

**Before the Zoning Administrator
in and for the County of Monterey, State of California**

In the matter of the application of:

OWLS PERCH LLC (PLN220249)

RESOLUTION NO. 23-003

Resolution by the Monterey County Zoning
Administrator:

- 1) Finding that the removal of 6 Coast live oak trees qualifies for a Class 4 Categorical Exemption pursuant to Section 15304 of the CEQA Guidelines and none of the exceptions listed in Section 15300.2 apply; and
- 2) Approving a Use Permit to allow the removal of 6 Coast live oak trees.

[PLN220249 Owl Perch LLC, 27497 Schulte Road, Carmel, Carmel Valley Master Plan (APN: 416-023-037-000)]

The OWLS PERCH LLC application (PLN220249) came on for a public hearing before the Monterey County Zoning Administrator on January 12, 2023. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Monterey County Zoning Administrator finds and decides as follows:

FINDINGS

1. **FINDING:** **CONSISTENCY** – The Project, as conditioned, is consistent with the applicable plans and policies which designate this area as appropriate for development.
EVIDENCE:
 - a) During the course of review of this application, the project has been reviewed for consistency with the text, policies, and regulations in:
 - the 2010 Monterey County General Plan;
 - Carmel Valley Master Plan; and
 - Monterey County Zoning Ordinance (Title 21).No conflicts were found to exist. 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) Allowed Use. The project is located at 27497 Schulte Road, Carmel Valley (Assessor's Parcel 416-023-037-000), within the Carmel Valley Master Plan area. The parcel is zoned Rural Grazing, maximum gross density of 10 acres/unit, with Design Control, Site Plan Review, and Residential Allocation Zoning overlays or "RG/10-D-S-RAZ". The proposed project involves the removal of 6 Coast live oak trees. Pursuant CV-3.11, a permit shall be required for the removal of any healthy native oak tree with a trunk diameter in excess of 6 inches in diameter. Additionally, Title 21 Section 21.64.260 requires approval of a Use Permit for removal of more than 3 protected trees on a lot in a one-year period. Therefore, the project is an allowed land use for this site, subject to the granting of a Use Permit.

- c) Lot Legality. The subject property (40.39 acres), APN 416-023-037-000, is identified as parcel D-2, on the Parcel Map, recorded July 10, 1974 (Volume 6, Page 135). Therefore, the County recognizes the subject property as a legal lot of record.
- d) Tree Removal. The project is for the removal of 6 coast live oak trees. Pursuant Title 21 Section 21.64.260, the removal of more than three protected trees on a lot in a one-year period shall require a Forest Management Plan and approval of a Use Permit. As part of this permit, the applicant submitted an Arborist Report and Forest Management Plan, prepared by Albert Weisfuss.
- e) Land Use Advisory Committee (LUAC) Review. Based on the Land Use Advisory Committee (LUAC) procedure guidelines adopted by the Monterey County Board of Supervisors per Resolution No. 08-338, this application does not meet any of the criteria in the guidelines requiring LUAC review because the project is for tree removal and does not include any new structures at this time.
- f) The project planner conducted a site inspection on September 21, 2022, to verify that the project on the subject parcel conforms to the plans listed above.
- g) The application, project plans, and related support materials submitted by the project applicant to Monterey County HCD-Planning found in Project File PLN220249.

2. FINDING: SITE SUITABILITY – The site is physically suitable for the proposed development and/or use.

- EVIDENCE:**
- a) The project has been reviewed for site suitability by the following departments and agencies: HCD-Planning, HCD-Engineering Services, HCD-Environmental Services, Environmental Health Bureau, and Monterey County Regional Fire Protection District. County staff reviewed the application materials and plans to verify that the project on the subject site conforms to the applicable plans and regulations, and there has been no indication from these departments/agencies that the site is not suitable for the development. Conditions recommended have been incorporated.
 - b) Staff identified potential impacts to trees and the overall health of the site's forest condition. The following report has been prepared:
 - Arborist Report (LIB220269) prepared by Albert Weisfuss, Monterey Bay Treeworks, CARMEL, CA, August 19, 2022.
 County staff independently reviewed this report and concurs with its conclusions. There are no physical or environmental constraints that would indicate that the site is not suitable for the use. All development shall be in accordance with these reports.
 - c) Staff conducted a site inspection on September 21, 2022, to verify that the site is suitable for this use.
 - d) The application, project plans, and related support materials submitted by the project applicant to Monterey County HCD-Planning found in Project File PLN220249.

3. **FINDING:** **TREE REMOVAL** – The tree removal is the minimum required under the circumstances and the removal will not involve a risk of adverse environmental impacts.
- EVIDENCE:**
- a) The project involves the removal of 6 protected Coast live oak trees. In accordance with the applicable policies of the Carmel Valley Master Plan and the Monterey County Zoning Ordinance (Title 21), a Use Permit approval is required for the proposed removal of protected trees.
 - b) The Applicant submitted an Arborist Report/Forest Management Plan (see Finding 2, Evidence “b”) which provided tree assessments detailing the health, condition, and long-term suitability on all trees proposed for removal in relation to construction and site improvements of the previously approved ADU development. Trees #678, #683, #684, #685, #686, #687 and #688 were assessed. They were either determined to be in fair condition or dead. Additionally, #688 does not meet the criteria of a protected tree and does not require a permit for removal.
 - c) The Arborist conducted a site visit on August 10, 2022 and completed a walkthrough to assess the potential impacts that the previously approved development may bring to the surrounding trees. A visual assessment was made from the ground of the subject trees. Subject trees were located according to Mr. Tarantino and assessed for impacts from development along with signs of health, and vigor including foliage condition and density, extent of dieback or deadwood and wound wood response. Structural defects were also assessed such as bark inclusion and decay as well as the condition of the root crown and surface roots. The damage to the trees roots and canopy were considered in light of current arboriculture practice. Grounds surrounding the trees were assessed for fractures, heaving, and visible signs of movement. The previously approved ADU project includes a new on-site wastewater treatment system located within the area of subject trees #687, #686, and #684. The installation of this system will have long term impacts to the tree’s root system. Subject trees #678 and #685 are with the footprint of the previously approved permeable patio. Retaining these trees will have long-term effects to the tree’s development. Additionally, subject tree #683 is dead with no living foliage and poses a high risk to structures and individuals nearby. Therefore, the proposed tree removal is the minimum required for this project.
 - d) The project parcel is established with an abundance of large mature Coast live oak trees. The proposed tree removal will have minimal impacts to the stand and the remaining canopy coverage will retain the perimeter of the stand and will not affect the viewshed of the surrounding properties. The proposed trees for removal are smaller diameter trees and will not have irreversible impacts to the existing habitat. Additionally, the initial ADU proposal was moved to avoid removing two protected trees of larger diameter.
 - e) The tree removal will not involve a risk of adverse environmental impacts to soil erosion, water quality, ecological impacts, noise pollution, air movement, and/or wildlife habitat. No bird nesting was observed within 300 feet of the proposed project.
 - f) The arborist recommends that the required 1:1 ratio for replacement be with saplings that have naturally propagated onsite. The applicant is

responsible for the survivability of the saplings for a period of one year. This recommendation is due to overcrowding and the possibility of spreading disease among the remaining habitat; reforestation within the established Coast live oak stand would be detrimental to the long-term maintenance of the remaining habitat.

4. **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-Engineering Services, HCD-Environmental Services, Environmental Health Bureau, and Monterey County Regional Fire Protection District. The respective agencies have recommended conditions, 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) Staff conducted a site inspection on September 21, 2022 to verify that the site is suitable for this use.
 - c) The application, project plans, and related support materials submitted by the project applicant to Monterey County HCD-Planning found in Project File PLN220249.
5. **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 property.
- EVIDENCE:**
- a) Staff reviewed Monterey County HCD-Planning and HCD-Building Services records and is not aware of any violations existing on subject property.
 - b) Staff conducted a site inspection on September 21, 2022 and researched County records to assess if any violation exists on the subject property.
 - c) The application, project plans, and related support materials submitted by the project applicant to Monterey County HCD-Planning found in Project File PLN220249.
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 15304, categorically exempts minor alterations to land which do not involve removal of healthy, mature, scenic trees.
 - b) Mature trees are generally considered landmark trees which would be 24 inches or more in diameter or exemplary of their species. As discussed above and described in the Arborist Report, 5 trees to be removed are less than half the size of a landmark tree and all are in fair condition, one of which is suppressed. Two additional trees are proposed to be removed; however, one is dead, and the other is approximately 3 inches in diameter. Further, the tree removal allows fuel management of the heavily forested

lot. Therefore, the proposed development is consistent with the parameters of this Class 4 exemption.

- c) None of the exceptions under CEQA Guidelines Section 15300.2 apply to this project. The project does not involve a designated historical resource, a hazardous waste site, development located near or within view of a scenic highway, unusual circumstances that would result in a significant effect or development that would result in a cumulative significant impact
- d) No adverse environmental effects were identified during staff review of the development application during a site visit on September 21, 2022.
- e) See supporting Finding Nos. 1 and 2. The application, project plans, and related support materials submitted by the project applicant to Monterey County HCD-Planning found in Project File PLN220249.

7. FINDING: **APPEALABILITY** – The decision on this project may be appealed to the Planning Commission.

EVIDENCE: Pursuant to Title 21 Section 21.86.040.A, an appeal may be made to the Planning Commission by any public agency or person aggrieved by this decision.

DECISION

NOW, THEREFORE, based on the above findings and evidence, the Monterey County Zoning Administrator does hereby:

- A. Find that the project qualifies for a Class 4 Categorical Exemption pursuant to Section 15304 of the CEQA Guidelines and none of the exceptions listed in Section 15300.2 apply; and
- B. Approve the Use Permit to allow the removal of 6 coast live oak trees.

All of which are in general conformance with the attached sketch and subject to the conditions, both being attached hereto and incorporated herein by reference.

PASSED AND ADOPTED this 12th day of January 2023.

DocuSigned by:

Mike Novo

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Mike Novo, AICP
Zoning Administrator

COPY OF THIS DECISION MAILED TO APPLICANT ON 01/19/2023

THIS APPLICATION IS APPEALABLE TO THE PLANNING COMMISSION.

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE SECRETARY OF THE PLANNING ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE 01/30/2023.

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.

NOTES

1. You will need a building permit and must comply with the Monterey County Building Ordinance in every respect.

Additionally, the Zoning Ordinance provides that no building permit shall be issued, nor any use conducted, otherwise than in accordance with the conditions and terms of the permit granted or until ten days after the mailing of notice of the granting of the permit by the appropriate authority, or after granting of the permit by the Board of Supervisors in the event of appeal.

Do not start any construction or occupy any building until you have obtained the necessary permits and use clearances from Monterey County HCD-Planning and HCD-Building Services Department office in Salinas.

2. This permit expires 3 years after the above date of granting thereof unless construction or use is started within this period.

Form Rev. 1-27-2021

County of Monterey HCD Planning

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

PLN220249

1. PD001 - SPECIFIC USES ONLY

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: This Use Permit (PLN220249) allows the removal of six protected coast live oak trees. The property is located at 27497 Schulte Road, Carmel (Assessor's Parcel Number 416-023-037-000), Carmel Valley Master 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 ongoing 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 Use Permit (Resolution Number 23-003) was approved by Zoning Administrator for Assessor's Parcel Number 416-023-037-000 on January 12, 2023. The permit was granted subject to 8 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. 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.

5. 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 1:1
- Replacement ratio recommended by arborist 1:1
- The arborist recommends that the required 1:1 ratio for replacement be with saplings that have naturally propagated onsite.
- The applicant is responsible for the survivability of the saplings for a period of one year.

Replacement tree(s) shall be monitored and protected by applicant to promote survivability. (HCD - Planning)

Compliance or Monitoring Action to be Performed: The Owner/Applicant shall submit evidence of tree monitoring and protection to HCD -Planning for review and approval. Evidence shall be photos of the replacement tree(s) being protected to promote survivability.

Six months after the tree protection has been set in place for the sapling tree(s), the Owner/Applicant shall submit evidence demonstrating that the sapling tree(s) are in a healthy, growing condition.

One year after the tree protection has been set in place for the sapling 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.

6. PD049 - TREE AND ROOT PROTECTION

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: Prior to beginning any tree removal, trees which are located close to trees approved for removal shall be protected from inadvertent damage from equipment or tree removal activity by fencing off the canopy drip-lines and/or critical root zones (whichever is greater) with protective materials. Any tree protection measures recommended by a County-approved tree consultant, in addition to the standard condition, shall be implemented. (HCD - Planning)

Compliance or Monitoring Action to be Performed: Prior to construction or tree removal, the Owner/Applicant/Tree Removal Contractor submit evidence of tree protection to HCD -Planning for review and approval.

After construction or tree removal, the Owner/Applicant/Tree Removal Contractor shall submit photos of the trees on the property to HCD -Planning to document that the tree protection has been successful or if follow-up remediation measures or additional permits are required.

7. PD050 - RAPTOR/MIGRATORY BIRD NESTING

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: Any tree removal activity that occurs during the typical bird nesting season (February 22-August 1), the County of Monterey shall require that the project applicant retain a County qualified biologist to perform a nest survey in order to determine if any active raptor or migratory bird nests occur within the project site or within 300 feet of proposed tree removal activity. During the typical nesting season, the survey shall be conducted no more than 30 days prior to ground disturbance or tree removal. If nesting birds are found on the project site, an appropriate buffer plan shall be established by the project biologist. (HCD - Planning)

Compliance or Monitoring Action to be Performed: No more than 30 days prior to ground disturbance or tree removal, the Owner/Applicant/Tree Removal Contractor shall submit to HCD -Planning a nest survey prepared by a County qualified biologist to determine if any active raptor or migratory bird nests occur within the project site or immediate vicinity.

8. PD016 - NOTICE OF REPORT

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: Prior to issuance of tree removal permits, a notice shall be recorded with the Monterey County Recorder which states:
"An Arborist Report (Library No. LIB220269), was prepared by Albert Weisfuss on August 19, 2022 and is on file in Monterey County HCD - Planning. All development shall be in accordance with this report."
(HCD - Planning)

Compliance or Monitoring Action to be Performed: Prior to the issuance of tree removal permits, the Owner/Applicant shall submit proof of recordation of this notice to HCD - Planning.

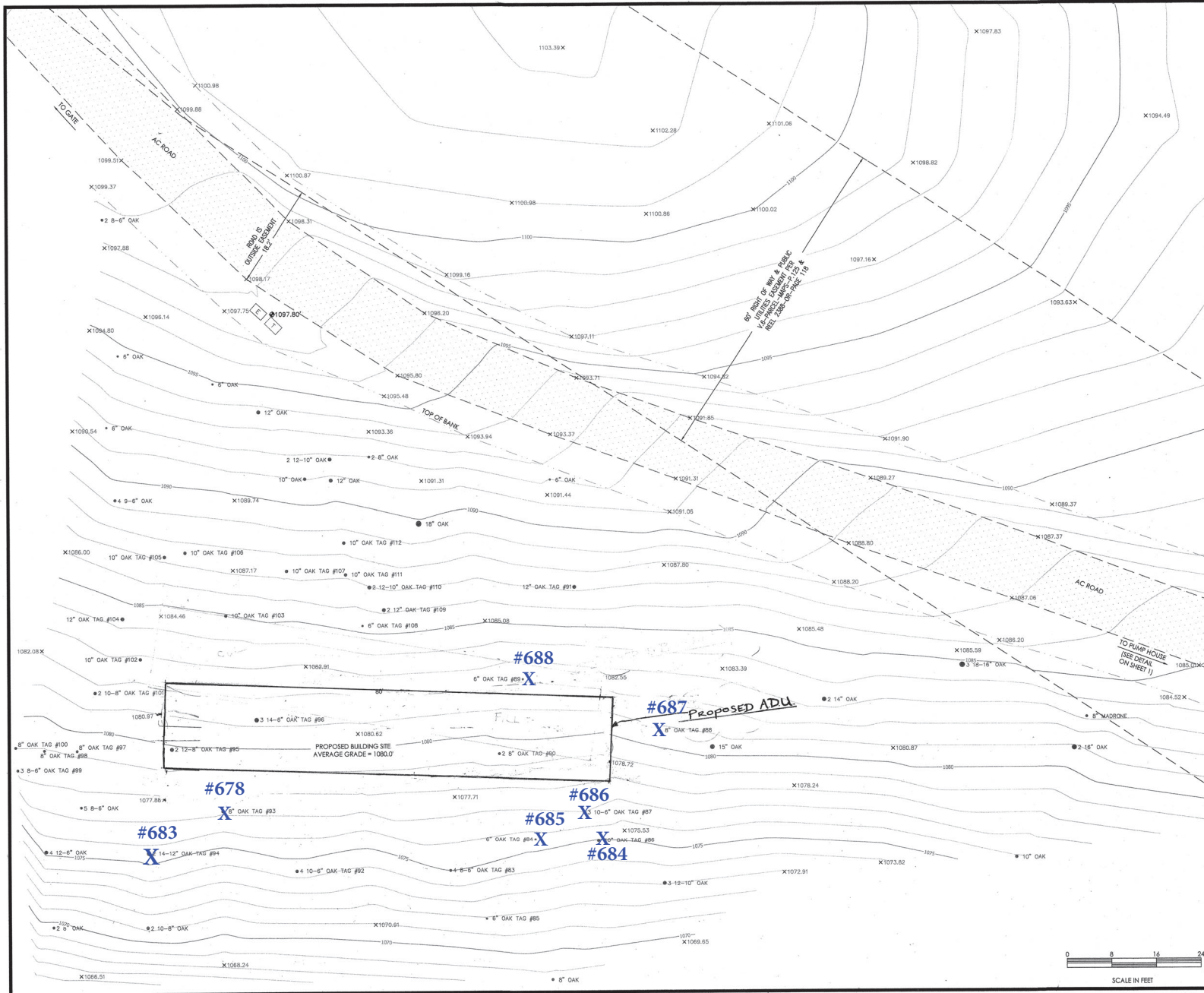
Prior to occupancy, the Owner/Applicant shall submit proof, for review and approval, that all development has been implemented in accordance with the report to the HCD - Planning.

SITE SURVEY
OF
LANDS OF TARANTINO
NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 26
T. 16 S., R. 1 E., M.D.B.&M.
VOLUME 6 PARCEL MAPS PAGE 125
A.P.N. 416-023-037
27497 SCHULTE ROAD
CARMEL VALLEY, CALIFORNIA

LEGEND

- FOUND MONUMENT, AS NOTED
- SET MONUMENT, AS NOTED
- ⊗ WATER VALVE
- ⊕ WELL
- ⊞ ELECTRIC VAULT
- ⊞ TELEPHONE VAULT
- ⊞ UTILITY POLE
- ⊞ SIGN
- TREE, TYPE AND DIAMETER SPECIFIED
- PROPERTY LINE
- LOT LINE
- - - EDGE OF DIRT ROAD
- - - TOP OF BANK
- - - PROPOSED BUILDING SITE
- - - EXISTING BUILDING
- - - AC ROAD
- ◆ PROJECT BENCHMARK IS THE NORTH CORNER OF TELEPHONE VAULT ON THE SOUTH EDGE OF ROAD AT THE NORTH END OF BUILDING SITE ELEVATION = 1077.80

R1 RECORD DATA PER VOLUME 6 - SURVEYS - PAGE 125



NOTES

1. DISTANCES ARE EXPRESSED IN FEET AND DECIMALS THEREOF.
2. CONTOUR INTERVAL = 1'
3. ELEVATIONS SHOWN HEREON ARE BASED ON NAVD83.

PREPARED FOR: Bill Tarantino
SURVEYED BY: POLARIS CONSULTING
P.O. BOX 1378
CARMEL VALLEY, CA 93924
831-459-9554

SCALE: 1" = 8' VIEW: ARCH D DATE: January 25, 2021
FILE NAME: Tarantino Site JOB #20-196 Sheet 2 of 2

