

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(831) 427-4863

W16b

Appeal Filed: 5/23/05
49th day: waived 5/23/05
Substantial Issue found: 8/10/05
Staff: Katie Morange
Staff report: 3/30/06
Hearing date: 4/12/06

APPEAL STAFF REPORT DE NOVO HEARING

Appeal Number**A-3-MCO-05-033**

Applicant.....Dr. Michael and Patricia Moeller

AppellantsMary J. Whitney

Local governmentMonterey County

Local DecisionApproved with conditions April 19, 2005 (Board of Supervisors Resolution 05-082, County Permit PLN 040050).

Project locationAt and adjacent to 194 San Remo Road, Carmel Highlands (APNs 243-181-006 and 243-181-005), Monterey County.

Project description.....Construction of a new two-story 3,588 square foot single-family dwelling, 1,164 square foot attached garage, and associated grading and tree removal; development on slopes of 30% or more; and a lot line adjustment between a 0.85 acre lot (Parcel 1) and a 0.61 acre lot (Parcel 2) resulting in no net change in acreage for either parcel.

File documents.....Monterey County Certified Local Coastal Program (LCP); Final Local Action Notice and associated file documents for Monterey County permit PLN040050.

Staff recommendation ...Approval with conditions

Summary of Staff Recommendation

On April 19, 2005, the Monterey County Board of Supervisors approved coastal development permit PLN040050, authorizing a lot line adjustment between a 0.85 acre lot and 0.61 acre lot that would change the configuration but not the size of the lots, and the construction of a two story 3,588 square foot single family residence with a 1,164 square foot attached garage, septic system, and circular driveway on the 0.85 acre lot, at 194 San Remo Road, within the Carmel Highlands of Monterey County east of Highway One (see Exhibits A and B). On August 10, 2005, the Commission found that an appeal of the County permit raised a substantial issue regarding the project's consistency with the Monterey County LCP, and thereby took jurisdiction over the CDP application. The permit application is now



California Coastal Commission
April 12, 2006 Meeting in Santa Barbara

Staff: K. Morange Approved by:

before the Commission *de novo*, and must comply with the policies of the Monterey County certified Local Coastal Program (LCP) in order to be approved.

The LCP issues raised by the proposed development include the protection of native vegetation (e.g., Monterey pines and coast live oaks), construction on steep slopes, the provision of safe and adequate access, and the protection of coastal water quality. The project is within an area of native Monterey pine forest that has been fragmented by residential development on lots averaging one acre in size. Construction of the proposed residence necessitates the removal of Monterey pines, coast live oaks and other native vegetation, and involves development on slopes of 30% or greater. Access to the 0.85 parcel on which the residence is proposed (Parcel 1) is currently provided by a shared private driveway off of San Remo Drive approximately 9 feet in width, which is within a private easement area of 30 feet in width that includes slopes as steep as 24 %. There is no improved means of accessing the potentially developable areas the 0.61 acre parcel (Parcel 2). Future development of a driveway to Parcel 2 (not a part of the current application) will necessitate the establishment of a new easement across Parcel 1, an extension of the shared driveway across Parcel 1, and would likely require an increase in the width of the shared driveway to 18 feet. Alternatively, the property owner could apply for a permit to extend an existing driveway to the north of Parcel 2 across an intermittent creek and slopes of over 30%. Under either scenario, the roadway construction necessary to serve future residential development of Parcel 2 (not a part of the current application) would involve the removal of native vegetation, as well as development on steep slopes and potentially within riparian habitats, in potential conflict with LCP coastal resource protection requirements.

Accordingly, **staff recommends that the Commission approve Coastal Development Permit A-3-MCO-05-033 subject to conditions** that eliminate the lot line adjustment component of the project and supplement the County's terms of approval as necessary to ensure that residential development of Parcel 1 will maintain and protect native vegetation and coastal water quality consistent with LCP requirements - among other ways by limiting the amount of new driveway and requiring the protection and restoration of native plant communities in all areas of Parcel 1 outside of the approved development envelope. While it is recognized that some adjustment to the boundary between Parcel 1 and 2 may be an effective way to minimize the environmental impacts of developing Parcel 2, such an adjustment must be accompanied by a comprehensive analysis of the impacts and alternatives associated with a specific development plan for Parcel 2. Until such details are more fully understood and addressed, it is premature to approve the proposed lot line adjustment and associated building envelope for Parcel 2. The proposed adjustment is not needed to accommodate the residential development of Parcel 1 recommended for approval. Only as so conditioned can the project be found consistent with the Monterey County LCP.



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Exhibits

Exhibit A	Regional Location Map: Carmel Highlands Area
Exhibit B	Project Vicinity
Exhibit C	Board of Supervisors Final Local Action Notice
Exhibit D	Assessor's Parcel Map – Existing Lot Line Configuration
Exhibit E	Site Plan Showing Allowable Disturbance Area and Elevations for Proposed Development on Parcel 1
Exhibit F	Slope Map
Exhibit G	Emergency Access Routes to the Project Site
Exhibit H	Carmel Highlands Fire Protection District February 2, 2006 letter



1. Staff Recommendation on De Novo Permit

The staff recommends that the Commission, after public hearing, **approve** a coastal development permit for the proposed development subject to the standard and special conditions below.

MOTION: *I move that the Commission approve Coastal Development Permit Number A-3-MCO-05-033 pursuant to the staff recommendation and subject to the conditions below.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion result in approval of the coastal development permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves the coastal development permit on the ground that the development as conditioned, will be in conformity with the provisions of the Monterey County certified Local Coastal Program. Approval of the coastal development permit complies with the California Environmental Quality Act because feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the amended development on the environment.

2. Conditions of Approval

A. Standard Conditions

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the Permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the Permittee to bind all future owners and possessors of the subject property to the terms and conditions.



B. Special Conditions

1. Scope of Permit. This permit authorizes the construction of a 3,588 square foot single-family dwelling on APN 243-181-006 (Parcel 1), in accordance with the plans prepared by Eric Miller Architects, Inc., subject to the Standard Conditions above and the Special Conditions identified below. This permit does not authorize any lot line adjustment between Parcels 1 and 2.

2. Final Project Plans. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit two sets of Final Project Plans to the Executive Director for review and approval. The Final Project Plans shall be consistent with the following requirements:

- (a) **Site Disturbance Restriction.** The Final Project Plans shall include a revised site plan that eliminates the circular driveway component and restores the original lot line configuration, as shown in Exhibit E. Development outside of the project footprint for Parcel 1 shown by the approved final plans is prohibited, except for uses allowed pursuant to Special Conditions 3 and 4 of this permit.
- (b) **Exterior Design Elements.** Site structures and other exterior elements, such as fencing, shall be subordinate to and blended into the environment, using appropriate materials which will achieve that effect. All exterior finishes shall consist of muted, earthen tone colors and non-reflective materials that blend with the surrounding environment. Building walls shall be designed and surfaced to blend with the surroundings and to reduce their visual mass and minimize their visual prominence. Final plans shall include a color board and project elevations that identify the type and color of all finished materials.
- (c) **Restoration Plan.** The submittal of Final Plans shall be accompanied by a Monterey pine forest restoration plan, prepared by a qualified biologist designed to protect and enhance the Monterey pine habitat surrounding the approved development on Parcel 1 in perpetuity. The restoration plan shall include a planting plan designed in conjunction with the Forest Management Plan required by Special Condition 4, and shall be implemented in a manner that will provide maximum protection and enhancement of the site's natural habitat values and biological productivity. All plant materials proposed in the plan shall be selected to be native to Monterey pine habitat, prevent the spread of exotic invasive plant species, and avoid contamination of the local Monterey pine community's gene pool. The plan shall provide for the immediate revegetation of all portions of the site surrounding the approved residence that are disturbed during construction with native vegetation appropriate to the area. The plan shall also specify methods for removing, controlling, and preventing the introduction or spread of invasive exotic plants such as iceplant, French and Scotch broom, cape ivy, pampas grass, kikuyu grass, acacias, etc. The restoration area shall be continuously maintained by the permittee in a litter-free, weed-free, and healthy growing condition.

The Permittee shall undertake development in accordance with the approved Final Project Plans. Any proposed changes to the approved Final Project Plans shall be reported to the Executive Director. No changes to the approved Final Project Plans shall occur without a Commission



amendment to this coastal development permit unless the Executive Director determines that no amendment is necessary.

3. Monterey Pine Forest Habitat Protection and Enhancement Area. In order to ensure long-term protection of native Monterey pine habitat on the project site, all portions of Parcel 1 located outside the allowable building envelope generally depicted by Exhibit E shall be designated for Monterey pine habitat protection and enhancement. No development, as defined in Section 30106 of the Coastal Act shall occur within the Monterey Pine Forest Habitat Protection and Enhancement Area, as described and depicted in an exhibit attached to the Notice of Intent to Issue Permit (NOI) that the Executive Director issues for this permit except for:

- A. Monterey pine habitat restoration, native landscaping, and invasive plant removal conducted in accordance with the Forest Management and Restoration Plans approved pursuant to Special Conditions 2(c) and 4 of this permit.
- B. Construction and post-construction drainage controls approved pursuant to Special Conditions 5 and 6.

PRIOR TO ISSUANCE BY THE EXECUTIVE DIRECTOR OF THE NOTICE OF INTENT TO ISSUE THIS PERMIT (NOI), the Applicant shall submit for review and approval of the Executive Director, and upon such approval, for attachment as an exhibit to the NOI, a formal legal description and graphic depiction of the portion of the subject property affected by this condition, as generally described in Special Condition 2(a) and depicted by Exhibit E of this permit.

4. Forest Management Plan. PRIOR TO ISSUANCE OF A COASTAL DEVELOPMENT PERMIT, the applicant shall submit a Forest Management Plan for Executive Director review and approval. The Permittee shall follow the Forest Management Plan prepared for the project site (prepared by Glenn C. Flamik, with Forest City Consulting. Report dated January 27, 2004). The plan shall be revised with the following additions and deletions. Tree protection measures outlined in this plan shall be implemented PRIOR TO COMMENCEMENT OF CONSTRUCTION ACTIVITIES AND AS PRESCRIBED AFTER CONSTRUCTION.

-The FMP shall be revised to remove all references to the reconfigured Parcel 2 and any tree removal or other activities that would be associated with development on Parcel 2.

-Section 3.4 shall be revised to eliminate removal of trees #80, 81, and 87 since the proposed driveway to Parcel 2 is not a part of the approved project.

-Section 3.5 shall be revised to require replacement of the six 12"dbh Monterey pine trees with six Monterey pine trees, not coast live oaks.

5. Construction Plan. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit a Construction Plan to the Executive Director for review and approval. The Construction Plan shall identify all measures to be taken to protect Monterey pine habitat and water quality to the maximum extent feasible, and shall, at a minimum, include:

(a) Construction Fencing. The construction plan shall delineate the location of all construction and



grading activities, including the storage, stockpile, and staging of construction materials, which shall be contained in the approved development envelope to the maximum degree feasible. Approved construction areas shall delineated on-site by temporary construction fencing and markers. The construction zone fencing shall be maintained in good working order for the duration of the construction. No construction activities shall take place, and no equipment or material storage shall occur, outside of the established construction zone. CONSTRUCTION SHALL NOT COMMENCE UNTIL ALL CONSTRUCTION ZONE FENCING IS COMPLETELY INSTALLED AND OPERATIONAL.

- (b) Drainage, Erosion, and Sedimentation Control.** No land clearing or grading shall occur on the subject parcel between October 15 and April 15 unless authorized by the Executive Director. The construction plan shall identify the type and location of all erosion control/water quality best management practices to be implemented during construction. Silt fences, or equivalent apparatus, shall be installed at the perimeter of the construction zone to prevent construction-related runoff, sediment, and/or debris from entering the intermittent creek to the north or other watercourses. Provisions shall be made for stockpiling and covering any graded soils, equipment, and/or materials. The construction plan shall also include a wet weather contingency plan that clearly states what actions will be taken in the event of precipitation events to avoid off-site impacts due to runoff emanating from the construction zone. ALL EROSION, SEDIMENT, AND OTHER WATER QUALITY CONTROLS SHALL BE IN PLACE PRIOR TO THE COMMENCEMENT OF CONSTRUCTION AS WELL AS AT THE END OF EACH DAY DURING CONSTRUCTION.
- (c) Good Housekeeping.** The construction plan shall include good construction site housekeeping controls and procedures, and shall indicate that: (1) dry cleanup methods are preferred whenever possible and that if water cleanup is necessary, all runoff shall be collected to settle out sediments prior to discharge from the site; all dewatering operations shall include filtration mechanisms; (2) off-site equipment wash areas are preferred whenever possible; if equipment must be washed on-site, the use of soaps, solvents, degreasers, or steam cleaning equipment shall not be allowed; in any event, such wash water shall not be allowed to enter any natural drainage or existing drain inlet; (3) concrete rinsates shall be collected and properly disposed of off-site and they shall not be allowed to enter any natural drainage areas or existing drain inlet; (4) good construction housekeeping shall be required (e.g., clean up all leaks, drips, and other spills immediately; refuel vehicles and heavy equipment off-site and/or in one designated location; keep materials covered and out of the rain (including covering exposed piles of soil and wastes); and, (5) all wastes shall be disposed of properly, trash receptacles shall be placed on site for that purpose, and open trash receptacles shall be covered during wet weather.
- (d) Dewatering.** If any dewatering activities will be required for project construction, the Permittee shall submit a dewatering plan to the Executive Director for review and approval, and provide evidence that the dewatering plan has been approved by the Regional Water quality Control Board, or that no such approval is necessary.
- (e) Work Schedule.** All work shall take place during daylight hours with the following exception: any construction that occurs after sunset shall be limited to interior (of structures) work and shall be subject to the same lighting parameters as established for the completed structure by County



Condition #8.

The Permittee shall undertake development in accordance with the approved Construction Plan. Any proposed changes to the approved Construction Plan shall be reported to the Executive Director. No changes to the approved Construction Plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is necessary.

6. Post Construction Drainage. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit, for Executive Director review and approval, a drainage plan as required by County condition #19 with the following revisions and additions: The drainage plan must identify the specific type, design, and location of all drainage infrastructure and Best Management Practices (BMPs) necessary to ensure that post construction drainage from the project, including runoff from the roof, driveways, parking areas and other impervious surfaces, does not result in erosion, sedimentation, or the degradation of coastal water quality. Drainage features shall be located within the permitted development area to the maximum extent feasible, and shall be limited in size and footprint to the minimum necessary to achieve effective drainage and erosion control. Paved surfaces where vehicles are located shall include a filter runoff system to collect any petroleum products. The drainage plan shall clearly identify a drainage system designed to collect, filter, and treat all runoff prior to its discharge from the site and to remove vehicular contaminants and other typical urban runoff pollutants¹ more efficiently than standard silt and grease traps. The drainage plan shall also comply with the following requirements:

- A. The drainage system shall be designed to filter and treat (i.e., a physical and/or chemical reduction of pollutants achieved through active filtration) the volume of runoff produced from each and every storm event up to and including the 85th percentile 24-hour runoff event. The drainage system and its individual components (such as drop inlets and filtration mechanisms) shall be sized according to the specifications identified in the California Storm Water Best Management Practice Municipal Handbook (California Storm Water Management Task Force, March 1993);
- B. The drainage system may include natural biologic filtration components such as vegetated filter strips and grassy swales provided that they are populated with native plant species capable of active filtration and treatment (e.g., rushes). If grades require, check-dams may be used in such biologic filters.
- C. The drainage system shall include at least one engineered filtration unit to which all drainage shall be directed prior to any discharge from the site. The engineered filtration unit shall be designed to remove, at a minimum, vehicular contaminants, and shall be appropriately sized to handle all parking lot drainage. Such unit may include media designed to remove expected

¹ Typical urban runoff pollutants describes constituents commonly present in runoff associated with precipitation and irrigation. Typical runoff pollutants include, but are not limited to: paints, varnishes, and solvents; hydrocarbons and metals; non-hazardous solid wastes and yard wastes; sediment from construction activities (including silts, clays, slurries, concrete rinsates, etc.); ongoing sedimentation due to changes in land cover/land use; nutrients, pesticides, herbicides, and fertilizers (e.g., from landscape maintenance); hazardous substances and wastes; sewage, fecal coliforms, animal wastes, and pathogens; dissolved and particulate metals; and other sediments and floatables.



contaminants.

The applicant shall be responsible for implementing and maintaining drainage, erosion, and sedimentation control measures and facilities for the life of the project. This shall include performing annual inspections, and conducting all necessary clean-outs, immediately prior to the rainy season (beginning October 15), and as otherwise necessary to maintain the proper functioning of the approved system.

The Permittee shall undertake development in accordance with the approved Plans. Any proposed changes to the approved Plans shall be reported to the Executive Director. No changes to the approved Plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is necessary.

7. Assumption of Risk, Waiver of Liability and Indemnity. By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from heavy storm damage, flooding, earth movement; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.
8. Deed Restriction. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property (hereinafter referred to as the "Standard and Special Conditions"); and (2) imposing all Standard and Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the applicant's entire parcel. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.
9. County Conditions. County coastal permit PLN040050 Conditions #s 3, 4, 6, 8, 10, 14, 19, 20, 21, 22, 23, 24, and 26 are incorporated as conditions of this coastal permit (see Exhibit C). The applicant shall provide evidence of compliance with the County conditions to the Executive Director at the time period for compliance indicated by the condition. All other conditions of Monterey County's approval pursuant to a planning authority in addition to or other than the Coastal Act continue to apply.



3. De Novo Permit Findings and Declarations

A. Project Location and Description

The project includes two parcels (APN 243-181-006, hereafter referred to as Parcel 1 and APN 243-181-005, hereafter referred to as Parcel 2) located at and adjacent to 194 San Remo Road, in the Carmel Highlands area of Monterey County (see Exhibits A and B). The two parcels are adjacent along their respective northern and southern property boundaries (Parcel 1 being the southerly parcel, and Parcel 2 being the northerly parcel, as shown on Exhibit D). These properties, along with a third adjacent parcel that is not part of this application, are owned by Dr. Michael and Patricia Moeller. Legal documents show that these three lots were acquired at various times by previous owners as separate existing lots; thus they are considered to be separate legal lots of record. The project site is comprised entirely of native Monterey pine-coast live oak forest.

The proposed project involves a lot line adjustment between the two existing parcels, resulting in no net change in acreage for either parcel. Under the proposed reconfiguration, the parcels would become adjacent to each other along their respective new eastern and western property boundaries (with reconfigured Parcel 1 on the west and reconfigured Parcel 2 on the east, as depicted in Exhibit E). The purpose of the lot line adjustment is to reduce development constraints on the existing Parcel 2. Under the current configuration, Parcel 2 is greatly constrained by existing site topography, which slopes steeply toward an intermittent creek at its north boundary.

In addition to the lot line adjustment, the proposed project includes the construction, on reconfigured Parcel 1, of a two-story, 3,588-square foot single family dwelling, with a 1,164 square foot attached garage, 12-foot wide circular driveway, septic system, and grading of approximately 185 cubic yards of cut and 195 cubic yards of fill. Construction of the proposed single family dwelling also involves tree removal [(13 Monterey pines (9 alive, 4 dead), including 2 landmark pines (both alive); 11 coast live oaks (7 alive, 4 dead); and 3 clusters of coast live oaks (alive)] and some development on slopes of 30% or greater in the area of the proposed driveway (see Exhibit F). Although development is only proposed on Parcel 1 at this time, the applicants have indicated where potential future building, driveway, and septic envelopes on reconfigured Parcel 2 might be located outside of areas constrained by slopes over 30%.

Under the proposed reconfiguration, access to Parcel 1 would be available from a driveway off of the existing access road between Mentone Drive and San Remo Road. As conditioned by Monterey County, access to the reconfigured Parcel 2 would be assured by requiring that the applicants either provide documentation that it has all necessary easements and/or deed restricting Parcel 1 to allow for access across it to reach Parcel 2. The applicants have indicated that they are agreeable to recording a deed restriction on Parcel 1 to allow for such access to Parcel 2.

New development in Carmel Highlands is governed by the *Carmel Area Land Use Plan* segment of Monterey County's certified Local Coastal Program (LCP) and the LCP's Coastal Implementation Plan (CIP) (including Regulations for Development in the Carmel Planning Area). The area is zoned LDR/1(CZ), which requires a minimum of one acre of land per residence. Although the two parcels in question are less than one acre in size (Parcel 1 is 0.85 acres and Parcel 2 is 0.61 acres), they are both



legal non-conforming lots of record having been created prior to zoning ordinances establishing the minimum size standard.

B. Coastal Development Permit Findings

1. Emergency Access and Hazards

a. Applicable Policies

Carmel Area LUP Policy 2.7.2. Key Policy

Land uses and development in areas of high geologic, flood, and fire hazard shall be carefully regulated through the best available planning practices in order to minimize risks to life and property and damage to the natural environment. (see Map D)

Carmel Area LUP Policy 2.7.3.1.

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. For any development proposed in high hazard areas, an environmental or geotechnical report shall be required prior to County review of the project. These reports must include a demonstration that all the criteria in the applicable following policies are complied with and recommendations for mitigation measures (if mitigation is possible) consistent with the following policies. All recommended mitigation measures contained in the reports are to be County requirements (i.e., conditions of Coastal permits).

Carmel Area LUP Policy 2.7.3.3.

New land divisions which create commitment to new or intensified development shall be approved only where it can be demonstrated that development of each proposed parcel and construction of the proposed access roads will neither create nor significantly contribute to erosion, geologic instability, flooding, or fire hazard, nor require construction of new protective devices which would substantially alter natural landforms.

Carmel Area LUP Policy 2.7.4.1. (Geologic Hazards)

All development shall be sited and designed to conform to site topography and to minimize grading and other site preparation activities. Applications for grading and building permits and applications for subdivisions shall be reviewed for potential impacts to onsite and offsite development arising from geologic and seismic hazards and erosion. Mitigation measures shall be required as necessary.

Carmel Area LUP Policy 2.7.4.3. (Fire Hazards)

Roads serving new residential development, other than infill of existing developed areas, shall be adequate to allow access by emergency vehicles. The County Public Works Department



roadway standards should be applied to all new developments (other than infill); however, these standards shall be adjusted to allow maximum avoidance of hillside scarring and cut and fill operations while at the same time providing for adequate access for emergency vehicles.

Carmel Area LUP Policy 2.7.4.11. (Geologic Hazards)

Land disturbance shall be restricted to building site areas and roads and the native vegetation cover shall be maintained in areas prone to rapid run-off and unstable soils. These include the following soil types as recognized and described by the Soil Conservation Service (1978): ...

- k. Santa Ynez fine sandy loam 15-30% slopes (ShE)*

Carmel Area LUP Policy 2.7.4.4. (Fire Hazards)

Where development is approved within or adjacent to areas of high to extreme fire hazard, the County should require the use of fire-resistant materials in the construction of exterior walls and fire-retardant (tile, asphalt, treated fire-retardant shingles) materials in the construction of roofs.

Carmel Area CIP Section 20.146.080.C.1.

All development shall be sited and designed to minimize risk from geologic, flood, or fire hazards. Areas of a parcel which are subject to hazard shall be considered unsuitable for development.

Carmel Area CIP Section 20.146.080.C.3.

New land divisions which create commitment to new or intensified development shall be approved only where it can be demonstrated that development of each proposed parcel and construction of the proposed access roads will neither create nor significantly contribute to erosion, geologic instability, flooding, or fire hazard, nor require construction of new protective devices which would substantially alter natural landforms.

Carmel Area CIP Section 20.146.080.D.1.a.

All development shall be sited and designed to conform to site topography and to minimize grading and other site preparation activities.

Carmel Area CIP Section 20.146.080.D.1.k.

Land disturbance shall be restricted to building site areas and roads and the native vegetation cover shall be maintained in areas prone to rapid run-off and unstable soils. These include the following soil types as recognized and described by the Soil Conservation Service (1978): ...

- 11) Santa Ynez fine sandy loam 15-30% slopes*

Monterey County CIP Section 18.56.030 and 18.56.060



CIP Section 18.56.030.J. Driveway: A vehicular access that serves no more than two buildings, with no more than three dwelling units on a single parcel, and any number of accessory buildings.

CIP Section 18.56.060.1 Road and street networks, whether public or private, unless exempted under this chapter, shall provide for safe access for emergency wildland fire equipment and civilian evacuation concurrently, and shall provide unobstructed traffic circulation during wildfire emergencies.

CIP Section 18.56.060.2 Access roads shall be required for every building when any portion of the exterior wall of the first story is located more than 150 feet from fire department access.

CIP Section 18.56.060.3: All roads shall be constructed to provide a minimum of two nine-foot traffic lanes providing two-way traffic flow unless other standards are provided in this article...

CIP Section 18.56.060.5: The grade for all roads, streets, private lanes and driveways shall not exceed 15 percent.

CIP Section 18.56.060.10: All one-way roads shall be constructed to provide a minimum of one 12-foot traffic lane...[and] shall connect to a two-lane roadway at both ends...

CIP Section 18.56.060.12 Driveways shall not be less than 12 feet wide unobstructed...

b. Consistency Analysis

The residential area of the Carmel Highlands where the project is located is a high fire hazard area due to its steep forested slopes and limited roadway network. Thus, new development must not only provide access for its residents, but must also accommodate emergency vehicles and allow for emergency evacuations. Accordingly, the LCP sections cited above require new development, and in particular new land divisions (which include lot line adjustments), to demonstrate the availability of safe and adequate access.

History of Access to the Project Site. On February 11, 1960, a grant deed was recorded for a 30-foot easement along the southern boundary of APN 241-291-10 that extends from San Remo Road to the southwest corner of APN 241-291-11 (north of existing Parcel 2) (see Exhibit G). A Notice of Intent to Preserve Easement was executed on April 3, 2003 by the applicant and subsequently recorded on April 16, 2003.

On July 17, 1973, a grant deed was recorded over property owned by Leland and Judith Lewis (APN 243-181-011) that provided a 20-foot wide vehicular and utilities easement to the benefit of APNs 243-181-005 and 243-181-006 (Parcels 1 and 2, as described in this report). As shown in Exhibit G, this 20-foot easement extended along the northern boundary of APN 243-181-011, and along the northern boundary of APN 243-181-009. In addition, this grant deed provided a 20-foot wide driveway and utilities easement from San Remo Road, between APNs 243-181-009 and 243-181-010, to the southwest corner of Parcel 1. The vehicular access along the northern boundary of APN 243-181-011 was extinguished by a quitclaim deed on September 6, 1990 (subsequently recorded on September 12, 1990), and on that same day, a non-exclusive easement for emergency access purposes was granted to the CHFPD through a grant deed for that same easement.



The 20-foot access easement from San Remo Road, between APNs 243-181-009 and 243-181-010, to the southwest corner of Parcel 1, described above, was superceded by a 30-foot driveway easement that was created by grant deed that was recorded on May 17, 1991 (see Exhibit G). A subsequent Driveway Maintenance Agreement, recorded on December 28, 1999, was entered into between and among the neighbors who share this common driveway from San Remo Road (APNs 243-181-005, 243-181-006, 243-181-009, 243-181-010, and 243-181-011). The Driveway Maintenance Agreement describes the maintenance and repair responsibilities of the parties named in the agreement.

Current Emergency Access to the Project Site. As shown in Exhibit G, three emergency access easements currently exist to the project site, as secured by the above-described easement history. Only two of these three easements are currently improved access routes, and they consist of the existing CHFPD emergency access driveway from Mentone Drive to Parcel 1 and the existing driveway from San Remo Road to Parcel 1 (Routes 1 and 2, respectively). The third emergency access easement (Route 3), from San Remo Road to the north of existing Parcel 2, is currently partially overlain by a private driveway to APN 241-291-10 that does not extend the full length of the easement to the current Parcel 2.

The CHFPD easement (Route 1) currently provides emergency access to Parcels 1 and 2. The CHFPD, in their review of the proposed development on Parcel 1 and the proposed lot line adjustment, confirmed in a February 14, 2005 memo that (1) the property owners for this area executed a grant deed providing a “non-exclusive easement for emergency access purposes only,” that allows the Fire District an emergency access roadway between #7 Mentone Drive and San Remo Road; (2) the said easement provides for emergency response to 194 and 195 San Remo Road; (3) the dedicated emergency access roadway was essential for development of these lots, because fire engines would not have been able to get to them without it; and (4) fire engines can drive down roadways that are more than 15% grade, but cannot drive up more than 15% grade. A subsequent memo from the Fire District, dated March 3, 2005, clarified that when responding to an emergency, fire engines would drive up to Mentone Drive, and then go down the emergency roadway to the Moeller property. The engines would then stop and operate from the emergency access road in front of the Moeller property. Other emergency vehicles (e.g., ambulance) will still be able to get to the home by use of the required 12-foot wide driveway. The letter further indicated that area residents would be able to drive down the access road prior to arrival of the emergency vehicles, without interfering with fire department operations. The Fire District confirmed in a March 31, 2005 letter that (1) the Fire District’s review was for development of a single family dwelling on Parcel 1, as currently proposed; (2) the Fire district’s review does not approve any possible future development or access issues related to possible future development of a single family dwelling [on Parcel 2]; and (3) all future projects would still be subjected to the same code compliance review for emergency access. Since the appeal, the CHFPD further clarified in a February 2, 2006 letter (see Exhibit H) that they will not address any conditions on Parcel 2 until a project has been submitted for review, and that with the lot line adjustment, access to both parcels would be improved if for no other reason than each parcel would then connect to the driveway between San Remo Road and the emergency access easement.

As currently configured and as configured under the proposed lot line adjustment, two options exist for emergency access to Parcels 1 and 2. The first consists of the private access driveway that extends from 7 Mentone Drive to San Remo Road. As described above, fire engines would drive up to Mentone



Drive, and then go down the emergency roadway to the Moeller property (Route 1). To exit the area, fire engines would continue southwest along the existing driveway and out to San Remo Road (Route 2). For emergency access purposes, the combination of Routes 1 and 2 currently provides access to one residence (on APN 243-181-009), for which this is the only emergency access route. Emergency access for the other developed parcels with easement rights to this driveway is provided via San Remo Road (for APN 243-181-010) and Mentone Drive (for APN 243-181-011). Emergency access for the residence currently proposed on Parcel 1 would be solely provided via this driveway (Routes 1 and 2), resulting in this driveway providing emergency access to two residences. Pursuant to CIP Section 18.56.030.J., a driveway is defined as a vehicular access that serves no more than two buildings, with no more than three dwelling units on a single parcel, and any number of accessory buildings. Therefore, the designation of this access route would change from driveway to road with the addition of a third residence whose sole emergency access route is this route. And pursuant to CIP Section 18.56.060.3, all roads shall be constructed to provide a minimum of two nine-foot traffic lanes providing two-way traffic flow. Therefore, any future development on Parcel 2 would require this driveway to be widened to two 9-foot access lanes if that development were to use this route as its emergency access.

The second option for emergency access consists of the easement that connects from San Remo Road to the northern portion of the site (Route 3). A private driveway, which does not extend the full length of the easement to the current Parcel 2, exists over this easement. If this route were to be used to provide access to the development proposed on the reconfigured Parcel 1, this driveway would require extension over an intermittent creek to the site. Similarly to the situation that exists with the southern access route, if the future development on reconfigured Parcel 2 were also to use this emergency access route, the route would require widening to 18 feet, since this route would then provide sole emergency access to more than two buildings.

Although the CHFPD has indicated it cannot provide a review of any future development on Parcel 2 until a specific development is proposed, CHFPD Battalion Chief Dennis Carreiro stated in a telephone conversation with Coastal Commission staff on March 23, 2006 that a third residence with either driveway as its sole access route would necessitate widening of the driveway to 18 feet. The applicant has acknowledged this fact (in an August 29, 2005 letter to the CHFPD), and has indicated that they can either expand the existing driveway from San Remo Road to the southern portion of the site or the existing driveway that connects from San Remo Road to the northern portion of the site because (1) the instruments that granted the vehicular easements grant the right to 30-foot wide driveways and (2) there are no physical impediments (aside from plants) which would restrict the expansion of the driveways.

Although the expansion of the existing driveway from Mentone Drive, to the southern portion of the site, and out to San Remo Road (Routes 1 and 2) or the extension of the driveway that connects from San Remo Road to the northern portion of the site (Route 3) is legally feasible due to the applicant's existing rights to the 30-foot access easements that cover both routes, doing so could result in LCP inconsistencies that have not been analyzed in detail under the County approval of the project. The proposed lot line adjustment and future development of Parcel 2 would trigger access improvements that could be inconsistent with the LCP. These includes tree and other vegetation removal, grading and paving on steep slopes, potential viewshed impacts, and in the case of the access route on the northern end of the site, crossing an intermittent creek to gain access to the site.

While it is recognized that some adjustment to the boundary between Parcel 1 and 2 may be an effective



way to minimize the environmental impacts of developing Parcel 2, such an adjustment must be accompanied by a comprehensive analysis of the impacts and alternatives associated with a specific development plan for Parcel 2, including the necessary access improvements. Until such details are more fully understood and addressed, it is premature to approve the proposed lot configuration and building envelope for Parcel 2. Thus, the permit has been conditioned to eliminate the lot line adjustment component of the proposed project, as necessary to ensure consistency with LUP Policy 2.7.3.3, which allows approval of new land divisions only where it can be demonstrated that development of proposed access roads will neither create nor significantly contribute to erosion, geologic instability, flooding, or fire hazard, nor require construction of new protective devices which would substantially alter natural landforms. Elimination of the lot line adjustment is also needed to carry out LUP Policy 4.4.2.6 and CIP Section 20.146.120.A.1 (cited in Section 3 of these findings), which allow subdivisions of undeveloped parcels only if narrow roads can be sited to minimize viewshed impacts and grading and development of roads can be avoided on slopes exceeding 30%.

Fire, Geologic, and Erosion Hazards. The project site is located in a fire hazard area and on the southeastern limits of an area of recent alluvium, as identified on the Carmel Area LUP Hazards map (Map D). The proposed development on Parcel 1, as conditioned by the County, would be consistent with policies related to fire hazards. Conditions 21-24 of the County approval include standard Fire District requirements for development, and among other things, require that: (a) driveways be 12 foot wide (this pertains to the new driveway on Parcel 1 that would extend from the existing access driveway to the residence); (b) the grade for driveways not exceed 15 percent; (c) all buildings be issued address numbers; (d) flammable vegetation within 30 feet of the house be removed to provide fire safety – environmentally sensitive areas may require alternative fire protection; and (e) buildings be installed with automatic fire sprinklers.

The proposed residence on Parcel 1 would involve grading and excavation on and in close proximity to steep slopes, creating the potential for erosion problems. Although the proposed residence has been sited to avoid the northern area of the site that consists entirely of slopes of 30% or greater, the project still involves some development on slopes of 30% or greater in the area of the proposed driveway. This raises consistency issue with LUP Policy 2.7.4.1, which calls for all development to be sited and designed to conform to site topography and to minimize grading. In addition, development on Parcel 1, including tree removal activities, raises consistency issues with LUP Policy 2.7.4.11, which requires land disturbance to be restricted to building site areas and the native vegetation cover to be maintained in areas prone to rapid run-off and unstable soils.

c. Hazards Conclusion

The emergency access improvements that would be triggered by the proposed lot line adjustment and future residential development on Parcel 2 raise LCP consistency issues that have not been analyzed in detail under this proposal. Such issues cannot be adequately analyzed or addressed until a specific development is proposed for Parcel 2. Therefore, elimination of the lot line adjustment is necessary to carry out LUP Policy 2.7.3.3 and CIP Section 20.146.080.C.3.

With respect to the proposed construction of the new residence, associated grading, clearing, and tree removal could result in onsite erosion problems with adjacent steep slopes. Special Condition 2(a)



therefore requires the removal of the circular portion of the driveway in order to reduce the amount of grading and site disturbance and to ensure retention of the maximum amount of native vegetation cover on the property. In addition, Special Conditions 2(c) and 3 require that all area of Parcel 1 outside the development footprint be designated for Monterey pine restoration and enhancement and actively restored with native vegetation, as necessary to achieve consistency with LUP Policy 2.7.4.11 and CIP Section 20.146.080.D.1.k. Other conditions require construction BMPs such as the installation of silt fences or other sediment trapping devices along the perimeter of the construction zone in order to prevent runoff and erosion on steep slopes (Special Condition 5) and ensure long-term erosion control through the implementation of a site drainage plan designed to manage onsite drainage from all impervious surfaces (Special Condition 6). Only as so conditioned does the project comply with the hazards requirements of the LCP.

2. Environmentally Sensitive Habitat Areas (ESHA)

a. Applicable Policies

The LCP is protective of sensitive resource systems such as Monterey pine forest and other environmentally sensitive habitat areas (ESHA). The following LCP policies and ordinances are relevant to the protection of Monterey pine forest on the project site:

Carmel Area LUP Key ESHA Policy 2.3.2

The environmentally sensitive habitats of the Carmel Coastal Segment are unique, limited and fragile resources of statewide significance, important to the enrichment of present and future generations of County residents and visitors; accordingly, they shall be protected, maintained and, where possible, enhanced and restored. All categories of land use, both public and private, shall be subordinate to the protection of these critical areas (see Map B).

Plant communities considered as sensitive are categorized as follows:

Rare, endangered and sensitive plants, Northern coastal prairie, Chamise-Monterey Manzanita dwarf coastal chaparral, Gowen cypress woodland, Monterey cypress and pine forests, and Redwood forest.

Since not all Monterey pine forest areas are environmentally sensitive habitat, the restrictions of these policies shall only apply where such forests are determined to be sensitive on a case by case basis.

Rare and endangered species are those identified as rare, endangered, and/or threatened by the State Department of Fish and Game, United States Department of the Interior Fish and Wildlife Service, the California Native Plant Society, IUCN list, and/or pursuant to the 1973 Convention on International Trade in Endangered Species of Wild Fauna and Flora. Sensitive species are those locally rare or unique plants defined as endemic, relict, or disjunct. In the Carmel area, rare, endangered, and sensitive species include Hickman's onion, Sandmat manzanita, Monterey ceanothus, Hutchinson's delphinium, Point Lobos eriogonum, gardener's tampah, rhododendrons, and other species that from time to time may be added or deleted from this list.



Only small scale development necessary to support the resource dependent uses may be located in sensitive habitat areas if they can not be feasibly located elsewhere.

Carmel Area LUP Policy 2.3.3.1.

Development, including vegetation removal, excavation, grading, filling, and the construction of roads and structures, shall be avoided in critical and sensitive habitat areas, riparian corridors, wetlands, sites of known rare and endangered species of plants and animals, rookeries and major roosting and haul-out sites, and other wildlife breeding or nursery areas identified as critical. Only resource-dependent uses, including nature education and research, hunting, fishing, and aquaculture, shall be allowed within environmentally sensitive habitats and only if such uses will not cause significant disruption of habitat values. Only small-scale development necessary to support the resource-dependent uses may be located in sensitive habitat areas if they cannot feasibly be located elsewhere.

Carmel Area LUP Policy 2.3.3.2.

Land uses adjacent to locations of environmentally sensitive habitats shall be compatible with the long-term maintenance of the resource. New land uses shall be considered compatible only where they incorporate all site planning and design features needed to prevent habitat impacts and where they do not establish a precedent for continued land development which, on a cumulative basis, could degrade the resource.

Carmel Area LUP Policy 2.3.3.3.

New development adjacent to environmentally sensitive habitat areas shall be allowed only at densities compatible with the protection and maintenance of the adjoining resources. New subdivisions shall be approved only where potential impacts to environmentally sensitive habitats from development of proposed parcels can be avoided.

Carmel Area LUP Policy 2.3.3.4.

To protect environmentally sensitive habitats and the high wildlife values associated with large areas of undisturbed habitat, the County shall retain significant and, where possible, contiguous areas of undisturbed land in open space use. To this end, parcels of land totally within sensitive habitat areas shall not be further subdivided. On parcels adjacent to sensitive habitats, or containing sensitive habitats as part of their acreage, development shall be clustered to avoid habitat impacts.



Carmel Area LUP Policy 2.3.3.5.

Where private or public development is proposed in documented or expected locations of environmentally sensitive habitats - particularly those habitats identified in General Policy No. 1 - field surveys by qualified individuals or agency shall be required in order to determine precise locations of the habitat and to recommend mitigating measures to ensure its protection. This policy applies to the entire segment except the internal portions of Carmel Woods, Hatton Fields, Carmel Point (Night heron site excluded), Odello, Carmel Meadows, and Carmel Riviera. If any habitats are found on the site or within 100 feet from the site, the required survey shall document how the proposed development complies with all the applicable habitat policies.

Carmel Area LUP Policy 2.3.3.6.

The County shall require deed restrictions or dedications of permanent conservation easements in environmentally sensitive habitat areas where development is proposed on parcels containing such habitats. Where development has already occurred in areas supporting sensitive habitat, property owners should be encouraged to voluntarily establish conservation easements or deed restrictions.

Carmel Area LUP Policy 2.3.3.7.

Where development is permitted in or adjacent to environmentally sensitive habitat areas, the County, through the development review process, shall restrict the removal of indigenous vegetation and land disturbance (grading, excavation, paving, etc.) to that needed for the structural improvements themselves.

Carmel Area LUP Policy 2.3.3.8.

The County shall require the use of appropriate native species in proposed landscaping.

Carmel Area CIP Section 20.146.040

The intent of this section is to provide development standards to protect the environmentally sensitive habitats of the Carmel coastal segment. These areas are unique, limited and fragile resources of statewide significance, important to the enrichment of present and future generations of County residents and visitors; accordingly, they shall be protected, maintained and, where possible, enhanced and restored. All categories of land use, both public and private, shall be subordinate to the protection of these critical areas.

Sensitive plant communities of the Carmel coastal area:

Rare, endangered and sensitive plants, Northern coastal prairie, Chamise-Monterey Manzanita dwarf coastal chaparral, Gowen cypress woodland, Redwood forests, and Monterey cypress and pine forests.

The sensitivity of Monterey pine habitats in the Carmel area shall be determined on a case-by-case basis through the completion of a biological/botanical report for the project. Examples of



sensitive Monterey pine forest include the naturally-occurring groves which:

- a. function as habitat for rare and endemic plant or animal species;*
- b. have special value for wildlife due to the presence of snags suitable for cavity-dwelling species, or occurrence with coast live oak, or native shrub understory; and/or*
- c. have high aesthetic value due to their location within the public viewshed.*

Carmel Area CIP Section 20.146.040.B.1.

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

Carmel Area CIP Section 20.146.040.B.2.

Only resource-dependent uses, including nature education and research, hunting, fishing, and aquaculture, shall be allowed within environmentally sensitive habitats. Findings must be made with appropriate supporting data that such uses will not cause significant disruption of habitat values.

Carmel Area CIP Section 20.146.040.B.3.

Land uses adjacent to locations of environmentally sensitive habitats shall be compatible with the long-term maintenance of the resource. New land uses are considered compatible only in a situation in which the proposal incorporates necessary site planning and design features which protect habitat impacts and which do not set a precedent for continued land development with the potential to degrade the resource. Based on staff review of the application, a botanical/biological report may be required in these areas. The determination of an adequate setback for development in these areas shall be noted in the botanical/biological report prepared for this project.

Carmel Area CIP Section 20.146.040.B.4.

New development adjacent to environmentally sensitive habitat areas shall be allowed at densities determined compatible with the protection and maintenance of the adjoining resources. New subdivisions are allowed only where potential impacts to environmentally sensitive habitats from development of proposed parcels is avoided.

Carmel Area CIP Section 20.146.040.B.5.

Parcels of land totally within sensitive habitat areas shall not be further subdivided. The development shall be designed so that the sensitive habitat area remains intact and undisturbed. Clustering shall be required in these areas to avoid habitat impacts on parcels adjacent to sensitive habitats or containing sensitive habitats as part of their acreage. On a parcel proposed for development, all areas of the parcel containing the sensitive habitat or species will



be encumbered with a conservation easement deeded to the County as a condition of project approval.

Carmel Area CIP Section 20.146.040.B.7.

Deed restrictions or dedications of permanent conservation easements covering the habitat and necessary buffer shall be required as conditions of approval for discretionary permits or conditions on ministerial projects in environmentally sensitive habitat areas where development is proposed on parcels containing such habitats.

Carmel Area CIP Section 20.146.040.B.8.

Removal of indigenous vegetation and land disturbance (grading, excavation, paving, etc.) in or adjacent to environmentally sensitive habitat areas shall be restricted to only those amounts necessary for structural improvements.

Carmel Area CIP Section 20.146.040.B.12.

Wildlife management considerations shall be included in the evaluation of development proposals, particularly land division proposals. Large and, where possible, contiguous areas of native vegetation shall be retained in order to meet the various needs of those wildlife species requiring large areas of undisturbed habitat.

Carmel Area CIP Section 20.146.040.C.2.g.

In areas of Monterey pine, coast live oak, or coast redwood are retained in open space, snag removal shall be avoided except where necessary to alleviate a hazardous situation.

Monterey County CIP Section 20.02.060 Consistency with Adopted Plans

A. *No building permit, grading permit, land use discretionary permit, coastal administrative permit, coastal development permit, exemption, categorical exclusion, or other permit relative to land use may be approved if it is found to be inconsistent with the Monterey County Local Coastal Program.*

B. *An exception to the finding required in Section 20.02.060.A may be considered by the Board of Supervisors on appeal, if it is found that the strict application of the area land use plan policies and development standards of this ordinance denies all reasonable use of the subject property. The exception may be granted only if the decision-making body is able to make the following findings:*

a. *that the parcel is otherwise undevelopable due to specific policies of the applicable land use plan and development standards of this ordinance, other than for reasons of public health and safety;*

b. *that the grant of a coastal development permit 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 subject property is located;

c. that the parcel is not located within the critical viewshed of Big Sur as defined in Section 20.145.020 and Section 20.145.030 and in the Big Sur Land Use Plan;

d. that any development being approved is the least environmentally damaging alternative project. In order to make this finding, 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;

e. that any development being approved under these provisions shall be one of the "allowable uses" as listed under the parcel's zoning classification and that it shall be appealable to the California Coastal Commission in all cases.

b. Monterey Pine Habitat Protection

The Carmel Area LCP Land Use Plan key environmentally sensitive habitat area (ESHA) policy designates Monterey pine forest as a sensitive plant community, and states that the sensitivity of Monterey pine forests, and subsequent determination that the specific habitat area is ESHA, shall be determined on a case by case basis. Carmel Area CIP Section 20.146.040 further clarifies that examples of sensitive Monterey pine forest include the naturally-occurring groves which function as habitat for rare and endemic plant or animal species; have special value for wildlife due to the presence of snags suitable for cavity-dwelling species, or occurrence with coast live oak, or native shrub understory, and/or; have high aesthetic value due to their location within the public viewshed. LCP policies require that ESHA be protected against significant disruption in habitat values, that development be sited and designed to prevent impacts that would degrade the resource, and deed restrictions or permanent conservation easements be required on parcels containing such habitat.

Monterey Pine Forest as ESHA

The native Monterey pine forest is generally considered an environmentally sensitive habitat area (ESHA) because this habitat is an extremely limited environmental resource of statewide significance. The vast majority of the world's remaining native Monterey pine habitat is found only along California's coast in three areas: Año Nuevo, Cambria, and the Monterey Peninsula.² The species is classified by the California Native Plant Society (CNPS) as 1B.1, indicating that the species is rare, threatened, or endangered in California and elsewhere. The California Department of Fish and Game Natural Diversity Database (NDDDB) List of Special Vascular Plants, Bryophytes, and Lichens (January 2006) classifies the Monterey pine as S1.1, indicating that, within California, there are fewer than 6 viable "element occurrences" and that the species is considered "very threatened." In addition, the NDDDB (September 2003) designates Monterey Pine Forest as a rare community type. The species also is on the International Union for Conservation of Nature and Natural Resources (IUCN) Red List of

² Two other small occurrences are found on the Guadalupe and Cedros Islands located off the Pacific coast of Mexico.



Threatened Species.³

Although generally identified as sensitive habitat in various LCPs, the Commission has still evaluated Monterey pine and ESHA issues in planning and regulatory matters case-by-case, based on an assessment of resources on the ground.⁴ Early in its history, the Commission did not necessarily strictly protect Monterey pine forest areas impacted by development as ESHA. In at least one case this appears to be because Monterey pine was not determined to be ESHA.⁵ In others, the Commission made findings that the forest areas in question would not be significantly disrupted, but did not focus specifically on the Coastal Act requirement to limit development in ESHAs to resource dependent developments.

Most recently, the Commission has generally found that “. . . within the native forest habitats, those stands of Monterey pines that have not been substantially developed and urbanized meet the definition of Environmentally Sensitive Habitat Area (ESHA) . . .” but has also emphasized the site-specific factors that may support a Monterey pine forest ESHA determination or not, including the size, health, and biodiversity of the forest areas.⁶ For example, in the Community Hospital of Monterey Peninsula decision (3-03-068), the Commission found that “native Monterey Pine forests are rare and play a special role in ecosystems by providing necessary habitat for other rare and unusual species,” but also that in this case, the relatively small area of pine forest (0.75 acres) impacted by a necessary hospital facility expansion was not ESHA because of the relative disturbance and fragmentation and thus arguable lower biological value, of the forest in the project area. The impacted area also did not contain other sensitive species in the understory.

In general, in recent years, the Commission has focused on the significance of Monterey pine forest areas as determined by their size, health, biodiversity and other factors to determine whether or not occurrences of Monterey pine are ESHA. Relatively large, unfragmented stands of native Monterey pine that are not highly degraded are rare and meet the definition of ESHA under the Coastal Act. Remaining relatively intact native stands of Monterey pine also are especially valuable due to their special nature as the genetic repository of the species; and Monterey Pine Forest habitat may also be especially valuable due to its ecosystem function of supporting populations of other rare species. Overall, little significant development has been approved by the Commission in recent years in Monterey pine forest areas determined to ESHA, other than residential development involving existing legal lots of record.

³ IUCN 2004. 2004 IUCN Red List of Threatened Species.

⁴ In general, once identified as ESHA, each LCP limits new development within Monterey pine forest areas to resource dependent development, similar to Coastal Act section 30240.

⁵ See, Poppy Hills Golf Course (3-84-120), wherein the Commission recognized the significance of Gowen Cypress and Bishop pine occurrences in association with Monterey pine, but did not require strict avoidance of all such occurrences or otherwise identify the larger Monterey pine forest impacted by the project as ESHA; also, see the MacComber (1-93) and Griffen (1-94) LCP amendments to allow residential subdivisions in Del Monte Forest; and the Leimert subdivision in Cambria approved by the County but not appealed to the Commission (3-SLO-97-130).

⁶ See, for example, A-3-SLO-05-017 Pine Knolls Water Tanks De Novo ADOPTED 6.9.05.doc.



ESHA Identification on the Project Site

Although the Carmel Highlands area is not specifically mapped as ESHA in the LCP (Map B), the project-specific biological report (prepared by Vern Yadon, March 14, 2003) and forest management plan (prepared by Forest City Consulting, January 27, 2004) both identify the vegetation community on the project site as native Monterey pine-coast live oak forest with intact native understory vegetation and an assortment of introduced weedy species. The biological report states, "The natural community represented on the site is in its entirety Monterey Pine-Coast Live Oak Forest. A small amount of grading and brush removal has taken place sometime in the past, but essentially this is an unimproved lot with its native vegetation essentially intact plus an added assortment of introduced weedy plants intruding." The report further finds that, "The poison oak which is normal for such sites has been kept under control by mowing. This has allowed the native bent grass, *Agrostis pallens*, to flourish." Similarly, the forest management report states, "Vegetation is primarily native forest. Native trees include Monterey pine (*Pinus radiata*) and coast live oak (*Quercus agrifolia*). Understory species of plants appear to be a mixture of some natives and an abundance of invasive genista."

The presence of Monterey pine trees, coast live oaks, and other native plants typical to the Monterey pine forest understory, as described by the project's biology reports and forest management plan, and observed by Commission staff in the filed, indicate that the site may indeed be ESHA. On the other hand, the project site is within a developed area where forest resources have been disturbed and fragmented by residential construction and uses. In order to reach a definitive conclusion regarding the classification of the site as ESHA, a more comprehensive and in depth analysis of the biological productivity of the site, and its connectivity and relationship to the larger native forest system, would need to be undertaken. Such analyses and an ESHA conclusion is not necessary, however, because applicable LCP provisions require the protection of native plants, habitats, and wildlife and open space areas, and allow for the development of a reasonable economic use, whether or not this particular site constitutes ESHA. In this case, the application of non-ESHA specific LCP resource protection requirements results in essentially the same development scenario and permit conditions as that which would follow from a takings analysis if the site is ESHA.

c. Consistency Analysis

Applicable LCP provisions require retention of the maximum amount of native vegetation cover, minimizing tree removal, restricting the amount of grading and site disturbance to building site areas, and landscape screening and restoration with native vegetation.

The location of the proposed residence avoids the most forested area of the site in 30% slopes, and is sited as close as possible to the existing access driveway and existing disturbed area without encroaching on the existing scenic easement that burdens the southern corner of Parcel 1.⁷ The limited tree removal associated with project construction will provide light and room for forest regeneration in areas outside of the development footprint, and thereby provide an opportunity to protect and restore the native plant communities supported by the site. In order to carry out LCP provisions calling for the

⁷ A private scenic easement may not necessarily preclude the Coastal Commission from requiring that a development be re-sited within the easement area if such a re-siting would better protect resources pursuant to the LCP. In this case, such a re-siting is not needed to comply with LCP requirements, provided that the development is conditioned to protect and restore the site's native plants communities in all areas of Parcel 1 outside of the approved development envelope.



protection of these native plant communities, Special Condition 2(a) restricts the amount of total site disturbance to the authorized building envelope, and eliminates the circular driveway component of the project. Under this condition, the curved portion of the driveway and the second entrance/exit is removed, as shown in Exhibit E, in order to reduce overall site disturbance, minimize the amount of native vegetation removal, and cluster development to preserve scenic open space areas. Special Condition 2(c) requires that the habitat surrounding the development footprint be restored with native vegetation, and Special Condition 3 requires the remainder of Parcel 1 outside the development footprint to be designated as a Monterey pine habitat protection and enhancement area, prohibiting any future development in this area and ensuring long-term protection of habitat on the site. In addition, Special Condition 4 requires that the forest management plan be revised to require replacement planting in kind on Parcel 1.

Elimination of the lot line adjustment component of the project is also necessary to comply with the sensitive habitat protection requirements of the LCP. Due to the potential for future development of Parcel 2 to necessitate the construction of a new driveway within this riparian corridor, the lot line adjustment cannot be approved consistent with LCP ESHA policies and other policies requiring protection of native habitat.

d. Conclusion

The residential development on Parcel 1, as conditioned, is consistent with the LCP because it reduces the amount of site coverage in native Monterey pine habitat and ensures the long-term restoration and protection of the undeveloped areas of the site. A deed restriction is required assuring resource protection in perpetuity within Parcel 1. Only as conditioned will the project ensure the biological continuance of the Monterey pine habitat and be consistent with native habitat protection provisions of the LCP.

3. Visual and Scenic Resources

a. Applicable Policies

Carmel Area LUP Policy 2.2.3.5.

New subdivision which creates commitment to new development of the coastal hills and ridges east of Highway 1 shall be permitted only where every parcel to be created has an adequate building site that cannot be seen from public viewing points and corridors. New lots and access shall also be designed to minimize tree removal and visually intrusive grading.

Carmel Area LUP Policy 2.2.3.6.

Structures shall be subordinate to and blended into the environment, using appropriate materials that will achieve that effect. Where necessary, modification of plans shall be required for siting, structural design, color, texture, building materials, access and screening.



Carmel Area LUP Policy 2.2.3.7.

Structures shall be located and designed to minimize tree removal and grading for the building site and access road. Where earth movement would result in extensive slope disturbance or scarring visible from public viewing points and corridors, such activity will not be allowed. Extensive landform alteration shall not be permitted.

Carmel Area LUP Policy 2.2.3.8.

Landscape screening and restoration shall consist of plant and tree species consistent with the surrounding vegetation. Screening on open grassy slopes and ridges should be avoided.

Carmel Area LUP Policy 2.2.4.10.

The following siting and design control measures shall be applied to new development to ensure protection of the Carmel area's scenic resources, including shoreline and ocean views:

- a. ...Buildings located on slopes shall be sited on existing level areas and sufficiently set back from the frontal face. Buildings should not be located on slopes exceeding 30 percent, except when all other plan guides are met and siting on slopes over 30 percent better achieves siting consistent with the policies of the plan.*
- b. Where clustering of new residential or visitor-serving development will preserve desirable scenic and open space areas or enable structures to be sited out of the viewshed, it shall be preferred to more dispersed building site plans.*
- d. Exterior lighting shall be adequately shielded or shall be designed at near-ground level and directed downwards to reduce its long-range visibility.*
- e. Existing trees and other native vegetation should be retained to the maximum extent possible both during the construction process and after the development is completed. Landscape screening may be used wherever a moderate extension of native forested and chaparral areas is appropriate. All new landscaping must be compatible with the scenic character of the area and should retain existing shoreline and ocean views.*

Carmel Area LUP Policy 4.4.2.6.

New subdivision and development of undeveloped parcels south of the Carmel River shall be permitted only if the following principal criteria can be fully met in addition to other applicable policies of this plan:

- Structures can be located, designed, or screened to be outside of the public viewshed.*
- Narrow roads which can be sited to minimize impact upon the viewshed and require a minimum of grading.*



- *Roads and structures can be sited to avoid disruption or degradation of riparian corridors and other sensitive plant and wildlife habitats.*
- *Access roads for new development can be constructed to meet minimum County standards as well as the resource protection standards of this plan.*
- *Development would be in keeping with the present rural character of the area...*
- *Development of roads and houses would be avoided on slopes exceeding 30 percent, unless this siting enhances the overall objectives and policies of this plan for individual parcels.*

Exceptions may be made for the Carmel Meadows subdivision (including Portola and Williams properties), Carmel Highlands, Point Lobos Ranch, and Carmel Riviera which cannot fully comply with this policy.

Exceptions are permitted to this (and all other policies limiting subdivisions such as 2.3.3.4) for parcels to be created for and permanently restricted to resource protection with no residential or major structural development.

Carmel Area CIP Section 20.146.030.C.1.

Structures shall be subordinate to and blended into the environment, using appropriate materials that will achieve that effect. If necessary, modification of plans shall be required for siting, structural design, height, shape, color, texture, building materials, access and screening through the Coastal Development Permit process.

The following siting and design control measures shall be applied to new development to ensure protection of the Carmel area's scenic resources, including shoreline and ocean views:

a. Buildings located on slopes shall be sited on existing level areas and sufficiently set back from the frontal face. Development shall not be located on slopes of 30% or greater. The Director of Planning and Building may grant a waiver to the standard upon applicant request and explanation of the request justification if:

- 1) there is no alternative which would allow development to occur on slopes of less than 30%, or*
- 2) the proposed development better achieves the resource protection objectives of the Carmel Area Land Use Plan and development standards of this ordinance.*

b. Clustering of residential or visitor-serving development shall be required where clustering preserves desirable and scenic open space areas. The clustering requirement may be waived in cases where the applicant provides substantial evidence (subject to the approval of the Director of Planning) to the Planning Department proving overriding concerns and a greater benefit to the County and its residents in a non-clustered design. A lesser fiscal impact upon the applicant will not be sufficient proof in order to waive the clustering requirement.

d. Exterior lighting shall be unobtrusive and harmonious with the local area. Lighting fixtures



shall be adequately shielded and designed at near-ground level so that only the intended area is illuminated and off-site glare is fully controlled.

e. Existing trees and other native vegetation shall be retained to the maximum extent possible both during the construction process and after the development is completed. Landscape screening utilizing native species may be used wherever a moderate extension of native forested and chaparral areas is appropriate. Drought-resistant native species will be the appropriate species to use for this landscaping. All new landscaping must be compatible with the scenic character of the area and shall retain existing shoreline and ocean views. Refer to the County's "A Drought Tolerant Plant List for the Monterey Peninsula" for appropriate landscape plant species.

Landscape screening and restoration shall consist of plant and tree species consistent with the surrounding native vegetation. No landscape screening is allowed on open grassy slopes and ridges.

Carmel Area CIP Section 20.146.030.C.7.

East of Highway 1, subdivisions which create new lots on the coastal hills and ridges may be permitted only where each parcel to be created has an adequate building site not within the public viewshed.

Carmel Area CIP Section 20.146.030.C.8.

Structures shall be located to minimize tree removal and grading for the building site and access road. If proposed earth movements would result in extensive slope disturbance or scarring visible within the public viewshed, the proposed grading/ground disturbance will not be allowed. Extensive landform alteration shall not be permitted.

Carmel Area CIP Section 20.146.060.D.1.

Landmark trees of all native species shall not be permitted to be removed. A landmark tree is a tree which is 24 inches or more in diameter when measured at breast height, or a tree which is visually significant, historically significant, exemplary of its species, or more than 1000 years old....

An exception may be granted by the decision-making body for removal of a tree that is 24 inches or greater in diameter (measured at breast height) and not also visually or historically significant, exemplary of its species or more than 1000 years old, provided that a finding may be made that no alternatives to development (such as resiting, relocation, or reduction in development area) exists whereby the tree removal can be avoided.



CIP Attachment A, Section 2.D.2.c.

Landmark trees. All landmark trees will be protected from damage if not permitted to be removed as a diseased tree which threatens to spread the disease to nearby healthy trees or as a dangerous tree which presents an immediate danger to human life or structures. A landmark tree is a tree 24 inches or more in diameter when measured at breast height, or a tree which is visually significant, historically significant, exemplary of its' species or more than 1000 years old.

Carmel Area CIP Section 20.146.120.A.1.

New subdivision and development of undeveloped parcels south of the Carmel River is permitted only if the following principal criteria can be fully met in addition to other applicable policies of this plan:

- *Structures shall be located, designed, or screened to be outside of the public viewshed.*
- *Roads and structures shall be sited to avoid disruption or degradation of riparian corridors and other sensitive plant and wildlife habitats.*
- *Development shall be in keeping with the present rural character of the area...*

Exceptions may be made for the Carmel Meadows subdivision (including Portola and Williams properties), Carmel Highlands, Point Lobos Ranch, and Carmel Riviera which cannot fully comply with this policy.

Carmel Area CIP Section 20.146.120.A.6.

As a condition of development approval, all areas of a parcel in slopes of 30% and greater shall be required to be placed in a scenic easement.

CIP Section 20.14.060 Site Development Standards for areas zoned LDR/1(CZ) (low density residential, 1 acre per dwelling unit), which include:

- a. Minimum building site shall be 1 acre unless otherwise approved as part of a clustered residential development;
- b. Maximum development density shall not exceed 1 acre per unit;
- c. Main Structure Maximum height is 30 feet;
- d. Minimum Setbacks – Main Structure: 30-foot front yard setback; 20-foot side yard and rear setback;
- e. Maximum building site coverage is 15%.



b. Consistency Analysis

The project site is not located within the scenic viewshed as identified in the Carmel Area LCP (LUP Map A). The LCP is most restrictive of development that occurs within the scenic viewshed; however, specific visual resource protection policies still apply to parcels outside the viewshed. Namely, the LCP encourages clustering of new residential development to preserve scenic and open space areas; requires structures and exterior lighting to be consistent with the rural character of the area and subordinate to and blended into the environment; requires native vegetation removal, tree removal (including landmark trees), and grading to be minimized; and requires vegetation used for screening and restoration to be consistent with the surrounding vegetation. In addition, LUP Policy 4.4.2.6 and CIP Policy 20.146.120.A.1 require structures to be sited to avoid disruption of riparian corridors and other sensitive plant and wildlife habitats. LCP visual resource protection policies also restrict development on 30% slopes.

The proposed development on Parcel 1 would be consistent with policies requiring new structures to be consistent with the rural character of the area and subordinate to the environment (LUP Policies 2.2.3.6 and 4.4.2.6, CIP Policies 20.146.030.C.1 and 20.146.120.A.1). The surrounding residential neighborhood includes houses that range in size and style, including small wooden cabins with steep pitched roofs and wooden shingling, to broad Mediterranean-style homes similar in color, design and scale to the proposed design. Proposed building materials and colors (including Caramelo colored stucco, grayish-red clay roof tiles, wood windows, and stone color samples) are similar to those used elsewhere in the neighborhood. In order to ensure consistency with LCP requirements that call for the development to blend into the surrounding environment, Special Condition 2(b) requires Executive Director review of final color boards and project elevation drawings that identify the type and color of all finished materials. As conditioned by the County (Condition #8), the project would also be consistent with LCP policies requiring unobtrusive, shielded exterior lighting. With these conditions, the project will protect native vegetation and scenic open space areas consistent with LCP requirements.

As discussed under Hazards, the proposed residence has been sited to avoid the northern area of the site that consists entirely of slopes of 30% or greater, but the project still involves some development on slopes of 30% or greater in the area of the proposed driveway. This raises consistency issue with CIP Section 20.146.030.C.1, which prohibits development on slopes of 30% or greater. Special Condition 1(a) will ensure consistency with this requirement through the removal of the circular portion of the driveway that encroaches on 30% slopes. This condition also reduces overall site disturbance, minimizes the amount of native vegetation removal, and seeks to better cluster development to preserve scenic open space areas.

Elimination of the lot line adjustment is needed to comply with LUP visual resources protection policy 2.2.3.5, which requires new lots and access to be designed to minimize tree removal and visually intrusive grading. Since the access improvements that would be triggered by development of Parcel 2 could result in significant tree removal and visually intrusive grading, the lot line adjustment cannot be approved until full consideration is given to potential impacts of widening either emergency access route to the site.



c. Visual Conclusion

The residential development on Parcel 1, as conditioned, is consistent with the LCP because it reduces the amount of site coverage and ensures the long-term restoration and protection of the undeveloped areas of the site. A deed restriction is required assuring resource protection in perpetuity within all areas of Parcel 1 outside of the authorized development envelope. Only as conditioned is the project consistent with LCP visual resource protection provisions.

4. California Environmental Quality Act (CEQA)

Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The Coastal Commission's review and analysis of land use proposals has been certified by the Secretary of Resources as being the functional equivalent of environmental review under CEQA. This staff report has analyzed the environmental impacts posed by the project and identified changes to the project that are necessary to reduce such impact to an insignificant level. Based on these findings, which are incorporated by reference as if set forth herein in full, the Commission finds that only as modified and conditioned by this permit will the proposed project avoid significant adverse effects on the environment within the meaning of CEQA.



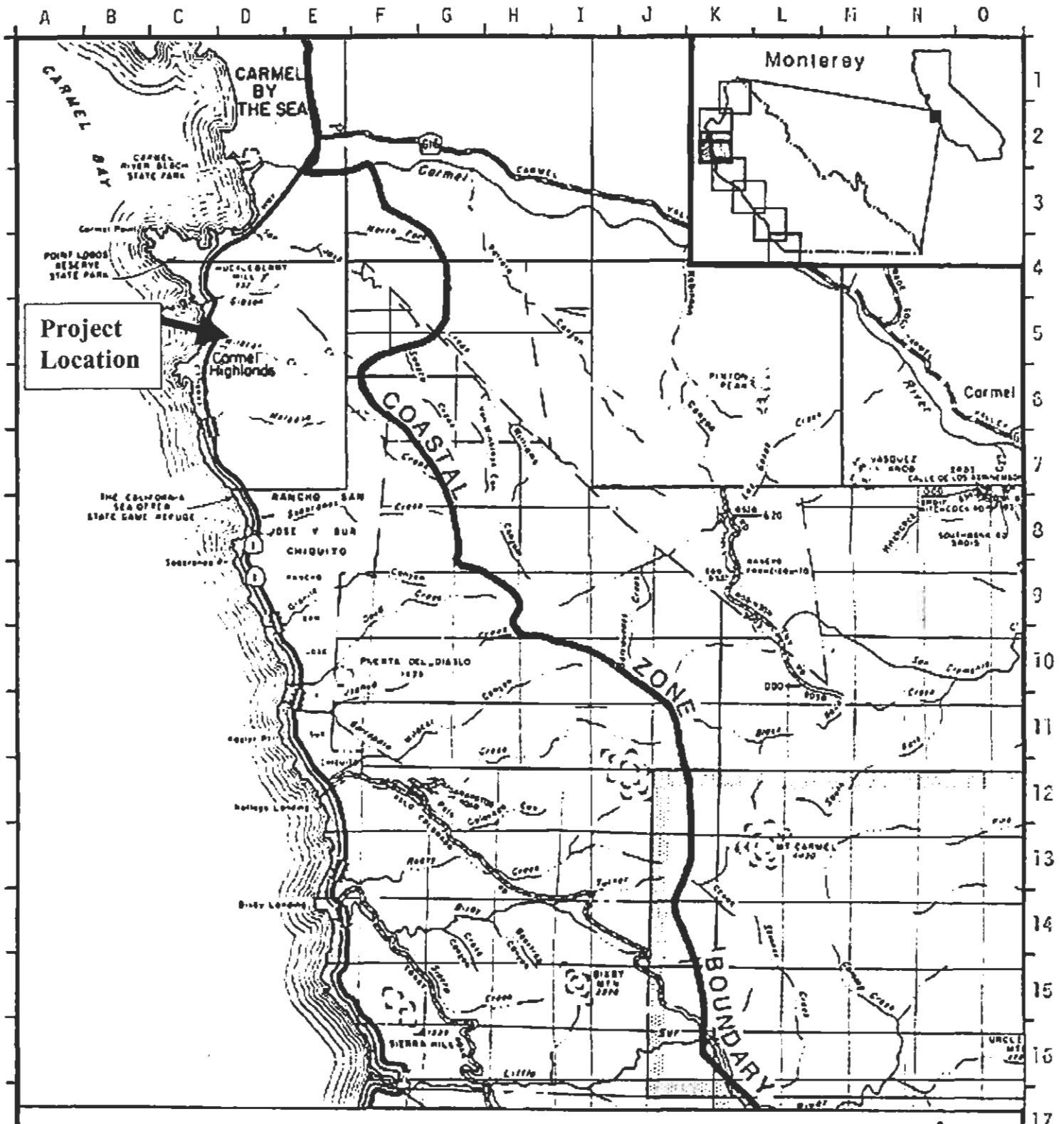


Exhibit A

Regional Location Map: Carmel Highlands Area

A-3-MCO-05-033

Moeller SFD and Lot Line Adjustment



California Coastal Commission



Exhibit B
Project Vicinity

A-3-MCO-05-033
Moeller SFD and Lot Line Adjustment

Exhibit C
Board of Supervisors
Final Local Action Notice

Exhibit C
Board of Supervisors Final Local Action Notice

A-3-MCO-05-033
Moeller SFD and Lot Line Adjustment



California Coastal Commission

Resolution No. 05-082
Before the Board of Supervisors in and for the
County of Monterey, State of California

**FINAL LOCAL
ACTION NOTICE**

Approve a Combined Development Permit)
(PLN040050/Moeller) consisting of a Coastal)
Administrative Permit and Design Approval for a two-)
story 3,588 sq. ft. single family dwelling with a 1,164)
sq. ft. attached garage and grading (approximately 185)
cu. yds. of cut & 195 cu. yds. of fill); a Coastal)
Development Permit for native tree removal (9)
Monterey pines including 2 landmark pines, 6 coast)
live oaks, and 3 clusters of coast live oaks); a Coastal)
Development Permit for development on slopes of 30%)
or greater; and a Coastal Development Permit for an)
equal lot line adjustment of approximately 0.27 acres)
between a 0.85-acre lot (Parcel 1) and a 0.61-acre lot)
(Parcel 2) resulting in no net change in acreage for)
either parcel. The properties are located at and)
adjacent to 194 San Remo Drive, Carmel (Assessor's)
Parcel Numbers 243-181-006-000 & 243-181-005-000),)
Carmel Highlands Area, Coastal Zone.)

REFERENCE # 3-MCO-05-179
APPEAL PERIOD 5/10 - 5/23/05

RECEIVED

MAY 09 2005

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

In the matter of the application of PLN040050 (Moeller),

WHEREAS: The Monterey County Board of Supervisors pursuant to regulations established by local ordinance and state law, has considered, at public hearing, an application for a Combined Development Permit (PLN040050/Moeller) consisting of a Coastal Administrative Permit and Design Approval for a two-story 3,588 sq. ft. single family dwelling with a 1,164 sq. ft. attached garage and grading (approximately 185 cu. yds. of cut & 195 cu. yds. of fill); a Coastal Development Permit for native tree removal (9 Monterey pines including 2 landmark pines, 6 coast live oaks, and 3 clusters of coast live oaks); a Coastal Development Permit for development on slopes of 30% or greater; and a Coastal Development Permit for an equal lot line adjustment of approximately 0.27 acres between a 0.85-acre lot (Parcel 1) and a 0.61-acre lot (Parcel 2) resulting in no net change in acreage for either parcel. The properties are located at and adjacent to 194 San Remo Drive, Carmel (Assessor's Parcel Numbers 243-181-006-000 & 243-181-005-000), Carmel Highlands Area, Coastal Zone.

NOW, THEREFORE, the Board of Supervisors finds as follows:

1. **FINDING: CONSISTENCY** - The project, as conditioned, is consistent with applicable plans and policies, including the Monterey County Coastal Subdivision Ordinance (Title 19), the *Carmel Area Land Use Plan*, the *Regulations for Development in the Carmel Area Land Use Plan*, Part 6 (Appendices) of the *Coastal Implementation Plan*, and the Monterey County Zoning Ordinance (Title 20) which designates this area as appropriate for residential development.

- EVIDENCE:** (a) PBI staff has reviewed the project as contained in the application and accompanying materials for consistency with the *Carmel Area Land Use Plan*, the *Regulations for Development in the Carmel Area Land Use Plan*, Part 6 (Appendices) of the Coastal Implementation Plan. PBI staff has reviewed the project as contained in the application and accompanying materials for conformity with the Monterey County Coastal Subdivision Ordinance (Title 19) and the Monterey County Zoning Ordinance (Title 20) and has determined that the project is consistent with these plans and ordinances, which designate this area as appropriate for residential development. Application materials in Project File PLN040050.
- (b) Project planner conducted onsite inspections on July 20, 2003, January 15, 2004, and March 17, 2005 to verify that the project on the subject parcel conforms to the plans and ordinances listed above.
- (c) The project, for a lot line adjustment and a single family home, involves a conditional use and an allowed use, respectively, in accordance with Sections 20.14.050.BB and 20.14.040.A of the Zoning Ordinance (Title 20).
- (d) The project is in compliance with Site Development Standards for the Low Density Residential District in accordance with Section 20.14.060.
- (e) **LAND USE ADVISORY COMMITTEE:** The Carmel Area Land Use Advisory Committee heard the project on Monday, April 5, 2004, and recommended denial of the proposed house design by a vote of 4-0 (with 3 members absent), and voted to recommend approval of the proposed lot line adjustment as well as the waiver to allow development on slopes of 30% or greater by the same margin; LUAC meeting minutes dated Monday April 5, 2004.
- (f) The application, plans, and support materials submitted by the project applicant to the Monterey County Planning and Building Inspection Department for the proposed development, found in Project File PLN040050.

- 2. FINDING: SLOPES OF 30% OR GREATER** – The project proposes development on approximately 720 sq. ft. of Parcel 1 (currently APN 243-181-006-000) with slopes of 30% or greater. This development proposal better achieves the goals, policies and objectives of the Monterey County Local Coastal Program than other development alternatives because it minimizes tree removal and avoids development on steeper areas of the parcel (as adjusted). Remaining areas of both parcels with slopes of 30% or greater shall be conveyed to the County as a Scenic and Conservation easement, pursuant to the requirements of Section 20.146.120.A.6 of the Regulations for Development in the Carmel Area Land Use Plan.

- EVIDENCE:** (a) Plans and materials contained in Project File PLN040050.
- (b) Forest Management Plan prepared for the project by Forest City Consulting, dated January 27, 2004. Report contained in Project File PLN040050.
- (c) Staff conducted a site visit on January 15, 2004 and March 17, 2005, to verify that the site is suitable for this use.
- (d) Condition 9.

3. FINDING: TREE REMOVAL -A total of 9 Monterey pines, 6 coast live oaks, and 3 clusters of coast live oaks are proposed for removal. The subject project, as conditioned, minimizes tree removal in accordance with the applicable goals and policies of the Carmel Area Land Use Plan and the Regulations for Development in the Carmel Area Land Use Plan (Coastal Implementation Plan, Part 4). No alternatives to development (such as resiting, relocation, or reduction in development area) exist whereby removal can be avoided for the two landmark Monterey pine trees (#s 26 & 34 of the forester's report). Tree #34 is located within the footprint of the proposed residence and in the forester's latest assessment of the project, dated April 5, 2004, he states that, "*Tree #26 cannot be reasonably retained within falling distance of any structure or high use area.*" Therefore, a total of nine (9) Monterey pines may be removed (#s 3, 5, 6, 7, 24, 26, 32, 33, 34). The coast live oaks allowed for removal are #s 27, 28, 29, 30, 31, plus the three unnumbered clusters of small oaks indicated in the forester's report. This action does not allow for trees of any type or size to be removed on the undeveloped easterly lot (as adjusted). Pursuant to the requirements of Section 20.146.060.D.6 of the Regulations for Development in the Carmel Area Land Use Plan, the 6 Monterey pines to be removed that are 12" DBH or greater shall be replaced at a 1: 1 ratio and shall be included as part of the required landscaping plan.

- EVIDENCE:**
- (a) The forester's report states that the "*proposed design reflects the desire to protect trees, especially the larger Monterey Pines; however, it was decided that some large tree needed to be removed to insure protection of others.*"
 - (b) Forest Management Plan prepared for the project by Forest City Consulting, dated January 27, 2004, and addendum dated April 5, 2004, as well as supplemental report dated September 3, 2003 (reports contained in Project File PLN040050).
 - (c) On the westerly lot (as adjusted), two (2) landmark Monterey pine trees are proposed for removal along with 3 other pines greater than 12" in diameter-at-breast height (DBH) and 3 pines less than 12" DBH. Six (6) coast live oaks measuring 6" DBH or less and three (3) clusters of oaks with trunks measuring 4" or less are also proposed for removal on the westerly lot (as adjusted). Four dead or damaged trees north of the proposed residence are proposed for removal, and one 23" Monterey pine (#24) in the southern portion of the lot is uprooting and therefore proposed for removal.
 - (d) Staff conducted a site visit on January 15, 2004 and March 17, 2005 to verify that the site is suitable for this use.
 - (e) Condition 25.

4. FINDING: NO VIOLATIONS - The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision and any other applicable provisions of the County's zoning ordinance. No violations exist on the property, and all zoning violation abatement cost, if any, have been paid.

EVIDENCE: Staff reviewed Monterey County Planning and Building Inspection Department records and is not aware of any violations that exist on subject property.

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

EVIDENCE: The project was reviewed by Planning and Building Inspection, Public Works, Water Resources Agency, Environmental Health, Parks and the Carmel Highlands FPD. The respective departments and agencies have recommended conditions, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood. The applicant has agreed to these conditions as evidenced by the application and accompanying materials and conditions.

6. **FINDING: SITE SUITABILITY** - The site is suitable for the use proposed.

EVIDENCE: (a) The project has been reviewed for suitability by Planning and Building Inspection, Public Works, Water Resources Agency, Environmental Health, Parks Department and the Carmel Highlands FPD. Conditions recommended have been incorporated.

- (b) According to the PBID Geographic Information System (GIS), the project lies in a seismic-hazard zone "III" (i.e., "moderate"), landslide risk is low to moderate, and liquefaction risk is low. Erosion risk is high. However, standard erosion-control practices will be implemented as conditions of the grading permit in order to fulfill the requirements of the County's Grading and Erosion Control Ordinances (Chapters 16.08 & 16.12 of the County Code).
- (c) A biological survey prepared for the project by Vern Yadon, dated March 14, 2003, reports that there are no statutorily-protected species found on-site, although two locally protected species are present onsite, which are native Monterey pine forest and coast live oaks. Report contained in Project File PLN040050.
- (d) An archaeological survey prepared by Archaeological Consulting, Inc., dated December 2, 2002, reports no evidence of archaeological or historic resources onsite.
- (e) Staff conducted a site visit on January 15, 2004 and March 17, 2005, to verify that the site is suitable for this use.
- (f) Necessary public facilities are available and will be provided.

7. **FINDING: CEQA (EXEMPT)** - The project is exempt from environmental review.

EVIDENCE: (a) CEQA Guidelines Sections 15303, 15304, and 15305 allow small structures, minor alterations to land, and minor lot line adjustments, respectively, to be categorically exempted from environmental review.

(b) No adverse environmental effects were identified during staff review of the development application during a site visit on January 15, 2004.

- (c) According to the PBID Geographic Information System (GIS), the project lies in a seismic-hazard zone "III" (i.e., "moderate"), landslide risk is low to moderate, and liquefaction risk is low. Erosion risk is high. However, standard erosion-control practices will be implemented as conditions of the grading permit in order to fulfill the requirements of the County's Grading and Erosion Control Ordinances (Chapters 16.08 & 16.12 of the County Code).
- (d) A biological survey prepared for the project by Vern Yadon, dated March 14, 2003, reports that there are no statutorily-protected species found on-site, although two locally protected species are present onsite, which are native Monterey pine forest and coast live oaks. Report contained in Project File PLN040050.
- (e) An archaeological survey prepared by Archaeological Consulting, Inc., dated December 2, 2002, reports no evidence of archaeological or historic resources onsite.

8. FINDING: PUBLIC ACCESS - The project is in conformance with the public access and public recreation policies of the Coastal Act and Local Coastal Program, and does not interfere with any form of historic public use or trust rights (see 20.70.050.B.4). No access is required as part of the project as no substantial adverse impact on access, either individually or cumulatively, as described in Section 20.70.050.B.4.c of the Monterey County Coastal Implementation Plan, can be demonstrated.

EVIDENCE

- (a) The subject property is not described as an area where the Local Coastal Program requires access.
- (b) The subject property is not indicated as part of any designated trails or shoreline access areas as shown in Figure 3, the Public Access Map, of the *Carmel Area Land Use Plan*.
- (c) No evidence or documentation has been submitted or found showing the existence of historic public use or trust rights over this property.
- (d) Staff site visit on January 15, 2004 and March 17, 2005.

9. FINDING: LOT LINE (ADJACENT PARCELS) - The lot line adjustment is between two existing adjacent parcels.

EVIDENCE: Application and plans for a lot line adjustment found in the Project File PLN040050.

10. FINDING: LOT LINE (PARCEL CREATION) - A greater number of parcels than originally existed will not be created as a result of the lot line adjustment.

EVIDENCE: Two contiguous separate legal parcels of record will be adjusted and two adjacent contiguous separate legal parcels of record will result from the adjustment.

11. FINDING: LOT LINE (ZONING CONFORMITY) - The parcels resulting from the lot line adjustment conform to the County Zoning and Building Ordinances.

EVIDENCE: The proposed lot line adjustment is consistent with the site development standards for parcels within the LDR/1(CZ) Zoning District, pursuant to

Sections 20.14.060 of the Monterey County Zoning Ordinance (Title 20). The application and plans for a lot line adjustment found in Project File PLN040050.

- 12. FINDING: APPEALABILITY** – The decision on this project is appealable to the California Coastal Commission.

EVIDENCE: (a) Section 20.86.080 of the Monterey County Coastal Implementation Plan – Part 1 (Coastal Commission). Approved projects involving development permitted as conditional uses are appealable to the Coastal Commission. The project involves conditional use permits for the removal of protected trees, development on 30% slope, and for the lot line adjustment.

FINDINGS FOR THE APPEAL

- 13. FINDING:** The County has conducted a fair and impartial public hearing on the application and related approvals.

EVIDENCE: (a) The Minor Subdivision Committee conducted a duly noticed, full, fair, and impartial public hearing on the application and related approvals on November 18, 2004. The hearing was conducted in accordance with state law and the adopted Monterey County Zoning Administrator Rules for the Transaction of Business ("Rules"). All members of the public wishing to speak on the project were afforded the opportunity to speak and to submit written testimony.

(b) Minutes and audio recording of the Minor Subdivision Committee hearing from November 18, 2004.

(c) The Board of Supervisors conducted a duly noticed, full, fair, and impartial *de novo* public hearing on the application and related approvals on February 15, 2005 and April 19, 2005.

(d) Minutes and audio recording of the Board of Supervisors from February 15, 2005 and April 19, 2005.

- 14. FINDING:** An appeal of the November 18, 2004, action of the Minor Subdivision Committee approving a Combined Development Permit (PLN040050/Moeller) consisting of a Coastal Administrative Permit and Design Approval for a two-story 3,588 sq. ft. single family dwelling with a 1,164 sq. ft. attached garage and grading (approximately 185 cu. yds. of cut & 195 cu. yds. of fill); a Coastal Development Permit for native tree removal (9 Monterey pines including 2 landmark pines, 6 coast live oaks, and 3 clusters of coast live oaks); a Coastal Development Permit for development on slopes of 30% or greater; and a Coastal Development Permit for an equal lot line adjustment of approximately 0.27 acres between a 0.85-acre lot (Parcel 1) and a 0.61-acre lot (Parcel 2) resulting in no net change in acreage for either parcel, was filed by Pamela Krone-Davis, *et al.* The appeal was timely filed on December 20, 2004.

EVIDENCE: (a) Said appeal has been filed with the Clerk of the Board of Supervisors within the time prescribed by Monterey County pursuant to the Zoning Ordinance (Title 20) Chapter 20.86.

(b) Said appeal has been determined to be complete.

(c) The Board of Supervisors has reviewed, evaluated, and considered, and the appeal.

15. FINDING: This appeal is brought on the claim that: (1) the findings or decision or conditions are not supported by the evidence, and (2) the decision was contrary to law.

EVIDENCE: Appellant's Notice of Appeal dated December 20, 2004; files of Clerk of the Board of Supervisors.

16. FINDING: Upon consideration of the documentary information in the files, the staff report, the oral and written testimony and other evidence presented before the Zoning Administrator, the Board of Supervisors upholds the appeal and approves the project as proposed.

EVIDENCE: (a) Oral testimony, staff reports, and documents in the administrative record.
(b) Minor Subdivision Committee Resolution No. 04023, dated November 18, 2004.
(c) Minutes and audio recording of the Minor Subdivision Committee hearing from November 18, 2004.
(d) The Board of Supervisors has reviewed, evaluated, and considered the appeal. The above finding is further evidenced by Staff's responses below, as recognized by the Board of Supervisors:

Summary of Appellants' Contentions & Staff Responses

The appeal by Pamela Krone-Davis, Ken Edwards, Misaka Olson, Betsy Collins, and Mary Whitney, of the Minor Subdivision Committee's approval of the Moeller Combined Development Permit (PLN040050) is based on a contention that the findings or decision or conditions are not supported by the evidence and that the decision was contrary to law. These contentions are based on the following issues, as summarized from the neighbors' appeal:

Issue 1: *Not a minor lot line adjustment but a major lot line adjustment, and as such is subject to CEQA review.*

Staff Response 1: Section 19.02.150 of the Subdivision Ordinance (Coastal Zone) defines a lot line adjustment that results in the relocation of the building area or has the potential to result in the creation of additional lots as "major." A lot line adjustment which does not result in the relocation of the building area is defined as "minor." With regard to the present application, there are no defined or established building areas on the subject parcels. In addition, the northerly lot is bisected from east to west by a natural drainage swale, resulting in steep slopes, riparian habitat, and irregular topography. The combination of these facts indicates that development of this constrained lot (APN 243-181-005-000) in its current configuration would result in more substantial impacts than would occur with the benefit of the proposed lot line adjustment. The application is therefore characterized as a minor lot line adjustment, since, as adjusted, development of the two legal lots of record will minimize the impacts associated with their development to less-than-significant levels. The proposed project can therefore be considered as "self-mitigating," qualifying it for a Class 5 categorical exemption, pursuant to Section 15305 (Minor Alterations in Land Use Limitations) of the CEQA Guidelines.

Issue 2: *The lots "created" by the Minor Subdivision Committee (MSC) are contrary to law because a non-buildable land-locked lot will be created that does not have access.*

Staff Response 2: The decision by the MSC to approve the subject Combined Development Permit (PLN040050) allowed an equal exchange of acreage between two existing lots of record to allow for an adjustment of property lines that will minimize the impacts associated with their development to less-than-significant levels, but did not create any new lots.

Issue 3: *Both the existing and proposed configurations of the subject parcels exceed the maximum-allowable density of the applicable land-use designation.*

Staff Response 3: This contention is true. The subject parcels lie within the Low-Density Residential (LDR) land-use designation and zoning district, which allow 1 acre of land per residential unit. Regardless, however, the subject parcels are legal non-conforming lots of record and may be developed pursuant to the issuance of applicable discretionary permits, as granted by the MSC. Development of the subject parcels is found to be preferable as adjusted compared to their existing configuration, since the proposed lot-line adjustment will minimize the impacts associated with their development to less-than-significant levels.

Issue 4: *As stated by the appellants, "At an earlier meeting, the applicant stated that one of the lots is vested with a contiguous lot to the north. This vestment needs to be addressed and made clear on the new lot."*

Staff Response 4: The owner of the subject lots also owns a third contiguous parcel (APN 241-291-011-000) to the north of the subject parcels. However, this lot is not part of the current Combined Development Permit application and was unaffected by the MSC's action.

Issue 5: *As stated by the appellants, "The proposed house is not consistent with the Carmel Area Land Use Plan because it is massive in scale and height, and the materials chosen increase visibility and a massive appearance."*

Staff Response 5: Staff finds the proposed house design to be consistent with the site-development standards of the LDR zoning district, which serve to limit the size of the house. Also, the proposed design is not unlike others approved in the vicinity since adoption and certification of the County's *Local Coastal Program*. In addition, Condition 25 requires the planting of at least 6 Monterey pines to replace those removed that are 12" DBH or greater; and the applicant proposes privacy screening along the westerly property line of Parcel 1 (as adjusted) consisting of several 15-gallon coast live oaks. These facts taken together indicate that the structure will be subordinate and blended into the environment consistent with Policy 2.2.3.6 of the *Carmel Area Land Use Plan*.

Issue 6: *As stated by the appellants, "The proximity of the proposed driveway to the neighboring property line to the west will create the need for a massive retaining wall on a 30 percent slope, which was not adequately represented on the plans."*

Staff Response 6: A retaining wall of the nature described by the appellants is not proposed by the subject application. In fact, the project does propose a small retaining wall along the westerly edge of the proposed driveway, but this wall would face the proposed house and would

not be on the downward slope facing the neighboring property to the west. Nevertheless, any additional development not covered by the scope of the present application would require a separate discretionary Permit-Amendment application.

Issue 7: *Regarding tree removal, the appellants note that several trees have been removed in the past and that more are proposed for removal. In addition, the appellants contend that, "a condition for removing these landmark pines should be the planting of pines that will grow to equal stature in the future."*

Staff Response 7: Staff conducted a site visit to the subject parcels on July 30, 2003 at which time the stumps of 16 trees were noted. As a result, a supplemental forester's report was required to provide more information on this subject (prepared by Glenn Flamik of Forest City Consulting, dated September 3, 2003). The results of the forester's investigation indicate that these trees were removed for reasons including clearing small trees for fuel-load maintenance, clearing storm-damaged trees, and clearing dead trees, all of which are activities exempted from Coastal Development Permit requirements. The random pattern of the stumps throughout the subject parcels lends credence to the forester's analysis in that it is clear that the trees were not removed to create a building pad, for example.

Regarding tree replacement, included in the standard landscaping condition of the MSC Resolution (Condition 23 of that document) was a requirement that the landscaping plan include 6 Monterey pines to replace those allowed for removal, and to maintain consistency with the requirements of the *Regulations for development within the Carmel Area Land Use Plan*.

APPELLANTS' DISAGREEMENT WITH FINDINGS

The neighbors' appeal lists five findings made by the MSC with which they disagree. These are as follow:

Findings 1 (Consistency) & 4 (No Violations): *The appellants claim that these finding are "not accurate."*

Staff Response: The appeal filed by the neighbors does not elaborate as to how they've determined that Findings 1 & 4 made by the MSC were inaccurate. As a result, staff has no response except to refer to Findings & Evidence 1 & 4, below and to reiterate that staff does find the project to be consistent with the County Code and that no violations of the Code were found with regard to the subject parcels.

Findings 2 (Slopes of 30% or Greater) & 3 (Tree Removal): *The appellants contend that these findings wrongly state that the proposed location of the home minimizes tree removal and avoids development on steeper slopes. The appellants also contend that, "There are better alternatives for the building site then that chosen and the house could be made smaller to have less impact."*

Staff Response: The effect of the lot line adjustment would be that the development constraints on the northerly lot, including steep slopes and riparian habitat, would be minimized. The northerly lot is bisected from east to west by a natural drainage swale, resulting in steep slopes, riparian habitat, and irregular topography. The combination of these facts indicates that development of this constrained lot (APN 243-181-005-000) in its current configuration would result in more substantial impacts than would occur with the benefit of the proposed lot line

adjustment, since a longer driveway access would be required that would involve more tree removal. Granting the lot line adjustment as proposed allows the development of both lots to avoid the steeper slopes while minimizing tree removal. Approval of the proposed project would allow development on approximately 720 sq. ft. of Parcel 1 (currently APN 243-181-006-000) with slopes of 30% or greater. Staff finds that this proposal better meets the goals and policies of the Local Coastal Program when compared to the potential impacts that may result from developing the lots in their current configuration.

Findings 5 (Health & Safety): *The appellants contend that approval of the project may result in a landlocked parcel without adequate access for emergency vehicles.*

Staff Response: The project was reviewed by the Carmel Highlands Fire Protection District as part of the County's Interdepartmental Review process. Four conditions recommended by the fire district are included below (#s 21, 22, 23 & 24). The fire district has made no indication to the Planning & Building Inspection Department that the project would result in inadequate access for emergency vehicles for either parcel. Review of this project did not include and does not approve a specific proposal to develop Parcel 2, but staff has determined that access to the parcel is feasible. Any future development on the parcel is subject to additional permits and review, including requirements for emergency access.

DECISION

IN VIEW OF THE ABOVE FINDINGS AND EVIDENCE the Board of Supervisors does hereby approve the subject project (PLN040050/Moeller) as proposed, subject to the conditions that follow.

PASSED AND ADOPTED on this 19th day of April, 2005, upon motion of Supervisor Potter, seconded by Supervisor Calcagno, by the following vote, to-wit:

AYES: Supervisors Armenta, Calcagno, Lindley Potter

NOES: None

ABSENT: Supervisor Smith

I, LEW BAUMAN, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof at Page -- of Minute Book 72, on April 19, 2005.

Dated: May 5, 2005

LEW BAUMAN, Clerk of the Board of Supervisors, County of Monterey, State of California.

By 
Ann Anderson, Deputy

Monterey County Planning and Building Inspection Condition Compliance Matrix

Project Name: Moeller

File No: PLN040050 **APNs:** 243-181-006-000 & 243-181-005-000

Approval by: Board of Supervisors **Date:** April 19, 2005

Permit Cond. No.	Impact Addressed, and Responsible Land Use Department	Compliance Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
1.	The subject permit approval grants a Combined Development Permit (PLN040050/Moeller) consisting of a Coastal Administrative Permit and Design Approval for a two-story 3,588 sq. ft. single family dwelling with a 1,164 sq. ft. attached garage and grading (approximately 185 cu. yds. of cut & 195 cu. yds. of fill); a Coastal Development Permit for native tree removal (9 Monterey pines including 2 landmark pines, 6 coast live oaks, and 3 clusters of coast live oaks); a Coastal Development Permit for development on slopes of 30% or greater; and a Coastal Development Permit for an equal lot line adjustment of approximately 0.27 acres between a 0.85-acre lot (Parcel 1) and a 0.61-acre lot (Parcel 2) resulting in no net change in acreage for either parcel. The properties are located at and adjacent to 194 San Remo Drive, Cannel (Assessor's Parcel Numbers 243-181-006-000 & 243-181-005-000), Cannel Highlands Area, Coastal Zone. This permit was approved in accordance with County ordinances and land use regulations subject to the following terms and conditions. Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of Planning and Building Inspection. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction	Adhere to conditions and uses specified in the permit.	Owner/ Applicant	Ongoing unless other- wise stated	

Permit Cond. No.	Impact Addressed, and Responsible Land Use Department	Compliance Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
	other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. (Planning and Building Inspection)				
2.	This permit shall expire two years from the date of adoption unless extended by the Director of Planning and Building Inspection pursuant to Section 20.140.100 of the Coastal Implementation Plan. (Planning and Building Inspection)	Vest project within two years or apply for a Permit Extension at least 30-days prior to expiration.	Owner/ Applicant	November 18, 2006	
3.	No land clearing or grading shall occur on the subject parcel between October 15 th and April 15 th unless authorized by the Director of Planning and Building Inspection. (Planning and Building Inspection)	None	Owner/ Applicant	October 15 th to April 15 th	
4.	All new utility and distribution lines shall be placed underground. (Planning and Building Inspection; Public Works)	None	Owner/ Applicant	Ongoing	
5.	The applicant shall record a notice on each lot that states: "A permit (Resolution 05-082) was approved by the Board of Supervisors for Assessor's Parcel Numbers 243-181-006-000 & 243-181-005-000 on April 19, 2005. The permit was granted subject to 26 conditions of approval that run with the land. A copy of the permit is on file with the Monterey County Planning and Building Inspection Department." Proof of recordation of this notice shall be furnished to the Director of Planning and Building Inspection prior to recordation of Record of Survey. (Planning and Building Inspection)	Proof of recordation of this notice shall be furnished to PBI.	Owner/ Applicant	Prior to Issuance of grading and building permits.	

Permit Cond. No.	Impact Addressed, and Responsible Land Use Department	Compliance Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
6.	The applicant shall record a deed restriction on each lot that states: "The parcel is located in a high fire hazard area and development may be subject to certain restrictions required as per section 20.64.280 of the Zoning Ordinance (Title 20)." (Planning and Building Inspection)	Proof of recordation of this notice shall be furnished to PBI.	Owner/ Applicant	Prior to Issuance of grading and building permits.	
7.	The property owner agrees as a condition and in consideration of the approval of this discretionary development permit that it will, pursuant to agreement and/or statutory provisions as applicable, including but not limited to Government Code Section 66474.9, defend, indemnify and hold harmless the County of Monterey or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees to attack, set aside, void or annul this approval, which action is brought within the time period provided for under law, including but not limited to, Government Code Section 66499.37, as applicable. The property owner will reimburse the county for any court costs and attorney's fees which the County may be required by a court to pay as a result of such action. County may, at its sole discretion, participate in the defense of such action; but such participation shall not relieve applicant of his obligations under this condition. An agreement to this effect shall be recorded upon demand of County Counsel or concurrent with the issuance of building permits, use of the property, filing of the final map, whichever occurs first and as applicable. The County shall promptly notify the property owner of any such claim, action or proceeding and the County shall cooperate fully in the defense thereof. If the County fails to promptly notify the property owner of any such claim, action or proceeding or fails to cooperate fully in the defense thereof, the property owner shall not thereafter be responsible to defend, indemnify or hold the county harmless. (Planning and Building Inspection)	Proof of recordation of the Indemnification Agreement, as outlined, shall be submitted to PBI.	Owner/ Applicant	Upon demand of County Counsel or concur- rent with the issuance of building permits, use of the property, filing of the final map, which- ever occurs first and as applic- able	

Permit C.d. No.	Impact Addressed, and Responsible Land Use Department	Compliance Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
8.	All exterior lighting shall be unobtrusive, harmonious with the local area, and constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. The applicant shall submit 3 copies of an exterior lighting plan which shall indicate the location, type, and wattage of all light fixtures and include catalog sheets for each fixture. The exterior lighting plan shall be subject to approval by the Director of Planning and Building Inspection, prior to the issuance of building permits. (Planning and Building Inspection)	Submit three copies of the lighting plans to PBI for review and approval	Owner/ Applicant	Prior to issuance of building permits.	
9.	A scenic easement shall be conveyed to the County over those portions of the property with slopes of 30% or greater, except for the small area expressly approved for development by this action. A scenic easement deed shall be submitted to, and approved by, the Director of Planning and Building Inspection prior to issuance of grading or building permits. (Planning and Building Inspection)	Submit scenic easement to PBI for approval.	Owner/ Applicant	Prior to issuance of building permits.	
10.	Trees that are located close to the construction site shall be protected from inadvertent damage from construction equipment by fencing off the canopy driplines and/or critical root zones (whichever is greater) with protective materials, wrapping trunks with protective materials, avoiding fill of any type against the base of the trunks and avoiding an increase in soil depth at the feeding zone or drip-line of the retained trees. Said protection shall be demonstrated prior to issuance of building permits subject to the approval of the Director of Planning and Building Inspection. (Planning and Building Inspection)	Submit evidence of tree protection to PBI for review and approval.	Owner/ Applicant	Prior to issuance of building permits.	
11.	Prior to filing the Record of Survey, the applicant shall provide documentation that the newly configured Parcel 2 has adequate access including necessary easements and/or deed restrictions on Parcel 1 to the Director of Planning and Building Inspection and Director of Public Works for review and approval. (Planning and Building Inspection & Public Works)	Submit documentation to PBI and PW for review and approval	Owner/ Applicant	Prior to filing the Record of	

Permit C.d. No.	Impact Addressed, and Responsible Land Use Department	Compliance Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
12.	Obtain a survey of the new line and have the line monumented. (Public Works)	Owner shall have a surveyor monument the new lines. Evidence of completion of monumentation shall be submitted to DPW for review and approval.	Owner/ Applicant/ Surveyor	Prior to Recorda tion of Parcel Map	
13.	File a Record of Survey showing the new line and its monumentation. (Public Works)	Owner's Surveyor to prepare record of survey and submit to DPW for review and approval.	Owner/ Applicant/ Surveyor	Prior to Recorda tion of Parcel Map	
14.	For Parcel 1, the 0.85 acre lot, that is currently identified as APN 243-181-006-000: Submit plans for review and approval showing the location and design of the proposed septic system meeting the standards found in Chapter 15.20 of the Monterey County Code (Septic Ordinance) and "Prohibitions", Central Coast Basin Plan, RWQCB. The design submitted shall indicate both primary and secondary leachfields for a maximum of a four-bedroom single-family dwelling, with a minimum of 1500 square feet of infiltration area per field. (Environmental Health)	Division of Environmental Health must approve plans. Applicant shall obtain a permit to install the septic system.	CA Licensed Engineer /Owner/ Applicant	Prior to filing the adjustme nt map or issuance of a building/ grading permit	
15.	For Parcel 2, the 0.61 acre lot, that is currently identified as APN 243-181-005-000: Submit an updated map indicating proposed septic envelopes for the parcel to the Division of Environmental Health for review and approval. Once approved the septic envelopes shall appear as part of the lot line adjustment map. (Environmental Health)	Once approved the septic envelopes shall appear as part of the lot line adjustment map.	Owner/ Applicant	Prior to filing the lot line adjustm ent map.	

Permit C.d. No.	Impact Addressed, and Responsible Land Use Department	Compliance Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
16.	For Parcel 2, the 0.61 acre lot, that is currently identified as APN 243-181-005-000: The lot line adjustment map shall include a note that states, "Any development on Parcel 2 that generates wastewater shall be limited to a maximum of a three-bedroom single-family dwelling, and shall meet the standards found in Chapter 15.20 of the Monterey County Code (Septic Ordinance) and 'Prohibitions,' Central Coast Basin Plan, RWQCB, unless otherwise approved by the Director of the Division of Environmental Health, Monterey County Health Department, or until the property connects to an approved sanitary sewer." (Environmental Health)	Division of Environmental Health must review and approve the note for the lot line adjustment map.	Owner/ Applicant	Prior to filing the lot line adjustm ent map.	
17.	For Parcel 2, the 0.61 acre lot, that is currently identified as APN 243-181-005-000: Any development on this lot that generates wastewater shall be limited to a maximum of a three-bedroom single-family dwelling, and shall meet the standards found in Chapter 15.20 of the Monterey County Code (Septic Ordinance) and "Prohibitions", Central Coast Basin Plan, RWQCB, unless otherwise approved by the Director of the Division of Environmental Health, Monterey County Health Department, or until the property connects to an approved sanitary sewer. (Environmental Health)	Comply with Chapter 15.20 of the Monterey County Code as approved by the Director of Environmental Health.	Owner/ Applicant	Continu ous	
18.	Record a Deed Notice on Parcel 2 (as adjusted) detailing the stipulations of Environmental Health Conditions 15 & 16, above. (Planning and Building Inspection)	Proof of recordation of this notice shall be furnished to PBI.	Owner/ Applicant	Prior to issuance of any grading/ building permits	

Permit Cand. No.	Impact Addressed, and Responsible Land Use Department	Compliance Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
19.	The applicant shall provide the Water Resources Agency a drainage plan prepared by a registered civil engineer or architect addressing on-site and off-site impacts. Stormwater runoff from impervious surfaces shall be dispersed at multiple points, away from and below any septic leach fields, over the least steep available slopes, with erosion control at outlets. Drainage improvements shall be constructed in accordance with plans approved by the Water Resources Agency. (Water Resources Agency)	Submit 3 copies of the engineered drainage plan to the Water Resources Agency for review and approval.	Owner/ Applicant/ Engineer	Prior to issuance of any grading or building permits	
20.	The applicant shall comply with Ordinance No. 3932, or as subsequently amended, of the Monterey County Water Resources Agency pertaining to mandatory water conservation regulations. The regulations for new construction require, but are not limited to: A. All toilets shall be ultra-low flush toilets with a maximum tank size or flush capacity of 1.6 gallons, all shower heads shall have a maximum flow capacity of 2.5 gallons per minute, and all hot water faucets that have more than ten feet of pipe between the faucet and the hot water heater serving such faucet shall be equipped with a hot water recirculating system. B. Landscape plans shall apply xeriscape principles, including such techniques and materials as native or low water use plants and low precipitation sprinkler heads, bubblers, drip irrigation systems and timing devices. (Water Resources Agency)	Compliance to be verified by building inspector at final inspection.	Owner/ Applicant	Prior to final building inspection/ occu- pancy	

Permit Cond. No.	Impact Addressed, and Responsible Land Use Department	Compliance Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
21.	<p>Driveways shall not be less than 12 feet wide unobstructed, with an unobstructed vertical clearance of not less than 15 feet. The grade for all driveways shall not exceed 15 percent. Where the grade exceeds 8 percent, a minimum structural roadway surface of 0.17 feet of asphaltic concrete on 0.34 feet of aggregate base shall be required. The driveway surface shall be capable of supporting the imposed load of fire apparatus (22 tons), and be accessible by conventional-drive vehicles, including sedans. For driveways with turns 90 degrees and less, the minimum horizontal inside radius of curvature shall be 25 feet. For driveways with turns greater than 90 degrees, the minimum horizontal inside radius curvature shall be 28 feet. For all driveway turns, an additional surface of 4 feet shall be added. All driveways exceeding 150 feet in length, but less than 800 feet in length, shall provide a turnout near the midpoint of the driveway. Where the driveway exceeds 800 feet, turnouts shall be provided at no greater than 400-foot intervals. Turnouts shall be a minimum of 12 feet wide and 30 feet long with a minimum of 25-foot taper at both ends. Turnarounds shall be required on driveways in excess of 150 feet of surface length and shall long with a minimum 25-foot taper at both ends. Turnarounds shall be required on driveways in excess of 150 feet of surface length and shall be located within 50 feet of the primary building. The minimum turning radius for a turnaround shall be 40 feet from the center line of the driveway. If a hammerhead/T is used,</p>	<p>Applicant shall incorporate specification into design and enumerate as "Fire Dept. Notes" on plans.</p>	Applicant or owner	Prior to issuance of grading and/or building permit.	

Permit and. No.	Impact/Addressed, and Responsible Land Use Department	Compliance Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
	the top of the "T" shall be a minimum of 60 feet in length. (Carmel Highlands FPD)	Applicant shall schedule fire dept. clearance inspection	Applicant or owner	Prior to final building inspection	
22.	All buildings shall be issued an address in accordance with Monterey County Ordinance No. 1241. Each occupancy, except accessory buildings, shall have its own permanently posted address. When multiple occupancies exist within a single building, each individual occupancy shall be separately identified by its own address. Letters, numbers and symbols for addresses shall be a minimum of 4-inch height, 1/2-inch stroke, contrasting with the background color of the sign, and shall be Arabic. The sign and numbers shall be reflective and made of a noncombustible material. Address signs shall be placed at each driveway entrance and at each driveway split. Address signs shall be and visible from both directions of travel along the road. In all cases, the address shall be posted at the beginning of construction and shall be maintained thereafter. Address signs along one-way roads shall be visible from both directions of travel. Where multiple addresses are required at a single driveway, they shall be mounted on a single sign. Where a roadway provides access solely to a single commercial occupancy, the address sign shall be placed at the nearest road intersection providing access to that site. Permanent address numbers shall be posted prior to requesting final clearance. (Carmel Highlands FPD)	Applicant shall schedule fire dept. clearance inspection	Applicant or owner	Prior to final building inspection	

Permit Card No.	Impact Addressed, and Responsible Land Use Department	Compliance Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
23.	Remove combustible vegetation from within a minimum of 30 feet of structures. Limb trees 6 feet up from ground. Remove limbs within 10 feet of chimneys. Additional and/or alternate fire protection or firebreaks approved by the fire authority may be required to provide reasonable fire safety. Environmentally sensitive areas may require alternative fire protection, to be determined by Reviewing Authority and the Director of Planning and Building Inspection. (Carmel Highlands FPD)	Applicant shall incorporate specification into design and enumerate as "Fire Dept. Notes" on plans.	Applicant or owner	Prior to issuance of grading and/or building permit.	
		Applicant shall schedule fire dept. clearance inspection	Applicant or owner	Prior to final building inspection	
24.	The building(s) and attached garage(s) shall be fully protected with automatic fire sprinkler system(s). Installation shall be in accordance with the applicable NFPA standard. A minimum of four (4) sets of plans for fire sprinkler systems must be submitted by a California licensed C-16 contractor and approved prior to installation. This requirement is not intended to delay issuance of a building permit. A rough sprinkler inspection must be scheduled by the installing contractor and completed prior to requesting a framing inspection. (Carmel Highlands FPD)	Applicant shall enumerate as "Fire Dept. Notes" on plans.	Applicant or owner	Prior to issuance of building permit.	
		Applicant shall schedule fire dept. rough sprinkler inspection	Applicant or owner	Prior to framing inspection	
		Applicant shall schedule fire dept. final sprinkler inspection	Applicant or owner	Prior to final building inspection	

Permit Cond. No.	Impact Addressed, and Responsible Land Use Department	Compliance Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
25.	The site shall be landscaped. At least 60 days prior to occupancy, three (3) copies of a landscaping plan shall be submitted to the Director of Planning and Building Inspection for approval. This plan shall include the 6 Monterey pine trees required to replace those allowed for removal by Condition 1, above. A landscape plan review fee is required for this project. Fees shall be paid at the time of landscape plan submittal. The landscaping plan shall be in sufficient detail to identify the location, species, and size of the proposed landscaping materials and shall be accompanied by a nursery or contractor's estimate of the cost of installation of the plan. Before occupancy, landscaping shall be either installed or a certificate of deposit or other form of surety made payable to Monterey County for that cost estimate shall be submitted to the Monterey County Planning and Building Inspection Department. All landscaped areas and fences shall be continuously maintained by the applicant; all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition. (Planning and Building Inspection)	Submit landscape plans and contractor's estimate to PBI for review and approval.	Owner/ Applicant/ Contractor	At least 60 days prior to final inspection or occupancy	
26.	If, during the course of construction, cultural, archaeological, historical or paleontological resources are uncovered at the site (surface or subsurface resources) work shall be halted immediately within 50 meters (165 feet) of the find until a qualified professional archaeologist can evaluate it. The Monterey County Planning and Building Inspection Department and a qualified archaeologist (i.e., an archaeologist registered with the Society of Professional Archaeologists) shall be immediately contacted by the responsible individual present on-site. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery. (Planning and Building Inspection)	All landscaped areas and fences shall be continuously maintained by the applicant; all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition. Stop work within 50 meters (165 feet) of uncovered resource and contact the PBID and a qualified archaeologist immediately if resources are uncovered. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery.	Owner/ Applicant/ Archaeologist	Ongoing	

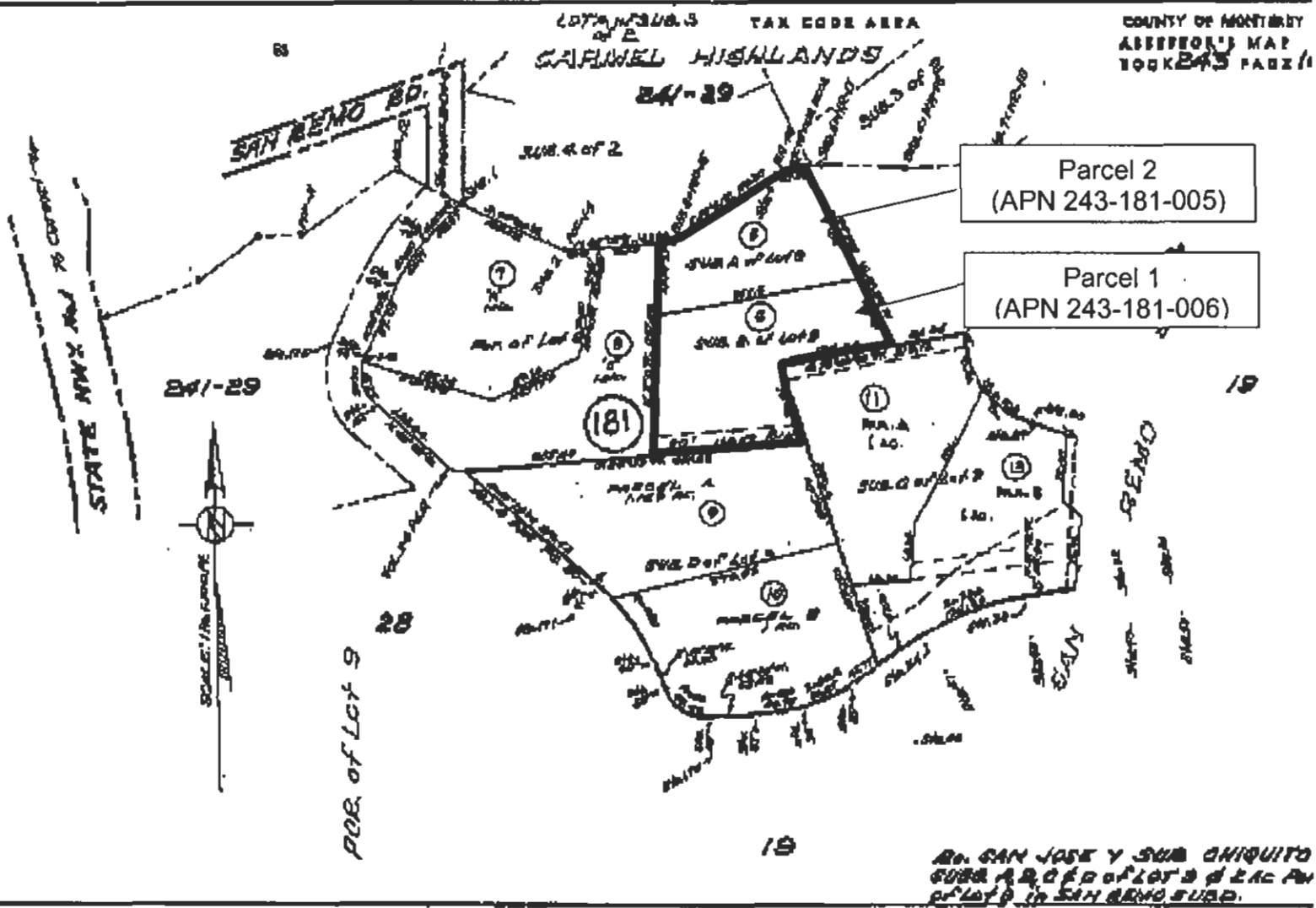


Exhibit D

Assessors Parcel Map – Existing Lot Line Configuration

A-3-MCO-05-033
Moeller SFD and Lot Line Adjustment

**California Coastal Commission**

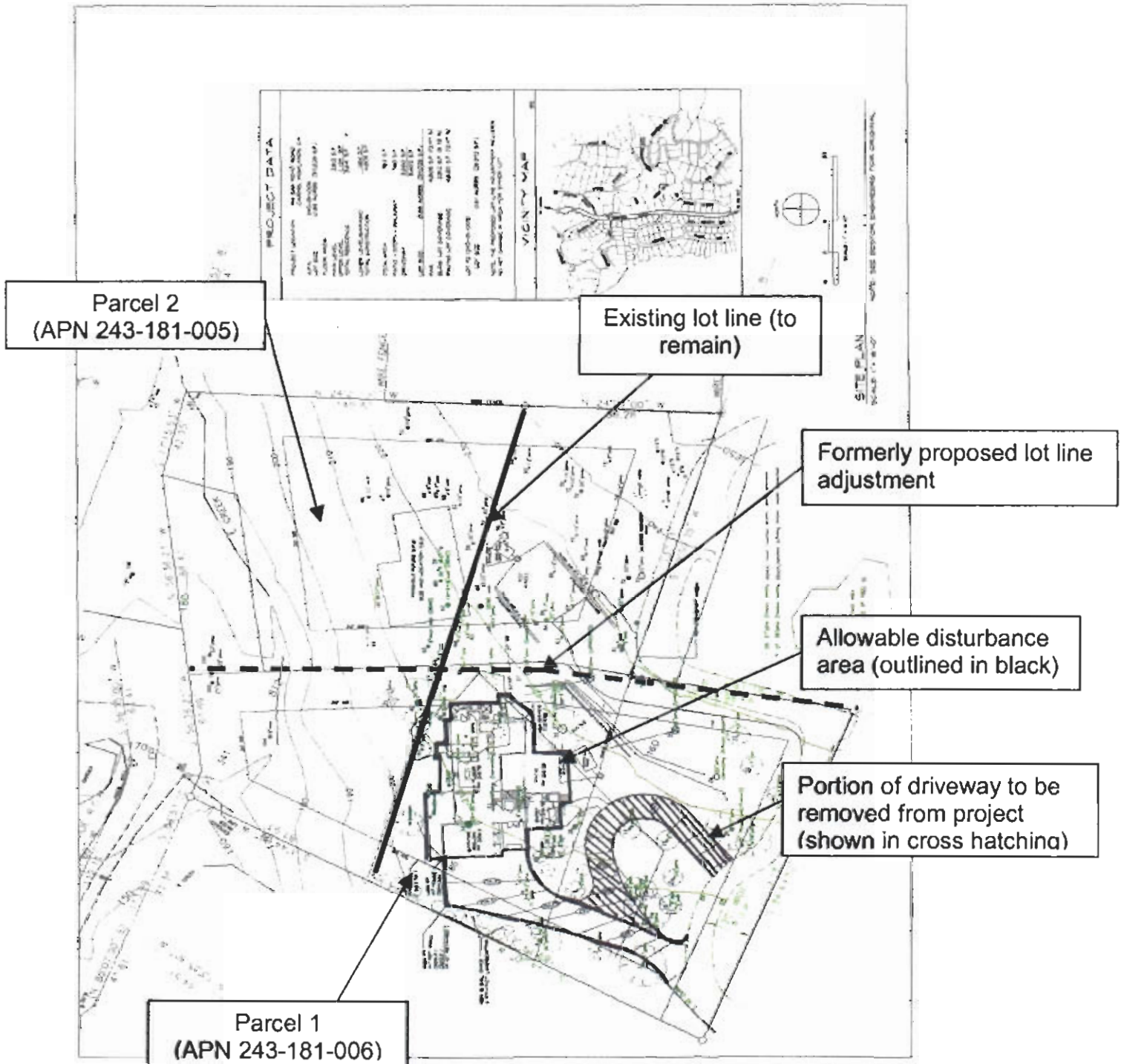


Exhibit E - page 1 of 2
Site Plan Showing Allowable Disturbance Area and Elevations for Proposed Development on Parcel 1

ERIC MILLER ARCHITECT
157 GRAND AVE 105 PACIFIC GROVE, CALIFORNIA 93950 831-372-0410

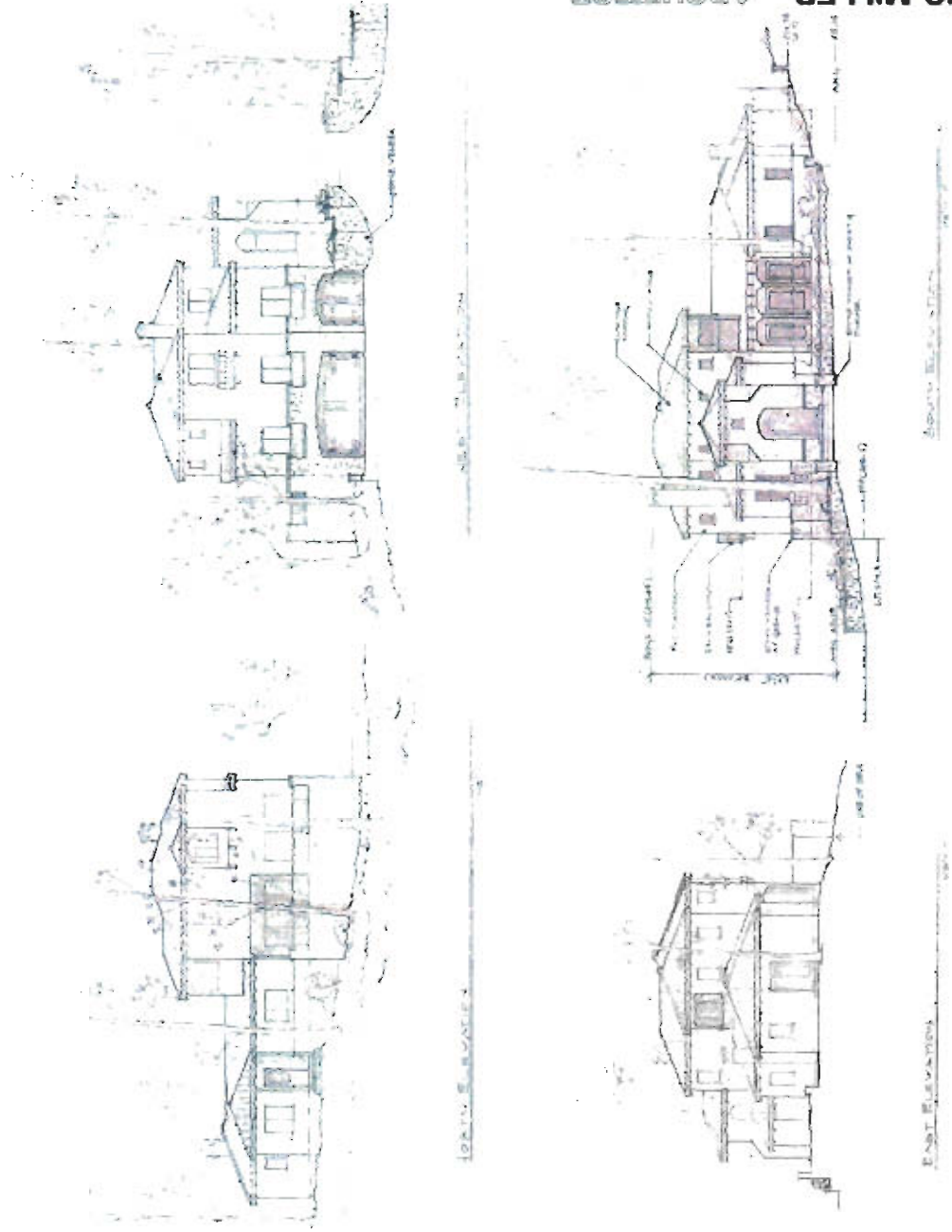


Exhibit E - page 2 of 2
Site Plan Showing Allowable Disturbance Area and Elevations for Proposed
Development on Parcel 1

A-3-MCO-05-033
Moeller SFD and Lot Line Adjustment



California Coastal Commission

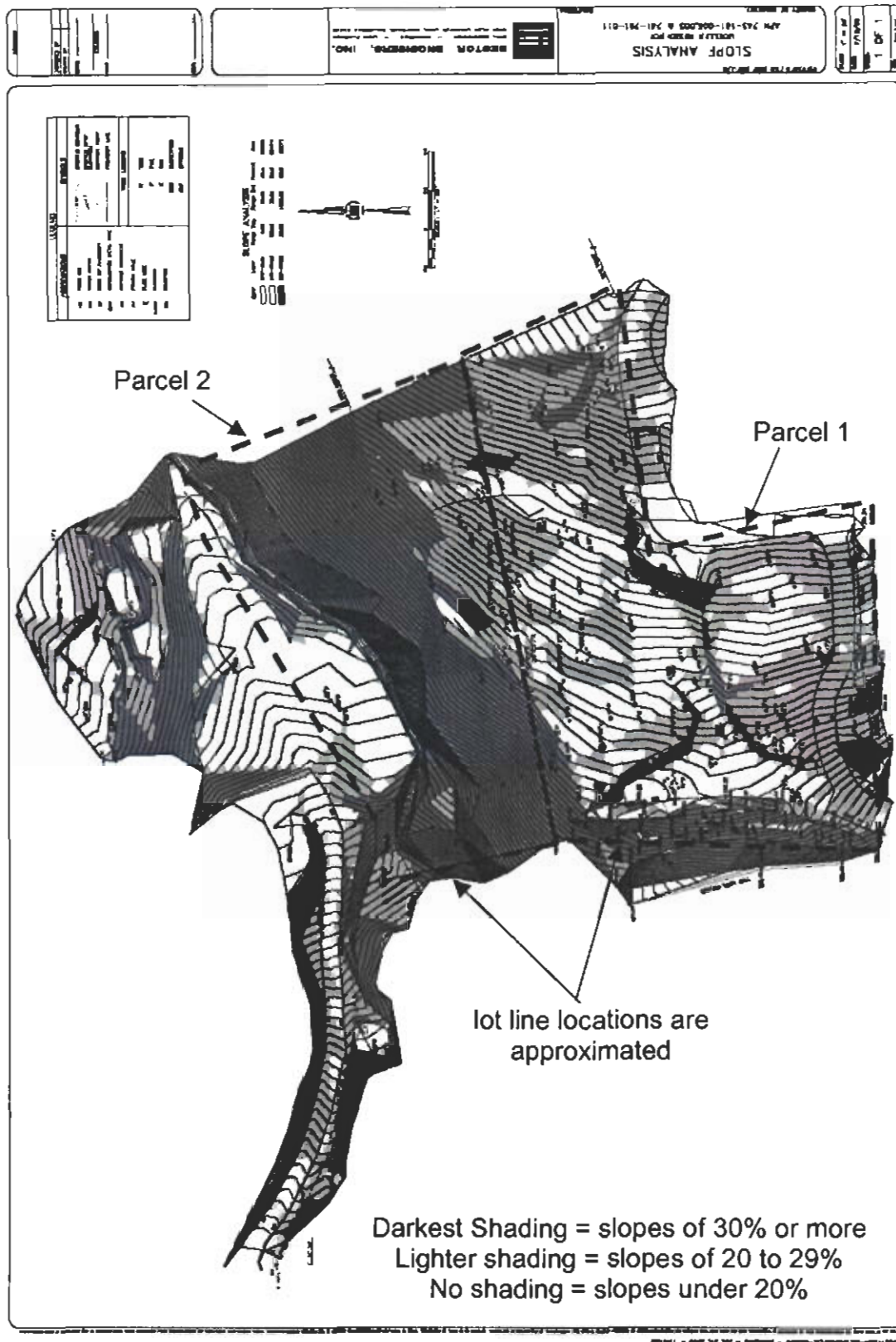


Exhibit F
Slope Map

A-3-MCO-05-033



California Coastal Commission

CARMEL HIGHLANDS FIRE PROTECTION DISTRICT

2221 Garden Road, Monterey, CA 93940-5317 (831) 333-2600 Fax (831) 333-2660



February 2, 2006

Ms. Pam Silkwood
P.O. Box 3350
Monterey, CA 93942-3350

Re: Moeller Project

Dear Ms. Silkwood,

The Carmel Highlands Fire Protection District has reviewed your letter of December 22, 2005, and would like to respond to the three items that you have requested we address.

1. ***Does the Emergency Vehicle Access Map accurately depict the emergency access routes available for the project?***

Response: Yes. The map depicts access to the parcel via the existing driveway off of San Remo and the existing deeded emergency access via the "Lewis" property.

2. ***Are the emergency access routes, in combination with the conditions of approval imposed on the project by the Carmel Highlands Fire Protection District, adequate for the project and fire protection purposes?***

Response: Yes. The access routes shown on the above-described map meets the current approval conditions of the project.

3. ***Will the lot line adjustment improve the emergency access available to the two lots from existing configurations?***

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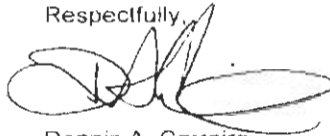
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A-3-MCO-05-033
Moeller SFD and Lot Line Adjustment

Response: The Carmel Highlands Fire Protection District's position has been that we will not address any conditions on the second parcel until a project has been submitted to our office for review. While we still stand behind that position, I will state that with the adjusted lot lines, access to both parcels is improved if for no other reason that each parcel now connects to the driveway between San Remo and the emergency access via the "Lewis" property.

I hope this clarifies the position of the Carmel Highlands Fire District. If any additional information is required, please contact Fire Captain Cindy Nagai at (831) 624-2374.

Respectfully,



Dennis A. Carreiro
Battalion Chief, Fire Prevention
Carmel Highlands Fire Protection District

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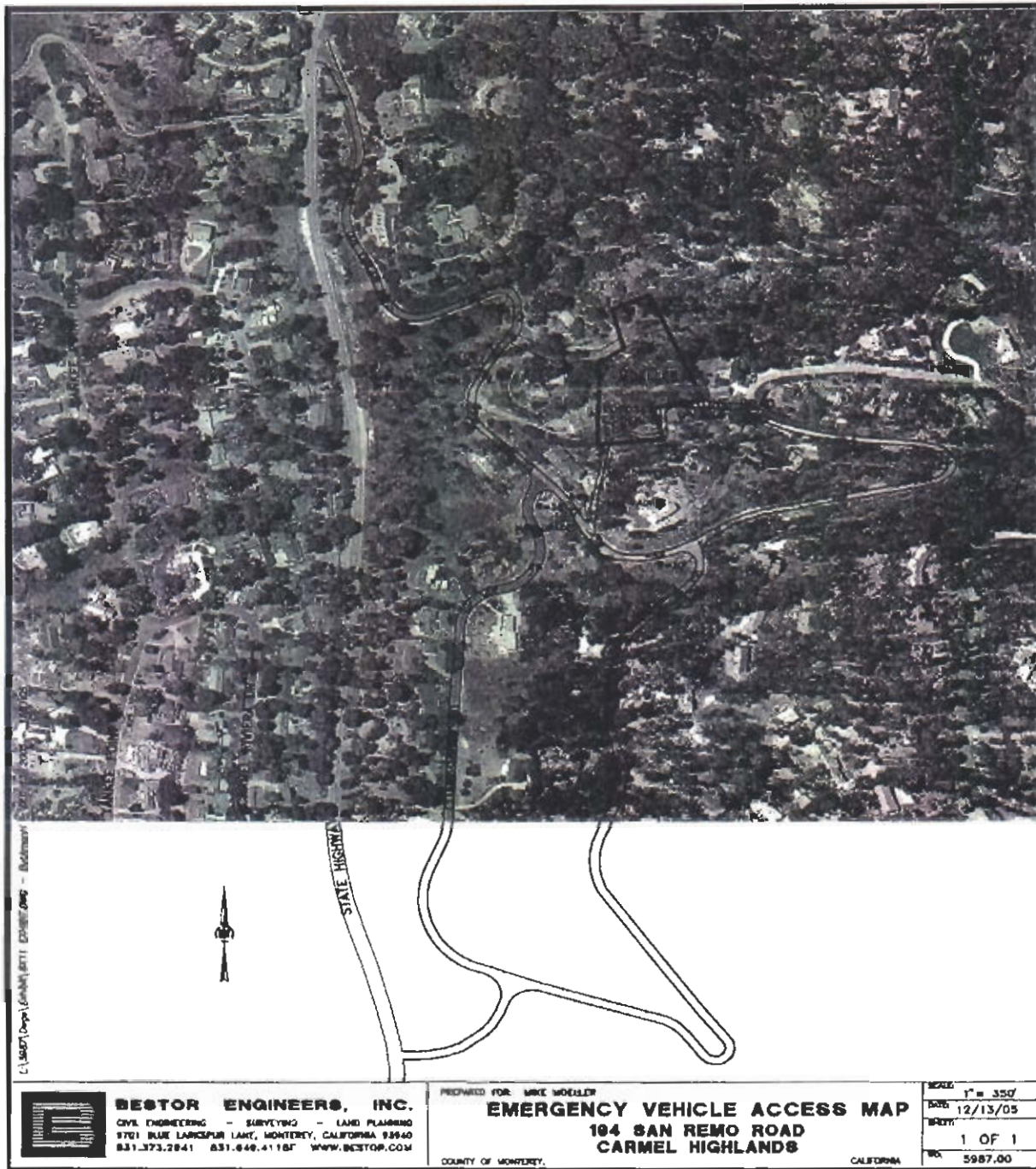


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