

**Recirculated Draft
ENVIRONMENTAL IMPACT REPORT
for the
SALE OF FLANDERS MANSION PROPERTY**

REVISED ALTERNATIVES SECTION

SCH #: 2005011108

June 2012

Prepared for:

City of Carmel-by-the-Sea
Community Planning and Building Department
P.O. Drawer G
Carmel-by-the-Sea, CA 93921

Prepared by:

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Monterey, CA 93940

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- A. Additional Relevant Information ,R-7 Comment Letter and Response from 2009 RDEIR
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1.0 Introduction

1.1 INTRODUCTION

This Recirculated Draft Environmental Impact Report (“Recirculated DEIR”) is part of the ongoing environmental review process for the proposed Flanders Mansion Project, which entails the sale of City-owned property, specifically the Flanders Mansion Property, a listed historical resource on the National Register of Historic Places in the City of Carmel-by-the-Sea (“City”), California.

Reason for Recirculated EIR for the Project

Background

In 2005, the City certified an EIR (SCH# No. 2005011108) and approved a project involving the sale of the Flanders Mansion Property¹. The Flanders Foundation filed a successful legal challenge to the actions of the City Council to certify the EIR and approve the sale. Pursuant to the Amended Judgment of the Monterey County Superior Court in The Flanders Foundation v. City of Carmel-by-the-Sea, et al. (Mont. Co. Super. Ct. Case No. M76728), the City rescinded its September 2005 certification of the EIR and approval of the Proposed Project.

In response to the Superior Court’s ruling, a Revised Draft EIR “2009 RDEIR” was prepared and recirculated for public comment in 2009. The 2009 RDEIR was recirculated in its entirety to provide the public with a meaningful opportunity to comment on the additional data available because of modifications to the environmental document based upon the Court’s ruling. The 2009 RDEIR was circulated for public review between January 5, 2009, and February 18, 2009. Fifty-four public comments were received and a Final EIR was released in 2009. The City Council certified the 2009 RDEIR, as amended in the 2009 Final EIR, and approved an alternative to the proposed project involving the sale of the Flanders Mansion Property. The City approval (the decision to sell Flanders Mansion involving the sale of parkland) was put before the voters as required pursuant to the Surplus Land Act.

The City’s decision to adopt and certify the 2009 RDEIR was also challenged in Monterey County Superior Court (The Flanders Foundation v. City of Carmel-by-the-Sea, et al. (Mont. Co. Super. Ct. Case No. M99437)). The Superior Court determined that the 2009 RDEIR did not: 1) adequately consider the potential environmental effects associated with the compliance of the Surplus Land Act, and 2) adequately respond to a comment suggesting an alternative of selling the Mansion with a smaller parcel of land. The City appealed the Superior Court’s decision on the basis that the City had adequately addressed these issues in the 2009 RDEIR. The 6th District Court of Appeal (“Court of Appeal”) reversed the portion of the lower court’s ruling relating to environmental review of impacts relating to the Surplus Lands Act. The Court of Appeal determined that the trial court had “erred in upholding the Foundation’s challenge” regarding the EIR’s analysis of the Surplus Land Act and that the 2009 RDEIR adequately considered the effects of complying with the Surplus Land Act. However, the Court of Appeals affirmed the trial court’s ruling concerning the adequacy of the RDEIR analysis of a smaller parcel alternative. The

¹ The 2005 DEIR was prepared and distributed to interested responsible and trustee agencies, interested groups, organizations, and individuals on April 1, 2005 for a 45-day public review period, ending on May 16, 2005. Fifty-four comment letters were received during the public review period. After project consideration, the Council certified the EIR and approved a project alternative involving the sale of Flanders Mansion.

Court of Appeal therefore affirmed the trial court's ruling that the City failed to respond to a comment that a reduced parcel alternative should be evaluated. Based on the Court's decision, the City rescinded its certification of the 2009 Final EIR.

This Recirculated DEIR is prepared in response to the Court's finding that the City did not adequately consider a reduced parcel alternative in the 2009 RDEIR. This Recirculated DEIR provides additional information concerning the specific public comment received on the 2009 RDEIR, consistent with the Court of Appeal decision, as well as an updated analysis of Alternatives. In accordance with CEQA Guidelines §15088.5(c), this Recirculated DEIR contains only those chapters or portions of the 2009 RDEIR that have been modified. Therefore, the only section revised and recirculated for public review and comment is Section 6.0, *Alternatives*. This revised section provides additional analysis of project alternatives in compliance with the Court's ruling. The additional alternatives analyzed are intended to minimize and/or substantially lessen potential impacts due to the loss of parkland. These alternatives, presented in Section 6.0, *Alternatives*, are evaluated in accordance with the requirements of CEQA.

This Recirculated DEIR is prepared in accordance with CEQA, Public Resources Code §21000, et seq. and the State CEQA Guidelines, California Code of Regulations, Title 14, §15000, et seq. (CEQA Guidelines). This Recirculated DEIR will be used in conjunction with other environmental documentation to enable the City and other interested parties to evaluate the environmental impacts associated with the proposed project. Per CEQA Guidelines §15088.5(f)(2), when an EIR is revised only in part and the Lead Agency is recirculating the revised chapters or portions of the EIR, the Lead Agency may require reviewers to limit their comments to the revised chapters or modified portions of the recirculated EIR. The City therefore requests that reviewers limit the scope of their comments to only the revised *Alternatives Section*, the only section which was revised and recirculated from the 2009 RDEIR (CEQA Guidelines §15088.5(f)(2)).

The following sections of the Introduction (i) set forth the CEQA requirements for recirculation of an EIR; (ii) summarize the proposed project; (iii) outline the environmental review and comment process for the RDEIR; and (iv) describe the content, format, and summary of the Recirculated DEIR.

1.2 AUTHORIZATION AND PURPOSE

The purpose of an EIR is to inform the public generally of the significant environmental effects of a project, identify possible ways to minimize the significant effects, and describe reasonable alternatives that support the objectives of the project. As defined by the CEQA Guidelines, an EIR is an "informational document" with the intended purpose to "inform public agency decision-makers and the public generally of the significant environmental effects of a project, identify possible ways to minimize the significant effects, and describe reasonable alternatives to the project." Although the EIR does not control the ultimate decision on the project, the Lead Agency must consider the information in the EIR and respond to each significant effect identified in the EIR. As defined in the CEQA Guidelines, a "significant effect on the environment" is:

... a substantial or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance. An economic or social change by itself shall not be considered a significant effect on the environment. A social or economic change related to a physical change may be considered in determining whether the physical change is significant."

This Recirculated DEIR is prepared by Denise Duffy & Associates, Inc (DD&A) in compliance with CEQA and the CEQA Guidelines, as amended, for the City as the "Lead Agency" and in consultation with the appropriate local, regional and state agencies.

1.3 CEQA OVERVIEW

CEQA Guidelines require the preparation of an EIR when a Lead Agency determines there is evidence that a project may have a significant effect on the environment. This Recirculated DEIR has been prepared for the City, the Lead Agency and project applicant. The following provides an overview of the CEQA process as it relates the proposed project.

In November 2004, the City held a public scoping hearing for the sale of Flanders Mansion Property. The City determined the need to prepare an EIR because this sale involves a parcel of land that (1) is zoned for park use, (2) is adjacent to parklands and Environmentally Sensitive Habitat Areas (ESHA) and (3) includes a historic resource. Per CEQA Guidelines §15082, a Notice of Preparation (NOP) was circulated on January 24, 2005 to Federal, State, regional, and local agencies and to interested community organizations and individuals. A 30-day comment period on the NOP provided agencies the opportunity to identify issues and/or concerns that should be addressed during the preparation of the Draft EIR. The City received seven responses to the NOP.

A Draft EIR was prepared and distributed to interested responsible and trustee agencies, interested groups, organizations, and individuals on April 1, 2005. The 2005 DEIR was circulated for a 45-day public review period which ended on May 16, 2005. Fifty-four comment letters were received by the City within the public review period. A Final EIR was subsequently prepared in accordance with Public Resources Code §21091(d)(2), 21092.5, and CEQA Guidelines §15088. Findings were adopted by the City Council certifying the CEQA document and approving the project. The project, however, was successfully challenged in court by the Flanders Foundation. The Monterey County Superior Court set aside the action by the City Council in The Flanders Foundation v. City of Carmel-by-the-Sea and City Council of the City of Carmel-by-the-Sea (Mont. Co. Super. Ct. Case No. M76728).

In 2009, the City prepared a recirculated DEIR in response to the Monterey County Superior Court's determination concerning the 2005 DEIR. The 2009 RDEIR was recirculated in its entirety in order to allow the public additional opportunity to provide comment on the environmental effects of the project. The 2009 RDEIR was circulated for public review between January 5, 2009, and February 18, 2009. The EIR was certified in 2009 and the project approval was put before the voters as required pursuant to the Surplus Land Act. The 2009 RDEIR was also successfully challenged on the grounds that the City did not adequately respond to comments received during the public review period.

As discussed above, this Recirculated DEIR has been prepared in response to the Superior Court's and Appellate Court's determination that the 2009 RDEIR did not properly respond to the public comment concerning a reduced parcel alternative. This Recirculated DEIR is a partially recirculated document, as only Section 6.0, *Alternatives* is circulated for public comment. This Recirculated DEIR contains additional analyses of alternatives in response to the Appellate Court's directive received on the 2009 RDEIR. The revised recirculation public comment period of 45 days will allow the public a meaningful opportunity to comment on the adequacy of this revised alternatives analysis.

1.4 CEQA REQUIREMENTS FOR RECIRCULATION

Under CEQA, a Lead Agency is required to recirculate an EIR, or portions of an EIR, when significant new information is added to the EIR after notice is given of the availability of the Draft EIR for public review but before certification. As used in §15088.5 of the CEQA Guidelines, the term “information” can include changes in the project or environmental setting as well as additional data or other information. New information added to an EIR is not “significant” unless the EIR is changed in a way that deprives the public of meaningful opportunity to comment upon the substantial adverse environmental effect of the project, or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project’s proponent has declined to implement.

According to CEQA Guidelines §15088.5, “significant new information” requiring recirculation includes, for example, a disclosure showing that:

- A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented;
- A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance;
- A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the significant environmental impacts of the project, but the project’s proponents decline to adopt it; or
- The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded. (See, CEQA Guidelines §15088.5, subd. (a)(1)-(4).)

Under CEQA, if the revision is limited to a few chapters or portions of the EIR, the lead agency need only recirculate the revised chapters or modified portions (CEQA Guidelines §15088.5(c)). Recirculation of an EIR requires notice pursuant to CEQA Guidelines §15087, and consultation pursuant to CEQA Guidelines §15086. This Recirculated DEIR consists only of those sections of the previous EIR that are being revised.

1.5 FLANDERS MANSION PROJECT SUMMARY

The Proposed Project consists of the sale of the Flanders Mansion Property, a 1.252-acre parcel together with all improvements. The project site is considered parkland and is zoned P-2 (Improved Parkland). Refer to **Figure 1-1** for depiction of the Proposed Project and existing parcel boundary. The grounds of the Flanders Mansion Property have historically been used by the public for passive recreational activities and the property provides a number of park benefits. Surrounding the property is an Environmentally Sensitive Habitat Area (ESHA) zoned P-1. This area plus the project site are all part of the City’s largest park, the Mission Trail Nature Preserve. The building on the property (the Flanders Mansion) is recognized as a historic resource and is listed on the National Register of Historic Places. The Project proposes the sale of the Flanders Mansion parcel zoned P-2. The Mission Trail Nature Preserve area zoned P-1 is to be retained as public parkland, including the Lester Rowntree Arboretum.

1.6 ENVIRONMENTAL REVIEW PROCESS FOR THE RECIRCULATED DEIR

The review process for this RDEIR will involve the following procedural steps:

Public Notice/Public Review

CEQA Guidelines §15088.5 describes the procedures for recirculation. The procedures require simultaneous submittal of a public Notice of Availability of the Recirculated DEIR and a Notice of Completion to the State Clearinghouse. The Recirculated DEIR will be subject to public review and comment for a period of 45 days.

As Lead Agency, the City is required to evaluate and respond to written comments received on the Recirculated DEIR as provided in CEQA Guidelines §15088. Since recirculation can result in multiple sets of comments from reviewers, CEQA Guidelines §15088.5(f) allows the Lead Agency to identify the set of comments to which it will respond. This is intended to avoid confusion associated with responding to duplicate comments received during the environmental review period or comments that are no longer applicable due to revisions to the EIR.

CEQA Guidelines §15088.5(f)(2) allows the Lead Agency to require reviewers to limit their comments to the revised chapters or portions of the recirculated EIR. Since the EIR is revised only in part, and the City is recirculating only revised sections or portions of the EIR, the Lead Agency need only respond to 1) comments received during the modified initial circulation period that relate to chapters or portions of the document that were not revised and recirculated, and 2) comments received during the recirculation period relating to the chapters or portions of the earlier EIR that were revised and recirculated. Thus, agencies, organizations, and individuals that wish to comment on this Recirculated DEIR should limit their comments to this Recirculated DEIR and the analyses contained herein. Comment letters submitted on the previously circulated EIR during the prior comment period will be addressed in the Final EIR and need not be resubmitted in conjunction with this Recirculated DEIR; the City previously responded to comments received on the 2009 RDEIR in the 2009 Final EIR. The Court of Appeal found that the City appropriately responded to comments received on the 2009 RDEIR with the exception of a public comment relating to a reduced parcel alternative. This Recirculated DEIR has been prepared in response to the Court's directive.

Per CEQA Guidelines § 15088.5(f)(2), the scope of all comments should be limited to those sections being recirculated for public comment. All comments concerning the Recirculated DEIR must be addressed to:

Sean Conroy, City of Carmel-by-the-Sea
Community Planning & Building Department, P.O. Drawer G
Carmel-by-the-Sea, CA 93921

Responses to Comments/Final EIR

Following the 45-day public comment period on the Recirculated DEIR, a Final EIR will be prepared. The Final EIR will respond to written comments received during the public comment period on the Recirculated DEIR. Comments received on the 2009 RDEIR were previously responded to in the 2009 Final EIR; these responses will be incorporated by reference in accordance with CEQA and will be included as part of the Final EIR. At least 10 days prior to a hearing to certify the Final EIR, written responses to comments will be sent to those public

agencies that provided timely comments on the Recirculated DEIR. No aspect of the proposed project will be approved until after the Final EIR is certified.

Certification of the EIR/Project Consideration

The City, as Lead Agency, will review and consider the Final EIR. If the City finds that the Final EIR reflects the City's independent judgment and has been prepared in accordance with CEQA and the CEQA Guidelines, the City will certify the adequacy and completeness of the Final EIR. A decision to approve the project, or a project alternative, will be accompanied by written findings in accordance with CEQA Guidelines §15091, and if applicable, §15093.

Although the EIR does not control the lead agency's ultimate decision on the project, the City must consider the information in the EIR and respond to each significant effect identified in the EIR. Pursuant to the policy stated in §21002 and §21002.1 of CEQA, no public agency shall approve or carry out a project for which an EIR has been completed which identifies one or more significant effects. If significant adverse environmental effects are identified in the EIR, approval of the project must be accompanied by written findings, as follows:

- A. Changes or alterations have been required in, or incorporated into, such project that mitigate or avoid the significant environmental effects thereof as identified in the completed EIR.
- B. Such changes or alterations are within the responsibility and jurisdictions of another public agency and such changes have been adopted by such other agency, or can and should be adopted by such other agency.
- C. Specific economic, social or other considerations make infeasible the mitigation measures or project alternatives identified in the EIR.

State law requires that a public agency adopt a monitoring program for mitigation measures that are incorporated into an approved project to reduce or avoid significant effects on the environment. The purpose of the monitoring program is to ensure compliance with environmental mitigation during project implementation and operation. A Monitoring Program will be included in the Final EIR.

1.7 CONTENT, FORMAT, AND SUMMARY OF THE RECIRCULATED DRAFT EIR

Consistent with the provisions of §15088.5(f)(2) of the CEQA Guidelines, this Recirculated DEIR contains only the portions of the Revised Draft EIR that have been revised and/or replaced. The Recirculated DEIR is comprised of the following new information:

- Revised RDEIR Section 6.0, *Alternative Analysis* (replaced in its entirety)

This analysis incorporates the previous technical reports and supporting documentation consistent with the previous 2005 DEIR, as well as the 2009 RDEIR.

1.8 INCORPORATION BY REFERENCE

As permitted in §15150 of the CEQA Guidelines, both the 2005 DEIR and 2009 RDEIR have referenced technical studies, analyses, and reports. Information from the referenced documents has been briefly summarized in the appropriate section(s) of both the DEIR and the RDEIR. All referenced documents are available for public inspection and review upon request to:

Sean Conroy
City of Carmel-by-the-Sea
Community Planning & Building Department
P.O. Drawer G
Carmel-by-the-Sea, CA 93921

The CEQA Guidelines set forth three methods that may be used to incorporate data from other sources into an EIR: (i) use of an EIR appendix (CEQA Guidelines §15147); (ii) citation to technical information (CEQA Guidelines §15148); and (iii) incorporation by reference (CEQA Guidelines §15150). Information in an EIR appendix may include summarized technical data, maps, plot plans, diagrams, and similar information in sufficient detail to permit the public and reviewing agencies to make a full assessment of a proposed project's significant environmental effects. To achieve a balance between the highly technical analysis referenced in an EIR and an EIR's public information function, the CEQA Guidelines allow technical analyses as appendices to the main body of the EIR. Appendices may be prepared in volumes separate from the body of the EIR, but must be readily available for public examination.

Source documents that are not project-specific have been cited in both the 2005 DEIR and 2009 RDEIR. To keep the EIR to a manageable length, such documents need not be included in the EIR or EIR appendices. All documents referenced in both the 2005 DEIR and 2009 RDEIR are hereby incorporated by reference and are available for public inspection and review at the location and address shown above.

1.9 ADDITIONAL RELEVANT INFORMATION REGARDING COMMENT R-7

RDEIR Comment R-7, 2009 Final EIR Response, and Court Interpretation

The Court of Appeal determined that the City failed to adequately respond to a comment received on the 2009 RDEIR involving a reduced parcel alternative. Specifically, the individual comment and response referenced in the Court's decision from the 2009 Final EIR was Comment R-7. This comment is cited by the Court on page 13 of its opinion, "The mitigation possibilities are not analyzed sufficiently. A reduction in the size of the parcel to be sold, or a conservation easement on a portion of the property are suggested as potential mitigation." (See **Attachment A** of this document for the full text of 2009 Final EIR comment and responses to Comment R-7..)

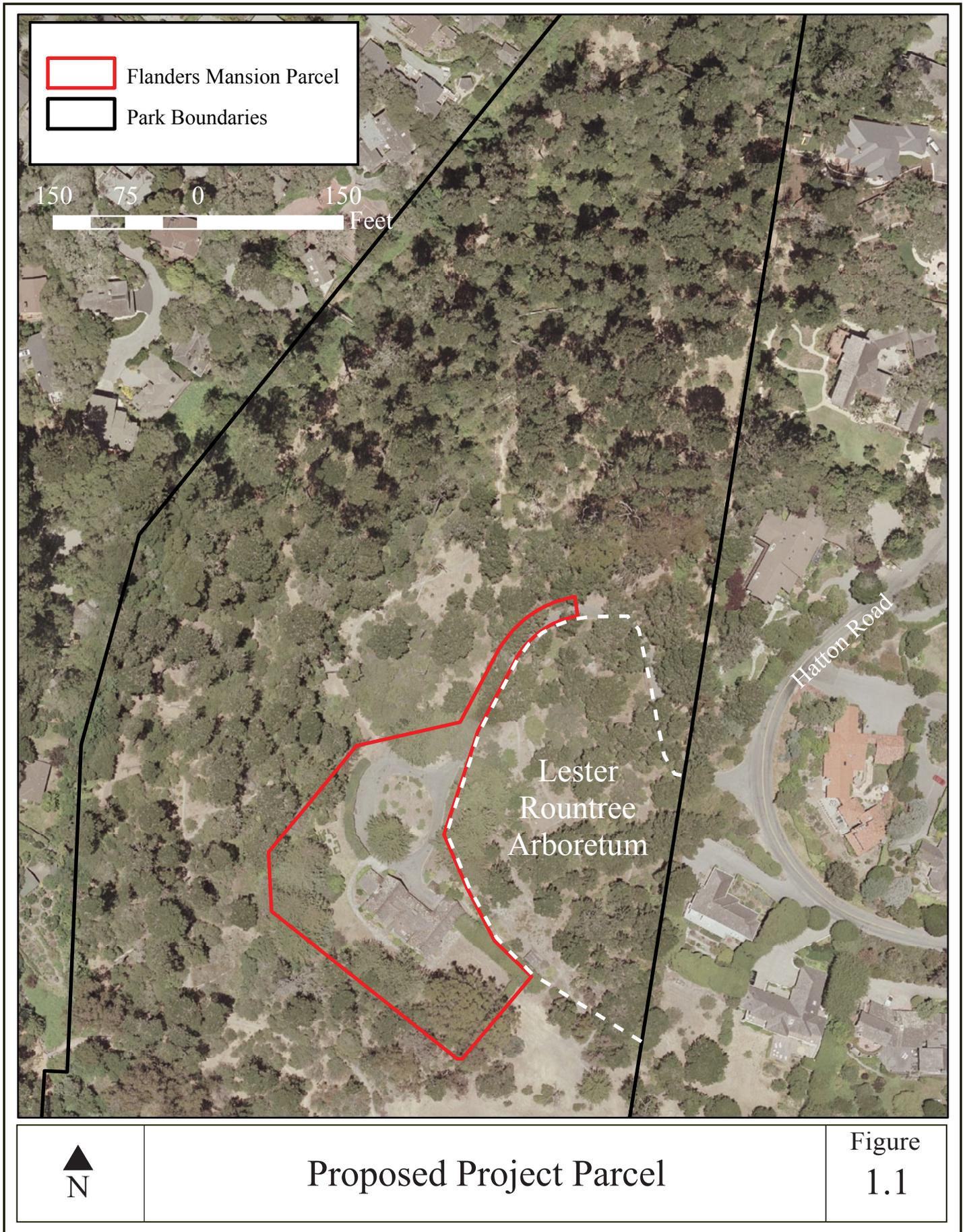
Thus, this Recirculated DEIR responds directly to the Court's determination that the City inadequately responded to Comment R-7, and specifically to the direction by the court that a reduced parcel alternative should be analyzed as a means to potentially minimize the project's adverse effects. This Recirculated DEIR also provides additional graphic and technical information regarding potential parcel alternatives. In direct response to Comment R-7, which suggested that a façade easement alternative should have been evaluated, an alternative is included in this Recirculated DEIR specific to this request.

The alternatives evaluated within the context of this Recirculated DEIR are considered in terms of whether they would significantly reduce the unavoidable impact cited in the EIR (loss of parkland). Refer to the Revised Alternative Section 6.0, in this Recirculated DEIR, for the following list of alternatives involving reduced parcel size:

- Mitigated Alternative from 2009 Final EIR (“Alternative 6.5 Sale with Conservation Easements and Mitigations”)
- Building Only Alternative (Alternative 6.6)
- Reduced Parcel Alternative (Alternative 6.7)

The additional project alternatives evaluated in this Recirculated DEIR were selected in part on the Appellate Court’s opinion that an alternative should be considered that is intended to minimize the project’s significant unmitigated impacts. Additional reduced parcel alternatives were specifically designed to reduce the amount of parkland sold, while also preserving existing park benefits.

Addendum to Economic Feasibility Analysis. An update to the economic feasibility analysis performed by CBRE Consulting; Economic Analysis of the Flanders Mansion Property, March 2009 is being prepared for the additional alternatives cited in this Recirculated Draft EIR, Revised Alternatives Section. The CEQA Guidelines and case law make clear that such economic information and analysis may be provided in some other manner than in the RDEIR (see CEQA Guidelines §15131) as the City has chosen to do in this case.



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6.0 Revised Alternatives

This Recirculated Draft Environmental Impact Report (“Recirculated DEIR”) Alternatives Section is part of the ongoing environmental review process for the proposed Flanders Mansion Project, which entails the sale of City-owned property, specifically the Flanders Mansion Property, a listed historical resource on the National Register of Historic Places, in the City of Carmel-by-the-Sea (“City”), California. Refer to Introduction, Figure 1.1, illustrating the existing parcel boundary of the Proposed Project. This revised section is updated from the 2009 Recirculated DEIR “2009 RDEIR” in compliance with the 6th District Court of Appeal “Court of Appeal” decision (The Flanders Foundation v. City of Carmel-by-the-Sea, et al. (Mont. Co. Super. Ct. Case No. M99437)).

Note: To identify revisions to this Alternatives Section, henceforth, underlined text shows changes between the Draft and Final Recirculated EIR documents “2009 Final RDEIR”. New (2012) text added to the 2009 Final RDEIR is identified in *italics, underlined below*.

The following presents the Revised Alternatives Section for the Flanders Mansion Project Recirculated DEIR.

6.1 INTRODUCTION

CEQA Guidelines §15126.6 requires the consideration of a range of reasonable alternatives to the Proposed Project that could feasibly attain most of the basic objectives of the project. The CEQA Guidelines further require that the discussion focus on alternatives capable of eliminating significant adverse impacts of the project or reducing them to a less-than-significant level, even if the alternative would not fully attain the project objectives or would be more costly. The range of alternatives required in an EIR is governed by the “rule of reason,” which requires an EIR to evaluate only those alternatives necessary to permit a reasoned choice. An EIR need not consider alternatives that have effects that cannot be reasonably ascertained and/or are remote and speculative.

In compliance with CEQA, this section discusses the "No Project Alternative" as well as other alternatives and compares them to the Proposed Project. Through a comparative analysis of the environmental impacts and merits of the alternatives, this section is focused on those alternatives capable of eliminating significant adverse environmental impacts of the project, or reducing them to a less-than-significant level. *The 2009 EIR updated this section from the 2005 EIR to reflect changes in project circumstances as well as the Superior Court’s ruling concerning the evaluation of project alternatives.* The petition for the Writ of Mandamus raised challenges under CEQA, the Carmel-by-the-Sea Municipal Code, and the California Government Code, all in connection with the proposed sale of the Flanders Mansion by its owner, the City. Specifically, the Court found there was a lack of substantial evidence in the record documenting that the environmentally superior alternative (lease of the Flanders Mansion), was infeasible and directed that additional evidence be prepared in the form of an economic analysis. *In 2009, the City prepared and released an economic analysis evaluating the financial feasibility of the various project alternatives. This analysis was considered by the City in 2009 during their*

project deliberations . The City approved an alternative to the Proposed Project at that time, as shown in Figure 6.1. Refer to Figure 6.1, Restricted Use on Parcel /Mitigated Alternative and associated text below under Section 6.5, Conservation Easements and Mitigations.

The following updates the 2009 RDEIR Alternatives Analysis in response to the January 4, 2012 Court of Appeal decision to address a reduced parcel size alternative (6th District Court of Appeals decision, The Flanders Foundation v. City of Carmel-by-the-Sea, et al. (Mont. Co. Super. Ct. Case No. M99437).

Proposed Project

The Proposed Project consists of the sale of the Flanders Mansion Property (the “Property”) located on a 1.252-acre parcel located within the Mission Trails Nature Preserve Hatton Road provides access to the “Property” via a driveway to the Mansion building.. No specific land use is identified as part of the project. The project site is considered parkland and is zoned P-2 (Improved Parkland). The building on the property (the Flanders Mansion) is recognized as a historic resource and is listed on the National Register of Historic Places.

Alternatives Not Analyzed in Detail

The following discussion has been prepared in accordance with the requirements of CEQA Guidelines §15126.6(c), which requires that an EIR identify alternatives that were considered by the lead agency but not considered for further evaluation. The following project alternatives were not considered for further evaluation because they failed to achieve the primary project objective, divestment of the Flanders Mansion, or would result in additional significant and unavoidable impacts. These alternatives were previously analyzed in the 2005 DEIR, as modified, because they would have achieved or partially achieved secondary objectives related to the raising of funds for capital improvements. Raising funds for capital improvements was eliminated by the City as a project purpose and therefore the following alternatives are not analyzed in detail in this RDEIR. However, these alternatives are part of the Administrative Record as they were included in the previous 2005 DEIR.

Alternative Properties/Locations

CEQA Guidelines §15126.6(f)(2) provides direction concerning when it is appropriate to analyze an alternative location project alternative. An alternative location should be analyzed when the significant effects of the Proposed Project would be avoided or substantially lessened if the project was in another location. An alternative location is infeasible because the Proposed Project consists of the sale of the Flanders Mansion and surrounding property. The Proposed Project could not be undertaken on another site; therefore, this RDEIR does not examine in detail an alternative location.

Rio Park Alternative. As part of the previous alternatives analysis conducted in the 2005 DEIR, as modified, the sale of Rio Park was considered as a project alternative. This alternative consisted of the sale of the 6.24-acre Rio Park property (APNs 009-521-002 and 009-521-004), which is characterized as undeveloped open space located within the unincorporated areas of Monterey County. Although the site is commonly referred to as “Rio Park,” the site is not designated as parkland. The site, which consists of two separate parcels, is zoned “Medium Density Residential” (MDR/2)(CZ) and “Resource Conservation” (RC)(CZ). The 2005 DEIR and FEIR determined that the sale of this property could result in potentially significant impacts to biological resources due to on-site resources and sensitive habitat types located within the

immediate vicinity. In addition, the site is also located within a floodplain and would have the potential to result in additional significant environmental impacts beyond those associated with the Proposed Project. In addition, this alternative would fail to meet the primary project objective, divestment of the Flanders Mansion. For these reasons, this alternative is not evaluated in detail in this RDEIR.

Relocate Scout House and Sell Parcel Alternative. This alternative also was previously analyzed as part of the 2005 DEIR and FEIR and would consist of the sale of a 4,000 sq. ft. parcel located on the northeast corner of Mission and 8th (Block 89 Lot 20). The Scout House, considered a historic resource for the purposes of CEQA, is currently located on this site and would be relocated to the Vista Lobos property located on Torres Street and Fourth Avenue (Block 48). Upon relocation of the Scout House, the 4,000 sq. ft. parcel would be sold. However, implementation of this alternative would have the potential to result in additional significant impacts related to a historic resource. Specifically, the relocation of the Scout House would result in a potentially significant impact to a historic resource by relocating the resource out of its historical context. In addition, this alternative would also fail to meet the primary project objective associated with the Proposed Project. Therefore, this alternative is not evaluated in detail in this RDEIR.

Sale of Scout House and Rio Park Property Alternative. As with the previous alternatives identified above, this alternative was also analyzed as part of the 2005 DEIR and FEIR. This alternative would consist of the sale of the Scout House at its existing location on the northeast corner of Mission and 8th (Block 89 Lot 20). In addition, this alternative also included the sale of the Rio Park property (APN 009-521-002 and 009-521-004). This alternative would result in additional environmental impacts beyond those associated with the Proposed Project. Specifically, the sale of the Scout House could result in significant impacts to a historically significant resource. However, these impacts would likely be less than those associated with the relocation of the Scout House as described in the alternative above. Sale of the Rio Park property would also result in additional environmental impacts as described above. Specifically, future development of this parcel could result in significant impact to sensitive habitat, including ESHA, as well expose persons and/or structures to flood related hazards. Therefore, this alternative would not reduce potential impacts as compared to the Proposed Project and would also fail to meet the primary project objective associated with the Proposed Project. As a result, this alternative is not evaluated in detail in this RDEIR.

Alternative Uses

Commercial Use Alternative. The 2005 DEIR and FEIR evaluated the potential environmental impacts associated with the use of the Property as a commercial operation, specifically a motel or bed and breakfast. The 2005 DEIR, as modified, determined that a commercial operation, such as a motel or bed and breakfast, would represent an intensification of use as compared to the historical uses of the property (i.e., residential and public or quasi-public). In addition, this land use has never occupied the Flanders property. While motel/bed and breakfast-oriented uses are permitted in this zoning district, it was determined that this type use would be highly unlikely since the City's General Plan/Coastal Land Use Plan prohibits the net increase of hospitality units in the City. Additionally, mitigation measures were incorporated into the 2005 FEIR to restrict the use of the Flanders Mansion to those uses that are consistent with the historical use of the property (i.e., residential or low-intensity public or quasi-public). Also, since a motel/bed and breakfast facility would constitute an intensification of use, additional long-term water supplies would need to be available to accommodate potential demands. A motel/bed and breakfast type use would likely exceed historical water use associated with the Property and the City water

allocation is not available for intensification of uses. In addition to these reasons, commercial use of the Property would also be inconsistent with a number of the project objectives contained in this RDEIR. As a result, mitigation measures expressly prohibited the commercial use of the property. For these reasons, the use of the Property as a commercial use is considered an alternative design for the purposes of CEQA that was considered, but ultimately rejected for further analysis. Should this type of use be requested in the future, additional environmental documentation would be required to assess potential impacts, including impacts related to transportation/traffic, water supply, and land use and planning.

Alternative Uses under Public Sale

Note: This section represents the Surplus Lands Act Discussion from the 2009 Final EIR¹.

Comments on the RDEIR requested an additional analysis of potential alternative uses specific to the sale of the property in accordance with the provisions of the Surplus Land Act (herein referred to as “Act”). Under the provisions of the Act, there is a requirement for the City to make specific notifications and offers of disposition of property to agencies involved in specific purposes such as housing, parks and recreation, and school districts. Under Government Code 54222(b), the agency disposing of the property, referred to as the “disposing agency” must first offer the property to the list of agencies identified below.

1. Any local public entity as defined in Section 50079 of the Health and Safety Code, within whose jurisdiction the surplus land is located;
2. Housing sponsors, as defined by Section 50074 of the Health and Safety Code;
3. Any park or recreation department of any city within which the land may be situated;
4. Any park or recreation department of the county within which the land is situated;
5. Any regional park authority having jurisdiction within the area in which the land is situated;
6. The State Resources Agency or any agency which may succeed to its powers;
7. Any school district in whose jurisdiction the land is located;

Per the Government Code section, after the disposing agency has received notice from the entity desiring to purchase or lease the land, the disposing agency and the entity shall enter into good faith negotiations to determine a mutually satisfactory sales price or lease terms. If the price or terms cannot be agreed upon after a good faith negotiation period of not less than 60 days, the land may be disposed of without further regard to this article (see Government Code 54223).

The 2009 RDEIR and the 2005 DEIR evaluated the potential environmental impacts associated with the use of the Flanders Mansion Property as a commercial operation and more intensified uses. Specifically, uses under the existing P-2 Zoning District (Improved Parklands) were evaluated and considered per the allowable uses in the Zoning Ordinance. The Ordinance discusses allowed P-2 uses in Schedule II-C and the corresponding footnotes. There are four uses allowed without any footnotes or limitations (Park/Recreation Facilities, Live Performance Theater, Motion Picture Theater and Communication Antennae/Towers). In addition, several

¹ *This section contains analysis from the 2009 Final EIR addressing potential impacts from lease or sale of the property to another government agency under the Surplus Lands Act (Gov. Code, §§ 38440-38462, 54220-54222). The January 4, 2012 Court of Appeals decision found that the 2009 EIR adequately analyzed potential environmental impacts that might occur from lease or sale of the property under the Surplus Lands Act. Thus, this Recirculated Alternatives Section appropriately addresses the Court’s directive to revise the 2009 Recirculated EIR to consider the alternative of selling or leasing the Mansion without also selling or leasing all of the parkland within its current parcel map.*

uses are listed that have limits established: (Single-Family Residential, Senior Citizen Housing, Day Care, Clubs/Lodges, Small Conference Facilities and Government Offices).

Based on Table 4.6.1 in the RDEIR, traffic generation rates and corresponding impacts were assigned for park/recreational, residential (single-family detached) and public or quasi-public (general office). Estimates were based on the Institute of Transportation Engineers, *Trip Generation*, 7th Edition, 2003 which provides assumptions for traffic volumes associated with various uses depending on the number of employees, type of use, and other factors. Additionally, Table 3 of the 2005 Draft EIR on Page 4.4 identified various uses of the property assumed under allowable zoning and provided an impact summary of traffic under these uses. These included: Park and Recreation Use, Residential uses, Municipal Facilities, Non-profit Uses, Lodge and Motel and Day Care.

This RDEIR evaluated a range of potential future uses in accordance with the existing zoning designation (P-2 Improved Parkland). Potential uses identified of those agencies under the Surplus Land Act include parks and recreation, resources agencies or offices of school districts, housing sponsors such as those for senior citizen housing, or other uses which are similar in character or nature to the uses already specified and analyzed in the 2005 EIR and 2009 RDEIR.

Additionally, mitigation was incorporated in the RDEIR that restricts future use of the property to those uses that have historically occupied the Flanders Mansion Property since it was acquired by the City. Therefore, high traffic generating uses, such as commercial uses (e.g. a housing project, visitor serving facilities similar to a bed and breakfast or motel, or a school facility) would be prohibited from occupying the site through the conditions of sale or other legally binding method in order to avoid potential significant impacts due to land use conflicts with the Mission Trails Nature Preserve, including the Lester Rowntree Arboretum (the "Arboretum"), and the surrounding single-family residential neighborhoods.

The project site is within the MPWMD, which is responsible for issuing water connection permits for development within its boundaries. The MPWMD restricts the water allocation assigned for each jurisdiction and requires that all properties that modify or add water fixtures on a property within the MPWMD obtain District approval. The City has negligible amount of water to allocate to new uses in the area within the MPWMD. Water ~~will~~*would be* restricted to ~~using~~ the amount of water historically allocated for the buildings and use on the site, in accordance with the regulations of the MPWMD. Since the historical amount of water the project site has used is consistent with use as a low intensity use for single-family home or limited office use, water is considered a severe constraint for development of a number of the uses identified under the Surplus Land Act².

Based on the assumed uses outlined above, this alternative would result in greater level of impacts than the Proposed Project in regard to aesthetics, biological resources, cultural resources, land use and planning, parks and recreation, and transportation/traffic due to the potential intensity of use and would not avoid the significant unavoidable impact associated with the Proposed Project. Depending on the type of agency or owner, this alternative could still result in the permanent loss of publicly owned parkland due to a change in ownership consistent with the Proposed Project. This alternative would meet the primary project objective, divestment of the Flanders Mansion property. This alternative, if inconsistent with the historic uses associated with the Flanders Mansion, would not achieve objectives related to the minimization of traffic impacts on the surrounding residential neighborhoods. Additionally, depending on the type of use

² Water use for a single-family home in the Carmel area is typically less than .50 Acre-feet/year (AF/Y).

proposed, this Alternative may not be feasible due to the lack of available infrastructure (water) to serve the use.

Further, the process for offering the land for public sale to any of these agencies and future use of the property under this Act does not preclude the requirements of state law or the provisions of CEQA. Future use of the site would require City permits and processing under applicable City regulations and state statutes. If any uses were proposed that was not within the parameters of the uses considered under this environmental document that would trigger further environmental review, CEQA guidelines would require that the City conduct the appropriate additional environmental assessment and documentation. It should be noted that this site would not qualify for the CEQA affordable housing exemption (Guidelines §15191 *et seq.*) because, among other things, it is not in an “urbanized area” as defined in the Guidelines, and such a project could be inconsistent with the existing zoning.

Alternatives Selected for Further Analysis

According to CEQA Guidelines §15126.6(f), the ranges of alternatives required in an EIR is governed by the “rule of reason.” Moreover, the alternatives analysis shall be limited to those that would avoid or substantially lessen any of the significant impacts associated with the Proposed Project. CEQA mandates that the alternatives analysis must contain a “no project alternative” in order to allow decision makers to compare the impacts of approving the Proposed Project with the impacts of not approving the project (CEQA Guidelines §15126.6(e)(1)).

Accordingly, the following alternatives were identified as warranting further analysis *in the 2009 EIR*:

- No Project Alternative (Alternative 6.3)
- Lease Alternatives (Alternative 6.4)
 - Lease for Single-Family Residential Use
 - Lease for Public or Quasi-Public Use
- Sale with Conservation Easements and Mitigations (*Alternative 6.5*)- *2009 EIR*

The 2009 RDEIR was updated and recirculated under CEQA, and the City’s approval of the project and EIR certification was challenged on a number of issues and successful on the adequacy of the EIR Response to Comment (Comment R-7) regarding evaluation of a Reduced Parcel Alternative. This 2012 updated Alternatives Analysis, therefore, addresses the following additional alternatives:

- *Mitigated Alternative from 2009 Final EIR (“Alternative 6.5 Sale with Conservation Easements and Mitigations”)* Refer to Figure 6.1.
- *Building Only Alternative (new) (Alternative 6.6)* Refer to Figure 6.2.
- *Reduced Parcel Alternative (new) (Alternative 6.7)* Refer to Figure 6.3.

A short summary of these alternatives and comparison of these alternatives follows. Please also refer to the attached figures to illustrate each alternative.

In the proceeding alternatives analysis each of the selected alternatives is described, evaluated, and compared to the Proposed Project. In addition, the ability of each alternative to reduce potential impacts is also discussed. Where an alternative would result in approximately the same level of impacts as the Proposed Project or another alternative, a substantive discussion of the impacts is not provided. The alternatives chosen for this analysis, beyond those mandated by

CEQA, were developed to avoid or substantially reduce the significant impacts associated with the Proposed Project.

A comparison of the impacts for each alternative is presented in **Table 6-1**. In the following analysis of alternatives, if impacts are not reduced or changed from those of the Proposed Project, the analysis is abbreviated. The following alternative analysis is specific to the impacts identified in this RDEIR.

Table 6-1 Project Alternatives (1) Comparison of Impacts & Attainment of Objectives						
		Lease Alternatives		Sale Alternative	<u>Building Only (Facade Easement) Alternative</u> ***	<u>Reduced Parcel Alternative</u> **** (Lease or Sale)
	No Project	Single-Family Residential Use	Public or Quasi-Public Use	Sale with Conservation Easements and Mitigations **	<u>Easements (Lease or Sale)</u>	<u>Reduced Parcel Alternative (Lease or Sale)</u>
Impact						
Aesthetics	-	=	=	-	-	-
Biological Resources	-	=	-	-	-	--
Cultural Resources	=	=	-	-	-	-
Land Use & Planning	-	-	-	-	-	-
Parks & Recreation	-	-	-	-	-	-
Traffic	-	-	+	=	=	=
Attainment of Objectives						
Primary	No	No	No	Yes	<u>Partial</u>	<u>Partial</u>
Secondary	Partial	Partial	Partial	Partial*	<u>Partial*</u>	<u>Partial*</u>
+ Impact Greater than Proposed Project = Impact Comparable to Proposed Project - Impact Less than Proposed Project * Contingent upon use						
<i>(1) Note: See text for description. :</i>						
* <i>Meets primary City objective of divestment under Sale</i>						
** <i>Alternative 6.5 Sale with Conservation Easements and Mitigations. Refer to Figure 6.1.</i>						
*** <i>Building Only Alternative (Alternative 6.6) Refer to Figure 6.2.</i>						
**** <i>Reduced Parcel Alternative (Alternative 6.7) Refer to Figure 6.3.</i>						

6.2 SUMMARY OF PROJECT OBJECTIVES AND SIGNIFICANT IMPACTS

Objectives

As described in **Section 3.0 Project Description** of this RDEIR, the primary project objective associated with the Proposed Project is to divest the City of Carmel-by-the-Sea of the Flanders Mansion property, which is in need of significant short-term and long-term repair and rehabilitation. In addition to this primary objective, there are several secondary objectives as follows:

- To ensure that the Flanders Mansion is preserved as a historic resource;
- To ensure that the Flanders Mansion building and property are put to productive use;
- To ensure that future use of the Flanders Mansion and property will not cause significant traffic, parking, or noise impacts on the surrounding neighborhood;
- To ensure that future use will not significantly disrupt the public's enjoyment of the Mission Trail Nature Preserve or the Lester Rowntree Native Plant Garden;
- To ensure that environmental resources of the park are protected; and
- To ensure that the Flanders Mansion parcel continues to provide the public with as many park benefits as are practical.

Significant Impacts

The alternatives analysis is intended to focus on eliminating, or reducing in significance, those project impacts identified in the RDEIR as significant and unavoidable. Significant and unavoidable impacts are those effects of the project that would affect either natural systems or other community resources and cannot be mitigated to a less-than-significant impact level.

The Proposed Project would result in potentially significant impacts in the following categories, as described in this RDEIR: aesthetics, biological resources, cultural resources, and transportation/traffic³. All impacts associated with the Proposed Project can be reduced to a less-than-significant level with implementation of mitigations identified in this RDEIR, with the exception of impacts related to (1) land use and planning and (2) parks and recreation. The following significant, unavoidable impacts were identified for the sale of Flanders Mansion:

- Sale of the Flanders Mansion Property would conflict with certain goals, objectives, and policies identified in the City of Carmel-by-the-Sea General Plan/Coastal Land Use Plan related to parkland, including G5-6, O5-21, P5-46, and P5-107,⁴ and
- *Sale of the Flanders Mansion Property would result in the loss [of] locally significant parkland that is considered an integral component of the Mission Trail Nature Preserve. This would represent a permanent loss of publicly owned parkland. Since this loss of parkland is locally significant, this is considered a significant unavoidable impact that cannot be reduced to a less-than-significant level. Sale of the Flanders Mansion Property would result in the loss of an area of parkland available to the public that provides a wide variety of park benefits and is integrated into the Mission Trails Nature Preserve in a manner that facilitates or significantly enhances the use and enjoyment of other areas of the Preserve.*

6.3 NO PROJECT ALTERNATIVE

Description

³ *These policies have not changed from the 2009 RDEIR and have retained the same numbers in the revised General Plan.*

CEQA requires the discussion of the No Project Alternative “to allow decision makers to compare the impacts of approving the Proposed Project with the impacts of not approving the Proposed Project” (CEQA Guidelines §15126.6(e)(1)). Under the No Project Alternative, the Flanders Mansion Property would not be sold by the City and the property would continue to remain vacant in its current state or be occupied for limited use as described further below. This analysis assumes that the City would continue to implement necessary improvements to comply with the Superior Court’s ruling regarding deferred maintenance of the Mansion, requiring the City to implement reasonable interim measures as necessary to avoid further significant deterioration of the Mansion. This alternative assumes that no additional facility upgrades beyond those required by the Superior Court ruling would be implemented. Two potential scenarios may occur for this facility under the No Project Alternative for the use of the Mansion structure itself. The first scenario would assume vacancy of the structure. The second scenario assumes that limited use of the facility would occur under this alternative (similar to the past use of the property for office space or single family residential use within the facility). In accordance with CEQA Guidelines §15126.6(e)(3), the following analysis compares the environmental impacts of the property remaining in its existing state versus the potential environmental impacts that would occur as a result of the Proposed Project.

Impacts

Implementation of the No Project Alternative is anticipated to substantially lessen and/or avoid significant impacts associated with the Proposed Project. Specifically, the No Project Alternative would avoid significant impacts associated with land use and planning and parks and recreation. The No Project Alternative would also reduce impacts to aesthetics, biological resources, cultural resources, and transportation/traffic. Mitigation measures intended to avoid and/or minimize potential impacts would no longer be applicable.

The No Project Alternative would avoid significant project impacts related to land use and planning. As identified in this RDEIR, the sale of the Flanders Mansion property would result in the sale of public parkland and, therefore, has the potential to conflict with numerous goals, objectives, and policies contained in the City of Carmel-by-the-Sea General Plan/Coastal Land Use Plan related to parkland. Under the No Project Alternative, the Mansion and surrounding property would be retained by the City. As a result, impacts would be avoided.

This alternative would also avoid significant project impacts related to parks and recreation. As identified in **Section 4.5 Parks and Recreation**, sale of the Flanders Mansion property would result in a significant impact due to the loss of parkland and park benefits associated with the Property. The sale of the project site would result in the loss of an area of parkland that provides several on-site benefits and also facilitates public enjoyment of other areas of the Mission Trail Nature Preserve. The RDEIR identified that a sale of the Flanders Mansion property is likely to remove from public use vehicular entry to the park from Hatton Road. It would also remove from public use a connection to two trails as identified on Figure 4.5-1 from the RDEIR (included in Attachment B to this Revised Alternative Section⁵. Under the No Project Alternative, the site

⁵ RDEIR Section 4.5, Parks and Recreation, states, “The sale of the Flanders Mansion Property may result in loss of public access to and through the Flanders Property and compromise access to the Preserve’s trail system.” The RDEIR found that this potentially significant impact was mitigated to a less-than-significant level with Mitigation Measure 4.5-1. This mitigation requires additional trail connections, as follows: “In order to ensure trail access between the Lester Rowntree Arboretum and the Mission Trail Nature Preserve is preserved, the City shall provide additional trails as shown on Figure 4.5-1 to mitigate the loss of trail access as a result of the project. Prior to the sale

would continue to be accessible to the general public. As a result, significant and unavoidable impacts due to the loss of parkland would be avoided.

The No Project Alternative would avoid potential project impacts due to changes to the existing visual character of the site. ~~It is assumed that under~~ This alternative *assumes* that the property would continue to exist in its current state, and only ordinary maintenance and minor improvements would be implemented by the City to ensure compliance with the Superior Court's ruling. No new exterior elements, such as fencing, hedges, or similar features, intended to physically restrict access by park visitors or provide enhanced privacy would be implemented. The Flanders Mansion property would continue to be accessible to the general public and physical barriers would not disrupt the visual character of the Mission Trail Nature Preserve. In addition, the No Project Alternative would also avoid potential impacts to adjacent public viewing areas, considered scenic vistas for the purposes of this RDEIR, which would occur as a result of the Proposed Project. As identified in **Section 4.1 Aesthetics**, the Proposed Project would result in the loss of public access to and through the Flanders Mansion Property thereby impacting existing access to adjacent viewing areas. Implementation of this alternative would not restrict public access to the property and would avoid potential impacts to the adjacent scenic vistas.

This alternative would also avoid potential biological impacts associated with a potential future use of the Property. No exterior features or physical changes to the Property would occur as part of this alternative. Therefore, no impacts to biological resources are anticipated.

The No Project Alternative would result in relatively the same level of impacts as compared to the Proposed Project in regard to cultural resources and ongoing required maintenance to the structure. In order to comply with the findings of the Superior Court ruling, the City would be responsible for ongoing maintenance and rehabilitation of the property as is also required per the City's historic preservation ordinance. Compliance with the ordinance would ensure that all future improvements to the Mansion as per the Superior Court's order would comply with applicable standards related to historical resources. However, this alternative would avoid potential impacts to buried archaeological remains since this alternative assumes that no ground disturbing activities would occur.

This alternative would reduce impacts related to transportation/traffic compared to the Proposed Project. Specifically, the site would remain vacant and would presumably continue to be used by the general public for park access. As such, this alternative would avoid potential traffic impacts related to the loss of parking and increased traffic associated with the future use of the Property.

Attainment of Project Objectives

The No Project Alternative would fail to meet the primary project objective of divestment of the Flanders Mansion property by the City. In addition to failing to meet the primary project objective, this alternative would only meet some of the secondary objectives identified by the City. This alternative would ensure that: 1) use of the property would not significantly disrupt the public's enjoyment of the Mission Trail Nature Preserve or the Lester Rowntree Arboretum; 2) environmental resources located within the Mission Trail Nature Preserve are protected; 3) the property would continue to provide a maximum benefit to the general public; and 4) the property

of the Flanders Mansion, the City of Carmel-by-the-Sea shall set aside additional trails within the Mission Trail Nature Preserve as depicted in Figure 4.5-1."

would minimize impacts on the surrounding residential neighborhood. This alternative would fail to meet secondary objectives related to ensuring that the building is put to productive use. In addition, it is also assumed that this alternative would only partially achieve secondary objectives related to historic preservation.

Summary

In summary, the No Project Alternative would significantly lessen and/or avoid project-related impacts related to land use and planning and parks and recreation. This alternative would also significantly lessen or avoid impacts associated with aesthetics, biological resources, and transportation/traffic. However, this alternative would result in approximately the same level of impacts as the Project in regard to cultural resources. The Mansion would continue to remain facility would have minimal use (either remain vacant or have limited use similar to previous arrangements of the City) vacant, although it could be periodically used by the City. The outlying site surrounding the structure is assumed to remain as is, and therefore, would not be impacted in relation to trail or parkland impacts compared to the Proposed Project. Unlike the Proposed Project, this alternative would not be subject to conditions or mitigation measures identified in this RDEIR. Overall, this alternative would significantly avoid most of the identified significant impacts, would fail to meet the primary project objective of divestment of the Flanders Mansion property, and would only meet some of the secondary objectives identified by the City.

6.4 LEASE ALTERNATIVES

The 2005 DEIR, as modified, evaluated the potential environmental impacts associated with a Lease Alternative (previously referred to as “Alternative 2” in the 2005 DEIR). The analysis contained in the 2005 DEIR, as modified, was not use specific. Rather, the analysis evaluated general impacts associated with the lease of the Property. In order to clearly disclose the potential environmental impacts associated with the lease of the property, this RDEIR evaluates two (2) use-specific lease alternatives. Specifically, this RDEIR evaluates a Lease as a Single-Family Residential Use Alternative and a Lease as a Public or Quasi-Public Use Alternative.

LEASE FOR SINGLE-FAMILY RESIDENTIAL USE

Description

This alternative would consist of the City retaining ownership of the Flanders Mansion property and leasing the property as a single-family residence. This alternative assumes that the City would implement some facility upgrades and maintenance requirements in order to comply with the Superior Court’s ruling. In addition, this alternative also assumes that the City, prior to the lease of the building, would implement additional facility upgrades to ensure that the Flanders Mansion is leasable. This alternative also assumes that exterior features, such as fencing, may be erected on the property to provide privacy to the future lessee. Although some restrictions could be imposed by the City regarding the nature of fencing, this RDEIR assumes that some fencing would be required in order to fully evaluate potential impacts. Impacts from exterior elements are considered reasonably foreseeable in the absence of a specific lessee and associate lease terms. Future terms of the lease agreement would be determined at the time a lessee was identified. This alternative assumes that the various conditions and mitigation measures identified in this RDEIR would be applicable to the future use of the property.

Impacts

This alternative is anticipated to result in approximately the same level of impacts as the Proposed Project with the exception of impacts associated with land use and planning, parks and recreation, and transportation/traffic. While mitigation and conditions would apply to the future lease of the property as a single-family residence, this alternative would still result in impacts to aesthetics comparable to the Proposed Project. This alternative would not result in the permanent loss of parkland. While the project would avoid significant and unavoidable impacts due to the permanent loss of parkland, it is assumed that there would be physical changes to the property, such as new fencing, walls, gates, hedges, altered circulation patterns, changed landscaping patterns, and/or other alterations made to accommodate the needs of the lessee. The erection of exterior elements, such as fencing, would physically separate the Property from the remainder of the Mission Trail Nature Preserve and would restrict access to a portion of the Preserve that has historically been used for park purposes. Depending on the extent of these exterior elements, these changes would significantly reduce or eliminate park benefits associated with the property during the term of the lease. These results would substantially diminish the integration of the property into the remainder of the Preserve. Existing park benefits associated with the Flanders Property would be eliminated or significantly reduced due to the use of the Property for single-family purposes during the lease term.

Aesthetics. Implementation of this alternative would also result in substantially the same level of impacts as the Proposed Project in regard to aesthetics⁶. It is assumed that exterior changes to the property, such as fences and similar features, would be made by the lessee to provide additional security and privacy. Although some restrictions could be imposed by the City regarding the nature of fencing, this RDEIR assumes it is assumed that fencing, in order to fully evaluate potential impacts, would be required. Impacts from exterior elements are considered reasonably foreseeable in the absence of a specific lessee and associated lease terms. This Exterior elements would interfere with public views and the enjoyment of unique features on the Flanders Mansion Property. This impact was considered a potentially significant impact to the existing visual character of the Mission Trail Nature Preserve that could be mitigated to a less-than-significant level. This alternative assumes that the mitigation identified in this RDEIR would be incorporated as part of any future lease agreement in order to ensure that any exterior features do not detract from the existing visual character of the Mission Trail Nature Preserve. This alternative is assumed to result in approximately the same level of impacts as the Proposed Project in regard to aesthetics during the term of the lease.⁷

⁷ Per the Final RDEIR Aesthetics impacts discussion (Aesthetics, Section 4.1, Page 4.1-12), future use of the property for either residential or public or quasi-public could result in the introduction of new exterior elements, such as fencing, that could impact views from existing viewing locations adjacent to the project site through the removal of existing vegetation or other site disturbance activities. As identified, views of the Flanders Mansion looking north/northeast from the two (2) viewing locations identified in RDEIR Figure 4.1-3 are limited due to existing mature vegetation. Although views of the Mansion itself are limited from these locations, construction of fencing or tree removal would further impact existing views as perceived from these locations. Moreover, exterior elements (i.e. fencing) could also impact existing views of the Flanders Mansion and Mission Trail Nature Preserve as perceived while approach the property from the driveway. While a limited portion of the driveway would no longer be accessible, portions of the Preserve and Mansion would continue to be visible from the remaining portion of the driveway. Impacts associated with the loss of views from the portion of driveway are not considered significant since: 1) portions of the property would continue to be visible from other locations within the Preserve and the driveway, and 2) these areas are not considered to be "scenic vistas." Implementation of Mitigation Measure 4.1-7 would ensure that future exterior elements would not create a visual barrier and thereby obstruct views of the Mansion from the Preserve and existing driveway.

Biological Resources. This alternative would also result in substantially the same level of impacts in regards to biological resources as the Proposed Project, and the mitigation measures identified in this RDEIR would still be applicable. Although the City would be able to exert more influence over exterior changes to the property since they would retain ownership, it is reasonable to assume that some level of impacts would occur due to the property being leased as a single-family residence. For instance, it is assumed that limited land-disturbing activities would likely occur during the construction of perimeter fencing or other exterior elements. This alternative would lessen the extent of impacts since the City would retain greater authority over changes implemented by a future lessee, but not such that mitigation measures or other conditions would no longer be applicable.

Cultural Resources. In addition to similar impacts in regard to biological resources and aesthetics, this alternative would also result in similar impacts related to cultural resources. As stated above, this alternative assumes that some limited ground disturbing activities would occur. As a result, the mitigation measures identified in this RDEIR would still be applicable as some limited ground disturbance and exterior changes may occur as a result of a future lease of the property. Compliance with mitigation measures, as well as the City's historic preservation ordinance, would ensure impacts to cultural resources would not be significant. Impacts may be slightly less under this alternative since the City would retain ownership of the property, but the overall level of impact would be substantially the same.

Land Use and Planning. This alternative would avoid significant and unavoidable impacts associated with potential conflicts with General Plan/Coastal Land Use Plan policies related to parkland. Although it is ultimately up to the discretion of the City to determine consistency, this RDEIR assumed a significant impact because the project would result in the sale of publicly owned parkland which would conflict with a number of goals, objectives, and policies related to parkland. Under this alternative, the City would retain ownership of the property, and no sale of parkland would occur. As a result, this alternative would avoid significant impacts due to the sale of parkland. Although this alternative would not result in the sale of parkland, use of the Property for single-family residential purposes would eliminate existing park benefits associated with the property during the term of the lease. The primary difference is that the ownership would be retained by the City and, therefore, the City could receive the property and restore public access/use after the termination of the lease if the lease is not renewed.

Transportation and Traffic. Implementation of this alternative would substantially lessen impacts related to transportation/traffic since the future use of the property would be restricted to single-family residential use. As identified in **Section 4.6 Transportation/Traffic**, the analysis contained in this RDEIR assumes that traffic impacts would be contingent upon the exact type of use. Since an actual use has not been identified, this RDEIR analyzed the maximum traffic impacts in accordance with allowable uses under the existing zoning designation. Single-family residential uses generate the lowest level of traffic trips. Therefore, this alternative would generate substantially lower levels of traffic trips as compared to a public or quasi-public use.

Parks and Recreation. Based on the assumptions identified above, this alternative would avoid impacts related to the permanent loss of parkland since the property would be retained by the City. However, existing park benefits associated with the property and public use of the property would be eliminated and or impacted under this alternative during the term of the lease. Also, this alternative would impact the existing integrated nature of the Property with the Mission Trail Nature Preserve through the introduction of fencing and similar exterior elements that would physically separate the Property from the remainder of the Mission Trail Nature Preserve during the term of the lease. While this alternative would not result in the permanent loss of parkland,

thereby avoiding impacts from the permanent loss of parkland, it would result in approximately the same level of impacts as the Proposed Project in regard to parks and recreation during the lease term. This alternative would avoid significant impacts due to the permanent loss of parkland.

Attainment of Project Objectives

This alternative would not meet the primary project objective, divestment of the Flanders Mansion property. However, retention of the Flanders Mansion property by the City for the purposes of lease as a single-family residence would achieve some of the secondary objectives associated with the Proposed Project. Specifically, through conditions of lease and applicable mitigation measures, this alternative would ensure the long-term preservation of the Mansion as a historic resource, as well as the protection of natural resources located within the Mission Trail Nature Preserve. This alternative would also minimize potential traffic related impacts and would achieve secondary project objectives related to the minimization of traffic impacts on the surrounding residential neighborhoods. However, this alternative would fail to meet secondary objectives related to maintaining as many park benefits as possible. Despite being retained by the City, the erection of fencing or other similar exterior elements would eliminate existing access to the Property by the general public during the term of the lease and, therefore, would eliminate or significantly reduce existing park benefits associated with the Property. Although failing to meet the primary project purpose, this alternative would achieve some of the secondary project objectives.

Summary

In summary, this alternative proposes the lease of the Flanders Mansion as a single-family residence and would significantly lessen impacts associated with the Proposed Project in regard to land use and planning, parks and recreation, and transportation/traffic. This alternative would avoid impacts due to the permanent loss of parkland since the City would retain ownership of the property. Although this alternative would not result in the sale of parkland, this alternative would still result in the elimination of existing park benefits associated with the Property since public access would be restricted to the Property during the term of the lease. Exterior elements, such as fencing, would physically separate the Property from the remainder of the Preserve and essentially result in the same level of impacts as the Proposed Project during the term of the lease. This alternative would result in approximately the same level of impacts in regards to aesthetics, biological resources, and cultural resources as the Proposed Project. Mitigation measures would still be necessary in order to ensure that the future use of the Mansion as a single-family residence would not result in additional impacts to the surrounding Mission Trail Nature Preserve and the adjacent Lester Rowntree Arboretum.

LEASE FOR PUBLIC OR QUASI-PUBLIC USE

Description

This alternative would consist of the City retaining ownership of the Property and subsequently leasing the facility to a low-intensity public or quasi-public use. The City would still be responsible for implementing necessary facility upgrades and maintenance requirements in accordance with the findings of the Superior Court. Moreover, this alternative assumes that the City would be required to implement additional facility upgrades in order for the building to be leasable. Alternative arrangements could occur where the lessee would be responsible for making

some limited facility upgrades, however, the nature of upgrades and associated costs would ultimately influence who and under what terms these upgrades would be completed. Similar to the single-family lease alternative, this analysis assumes that some exterior improvements may be made depending on the type of public or quasi-public use. As a result, this alternative assumes that public access to and through the site could be restricted. This alternative assumes that exterior changes, such as fencing or other exterior elements, could be added as part of this alternative. The exact nature and extent of exterior elements would ultimately be contingent upon the type of public or quasi-public use. Some public or quasi-public uses may not require fencing and may permit access to the site. While some limited public access may be permitted as part of daily operations or on a more limited basis such as special events, in order to fully evaluate potential impacts associated with this alternative, this analysis assumes full public access would be restricted under this alternative. Since a specific type of public or quasi-public use has not been identified at this time, the following analysis is considered conservative, as the scope of potential impacts is largely attributable to the type of use. Future terms of the lease agreement would be determined at the time a lessee was identified. A number of the mitigation measures that would be applied to the single-family residential use lease alternative would be applicable.

Impacts

Based on the assumptions outlined above, implementation of this alternative would avoid significant land use and planning impacts associated with the Proposed Project and would also minimize impacts related to biological resources and cultural resources. This alternative would minimize the extent of impacts associated with parks and recreation because the property would be retained by the City. However, it is assumed that use as a public or quasi-public use would still preclude unrestricted access to the property and restrict and/or eliminate existing park benefits associated with the property. This RDEIR evaluates potential impacts associated with both residential and public or quasi-public uses. Use of the facility for public or quasi-public purposes could result in an intensification of use as compared to single-family residential or similar low-intensity land uses that have historically occurred on site and could result in additional traffic-related impacts. Potential traffic-related impacts associated with public or quasi-public uses could result in an intensification of the level of potential traffic (Refer to Table 4.6-1 of the Traffic Section in this RDEIR). A public or quasi-public use results in an intensification of use as compared to existing conditions or single-family use and thereby result in increased traffic related impacts.

Aesthetics. This alternative is assumed to result in approximately the same level of impacts as the Proposed Project in regard to aesthetics. This alternative is assumed to result in the introduction of some limited exterior elements. While the extent of these elements is contingent upon the type of future use and lease agreement with the City, this analysis is conservative and assumes fencing or similar features may be implemented by a public or quasi-public use. Some public or quasi-public use may permit public access to the property grounds and may not warrant fencing. At this time, however, a specific public or quasi-public has not been identified and therefore this analysis conservatively assumes that some limited exterior elements may occur on-site. According to the analysis contained in **Section 4.1 Aesthetics**, the Proposed Project would impact adjacent scenic vistas by eliminating access through the Flanders Mansion property and would also result in impacts to the existing visual character of the Mission Trail Nature Preserve through the introduction of exterior elements (i.e., fencing, walls, hedges, gates) which would result in physical changes to the property. Implementation of this alternative may result in the erection of exterior elements and thereby impact the existing visual character of the Mission Trail Nature Preserve. Mitigation identified in this RDEIR would be necessary to ensure impacts associated with this alternative are minimized.

Biological Resources. Impacts to biological resources would be lessened under this alternative. Under this alternative it is assumed that earth-disturbing activities, such as tree removal and other vegetation removal activities, would not be required as part of a public or quasi-public use. As identified in **Section 4.2 Biological Resources**, this RDEIR assumed that future use of the property could result in the removal of existing trees, landscaping, and other features as a result of exterior changes to the Property. While some limited physical changes may occur under this alternative, it is assumed that the extent of exterior improvements (i.e., fencing, landscaping) would be less under this alternative. As such, impacts to biological resources would be minimized.

Cultural Resources. Retention of the Flanders Mansion property by the City and the subsequent lease of the property to a public or quasi-public use would also avoid potential impacts to cultural resources associated with the Proposed Project. It is assumed that the extent of ground disturbing activities would be limited under this scenario and therefore this alternative would avoid potential impacts to buried archaeological remains. As identified in **Section 4.3 Cultural Resources**, the sale of the Flanders Mansion would significantly reduce potential opportunities for the public to access the Mansion itself. This alternative assumes some limited public events would occur as part of a public or quasi-public use. This alternative assumes that some interior changes and upgrades would be necessary and any improvements would need to be completed in accordance with the City's historic preservation ordinance. Retaining the property would provide the City with an additional oversight capacity beyond those mandated in the historical preservation ordinance and would further ensure that impacts could be minimized and/or avoided. This alternative would also avoid potential impacts to a historic use since the City would continue to retain ownership.

Land Use and Planning. Implementation of this alternative is anticipated to avoid significant and unavoidable impacts associated with land use and planning. As identified in **Section 4.4 Land Use and Planning**, implementation of the Proposed Project is anticipated to result in a significant impact due to the sale of parkland, which may conflict with several goals, objectives, and policies contained in the City's General Plan/Coastal Land Use Plan related to parkland. This was considered a significant impact. This alternative would not result in the sale of parkland; therefore, this impact would be avoided. While this alternative would avoid significant impacts due to the sale of parkland, this alternative could conflict with additional General Plan/Coastal Land Use Plan policies related to the minimization of traffic impacts on neighboring residential neighborhoods. In addition, this alternative could also conflict with policies related to public access to parkland during the term of the lease agreement. This impact would be comparable to the Proposed Project.

Parks and Recreation. This alternative is also anticipated to avoid significant impacts associated with parks and recreation due to the permanent loss of parkland since the City would still retain ownership of the Property. Although this alternative would not result in the sale of parkland, use of the Property for public or quasi-public purposes could minimize or significantly restrict park benefits associated with the property during the term of the lease. As a result, this alternative is assumed to result in similar impacts as compared to the Proposed Project. The primary difference is that the ownership would be retained by the City and, therefore, the City could receive the property after the termination of the lease. This analysis assumes that some restrictions and exterior elements may limit public access to the site depending on the type of use. Restrictions or exterior elements, such as fencing, could limit existing park benefits associated with the Property and preclude the public from accessing the site. In addition, this alternative may result in the loss of trail access from the existing driveway assuming that the driveway would be utilized for

parking or similar purposes. This alternative may also result in impacts to the adjacent Lester Rowntree Arboretum. This alternative would avoid significant impacts due to the permanent loss of parkland, but could still result in additional impacts related to parks and recreation. Mitigation would still be warranted to reduce impacts associated with this alternative.

Traffic. As noted above, use of the Mansion for public or quasi-public purposes could result in an intensification of use as compared to single-family residential or similar low-intensity land uses that have historically occurred on site and could result in additional traffic-related impacts. While this RDEIR identified potential traffic-related impacts associated with a public or quasi-public uses and this alternative would result in comparable impacts as the Proposed Project, it is important to note that use as a public or quasi-public could result in increased traffic-related impacts. In order to ensure that traffic-related impacts are minimized, mitigation would be necessary. Specifically, mitigation would be necessary to ensure that the future use of the Property would be restricted to those low-intensity public or quasi-public uses that are consistent with the historical use of the Property since being acquired by the City. Although this alternative would result in similar impacts as the Proposed Project, it would generate more traffic than a single-family residence. This alternative would also result in the loss of parking since existing informal parking areas would be presumably used by the future lessee.

Attainment of Project Objectives

This alternative would fail to meet the primary project objective, divestment of the Flanders Mansion property. However, retention of the Flanders Mansion property for the purposes of lease as a low intensity public or quasi-public use would achieve most of the secondary project objectives. Specifically, through conditions of lease and applicable mitigation measures, this alternative would ensure the long-term preservation of the Mansion as a historic resource, as well as the preservation of environmental resources located within the Mission Trail Nature Preserve. This alternative would also better achieve objectives related to minimizing impacts to the Mission Trail Nature Preserve and Lester Rowntree Arboretum. Based on the assumptions utilized for this analysis, this alternative would eliminate or reduce existing park benefits associated with the property by introducing exterior elements that would result in physical changes to the Property. This alternative, while consistent with the historic uses associated with the Flanders Mansion, would not achieve objectives related to the minimization of traffic impacts on the surrounding residential neighborhoods. Mitigation would be necessary to restrict any future public or quasi-public use to those low-intensity land uses that are consistent with the historical use of the Property since being acquired by the City.

Summary

In summary, this alternative would significantly lessen impacts associated with aesthetics, biological resources, cultural resources, and land use and planning. This alternative would also avoid significant and unavoidable impacts related to parks and recreation since this alternative would not result in the permanent loss of parkland. Park benefits associated with the Property may be minimized depending on the extent of exterior improvements and nature of the public or quasi-public use. As identified above, this alternative has the potential to generate substantially more traffic than a single-family residential use and, therefore, has the potential to result in additional traffic-related impacts. The future lease agreement could still be subjected to certain conditions and mitigation measures identified in this RDEIR, but it is assumed that this alternative would avoid the majority of project impacts associated with biological resources and cultural resources. This alternative would not achieve the primary project objective or secondary

objectives related to the minimization of traffic-related impacts. Park benefits may also be reduced under this alternative.

6.5 SALE WITH CONSERVATION EASEMENTS AND MITIGATIONS⁸

Description

This alternative would consist of recording conservation easements on certain portions of the Flanders Mansion Property in order to minimize potential impacts to the Lester Rowntree Arboretum and a number of existing trails that would need to be reconfigured as a result of the Proposed Project. Specifically, this alternative consists of applying a conservation easement (or reducing the parcel size) over portions of the Lester Rowntree Arboretum that are located within the boundaries of the Flanders Mansion parcel. This alternative would also consist of recording an easement or reducing the size along the eastern portion of the driveway to preserve existing trail access to the Mission Trail Nature Preserve (Serra Trail) and the Lester Rowntree Arboretum. *(Note: This alternative can also be considered a Reduced Parcel Alternative, as this description above from the 2009 Draft and Final EIR, indicates that either conservation easements or reduction in parcel size is proposed.)* Under the conservation easement approach, a scenic/conservation easement covering the westerly/southwesterly boundary of the site to include areas bordering ESHA would be recorded to minimize potential biological impacts.

As shown on **Figure 6.1**, this Mitigated Alternative from the 2009 Final EIR proposes three conservation easements areas, as follows:⁹

- Southwest corner of the Lester Rowntree Arboretum located within the Mansion Parcel to allow continued pedestrian access to this area of the Arboretum;
- Eastern portion of the driveway to provide public use and pedestrian access to the driveway and to the trails connecting the Lester Rowntree Arboretum with the Mission Trails Park trail system;
- Western and southwestern portions of the Mansion Parcel where designated sensitive habitat has been mapped to minimize potential biological impacts.

The purpose of these easements would be to prevent a future property owner from erecting exterior elements or causing changes to the property within areas that are particularly sensitive, provide continued and unimpacted access to the Lester Rowntree Arboretum from within the Arboretum trails, and provide continued public access to areas of the site that provide park benefits. Since no fencing is allowed within the easement areas shown, this alternative effectively provides continued public access to the areas within the Lester Rowntree Arboretum and the upper driveway where trail connections would remain open and publicly available. These easements would also restrict future development activities within portions of the site covered by the easement in the southern area of the site in order to reduce biological impacts. This alternative also reduces aesthetic related impacts by limiting construction in these areas such as fencing, and walls and by eliminating the upper segment of the driveway. Specifically, fencing,

⁸ EIR Alternative 6.5 “Sale with Conservation Easements and Mitigations” is also referred to as the “Mitigated Alternative from the 2009 Final EIR”.

⁹ This alternative could also serve as a reduced parcel alternative by eliminating the easement areas and reducing the parcel size, as further discussed in this section.

walls or other man-made features would be prohibited within the boundaries of the easements. These easements would run with the land and would be legally binding on any subsequent property owner.

These easements are intended to reduce and/or avoid significant impacts due to the permanent loss of parkland, ensure that park benefits associated with the Property are preserved, provide continued *public access and* use of certain portions of the property, and protect environmental resources. The total land area covered by the easements would be approximately 0.5 acres. The total remaining area of the property under this alternative would be approximately 0.752 acres, and it is assumed that all conditions and mitigations identified in this RDEIR would be applicable. *This Alternative can also be considered a reduced parcel alternative by revising the existing parcel to eliminate the easement areas.*

Figure 6-1 provides a graphical representation of the alternative parcel configuration and easements. Implementation of this alternative would retain existing park benefits associated with the Flanders Mansion Property, while still allowing the City to divest itself of the property. This alternative assumes that impacted trails would also be reconfigured and additional trail connections would be provided to address project impacts. This alternative is not use-specific; therefore, it is assumed that either a single family or low-intensity public or quasi-public use could occupy the property. Refer to Figure 6.1 in this EIR, for depiction of Alternative 6.5 “Sale with Conservation Easements and Mitigations” (also referred to as Restricted Use on Mitigated Alternative from the 2009 Final EIR).

Impacts

This alternative would reduce potential impacts associated with parks and recreation as well as reduce potential impacts to aesthetics and biological resources. Impacts related to cultural resources are also anticipated to be reduced due to the use of conservation easements, which would limit ground-disturbing activities and preclude the erection of exterior elements within the boundaries of the easements. This alternative would effectively reduce usable portions of the Property. Impacts in regard to transportation/traffic are anticipated to be approximately the same as compared to the Proposed Project or reduced since the conditions of sale would provide for low intensity use at the site. This alternative would also substantially lessen potential impacts in regard to land use and planning.

Parks and Recreation. This alternative would minimize potential impacts associated with parks and recreation as compared to the Proposed Project. As identified in **Section 4.5 Parks and Recreation**, implementation of the Proposed Project would result in a significant and unavoidable impact due to the loss of parkland and associated park benefits. The Proposed Project would result in impacts to the existing trail network located in the Mission Trail Nature Preserve. The Flanders Mansion property and existing driveway are currently utilized by the general public as one of the primary access points to the Mission Trail Nature Preserve. The sale of the Flanders property would result in the loss of public access via the current driveway and property. ~~A number of Specified~~ trails would also have to be reconfigured so as to permit continued use by the general public.

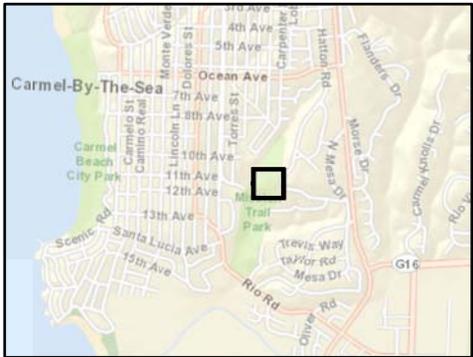
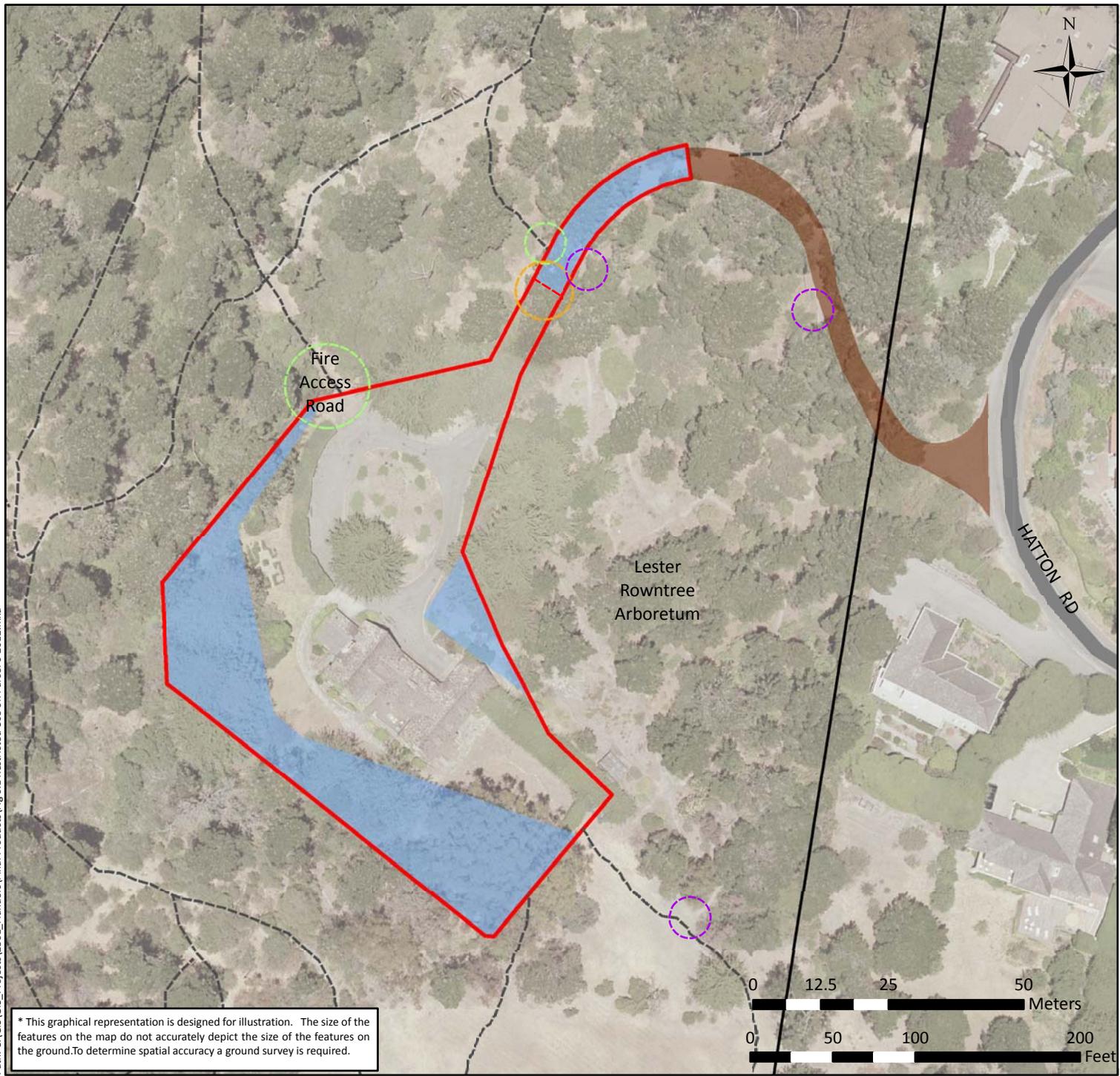
This alternative, through the use of conservation easements, *reduced parcel size and/or* other mechanisms, would minimize areas on the parcel from which the public would be excluded to ensure that the parcel continues to provide the general public with as many park benefits as are practical, depending on the future use. Specifically, this alternative would minimize impacts to the Lester Rowntree Arboretum by conveying portions of the property *within and* adjacent to the

Arboretum to the City for the purposes of permanent conservation. This would ~~and~~ ensure continued public access to portions of the site that provide the park benefits to the public. Additional easements conveying portions of the site bordering ESHA as well as portions of the existing driveway would also ensure that the property would continue to provide the maximum amount of feasible park benefits. Easements allowing continued public access to the eastern part of the driveway would preserve access to the existing trails that intersect the driveway. As a result, this alternative would avoid impacting these trails and thereby ensure continued public access. Proposed mitigation measures 4.5-1 also would require the City to provide additional replacement trail access on the north side of the driveway and a connecting trail as shown on RDEIR Figure 4.5-1 (Refer to Attachment B).

Although the project would still result in the sale of parkland, the public would continue to derive park benefits from the property. In summary, the use of permanent easements (or similar legally-binding instruments) or eliminating these areas from the Property (and thereby reducing the parcel size) would prevent a future owner from ~~preventing~~ blocking public access to certain portions of the site. In addition, this alternative would also limit the ability of a future owner from making exterior changes to the property in areas that are particularly sensitive (i.e., area adjacent to Lester Rowntree Arboretum and edge habitats). Although this alternative would still result in the sale of parkland, this alternative would substantially reduce the level of impacts by retaining existing park benefits associated with the property.

Biological Resources. In comparison with the Proposed Project, this project alternative would also minimize potential impacts to aesthetics and biological resources associated with a future use of the property by requiring that a scenic/conservation easement be recorded on the portion of the property (south/southwest) adjacent to land characteristic of ESHA. Future use of the property would be required to adhere to the stipulations contained in the easement regarding the preservation of existing biological features located on the property and would prohibit the erection of exterior elements within the boundaries of the easement. As previously identified, the use of conservation easements would restrict ground disturbing activities in areas located within the boundaries of the easements. In addition, future use of the property would also be required to adhere to the mitigation measures identified in this RDEIR and final conditions of sale, which shall run with the land. As a result, this alternative would minimize potential impacts to biological resources and aesthetics.

Aesthetics. In comparison with the Proposed Project, this project alternative would also minimize potential impacts to aesthetics. This alternative is assumed to result in the introduction of some limited exterior elements. However, no solid fencing or walls, may be erected within the area of the conservation easements. Thus, visual impacts from exterior elements within the three-easement areas identified above would be reduced. As noted above, a scenic easement over the portion of the Lester Rowntree Arboretum located within the Mansion Parcel would prohibit erecting structures such as fences or walls and also allow continued public use. The scenic/conservation easement along the eastern portion of the driveway would allow increased views from the driveway to the Mansion and continued public use and pedestrian access to the trails located in this area. The scenic/conservation easement, covering the westerly/southwesterly boundary of the Mansion Parcel would also minimize aesthetic and biological impacts when compared to the Proposed Project.



Total Parcel Size: 1.27 Acres
 Easement Area Within Parcel: 0.48 Acre
 Usable Area: 0.79 Acre

Alternative 6.5: Mitigated Alternative from 2009 Final EIR (Sale with Conservation Easements and Mitigations)

- Reduces impact to trails and Lester Rowntree Arboretum.
- Conservation areas consistent with EIR recommendations.
- Restricts fencing and structures within conservation areas.
- Alternative approved by the City in 2009.

LEGEND

- Proposed New Gate Location
- Trail Access Point
- Lester Rowntree Arboretum Access Point
- Existing Trails
- Approximate Driveway Location
- Existing Flanders Mansion Parcel
- Easement
- Park Boundary

* This graphical representation is designed for illustration. The size of the features on the map do not accurately depict the size of the features on the ground. To determine spatial accuracy a ground survey is required.

Date: 6/8/2012

FIGURE 6.1 - MITIGATED ALTERNATIVE FROM 2009 FINAL EIR

(Note: Refer to discussion under Alternative 6.5, RDEIR Recirculated Alternatives Section)

Figure 6.1



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Cultural Resources. Implementation of this alternative is anticipated to lessen the extent of potential impacts to cultural resources as compared to the Proposed Project by permanently conserving portions of the site through the use of conservation easements or similarly binding legal mechanisms. This would effectively reduce areas of the site that could be disturbed by a future owner. Mitigation measures identified in this RDEIR would still be applicable, but ground disturbing activities are assumed to be significantly lessened due to restrictions associated with the conservation easements. As a result, any exterior elements, such as fencing, would generally be restricted to existing developed areas of the parcel or landscaped areas immediately adjacent to the Mansion. Future improvements to the exterior of the Flanders Mansion would still be required to adhere to existing City of Carmel-by-the-Sea Municipal Code requirements, mitigation measures identified in this RDEIR, and any conditions of sale, which shall run with the land.

Land Use and Planning. This alternative would also lessen land use and planning impacts as compared to the Proposed Project. As identified in **Section 4.4 Land Use and Planning**, the Proposed Project has the potential to conflict with policies related to the preservation of parkland due to the sale of the Flanders Mansion Property. However, this alternative has incorporated measures to ensure that portions of the site which provide park benefits are conserved and protected¹⁰. This alternative would ensure that the general public would continue to derive park benefits from the Property. These easements would continue to allow certain portions of the site to be accessible to the general public, as well as preserve the existing forested character of the Mission Trail Nature Preserve. While this alternative would still result in the sale of parkland, impacts would be lessened and the Property would continue to provide park benefits to the general public as identified above.

Transportation and Traffic. This alternative would result in approximately the same level of impacts as the Proposed Project in terms of transportation/traffic. As identified in **Section 4.6 Transportation and Traffic**, the Proposed Project, depending on the type of future use, could result in traffic-related impacts. Under this alternative, impacts are not anticipated to exceed the historical traffic associated with the Flanders Mansion since the future use of the Mansion is required to be consistent with the historical uses (e.g., single-family residential or low-impact public or quasi-public).

Attainment of Project Objectives

Implementation of this alternative would achieve the primary project objective, in addition to the majority of the secondary project objectives associated with the Proposed Project. This alternative minimizes potential impacts due to loss of parkland, including park benefits associated with the Property, and impacts to biological resources. This alternative assumes that the Flanders Mansion property would be utilized for either single-family residential purposes or a low-intensity public or quasi-public use, such as offices for a non-profit or similar. Depending on the future use of the subject property, this alternative would also partially meet project objectives related to minimizing impacts on the surrounding neighborhood. This alternative would satisfy secondary project objectives related to minimizing impacts to the Lester Rowntree Arboretum and the Mission Trail Nature Preserve, and it would ensure that the Property continues to provide park benefits to the general public.

Summary

¹⁰ *It should be noted that in the 2009 project hearings, both the Planning Commission and the City Council found this alternative, as mitigated, would not conflict with the General Plan.*

This alternative would lessen potential impacts to parks and recreation due to the loss of parkland and associated park benefits. This alternative would minimize impacts to the adjacent Lester Rowntree Arboretum and reduce impacts to biological resources and aesthetics. This alternative would significantly lessen the extent of project impacts in terms of land use and planning and would also minimize potential impacts related to cultural resources. This alternative would still result in the sale of up to 1.252 acres of the property (if the parcel is sold with conservation easements). If the parcel size is reduced, this alternative would result in the sale of up to .75 acres of parkland. This alternative would retain existing park benefits associated with the Property by effectively restricting the usable area of the parcel, through conservation easements or equivalent parcel size reduction, in order to minimize impacts to the Mission Trail Nature Preserve. This alternative would minimize potential impacts as compared with the Proposed Project and would still achieve the majority of the project objectives.

6.6 SALE OF BUILDING ONLY WITH FACADE & CONSERVATION EASEMENTS

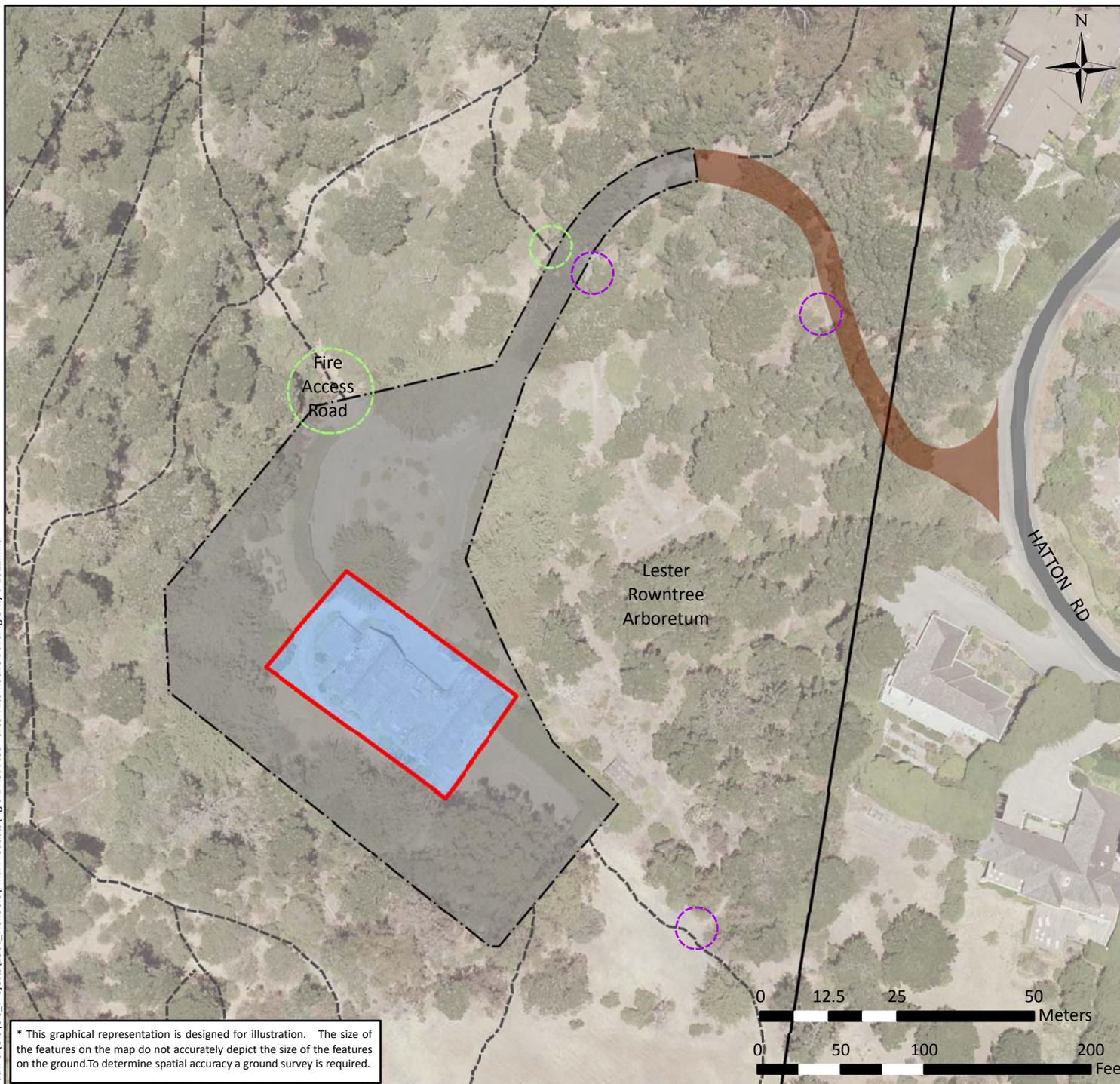
Description

This alternative would consist of selling only the building and a much smaller parcel of land with façade and conservation easements covering both the Flanders Mansion and Property. All other portions of the current parcel would remain as parkland, including the Lester Rowntree Arboretum currently located within the boundaries of the Flanders Mansion parcel. The following describes the Building Only (Façade Conservation Easements) Alternative:

- Sale of building only with no or minimal exterior space (may include minimal lawn/property driveway in front of entrance). Conservation Easements recorded over all areas within new property boundary outside building. Façade easement recorded on building.
- Access provided via existing driveway, which would be owned and maintained by the City. The backyard lawn area and other exterior space outside the reconfigured parcel boundary would also be owned and maintained by the City.
- All public access to existing trails from driveway would be maintained as shown. Fire road trail access would remain with no change from existing conditions.
- This alternative assumes that the main driveway would be accessible to the public (depending on fencing).
- The Lester Rowntree Arboretum is not impacted under this Alternative.
- Total size of the property to be sold for this Alternative is the boundary of the building, minimal outdoor space as shown on **Figure 6.2**. (This graphic is conceptual only; final lot size would depend on the ultimate parcel configuration.) This would significantly reduce the useable portion of the parcel to essentially the building and immediate areas (approximately .23 acres), compared to the Proposed Project parcel size of 1.252 acres.

Figure 6-2 provides a graphical representation of the alternative parcel configuration and easements. The façade and easements would prevent a future property owner from erecting exterior elements or causing changes to the property or building. These easements would restrict future development activities within portions of the site covered by the easement in order to

Path: C:\GIS\GIS_Projects\2501_Flanders\Final Products\Fig 6.2 Reduced Parcel Alternative Building Only 6-2012.mxd



* This graphical representation is designed for illustration. The size of the features on the map do not accurately depict the size of the features on the ground. To determine spatial accuracy a ground survey is required.



Total Parcel Size: 0.23 Acre

Alternative 6.6: Building Only Alternative

- Reduce parcel size to provide for Building Only parcel.
- None or minimal exterior space (minimal lawn/property driveway in front of entrance).
- Access provided via existing driveway, which would be owned and maintained by the City.
- Former parcel area shown would be owned and maintained by the City.
- Public access to existing trails from driveway would be maintained.
- Portions of the main driveway would be accessible to the public depending upon fencing.
- Façade or conservation easement placed on building itself.
- Conservation easement also applied to the remainder of the property within the reduced parcel.

LEGEND

- Trail Access Point
- Lester Rowntree Arboretum Access Point
- Existing Trails
- Approximate Driveway Location
- Existing Flanders Mansion Parcel
- New Flanders Mansion Parcel
- Easement
- Former Parcel Area
- Park Boundary

Date: 6/8/2012

FIGURE 6.2 - BUILDING ONLY ALTERNATIVE
 (Note: Refer to discussion in Alternative 6.6, RDEIR Recirculated Alternatives Section)

Figure 6.2



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reduce biological, cultural and aesthetic-related impacts. Specifically, fencing, walls or other man-made features would be limited or prohibited. These easements would run with the land and would be legally binding on any subsequent property owner. As only the building and a very small parcel of land would be sold, this alternative would substantially reduce significant impacts due to the permanent loss of parkland, provide continued public use of certain portions of the Property, and protect environmental resources. Implementation of this alternative would retain existing park benefits associated with the Flanders Mansion Property, and would allow the City to divest itself of the building portion of the property. This alternative is not use-specific; therefore, it is assumed that either a single family or low-intensity public or quasi-public use could occupy the Property.

Impacts

This alternative would reduce potential impacts associated with parks and recreation as well as reduce potential impacts to aesthetics and biological resources. Impacts related to cultural resources may also be reduced in comparison to the Proposed Project due to the use of façade and conservation easements, which would limit ground-disturbing activities and preclude or control the erection of exterior elements outside of the immediate building area. This alternative would effectively reduce usable portions of the Property to the building area. While both residential single-family and public or quasi-public uses are assumed for this alternative, it is likely more in keeping with a public or quasi-public use. Property boundaries and fencing would be restricted under this alternative and public access would be generally the same as under existing conditions. Specifically, fencing, walls or other man-made features would be limited or prohibited. Transportation/traffic impacts are anticipated to be approximately the same as compared to the Proposed Project. This alternative would also lessen potential impacts in regard to loss of parkland, but would not avoid these impacts. This alternative could raise land use and planning compatibility issues.

In comparison to the Proposed Project, this alternative would reduce the area of parkland sold and thus result in less disruption to public access within the Property. Specifically, this alternative would avoid impacts to the Lester Rowntree Arboretum through continued City ownership of the property adjacent to the Arboretum. This would ensure continued public access to portions of the site that provide the park benefits to the public. As a result, this alternative would avoid impacts to existing trails and ensure continued public trail access. Although the project would still result in the sale of parkland (through the sale of the building and immediate surrounding area), the public would continue to derive park benefits from the surrounding property. In summary, permanent easements (or similar legally-binding instruments) on Flanders Property would prevent a future owner from preventing public access to the majority of the existing Flanders parcel. In addition, this alternative would also limit the ability of a future owner from making exterior changes to the Property in areas that are particularly sensitive (i.e., area adjacent to Lester Rowntree Arboretum and edge habitats). Although this alternative would still result in the sale of parkland (through the sale of the building and immediate surrounding property), this alternative would reduce the level of impacts of loss of parkland by retaining existing park benefits associated with the Property.

Biological Resources. This project alternative would also minimize potential impacts to biological resources associated with a future use of the Property. Specifically, limited areas and reduced parcel boundaries would reduce potential areas of grading or disturbance. Additionally, the façade and conservation easements would likely prohibit fencing, walls or other man-made features next to park boundaries. These easements would run with the land and would be legally binding on any subsequent property owner. As only the building and a very small parcel of land

would be sold, this alternative would substantially reduce significant impacts due to the permanent loss of parkland, provide continued public use of certain portions of the Property, and protect environmental resources.

Aesthetics. This project alternative would also minimize potential impacts to aesthetics resources associated with a future use of the Property. Specifically, the façade and conservation easements would prohibit exterior changes to the building or parcel. Although no easements have been prepared, such easements could prohibit any fencing, walls or other man-made features next to park boundaries. These easements would run with the land and would be legally binding on any subsequent property owner. As only the building and a very small parcel of land would be sold, this alternative would substantially reduce viewshed impacts due to the permanent loss of parkland, provide continued public use of certain portions of the Property, and protect aesthetic resources.

Cultural Resources. Implementation of this alternative is anticipated to lessen the extent of potential impacts to cultural resources as compared to the Proposed Project by permanently conserving portions of the site with conservation easements or similarly binding legal mechanisms. This sale of the building and easements on all portions of the site would severely limit areas of the site that could be disturbed by a future owner. Potential impacts from construction of any fencing or ground disturbing activities are assumed to be lessened due to restrictions associated with the conservation and façade easements. Compared to the Proposed Project, any exterior elements, such as fencing, would be severely restricted to existing developed areas immediately adjacent to the Mansion. Even with the façade easement, any potential future improvements to the exterior of the Flanders Mansion would still be required to adhere to existing City of Carmel-by-the-Sea Municipal Code requirements, mitigation measures, and any conditions of sale, all of which shall run with that land.

Parks and Recreation. This alternative would still result in the sale of parkland; however, impacts would be lessened due to the reduced size of the parcel to be sold. The Property would continue to provide park benefits to the general public to the majority of the Property. The public would derive park benefits through unrestricted public access on the Property. Such unrestricted public access may create land use compatibility issues relative to security, however, including potential issues with shared parking and unrestricted public vehicular access to the driveway.

Transportation and Traffic. This alternative could result in approximately the same level of impacts as the Proposed Project in terms of new traffic but that is use dependent. As identified in **Section 4.6 Transportation and Traffic**, the Proposed Project, depending on the type of future use, could result in traffic-related impacts. Mitigations in this EIR require that future use of the Mansion be consistent with the historical uses (e.g., single-family residential or low-impact public or quasi-public). With mitigation, potential traffic impacts would be the same or equal to the Proposed Project.

Attainment of Project Objectives

Implementation of this alternative would partially achieve the primary project objective of divestiture of the Mansion. However, it would not allow the City to divest the surrounding property. This alternative would require that the City maintain more property than would be the case if it was sold into private ownership. As the City retains the surrounding property, the majority of the secondary project objectives associated with the Proposed Project would be achieved. This alternative minimizes potential impacts due to loss of parkland, including park benefits associated with the Property, and impacts to biological resources. This alternative

assumes that the Flanders Mansion property would be utilized for either single-family residential purposes or a low-intensity public or quasi-public, such as offices for a non-profit or similar use. Depending on the future use of the Property, this alternative would also partially meet project objectives related to minimizing impacts on the surrounding neighborhood. This alternative would satisfy secondary project objectives related to minimizing impacts to the Lester Rowntree Arboretum and the Mission Trail Nature Preserve, and it would ensure that the Property continues to provide park benefits to the general public.

Summary

This alternative would lessen potential impacts to parks and recreation due to the loss of parkland and associated park benefits. This alternative would minimize impacts to the adjacent Lester Rowntree Arboretum and reduce impacts to biological and cultural resources and aesthetics. Although this alternative would minimize impacts to the Mission Trail Nature Preserve, it may cause land use conflicts between the public use of the park and private single-family use. There could be conflicts with public use of the park immediately adjacent to and surrounding a residence. These potential land use conflicts may be reduced under a public or quasi-public use.

6.7 REDUCED PARCEL ALTERNATIVE

Description

This alternative would consist of reducing the parcel size and also recording a conservation easement on a small portion of the Property. Through a combination of reduced parcel size and conservation easements, this alternative would provide continued access in specified areas, minimize potential impacts to the Lester Rowntree Arboretum and provide continued public access to trail connections that would be potentially impacted as a result of the Proposed Project. The Reduced Parcel Alternative configuration would revise the property line of the Flanders parcel to relocate the boundaries outside of the Lester Rowntree Arboretum. Refer to **Figure 6.3** for graphic depiction of the Reduced Parcel Size Alternative.

The reduced parcel size and recorded easement would restrict future development activities within portions of the site covered by the easement in order to reduce biological and aesthetic-related impacts. Specifically, fencing, walls or other man-made features would be prohibited within the boundaries of the easement. Thus, exterior fencing is allowed on property boundaries or the interior boundaries of easement. Fencing restrictions and easement would run with the land and would be legally binding on any subsequent property owner. With the reduction in parcel size and the easement as shown on the corresponding **Figure 6.3**, this alternative reduces and/or avoids significant impacts due to the permanent loss of parkland, ensures that park benefits associated with the Property are preserved, provides continued public use of certain portions of the Property, and protects environmental resources.

REDUCED PARCEL DESCRIPTION

- Less parkland would be sold as compared to the Proposed Project. The total parcel size would be reduced from 1.252 acres to 0.83 acres, including a small portion that would be subject to conservation easement. The area of the easement is 0.07 acres. Refer to **Figure 6.3**.

- The parcel size is reduced by reconfiguring the parcel boundaries of the Flanders parcel including the majority of the easement area south of the Mansion (formerly shown as biological easement), the area next to the Lester Rowntree Arboretum and the majority of the upper portion of the front driveway.
- This alternative reconfigures the parcel boundaries to avoid including areas of environmentally sensitive habitat and focus the parcel boundary on the area of developed/disturbed land around the Flanders Mansion.
- The existing parcel boundary next to the Lester Rowntree Arboretum is reconfigured and public access to the Arboretum is maintained. Existing mitigation contained in the EIR would be applicable.
- The majority of the project driveway (with the exception the circular loop and a gate entrance area) would be retained as parkland.
- City would be responsible for owning and maintaining the area of driveway between Hatton Road and the revised property line.
- Vehicular access at Hatton Road would be limited to only the future property owner and emergency access. The upper area of the driveway (from Hatton Road to the circular area) would be open to the public for pedestrian access.
- No portion of Lester Rowntree Arboretum would be within the parcel proposed for sale.

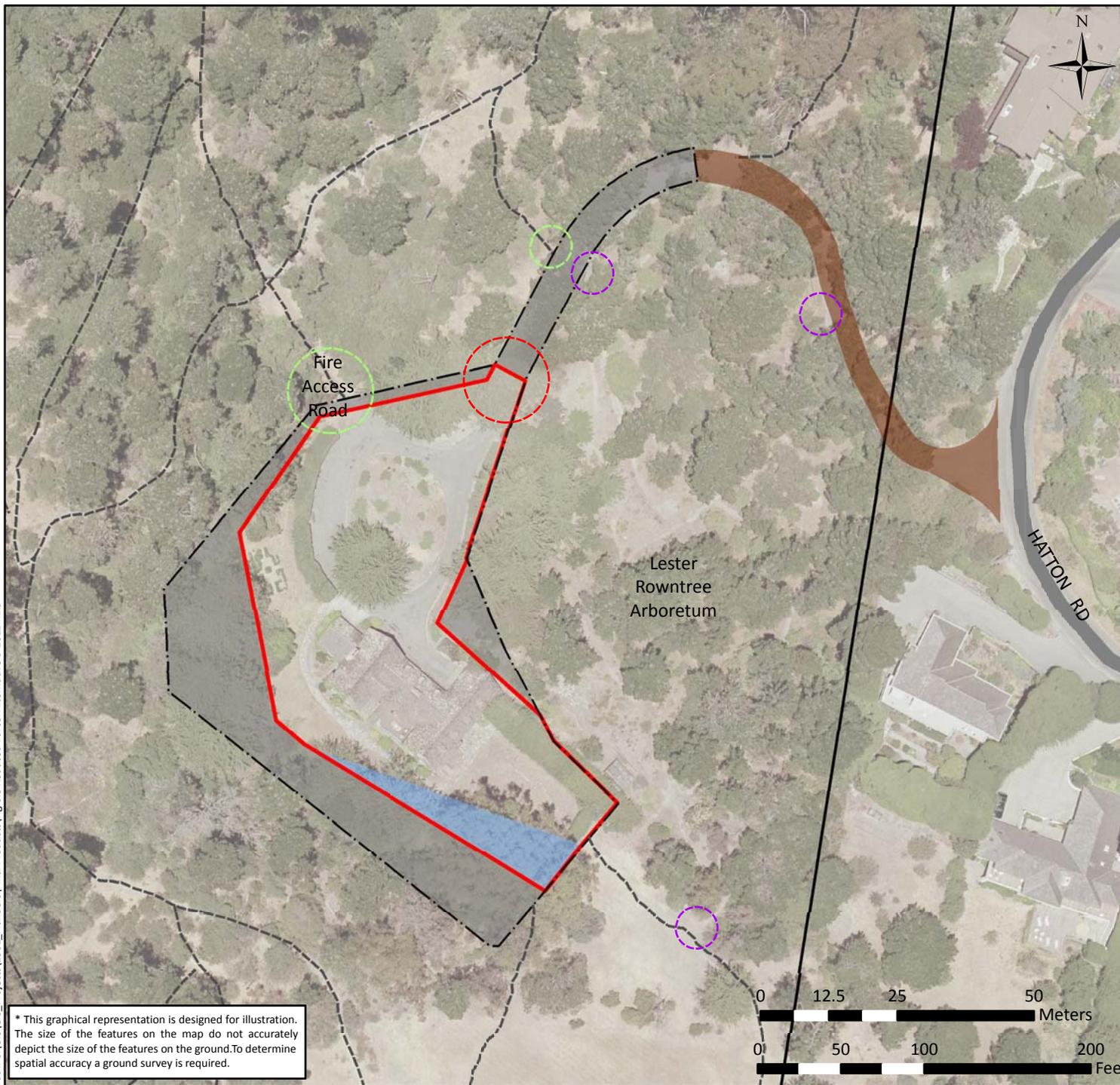
Impacts of Reduced Size Parcel Alternative

The Reduced Parcel Alternative would reduce potential impacts associated with parks and recreation as well as reduce potential impacts to aesthetics and biological resources. This alternative would reduce the size of the parcel, and maintain specified areas open to public access. Impacts related to cultural resources would also be reduced. Conservation easement would limit ground-disturbing activities and preclude the erection of exterior elements within the boundaries of the easement. Traffic generation impacts would be approximately the same or would be reduced as compared to the Proposed Project since the conditions of sale would provide for low intensity use at the site.

Parks and Recreation. This alternative would reduce the potential impacts associated with parks and recreation. The Proposed Project would result in impacts to the existing trail network located in the Mission Trail Nature Preserve and result in a significant and unavoidable impact due to the loss of parkland and associated park benefits. In the reduced parcel alternative, a reduction in parcel size and continued access to parkland areas and trails would reduce these impacts. The Property and existing driveway are currently utilized by the general public as one access point to the Mission Trail Nature Preserve. The sale of the Property would result in the loss of public access via the current driveway and property. However, under the Reduced Parcel Alternative, the parcel area is reduced to allow for continued public access to the majority of the driveway and the trails to the Mission Trail Nature Preserve and all of the Lester Rowntree Arboretum. Therefore, this alternative, through the reduction in parcel size, relocation of the driveway access and the use of a conservation easement, would minimize areas on the parcel from which the public would be excluded. This alternative would maintain continued pedestrian access by the public to the park trails and maintain most of the existing views of the Mansion from the driveway.

The reduction in parcel size would also minimize potential impacts to the Lester Rowntree Arboretum. This would allow continued public access to those portions of the Arboretum that provide park benefits to the public.

Path: C:\GIS\GIS_Projects\2501_Flanders\Final Products\Fig 6.3 Reduced Parcel Alternative 6-2012.mxd



Total Parcel Size: 0.83 Acre
 Easement Area Within Parcel: 0.07 Acre
 Usable Area: 0.79 Acre

Alternative 6.7: Reduced Parcel Alternative

- Reconfigure the existing parcel to reduce the amount of parkland sold.
- Reduce parcel size by removing area of side-yard and backyard containing sensitive habitat, as shown.
- Reduce parcel size by removing triangular portion of Lester Rowntree Arboretum from the property.
- Reduce parcel size and maintain trail access to Lester Rowntree Arboretum by removing portions of driveway from parcel, as shown.
- City retains ownership of driveway from Hatton Rd down to a new gate located above circular driveway.
- Maintain pedestrian access at Hatton Road for public. Allow vehicle access at Hatton Road only for owner and emergency use by the City.

LEGEND

- Possible New Gate Location (Red dashed circle)
- Trail Access Point (Green dashed circle)
- Lester Rowntree Arboretum Access Point (Purple dashed circle)
- Existing Trails (Black dashed line)
- Approximate Driveway Location (Brown solid line)
- Existing Flanders Mansion Parcel (Black dashed line)
- New Flanders Mansion Parcel (Red solid line)
- Former Parcel Area - Remains Parkland (Grey solid area)
- Remaining Easement (Blue solid area)
- Park Boundary (Black solid line)

Date: 6/8/2012

FIGURE 6.3 - REDUCED PARCEL ALTERNATIVE

(Note: Refer to discussion under Alternative 6.7, RDEIR Recirculated Alternatives Section)

Figure 6.3



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Although the project would still result in the sale of 0.83 acres parkland, the public would continue to derive park benefits from the Property. The reduction in parcel size on Flanders Property would prevent a future owner from blocking public access to certain portions of the site. Unrestricted public access to the eastern part of the driveway (above the driveway circle) would preserve access to the existing trails that intersect the driveway, thus preserving access to and from the Arboretum. In addition, public access through existing trails to the Fire Access Road would be available under this alternative. Refer to Figure 6.3, showing the trail(s) to the Fire Access Road on attached figures. As a result, this alternative would reduce impacts to these trails and ensure continued public access.

In addition, the Reduced Parcel Alternative would also limit the ability of a future owner from making exterior changes to the Property in areas that are particularly sensitive (i.e., area adjacent to Lester Rowntree Arboretum and edge habitats). Although the Reduced Parcel Alternative would still result in the sale of parkland, it would substantially reduce the level of impacts in comparison to the Proposed Project by retaining existing park benefits associated with the Property.

Biological Resources. This project alternative would also minimize potential impacts to biological resources associated with a future use of the Property by reducing parcel size and requiring that a scenic/conservation easement be recorded on the portion of the Property (south/southwest) adjacent to land characteristic of ESHA as shown on Figure 6.3. Only one easement area is included in the alternative, in the area adjacent to the Flanders Mansion back lawn, near Martin Meadow. Future use of the Property would be required to adhere to the stipulations contained in the easement regarding the preservation of existing biological features located on the Property and would prohibit the erection of exterior elements within the boundaries of the easement. As previously identified, the use of conservation easements would restrict ground-disturbing activities in areas located within the boundaries of the easements. In addition, future use of the property would also be required to adhere to the mitigation measures identified in this RDEIR and final conditions of sale, which shall run with the land. As a result, the Reduced Parcel Alternative would minimize potential impacts to biological resources.

Aesthetics. This project alternative would also minimize potential impacts to viewshed resources, through eliminating a significant portion of the driveway and reducing parcel size in specified areas next to the Mission Trail Nature Preserve and the Lester Rowntree Arboretum. This reduction in parcel size effectively reduces potential construction of exterior elements, such as fencing and walls, outside of the reconfigured parcel boundary. Additionally, this Alternative requires that a scenic/conservation easement be recorded on a portion of the Property (south/southwest) adjacent to land characteristic of ESHA, as shown on Figure 6.3. Under this Alternative, fencing and structures are restricted or prohibited within the conservation easements, thus reducing the potential viewshed impacts of fencing in close proximity to the Mission Trail Nature Preserve. Future use of the Property would be required to adhere to the stipulations contained in the easement, which prohibit the erection of exterior elements within the boundaries of the easement. As previously identified, the use of conservation easements would restrict ground-disturbing activities in this area. In addition, future use of the property would also be required to adhere to the mitigation measures identified in this RDEIR and final conditions of sale, which shall run with the land. These require specific materials to reduce viewshed impacts related to the construction of gates or fencing. As a result, the Reduced Parcel Alternative would minimize potential impacts to aesthetics.

Cultural Resources. Implementation of the Reduced Parcel Alternative is anticipated to lessen the extent of potential impacts to cultural resources as compared to the Proposed Project by reducing the parcel size. This would effectively reduce areas of the site that could be disturbed by a future owner. Mitigation measures identified in this RDEIR would still be applicable, but ground-disturbing activities would be lessened. As a result, any exterior elements, such as fencing, would generally be restricted to existing developed areas of the parcel or landscaped areas immediately adjacent to the Mansion. Future improvements to the exterior of the Flanders Mansion would still be required to adhere to existing City of Carmel-by-the-Sea Municipal Code requirements, mitigation measures identified in this RDEIR, and any conditions of sale, which shall run with the land.

Land Use and Planning. The Reduced Parcel Alternative would also lessen land use and planning impacts as compared to the Proposed Project. The Proposed Project has the potential to conflict with policies related to the preservation of parkland due to the sale of the Property. However, the Reduced Parcel Alternative incorporates measures to ensure that portions of the site that provide park benefits are conserved and protected. The Reduced Parcel Alternative would ensure that the general public would continue to derive park benefits from the Property. The Reduced Parcel Alternative would continue to allow certain portions of the site to be accessible to the general public, as well as preserve the existing forested character of the Mission Trail Nature Preserve. While the Reduced Parcel Alternative would still result in the sale of parkland, impacts would be lessened and the Property would continue to provide park benefits to the general public as identified above. This alternative reconfigures the parcel boundaries to reduce areas of natural land and focus the parcel boundary on the area of disturbed property around the existing Flanders Mansion.

Transportation and Traffic. The Reduced Parcel Alternative would result in less traffic impacts in comparison to the Proposed Project. Vehicular access at Hatton Road would be limited and public vehicles would be restricted at the Hatton Road driveway. The majority of the project driveway would be retained in parkland (with the exception of the circular loop and a gate entrance area). A private lower gate would restrict access by pedestrians at the circular driveway at the end of the driveway. Pedestrian access would be open from Hatton Road to the private lower gate. Vehicular traffic within the park boundary itself would be reduced, minimizing potential conflicts between pedestrian traffic and drivers along the property driveway. Under this Alternative, there would be no additional parking spaces constructed at the top of the existing driveway and this area would be retained as undeveloped open space within the Mission Trail Nature Preserve. The City would be responsible for owning and maintaining the area of driveway between Hatton Road and the revised property line. (The gate location and designs should be considered conceptual to ensure that proper siting of gate and driveway improvements are properly located and engineered on the sloping areas of the driveway.)

Attainment of Project Objectives

Implementation of this Reduced Parcel Alternative would achieve a portion of the primary project objective, in addition to the majority of the secondary project objectives associated with the Proposed Project. The Reduced Parcel Alternative minimizes potential impacts due to loss of parkland, including park benefits associated with the Property, and impacts to biological resources. The Reduced Parcel Alternative assumes that the Flanders Mansion property would be utilized for either single-family residential purposes or a low-intensity public or quasi-public use, such as offices for a non-profit or similar use. Depending on the future use of the subject property, the Reduced Parcel Alternative would also partially meet project objectives related to minimizing impacts on the surrounding neighborhood. The Reduced Parcel Alternative would

satisfy secondary project objectives related to minimizing impacts to the Lester Rowntree Arboretum and the Mission Trail Nature Preserve, and it would ensure that the Property continues to provide park benefits to the general public. Since the primary project objective associated with the Proposed Project is to divest the City of the Property, and not all property is included, the primary project objective is partially met under the Reduced Parcel Alternative.

SUMMARY

The Reduced Parcel Alternative would lessen potential impacts to parks and recreation due to the loss of parkland and associated park benefits. The Reduced Parcel Alternative would minimize impacts to the adjacent Lester Rowntree Arboretum and reduce impacts to biological resources and aesthetics. The Reduced Parcel Alternative would significantly lessen the extent of project impacts in terms of land use and planning and would also minimize potential impacts related to cultural resources. Although the Reduced Parcel Alternative would still result in the sale .83 acres, depending on the final parcel boundary, it would retain many of the existing park benefits associated with the Property. By retaining specific areas in City ownership to allow continued public use, and by establishing a conservation easement over the remaining sensitive habitat area, the Reduced Parcel Alternative would minimize potential impacts to the Mission Trails Nature Preserve as compared with the Proposed Project and would still achieve the majority of the project objectives.

6.8 DISCUSSION OF ALTERNATIVES FINDINGS

Findings: In the Superior Court’s findings concerning the adequacy of the 2005 FEIR, the Superior Court found that the City “abused its discretion and violated CEQA because it failed to proceed in the manner required by law and approved the sale of the Flanders Mansion when the potential lease of the Mansion... is an alternative to sale that has not been shown to be infeasible.” CEQA Guidelines §15091 specifically requires that “no public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes” specific findings regarding each of the significant environmental impacts. CEQA Guidelines §15091(a)(3) further requires that a public agency must make findings of infeasibility regarding the rejection of an alternative that would avoid or substantially lessen the significant environmental effects identified in an EIR. CEQA Guidelines §15091(a)(3) states that specific economic, legal, social, technical, or other considerations may make an alternative infeasible. Findings of infeasibility must be supported by substantial evidence (CEQA Guidelines §15091(b)).

CEQA further states that a public agency shall not decide to approve a project unless the agency has “determined that any remaining significant effects on the environment found to be unavoidable... are acceptable due to overriding concerns” (CEQA Guidelines §15092(b)(2)(B)). Overriding concerns may include specific economic, legal, social, technological, or other aspects of the project that outweigh the adverse environmental affects (CEQA Guidelines §15093(a)). The Superior Court found that the City “could not legally adopt a statement of overriding considerations without making supportable findings regarding the infeasibility of alternatives.” The Court found that even if a particular alternative, in this case the lease alternative, “would be more costly to the City, absent substantial evidence in the form of an economic analysis... the project cannot be approved” because the City failed to demonstrate alternative infeasibility. The City will consider evidence and findings during the project deliberations process in compliance with CEQA,

Economic Analysis. The City ordered the preparation of an update to the CBRE Consulting, Economic Analysis of the Flanders Mansion Property, 2009 to analyze the economic feasibility of potential project alternatives vis-à-vis the relevant project objectives and various economic considerations. Findings of feasibility will ultimately be up to the discretion of the City as part of the project approval process required pursuant to CEQA Guidelines §15092.

An update to the economic feasibility analysis previously prepared is currently underway. This study and its findings will be presented to the City Council and made available to the public for its review and consideration prior to City consideration of the project.

When considering whether to approve the project, the decision-makers may weigh economic information about the feasibility of alternatives noted in the record, although such information is not required to be included in the RDEIR. The role of the City will be to review the final record for the project and make the ultimate the decision on feasibility.

Under CEQA, economic effects would only be considered in the context of a physical environmental change. According to Section 15131(a) of the CEQA Guidelines:

Economic or social effects of a project shall not be treated as significant effects on the environment. An EIR may trace a chain of cause and effect from a proposed decision on a project through anticipated economic or social changes resulting from the project to physical changes caused in turn by the economic or social changes. The intermediate economic or social changes need not be analyzed in any detail greater than necessary to trace the chain of cause and effect. The focus of the analysis shall be on the physical changes.

The environmental analysis has not identified any physical changes or potentially significant impacts to the physical environmental that is anticipated or reasonably likely to result from any economic effects of the project or any project alternatives.

Lease Alternatives Analysis for the Reduced Parcel Alternatives. The analysis in Section 6.4 above evaluates impacts associated with the lease of the Property under a Lease as a Single-Family Residential Use Alternative and a Lease as a Public or Quasi-Public Use Alternative. This analysis also serves as the analysis of potential environmental impacts of lease for the Reduced Parcel Alternatives. Lease of the reduced parcels would have similar impacts as addressed in Section 6.4.

6.9 ENVIRONMENTALLY SUPERIOR ALTERNATIVE

CEQA requires that an environmentally superior alternative to the Proposed Project be specified, if one is identified. In general, the environmentally superior alternative is supposed to minimize adverse impacts to the project site and surrounding environment while achieving the basic objectives of the project. The basic project objective associated with the Proposed Project is the divestment of the Flanders Mansion Property. The "No Project" alternative could be considered the environmentally superior alternative because all significant and unavoidable impacts associated with the Proposed Project would be avoided. However, this alternative does not achieve the basic project objective. CEQA Guidelines §15126.6(e)(2) states: "If the environmentally superior alternative is the "no project" alternative, the EIR shall also identify an environmentally superior alternative among the other alternatives.

The 2005 DEIR, as modified, identified that the Lease Alternative (previously referred to as “Alternative 2” in the 2005 DEIR) would be the environmentally superior alternative because that alternative would reduce impacts to historic resources and park resources since the City would retain ownership. In addition, the 2005 DEIR also determined that the Lease Alternative would minimize potential impacts on adjacent parkland since the property would be retained by the City. Moreover, it was also determined that this alternative would avoid significant and unavoidable impacts related to 1) land use and planning, and 2) parks and recreation. The 2005 DEIR, as modified, also recognized that the Reduced Parcel Size/Mitigated Alternative (previously referred to as “Alternative 6” in the 2005 DEIR) would be the environmentally superior alternative if the Lease Alternative was determined to be infeasible. During the project deliberation process, the City rejected the Lease Alternative as infeasible.

Consistent with the findings of the 2005 and 2009 DEIRs, as modified, the Lease Alternatives identified in this RDEIR are considered environmentally superior. Both of the Lease Alternatives would significantly reduce potential environmental impacts as compared to the Proposed Project. While the Lease Alternatives (i.e., single-family residential or public or quasi-public) would avoid significant project impacts, these alternatives would fail to meet the primary project purpose, in addition to secondary project objectives. Depending on the type of use, lease of the property could result in additional impacts related to traffic and transportation. As identified elsewhere in this RDEIR, a public or quasi-public use would generate additional daily traffic trips. Lease of the Flanders Mansion may also result in impacts due to the loss of park benefits during the term of the lease. However, these impacts would be limited to the duration of the lease agreement, and upon termination of the agreement public use of the property could resume.

The Sale with Conservation Easements and Mitigation Alternative would lessen potential impacts associated with the Proposed Project while achieving the primary project purpose. This alternative would also satisfy secondary objectives. The Sale with Conservation Easements and Mitigation Alternative would result in the sale of parkland and, therefore, would still result in impacts related to the permanent loss of parkland. However, this alternative would ensure that park benefits associated with the Property would be maintained by conveying permanent easements to the City that provide continued trail access, minimize impacts to the Lester Rowntree Arboretum, and protect surrounding sensitive resources.

The 2005 DEIR, as modified, also recognized that the Reduced Parcel Size/Mitigated Alternative (previously referred to as “Alternative 6” in the 2005 DEIR) would be the environmentally superior alternative if the Lease Alternative was determined to be infeasible. The Reduced Parcel Alternatives and the Sale with Conservation Easements and Mitigations Alternative would significantly reduce the extent of impacts as compared to the Proposed Project, and both can be considered environmentally superior to the Proposed Project. However, the Lease Alternatives would retain City ownership of the Property and preserve flexibility on how the property is used in the future (i.e., after the term of the lease). If the City determines that the Lease Alternatives are infeasible for specific economic, legal, social, technical, or other considerations, the Reduced Parcel Alternatives and then, Sale with Conservation Easements and Mitigations Alternative ~~also~~ would be considered the next environmentally superior alternatives.

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7.0 References

7.1 REPORT PREPARATION

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ATTACHMENT A

EXCERPTS FROM 2009 FINAL EIR – R-7 COMMENT AND RESPONSE

PROVIDED AS BACKGROUND INFORMATION

ATTACHMENT A

EXCERPTS FROM 2009 FINAL EIR – R-7 COMMENT AND RESPONSE PROVIDED AS BACKGROUND INFORMATION

“Comment R-7: “The mitigation possibilities are not analyzed sufficiently. A reduction in the size of the parcel to be sold or a conservation easement on a portion of the property are suggested as potential mitigation. The following mitigations which would substantially reduce the impacts are not analyzed: 1) a conservation easement covering the entire property for which divestment is proposed, by which the City retains complete, enforceable control over all uses of the property, 2) a façade easement covering the building itself, so that the views of the building and property are preserved. The nature and extent of these easements need to be spelled out in the EIR, not left for future city action, as, without specificity to the terms of these easements, it is not possible to evaluate the extent of mitigation which could reduce adverse impacts. Such easement could specify plantings, height of hedges, regulate fences, etc.”

2009 Final EIR Response “R7: These comments suggest extending the conservation easements in the “Sale with Conservation Easements and Mitigation” Alternative to cover the entire Flanders Mansion parcel, and adding a “façade” easement, which the commenter contends would substantially reduce visual impacts. The comments also state that the Alternative should further define the conservation easements. Moreover, the comment also states that mitigation proposed in the RDEIR lacks the required specificity.

The CEQA Guidelines require an EIR to identify the potential impacts of a proposed project and to identify mitigation measures that could reduce the significance of impacts. The RDEIR identified potential impacts on aesthetics (visual effects) that could result from the addition of new exterior elements to the property such as fences, hedges or walls. These effects were identified as potentially significant. Mitigations were identified that would reduce the impacts to a less-than-significant level. Section 6.5 describes the conservation easements and mitigation to be imposed in this alternative to the proposed project. (See Page 6-13) Figure 6-1 shows the areas of the Flanders Mansion parcel to be subject to the conservation easements. Placing a conservation easement over the entire property is the functional equivalent of selling the building with no land. Please see response **R-1**¹. Please also refer to **Section 3.0 Master Responses to Comments, Master Response 3a, Range of Alternatives.**

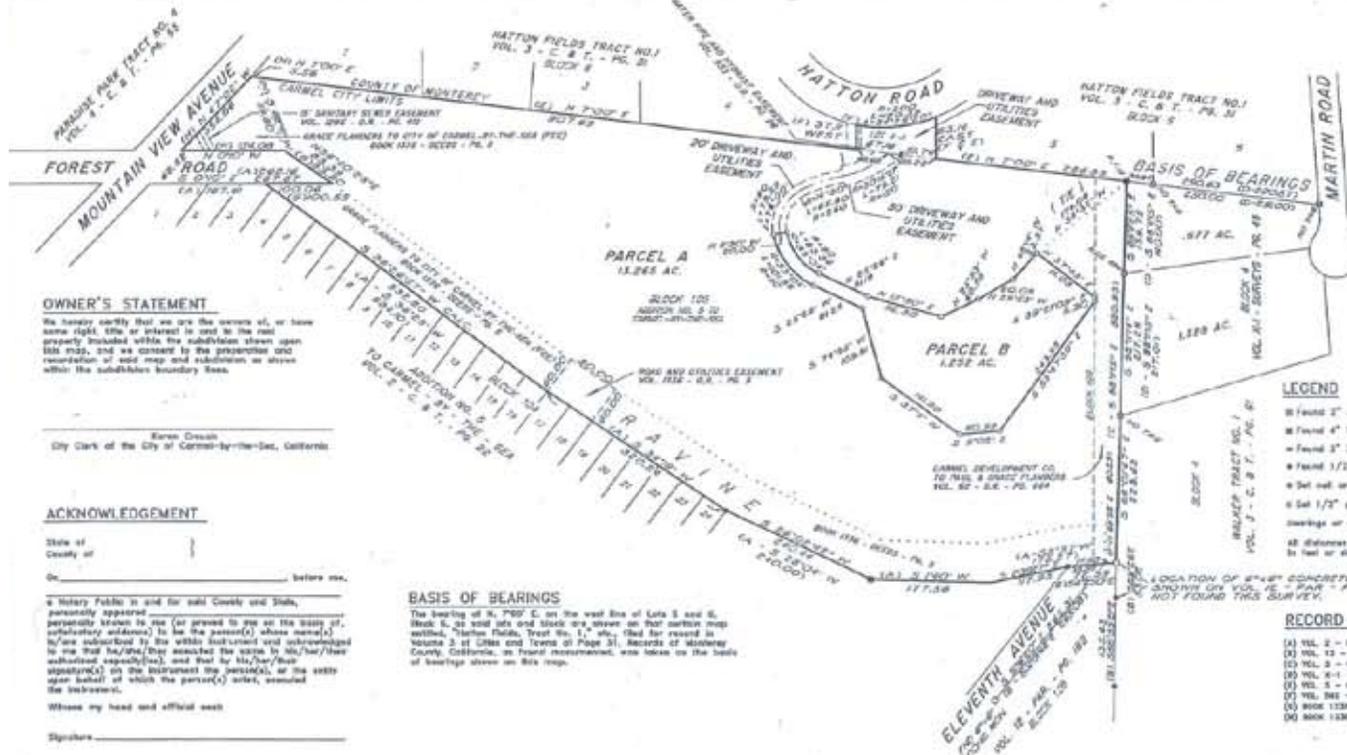
The mitigation measures in the RDEIR for the proposed project provide for methods to reduce the impact on views of the Mansion and the parcel property to a less-than-significant level. In addition, modifications to the facade of the building are subject to the provisions of certain historic preservation statutes and regulations, including the U.S. Secretary of the Interior's Standards and the Carmel-by-the-Sea Municipal Code Historic Preservation provisions (see Muni. Code Ch. 17.32.) The mitigation measures also provide for restrictions on fencing, hedging, etc. These mitigation measures have been modified in response to this comment. Please refer to **Section 5.0 Revisions to the Recirculated Draft EIR.** Please refer to **Section 3.0 Master Responses to Comments, Master Response 14, Level of Specificity of Mitigations in the RDEIR,** for further discussion.”

¹ Response R-1 from the 2009 FEIR for this issue is stated as follows: “The City of Carmel-by-the-Sea has determined that sale of the building with no land is not considered viable. Specifically, in light of the size of the building, the City considers it impractical, untenable and unreasonable that any potential purchaser would buy a home of this size without owning the land on which it is situated. The City has further concluded that a purchaser would reasonably expect that home or building of this scope would be accompanied by some land, including a driveway and parking area, and at least a small yard area of some kind. In view of these considerations, this alternative was not included for analysis in the RDEIR.”

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ATTACHMENT B

SELECTED FIGURES FROM 2009 EIR



OWNER'S STATEMENT

We hereby certify that we are the owners of, or have some right, title or interest in, the real property included within the subdivision shown upon this map, and we consent to the preparation and recording of said map and subdivision as shown within the subdivision boundary lines.

 Marie Orsini
 City Clerk of the City of Carmel-by-the-Sea, California

ACKNOWLEDGEMENT

State of _____
 County of _____
 On _____ before me,

a Notary Public in and for said County and State, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that he/she/they executed the same on the date(s) stated on the instrument they provided, or the date(s) upon which the person(s) acted, executed the instrument.

Witness my hand and official seal
 Signature _____

SURVEYOR'S STATEMENT

This map was prepared by me or under my direction and is based on a field survey and record data in accordance with the requirements of the Subdivision Map Act and local ordinances of the region of the City of Carmel-by-the-Sea in April, 2008. I hereby state that this parcel map substantially conforms to the approved tentative map, if any.

 Gary R. White
 P.L.S. No. 4347
 June 17, 2004

BASIS OF BEARINGS

The bearing of S. 79° 57' E. on the west line of Lots 9 and 10, Block 105, said lots and lots are shown on that section map entitled, "Hutton Fields, Tract No. 1," etc. filed for record in Volume 3 of Cities and Towns of Page 31, Records of Monterey County, California, as found and measured, are shown on the basis of bearings shown on this map.

CITY ENGINEER'S STATEMENT

I, Clayton E. Hall Jr., state that I have examined this map, and the Subdivision is substantially the same as it appeared on the tentative map, if required, and any approved alternatives thereto, that all provisions of the Subdivision Map Act and local ordinances applicable at the time of approval of the Tentative Map, if required, have been complied with, and that this map is technically correct.

 Clayton E. Hall Jr.
 City Engineer
 S.C.E. 11825
 June 17, 2004

RECORDER'S STATEMENT

This _____ day of _____, 200____,
 at _____, in the County of _____ of the State of California,
 I, _____, Recorder of said County, do hereby certify that the above described map was duly recorded in _____ of Page _____ of the records of the City of Carmel-by-the-Sea.
 My Commission Expires _____
 _____ Deputy

LEGEND

- ▬ Found 2" x 2" or 3" x 3" stake, top or metal
 - ▬ Found 4" x 4" stake
 - ▬ Found 1" x 3" stake, no tag, no bearing record reference.
 - ▬ Found 1/2" pipe, P.C.S. 424
 - ▬ Set out and tag, P.L.S. 4247
 - ▬ Set 1/2" pipe, P.L.S. 4247
- Measurements and distances in parentheses before, record in feet or decimals thereof.

RECORD REFERENCES

- (A) VOL. 2 - C. & T. - PG. 22
- (B) VOL. 12 - C. & T. - PG. 182
- (C) VOL. 3 - C. & T. - PG. 31
- (D) VOL. 4-1 - SURVEY - PG. 48
- (E) VOL. 5 - C. & T. - PG. 38
- (F) VOL. 885 - C. & T. - PG. 28
- (G) BOOK 1326 - RECORDS - PG. 518
- (H) BOOK 1326 - RECORDS - PG. 5

REEL ENGINEERS CORP. CARMEL, CALIFORNIA

PARCEL MAP

REDIVISION OF FLANDERS PARCEL

BLOCK 105, ADDITION NO. 5 AND

PORTION OF BLOCK 6,

AMENDED MAP OF PARADISE PARK TRACT

CARMEL-BY-THE-SEA, CALIFORNIA

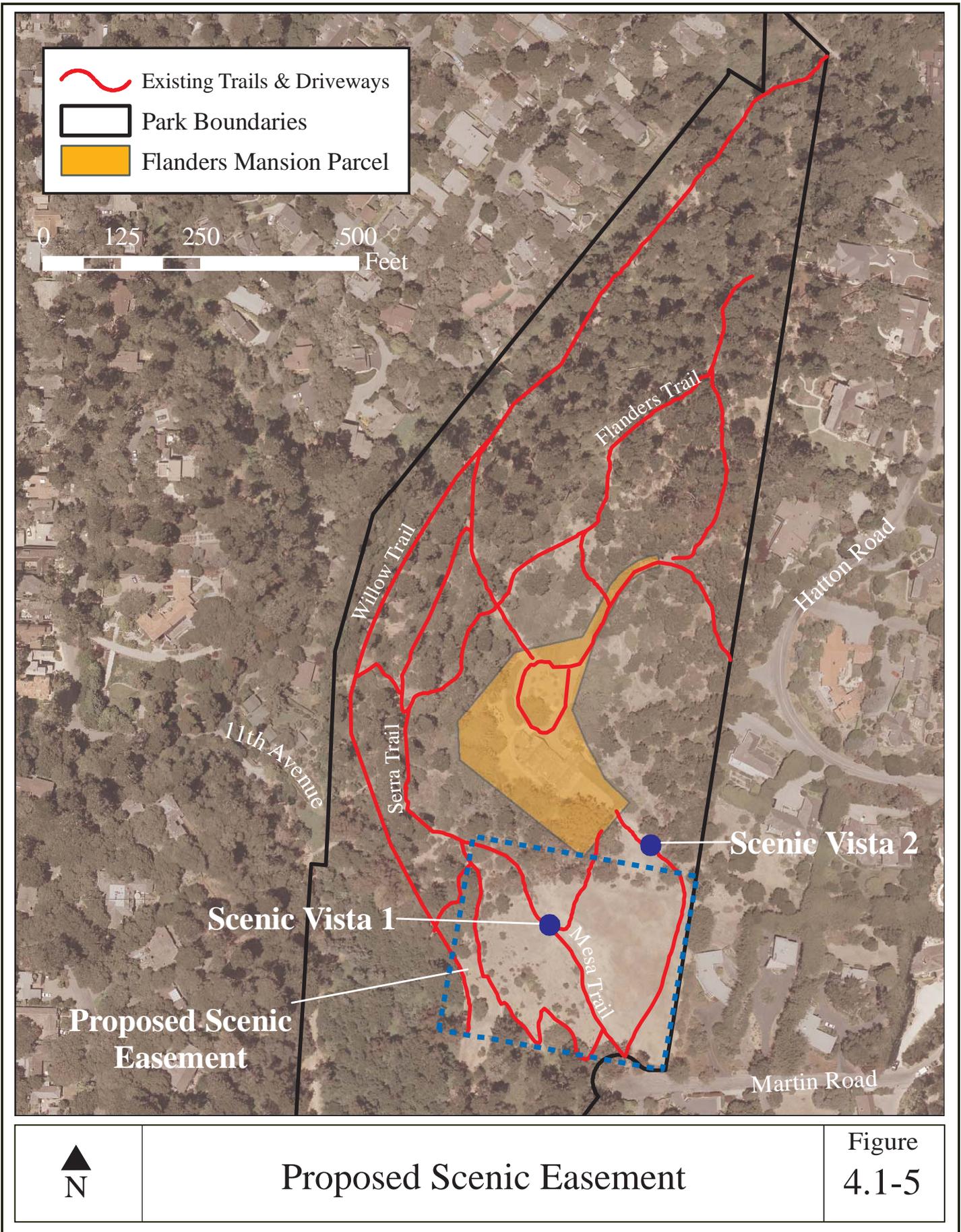
MARCH 2008 R.O. 5082 SCALE: 1" = 100'



Site Plan (Parcel B)

Figure 3-3

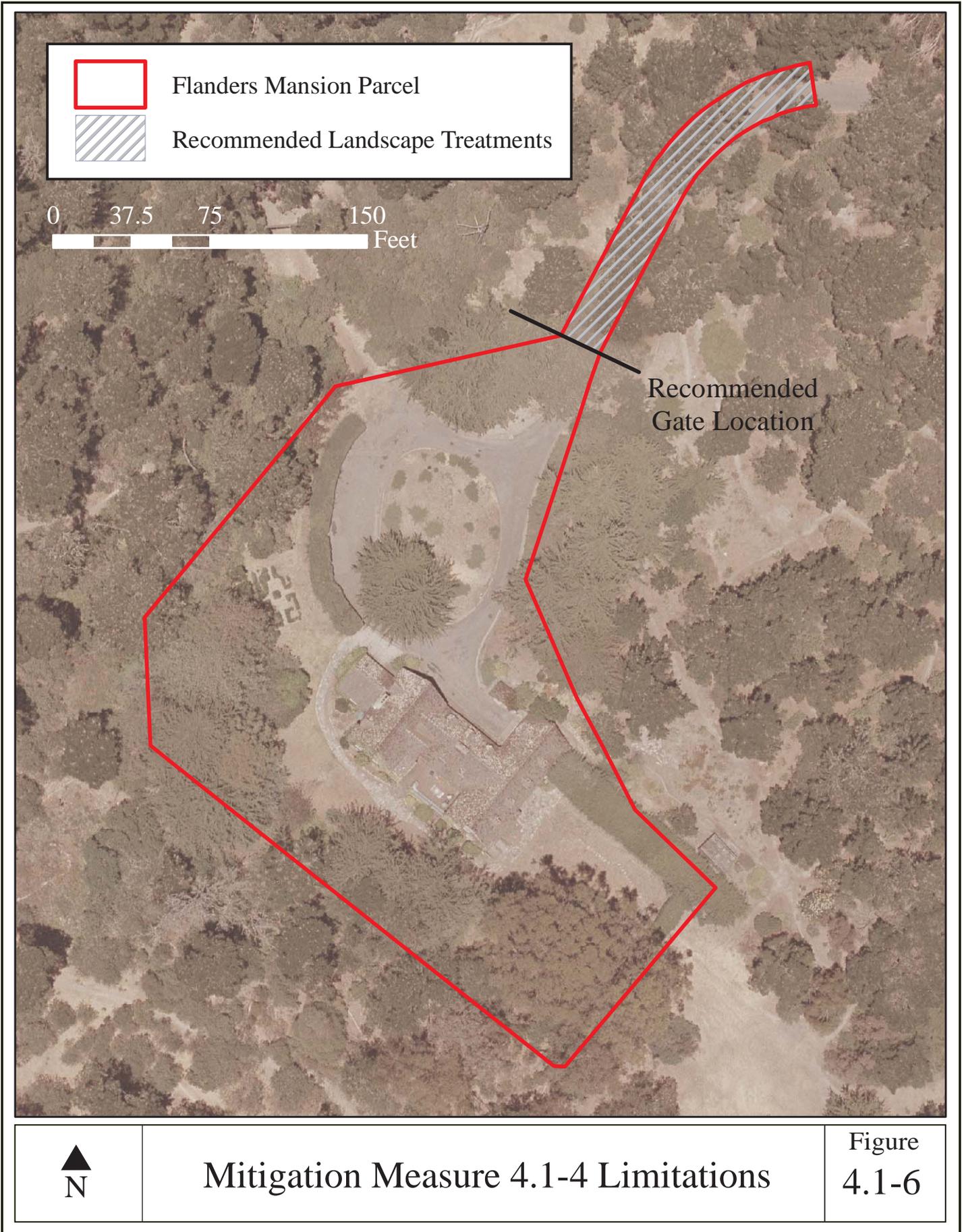
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Proposed Scenic Easement

Figure 4.1-5

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	Flanders Mansion Parcel
	Recommended Landscape Treatments

0 37.5 75 150 Feet

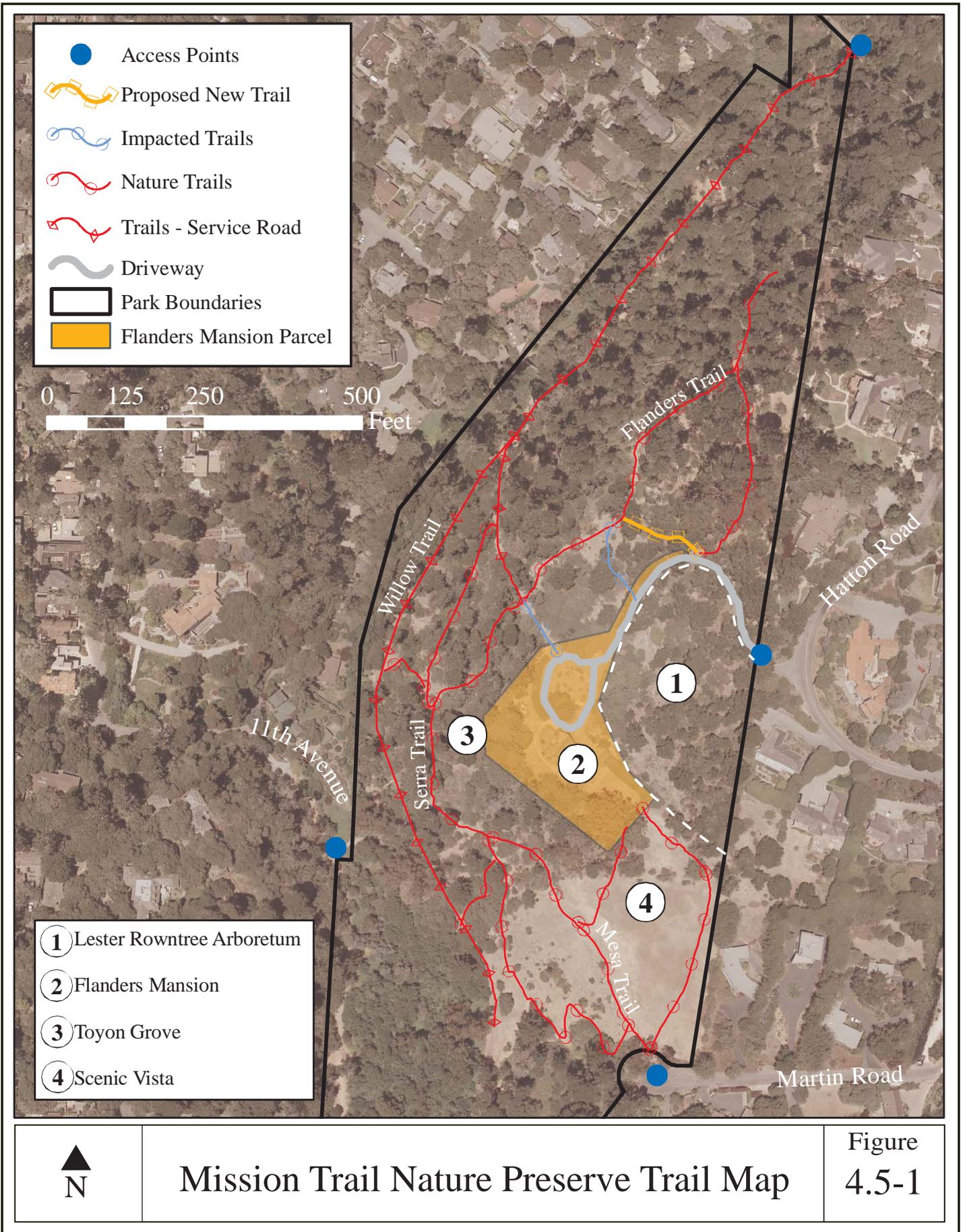
Recommended Gate Location



Mitigation Measure 4.1-4 Limitations

Figure 4.1-6

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Sale with Conservation Easements
and Mitigation Alternative

Figure
6-1

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