

Attachment B

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When recorded return to:
MONTEREY COUNTY HOUSING AND
COMMUNITY DEVELOPMENT
DEPARTMENT - PLANNING
Attn: **FIONNA JENSEN**
1441 Schilling Pl 2nd Floor
Salinas, CA 93901
(831) 755-4800

Space above for Recorder's Use

Owner Name: Brad A. LeSage and Kadee R.
Melicia, husband and wife as
community property with right
of survivorship
Permit No.: PLN210017
Resolution No.: 21-032
APN: 103-021-009-000
Project Planner: Fionna Jensen

The Undersigned Grantor(s) Declare(s):
DOCUMENTARY TRANSFER TAX OF \$ 0
[] computed on the consideration or full value of
property conveyed, OR
[] computed on the consideration or full value less
value of liens and/or encumbrances remaining at
time of sale,
[] unincorporated area; and
[X] Exempt from transfer tax,
Reason: Transfer to governmental entity

Signature of Declarant or Agent

CONSERVATION AND SCENIC EASEMENT DEED (INLAND)

THIS DEED made this ____ day of _____, _____, by and between
**Brad A. LeSage and Kadee R. Melicia, husband and wife as community property
with right of survivorship** as Grantor, and the *COUNTY OF MONTEREY*, a political
subdivision of the State of California, as Grantee,

WITNESSETH:

WHEREAS, said Grantor is the owner in fee of the real property more particularly
described in Exhibit "A" attached hereto and made a part hereof, situated in Monterey
County, California (hereinafter "the Property"); and

WHEREAS, the Property of said Grantor has certain natural scenic beauty and
existing openness; and

WHEREAS, the Grantor and the Grantee desire to preserve and conserve for the public benefit the great natural scenic beauty and existing openness, natural condition and present state of use of said Property of the Grantor; and

WHEREAS, a **Combined Development Permit** (File Number **PLN210017**) (hereinafter referred to as the "Permit") was granted on **September 29, 2021** by the Monterey County **Planning Commission** pursuant to the Findings, Evidence and Conditions contained in Resolution No. **21-032**. That resolution is attached hereto as Exhibit "B" (without plans) and hereby incorporated by reference, (hereinafter the "Resolution") subject to the following condition(s):

Condition No. 11

A conservation and scenic easement shall be conveyed to the County over those portions of the property where the slope exceeds 25%. The easement shall be developed in consultation with certified professional. A conservation and scenic easement deed shall be submitted to, and approved by, the Director of HCD - Planning and accepted by the Board of Supervisors prior to recording the parcel/final map or prior to the issuance of grading or building permits. (HCD - Planning).

WHEREAS, the County, acting on behalf of the People of the State of California and in accordance with the Findings, Evidence and Conditions contained in the Resolution granted the Permit to the Grantor upon condition (hereinafter the "Condition") described above requiring inter alia, that the Grantor record a conservation and scenic easement (hereinafter "easement") over the Property as shown in Exhibit "C" attached hereto and hereby incorporated by reference, and agree to restrict development on and use of the Property so as to preserve the open space, scenic, and/or natural resource values present on the Property and so as to prevent the adverse direct and cumulative effects on natural resources and public access to those resources which could occur if the Property were not restricted in accordance with this easement; and

WHEREAS, Grantor has elected to comply with the Condition and execute this easement so as to enable Grantor to undertake the development authorized by the Permit; and

WHEREAS, it is intended that this easement is irrevocable and shall constitute enforceable restrictions within the meaning of Article XIII, Section 8, of the California

Constitution and that said easement shall thereby qualify as an enforceable restriction under the provision of the California Revenue and Taxation Code, Section 402.1; and

WHEREAS, the said Grantor is willing to grant to the County of Monterey the conservation and scenic use as herein expressed of the Property, and thereby protect the present scenic beauty and existing openness by the restricted use and enjoyment of the Property by the Grantor through the imposition of the conditions hereinafter expressed;

NOW, THEREFORE, the Grantor does hereby grant and convey unto the County of Monterey an estate, interest, and conservation and scenic easement in said real property of Grantor of the nature and character and to the extent hereinafter expressed, which estate, interest, and easement will result from the restrictions hereby imposed upon the use of said Property by said Grantor, and to that end and for the purposes of accomplishing the intent of the parties hereto, said Grantor covenants on behalf of itself, its heirs, successors, and assigns, with the said Grantee, its successors and assigns, to do and refrain from doing severally and collectively upon the Grantor's Property the various acts hereinafter mentioned.

A. PROPERTY SUBJECT TO EASEMENT. The Property of the Grantor hereinabove referred to and to which the provisions of this instrument apply is situated in the County of Monterey, State of California, and is particularly described in Exhibit "C", attached hereto, and made a part hereof, hereinafter referred to as the "Conservation and Scenic Easement Area."

B. RESTRICTIONS. The restrictions hereby imposed upon the use of the Conservation and Scenic Easement Area by the Grantor and the acts which said Grantor shall refrain from doing upon the Conservation and Scenic Easement Area in connection herewith are, and shall be, as follows:

1. That no structures will be placed or erected upon the Conservation and Scenic Easement Area except none.

2. That no advertising of any kind or nature shall be located on or within the Conservation and Scenic Easement Area except none.

3. That the Grantor shall not plant nor permit to be planted any vegetation upon the Conservation and Scenic Easement Area, except that vegetation necessary for removal (invasive species only) and for replanting (native tree and plant species

only), as detailed in the Landscape and Re-vegetation Plan prepared by a contracted biologist (Condition No. 12). No ornamental vegetation allowed.

4. That, except for the construction, alteration, relocation and maintenance of public roads, public and private pedestrian trails, the general topography of the landscape shall be maintained in its present condition and no excavation or topographic changes shall be made.

5. That no use of the Conservation and Scenic Easement Area which will or does materially alter the landscape or other attractive scenic features of said Property other than those specified above shall be done or suffered.

C. EXCEPTIONS AND RESERVATIONS. The following are excepted and reserved to the Grantor to be implemented consistent with the objectives, purposes, and conditions of this easement:

1. The right to maintain all existing private roads, bridges, trails and structures upon the Conservation and Scenic Easement Area.

2. The use and occupancy of the Conservation and Scenic Easement Area not inconsistent with the conditions and restrictions herein imposed.

3. Management of vegetation within the Conservation and Scenic Easement Area in accordance with the Fuel Management Plan approved with the Permit on file with the Monterey County Planning Department.

4. Maintenance and repair of utilities, including the on-site wastewater treatment system, within the Conservation and Scenic Easement Area.

D. SUBJECT TO APPLICABLE LAWS. Land uses permitted or reserved to the Grantor by this instrument shall be subject to all applicable laws regulating the use of land.

E. BENEFIT AND BURDEN. This grant of conservation and scenic easement shall run with and burden the Property, and all obligations, terms, conditions, and restrictions hereby imposed shall be deemed to be covenants and restrictions running with the land and shall be effective limitations on the use of the Property from the date of recordation of this document and shall bind the Grantor and all of its successors and assigns. This grant shall benefit the County of Monterey and its successors and assigns forever.

F. RIGHT OF ENTRY. The Grantee or its agent may enter onto the Property to ascertain whether the use restrictions set forth above are being observed at times reasonably acceptable to the Grantor.

G. ENFORCEMENT. Any act or any conveyance, contract, or authorization whether written or oral by the Grantor which uses or would cause to be used or would permit use of the Property contrary to the terms of this grant of easement will be deemed a breach hereof. The Grantee may bring any action in court necessary to enforce this grant of easement, including, but not limited to, injunction to terminate a breaching activity and to force the restoration of all damage done by such activity, or an action to enforce the terms and provisions hereof by specific performance. It is understood and agreed that the Grantee may pursue any appropriate legal and equitable remedies. The Grantee shall have sole discretion to determine under what circumstances an action to enforce the terms and conditions of this grant of easement shall be brought in law or in equity. Any forbearance on the part of the Grantee to enforce the terms and provisions hereof in the event of a breach shall not be deemed a waiver of Grantee's rights regarding any subsequent breach.

H. MAINTENANCE. The Grantee shall not be obligated to maintain, improve, or otherwise expend any funds in connection with the Property or any interest or easement created by this grant of easement. All costs and expenses for such maintenance, improvement use, or possession shall be borne by the Grantor, except for costs incurred by Grantee for monitoring compliance with the terms of this easement.

I. LIABILITY AND INDEMNIFICATION. This conveyance is made and accepted upon the express condition that the Grantee, its agencies, departments, officers, agents, and employees are to be free from all liability and claim for damage by reason of any injury to any person or persons, including Grantor, or property of any kind whatsoever and to whomsoever belonging, including Grantor, from any cause or causes whatsoever, except matters arising out of the sole negligence of the Grantee, while in, upon, or in any way connected with the Property, Grantor hereby covenanting and agreeing to indemnify and hold harmless the Grantee, its agencies, departments, officers, agents, and employees from all liability, loss, cost, and obligations on account of or arising out of such injuries or losses however occurring. The Grantee shall have no right of control over, nor duties and responsibilities with respect to the Property which would

subject the Grantee to any liability occurring upon the Property by virtue of the fact that the right of the Grantee to enter the Property or Conservation and Scenic Easement Area is strictly limited to preventing uses inconsistent with the interest granted, the Property is not “property of a public entity” or “public property,” and Grantee’s rights herein do not include the right to enter the Property or Conservation and Scenic Easement Area for the purposes of correcting any “dangerous condition” as those terms are defined by California Government Code Section 830.

J. SUCCESSORS AND ASSIGNS. The terms, covenants, conditions, exceptions, obligations, and reservations contained in this conveyance shall be binding upon and inure to the benefit of the successors and assigns of both the Grantor and the Grantee, whether voluntary or involuntary.

K. SEVERABILITY. If any provision of this conservation and scenic easement is held to be invalid or for any reason becomes unenforceable, no other provision shall be thereby affected or impaired.

Executed this _____ day of _____, _____, at _____, California.

By: _____
(Signature)

Brad A. LeSage

(Print or Type Name and Title)

By: _____
(Signature)

Kadee R. Melicia

(Print or Type Name and Title)

NOTE TO NOTARY PUBLIC: If you are notarizing the signatures of persons, signing on behalf of a corporation, partnership, trust, etc., please use the correct notary jurat (acknowledgment) as explained in your Notary Public Law Book.

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
COUNTY OF MONTEREY)

On _____ before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
COUNTY OF MONTEREY)

On _____ before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

ACCEPTANCE AND CONSENT TO RECORDATION

This is to certify that the interest in real property conveyed by the deed or grant dated **September 29, 2021** from **Brad A. LeSage and Kadee R. Melicia, husband and wife as community property with right of survivorship** to the County of Monterey, a political corporation and/or governmental agency is hereby accepted by order of the Board of Supervisors on _____, (or by the undersigned officer or agent on behalf of the County of Monterey pursuant to authority conferred by resolution of the Board of Supervisors adopted on _____,) and the grantee consents to recordation thereof by its duly authorized officer.

DATED: _____.

Mary Adams
Chair, Monterey County Board of Supervisors

ATTEST:

DATED: _____.

Valerie Ralph
Clerk of Said Board

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
) SS.
COUNTY OF MONTEREY)

On _____ before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

Document Form/Content Acceptable:
Leslie J. Girard, County Counsel

By: _____ DATED: _____

Type/Print Name: Robert I. Brayer, Deputy County Counsel

EXHIBITS TO BE ATTACHED TO:

CONSERVATION AND SCENIC EASEMENT DEED

1. **EXHIBIT "A"**: Full legal description of the entire property for which the Development Permit was granted. The legal description may be obtained from a grant deed or title report for the property. A parcel number will not be accepted as a legal description.
2. **EXHIBIT "B"**: A copy of Monterey County Resolution granting the Development Permit.
3. **EXHIBIT "C"**: An official surveyor's map, parcel map or plot plan, accompanied by a metes and bounds description, prepared by a licensed surveyor, showing the exact location of the easement on the property. Exhibits shall be marked as C-1, C-2, etc.

"ANY EXHIBIT(S) MUST BE NO LARGER THAN 8 1/2" X 14"

ORDER NO. : 0724017841

EXHIBIT A

The land referred to is situated in the unincorporated area of the County of Monterey, State of California, and is described as follows:

Parcel "A" as shown and so designated on that certain Parcel Map filed August 13, 1975 in Volume 9 of Parcel Maps at Page 40, Records of Monterey County.

APN: 103-021-009-000

**Before the Planning Commission in and for the
County of Monterey, State of California**

In the matter of the application of:

LESAGE (PLN210017)

RESOLUTION NO. 21 - 032

Resolution by the Monterey County Planning Commission:

- 1) Finding the project Categorical exempt from CEQA pursuant to Section 15303 (a) and (e) of the CEQA Guidelines, and there are finding no exceptions to the exemption pursuant to Section 15300.2; and
- 2) Approving a Combined Development Permit consisting of:
 - a) An Administrative Permit and Design Approval to allow construction of a 5,813 square foot two-story single family dwelling inclusive of 748 square foot attached garage, a 1,199 square foot accessory dwelling unit, and a 551 square foot detached garage;
 - b) A Use Permit to allow tree removal of 42 protected trees including 12 Coast Live Oak trees and 30 Monterey pine trees; and
 - c) A Use Permit to allow development on slopes in excess of 25 percent

591 Viejo Road, Carmel, Greater Monterey Peninsula Area Plan (APN 103-021-009-000)

Corrected on November 1, 2021 (This resolution supersedes the previous resolution mailed on September 30, 2021)

The Lesage application (PLN210017) came on for public hearing before the Monterey County Planning Commission on September 29, 2021. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Planning Commission finds and decides as follows:

FINDINGS

1. **FINDING:** **CONSISTENCY** – The project and/or use, as conditioned, is consistent with the policies of the 2010 Monterey County General Plan, Greater Monterey Peninsula Area Plan, and Monterey County Zoning Ordinance – (Title 21), and other County ordinances related to land use development.
EVIDENCE: a) Conformance Review: During the course of review of the application, the project has been reviewed for consistency with the text, policies, and regulations in the:
 - 2010 Monterey County General Plan
 - Greater Monterey Peninsula Area Plan; and
 - Monterey County Zoning Ordinance (Title 21)

No conflicts were found to exist and no communications were received during the course of review of the project indicating any inconsistencies with the text, policies and regulations in these documents.

- b) Suitability: The property is located at 591 Viejo Road, Carmel (Assessor's Parcel Number 103-021-009-000), Greater Monterey Peninsula Area. The parcel is zoned Rural Density Residential, 5.1 acres per unit, with Urban Reserve, Design Control, and Site Plan Review Overlays [RDR/5.1-UR-D-S]. The Rural Density Residential zone allows single family dwellings and accessory dwelling units as a principally permitted use. An Administrative Permit is required for development within the S district and a Design Approval is required for development in the D district. Additionally, a Use Permit is required for the removal of 42 protected trees (oaks and pines) to accommodate the development pursuant to Monterey Zoning Ordinance Section 21.64.260. Findings required to grant the Administrative Permit, Design Approval, and Use Permit can be made in this case as more fully described the findings and evidence below. Therefore, as proposed, the project involves an allowed land use for this site.
- c) Site Visit. HCD-Planning staff conducted a site inspection on August 4, 2021, to verify that the proposed project conforms to the applicable plans and Monterey County Code (MCC).
- d) Lot Legality. The lot (Assessor's Parcel Number 103-021-009-000) was created by the Los Ranchitos De Aguajito subdivision found in Volume 9 of Parcel Maps at page PG 40. The subject lot is identified as "Parcel A", a 1.619 acre parcel. Therefore, the County recognizes the subject property as a legal lot of record.
- e) Development Standards. The proposed structures meet the setbacks, height, and lot coverage limitations for the zoning district. The property is zoned Rural Density Residential (RDR). Site development standards for the RDR zone are found in Section 21.16.060 of the Monterey County Code (MCC) and include the following for the main residence:

	Required	Proposed
Minimum Front Setback:	30ft	30 ft
Minimum Rear Setback:	20ft	45 ft
Minimum Side Setback:	20ft	20 ft
Maximum Height:	30ft	20 ft 9 inches

The minimum building size coverage in the RDR zoning district is twenty-five (25) percent of the lot size. The Lasage lot size is approximately 1.62 acres or 77,101 square feet, and the maximum allowable lot coverage is 0.44 acres or 19,275 square feet (25%). The proposed two-story residential building (3,697.5 square feet), accessory dwelling unit (1,200 square feet), and detached garage (562.75 square feet) would cover 5,460.25 square feet (7%) of the subject property. As a result, the project would not exceed the maximum building site coverage requirement.

- f) Slope. Pursuant to MCC Section 21.64.230 and the Monterey County General Plan Policy OS-3.5, development on slopes greater 25% is prohibited unless findings are made that there are either: 1) no feasible alternative which would allow development on slopes of less than 25% or 2) the proposed development better achieves the resource protection objectives. The applicant proposes approximately 1,705 square feet of

development on slopes greater than 25%. There is no feasible alternative for residential development on this lot that would avoid development on slopes. See Finding No. 4 with supporting evidence.

- g) Tree Removal. Construction of the proposed single-family dwelling, accessory dwelling unit, garage, driveway, and septic system will necessitate removal of 12 Coast Live Oak trees and 30 Monterey Pine trees. Oaks and Pines are protected trees in the Greater Monterey Peninsula area and a Use Permit for their removal is required. In order to grant a Use Permit for tree removal, findings are required that: 1) The tree removal is the minimum required under the circumstances; and 2) The removal will not involve the risk of environmental impacts. Findings to grant a Use Permit for tree removal have been made in this case. See Finding No. 5 with supporting evidence.
- h) Design Review. The project as proposed is consistent with the Greater Monterey Peninsula Area Plan policies regarding Visual Sensitivity and the proposed colors and materials are compatible with the surrounding. The project site is approximately 1,000 feet away from the southwest side of Highway 1 (Hwy 1). Although the subject property is designated as highly sensitive area, the project is not visible from Hwy 1 because it is screened by trees and topography. Proposed colors and materials include a grey stucco with cedar and stone accents. The location, mass, and design of the structures are compatible with the surrounding other developments in the area.
- i) Site Plan Review. The project is located in a Site Plan Review zoning district ("S district"). The purpose of the S district is to provide review of development in those areas of the County of Monterey where development, by reason of its location has the potential to adversely affect or be adversely affected by natural resources or site constraints. The site is sloped, heavily vegetated, and is located in a high fire hazard area. Standards for development on slope and for removal of trees have been addressed and fire prevention measures including a fire fuel management plan are proposed to minimize risks of the proposed development at the site.
- j) Accessory Dwelling Unit (ADU). The proposed ADU meets the requirements for an accessory structure under MCC Section 20.64.030 and California Government Code Section 65852.2, Accessory Dwelling Units. The proposed ADU is 1,199 square feet in size, and in accordance with the setbacks and height limits for an accessory habitable structure in the RDR zoning district. The ADU does not count toward the density at the site, it has been designed to comply with the 1,200 square feet size limit allowed in County Code and State Law, and it will provide additional housing opportunities within the County as it not be permitted for short-term rental.
- k) The application, project plans, and related support materials submitted by the project applicant to Monterey County HCD-Planning for the proposed development found in Project File PLN210017.

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

EVIDENCE: a) The project has been reviewed for site suitability by the following departments and agencies: HCD-Planning, HCD-Development Services,

HCD-Environmental Services, Cypress Fire Protection District, and Environmental Health Bureau. County staff reviewed the application materials and plans, as well as the County's GIS database, to verify that the project conforms to the applicable plans, and that the subject property is suitable for the proposed development. There has been no indication from these departments/agencies that the site is not suitable for the proposed development. Recommended conditions have been incorporated.

- b) Technical reports prepared for the site indicate that there are no physical or environmental constraints that would render the site unsuitable for the use proposed. Reports in the Project File (PLN210017) include:
 - Soil Engineering investigation and Percolation Testing for Lesage Residence (APN 103-021-009) (LIB210122), prepared by Landset Engineers, Inc., May 2020
 - Tree Assessment/Forest Management Plan (LIB210123) prepared by Frank Ono, May 10, 2021
- c) The application, project plans, and related support materials submitted by the project applicant to the Monterey County HCD-Planning for the proposed development found in Project File PLN210017.

3. **FINDING:** **DESIGN** – The proposed design assures protection of the public view shed, is inconsistent with neighborhood character, and assures visual integrity without imposing undue restrictions on private property.

- EVIDENCE:**
- a) Pursuant to MCC Chapter 21.44 and 21.45, the proposed project parcel and surrounding area are designated as a Design Control Zoning District (“D” zoning overlay) and Site Plan Review Zoning District (“S” zoning overlay), which regulate the location, size, configuration, materials, and colors of structures and fences to assure the protection of the public view shed and neighborhood character.
 - b) The project as proposed is consistent with the Greater Monterey Peninsula Area Plan policies regarding Visual Sensitivity. The project site is on the south west side of Cabrillo Highway (Hwy 1) and the surrounding areas are concealed by trees and topography.
 - c) The proposed grey stucco and Dark Espresso cedar siding with stone cladding are appropriate for the site and will be compatible with the surrounding residential neighborhood character.
 - d) The project was referred to the Greater Monterey Peninsula Land Use Advisory Committee (LUAC) for review. Based on the LUAC Procedure guidelines adopted by the Monterey County Board of Supervisors, this application warranted referral to the LUAC because the application includes a request for design approval that will go to a public hearing. The referral request was sent to the Greater Monterey Peninsula LUAC for the meeting scheduled on September 1, 2021. However, the committee could not have a quorum to hold the meeting that it was cancelled. The second meeting request was delivered and this would be the final and last meeting unless there is an applicant's request pursuant to Monterey County Board Order RES 15-043 No. 7. The Greater Monterey Peninsula LUAC, at a duly-noticed public meeting at which all persons had the opportunity to be heard, reviewed the proposed project on September 1, 2021, and voted 5 – 0 (5 ayes and 0 nays) to support the

project as proposed. No members of the public commented at the LUAC meeting.

4. **FINDING:** **SLOPES** – There is no feasible alternative that would allow development to occur on slopes of less than 25% in this case.

- EVIDENCE:**
- a) The 2010 General Plan regulates development on slopes greater than 25%. Development on slopes greater than 25% is prohibited unless finding are made that there is no feasible alternative which would allow development on slope of less than 25% or the proposed development better achieves the resource protection objectives, subject to a Use Permit and public hearing. In this case, given the topography of property, there is no feasible alternative for residential development of the property that would avoid development on slopes.
 - b) The applicant proposes development on slopes greater than 25% for the access driveway, and about 1,706 square feet for the placement of the single-family residence, accessory dwelling unit, and garages. A map of the slopes on the property is contained in the attached plans. The slope map show the limited areas of the property that contain slopes of less the 25%. Any construction of a driveway from Viejo Road into the site will impact slopes. This project avoids steeper slopes and attempts to locate the development in an area where the fewest trees will need to be removed, better achieving the resource protection objectives of the General Plan. For these reasons portions of the house, accessory dwelling unit, and the detached garage, as well as most of the driveway will be constructed on slopes. The proposed structure locations near Viejo Road which minimizes the length and grading on slopes.
 - c) In accordance with General Plan Policy OS-3.5(1)(d), as a standard condition of approval a conservation and scenic easement shall be recorded over portions of the property with greater than 25% outside of the development footprint, ensuring the long-term protection of the resource. (Condition No. 12)
 - d) The application, project plans, and related support materials submitted by the project applicant to the Monterey County HCD-Planning for the proposed development found in Project File PLN210017.

5. **FINDING:** **TREE REMOVAL** – The project is consistent with all tree removal policies of to the Greater Monterey Peninsula Area Plan and Title 21 of the Monterey County Code. The tree removal is the minimum required under the circumstances of the case; and the removal will not involve a risk of adverse environmental impacts.

- EVIDENCE:**
- a) Twelve Coast Live oaks and thirty Monterey pine trees (42 trees in total) are proposed for removal to accommodate development. The subject property is approximately 1.62 acres and heavily vegetated with a mixture of dominant Monterey pine trees with coastal oak on moderate erosion hazard soils. The removal of more than three protected trees requires a Use Permit pursuant to MCC Section 21.64.260 and policies of the Greater Monterey Peninsula Area Plan. A Use Permit is included in the proposed Combined Development Permit.
 - b) Tree Removal is the minimum required under the circumstances of this case. The site is heavily vegetated with mature trees and vegetation including invasive plants. Development anywhere on this lot will require

removal of trees. In this case, structures and development will be located near the front of the lot. This location helps to minimize driveway length and in doing so, to minimize tree removal. In addition, the location of structures on the site balance openings in tree canopy while also avoiding steeper slopes on the property.

- c) Of the 30 Monterey Pines proposed for removal, 8 are landmark trees (trees with a diameter larger than 24 inches). As discussed with the arborist via phone on September 27, 2021, none of these landmark pines are visually or historically significant and are not exemplary species. One of the eight trees is dead and therefore proposed for removal. The remaining 7 landmark trees are proposed for removal due to construction related impacts of the driveway and single-family dwelling or for being located within the footprint of the development. Due to the steep topography of the parcel, the development has been sited appropriately to avoid slopes exceeding 25% to the greatest extent. Additionally, the subject parcel contains a dense Monterey Pine Forest and removal of 42 protected trees including 8 landmark trees would create minimal short-term impacts and no long-term impacts. The applicant has incorporated design changes to the septic system, driveway and single-family dwelling to minimize tree removal. The applicant worked with CalFire to site the driveway in the best location for emergency access and for ingress and egress of Viejo Road. Although staff has applied a standard condition requiring protection of nearby trees, impacts to several trees including landmark pines, would result in death or a severe decline in health. Due to the forest density on the subject parcel, removal of the 8 landmark trees will not result in adverse environmental impacts to the soil, water, biological and ecological systems, noise, air movement or wildlife habitat within the subject parcel. Every attempt has been made to recommend removing only those trees likely to experience severe decline and death as a result of planned activities.
- d) A Forest Management Plan (FMP) was prepared for the property by Frank Ono. The FMP characterizes the site as an “over mature” pine forest top story with oak trees in the understory and a large number of invasive plant species. The FMP recognizes short-term impacts to trees and forest resources from tree removal and construction but does not anticipate long-term impacts to the health of the surrounding forest due to the nature of the existing conditions at the site. Measures recommended to protect trees near the construction have been incorporated as conditions. Replanting is recommended by the Forester at a 1:2 basis because of the lack of open areas in the tree canopy at the site that are available to for replanting. Replanting has also been made a condition of approval (Condition No. 8).
- e) Based on substantial evidence, the trees proposed for removal are the minimum required under the circumstance of the case and will not involve a risk of adverse environmental impacts. Therefore, the proposed tree removal is consistent with the regulations contained in MCC Section 21.64.260 (Preservation of Oak and Other Protected Trees) which state that no oak tree six inches or more in diameter and two feet above ground level shall be removed without approval of the permit(s) required in Subsection 21.64.260D.

- f) The application, project plans, and related support materials submitted by the project applicant to the Monterey County HCD-Planning for the proposed development found in Project File PLN210017.

6. **FINDING:** **CEQA (Exempt)** – The project is categorically exempt from environmental review and no unusual circumstances were identified to exist for the proposed project.

- EVIDENCE:**
- a) California Environmental Quality Act (CEQA) Guidelines Section 15303 categorically exempt construction of a single-family residence or a second dwelling unit in a residential zone and accessory structures including garages. The applicant proposes to construct the first single family home with an accessory dwelling unit and a detached garage.
 - b) None of the exceptions under CEQA Guidelines Section 15300.2 apply to this project. Adequate evidence has been presented to support findings that there are no unique circumstances for potential impact in this case. Other than tree removal, the site is not within environmentally sensitive. The subject property is surrounded by residential development and Viejo Road. Views from Cabrillo Highway (Hwy 1) will not be impacted and no significant cumulative effects of single-family dwelling development on a residential zoned parcel.
 - c) The application, project plans, and related support materials submitted by the project applicant to Monterey County HCD-Planning for the proposed development found in Project File PLN210017.

7. **FINDING:** **HEALTH AND SAFETY** – The establishment, maintenance, or operation of the project applied for will not under the circumstances of this particular case be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.

- EVIDENCE:**
- a) The project was reviewed by HCD-Planning, HCD-Development Services, HCD-Environmental Services, Cypress Fire Protection District, and Environmental Health Bureau. Conditions have been recommended, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood.
 - b) The project property has an existing well (Well Permit #19-13123) with two connections which would serve the proposed development. The well has been tested and has adequate water quality and quantity to serve the development. A deed restriction has been made a condition of approval because the well is located in fractured rock. Also 4,995 gallon water storage tank would be on the site. A new septic system will provide sewage disposal. The Environmental Health Bureau reviewed the project application, and appropriate conditions are incorporated into recommended conditions of approval.
 - c) The property is in a high fire hazard area. A fuel management plan was provided with a concept landscape plan. A one hundred foot reduced fuel zone will be provided around the structures and a thirty feet green zone around the structures is proposed. Within these defensible areas, vegetation will be managed by removal of dead brush and branches and

lambing of trees to prevent spread of fire into tree canopies. Fire safe construction and sprinkler systems are required as part of the new construction.

- d) The project planner reviewed the submitted plans and conducted a site visit on August 4, 2021, to verify that the project, as proposed and conditioned, would not impact public health and safety.
- e) The application, project plans, and related support materials submitted by the project applicant to the Monterey County HCD - Planning for the proposed development found in Project File PLN210017.

8. **FINDING:** **NO VIOLATIONS** - The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of the County's zoning ordinance. No violations exist on the properties

- EVIDENCE:**
- a) County staff reviewed Monterey County HCD-Planning and Building Services records, and the County is not aware of any violations existing on the subject properties.
 - b) The project planner conducted a site inspection on August 4, 2021, and researched County records to assess if any violations exist on the subject properties. The site is vacant.
 - c) The application, plans and supporting materials submitted by the project applicant to Monterey County HCD-Planning for the proposed development are found in Project File PLN210017.

9. **FINDING:** **APPEALABILITY** - The decision on this project may be appealed to the Board of Supervisors.

- EVIDENCE:**
- a) Board of Supervisors. Section 21.80.030 of the Monterey County Zoning Ordinance (Title 21) allow an appeal to be made to the Board of Supervisors by any public agency or person aggrieved by a decision of an Appropriate Authority other than the Board of Supervisors.

DECISION

NOW, THEREFORE, based on the above findings and evidence, the Planning Commission does hereby:

1. Find the project exempt from CEQA pursuant to Section 15303 (a) and (e) of the CEQA Guidelines, and find that there are no exceptions to the exceptions pursuant to Section 15300.2; and
2. Approve a Combined Development Permit consisting of
3. a) An Administrative Permit and Design Approval to allow construction of a 5,813 square foot two-story single family dwelling inclusive of 748 square foot attached garage, a 1,199 square foot accessory dwelling unit, and a 551 square foot detached garage;
4. b) A Use Permit to allow tree removal of 42 protected trees including 12 Coast Live Oak trees and 30 Monterey Pine trees; and
5. c) A Use Permit to allow development on slopes greater than 25 percent

The approval is given based on general conformance with the attached site plans and subject to eighteen (18) conditions of approval, all being attached hereto and incorporated herein by reference.

PASSED AND ADOPTED this 29th day of September, 2021, upon motion of Commissioner Diehl, seconded by Commissioner Roberts, by the following vote:

AYES: Roberts, Getzelman, Monsalve, Diehl, Mendoza, Ambriz
NOES: None
ABSENT: Gonzalez, Coffelt, Daniels
ABSTAIN: None

DocuSigned by:
Craig Spencer
188DB67A496B450...
Craig Spencer, Planning Commission Secretary

COPY OF THIS DECISION MAILED TO THE APPLICANT ON **9/30/21**

THIS APPLICATION IS APPEALABLE TO THE BOARD OF SUPERVISORS.

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE CLERK TO THE BOARD ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE. **10/11/21**

THIS PROJECT IS LOCATED IN THE COASTAL ZONE AND IS APPEALABLE TO THE COASTAL COMMISSION. UPON RECEIPT OF NOTIFICATION OF THE FINAL LOCAL ACTION NOTICE (FLAN) STATING THE DECISION BY THE FINAL DECISION MAKING BODY, THE COMMISSION ESTABLISHES A 10 WORKING DAY APPEAL PERIOD. AN APPEAL FORM MUST BE FILED WITH THE COASTAL COMMISSION. FOR FURTHER INFORMATION, CONTACT THE COASTAL COMMISSION AT (831) 427-4863 OR AT 725 FRONT STREET, SUITE 300, SANTA CRUZ, CA.

This decision, if this is the final administrative decision, is subject to judicial review pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6. Any Petition for Writ of Mandate must be filed with the Court no later than the 90th day following the date on which this decision becomes final.

NOTE

This permit expires 2 years after the above date of granting thereof unless certificates of compliance are recorded within this period.

Monterey County RMA Planning

Conditions of Approval/Implementation Plan/Mitigation Monitoring and Reporting Plan

PLN210017

1. PD001 - SPECIFIC USES ONLY

Responsible Department: RMA-Planning

**Condition/Mitigation
Monitoring Measure:**

This Combined Development permit (PLN210017) allows construction of a 5,813 square foot two-story single family dwelling inclusive of 748 square foot attached garage, a 1,199 square foot accessory dwelling unit, a 551 square foot detached garage, and tree removal of 42 protected trees. The property is located at 591 Viejo Road, Carmel (Assessor's Parcel Number 103-021-009-000), Greater Monterey Peninsula Area Plan. This permit was approved in accordance with County ordinances and land use regulations subject to the terms and conditions described in the project file. Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of HCD - Planning. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. To the extent that the County has delegated any condition compliance or mitigation monitoring to the Monterey County Water Resources Agency, the Water Resources Agency shall provide all information requested by the County and the County shall bear ultimate responsibility to ensure that conditions and mitigation measures are properly fulfilled. (HCD- Planning)

**Compliance or
Monitoring
Action to be
Performed:**

The Owner/Applicant shall adhere to conditions and uses specified in the permit on an on-going basis unless otherwise stated.

2. PD002 - NOTICE PERMIT APPROVAL

Responsible Department: RMA-Planning

**Condition/Mitigation
Monitoring Measure:**

The applicant shall record a Permit Approval Notice. This notice shall state:

"A Combined Development Permit (Resolution Number 21-032) was approved by the Planning Commission for Assessor's Parcel Number 103-021-009-000 on September 29, 2021. The permit was granted subject to 18 conditions of approval which run with the land. A copy of the permit is on file with Monterey County HCD- Planning."

Proof of recordation of this notice shall be furnished to the Director of HCD- Planning prior to issuance of grading and building permits, Certificates of Compliance, or commencement of use, whichever occurs first and as applicable. (HCD- Planning)

**Compliance or
Monitoring
Action to be
Performed:**

Prior to the issuance of grading and building permits, certificates of compliance, or commencement of use, whichever occurs first and as applicable, the Owner/Applicant shall provide proof of recordation of this notice to the HCD - Planning.

3. PD003(A) - CULTURAL RESOURCES NEGATIVE ARCHAEOLOGICAL REPORT

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: If, during the course of construction, cultural, archaeological, historical or paleontological resources are uncovered at the site (surface or subsurface resources) work shall be halted immediately within 50 meters (165 feet) of the find until a qualified professional archaeologist can evaluate it. Monterey County HCD - Planning and a qualified archaeologist (i.e., an archaeologist registered with the Register of Professional Archaeologists) shall be immediately contacted by the responsible individual present on-site. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for recovery.
(HCD - Planning)

Compliance or Monitoring Action to be Performed: The Owner/Applicant shall adhere to this condition on an on-going basis.

Prior to the issuance of grading or building permits and/or prior to the recordation of the final/parcel map, whichever occurs first, the Owner/Applicant shall include requirements of this condition as a note on all grading and building plans. The note shall state "Stop work within 50 meters (165 feet) of uncovered resource and contact Monterey County HCD - Planning and a qualified archaeologist immediately if cultural, archaeological, historical or paleontological resources are uncovered."

When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery.

4. PD005(A) - NOTICE OF EXEMPTION

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: Pursuant to CEQA Guidelines § 15303, a Notice of Exemption shall be filed for this project. The filing fee shall be submitted prior to filing the Notice of Exemption. (HCD - Planning)

Compliance or Monitoring Action to be Performed: After project approval, the Owner/Applicant shall submit a check, payable to the County of Monterey, to the Director of HCD - Planning.

5. PD006(A) - CONDITION COMPLIANCE FEE

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: The Owner/Applicant shall pay the Condition Compliance fee, as set forth in the fee schedule adopted by the Board of Supervisors, for the staff time required to satisfy conditions of approval. The fee in effect at the time of payment shall be paid prior to clearing any conditions of approval.

Compliance or Monitoring Action to be Performed: Prior to clearance of conditions, the Owner/Applicant shall pay the Condition Compliance fee, as set forth in the fee schedule adopted by the Board of Supervisors.

6. PD011(A) - TREE REMOVAL

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: Tree removal shall not occur until a construction permit has been issued in conformance with the appropriate stage or phase of development in this permit. Only those trees approved for removal shall be removed. (HCD - Planning)

Compliance or Monitoring Action to be Performed: Prior to tree removal, the Owner/ Applicant/ Tree Removal Contractor shall demonstrate that a construction permit has been issued prior to commencement of tree removal.

7. PD011 - TREE AND ROOT PROTECTION

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: Trees which are located close to construction site(s) shall be protected from inadvertent damage from construction equipment by fencing off the canopy driplines and/or critical root zones (whichever is greater) with protective materials, 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, approved by certified arborist, shall be demonstrated prior to issuance of building permits subject to the approval of HCD - Director of Planning. If there is any potential for damage, all work must stop in the area and a report, with mitigation measures, shall be submitted by certified arborist. Should any additional trees not included in this permit be harmed, during grading or construction activities, in such a way where removal is required, the owner/applicant shall obtain required permits. (HCD - Planning)

Compliance or Monitoring Action to be Performed: Prior to issuance of grading and/or building permits, the Owner/Applicant shall submit evidence of tree protection to HCD - Planning for review and approval.

During construction, the Owner/Applicant/Arborist shall submit on-going evidence that tree protection measures are in place through out grading and construction phases. If damage is possible, submit an interim report prepared by a certified arborist.

Prior to final inspection, the Owner/Applicant shall submit photos of the trees on the property to HCD - Planning after construction to document that tree protection has been successful or if follow-up remediation or additional permits are required.

8. PD048 - TREE REPLACEMENT/RELOCATION

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: Within 60 days of permit approval, the applicant shall replace and or relocate each tree approved for removal as follows:

- Replacement ratio: 1 to 2
- Replacement ratio recommended by arborist: 1 to 2
- Other:

Replacement tree(s) shall be located within the same general location as the tree being removed. (HCD - Planning)

Compliance or Monitoring Action to be Performed: The Owner/Applicant shall submit evidence of tree replacement to HCD - Planning for review and approval. Evidence shall be a receipt for the purchase of the replacement tree(s) and photos of the replacement tree(s) being planted.

Six months after the planting of the replacement tree(s), the Owner/Applicant shall submit evidence demonstrating that the replacement tree(s) are in a healthy, growing condition.

One year after the planting of the replacement tree(s), the Owner/Applicant shall submit a letter prepared by a County-approved tree consultant reporting on the health of the replacement tree(s) and whether or not the tree replacement was successful or if follow-up remediation measures or additional permits are required.

9. PD014(A) - LIGHTING - EXTERIOR LIGHTING PLAN

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: All exterior lighting shall be unobtrusive, down-lit, harmonious with the local area, and constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. The lighting source shall be shielded and recessed into the fixture. The applicant shall submit three (3) copies of an exterior lighting plan which shall indicate the location, type, and wattage of all light fixtures and include catalog sheets for each fixture. The lighting shall comply with the requirements of the California Energy Code set forth in California Code of Regulations Title 24 Part 6. The exterior lighting plan shall be subject to approval by the Director of HCD - Planning, prior to the issuance of building permits.
(HCD - Planning)

Compliance or Monitoring Action to be Performed: Prior to the issuance of building permits, the Owner/Applicant shall submit three copies of the lighting plans to HCD - Planning for review and approval. Approved lighting plans shall be incorporated into final building plans.

Prior to final/occupancy, the Owner/Applicant/Contractor shall submit written and photographic evidence demonstrating that the lighting has been installed according to the approved plan.

On an on-going basis, the Owner/Applicant shall ensure that the lighting is installed and maintained in accordance with the approved plan.

10. PD016 - NOTICE OF REPORT

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: Prior to issuance of building or grading permits, a notice shall be recorded with the Monterey County Recorder which states:
"A(n) Forest Management Plan (Library No. LIB210123), was prepared by Frank Ono on May 10, 2021 and is on file in Monterey County RMA - Planning. All development shall be in accordance with this report."
(RMA - Planning)

Compliance or Monitoring Action to be Performed: Prior to the issuance of grading and building permits, the Owner/Applicant shall submit proof of recordation of this notice to RMA - Planning.

Prior to occupancy, the Owner/Applicant shall submit proof, for review and approval, that all development has been implemented in accordance with the report to the RMA - Planning.

11. PD023 - CONSERVATION AND SCENIC EASEMENT (SLOPE)

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: A conservation and scenic easement shall be conveyed to the County over those portions of the property where the slope exceeds 25%/30% percent. The easement shall be developed in consultation with certified professional. A conservation and scenic easement deed shall be submitted to, and approved by, the Director of RMA - Planning and accepted by the Board of Supervisors prior to recording the parcel/final map or prior to the issuance of grading or building permits. (RMA - Planning)

Compliance or Monitoring Action to be Performed: Prior to the issuance of grading and builsing permits, the Owner/Applicant/Certified Professional shall submit the conservation and scenic easement deed and corresponding map, showing the exact location of the easement on the property along with the metes and bound description developed in consultation with a certified professional, to RMA - Planning for review and approval.

Prior to or concurrent with recording the parcel/final map, final inspection, or commencement of use, the Owner/Applicant shall record the deed and map showing the approved conservation and scenic easement. Submit a copy of the recorded deed and map to RMA-Planning.

12. PDSP001 - RE-VEGETATION LANDSCAPE PLAN

Responsible Department: RMA-Planning

**Condition/Mitigation
Monitoring Measure:**

A re-vegetation and landscaping plan shall be prepared, which shall include eradication of the invasive exotic species onsite, re-vegetation with native or native compatible species, and any proposed ornamental landscaping. Prior to the issuance of building permits, a re-vegetation landscape plan prepared under consultation of a qualified biologist on Monterey County's list of approved consultants shall be submitted to the Director of HCD-Planning. The re-vegetation plan shall be in sufficient detail to identify the location, species, and size of the proposed landscaping/re-vegetation materials, and shall include an irrigation plan if irrigation is proposed. All landscaping shall apply xeriscape principles, including such techniques and materials as native or low water use plants and low precipitation sprinkler heads, bubblers, drip irrigation systems and timing devices.

**Compliance or
Monitoring
Action to be
Performed:**

Landscaping shall be installed. All landscaped areas and fences shall be continuously maintained by the applicant; all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition.

Prior to the issuance of Building and Grading Permits, the Owner/Applicant/Qualified Biologist shall submit the re-vegetation landscape plans to HCD - Planning for review and approval. If the landscaped area meets the threshold established by MWEL0 and irrigation is proposed, a Maximum Applied Water Allowance (MAWA) calculation shall be included in the re-vegetation plan.

Prior to final building inspection, the Owner/Applicant/Licensed Landscape Contractor/Qualified Biologist shall furnish evidence to HCD - Planning that the landscaping is installed per plan for review and approval.

Ongoing, all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition.

13. PW0043 - REGIONAL DEVELOPMENT IMPACT FEE

Responsible Department: RMA-Public Works

**Condition/Mitigation
Monitoring Measure:**

Prior to issuance of building permits, applicant shall pay the Regional Development Impact Fee (RDIF) pursuant to Monterey Code Chapter 12.90. The fee amount shall be determined based on the parameters adopted in the current fee schedule.

**Compliance or
Monitoring
Action to be
Performed:**

Prior to issuance of Building Permits Owner/Applicant shall pay Monterey County Building Services Department the traffic mitigation fee. Owner/Applicant shall submit proof of payment to the HCD-Engineering Services.

14. PW0044 - CONSTRUCTION MANAGEMENT PLAN

Responsible Department: RMA-Public Works

Condition/Mitigation Monitoring Measure: The applicant shall submit a Construction Management Plan (CMP) to HCD-Planning and HCD - Public Works for review and approval. The CMP shall include measures to minimize traffic impacts during the construction/grading phase of the project.

CMP shall include, at a minimum, duration of the construction, hours of operation, truck routes, estimated number of truck trips that will be generated, number of construction workers, and on-site/off-site parking areas for equipment and workers and locations of truck staging areas. Approved measures included in the CMP shall be implemented by the applicant during the construction/grading phase of the project.

Compliance or Monitoring Action to be Performed:

1. Prior to issuance of the Grading Permit or Building Permit, Owner/Applicant/Contractor shall prepare a CMP and shall submit the CMP to the HCD-Planning Department and the Department of Public Works for review and approval.
2. On-going through construction phases Owner/Applicant/Contractor shall implement the approved measures during the construction/grading phase of the project.

15. PW0045 – COUNTYWIDE TRAFFIC FEE

Responsible Department: RMA-Public Works

Condition/Mitigation Monitoring Measure: Prior to issuance of building permits, the Owner/Applicant shall pay the Countywide Traffic Fee or the ad hoc fee pursuant to General Plan Policy C-1.8. The fee amount shall be determined based on the parameters in the current fee schedule.

Compliance or Monitoring Action to be Performed: Prior to issuance of Building Permits, the Owner/Applicant shall pay Monterey County HCD-Building Services the traffic mitigation fee. The Owner/Applicant shall submit proof of payment to HCD-Engineering Services.

16. EHSP01 – NEW WATER SYSTEM PERMIT (Non-Standard)

Responsible Department: Health Department

Condition/Mitigation Monitoring Measure: Pursuant to Monterey County Code Chapter 15.04, Domestic Water Systems, obtain a new water system permit from the Environmental Health Bureau. (Environmental Health)

Compliance or Monitoring Action to be Performed: Prior to issuance of construction permits, submit necessary water system application with applicable fees and supporting documentation to the Environmental Health Bureau for review and acceptance.

17. EHSP02 – LONG-TERM WATER SUPPLY DEED RESTRICTION

Responsible Department: Health Department

Condition/Mitigation Monitoring Measure: The applicant shall record a deed restriction which includes the statement: Well yields in fractured rock or non-alluvial aquifer systems have been shown to decline significantly over time due to their meager ability to store and transmit water. Therefore, with the intrinsic uncertainties regarding the long-term sustainability of an on-site well proposed to provide a source of domestic potable water on this parcel, the present and any future owners of this property are hereby given notice that additional water sources may be required in the future. (Environmental Health)

Compliance or Monitoring Action to be Performed: Prior to issuance of construction permits, the applicant shall provide a legal description for the parcel and a copy of the Grant Deed to the Environmental Health Bureau ("EHB"). The EHB will prepare the deed restriction form.

Prior to final inspection of construction permits, the property owner shall sign and notarize the deed restriction form obtained from the EHB. Record the notarized deed restriction with the Monterey County Recorder. Proof of recordation shall be provided to the EHB.

If the applicant chooses not to pursue utilizing the well as a source for domestic use, this condition shall not be applicable.

18. CC01 INDEMNIFICATION AGREEMENT

Responsible Department: County Counsel-Risk Management

Condition/Mitigation Monitoring Measure: The property owner agrees as a condition and in consideration of approval of this discretionary development permit that it will, pursuant to agreement and/or statutory provisions as applicable, including but not limited to Government Code Section 66474.9, defend, indemnify and hold harmless the County of Monterey or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees to attack, set aside, void or annul this approval, which action is brought within the time period provided for under law, including but not limited to, Government Code Section 66499.37, as applicable. The property owner will reimburse the County for any court costs and attorney's fees which the County may be required by a court to pay as a result of such action. The County may, at its sole discretion, participate in the defense of such action; but such participation shall not relieve applicant of his/her/its obligations under this condition. An agreement to this effect shall be recorded upon demand of County Counsel or concurrent with the issuance of building permits, use of property, filing of the final map, recordation of the certificates of compliance whichever occurs first and as applicable. The County shall promptly notify the property owner of any such claim, action or proceeding and the County shall cooperate fully in the defense thereof. If the County fails to promptly notify the property owner of any such claim, action or proceeding or fails to cooperate fully in the defense thereof, the property owner shall not thereafter be responsible to defend, indemnify or hold the County harmless. (County Counsel-Risk Management)

Compliance or Monitoring Action to be Performed: Upon demand of County Counsel or concurrent with the issuance of building permits, use of the property, recording of the final/parcel map, or recordation of Certificates of Compliance, whichever occurs first and as applicable, the Owner/Applicant shall submit a signed and notarized Indemnification Agreement to the Office of County Counsel-Risk Management for review and signature by the County.

Proof of recordation of the Indemnification Agreement, as outlined, shall be submitted to the Office of County Counsel-Risk Management

EXHIBIT C

A Scenic Easement situate in the unincorporated area of the County of Monterey, State of California, over a portion of Parcel A as said Parcel A is depicted on that certain Parcel Map filed on August 13, 1975 in Volume 9 of Parcel Maps at Page 40 in the Monterey County Recorder's Office, State of California, more particularly described as follows:

BEGINNING AT a point on the common line between said Parcel A and Parcel B as depicted on said Parcel Map, distant South 23°49'00" West, 4.05 feet from a 3/4" iron pipe marked, "LS 3381", marking the southwesterly corner of said Parcel B; thence leaving the easterly boundary of said Parcel A

- 1) North 41° 55' 13" West, 54.15 feet; thence
- 2) South 34° 43' 48" West, 54.61 feet; thence
- 3) South 57° 48' 52" West, 39.15 feet; thence
- 4) South 10° 13' 48" West, 58.21 feet; thence
- 5) South 76° 52' 32" East, 29.27 feet; thence
- 6) South 13° 17' 28" West, 107.99 feet to the southerly line of said Parcel A, distant South 82° 09' 28" West, 22.47' from the southeasterly corner of said Parcel A; thence along said southerly line
- 7) North 82° 09' 28" East, 22.47 feet to said southeasterly corner; thence northerly and along the easterly line of said Parcel A
- 8) North 23° 49' 00" East, 209.30 feet to the **POINT OF BEGINNING**.

Containing 11,587 square feet / 0.27 acres, more or less

Together with and subject to any and all covenants and agreements of record.

End of Description

