

Exhibit A

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Draft Resolution

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

In the matter of the application of:

3196 LLC (PLN230261)

RESOLUTION NO. 24--

Resolution by the Monterey County Planning
Commission:

- 1) Finding that the protection of the environment qualifies for a Class 8 Categorical Exemption pursuant to CEQA Guidelines section 15308, and there are no exceptions pursuant to section 15300.2; and
 - 2) Approving a Restoration Plan per Section 20.90.130 of the Monterey County Coastal Implementation Plan Part 1 (Title 20 Zoning Ordinance) consisting of 1:1 replanting of Monterey Cypress (14 trees) within a Conservation and Scenic Easement onsite, 1:1 replanting of Monterey Pine (8 trees) offsite, and 2:1 Monterey Cypress habitat understory restoration offsite or payment of an in-lieu fee.
- [PLN230261, 3196 17 Mile Drive, Pebble Beach, Del Monte Forest Land Use Plan, Coastal Zone (Assessor's Parcel Number: 008-491-010-000)]

The 3169 LLC application (PLN230261) came on for a public hearing before the Monterey County Planning Commission on June 26, 2024. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Monterey County Planning Commission finds and decides as follows:

I. RECITALS

BACKGROUND of the proposed Restoration Plan (PLN230261) for unpermitted removal of protected trees within an Environmentally Sensitive Habitat Area (ESHA) and encroachment into a conservation and scenic easement:

1. The property is located at 3196 17 Mile Drive, Pebble Beach (Assessor's Parcel Number 008-491-010-000), Del Monte Forest Land Use Plan. On April 25, 2023, the permit holder self-reported an issue to HCD-Planning. The issue was that one Monterey Cypress tree was planted within a known archaeological easement during the restoration that was required by Condition No. 10 of Planning Commission Resolution No. 17-006. A violation involving unpermitted tree removal was reported to the County on June 28, 2023 (23CE00332). The

unpermitted tree removal was of 14 indigenous Monterey Cypress and 8 Monterey Pine trees (22 trees).

2. On February 22, 2017, a Combined Development Permit (HCD-Planning File No. PLN150548; Planning Commission Resolution No. 17-006) was granted for the subject property which consisted of: 1) a Coastal Administrative Permit to allow demolition of a 10,891 square foot single family dwelling with a 718 square foot attached garage, and construction of a 10,773 square foot two-story single family dwelling with basement and a 500 square foot detached garage; 2) a Coastal Administrative Permit to allow construction of a 390 square foot accessory dwelling unit above the detached garage; 3) a Coastal Development Permit to allow development within 100 feet of environmentally sensitive habitat; 4) a Coastal Development Permit to allow development within an area of positive archaeological reports; 5) Amendment to an existing Conservation and Scenic Easement to adjust and add additional easement area; and 6) Design Approval.

An arborist report (HCD-Planning Document No. LIB160112) and a biological report (HCD-Planning Document No. LIB160113) were prepared for the proposed Combined Development Permit. Only one dead 30-inch Monterey Pine tree was approved for removal under HCD-Planning File No. PLN150548. No additional tree removal was anticipated; therefore, a tree replacement plan was not recommended in the arborist report. However, the biological report recommended a 1:1 replacement ratio for any trees damaged during construction activities. The biological report required indigenous Monterey Cypress habitat restoration (Condition No. 10 of Planning Commission Resolution No. 17-006), and the inclusion of the restored habitat area within an expanded Conservation and Scenic Easement in coordination with the Del Monte Forest Conservancy (Condition No. 8 *ibid*).

3. On June 29, 2023, HCD-Building Services issued a Compliance Order Letter requiring that the property owner apply for and gain approval of a Restoration Plan for the removal of protected Monterey Cypress and Pine trees and encroachment into a Conservation and Scenic Easement.
4. The permit-holder stated that the impacts made on protected resources were damaged and removed during construction of the single family dwelling. According to Google Earth imagery from 2021 to 2022, the disappearance of the 22 protected trees from the property is evident, not all trees were in the immediate vicinity of the construction. Additionally, there appeared to be construction equipment stored within the area planned for expansion of the Conservation and Scenic Easement. On July 10, 2023, HCD-Planning and Code Enforcement staff met onsite to discuss the code violation prior to the submittal of a Restoration Plan.
5. On September 19, 2023, the permit holder submitted a draft Restoration Plan with associated assessments prepared by project biologist Patrick Regan (**Exhibit B**) to HCD-Planning for consideration (PLN230261). The Restoration Plan recommended onsite restoration in keeping with previously approved onsite Restoration Plans (HCD-Planning File No. PLN150548; Planning Commission Resolution No. 17-006), supplemented by the planting of 5-gallon Cypress trees grown from seed collected in the native population along 17 Mile Drive. The proposed Plan would result in 2:1 replacement ratio for the loss of 14 Monterey Cypress trees, planted in or as close to the locations of the removed trees as possible. Monitoring of the replanted Monterey Cypress trees would be conducted by the project biologist annually for 5 years. After each calendar year, an annual report would be

prepared and submitted to HCD-Planning for review and approval. The report would include an evaluation of the success criteria and any remedial measures. At the end of the 5 year monitoring period, the success criteria would be 100 percent survival rate.

6. The site is subject to Policy 20 of the Del Monte Forest Land Use Plan, and therefore all dead Cypress are supposed to be left in place as part of the protected habitat. Restoration of impacted Monterey Cypress habitat is required to be at a ratio of 2:1. However, there was already a restoration area identified on the expanse of the undeveloped areas of the subject parcel. On March 28, 2024, Planning staff met with the project agents to discuss the need for offsite restoration in the Del Monte Forest due to these factors. On May 15, 2024, Planning staff made an additional site visit to verify the stumps of the removed trees remained in place and undisturbed on the subject property. Staff found that the tree stumps were still intact. Following the site visit, Planning staff reiterated the need for offsite restoration in addition to onsite. On June 10, 2024, the project agent submitted an updated Restoration Plan which included 6 additional trees to be replanted onsite for a total of 28 Monterey Cypress trees. No replanting was proposed for the loss of 6 Monterey Pines. No offsite planting was proposed and the agent reasoned that there was “no new site coverage” and that offsite locations were not identifiable at the time. The County disagrees with the proposed Restoration Plan and has applied Condition Nos. 8 and 10 to the project to bring it into conformance with Policy 20 and the gravity of the unpermissible tree removals. Condition No. 8 requires a 1:1 replanting of the Monterey Cypress onsite (14 trees) and 1:1 replanting of the Monterey Pine offsite (8 trees). Condition No. 10 requires 2:1 offsite Cypress forest understory restoration for the habitat area impacted by the tree removal. This restoration must be performed offsite because the onsite grounds outside of the development footprint are already required to be fully restored by the previous entitlement.

Therefore, the Planning Commission, having considered the Restoration Plan with associated impact assessments and the evidence presented relating thereto, hereby finds that restoration of the site is feasible and, in this case, does not have the potential to endanger the public health, safety, and welfare. The Planning Commission finds as follows:

II. FINDINGS

1. **FINDING:** **CONSISTENCY** – The Restoration Plan, as conditioned, is consistent with the applicable plans and policies which designate this area as appropriate for restoration.
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 1982 Monterey County General Plan;
 - Del Monte Forest Land Use Plan (DMF LUP);
 - Monterey County Coastal Implementation Plan Part 5 (CIP);
 - and
 - Monterey County Zoning Ordinance (Title 20);Conflicts with were found to exist onsite for this proposed restoration project. Communications were received during review of the project which indicated inconsistencies with the text, policies, and regulations in these documents. The proposed Restoration Plan, with additional offsite restoration, will bring the project into compliance with the DMF LUP and Title 20.

- b) The property is located at 3196 17 Mile Drive, Pebble Beach (Assessor's Parcel Number 008-491-010-000), Del Monte Forest Land Use Plan. The parcel is zoned Low Density Residential with a maximum gross density of two acres per unit with a Design Control overlay within the coastal zone or "LDR/2-D(CZ)." The proposal to restore the property back to its natural state is consistent with the residential use for this site. Therefore, the project is an allowed land use.
- c) Lot Legality. The project is shown in its current configuration as a portion of Lot 1B, Block 146, as shown on Records of Surveys Map of Rancho El Pescadero filed January 15, 1993, in Volume 17 of Surveys Page 177 in Monterey County records. Therefore, the County recognizes the parcel as a legal lot of record.
- d) Cultural Resources. County records identify the project site as within an area of high sensitivity for prehistoric cultural (archaeological) resources, and within an area of positive archaeological reports. An archaeological report (HCD-Planning Document No. LIB160109) prepared for the previous project (HCD-Planning File No. PLN150548; Planning Commission Resolution No. 17-006) confirmed that the proposed development would not impact archaeological resources in the area. However, over the course of construction for the single family dwelling, the unpermitted removal of 22 protected trees occurred and the replacement of one of those trees was planted within a known archaeological easement. Therefore, the potential for inadvertent impacts to cultural resources was not limited. Removal of the one tree planted in this sensitive area would cause further disturbance to the existing easement. The planted tree would need to be dug out of the ground with a shovel which requires going deep below the stem to keep the root ball intact for transplanting. The Restoration Plan, as proposed and conditioned, will be controlled by the use of a County standard project condition of approval to provide a contract with a Registered Professional Archaeologist for on-call archaeological services should resources be discovered during construction activities (Condition No. 3).
- e) Tree Removal. In accordance with the policies of the DMF LUP and Title 20, a Coastal Development Permit (CDP) and Forest Management Plan is required to allow the removal of 22 protected trees. However, in the Cypress Forest habitat, all the trees are protected and are not allowed to be removed. Findings would not be made for the granting of a CDP.
- f) Environmentally Sensitive Habitat Area (ESHA). Development within 100 feet of ESHA must minimize impacts in accordance with the applicable goals and policies of the Del Monte Forest Land Use Plan. See Finding No. 5.
- g) Public Access. See Finding No. 7.
- h) 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 restoration and does not propose to build any new structures at this time.

- i) The project planner conducted a site inspection on July 10, 2023 and May 15, 2024, to verify that the project on the subject parcel conforms to the plans listed above.
- j) The application, project plans, and related support materials submitted by the project applicant to Monterey County HCD-Planning for the proposed development are found in Project File PLN230261.

2. **FINDING:**

SITE SUITABILITY – The site is physically suitable for the onsite portion of the proposed Restoration Plan. The project is required to include additional offsite restoration as required by the DMF LUP. As conditioned and approved, the subject property shall be considered in compliance with all rules and regulations pertaining to zoning uses and any other applicable provisions of the Monterey County Zoning Ordinance Title 20.

EVIDENCE:

- a) The project has been reviewed for site suitability by the following departments and agencies: HCD-Planning, HCD-Building Services, HCD-Environmental Services, and HCD-Engineering Services. There has been no indication from these departments/agencies that the site is not suitable for the proposed restoration. Conditions recommended have been incorporated.
- b) The following report has been prepared for this restoration project:
“Biological Assessment & Restoration Plan” (LIB230281)
prepared by Patrick Regan, August 15, 2023, and updated on June 10, 2024.

The following reports were consulted by staff in the review of this project:

- “Cultural Resources Report” (LIB160109) prepared by Archaeological Consulting, Salinas, California, February 26, 2016.
- “Tree Resource Evaluation, Project Impact Analysis, and Tree Protection Plan” (LIB160112) prepared by Maureen Hamb, Certified Arborist, Santa Cruz, California, March 15, 2016.
- “Biological Assessment” (LIB160113) prepared by Fred Ballerini Horticultural Services, Pacific Grove, California, March 22, 2016.

County staff independently reviewed the Biological Assessment & Restoration Plan report and concurred with most of its conclusions. The 2016 arborist report concluded that no trees shall be removed as they are all protected as part of the Cypress Forest habitat. HCD-Planning recommends revisions to the proposed Restoration Plan to better align with the preservation guidance of DMF LUP Policy 20. The Planning Commission takes the draft Restoration Plan into consideration and conditions it with offsite restoration.

- c) The project site was found not suitable for all restoration to take place, therefore an offsite location shall be identified that is suitable for Monterey Cypress habitat restoration such that all impacts to Monterey Cypress habitat without benefit of permit are abated while the area that was planned for restoration of Cypress habitat at

Assessor's Parcel Number 008-491-010-000 continues to be restored as planned under HCD-Planning File No. PLN150548; Planning Commission Resolution No. 17-006.

- d) Staff conducted a site inspection on July 10, 2023 and May 15, 2024, to verify that the site is suitable for this use.
- e) The application, project plans, and related support materials submitted by the project applicant to Monterey County HCD-Planning for the proposed development are found in Project File PLN230261.

3. **FINDING:** **HEALTH AND SAFETY** - The establishment, maintenance or operation of the Restoration Plan 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 activity, 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-Building Services, HCD-Environmental Services, and HCD-Engineering Services. 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) Necessary public facilities to serve the project site are available. The reconstructed single family dwelling (HCD-Planning File No. PLN150548; Planning Commission Resolution No. 17-006) has public water and sewer connections provided by the California American Water Company and the Pebble Beach Community Services District/Carmel Area Wastewater District, respectively, and will continue to use these same connections.
 - c) Staff conducted a site inspection on July 10, 2023 and May 15, 2024, to verify that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood.
 - d) The application, project plans, and related support materials submitted by the project applicant to Monterey County HCD-Planning for the proposed development are found in Project File PLN230261.

4. **FINDING:** **NO VIOLATION** - The subject property had an open investigation for unpermitted tree removal within a conservation and scenic easement which resulted in the application of a Restoration Permit. As a result of this action to restore the property to its pre-violation state, the subject property shall be considered in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of the Monterey County Zoning Ordinance Title 20.

- EVIDENCE:**
- a) Staff reviewed Monterey County HCD-Planning and HCD-Building Services records and was aware of an open investigation (23CE00332) on the subject property. The investigation was for the unpermitted removal of 22 protected trees consisting of 14 indigenous Monterey

Cypress and 8 Monterey Pine trees and disturbance within a Conservation Scenic Easement.

- b) On June 28, 2023, a code enforcement complaint was received regarding the violations described in evidence “a.”
- c) Staff conducted a site inspection with Code Enforcement on July 10, 2023, and researched County records to assess the violation on the subject property.
- d) A Restoration Plan (PLN230261) has been reviewed by the Director of HCD-Planning, and the project is conditioned to include offsite restoration and tree planting. When implemented, the project will bring the subject property into compliance with all rules and regulations pertaining to the property. On September 29, 2023, the code violation case was closed by Code Enforcement as a result of the submitted Restoration Plan. See Recitals 1 and Finding No. 6.
- e) 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 PLN230261.

5. **FINDING:**

ESHA – The subject project minimizes impact on environmentally sensitive habitat areas in accordance with the applicable goals and policies of the applicable land use plan and zoning codes.

EVIDENCE:

- a) The project includes an application for restoration within 100 feet of ESHA. In accordance with the applicable policies of the DMF LUP, the CIP and Title 20, a Restoration Permit is required.
- b) Per DMF LUP Figure 2a, the subject property is within the range of indigenous Monterey Cypress habitat, which is considered ESHA. DMF LUP Policies 8, 20, and 72 require development adjacent to ESHA be compatible with the long-term maintenance of the habitat area and not disrupt habitat values, protect Monterey Cypress trees within their indigenous range, and avoid potential damage or degradation of Monterey Cypress habitat. As previously conditioned as part of Planning Commission Resolution No. 17-006, the Restoration Plan is enhancing 10,868 square feet of Coastal Bluff scrub habitat, providing germination of 5,955 square feet of Monterey Cypress habitat, and including the conservation of 47,887 square feet of Monterey Cypress habitat. The construction has been sited and designed to avoid adverse impacts to both individual Monterey Cypress trees and the Cypress habitat located on the parcel. The arborist and biological reports (HCD-Planning Document No. LIB160113 and LIB160112, respectively) previously prepared for the property (HCD-Planning File No. PLN150548; Planning Commission Resolution No. 17-006) concluded that development of the single family dwelling would not result in impacts to sensitive species or habitat, and that Monterey Cypress habitat would be enhanced and improved for seed germination and development. However, over the course of construction, Monterey Cypress habitat was impacted and therefore, the additional restoration requires a Restoration Permit.
- c) Consistent with DMF LUP policies regarding protection of ESHA, the County had applied Condition No. 7 to ensure protection of Monterey Cypress trees adjacent to the construction area, Condition No. 10 to

require restoration of areas disturbed during construction activities, and Condition No. 13 to require arborist and biologist certification that all development had been constructed in accordance with the recommendations in the reports prepared for HCD-Planning File No. PLN150548. In addition, Condition No. 8 had been applied based on the Applicant's proposal to increase the existing conservation and scenic easement area by 3,201 square feet.

- d) Recommendations made within the applicant's draft 2024 Restoration Plan do not fully comply with the intent of the DMF CIP Section 20.147.050.C.3.d.6 regarding forest resources. Pursuant to this section, where removal of native trees is allowed for development, such removal shall be mitigated through replanting or forest preservation either on or offsite, whichever is better overall for forest resources. Mitigation allows for tree planting of an equal number of trees of the same variety and/or preservation of an equal area of forest offsite in the Del Monte Forest; payment of an in-lieu fee to an appropriate conservancy; or other similar tree replacement or forest preservation strategy within the Del Monte Forest including a combination of any of the above strategies. The DMF CIP does not take into account the repercussions of unpermitted tree removal and replacement within an area already mandated for preservation. Such removals must be treated as violations. Disturbance of the understory related to tree removals can be measured to 10 feet out from the canopy dripline of each lost tree. Because that area is already required to be restored pursuant to the previous entitlement, more understory restoration is needed to meet the 2:1 ratio discussed in DMF LUP Policy 20. Therefore, the Planning Commission finds it necessary to require both on and offsite restoration to restore and enhance Cypress habitat to the greatest extent feasible.
- e) To align with DMF LUP Policy 20 and CIP section 20.90.130, as part of the Restoration Plan, offsite Cypress forest understory restoration is required at a 2:1 ratio for the habitat area impacted by the tree removal. This restoration must be performed offsite within the Del Monte Forest or an inlieue fee for the restoration may be paid for the work to be done by the Del Monte Forest Conservancy. The approximate area of tree canopy plus 10 feet for the 22 trees is 6,150 square feet.
- f) 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 PLN230261.

6. **FINDING:** **CEQA (Exempt)** - The restoration 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 15308 categorically exempts actions taken by regulatory agencies as authorized by state law or local ordinance to assure the maintenance, restoration, or enhancement of natural resources where the regulatory process involves procedures for protection of the environment.

- b) This Restoration Plan includes restoration activities on and offsite to remedy the unpermitted removal of 14 indigenous Monterey Cypress trees and 8 Monterey Pines. Therefore, the restoration qualifies for a categorical exemption as a restoration activity pursuant to Section 15308 of the CEQA guidelines.
- 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 state-designated scenic highway, unusual circumstances that would result in a significant effect, or development that would result in a cumulatively significant impact. The parcel is located within the area of indigenous Monterey Cypress habitat (as depicted on the Del Monte Forest Land Use Plan Figure 2a) which is designated as a sensitive biological environment. The unpermitted removal of protected trees negatively impacted Cypress habitat resulting in the application for a Restoration Permit. As proposed and conditioned, the Restoration Plan would provide a 1:1 replanting of the Monterey Cypress onsite (14 trees) and 1:1 replanting of the Monterey Pine offsite (8 trees), and 2:1 offsite Cypress forest understory restoration for the habitat area impacted by the tree removal. The overall restoration would result in an increase in protected indigenous Cypress habitat.
- d) No potential adverse environmental effects were identified during staff review of the restoration application during a site visit on July 10, 2023 and May 15, 2024. Implementation of the proposed Restoration Plan will restore, protect, and enhance Monterey Cypress habitat within the Del Monte Forest to the greatest extent feasible. See supporting Finding Nos. 1 and 2.
- e) The application, project plans, and related support materials submitted by the project applicant to Monterey County HCD-Planning are found in Project File PLN230261.

7. **FINDING:** **PUBLIC ACCESS** – The project is in conformance with the public access and recreation policies of the Coastal Act (specifically Chapter 3 of the Coastal Act of 1976, commencing with Section 30200 of the Public Resources Code) and Local Coastal Program, and does not interfere with any form of historic public use or trust rights.

- EVIDENCE:**
- a) No public access is required as part of the project as no substantial adverse impact on access, either individually or cumulatively, as described in Section 20.147.130 of the Monterey County Coastal Implementation Plan can be demonstrated.
 - b) The subject project site is not described as an area where the Local Coastal Program requires physical public access (Figure 8, Major Public Access and Recreational Facilities, in the Del Monte Forest Land Use Plan).
 - c) The subject project site is identified as an area where the Local Coastal Program requires visual public access (Figure 3, Visual Resources, in the Del Monte Forest Land Use Plan). See Evidence “e” below.

- d) No evidence or documentation has been submitted or found showing the existence of historic public use or trust rights over this property.
- e) Based on review of the project location on the west (i.e., ocean) side of 17 Mile Drive, and its relationship to existing visual public access areas on the subject property (i.e., an existing conservation and scenic easement), the development proposal will not interfere with visual access along 17 Mile Drive. The proposed development is consistent with Del Monte Forest Land Use Plan Policies 123 and 137, and will not block significant public views toward the ocean and will not adversely impact the public viewshed or scenic character in the project vicinity.
- f) The application, project plans, and related support materials submitted by the project applicant to Monterey County HCD-Planning are found in Project File PLN230261.

8. **FINDING:** **APPEALABILITY** - The decision on this project may be appealed to the Board of Supervisors and the California Coastal Commission.

- EVIDENCE:**
- a) Board of Supervisors. Pursuant to section 20.86.030 of the Monterey County Zoning Ordinance (Title 20), 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) California Coastal Commission. Pursuant to section 20.86.080.A of the Monterey County Zoning Ordinance (Title 20), the project is subject to appeal by/to the California Coastal Commission because it involves development between the sea and the first through public road paralleling the sea, development within 300 feet of the mean high tide line of the sea where there is no beach, and development within 300 feet of the top of the seaward face of any coastal bluff (i.e.; development within 100 feet of environmentally sensitive habitat and development within an area of positive archaeological reports).

III. DECISION

NOW THEREFORE BE IT RESOLVED that the Planning Commission finds that full restoration of the site shall be required to address the violation in accordance with the attached conditions and in accordance with the approved Restoration Plan for the site. An additional requirement was added to the proposed Restoration Plan to include offsite restoration to appropriately mitigate for damage to protected Monterey Cypress habitat.

BE IT FURTHER RESOLVED that, in addition to these required findings, the Planning Commission has determined that the proposed restoration of the site would not result in greater impacts on forest resources within an archaeological easement and environmentally sensitive habitat area. The Planning Commission, having considered the Restoration Plan and the evidence presented relating thereto, concludes that the proposed restoration onsite is feasible and required in this case and does not have the potential to endanger public health, safety, and welfare. The additional requirement of offsite restoration has been made feasible through a memorandum of agreement with a qualified conservancy to either restore or pay an in-lieu fee to an acceptable public agency or private group effectively able to both manage such a fee and to implement such measures.

BE IT FURTHER RESOLVED that it is the decision of said Planning Commission to approve the Restoration Plan (**Exhibit B**) with the following terms and conditions (**Exhibit A**) and approved plan (**Exhibit B**), all being attached hereto and incorporated herein by reference.

PASSED AND ADOPTED this 26th day of June 2024, upon motion of Commissioner _____, seconded by Commissioner _____, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Melanie Beretti, Planning Commission Secretary

COPY OF THIS DECISION MAILED TO APPLICANT ON _____

THIS APPLICATION IS APPEALABLE TO THE BOARD OF SUPERVISORS.

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 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.

County of Monterey HCD Planning

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

PLN230261

1. PD001 - SPECIFIC USES ONLY

Responsible Department: Planning

Condition/Mitigation Monitoring Measure: This Restoration Permit (PLN230261) allows restoration consisting of 1:1 replanting of Monterey Cypress (14 trees) within a Conservation and Scenic Easement onsite, 1:1 of Monterey Pine (8 trees) offsite, and 2:1 Monterey Cypress habitat understory restoration of approximately 6,150 square feet offsite. The property is located at 3196 17 Mile Drive, Pebble Beach, (Assessor's Parcel Number 008-491-010-000), Del Monte Forest Land Use Plan, Coastal Zone. 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: Planning

Condition/Mitigation Monitoring Measure: The applicant shall record a Permit Approval Notice. This notice shall state:
"A Restoration Plan (Resolution Number _____) was approved by the Planning Commission for Assessor's Parcel Number 008-491-010-000 on June 26, 2024. The permit was granted subject to 10 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(B) - CULTURAL RESOURCES POSITIVE ARCHAEOLOGICAL REPORT

Responsible Department: Planning

Condition/Mitigation Monitoring Measure: If archaeological resources or human remains are accidentally discovered during construction, the following steps will be taken:

There shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until the coroner of the county in which the remain are discovered must be contacted to determine that no investigation of the cause of death is required.

If the coroner determines the remains to be Native American:

- The coroner shall contact the Native American Heritage Commission and HCD - Planning within 24 hours.
- The Native American Heritage Commission shall identify the person or persons from a recognized local tribe of the Esselen, Salinan, Costonoans/Ohlone and Chumash tribal groups, as appropriate, to be the most likely descendant.
- The most likely descendant may make recommendations to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in Public Resources Code Section 5097.9 and 5097.993, Or

Where the following conditions occur, the landowner or his authorized representatives shall rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further subsurface disturbance:

1. The Native American Heritage Commission is unable to identify a most likely descendant or the most likely descendant failed to make a recommendation within 24 hours after being notified by the commission.
2. The descendant identified fails to make a recommendation; or
3. The landowner or his authorized representative rejects the recommendation of the descendant, and the mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner.

(HCD - Planning)

Compliance or Monitoring Action to be Performed: Prior to the issuance of grading or building permits or approval of Subdivision Improvement Plans, whichever occurs first, the Owner/Applicant, per the archaeologist, shall submit the contract with a Registered Professional Archaeologist for on-call archaeological services should resources be discovered during construction activities. Submit the letter to the Director of the HCD – Planning for approval.

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, on the Subdivision Improvement Plans, in the CC&Rs, and shall be included as a note on an additional sheet of the final/parcel map.

Prior to Final, the Owner/Applicant, per the Archaeologist, shall submit a report or letter from the archaeologist summarizing their methods, findings, and recommendations if their services are needed during construction or if no resources were found.

4. PD006(A) - CONDITION COMPLIANCE FEE

Responsible Department: 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.

5. PDSP02 – NOTICE OF REPORT

Responsible Department: Planning

Condition/Mitigation Monitoring Measure: Prior to the commencement of approved restoration work, a finalized Biological Assessment & Restoration Plan must be submitted to HCD-Planning for review and approval. Once approved, a notice shall be recorded with the Monterey County Recorder which states:

"A Biological Assessment & Restoration Plan (Library No. LIB230281), was prepared by Patrick Regan on August 15, 2023; updated on June 10, 2024, and finalized on [the date of which HCD-Planning approves the final Restoration Plan] 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 commencement of approved restoration work, the Owner/Applicant shall submit a final revised Biological Assessment and Restoration Plan to HCD-Planning for review and approval prior to recordation.

Prior to the commencement of approved restoration work, 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 restoration has been implemented in accordance with the report to the HCD - Planning.

6. PD011 - TREE AND ROOT PROTECTION

Responsible Department: 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.

7. PD033 -RESTORATION NATURAL MATERIALS

Responsible Department: Planning

Condition/Mitigation Monitoring Measure: Upon completion of the development, the area disturbed shall be restored to a condition to correspond with the adjoining area, subject to the approval of the Director of HCD - Planning. Plans for such restoration shall be submitted to and approved by the Director of the HCD - Planning Department prior to commencement of use. (HCD - Planning)

Compliance or Monitoring Action to be Performed: Prior to commencement of use, the Owner/Applicant shall submit restoration plans to HCD - Planning for review and approval.

8. PD048 - TREE REPLACEMENT/RELOCATION

Responsible Department: Planning

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

- Replacement ratio: 1:1 for Monterey Pine trees offsite
- Replacement ratio recommended by arborist: Plant 5-gallon native Monterey Cypress trees. Trees are to be planted near the area where trees were removed onsite. The remaining balance of Pine trees to be replanted shall be at an appropriate offsite location.
- Other: Refer to the recommendations in the Biological Assessment & Restoration Plan (Library No. LIB230281) by Patrick Regan dated August 15, 2023, and the final Restoration Plan to be prepared pursuant to Condition No. 10. Replacement ratio of 1:1 for Monterey Cypress trees onsite 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. 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

10. PDSP01 - RESTORATION AND ENHANCEMENT OF OFF-SITE MONTEREY CYPRESS HABITAT

Responsible Department: Planning

Condition/Mitigation Monitoring Measure: The unpermitted removal of 22 trees within a healthy Monterey Cypress forest shall be offset through restoration and/or enhancement (as high value and self-functioning Monterey cypress habitat) of an off-site area located within the Monterey cypress habitat area, as mapped in Del Monte Forest Land Use Plan Figure 2a. The restoration shall be at a ratio of 2:1 for approximately 6,150 square feet of impacted Monterey Cypress forest habitat and/or payment of a mitigation fee, commensurate with the cost to restore/enhance such an area, to an acceptable public agency or private group effectively able to both manage such a fee and to implement such measures pursuant to Coastal Implementation Plan section 20.147.050.C.3.d.6. Such off-site restoration/enhancement areas shall be selected for their potential to result in the greatest amount of overall benefit to the native Monterey Cypress habitat in the Del Monte Forest. (HCD-Planning)

Compliance or Monitoring Action to be Performed: Action 1a: Prior to recordation of the conditioned Conservation and Scenic easement (HCD-Planning File No. PLN150548; Condition No. 8), the owner/applicant shall work with the Del Monte Forest Conservancy to determine if there is an appropriate off-site area for restoration of approximately 12,300 square feet of Monterey Cypress forest understory or if an off-set fee shall be paid.

Action 1b: Prior to final of construction permits for grading or building, the owner/applicant shall submit sufficient evidence to HCD-Planning demonstrating compliance with off-site Monterey Cypress habitat restoration.

- Per report - New Cypress Trees (28)
- ✕ Monterey Pines removed (8)
- ✕ Cypress Trees removed (14)

