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F14

Prepared November 4, 2025 for November 7, 2025 Hearing

To: Commissioners and Interested Persons

From: Kevin Kahn, Central Coast District Manager
Breylen Ammen, Coastal Planner

Subject: Additional hearing materials for F14
CDP Amendment Number 3-99-027-A3 (Henke)

This package includes additional materials related to the above-referenced hearing item as follows:

Additional correspondence received in the time since the immaterial amendment notice was distributed.

From: Glenn Berry
To: CentralCoast@Coastal
Subject: Resubmission of Objection and Offer to Meet — Yankee Beach Access / CDP Amendment (CDP) amendment 3-99-027-A3 Henke
Date: Sunday, November 2, 2025 7:59:13 PM

You don't often get email from yankeepoint@sbcglobal.net. Learn why this is important

Dear Mr. Kahn and Ms. Ammen,
I am resending my objection from this email address and and from my private email address to the Central Coast office and your Coastal Commission emails out of an abundance of caution, as I did not receive a confirmation or response to my earlier message.
I understand that this matter is complex, involving over a century of historical records and easement rights. I would be glad to meet with you to discuss the situation and share pertinent documents that clarify the underlying facts.
Specifically, I can provide a detailed *Chain of Title and Legal Basis for the Exclusive Easement* associated with the Yankee Beach Access, as held by the Carmel Highlands Association since its establishment in 1921.
Sincerely,
Glenn Berry
President, Carmel Highlands Association
73 Fern Canyon Road
Carmel, California 93923
Email: thecarmelhighlands@gmail.com
Carmel Highlands <thecarmelhighlands@gmail.com>

Dear Mr. Kahn and Ms. Ammen:

I am submitting this letter to formally object to the Executive Director's determination of immateriality regarding the proposed Coastal Development Permit (CDP) a amendment 3-99-027-A3 for the above-referenced property.

1. Basis for Objection

The proposed amendment includes an offer to dedicate a public access easement along a path over the Henke property that currently serves as part of the private accessway to Yankee Beach Cove (Yankee Point Beach). This proposal would materially interfere with pre-existing, exclusive easement rights established nearly a century ago. Specifically:

• The original easement rights to Yankee Beach Cove were defined in two recorded deeds dated 1921 and 1926, which granted the predecessor of the Carmel Highlands Association (CHA) exclusive rights to use that accessway.

• The easement runs from the southern border of the Harbaugh and Venkatesh properties then turns 90 degrees following the eastern edge of the Venkatesh property to Spindrift Road.

• Later, in 1951, an easement was established on the western edge of the current Henke parcel directly adjacent to the Venkatesh property. This new easement was created to allow CHA to continue using the original private easement route after the segment along the eastern border of the Venkatesh property was no longer available.

2. Legal Effect of the Existing Easement

Under California property law, the servient estate owner

(Mr. Henke) retains ownership of the land but may not grant additional easements or rights that unreasonably interfere with the existing dominant estate's rights.
(See, e.g., Scruby v. Vintage Grapevine, Inc. (1995) 37 Cal.App.4th 697, 702; Pasadena v. California-Michigan Land & Water Co. (1941) 17 Cal.2d 576, 579.)
Because the CHA's easement was expressly created for limited, non-public access , any attempt to dedicate or open the easement to public access would destroy or materially impair the exclusivity that defines the easement's purpose and value. The servient owner therefore cannot lawfully convey or dedicate the same corridor for public use.

3. Lack of Nexus Between Development and Proposed Public Access Dedication

The proposed amendment and associated development are limited to minor landscaping changes and the resolution of previously unpermitted work, including installation of a septic tank. The record itself acknowledges that these activities "are not expected to adversely impact sensitive habitats or other coastal resources," and in fact, that "the unpermitted development likely has some coastal resource benefit."
Given these findings, there is no rational nexus between the proposed amendment activities and the imposition of a new public access dedication. The U.S. Supreme Court has made clear that a government agency cannot lawfully condition permit approval on a public access requirement unless there is a direct, project-related connection between the development's actual impacts and the condition being

imposed. (Nollan v. California Coastal Commission, 483 U.S. 825 (1987)).

Here, where the activity involves only landscaping modifications and the maintenance of existing improvements, no evidence has been presented demonstrating any impact on public access that would justify a new access condition. Instead, excessive fines have been used to compel a so-called "voluntary" offer to dedicate—an approach that amounts to an unlawful exaction inconsistent with both constitutional protections and Coastal Act policy.

In plain terms, this practice is coercive. Mr. Henke's only alleged "violation" was undertaking unpermitted development that, by the agency's own admission, produced a net benefit to coastal resources. California residents have the right to expect equitable, fair, and lawful treatment from their public officials.

4. Request for Commission Action

Given these facts, the proposed amendment cannot properly be deemed "immaterial" under 14 CCR §13166(b). The proposal directly affects property rights and long-established access easements that predate and legally constrain the applicant's ability to offer public access.

According, I respectfully request that all references to the proposed public access dedication be **suspended pending resolution of the legal status of the underlying easement rights**.

Should the Commission deny this request, I further request

that the Commission **find this amendment to be material**.

Thank you for your attention to this matter. Please confirm receipt of this objection and include me on all future correspondence regarding CDP 3-99-027-A3.

Sincerely,

Glenn Berry

President CHA

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The Carmel Highlands Association
73 Fern Canyon Road
Carmel, CA 93923
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Glenn W. Berry lll, MD
Sent from my iPad