

**CITY OF DANA POINT
PLANNING COMMISSION
AGENDA REPORT**

DATE: SEPTEMBER 14, 2020

TO: DANA POINT PLANNING COMMISSION

FROM: COMMUNITY DEVELOPMENT DEPARTMENT
BRENDA WISNESKI, DIRECTOR
DANNY GIOMETTI, ASSOCIATE PLANNER

SUBJECT: COASTAL DEVELOPMENT PERMIT CDP20-0014 TO PERMIT A LOT LINE ADJUSTMENT TO RELOCATE A SIDE YARD PROPERTY LINE BETWEEN 32551 AND 32561 AZORES ROAD.

RECOMMENDATION: That the Planning Commission adopt the draft Resolution approving Coastal Development Permit CDP20-0014 (Action Document 1).

APPLICANT: Brandon Muller

OWNERS: Brandon Muller and Gregory Edward Roberts (Locale Properties LLC)

REQUEST: Approval of Coastal Development Permit CDP20-0014 to permit a lot line adjustment to relocate a shared side yard property line between two (2) parcels (670-051-04 & 05), resulting in both lots conforming to minimum size, width, and depth standards, and structures conforming to side yard setback standards of the Residential Single Family (RSF 4) Zoning District.

LOCATION: 32551 and 32561 Azores Road (APNs: 670-051-04 & 05)

NOTICE: Notice of the Public Hearing was mailed via first class mail to property owners within a 500-foot radius of the subject site, published within a newspaper of general circulation on September 4, 2020, and posted at Dana Point City Hall, the Dana Point and Capistrano Beach Branch Post Offices, and the Dana Point Library on September 4, 2020.

ENVIRONMENTAL: Pursuant to the California Environmental Quality Act (CEQA), the project is found to be Categorical Exempt per Section 15305 (a) (Class 5 – Minor Alterations in Land Use Limitations).

ISSUES:

1. Project consistency with the Dana Point General Plan, Dana Point Zoning Code (DPZC), and Local Coastal Program (LCP).
2. Project satisfaction of all findings required pursuant to the LCP and DPZC for approval of a Coastal Development Permit (CDP).
3. Project compatibility with and enhancement of the site and surrounding neighborhood.

BACKGROUND: The subject parcels are located northeast of the intersection Crown Valley Parkway and Pacific Coast Highway (PCH) within the Residential Single Family 4 (RSF 4) Zoning District according to the City of Dana Point Zoning Map, (Supporting Document 2 – Project Vicinity Map and Site Photos). 32561 Azores Road (Parcel 1) and 32551 Azores Road (Parcel 2) are both conforming lots: each containing an existing single family dwelling (SFD). Currently, both parcels conform to the minimum lot size, width and depth requirements of the RSF 4 Zoning District. With the exception of substandard rear yard setbacks, the existing structures meet the minimum RSF 4 setbacks as detailed in the site plan (Supporting Document 3 – LLA Application).

Parcel 2 sits at a pad elevation that is approximately 12 feet higher than Parcel 1. Both SFD were recently remodeled along with updates to the hardscape and landscaping. The applicant resides at Parcel 2 and is utilizing Parcel 1 as a development investment.

Since both parcels are located within the City's Coastal Overlay District. A Coastal Development Permit is required pursuant to DPZC Section 9.69.030(a)(5)(A) (Authority to Grant Permit) prior to processing the lot line adjustment for recordation with the County of Orange.

DISCUSSION: The applicant is seeking a lot line adjustment to relocate the shared side yard property line between Parcel 1 and Parcel 2. In accordance with Chapter 7.32 of the Dana Point Subdivision Code, a lot line adjustment is "...any division of land not requiring a subdivision tract map, as specified by the Subdivision Map Act, where adjustment is sought between two or more existing adjacent parcels, the land taken from one parcel is added to an adjacent parcel, and a greater number of parcels than originally existed is not thereby created." Although typically a ministerial action, as cited above, DPZC Section 9.69.030(a)(5)(A) requires a regular coastal development permit process for "Any division of land, including but not limited to subdivision pursuant to the Subdivision Map Act, lots splits and lot-line adjustments".

The existing, shared side yard property line is located 19.5 feet from the SFD on Parcel 1 and ten (10) feet from the SFD on Parcel 2 (Supporting Document 3 - Site Plan). Because Parcel 2 sits at a higher elevation than Parcel 1, the applicant seeks to relocate the shared property

line between the parcels 12.79 feet to the south, to the bottom of the side yard slope. This adjustment results in updated side yard setbacks on Parcels 1 and 2 of 6'-7" and 24'-3", respectively (Supporting Document 4 – Development Standard Exhibit). Consequently, the lot line adjustment still results in two (2) conforming parcels relative to lot size, width, and depth, and compliant RSF 4 side yard setbacks to the existing structures. The applicant is seeking this adjustment in order to increase the square footage of his personal property (2) and maintain control of future landscaping on the side yard slope. There are no changes proposed to the existing structures on either site.

Pursuant to Section 9.69.070 "Basis for Action on Coastal Development Permit Applications" of the DPZC, every Coastal Development Permit requires the following findings:

1. That the proposed development is in conformity with the certified Local Coastal Program as defined in Chapter 9.75 of this Zoning Code; and,
2. That the proposed development, if located between the nearest public roadway and the sea or shoreline of any body of water, is in conformity with the public access and public recreation policies of Chapter Three of the Coastal Act; and,
3. That the proposed development conforms with Public Resources Code Section 21000 and following and that there are no feasible mitigation measures or feasible alternatives available which would substantially lessen any significant adverse impact that the activity may have on the environment; and,
4. That the proposed development be sited and designed to prevent adverse impacts to environmentally sensitive habitats and scenic resources located in adjacent parks and recreation areas, and will provide adequate buffer areas to protect such resources; and,
5. That the proposed development will minimize the alterations of natural landforms and will not result in undue risks from geologic and erosional forces and/or flood and fire hazards; and,
6. That the proposed development be visually compatible with the character of surrounding areas, and, where feasible, will restore and enhance visual quality in visually degraded areas; and
7. That the proposed development conforms to the General Plan, Local Coastal Program and Zoning Code.

Staff finds the proposed project is consistent with the basis of approval for a CDP as outlined in Section 9.69.070 of the DPZC. Responses supporting approval of the project based on the above quoted findings are detailed in the draft Planning Commission Resolution attached as Action Document 1.

CORRESPONDENCE:

To date, the City has received no correspondence related to the subject application.

CONCLUSION:

Staff finds that the proposed project is consistent with the policies and provisions of the City of Dana Point General Plan, Dana Point Zoning Code, and Local Coastal Program, and the resulting lot configurations will meet the RSF 4 minimum development standards, and preserve the required minimum side yard setbacks to the structures on each lot. Since justifications can be made supporting the requested discretionary action, staff recommends the Planning Commission adopt the attached draft Resolution, approving CDP20-0014 subject to the findings and conditions of approval contained therein.



Danny Giometti
Associate Planner



Brenda Wisneski, Director
Community Development Department

ACTION DOCUMENT:

1. Draft Planning Commission Resolution No. 20-09-14-XX

SUPPORTING DOCUMENTS

1. Project Vicinity Map and Site Photos
2. Lot Line Adjustment Application
3. Development Standard Exhibit

ACTION DOCUMENT 1: Draft Planning Commission Resolution No. 20-09-14-XX

RESOLUTION NO. 20-09-14-XX

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING COASTAL DEVELOPMENT PERMIT CDP20-0014 TO PERMIT A LOT LINE ADJUSTMENT OF A SIDE YARD PROPERTY LINE BETWEEN TWO (2) PARCELS LOCATED AT 32551 AZORES ROAD AND 32561 AZORES ROAD.

The Planning Commission for the City of Dana Point does hereby resolve as follows:

WHEREAS, Brandon Muller & Gregory Edward Roberts (Locale Properties LLC) (the "Owner"), owns the real properties commonly referred to as 32551 Azores Road and 32561 Azores Road (APNs 670-051-04 & 05 respectively) (the "Property"); and

WHEREAS, the Owner authorized Brandon Muller (the "Applicant") and the Applicant caused to be filed a verified application for a Coastal Development Permit to allow a lot line adjustment to relocate a shared side yard property line between 32551 Azores Road and 32561 Azores Road resulting in both lots conforming to minimum size, width, and depth standards, and structures conforming to side yard setback standards of the Residential Single Family (RSF 4) Zoning District; and

WHEREAS, said verified application constitutes a request as provided by Title 9 of the Dana Point Municipal Code; and

WHEREAS, pursuant to the California Environmental Quality Act (CEQA), the project is categorically exempt per Section 15305 of the CEQA Guidelines (Class 5 – Minor Alterations in Land Use Limitations) because the project consists of a minor lot line adjustment; and

WHEREAS, the Planning Commission did, on the 14th day of September, 2020, held a duly noticed public hearing as prescribed by law to consider said request; and

WHEREAS, at said Planning Commission review, upon considering all testimony and arguments, if any, of all persons desiring to be heard, said Commission considered all factors relating to Coastal Development Permit CDP20-0014.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Planning Commission of the City of Dana Point as follows:

- A) The above recitations are true and correct and incorporated herein by this reference.

Findings:

- B) Based on the evidence presented, the Planning Commission adopts the following findings and approves Coastal Development Permit CDP20-0014, subject to conditions:

PLANNING COMMISSION RESOLUTION NO. 20-09-14-XX
COASTAL DEVELOPMENT PERMIT CDP20-0014
PAGE 2

1. That the proposed development is in conformity with the certified Local Coastal Program as defined in Chapter 9.75 of this Zoning Code **in that the proposed lot line adjustment (LLA) does not include any physical development on either parcel and the existing SFD's are a permitted use within the RSF 4 Zoning District. Additionally, the LLA fulfills Goal 2 of the Land Use Element as the relocation of the shared side yard property line achieves compatibility in the community by maintaining two (2) conforming parcels with respect to the RSF 4 development standards.**
2. That the proposed development, if located between the nearest public roadway and the sea or shoreline of any body of water, is in conformity with the public access and public recreation policies of Chapter Three of the Coastal Act **in that the proposed development is not located between the nearest public roadway and the sea or shoreline of any body of water. Therefore, no public access or recreation policies are impacted and accordingly, the site is in conformance with all policies of Chapter Three (3) of the California Coastal Act.**
3. That the proposed development conforms with Public Resources Code Section 21000 and following and that there are no feasible mitigation measures or feasible alternatives available which would substantially lessen any significant adverse impact that the activity may have on the environment **in that the project qualifies for a Categorical Exemption pursuant to Section 15305, Class 5 – Minor Alterations to Land Use Limitations due to the fact that the project involves a minor LLA not resulting in the creation of any new parcel.**
4. That the proposed development be sited and designed to prevent adverse impacts to environmentally sensitive habitats and scenic resources located in adjacent parks and recreation areas, and will provide adequate buffer areas to protect such resources **in that the proposed LLA neither includes any physical improvements, nor are the impacted parcels adjacent to parks or recreation areas, and therefore the proposed project does not impact environmentally sensitive habitats and scenic resources.**
5. That the proposed development will minimize the alterations of natural landforms and will not result in undue risks from geologic and erosional forces and/or flood and fire hazards **in that the proposed project is a LLA relocating an existing shared, side property line, and does not alter natural landforms and therefore will not result in undue risks from geologic and erosional forces and/or floor and fire hazards.**
6. That the proposed development be visually compatible with the character of surrounding areas, and, where feasible, will restore and enhance visual

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COASTAL DEVELOPMENT PERMIT CDP20-0014
PAGE 3

quality in visually degraded areas in that the project only proposes the relocation of a shared, side yard property line and no physical improvements are proposed, and no changes to the visual character of the surrounding area.

7. That the proposed development conforms to the General Plan, Zoning Code applicable Specific Plan, Local Coastal Program, or other applicable adopted plans and programs in that the proposed LLA results in two (2) conforming parcels with respect to minimum lot size width, and depth as stipulated in the RSF 4 development standards of the Dana Point Zoning Code and is consequently consistent with the General Plan and Local Coastal Program.

Conditions:

A. General:

1. Approval of this application permits a LLA to relocate a shared side yard property line between two (2) parcels, resulting in both lots conforming to minimum size, width, and depth standards, and structures conforming to side yard setback standards of the Residential Single Family (RSF 4) Zoning District at 32551 Azores Road and 32561 Azores Road. Subsequent submittals for this project shall be in substantial compliance with the sign plans approved by the Planning Commission, and in compliance with the applicable provisions of the Dana Point General Plan/Local Coastal Program, and the Dana Point Zoning Code.
2. Approval of this application shall be valid for a period of 24 months from the date of determination. If the scope-of-work approved by this action is not established, or the Lot Line Adjustment for the project is not issued within such period of time, the approval shall expire and shall thereafter be null and void.
3. Failure to abide by and faithfully comply with any and all conditions attached to the granting of this permit shall constitute grounds for revocation of said permit.
4. The Applicant or any successor-in-interest shall defend, indemnify, and hold harmless the City of Dana Point ("CITY"), its agents, officers, or employees from any claim, action, or proceeding against the CITY, its agents, officers, or employees to attack, set aside, void, or annul an approval or any other action of the CITY, its advisory agencies, appeal boards, or legislative body concerning the project. Applicant's duty to defend, indemnify and hold harmless the city shall include paying the CITY's attorney fees, costs and expenses incurred concerning the claim, action or proceeding.

The Applicant or any successor-in-interest shall further protect, defend, indemnify and hold harmless the City, its officers, employees, and agents from any and all claims, actions or proceedings against the City, its officers, employees, or agents arising out of or resulting from negligence of the Applicant or the Applicant's agents, employees or contractors. Applicant's duty to defend, indemnify and hold harmless the City shall include paying the CITY's attorney fees, costs and expenses incurred concerning the claim, action, or proceeding.

The Applicant shall also reimburse the City for City Attorney fees and costs associated with the review of the proposed project and any other related documentation.

5. The Applicant and Applicant's successors in interest shall be fully responsible for knowing and complying with all conditions of approval, including making known the conditions to City staff for future governmental permits or actions on the project site.
6. The Applicant and Applicant's successors in interest shall be responsible for payment of all applicable fees along with reimbursement for all City expense in ensuring compliance with these conditions.
7. The applicant shall submit an application for a Lot Line Adjustment (LLA) to Public Works & Engineering Services. The LLA application, in compliance with City standards, shall be submitted for review and approval by the Director of Public Works & Engineering Services. The applicant shall include all plans and documents in their submittal as required by Public Works & Engineering Services' current plan check policies, the City of Dana Point Municipal Code and the Subdivision Map Act .
8. The subject LLA shall be reviewed and approved by the City prior to recordation by the County of Orange. City staff, and not the applicant, shall be responsible for filing the approved LLA for recordation by the County.
9. All final Title Insurance documents and Title Insurance policy changes shall be done by the applicant and applicant's title company.
10. The applicant shall be responsible for coordination with SDG&E, AT&T California, SCWD, Southern California Gas Company, and Cox Communication Services for the provision of all utility services.
11. Any and all outstanding fees associated with any part of the entire project shall be paid prior to recordation of the LLA.

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COASTAL DEVELOPMENT PERMIT CDP20-0014
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PASSED, APPROVED, AND ADOPTED at a regular meeting of the Planning Commission of the City of Dana Point, California, held on this 14th day of September 2020, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Mary Opel, Chairwoman
Planning Commission

ATTEST:

Brenda Wisneski, Director
Community Development Department

SUPPORTING DOCUMENT 1: Project Vicinity Map and Site Photos



City of Dana Point
CDP20-0014
Danny Giometti, Associate Planner
Community Development Department
33282 Golden Lantern (Danny Giometti, Associate Planner)
Dana Point, CA 92629-1805

VICINITY MAP



Project : CDP20-0014

Applicant: Brandon Muller

Location: 32551 and 32561 Azores Road





PLANNING COMMISSION AGENDA REPORT
COASTAL DEVELOPMENT PERMIT CDP20-0014
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SUPPORTING DOCUMENT 2: Lot Line Adjustment Application

EXEMPT FROM RECORDERS'S FEES
PURSUANT TO GOVERNMENT CODE
SECTIONS 6103 AND 27383



When recorded mail to:
City of Dana Point
33282 Golden Lantern
Suite 212
Dana Point, CA 92629

RECEIVED
JUL 01 2020
CITY OF DANA POINT
COMMUNITY DEVELOPMENT
DEPARTMENT

LOT LINE ADJUSTMENT
CITY OF DANA POINT RECORD NO.
LLA XX - XXXX

PAGE 1 OF 9

Above Section Reserved for County Recorder's Use

Record Owners – Please Print complete legal name of Trust, Company or Individual, & list trustee / Agent authorized to sign

Parcel No. 1

Owner Name(s): Locale Properties

Address: 32561 Azores Road

Trustee/Agent: Brandon Muller

Parcel No. 1 & 2

Owner Name(s): _____

Address: _____

Trustee/Agent: _____

Parcel No. 2

Owner Name(s): Muller Roberts Living Trust

Address: 32551 Azores Road

Trustee/Agent: Brandon Muller

I (we) hereby certify that: 1) I am (we are) the record owner(s) of all parcels proposed for adjustment by this application; 2) I (we) have knowledge of and consent to the filing of this application; and 3) the information submitted in connection with this application is true and correct.

Parcel 1

Brandon Muller

Print Name

Signature

☐ OWNER

☐ AGENT

☒ TRUSTEE

----- AUTHORIZED -----

Parcel 1 & 2

Print Name

Signature

☐ OWNER

☐ AGENT

☐ TRUSTEE

----- AUTHORIZED -----

Parcel 2

Brandon Muller

Print Name

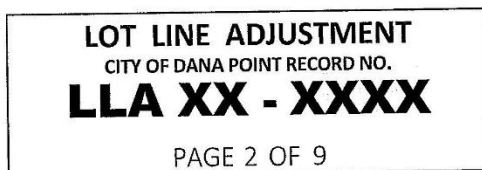
Signature

☐ OWNER

☐ AGENT

☒ TRUSTEE

----- AUTHORIZED -----



CONTACT PERSON: JUNE REYNA

ADDRESS: 24881 Alicia parkway E-243
Laguna Hills, CA 92653

DAYTIME PHONE: (949) 228-1570

THIS DOCUMENT CONSISTING OF 9 PAGES WAS PREPARED BY ME OR UNDER MY DIRECTION.

Land Surveyor / Engineer GIL V. EVANGELISTA _____
Print Name Signature

DATE: 05/19/20

R.C.E. / L.S. No. RCE 32512 EXPIRES: 06/30/21

EXAMINED AND APPROVED AS TO CONTENT:

By: _____
Matthew V. Sinacori, R.C.E. 59239
City Engineer
My Registration Expires: 6/30/2021

DATE: _____

ATTEST:

By: _____
Kathy Ward, City Clerk

DATE: _____

EXHIBIT "A"

PAGE 1 OF 1

EXISTING LEGAL DESCRIPTION

LOT LINE ADJUSTMENT

CITY OF DANA POINT RECORD NO.

LLA20 - XXXX

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PARCEL 1:

LOT 24 OF TRACT NO. 4270, IN THE CITY OF DANA POINT, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 156, PAGES 29, 30 AND 31 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

APN: 670-051-05

PARCEL 2:

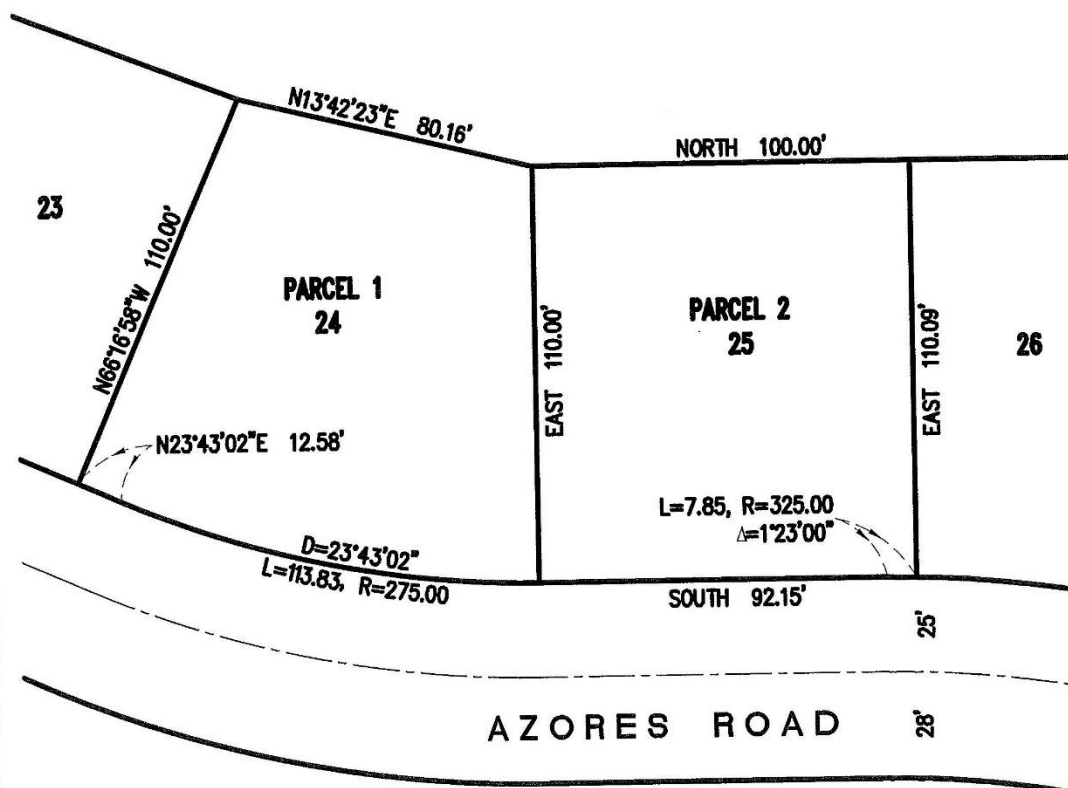
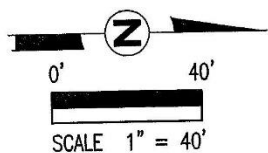
LOT 25 OF TRACT NO. 4270, IN THE CITY OF DANA POINT, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 156, PAGES 29, 30 AND 31, INCLUSIVE OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

APN: 670-051-04

EXHIBIT "B"

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LOT LINE ADJUSTMENT NO. LL-
(EXISTING MAP PAGE 1 OF 2)



PREPARED BY:

GIL EVANGELISTA, PE 32512
EXPIRES 06/30/21



EXHIBIT "C"

PAGE 1 OF 1

PROPOSED LEGAL DESCRIPTION

LOT LINE ADJUSTMENT

CITY OF DANA POINT RECORD NO.

LLA20 - XXXX

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PARCEL 1

LOT 24 OF TRACT NO. 4270 AS SHOWN ON A MAP RECORDED 'IN BOOK 156, PAGES 29 TO 31, OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, CALIFORNIA. EXCEPTING THEREFROM THE FOLLOWING DESCRIBED PARCEL OF LAND.

BEGINNING AT THE MOST NORTHWESTERLY CORNER OF SAID LOT 24, THENCE EASTERLY ALONG THE NORTHERLY LINE OF LOT 24, EAST, 110.00 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE WESTERLY AND HAVING A RADIUS OF 275.00 FEET, A RADIAL LINE OF SAID CURVE FROM SAID POINT BEARS EAST; THENCE SOUTHERLY ALONG SAID CURVE 15.30 FEET THROUGH A CENTRAL ANGLE OF 3°11'14"; THENCE NORTH 88°32'42" WEST, 112.64 FEET TO THE WESTERLY LINE OF SAID LOT 24; THENCE NORTH 13°42'23" EAST, 12.79 FEET ALONG THE WESTERLY LINE OF SAID LOT 24 TO THE POINT OF BEGINNING.

PARCEL 2

LOT 25 OF TRACT NO. 4270 AS SHOWN ON A MAP RECORDED IN BOOK 156, PAGES 29 TO 31, OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, CALIFORNIA, ALONG WITH THAT PORTION OF LOT 24 OF SAID TRACT NO. 4270 DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST SOUTHWESTERLY CORNER OF SAID LOT 25; THENCE NORTH, 100.00 FEET ALONG THE WESTERLY LINE OF SAID LOT 25; THENCE EAST, 110.09 FEET ALONG THE NORTHERLY LINE OF SAID LOT 25 TO THE BEGINNING A OF NON-TANGENT CURVE CONCAVE EASTERLY AND HAVING A RADIUS OF 325.00 FEET, A RADIAL LINE OF SAID CURVE FROM SAID POINT BEARS SOUTH 88°37'00" EAST; THENCE SOUTHERLY ALONG SAID CURVE 7.85 FEET THROUGH A CENTRAL ANGLE OF 1°23'00"; THENCE ALONG THE EASTERLY LINE OF SAID LOT 25 SOUTH 92.15 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE WESTERLY AND HAVING A RADIUS OF 275.00 FEET; THENCE SOUTHERLY ALONG SAID CURVE 15.30 FEET THROUGH A CENTRAL ANGLE OF 3°11'14"; THENCE NORTH 88°32'42" WEST 112.64 FEET; THENCE NORTH 13°42'23" EAST 12.79 FEET TO THE POINT OF BEGINNING.

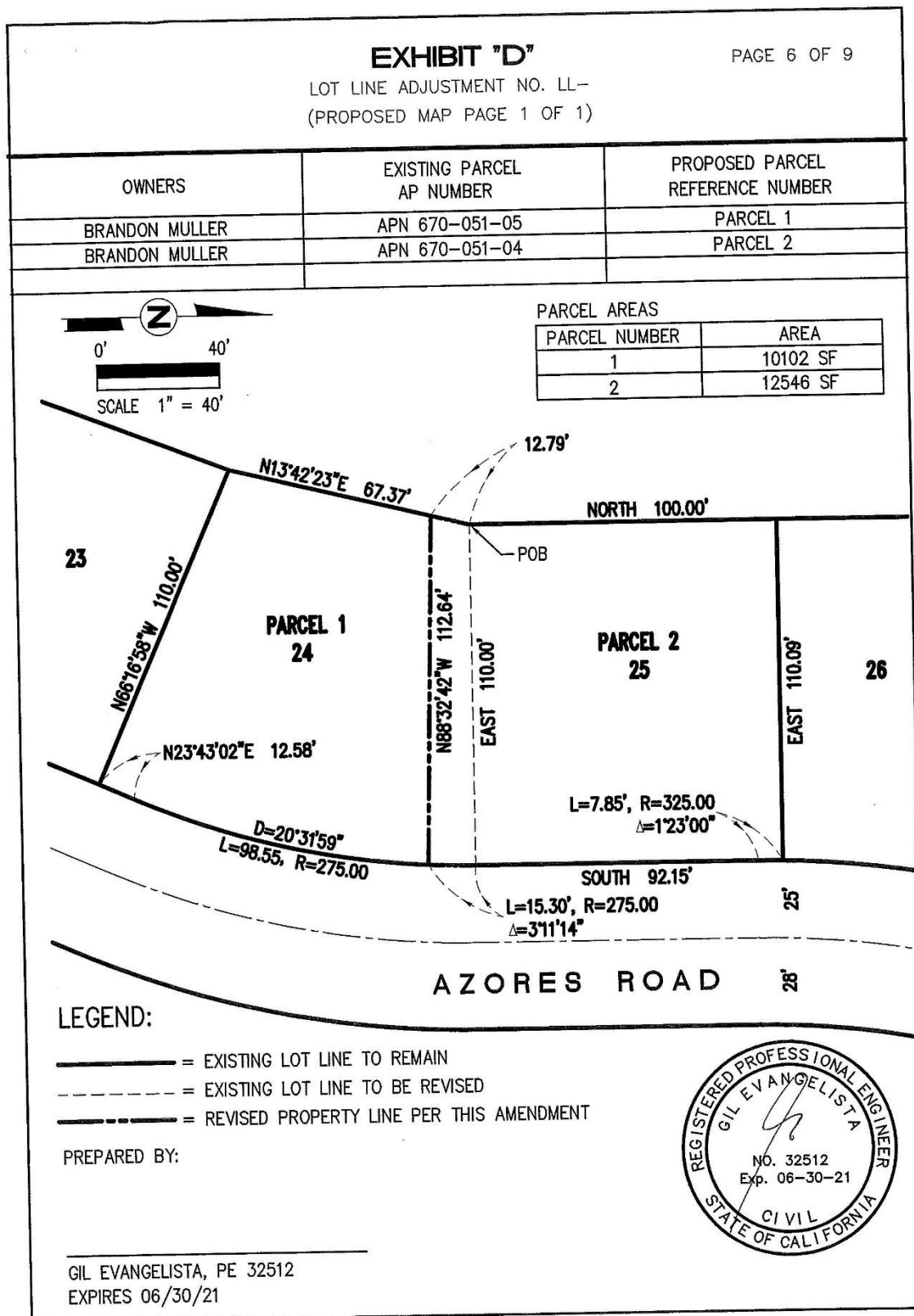


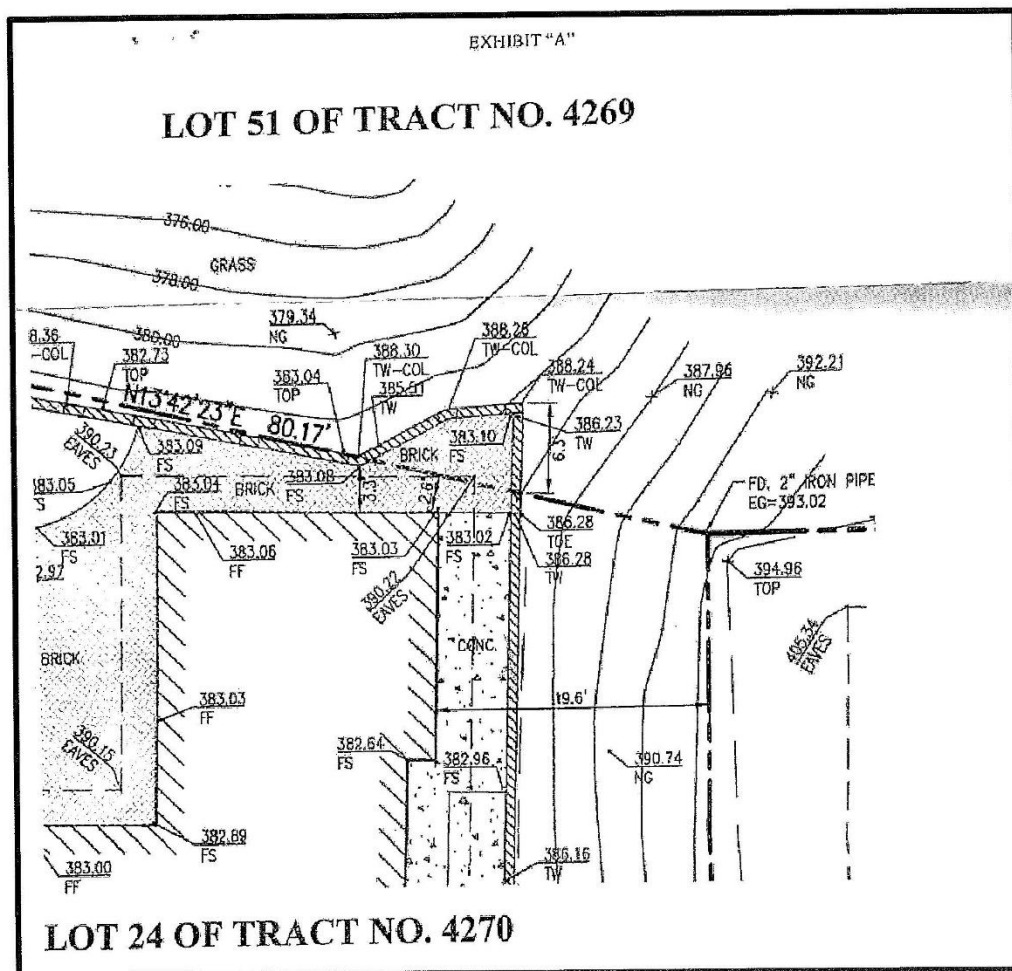
EXHIBIT "E"

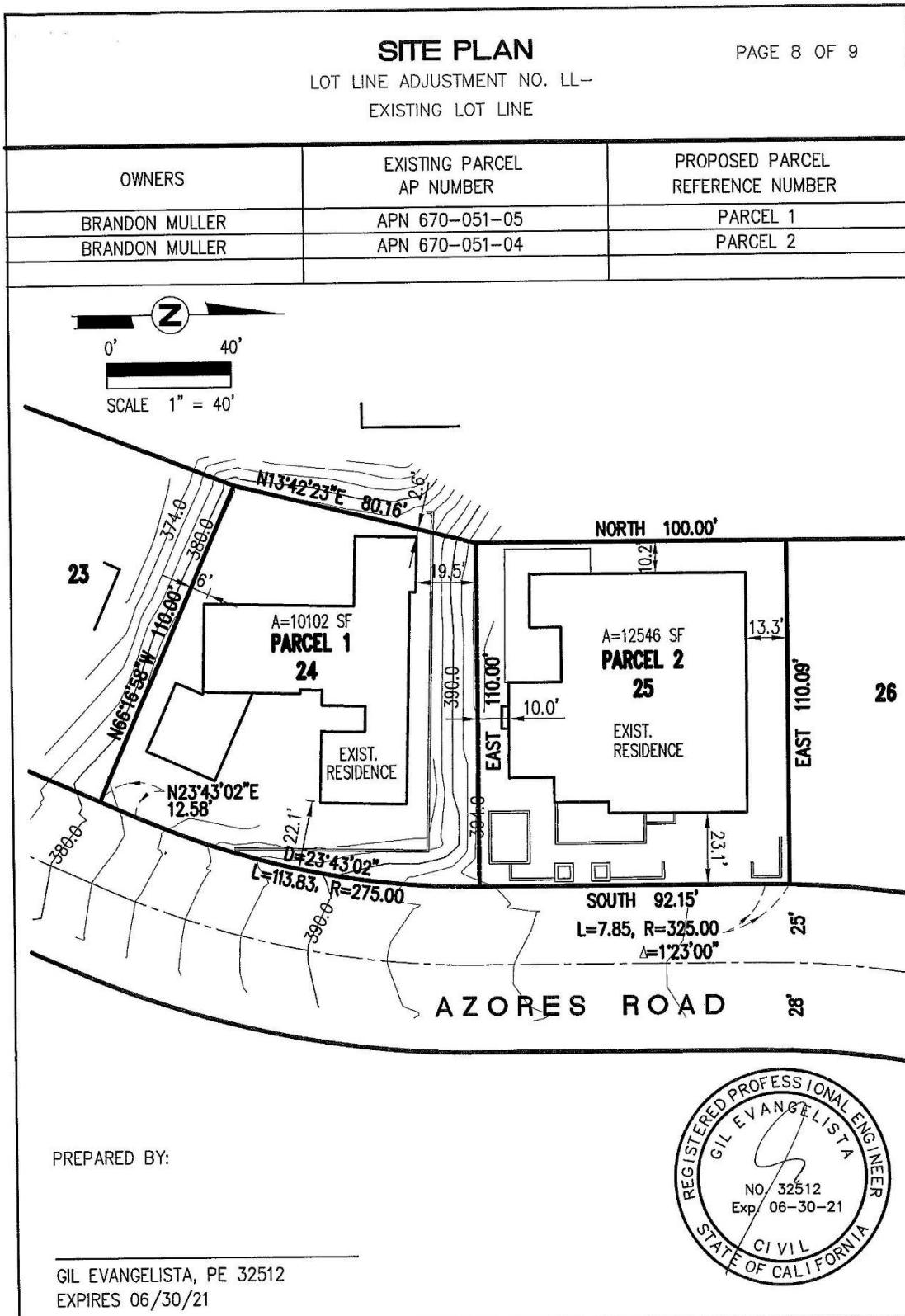
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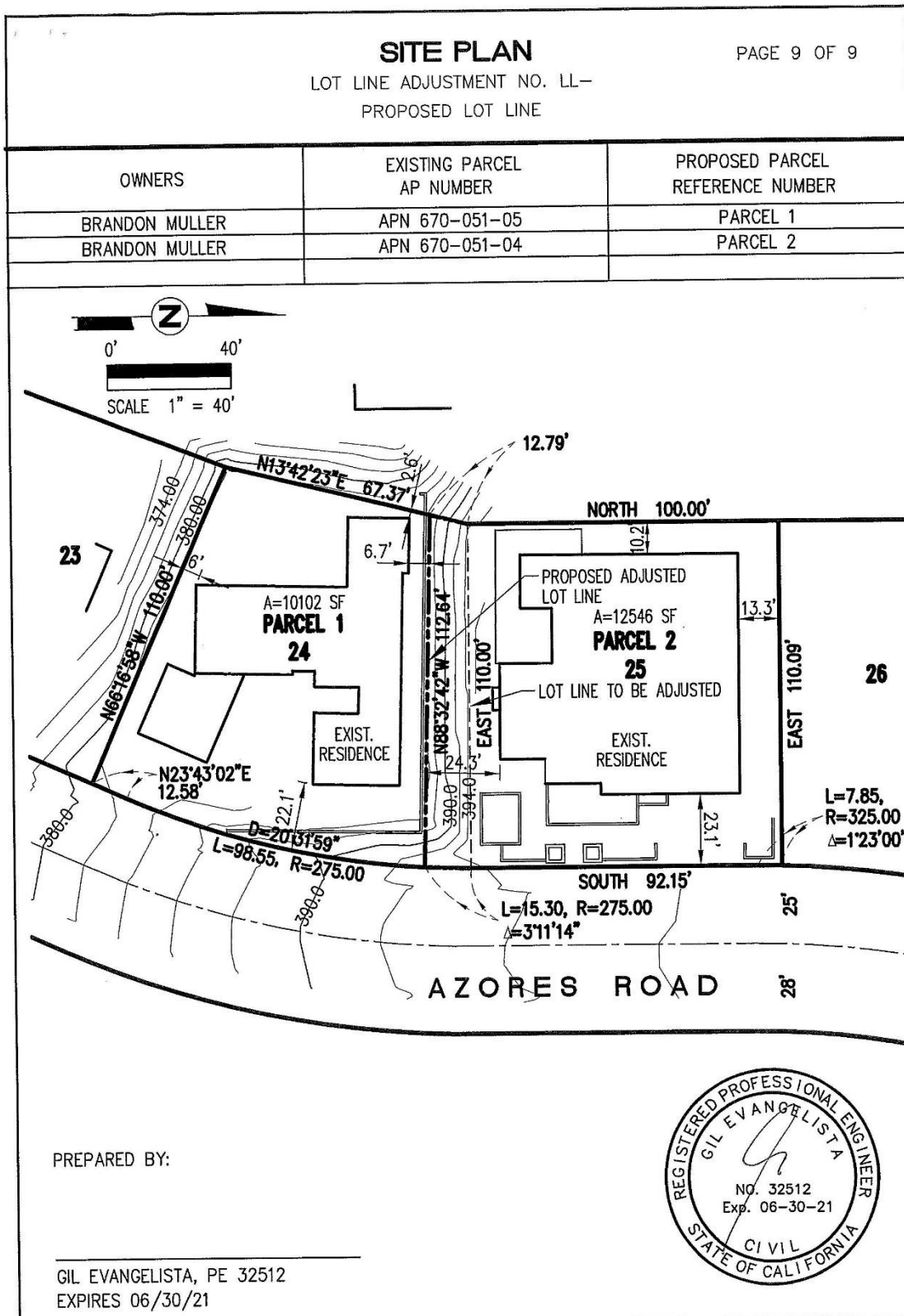
LOT LINE ADJUSTMENT NO. LL-
(EXISTING MAP PAGE 2 OF 2)

EASEMENT NOTES:

THE TERMS AND PROVISIONS CONTAINED IN THE DOCUMENT ENTITLED "GRANT OF EASEMENT", EXECUTED BY AND BETWEEN ELAINE F. DAVIS, TRUSTEE OF THE ELAINE F. DAVIS REVOCABLE LIVING TRUST DATED AUGUST 27, 2012 AND LOCALE PROPERTIES LLC, A CALIFORNIA LIMITED LIABILITY COMPANY, RECORDED JULY 12, 2018 AS INSTRUMENT NO. 2018000255751, OF OFFICIAL RECORDS.







SUPPORTING DOCUMENT 3: Development Standard Exhibit

