

Attachment A

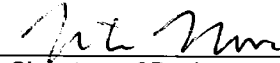
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When recorded return to:
MONTEREY COUNTY RESOURCE
MANAGEMENT AGENCY
PLANNING DEPARTMENT
Attn: Dan Lister
168 West Alisal St 2nd Floor
Salinas, CA 93901
(831) 755-5025

Space above for Recorder's Use

Permit No.: PLN120802
Resolution No.: 14-007
Owner Name: Patrick Michael Hassett and
Eric Anthony as Successor
Trustees of the John Anthony
Hassett and Dolores Ingeborg
Hassett Revocable Trust
Applicant Name: TeleSpan Communications, LLC
Project Planner: Dan Lister
APN: 181-061-012-000

The Undersigned Grantor(s) Declare(s):
DOCUMENTARY TRANSFER TAX OF \$ 0
 computed on the consideration or full value of
property conveyed, OR
 computed on the consideration or full value less
value of liens and/or encumbrances remaining at
time of sale,
 unincorporated area; and
 Exempt from transfer tax,
Reason: Transfer to a governmental entity


Signature of Declarant or Agent

CONSERVATION AND SCENIC EASEMENT DEED (COASTAL)

THIS DEED made this 16th day of Dec, 2014, by and between Patrick Michael Hassett and Eric Anthony as Successor Trustees of the John Anthony Hassett and Dolores Ingeborg Hassett Revocable Trust as Grantor; Crown Castle Towers 06-2 LLC, a Delaware limited liability company, as Successor Applicant to TeleSpan Communications, LLC, the Original Applicant; and the *COUNTY OF MONTEREY*, a political subdivision of the State of California, as Grantee,

WITNESSETH:

WHEREAS, said Grantor is the owner in fee of the real property more particularly described in Exhibit "A" attached hereto and made a part hereof, situated in Monterey County, California (hereinafter the "Property"); and

WHEREAS, a portion of the Property of said Grantor has certain natural scenic beauty and existing openness; and

WHEREAS, the Grantor and the Grantee desire to preserve and conserve for the public benefit the great natural scenic beauty and existing openness, natural condition and present state of use of said portion of the Property of the Grantor; and

WHEREAS, the California Coastal Act of 1976, (hereinafter referred to as the "Act") requires that any coastal development permit approved by the County must be consistent with the provisions of the certified Local Coastal Program (LCP); and

WHEREAS, pursuant to the Act, and the LCP, the Original Applicant, with Grantor's authorization, applied to the County for a permit to undertake development as defined in the LCP; and

WHEREAS, a Combined Development Permit (File Number PLN120802) (hereinafter referred to as the "Permit") was granted on January 29, 2014 by the Monterey County Planning Commission pursuant to the Findings, Evidence and Conditions contained in Resolution No. 14-007, attached hereto as Exhibit "B" and hereby incorporated by reference, (hereinafter the "Resolution") subject to the following condition(s):

MITIGATION MEASURE: PAJARO MANZANITA REPLANTING (Condition No. 19):

Pursuant to the Biotic Survey prepared by Scott Hennessy (LIB130240), replacement of the Pajaro manzanita shall be at a ratio of 3:1. A qualified professional biologist shall submit a replanting and monitoring plan which identifies the replanting area which shall be located next to existing thriving chaparral species on-site and shall provide maintenance recommendations that shall occur during the three-years of monitoring. The approved replanting area must be surveyed and placed in a Scenic and

Conservation Easement to protect the replanting area and existing chaparral species near the replacement planting in perpetuity. At the end of the three year monitoring, a qualified professional biologist shall submit a report containing to the status of the replanting. If replanting fails, the biologist shall recommend additional replanting, maintenance measures and monitoring.

WHEREAS, the County, acting on behalf of the People of the State of California and pursuant to the Act, and in accordance with the findings contained in the Resolution granted the Permit to the Original Applicant upon condition (hereinafter the "Condition") described above requiring inter alia, that the Grantor record a conservation and scenic easement (hereinafter "Easement") over the Property as shown in Exhibit "C" attached hereto and hereby incorporated by reference, and agree to restrict development on and use of that portion of the Property so encumbered by the Easement, as to preserve the open space, scenic, and/or natural resource values present within the Easement and so as to prevent the adverse direct and cumulative effects on coastal resources and public access to the coast which could occur if the Property were not restricted in accordance with this Easement; and

WHEREAS, the County has placed the Condition on the permit because a finding must be made under the law that the proposed development is in conformity with the provisions of the certified Local Coastal Program and that in the absence of the protections provided by the Condition said finding could not be made; and

WHEREAS, pursuant to that certain Asset Purchase Agreement dated May 29, 2014, the Original Applicant transferred its right, title and interest in the development authorized by the Permit to Successor Applicant and Successor Applicant engaged the Original Applicant to complete the development authorized by the Permit on Successor Applicant's behalf; and

WHEREAS, Successor Applicant and Grantor have elected to comply with the Condition and execute this Easement so as to enable Successor Applicant to undertake the development authorized by the Permit; and

WHEREAS, it is intended that this Easement is irrevocable and shall constitute enforceable restrictions within the meaning of Article XIII, Section 8, of the California Constitution and that said Easement shall thereby qualify as an enforceable restriction under the provision of the California Revenue and Taxation Code, Section 402.1; and

WHEREAS, Grantor is willing to grant to the County of Monterey the conservation and scenic use as herein expressed for the portion of the Property encumbered by the Easement, and thereby protect the present scenic beauty and existing openness by the restricted use and enjoyment of that portion of the Property encumbered by the Easement, by the Grantor through the imposition of the conditions hereinafter expressed;

NOW, THEREFORE, the Grantor does hereby grant and convey unto the County of Monterey an estate, interest, and conservation and scenic easement in said real property of Grantor of the nature and character and to the extent hereinafter expressed, which estate, interest, and easement will result from the restrictions hereby imposed upon the use of said portion of the Property by said Grantor, and to that end and for the purposes of accomplishing the intent of the parties hereto, said Grantor covenants on behalf of itself, its heirs, successors, and assigns, with the said Grantee, its successors and assigns, to do and refrain from doing severally and collectively upon the portion of Grantor's Property encumbered by the Easement, the various acts hereinafter mentioned.

A. PROPERTY SUBJECT TO EASEMENT. The portion of the Property of the Grantor hereinabove referred to and to which the provisions of this instrument apply is situated in the County of Monterey, State of California, and is particularly described and depicted in Exhibit "C", attached hereto, and made a part hereof, hereinafter referred to as the "Conservation and Scenic Easement Area".

B. RESTRICTIONS. The restrictions hereby imposed upon the use of the Conservation and Scenic Easement Area by the Grantor and the acts which said Grantor shall refrain from doing upon the Conservation and Scenic Easement Area in connection herewith are, and shall be, as follows:

1. That no structures will be placed or erected upon said Conservation and Scenic Easement Area.

2. That no advertising of any kind or nature shall be located on or within the Conservation and Scenic Easement Area.

3. That the Grantor shall not plant, nor permit to be planted, any vegetation upon the Conservation and Scenic Easement Area.

4. That the general topography of the landscape within the Conservation and Scenic Easement Area shall be maintained in its present condition and no excavation or topographic changes shall be made.

5. That no use of the Conservation and Scenic Easement Area which will or does materially alter the landscape or other attractive scenic features of said portions of the Property other than those specified above shall be done or suffered.

C. EXCEPTIONS AND RESERVATIONS. The following are excepted and reserved to the Grantor to be implemented consistent with the objectives, purposes and conditions of this Easement:

1. The use and occupancy of the Conservation and Scenic Easement Area not inconsistent with the conditions and restrictions herein imposed.

2. Management of vegetation within the Conservation and Scenic Easement Area in accordance with the Landscaping Plan approved with the Permit on file with the Monterey County Planning Department.

D. SUBJECT TO ORDINANCES. Land uses permitted or reserved to the Grantor by this instrument shall be subject to the ordinances of Grantee regulating the use of land.

E. BENEFIT AND BURDEN. This grant of conservation and scenic easement shall run with and burden the Property, and all obligations, terms, conditions, and restrictions hereby imposed shall be deemed to be covenants and restrictions running with the land and shall be effective limitations on the use of the portion of the Property encumbered by the Easement, from the date of recordation of this document and shall bind the Grantor and all of its successors and assigns. This grant shall benefit the County of Monterey and its successors and assigns forever.

F. RIGHT OF ENTRY. The Grantee or its agent may enter onto the Property to ascertain whether the use restrictions set forth above are being observed at times reasonably acceptable to the Grantor.

G. ENFORCEMENT. Any act or any conveyance, contract, or authorization whether written or oral by the Grantor which uses or would cause to be used or would permit use of the Conservation and Scenic Easement Area contrary to the terms of this grant of easement will be deemed a breach hereof. The Grantee may bring any action in court necessary to enforce this grant of easement, including, but not limited to, injunction to terminate a breaching activity and to force the restoration of all damage done by such activity, or an action to enforce the terms and provisions hereof by specific performance. It is understood and agreed that the Grantee may pursue any appropriate legal and equitable remedies. The Grantee shall have sole discretion to determine under what circumstances an action to enforce the terms and conditions of this grant of Easement shall be brought in law or in equity. Any forbearance on the part of the Grantee to enforce the terms and provisions hereof in the event of a breach shall not be deemed a waiver of Grantee's rights regarding any subsequent breach.

H. MAINTENANCE. The Grantee shall not be obligated to maintain, improve, or otherwise expend any funds in connection with the Property or any interest or easement created by this grant of Easement. All costs and expenses for such maintenance, improvement use, or possession shall be borne by the Successor Applicant, except for costs incurred by Grantee for monitoring compliance with the terms of this easement.

I. LIABILITY AND INDEMNIFICATION. This conveyance is made and accepted upon the express condition that the Grantee, its agencies, departments, officers, agents, and employees are to be free from all liability and claim for damage by reason of any injury to any person or persons, including Grantor, or property of any kind whatsoever and to whomsoever belonging, including Grantor, from any cause or causes whatsoever, except matters arising out of the sole negligence of the Grantee, while in, upon, or in any way connected with the Property, Grantor hereby covenanting and agreeing to indemnify and hold harmless the Grantee, its agencies, departments, officers, agents, and employees from all liability, loss, cost, and obligations on account of or arising out of such injuries or losses however occurring. The Grantee shall have

no right of control over, nor duties and responsibilities with respect to the Property which would subject the Grantee to any liability occurring upon the Property by virtue of the fact that the right of the Grantee to enter the Property or Conservation and Scenic Easement Area is strictly limited to preventing uses inconsistent with the interest granted, the Property is not "property of a public entity" or "public property," and Grantee's rights herein do not include the right to enter the Property or Conservation and Scenic Easement Area for the purposes of correcting any "dangerous condition" as those terms are defined by California Government Code Section 830.

J. SUCCESSORS AND ASSIGNS. The terms, covenants, conditions, exceptions, obligations, and reservations contained in this conveyance shall be binding upon and inure to the benefit of the successors and assigns of both the Grantor and the Grantee, whether voluntary or involuntary.

K. CONSTRUCTION OF VALIDITY. If any provision of this conservation and scenic easement is held to be invalid or for any reason becomes unenforceable, no other provision shall be thereby affected or impaired.

Executed this 16th day of December 2014, at Castro Valley, California

"GRANTOR"

Patrick Michael Hassett and Eric Anthony Hassett as Successor Trustees Of the John Anthony Hassett and Dolores Ingeborg Hassett Revocable Trust

By: *Patrick Michael Hassett*
Print Name: Patrick Michael Hassett
Title: Successor Trustee

Date: 12-16-14

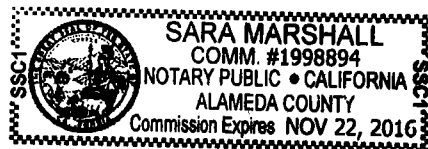
STATE OF CALIFORNIA)
 8th Alameda) SS.
COUNTY OF ~~MONTEREY~~)

On December 16, 2014 before me, Sara Marshall, a Notary Public, personally appeared Patrick Michael Hassett, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature *Sara Marshall*



(Seal)

"GRANTOR"

Patrick Michael Hassett and Eric
Anthony Hassett as Successor Trustees
Of the John Anthony Hassett and
Dolores Ingeborg Hassett Revocable
Trust

By: *Eric Anthony Hassett*

Print Name: Eric Anthony Hassett

Title: Successor Trustee

Date: 12-12-14

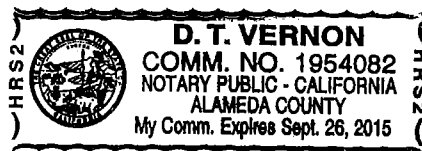
STATE OF CALIFORNIA)
) SS.
COUNTY OF MONTEREY)

On December 12, 2014 before me, P.T. Vernon, a
Notary Public, personally appeared Eric Anthony Hassett, who
proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the
same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the
instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the
instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the
foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature *P.T. Vernon*



(Seal)

This is to certify that the interest in real property conveyed by the deed or grant dated _____ from _____ to the County of Monterey, a political corporation and/or governmental agency is hereby accepted by order of the Board of Supervisors on _____, (or by the undersigned officer or agent on behalf of the County of Monterey pursuant to authority conferred by resolution of the Board of Supervisors adopted on _____,) and the grantee consents to recordation thereof by its duly authorized officer.

DATED: _____

Type/Print Name: _____
Chair, Monterey County Board of Supervisors

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
) SS.
COUNTY OF MONTEREY)

On _____ before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

Document Form/Content Acceptable:

Charles J. McKee, County Counsel

By:  _____

DATED: 1-7-15

Type/Print Name: **Michael J. Whilden**
Deputy County Counsel

EXHIBIT A

The Property

[See attached pages]

Exhibit A
Property Description

Real property in the unincorporated area of the County of Monterey, State of California, described as follows:

BEGINNING AT A POINT ON THE WEST SIDE OF THE COUNTY ROAD LANDING FROM SALINAS CITY TO WATSONVILLE THROUGH THE SAN MIGUEL CANYON SAID POINT BEING ON THE LINE BETWEEN THE SOUTHERN BOUNDARY OF THE CARNEROS RANCHO AND THE NORTHERN BOUNDARY OF THE BOLSA NUEVA Y MORO COJO RANCHO AND RUNNING THENCE ALONG THE WESTERN SIDE OF SAID ROAD AS FOLLOWS:

NORTH 0° 15' WEST, 3.55 CHAINS; NORTH 15° WEST, 1.04 CHAINS, NORTH 24° WEST, 1.62 CHAINS; NORTH 32° WEST, 1.00 CHAINS; NORTH 50° 30' WEST, 1.09 CHAINS; NORTH 67° 15' WEST, 5.36 CHAINS; NORTH 48° 15' WEST, 3.22 CHAINS; NORTH 38° WEST, 1.56 CHAINS; NORTH 18° 45' WEST, 3.91 CHAINS; NORTH 36° WEST, 4.97 CHAINS; AND NORTH 64° 15' WEST, 3.52 CHAINS TO A STATION FROM WHICH THE NORTHERN CORNER OF LANDS CONVEYED BY WILLIAM J. FREITAS, ET AL TO JOSEPH W. FREITAS BY DEED DATED JULY 31, 1924 RECORDED IN BOOK 41 OF OFFICIAL RECORDS AT PAGE 180 MONTEREY COUNTY RECORDS (OF WHICH THE LANDS HEREIN DESCRIBED ARE A PART) BEARS NORTH 64° 15' WEST, 56 LINKS DISTANT; THENCE LEAVING SAID ROAD SOUTH 30° 50' WEST, 8.00 CHAINS; SOUTH 64° 15' WEST, 4.13 CHAINS; SOUTH 14° 20' EAST, 2.21 CHAINS TO A POST, THENCE SOUTH 23° 3' EAST, 19.59 CHAINS TO THE AFORESAID LINE BETWEEN RANCHOS CARNEROS AND BOLSA NUEVA Y MORO COJO, AND THENCE ALONG SAID RANCHO BOUNDARY NORTH 69° 15' EAST, 18.75 CHAINS TO THE PLACE OF BEGINNING AND CONTAINING 40 ACRES OF SAID LAND MORE OR LESS.

EXCEPTING THEREFROM THAT PORTION CONVEYED BY EDWARD B. DAVIS, ET UX TO THE COUNTY OF MONTEREY BY DEED DATED MARCH 11, 1946 AND RECORDED APRIL 5, 1946 IN BOOK 879 OF OFFICIAL RECORDS AT PAGE 347 MONTEREY COUNTY RECORDS.

ALSO EXCEPTING THEREFROM THAT 1.71 ACRE TRACT CONVEYED BY EDWARD B. DAVIS AND PHOEBE M. DAVIS, HIS WIFE TO J. C. MILLER AND JIMMIE MILLER HIS WIFE AS JOINT TENANTS, BY DEED DATED MAY 19, 1952, AND RECORDED JUNE 12, 1952 IN BOOK 1386 OF OFFICIAL RECORDS AT PAGE 370 MONTEREY COUNTY RECORDS.

ALSO EXCEPTING THEREFROM THE CERTAIN 23.4 ACRES TRACT CONVEYED BY EDWARD B. DAVIS, AND PHOEBE M. DAVIS, HIS WIFE, TO JESUS C. ALVARADO A SINGLE MAN BY DEED DATED NOVEMBER 25, 1953, RECORDED NOVEMBER 30, 1953 IN BOOK 1493 OF OFFICIAL RECORDS AT PAGE 441, MONTEREY COUNTY RECORDS.

ALSO EXCEPTING THEREFROM THAT CERTAIN 0.733 ACRE PARCEL OF LAND AS CONVEYED FROM PHOEBE MAR MARRIOTT TO THE COUNTY OF MONTEREY BY DEED DATED AUGUST 31, 1960, RECORDED SEPTEMBER 2, 1960 IN BOOK 2080 OF OFFICIAL RECORDS AT PAGE 110.

APN: 181-061-012

EXHIBIT B

Resolution No. 14-007

[See attached pages]

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

In the matter of the application of:
Telespan Communications LLC (PLN120802)
RESOLUTION NO. 14-007
Resolution by the Monterey County Planning
Commission:

- 1) Adopting a Mitigated Negative Declaration;
- 2) Approving a Combined Development Permit consisting of: 1) Coastal Development Permit to allow the development of a wireless telecommunications "Co-location Facility". The facility includes a 150 foot high monopole that will support up to four commercial telecommunication providers, two 240 square foot equipment shelters, two 50 foot emergency generators and two 100 square foot areas for future equipment shelters for commercial telecommunication providers. The facility would be located in a 3,500 square foot fenced in area. The project includes approximately 1,730 cubic yards of grading (865 cubic yards of cut and 865 cubic yards of fill) for site improvements including a new access road and will require the removal of two Pajaro Manzanita scrubs; 2) Coastal Development Permit to allow the removal of 14 trees (five Oaks, two Pines, and seven Cottonwoods); 3) Coastal Development Permit to allow ridgeline development; and 4) Coastal Development Permit to allow development within 100 feet of environmentally sensitive habitat area; and
- 3) Adopting a Mitigation Monitoring and Reporting Plan

[PLN120802, Telespan Communications LLC, Applicant; Eric & Patrick Hassett TRS, Owner, 1/2 mile south of the Hall Road and San Miguel Canyon Road Intersection, North County Land Use Plan (APN: 181-161-012-000)]

The Telespan Communications LLC application (PLN120802) came on for public hearing before the Monterey County Planning Commission on January 29, 2014. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Planning Commission finds and decides as follows:

FINDINGS

1. **FINDING:** **PROJECT DESCRIPTION** – The proposed project is a Combined Development Permit consisting of: 1) Coastal Development Permit to allow the development of a wireless telecommunications "Co-location Facility". The facility includes a 150 foot high monopole that will

support up to four commercial telecommunication providers, two 240 square foot equipment shelters, two 50 foot emergency generators and two 100 square foot areas for future equipment shelters for commercial telecommunication providers. The facility would be located in a 3,500 square foot fenced in area. The project includes approximately 1,730 cubic yards of grading (865 cubic yards of cut and 865 cubic yards of fill) for site improvements including a new access road and will require the removal of two Pajaro Manzanita scrubs; 2) Coastal Development Permit to allow the removal of 14 trees (five Oaks, two Pines, and seven Cottonwoods); 3) Coastal Development Permit to allow ridgeline development; and 4) Coastal Development Permit to allow development within 100 feet of environmentally sensitive habitat area.

EVIDENCE:

The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN120802.

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:
- the 1982 Monterey County General Plan (GP);
 - North County Land Use Plan (LUP);
 - Monterey County Coastal Implementation Plan - Part 2 (CIP);
 - Monterey County Zoning Ordinance, Title 20 (MCC);
- 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) The property is located 1/2 mile south of the Hall Road and San Miguel Canyon Road Intersection (Assessor's Parcel Number 181-161-012-000), North County Land Use Plan. The property is zoned "RDR/20 (CZ)" [Rural Density Residential, 20 acres per unit (Coastal Zone)], which allows Wireless Communications Facilities per Chapter 20.64.310 of the Monterey County Zoning Ordinance with a discretionary permit (Section 20.70.120.RR, MCC). The project consists of the development of a wireless telecommunications "Co-location Facility" consistent with Chapter 20.64.310 of the Monterey County Code (See Finding & Evidence No. 10 for consistency details). Therefore, the project is an allowed land use for this site.
- c) The project planner conducted a site inspection on December 18, 2012 to verify that the project on the subject parcel conforms to the plans listed above.
- d) Tree Removal: See Finding & Evidence No. 9
- e) ESHA: See Finding & Evidence No. 7
- f) Ridgeline Development: See Finding & Evidence No. 8
- g) The project was referred to the North County Coastal Land Use Advisory Committee (LUAC) for review. Based on the LUAC Procedure guidelines adopted by the Monterey County Board of Supervisors per Resolution No. 08-338, this application did warrant

referral to the LUAC. On June 18, 2013, the LUAC unanimously recommended the approval of the project (vote of 4 ayes, 1 absent) with the proposed monopole design.

- h) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN120802.

3. **FINDING:** **SITE SUITABILITY** – The site is physically suitable for the use proposed.

- EVIDENCE:**
- a) The project has been reviewed for site suitability by the following departments and agencies: RMA - Planning Department, North County Fire Protection District, Public Works, Environmental Health Bureau, and Water Resources Agency. There has been no indication from these departments/agencies that the site is not suitable for the proposed development. Conditions recommended have been incorporated.
 - b) Staff identified potential impacts to biological resources, forest resources and slope stability. The following reports have been prepared:
 - "Biotic Survey" (LIB130240) prepared by Scott Hennessy, Salinas, CA, dated April 23, 2013;
 - "Forest Management Plan" (LIB130241) prepared by Vaughn Forestry & Land Management, Felton, CA, dated May 7, 2013; and
 - "Geologic Hazards Report" (LIB130242) prepared by LandSet Engineers, Inc., Salinas, CA, dated April 18, 2013.

The above-mentioned technical reports by outside consultants indicated that there are no physical or environmental constraints that would indicate that the site is not suitable for the use proposed. County staff has independently reviewed these reports and concurs with their conclusions.

- c) Staff conducted a site inspection on December 18, 2012 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 the Monterey County RMA - Planning Department for the proposed development found in Project File PLN120802.

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 the RMA - Planning Department, North County Fire Protection District, Public Works, Environmental Health Bureau, and Water Resources Agency. 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) A conceptual "Radio Frequency (RF) Emissions Site Compliance Report" was prepared by SiteSafe on October 30, 2013. The report

concludes that the site complies with Federal Communications Commission (FCC) RF Emissions rules and regulations. The report recommends RF signage on the monopole and fencing surrounding the facility, as well as restricted access to the facility by means of a locked gate, alarmed door, and locked ladder access. As a condition of approval, a post-construction RF emissions report is required to ensure that the operation of the facility complies with FCC emission rules and regulations.

- c) Staff conducted a site inspection on December 18, 2012 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 the Monterey County RMA - Planning Department for the proposed development found in Project File PLN120802.

5. **FINDING:** **NO VIOLATIONS** - The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of the County's zoning ordinance. No violations exist on the property.

- EVIDENCE:**
- a) Staff reviewed Monterey County RMA - Planning Department and Building Services Department records and is not aware of any violations existing on subject property.
 - b) Staff conducted a site inspection on December 18, 2012 and researched County records to assess if any violation exists on the subject property.
 - c) There are no known violations on the subject parcel.
 - d) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN120802.

6. **FINDING:** **CEQA (Mitigated Negative Declaration)** - On the basis of the whole record before the Monterey County Planning Commission, there is no substantial evidence that the proposed project as designed, conditioned and mitigated, will have a significant effect on the environment. The Mitigated Negative Declaration reflects the independent judgment and analysis of the County.

- EVIDENCE:**
- a) Public Resources Code Section 21080.d and California Environmental Quality Act (CEQA) Guidelines Section 15064.a.1 and 15070 require environmental review if there is substantial evidence that the project may have a significant effect on the environment.
 - b) The Monterey County Planning Department prepared an Initial Study pursuant to CEQA. The Initial Study is on file in the offices of the Planning Department and is hereby incorporated by reference (PLN120802).
 - c) The Initial Study identified two potentially significant effects, but the applicant has agreed to proposed mitigation measures that mitigate the effects to a less-than-significant level.
 - d) All project changes required to avoid significant effects on the environment have been incorporated into the project and/or are made conditions of approval. A Condition Compliance and Mitigation Monitoring and/or Reporting Plan has been prepared in accordance with Monterey County regulations, designed to ensure compliance during

- project implementation, and is hereby incorporated herein by reference. The applicant must enter into an "Agreement to Implement a Mitigation Monitoring and/or Reporting Plan as a condition of project approval.
- e) The Draft Mitigated Negative Declaration ("MND") for PLN120802 was prepared in accordance with CEQA and circulated for public review from November 22, 2013 through December 23, 2013 (SCH#: 2013111073).
 - f) The major issues that were analyzed in the Mitigated Negative Declaration include: aesthetics and biological resources. Also analyzed were temporary impacts due to construction: geology/soils, hydrology/water quality, air quality, noise, and greenhouse gas emissions.
 - g) **Aesthetics:** A visual assessment was conducted based on standards within the Wireless Communication Facilities regulations (Section 20.64.310 MCC) and viewshed regulations within the Monterey County Coastal Implementation Plan (Section 20.144.030) which requires the facility to be the least visually intrusive from public viewing areas. The proposed 150 foot high monopole will be visible from neighboring parcels along San Miguel Canyon Road and from portions of Charles Schell Lane and Apricot Lane (located on the east-side of San Miguel Canyon Road), and will create ridgeline development. The project is located in a heavily forested area which will reduce visual impacts when viewed from areas near the property. At a distance within public viewing area, visibility of the site will be obscured by topography, existing forest resources, and the monopole design. Based on review of alternative locations and design alternatives, the proposed project is considered the least visually intrusive and has been determined to be a less-than-significant visual impact (see Finding No. 11 for project alternatives and Finding and Evidence No. 8, 10 and 11 for visual assessment details).
 - h) **Biological Resources:** The project requires the removal of two Pajaro Manzanita which is considered as a potential significant impact because the species is listed in the California Native Plant Society (CNPS) Inventory of Rare and Endangered Plants on list 1B.1 (*rare, threatened, or endangered in CA and elsewhere*). The biotic report prepared for the project (LIB130240) identifies that two Pajaro Manzanita species will be removed. The two Manzanita species proposed for removal are considered to be in very poor condition due to their location under existing trees. A mitigation measure has been recommended requiring the replacement of the Pajaro Manzanita at a ratio of 3:1. The replanting shall be located near thriving chaparral species located approximately 100 feet above the project site. The replanting area must be monitored for three year to ensure the success of the replanted species. Additionally, the replanting area is required to be placed in a Scenic and Conservation Basement for long-term protection from future development. An additional recommendation for invasive species removal has been added as a condition of approval. The report concludes that the recommended maintenance and replanting of the species will benefit the chaparral community on-site. The Forest Management Plan (FMP) prepared for the project

(LIB130241) identifies the site as undeveloped oak woodland. The FMP states that natural suppression of understory oaks is occurring and the Oak trees are beginning to thin themselves; also the Oak woodland would benefit from selective removal to improve the overall health of the forest. The project was designed to reduce the amount of tree removal and to remove trees that were determined to not impact the overall health of the forest. The Coastal live oaks are in fair to poor condition. Two Monterey pines will be removed and replaced with Coast live oak, since the pines are not endemic to the North County area. The cottonwood, native to the area, will be transplanted and protected on-site. No landmark trees will be removed or impacted by the project. The FMP recommends 11 trees to be replanted to replace the trees removed. All recommended tree protection measures, replacement measures and maintenance measures have been applied as a condition of approval. The report concludes, if recommendations are adhered to, the project is not expected to result in significant impacts, but may prove beneficial to the overall forest.

- i) Temporary Construction Impacts: Temporary impacts have been identified due to construction including potential erosion hazards (geology/soils section), stormwater impacts (hydrology/water section), backup generators emissions (air quality section), radio frequency emissions (hazardous/hazardous materials section) and temporary construction noise (noise section). Conditions of approval have been applied to ensure that temporary impacts during construction are addressed. Conditions of approval include an erosion control plan, drainage/stormwater control plan, Geo-technical Certification, Air District Permit required for backup generators, FCC Emissions Post-Construction Consistency Report, and limited hours of operation.
- j) Public Resources Code Section 21083.4 requires mitigation measures to be applied to projects that may result in a conversion of oak woodlands that will have a significant effect on the environment. The Forest Management Plan (FMP) prepared for the project (LIB130241) states that the forest is undeveloped oak woodland. Also, that natural suppression of understory oaks is occurring and the Oaks are beginning to thin themselves, and would benefit from selective removal to improve the overall health of the oak woodland. The project has been carefully sited to reduce the amount of tree removal required for development. The report concludes, if the FMP recommendations are adhered to, the project is not expected to result in significant impacts, and may prove beneficial to the overall forest. All the recommendations in the FMP have been applied to the approval of the project. The project will not result in a conversion of oak woodlands that will have a significant effect on the environment.
- k) Evidence that has been received and considered includes: the application, technical studies/reports (See Finding 2/Site Suitability), staff reports that reflect the County's independent judgment, and information and testimony presented during public hearings. These documents are on file in the RMA-Planning Department (File No. PLN120802) and are hereby incorporated herein by reference.
- l) Staff analysis contained in the Initial Study and the record as a whole

indicate the project could result in changes to the resources listed in Section 753.5(d) of the California Department of Fish and Game (CDFG) regulations. All land development projects that are subject to environmental review are subject to a State filing fee plus the County recording fee, unless the Department of Fish and Game determines that the project will have no effect on fish and wildlife resources. The site supports Pajaro Manzanita which is listed in the California Native Plant Society (CNPS) Inventory of Rare and Endangered Plants on list 1B.1 For purposes of the Fish and Game Code, the project may have a significant adverse impact on the fish and wildlife resources upon which the wildlife depends. The Initial Study was sent to the California Department of Fish and Game for review, comment, and to recommend necessary conditions to protect biological resources in this area. Therefore, the project will be required to pay the State fee plus a fee payable to the Monterey County Clerk/Recorder for processing said fee and posting the Notice of Determination (NOD).

- m) No comments from the public were received.
- n) The Monterey County Planning Department, located at 168 W. Alisal, 2nd Floor, Salinas, California, 93901, is the custodian of documents and other materials that constitute the record of proceedings upon which the decision to adopt the negative declaration is based.

7. FINDING:

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

EVIDENCE:

- a) The project includes application for development within 100 feet of environmentally sensitive habitat areas (ESHA). In accordance with the applicable policies of the North County Land Use Plan and the Monterey County Coastal Implementation Plan – Part 2, a Coastal Development Permit is required and the criteria to grant said permit have been met.
- b) Pursuant to Section 20.144.040.B.2 (Environmentally Sensitive Habitat Development Standards) of the Coastal Implementation Plan – Part 2, development on parcels containing or within 100 feet of ESHA shall not be permitted to adversely impact the habitat's long-term maintenance, as determined by a biological survey. Proposals shall be modified to reduce impacts to a level insignificant. Recommended mitigation measures and conditions shall be incorporated into the approval of the project.
- c) The project proposes the removal of two Pajaro Manzanita species for the construction of an access road and the wireless communications facility. The plant species is listed in the California Native Plant Society (CNPS) Inventory of Rare and Endangered Plants on list 1B and protected within the North County Land Use Plan (Policy 2.3.3.A.2, LUP).
- d) A biotic survey was prepared by Scott Hennessy (LIB130240) to analyze the site and potential impacts to the Pajaro Manzanita species (consistent with Section 20.144.040.A, CIP). The biotic survey identifies that the two Pajaro Manzanita species to be removed are in poor condition due to their location under existing trees. The project has

been designed to minimize impacts to biological resources by minimizing removal of vegetation and by placing development on areas with slopes less than 25% consistent with Section 20.144.040.B.2 of the Coastal Implementation Plan.

- e) A mitigation measure recommended in the biotic survey requires six Pajaro Manzanita species be replanted in a location on the property where the species is currently thriving. Recommended conditions include the removal of invasive species, and observance of migratory bird nesting season. The recommended mitigation measure and condition is consistent with Section 20.144.040.B.2 & 6, CIP.
- f) The project planner conducted a site inspection on December 18, 2012 to verify ESHA locations and potential project impacts to ESHA.
- g) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN120802.

8. **FINDING:** **RIDGELINE DEVELOPMENT** – The subject project, as conditioned by this permit, will not create a substantially adverse visual impact when viewed from a common public viewing area.

- EVIDENCE:**
- a) Pursuant to Section 20.144.030.B.6 of the Monterey County Coastal Implementation Plan – Part 2, ridgeline development may be approved if, as conditioned or designed, the project will not create a substantially adverse visual impact when viewed from a common public viewing area, there are not feasible alternatives, and the development will minimize impacts to resources on the property (i.e., tree removal, development on slopes over 25%, etc...).
 - b) The project includes a 150 foot high monopole which will create ridgeline development when viewed from common public viewing locations. The location of the monopole was strategically sited to use the existing forest to reduce its visibility and visual impacts. The project has also designed to minimize the removal of trees and will not disturb any area with slopes over 25%.
 - c) There is no alternative location on the subject site or off-site which would allow a reasonable development without potential for ridgeline development (See Finding & Evidence No. 10 for alternative site analysis).
 - d) The project planner conducted a site inspection on December 18, 2012 to verify that the project on the subject parcel conforms to the ridgeline development requirement to not create a substantially adverse visual impact.
 - e) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN120802.

9. **FINDING:** **TREE REMOVAL – COASTAL** The subject project minimizes tree removal in accordance with the applicable goals and policies of the North County Land Use Plan and the associated Coastal Implementation Plan.

- EVIDENCE:**
- a) The project includes application for the removal of 14 trees. In accordance with the applicable policies of the North County Land Use Plan and Monterey County Coastal Implementation Plan – Part 2, a

- Coastal Development Permit is required and the criteria to grant said permit have been met.
- b) The project includes the removal of five Coast live oaks, two Monterey pines and the relocation of cottonwood which are all native species to Monterey County.
 - c) A Forest Management Plan and supplemental reports were prepared by Vaughan Forestry & Land Management on May 7, 2013. The proposed removal is the minimum required in the case, and the project has been designed to minimize impact to forest resources consistent with Section 20.144.050.C.3 of the Coastal Implementation Plan. All trees to be removed will be replaced at a ratio of 1:1 consistent with Section 20.144.050.C.5 of the Coastal Implementation Plan. All tree protection; replanting and forest maintenance methods recommended by the forester have been applied as conditions of approval consistent with Section 20.144.050.C.7 & 9 of the Coastal Implementation Plan.
 - d) A standard condition has been applied requiring the applicant to record the Forest Management Plan requiring the applicant to strictly adhere to all recommendations within the plan regarding tree protection, tree replacement, tree relocation, and maintenance methods (consistent with Section 020.144.050.B.7, CIP).
 - e) The project has been designed and sited to minimize the removal of protected trees to the greatest extent feasible.
 - f) The removal will not involve a risk of adverse environmental impacts. The Forest Management Plan states that the forest is undeveloped oak woodland. Natural suppression of understory oaks is occurring and beginning to thin themselves, and would benefit from selective removal to improve the overall health of the forest. The project has been carefully sited to reduce the amount of tree removal and all the removal of trees that will not impact the oak woodland. The report concludes, if recommendations are adhered to, the project is not expected to result in significant impacts, and may prove beneficial to the overall forest.
 - g) Staff conducted a site inspection on December 18, 2012 to verify that the tree removal is the minimum necessary for the project and to identify any potential adverse environmental impacts related to the proposed tree removal.
 - h) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN120802.

10. **FINDING:**

WIRELESS COMMUNICATION FACILITIES – The development of the proposed wireless communications facility will not significantly affect any designated public viewing area, scenic corridor or any identified environmentally sensitive area or resources. The site is adequate for the proposed development of the wireless communication facility and the applicant has demonstrated that it is the most adequate for the provision of services as required by the Federal Communications Commission. The proposed wireless communication facility complies with all the applicable requirements of Monterey County Code section 20.64.310. The subject property on which the wireless communication facility is to be built is in compliance with all rules and regulations

pertaining to zoning uses, subdivisions and any other provisions of Title 20. The proposed telecommunication facility will not create a hazard for aircraft in flight.

- EVIDENCE:**
- a) The project consists of a 150 foot high monopole that will support up to four commercial telecommunication providers within a 3,500 square foot fenced area. Initially two 240 square foot equipment shelters and two 50 foot emergency generators would be constructed and two additional shelters would be constructed in the future for additional providers within two 100 square foot areas.
 - b) Pursuant to Section 20.64.310.C.4 of the Wireless Communications Facilities Regulations, the facility must be the least visually intrusive means of provide service to the area. The applicant has submitted service coverage maps, and site and design alternatives to demonstrate that the proposed facility is the least visually intrusive. Based on the visual assessment and on-site investigation, the site has been determined to be the least visually intrusive.
 - c) Coverage Maps: Two sets of coverage maps were provided by AT&T and Verizon Wireless. Each map identifies that the area in the vicinity of the site is located in an area with poor to no service. The project is proposed to cover a significant service gap.
 - d) Alternative Location Analysis: Six off-site locations and two on-site alternative locations were analyzed to ensure that the proposed project site is the least visually intrusive site. The alternative locations are as follows:
 - 1) **Assessor's Parcel Number: 418-012-048-000** (127 acre parcel along San Miguel Canyon Road and Hall Road; half-a-mile north of the project site): The parcel will be highly visible, and is located in a visually sensitive area of North County;
 - 2) **Assessor's Parcel Number: 181-061-023-000** (4.6 acre parcel located near the corner of San Miguel Canyon Road and Maher Road; half-a-mile northeast of the project site)
 - 3) **Assessor's Parcel Number: 181-061-021-000** (6 acre parcel located on Maher Road; 0.32 miles northeast of the project site)
 - 4) **Assessor's Parcel Number: 181-061-039-000** (30 acre parcel located near Maher Road; 0.32 miles east of the project site)
 - 5) **Assessor's Parcel Number: 181-061-010-000** (23 acre parcel located on San Miguel Canyon Road; adjacent (north) of the project site): Unique farmland; the project will be highly visible.
 - 6) **Assessor's Parcel Number: 412-102-006-000**: Future County of Monterey Next Generation Emergency Network project site which is to include a 100 foot lattice tower. The site is located at the old County Landfill. The site is approximately 2 miles from the proposed project. Pursuant to discussions between the applicant and Monterey County Emergency Communications, due to service and technical needs, this site will not work for the applicant, and the proposed project site will not work for Monterey County Emergency Communications.
 - 7) **Two on-site alternative locations**: Two on-site alternative locations were analyzed: a location at the top of the ridge, and a location about 300 feet above the proposed project site. Although the alternative

locations would reduce the height of the monopole to 120 feet, the monopole would stand above the existing tree line becoming more visible. The alternative sites would impact forest resources and slopes over 25% due to the requirement of an access road that would be much longer than the one proposed.

- e) Design Alternative: The project consists of a 150 foot high monopole. Two alternative designs were reviewed: a mono-pine (monopole that disguised as a tree), and a lattice tower. The monopole design was recommended by the North County Land Use Advisory Committee on June 18, 2013.
- f) The project is consistent with Chapter 20.92 (Airport Approaches Zoning) and does not require review by the Monterey County Airport Land Use Commission. This project does not affect any aircraft zones identified in Section 20.92.050 MCC and the proposed height is within limitations outlined in Section 20.92.060 MCC.
- g) The project does not penetrate a FAR Part 77 Imaginary Surface since it is not located within five (5) miles of an airport (Monterey Peninsula, Salinas Municipal, Mesa Del Rey/King City, Carmel Valley, or Fritzsche Army/Fort Ord). If deemed necessary by the FCC, proper warning lights would be located on top of the structure to prevent conflict with any aircraft (e.g. crop dusters) when visibility is limited.
- h) Staff site visit and project photos in project file PLN120802.

11. **FINDING:** **APPEALABILITY** - The decision on this project may be appealed to the Board of Supervisors and the California Coastal Commission
- EVIDENCE:**
- a) Section 20.86.030.A of the Monterey County Zoning Ordinance states that the proposed project is appealable to the Board of Supervisors.
 - b) Section 20.86.080.3 of the Monterey County Zoning Ordinance states that the proposed project is subject to appeal by/to the Coastal Commission.

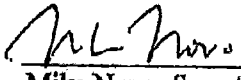
DECISION

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

1. Adopt a Mitigated Negative Declaration;
2. Approve a Combined Development Permit consisting of: 1) Coastal Development Permit to allow the development of a wireless telecommunications "Co-location Facility". The facility includes a 150 foot high monopole that will support up to four commercial telecommunication providers, two 240 square foot equipment shelters, two 50 foot emergency generators and two 100 square foot areas for future equipment shelters for commercial telecommunication providers. The facility would be located in a 3,500 square foot fenced in area. The project includes approximately 1,730 cubic yards of grading (865 cubic yards of cut and 865 cubic yards of fill) for site improvements including a new access road and will require the removal of two Pajaro Manzanita scrubs; 2) Coastal Development Permit to allow the removal of 14 trees (five Oaks, two Pines, and seven Cottonwoods); 3) Coastal Development Permit to allow ridgeline development; and 4) Coastal Development Permit to allow development within 100 feet of environmentally sensitive habitat area. The project is in general conformance with the attached sketch and subject to the attached conditions all being attached hereto and incorporated herein by reference; and
3. Adopt the attached Mitigation Monitoring and Reporting Program.

PASSED AND ADOPTED this 29th day of January, 2014 upon motion of Commissioner Rochester, seconded by Commissioner Getzelman, by the following vote:

AYES: Vandevere, Getzelman, Rochester, Mendez, Roberts, Diehl, Hert
NOES: None
ABSENT: Brown, Salazar, Padilla
ABSTAIN: None


Mike Novo, Secretary

COPY OF THIS DECISION MAILED TO APPLICANT ON **JAN 31 2014**

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 **FEB 10, 2014**.

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 the Monterey County Planning Department and 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.

Monterey County Planning Department
Condition of Approval Implementation Plan/Mitigation
Monitoring Reporting Plan

PLN120802

1. PD001 - SPECIFIC USES ONLY

Responsible Department: Planning Department

Condition/Mitigation Monitoring Measure: The term "applicant" as used in these conditions means Telespan Communications LLC and its successors and assigns. This Combined Development Permit (PLN120802) consists of: 1) Coastal Development Permit to allow the development of a wireless telecommunications "Co-location Facility". The facility includes a 150 foot high monopole that will support up to four commercial telecommunication providers, two 240 square foot equipment shelters, two 50 foot emergency generators and two 100 square foot areas for future equipment shelters for commercial telecommunication providers. The facility would be located in a 3,500 square foot fenced in area. The project includes approximately 1,730 cubic yards of grading (865 cubic yards of cut and 865 cubic yards of fill) for site improvements including a new access road and will require the removal of two Pejaro Manzanita scrubs; 2) Coastal Development Permit to allow the removal of 14 trees (five Oaks, two Pines, and seven Cottonwoods); 3) Coastal Development Permit to allow ridgeline development; and 4) Coastal Development Permit to allow development within 100 feet of environmentally sensitive habitat area. The property is located 1/2 mile south of the Hall Road and San Miguel Canyon Road Intersection, Royal Oaks (Assessor's Parcel Number 181-061-012-000), North County 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 the RMA - Planning Department. 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 Department)

Compliance or Monitoring Action to be Performed: The 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 Department

Condition/Mitigation Monitoring Measure: The applicant shall record a Permit Approval Notice. This notice shall state:
"A Combined Development Permit (Resolution Number 14-007) was approved by the Monterey County Planning Commission for Assessor's Parcel Number 181-061-012-000 on January 29, 2014. The permit was granted subject to 22 conditions of approval which run with the land. A copy of the permit is on file with the Monterey County RMA - Planning Department." Proof of recordation of this notice shall be furnished to the Director of the RMA - Planning Department prior to issuance of building permits or commencement of the use.
(RMA - Planning Department)

Compliance or Monitoring Action to be Performed: Prior to the issuance of grading and building permits or commencement of use, the Applicant shall provide proof of recordation of this notice to the RMA - Planning Department.

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

Responsible Department: Planning Department

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. The Monterey County RMA - Planning Department 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.
(RMA - Planning Department)

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 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 the Monterey County RMA - Planning Department 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. PD005 - FISH & GAME FEE NEG DEC/EIR

Responsible Department: Planning Department

Condition/Mitigation Monitoring Measure: Pursuant to the State Public Resources Code Section 763.5, State Fish and Game Code, and California Code of Regulations, the applicant shall pay a fee, to be collected by the County, within five (5) working days of project approval. This fee shall be paid before the Notice of Determination is filed. If the fee is not paid within five (5) working days, the project shall not be operative, vested or final until the filing fees are paid. (RMA - Planning)

Compliance or Monitoring Action to be Performed: Within five (5) working days of project approval, the Applicant shall submit a check, payable to the County of Monterey, to the Director of RMA - Planning.

If the fee is not paid within five (5) working days, the applicant shall submit a check, payable to the County of Monterey, to the Director of RMA - Planning prior to the recordation of the final/parcel map, the start of use, or the issuance of building permits or grading permits.

5. PD006 - CONDITION OF APPROVAL / MITIGATION MONITORING PLAN

Responsible Department: Planning Department

Condition/Mitigation Monitoring Measure: The applicant shall enter into an agreement with the County to implement a Condition of Approval/Mitigation Monitoring and/or Reporting Plan (Agreement) in accordance with Section 21081.6 of the California Public Resources Code and Section 15097 of Title 14, Chapter 3 of the California Code of Regulations. Compliance with the fee schedule adopted by the Board of Supervisors for mitigation monitoring shall be required and payment made to the County of Monterey at the time the property owner submits the signed Agreement. The agreement shall be recorded. (RMA - Planning)

Compliance or Monitoring Action to be Performed: Within sixty (60) days after project approval or prior to the issuance of building and grading permits, whichever occurs first, the Applicant shall:

- 1) Enter into an agreement with the County to implement a Condition of Approval/Mitigation Monitoring Plan.
- 2) Fees shall be submitted at the time the property owner submits the signed Agreement.
- 3) Proof of recordation of the Agreement shall be submitted to RMA-Planning.

6. PD010 - EROSION CONTROL PLAN

Responsible Department: Planning Department

Condition/Mitigation Monitoring Measure: The approved development shall incorporate the recommendations of the Erosion Control Plan as reviewed by the Director of RMA - Planning and Director of RMA - Building Services. All cut and/or fill slopes exposed during the course of construction be covered, seeded, or otherwise treated to control erosion during the course of construction, subject to the approval of the Director of RMA - Planning and RMA - Building Services. The improvement and grading plans shall include an implementation schedule of measures for the prevention and control of erosion, siltation and dust during and immediately following construction and until erosion control planting becomes established. This program shall be approved by the Director of RMA - Planning and the Director of RMA - Building Services. (RMA - Planning and RMA - Building Services)

Compliance or Monitoring Action to be Performed: Prior to the issuance of grading and building permits, the Applicant shall submit an Erosion Control Plan to RMA - Planning and RMA - Building Services for review and approval.

The Applicant, on an on-going basis, shall comply with the recommendations of the Erosion Control Plan during the course of construction until project completion as approved by the Director of RMA - Planning and the Director of RMA - Building Services.

Prior to final inspection, the Applicant shall provide evidence of compliance with the Implementation Schedule to RMA - Planning Department and RMA - Building Services.

7. PD016 - NOTICE OF REPORT

Responsible Department: Planning Department

Condition/Mitigation Monitoring Measure: Prior to issuance of building or grading permits, the Applicant shall record a notice with the Monterey County Recorder which states:

"A Forest Management Plan (Assessment and Recommendations) for Telespan Communications Tower (Library No. LIB130241), was prepared by Cassidy Bill Vaughan of Vaughan Forestry and Land Management on May 7, 2013 and is on file in Monterey County RMA - Planning. All development shall be in accordance with this report."

Compliance or Monitoring Action to be Performed: Prior to the issuance of grading and building permits, the Applicant shall submit proof of recordation of this notice to RMA - Planning.

Prior to Building Final, the Applicant shall submit proof, for review and approval, that all development has been implemented in accordance with the report to the RMA - Planning.

8. PD032(A) - PERMIT EXPIRATION

Responsible Department: Planning Department

Condition/Mitigation Monitoring Measure: The permit shall be granted for a time period of 3 years, to expire on January 29, 2017 unless use of the property or actual construction has begun within this period. (RMA-Planning)

Compliance or Monitoring Action to be Performed: Prior to the expiration date stated in the condition, the Applicant shall obtain a valid grading or building permit and/or commence the authorized use to the satisfaction of the RMA-Director of Planning. Any request for extension must be received by RMA-Planning at least 30 days prior to the expiration date.

9. PD039(A) - WIRELESS INDEMNIFICATION

Responsible Department: Planning Department

Condition/Mitigation Monitoring Measure: The applicant agrees as a condition and in consideration of the approval of the permit to enter into an indemnification agreement with the County whereby the applicant agrees to defend, indemnify, and hold harmless the County, its officers, agents and employees from actions or claims of any description brought on account of any injury or damages sustained by any person or property resulting from the issuance of the permit and conduct of the activities authorized under said permit. Applicant shall obtain the permission of the owner on which the wireless communication facility is located to allow the recordation of said indemnification agreement, and the applicant shall cause said indemnification agreement to be recorded by the County Recorder as a prerequisite to the issuance of the building and/or grading permit. The County shall promptly notify the applicant of any such claim, action, or proceeding and the County shall cooperate fully in the defense thereof. The County may, at its sole discretion, participate in the defense of such action, but such participation shall not relieve applicant of its obligations under this condition. (RMA - Planning)

Compliance or Monitoring Action to be Performed: Prior to the issuance of grading or building permits, the Owner/Applicant shall submit signed and notarized Indemnification Agreement to the Director of RMA-Planning for review and signature by the County.

Prior to the issuance of grading or building permits, the Owner/Applicant shall submit proof of recordation of the Indemnification Agreement, as outlined, to RMA-Planning.

10. PD039(B) - WIRELESS REDUCE VISUAL IMPACTS

Responsible Department: Planning Department

Condition/Mitigation Monitoring Measure: The applicant shall agree in writing that if future technological advances allow for reducing the visual impacts of the telecommunication facility, the applicant shall make modifications to the facility accordingly to reduce the visual impact as part of the facility's normal replacement schedule. (RMA - Planning)

Compliance or Monitoring Action to be Performed: Prior to the issuance of grading or building permits, the Applicant shall submit, in writing, a declaration agreeing to comply with the terms of this condition RMA - Planning for review and approval.

11. PD039(D) - WIRELESS REMOVAL

Responsible Department: Planning Department

Condition/Mitigation Monitoring Measure: If the applicant abandons the facility or terminates the use, the applicant shall remove the monopole, panel antennas, and equipment shelter. Upon such termination or abandonment, the applicant shall enter into a site restoration agreement subject to the approval of the Director of RMA - Planning and County Counsel. The site shall be restored to its natural state within six (6) months of the termination of use or abandonment of the site. (RMA - Planning)

Compliance or Monitoring Action to be Performed: If the applicant abandons the facility or terminates the use, prior to the issuance of grading or building permits or on an on-going basis, the Applicant shall submit a site restoration agreement to RMA - Planning subject to the approval of the RMA - Director of Planning and County Counsel.

Within 6 months of termination of use or abandonment of the site, the Applicant shall restore the site to its natural state.

12. PD039(E) - WIRELESS EMISSION

Responsible Department: Planning Department

Condition/Mitigation Monitoring Measure: The facility must comply with Federal Communications Commission (FCC) emission standards. If the facility is in violation of FCC emission standards, the Director of RMA - Planning shall set a public hearing before the Appropriate Authority whereupon the appropriate authority may, upon a finding based on substantial evidence that the facility is in violation of the then existing FCC emission standards, revoke the permit or modify the conditions of the permit. (RMA - Planning)

Compliance or Monitoring Action to be Performed: Prior to commencement of use and on an on-going basis, the Applicant shall submit documentation demonstrating compliance with the FCC emission standards to the Director of RMA-Planning for review and approval.

On an on-going basis, if the facility is in violation of FCC emission standards, the Director of RMA-Planning shall set a public hearing before the Appropriate Authority to consider revocation or modification of the permit.

13. PD080 - RAPTOR/MIGRATORY BIRD NESTING

Responsible Department: Planning Department

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

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

14. PD009 - GEOTECHNICAL CERTIFICATION

Responsible Department: Planning Department

Condition/Mitigation Monitoring Measure: Prior to final inspection, the geotechnical consultant shall provide certification that all development has been constructed in accordance with the geotechnical report. (RMA - Planning and RMA - Building Services)

Compliance or Monitoring Action to be Performed: Prior to final inspection, the Applicant/Geotechnical Consultant shall submit certification by the geotechnical consultant to RMA-Building Services showing project's compliance with the geotechnical report.

15. PD029 - HOURS OF OPERATION

Responsible Department: Planning Department

Condition/Mitigation Monitoring Measure: Hours of operation shall be 8AM to 4:30PM, Monday through Friday. (RMA - Planning)

Compliance or Monitoring Action to be Performed: Prior to commencement of use and on an on-going basis, the Applicant shall demonstrate compliance with the hours of operation to the Director of RMA-Planning.

16. PDSP001 - INVASIVE PLANT SPECIES

Responsible Department: Planning Department

Condition/Mitigation Monitoring Measure: During the construction of the access road and project site, all invasive non-native vegetation on-site shall be removed. Prior to construction permit issuance, the applicant shall submit a landscaping plan indicating the location of invasive species within the project site and provide measures to properly remove invasive species. Once construction has ceased, the applicant shall continue to maintain the site to ensure vegetation remains free of invasive plant species. (RMA - Planning)

Compliance or Monitoring Action to be Performed: Prior to construction permit issuance, the Applicant shall submit a landscaping plan indicating the location of invasive species within the project site and provide measures to properly remove invasive species. The plan shall be reviewed and approved by a qualified professional biologist prior to submitted the plan to RMA - Planning for review and approval.

On an on-going basis, the applicant shall maintain the project site by removing invasive species, as approved in the landscaping plan.

17. PDSP002 - STORMWATER CONTROL PLAN

Responsible Department: Planning Department

Condition/Mitigation Monitoring Measure: The applicant shall provide a Stormwater Control Plan with a completed Site Design and Runoff Reduction Checklist identifying the design strategies and design measures proposed to minimize stormwater runoff, as defined in Monterey County Code Chapter 16.14 and adopted by the California Regional Water Quality Control Board on July 12, 2013, Resolution No. R3-2013-0032. The Stormwater Control Plan shall be submitted to RMA - Planning and RMA - Building Services for review and approval.

Compliance or Monitoring Action to be Performed:

- 1) Prior to the issuance of any construction permits, the Applicant must submit a Stormwater Control Plan to RMA - Planning and RMA - Building Services for review and approval.
- 2) The Applicant, on an on-going basis, shall comply with the recommendations of the Stormwater Control Plan during the course of construction until project completion as approved by the Director of RMA - Planning and the Director of RMA - Building Services.

Prior to final inspection, the Applicant shall provide evidence of compliance with the Implementation Schedule to RMA - Planning Department and RMA - Building Services.

18. PDSP003 - AIR DISTRICT PERMIT (BACKUP GENERATORS)

Responsible Department: Planning Department

Condition/Mitigation Monitoring Measure: An Air District Permit from the Monterey Bay Unified Air Pollution Control District (MBUAPCD) is requirements for the two diesel backup generators. A copy of the permit shall or written confirmation from MBUAPCD shall be submitted to RMA - Planning for review and approval. The Applicant shall obtain the permit prior to Building Final. (RMA - Planning)

Compliance or Monitoring Action to be Performed: Prior to Building Final, the Applicant shall obtain an Air District Permit for the two diesel backup generators. A copy of the permit or written confirmation from MBUAPCD shall be submitted to RMA - Planning for review and approval.

19. MM1: MITIGATION MEASURE: PAJARO MANZANITA REPLANTING

Responsible Department: Planning Department

Condition/Mitigation Monitoring Measure: MITIGATION MEASURE: PAJARO MANZANITA REPLANTING

Pursuant to the Biotic Survey prepared by Scott Hennessy (LIB130240), replacement of the Pajaro manzanita shall be at a ratio of 3:1. A qualified professional biologist shall submit a replanting and monitoring plan which identifies the replanting area which shall be located next to existing thriving chaparral species on-site and shall provide maintenance recommendations that shall occur during the three-years of monitoring. The approved replanting area must be surveyed and placed in a Scenic and Conservation Easement to protect the replanting area and existing chaparral species near the replacement planting in perpetuity. At the end of the three year monitoring, a qualified professional biologist shall submit a report containing to the status of the replanting. If replanting fails, the biologist shall recommend additional replanting, maintenance measures and monitoring.

Compliance or Monitoring Action to be Performed:

a) Prior to the issuance of any construction permits, the owner/applicant shall submit a replanting and monitoring plan prepared by a qualified professional biologist to RMA - Planning for review and approval.

b) Prior to the issuance of any construction permit, the owner/applicant must submit a request for a Scenic and Conservation Easement to be placed over the approved replanting area to RMA - Planning to be processed. The request shall include a survey of the replanting area, legal description of the easement/replanting area and any associated fees for the processing of the easement.

c) After three years of monitoring, a qualified professional biologist shall submit a report pertaining to the status of the replanting. If replanting fails, the biologist shall recommend additional replanting, maintenance measures and monitoring.

20. PW0005 - ENCROACHMENT (STD DRIVEWAY)

Responsible Department: Public Works Department

Condition/Mitigation Monitoring Measure: Obtain an encroachment permit from the Department of Public Works and construct a standard driveway connection to San Miguel Canyon Road.

Compliance or Monitoring Action to be Performed: Prior to Building/Grading Permits Issuance, Owner/Applicant shall obtain an encroachment permit from DPW prior to issuance of building permits and complete improvement prior to occupancy or commencement of use. Applicant is responsible in obtaining all permits and environmental clearances.

21. PWSP01 - NON-STANDARD

Responsible Department: Public Works Department

Condition/Mitigation Monitoring Measure: The Owner/Applicant shall enter into a road maintenance agreement with the County of Monterey, Department of Public Works for maintenance and liability of the entire access road from the San Miguel Canyon Road to the cell site.

Compliance or Monitoring Action to be Performed: Prior to Issuance of Building Permits Owner/Applicant shall submit executed agreement to DPW for review and approval.

22. EHSP01 - HAZARDOUS MATERIALS BUSINESS RESPONSE PLAN (NON-STANDARD)

Responsible Department: Health Department

Condition/Mitigation Monitoring Measure: The applicant shall maintain an up-to-date Business Response Plan that meets the standards found in the California Code of Regulations, Title 19, Division 2, Chapter 4 (Hazardous Material Release Reporting, Inventory, and Response Plans) and the California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Material Release Response Plans and Inventory). (Environmental Health)

Compliance or Monitoring Action to be Performed: Prior to issuance of grading/building permits, the applicant shall submit a Hazardous Materials Questionnaire and the signed Business Response Plan – Memorandum of Understanding (form available from EHB) that specifies an approved Business Response Plan must be on file with Hazardous Materials Management Services prior to bringing hazardous materials on site and/or commencement of operation. Once approved, the applicant shall maintain an up-to-date Business Response Plan.

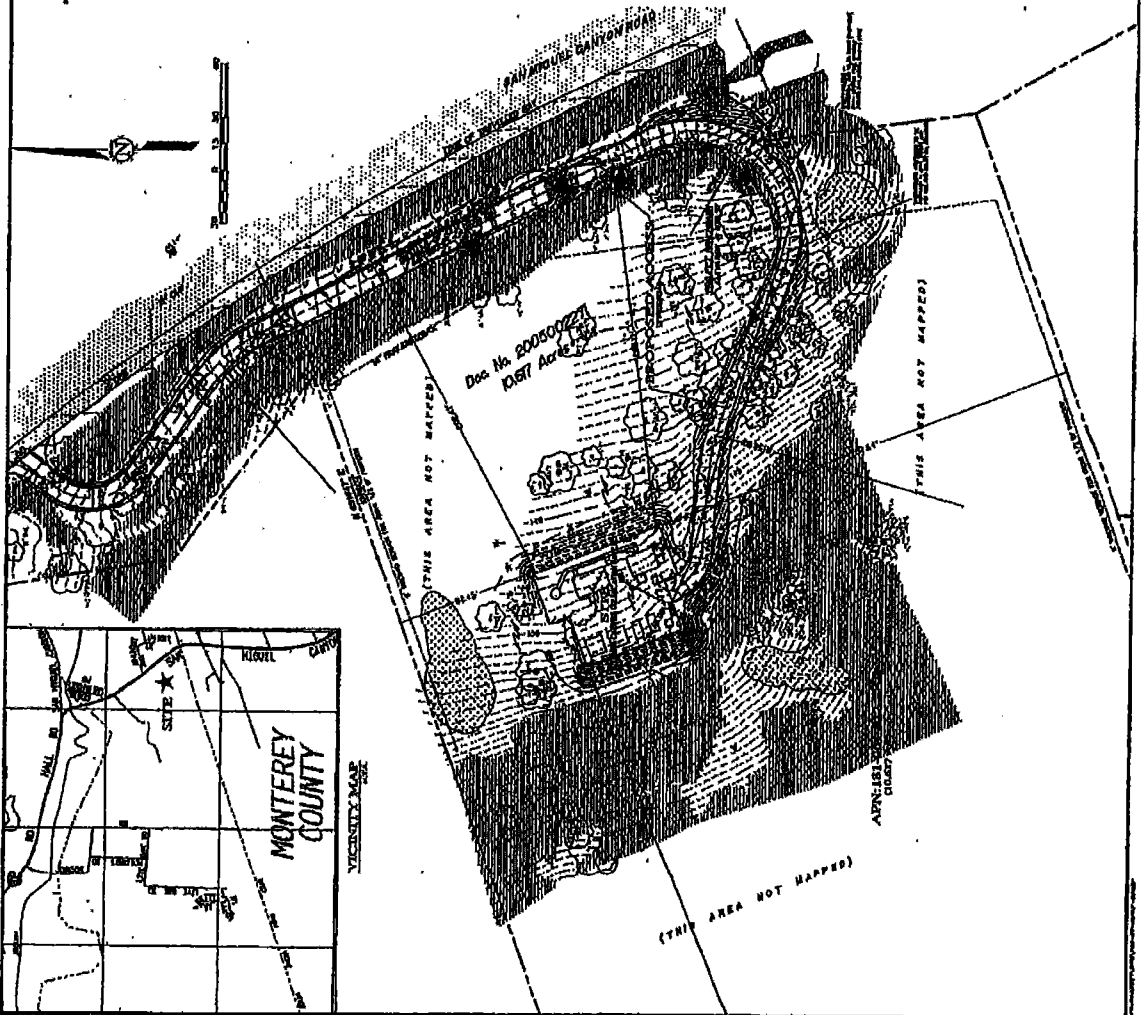
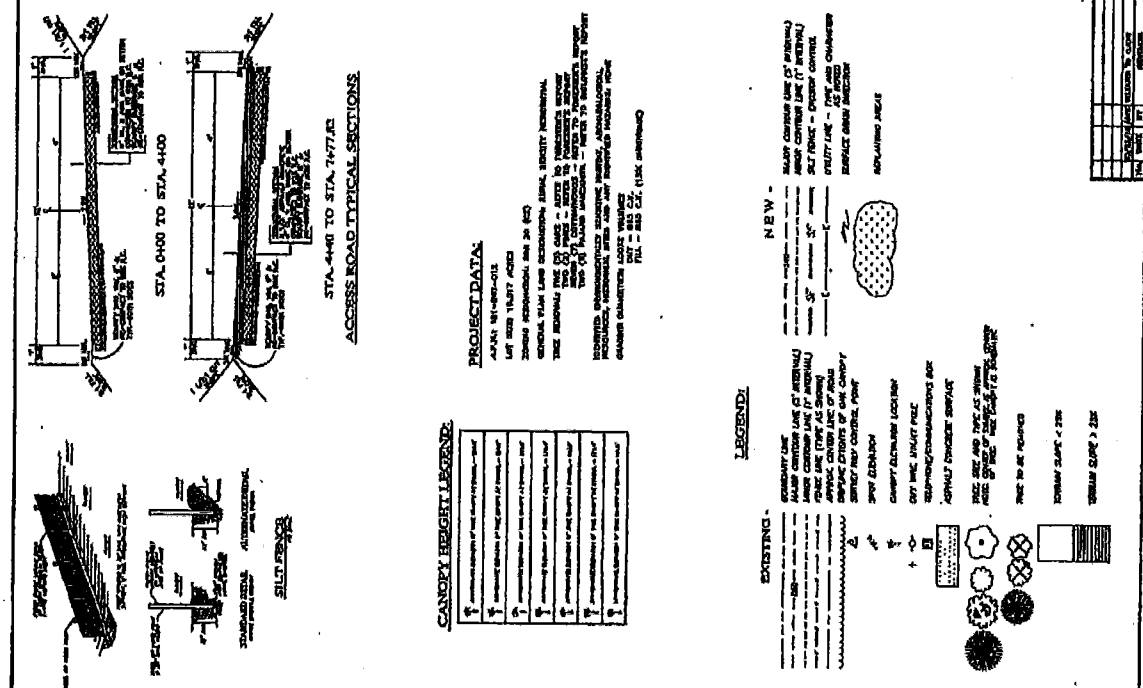


EXHIBIT C

The Easement

[See attached pages]



EXHIBIT "C"

SCENIC AND CONSERVATION EASEMENT LEGAL DESCRIPTION

CERTAIN REAL PROPERTY SITUATE IN THE RANCHO LOS CARNEROS, COUNTY OF MONTEREY, STATE OF CALIFORNIA, BEING A PORTION OF THAT PARCEL OF LAND AS SHOWN AND SO DESIGNATED ON THAT CERTAIN MAP FILED IN VOLUME 31 OF SURVEYS AT PAGE 78, MONTEREY COUNTY RECORDS, PARTICULARLY DESCRIBED AS FOLLOWS:

AN EASEMENT FOR CONSERVATION AND SCENIC PURPOSES, SAID EASEMENT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BEGINNING AT THE MOST NORTHERLY CORNER AS SHOWN ON SAID MAP, A 3/4" IRON PIPE TAGGED "LS 8703", AND RUNNING THENCE ALONG THE NORTHERLY BOUNDARY THEREOF, S 69°07'44" W, 40.67 FEET TO A 1" OPEN PIPE; THENCE N 51°58'08" W, 1.53 FEET TO A 3/4" IRON PIPE TAGGED "LS 8703"; THENCE S 69°14'47" W, 141.47 FEET TO THE **TRUE POINT OF BEGINNING**; THENCE LEAVING SAID NORTHERLY BOUNDARY AND RUNNING:

- (1) S 20°45'13" E, 40.00 FEET; THENCE
- (2) S 69°14'47" W, 80.00 FEET; THENCE
- (3) N 20°45'13" W, 40.00 FEET TO SAID NORTHERLY BOUNDARY; THENCE CONTINUING ALONG THE NORTHERLY BOUNDARY
- (4) N 69°14'47" E, 80.00 FEET TO THE **TRUE POINT OF BEGINNING**.

END OF DESCRIPTION

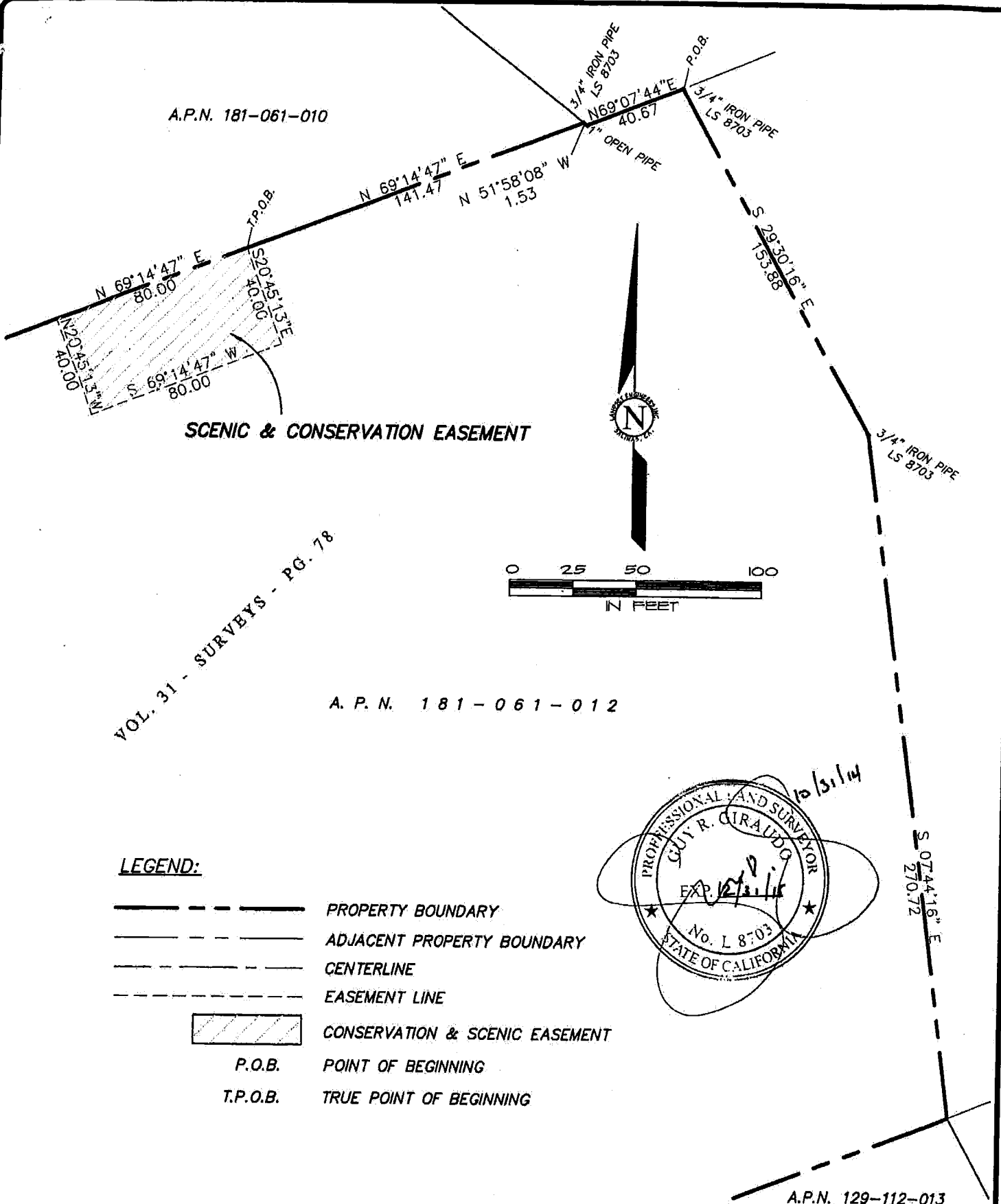
All is shown on the "SCENIC AND CONSERVATION EASEMENT PLAT", attached hereto and by this reference being a part hereof

This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyor's Act.

Signature: _____
 Date: _____



A.P.N. 181-061-010








SCENIC & CONSERVATION EASEMENT

VOL. 31 - SURVEYS - PG. 78

A. P. N. 181-061-012

LEGEND:

-  PROPERTY BOUNDARY
-  ADJACENT PROPERTY BOUNDARY
-  CENTERLINE
-  EASEMENT LINE
-  CONSERVATION & SCENIC EASEMENT
- P.O.B. POINT OF BEGINNING
- T.P.O.B. TRUE POINT OF BEGINNING



OCTOBER 2014
LANDSET
 ENGINEERS, INC.

520B CRAZY HORSE CANYON RD., SALINAS, CA 93907
 PH (831) 443-6970 FAX(831) 443-3801

EXHIBIT "C"
 SCENIC & CONSERVATION
 EASEMENT PLAT
 VOL. 31 OF SURVEYS AT PAGE 78
 A.P.N. 181-161-012
 MONTEREY COUNTY, CALIFORNIA

SCALE: 1"=50'
 DATE: OCTOBER 2014
 PROJECT: 962-01