Final Recirculated Draft EIR (RDEIR)
Revised Alternative Section Responses to Comments

FINAL ENVIRONMENTAL IMPACT REPORT
for the
FLANDERS MANSION

SCH #: 2005011108

November 30, 2012

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FINAL EIR COMMENTS AND RESPONSES TO REVISED ALTERNATIVE SECTION

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1.0 INTRODUCTION
Recirculated Draft EIR (RDEIR)
Revised Alternative Section Responses to Comments

1.1 BACKGROUND

The City of Carmel-by-the-Sea prepared a **Recirculated Draft EIR (RDEIR) Revised Alternative Section** that presented revised and expanded analyses of the proposed project's reduced parcel alternative consistent with the Superior Court's judgment. The RDEIR Revised Alternative Section was recirculated for public review starting on June 14, 2012. Public comments were received from the City until August 7, 2012. A total of 113 pages of public comments were received during this review period.

The purpose of the public review process under CEQA includes sharing expertise, disclosing agency analysis, checking for accuracy, detecting omissions, discovering public concerns, and soliciting counter proposals (CEQA Guidelines §15200). This Final EIR contains a list of the comments submitted on the RDEIR Revised Alternative Section, copies of the comment letters received, responses to the points raised in those comments, and revisions to the RDEIR Alternative Section made as a result of the public review process.

In accordance with CEQA Guidelines Section 15132, this Final EIR has been prepared to address the comments received during the public review period for the RDEIR Revised Alternative Section and, together with the RDEIR, and Final RDEIR dated April 2009, as well as meeting minutes, staff reports and other documents that are related to the EIR, constitutes the full administrative record for the Flanders Mansion Final EIR[1].

1.2 PROJECT OVERVIEW

The proposed project consists of the sale of the Flanders Mansion Property by the City of Carmel-by-the-Sea, California. The 1.252-acre property is listed on the National Register of Historic Places and is located within the City limits. At this time a prospective buyer has not been identified and the future use of the Mansion is undetermined. Accordingly, the RDEIR evaluated potential impacts associated with several categories of use, including single-family residential and public/quasi-public, as well as potential lease alternatives. The analysis also includes consideration of reduced parcel size alternatives for either sale or lease.

The site is located within, and surrounded on all sides by, the Mission Trail Nature Preserve. Immediately east of the Flanders Mansion property is a part of the Preserve known as the Lester Rowntree Arboretum, a native plant garden/arboretum. The Lester Rowntree Arboretum and most of the Mission Trails Nature Preserve are zoned P-1 (Unimproved Parkland) and are designated ESHA according to the City's Coastal Land Use Plan. The Flanders Mansion site is zoned P-2 (Improved Parkland). Land uses immediately adjacent to the Mission Trail Nature Preserve include single-family residential neighborhoods zoned R-1 and R-1-C-20 located within the City of Carmel-by-the-Sea to the west. A single family residential neighborhood, within the jurisdiction of Monterey County, known as Hatton Fields, is located to the east. The Carmel Mission is located immediately south of the Mission Trail Nature Preserve across Rio Road and land uses to the north consist predominantly of single family residential neighborhoods.

[1] This document makes use of Incorporation by Reference to include record from 2005 EIR and Responses to Comments. (as stated on Page 1-7 of the 2009 Draft EIR, consistent with §15150 of the CEQA Guidelines).

The property is accessible by an approximately 350-foot long driveway leading down from Hatton Road. The lower 190 feet of this driveway is included in the proposed Flanders Mansion parcel boundary.

1.3 Court of Appeal Decision and Recirculated EIR Alternatives Section

The Court of Appeal determined that the City failed to respond adequately to a portion of a comment received on the 2009 RDEIR requesting consideration of 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."

Thus, the RDEIR Revised Alternative Section responds directly to the Court's determination that a reduced parcel alternative should be analyzed as a means to potentially minimize the project's adverse effects. The Recirculated DEIR also provided analysis, and additional graphic and technical information regarding potential parcel alternatives.

1.4 Report Organization RDEIR Revised Alternative Section Responses to Comments

This document, the 2012 Final EIR (and responses to comments) on the 2012 Revised Alternative Section (herein referred to as "**RFEIR for the Revised Alternative Section**") includes the following sections:

- **Section 1.0, "RDEIR Revised Alternative Section Introduction,"** contains this introduction, including a discussion of the background of the environmental review, a description of the contents of the Final EIR, and a description of the Master Responses to Comments on the RDEIR Revised Alternative Section.

- **Section 2.0, "RDEIR Revised Alternative Section List of Comments,"** a list of all written and oral comments received on the RDEIR Revised Alternative Section.

- **Section 3.0, "RDEIR Revised Alternative Section Master Responses to Comments,"** contains master responses to topics frequently raised by the commenters on the RDEIR Revised Alternative Section.

- **Section 4.0, "Comments and Responses on the RDEIR Revised Alternative Section Public Review Draft"** contains copies of all comment letters received on the RDEIR, plus transcripts of testimony at the PC public hearing and appropriate responses to each comment.

- **Section 5.0, "Revisions to the Recirculated Draft EIR, RDEIR Revised Alternative Section"** contains revisions to the text of the RDEIR Revised Alternative Section in response to the public comments.

1.4 MASTER RESPONSES TO COMMENTS

A section entitled "**Master Responses to Comments**" is presented in **Section 3.0** of this document. Typically, a master response addresses issues that are raised by more than one comment letter. The intent of a master response is to provide a comprehensive discussion so that all aspects of the issue can be addressed in a coordinated, organized manner in one location. This ensures that each topic is thoroughly addressed; it also reduces repetition of responses. Cross references to the appropriate master response are provided for each comment letter in **Section 4.0**.

1.5 SUMMARY OF PROJECT HISTORY, EIR PROCESS AND PUBLIC PARTICIPATION

The City has complied with all requirements under CEQA Guidelines §15088.5(d) and 15088.5(f)(3) for public participation and notice. The City used the following methods to solicit input during the preparation, distribution, and review of the Draft EIR and RDEIR.

- In November 2004, a public scoping hearing for the sale of Flanders Mansion Property was held. The City determined the need to prepare an EIR because this sale would involve the sale of a parcel of land that (1) is zoned for park use, (2) adjacent to parklands and ESHA and (3) includes a historic resource.

- A Notice of Preparation (NOP) was filed with the State Clearinghouse on January 24, 2005. The proposed project was assigned a State Clearinghouse Number (SCH#2005011108). The NOP 30-day comment period closed on February 22, 2005. Seven NOP comments from agencies and public were received on or before February 22, 2005.

- The Draft EIR was 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 by the City within the public review period.

- During the public review period for the Draft EIR, and starting in April, a number of public hearings considered the proposed EIR and project. On April 13, 2005, a public hearing was held before the Planning Commission to receive public comments on the Draft EIR. On May 12, 2005 a public hearing was held before the Forest and Beach Commission to advise the Planning Commission on potential impacts associated with the proposed project to the Mission Trail Nature Preserve. On July 28, 2005, the Planning Commission conducted an on-site tour of inspection of the Flanders Mansion property. The purpose of this meeting was to familiarize the Commission with the property in preparation of their review of environmental documents associated with the project.

- In August 2005, a Final EIR was published, including a copy of each comment received during the review period, and a response to each comment as required by Public Resources Code §§21091(d)(2), 21092.5, and CEQA Guidelines §15088.

- After the release of the Final EIR, and starting in August, a number of public hearings considered the Final EIR and proposed project. On August 15, 2005, a public hearing was held before the Historic Resources Board to advise the Planning Commission on the adequacy of the Final EIR regarding the effects of the proposed project on historic resources.

- On August 17, 2005, a public hearing was held before the Planning Commission to receive recommendations from the Historic Resources Board and consider recommendations to the City Council regarding adequacy of the Final EIR, General Plan consistency and project alternatives.

- On September 7, 2005, a second public hearing was held before the Planning Commission.

- On September 22, 2005, a public hearing was held before the City Council to receive recommendations from the Planning Commission. The Council took the following actions: 1) certification of the EIR for the sale of the Flanders Mansion property, 2) adopted a project for implementation, 3) made a determination that the Flanders Mansion property had not previously been used as a public park, 4) adopted a resolution of intent to sell, and 5) adopted a Mitigation and Monitoring and Reporting Program and Statements of Overriding Considerations for the sale of the Flanders Mansion.

- Subsequent to City approvals, a Petition for Writ of Mandamus raised legal challenges under the Carmel-by-the-Sea Municipal Code, CEQA and the California Government Code in connection with the proposed sale of the Flanders Mansion by the City. The Court found that the property is "parkland" and would thus require a public vote for sale of the property. The Court also determined the City action approving the sale of the property violated CEQA because the decision lacked the evidence in the record showing the lease alternative to be infeasible. Substantial evidence in the form of an economic analysis supporting the approval of the project was lacking as part of the decision-making process. The Court also found that the City must make findings that are supported by evidence for adoption of the statement of overriding considerations for the project[2]. In all other respects, the Court found that the petitioners' claims for violations of CEQA were not valid.

- Based on the Superior Court's judgment, the City of Carmel-by-the-Sea determined it was necessary to prepare and circulate for public review a Recirculated Draft EIR (RDEIR). The RDEIR was recirculated in its entirety.

- The RDEIR was distributed to responsible and trustee agencies, interested groups and individuals on January 5, 2009, and circulated for a 45-day public review period, which ended February 18, 2009. A total of 54 comments were received during the public review period.

- On February 11, 2009, a public hearing was held before the Planning Commission to solicit public comments on the RDEIR.

- A public hearing before the Forest and Beach Commission was held on April 20, 2009, to advise the Planning Commission on the adequacy of the Final Recirculated EIR regarding the effects of the proposed project on the Mission Trail Nature Preserve. Additionally, a public hearing before the Historic Resources Board was held on April 20, 2009, to advise the Planning Commission on the adequacy of the Final Recirculated EIR regarding the effects of the proposed project on historic resources.

[2] [I]n order to approve a project that would have a significant environmental impact, the City was required to make findings identifying (1) the '[s]pecific…considerations' that 'make infeasible' the environmentally superior alternatives and (2) the 'specific…benefits of the project [which] outweigh' the environmental harm. (See Pub. Resources Code, §§ 21002.1, subd. (b), 21081; Guidelines § 15092, subd. (b).)." (Emphasis in original.) (Preservation Action Council at 1353.)

- A public hearing before the Planning Commission was held on April 21, 2009, to advise the City Council on (1) the adequacy of the Recirculated Final Environmental Impact Report, and (2) consistency of the proposed project and alternatives with the General Plan.

- A public hearing before the City Council was held on April 28, 2009, to consider the Recirculated Final Environmental Impact Report, input from the above-named Board and Commissions, public testimony and other relevant information. The City Council moved to delay action until May 12, 2012.

- At the May 12th hearing, the City Council took the following actions in relation to the EIR: (1) Approved certification of the RDEIR for the sale of the Flanders Mansion property, (2) approved the Sale with Conservation Easements and Mitigations Alternative to the project, (3) adopted a Mitigation and Monitoring and Reporting Program and Statements of Overriding Considerations for the sale of the Flanders Mansion, (4) adopted a Resolution initiating the process of selling parkland.

- On June 12, 2009, the Flanders Foundation filed a Petition for Writ of Mandamus in Monterey Superior Court alleging violations of CEQA and seeking to have a Writ issued declaring the 2009 EIR inadequate on numerous legal grounds.

- Subsequent to the City actions on the EIR, additional City actions occurred relative to the sale of public parkland and public vote. Following extensive public notice, the Council held a protest hearing on June 16, 2009, to elicit public comments on whether to sell parkland. At this meeting the Council voted to override all protests and proceed with the project. At the conclusion of the hearing the Council adopted, on first reading, an ordinance calling a special election for a public vote on the question of selling the Flanders Mansion parcel.

- On July 7, 2009, the City Council (1) passed, on second reading, the ordinance calling for the special election, (2) adopted a Resolution of Consolidation to place the pending measure on the General Election ballot, and (3) approved the text of the ballot measure.

- The Ordinance became effective on August 6, 2009, and the following day the City filed the ballot measure with the County Elections Department as required by law. On November 3, 2009, the electorate voted to approve the ballot measure and authorized the City to sell the Flanders Mansion property consistent with the easements and mitigations adopted as part of the project.

- On October 21, 2009, the Flanders Foundation filed its Opening Brief in Support of Petition for the lawsuit originally filed on June 12, 2009. The City filed its Response to Petition on December 14, 2009, and on January 26, 2010, the Flanders Foundation filed its Reply Brief.

- The trial was held before Superior Court of Monterey County on February 10, 2010. The Court issued a Statement of Decision granting (in part) the Petition on March 16, 2010. The City filed a Notice of Appeal. The Flanders Foundation filed a Notice of Cross Appeal.

- After filing their respective briefs, the City and the Foundation presented oral arguments on October 20, 2011. On January 4, 2009, the Sixth District Court of Appeal published its decision. The Court found that (1) under the state "Surplus Lands Act," the EIR is not required to analyze sale of the property to other governmental agencies because a) the environmental mitigation conditions would apply to any purchaser of the property, and b) it was too speculative to determine which, if any, public agency would purchase the property;

- The Court also determined that (1) Carmel's feasibility analysis, which supported a conclusion that leasing the property was not financially feasible, was sufficient, (2) Carmel's "Statement of Overriding Considerations" which determined that the environmental impacts of the sale were outweighed by overriding economic and other considerations was adequately supported by substantial evidence and (3) Carmel did not sufficiently respond to a comment raised during the public comment period concerning the possibility of selling the Mansion on a smaller parcel. Solely on the basis of this final issue, the Appellate Court upheld the trial court's ruling that the EIR must be decertified.

- The Final Judgment and Preemptory Writ was provided April 27, 2012.

- The RDEIR Revised Alternative Section was recirculated for public review starting on June 14, 2012. Public comments were received from the City until August 7, 2012. A total of 113 pages of public comments were received during this review period, as noted above.

Reference Documents

All referenced documents are available for public inspection and review upon request to:

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). Documents referenced in both the DEIR and RDEIR are incorporated by reference and are available for public inspection and review at the location and address shown above.

Recirculated Draft EIR (RDEIR)
Revised Alternative Section Comment Letters

A list of the comment letters on the RDEIR Revised Alternative Section is presented below. In the following section, copies of each of the comment letters are included, with responses to each comment provided following the letter.

List of Commenters

A. Governor's Office of Planning and Research (OPR)
B. Group Letter (Bertie Bialek Elliot, David H. Elliot, Marikay Morris, Robert G. Morris, Jerian Crosby, & Alexander C. Crosby)
C. Sarah Berling
D. Joyce Stevens (Oral Comments)
E. Francis P. Lloyd (Oral Comments)
F. Francis P. Lloyd
G. Francis P. Lloyd
H. L.A. Paterson
I. Joyce Stevens
J. Flanders Foundation

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3.0 RECIRCULATED DRAFT EIR (RDEIR) REVISED ALTERNATIVE SECTION MASTER RESPONSES TO COMMENTS

3.1 INTRODUCTION

This section provides master responses to comments raised in multiple comment letters on the **Recirculated Draft EIR (RDEIR) Revised Alternative Section**. The intent of a master response is to provide a comprehensive response to an issue raised in the **RDEIR Revised Alternative Section** so that all aspects of the issue can be addressed in a coordinated, organized manner in one location. This ensures that each topic is thoroughly addressed and reduces repetition of responses. When an individual comment raises an issue discussed in a master response, the response to the individual comment includes a cross-reference to the appropriate master response. For example, if a comment identifies a preference that the Flanders Mansion is sold for the purposes of single-family residential use, the response will include the statement, "Please see **Section 3.2 Master Response 4: Single-Family Residential Use Preference.**" Individual responses to each comment are included in **Section 4.0, Comments and Responses on the RDEIR Revised Alternative Section.**

This document contains the Final EIR responses to comments on the **Recirculated Draft EIR (RDEIR) Revised Alternative Section (also referenced as "RDEIR Revised Alternative Section" or "2012 Revised Alternatives").**

The discussion herein also refers to the 2009 Recirculated Draft (RDEIR) and Final RDEIR ("2009 RDEIR or 2009 Final RDEIR")[1].

3.2 MASTER RESPONSES TO COMMENTS REVISED ALTERNATIVE SECTION

3.2.1 Master Response 1: Reduced Parcel Alternatives Lot Sizes

Comment: A number of comments expressed concern that the City has inappropriately defined the Reduced Parcel Size Alternatives. In particular, comments indicated that the Reduced Parcel Size Alternative should (1) be similar in size to the typical lot sizes in Carmel or, (2) be the minimum size required for consistency with land use standards of the City or similar in size to comparative parcels cited in the 2009 CRBE economic analysis (6,400 to 14,800 square feet).

Response: The State CEQA Guidelines (see CEQA Guidelines §15126) address requirements for an EIR's selection and evaluation of alternatives to a project, and focuses alternatives to those which could eliminate significant adverse impacts of the project, or reduce them to a level that is less-than-significant. Under CEQA, the lead agency, through the EIR process, must consider alternatives that could feasibly attain most of the basic objectives of the project but avoid or substantially lessen significant effects of the project, and that the EIR must evaluate the comparative merits of the alternatives (CEQA Guidelines § 15126.6 (a)).

The following response provides: 1) a summary of the range of alternatives evaluated, focused on reduction of parcel size 2) reduced parcel alternatives selected (in response to Court's decision on the

[1] **Recirculated Draft EIR (RDEIR)** for the Sale of the Flanders Mansion Property, SCH # 2005011108, dated January 2009 and **Final RDEIR** for the Sale of the Flanders Mansion Property, SCH # 2005011108, dated April 2009 and **Recirculated Draft EIR (RDEIR) Revised Alternative Section,** dated June 2012.

2009 EIR Comment R-7), and 3) a discussion of the applicability of parcel sizes and comparison to City standards.

Range of Alternatives Analyzed. The Proposed Project involves the potential sale of a 1.25-acre parcel including the mansion building and grounds. Thus, the significant impact of the project is the loss of 1.25 acres of public parkland.

In the 2009 RDEIR**,** the following alternatives were analyzed:

- No Project Alternative (Alternative 6.3)
- Lease Alternatives (Alternative 6.4)[2]
  - Lease for Single-Family Residential Use
  - Lease for Public or Quasi-Public Use
- "Mitigated Alternative" or Sale with Conservation Easements and Mitigations (Alternative 6.5)

In 2012, the **RDEIR Revised Alternatives Section** updated the Alternatives Analysis, and included additional discussion of reduced parcel alternatives:

- Mitigated Alternative from 2009 Final EIR (Alternative 6.5 Sale with Conservation Easements and Mitigations"), Figure 6.1 and new Figure 6.1.A.
  - *Note:* The Alternative 6.5 includes a variation with the easement areas eliminated from the parcel and thus, a reduced parcel size. This has been clarified in the following **Changes to the RDEIR Revised Alternatives Section.**
- Building Only Reduced Parcel Alternative (*new*) (Alternative 6.6), Figure 6.2.
- Reduced Parcel Alternative (*new*) (Alternative 6.7), Figure 6.3.
- Revised Design Reduced Parcel Alternative 6.7.A – Revised Design, Figure 6.3.A
  - *Note:* This is a variation in design for alternative 6.7 suggested by the public comments. This has been clarified in the following **Changes to the RDEIR Revised Alternatives Section.**

A short summary and comparison of these alternatives with attached figures to illustrate them starts on Page 6.6 of the **RDEIR Revised Alternatives Section**.

Reduced Parcel Alternative - 2009 EIR Comment R-7. Comment R-7 on the 2009 RDEIR stated: "*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 6th District Court of Appeals found fault with the 2009 Final RDEIR response regarding the "reduction in the size of the parcel" and determined that the failure to respond to this comment violated CEQA. The Court determined that since the project would have an unmitigated significant environmental impact (loss of parkland); the City was obligated under CEQA to provide a reasoned analysis why a reduced parcel alternative would not reduce the extent of the project's unmitigated effects. In response to this comment and the Court's direction, the 2012 RDEIR evaluated a series of reduced parcel size alternatives, as listed above and described in further detail below.

Alternative 6.5, Sale with Conservation Easements & Mitigations alternative on a reduced parcel of 32,670 sq. ft. (or .75 acre), and a variation of Alternative 6.5 that eliminates easement and

[2] Alternative 6.4, Lease Alternatives, addressed the environmental consequences of lease versus sale, and alternative uses. As noted in the **Revised Alternatives Section**, the evaluation included under lease alternatives is applicable to any of the parcel size configurations discussed in the RDEIR.

conservation areas from the parcel, effectively reducing the parcel size. Since certain comments identified confusion over this variation, this alternative is now identified as Alternative 6.5.A and an additional graphic is included in this Final EIR to amplify and clarify the revised parcel boundary of this reduced parcel. Refer to New Figure 6.1-A, defining what the parcel would look like with the easement areas excluded. Although not technically a "new" reduced parcel alternative, this alternative constitutes a third reduced parcel alternative and redesign configuration.[3] Additionally, a revised discussion on this variation of Alternative 6.5 is included in the **Changes to the RDEIR Revised Alternatives Section** for the purposes of clarity under Alternative 6.5.A.

Alternative 6.6, Building-Only Alternative is on a reduced parcel containing 10,019 square feet of land (.23 acre). Alternative 6.6, Building-Only alternative, is the smallest parcel area of these alternatives and includes enough land area to contain the Flanders Mansion, the garage, the front courtyard and a pathway around the perimeter of the building. All other land associated with the Proposed Project is excluded from this alternative and would remain public parkland.

Alternative 6.7, Reduced Parcel alternative is on approximately 36,155 square feet of land (.83 acre) as found on page 6-31 of the RDEIR. Alternative 6.7, Reduced Parcel alternative includes more land, primarily the circular driveway and some of the landscaped area around the Mansion. This alternative has sufficient land to provide the level area of the back yard area in addition to the circular driveway and a shortened access drive. It excludes environmentally sensitive habitat areas from the parcel in order to facilitate protection of these park resources.

Additionally, a design variation on the alternatives submitted by a public comment is also included in the RDEIR, referenced as Alternative 6.7.A. This alternative reduces the size of the parcel to approximately .50 acres and introduces other features such as a new parking area on the looped driveway area near the Mansion building. This design also revises the boundary configurations in comparison to the Proposed Project.

The Proposed Project has the largest boundary (1.252 acres) and the Building Only alternative has the smallest boundary (.23 acres). There are an infinite number of possible boundaries for the Flanders Mansion parcel. The State CEQA Guidelines require that the EIR evaluate a reasonable range of alternatives. The EIR record (including range of alternatives evaluated in the 2005 EIR, the 2009 EIR and the 2012 RDEIR) of alternative analysis reflects a reasonable assessment to identify and evaluate various types of alternatives that would potentially be capable of reducing the Proposed Project's environmental effects, while accomplishing most but not all of the Project objectives.

Based on the Court's interpretation, this comment suggested that reducing the size of the parcel could reduce the impact of loss of parkland and that a reduced parcel alternative should be evaluated. All of the alternatives presented above reduce parcel size to varying degrees and have the similar intended result of minimizing potential impacts associated with the permanent loss of parkland. The reduced parcel alternatives are intended to reduce significant impacts due to the permanent loss of parkland, ensure that park benefits associated with the Property are preserved, provide continued public access and continued use of portions of the property (including ensuring continued public trail access), and protect designated environmental resources. The analysis contained in the **Revised Alternatives Section RDEIR** evaluated reduced parcel alternatives and found that selling a smaller parcel of parkland would reduce the extent of

[3] In the 2009 RDEIR, Alternatives, Section 6.0, Page 6-13. Alternative 6.5 describes this alternative as either applying a conservation easement over specified portions of the property or reducing the parcel size by eliminating those areas. This is further clarified and amplified in the **Changes to the Revised Alternatives Section**, in this EIR. The 2009 RDEIR carried this alternative forward from the 2005 DEIR which analyzed a reduced parcel size alternative. Refer to "Reduced Parcel Size/Mitigated Alternative" (previously referred to as "Alternative 6") from the 2005 DEIR is included in **Appendix C, Revised Alternatives Section.**

the impact, but not to a less-than-significant level. As a result, any variation in the size of the parcel would result in the same level of impact under CEQA; the loss of parkland cannot be mitigated.

Additional Methods to Size Lots for Reduced Parcel Size Alternatives. Comment letters on the 2012 RDEIR suggest using several new approaches for further determining the lot size for a reduced parcel alternative, including:

- Use a lot size "typical" of other development in Carmel-by-the-Sea (e.g. 4,000 to 12,000 square feet).
- Use the City's land use standards to define a parcel size.

The following response is provided for informational purposes in an effort to fully respond to the comment letters. It is important to note, however, that these comments do not directly raise an environmental issue warranting a response under CEQA. The City may provide further information on lot sizes and configurations during the deliberation process on the Project. Additionally, further information concerning the rationale behind the alternatives selected for further evaluation is provided in Master Response 3A.

City Standards: Carmel's residential neighborhoods have a wide variety of lot sizes and residential zoning districts. The City regulates lot sizes for residentially zoned properties in Municipal Code Section 17.10.020. Bordering Mission Trails Nature Preserve are the following zoning districts and their required minimum lot sizes:

District	Minimum Area	General Location Relative to the Mission Trails Nature Preserve
R-1:	4,000 sq. ft.*	West of the Park (Crespi Avenue/Eleventh Avenue)
R-1-C-10:	10,000 sq. ft.	South of the Park (Ladera Drive)
R-1-C-20:	20,000 sq. ft.	West and East of the Park (Ridgewood Road/Ladera Drive)

* The minimum area is 6,000 sq. ft. for non-rectangular lots.

The Mansion building, garage and covered parking area are located within the Mission Trail Nature Preserve do not border the residential zoning districts identified. The 1.252-acre site is within the P-2 Zoning District of the City, which is not subject to minimum standards for lot size. The Mansion building and garage contain 6,019 square feet of total floor area (counting all floors) and covers approximately 4,172 square feet of ground area.

The comments suggest that the EIR reduced parcel alternative(s) should be consistent with the existing lot sizes of the City. The large size of the Flanders Mansion and garage makes the R-1 District minimum lot size (4,000 square feet) infeasible. The Building-Only Alternative (located on page 6-25 of the RDEIR) is consistent with lot sizes in the R-1-C-10 zoning district. The sizes of the Reduced Parcel Alternatives 6.5 (Figure 6.1-A) and Alternative 6.7 (located on page 6-31 of the RDEIR) are larger than the minimum area for the R-1-C-20 zoning district. The sizes of these reduced parcels are generally consistent with some of the larger parcels found within this zoning district (Brian Roseth, personal communication, 2012).

In general, maximum lot sizes from City zoning districts while addressed above, do not address project site characteristics or project objectives, and are not considered as environmental constraints or determinants for parcel size. By considering only a minimum or maximum lot size standard as used in other locations of the City, this approach would not take into account the size of the building as well as specific lot features, such as slope, access, current configuration, location of paved driveway and amount of pavement, circular wall and driveway area and other parcel considerations, as well as the project's significant environmental resources and effects.

Floor Area Ratio

The City typically requires that buildings in residential zones be in scale with the property they occupy and has adopted a floor area ratio formula to achieve this. According to the City, the allowed floor area is based on the size of the lot or buildable area. On a site of 4,000 square feet or less, the maximum floor area is 45 percent of the lot size. A typical 4,000 square foot lot has a base floor area of 1,800 square feet. As the size of the lot increases, the floor area ratio decreases. For example, on a 6,000 square foot lot the maximum floor area is 41 percent (as opposed to 45 percent). On a 10,000 sq. ft parcel, the maximum floor area is 3,300sq.ft. The City notes that maximum floor area may not be achievable on sites with constraints such as steep slopes, significant trees and unusual shapes. It should be noted that the Flanders Mansion could never be fully consistent with the City's floor area ratio standards for residential property because it slightly exceeds the maximum limit on house size established in Section 17.10.020 of the Municipal Code. However, in order to be responsive to the comment, the floor area contained within the Mansion and garage was compared to the City's zoning standards for the single-family residential district to determine the minimum building site area required for that amount of space. The result is 22,000 square feet (.51 acre).

As noted above, the property and building cannot fully comply with the Floor Area Ratio standards in Section 17.10.020 of the Municipal Code because it exceeds the limit on maximum house size. The resulting reduction of parcel size under this analysis would serve to reduce the significant impact identified for loss of parkland, however, not to a less-than-significant level.

It should be noted that, the City typically applies the Floor Area Ratio standards in another fashion, and not as part of a process to determine the lot size of a parcel. The standards are applied generally in determining the size of a home to be constructed or when analyzing a proposed design during reconstruction or home additions, on a fixed or existing lot. The analysis shown above (applying FAR standards as a determination of lot size), provides some measure of comparison, but may not be the best means of determining the appropriate parcel size for a lot with an existing historical building and surrounded by open space. The formula limits the amount of floor area that can be *built* on any given parcel and therefore defines only a *minimum* size. Relying on a calculation to define the parcel size does not take into consideration the unique characteristics of the Mansion building as well as the landscape, open space and circulation features of the surrounding grounds. As noted above, there is no requirement for the City to use the floor area ratio standard to determine parcel size and its applicability in this case must be considered.

Reduced Parcel Alternative Design based on Preservation of Park Features/Resources.

Comment letters on the 2012 RDEIR also suggest providing a reduced parcel alternative based on preservation of park features/resources. Also see full response to this comment under 3.2.2, Master Response 3a: and Rationale for Alternative Design Configuration.

A number of comments asserted that the reduced parcel alternatives were developed without consideration of park resources. Comments requested other alternative configurations for a reduced parcel alternative or a modified parcel design to lessen potential impacts to parklands, particularly potential impacts to trails. This EIR specifically evaluated reduced parcel alternatives based on a number of park resources and site-specific factors including trails, protection of environmentally sensitive habitat, and other resources(e.g. historical context, park access and continuity, proximity to the Lester Rowntree Arboretum/Native Plant Garden, biological features, etc.) in order to address the project’s significant impact, loss of parkland.

The configuration of the reduced parcel alternatives considered trail connections, viewshed, access and preservation of biologically sensitive areas. To the extent that these features are preserved or protected by parcel boundaries, the RDEIR alternatives address how the alternatives can help reduce the significant impact associated with selling the Flanders Mansion. The boundaries were considered based upon field observation, mapping through GPS and GIS equipment, including detailed mapping of environmentally sensitive habitat, tree locations and trail mapping. An alternative design variation has been included for illustrative purposes in response to this comment. This alternative evaluates an alternative design recommended during the public comment period. This alternative, while reducing the extent of potential impacts to park resources, would still constitute a significant impact under CEQA due to the permanent loss of parkland. This alternative, as currently designed, could also result in previously unidentified impacts to cultural resources as more fully explained in the **Changes to the RDEIR Revised Alternatives Section**.

(Please refer to Master Response 3a for more information concerning applicable criteria used to develop potential alternatives).

3.2.2 Master Response 2: Project Objectives Identified in the RDEIR Revised Alternative Section

Comment: During the course of the public review period for the 2012 RDEIR, comments were received regarding the development of the project objectives, specifically that the City has too narrowly defined the project objectives and the proposed reduced parcel size alternatives. In particular, comments asserted that the City has elevated financial considerations to a higher priority than historic preservation or protection of park resources during the City's deliberations regarding the project

Response: Pursuant to Public Resources Code § 21065 and CEQA Guidelines §15357, and §15378, the definition and objectives of the project are determined by the project proponent, in this case the City of Carmel-by-the-Sea the lead agency. It is not the function of an EIR to question or modify the City's project objectives. The objectives are a "given" that the EIR writers must use as a framework for developing a reasonable range of alternatives, and that decision makers must use in evaluating the feasibility of alternatives and mitigation measures (See CEQA Guidelines, §15124(b)). Some of the comments express disagreement with the objectives adopted by the City. Such disagreements are policy matters to be resolved by the decision makers; they are not properly the subjects of an EIR. Other comments questioned whether specific alternatives would or would not meet primary and secondary project objectives and the EIR conclusions. All comments requesting reconsideration on EIR conclusions regarding projects or alternatives ability to meet project objectives were carefully considered. Clarifications are provided in **Changes to the Revised Alternatives Section** of this document.

Note: Many of these comments essentially repeat all or portions of previous comments on the 2009 RDEIR. Please refer to Master Responses 3.2.1 and 3.2.2, previously provided under the Recirculated Draft Final EIR, April 2009, Pages 3-1 to 3-3.

3.2.3 Master Response 3a: Rationale for Alternative Design Configuration

Comment: A number of comments questioned how the reduced parcel size alternatives were selected for evaluation, and suggested that the City should consider new design configurations for a reduced parcel size alternative.

Response: The reduced parcel size alternatives were selected for evaluation based upon the analysis contained in the 2009 RDEIR, the Court's determination, and extensive consideration of site-specific features (e.g. ESHA, access, historical context, etc.). The 2009 RDEIR and 2012 Revised Alternatives Section analyzed impacts from the Project and alternatives on viewshed (aesthetics), trail access, the Lester Rowntree Arboretum/Native Plant Garden and the historic resource of the Flanders Mansion itself which could result from sale (or lease) of the property. Those impacts are fully identified in RDEIR sections 4.1, 4.2, 4.3, 4.5 and 4.6, and the corresponding mitigation measures (see for instance mitigation measures 4.1-1 through 4.1-5, 4.2-1 through 4.2-6, 4.3-1 through 4.3-4, 4.4-1, 4.5.1, and 4.6-1 through 4.6-3) and the 2012 Revised Alternatives Section.

The RDEIR found that the adoption of mitigation measures would, reduce potential impacts to a less-than-significant level with the exception of potential impacts due to the permanent loss of parkland. The RDEIR considered potential impacts on the Flanders Mansion property, the Mission Trial Nature Preserve and Lester Rowntree Native Plant Garden parkland, and the neighborhoods in the project vicinity, which may arise from the sale of the Flanders Mansion property.

The CEQA Guidelines state that an EIR need not consider every conceivable alternative to a project. Alternatives considered must include those that offer substantial environmental advantages over the Proposed Project and may be feasibly accomplished in a successful manner considering economic, environmental, social, technological, legal or other factors. The EIR is responsible for selecting a range of project alternatives for examination and must publicly disclose its reasoning for selecting those alternatives.

Each of the reduced project alternatives offers environmental advantages over the Proposed Project. As noted above, the 2012 RDEIR included five parcel boundary choices. Two additional design variations were included for further evaluation to clarify and amplify the existing analysis and respond to public comment.

Proposed Project	Sale of the Flanders Mansion (existing lot size of 1.252 acres or 54,537 sq. ft.)
Alternative 6.3	No Project (keep the Mansion as part of the park)
Alternative 6.5	Sale with Conservation Easements & Mitigations (1.252 acres or 54,537 sq. ft.)
Alternative 6.5.A	Reduced Parcel Alternative Eliminating Conservation Easements (0.75 acres or 32,670 sq. ft.)
Alternative 6.6	Building-Only (.23 acres or 10,000 sq. ft.)
Alternative 6.7	Reduced Parcel (0.83 acres or 36,154 sq. ft.)
Alternative 6.7.A	Revised Design Reduced Parcel Alternative (0.5 acres or 21,780 sq. ft.)

The RDEIR is focused on the potential physical impacts on the environment that may result from the sale of the Flanders Mansion. In the RDEIR Revised Alternative Section, starting on pages 6-6, the alternatives are described, evaluated, and compared to the Proposed Project. A parcel boundary description is given under each alternative and the configuration is both graphically presented and discussed as part of the Alternatives analysis, consistent with CEQA. Each alternative considers whether the alternative would, or would not; achieve the primary and secondary project objectives associated with the Proposed Project. As the objectives consider impacts to parkland and preserving park benefits, each alternative is analyzed based on its ability to minimize or avoid potential impacts due to loss of parkland, including park benefits such as trails and access associated with the Property. Similarly, physical impacts to biological resources, cultural resources and sensitive species are considered under each alternative. Alternatives also considered impacts to the adjacent Lester Rowntree Arboretum/Native Plant Garden, potential impacts to viewshed and aesthetics and impacts to the Mission Trail Nature Preserve.

The design configuration and boundary of the reduced parcel alternatives were based on all of these factors, as more thoroughly described below. Each alternative produces a different combination of impacts on the park's features as identified in the 2012 RDEIR. The 2012 RDEIR also identified various mitigations, such as alternate parking locations and conservation easements that could reduce park impacts in cases where a boundary change is ineffective or would be in conflict with other objectives.

Also, see the following text, which describes the primary physical relationships that guided selection of the alternative parcel boundaries. Refer to the **Changes to the Recirculated Draft EIR Revised Alternatives Section.**

The parcel boundaries for each of the alternatives were designed to reduce park impacts. This is consistent with the purpose of the environmental review process and with the secondary objectives of the project, as established by the City. These objectives 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 [Secondary Project Objective number 4]; 2) environmental resources located within the Mission Trail Nature Preserve are protected [Secondary Project Objective number 5]; 3) the property would continue to provide a maximum benefit to the general public [Secondary Project Objective number 6]; and 4) the property would minimize impacts on the surrounding residential neighborhood [Secondary Project Objective number 3]. In addition, the reduced parcel alternatives considered the ability of the reduced parcels to achieve secondary objectives related to historic preservation [Secondary Project Objective number 1]. While not a design consideration, another secondary objectives related to ensuring that the building is put to productive use [Secondary Project Objective number 2]. This was not a major consideration in development of the project reduced parcel alternatives.

Some commenters requested further analysis be completed to justify parcel boundaries and configurations in the FEIR. The appropriate level of analysis has already been completed consistent with the discussion above. Any proposed new parcel boundary has to address all of these concerns cited in the EIR and noted below. The following list highlights some of the primary features and relationships between the Flanders Parcel boundary and other park resources. These factors, as well as previous public comment received on the 2009 RDEIR, were considered during the course of selecting reduced parcel alternatives for further evaluation. All of these issues are addressed in detail in the RDEIR alternatives analysis:

> **Historic Considerations**--The Flanders Mansion is a historical resource listed on the National Register of Historic Places. The parcel boundary configurations considered the integrity of this resource by preserving historical features of the surrounding property, including the courtyard, lawn, driveway loop and the garden areas. As these areas were considered important components of the historic resource, the boundary configurations of the reduced parcel alternatives showed these areas as part of the Flanders Mansion parcel (per Secondary Project Objective number 1, above).
>
> **Trail and Pedestrian Access**--The public uses the Flanders Mansion driveway to access the Mission Trails Nature Preserve and Mansion, the Lester Rowntree Arboretum/Native Plant Garden, scenic vistas and several trailheads as shown on Figures 4.1-3 and 4.5-1 in the 2009 RDEIR (Attachment B to the 2012 RDEIR). The Flanders Mansion parcel also serves as a junction between trails. This enhances the usability of the trail system. The configuration of the reduced parcel alternative boundaries preserve public access to the majority of trails (per Secondary Project Objective numbers 4 and 6, above) and trailheads, and makes some provision for linking trails in order to reduce park impacts[4].

[4] Please note that potential impacts to trails were considered less-than-significant, although the reduced parcel alternatives evaluated in the 2012 EIR did incidentally minimize impacts to trail access due to the reduction in

Lester Rowntree Arboretum/Native Plant Garden--The Arboretum/Native Plant Garden is located east of the Flanders Mansion driveway and garage, adjacent to Hatton Road. There are trails through the Arboretum/Native Plant Garden that intersect the Flanders Mansion driveway. A small portion of the Arboretum/Native Plant Garden is cut off by the Proposed Project's parcel boundary. The reduced parcel alternatives were designed to reduce impacts to the features of the native garden by (1) preserving adequate trail access to the Arboretum/Native Plant Garden, and (2) relocating the parcel boundary to keep the native plant area whole, consistent with Secondary Project Objectives 4, 5 and 6 above.

Viewshed -- The viewshed section of the 2009 RDEIR fully addresses views from the site and to the Mansion. Views of the Mansion from the Arboretum/Native Plan Garden are limited due to tree cover and landscaping. The primary view of the Mansion is from the driveway. The boundary configuration for the reduced parcel alternatives address this viewpoint by moving the boundary downhill and eliminating portions of the driveway from the parcel where the primary viewpoints are located, thus preserving the views (consistent with Secondary Project Objective number 6, above).

Habitat--Biological studies prepared for the 2009 RDEIR identified special status species that should be protected, regardless of how the Mansion is used. Reduced parcel configurations excluded areas of sensitive habitat from the reduced parcel boundaries. If any of these areas remain inside the parcel boundary, these area would be protected with conservation easements and the new owner would be responsible for their protection. Excluding these areas from the parcel boundary would keep these in the park and under the responsibility of the City. The reduced parcel configurations and alternatives employed either of these approaches in order to reduce impacts on the park's resources. Field investigation by professional wildlife and plant biologists using GPS technology and GIS mapping confirmed sensitive species habitat locations and boundaries for parcel alternatives.

Comment letters on the 2012 RDEIR also suggest providing a reduced parcel alternative based on preservation of park features/resources. The reduced parcel alternatives provided in the 2012 RDEIR are all based on preservation of park features and resources as discussed above. An additional design alternative was provided by a comment letter; see Response to Comment G-10 to address this suggested alternative. Also refer to **Changes to the Recirculated Draft EIR Revised Alternatives Section.**

The CEQA Guidelines state that an EIR need not consider every conceivable alternative to a project. However, it must consider a reasonable range of potentially feasible alternatives that will foster informed decision-making and public participation. The 2012 RDEIR contains a full description of the alternatives proposed followed by a full explanation of each alternative. In addition, alternatives not selected for further evaluation are identified. For those alternatives selected for further evaluation, the ability of each alternative to reduce potential impacts is discussed.

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parcel size. 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 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."

Note: Portions of this comment are similar in nature to previous comments. Responses are presented in the 2009 FEIR. Please refer to Master Responses 3.2.3a previously provided under the Recirculated Draft Final RDEIR, April 2009, Pages 3-2 to 3-3.

Master Response 3b: EIR Does Not Consider Other Users or Uses That May Be Reasonable for the Property under Alternatives - Life Estate, Resident Curator and other uses

Comment: The comments state that the analysis is not adequate, as it does not fully explore all potential uses or occupancies of the property and the consequences of those uses. Specific uses identified included museum, cultural center, art center or historic foundation center. Some comments also state that the RDEIR should explore additional uses such as Life Estates or Resident Curators.

Response: The identified alternative uses (Life Estate, Resident Curator and other uses) presented by the comments would not materially change the assessment of impacts discussed in the 2012 RDEIR. Each of the uses identified is consistent with either the No Project or the Lease alternative impact assessments identified in the RDEIR. The impacts of these various uses have been adequately addressed. The City may choose to negotiate with these parties for the sale/lease or maintenance of the facilities/mansion. Under such an event, this RDEIR can serve as underlying environmental document for the transaction. Similar to the Lease Alternative, should these uses be the selected alternative, the City will consider if the alternative meets the project objectives while avoiding the significant impact associated with permanent loss of parkland. As identified in the Lease Alternative, the permanent loss of parkland is avoided under a scenario of leasing, and would be similar to the Resident Curator or Life Estate examples provided in the letters of comment.

In response to comments on this issue, the 2012 RDEIR has been amplified to address specific impacts from potential uses under the Alternatives such as Life Estates or Resident Curators. In most cases, as presented herein, these users and types of ownership are consistent with alternatives already described in the 2012 RDEIR and record or are so consistent with some of the historic uses of the building (office space, care-taker uses, and vacancy), as to be similar to the No Project Alternative Analysis or the Lease Alternative. The expanded discussion of possible uses under the alternative is a clarification and amplification and has not changed the conclusions in this RDEIR. (See below and **Section 5.0 Revisions to the Recirculated Draft EIR.**)

<u>Analysis Life Estates or Resident Curators</u>: The uses specified in the comment letters would not generate impacts outside the range of effects already studied. The 2005 EIR, 2009 RDEIR and 2012 RDEIR have studied impacts on a wide range of uses including commercial, public, quasi-public and residential. The land use impacts on traffic, water use, noise, General Plan consistency, biology and other topics have all been documented.

Some of the uses and or users specified in the comment letters provide impacts or potential benefits that decision-makers should consider. For example, public offices, museum, cultural center, art center or historic foundation center might all allow for public visitation over the Mansion grounds and inside the building. However, depending on the intensity of use allowed, this could result in impacts on the adjacent neighborhood and/or impacts on biological resources within the park (e.g.,traffic). These potential impacts are considered under the impact analysis in the 2009 RDEIR for traffic, biological impacts, etc.

The land use impacts of a Life Estate or Resident Curator would be consistent with the impacts associated with single-family residential use. Commenters stated that this use may allow the City to retain the

property while still avoiding the costs of rehabilitation and long-term maintenance. During the term of occupancy, the impacts on the surrounding park would be similar to those associated with sale of the property as a single-family residence and would be consistent with impacts cited in this RDEIR for this type of use. The specific impacts on individual park features would depend on the parcel boundaries, if modified. On a longer-term basis, a Life Estate or Resident Curator would avoid the significant impact of loss of public parkland because control of the property would return to the City upon the death of the buyer or in the case of the curator, would remain with the City. In this regard, the impact is somewhat similar to a lease. It should be noted that it is beyond the scope of this RDEIR to determine whether a Life Estate or Resident Curator is considered feasible. However, as noted above, this RDEIR does consider the potential physical impacts of this alternative consistent with the requirements of CEQA and identifies the reduction or avoidance of the significant impact of loss of parkland under these potential uses.

Note: This comment is similar in nature to comments during the 2009 Planning Commission hearing process. Thus, the Planning Commission Hearing 2009 Response: **"General Response G1: Additional Response on Alternative Uses** is also provided below:

A number of commenters at the Planning Commission hearing stated the RFEIR did not evaluate an alternative based on various uses for the Project site. Uses cited included public uses for offices, museum, cultural center, historic foundation center, art center or other publicly available uses that would allow entrance to the Mansion on a regular basis by members of the public and thereby increase public access to the Mansion.

First, the only discretionary action that the City Council is currently considering is whether or not to sell the Mansion and parcel. The environmental analysis in the RFEIR is more than adequate to enable the City Council to make an informed decision on this question. The existing environmental analysis presents an adequate evaluation of the Project's potential impacts. The RFEIR should be considered adequate for environmental review even if the City determines to sell the property to another entity who would then use the property for the various uses contemplated by the commenters.

Because the City is not approving a specific site plan or otherwise committing to allow a specific development or use on the Project site, the RFEIR's evaluation of the indirect impacts of sale is adequate for CEQA purposes. Second, the existing RFEIR already contains sufficient information to consider these uses as part of the project description and the alternative discussion in Section 6.0 of the RFEIR.

The City may determine that it wishes to retain the property and provide for other uses of the building and/or site. It may also choose to negotiate with a party for the long-term maintenance responsibility for this parcel/building without a sale or lease of the building and/or property. The analysis in the RDEIR is adequate to assess the potential physical impacts for all of the uses suggested in the public comments, including use of the building as a storage facility, use of the building without the surrounding property or uses similar to those as have occurred in the past, such as the leasing of a portion of the building for offices.

The RDEIR is focused on the potential impacts of the project related to physical impacts on the environment, which may result from the future actions of the City. The identified alternative uses presented by the comments would not materially change the assessment of impacts discussed in the RDEIR. Each of the uses identified is consistent with either the No Project or the Lease alternative impact assessments identified in the RDEIR. The impacts of these various uses have been adequately addressed.

However, in response to comments on this issue, the RDEIR has been modified to identify the range of potential users under the No Project Alternative. It now includes a number of uses identified in the

comment letters as well as some of the historic uses of the building (office space, caretaker uses, and vacancy). The expanded discussion of possible uses under the No Project alternative is a clarification and amplification and has not changed the conclusions in this RDEIR.

3.2.4 Master Response 4: Single-Family Residential Use Preference

Comment: During the course of the public review period, numerous comments were received expressing a preference that, if the Flanders Mansion property is sold or leased, it should be used for single-family residential use only.

Response: The preference for single-family residential use for the Flanders Mansion property, as expressed by the comments, is acknowledged and referred to decision-makers. The Flanders Mansion property may be sold or leased for single-family residential use or other uses dependent upon the actions of the decision-makers. The 2005 EIR and the 2009 RDEIR evaluated potential impacts associated with single-family residential use as well as public/quasi-public occupancies and other uses. The RDEIR considered the potential impacts from the sale and/or lease of the property as well as the secondary impacts from use of the site and provided mitigations for potential impacts to the surrounding neighborhood.

Note: Portions of this comment are similar in nature to previous comments. Please refer to Master Response 4 previously provided under the Recirculated Draft Final EIR, April 2009, Pages 3-5 through 3-6.

3.2.5 Master Response 5: Traffic

Comment: A number of comment letters from residents in the Hatton Fields neighborhood expressed concerns related to traffic from any land use except single-family residential.

Response: In 2009, the City Council voted to limit occupancy of the Flanders Mansion to single-family residential use. The determination of occupancy will be revisited by the City after this 2012 FEIR is certified. The concerns expressed in the comment letters are acknowledged and will be considered by the City Council when decisions are made.

Table 4.6-1 of the RDEIR (see page 4.6-9), identifies the potential traffic trips of uses other than single-family residences. Because the future use of the property is currently unknown, the RDEIR evaluated potential traffic impacts associated with a range of foreseeable uses based on the site's zoning designation, P-2 (Improved Parkland).

In order to ensure that implementation of the Proposed Project would not result in an intensification of use, mitigation has been incorporated to limit the future use to low traffic generating uses. If a future use is inconsistent with the analysis contained in the RDEIR, as modified in this RFEIR, and would result in potentially significant transportation/traffic impacts, additional CEQA review would be warranted.

Mitigation Measure 4.4-1 requires that any future use inconsistent with the analysis contained in this RDEIR would be subject to additional environmental review and applicable City permitting requirements. Please refer to **Section 5.0 Revisions to the Recirculated Draft EIR.**

3.2.6 Master Response 6: Aesthetics

Comment: During the course of the public review period on the Alternatives Analysis, a number of comments questioned the Alternatives analysis concerning potential aesthetic impacts, including impacts from the Reduced Parcel Size Alternatives.

Response: DD&A conducted a number of site surveys to evaluate the visual character of the project site and surrounding area as part of the impact analysis and preparation of revised Alternatives analysis. Methodology for the impact assessment included evaluation of aerial photographs of the site and surrounding area, field investigation, and identification of key vantage points, mapping the identified vantage points and taking photographs from these points, as well as staff with Geographical Positioning System equipment identifying locations of driveways, boundaries and potential trail impacts. The site visits served as the basis for the visual assessment conducted for the revised Alternatives analysis.

Additionally, since the action of the project is the potential sale of the property and no specific development is proposed, the RDEIR based the future conditions analysis on a set of conservative assumptions. The RDEIR identifies *the possibility* that future owners/occupants may seek fencing, gates, hedges or similar exterior changes that could impact the aesthetics of the site or surrounding parkland. None of these are certain, but the role of the EIR is to alert the public and decision-makers of the potential for such impacts. Since none of these impacts are proposed as part of the project they are considered indirect impacts.

Having identified these potential impacts, the EIR provides mitigation measures designed to eliminate or minimize them. The mitigation measures establish design guidance that can be implemented by the City through its normal design review processes. This approach was deemed superior to mandating a single design solution with specific heights, materials or types of construction. A fixed design might be inappropriate to the owner or lessee of the property.

The loss of views from the Flanders Mansion property is not considered significant because only limited views are available from the property grounds, alternate viewing locations are available immediately adjacent to the Flanders property and views available from the property area are inconsistent with the definition of a "scenic vista."

3.2.7 Master Response 7: Trails and Parks/Recreation Impacts to Preserve and Lester Rowntree Arboretum/Native Plant Garden, Located within Mission Trail Nature Preserve

Comment: Comment letters asserted that the environmental documents did not consider how the sale or lease of the property would impact recreational opportunities within the Lester Rowntree Arboretum/Native Plant Garden portion of the Mission Trail Nature Preserve (MTNP).

Response: Sale of the property would result in the loss of up to 1.252 acres of public parkland located entirely within the Mission Trail Nature Preserve that has historically been accessible by the public, including a portion of the Lester Rowntree Arboretum/Native Plant Garden. The RDEIR identifies the loss of parkland as a significant impact that cannot be fully mitigated.

In addition, the 2009 RDEIR also identified that the project could impact existing access from the Lester Rowntree Arboretum/Native Plant Garden and adjacent trails due to the permanent loss of parkland. While the RDEIR recognizes this impact, it also identified a number of mitigation measures to ensure that

specific project-impacts to the existing trail network and access to the Mission Trail Nature Preserve are minimized to a less-than-significant level **(see Mitigation Measures 4.1-1 and 4.5-1**). The 2009 RDEIR considered potential impacts to the Arboretum and a detailed response to comment was provided on page 3-9 of the 2009 FEIR (see Master Response 7 in the 2009 FEIR for more information). The alternatives selected for further evaluation in the 2012 RDEIR, as well as those considered in the 2005 EIR and 2009 RDEIR, were developed to minimize impacts due to the loss of parkland, including impacts to the Lester Rowntree Arboretum/Native Plant Garden and MTNP. Alternative boundaries under the reduced parcel alternatives exclude a small portion of the site that is part of the Lester Rowntree Arboretum, as well as preserve trail access to the Arboretum/Native Plant Garden by eliminating a portion of the driveway. All trails to and from the Arboretum/Native Plant Garden would remain in place under the reduced parcel alternatives. Comments related to potential impacts to the Lester Rowntree Arboretum were previously responded to in the 2005 FEIR and 2009 RFEIR.

As shown in **Figure 4.5-1**, trail access to and from the Arboretum/Native Plant Garden is addressed to ensure continued connection between the Arboretum with the MTNP. A spur trail from the MTNP intersects the driveway about 87 feet downhill from the property's eastern extent; it currently crosses the driveway at this point and leads to the northern entry of the Arboretum/Native Plant Garden. Under the Proposed Project, mitigation requires a replacement trail. Under all of the reduced parcel alternatives, impacts to the Arboretum are avoided by reducing the driveway parcel area (currently running 87' by 20') where a trail spur connects to the Native Plant Garden. Further, the reduced project alternatives all avoid impacts to an existing area of the Arboretum by parcel reduction (eliminating a 2,940 square foot triangle adjacent to the garage/driveway and Arboretum from the potential sale parcel). This reduction in size of the parcel will be able to reduce the potential impacts to the Lester Rowntree Arboretum as well as reduce impacts from loss of public access to the MTNP and Arboretum.

The access to MTNP from the Flanders property includes the fire road/trail that leads from the Serra Trail, crosses the Flanders Trail, and terminates at the turn-around loop driveway near the Mansion. The RDEIR cites the loss of this immediate trail access from the driveway, and Figure 4.5-1 shows alternate replacement trail can provide access from the driveway. However, direct public access would be lost from the top of this trail under the Proposed Project and Alternatives 6.5A and 6.7. Alternatives 6.6 and 6.7A reduce the size of the parcel such that access to the fire road trail is retained. Alternative 6.7 may also retain public access on the fire road/ from the top of the trail to the area of Flanders Mansion along the existing paved drive with a replacement trail. This is shown in Revised **Figure 4.5-1**.

3.2.8 Master Response 8: Access to the Mission Trail Nature Preserve and Parking

Comment: A number of public comments raised concerns as to why parking was not included in the Reduced Parcel Size Alternative. Comments noted that if the Flanders Mansion property were sold into private ownership, access to the park from the driveway and parking area next to the Mansion building would be lost.

Response: Sale or lease of the Mansion for a use that constrains public access to the property will result in the exclusion of persons from the Mansion grounds. For the Proposed Project or the Reduced Parcel Size Alternative this would include all of the flat area at the bottom of the driveway that is currently used for public parking and the immediate grounds surrounding the Mansion. The impacts on restricted pedestrian and vehicle access could occur under the single-family residential lease or sale alternative, but may not necessarily occur under the Building Only Alternative.

Currently, there are five possible locations where public parking could be accommodated in the future: (1) off the driveway near Hatton Road, (2) the entry at Martin Road, (3) the Mountain View Avenue entrance, (4) the entrance at Rio Road and (5) the entry at Eleventh Avenue. None of these entrances are currently improved for off-street parking; however the general use of these areas includes public parking of vehicles in order to access the park. Parking is limited by the number of available spaces in these areas.

The proposed alternate parking in the 2009 RDEIR mitigation measures shows the location of a potential new visitor parking area on City-owned property at the beginning of the driveway entrance to the Flanders parcel (RDEIR Figure **4.6-2**). The 2009 RDEIR mitigation to provide additional visitor parking area on City-owned property at the beginning of the driveway entrance to the Flanders Mansion would allow immediate access to the park. This parking area could be added to any of the Project Alternatives. This has been clarified in the **Changes to the Recirculated EIR, Revised Alternatives Section**.

3.2.9 Master Response 9: Economic Analysis

Comment: Certain public comments stated that the 2012 RDEIR should contain a discussion of the economic analysis of the project alternatives studied or addressed questions concerning the alternatives economics as part of their comments on the RDEIR.

Response: Under CEQA, an environmental document should discuss the economic effects of a project only where such effects have the potential to cause a physical change in the environment. The environmental analysis here has not identified any physical change or potentially significant impacts to the physical environment that is anticipated or reasonably likely to result from any economic effects of the project or any project alternative. In 2009, the City prepared and released an economic analysis evaluating the financial feasibility of the various project alternatives[5]. 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. The 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), consistent with CEQA Guidelines and case law, make clear that 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 . In the Flanders Appellate decision the Court stated. "As the CBRE report did not address any environmental issues, the City was not required to include the report's economic feasibility analysis in the FEIR so long as it was included in the administrative record."

3.2.10 Master Response 10: Enforceability of Obligations of Owners, Lessees and City

Comment: Certain comments stated the belief that City objectives may better be achieved and enforced if the City were to retain the property or to lease the property. Some comments questioned whether the City would enforce the obligations of an owner, occupant, or lessee, or abide by its own obligations.

Response: The CEQA question raised here is whether the mitigation measures recommended by the EIR are feasible to mitigate the identified significant impacts of the project, i.e., the sale of the Flanders Mansion. CEQA requires that mitigation measures be feasible. "Feasible" means capable of being accomplished in a successful manner within a reasonable time, taking into account economic,

[5] An economic feasibility analysis by CBRE Consulting, Economic Analysis of the Flanders Mansion Property, 2009 was presented to the City Council on March 25, 2009. The Economic Report by CBRE analyzed the economic feasibility of the City's disposition alternatives for Flanders Mansion.

environmental, legal, social, and technological factors. (CEQA Guidelines §15364.) It is not the role of an EIR to determine feasibility of particular mitigation measures; only the decision makers can definitively determine the feasibility or infeasibility of proposed mitigation measures.

In general, the imposition of specific conditions of sale, together with recorded deed restrictions and covenants that run with the land, can be effective measures to avoid or substantially lessen the identified impacts.

Just as certain lease conditions can be imposed upon and enforced against a lessee of the property to require a lessee to comply with certain restrictions on the use and occupancy of the property, conditions of sale and covenants that run with the land in a sale contract can bind future property owners. A broad range of administrative, legal, and equitable remedies -- civil, quasi-criminal and criminal -- are available to enforce such restrictions, conditions, and covenants against future property owners. Whether these measures are more or less effective than enforcement of terms of a lease is a complex legal question that is beyond the scope of this RDEIR, and those questions must be weighed by the decision makers as part of their determinations of feasibility.

The need to enforce conditions and mitigation measures may arise under either a lease or sale. The City does not avoid the need to monitor compliance by electing to lease the property instead of selling it. The cost of any enforcement required is wholly speculative absent any specific information about the nature of future, hypothetical violations of sale or lease conditions, easements and covenants running with the land, or a Mitigation Monitoring and Reporting Program.

The City's direct legal obligations under a certified RFEIR, and mitigation measures, conditions of sale or lease, and covenants to be recorded to run with the land, are subject to enforcement by several administrative and judicial remedies. Likewise, any duty of the City to enforce obligations owed by a future owner, occupant, or lessee, under a Mitigation Monitoring and Reporting Program, conditions of sale or lease, recorded covenants running with the land and the historic preservation provisions of the City of Carmel-by-the-Sea Municipal Code may also be enforced through a variety of remedies. Lastly, the Superior Court in the action, Flanders Foundation vs. City of Carmel-by-the-Sea and City Council of the City of Carmel-by-the-Sea (Mont. Co. Super. Ct. Case M76728) found the City was bound by its Municipal Code Historic Preservation sections, and such obligations are also legally enforceable.

4.0 COMMENTS AND RESPONSES ON THE RECIRCULATED DEIR - REVISED ALTERNATIVES SECTION

4.1 INTRODUCTION

This section provides responses to the comments received on the Recirculated Draft EIR (RDEIR) Revised Alternatives Section.

4.2 COMMENT LETTERS AND RESPONSES TO COMMENTS

Each letter received on the **RDEIR Revised Alternative Section** is presented in this section. The individual comments within each letter are numbered, and numbered responses to each of the comments are provided immediately following each comment letter. In those instances in which a comment states an agency position or opinion and does not comment on issues relevant to the adequacy of the environmental analysis presented in the RDEIR, the sentence "The comment is acknowledged" is provided. If the comment is directed at City of Carmel-by-the-Sea regarding the decision on the Proposed Project, the sentence "The comment is referred to the decision-makers for their consideration" is provided; typically, these comments do not raise issues relevant to the adequacy of the environmental analysis.

Where the response notes an addition or deletion to the text, tables, or figures in the RDEIR, a brief description of the change is provided, and the reader is directed to the following **Section 5.0, Changes to the Revised Alternatives Section**.

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 were revised and/or replaced. Revisions to the text are shown in <u>underline</u> for additions and strikeout for deletions.

The **Changes to the Revised Alternatives Section,** of the following new information:

- Revised RDEIR Section 6.0, *Alternative Analysis* (updated based upon comments received during the June – August 2012 public review period. As this section was replaced in its entirety, the entire section is reprinted for ease of reading.)

The comments identified during the public review period have not raised any new significant information under CEQA; revisions have been incorporated to clarify and amplify the analysis contained in the **RDEIR Revised Alternative Section**.

Letter A

STATE OF CALIFORNIA

GOVERNOR'S OFFICE *of* PLANNING AND RESEARCH

STATE CLEARINGHOUSE AND PLANNING UNIT

EDMUND G. BROWN JR.
GOVERNOR

KEN ALEX
DIRECTOR

July 30, 2012

Sean Conroy
City of Carmel-by-the-Sea
P.O. Box Drawer G
Carmel-by-the-Sea, CA 93921

Subject: Sale of Flanders Mansion Property
SCH#: 2005011108

Dear Sean Conroy:

The State Clearinghouse submitted the above named Draft EIR to selected state agencies for review. The review period closed on July 27, 2012, and no state agencies submitted comments by that date. This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. A-1

Please call the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process. If you have a question about the above-named project, please refer to the ten-digit State Clearinghouse number when contacting this office.

Sincerely,

Scott Morgan
Director, State Clearinghouse

1400 10th Street P.O. Box 3044 Sacramento, California 95812-3044
(916) 445-0613 FAX (916) 323-3018 www.opr.ca.gov

Document Details Report
State Clearinghouse Data Base

SCH# 2005011108
Project Title Sale of Flanders Mansion Property
Lead Agency Carmel-by-the-Sea, City of

Type EIR Draft EIR

Description NOTE: Recirculated

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. The grounds of the Flanders Mansion property have historically been used by the public for passive recreational activitiesand the property provides a number of park benefits. Surrounding the property is an ESHA zoned P-1. This area plus the project site are all part of the City's largect 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. No part of the Mission Trail Nature Preserve zoned P-1 is subject to sale and all of it would be retained as public parkland. The building would be retained.

Lead Agency Contact

Name Sean Conroy
Agency City of Carmel-by-the-Sea
Phone (831) 620-2010 **Fax**
email
Address P.O. Box Drawer G
City Carmel-by-the-Sea **State** CA **Zip** 93921

Project Location

County Monterey
City
Region
Lat / Long 36° 32' 53" N / 121° 54' 59" W
Cross Streets Hatton Road and Martin Road
Parcel No. 010-061-005
Township **Range** **Section** **Base**

Proximity to:

Highways Hwy 1
Airports
Railways
Waterways Carmel River
Schools Carmel HS
Land Use P-2 (Improved Parkland)

Project Issues Aesthetic/Visual; Archaeologic-Historic; Biological Resources; Coastal Zone; Recreation/Parks; Traffic/Circulation; Landuse; Other Issues

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Reviewing Agencies Resources Agency; California Coastal Commission; Department of Fish and Game, Region 4; Cal Fire; Office of Historic Preservation; Department of Parks and Recreation; Department of Water Resources; California Highway Patrol; Caltrans, District 5; Regional Water Quality Control Board, Region 3; Native American Heritage Commission; State Lands Commission

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Date Received 06/13/2012 **Start of Review** 06/13/2012 **End of Review** 07/27/2012

Note: Blanks in data fields result from insufficient information provided by lead agency.

LETTER A: GOVERNOR'S OFFICE OF PLANNING AND RESEARCH STATE CLEARINGHOUSE

A1: The letter states the State Clearinghouse submitted the Recirculated Draft EIR to selected State agencies for review and no State agencies submitted comments during the public review period. This letter acknowledges that the City of Carmel-by-the-Sea has complied with the State Clearinghouse review requirements as required pursuant to CEQA. No response is required.

Letter B

RECEIVED

JUN 25 2012

CITY OF
CARMEL-BY-THE-SEA

June 24, 2012

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

Re: June 2012 Recirculated Draft ENVIRONMENTAL IMPACT REPORT for the SALE OF FLANDERS MANSION PROPERTY

Dear Mr. Conroy,

The purpose of this letter is to offer our comments on the referenced RDEIR, which has been thoroughly reviewed prior to this writing.

In all cases under revised alternatives discussed in Sections 6.4 through 6.7 for disposition of the Flanders Mansion, use as a single family residence and use as low impact public or quasi-public use are included as possibilities, with no preference for single family residential use being specified. This completely ignores the long-standing position of the undersigned and the majority of the Hatton Fields neighbors of Flanders Mansion that the best use for the Mansion is as a single family residence. We neighbors have vigorously supported single family residential use from 1999 through the present time, and have so informed the Planning Commission and the City Council through numerous letters and oral statements at meetings. Failure to specify in the RDEIR that single family residential use should be attempted before resorting to low impact public or quasi public use represents a major omission from the RDEIR. B-1

The reasons for advocating single family residential use are sound.

a. First, Mission Trails Nature Preserve is completely surrounded by single family residences except for the Carmel Mission, which was established long before any of us were born and before residences were built. That is true in Carmel, and is true in Hatton Fields. It is common sense that it is poor land use policy to introduce a non-conforming land use in the middle of a purely residential neighborhood unless there is an important public need to be satisfied, such as a school. There is no such need in this case.

b. Second, the Flanders Mansion was designed, built, and used as a single family residence before the City acquired it. It should continue to be used for the purpose for which it was designed.

c. Third, the City's objectives to preserve the Mansion, put it to productive use, and ensure that use will not cause significant traffic, parking or noise impacts on the surrounding neighborhood will probably be best satisfied by single family residential use, because a homeowner will naturally take pride in the residence, and in all probability, restore it with great care to its original splendor. Any homeowner acquiring the Mansion will have the financial capability to do so. Public or quasi-public use would not include that motivation, and most probably would not include the same level of financial

resources. It is obvious that noise and traffic would be less with a single family residence.

d. Fourth, the City would most probably realize a higher net revenue from sale or lease as a single family residence, as suggested in past economic reports, and that is in the best interest of the City.

e. Fifth, and by no means least, traffic impact on Hatton Road, a county road not under jurisdiction of the City, will be less with single family residential use. Following are three main points about traffic:

1. Hatton Road is a narrow county road that is not equipped to handle public or quasi-public use. It is merely wide enough for two cars going in opposite directions to pass each other assuming no-one is parked where they pass, and if anyone is parked where the cars must pass each other, often one car must wait for the other to pass the parked car. For safety reasons Hatton Road should be limited as much as possible for use by residents of and visitors to single family dwellings and vehicles delivering goods and services to them. Sale or lease of the Mansion as a single family residence is the only means to restore traffic patterns to those existing before the City acquired the Mansion. Past public and quasi-public use occurring after the City acquired the Mansion represented an increase in traffic from prior use, and should not be continued.

2. Additional discussion of our concerns about traffic associated with public or quasi-public use are addressed in the Crosby/Morris letter of January 14, 2009, the first two pages of which are included as Enclosure (1), which also shows that only a small percentage of Mansion use in the past was for public/quasi-public purposes. Enclosure (1) is from the April, 2009 FEIR. Further, in Enclosure (2), which is from the January 2009 RDEIR, our concern about traffic is well illustrated, for it is estimated that 61 daily trips for public/quasi public use would occur, which is 6.1 times higher than for single family residential use. That increase in volume is unacceptable for Hatton Road. In this regard, we agree with the risk assessment which starts in the last paragraph of Enclosure (2), Page 1, which states: B-2

"*Based on the analysis contained above, a public/quasi public use of the property could have the potential to impact the existing roadway capacity due to increases in traffic volumes. In addition, this type of use could also result in increased traffic that may impact the local residential character of the surrounding area. Increases in traffic would conflict with secondary project objectives related to the preservation of the existing residential character of the surrounding neighborhood. Use of the Flanders Mansion for residential purposes on the other hand would result in substantially less traffic than a public/quasi public use and is not anticipated to substantially impact the surrounding residential character of the area. As a result, single-family residential use of the property is not anticipated to generate additional traffic such that the existing roadway capacity would be exceeded. While both uses analyzed in the RDEIR are consistent with the historical use of the property, public/quasi-public uses have the*

potential to result in additional traffic. This is considered a potentially significant impact."

Further, we think it is unrealistic to think that mitigation measures can adequately control against the significant traffic impact risk associated with public/quasi-public use. B-2

3. Finally, in Enclosure (3), which is from the April, 2009 FEIR, note that it is acknowledged that if sale of the Mansion results in higher intensity land uses that could be incompatible with the Mission Trails Nature Preserve or the Hatton Fields residential area, the sale would become the subject of (1) additional environmental review under CEQA, and (2) a Traffic Impact Analysis to be provided to the County of Monterey Public Works Department for review and comment. We believe that any public or quasi-public land use will represent an intensification of historical use, and therefore should be avoided completely unless attempts at sale or lease of the mansion as a single family residence cannot be accomplished. B-3

We think that basic fairness demands that the views of the majority of the Hatton Fields neighbors of Flanders Mansion be considered explicitly in the RDEIR. As a body, we have been good neighbors to the City, contributing to its causes, e.g., rebuilding of Sunset Center, and patronizing its businesses. Since introduction of public or quasi-public use of the Mansion would literally impact traffic and the environment around us in an unacceptable way, it should not be imposed unless all attempts to dispose of the Mansion as a single family residence fail, and the RDEIR should so state. The City of Carmel highly values its residential character, and explicitly advocates its preservation as evidenced on the wall at City Hall. The majority of the residents of Hatton Fields feel the same way about our neighborhood, and we should be supported by the City in advocating single family residential use for the Mansion.

Based on the foregoing comments, it is requested that the FEIR reflect modifications as follows:

1. Explicitly address the views of the majority of the neighbors of the Flanders Mansion that single family residence is preferred for the reasons stated above, and state that any lease of the Flanders Mansion should first be attempted for single family residential use for the purpose of minimizing environmental impact on those living near the Mansion and precluding adverse traffic impacts associated with public/quasi-public use. B-4

2. Explictly state, in similar fashion, that any sale of Flanders Mansion, after first complying with law requiring that it be offered to public agencies as specified in the RDEIR, should be attempted first for single family residential use for the reasons stated in item 1 above. B-5

3. Specifically acknowledge that public/quasi public use of the Mansion should be pursued only if all good faith attempts to lease or sell the Mansion as a single family B-6

residence fail, and that public/quasi public use should be avoided and used only as a last resort. It should be stated unambiguously that public/quasi public use will most probably result in increased traffic related impacts, as opposed to "could result" as stated on page 6-17 of the RDEIR. B-6

4. Adjust the Environmentally Superior Alternative discussion to reflect the revised priorities as discussed in 1, 2, and 3 above, which would be:

a. First, lease as single family residence.
b. Second, sell as single family residence if no public agency responds to the legally required offer.
c. Third, lease for public or quasi-public use.
d. Fourth, sell for public or quasi-public use if no public agency responds to the legally required offer. B-7

Aside from the foregoing, we found the RDEIR to be objective and thorough. We continue to feel that the small loss of access to the Flanders Mansion represents a very minor inconvenience to the public, particularly since you're doing everything possible to minimize impact. The vast majority of Mission Trails Nature Preserve will continue to be readily available to the public, which uses it extensively and definitely for the most part for walking amidst a delightfully wooded area. B-8

To preclude any possible omission that could result in having to do another RDEIR adjustment, please comment adequately on all comments you receive. We support you in your endeavors to do a responsible job in disposing of the Mansion and in reaching a result that is acceptable to all concerned.

Most sincerely,

Bertie Bialek Elliott
25782 Hatton Rd, Carmel, CA 93923

David H. Elliott
25782 Hatton Road, Carmel, CA 93923

Marikay Morris
25874 Hatton Road, Carmel, CA 93923

Robert G. Morris
25874 Hatton Road, Carmel, CA 93923

Jerian R. Crosby
3334 Martin Road, Carmel, CA 93923

Alexander C. Crosby
3334 Martin Road, Carmel, CA 93923

Enclosures: as stated

Letter D

RECEIVED
JAN 14 2009
CITY OF
CARMEL-BY-THE-SEA

January 14, 2009

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

Re: Comments on Recirculated Draft Environmental Impact Report for the Sale of Flanders Mansion Property (RDEIR)

Dear Mr. Conroy,

Introduction. The referenced RDEIR takes the position that the sale of Flanders Mansion as proposed by the City is unacceptable under CEQA, and identifies actions in mitigation that produce, according the RDEIR, the following acceptable alternative uses:

1. Lease of Flanders Mansion under the terms of RDEIR mitigation actions, either as a single family residence or for public or quasi public use.

2. Sale of Flanders Mansion under the terms of RDEIR mitigation actions, also either as a single family residence or for public or quasi public use.

Public and Quasi Public Use is Unacceptable. For several reasons, as identified below, public or quasi public use should not be considered an acceptable alternative for the Flanders Mansion.

Traffic. As shown in the RDEIR, public or quasi public use would generate an estimated 61 trips a day (or some unknown lesser number of trips not specified in the RDEIR) between Flanders Mansion, which is in the City, and Hatton Road, which is a County road under County jurisdiction. That compares with 10 trips a day if the Mansion is used a single family residence. Hatton Road is simply not designed for anything more than single family residence traffic, and its use for public or quasi public use to and from the Mansion, whether for 61 trips or any number greater than single family residential use, can not be tolerated. In addition, the entrance to the Mansion driveway is located at a sharp bend in Hatton Road, where visibility is more limited than for the typical Hatton Road driveway; and presents a safety hazard that would be increased by public or quasi-public use. Also, many residents in the Hatton Fields area take walks on Hatton Road, which has no curbs or sidewalks. Additional traffic would represent an increased safety hazard for such walkers. Finally should the RDEIR preparer disagree with the contention that the additional traffic is unacceptable, a comment should be included in the RDEIR that requires the City to first check with the County to see if it will consent to use Hatton Road for public or quasi public ingress and egress, given that Hatton Road provides the only vehicular access to the Flanders Mansion, and is under the jurisdiction of the County, which is very concerned about safe use of its roads. Further, under CEQA, the County must be given notice and have an opportunity to review the expected traffic, as has previously been pointed out in comments made on the 2005 EIR. D-1

Conflict with Good Land Use Practice. It is a well established land use principle that use of buildings in a residential neighborhood zoned for residential single family use should not be used for other purposes absent a strong overriding reason. See California Government Code, Title 7, Sections 65000 et seq., and related case law. While Title 7 of the Government Code gives considerable discretion to governmental units to prescribe land use and related zoning for the greater good of the public, with respect to residential areas the law advocates no change from residential use to non-residential purposes unless there is a clearly demonstrated need to allow a non-residential use, e.g., a school where no convenient school exists.

In this case, there simply is no demonstrated need to allow public or quasi public use of the Flanders Mansion, and the RDEIR does not suggest a specific use. In fact, the history of the Mansion depicted in the RDEIR on pages 3.2 through 3.4 shows that there have been many attempts to find acceptable uses for the Mansion, and the conclusion consistently and ultimately reached by the City Council is that there is no acceptable use other than single family residence. Introduction of permanent public or quasi public use for Flanders would represent a change where no known need to use the Mansion for public or quasi public use exists, and therefore conflicts mightily with good land use practice.

Buttressing the point for the need that good land use practices be followed for the Flanders Mansion are three important sets of facts:

First, the vast majority of the Mansion history shows that it was principally used for single family residential purposes, for which it was designed, and the fact that there has been occasional use by the City for public or quasi public use is not sufficient justification for making such use permanent. More specifically, the history of the Mansion, which runs from 1924 through 2009, shows the following uses according to pages 3.2 through 3.4 of the RDEIR:

1924-1979	single family residence	56 years
1980-1989	no use specified	10 years
1990-2003	public/quasi public and residential for caretaker	14 years (no specfics on division of use)*
2004-2009	no use specified	5 years

*It is our recollection that there wasn't much public/quasi public use. We can recall Carmel Heritage, as cited in the RDEIR, an art use, a very noisy wedding reception, and a few days of a decorator showcase, but there may have been other uses as well.

Except for 14 years which was a combination of public/quasi public use and residential use there has been no use except residential for the Flanders Mansion. Stated another way, for all but 14 years of its existence of 85 years, the Mansion was either residential or not used. Only some amount less than 14/85ths of the time, or 16.5%, was the Mansion used for other than single family residential purposes.

Table 4.6-1
Projected Future Trip Generation

Land Use	Unit of Measurement	Avg. Daily Trip Rate (Typical Weekday)	Projected Avg. Daily Trips (Typical Weekday)
Park Recreation:			
City Park	Acres	1.59/acre	2
Residential:			
Single-Family Detached	Dwelling Unit	9.57/unit	10
Public/Quasi-public			
General Office	Per 1000 square feet (SF) of Gross Floor Area (GFA)	11.01 per 1000 SF of GFA	61

Notes:

1. Average trip generation rates have been quoted from the Institute of Transportation Engineers (ITE), *Trip Generation*, 7th Edition, 2003. These rates are intended for the use in estimating the average number of trips that may be generated by a specific land use during a typical weekday. The trip generation rates are representative of weighted averages from studies conducted throughout the United States and Canada since 1960. In some cases, the statistics may not be truly representative of the trip generation characteristics of a particular land use. This table is only for comparison purposes.
2. For the Public/Quasi Public Use, the General Office category for ITE was utilized. It should be noted that reduced use of the building would result in reduction in the estimate of daily trips. For example, if half of the floor area were utilized for offices, the projected daily trips would be reduced to approximately 30 vehicle trips per day.

Based on the uses evaluated in this RDEIR, a public/quasi public use (i.e. municipal/ non-profit) would generate the highest volume of traffic as compared to a residential land use. Traffic estimates for a public/quasi-public use were based on trip generation rates for office uses since there are no public/quasi-public uses identified in the Institute of Transportation Engineers, *Trip Generation*, 7th Edition, 2003; therefore, the average trip generation rate for an office use was used, based upon the assumption that public/quasi-public uses, would have comparable trip generation rates. In addition, since no actual use-specific information, such as number of employees, is currently available, the trip generation estimates identified in Table 4.6-1 were based on total square feet of gross floor area. The Flanders Mansion is approximately 5,500 square feet. Although it is unlikely that the entire Mansion would be used as part of a public/quasi-public use, this RDEIR is based on the information currently available and therefore is considered conservative. Actual traffic volumes associated with a public/quasi-public use of the Flanders Mansion are likely to be significantly less depending on the number of employees, type of public/quasi-public use, and other factors.

Based on the analysis contained above, a public/quasi-public use of the property could have the potential to impact the existing roadway capacity due to increases in traffic volumes. In addition, this type of use could also result in increased traffic that may impact the local residential character of the surrounding area. Increases in traffic would conflict with secondary project objectives related to the preservation of the existing residential character of the surrounding neighborhood. Use of the Flanders Mansion for residential purposes on the other hand would result in substantially less traffic than a public/quasi-public use and is not anticipated to

ENCLOSURE (2) page 1 of 2

substantially impact the surrounding residential character of the area. As a result, single-family residential use of the property is not anticipated to generate additional traffic such that the existing roadway capacity would be exceeded. While both uses analyzed in this RDEIR are consistent with the historical use of the property, public/quasi-public uses have the potential to result in additional traffic. This is considered a potentially significant impact.

In order to ensure that the proposed project would not adversely impact the existing residential character of the surrounding area or result in increased traffic beyond historical levels, mitigation measures are warranted. Specifically, mitigation restricting the future use of the property to either residential or a low-intensity public/quasi-public uses would ensure that traffic-related impacts would be reduced to a less-than-significant level. Consistent with General Plan Policy P2-12, which limits land uses that result in traffic impacts that exceed local road capacity, mitigation has been incorporated into this RDEIR to ensure if the property is sold and subsequently used as a public/quasi-public use, that those uses are restricted to low-intensity uses that are consistent with the historical use of the property. Mitigation measures have been identified in this RDEIR to ensure that potential land use conflicts are minimized, including potential traffic-related impacts. Refer to Mitigation Measure 4.4-1 in **Section 4.4 Land Use and Planning** which requires that the future use of the project site is restricted to low-intensity uses that are consistent with the historical uses of the property. Moreover, the proposed project would also be required to adhere to the City's standards and requirements identified in Title 10 of the City of Carmel-by-the-Sea Municipal Code. Implementation of mitigation identified in this RDEIR would ensure that traffic related impacts would not exceed historical traffic volumes associated with the Flanders Mansion since it was acquired by the City. Traffic related impacts would be reduced to a less-than-significant level through the adherence to mitigation measure identified in this RDEIR. Uses inconsistent with this analysis may result in additional traffic impacts and additional environmental review would be warranted under the requirements of CEQA.

Impact: **The sale of the property may result in future uses that may cause significant impacts to local traffic.** ***This is a significant impact that can be mitigated to a less-than-significant level with implementation of the following mitigation measure.***

Mitigation

Refer to Mitigation Measure 4.4-1 of **Section 4.4 Land Use** of this EIR.

Air Traffic

The project site is not located within an airport land use plan. The nearest airport is the Monterey County Airport, located about six miles east of the site. The proposed project would not change air traffic patterns or in any way create safety risks associated with flights or airport operations. **The project would not impact air traffic.**

Traffic Hazards

The project would not introduce any features that would substantially increase traffic hazards in the area (e.g., dangerous intersections or sharp curves), nor would it introduce uses that are incompatible with existing roadway conditions (e.g., farm equipment). **The project would not result in any impacts associated with traffic hazards.**

TABLE 2-1
SUMMARY OF SIGNIFICANT ENVIRONMENTAL IMPACTS AND MITIGATION

Environmental Impact	Mitigation Measure		Level of Significance After Mitigation
of artifacts associated with a buried site would constitute a significant impact to a potentially significant resource.		necessary, to develop appropriate treatment measures in consultation with the State Historic Preservation Office.	
Construction of the project may result in the discovery and disturbance of unknown archaeological resources and/or human remains.	4.3-4	If human remains of Native American origin are discovered during ground-disturbing activities, it is necessary to comply with state laws relating to the disposition of Native American burials, which falls within the jurisdiction of NAHC (Pub. Res. Code §5097). If human remains of any origin are discovered or recognized in any location other than a burial site, there will be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until: • the county coroner has been informed and has determined that no investigation of the cause of death is required; and • if the remains are of Native American origin, the descendants from the deceased Native Americans have made a recommendation to the landowner or the person responsible for the excavation work for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in PRC 5097.98, or • NAHC was unable to identify a descendant, or the descendant failed to make a recommendation within 24 hours after being notified by NAHC.	Less-than-significant
4.4 Land Use			
Sale of the Flanders Mansion Property would result in environmental impacts due to the permanent loss of parkland that have the potential to conflict with certain goals, objectives and policies identified in the City of Carmel-by-the-Sea General Plan/Coastal Land Use Plan intended on minimizing impacts to parkland and promoting public use of publicly owned parkland.	Mitigation measures have been incorporated into this EIR as part of each topical CEQA section. No additional measures have been identified.		Significant and Unavoidable
Sale of the Flanders Mansion Property could result in higher intensity land uses that could be incompatible with the surrounding Mission Trail Nature Preserve, Lester Rowntree	4.4-1	In order to minimize potential land use conflicts associated with potential future use of the Flanders Mansion Property, the City of Carmel-by-the-Sea shall require through conditions of sale, deed restriction, or similar legally-binding mechanism, that any future use and subsequent sale of the Property be restricted to those low-	Less-than-significant

ENCLOSURE (3) page 1 of 2

TABLE 2-1
SUMMARY OF SIGNIFICANT ENVIRONMENTAL IMPACTS AND MITIGATION

Environmental Impact	Mitigation Measure		Level of Significance After Mitigation
Arboretum, and the Hatton Field residential area.		intensity uses that are consistent with the historical use of the property. Any future use of the Flanders Mansion that is inconsistent with the analysis contained in this RDEIR shall be subject to additional environmental review in accordance with CEQA. Any intensification of use shall require the preparation of a Traffic Impact Analysis, which shall be provided to the County of Monterey Public Works Department for review and comment. These restrictions shall run with the land and shall be legally binding on successor owners/lessees.	
4.5 Parks and Recreation			
Sale of the Flanders Mansion Property would result in the loss locally significant parkland that is considered an integral component of the Mission Trail Nature Preserve.	Mitigation measures have been incorporated into this EIR to minimize impacts due to the sale of parkland. No additional measures have been identified.		Significant and Unavoidable
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.	4.5-1	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 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.	Less-than-significant
4.6 Traffic and Circulation			
The sale of the property may result in the loss of an informal parking area currently used by the general public to access the Mission Trails Nature Preserve and the Lester Rowntree Arboretum. Although not designated as public parking currently, parking in the lower driveway area of the Flanders Mansion Property would be eliminated from public access upon sale of the property.	4.6-2	In order to ensure that adequate public parking is provided, the City of Carmel-by-the-Sea shall provide additional public parking to facilitate visitor access to the surrounding Preserve and Arboretum consistent with the policies of the Mission Trail Nature Preserve Master Plan, prior to the sale of the Flanders Mansion Property. Prior to the sale of the Flanders Mansion, the City shall develop a parking plan to provide at least 3–parking spaces along the existing driveway within the Mission Trail Nature Preserve as demonstrated in Figure 4.6-2. This site shall be surfaced with appropriate materials such as ~~decomposed granite,~~ wood chips or similar. Paved surfaces, such as asphalt or similar, shall be prohibited. Construction of replacement parking shall provide for minimal disturbance to the natural surroundings and appropriate landscape treatments shall be provided to minimize views of parking from the Hatton Fields neighborhood. In the event that grading and/or vegetation-removal activities are required use of non-impervious materials shall be required. Landscape screening shall also be provided to minimize visibility from surrounding residences. Native vegetation	Less-than-significant

ENCLOSURE (3) page 2 of 2

LETTER B: GROUP LETTER (BERTIE BIALEK ELLIOT, DAVID H. ELLIOT, MARIKAY MORRIS, ROBERT G. MORRIS, JERIAN CROSBY, & ALEXANDER C. CROSBY)

B1: The comment states that future use of the subject property for public/quasi-public purposes is not an acceptable alternative for the Flanders Mansion and points to the strong opposition from the surrounding neighborhood for such uses. The preference for single-family residential use for the Flanders Mansion property as expressed by the comments is acknowledged and referred to decision-makers. The commenters further state that the EIR is flawed as it does not consider single family residential use as preferred. The commenters make the following statements to support their opinion of preferred use of the property: 1) introducing a new use to an established neighborhood is contrary to sound land use policy; 2) the Flanders Mansion has a history of single-family use; 3) single-family use can meet the objectives of the City, and the owners would have the financial capability for required upkeep; 4) this use has financial benefits to the City, and 5) there are potential impacts associated with increased traffic in the neighborhood from uses other than single-family residential. The majority of these comments are opinions on the preferred project and are referred to decision makers. The RDEIR and record of analysis of impacts from use as public or quasi public fully addresses all physical impact areas identified in the above list. Economic impacts and financial considerations by the City are beyond the scope of this EIR, as noted in **Master Response 9**.

The majority of these comment letters identify that the Mansion has been predominately used for single-family residential use and that a public/quasi-public use would impact the existing residential character of the neighborhood. A response to this comment is provided in **Section 3.0 Master Responses to Comments, Master Response 4, Single-Family Residential Use Preference**.

It should be noted that if the City Council selects either a sale or lease of the property as a single-family residence, then the use would be consistent with R-1 residential zoning permitted uses, as suggested by the comments. However, the Flanders Mansion property is not currently zoned as R-1. Instead, it carries a parkland zoning designation (P-2). If the City Council selects sale or lease as a public or quasi-public use, the RDEIR contains Mitigation Measures to reduce the impact on the neighborhood to a less than significant level. As discussed in **Section 4.5 Parks and Recreation** and **4.6 Traffic and Circulation** of the RDEIR, after imposition of these Mitigation Measures, the environmental analysis does not find significant, unmitigated impacts on traffic or parking in the area.

B2: The comment specifically identifies that future use of the subject property for public/quasi-public purposes is not an acceptable alternative for the Flanders Mansion due to potential impacts associated with increased traffic. Please refer to **Section 3.0 Master Responses to Comments, Master Response 5, Transportation/Traffic** for further discussion. Mitigation Measure 4.4-1 states "In order to minimize potential land use conflicts associated with potential future use of the Flanders Mansion Property, the City of Carmel-by-the-Sea shall require through conditions of sale, deed restriction, or similar legally-binding mechanism, that any future use and subsequent sale of the Property be restricted to single-family residential or a low-impact public/quasi-public use consistent with the historical use of the property." In the event that future use of the subject property is inconsistent with the analysis contained in the RDEIR, Mitigation Measure 4.4-1 or if new or intensified uses are proposed, additional CEQA and traffic engineering studies, including mitigation for future traffic increases, must be prepared. Please refer to **the Summary Table of Mitigation Measures, Appendix A-1 of this document. Mitigation Measure 4.4-1.**

Additional portions of the comment cite text from the RDEIR Traffic Section and claims a major safety hazard from increased use of vehicular traffic from other uses than single-family. As noted above, Mitigation Measures to reduce the impact on the neighborhood to a less than significant level have been

provided in the RDEIR. After imposition of these Mitigation Measures, the environmental analysis does not find significant, unmitigated impacts on traffic in the area as cited in the analysis under **4.6 Traffic and Circulation of the RDEIR**. No further response is necessary.

B3: The comment reiterates that future use of the subject property for public/quasi-public purposes is not an acceptable alternative for the Flanders Mansion and points to the strong opposition of the surrounding neighborhood for these uses. For this reason, the commenter believes that the EIR should be revised to state a specific order of preference for the City's ultimate sale. The preference for single-family residential use for the Flanders Mansion property, and the requested approach to consideration of sale to specified parties and uses as expressed by the commenters, are referred to decision-makers.

B4: Comment acknowledged. The comment does not raise any environmental issues and no further response is necessary.

B5: Comment acknowledged. The comment does not raise any environmental issues and no further response is necessary.

B6: The comment requests revision in the language in the RDEIR regarding potential traffic impacts. The language provided in the RDEIR is considered consistent with industry standards and no change is warranted. Comment is acknowledged and no further response is necessary.

B7: The comment expresses an opinion regarding the revised priorities of uses as reflected in the letter, requesting that the EIR Environmentally Superior Alternative be revised to prioritize first, Lease for Single Family use, then sale for single-family use, and then consideration of public and quasi public uses. This comment reiterates the writer's opinion that future use of the subject property for public/quasi-public purposes is not their preferred alternative for the Flanders Mansion. Specific comments in the letter referencing preferences and offers of sale are referred to decision-makers.

B7: The comment states that the RDEIR is overall objective and thorough. These comments also state that single-family residential use of the Flanders Mansion parcel should be required, as it is a small area and the majority of the access to the surrounding Mission Trails Nature Preserve would continue to be available to the public.

Letter C

July, 10,2012

To the Members of the Planning Commission:

After reading parts of the EIR addition, I am struck by the language that refers to "disruption of public access" and to impact on existing trails and view shed.

In reality there is no impact on view shed and only a very slight impact on one small trail that can be easily remedied.

I am enclosing the map that was used for information during the Flanders election. The original was the black and white one handed out by Melanie Bilig when she promoted walks in Mission Trail Park to explain why, in her mind, Flanders should not be sold. This map is not quite to scale as is the Figure 4.1-5 map in the EIR, also enclosed, but it gives one a good idea of the views and trails that are not in any way impacted by the sale of the Flanders house. C-1

This is true whether the size of the portion for sale is 1.25 acres or less. Reducing the parcel to .85 acre is all right but it does nothing to increase the public's enjoyment of the Park. C-2

Sincerely,

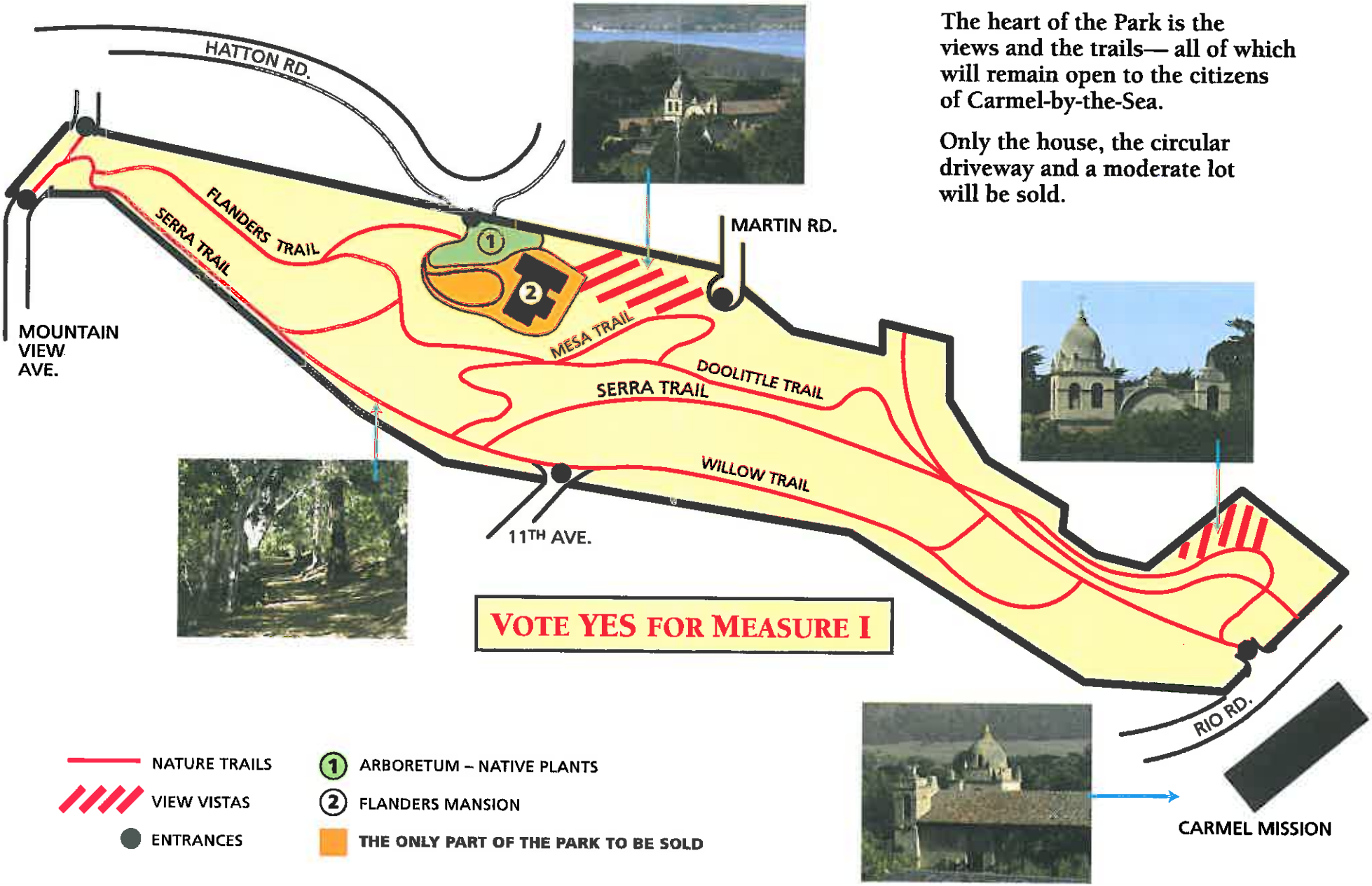
Sarah Berling

Sarah Berling

MISSION TRAIL PARK – PRESERVE IT AND SELL THE HOUSE

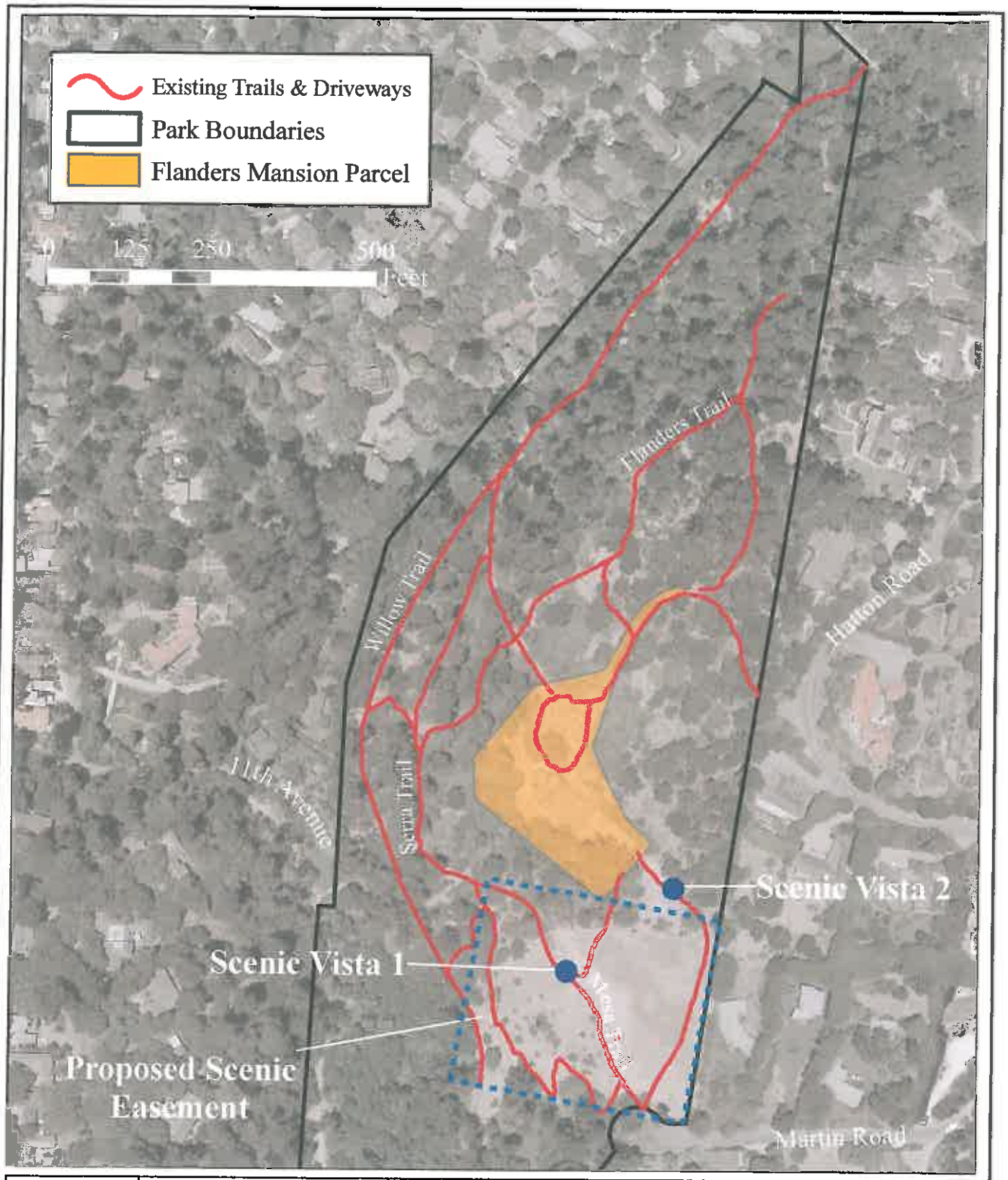
The heart of the Park is the views and the trails— all of which will remain open to the citizens of Carmel-by-the-Sea.

Only the house, the circular driveway and a moderate lot will be sold.



VOTE YES FOR MEASURE I

Committee for Aye on Measure I.



N

Proposed Scenic Easement

Figure 4.1-5

LETTER C: SARAH BERLING

C1: The comment states that there are no impacts on views and only one impact on trails in the Mission Trail Nature Preserve from sale of the Flanders Mansion. The RDEIR also identified that the Proposed Project would result in less than significant viewshed impacts and that impacts to trails would be less than significant with mitigation. Refer to **Master Response 6: Aesthetics** for a full discussion of viewshed impacts in the **RDEIR.** Specifically, long range views to Carmel Mission, Point Lobos, and Carmel Bay from the Flanders Property viewing points are primarily obstructed by the Mansion building or by mature vegetation along the southwestern boundary of the parcel. Views of these features are available from a public viewing area in Martin Meadow to the east and adjacent to the Flanders Mansion parcel boundary, and other areas of the Mission Trail Nature Preserve not within the Proposed Project boundaries. The loss of views from the Flanders Mansion property to these scenic areas is not considered significant because only limited views are available from the property grounds and readily available unobstructed alternate viewing locations are available immediately adjacent to the Flanders property and nearby within the Preserve. The RDEIR also found that loss of short-range views of the Flanders Mansion from the property would not significantly affect the existing visual character of the Mission Trail Nature Preserve. While the public would no longer be able to access the property directly in front of the Mansion, the Flanders Mansion would continue to be visible from a number of locations within the Preserve, including portions of the driveway, Martin Meadow and the Lester Rowntree Arboretum. Alternatives in this RDEIR Revised Alternatives Section further reduce the property boundary in the area of the driveway entrance, enhancing views in comparison to the Proposed Project.

The comment letter addresses trails and also provides a graphical depiction attached to the letter from the RDEIR. (Figure 4.5-1 shows trails/fire roads/scenic vistas and proposed trail replacements). Mitigation Measure 4.5-1 proposes construction of a new trail from the driveway just east of the Flanders property boundary to the Flanders Trail. This is shown on **Figure 4.5-1** of the RDEIR. Park visitors who currently use the driveway and area directly adjacent to the Mansion building to access Martin Meadow can also use trails in the Arboretum/Native Plant Garden to make connections between the Martin Meadow trails located at the South end of the Flanders property and the trailheads along the Flanders driveway that lead North to the Flanders Trail. Thus, the potential for impacts to trails was identified in the RDEIR and suitable mitigation measures identified to ensure that adequate replacement trails are provided to ensure continued use and access to the trail system from the Hatton Road entrance. The mitigation provided reduces potential impacts to the trail system within the Mission Trail Nature Preserve. Please refer to **Section 3.0 Master Responses to Comments, Master Response 7, Parks/Recreation** for further discussion regarding potential impacts to park and recreational facilities. Additionally, Alternatives cited in the RDEIR further reduce potential trail impacts.

C2: The comment notes that there are no impacts on views and only one impact on trails in the Mission Trail Nature Preserve from sale of the Flanders Mansion. It further observes that this would be true whether the lot size is 1.252 acres or reduced to the reduced parcel size. The commenter states an opinion that the reduced parcel size does not further the public's enjoyment of the Preserve. Refer to the Alternatives Analysis for a full discussion of Reduced Parcel Alternatives and potential trails and access.

Letter D

Flanders Mansion Oral Comments
July 11, 2012 Planning Commission Meeting

Joyce Stevens

Rather than making specific comments on EIR, I want to present a couple of ideas. Hard to talk about Flanders without talking about Mission Trail Nature Preserve. Mission Trail Nature Preserve is 31.178 acres, hardly anybody knows about it. It's being smothered by invasive plants and we did a survey in 2004, botanical survey, 150 plants, ½ invasive. Hillsides covered with Genesta. Many maintenance and improvement projects need to be done, sort of the step-child of Carmel. Really unhappy about that. Because of the recent election we do have a grand opportunity to make a fresh start on the seemingly endless Flanders Mansion negative situation with some fresh ideas. Rather than commenting on the EIR options, I want to make 2 recommendations. My first one is for the City to step back and begin a holistic in depth study of the park, including Flanders, because it is a unit and hopefully come up with a plan that considers the highest and best use for this entire glorious little canyon. That is geographically and historically one of Carmel's best assets and very uncelebrated I might add. Mission Trail could expand City recreational and educational goals and fit in perfectly with the Peninsula's plan for inner connectivity with trails and bike paths. There is a lot of local talent and professional consulting that is willing to participate in a holistic, unified over-all study. D-1

My second recommendation recognized the possibility that Carmel is just not fiscally capable or it's programmatically unable to provide the stewardship that the Mission Trail needs. In which case I would consider the transferring either the ownership or management or both of Mission Trail Nature Preserve, including the Flanders Mansion, over to the Monterey Peninsula Regional Park District. Wow, what an idea. They have an excellent stewardship record and they have a policy of helping each community in their district with their preservation goals and to my knowledge they have never done anything for Carmel in their long existence. D-2

Letter E

Skip Lloyd

I will be submitting some written comments but I want to generally outline what would be on my mind. In the court judgment that recently over-turned the most current EIR in part went right to the issue of the size of the parcel and it referred to the CEB, CBE appraisers report and pointed out that the comparable sales that were used to come up with the likely sales price included many parcels in Carmel that are on 50x100' lots and so forth. Quite clearly indicating that you don't need to have a whole lot of land to go with Flanders Mansion to come up with a saleable product. And the point with all of this is what Joyce said, that this should all be looked at from the stand-point of the park. What is the parcel that can be sold that will achieve a reasonable objective but have the least over-all impact on the park. I have some ideas that I will be submitting. So basically the problem with the re-circulated portion of the EIR is that there is not a sufficient range of alternatives presented and that could be done, I think. I will put that forward in written comments but I just wanted to submit that tonight. Thank you. E-1

LETTER D: JOYCE STEVENS

D1: The commenter presented alternative approaches to decision-making for the Mission Trails Nature Preserve and notes that these comments are not specific to EIR comments. Comment acknowledged. No further response necessary.

D2: The comment suggests that the City is not fiscally capable or programmatically able to provide stewardship to the Mission Trails Nature Preserve and proposed alternate ownership and management by the Monterey Peninsula Regional Park District. As the commenter notes that these comments are not specific to EIR comments, no further response necessary.

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Flanders Mansion Oral Comments
July 11, 2012 Planning Commission Meeting

Joyce Stevens

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LETTER E: FRANCIS P. LLOYD, ORAL COMMENTS

E1:

The commenter informed the Commission that he would only be stating an outline of his concerns regarding the size of the parcels under both the Proposed Project and alternatives analysis. He made comments on the economic analysis and questioned the reasonable range of alternatives presented. Commenter noted that written comments would be forthcoming on each of these issues. See **Responses to Comments to Letter F in this document.**

Letter F

RECEIVED

JUL 12 2012

CITY OF
CARMEL-BY-THE-SEA

Comments of Francis P. Lloyd Regarding

Recirculated Draft

ENVIRONMENTAL IMPACT REPORT

For the

SALE OF FLANDERS MANSION PROPERTY

I. Introduction

The recirculated draft (the "EIR"), which was recirculated pursuant to Notice dated June 14, 2012, is deficient for the reasons stated below. Further, as shown below, this EIR appears to be slanted toward justification of the project as proposed by the City of Carmel-by-the-Sea ("Carmel") rather than objectively analyzing circumstances regarding the project and presenting a reasonable range of alternatives to the project, particularly alternatives which would accomplish all of the purposes of the project while producing a significantly better outcome for the environmentally sensitive and valuable Mission Trail Nature Preserve (the "park") of which the Flanders Mansion is a part. F-1

The EIR is recirculated because the California Court of Appeal affirmed the judgment of the Superior Court of California for the county of Monterey holding that the EIR failed to respond to my comment made to the original EIR, stating:

"The FEIR provided no response to this comment's suggestion that a 'reduction in the size of the parcel' would mitigate the environmental impacts of the proposed project."

The Court of Appeal went further in criticizing the failure to analyze this alternative as set forth in Exhibit "A" attached hereto, which is a portion of that opinion. In doing so, the Court of Appeal pointedly criticized the previous EIR because Carmel essentially ignored evidence produced by the City's own expert appraiser which showed clearly that a smaller parcel would not make the residence "unmarketable". This evidence is contained in the CBRE appraisal report, which was the only evidence produced by the City which went to the issue of marketability of the mansion with a smaller parcel than the 1.25 acres the City proposes to sell with the mansion. The Appellate Court noted that the CBRE report used comparable F-2

sales in Carmel of other properties in establishing the value of the mansion with the 1.25 acre parcel which the City proposes to sell. The Appellate Court noted:

"The properties to which CBRE compared the Mansion property for valuation purposes all had much smaller parcels, and the CBRE report characterized the Mansion parcel as 'very large…as compared to most competitive homes in the city.'"

F-2

The comparable parcels in the CBRE report ranged from 6,400 square feet to 14,800 square feet, whereas the City's proposed parcel is 54,537 square feet; the City's proposed parcel thus being approximately four (4) times the size of the largest comparable property in the report. (See page 36 of the CBRE report attached hereto as Exhibit "B".) In addition, the normal legal lot in Carmel is only 4,000 square feet and it is common knowledge, well known to the City, that sales of many homes located on lots of that size in recent years have been at prices in the millions of dollars, depending on their location and other factors, a market which continues today.

Hence, one can readily see why the Court of Appeal has required the recirculation of the EIR.

II. Attempt to Support Narrowing of Use.

The EIR goes to lengths to attempt to illustrate that only two uses would be available on this property.

The Court of Appeal upheld the City's claim that it did not have to analyze potential uses by possible offerees under the Surplus Land Act. Nevertheless, the EIR has an entire section entitled "Alternative Uses under Public Sale", analyzing the uses if such a sale to a public agency were to be made. That section is completely unnecessary. Its purpose, as shown by its content, appears to be to support a claim that the potential uses of the Flanders mansion property are limited to those of a single family residence or limited office space, based, among other reasons, upon historical use and current water restrictions. While the EIR might be correct it this analysis, it is entirely premature because, if the property, which is parkland, is to be sold, it must be offered at that point to certain other public agencies and the outcome of that process is unknown. Thus, this section appears to go outside what was required for recirculation and to have no other purpose than to support a new claim which might be made by the City that potential uses of the property are limited. The City's project, at present, makes no such narrow claim. The City's adopted purposes of the project impose no such limitations, those purposes, as relevant to this section of the EIR , being only to "divest' the

F-3

property (i.e. unload a financial burden to the City) and have the mansion be "productive" (i.e. used for a purpose). F-3

III. Alternatives Selected for further Analysis.

The EIR selects three alternatives for further analysis:

1. Sale with conservation easements and Mitigations.
2. Building only alternative.
3. Reduced parcel alternative.

In analyzing alterative 1, the EIR does not analyze the pros and cons of a long term lease of the proposed 1.25 acres of the property and selling the mansion versus selling and imposing conservation easements on a portion of the property. Long term leases with a lessee buying or building a dwelling on the leased property are well recognized real estate transactions in California and elsewhere. With such an alternative, the City would "divest" itself of the Flanders mansion in the context of the problem it is trying to solve, the main project purpose, and all other project purposes could be achieved. The obvious advantages of such a transaction would be that the City would retain ownership of all of the Park and, at the end of the long term lease, it would receive back in, say 30, 50 or 99 years, the mansion, improved as required, subject only to usual wear and tear suffered after the mansion is renovated. Then, it wished, the City could again "divest" itself of the mansion at a further profit. F-4

From the standpoint of the City, enforcement of conservation easements would be more difficult than insisting upon performance under a lease. The legal remedies in those two instances are different. Enforcement of conservation easements can be difficult and extremely expensive, with outcomes in doubt, depending upon interpretations of the scope of the language of the easements and the nature of an alleged violation of the easement. (See a recent New York Times article on this subject, a copy of which is attached as Exhibit "C".) F-5

Easements must be monitored, another expense to the City and, if the City is not diligent, waivers of terms of conservation easements can occur. Comparison of the legal effects of the two alternative transactions is necessary in the EIR to inform decision makers and the public.

The EIR argues that a sale with conservation easements is a "reduced parcel alternative". A sale with conservation easements was analyzed in the previous EIR. Thus the statement that a sale with conservation easements is a reduced parcel alternative is unsupportable. In the previous EIR, that alternative was analyzed. The Court of Appeal held (see above) that there was NO analysis in the previous EIR of a reduced parcel alternative, thus finding, impliedly F-6

if not expressly, that a sale with conservation easements is not analysis of a reduced parcel alternative. F-6

In summarizing its analysis of the sale with conservation easements, the EIR states that such an alternative would meet the primary project alternative, but only a majority of the secondary project alternatives. (i.e. the EIR admits that this alternative will not meet ALL of the project alternatives. F-7

In analyzing the reduced parcel alternative (item 3 above) the EIR makes one unexplained assumption in its selection of the parcel for its analysis: No parking is included in the EIR as is included in the project, located in the area opposite the Rowntree arboretum (the "Arboretum") (page 6-34.) Then, it is argued that this reduced parcel alternative is not as preferable as the proposed project because of lesser public parking being provided. The arbitrary assumption in defining the alternative simply creates an issue regarding parking, apparently to make the reduced parcel alternative less acceptable than the proposed project alternative regarding parking. F-8

In analyzing the reduced parcel alternative, the EIR analyzes only one proposed reduced parcel. This is insufficient as there could be many reasonable reduced parcels. A primary consideration in the entire matter of this project is the protection of the Park and its amenities. In selecting reduced parcel alternatives for analysis, the matter must be viewed from the point of view of what is the very best for the Park. Thus, a professional analysis of the Park use, the best means of ensuring its integrity, what public uses are critical to retain, what portions of the property are important for the City to retain, what project would retain within its the boundaries of much of its present area as much as possible, how trails should be laid out for best effect, the nature and extent of restriction on planting in and fencing (location, height, type) within and around a parcel, at a minimum, is needed for the an analysis of the benefits of a reduced parcel alternative as opposed to the proposed project property of 1.25 acres. Without such an analysis, performed by a professional park executive, park architect and landscape architect, the City may accept risks to its unique and valuable Park. The EIR should contain such an analysis, so that the decision makers and the public can understand the environmental trade offs the sale of the proposed project property may entail and the potential benefits of a reduced parcel alternative as opposed to the sale of the proposed property. F-9

Attached hereto as exhibit "D', for purposes of illustration, is a rough diagram of one possible reduced parcel alternative. (A professional analysis as suggested above would present an analysis and renderings of suitable alternatives.) A reduced parcel alternative such as is suggested in Exhibit "D" has numerous benefits to the City and the Park: F-10

1. The City would retain ownership of all of the land on which very significant trees are located, thus retaining exclusive control of management of these trees (compare issues

with conservation easements if this is not done). If the City retains this land, it could enter into agreements with a purchaser of the Mansion on a reduced parcel for tree removal and trimming which could enhance the attractiveness of the views from the Mansion, while retaining the integrity of the Park. (It should be noted that this is a very important issue, as shown in the City's Mission Trail Nature Preserve Master Plan, which calls for removal of non-native flora from the Park, an issue of which the City should retain control.)

2. The public, currently and extensively, uses parking in the vicinity of the Mansion. This use has become more extensive in the past three years. One reason for its increased use in that the popularity of professional dog walkers has become widespread and the Park has evolved into a primary destination for many of these, often with multiple dogs at one time. The area adjacent to the Mansion is a wonderfully convenient disembarking area for these dog walkers, as well as for the many, many people who walk their own dogs in the Park. A properly designed reduced parcel could retain this important public amenity provided by the Park. The area in the vicinity of the Mansion also is the only practicable place for handicapped persons to disembark and enjoy the Park by use of its primary road/trails. F-10
3. The transition to and from the"meadow" area to the west of the Mansion house and the Arboretum would be enhanced immeasurably.
4. The obnoxious cypress hedge which the City has allowed to reach enormous and unnecessary height and width could be eliminated beyond a new property boundary of a reduced parcel. This would enhance, unmeasurably, the Park's views and the public enjoyment of the Park.
5. Trails would be enhanced.
6. Provides a trail access point for persons disembarking from vehicles to west of reduced parcel.
7. Retain fire road access intact.
8. Maintains parking area option in area of Arboretum.
9. Retains ample parking and turn around area for a buyer of Mansion.
10. Provides an ample parcel for a buyer of the Mansion. (In this regard, refer to the CBRE report regarding size of comparable properties fetching high prices in Carmel.)
11. A buyer of a reduced parcel would be obtaining a unique parcel with unmatchable views.

In analyzing alternatives to the sale of a 1.25 acre parcel, the parameters of the project purpose are important to keep in mind. The main purpose of the project is to "divest" the City of the property, in order to unburden the City from the expense of the property and its updating. Therefore, a purchase should only require that a buyer pay something for the property (one dollar?) and then fix up the Mansion and use it (say, as a personal residence). There is no objective that the City obtain a high or any particular measure of price for the property. As the CBRE report suggests, it is only necessary to have the property be "marketable". The EIR F-11

recognizes this, implicitly, wherein it states that "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" (Page 6-2 of EIR.) (Incidentally, it is unclear why the section of the EIR entitled "Alterative Properties/Locations" is included in the EIR at all.) Assuming F-12

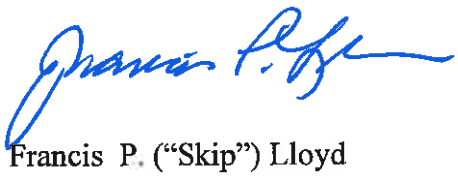
that a reduced parcel is marketable, which would seem to be a given, a reduced parcel alternative meets all of the project purposes except having the parcel to be sold with the Mansion be a defined parcel of 1.25 acres. It is hard to understand why the City would want to sell a larger parcel when all of its other objectives can be obtained by the sale of a smaller parcel and the only effect of selling a larger parcel would be to damage and reduce the Park. (Historically, it should be noted that the 1.25 acre parcel was surveyed after the plan to sell the Mansion started forward and that the purpose of that survey was to carve out of the Park, at the expense of the Park, a nice, estate size, piece of property which would, presumably, maximixe the City's sales proceeds.) The City's own evidence is crystal clear, as the Appellate Court correctly pointed out, that the City very likely can sell the Mansion and get a reasonable sum without selling a parcel as large as 1.25 acres with it, or without the entire surveyed parcel being sold with it. F-13

A proper analysis of all reasonable reduced parcel alternatives is needed and required by CEQA in this case. The EIR must be extended to provide this. It does not exist in the present document out for circulation for comments. The City and the public need to know, in order to be informed in reaching a decision on whether or not to proceed with a project involving a sale of 1.25 acres, what all of the reasonable alternatives may be, so a decision can be made regarding whether or not it makes any sense at all to sell a parcel of 1.25 acres with the Mansion, given the other purposes of the project other than mere size of the accompanying parcel. In order to be F-14

informed, the decision makers and the public need a proper and expert review of possible configurations, and potential uses of the portions of the Park not sold in a reduced parcel alternative. (This is not the first time it has been suggested to the City that such an analysis should be undertaken in order to protect this valuable Park. See Exhibit "E" attached hereto). F-15

(NOTE: THE UNDERSIGNED RESERVES THE RIGHT TOMAKE FORTHER COMMENTS WITHIN THE EXISTING COMMENT PERIOD, IN WHICH CASE THE WITHIN COMMENTS SHOULD BE CONSIDERED PARTIAL COMMENTS OF THE UNDERSIGNED.)

Dated: July , 2012



Francis P. ("Skip") Lloyd

B. Comment Regarding Size of Parcel

The second basis upon which the trial court upheld the Foundation's challenge was the court's finding that the FEIR had failed to adequately respond to a comment suggesting that the City consider, as an alternative, selling the residence with a smaller parcel of land than the 1.252-acre parcel that the City proposed to sell.

When a comment raises a significant environmental issue, the lead agency must address the comment "in detail giving reasons why" the comment was "not accepted. There must be good faith, reasoned analysis in response. Conclusory statements unsupported by factual information will not suffice." (CEQA Guidelines, § 15088, subd. (c); *Laurel Heights Improvement Assn. v. Regents of University of California* (1993) 6 Cal.4th 1112, 1124 (*Laurel II*).)

After the DEIR circulated, the City received a comment that stated: "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 FEIR provided no response to this comment's suggestion that a "reduction in the size of the parcel" would mitigate the environmental impacts of the proposed project. The trial court found that the FEIR was inadequate in this regard.[9]

The City contends that it was not required to respond to this comment because, "[t]hrough the imposition of the conservation easement, the total usable land area would be reduced to 0.752 acres consisting of several lawn areas immediately adjacent to the

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[9] The trial court's statements were rather amorphous. As to the size of the parcel to be sold, the court stated: "To the extent this response is deemed inadequate, the future consideration of the City Council will include the essential information requested." As to the size of the parcel to be leased, the court stated: "As noted in the response to the comment about a reduction in the size of the parcel if the Mansion is sold, the City must analyze the foreseeable impacts that may result if an agency buys or leases the Mansion, to the extent the response to leasing a smaller parcel is deemed inadequate, any future consideration by the City Council will include the essential information requested."

EXHIBIT "A"

house and the circular driveway." "The alternative of reducing the parcel size does nothing more than what is already done by virtue of the conservation easement." The City argues that this "mitigation was sufficient," so it was not necessary to address the matter in the FEIR. In its view, "[i]t [was] completely reasonable for the City to have determined, as it did, that a further reduction of the lot size is not viable and would essentially leave the mansion without any land and thus be unmarketable."

The City's attack on the trial court's finding ignores the obvious. The City provided no response whatsoever in the FEIR to the comment's suggestion that the residence could be sold with a smaller parcel even though the comment raised a significant environmental issue. Since the proposed project would have an unmitigated significant environmental impact by eliminating parkland, the comment's suggestion reasonably questioned whether that impact could be reduced by reducing the size of the parcel. The City's obligation under CEQA was to explain in the FEIR "in detail giving reasons why" the City was not considering the sale of the residence with a reduced parcel. The City made no effort to satisfy its obligation. Its effort to conjure up reasons now is too late.[10] The purpose of CEQA is to inform both the public and the decisionmakers, *before the decision is made*, of any reasonable means of mitigating the environmental impact of a proposed project. The City's failure to respond to this

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[10] It is worth pointing out that the City's attempt to address the comment's suggestion on appeal is not supported by the record. The conservation easement merely prohibited visual barriers on certain portions of the parcel; it did not preserve any portion of the parcel as publicly accessible parkland, which was the unmitigated environmental impact at issue here. The CBRE report, which was the only evidence regarding the marketability of the Mansion property, strongly rebuts the City's suggestion that a smaller parcel would make the residence "unmarketable." The properties to which CBRE compared the Mansion property for valuation purposes all had much smaller parcels, and the CBRE report characterized the Mansion parcel as "very large . . . as compared to most competitive homes in the city."

significant comment violated its duty under CEQA, and the trial court correctly found that the City's certification of the FEIR was therefore invalid.

SUMMARY OF RESIDENTIAL SALES

Comp. No.	Property Location	Date of COE	Size (SF) and Type	Year Built	Land Area (SF)	Land Area (Acs)	Floor-Area Ratio	Price	Price/SF of Livable Area	Comments
1	NEC Dolores @ Santa Lucia Ave, Carmel, CA	9/16/08	2,420 3 BR / 3.5 BA	Approx. 1920	6,400	0.15	37.8%	$3,550,000	$1,467 PSF	View property on north side of Carmel. Sloping terrain; deck and excellent quality interior finish.
2	SWC San Antonio Ave @ 8th Ave., Carmel, CA	4/25/08	2,159 3 BR / 2 BA	1973	4,000	0.09	54.0%	$3,467,500	$1,606 PSF	Well-located property near Carmel beach with views; Avg. quality interior finish.
3	26530 Camino Real, Carmel, CA	3/19/08	2,694 5 BR / 4+ BA	1953	10,000	0.23	26.9%	$2,300,000	$854 PSF	Limited views; good quality ranch home in good condition. Located on the south side of Carmel.
4	2 SE 8th @ Casanova, Carmel, CA	2/19/08	3,220 6+ BR / 4+ BA	1906	8,384	0.19	38.4%	$2,764,000	$858 PSF	B&B located near downtown Carmel with some views. Average quality and condition.
5	26243 Ocean View Ave., Carmel, CA	2/29/08	4,140 4 BR / 4+ BA	2001	4,144	0.10	99.9%	$4,600,000	$1,111 PSF	Renovated two-story contemporary home with elevator and ocean views; excellent quality and condition.
6	24610 Castro Ln., Carmel, CA	2/8/08	3,400 5 BR / 3.5 BA	Approx. 1910	9,900	0.23	34.3%	$2,315,000	$681 PSF	No views; good quality deck and interior finish; good quality home located on the north side of Carmel
7	2900 Santa Lucia Ave., Carmel, CA	Listing	5,500 4 BR / 4+BA	1955	14,520	0.33	37.9%	$3,350,000	$609 PSF	Estate home site sold with plans; similar location. All utilities available; no HOA
8	3263 Taylor Rd., Carmel, CA	Listing	3,986 5 BR / 3 BA	1953	14,800	0.34	26.9%	$3,350,000	$840 PSF	Hatton-Fields location; Good quality & condition. No views.
Subject	Flanders Mansion, Carmel, CA	N/A	6,019 6 BR / 4.5 BA	1924	54,537	1.25	11.0%			

Compiled by CBRE

EXHIBIT "B"

Insurance Firm Is Set Up for Land Trusts, Which See Legal Costs Soaring

By FELICITY BARRINGER

NEW LONDON, Conn. — The $4 million estate on the Connecticut River in Lyme had everything: a six-bedroom home, a pool and a dock, all surrounded by 17 acres of native meadows, brush and woodlands. It also had a decades-old conservation restriction, held by the local land trust, requiring the property to remain largely in its "natural wilderness" state.

But after buying the land in 2007, Brian and Beverly Platner went for a more manicured look, installing a sweeping lawn and gardens with sculptured borders.

The Lyme Land Conservation Trust was not pleased, and in 2009, it sued to enforce the restrictions, which were adopted in the 1980s. In turn, the Platners sued the trust's president, accusing him of defaming them.

When landowners defy established conservation restrictions — and informal resolution efforts fail — the country's 1,700 or so land trusts find that they have little option but to take them to court. "Whoever holds the easement has an absolute responsibility to defend it," said Darla Guenzler, executive director of the California Council of Land Trusts.

But some trust officials worry that the litigation costs could ruin their largely volunteer organizations and erode their ability to protect land. The national Land Trust Alliance came up with the idea of creating an insurance company to help trusts with legal costs, and it petitioned the Internal Revenue Service to grant the new company, called Terra Firma, nonprofit status. On Thursday, the I.R.S. approval came through.

In East Haddam, Conn., defending one case against a landowner took almost a decade and cost the local trust $415,000, about half of which was covered by insurance. "It nearly brought us to our knees," said Anita Ballek, a cofounder of the East Haddam Land Trust.

The wave of lawsuits is rooted partly in the rapid expansion of the trusts. Many took advantage of bargain prices during the recession and significantly increased their holdings — with the total protected acreage nearly doubling to 47 million acres in the decade ending in 2010, according to a census by the Land Trust Alliance. At the same time, trust officials said they began noticing a new disregard for their covenants, particularly among the wealthy.

"It's unfortunate that this is happening more often," Leslie Ratley-Beach, the conservation director of the national alliance, said in a recent interview. "But that is something we expected as the land that's conserved changes hands."

Mobilized by its California members, the alliance began raising money to start the insurance company. So far it has raised $3 million of the $4 million required.

Terra Firma will sell policies providing up to $500,000 in legal coverage to 1,000 or more small trusts around the country. Annual premiums for land trusts would be $60 per landholding or easement. More than 460 smaller trusts have already signed up.

An exact count of legal challenges around the country is not kept. But a 2009 poll by Adena R. Rissman, an assistant professor of forest and wildlife ecology at the University of Wisconsin, showed that about 47 percent of trusts surveyed had faced a significant legal challenge or easement violation. She found that the average cost of such legal challenges for trusts was $37,700.

A Land Trust Alliance fact sheet said that 85 percent of trusts had budgets under $250,000, fewer than 20 had legal defense funds of $70,000 or more.

The idea of land trusts dates back a century, but it was after World War II, when housing development surged, that the practice of private groups preserving native landscapes took off. In the past three decades, hundreds of new trusts have been created.

Among the incentives for donors of conservation easements are one-time tax deductions. In return, the I.R.S. seeks to ensure that the land is conserved "in perpetuity." The consequences of breached conservation easements are far reaching, experts say. If too many are abrogated, future proposals may face more skepticism from the tax authorities.

Jessica Jay, a Colorado lawyer who founded the firm Conservation Law PC, explained, "It's just at the point when the easement transfers from the original grantor to a successor that we need to be sure the permanence is there."

There has been a rich variety of other cases. In Washington State, a landowner was jailed briefly last year after he was found to have repeatedly strung zip lines on protected land and sold rides. Near North Carolina's Cold Mountain, a gravel ford was built over a protected trout stream to simplify access to a neighboring property. New owners of conserved land in Ohio sued the local trust, arguing unsuccessfully that the previous owner was senile when she donated the 28 acres and that they should thus be allowed to build 39 houses there.

Land trusts usually win in court — though many cases are settled, according to alliance records. One common denominator: the wealth of the property owners challenging restrictions.

In 2001, Timothy Mellon, the owner of the small Goodspeed Airport in East Haddam, cut down 300 trees on c[illegible] served wetlands near his runway, [illegible] cording to a judicial ruling in the case.

Mr. Mellon, the son of the philanth[illegible] pist Paul Mellon, argued in court pape[illegible] that federal aviation laws regardi[illegible] runway obstacles trumped conserv[illegible] tion restrictions. Despite a decade of l[illegible] igation, his argument did not preva[illegible] Mr. Mellon's defamation claims again[illegible] land trust officials were also dismissed.

A lawsuit was filed in Vermont involv[illegible] ing a conservation easement adjoinin[illegible] a vacation home that Jonathan Roth[illegible] berg, an entrepreneur and scientific pio[illegible] neer of rapid genome sequencing [illegible] bought near the Harriman reservoi[illegible] The Vermont Land Trust's 2003 sui[illegible] claimed that 50-foot trees on the conser[illegible] vation easement were cut, improving [illegible] the home's view and extending its lawn.

Dr. Rothberg and the previous landowner deny cutting protected trees. Dr. Rothberg said he was abiding by an out-of-court settlement. "We stopped mowing the grass, we planted seeds and haven't heard anything since," he said.

Battles are inevitable, said Annette Lorraine, a lawyer with the Land as Legacy consultants group in Montpelier, Vt. "Even an easement written today with the best knowledge that land trusts have will be challenged, just because some lawyer will tell a client that they can beat this," she said.

In the countersuits over the Platners' property, neither side is talking. The defamation suit against the Lyme trust's former president, George Moore, cited his public remark that the Platners "have chosen to disregard the easement and do what they want when they want."

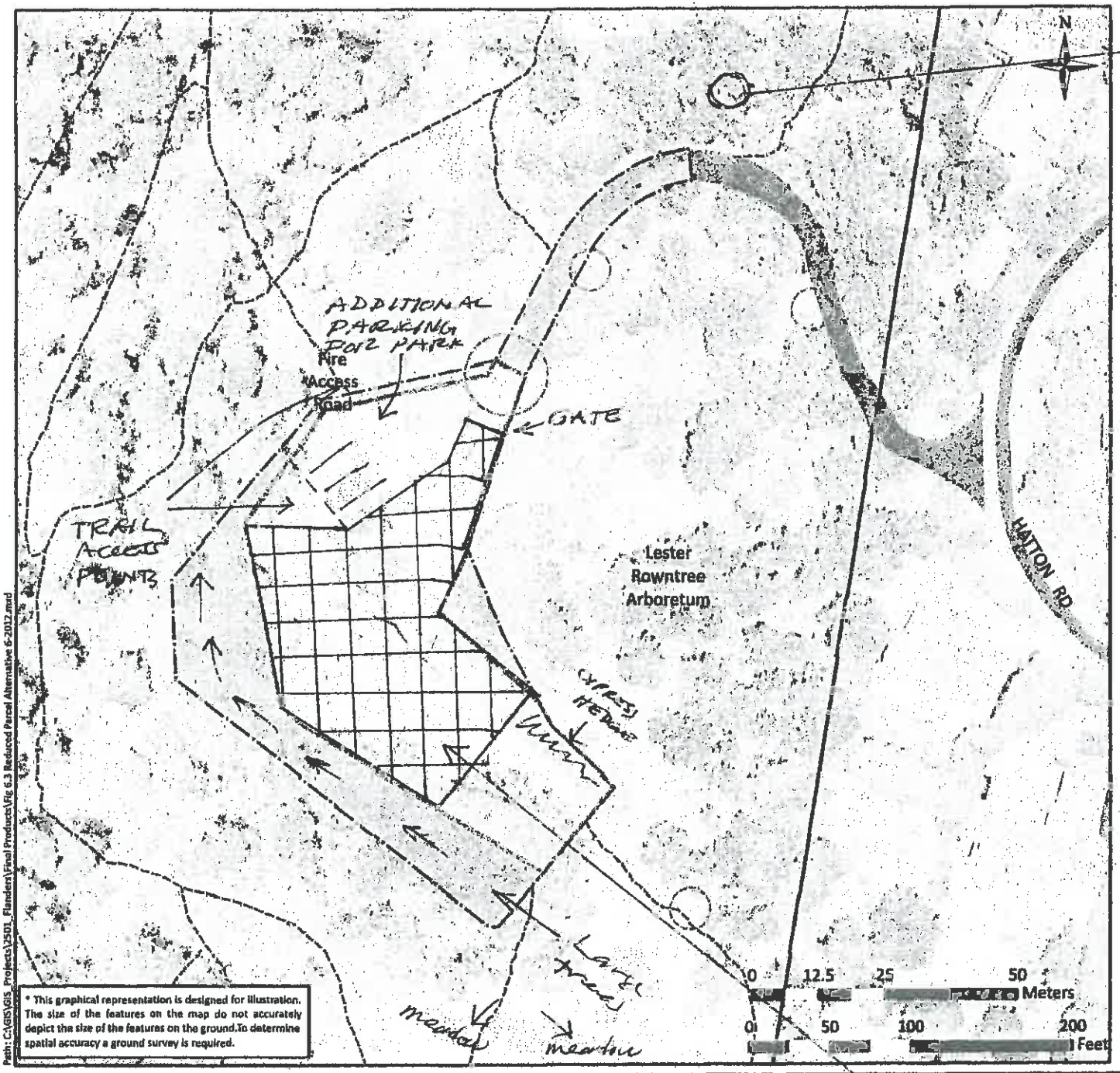
Mr. Moore declined to comment on the case, but the alliance's 2010 annual report gives his account. The Platners claimed in court papers that the restrictions were invalid and that no "natural and native grasses and vegetation" were there to begin with. Their lawyer, Steve Karlson, said they were overseas and would not discuss the case because settlement talks were under way.

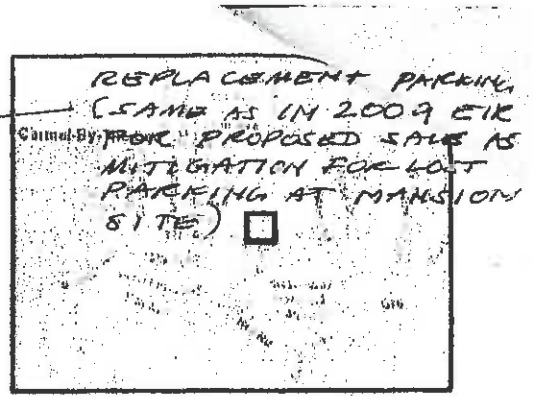
GEORGE RUHE FOR THE NEW YORK TIMES

A suit over tree cutting around this Vermont property was settled out of court, said the owner, Jonathan Rothberg.

EXHIBIT "C"

EXHIBIT "D"





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

Date: 6/8/2012

Figure 6.3

* 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.

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

FIGURE 6.3 - REDUCED PARCEL ALTERNATIVE

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

SHADED AREA = REDUCED PARCEL

Francis P. ("Skip") Lloyd
25785 Hatton Road
Carmel, California 93923

February 6, 2009

William Strid, Chair
Carmel Planning Commission
City Hall
Carmel-by-the-Sea, California

RECEIVED
FEB 11 2009
CITY OF
CARMEL-BY-THE-SEA

Dear Bill:

Unfortunately, I will be away on vacation at the time of the Planning Commission meeting to be held on February 11, 2009, when the adequacy of the new Draft EIR for the divestment of the Flanders Mansion and 1.252 acres surrounding it is to be considered. Enclosed are my comments which I submit for consideration at that meeting.

Thank you for your consideration.

Francis P. ("Skip") Lloyd

EXHIBIT "E"

[illegible] need for assuming that such would be required by all buyers or lessees. [illegible] perty has been used, ever since its original acquisition since the City acquired it 36 [illegible] thout any fences or walls being erected. The only fences have been very minimum, ranch [illegible], fencing at the perimeter of MTNP itself.

9. The project purpose simply is "divestment" for the stated purposes. A lease which would remove the burden of the costs of repair and rehabilitation would be feasible without parting with the house and 1.252 acres, because these burdens could be met with a modest rent. It is only the structure itself which is an alleged burden, not the 1.252 acres. The financial analysis of all possible leasing alternatives is required in the EIR.

10. In order to analyze the impacts of lease or sale, the nature of any fences, gates and walls which are contemplated in the transaction need to be determined: i.e. what will the City allow? Without this determination as part of the project at this time, reflected in the EIR, the public and decision makers cannot evaluate the impacts of "fencing, walls, etc.", as the variety of such improvements is very broad (i.e. masonry, barbed wire, wood, grape stake, etc.)

11. The impacts, in general, upon the preserve are not sufficiently analyzed: None of the impacts has been analyzed by an expert regarding management of public parkland, who is qualified to assess the impacts of sale or lease, or the effectiveness of particular mitigation, to preserve important amenities of MTNP and the public uses of it. Absent such an analysis from this point of view, analyses of many potential impacts of "divestment" of the property are uninformed speculation and the efficacy of conservation easements to protect these amenities cannot be evaluated adequately.

12. The selection of the lease alternative as the environmentally superior alternative that also meets the primary project objectives cannot be evaluated without input regarding the feasibility of that alternative. The EIR in paragraph 2.4 states that a sale with conservation easements and mitigations would be considered the environmentally superior alternative to the lease alternative. The lease alternative is insufficiently analyzed in the draft EIR. The City has commissioned a consultant to review the issue of feasibility of leasing the subject property. The report of that consultant has not yet been produced. An EIR without inclusion of that report deprives the public of the ability to assess the lease alternative.

13. The analysis of the impact of the project on the recreation facilities, including loss of access to the project property, is not analyzed completely. The analysis of the impacts to the surrounding trail access of Mission Trails Nature Preserve and the loss of access to the property itself and loss of the park land itself is incomplete. The analysis is based upon the historical use of the property described in the DEIR as "routinely used by the general public for passive recreational purposes" and, further under "direct impact" on page 4.5-5. This analysis is not sufficiently broad in its scope. The Carmel General Plan/Coastal Land Use Policies provide that the City shall undertake to not only preserve but "enhance" the park, including the parcel which is proposed for sale (see General Plan Goals, Objectives, and Policies G5-13, O5-41, P6-8, Paragraph G7-1, O7-1, O7-2, P7-3.) It is well recognized that the City has failed to maintain and enhance Mission Trails Nature Preserve for many years, and the subject 1.252 acre property, in particular, in spite of these General Plan/LUP policies and the Mission Trail Nature Preserve Master Plan. The impacts to the public of a sale of the Flanders parcel should be evaluated in view of the benefits to the public which should have occurred as a result of proper implementation of the said objectives and policies. Had the City carried out its obligations under the General Plan/LUP, it would have "preserved " and "enhanced" the public benefits from ownership of the Flanders parcel through removal of visual and physical barriers which are unnatural and are not part of the historical aspect of the Flanders property. For example, the City has allowed non-natural eucalyptus trees, as well as other trees, both large and small,

Francis P. ("Skip") Lloyd
25785 Hatton Road
Carmel, California 93923

March 23, 2009

Mayor Sue McCloud
Members of the City Council
City Administrator
City Hall
Carmel-by-the-Sea, California

VIA HAND DELIVERY TO CITY HALL

Re: Project: Sale of the Flanders Mansion Property

Dear Sue, Paula, Gerard, Ken, Karen & Rich:

It remains to be seen what you will decide about the fate of the 1.252 acres of Mission Trails Nature Preserve ("MTNP") (the "Property") and the Flanders "Mansion" which sits upon that site: Whether, all or in part, to sell it, to lease it or to do neither of those things. Whatever the resolution, a critical part of it should include a carefully planned preservation and enhancement of the unique qualities of MTNP in its upper area in the vicinity of the Mansion, as mandated by the City's general plan.

As you know, MTNP was the subject of the Mission Trails Nature Preserve Master Plan, which is an appendix to the city's General Plan, from which much of the policy in the General Plan was derived, even largely adopted verbatim. These goals, objectives and policies are part of the City's Local Coastal Plan ("LUP") and are referenced in the recently issued draft environmental impact report ("DEIR"), commissioned by the City as part of the Environmental review process with respect to consideration of the sale of the Property and the Mansion. (see excerpts from the DEIR attached). These provisions are the mandate that the City act appropriately regarding MTNP: (See G5-3, P5-46, G5-6, 05-21, P5-108, G5-8, P5-124, P5-139, 05-33, 05-36, P5-159, G5-13, 05-41, P6-8, G7-1, 07-1, 07-2, P7-3). Carrying out these mandates properly and sensitively will provide an enormous benefit to the public, including visitors to Carmel, will enhance an important resource of the city and leave an important legacy for the future. Abdication of responsibility for carrying out this mandate would be a lasting, inimitable shame.

A review of the DEIR reveals a serious omission: There has been no professional study of the effect of a sale or lease on MTNP, especially the upper part of MTNP surrounding and in the vicinity of the Property, including the Property, or of the effects of a sale or lease on the public's enjoyment of MTNP and how these effects can be minimized. To guide the decision makers regarding this project, a study should be commissioned by the City, to be conducted by a very well qualified, professional and independent expert on parks. Such a study should commence with review of Carmel's General Plan and the MTNP master plan and recommend the nature and extent of protections to be put in place, such as conservation easements and facade easements

(regarding the appearance of the Mansion) as would provide for maximum enhancement of the amenities and enjoyment of MTNP. The study would be from the viewpoint of preserving and enhancing MTNP, rather from that of enhancing the prospects of recovery of money from the sale of the Property. Such a study is warranted in order to provide full knowledge of the potential effects of the City's action, including those which would result from the lack of appropriate mitigations which might have been imposed in connection with a sale or lease.

Despite the mandates of the general plan that the City "enhance" its open space and parks, "optimize public use" of its parks, "enhance" areas of scenic interest and encourage increased use of open space, the City has been and is delinquent in following the mandates of the general plan, including in the area of MTNP consisting of the Property and the area surrounding it. A proper study would reveal what should be done (or should have been one) to carry out the City's policies with respect to MTNP, rather than just accept conditions as they exist, which are in a neglected and deteriorated, not an "enhanced", condition. Such a study would provide the City with the basis for decisions regarding retention of the Property or its sale or lease, with such conditions and conservation and facade easements as will serve to enhance MTNP for the future, in the interests of its citizens.

There is precedent for authorizing this study: In the course of the effort to sell the Property, the City recently has commissioned outside consultant's studies regarding aspects of the repair, maintenance and possible lease of the Property. These include a $40,000 study regarding the propriety of leasing the Property and $11,500 for a review of the cost of fixing up the Mansion, bringing the City's payment to outside services on this project to over $557,000 (see list enclosed). In light of the huge amount of money the City has already put into this project, including the expense of experts in other subjects, spending the necessary money on a proper study, as suggested herein, by a qualified, independent park or landscape consultant, would not appear to be an unfounded expense in connection with this project.

I strongly request that whomever is making the decisions regarding responses to the comments submitted with respect to the DEIR require that this study be done, as part of preparation of the final EIR for the project. In that way, the public and you, who are the ultimate decision makers regarding the project, would be fully informed of the consequences of your actions and what benefits to MTNP can be achieved. This is the purpose of the environmental review process and a truly professional study may help to bring about a very positive result of preservation and enhancement of this unique and important part of MTNP.

Thank you for your attention to this.

Very truly yours,

Francis ("Skip") Lloyd

(Note: For your information, this suggestion was made in the undersigned in response to the DEIR, a copy of which is enclosed.)

COMMENTS OF FRANCIS P. ("SKIP") LLOYD
TO CITY COUNCIL OF CARMEL-BY-THE-SEA
RE: CITY COUNCIL MEETING REGARDING THE "FLANDERS PROPERTY"
HELD ON APRIL 28, 2009

These comments are separated into (1) comments regarding the adequacy of the EIR, (2) comments regarding consistency of sale of the "Flanders Property" with the general plan of the City of Carmel and (3) suggestions regarding action by the City Council with respect to sale or lease of the Flanders Property.

I. Adequacy of the EIR

A. Intensification of Use

In assessing the adequacy of the EIR, the following background is necessary:

Since 1971, when the City acquired the Flanders/Doolittle property which now comprises Mission Trail Nature Preserve, including the property described in the EIR as the "Flanders Property", comprised of 1.252 acres surveyed later out of the Mission Trail Nature Preserve ("MTNP"), the MTNP has entirely been used as a park. This fact was confirmed by the order of the Superior Court which overturned the previous attempt of the City to sell the property without holding the required public vote, based upon the City's former erroneous contention that the "Flanders Property" was not "parkland" of the City of Carmel.

Sale of the Flanders Property, composed of the "Mansion" and the arbitrarily created a 1.252 acre parcel within MTNP, would be an imposition of a new use, as the Flanders Property will lose its status as parkland and become an exclusively residential property within the MTNP. This new use would be created on an estate size parcel, the size of which is out of keeping with the Hatton fields area.

As a result of this intensification of use, there will be two uses within MTNP, the traditional park use, with the additional overlaying use of a large residential estate in the upper portions of the park. This intensification of use carries with it environmental effects associated with the overlay of this new use on top of MTNP, creating adverse impacts associated with the introduction of this intensified use and the continuation of the traditional park use of MTNP. This intensification of use has results not covered by the EIR.

B. Significant New Information

"Significant new information" was issued by the City after the close of the comment period on the Draft EIR ("DEIR") which, under "CEQA" which requires a recirculation of the DEIR. This new information is in the form of the "CBRE Flanders Mansion Property-Economic

general plan policies. It was not previously known to the public that this staff report was available, as no public notice was made of it, and, despite a request made at the hearing itself, the planning staff could not produce a copy of the staff report for members of the general public, including myself, who made a specific request for a copy of it at the hearing. Apparently there were no copies available, even at the hearing and it did not appear that any planning commissioner, staff or consultant had a copy available at the hearing for viewing. Therefore, comments made regarding the inconsistency of the proposed project with the general plan could not be made in response to the staff report. This was a highly unusual situation.

Presumably, this staff report is the same as that presented to the City Council for today's meeting. This staff report rationalizes the apparent inconsistency with the general plan by using references to the "Outlands property" in the general plan, which references infer that the City might not retain the "Outlands property". While this rationalization might seem logical with respect to the "Outlands property", the "Outlands property" is not shown to be the "Flanders property" which is proposed to be sold. This is shown by the fact that the original survey of the property surrounding the Mansion was .83 acres (i.e. the "Outlands property") not the 1.252 acres the City now proposes to sell as the "Flanders property". See Letter #42 to the 2005 EIR for Greg D'Ambrosio former Assistance City Administrator of the city of Carmel, attached hereto. (Note: All comments in 2005 EIR were considered in preparation of the 2009 EIR)

III. General Comments Regarding the Project

The project of sale of the "Flanders Property", the 1.252 acre parcel selected in order to maximize financial return to the City from sale of the Mansion and parkland, not designed to merely "divest" the City of a financial problem associated with the Mansion, is not the superior environmental alternative for reaching the goal of making the Mansion "productive" as defined in the amended project purposes. This subterfuge is obvious from the change in the project purpose from the 2005 EIR and the 2009 EIR, but no change in the project. In short, the city is still offering 1.252 acres of MTNP for sale, hoping to reap a large financial windfall, rather than adopting a low impact solution to the maintenance needs of the Mansion itself. The decision makers with regard to the project did not and don't have sufficient information before them in the record to enable them to make an informed judgment, because of the deficiencies in the EIR. The project, as conceived, is inconsistent with the City's general plan and, as proposed, should be rejected in favor of a lease alternative for a low impact use, including single family residential use of a smaller parcel, with appropriate scenic and facade restrictions on the smaller parcel.

The undersigned, in a letter to the Mayor, members of the City Council and the City Administrator, delivered to the City on March 23, 2009, suggested that a proper study of the project and MTNP be made by an outstanding landscape or park consultant to develop a plan which would, to the maximum extent possible, allow the City to put the Mansion to "productive" use, while maintaining and enhancing, to the maximum extent possible, the values of MTNP, consistent with the City's general plan. In the course of the development of this study, all of the

LETTER F: FRANCIS P. LLOYD, LETTER #1

F1: The opinions of the commenter are noted; no further response is necessary. In reference to the reference to Comment R-7, the complete comment is provided in Attachment A of the Revised Alternatives Section circulated in June 2012.

F2: This comment is addressed in Master Response #1. Comment regarding the CRBE Economic Report and marketability of a smaller lot is referred to decision makers and is not a comment on the environmental impacts of the Proposed Project.

F2: The comment notes that the Appellate Court found the 2009 EIR inadequate because it failed to consider a smaller parcel and that smaller parcels are both consistent with standard Carmel-by-the-Sea lots (4,000 sq. ft.), and consistent with the range of lot sizes studied in the CBRE economic report (6,400 to 14,800 sq. ft.).

In response to the Court's ruling, the 2012 RDEIR included two additional, smaller parcel sizes (1) Alternative 6.6 included approximately 10,000 sq. ft. and Alternative 6.7 included approximately 36,000 sq. ft. The RDEIR also clarified that Alternative 6.5 has always presented the choice of applying conservation easements over specified parts of the property, or reducing the parcel size by excluding these areas from the parcel boundary. If these areas were excluded, the parcel size would be approximately 32,670sq. ft. All three of these reduced parcel size alternatives are substantially smaller than the Proposed Project (1.252 acres or 54,537 sq. ft.), and the smallest is below the mid-point of the range studied in the CBRE report.

For additional response to this comment please see Master Response #1.

F3: The comment is made that text in the RDEIR under the heading Alternative Uses Under Public Sale is inappropriate because it is both premature and appears to skew the analysis away from a broader range of potential uses.

The section referenced in the comment is not new text. This text appeared in the 2009 Final EIR in response to public comments that the DEIR had failed to address potential land uses under the Surplus Public Lands Act. In response to the 2009 EIR, written comments on the RDEIR provided by the author of this comment letter (Mr. Skip Lloyd) stated that the RDEIR inadequately analyzed the potential impacts associated with Surplus Land Act agencies. The section therefore describes the process that applies to the sale of public parkland and the types of agencies that will have an early opportunity to submit offers to purchase the property. The section acknowledges the inherent uncertainty of the uses that might be proposed and identifies factors that might constrain approval of potential uses. The 2009 FEIR studied uses consistent with the Proposed Project objectives and stated that any proposed uses with impacts outside the range studied would be subject to additional environmental review. The Appellate Court accepted this analysis.

F4: The comment suggests a variation on the alternatives wherein the building would be sold and the 1.252 acre property would be leased on a long term basis (30, 50, or 99 years). The buyer/lessee would be responsible for rehabilitating and maintaining the building, thus relieving the City of these financial burdens. The comment suggests that at the end of the land lease the building would return to the City. The comment further suggests that at the end of the long-term lease, the property could be leased again at a further profit.

The commenter did not clearly define the proposed approach in a manner that the City could further address. The City comments: It is not entirely clear how the building could be sold and still return to the City at the end of the land lease. As described, this suggestion appears equivalent to a long term lease of

both the land and the building as studied in Alternative 6.4, but with the lessee being responsible for the rehabilitation and maintenance. The City notes that this additional cost to the lessee would potentially affect marketability, lease rates and economic feasibility, all of which are beyond the scope of this EIR.

Alternative 6.4, Lease Alternatives, addressed the environmental consequences of lease versus sale, and alternative uses. As noted in the RDEIR Revised Alternatives Section, the evaluation included under lease alternatives would be applicable to all parcel size configurations discussed in the EIR.

As noted in the analysis for Alternative 6.4, this alternative would not result in the sale of parkland but it could still result in the elimination of existing park benefits during the term of the lease. This would result in approximately the same level of impacts as the Proposed Project during the term of the lease but have the benefit of City retention of the parkland. However, if the lease arrangement was continuously repeated, as suggested in the comment, the impact would essentially duplicate the significant impact of the Proposed Project, but with the benefit of ownership being retained by the City.

F5: The comment suggests the EIR compare enforcement of lease conditions versus conservation easements, stating or inferring that there are **disadvantages** associated with enforcement of conservation easements. The City's direct legal obligations under such FEIR as is finally certified, and mitigation measures, conditions of sale or lease, and covenants to be recorded to run with the land, are subject to enforcement by several administrative and judicial remedies. Likewise, any duty of the City to enforce obligations owed by a future owner, occupant or lessee, under a Mitigation Monitoring and Reporting Program, conditions of sale or lease, and recorded covenants running with the land, may also be enforced through a variety of remedies.

This is not a comment on the EIR however, the City has provided a response from the 2009 RDEIR, updated as follows: "Conditions which could be imposed upon a lessee of the property through the terms and conditions of a lease, and remedies available against a lessee to require compliance with any such condition, may be imposed and enforced in an equivalent manner upon an owner of the property, through conditions of sale and covenants which are recorded and will "run with land", so that they are applicable to future property owners. A broad range of administrative, legal and equitable remedies -- civil, quasi-criminal and criminal -- are available to enforce such conditions and covenants. The lone exception is the ability to terminate the lease of a non-complying tenant, which has no equivalent in the case of a landowner. However, termination of a lease can lead to legal proceedings if the tenant relies on any of a number of legal defenses and strategies to avoid or delay the termination of the lease.

In addition, the need to enforce conditions and mitigation measures may arise under either a lease or sale. The City does not avoid the need to monitor compliance by electing to lease the property instead of selling it. The cost of any enforcement required is wholly speculative absent any specific information about the nature of future, hypothetical violations of sale or lease conditions, covenants running with the land, or a Mitigation Monitoring and Reporting Program."

F6: The comment states that Alternative 6.5, Sale with Conservation Easements and Mitigations does not constitute a reduced parcel alternative as required by the Court. The EIR provides an explanation below why this alternative provides a reduction in parcel size, as described in the RDEIR, and then clarifies this alternative under **Changes to the Revised Alternatives Section,** in order to address this comment.

Under the Project Description for Alternative 6.5, on Page 6-18, the description indicates that the alternative is considered a reduction in parcel size <u>or</u> use of conservation easements: "Specifically, this alternative consists of applying a conservation easement (<u>or reducing the parcel size</u>) 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 <u>or reducing the size</u> 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.)". Also, as stated on Page 6-23 of the RDEIR, "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."

Although the graphic image for Alternative 6.5 showed only one parcel boundary with conservation easements over much of the property, the text in the 2009 and the 2012 DEIR made it clear that this alternative included the option of conservation easements OR excluding these areas from the property boundary, thus reducing the parcel size. This reduction in the size would reduce the parcel size by more than 35%. The total land area that would be reduced from the parcel under the reduction in parcel size approach is approximately 0.5 acres. Thus, the total remaining area of the property under this alternative would be approximately 0.75 acres or a total size of 32,670square feet.

Since this comment identifies the need for clarification, the RDEIR has been modified to clearly identify this distinction and amplify and clarify that this alternative may be considered another reduced parcel alternative, referenced as Reduced Parcel Alternative 6.5.A. A new figure has been added to the document to graphically depict this (Figure 6.1.A). Please also see changes under **Changes to the Recirculated Draft EIR, Alternatives Section.**

F-7 The comment observes that the RDEIR stated that Alternative 6.5 would not meet all project objectives. This is not inconsistent with the language in the RDEIR as discussed below.

Implementation of this alternative would partially achieve the primary project objective, in addition to the majority of the secondary project objectives associated with the Proposed Project. As stated on Page 6.23 of the RDEIR Revised Alternative Section, " … 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." The RDEIR indicated that impacts on surrounding neighborhoods would depend on the land use that occupies the Mansion. It therefore, concluded that primary objectives could be partially met in addition to the majority of the secondary objectives. As noted, the EIR could not conclude with certainty that all secondary project objectives would be met. This was the only exception identified.

F8: The comment raises a question about Reduced Parcel Alternative 6.7 and the reasons for not including parking for public use, as was done for Alternative 6.5.

This parking area is added to the Alternative. This has been clarified in the **Changes to the Recirculated EIR, Revised Alternatives Section,** and the parking area shown in a revised graphic for Alternative 6.7.

The RDEIR proposes parking as a mitigation measure. The proposed alternate parking in the RDEIR mitigation measures shows the location of a potential new visitor parking area on City-owned property at the beginning of the driveway entrance to the Flanders parcel off Hatton Road (RDEIR **Figure 4.6-2**)[1]. The RDEIR mitigation to provide additional visitor parking area on City-owned property at the beginning

[1] Refer to Mitigation Measure 4.6-1, RDEIR.

of the driveway entrance to the Flanders would allow immediate access to the Park and parking under the Proposed Project as mitigated. The parking area requirements are included as mitigation for the Proposed Project. Mitigation requires the City to develop a parking plan to provide at least 3 parking spaces along the existing driveway within the Mission Trail Nature Preserve as demonstrated in Figure 4.6-2. Surfacing materials are identified as wood chips or similar and paved surfaces, such as asphalt or similar, are prohibited. Landscape screening consisting of native vegetation screening is also required along the parking edge adjacent to residences to reduce visual impacts to neighbors.

Since this comment identifies the need for clarification, the RDEIR has been modified to clearly identify this distinction. Please see **Changes to the Recirculated Draft EIR, Alternatives Section.**

F9: The comment suggests that a park planning professional be retained to develop a new parcel boundary and address commenters design issues. The comment states that such a professional could evaluate park features and public use to determine what makes the most sense for the future of the park.

This suggestion is referred to decision-makers for consideration. It should be noted that the 2009 DEIR included substantial analysis of park features and resources including biological resources, historic preservation, views, pedestrian access, the trails network, vehicle access, parking, traffic, noise and land use compatibility. The Proposed Project alternatives and mitigation measures were developed from the results of this analysis and with consideration for the Proposed Project objectives.

F10: This comment offers "Exhibit-D" as a variation of a reduced parcel alternative. Please see **Changes to the Recirculated Draft EIR, Alternatives Section** for an evaluation of this proposed design alternative. Also, refer to Figure 6.3.A for a depiction of this reduced parcel boundary on an aerial parcel map.

F11: The comment notes that since the project objectives were changed in 2009, there is no need to raise substantial funds as part of the Proposed Project. The comment also observes that the objective of divestment could be achieved with a very low sales price and that this would enhance marketability.

These comments do not affect the environmental analysis and are more relevant to economic considerations.

The City has commented as follows: While the commenter is correct that raising substantial funds is no longer a project purpose, it should be recognized that public agencies like the City have a fiduciary responsibility to manage the public's assets appropriately. It will be up to the City Council to determine what would be an appropriate return from a sale or lease of the Flanders Mansion and its surrounding land area.

F12: The comment questions why the section entitled Alternative Properties/Locations appears in the DEIR.

The 2012 DEIR contains the entire Alternatives section of the EIR. This includes parts of the alternatives analysis that appeared in the 2005/2009 EIR documents. In the 2005 EIR, the project objectives and purpose included raising funds for capital projects. Given this purpose, and the potential for significant impacts from the sale of Flanders Mansion, it was necessary to consider sale of other City assets as an alternative. This implemented CEQA Guidelines which requires consideration of off-site locations for projects. As the 2005 EIR and 2009 RDEIR are incorporated in this analysis, this language has been stricken from the Revised Alternatives Section and notation for clarification is added to this section; please see **Changes to the Recirculated Draft EIR, Alternatives Section.**

F13: The comment states that selling a much smaller parcel would reduce loss of parkland, reduce park impacts, achieve all project objectives and would likely still be marketable.

The 2012 RDEIR evaluated the potential impact associated with the sale (or lease) or the smallest feasible parcel configuration (Building Only Alternative) and concurs with the statement that impacts to parkland would be minimized in connection with the sale of a smaller parcel. The level of potential impacts would, however, remain significant. The EIR conservatively assumes that the loss of any parkland is a significant impact. The ability of a smaller parcel to achieve the project objectives is contingent upon the final parcel configuration and any associated improvements. Additional impacts to biologically sensitive areas or cultural resources could occur in connection with new parking areas or other features thereby partially achieving secondary objectives related to environmental protection and historical resource considerations. Additionally, a smaller parcel alternative would also partially achieve the project's primary objective related to divestment of the Flanders Mansion property. . The comment on marketability of the parcel is outside the scope of the EIR. Refer to Reduced Project Parcel Size Alternative 6.6, Building Only Alternative which has a much smaller project parcel proposed. Alternative 6.6, a Building-Only alternative contains 10,019 square feet of land (.23 acre) as the parcel size.

F14: The comment states that the EIR is not adequate for decision-making because it lacks a proper analysis of all reasonable reduced parcel size alternatives.

There are an infinite number of possible parcel boundaries and sizes, many of which would be "reasonable". It is neither practical nor required for the EIR to study them all. The CEQA Guidelines state that an EIR need not consider every conceivable alternative to a project. According to CEQA Guidelines §15126.6(f), the range of alternatives required in an EIR is governed by the "rule of reason". There is no ironclad rule on how many alternatives to study. Alternatives considered must include those that offer substantial environmental advantages over the Proposed Project and may be feasibly accomplished in a successful manner considering economic, environmental, social, technological, legal or other factors. The analysis contained in the 2012 RDEIR is consistent with the requirements of CEQA and evaluates a range of alternatives that would potentially address the project's significant impacts. In response to this comment, the alternatives analysis has been amplified to include a discussion of the potential environmental effects associated with an alternative design suggested by the commenter. Specifically, the analysis has been updated to include a modification of Alternative 6.7. Please see **Changes to the RDEIR Revised Alternatives Section** for more information.

For further response to this comment please see Master Responses #1 and #3a.

F15: The comment identifies that the potential impacts to the Mission Trail Nature Preserve are not sufficiently analyzed in detail in the RDEIR and that none of the impacts have been analyzed by an expert regarding the management of public parkland.

The RDEIR contains a full and complete discussion of the impacts of the potential sale of the property to the Mission Trail Nature Preserve. CEQA does not require the use of experts; lead agencies may rely on the expertise of their staff and consultants. The City of Carmel-by-the-Sea manages its parkland with its own professional staff, and DD&A consulted with the City's staff concerning potential impacts during the environmental review process. The EIR consultants conducted professional biological surveys of the areas of the Preserve that may be impacted, analyzed impacts of views from the Preserve based upon accepted methodology for visual assessments, as well as reviewed the potential impacts to the existing trail network surrounding the Flanders Mansion parcel. These impacts were limited to a portion of the Preserve and a mitigation measure requiring that a replacement connecting trail be provided will minimize impacts to the trail system in the Preserve. During the environmental review process the EIR consultants also contacted City's professional staff responsible for the management and maintenance of

the Preserve. The impacts of the Proposed Project on the Preserve were fully evaluated and mitigation measures have been proposed, where appropriate, to reduce the extent of these impacts.

An EIR is an informational document that is intended to inform decision-making regarding the potential environmental impacts associated with a particular project, in this instance the sale of property. An EIR serves as a public disclosure document explaining the effects of the Proposed Project on the environment, alternatives to the Proposed Project, and ways to minimize adverse effects and to increase beneficial effects. As a result of information in the RDEIR, the City is provided with mitigation and requirements or conditions on the Proposed Project that will serve to protect the park environment. CEQA does not require the use of experts; lead agencies may rely on the expertise of their staff and consultants. This document sufficiently analyzes the potential impacts to the Mission Trail Nature Preserve and identifies feasible mitigation measures to reduce the extent of those impacts.

Letter G

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JUL 26 2012

CITY OF
CARMEL-BY-THE-SEA

Supplemental Comments of Francis P. Lloyd Regarding

Recirculated Draft

ENVIRONMENTAL IMPACT REPORT

For the

SALE OF FLANDERS MANSION PROPERTY

As mentioned in my previous comment filed with the City on July 12, 2012, a possible alternative reduced parcel would meet the following project purposes more fully than the proposed project: G-1

"To ensure that future use of the Flanders Mansion and property will not cause significant traffic, parking, or noise impacts on the surrounding neighborhood".

Replacement of the existing parking at the mansion circle and driveway near the mansion (see Attachment No. 1 hereto for the present location of this parking, designated by "X") by configuring parking, on a reduced parcel, in the vicinity of the mansion on a part of the proposed 1.25 acre parcel, would accomplish this purpose. Otherwise, parking is forced onto Hatton Road, adversely impacting the surrounding neighborhood. G-2

"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."

Parking is regularly used ("enjoyed") by the public at the mansion at the south side of the driveway circle and in the parking area adjacent to the kitchen side of the mansion. This parking use is often simultaneous by three or four cars, vans or trucks at one time. This use is daily, throughout the day, by vehicles which come and go throughout the day, carrying members of the public who park there and leave their vehicles parked there while they enjoy and use the park. To deny this parking area would significantly disrupt the public's enjoyment of the park. If a reduced parcel were properly designed, such parking could be designed on land of the proposed 1.25 acre parcel which remained in the park because the parcel is reduced. The present EIR does not look at a reduced parcel alternative with any design imagination which, if employed, would inform the public and decision makers of alternatives which would reduce the loss of this parking and enhance the enjoyment of the park by the public. G-3

Trails are not correctly set out in the EIR. For example, the trails are not truncated at the proposed boundaries of the proposed 1.25 acre parcel as shown on figure 6.3 of the EIR. On the contrary, they continue across the property as shown on Attachment No. 1 hereto. These portions of the trails are used constantly by the public in general and are used frequently by the persons who disembark from their vehicles after parking them in the vicinity of the G-4

mansion. A properly designed reduced parcel would preserve these trails or move them sufficiently so as to provide a reasonable reduced parcel, but preserve the trails in reasonable proximity to their current location, so that the public does not lose enjoyment of this portion of the park. The EIR fails to suggest a reduced parcel which would accomplish this. The public and decision makers need to be informed by a properly completed EIR with reduced parcel alternatives which show these possibilities. G-4

"To ensure that environmental resources of the park are projected."

A properly designed reduced parcel would more fully protect the environmental resources of the public. For example, it could reduce the land area to the east of the mansion, so that a transition from the Rowntree garden would be opened up (see previous comment), providing more usable parkland and the amenities provided thereby, such as open space and significant views. G-5

"To ensure that the Flanders Mansion parcel continues to provide the public with as many park benefits as are practical."

A properly designed reduced parcel would be "practical" and would greatly enhance the park benefits as opposed to the 1.25 acre proposed parcel. The EIR does not set forth such practical design alternatives, limiting itself to one arbitrarily chosen reduced parcel alternative, with no explanation of why such a parcel was chosen for inclusion in the EIR. The EIR should show a process by which alternate reduced parcel alternatives were proposed and studied by appropriate professionals and included in the EIR or rejected, with explanations of the environmental advantages of alternatives. If done, the public and decision makers could properly evaluate the alternatives before deciding to part with precious parkland of the City. Without this, possibilities are not made known by the EIR, as required by CEQA. G-6

Costs of studies which should be made of reduced parcel alternatives in the EIR in order to inform the public and decision makers could be defrayed by proceeds of a sale or lease of whatever parcel is selected for sale or lease.

The sale or lease of any parcel of Flanders Mansion property will have significant impacts upon the park. Any proceeds of sale will come, by definition, from "divestment" of Mission Trail Nature Preserve precious parkland. One of the secondary purposes of the proposed sale is the following: G-7

"To ensure the environmental resources of the park are protected."

This goal is not limited in its scope, as it relates to the park, geographically or otherwise. It speaks of the park in general. The EIR does not cover the effects of meeting this project purpose. The Mission Trail Nature Preserve master plan, a master plan duly adopted by the City of

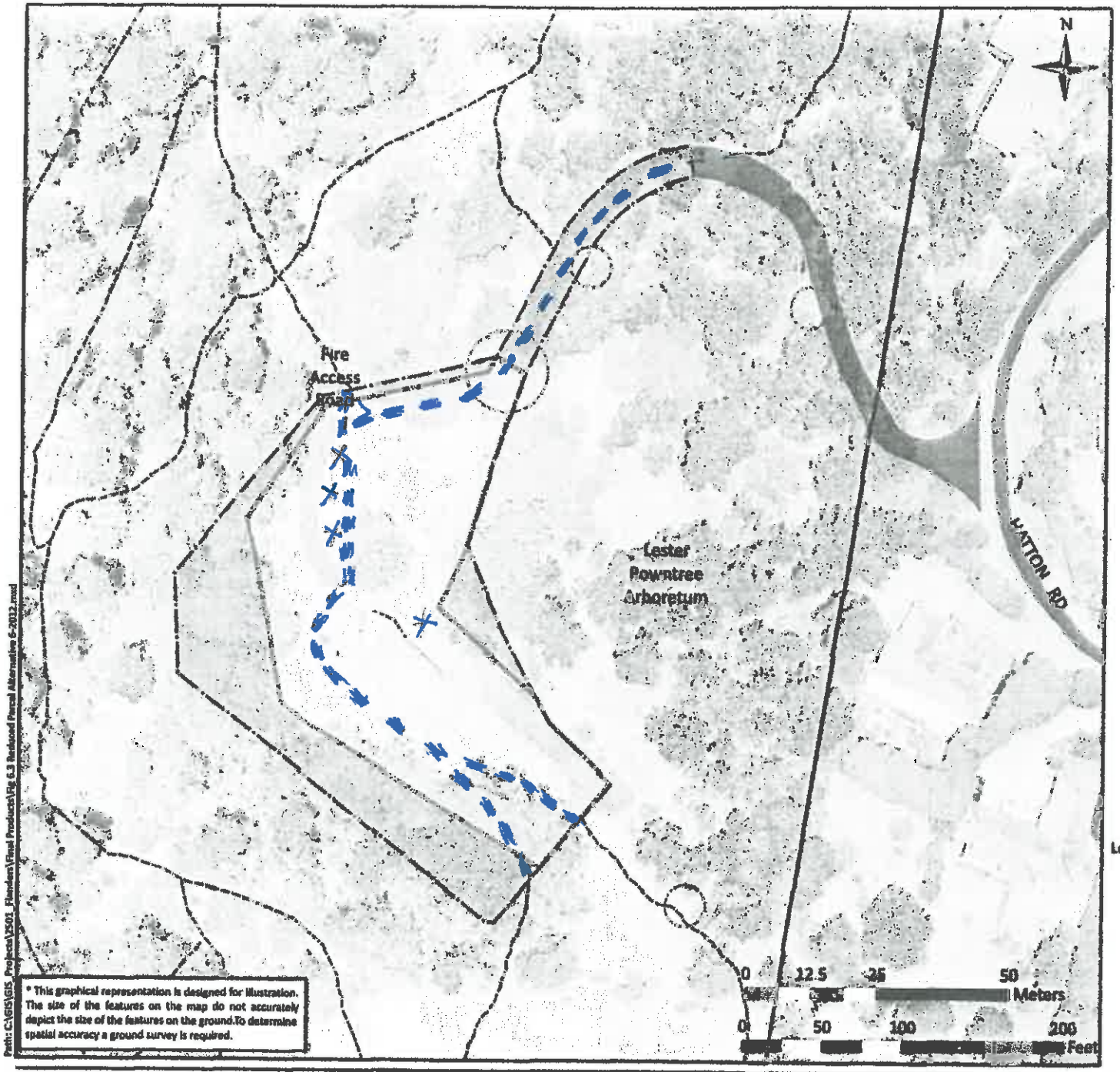
Carmel-by-the-Sea (incorporated herein by this reference) sets out the goals and purposes guiding the use, enjoyment and enhancement of the park. These are significant goals: For example, reduction of the population of invasive horticultural species (i.e. invasive, non-native plants and trees), the objective being to return the park, most of which is designated as an "Environmentally Sensitive Habitat Area" as defined in the California Coastal Act, to its natural environment. To meet the goal to "ensure that the environmental resources of the park are protected", which should be done according to the guidance of the master plan, planning and the expenditure of significant funds will be required. The EIR should evaluate the nature and expense of the activities which are required to be undertaken to meet the goals of the master plan, so that the nature and extent of the steps which would be required in order to meet the project purpose to "ensure that the environmental resources of the park are protected", and the expense thereof are known to decision makers and the public. It is well known to anyone who has explored the park (including myself) that there exists huge invasions of numerous invasive species of plants and large trees, covering large areas of the park, which have been allowed to proliferate as a result of neglect of the park by the city in recent years. If a sale or lease is to go forward, setting aside of funds from the "divestment", earmarked for expenditure for park purposes, under the guidance of the master plan, to "ensure that the environmental resources of the park are protected" should be a mitigation explored in the EIR. "Divestment" of a Flanders Mansion parcel and of the house itself, will, per se, represent a significant loss to the Mission Trail Nature Preserve. A proper mitigation for this loss would be the sequestration, from the proceeds of "divestment", funds which will be required in order to carry out the goals of the master plan and the holding and expenditure of those funds for the purpose that "environmental resources of the park are protected". It is "divestment" of the precious parkland of the Mission Trail Nature Preserve which will create any proceeds of "divestment", so it is appropriate that a mitigation for the loss of parkland as a result of the project be the meeting of the goals of the master plan regarding the remainder of the parkland of the park, especially to meet the project purpose to "ensure that the environmental resources of the park are protected". G-7 G-8

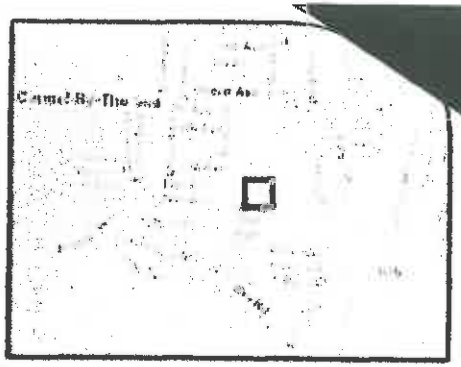
Selection of a reduced parcel for "divestment" is more consistent with the 2009 project purposes than is sale or other "divestment" of the 1.25 acre parcel as shown above. This is also shown by the following:

1. Between the time of the 2005 and 2009 versions of the overall EIR, the project purpose was changed. In 2005, a secondary purpose of the project was to raise funds for capital improvements. The latter purpose was eliminated by the City council as a project purpose before the 2009 EIR. (See p. 6-2 of EIR "Alternatives Not analyzed in Detail"). The new and current primary purpose was "divestment" only and the secondary purpose of the raising of funds from the divestment was dropped, except as the acquirer of the property might be required to improve the mansion, as contemplated. (See my previous comments.) G-9

2. The survey of the 1.25 acre parcel was prepared in the context of the 2005 purpose, which specifically included the raising of funds by a sale, for other capital projects in the City. That resurvey of the project parcel was done specifically to carve out of the park a parcel designed to be most attractive to a purchaser (at the expense of the park, I should add), in order to maximize the amount of money to be received from a sale for use on other capital projects of the City. The survey was not done from the viewpoint of preserving as many park amenities as possible, while removing the "burden" of holding onto the house itself. With the change in the project purpose to mere "divestment", in order to relieve the City of the problem of maintaining the house and fixing it up, maximizing return to the City from the divestment is not a factor. Therefore, a reduced parcel, properly studied and designed to maximize the retention of benefits to the public from preserved amenities of the park, is more consistent with the current project purposes (other than definition of the purpose in terms of the 1.25 acre parcel itself) than the sale of a 1.25 acre parcel. Sale of the specific 1.25 acre parcel is an antiquated concept associated with the 2005 project purposes and conflicts with current project purposes, as pointed out above and by my previous comments. Thus, a reduced parcel alternative needs to be carefully and thoughtfully studied in the EIR, so the public and decision makers are properly informed by the EIR, as required by CEQA. G-10

Francis P. ("Skip") Lloyd





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

Date: 6/8/2012

Figure 6.3

ATTACHMENT 40.1

FIGURE 6.3 - REDUCED PARCEL ALTERNATIVE

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

X = Parking (existing) and assembly/social area
(within parcel boundary) = existing trails not shown on EIR Figure 6.3

LETTER G: FRANCIS LLOYD LETTER #2

G1 AND G2: The comment suggests an alternative design for reducing the parcel area to be sold or leased. The design alternative calls for the parcel boundary to be redrawn to exclude most of the driveway loop. In this variation, the majority of the driveway and circular paved area would remain open for public use. The commenter states the opinion that this would better achieve the Proposed Project objectives in a number of ways, including by avoiding impacts on the Hatton Road neighborhood. A rough sketch was included with the letter and included in this document.

As presently used by the public, the driveway and loop area serve as pedestrian access, vehicle access, drop-off location, trail junction and social meeting place. Removing this area from the Flanders parcel boundary would allow the public to continue using this area. Since this would be a continued use, it is likely that the level of use would remain consistent with existing use.

This suggested alternative design is considered a design variation of the Reduced Project Alternative described in Alternative 6.7. The reduction is parcel size is greater, and the parking area is proposed in the loop area of the Mansion parcel (as seen Exhibit D, attached to the letter provided by the commenter).

However, the driveway loop and forecourt are considered integral to the historical setting of the Mansion. This is described in the 2009 RDEIR on page 4.3-5 and appears in the nomination papers for the National Register of Historic Places. In Alternatives 6.5 and 6.7, the authors of the EIR retained this area inside the parcel boundary to preserve the visual relationship between the Flanders Mansion and its immediate setting. This is consistent with historical preservation methodology and helps achieve the secondary project objective of preserving this National Register listed property.

The historical resource is defined in the National Register listing and it includes the entire grounds around the mansion. The addition of a parking area and resultant deconstruction of part of the rock wall in the loop driveway may impact the historic setting of the property. In general, a historic property's setting refers to the character of the physical environment of a historic property while the boundary is the geographical extent or area of a historic property. For National Register properties, the boundary should encompass the full extent of the significant resource and land area making up the property. The property was listed in the NRHP in 1989. The summary of significance expressly states that both the design of the house and the site planning possess the high artistic value that qualify the house for listing in the NRHP. The description of the setting notwithstanding, the boundary for the NRHP property extends to the parcel of land immediately surrounding the house. EIR mitigation requires all improvements to be in compliance with the historic setting as well as minimize impacts to neighboring parkland.

Kent Seavey, Historical Preservation Consultant, was consulted by the City to review the proposed redesign and it's impacts on the historical setting of the Mansion. Kent Seavey is routinely consulted as an expert by the City for documenting historical resources and has provided consultations regarding alterations as well. Mr. Seavey was the professional responsible for completing the DPR 523 documentation for the Flanders Mansion property; this documentation placed this property on the City's Inventory of Historical Resources. The historical resource is defined in the DPR 523 as both the building and the grounds. Both the DPR and the National Register Nomination papers reference the site design as part of Gutterson's architectural concept. This includes the lawn, garden area, forecourt, retaining walls, circular drive loop and the serpentine driveway leading from Hatton Road.

Comments from the historical expert were provided by Brian Roseth, City Consultant, based on a consultation with Kent Seavey on November 15, 2012. The consultation included the expert opinion that replacing the driveway circle with a parking lot would be in conflict with the Secretary of Interior's Standards and would damage the historical setting of the Mansion. The driveway loop is considered a character defining feature of the landscape.

Any of the areas around the Mansion building that were altered during the building's historical period of occupancy (e.g. ,driveway, forecourt, garden areas) should remain intact unless an architectural historian determines that the change would not damage the integrity of the historical resource--including its setting. Existing mitigation measures 4.3-1 and 4.3-2 apply to both a future owner of the Mansion and to the City, which would continue to own and maintain intact any portions of the historical resource located outside any reduced boundaries of the parcel. In CEQA, any change to a historical resource that fails to comply with the Secretary of Interior's Standards is considered a significant impact to an environmental resource. The final design of any proposed parking area would need to consider potential impacts to the historical integrity of the property to reduce potential impacts to less than significant; this may require a redesign to provide an parking alternate location to avoid identified cultural resources.

For further information related to this comment, please see Master Responses #1 and #3a.

G-3: The comment states that the public uses the area at the bottom of the driveway, including the forecourt and the loop throughout the day for parking. Comment is acknowledged; the RDEIR also includes this information. The comment also states that to deny use of this area by the public would significantly disrupt the public's enjoyment of the park, and this would be contrary to one of the Proposed Project objectives. The comment suggests that some of the 1.252 acres in the Flanders parcel could be removed so it can continue to be used for public parking.

Please see the response to comment **G-1**. The commenter has provided a design variation of the reduced parcel alternatives that reduces the 1.252 acres of the Proposed Project parcel, and utilizes part of this area for a new parking area to serve the surrounding Mission Trails Nature Preserve. This alternative as described and provided by the commenter would allow the public to continue to use the majority of the area in front of the Mansion, including a major portion of the driveway area and a portion of the “loop”, as public property.

G-4: The comment states that the trails shown in the EIR are incomplete and that visitors pass across the Mansion grounds to connect with other trails that adjoin the property. The comment also states that a properly designed reduced parcel alternative would either retain these trails or provide replacement trails nearby. As noted above, Flanders Mansion and its surrounding parcel is a National Register listed property. When developing alternative designs, maintaining the property in one parcel required that the forecourt and driveway loop be included as part of the Mansion grounds. As noted, this adds land area to the parcel as well as precludes continued public use and access to the fire access trail, as identified in the RDEIR. Because trail and access impacts could be mitigated to less-than-significant, these impacts were considered environmentally preferred in comparison with impacts to the historical setting and integrity of the property. Also, note in **Revised Figure 4.5-1**, an alternative location for a replacement trail to connect to the Fire Access Road trail on the circular driveway is identified. Use of this trail and a lowered driveway entrance also allows the continued view of the Mansion as seen by park visitors when they descend from Hatton Road and allows pedestrians to reach the top of the circular drive, cross to the replacement trail and access the Fire Road trailhead. This retains full use of the fire access trail by the public. Please refer to these trail revisions in Revised **Figure 4.5-1, Changes to the Revised Alternatives Section**.

The Mansion property immediately surrounding the building is also used informally for access to trails within MTNP. This topic was addressed in the 2009 RDEIR on page 4.5-7 and where loss of public trail access was identified as a direct impact of the Proposed Project. **Figure 4.1-3** in the 2009 RDEIR identify trail loops and indicates that park visitors can cross over and through the Mansion property to make connections between the driveway loop parking area, the fire road (leading to the Flanders trail) and the trails across Martin Meadow (including the Mesa trail). Park visitors generally pass across the lawn located Southwest of the Mansion and continue through the yard area Southeast of the Mansion. This is indicated on the Figure by a blue line representing an informal trail--not otherwise shown on published maps of the Preserve. Proposed Mitigation Measure 4.5-1 includes construction of a new trail segment connecting the Flanders driveway to the Flanders Trail, in the upper area of MTNP. Trails from the top of the driveway at Hatton Road to the Martin Meadow exist within the Arboretum/Native Plant Garden and will continue to provide the connection between the upper area of MTNP and existing trails across Martin Meadow. Additionally, Revised **Figure 4.5-1** shows a replacement trail for the area east of the lawn area of the Mansion building and parcel. This is an adequate substitute for the informal trail across the lawn, west and south of the Mansion. Please refer to these trail revisions in Revised **Figure 4.5-1, Changes to the Revised Alternatives Section**.

G-5: The comment suggests that the environmental resources of the Preserve would be better protected if some of the land located east of the Mansion were eliminated from the Flanders parcel under a reduced project alternative. Such an alternative is considered under Reduced Project Alternative 6.7.A, Revised Design. Please refer to these trail revisions in Revised Figure 4.5-1, **Changes to the Revised Alternatives Section**. While the commenter suggests that eliminating the area east of the Mansion building would allow the space to be opened up toward the Lester Rowntree Native Plant Garden to enhance open space and views, this proposed change to the parcel boundary would affect an area that has been significantly disturbed through use by past Mansion occupants and no longer contains significant environmental habitat or native species**.** Additionally, this area of the parcel borders the area designated as an Environmentally Sensitive Habitat Area (ESHA) in the Local Coastal Plan (LCP) for the City and confirmed through professional surveys. For a detailed and thorough explanation of the specific ESHA designations within the greater Mission Trails Nature Preserve, please refer to the 1995 report prepared by Jones & Stokes Associates, Inc titled: *Final Results of the Sensitive Habitat Area Study Conducted for the City of Carmel-by-the-Sea.*

The comment suggests reducing the south boundary of the Flanders parcel to open up views, expand public open space and improve the transition from the Arboretum to Martin Meadow. This type of design change is referred to decision-makers for consideration as part of this project, or a future project.

G-6: The comment states that the 2012 RDEIR fails to provide a practical design for a reduced size parcel and instead offers just a single arbitrary solution with no explanation of its origin. The comment suggests that the EIR should show a process by which alternate reduced parcel alternatives were proposed and studied by professionals--including the environmental advantages of each.

The comment incorrectly states that the EIR limits itself to one reduced project alternative. In fact, a number of reduced project alternatives were evaluated, selected based on the items identified in the comment. The reduced alternatives were selected and evaluated based on secondary project objectives and identified significant impact (loss of parkland). Alternatives were selected that would achieve most of the project's stated objectives, while also potentially reducing the project's significant impacts. For instance, the 2012 RDEIR considered reduced parcel alternatives that would minimize impacts to environmental resources and historical resources. Similar to the response above, where the area of a

cohesive historical resource was included in the parcel configuration, the areas of protected resources were excluded from the reduced parcel alternatives.

Specifically, as an example, the reduced alternative designs consider the environmental resources as defined in the 2009 RDEIR Biological Assessment, which updated the ESHA-designations identified within the 1995 JSA report and defined resource areas immediately adjacent to the Flanders Mansion parcel. The EIR defined on-site resources, to identify any sensitive or special-status habitats, plants, or animals potentially within project boundaries. The Monterey Pine forest and/or forest edge within the Flanders Mansion Property (particularly the western boundary) was considered ESHA (albeit disturbed), and is habitat that may potentially be utilized by a variety of special-status species, and is known to support an active Monterey dusky-footed woodrat nest. Thus, the potential presence of special-status plant and animal species (including the dusky footed woodrat, Hickman's onion, etc.) and/or the presence of potentially sensitive and/or regulated habitats (native Monterey Pines) were considered during alternative design development. These areas are protected, consistent with areas within the coastal zone, per the definition of found in §30107.5 of the Public Resources Code.

From a biological and resource protection standpoint, the selection of the reduced parcel alternatives reduce the potential for impacts to ESHA.

Also, refer to **Master Response 3a.** The boundary configurations were not based on just arbitrarily reducing the parcel size. The parcel boundaries for each of the alternatives were designed to reduce impacts to resources as well as park impacts. This is consistent with the purpose of the CEQA process. It also is consistent with the secondary objectives of the Proposed Project, as established by the City.

Selecting boundaries for the reduced parcel alternatives required consideration of many factors. These included preserving the integrity of the Flanders Mansion property as a historical resource, addressing continued public access to trails and ensuring protection of sensitive biological resources. The EIR included alternatives that address specific impacts associated with selling the Flanders Mansion. The boundaries also considered specific lot features, such as slope, access, location of trails, pavement, circular wall and driveway area and other parcel considerations, as well as the project's significant environmental resources and effects. These areas were defined based upon field observation, and in some cases, mapping through GPS and GIS equipment,

Additionally, in the 2009 EIR, Alternative 6.5 included three separate locations where portions of the parcel could either be removed or protected by an easement to address specific impacts related to trail access, biological resources and the Arboretum. The possible combinations of removing or retaining these three areas allows for considerable flexibility in parcel size. The 2012 RDEIR added Alternative 6.6, a very minimal parcel size and Alternative 6.7, a fine-tuned variation on Alternative 6.5 with improved trail access.

G-7 AND G-8: The comment notes that one of the secondary project purposes is to ensure that the environmental resources of the park are protected. The comment further states that this is a broad objective and goes beyond the scope of the Flanders Property to include the whole Preserve. The comment suggests that funds raised from divestment of the property should be programmed toward fulfillment of the Mission Trails Nature Preserve Master Plan, including such items as removal of invasive species.

The Proposed Project objective was designed to ensure that the sale and ultimate use of the Flanders Mansion property did not degrade environmental resources of the park. The concept of allocating funds from divestment to carry out goals of the MTNP Master Plan is referred to decision-makers for consideration.

G-9 AND G-10: The comment suggests that a reduced parcel size is more consistent with the Proposed Project objectives as revised for the 2009 RDEIR. The 2005 objective of raising funds for capital projects was replaced in 2009 with a simpler goal of "divestment" of the Mansion. While raising funds may have required a large parcel, the goal of divestment can be accomplished with a small one. Reducing the parcel size allows more park benefits to be retained and this satisfies both the primary and secondary project purposes.

The City is responsible for defining the Proposed Project that serves as the basis for impact analysis. Once the impacts are known, the EIR identifies alternatives and mitigations to address them. When the 2009 RDEIR was prepared the City chose not to alter the project description and this remains true for the 2012 EIR. This EIR correctly uses this as a baseline for the analysis. The wide range of parcel size alternatives now included in the EIR provides adequate opportunity to select a small parcel boundary if the City determines that this is the best choice overall.

The question of whether a smaller parcel would raise sufficient funds or would be marketable is beyond the scope of this document and is referred to decision-makers. It should be borne in mind, however, that all public agencies have a fiduciary responsibility to manage their physical and financial assets to best advantage. It will be up to the City to determine whether a smaller parcel satisfies project objectives yet still provides sufficient return to be considered financially responsible.

Letter H

From: Paterson [mailto:SebViz2@sbcglobal.net]
Sent: Sunday, July 29, 2012 1:26 PM
To: 'Sean Conroy'
Cc: Denise Duffy
Subject: Comment Letter (& Attachments A & C) on RDEIR for the SALE OF FLANDERS MANSION PROPERTY

L. A. Paterson
P.O. Box 1654
Carmel-by-the-Sea, CA. 93921

29 July 2012

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

Re: Recirculated Draft ENVIRONMENTAL IMPACT REPORT for the SALE OF FLANDERS MANSION PROPERTY REVISED ALTERNATIVES SECTION

Dear Sean Conroy, Planning & Building Services Manager:

Comments on RDEIR are confined to **6.1 INTRODUCTION Alternatives Selected for Further Analysis, 6.4 LEASE ALTERNATIVES**, ***6.7 REDUCED PARCEL ALTERNATIVE*** *and* **6.8 DISCUSSION OF ALTERNATIVES FINDINGS** with reproduced text from the RDEIR and Comments.

6.1 INTRODUCTION

Alternatives Selected for Further Analysis

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.*

COMMENT: While the RDEIR analyzed some reduced parcel alternatives, the RDEIR did not analyze a comparable parcel size typical of Carmel-by-the-Sea lots; that is, comparable size residences of approximately 5,500 square feet are typically located on 12,000 square feet parcels (0.28 acres). Ergo, another reduced project alternative of 12,000 square feet should be analyzed based on consistency with land use standards in Carmel-by-the-Sea. H-1
REFERENCE: General Plan/Coastal Land Use Plan **Land Use & Community Character Element**

P1-49 Limit above-grade floor area on 4,000 square foot lots to a maximum of 1,800 square feet. Projects with less above-grade square footage shall be preferred. Structural coverage shall not exceed 45% of the site. Total site coverage (structural and other impermeable coverage) on 4,000 square foot lots shall not exceed 55% of the site. Locate open space so that it visually links with adjacent properties. (LUP)

6.4 Lease Alternatives

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.

COMMENT: All of the assumptions made in the Description are invalid in the context of a Resident Curatorship which is a variant of a long-term lease whereby the Resident Curator assumes the cost of facility upgrades and maintenance requirements and no exterior barriers would be erected for the duration of the contract. And while a Resident Curatorship would not meet the primary project objective of divestment, retention of the Flanders Mansion property by the City for the purposes of a Resident Curatorship would achieve all of the secondary objectives associated with the Proposed Project. And, as stated in the RDIER, "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." H-2

In short, the RDEIR is inadequate and incomplete in not considering a Resident Curatorship, especially in the context of correspondence since 1998 from former Curators Les and Patricia Albiol introducing the concept of a Resident Curatorship for the Flanders Mansion and repeatedly expressing interest in submitting a Resident Curatorship proposal for the Flanders Mansion (see Attachment A).

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.

COMMENT: The assumptions that "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" are invalid n the context of the Flanders Foundation. To wit, the Flanders Foundation, in correspondence with the City over the years, has pledged through private donations and grants and in partnership with the National Trust for Historic Preservation to pay for all facility upgrades and maintenance, thereby freeing the City of any financial responsibilities in the upkeep and maintenance of this National Register of Historic Places resource (see Attachment B). H-3

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.

COMMENTS: Statements that the use of the Flanders Mansion for public or quasi-public purposes could result in an intensification of use compared to single-family residential or similar low-intensity land uses and this alternative "would generate more traffic than a single-family residence" are not necessarily true in the context of the City negotiating a lease with the Flanders Foundation with strict restrictions and conditions of use and public availability which would not result in more traffic to the property compared to a single-family residential use. H-4

In short, the RDEIR is inadequate and incomplete in not considering a lease with the Flanders Foundation specifically.

Ditto the aforementioned comments for the "*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.*" H-5

Since the sale of parkland requires a public vote and the City Council is required to determine that the Lease Alternatives are infeasible for specific economic, legal, social, technical, or other considerations in order to approve a lesser environmentally superior alternative, that is, the sale of the Flanders Mansion Property, it is vital that the public be fully informed through the Environmental Impact Report about a Resident Curatorship and specific lease terms between the City of Carmel-by-the-Sea and the Flanders Foundation. In addition, the public should be fully informed through the EIR about another use, namely a Life Estate whereby a party would purchase a life estate, commit to renovating Flanders Mansion at their expense and reside in the Mansion during their lives until death whereupon the Flanders Mansion Property would revert back to the City of Carmel-by-the-Sea, as epitomized in correspondence from Joseph and Nancy Telese (see Attachment C).

6.7 Reduced Parcel Alternative

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.)

COMMENT: The Transportation and Traffic section states:
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… 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. H-6

With the Reduced Parcel Alternative size of 0.83 acres, parking would be eliminated from its present spaces in the circular driveway near the Flanders Mansion and with "no additional parking spaces constructed at the top of the existing driveway," parking would be shunted onto Hatton Road creating more parking congestion on Hatton Road, not to mention more dangerous parking conditions along Hatton Road.

6.8 Discussion of Alternatives Findings

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.

COMMENT: A reasonable argument can be made that the economic act of selling the Flanders Mansion (cause) to a single-family could result in significant impacts to the physical environment (effect) in the form of intensified use leading to degradation to the surrounding ESHA and special-status plant species and animal species, including Monarch butterfly, Monterey dusky-footed woodrat, nesting raptors and bats. Furthermore, the mitigation measures of surveys, et cetera, are insufficient. Therefore, the EIR should "trace the chain of cause and effect." H-7

Thank you for your time and consideration of my comments on the RDEIR.

Sincerely,

Ms. L. A. Paterson

Attachment A

Correspondence from Les and Patricia Albiol (former Resident Curators, Alf Brown House and Mill)

January 24, 2012
Councilman Burnett
Re: Preparation of a proposal to restore and maintain the property under a curatorship arrangement

March 22, 2010
Mayor McCloud and Members of the City Council of Carmel-by-the-Sea
Re: Offer an extended donation to completely manage, restore and maintain the Flanders Mansion as a single family residence on behalf of and for the city of Carmel-by-the-Sea (resident curatorship)

May 3, 2009
Rich Guillen
Carmel-by-the-Sea
City Administrator
Re: Written comments regarding the Economic Assessment and Environmental Impact Report on the Flanders Project
Attach: (1) Handout
(2) Completion, Alf Brown House

April 28, 2009
Subject: Urgent Information for Special Meeting on FLANDERS EIR
To: pjhaz@hotmail.com, gfitzrose@aol.comg, Gerard@gerardroselaw.com, karensharp@yahoo.com, kktalm@aol.com, cloud93921@aol.com
1 Attachment, 251 KB
Re: Long term lease alternative in the form of a Resident Curator

May 26, 1998
Mayor Ken White and members of the City Council
Carmel-By-the Sea
Attachment
RESIDENT-CURATORSHIP PROGRAM
MARYLAND DEPARTMENT OF NATURAL RESOURCES
Re: Consider implementing a program like "Resident Curatorship Program" for the Flanders Mansion Property

From: Jason Burnett
To: Heidi Burch;
Subject: Fwd: Available for Flanders Restoration
Date: Thursday, June 07, 2012 11:31:30 AM

Possibly PRA responsive.

Jason K. Burnett
831.238.0009 (cell)
jason.burnett@gmail.com

Begin forwarded message:

> **From:** Jason Burnett <jason.burnett@gmail.com>
> **Subject: Re: Available for Flanders Restoration**
> **Date:** January 24, 2012 6:37:59 AM PST
> **To:** Les and Patricia Albiol <albiol@sbcglobal.net>
> **Cc:** Danielle Ticoulat-Bowers <danielle@burnettecoenergy.com>
>
> Les and Trish,
> Thank you for your note. I will look into the offer the city received about 14 years ago.
>
> I don't think an unsolicited proposal would be helpful right now while we are in the process of seeking reconsideration. Let's talk after that has been decided.
>
> Thank you,
>
> Jason
>
> ---
>
> Jason K. Burnett
> 831.238.0009 (cell)
> jason.burnett@gmail.com
>
> On Jan 24, 2012, at 12:04 AM, Les and Patricia Albiol wrote:

Dear Councilman Burnett,

Last year we corresponded regarding a curatorship concept for the Flanders Mansion. I understand you had (boldly) suggested that concept as an alternative. I hope for the sake of Carmel's heritage that the idea will get some consideration.

I want to let you know that we are ready to prepare a proposal to restore and maintain the property under such a curatorship arrangement. I'm unsure if an unsolicited proposal at this time would be of any benifit to the purpose, or if that would be counter productive now. In any case we are ready to facilitate the discourse, if there is anything we can do.

Also, you may not be aware that about 14 years ago (around1998 +/-), the city did recieve a credible unsolicited offer to restore the mansion under terms similar to a curatorship. From what I recall in the Pine Cone articles, the formal proposal was from a wealthy elderly couple that had offered not only to completely restore the mansion, but also to donate their Picasso collection with it, only for the privilage to live out their years there. The council at the time (comprised of some of the same members) failed to respond to the offer and after many months the couple withdrew it. I'm sure the details of that would be in the city records.

Between that previous unsolicited offer and my written expressed interest to the council, and examples all over the country of Curators restoring homes on public land, its clear there

are people who would be interested in making such a contribution to the city, if only the city would even consider the opportunity.

Again, if you think there is anything we can do to promote the option, we are ready to assist.

Thank You,

R/

Les and Trish Albiol

Les and Patricia Albiol
1460 San Marcos Circle
Mountain View, CA 94043

22 Mar 2010

Mayor McCloud and Members of the City Council of Carmel-by-the-Sea
P.O. Box CC
Carmel-by-the-Sea, CA 93921

Dear Mayor and Council Members,

We would like to offer an extended donation to completely manage, restore and maintain the Flanders Mansion as a single family residence on behalf of and for the city of Carmel-by-the-Sea.

The arrangement we propose is a resident curatorship, whereby we will restore and maintain the property with the right to occupy it as our residence. This approach could end ongoing legal issues associated with selling the property, satisfy the interests of the neighborhood, the citizens of Carmel and concerned organizations, while preserving the Mansion as a viable city asset for future disposition.

The principle features of the curatorship agreement we propose are:

1) We will manage restoration in accordance with the Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, and local codes.

2) The house and property will be restored and maintained as a single family residence with few limits on public access that are consistent with the existing EIA issues, the park setting and the neighborhood. The need for additional fencing is not anticipated and public access to the park via the driveway can be maintained.

3) We will incur all costs of restoration and maintenance including material, labor and sweat equity, and these will be donated as an irrevocable gift to the City.

4) The City will receive periodic reporting on progress and will maintain rights to inspect the property and restoration and maintenance activities.

5) We will maintain liability insurance.

6) The agreement can remain in effect for the life of the Curators and will not be transferable.

We propose to discuss this approach with city administration and the council to answer questions and clarify intents and expectations. Subsequently, should council express continued interest in this approach, we are prepared to develop a full proposal for the City's consideration at our expense to include the terms and conditions of the agreement, detail of the required restoration work, schedule of work, estimated costs, our financial statement, resumes and references.

We have experience in historic restoration, having completed the restoration of an 18th century miller's house on state park land in Maryland. As professional program managers we have the experience and capability to preserve Flanders on terms suitable to the City and citizens of Carmel.

We thank you for your consideration and request the opportunity to discuss this with you at your convenience. We can be contacted at the address above, via email at albiol@sbcglobal.net, or phone: (408)480-3641.

Respectfully Yours,

Les Albiol

Trish Albiol

CC: Rich Guillen, City Administrator
Don Freeman, City Attorney
Melanie Billig, President, Flanders Foundation

Les and Patricia Albiol
1460 San Carlos Circle
Mountain View, CA 94043

3 May 2009

Rich Guillen
Carmel-by-the-Sea
City Administrator
P.O. Box CC
Carmel-by-the-Sea, CA 93921

Re: Written comments regarding the Economic Assessment and Environmental Impact Report on the Flanders Project

Dear Mr. Guillen

I am writing to expand on the comments I provided to the council at the special meeting 28 April 09. I've attached those comments for reference (1)

By way of introduction I should note that I graduated from Carmel High and my family are long time residents of Carmel. I have a strong affinity to Carmel's environmental and cultural assets and fully intend to raise my children in Carmel. While stationed near Washington D.C. in 1992 my wife and I were accepted as one of the earlier curators in Maryland's Resident Curatorship program to restore the derelict 140+ year "Alf Brown House and Mill". We can proudly say that we have completed our restoration of this large home, located in a public park, adjacent to environmentally sensitive wetlands. (2) We spent over 10 years restoring the property and have donated several hundred thousand dollars to the state of Maryland in doing so. Ultimately, this property will return to the state as a fully restored asset, rather than the liability it was.

I am convinced a similar solution for Flander's is completely feasible and appropriate. I have personally interviewed many of the neighbors. I have inspected the Flanders house from attic to basement, and of course I'm an enthusiastic user of the Mission Trails Park. It is my hope that the city considers a process to select an appropriate curator

To that end, I note specific errors or omissions in the EA and EIR.

1) In the EA, the market comparables for a long-term lease simply failed to consider the possibility of a resident curatorship type program. Along with this omission was a failure to analyze the economic impacts of such an arrangement, nor the marketability of such an arrangement.

The data for these curatorship type arrangements to restore and maintain historically significant SFRs on public land is not hypothetical. These curatorship lease arrangements are working and proving to be effective in situations just like Flanders, balancing the interests of the government, the public, the preservationists, the environmentalist and the local community. There are now established records demonstrating the substantial amount

of money, labor, material and services being donated to government to restore and maintain these publicly owned historic properties. Other economic, environmental, public and government benefits have been noted as well.

In terms of “market assessment”, using commercial practices of real estate comparables is inherently inadequate for a property that is “unique”, historically significant, situated in public parkland and somewhat dilapidated, especially in consideration for a curatorship type arrangement. Rather, the availability of potential, qualified curators and what they would be willing to invest can generally be established by the success of similar programs and by the enquiries to the city over the last decade to enter into some sort lease arrangement. However, unless the city issues a request for proposal (or expression of interest) for a curatorship, the availability and qualifications of potential curators for Flanders cannot reasonably be established.

2) In the EA and especially in the EIR, the unique nature and consequences of a curatorship are lost in the term "lease." Although technically it is a form of lease, the characteristics of a curatorship are not at all addressed. While a curator is subject to the same guidelines, codes, oversight and enforcement in restoration as would a private owner or typical lessee, the curator has profoundly different motivations and flexibility that make the concept work so well.

The curator has a vested personal lifelong interest in the quality of the work. The curator has no interest in implementing restoration solutions that will only be effective for ten or twenty years, given the burden that they will be responsible for subsequent repair. Likewise postponing or avoiding repairs has no benefit to the curator. The curator is driven to ensure that work is done in a manner that is enduring. A typical lessee and many owners would not be so motivated, given that many an owner would have a limited time frame in which to maximize their equity or ROI.

Also, given the flexible schedule to restore the home, the curator is not necessarily under a "time is money" constraint for most of the restorative work (past the stabilization phase). This enables a greater ability to recycle and restore rather than purchase new and replace, to source economic historic materials, to use excess government materials and other cost cutting measures that would not be available to a contractor under a time constraint.

And finally, the material, labor and contract costs a curator would incur would largely be a donation to the city and thus tax deductible--a major cost savings not available to an owner or city contractor. Typically this tax write off greatly exceeds the preservation tax benefits allowed a private owner.

Again the data shows that Curators, while investing extraordinary personal resources, are generally spending less and doing more in restoration than typical contractor estimates. That's one reason the economics of the approach does work, and one reason many people would want to be curators.

3) The EA and in the EIR stated that a lease would either be an SFR or a quasi-public use through an organization. This is incorrect. The terms of the curatorship lease could specify

limited quasi-public use. The Maryland curatorship agreement specifically allows that the houses can be open for public tours at least two days a year.
While those specific terms may not be acceptable in the Flanders situation, some "quasi-public" use could be included in a curatorship agreement. In the situation of Flanders any "quasi-public" use would likely be limited to activities that would be, from the neighborhood's perspective, practically indistinguishable from activities associated with a SFR. Semi-annual receptions for civic leaders or outstanding students may be a possibility. Hike-in tours akin to those sponsored by the Flanders foundation may be acceptable "quasi-public" use of the house that is compatible with a SFR and the neighborhood.

A key feature of the Maryland's curator selection process is that only major, non-negotiable lease terms are specified in the initial offering for a curatorship of a particular house, along with general guidelines or special considerations associated with a particular property. The government considers the merits of any other terms proposed by the offerors within the context of the complete proposal. Innovative and constructive solutions proposed by the offeror can be incorporated into the final contract. For Flanders, this could mean that the city does not have to define in detail what, if any, "quasi-public" use will be required before soliciting for curators. Rather, a curator could be selected, in part, by their understanding and proposed resolution of the competing interests.

The data is available. Several states, counties, cities, and preservation trusts have referred to the Maryland Department of Natural Resources Resident Curatorship web pages as a starting point for their programs. http://dnr.maryland.gov/land/rcs/ . Available there is a curator contract template, the criteria and process they use to select curators, instructions for proposal preparation and a background on the program. I have recently spoken to the director of the Resident Curator program, Mr. Bruce Alexander, regarding the situation Carmel has with Flanders. Mr. Alexander did offer to discuss the program and answer questions with your team or the council.

In summary, the EA, and to a lesser degree the EIR, should be updated to evaluate the potential economic and quasi-public use benefits of a curatorship type lease arrangement. The facts should be made publically and officially available before the council finalizes the resolutions it is attempting to pass, and before the public is asked to vote on the fate of Flanders.

If I can be of any help in any way, please don't hesitate to let me know. I can be contacted at the address above, via email at albiol@sbcglobal.net, or phone: (408)480-3641

Respectfully Yours,

Les Albiol

Attach: (1) Handout
(2) Completion, Alf Brown House

Attach 1 Handout

Comments to the Flanders Property Environmental Impact Report and Economic Assessment

Resident Curatorship

A proven long term lease concept for historic preservation

Les Albiol, Curator
408-480-3641
albiol@sbcglobal.net

28 April 2009

Lapses of the EA and EIR

- In evaluating lease options, the EA assumes that the city would incur upgrade and maintenance costs. Economic feasibility was assessed in terms of recovering these costs.
  - The EA case studies were incorrectly limited by this false assumption
- The successes of a myriad of "curatorship" type long term lease arrangements specifically tailored to no-cost historic preservation of single family residences have not been evaluated in either the EIR or the EA
- The EA failed to evaluate the economic feasibility of a curatorship type long term lease arrangement
  - Personal flexibility and tax incentives lower restoration costs
  - Curators restore properties at a small fraction of government estimates
- The EA's conclusion that a sale is the only economically feasible alternative is probably incorrect in light of the overwhelming success of similar properties in these programs

Resident Curatorship

- States, counties, and city governments around the U.S. are using the Resident Curatorship concept to preserve historic homes on public land
- Unique obligations imposed on lesee (the Curator)
  - Restores and maintains at own cost in accordance with preservation guidelines (i.e. Secretary Guidelines)
  - Restoration and maintenance is a "donation"
  - A steward of taxpayers resources
- City retains a fully restored historic property as a public asset in perpetuity
- Zero cost to the government

Typical Situation

- Historically significant single family residence
- On public park land or wildlife preserve
  - local or state
- Property in poor to uninhabitable condition
  - Stabilization and considerable restoration required
- Government unable to fund restoration
- Public, historic or environmental considerations not favorable for property sale
- Unsuitable for typical lease arrangements

Some Examples

- Maryland Department of Natural Resources
  - 40+ properties, Over $8 million in donations
  - http://www.dnr.state.md.us/land/rcs/
- Massachusetts Department of Conservation and Recreation (20+ properties, $5+ Million)
- Philadelphia (Fairmount Park Historic Preservation Trust)
- Delaware (Division of Parks and Recreation)
- Vermont (Agency for Natural Resources Lands Division)
- Washington State (enabling legislation)
- North Carolina (The Historic Preservation Foundation of North Carolina, Inc.)
- City of Loveleand, Ohio

Related Press

- NY Times (August 30, 2007)
  www.nytimes.com/2007/08/30/garden/30curators.html?_r=1&pagewanted=print
- Council of State Governments (March, 2008)
  www.csg.org/pubs/Documents/sn0803.pdf
- NPR (Living History in a Maryland Farmhouse, September 23, 2007)
  www.npr.org/templates/story/story.php?storyId=14635225
- Washington Post (July 13, 2002)
  www.washingtonpost.com/wp-dyn/articles/A61691-2002Jul12.html Maryland Deals Rent for Restoration

Attach (2) Completion, Alf Brown House

STATE OF MARYLAND
OFFICE OF THE GOVERNOR

ROBERT L. EHRLICH, JR.
GOVERNOR

STATE HOUSE
100 STATE CIRCLE
ANNAPOLIS, MARYLAND 21401
(410) 974-3901
(TOLL FREE) 1-800-811-8336

TTY USERS CALL VIA MD RELAY

November 19, 2003

Mr. Les Albiol
Ms. Patricia Albiol
Alfred Brown House
23222 Georgia Avenue
Brookeville, MD 20833

Dear Mr. and Ms. Albiol:

It has come to my attention that you have completed your curatorship restoration of the historic Alfred Brown House at Patuxent River State Park. On behalf of the citizens of Maryland, I wish to congratulate and thank you for your generous gift.

The work you have done to restore this important piece of Maryland's architectural heritage is exemplary. The people of Maryland are fortunate indeed to have public-spirited fellow citizens such as you who are willing to undertake such a worthy endeavor on their behalf.

The Alfred Brown House will stand as a tangible reminder of our State's rich heritage. You have my sincerest wishes for long and happy lives as Resident-Curators at this important historic site.

Very truly yours,

Robert L. Ehrlich, Jr.
Governor

Resident Curatorship

A proven long term lease concept for historic preservation

Les Albiol, Curator
408-480-3641
albiol@sbcglobal.net

28 April 2009

Resident Curatorship

- States, counties, and city governments around the U.S. are using the Resident Curatorship concept to preserve historic homes on public land
- Unique obligations imposed on lessee (the Curator)
  - Restores and maintains at own cost in accordance with preservation guidelines (i.e. Secretary Guidelines)
  - Restoration and maintenance is a “donation”
  - A steward of taxpayers resources
- City retains a fully restored historic property as a public asset in perpetuity
- Zero cost to the government

Typical Situation for Resident Curatorships

- Historically significant single family residence
- On public park land or wildlife preserve
  - local or state
- Property in poor condition
  - Stabilization and considerable restoration required
- Government unable to fund restoration
- Public, historic or environmental considerations not favorable for property sale
- Unsuitable for typical lease arrangements

Some Examples

- Maryland Department of Natural Resources
  - 40+ properties, Over $8 million in donations
  - http://www.dnr.state.md.us/land/rcs/
- Massachusetts Department of Conservation and Recreation (20+ properties, $5+ Million)
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- Washington Post (July 13, 2002)
  www.washingtonpost.com/wp-dyn/articles/A61691-2002Jul12.html Maryland Deals Rent for Restoration

From: Les Albiol <albioll@ssd.loral.com>
Subject: **Urgent Information for Special Meeting on FLANDERS EIR**
Date: April 28, 2009 1:39:17 PM PDT
To: pjhaz@hotmail.com, gfitzrose@aol.comg, Gerard@gerardroselaw.com, karensharp@yahoo.com, kktalm@aol.com, cloud93921@aol.com
1 Attachment, 251 KB

Honorable Mayor and Council,

I'm writing to provide evidence that the Environmental Assessment regarding the Flanders property was incomplete and thus incorrect.

Long term lease alternatives in the form of a Resident Curator could in effect meet the primary and secondary objectives of the project at no cost to the city.

Attached is a summarry of the alternative that was not considered in the EA or EIR. This is a proven, successful approach to situations exactly like the Flanders property.

I hope at least this can be considered prior to adoption of the resolutions proposed at this afternoon's meeting, which I will attend.

Thank you for your consideration.

Respectfully,

Les Albiol,
Curator
(408)480-3641

Resident Cur....pdf (251 KB)

Les Albiol
23222 Georgia Ave
Sunshine, MD 20833

26 May 98

Mayor Ken White and members of the City Council
Carmel-By-the Sea

Dear Mayor and Ladies and Gentlemen of the Council,

I would like to take this opportunity to offer an alternative course of action for the Flander's mansion; one that restores and preserves the property as a public historic resource, preserves the interests of the neighborhood and community, and alleviates the city's administrative and financial burden of the property.

I respectfully request the Council consider implementing a program tailored after the very successful "Resident Curatorship Program" administered by the Maryland Department of Natural Resources. In short, this program establishes a contract whereby a Curator performs stabilization, renovation/restoration, and all subsequent maintenance of an historic, state owned property. All costs are the responsibility of the Curator, including labor, materials and equipment. In exchange, the Curator is allowed to reside in the property for the life of the Curator. The contract between the Curator and State delineates the guidelines under which the Curator will perform work the schedule of work, and any other specific considerations.

A comparable program for the Flander's Mansion is a unique alternative for the city in contrast to either selling or leasing the property. Maryland's Curatorship program arose from a similar quandary to yours: The need to preserve historic resources as public assets, but the lack of funds or administrative support required to do so. Maryland's program has been extremely successful, being a win-win-win situation for the State, the public and the Curators. I've attached background information about Maryland's Curatorship Program.

With respect to the Flander's Mansion, the Curator will be City's on-site representative. The extent of the Curator's authority is tied to the "permanence" of the outcome. Changes affecting the permanent structure, style, fabric, or history of the property will be clearly delineated in the contract (or in subsequently approved modifications, if needed). Decisions regarding ephemeral or concealed improvements & maintenance (i.e. paint , insulation specifics, etc.) will be left to the Curator, within the general guidelines of the contract and with historic sensitivity. This approach ensures that stabilization and renovation can continue at an effective and efficient pace while ensuring the public's long term interest in the property is preserved.

I have been a Curator of a federal period house in Maryland's Curator program since 1993. It is my personal goal to establish such programs in California for the preservation of historic and cultural resources. The Flander's Mansion may well provide the ideal opportunity to do so. My wife and I are completing the restoration of 'our' property and will be available shortly to undertake a full Curatorship in Carmel.

We are offering to submit a Curatorship proposal at no cost or obligation to you. The details of the proposal will, of course, depend on our evaluation of the property, and meeting with and feedback from

the neighbors and the City Council. We are fully committed to this prospect and could begin preservation and stabilization of the property immediately upon completion of a contract. Our proposal would include: Secretary of the Interior's Standards for Historic Preservation, specific guidelines and our approach to the required preservation, stabilization, rehabilitation, (including utilities, facilities and heating) and restoration, a long term schedule, other terms and conditions (including inspections, public access, termination liabilities etc.), resumes and financial statements.

Our intent for the restoration of the Flander's estate is for use as a single family house. Akin to the project we are completing now, we will generally perform the work ourselves. This offers the degree of excellence and care required for an historic restoration, and also provides the flexibility to be creatively resourceful with methods, materials and labor. Specific opportunities that have arisen here in Maryland include: salvaging period materials from condemned structures, utilizing excess materials and supplies from government works, involving local schools/colleges as a community service project, hosting historic restoration & decorating workshops and leveraging the assets of various historic preservation societies and trusts.

We believe the Flander's mansion should be maintained as a community asset. As such we intend explore ways to provide limited public access to the property without aggravating the traffic, parking and noise concerns of the neighborhood. Annual receptions or occasional tours for school children are some ideas we would like to explore with the community.

My wife and I have extensive hands-on experience in all aspects of renovation and, as Curators, we've gained specific experience in the challenges an historic property yields. We're versed in the methods, materials, special considerations, resources, costs and frustrations that restoration entails. We both have advanced engineering degrees and are technical managers in our profession. We are confident we can meet the technical, financial and community requirements to fulfill such an obligation. Our intention is to relocate to California and preferably Carmel.

I must add that I consider Carmel my home town. My Family lives there, I went to school there and we intend to raise our family there. Thus, I am particularly motivated to preserving the history and culture of my community and look forward to your consideration of this offer. I will be glad to provide any additional information you may need.

I can be reached at the address above or

home: (301) 570-4050
pager: (800) SKY-PAGE, P.I.N. 125-3761
e-mail: CRMLbyDC@erols.com

Respectfully Yours,

Les Albiol

Attachment

RESIDENT-CURATORSHIP PROGRAM

MARYLAND DEPARTMENT OF NATURAL RESOURCES

We receive many inquiries from people interested in the resident-curatorship program. This packet explains what the program is, how it works and what you can do to get involved.

What Is It?

The resident-curatorship program is one means by which the Department of Natural Resources of the State of Maryland (DNR) secures private donations of restoration and maintenance services for various Department-owned historic structures.

A curator pledges to donate to the state goods and services sufficient to restore a particular historic property and also pledges to maintain the property in good condition after the restoration. The term of the curatorship is indefinite, so long as the curator continues to meet his or her obligations to the satisfaction of the Department. The curatorship terminates upon the death of the curator or, in the case of joint curatorships, upon the death of the survivor of the curators.

More than 30 curatorships presently exist (the first was established in 1982) and together represent over three and a half million dollars worth of donated restorations to state-owned historic properties. Thus far, curators have successfully deducted substantial amounts of their donations from their taxable income as charitable contributions, however, the State of Maryland cannot and does not make any representations in this regard.

How Does the Program Work?

A private party who wishes to enter into a curatorship agreement with DNR for a particular property prepares a formal proposal using the attached format.

Of particular importance in the proposal are Appendices C (Curator's Resumes), D (Curator's Financial Statement) and F (Schedule of Restoration Work). The purpose of the Resumes is for potential curators to demonstrate experience they may have in historic preservation. The purpose of the Financial Statement is for prospective curators to demonstrate their financial ability to support the proposed undertaking. The purposes of the Schedule of Work are for the prospective curators to identify all work to be done, show estimated costs and provide a time schedule. not to exceed five years, for completion. Generally, a proposal must represent at least $50,000 worth of improvements in order to justify a curatorship. Minors can not be curators, and curators' interest in a property can not be bequeathed.

If in the Department's opinion the proposal is sound, we submit it to the state Board of Public Works, which is comprised of the Governor, Comptroller and Treasurer of Maryland, for that body's approval. The board has been very supportive of the program and, once it has approved a proposal, the curator is free to proceed with restoration.

The curator need not take up residency in the property until the restoration has progressed to the point of livability. The curator's work is subject to periodic inspection by state officials to assure that work is progressing satisfactorily. The state reserves the right to require correction of

unsatisfactory work. Curators submit annual accounts of all expenses and receive formal acknowledgement from the state for those expenses.

As a general guideline for restoration work, DNR uses a federal publication entitled "The Secretary of the Interior's Standards for Historic Preservation." A summary of those standards is included in this packet.

Why Does DNR Have a Resident-Curatorship Program?

Because we cannot afford to preserve all of our historic structures ourselves.

As the largest landowner in Maryland (over 330,000 acres), DNR happens to be the proprietor of a number of historically significant buildings. In fact, of the Department's 1,200 or so standing structures, nearly 400 have been determined by the Maryland Historic Trust to be of at least some historic significance. These are scattered across the state on about 170 different sites (many sites being complexes of several buildings). Most, however, are concentrated west of the Chesapeake Bay and east of Hagerstown.

For various reasons, few of our 400 historic structures are available for curatorships. Some of major historic significance, such as Fort Frederick and Smallwood's Retreat, have been restored at public expense and are open to public visitations as shrines to Maryland's history. Many sites, though of lesser significance, nevertheless still serve useful functions and are kept in good repair. Examples include structures used as rental housing, thus bringing in revenue to the state, or as housing for state employees who provide 24-hour security for certain park areas. Many of our historic structures are held in life-estates held by the last private owners, and there is no way to predict when these life estates will expire. Fifty or so of our historic buildings were constructed by the Civilian Conservation Corps during the Great Depression. Nearly all of the CCC structures still serve useful functions as picnic shelters, rental cabins, scenic overlooks and so forth. Unfortunately, another large share of DNR's historic structures are ruins with no practical hope of restoration. The truly significant ones, like Catoctin Furnace and Black Rock Mill, have been, or will be, stabilized as ruins, at public expense, and left as is for the public to visit. Ruins of lesser significance have been recorded for posterity and will either be razed or allowed to deteriorate of their own accord. In the case of some historic buildings, it has been possible to return them to private ownership by public auction, with appropriate preservation easements retained by the Maryland Historic Trust. For various reasons, however, sale with easements is a limited option.

A handful of DNR's historic structures cannot be easily fitted into any of the foregoing categories of type or use. Generally these are farmhouses, usually with outbuildings, that are too far deteriorated- though not ruins - to be used as rental or employee housing, yet are of sufficient historical merit to warrant preservation. Since the state lacks the resources to preserve them, the search for curators proceeds.

What's in it for the Curator?

Lots of anguish for one thing. Restoration is an expensive, dirty, exasperating job, even if curators hire contractors to do it for them, but especially if they do the work themselves - and curators do it both ways. But after the anguish comes the pride and satisfaction of living in and caring for a fine historic structure that the curators have restored themselves. Historic houses were built with great care, craftsmanship and character than is not attainable in modern construction. Furthermore, DNR's historic houses are located in tranquil rural settings buffered from developmental threats by virtue of the fact that the property is publicly-owned park land.

There are practical benefits as well. For one thing, assuming the curators complete their restoration satisfactorily - and they all have so far -, and provided they maintain the property in an acceptable manner (that is, as well as a conscientious homeowner would), then they have a place to live free of mortgage or rental payments and free of property taxes. Moreover, if the curators are successful in deducting the amount of their gift from their taxable income - and the state makes no representation in this regard - they receive further financial benefit. Some present curators feel that all the financial benefits will eventually offset the costs of their restorations.

Who Can You Contact for More Information?

Ross M. Kimmell
Public Lands
Department of Natural Resources
Tawes State Office Building, E-3
Annapolis, Maryland 21401

Phone: (410) 974-3585
Fax: (410) 974-3158

Attachment C

Correspondence from Joseph and Nancy Telese represented by attorney Zad Leavy, LAW OFFICES of ZAD LEAVY

July 27, 2000
Flanders Foundation, Melanie Billig
RE: Flanders Home

January 20, 2000
Honorable Ken White, Mayor
Carmel City Council
Carmel By-The-Sea
Re: Flanders Mansion, Proposal to purchase a Life Estate

July 27, 2000

Flanders Foundation
P. O. Box 144
Carmel by the Sea, Calif. 93921-1414

RE. Flanders Home

Dear Melanie Bilig,

I feel compelled to write this letter to your wonderful organization because I have been very disturbed for sometime now by the way the city of Carmel has handled our offer of the Flanders home. It has been over 6 months now, since our offer was presented to the city of Carmel. To emphasize the legitimacy of our offer, we hired attorney Zad Leavy to formally present this offer in writing to the city.

We have had two brief phone calls during this past 6 months. The first from Mr. White, while he was still in office, and the second from another city council member on this same day. Other than these two calls we have had absolutely no response whatsoever from anyone. In discussing the situation with several Carmel citizens, I was told that I would probably have to wait until after the elections for a response. I am shocked that our offer has to this date, still been ignored.

I had felt that our offer would appeal to all citizens of Carmel and city officials. I was hoping that my offer would solve the controversy of the different viewpoints, and opinions of what to do with the Flanders home. I had tried to present a plan, that was equally generous to the city of Carmel, but would also protect the home for all future generations to enjoy.

I am greatly disappointed that the city of Carmel, has treated a prospective resident, who wishes to do something good to help the community, in this manner.

This letter will serve as our official confirmation that our offer is hereby rescinded, and is no longer active at this time, due to the mayor and city councils inability to respond to what we believed was a very good and generous proposition.

Sincerely,

Mrs Nancy Telese

Mrs. Nancy Telese

cc. City Hall-Mayor and City Council
Carmel Pine Cone

LAW OFFICES of ZAD LEAVY
ZAD LEAVY and ROBIN K. JEPSEN
ATTORNEYS AT LAW

3785 VIA NONA MARIE, SUITE 309
CARMEL, CALIFORNIA 93923
TEL: 831-624-6060
FAX: 831-625-1250

January 20, 2000

Honorable Ken White, Mayor
Carmel City Council
Carmel By-The-Sea
PO Box CC
Carmel, CA 93921

Re: **Flanders Mansion**

Dear Mayor White and Council Members:

This office represents Florida residents Joseph and Nancy Telese who are in the process of relocating to Carmel. Mr. and Mrs. Telese desire to acquire the Flanders Mansion and a small area of land around the residence, to renovate and use the property as their personal residence, and to ultimately to preserve it as an historic showplace.

Mr. and Mrs. Telese, who have no children, propose to purchase a life estate, reside in the house during their lives and upon their deaths the property would revert back to the City of Carmel with a deed restriction which would require the City to retain the property.

The property would retain its current "R-1" zoning, the Telese's would live in the home themselves and they would commit to renovating the home at their own expense pursuant to standards approved by the City and the Flanders Foundation.

In addition, the Telese's are prepared to donate to the City their valuable antique and fine art collection currently valued at approximately 5 million dollars. The collection includes, among others, works by renowned artists such as Picasso, William Aiken Walker, Antonio Jacobson, Buttersworth, Modigliano, Martin Heade, Herring, and Rivoire.

Further, the Telese's are prepared to make available the residence, art collection and grounds on an occasional, non-commercial basis for public viewing and tours.

Mr. and Mrs. Telese would be pleased to meet with you as appropriate. Your consideration of their proposal is appreciated.

Please call if you have any questions or require any further information.

Sincerely,

ZAD LEAVY

RKJ/ZL:gs
cc: Joseph & Nancy Telese

LETTER H: L.A. PATTERSON

H1: The comment asserts that the RDEIR analyzed some reduced parcel alternatives, but did not analyze a comparable parcel size typical of Carmel-by-the-Sea lots. The commenter suggests a lot size of 12,000 square feet or 0.28 acres, since residences of approximately 5,500 square feet are typically on these sized lots. The comment also addresses City and LUP policies related to scale and limiting building size based on lot size.

For a detailed response to this comment, please see Master Response #1

H2:This comment states that the assumptions for the RDEIR description of **Alternative 6.4, Lease For Single-Family Residential Use** would be incorrect if the Mansion was occupied under a resident curator arrangement. The comment also states that the RDEIR is inadequate and incomplete unless it analyzes this type of occupancy.

The description in the EIR states ownership would be retained by the City and the mansion would then be leased as a single-family residence. The commenter asserts that all of the assumptions made in the Description are invalid if the City were to lease the property under a "Resident Curatorship" which is described as a variation of a long-term lease whereby a Resident Curator assumes the cost of facility upgrades and maintenance requirements. As noted in the comment letter, a Resident Curatorship would not meet the primary project objective of divestment but would satisfy all the secondary objectives.. The commenter agrees with the statement in the RDEIR, "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."

The RDEIR includes residential lease occupancies as part of Alternative 6.4 and these are evaluated for potential environmental impacts. In most respects, Resident Curator occupancy would be very similar to standard residential lease occupancy in terms of the land use activities and impacts generated. While the specific uses are described in the RDEIR, it is not necessary to describe the particular types of lease arrangements. If a curator or another person with strong historic or public access motivations were to inhabit the Mansion, the potential indirect impacts of exterior fence construction may not occur. The Proposed Project consists of the potential sale of the Flanders Mansion Project and no direct physical impacts to resources are anticipated to occur. Nevertheless, the RDEIR correctly evaluates potential indirect impacts that may occur as a result of a future uses and users. Mitigation measures have been incorporated to ensure that reasonably foreseeable impacts associated with the future use of the property are reduced to a less-than-significant level. The assumptions identified in the project description are meant to cover the physical impacts that could be reasonably foreseeable. Other users or leaseholders may also choose not to erect fences or other physical barriers to public access on the property. Therefore, the Lease For Single-Family Residential Use Alternative is significantly similar to the proposal of a Resident Curator under a lease agreement with the City and living in the residence.

Since the property would not be sold, the primary project objective of divestment would not be met but if most of the City's financial burdens related to rehabilitation and maintenance are shifted to the lessee, this may be viewed as acceptable by the City. The City comments that the chief advantages of a resident curator occupancy (compared to other residential lease arrangements) are (1) costs of rehabilitation and maintenance are shifted to the lessee, (2) A resident curator arrangement may allow for greater public visitation of the Mansion and grounds and (3) the lease agreement may be more restrictive regarding exterior changes to the property.

Decision-makers will be able to consider this type of lease arrangement within the context of their deliberation over Alternative 6.4 and may use this RDEIR and its alternative analysis as a decision-making tool, consistent with CEQA requirements. No changes in the analysis are necessary based upon the comment.

Note: The commenter provided a letter from certain parties interested in this type of occupancy; this letter is provided to the City for its consideration. The City will be responsible for consideration of future leaseholders, should the City approve the Proposed Project under this Alternative, and not the EIR consultant. Although particular people may express an interest in the property, it is outside the scope and purpose of this EIR and CEQA to consider such potential transactions and specified future tenants.

Also refer to **Master Response 3b,** addressing other uses reasonable for the property under the No Project Alternative. Under the No Project alternative, the City could retain the property and provide for other uses of the building and/or site. It may also choose to negotiate with another party for the long-term maintenance responsibility for this parcel/building, without a sale or lease of the building and/or property. The analysis in the RDEIR is adequate to assess the potential physical impacts for all of the uses suggested in the public comments, including use of the building for the long term care of the facility, or uses similar to those as have occurred in the past, such as lease of the building for offices, or lease to a resident caretaker.

H3: This comment asserts that the City has ignored requests by the Flanders Foundation to restore the property and questions the assumptions in the RDEIR Lease Alternative Description stating "this alternative assumes that the City would be required to implement additional facility upgrades in order for the building to be leasable". The commenter is correct that the party responsible for facility upgrades depends on the lease arrangements. A potential leaseholder may be willing to undertake the expense of improving the property if the lease payments are reduced or eliminated and if the lease period is of substantial duration. In response to this comment, the 3rd sentence in the last paragraph on Page 6-11 of the 2012 RDEIR has been struck. The question of which party does the work does not affect the environmental analysis and any economic consequences are beyond the scope of this document.

A portion of this comment is similar or is the same comment made by the Flanders Foundation, stating that the Foundation has offered to raise the money for rehabilitation, maintenance and operational costs since 1999. They raised the concern during the 2009 RDEIR process that the City is not considering the offer or past offers of The Flanders Foundation to take over or fund the rehabilitation, maintenance and operational costs of the Flanders Mansion. The RDEIR (on Page 3-3) identifies these actions. As confirmed by the City, a review of the records and past documentation, The Flanders Foundation has made offers, provided public testimony regarding these offers, met with the City, and submitted a business plan. According to the City, the City did review these materials and received public comment on the proposals. The record shows that the City did not accept the proposal (City Council Minutes, affirming the Council considered and rejected the Flanders Foundation proposal on 7 December 1999). Although no other formal submittals have been considered by the City since the deliberation noted above, the City has been in the environmental review process since 2005 and the Flanders Foundation has provided input into this process during this period, including numerous letters of comment, City correspondence and other methods of communication.

The City could still revisit the Foundation's proposal and sell or lease to The Flanders Foundation as part of any project action. The Flanders Foundation or another non-profit, government agency, or grant or funding source could also provide the funds for rehabilitation of the Flanders Mansion, which would meet the secondary objective to provide rehabilitation to the structure.

The EIR is focused on the potential impacts of the Proposed Project primarily related to physical impacts on the environment from the potential actions of the City. This EIR considers these potential impacts and the potential for mitigation under a number of alternative scenarios compatible with the approach suggested by the comment letter and The Flanders Foundation. The City may determine to negotiate with a public or not–for-profit agency such as The Flanders Foundation or another public or not-for-profit agency for the sale, lease or long-term maintenance responsibility for this parcel and its building, if sale or lease for quasi-public or public use is approved. If sale or lease or a long-term maintenance agreement with The Flanders Foundation was the action resulting from this Proposed Project, this EIR would be used as the environmental documentation for such an action.

H4. The commenter finds fault with statements that the use of the Flanders Mansion for public or quasi-public purposes could result in an intensification of use compared to single-family residential or similar low-intensity land uses. The land use category of Public and Quasi-public uses covers a broad spectrum of potential uses. It is important for the analysis in the EIR to be conservative and for this reason the conclusion is accurate. The RDEIR correctly states that this alternative *could* result in an intensification of use and thus, *would* generate more traffic than a single-family residence. No changes in the analysis are considered necessary based upon the comment. Please refer to **Section 3.0 Master Responses to Comments, Master Response 5, Transportation/Traffic** for further discussion.

H5: Commenter states that it is vital that the public be informed of the potential for a Resident Curatorship and specific lease terms between the City of Carmel-by-the-Sea and the Flanders Foundation under these scenarios. In addition, the commenter provides another approach, namely a Life Estate whereby a party would purchase a life estate, commit to renovating Flanders Mansion at their expense and reside in the Mansion during their lives until death whereupon the Flanders Mansion Property would revert back to the City of Carmel-by-the-Sea. Refer to **Response H5**, above. While the specific uses are described in the RDEIR, it is not necessary to describe the particular types of lease holdings or specified methods of holding or leasing the property.

RDEIR correctly evaluates potential indirect impacts that may occur as a result of a future uses and users and applies mitigation measures to ensure that reasonably foreseeable impacts associated with the future use of the property are reduced to a less-than-significant level. The assumptions identified in this project description are meant to cover the physical impacts that could be reasonably foreseeable. Other users or leaseholders (or methods of holding title, real estate transactions with the City) may also be employed, and are not precluded by the EIR analysis.

H6: Commenter states that in the Reduced Parcel Alternative, parking would not be allowed in the circular driveway near the Flanders Mansion and that no replacement parking is proposed near the top of the driveway. The commenter states that this will result in more parking congestion on Hatton Road, and hazardous parking conditions along Hatton Road.

Additional discussion is provided under the Reduced Parcel Alternative 6.7 related to parking areas. As noted in the comment letter, the June 2012 description of the **Reduced Parcel Alternative 6.7** restricts vehicular access at Hatton Road and parking for public vehicles would be limited to available spaces on Hatton Road. As proposed in the **Changes to the Revised Alternatives Section**, this alternative description is revised to show that there could be additional parking spaces constructed at the top of the existing driveway as an option.

This concept for a new parking area was included in the EIR as a mitigation measure and could be added to any of the Project Alternatives. The RDEIR shows the location of a potential new visitor parking area on City-owned property at the beginning of the driveway entrance to the Flanders parcel off Hatton Road (RDEIR **Figure 4.6-2**). This additional visitor parking area would allow immediate access to the Park.

As noted, this area parking may be provided with any of the EIR Alternatives, including the reduced parcel alternatives.

Since this comment identifies the need for clarification, the RDEIR has been modified to clearly identify this distinction. Please see **Changes to the Recirculated Draft EIR, Alternatives Section.**

H7: Commenter argues that the economic act of selling the Flanders Mansion to a single-family could result in significant physical impacts in the form of intensified use leading to degradation to the surrounding ESHA and special-status plant species and animal species. Further, the letter cites that the mitigation measures are insufficient.

The RDEIR fully evaluates potential impacts from the Proposed Project, the potential sale of the property, and the indirect impacts of the Proposed Project. As stated on Page 4.2-11 of the RDEIR: "Consistent with the findings of the 2005 DEIR, as modified in the FEIR, the sale of the Flanders Mansion Property may result in incompatible uses with adjacent passive parklands designated as ESHA. If the Proposed Project is approved and the Mansion is sold, this may result in indirect biological impacts due to increased use, changes to access, removal of native trees and vegetation, and changes to on-site drainage. Although the future use of the property is not known at this time, potential impacts after sale of the Flanders Mansion can be anticipated and mitigations are provided in this RDEIR to lessen these impacts. Potential future impacts could occur during construction when activities such as vegetation removal or site disturbance would occur. These impacts are considered secondary because there are no direct impacts from the sale of Flanders Mansion. …The RDEIR proposes mitigation measures to ensure that impacts to biological resources are further minimized to a less-than-significant level.

As stated on Page 4.2-11 of the RDEIR (second sentence under the "Indirect Impacts" heading), "If an intensification of use beyond the historical use of the property threatens biological resources this would constitute a potentially significant indirect impact. Any future use at the Flanders Mansion shall be in accordance with CEQA, the Mission Trail Nature Preserve Master Plan, the City of Carmel-by-the-Sea Forest Management Plan, and the Coastal Act."

DD&A considered potential impacts to onsite and adjacent ESHA and special species through sale of the Flanders property. Mitigation to reduce impacts is provided in the 2005 Biological Assessment (BA) and 2008 BA Letter Update. As stated on Page 6 of the 2008 revised BA (final sentence): "No additional special status wildlife species were observed or reported within the Flanders Mansion or in the immediate vicinity of the site during the preparation of this updated letter report, therefore, the mitigation techniques included in the 2005 DD&A BA are applicable and sufficient."

The field methodology utilized for each BA is consistent with industry standards, Monterey County biological report requirements, and CEQA. DD&A's methodology was included in the original biological report and did not solicit any public or regulatory agency comments. Furthermore, in the Superior Court's ruling concerning the adequacy of the analysis contained in the 2005 FEIR, no aspects of the original biological analysis was challenged. DD&A is confident that our methodology is sound and defensible.

Also, refer to **RDEIR Master Response 14: Level of Specificity of Mitigation.** The level of specificity of the mitigations and analysis in this document are consistent with the level of specificity of the Proposed Project, which is described in the EIR. In this case, the Proposed Project is the sale of the Flanders Mansion. None of the details of that proposed action- the identity of the purchaser, the use proposed to be made by the purchaser or the entitlements that may be sought for such use, the terms of the sale - are available at this time. Therefore, the level of detail in the impact analysis and the development of

mitigation measures are consistent with the evaluation of a proposed sale of the property (or lease) and are not specific to the detailed plans that would be available for a development project.

The comment identifies that the Flanders Mansion should only be used for single-family residential use due to potential traffic hazards associated with a public/quasi-public use. A response to this comment is provided in **Section 3.0 Master Responses to Comments, Master Response 4, Single-Family Residential Use Preference**, and **Master Response 5, Transportation/Traffic,** and we direct your attention to those Master Responses. Moreover, this comment contends that use as a single-family residence would have a minimal impact on the Mission Trail Nature Preserve. The RDEIR identified that sale of the Flanders property, regardless of the type of use, would constitute a significant and unavoidable direct impact that cannot be mitigated due to the permanent loss of parkland (see Page 4.5-6).

Letter I

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JUL 30 2012

CITY OF
CARMEL-BY-THE-SEA

Planning Commission
Carmel-by-the-Sea, CA 93921

July 30, 2012

SUBJECT: Comments, Recirculated Draft Environmental Impact Report, Flanders Mansion

1. Primary Objective: "..is to divest the City of Carmel-by-the-Sea of the Flanders Mansion property..." , in accordance with the Secondary Objectives.

   A. It is in the public's interest to sell Flanders Mansion property only with strong environmental conditions that protect the rest of the Mission Trail Nature Preserve's parklands and public access.

   B. It is in the future private owner's interest to sell Flanders Mansion property only with srong conditions that protect the privacy and access of the future owner.

   C. These two logical requirements are in direct conflict with one another. Therefore, divestment through sale of the property to a private purchaser is a catch 22 and un-achievable if Mission Trail is to be environmentally and recreationally protected. I-1

2. Secondary Objectives:

   A. "Flanders Mansion is preserved as a historic resource": Alternatives 6.5, 6.6 & 6.7 cannot guarantee that Flanders Mansion will be preserved as an historic resource. Constant monitoring of property management is not realistic if the mansion is owned and inhabited by a private owner.

   B. "Future use will not significantly disrupt public's enjoyment of Mission Trail Nature Preserve and Lester Rowntree Native Plant Garden": Alternatives 6.5, 6.6 & 6.7 cannot meet these objectives since sale of the building will significantly disrupt public enjoyment of the parkland because the mansion is located in the central area of the northern half of the parkland and is used as a trail entry, destination and crosstrail for hikers, dog-walkers, visitors, etc. The creation of a private in-holding in a park disrupts the circulation and intrudes into the enjoyment of the park experience, causing interference with activities of both private owners and park users. The Lester Rowwntree Native Plant Garden shares a lengthy property line with the mansion, making it impossible to avoid interrupting each other's daily activities. I-2

   C. "Ensure environmental resources..... are protected": Alternatives 6.5, 6.6 & 6.7 cannot ensure that environmental resources can be protected for several reasons. In the first place there has never been a complete or exact mapping of all environmental resources. It will be almost impossible to establish, prove or evaluate if they have been protected or not protected. Who is to judge whether a native plant is destroyed or a pesticide has been applied or any other environmental damage has occured? It is unprovable and therefore an unrealistic standard if property is privately owned.

   D. "Ensure..... Flanders Mansion parcel continues to provide the public with as many

park benefits as are practical": (Should the word be "practicable"?) The objective is open-ended, and so will be practically impossible to fulfill. Alternatives 6.5, 6.6 & 6.7, particularly, could not ensure fulfillment. A private in-holding, inherently, has negative impacts on public use. Section 1.5, as quoted above, establishes that the Mansion has historically provided numerous "park benefits" that this secondary objective requires to be continued. And further, it is doubtful that a private buyer would want the public to be "benefiting" from any form of public use of their private property. I-2

3. Other Alternative: There is another alternative that could meet the Primary Objective and the Secondary Objectives, that is superior to other objectives and not only has no negative environmental impacts, but will environmentally improve the entire parkland: transfer ownership or management of the entire park, including Flanders Mansion, to the Monterey Peninsula Regional Park District. If this could be achieved, the city would be "divested" of all present and future park costs and management concerns, and the Mission Trail Nature Preserve would benefit from much-needed stewardship improvement. I-3

4. Superior Alternative: Following up on the rationale of the previous points, my rating of Alternatives, from highest to lowest, is as follows: I-4

A. Transfer ownership to Monterey Peninsula Regional Park District

B. Long-term lease to private owner

C. Sale to agency, per state requirements

D. Sale to private with smallest parcel size and strong environmental and access conditions

Yours truly,

Joyce Stevens, P.O. Box 2116, Carmel, Ca 93921, 624-3149

LETTER I: JOYCE STEVENS

I1: The comment notes that there is an inherent conflict between the interests of the public to protect the park's resources and public access, and the interests of any future buyer to protect their privacy and private access. The commenter states that the property cannot be sold if the environmental and park resources are to be protected.

The RDEIR states that the sale of parkland would constitute a significant and unavoidable impact that that cannot be mitigated to a less-than-significant level (see Page 4.5-5 through 4.5-6). The RDEIR also identified that the Proposed Project would result in direct impacts to the existing trail network since public access to and through the Flanders Mansion property would no longer be possible. A number of impacted trails were identified in the RDEIR and suitable mitigation measures were identified to ensure that adequate replacement trails are provided to ensure continued use and access to the trail system from the Hatton Road entrance. The mitigation provided reduces potential impacts to the trail system within the Mission Trail Nature Preserve. Please refer to **Section 3.0 Master Responses to Comments, Master Response 7, Parks/Recreation** for further discussion regarding potential impacts to park and recreational facilities.

I-2: The comment states that Alternatives 6.5, 6.6 and 6.7 would all fail to achieve the secondary project objectives on a guaranteed, absolute basis. While this may be true, it is likely true of the other alternatives as well. The objectives are not stated as absolutes and their achievement should not be gauged as binary events. No one can guarantee perfect historic preservation as long as there is the possibility of fire, earthquake or flooding. Monitoring exterior changes to the Mansion is likely to be among the most rigorous of any property in the City given the number of park visitors in constant view of the property. Regardless of whether the Mansion is leased or sold, there will be some interaction between the Mansion's new occupants and park visitors that may be considered "intrusive" by one or both parties. This would be true whether occupied as a residence or as some other use. The proposed mitigation measures would (among other things):

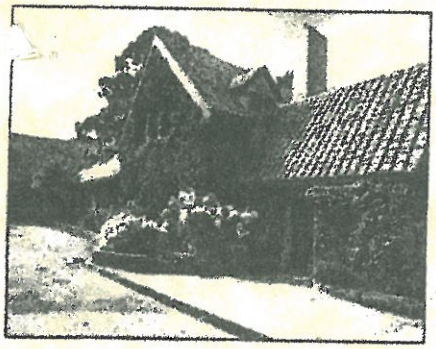
1) set strict requirements for historic rehabilitation and maintenance of the Mansion,
2) protect access to existing trails or provide replacement trails,
3) restore the full boundary of the Lester Rowntree Native Plant Garden, and
4) limit exterior changes that might compromise public views of the Mansion.

I-3: The commenter states that if the City cannot retain the property, it should consider transferring ownership and/or consider the sale or lease of the property to a non-profit such as the Monterey Peninsula Regional Parks District that could maintain the site in public use or ensure that the historic value of the resource is maintained.

The EIR is focused on the potential impacts of the Proposed Project primarily related to physical impacts on the environment from the potential actions of the City. This EIR considers these potential impacts and the potential for mitigation under a number of alternative scenarios compatible with the approach suggested by the comment letter. The City may determine to negotiate with a public or not–for-profit agency such as the Regional Parks District, The Flanders Foundation or another public or not-for-profit agency for the sale, lease or long-term maintenance responsibility for this parcel and its building, if sale or lease for quasi-public or public use is approved. If sale or lease or a long-term maintenance agreement with any of the organizations identified was the action resulting from this Proposed Project, this EIR would be used as the environmental documentation for such an action. Also refer to **Response to Comment D2.**

I-4 The comment proposes a new ranking of environmentally superior alternatives, including transferring ownership to a park district, a long-term lease to a private owner, sale to an agency, and sale with the smallest parcel size with strong environmental and access conditions. Comment noted; no change in the analysis is deemed warranted. The commenter's preference for alternatives is referred to decision makers.

Letter J



Flanders Foundation

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To: Sean Conroy, City of Carmel-by-the-Sea, Planning and Building Services Manager

From: Flanders Foundation, Melanie C. Billig, President

Date: July 30, 2012

Re: Comments on the Recirculated Draft E.I.R. (R.D.E.I.R.) for the Sale of the Flanders Mansion Property

I. Introduction

The Flanders Foundation appreciates the opportunity to comment on the Recirculated Draft E.I.R. (R.D.E.I.R.) and also greatly appreciates the extended comment period. The consultants have done an excellent job of describing the history of the CEQA process regarding this proposal before us today. Pursuant to the ruling of the State Court of Appeal, our comments are to be limited to a narrow discussion of those alternatives which involve a reduction in parcel size thereby minimizing the project's significant unmitigated impacts (loss of parkland and conflicts with Carmel's General Plan/Local Coastal Land Use Plan policies relating to parkland) as well as preserving existing park benefits (trail connections, views, parking, etc.). Given that the project is infeasible in an alternative location and given the Court's directive, we do not understand why the consultants have spent time including 2005 alternatives relating to alternative properties and locations (i.e., Rio Park and Scout House). J-1

Furthermore, under alternative uses, why are alternative uses both commercial and under public sale discussed here as they do not relate to the Court's ruling either and are a distraction from the important task set forth by the court namely consideration or a reduction in parcel size. Also, all of this discussion of use including the zoning ordinance focuses on a gradual narrowing of potential uses until the consultants arrive at two uses that appear to fit most of the city's objectives. Throughout the entire E.I.R. process, the city has clearly narrowed the potential uses for the project when it supported limiting the ultimate future uses to those that have "historically occupied the Flanders Mansion property since the city's acquisition in 1972." The city has also further limited uses based on water usage, traffic, noise, and parking impacts on the Hatton neighborhood. The city has strongly supported a sale of the property and a single-family use for the Flanders Mansion property since early on in the E.I.R. process. J-2

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II. Significant Impacts

The consultants list the two unavoidable impacts of the proposed project which are related to: (1) land use and planning and (2) parks and recreation. Under land use and planning, the sale of the Flanders Mansion Property would conflict with certain goals, objectives, policies identified in Carmel's General Plan/Coastal Land Use Plan related to parkland including G5-05-21, P5-46, P5-107. These policies should be stated here in the text for the public's and the council's understanding and information. Secondly, the rewording of the language on the loss of locally significant parkland should be changed to merge the original language which is crossed out with the new language. The combination of both ideas reflects a more accurate description of the loss. We request that the consultants make this change as well. J-3

III. Project Alternatives

A. No Project

Under this alternative the only unmet objective would be the sale. The consultants rightly point out that the unavoidable impacts are eliminated and we believe that the secondary objectives are as well. The idea that the mansion will not be refurbished or put to any public use wrongly assumes that the city will not apply for grants or seek public cooperation in the form of donations to refurbish the mansion. The city cannot allow the mansion to deteriorate due to Judge O'Farrell's ruling. The foundation has repeatedly told the city over the years as part of the E.I.R. process etc. that it would work with the city to help raise money to restore the mansion and gardens. The cooperation need not be part of a lease agreement. The city's maintenance costs are reported to be between $10,000 and $20,000 per year. Once the mansion is restored the maintenance costs should be negligible. The mansion could also be opened and operated like the First Murphy House with little or no problem to the city. In this way, it would also be put to "productive use." J-4

B. Lease Alternatives

1. Single-family residential Use

The consultants assume that the city will necessarily have to make facility improvements and upgrades to the mansion. This may not be true. It depends on the lessee and the terms of the lease. The city has had several offers to do long-term leases/life estate which require no facility work on the part of the city. See Telese letter attachment. The lessee does this in exchange for use of the mansion for an extended period defined by the lease. The Residential Curatorship proposal made during the last E.I.R. comment period is an excellent example of this type of arrangement and should be duly noted in the R.D.E.I.R. and discussed. The refurbishment of the mansion and its maintenance would cost the city nothing. At the end of the lease, the property would revert to the city to decide on its future use. See attachment, Letter from Les and Patricia Albiol. J-5

The consultants should discuss under mitigation height, materials of the fences, gates and walls in order to preserve the ambiance and views in the park. The obstructive nature of these structures should be minimized as much as possible and should not be characterized as "improvements." They significantly compromise the park and park benefits. Short hedges (4 feet) of native vegetation should be evaluated. J-6

Biological Resources

The consultants also fail to mention how this alternative impacts biological resources such as birds and animals living in the park which are an important aspect of the park's environment and benefits. The noise and night light can be a major disruption for these creatures. These issues need to be recognized and mitigated. J-7

Traffic

The R.D.E.I.R. concludes that traffic would be less than a public or quasi-public use. This is a total conjecture. The mansion has 7 bedrooms and 5 baths; thus, it is capable of accommodating a very large family and guests. There is no way to control the number of daily car or vehicle trips. In a public or quasi-public use, the traffic can be easily controlled by the city via the lease conditions. J-8

Parks & Recreation

The city could seek a condition such that during the term of the lease, the lessee would open the grounds and/or mansion a few times a year to the public for enjoyment. This has not been a problem for some of the potential lessees. See Attachments.This condition should be included in mitigation measures as a remedy for the loss of park benefits (i.e., public use of the property, loss of trail connections, views, parking access, etc.). J-9

Summary

This alternative would not totally eliminate the loss of park benefits and, as in a sale, could through annual public openings of the property substantially mitigate this impact over the term of the lease. Mitigation measures and conditions of the lease would have to be carefully crafted to protect the park and its users as we have mentioned earlier. J-10

2. Lease for a Public or Quasi-Public Use

Description

Under this alternative the city would not necessarily have to do the facility upgrades and maintenance as the consultants suggest. These issues would need to be decided by the city and lessee. Likewise, the city would not automatically be responsible for maintenance. This also would be decided based upon the user and negotiated with the lessee. For example, over the years, the Flanders Foundation has repeatedly offered to restore and maintain the mansion property at no cost to the city. These offers have been met with silence. Please refer to attachments. J-11

Impacts

We believe that the consultants emphasize the loss of public access due to exterior structures such as fences, walls, etc. as if they are a given and not negotiable. It is just as arguable that public or quasi-public entities would not have these impediments to public access because of the lack of need for privacy. This issue could also be a condition of mitigation as part of lease thereby maintaining views, trail connections, passive enjoyment etc. of the property. Parking could remain available as well. If a lessee requires a buffer, then a condition could limit the height, material and design. This alternative would not necessarily result in an intensification of use compared to single family or "other historic uses such as: Carmel Heritage, Carmel Art Institute, Carmel Historic Survey Committee and the Lester Rowntree Arboretum Committee. This is totally dependent on who the lessee is. Any traffic issues can be resolved through conditions of use and postings on Hatton Road which could prohibit parking. The city could also create several additional spaces specifically marked for lessee and retain driveway parking for the public. This suggestion should be explored by the consultants. J-12

Biological Resources

This is the first time in this document that the consultants discuss landscaping and tree removal which are a significant issues. These factors were not discussed under the single-family use alternative. These important issues would certainly raise major concerns with this and any other alternative. Why were they not discussed under exterior "improvements" earlier with other alternatives? We request that landscaping and tree removal be included and discussed under the single-family use and under all other alternatives. J-13

Land Use & Planning

We disagree that this alternative would automatically conflict with public access, trails, and traffic, etc. as we previously stated these issues can be mitigated through conditions of the lease. J-14

C. Sale with Conservation Easements and Mitigation

Description

We respectfully disagree. This cannot be considered as a reduced parcel as in 2009 because the State Court of Appeal did not consider it as such. We believe that there will also be exterior structural elements, maybe not in the designated easements, but they will be moved inside the easement boundary and thus still have impacts. This issue needs to be acknowledged in the R.D.E.I.R. Any exterior elements should be conditioned in the sale as mitigations as to height, materials and design.

J-15

There will still be a loss of parkland, public access, parking on the driveway, and a loss of the continuity of the park in general and trail system specifically. These should all be specifically acknowledged in the document.

As with proposed project, traffic issues should not be minimized here. There will be no control of how many trips are made and at what times of day or night. Likewise, noise will be very difficult to control once the property is out of city control. Enforcement of noise regulations, mitigation measures, conditions and easements will all be potential legal, time consuming headaches forever for the city. We remind the city and consultants of this as we have previously in this long E.I.R. process. There is no recognition of this problem by the consultants now or in the past deliberations regardless of the fact that it can be an ongoing problem and cost which should be recognized up front with a sale. With the lease alternatives, the city still retains its enforcement and legal controls.

D. Sale of Building only with Façade and Conservation Easement

J-16

The main issue with this alternative is enforcement of the easements as with the previous alternative. If the use is a single family residence, then our same concerns about impacts stand here as elsewhere in this letter.

E. Reduced Parcel Alternative

Biological Resources

J-17

The impacts of noise and lights at night should be restricted due to birds and animals in this area of the park which can be greatly disturbed by evening human activity. This should be addressed with a condition as a mitigation whenever an alternative anticipates single family residential use.

Aesthetics

Specific height (4 feet), materials and designs should be conditions to mitigate impacts of exterior "improvements." There is no discussion of tree removal and earth movement/disturbance. J-18

Traffic

This alternative will create major traffic and parking issues. Visitors will park on Hatton Road which the neighbors seriously object to due to safety reasons. The handicapped will be deprived of all access to the park in this area by the loss of the circular drive and open access. The foundation has repeatedly addressed the issue of handicapped parking, but to no avail. Please do so now. Parking is likewise lost at the top of the drive by Hatton Road. Thus, the consultants must explore possible solutions to the parking issue here and make some credible suggestions to resolve this problem. J-19

F. Ranking of Alternatives & Conclusions

We agree with the consultants that while the city's goal of divestment of the Flanders property is not met, the "no project" alternative is best for the environment. We also concur that with the modifications to the 2005 and 2009 findings that the Lease Alternatives identified in the R.D.E.I.R. are definitely environmentally superior to the proposed project. It is our opinion that a lease to a public or quasi-public use is better for the park in terms of controlling traffic impacts, protecting views, trail connections, disturbance to flora and fauna, noise and nightly light/glare and parking. The park will remain in public ownership for a future time when other options for use can be explored. This will allow for greater flexibility for the city in the future. Through appropriate conditions public benefits can be protected. Any future enforcement issues that may arise can be more easily dealt with via a lease. As a consequence, the park can be more easily and properly protected. J-20

Lastly, it becomes obvious from reading this document that the best way to resolve the unavoidable impacts and preserve the park with all of its benefits intact is not to create an inholding by selling any parcel regardless of size or mitigations. J-21

Thank you for considering these many comments and suggestions. I look forward to making further comments at the Planning Commission and City Council hearing and most particularly after a review of the new economic analysis.

Sincerely,

Melanie C. Billig, President
Flanders Foundation

ATTACHMENTS

LAW OFFICES of ZAD LEAVY
ZAD LEAVY and ROBIN K. JEPSEN
ATTORNEYS AT LAW

3785 VIA NONA MARIE, SUITE 309
CARMEL, CALIFORNIA 93923
TEL: 831-624-6060
FAX: 831-625-1250

January 20, 2000

Honorable Ken White, Mayor
Carmel City Council
Carmel By-The-Sea
PO Box CC
Carmel, CA 93921

Re: **Flanders Mansion**

Dear Mayor White and Council Members:

This office represents Florida residents Joseph and Nancy Telese who are in the process of relocating to Carmel. Mr. and Mrs. Telese desire to acquire the Flanders Mansion and a small area of land around the residence, to renovate and use the property as their personal residence, and to ultimately to preserve it as an historic showplace.

Mr. and Mrs. Telese, who have no children, propose to purchase a life estate, reside in the house during their lives and upon their deaths the property would revert back to the City of Carmel with a deed restriction which would require the City to retain the property.

The property would retain its current "R-1" zoning, the Telese's would live in the home themselves and they would commit to renovating the home at their own expense pursuant to standards approved by the City and the Flanders Foundation.

In addition, the Telese's are prepared to donate to the City their valuable antique and fine art collection currently valued at approximately 5 million dollars. The collection includes, among others, works by renowned artists such as Picasso, William Aiken Walker, Antonio Jacobson, Buttersworth, Modigliano, Martin Heade, Herring, and Rivoire.

Further, the Telese's are prepared to make available the residence, art collection and grounds on an occasional, non-commercial basis for public viewing and tours.

Mr. and Mrs. Telese would be pleased to meet with you as appropriate. Your consideration of their proposal is appreciated.

Please call if you have any questions or require any further information.

Sincerely,

/s/ Zad Leavy

ZAD LEAVY

RKJ/ZL:gs
cc: Joseph & Nancy Telese
bc: Melanie Billig

July 27, 2000

Flanders Foundation
P. O. Box 144
Carmel by the Sea, Calif. 93921-1414

RE. Flanders Home

Dear Melanie Bilig,

I feel compelled to write this letter to your wonderful organization because I have been very disturbed for sometime now by the way the city of Carmel has handled our offer of the Flanders home. It has been over 6 months now, since our offer was presented to the city of Carmel. To emphasize the legitimacy of our offer, we hired attorney Zad Leavy to formally present this offer in writing to the city.

We have had two brief phone calls during this past 6 months. The first from Mr. White, while he was still in office, and the second from another city council member on this same day. Other than these two calls we have had absolutely no response whatsoever from anyone. In discussing the situation with several Carmel citizens, I was told that I would probably have to wait until after the elections for a response. I am shocked that our offer has to this date, still been ignored.

I had felt that our offer would appeal to all citizens of Carmel and city officials. I was hoping that my offer would solve the controversy of the different viewpoints, and opinions of what to do with the Flanders home. I had tried to present a plan, that was equally generous to the city of Carmel, but would also protect the home for all future generations to enjoy.

I am greatly disappointed that the city of Carmel, has treated a prospective resident, who wishes to do something good to help the community, in this manner.

This letter will serve as our official confirmation that our offer is hereby rescinded, and is no longer active at this time, due to the mayor and city councils inability to respond to what we believed was a very good and generous proposition.

Sincerely,

Mrs Nancy Telese

Mrs. Nancy Telese

cc. City Hall-Mayor and City Council
Carmel Pine Cone

Les and Patricia Albiol
1460 San Marcos Circle
Mountain View, CA 94043

22 Mar 2010

Mayor McCloud and Members of the City Council of Carmel-by-the-Sea
P.O. Box CC
Carmel-by-the-Sea, CA 93921

Dear Mayor and Council Members,

We would like to offer an extended donation to completely manage, restore and maintain the Flanders Mansion as a single family residence on behalf of and for the city of Carmel-by-the-Sea.

The arrangement we propose is a resident curatorship, whereby we will restore and maintain the property with the right to occupy it as our residence. This approach could end ongoing legal issues associated with selling the property, satisfy the interests of the neighborhood, the citizens of Carmel and concerned organizations, while preserving the Mansion as a viable city asset for future disposition.

The principle features of the curatorship agreement we propose are:

1) We will manage restoration in accordance with the Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, and local codes.

2) The house and property will be restored and maintained as a single family residence with few limits on public access that are consistent with the existing EIA issues, the park setting and the neighborhood. The need for additional fencing is not anticipated and public access to the park via the driveway can be maintained.

3) We will incur all costs of restoration and maintenance including material, labor and sweat equity, and these will be donated as an irrevocable gift to the City.

4) The City will receive periodic reporting on progress and will maintain rights to inspect the property and restoration and maintenance activities.

5) We will maintain liability insurance.

6) The agreement can remain in effect for the life of the Curators and will not be transferable.

We propose to discuss this approach with city administration and the council to answer questions and clarify intents and expectations. Subsequently, should council express continued interest in this approach, we are prepared to develop a full proposal for the City's consideration at our expense to include the terms and conditions of the agreement, detail of the required restoration work, schedule of work, estimated costs, our financial statement, resumes and references.

We have experience in historic restoration, having completed the restoration of an 18th century miller's house on state park land in Maryland. As professional program managers we have the experience and capability to preserve Flanders on terms suitable to the City and citizens of Carmel.

We thank you for your consideration and request the opportunity to discuss this with you at your convenience. We can be contacted at the address above, via email at albiol@sbcglobal.net, or phone: (408)480-3641.

Respectfully Yours,

Les Albiol

Trish Albiol

CC: Rich Guillen, City Administrator
Don Freeman, City Attorney
Melanie Billig, President, Flanders Foundation

Why Residential Curatorship is a great solution to the Flanders Mansion Issue

- This option solves the city's main claimed goal of converting Flanders into a low impact single family use. This satisfies the neighbors' concerns as well.
- It resolves the issues of traffic and parking which worry the neighbors.
- It satisfies the city's stated goals of seeing the mansion restored at no cost to the city, as well as eliminating maintenance issues.
- It allows for public access and does not separate the mansion from the remainder of Mission Trails Nature Preserve.
- This option is independent of the Flanders Foundation; yet, it satisfies the key goals and objectives of the Foundation. Thus, the Foundation wholeheartedly supports this proposal.
- This proposal is a win-win for the city, neighbors, and Flanders Foundation.

To: Mayor McCloud, Council Members & Staff
Re: Public Comments on Flanders Foundation Business Plan

Date: May 4, 2009

Dear Honorable Mayor, Council Members & Staff:

We are writing this letter and enclosing our Business Plan prepared at the request of the City Council and presented December 7, 1999 to the City Council. In order to clarify some inaccurate public comments, we are sending you a copy of the professionally-prepared plan, along with a small amount of background to correct the record.

At the request of the City Council, the Flanders Foundation pursued the development of this professional Business Plan assisted by a grant from the National Trust for Historic Preservation. This Plan explains both how the Flanders Mansion could be restored and how it could be maintained long term with a lease. The Plan was done by experts and was based on solid analysis of local conditions.

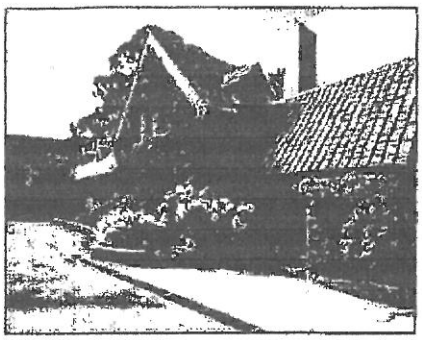
However, the Council decided that it did not want to lease Flanders because of the resistance and opposition from Flanders' neighbors, residents not of the City but the County. The issue was complicated by the fact that the City was then in the midst of its plans to convert its other key historic resource, Sunset Center, into a major performing arts center and had serious concerns about raising donations for projects that might compete. The Flanders Foundation told then-Mayor Ken White (who last week testified in favor of leasing Flanders rather than selling) that it would not compete for money with Sunset Center during the latter's fundraising campaign. There was also concern that the wealthy donors to the Sunset Center project would not support Sunset if the Flanders Mansion was proposed for use for anything but a single-family residence, since some of them were County residents concerned about traffic to Flanders.

Thus, the Business Plan became irrelevant due to the overriding interest in developing Sunset Center, and the decision to sell the mansion became the City's goal. When the costs to restore Sunset escalated to twice what was originally projected, the sale of Flanders and other property (2005 EIR) were thought to be solutions to the City's financial needs.

Things have now changed. As the record shows, the City's financial situation is solid. Sunset Center has been restored and is in use. With the City Council's endorsement, Flanders Foundation will still be able to raise outside park and preservation money to restore the house, grounds, and even aspects of the park. Access issues can be dealt with in a manner that will be acceptable to the park's County neighbors living on Hatten Road. This will ultimately be of great benefit to the community.

Sincerely,

Melanie C. Billig, President
Flanders Foundation



Flanders Foundation

A California Nonprofit Public Benefit Corporation
P.O. Box 1414
Carmel-by-the-Sea, CA 93921-1414
Telephone and Fax (831) 626-3826

www.flandersfoundation.org
info@flandersfoundation.org

23.April.2009

Chairman Strid & Planning Commissioners
Community Planning & Building Dept.
P.O. Drawer G
Carmel-By-The-Sea, California 93921

RE: Final Environmental Impact Report for the Sales of Flanders Property & Planning Commission Recommendation to City Council

Dear Commissioners:

You are the guardians of community character and are charged to plan what is best for our village through your best judgement and understanding of the General Plan, Local Coastal Plan, and Ordinances, etc. The forest, beach, parks, and architecture are Carmel's defining assets. We lose them and we lose Carmel. This can happen "one decision" and "one vote" at a time.

When the Mission Trail Park was established, the City viewed it as being for Carmel what Golden Gate Park is to San Francisco. Would the city of San Francisco carve up it's park for a private residential estate and sell it off-we don't think so. In the past our city developed a Master Plan for the park. The direction was to protect and enhance the park. Very little has been done to implement this plan in the last 9 years. The park and it's assets have suffered greatly. The plan also talks about the Mansion being integral to the park and the goal of preserving it as a historical asset. The Mansion is a public amenity and a jewel that most cities would envy. Because of it's location in the park's center it would be an ideal location for a cultural and natural history museum informing visitors about Carmel's history and natural setting, plus the 5 unique habitats located within the park, and it's flora and fauna.

(continued)

Mission Trails Nature Preserve is a passive and active recreational asset of enormous value to city residents and county visitors alike. The FEIR recognizes this. It is also a well used park. Activities range from birding, hiking, walking dogs, jogging, or sitting on the porch of Flanders Mansion reading, taking in the view, or having a picnic lunch. This is why it is so worth saving. How can a price tag be put on the public's enjoyment of this incredible resource.

Cutting the center out of this park destroys the:

- .cohesive nature of the park
- .peace and tranquility by establishing a conflicting use
- .separates trails, views, and access via walls and fences- all foreign elements in the park.

"Once this property is sold, the damage to the park will be done and it will be gone forever" as we know it. This will be done for a highly questionable one time small economic gain to the city.

The FEIR recognizes the two very serious "significant unavoidable impacts" under CEQA:

- .The project is not consistent with and conflicts with the General Plan and Local Land Use Plan. We also include the Mission Trails Master Plan. All of the substantive policy references support our foundation's contention that the sale is in conflict and inconsistent. The staff comments regarding harmonizing and balancing policies are extremely weak because the three policies they reference only imply or hint at sale, there is no directive regarding sale (Policies G5-6, O5-21, P5-47, P5-105).
- .The second significant unavoidable impact is the permanent loss of parkland and recreational enjoyment of the public. It also precludes forever the public enjoyment of the interior of the mansion.

These policies are not to be viewed in a "citywide" manner meaning something can be sacrificed in one park and it's supposedly okay. That is not the intent of our ordinances, they apply to all parks individually, as well. The staff position we understand, but totally disagree with.

The mitigation measures are so numerous and will be difficult to effectuate and will require extensive monitoring, and could also result in costly enforcement for the City. Why go down this complicated and time consuming road? Keep the park as it is.

(continued)

We reject "Flander Mansion Project" to sell as put forth and support the first alternative No Project, secondly the Lease for Public/Quasi-Public Use, and thirdly we could support Lease for Single-Family Residential Use because the public would still own the land and the City could have greater control over the property. The most "productive use" of this property is public use and enjoyment. The City has a wide range of uses to choose from but has never explored this in the last 9 years and they are not explored in the EIR.

The City has not proven that it is economically infeasible to retain the parkland (i.e., It cannot do the short or long term refurbishing of the mansion.).
The City does not lack the money to maintain its parks, it has:

- .$10million in reserves.
- .It's recent budget was $1.2million in the black.
- .In 9 years the City has not sought out grants or donations.
- .In 9 years the City, even in good times has failed to develope new revenues to cope with "economic down times."
- .In 9 years the City has failed to even consider offers made to restore this parkland-it's only intent has been sale.
- .The last task forces to discuss uses were 11-30 years ago. In the last 9 years this city has not sought to develop or consider any community uses.
- .This sale will result in an irrevocable sale-"Once this property is sold its gone forever" for a one time short term gain that no one will later remember what it was spent for.
- .This sale is irresponsible. The City has already spent $560,000. of public money not counting 9 years of staff time trying to sell this property and recently tried to even deny citizens their right to vote on this matter.
- .It will spend money on an election.
- .It will spend money on restoration before sale ($1.15 million) because it has allowed the property to deteriorate.
- .After all is said and done, the City may very well not make much money at all on the sale AND we will have lost a true community treasure.

We also believe that the sale of Flanders will greatly impact the arboretum and also set a dangerous precedent for selling more parkland or the arboretum and it's 9 lots. The City has already asked the arboretum committee about moving the native plant garden to another location in the park or out of the park, why is this?

(continued)

In conclusion, our foundation has worked to protect the park and this asset, Flanders Mansion for 11 years. We have volunteered to work with the City to raise the money and refurbish the property, and open the mansion to the public for it's use and enjoyment. We submitted a business plan at the City's request. Our offers have been met with silence yet the City has partnered with other non-profit groups on adaptive uses:

- .1st Murphy House-Carmel Heritage Society
- .Sunset Center-it's new non-profit organization
- .Tor House-it's foundation
- .Forest Theatre-it's foundation

We would like the opportunity to do the same however, if you support the project to sell we will never have that opportunity.

Thank you for your kind attention.

Sincerely yours,

Melanie C Billig, President

February 18, 2009

To: Sean Conroy and Consultants
City of Carmel-By-The-Sea
Re: Comments on the Recirculated Draft EIR for the Sale of The Flanders Mansion Property.

RECEIVED
FEB 18 2009
CITY OF
CARMEL-BY-THE-SEA

The Flanders Foundation appreciates the opportunity to comment on this (revised) RDEIR and to thank the Staff and Consultant for their fine work. Of course we have concerns which we will shortly discuss, however, we look forward to the same mutually cooperative effort that we enjoyed in 2004-2005 with Staff and the consultant in going through this process. During this important process, we would ask you to please notify us and our legal counsel, Susan Brandt Hawley, in a timely fashion of all public hearings and information etc. so that we may fulfill our functions and responsibilities in this process.

The Project and Objectives

From the outset of this process in 2005 with the Notice of Preparation Project Identification until today the city continues to narrowly define its project. There is very little specificity regarding uses which makes the discussion of mitigation measures too general and vague as to enable the public to grasp the full extent of potential impacts and the adequacy of the mitigations proposed by the consultants. The city must also comply with State Codes relative to the sale of Parkland which requires offering the property to other local and state agencies. This situation allows other public agencies to purchase or lease the Flanders Property. This has not been clearly articulated in the RDEIR analysis nor have potential uses by these agencies been fully discussed so as to give the public a clear idea of their potential impacts and mitigations.

We also continue to believe that since 2000 the city has inappropriately focused on the Flanders property to raise additional funds and to promote the idea that the Flanders Property is a drain on city resources and that it is in such poor condition as to warrant the necessity of a sale due to the cost of upgrading the property. This is not the case. Since 1998 the city has spent very little on the upkeep of Flanders. It is a real testament to the outstanding design and construction of the building that it has weathered the city's years

of neglect (this neglect is also true of many of the city's buildings and or properties, i.e. the Scout House, Forest Theater, Public Works Building, City Hall, Park Branch Library etc.). Our Foundation has repeatedly sought city cooperation and offered to raise money through grants and donations to refurbish the gardens and the Mansion and to open it for public use and enjoyment. Our requests have been categorically ignored and rejected through silence, no response, over the years. Also, in the past, until 2003, when the city decided on moving forward with the sale, caretakers have been living in the Mansion. Since then the Mansion has been vacant and the consequences for the Mansion Property have been very detrimental. Only through a lawsuit has the city been forced to begin to clean up and address items of deferred maintenance. The City has done some work on the Mansion pursuant to the Courts directive. However, drainage problems from the driveway, plumbing and exterior moisture barriers are items that need to be corrected in a timely fashion. It should also be noted that the City has not attempted to use the property for offices, museums or some city functions. It has only focused on a sale.

Secondary Objectives

In reviewing (Pg. 3-4 &5, 3.3) the city's secondary objectives, the public is lead to believe that the city cannot afford to restore and maintain its parkland and historic assets. This is nowhere discussed or demonstrated in the RDEIR. In fact, the city finished its last fiscal year (2008) in the black and has over $10 Million in city reserves. How many cities on the Peninsula, the county or state are in such a solid financial condition? Why the city does not choose to maintain its public assets is a serious question that remains unclear. Our belief is that the city has not made its case that this project (the sale of Flanders Mansion, Parkland) is necessary or appropriate. If the city really needed cash, why has it continued to fail to attempt to explore or develop new long term sources of revenues to meet its deferred capital maintenance and properly maintained its assets? Also, it should be noted that the city has never sought grants or donations to assist with the deferred maintenance and upgrades for the park and its historic assets.

In reading the city's 6 Secondary objectives (Pg. 3-5, 3.3), we come to the conclusion that they are not reasons for sale, but rather the very reasons to retain the property in the public domain.

1. To ensure that the Flanders Mansion is preserved as an historic

resource. Who could guarantee this better than the city with its laws, policies, enforcement tools and the clout to obtain grants and donations in the public and private domains as it did with the work on Sunset Center?

2. To ensure that the Flanders Mansion building and property are put to "productive use". We have no concept of what the city means by "productive use." How does one measure this? How is one use determined to be more productive than another? Please explain. We believe that the most productive use would be to retain it as a park /open space, or a public use that is consistent with our Zoning Codes and the General Plan/Coastal Land Use Plan. Also, in the last 10 years the City has not tried to "productively use" the Mansion itself, it has only concentrated on sale.

3. To ensure that the future use of the property will not cause significant impacts on the adjacent neighborhood. We believe that only the city can best accomplish this by retaining the property outright and/or pursuing a longterm lease with very specific lease conditions to protect the neighborhood.

4. The City claims it wants to ensure that future use will not significantly disrupt the public's enjoyment of the park and arboretum. How better could the city ensure the public's longterm enjoyment of the park than by maintaining it in public ownership and cooperating with groups and individuals to maintain the park as a solid, integrated whole with no obstruction of views, trails and preserving its harmony and tranquility. This could be accomplished by carrying out the Mission Trail Park Master Plan and the General Plan/Coastal Land Use Plan

5. The best way to ensure the protection of the park"s environmental resources is not to bisect the park and to begin to implement the city's own Mission Trails Park Master Plan. The RDEIR never addresses this.

6. The City says that it wants the Mansion property to continue to provide "as many" park benefits as "practical". What does this mean? How does one quantify this? This needs to be explained. It is hard to imagine any better way to ensure maximum public benefits other than selecting the No Project or Lease Option for a Public/or Quasi Public

Use. Why should the public be asked (forced) to accept only as many park benefits "as are practical" when city laws, goals and policies seek to protect, preserve and increase parkland/open space.

Environmental Impacts and Mitigations

We find the mitigation measures offered in the RDEIR often very weak and lacking in real solutions to significant adverse situations.

*** Impact - The sale of the Mansion and occupancy by new owners could result in changes that would affect the historic setting of the resource and physically separate it from its surroundings. This cannot be mitigated.

***Mitigation 4.3-1 is totally inadequate and fails to solve the major issue of a National Register structure being separated from its natural setting both in terms of the immediate surroundings (grounds) around the mansion and the 15 forested acres of the original Flanders holdings that was part of the mansion's overall setting when it was purchase by the City. The Flanders family specifically placed the Mansion in its current location rather than another spot on their extensive acreage because of the wonderful views and ambiance. This mitigation totally fails to address the Mansion's context (setting) and only discusses the Preservation Plan as including an archival history (page 4.3-10 to 4.3-13), the Secretary of Interiors Standards, structural alterations, and the structural conditions at the time of sale.

***The consultant presents an excellent discussion of the Secretary of Interior Guidelines and rightfully states that of the 4 treatment approaches, Preservation is the best/most appropriate for Flanders Mansion. We agree especially given its excellent structural condition. The needed repairs to the Mansion are those common to any building of its vintage and quite typical of the work needed for many older Carmel homes which involve new heating and plumbing.

***The RDEIR offers that a Preservation Plan "should" be developed and "should" include ----- (page 4.3-10). In order for preservation to truly be achieved and the mitigation achieved, we believe that the word "should" needs to be replaced with the word "shall" in this discussion. We are very concerned about a plan being developed and the strength of this plan to protect the Mansion.

***Impacts - ADA
Since Flanders Mansion is an historic structure, any work done to accomplish ADA compliance must utilize the State's Alternate Building Code for Historic Structures. The integrity of the structure can be easily maintained and still meet the ADA. Our group has examined this important issue and we believe that requirements can be met without major changes to the historic fabric of the Mansion.

Another one of our major concerns regarding ADA is that the driveway continues to be open to the disabled to park there in order that they can enjoy this special area of the park. For some people this is the only means of easy access to the park. This is still not discussed in the RDEIR.

***The FDEIR states that if a single family use is chosen for the Mansion there will likely be fences and or walls. Walls should be prohibited in the park because they will be a total barrier to public's views of the house and the arboretum, destroying the ambiance of the park. Walls are urban elements and are totally inharmonious with the park's aesthetics and the very nature of this great open space environment. Solid fences should also not be allowed for the same reason. Both generally detract from public use and enjoyment. Visitors to the Park often comment on how they have such a wonderful feeling of discovery when they walk through the Park and happen upon Flanders Mansion, not knowing that it is there. Also, as the consultant points out, if there is a public or quasi public use, fences and walls would not perhaps be such an issue of access and views.

***The consultant places a great reliance on the city's Historic Preservation Ordinance (Title 17, Chapter 17.32 of the Zoning Code) to protect and preserve Flanders as a mitigation measure in this RDEIR. It is difficult for the public to have confidence in the city given its poor past performance with respect to historic resources. The city ignored this very ordinance for years and failed to maintain Flanders until the court forced the city to carry out its responsibilities under the law to prevent Flanders demolition by neglect. How is one to assume based on past performance that the city will abide by and enforce this ordinance? How can the public have any confidence in the consultant's proposed mitigation?

Aesthetic Impacts and Mitigations

The RDEIR does an outstanding job of recognizing the special character of

Carmel as a "unique asset of statewide and national significant that should be maintained." (City's Land Use and Community Character Element of the General Plan.) The city is also considered highly scenic in the California Coastal Act (30251 & 30253). The forested character of the city including Mission Trails Park and its architecture are defining elements of Carmel's character (pg. 4.1-2). These elements are well represented in the Flanders property. The mitigation measures offered in the RDEIR do not : 1) reduce the significant adverse impacts to views to and from the house; 2) preserve the intact and cohesive visual experience of visitors to the park or 3) assist in maintaining the existing ambiance of the park. Allowing fences and walls cannot be mitigated. These elements divide the park and destroy the various visual amenities of the park. We believe that views are unique to a location and once lost cannot be replaced or substituted.

The proposed project is also in clear violation of 8 General Plan/Coastal Land Use Plan goals, objectives and policies related to aesthetics (P 4.1-4 RDEIR):

***Mitigation 4.1-4 (Pg. 4.1-15 & 16) allows solid masonry walls and fences, and says nothing about height limits, materials, colors, etc.. The document mentions that these elements should be discouraged but not prohibited. In the guidelines to preserve visual character, materials, color and height prohibitions would strengthen the mitigation measure.

It states that fencing should be "discouraged along the boundaries of the site above the circular portion of the driveway to the extent feasible.

This mitigation measure also states that exterior elements (fences, walls etc.), shall avoid the removal of natural vegetation where feasible. This statement shows a definite preference of fences and walls over trees, park character and ambiance. Both of these two statements using the word "feasible" seriously weaken the guidelines and thereby the entire mitigation leaving it with marginal value as a mitigation measure.

***Mitigations 4.1-l & 4.1-2 are helpful. However, we strongly disagree that the loss of access to the Flanders Property can be reduced to a less than significant impact.

***No mention has been made of the loss of views from inside the Mansion which could be enjoyed by the public, if access to the Mansion were to be permitted in the future. At present and for years, contrary to the RDEIR, there has been no access to the Mansion by the public (groups or

individuals) for several years.

***The RDEIR recognizes (Pg 4.1-13) that the Mansion is considered an important scenic element in the park and that it adds to the richness of the park experience and enhances the public enjoyment of the park's visual character. If the Mansion is removed from view by fences and/or walls this experience cannot be duplicated, replaced or mitigated. The integral nature of park views with the Arboretum and the Flanders property views are not a cohesive whole, an uninterrupted experience. This will be lost if the project is allowed.

During the review of the FEIR in 2005, the city council removed the mitigation limiting walls to just 4 feet high and allowed walls up to 6 feet high. This is a major barrier to views and firmly sets the historic resource completely apart from the park. This causes major damage to the ambiance of the park. This must not be allowed to occur or the mitigation of aesthetic impacts is seriously compromised.

Land Use Impacts and Mitigations

The consultants have done an excellent job in discussing how the proposed project conflicts with policies intended on avoiding and/or minimizing impacts to parkland and ensuring that park benefits are maximized and preserved.

***We agree with the stated impacts (1&2 on Pg. 4.4-8&9) and with the mitigations.

***We question whether the Mission Trails Park Master Plan is not a "Habitat or Natural Community Conservation Plan." We would like to at least see it referenced here in the document because we firmly believe that it functions in the same way.

***This project is the first step that can lead to changes to other areas of the park. The sale of the Mansion property would set a dangerous precedent for the park. If the City can sell off this part of the park what about the arboretum and the Meadow/Martin Road properties. The City has also discussed recently moving the arboretum. The arboretum property has from

9-11 lots of record. These could be sold off and developed or included as part of a greater Flanders Mansion parcel. What would be left of the city council's dream in 1972 of creating Carmel's own future Golden Gate Park? What would be left of the park's integrity and cohesiveness and the public's enjoyment?

Parks and Recreation Impacts and Mitigations

The consultant has done an excellent job in this section. It should be emphasized that loss of public access and loss of public parkland cannot be mitigated. The recreational opportunities for the public will be seriously compromised, as will the integrity of the park as a whole. The project would create a permanent inholding in the center of the park. No amount of mitigation can remedy that impact.

Traffic and Circulation Impacts and Mitigations

***We would note that up to 8 or perhaps 10 cars can park in the driveway not 5 or 6.

***The driveway provides an important access for the disabled to enjoy this part of the park. Where will they park if this is taken away?

***Mitigation (4.6-1) is seriously flawed in that it fails to recognize the impact on the adjacent neighbors and that it creates a new paved site in the park which has its own impacts relating to construction and future use which are inadequately addressed.

***It should be noted that the city would have greater long term control over traffic if it retained the property. It could adequately address this and parking through signage or lease agreements as well, this is not discussed.

Biological Resources Impacts and Mitigation

In general the consultant has done an excellent job of discussing federal, state and local laws, regulations regarding Environmentally Sensitive Habitats and lands immediately adjacent (pg 4.2-8 to 10).

Our critique of this section was very extensive in the original DEIR (2005). The following are the new issues that we should like to cover:

1) The Mission Trails Nature Preserve is on the Pacific Flyway and thus is regularly frequented with many species of migratory birds. This needs to be discussed.

2) The Flanders property does not have a maintained lawn and gardens (pg 4.2-2), These have not existed for years.

3) Areas near future potential construction should not just be flagged, but should be marked off with bright colored netting for greater protection.

4) How will the management of the Park/ Open Space have to be changed with a change in use?

If a private home is located within the Park/Open Space, what about fire liability? How will this be handled vis a vie the environmentally sensitive plants and animals particularly? Fire prevention measures may directly damage or harm the habitat. Please comment.

CEQA Considerations

***5.1 Significant Unavoidable Impacts

The consultant should add a third impact to this list. The sale of the Flanders Mansion property will set a precedent for the sale of other areas of the park namely the adjacent Native Plant Garden/Arboretum and /or the Meadow/Martin Road property. This would be a serious compromise of the park's overall integrity, the public's passive and active recreational enjoyment, and the additional major loss of parkland and open space etc.

***5.2 Irreversible Environmental Changes

We believe that irreversible changes to the park/open space will result from the sale of the property because:

1) It will create an in holding in the park which will result in incompatible use R-1 with passive and active public recreational uses and enjoyment.

2) Sale to a single family ownership will result in walls and/or fences that destroy the integrity of the park, the park's ambiance and necessitate the development of new views, trail access and parking. These result in environmental changes and disruption.

3) The project will seriously impact the Native Plant Garden/Arboretum by:

--Creating an incompatible single family use next to a public garden within the park.

--The sale of Flanders has already created the belief and discussion at City Hall that the Arboretum could and should be moved to a different location in the Park. What then would the city do with this parkland-develop it (9-11 lots) separately or add it to the Flanders property for an enlarged estate.

***Cumulative Impacts

First, we believe that the cumulative impacts of this project are major and that the mitigations are not adequate to protect the Environmentally Sensitive Habitat surrounding the project or to protect and ensure the public's use and enjoyment of its largest, most diverse and unique park/open space. The areas of inadequate mitigation include aesthetics, biological, noise, recreational and land use and cultural resources. These incremental impacts are separately significant but are cumulatively disastrous for the park and the environment.

The consultants' list includes a number of historic resources but only 2 are on the National Register of Historic Places, namely Sunset Center and Flanders Mansion. The Mansion is the city's only National Register property that has never been altered. The project list in the RDEIR includes a property that is not in the city and which the city has virtually no control over its fate (Villas de Carmelo). The Scout House has not been a city priority to restore; in fact the city has wanted to sell it or move it (see DEIR Sale of Flanders Mansion 2005). The Forest Theater is a major community resource, however, current city plans for its refurbishing may well remove much of its past environmental charm (forest setting), its rustic nature and ambiance, if the final plans do not incorporate the public's comments and concerns.

The Flanders Mansion is unique because of its National Register Status and its context within the Park. Any visual changes or loss of future use would be a major aesthetic, cultural, recreational and environmental loss to the public not just locally but visitors as well.

We believe that the loss of this unique property for public passive or active

use would also be a major loss because the city has no plans to purchase new parkland. Land for new parks/open space is virtually unavailable and even if it were it would be prohibitively costly. Thus, none of this property should be sold to a private individual or family. Once it is lost to the public its gone forever---its simply irreplaceable.

PROJECT ALTERNATIVES

*** NO PROJECT - This alternative needs to explore what other uses the property could be put to by the city such as offices, archival storage, natural history and cultural museums, etc.

It also needs to explain how deferred maintenance could be paid for short of sale and what the costs of the deferred maintenance and on-going maintenance costs would be after rehabilitation.

Why does the consultant automatically assume that no additional facility upgrades will not occur beyond the courts mandate?

***LEASE FOR PUBLIC/QUASI-PUBLIC USE

Why assume that full public access will be restricted? The city can require full access under its lease conditions.

The city would also have greater control of traffic and intensity of use via the lease conditions than if it is sold.

We disagree that this option and the project have the same impact on aesthetics. Please explain how and why. The lease option could also eliminate the impact on aesthetics and access by conditions of the lease and a prohibition of masonry walls and high solid fences..

This alternative would not eliminate or reduce existing park benefits if the lease is properly crafted to prevent this. All of this is within city control.

***LEASE FOR SINGLE FAMILY USE

The RDEIR assumes that the city must make certain upgrades to ensure leasibility according to the RDEIR. This is not necessary so it's really up to

the city and the leasee to negotiate. The City has had offers in the past to upgrade this mansion as part of a life estate arrangement.

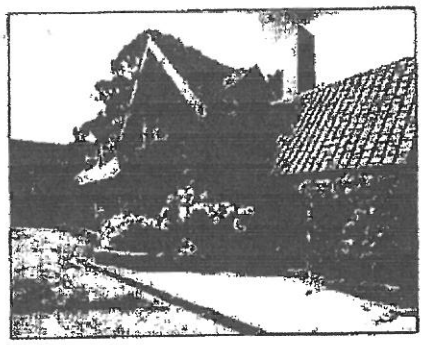
The city can control exterior elements (fences and walls) via conditions of the lease--height, color, materials etc.

***SALE WITH CONSERVATION ELEMENTS

This alternative, the RDEIR fails to mention that the Mansion would still be separated from the rest of the park and very isolated. Thus, it seriously compromises its historical integrity.

The overall integrity of the Park would also still be seriously compromised. The Mansion as a private residence would still have all of the previously stated impacts as well as also creating an in holding in the city's largest park/open space surrounded by an Environmentally Sensitive Habitat.

*** Under CEQA a long-term/long range look at a decision is required and viable adaptive reuse is required to be discussed. This has not been done in this document.



Flanders Foundation

A California Nonprofit Public Benefit Corporation
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www.flandersfoundation.org
info@flandersfoundation.org

TO: Planning Chair Bill Strid, Planning Commissioners and Staff
RE: November 10 Planning Commission Meeting, 2004
SUBJECT: Sale of Flanders Mansion

Dear Chair Strid, Commissioners and Staff,

It has come to our attention that on November 10 the Planning Commission will be discussing the sale of city assets, namely the Flanders Mansion. In an effort to update and educate you on the efforts of the Flanders Foundation to save this historic building and its surrounding property, we submit the information below. Hopefully you will find it compelling and informative and give you reason to vote **not to proceed** with the disposition of this important city resource. The question we all should ask ourselves is: "After the sale, what then?" When the money is spent on one-time expenditures or put into the General Fund, will anyone ever know or remember what it went for. When the city again needs money, what then? Sell another property? No, the answer to the city's budgetary problems is to be proactive, not reactive. The City council must identify **and support** several long-term, on-going revenue sources regardless of special interests. Sale of city property is not the answer. Once gone, it is lost forever.

1. *When the Flanders property was purchased in 1972 to become part of the Mission Trail Park, the city always intended to sell the house.* **Not so!** The City Administrator "floated" the idea to the Council which then rejected it and shortly thereafter invested over $100,000 in improvements. Two past council members, past city forester, staff and city archives back up these facts.

2. *Committees and task forces have looked at it without a result.* **That's true.** However the county neighbors have stopped every proposal. Our Foundation's proposal is low impact for the neighborhood and park - totally in keeping with the educational and environmental goals of the

nature preserve. We would like to establish a small scale cultural and national history museum which is totally consistent with city zoning and the General Plan. The National Trust will help us eliminate potential concerns by developing conditions to protect the neighbors and the park. The fact that the county neighbors are in the city's sphere of influence and might in the future be annexed to Carmel, has nothing to do with the creation of a museum. The Sunset Center, the Cherry Foundation gallery/theater, the Golden Bough Theater, the Carmel Youth Center are all in residential neighborhoods and co-exist pleasantly with the neighbors.

3. Background: In 1998-99 the then city council gave the Foundation 1 year to obtain its non-profit status, develop a business plan and begin to raise funds. In record time our organization not only obtained its 501 (c) (3) status from the state and federal government but also completed its professional business plan and began fundraising. Then Mayor Ken White asked us not to do a major fund raising program because the city did not want our organization competing for funds with Sunset Center. We agreed to stay in the background, but unfortunately never again did we have the opportunity to gain support for our fund raising efforts due to the city's fear of competition with the Sunset fund raisers. We did what we were asked to do - yet we were ultimately denied in spite of our cooperation and our work, especially in the last 5 years as the cost of Sunset doubled and more fund raising and grants were needed to offset the debt incurred. It is very obvious to anyone who has attended the city's budget hearings that the Flanders Mansion is being looked at as the cash cow to lower that debt. Today Sunset's annual cost to the city's taxpayers is 1.6 million dollars. Our Foundation would like to create a jewel like Filoli or Dunsmuir or the Gamble House. We could do this at no expense to the taxpayers..

4. *The Foundation has no plan for Flanders*. **Incorrect**. Our professional business plan was developed in 1999 by an independent consultant and funded via a grant from the National Trust and donations to our non-profit organization. Our plan is to create a cultural and natural history museum to inform and educate residents and visitors about Carmel's rich heritage and environmental setting. .

5. The sale of Flanders would entail a sale of part of Mission Trail Park Preserve because Flanders is entirely within the park. Although the adjoining Native Plant Garden/Arboretum is not now for sale how long

will it last if buyers of Flanders, paying 5.2 million dollars, find themselves with a public garden abutting their garage and volunteer gardeners and the public bustling about? There will then be tremendous pressure to move the native plant garden and to subdivide that land into multiple housing sites.

6. The house will be compromised because of loss of its historic setting, the creation of walls, fences, landscaping and removal from the original property that it has belonged to since 1924.

7. The city has been presented with several offers to do long term leases for the Mansion but every time the offers have failed to meet with fruition due to the city's adverse attitude. Within the last approximate 18 months the latest lease offer was stopped by the mayor because of the city's strong intent to sell the property.

8. *Flanders is falling down.* **False**. Like any property built in 1925, the heating, electrical, plumbing and roof need upgrading. This will cost about $800,000, however our Foundation has offered consistently to raise the money to update it through public and private grants, donations, and donations in-kind. The National Trust for Historic Preservation has also shown us how this is possible. The past 6 years the city has talked of sale and that frightens off donors. Thus the house just sits. We have to ask ourselves, if the house is in such bad shape how then can the city put a price tag of $5.2 million on it?

The city uses the ADA upgrades as a major hurdle. It simply is not a major obstacle. There is room for an elevator in the breakfast nook if access to the second floor is deemed necessary. On the first floor, inexpensive low-rise ramps can make that entire area accessible. All of the improvements are also subject to the States Alternate Building Code for historic structures which does not require improvements to be held to the criteria of current residential building.

9. The city states that it has no plans to use or renovate the Mansion which is truly sad. We think it is very shortsighted of the city to not work with the Flanders Foundation to produce a real gem for Carmel. The city has been farsighted enough to support the on-going efforts of Carmel Heritage to operate the First Murphy at a mere $1.00 per year and even picks up the tab for maintenance of the property. Tor House is another

example of how citizens, with the city of Carmel's support, have made the property an absolutely outstanding treasure, Why not Flanders!

Finally, since year 2000 the city council under our current leadership has never given the Flanders Foundation a chance to work with the city to accomplish its goals and business plan. As the records will show, our many requests for cooperation, made in a collaborative way at city council meetings, have been met with total silence. Our Foundation remains ever willing to work with the city in a truly harmonious way to develop what many in Carmel believe would be a truly historical, environmental and educational facility at Flanders. Please call if any questions.

Warmest Regards,

Melanie c. Billig, President

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WESTERN OFFICE

NATIONAL TRUST
for HISTORIC PRESERVATION

August 3, 2004

Ms. Melanie Billig
Flanders Foundation
P.O. Box 1414
Carmel-by-the-Sea, CA 93921

Dear Melanie:

On behalf of the National Trust for Historic Preservation, I am writing in support of the Flanders Foundation and its efforts to keep the Flanders Mansion in public ownership. As one of only two Carmel properties listed in the National Register of Historic Places, the Flanders Mansion is a community asset and should be accessible to all. There is significant public support for continued public ownership and public use of the Flanders Mansion, and ample success stories that demonstrate how this can be accomplished.

The National Trust is a private, nonprofit membership organization dedicated to protecting the irreplaceable. Recipient of the National Humanities Medal, the Trust provides leadership, education and advocacy to save America's diverse historic places and revitalize communities. Its Washington, DC headquarters staff, six regional offices and 21 historic sites work with the Trust's 200,000 members and thousands of local community groups in all 50 states, including over 20,000 members in California alone.

In 1999, the National Trust awarded a small grant to the Flanders Foundation to prepare a Business Plan for operation and marketing of the Flanders Mansion for public use. The plan provides valuable information regarding key hurdles to opening the building to the public – such as needed repairs and the concerns of neighbors – and identifies opportunities for reuse. At a well-attended community forum sponsored by the Flanders Foundation in February, I spoke about how these challenges have been overcome at similar historic properties across the country.

Restrictions on public use are essential for historic properties like Flanders to peacefully coexist with their private neighbors. Residents living adjacent to the Flanders property have strong reservations about increased traffic, parking shortages, and excessive noise associated with public uses. The Business Plan proposes to minimize disruption by shuttling people to group activities and prohibiting amplified music. This approach has been successful at Shangri La, the Islamic-style residence of Doris Duke outside Honolulu, which opened to the public in November 2002.

Of course, another hurdle to public use of the Flanders Mansion is money. In 1998, the Flanders Foundation retained the Architectural Resources Group in San Francisco to prepare a three-phase

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preservation plan to bring the Mansion back into use, including a $55,000 estimate for Phase I repairs alone. Funds will also need to be raised for operation and maintenance of the Flanders Mansion. By virtue of its listing in the National Register, the Flanders Mansion is eligible for federal Save America's Treasures grants of up to $1 million, as well as funding through the newly-established California Historical & Cultural Endowment, created to administer the Proposition 40 funds dedicated to preserving historic and cultural resources. Approximately $128 million will be available to government entities and non-profit organizations through a competitive grant application process starting in 2005.

Other historic properties have entered into innovative partnerships to defray the costs of maintenance and operation, such as the Corbin and Moore-Turner Heritage Garden in Spokane Washington, which is overseen by the Spokane Parks and Recreation Department and the non-profit Heritage Gardens Trust, established in January 2002 to raise funds for restoration and endowment for the gardens. Another successful partnership is the 205-acre Ardenwood Historic Farm and Preserve in Fremont, California, which is owned by the City of Fremont and operated by the East Bay Regional Parks District under a 20-year contractual agreement. The Parks District operates the farm under the aegis of an elected board with the support of property taxes, which provides the farm's primary source of revenue. The Parks District maintains all of the buildings and facilities with the exception of the Patterson House, a historic home owned and fully operated by the city. The Flanders property is located within the Mission Trail Nature Preserve, providing similar opportunities for environmental education programming and linking the property to the regional park system.

Throughout its history the "village in the forest by the sea," as Carmel is known, has had a strong tradition of preserving and enhancing the natural environment and open space. The National Trust hopes this tradition can be upheld by keeping the Flanders Mansion in public hands. Before the property's tremendous potential for public use can be realized, the specter of a possible sale by the City must be removed. It would be short-sighted to sacrifice public benefit and access, reuse potential, and community history to short–term revenue goals.

Sincerely,

Holly Harrison Fiala

Holly Harrison Fiala
Director
Western Office

Oral Comments before the Council June 3, 2003

Melanie Billig, President Flanders Foundation

We can remember when this council pledged 3 years ago to bring fiscal responsibility and long range financial planning to the city's budget process.

Tonight with the vote on this item to sell part of the Mission Trails Park Preserve and the Flanders Mansion, we are afraid that this will be the first step in a series of sales of city assets in order to deal with the very poor financial planning of the city.

Problem areas:

1. 3-year budget
2. Project status report: Needs to set priorities and a real work program, not a wish list without real numbers or analysis. Must be a real planning tool.
3. CIP: being gutted to balance the operating budget, staff is recommending the Flanders sale to replenish the CIP
4. No new revenues developed put in place to reduce budget's shortfall
   Also had 3 years to come up with new revenues

Question: Where does the money come from to ultimately balance the budget?
Answer: Seems to only be to sell assets

That's no way to run a city; these are one shot stop gaps.
We strongly believe community assets should not be sold even in difficult times. We are known worldwide and we should not chip away at those things that make us special.

Think creatively on how to use more effectively and efficiently and enjoy all of our community assets.

Flanders: rather than sell actively pursue:

1. Life estate or long-term lease agreement to a family
2. A Carmel cultural and natural history museum on weekend day and week rented as an executive retreat during the week to finance all maintenance and operation.
3. Encourage the city to work with our community and others to raise money to refurbish and restore the house and gardens.

Oral Comments May 6, 2003, Council Meeting

I am Melanie Billig, President of Flanders Foundation and would like to make some comments and observations.

In 1972, the council had the tremendous vision to purchase the Flanders property and joined it with the Doolittle property to create our largest and most beautiful open space. Please don't destroy their vision. Count yourselves as creators. True leadership involves vision and positive action. We hope that this council will act in the creative tradition of previous councils and recognize the immeasurable value of Carmel's history in its parks, open spaces and historic assets, especially this prized National Register property—the Flanders Estate.

It is our strong belief that if you sell Flanders, the native plant garden will not be able to remain as it is and then will go to the Martin Road lots. There will be such tremendous pressure to sell these very valuable properties too. A domino effect will result. You will have also set a very dangerous precedent that other councils can point to justify their desire to sell assets. When our assets are gone, what will Carmel be like?

Instead of sale our foundation would like to work with the city to create a cultural and natural history museum to be open to the public on selected weekends. During the week, the property could act as a mini-executive retreat with small groups shuttled from downtown to the mansion. The retreats would pay for the maintenance and operation of the property and park. Such a center would also be very helpful to our business community.

We will work with you energetically to raise the monies to move such a project forward.

We hope that you will decide to work with our foundation and the many citizens who support the preservation of our community's treasured assets, our parks, open space and historic property.

Thank you.

Oral Comments October 29, 1998 Council Meeting

Honorable Mayor and City Council:

My name is Melanie Billig and I am representing the Board of Directors of the Flanders Foundation.

We would like to thank you for placing this issue on your agenda today. Your action at the last council meeting finally galvanized many of us who have been wanting to find a way to protect and utilize the Flanders property for the community.

Our Mission and Vision Statements speak to our deep desire to preserve and restore this important historical treasure for future Carmelites to enjoy.

This is why we are here today to ask you to allow us one year in which to accomplish the following three tasks:

1. To obtain a 501(c)3 status;
2. To do a feasibility study to see if our proposed restoration and use as a city art, history and natural history museum are viable;
3. Raise pledges and obtain grants for the first stage of repairs.

As I mentioned, we would like to use the home as a museum to display the city's art collection, house its archives and provide a natural history of Carmel and immediate area. We also envision that this would be a living museum wherein it would be used by community groups for small meetings such as:

- City Council and Planning Commission retreats, etc.
- Art seminar or class
- Poetry readings
- Small chamber music concerts in living room
- Get togethers of other non-profit organizations

All activities would be of a small scale befitting the house, grounds and neighborhood. We assure you that we are involving the neighbors and plan on being good neighbors should you allow us the opportunity.

LETTER J: FLANDERS FOUNDATION

J1: The comment questions why the section entitled Alternative Properties/Locations appears in the DEIR. The 2012 DEIR contains the entire Alternatives section of the EIR. This includes parts of the alternatives analysis that appeared in the 2005/2009 EIR documents. This implemented CEQA Guidelines, which requires consideration of off-site locations for projects. Text has been deleted and a notation for clarification is added to this section; please see **Changes to the Recirculated Draft EIR, Alternatives Section.**

J2: The comment questions why commercial uses are considered again. The comment also states that including a discussion of the zoning ordinance, infrastructure limitations and the City's project objectives has narrowed the suitable land uses to those that fit the City's objectives. The letter notes that the City has strongly supported a sale of the Mansion for use as a single-family residence.

As noted above under **Response to Comment J1**, the 2012 DEIR contains the entire Alternatives section of the EIR. The discussion on commercial uses remains relevant because when the City de-certified the 2009 FEIR, it also vacated the decisions based on that document. When the 2012 FEIR is certified the City Council will need to re-visit the decisions regarding appropriate land uses and mitigation measures. The authors of the EIR concur that the review of zoning, infrastructure limitations and project objectives has narrowed the range of practical uses, but argue that identifying such factors is consistent with the function of an EIR.

The authors do not concur that the conclusions in the EIR serve to preclude uses other than those supported by the City in past decisions. In fact, the RDEIR identifies the public/quasi-public lease alternative as environmentally superior to sale of the property as a single-family residence. The City may determine to negotiate with a public or not–for-profit agency such as the Regional Parks District, The Flanders Foundation or another public or not-for-profit agency for the sale, lease or long-term maintenance responsibility for this parcel and its building, if sale or lease for quasi-public or public use is approved. If sale or lease or a long-term maintenance agreement with any of the organizations identified was the action resulting from this Proposed Project, this EIR would be used as the environmental documentation for such an action.

J3: The comment notes that the RDEIR identified two significant environmental impacts associated with (1) Land Use and Planning and with (2) Parks and Recreation. The comment requests that the text of the conflicting General Plan policies be reproduced in the document.

The 2009 DEIR identified potential conflicts between selling public parkland/Flanders Mansion and the policies in the General Plan. The DEIR provided a substantial amount of discussion on this issue and readers are referred to Section 4.4-1 of that document for a discussion of Land Use Planning issues and to Table 4.4-1 for the full text of all General Plan policies relevant to the Proposed Project. It should be noted that when the 2009 DEIR was prepared, its authors could only point to certain General Plan policies as being in *potential* conflict with the Proposed Project. Ultimately, under California law it is up to the Planning Commission and City Council to interpret the General Plan and make final determinations regarding conflicts.

When the 2009 DEIR was reviewed by the Planning Commission the determination was made that Alternative 6.5, Sale with Conservation Easements and Mitigations, would be consistent with the General Plan if the use is restricted to a single-family residential occupancy. The City Council concurred with this determination and adopted findings to explain its reasoning. The Court did not reverse these decisions. The Planning Commission and City Council will make findings or readopt the findings on consistency with the General Plan when the Proposed Project is considered for approval. Although the 2012 DEIR

correctly identifies that this is still a potential issue, the text is revised to more accurately identify that there may be a potential conflict, as it is considered more accurate if the word "potentially" was inserted as shown:

> Sale of the Flanders Mansion Property would *potentially* 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, and…".

The commenter questions why some of the text was struck near the bottom of Page 6.8 and requests it be replaced in the document. The text was updated in the Revised Alternatives Section to accurately reflect the language in the RDEIR, Page 4.5-6 of the Parks and Recreation Section. This impact statement is repeated exactly as written from the RDEIR, and identifies the significant unavoidable impact of loss of parkland. The language should remain exactly as written in order to mirror the impact language in the RDEIR. No change is considered necessary

> **Impact**
> 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. *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.*

J4: The comment concurs with the RDEIR conclusion that in the No Project Alternative, the significant, unavoidable impacts are eliminated. The comment states that the secondary objectives also would be eliminated. The comment objects to the assumption in the DEIR that no rehabilitation of the Mansion will occur under the No Project Alternative and points out that the City is legally obligated to prevent deterioration of the Mansion.

The purpose of including a "No Project" alternative in an EIR is to provide a background scenario, keeping things as they exist under baseline conditions. This allows comparisons between the status quo, the Proposed Project and various alternative projects. Under the No Project Alternative, as defined in the 2009 DEIR, 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 similar to the past use of the property for office space, or as a single family residence. The analysis assumes that the City would continue to maintain the Mansion to prevent deterioration and to comply with the Superior Court's ruling. The DEIR assumes that no major rehabilitation of the Mansion will occur under the No Project Alternative, but acknowledges that the City is legally obligated to prevent deterioration of the Mansion. Thus, the No Project alternative assumes that while no additional facility upgrades beyond those required by the Superior Court ruling would be implemented, the legal obligations of the City to maintain the property will be met. There would be no upgrades or rehabilitation that would involve potentially significant changes to the historic structure that would constitute a "project" under CEQA, however.

J5: The comment suggests that the Single-Family Residential Lease Alternative should include consideration of arrangements where the lessee is responsible for the costs of rehabilitation and maintenance. The comment identifies Residential Curator or Life Estate arrangements as examples.

The ultimate City action on the Proposed Project, following certification of this EIR, will determine whether to retain the property or to sell or lease of the property to an entity, foundation, or individual and whether to consider other actions. The City's consideration will be based on a number of factors, including the Proposed Project objectives and the balancing of the economic, legal, social, technological

and other benefits of the Proposed Project against its unavoidable environmental risks. The City is ultimately responsible for determining what form of ownership is most appropriate and who should bear the financial and legal responsibility for the site, and for determinations regarding the feasibility of mitigation measures and project alternatives. The City may choose to negotiate an agreement with a Resident Curator or use an approach suggested such as a Life Estate arrangement. As noted, the City could still revisit the Foundation's proposal and sell or lease to The Flanders Foundation as part of any Proposed Project implementation action. The Flanders Foundation or another non-profit, government agency, or grant or funding source could also provide the funds for rehabilitation of the Flanders Mansion, which would meet the secondary objective to provide rehabilitation to the structure. If sale or lease or a long-term maintenance agreement with a Residential Curator, persons interested in a Life Estate or a non-profit such as The Flanders Foundation is the action resulting from this Proposed Project, this EIR would be used as the environmental documentation for such an action.

J6: The comment letter requests changes to mitigation measure 4.1-4 that establishes limits on construction of design elements such as fences, walls, gates, hedges or similar items that could disrupt public views of the Mansion. The letter specifically requests that heights and materials be specified and that short (4-feet) hedges of native vegetation be considered.

The 2009 RDEIR, at page 4.1-15, identified the possibility that some future occupants of the Mansion may desire installation of some form of barrier to control public access or provide for privacy. The EIR stated that "...mitigation is necessary to ensure that any future exterior improvements, such as fencing, walls, gates, hedges, or similar features do not create a visual barrier between the Proposed Project site and surrounding parklands." Mitigation Measure 4.1-4 was included to address this issue. Specifically, this mitigation states that "The primary purpose of such exterior elements shall be to delineate the property boundaries and not create a visual barrier between the site and surrounding parklands." This addresses the concern more directly than a height specification. This is especially true of hedges which, if not properly maintained, can exceed their approved height and become a monitoring/enforcement issue. The Mitigation also requires design review approval for any proposed installation and provides specific guidance for this review, including a mandate that such alterations "shall protect and preserve public views of the site, building and across the property: and be "subordinate in design character to the historic context of the site". This mitigation is sufficient to reduce the impact to a level that is less-than-significant.

J7: The commenter requests more discussion on biological impacts of lease alternatives. The biological impacts of the Proposed Project and alternatives have been fully evaluated in the

J8: Traffic evaluation is based on commonly accepted practices for estimation of trip generation from various uses, as identified in Table 4.6-1 of the RDEIR (see page 4.6-9). This table identifies the potential traffic trips of uses other than single-family residences. Because the future use of the property is currently unknown, the RDEIR evaluated potential traffic impacts associated with a range of foreseeable uses based on the site's zoning designation, P-2 (Improved Parkland).

J9: This comment suggests that a new mitigation measure be added to require a future owner or lessee to allow public access to the Mansion interior and/or grounds on a periodic basis. This would help offset the loss of public access to this resource. The comment is referred to decision makers.

J10: This comment states generally that a lease will have impacts. No response is necessary. Also refer to response to **J9** above. The comment is referred to decision makers.

J11: The City states that it has been maintaining the City property in conformance with its Historic Preservation ordinance, and also in conformance with the court ruling (Judgment and Writ of Mandate in The Flanders Foundation v. City of Carmel-by-the-Sea (Mont. Co. Super. Ct. Case No. M76728). The City has provided evidence of its conformance with the requirement to perform "reasonable interim measures necessary to avoid further significant deterioration" of the building. The City has performed the necessary maintenance and repairs in accordance with that mandate as disclosed by materials submitted to the Court on or about December 7, 2007, January 11, 2008, and October 30, 2008. These materials are all on file in the case files of the above-referenced action in the Superior Court and have been provided to counsel for The Flanders Foundation. In addition, members of The Flanders Foundation (Petitioner in the above-referenced action), along with their counsel of record in the above-referenced action, viewed the Flanders Mansion property inside and out. The Judgment and Writ of Mandate in the above-referenced action remain in full force and effect and continue to bind the City.

Comments from The Flanders Foundation are on record stating that the Foundation has offered to raise the money for rehabilitation, maintenance and operational costs since 1999. They raise the concern that the City is not considering the offer or past offers of The Flanders Foundation to take over or fund the rehabilitation, maintenance and operational costs of the Flanders Mansion. The City responses to these comments are on file with the EIR, Responses to Comment Letter C, Flanders Foundation Letters on RDEIR.The comment is referred to decision makers.

J12: The comment identifies specific concerns with the Lease for Public/Quasi-Public Use Alternative. Specific concerns relate to the assumptions identified in the description of the alternative, namely the assumption that access to the site would be restricted. The comment also suggests that the City would be able to exert greater influence through conditions and other restrictions over the nature of the use and associated impacts if the property were to remain in City ownership. The RDEIR (see Page 6-10) assumes that exterior elements could be implemented under this alternative. The exact nature and extent of these features would ultimately be contingent upon the type of public/quasi-public use that would occupy the Flanders Mansion. The analysis in the RDEIR represents a conservative analysis that evaluates the worst-case scenario in which public access would be restricted as a result of exterior elements. The RDEIR does, however, recognize that some public/quasi-public uses could permit limited site access and thereby avoid impacts related to the exclusion of the public from a portion of the Preserve. The RDEIR also recognizes that the future terms of the lease would be determined at the time a prospective lessee is identified.

J13: 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. 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. Clarification has been added to the language cited in the comment.

J14: Comment noted.

J15: . Comment is noted. However, the revised text in the RDEIR Revised Alternative Section clarifies that the description of this alternative proposes a variation whereby the area of the easements is excluded from the parcel. This effectively reduces the size of the parcel. Please see Master Response 1 where this comment is also addressed.

Commenter also identifies disagreement with the assessment of impacts under the Sale with Conservation Easements and Mitigations in the area of loss of parkland, access and trails system. Some clarification has been made in this alternative discussion on these items. Please refer to Master Responses on trails and traffic, also..

J16: Comment noted.

J17: The alternatives summarize the potential impacts under each category of impact. Please refer to the RDEIR Biological Resources Section for a full discussion of potential impacts. The comment identifies a major impact on birds and animals in the area due to introduction of humans during nighttime. The biological analysis addresses potential impacts. The Biological Assessment (BA) considered potential impacts to onsite and adjacent nesting birds through sale of the Flanders property. Mitigation to reduce impacts to onsite and adjacent nesting avian species was presented on as the first bullet on Page 20 of the BA. Additionally, Mitigation 4.1-5, mandates certain standards to minimize potential excess glare and lighting.

J18: . Mitigation 4.1-4 addresses measures to minimize potential indirect impacts associated with future use of the Flanders property. No new walls, fences, gates, or hedges shall be constructed, erected, or established without the prior approval of the City of Carmel-by-the-Sea. All exterior changes shall be subject to the Design Review process described in Chapter 17.58 (Design Review) and Chapter 17.32 (Historic Preservation) of the City's Municipal Code. The primary purpose of such exterior elements shall be to delineate the property boundaries and not create a visual barrier between the site and surrounding parklands. Refer to the MMRP for discussion of mitigation measures including tree removal and earthmoving activities.

J19: Preference for lease alternatives is noted and referred to decision makers. The RDEIR also recognizes that the future terms of the lease would be determined at the time a prospective lessee is identified.

J20: Commenter requests the City preserve the park; reference is noted and referred to decision makers.

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FINAL EIR REVISED ALTERNATIVE SECTION

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1.0 Introduction to Revised Alternatives Section – Final EIR

1.1 INTRODUCTION

The following presents **Changes to the Introduction to the Revised Alternatives Section** for the Flanders Mansion Project Recirculated DEIR. This Introduction is included in its entirety. Revisions from the June 2012 Draft are *highlighted*.

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 Property[1]. 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

[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.

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 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 <u>The Flanders Foundation v. City of Carmel-by-the-Sea and City Council of the City of Carmel-by-the-Sea</u> (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.

Responses to Comments/Final EIR

The City prepared a Recirculated Draft Environmental Impact Report and released it for public review and comment on 14 June 2012. The City has now prepared a Recirculated Final Environmental Impact Report that responds to all comments received during the public review period on the Revised Alternatives. The Final EIR ~~will~~ responds 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 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:

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.)

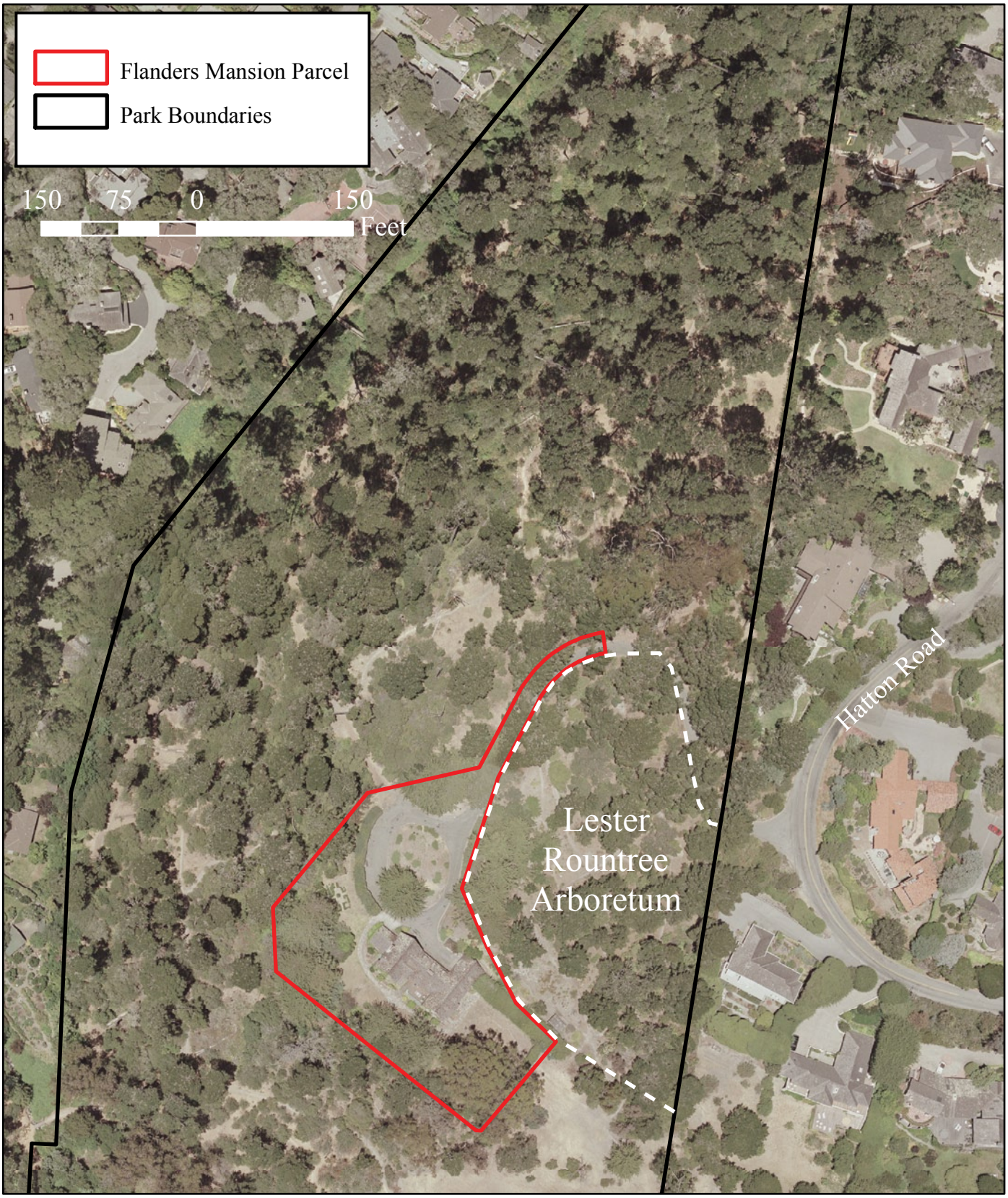
Thus, this Recirculated DEIR responds directly to the Court's determination that the City inadequately responded to Comment R-7, and specifically to the direction by the court that a reduced parcel alternative should be analyzed as a means to potentially minimize the project's adverse effects. This Recirculated 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~~ was 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.



N

Proposed Project Parcel

Figure
1.1

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6.0 Revised Alternatives, Final EIR

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 **Changes to the Revised Alternatives Section** for the Flanders Mansion Project Recirculated DEIR. Revisions from the Draft Revised Alternatives Section (June 2012) to this Final Revised Alternatives are shown in italics/highlight.*

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 its 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 Flanders Mansion building ~~on the property~~ and the surrounding grounds are recognized as a historical resource and are listed on the National Register of Historic Places and the Carmel-by-the-Sea Register of Historical Resources.

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 as a 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. *The Alternative location discussion is included in the 2005 DEIR and FEIR and the 2009 RDEIR. Therefore, it is not necessary to include this analysis in the 2012 document. The text regarding alternative locations is therefore deleted from this document for clarification.*

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: The following discussion was incorporated into the 2009 FEIR based on comments received on the 2009 DEIR. This information is incorporated into this analysis to reflect changes previously incorporated as part of the on-going environmental review associated with the Flanders Mansion Project and to ensure consistency with previous revisions incorporated during the environmental review process. This section represents the Surplus Lands Act Discussion from the 2009 Final EIR[1].

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;

[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. 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.*

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 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/Native Plant Garden (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 Act[2].

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 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

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

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.*
- *Reduced Parcel Building Only Alternative (new) (Alternative 6.6) Refer to Figure 6.2.*
- *Reduced Parcel Alternative (new) (Alternative 6.7) Refer to Figure 6.3.*

For informational purposes, this analysis has also been amplified to include a discussion of two (2) variations on the reduced parcel alternatives based on comments received during the public review period. Specifically, this analysis has been modified to include a discussion of a modified Alternative 6.5, which consists of reducing the size of the parcel as opposed to using conservation easements, and a modified design for one of the reduced parcel alternatives, as summarized below. Please note that Alternative 6.5 previously considered a reduction of parcel size as an option, but for the purposes of clarity this discussion is now identified separately. The two (2) additional variations on the reduced parcel alternatives include the following:

- *Mitigated Alternative from 2009 Final EIR ("Alternative 6.5.A – Reduced Parcel Alternative Eliminating Area of Conservation Easements") Refer to Figure 6.1.A*
- *Reduced Parcel Alternative, Revised Design (Alternative 6.7.A) Refer to Figure 6.3.A*

A short summary of these alternatives and comparison of these alternatives follows. Please also refer to the attached figures that 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**	***Building Only (Façade Easement) Alternative****	***Reduced Parcel Alternatives***** *(Lease or Sale)*
	No Project	**Single-Family Residential Use**	**Public or Quasi-Public Use**	**Sale with Conservation Easements and Mitigations****	***Easements (Lease or Sale)***	***Reduced Parcel Alternative (Lease or Sale)***
Impact						
Aesthetics	-	=	=	-	-	-
Biological Resources	-	=	-	-	-	--
Cultural Resources	=	=	-	-	-	-
Land Use & Planning	-	-	-	-	-	-
Parks & Recreation	-	-	-	-	-	-
Traffic	-	-	+	=	=	=
Attainment of Objectives (See Table 6.2)						
Primary	**No**	**No**	**No**	**Yes**	***Partial***	***Partial***
Secondary	**Partial**	**Partial**	**Partial**	**Partial***	***Partial****	***Partial****

\+ Impact Greater than Proposed Project
= Impact Comparable to Proposed Project
\- Impact Less than Proposed Project
* Contingent upon use

(1) Note: See text for description. :
** Meets primary City objective of divestment under Sale*
*. ** Alternative 6.5 Sale with Conservation Easements and Mitigations. Refer to Figure 6.1.*
**** Building Only Alternative (Alternative 6.6) Refer to Figure 6.2.*
*****Reduced Parcel Alternative (Alternative 6.7) Refer to Figure 6.3.*

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/traffic. 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~~ *may have a potential to 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,[3] 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[4].~~

6.3 NO PROJECT ALTERNATIVE

Description

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

[3] *These policies have not changed from the 2009 RDEIR and have retained the same numbers in the revised General Plan. It should be noted the City adopted findings during their 2009 deliberations making a determination of consistency with the City General Plan based upon recommendation from the Planning Commission.*

[4] *The text was updated in the Revised Alternatives Section to accurately reflect the language in the RDEIR, Page 4.5-6 of the Parks and Recreation Section to accurately reflect the impact statement.*

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 the potential, 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 Section*[5]. Under the No Project Alternative, the site 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.

[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 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."*

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 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 aesthetics[6]. 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]

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

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[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 or 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 approaching 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.*

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 ~~w~~could potentially conflict with a number of goals, objectives, and policies related to parkland. Under this alterative, 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. *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.* 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.

REDUCED PARCEL SIZE ALTERNATIVES INTRODUCTION

The following discussion provides a brief overview of the parcel sizes of the Proposed Project and alternatives.

Proposed Project: Sale of the Flanders Mansion (existing lot size of 1.252 acres or 54,537 sq. ft.			
Alternative	*Description**	*Size*	
Alternative 6.5	Sale with Conservation Easements & Mitigations	1.252 acres	54,537 sq. ft.
Alternative 6.5.A	Reduced Parcel Alternative by Eliminating Conservation Easements*	0.75 acres	32,670sq. ft
Alternative 6.6	Building-Only Reduced Parcel	0.23 acres	10,019 sq. ft.
Alternative 6.7	Reduced Parcel	0.83 acres	36,154 sq. ft.
Alternative 6.7.A	Revised Design Reduced Parcel**	0.50 acres	21,780 sq. ft.
**See full text description. Note: Revised Design Alternative also described fully in Comment Letter G, Exhibit D*			

Parcel sizes and configurations are discussed under each alternative analysis. The size and configurations of the reduced parcel alternatives considered reduction in loss of parkland, as well as features of the property (the historic mansion), the surrounding biological and cultural resources, connections with the Mission Trail Nature Preserve, viewshed, and preservation of biologically sensitive areas. The boundaries also considered the physical features of Flanders Mansion, its adjacent grounds and circulation. To the extent that resources were impacted, the EIR alternatives address how the alternatives can help reduce the significant impact associated with selling the Flanders Mansion. The boundaries were considered based upon field surveys, mapping using GPS and GIS equipment, tree locations and trail mapping[8]. The following discussion addresses reduced parcel size alternatives considered for further evaluation in this RDEIR.

[8] *Refer to Master Response 3a, Section 3.0 of this document for further discussion.*

6.5 SALE WITH CONSERVATION EASEMENTS AND MITIGATIONS[9]

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:* [10]

- *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 Nature Preserve 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 *(1)* prevent a future property owner from erecting exterior elements or causing changes to the property within areas that are particularly sensitive, *(2)* provide *continued and unimpacted* access to the Lester Rowntree Arboretum *from within the Arboretum trails*, and *(3)* 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,

[9] *EIR Alternative 6.5 "Sale with Conservation Easements and Mitigations" is also referred to as the "Mitigated Alternative from the 2009 Final EIR'.*

[10] *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. See "Alternative 6.5.A – Reduced Parcel Alternative Eliminating Conservation Easements") and corresponding Figure 6.1.A*

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 parcel boundaries 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. *As seen in Figure 6.1, the Fire Access Road trail is impacted under this alternative. Mitigation Measure 4.5-1 proposes construction of a new trail from the driveway just east of the Flanders property boundary to the Flanders Trail, which provides alternative access to this area of the trail.* 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 allow continued access on portions of the Arboretum property and existing*

driveway in order to reduce ~~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 these 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).As seen in Figure 6.1, the Fire Access Road trail is impacted under this alternative. Mitigation Measure 4.5-1 proposes construction of a new trail from the driveway just east of the Flanders property boundary to the Flanders Trail, which provides alternative access to this area of the trail.*

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)*[11] 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). *If the parcel size is reduced, per Figure 6.1.A, this alternative would result in smaller area of parkland to be sold.* Although this alternative would still result in the sale of parkland, this alternative would reduce the level of impacts by retaining existing park benefits associated with the property. The

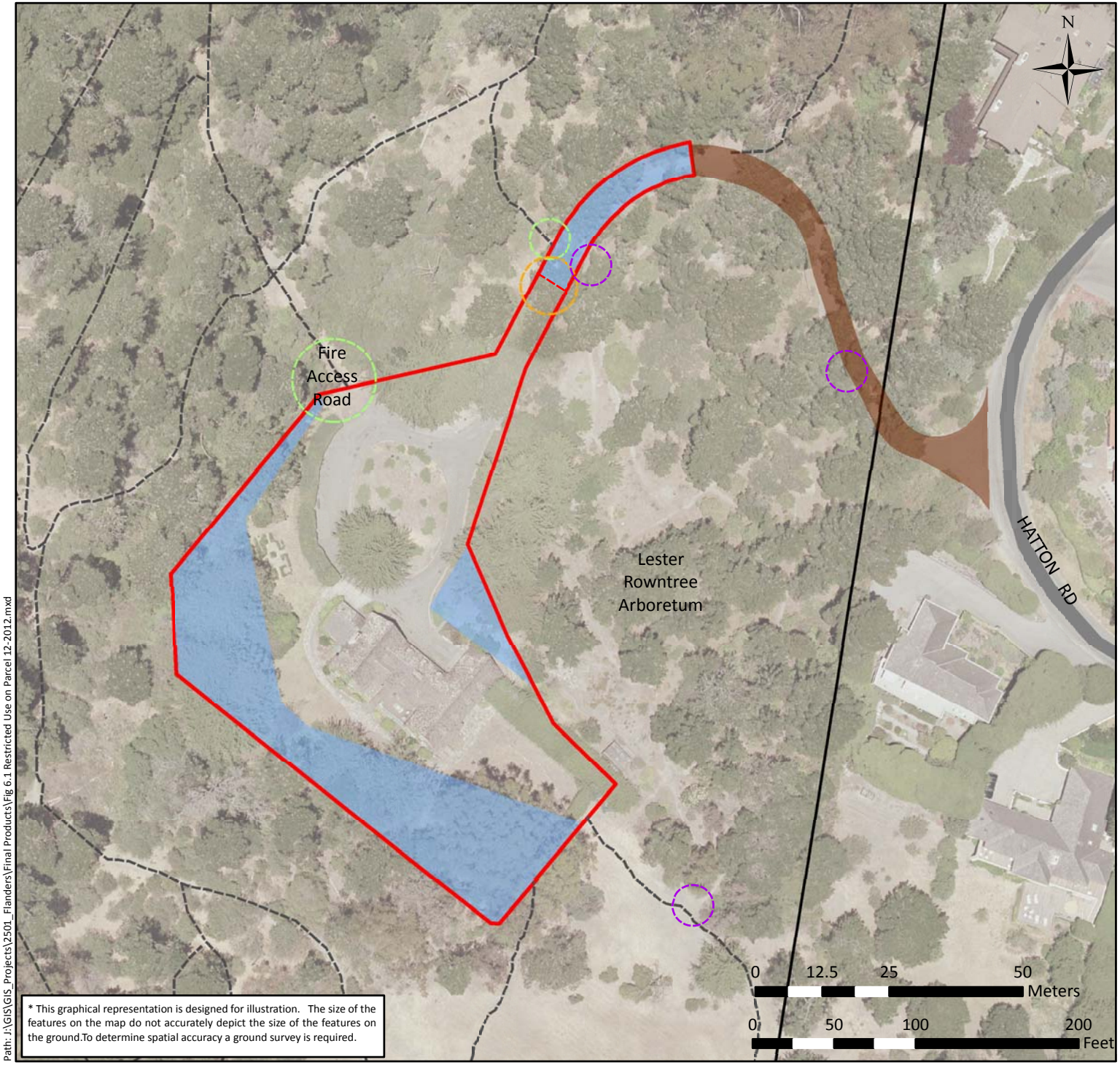
Biological Resources. In comparison with the Proposed Project, this project alternative would also minimize potential impacts to aesthetics and biological resources associated with a future use of the property by requiring that a scenic/conservation easement be recorded on the portion of the property (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. *If the parcel size is reduced, per Figure 6.1.A, this alternative would result in similar restrictions.* 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

[11] *This reduced parcel alternative reduces parcel area in the areas of former easement. See Alternative 6.5.A – Reduced Parcel Alternative Eliminating Conservation Easements in Figure 6.1.A*

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. If the parcel size is reduced, per Figure 6.1.A, this alternative would result in similar impacts.

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.



* 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.

Path: J:\GIS\GIS_Projects\2501_Flanders\Final Products\Fig 6.1 Restricted Use on Parcel 12-2012.mxd

Total Parcel Size: 1.252 Acres
Easement Area Within Parcel: 0.50 Acre
Usable Area: 0.75 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

Date: 12/4/2012

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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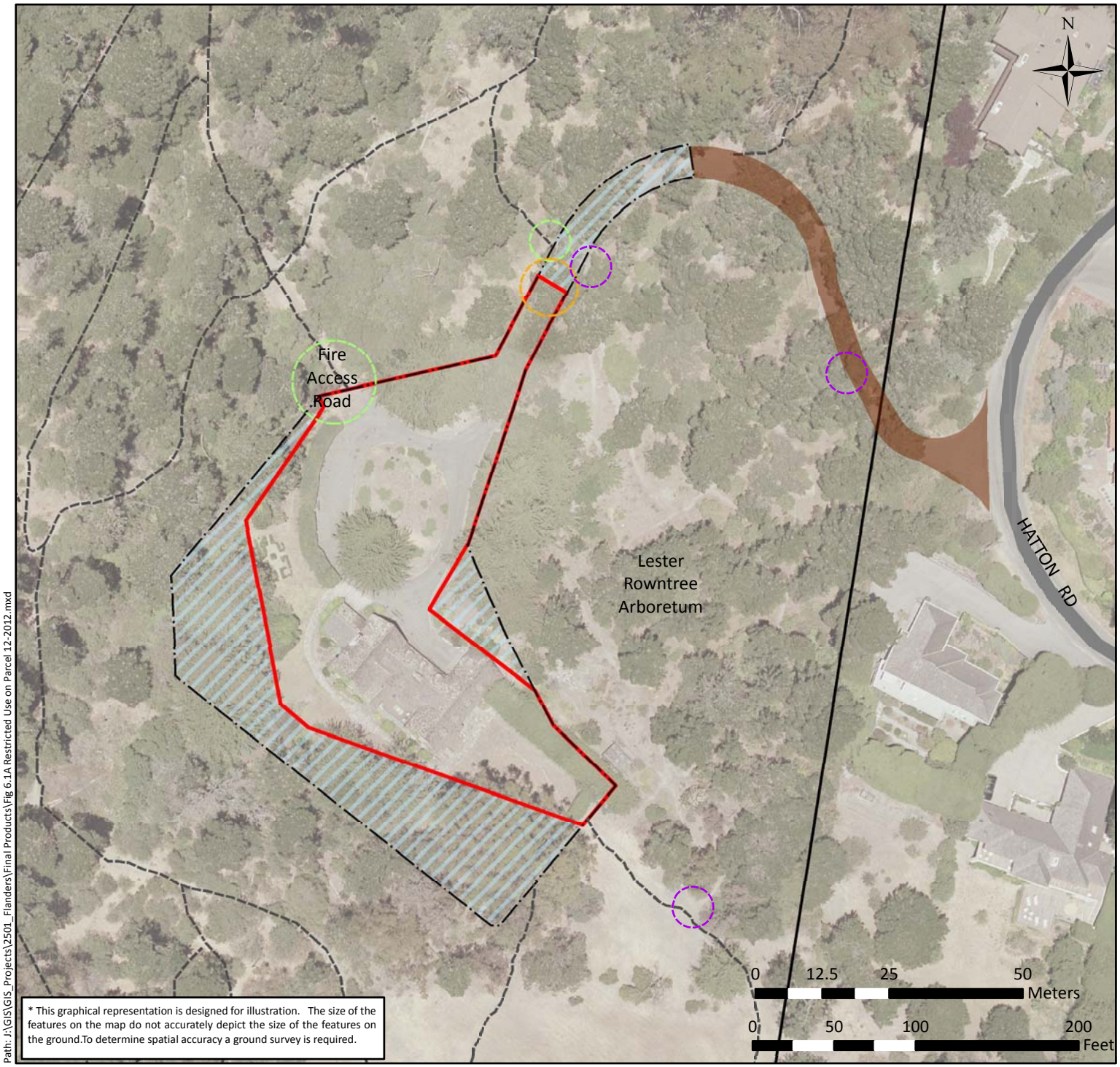

* This graphical representation is designed for illustration. The size of the features on the map do not accurately depict the size of the features on the ground.To determine spatial accuracy a ground survey is required.

Path: J:\GIS\GIS_Projects\2501_Flanders\Final Products\Fig 6.1A Restricted Use on Parcel 12-2012.mxd

Total Parcel Size: 0.75 Acre
Easement Area Within Parcel: 0.0 Acre
Usable Area: 0.75 Acre

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

- All former easement areas from 6.1 remain as parkland.
- Reduces impact to trails and Lester Rowntree Arboretum.

LEGEND

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

Date: 12/4/2012

FIGURE 6.1A - MITIGATED ALTERNATIVE FROM 2009 FINAL EIR

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

Figure 6.1A

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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 protected[12]. 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. *If the parcel size is reduced, per Figure 6.1.A, this alternative would result in the sale of up to .75 acres of parkland. This would reduce the loss of parkland compared to the Proposed Project.*

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 use. 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 Alternative 6.5

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

[12] *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.*

Preserve. This alternative would minimize potential impacts as compared with the Proposed Project and would still achieve the majority of the project objectives.

6.5.A *REDUCED PARCEL ALTERNATIVE ELIMINATING CONSERVATION EASEMENTS*

This alternative would reduce the size of the parcel available for sale as shown in Figure 6.1.A. Specifically, this alternative would eliminate portions of the site that were previously identified as potential areas where "Conservation Easements" would be applied under Alternative 6.5. As described above, Alternative 6.5 considered the potential reduction in parcel size through the application of "Conservation Easements" or the physical reduction of the parcel. For the purposes of clarity, a separate discussion of the environmental effects of eliminating the conservation easements to reduce the size of the parcel is provided here.

This alternative would result in substantially the same level of impacts as Alternative 6.5, with the one exception that this alternative would reduce the amount of parkland permanently lost in connection with the sale of the Flanders Mansion. 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 by eliminating areas as shown in new Figure 6.1.A defined as ESHA. 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 retain existing park benefits associated with the Property by effectively restricting the usable area of the parcel, through 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. This alternative would still result in the sale of up to .75 acres of parkland.

6.6 SALE OF BUILDING ONLY WITH FACADE & CONSERVATION EASEMENTS-REDUCED PARCEL ALTERNATIVE

Description

This reduced parcel 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 this reduced size alternative 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 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.*

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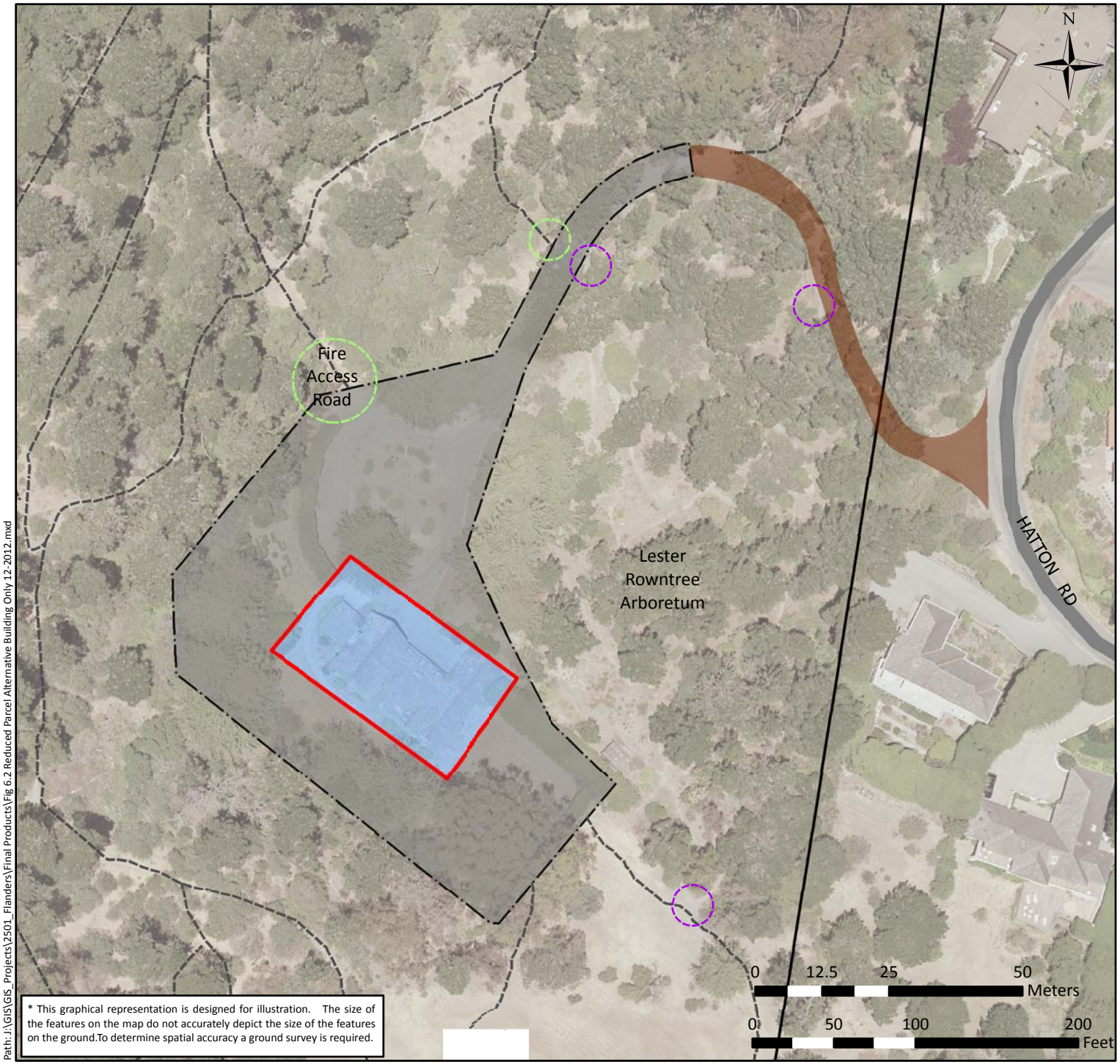
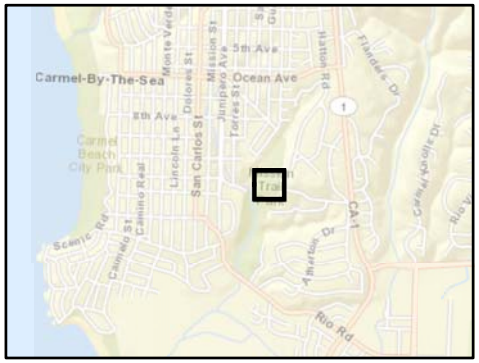


* This graphical representation is designed for illustration. The size of the features on the map do not accurately depict the size of the features on the ground.To determine spatial accuracy a ground survey is required.

Path: J:\GIS\GIS_Projects\2501_Flanders\Final Products\Fig 6.2 Reduced Parcel Alternative Building Only 12-2012.mxd



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: 12/3/2012

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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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~~ Traffic levels 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 these 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 the 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, 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. 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 trail access and resources.

Land Use. The public would derive park benefits through unrestricted public access on the Property. 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 occupancy, 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. 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 will depend on the building's use. 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. Depending on the proposed use and restrictions, the public may still be restricted from use of the driveway for vehicle access or for parking. If parking is allowed for public access, this would retain an existing park benefit and reduce impacts in comparison 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.[13] *This alternative would require that the City maintain more property than would be the*

[13] *Reduced Parcel Size Alternatives involving sale of the property would achieve most of the primary objective (divestment of the Flanders Mansion property in need of significant repair and rehabilitation). However, as the entire*

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 occupancy, 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 the residence. These potential land use conflicts may be reduced under a public or quasi-public use.

6.7 REDUCED PARCEL ALTERNATIVE

Alternative 6.7 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.*

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property is not divested under these alternatives due to the smaller parcel sizes, these alternatives do not fully achieve this primary objective of having the full parcel of 1.25 acres divested with the Mansion.

REDUCED PARCEL ALTERNATIVE 6.7 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 boundaries of the Flanders parcel ~~including~~ eliminating 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 driveway.*
- *This alternative reconfigures the parcel boundaries to ~~avoid including areas of~~ remove 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. No portion of Lester Rowntree Arboretum would be within the parcel proposed for sale.*
- *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 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 6.7 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. Additionally, a new parking area near the beginning of the driveway would replace existing informal parking currently used by the public.

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 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 and a possible new trail connection shown in Revised Figure 4.5-1 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.

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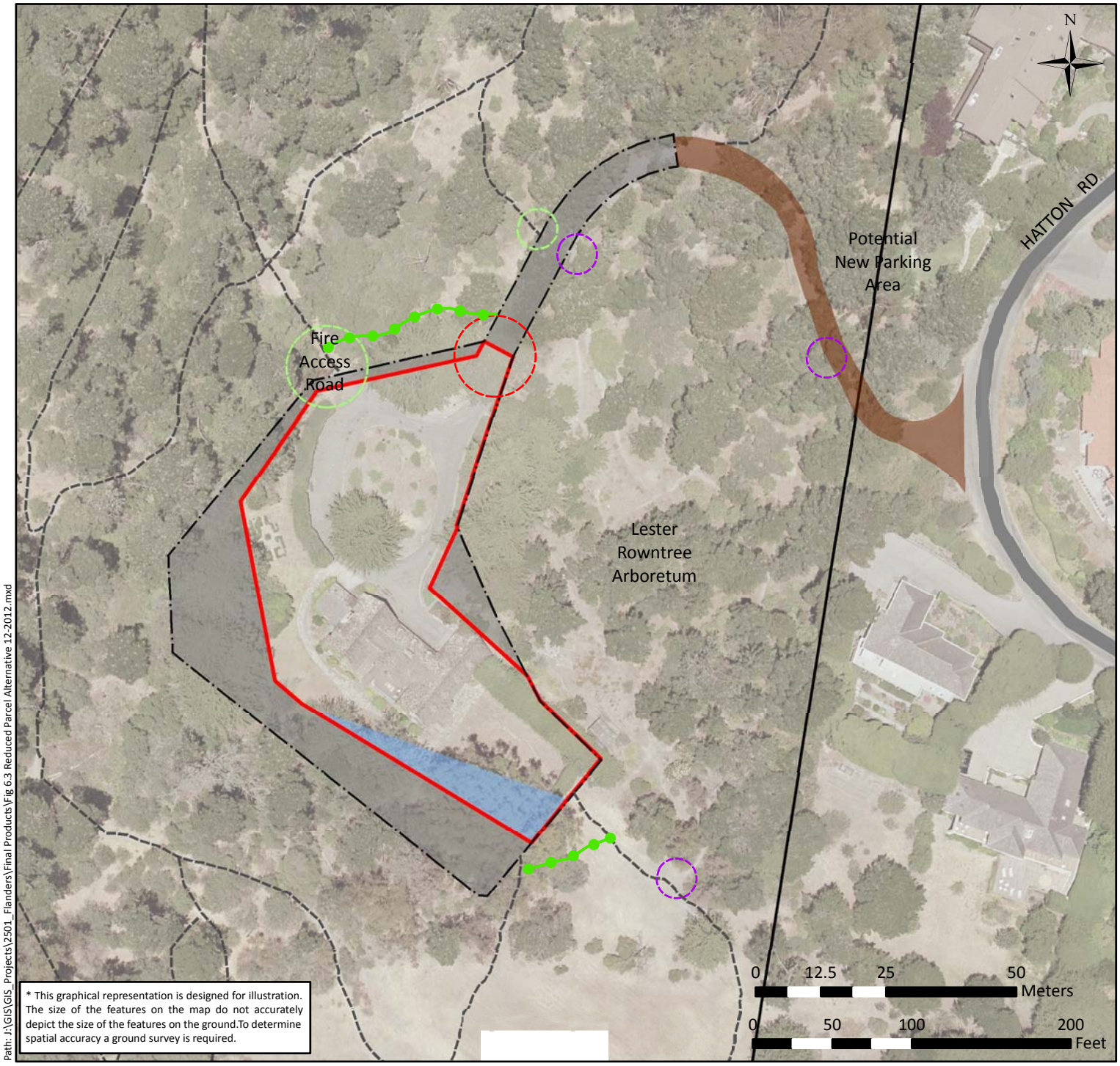

* This graphical representation is designed for illustration. The size of the features on the map do not accurately depict the size of the features on the ground.To determine spatial accuracy a ground survey is required.

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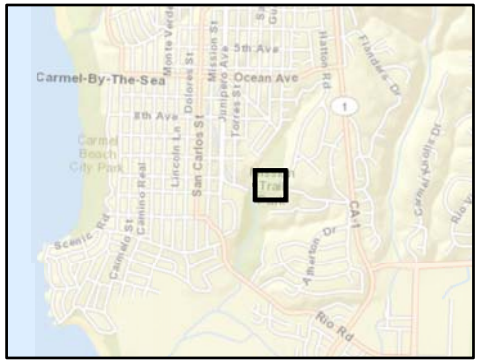

Total Parcel Size: 0.83 Acre
Easement Area Within Parcel: 0.07 Acre
Usable Area: 0.79 Acre

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 to new visitor parking area at top of driveway.

LEGEND

- Possible New Gate Location
- Trail Access Point
- Lester Rowntree Arboretum Access Point
- Existing Trails
- Proposed Replacement Trail
- Approximate Driveway Location
- Existing Flanders Mansion Parcel
- New Flanders Mansion Parcel
- Former Parcel Area- Remains Parkland
- Remaining Easement
- Park Boundary

Date: 12/4/2012

Figure 6.3

FIGURE 6.3 - REDUCED PARCEL ALTERNATIVE

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

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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. This alternative assumes that there would be a parking area consistent with the mitigation in the RDEIR for a proposed new visitor parking area on City-owned property located near the top of the driveway entrance to the Flanders parcel off Hatton Road (RDEIR ***Figure 4.6-2****). This RDEIR mitigation would allow immediate access to the Park and parking. 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[14]. ~~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 most of the primary objective (divestment of the Flanders Mansion property in need of significant repair and rehabilitation). However, as the entire property is not divested due to the smaller parcel size, this alternative would not fully achieve the primary project objective to divest all 1.252 acres. ~~a portion of the primary project objective, in addition to~~ This alternative would achieve 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 would be partially met under the Reduced Parcel Alternative.

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[14] *An alternative design was proposed in the June 2012 Revised Alternative Section whereby 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 additional area was added to this alternative as a response to a public comment.*

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.

ALTERNATIVE 6.7.A REVISED DESIGN REDUCED PARCEL ALTERNATIVE

Public comment received on the 2012 RDEIR suggested that a modified design, reduced parcel alternative be evaluated. This alternative alters the design of Reduced Parcel Alternative 6.7 above by revising the parcel configuration in order to maintain existing trail access at the Fire Access Road trail. This Revised Design, Reduced Parcel Alternative is referred to as Alternative 6.7.A. and identified in the conceptual Figure 6.3.A, attached. This approach serves to minimize potential impacts due to the loss of this trail access and reduces the land area to be sold. The specifics of this alternate configuration are fully identified in Letter G, Comment G-10 (also see Exhibit D attached to this letter).

This alternative parcel configuration (if sold) would result in a permanent loss in parkland but with less area to be permanently removed from public use. However, if the alternative involves sale, this alternative design would still result in a significant unavoidable impact in regard to the loss of parkland. This unavoidable impact is identified for the Proposed Project and all sale alternatives, including other reduced parcel alternatives.

Under the lease scenario, this alternative would result in similar impacts as the other lease alternatives evaluated in this EIR.

Description

This alternative would consist of selling a reduced-size parcel of land around the Flanders Mansion in comparison to the Proposed Project. A new parking area would be constructed where the loop driveway now exists. This would allow public parking near the entrance to the fire road gate. Specific characteristics of the design include:

- *Reduced parcel size in the front driveway and in the lawn area immediately east of the Mansion building in the backyard of the building.*
- *Access provided via existing driveway.*
- *Parking would be provided in the loop driveway area, requiring construction of a parking area on the western side of the driveway loop.*
- *All public access to existing trails from driveway would be maintained as shown. Fire road trail access would remain accessible through a new parking area.*

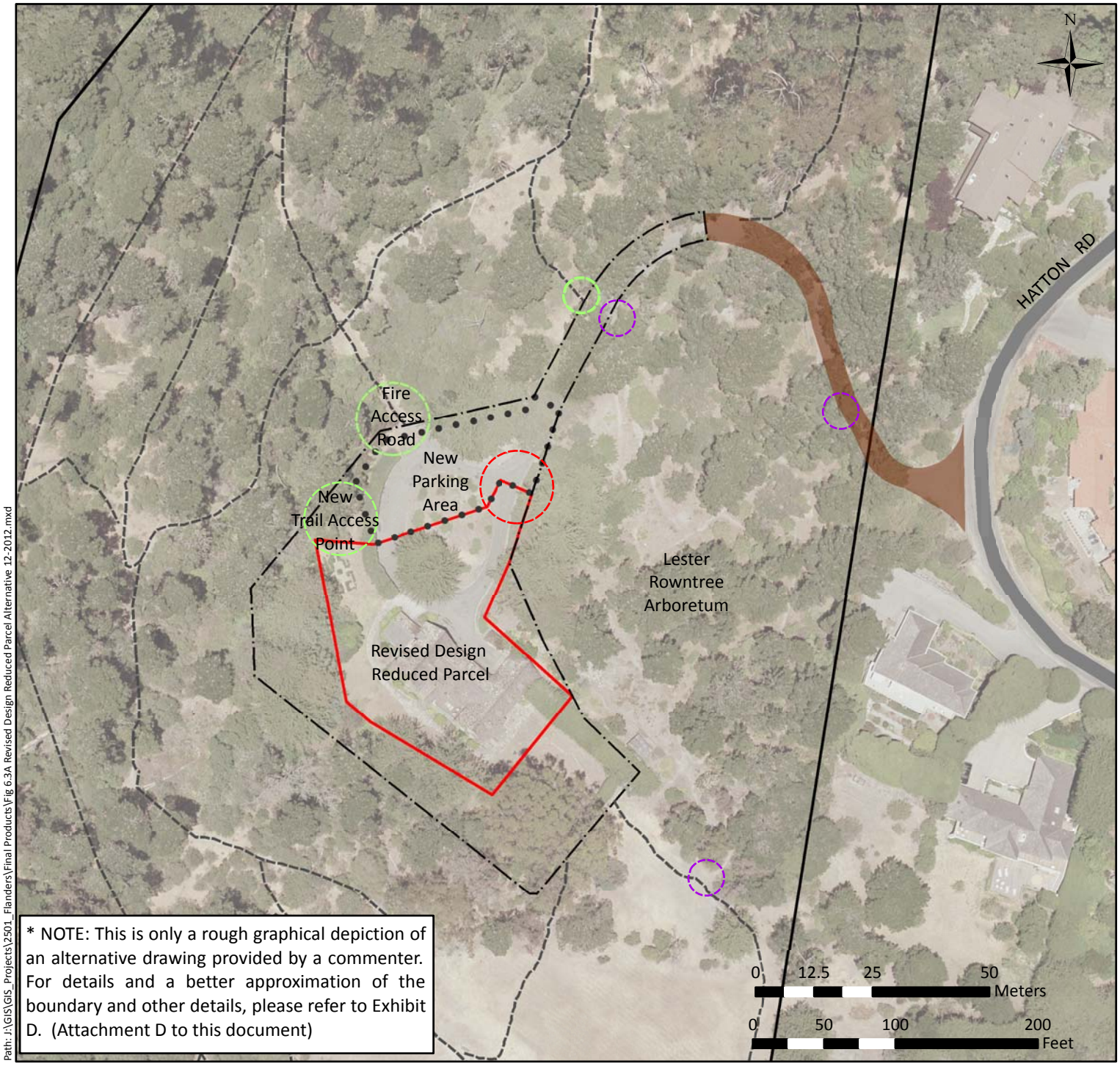
- *Public access and visitor access would be available to the lawn area immediately east of the Mansion building.*
- *This alternative assumes that all of the main driveway and much of the driveway loop would be accessible to the public (depending on fencing).*
- *The Lester Rowntree Arboretum is not impacted under this Alternative.*
- *Total size of the property to be sold for this Alternative is the boundary of the building, including reduced area of private outdoor space for the parcel as shown on* ***Figure 6.3.A****. (This graphic is conceptual only. Please refer to Exhibit D, Letter G for actual depiction and further design details. As noted, this is conceptual and final lot size would depend on the ultimate parcel configuration.)*
- *This would reduce the useable portion of the parcel to the area surrounding the building and immediate areas (approximately .50 acres), and increase public park area compared to the Proposed Project parcel size of 1.252 acres.*

Figure 6.3.A *provides a graphical representation of the alternative parcel configuration and easements, details were provided by the comment letter therefore, conceptual components are described.*

As only the building and a small parcel of land would be sold, assuming sale under this alternative, this would lessen the extent of impacts due to the permanent loss of parkland and provide continued public use of certain portions of the Property. While this alternative would lessen the extent of potential impacts by reducing the amount of parkland available for sale, it would still result in a significant impact due to the permanent loss of .50 acres of parkland. 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 and limited land of the property.

Construction of new parking and potential trail access points (as shown in Figure 6.3A) could result in additional impacts to biological resources, including potential ESHA, as compared to the Proposed Project. (Note: It is not clear from the concept plan submitted, but it appears that a proposed trail location connecting the driveway area to Martin Meadow is proposed. The conceptual sketch plan provided shows new trails located south of the Mansion where ESHA designated properties were identified for protection. Thus, if these trails are built, this alternative would have potential impact to these protected environmental/biological resources.)

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. If considered for lease, this alternative would result in similar impacts as the lease alternatives evaluated in Section 6.4, although the amount of land available for lease would be reduced.



* NOTE: This is only a rough graphical depiction of an alternative drawing provided by a commenter. For details and a better approximation of the boundary and other details, please refer to Exhibit D. (Attachment D to this document)

Parcel Size: 0.50 Acre
Usable Area: 0.50 Acre

Alternative 6.7A: Revised Design Reduced Parcel Alternative

- Per Exhibit "D" Letter. See comment F-10 for alternative description.

LEGEND

- Possible New Gate Location
- Trail Access Point
- Lester Rowntree Arboretum Access Point
- Existing Trails
- Approximate Driveway Location
- Existing Flanders Mansion Parcel
- Park Boundary
- New Parking Area
- Revised Design Reduced Parcel

Date: 12/4/2012

Path: J:\GIS\GIS_Projects\2501_Flanders\Final Products\Fig 6.3A Revised Design Reduced Parcel Alternative 12-2012.mxd

FIGURE 6.3A - REVISED DESIGN REDUCED PARCEL ALTERNATIVE

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

Figure 6.3A

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Summary of Impacts

This alternative would reduce potential impacts associated with parks and recreation as well as reduce potential impacts to aesthetics. Impacts related to cultural resources and biological resources would not be reduced in comparison to the Proposed Project due to a new impact being introduced (the construction of a new parking area within the historically sensitive property in the area of the circular driveway and rock wall). Impacts associated with ground-disturbing activities of potential trail construction in sensitive habitat area are dependent on trail location design and may be comparable to the proposed project, depending on location.

This alternative would reduce usable portions of the Property by future property owners to the area surrounding the building and the lawn area south of the Mansion. In comparison to the Proposed Project, this alternative would reduce the area of parkland sold and thus result in less disruption to public access. This alternative would retain in public ownership the driveway, much of the circular loop in front of the Mansion, and the lawn area east of the building. These areas would continue to be accessible to the public. As with the other alternatives, this design shows continued City ownership of the property adjacent to the Arboretum. This would ensure continued public access to portions of the site that provide these park benefits to the public. This alternative would lessen potential impacts in regard to loss of parkland, but would not avoid these impacts.

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.

Biological Resources. Depending on final parking and trail design, construction could cause potential impacts to biological resources. Construction activities associated with the new parking area could impact Monterey pines, a CNPS list 1B plant, immediately adjacent to the existing driveway. This alternative could result in potential impacts to biological resources in connection with the construction of parking and trail access points. The extent of these potential impacts would depend on the final design. Existing mitigation measures identified in this EIR would be applicable to construction-related activities in order to ensure that they would be reduced to a less-than-significant level. Trail construction would be required to adhere to City regulations for habitat protection.

Cultural Resources. Implementation of this alternative could introduce a new potential impact to cultural resources due to the construction required for the parking area proposed within the loop driveway. Due to the construction of new parking area and possibly the trails, this alternative concept as proposed would not lessen the level of impact to cultural resources identified in the RDEIR. Specifically, this alternative would result in changes to the physical configuration of a portion of a historically sensitive property. The circular driveway and rock wall area are part of the Mansion grounds and therefore part of the historic resource. As currently designed, Alternative 6.7.A would conflict with the Secretary's Standards and result in a potentially new significant impact. (Under CEQA, any change to a historical resource that fails to comply with the Secretary of Interior's Standards is considered a significant impact to an environmental resource.) Any potential future improvements to the exterior of the Flanders Mansion and property would be required to adhere to existing City of Carmel-by-the-Sea Municipal Code requirements for historic preservation.

Parks and Recreation. Impacts from loss of parkland would be lessened under this Alternative due to the reduced size of the parcel to be sold and continued access. This alternative would still

result in the sale of .50 acres of parkland. Visitor access to the fire trail would be maintained under this alternative design. Existing park access would be maintained except for the area surrounding the Mansion (depending on fencing/access) in connection with this alternative. Access to trails and thus; public access to the Mission Trails Nature Preserve would be maintained and existing trail connections would be essentially preserved under this alternative design (the conceptual design is not fully readable for the trails south of the Mansion building, therefore, it is not clear if this area would be used for continued trail access).

This alternative parcel configuration (if sold) would result in a permanent loss in parkland but with less area to be permanently removed from public use. However, as the alternative involves sale, this alternative design would still result in significant unavoidable impact. This unavoidable impact is identified for the Proposed Project and for all sale alternatives.

Transportation and 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. 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 from amount of traffic entering the site would be the same or equal to the Proposed Project. The proposed parking area creates a required turnaround for vehicles entering the site. This could also create a conflict with traffic as cars attempt to turnaround in a limited parking area.*

Attainment of Project Objectives

Under a sale for this alternative, implementation of this alternative would achieve the primary project objective of divestiture of the Mansion building, although a more limited area of the surrounding property would be divested. This alternative would require that the City maintain more property than would be the case if it was sold into private ownership. Secondary project objectives associated with the Proposed Project would be achieved, as discussed in the analysis below.

This alternative minimizes potential impacts due to loss of parkland, including park benefits associated with the Property. Thus, this alternative would meet the following secondary objectives to 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 [Secondary Project Objective number 4];and, 3) the property would continue to provide a maximum benefit to the general public [Secondary Project Objective number 6]. Depending on the future use of the Property, this alternative would also partially meet project objectives related to minimizing impacts on the surrounding neighborhood,[Secondary Project Objective number 3].

However, depending on design and location of proposed parking and trail access points, there is the potential for impacts to sensitive biological resources. Depending on future design, this alternative may only partially meet the secondary objective of protecting environmental resources located within the Mission Trail Nature Preserve [Secondary Project Objective number 5]. 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. This alternative would therefore meet secondary objectives related to ensuring that the building is put to productive use [Secondary Project Objective number 2].

In addition, it is also assumed that this alternative may not fully achieve secondary objectives related to historic preservation [Secondary Project Objective number 1]. This alternative would

create new impacts in the area of cultural resources. The construction of a new parking lot area where the loop driveway and rock retaining wall now exist would alter the site design of the Mansion grounds. This area is a visually prominent element of the historical landscape design of the property and its replacement with a parking area would conflict with historic preservation standards[15]. Therefore, the attainment of the project objective to ensure that the Flanders Mansion is preserved as a historical resource would not be fully achieved under this design alternative.

Summary

This alternative would lessen potential impacts to parks and recreation due to the loss of parkland and associated park benefits. This alternative parcel configuration (if sold) would result in a permanent loss in parkland but with less area to be permanently removed from public use. Although this alternative would minimize impacts from loss of parkland in the Mission Trail Nature Preserve, it would cause additional impacts to cultural resources due removal of historical site design features and the construction of a new parking area proposed as part of this alternative.

This alternative would still result in a significant unavoidable impact in regard to the loss of parkland, if it involves the sale of parkland. If this alternative was considered for potential lease, it would result in similar impacts to those evaluated under the lease alternatives in Section 6.4. Potential impacts associated with this alternative would be less than the proposed project with the exception of potential for biological and cultural resource impacts identified above. Under a lease, this alternative would fail to meet the primary project objective of divestment of the Flanders Mansion property by the City of Carmel-by-the-Sea.

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

[15] *The proposed parking location was reviewed by preservation consultant Kent Seavey, who authored the original DPR 523 historic resource documentation for the Flanders Mansion in the City's Inventory of Historical Resources.*

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. In response to the Court's decision, the City ordered preparation of an economic analysis of sale and lease options to help guide its 2009 deliberations on the Project. This analysis was prepared for the City by CBRE, a real estate economics consulting firm, and was published separately from the EIR. When the City's 2009 project decision was challenged in court, the final ruling of the Appellate Court affirmed that the City may use any available economic evidence in the record when considering the proposed project and alternatives, and that this evidence need not be presented in the EIR. The Court also found that the CBRE report was sufficient to support the findings adopted by the City.

~~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~~ are 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* are the next environmentally superior alternatives, and *then*, Sale with Conservation Easements and Mitigations Alternative ~~also~~ would be considered the *next* environmentally superior alternatives.

ATTACHMENT A-1

2009 RDEIR Summary Matrix

TABLE 2-1 SUMMARY OF SIGNIFICANT ENVIRONMENTAL IMPACTS AND MITIGATION			
Environmental Impact	**Mitigation Measure**		**Level of Significance After Mitigation**
4.1 Aesthetics			
Sale of the Flanders Mansion Property would obstruct public access to two (2) public viewing locations, which are considered scenic vistas, adjacent to the Flanders Property.	4.1-1	In order to minimize potential impacts to the two (2) public viewing areas located adjacent to the Flanders Property, the City of Carmel-by-the-Sea, prior to the sale of the Flanders Property, shall provide additional trail access to these viewing locations from either the Doolittle or Mesa Trails. Appropriate trail signage and public amenities ~~should be considered~~ shall also be provided (e.g. benches, picnic tables, or similar), subject to the review ~~by the~~ and approval of the Forest and Beach Commission.	Less-than-significant
	4.1-2	In order to ensure the long-term preservation of existing scenic vistas within the Mission Trail Nature Preserve and adjacent to the Flanders Mansion parcel, the City of Carmel-by-the-Sea shall permanently preserve these locations through scenic deed restrictions or easement, prior to the sale of the Flanders Mansion. The area of the scenic easement shall include the adjacent meadow area located south/southwesterly from the Flanders property as well as the two (2) viewing areas identified in Figure 4.1-5.	
Sale of the Flanders Mansion Property could result in indirect impacts to two (2) public viewing locations, considered scenic vistas, due to exterior changes, tree removal, perimeter fencing, and similar.	4.1-3	In order to minimize potential indirect impacts to the two (2) public viewing areas located adjacent to the Flanders Property, future exterior changes shall preserve the existing tree line surrounding the Flanders property. Prior to any tree removal and/or the issuance of any building permit associated with future use of the Mansion, the owner shall submit detailed plans, including elevations, site plans, tree removal plans, and similar documentation, to the City of Carmel-by-the-Sea for review and approval. All tree removals shall be in accordance with the City's existing tree removal ordinance and standards. Any exterior architectural changes shall also be in conformance with Mitigation Measures 4.3-1. This mitigation measure shall be incorporated as a future condition of sale or lease agreement and shall run with the land.	Less-than-significant
Sale of the Flanders Mansion Property could result in indirect impacts to the existing visual character of the Mission Trail Nature Preserve, the Lester Rowntree Arboretum, and the Flanders Property itself due to exterior changes to the property.	4.1-4	In order to minimize potential indirect impacts associated with future use of the Flanders property, no new walls, fences, gates, or hedges shall be constructed, erected, or established without the prior approval of the City of Carmel-by-the-Sea. All exterior changes shall be subject to the Design Review process described in Chapter 17.58 (Design Review) and Chapter 17.32 (Historic Preservation) of the City's Municipal Code. The primary purpose of such exterior elements shall be to delineate the property boundaries and not create a visual barrier between the	Less-than-significant

TABLE 2-1 SUMMARY OF SIGNIFICANT ENVIRONMENTAL IMPACTS AND MITIGATION			
Environmental Impact		**Mitigation Measure**	**Level of Significance After Mitigation**
		site and surrounding parklands. Prior to the approval of any such exterior element, the property owner shall submit detailed drawings of proposed exterior elements to the City of Carmel-by-the-Sea. This measure shall be incorporated as a condition of sale or lease agreement; t~~T~~his measure shall also be recorded to run with the land and be binding upon successor owners. Any such exterior element shall comply with the following guidelines: ▪ Solid masonry walls or fences that substantially block existing views of the Flanders Mansion from adjacent trails and driveway ~~and Arboretum~~ shall be discouraged. Solid masonry walls shall be prohibited along portions of the property that abut the Lester Rowntree Arboretum; ▪ All fences/walls shall be of natural earth tones and shall not block views of the Mansion from the driveway. ▪ Fencing shall be discouraged along the boundaries of the site above the circular portion of the driveway to the extent feasible (see Figure 4.1-6); ▪ If a gate is installed along the driveway it shall be placed in the approximate location identified in Figure 4.1-6; ▪ Landscape screening shall be encouraged along portions of the driveway that abut existing trails. ~~and~~ Landscape treatments and screening shall be required for portions of the site abutting the Lester Rowntree Arboretum (see Figure 4.1-6); ▪ Exterior elements shall avoid the removal of existing mature vegetation (i.e. trees), where feasible. In the event tree removal is required, it shall be done in accordance with Mitigation Measure 4.1-3; ▪ Exterior elements shall protect and preserve public views of the site, building and across the property; ▪ Exterior elements shall be subordinate in design character to the historic context of the site.	
Future use of the Flanders Mansion could create additional sources of light or glare beyond the historical use of the property. Increased sources of light and glare could impact adjacent parkland.	4.1-4	In order to minimize potential excess glare and lighting, no new exterior lighting associated with the future use of the Flanders Mansion and property shall be permitted until the future owner submits a detailed lighting plan to the City of Carmel-by-the-Sea for review and approval. The lighting plan shall, at a minimum, comply with the exterior lighting standards for the R-1 District and the following standards:	Less-than-significant

TABLE 2-1 SUMMARY OF SIGNIFICANT ENVIRONMENTAL IMPACTS AND MITIGATION		
Environmental Impact	**Mitigation Measure**	**Level of Significance After Mitigation**
	▪ Fixtures shall be properly directed, recessed, and/or shielded (e.g., downward and away from adjoining properties) to reduce light bleed and glare onto adjacent properties or public rights-of-way, by: 1. Ensuring that the light source (e.g., bulb, etc.) is not visible from off the site to the maximum extent feasible; and 2. Confining glare and reflections within the boundaries of the subject site to the maximum extent feasible. ▪ No lighting on private property shall produce an illumination level greater than one footcandle on any property within a residential zone except on the site of the light source. ▪ No permanently installed lighting shall blink, flash, or be of unusually high intensity or brightness.	
4.2 Biological Resources		
Due to the proximity of the Flanders Mansion Property to ESHA, the proposed project may result in future uses that may impact special-status plant and wildlife resources due to construction activities, such as vegetation removal or ground disturbance.	4.2-1 In order to ensure that impacts to special-status plant species are less-than-significant, spring-time floristic surveys of the project site shall be conducted to determine the presence/absence of those plant species identified in Appendix A (Biological Assessment of the Flanders Mansion Property prepared by Denise Duffy & Associates, October 27, 2008) as having either an "unlikely" or "medium" likelihood of occurrence. Multiple surveys would likely be required to identify early and late blooming plant species, the blooming periods of each plant species is listed in the plant species list of Appendix A of the 2008 Biological Assessment. All surveys should be completed prior to issuance of building permits. In the event that any special-status plant species is identified within project boundaries, these individuals/populations will require special planning consideration under CEQA, with avoidance being the preferable option to mitigation. If it is determined that impacts to these individuals/populations are unavoidable, further mitigation may be required (as determined by the lead agency). 4.2-2 In order to ensure that the ESHA are not impacted as a result of the proposed project, following any proposed construction and/or demolition, disturbed areas in proximity to ESHA shall be a) revegetated using appropriate native species and erosion control grass seed; in consultation with a qualified botanist (this type of mitigation may be included within the conditions of a Coastal Development Permit).	Less-than-significant

TABLE 2-1 SUMMARY OF SIGNIFICANT ENVIRONMENTAL IMPACTS AND MITIGATION		
Environmental Impact	**Mitigation Measure**	**Level of Significance After Mitigation**
	b) provided protective fencing. placed to keep construction vehicles and personnel from impacting any vegetation adjacent to the project site (i.e. Lester Rowntree Arboretum to the east, mesic-meadow to the south). Any trees or vegetation within the API not required for removal shall be provided appropriate protection from impacts of construction activity. This includes fencing off shrubby vegetation and protective wood barriers for trees. c) provided erosion-control measures, implemented to assure that disturbed areas do not erode (potentially impacting off-site resources). These erosion control measures shall be presented as a component of a larger Mitigation Monitoring and Restoration Plan, specific to the project to be implemented. The plan shall specify that no land clearing or grading shall occur on the project site between October 15 and April 15 unless protection to resources is demonstrated, subject to the approval of the Community Planning & Building Department. Any areas near construction that are identified as ESHA shall be provided protection from construction impacts through approved erosion-control measures; protection shall be demonstrated prior to issuance of building permits, subject to the review and approval of the Community Planning & Building Department. Any areas near construction that are identified as ESHA, including trees which are located close to any construction site(s) shall be protected from inadvertent damage from construction equipment by protective flagging to avoid the site. In particular, for trees, requirements shall include wrapping trunks with protective materials, avoiding fill of any type against the base of the trunks and avoiding an increase in soil depth at the feeding zone or drip line of the retained trees. Said protection shall be demonstrated prior to issuance of building permits subject to the approval of the Community Planning & Building Department. 4.2-3 Monarch butterfly: In order to avoid potential impacts to Monarch butterfly, vegetation removal in the vicinity of the Lester Rowntree Arboretum (eastern portion of the site) shall be limited. No vegetation shall be removed during the overwintering period (October-February) until a lepidopterist or qualified biologist determine the presence/absence of an overwintering population of Monarch butterflies at the place of occurrence reported to the CNDDB. 4.2-4 Monterey dusky-footed woodrat: Prior to the initiation of any construction-related activities, pre-construction woodrat surveys shall be conducted. The survey shall	

TABLE 2-1 SUMMARY OF SIGNIFICANT ENVIRONMENTAL IMPACTS AND MITIGATION			
Environmental Impact	**Mitigation Measure**		**Level of Significance After Mitigation**
		be conducted no more than 30-days prior to construction. If woodrat nests are documented as being present within the construction area, the appropriate authority (i.e. CDFG) shall be contacted. No activities on the project site shall impact the stick-nest observed behind the Flanders Mansion Property within an ESHA, unless prior authorization is obtained from the appropriate authority (i.e. CDFG). If permitted, the removal of the known woodrat nest shall be conducted according to the steps outlined in the attached Biological Assessment.	
	4.2-5	Nesting raptors (and other avian species): Pre-construction surveys shall be conducted for nesting avian species (including raptors), if any construction (or demolition) is to be initiated after mid-March (March 15 to August 1). If nesting raptors (or any other nesting birds) are identified during pre-construction surveys, the appropriate steps shall be taken as outlined in the attached Biological Assessment. If project activities cannot avoid the nesting season (generally March 1 – August 31), the applicant shall retain a qualified biologist to conduct focused pre-construction surveys for nesting birds within 30 days of the commencement of construction activities to avoid impacts to any nesting birds present. The pre-construction surveys shall be conducted in all areas that may provide suitable nesting habitat within 300 feet of the construction area. If active nests are found, the biologist shall establish a suitable construction buffer until the young have fledged. For construction activities that occur outside of the nesting season (generally September 1 through February 28), pre-construction surveys are not required.	
	4.2-6	Bats: In the event that tree limbing and/or removal is authorized for any future project (after sale of the property), bat surveys shall be conducted by a qualified biologist to assess the potential for the actual impact area to support the bat species discussed in the Biological Assessment. If it is determined that potential bat habitat may be negatively impacted, steps shall be taken as outlined in the Biological Survey. This should be done prior to any tree removal on the project site.	
4.3 Cultural Resources			
Sale of the Flanders Mansion and occupancy by new owners could result in alterations to the building or site that would diminish the historic	4.3-1	The terms of any sale shall be subject to Conditions of Sale requiring recordation of a deed restriction, which shall run with the land and be binding upon successive owners, requiring the adherence to a comprehensive Preservation Plan for the	Less-than-significant

TABLE 2-1 SUMMARY OF SIGNIFICANT ENVIRONMENTAL IMPACTS AND MITIGATION		
Environmental Impact	**Mitigation Measure**	**Level of Significance After Mitigation**
integrity of the resource, ~~changes that would~~ affect the historic setting ~~of the resource~~ and/or physically separate it from its surroundings.	Flanders Mansion consistent with the Secretary's Standards and the Carmel-by-the-Sea Municipal Code historic preservation provisions. In general, the Preservation Plan ~~should~~ shall identify changes to the property that could reasonably be expected to occur and make recommendations so that the changes would not disrupt the historic integrity of the resource. The Preservation Plan shall be prepared by a qualified professional and would provide practical guidance to the new owners of the Flanders Mansion. Said Preservation Plan shall include: 1) a history of the Flanders Mansion; 2) an assessment of the current condition of the property (building and grounds) and detailed descriptions of the character-defining features; and 3) recommendations following the Secretary's Standards for the appropriate treatment of these features. Specific standards and requirements of the plan follow: A qualified specialist who meets the Secretary of the Interior's Professional Qualification Standards should prepare the preservation plan that ~~should~~ shall, at a minimum, include the following information: • A detailed history of the Flanders Mansion; • A discussion of its historical significance (i.e. why the building is listed in the National Register); • A comprehensive list of the features of the building that contribute to its historical significance; • A detailed description of the current condition of the building and its integrity relative to the National Register criteria; • A discussion of the Secretary of the Interior's Standards for the Treatment of Historic Properties; • Specific standards and recommendations for the care and treatment of the Flanders Mansion. These standards in this section of the plan ~~should~~ shall be based on the identified character-defining features and include relevant standards outlined by the Secretary of the Interior, and the Secretary's guidelines in applying these standards.	
Since the project site lies within the City's known archaeological sensitivity zone, there is the potential that buried cultural resources may be discovered during project staging or construction activities. Disturbance or removal	4.3-3 If buried cultural resources, such as chipped or ground stone, historic debris, building foundations, or human bone, are inadvertently discovered during ground-disturbing activities, the following steps must be followed: stop work in that area and within 50 meters of the find; notify the City of Carmel Building Official; and retain a qualified archaeologist to assess the significance of the find and, if	Less-than-significant

TABLE 2-1 SUMMARY OF SIGNIFICANT ENVIRONMENTAL IMPACTS AND MITIGATION			
Environmental Impact		**Mitigation Measure**	**Level of Significance After Mitigation**
of artifacts associated with a buried site would constitute a significant impact to a potentially significant resource.		necessary, to develop appropriate treatment measures in consultation with the State Historic Preservation Office.	
Construction of the project may result in the discovery and disturbance of unknown archaeological resources and/or human remains.	4.3-4	If human remains of Native American origin are discovered during ground-disturbing activities, it is necessary to comply with state laws relating to the disposition of Native American burials, which falls within the jurisdiction of NAHC (Pub. Res. Code §5097). If human remains of any origin are discovered or recognized in any location other than a burial site, there will be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until: • the county coroner has been informed and has determined that no investigation of the cause of death is required; and • if the remains are of Native American origin, the descendants from the deceased Native Americans have made a recommendation to the landowner or the person responsible for the excavation work for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in PRC 5097.98, or • NAHC was unable to identify a descendant, or the descendant failed to make a recommendation within 24 hours after being notified by NAHC.	Less-than-significant
4.4 Land Use			
Sale of the Flanders Mansion Property would result in environmental impacts due to the permanent loss of parkland that have the potential to conflict with certain goals, objectives and policies identified in the City of Carmel-by-the-Sea General Plan/Coastal Land Use Plan intended on minimizing impacts to parkland and promoting public use of publicly owned parkland.	Mitigation measures have been incorporated into this EIR as part of each topical CEQA section. No additional measures have been identified.		Significant and Unavoidable
Sale of the Flanders Mansion Property could result in higher intensity land uses that could be incompatible with the surrounding Mission Trail Nature Preserve, Lester Rowntree	4.4-1	In order to minimize potential land use conflicts associated with potential future use of the Flanders Mansion Property, the City of Carmel-by-the-Sea shall require through conditions of sale, deed restriction, or similar legally-binding mechanism, that any future use and subsequent sale of the Property be restricted to those low-	Less-than-significant

TABLE 2-1 SUMMARY OF SIGNIFICANT ENVIRONMENTAL IMPACTS AND MITIGATION			
Environmental Impact	**Mitigation Measure**		**Level of Significance After Mitigation**
Arboretum, and the Hatton Field residential area.		intensity uses that are consistent with the historical use of the property. Any future use of the Flanders Mansion that is inconsistent with the analysis contained in this RDEIR shall be subject to additional environmental review in accordance with CEQA. Any intensification of use shall require the preparation of a Traffic Impact Analysis, which shall be provided to the County of Monterey Public Works Department for review and comment. These restrictions shall run with the land and shall be legally binding on successor owners/lessees.	
4.5 Parks and Recreation			
Sale of the Flanders Mansion Property would result in the loss locally significant parkland that is considered an integral component of the Mission Trail Nature Preserve.	Mitigation measures have been incorporated into this EIR to minimize impacts due to the sale of parkland. No additional measures have been identified.		Significant and Unavoidable
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.	4.5-1	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 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.	Less-than-significant
4.6 Traffic and Circulation			
The sale of the property may result in the loss of an informal parking area currently used by the general public to access the Mission Trails Nature Preserve and the Lester Rowntree Arboretum. Although not designated as public parking currently, parking in the lower driveway area of the Flanders Mansion Property would be eliminated from public access upon sale of the property.	4.6-2	In order to ensure that adequate public parking is provided, the City of Carmel-by-the-Sea shall provide additional public parking to facilitate visitor access to the surrounding Preserve and Arboretum consistent with the policies of the Mission Trail Nature Preserve Master Plan, prior to the sale of the Flanders Mansion Property. Prior to the sale of the Flanders Mansion, the City shall develop a parking plan to provide at least 3 parking spaces along the existing driveway within the Mission Trail Nature Preserve as demonstrated in Figure 4.6-2. This site shall be surfaced with appropriate materials such as ~~decomposed granite,~~ wood chips or similar. Paved surfaces, such as asphalt or similar, shall be prohibited. Construction of replacement parking shall provide for minimal disturbance to the natural surroundings and appropriate landscape treatments shall be provided to minimize views of parking from the Hatton Fields neighborhood. In the event that grading and/or vegetation-removal activities are required use of non-impervious materials shall be required. Landscape screening shall also be provided to minimize visibility from surrounding residences. Native vegetation	Less-than-significant

TABLE 2-1 SUMMARY OF SIGNIFICANT ENVIRONMENTAL IMPACTS AND MITIGATION			
Environmental Impact	**Mitigation Measure**		**Level of Significance After Mitigation**
		screening shall be provided along the area of the parking edge that is within close proximity to adjacent residences. All disturbed areas shall be replanted with appropriate native vegetation.	
Implementation of Mitigation Measure 4.6-1 has the potential to result in additional impacts to biological resources due to the construction of replacement parking.	4.6-2	In order to ensure that potential impacts to biological resources are avoided during the construction of additional parking, the City of Carmel-by-the-Sea shall arrange for pre-construction wildlife surveys (raptors, bats, and woodrats) to be conducted by a qualified biological professional, prior to the initiation of any construction-related activities. In the event that any special-status species are observed within the construction area or within the immediate vicinity, the proper resource agency (i.e., CDFG or USFWS) shall be contacted. No work shall commence until such time that CDFG or USFWS have been contacted and appropriate removal or protective measures have been identified.	Less-than-significant

Denise Duffy & Associates, Inc.

PLANNING AND ENVIRONMENTAL CONSULTING

MEMORANDUM

Date: April 23, 2009

To: City of Carmel-by-the-Sea

From: Denise Duffy & Associates, Inc.

To Whom It May Concern:

Please find the attached Errata to the April 2009 Recirculated Final Environmental Impact Report (RFEIR) for the Sale of the Flanders Mansion Property. The attached incorporates revisions to the RFEIR to make corrections and include additional information that was omitted from the RFEIR as follows:

1. Table 2-1 has been corrected to include the text of Mitigation Measure 4.3-2, which was inadvertently left out of the RFEIR. Please note that Mitigation Measure 4.3-2 is still applicable to the proposed project and is included as part of the Mitigation Monitoring and Reporting Program (MMRP). Table 2.1 has also been corrected to include the text related to potential impacts to local traffic. This information was previously included as part of the RDEIR, but was inadvertently left out of the summary table. Other minor revisions and corrections have also been incorporated as shown on the attached.

2. Revisions have been made to Mitigation Measure 4.3-1 to provide additional detail to ensure the Preservation Plan is subject to the review and approval of the Historic Resources Board. Additional detail concerning the timing of this mitigation measure has also been incorporated.

3. Revisions have been made to Mitigation Measure 4.4-1 to provide additional detail to ensure that potential land use conflicts, such as increased traffic and noise, associated with higher intensity land uses are avoided.

ERRATA
REVISIONS TO THE RECIRCULATED FINAL EIR

The following section provides revisions to the text of the Recirculated Final EIR, in amendment form. The revisions are listed by page number. All additions to the text are presented in underline, and all deletions are shown in ~~strikeout~~.

Page 5-9 of Section 5.0, Table 2-1 is revised as follows:

TABLE 2-1 SUMMARY OF SIGNIFICANT ENVIRONMENTAL IMPACTS AND MITIGATION		
Environmental Impact	**Mitigation Measure**	**Level of Significance After Mitigation**
4.3 Cultural Resources		
Sale of the Flanders Mansion and occupancy by new owners could result in alterations to the building or site that would diminish the historic integrity of the resource, ~~changes that would~~ affect the historic setting ~~of the resource~~ and/or physically separate it from its surroundings.	4.3-1 The terms of any sale shall be subject to Conditions of Sale requiring recordation of a deed restriction, which shall run with the land and be binding upon successive owners, requiring the adherence to a comprehensive Preservation Plan for the Flanders Mansion consistent with the Secretary's Standards and the Carmel-by-the-Sea Municipal Code historic preservation provisions. In general, the Preservation Plan ~~should~~ shall identify changes to the property that could reasonably be expected to occur and make recommendations so that the changes would not disrupt the historic integrity of the resource. The Preservation Plan shall be prepared by a qualified professional and would provide practical guidance to the new owners of the Flanders Mansion. Said Preservation Plan shall include: 1) a history of the Flanders Mansion; 2) an assessment of the current condition of the property (building and grounds) and detailed descriptions of the character-defining features; and 3) recommendations following the Secretary's Standards for the appropriate treatment of these features. The Preservation Plan shall be submitted to the City of Carmel-by-the-Sea for review and approval within 12 months of the close of escrow with completion of rehabilitation within 48 months after City approval. Said plan shall be subject to the review and approval of the City of Carmel-by-the-Sea Historic Resources Board. Specific standards and requirements of the plan follow: A qualified specialist who meets the Secretary of the Interior's Professional Qualification Standards should prepare the preservation plan that ~~should~~ shall, at a minimum, include the following information: • A detailed history of the Flanders Mansion; • A discussion of its historical significance (i.e. why the building is listed in the National Register); • A comprehensive list of the features of the building that contribute to its historical significance; • A detailed description of the current condition of the building and its integrity relative to the National Register criteria; • A discussion of the Secretary of the Interior's Standards for the Treatment of	Less-than-significant

TABLE 2-1 SUMMARY OF SIGNIFICANT ENVIRONMENTAL IMPACTS AND MITIGATION		
Environmental Impact	**Mitigation Measure**	**Level of Significance After Mitigation**
	Historic Properties; • Specific standards and recommendations for the care and treatment of the Flanders Mansion. These standards in this section of the plan ~~should~~ shall be based on the identified character-defining features and include relevant standards outlined by the Secretary of the Interior, and the Secretary's guidelines in applying these standards. It should be noted, that for this project, additional mitigation measures have been incorporated into the project which require that specific lease terms be implemented or that Conditions of Sale be recorded with the property that run with the land and mandate that the structure be maintained in a historic fashion per required standards. 4.3-2 Prior to the sale of the Flanders Mansion, the City of Carmel-by-the-Sea shall document the Flanders Mansion so that a record of the property as it exists today is preserved. To accomplish this, the City shall hire a qualified cultural resources specialist to document the Flanders Mansion (house and grounds) with a historical narrative and large format photographs in a manner consistent with the Historic American Buildings Survey (HABS). Copies of the narrative and photographs shall be distributed to appropriate local repositories (libraries, planning department) and concerned groups (historical societies, preservation groups). The preparation of the HABS documentation shall follow standard National Park Service procedures. There would be three main tasks: gather data; prepare photographic documentation; and prepare written historic and descriptive reports. The photographic documentation shall consist of large-format photography conforming to HABS standards. Photographic documentation shall include 4-by-5-inch negatives in labeled sleeves, 8-by-10-inch prints mounted on labeled photo cards, and an index to the photographs. In addition, the documentation shall include photographic reproduction of any building blueprints, if available.	

Page 5-10 of Section 5.0, Table 2-1 is revised as follows:

4.4 Land Use			
Sale of the Flanders Mansion Property could result in higher intensity land uses that could be incompatible with the surrounding Mission Trail Nature Preserve, Lester Rowntree Arboretum, and the Hatton Field residential area.	4.4-1	In order to minimize potential land use conflicts associated with potential future use of the Flanders Mansion Property, the City of Carmel-by-the-Sea shall require through conditions of sale, deed restriction, or similar legally-binding mechanism, that any future use and subsequent sale of the Property be restricted to single-family residential or a low-impact public/quasi-public use ~~those low- intensity uses that are~~ consistent with the historical use of the property. Future use of the property that would represent an intensification of use ~~Any future use of the Flanders Mansion that is inconsistent with the analysis contained in this RDEIR~~ shall be subject to additional environmental review in accordance with CEQA, including the provisions of CEQA Guidelines §15162 and §15163, as applicable and ~~Any intensification of use~~ shall require the preparation of a Traffic Impact Analysis. ~~, which~~ The traffic analysis shall be provided to the County of Monterey Public Works Department for review and comment. These restrictions shall run with the land and shall be legally binding on successor owners/lessees.	Less-than-significant

Page 5-11 of Section 5.0, Table 2-1 is revised as follows:

4.6 Traffic and Circulation			
The sale of the property may result in the loss of an informal parking area currently used by the general public to access the Mission Trails Nature Preserve and the Lester Rowntree Arboretum. Although not designated as public parking currently, parking in the lower driveway area of the Flanders Mansion Property would be eliminated from public access upon sale of the property.	4.6-~~2~~1	In order to ensure that adequate public parking is provided, the City of Carmel-by-the-Sea shall provide additional public parking to facilitate visitor access to the surrounding Preserve and Arboretum consistent with the policies of the Mission Trail Nature Preserve Master Plan, prior to the sale of the Flanders Mansion Property. Prior to the sale of the Flanders Mansion, the City shall develop a parking plan to provide at least 3 parking spaces along the existing driveway within the Mission Trail Nature Preserve as demonstrated in Figure 4.6-2. This site shall be surfaced with appropriate materials such as ~~decomposed granite,~~ wood chips or similar. Paved surfaces, such as asphalt or similar, shall be prohibited. Construction of replacement parking shall provide for minimal disturbance to the natural surroundings and appropriate landscape treatments shall be provided to minimize views of parking from the Hatton Fields neighborhood. In the event that grading and/or vegetation-removal activities are required use of non-impervious materials shall be required. Landscape screening shall also be provided to minimize visibility from surrounding residences. Native vegetation screening shall be provided along the area of the parking edge that is within close proximity to adjacent residences. All disturbed areas shall be replanted with appropriate native vegetation.	Less-than-significant
The sale of the property may result in future uses that may cause significant impacts to local traffic.	4.6-3	See Mitigation Measure 4.4-1.	Less-than-significant

- **Table with Comparison of Alternatives - 2012 EIR**

2012 ALTERNATIVE COMPARISON
Alternatives Comparison of Alternatives' Ability to Meet Stated Project Objectives

EIR Objectives	**No Project**	**Single-Family Residential Use**	**Single-Family Residential Use**	**Public/ Quasi-Public Use**	**Public/ Quasi-Public Use**	**Sale with Conservation Easements and Mitigation**	**Reduced Parcel Alternatives**** (lease or sale)**			
Alternative Number/Description	**6.3**	**6.4 (SF lease)**	**6.4 (SF sale)**	**6.4 P/QP (lease)**	**6.4 P/QP (sale)**	**6.5 (sale)**	**6.5.A**	**6.6**	**6.7**	**6.7.A**
Primary Objectives										
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.	F	F	A	F	A	A	P[1]	P[1]	P[1]	P[1]
Secondary Objectives										
To ensure that the Flanders Mansion is preserved as a historic resource.	F	A	A	A	A	A	A	A	A	P**
To ensure that the Flanders Mansion building and property are put to productive use.	F	A	A	A	A	A	A	A	A	A
To ensure that future use of the Flanders Mansion and property will not cause significant traffic, parking or noise impacts on the surrounding neighborhood.	A	A	A	F	F	P*	P*	P*	P*	P*
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.	A	P	P	P*	P*	A	A	A	A	A
To ensure that environmental resources of the park are protected.	A	P	A	A	A	A	A	A	A	P***
To ensure that the Flanders Mansion parcel continues to provide the public with as many park benefits as are practical, given the proposed use.	A	P	F	F	F	A	A	A	A	A

Key:

A = Achieves objective
F = Does not achieve objective
P = Partially achieves

Notes:

* Contingent upon future use
** Proposed parking area construction has potential to impact the historic resource of the Mansion *property*; objective to preserve Mansion *building* is met under this Alternative, however.
*** Dependent on future design of new proposed trails/parking area to avoid sensitive habitat.
****** Reduced Project Alternatives** (May be either lease or sale)
1 Reduced Project Alternatives with sale would achieve most of the intent of the primary objective (divestment of the Flanders Mansion property in need of significant repair and rehabilitation). However, as the entire property is not divested under these alternatives due to the smaller parcel sizes, this footnote serves to explain that these alternatives do not fully achieve this primary objective of having the full parcel of 1.25 acres divested with the Mansion. Note for Reduced Parcel Alternatives using lease, these alternatives would not achieve the primary project objective to divest the property.

Reduced Alternative Number/Description:

Alternative 6.5.A Reduced Pace Area previously Conservation Easements Eliminated from parcel area
Alternative 6.6 Reduced Parcel Building Only Alternative
Alternative 6.7 Reduced Parcel Alternative – 2012 RDEIR
Alternative 6.7.A Reduced Parcel Alternative – Redesign Reduced Size

Refer to figures for graphic depiction of reduced alternatives

ATTACHMENT A

COMMENT AND RESPONSES R-7

2009 FINAL EIR AND ADDITIONAL RESPONSE

2012 FINAL EIR

ATTACHMENT A

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

2009 FINAL EIR RESPONSE AND COMMENT

"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."

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 "facade" 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."

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[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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ADDITIONAL RESPONSE AND INFORMATION, COMMENT R-7

2012 Final EIR
Additional Response to Final EIR 2012 for RDEIR Comment R-7

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 previous **Attachment A** of this document for the full text of 2009 Final EIR comment and responses to Comment R-7. Attachment A also contains additional response and clarification on R-7.)

Comment R-7 suggested that additional mitigation measures should be analyzed to lessen the extent of potential adverse impacts. These alternative mitigation measures cited by the commenter included an alternative consisting of a conservation easement on the entire property, and an additional alternative consisting of a façade easement.

The 2009 Final EIR contained a detailed response to Comment R-7 based on the City's interpretation of that Comment. Revisions to the text of the 2009 RDEIR were incorporated into the Final EIR. The City's response to Comment R-7 was based on the interpretation of the full text of the comment, as discussed below.

The 2009 Final EIR concluded that the placement of a conservation easement over the entire property would be the "functional equivalent of selling the building with no land" and a façade easement would have the same intended effect as complying with existing regulatory requirements (see, for instance, the U.S. Secretary of the Interior's Standards and Carmel-by-the-Sea Municipal Code Chapter 17.32).[2] The 2009 Final EIR determined that the 2009 RDEIR adequately considered potential adverse effects associated with the project and identified corresponding mitigation measures to minimize the extent of those effects consistent with the requirements of CEQA. This included mitigation measures to regulate the construction of new exterior elements on the property (i.e., fences, hedges or walls) to minimize potential visual effects and impacts to parkland. The 2009 RDEIR considered a range of alternatives intended to reduce the project's potential adverse effects and retain park benefits derived from the property.

The Court of Appeal found fault with the 2009 Final EIR response to Comment R-7 and determined that the City's failure to respond to this significant comment violated its duty under CEQA. The Court determined that since the project would have an unmitigated significant environmental impact (loss of parkland), the City was obligated under CEQA to provide a reasoned analysis explaining why a reduced parcel alternative would not reduce the extent of the project's unmitigated effects. Specifically, the Court focused on the portion of the comment referencing parcel size and stated that the provided "no response,

[2] As referenced in Response to R-7, the City also made a determination that a "building only" alternative" (sale of the building with no land) is not viable (Response R-1). Specifically, in light of the size of the building, the City determined it is "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 previously concluded that a purchaser would reasonably expect that a 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, a "building only alternative" was not included for analysis in the 2009 RDEIR.

to this comment's suggestion that a "reduction in the size of the parcel" would mitigate the environmental impacts of the proposed project," or "that the residence could be sold with a smaller parcel even though the comment raised a significant environmental issue."

To clarify the response to Comment R-7 in the 2009 Final EIR, it is important to review the language in the comment. The City and EIR consultant interpreted the first and second sentences of Comment R-7, not as a stand-alone comment, but as part of the entire comment, especially in terms referencing the proposed mitigation *in* the EIR:

> "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."

These two sentences seem to suggest a new alternative or mitigation of a reduced parcel. However, the comment was read and interpreted as referencing the proposed mitigation *and* alternatives in the Final EIR. Alternative 6.5 considered both conservation easements *and a reduction in parcel size* to reduce impacts of loss of parkland. (In the 2009 EIR Alternatives Section the Alternative 6.5 description included the following: "Alternative 6.5 consists of applying a conservation easement (or reducing the parcel size) over portions of the property".[3])

In Alternative 6.5, the reduction of parcel size is achieved through applying conservation easements or reducing the parcel. The response to Comment R-7 in the 2009 Final EIR interpreted the first sentence in the comment as stating that the EIR's approach to mitigation was not adequate, and the second sentence as suggesting potential adequate approaches. In the EIR, a reduction in the size of the parcel to be sold and a conservation easement on a portion of the property were the suggested mitigation and alternatives (Alternative 6.5, 2009 EIR). Thus, the Final EIR response interpreted Comment R-7 differently than the Court. The EIR assumed that Comment R-7 found fault with the EIR's proposed approach to mitigation, whereby the reduction of parcel size is achieved through applying conservation easements, and only on a portion of the property. The Final EIR response also noted that proposed mitigation and alternatives in the Final EIR included an Alternative that would have had a similar effect as a reduced the size of the parcel.

The remainder of the language in Comment R-7 (third sentence in paragraph) refers to mitigation proposed by the commenter that *should* be considered. As stated: "The following mitigations which would substantially reduce the impacts are not analyzed." These included facade easements and conservation easements on a larger portion of the property. The primary focus of the 2009 Final EIR

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[3] Note: The 2009 RDEIR included a reduced parcel size alternative in discussing Alternative 6.5. In the 2009 Draft EIR, Alternatives, Section 6.0, Page 6-13. Alternative 6.5 is presented as either applying a conservation easement over specified portions of the property or reducing the parcel size by eliminating those areas. As stated in the 2009 EIR: "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." In addition to the 2009 RDEIR, the 2005 DEIR analyzed a reduced parcel size alternative. Refer to "Reduced Parcel Size/Mitigated Alternative" (previously referred to as "Alternative 6") in the 2005 DEIR. The Court did not deem these portions of the EIR sufficient and stated that the City's obligation under CEQA was to explain in the EIR "in detail giving reasons why" .."the City was not considering the sale of the residence with a reduced parcel". Therefore, in order to satisfy the Court's request in the Revised Alternatives Section, reduced parcel alternatives are further presented (See **2012 Revised Alternatives Section**). The City will ultimately make the determination whether they will approve or disapprove the project, and consider a reduced parcel alternative for sale or lease. Consistent with Section 15126.6 of the CEQA Guidelines, "An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project…".

response, therefore, was on a discussion of the façade easement and conservation easements in the Final EIR, which is addressed in the remainder of the comment:

> "…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."

The EIR did not directly state this interpretation and thus, the additional discussion is added herein. Additionally, although the explanation above provides the rationale for the 2009 Final EIR response to R-7, the action by the Court stands. As directed by the Court, "when a comment raises a significant environmental issue, the lead agency must address the comment in detail giving reasons why the comment was not accepted. There must be a good faith, reasoned analysis in the response." The Court found fault with the analysis in the response. Per CEQA Guidelines, written responses should explain whether the draft EIR was changed as a result of the comment or the reasons why specific comments and suggestions were not accepted. While the comment was addressed in the 2009 Final EIR, the response did not clearly address or analyze the suggested alternative/mitigation. Thus, the Revised Alternatives Section in this Recirculated Draft EIR addresses this omission and provides such analysis.

Expanded Response to Comment R-7

Comment R-7 suggests "a façade easement", as well as mitigation measures consisting of a conservation easement on the entire property. The 2009 Final EIR concluded that the placement of a conservation easement over the entire property would have the "functional equivalent of selling the building with no land." Additional response to Comment R-7 is provided below. Although the comment does not raise a new environmental issue, the following provides a detailed response with reasoned analysis why the comment is not further accepted.

Conservation Easement Covering the Entire Property. Specific language in Comment R-7 suggests a mitigation or alterative establishing 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". Additionally, the comment specifies the need for a conservation easement on the entire property to address fencing, hedges etc. A number of statements were expressed within comment R-7; to be responsive to the comment, individual items are discussed below.

Conservation Easement Comment: Comment R-7 suggests that "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" should be considered as mitigation. The comment further clarifies "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." A conservation easement over the entire property is considered the functional equivalent of the sale of the property with conservation easements and mitigation. Existing regulatory mechanisms (i.e., mitigation measures, conditions of sale, etc.) are in place to ensure that the City has sufficient oversight in terms of the use and modification of the property. These are in addition to the conservation easements that would be placed over approximately .50 acres of the 1.252 acre site. The content and extent of the

mitigation and specific mitigation measures address fencing (as further detailed below) and in the following documents:

- Mitigation Monitoring and Reporting Program.
- Resolution Adopting a Mitigation Monitoring and Reporting Program.
- Conditions of Sale, a Declaration of Conditions, Covenants and Restrictions to be Recorded against the Property, and Conditions of Lease.

The requirements of all mitigation measures and the Mitigation Monitoring and Reporting Program are proposed to be incorporated into Conditions of Sale and Conditions of Lease, as well as through easements and Covenants. These "Conditions and Restrictions" would be recorded against the Flanders Mansion property and would therefore, bind the City and all future owners and lessees of the property.

These actions and documents would address and cover the entire property and effectively address the comment by limiting activities on the property. The oversight is specific to the use and future activities on the site. In addition, specific conditions of sale would run with the land to ensure that any future owner would be subject to the measures contained in the EIR.

Extent of Mitigation Which Could Reduce Adverse Impacts. Per the 2009 RDEIR, mitigation proposes that the City provide for Conditions of Sale or a lease agreement that will require fencing to be in compliance with the historic setting as well as minimize impacts to neighboring parkland. In addition, mitigation measures were incorporated to require that any future exterior elements, such as fencing, walls, gates, or hedges, comply with the design guidelines and design review process provided in Mitigation Measure 4.1-4."

Enforceable Control. Comment R-7 implies that only with a conservation easement[4] across the entire property will the City be able to exercise "enforceable control". The City disagrees with this assertion. The conservation easements as outlined in the 2009 RDEIR are fully enforceable. Per the 2009 RDEIR, Mitigation Measure 4.3-1 requires the terms of any sale to be subject to the recordation of deed restrictions, which shall run with the land and be binding upon successive owners and lessees. This mitigation also requires adherence to a comprehensive Preservation Plan for the Flanders Mansion consistent with the Secretary's Standards[5] and the Carmel-by-the-Sea Municipal Code historic preservation ordinance. The mitigation calls for the Preservation Plan to be prepared by a qualified professional and to provide practical measures to assess potential changes to the property and make recommendations so that the changes would not disrupt the historic integrity or character defining features of the resource consistent with the Secretary's Standards. It should be noted additional mitigation measures have been incorporated into the project which include specific lease terms to be implemented or deed restrictions to be recorded with the property that run with the land and ensure that the structure be maintained in a historic fashion per required standards. Further, the City's direct legal obligations under a certified EIR, and mitigation measures, conditions of sale or lease, and covenants to be recorded to run with the land, are subject to enforcement by several administrative and judicial remedies. Likewise, any duty of the City to enforce obligations owed by a future owner, occupant, or lessee, under a Mitigation Monitoring and Reporting Program, conditions of sale or lease, recorded covenants running with the land and the historic preservation provisions of the City of Carmel-by-the-Sea Municipal Code may be enforced through a variety of remedies. Lastly, the Superior Court in the action,

[4] A Conservation Easement, as suggested in the comment, relies on the exact same type of enforcement as the restrictions already included in the EIR including adopted mitigations, deed restrictions, conditions of sale as identified above. It is not clear how adding additional Conservation Easement area is the only way to exercise "enforceable control".

[5] Compliance with the Secretary's Standards is generally considered within CEQA to be adequate mitigation to the environmental effects of changes to a historic resource.

Flanders Foundation vs. City of Carmel-by-the-Sea and City Council of the City of Carmel-by-the-Sea (Mont. Co. Super. Ct. Case M76728) found the City was bound by its Municipal Code Historic Preservation sections, and such obligations are legally enforceable. Thus, the mitigation measures identified in the 2009 RDEIR bind the City and all future owners and lessees of the property.

The comment also states that a conservation easement is required across the entire property in order to provide adequate mitigation. The Conservation Easement is one method of enforcement over all the uses of the property. In addition to the above and the easements shown on Figure 6.1of this Recirculated Draft EIR and the 2009 RDEIR, the following Mitigation Measure 4.4-1, is also applicable:

> "In order to minimize potential land use conflicts associated with potential future use of the Flanders Mansion Property, the City of Carmel-by-the-Sea shall require through conditions of sale, deed restriction, or similar legally-binding mechanism, that any future use and subsequent sale of the Property be restricted to single-family residential or a low-impact public/quasi-public use consistent with the historical use of the property. Future use of the property that would represent an intensification of use shall be subject to additional environmental review in accordance with CEQA, including the provisions of CEQA Guidelines sections 15162 and 15163, as applicable and shall require the preparation of a Traffic Impact Analysis. The traffic analysis shall be provided to the County of Monterey Public Works Department for review and comment. These restrictions shall run with the land and shall be legally binding on the City and successor owners and/or lessees."

"Such easement could specify plantings, height of hedges, regulate fences, etc." With regard to comments concerning the addition of fences and similar exterior elements, any such additions to the property would be covered under the historic preservation ordinance and preservation plan. Specific limitations are referenced in the Mitigation Measures in the 2009 Final EIR[6] and provide for limits on locations and type of fences, walls and hedges, as noted in Mitigation Measure 4.1-4, below:

> "In order to minimize potential indirect impacts associated with future use of the Flanders property, no new walls, fences, gates, or hedges shall be constructed, erected, or established without the prior approval of the City of Carmel-by-the-Sea. All exterior changes shall be subject to the Design Review process described in Chapter 17.58 (Design Review) and Chapter 17.32 (Historic Preservation) of the City's Municipal Code. The primary purpose of such exterior elements shall be to delineate the property boundaries and not create a visual barrier between the site and surrounding parklands. Prior to the approval of any such exterior element, the property owner shall submit detailed drawings of proposed exterior elements to the City of Carmel-by-the-Sea. This measure shall be incorporated as a condition of sale or lease agreement; this measure shall also be recorded to run with the land and be binding upon successor owners. Any such exterior element shall comply with the following requirements:
>
> - Solid masonry walls or fences that substantially block existing views of the Flanders Mansion from adjacent trails and driveway shall be discouraged. Solid masonry walls shall be prohibited along portions of the property that abut the Lester Rowntree Arboretum;
> - All fences/walls shall be of natural earth tones and shall not block views of the Mansion from the driveway.
> - Fencing shall be discouraged along the boundaries of the site above the circular portion of the driveway to the extent feasible (see Figure 4.1-6);
> - If a gate is installed along the driveway it shall be placed in the approximate location

[6] Master Response 11, on pages 3-13 and 3-14 of the 2009 RDEIR.

identified in Figure 4.1-6;

- Landscape screening shall be encouraged along portions of the driveway that abut existing trails. Landscape treatments and screening shall be required for portions of the site abutting the Lester Rowntree Arboretum (see Figure 4.1-6);
- Exterior elements shall avoid the removal of existing mature vegetation (i.e. trees), where feasible. In the event tree removal is required, it shall be done in accordance with Mitigation Measure 4.1-3;
- Exterior elements shall protect and preserve public views of the site, building and across the property;
- Exterior elements shall be subordinate in design character to the historic context of the site."

Specificity to the Terms of the Easements (and Mitigations). The level of specificity of these aforementioned mitigation measures is consistent with the level of specificity of the underlying project[7]. The intent of these requirements is clearly identified: to not create any visual barrier as well as to protect and preserve public views of the site, building, and across the property. Additionally, adoption of the Mitigation Measures under each topical CEQA section will reduce impacts to less than significant, with the exception of the unavoidable impact resulting from the permanent loss of City ownership of the Flanders Mansion public parkland. Thus, viewshed impacts on the Flanders Mansion property, the Mission Trial Nature Preserve and Lester Rowntree Native Plant Garden parkland, and the neighborhoods in the vicinity of the Preserve and the Flanders Mansion property resulting from the sale of the Flanders Mansion property are reduced to less than significant level with adoption of specified mitigation. .

Effect of Applying a Conservation Easement Covering the Entire Property, Comment R-7. Applying a conservation easement over the entire property as an alternative or mitigation as suggested in Comment R-7 would not avoid or significantly reduce the project's potential adverse environmental effects due to the loss of parkland. While the City of Carmel-by-the-Sea would retain significant oversight over future actions on the property, this additional oversight would be comparable to the City's responsibility to enforce the currently planned aforementioned easements and mitigation measures that already apply to the project. The comment suggests applying a conservation easement covering the entire property in order for the City to retain complete, enforceable control over all uses of the property. As stated above, the proposed mitigation, covenants and restrictions effectively provide this suggested control. In addition, a conservation easement over the entire property would not directly reduce the project's significant environmental effects (loss of parkland). Additionally, it is questionable if additional area of conservation easement control would be beneficial in this case. The approach taken by the mitigation was to establish design parameters that would guide any future review process, identify specific standards to achieve the results. (Refer to example mitigation measures in responses above). Applying very specific Conservation Easement at this time, without a determined user or use, might be inappropriate to the eventual owner or use made of the property (Also refer to footnote on Master Response to Comment 14, below). Moreover, applying a specific design, fence or landscaping plan at this stage is beyond what is needed to mitigate the potential impact. Since the commenter did not identify any specific issue with the RDEIR mitigation language and standards, there is no specific impact identified that would be addressed by amending them.

[7] Master Response to Comment 14, 2009 Final EIR, Page 3-16, states "The level of specificity of the mitigations and analysis in this document are consistent with the level of specificity of the proposed project which is described in the EIR. In this case, the proposed project is the sale of the Flanders Mansion. None of the details of that proposed action- the identity of the purchaser, the use proposed to be made by the purchaser or the entitlements that may be sought for such use, the terms of the sale- are available at this time. Therefore, the level of detail in the impact analysis and the development of mitigation measures are consistent with the evaluation of a proposed sale of the property and are not specific to the detailed plans that would be available for a development project."

Façade Easement Covering the Building Itself. Specific language in R-7 suggests a façade easement and/or conservation easement covering the building itself, so that the views of the building and property are preserved. This alternative has been added to the revised Section **6.0, Alternatives.**

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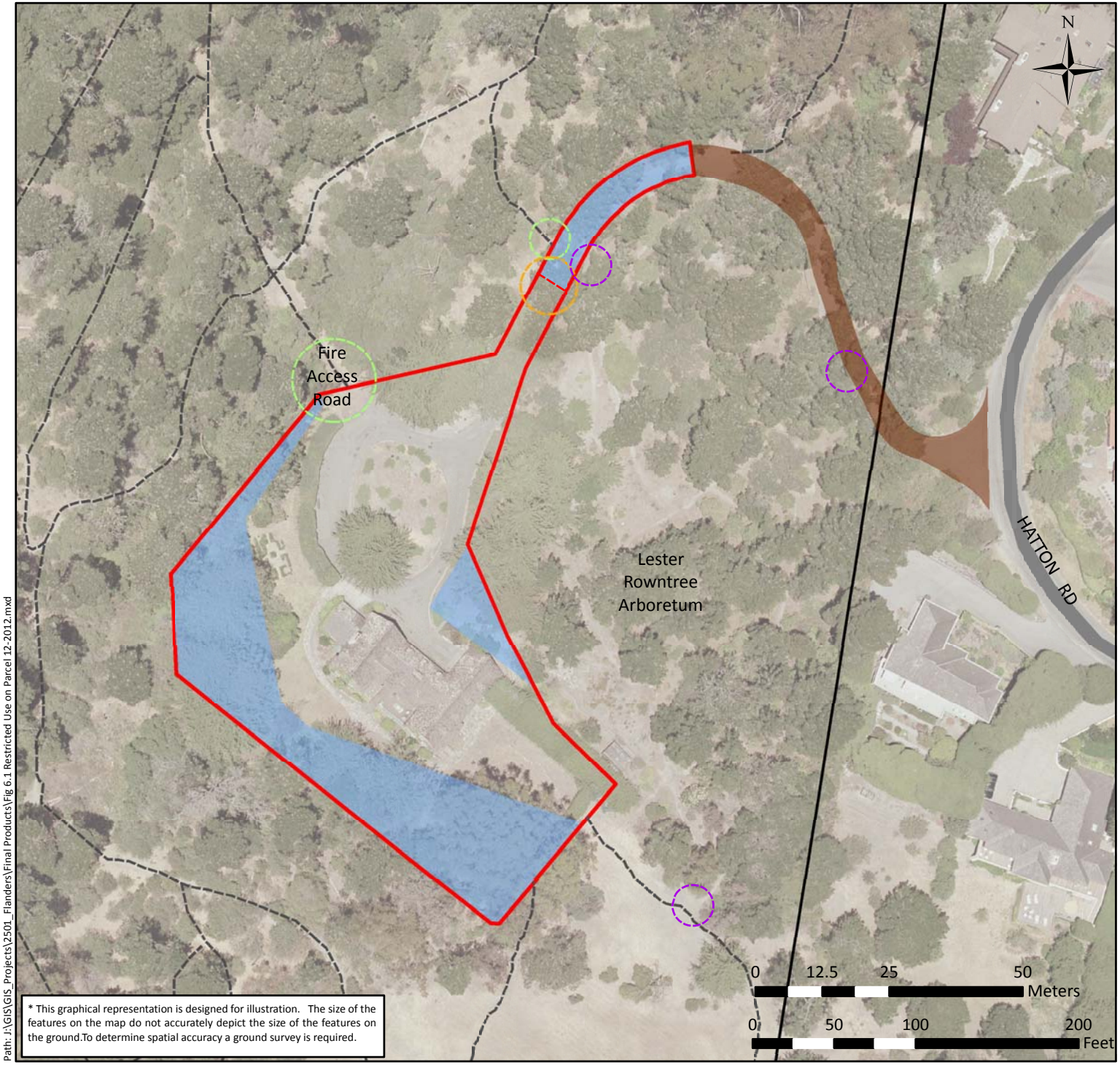
ATTACHMENT B

RDEIR REVISED FIGURES AND

SELECTED FIGURES FROM 2009 EIR



* 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.

Path: J:\GIS\GIS_Projects\2501_Flanders\Final Products\Fig 6.1 Restricted Use on Parcel 12-2012.mxd

Total Parcel Size: 1.252 Acres
Easement Area Within Parcel: 0.50 Acre
Usable Area: 0.75 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

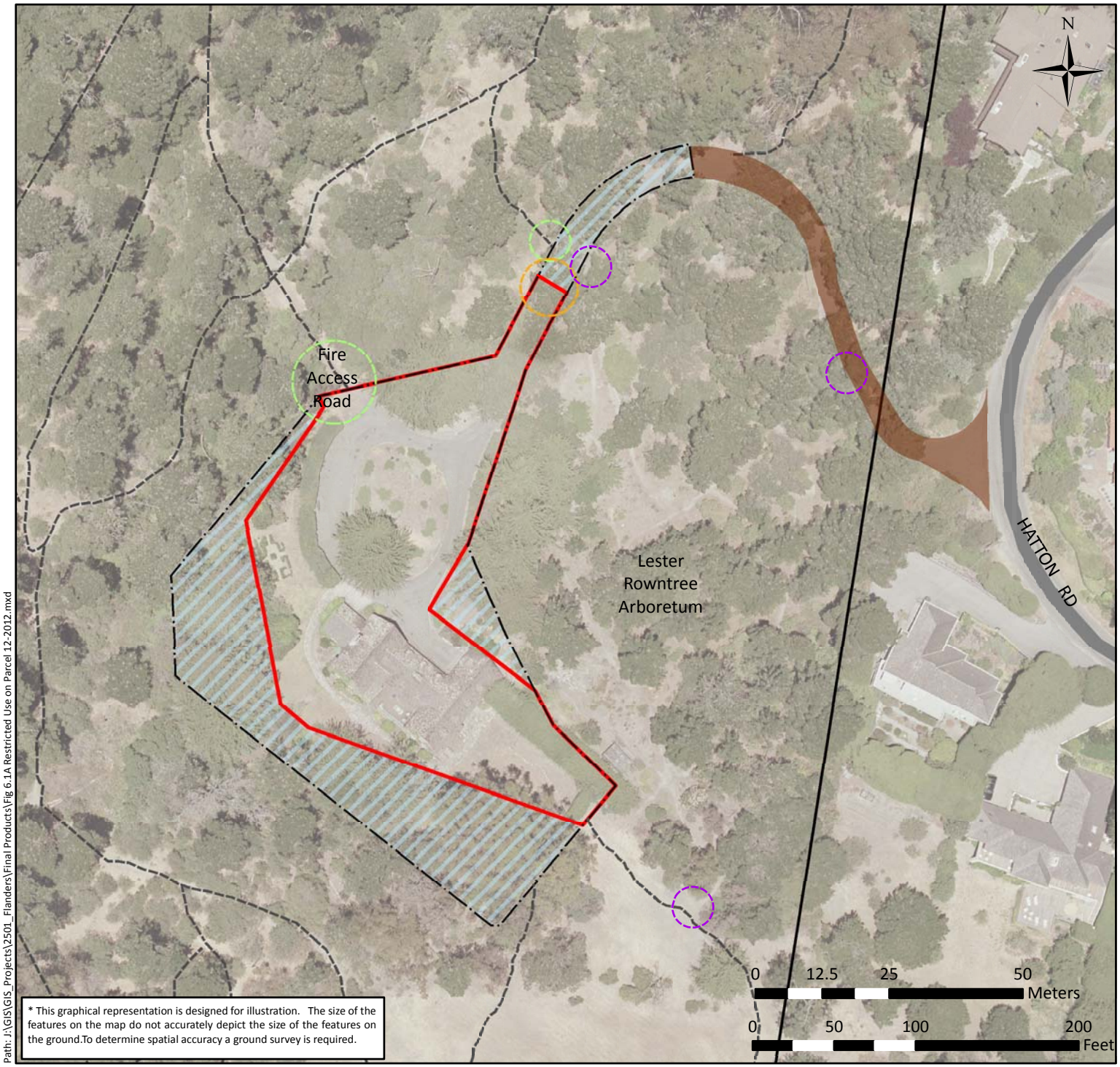
- Proposed New Gate Location
- Trail Access Point
- Lester Rowntree Arboretum Access Point
- Existing Trails
- Approximate Driveway Location
- Existing Flanders Mansion Parcel
- Easement
- Park Boundary

Date: 12/4/2012

FIGURE 6.1 - MITIGATED ALTERNATIVE FROM 2009 FINAL EIR

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

Figure 6.1



* 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.

Path: J:\GIS\GIS_Projects\2501_Flanders\Final Products\Fig 6.1A Restricted Use on Parcel 12-2012.mxd

Total Parcel Size: 0.75 Acre
Easement Area Within Parcel: 0.0 Acre
Usable Area: 0.75 Acre

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

- All former easement areas from 6.1 remain as parkland.
- Reduces impact to trails and Lester Rowntree Arboretum.

LEGEND

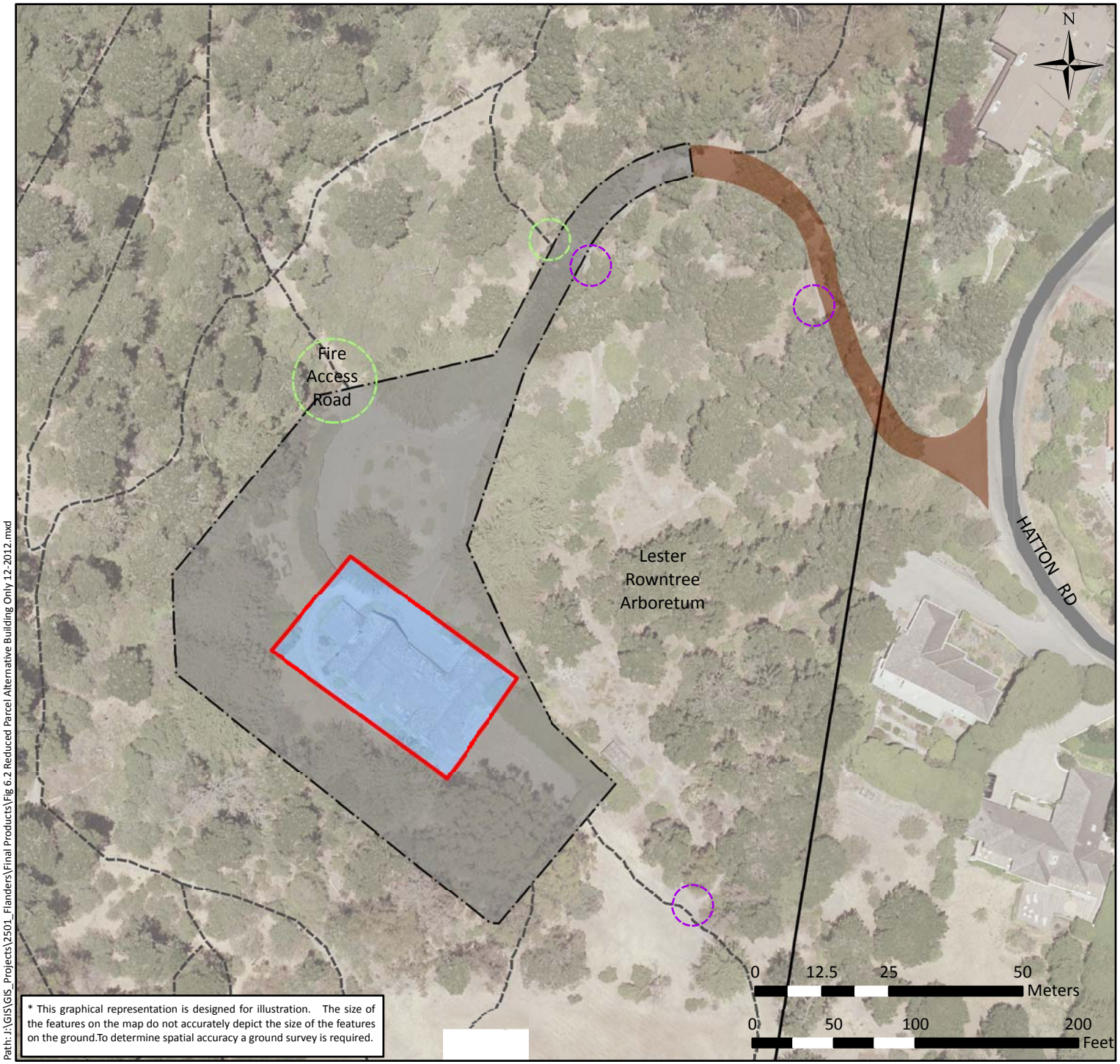
- Proposed New Gate Location
- Trail Access Point
- Lester Rowntree Arboretum Access Point
- Existing Trails
- Approximate Driveway Location
- Easement
- New Flanders Mansion Parcel
- Park Boundary

Date: 12/4/2012

FIGURE 6.1A - MITIGATED ALTERNATIVE FROM 2009 FINAL EIR

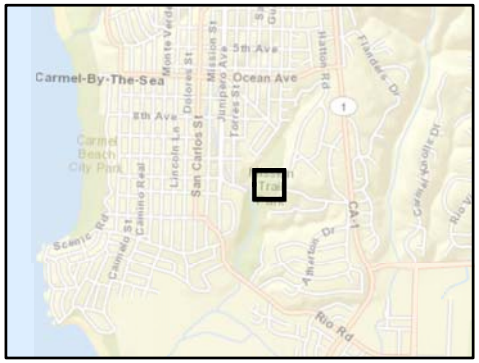
(Note:Refer to discussion under Alternative 6.5A, RDEIR Recirculated Alternatives Section)

Figure 6.1A



* 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.

Path: J:\GIS\GIS_Projects\2501_Flanders\Final Products\Fig 6.2 Reduced Parcel Alternative Building Only 12-2012.mxd



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

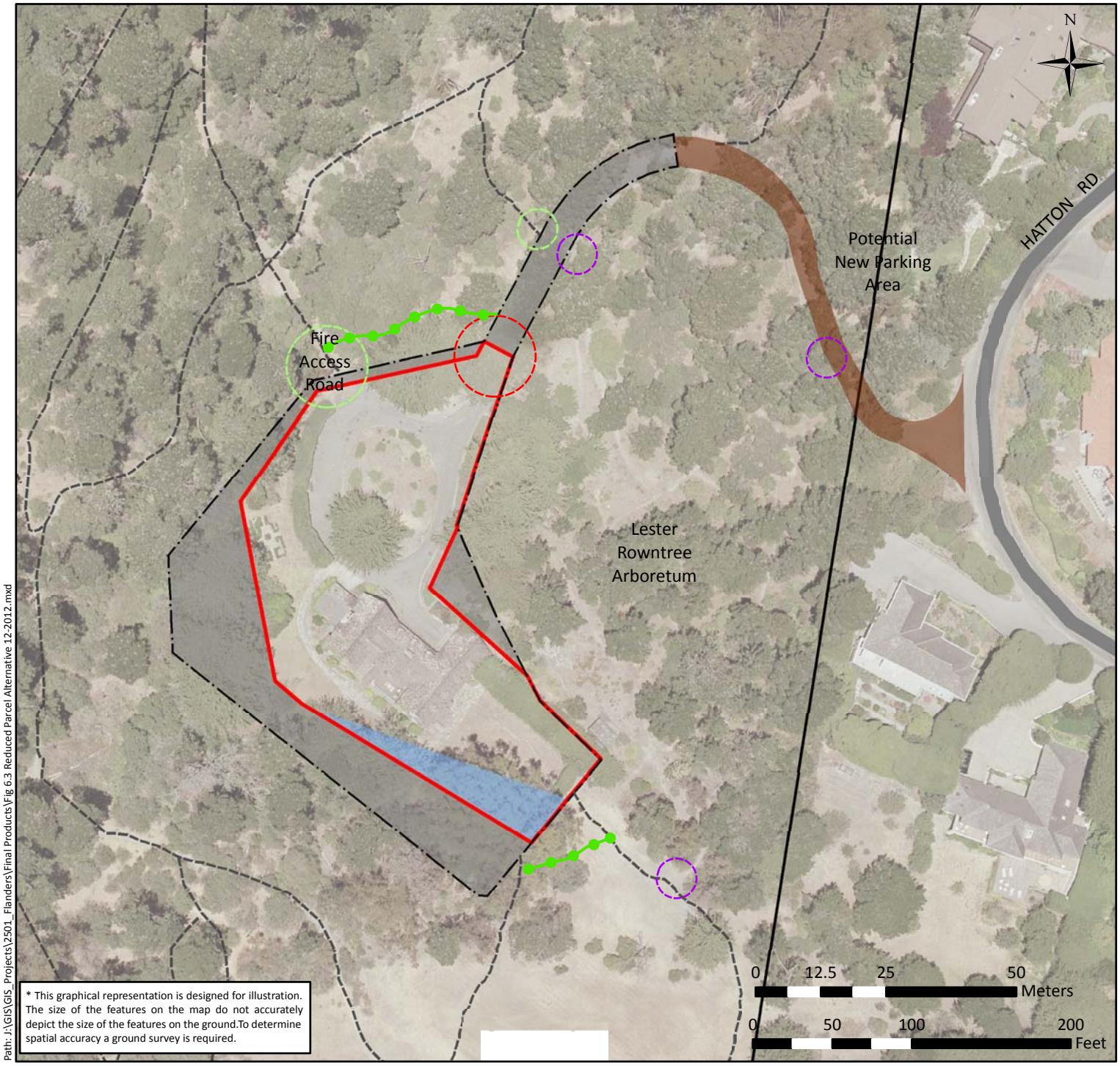
Trail Access Point
Lester Rowntree Arboretum Access Point
Existing Trails
Approximate Driveway Location
Existing Flanders Mansion Parcel
New Flanders Mansion Parcel
Easement
Former Parcel Area
Park Boundary

Date: 12/3/2012

FIGURE 6.2 - BUILDING ONLY ALTERNATIVE

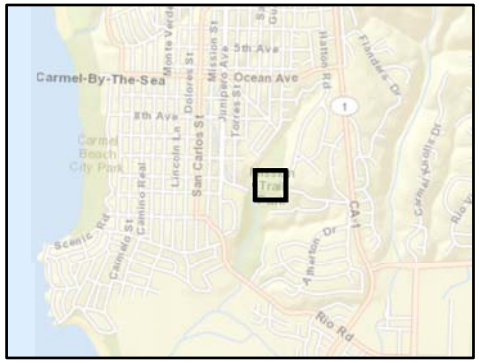
(Note: Refer to discussion in Alternative 6.6, RDEIR Recirculated Alternatives Section)

Figure 6.2



* 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.

Path: J:\GIS\GIS_Projects\2501_Flanders\Final Products\Fig 6.3 Reduced Parcel Alternative 12-2012.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 to new visitor parking area at top of driveway.

LEGEND

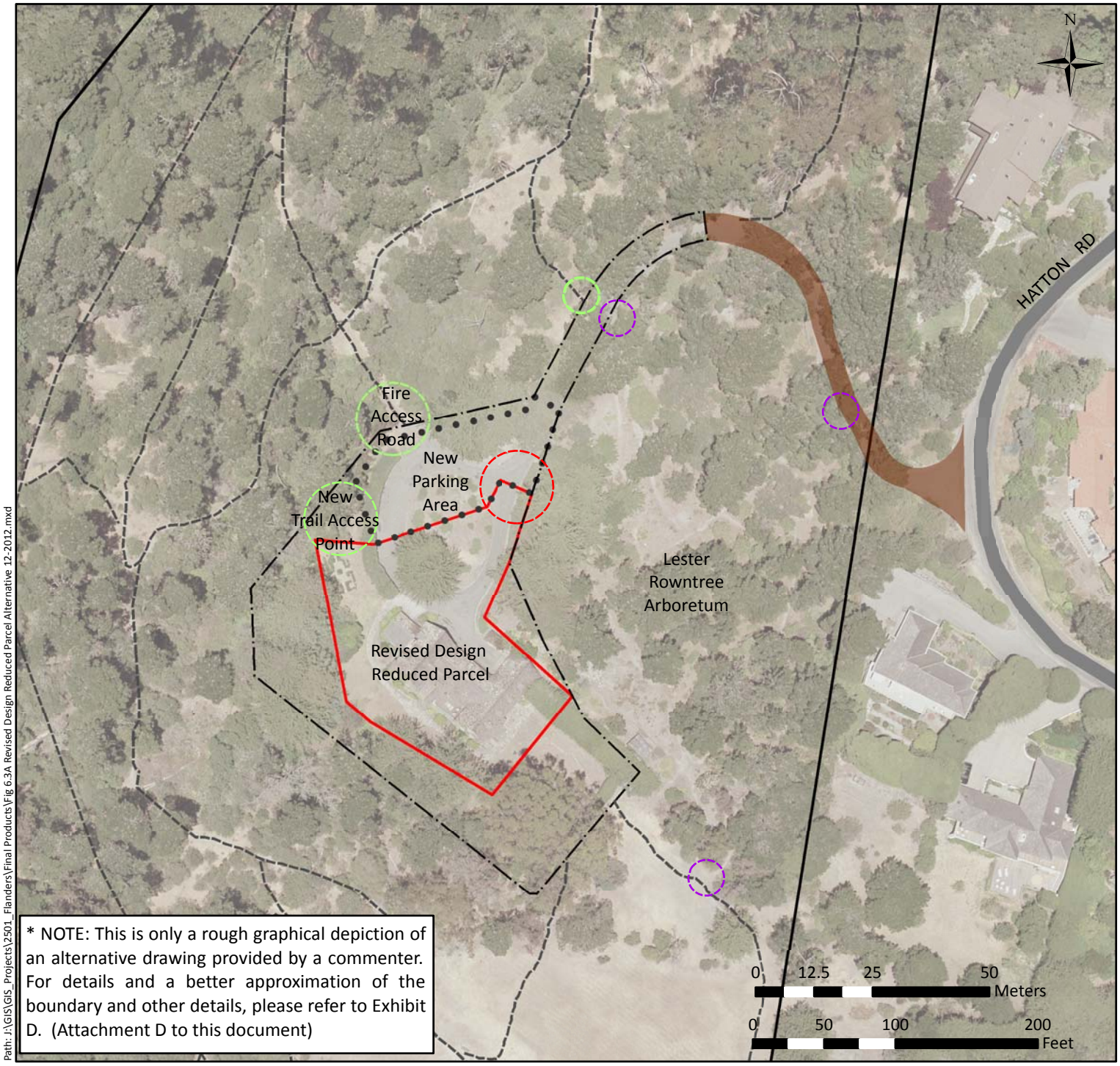
- Possible New Gate Location
- Trail Access Point
- Lester Rowntree Arboretum Access Point
- Existing Trails
- Proposed Replacement Trail
- Approximate Driveway Location
- Existing Flanders Mansion Parcel
- New Flanders Mansion Parcel
- Former Parcel Area- Remains Parkland
- Remaining Easement
- Park Boundary

Date: 12/4/2012

Figure 6.3

FIGURE 6.3 - REDUCED PARCEL ALTERNATIVE

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



* NOTE: This is only a rough graphical depiction of an alternative drawing provided by a commenter. For details and a better approximation of the boundary and other details, please refer to Exhibit D. (Attachment D to this document)

Parcel Size: 0.50 Acre
Usable Area: 0.50 Acre

Alternative 6.7A: Revised Design Reduced Parcel Alternative

- Per Exhibit "D" Letter. See comment F-10 for alternative description.

LEGEND

- Possible New Gate Location
- Trail Access Point
- Lester Rowntree Arboretum Access Point
- Existing Trails
- Approximate Driveway Location
- Existing Flanders Mansion Parcel
- Park Boundary
- New Parking Area
- Revised Design Reduced Parcel

Date: 12/4/2012

Path: J:\GIS\GIS_Projects\2501_Flanders\Final Products\Fig 6.3A Revised Design Reduced Parcel Alternative 12-2012.mxd

FIGURE 6.3A - REVISED DESIGN REDUCED PARCEL ALTERNATIVE

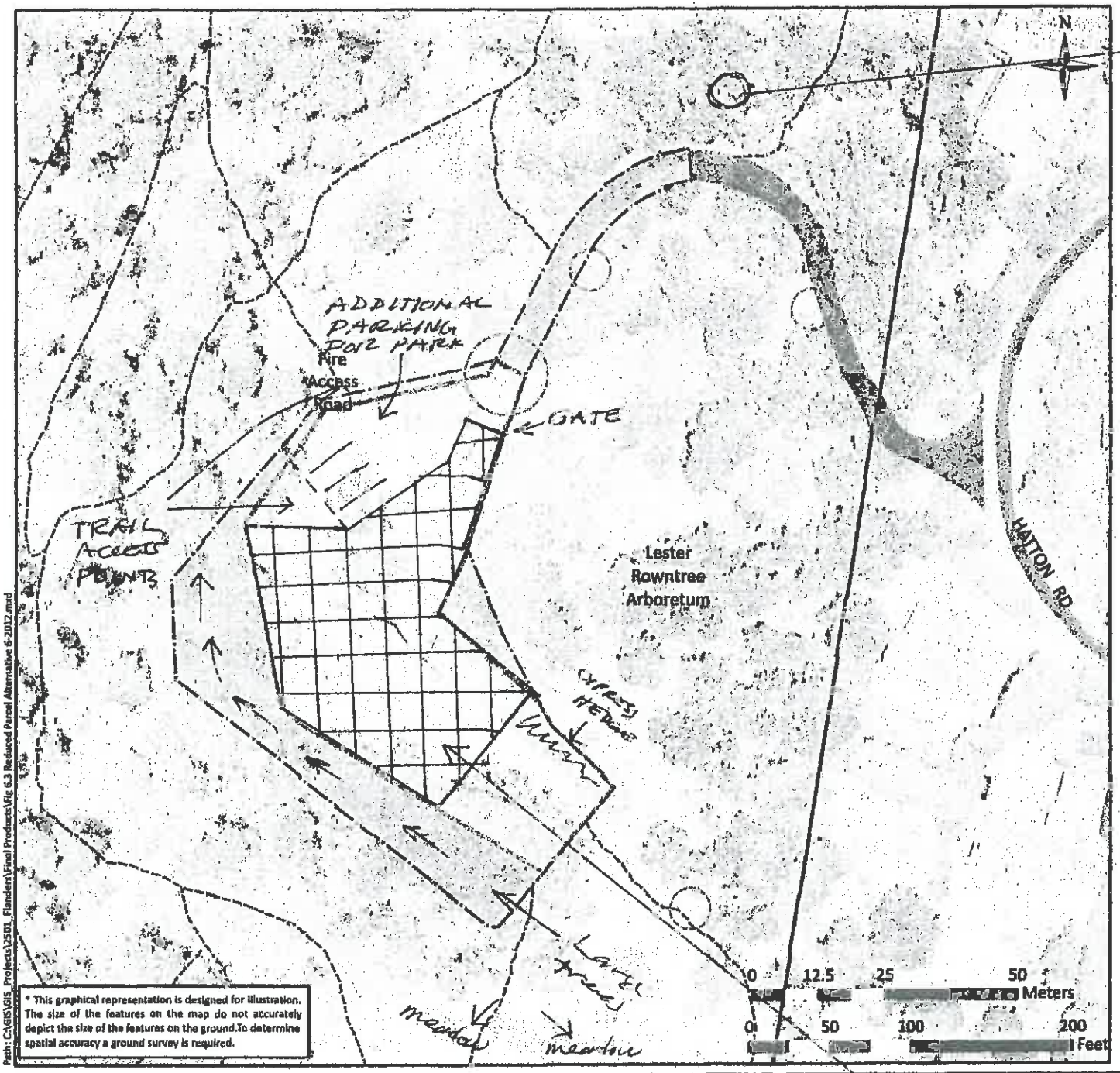
(Note: Refer to discussion under Alternative 6.7A, RDEIR Recirculated Alternatives Section)

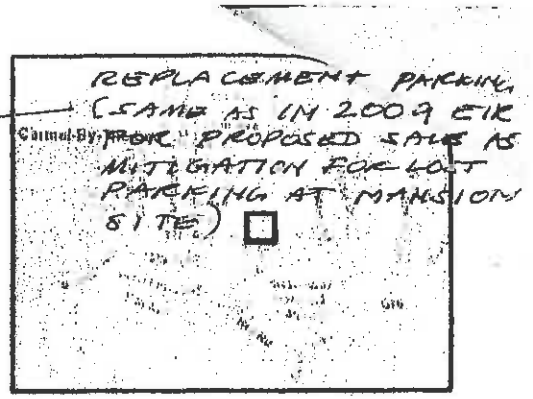
Figure 6.3A

EXHIBIT D FROM COMMENT LETTER

CONCEPTUAL DESIGN ALTERNATIVE PROPOSED BY PUBLIC COMMENTS

EXHIBIT "D"





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

Date: 6/8/2012

Figure 6.3

* 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.

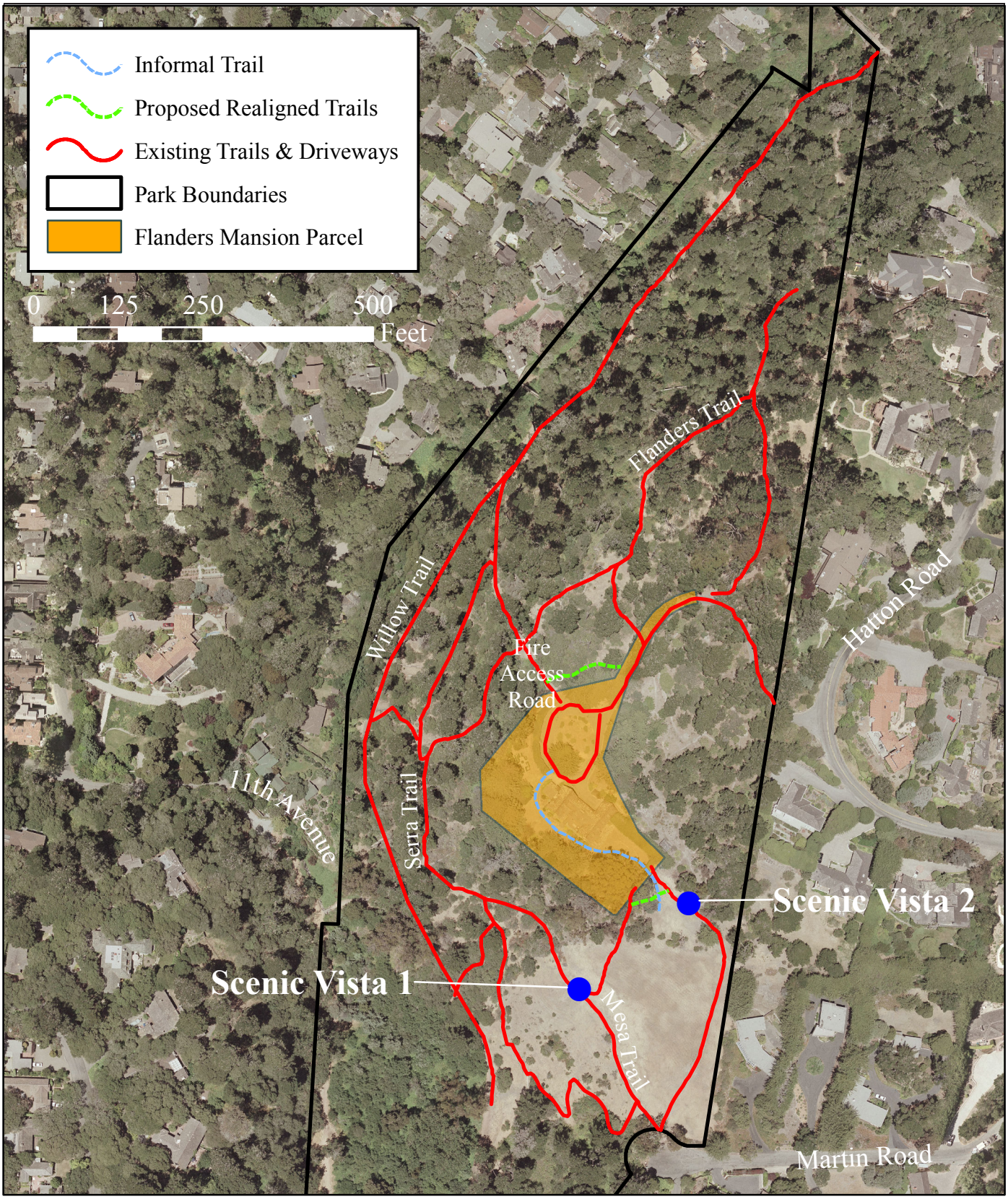
Path: C:\GIS\GIS_Projects\2501_Flanders\Final Products\Fig 6.3 Reduced Parcel Alternative 6-2012.mxd

FIGURE 6.3 - REDUCED PARCEL ALTERNATIVE

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

SHADED AREA = REDUCED PARCEL

REVISED FIGURES FROM 2009 RDEIR

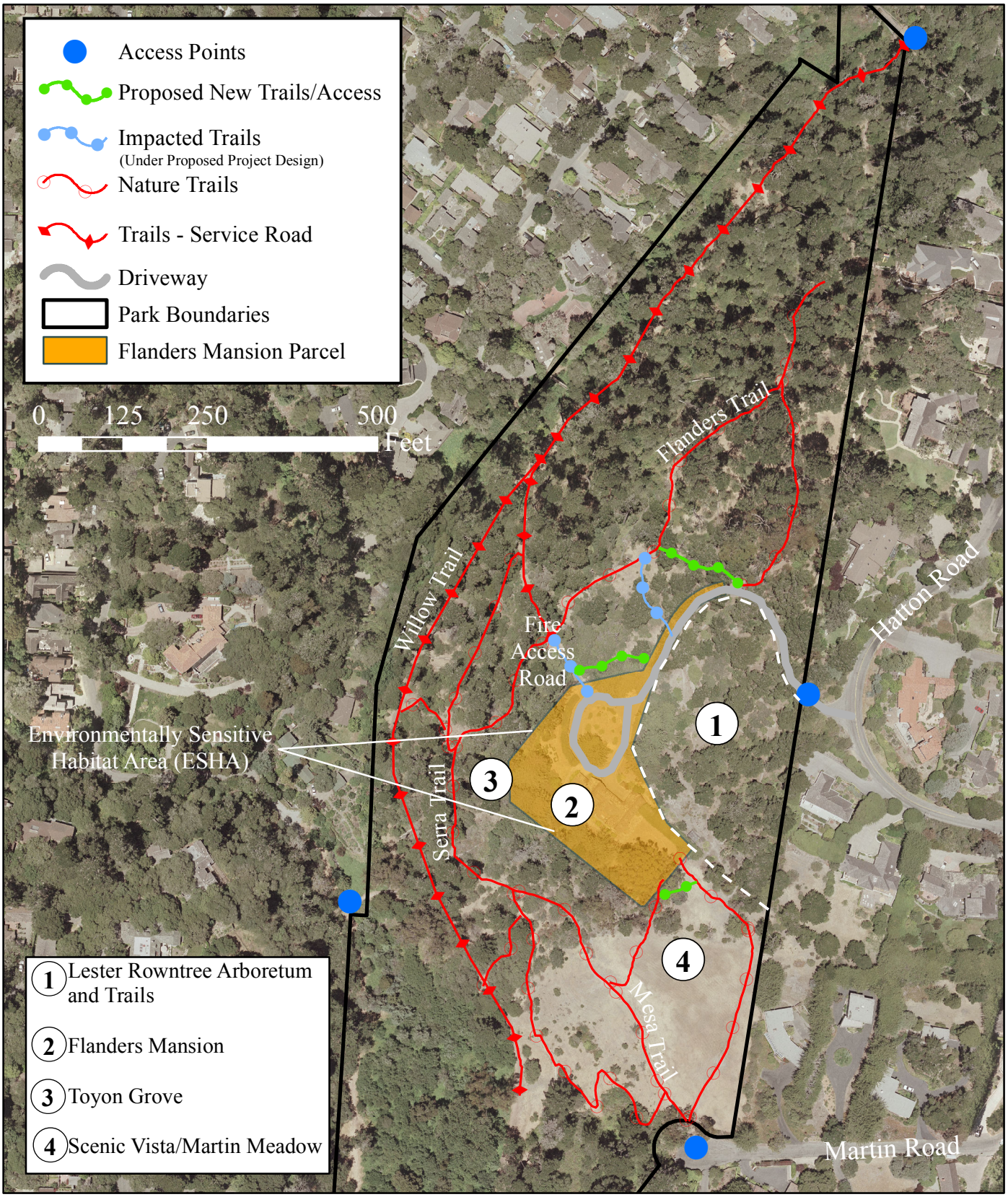


N

Scenic Vista & Flanders Mansion Trail Map

Figure
4.1-3
Revised

DENISE DUFFY & ASSOCIATES, INC.



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Mission Trail Nature Preserve Trail Map

Figure 4.5-1 Revised

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ATTACHMENT C

EXCERPTS PREVIOUS EIR ALTERNATIVES

Final
ENVIRONMENTAL IMPACT REPORT
for the
SALE OF FLANDERS MANSION PROPERTY

SCH #: 2005011108

August, 2005

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SELECTED ALTERNATIVES

The following alternatives are described and analyzed, then compared to the proposed project. The ability of each alternative to reduce the identified impacts is also discussed.

Alternative 1 — No Project Alternative
Alternative 2 — Retain Flanders Mansion Property and Lease the Building
Alternative 3 — Move Scout House to Vista Lobos property and sell underlying parcel
Alternative 4 — Sale of Rio Park Property
Alternative 5 — Sale of Scout House (intact with property) plus sell Rio Park Property
Alternative 6 — Reduced Parcel Size/Mitigated Alternative

The Alternatives Analysis evaluates the alternatives of retaining the property under existing conditions, sale of alternative properties owned by the City since this could potentially avoid impacts associated with the sale of Flanders Mansion and a reduced parcel size alternative. . The Alternatives Analysis in this Section looks at the option of leasing out Flanders Mansion, as well as moving the Scout House to the Vista Lobos property and selling the underlying parcel, the sale of the Rio Park property and a combined alternative of selling both the Scout House and the Rio Park property.

ALTERNATIVES ANALYSIS

Alternative 1: The No Project Alternative

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. The No Project Alternative shall discuss the existing conditions at the time the Notice of Preparation is published, as well as what would be reasonably expected to occur in the foreseeable future based on current plans and existing infrastructure and services (CEQA section 15126.6(e)).

Description

The No Project Alternative is required by CEQA, and assumes that no change to the existing environment of the project site would occur. There would be no immediate new development on the site, and no change to the existing uses on the site. Specifically, the site would remain zoned as Improved Parkland (P-2) with the Flanders Mansion being owned by the City of Carmel-by-the Sea and used periodically as a residence by a caretaker and offices for a non-profit group.

Under the General Plan, the site is designated for Improved Parkland (P-2) uses. If the proposed project is not implemented, the City will most likely continue to defer maintenance for necessary repair work and ADA upgrades.

Environmental Impacts

Environmental impacts discussed in Alternatives 3 and 4 would be similar in this alternative except under this alternative, the City would not move the existing building on the northeast corner of Mission and Eighth. This alternative could avoid potential historic impacts associated with moving the Scout House to a new location on City property. The Scout House would remain visible to the public, and if remodeling was planned by future owners, the remodel would be required to be consistent with the Secretary of the Interior's Standards. However, the potential significant environmental impacts associated with the sale of Rio Park would still occur including potential impacts to ESHA, special-status plant and animal species, and development within a flood plain should future sale result in development at this site.

Attainment of Project Objectives

Alternative 5 would meet the City's objective of raising funds for capital projects but would not divest the City of the Flanders Mansion property which needs significant funding for rehabilitation.. This alternative would continue City ownership of Flanders Mansion, although the Mansion could be leased so that needed repairs are completed. The sale of the Scout House combined with the sale of Rio Park may meet the City's objective of selling municipal property to raise funds for capital projects however, ~~it is not known if the funding objectives could be fully met~~ however, at the risk of impacts to habitat and historic resources at other City-owned properties.

Alternative 6 — Reduced Parcel Size/Mitigated Alternative

Description

This alternative involves reducing the size of the Flanders Mansion parcel by 2,940 square feet in order to expand the existing boundaries of the Arboretum to include an area planted as a succulent demonstration garden as well as reduce the number of trails that will need to be re-routed. The eastern portion of the driveway (87' by 20') would be removed from the Flanders Mansion parcel to keep access trails between the Arboretum and the Mission Trails Nature Preserve (Serra Trail). If both of these reductions were adopted the parcel size would be reduced from 1.252 acres to 1.185 acres. Additionally, the area of the Flanders parcel bordering the ESHA property (behind the Flanders Mansion to the south and southwest) would be proposed as scenic easement in order to avoid any potential impacts to the sensitive habitat. Under this alternative, all of the mitigations proposed for the project are assumed to be implemented, including the Conditions of Sale or approved lease agreement with the provisions discussed in this Final EIR.

Environmental Impacts

Under this alternative, environmental impacts would be reduced in comparison to the proposed project in the areas of potential loss of public access to the parcel and to adjacent Arboretum as well as for potential impacts to biological resources. The City would need to approve a lot line adjustment reducing the parcel size as well as record a conservation easement on the property bordering the ESHA lands in the park. With this alternative, the public would have access to the main entrance to the Arboretum near Hatton Road as well as to its northern entrance from a link to the Sierra Trail. The fire road/trail adjacent to the mansion would still be cut off except for use by emergency personnel. Potential impacts to the arboretum would be eliminated by changing the parcel alignment to follow the existing driveway and the Arboretum would be enlarged by cutting off the triangle of land as shown in the attached map, Reduced Parcel Size, Alternative 6. This alternative would still result in the potential loss of some of the public access to and through the parcel to adjacent parkland currently enjoyed by the residents. Assuming sale to a single-family entity or low-impact non-profit use under this alternative, impacts to the residential neighborhood would also be minimized. Refer to attached New Figure, Alternative 6.

Attainment of Project Objectives

Under this alternative, the significant, unavoidable impacts identified for the project are reduced. These include reduction in the potential conflicts with the General Plan/LCP policies due to reduced project size and continued access to additional area of the adjacent parkland, including the Arboretum, and revised trails plan to reduce impacts from loss of trail access to the cohesive structure of Mission Trails Nature Preserve. Additionally, with the implementation of this alternative, the property bordering the ESHA area would be put into a permanent conservation easement thereby reducing potential impacts of the proposed project to the sensitive habitat bordering the site. Under this alternative, all of the mitigations proposed for the project are assumed to be implemented, including the Conditions of Sale or approved lease agreement with the provisions discussed in this Final EIR. Depending upon the use of the site, some or all of the objectives of protecting the surrounding neighborhoods from undue increases in traffic, parking, and noise and decreasing impacts to historic resources could also be met under this alternative.

THE ENVIRONMENTALLY SUPERIOR ALTERNATIVE

CEQA requires that an environmentally superior alternative to the proposed project be specified. In general, the environmentally superior alternative as defined by CEQA would minimize adverse impacts to the project site and its surrounding environment. Of the alternatives considered, the "No Project Alternative" does not create any new environmental impacts, assuming that no other uses are approved by the City on the site. However, without significant repair work, the historic resource will likely continue to deteriorate, which could ultimately result in significant impacts to the historic resource or even the loss of the historic resource.

Under the proposed project, a sale of the site would involve a change in ownership of the parcel that could potentially add new, more intense uses on the site. This could result in impacts to the historic resource, park resources on and off the site, as well producing new impacts on the neighborhood, depending upon the type of use approved.

Alternative 2 would retain the City's ownership as well as design control over the physical improvements to the property made by a lessee and could allow the City to retain some limited public access to the site. Although Alternative 2 does not fully meet the project objective to raise adequate funds for needed capital projects while divesting the City of a property in need of significant funding for rehabilitation, it does partially meet these objectives by providing capital project funding through ongoing lease payments and could achieve rehabilitation of the Flanders Mansion as a part of the lease contract. Uses with the least level of impact under this alternative include the lease of the building and grounds for a single-family home, with a lease agreement that provides for rehabilitation to the property and design controls over fencing and other improvements.

Alternative 2 would reduce impacts to historic resources and park resources on the site, as compared to the proposed project. Assuming a single-family residential use or another use consistent with low-impact uses that have historically occupied the site, environmental impacts are reduced to less than significant when compared to the proposed project. Therefore, Alternative 2, (Lease of the Property) is environmentally superior to the proposed project.

Additionally, in a comparison of impacts among the other alternatives as described above, Alternative 2 results in reduction of impacts on historic resources compared to the Scout House Alternative(s) and a reduction of impacts to ESHA in comparison to alternatives involving the Rio Park Property. Alternative 2 (Lease of the Property) ~~does not fully meet the project objectives of sufficient revenue to fund major City capital improvements but~~ has less impacts to the adjacent park land and reduced potential impacts to the historical resource and visual resources since the City would retain greater control of the property under this alternative.

Under Alternative 3 (Scout House alternative), the City would partially meet their objectives of selling municipal property to raise funds for capital projects. ~~However, there would be an increased cost of project implementation due to the requirement to physically move the structure.~~ And this alternative also involves significant impacts to historical resources~~. This alternative~~ ~~raises minimal capital~~ and fails to address the rehabilitation of Flanders Mansion.

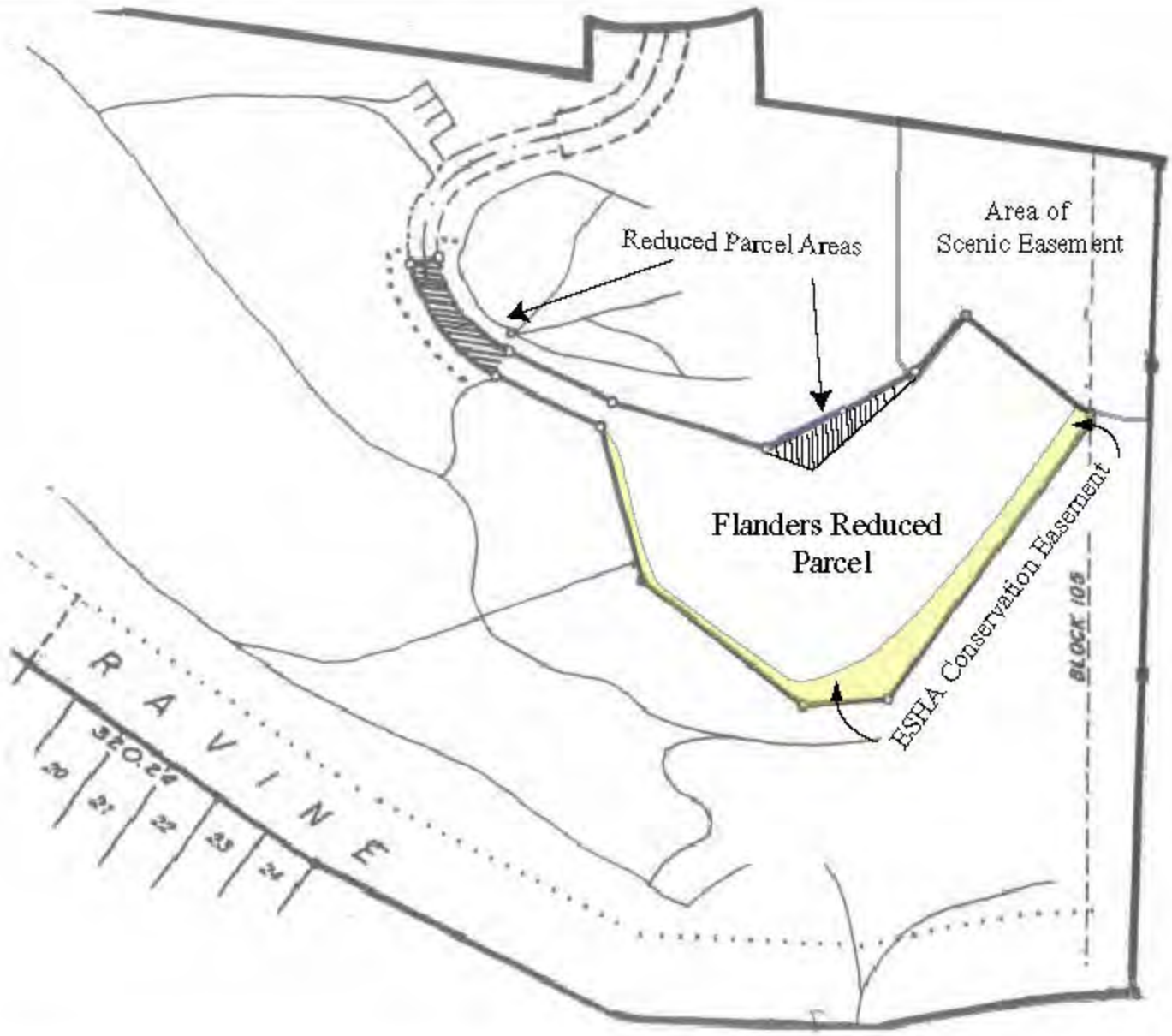
Alternative 4 (sale of Rio Park) does not fully meet primary project objectives due to the development constraints on the site. This alternative may also impact biological resources due to the ESHA.

Alternative 5 involves the combination of the sale of the Scout House at its existing location as well as selling the Rio Park property. This alternative ~~would minimize the~~

~~"costs" of moving the Scout House to Vista Lobos and would maximize the income received from both of the properties. However, this alternative still~~ involves significant potential impacts to ESHA on the Rio Park Property.

Alternative 6 proposes a reduction in parcel size, retention of a greater area in open space through a conservation easement on the area of the parcel bordering ESHA and minimization of impacts from reduction in access to the site through the Conditions of Sale identified in the Final EIR. Through the Conditions of Sale as imposed by mitigations in this Final EIR, this alternative somewhat reduces potential impacts to aesthetics/viewsheds and historic resources. Additionally, assuming potential uses of single-family residential or low impact non-profit or agency building use, this alternative reduces impacts to the surrounding neighborhood in comparison to the proposed project.

Based on the above analysis, the environmentally superior alternative is Alternative 2, which provides for leasing the Flanders Mansion Parcel. Although this alternative still does not fully meet the project objectives, it reduces potential impacts to aesthetics/viewsheds and historic resources, as well as providing more control for the City to reduce potential impacts to the cohesive structure of Mission Trails Nature Preserve and loss of public access to the parcel and to adjacent parkland. Alternative 6, proposing a reduction in parcel size, retention of a greater area in open space through a conservation easement on the area of the parcel bordering ESHA and imposing all the mitigation measures identified in this EIR would be considered the next environmentally superior alternative. Although this alternative still does not fully meet all of the project objectives, it reduces potential impacts from loss of public access to the parcel and to adjacent parkland, and reduces impacts to environmental resources.



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Alternative 6

Figure
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