Attachment G

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ANTHONY LOMBARDO & ASSOCIATES
A PROFESSIONAL CORPORATION

ANTHONY L. LOMBARDO
KELLY MCCARTHY SUTHERLAND
JOSEPH M. FENECH
CODY J. PHILLIPS
SHERYL A. FOX

144 W. GABILAN STREET
SALINAS, CA 93901
(831) 751-2330
FAX (831) 751-2331

June 26, 2025

Our File No: 5692.000

Chris Lopez, Chair
Monterey County Board of Supervisors
Monterey County HCD
1441 Schilling Place
Salinas, CA 93901

RE: Johnson/PLN210061

Dear Chair Lopez:

Our office represents the property owners and applicants, Hal and Allison Johnson. The Johnsons propose to construct a new home on a vacant 27,000 SF lot of record (0.61 acres) adjacent to Highway 1 in the Carmel Highlands. The new home will be constructed on a building pad that has existed for decades.

The proposed 2,865 sq. ft home was approved by the Planning Commission unanimously on May 28, 2025. Contrary to the appeal filed by Mr. Francois, no variances were requested for the approved project.

The proposed project requires use of a modest area of 30%+ slopes for the house footprint of 500 sq. ft.

LOCATION OF THE HOUSE AND THE FOUNDATION SYSTEM

The foundation and site design for this home has been prepared by civil, soils, geologic and geotechnical engineers. Their reports are fully and accurately summarized in the Mitigated Negative Declaration (IS/MND) prepared by staff and adopted by the Planning Commission. Both the geological and geotechnical reports considered the site suitable for a single-family residence. The reports included recommendations for site preparation, grading, foundations, storm water control and erosion control. Foundations will be anchored below a projected 100-year bluff erosion profile. All of the expert's recommendations are incorporated as mitigations and conditions of approval. Findings 2, 3 and 7 of staff's recommended Resolution fully addresses this issue.

CONSISTENCY WITH THE CARMEL AREA LAND USE PLAN (CALUP)

In the appeal filed on behalf of the owner of 230 Highway 1[1], immediately south of the Johnson lot, questions are raised about consistency with the Carmel Area LUP. The IS/MND (pp. 69-74) addresses the consistency of the project with the 1982 General Plan, Carmel Area Land Use Plan, and Monterey County Coastal Implementation Plan. The IS/MND found the project to be consistent with all of the Plans. Both the IS/MND and draft resolution go into great detail in their consistency discussion and conclusions.

While the Carmel Area Land Use Plan has significant policy protection and direction to protect the public viewshed, it does not include "invisibility" policies similar to the Big Sur LUP's critical viewshed policies. This project, especially at its reduced scale, fully complies with the policies of the Carmel Area Land Use Plan. The staff report (pages 1-7) and Finding 4 of the staff recommended resolution go into great detail in their analysis and discussion of the visual resource policies and this project's consistency with those policies.

Both the IS/MND and the Resolution prepared and recommended by the staff incorporate detailed evidence and findings, supported by substantial evidence, of the consistency of the project with the 1982 General Plan, Carmel Area Land Use Plan, and Monterey County Coastal Implementation Plan.

THE MITIGATED NEGATIVE DECLARATION PREPARED BY THE COUNTY IS ADEQUATE

The appeal makes several vague and generalized allegations about the adequacy of the County's Initial Study and Mitigated Negative Declaration (IS/MND). The appeal suggests the IS/MND should be revised and recirculated. CEQA Guidelines section 15073.5 (a) requires revision and recirculation if there is substantial information in the record that:

> (1) A new, avoidable significant effect is identified and mitigation measures or project revisions must be added in order to reduce the effect to insignificance, or;
> (2) The lead agency determines that the proposed mitigation measures or project revisions will not reduce potential effects to less than significance and new measures or revisions must be required.

Neither of these conditions exist in this application.

---

[1] The 230 Highway 1 Carmel, LLC is a fractional ownership property. The property is not a home. It is a visitor serving use operated under the "Pacaso" management scheme. Access to the Johnson lot is by a private easement in front of the "Pacaso" home and will be visible to that property. The house at 230 Highway 1 is not a home. It is currently owner by 230 Highway 1 Carmel LLC which appears to be based in Ohio. The house is currently being advertised as a "Co-Ownership Home" where parties purchase an interest in the home. As currently advertised, a 1/8th interest can be purchased for $1,595,000.

The Appellant makes the following vague and unsubstantiated claims and allegations none of which are supported by any evidence and none of which support a conclusion that the negative declaration is inadequate for this project:

1. Infrastructure components are in need of further discussion and analysis. There is no evidence submitted by the Appellant as to what "infrastructure components" need further analysis beyond that already done or why further analysis is needed.

2. Additional evaluation of visual impacts and aesthetics is needed. There is no evidence submitted explaining why the visual impact analysis that has been done is inadequate or the conclusion in the IS/MND that there were not significant visual impacts that required more than the normal mitigations and conditions was incorrect.

3. Biological impacts need further analysis. The Appellant provides no evidence as to why the biological impact analysis done for the Johnson's home was not adequate.

4. Cultural resources analysis and Tribal Resources discussion are inadequate. The Appellant presents no evidence to support its claim that the cultural resource analysis is inadequate. He also objects to preparation of an archaeological mitigation plan as a mitigation stating that the plan should be done ahead of approval. These are standard mitigations and monitoring agreements executed prior to the issuance of construction permits.

5. Geology Impacts require further analysis. The geology issues have been fully addressed as previously discussed. The applicant has supplied significant technical information from experts licensed by the State to address such matters. There is no evidence presented by the Appellant that contradicts the conclusions in these reports or concludes that their analysis is inadequate.

6. Lack of Greenhouse Gas Analysis. Even though the Appellant concludes "the [GHG] impacts are likely less than significant", he is nonetheless calling for a GHG study. But, again, he presents no evidence to support a conclusion that GHG from this project will have any impact.

7. Lack of Hazards Analysis. The Appellant writes, "The MND fails to explain how a staircase leading to Highway 1 would serve as a functional secondary access to the site for emergency responders" (I think the answer to that is obvious.) The Appellant does not present evidence explaining how the description of the staircase relates to the adequacy of the Mitigated Negative Declaration.

   In addition, the project has been reviewed by the Carmel Highlands Fire Protection District. The Fire District has approved the access plan. The plans will be reviewed again as part of the building permit process to assure compliance with the District's requirements and California Fire Code.

8. Hydrology Impacts Need Further Analysis. The Appellant alleges that, "contrary to the MND's findings, this (project) would likely result in significant, unmitigated impacts to erosion and flooding" but provides no evidence to support such a claim. On the contrary under State law, the post development runoff cannot exceed the predevelopment runoff. Stormwater systems are designed specifically to account for storms of varying intensity and duration, to collect and store stormwater and to percolate the water on site at a rate which will not impact or adversely affect the surroundings. The plan has been reviewed by Landset Engineering. Their letter of September 20, 2024 (Exhibit A), confirms the design of the system will meet all local and State requirements.

9. Land Use Consistency Needs Further Discussion: The Appellant asserts the project is inconsistent with the Carmel Area Land Use Plan. This has been previously addressed.

SUMMARY

The Carmel Area Land Use Advisory Committee unanimously recommended approval of a larger home than was ultimately unanimously approved by the Planning Commission.

This appeal is an unfortunate example of how the land use/California Environmental Quality Act process can be used as a tool to try and obtain concessions or delay the construction of housing because a single neighbor does not want to see a home built next door.

We respectfully request that the Board deny the appeal and uphold the approval based on the whole of the record and evidence presented.

Sincerely,

Anthony L. Lombardo
Enclosure

cc: Client
Eric Miller

LANDSET ENGINEERS, INC.

20 September 2024

County of Monterey
Housing & Community Development
14410 Schilling Pl. South 2nd Floor
Salinas, CA 93901

Project: Johnson Residence - APN 241-182-003
Carmel, Monterey County, Cafifornia

Subject: **Drainage & Erosion Control Measures**

Reference(s):

(1) 2024 0812M Francois Letter to Philip Angelo, RE: Johnson Hal W. & Allison H; File No. PLN210061, prepared by Rutan & Tucker LLP, dated August 12, 2024.

(2) Soil Engineering Investigation for Proposed Single Family Residence, 226 Highway 1 (Previously 244 #3 Highway 1) Carmel, California, APN 241-182-003, for Hal and Allison Johnson, 3630 Lost Creek Blvd, Austin, Texas 78735, prepared by Rock Solid Engineering, Inc., Project No. 20020B, dated December 15, 2022.

(3) Grading, Drainage & Erosion Control Plan (Planning Submittal) of the Johnson Residence, APN 241-182-003, Carmel, Monterey County, California, prepared by LandSet Engineers, Inc., Project No. 2288-01, latest revised dated June 20, 2024.

Dear Mr. Angelo:

In response to address concerns regarding the drainage and erosion control per Reference (1), the project storm drain system has been designed with the intent to minimize soil disturbance and protect the coastal bluff from any adverse impacts both short term and long term. The storm water outlets shall be integrated into the exposed top of the weathered bedrock, granite surface where physically possible or to an approved point of discharge as directed by the geotechnical engineer.

As to not concentrate all of the storm water flow to one central location to prevent any excess saturation of unstable areas and any detrimental erosion to the bluff, there are multiple points of release for the storm water to specifically limit the quantity of flow. The storm water will be released into the proposed shallow, subsurface rock spreader trenches which are required to be installed where the outlet is not directly onto the granite surface but into the marine terrace deposits and/or old colluvium as specified per Reference (2) and as shown per Reference (3).

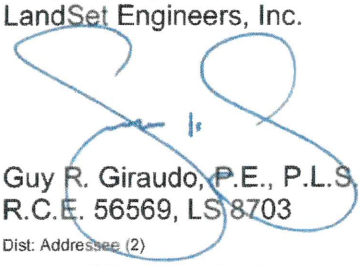
EXHIBIT A

By using the rock spreader trenches, it will first dissipate the flow by reducing the velocity and then allow the water to bubble up and sheet flow out uniformly onto the vegetated surface. Due to the sensitive nature of the bluff, any designated unstable areas shall be delineated in the field and the final locations of each storm drain outlet shall be approved by the geotechnical engineer prior to installation and inspected during construction.

Any tree removal (holes and/or depressions) outside of the building areas will be backfilled with engineered fill compacted to 90% minimum relative compaction per Reference (2) and the overall site shall be protected and in conformance with the Erosion and Sediment Control Plan during the duration of construction per Reference (3).

If you have any questions or further clarification is required, please do not hesitate to contact the undersigned.

Respectively Submitted,
LandSet Engineers, Inc.



Guy R. Giraudo, P.E., P.L.S.
R.C.E. 56569, LS 8703

9/20/24

Dist: Addressee (2)
C:\docs\FILES\09-24-16 MoCo – Johnson Res

Lombardo & Associates comment prior to May 28, 2025 Planning Commission Hearing.
-HCD-Planning

From: Angela Love
To: 293-pchearingcomments
Subject: Johnson/PLN210061 - Agenda Item No: 2
Date: Friday, May 23, 2025 2:12:52 PM
Attachments: L-PC.05.23.25.pdf

Attached for consideration by Chair Gonzalez and the Members of the Planning Commission is correspondence from Mr. Lombardo dated today (May 23rd) regarding the above item which is on Wednesday's PC Agenda as Item No. 2. This is being sent by email only. If you have any problems opening up the attachment, please let me know.

Sincerely,

Angela M. Love
Legal Assistant to Anthony L. Lombardo
ANTHONY LOMBARDO & ASSOCIATES
A Professional Corporation
144 W. Gabilan St.
Salinas, CA 93901
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May 23, 2025

Our File No: 5692.000

Ernesto G. Gonzalez, Chair
Monterey County Planning Commission
Monterey County HCD
1441 Schilling Place
Salinas, CA 93901

RE: Johnson/PLN210061

Dear Chair Gonzalez:

Our office represents the property owners and applicants, Hal and Allison Johnson. The Johnsons propose to construct a new home on a vacant 27,000 SF lot (0.61 acres) adjacent to Highway 1 in the Carmel Highlands. The new home will be constructed on an existing building pad that has existed for decades.

The proposed home has been substantially reduced in size since it was last presented to the Planning Commission. The applicants and their architect accepted the Commission's recommendation that they substantially reduce their proposal due to constraints of the property. As a result, all requests for variances have been removed. The following compares the original project and the reduced project now proposed.

- Floor Area:
    - Previous 4,921 SF
    - Proposed 3,525 SF
    - Reduction -1,396 SF (39.6%)
- Building Site Coverage
    - Previous 4,096 SF
    - Proposed 2,865 SF
    - Reduction -1,231 SF (-42.9%)

- Protected Trees to Be Removed
    - Previous 6
    - Proposed 4
    - Reduction -2 (-50%)
- Building Height
    - Previous 24.15'
    - Proposed 22.00'
    - Reduction -2.15' (-9.8%)
- Grading
    - Previous 2,305 CY Cut/355 CY Fill/2,660 Total
    - Proposed 700 CY Cut/390 CY Fill/1,090 Total
    - Reduction -1,605 CY Cut (-70%)/+35 CY Fill390 (+7.9%)
- Development on 30%+ Slopes
    - Previous 1,448 SF
    - Proposed 500 SF
    - Reduction 948 SF (65%)

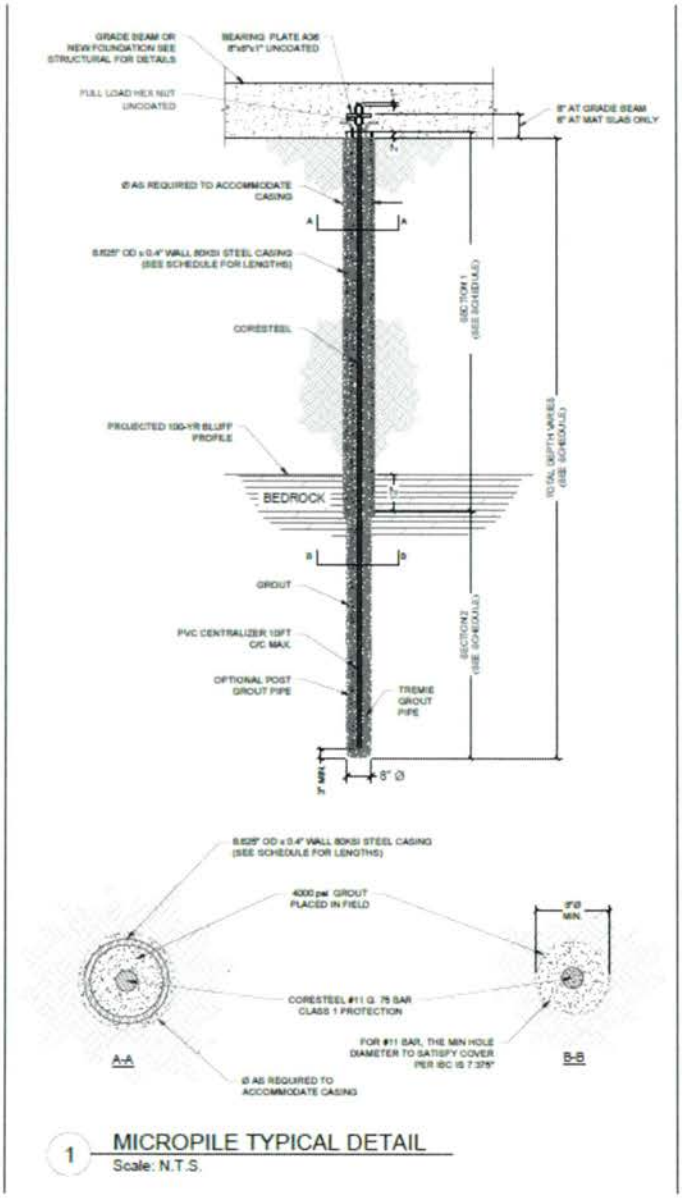
LOCATION OF THE HOUSE AND THE FOUNDATION SYSTEM

The foundation and site design for this home has been prepared by civil, soils, geologic and geotechnical engineers. Their reports are fully and accurately summarized in the Mitigated Negative Declaration prepared by staff which concluded on p. 55, "the geological report stated that the primary geological concerns for the site are slope instability, long-term coastal erosion, and seismic shaking." Both the geological and geotechnical reports considered the site suitable for a single-family residence, provided that the recommendations within them were followed including criteria for site preparation, grading, foundations, storm water control and erosion control. Foundations will be anchored below a projected 100-year bluff erosion profile. All of the expert's recommendations are incorporated as mitigations and conditions of approval. Findings 2, 3 and 7 of staff's recommended Resolution fully addresses this issue.

During the course of the hearing, there was discussion of the foundation system ("micropiles") and that the system would be anchored to the granite bedrock and protect the house in the unlikely event of significant bluff top erosion. The system itself is simple in concept. Piles are drilled down to and several feet into bedrock. They are then anchored and support the foundation. This is a common construction practice used to assure the stability and safety of foundations and structures in situations such as these. The Planning Commission has approved

homes using this type of system previously. The most recent example is the Roberts home between Highway 1 and the ocean just south of Rocky Creek approved by the Commission in March 2024 (PLN230064).

The foundation system is designed specifically for the site by experts, licensed by the State, including geologic engineers, geotechnical engineers, soils engineers and structural engineers. As part of the building permit process, the plan will also be reviewed and approved by the Building Services Department.



1 MICROPILE TYPICAL DETAIL
Scale: N.T.S.

CONSISTENCY WITH THE CARMEL AREA LAND USE PLAN (CALUP)

In the letter from Matthew Francois, representing the owners of 230 Highway 1[1],immediately south of the Johnson lot, he raises numerous questions about consistency with the Carmel Area LUP. The IS/MND (pp. 69-74) addresses the consistency of the project with the 1982 General Plan, Carmel Area Land Use Plan, and Monterey County Coastal Implementation Plan. The IS/MND found the project to be consistent with all of the Plans. Both the IS/MND and draft resolution go into great detail in their consistency discussion and conclusions.

Much of Mr. Francois' discussion addressed the previous project's visibility, grading and removal of native vegetation. While that plan was consistent, the reduced plan of this letter reduces the scale of the project, tree removal and grading and remains fully consistent with the 1982 General Plan, Carmel Area Land Use Plan, and Monterey County Coastal Implementation Plan.

While the Carmel Area Land Use Plan has significant policy protection and direction to protect the public viewshed, it does not include "invisibility" policies similar to the Big Sur LUP's critical viewshed policies. This project, especially at its reduced scale, fully complies with the policies of the Carmel Area Land Use Plan. The staff report (pages 1-7) and Finding 4 of the staff recommended resolution go into great detail in their analysis and discussion of the visual resource policies and this project's consistency with those policies.

Both the IS/MND and the Resolution prepared and recommended by the staff incorporate detailed evidence and findings, supported by substantial evidence, of the consistency of the project with the 1982 General Plan, Carmel Area Land Use Plan, and Monterey County Coastal Implementation Plan.

THE MITIGATED NEGATIVE DECLARATION PREPARED BY THE COUNTY IS ADEQUATE

The attorney representing the Pacaso property at 230 Highway 1 has made several vague and generalized statements about the adequacy of the County's Initial Study and Mitigated Negative Declaration (IS/MND) and suggests the Initial Study and Mitigated Negative Declaration should be revised and recirculated. CEQA Guidelines section 15073.5 (a) requires revision and recirculation if there is substantial information in the record that:

---

[1] The 230 Highway 1 Carmel, LLC is a fractional ownership property owned by 8 different individuals. The property is not a residence. It is a visitor serving use operated under the "Pacaso" management scheme. Access to the Johnson lot is by a private easement in front of the "Pacaso" home and will be visible to that property. The house at 230 Highway 1 is not a home. It is currently owner by 230 Highway 1 Carmel LLC which appears to be based in Ohio. The house is currently being advertised as a "Co-Ownership Home" where parties purchase an interest in the home. As currently advertised, a 1/8th interest can be purchased for $1,595,000. (Exhibit B).

Photographs of the house at 230 Highway 1 during construction in 2014 are attached (Exhibit C).

> (1) A new, avoidable significant effect is identified and mitigation measures or project revisions must be added in order to reduce the effect to insignificance, or;
> (2) The lead agency determines that the proposed mitigation measures or project revisions will not reduce potential effects to less than significance and new measures or revisions must be required.

Neither of these conditions exist in this application.

Some of the subjects the attorney questioned were:

Infrastructure components are in need of further discussion and analysis. The analysis of the potential impacts from the whole of the project as required by CEQA was done for the original and the reduced project.

Additional evaluation of visual impacts and aesthetics is needed. The visual impact has been fully evaluated in the MND which concluded there were not significant impacts that required more than the normal mitigations and conditions. No evidence has been submitted to support any other conclusion other than that of the MND.

Biological impacts need further analysis. While Mr. Francois states additional information is needed, he presents no evidence to support his claim.

Cultural resources analysis and Tribal Resources discussion are inadequate. Again, Mr. Francois argues additional information is needed but presents no evidence from to support his claim. He also objects to preparation of an archaeological mitigation plan as a mitigation stating that the plan should be done ahead of approval. These are standard mitigations and monitoring agreements executed prior to the issuance of construction permits.

Geology Impacts require further analysis. The geology issues have been fully addressed as previously discussed. The applicant has supplied significant technical information from experts licensed by the State to address such matters. The applicant's consultants reviewed all information submitted by Mr. Francois. They found no new substantial evidence to the contrary suggesting their recommendations were not correct or required revisions.

Greenhouse Gas. Even though Mr. Francois concludes "the [GHG] impacts are likely less than significant", he is nonetheless calling for a GHG study. But, again, he presents no evidence to support a conclusion that GHG from this project will have an impact.

Hazards. Mr. Francois writes, "The MND fails to explain how a staircase would serve as a functional secondary access to the site for emergency responders. The MND also states that a fire originating upslope would likely travel east to west and away from the Project site. (MND, pp. 65, 95.) It is unclear why this is or would be the case." Mr. Francois however does not

present evidence explaining how the description of the staircase relates to the adequacy if the MND.

The project has been reviewed by the Carmel Highlands Fire Protection District. The District has approved the plan. The plans will be reviewed again as part of the building permit process to assure compliance with the District's requirements and California Fire Code.

Hydrology Impacts Need Further Analysis. Mr. Francoise writes, "contrary to the MND's findings, this system would likely result in significant, unmitigated impacts to erosion and flooding" but provides no evidence to support such a claim. On the contrary under State law, the post development runoff cannot exceed the predevelopment runoff. Stormwater systems are designed specifically to account for storms of varying intensity and duration, to collect and store stormwater and to percolate the water on site at a rate which will not impact or adversely affect the surroundings. The plan has been reviewed by Landset Engineering. Their letter of September 20, 2024 (Exhibit A), confirms the design of the system will meet all local and State requirements.

Land Use Consistency Needs Further Discussion: Mr. Francoise asserts the project is inconsistent with the Carmel Area Land Use Plan. This has been previously addressed.

COMPARISON OF THE JOHNSON HOME TO THE PACASO HOUSE AT 230 HIGHWAY 1

The impacts of the construction of his home pale in comparison to the impacts of Mr. Francois's Pacaso house next door. The Planning Commission found 230 Highway 1 project to be categorically exempt and approved its coastal permit February 29, 2012 (PLN110359/Resolution 12-006) by a unanimous vote. The approval included construction of a four-story 6,779 SF house, a 1,061 square foot attached four-car garage, a 396 square foot pool equipment room, terraces, patios, tank, infinity pool and hot tub. The Planning Commission's approval also included 2,900 cubic yards of cut and 300 cubic yards of fill and a 334 square foot guest house. Seven trees were removed including 1 oak, 1 Monterey Pine and 5 Monterey Cypress and a Coastal Development Permit for development on slopes in excess of 30%.

While the record is not clear as to the area of 30% slope being developed, although it appears to be several thousand square feet overall, this plan was included with Resolution 12-006 showing the area of the 30% slope to be built upon:

As can be seen, almost all of the house was built on 30% slopes.

SUMMARY

It is understandable why the neighboring owners of 230 Highway 1 Carmel LLC hired Mr. Francois to stop the Johnsons from building their home in the view of the LLC's and to prevent using the existing, long-standing easement through the 230 Highway 1 property.

The Johnsons have done everything that was asked of them, including reducing their floor area and coverage approximately 40% and reducing the development on 30% slope by 65%. There is no substantial evidence to support a conclusion the project is inconsistent with the Carmel Area

Land Use Plan, other development in the area or is not in full compliance with the California Environmental Quality Act. The staff has done a complete and detailed analysis of this project. Our clients accept all of the conditions and mitigations recommended by the staff in their report to you for the May 28th hearing.

The Carmel Area Land Use Advisory Committee unanimously recommended approval of the larger project. The previously described smaller project is consistent with their recommendation.

We respectfully request that the Planning Commission adopt the Mitigated Negative Declaration and approve the Coastal Development Permit as recommended by the staff.

Sincerely,

Anthony L. Lombardo

cc: Client
Eric Miller

LANDSET ENGINEERS, INC.

20 September 2024

County of Monterey
Housing & Community Development
14410 Schilling Pl. South 2nd Floor
Salinas, CA 93901

Project: Johnson Residence - APN 241-182-003
Carmel, Monterey County, Cafifornia

Subject: **Drainage & Erosion Control Measures**

Reference(s):

(1) 2024 0812M Francois Letter to Philip Angelo, RE: Johnson Hal W. & Allison H; File No. PLN210061, prepared by Rutan & Tucker LLP, dated August 12, 2024.

(2) Soil Engineering Investigation for Proposed Single Family Residence, 226 Highway 1 (Previously 244 #3 Highway 1) Carmel, California, APN 241-182-003, for Hal and Allison Johnson, 3630 Lost Creek Blvd, Austin, Texas 78735, prepared by Rock Solid Engineering, Inc., Project No. 20020B, dated December 15, 2022.

(3) Grading, Drainage & Erosion Control Plan (Planning Submittal) of the Johnson Residence, APN 241-182-003, Carmel, Monterey County, California, prepared by LandSet Engineers, Inc., Project No. 2288-01, latest revised dated June 20, 2024.

Dear Mr. Angelo:

In response to address concerns regarding the drainage and erosion control per Reference (1), the project storm drain system has been designed with the intent to minimize soil disturbance and protect the coastal bluff from any adverse impacts both short term and long term. The storm water outlets shall be integrated into the exposed top of the weathered bedrock, granite surface where physically possible or to an approved point of discharge as directed by the geotechnical engineer.

As to not concentrate all of the storm water flow to one central location to prevent any excess saturation of unstable areas and any detrimental erosion to the bluff, there are multiple points of release for the storm water to specifically limit the quantity of flow. The storm water will be released into the proposed shallow, subsurface rock spreader trenches which are required to be installed where the outlet is not directly onto the granite surface but into the marine terrace deposits and/or old colluvium as specified per Reference (2) and as shown per Reference (3).

EXHIBIT A

By using the rock spreader trenches, it will first dissipate the flow by reducing the velocity and then allow the water to bubble up and sheet flow out uniformly onto the vegetated surface. Due to the sensitive nature of the bluff, any designated unstable areas shall be delineated in the field and the final locations of each storm drain outlet shall be approved by the geotechnical engineer prior to installation and inspected during construction.

Any tree removal (holes and/or depressions) outside of the building areas will be backfilled with engineered fill compacted to 90% minimum relative compaction per Reference (2) and the overall site shall be protected and in conformance with the Erosion and Sediment Control Plan during the duration of construction per Reference (3).

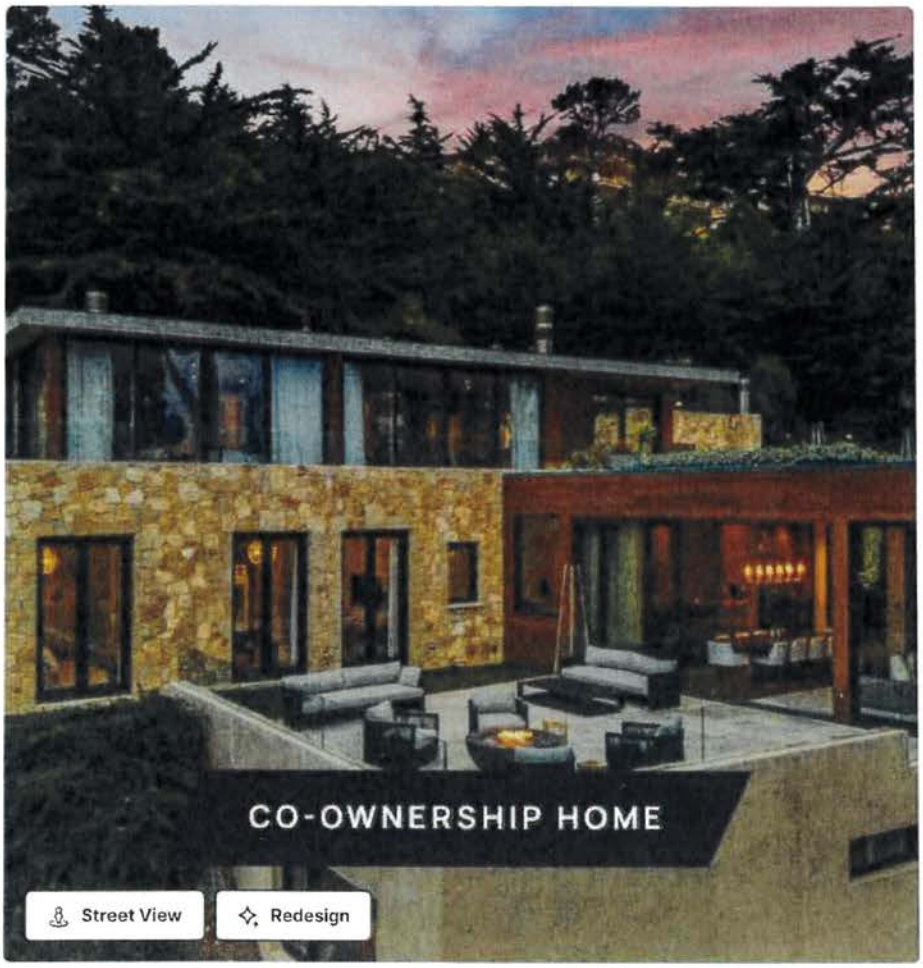
If you have any questions or further clarification is required, please do not hesitate to contact the undersigned.

Respectively Submitted,
LandSet Engineers, Inc.

9/20/24

Guy R. Giraudo, P.E., P.L.S.
R.C.E. 56569, LS 8703

Dist: Addressee (2)
C:\docs\FILES\09-24-16 MoCo – Johnson Res



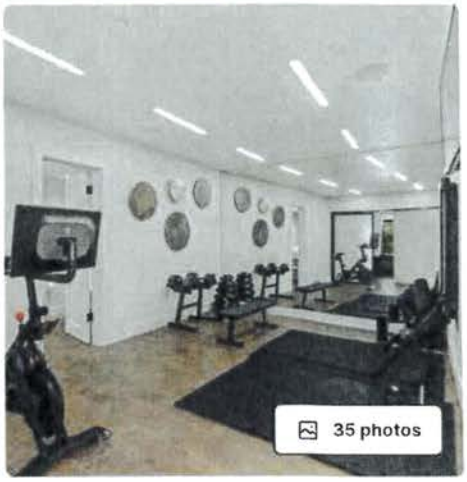


EXHIBIT B

PENDING ON MAY 8, 2025

230 Highway 1, Carmel, CA 93923

$1,595,000
Est. $10,831/mo **Get pre-qualified**

5 Beds

5 Baths

6,670 Sq Ft

About this home

Own one-eighth of this professionally managed, turnkey home. With northern views of the Pacific and a sunny southern exposure, this architectural statement designed by Studio Schicketanz has cantilevered living spaces that maximize the vistas and capture natural light. The home is located just minutes from downtown Carmel on a half-acre along scenic Highway 1, with several nearby. The home has 5 bedrooms, 5 bathrooms

Show more

27 days
On Redfin

Single-family
Property Type

2014
Year Built

0.58 acres
Lot Size

$239
Price/Sq Ft

4 car garage
Parking

Listed by Joseph Maehler • DRE #01457093 • Pacaso Inc

Redfin checked: **9 minutes ago** (May 21, 2025 at 15:27pm) • Source: BAREIS #325032301

Ask Redfin Partner agent Amber Russell and Jennifer Ronan a question

Amber Russell and Jennifer Ronan
Carmel Redfin Partner Agent
Over the Moon Realty, Inc.
Responds in about **3 minutes**

Team of 2 agents

Write a message...

I'd like more home details.

I'm interested in buying.

Is this home still available?

Cookies and your choices

We use cookies and similar technologies ("Cookies") to enhance your user experience, conduct analytics, advertise to you or others, and to share information about your use of our site with third-parties. By using our site, you agree to our use of Cookies to collect and share your information, and to our **Terms of Use** and **Privacy Policy**. Click Cookie Settings for more info or to opt-out of Cookies sharing your data for targeted advertising.

This home is pending

The seller has accepted an offer, and this property is now pending.

Questions? Redfin partner agents are here to help

Typically responds in about **3 minutes.**

Write a message...

Ask a question

2014 CONSTRUCTION PHOTOGRAPHS OF 230 HIGHWAY 1

EXHIBIT C


07/03/2014 14:41


08/22/2014 12:41


07/03/2014 14:12


08/22/2014 12:42

Rutan & Tucker LLP public comment prior to May 28, 2025 Planning Commission Hearing.
-HCD-Planning

From: Respicio, Maryknol
To: 293-pchearingcomments
Cc: Angelo, Philip; Brayer, Robert I.; breylen.ammen@coastal.ca.gov; katie.butler@coastal.ca.gov; tony@alombardolaw.com; Francois, Matthew
Subject: Johnny Hal W. Jr. & Allison H; File No. PLN210061; May 28, 2025 Monterey County Planning Commission Agenda Item No. 2
Date: Tuesday, May 27, 2025 1:56:10 PM
Attachments: image001.png
2025 0527 M. Francois Letter to E. Gonzalez Re Johnson Hal W Jr. and Allison H.pdf

Dear Chair Gonzalez and Members of the Planning Commission:

Attached please find a letter from Matt Francois regarding the above-referenced subject matter.

Please let Mr. Francois know if you have any questions or comments.

Thank you.

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Matthew D. Francois
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May 27, 2025

VIA EMAIL [pchearingcomments@countyofmonterey.gov]

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

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

Dear Chair Gonzalez and Members of the Planning Commission:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

****

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

Sincerely,

RUTAN & TUCKER, LLP

Matthew D. Francois

MDF:mr

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

EXHIBIT A

REVISIONS TO CONDITIONS OF APPROVAL

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

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

      or

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

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

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

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

EXHIBIT B

J:\20 Jobs\2009 Johnson_DD\009a1-1r1 s.dwg 5-23-25 05:05:48 PM

NOTE: ALL REPLACEMENT TREES TO BE THE FOLLOWING:

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

LEGEND

= BUILDING FOOTPRINT

= TREE TO BE REMOVED

= TREE TO BE PLANTED

N

PLANTING PLAN

0 8' 16' 32'

SCALE: 1/16" = 1'-0"

REVISION	No.

CONSULTANT:

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

PLANTING PLAN

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

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

A-1.1a
SHEET OF

Applicant re-submittal letter with response letters to Cornerstone Earth Group letter attached.
-HCD-Planning

ERIC MILLER
ARCHITECTS

April 9, 2025

Mr. Phil Angelo, Senior Planner
Housing and Community Development
1441 Schilling Place South 2nd Floor, Salinas, CA 93901

re: PLN210061 (Johnson)

Dear Mr. Angelo,

This is an analysis of the changes made to the Johnson Residence (PLN210061) located at 226 Highway 1, Carmel, CA 93921, APN 241-182-003-000.

The redesign addresses each of the major issues raised by the Planning Commission in the October 30, 2024 hearing including scale of development and development on slopes, the scale and nature of requested variances, the siting of the project and its potential impact on visual resources, tree removal, and the safety of development in proximity to the bluff.

Scale of Development / Development on Slopes

The redesigned building has been reduced in scale with reductions in floor area, site coverage, height and building site coverage. Development in 30% slope areas has been significantly reduced. The particulars are as follows:

The redesigned building was determined by the most appropriate buildable area on the site. The proposed building location falls within a building pad on the site that follows the 30' Highway 1 setback for around 86' and projects towards the bluff around 31', stopping short of the drastic drop towards the ocean. The 31' dimension is determined from the start of the 30' Highway 1 setback and ends along the bluff when the slopes are greater than 30%. The 86' length is determined by (1) the setback required on south-east property line to allow for a firetruck turnaround in the auto court as well as existing easement for well access, and (2) the setback required on the north-west property line to obscure the building's visibility from the Highway 1 pullout. This rectangular building pad is the best and only viable location for a proposed building on this property. Due to the natural variation in terrain, there are still small portions of this pad with 30% slope, but the majority of this building pad is flat and suitable for development.

The overall scale of the project has been significantly reduced and is quantified on page A-1.2a. The total floor area has been reduced by 1,396 square feet, resulting in a proposed floor area of 3,525 square feet and a FAR of 12.9%. The total building site

coverage has been reduced by 1,231 square feet, resulting in a proposed building site coverage of 2,865 square feet and a ratio of 10.5%. The building height has been reduced by 2.75 feet, resulting in a proposed building height of 22 feet. The proposed design is 7.1% below the allowed maximum floor area, 4.5% below the allowed maximum building site coverage, and 8 feet below the allowed maximum building height. The tree removal count has been reduced from 6 trees to 4 trees, and the arborist has reviewed the redesign and provided an updated report. The percentage of the building in 30% slope has been reduced from 46% to 21%, with the required off street parking falling within a majority of said percentage.

The total development in 30% slope has been significantly reduced as well and a diagram depicting said development can be seen on pages A-1.2b and A-1.2c. All patios within 30% have been eliminated, and the remaining development, including firetruck turnaround, required parking, fire department access, well access, required utilities, and terraced retaining walls, have been reduced to the necessary minimum.

Variances, Nature, and Scale

The project has been redesigned to remove the request for all variances. All structures within setbacks are below 6 feet in height. All development within 30% has been reduced to the necessary minimum.

Visual Resources

The redesign of the building has located it outside of visibility by the public, with diagrams and renderings confirming this located on page A-1.4 and A-7.3. The design reduction has removed the need to plant screening and instead uses the existing trees to screen the home.

Tree Removal

The proposed tree removal has been reduced from 6 trees to 4 trees and has been reviewed by the arborist. The two trees saved are one mature 24" cypress on the downhill side as well as one 12" cypress on the uphill side. The 4 trees requested for removal are all in fair and poor conditions, with either crown dieback & limb breakage, or partially uprooted.

Safety / Development in Proximity to a Bluff

The overall architecture of the building has been simplified for ease of development and construction on a challenge site. The foundation's micropiles are primarily located outside of 30% slope and will penetrate beyond the geological 100-year bluff. The perimeter micropile locations are estimated to be 4 feet on center with the possibility of northern perimeter locations being moved away from the area of 30% slope.

157 Grand Avenue, Suite 106 ■ Pacific Grove, California 93950 ■ Ph: 831.372.0410 ■ Fax: 831.372.7840 ■ Eric Miller Architects, Inc. ■ www.ericmillerarchitects.com

In addition to addressing specific issues raised by the Planning Commission, please note the following:

Waste Hauling Logistics

The designer of the system, Utility Services, has indicated that the location of the septic tank for pumping would be acceptable. The truck access in the motor court is sufficient to reach a 100-foot pipe for servicing.

Neighborhood Site Analysis

A thorough analysis of the neighboring property's statistics has resulted in an average FAR of 14% and an average floor area of 4,801 square feet between all 10 residences. With a proposed FAR of 12.9% and a proposed floor area of 3,525 square feet, the redesigned residence falls under the surrounding community's average calculations by 1.1% below the FAR and 1,276 square feet below the floor area.

This concludes the architectural analysis of the changes made to the Johnson Residence.

Sincerely,

Eric Miller, AIA
Eric Miller Architects, Inc.

157 Grand Avenue, Suite 106 ■ Pacific Grove, California 93950 ■ Ph: 831.372.0410 ■ Fax: 831.372.7840 ■ Eric Miller Architects, Inc. ■ www.ericmillerarchitects.com

Easton Geology, Inc.
P.O. Box 3533, Santa Cruz, CA 95063
831.247.4317 info@eastongeology.com

4 April 2025

Hal and Allison Johnson
3630 Lost Creek Blvd.
Austin, TX 78735

Job No. C21019

Re: Response to Peer Review Comments for
Proposed Development at 226 Highway 1
Carmel Highlands, California
Monterey County APN 241-182-003

Dear Mr. and Mrs. Johnson:

Easton Geology, Inc. has prepared this letter in response to peer review comments made by Cornerstone Earth Group regarding our geologic investigation report for the above-referenced property. The comments stem from the Monterey County application review and public hearing process for the project. The project has been reduced in scale subsequent to the comment process. Our responses below reflect the reduced scale of the project.

For this response letter we reviewed:

- Cornerstone Earth Group, 2024, Geotechnical/Geologic Peer Review, 226 Highway 1, Carmel California, Project No.: 1539-1-1, dated October 28, 2024, 13p.

- Easton Geology 2022, Geologic Investigation, 226 Highway 1, Carmel, California, Monterey County APN 241-182-003, Job No. C21019, prepared 15 December 2022, 35p., 7 plates.

  Easton Geology, 2020, Geologic Feasibility assessment for Coastal Property at 244 #3 Highway 1, Carmel Highlands, California, Monterey County APN 241-182-003, Job No. C20006, prepared 17 August 2020, 7p., 1 plate.

- Eric Miller Architects, 2025, Proposed Site Plan, Johnson Residence, 226 Highway 1, Carmel, California, 93923, APN 241-182-003, dated 2/20/2025.

Background

The proposed homesite encompasses a small cut and fill pad between the edge of an approximately 85 foot high coastal bluff and a slope descending from Highway 1. We prepared a letter summarizing our assessment of the geologic feasibility for developing the site in August 2020 (Easton Geology, 2020). Our feasibility assessment analyzed the 100-year stability of the site and included a geologically feasible building envelope which incorporated a setback from the toe of

the steep coastal bluff below the existing graded pad, and a 20 foot ministerial setback from the northeastern property line below Highway 1. Our letter concluded that the parcel is geologically feasible to develop, with any development seaward of the geologic setback requiring foundation elements to penetrate below the projected 100-year bluff profile.

We prepared a geologic investigation in December 2022 (Easton Geology, 2022) which again concluded that the site is geologically feasible to develop and included recommendations for mitigating the geologic hazards identified at the site, such as founding structures below the projected 100-year bluff profile and into competent rock. The report included a map depicting our estimated position of the blufftop at the site in 100 years. Our 2022 geologic investigation report supersedes our geologic feasibility assessment completed in 2020.

Cornerstone Earth Group Peer Review Comments and Easton Geology Responses

We have prepared the following responses to the comments (*italicized*) made by Cornerstone Earth Group.

1. *Easton does not adequately characterize three geologic features which appear to represent either active or potentially active landslides, as summarized below.*

    a. *A deposit of Qoal is located beneath the proposed autocourt and also downslope of the southeastern end of the proposed residence as shown on the Easton geologic map. This elongated deposit appears to occupy a sloping swale surface that steepens towards the face of the slope as shown in geologic cross-section D-D'. It would appear that this deposit might be a landslide. The unsupported toe of this deposit is shown as Feature "A" in the attached photo.*

Easton Geology Response: Old alluvium (Qoal) was encountered in Exploratory Shaft 1 and is exposed in the bluff face below the site. The alluvial deposit infills an old, narrow, hillside swale. Similar ancient, infilled swales are visible in roadcuts above Highway 1 near the site. Where exposed in the bluff-face, the old alluvium is stratified and clasts are imbricated. The bluff-face exposure is unsupported yet maintains a steep slope similar to the adjacent granite and marine terrace deposits. As encountered in Exploratory Shaft 1, the alluvium is dense, normally graded, and its clay matrix is stiff. The alluvium encountered in the shaft and exposed in the bluff face is matrix supported in the upper portion of the deposit and becomes clast supported in the lower portion. We saw no shearing or offsets within the old alluvium. The soil profile exposed in the cutslope through the infilled swale in the southeastern portion of the property (above the autocourt) reveals a well developed pedogenic soil. None of the above observations are suggestive of the old alluvium or the swale it infills as resulting from landsliding. We interpret the alluvial deposits to be at least 125,000 years old based on their geomorphic position above a Pleistocene marine terrace, and they are believed to grade with the marine terrace deposits below.

    b. *Along the bottom of the steep slope is an exposure in the granodiorite that shows the intersection of 3 primary joint sets. At this location is a feature that appears to be a potential wedge failure with green moss indicative of seepage (see Feature "B" in the attached photo). Other areas, and potentially those covered by vegetation are indicative of potentially similar rock failure conditions.*

Easton Geology Response: Feature "B", as delineated by the reviewer, is located below the joint-bounded scarp mapped by our firm. Formation of the joint-bounded scarp appears to be the

result of a wedge failure within the weathered granite on the upper bluff. We measured two adversely dipping joint sets in this area, and their resulting line of intersection (the axis of sliding) trends 228AZ and plunges approximately 47 degrees to the southwest. The upslope trend of the axis of sliding passes well north of the proposed residence. Current revised plans for the project depict the proposed residence about 30 feet from the left margin of the mapped wedge failure scarp depicted on Plate 1 of our report and is at least 40 feet from the axis of sliding. The footprint of the proposed residence and its foundation will not be affected by potential enlargement of this slide feature. We saw no wedge failures of similar or larger size during our investigation.

c. *The geologic map shows a headscarp near the northwest corner of the residence deck. The map indicates an 8' vertical joint-bounded scarp at this location with 5 joint attitudes showing random strikes and moderate to steep dips of between 52° and 81° in the granodiorite. Given the other observed joint sets in cliff exposure during our reconnaissance, this scarp (Feature "C" in the attached photo) represents an active slope instability condition.*

Easton Geology Response: We do not believe that Feature "C", as delineated by the reviewer, corresponds with any mapped slope instability features mapped by our firm. The location of "Feature C" on the photo markup by the reviewer lies in the northernmost portion of the parcel, is coincident with a shallow drainage swale, and appears to be 60 or more feet from any proposed improvements. The joint-bounded headscarp referenced on our geologic map was discussed above and corresponds with Feature "B" delineated by the reviewer.

2. *Easton needs to describe in detail how the base of the "Projected 100-year Bluff Profile" was chosen for the initial 3 cross-sections in the Feasibility Report and the final 5 cross-sections in the Easton Geologic Report. Specifically, describe the basis for the lowermost beginning point and the angle of projection towards the top of bluff of the line. Also explain how this appears to be the same geometry on all 5 profiles, given the presence of a bedrock scarp in A-A', deposits of Qoal on the face of D-D', and a pocket of Qcl in E-E'.*

Easton Geology Response: The overall stability of the bluff is governed by wave erosion and failure along adversely dipping joints. For our 100-year bluff retreat analysis we incorporated a minimum of ten horizontal feet of wave erosion at the base of the bluff. This is considered a conservative value, as our measured retreat rates, and those by Scripps (2022), as documented in our report, were less than 0.1 foot per year (10 feet in 100 years) over the nearly 100-year aerial photographic record of the site. We projected critical joint surfaces (adjusted for apparent dip) of between 50 and 57 degrees on our geologic cross sections, assuming failure of the bluff occurring along an adversely dipping joint plane when intersected at its base by wave erosion. We drew the position of the 100-year blufftop where failure along the critical joint plane daylighted with the slope. Many measured joints at the site were typically steeper than the critical joint surfaces, and failure along these joints would not reach as far into the slope. Again, we consider the position of the 100-year blufftop conservative.

The presence of surficial deposits and existing small failure scarps (which are anticipated) are important to consider for local bluff stability and foundation consideration; however, the future position of the blufftop is a more global and prudent bluff stability consideration. It is for these reasons that we have considered both long-term and short-term bluff stability and have

recommended deep foundations which penetrate the anticipated future bluff configuration where improvements are proposed seaward of the 100-year blufftop.

3. *Easton needs to provide more discussion and defense of their initial position whereby development seaward of the "geologically feasible building envelope" must not rely on support from material above the projected bluff profile (as depicted on the cross-sections in the 2020 Feasibility Report) yet later development is allowed seaward of the envelope based exclusively on acceptance via a Factor of Safety of 1.0 in the worst case. Justifying this shifting of the allowable development seaward strictly because of retaining wall and foundation elements being embedded into the underlying competent bedrock is not warranted and conflicts with Monterey County guidance on allowable building on slopes exceeding 30°* [sic – we believe the reviewer meant to say 30 percent].

Easton Geology Response: As previously stated, our 2022 geologic investigation report supersedes our 2020 geologic feasibility report. We have not "shifted the building envelope", and our recommendations for founding structures seaward of the 100-year bluff is unchanged between our 2020 and 2022 reports – foundations shall penetrate below the projected 100-year bluff profile line depicted on the geologic cross sections where improvements are proposed seaward of the 100-year blufftop. The siting of improvements seaward of the position of the 100-year blufftop is not based on a factor of safety of 1.0 but is instead based on founding the structures into competent rock below the projected 100-year bluff profile. The Monterey County Carmel Area Land Use Plan Local Coastal Program and Monterey County Coastal Implementation Plan do not prohibit development on slopes exceeding 30 percent, only that a geologic report is required for development proposed on slopes greater than 30 percent. Our recommendations for responsible and feasible development do not conflict with Monterey County policy.

4. *Easton needs to describe why a kinematic analysis was not performed on this project. Structural attitudes were measured from cut slopes and outcrops at various locations in the study area. While recognizing that access to measurement points is limited due to the steepness of the slopes, there are other methods for obtaining bedrock joints and shears. These include terrestrial LiDAR to develop point clouds as well as line surveys along the face of the toe of slope from a boat or kayak.*

   Relying entirely on surface measurements does not account for anisotropic variability. Therefore, obtaining structural measurements from boreholes is also needed to complement the surface surveys. Downhole televiewer methods (video or acoustic) allow for collection of data with depth. Both methods can provide useful structural data to be used in kinematic analysis that can show the types of failure that may occur on the project site. Easton described in the 2022 Geologic report that due to access limitations hand dug shafts were substituted for drill holes along the autocourt retaining wall. These shafts only penetrated weathered bedrock and do not provide nearly enough structural data of less weathered bedrock to conduct the required analysis. Based on our reconnaissance, other portions of the site close to the setback line could be accessed by track mounted drill rigs capable of advancing wireline diamond coring tools with accompanying downhole televiewer tools. Should future rock coring be utilized on this site, there needs to be consistency on the borehole logs with respect to the degree of bedrock weathering.

Easton Geology Response: A kinematic analysis was not initially performed for this project, as we consider our 100-year bluff retreat analysis conservative due to the low rate of bluff erosion at the site (less than 0.1 foot per year) and an assumed failure along a critical joint surface intersected by wave erosion at the end of 100 years. Granitic bedrock is exposed throughout much of the steep bluff-face as well as on the slope below and above the proposed development area – effectively comprising a vertical bedrock exposure nearly 100 feet high. We measured 28 prominent bedrock joints exposed within the bluff-face and above the proposed homesite. From our site reconnaissance we found that jointing is relatively consistent across the property and were satisfied that we had collected sufficient structural data to characterize the site. For these reasons we elected not to perform wireline coring. We selected adversely dipping joint planes of between 50 and 57 degrees (adjusted for apparent dip) as critical joint failure surfaces for our 100-year bluff retreat analysis on the geologic cross sections. We drew the position of the 100-year blufftop where assumed failure along the critical joint plane daylighted with the slope, as depicted on Plate 1 of our geologic report.

The existing wedge failure scar on the upper bluff slope lies within weathered granite. We performed a kinematic analysis of the wedge failure in December 2024. Kinematic analysis of the adverse joints bounding the failure scar yielded a line of intersection trending 230AZ and plunging 47 degrees to the southwest. Utilizing an equation from Hoek and Bray (1981) and a friction angle of 43 degrees measured from weathered bedrock, we calculated a static factor of safety of 1.41 for wedge failures within the weathered granite. A factor of safety of less than 1.0 would indicate a higher probability of failure. Variables such as root wedging, ground water, and seismic shaking can precipitate slope failures.

With a slope of about 70 degrees, the bedrock bluff-face below the wedge failure scar discussed above is considerably steeper than both the friction angle of 43 degrees and an axis of sliding of 47 degrees within the weathered granite comprising the upper bluff-face. We saw no deep wedge failures within the steep bluff face on the property or on the much taller segment of bluff-face just upcoast of the site. A likely reason for this is that the less weathered bedrock in the bluff-face has a higher friction angle, and a more steeply plunging axis of sliding as evidenced on the bluff-face. Thus, failures along the bluff face at the site are shallower and more steeply inclined.

In our opinion, wedge failures as discussed above and as mapped at the site may occur during the anticipated lifetime of the project and are part of the natural bluff erosion process. These failures will occur seaward of the position of the 100-year blufftop and above the projected 100-year bluff profile. The potential for future bedrock bluff failures to undermine improvements located seaward of the 100-year blufftop will be mitigated by a foundation system consisting of micropiles penetrating below the projected 100-year bluff profile.

5. *Slope stability analysis was performed previously by Rock Solid (2020) in their Preliminary Geotechnical Investigation report. The results of this analysis were referenced in their final geotechnical report, but not modified. The slope stability analysis performed included analysis of potential rotational failures in the soils and weathered granite above the fresher granite at depth. While it seems worthwhile to check this potential failure mechanism, it does not appear to be the primary mechanism for instability of the bluff. As described in the corresponding geologic report (Easton, 2022), "Planes of weakness such as joints, shears, and inactive faults control the overall configuration of the very slowly retreating bluff-face." In our opinion, it would be important to the design of the foundation to analyze this potential failure mechanism (i.e.*

block failure along joints) to further understand what forces may act on a "seaward" pile foundation extending to below the projected 100-year bluff profile line. These forces may exceed those recommended for design (see Comment 6 below).

Easton Geology Response: Our qualitative retreat analysis for this project is consistent with the methods used by others for similar investigations in the immediate area, such as at 239 Highway 1 and 255 Highway 1. These projects have been approved and constructed. Our retreat analysis for this project considered failures along adversely dipping joints coupled with the slow rate of wave erosion at the base of the bluff. For improvements located seaward of our 100-year blufftop, we recommended a foundation system which penetrates below the projected 100-year retreat profile. Deep-seated block or wedge failures extending moderate distances inland do not appear to be a dominant or likely mode of failure along the bluff at the site. We saw no evidence of prior, moderate to largescale block or wedge failures along the coastline in the site vicinity. We saw no moderately inclined bluff-faces or rubble piles resulting from block or wedge failures at the base of the bluff indicative of past block or wedge failures near the site. Instead, the bluff-face at the site and vicinity is very steep to near vertical and comprised of blocks of well jointed granite.

The structural engineer for the project design build team performed a finite element analysis in designing the micropile foundation system to support the proposed development. The analysis considered both the existing and 100-year eroded bluff profiles and was designed for all load demands.

This comment has also been addressed by Rock Solid Engineering.

6. *For design of micropiles (to be designed by others), Rock Solid has recommended an active earth pressure of 30 psf/ft, acting on a plane which is 1½ times the shaft diameter. Active earth pressures assume that a pile is free to deflect to achieve active earth pressures. However, the micropiles will likely be designed to resist lateral movement (i.e. with battered piles) and be relatively stiff, as well as restrained at the base of the residence. Therefore, it seems likely that the planned micropiles should be designed (at a minimum [see Comment 7]), for earth pressures closer to at-rest earth pressures. Earth pressures should be considered over up to 3 pile diameters based on materials, micropile spacing, geometry, and other factors.*

This comment has been addressed by Rock Solid Engineering.

7. *Once design forces on a potential micropile foundation is determined, a design-builder should also consider potential deflections of the structure, static and seismic, in their analysis. Most testing has shown that micropiles provide little lateral resistance in bending, and the lateral forces should be resisted by tensile and compressive axial forces in varying battered piles. The consideration of these factors and potential increased forces in design based on further kinematic and slope stability analysis, may likely make micropiles infeasible.*

This comment has been addressed by Rock Solid Engineering.

8. *Rock bolts are to be designed to retain significant cuts into the granitic slope near the property line. It is recognized in the geotechnical report that an easement will be required where rock bolts will extend onto Caltrans right-of-way. In addition, walls*

along the east side of the property, or the east side of the easement to the property, where a failure could potentially affect Caltrans property or facilities, will likely have to be submitted to Caltrans for review prior to approval. Further, any drainage culverts including the one previously mentioned entering the property from the upslope area will need to have adequate catchment and disposal away from the building areas.

This comment has been addressed by Rock Solid Engineering.

9. *For seismic earth pressures, Rock Solid recommended a resultant acting at 0.6H above the base of the wall. Current research shows that a resultant acting at 0.33H is more representative of the location of the resultant of seismic earth pressures (Lew, M., Sitar, N., Al-Atik, L., Pourzanjani, M., and Hudson, M. B. [2010]).*

This comment has been addressed by Rock Solid Engineering.

10. *The geotechnical report indicates that development west (i.e. seaward) of the 100-year blufftop will require deep foundations. However, it is unclear if deep foundations are required for the entire foundation system in this case. The report also mentions both slabs-on-grade and structural slabs supported by micropiles for the residence. Again, it is unclear what the final intent is. In our opinion, it would be prudent to uniformly support the residence on one foundation system type, and one slab system, or that it be further explained in the report. In our opinion, it does not seem prudent to have half the residence pile supported with structural slabs, and half with a different foundation system with slab-on-grade floors.*

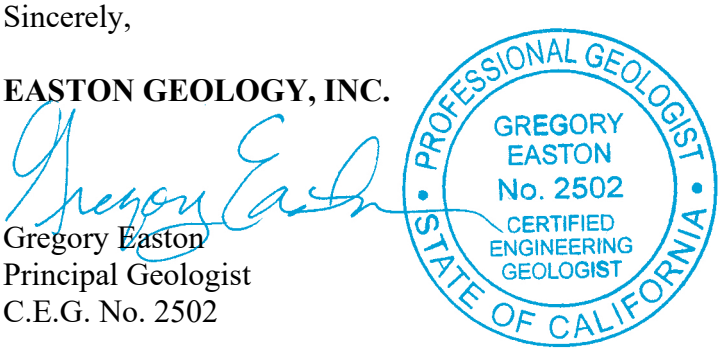
This comment has been addressed by Rock Solid Engineering.

In summary, it is our opinion that the Easton Geology and Rock Solid Engineering reports adequately mitigate the geologic and geotechnical hazards relevant to the proposed development, and the proposed development is compatible with the site.

Please contact our firm if you have any questions or concerns regarding this project.

Sincerely,

EASTON GEOLOGY, INC.



Gregory Easton
Principal Geologist
C.E.G. No. 2502

Copies: addressee (pdf)
Anthony Lombardo & Associates, attn: Deborah Castles, Esq. (pdf)
Eric Miller Architects, attn: Carla Hashimoto (pdf)
Rock Solid Engineering, attn: Yvette Wilson (pdf)

ROCK SOLID ENGINEERING, INC.
Geotechnical and Coastal Engineering • Soil Reports • Site Assessments • Expert Witness • Manufactured Homes

Project No. 20020B
April 4, 2025

Hal and Allison Johnson
3630 Lost Creek Blvd
Austin, Texas 78735

SUBJECT: **RESPONSE TO PEER REVIEW COMMENTS**
Proposed Single Family Residence
226 Highway 1, Carmel, California (Previously 244 #3 Highway 1)
APN: 241-182-003-000

REFERENCES: See Attached

Dear Mr. and Mrs. Johnson:

The purpose of this letter is to respond to the questions and comments that were generated as part of the planning application review and public hearing.

We have reviewed the Geotechnical/Geologic Peer Review by Cornerstone Earth Group (Reference 1). Please note these comments were based on the previous set of architectural plans prepared by Eric Miller Architects dated June 28, 2024. Our comments in black are related to the peer review comments based on the June 28, 2024 plans.

In response to the comments received, the proposed development has been scaled back. Based on our review of the revised architectural plans Dated 2/20/2025, the building footprint has been reduced in size along with reducing the percentage of development on 30 percent slopes and project site coverage (Reference 4). Our comments related to the most recent plans are provided in blue to distinguish them from the previously proposed site layout.

The comments are listed in the order presented in the peer review starting on Page 7. Easton Geology has responded to Comments 1 through 5. Please find our responses to Comments 5 through 10 listed below.

Comment 5 (p6): *Slope stability analysis was performed previously by Rock Solid (2020) in their Preliminary Geotechnical Investigation report. The results of this analysis were referenced in their final geotechnical report, but not modified. The slope stability analysis performed included analysis of potential rotational failures in the soils and weathered granite above the fresher granite at depth. While it seems worthwhile to check this potential failure mechanism, it does not appear to be the primary mechanism for instability of the bluff. As described in the corresponding geologic report (Easton, 2022), "Planes of weakness such as joints, shears, and inactive faults control the overall configuration of the very slowly retreating bluff-face." In our opinion, it would be important to the design of the foundation to analyze this potential failure mechanism (i.e. block failure along joints) to further understand what forces may act on a "seaward" pile foundation extending to below the projected 100-year bluff profile line. These forces may exceed those recommended for design (see Comment 6 below).*

Response 5: The stability of the slopes was analyzed to check for failure above the bedrock. We agree that this is not the only failure mechanism as acknowledged in our reports. The combined analysis approach was to also determine the potential future bluff profile based on 100-years of retreat. The qualitative analysis performed by the project geologist did consider failures along adversely dipping joints and historical retreat rates. The surface and subsurface data was projected onto five cross sections and assumes the bluff-face will retreat up to 10 feet along bluff parallel joints over the next 100 years. Material above the 100-year retreat line will be neglected in the design. This approach is similar to the reports prepared for 239 Highway 1 and 255 Highway 1.

Comment 6 (p8): *For design of micropiles (to be designed by others), Rock Solid has recommended an active earth pressure of 30psf/ft, acting on a plane which is 1½ times the shaft diameter. Active earth pressures assume that a pile is free to deflect to achieve active earth pressures. However, the micropiles will likely be designed to resist lateral movement (i.e. with battered piles) and be relatively stiff, as well as restrained at the base of the residence. Therefore, it seems likely that the planned micropiles should be designed (at a minimum [See Comment 7]), for earth pressures closer to at-rest earth pressures. Earth pressures should be considered over up to 3 pile diameters based on materials, micropile spacing, geometry and other factors.*

Response 6: After coordination with the design build engineer, the micropiles were designed for the load demands associated with the shear strength values for the weathered granite provided by Rock Solid. The engineer's analysis included both the existing conditions and the projected 100-year bluff profile. The design was performed in the finite element analysis software, PLAXIS 2D. The load demands from PLAXIS were used to select the steel section for the micropiles, which was based on permanent ASD load factors after IBC/CBC. The design methodology for the micropiles is outlined in the calculation submittal by DRS.

As the project has been modified significantly, the design build engineer will need to revise their analysis for the current design. However, the design approach will remain the same.

Comment 7 (p9): *Once design forces on a potential micropile foundation is determined, a design-builder should also consider potential deflections of the structure, static and seismic, in their analysis. Most testing has shown that micropiles provide little lateral resistance in bending, and the lateral forces should be resisted by tensile and compressive axial forces in varying battered piles. The consideration of these factors and potential increased forces in design based on further kinematic and slope stability analysis, may likely make micropiles infeasible.*

Response 7: Based on our coordination with the structural engineer and review of the calculation package, micropiles are feasible for this site. The site is a great candidate for micropiles considering the strength of the rock underlying the site, and the environmental sensitivity (i.e., smaller diameter elements like micropiles are more environmentally friendly than larger diameter elements like drilled shafts). The micropile design and analysis is clearly outlined in the calculation submittal by DRS. The micropiles were appropriately designed to the anticipated static and seismic loads including axial compression/tension, shear forces, and bending moments.

Comment 8 (p9): *Rock bolts are to be designed to retain significant cuts into the granitic slope near the property line. It is recognized in the geotechnical report that an easement will be required where rock bolts will extend into Caltrans right-of-way. In addition, walls along the east side of the property, or the east side of the easement to the property, where a failure could potentially affect Caltrans property or facilities, will likely have to be submitted to Caltrans for review prior to approval. Further any drainage culverts including the one previously mentioned entering the property from the upslope area will need to have adequate catchment and disposal away from the building areas.*

Response 8: The Architect has been coordinating with Caltrans on the previous design (June 2024) and review for the proposed walls. The retaining wall near the east property line had been designed with permanent caissons to avoid the use of rock bolts and therefore eliminate the need for an easement. A drainage plan was prepared by a Civil Engineer. The plan included a swale at the top of the site retaining walls to collect any runoff from upslope and direct it to an appropriate discharge point.

As the plans have been revised, significant cuts and retaining walls near the property line have been eliminated. The new site plan includes terraced retaining walls at the driveway that are a maximum of 6 feet tall and are setback 10 feet from the property line. These walls will likely be designed as simple gravity walls without the need for caissons or tiebacks.

The civil engineer will provide a revised drainage plan for the construction drawings.

Comment 9 (p9): *For seismic earth pressures, Rock Solid recommends a resultant acting at 0.6H above the base of the wall. Current research shows that a resultant acting at 0.33H is more representative of the location of the resultant of seismic earth pressures (Lew, M., Sitar, N., Al-Atik, L., Pourzanjani, M., and Hudson, M. B. [2010]).*

Response 9: After coordination on the final design, the submitted calculations package included the location of the resultant at 0.33H above the base of the wall.

Comment 10 (p9): *The geotechnical report indicates that development west (ie. seaward) of the 100-year blufftop will require deep foundations. However, it is unclear if deep foundations are required for the entire foundation system in this case. The report also mentions both slabs-on-grade and structural slabs supported by micropiles for the residence. Again, it is unclear what the final intent is. In our opinion, it would be prudent to uniformly support the residence on one foundation system type, and one slab system, or that it be further explained in the report. In our opinion, it does not seem prudent to have half the residence pile supported with structural slabs, and half with a different foundation system with slab-on-grade floors.*

Response 10: The entire residence has been designed with a structural slab supported by micropiles. For the revised design, the entire foundation will also be designed as a mat slab supported by micro-piles.

Discussion and Conclusions

We consider the reports to be adequate for the proposed development and meet or exceed the industry standards for similar development as evidenced by the approved projects for the nearby recent developments.

The Preliminary Geotechnical Investigation (Reference 5) was prepared before plans were developed as a first phase to investigate the feasibility of development of the parcel. The following Geotechnical Investigation (Reference 6) provided design level recommendations for the proposed development after site plans were prepared and included additional analysis. The preliminary reports were not intended to limit development to the small geologically feasible building envelope. The intent was to establish the feasibility and primary geotechnical constraints of developing this parcel.

As the design was not fully developed at the time the reports were prepared and the parcel does have some constraints, we worked closely with a specialty design builder to further analyze the proposed development. The additional analysis included finite element analysis to develop the structural plans and supporting calculations based on the proposed design.

Since those plans were prepared, the scope of the project has been reduced significantly in response to comments by the Monterey County Planning Commission. The reduction in the scope has resulted in a smaller structure that will be further setback from the steep bluff and the property line adjacent to Highway 1. The currently proposed project will eliminate the need for large cuts near the property line and Caltrans Right of Way and will reduce the number and depth of the required foundation elements.

If you have any questions, or if we may be of further assistance, please do not hesitate to contact our office.

Sincerely,

ROCK SOLID ENGINEERING, INC.

Signed: April 7, 2025

Yvette M. Wilson, P.E.
Principal Engineer
R.C.E. 60245

Distribution: (1) Addressee and via email
(1) Greg Easton via email
(1) Carla Hashimoto via email
(1) Deborah M. Castles, Anthony Lombardo & Associates, via email

REFERENCES

1. Cornerstone Earth Group, Geotechnical/Geologic Peer Review, 226 Highway 1, Carmel, California, Project No. 1539-1-1, Dated October 28, 2024.

2. Easton Geology, Inc., Geologic Feasibility Assessment, for Coastal Property at 244 #3 Highway 1, Carmel Highlands, California, Monterey County APN 241-182-003, Job No. C20006, Dated 17 August 2020.

3. Easton Geology, Inc., Geologic Investigation, Johnson Property, 226 Highway 1, Carmel, California, Monterey County APN 241-182-003-000, Job No. C21019, Dated 15 December 2022.

4. Eric Miller Architects, Inc., Johnson Residence, 226 Highway 1, Carmel, CA 93923, Sheets A1.1, A-1.2a, A-1.2b, A-1.2c, A-1.3, A-1.4, and A-2.1, Dated 2/20/25.

5. Rock Solid Engineering, Inc., Preliminary Geotechnical Investigation, Coastal Bluff Retreat Analysis, 244 #3 Highway 1, Carmel, California, APN: 241-182-003, Project No. 20020, Dated August 14, 2020.

6. Rock Solid Engineering, Inc., Geotechnical Investigation, Proposed Single Family Residence, 226 Highway 1, Carmel, California (Previously 244 #3 Highway 1), APN: 241-182-003-000, Project No. 20020B, Dated December 15, 2022.

CORNERSTONE EARTH GROUP

Cornerstone Earth Group Letter transmitted by Rutan & Tucker LLP prior to October 30, 2024 Planning Commission Hearing -HCD-Planning

Date:	October 28, 2024
Project No.:	1539-1-1
Prepared For:	Matthew Francois **RUTAN AND TUCKER, LLP** 455 Market Street, Suite 1870 San Francisco, California 94105
Re:	Geotechnical/Geologic Peer Review 226 Highway 1 Carmel, California

Dear Mr. Francois:

Introduction and Background

As requested, we present the results of our peer review for the geologic and geotechnical investigation reports and other aspects of the above-referenced project. Our certified engineering geologist and geotechnical engineer visited the site on October 10, 2024 to review site conditions and potential geologic and geotechnical hazards.

The documents reviewed include the following:

- A geologic feasibility assessment titled, "Geologic Feasibility Assessment for Coastal Property at 244 #3 Highway 1, Carmel Highlands, California, Monterey County APN 241-182-003," prepared by Easton Geology, Inc. for Terry Tydings, Job No. C20006, dated 17 August 2020.
- A geologic investigation titled, "Geologic Investigation, Johnson Property, 226 Highway 1, Carmel, California, Monterey County APN 241-182-003-000," prepared by Easton Geology, Inc. for Hal and Allison Johnson, Job No. C21019, dated 15 December 2022.
- A preliminary geotechnical investigation titled, "Preliminary Geotechnical Investigation, Coastal Bluff Retreat Analysis, 244 #3 Highway 1, Carmel, California," prepared by Rock Solid Engineering, Inc. for Terry Huntington Tydings, Project No. 20020, dated August 14, 2020.
- A geotechnical investigation titled "Geotechnical Investigation, Proposed Single Family Residence, 226 Highway 1 (Previously 244 #3 Highway 1), Carmel, California, APN: 241-182-003-000," prepare by Rock Solid Engineering, Inc. for Hal and Allison Johnson, Project No. 20020B, dated December 15, 2022.
- A set of architectural plans, Sheets A-0.1, Topographic Survey, A-1.1, A-1.2, A-1.2B, A-1.3, A-2.1, A-2.2, A-2.3, A-3.1, A-3.2, A-7.1, A-7.2, titled, "Johnson Residence, 226 Highway 1, Carmel, California, 93923," prepared by Eric Miller Architects, Inc., dated June 28, 2024.

- A set of civil sheets, Sheets C3 and C4, titled, "Grading Drainage, & Erosion Control Plan," prepared by Landset Engineers, Inc., dated June 2024.

Project Description

A single-family residence with an attached garage is planned on a flag lot situated on a steep granitic bluff between Highway 1 and the Pacific Ocean. The lot has previously had some minor grading to form a small, relatively level cut-fill building pad. The property is constrained by a steep, bedrock slope to the east, adjacent to Highway 1, a residential property to the south, a very steep bluff above a small cove to the west, and a vista point and steep coastal bluffs to the north.

Scope of Services

Our scope of services was presented in our agreement dated September 17, 2024, and includes a review of available information in our files and published documents, historical aerial photo review, site reconnaissance, review of the geologic and geotechnical investigations referenced above, identification of potential geologic, seismic and geotechnical impacts, drafting and report preparation. We also provided drone services to allow for observation of inaccessible vantage points.

General Information

In general, both the Easton Geology, Inc. (Easton) and Rock Solid Engineering, Inc. (Rock Solid) reports were prepared in an iterative and collaborative manner to describe the site. Background research of published reports, maps, and aerial photographs was conducted. Geologic mapping during the feasibility phase and final geologic investigative phases was done. Subsurface exploration via indirect (seismic refraction) and direct (hand augers, drilled borings and shafts) methods performed for the project are typically used for site characterization. Analysis of fault data from government and research sources (Petersen et al, WGCEP and California PHSA) and attenuation relationship models by PEER were used in seismic hazard analysis.

Exploration Methods

Geologic Mapping

Easton conducted geologic mapping of the site initially for the 2020 Easton geologic feasibility report. The surficial geologic mapping was plotted on large scale (1-inch = 1 foot) map sheet overlain on a basemap with a 1-foot contour interval prepared by Rasmussen Land Survey dated 2020. This Site Geologic Map is provided as Plate 1 of the 2020 report and identified the presence of three main geologic units on the site including fill (map symbol af), talus (Qt), and porphyritic granodiorite (Kgdp).

Later geologic mapping, depicted in Plate 1 of the 2022 Easton geologic investigation report identified two additional geologic units on the site including marine terrace deposits (Qcl) and old alluvium (Qoal). This later map expanded the extent of the fill and showed older alluvium in the autocourt area based on aerial photo interpretation. In addition, the map benefitted from data derived from later subsurface shaft excavations and seismic refraction surveys as shown on the newer map.

The 2022 geologic map shows a dashed line labeled as "top of bluff" which varied from Elevation 43.52 to 61.05 feet. Another dashed line labeled "estimated position of 100-year blufftop" is situated coincident with the western boundary of the estimated feasible building envelope from the Easton (2020) report and extends beyond to northwest and southeast.

The geologic mapping indicates various long and narrow fill and cut slopes presumably (according to the text) from early site grading from the 1960's as well as grading by Caltrans possibly as early as the 1930s. The site fill occupies two elongated lobes, which extend from Elevation 86 feet down to 75 feet, and is assumed to be undocumented, non-engineered soil. Some notes on the map indicate "thin sidecast fill," however the borings indicate between 1 and 3 ft in thickness at other locations. Outside of the eastern property line boundary, the Caltrans fill extends from the property boundary upslope at about a 2:1 (H:V) inclination to the edge of Highway and portions may be engineered. A culvert enters the site with no mapped drainage catchment from the Caltrans ROW near the intersection of the guardrail and wall.

Talus deposits are shown as a long, narrow geologic unit at the base of shallow cut slope within the building envelope. The map only indicates this as a recent unit and it is not described in the text with respect to its thickness or consistency. It is assumed to represent deposits that have accumulated from the raveling of the cut slope.

Marine terrace deposits are shown occupying the extreme southwest corner of the property, both above and below the top of the existing bluff. The geomorphology of the marine terraces are discussed in the text. Slightly older than the marine terraces is the old alluvium, which was mapped in two locations on the site geologic map based on an evaluation of air photos. Both of these locations lie within what Easton refers to as colluviated swales. One is an elongated surficial unit trending west and underlying the proposed autocourt. This unit is described as a sandy clay conglomerate in Shaft #1 and #3 where it was encountered. The other location is at the extreme northern boundary of the site and trends to the northwest as it extends beyond the site boundary. Both of these units have a queried geologic contact line, indicating uncertainty. Because of this, the contact lines extend either over the underlying bedrock in the northern location or under the overlying fill in the southwestern location.

Bedrock is shown occupying the steepest slopes just above the cove and then is exposed elsewhere on the site either in cut slope exposures or in outcrop. It is described as a porphyritic granodiorite on the 2020 site geologic map but the 2022 map removes the descriptor and labels it as granodiorite. The boring logs refer to the bedrock as quartz diorite. Structural attitude measurements (13) of bedrock joints are shown on the steep slopes below the top of bluff, along the margins of an arcuate scarp located at the northwest corner of the proposed deck and in outcrop or cut slopes within or adjacent to the feasible building envelope.

Seismic Refraction Surveys

Norcal Geophysical (Norcal) performed three seismic refraction lines on the site in the fall of 2022 along transects designated as SR-1, SR-2 and SR-3. Transects SR-1 and SR-2 generally followed topographic contour both through (SR-1) or just downslope (SR-2) of the feasible building envelope. SR-3 crosses the other two near the envelope and then extends downslope oblique to contour interval to a location offsite near the saddle. The seismic survey processing and interpretation benefitted from borehole data done previously that allowed for some correlation.

Norcal interpreted a relatively thick, low to medium P-wave (Vp) velocity zone in the SR-1, SR-2 and northeastern end of SR-3 transects below 5000 feet per second (fps) indicative of deeply to moderately weathered bedrock. The velocity increased with depth, presumably due to the low degree of weathering. This velocity zone thickened considerably (>25ft) in the downslope (SW) end of SR-3 as it approached the saddle.

Shaft Logging

Four hand-dug exploratory shafts were excavated at locations near the retaining wall proposed for the autocourt or adjacent to the building envelope. One (Shaft 4) was excavated adjacent to Boring B-4 to allow correlation of earth materials. The shafts allowed for direct observation of earth material contacts and geometries that could be missed in borings if not continually logged. The shaft logs describe all five lithologies shown on the geologic map and describe in relative detail the degrees of weathering, inclination of contact, shape and infilling of bedrock joints, and clast/matrix support relationships.

The shafts extended to depths as shallow as 9.25 feet (Shaft 2) and as deep as 12.5 feet (Shafts 1 and 3). Because they were hand excavated, they were limited to the weathering zone. There was a relatively sparse amount of bedrock joint attitudes measurements.

Borehole Logging

Four exploratory borings were drilled on the site using a track-mounted, solid-flight auger drilling rig, equipped with a Terzaghi split spoon sampler and either a 2-inch or 2.5-inch sampling capability. It seems that the borings were logged by both Easton Geology (GFE) and by Rock Solid (YW), as they are presented on different log templates. Of note, the Rock Solid borings describes refusal in "unweathered bedrock" at depths of between 10 and 18 feet, whereas the Easton borings described weathered granodiorite or sampler refusal. Easton describes colluvium at shallow depths consisting of sand with silt or sand with clay, which was not noted on the geologic mapping.

Two hand auger borings were drilled and logged by Rock Solid (JDB/GE) down to top of refusal on bedrock at less than a 5-foot depth.

Discussion

Several conclusions were drawn from the data collected using analysis common to standard of practice in engineering geology and geotechnical engineering. What follows is a discussion on the methodology used to develop these conclusions for various project components.

The Easton Feasibility Report (2020) was prepared to develop a geologically feasible building envelope and to establish a projected bluff setback line. The later Geologic Investigation (2022) provided more background on seismic sources and analysis.

Establishment of Seismic Inputs for Slope Stability Analysis

Easton in their feasibility report (2020) developed 3 geologic cross-sections and deterministically derived seismic shaking data and seismic coefficient (k) for use in slope stability analysis by Rock Solid. Easton considered triggering earthquake scenarios using the San Andreas and San Gregorio faults. The k value of 0.56 was based on ground acceleration of 0.85g generated from a Mw 7.3 earthquake event on the San Gregorio Fault, coupled with a

bluff height of 86 feet and estimated failure thickness of 34 feet. Their calculation also considered topographic amplification on slopes of approximately 45 degrees. The last input was the depiction of a geologically feasible building envelope shown on Plate 1 of that report. From this analysis, Easton reported that the Rock Solid slope stability analysis (2020) found the envelope to be both statically and seismically stable. Presumably from this analysis, the term "stable" reflects a factor of safety of 1.5 and 1.0 or higher for shallow rotational failure (block failure was not addressed) for static and seismic condition, respectively, and the project building limit was extended as much as 40 feet further seaward of the building envelope, as shown in later site plans by both Easton and Rock Solid.

The 2020 Geologic Investigation provided additional descriptions of how the seismic accelerations were derived and provided the results in Table 2 below. Easton did not perform in-situ measurement (e.g. shear wave velocities) or a site-specific response evaluation as part of their ground motion analysis.

TABLE 2
Faults, Earthquakes and Deterministic Seismic Shaking Data

Fault Segment(s)	Moment Magnitude of Characteristic or Maximum Earthquake (M_w)	Estimated Recurrence Interval (years)	Site Soil Classification	Distance from Site (km)	Estimated Mean Peak Ground Acceleration (g)	Estimated Mean + One Dispersion Ground Acceleration (g)
San Andreas (1906 rupture)	7.9	210	C Very Dense Soil / Soft Rock	52.5	0.12	0.22
Monterey Bay - Tularcitos	7.1	2,800		11.1	0.29	0.52
San Gregorio-Hosgri (Sur segment)	7.0	400		4.6	0.45	0.80

Determination of Bluff Setback Line

Easton characterized a "Projected 100-year Bluff Profile" of the steep slopes using geologic mapping and an assumption of a less than 1 foot per 10 year bluff retreat rate. It would appear that this rate is from a published reference (Scripps Institute of Oceanography, 2022) that does not provide a long-term data set that supports a higher or lower rate. Where the "Projected 100-year Bluff Profile" intersects the existing top of bluff represents where the bluff will be after 100 years and also forms the most seaward boundary of the envelope.

Easton provides schematic intersecting joint lines on all of the cross-sections, which presumably show the three primary joint sets. When measured along the axis of the cross-section they indicate apparent dips of 90° vertical, 35° East and 35° West. There is no discussion on these apparent dips, whether they represent the 3 joint sets measured at the face and how they were used to calculate the "Projected 100-year Bluff Profile". The only discussion of geologic structure is the following from the 2022 Geologic Investigation report. "The granodiorite underlying the subject site is highly jointed, with a dominant, steep, bluff parallel joint set controlling the orientation of the bluff face. Joint spacings were typically 6 to 12 inches apart in exposures we measured."

Slope Instability

Easton did address granodiorite stability in the following statement: "The highly jointed granitic bedrock underlying the subject area, however, may be prone to relatively shallow translational sliding where weak, adversely dipping joints or shears daylight on the slope, but again, we saw no evidence during our surface and subsurface investigation to support that a landslide potential exists within the less weathered granodiorite at depth. The overall configuration of the bedrock bluff is controlled by a dominant joint set trending parallel to the cove, and retreat typically results through wave action undercutting and intersecting a steeply dipping, bluff parallel joint surface"

These statements are qualitative and are not supported directly by kinematic analysis such as stereonet evaluations to determine weighting of contributing joint sets, orientation and methods of failure (toppling, wedge or planar).

Conclusions

The Easton Report (2022) has several conclusions, that include the following key statements:

- "The primary geologic concerns for the site are slope stability, long-term coastal erosion, and seismic shaking".
- "Notwithstanding the inherent weaknesses and discontinuities in the areal bedrock, the granodiorite is strong and very erosion resistant. Our subsurface exploration and field reconnaissance determined that the proposed development area is underlain by surficial fill, colluvium and highly weathered granodiorite that becomes stronger and less weathered with depth. Planes of weakness such as joints, shears and inactive faults control the overall configuration of the very slowly retreating bluff face."
- "The very steep bluff-face below the proposed development area is prone to instability resulting from slow, gradual coastal erosion and periodic regional earthquakes. The long-term average erosion rate at the site is less than one foot in 10 years."
- "The site is located in an area of high seismic activity and will be subject to strong seismic shaking in the future."

The Rock Solid report (2022) has several general conclusions, that include the following key statements:

- "Based on the results of our investigation, it is our opinion that from the geotechnical standpoint, the subject site will be suitable for the proposed development provided the recommendations presented herein and in the Geologic Investigation are implemented during grading and construction."
- "Based on our discussions with the design build contractor, the proposed residence and GRS walls will be supported on a foundation system composed of micropiles. Recommendations for this foundation system are provided in Section 5.3, Foundations."

- "The residence will be set into the slope with the lower level retained on the east side and daylighting to grade on the west side. Retaining walls that are integral with the residence are addressed in Section 5.5.2."

- "The project will require fill at the proposed auto-court to reach design grades. The fill wall is anticipated to be a geosythetically reinforced soil (GRS) wall. Recommendations for GRS walls are presented in Section 5.5.3."

- "The project will also include retaining walls for the cut on the northeast side of the parcel. Due to the depth of the required cuts at or near the property lines, the cut wall is anticipated to be supported by rock bolts. Recommendations for cut walls are presented in Section 5.5.4."

- "Existing fill was encountered on the west side of the existing graded pad. The fill appears to be native soil that was excavated from the east side of the graded pad. The fill is loose and appears to have been placed without engineering control. The fill should not be counted on for support of structure or improvements."

Our comments and critiques of the conclusions reached by these reports are noted below.

1. Easton does not adequately characterize three geologic features which appear to represent either active or potentially active landslides, as summarized below.

   a. A deposit of Qoal is located beneath the proposed autocourt and also downslope of the southeastern end of the proposed residence as shown on the Easton geologic map. This elongated deposit appears to occupy a sloping swale surface that steepens towards the face of the slope as shown in geologic cross-section D-D.' It would appear that this deposit might be a landslide. The unsupported toe of this deposit is shown as Feature "A" in the attached photo.

   b. Along the bottom of the steep slope is an exposure in the granodiorite that shows the intersection of 3 primary joint sets. At this location is a feature that appears to be a potential wedge failure with green moss indicative of seepage (see Feature "B" in the attached photo). Other areas, and potentially those covered by vegetation are indicative of potentially similar rock failure conditions.

   c. The geologic map shows a headscarp near the northwest corner of the residence deck. The map indicates an 8' vertical joint-bounded scarp at this location with 5 joint attitudes showing random strikes and moderate to steep dips of between 52° and 81° in the granodiorite. Given the other observed joint sets in cliff exposure during our reconnaissance, this scarp (Feature "C" in the attached photo) represents an active slope instability condition.

2. Easton needs to describe in detail how the base of the "Projected 100-year Bluff Profile" was chosen for the initial 3 cross-sections in the Feasibility Report and the final 5 cross-sections in the Easton Geologic Report. Specifically, describe the basis for the lowermost beginning point and the angle of projection towards the top of bluff of the line. Also explain how this appears to be the same geometry on all 5 profiles, given the presence of a bedrock scarp in A-A', deposits of Qoal on the face of D-D', and a pocket of Qcl in E-E'.

3. Easton needs to provide more discussion and defense of their initial position whereby development seaward of the "geologically feasible building envelope" must not rely on support from material above the projected bluff profile (as depicted on the cross-sections in the 2020 Feasibility Report) yet later development is allowed seaward of the envelope based exclusively on acceptance via a Factor of Safety of 1.0 in the worst case. Justifying this shifting of the allowable development seaward strictly because of retaining wall and foundation elements being embedded into the underlying competent bedrock is not warranted and conflicts with Monterey County guidance on allowable building on slopes exceeding 30°.

4. Easton needs to describe why a kinematic analysis was not performed on this project. Structural attitudes were measured from cut slopes and outcrops at various locations in the study area. While recognizing that access to measurement points is limited due to the steepness of the slopes, there are other methods for obtaining bedrock joints and shears. These include terrestrial LiDAR to develop point clouds as well as line surveys along the face of the toe of slope from a boat or kayak.

   Relying entirely on surface measurements does not account for anisotropic variability. Therefore, obtaining structural measurements from boreholes is also needed to complement the surface surveys. Downhole televiewer methods (video or acoustic) allow for collection of data with depth. Both methods can provide useful structural data to be used in kinematic analysis that can show the types of failure that may occur on the project site. Easton described in the 2022 Geologic Report that due to access limitations hand dug shafts were substituted for drill holes along the autocourt retaining wall. These shafts only penetrated weathered bedrock and do not provide nearly enough structural data of less weathered bedrock to conduct the required analysis. Based on our reconnaissance, other portions of the site close to the setback line could be accessed by track mounted drill rigs capable of advancing wireline diamond coring tools with accompanying downhole televiewer tools. Should future rock coring be utilized on this site, there needs to be consistency on the borehole logs with respect to the degree of bedrock weathering.

5. Slope stability analysis was performed previously by Rock Solid (2020) in their Preliminary Geotechnical Investigation report. The results of this analysis were referenced in their final geotechnical report, but not modified. The slope stability analysis performed included analysis of potential rotational failures in the soils and weathered granite above the fresher granite at depth. While it seems worthwhile to check this potential failure mechanism, it does not appear to be the primary mechanism for instability of the bluff. As described in the corresponding geologic report (Easton, 2022), "Planes of weakness such as joints, shears, and inactive faults control the overall configuration of the very slowly retreating bluff-face." In our opinion, it would be important to the design of the foundation to analyze this potential failure mechanism (i.e. block failure along joints) to further understand what forces may act on a "seaward" pile foundation extending to below the projected 100-year bluff profile line. These forces may exceed those recommended for design (see Comment 6 below).

6. For design of micropiles (to be designed by others), Rock Solid has recommended an active earth pressure of 30 psf/ft, acting on a plane which is 1½ times the shaft diameter. Active earth pressures assume that a pile is free to deflect to achieve active earth pressures. However, the micropiles will likely be designed to resist lateral movement (i.e. with battered piles) and be relatively stiff, as well as restrained at the base of the residence. Therefore, it seems likely that the planned micropiles should be designed (at a minimum [see Comment 7]), for earth pressures closer to at-rest earth pressures. Earth pressures should be

considered over up to 3 pile diameters based on materials, micropile spacing, geometry, and other factors.

7. Once design forces on a potential micropile foundation is determined, a design-builder should also consider potential deflections of the structure, static and seismic, in their analysis. Most testing has shown that micropiles provide little lateral resistance in bending, and the lateral forces should be resisted by tensile and compressive axial forces in varying battered piles. The consideration of these factors and potential increased forces in design based on further kinematic and slope stability analysis, may likely make micropiles infeasible.

8. Rock bolts are to be designed to retain significant cuts into the granitic slope near the property line. It is recognized in the geotechnical report that an easement will be required where rock bolts will extend onto Caltrans right-of-way. In addition, walls along the east side of the property, or the east side of the easement to the property, where a failure could potentially affect Caltrans property or facilities, will likely have to be submitted to Caltrans for review prior to approval. Further, any drainage culverts including the one previously mentioned entering the property from the upslope area will need to have adequate catchment and disposal away from the building areas.

9. For seismic earth pressures, Rock Solid recommended a resultant acting at 0.6H above the base of the wall. Current research shows that a resultant acting at 0.33H is more representative of the location of the resultant of seismic earth pressures (Lew, M., Sitar, N., Al-Atik, L., Pourzanjani, M., and Hudson, M. B. [2010]).

10. The geotechnical report indicates that development west (i.e. seaward) of the 100-year blufftop will require deep foundations. However, it is unclear if deep foundations are required for the entire foundation system in this case. The report also mentions both slabs-on-grade and structural slabs supported by micropiles for the residence. Again, it is unclear what the final intent is. In our opinion, it would be prudent to uniformly support the residence on one foundation system type, and one slab system, or that it be further explained in the report. In our opinion, it does not seem prudent to have half the residence pile supported with structural slabs, and half with a different foundation system with slab-on-grade floors.

Closure

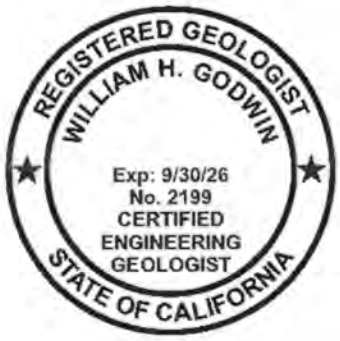
This review of reports and plans has been prepared for the sole use of Rutan and Tucker, LLP in accordance with generally accepted geotechnical engineering principles and practices in the San Francisco Bay Area at this time. No warranties are either expressed or implied.

CORNERSTONE
EARTH GROUP

Should you have any questions, or if we may be of further service, please contact us at your convenience.

Sincerely,
Cornerstone Earth Group, Inc.

Erin L. Steiner, P.E., G.E.
Senior Principal Engineer



William H. Godwin, CEG
Senior Engineering Geologist

ELS:WHG:CBB

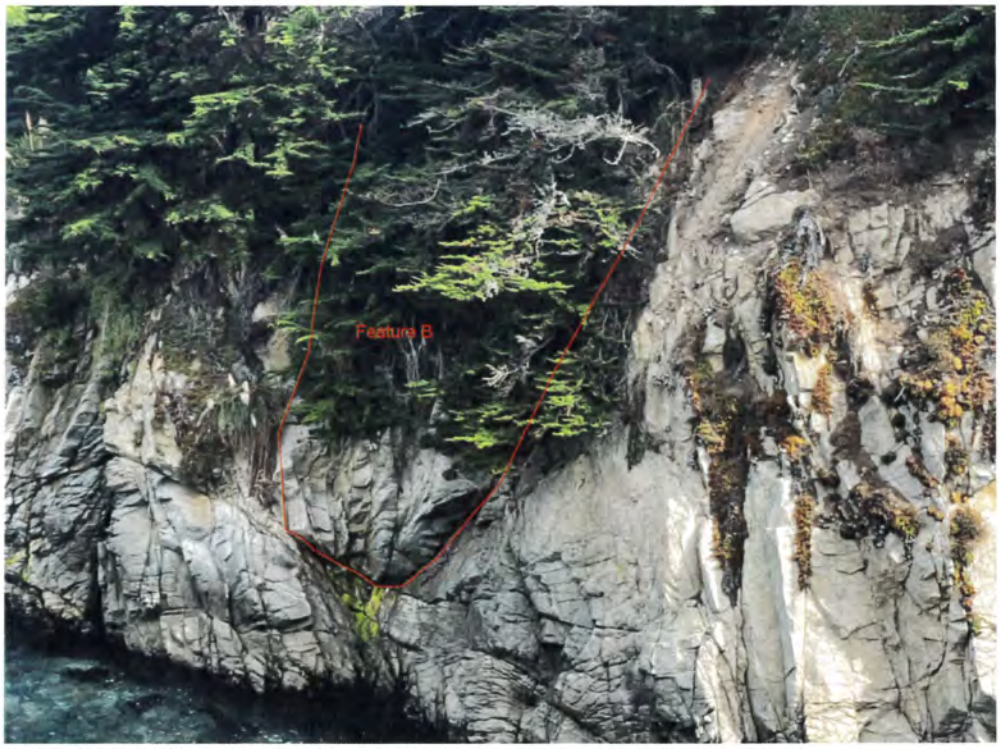
Copies: Addressee (1 by email)

Attachments: Photographs (Feature A through Feature C)

CORNERSTONE EARTH GROUP

Photographs

Feature A – A deposit of Qoal.



Feature B – Potential Wedge Failure.

Feature C – Location of headscarp.

PLN210061

August, 2024
Rutan & Tucker
LLP Comments
-HCD-Planning

Friedrich, Michele

From: Bennett, Brooke <bbennett@rutan.com>
Sent: Monday, August 12, 2024 1:06 PM
To: ceqacomments; Angelo, Philip
Cc: breylen.ammen@coastal.ca.gov; Katie.Butler@coastal.ca.gov; alan.kwong@dot.ca.gov; Francois, Matthew
Subject: Johnson Hal W Jr. & Allison H; File No. PLN210061
Attachments: 2024 0812 M. Francois Letter to P. Angelo Re_ Johnson Hal W Jr. _ Allison H_ File No. PLN210061.pdf

[CAUTION: This email originated from outside of the County. Do not click links or open attachments unless you recognize the sender and know the content is safe.]
Good afternoon,

Attached please find correspondence from Matt Francois in regards to the above-referenced matter.

Please feel free to contact our office with any questions or concerns.

RECEIVED
MONTEREY COUNTY
AUG 12 2024
HOUSING & COMMUNITY
DEVELOPMENT DEPARTMENT

Thank you,

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PLN210061

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August 12, 2024

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

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

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

Dear Mr. Angelo:

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

1. Background

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

a. Aesthetics

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

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

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

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

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

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

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

---

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

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

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

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

b. Biological Resources

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

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

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

c. Cultural Resources

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

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

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

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

d. Geology

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

e. Greenhouse Gas Emissions

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

f. Hazards

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

g. Hydrology

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

h. Land use

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

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

i. Noise

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

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

j. Tribal Cultural Resources

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

****

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

Sincerely,

RUTAN & TUCKER, LLP

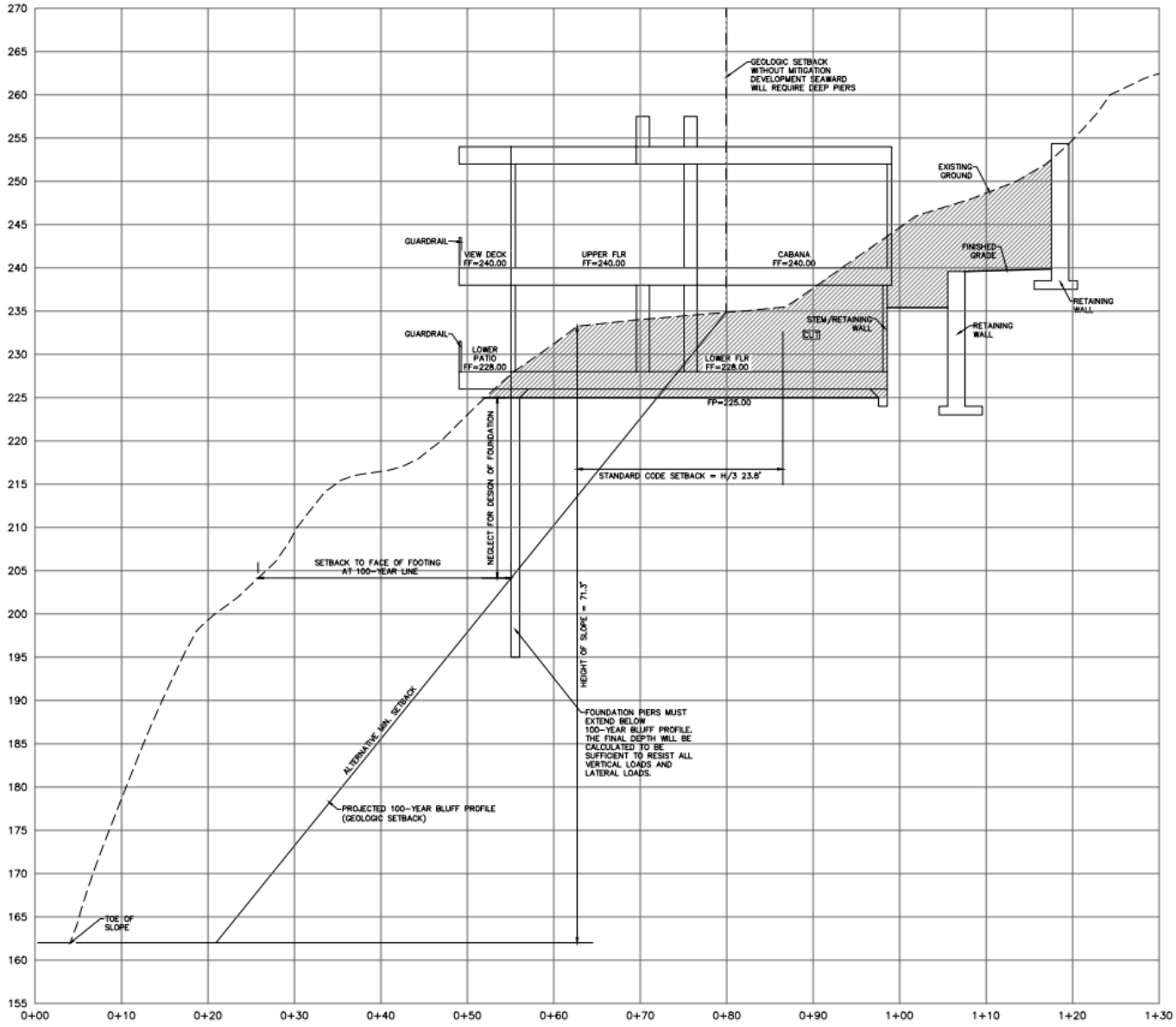
Matthew D. Francois

MDF:bb

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

EXHIBIT A

Figure 5 Project Elevation Profile



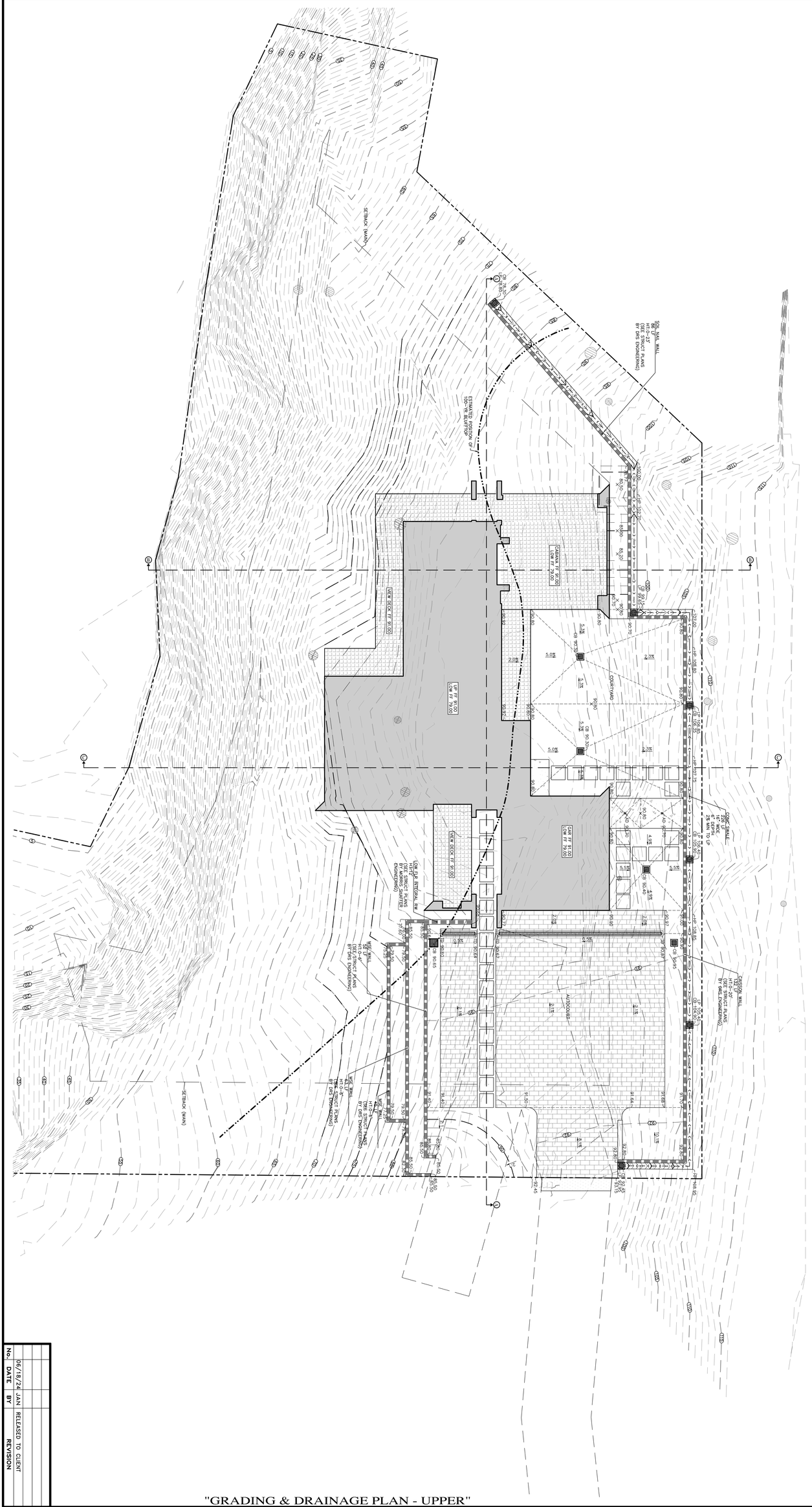
Source: IX.39

EXHIBIT B

A1) Easement access to property

https://photos.app.goo.gl/fJf5c9B9pYet2PDZ9

EXHIBIT C



"GRADING & DRAINAGE PLAN - UPPER"

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No.	DATE	BY	REVISION
	06/19/24	JAN	RELEASED TO CLIENT

SCALE: 1" = 10'
DATE: JUN 2024
JOB NO: 2288-01

SHEET C3 OF 10 SHEETS

GRADING, DRAINAGE, & EROSION CONTROL PLAN

OF

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

FOR

HAL & ALLISON JOHNSON

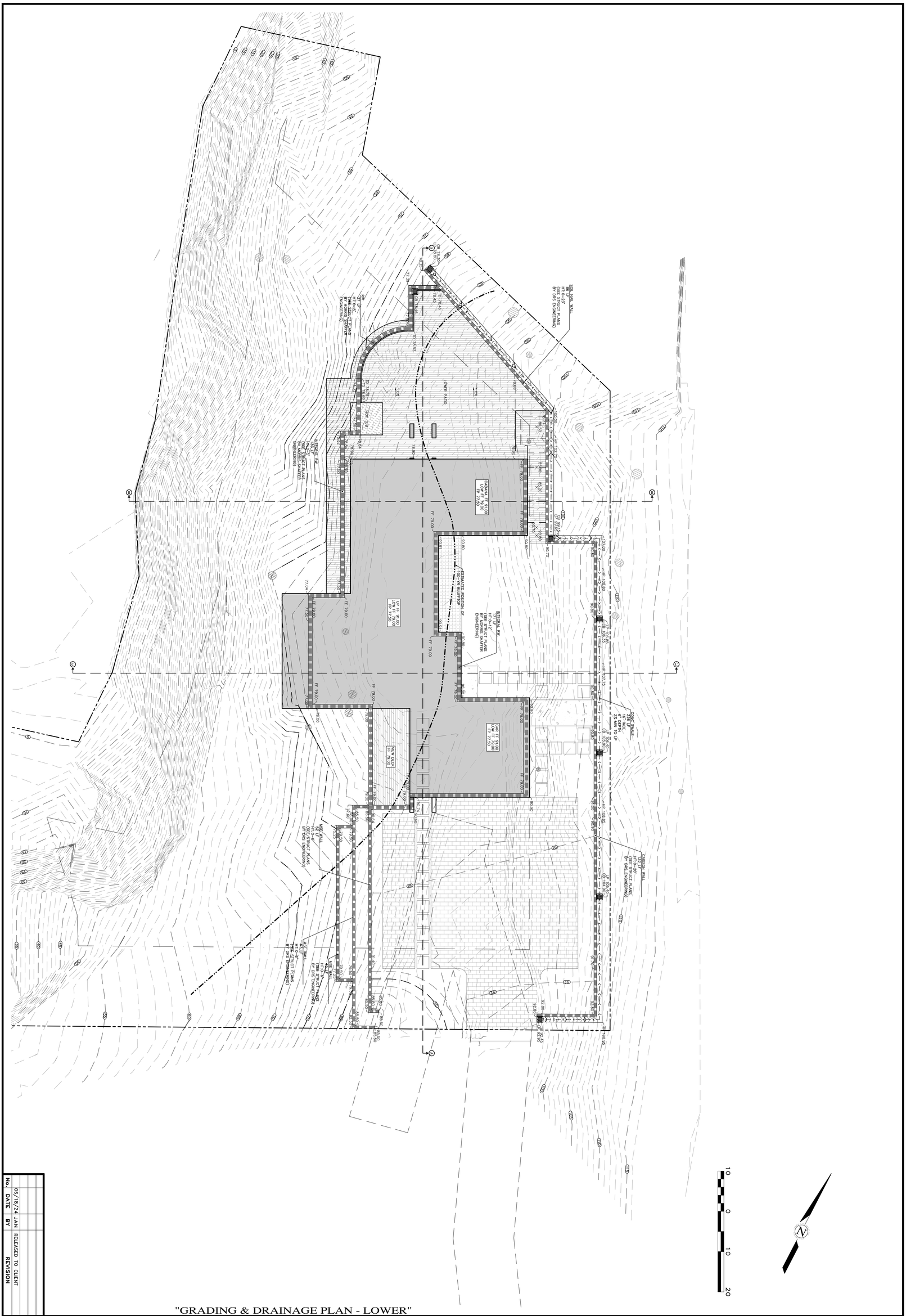
LANDSET ENGINEERS, INC.
520-B Crazy Horse Canyon Road
Salinas, California 93907
Office (831) 443-6970 Fax (831) 443-3801
www.landseteng.com

APPROVED BY:

GUY R. GIRAUDO

REGISTERED PROFESSIONAL ENGINEER
Guy R. Giraudo
No. 58569
Exp. 06-30-25
CIVIL
STATE OF CALIFORNIA

NOT FOR CONSTRUCTION



"GRADING & DRAINAGE PLAN - LOWER"

GRADING, DRAINAGE, & EROSION CONTROL PLAN

OF

THE JOHNSON RESIDENCE

A.P.N.: 241-182-003

CARMEL, CALIFORNIA

FOR

HAL & ALLISON JOHNSON

No.	DATE	BY	REVISION
	06/19/24	JAN	RELEASED TO CLIENT

SCALE: 1" = 10'
DATE: JUN 2024
JOB NO: 2288-01

SHEET C4 OF 10 SHEETS

LANDSET ENGINEERS, INC.
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www.landseteng.com

APPROVED BY:

GUY R. GIRAUDO

REGISTERED PROFESSIONAL ENGINEER
Guy R. Giraudo
No. 58569
Exp. 06-30-25
CIVIL
STATE OF CALIFORNIA

NOT FOR CONSTRUCTION

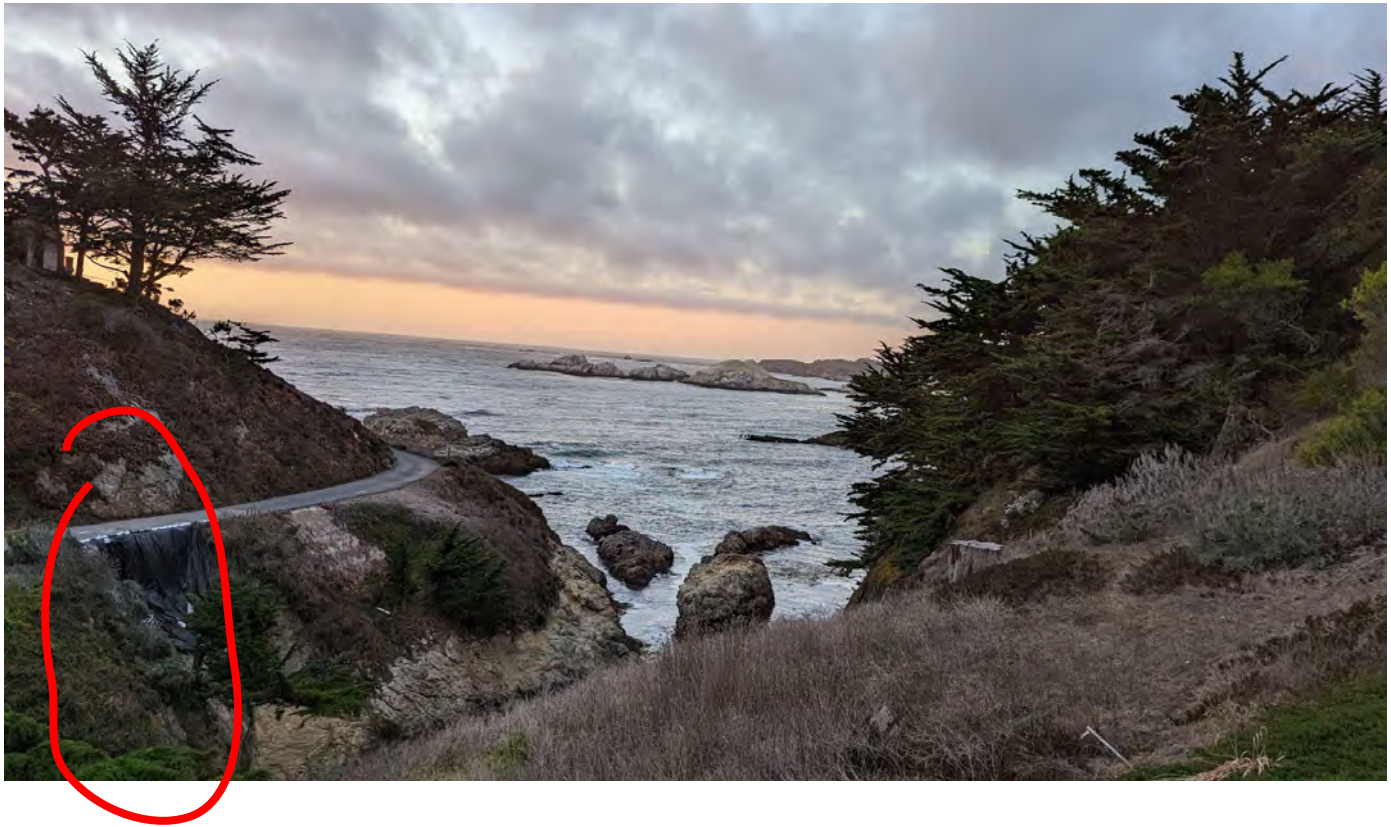
EXHIBIT D

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

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

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

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



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

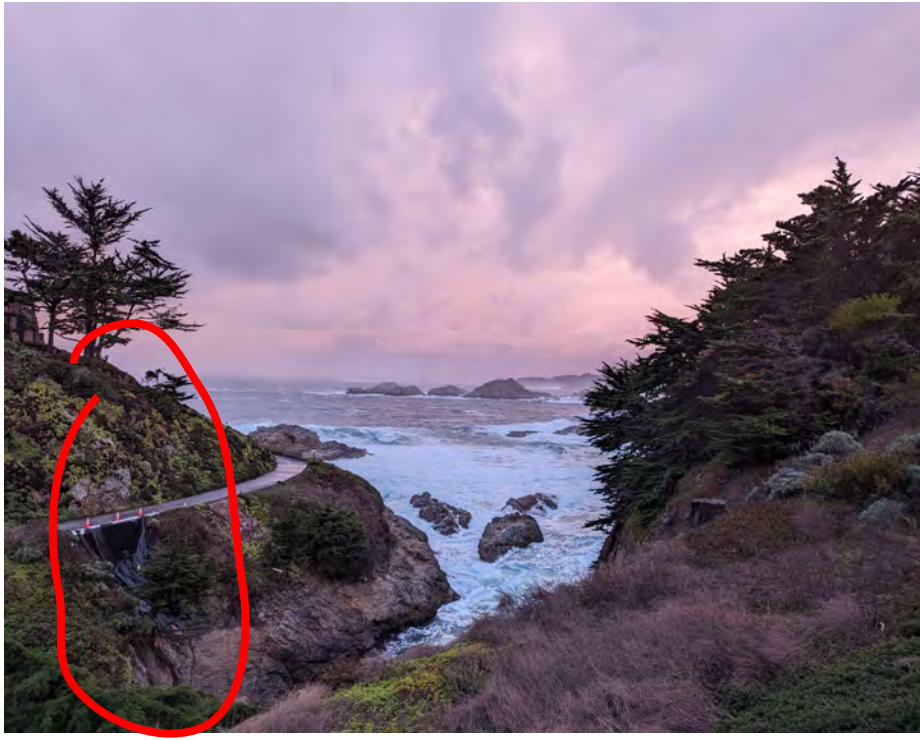
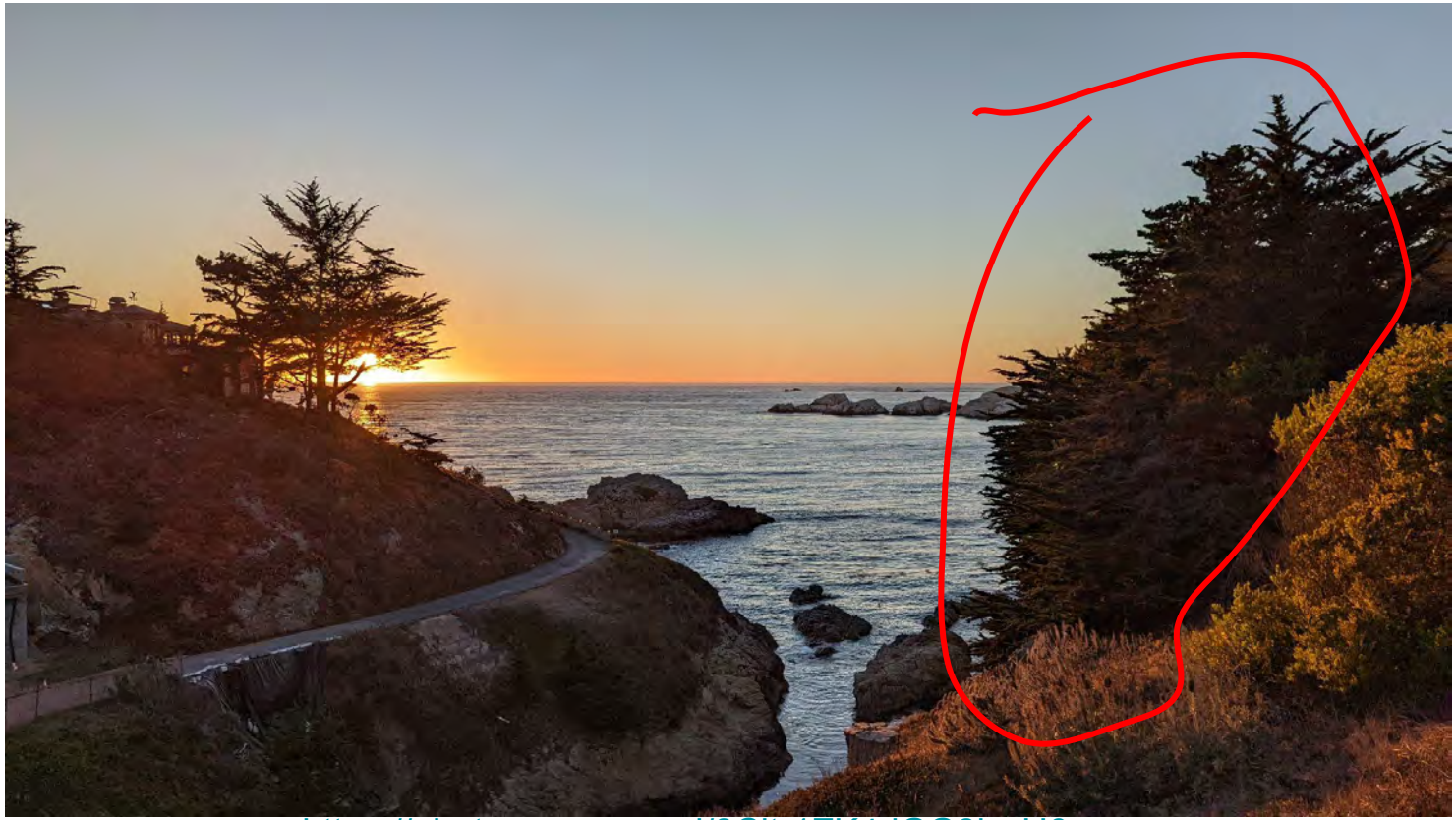


EXHIBIT E

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



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

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

From: Heide Cortopassi
To: Angelo, Philip
Subject: Re: PLN210061-JOHNSON (226 Highway 1) - Notice Distribution
Date: Tuesday, July 9, 2024 3:05:59 PM
Attachments: image001.png

Additional Heide Cortopassi Comments -HCD-Planning

[CAUTION: This email originated from outside of the County. Do not click links or open attachments unless you recognize the sender and know the content is safe.]

Thank You for the information. I am against this project. It is too big for the buildable foot print. It is modern and not appropriate for the public view shed. The healthy cypress that support the cliff are being removed! Where have the rules and mitigations gone? Why are you looking the other way? Heide Cortopassi

On Tue, Jul 9, 2024 at 11:13 AM Angelo, Philip <AngeloP@countyofmonterey.gov> wrote:

> Hi Heide,
>
> We're getting ready to circulate an Initial Study we've prepared for the proposed residence at 226 Highway . I have your email address for the distribution list, but was there also a mailing address you'd like us to include?
>
> I've also attached the most current project plans.
>
> Best Regards,
>
> **Phil Angelo** *(he/him)*
>
> Senior Planner (Working out of Class)
>
> Housing and Community Development
>
> 1441 Schilling Place South 2nd Floor, Salinas, CA 93901
>
> Direct: (831) 784-5731
>
> AngeloP@countyofmonterey.gov

From:	Angelo, Philip
To:	Angelo, Philip
Subject:	RE: Carmel Highlands New Construction 244 Hwy 1 #3
Date:	Friday, October 22, 2021 9:47:27 AM

Original Heide Cortopassi Comments -HCD-Planning

From: Heide Cortopassi <heidecorto@gmail.com>
Sent: Sunday, August 29, 2021 4:35 PM
To: Angelo, Philip <AngeloP@co.monterey.ca.us>
Subject: Carmel Highlands New Construction 244 Hwy 1 #3

Hello and Good Afternoon Mr. Angelo,

My name is Heide Cortopassi and I own the property across the cove from the proposed new construction site that was recently flagged. I am reaching out to you as it is my understanding you are the planner that has been assigned to this project (244 Hwy 1 #3) and I would like to express my concerns and also go on record so that you are well aware of the magnitude of the ongoing erosion that is happening in this cove! I was truly amazed at the audacity of the new property owners living in Texas and making it known they would not be paying any taxes in California. Furthermore, they have not responded to my written requests to carefully remove the multitude of guide wires they have had secured around a young cypress tree on my property and more wires strung across the cove anchoring a stake again into my property. It is obnoxious, it is reckless considering the instability of this area and it is presumptuous to not ask permission!

This proposed project seems to be moving at lightening speed when I think about all of the hurdles and hoops I had to jump through to obtain a building permit. I do hope the rules and regulations are applied and enforced equally Mr. Angelo and I appreciate the opportunity to share my concerns. Thank You!

The flagging suggests this home is too large for the lot. It would suggest a large two story portion of the home is perched at the edge of the cliff and directly above decomposing granite. A large cypress stump would need to be removed if this footprint is allowed and that root system would cause slides of earth and brush into the cove as has been happening over the past several years and is providing a pretty reliable pattern for this area. So given this information I think it is safe to assume this structure would need to be anchored under the Highway. At what point Mr. Angelo does anybody with the authority to protect this area have a backbone and say “It can’t be done” ?

I met the Forester, Mr. Frank Ono, who was hired by the property owners and the architect and I was concerned when he said he was asked to assess the Coastal Cypress and provide a report that would support the removal of the trees! Why? Because they need to be pruned? They are full of new growth and they are not diseased or dying, so why is it that it would be acceptable to remove protected trees and not think twice about what happens to the earth on the slope where the trees grow? These Coastal Cypress are majestic. They are part of the beauty that defines this area and I do believe they are protected when they are of this large size.

Lastly, this proposed project is clearly visible from Hwy 1, the ocean and neighboring homes and I am concerned seeing the proposed home is constructed largely of glass, how will the light pollution be dealt with? There are no uplights allowed in this area, so how do they plan on keeping the lights from shining out of this glass house? Something about a dark sky rule.

Mr. Angelo, my apology to you if my email is heated and thank you for allowing me the opportunity to voice my concerns.

Heide Cortopassi
831-293-4178

Additional Jenny Breitenwischer Comments -HCD-Planning

From: Jenny Breitenwischer <breitenj@hotmail.com>
Sent: Tuesday, July 9, 2024 11:44 AM
To: Angelo, Philip <AngeloP@countyofmonterey.gov>
Subject: Re: Concerns over APP#210391/APN 241182003000

[CAUTION: This email originated from outside of the County. Do not click links or open attachments unless you recognize the sender and know the content is safe.]

Hello Philip

Thank you for sending this over. I have since sold my home next door to this proposed home but was forced to sell it at a fraction of the valued price because of the threat of the overdevelopment of this project. All of the points in my original email are still true and valid.

We had a years long lawsuit with every property on that private drive over the road eroding and it was a nightmare. Allowing this type of home and the construction will only further the erosion of the already fragile cove. I know I'm not a homeowner there anymore, but I've passed this onto a coup of my former neighbors who I still keep in touch with. I'm sure you'll be hearing from them regarding this.

Thank you for sending this over to me and remembering my concerns.

Jenny

Get Outlook for iOS

From: Angelo, Philip <AngeloP@countyofmonterey.gov>
Sent: Tuesday, July 9, 2024 11:27 AM
To: Jenny Breitenwischer <breitenj@hotmail.com>
Subject: RE: Concerns over APP#210391/APN 241182003000

Good Morning Jenny,

It's been a number of years but I wanted to reach out as the County as getting ready to finalize an Initial Study for this project and publicly circulate it. I have your email but is there a mailing address you'd like us to include in the interested parties / distribution list for the project?

I've also attached the most current set of project plans.

Best Regards,

Phil Angelo *(he/him)*
Senior Planner (Working out of Class)
Housing and Community Development
1441 Schilling Place South 2nd Floor, Salinas, CA 93901
Direct: (831) 784-5731
AngeloP@countyofmonterey.gov

Original Jenny Breitenwischer Comments -HCD-Planning

From: Jenny Breitenwischer
To: Angelo, Philip
Subject: Concerns over APP#210391/APN 241182003000
Date: Wednesday, August 25, 2021 1:58:48 PM

[CAUTION: This email originated from outside of the County. Do not click links or open attachments unless you recognize the sender and know the content is safe.]

Hello Mr. Angelo
I am the neighbor next door to the project you have assigned to you under the above information and with the address 244 Hwy 1 #3 Carmel. The property had flags put up last Friday and what I saw was shocking! Just the size and height alone are very worrying given the condition of the cove. I have a number of concerns about this project being next door to me.
1. The projected size of the home is 3876 square feet, 2 stories plus the 1,372 spare foot garage on such a small building footprint. The home is far too big for the allotted space.
2. The impact that the size of this home will have on our shared 3 property well system. I am aware that the neighbors on the other side of me have also applied for a building permit. This home's potential size of water usage could drain our well.
3. The proposed removal of obviously healthy and protected cypress trees. Yes, they need to be trimmed but they should not be removed. We had them trimmed a couple of years ago with permission from the former property owner so I know there is nothing wrong with them. Believe me, if there was something wrong with them, we would have paid to remove them because it would give our property a much better view!
4. The removal of the protected cypress trees and their root systems will cause more erosion on the same cove that is eroding in 2 other areas. There is also erosion off of the other side of the cove on our private one lane road.
5. The existing erosion in the 2 different spots on that same cove has resulted in a neighborhood lawsuit. 2 neighbors are suing the other 8 over the repairs of the erosion. It could be years until those 2 eroded parts of the cove are fixed and now we want to propose something that we know will cause MORE erosion? We are maxed out on space on our tiny one lane road.
6. The development on an into the cove at least 10 feet below the top of the cove will cause significant environmental impact
7. The cove setback is not being followed
8. I completed the construction on my home in 2014. My architects and builders had to follow very strict rules surrounding cypress tree protection and proximity to the cove, despite the fact that my property line wasn't even that close to the edge of the cove. The proposed plans for this home do not follow any of those same rules from Monterey County or the Coastal Commission. If I had to adhere to those rules, then so should this project. We all should be subject to the same set of rules when building.
9. This project "seems" to be moving mysteriously quickly though the permitting process, especially during COVID and all of the delays that I know are happening in the county. I have "heard" that it is because Eric Miller is the architect and "he has the ability to get projects though planning quickly". I would hate to think that who you hire as an architect and who you hire as an arborist to write tree reports gives you preferential treatment with the county. I have another building permit that was submitted through the county in January of 2020 and it still (though no fault of mine) is not approved!

I just wanted to officially go on record with my concerns to you. I would appreciate it if you could reply back to this email to let me know that you've received it. I also will be sending a separate email containing the photos I took to show you how massive this proposed house looks. Feel free to reach out to me at any time also.
Thank you,
Jennifer Breitenwischer
Cell (423)231-2334

Sent from my iPad

Additional Dennis Chamber Comments -HCD-Planning

From: Dennis Chambers
To: Angelo, Philip; Heide Cortopassi
Subject: Re: Carmel Highlands New Construction 244 Hwy 1 #3
Date: Saturday, October 22, 2022 11:29:58 AM
Attachments: image001.png

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Philip, we are a bit concerned that this project is going to remove many of the trees on the cliff edge. They evidently hired an Arborist that is known for writing up whatever you want written. Those trees holed up the hill side which is loose soil and stones at least 12' deep. We are concerned that runoff will do irreparable damage. Trimming up the trees, fine, but removal, that is not smart. d

Dennis Chambers Inc.
License # 475577
Mobile: 408-605-6760
225 Crossroads Blvd. Suite 378
Carmel, CA 93923
dennis-chambers@outlook.com

Original Dennis Chamber Comments -HCD-Planning

From: Angelo, Philip
To: Angelo, Philip
Subject: RE: Ref. The Carmel Highlands
Date: Friday, October 22, 2021 9:49:33 AM

From: Dennis Chambers <dennis-chambers@outlook.com>
Sent: Saturday, August 28, 2021 11:49 AM
To: Angelo, Philip <AngeloP@co.monterey.ca.us>
Subject: Ref. The Carmel Highlands

Mr. Angelo, we live in the Carmel Highlands. A new ground up home is under design in our neighborhood, and I believe in your care as a planner. It's located below the Highlands Inn and on a 35' cliff. The parcel number is 241-182-003, the Johnson property.

Two humble comments: 1. The story poles are incredible close to a very unstable cliff. You need to come out and see this. 2. We understand the cypress trees to the north of the home site are to be removed, not trimmed. The entire northern portion of cliff is held together by the roots of those trees. The trees need trimming, yes, but removal, the arborist in question is badly distorting the truth.

Sincerely yours, Dennis Chambers, 258 Hwy One, Carmel Highlands

Dennis Chambers
Mobile: 408-605-6760
dennis-chambers@outlook.com

Additional Coastal Commission Staff Comments -HCD-Planning

From: Ammen, Breylen@Coastal
To: Angelo, Philip
Cc: Butler, Katie@Coastal
Subject: Comments for PLN210061(Johnson)
Date: Monday, October 24, 2022 3:09:35 PM
Attachments: image001.png

[CAUTION: This email originated from outside of the County. Do not click links or open attachments unless you recognize the sender and know the content is safe.]

Hi Phil,

We have reviewed the information available for this project in greater detail and have significant concerns about the suitability of this site for residential development, primarily given that the majority of the parcel consists of slopes greater than 30%. Several of the concerns in Alexandra McCoy's past comments on this project remain, and we have new concerns as well.

1. **Scenic Views**. The proposed project location is in a public viewshed as it is located between Highway 1 and the Pacific Ocean and is also directly visible from a popular pull-out overlook at the north of the site. The staking and flagging images do not show the view from this lookout; however, the proposed removal of 8 trees, as shown in the plans, raises concerns about a loss in existing screening at the site. CIP Section 20.146.030.C.4 requires that new development in the Carmel Highlands must be carefully cited and designed to minimize visibility, and that development within the public viewshed "shall be sited within existing forested areas or in areas where existing topography can ensure that structures and roads will not be visible." Also, please note that CIP Section 20.146.120.A.6 requires that as a condition of approval for new development, all areas of a parcel in slopes of 30% and greater must be placed under scenic easement.

2. **Coastal hazards**. The development is proposed largely on 30% slopes and adjacent to a steep descending coastal bluff in a high erosion hazard area. Carmel Land Use Plan (CLUP) policy 2.7.3.1 states (in part) "All development shall be sited and designed to minimize risk from geologic, flood, or fire hazards. Areas of a parcel which are subject to high hazard(s) shall generally be considered unsuitable for development…" The removal of 8 trees from the site raises further concerns about the stability of the blufftop. Recently, a landslide occurred on the adjacent lot after unpermitted tree removal. The highly hazardous nature of the parcel raises significant concerns about the safety of the parcel for residential development. Additionally, the Carmel LUP and CIP restrict development on 30% slopes. While parcels in the Carmel Highlands may be exempted from these requirements, in this case due to the highly hazardous nature of the parcel, it does not appear appropriate to allow the proposed amount of construction on 30% slopes.

3. **Sewer Service**. Section 20.146.120.A.1.f of the Carmel Coastal Implementation Plan requires that new development has adequate sewer service. The parcel is not currently within the jurisdiction of the Carmel Area Wastewater District (CAWD). We understand that CAWD issued an intent to serve letter; however, the annexation of this parcel into the CAWD service area has not been approved by the Commission. We are currently reviewing CAWD's application to annex this (and other) parcels, including how such annexation would facilitate development on existing undeveloped parcels. It appears that, given the issues with the site as described above and in our previous comments, the parcel is largely inappropriate for the intensity of development proposed, and such development would not meet the overarching Carmel LUP Key Policy which requires all future development to be "clearly consistent with and subordinate to the foremost priority of protecting the area's scenic beauty and natural resource values."

Sincerely,

Breylen Ammen
Coastal Planner | Monterey County

CALIFORNIA COASTAL COMMISSION
725 Front Street, Suite 300
Santa Cruz, CA 95060
(831) 427-4863

From: McCoy, Alexandra@Coastal
To: Angelo, Philip
Subject: Re: PLN210061-JOHNSON - Monterey County Planning Application
Date: Thursday, October 14, 2021 12:11:12 PM
Attachments: image001.png
image002.png

Original Coastal Commission Staff Comments -HCD-Planning

[CAUTION: This email originated from outside of the County. Do not click links or open attachments unless you recognize the sender and know the content is safe.]

Hello Angelo,

We reviewed the documents available on Accella for application number PLN210061 as well as other public databases and have the following comments:

1. **Parcel Size and Boundaries.** The topographic survey dated June 2020 on Sheet 1 of 1 on the project plans states that the calculated lot area is 30,580 square feet or 0.70 acres. However, surveyors note A on the sheet states that "the legal description of the parcel lacks bearing and distances for the westerly line (along the Pacific Ocean). Therefore, the westerly line location is approximate as is the calculated lot area." This has two implications that we recommend be investigated further at this early stage in the permitting process; the actual location of the westerly line and the actual lot area. Based on images of the project site seen on the sheet, the approximate location of the westerly line is past the mean high tide line. Further, publicly available online records indicate that the parcel (APN PN 241-182-003-000) size is 23,805 square feet. Thus, the County must verify the actual lot area of the parcel as well as the location of the westerly line (due to their implications on other site development standards such as FAR, setbacks, ect).

2. **Coastal Hazards.** The development is proposed adjacent to a steep descending coastal bluff in a high erosion hazard area. Carmel Land Use Plan (CLUP) policy 2.7.3.1 states (in part) "All development shall be sited and designed to minimize risk from geologic, flood, or fire hazards. Areas of a parcel which are subject to high hazard(s) shall generally be considered unsuitable for development…" and goes on to require environmental or geotechnical reports be completed. Additionally, CLUP policy 2.7.4.3 requires "Any proposed development within 50 feet of the face of a cliff or bluff or within the area of a 20 degree angle from the toe of a cliff, which ever is greater, shall require the preparation of a geologic report prior to consideration of the proposed project." In addition to all information required to be included in the geologic report as dictated in CLUP policy 2.3.4.7 and Coastal Implementation Plan/Zoning Ordinance section 20.66.040, the geotechnical report for the project must be able to demonstrate that the development is safe from coastal hazards over the lifetime of the development (i.e., 100 years). Further, based on project plans and the locations of the story poles erected to provide for visualization of the proposed structure, the western footprint of the building appears to be within 5 feet of the top of the bluff edge on easily erodible soil. We recommend requiring that the footprint of the building be brought back away from the bluff (i.e., towards the highway) as much as possible in order to minimize impacts from coastal hazards. Lastly, CLUP policy 2.7.4.1 requires that "All development shall be sited and designed to conform to site topography and to minimize grading and other site preparation activities." The amount of grading proposed does not appear to be a minor or minimum amount in order to construct a habitable SFD on the property. We recommend that the footprint of the lower portion of the

proposed structure be reduced in order to provide for a more “stair-stepped” foundation that would require less grading.

3. **Scenic Views.** The proposed project site is located in a public viewshed as it is located between highway 1 and the Pacific Ocean but is also directly visible from a popular pull-out overlook at the North of the site. The exterior of the structure is proposed to consist of concrete, white stucco, and dark aluminum materials CLUP Section 2.2 contains numerous policies related to protection of scenic resources by siting new development within the public viewshed on the portion of the parcel where it will not be visible from from major public viewpoints and viewing corridors, requiring that materials be used so that new structures blend into the site and surroundings (and require that height and bulk of buildings shall be modified as necessary to protect the viewshed), and requiring that existing trees and other native vegetation be retained to the maximum extent possible in order to screen development. In order to minimize visual impacts, we recommend that the structure be sited towards highway 1 as much as possible, that materials be used on the exterior of the structure such that it blends into the natural surroundings, and that existing trees be retained as much as possible and that the property be landscaped with native, non-invasive plants such that they would screen the development from the highway and adjacent overlook. Variances in front and side setbacks may be appropriate in this case given the unique location and typography of the site in order to ensure that scenic views are protected (and coastal hazards are minimized).

4. **Runoff.** Please ensure that the Applicant has demonstrated that the development be sited and designed to prevent percolation of septic runoff and deposition of sediment due to its location adjacent to intertidal habitat, as required by the LCP.

Please note that due to the current COVID-19 shelter in place orders throughout the State, all correspondence with Commission staff should be conveyed via email, in addition to other means if required by the Coastal Act or regulations.

Alexandra McCoy
California Coastal Commission
Coastal Planner | Central Coast District
alexandra.mccoy@coastal.ca.gov | (831) 427 - 4865