

# Exhibit A

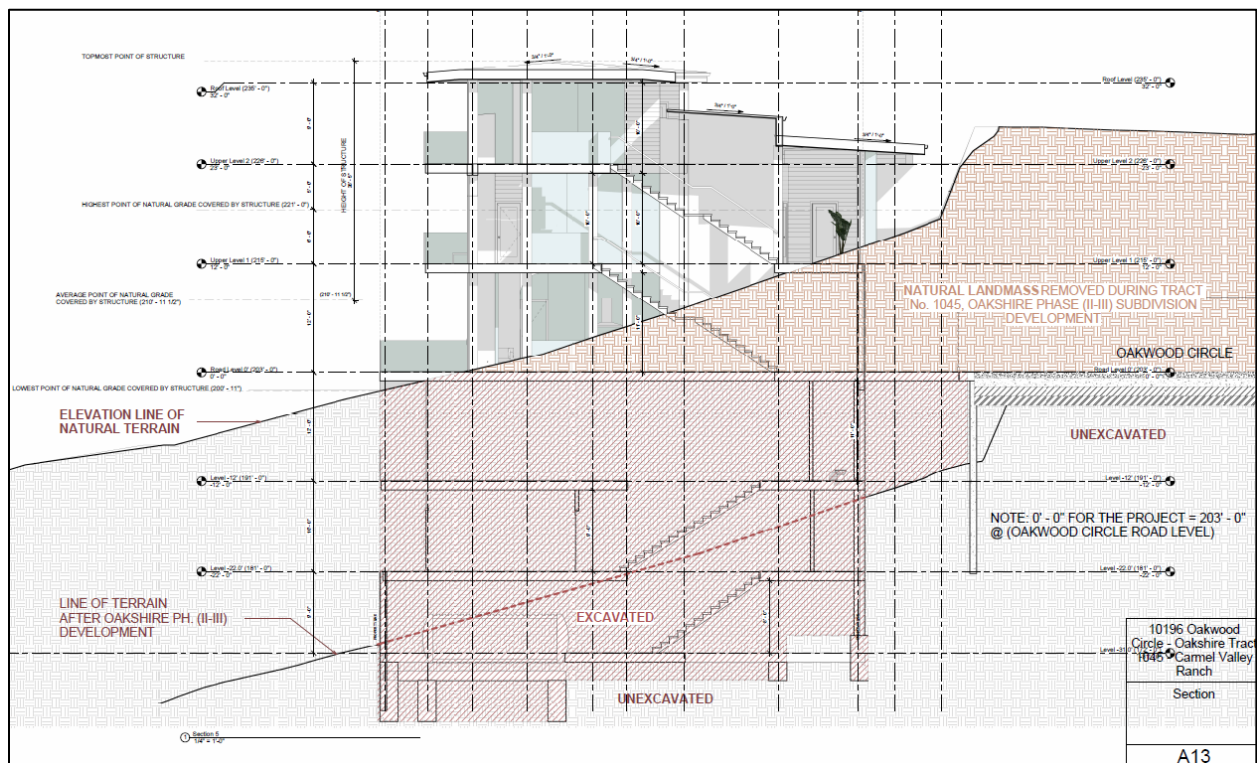
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## EXHIBIT A DISCUSSION

Prior to discussing the project's inconsistencies with applicable policies and regulations, it is important to first disclose the misleading and inaccurate information presented in the project plans.

### *Existing Topographic Conditions*

The Applicant/Owner asserts that the project site and the surrounding hillside were significantly altered since the Oakshire subdivision was approved in 1986. Continuing with this assumption, the Applicant/Owner claims that the "historical" (pre-subdivision) grade should be considered when calculating the project's average natural grade. Sheet A13 of the attached project plans (**Exhibit B1**) illustrates what the Applicant/Owner believes to be current conditions and historical conditions (see **Figure 1**). The claimed "historical" grade is labeled on Sheet A13 as the "Elevation Line of Natural Terrain". Below this terrain line, is another grade labeled as the "Line of Terrain after Oakshire Ph. (II-III) Development" and is claimed to be current conditions.



**Figure 1.** Sheet A13, Section showing claimed historical grade ("Elevation Line of Natural Terrain") and claimed current grade ("Line of Terrain After Oakshire Ph. (II-III) Development").

HCD-Planning staff requested evidence supporting the Applicant/Owner's claim that the project site's historical conditions differ from today's conditions. Two topographic surveys were submitted<sup>1</sup>. At first glance, both surveys virtually look the same (same contours, road

<sup>1</sup> Two topographic surveys were submitted for HCD-Planning File No. PLN240139, which proposes a similar residential structure as PLN230127. Only one topographic survey was submitted for PLN230127. Since PLN240139 and PLN230127 propose development on the same lot, information relating to site conditions apply to both projects and is referenced in this staff report.

configuration, lot boundaries, tree trunks, private easements, etc.), however, the listed elevation numbers differ by approximately 27 feet. The 2016 survey illustrates the subject property as having elevations ranging between 172 feet and 191 feet. This survey also illustrates the portion of Oakwood Circle Road abutting the subject property as having elevations ranging between 201 to 204 feet. The 2023 survey, which is incorporated into the project plans as Sheet A14, illustrates the subject property, as having elevations of approximately 199 feet to 221 feet. This survey also illustrates the portion of Oakwood Circle Road that abuts the subject property as being 230 feet to 227 feet. Sheet A13's "Elevation Line of Natural Terrain" (claimed current grade) is based on the 2016 survey results, and the "Line of Terrain after Oakshire Ph. (II-III) Development" (claimed historical grade) is based on the 2023 survey results. However, the Applicant/Owner has misinterpreted the elevations of the two topographic surveys.

To confirm which topographic survey and corresponding terrain line on Sheet A13 represents current conditions, HCD-Planning staff contacted the project surveyor (Monterey Bay Engineers, Inc.) and consulted United States Geological Survey (USGS) maps. The project surveyor provided staff with a letter (**Exhibit I**) explaining what conditions the two surveys represent, why the elevations differ by 27 feet, and which is the most accurate survey. Contrary to the Applicant/Owner's belief, and per Monterey Bay Engineers, both surveys illustrate the project site's conditions that existed in 2016 and 2023. No development or grading has occurred on the project site, and therefore both surveys represent today's conditions. The 2016 survey elevations are based on an assumed datum with project benchmark of 200 feet. The 2023 survey elevations are based on an assigned datum (North American Vertical Datum of 1988 [NAVD-88], which has a fixed reference point in Quebec, Canada). An "assumed datum" is a temporary, locally defined reference point used for measurements within a specific area, often created when a standardized datum is not readily available. An "assigned datum" is a formally established, recognized reference point used for measurements based on a standardized system. When using an assigned datum, Global Positioning System (GPS) can be used to obtain accurate elevation data that can be referenced to the assigned datum. In other words, GPS readings can be converted to elevations based on NAVD-88 through the use of geoid models to bridge the gap between the GPS-derived ellipsoid height and the orthometric height (elevation above sea level) on NAVD 88. GPS technology combined with NAVD-88 is a standardized reference point for elevation measurements across North America and is the most commonly used vertical datum for surveying and mapping activities in the United States.

To determine the project site's 2023 elevations, Monterey Bay Engineers used GPS to determine the location and elevation of a magnetized nail and washer embedded in Oakwood Circle Road (project benchmark). This nail and washer have an elevation of 227.12 feet. With a project benchmark of 227.12 feet, the 2016 survey elevations (based on an assumed datum/benchmark of 200 feet) were adjusted upward by 27.12 feet. As a result, the subject property's elevations were corrected to range between 199 feet to 221 feet, rather than 172 to 191 feet. Monterey Bay Engineers' letter states "[the June 8, 2023 updated topographic survey] supersedes the May 6, 2016 map" (**Exhibit I**). Additionally, elevations derived from USGS mapping, which are based on the NAVD-88 datum, are consistent with the elevations of the 2023 survey.

The Applicant/Owner continues to argue their erroneous notion that the existing site conditions differ from historical site conditions. The project plans, specifically Sheet A13, should be updated to only illustrate one existing line of terrain (2023 survey elevations). However, the project plans

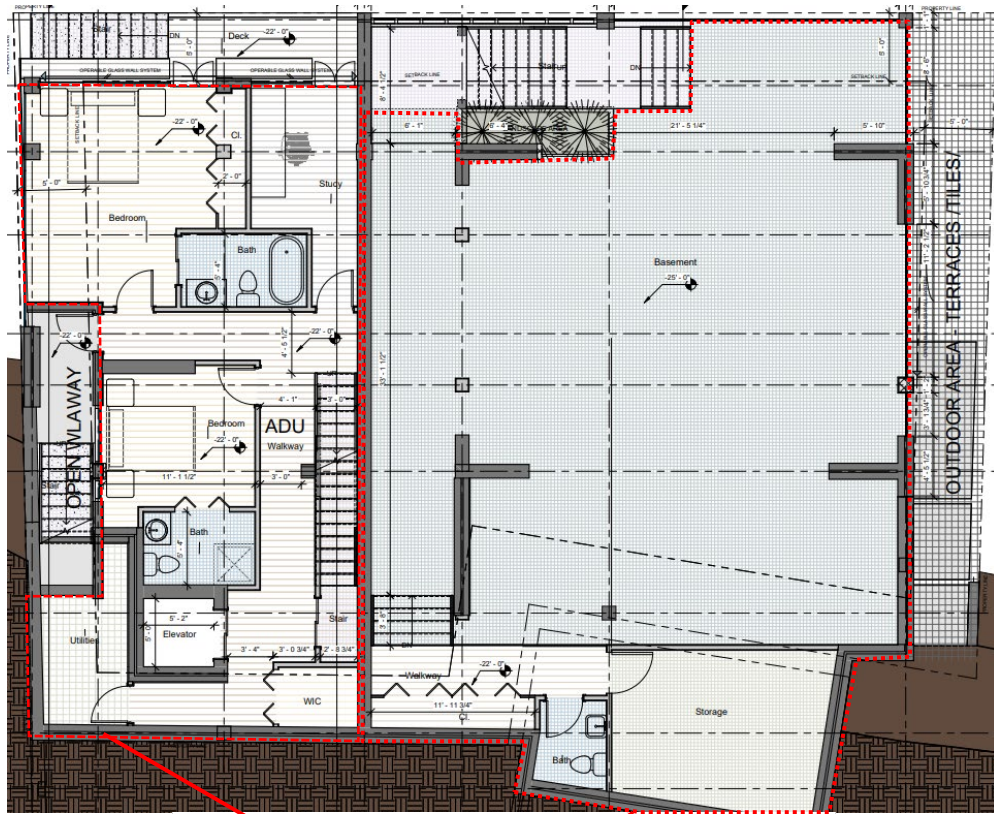
continue to illustrate both survey elevations. Nevertheless, although the elevations of the two topographic surveys differ by 27 feet, both surveys represent today's conditions and thus, using the 2016 survey elevations, rather than the 2023 survey elevations, does not have a significant impact on staff's review but does cause general confusion. When reviewing the details of Sheet A13, staff recommends the Planning Commission and the public ignore the "Elevation Line of Natural Terrain" (claimed historical grade) and understand that the "Line of Terrain after Oakshire Ph. (II-III) Development" does represent today's conditions, but the listed elevations should be adjusted 27.12 feet upwards.

### *Project Square Footage*

Monterey County Code requires that the square footage of each floor must be "...measured from the exterior face of the enclosing walls." The Project Data table on Sheet A0 identifies the square footage of the residential structure's five levels (Levels 3, 2, 1, -1, and -2). However, as illustrated in the detailed floor plans and elevations (see Sheet A12), the proposed residential structure contains six levels. Therefore, the square footage total listed on Sheet A0 is unrepresentative of the proposed project's total size. Additionally, staff has concerns that the provided square footages are not calculated correctly. For example, the proposed basement shown on Sheet A6 is listed at 385 square feet, however, the adjacent lower level of the proposed ADU, also shown on Sheet A6 and visibly smaller than the basement area, is listed at 800 square feet (see **Figure 2**).

In addition to the Applicant/Owner electing not to provide the sixth (lowest) floor's square footage, the provided square footage appears to be calculated incorrectly. HCD-Planning staff requested that the project plans be updated with the correct square footage information, however, the Applicant/Owner has yet to comply with this request. Based on the Project Data table (see Sheet A0 of **Exhibit B1**), the project consists of a 7,112 square foot six-story single-family dwelling (inclusive of stairs, entry, and elevator) with an attached 832 square foot garage, an attached 1,600 square foot ADU, an attached 483 square foot JADU, and 2,347 square feet of covered and uncovered decks, for a total square footage of 12,374 square feet. Given the apparent inconsistencies of Sheet A6, staff manually calculated the floor area for the entire structure using the provided ¼ inch to 1-foot scale. Per staff's rough calculations, the project consists of a 12,469.5 square foot six-story single-family dwelling with an attached 934 square foot garage, an attached 2,124 square foot ADU, an attached 483 square foot JADU, and 3,419.5 square feet of covered and uncovered decks, patios, and exterior staircases, for a total square footage of 19,430 square feet. Staff's calculations indicate that the residential structure is approximately 7,056 square feet larger than the Applicant's calculations.

Since the project site is part of a planned unit development (PUD), it is not subject to floor area ratio (FAR) or lot coverage limitations. Consequently, the total floor area of the project is not required to determine consistency with FAR requirements. However, providing accurate information is required for consideration of the project and the project's total square footage contributes to its bulk and mass, which is discussed below.



**PROJECT DATA**

	STAIRS/ENTRY/ELEVATOR	ENCLOSED LIVING AREA	BALCONY/DECK	LANDSCAPE AREA	ADU	JADU	GARAGE AREA	TOTAL ENCLOSED LIVING AREA
LEVEL 3	63 SF	737 SF	474 SF					737 SF
LEVEL 2	186 SF	1635 SF	524 SF			483 SF		2118 SF
LEVEL 1	459 SF	1782 SF	776 SF	10 SF			417 SF	1782 SF
LEVEL -1	337 SF	1256 SF	190 SF	66 SF	800 SF		415 SF	2056 SF
LEVEL -2	272 SF	385 SF	83 SF	29 SF	800 SF			1185 SF
TOTAL	1317 SF	5795 SF	2347 SF	205 SF	1600 SF	483 SF	832SF	7878 SF

**Figure 2.** Project data sheet and corresponding floor plan.

**PROJECT ISSUES**

*Height Above Average Natural Grade*

The Medium Density Residential zoning district allows main structures to be 30 feet above average natural grade. As a six-story, 67-foot-tall structure, the proposed residence (with an internal ADU and JADU) accomplishes compliance with the maximum height allowed by siting approximately half of the residence below grade (excavating 35 to 45 feet). As discussed above, the Applicant/Owner claims that the “Elevation Line of Natural Terrain” is the project site’s historical natural (pre-subdivision) landform and thus should be used to calculate the average natural grade. Using this “historical” grade, the Applicant/Owner has calculated the project’s height above average natural grade to be approximately 26.5 feet. The “Elevation Line of Natural Terrain” is recognized by County staff and the project surveyor as being the most accurate elevation of the site’s current-day conditions as they were determined by using GPS and the NAVD-88 datum, with a benchmark of 227.12 feet. However, since the project plans are based on an assumed datum with a benchmark of 200 feet, using the 2023 survey elevations or the “Elevation Line of Natural Terrain” is not appropriate to calculate average natural grade due to the conflicting datums and benchmark heights (200 feet vs. 227.12 feet). Therefore, to measure the project’s height above average natural grade, the 2016 survey elevations or the “Line of Terrain after Oakshire Ph. (II-

III) Development” should be used since they are also based on an assumed datum/benchmark of 200 feet. Based on these elevations, the proposed project would have a height above average natural grade of approximately 56.5 feet, almost twice the height allowed. Therefore, as proposed, the project is inconsistent with the subject zoning district’s maximum allowed height.

#### *Design Review*

The subject property is located within a Design Control zoning district, which regulates of the location, size, configuration, materials, and colors of structures. Additionally, Carmel Valley Master Plan Policy CV-1.20 requires that “Development either be visually compatible with the character of the valley and immediate surrounding areas or shall enhance the quality of areas that have been degraded by existing development... and structures should be controlled in height and bulk in order to retain an appropriate scale.” Further, the property is subject to the design criteria of the Carmel Valley Ranch Specific Plan, which requires that architectural styles be in keeping with the Carvel Valley setting and tradition (i.e., barn and ranch style), the height and form of structures reflect and complement the character of the landscape setting, natural materials indigenous to the area (i.e., wood, stone, adobe) be used, and exterior colors be confined to those that harmoniously blend with the immediate surroundings (i.e., browns, siennas, beiges, olive greens).

The 21 developed residential lots within the Oakshire Subdivision range between approximately 3,136 to 5,837 square feet in size. The average residential lot is 3,860 square feet (0.88 acres). Based on staff’s review of the 21 residences within the Oakshire Subdivision, the average single-family dwelling is approximately 3,427 square feet, with individual residences ranging between 2,400 and 4,650 square feet (excluding garage square footage). The average residence’s square footage to lot size ratio is 0.9:1, but individually range between 0.59:1 to 1.3:1. As currently designed, the proposed 15,076 square foot residence (including the proposed ADU and JADU, but excluding the garage and covered and uncovered decks, patios, and exterior staircases) is four times larger than the average residence in the Oakshire subdivision. The proposed project would have a residence square footage to lot size ratio of 4.27:1. Although the proposed residence is six stories high and a majority of the mass would be entirely below grade, three levels would be visible from Oakwood Circle Road, whereas neighboring residences only have one to two levels visible from the road level. Most lots within the subdivision have garage lots, that are independent from the main residential lot. These garage lots have consistently only been developed with garages (except for one lot where an ADU was constructed below a garage). No residential development has been approved above a garage on a garage lot. Here, the proposed JADU would be situated above the garage (on the garage lot), which increases the visible bulk and mass.

As designed, the project incorporates a modern-contemporary architectural style that utilizes horizontal wood siding, grey stone exterior, and large expanses of glass windows with black aluminum framing. While the proposed materials, like stone and wood, are in keeping with the natural materials indigenous to the area, the proposed colors of such materials, flat roof, large expanses of glass windows, and multiple material transitions are neither compatible with the neighborhood character or the Carmel Valley Rural setting nor do they blend in the with surrounding natural environment. Further, the geometric, stacked cube-like design of the structure does not break up the form of the building and increases the perceived massing.

Many residences of the Oakshire Subdivision, which were constructed in the late 1990s, consist of more rural architectural types (e.g., split-level ranch or farmhouse) with horizontal board and batten siding. Though it is recognized by HCD-Planning staff that preferred architectural styles are ever-evolving, the proposed residence does not attempt to incorporate rural architectural design features (e.g., board and batten siding, gable, hipped, or low-pitched rooflines, one to two stories, etc.) to be more compatible with Carmel Valley Master Plan and Carmel Valley Ranch Specific Plan requirements.

In conclusion, staff has determined that the appearance of the proposed residence from Oakwood Circle would be visually larger than neighboring residences and has an incompatible neighborhood character due to its bulk, mass, exterior colors, and architectural style. Accordingly, the proposed project is inconsistent with applicable design-related policies of the Carmel Valley Master Plan and Carmel Valley Ranch Specific Plan. Photos of the surrounding neighborhood are attached as **Exhibit E**.

### *Setbacks*

The development standards for the MDR zoning district are identified in Title 21 section 21.12.060. Required setbacks for main structures and attached accessory structures in this zoning district are 20 feet (front), 5 feet (sides), and 10 feet (rear), unless otherwise noted on the recorded final map. The recorded final map for Tract 1045 of the Oakshire Phase II-III Subdivision, illustrates the subject property (Lot 10, with a garage lot [G10]) as being subject to 5-foot setbacks on all sides, except for the garage lot, which does not have setbacks (**Exhibit F**). As designed the proposed residential structure encroaches into the required 5-foot setback on all sides. The footprint of the residential structure extends to the property line on the front, rear, and western sides and is therefore inconsistent with the required setbacks. Pursuant to Title 21 section 21.62.040, uncovered patios may extend three feet into the required side setback and covered patios may extend up to 2.5 feet into the required setback. The project's uncovered and covered patios on the eastern side of the residence encroach into the required setback by approximately 4 feet, and therefore do not comply with the setback exception.

Title 21 Chapter 21.72 (Variances) states, "Modifications to the setback, coverage, height, building site area, and development standard regulations of this Title may be considered by a variance." HCD-Planning staff informed the Applicant/Owner that a variance is required to modify the required setbacks. However, the Applicant/Owner has declared that a variance is not required because "[the County of Monterey] have never required a variance project for all the other projects [the County of Monterey] have approved to be built into the setback." Accordingly, the Applicant/Owner is not requesting the necessary entitlement to consider a reduction of the required setbacks from five feet to zero feet.

The Applicant/Owner claims to have reviewed the previously approved planning permits for residential development within the subject subdivision and has compiled a list of properties that encroach into the required setback. This compiled list is also supplemented by information provided by a licensed surveyor. This list alleges that the decks of all 21 residences encroach into required setbacks and in four cases, the structure (footprint) encroaches into the required setback. HCD-Planning staff has reviewed the planning permits for all 21 residences within Oakshire Subdivision and does not concur with the information presented by the Applicant/Owner. In many cases, covered and uncovered patios were approved to encroach one to five feet into the required



setbacks with no justification of why such an allowance was made. Due to this privilege enjoyed by a majority of the residences in the area, staff informed the Applicant/Owner that a variance to reduce the required setbacks of the proposed decks would be supported by staff in this case. However, the Applicant/Owner continues to contest the need for the variance. Further, contrary to the information provided by the Applicant/Owner, staff's research found no instance where a planning permit for development within this subdivision allowed the footprint of the single-family dwelling to encroach into the required setback. Therefore, without the request for and the granting of a variance, the proposed project is inconsistent with Title 21 section 21.12.060.C (Setbacks).

#### *Accessory Dwelling Unit*

Title 21 section 21.06.372 defines an Accessory Dwelling Unit as an "attached or detached residential dwelling unit which meets all of the following requirements: does not exceed one thousand two hundred (1,200) square feet; is located on a lot with a proposed or existing primary dwelling; provides complete independent living facilities for one or more persons; and includes permanent provision for living, sleeping, eating, cooking, and sanitation on the same parcel as the proposed or existing single-family dwelling or multiple family dwelling is situated." These requirements are mirrored in the County's Regulations for Accessory Dwelling Units Ordinance (Title 21 section 21.64.030).

The proposed plans list the Accessory Dwelling Unit as being 1,600 square feet. However, per HCD-Planning staff's calculations, the Accessory Dwelling Unit appears to be approximately 2,124 square feet (approximately 924 square feet greater than what is allowed). As described in Title 21 section 21.06.372, ADUs are intended to function as independent living quarters and thus require separate access (no internal circulation) and living facilities independent from the main residence's sleeping, eating, and cooking provisions. Although the proposed ADU has exterior access via a series of staircases, the ADU also has internal circulation with the main residence (see Sheet A5). Further, the lower-level basement and well room are only accessible via the Accessory Dwelling Unit. Consequently, the proposed ADU is inconsistent with the applicable requirements, specifically size and access. When the ADU's size and shared internal access were discussed at the Carmel Valley LUAC, the Applicant/Owner claimed the County did not have Accessory Dwelling Unit regulations. The Applicant/Owner was informed of Title 21 section 21.64.030 following the LUAC meeting, however, revised plans have yet to be received.

Finally, because the proposed ADU does not meet the definition of an "Accessory Dwelling Unit," its habitable area and living provisions are instead considered part of the main residence. Accordingly, the proposed single-family dwelling contains two kitchens, which is inconsistent with the definition of a "Dwelling Unit", which limits a residential structure to one kitchen (Title 21 section 21.06.370).

#### *Utilities*

California American Water Company (CalAm) provides sewer service to the subject subdivision. As illustrated on the recorded final map for Tract 1045 of the Oakshire Phase II-III Subdivision (**Exhibit F**), a 5-foot "Sanitary Sewer Easement" is conveyed over the eastern portion of the subject property and corresponds with the property's 5-foot side (east) setback. A sewer main runs through this easement and connects to a manhole just north and south of the property. Per Volume 16, Cities and Towns Map, Page 8, the Sanitary Sewer Easements "are to be kept open and free from buildings and structures not serving the purposes of the easements". As detailed in the above

*Setbacks* discussion, the proposed residential structure encroaches into the required 5-foot setback on all sides but one. Within the eastern side setback, where the sewer easement is conveyed, only covered decks, exterior stairs, and a tiled terrace are proposed. Construction of the lower-level terrace appears to conflict with the restrictions of the sanitary sewer easement. Additionally, the Applicant/Owner has replanted two five-gallon Coast live oak trees within this easement area. CalAm has commented on the siting of the planting trees, stating “[CalAm] agrees that planting trees within the easement could have an adverse impact on the sewer system and we strongly recommend avoiding that practice. Not only can trees’ roots directly interfere with and potentially damage our sewer lines, if any work needs to be done on the system and trees have been planted in the immediate area, those trees could require full removal to provide the appropriate access to our assets. For these reasons, we don’t recommend planting trees within the easement” (email correspondence with Spencer Vartanian, California American Water, Director of Operations, Coastal Division). Staff informed the Applicant/Owner of the tree’s potential conflict with the sewer easement and CalAm’s general discouragement. Staff requested that the Applicant/Owner submit evidence demonstrating CalAm’s agreement to the re-planted trees, however no evidence has been provided as of the date of this report. Without additional information, the proposed hardscape and re-planted trees appear to conflict with the allowances of the sewer easement and could result in a potential public hazard should construction or tree roots impact the sewer main.

Potable water would be partially provided by CalAm using a 0.30-acre-foot water entitlement purchased from the Malpas Water Company (Water Use Permit No. 582). This water permit would serve approximately 30 fixture units. Based on a review of the project plans, more than 40 fixture units are proposed and thus the purchased water entitlement would not provide sufficient water supply. However, the Applicant/Owner proposes to drill a domestic well to supplement the public water supply. It is unknown whether the well water would serve just a portion of the residential structure (e.g., just the ADU or JADU) or would be mixed with the public water to supply the entire structure. Monterey County Code Chapter 18.05 (Plumbing Code) incorporates by reference the 2022 California Plumbing Code, Code of Regulations, Title 24, Part 5. Additionally, Monterey County Code Title 15 section 15.08.110 requires the construction, repair, reconstruction of, or deconstruction of wells to be consistent with the standards set forth in the California Department of Water Resources Bulletin No. 74-81. California Plumbing Code Table 721.1 and Section 8 of California Well Standard Bulletin 74-81 & 74-90 require that water supply wells have a minimum horizontal distance of 50 feet from any sewer infrastructure to minimize potential exposure to contaminants. Conflicting with this requirement, the proposed well, sited within the southwest corner of the lowest basement floor, would be within 50 feet of the sewer line that runs through the eastern portion of the property.

As designed, the project would exceed the planned water use for this property and thus proposes to drill a domestic well to supplement the allocated 0.3-acre feet of water per year. Policy CV-3.20 of the Carmel Valley Master Plan requires new wells within or near the Carmel Valley Alluvial Aquifer (CVAA) to offset any increase in extractions from this aquifer. The proposed well is approximately 100 feet from the CVAA and could draw water from or have hydrogeological connectivity with the CVAA. Although the Monterey Peninsula Water Management District (MPWMD) does not restrict water usage of private wells located outside of the CVAA, the District would require that the proposed well demonstrate a lack of hydrogeological connectivity to the Monterey Peninsula Water Resource System before it can be utilized. The Monterey Peninsula Water Resource System is defined as the surface water in the Carmel River and its tributaries,

groundwater of the Carmel Valley Alluvial Aquifer, and groundwater of the Seaside Groundwater Basis. If the well were to draw water from the CVAA, the Applicant/Owner would have to prove water rights to the extracted water. In this case, the subject property does not currently draw water from the CVAA, and therefore the proposed well would not be allowed to extract water from this aquifer, pursuant to MPWMD Rule 21-1 and System Capacity Limited Rule 40-A. Further, the Monterey Peninsula Water Management District has informed HCD-Planning that it will not issue a water permit for the proposed residence if the structure is to be served by more than one water source (e.g. mixing water sources).

### *Tree Removal*

In 2017, HCD-Planning issued Tree Removal Permit No. TRM170241 to allow the removal of two dead Coast live oaks (8-inch and 22-inch), subject to one condition of approval. Condition No. 1 (Tree Replacement) required each tree to be replaced on a 1:1 ratio within the same general location as the trees removed. This condition also required that evidence be provided to HCD-Planning demonstrating that the replacement trees had been replanted within 60 days of permit approval and within one year of replanting, an arborist submit a letter to HCD-Planning reporting on the health of the replacement trees and whether additional replanting is required. On September 12, 2024, staff received photographic evidence that two Coast live oak trees were planted on-site, within the sewer easement area. Condition No. 1 is now “Partially Met” and will be “Met” upon submittal of a one-year follow-up letter confirming the trees are healthy.

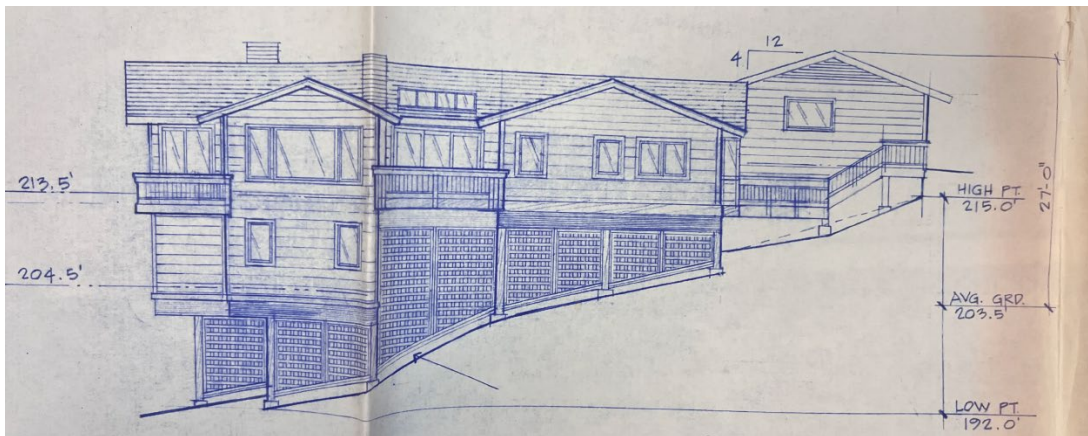
The project-specific Arborist Report recommends the removal of the property’s three Coast live oaks (**Exhibit G**). However, the prepared Arborist Report did not consider the project’s excavation, nearby (off-site) trees, or the trees replanted in September 2024, and therefore underestimated the number of trees that would need to be removed to build the project as proposed. Based on staff’s site visit, one to two additional trees would need to be removed as a result of construction and grading activities (**Exhibit H**). These two additional trees either straddle the property line or are just west of the property. Further, the two recently re-replanted trees would be impacted and removed as a result of the tiled terrain on the eastern side. Staff was unable to discuss the additional trees potentially impacted by the development with the project arborist. Up to seven trees on or near the subject property may be significantly impacted by the footprint of the proposed residence. Carmel Valley Master Plan Policy CV-3.11 requires on-site replanting of native trees on a 1:1 ratio. As proposed, the residential structure encroaches into the required 5-foot setbacks on the north, south, and west sides, and a tiled terrace is proposed on the ground level on the eastern. Consequently, all setbacks would be developed. As currently designed, on-site re-planting of up to seven Coast live oaks cannot be accommodated and the project conflicts with the requirements of Carmel Valley Master Plan Policy CV-3.11.

### *Slopes*

Staff conducted a site visit on August 1, 2024 and confirmed that most of the subject parcel contains slopes in excess of 25 percent (see **Exhibit H**). In order to grant a Use Permit to allow development on slopes in excess of 25 percent, General Plan Policy OS-3.5 requires specific findings to be made: no alternative would allow development to occur on less steep slopes and/or the development on slopes better achieve the resource protection goals, policies, and text of the General Plan. Given the steepness of the entire property, there is no feasible alternative that would allow the entirety of the proposed structure to be sited on less steep slopes. However, as designed and sited, the current proposal maximizes the development on steeper slopes by encroaching into

required setbacks and grading 9 to 20 feet down to accommodate the proposed partial subterranean levels.

A feasible alternative that would reduce the amount of disturbance on steeper slopes and better comply with resource protection policies of the Carmel Valley Master Plan and General Plan includes proposing an appropriately sized residence that conforms to the required setbacks and does not propose up to 20 feet deep of excavation. Many of the other properties in the surrounding neighborhood area contain steeper slopes. However, these properties have been developed with residences that utilize pier foundation systems, which minimize the amount of grading and excavation only necessary for the piers (see **Figure 3**). On the contrary, the proposed development includes a concrete stepped foundation with two partially below-grade levels. Conforming to the required setbacks is a feasible development alternative that minimizes the amount of disturbance on slopes greater than 25 percent by only siting necessary development on steeper slopes. Further, conforming with the required setbacks could preserve up to five protected trees, which are currently slated for removal. Additionally, siting floor levels entirely above grade is a feasible alternative that would minimize the amount of excavation of slopes in excess of 25 percent. Reducing the amount of excavation would control the amount of potential sedimentation of soils and erosion caused by the land-clearing activities, as required by Chapter 16.12 of the Monterey County Code (Erosion Control).



**Figure 3.** Previously approved development within the Oakshire Subdivision that utilizes a pier foundation system.

Compliance with the required setbacks, reducing the number of subterranean levels, and removing only those trees deemed necessary better conforms with the resource protection goals, policies, and text of the Carmel Valley Master Plan and 2010 General Plan, including Policies CV-3.11, CV-3.4, OS-1.2 and OS-3.5, which aim to protect native trees, minimize landform alternation, and control development on steeper slopes. As proposed, the project does not comply with the required setbacks, proposes 2 partially below-grade levels, and removal of up to seven protected trees. Therefore, as proposed, the project does not conform with the resource protection goals, policies, and text of the Carmel Valley Master Plan and 2010 General Plan.

### *Geological Hazards*

A Geotechnical Investigation (Design Phase) was submitted (County of Monterey Library No. LIB230213) in accordance with General Plan Policy S-1.7. This report makes routine

recommendations, such as complying with California Building Code and recompacting the soils to 90%, but does not address the project site's potential geological and seismic hazards. Accordingly, the submitted report does not satisfy the geological report requirements established in Title 21 and the General Plan and does not fully demonstrate that the site is physically suitable, the development will neither create nor significantly contribute to geologic instability or geologic hazards, or that the potential hazard has been reduced to an acceptable level.

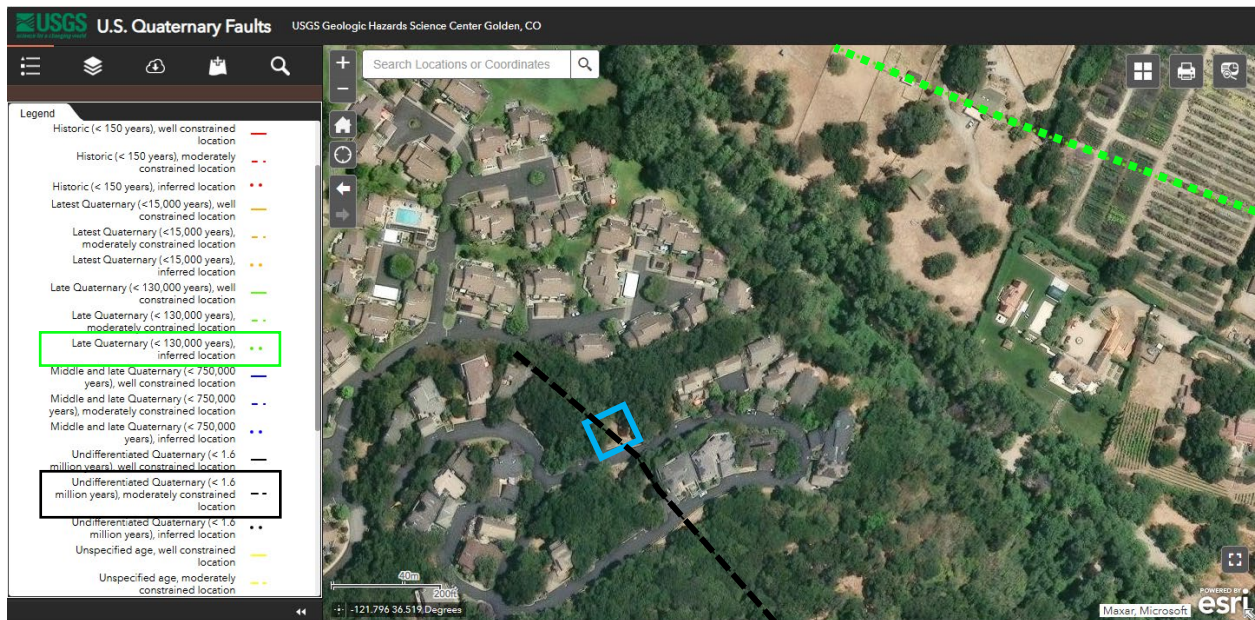
General Plan Policy S-1.5 discourages development within 50 feet of active faults unless measures recommended by a registered engineering geologist are implemented to reduce the hazard to an acceptable level. Further, General Plan Policies S-1.6 and S-1.7 require that a geological report be prepared when development is proposed within a known geologic or seismic hazard area, and/or is in a State- or County- designated Earthquake Fault Zone. Areas of known geologic or seismic hazards are defined by the General Plan as areas with moderate to high landslide susceptibility; high erosion susceptibility; moderate or high liquefaction; seacliff retreat; or tsunami run-up hazards. Additionally, Title 21 section 21.66.040.C requires submittal of a geological report when development is proposed on slopes greater than 30% or is within an 1/8<sup>th</sup> mile of an active or potentially active fault. Based on Monterey County GIS, the subject property contains slopes steeper than 30 percent, has a high erosion hazard potential, and is within 1/8<sup>th</sup> mile of an active or potentially active fault. Thus, a geological report is required and was requested by staff. The Applicant/Owner objects this requirement and instead argues that the conclusions of the 1975 Environmental Impact Report (EIR) prepared for the Carmel Valley Ranch Specific Plan should be used to comply with applicable Title 21 and General Plan requirements and to address staff's concerns relative to geological hazards. Though a geological report was not submitted, staff ultimately deemed PLN230127 complete under the Permit Streamlining Act due to other project inconsistencies. Submittal of a geological report would not change staff's recommendation to deny the project.

A geological report was also requested for PLN240139 (the Applicant/Owner's Builders Remedy Application), which proposes a similar residential development as PLN230127. The Applicant/Owner has yet to comply with this request, arguing the reliance on the Carmel Valley Ranch Specific Plan EIR (**Exhibit L**) and a hydrogeologist-stamped fault setback map (**Exhibit M**). The fault setback map is utilized for the below discussion (see Footnote 1).

There are multiple issues with relying on the Carmel Valley Ranch Specific Plan EIR and the submitted fault setback map. Section 2.6.2 (Seismicity; Page 35 of **Exhibit L**) of the EIR's Environmental Setting recognizes that two faults cross the Carmel Valley Ranch planning area: Snivley's Fault and the Tularcitos Fault. Figure 2.6 of the EIR illustrates geological suitability within the planning area and general locations of the two known faults. The Applicant/Owner submitted a diagram measuring the distance between the Tularcitos fault, as established in Figure 2.6 of the EIR, and the subject property. This diagram was stamped by a licensed hydrogeologist and measured at a distance of 368 feet. The Seismicity Environmental Setting section quotes a geologist, "No special plans need to be formulated to allow for activity on the Tularcitos and Snivley's Faults except to reduce structures to a minimum within 100 feet of the mapped trace" (page 35 of the EIR). While Title 21 (Zoning Ordinance) and the 2010 General Plan require preparation of a geological report if the project site has known geological or seismic hazards or is within 660 feet (1/8<sup>th</sup> mile) of a known active or potential active fault, the Applicant/Owner argues that their project is subject to the 100-foot setback mentioned in the EIR. The quote and associated

100-foot setback are part of the Environmental Setting discussion, not a mitigation measure or requirement adopted by the County. Section 3 (Environmental Impact Analysis; Pages 64 and 65 of **Exhibit L**) of the EIR establishes geologic and seismic mitigation measures, as well as a number of other minimization and avoidance measures to address other resources. Mitigation Measure 3.2.2(b) required that a qualified geologist pinpoint the exact fault locations relative to the golf club, valley floor residential clusters (including the subject Oakshire Subdivision), and the resort lodge. This mitigation measure also addressed various EIR public comment letters objecting to or raising concerns with the accuracy of Figure 2.6’s fault locations.

It is unclear when supplemental fault mapping occurred first. However, in 1997, USGS published a “Geological Map of the Monterey and Seaside 7.5-minute quadrangles”, authored by Clark, J.C., Dupre, W.R., and Rosenberg, L.I (Clark, et. al.). This Geological Map illustrates the Tularcitos Faults as having multiple segments or traces. One of the Tularcitos traces is illustrated on the 1997 map as traveling directly through the middle of the subject property (see **Figure 4**). Monterey County GIS (Parcel Report), the USGS’s U.S. Quaternary Faults Map, and the California Department of Conservation’s Fault Activity Map of California use the 1997 USGS Geological Map data (1997 Clark, et. al.), thus accepting it as the most accurate information available.



**Figure 4.** USGS’s U.S. Quaternary Faults Map (fault layer source: 1997 Clark et. al., accuracy: 1:24,0000 or “good”) identifying known Tularcitos traces, shown in black and green. The subject property is shown in blue. The location of Tularcitos fault line traversing through the property (black) is categorized as “moderately constrained”<sup>2</sup>. The location of the Tularcitos fault line northeast of the subject property (green) is categorized as “inferred”<sup>3</sup>.

<sup>2</sup> A "moderately constrained fault" indicates a decently well-defined fault location, with some level of uncertainty but reliance on good-quality data including surface geological mapping, remote sensing, or seismic surveys to establish its position and characteristics.

<sup>3</sup> An "inferred location fault" means the fault's position is largely deduced from indirect evidence, such as regional geology, seismic data, surface features, and a low level of mapping certainty.

In 2002, the California Department of Conservation published an entitled “Geological Map of the Monterey 30'x60' Quadrangle and Adjacent Areas, California”. This map’s fault locations match the mapping of the 1997 USGS Geological Map. Given the age and the potential changes in the environmental setting as a result of updated fault mapping, staff maintains the position that the 1975 EIR is stale and outdated. Consequently, staff disputes the accuracy and applicability of the Applicant/ Owner’s fault setback map, which relied on the EIR. Notwithstanding the location of the Tularcitos fault, a geological report is still required pursuant to Title 21 and the 2010 General Plan to address the project site’s high erosion susceptibility and steeper slopes (30-50%).

Without a project-specific geological report, there is substantial evidence in the record, namely State and Federal mapping, that indicates the proposed project would be constructed on an active or potentially active fault. Should development occur on this site, there is no evidence that the property’s geological hazard has been reduced to an acceptable level. Therefore, without a site-specific geological report, the proposed project poses a potentially significant threat to its occupants and the surrounding neighborhood’s health, safety, and general welfare.

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