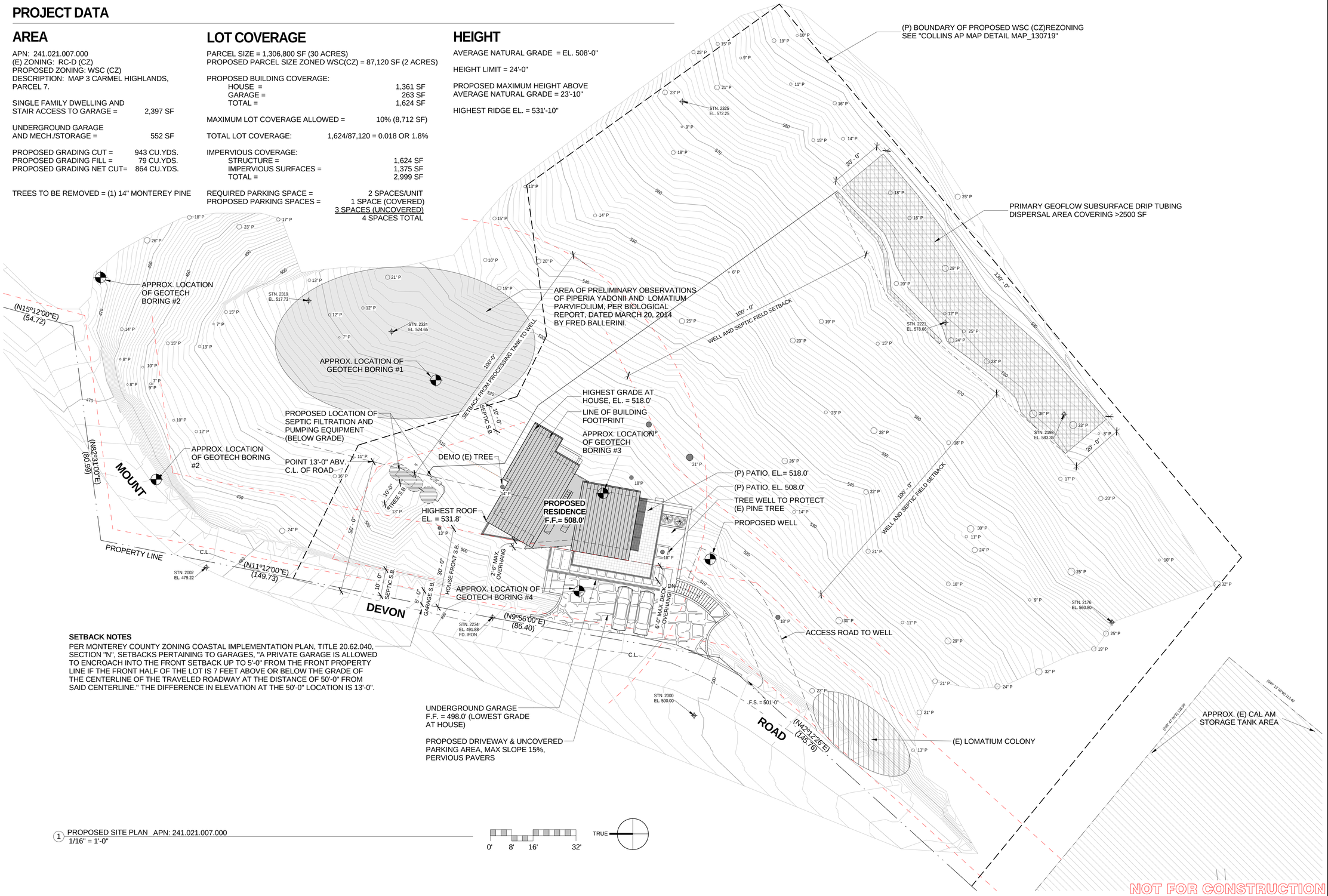
HEIGHT

AVERAGE NATURAL GRADE = EL. 508'-0"

HEIGHT LIMIT = 24'-0"

PROPOSED MAXIMUM HEIGHT ABOVE AVERAGE NATURAL GRADE = 23'-10"

HIGHEST RIDGE EL. = 531'-10"



SETBACK NOTES

PER MONTEREY COUNTY ZONING COASTAL IMPLEMENTATION PLAN, TITLE 20.62.040, SECTION "N", SETBACKS PERTAINING TO GARAGES, "A PRIVATE GARAGE IS ALLOWED TO ENCROACH INTO THE FRONT SETBACK UP TO 5'-0" FROM THE FRONT PROPERTY LINE IF THE FRONT HALF OF THE LOT IS 7 FEET ABOVE OR BELOW THE GRADE OF THE CENTERLINE OF THE TRAVELED ROADWAY AT THE DISTANCE OF 50'-0" FROM SAID CENTERLINE." THE DIFFERENCE IN ELEVATION AT THE 50'-0" LOCATION IS 13'-0".

1 PROPOSED SITE PLAN APN: 241.021.007.000
1/16" = 1'-0"

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COLLINS RESIDENCE

83 MOUNT DEVON ROAD CARMEL HIGHLANDS, CA 93923

LICENSED ARCHITECT
ROBERT KONRAD CARVER
C - 18179
REN. 09/30/15
STATE OF CALIFORNIA

SCHEMATIC DESIGN

STUDIO CARVER
ARCHITECTURE + PLANNING + INTERIOR DESIGN
P.O. BOX 2664
CARMEL, CA 93921 USA
PHONE: (831) 624-1593
FAX: (831) 624-0384
WWW.STUDIOCARVER.COM

REVISION #

ARCHITECTURAL
PROPOSED SITE PLAN

Scale: 1/16" = 1'-0" @ 24x36
Drawn By: SBP
Job: 1218

G1.1
8/12/14

8/13/2014 8:52:03 AM

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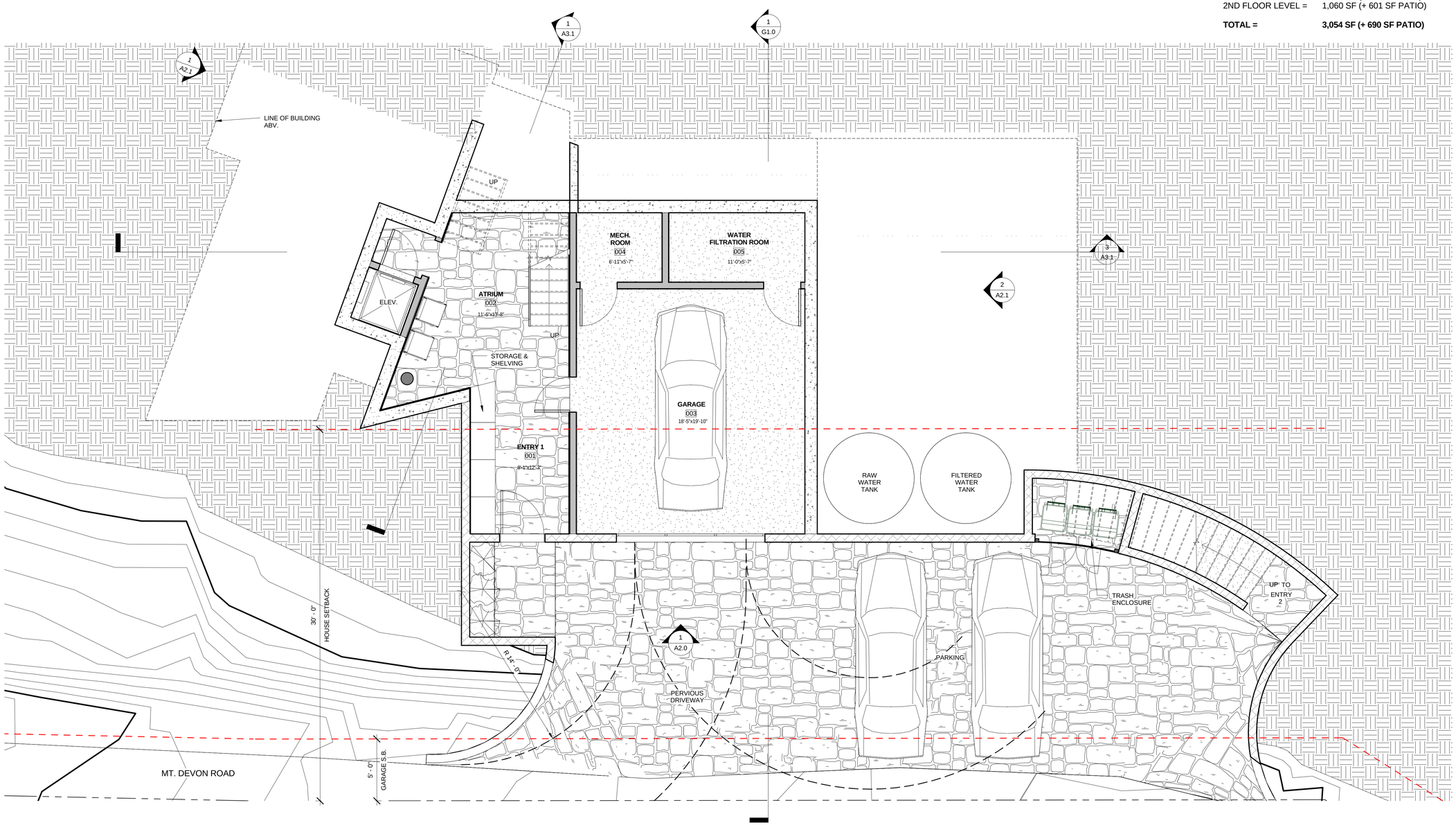
PROPOSED AREA (GROSS):

GARAGE LEVEL =	936 SF
1ST FLOOR LEVEL =	1,058 SF (+ 89 SF PATIO)
2ND FLOOR LEVEL =	1,060 SF (+ 601 SF PATIO)
TOTAL =	**3,054 SF (+ 690 SF PATIO)**



1 GARAGE LEVEL F.F. = 498.0'
1/4" = 1'-0"

TRUE

0' 2' 4' 8'

NOT FOR CONSTRUCTION

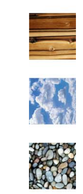
COLLINS RESIDENCE

83 MOUNT DEVON ROAD CARMEL HIGHLANDS, CA 93923

LICENSED ARCHITECT
ROBERT BRUCE CARVER
C - 18179
REN. 09/30/15
STATE OF CALIFORNIA

SCHEMATIC DESIGN

STUDIO CARVER
ARCHITECTURE + PLANNING + INTERIOR DESIGN
PO BOX 2564
CARMEL, CA 93921 USA
PHONE 831 624 2233 FAX 831 624 0384
WWW.STUDIOCARVER.COM



REVISION #

ARCHITECTURAL
GARAGE LEVEL

Scale:	1/4" = 1'-0" @ 24x36
Drawn By:	SBP
Job:	1218

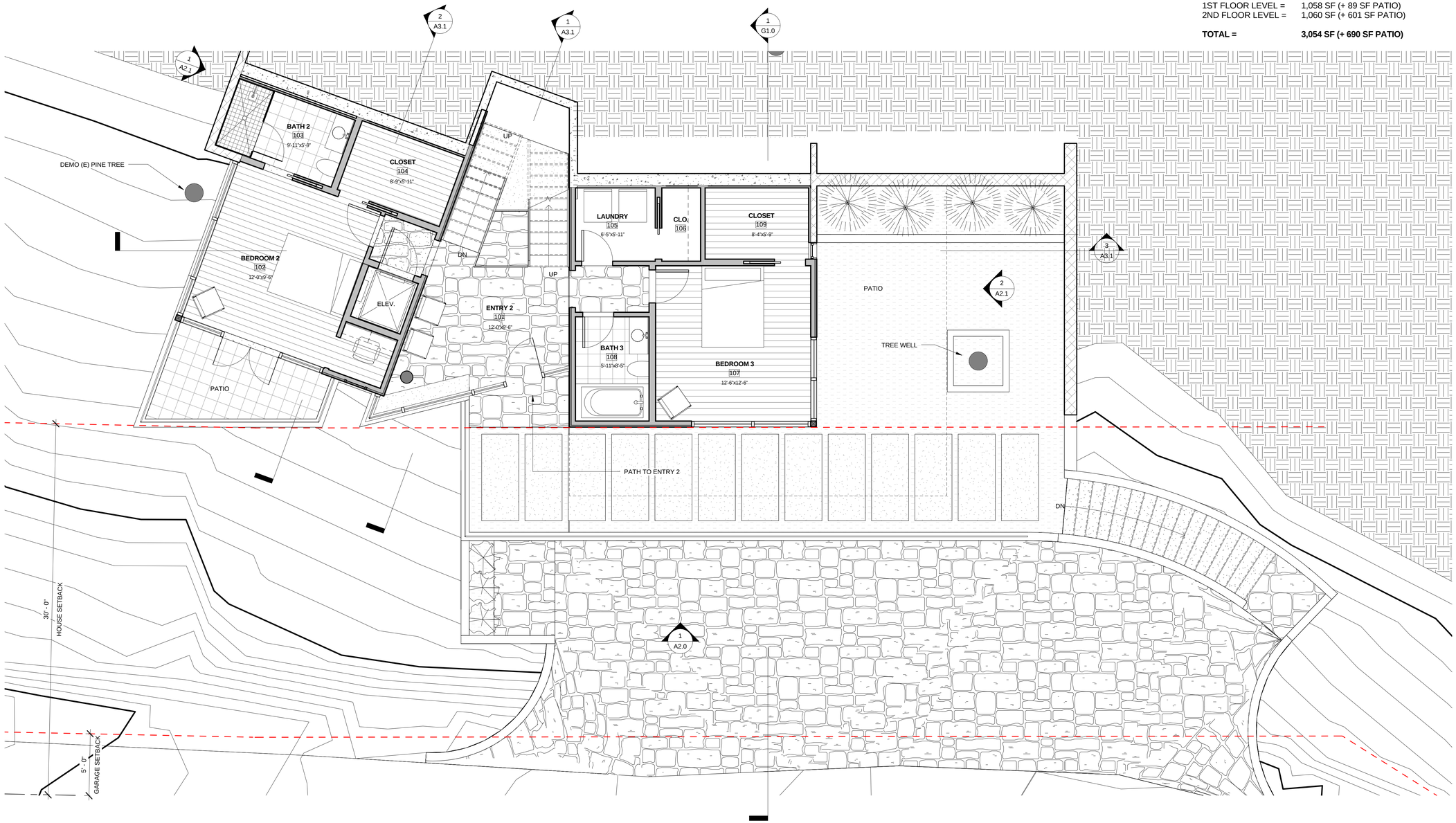
A1.0

8/12/14

8/14/2014 2:14:04 PM

PROPOSED AREA (GROSS):

GARAGE LEVEL =	936 SF
1ST FLOOR LEVEL =	1,058 SF (+ 89 SF PATIO)
2ND FLOOR LEVEL =	1,060 SF (+ 601 SF PATIO)
TOTAL =	**3,054 SF (+ 690 SF PATIO)**



1 FIRST FLOOR LEVEL F.F. = 508.0'
1/4" = 1'-0"

TRUE

0' 2' 4' 8'

NOT FOR CONSTRUCTION

COLLINS RESIDENCE

83 MOUNT DEVON ROAD CARMEL HIGHLANDS, CA 93923

LICENSED ARCHITECT
ROBERT MICHAEL CARVER
C - 18179
REN. 09/30/15
STATE OF CALIFORNIA

SCHEMATIC DESIGN

PO BOX 2564
CARMEL, CA 93921 USA
PHONE 831.624.1203 FAX 831.624.0384
WWW.STUDIOCARVER.COM

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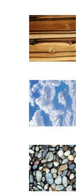

REVISION #

ARCHITECTURAL

FIRST FLOOR LEVEL

Scale:	1/4" = 1'-0" @ 24x36
Drawn By:	Author
Job:	1218

A1.1

8/12/14

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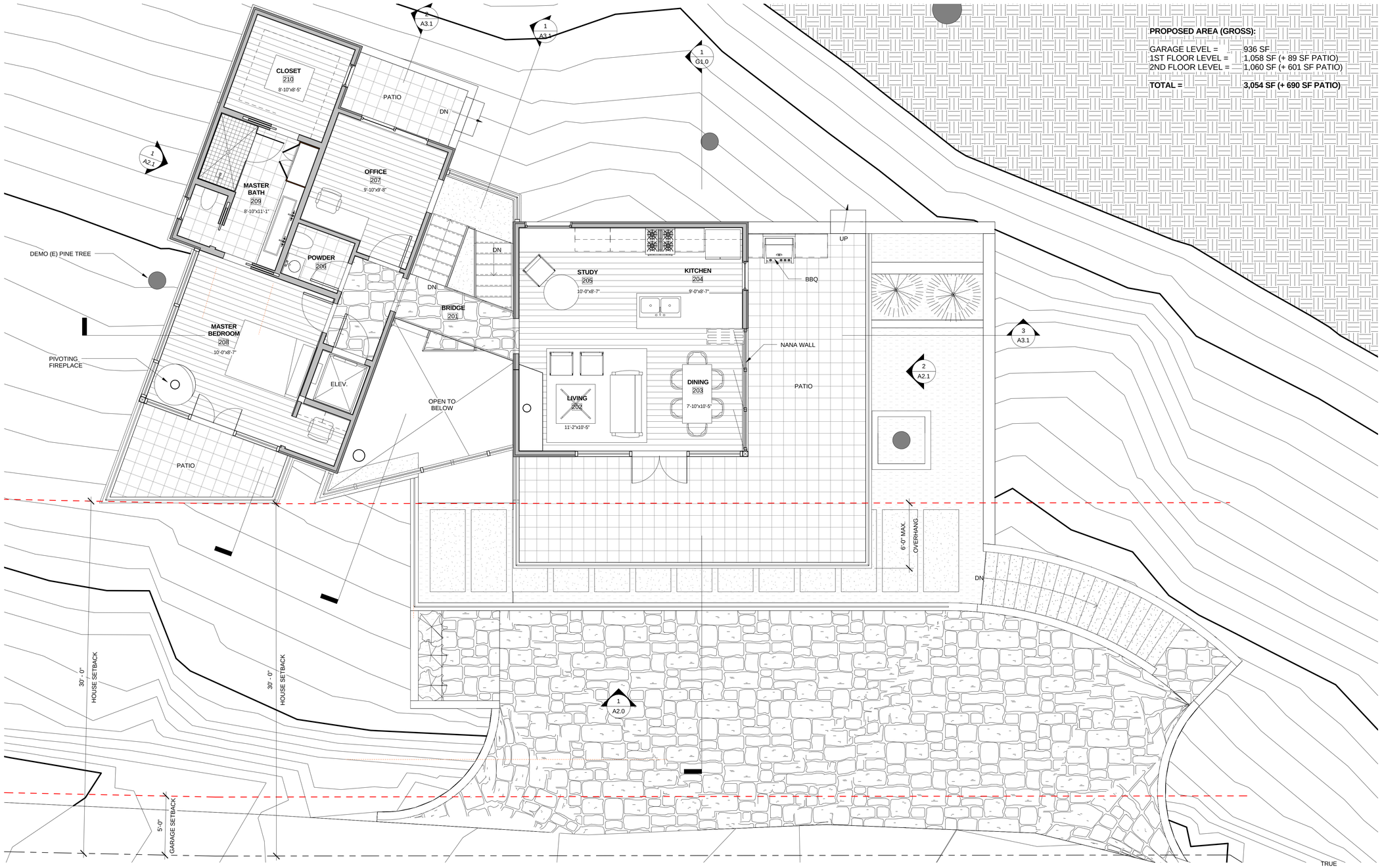

1 SECOND FLOOR LEVEL F.F. = 518.0'
1/4" = 1'-0"

PROPOSED AREA (GROSS):

GARAGE LEVEL =	936 SF
1ST FLOOR LEVEL =	1,058 SF (+ 89 SF PATIO)
2ND FLOOR LEVEL =	1,060 SF (+ 601 SF PATIO)
TOTAL =	**3,054 SF (+ 690 SF PATIO)**

NOT FOR CONSTRUCTION

COLLINS RESIDENCE

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LICENSED ARCHITECT
ROBERT CHRISTOPHER CARVER
C - 18179
REN. 09/30/15
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SCHEMATIC DESIGN

PO BOX 2564
CARMEL, CA 93921 USA
PHONE 831.624.1084
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REVISION #

ARCHITECTURAL
SECOND FLOOR LEVEL

Scale:	1/4" = 1'-0" @ 24x36
Drawn By:	Author
Job:	1218

A1.2

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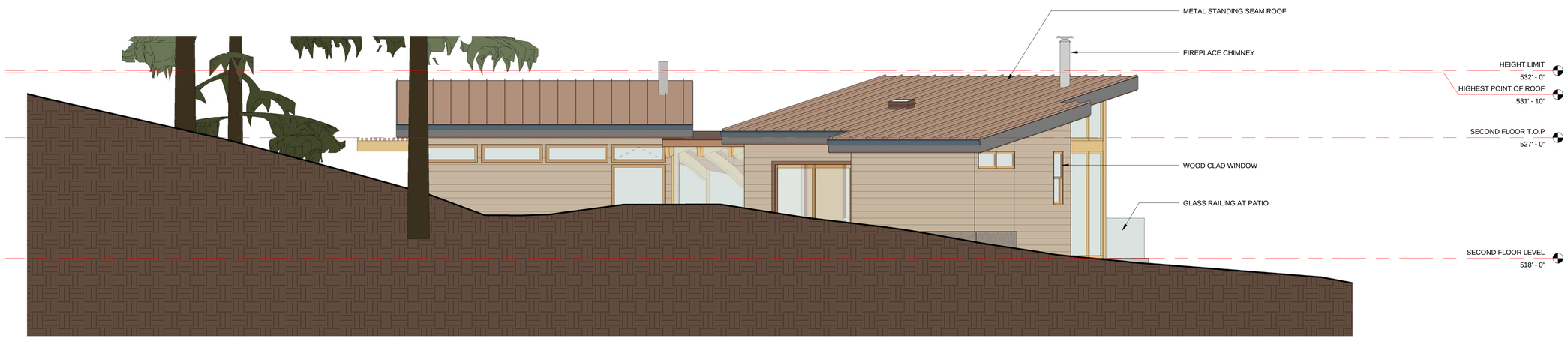
1 WEST ELEVATION
1/4" = 1'-0"



2 EAST ELEVATION
1/4" = 1'-0"

NOT FOR CONSTRUCTION

COLLINS RESIDENCE

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LICENSED ARCHITECT
ROBERT MICHAEL CARVER
C - 18179
REN. 09/30/15
STATE OF CALIFORNIA

SCHEMATIC DESIGN

PO BOX 2564
CARMEL, CA 93921 , USA
T 831 . 624 . 2201 F 831 . 624 . 0384
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REVISION #

ARCHITECTURAL
BUILDING ELEVATIONS

Scale:	1/4" = 1'-0" @ 24x36
Drawn By:	JR
Job:	1218

A2.0

8/12/14

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1 NORTH ELEVATION
1/4" = 1'-0"

2 SOUTH ELEVATION
1/4" = 1'-0"

NOT FOR CONSTRUCTION

COLLINS RESIDENCE

83 MOUNT DEVON ROAD CARMEL HIGHLANDS, CA 93923

LICENSED ARCHITECT
ROBERT MICHAEL CARVER
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SCHEMATIC DESIGN

PO BOX 2564
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PHONE: (831) 620-1084
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REVISION #

ARCHITECTURAL
BUILDING ELEVATIONS

Scale:	1/4" = 1'-0" @ 24x36
Drawn By:	Author
Job:	1218

A2.1

8/12/14

8/14/2014 2:55:17 PM

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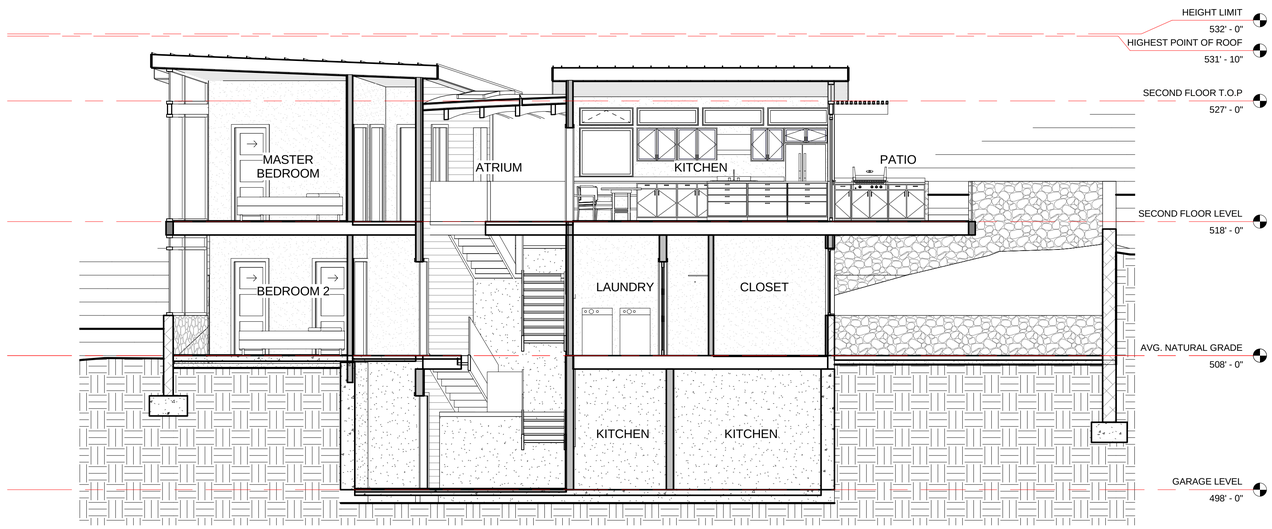
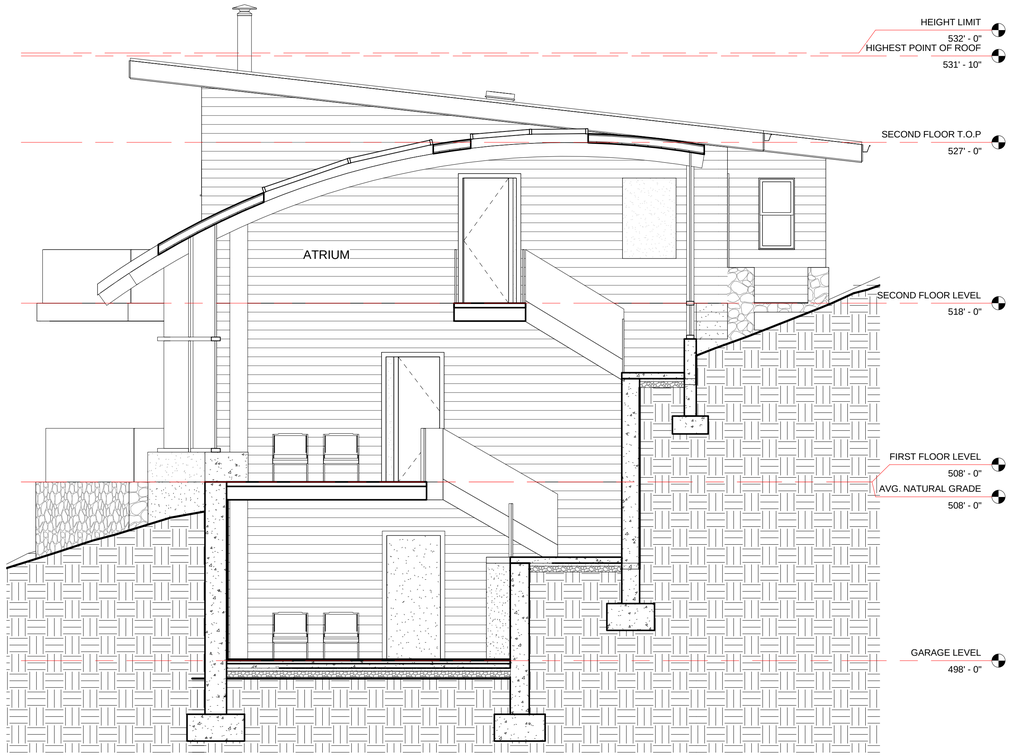
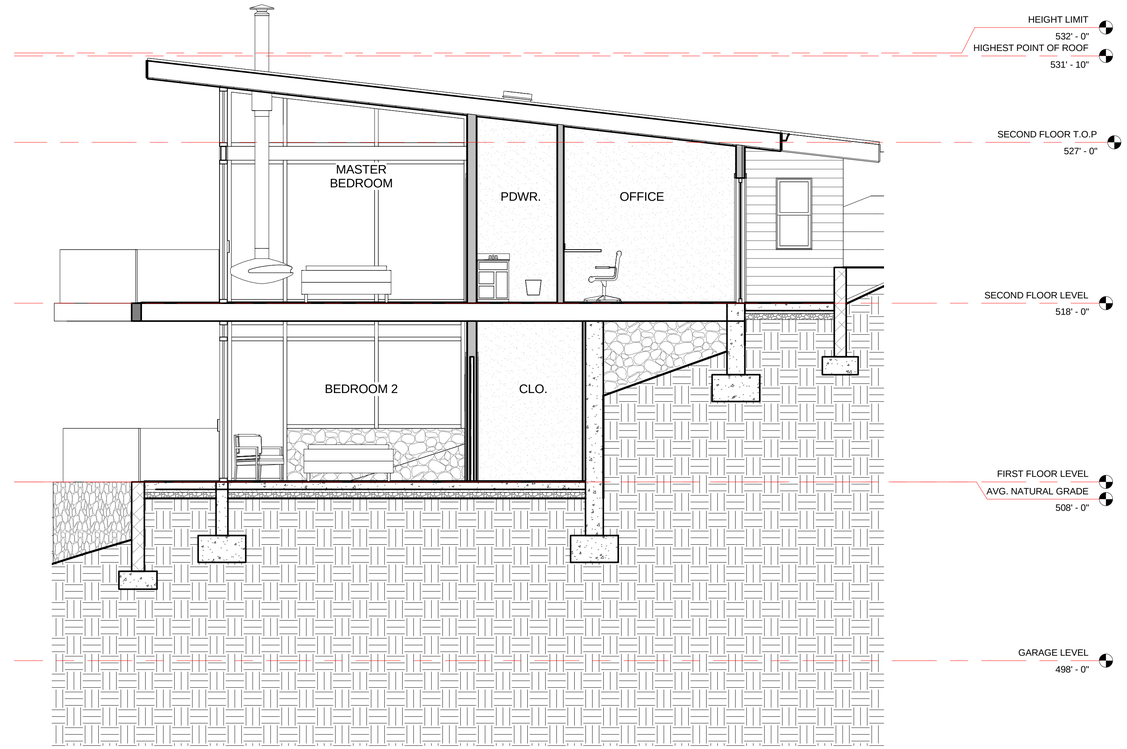


3 LONGITUDINAL SECTION
3/16" = 1'-0"



1 SECTION THROUGH ATRIUM
1/4" = 1'-0"

0' 2' 4' 8'



2 SECTION THROUGH BEDROOMS
1/4" = 1'-0"

0' 2' 4' 8'

NOT FOR CONSTRUCTION

COLLINS RESIDENCE

83 MOUNT DEVON
ROAD CARMEL
HIGHLANDS, CA
93923

LICENSED ARCHITECT
ROBERT MICHAEL CARVER
C - 18179
REN. 09/30/15
STATE OF CALIFORNIA

SCHEMATIC DESIGN

STUDIO CARVER
ARCHITECTURE + PLANNING + INTERIOR DESIGN
P.O. BOX 2564
CARMEL, CA 93921 U.S.A.
PHONE: (831) 624-7094
FAX: (831) 625-0584
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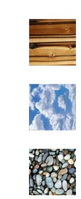

△ REVISION #

ARCHITECTURAL
BUILDING SECTIONS

Scale:	As indicated @ 24x36
Drawn By:	Author
Job:	1218

A3.1
8/12/14

8/14/2014 2:14:41 PM

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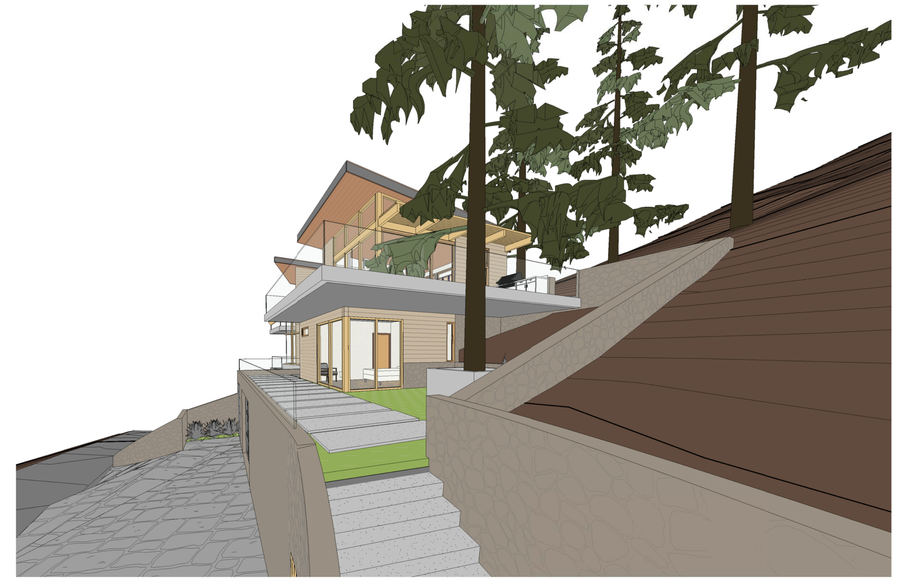
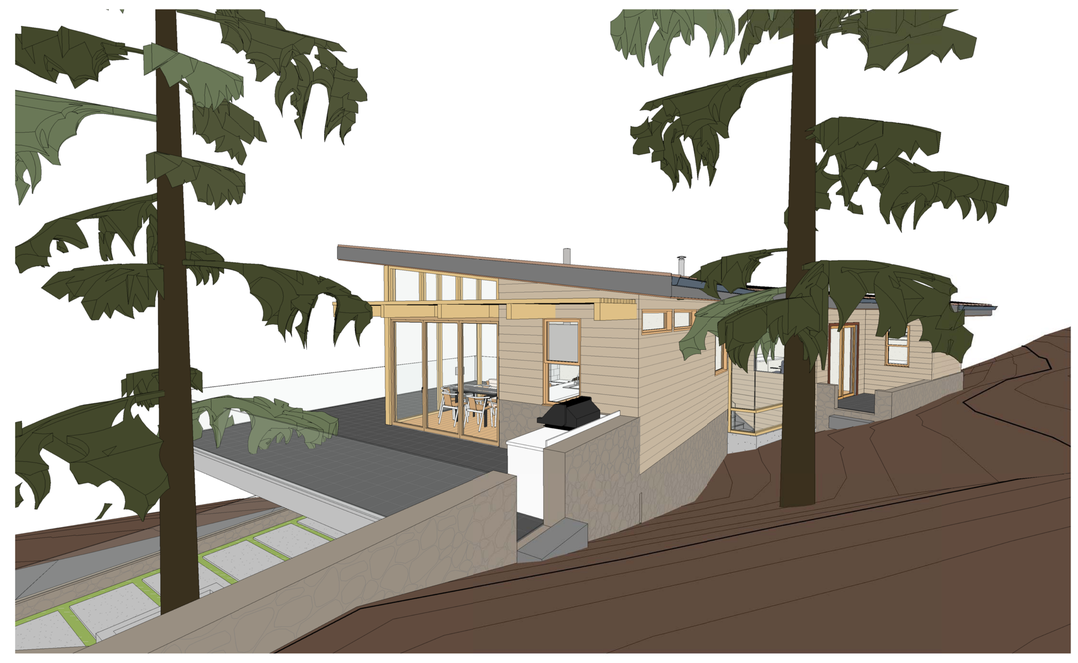
1 VIEW LOOKING EAST



2 VIEW NORTHEAST

3 VIEW LOOK SOUTH



4 VIEW LOOKING NORTHWEST

NOT FOR CONSTRUCTION

COLLINS RESIDENCE

83 MOUNT DEVON ROAD CARMEL HIGHLANDS, CA 93923

LICENSED ARCHITECT
ROBERT MICHAEL CARVER
C - 18179
REN. 09/30/15
STATE OF CALIFORNIA

SCHEMATIC DESIGN

STUDIO CARVER
ARCHITECTURE + PLANNING + INTERIOR DESIGN
PO BOX 2564
CARMEL, CA 93921 USA
PHONE 831 . 624 . 1084
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REVISION #

ARCHITECTURAL
PERSPECTIVES

Scale: @ 24x36
Drawn By: SBP
Job: 1218

A4.0
8/12/14

8/14/2014 2:23:17 PM

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Exhibit D

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MINUTES
Carmel Highlands Land Use Advisory Committee
Monday, September 15, 2014

1. **Site visit at 3:00 PM at the entrance of PALO CORONA REGIONAL PARK AT HIGHWAY 1 [MONTEREY PENINSULA REGIONAL PARK DISTRICT]**

ATTENDEES: WALD, DAVIS, MAHEEN, LITTEL
~~JIM JENSEN~~, Tim Jensen, R. PAYAN,
Christine Kemp, Rachel Saunders, JOANNA DEVERS

2. **Meeting called to order by** PETE DAVIS at 3:15 pm

3. **Roll Call**

Members Present: WALD, MAHEEN, DAVIS, LITTEL (4)

Members Absent: RAINER, JESSELNICK (2)

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4. **Approval of Minutes:**

a. September 2, 2014 minutes

Motion: WALD (LUAC Member's Name)

Second: MAHEEN (LUAC Member's Name)

Ayes: 4 (WALD, MAHEEN, DAVIS, LITTEL)

Noes: Ø

Absent: R. J. RAINER, JESSELNICK (2)

Abstain: Ø

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

Ø

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6. **Scheduled Item(s)** – Refer to attached project referral sheet(s)

7. **Other Items:**

A) Preliminary Courtesy Presentations by Applicants Regarding Potential Projects

NONE

B) Announcements

NONE

8. **Meeting Adjourned:** 6:30 pm

Minutes taken by: PETE DAVIS

Action by Land Use Advisory Committee
Project Referral Sheet

Monterey County Planning Department
168 W Alisal St 2nd Floor
Salinas CA 93901
(831) 755-5025

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PLANNING DEPARTMENT

Advisory Committee: **Carmel Unincorporated/Highlands**

Please submit your recommendations for this application by: **September 15, 2014**

Project Title: MONTEREY PENINSULA REGIONAL PARK DISTRICT **Item continued from 9/2/ meeting**
File Number: PLN130417
File Type: PC
Planner: SIDOR
Location: PALO CORONA REGIONAL PARK
Project Description:
Combined Development Permit including: 1) Coastal Development Permit for development on slopes in excess of 30% consisting of grading for the construction of turn-out areas in the existing road; 2) a Coastal Development Permit to allow development within 100 feet of environmentally sensitive habitat; and 3) Design Approval for the construction of a 55-space public parking area and improvements to an existing access road to the Palo Corona Regional Park. The property is located at Palo Corona Regional Park, on State Highway 1 between Carmel River north and Ribera Road south, Carmel area (Assessor's Parcel Number 243-081-008-000), Carmel Area Land Use Plan, Coastal Zone.

Was the Owner/Applicant/Representative present at meeting? Yes X No _____

Was a County Staff/Representative present at meeting? NONE PRESENT (Name)

PUBLIC COMMENT:

Name	Site Neighbor?		Issues / Concerns (suggested changes)
	YES	NO	
Christine Kemp	X		MS Fish — see attached letter
Rachel Saunders	X		Support - fm CDP fn proj' lot

LUAC AREAS OF CONCERN

Concerns / Issues (e.g. site layout, neighborhood compatibility; visual impact, etc)	Policy/Ordinance Reference (If Known)	Suggested Changes - to address concerns (e.g. relocate; reduce height; move road access, etc)
VISUAL IMPACT FROM HWY 1	LEAST VISIBLE	RELOCATE TO BOTTOM OF HILL BEHIND BARNS

ADDITIONAL LUAC COMMENTS: 1. BETTER TO MOVE SITE TO OTHER SPOT BEHIND BRN & ABOVE.
2. BETTER TO CONSIDER (2) SEPERATE PKG. LOTS OF SMALLER SIZE.
3. VISIBILITY OF LOTS MORE IMPORTANT THAN NOT MOVING STABLES/CORRALS FOR ~~FEW~~ ACTIVITY 4 TIMES/YR.

RECOMMENDATION:

Motion by: MATHEEN (LUAC Member's Name)

Second by: LITTEL (LUAC Member's Name)

____ Support Project as proposed

X Support Project with changes ① STUDY MOVING TO BACK LOCATION ② (2) SEPERATE LOTS. ③ LANDSCAPING IMPORTANT FOR TOTAL SCREENING OF CARS FROM HWY 1

____ Continue the Item

Reason for Continuance:

Continued to what date:

AYES: 4 (Davis, Matheen, Wald, Littel)

NOES: Ø

ABSENT: 2 (Rainer, Jeselnick)

ABSTAIN: Ø

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Action by Land Use Advisory Committee
Project Referral Sheet

Monterey County Planning Department
168 W Alisal St 2nd Floor
Salinas CA 93901
(831) 755-5025

Advisory Committee: **Carmel Unincorporated/Highlands**

Please submit your recommendations for this application by: **September 15, 2014**

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Project Title: COLLINS JAMES G & SOOK
File Number: PLN130339
File Type: PC
Planner: MACK
Location: 83 MT DEVON RD CARMEL
Project Description:
Combined Development Permit consisting of: 1) a Rezone request to change a portion of the property currently zoned Resource Conservation [RC(CZ)] to Watershed and Scenic Conservation [WSC(CZ)] to allow residential development within the specific portion of the property; 2) Coastal Administrative Permit to allow the construction of a 2,397 square foot single family dwelling; 3) Coastal Administrative Permit to allow the establishment of a new well; 4) Coastal Development Permit to allow development on slopes in excess of 30%; and 5) Design Approval. The property is located at 83 Mt Devon Road, Carmel (Assessor's Parcel Number 241-021-007-000), Carmel Area Land Use Plan, Coastal Zone.

Was the Owner/Applicant/Representative present at meeting? Yes X No _____

Was a County Staff/Representative present at meeting? NONE PRESENT (Name)

PUBLIC COMMENT:

Name	Site Neighbor?		Issues / Concerns (suggested changes)
	YES	NO	
Frank Raab	X		drainage, erosion control zoning change, well permit
MARC DAVIDIAN	X		SET BACK DRAINAGE 30% SLOPE VARIENCE QUESTION SOIL EXPORT AMOUNT

LUAC AREAS OF CONCERN

Concerns / Issues (e.g. site layout, neighborhood compatibility; visual impact, etc)	Policy/Ordinance Reference (If Known)	Suggested Changes - to address concerns (e.g. relocate; reduce height; move road access, etc)
• VERIFY WHY THIS LOT HAD SPECIAL		
ZONING TO START.		
• MUST BE REASON - RESEARCH TO ORIGINAL		
SUBDIVISION & CERTIFIED LUR. TO FIND OUT		
WHY DIFFERENT FROM OTHERS. NOT JUST		

ADDITIONAL LUAC COMMENTS

TWO. MUST HAVE BEEN REASON.

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RECOMMENDATION:

Motion by: DAVIS (LUAC Member's Name)

Second by: MATHEEN (LUAC Member's Name)

X Support Project as proposed

____ Support Project with changes

____ Continue the Item

Reason for Continuance: ____

Continued to what date: ____

AYES: 4 (Davis, meheen, Wald, Littel)

NOES: 0

ABSENT: 2 (Rainer, Jeselnick)

ABSTAIN: 0

Submitted at Carmel Highlands LUAC 9/15/14 mtg

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NOLAND
HAMERLY
ETIENNE
HOSS

Attorneys at Law | A PROFESSIONAL CORPORATION

WWW.NHEH.COM
E-MAIL CKEMP@NHEH.COM
831-424-1414 EXT. 271
CLIENT NO. 03452.014

James D. Schwefel, Jr.
Stephen W. Pearson
Lloyd W. Lowrey, Jr.
Anne K. Secker
Randy Meyenberg
Michael Masuda
Christine G. Kemp
* Jo Marie Ometer
Terrence R. O'Connor
Timothy J. Baldwin
* Leslie E. Finnegan
* Charles Des Roches
Stephen F. Wagner
Ana C. Toledo

Retired
Myron E. Etienne, Jr.
Peter T. Hoss
Martin J. May

Harry L. Noland
(1904-1991)
Paul M. Hamerly
(1920-2000)

* CERTIFIED SPECIALIST IN PROBATE, ESTATE PLANNING, AND TRUST LAW BY THE CALIFORNIA BOARD OF LEGAL SPECIALIZATION STATE BAR OF CALIFORNIA

August 27, 2014

VIA E-MAIL DELIVERY
sidorj@co.monterey.ca.us

Mr. Joseph Sidor
Monterey County Planning Department
168 W. Alisal Street, 2nd Floor
Salinas, CA 93901

Re: PLN130417 – Monterey Peninsula Regional Park District
Palo Corona Regional Park Parking Project

Dear Mr. Sidor:

I am writing on behalf of Diana Fish, owner of the 93-acre in-holding within the Monterey Peninsula Regional Park District's ("District") Palo Corona Regional Park ("Park").

Mrs. Fish is not opposed to expanded public use of the Park, as she recognizes what a unique and wonderful asset it is, but in doing so, the parking lot must be the right location and proper Park management must be put in place to address the expanded use.

Unfortunately, there are serious and significant problems with the District's proposed 55-space (57 or 58 space[1]) parking project ("Project") at the Palo Corona Regional Park which have not been addressed[2]. The proposed Project will impact the public viewshed, will impact traffic along Highway 1, and will result in a **substantial** increase in Park usage with no management plan in place.

[1] The Park District's CEQA Project Description states the "Project includes a new **57 parking space** area on approximately 2.25 acre area and four pull-outs along existing driveway" and the traffic study describes the Project as 58 spaces (56 general and 2 accessible).

[2] It is our position that the District's adoption of the Mitigated Negative Declaration and proposed findings for approval of the Project are legally inadequate. Rather than file her lawsuit against the District following their adoption of the Negative Declaration and Project approval, Mrs. Fish and the District entered into a Tolling Agreement to extend the time in which she has to file her CEQA lawsuit, to be deferred while the District attempts to address these issues.

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While we understand the District is motivated by grant funding and increasing public access to the Park, these desires cannot override the need to adequately address the impacts and issues associated with this Project.

The Application will Result in a Substantial Increase in Visitors and Traffic, with No Management Plan in Place to Address the Increased Usage

The current Interim Public Access Plan ("Interim Plan"), approved by the County, for use through April 26, 2016, was to remain in place until the District completed its required long term Management Plan for the entire 4300-acre regional Park. This Application revokes the Interim Plan and increases Park usage 10 fold, with no long-term Management Plan in place. In doing this, the District has avoided the detailed work and specific information that is needed in the long-term Management Plan and, instead, is piecemealing the Project.

The purpose of the Interim Plan for the 680-acre Palo Corona Regional Park was to enable public access and use of the property as soon as possible. The Interim Plan was to govern public use of the Park for up to a five-year interim period **until the Monterey Peninsula Regional Park District (the Park District) has completed a long-term management plan for the entire 4300-acre regional park.** The long-term Management Plan was to be consistent with the County's General Plan, Local Coastal Plan (LCP), Big Sur Land Use Advisory Committee Plan, zoning, State Coastal Conservancy access guidelines and American Disabilities Act Standards to the extent feasible.

Under the Interim Plan, access Permits are limited to 13 per day with each permit accommodating up to 5 persons for a total number of up to 65 persons per day. A dashboard placard is included with the Permit and assigned a daily code to assist Ranger patrol in identifying legitimate park users' cars along Highway 1. The Park entrance is controlled with a locked gate. This gate and the Park identification sign clearly state that access is by Permit only. The combination for the pedestrian access is provided on the Permit, but changed regularly to prevent unpermitted access.

Accordingly, under the current Interim Plan a maximum of 73 persons per day (13 permits/5 people per vehicle permit and 8 pedestrians from the south Bank Trail) use the Park. This low volume of usage is manageable, as those obtaining Permits plan head, and are self-policing. This will change dramatically with an open entrance gate, unlimited and unrestricted access to the Park, and inadequate ranger staffing.

Based on five (5) persons per vehicle, for 55 parking spaces, entering the Park two times a day, daily usage could swell from the current 73 persons/day to potentially 550 persons/day and this does not address people still parking along the Highway 1.

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This represents a **substantial and significant increase in the level of usage as approved by the County under the currently Interim Plan, yet there is no Management Plan in place to address this increased usage.**

- There is no ranger staffing information provided – no information on number/days/hours/duties;
- There is no plan for security - who controls persons in/out of Park, who operates entrance gates and how entrance gates are opened and closed, how trespassers and unpermitted people with be controlled, and natural resources protected on the large Palo Corona acreage owned by the Park District – acreage not presently open to the public, how homeless, fencing, emergencies, etc. are handled without adequate ranger staffing;
- There is no plan for fire protection – what is plan for water supply; brush clearing; more adaptive cattle management rotations; mowing fuel load/fire breaks;
- There is no plan for monitoring the entrance gate – what if there are electronic gate problems;
- There is no ranger at an entrance kiosk to check in cars, control dogs, tell people the lot is full, or control unauthorized parking;
- ? There is no plan for bathroom facilities/trash facilities;
- ? There is no plan regarding continued parking on Highway 1.

How can this Project be approved without these issues being addressed up front? This is a fundamental flaw of this Project.

Docents and the cattle lessee cannot manage the Park. The safety and security of the Park and the Fish Ranch are major concerns. Volunteer docents may help, but they are not Park employees. The cattle lessee who runs cattle on the ranch has other day-time jobs and cannot be counted as a Park employee or ranger--which he is not.

Garland Park is not an equivalent model. With the recent BSLT/District/State Park/Pt. Lobos Foundation MOU, and the far-flung connections between the areas it envisions, there will be even further increased visitor use, as the Park becomes a major tourist destination for both locals and out-of-towners, with easy access from different points, including Highway 1.

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Without permits, anyone can drive in to Palo Corona Park. Visitor makeup will be different from Garland Park, nestled miles away from Highway 1 in Carmel Valley, attracting locals and their dogs. Located along Highway 1, a major tourist route, many more out-of-towners than locals, would be expected at the Palo Corona than at Garland.

Additionally, it is not surprising that there have been few problems at Garland as that is where that is where the Rangers are stationed. There have been few citations on the Palo Corona Ranch up to now because most people have had to sign in for permits and furnish identification (and so are self-regulating), and also there have been few rangers around daily to give citations, if they had been needed.

Dogs - The District can post "no dogs" as much as it wants, but unless there are rangers to enforce this, you will have dogs--and off-leash dogs. Loose dogs harm ground-nesting birds and can worry cattle.

Parking Management -There is no discuss about whether parking be still allowed along Highway 1 for overflow parking? Pt. Lobos has a gate ranger that posts one car in-one car out when the parking lots are full. They do not rely on letting people wander in to see if a space is available or not.

Moreover, when Pt. Lobos is full, patrons park outside the park, along both sides of Highway 1. What is to prevent that from happening at Palo Corona, where the parking along Highway 1 is even more constrained? CalTrans indicates there is space for only 13 cars along the Highway. This was regulated by the issuance of 13 permits. Without the issuance of limited permits, the parking along Highway 1 will be uncontrolled.

Fire Danger - The District can post for no campfires and no smoking, but it needs Rangers to supervise the Park to assure that this does not occur. While the Park District says it does adaptive management, up to now there has been only minor alteration to the grazing rotation. This means that at the height of the fire season, the grass in the front has not been grazed (and last year was over shoulder height in the middle field). The grazing rotation needs to be fixed so that the front areas of the Palo Corona Ranch are grazed before the fire season.

People Management - There is a homeless problem in the area. Obviously no homeless person is going to gather near a ranger or choose to sleep in an open area, but the trees and dense shrub offer attractive places to find shelter. One of the concerns mentioned to Mrs. Fish by Fire Department officials was fire danger causes by campfires/stoves of homeless people living in natural areas. With automatic electric gates, the will be no one on site to assure people have left the Park before the gates close.

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The overall impact of this substantial increase in Park attendance has not been addressed in a comprehensive management plan for the Park's operation. Without this overall Management Plan, significant issues are being created without proper oversight or management.

The Project Creates Significant Traffic Impacts Along Highway 1

The addition of 266 more daily trips on Highway 1 in an area that is already designated as having an unacceptable level of service during PM peak times is a significant impact.

The Project traffic analysis underestimates the traffic impact by failing to calculate vehicle trips on Saturdays, Sundays and holidays, which are peak periods for locals and tourists. The traffic study only looked at weekday peak hour trips Monday-Friday.

A CalTrans sign near the entrance gate that Mrs. Fish shares with the Park District acknowledges the problem: "Watch for Stopped Traffic" (See attached photo) -- and this is now, not after more trips are added, going from 13 permitted vehicles to an estimated 266 daily vehicular trips.

A new southbound left turn lane is envisioned to queue 6 vehicles. On peak hours of traffic, or with more than 6 vehicles waiting to turn left into the Park, there will be major traffic issues, difficulties for emergency vehicles, and problems for joggers and bicyclists.

The Project Impacts the Public Viewshed

The view from Inspiration Point inside the Park is a public viewshed. The proposed parking lot is in the direct view from Inspiration Point (See attached photos).

Placing the parking lot in the middle of the view from Inspiration Point reflects the tragedy of a public entity-- the Park District-- knowingly destroying the viewshed and scenic values for which it stands (See District's website photos and attached photo of Bill Leahy, former Executive Director of the Big Sur Land Trust, standing at Inspiration Point for the press release of the BSLT/District/State Parks/Pt. Lobos Foundation MOU).

Once the parking lot is constructed, the public view that has been touted and repeatedly publicized by the District as encapsulating the breath-taking beauty of the Palo Corona Ranch, will be forever marred.

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While there are other parking lots in the nearby Crossroads and Barnyard north of the Carmel River, these are in commercial developments, not an historic agricultural and scenic area dedicated to the preservation of open space.

The recent four (4) party MOU between the BSLT/District/State Park/Pt. Lobos Foundation was established for the purpose of memorializing the intent of each of the parties to work together to undertake a coordinated effort for the benefit of the public and the preservation of the landscape in respect to the management of the lands described as the "Lobos-Corona Parklands Project" ("LCPP"); and to coordinate the development, management, promotion, sustainability, preservation and stewardship of the LCCP lands and their natural and cultural resources, as outlined in the accompanying "Vision Statement".

Expediency and rushing to get grant money should not dictate the location and destroy long term goals to protect and conserve this public treasure. The District, along with its MOU partners, should continue to search for better alternate locations for a parking lot.

The Big Sur Land Trust (BSTL) grant funds which the District is using to construct the parking lot were allocated for a parking lot on the "Odello East" property ("BSLT farm property") owned by the BSLT. How was the parking lot and parking lot grant money allowed to be moved from the BSLT property and BSLT?

Unless the parking lot is moved to an alternate location out of the public viewshed from Inspiration Point, the iconic view from Inspiration Point will be forever damaged.

The Project Impacts the On-Site Cattle Operation

Cattle have grazed on the Palo Corona Ranch since Mission times, the Palo Corona Ranch has been a working cattle ranch since 1929, and the Ranch/Park continues to be part of a working agricultural landscape. The corals and weigh scale are historic – dating back to 1930s. The proposed parking lot is planned right next to these corrals, in the middle of the working cattle operation. (See attached historic and cattle grazing photos)

The CC&Rs between Mrs. Fish and the District stipulate that, to reduce the fuel load of grasses and the hazard of fire, the Park District is to "conduct cattle grazing during the appropriate months of each year as needed, consistent with conservation objectives and historic practice, or provide similar fuel load reducing activities."

The parking lot and increased public usage will have a direct impact on the cattle operation. Cattle graze in the pastures through which people walk. Branding, inoculating and working cattle occurs in the corrals. There needs to be a long-term

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operational plan that deals with the increased numbers of park visitors and potential impacts to the cattle operation.

There is No Limitation on Use of the Historic Barn

Under the Interim Plan, the Park District requested, and the County approved, the listing the Barn on the site as a County historic resource. As an historic structure, the District was to have the Barn assessed for repairs appropriate to its designation. ?

Under the Interim Plan, Park District was allowed to use the Barn to house interpretive exhibits, display information, and provide a point of contact between District staff/docents and hikers. The Barn could also be used as a gathering area for school-group check-in, distributing literature, or presenting audio/visual information on the Park's many natural and cultural resources. And minor improvements to the Barn area, including fencing repairs and the installation of a portable composting or chemical toilet behind the barn and out of view was allowed.

The proposed 55-space parking lot adjacent to the Barn is not consistent with the historical setting of the Barn, nor a "minor" improvement.

There has been no information provided regarding the District's proposed uses of the Barn, yet Special Events have been held there. The District should obtain a Use Permit for use of the Barn and describe, in detail, its intended uses, including:

- Number of events per year;
- Time of day or night in which they will occur;
- Proposed interior and exterior lighting;
- Proposed sound amplification or live music;
- Is the Barn up to code for special events;

and all the other issues the County regulates with Special Events permits.

The Project Conflicts with the Carmel Area Land Use Plan ("LUP")

LUP Policy 2.2.4.10
b. Where clustering of new residential or visitor-serving development will preserve desirable scenic and open space areas or enable structures to be sited out of the viewshed, it shall be preferred to more dispersed building site plans.

c. Structures located in the viewshed shall be designed so that they blend into the site and surroundings.

d. Exterior lighting shall be adequately shielded or shall be designed at near-ground level and directed downwards to reduce its long-range visibility.

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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. Landscape screening may be used wherever a moderate extension of native forested and chaparral areas is appropriate.

12. Public highway facilities including signs, guardrails, and restrooms shall be of a design complementary to the scenic character of the Carmel area, with preference materials. Private driveway entrances, gates, roadside fences, mailboxes, and signs along Highway 1 should reflect the same design concept. Protective barrier by Caltrans should utilize boulders or walls or rock construction.

LUP Policy 3.1.1
The LUP requires that State Highway 1 be maintained as a scenic two-lane road in rural areas such as the portion of the Carmel area south of the Carmel River. The Coastal Act also requires that remaining highway capacity be reserved for priority uses.

The limited capacity of Highway 1 to accommodate local and recreation traffic at a level that affords reasonable service and emergency use as well as an enjoyable scenic recreational experience is a major concern. Traffic volumes along sections of Highway 1 are at or approaching capacity during peak use periods, and future demand is expected to exceed the capacity of Highway 1. The ultimate capacity will be a major constraint on the long-range development of the Carmel area south of the Carmel River. Highway capacity north of the river may be increased through improvements or alternate alignments such as the proposed Hatton Canyon Freeway. not happening?

LUP – 4.3 Goals
At the heart of the California Coastal Act is a basic theme which the Carmel Area Local Coastal Program must address. This theme is to provide and encourage public recreational use and enjoyment of the California coast, while, at the same time, ensuring that such use does not damage or degrade the very resources which render the coast so value for human enjoyment.

The common goal for the Carmel area must be that any future development blend with and be clearly subordinate to the area's natural scenic character.

Conclusion

The District's proposed 55-space parking lot on the Palo Corona Park, with the accompanying open and unrestricted public access, will create numerous significant unmitigated impacts, including impact to the public viewshed and traffic along Highway 1, and will result in unmanaged activities occurring within the Park.

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The County should not approve this Application until the required comprehensive long-range management plan for the Park is adopted and comprehensive review is done to address the significant environmental, safety and management issues that will be created by this Project.

Sincerely,

NOLAND, HAMERLY, ETIENNE & HOSS
A Professional Corporation

Christine G. Kemp

CGK:aac

Encls.
cc: Mrs. Diana Fish

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Exhibit E

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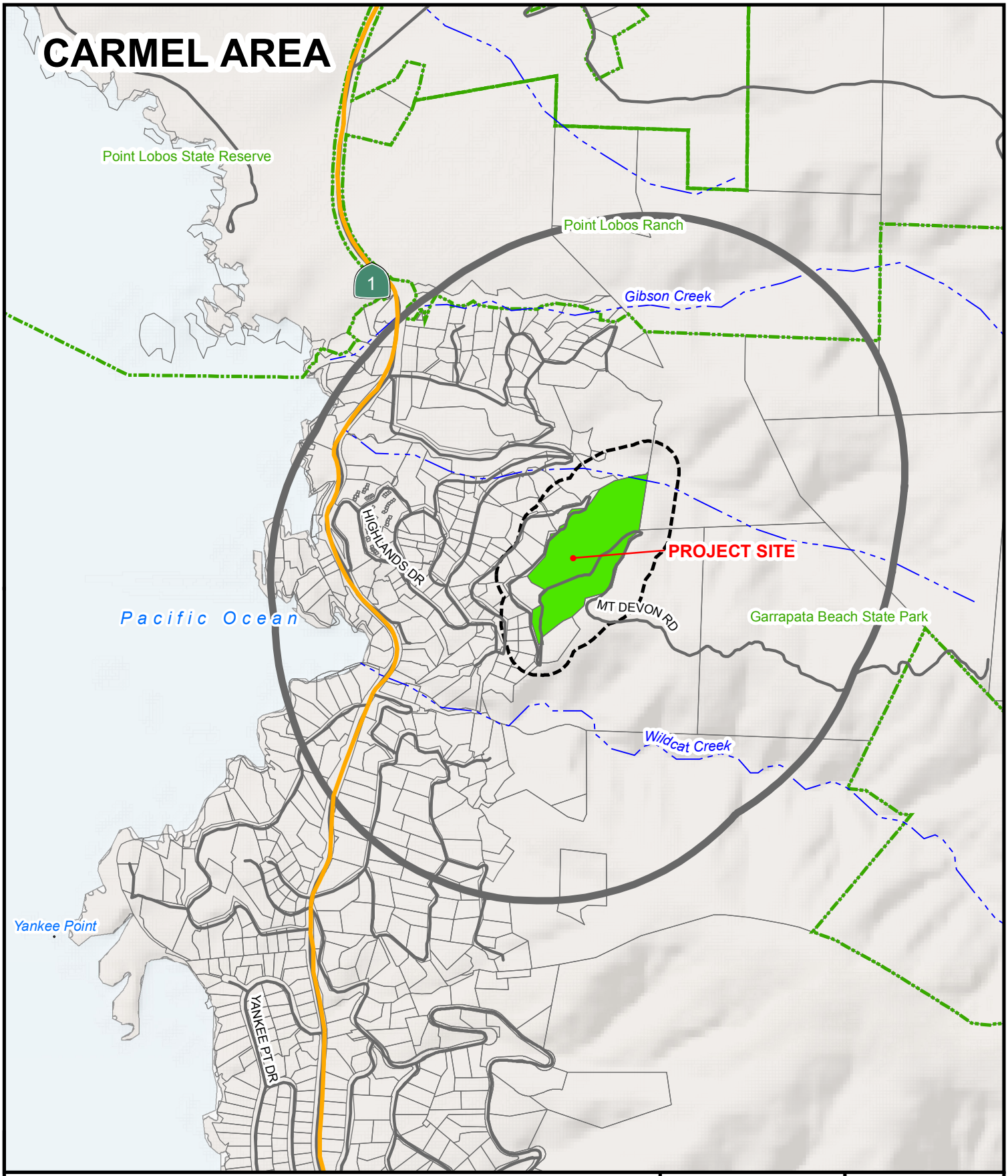

APPLICANT: COLLINS

APN: 241-021-007-000 **FILE #** PLN130339

2500' Limit 300' Limit Water

N

0 1,000 Feet

PLANNER: MACK

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Exhibit F

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Print Form

Appendix C

Notice of Completion & Environmental Document Transmittal

Mail to: State Clearinghouse, P.O. Box 3044, Sacramento, CA 95812-3044 (916) 445-0613
For Hand Delivery/Street Address: 1400 Tenth Street, Sacramento, CA 95814

SCH #

Project Title: Collins

Lead Agency: Monterey County RMA-Planning
Contact Person: Anna V. Quenga, Planner
Mailing Address: 168 W. Alisal Street, 2nd Floor
Phone: (831) 755-5175
City: Salinas
Zip: 93901
County: Monterey

Project Location: County: Monterey
City/Nearest Community: Carmel Highlands
Cross Streets: Mount Devon Road and Cypress Way
Zip Code: 93923
Longitude/Latitude (degrees, minutes and seconds): 36 ° 29 ′ 56.7 ″ N / 121 ° 55 ′ 58.1 ″ W
Total Acres: 30
Assessor's Parcel No.: 241-021-007-000
Section: ____ Twp.: ____ Range: ____ Base: ____
Within 2 Miles: State Hwy #: Highway 1
Waterways: Pacific Ocean
Airports: N/A
Railways: N/A
Schools: N/A

Document Type:

CEQA:
- ☐ NOP
- ☐ Early Cons
- ☐ Neg Dec
- ☒ Mit Neg Dec
- ☐ Draft EIR
- ☐ Supplement/Subsequent EIR (Prior SCH No.) ____
- Other: ____

NEPA:
- ☐ NOI
- ☐ EA
- ☐ Draft EIS
- ☐ FONSI

Other:
- ☐ Joint Document
- ☐ Final Document
- ☐ Other: ____

Local Action Type:

- ☐ General Plan Update
- ☐ General Plan Amendment
- ☐ General Plan Element
- ☐ Community Plan
- ☐ Specific Plan
- ☐ Master Plan
- ☐ Planned Unit Development
- ☐ Site Plan
- ☒ Rezone
- ☐ Prezone
- ☐ Use Permit
- ☐ Land Division (Subdivision, etc.)
- ☐ Annexation
- ☐ Redevelopment
- ☒ Coastal Permit
- ☐ Other: ____

Development Type:

- ☒ Residential: Units 1 Acres 30
- ☐ Office: Sq.ft. ____ Acres ____ Employees ____
- ☐ Commercial: Sq.ft. ____ Acres ____ Employees ____
- ☐ Industrial: Sq.ft. ____ Acres ____ Employees ____
- ☐ Educational: ____
- ☐ Recreational: ____
- ☐ Water Facilities: Type ____ MGD ____
- ☐ Transportation: Type ____
- ☐ Mining: Mineral ____
- ☐ Power: Type ____ MW ____
- ☐ Waste Treatment: Type ____ MGD ____
- ☐ Hazardous Waste: Type ____
- ☐ Other: ____

Project Issues Discussed in Document:

- ☒ Aesthetic/Visual
- ☐ Agricultural Land
- ☒ Air Quality
- ☒ Archeological/Historical
- ☒ Biological Resources
- ☒ Coastal Zone
- ☒ Drainage/Absorption
- ☐ Economic/Jobs
- ☐ Fiscal
- ☐ Flood Plain/Flooding
- ☒ Forest Land/Fire Hazard
- ☒ Geologic/Seismic
- ☐ Minerals
- ☐ Noise
- ☐ Population/Housing Balance
- ☐ Public Services/Facilities
- ☐ Recreation/Parks
- ☐ Schools/Universities
- ☐ Septic Systems
- ☐ Sewer Capacity
- ☒ Soil Erosion/Compaction/Grading
- ☐ Solid Waste
- ☐ Toxic/Hazardous
- ☐ Traffic/Circulation
- ☐ Vegetation
- ☒ Water Quality
- ☐ Water Supply/Groundwater
- ☐ Wetland/Riparian
- ☐ Growth Inducement
- ☒ Land Use
- ☐ Cumulative Effects
- ☐ Other: ____

Present Land Use/Zoning/General Plan Designation:

Resource Conservation, Coastal Zone or "RC(CZ)"

Project Description: *(please use a separate page if necessary)*

Combined Development Permit consisting of: 1) a Rezone request to change a portion of the property currently zoned Resource Conservation [RC(CZ)] to Resource Conservation, Special Treatment, Coastal Zone [RC(Sp Tr)(CZ)] to allow residential development within the specific portion of the property; 2) Coastal Administrative Permit to allow the construction of a 2,397 square foot single family dwelling; 3) Coastal Administrative Permit to allow the establishment of a new well; 4) Coastal Development Permit to allow development on slopes in excess of 30%; and 5) Design Approval. The property is located at 83 Mt Devon Road, Carmel (Assessor's Parcel Number 241-021-007-000), Carmel Area Land Use Plan, Coastal Zone.

Note: The State Clearinghouse will assign identification numbers for all new projects. If a SCH number already exists for a project (e.g. Notice of Preparation or previous draft document) please fill in.

Reviewing Agencies Checklist

Lead Agencies may recommend State Clearinghouse distribution by marking agencies below with and "X".
If you have already sent your document to the agency please denote that with an "S".

_____ Air Resources Board
_____ Boating & Waterways, Department of
_____ California Emergency Management Agency
_____ California Highway Patrol
_____ Caltrans District #_____
_____ Caltrans Division of Aeronautics
_____ Caltrans Planning
_____ Central Valley Flood Protection Board
_____ Coachella Valley Mtns. Conservancy
S_____ Coastal Commission
_____ Colorado River Board
_____ Conservation, Department of
_____ Corrections, Department of
_____ Delta Protection Commission
_____ Education, Department of
_____ Energy Commission
_____ Fish & Game Region #_____
_____ Food & Agriculture, Department of
_____ Forestry and Fire Protection, Department of
_____ General Services, Department of
_____ Health Services, Department of
_____ Housing & Community Development
S_____ Native American Heritage Commission

_____ Office of Historic Preservation
_____ Office of Public School Construction
_____ Parks & Recreation, Department of
_____ Pesticide Regulation, Department of
_____ Public Utilities Commission
_____ Regional WQCB #_____
_____ Resources Agency
_____ Resources Recycling and Recovery, Department of
_____ S.F. Bay Conservation & Development Comm.
_____ San Gabriel & Lower L.A. Rivers & Mtns. Conservancy
_____ San Joaquin River Conservancy
_____ Santa Monica Mtns. Conservancy
_____ State Lands Commission
_____ SWRCB: Clean Water Grants
_____ SWRCB: Water Quality
_____ SWRCB: Water Rights
_____ Tahoe Regional Planning Agency
_____ Toxic Substances Control, Department of
_____ Water Resources, Department of

_____ Other: _____
_____ Other: _____

Local Public Review Period (to be filled in by lead agency)

Starting Date March 29, 2017 Ending Date April 28, 2017

Lead Agency (Complete if applicable):

Consulting Firm: _____
Address: _____
City/State/Zip: _____
Contact: _____
Phone: _____

Applicant: _____
Address: _____
City/State/Zip: _____
Phone: _____

Signature of Lead Agency Representative: _____ **Date:** 3/27/2017

Authority cited: Section 21083, Public Resources Code. Reference: Section 21161, Public Resources Code.

County of Monterey
State of California

MITIGATED NEGATIVE DECLARATION

FILED
MAR 28 2017
STEPHEN L. VAGNINI
MONTEREY COUNTY CLERK
_____DEPUTY

Project Title:	Collins
File Number:	PLN130339
Owner:	James G. & Sook Collins
Project Location:	83 Mount Devon Road, Carmel
Primary APN:	241-021-007-000
Project Planner:	Anna V. Quenga, Associate Planner
Permit Type:	Combined Development Permit
Project Description:	Combined Development Permit consisting of: 1) a Rezone request to change a portion of the property currently zoned Resource Conservation [RC(CZ)] to Watershed and Scenic Conservation, Special Treatment, Coastal Zone [WSC(Sp Tr)(CZ)] to allow residential development within the specific portion of the property; 2) Coastal Administrative Permit and Design Approval to allow the construction of a 2,397 square foot single family dwelling; 3) Coastal Administrative Permit to allow the establishment of a new well; 4) Coastal Development Permit to allow development on slopes in excess of 30%; and 5) Design Approval. The property is located at 83 Mt Devon Road, Carmel (Assessor's Parcel Number 241-021-007-000), Carmel Area Land Use Plan, Coastal Zone.

THIS PROPOSED PROJECT WILL NOT HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT AS IT HAS BEEN FOUND:

a) That said project will not have the potential to significantly degrade the quality of the environment.

b) That said project will have no significant impact on long-term environmental goals.

c) That said project will have no significant cumulative effect upon the environment.

d) That said project will not cause substantial adverse effects on human beings, either directly or indirectly.

Decision Making Body:	Planning Commission
Responsible Agency:	County of Monterey
Review Period Begins:	March 29, 2017
Review Period Ends:	April 28, 2017

Further information, including a copy of the application and Initial Study are available at the Monterey County Planning & Building Inspection Department, 168 West Alisal St, 2nd Floor, Salinas, CA 93901 (831) 755-5025.

Date Printed: 3/28/2017

MONTEREY COUNTY

RESOURCE MANAGEMENT AGENCY – PLANNING
168 WEST ALISAL, 2ND FLOOR, SALINAS, CA 93901
(831) 755-5025 FAX: (831) 757-9516

NOTICE OF INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION
MONTEREY COUNTY PLANNING COMMISSION

NOTICE IS HEREBY GIVEN that Monterey County Resource Management Agency – Planning has prepared a draft Mitigated Negative Declaration, pursuant to the requirements of CEQA, for a Combined Development Permit (Collins) at 83 Mount Devon Road, Carmel (Assessor's Parcel Number 241-021-007-000), Carmel Area Land Use Plan.

The Mitigated Negative Declaration and Initial Study, as well as referenced documents, are available for review at Monterey County Resource Management Agency – Planning, 168 West Alisal, 2nd Floor, Salinas, California. The Mitigated Negative Declaration and Initial Study are also available for review in an electronic format by following the instructions at the following link: http://www.co.monterey.ca.us/government/departments-i-z/resource-management-agency-rma-/planning/resources-documents/environmental-documents/pending .

The Planning Commission will consider this proposal at a meeting on a date to be determined in the Monterey County Board of Supervisors Chambers, 168 West Alisal, 2nd Floor, Salinas, California. Written comments on this Mitigated Negative Declaration will be accepted from March 29, 2017 to April 28, 2017. Comments can also be made during the public hearing.

Project Description: Combined Development Permit consisting of: 1) a Rezone request to change a portion of the property currently zoned Resource Conservation [RC(CZ)] to Watershed and Scenic Conservation, Special Treatment, Coastal Zone [WSC(Sp Tr)(CZ)] to allow residential development within the specific portion of the property; 2) Coastal Administrative Permit and Design Approval to allow the construction of a 2,397 square foot single family dwelling; 3) Coastal Administrative Permit to allow the establishment of a new well; 4) Coastal Development Permit to allow development on slopes in excess of 30%; and 5) Design Approval. The property is located at 83 Mt Devon Road, Carmel (Assessor's Parcel Number 241-021-007-000), Carmel Area Land Use Plan, Coastal Zone.

We welcome your comments during the 30-day public review period. You may submit your comments in hard copy to the name and address above. The Agency also accepts comments via e-mail or facsimile but requests that you follow these instructions to ensure that the Agency has received your comments. To submit your comments by e-mail, please send a complete document including all attachments to:

CEQAcomments@co.monterey.ca.us

An e-mailed document should contain the name of the person or entity submitting the comments and contact information such as phone number, mailing address and/or e-mail address and include any and all attachments referenced in the e-mail. To ensure a complete and accurate record, we request that you also provide a follow-up hard copy to the name and address listed above. If you do not wish to send a follow-up hard copy, then please send a second e-mail requesting confirmation of receipt of comments with enough information to confirm that the entire document was received. If you do not receive e-mail confirmation of receipt of

comments, then please submit a hard copy of your comments to ensure inclusion in the environmental record or contact the Agency to ensure the Agency has received your comments.

Facsimile (fax) copies will be accepted with a cover page describing the extent (e.g. number of pages) being transmitted. A faxed document must contain a signature and all attachments referenced therein. Faxed document should be sent to the contact noted above at **(831) 757-9516**. To ensure a complete and accurate record, we request that you also provide a follow-up hard copy to the name and address listed above. If you do not wish to send a follow-up hard copy, then please contact the Agency to confirm that the entire document was received.

For reviewing agencies: Resource Management Agency – Planning requests that you review the enclosed materials and provide any appropriate comments related to your agency's area of responsibility. The space below may be used to indicate that your agency has no comments or to state brief comments. In compliance with Section 15097 of the CEQA Guidelines, please provide a draft mitigation monitoring or reporting program for mitigation measures proposed by your agency. This program should include specific performance objectives for mitigation measures identified (CEQA Section 21081.6(c)). Also inform this Agency if a fee needs to be collected in order to fund the mitigation monitoring or reporting by your agency and how that language should be incorporated into the mitigation measure.

All written comments on the Initial Study should be addressed to:

County of Monterey
Resource Management Agency – Planning
Attn: Anna V. Quenga, Associate Planner
168 West Alisal, 2nd Floor
Salinas, CA 93901

Re: PLN130339 Collins

From: Agency Name: _____
Contact Person: _____
Phone Number: _____

___ No Comments provided
___ Comments noted below
___ Comments provided in separate letter

COMMENTS: _____

_____

_____

_____

DISTRIBUTION

1. State Clearinghouse (15 CD copies + 1 hard copy of the Executive Summary) – include the Notice of Completion
2. County Clerk's Office
3. California Coastal Commission
4. Native American Heritage Commission, Sacramento Office
5. Louise Miranda-Ramirez, C/O Ohlone/Costanoan-Esslen Nation
6. Monterey Bay Air Resources District
7. California Department of Fish & Wildlife, Marine Region, Attn: Steven Rienecke
8. Carmel Highlands Fire Protection District
9. Monterey County Water Resources Agency
10. Monterey County RMA-Public Works
11. Monterey County RMA-Environmental Services
12. Monterey County Environmental Health Bureau
13. James G & Sook Collins, Owner
14. Robert Carver, C/O Studio Carver, Agent
15. The Open Monterey Project
16. LandWatch
17. Property Owners & Occupants (if located in the Coastal Zone) within 300 feet (**Notice of Intent only**)

Distribution by e-mail only (Notice of Intent only):

18. U.S. Army Corps of Engineers (San Francisco District Office: Katerina Galacatos: galacatos@usace.army.mil)
19. Emilio Hipolito (ehipolito@nccrc.org)
20. Molly Erickson (Erickson@stamplaw.us)
21. Margaret Robbins (MM_Robbins@comcast.net)
22. Michael Weaver (michaelrweaver@mac.com)
23. Monterey/Santa Cruz Building & Construction (Office@mscbctc.com)
24. Tim Miller (Tim.Miller@amwater.com)

Revised 4/20/2016

MONTEREY COUNTY

RESOURCE MANAGEMENT AGENCY

PLANNING

168 W ALISAL ST, 2nd FLOOR, SALINAS, CA 93901

PHONE: (831) 755-5025 FAX: (831) 757-9516

INITIAL STUDY

I. BACKGROUND INFORMATION

Project Title:	Collins
File No.:	PLN130339
Project Location:	83 Mount Devon Road, Carmel
Name of Property Owner:	James G. & Sook Collins
Name of Applicant:	Robert Carver, Studio Carver (Agent)
Assessor's Parcel Number(s):	241-021-007-000
Acreage of Property:	30 Acres
General Plan Designation:	Resource Conservation
Zoning District:	Resource Conservation, Coastal Zone or "RC(CZ)"
Lead Agency:	Monterey County Resources Management Agency (RMA)
Prepared By:	Anna V. Quenga, Associate Planner
Date Prepared:	March 13, 2017
Contact Person:	Anna V. Quenga, Associate Planner
Phone Number:	(831) 755-5175

II. DESCRIPTION OF PROJECT AND ENVIRONMENTAL SETTING

A. Project Description

The proposed project includes two parts: 1) a Local Coastal Program amendment and 2) construction of a single family residence. The proposed amendment is a request to rezone a one acre portion of the subject property located at 83 Mount Devon Road, Carmel (Assessor's Parcel Number 241-021-007-000) from Resource Conservation, Coastal Zone [RC(CZ)] to Watershed and Scenic Conservation, Special Treatment, Coastal Zone [WSC(SpTr)(CZ)]. Approval of the rezoning is required to establish the proposed residential use on the property.

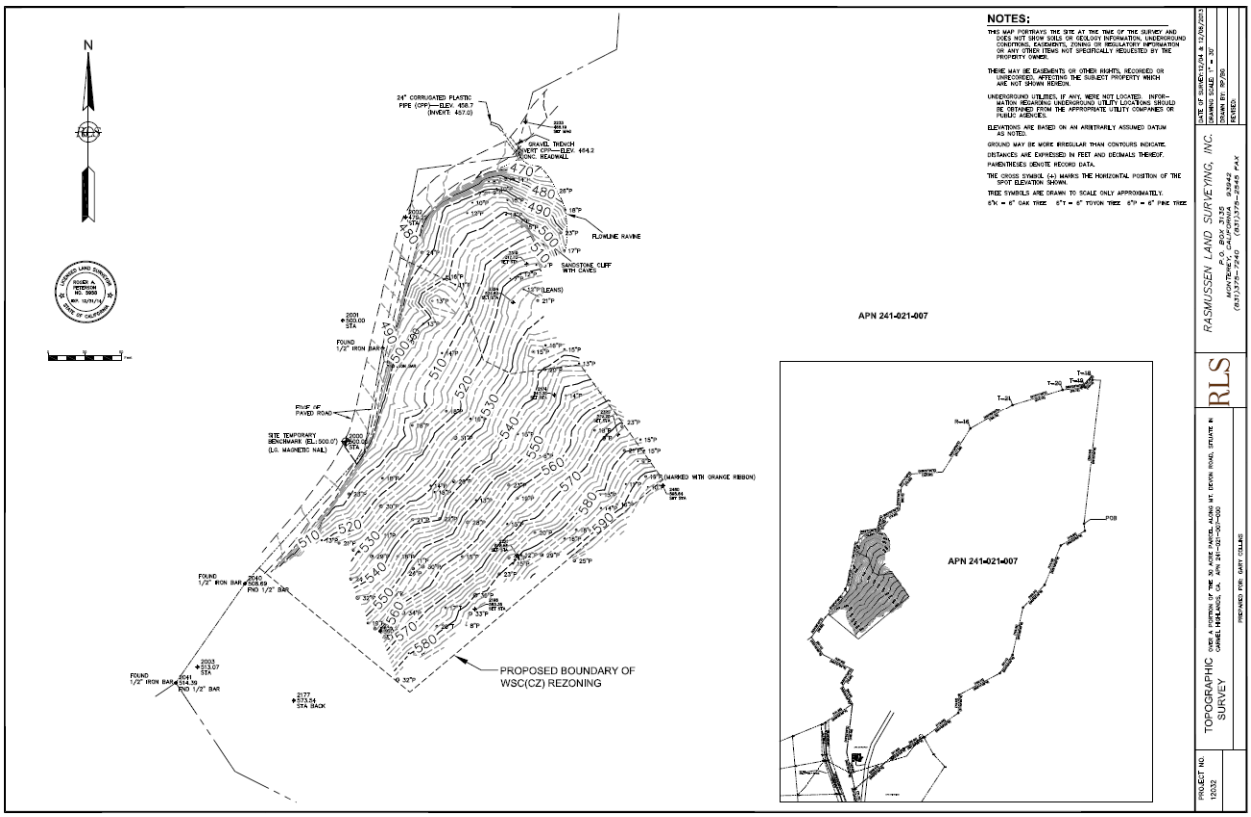

Figure 1. Proposed Rezone Map

The purpose of the "Resource Conservation, Coastal Zone" [RC(CZ)] zoning, as described in the Monterey County Coastal Implementation Plan, Part 1 (Title 20), is to establish a district to protect, preserve, enhance, and restore sensitive resource such areas such as viewshed, watershed, forest, and plant and wildlife habitat. Pursuant to Section 20.36, Resource Conservation Zoning District of Title 20, residential development is not listed as either a principally or conditionally allowed use. The applicant desires to construct a single family residence on the subject property and therefore, requests a Local Coastal Program amendment pursuant to Section 30514 of the Public Resources Code, Division 20, California Coastal Act. This amendment involves rezoning of a one acre portion of the subject property, as shown above in **Figure 1**, to a zoning designation of WSC(SpTr)(CZ) to allow residential development.

The proposed residential development involves construction of a two-story 2,397 square foot single family dwelling over an attached 409 square foot garage and 143 square foot mechanical room. A domestic well, with a separate access road, is proposed to serve the residence with potable water and wastewater service is proposed through an onsite wastewater treatment system consisting of a septic tank and a 2,500 square foot geoflow subsurface drip tubing dispersal area, as an alternative to a standard leachfield area. Site improvements also include grading of 943 cubic yards of cut and 79 cubic yards of fill and the removal of one 14-inch Monterey Pine tree. See **Figure 2** below.

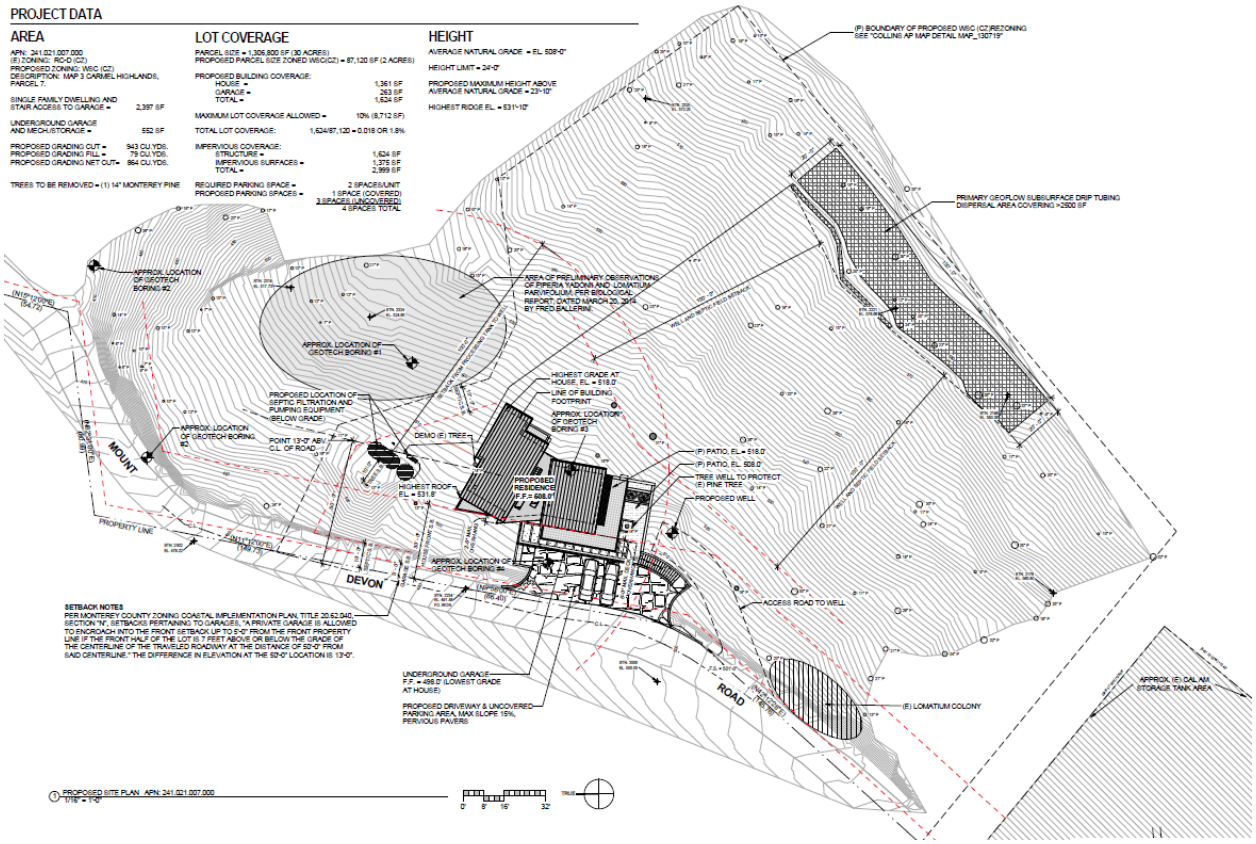

Figure 2. Site Plan

The garage level, shown in **Figure 3**, of the single family dwelling is at grade to the west and below ground to the east. This level includes a pervious driveway/parking area and a one car garage with a mechanical room and water filtration tank. To the south of the garage, a raw water tank and a filtered water tank are proposed, followed by a trash enclosure and exterior stairs leading to the second level. To the north of the garage, an entry atrium and interior stairs and elevator to access the upper levels is proposed.

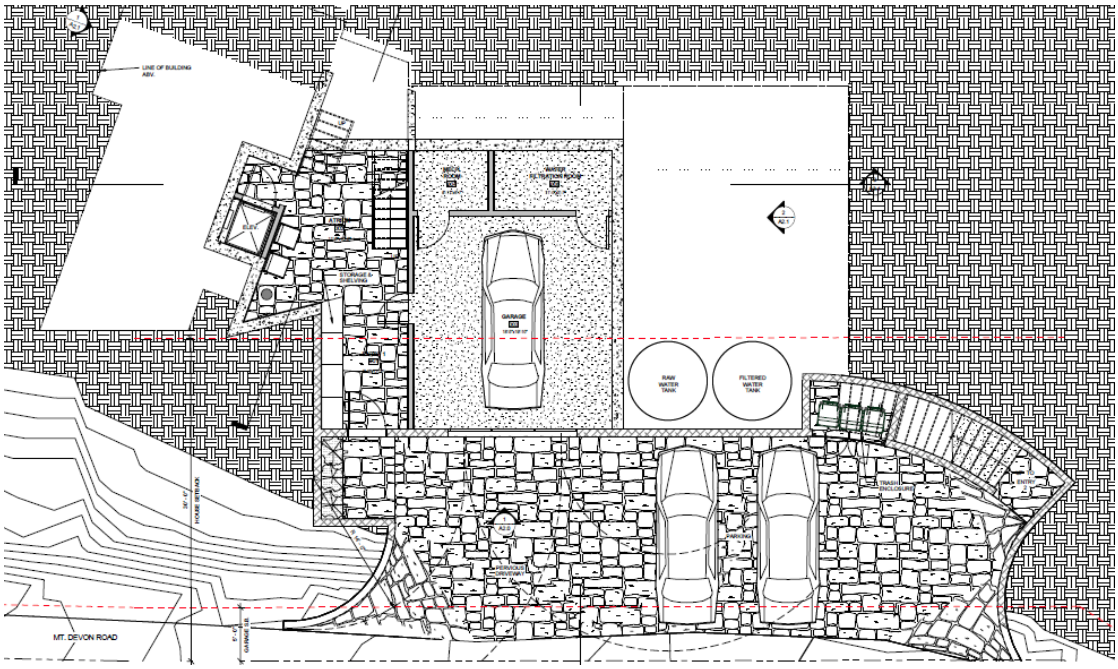

Figure 3. Floor Plan – Garage Level

The first floor level shown in **Figure 4** includes exterior stairs and a path to an entry door to an atrium at this level. To the south of the atrium, a bedroom, bathroom, laundry room, closets, and an outdoor covered patio is proposed. This patio includes a tree well surrounding an 18-inch Monterey pine. To the north of the atrium, a bedroom, bathroom, closet, and exterior outdoor covered patio is proposed.

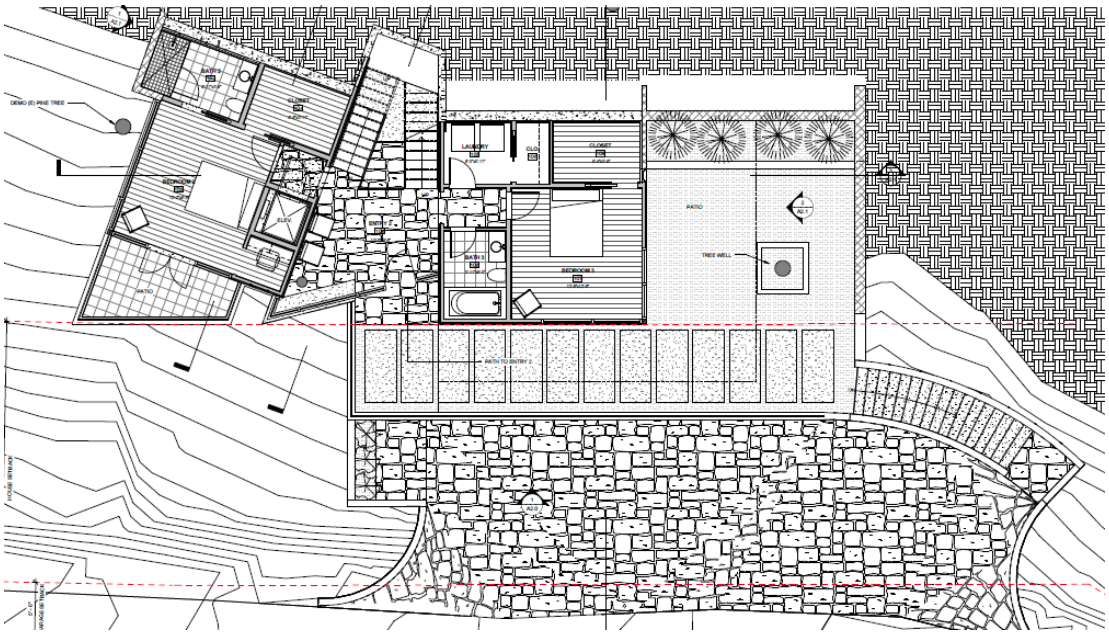

Figure 4. Floor Plan – First Floor Level

The second floor level shown in **Figure 5** includes a kitchen, dining room, living room, and study area surrounded by an outdoor patio area. To the north of this area, accessed by an interior

bridge and stairs open to the atrium below, a powder room (1/2 bathroom), office, master bedroom, master bathroom, closet, and exterior patio is proposed.

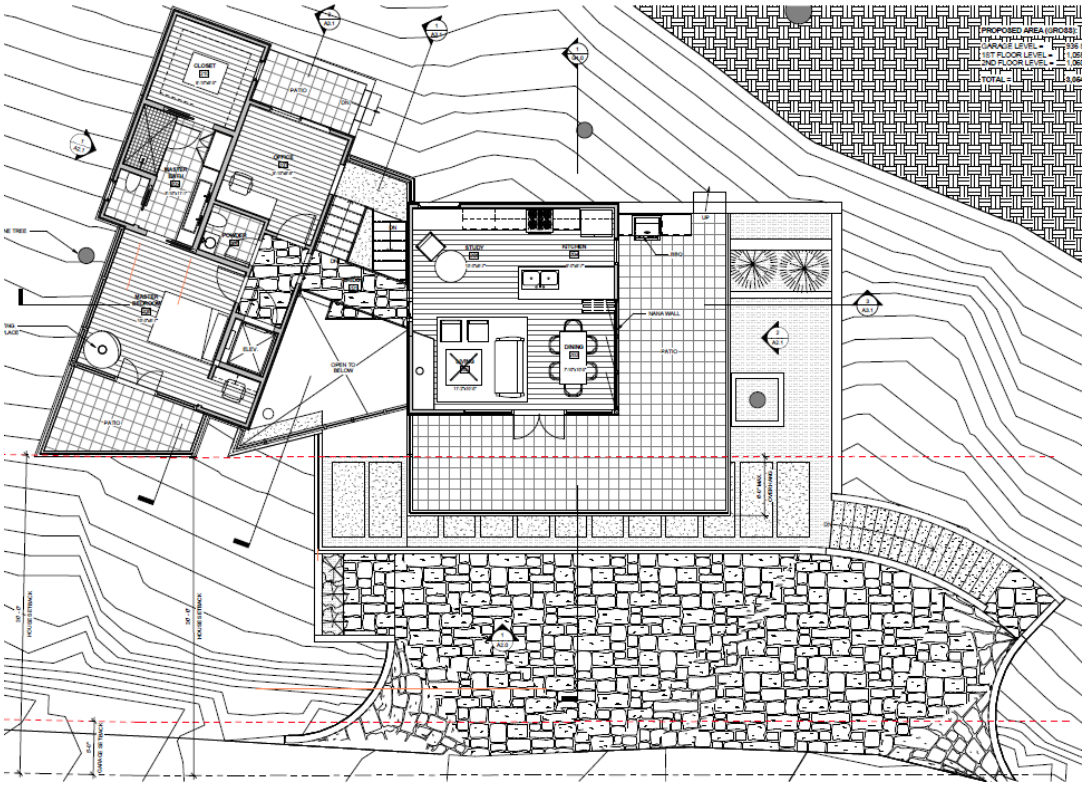

Figure 5. Floor Plan – Second Floor Level

The architectural design of the proposed residence evokes a contemporary feel, as clean lines utilizing 90-degree angles are the most prominent feature. To add interest, the design incorporates a curved roof with exposed rafters at the atrium. Materials proposed include a stone veneer retaining wall, exterior horizontal wood siding, large-paned wood clad glass windows and doors, glass handrails at patios, and a metal standing seam roof with skylights. Proposed colors consist of warm browns and grays (see **Figure 6**).

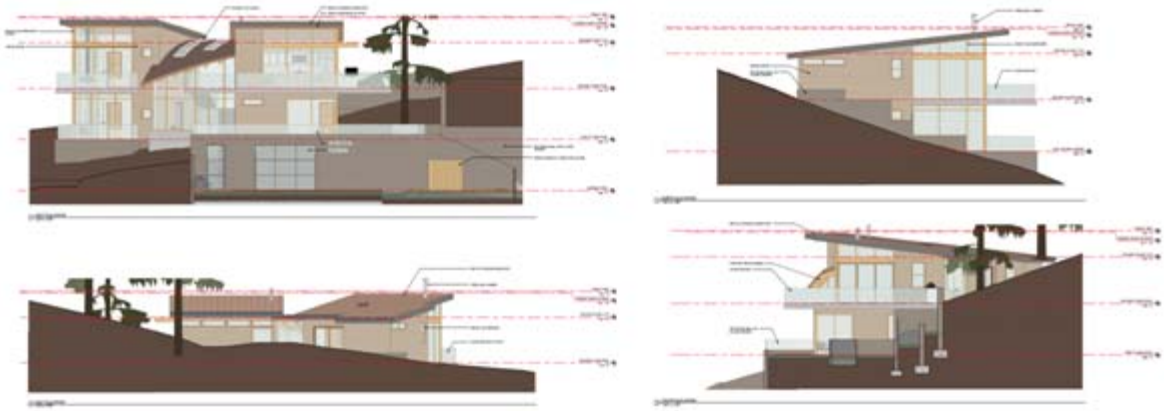

Figure 6. Exterior Elevations

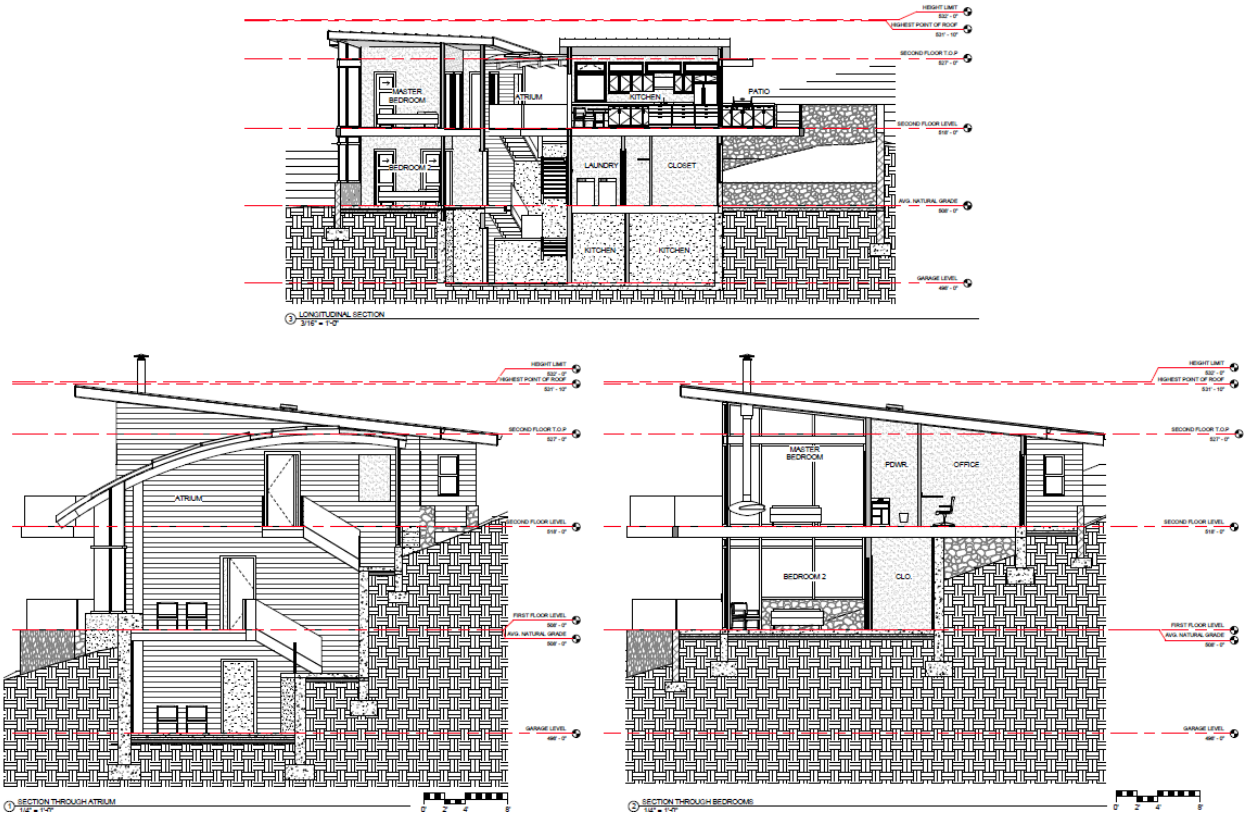

Figure 7. Building Sections

As depicted in **Figure 7** above, the residence is proposed to be stepped into the side of a slope ranging from 29% to 42%. Actual development footprint will occur on slopes between 25% to 37%.

Implementation of the proposed project would require approval of a Combined Development Permit consisting of: 1) Local Coastal Program amendment to allow the rezone from Resource Conservation, Coastal Zone or "RC(CZ)" to Watershed & Scenic Conservation, Special Treatment, Coastal Zone or "WSC(SpTr)(CZ)" to allow residential development within a specific portion of the property; 2) Coastal Administrative Permit and Design Approval to allow the construction of 2,397 square foot single family dwelling; 3) Coastal Administrative Permit to allow the establishment of a new residential well; and 4) Coastal Development Permit to allow development on slopes in excess of 30%.

Construction of the single family residence would be dependent on approval of the rezone. Therefore, this Initial Study will analyze impacts resulting from a zone change that would allow residential development as well as impacts resulting from the specific proposed residential development.

B. Surrounding Land Uses and Environmental Setting

The subject property is located in the Carmel Highlands area, at the southern border of the Monterey Quadrangle, east of Yankee Point. Data from Google Earth indicates that the area of proposed development is approximately 520 feet above sea level.

Figure 8. Area of Proposed Development

Historically, the subject property was a part of the Behavioral Science Institute (BSI) which is currently made up of 12 separate lots. The Carmel Area Land Use Plan (CAR LUP) and Monterey County Implementation Plan, Part 4 (CIP), identified the former BSI properties as a Special Treatment area and were allocated to be developed to specific, but differing densities. For example, Section 20.146.120.C.7.a of the CIP (page CML-71) designates the BSI properties as a Special Treatment area and allows a maximum of 40 residential units sited outside of the view from Highway 1 with the upper steeper portion remaining in open space and then refers the reader to CLUP Policy 4.4.3.E.6.

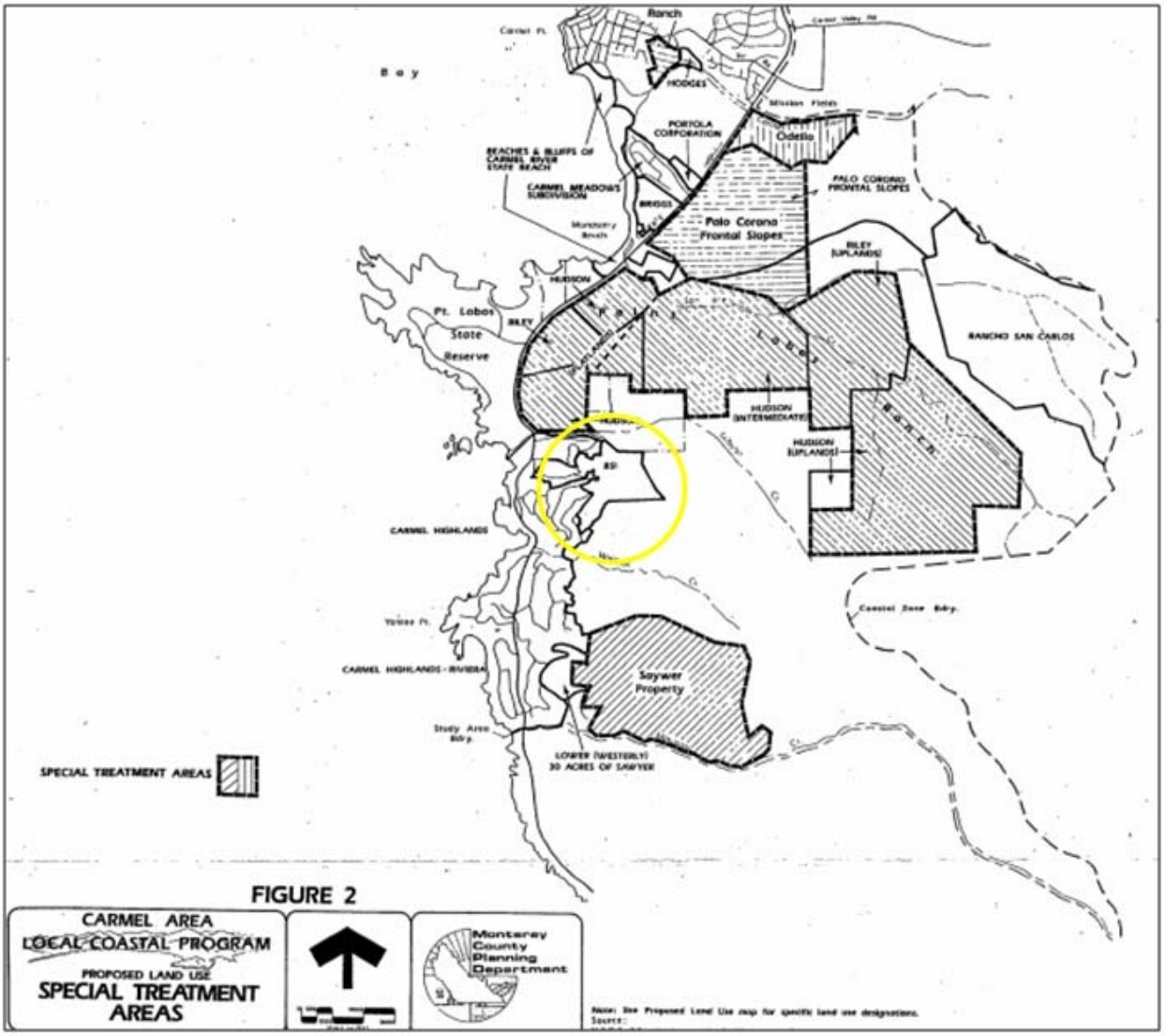

Figure 9. Figure 2 of the Carmel Areal Land Use Plan – Special Treatment Areas

Policy 4.4.3.E.6, however, further restricts the development of the BSI lands to "*25 maximum units"* on lands "*sited outside of view from Highway 1"* and again states "*the upper steeper portion is to remain in open space"* (see **Figure 8** below). The proposed rezoning, if approved, would allow residential development on the portion of the property at the lowest elevation, while retaining the upper steeper portions of the subject parcel in open space.

Figure 10. Google Earth Imagery of BSI properties.

The subject property is bordered on all sides by various densities of residential development. The properties to the west contain residential development consist with their "LDR/1-D(CZ)" or "Low Density Residential, 1 acre minimum, with Design Control Overlay, Coastal Zone" zoning. The properties to the north are zoned "RC/D-Sp TR(CZ)" or "Resource Conservation, with Design Control, Special Treatment Area, Coastal Zone," and the properties to the west are zoned "WSC-D(CZ)" or "Watershed and Scenic Conservation, with Design Control Overlay, Coastal Zone". Both the "WSC" and "LDR" zoning designations allow residential development subject to Coastal Administrative Permits. The "RC" zoning designation does not generally allow residential development, however the surrounding RC zoned properties (Assessor's Parcel Number 241-021-016-000 and 241-011-009-000) contain "Special Treatment" zoning, which has allowed residential development on those properties. See **Figure 11** below.

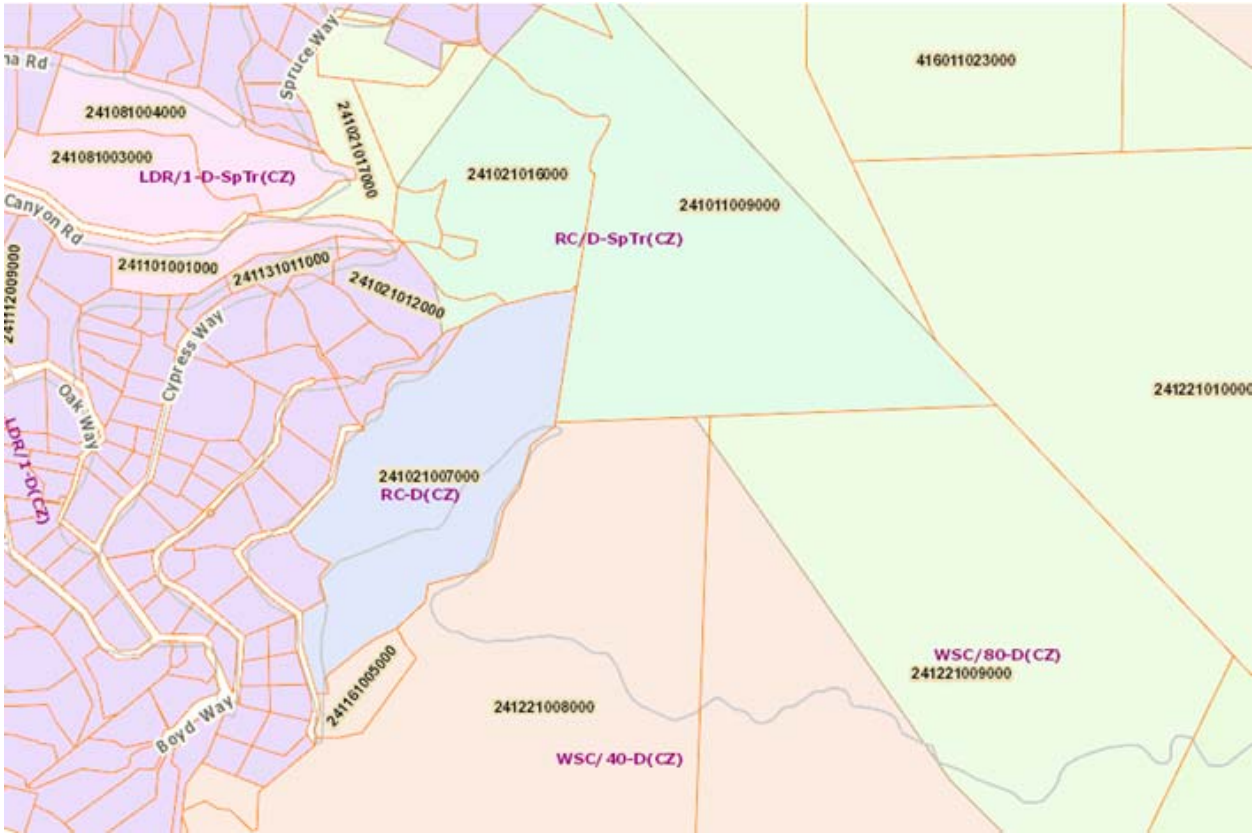

Figure 11. Zoning of Surrounding Area

The 30 acre parcel is located at approximately 520 feet in elevation on a west facing, heavily vegetated (forested) slope. Soils and underlying rock are granite based and plant communities of the regional area include Coast Bluff Scrub, Central Maritime Chaparral, Monterey Pine Forest, Riparian, and Coastal Prairie Grasslands.

The subject property contains two (2) distinct overlapping co-dominate vegetation types: Central Maritime Chaparral and endemic Monterey Pine Forest and is primarily native vegetation with very little (1%) of non-native species present. Both of these habitat types are present in the proposed 1 acre area requested for rezoning and residential development, as well as the remaining acreage upslope to the east.

C. Required Approval by Other Agencies

Subsequent to obtaining the necessary discretionary permit approvals, the project will require ministerial approval from RMA-Building Services, Public Works, RMA-Environmental Services, and the Monterey County Water Resources Agency through the construction permit process. In addition, any conditions of approval required by the reviewing agencies will require compliance prior to issuance of permits. The project will not require a separate permit from the California Coastal Commission (CCC); however, the discretionary permit is appealable to the CCC.

D. Project Impacts

The subject property is not located within Prime or Unique Farmlands, forest land, an area that poses a threat caused by flooding, or in a mineral resource recovery site. The result of the project would not require large amounts of water, create large amounts of wastewater, induce or reduce the population or availability of housing, or cause reduction of the existing level of services for fire, police, public schools, or parks. Therefore, the project will have no impact on Agriculture and Forest Resources, Hazards/Hazardous Materials, Mineral Resources, Population/Housing, Public Services, Recreation, Transportation/Traffic, or Utilities/Service Systems.

Less than significant impacts have been identified for Air Quality, Cultural Resources, Geology/Soils, Greenhouse Gas Emissions, Hydrology/Water Quality, and Noise (see Section VI, Environmental Checklist, of the Initial Study). Implementation of the project would incorporate conditions of approval to assure compliance with County requirements to the extent that they mitigate the identified potential impacts. Therefore, mitigation measures were not necessary for the project to have a less than significant impact on these resources.

Potential impacts to Aesthetics, Biology, and Land Use/Planning caused by site disturbance resulting from project implementation have been identified and Mitigation Measures have been recommended to reduce the impact to a less than significant level (see Section VI, Environmental Checklist, of the Initial Study).

III. PROJECT CONSISTENCY WITH OTHER APPLICABLE LOCAL AND STATE PLANS AND MANDATED LAWS

Use the list below to indicate plans applicable to the project and verify their consistency or non-consistency with project implementation.

General Plan	☒	Air Quality Mgmt. Plan	☒
Specific Plan	☐	Airport Land Use Plans	☐
Water Quality Control Plan	☒	Local Coastal Program-LUP	☒

General Plan / Local Coastal Program LUP:
The Proposed project was reviewed for consistency with the 1982 Monterey County General Plan, Carmel Area Land Use Plan (CAR LUP), and Monterey County Coastal Implementation Plans, Parts 1 (Title 20) and 4 (Chapter 20.146). Policy 6.1.1 of the CAR LUP, outlines three basic tests for demonstrating a project conformance with the plan: 1) the project must be in conformance with uses and use intensities permitted for the specific geographical area concerned; 2) the project must fully meet the objectives, policies, and standards for natural resource protection; and 3) the project must fully meet any specific zoning provisions adopted to implement the plan. As discussed in subsequent section VI.10 of this Initial Study, the proposed residential use is consistent with the special treatment allowance of the Behavioral Science Institute property. However, the residential use is inconsistent with uses allowed in the Resource Conservation zoning district. Therefore, the applicant requests a change to the land use designation on a one acre portion of the subject property from Resource Conservation to Watershed and Scenic Conservation which allows for residential uses. Approval of the project would be consistent with the above plans. **CONSISTENT**

Water Quality Control Plan
The subject property lies within Region 3 of the Central Coast Regional Water Quality Control Board (CCRWCB). Water quality objectives specified in the Water Quality Control Plan for the Central Coastal Basin are meant to protect existing high quality waters of the State. Water quality objectives are considered necessary to protect those present and probable future beneficial uses enumerated in Chapter Two of this plan and to protect existing high quality waters of the State. These objectives will be achieved primarily through the establishment of waste discharge requirements and through implementation of the water quality control plan, which regulates sources of water quality related issues resulting in actual or potential impairment or degradation of beneficial uses, or the overall degradation of water quality through implementation of the State's Water Quality Control Plan. In this case, beneficial uses would include groundwater recharge from stormwater captured onsite. The proposed project includes land disturbance and construction of permanent structures in a currently vacant parcel. This has the potential to introduce new sources of pollution or significantly increase on-site impervious surfaces. In accordance with Chapter 16.12 of the Monterey County Code, the proposed project has been conditioned by the Water Resources Agency requiring the applicant to submit a drainage and erosion control plan. For additional discussion on hydrology and water quality, please refer to Section VI.9 of this Initial Study. **CONSISTENT**

Air Quality Management Plan

Consistency with the Air Quality Management Plan (AQMP) is an indication of a project's cumulative adverse impact on regional air quality (ozone levels), and is not an indication of project specific impacts, which are evaluated according to the Air District's adopted thresholds of significance. Inconsistency with the AQMP is considered a significant cumulative air quality impact. The Monterey Bay Air Resources District (MBARD) prepared the AQMP for the Monterey Bay Region. The AQMP addresses attainment and maintenance of State and Federal ambient air quality standards with the North Central Coast Air Basin. Consultation with MBARD staff occurred during preparation of this Initial Study to identify if, as a result of the rezone, implementation of the project would result in additional impact not already accounted for in the AQMP. It was determined that the proposed project would not conflict with or obstruct implementation of the AQMP. There would be no stationary emissions as a result of the proposed project. The MBARD *CEQA Air Quality Guidelines* defines construction activities with potentially significant impacts for PM_{10} if they include 2.2 acres of disturbance per day. The project will involve less than 2.2 acres of disturbance, and therefore would not result in a significant impact and would consistent with the AQMP. Additional discussion can be found in Section IV.A of this Initial Study. **CONSISTENT**

IV. ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED AND DETERMINATION

A. FACTORS

The environmental factors checked below would be potentially affected by this project, as discussed within the checklist on the following pages.

☒ Aesthetics	☐ Agriculture and Forest Resources	☐ Air Quality
☒ Biological Resources	☒ Cultural Resources	☒ Geology/Soils
☒ Greenhouse Gas Emissions	☐ Hazards/Hazardous Materials	☒ Hydrology/Water Quality
☒ Land Use/Planning	☐ Mineral Resources	☒ Noise
☐ Population/Housing	☐ Public Services	☐ Recreation
☐ Transportation/Traffic	☐ Utilities/Service Systems	☒ Mandatory Findings of Significance

Some proposed applications that are not exempt from CEQA review may have little or no potential for adverse environmental impact related to most of the topics in the Environmental Checklist; and/or potential impacts may involve only a few limited subject areas. These types of projects are generally minor in scope, located in a non-sensitive environment, and are easily identifiable and without public controversy. For the environmental issue areas where there is no potential for significant environmental impact (and not checked above), the following finding

can be made using the project description, environmental setting, or other information as supporting evidence.

☐ Check here if this finding is not applicable

FINDING: For the above referenced topics that are not checked off, there is no potential for significant environmental impact to occur from either construction, operation or maintenance of the proposed project and no further discussion in the Environmental Checklist is necessary.

EVIDENCE: Section VI.2 – Agricultural and Forest Resources: The subject property does not contain farmland designated as Prime, Unique, of Statewide or Local Importance, or under Williamson Act contract. The proposed project would not result in conversion of prime agricultural lands to non-agricultural uses. The project site is not located near any grazing or farmland; and therefore, would have no impact to agricultural and forest resources. Although the biological report (Source 9) indicates that there is Monterey Pine Forest habitat onsite, it is not considered forest or timber resources inventoried as a demonstration state forest. (Source: 1, 2, 3, 8, and 9) *No Impact.*

Section VI.8 – Hazards/Hazardous Materials: The proposed project does not involve transportation, use, or disposal of hazardous materials that would constitute a threat of explosion or other significant release that would pose a threat to neighboring properties. Furthermore, it does not include storage of large quantities of hazardous materials on the site, involve stationary operations, create hazardous emissions, or handle hazardous materials. Location of the subject property would have no impact on emergency response or emergency evacuation. The site is not located near an airport or airstrip. (Source: 1 and 8) *No Impact.*

Section VI.11 – Mineral Resources: No mineral resources have been identified, or would be affected by the project. Therefore, the proposed project would not have impacts on minimal resources. (Source: 1 and 8) *No Impact.*

Section VI.13 – Population/Housing: Implementation of the proposed project would not result in a substantial increase of housing units in the area nor would it cause an increase demand for additional housing. The proposed project would not substantially induce population growth in the area, either directly or indirectly, as no new infrastructure would be extended to the site. Therefore, the proposed project would have no significant impacts related to Population/Housing. (Source: 1, 2, 3, and 4) *No Impact.*

Section VI.14 – Public Services: The proposed project would have no substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, where construction of which would cause significant environmental impacts, in order to maintain acceptable service ratios, response

times or other performance objectives for any of the public services. (Source: 1, 2, and 3) *No Impact.*

Section VI.15 – Recreation: The project, as proposed, would not result in an increase in the use of existing neighborhood and regional parks or other recreational facilities causing substantial physical deterioration. The proposed project does not include or require construction or expansion of recreation facilities. The project would not create significant recreational demands. (Source: 1, 2, and 3) *No Impact.*

Section VI.16 – Transportation/Traffic: The proposed project includes establishment of a residential use within a rural residential area. Although the rezoning would allow establishment of a residential use that is currently prohibited, the project would be under the overall density of the Behavioral Science Institute. Therefore, implementation would not result in generation of additional long-term traffic trips. Construction would result in a temporary increase of traffic. However, the segment of Highway 1 between Riley Ranch Road and Highlands Drive is at a Level of service (LOS) C. Therefore, the temporary increase in traffic would not result in reduction of LOS. The project would not result in a change in air traffic patterns, substantially increase hazards due to a design failure, or result in inadequate emergency access or parking capacity. The project would not conflict with adopted policies, plans, or programs supporting alternative transportation. Therefore, the proposed project will have no significant impact to transportation or traffic. (Source: 1, 3, 4, and 14) *No Impact.*

Section VI.17 – Utilities: Implementation of the project would require the installation of an onsite wastewater treatment system as well as an onsite stormwater drainage facility. Domestic water would be provided by a private well. Therefore, the proposed project would not require connection to any public wastewater, stormwater, or water facilities. Any excess construction materials would be hauled to the landfill operated by the Monterey Regional Waste Management District. However, the minimal amount of waste produced would not affect the permitted landfill capacity. (1 and 8) *No Impact.*

B. DETERMINATION

On the basis of this initial evaluation:

☐ I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

☒ I find that although the proposed project could have a significant effect on the environment there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.

☐ I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

☐ I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

☐ I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Signature	March 27, 2017 Date
Anna V. Quenga	*Associate Planner*

V. EVALUATION OF ENVIRONMENTAL IMPACTS

1) A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on project-specific screening analysis).

2) All answers must take into account the whole action involved, including offsite as well as onsite, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.

3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.

4) "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level mitigation measures from Section XVII, "Earlier Analyses," may be cross-referenced).

5) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:

   a) Earlier Analysis Used. Identify and state where they are available for review.
   b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
   c) Mitigation Measures. For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.

6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.

7) Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.

8) The explanation of each issue should identify:

   a) The significance criteria or threshold, if any, used to evaluate each question; and
   b) The mitigation measure identified, if any, to reduce the impact to less than significance.

VI. ENVIRONMENTAL CHECKLIST

1. AESTHETICS **Would the project:**	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Have a substantial adverse effect on a scenic vista? (Source: 1, 2, 3, 4 & 8)	☐	☒	☐	☐
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway? (Source: 1, 2, 3, 4 & 8)	☐	☐	☐	☒
c) Substantially degrade the existing visual character or quality of the site and its surroundings? (Source: 1, 2, 3, 4 & 8)	☐	☒	☐	☐
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area? (Source: 1, 2, 3, 4 & 8)	☐	☐	☒	☐

Discussion/Conclusion/Mitigation:
The Carmel Area Land Use Plan (CAR LUP) places great importance on the protection of scenic qualities of the planning area. Project consistency with visual resource policies contained in the CAR LUP would ensure development is harmonious and subordinate to the natural scenic character of the area. Map A, General Viewshed, of the CAR LUP indicates that the subject property is outside of the General Viewshed. In addition, the project's staking and flagging was not visible from the Highway 1 corridor and turnouts or Pt. Lobos State Reserve during staff's onsite investigation.

1(b). Conclusion: No Impact.
The subject property is not located within view of Highway 1, a California designated scenic highway. Therefore, project implementation would have no impact to scenic resources within a state scenic highway.

1(d). Conclusion: Less Than Significant Impact.
The proposed project includes the establishment of a residential structure on currently vacant land. Policy No. 2.2.4.10.d of the CAR LUP requires exterior lighting to be adequately shielded or designed at near-ground level and directed downwards to reduce its long-range visibility. In addition, design of the proposed structures includes the use of large expanses of windows facing towards the direction of Highway 1. Therefore, a condition of approval requiring submittal and approval of an exterior lighting plan and the use of windows with a lower visual transmittance of light has been incorporated to ensure project implementation is consistent with this policy, resulting in a less than significant impact to day or nighttime views in the area.

1(a) and (c). Conclusion: Less Than Significant Impact with Mitigation Incorporated. Although the proposed development cannot be seen from the general public viewshed, rezoning of the property to allow residential development could have the potential to create a visual impact if development is not restricted to a confined area. Therefore, **Mitigation Measure No. 4** (see subsequent Section VI.10 Land Use and Planning) has been incorporated requiring the conveyance of a Conservation and Scenic Easement outside of proposed building area. Compliance with this mitigation would ensure the project, and any future development, would not have a significant impact on scenic resources in the area.

2. AGRICULTURAL AND FOREST RESOURCES

In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board.

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use? (Source: 1, 2, 3, 8 & 9)	☐	☐	☐	☒
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract? (Source: 1, 2, 3, 8 & 9)	☐	☐	☐	☒
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))? (Source: 1, 2, 3, 8 & 9)	☐	☐	☐	☒
d) Result in the loss of forest land or conversion of forest land to non-forest use? (Source: 1, 2, 3, 8 & 9)	☐	☐	☐	☒
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use? (Source: 1, 2, 3, 8 & 9)	☐	☐	☐	☒

Discussion/Conclusion/Mitigation:
See previous Section II.B (Project Description) and C (Environmental Setting) and Section IV.A (Environmental Factor Potentially Affected), as well as the sources listed.

3. AIR QUALITY

Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations.

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Conflict with or obstruct implementation of the applicable air quality plan? (Source: 1, 2 & 6)	☐	☐	☐	☒
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation? (Source: 1, 2 & 6)	☐	☐	☒	☐
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)? (Source: 1, 2 & 6)	☐	☐	☒	☐
d) Result in significant construction-related air quality impacts? (Source: 1, 2 & 6)	☐	☐	☒	☐
e) Expose sensitive receptors to substantial pollutant concentrations? (Source: 1, 2 & 6)	☐	☐	☒	☐
f) Create objectionable odors affecting a substantial number of people? (Source: 1, 2 & 6)	☐	☐	☐	☒

Discussion/Conclusion/Mitigation:
In order to provide protection and enhancement of Monterey County's air quality, Monterey County 1982 General Plan (General Plan) Policy No. 20.1.1 requires development decisions to be consistent with the natural limitation of the County's air basins. In addition, Policy 20.2.4 of the General Plan requires the County to operate in accordance with current regional, state, and federal air quality standards. In regards to reducing air pollution emissions while Policy 20.2.5 encourages the use of the "best available control technology" defined in the current rules of the Monterey Bay Unified Air Pollution Control District (MBUAPCD). The California Air Resources Board (CARB) coordinates and oversees both state and federal air quality control programs in California. The CARB has established 14 air basins statewide and the project site is located in the North Central Coast Air Basin (NCCAB), which is under the jurisdiction of the Monterey Bay Unified Air Pollution Control District (MBUAPCD). The MBUAPCD is responsible for enforcing standards and regulating stationary sources through the *2008 Air*

Quality Management Plan for the Monterey Bay Region (AQMP) and *2009-2001 Triennial Plan Revision* ("Revision"). evaluate a project's potential for a cumulative adverse impact on regional air quality (ozone levels).

3(a) and (f). Conclusion: No Impact.
The AQMP and Revision addresses state air quality standards. Population-generating projects that are within the AQMP population forecasts are considered consistent with the plan. The proposed project would result in establishing a residential use where currently, none would be allowed. However, this residential use would be within the overall density of development allocated for the Behavioral Science Institute properties. Therefore, implementation of the project would not be considered an increase in population. Since there is no potential for increased population, the proposed project is consistent with the AQMP and would have no impact.

The proposed construction activities will not create objectionable odors affecting a substantial number of people due to the scale of the proposed construction. Therefore, no impacts related to generation of odors are expected to occur.

3 (b), (c), (d) and (e). Conclusion: Less Than Significant Impact.
At present, Monterey County is in attainment for all federal air quality standards and state standards for Carbon monoxide (CO), Nitrogen dioxide (NO_2), Sulfur Dioxide (SO_2), Lead, and fine particulate matter ($PM_{2.5}$). However, Monterey County is designated as "non-attainment-transitional" for respirable particulates (PM_{10}) for the state 2-hour ozone standard. Although the project includes grading, demolition, and construction activities (and similar projects occur within the vicinity of the subject property) the potential air emissions meet the standard for pollutants and the project would not create a situation where it adds a cumulatively considerable net increase of any criteria pollutant. Therefore, as noted by CEQA, air emissions would be less than significant for PM_{10} due to the non-attainment designation.

The proposed construction would be contained within one acre of the subject property. Therefore, construction and grading activities would operate below the 2.2 acres per day threshold established by the CEQA Air Quality Guidelines "Criteria for Determining Construction Impacts." Furthermore, construction-related air quality impacts would be controlled by implementing Monterey County standard conditions for erosion control that require watering, erosion control, and dust control. These impacts are considered less than significant based on the foregoing measures and best management practices incorporated into the project design and which reduce the air quality impacts below the threshold of significance. Since the subject property is located within an established residential neighborhood, sensitive receptors are considered to be the residents within the immediate vicinity. Impacts caused by construction would be temporary. Therefore, the project as proposed and conditioned would result in a less than significant impact to construction-related air quality and sensitive receptors.

4. BIOLOGICAL RESOURCES Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service? (Source: 1, 2, 3, 4, 6 & 9)	☐	☒	☐	☐
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations or by the California Department of Fish and Game or US Fish and Wildlife Service? (Source: 1, 2, 3, 4, 6 & 9)	☐	☒	☐	☐
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means? (Source: 1, 2, 3, 4, 6 & 9)	☐	☐	☐	☒
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites? (Source: 1, 2, 3, 4, 6 & 9)	☐	☐	☒	☐
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance? (Source: 1, 2, 3, 4, 6 & 9)	☐	☐	☒	☐
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan? (Source: 1, 2, 3, 4, 6 & 9)	☐	☐	☐	☒

Discussion:

Monterey County Geographic Information System (GIS) indicates that the subject property has the potential to contain Oak savanna, Central Maritime Chaparral, Monterey Pine, and Smith's Blue butterfly. Map B, Environmentally Sensitive Habitats – Known Locations, of the Carmel Area Land Use Plan (CAR LUP) illustrates the potential for significant strands of Monterey Pine to be located on the subject property. Based on this data and pursuant to Section 20.146.040.A of the Monterey County Coastal Implementation Plan, Part 4 (CIP), submittal a biological survey was required as part of the project application.

A Biological Assessment of Gary Collins Property, dated July 15, 2016, prepared by Fred Ballerini Horticultural Services (Source No. 9) was prepared and submitted to RMA-Planning

for review. This assessment evaluated and documented biological resources present on the subject property. Potential impacts to plants, animals, and habitats resulting from proposed development were considered by the biologist. Two distinct overlapping co-dominant vegetation types were found on the subject property: Central Maritime Chaparral and endemic Monterey Pine Forest. The project site is almost exclusively native habitat with non-native species present on less than 1% of the proposed one-acre area subject requested for rezoning. Central Maritime Chaparral is present on the entire one-acre area.

4(c) and (f). Conclusion: No Impact.
The subject property is not located within or in proximity to federally protected wetlands as defined by Section 404 of the Clean Water Act. Furthermore, an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved conservation plan does not exist for the subject property. Therefore, implementation of the project would have no impact.

4(d) and (e). Conclusion: Less than Significant Impact.
During an onsite assessment, the project biologist observed several bird species. Specifically, Anna's hummingbird (*Calypte anna*), dark-eyed junco (*Junco hyemalis*), and California towhee (*Melozone crissalis*) were observed using the proposed building envelope for forging. Stellar's jay (*Cyanocitta stelleri*), acorn woodpeckers (*Melanerpes formicivorus*), and Townsend's warbler (*Setophaga townsedi*) were observed foraging in the eastern portion of the proposed one acre area to be rezoned. Construction of the proposed single family dwelling would require the removal of one 14-inch Monterey pine. In addition, construction activities would be in proximity to a 13-inch and 18-inch Monterey pine. For discretionary projects involving tree removal, it is Monterey County's regulatory standard to incorporate a condition of approval in accordance with the Migratory Bird Treaty Act. This condition would require the owner/applicant to retain a County qualified biologist to perform a nest survey within the project site or within 300-feet of proposed tree removal if the activity occurs during the typical bird nesting season. If nesting birds are found on the project site, an appropriate buffer plan shall be established by the project biologist. This condition would be incorporated in the project and implementation would reduce impacts to nesting birds to less than significant.

As stated above, implementation of the project would require the removal of a 14-inch Monterey pine. Pursuant to Section 20.146.060.A.1 of the CIP, approval of a Coastal Development Permit to removal trees and other major vegetation is required. Consistent with this section, the applicant has applied for a Coastal Development Permit. Approval of this permit requires staff to make findings that tree removal would not result in exposure of structures within the critical viewshed, removal is limited to that which is necessary for the proposed development, and native trees to be removed, 12-inches or greater, shall be replaced on the parcel. Map A, General Viewshed, of the CAR LUP illustrates the proposed area of development not to be within the General Viewshed (see previous Section VI.1 of this Initial Study). Based on analysis of the project plans, the tree proposed for removal is located to the north of the proposed structure and would not provide screening of the structure when viewed from public viewing areas. The proposed location of the residence is in an area that would require the least of tree removal. Consistent with the requirements of the CIP, the project would be conditioned to require replacement of the 12-inch Monterey pine on a one-to-one ratio. Implementation of the proposed project would have a less than significant impact to tree preservation.

4(a) and (b). Conclusion: Less Than Significant with Mitigation Incorporated.
The project biologist quarried the California Native Plant Society (CNPS) and California Natural Diversity Database (CNDDB) inventories and identified the potential for 51 special status species or habitat to occur within the Monterey Quadrangle. Out of those identified, four special status species or habitat were identified on the subject property: Monterey Pine Forest, Monterey pine (*pinus radiate*), Yadon's rein orchid (*Piperia yadonii*), and Central Maritime Chaparral. In addition, small-leaved lomatium (*Lomatium parvifolium*) was found on the subject property. Although this plant is not considered a special status species (*Lomatium parvifolium* has a California Rare Plant Rank of 4.2, plants of limited distribution), the biologist felt it necessary to identify potential impacts to this plant as well as include protection measures.

At the time of the assessment, the biologist was unclear of how many Monterey pines would be impacted by the proposed development and therefore concluded with a conservative estimate of 4 to 5 trees to be removed. If this were the case, the biologist found that based on preliminary tree analysis, the proposed construction area would be in accordance with the development standards of the CAR LUP as the development limits impacts as much as possible given the constraints of the project location.

38 Yadon's rein orchid (*Piperia yadonii*) plants, a Federally Listed Endangered plant and listed by the CNPS as a California Rare Plant Rank 1B.1 (rare, threatened, or endangered in California and elsewhere, noted as seriously endangered in California), were observed outside of the northern edge of the proposed construction area, at the ravine cliff edge. Two other unidentified species of rein orchid (*Piperia sp.)* were observed approximately 50-feet outside of the proposed construction boundary at the north end of a drainage ravine. This species did not flower and therefore could not adequately be identified at the time of preparation of the initial biological assessment.

Central Maritime Chaparral is recognized by the California Department Fish and Wildlife as a sensitive natural community. This habitat type is found throughout the subject property and within the development footprint.

Small-leaved lomatium (*Lomatium parvifolium*) were observed within the proposed one-acre are to be rezoned and allow construction. Approximately 142 plants were identified along the road bank north of driveway access road to the proposed domestic well. Although this plant is not considered rare from a statewide perspective, it is vulnerable in the state due to a restricted range and relatively few populations.

Although there were no special status plant or animal species habitat areas observed within the proposed development footprint, rezoning of the property to allow residential development could have the potential to impact environmentally sensitive habitats if development is not restricted to a confined area. Therefore, **Mitigation Measure No. 4** (see subsequent Section VI.10, Land Use and Planning) has been incorporated requiring the conveyance of a Conservation and Scenic Easement outside of proposed building area. Compliance with this mitigation would ensure the project, and any future development, would not have a significant impact on biological resources on the site.

In order to minimize construction related impacts to small-leaved lomatium, Yadon's rein orchid, and Monterey pine, a mitigation measure has been identified requiring submittal and implementation of a Biological Resources Protection Plan.

Mitigation Measure No. 1: In order to ensure impacts to small-leaved lomatium, Yadon's rein orchid, and Monterey pine are avoided, the owner/applicant shall submit a Biological Resources Protection Plan, developed in consultation with the project biologist, prior to the issuance of construction permits. This plan shall include information of how sensitive plants species will be identified and protected as well as a biological resources training program for construction personnel.

> **Mitigation Measure Action No. 1a:** Prior to the issuance of construction permits for grading or building, the owner/applicant shall include a note on the construction plans encompassing the language contained in Mitigation Measure No. 1. The owner/applicant shall submit plans to RMA-Planning for review and approval.
>
> **Mitigation Measure Action No. 1b:** Prior to the issuance of construction permits for grading and/or building, the owner/applicant shall submit to RMA-Planning a copy of the contract between the owner/applicant and a qualified biologist (referred to as the *project biologist*). The contract shall include provisions of consultation of develop and implement the Biological Resources Protection Plan. The contract shall be submitted to the RMA-Planning Department for review and approval. Should RMA-Planning find the contract incomplete or unacceptable, the contract will be returned to the owner/applicant and a revised contract shall be re-submitted for review and approval.
>
> **Mitigation Measure Action No. 1c:** Prior to the issuance of construction permits for grading and/or building, the owner/applicant shall submit a Biological Resources Protection Plan to RMA-Planning for review and approval. The protection plan shall include: logistics of how flagging of sensitive plant species locations installation of temporary protection fencing will occur, the length of time these measures will remain in place, and when no longer necessary, how removal of the measure will occur. The plan shall also include a biological resources training program for construction personnel on the importance of avoiding the identified protection areas.
>
> **Mitigation Measure Action No. 1d:** Prior to the issuance of construction permits for grading and/or building, the owner applicant shall submit evidence that the protection measures outlined in the approved Biological Resources Protection Plan have been in place. This evidence shall include an inspection letter from the project biologist with photo documentation of onsite protection measures as well a record of compliance for implementation of biological resources training program for construction personnel.
>
> **Mitigation Measure Action No. 1e:** Prior to final of construction permits for grading and/or building, the owner applicant shall submit a final inspection letter from the project biologist verifying compliance with Biological Resources Protection Plan.

Drilling of the proposed domestic well includes the use of heavy equipment for drilling and excavation as well as the production of well spoils onsite, resulting in the potential to impact to

sensitive plant species nearby. Therefore, a mitigation measure has been identified to reduce these impacts to less than significant.

Mitigation Measure No. 2: In order to ensure impacts to sensitive plant species during the well drilling process are minimized, protection measures shall be installed to retain well discharge tailings and water from migrating off-site. Prior to issuance of the well permit, the owner/applicant shall submit a drilling plan identifying and implementing the following protection measures:

- Installation of tree protection fencing
- Installation of erosion and sediment control devices
- Identify areas where equipment will be restricted to the building envelope and excluded from any coastal scrub habitat zones
- Use of portable retention pits or retention bio bags for well drilling and deposit of well spoils
- Identify locations of portable excavation pits within the building envelope or on existing pavement
- Identify how and when removal of drilling equipment and portable retention pits will occur
- Use of vacuum truck to remove standing water and slurry debris within the portable retention pits
- Removal of drilling equipment and portable retention pits

Mitigation Measure Action No. 2: Prior to issuance of construction permits for grading and/or building, the owner/applicant shall submit a drilling plan all protection measures identified in Mitigation Measure No. 2 to RMA-Planning for review and approval.

Implementation of Mitigation Measures 1 and 2 are intended to ensure protection of sensitive plant species during construction. However, the area where the small-leaved lomatium exists is located near the driveway area. Therefore, there is potential for inadvertent or accidental damage to these plants. If that occurs, a mitigation measure has been identified to restore the habitat.

Mitigation Measure No. 3: If during project staging and/or implementation, impacts to small-leaved lomatium occurs, the applicant shall submit a restoration plan with a 2:1 replacement ratio and a 5-year monitoring period to ensure potential impacts to the sensitive species have been sufficiently reduced.

Mitigation Measure Action No. 3a: Prior to issuance of construction permits for grading and/or building, the owner/applicant shall include language contained in Mitigation Measure No. 3 on the site plan.

Mitigation Measure Action No. 3b: Prior to final of construction permits for grading and/or building, the owner/applicant shall submit a letter of verification by the project biologist that either the restoration plan was not necessary or evidence that the restoration plan was implemented.

5. CULTURAL RESOURCES **Would the project:**	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Cause a substantial adverse change in the significance of a historical resource as defined in 15064.5? (Source: 1, 3, 4, 6 & 10)	☐	☐	☐	☒
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to 15064.5? (Source: 1, 3, 4, 6 & 10)	☐	☐	☒	☐
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature? (Source: 1, 3, 4, 6 & 10)	☐	☐	☐	☒
d) Disturb any human remains, including those interred outside of formal cemeteries? (Source: 1, 3, 4, 6 & 10)	☐	☐	☒	☐

Discussion/Conclusion/Mitigation:

The Monterey County Geographic Information System indicates that the subject property has a high archaeological sensitivity. Pursuant to Section 20.146.090.B.1.a of the Monterey County Coastal Implementation Plan, Part 4, the proposed development required submittal of an archeological survey as part of the application. Consistent with this requirement, such report was submitted (Source 10). The report indicated that both background research and an onsite reconnaissance were conducted and concluded that there were no previously identified sites within proximity of the subject property and no materials frequently associated with cultural resources were found onsite, resulting in an opinion that the project area contains no evidence of potentially significant archaeological resources. Pursuant to State Assembly Bill 52, staff met with the Most Likely Descendant (MLD) of the Ohlone/Costanoan-Esselen Nation (OCEN) through a Tribal Consultation. The MLD stated that due to the location of the site and the fact that the property is well above 500-feet of sea level, it is unlikely that the area would have been frequented by their people. However, the MLD did have concerns with the protection of OCEN Ancestral Heritage Sites if resources are accidentally uncovered. To address this concern, a standard condition of approval requiring halting all work if resources are accidentally uncovered. Therefore, implementation of the project would have a less than significant impact on cultural resources.

6. GEOLOGY AND SOILS Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? (Source: 1, 6 & 11) Refer to Division of Mines and Geology Special Publication 42.	☐	☐	☐	☒
ii) Strong seismic ground shaking? (Source: 1, 6 & 11)	☐	☐	☐	☒
iii) Seismic-related ground failure, including liquefaction? (Source: 1, 6 & 11)	☐	☐	☐	☒
iv) Landslides? (Source: 1, 6 & 11)	☐	☐	☐	☒
b) Result in substantial soil erosion or the loss of topsoil? (Source: 1, 6 & 11)	☐	☐	☒	☐
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse? (Source: 1, 6 & 11)	☐	☐	☐	☒
d) Be located on expansive soil, as defined in Chapter 18A of the 2007 California Building Code, creating substantial risks to life or property? (Source: 1, 6 & 11)	☐	☐	☐	☒
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater? (Source: 1, 6 & 11)	☐	☐	☐	☒

Discussion/Conclusion:
Monterey County Geographic Information System (GIS) indicates that the seismic hazard zone on the subject property is III, which is relatively low; however, the erosion hazard is high. Map D, Hazards, of the Carmel Area Land Use Plan indicates that the subject property is located in an area with recent alluvium; meaning there was a deposit of clay, silt, sand, and gravel left by flowing streams, typically producing fertile soil. Based on this information, a Geotechnical Engineering Report prepared by Beacon Geotechnical, Inc. was prepared and submitted with the project application (see Source 11).

6(a), (c), (d), and (e). Conclusion: No Impact.
There are no known earthquake faults, as delineated on the most recent Alquist-Priolo

Earthquake Fault Zoning Map within 1/8 of a mile of the subject property. The Geotechnical Engineering Report did not identify the potential for strong seismic ground shaking and seismic design parameters established by the 2010 California Building Code were recommended. Seismic risks due to liquefaction and landslide were determined to be low. Site soil conditions were found to be generally dense to very dense light brown silty slightly clayey sandstone overlain by loos brown silty clayey sand topsoil and bearing soils were determined to be in the low range for expansion. Project review, specifically relative to the septic tank and primary geoflow subsurface wastewater dispersal area, by the Environmental Health Bureau gave no indication that the soils onsite would not support the proposed onsite wastewater treatment system.

6(b). Conclusion: Less Than Significant Impact.
The proposed project includes development on slopes in excess of 30% and the soils on the subject property were identified to be highly erodible. Therefore, the Geotechnical Engineering Report recommended that all excavations should be observed by an engineer prior to processing or placing of fill and over-excavation and re-compaction of soils in the building area was also recommended. To ensure implementation of the project meets the recommendations of the Geotechnical Engineering Report, the project has been conditioned requiring submittal of an erosion control plan, a grading plan incorporating the recommendations of the Geotechnical Engineering Report, and a Geotechnical Certification. Compliance with these conditions would reduce geologic impacts caused by accelerated erosion to a less than significant level.

7. GREENHOUSE GAS EMISSIONS **Would the project:**	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment? (Source: 1 & 2)	☐	☐	☒	☐
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases? (Source: 1 & 2)	☐	☐	☒	☐

Discussion/Conclusion/Mitigation:
According to the United States Environmental Protection Agency (EPA), greenhouse gases (GHG) are gases that trap heat in the atmosphere. U.S. GHG emissions in 2014 consisted of 81% Carbon Dioxide (CO_2), 11% Methane (CH_4), 6% Nitrous Oxide (N_2O), and 3% of fluorinated gases (hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and nitrogen trifluoride). The larger amount of GHG emissions lead to higher concentrations in the atmosphere and each of these gases can remain in the atmosphere for different amounts of time (from a few years to thousands of years). Overtime, these gases are mixed resulting in a global effect despite their point of emission. Based on information obtained from the EPA, an increase in GHG emissions are related to warming of the earth, a process commonly known as the “greenhouse effect” or

"global warming." This process is expected to have an effect in weather patterns, ocean circulation, mean sea level rise, water supply, and an increase in infectious diseases.

The baseline GHG emission for the subject property is next to zero and temporary construction activities as well as operational components of the project would introduce new points of emissions. Pursuant to Section 15064.4 of the CEQA Guidelines, Monterey County, as the lead agency, must analyze GHG emissions of the proposed project and reach a conclusion regarding significance of said emissions. Although the State of California has provided guidance to lead agencies, it has yet to develop specific Green House Gas (GHG) thresholds of significance for analysis of projects during environmental review. Furthermore, the Monterey Bay Unified Air Quality Management District (MBUAQMD) has not adopted GHG thresholds to determine significance. The 1982 General Plan does not contain policies that address GHGs. However, it does include policies that relate to climate change such as water conservation; protection of vegetation; building designs incorporating solar orientation, weather proofing, and limiting reliance on artificial heating, cooling, and lighting; and locating development where adequate road systems exist. In addition to these policies, Chapter 18.11 – Green Building Standards, of the Monterey County Code was adopted to improve public health, safety, and welfare by encouraging responsible use of resources in the design and construction of buildings by using building concepts that would reduce negative impacts, or resulting in a positive environmental impact, by encouraging sustainable construction practices.

Temporary construction activities of the proposed project would be the main contributor to GHG emissions. Unfortunately, quantifying project emissions at this time would be too speculative. Therefore, in lieu of State guidance or locally adopted thresholds, a primarily qualitative approach was used to evaluate possible impacts from the proposed project.

7(a) and (b). Conclusion: Less Than Significant Impact.
Construction activities involving heavy equipment and vehicle use would be temporary; therefore, GHG emissions would be limited to a short period of time. Operational elements of the project would not increase baseline amount of GHGs emitted prior to implementation of the project. Meaning, the rezone of the property and establishing a residential use on the site would not permanently generate a significant amount of vehicle trips over what is existing or cause an increase in the emission of carbon dioxide (CO_2) by fuel combustion. Therefore, the project would have a less than significant impact as it relates to GHGs.

Climate change is a complex phenomenon that has the potential to alter local climatic patterns and meteorology. Even with the efforts of jurisdictions throughout the state, a certain amount of climate change is inevitable due to existing and unavoidable future GHG emissions worldwide. Climate change effects in California include, but are not limited to, sea level rise, extreme heat events, increase in infectious diseases and respiratory illnesses, and reduced snowpack and water supplies. In the greater Monterey County area, including the project site, climate change effects are expected to result in the following conditions. A hotter climate, with average annual temperatures increasing by 2.9 to 4.9 °F in Monterey County by 2090, relative to baseline conditions (1961–1990) (California Energy Commission 12 2014). Increased sea level rise risk, with acreage vulnerable to a 100-year flood event increasing by 14 percent in Monterey County by 2100 (California Energy Commission 2014). More frequent and intense wildfires, with the area burned projected to increase by an estimated 10 to 15 percent in Monterey County by 2050

and 19 to 28 percent by 2100 (California Energy 17 Commission 2014). Changes in growing season conditions and species distribution (PRBO Conservation Science 19 2011). Increased heat and decreased air quality, with the result that public health will be placed at risk, and native plant and animal species may be lost (PRBO Conservation Science 2011).

8. HAZARDS AND HAZARDOUS MATERIALS **Would the project:**	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials? (Source: 1 & 8)	☐	☐	☐	☒
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment? (Source: 1 & 8)	☐	☐	☐	☒
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school? (Source: 1 & 8)	☐	☐	☐	☒
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment? (Source: 1 & 8)	☐	☐	☐	☒
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area? (Source: 1 & 8)	☐	☐	☐	☒
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area? (Source: 1 & 8)	☐	☐	☐	☒
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan? (Source: 1 & 8)	☐	☐	☐	☒
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands? (Source: 1 & 8)	☐	☐	☐	☒

Discussion/Conclusion/Mitigation:

See previous Section II.B (Project Description) and C (Environmental Setting) and Section IV.A (Environmental Factor Potentially Affected), as well as the sources listed.

9. HYDROLOGY AND WATER QUALITY **Would the project:**	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Violate any water quality standards or waste discharge requirements? (Source: 1, 2, 3, 4, 5 & 11)	☐	☐	☒	☐
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)? (Source: 1, 2, 3, 4, 5 & 11)	☐	☐	☐	☒
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site? (Source: 1, 3 & 11)	☐	☐	☒	☐
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site? (Source: 1, 6 & 8)	☐	☐	☐	☒
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff? (Source: 1, 6 & 8)	☐	☐	☐	☒
f) Otherwise substantially degrade water quality? (Source: 1, 6 & 8)	☐	☐	☐	☒
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map? (Source: 1, 6 & 8)	☐	☐	☐	☒
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows? (Source: 1, 6 & 8)	☐	☐	☐	☒
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam? (Source: 1, 6 & 8)	☐	☐	☐	☒

9. HYDROLOGY AND WATER QUALITY Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
j) Inundation by seiche, tsunami, or mudflow? (Source: 1, 6, 8 & 11)	☐	☐	☐	☒

Discussion/Conclusion/Mitigation:
The proposed project includes rezoning of the subject property to allow for residential development. Provided the rezoning is approved, the project also includes construction of a single family residence upon a vacant lot where there are not existing public stormdrain facilities. Therefore, temporary impacts caused by construction activities and operational elements of the project would have the potential to impact hydrology and water quality.

9(b), (d), (f), (g), (e), (h), (i), and (j). Conclusion: No Impact.
Establishment of a residential use on the subject property would require a domestic water supply provided by a proposed well, resulting in additional water use above baseline conditions. However, the assumed water use for the residence would not require a significant amount of water that would impact groundwater supply. Therefore, there is no foreseen impact. The subject property is not located within a flood zone or an area prone to flooding. Therefore, additional site drainage would not result in flooding on or off site. or recharge. The establishment of a residence as an allowed use, construction of a residence, and operational elements of a residence would change drainage patterns (see discussion below) but would not create a situation where water quality would be substantially degraded. The subject property is not located within the 100-year floodplain or near a levee or dam that would expose people or structures to significant loss or death if failure resulting in flooding were to occur. The project site is not located in an area subject to inundation by seiche, tsunami, or mudflows.

9(a) and (c). Conclusion: Less Than Significant Impact.
Construction activities would have the potential to create an adverse impact water quality due to erosion and sedimentation, resulting in impairment of water supply or the transport of pathogens and toxic substances. Furthermore, the conversion of vacant land into pervious surfaces would have the potential to alter the existing drainage pattern of the site as well as create new runoff. The proposed project has been reviewed by the Monterey County Water Resources Agency and pursuant to Chapter 16.12 of the Monterey County Code, a condition of approval requiring submittal and approval of an erosion control and drainage plan has been incorporated. Implementation of this condition would reduce these impacts to less than significant.

10. LAND USE AND PLANNING Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Physically divide an established community? (Source: 1, 2, 3, 4, 6 & 8)	☐	☐	☐	☒
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect? (Source: 1, 2, 3, 4, 6 & 8)	☐	☒	☐	☐
c) Conflict with any applicable habitat conservation plan or natural community conservation plan? (Source: 1, 2, 3, 4, 6 & 8)	☐	☐	☐	☒

Discussion/Conclusion/Mitigation:

The project site is subject to the 1982 Monterey County General Plan (General Plan) and the Carmel Area Land Use Plan (CAR LUP), which provides regulatory framework through goals and policies for physical development. These goals and policies are implemented through Monterey County Coastal Implementation Plans, Part 1 (Coastal Zoning Ordinance) and Part 4, Regulations for Development in the Carmel Area Land Use Plan Area (Chapter 20.146). The Carmel Area Local Coastal Program Land Use Plan map illustrates the land use designation for the subject property as "Resource Conservation – Forest and Upland Habitat." Section 4.5.A of the CAR LUP states that in this designation, emphasis is placed on the protection of sensitive resources, plant communities, and animal habitats and that Forest and Upland Habitats typically apply to public or private reserves or open space areas set aside for resource preservation or research.

The illustrative map found in Figure 2, Special Treatment Areas, of the CAR LUP shows that the subject property is part of the "BSI" area, also known as the Behavioral Science Institute property. Specific development polices found in Section 4.4.3.E.5 states that low density residential development shall generally be located in rural areas where a residential character exists and that vacant lots in the Carmel Highland-Riviera area should continue to be developed to the extent that site and resource protection constraints allow. Accordingly, with the exception of the Behavioral Science Institute property, the minimum density lot size shall be one acre unless waste disposal dictate otherwise. Section 4.4.3.E.6 of the CAR LUP addresses the special treatment allocation allowing for a maximum residential development of 25 units on the BSI property, provided they are sited outside the view from Highway 1 and the upper steeper portion shall remain in open space. The majority of the properties within this area contain steep slopes, with many found at higher elevations. Therefore, staff conducted a site visit on March 8, 2017 to gain a better understanding of what was mean by "upper steeper slopes." Currently, the BSI property contains 12 parcels. Property data provided by the applicant demonstrates that there are eight existing single family dwellings and the potential for an additional four, including the Collins property. This quantified amount is well within the maximum allowed residential

density. However, in order for the project to be consistent with the land use designation and zoning, rezoning of the property would be necessary. Therefore, the applicant has requested to change a 1 acre parcel of the subject property from RC(CZ) or WSC/SpTR(CZ).

Initially staff identified this particular case to be an anomaly since all other BSI parcels contained zoning allowing residential development, consistent with the special treatment allocation. However, on February 19, 1992 a similar situation occurred on one of the BSI parcel.

10(a) and (c): Conclusion: No Impact.
The proposed project includes a request to rezone the subject property to provide for a residential use on the site and a proposal to construction a single family residence. The subject property is surrounded by low and rural density residential uses. Therefore, the establishment of a residential use in that area would be consistent with what is existing and would not cause a physical division of an established community. The vacant lot contains mostly native vegetation and the project would have the potential to create impact to biological resources (see section VI.4 – Biological Resources for further discussion). However, these resources are protected through the goals and policies of the CAR LUP and previously mentioned implementation plans, not through a habitat conservation plan or natural community conservation plan. Therefore, implementation of the project would have no impact.

10(b): Conclusion: Less Than Significant Impact with Mitigation Incorporated.
As discussed above, rezoning the property to allow for residential development appears to be consistent with development policies of the CAR LUP. However, consistency with policies for the protection of scenic and biological resources, any future development on the parcel shall be restricted to a confined area.

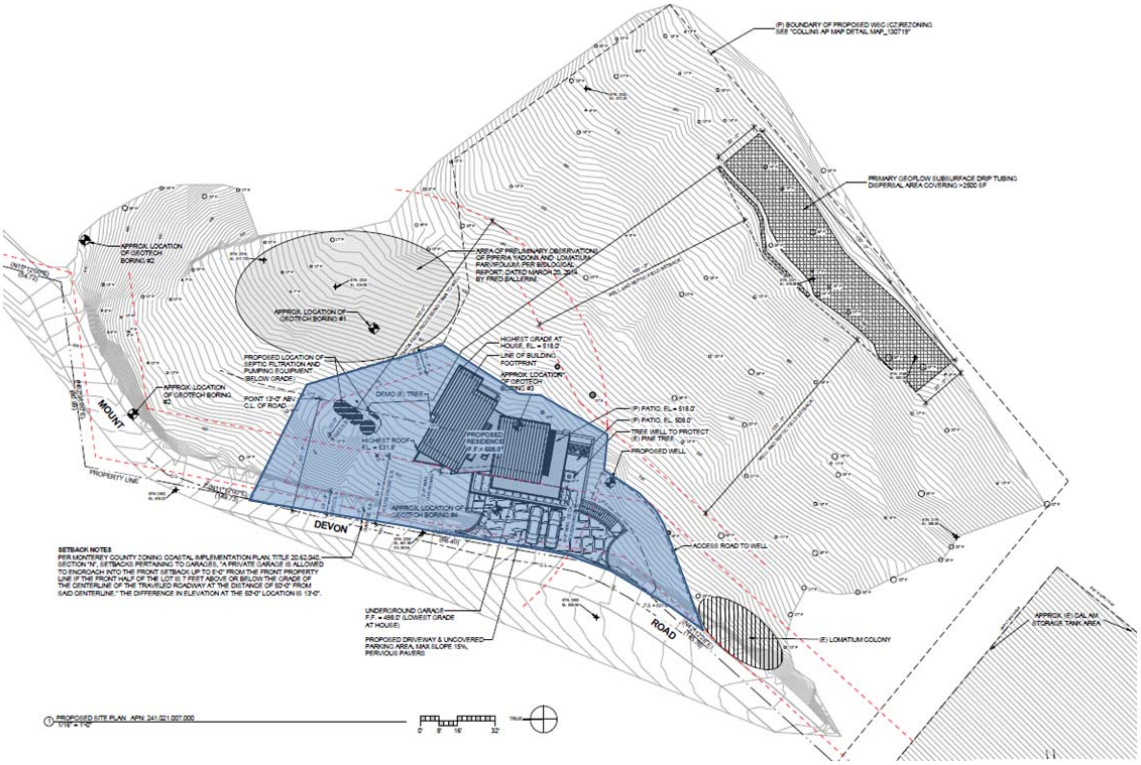

Figure 12. Proposed Building Envelope

Therefore, staff had identified a mitigation measure, that when implemented, would reduce the potential development within a confined area through the establishment of a building envelope as illustrated in **Figure 12** above. Implementation of this mitigation would ensure any future development (i.e. additions to the single family residence, construction of accessory structures, and/or construction of minor structures such as sheds and fencing) would be restricted. This would be memorialized through the establishment of a Conservation and Scenic Easement for the remaining areas of the subject property outside of the building envelope.

> **Mitigation Measure No. 4:** In order to prevent future development from occurring on the upper stepper areas of the property and to ensure the protection of scenic and biological resources, a Conservation and Scenic Easement shall be placed on the subject property for areas outside of the identified building envelope. This easement shall be developed on consultation with RMA-Planning staff, the project biologist, and a project surveyor and conveyed to the County of Monterey. The easement shall show the exact location of the easement with a metes and bounds description and contain a clear and concise list of prohibited activities and development within the easement area. An exception shall be made for maintenance a repair of the proposed primary geoflow subsurface wastewater dispersal area.
>
> **Mitigation Measure Action No. 4a:** Prior to issuance of construction permits for grading and/or building, the owner/applicant shall submit the Conservation and Scenic Easement deed to RMA-Planning for review and approval. Subsequent to RMA-

Planning's approval, the Board of Supervisors shall accept the conveyance and the deed shall be recorded with the Monterey County Recorder's Office.

11. MINERAL RESOURCES **Would the project:**	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state? (Source: 1 & 8)	☐	☐	☐	☒
b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan? (Source: 1 & 8)	☐	☐	☐	☒

Discussion/Conclusion/Mitigation:
See previous Section II.B (Project Description) and C (Environmental Setting) and Section IV.A (Environmental Factor Potentially Affected), as well as the sources listed.

12. NOISE **Would the project result in:**	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies? (Source: 1, 2 & 8)	☐	☐	☒	☐
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels? (Source: 1, 2 & 8)	☐	☐	☒	☐
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project? (Source: 1, 2 & 8)	☐	☐	☐	☒
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project? (Source: 1, 2 & 8)	☐	☐	☒	☐
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels? (Source: 1 & 8)	☐	☐	☐	☒

12. NOISE Would the project result in:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels? (Source: 1 & 8)	☐	☐	☐	☒

Discussion/Conclusion/Mitigation:
The subject property is located within a rural residential area where there are noise sensitive receptors. Although operational components of the project would have no effect on existing noise levels in the area, there would be temporary noise impacts during construction.

12(c), (e), and (f). Conclusion: No Impact.
The establishment of a residential use on the subject property would not expose people to noise levels that exceed Monterey County standards and would not substantially increase ambient noise levels. The project site is not located in the vicinity of an airport, private airstrip, or within an airport land use plan area.

12(a), (b), and (d). Conclusion: Less Than Significant Impact.
Construction activities would produce noise not typically found in the area. In addition, grading would have the potential to create groundborne vibrations. Since these impacts would be temporary, they are not considered significant. Furthermore, Monterey County Code Chapter 10.60 establishes regulations for noise requirements and compliance with these regulations would ensure any noise impacts be reduced to a less than significant level.

13. POPULATION AND HOUSING Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)? (Source: 1, 2, 3 & 4)	☐	☐	☐	☒
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere? (Source: 1, 2, 3 & 4)	☐	☐	☐	☒
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere? (Source: 1, 2, 3 & 4)	☐	☐	☐	☒

Discussion/Conclusion/Mitigation:

See previous Section II.B (Project Description) and C (Environmental Setting) and Section IV.A (Environmental Factor Potentially Affected), as well as the sources listed.

14. PUBLIC SERVICES **Would the project result in:**	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
Substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
a) Fire protection? (Source: 1, 2 & 3)	☐	☐	☐	☒
b) Police protection? (Source: 1, 2 & 3)	☐	☐	☐	☒
c) Schools? (Source: 1, 2 & 3)	☐	☐	☐	☒
d) Parks? (Source: 1, 2 & 3)	☐	☐	☐	☒
e) Other public facilities? (Source: 1, 2 & 3)	☐	☐	☐	☒

Discussion/Conclusion/Mitigation:
See previous Section II.B (Project Description) and C (Environmental Setting) and Section IV.A (Environmental Factor Potentially Affected), as well as the sources listed.

15. RECREATION **Would the project:**	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated? (Source: 1, 2 & 3)	☐	☐	☐	☒
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment? (Source: 1, 2 & 3)	☐	☐	☐	☒

Discussion/Conclusion/Mitigation:
See previous Section II.B (Project Description) and C (Environmental Setting) and Section IV.A (Environmental Factor Potentially Affected), as well as the sources listed.

16. TRANSPORTATION/TRAFFIC Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit? (Source: 1, 3, 4 & 15)	☐	☐	☐	☒
b) Conflict with the goals, objectives, and policies of the 2010 Regional Transportation Plan for Monterey County, including, but not limited to level of service standards and travel demand measures, or other standards established by the Transportation Agency for Monterey County (TAMC) for designated roads or highways? (Source: 1, 3, 4 & 15)	☐	☐	☐	☒
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that result in substantial safety risks? (Source: 1, 3, 4 & 15)	☐	☐	☐	☒
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)? (Source: 1, 3, 4 & 15)	☐	☐	☐	☒
e) Result in inadequate emergency access? (Source: 1, 3, 4 & 15)	☐	☐	☐	☒
f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities? (Source: 1, 3, 4 & 15)	☐	☐	☐	☒

Discussion/Conclusion/Mitigation:

See previous Section II.B (Project Description) and C (Environmental Setting) and Section IV.A (Environmental Factor Potentially Affected), as well as the sources listed.

17. UTILITIES AND SERVICE SYSTEMS **Would the project:**	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board? (Source: 1 & 8)	☐	☐	☐	☒
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? (Source: 1 & 8)	☐	☐	☐	☒
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? (Source: 1 & 8)	☐	☐	☐	☒
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed? (Source: 1 & 8)	☐	☐	☐	☒
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments? (Source: 1 & 8)	☐	☐	☐	☒
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs? (Source: 1 & 8)	☐	☐	☐	☒
g) Comply with federal, state, and local statutes and regulations related to solid waste? (Source: 1 & 8)	☐	☐	☐	☒

Discussion/Conclusion/Mitigation:

See previous Section II.B (Project Description) and C (Environmental Setting) and Section IV.A (Environmental Factor Potentially Affected), as well as the sources listed.

VII. MANDATORY FINDINGS OF SIGNIFICANCE

NOTE: If there are significant environmental impacts which cannot be mitigated and no feasible project alternatives are available, then complete the mandatory findings of significance and attach to this initial study as an appendix. This is the first step for starting the environmental impact report (EIR) process.

Does the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory? (Source: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 & 14)	☐	☐	☒	☐
b) Have impacts that are individually limited, but cumulatively considerable? (Source: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 & 14) ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)? (Source: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 & 14)	☐	☐	☐	☒
c) Have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly? (Source: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 & 14)	☐	☐	☐	☒

Discussion/Conclusion/Mitigation:
There are no identified impacts to Agriculture and Forest Resources, Hazards/Hazardous Materials, Mineral Resources, Population/Housing, Public Services, Recreation, Transportation/Traffic, or Utilities/Service Systems as a result of project implementation.

Less than significant impacts have been identified for Air Quality, Cultural Resources, Geology/Soils, Greenhouse Gas Emissions, Hydrology/Water Quality, and Noise. Conditions of approval will be included to assure compliance with County requirements to the extent that they mitigate the identified potential impacts; thereby reducing potential impacts to a less than significant level.

(a). Conclusion: Less Than Significant Impact.
Based upon the analysis conducted for this Initial Study, the proposed project would have the potential to impact an environmentally sensitive habitat area or reduce the number or restrict the range of a rare or endangered animal (see section IV.4 – Biological Resources). Potential impacts to aesthetics (see Section IV.1 – Aesthetics) and land use (see Section IV.10 – Land Use and

Planning) caused by the establishment of a residential use resulting from project implementation have also been identified.

(b). Conclusion: No Impact.
Implementation of the proposed project would allow the establishment of a residential use, not allowed under current zoning. However, the additional unit would be allowed per the allotted residential density of the Behavioral Science Institute special treatment area. Therefore, establishment of the use and the ongoing operational impacts of the residence would not be considered cumulatively considerable. Furthermore, the identified temporary construction impacts cause by project implementation have been either found to be less than significant or less than significant with mitigation incorporated and would not considerably contribute to cumulative impacts to air quality or greenhouse gas emissions. All other impacts identified would be temporary and immediate.

(c). Conclusion: Less than Significant Impact.
Implementation of the proposed project would allow the establishment of a residential use, not allowed under current zoning. However, the additional unit would be allowed per the allotted residential density of the Behavioral Science Institute special treatment area. This Initial Study has not identified the potential for project implementation to have an environmental effect which will cause substantial adverse effects on human beings, either directly or indirectly.

Note: Authority cited: Sections 21083 and 21083.05, Public Resources Code. Reference: Section 65088.4, Gov. Code; Sections 21080(c), 21080.1, 21080.3, 21082.1, 21083, 21083.05, 21083.3, 21093, 21094, 21095, and 21151, Public Resources Code; *Sundstrom v. County of Mendocino*, (1988) 202 Cal.App.3d 296; *Leonoff v. Monterey Board of Supervisors* (1990) 222 Cal.App.3d 1337; *Eureka Citizens for Responsible Govt. v. City of Eureka* (2007) 147 Cal.App.4th 357; *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th at 1109; *San Franciscans Upholding the Downtown Plan v. City and County of San Francisco* (2002) 102 Cal.App.4th 656.

VIII. FISH AND GAME ENVIRONMENTAL DOCUMENT FEES

Assessment of Fee:

The State Legislature, through the enactment of Senate Bill (SB) 1535, revoked the authority of lead agencies to determine that a project subject to CEQA review had a “de minimis” (minimal) effect on fish and wildlife resources under the jurisdiction of the Department of Fish and Game. Projects that were determined to have a “de minimis” effect were exempt from payment of the filing fees.

SB 1535 has eliminated the provision for a determination of “de minimis” effect by the lead agency; consequently, all land development projects that are subject to environmental review are now subject to the filing fees, unless the Department of Fish and Game determines that the project will have no effect on fish and wildlife resources.

To be considered for determination of “no effect” on fish and wildlife resources, development applicants must submit a form requesting such determination to the Department of Fish and

Game. Forms may be obtained by contacting the Department by telephone at (916) 631-0606 or through the Department's website at www.dfg.ca.gov.

Conclusion: The project will be required to pay the fee.

Evidence: Based on the record as a whole as embodied in the Planning Department files pertaining to PLN150636 and the attached Initial Study / Proposed Mitigated Negative Declaration.

IX. REFERENCES

1. Project Application/Plans
2. 1982 Monterey County General Plan
3. Carmel Area Land Use Plan
4. Monterey County Coastal Implementation Plan, Part 4 (Chapter 20.146)
5. Monterey County Coastal Implementation Plan (Chapter 20)
6. Monterey County Geographic Information System (GIS)
7. CEQA Air Quality Guidelines, Monterey Bay Unified Air Pollution Control District, Revised February 2008 and 2012.
8. Site Visit conducted by the project planner on February 4, 2016 and March 8, 2017.
9. "Biological Assessment of Gary Collins Property APN: 241-021-007-000" (Monterey County Document No. LIB140278), prepared by Fred Ballerini (Fred Ballerini Horticultural Services), Pacific Grove, CA, May 20, 2014.
10. "Preliminary Archaeological Assessment of a Portion of APN 241-021-007-000, Carmel Highlands, Monterey County, California" (Monterey County Document No. LIB140277), prepared by Mary Doane, B.A., and Gary S. Breschini, Ph. D., RPA (Archaeological Consulting), Salinas, CA, January 24, 2014.
11. "Geotechnical Engineering Report" (Monterey County Document No. LIB160170), prepared by Beacon Geotechnical, Inc, Paso Robles, CA, December 16, 2013.
12. "Percolation Test Data Sheet" (Monterey County Document No. LIB140279), prepared by Biosphere Consulting, January 29, 2014.
13. **Google Earth** Imagery dated April 13, 2016. 36°30'09.76" N 121°55'45.60" W Elevation at 440ft. Eye Alt. 4644 ft.
14. Table A, Existing Conditions Roadway Segment Level of Service, found within Appendix C – Traffic Data of the 2010 Monterey County General Plan DEIR.

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Exhibit G

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PLN130339 (Collins Project)
CEQA Comments regarding Initial Study
Review period of March 29, 2017 through April 28, 2017

1. April 10, 2017 – Jim & Dolores King
2. April 25, 2017 – Tracy Piazza-Leaton, Chairperson of the Citizens for Responsible Development of the Carmel Highlands
3. April 27, 2017 – Brian Wilson
4. April 28, 2017 (7:18 am) – Gwyn De Amaral (including fax pages sent again on May 1, 2017)
5. April 28, 2017 (10:11 am) – Zane De Amaral
6. April 28, 2017 (11:44 am) – Meghan De Amaral

Jimmy C. King
134 MT. Devon Rd
Carmel, Calif 93923

PLN130339

April 10, 2017

County of Monterey
Resource Management Agency-Planning
Attn: Anna V. Quenga - Associate Planner
168 West Alisal, 2nd Floor, Salinas Ca. 93901

RECEIVED
APR 13 2017
MONTEREY COUNTY
PLANNING DEPARTMENT

Regards: PLN130339 Collins

#1. When sub-division was originally approved this lot was not to be built on! At the meeting with the Architect at the Carmel Highlands Fire station the Architect stated that this restriction to build was accidently added onto the original Subdivision Map.

2. IF this Lot is allowed to be built upon, by setting aside it's no build 30% slope, and granting a Zone change there will be a Flood of Applicant's who own Lot's in the area that have slopes of 30% to apply for the same change given to this owner. This owner should have known when they purchased this Lot that it was not to be built upon.

#3. The Large amount of dirt to be removed to build this house is also a concern for me. Mount Devon Road is in need of road work and this project will only cause more damage to the road.

#4. Before considering this change, I think it would be well advised for the "Planning Dept." and "County Supervisor" to Drive up to the sight of the Development.

Sincerely,
Jim + Dolores King
831-625-9468

Friedrich, Michele x5189

From: tracy piazza [blackcockatoo@sbcglobal.net]
Sent: Tuesday, April 25, 2017 4:58 PM
To: ceqacomments
Cc: Quenga, Anna V. x5175; Gary Fontana; Tracy Piazza
Subject: RE: PLN130339 Collins-Comments
Attachments: corrected citizens for resp development .pdf

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APR 25 2017
MONTEREY COUNTY
PLANNING DEPARTMENT

CITIZENS FOR RESPONSIBLE DEVELOPMENT OF
THE CARMEL HIGHLANDS

P.O. Box 223200, Carmel, CA 93922

RECEIVED
APR 25 2017
MONTEREY COUNTY
PLANNING DEPARTMENT

Via Email and U.S. Mail

April 28, 2017

County of Monterey
Resource Management Agency – Planning
Attn: Anna V. Quegna, Associate Planner
168 West Alisal, 2nd Floor
Salinas, CA 93901

Re: PLN130339 Collins – Comments on Initial Study and Proposed Mitigated Negative Declaration

Ms. Quenga:

Citizens for Responsible Development of the Carmel Highlands is an ad hoc group which is comprised of homeowners and residents of the Carmel Highlands area who have joined together to express our concerns about the proposed development contemplated in the planning document identified above. The members of our group, which was formed to facilitate research and preparation of comments on the proposed project, are identified in Exhibit A.

We have reviewed the Initial Study regarding the impacts of the proposed development that your office issued on March 28, 2017 and ask you to consider the following comments and concerns in addition to any submitted by others, including members of our group who have individual comments that are not shared by all members of our group. We would like the opportunity to submit additional comments when certain historical documents which are cited in the Initial Study become available for public review. A list of those documents is attached as Exhibit B.

Before addressing specific objections and concerns, we believe the Initial Study fails to convey the unprecedented nature of the proposed zoning change that is required for this project to proceed and its potential consequences. If the proposed rezoning of this property is approved, it will set a dangerous precedent for steep slope development which could fundamentally change the character of the Carmel Highlands community.

This property which is the subject of the pending application was deliberately designated as Resource Conservation ("RC") and "open space" 30 years ago because it contained sensitive habitat and consisted entirely of precipitous slopes. That restrictive zoning was established long before the current owner purchased the property in 1994. Nothing has changed in the intervening years to justify a change in the zoning in order to construct a residence that will require both slope and setback variances even if the zoning were to be changed.

Our specific comments on the Initial Study are as follows:

1. The Proposed Rezoning is Unprecedented

Insofar as we are aware, the proposed rezoning that is contemplated in order to permit this project to proceed is without precedent in the area encompassed by the Carmel Area Land Use Plan. While there are other large parcels in the Highlands (some of which are cited in the Initial Study)[1] which have benefited from a relaxation in their zoning to permit residential construction, each of those parcels had one or more level building sites. None of them required slope and set-back variances – in addition to the zoning amendment – in order to permit a residence to be built. This project requires all three.

2. The Proposed Structure Violates the CIP Front Setback Standards

While the details of the site and building plans incorporated in the Initial Study are difficult to read, it seems clear that the front building setback depicted in the drawings violates the Site Development Standards established by the Monterey County Coastal Implementation Plan (hereinafter "CIP"). The CIP defines the front setback as the distance from "the edge of a private or public road right-of-way or adopted Official Plan Line to the nearest point of a structure." (CIP §20.06.1030).

Both the site and building plans contained in the Initial Study (Figures 2-5) correctly note the 30' front setback required by even the relaxed zoning for a structure on Watershed and Scenic Zoning land. See CIP §20.17.060(C)(1)(a). However, the plans do not show the location of the Mount Devon Road right-of-way and they appear to measure the front setback from the center of Mt. Devon Road, rather than from the edge of the right-of-way as required by the CIP.[2] This is a fundamental error. It makes many of the statements and conclusions in the Initial Study inaccurate or, at best, incomplete.

Either the project will require a setback variance from the CIP requirements (which is not mentioned or discussed anywhere in the Initial Study) or the building envelope will have to be relocated 12.5 feet east of its proposed location. Because of the land configuration, any such

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[1] The Initial Study cites two large parcels (APN 241-021-016-000 and APN 241-011-009-000) as having benefited from zoning changes to permit residential construction. Initial Study p. 9. The Initial Study fails to explain that those parcels were fundamentally different from the one at issue here by reason of the fact that each of those parcels had one or more level building sites and did not require any variance from the Carmel Area Land Use Plan or the Coastal Implementation Plan. In addition to the two examples noted above, there are at least two other large parcels located further up Mount Devon Road where construction of a residence has been allowed. (APN 241-221-008 and APN 241-221-009). In both of those cases, the property contained level building sites and did not require slope or setback relief.

relocation will require substantially more excavation than is discussed in the Initial Study. Without access to the actual building plans, it is difficult to estimate the amount of additional excavation that would be required to comply with the front setback standards. However, it is clear from the Exterior Elevations (Figure 6) included in the Initial Study that any relocation of the building to the east will require cutting into the hillside along the entire height and width of the structure.[3]

Unless the proposed building is fundamentally redesigned, relocation to comply with the front setback requirements could require the excavation and removal of an additional 800-900 cubic yards of the steep hillside above Mt. Devon Road.[4] This could create a host of adverse erosion, traffic, noise and public safety effects that are not addressed in the existing study.

3. <u>The Initial Study Does Not Address the Additional Excavation Required to Comply with the Front Setback Standards</u>

The Initial Study recognizes that the proposed project involves construction on steep slopes with a high erosion potential. (Initial Study at pp. 28-29). However, it gives only cursory consideration to the potential soil erosion and the massive amount of excavation that the construction will require. For example, the Initial Study describes the excavation of 943 cubic yards of the hillside as a "site improvement" and then wholly ignores the potential problems that this excavation might cause.[5]

One cannot tell from the Initial Study where the 943 cubic yards of cut material is supposed to go. Is it to remain on site? If so, where will it be placed and what assurances are there that it will remain there? If the excavated rock and soil is to be trucked offsite, the movement will require literally hundreds of dump truck trips on narrow, winding rural streets where there is hardly room for automobiles to pass.

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[3] Visual observation of the site confirms this analysis. There is a survey stake on the property that is marked as "edge of right of way." That stake is located in the brush adjacent to the orange construction netting that appear to depict the location of the western edge of the proposed garage. The survey stake is on a line with the south side of building above the garage. The distance from that survey stake to the metal story pole at the SW corner of the building is substantially less than 30'.

[4] This calculation assumes that the rear of the proposed structure (at its narrowest point) is approximately 63 feet wide and 30 feet tall. If that is correct, in order to accommodate the front setback (measured from the edge of the right-of-way as required by the CIP), 23,823 cubic feet of soil would have to be removed. (63'x30'x12.5'=23,625 ft^3 =875 cubic yards).

[5] The Initial Study states, "[s]ite improvements also include grading of 943 cubic yards of cut and 79 cubic yards of fill and the removal of one 14-inch Monterey Pine tree." Initial Study p.3.

These problems will be exacerbated, to say the least, if an additional 850-900 cubic yards of excavation will be required to comply with the front setback requirements. The Initial Study claims that a Geotechnical Engineering Report, prepared by the applicant, provides assurance that conditioning approval of the project on submission of an "erosion control plan" and a "grading plan" is sufficient to justify the conclusion that any potential erosion problems can be reduced to a "less than significant level." (Initial Study at 29). Without access to the study, it is impossible to have any confidence in that conclusion. What is clear, however, is that study never considered the traffic and public fire and safety issues that will exist if the amount of excavation on the site is doubled.

4. <u>The Initial Study Does Not Address the Traffic and Public Safety Impacts for Removal of Large Amounts of Excavated Soil</u>

As mentioned above, the Initial Study does not adequately explain what is to be done with all of the rock and soil that will have to be excavated in order to complete this project – whether the amount is the 973 cubic yards of cut material mentioned on page 3 of the Initial Study or the 1850 cubic yards that will result if compliance with the front setback standards is required. The site plans included with the Initial Study do not show any onsite location for this material and the Study does not include any analysis of the problems that will be created if all that material is to be hauled down Mt. Devon Road.

The only discussion of traffic issues in the Initial Study is a statement on page 15 that "construction would result in a temporary increase in traffic" and a very brief discussion of the capacity of State Highway 1. There is no discussion or analysis of the problems that will be caused by hundreds of dump truck trips on the narrow, winding residential roads between Highway 1 and the project site. This will create serious traffic and potential safety issues for residents who live in the area.

In order to remove the excavated material, dump trucks would be required to travel to and from the project site require travel over Mount Devon Road, Cypress Way and Fern Canyon Road. Each of those is a narrow, winding residential road with numerous blind spots and tight switchbacks. There is nothing in the Initial Study which addresses the traffic safety, congestion and air quality impacts that would be associated with the hundreds of dump truck trips required to remove this amount of excavated material.

There is also no discussion in the Initial Study of whether it is even feasible to construct a building of this size on this site. There is no staging area depicted in any of the plans that are incorporated in the Initial Study. There is no place for construction vehicles, especially dump trucks, to turn around anywhere near the proposed site and there is absolutely no room to park construction vehicles that is shown in the plans or discussed in the Initial Study.

5. The Proposed Project Is Located in Environmentally Sensitive Habitat

The Initial Study admits in various places that the proposed building site, as well as the remainder of the 30-acre parcel consists of environmentally sensitive habitat. For example, at page 10, the Study states:

> The subject property contains two (2) distinct overlapping co-dominate vegetation types: Central Maritime Chaparral and endemic Monterey Pine Forest and is primarily native vegetation with very little (1%) of non-native species present. Both of these habitat types are present in the proposed 1 acre area requested for rezoning and residential development, as well as the remaining acreage upslope to the east. (Initial Study p. 10).

Both Monterey Pine forest and maritime chaparral have been designated as sensitive habitat and both are protected by specific development standards in the Monterey County Coastal Implementation Plan ("CIP").

The CIP identifies "Monterey Pine Forest" as one of the "sensitive plant communities of the Carmel Coastal area" (CIP §20.146.040). It goes on to state

> The sensitivity of Monterey Pine habitats in the Carmel area shall be determined on a case-by-case basis through the completion of a biological/botanical report for the project. Examples of sensitive Monterey pine forest include naturally occurring groves which:
> a. function as habitat for rare or endemic plant or animal species;
> b. have special value for wildlife due to the presence of snags suitable for cavity-dwelling species, or occurrence with Coast live oak, or native shrub understory."
> c. have high aesthetic value due to their location within the public viewshed.

The CIP also establishes special protections for "chaparral habitat" and prohibits construction in any such habitat which is located "on land exceeding 30 percent slope."[6] That is exactly the plant habitat and excessive slope that is presented here.

The biological survey that was prepared by the project applicant confirmed the fact that the land in question not only consists of undisturbed, nearly pure (less than 1% non-native species) pine forest and chaparral habitat. (Initial Study p. 23). In addition, the biologist confirmed the existence of 4 "special status species or habitat" on the property (one of which is an "endangered plant species") and one other plant which the Study describes as "vulnerable" in California due to its "restricted range and relatively few populations." (Ibid.)

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[6] CIP §20.146.140(C)(1)(d).

The 30 acres that comprise this parcel are all but unique in the Highlands. First of all, the land is pristine; it has never been developed. Partly because of the steepness of the slopes, there are no buildings and no roads anywhere within the parcel – which may explain why the biologist observed "less than 1% non-native species." Whatever else one might say about this parcel, it should be recognized as an important biological resource – one that is entirely deserving of the protections embodied in its existing zoning classification.

6. Mitigation Measures Cannot Cure Violations of the CIP

The Initial Study discusses several mitigation measures, including a "building envelope," that it claims are adequate to protect the endangered and threatened plant species that exist in the immediate area of the proposed construction site. However successful those measures might be in protecting individual plants, they do not overcome the provisions in the CIP and the policies set forth in the Carmel Area Land Use Plan ("CAR LUP") that prohibit approval of this project in the first place. There are several such provisions in the CIP (and related policies in the CAR LUP) – all of which have been ignored.

The first such provision in the CIP is section 20.146.040(B)(1) which states:

> Only small-scale development necessary to support resource-dependent uses may be located in environmentally sensitive habitat areas if they cannot be located elsewhere.[7]

This prohibition is not mentioned anywhere in the Initial Study. The proposed project at issue here is a personal residence. It is not a "resource-dependent use" and, even if it were, there is nothing in the Initial Study that addresses possible alternative sites for this project.

The second prohibition is in CIP section 20.146.040(C)(1)(d) which states:

> Redwood forest and chaparral habitat on land exceeding 30 percent slope shall remain undisturbed due to potential erosion impacts and loss of visual amenities.

There is no discussion of this prohibition anywhere in the Initial Study. It, too, has been ignored.[8]

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[7] This reflects one of the general environmental policies adopted as part of the Land Use Plan. *See* CAR LUP section 2.3.3 ("Development, including vegetation removal, excavation, grading, filling, and the construction of roads and structures, shall be avoided in critical and sensitive habitat areas . . . .").

[8] The same language appears in the Land Use Plan. *See* CAR LUP section 2.3.4 (policy 10).

In addition, there is a third provision in the CIP that restricts construction on steep slopes. That provision is set forth in the "General Development Standard" section of the CIP. It states:

> The following siting and design control measures shall be applied to new development to ensure protection of the Carmel areas' scenic resources, including shoreline and ocean views:
>
> a. Buildings located on slopes shall be sited on existing level areas and sufficiently set back from the frontal face. Development shall not be located on slopes of 30% or greater. The Director of Planning may grant a waiver to the standard upon applicant request and explanation of the request justification if:
>
> 1) there is no alternative which would allow development to occvr on slopes of less than 30%; or,
>
> 2) the proposed development better achieves the resource protection objectives and policies of the Carmel Area Land Use Plan and development standards of this ordinance.

CIP §20.146.030(C)(1)(a).

By any measure, the 30 acres of undisturbed, native pine forest and maritime chaparral that this application proposes to rezone deserves a classification as "sensitive habitat." At a minimum, the Initial Study needs to address the issue – rather than simply assume that the protections for such areas that are embodied in the CIP and the Land Use Plan can be overridden by a handful of mitigation measure such as the imposition of a building envelope and an associated easement on a small portion of immediately-adjacent land. (See Initial Study pp. 25-26 and 36).

The entire 30-acre parcel has enjoyed "resource conservation/scenic easement" protection for the past 30 years. Those protections should not be disturbed or set aside except for compelling reasons – none of which are described or discussed anywhere in the Initial Study.

7. <u>The Proposed Rezoning is Contrary to the Land Use Plan – There is No "BSI Exception"</u>

The 30 acres that are the subject of this application was one of six land parcels totaling 140 acres that were owned by the Behavioral Sciences Institute ("BSI") at the time the Carmel Area Land Use Plan and the CIP were adopted.[9] The Land Use Plan divided the BSI land into two

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[9] According to findings made by the Board of Supervisors at the time the Carmel Area Land Use Plan was adopted in 1983, BSI owned 6 parcels of land in the Carmel Highlands comprising a total of 140 acres. (Findings p. 16). 113 of those acres ("the upper steeper portion") were designated as "Resource Conservation" and were to be protected from development ("the upper steeper portion shall remain in open space"). See. CAR LUP §4.4.3 E.6 and Findings p 16.

categories – 113 acres (the "upper steeper portion") which was zoned as "Resource Conservation" and 27 acres (the "lower portion") which was to be available for development of as many as 25 residential units."[10]

All of this would be ancient history but for the fact that the project applicant apparently now claims that some portion of his property (all of which has slopes in excess of 30%) should not be treated as if it were part of the 113 acres that were designated as Resource Conservation land. See Initial Study p. 8. As described in the Initial Study, the applicant's argument seems to be that some portion of his land is steeper than other portions and, therefore, the property should be rezoned so he can build on the lower, less steep slopes of his property. In support of this argument, the applicant also points out that fewer than 25 residential units have been built on the former BSI property. See Initial Study pp. 12, 34.

This is a non-sequitur. It is clear that the applicant's property was part of the 113 acres of former BSI land that was to "remain in open space." It was zoned "RC" in the 1980's and has remained as such to this day.[11] No doubt, there are portions of the applicant's land that are less steep than other portions, but the slope where he wants to build still exceeds 30% and, therefore, the project will still require a slope variance – even if the land were to be rezoned. Nothing has changed in the past 30 years to justify revisiting the decision to zone this property as RC land.

There is no "BSI exception" that allows zoning restrictions to be relaxed in violation of slope and setback restrictions contained in the SIP and the Land Use Plan. On page 35 of the Initial Study there is a cryptic reference to "a similar situation" that happened "on February 19, 1992. The Initial Study does not anywhere say what happened on that date. Nor does the Initial Study attempt to explain how that "situation" is relevant to this application.

If this "similar situation" is an oblique reference to the fact that APN 241-021-016 was rezoned in the early 1990's to allow construction of a residence to be built on a portion of that land, the reliance on that decision as a basis for justifying the rezoning being proposed here is badly misplaced. While that parcel (APN 241-021-016) was undoubtedly part of the 113 acres of former BSI land that had been set aside as "open space," the decision to rezone the property to "RC/D-SpTr" and provide "special treatment" for a portion of that parcel was, almost assuredly,

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[10] *Ibid.* The findings also state that the "lower portion of the property contains four residential units". Policy 4.4.3 E.6 of the Land Use Plan states that "the upper steeper portion [of the BSI land] shall remain in open space" and that the 25 units that could be approved in the lower portion "may be used in conjunction with the [BSI] institutional use."

[11] The two other parcels of former BSI land that comprise the 113 acres that were set aside were APN 241-021-016 (27 acres before it was subdivided in the 1990's) and APN 241-011-009 (56.6 acres). The math is simple: 30+27+56.6 = 113.6 acres.

due to the fact that there was a building site within the parcel which was not located in the public viewshed and was not on a 30 plus degree slope.[12]

Without knowing more about the alleged "similar situation" it is impossible to provide meaningful comments on its relationship, if any, to the present application. We can speculate (as we have in the preceding paragraph) but that is not the way this process should work. What is clear – from personal observation of the actual site conditions for each of the residences that exist on the two other former BSI parcels that were initially given RC zoning (APN 241-021-016 and APN 241-011-009) – is that each of the structures built on those parcels was located on a site that did not require a slope or setback variance. Thus, the zoning changes that made it possible for those structures to be built cannot fairly be cited as a precedent for a relaxation or change in the zoning for parcel APN 241-021-007.

The conclusion reached in the Initial Study that "rezoning the property to allow for residential development appears to be consistent with development policies of the CAR LUP" (Initial Study p. 35) is false. In fact, the exact opposite is true.

Conclusion

Thank you for the opportunity to review and comment on the proposed Mitigated Negative Declaration for this project and for the time that you have taken to explain aspects of the proposed project to member of our group.

Unfortunately, we find nothing in the Initial Study or in any of the documents it cites that would justify a decision to rezone a significant parcel of very steep, environmentally sensitive land that has been untouched for the 30 years the current zoning has been in effect (and likely for a century or more before) in order to allow the construction of a residence that will require additional slope and setback variances – even if the zoning were to be changed.

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[12] See Draft Findings of the Monterey County LCP Periodic Review, December 2003 p. 102. One of the historic documents that we have requested but have yet to obtain are the Planning Department files on the rezoning of APN 241-021-016. See Exhibit B. We have also requested access to the Coastal Commission files on the same rezoning decision (Coastal Permit 94163).

In our view, the proposed change in the zoning for this parcel violates specific provisions and policies of the Carmel Area Land Use Plan and the Monterey County Coastal Implementation Plan and would set a dangerous precedent for future development on steep slopes throughout the Carmel Highlands. We respectfully request that the Application (PLN130339) be denied.

Respectfully submitted,

Tracy Leaton, Chairperson

CITIZENS FOR RESPONSIBLE DEVELOPMENT
OF THE CARMEL HIGHLANDS

For additional information

Contact: Gary L Fontana, ESQ

Telephone: 831-204-8215

Email: gary@garyfontana.com

EXHIBIT A

CARMEL HIGHLANDS RESIDENTS AND HOMEOWNERS WHO JOIN IN THE COMMENTS EXPRESSED IN THIS LETTER

Tracy Leaton
Dr. Michael Leaton
58 Mount Devon Road
Carmel Highlands, CA

Marc Davidian
Kelly Davidian
46 Mount Devon Road
Carmel Highlands, CA

John Borelli
Ann Marie Borelli
43 Mount Devon Road
Carmel Highlands, CA

Ken Uffenheimer
Lynda Uffenheimer
35 Mount Devon Road
Carmel Highlands, CA

Frank Raab
Susan Raab
31 Mount Devon Road
Carmel Highlands, CA

Jim King
Dolores King
34 Mount Devon Road
Carmel Highlands, CA

Mumtaz Tabbba
Rahaf Tabbba
32 Mount Devon Road
Carmel Highlands, CA

Craig Descalzi
Audra Descalzi
85 Mount Devon Road
Carmel Highlands, CA

Ronny Proler
Shauna Proler
86 Mount Devon Road
Carmel Highlands, CA

Jerry Lauch
Joan Lauch
225 Mount Devon Road
Carmel Highlands, CA

Stephen Knovick
Nicole Knovick
14 Mount Devon Road
Carmel Highlands, CA

Paul Reps
131 Cypress
Carmel Highlands, CA

Rob Galloway
Pam Galloway
133 Cypress
Carmel Highlands, CA

Lynne Semeria
30776 San Remo
Carmel Highlands , CA

Jim Rossin
Marolyn Rossin
1699 Van Ess Way
Carmel Highlands, CA

Charlotte Hallum
135 Boyd Way
Carmel Hgihlands, CA

Peter Wolf
Edith Lord Wolf
219 Peter Pan Road
Carmel Highlands, CA

Suzanne Weber
145 Boyd Way, Carmel Highlands, CA

EXHIBIT B

LIST OF UNAVAILABLE DOCUMENTS

We believe that the following historical documents which are cited in the Initial Study or are related to issues that have been identified in the study are important to an understanding of earlier planning and zoning decisions. We have made written requests for access to these documents from the Resource Management Agency and the Coastal Commission. We review these documents and present comments based on them as soon as practicable.

1. Monterey County Coastal Permit 94163 (3-MCO-95-005)
2. Monterey County Coastal Permit MS94009 (3-MCO-95-004)
3. Monterey County Coastal Permit PLN 990150 (3-MCO-01-650)
4. Planning decision February 19, 1992 referred to in Initial Study at p 35
5. Coastal Permit (described as "issued to Bechtolsheim") for what appears to be f

Quenga, Anna V. x5175

From: Trout Wilson <profbw@hotmail.com>
Sent: Thursday, April 27, 2017 4:28 PM
To: Quenga, Anna V. x5175
Subject: PLN 130339-Collins-
Attachments: Brian Wilson Statement to Citizens Committee.docx

VIA Email and US Mail

RECEIVED
APR 27 2017
MONTEREY COUNTY
PLANNING DEPARTMENT

April 27, 2017

County of Monterey
Resource Management Agency-Planning
Attn: Anna V. Quenga, Associate Planner
168 West Alisal, 2nd Floor
Salinas, CA 93901

Re: PLN 130339-Collins-Comments on Initial Study and Proposed Mitigated Negative Declaration

Ms. Quenga

I will like for my name to be joined with other homeowners in the Citizens for Responsible Development of the Carmel Highlands document recently sent to the Resource Management Agency of Monterey County. I am concerned over the proposed rezoning and particularly the steep slope issues associated with development of 83 Mt. Devon Road, Carmel Highlands.

I am a homeowner at 123 Fern Canyon Road who has lived through two landslides from a home at 75 Mt. Devon Road . The building of that home required substantial grading and the alteration of drainage patterns. That work was not done sufficiently. During heavy rains the loose soil for the site resulted in two massive mudslides from the 30 percent slope down into my running creek. The massive slides were enough to plug the creek. The creek was diverted into my home, depositing five feet of mud in my living room, and tearing off a bedroom next to the living room. It has taken me many years to recover financially from this tragic disaster. Recovering psychologically from seeing part of one's home severely damaged and disappeared along with valuable contents is quite another issue. Needless to say, I hope to never experience such a traumatic event, especially since wise decisions can be made to avert such disaster. A Monterey County court ruled that the homeowner was liable and the homeowner was instructed to regrade and install a rock cage drainage barrier down into the canyon at the site of the larger slide, hoping to possibly prevent another slide in that area, although it is assumed that slides can occur in any area in the future when dealing with a 30 percent slope. I would emphasize that although this was done, the mitigation took place **after the disaster, and** I was left with the expense and difficult rebuilding issues.

I hope my experience will serve as a cautionary message in order to spare other homeowners the anguish of living through a similar disaster. I am available to provide additional information as needed.

Brian Wilson
123 Fern Canyon Road
Carmel Highlands
profbw@hotmail.com

Gwyn De Amaral
77 Corona
Carmel Ca 93923

RECEIVED
APR 28 2017
BUILDING SERVICES DEPARTMENT
MONTEREY COUNTY

Resource Management Agency
Att: Anna V Quenga, Associate Planner
168 West Alisal , 2 nd Floor
Salinas, Ca 93901

PLN 130339

April 28, 2017

Ms. Quenga,

I strongly oppose the illegal proposed project at 83 Mount Devon Road (APN 241-021-007-000). The current parcel usage was unanimously approved by the entire Board of Monterey County Supervisors on February 28, 1967 as a **Conservation and Scenic Easement**, and recorded with a **Conservation and Scenic Easement Deed** that dates back to March 3, 1967. (Please see document) The Applicant was also made aware of these conditions by me, shortly after the purchase of the property. The filed deed is quite specific as to the restrictions and the Public Access to the property. The project proposal violates all conditions of the recorded Deed.

The parcel was a gift to the Monterey County Foundation for Conservation (a non -profit corporation) in memory of my father, Major. Frank De Amaral , who was killed in the Vietnam War while serving in the United States Army in 1965. Major Frank De Amaral grew up in Carmel Highlands and as a child rode his horse on this acreage. The purpose of this Conservation and Scenic Easement was the binding protection to preserve the natural scenic beauty and existing openness. Can I expect Monterey County to uphold this?

I would like to schedule an appointment with you personally to discuss this material in detail. Please contact me at you earliest possibility. (831 -238 5646)

Thank you,
Gwyn De Amaral

Carmel Highlands

CC Congressman 20 th District Jimmy Panetta
Monterey County Supervisor, District 5 Mary Adams
Monterey County Supervisor, District 1 Luis Alejo
Monterey County Supervisor, District 2 John M Phillips
Monterey County Supervisor, District 3 Simon Salinas
Monterey County Supervisor, District 4 Jane Parker
Monterey County Military Affairs - 1000 S Main St # 107, Salinas, CA 93901
Carl Holm, Acting Director Monterey County Resource Management

Gwyn De Amaral
77 Corona
Carmel Ca 93923

Resource Management Agency
Att: Anna V Quenga, Associate Planner
168 West Alisal , 2 nd Floor
Salinas, Ca 93901

PLN 130339

April 28, 2017

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I would like to schedule an appointment with you personally to discuss this material in detail. Please contact me at you earliest possibility. (831 -238 5646)

Thank you,
Gwyn De Amaral

Carmel Highlands

CC Congressman 20 th District Jimmy Panetta
Monterey County Supervisor, District 5 Mary Adams
Monterey County Supervisor, District 1 Luis Alejo
Monterey County Supervisor, District 2 John M Phillips
Monterey County Supervisor, District 3 Simon Salinas
Monterey County Supervisor, District 4 Jane Parker
Monterey County Military Affairs - 1000 S Main St # 107, Salinas, CA 93901
Carl Holm, Acting Director Monterey County Resource Management
Vietnam Veterans of California

FedEx Office

Fax Cover Sheet

Date 4/28/17

Number of pages 1 (Including cover page)

To:

Name Resource Mgt Agency ANNA V. Quenga

Company

Telephone 831 755-5025

Fax (831) 757 9516

From:

Name Murph De Amaral

Company

Telephone 831 238 5646

Comments Please see Conservation + Scenic Easement Deed for the Major Frank De Amaral Memorial Reserve. APN 136339 Please confirm receipt to - Califwayoflife@aol.com

7 90363 00711 1 Fax - Local Send

7 90363 00714 2 Fax - Domestic Send

7 90363 00720 3 Fax - International Send

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CONSERVATION AND SCENIC EASEMENT DEED

THIS DEED made this 24th day of February, 1967, by and between the MONTEREY COUNTY FOUNDATION FOR CONSERVATION, a non-profit corporation, as Grantor, and the COUNTY OF MONTEREY, a political subdivision of the State of California, as Grantee.

W I T N E S S E T H:

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

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

WHEREAS, the Board of Supervisors of the County of Monterey has recognized said natural beauty and existing openness and has suggested that Grantor preserve the same for the public benefit, and, therefore, Grantor and Grantee desire to preserve and conserve for the public benefit the natural condition and present state of use; and

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

NOW, THEREFORE, for and in consideration of the premises, the Grantor does hereby grant and convey unto the COUNTY OF MONTEREY an estate, interest and conservation and scenic easement in the real property described in Exhibit A, which is attached hereto and made a part hereof, of the nature and character and to the extent

G 38428

hereinafter expressed, to be and to constitute a servitude upon said real estate of the Grantor, which estate, interest, easement and servitude will result from the restrictions hereby imposed upon the use of said property by said Grantor, and to that end and for the purpose of accomplishing the intent of the parties hereto, said Grantor covenants on behalf of itself, its heirs, successors, and assigns with the said Grantee, its successors or assigns, to do and refrain from doing severally and collectively upon the Grantor's said property the various acts hereinafter mentioned.

Grantor reserves the right to make full use of said real property subject to the provisions of this scenic easement for all purposes which do not interfere with, impair, destroy, or detract from the scenic values preserved and conserved by this scenic easement, and Grantor specifically reserves the right to maintain and repair any facility which Grantor has heretofor constructed on said real property.

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

1. That no structures of any kind will be placed or erected upon said described premises, except structures, lines and other facilities necessary to maintain a water, drainage or sewer system, utilities consisting of telephone, power, and cable television lines, utility roads necessary to serve same, under, on or over said land, bridges, fences, and other structures reasonably necessary and incidental to the construction, maintenance, and operation of an undeveloped scenic area, including but not limited to roads, riding and hiking trails, fireplaces and picnic areas.

2. That no advertising of any kind or nature shall be located on or within said property except that which may be located on said premises at the time of the execution of this deed.

3. That except for the construction, alteration, relocation and maintenance of roads and riding and hiking trails, the general topography of the landscape shall be maintained in its present condition and no excavation or topographic changes shall be made, except to prevent erosion or damage to the land.

4. Grantor reserves the right to enter upon the real property described in Exhibit A and to bring upon the land all necessary equipment and persons reasonably necessary to fire control, to construct fire roads and other improvements for the purpose of fire protection, and to take any actions reasonably necessary for fire protection; Grantor further reserves the right to enter upon the property and engage in fire prevention and brush control practices.

5. That no use of said described property which will or does materially alter the landscape or other attractive scenic features of said land other than those specified above shall be done or suffered.

6. If at any time the property herein described, or any portion thereof, shall be selected for condemnation by any public utility or any public agency, including the Grantee, then and in that event this conveyance, insofar as it affects the property to be condemned, shall become null and void. Selection of said property shall be determined upon the filing of any action for taking or condemnation of said property, or any portion thereof, in a Court of competent jurisdiction. Upon the filing of any such action, this

conveyance, insofar as it affects the property so selected for condemnation, shall immediately cease and determine and revert to and vest in the Grantor, its successors in interest, or assigns; the intent of this clause being that in the event of condemnation of the subject property, or any portion thereof, Grantor, or its successors in interest or assigns, are to be compensated in accordance with the market value of said property, said market value to be determined by the highest and best use of said property without reference to this conveyance.

7. In the event that the State of California, or any political subdivision thereof, should pass legislation pursuant to Article XXVIII of the Constitution of the State of California, or should pass legislation such as the California Land Conservation Act of 1965, or other legislation for the purpose of restricting the use of real property to conserve and maintain natural scenic beauty, open space lands, natural resources and agricultural land for plant and animal production, which said legislation shall restrict, or would by agreement of Grantor or its successors in interest restrict, the use of said property for scenic and recreational uses or for the use of natural resources or for the production of food and fiber, the Grantor, or its successors in interest, shall have the option to have the property described in Exhibit A, or a portion thereof, subjected to the restrictions created by such legislation, free from the restrictions imposed by this conveyance. Should Grantor, or its successors in interest, desire to exercise the option to restrict the use of a portion of or all of said real property pursuant to such legislation, Grantor, or its successors in interest, shall give written notice to Grantee of the exercise of said option.

Upon the giving of such notice, this conveyance, as to the portion of the property subjected to such legislation or which will be subject to such legislation by the agreement of Grantor, or its successors in interest, shall immediately cease and determine and revert to and vest in the Grantor, or its successors in title, upon becoming subject to such legislation; the intent of this clause being that in the event that the subject property, or a portion thereof, shall become restricted pursuant to such legislation, that the restrictions placed upon Grantor, or its successors in title, on said real property shall become null and void and of no further force and effect.

To have and to hold unto the said County of Monterey, its successors and assigns forever. This grant shall be binding upon the heirs and assigns of the said Grantor and shall constitute a servitude upon the property described in Exhibit A hereto. The parties, or their successors in interest, however, reserve the right to modify, upon terms mutually satisfactory, the provisions of this agreement and Grantee shall have the right to reconvey to Grantor, or its successors in interest, the interest herein granted in whole or in part.

IN WITNESS WHEREOF, the parties hereto have set their hands and seal the day and year first hereinabove written.

MONTEREY COUNTY FOUNDATION FOR CONSERVATION

BY _____
President

BY _____
Secretary

"Grantor"

COUNTY OF MONTEREY

BY _____
Chairman of the Board of Supervisors

"Grantee"

REEL 495 PAGE 591

STATE OF CALIFORNIA,
County of Monterey } ss.

On this 24th day of February in the year one thousand nine hundred and sixty-seven before me, Peter T. Hoss a Notary Public in and for the County of Monterey, State of California, residing therein, duly commissioned and sworn, personally appeared Dudley Swim and Bayford O. Butler known to me to be the President and Secretary of the corporation described in and that executed the within instrument, and also known to me to be the persons who executed the within instrument on behalf of the corporation therein named, and acknowledged to me that such corporation executed the within instrument pursuant to its by-laws or a resolution of its board of directors.

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

Notary Public in and for the County of Monterey State of California.

My Commission Expires

CORPORATION
ATTORNEYS PRINTING SUPPLY FORM NO. 7

STATE OF CALIFORNIA }
COUNTY OF MONTEREY } ss

On this 28th day of February, 1967, before me, EMMET G. McMENAMIN, County Clerk in and for said County and State, personally appeared Warren Church known to me to be the Chairman of the Board of Supervisors of the County of Monterey and known to me to be the person who executed the within instrument on behalf of said public corporation, agency or political subdivision, and acknowledged to me that said political subdivision executed the same.

EMMET G. McMENAMIN, Clerk
By Deeca H. Fierro
Deputy

EXHIBIT "A"

All that certain real property situate in the County of Monterey, State of California, to-wit:

BEING portions of the lands generally known as "Carmel Highlands Property" (reference being made to "Map of a part of Carmel Highlands Property, showing survey lines of a part of Rancho San Jose Y Sur Chiquito, Monterey Co., Calif.," recorded May 15, 1918 in Volume 1 of Surveys, page 93, in the office of the Recorder of Monterey County, California, and to "Map No. 3 of a part of Carmel Highlands Property, showing survey lines of a part of Rancho San Jose Y Sur Chiquito, Monterey County, California", recorded May 2nd, 1925 in Volume 3 of Surveys, page 103, in the office of the Recorder of Monterey County, California), described as follows:

PARCEL 1:

BEGINNING at a point in the Easterly line of that tract of land, conveyed by Carmel Development Company, a corporation, to Margaret H. Kilpatrick by deed dated November 21, 1927 and recorded January 30, 1928 in Volume 137 Official Records at Page 434, Monterey County Records, at point from which Station K-39 bears North 6° 33' East, 1032.33 feet; thence from said point of beginning running

S. 6° 33' E., 29.67 feet to a station, thence
S. 58° 53' W., 115.82 feet to a station, thence
S. 22° 18' W., 174.19 feet to a station, thence
S. 32° 52½' W., 128.31 feet to a station, thence
S. 12° 28' W., 198.36 feet to a station, thence
S. 34° 50' W., 91.11 feet to a station, thence
S. 62° 11' W., 190.12 feet to a station, thence
S. 1° 59' W., 73.92 feet to a station, thence
S. 54° 48' W., 173.06 feet to the northernmost corner of that certain tract of land conveyed to William Charles Butcher, and Marietta Search Butcher, his wife, dated March 29, 1923 and recorded April 11, 1923 in Volume 16 Official Records of Monterey County, Page 12, thence following the northwesterly line of said Butcher property,

S. 61° 30' W., 96.95 feet,
S. 54° 36' W., 57.62 feet, and
S. 48° 57' W., 200.63 feet to Station in road; thence
N. 12° 38' W., 153.80 feet, thence
N. 6° 50' E., 199.48 feet to the southeasterly corner of that certain tract of land conveyed to Preston W. Search, by Deed dated May 26, 1927 and recorded August 23, 1927 in Volume 124 Official Records, Monterey County, Page 59, thence following the boundary of the said Search property.

N. 28° 24' W., 84.03 feet,
N. 33° 21' E., 78.05 feet,
N. 63° 21' W., 137.00 feet, and
N. 33° 49' W., 87.15 feet to the most Northerly corner of said Search property, thence

(continued)

N. 35° 33' E., 98.57 feet to the southeasterly corner of that certain tract of land conveyed to Claire M. Puffer, by Deed dated August 12, 1923 and recorded August 28, 1923 in Volume 21 of Official Records, Monterey County, Page 452, thence N. 41° 48' E., 146.09 feet, thence

N. 9° 56' E., 86.40 feet, thence
N. 11° 12' E., 149.73 feet, thence
N. 82° 31' E., 80.99 feet, thence
N. 15° 12' E., 54.72 feet, thence
N. 63° 02' E., 77.20 feet, thence
N. 3° 55' E., 92.10 feet, thence
N. 37° 11' E., 70.22 feet, thence
N. 86° 27' E., 127.90 feet, thence
N. 32° 34' E., 211.36 feet to a Station R-16, as shown on said Map No. 3 thence

N. 60° 08' E., 199.76 feet to Station T-21, thence along the T-Survey

N. 73° 11' E., 214.79 feet to Station T-20; thence
N. 83° 29' E., 92.72 feet to Station T-19; thence
N. 44° 52½ E., 43.13 feet to Station T-18; thence
S. 87° 45' E., to a point on the East line of said tract conveyed to Margaret H. Kilpatrick by deed recorded in Volume 137 Official Records at Page 434 above referred to and from which point said Station K-39 bears N. 6° 33' E., thence along the said East line S. 6° 33' W., to the point of beginning.

Subject to the right of way for road purposes as reserved in the deed from Carmel Development Company, a corporation, to Margaret H. Kilpatrick dated November 21, 1927 and recorded January 30, 1928 in Volume 137 Official Records at Page 434, Monterey County Records.

PARCEL 2:

BEGINNING at the most southerly corner of that certain tract of land conveyed to Preston W. Search, by the Carmel Development Company, a corporation, by deed dated May 26, 1927 and recorded August 23, 1927 in Volume 124 of Official Records, Monterey County, California, at Page 59; running thence S. 0° 55' E., 128.77 feet; thence S. 19° 04' E., 226.73 feet; thence N. 87° 25' E., 58.14 feet; thence N. 11° 34' W., 71.70 feet; thence N. 12° 38' W., 153.80 feet; thence N. 6° 50' E., 199.48 feet; thence S. 55° 52' W., 141.26 feet; to the point of beginning.

SUBJECT to right of way for road purposes over strips of land 12½ feet wide adjoining the Easterly and Westerly sides of said land which were reserved for road purposes in deed from Carmel Development Company to Margaret H. Kilpatrick, recorded in Volume 139 Official Records, at Page 279, Monterey County Records.

END OF DOCUMENT

Before the Board of Supervisors in and for the County of Monterey, State of California

Resolution No. 67-73 --
Conservation and Scenic Easement Deed
(Monterey County Foundation for
Conservation) Accepted; Chairman
Authorized to Execute Deed . . . . .)

BE IT RESOLVED that the deed dated February 24, 1967, executed by Monterey County Foundation for Conservation, as Grantor, is hereby accepted and the Chairman is hereby authorized to execute said Deed.

BE IT FURTHER RESOLVED that this Deed is accepted with the understanding that the area described therein will not be used for credit as open space for an adjoining development.

PASSED AND ADOPTED this 28th day of February, 1967, upon motion of Supervisor Hudson, seconded by Supervisor Atteridge, and carried by the following vote, to-wit:

AYES: Supervisors Church, Atteridge, Wood, Anderson and Hudson.

NOES: None.

ABSENT: None.

COUNTY OF MONTEREY, STATE OF CALIFORNIA, } ss.

I, EMMET G. McMENAMIN, County Clerk and ex-officio Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a full, true and correct copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof at page ..... of Minute Book 21, on the 28th day of February, 1967, and now remaining of record in my office.

Witness my hand and the seal of said Board of Supervisors this 28th day of February, 1967

EMMET G. McMENAMIN,
County Clerk and ex-officio Clerk of the Board of Supervisors, County of Monterey, State of California.

By Elizabeth S. Larson
Deputy.

"END OF DOCUMENT"

CLERK 961

PLN130339

From: Zane De Amaral [zanedeamaral@hotmail.com]
Sent: Friday, April 28, 2017 10:11 AM
To: ceqacomments
Cc: Meghan De Amaral; Madi De Amaral; M'Liz De Amaral; Gwyn De Amaral
Subject: Fw: Proposed change of Conservation &Scenic Deed from 1967 [83 Mount Devon Road (APN 241-021-007-000)]
Attachments: MAJ Frank De Amaral Preserve Mem Plaque 2.jpg

Dear Ms. Quenga,

I was just made aware of efforts to destroy the perpetual preserve set aside in 1966, by the D'Ambrogio family in memory of the father MAJ Charles (Frank) Francis De Amaral, Jr., after he was killed in Vietnam in 1965. (Vicinity of 83 Mount Devon Road, Carmel Highlands, CA.)

The site itself is especially meaningful as the De Amaral family had lived in what later became The Carmel Highlands for many generations - beginning with our Great Grandfather the late Jacinto De Amaral. These actions to change the land usage are illegal and certainly unethical. As one of Major Frank De Amaral's sons, and a Veteran myself, I am absolutely opposed to this effort. Now that all better understand the genesis of this land grant by the D'Ambrogio family, I trust that this scheme will stop and matters be formally clarified to avoid future problems. Your assistance in quickly correcting this situation is much appreciated.

NOTE - attached is an old family photo of the original plaque that I have kept in my bible for more than 30 years. It was given to me by my late cousin, George De Amaral (he himself was a WWII and Korean War Veteran).

Sincerely,
Zane De Amaral

RECEIVED
APR 28 2017
MONTEREY COUNTY
PLANNING DEPARTMENT

Sent from my iPad

Begin forwarded message:

From: Moi <califwayoflife@aol.com>
Date: April 28, 2017 at 10:23:34 AM CDT
To: Zane De Amaral <zane.deamaral@gmail.com>
Cc: Meghan De Amaral <meghdeamaral@gmail.com>
Subject: Fwd: Proposed change of Conservation &Scenic Deed from 1967

Deadline is today
Send email to
CEQAcomments@co.monterey.ca US

Moi

Begin forwarded message:

From: califwayoflife@aol.com
Date: April 27, 2017 at 11:44:33 PM PDT
To: califwayoflife@aol.com
Subject: Proposed change of Conservation &Scenic Deed from 1967

Gwyn De Amaral

77 Corona Road

Carmel Ca 93923

Resource Management Agency
Att: Anna V Quenga, Associate Planner
168 West Alisal , 2 nd Floor
Salinas , Ca 93901

April 28,2017

Ms. Quenga,

I Strongly oppose the illegal proposed project at 83 Mount Devon Road (APN 241-021-007-000) . The current parcel usage was unanimously approved by the entire Board of Monterey County Supervisors on February 28,1967 as a **Conservation and Scenic Easement**, and recorded with a **Conservation and Scenic Easement Deed** that dates back to March 3, 1967. (Please see document) . The Applicant was also made aware of these conditions by myself, shortly after the purchase of the property . The filed deed is quite specific as to the restrictions and the Public Access to the property . The project proposal violates all conditions of the recorded Deed .

The parcel was a gift to the Monterey County Foundation For Conservation (a non -profit corporation) in memory of my father , Major. Frank De Amaral ,who was killed in the Vietnam War while serving in the United States Army in 1965. Major Frank De Amaral grew up in Carmel Highlands and as a child rode his horse on this acreage . The purpose of this Conservation and Scenic Easement was the binding protection to preserve the natural scenic beauty and existing openness. Can I expect Monterey County to uphold this ?

I would like to schedule an appointment with you personally to discuss this material in detail . Please contact me at you earliest possibility . (831 -238 5646)

Thank you ,
Gwyn De Amaral
Carmel Highlands

CC Congressman 20 th District Jimmy Panetta
Monterey County Supervisors ,District 5 Mary Adams
Monterey County Supervisor, District 1 Luis Alejo
Monterey County Supervisor ,District 2 John M Phillips
Monterey County Supervisor, District 3 Simon Salinas
Monterey County Supervisor ,District 4 Jane Parker
Mayor Steve Dallas, Carmel Ca
Monterey County Military Affairs - 1000 S Main St # 107, Salinas, CA 93901
Carl Holm, Acting Director Monterey County Resource Management

MAJOR FRANK DE AMARAL
MEMORIAL PRESERVE
THIS PINE FOREST PRESERVE WAS PRESENTED TO THE
MONTEREY COUNTY FOUNDATION FOR CONSERVATION
ON DECEMBER 13 1966 BY N. J. D'AMBROGIO AS A
PERPETUAL MEMORIAL TO MAJOR FRANK DE AMARAL
OF THE UNITED STATES ARMY WHO DIED IN COMBAT
IN VIETNAM ON OCTOBER 4, 1965.

Friedrich, Michele x5189 PLN130339

From: Meghan De Amaral [meghdeamaral@gmail.com]
Sent: Friday, April 28, 2017 11:44 AM
To: ceqacomments
Cc: Gwyn De Amaral; Zane De Amaral; Madi De amaral; MLiz De Amaral
Subject: Proposed change of Conservation & Scenic Deed from 1967

Ms. Quenga/To Whom it may Concern,

I am writing in regards to the illegally proposed project at 83 Mount Devon Road (APN 241-021-007-000), against which I am vehemently opposed. As you have been made aware, the current parcel usage was **unanimously** approved by the entire Board of Monterey County Supervisors on February 28, 1967 as a **Conservation and Scenic Easement** and recorded with a **Conservation and Scenic Easement Deed** that dates back to March 3, 1967. I believe my uncle, Gwyn De Amaral, has sent the appropriate documentation. The Applicant was also made aware of these conditions by Gywn De Amaral shortly after the purchase of the property. The filed deed has specific restrictions regarding use and Public Access to the property, and the project proposal *violates all conditions* of the recorded Deed.

The parcel was a gift to the Monterey County Foundation For Conservation (a non-profit corporation) in memory of my grandfather, Major. Frank De Amaral, who was killed in the Vietnam War while serving in the United States Army in 1965. Major Frank De Amaral grew up in the Carmel Highlands and as a child rode his horse on this acreage. The purpose of this Conservation and Scenic Easement was a binding protection to preserve the natural scenic beauty and existing openness -- an intent with which your proposal directly and intentionally conflicts.

My grandfather's military service also inspired that of my father, and having grown up in a military family, I have a loose sense of the word "home," of the places I have been, only Carmel has a piece of my family history -- generations' worth. While I never had the opportunity to meet my grandfather, his dedication and service to both the Monterey County community and our nation is meritorious of respect to the place he called home. To say I am appalled that such a proposal has been submitted is an understatement. I trust that you will evaluate the implications of such a proposal, and I look forward to a swift resolution based on a reconsideration and/or relocation of the project.

Respectfully,

Meghan De Amaral

RECEIVED
APR 28 2017
MONTEREY COUNTY
PLANNING DEPARTMENT

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Exhibit H

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STUDIO CARVER
ARCHITECTURE + PLANNING + INTERIOR DESIGN

PO BOX 2684 · CARMEL CA 93921 · USA · EARTH
T 831.622.7837 · F 831.624.0364 · WWW.STUDIOCARVER.COM

June 6, 2017

County of Monterey

RMA-Planning Department

Attn: Anna Quenga, Associate Planner

168 West Alisal, 2nd Floor

Salinas, CA 93901

Re: PLN 130339 Collins -Response to Comments on the Initial Study and Proposed Mitigated Negative Declaration

Dear Ms. Quenga:

As the architect for Mr. and Mrs. Collins, I would like to respond in general to some of the assertions in the letters commenting on your Initial Study and Mitigated Negative Declaration for the Collins project.

Scenic Easement

The assertion that there is a Scenic and Conservation easement on the property is false. The Easement was terminated by the Board of Supervisors in 1990, 4 years before the Collins purchased the property. When the Collins bought the property, they did not know it had had a previous easement which had been extinguished. According to Mr. Collins subsequent research, the Easement was removed by the Warrens who brought the property from BSI in 1989, and sold it to the Kakis Family Trust, who sold the property to the Collins family twenty-three years ago.

BSI Property-Special Treatment in the LUP

The Collins property was part of the original BSI property and that property receives Special Treatment in the Land Use Plan. Up to 25 residential units are allowed and to date we estimate only 12 have been built. It is unlikely anymore new homes will be built after the Collins home, so only about half of the density allowed by the LUP will ever be realized.

The building site on this property is not part of the upper steeper slopes of the BSI. Property (Fricke) that is higher in elevation has been developed. We are proposing to build on the lower flatter area of the parcel and preserve the upper steeper slopes per the Land Use Plan.

Front Setback

Most the letter from Tracy Leaton is based on the misinformation that our setbacks are wrong. They are not wrong and the letter is postulating as to what would happen if we had to move the house back into the hillside. We do not have to move the house back and double the grading, and we do not need a setback variance, so the false scenario in the letter should be dismissed. The grossly exaggerated grading numbers likely contributed to alarming a number of neighbors who then signed the letter under false pretenses.

The correct setback is based upon Section 20.62.040 N of the Zoning Ordinance which is quoted on the Site Plan Sheet G1.2. No variance is required for the setback.

30% Slope

Assertions that all the property is over 30% are wrong. As originally designed only 661 SF of the 1730 SF footprint were on slightly over 30% slope and 1069 SF were on a flat of less than 30%. In response to neighbor's concerns and to be sensitive stewards, we have found a way to reduce the already modest 2500 SF home by 73 SF-resulting in only 588 SF on slightly over 30% slope.

Grading

In response to the neighbors' concerns over the amount of grading, not the grossly exaggerated figures in the letter signed by Tracy Leaton, but the actual amount, we can redesign parts of the project to cut the grading in half - from 864 Cubic Yards down to 428.

Collins – De Amaral Preserve

The Collins Family is sympathetic to the neighbor's concerns and is willing to name the 29 Acre area to be put into Scenic and Conservation Easement as The Collins – De Amaral Preserve, in memory of Mr. Collins late wife Sook, who dearly loved this property and Major Frank De Amaral, if they are allowed to build a modest home on the remaining 1 acre of their property.

Constitution - Takings Clause

According to Amendment V to the United States Constitution,

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Mr. and Mrs. Collins would have a strong Takings case if they were denied a reasonable use of their property.

Considering the evidence above, we urge the Planning Commission to approve the rezoning on a small part of the property so a modest home can be built in this residential neighborhood and 97% of their 30 acre property can be preserved in Scenic Easement.

Sincerely,

Robert M. Carver AIA

Robert@StudioCarver.com
831-250-1744

Exhibit I

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d. Carmel Meadows

The Plan shows this area for residential use at 2 units per acre, resulting in ±16 infill units and possibly two additional lots created by subdivision. It is within the Cal-Am and CSD service districts, and is connected to rural Highway 1 approximately one mile south of the Carmel River by one access road. Some lots are in the viewshed, but would be permitted to develop under the Plan's visual resource policies. This residential infill is consistent with the Coastal Act.

e. Portola Corporation/Williams

The Plan shows the 9.7 acre Portola Corporation parcel as residential at 2 units per acre (19 total homes). The smaller and more heavily wooded Williams parcel is allotted up to 3 units. Both sites are directly adjacent to Carmel Meadows and served by Cal-Am and CSD. They are in the viewshed, but permitted to develop under the visual resource policies, subject to design criteria. They are adjacent to agricultural lands in the State Park. The Plan provides that development of these parcels must be buffered from that use and control runoff. Thus, consistency with the Coastal Act is achieved.

f. Point Lobos Ranch

This ranch consists of approximately ±1900 acres in 15 parcels under two ownerships. The Riley holdings include 2 flatland parcels of 143 acres with 10 existing homes and 2 vacant upland parcels of 317 acres. The Hudson holdings include 7 flatland parcels of approximately 200 acres with four existing homes and 4 vacant intermediate and upland parcels of 1064 acres. The ranch is currently not within Cal-Am nor CSD service areas, and is located on a constrained section of Highway 1 .

The intermediate and uplands parcels may develop at a residential density of 1 unit per 40 or 80 acres, which would result in a total of 8 Riley units and 20 Hudson units. This allotted density may be transferred to the Flatlands in order to preserve these more remote areas as open space.

There are two additional options for development on the Flatlands for each owner - either a 120 unit hotel or a residential development (maximum of 12 new Riley units and 16 new Hudson units). The hotel units may be developed jointly with a conference center. One of every six visitor units must be low-cost with a maximum of 276 total units permitted. Additionally, up to 36 employee housing units may be built.

The low residential densities, the potential for substantial open space, and the required traffic and other mitigations result in consistency with Section 30250a.

g. Behavioral Sciences Institute

The Plan shows this area for 25 units. It consists of six parcels totaling 140 acres. Approximately 113 acres are designated "Resource Conservation", leaving a net density of 1 unit per acre. The property has been used for institutional purposes, which are apparently permitted to continue under policies 4.43E6 and 4.5I. The lower portion of the property contains four residential structures, is within Cal-Am service area, and is within the developed enclave of Carmel Highlands. The planned density is an appropriate maximum under Section 30250a, as septic system suitability policies must be followed.

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Exhibit J

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LCP. In conclusion, this Periodic Review identifies the need for an updated comprehensive planning process, as suggested in Recommendation LU-11.2.

Finally, this report has noted that multiple agencies have jurisdiction in the Moss Landing area. For example, there is the dual coastal permitting jurisdiction shared by the County and Coastal Commission and the independent authorities left to the U.S. Army Corps of Engineers to approve dredging in federal channels and the State Energy Commission to approve power plant improvements. Implementation of an updated LCP for this area could be more effective if the various agencies participate in the plan update process and coordinate their individual regulatory tasks to the maximum extent possible. Recommendations LU-11.4, LU-11.5, LU-11.6 and LU-11.7 suggest measures to facilitate such coordinated planning.

e. Issue LU-12: Carmel Area Uplands

(1) Overview

This subchapter addresses the following concern identified through issue scoping: **Ensure that the largely undeveloped, rural resource lands in the Carmel Area uplands are not inappropriately developed.**

The Carmel Uplands, east of Highway One and Carmel Highlands, consist of very scenic lands, rural residential development, large tracts of grazing lands, public recreational lands, and environmentally sensitive habitats. Among the sensitive plant communities are Monterey pine, Gowen cypress, and central maritime chaparral. The 6,318 acre Uplands contains approximately 81 parcels, of which about two dozen somewhat scattered ones remain vacant and in private ownership.

The certified Monterey County LCP recognizes the sensitivity of these lands through application of protective scenic, habitat, and steep slope policies and generally very low residential density residential zoning, except for Odello East and substantial overnight accommodations on Point Lobos Ranch. The LCP contains many site-specific directives for these and other large holdings, with the general intent to cluster new development. The LCP states that the development of large properties (over 50 acres) and ranches should be guided by an overall management plan.

Since certification of the LCP several of these lands have been acquired for open space purposes, including much of Palo Corona Ranch, Odello-East, and Point Lobos Ranch. The latter acquisition ended plans for any new hotels. Several parcels have been developed pursuant to coastal permits. As part of the permit process, additional lands have been placed under conservation easements. In applying the protective policies of the LCP, the County has attempted to mitigate for adverse impacts. But in allowing new houses averaging over 5,000 square feet and associated structures, driveways, and septic systems, there has been resulting environmentally sensitive maritime chaparral habitat loss and additional visible development. The presence of the new homes and the background biological information associated with them has increased awareness of the sensitivity of the area (see also Issue SH-28: Protecting Central Maritime Chaparral Habitat for increased understanding of the sensitive nature of the maritime chaparral habitat). At the same time, some property acquisitions

have increased the potential for additional public use of the Uplands.

In light of the changed development patterns, ownerships, and protective legal instruments in the Uplands, the LCP is ripe for some updating and further review. At one level, LCP updates are needed to better reflect new owners' objectives for open space preservation over residential development. At another level, LCP policies need to be fully applied and in some cases clarified so that environmental damage is limited on any of the remaining parcels where development can occur. At still another level, it is it is desirable to re-examine the current designations and policies for the Uplands through preparation of a more detailed area plan. Some results of such more specific planning could be parameters for individual site developments, priorities for acquisitions, identifying candidate transfer and receiver sites, integrating habitat and recreational enhancements, design criteria for new homes, updated trail corridor locations, and possibly locating a hostel site. Many entities continue to be actively pursuing open space preservation in this area, and their efforts deserve support. In turn it is important that agreements reached that allow for some future development in return for some preservation be structured in a manner that best furthers Coastal Act objectives.

Since the following analysis comprehensively addresses land use, it relates to specific resource issues present in the Carmel Uplands. Two of these involve central maritime chaparral and Monterey pine forest that are also discussed under Issues SH-28 and SH-29. The information provided in this section on impacts to maritime chaparral and pine forest is further evidence of the need to protect these sensitive habitats. In turn the general recommendations under Issues SH-28 and SH-29 are applicable to the Carmel Area as well. Another issue present in the Carmel Uplands is high fire hazard, which is also discussed under Issue CH-9: Rural Fire Standards.

(2) Resource Background

Carmel Uplands Characterization

South of the Carmel River, the frontal slopes of the Santa Lucia Range rise east of Highway One, providing a dramatic portal to the southern Carmel Area and Big Sur Coast beyond. This portion of the Carmel Area segment inland of Highway One from the Carmel River to Malpaso Creek consists of very scenic lands, environmentally sensitive habitats, large tracts of grazing lands, and public recreational lands. Outside of an existing residential enclave known as the Carmel Highlands, this area is sparsely developed.

The Carmel Area uplands consist of approximately 81 parcels covering a total area of approximately 6,318 acres (see Map LU-12a). The average parcel size is 68 acres with the largest parcel being 527 acres. Major land holdings and their sizes are shown in Table LU-12a, along with their land use designations and allowed density of development. Prior to certification, nine of these parcels had been developed for residential use. Since certification ten additional parcels have been developed for residential use, resulting in 19 (or 23%) of these parcels developed for residential use, some with multiple homes on them. Of the 81 parcels, approximately 41 parcels are protected from development by public ownership or by having conservation or agricultural easements or other

agreements that prohibit or restrict additional development. The remaining 21 vacant parcels still have development potential, with at least two parcels on which multiple dwellings can be allowed (for a total of 28 dwelling units).

The vegetation on the Santa Lucia frontal slopes in this area is a mix of fairly dense oak woodland, Monterey pine and mixed conifer forests, and more open chaparral and baccharis scrub. The local coastal program includes descriptions for various portions of the frontal slopes, summarized below. Because of the vegetation cover and rough, mountainous terrain, the Santa Lucia frontal slopes are a high fire hazard, and the area becomes more remote and removed from urban services the further one goes inland of Highway One.

Threats to Carmel Uplands Resources

The primary threat to the Carmel Uplands resources is from new development on vacant parcels and redevelopment of existing structures. New development can displace habitat, intrude on the viewshed, and have other direct and indirect impacts. Map LU-12b shows remaining vacant parcels in the Uplands. As much of this area is remote from urban services, examples of indirect impacts include visible utility lines, improved roads on steep slopes or in habitat areas to meet fire access requirements, and sensitive vegetation clearing to reduce fire risks (see Issue CH-9: Rural Fire Standards).

Responses to Protect Carmel Upland Resources

In recognition of the scenic quality, sensitive habitat areas, and rural character of the area, a large portion of the Carmel Uplands has been purchased by the either the California Department of Parks and Recreation or the Big Sur Land Trust since certification of the LCP. Currently, approximately 1,934 acres are in State Parks or BSLT ownership, and approximately 5,532 acres are in private ownership protected by conservation easements, or other agreements that prohibit or restrict development. See the fourth column of Table LU-12a and Map LU-12b for descriptions and locations of these protected lands.

(3) Local Coastal Program Provisions

The *Carmel Area Land Use Plan* has a combination of general and parcel-specific policies that apply to the Carmel Uplands. The following text describes the Plan's planning principles for the Carmel Uplands, as well as provides brief descriptions of the area:

> *North of San Jose Creek* [Palo Corona Frontal Slopes]
>
> *Dominating the northern entrance to the Big Sur Country is a coastal mountain of arresting beauty, known today as the Palo Corona Ranch. This handsome landform enhances the coastal beauty of the Carmel area with its greenbelts and gentle slopes, rocky areas, wooded sections, and natural ridgelines. The northerly and westerly sides of the mountain slope gradually to the Carmel River flatland on the north and to Highway 1 on the west. Because of their visual prominence and scenic beauty, it is essential that the present use or at least the openness of the northerly, and westerly slopes remain undisturbed.*

Also of importance is the grazing of cattle that takes place on the Palo Corona Ranch. The grassland hills north of San Jose Creek are the major ranching resource of the Carmel area.

The overall planning objective for this 2,040-acre area is, consequently, to guide future land development in a way that preserves both the open scenic qualities as well as the viability of the traditional ranching activities. Development should be sited out of view from major public viewpoints and corridors in locations that will not result in conversion of grazing lands or interference with ranch operations.

Flatlands

The "Flatlands" extends from the east side of Highway 1 for a depth of approximately 2,500 feet to the 400-foot elevation line. It is bounded on the north by San Jose Creek and on the south by Gibson Creek. This area of approximately 300 acres lies opposite Point Lobos State Reserve and includes the "Polo Field" and scenic pasturelands.

Development of the "Flatlands" is constrained by the proximity of sensitive coastal resources - the rare and endangered Gowen cypress woodland on the east side of Highway 1 (this is part of Point Lobos State Reserve) and the greater portion of Point Lobos Reserve on the highway's west side. An adequate setback area should be created around the Gowen Cypress Annex to protect this resource from potential adverse impacts. All development should be coordinated with State Department of Parks and Recreation's planning for the area.

The objective for the Flatlands is to preserve the scenic character of the open and highly visible pasturelands by concentrating all development within the forested area. At the same time, the forested character must be retained - thus the area east of the highway should appear no different from the wooded area west of the highway in Point Lobos State Reserve. Limited access to any development from Highway 1 should be provided with the road system screened by the forest cover to the greatest extent possible.

Development suitable for the "Flatlands" area would consist of a mix of residential and visitor-serving and day use recreation uses such as a lodge, walking and riding trails, a stable, etc. Preference shall be given to visitor serving and recreation uses. For the Polo Field, an extension of the existing church usage from the north may be appropriate.

Intermediate Terrain

Between San Jose Creek and Malpaso Creek lies the "Intermediate Terrain." It lies immediately east of the "Flatlands," rising rather abruptly from an elevation of approximately 400 feet to 1,000 feet. This heavily forested terrain is characterized by steep slopes of 40 to 80 percent. The very steep canyons of San Jose, Gibson, Wildcat, and Malpaso Creeks essentially preclude development, thereby protecting the area's watersheds and riparian habitat. There are some 1,450 acres in this planning unit, but only 100 acres may be suitable for development, based only on consideration of slope.

It is the planning objective for this area to preserve the Monterey pine and coast redwood forest resources, the water quality of the coastal streams, and the rural character of the area. Low-density rural residential development should be clustered on those few buildable areas of 30 percent slope and less. Building sites and access roads should not intrude into the public viewshed. As previously mentioned, the Flatlands are designated for a mix of residential and visitor-serving uses. An alternative location for a lodge-type visitor serving facility is the forested ridge of Huckleberry Hill. The visual prominence of this ridge from Highway 1, public lands and other major public use areas is a constraint to any development located here. Development should not be visible from major public viewpoints and viewing corridors. Proper siting and design and maximum retention of the existing tree cover will be essential in order to hide structures and access roads from public views.

The Uplands

Continuing to the east and rising from an elevation of 1000 feet to the crests at 1,800 to 2,000 foot elevations is the terrain that is called the Uplands. This land is essentially above the tree line, although clusters of pines have survived at this elevation. As in the intermediate terrain, this land rises abruptly, but here too, at the crest of the hill, there are plateaus of relatively flat land. Of some 2,100 acres - of which 364 acres are now in public ownership - there are approximately 450 acres of relatively level land (i.e., areas less than 30 percent slope). It is possible that some development could occur on these plateaus. However, these areas are remote; water supply to accommodate development is limited; and access is difficult. The cutting of new roads or improvement of existing roads to serve additional development of this area is a particular concern as such activity could permanently mar the open, scenic ridges.

The planning objective for this area shall be to preserve its open space and scenic recreational values. Low-intensity uses shall be allowed, and the land shall be retained in the largest possible parcels. Residential development of the Lobos Ridge Subdivision (located on Point Lobos Ridge) is considered appropriate if such development can be sited, designed, or screened to be effectively hidden from public view.

The following general policies relate to development within the Carmel Area uplands:

4.4.2.6. New subdivision and development of undeveloped parcels south of the Carmel River shall be permitted only if the following principal criteria can be fully met in addition to other applicable policies of this plan:

- *Structures, can be located, designed, or screened to be outside of the public viewshed.*

- *Narrow roads, which can be sited to minimize impact upon the viewshed and require a minimum of grading.*

- *Roads and structures can be sited to avoid disruption or degradation of riparian corridors and other sensitive plant and wildlife habitats.*

- *Access roads for new development can be constructed to meet minimum County standards as well as the resource protection standards of this plan.*

- *Development would be in keeping with the present rural character of the area.*

- *Development of roads and houses would be avoided on slopes exceeding 30 percent, unless this siting enhances the overall objectives and policies of this plan for individual parcels.*

- *Adequate sewer service or adequate sewage disposal area that qualifies under County standards is available.*

- *Adequate water supply is available.*

4.4.3.G.1: The development of large properties (over 50 acres) and ranches should be guided by an overall management plan. The plan should reflect the long-range open space values, and low-intensity recreation, and how development of the property will be phased over time.

The LCP estimated 312 new residences could be built in the Carmel Area uplands. Some sites have a specific maximum density assigned to them. For the remaining area "a density of 1 unit per 40 acres is required for new subdivisions below the 1,000-foot elevation, while for areas above the 1000-foot elevation, a density of 1 unit per 80 acres is required" (*Carmel Area LUP* Section 4.5.F). Caretaker homes can be constructed on parcels greater than 40 acres in size; one per parcel.

Much of the area is designated "Watershed and Scenic Conservation" (*LUP* Section 4.5.F), which provides for:

Protection of the watershed, streams, plant communities, and scenic values is the primary objective. This land use category applies to the upland and mountainous areas east of Highway 1. This is a multiple-use category in which several types of low intensity uses are

appropriate. These include: ranching and grazing of animals, recreational uses permitted in the Undeveloped and Scenic Outdoor Recreation category, rural residences, and related employee housing.

Permitted uses in the Scenic and Natural Resource Recreation designation (*LUP* Section 4.5.B) are:

Low-intensity recreational and educational uses that are compatible with protection of the area's natural resources which require a minimum level of development to accommodate basic user needs and which necessitate minimal alteration of the natural environment are appropriate. Uses may include hiking, fishing, picnicking, nature study, backpacking, horse riding, and walk-in camping, beach sand replenishment and grazing. Improvements in areas under this category are limited to picnic sites, hiking trails, restrooms, and parking areas.

The third column of Table LU-12a shows the land use designations for the major properties. Those over 50 acres or with a Special Treatment overlay also require an overall management plan in conjunction with subdivision or multiple unit permits. Section 20.146.070.A of the *County Code* details the management plan's required steps and contents, including delineating where different types of uses are to occur.

Table LU-12a. Major Land Holdings in the Carmel Area Uplands

Land Holding and Approx. Size (acres)	LCP Land Use Designations and Development Densities	Status
Odello-East ~134 ac	Part Agricultural Conservation - Part Medium Density residential with Special Treatment overlay; up to 162 clustered units & some commercial & recreational (*LUP* policy 4.4.3.E.2)	51 acres of property acquired by Big Sur Land Trust; put in agricultural easement; other 83 acres of property acquired by Clint Eastwood and put in agricultural easement.
Quail Meadows ~25 ac	Watershed & Scenic Conservation 1 unit/40 acres	Development plan for outside of the coastal zone resulted in the coastal zone portion being rezoned to Open Space.
Palo Corona (Frontal slopes are 560 ac)	Watershed & Scenic Conservation; with Special Treatment overlay over frontal slopes 1 unit/40 acres density transferred out of public viewshed	Majority of land acquired by Big Sur Land Trust; one 54-acre in-holding parcel is developed; 1 vacant 40-acre viewshed in-holding parcel remains developable.
Rancho San Carlos ~600 ac	Watershed & Scenic Conservation 1 unit/40 acres access shall be through Carmel Valley. (4.4.2.3; 4.4.3.E.7)	Specific plan approval for the portion of the property outside of the coastal zone allowed no development in coastal zone, but the conceptual master plan shows 5 homesites in the coastal zone
Carmelite Monastery	Public-Quasi Public	Private religious facility
Point Lobos Ranch 343 acres in	Watershed and Scenic Conservation With Flatlands, Intermediate Terrain and Uplands special treatment overlays	1,312 acres acquired by Big Sur Land Trust for transfer to State Parks; 317 acre in-holding allows for 1 house 24.2 acres subdivided into 7

Land Holding and Approx. Size (acres)	LCP Land Use Designations and Development Densities	Status
flatlands & intermediate terrain; ~1380 acres in Uplands	28 homes or 270 hotel units or both if transfer residences to Flatlands with Special Treatment overlay (4.4.3.E.4)	lots; one 5.4 acre lot approved for a 10 unit B&B; three other small in-holding lots have residences
Point Lobos Ridge 200 ac in 10 separate parcels	Watershed & Scenic Conservation Since all lots are already 40 ac or less in size, each would be entitled to one unit or a total of 10	Two lots developed at time of LCP certification; two parcels acquired by Big Sur Land Trust; permits approved for residences on two parcels; four vacant private parcels remain
Behavioral Science Institute (BSI) ~120 ac east of Corona Rd in three parcels	Resource Conservation, Forest and Upland Habitat Up to 25 clustered homes; outside of view of Highway 1; upper steeper portions to remain in open space (4.4.3.E.6)[a]	Clustering option not fully pursued; three upland parcels purchased privately; permits for homes issued on two; LCP amendment to rezone one parcel to add buildable area, but reduce density.
Gushman/ Wright ~785 ac	Watershed & Scenic Conservation 1 unit/40 acres below 1000 foot contour 1 unit/80 acres above 1000 foot contour	One permit issued on a 25 acre parcel; lot line adjustment on 360 ac involving four parcels; remaining ~400 ac consisting of four parcels is vacant
Hall now Keig ~154 ac	Watershed & Scenic Conservation 1 unit/40 acres below 1000 foot contour 1 unit/80 acres above 1000 foot contour	home constructed pursuant to Coastal Commission permit; management plan prepared; lot line adjustment in conjunction with former Sawyer property approved
Sawyer now Keig ~434 ac	Watershed & Scenic Conservation 1 unit/40 acres below 1000 foot contour 1 unit/80 acres above 1000 foot contour, with Special treatment overlay; up to 16 homes allowed if clustered on lower 30 acres (4.4.3.E.5)	Acquired by Keig, who did lot line adjustment in conjunction with former Hall property
Garrapata State Park 344 ac	Scenic & Natural Resource Recreation	Owned by State Parks

[a] *County Code* Section 20.146.120.C.7 says up to 40 homes.

(4) Local Coastal Program Implementation

Since LCP certification in 1988, approximately 30 coastal permits have been issued for developments in the Carmel Uplands. These include two for subdivisions, seven for lot line adjustments, and several for a total of ten new homes, as described in the following sections.

New Subdivisions

One permit was issued for a subdivision for what had been part of Point Lobos Ranch.[161] Two lots totaling 24.25 acres and containing three homes were resubdivided into seven lots. This permit was

[161] County coastal permit SB94001 (3-MCO-00-039). The original approval of SB94001, before it was revised, was appealed to the Coastal Commission as A-3-MCO-99-057. That appeal was rendered moot by the subsequent revision to SB94001, which was not appealed.

appealed to the Coastal Commission. The issue was that the Ranch was supposed to be subject to an overall plan, and this subdivision was just for a portion. The County amended the permit to show what would be the uses and densities allowed on the entire Ranch and this new permit was not appealed. The final allocation was consistent with the LCP and overall has resulted in much less density, since the majority of the property was being transferred to State Parks. Information in the permit file sent to the Coastal Commission stated that the flora is dominated by a large stand of mature Monterey pines, only one was to be removed for the subdivision access road, forest management plans would be required for individual lots, and that there were no significant sensitive habitat impacts. Subsequent review of a proposed home on one of the newly created parcels revealed that several Monterey pine trees would have to be removed in order to allow the lot to be developed and that the biological report for the original subdivision estimated a total of 41 Monterey pines would be removed.

One permit was issued to Garren for a subdivision of a 27-acre parcel that was formerly part of Behavioral Scenic Institute into two parcels of 16.4 and 10.6 acres.[162] The upper 16.4 acres is partially designated Low Density Residential and mostly Resource Conservation. A building site was shown located in the Low Density Residential portion of the site and a preserve was shown for the Resource Conservation portion of the site. This permit followed Coastal Commission approval of an LCP amendment that slightly increased the amount of Low Density Residential land area (by decreasing the Resource Conservation area) and reducing the density of the Low Density Residential area from 1 unit per acre to 3.5 units per acre. A deed restriction was required to be placed over the portions of the site over 30% slope or in Hooker's Manzanita.[163] The new smaller parcel 10.6-acre parcel is located in the Low Density (1 unit /3.5 acres) Residential designation.

Lot Line Adjustment Permits

Two lot line adjustments were approved for the owner of the Palo Corona Ranch. Parcel sizes went from 604, 6.5, and 15.5 acres to 526, 47, and 53 acres. The latter two new parcels were created in the public viewshed (in return for the two small parcels retired), pursuant to a Court order concerning the decedent's will. One has two existing homes and accessory structures; the other is vacant.[164] Then, the 526 and 47-acre parcels were adjusted to 533 and 40 acres.[165] The latter is the vacant viewshed parcel. No findings were made with regard to *Carmel Area LUP* viewshed policies, although the Negative Declaration states, "The subject lot line adjustment will not alter the aesthetic quality of the area."[166]

Two lot line adjustment permits were issued for Rancho San Carlos. Parcel sizes went from 62.4,

[162] County coastal permit MS94009 (3-MCO-95-004).

[163] The site plan in the permit shows the portion of the 16.4 acre parcel designated "Resource Conservation" to be an "Upland Preserve." It is unknown if the deed restricted area of over 30% slope and Hooker's manzanita corresponds to the Preserve or RC area.

[164] County coastal permit LL96016 (3-MCO-96-85).

[165] County coastal permit LL96023 (3-MCO-96-86).

[166] Negative Declaration for County coastal permit LL96016 (3-MCO-96-085).

1952.6, and 330.4 acres to 488.6, 768.4, and 1088.4 acres under the first permit.[167] Different parcels went from 27.2, 77.9, 42.3, and 6.99 acres to 20.6, 20.9, 63.8, and 49.1 acres under the second permit.[168] This latter permit included a right-of-way shown from Carmel Valley.

The fifth lot line adjustment was to Gushman involving four parcels totaling 310 acres, in conjunction with the aforementioned approval of three additional homes.[169] Parcel sizes went from 151, 19.05, 65.56 and 74.659 acres to 65, 86, 74.6, and 84.6 acres. A forest management plan, a scenic easement on all land over 30% slope or containing sensitive habitat (outside the building envelope), and an access easement were required. (See Issue PA-11: Coastal Trail System for further discussion of this easement requirement)

The sixth lot line adjustment was also to Gushman on former BSI land. Parcel sizes went from 0.612, 30.38, and 2.11 acres to parcel sizes of 2.56, 27.08, and 3.46 acres.[170] The 27.08-acre parcel was later issued the permits for a subdivision mentioned above and for a home to Garren mentioned below.

The final lot line adjustment was issued to Keig, who acquired the 160-acre former Hall parcel with one residence and the 450-acre vacant former Sawyer parcel. The lot line adjustment resulted in two parcels: one for 11.69 acres and one of 598.7 acres. A condition of the permit was that the applicant request rezonings of the two parcels to 1 density unit/199 acres and 1/density unit/11.69 acres, respectively. This would allow a total of only four homes (three new ones). The permit established and required recordation of building envelopes on the large parcel clustered on the lower portion of the property. One new building envelope would be in grasslands, one in pine forest. These were as shown on the previously required management plan prepared for the property in conjunction with the permit issued by the Coastal Commission for the first house. No LCP amendment to memorialize and recertify the rezoning was ever submitted by Monterey County.

New Home Permits

One permit was issued to Bliss for a 11,235 square foot home on a vacant 40-acre parcel on Point Lobos Ridge.[171] The permit raised issues of size and visibility from Point Lobos Reserve, adverse impacts to environmentally sensitive maritime chaparral habitat, and compatibility with adjacent parklands. A biology report characterized the entire site as maritime chaparral, although portions of the building pad location had been cleared. The total area of disturbance for development would be about one acre. Required mitigation included landscape restoration to eliminate and restore all existing roads and road cuts other than the primary road through the parcel and the driveway serving the home; revegetation with native plants consistent with a biological report prepared for the project including the replacement of a quarter of an acre of sensitive plant species; and a scenic and

[167] County coastal permit LL92034 (3-MCO-93-18).
[168] County coastal permit PLN980479 (3-MCO-98-188).
[169] County coastal permit PC6251 (3-MCO-89-166).
[170] County coastal permit LL92015 (3-MCO-92-092).
[171] County coastal permit 980149 (3-MCO-00-329).

conservation easement for slopes over 30% and areas with environmentally sensitive habitats outside of the building envelope. Required mitigation to prevent visual impacts from development of the house included landscaping sufficient to screen the structure from Point Lobos.

The Bliss permit was brought before the Coastal Commission for an Executive Director Determination based on procedural issues related to identifying as appealable projects that allow development in environmentally sensitive habitat areas to prevent a takings issue. The issue of appealability was ultimately resolved by a settlement agreement, which required the house to be limited in size to no more than 8,000 square feet, and the height of the structure reduced to a maximum of 12 feet above natural grade. Additionally, as a result of the settlement agreement, the permit was amended to require mitigation that placed slopes over 30% and the remaining area outside of the development envelope (approximately 39 acres) into a scenic conservation easement, and that restored the landscape by eliminating and restoring existing roads and road cuts on the site, except for the driveway, and the primary road through the parcel.[172] As a result of the settlement agreement, required mitigation to prevent visual impacts from development of the house also included the preparation and implementation of a landscaping plan, using native vegetation, including mature trees so that the home would not be visible from common viewing areas as specified in the Carmel Area LCP, including, but not limited to Point Lobos State Reserve and Highway One, for the life of the project. The permit allowed an exception to this provision of non-visibility for the first five years of the permit, to allow some time for growth of planted trees and other landscaping.

Another permit on Lobos Ridge was issued to Williams (later Schulte) for a two-story 8,976 square foot house plus barn and guesthouse.[173] The permit was conditioned for earth-tone colors and landscape screening, as the findings indicated that the parcel was in the public viewshed. The constructed house is plainly visible from Point Lobos Reserve. The biologic report indicated that the building site was environmentally sensitive dwarf coast chaparral, but that impacts were not significant considered the small amount of habitat affected. The permit found the project with consistent with policies that govern development adjacent to sensitive habitats and included conditions for reuse of the graded topsoil, revegetation with species compatible with the chaparral community, biologic monitoring, and an easement over the non-building envelope portion of the site.

One permit was issued to Sena to convert an existing 1,410 square foot house to office/guesthouse/storage and construct a new 2,489 square foot house with 840 square foot garage and 2,028 square foot barn on a parcel on Point Lobos Ridge. New development was found not to be visible to the naked eye and designed to prevent daytime glare and nighttime lighting. The new development was said to be outside of central maritime chaparral. 3.9 acres of maritime chaparral was proposed to be cleared for a vineyard, but that portion of the application was denied. A scenic

[172] County coastal permit amendment to 980149 (3-MCO-02-169).

[173] County coastal permit PC07608 (3-MCO-91-137). An amended County coastal permit 980225 reduced the size of the house to 6,335 square feet.

easement was required. The proposed removal of three trees was deemed insignificant, but nevertheless were required to be replaced at a 4:1 ratio.

One permit was issued to Hudson for a 3,380 square foot home, plus garage, guesthouse, and barn in a meadow just off Highway One in Point Lobos Ranch screened by trees. This permit was approved absent an overall Ranch management plan on a parcel where the lot lines had been reconfigured, apparently without benefit of a coastal permit.

One permit was issued to Bechtolsheim (now Southern Hills) for a 3,855 square foot house and 704 square foot garage on a 56.64-acre parcel that had been part of the Behavioral Science Institute (or BSI). The permit raised issues of structures being visible from Point Lobos State Reserve. Mitigation to insure minimizing visibility included landscaping screening, using natural materials, and controlling exterior lighting. The permit also raised the issue of development being built in sensitive maritime chaparral habitat, but noted that no vegetation would be disturbed by the project. The permit also raised the issue of development being built in plots of buckwheat (host to the endangered Smiths blue butterfly) Lewis Clarkia, and Douglas spineflower. The permit findings noted their abundance, deeming the loss insignificant and conditioned the project to replace the habitat on a 2 to 1 basis. Other site constraints included the development being above 30% slope and located in a high fire hazard area. The siting was close to the edge of the property on Mt. Devon Road, leaving the remainder of the property open and partially to be placed under a County required scenic easement.

One permit was issued to Garren for a 4,493-square foot home on a 16.4-acre parcel created from a 27-acre former BSI parcel, described above.[174] The site was described as a near-pristine closed cone forest with some maritime chaparral. The chaparral was not deemed an environmentally sensitive habitat area, but some parts of the parcel were determined to have sensitive species. A deed restriction was required on the subdivision permit that required development to avoid sensitive plants and 30% slopes.[175] The permit for the house was conditioned to require that invasives be removed. Findings indicated that the home would not be within the public viewshed.

One permit was issued to Forsyth Company (German) for a three-story, 6,970-square foot house on a 25-acre parcel formerly owned by Wright. The permit raised the issue of visibility from Point Lobos State Reserve. It was approved by the Board of Supervisors on appeal with findings that visibility was reduced due to resiting and a lowered height. The permit also raised the issue of building in chaparral, which was cleared for a well site prior to a permit issued and was addressed as a violation. A restoration plan was required, but the permit is unclear whether and how much environmentally sensitive habitat area would be lost from the construction.

The permits issued to Gushman authorized development of three homes of 4,112, 4,810, and 5,568

[174] County coastal permit 94163 (3-MCO-95-005).
[175] County coastal permit MS94009 (3-MCO-95-004).

square feet.[176] None of the building sites were located in the public viewshed. Later a new permit was issued to Heyman for one of these homes: a 4,004 square foot house on the 74-acre parcel. The previously required scenic easement was slightly modified to accommodate the new home design. Findings indicated that the original purposes of the easement requirement would still be fulfilled and that the house would not be in the public viewshed.

One additional permit application for a home remains unresolved. The County Planning Commission denied a permit request for a 3,750-square foot home on a 2.8 acre parcel just south of BSI (APN 241-161-005) based on an unsuitable septic system location, impacts to public viewshed (of Highway One and Point Lobos State Reserve), excessive natural landform alteration (grading of steep slopes), potential erosion, slope instability (landslide potential), and vegetation removal. No areas on the parcel are less than 40 acres. This matter was appealed to the Board of Supervisors and never finalized. The last action in February 2002 was a Board directive for the applicant and County staff to try to find an acceptable building site on the property and the proposal may have since been abandoned.[177]

Other County Actions

One permit was issued for a bed and breakfast on a parcel in Point Lobos Ranch. This permit was also appealed to the Coastal Commission to address overall density on the Ranch discussed above.[178] The Commission conditioned the permit to require recordation of the density allocation. A condition was also added to require a management plan to address coordination with State Parks, who was acquiring the land surrounding the bed and breakfast.

Finally, the County took another action that should have been an LCP amendment, but no application was ever submitted. A rezoning to Open Space from Watershed and Scenic Conservation was approved for Quail Meadows at the edge of the Coastal Zone.[179] There was also a lot line adjustment approved on Point Lobos Ranch that was not subject to a coastal permit.

(5) Analysis of Coastal Act Conformance

More recent experience with the cumulative effects of continued development in the Carmel Uplands indicates that continued residential subdivision, lot line adjustments, and construction in the Carmel Uplands sometimes conflicts with Coastal Act policies that require concentrating development in urban areas and protecting agricultural, environmentally sensitive habitat area, scenic, and upland recreational lands. The County needs to more consistently apply policies to

[176] Note: these figures may be adjusted in conjunction with the final County approval; this information is not readily available in the final action notice.

[177] County coastal permit PLN990150 (3-MCO-01-650). Personal communication, Thom McCue Monterey County Planning and Building Inspection Department, June13, 2003.

[178] County coastal permit PLN970284 (A-3-MCO-99-092).

[179] Correspondence Hyman to Towner, memorandum of October 25, 1991 advising that an LCP amendment request should be submitted.

minimize the impacts of development and should revise the LCP to more specifically favor clustering that helps achieve this objective.

Implementation of Provisions Allowing New Development

With regard to the individual projects that were approved, most of the homes were fairly large (with an average size of over 5,000 square feet) and involved clearing an equivalent or even larger area of native vegetation from the building site for road access, fire clearance, and septic systems. Although the County required significant mitigation measures, and in some cases, required smaller dwellings and lower rooflines than originally proposed, land disturbance and view impacts were not required to be minimized as much as possible. As to protecting the public viewshed, experience shows that required measures such as tree screening and lighting controls can still result in highly noticeable impacts to the landscape. With regard to habitat protection, given that areas of central maritime chaparral are considered environmentally sensitive habitat area, the County should have implemented LCP policies that mandate minimizing "structures and impervious surface to the amount needed to reduce environmental impacts to the greatest extent possible." And, since certification of the LCP, new information has been developed on the importance of central maritime chaparral. Although the Coastal Commission endorsed the County permit at the time, since then it seems apparent that to create four new parcels with no building sites outside of native Monterey pine forest conflicts with policies protecting environmentally sensitive habitat areas (see Issue SH-5: Subdividing ESHA in Appendix A).[180] The ambiguity in the LCP, that says residential use shall be located within the forest cover, but also that resource protection shall prevail when there are policy conflicts, should be clarified.[181]

Implementation of Overall Management Plans and Clustering Provisions

When reviewing the area wide development patterns, it appears private and public acquisitions have eliminated about 90% of the development potential possible under the LCP. . Many new owners, such as Big Sur Land Trust, Eastwood, Garren, and Keig have preserved significant tracts of land and reduced development potential. These are positive, significant steps that have occurred since certification that deserve commendation.

However, in two cases, where zoning changes occurred (at Quail Meadows) or were to have occurred (on Keig), the County has yet to submit the necessary LCP amendments (see Issue IM-9: Local Coastal Program Amendments)

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[180] See also Issue SH-29: Protection of Monterey Pine Forest Habitat. That discussion focuses on the Del Monte Forest planning area, where the LCP's consideration of Monterey pine forest as environmentally sensitive habitat area is more ambiguous than in the Carmel Area's LUP. If pine forest in the Carmel Area functions as habitat for rare or endemic species, has special value for wildlife, or is in the public viewshed, it is defined as environmentally sensitive habitat area under *County Code* Section 20.146.040. The permit for subdividing pine forest into 7 lots had no finding to this effect. But, as discussed under Issue SH-29, even if these criteria were not met, the native pine forest on this site should be considered environmentally sensitive habitat area, based on what is now known about the habitat.

[181] *Carmel Area LUP* policy 4.4.3.E.8 directs location in the forest cover, while *Carmel Area LUP* policy 4.4.2.7 says to resolve conflicts between Plan policies in a manner which is most protective of significant coastal resources.

Also, while the LCP policies governing overall development plans encourage clustering, among other measures, as a means of minimizing development impacts, several changed circumstances have made it more difficult to implement such clustered development patterns. For example, changes in ownership, the limited ability to modify development patterns of previously subdivided single-family lots, and private density credit transfers led to the following problems:

- Ownership of Palo Corona Ranch was split between a private party and the Big Sur Land Trust. A vacant parcel remains in the Palo Corona viewshed. The LCP requires development to be transferred to a portion of the Palo Corona Ranch outside of the viewshed. A strict application of LCP policies for the lot line adjustment permit would not have resulted in a new vacant parcel being created in the public viewshed. For example, the two new parcels could have been created outside of the public viewshed, or each newly created parcel could have been drawn to contain one existing house. A private agreement retained two density credits for the two new viewshed parcels, but the lot line adjustment permit did not mention or explain this. The LCP's mandated transfer of development credit to outside of the viewshed cannot now occur because the remaining portion of the Ranch has been sold to the Big Sur Land Trust.

- Ownership of Point Lobos Ranch was split between private parties and the Big Sur Land Trust without agreement on a division of the density credits that had been assigned to the Ranch as a whole. This was left for the County and Coastal Commission to resolve when subsequent development permits were considered. The Commission found on appeal of the permits that the spirit of the LCP provision requiring a master plan for the Ranch was carried out through the land transfer agreements. Some questioned that the resulting development pattern of a State Reserve partially bisected by private residences and bed and breakfasts was optimal for managing a Reserve that contained significant environmentally sensitive habitat area, including mountain lion habitat. Also, the details regarding development additional public recreational amenities and visitor-serving accommodations (other than the bed and breakfasts) were left for future planning.

- BSI's upland holdings were sold to different private buyers. The required overall management plan was not prepared for this Special Treatment Area, which should have resulted in clustering development on the lower, less sensitive portion of the property. As a result, one remote home was built in the public viewshed. And another parcel completely designated Resource Conservation remains privately owned.

- Comprehensive planning occurred for Rancho San Carlos, but the comparative small coastal zone portion was not part of the County's approval of development on the rest of the Ranch. The Ranch's development pattern outside of the coastal zone is thus set (all is in a preserve status, except development envelopes). Therefore, when a coastal permit application is considered, there is no possibility to move building sites outside of the coastal zone, if such would better achieve LCP objectives, such as viewshed protection. Also, since there are multiple parcels of the Ranch in the coastal zone, including non-contiguous ones, they could

be sold separately and, thus, comprehensive planning and clustering opportunities could be lost.

Conclusion

The County has made much progress toward the vision of preserving the Carmel Uplands in open space for habitat protection and recreational use. Much of this has occurred outside of the regulatory process through acquisitions. The permit process has been less successful in fully achieving LCP policy objectives. If past findings for approval are repeated for future permits, the approximately 30 additional homes that could be built would be large, some likely sited in environmentally sensitive habitat area and/or the public viewshed (see Map LU-12b for remaining development potential for primary homes, after accounting for various acquisitions, agreements, and County actions since LCP certification). Also, given the remoteness of the Carmel Uplands and the large parcel sizes, caretakers' homes (allowed on parcels over 40 acres) are likely to be proposed.[182] These will all likely require some amount of new or upgraded road construction, that also may intrude on the public viewshed (road scars are sometimes more of an impact than is the home itself) and affect riparian and other environmentally sensitive habitat areas (See Issue CH-9: Rural Fire Standards).

Also, as substantial land is transferred to the public, most if not all of these homesites and their associated access roads would be visible from some existing or future public trail. Thus, the result is that the "pristine" wilderness viewshed will likely be punctuated by large, scattered homes in remote areas. Night lighting and the sun reflecting off of development can also impact the public viewshed. Being isolated, pressure for caretakers' units, currently not allowed, will increase. Also, maritime chaparral needs fire to survive. Even a few more homes in the area would mean that it would be difficult to perform controlled burns and that there would be increased pressure to extinguish any wildfires (see Issue SH-28: Protecting Central Maritime Chaparral Habitat). The area is also mountain lion habitat and the introduction of residences may impact the habitat. Although existing LCP policy language should serve to prevent or mitigate each of these impacts in isolation, the combination of factors may lead to trade offs and the need to approve development for constitutional taking reasons. And, as noted, some opportunities for clustering, which could reduce the length of needed roads and other impacts, have been lost.

Thus, a multi-faceted approach to protecting the resources of the Carmel Area Uplands involving regulation, acquisition, and planning is needed. Basic LCP resource protection policies should be followed. Updates to these policies should also be adopted for Monterey pine forest, maritime chaparral, and other sensitive habitat protection, viewshed protection, ridgeline development restrictions, and "trophy" homes (see Recommendations for Issues SH-1: ESHA Identification, SH-28: Protecting Central Maritime Chaparral Habitat, SH-29: Protection of Monterey Pine Forest Habitat, CH-9: Rural Fire Standards, SR-7: Critical Viewsheds, SR-8: Ridgetop Development, and SR-9: "Trophy" Homes). There is also the need to update land use designations and densities, in line with the ownership changes and property restrictions that have occurred. These are specified in Recommendation LU-12.1.

[182] It appears that there are approximately 15 "40-acres or greater" parcels, which would be eligible for caretakers' houses.

The County should be rigorous about requiring overall management plans where they are prescribed. While lot line adjustments do not and should not require overall management plans, they need more scrutiny to ensure that LCP objectives are not compromised. Recommendation LU-12.3 addresses this need. If possible, there should be improved communication between the County and private parties about to place restrictions on portions of their property or sell off portions, so that the remainders are not problematic (see Recommendation LU-12.7).

Of course, continued acquisition of land to placed in preserves and/or public ownership would help prevent further impacts from residential development and deserves support (see Recommendations LU-12.5 and LU-12.6).

However, even public ownership does not completely address all the Coastal Act issues associated with the Carmel Area Uplands. Implementation of the LCP policies must assure that the location and intensity of development of public recreational facilities will protect environmentally sensitive habitat areas and scenic views in conformity with Coastal Act policies. This Periodic Review suggests that regardless of the ownership status, the Carmel Uplands would benefit from a more specific planning exercise to account for changed circumstances. Regulation and management on an individual parcel or parcel-grouping basis is limited as to what can be accomplished (see Recommendation LU-12.4). If the Uplands's resources are to be optimally protected, the entire area should be reviewed as to the best locations for development and for open space, both public and private. For example, a comprehensive strategy could emerge to cluster remaining private development potential out of sensitive areas and set standards for their construction. Such a strategy may benefit from the use of transfers of density credits, which should be an option allowed, as provided for in Recommendation LU-12.2. And, for the lands available to the public, decisions as to where to locate trails, for example, need to be made on an area-wide basis to ensure connectivity and optimal locations (see Recommendations PA-10-1, PA-11.1, and PA-11.2).

f. Issue LU-13: Big Sur Coast Highway Management Plan

(1) Overview

This subchapter addresses the following concern identified through issue scoping: **Ensure that the Monterey County Local Coastal Program (LCP) is coordinated with the Big Sur Coast Highway Management Plan (CHMP).**

Highway One south of the Carmel River in Monterey County is one of the state's most spectacular scenic resources and provides access along this rugged shoreline for more than three million visitors per year. It is also extremely vulnerable to the elements and requires substantial maintenance just to keep it functional.

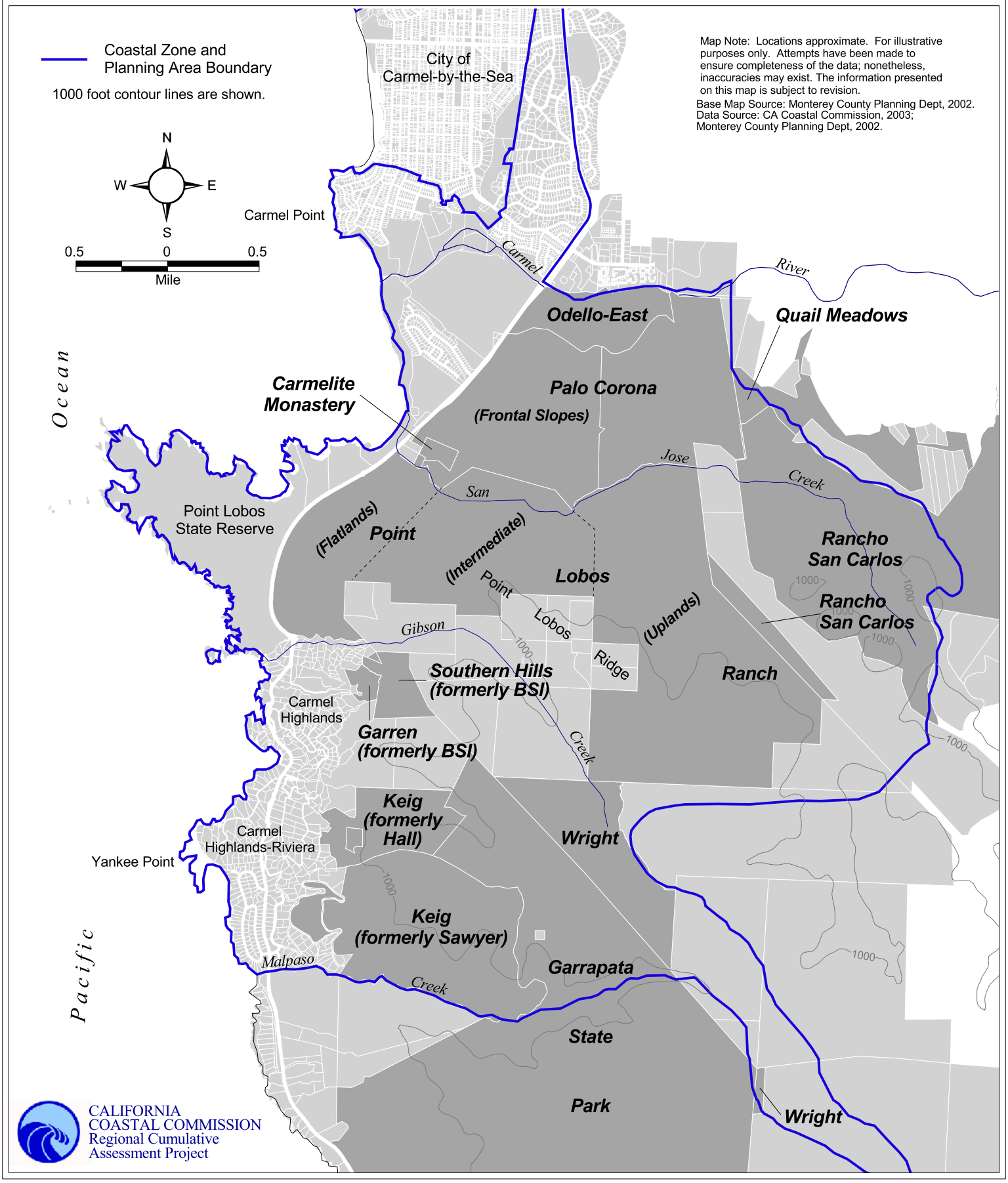
The certified Monterey County LCP is primarily concerned with Highway One capacity and traffic management issues, given that it is mandated and physically constrained to stay two-lane. The LCP contains various policies directed toward making highway improvements such as turnouts, shoulders, and parking. The LCP also contains a request for an overall design theme for the

Monterey County Periodic Review

Map LU-12a

Major Properties

Carmel Area Uplands



Development and Preservation

Carmel Area Uplands

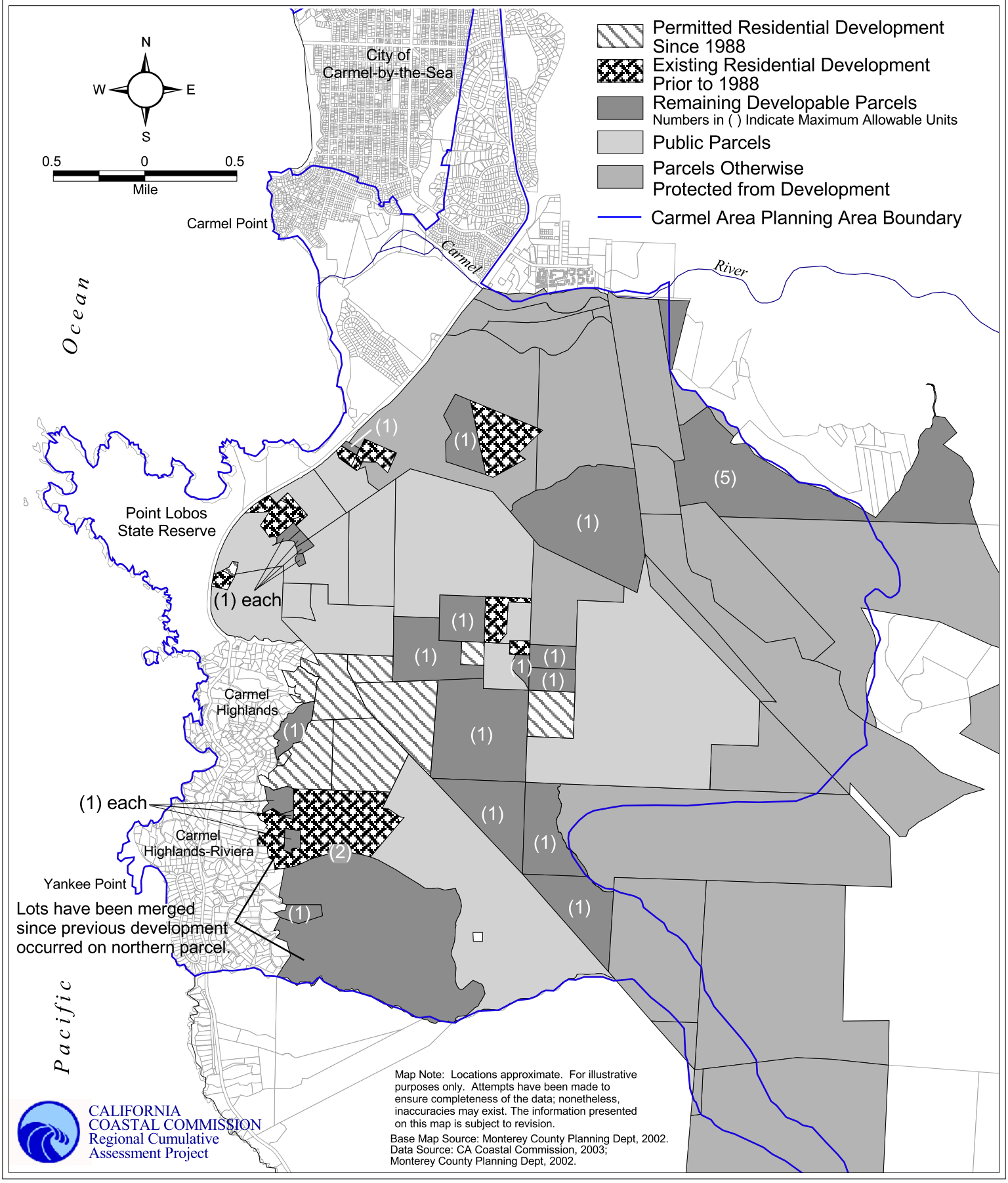


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Exhibit K

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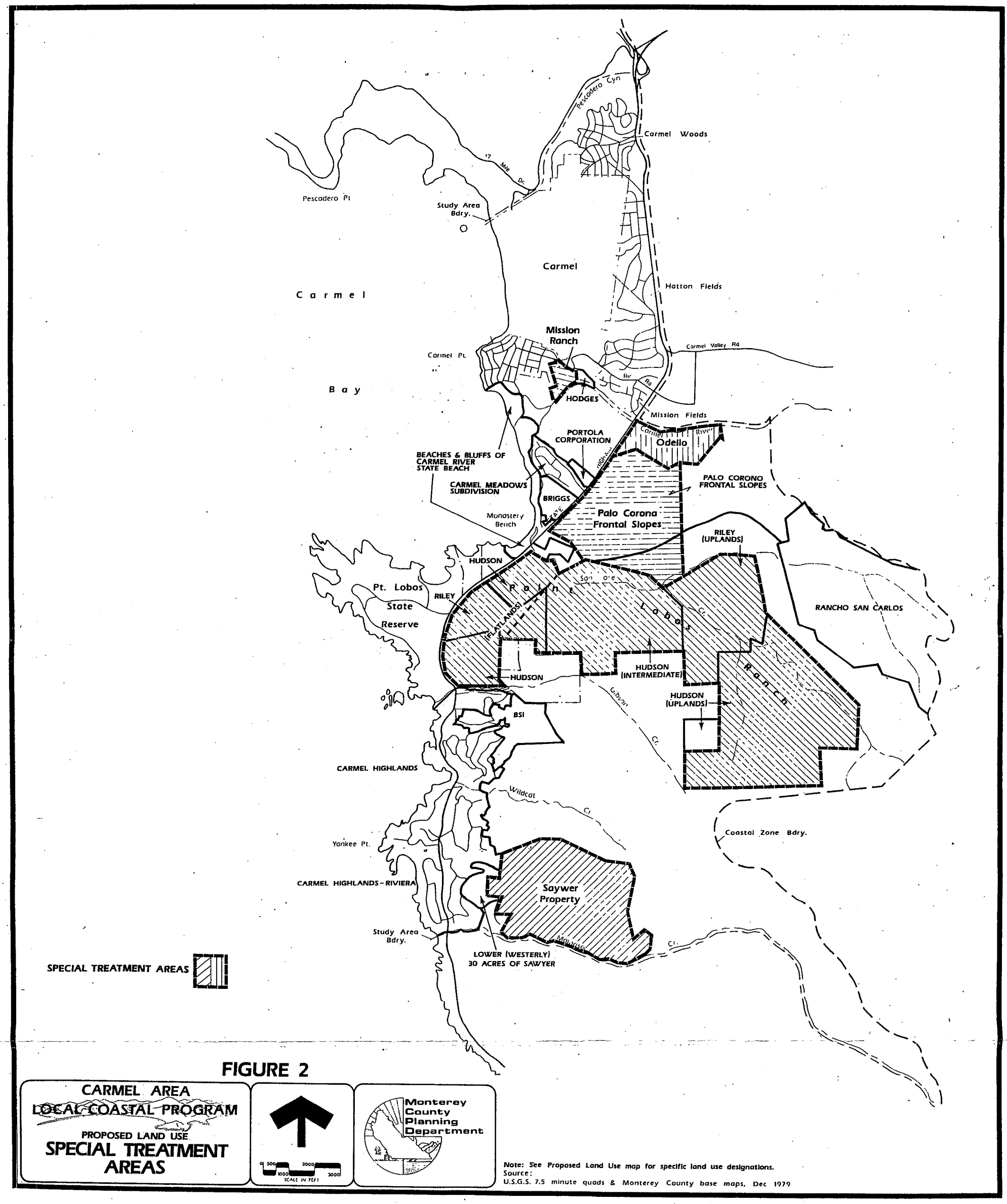

FIGURE 2

CARMEL AREA
LOCAL COASTAL PROGRAM
PROPOSED LAND USE
SPECIAL TREATMENT AREAS

0 500 1000 2000 3000
SCALE IN FEET

Monterey County Planning Department

Note: See Proposed Land Use map for specific land use designations.
Source:
U.S.G.S. 7.5 minute quads & Monterey County base maps, Dec 1979

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