

MONTEREY COUNTY PLANNING COMMISSION

Meeting: October 31, 2007 Time: 9:00 A.M	Agenda Item No.: 3
Project Description: Use Permit for development on slopes greater than 30% to allow the widening of an existing vehicular access driveway.	
Project Location: 5125 Paseo Venado	APN: 103-051-029-000
Planning File Number: PLN070110	Name: Anthony Jaurique, Property Owner
Plan Area: Greater Monterey Peninsula Area Plan	Flagged and staked: No
Zoning Designation: : “RDR/B-6-UR-D-S” (Rural Density Residential, with Building Site, Urban Reserve, Design Control and Site Plan Review Overlays)	
CEQA Action: Categorically Exempt per Section 15305 (a)	
Department: RMA - Planning Department	

RECOMMENDATION:

Staff recommends that the Planning Commission approve the Use Permit based on the Findings and Evidence (Exhibit B) and subject to the recommended Conditions (Exhibit C).

PROJECT OVERVIEW:

The proposed project includes the grading of approximately 85 cubic yards of material on slopes greater than 30%. The purpose of the grading is to widen an existing driveway which provides access to three separate parcels, including the subject parcel. This widening is necessary to improve emergency vehicle access to the residences located on the properties served by the driveway. The grading has taken place without the required Use Permit as part of other permitted construction activities on the subject property including a residential remodel. The grading included excavation of Monterey Formation shale. The applicant has indicated that the grading took place upon a request from a neighboring owner to provide improved emergency vehicle access to his property which may be required due to a family member’s medical needs. The applicant has indicated that no permits were applied for because the work included less than the 100-cubic yard threshold triggering a grading permit. The applicant’s complete statement is included in Exhibit F.

The policies of the General Plan and the regulations of the Zoning Code require a Use Permit for development on slopes greater than 30%. Certain findings are required to approve the Use Permit including that either 1) there is no alternative site for the development, or 2) the development better achieves the goals, policies and objectives of the General Plan. The Zoning Code (Chapter 21.84.130) also requires that no application for a discretionary permit shall be deemed complete where a violation exists until the property has been restored unless “the applicant can show that restoration would endangered the public health or safety, or that restoration is unfeasible due to circumstances beyond the control of the applicant or property owner.” The applicant has submitted a statement from a civil engineer (Exhibit G) which indicates that restoration of the graded area “would be extremely impractical” due to the nature of the removed material (Monterey Formation Shale). Staff has reviewed the conditions on the site and has reviewed documentation submitted by the engineer, and agrees with the engineer that it would be practically impossible to restore excavated rock to its original state.

Staff agrees that the graded area improves the width and accessibility of the driveway for vehicle circulation and provides improved emergency vehicle access and parking on the subject property. This complies with Objective 27.2 of the General Plan of providing for adequate access to and circulation within residential areas. The road in this area is 12 feet wide. Turn out areas are required at 150 feet after the first 500 feet of road and one for every 500 of road thereafter. The

graded area would provide a turn out area which does not exist making the road to better comply with the Fire Code. The specific findings and evidence contained in Exhibit B find that the widening better complies with the policies of the General Plan. In other words, in this residential area, it better complies with the General Plan to provide safe ingress and egress to emergency vehicles.

OTHER AGENCY INVOLVEMENT:

- ✓ Carmel Highlands Fire Protection District
- ✓ Public Works Department
- ✓ Environmental Health Division
- ✓ Water Resources Agency

The above checked agencies and departments have reviewed this project. Conditions recommended by the Carmel Highlands Fire Protection District have been incorporated into the condition compliance reporting plan (Exhibit C).

The project was reviewed the Greater Monterey Peninsula Land Use Advisory Committee (LUAC) on August 15, 2007. The LUAC recommended approval of the project on a 3-0 vote with two committee members absent (Exhibit H). The LUAC recommended that vehicular parking in the access easement area of the subject parcel be limited to the residence side of the easement and that the widened area of the easement be designated for roadway use. These conditions have been recommended by staff (Exhibit F).

Note: The decision on this project is appealable to the Board of Supervisors

Luis A. Osorio, Senior Planner
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October 18, 2007

cc: Planning Commission Members (10); County Counsel; Carmel Highlands Fire Protection District; Public Works Department; Environmental Health Division; Water Resources Agency; Luis A. Osorio, Planner; Carol Allen; Anthony Jaurique, Applicant; Gail Hatter-Crawford, Lombardo and Gilles, Agent; File PLN070110.

Attachments:	Exhibit A	Project Data Sheet
	Exhibit B	Recommended Findings and Evidence
	Exhibit C	Recommended Conditions of Approval
	Exhibit D	Access Easement Location / Parcels Served by Easement
	Exhibit E	Site Plan Detail
	Exhibit F	Correspondence from the Applicant
	Exhibit G	Engineering Letter Report
	Exhibit H	Recommendation from the Land Use Advisory Committee

This report was reviewed by Mike Novo, Interim Director of Planning

EXHIBIT A

Project Information for PLN070110

Project Title: **JAURIQUE ANTHONY E & ALISON G**

Location:	5125 PASO VENADO CARMEL	Primary APN:	103-051-029-000
Applicable Plan:	Greater Monterey Peninsula Area Plan	Coastal Zone:	No
Permit Type:	Use Permit	Zoning:	RDR/B-6-UR-D-S
Environmental Status:	Exempt	Plan Designation:	RURAL DENSITY R
Advisory Committee:	N/A	Final Action Deadline (884):	10/12/2007

Project Site Data:

Lot Size:	5.166 ACRES	Coverage Allowed:	N/A
Existing Structures (sf):	N/A	Coverage Proposed:	N/A
Proposed Structures (sf):	N/A	Height Allowed:	N/A
Total Sq. Ft.:	N/A	Height Proposed:	N/A
		FAR Allowed:	N/A
		FAR Proposed:	N/A

Resource Zones and Reports:

Environmentally Sensitive Habitat:	No	Erosion Hazard Zone:	MOD
Biological Report #:	N/A	Soils Report #:	N/A
Forest Management Rpt. #:	N/A		
Archaeological Sensitivity Zone:	MOD	Geologic Hazard Zone:	II
Archaeological Report #:	N/A	Geologic Report #:	N/A
Fire Hazard Zone:	HIGH	Traffic Report #:	N/A

Other Information:

Water Source:	PUBLIC	Sewage Disposal (method):	SEPTIC
Water Dist/Co:	CAL AM WATER	Sewer District Name:	N/A
Fire District:	CARMEL HIGHLANDS FPD	Grading (cubic yds.):	85.0
Tree Removal:	N/A		

Date Printed: 10/19/2007

EXHIBIT B
RECOMMENDED FINDINGS AND EVIDENCE

1. **FINDING: CONSISTENCY** – The project, as described in Condition No. 1 and as conditioned, conforms to the policies, requirements, and standards of the Monterey County General Plan, Greater Monterey Peninsula Area Plan, Greater Monterey Peninsula Area Plan Inventory and Analysis, and the Monterey County Zoning Ordinance (Title 21), which designate this area as appropriate for development.

- EVIDENCE:** (a) The text, policies, and regulations in the above referenced documents have been evaluated during the course of review of applications. No conflicts were found to exist. No communications were received during the course of review of the project indicating any inconsistencies with the text, policies, and regulations in these documents.
- (b) The property is located at 5125 Paseo Venado (Assessor’s Parcel Number 103-051-029-000), Greater Monterey Peninsula Area Plan. The parcel is zoned “RDR/B-6-UR-D-S” (Rural Density Residential, with Building Site, Urban Reserve, Design Control and Site Plan Review Overlays). While the proposed grading has been completed without the required Use Permit, approval of this application and completion of the project, as conditioned, would bring the subject property into compliance with all the rules and regulations pertaining to zoning uses and any other applicable provisions of Title 21.
- (c) The project planner conducted a site inspection on August 6, 2007 to verify that the project on the subject parcel conforms to the plans listed above.
- (d) The Use Permit application is consistent with Policy 26.1.10 of the General Plan and with the provisions of Chapters 21.64.230 E. b and 21.84.130 of the Zoning Ordinance (Title 21).
- (e) The project was reviewed by the Greater Monterey Peninsula Land Use Advisory Committee on August 15, 2007. The LUAC recommended approval of the project on a 3-0 vote with two committee members absent.
- (f) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA – Planning Department for the proposed development found in Project File PLN070110.

2. **FINDING: SITE SUITABILITY** – The site is physically suitable for the use proposed.

- EVIDENCE:** (a) The project has been reviewed for site suitability by the following departments and agencies: RMA – Planning Department, Carmel Highlands Fire Protection District, Public Works, Environmental Health Division, and Water Resources Agency. There has been no indication from these departments/agencies that the site is not suitable for the proposed development. Conditions recommended by the Carmel Highlands Fire Protection District have been incorporated into the approval of the project.
- (b) Staff conducted a site inspection on August 6, 2007 to verify that the site is suitable for this use.
- (c) Materials in Project File PLN070110.

3. **FINDING:** The development better achieves the goals, policies and objectives of the General Plan and the Greater Monterey Peninsula Area Plan better than other development alternatives.
- EVIDENCE:** (a) The grading proposed under the Use Permit application is necessary to widen and existing driveway providing vehicular access to a number of parcels. The widening would improve emergency vehicle access to the parcels and would improve the overall vehicular access and circulation and parking for the affected parcels. As a result, the improved conditions would better comply with the purpose of Objective 27.2 of the General Plan of providing adequate access to and circulation within residential areas.
- (b) The existing road is 12 feet wide and approximately 1,200 feet long.
- (c) The Fire Code requires a turn out area 150 feet after the first 500 feet of road and one turn out area for every 500 feet of road thereafter.
- (d) Minutes from the Greater Monterey Peninsula Land Use Advisory Committee.
4. **FINDING:** The application is consistent with the provisions of Chapter 21.84.130 of the Zoning ordinance which require that “No application for a land use entitlement under the authority of the Planning Director, the Zoning Administrator, the Minor Subdivision Committee, the Planning Commission or the Board of Supervisors shall be deemed complete if there is a violation on said property of a County ordinance which regulates grading, vegetation removal or tree removal until that property has been restored to its pre-violation state.”
- EVIDENCE:** Monterey County Code Chapter 21.84.130 allows for consideration of alternatives to restoration when the applicant can show that restoration “would endanger the public health or safety, or that restoration is unfeasible due to circumstances beyond the control of the applicant.” The applicant has submitted a letter from a registered professional engineer, dated November, 21, 2006, which states that “restoration of the relatively steep (1/2 horizontal to 1 vertical) slope in fractured Monterey Formation shale would be extremely impractical.” The kind of excavated material is beyond the control of the applicant and alternatives to the restoration such as the Use permit application can be considered.
- EVIDENCE:** Staff reviewed the conditions of the site and the letter from the engineer prior to deeming the application complete. Based on the overall conditions of the site and the kind of excavated material, staff agreed with the engineer that it would impractical and unfeasible to restore excavated Monterey Formation shale and deemed the Use Permit application complete for further processing.
5. **FINDING: CEQA (Exempt):** - The project is exempt from CEQA under Section 15304 (Minor Alterations to Land) of the CEQA Guidelines.
- EVIDENCE:** (a) The proposed grading includes excavation of approximately 85 cubic yards of Monterey Formation shale in an area encompassing about 700 square feet. A retaining wall is required as a condition of approval of the project which would prevent potential slope degradation from stormwater runoff and erosion. No significant amount of natural vegetative cover removal is necessary for the project.

- (b) No adverse environmental effects, including slope erosion were identified during staff review of the development application during a site visit on August 6, 2007. Because of the small quantity of excavated material, the small size of the excavated area and its topographic configuration, it is unlikely that the project would result in the generation of significant amounts of additional stormwater runoff. Additionally, construction of a required retaining wall, as recommended by a professional civil engineer, would prevent development of potential slope degradation and erosion.
- (c) See preceding and following findings and supporting evidence.

6. **FINDING: NO VIOLATIONS** – The subject property is not in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of the County’s Zoning Ordinance. A Code violation has been recorded on the property due to the grading of the subject site prior to obtaining the required Use Permit for development on slopes greater than 30%.

- EVIDENCE:**
- (a) The Use Permit application has been submitted after-the-fact as part of the established administrative remedy process.
 - (b) Approval of the subject Use Permit application and issuance of the required Grading Permit would bring the property into compliance with the applicable regulations.
 - (c) See Evidence b of Finding 1.

7. **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: Preceding findings and supporting evidence.

8. **FINDING: APPEALABILITY** - The decision on this project is appealable to the Board of Supervisors.

EVIDENCE: Section 21.80.040 D Monterey County Zoning Ordinance (Title 21).

EXHIBIT C
Monterey County Resource Management Agency
Planning Department
Condition Compliance and/or Mitigation Monitoring
Reporting Plan

Project Name: Jaurique
File No: PLN070110 APNs: 103-051-029-000
Approved by: Planning Commission Date: October 31, 2007

**Monitoring or Reporting refers to projects with an EIR or adopted Mitigated Negative Declaration per Section 21081.6 of the Public Resources Code.*

<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (name/date)</i>
1.		<p>PD001 - SPECIFIC USES ONLY This Use Permit (PLN070110) allows development on slopes greater than 30% (Grading) and construction of an approximately 100-foot long retaining wall varying in height from four to nine feet. The property is located at 5125 Paso Venado (Assessor's Parcel Number 103-051-029-000), Greater Monterey Peninsula Area Plan. 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 the RMA - Planning Department. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities.</p>	Adhere to conditions and uses specified in the permit.	Owner/ Applicant	Ongoing unless otherwise stated	
		To the extent that the County has delegated any condition compliance or mitigation monitoring to the Monterey County Water Resources Agency, the Water Resources Agency shall provide all information requested by the County and the County shall bear ultimate responsibility to ensure that conditions and mitigation measures are properly fulfilled. (RMA - Planning Department)				

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2.		PD002 - NOTICE-PERMIT APPROVAL The applicant shall record a notice which states: "A permit (Resolution _____) was approved by the Planning Commission for Assessor's Parcel Number 103-051-029-000 on October 31, 2007. The permit was granted subject to 7 conditions of approval which run with the land. A copy of the permit is on file with the Monterey County RMA - Planning Department." Proof of recordation of this notice shall be furnished to the Director of the RMA - Planning Department prior to issuance of building permits or commencement of the use. (RMA - Planning Department)	Proof of recordation of this notice shall be furnished to the RMA - Planning Department.	Owner/ Applicant	Prior to the issuance of grading and building permits or commencement of use.	
3.		PD004 - INDEMNIFICATION AGREEMENT 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	Submit signed and notarized Indemnification Agreement to the Director of RMA – Planning Department for review and signature by the County. Proof of recordation of the Indemnification Agreement, as outlined, shall be submitted to the RMA – Planning Department.	Owner/ Applicant	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	

Permit Cond. Number	Mitig. Number	Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department	Compliance or Monitoring 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)
		and the County shall cooperate fully in the defense thereof. If the County fails to promptly notify the property owner of any such claim, action or proceeding or fails to cooperate fully in the defense thereof, the property owner shall not thereafter be responsible to defend, indemnify or hold the county harmless. (RMA - Planning Department)				
4.		FIRE007 - DRIVEWAYS 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	Applicant shall incorporate specification into design and enumerate as "Fire Dept. Notes" on plans.	<i>Applicant or owner</i>	Prior to issuance of grading and/or building permit.	
			Applicant shall schedule fire dept. clearance inspection	Applicant or owner	Prior to final building inspection.	
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		line of the driveway. If a hammerhead/T is used, the top of the "T" shall be a minimum of 60 feet in length. Responsible Land Use Department: Carmel Highlands Fire District.				
5.		PLANNING – NON STANDARD The applicant shall obtain a building permit for construction of a new retaining wall in the graded area and construct the retaining wall per approved plans.	<ol style="list-style-type: none"> 1. Submit application for a building permit per Building Code requirements. 2. Build the retaining wall. 	<ol style="list-style-type: none"> 1. Applicant or Owner 2. Applicant or Owner 	<ol style="list-style-type: none"> 1. Prior to construction 2. Prior to issuance of Final Building permits for BP Nos. 052052 and 061855 issued for remodeling of the existing residence. 	
6.		PLANNING – NON STANDARD The applicant shall obtain a grading permit to bring the graded area into full compliance with the requirements of the Grading and Erosion Control Ordinance.	<ol style="list-style-type: none"> 1. Submit application for a grading permit per Grading and Erosion Control Ordinance requirements. 	Applicant or Owner	Prior to any additional grading activities	
7.		PLANNING – PARKING – NON STANDARD The widened section of the existing driveway resulting from the proposed grading shall be clearly demarcated on the ground and be used as a non parking area.	Applicant shall demarcate and identify the area as a "NO PARKING" area and maintain it as such subject to review and approval by the Planning Department.	Applicant or Owner	Prior to issuance of Final Building permits for BP Nos. 052052 and	

<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (name/date)</i>
					061855 issued for remodeling of the existing residence.	

Rev. 03/12/07

THIS MAP IS INTENDED TO BE USED FOR
PROPERTY TAX ASSESSMENT PURPOSES ONLY.

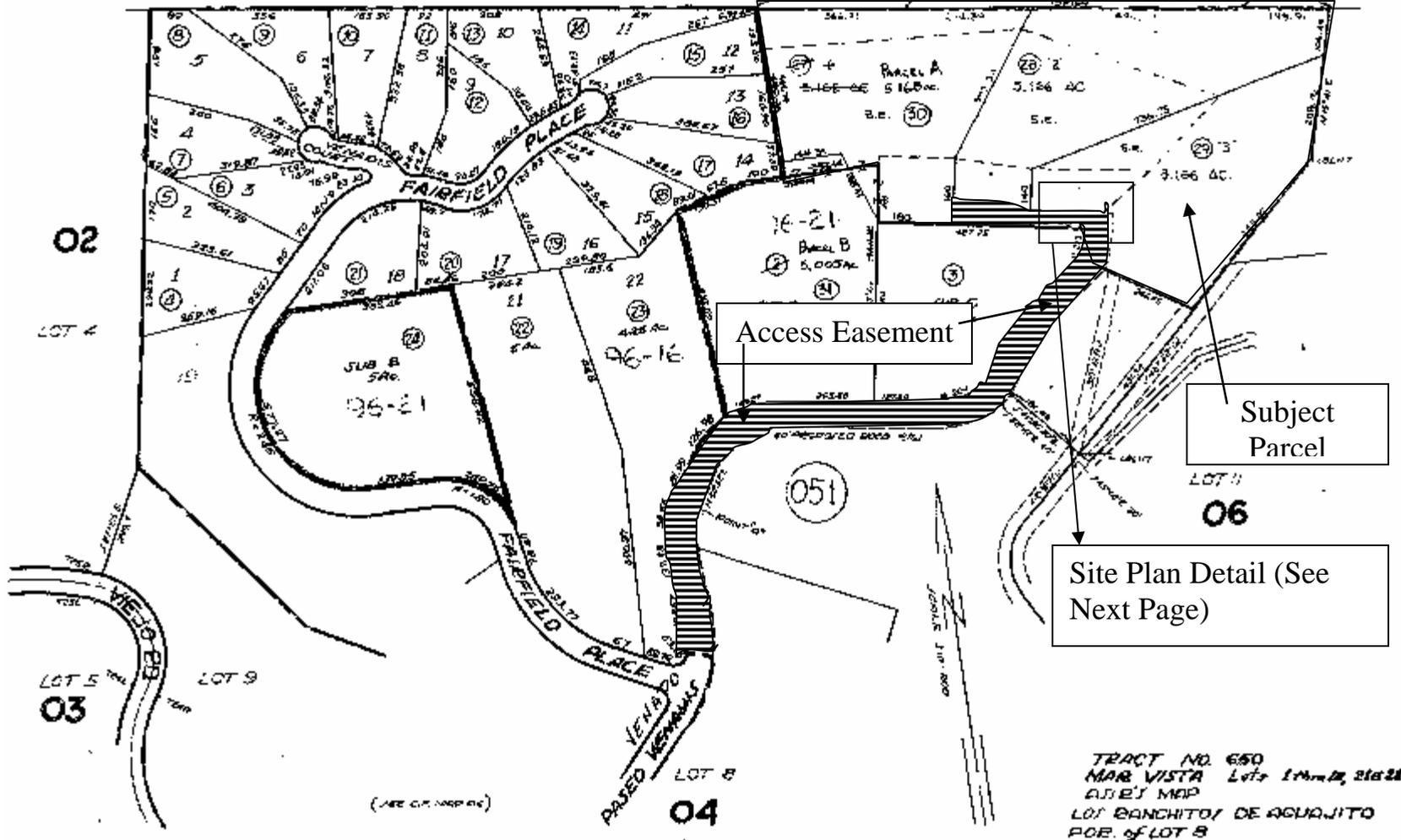
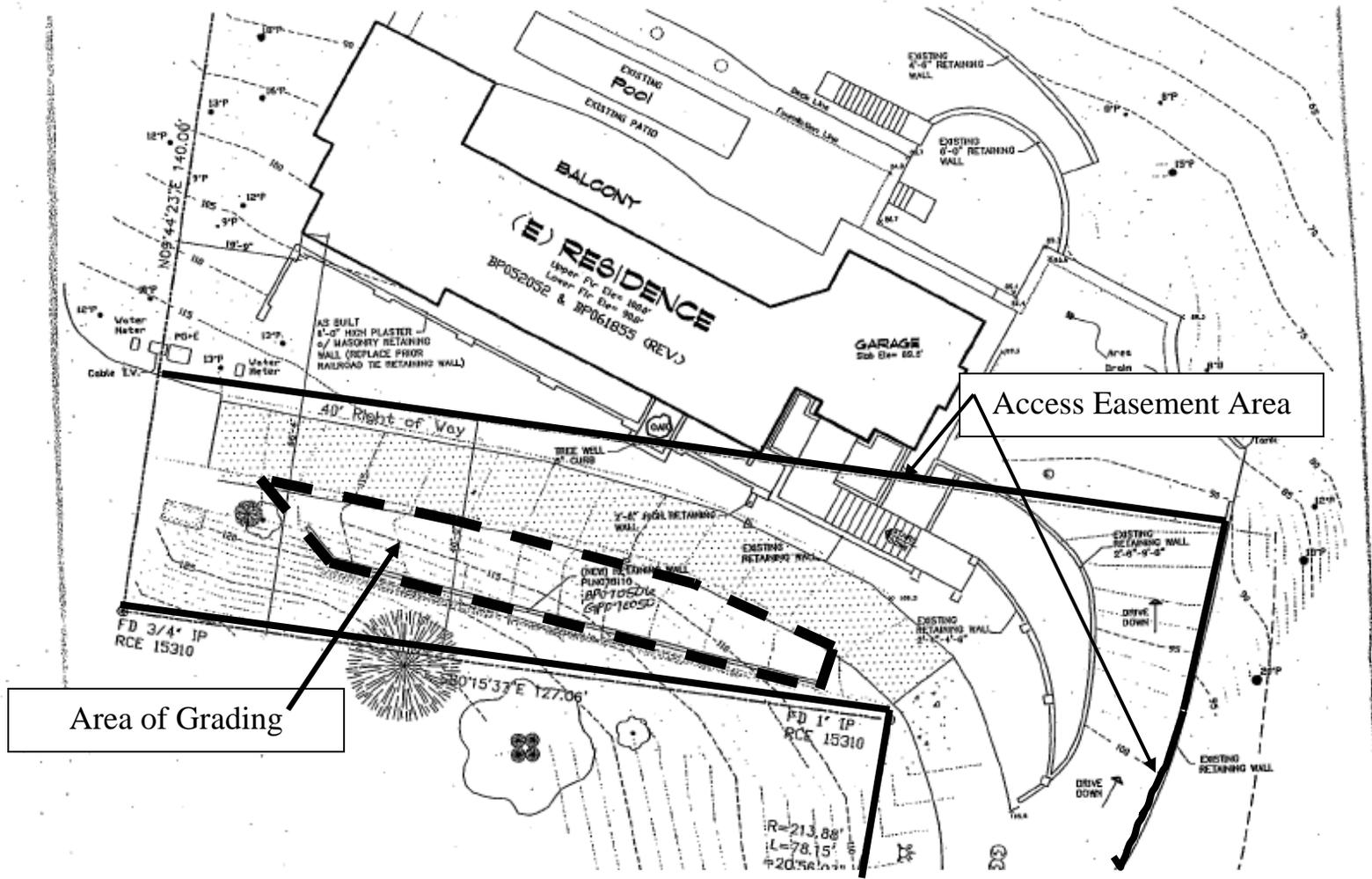


EXHIBIT D
ACCESS EASEMENT LOCATION / PARCELS SERVED BY EASEMENT



**EXHIBIT E
SITE PLAN DETAIL**