

Exhibit C

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**EXHIBIT C
DRAFT RESOLUTION**

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

In the matter of the application of:

DAVIS KELLY TR (PLN210191)

RESOLUTION NO. 22 -

Resolution by the Monterey County Planning
Commission:

1. Finding that the disapproval of the project is Statutorily Exempt from the California Environmental Quality Act per Section 15270 of the Guidelines;
2. Denying a Coastal Administrative Permit and Design Approval to allow construction of a approximately 3,646 square foot single family dwelling, a 476 square foot attached garage, a 344 square foot guesthouse over a 398 square foot storage area connected to the single family dwelling by an arbor, and 1,350 square feet of trellises and an arbor; and
3. Denying a Coastal Administrative Permit to allow less than 120 square feet of development on slopes exceeding 30%.

[1458 Riata Road, Pebble Beach, Del Monte Forest Land Use Plan, Coastal Zone (APN: 008-332-019-000)]

The Davis Kelly TR application (PLN210191) came on for a public hearing before the Monterey County Planning Commission on August 24, 2022. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, including the project plans (Attachment 1), the Monterey County Planning Commission finds and decides as follows:

FINDINGS

1. **FINDING:** **INCONSISTENCY** – The project, as proposed, does not conform to the applicable plans and policies which designate this area as appropriate for development.

- EVIDENCE:** a) The project has been reviewed for consistency with the text, policies, and regulations in the:
- 1982 Monterey County General Plan (General Plan);
 - Del Monte Forest Land Use Plan (DMF LUP);
 - Monterey County Coastal Implementation Plan, Part 5 (DMF CIP); and
 - Monterey County Coastal Zoning Ordinance (Title 20).

The project conflicts with the text, policies, and/or regulations of the applicable Monterey County Code (MCC). No communications were received during the course of review of the project. The subject

property is located within the Coastal Zone; therefore, the 2010 Monterey County General Plan does not apply.

- b) The project involves the construction of a 3,646 square foot one-story single-family dwelling, an attached 476 square foot attached garage, and construction of a 344 square foot guesthouse over a 398 square foot storage area, attached to the single-family dwelling by an arbor. Associated site improvements include a new driveway and a total of 1,350 square feet of trellis roof overhangs and an arbor, less than 120 square feet of development on slopes in excess of 30% and removal of 10 non-native trees. The subject property contains a 3,099 square foot single-family dwelling, attached garage, and various hardscapes. Demolition of this residence was approved under Resolution No. 21-026 (PLN210002) and therefore is not included in the proposed project's scope of work or analyzed in this resolution.
- c) Allowed Use. The subject property is located at 1458 Riata Road, Pebble Beach, within the Del Monte Forest Land Use Plan area, Coastal Zone (Assessor's Parcel Number [APN]: 008-332-019-000). The parcel is zoned Low Density Residential, 1.5 acres per unit, with a Design Control overlays in the Coastal Zone or "LDR/1.5-D (CZ)." Pursuant to Monterey County Code (MCC) Section 20.14.040, LDR zoning allows for the development of the first single-family dwelling as a principal use, subject to the granting of a Coastal Administrative Permit in each case. The project as described in preceding Evidence "b" is an allowed use in the LDR zone. Site improvements require the removal of 10 non-native trees which does not require a permit. The project also requires approximately 62 square feet of development on slopes exceeding 30% and therefore is subject to the granting of a Coastal Administrative Permit pursuant to MCC 20.64.230.C.2. Although the proposed project is an allowed use, it does not comply with the required site development standards for the LDR zoning district or the Design Control Zoning District criteria (see Finding 1, Evidence "e" and "f")
- d) Lot Legality. The subject property (approximately 30,785 square feet), APN:008-332-019-000, is identified in its current configuration and under separate ownership as Lot 13, within Block 160-A of the El Pescadero Rancho, in both the 1964 (Volume 1) and 1972 (Volume 3) Assessor's Map Book 8, Page, 33. Therefore, the County recognizes the subject property as a legal lot of record.
- e) Development Standards. The project does not meet all the required development standards for LDR Zoning District which are identified in Monterey County Code (MCC) Section 20.14.060. The maximum allowed height for main structures in the LDR zoning district is 30 feet above average natural grade. The proposed main dwelling would have a height of approximately 25 feet 2 inches above average natural grade. A guesthouse above a storage area is proposed to be attached to the main residence via an arbor. If the structure is considered "structurally attached" to the main structure by an arbor, the storage/guesthouse would be subject to the same height requirements as the main structure (Monterey County Code Section 20.62.030.d). The proposed guesthouse would have a height of approximately 17 feet above average natural grade. If the garage/guesthouse is not

considered “structurally attached,” it would be subject to a 15 foot height requirement. Arbors, trellises, and other similar accessory structures have historically been considered an attachment for the purposes of Section 20.62.030.d by staff.

The minimum required setbacks for main structures are 30 feet (front), 20 feet (sides), and 20 feet (rear). Identical to the height exception above, MCC 20.62.040.k allows attached accessory structures the same setback requirements as the main structure. A detached accessory structure is subject to a 50-foot front setback. The proposed residence and guesthouse will have front setbacks of setback 36.14 feet and 30 feet and side and rear setbacks of 20.91 feet (northwest) and 31.04 feet (southwest). Again, structural attachment of the storage/guesthouse by an arbor is necessary to in the determination of conformance with setbacks (30 feet v. 50 feet front setback requirement).

The allowed maximum floor area ratio (FAR) and site coverage is 17.5% and 15%, respectively. The subject property is 30,785 square feet, which allows a FAR of 5,387.37 square feet and a site coverage of 4,615.75 square feet. The project would result in FAR of 4,864 square feet (15.8%) and site coverage of 5,962 square feet (19.36%) when including all buildings, building overhangs of more the 30 inches (ie. the proposed trellises), and the arbor. Although the proposed FAR is under the allowable limit, the proposed site coverage exceeds the maximum by 1,344.25 square feet or 4.36%.

- f) Coverage. “Coverage” is defined by the Coastal Zoning Ordinance (Title 20 MCC) as: “...any area covered by a structure, structures or structure protrusions including decks twenty-four inches or more above grade but not including building eaves of thirty inches or less or similar non-usable areas, paved driveways, sidewalks, paths, patios and decks less than twenty-four inches above grade.” (MCC 20.06.250). Building site coverage is a common zoning tool used to control the bulk and mass of structures. Each zoning district in Monterey County Code (MCC) contains site development standards including setbacks and lot coverage. Coverage is expressed as a percentage of the overall lot size and varies based on the type and nature of each zoning district.

“Structure” is defined as: “...anything constructed or erected, except fences under six feet in height, the use of which requires location on the ground or attachment to something having location on the ground, but not including any trailer or tent.” (MCC 20.06.1220).

Trellises and arbors are subject to site development standards including setback and lot coverage in most cases. In this case, multiple trellises and one arbor are proposed. The trellises proposed for this project extend from the eaves of the buildings and overlie decks and patio areas proposed at the rear of the house. These trellises would be included in the lot coverage calculation since they extend 30 inches from the exterior wall. The arbor between the main

dwelling and the proposed storage/guesthouse building is relied upon as a “structural connection” for the purposes of applying height and setbacks as an “attached structure.” (See MCC Chapter 20.62 for height and setback exceptions).

“Structural connection” is defined as “...connection between structures by means of structural members such as bearing walls, columns, beams, girders, or roof.” (MCC 20.06.1200).

“Structure, Attached” is defined as “...any structure which is connected to any other structure by means of a structural connection, such as a roof, stairway, atrium, breezeway or other structural connection.” (MCC 20.06.1240)

For this project, without the structural attachment, the storage/guesthouse structure are over the height for a detached accessory structure in the LDR zone (maximum 15 feet allowed, 17 feet proposed) and would not meet the front setback requirement from Alvarado Road (50 feet required, 30 feet proposed). In summary, it is inappropriate to allow an arbor to represent a “structural connection” for height and setback purposes but not count it toward site development standards like setback and lot coverage.

- g) Design. Pursuant to Title 20, Chapter 20.44, the project site and surrounding area are designated as a Design Control Zoning District (“D” zoning overlay), which is intended to regulate the location, size, configuration, materials, and colors of structures and fences to assure the protection of the public viewshed and neighborhood character. The colors of the proposed development consist of a white smooth stucco and red cedar horizontal wood siding, black steel windows and doors, and grey metal roofing. Although these colors and materials are consistent and compatible with residences in the surrounding area which contains electric architectural styles, the proposed bulk and mass of the project is not compatible with because the proposed development exceeds the allowable lot coverage (see Finding 1, evidence “e”).
- h) Combined Structural and Impervious Surface Coverage. The subject property is located within the Pescadero Watershed, a designated watershed as shown on the DMF LUP Figure 2b. Therefore, site structural and impervious surface coverage is limited to 9,000 square feet per DMF LUP Policy 77. As proposed, the project has an impervious surface coverage of 8,130 square feet.
- i) Visual Resources. The project is consistent with DMF LUP policies for the protection of scenic and visual resources. As depicted on DMF LUP Figure 3, Visual Resources, the subject property is located within the public viewshed. As proposed, residence will not be visible from 17 Mile Drive, Point Lobos, or any other public viewing area due to existing topography, distance and siting.
- j) Cultural Resources. DMF CIP Section 20.147.080.B.1 states that an archaeological survey report shall be required for all development within a known or potential archaeological resource area. According to the Monterey County Geographic Informational System (GIS), the

subject property has a high archaeological sensitivity and is not within 750 of a known archeological resource. The Preliminary Cultural Resources Reconnaissance (LIB210071) concluded that there is no surface evidence of potentially significant archaeological resources. In addition, the subject lot has been previously disturbed by structures, hardscape, and landscape development. Therefore, there is no evidence that any cultural resources would be disturbed, and the potential for inadvertent impacts to cultural resources is limited and will be controlled by application of the County's standard project condition (Condition No. 3), which requires the contractor to stop work if previously unidentified resources are discovered during demolition.

- k) Development on Slopes in Excess of 30%. MCC Section 20.64.230.C.2.d allows additions to existing structures on natural or man-made slopes, provided the addition does not exceed 120 square feet on the slope area and that a Coastal Administrative Permit is obtained. As proposed, the project involves 62 square feet hardscape and landscaping walls on slopes in excess of 30%. Although this development is not an addition to the existing residence as that residence is slated to be demolished under Resolution No. 21-026, the proposed development on slopes meets the intent of this policy. The proposed development on slopes will be in addition to the proposed replacement residence. The portions in excess of 30% are anticipated to be man-made slopes because they are adjacent to Riata Road and the existing driveway and are therefore likely the sluff of the existing developments grading. As proposed, the project limits the required development on slopes in excess of 30%.
- l) Environmentally Sensitive Habitat Area. According to the Monterey County Geographic Information System, the subject property is located in an area with a known occurrence of a special status species, Yadon's Piperia, which is federally protected. Therefore, pursuant to Section 20.147.040 of the Del Monte Forest Coastal Implementation Plan, a biological report was prepared. This Biological Resource Report (LIB220076) concluded that Yadon's Piperia had a moderate potential to occur on the project site and therefore recommended that a focused botanical survey for Yadon's Piperia be conducted within the project site during the appropriate blooming period to determine if the species is present. A Special Status Survey (LIB220208) was conducted on March 28, 2022 and determined that no special-status plant species, including Yadon's Piperia, were identified on the property. As such, no further actions were recommended by the biologist and the project will have no impact on Environmentally Sensitive Habitat Area or special status species.
- m) Tree Removal. Upon completion of a site visit, staff identified two Monterey Pine trees (16 inches in diameter at breast height) which had been removed without the benefit of a Coastal Development Permit. According to the prepared arborist report, Pacific Gas & Electric Company (PG&E) removed these trees. Staff worked with PG&E and has confirmed that these trees were removed because they were in a dead or dying condition and posed an immediate threat to

the nearby utility line. In this case, a Coastal Development Permit was not required for such removal pursuant to DMF CIP Section 20.145.050.A.3 and MCC Sections 20.70.120.O, and R, relating to hazardous trees posing a threat to public services, vegetation removal and maintenance activities. Additionally, Resources Code - PRC § 4293) administered by Cal Fire requires the removal of dead, diseased, defective and dying trees that could fall into the lines. The project also involves the removal of 10 non-native trees, which is not regulated under applicable MCC.

- n) Guesthouse. The project includes a Coastal Administrative Permit and Design Approval to allow construction of a 344 square foot guesthouse over a 398 square foot storage area. As designed and conditioned, the guesthouse conforms to MCC Section 20.64.020.
- o) Land Use Advisory Committee (LUAC). Based on the LUAC Procedure guidelines adopted by the Monterey County Board of Supervisors, this application was referred to the Del Monte Forest LUAC because the project is subject to review by the Planning Commission. At the August 4, 2022 Del Monte Forest LUAC public meeting, the LUAC voted 7-0 (7 ayes, 0 nays) to support the project with the change that the County of Monterey and the Applicant come to an agreement or conclusion regarding site coverage and trellises/arbors. The LUAC agreed that although the design of the proposed residence was appropriate for the surrounding area, the LUAC could not support as proposed due to the exceedance of the allowable site coverage. Thus, the LUAC recommended the above-mentioned change.
- p) The application, plans, and supporting materials submitted by the project applicant to Monterey County HCD-Planning for the proposed development found in HCD-Planning File No. PLN210191.

- 2. **FINDING:** **CEQA (Exempt)** – The project is statutorily exempt from environmental review.
EVIDENCE:
 - a) Section 152700(a) of the CEQA Guidelines states that the California Environmental Quality Act does not apply to projects which a public agency rejects or disapproves.
 - b) This project was disapproved due to inconsistency with the applicable plans and policies as described in Finding 1.

- 3. **FINDING:** **APPEALABILITY** - The decision on this project may be appealed to the Board of Supervisors.
EVIDENCE:
 - a) Board of Supervisors. Pursuant to Title 20, Section 20.86.030, an appeal may 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.
 - b) Coastal Commission. Denial of a project is not a decision that is appealable to the California Coastal Commission.

DECISION

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

1. Find that the disapproval of the project is Statutorily Exempt from the California Environmental Quality Act per Section 15270 of the Guidelines; and
2. a Coastal Administrative Permit and Design Approval to allow construction of a approximately 3,646 square foot single family dwelling, a 476 square foot attached garage, a 344 square foot guesthouse over a 398 square foot storage area connected to the single family dwelling by an arbor, and 1,350 square feet of trellises and an arbor; and
3. Deny a Coastal Administrative Permit to allow less than 120 square feet of development on slopes exceeding 30%.

PASSED AND ADOPTED this 24th day of August, 2022 upon motion of _____, seconded by _____, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Craig Spencer
Planning Commission Secretary

COPY OF THIS DECISION MAILED TO APPLICANT ON _____.

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 _____.

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.

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