

Exhibit A

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DRAFT RESOLUTION

Before the Housing and Community Development Chief of Planning in and for the County of Monterey, State of California

In the matter of the application of:

KIRKPATRICK ERIN ET AL (PLN230231)

RESOLUTION NO. 24 - ----

Resolution by the Monterey County HCD Chief of Planning:

- 1) Finding that the project 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 to abate Code Enforcement Violation No. 23CE00225 consisting of the restoration of a 2,500 square foot area and replanting of 3 Redwood trees.

[PLN230231 Kirkpatrick Erin Et Al, Off of Coast Road, directly across from 39340 Coast Road, Monterey, Big Sur Coast Land Use Plan, Coastal Zone (APN: 418-121-021-000)]

The KIRKPATRICK ERIN ET AL application (PLN230231) came on for an administrative decision hearing before the Monterey County HCD Chief of Planning on March 20, 2024. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented the Monterey County HCD Chief of Planning finds and decides as follows:

FINDINGS

1. **FINDING:** **CONSISTENCY** – The Project, as conditioned, is consistent with the applicable plans and policies which designate this area as appropriate for development.
EVIDENCE: a) During the course of review of this application, the project has been reviewed for consistency with the text, policies, and regulations in:
 - the 1982 Monterey County General Plan;
 - Big Sur Coast Land Use Plan;
 - Monterey County Coastal Implementation Plan, Part 3; 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.
b) Existing Condition. The subject parcel is approximately 0.60 acres (26,136 square feet) and is located adjacent to Coast Road. The parcel does not currently have any structures on it. A landmark Cottonwood tree that appeared to be dead fell and damaged neighboring protected Redwood trees. The applicant had the Cottonwood tree removed as well

as two Redwood trees without a permit from the County. During removal of the trees and debris, the ground cover was scraped to remove cape ivy, an invasive species, over a large open area of the parcel (approximately 2,500 square feet). Staff conducted a site inspection on September 28, 2024 and confirmed that flora had begun re-establishing in the previously scraped area.

- c) Project Scope. The project consists of restoring the area where the trees and vegetation were removed. The applicant shall plant three Redwood trees and provide monitoring services through a restoration plan to ensure that the planting of the Redwood trees and eradication of invasive species is successful to allow for native flora to become established in the affected area.
- d) Allowed Use. The property is located on Coast Road, directly across from 39340 Coast Road, Monterey (Assessor's Parcel Number APN: 418-121-021-000) within the Big Sur Coast Land Use Plan. The parcel is zoned as Rural Density Residential, 40 acres per unit with a Design Control Overlay, coastal zone [RDR/40-D(CZ)]. The granting of this Restoration Permit would allow the after-the-fact removal and replanting of protected Redwood trees to restore the property to its original condition before the tree and vegetation removal. In accordance with Title 20 Section 20.90.020, the Chief of Planning is authorized to take actions deemed necessary or expedient to enforce and secure compliance with the provisions of Title 20, including ordering restoration of a site to its pre-violation state.
- e) Violation. Pursuant to Title 20 Section 20.90.130, no application for a discretionary land use permit shall be deemed complete while there is a violation on said property until that property has been restored to its pre-violation state. "Restoration" of the property shall include, but not be limited to replanting of three protected redwood trees and ongoing monitoring of native species plantings to ensure successful replanting.
- f) Lot Legality. The 0.60-acre lot is shown in its current size and configuration as Lot 21 in Block 121 on Book 418, page 12 Assessor's Parcel Map. Therefore, the County recognizes it as a legal lot of record.
- g) Tree Removal. During a winter storm, a landmark Cottonwood tree fell and needed to be removed due to the hazardous nature. Portions of the Cottonwood fell into adjacent Redwood trees, resulting in two additional Redwood trees cut down. An Arborist Report (LIB240014 – See Finding 2, Evidence "b") was prepared by Andrew Tope confirming that the evidence provided confirmed that the landmark Cottonwood tree was dead. However, there was not enough supporting evidence to determine the condition of the two removed Redwood trees. An Addendum to the Arborist Report (LIB240014) was provided on September 20, 2023 to address the removed Redwood trees and concluded that one Redwood has resprouted and is considered acceptable as a replant. It was recommended to replant two replacement trees for the Cottonwood, and one replacement tree for the Redwood; however, since there is a Redwood grove surrounding the open area, it was decided that the two replacement trees for the Cottonwood would also be Redwood, as this is consistent with the existing flora on the

property. Therefore, the total replacement trees for restoration are 3 Redwood trees.

- h) Cultural Resources. The site is in an area identified in County records as having high archaeology sensitivity. The ground had been previously disturbed pre-violation. Staff conducted a site inspection on September 28, 2023 and confirmed that the disturbed area showed evidence of regrowth. A Restoration Plan (LIB240016 – see Finding 2, Evidence “b”) determined that ground disturbance was not necessary to execute due to the re-establishment of the area. An eradication plan for invasive species will primarily involve manually removing invasive species before they obtain a height of three inches. Therefore, submittal of an archaeological report has been waived.
- i) The project planner conducted a site inspection on September 28, 2023 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 found in Project File PLN230231.

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

- EVIDENCE:**
- a) The project has been reviewed for site suitability by HCD-Planning. County staff reviewed the restoration plan to verify that the project on the subject site conforms to the applicable plans and regulations, and there has been no indication that the site is not suitable for the development. Conditions recommended have been incorporated.
 - b) Proposed tree and vegetation replanting will be addressed in accordance with the Big Sur Coast Land Use Plan Policy 20.145.060. The following reports were prepared to address any potential impacts from the unpermitted tree and vegetation removal and those that may occur due to the restoration activities:
 - “Arborist Report” (LIB240014) prepared by Andrew Tope, Pacific Grove, CA, August 31, 2023; includes an Addendum prepared by Andrew Tope on September 20, 2023.
 - “Biological Resource Review” (LIB240015) prepared by Fred Ballerini, Pacific Grove, CA, November 11, 2023.
 - “Restoration Plan” (LIB240016) prepared by Fred Ballerini, Pacific Grove, CA, January 3, 2024.

County staff independently reviewed these reports and concurs with their conclusions. There are no physical or environmental constraints that would indicate that the site is not suitable for the use. All development shall be in accordance with these reports.

- c) Staff conducted a site inspection on September 28, 2023 to verify that the site is suitable for this use.
- d) The application, project plans, and related support materials submitted by the project applicant to Monterey County HCD-Planning found in Project File PLN230231.

3. 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 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- Engineering Services, HCD-Environmental Services, Environmental Health Bureau, and the Mid-Coast Volunteer Fire Brigade. The respective agencies have recommended conditions, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood.
 - b) Staff conducted a site inspection on September 28, 2023 to verify that the site is suitable for this use.
 - c) The application, restoration plan, and related support materials submitted by the project applicant to Monterey County HCD-Planning found in Project File PLN230231.

- 4. FINDING:** **VIOLATIONS** – The subject property currently has a Code Enforcement violation. As a result of this action to restore the property to its pre-violation state, the subject property shall be considered in compliance with rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of Title 20. Approval of this permit would abate said violation.

- EVIDENCE:**
- a) Staff reviewed Monterey County HCD-Planning and HCD-Building Services records and is aware of a violation (23CE00225) existing on subject property for grading, removal of landmark and protected trees, and vegetation removal. Staff conducted a site inspection on September 28, 2023 and confirmed that the disturbed area still retained much of its natural topography. It was determined that with the implementation of the restoration plan, with the restoration complete and finalized, will fully abate the existing Code Enforcement Case No. 23CE00225.
 - b) Staff conducted a site inspection on September 28, 2023 and researched County records to assess the violations on the subject property and how proposed activities would address them.
 - c) The application, restoration plan, and supporting materials submitted by the project applicant to Monterey County HCD-Planning for the proposed restoration are found in Project File PLN230231.

- 5. 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 15308, categorically exempts actions taken by a regulatory agency for the protection of the environment, including restoration.
 - b) The proposed project includes the restoration of undeveloped land. As conditioned as designed, the proposed restoration project does not pose any significant impacts to endangered, rare, or threatened species, or their habitat. No hazardous materials are known to exist at, or around, the project site.

- c) None of the exceptions under CEQA Guidelines Section 15300.2 apply to this project. The project is not located in a particularly environmentally sensitive area. There will be replanting of trees for the trees that were removed. The restoration project would not damage any scenic resources. The site is not known to be included on a list compiled pursuant to Section 65962.5 of the Government code, and there are no identified historical resources on the property which would be impacted by the execution of the project.
- d) See Finding Nos. 1 and 2 and supporting evidence.
- e) Staff did not identify any potential adverse impacts during review of the development application or during a site visit on September 28, 2023.
- f) The application, project plans, and related support materials submitted by the project applicant to Monterey County HCD-Planning found in Project File PLN230231.

6. **FINDING:** **APPEALABILITY** – The decision on this project may be appealed to the Board of Supervisors.
- EVIDENCE:** a) Title 20 Section 20.86.030.A states that the Board of Supervisors is the Appeal Authority to consider appeals from the discretionary decisions of an Appropriate Authority other than the Board of Supervisors.

DECISION

NOW, THEREFORE, based on the above findings and evidence, the HCD Chief of Planning does hereby:

1. Find that the project qualifies for a Class 8 Categorical Exemption pursuant to CEQA Guidelines Section 1530 and there are no exceptions pursuant to Section 15300.2; and
2. Approve a Restoration Plan to abate Code Enforcement Violation No. 23CE00225 consisting of the restoration of 2,500 square foot area and replanting of 3 Redwood trees. 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 this 20th day of March, 2024.

Melanie Beretti, AICP
HCD Acting Chief of Planning

COPY OF THIS DECISION MAILED TO APPLICANT ON DATE

THIS APPLICATION IS APPEALABLE TO THE BOARD OF SUPERVISORS. IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE CLERK TO THE BOARD ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE

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

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.

County of Monterey HCD Planning

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

PLN230231

1. PD001 - SPECIFIC USES ONLY

Responsible Department: Planning

Condition/Mitigation Monitoring Measure: This Restoration Permit (PLN230231) allows the restoration of approximately 2,500 square feet of area to abate Code Enforcement Violation No. 23CE00225 and replanting of 3 Redwood trees. The property is located off of Coast Road, directly across from 39340 Coast Road, Monterey (Assessor's Parcel Number 418-121-021-000), Big Sur Coast 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 Chief of Planning for Assessor's Parcel Number 418-121-021-000 on March 20, 2024. The permit was granted subject to 7 conditions of approval which run with the land. A copy of the permit is on file with Monterey County HCD - Planning."

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

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

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

Responsible Department: Planning

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

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

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

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

4. PDSP001 - RESTORATION PLAN & MONITORING

Responsible Department: Planning

Condition/Mitigation Monitoring Measure: The applicant shall submit a restoration plan in accordance with the recommendations contained in the Restoration Plan (LIB240016) to HCD-Planning for review and approval. The restoration plan shall include the following: use local plant sources for seed and container plant revegetation material, removal of exotic species, revegetation, success criteria, yearly monitoring, establishment of a monitoring program to track the success of non-native vegetation control and establishment of native species, and establishment of an ongoing maintenance program for non-native plant control and other actions noted during monitoring. Quarterly monitoring of the restoration area will occur during the first year and then yearly for the following 3 years.

Compliance or Monitoring Action to be Performed: Upon approval of the Restoration Permit, the Owner/Applicant shall submit to HCD-Planning a copy of a contract between the owner/applicant and a qualified biologist indicating that the restoration plan and monitoring program will be implemented.

Prior to final inspection, the Project Biologist shall prepare and submit to HCD-Planning for review and approval, a report confirming that exotic species have been removed, and all replanting and revegetation activities have successfully occurred.

On an ongoing basis for the duration of the required monitoring period, annual reports shall be submitted to HCD-Planning for review and approval detailing compliance of the approved restoration plan.

5. PD016 - NOTICE OF REPORT

Responsible Department: Planning

Condition/Mitigation Monitoring Measure: Prior to issuance of building or grading permits, a notice shall be recorded with the Monterey County Recorder which states : A Biological Resource Review has been prepared for this parcel by Fred Ballerini, dated November 11, 2023, and is on record in Monterey County HCD-Planning, Library No. 240015. An arborist report has been prepared for this parcel by Andrew Tope, dated August 31, 2023, and is on record in the Monterey County HCD-Planning, Library No. 240014. All development shall be in accordance with these reports."

Compliance or Monitoring Action to be Performed: Submit proof that all development has been implemented in accordance with the report to HCD-Planning for review and approval.

Submit signed and notarized document to the HCD-Planning for review and signature by the County.

6. PD004 - INDEMNIFICATION AGREEMENT

Responsible Department: Planning

Condition/Mitigation Monitoring Measure: The property owner agrees as a condition and in consideration of the 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. County may, at its sole discretion, participate in the defense of such action; but such participation shall not relieve applicant of his 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 the property, filing of the final map, 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. (HCD - Planning)

Compliance or Monitoring Action to be Performed: Upon demand of County Counsel or concurrent with the issuance of building permits, use of the property, filing of the final/parcel map, whichever occurs first and as applicable.

Owner/Applicant/Agent shall submit signed and notarized Indemnification Agreement to the Director of HCD – Planning for review and signature by the County.

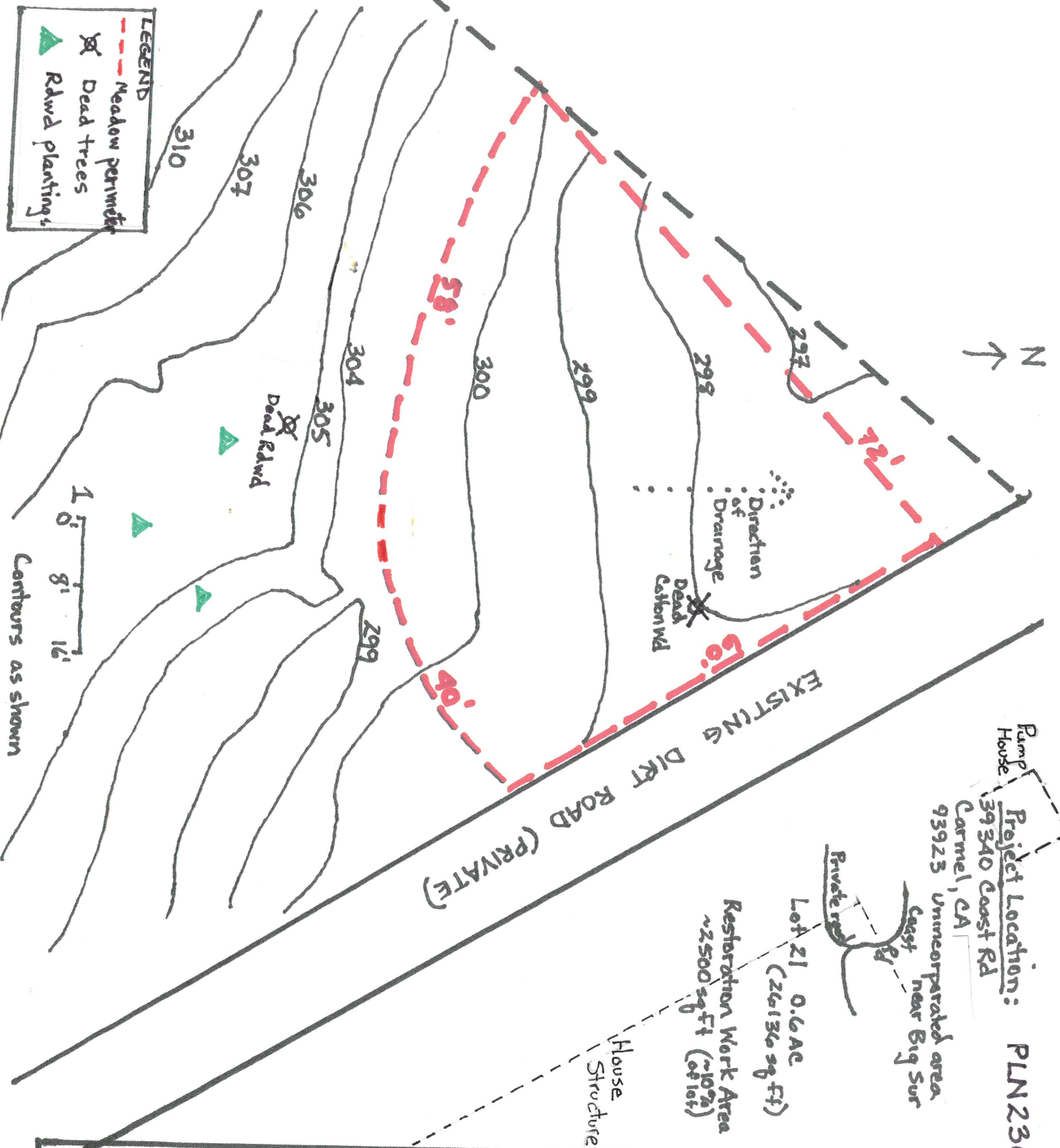
Proof of recordation of the Indemnification Agreement, as outlined, shall be submitted to HCD – Planning.

7. 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. (HCD - Planning)

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.



Project Location: **PLN230231**
 39340 Coast Rd
 Carmel, CA
 93923 Unincorporated area
 East near Big Sur

APN: 418-121-021-000
 Meadow restoration and RDWD
 planting
 owner
 Marguerite Jackson Reinhardt et al
 1150 High Court Berkeley, CA
 94708
 PH. (510) 364-8606

Drawn by: Patricia Jackson Larsen
 Owner Representative 12/15/23
 39208 Coast Rd, Monterey CA 93940
 PH. (510) 520-2296

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