

Attachment A

This page intentionally left blank.

ATTACHMENT A

DRAFT RESOLUTION

Before the Board of Supervisors in and for the County of Monterey, State of California

In the matter of the application of:

WHISLER PATRICK A ET AL (PLN210353)

RESOLUTION NO. 23--

Resolution by the Monterey County Board of Supervisors:

- 1) Granting the appeal of Patrick Whisler from the Planning Commission's denial of a Coastal Development Permit to allow transient use of a property for remuneration (short term rental) as a similar use to a Bed and Breakfast facility;
- 2) Finding that the project qualifies for a Class 1 Categorical Exemption pursuant to CEQA Guidelines section 15301 and no exceptions under section 15300.2 apply; and
- 3) Approving a Coastal Development Permit to allow transient use of a property (three single family dwellings) for remuneration as a similar use to a Bed and Breakfast facility.

[PLN210353 WHISLER PATRICK A ET AL, 47 HIGHWAY 1, CARMEL AREA LAND USE PLAN, COASTAL ZONE (APN: 243-061-003-000)]

The Appeal by Patrick Whisler from the decision by the County of Monterey Planning Commission came on for a public hearing before the County of Monterey Board of Supervisors on September 12, 2023. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Board of Supervisors finds and decides as follows:

FINDINGS

1. **FINDING:** **PROCESS** - The County has received and processed a Coastal Development Permit (PLN210353) in compliance with applicable procedural requirements.
EVIDENCE:
 - a) On October 17, 2022, Patrick Whisler, et al. (Applicant or Appellant) submitted an application for a Coastal Development Permit to allow transient use of a property containing three single family dwellings for remuneration as a similar use to a Bed and Breakfast Facility.
 - b) The application was deemed incomplete on November 15, 2022, and additional materials were requested by County departments. The

Applicant provided the requested information and materials on January 5, 2023, and on February 3, 2023, County staff deemed the application complete.

- c) Land Use Advisory Committee Review. The proposed project was referred to the Carmel Highlands Land Use Advisory Committee (LUAC) for review on March 6, 2023. At a duly notice public meeting, the LUAC voted 5-0 with two members absent to support the project as proposed. No public members were in attendance for this project. During their deliberation on this project, the LUAC raised questions about whether the proposed use was an allowed use in the zoning district, they questioned the required entitlement and correct processing of the application, and voiced concerns about conversion of other residences in Carmel Highlands to Bed and Breakfast facilities and Short-Term Rentals. Staff response was that there is no specific regulations in the Monterey County Code (MCC) concerning short-term rentals in the Coastal Zone. The zoning (MCC section 20.14.050.Z) allows for the establishment of similar uses to a bed & breakfast, subject to the granting of a Coastal Development Permit. Other requests require separate discretionary review and approval.
- d) The Monterey County Planning Commission held a duly-noticed public hearing on the Whisler application on May 10, 2023, at which all persons had the opportunity to be heard. Notices for the Planning Commission public hearing were published in the *Monterey County Weekly* on April 27, 2023; posted on and near the project site on April 30, 2023; and mailed to vicinity property owners and interested parties on April 26, 2023.
- e) On May 10, 2023, the Planning Commission considered the Coastal Development Permit (PLN210353). As proposed, the project allowed three dwellings to be rented separately, or together depending on the number of guests. The Whalers Cottage would occupy 6 guests while the Sea Otter and Abalone Cottages would be limited to 4 guests, for a total of 14 guests. Each rental contract would be limited to no more than 29 consecutive nights in a 30-day period, and no more than 60 days in a one-year period. As proposed, a local off-site property manager would provide management services. After staff presentation, public comment, and deliberation, the Planning Commission made a motion of intent to deny the project due to inconsistencies with the MCC, specifically the Bed and Breakfast Facility regulations (Section 20.64.100). The hearing was continued to a date uncertain to allow staff time to prepare the requested denial resolution.
- f) The Monterey County Planning Commission held a second duly-noticed public hearing on the Whisler application on June 28, 2023, at which all persons had the opportunity to be heard. Notices for the Planning Commission public hearing were published in the *Monterey County Weekly* on June 15, 2023; posted on and near the project site on June 17, 2023; and mailed to vicinity property owners and interested parties on June 13, 2023.

- g) On June 28, 2023, staff returned to the Planning Commission with a draft resolution recommending denial of the project as proposed. After staff presentation, public comment, and deliberation, the Planning Commission made a motion to deny the project (Planning Commission Resolution No. 23-019). Through adoption of this resolution, the Planning Commission found that Bed & Breakfast regulations require that the property owner occupy and manage the Bed & Breakfast (MCC section 20.64.100.C) and that the zoning for the property, Low Density Residential, allow “other residential uses of a similar character.” The proposed short-term rental of the property would not have an owner onsite and the short-term rentals are considered to be a non-residential use.
- h) The property owner, Patrick Whisler, filed a timely appeal from the June 28, 2023 decision of the Planning Commission denial of a Coastal Development Permit to allow use of the property as a short term rental. The appeal contends that the findings are not supported by the evidence. See Finding No. 8 for the text of the Appellant’s contentions and the County response to the appeal.
- i) Pursuant to MCC section 20.86.030.C and E, an appeal shall be filed with the Clerk of the Board of Supervisors within 10 days after written notice of the decision of the Appropriate Authority (i.e., Planning Commission Resolution No. 23-019) has been mailed to the Applicant, and no appeal shall be accepted until the notice of decision has been given (i.e., mailed). The County mailed the written notice of the decision on July 7, 2023, and said appeal was filed with the Clerk of the Board of Supervisors on July 17, 2023, within the 10-day timeframe prescribed by MCC section 20.86.030.C. The appeal hearing must be heard de novo. A complete copy of the appeal is on file with the Clerk of the Board, and is attached to the September 12, 2023 staff report to the Board of Supervisors as Attachment B.
- j) The appeal was timely brought to a duly-noticed public hearing before the Monterey County Board of Supervisors on September 12, 2023. Notice of the hearing was published on August 31, 2023, in the *Monterey County Weekly*; notices were mailed on August 29, 2023 to all property owners and occupants within 300 feet of the project site, and to persons who requested notice; and at least three (3) notices were posted at and near the project site on August 25, 2023.
- k) The application, plans, and supporting materials submitted by the project applicant to Monterey County HCD-Planning for the proposed development found in Project File No. PLN210353.

2. 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:
 - 1982 Monterey County General Plan;

- Carmel Area Land Use Plan and Coastal Implementation Plan, Part 4; and
- Monterey County Zoning Ordinance (Title 20).

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. The Planning Commission interpretation of the Code as it applies to this project found that the project is inconsistent with the requirements of the Low Density Residential Zoning district. A more thorough analysis of the zoning code as it applies to this project is provided in the findings and evidence that follows.

- b) Allowed Use. The property is located at 47 Highway 1, Carmel (Assessor's Parcel Number [APN] 243-061-003-000), Carmel Area Land Use Plan, Coastal Zone. The parcel is zoned Low Density Residential, one unit per acre, with a Design Control overlay, within the Coastal Zone, or "LDR/1-D (CZ)", which allows for the establishment of a Bed & Breakfast facility, subject to the granting of a Coastal Development Permit per MCC 20.14.050.G. MCC section 20.14.050.Z allows: "Other residential uses of a similar character, density and intensity as those listed in this Section [20.14.050] determined by the Planning Commission to be consistent and compatible with the intent of this Chapter [20.14] and the applicable land use plan," subject to the granting of a Coastal Development Permit. The Applicant proposes the use of three existing single-family dwellings for short-term rental. Monterey County does not have adopted transient use or short-term rental regulations within the Coastal Zone, only within the Inland portions of the County. As such, MCC section 21.64.280 (Transient Use of a Residential Property for Remuneration) is not applicable and should not be considered. Therefore, the Applicant has applied for the proposed use under MCC section 20.14.050.Z. As detailed in the Finding 2, Evidence "e" through "h," the proposed short-term rental is found to be of similar character, density, and intensity as other residential uses listed in MCC section 20.14.050, such as a Bed and Breakfast facility (MCC 20.14.050.G), and is consistent and compatible with the Low-Density Residential Zoning District and applicable Carmel Area Land Use Plan (LUP) policies. Therefore, the project is an allowed land use for this site, subject to the granting of a Coastal Development Permit.
- c) Lot Legality. The subject property (1.14 acres) is identified in its current configuration and under separate ownership in both the 1964 and 1972 Assessor's Parcel Maps as Parcel 1. Therefore, the County recognizes the subject property as a legal lot of record.
- d) The subject property contains three single-family dwellings: "Whalers Cottage" 1,324 square feet, "Sea Otter Cottage" 895 square feet, and "Abalone Cottage" 654 square feet. The main residence was constructed in 1870 while the two smaller residences were originally developed as "outbuildings" with kitchens. Throughout the early 1900s, the subject property was used to sell raw milk and Jack Cheese. Inclusion of the kitchens would indicate that the intent of these structures was for habitable purposes such as employee living quarters or guest cottages, while also having the ability to produce cheese. No development is

proposed as part of this application. All existing development complies with the site development standards established for the LDR zoning district.

- e) Revised Operations Plan. According to the Applicant, whose family has owned the property since 1904, the subject property has been utilized for transient use for remuneration since approximately 1985. Implementation of the proposed project will not result in an intensification of the existing use. As detailed in the attached Operations Plan, the proposed use includes the rental of three single-family dwellings. The Whalers Cottage contains four bedrooms and one kitchen, the Sea Otter Cottage contains two bedrooms and a kitchen, and the Abalone Cottage contains two bedrooms and a kitchen. These three dwellings will have the ability to be rented separately. The Whalers Cottage can accommodate up to 6 guests while the Sea Otter and Abalone Cottage are limited to no more than 4 guests each, for a total of 14 guests. Each rental contract will be limited to a minimum 4 nights stay and a maximum of 29. Guests may not stay more than 60 days in a one-year period. The proposed occupancy limits are based on the allowance of the existing septic system and are in accordance with the occupancy standards established in the California Health & Safety Code, Federal Uniform Housing Code, and International Property Maintenance Code. Adequate parking will be provided. The Operations Plan has been updated in response to the Planning Commission's June 28, 2023 denial to provide additional detail about the management style of the property. The property Owner/Manager resides at a nearby property located at 57 Riley Ranch Road (1 mile south) and will greet the guests upon commencement of each rental contract. The Property Manager will also conduct daily visits as needed. As noted in the Operations Plan and confirmed by staff through researching County records, no complaints have been filed with the County over the past 35 years that the property has operated as a short-term rental (also see Finding No. 5 and supporting evidence). The Operations Plan, which includes fire safety guidelines, prohibited uses, and authorized vendors, will be provided to the guests. Prohibited uses include parties and events of any kind, and loud and unreasonable sound between 9:00PM and 7:00AM the following morning. Authorized vendors will be used to provide cleaning, laundry, irrigation, heating, plumbing, landscaping, etc., services between or during rental periods.
- f) Bed and Breakfast. MCC section 20.14.050.G allows Bed and Breakfast facilities in LDR with a Coastal Development Permit. MCC section 20.64.100 establishes the regulations for Bed and Breakfast facilities. Pursuant to this section, the property owners shall occupy and manage the bed and breakfast facility, the facility shall not be affiliated with hotels or motels operating anywhere in the County of Monterey, no more than 10 guest rooms may be allowed in 1 facility, the maximum stay for guests shall not exceed 29 consecutive days in a 30 day period and no more than 60 days in a one year period, long-term rental of rooms shall be prohibited, the facility shall provide parking on site at the rate of 1 space per guestroom plus two spaces for the owners, such facilities shall be subject to the transient occupancy tax, and any

cooking facility must comply with state and local law. Additionally, this section allows for each facility to have a maximum of one sign not exceeding 4 square feet and not internally illuminated. Consistent with the Bed and Breakfast regulations, and as detailed in the preceding evidence, the proposed short-term rental does not include more than 10 guest rooms per facility (3 bedrooms, 2 bedrooms, and 2 bedrooms), is not affiliated with a hotel or motel, is limited to the allowed rental periods, provides one parking space per guestroom (7) and two property owner/manager parking spaces, is subject to transient occupancy tax, and contains cooking which complies with State and County code. Additionally, an approximate 2 square foot sign is currently installed at the property and additional signage is not proposed at this time. The proposed project would not have a property owner or a property manager permanently reside on the property. In this case, the Applicant proposes a short-term rental and not a bed & breakfast facility. The short-term rental is being considered as use of similar nature to a bed & breakfast. In this case, the Board of Supervisors finds that the proposed local property manager (located one mile south) will provide adequate management of the subject property, the three residences, and associated guests, in a manner similar to occupancy the occupancy standards in the bed & breakfast requirements. Additionally, although MCC does not require Bed and Breakfast facilities to have a minimum rental period, the Applicant is proposing a minimum of a 4-night stay. Consistent with the Bed and Breakfast facility regulations, the Applicant is proposing that the maximum stay for guests does not exceed 29 consecutive days in a 30-day period and no more than 60 days in a one-year period.

- g) Utility Demand. In comparison to a 7 guestroom Bed and Breakfast facility, with a total maximum occupancy of 14 individuals, the proposed use will have similar water and wastewater generation. The property has been utilized as a short-term rental since 1985. As such, the existing wastewater generation and average water usage of 0.6 acre-feet per year are not anticipated to increase with the issuance of this Coastal Development Permit. Additionally, no increase in energy use is anticipated. No exterior improvements are proposed and therefore, no additional lighting sources will be visible from Highway 1. In terms of potential impacts on utility services, the proposed project will have a similar character and intensity to a Bed and Breakfast facility. Additionally, impacts will not exceed baseline (current) conditions as the short-term rental use has occurred on the subject property for over 35 years.
- h) Traffic Generation. To determine traffic generation for comparison of the proposed use and other uses allowed in the zoning district, like Bed and Breakfast facilities, a Trip Generation Assessment (Finding 3, Evidence “b”) was prepared by Keith Higgins. This Assessment based its analysis on the “Trip Generation Manual,” Institute of Transportation Engineers, 11th Edition, September 2021 (ITE Trip Manual). The ITE Trip Manual is the standard source of trip generation data used throughout the traffic engineering and transportation planning industry. No ITE Trip Manual land use category corresponds exactly with a Bed & Breakfast or short-term rental. Therefore, the traffic engineer

analyzed the proposed project's trip generation based on similar land use categories. This included a review of uses such as Single Family Residential, Single-Family Attached Housing, Multi-Family Housing (Low-Rise), Recreational Home, Timeshare, Motel, and Hotel. Of the analyzed residential land uses, Single Family Residential (ITE Land Use Code 210) has the highest daily trip generation of 10 trips per day. Of analyzed commercial land uses, a Hotel (ITE Land Use Code 310) has the highest daily trip rate of 13 trips per room, assuming full occupancy. A Motel (ITE Land Use Code 320) with full occupancy has a daily trip rate of 5 trips per day. The Trip Assessment determined that a hotel is not an appropriate comparison for the proposed project because hotels often include "ancillary facilities such as restaurants, shops, and conference facilities which require many more employees and deliveries and generate visitor trips independent of the guest rooms", none of which the proposed project site or immediate vicinity offer.

If analyzed as three single-family dwellings, the proposed project would generate approximately 30 daily trips, or 9.43 daily trips per residence. The three residences have a total of 7 bedrooms. Therefore, if analyzed as a 7-unit hotel or motel with full occupancy, the project would generate 86 daily trips (13 trips per unit) or 31 daily trips (5 trips per unit), respectively. In this specific case, the subject property is an isolated residential property surrounded by open space that does not have immediate proximity to conference facilities, restaurants, retail, etc. However, the project is located adjacent to Monastery Beach, and near Carmel-by-the-Sea, The Barnyard, and Point Lobos State Natural Reserve. Due to the proximity to amenities, it is anticipated that the proposed use will generate daily traffic trips which are comparable to three single family dwellings or a 7-unit Bed and Breakfast facility (30 to 31 daily trips) located in on a similarly situated lot. Given that occupancy of the subject property's residence and guesthouse will be approximately 60-75% of year, the anticipated 30 to 31 daily trips would only occur during times of occupancy. Additional trips would be generated by cleaning, gardening, etc., services in between rental contracts. In comparison to the trip generation and traffic impacts of a Bed & Breakfast facility, the proposed project is anticipated to be comparable. Additionally, because the proposed use has been in operation since approximately 1985, the anticipated trip generation already exists on Highway 1 and neighboring roadways and there will be no impacts to current conditions. HCD-Engineering Services have reviewed the proposed project, Trip Generation Assessment, and access route, and determined that the existing access is adequate and suitable for the proposed use. No line-of-sight concerns were raised, and Transportation Agency of Monterey County data indicates that only one accident related to left-hand or right-hand turning movements has occurred within close proximity to the access point over the last 10 years.

- i) Permit Expiration. Condition No. 5 applies a 3-year expiration to the granting of this Coastal Development Permit. The purpose of this

expiration is to provide adequate on-going review of the approved transient use of the property for remuneration.

- j) The application, project plans, and related support materials submitted by the project applicant to Monterey County HCD-Planning found in Project File PLN210353.

3. FINDING: SITE SUITABILITY – The site is physically suitable for the proposed 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 Carmel Highlands Fire Protect 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) The following report has been prepared:
 - “47 Highway 1 Trip Generation Estimate” (LIB230028) prepared by Keith Higgins, Gilroy, CA, March 22, 2023.

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 use shall be in accordance with this report.

- c) HCD-Engineering Services has reviewed the proposed project, Trip Generation Assessment route, and access route, and determined that the existing access is adequate and suitable for the proposed use. No line of sight concerns were raised and County data indicates that no accidents have occurred in close proximity of the access driveway.

- d) The application, project plans, and related support materials submitted by the project applicant to Monterey County HCD-Planning found in Project File PLN210353.

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 Carmel Highlands 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) Necessary facilities will be provided. California American Water currently provides potable water service to the subject property and the existing connection will be retained for the proposed use. An Onsite Wastewater Treatment System Performance Evaluation was completed

on May 3, 2022. The evaluation verified that the property's onsite wastewater treatment system is in good working order and has the capacity to serve 14 individuals.

- c) The application, project plans, and related support materials submitted by the project applicant to Monterey County HCD-Planning found in Project File PLN210353.

5. FINDING: **NO VIOLATIONS** - Approval of this Coastal Development Permit will bring the subject property into compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of the County's zoning ordinance.

- EVIDENCE:**
- a) Staff reviewed Monterey County HCD-Planning and HCD-Building Services records. Although the property has been operating as an unpermitted short-term rental since 1985, there is no open code enforcement case.
 - b) No remediation of the site or payment of violation fees are required in order to grant this permit. The property has been paying Transient Occupancy Taxes.
 - c) The application, project plans, and related support materials submitted by the project applicant to Monterey County HCD-Planning found in Project File PLN210353.

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 15301 categorically exempts leasing of existing private structures, involving negligible or no expansion of an existing use.
 - b) The applicant proposes to use (lease) three existing residential single-family dwellings as a short term rental and does not propose any additional development and/or expansion of the existing structures, no physical changes to the environment will occur. All facilities are existing and have been confirmed by County agencies to be adequate for this use. The short-term rental use of the three existing residences has occurred on the subject property for over 35 years, which establishes the CEQA baseline (current) conditions of the site. The duration and frequency of the use will not intensify beyond the existing use of the property and limitations on the number of occupants and the rental durations have been applied. Potential social and economic impacts of short-term rentals are not required to be addressed in CEQA. Therefore, the proposed use is consistent with the CEQA Guidelines Section 15301.
 - 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, unusual circumstances that would result in a significant effect or development that would result in a cumulative significant impact. The project will not impact sensitive environmental resources and there will be no significant effect on the environment due to unusual circumstances. The property is heavily screened from Highway 1 and no additional visual impacts will occur

with the implementation of the proposed use. The prepared trip generation assessment confirms that the proposed project will have an insignificant impact on the local roadways. The Project is estimated to generate about 28 vehicle trips per day assuming 3 rental units, a maximum of about 31 daily trips assuming a 7-unit motel and a maximum of about 86 daily trips assuming a 7-room full-service hotel. All possible land uses for the Project are below the 110 trips-per-day significance threshold for vehicle miles travelled (VMT) according to the state guidance for implementing VMT analysis. The Project will therefore have a less-than-significant VMT impact. The proposed project will not impact the project site's baseline water or energy use or result in an increased amount of wastewater generation. Additionally, the proposed use will not require additional police or fire protection as the project site is already within the district boundaries of the Monterey County Sheriff's Department and Carmel Highlands Fire Protection District. The site is not included on any list compiled pursuant to Section 65962.5 of the Government Code to be considered on a hazardous waste site.

- d) The application, project plans, and related support materials submitted by the project applicant to Monterey County HCD-Planning for the proposed development found in Project File PLN210353.

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 applicable Local Coastal Program, and does not interfere with any form of historic public use or trust rights.

- EVIDENCE:**
- a) The subject property is described as an area where the Local Coastal Program requires visual or physical public access (Figure 3 in the Carmel Area Land Use Plan). However, Figure 3 illustrates that the subject property is surrounded by existing public access points (Former Briggs Property – now southern Carmel River Beach, Monastery Beach, and the Northern 48 acres of Point Lobos State Reserve). The subject property is currently surrounded by land owned by State Parks (Monastery Beach to the South, and Carmel River State Beach (southern portion) to the North, West, and East). The southern portion of Carmel River State Beach is described as an existing shoreline access point in Policy 5.2.3 of the Carmel Area Land Use Plan. A public trailhead to access Carmel Meadows Beach is accessed off Highway 1, just before the entrance of the private driveway easement of the subject property. Monastery Beach provides public parking along Highway 1 for beach access. The subject property abuts the northern tip of Monastery State Beach. No lateral access is required as Monastery State Beach is accessible by the public. Therefore, the subject property does not preclude access to the coast and no public access is required as part of the project as no substantial adverse impact on access, either individually or cumulatively, as described in MCC Section 20.146.130 can be demonstrated.
 - b) No evidence or documentation has been submitted or found showing the existence of historic public use or trust rights over this property.

- c) The application, project plans, and related support materials submitted by the project applicant to Monterey County HCD-Planning found in Project File PLN210353.

8. FINDING: **APPEAL** - The Appellant contends that the Planning Commission’s decision was not supported by the evidence. Upon consideration of the documentary information in the files, the staff reports, the oral and written testimony, all other evidence presented before the Board of Supervisors, and the administrative record as a whole, the Board responds as follows to the Appellant’s contentions:

EVIDENCE: a) The Appellant timely filed an appeal from the June 28, 2023, denial decision of the Planning Commission pursuant to MCC Section 21.80.050.C. The appeal challenged the Planning Commission’s denial of the Coastal Development Permit on the grounds that the findings are not supported by the evidence.

The text of the Appellant’s contentions and the County’s responses to those contentions are set forth in Evidence “b” below. The appeal documentation is included in the September 12, 2023 staff report to the Board of Supervisors as Attachment B and is incorporated herein by reference.

- b) *Appellant’s Contention No. 1: The Planning Commission’s finding that the project does not have a similar character to a Bed and Breakfast facility because a local property manager is inconsistent with the Bed and Breakfast facility regulations is “not supported by the evidence” and “the local owner [who lives] 1 mile [or] 3 minutes from the property provides a similar level of management to an owner occupying the property.”*

Response No. 1: Monterey County does not have adopted regulations for short-term rentals within the Coastal Zone, only within the Inland portions of the County. As such, MCC section 21.64.280 (Transient Use of a Residential Property for Remuneration) is not applicable for this project. Therefore, the Applicant has applied for the proposed use under MCC section 20.14.050.Z, which allows “other residential uses of a similar character, density, and intensity as those listed in this Section [20.14.060]”, subject to the granting of a Coastal Development Permit. Bed and Breakfast facilities are allowed in LDR with a Coastal Development Permit per MCC section 20.14.050.G. Processing of this application as a use similar to a Bed and Breakfast is consistent with HCD’s Short Term Rental Administrative Guideline Memorandum, which states that “a Coastal Development Permit may be applied for if the proposed use is similar to the listed uses allowed for the specific zoning district in which the property is located.” This Memorandum was published by the Director of Planning on July 9, 2015 and revised by the Director of Resource Management Agency on September 20, 2016 for the purpose of providing information relative to which Monterey County Codes apply to short term rentals in different areas of the County (Inland and Coastal). In this case, the LDR zoning district, per MCC section 20.14.050.Z, allows for the establishment of a Bed and Breakfast facility and other “uses of a similar character, density, and

intensity.” Further, the Short-Term Rental Administrative Guideline Memorandum states: “In the Coastal Zone (Title 20 Zoning Ordinance), short-term rental for overnight accommodations for 30 days or less may be permitted as a B&B, or as a similar use”.

As detailed in Finding No. 2, Evidence “f”, the Planning Commission or Board of Supervisors, on appeal, has the authority to interpret MCC section 20.64.100 (Bed and Breakfast facilities) and to determine other uses of a similar nature pursuant to MCC section 20.14.050.Z . As demonstrated in Finding No. 2, Evidence “e”, the Applicant’s Operations Plan has been updated to provide details about the property’s management and history since the June 28, 2023 Planning Commission hearing. Since the proposed local manager will reside 1 mile south, the response time to be on-site to address concerns or greet guests is 3-5 minutes. This response time is similar to the property owner residing onsite as would be the case with a bed & breakfast. Also see Finding No. 2, evidence “f”. Therefore, the Board of Supervisors finds that the proposed short-term rental use is similar in nature to other uses listed as allowed in the Low Density Residential coastal zoning district and the proposed use is appropriate for this site given the close proximity of the property owner/manager.

- c) Appellant’s Contention No. 2: *“The applicant has proven that with over 35 years of local family management with no complaints submitted by the public or Government agencies that it is providing a level of management similar to an owner occupying the property. The fact that the property has no immediate neighbors and is surrounded by State Park land lessens the need for an owner to occupy the property full time.”*

Response No. 2: HCD-Planning has received no indication that the property has not been utilized as a short-term rental for over 35 years. As stated in Finding No. 5 and supporting evidence, no complaints have been received by HCD. In comparison to properties surrounded by residential development, the Board of Supervisors agree that the remote location of the subject property (being primarily surrounded by State Park property) minimizes the potential for neighborly concerns to be raised is minimized. Having an owner occupy and manage the site would not change the rural components of the property or increase the likelihood of complaints and therefore having an off-site manager would have a similar effect.

- 9. **FINDING:** **APPEALABILITY** – The decision on this project may be appealed to the Board of Supervisors and the California Coastal Commission.
- EVIDENCE:** a) California Coastal Commission. Pursuant to MCC section 20.86.080.A, the project is subject to appeal by/to the California Coastal Commission because it involves a conditionally allowed use (i.e. granting of a Coastal Development Permit).

DECISION

NOW, THEREFORE, based on the above findings and evidence, the Board of Supervisors does hereby:

- 1) Find that the project qualifies for a Class 1 Categorical Exemption pursuant to CEQA Guidelines section 15301 and no exceptions under section 15300.2 apply;
- 2) Grant the appeal of Patrick Whisler from the Planning Commission's denial of a Coastal Development Permit to allow transient use of a property for remuneration (short term rental) as a similar use to a Bed and Breakfast Facility; and
- 3) Approve a Coastal Development Permit for a three year term to allow transient use of a property (three single family dwellings) for remuneration as a similar use to a Bed and Breakfast Facility.

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

PASSED AND ADOPTED upon motion of Supervisor _____, seconded by Supervisor _____, and carried this 12th day of September 2023, by the following vote to wit:

AYES:
NOES:
ABSENT:
ABSTAIN:

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof Minute Book _____ for the meeting on September 12, 2023.

Date:
File Number: PLN210353

Valerie Ralph, Clerk of the Board of Supervisors
County of Monterey, State of California

By _____
Deputy

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.

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

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

PLN210353

1. PD001 - SPECIFIC USES ONLY

Responsible Department: Planning

Condition/Mitigation Monitoring Measure: This Coastal Development Permit allows transient use of a residential property (three single family dwellings) for remuneration as a similar use to a Bed & Breakfast. The property is located at 47 Highway 1, Carmel (Assessor's Parcel Number 243-061-003-000), Carmel Area 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 RMA - 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. (RMA - Planning)

Compliance or Monitoring Action to be Performed: The Owner/Applicant shall adhere to conditions and uses specified in the permit on an on-going basis unless otherwise stated.

2. PD002 - NOTICE PERMIT APPROVAL

Responsible Department: Planning

Condition/Mitigation Monitoring Measure: The applicant shall record a Permit Approval Notice. This notice shall state:
"A Coastal Development Permit (Resolution Number _____) was approved by the Monterey County Board of Supervisors for Assessor's Parcel Number 243-061-003-000 on September 12, 2023. The permit was granted subject to 5 conditions of approval which run with the land. A copy of the permit is on file with Monterey County RMA - Planning."

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

3. PDSP001 - TRANSIENT OCCUPANCY TAX (TOT) REGISTRATIION (NON-STANDARD)

Responsible Department: Planning

Condition/Mitigation Monitoring Measure: Pursuant to Monterey County Code Chapter 5.40.070- Registration-Certification: "Within thirty (30) days after commencing business, each operator of any establishment renting occupancy to transients shall register said establishment with the tax collector and obtain the Tax Collector occupancy registration certificate, to be at all time posted in a conspicuous place on the premises."

Refer to County's website for Transient Occupancy Tax (TOT) FAQ's, forms, and ordinance: www.co.monterey.ca.us/taxcollector

Compliance or Monitoring Action to be Performed: Within 30 days of commencement of use, the Owner/Applicant shall provide proof that the property and transient use has been registered with the Monterey County Tax Collector.

4. 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

5. PDSP002 - PERMIT EXPIRATION

Responsible Department: Planning

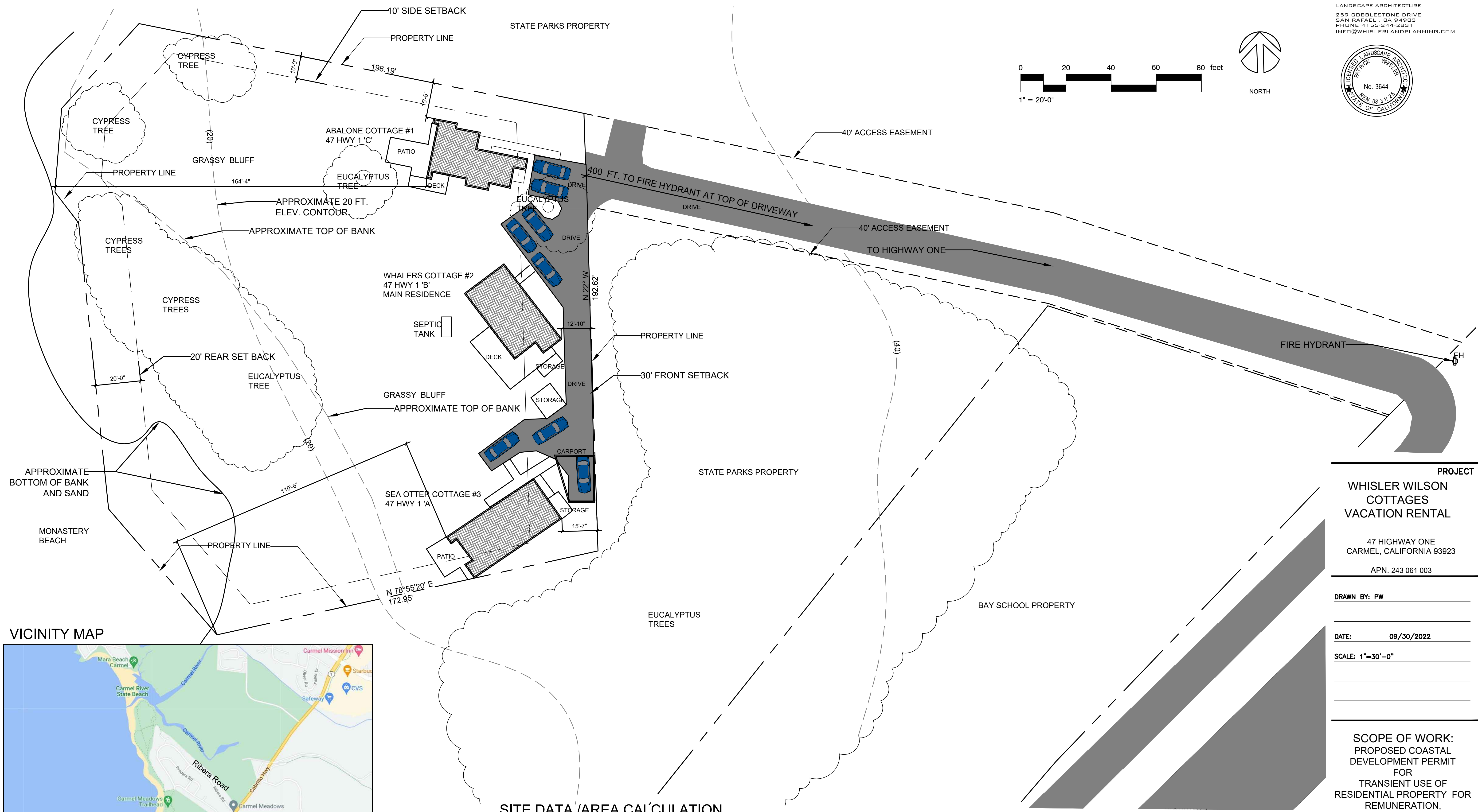
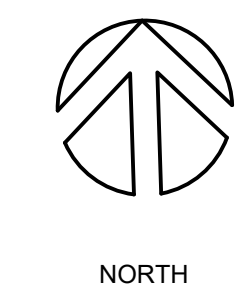
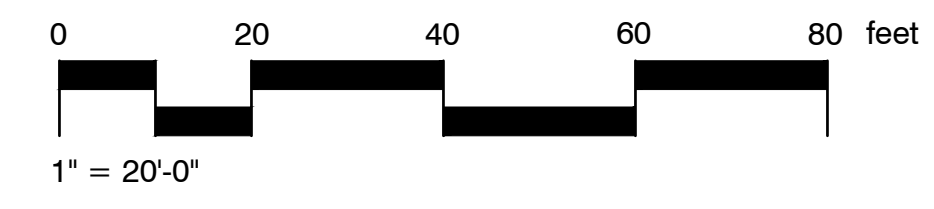
Condition/Mitigation Monitoring Measure: This permit is valid for 7 years and shall expire on May 10, 2030, unless an extension is granted. Approval of this Coastal Development Permit is limited to 7 years to provide adequate on-going review of the approved transient use of the residential property for remuneration.

Prior to its expiration, the owner/applicant shall file an extension in accordance with Title 20 Section 20.70.110, which requires submittal of the request at least 30 days prior to the expiration date. The appropriate authority to consider this extension shall be the Chief of Planning. This subsequent review will ensure: 1) the use continues to meet the standards of Title 20; 2) that the nature and character of the neighborhood has not changed so to cause the transient use to be detrimental to the area; and 3) an opportunity for Planning staff's review for ongoing compliance the conditions of approval.

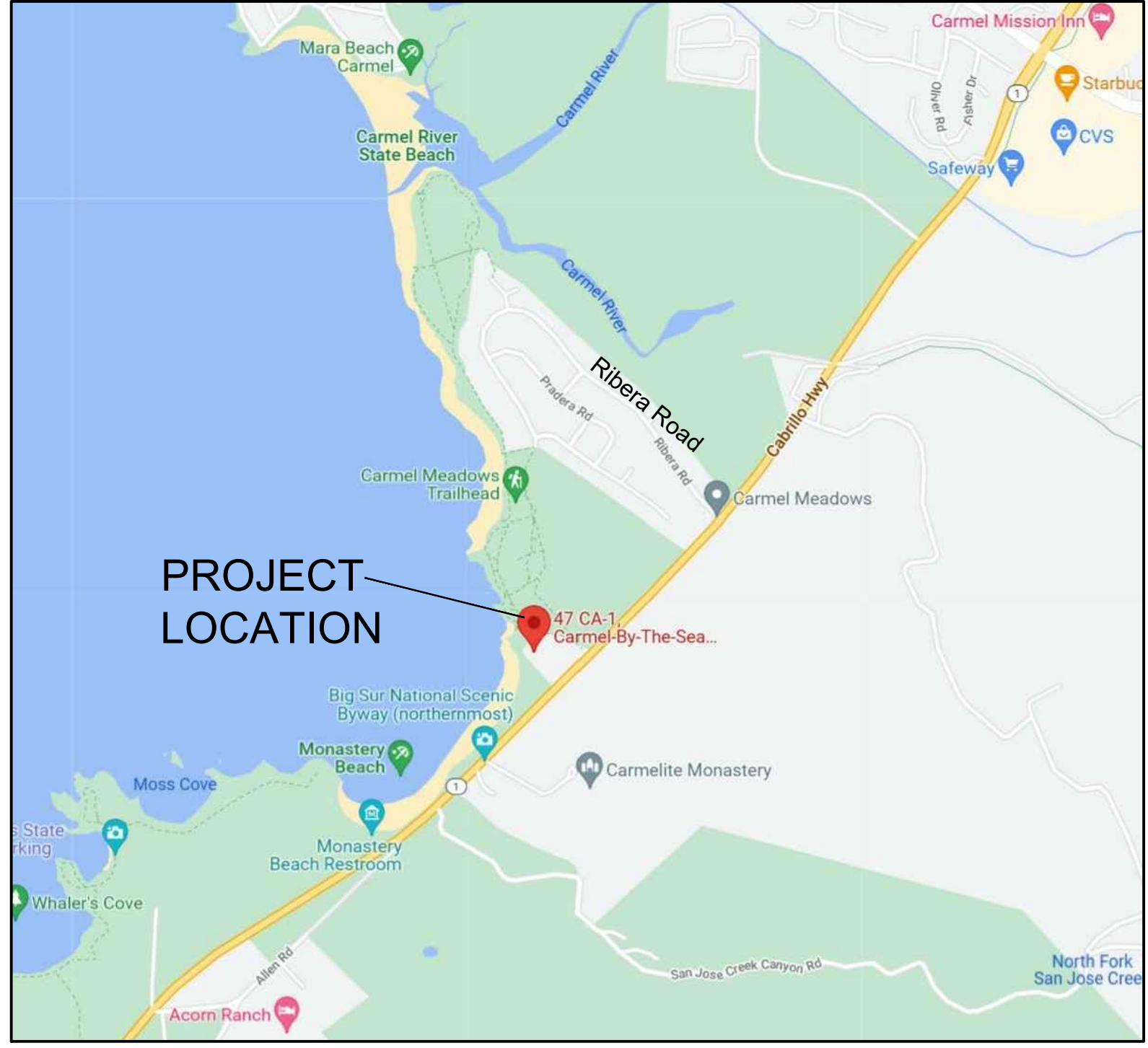
Compliance or Monitoring Action to be Performed: The applicant shall commence and operate the authorized use to the satisfaction of the HCD-Chief of Planning. Any request for extension must be received by HCD-Planning at least 30 days prior to the expiration date.

WHISLER /WILSON COTTAGES VACTION RENTAL

WHISLER
LAND PLANNING
LANDSCAPE ARCHITECTURE
259 COBBLESTONE DRIVE
SAN RAFAEL, CA 94903
PHONE 415-524-2831
INFO@WHISLERLANDPLANNING.COM



VICINITY MAP



SITE DATA /AREA CALCULATION

Parcel Size : 1.14 Acres. 49,658 Sq. Ft.
 General Plan Land Use Designation: Low Density Residential (Existing Legal Non-Conforming)
 Zoning Designation:LDR 1-D (CZ)
 Building Coverage 7.8% (3,353 sq. ft. structures +552 decks = 3,875 / 49,658 =7.8%)
 Floor Area Ratio: 6.7% (3,353 sq. ft. structures / 49,658 =7.8%)
 Impervious Coverage Structures: 3,874 sq. ft. total

- Whalers Cottage 47 B: 1,324 sq. ft. Main Residence
- Sea Otter Cottage 47 A: 895 sq. ft.
- Abalone Cottage 47 C: 654 sq. ft.
- Carport 270 sq. ft.
- Storage 210. sq. ft.
- Decks 522 sq. ft.

Total Impervious Coverage: 16%. 7,860 sq. ft. (Including 800 sq. ft. of patios/walks and 3,185 sq. ft. asphalt driveway.)
 Pervious Coverage: 84%
 On Site Waste Water treatment System (existing)
 Water provider: Cal Am (existing water meter and service to remain unchanged.)
 Covered Parking : 1 Total,
 Uncovered Parking: 6 (8 including tandem parking)

PROJECT
WHISLER WILSON
COTTAGES
VACATION RENTAL

47 HIGHWAY ONE
CARMEL, CALIFORNIA 93923
APN. 243 061 003

DRAWN BY: PW

DATE: 09/30/2022

SCALE: 1"=30'-0"

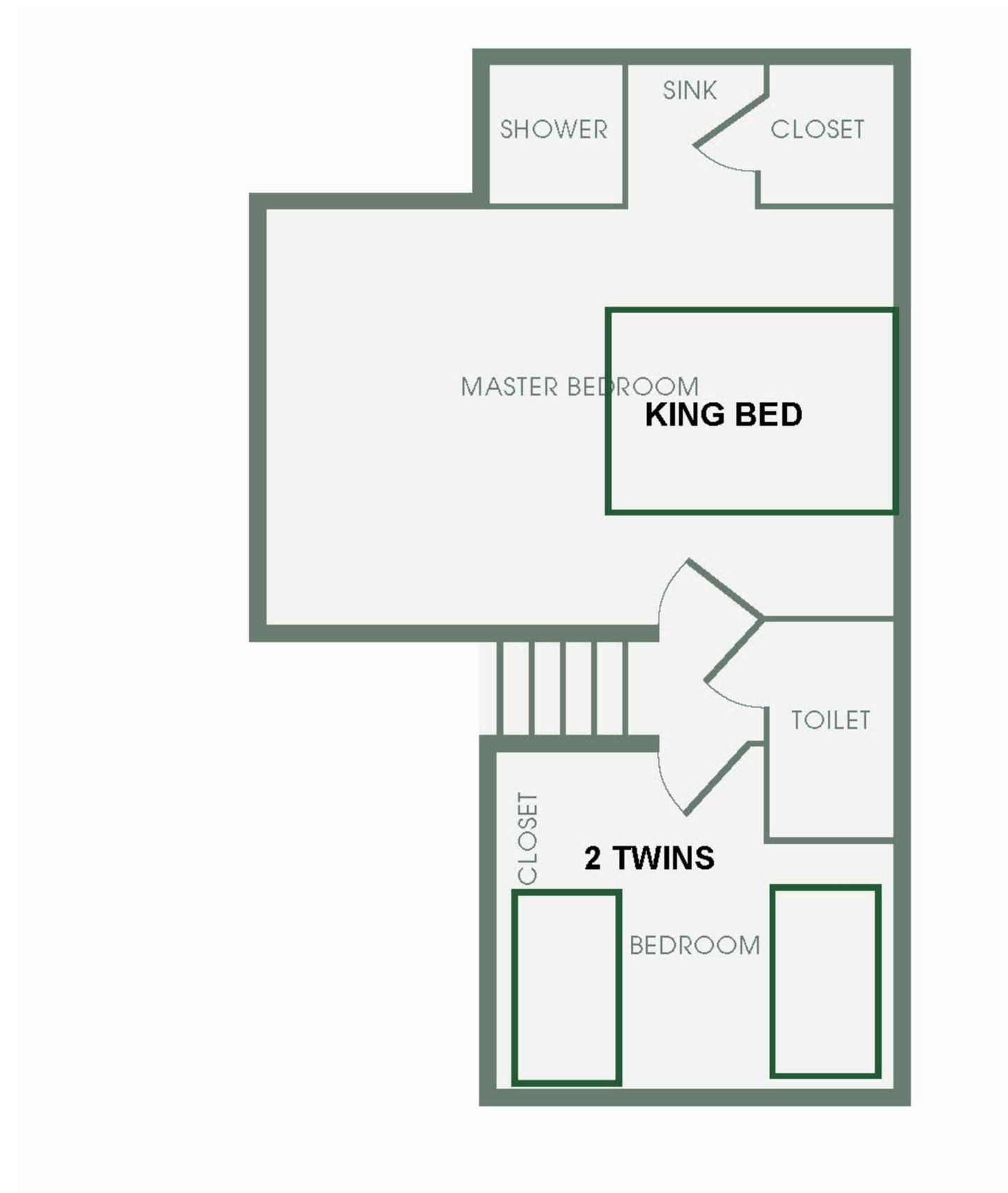
SCOPE OF WORK:
PROPOSED COASTAL
DEVELOPMENT PERMIT
FOR
TRANSIENT USE OF
RESIDENTIAL PROPERTY FOR
REMUNERATION,
B&B OR SIMILAR PERMIT
APPLICATION

SHEET TITLE

**EXISTING
SITE PLAN**

PERMIT #
PLN 210253

A-1 SHEET NO



2 UPPER FLOOR PLAN 47 HWY. 1 C WHALERS COTTAGE - MAIN RESIDENCE

453 SQ. FT.



1 EXISTING LOWER FLOOR PLAN 47 HWY. 1 C WHALERS COTTAGE -MAIN RESIDENCE

870 SQ. FT.

PROJECT

WHISLER WILSON
 COTTAGES
 VACATION RENTAL

47 HIGHWAY ONE
 CARMEL, CALIFORNIA 93923

APN. 243 061 003

DRAWN BY: PW

DATE: 09/30/2022

SCALE: APPROXIMATELY 1/4"=1'-0"

SCOPE OF WORK:
 PROPOSED COASTAL
 DEVELOPMENT PERMIT
 FOR
 TRANSIENT USE OF
 RESIDENTIAL PROPERTY FOR
 REMUNERATION,
 B&B OR SIMILAR PERMIT
 APPLICATION

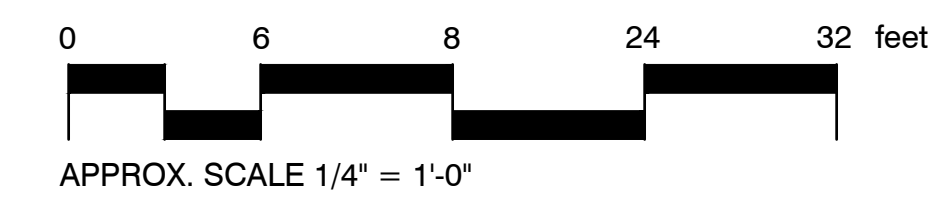
SHEET TITLE

FLOOR
 PLANS

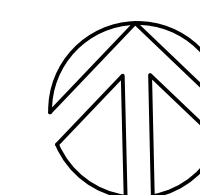
PERMIT #
 PLN 210253

SHEET NO

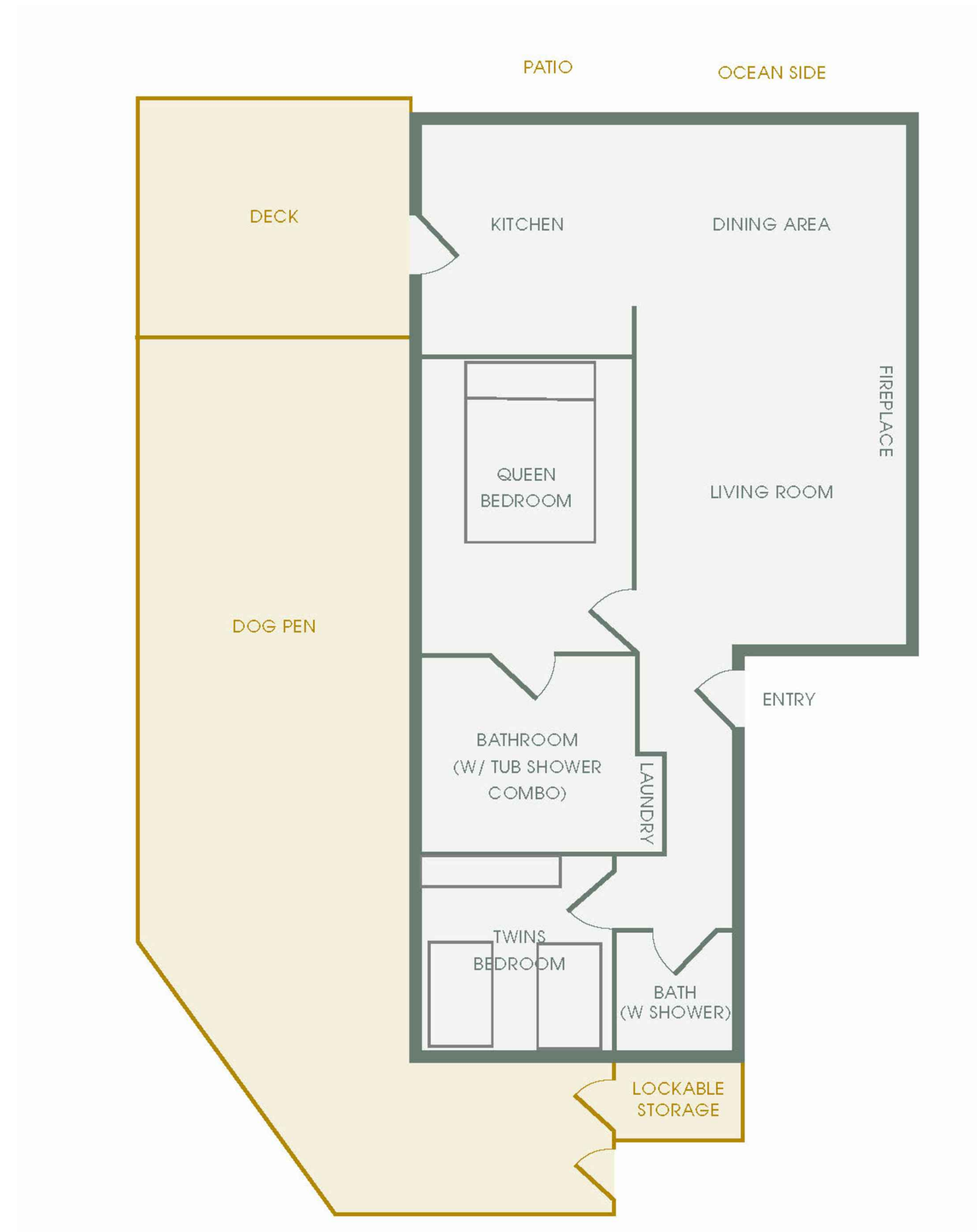
A-2



APPROX. SCALE 1/4" = 1'-0"

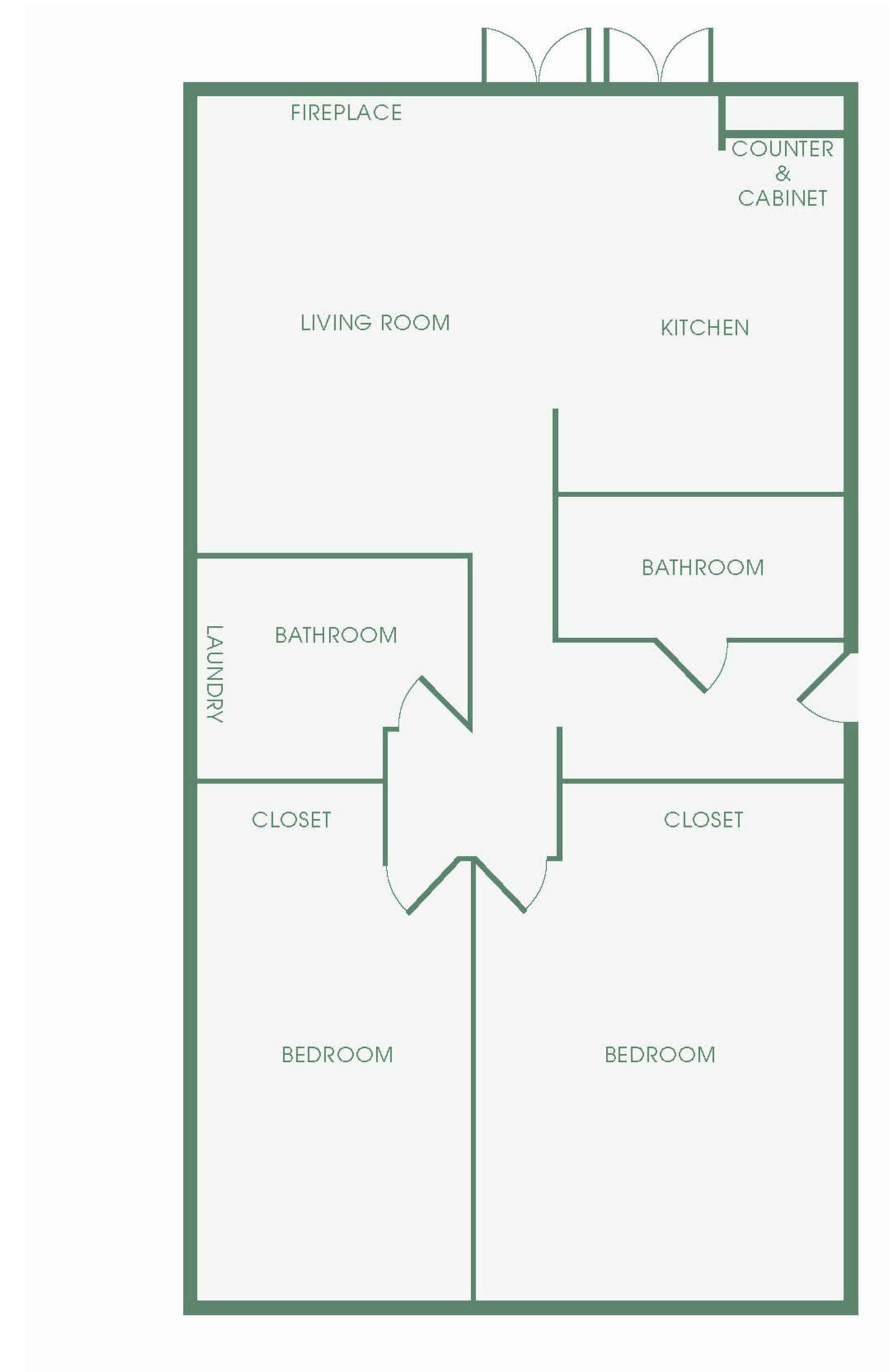
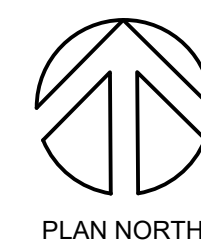


PLAN NORTH



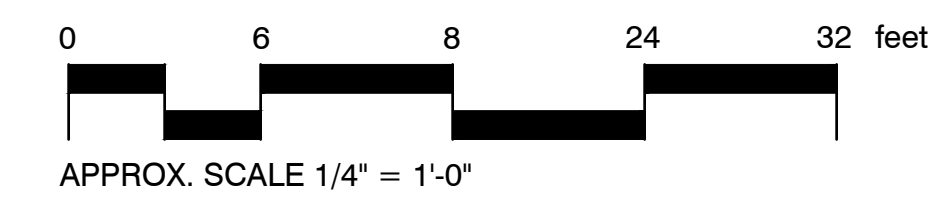
2 EXISTING FLOOR PLAN 47 HWY. 1 B ABALONE COTTAGE

654 SQ. FT.



1 EXISTING FLOOR PLAN 47 HWY. 1 A SEA OTTER COTTAGE

895 SQ. FT.



PROJECT

**WHISLER WILSON
 COTTAGES
 VACATION RENTAL**

47 HIGHWAY ONE
 CARMEL, CALIFORNIA 93923

APN. 243 061 003

DRAWN BY: PW

DATE: 09/30/2022

SCALE: APPROXIMATELY 1/4"=1'-0"

SCOPE OF WORK:
 PROPOSED COASTAL
 DEVELOPMENT PERMIT
 FOR
 TRANSIENT USE OF
 RESIDENTIAL PROPERTY FOR
 REMUNERATION,
 B&B OR SIMILAR PERMIT
 APPLICATION

SHEET TITLE

**FLOOR
 PLANS**

PERMIT #
 PLN 210253

SHEET NO

A-3



WHALERS COTTAGE EAST ELEVATION



WHALERS COTTAGE WEST ELEVATION



WHALERS COTTAGE SOUTH ELEVATION



WHALERS COTTAGE NORTH ELEVATION

PROJECT

WHISLER WILSON
COTTAGES
VACATION RENTAL

47 HIGHWAY ONE
CARMEL, CALIFORNIA 93923

APN. 243 061 003

DRAWN BY: PW

DATE: 09/30/2022

SCALE: N/A

SCOPE OF WORK:
PROPOSED COASTAL
DEVELOPMENT PERMIT
FOR
TRANSIENT USE OF
RESIDENTIAL PROPERTY FOR
REMUNERATION,
B&B OR SIMILAR PERMIT
APPLICATION

SHEET TITLE
ELEVATION PHOTOS
47 HWY 1 B
WHALERS COTTAGE

PERMIT #
PLN 210253

SHEET NO

A-4



SEA OTTER COTTAGE WEST ELEVATION



SEA OTTER COTTAGE EAST ELEVATION



SEA OTTER COTTAGE SOUTH ELEVATION



SEA OTTER COTTAGE NORTH ELEVATION

PROJECT

WHISLER WILSON
 COTTAGES
 VACATION RENTAL

47 HIGHWAY ONE
 CARMEL, CALIFORNIA 93923

APN: 243 061 003

DRAWN BY: PW

DATE: 09/30/2022

SCALE: N/A

SCOPE OF WORK:
 PROPOSED COASTAL
 DEVELOPMENT PERMIT
 FOR
 TRANSIENT USE OF
 RESIDENTIAL PROPERTY FOR
 REMUNERATION,
 B&B OR SIMILAR PERMIT
 APPLICATION

SHEET TITLE
 ELEVATION PHOTOS
 47 HWY 1 A
 SEA OTTER COTTAGE

PERMIT #
 PLN 210253

SHEET NO

A-5



ABALONE COTTAGE WEST ELEVATION



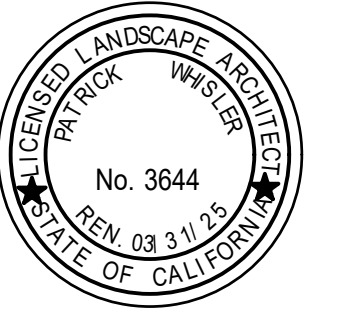
ABALONE COTTAGE EAST ELEVATION



ABALONE COTTAGE NORTH ELEVATION



ABALONE COTTAGE SOUTH ELEVATION



PROJECT
 WHISLER WILSON
 COTTAGES
 VACATION RENTAL

47 HIGHWAY ONE
 CARMEL, CALIFORNIA 93923
 APN. 243 061 003

DRAWN BY: PW

DATE: 09/30/2022

SCALE: N/A

SCOPE OF WORK:
 PROPOSED COASTAL
 DEVELOPMENT PERMIT
 FOR
 TRANSIENT USE OF
 RESIDENTIAL PROPERTY FOR
 REMUNERATION,
 B&B OR SIMILAR PERMIT
 APPLICATION

SHEET TITLE
 ELEVATION PHOTOS
 47 HWY 1 C
 ABALONE COTTAGE

PERMIT #
 PLN 210253

SHEET NO

A-6



**“Whisler Wilson Cottages”
Operational Guidelines**

1) THE HISTORY OF THE COTTAGES AT MONESTARY BEACH

In 1898 our mother Mary Whisler’s grandparents Alexander Macmillan Allan and his wife Sadie bought the original 2,000-acre ranch that included what is now Point Lobos State Reserve.

In 1904 Alexander McMillan Allan purchased for \$10 in gold coin what is known as The Whalers Cottage.

The two-story house was built in the 1800’s by Joseph Victorino, a whaler from Portugal.

2) PROPERTY DESCRIPTION 47 Highway 1 Carmel, CA

Maximum occupancy is 14 maximum total guests. Parking spaces for 7 guest cars and 2 owner cars.

The Whalers Cottage, along with its two guest cottages, sits on a 1 acre parcel of land at the north end of Monastery Beach. Surrounded by State Park property, the property is private with no immediate neighbors. Access is via a driveway off of highway 1 at the Bay School with an access easement across State Parks property.

a) Whalers Cottage- 3 Guestrooms. Maximum occupancy 6 guests.

Parking spaces for 3 cars.

Lower Floor 870 Square feet

One Guest Room with one king bed

Living & dining room with fireplace

Fully appointed kitchen with eating area

Bathroom with shower, bath tub & laundry

Deck

Upper Level- 453 Square feet

Whisler Wilson Cottages - Operational Guidelines – July 15, 2023

One Guest Room with one king bed, shower, and vanity sink.
One Guest Room with two twin beds
One half bath in hallway.

b) Abalone Cottage-Two Guestrooms. Maximum occupancy 4 guests.

Parking spaces for two cars

654 Square feet
One Guest room with king bed
One Guest Room with two twin beds
Two full baths with showers
Living and dining room with fireplace
Fully appointed kitchen
Laundry in bathroom
Deck

c) Sea Otter Cottage- Two Guestrooms. Maximum occupancy 4 guests.

Parking spaces for two cars

895 Square feet
Living and dining room with fireplace
Two full bathrooms, one with shower,
one with tub/shower
Fully appointed kitchen
Laundry in bathroom
Patio

3) RENTAL OPERATIONAL DESCRIPTION

- a) Owners management objective is to create a relaxing, safe and unique experience for travelers from all over the world and to share the unique location with others.
- b) The property owners shall occupy by means of daily visits to the property and manage the facility. Local owner lives at 57 Riley Ranch Road, 1 mile (3 min via car) from the property.
- c) There shall be no more than 10 guest rooms per facility (each guest cottage).
Occupancy shall be:

-Whalers Cottage-	Three Guestrooms. Maximum occupancy 6 guests
-Abalone Cottage-	Two Guestrooms. Maximum occupancy 4 guests
-Sea Otter Cottage-	Two Guestrooms. Maximum occupancy 4 guests
- d) No long-term rental of rooms shall be permitted. The maximum stay for guests shall not exceed 29 consecutive days in a 30 day period and no more than 60 days in a one year period.
- e) The facility shall provide parking on site at the rate of 1 space per guestroom plus two spaces for the owners.
- f) Maximum signage. The property shall have a maximum of one sign not exceeding 4 square feet in area. Such sign shall be attached to the residence and shall not be internally illuminated.
- g) The facilities are subject to the transient occupancy tax. (Chapter 5.40, Monterey County Code)
- h) Any cooking facility must comply with State and County codes.
- i) Owners shall enforce a noise policy that prohibits loud and unreasonable sound any day of the week from 9:00 p.m. to 7:00 a.m. the following morning.

- j) The facility shall not be affiliated with hotels or motels operating anywhere in the County of Monterey.
- k) No more than six guest cars and two owners cars are allowed to be parked on the premises.
- l) A signed leasing agreement is required prior to the guest accessing the property. The guest names and ages are added to the leasing agreement prior to arrival. Communication between the manager and the guest is mandatory prior to check in.
- m) The required minimum stay for a guest is 4 nights. The property is booked throughout the year on an average of 20 nights per month.
- n) No back-to-back bookings are permitted, one day is required between renters.
- o) Each Cottage can be rented separately, or larger families can rent two or all three.
- p) All utilities are included with lodging.
- q) All lines and towels are supplied and professionally laundered.
- r) All kitchens are fully equipped.



4) OWNER MANAGEMENT PLAN AND DEMONSTRATION OF HOW THE OWNERS MEET THE INTENT OF MONTEREY COUNTY TITLE 20 FOR A BED AND BREAKFAST FACILITY TO BE MANAGED AND OCCUPIED BY THE OWNER.

- a) Family Ownership has managed the property for over 35 years without a single complaint.
- b) Owners visit the property for Check in and Check out maintaining close observation of guest and property needs.
- c) Owners live 1 mile from the property on land that once was part of the same original family estate of Alexander Macmillan Allan which encompassed the subject property as well as the owner's residence.
- d) Owner manager response time to any guest or property needs is under 5 minutes which is similar to an owner occupying the property.
- e) The subject property is an inholding surrounded by State Park Lands and has no adjacent residential neighbors to communicate with regarding management issues such as parking lessening the need for the Owner Manager to occupy the property.

5) FIRE SAFETY

- a) Local Fire Department is nearby in The Carmel Highlands.
- b) Fire Hydrant is located 400 feet up the driveway adjacent to the Bay School.
- c) Local owner has a history of being a volunteer firefighter.
- d) Trees surrounding the property are trimmed and maintained on a regular basis.
- e) The local owner maintains properties front pasture.
- f) No outdoor fires, or outdoor heaters are allowed.
- g) Property has the required smoke, and carbon monoxide detectors. The house is equipped with fire extinguishers.
- h) Fireplaces are serviced and inspected by a Chimney Sweep annually.

Whisler Wilson Cottages - Operational Guidelines – July 15, 2023

- i) Guests are asked to not operate the fireplace unless they have experience with fireplaces.
- j) The Cottages are a non-smoking environment.

6) PARAMETERS OF USE

- a) No parties or events of any kind are allowed.
 - b) No noise past 9 pm and 7am is allowed.
 - c) No outside sound systems are on the premises.
 - d) Guests are to arrive no later than 10pm.
 - e) Speed Limit of 10 MPH is always needed. Failure to follow this requirement will result in eviction.
 - f) Dogs must be leashed when outdoors.
 - g) Rental contract requires that Guests acknowledge that they must engage in behavior that is consistent with the peace and tranquility of the neighborhood.
 - h) Rental contract requires that Guests acknowledge that the property is adjacent to wildlife.
- a. Guest is required to sign that they have been informed about the dangers at Monastery Beach access.
 - b. Guests are aware that the surrounding area does have uneven surfaces.

7) F. VENDORS/PARTNERS

- a. Del Mar French Laundry
- b. Martinez Brothers Landscaping
- c. Dorry's Cleaning Service
- d. Busy Bee Carpet Cleaning
- e. Morgan Wines
- f. Ewing Irrigation
- g. Keystone Chimney Sweep
- h. Beraman Carpets
- i. Casner Pest
- j. Scudder Roofing
- k. HVAC- Wilsons Heating
- l. Plumber-A&R Plumbing
- m. Gardner- Native Coast Landscapes

G. UTILITIES

- a. Water:
Domestic household supply is CAL AM.
- b. LP gas: Suburban Propane.
- c. Electricity: PG&E
- d. Sewer: On Site Septic System.

APPENDIX A
Family History

Below is a timeline of AM Allan's contribution to Monterey County. This history illustrates the extraordinary founders of the Monterey area. It displays the inspiring work in the dairy and abalone industry. Visitors are given a look into history that they may never have sought out or heard of. Therefore, we want to share our property with the public who visit the area. The proximity to Pt. Lobos State Park, and the family's part for its existence to this day.



BAY SCHOOL – APPROXIMATELY 1929

Pictured: from left to right, upper row: Mrs. Hollis; Elizabeth Hollis (teacher); Fusako Kodani (Onoye); Bessie Morales; Jean Elliot (Booker); Takeko Kodani (Enokida); Albin MacDonald; Bruno Odello; Lorraine Shaw and A.M. Allan; in the front row: Alma Castro (Tibbets); Mary Riley (Whisler); Norma MacDonald; Lucille Castro (Zimmerman); Yoshiko Kodani (Esaki); Earnest Shaw; Clarence Casto and Jean Shaw

POINT LOBOS RANCH

Key Dates in History of Family and Development Later designated:
"The Riley Ranch at Point Lobos"

1898 A.M. Allan purchased Carmel Land and Coal Company, Carmelito Subdivision of 800-1000 lots (developed in 1890) and adjacent lands of Rancho San Josey Sur Chiquito, including the 20acre coal mine above Malpaso Creek. Included in the purchase was the family ranch house, later to be veneered with stone. Allan relocated his family to Point Lobos from Oakland, CA.

1899 Abalone diving and canning operation commenced by AM. Allan in partnership with Gennosuke Kodani at Whaler's Cove. (Point Lobos Canning Company)

Toll charges began for visitors into Point Lobos.

1899-1904 Sand business. Railroad tracks installed from San Jose Creek Beach to coal Bunker for transporting sand to ships to San Francisco.

Farming: grew potatoes, pumpkins, and corn; beans for the San Francisco market.

1900 (circa) Original horse barn built next to residence.

1903 A.M. Allan building Ascot Park Racetrack in Los Angeles.

1904 A.M. Allan purchased the 110-acre Victorino ranch extending from Carmel River to San Jose Creek including the 1870 two-story house and outbuildings from Joseph Victorino. Victorino, a whaler from Portugal, operated a dairy there, after whaling declined.

Point Lobos Ranch now comprised about 2,500 acres.

1905 A.M. bought property in Cayucos, CA. and founded a branch of Point Lobos Canning Company for abalone hunting/canning.

1906 San Francisco Earthquake. A.M., wife Satie and three daughters Helen, Eunice, and Margaret were staying at the St. Nicholas Hotel at the time.

Whisler Wilson Cottages - Operational Guidelines – July 15, 2023

1906 Satie Allan died February 28 at the age of forty-one due to health complications resulting from the earthquake.

A.M. building Santa Anita Racetrack for "Lucky Baldwin" in Arcadia near Los Angeles.

1909 A.M. built the California State Fair Grounds in Sacramento.

1910 A.M. started the Point Lobos Dairy about this time. They sold raw milk to people in Carmel and Carmel Highlands. They started to make Jack cheese.

1914 Eunice Allan to U.C. Davis for dairy management and cheese making course. Started to sell Jack cheese in Monterey and to ship it to San Francisco (up to 200 lbs. per shipment.)

1914-1918 World War I

1917 Helen Allan married Julian Burnette. He later worked for A.M. in the Monterey Canning Company and Monterey Bank. The Burnettes had four children: Helen, Julian, Alexander, and Leola.

1918 A.M. built the Monterey Canning Company, one of the first sardine canneries on Cannery Row.

Margaret Allan married Lester Jay Hudson. They had four sons: Allan, Thompson, David, and John.

1919 The "Hoot Mon", house adjacent to Allan House, burned down and was rebuilt. It was originally built as a schoolhouse for the Allan children and neighbors.

1920-1926 "The Gravel Pit" up Riley Ranch Road was opened, and decomposed granite was trucked to San Jose Beach and crushed for construction use.

1920 A.M. hired Thomas Francis Riley to work at the Dairy.

1921 Eunice Allan and Tom Riley married February 14 at the Allan home.

Whisler Wilson Cottages - Operational Guidelines – July 15, 2023

- 1922 Tom and Eunice Riley took over operation of Point Lobos Dairy. New dairy barn was built to replace the old milking shed.
- 1924 February 28, Mary Morgan Riley was born at Alta Bates Hospital in Berkeley, CA. The Rileys now living in the Stone House and A.M. moved to the "Hoot Mon" - the cottage next door.
- A.M. Allan married Florence McRae December 31. Moved to "The Old Garcia House" just north of the Stone House.
- 1926 Feb. 28th Alexander (Bobby) Macmillan Allan II was born to A.M. and Florence in Carmel.
- 1928 On June 16th A.M. Allan founded the Bank of Monterey located at 436 Alvarado St. in Monterey.
- 1929 July 8th Elizabeth Allan Riley was born at the Carmel Hospital.
- 1930 A.M. Allan died January 24, 1930, at the age of seventy-one, leaving his wife, Florence, son Alexander Allan and three daughters: Helen Burnette, Eunice Riley, and Margaret Hudson. These heirs held the Ranch in undivided interest.
- Property settlement among heirs. Disposition of A.M. Allan's properties in Monterey, Chicago, farm in Illinois, abalone cannery property at Cayucos, stocks, Monterey Canning Company, Monterey Bank, etc. were completed 7/18/30.
- 1931 California State Parks purchased approximately four hundred acres to form Point Lobos State Reserve for \$631,000. In an agreement with the Allan heirs, a portion of the Cypress Headland was to be considered a gift and dedicated as a memorial to A.M. Allan and his wife Satie Morgan Allan. As a part of the deal, State Highway One was to be realigned to the west of the Riley residence so the house would not be separated from the dairy business and ranch.
- 1932 Patrick Morgan Riley born October 4th at Carmel Hospital.
- 1941 - 1946 World War II
- 1942 The Carmel Dairy Farms owned by Earl Graft, Charlie

Whisler Wilson Cottages - Operational Guidelines – July 15, 2023

Littlefield and Tom Riley was sold to Dwight Morrow, Jr. (Ann Lindberg's brother). The Carmel Valley Athletic Club and the Quail Lodge Resort and Golf Club now occupy this property.

1943 - 1950 Monterey Sand Company used Point Lobos to quarry sand - sending it to Navy Shipyards in San Francisco to be used in sandblasting.

1947 Tom Hudson (son of Margaret and Jay) in charge of rebuilding "shack" at Monastery Beach next to the two story "Victorino House" for Eunice Riley. Henry Hill, architect, projected cost of rehab at \$3,000. Anticipated rent - \$75.00 a month.

1948 Appraisal made for heirs to ranch and a division of the property took place. Helen (Burnette) wanted to sell her interests - took what is now Carmel Meadows. Eunice (Riley), Margaret (Hudson) and A.M. Allan II, each took a beach-front parcel and some back land parcels with reciprocal access and utility easements

The Hudson family-built adobe house on their property on west side of Highway One. It was designed by Hugh Comstock and completed in 1951. It is now used as the Point Lobos Ranger's residence.

Whisler Wilson Cottages - Operational Guidelines – July 15, 2023

Respect for neighbors –

Limited number of cars

Require guest to adhere to local speed limit

Require guest to adhere to no event policy

Require guests to adhere to no outdoor music amplification

Require guests to stop any outdoor noise after 10pm

Require guests to adhere to leashed pet policy

Communication with Guests –

Guests sign a required leasing agreement with owner

Owner arrives at check in to review layout of the property and answer any questions.

Owners phone number(s) are posted for Guest.

Owner is onsite an average of 1-3 times per day.

Response time for owner to Guest property is 3 minutes (1.2 miles)

Owner arrives at check out to review and answer any questions.

No complaints in 35 years from Guests regarding response time .

Guests and Owner(s) have frequent communication during stay(s) via phone, text, email.

This page intentionally left blank