

*Before the Board of Supervisors
County of Monterey, State of California*

In the matter of the application of:

SIGNAL HILL LLC (PLN100338)

RESOLUTION NO. 23-237

Resolution by the Monterey County Board of Supervisors to:

- 1) Uphold the appeal by Raymond Neutra, aka Neutra Institute for Survival Through Design from the January 25, 2023 Planning Commission decision approving the Combined Development Permit (PLN100338/Signal Hill LLC);
- 2) Uphold the appeal by Samuel Reeves represented by Anthony Lombardo, Esquire, from the January 25, 2023 Planning Commission decision approving the Combined Development Permit (PLN100338/Signal Hill LLC);
- 3) Uphold the appeal by Alliance of Monterey Area Preservationists from the January 25, 2023 Planning Commission decision approving the Combined Development Permit (PLN100338/Signal Hill LLC);
- 4) Approve a Combined Development Permit for the “Reduced Project” (Alternative 6 of the Final EIR) consisting of:
 - a) Coastal Administrative Permit to allow the demolition of an existing 4,124 square foot single family residence;
 - b) Coastal Administrative Permit for the construction of a new single-family residence of similar size, in concept, as the existing residence;
 - c) Coastal Development Permit to allow development within 100 feet of environmentally sensitive habitat;
 - d) Coastal Development Permit for development on slopes exceeding 30 percent;
 - e) Coastal Development Permit for development within 750 feet of a known archeological resources;
- 5) Adopt CEQA Findings and a Statement of Overriding Considerations; and
- 6) Adopt a Reduced Project Mitigation Monitoring and Reporting Plan.

[1170 Signal Hill Road, Pebble Beach, Del
Monte Forest Area Land Use Plan (APN: 008-
261-007-000)]

The Signal Hill LLC application (PLN100338) came on for public hearing before the Monterey County Board of Supervisors on May 9, 2023 and June 27, 2023. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Board of Supervisors finds and decides as follows:

FINDINGS

1. FINDING:

PROCESS, PROJECT DESCRIPTION AND

CONSISTENCY – The County has processed the subject application for demolition and construction of a single-family dwelling (Planning File No. PLN100338/Signal Hill LLC) in compliance with all applicable procedural requirements. The project, as conditioned, is consistent with the applicable plans and policies which designate this area as appropriate for development.

EVIDENCE: a)

Conformance with Plans. Staff reviewed this project for consistency with the text, policies, and regulations in:

- the 1982 Monterey County General Plan;
- Del Monte Forest Area Land Use Plan (LUP);
- Monterey County Coastal Implementation Plan Part 5 (CIP);
- Monterey County Zoning Ordinance (Title 20);

Public comment and comments by reviewing bodies submitted during project review alleged that the project was inconsistent with the text, policies, and regulations in these documents on various grounds. Staff has considered these comments and made appropriate revisions to the project and/or mitigation measures when it concluded these comments had merit. Additionally, the Environmental Impact Report (EIR) addressed comments as to alleged and potential inconsistencies with text, policies, and/or regulations.

b)

Allowed Use. The property is located at 1170 Signal Hill Road, Pebble Beach (Assessor's Parcel Number 008-261-007-000), Del Monte Forest Area Land Use Plan (LUP). The parcel is zoned "LDR/1.5-D (CZ)" [Low Density Residential, 1.5 acres per unit with Design Control Overlay (Coastal Zone)], which allows residential uses. This project consists of demolition of an existing single-family dwelling and construction of a new single-family dwelling with associated

site improvements for residential use. Therefore, the project is an allowed land use for this site.

- c) Project Description. In 2010, an application was filed on behalf of the property owner Signal Hill LLC (Massy Mehdipour) for the demolition of an existing 4,124 square foot single family residence and the construction of a new single family residence and restoration of approximately 1.67 acre of native dune habitat. (The proposed project was for a new three level 11,933 single family residence including an attached three-car garage, a 986 square foot entry court, 106 square feet of uncovered terraces, approximately 2,600 square feet of covered terraces, new driveway, and approximately 1,700 cubic yards of grading (1,200 cubic yards cut/500 cubic yards fill. Proposed materials and colors for the new dwelling included reddish beige stucco, beige stone cladding, gray slate roofing on sloped roof with brown wood on the underside of eaves and gray gravel roofing on the flat roof surfaces, and reddish black metal door and window frames. Three Monterey Cypress trees were proposed for removal. The originally proposed structure had a maximum height of 30 feet, and therefore is referred to herein as the “Full Height Project”.) Except where otherwise noted, this Resolution contains Findings and Evidence in support of a project alternative that is described in the EIR as Alternative 6, “Reduced Project,” which is approved in concept by the Board of Supervisors with the understanding that the applicant shall return to County for a Design Approval of the project plans, which have not yet been developed.
- d) Historic Resources. The existing house proposed for demolition was designed by Richard Neutra for Arthur and Kathleen Connell in 1957. The “Connell house” was listed on the National Register of Historic Places and was automatically added to the State Historic Landmark Register on June 13, 2014. The key cultural resource policy of the LUP (pg. 5 of the LUP) requires that resources be maintained, preserved, and protected for their scientific and cultural heritage values. The policy suggests that new development “incorporate site planning and design features necessary to avoid impacts to cultural resources, and where impacts are unavoidable, they shall be minimized and reasonably mitigated.” The Reduced Project (Alternative 6 of the Final EIR, or FEIR) differs from the Full Height Project described in the development application, but would still demolish the existing house, which represents a significant impact to the cultural resource. Preservation of the Connell house has been considered, but was found to be practically infeasible. Reasonable mitigation is proposed that would require documentation of the existing structure, but this mitigation would not reduce the impacts to the historical resource to a less-than-significant level.

- e) Historic Resources Review Board. The Full Height Project was referred to the Historic Resources Review Board (HRRB) three times. On August 4, 2011, the proposed demolition of the existing house was discussed and the HRRB voted unanimously to deem the residence a significant historical resource under State of California Criterion 3. On March 6, 2014, the HRRB reviewed a referral from the State Historic Preservation Officer (SHPO) and voted in favor of listing the Connell house on the State and National Registers of Historic Resources. On August 6, 2014, August 24, 2015, and September 3, 2015, the HRRB considered plans to address damage and neglect of the existing house and voted to approve a Mothballing Plan (Resolution No. 15CP01861). On January 5, 2023, the HRRB reviewed the project and recommended that the Planning Commission approve the Reduced Height Alternative, Alternative 9 of the EIR (voted 3 ayes and 1 no with 1 abstaining, 2 recused). The HRRB does not need to review the currently proposed Reduced Project (Alternative 6 in the FEIR) because the impact to any Historical Resources would be the same at Alternative 9, which the HRRB recommended for approval.
- f) Environmentally Sensitive Habitat. Pursuant to section 20.14.030.E, of the Coastal Implementation Plan, Part 1 (Coastal Zoning Ordinance), a Coastal Development Permit is required for development within 100 feet of Environmentally Sensitive Habitat Areas (ESHA). The site is located within coastal sand dune habitat, which is considered ESHA as defined in the LUP and CIP. With grading and construction staging areas, an area less than that of 0.39 acres which was measured for the Full Height Project (including the existing development footprint of 0.16 acres) will be impacted by construction of the Project. Restoration of native dune habitat is proposed. The Project, as conditioned and mitigated, will have a less-than-significant level of impacts to ESHA. A separate ESHA Finding (Finding 8) is included in this Resolution.
- g) Tree Removal. No trees are proposed for removal as part of this entitlement.
- h) Development on Slopes. Pursuant to section 20.64.320 of the Monterey County Coastal Implementation Plan Part 1 (Coastal Zoning Ordinance), a Coastal Development Permit is required for development on slopes of 30% or greater. Due to the sloped area near the existing structure, including between the structure and Signal Hill Road, it is highly possible that the Project will involve development on slopes greater than 30%. The Project shall minimize development on slopes; the geotechnical report concluded that development on slopes is feasible. A separate

slope development Finding (Finding 9) is included in this Resolution.

- i) Visual Resources. The Project is not anticipated to have a negative impact on visual resources. As part of the future Design Approval, staking and flagging of the Reduced Project structure will be subject to a visual impact assessment. The property is within the viewshed area of 17 Mile Drive as mapped in Figure 3 of the Del Monte Forest LUP. Further, section 20.147.070(6) states that “the proposed development shall be modified for height, bulk, design, size, location and siting and/or shall incorporate landscaping or other techniques so as to avoid or minimize the visual impacts of ridgeline development as viewed from a public viewing area.” The Reduced Project is anticipated to be no taller or larger than the existing dwelling. A Design Approval shall ensure that colors and materials will blend with the natural surroundings. Therefore, the Project will comply with visual resource policies of the Del Monte Forest LUP and will not have an adverse visual impact on the 17 Mile Drive viewshed.
- j) Archeological Resources. A Coastal Development Permit is required for development within 750 feet of a known archaeological site. Pursuant to LUP Policy 58 and CIP section 20.147.080.B, an archaeological survey was prepared for the project (see Finding 2, Evidence b). The general surface reconnaissance on the subject parcel had results that were negative for resources, but the report’s research found a known prehistoric site within 750 feet of the project site. Conditions 12 through 15 are the Archeological Mitigation and Monitoring Measures. They include construction personnel training, submittal of an archaeological monitoring plan that includes monitoring and respectful treatment of any human remains pursuant to Public Resources Code section 5097.98.
- k) Soils and Geology. The project site is located within 1/8 mile of a potentially active fault. Pursuant to CIP section 20.147.060.A, a geologic report was prepared (see Finding 2, Evidence b). The report concluded that the proposed development is feasible from a geologic and soil engineering standpoint, provided the recommendations included in the report are incorporated into the project. Mitigation Measure GEO/mm-1.1, requiring that all development be in conformance with the reports prepared for the project as a condition of approval, has been applied to the project (Condition No. 34). The Geotechnical Report may be updated at the construction permit phase to accommodate changes in design after approval in concept of the Reduced Project (Alternative 6 in the FEIR).
- l) Design. The site is in a Design Control (D) Zoning District. The purpose of the Design Control Zoning District is to

provide a district that regulates the location, size, configuration, materials, and colors of structures and fences in those areas of the County where a design review of structures is appropriate to assure protection of the public viewshed, neighborhood character, and the visual integrity of certain developments without imposing undue restrictions on private property. The Signal Hill LLC project will be reviewed for siting, design, colors, materials, height, character, and viewshed impacts when a plan is prepared. The subject site is in an identified public view area from 17 Mile Drive, as shown on Figure 3 of the LUP (Visual Resources map). It is also in the viewshed of public vantage points along the shoreline of Fan Shell Beach. The scenic and visual resources policy guidance statement of the LUP states that it is the plan is intended to “protect the area’s magnificent scenic and visual resources, to avoid incompatible development, and to encourage improvements and facilities which complement the natural scenic assets...” LUP Policy 51 requires buildings developed on residential lots in the Visual Resources area to be “situated to allow the highest potential for screening from view” and LUP Policy 56 urges design and siting of structures in scenic areas should not detract from scenic values and should be subordinate to, and blended into, the environment. Therefore, the Project, in concept, is consistent with these viewshed policies.

m) Development Standards. The Project is, in concept, consistent with the development standards for the zoning district. Development Standards for the LDR Zoning District allow maximum building site coverage of 15 percent. The Reduced Project will result in building site coverage of less than 9 percent (existing coverage is roughly 0.16 acres, total lot size is 2.2 acres). The maximum floor area ratio of the LDR/1.5 zoning district in the Del Monte Forest area is 17.5 percent, or 16,504 square feet. The Reduced Project plans have yet to be developed, but the development shall be limited to floor area that is possible within the existing developed area. The project floor area ratio shall adhere to this FAR. Setbacks are 30 feet front, 20 feet side and rear and the Reduced Project would not expand into the setbacks. Maximum allowable height is 30 feet, and the Reduced Project maximum height is anticipated to be approximately 22 feet from average natural grade. The subject site is outside of the Pescadero Watershed areas and impervious coverage is not limited. However, due to the ESHA in the form of sand dune habitat around the project site, impervious coverage is anticipated to be roughly equivalent to the existing development area.

n) Alternatives Considered. An EIR was prepared for the Full Height Project. A range of reasonable alternatives to the Full

Height Project were considered in the EIR. Some of the alternatives were dismissed from further consideration in the EIR (Alternatives 2, 3, 5, 7, and 8). Alternatives 2 and 3 were dismissed because they would conflict with LUP and CIP policies. The remaining alternatives (Alternatives 1, 4, 6, 9, and 10) were discussed further in the EIR. The County considered these alternatives in the context of the applicants' objectives, their consistency with applicable text, policies, and regulations (LUP and CIP), and specific economic, legal, social, and technological considerations. More detail on the County's rejection of EIR Alternatives is in Finding 6. Full consideration of project alternatives is provided in the EIR resolution which came to hearing concurrently at the June 27, 2023 Board of Supervisors meeting. Ultimately, the County finds that Alternative 6 (Reduced Project) meets the basic project objectives, minimizes aesthetic impacts, and best aligns with the social, legal, and other considerations for this project. This alternative represents the alternative that, on the balance, best aligns with relevant considerations while preserving, protecting, and restoring coastal resources. Restoration of ESHA will be performed on the property in proportion to impacts and the areas of restored habitat will be placed in a conservation easement to protect the habitat long-term. Additionally, impacts to visual resources will be reduced through implementation of the reduced project alternative, and most project objectives will be met. See Finding 5 for the rejection of the EIR's preferred alternative.

- o) Site Visit. The project planner conducted site inspections on November 27, 2013, June 30, 2015, and September 11, 2022, to verify that the concept of the Reduced Project (Alternative 6 in the FEIR) can conform to this project description on the subject parcel.
- p) Land Use Advisory Committee. Based on the Land Use Advisory Committee guidelines adopted by the Monterey County Board of Supervisors (Resolution No. 08-338), this application warranted referral to the LUAC because the project requires environmental review and because it includes a Design Approval that requires a public hearing. The Full Height Project was referred to the Del Monte Forest LUAC for review on four occasions. At the LUAC meeting on December 2, 2010, the matter was tabled for a future meeting. The project was scheduled again for review at the July 21, 2011, meeting but was continued in response to a request by the owner. On August 4, 2011, the LUAC heard comments made by neighbors and others, and the committee voted again to continue the item due to the applicant or project representative not being present. A representative of the applicant presented the project at the November 17, 2011, LUAC meeting, and

many public comments were received. The LUAC vote split, 3 in favor and 3 against the project. When plans are submitted for a Design Approval of the Reduced Project, the project requires review and recommendation by the Del Monte Forest LUAC because the design will require public hearing (before the Zoning Administrator).

- q) The project was set for public hearing before the Monterey County Planning Commission on December 7, 2022. Notices of the public hearing were published in the Monterey County Weekly on November 24, 2022, posted near the project site on November 25, 2022, and mailed to property owners in the vicinity on November 22, 2022.
- r) On December 7, 2022, the Monterey County Planning Commission held a duly noticed public hearing in which it decided to continue the item to a later date.
- s) On January 25, 2023, the Monterey County Planning Commission held a duly noticed public hearing and approved the Combined Development Permit by a vote of 6-2 (2 absent) (Monterey County Planning Commission Resolution No. 23-005).
- t) Pursuant to MCC sections 20.86.040 and .050, on February 8, 2023, Sam Reeves (“Appellant” and/or “Reeves”), represented by Lombardo and Associates, timely appealed the January 25, 2023, decision of the Planning Commission. The appeal challenges the Planning Commission’s approval, contending that the hearing was not fair and impartial, the findings are not supported by the evidence and the decision was contrary to law. See Finding 11 (Appeal) for a summary of this appeal’s specific contentions and the County’s responses.
- u) Pursuant to MCC sections 20.86.040 and .050, on February 8, 2023, Raymond Neutra (“Appellant” and/or “Neutra”), timely appealed the January 25, 2023 decision of the Planning Commission. The appeal challenges the Planning Commission’s approval, contending that the hearing was not fair and impartial, the findings are not supported by the evidence and the decision was contrary to law. See Finding 11 (Appeal) for a summary of this appellant’s specific contentions and the County’s responses.
- v) Pursuant to MCC sections 20.86.040 and .050, on February 9, 2023, the Alliance of Monterey Area Preservationists (“Appellant” and/or “AMAP”), timely appealed the January 25, 2023 decision of the Planning Commission. The appeal challenges the Planning Commission’s approval, contending that the hearing was not fair and impartial, the findings are not supported by the evidence and the decision was contrary to law. See Finding 11 (Appeal) for a summary of this appellant’s specific contentions and the County’s responses.

- w) The appeal was timely brought to hearing on May 9th, 2023. Although Monterey County Code section 20.86.070 requires that the appeal authority hold a public hearing on an appeal within 60 days of receipt of the appeal, the 60-day period can be extended if both appellant and the applicant agree to a later hearing date, as occurred here. The appellants and the applicant agreed to a public hearing date of May 9, 2023.
- x) A complete copy of the appeals is on file with the Clerk of the Board of Supervisors. The appeals were also attached with itemized contention responses as Attachment B-2 to the staff report for the May 9, 2023 Board of Supervisors hearing.
- y) The Board of Supervisors conducted a duly noticed public hearing on the appeal and the project on May 9, 2023. The hearing was *de novo*. Notice of the hearing on the matter before the Board of Supervisors was published in the *Monterey County Weekly*, notices were mailed and emailed to all property owners and occupants within 300 feet of the project site, and to all persons who requested notice; and three notices were posted at and near the project site. The Board continued the hearing to date certain of June 27, 2023 and instructed staff to return with two project alternatives, Alternative 6 and Alternative 1, for consideration.
- z) The application, project plans, and related support materials submitted by the project applicant to County of Monterey HCD-Planning for the proposed development can be found in Project File PLN100338.

2. 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: HCD-Planning; Cypress Fire Protection District; HCD-Engineering Services, HCD-Environmental Services; Environmental Health Bureau. There has been no indication from these departments/agencies that the site is not suitable for the proposed development. Conditions recommended by these departments and agencies have been incorporated.
- b) Based on numerous reports prepared for the Full Height Project, including:
 - a Geotechnical Investigation dated March 31, 2010, Geological Analysis of site erodibility dated June 22, 2011 and a letter regarding the drilling of soil borings for Geotechnical Investigation dated November 23, 2011 by Cleary Consultants, Los Altos, California (LIB100395),
 - a Preliminary Archaeological Reconnaissance by Mary Doane and Gary Breschini dated February 2, 2012 (LIB100397)

- a Phase I Historical Assessment by Anthony Kirk dated October 15, 2010; and Peer review of Phase I Historical Assessment prepared by Robert Chattel dated April 19, 2012 (LIB10093),
- a Biological Resource Assessment dated June 8, 2011 and Supplemental Biological Resources Assessment dated June 23, 2011 by Michael Zander (LIB100396),
- a Dune Restoration Plan dated June 2011 by Zander Associates (LIB110232).

The EIR identified potential impacts to Aesthetics, Archaeological Resources, Air Quality and Greenhouse Gases, Biological Resources, Geology, Seismicity, and Soils, Hazards and Hazardous Materials, Historical Resources, Hydrology and Water Quality, and Noise, which could result from the Project. All impacts other than those associated with the demolition of the Historical Resource can be mitigated to a less-than-significant level. Historical Resource impacts can be mitigated but not to a less than significant level.

- c) The technical reports by outside consultants listed above and in the FEIR's References all concluded 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.
- d) The site is designated for residential use. A residential structure has existed on the site since the 1950's. As proposed, and as approved as EIR Alternative 6, residential use of the property would continue.
- e) Staff conducted site inspections on November 27, 2013, June 30, 2015, and September 11, 2022, at which it verified that the site is suitable for the proposed use.
- f) The application, project plans, and related support materials submitted by the project applicant to the County of Monterey HCD-Planning for the proposed development can be found in Project File PLN100338.

3. FINDING:

HEALTH AND SAFETY - The establishment, maintenance, or operation of the project 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 nor will it be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.

EVIDENCE: a)

All necessary public facilities are available for the project. Water and sewer service will be provided by California American Water and the Carmel Area Wastewater District through the Pebble Beach Community Services District. The

Environmental Health Bureau reviewed the project application and did not require any conditions pertaining to water, sewer, or solid waste. A water permit from the Monterey Peninsula Water Management District is required prior to the issuance of a building permit.

- b) The project includes replacement of one residential structure for another within an area designed for residential use. Emergency services are available. Construction permits will be required to ensure the building is designed and built to conform to California Building Standards. Geotechnical engineers have provided recommendations for the development that will be incorporated by adoption of the mitigation measure GEO/MM-1.1. Potential hazards that may impact health and safety of residents in the area are reduced to less-than-significant by the adoption of the mitigation measures HAZ/MM-1.1, hazardous materials handling, and HAZ/MM-1.3, spill prevention and cleanup.
- c) The application, project plans, and related support materials submitted by the project applicant to the County of Monterey HCD - Planning for the proposed development can be found in Project File PLN100338.

4. FINDING:

VIOLATIONS – The subject property is in not compliance with all rules and regulations pertaining to the condition of the existing historic structure. Violations exist. The approval of this permit will correct these violations.

- a) Violations exist. Staff conducted site inspections in late January of 2010, November 27, 2013, June 30, 2015, and September 11, 2022, and researched County records to assess if any violation exists on the subject property. The existing dwelling is in a state of disrepair, has been the subject of vandalism, and is in a substandard condition, which violates applicant’s Stipulated Agreement (File No. 13CE00338) with the County. This permit will allow the demolition of the existing structure and, once complete, will clear the violations.

In addition to the substandard conditions of the structure, the applicant removed two trees prior to permitting. An after-the-fact permit (PLN100418) to clear a code violation for tree removal (CE090788) was obtained (Reso. No. 13-021). That permit consisted of a Coastal Development Permit and Restoration Plan per section 20.90.130 of the Coastal Zoning Ordinance, for the removal of two landmark Monterey Cypress trees, significant pruning of three Monterey Cypress trees and sand dune degradation in an environmentally sensitive habitat area. All restoration was effectively performed including replanting of Cypress trees onsite. During monitoring of the

replacement trees, one of these Monterey Cypress trees died after four years of survival. The remedy for replanting can be met by carrying over the replanting requirement to this permit (PLN100338). Entitlement of this permit includes planting of a Cypress tree in approximately the same location as part of Condition No. 16, Tree Planting and Protection.

- b) Applicant and the County entered a Stipulated Agreement to resolve Applicant's violation for the substandard structure. The Stipulated Agreement required Applicant to take specific actions, including stucco repair to prevent moisture penetration, removal of mildew or mold laden soft materials, security measures including a chain link fence and plywood installation on windows and doors, sheathing to prevent moisture intrusion from broken windows or doors, roof repairs for waterproofing, pest control measures, installation of cross ventilation, and monthly reports on the condition of the weatherization. This is known as the "Mothball Protection Plan." Monterey County Code Enforcement continues to conduct periodic checks for compliance with the required maintenance.
- c) Requirements for the structure and the maintenance thereof will continue until a building permit is issued for demolition of the existing dwelling.
- d) The application, plans, and supporting materials submitted by the project applicant to the County of Monterey Housing and Community Development - Planning for the proposed development are found in Project File PLN100338 and the corrective actions are required by Code Enforcement File No. 13CE0338 and Planning File No. PLN100418.

5. FINDING:

CEQA (EIR) – The Final Environmental Impact Report (EIR) for the Signal Hill LLC Project, including the fully analyzed Full Height Project and the project alternatives, has been completed in compliance with the California Environmental Quality Act (CEQA). It was presented to the County of Monterey Board of Supervisors, which reviewed and considered the information contained in the EIR prior to recommending certification of the FEIR by separate resolution and prior to approval of the Project. As part of approval of the Reduced Project (Alternative 6 in the FEIR), the Board of Supervisors finds that changes have been required in the project which substantially lessen the significant environmental effects identified in the FEIR, pursuant to CEQA Guidelines section 15091.

EVIDENCE: a)

CEQA requires preparation of an EIR if there is substantial evidence considering the whole record that the project may have a significant effect on the environment. The County

prepared the EIR because the project would demolish an historic resource. See Resolution 23-236 adopted by the Board on June 27, 2023.

- b) All project changes required to avoid significant effects on the environment have been incorporated into the Project and/or are made conditions of approval. By selecting the Alternative 6 project, less intensive development is allowed, thereby reducing the potentially significant impacts to Aesthetics, Archaeological Resources, and Biological Resources.
- c) Mitigation measures for potentially significant impacts that could be mitigated to a level less than significant are also made conditions of approval. A Mitigation Monitoring and Reporting Plan (MMRP) has been prepared in accordance with County Regulations. The MMRP is designed to ensure compliance with mitigation measures during Project implementation. The applicant must enter an “Agreement to Implement a Mitigation Monitoring and/or Reporting Plan” as a condition of Project approval.
- d) The EIR identified potential impacts to Aesthetics, Archaeological Resources, Air Quality and Greenhouse Gases, Biological Resources, Geology, Seismicity, and Soils, Hazards and Hazardous Materials, Historical Resources, Hydrology and Water Quality, and Noise, which could result from the Full Height Project.
- e) The EIR concluded that the environmentally superior alternative was the Preservation Alternative (Alternative 1), which would retain the Connell house and preserve, repair, and replace portions of the structure for single-family occupancy in accordance with the Secretary of the Interior’s Standards for the Treatment of Historic Properties. Restoration could still occur on the parcel. Impacts related to Historical Resources would be less than either the Full Height proposed project or the Reduced Project (Alternative 6 in the FEIR) because the significant and unavoidable Historical Resources impacts would be avoided under the Preservation Alternative. Like the Reduced Project, there would not be additional permanent impact to coastal dune ESHA (Biological Resources impacts very similar). Archaeological Resources, Air Quality and Greenhouse Gases, Biological Resources, Geology, Seismicity, and Soils, Hazards and Hazardous Materials, Historical Resources, Hydrology and Water Quality, and Noise would all be similar to the Project, because the reconstruction of the Connell house would require similar intensity, duration, and materials as the combined demolition of the Connell house and construction of a new structure of similar size. This alternative is technically feasible (as discussed in Final EIR Chapter 9, Master Response MR-2) however, it would not meet the project objectives. There are specific economic, legal, social,

and technological considerations that make the Preservation Alternative practically infeasible. While the “Preservation” Alternative would avoid demolition of the historical resource, the property owner has clearly expressed that they will not actually implement this alternative. Should a project be approved that does not involve demolition, it is likely that the near-term impacts would be similar to the “No Project” Alternative, which would include continuation of a hazardous structure in a state of disrepair and long-term impacts may include additional deterioration of the resources due to decay from age and elements. Additionally, while no exact numbers are available, the Preservation Alternative would likely cost as much as demolition and new construction, but result in a house that is undesirable to the property owner. This assumption of cost is based on estimates made by a structural evaluation report which is Appendix F to the FEIR and testimony by the Chief of Building Services and Chief of Planning provided before the Board of Supervisors and Planning Commission, respectively, that extensive remodels involving major structural, plumbing, electrical, and mechanical repairs, and in particular historic renovation remodels, are nearly as expensive, and in some cases more expensive, than new construction. The County could adopt the Preservation Alternative, but doing so would likely result in no change in current conditions in the near future. Long-term, the structure would likely continue to deteriorate from time and the elements until the it lost all integrity and would no longer qualify as an historic resource. For these reasons, pursuant to Public Resources Code section 21081 and CEQA Guidelines section 15091(a)(3), the Preservation Alternative has been dismissed.

- f) The Reduced Project Alternative (Alternative 6) would reduce the overall development footprint to the existing developed footprint. The height of the proposed single-family residence structure is shorter than the Full Height Project such that it no longer has the potential to create a Ridgeline Development effect (i.e., be visible as a silhouette against the sky from public viewing areas). This Alternative will also avoid other aesthetic impacts by shrinking the widths of the floor areas and patios. By reducing bulk by as much as two thirds, biological impacts would also decrease. The Reduced Project Alternative has impacts that are significant and unavoidable, therefore the Project Description includes the restoration of 1.67-acre of the property and related restoration actions on disturbed ESHA areas of the site. The impacts to Archaeological Resources, Air Quality and Greenhouse Gases, Geology, Seismicity, and Soils, Hazards and Hazardous Materials, Hydrology and Water Quality, and Noise would be similar to those under the Full

Height Project and would still require the same mitigation to be reduced to a less-than-significant level. Potentially significant impacts to Historical Resources would also be similar, resulting in significant and unavoidable impacts. However, this Alternative is technically feasible and would meet the objectives of the applicant such as constructing a new residence and allowing for enjoyment of the natural beauty of the surrounding area. This Alternative would also resolve the existing health and safety hazards from the property's dilapidated condition, which the Preservation Alternative may not accomplish since it is unlikely the applicant would move forward with it. Consequently, with restoration included, the Reduced Project Alternative is, from a practical perspective, the best environmental option.

- g) Pursuant to CEQA law, there must be a nexus between the approved project and the mitigation measures that are applied to it. Also, there must be proportionality between the project's potential impacts and the mitigation measures applied. For these reasons, Biological Resources mitigation measures related to the Monterey Cypress Tree Protection, Replacement, Maintenance, and Monitoring Plan, and Aesthetics are attenuated to be proportional to the lesser potential impacts of the Reduced Project. As no trees are proposed for removal, the Monterey Cypress Tree Protection, Replacement, Maintenance, and Monitoring Plan has been deleted (BIO/mm-1.1 and related monitoring actions BIO/ma-1.1.1 through BIO/ma-1.1.5) and replaced by a Tree Planting and Protection condition of approval. Because under the Reduced Project Alternative, a significant amount of ESHA will not be impacted, BIO/mm-3.9 (Offsite restoration of sand dune habitat) and its monitoring action BIO/ma-3.9.1 are now extraneous and hence, have been removed.

Similarly, mitigation measures intended to mitigate for the aesthetic impacts of the Full Height Project are no longer applicable (specifically, AES/mm-1.1 and AES/ma-1.1.1, which were applied to mitigate project Ridgeline Development impacts). As stated above, areas outside the development footprint would be temporarily disturbed by landscaping or restoration activities. Therefore, impacts related to the potential for disturbance of unknown archaeological resources (including human remains) and to the increased risk of erosion, loss of topsoil, sedimentation, runoff, and drainage would be similar to the proposed project. Short-term construction-related impacts associated with air emissions, inadvertent upset or release of hazardous materials, and noise would be similar to that of the proposed project. Mitigation measures for Air Quality and Greenhouse Gases, Archaeological Resources,

Hazards and Hazardous Materials, Historical Resources, Geology Seismicity, and Soils, Hydrology and Water Quality, and Noise are therefore applicable to the Reduced Project, and are incorporated as written in the FEIR.

6. FINDING:

EIR ALTERNATIVES CONSIDERED AND REJECTED

– The EIR evaluated a reasonable range of feasible alternatives to the Full Height Project in compliance with CEQA Guidelines section 15126.6. Except for Alternative 6, the Proposed Project, other alternatives identified in the EIR were found infeasible due to factors of economic, legal, social, technological, and/or other considerations.

EVIDENCE:

- a) Under CEQA Guidelines section 15091, the Board considered specific economic, legal, social, technological, and other considerations which are factors in the rejection of the following Alternatives.
- b) The Project Objectives are described in the Resolution 23-236, adopted by the Board on June 27, 2023.
- c) Rejection of Project Alternatives.
The Full Height Project (the project described and analyzed in the EIR), as described in Resolution 23-236, was rejected for the aesthetic impacts of the full sized dwelling and inconsistency with the neighborhood character, as well as the intensity of development in environmentally sensitive habitat.

The No Project Alternative would result in an ongoing public nuisance and hazard. There would not be temporary or permanent impacts to coastal dune ESHA, but there also would not be restoration activity performed on the site's disturbed ESHA. The degraded structure would offer little historical or no aesthetic benefit to the community under the No Project Alternative. Finally, this Alternative is the least capable of meeting the applicant's project objectives. For all these reasons, this is not the preferred project alternative.

In the EIR, the Preservation Alternative assumes the County could mandate the applicant to perform the 1.67-acre restoration actions on disturbed ESHA areas of the site while retaining the existing house, which would be difficult to enforce because the restoration was a voluntary part of the demolition-related project and not a Mitigation Measure. With this restoration included, the EIR found the Preservation Alternative to be the environmentally superior alternative. This alternative is technically feasible (as discussed in Final EIR Chapter 9, Master Response MR-2) however, it would not meet the project objectives. While the "Preservation" alternative in the EIR appears to be the least environmentally

damaging option, the cost and time involved would be very large. Cost is based on a generally accepted concept that extensive remodels involving major structural, plumbing, electrical, and mechanical repairs, and in particular historic renovation remodels, are in some cases more expensive than new construction. The County could elect to adopt the environmentally superior alternative but doing so would likely result in no change in current conditions in the near future because the property owner has clearly expressed that they will not implement this alternative and has no intent of selling the property so that another party could implement the Preservation Alternative. Should a project be approved that does not involve demolition of the existing structure, it is likely that the near-term impacts would be similar to the “No Project” alternative, which would include continuation of a hazardous structure in a state of disrepair. The long-term impacts may include additional deterioration of the resources due to decay from age and elements until the structure has lost all integrity and would no longer qualify as an historic resource.

The Project Integration Alternative (Alternative 4 in the EIR) involves a redesign of the project to add additional square footage to the existing residence. The Connell house would be reconstructed such that it would continue to qualify as an historic resource. This alternative has been dismissed for the same reasons as the Preservation Alternative. Integration would require extensive rebuilding and remodeling of the existing structure, which is not in keeping with the property owner’s objectives for the property. Selection of the Integration alternative would likely lead to conditions similar to the no project alternative in the foreseeable future.

The Reduced Height Project Alternative (Alternative 9) was recommended by staff during earlier reviews, but the Board has rejected it, since it would have more aesthetic impacts than Alternative 6, the impact of that Alternative on environmentally sensitive habitat (ESHA), and the Board’s conclusion that Alternative 9 would be inconsistent with the character of the neighborhood.

7. FINDING:

SIGNIFICANT UNAVOIDABLE ADVERSE IMPACTS – (POTENTIALLY SIGNIFICANT ENVIRONMENTAL IMPACTS IDENTIFIED IN THE EIR THAT ARE NOT REDUCED TO A LEVEL OF “LESS THAN SIGNIFICANT” BY THE MITIGATION MEASURES) –
Like the Full Height Project analyzed in the EIR, the Reduced

Project will result in a significant and unavoidable impact to Historical Resources even with the incorporation of mitigation measures. Specific economic, legal, social, technological, and other considerations make alternatives infeasible.

- EVIDENCE:**
- a) The EIR identified a potentially significant impact to Historic Resources from the Reduced Project. Mitigation Measures have been identified that reduce some of these impacts, but not to a level of insignificance; therefore, these impacts are significant and unavoidable.
 - b) The EIR identified the environmentally superior alternative to the Project as Preservation of the existing structure (Alternative 1). The LUP guiding policy on cultural resources (pg. 5 of the LUP) provides that new land uses and development are compatible with Preservation only when they incorporate site planning and design features necessary to avoid impacts to cultural resources. Additionally, where impacts are unavoidable, they shall be minimized and reasonably mitigated. Applicant proposes demolition of the existing house, which the EIR concluded would be a significant impact to an historical resource. Preservation of the Connell House has been considered, but was found to be infeasible, pursuant to CEQA Guideline section 15091(a)(3). Reasonable mitigation is proposed that would require documentation of the existing structure, but this mitigation would not reduce the project's historical resource impacts to a less-than-significant level.
 - c) Mitigation Measures have been identified to provide mitigation, to the extent feasible.
HR Impact 1: The project would demolish the Connell House, a significant historical resource, resulting in a significant impact.
HR Impact 2 (Cumulative): Impacts to historical resources caused by demolition of the Connell House would be cumulatively considerable when considered in conjunction with other recent losses of Neutra commissions throughout the United States, resulting in a significant cumulative impact. Impact HR-1 and HR-2 identify the same mitigation measures to reduce the impact to the extent feasible. They are:
HR/mm-1.1 - Recordation of the Connell House per the most recent guidelines of the Historic American Buildings Survey (HABS); and HR/mm-1.2. - Web page documenting the Connell House.
 - d) See Final EIR Master Response MR-2 relating to the impacts and mitigation measures associated with the removal of the historic structure. The Final EIR explains the adequacy and feasibility of the proposed mitigation measures in meeting the

Secretary of the Interior's Standards for the Treatment of Historic Properties.

- e) Testimony was received prior to and in the public hearing of January 25, 2023, and May 9, 2023, in favor of the Preservation Alternative and in favor of the Full Height Project, as well as the reduced height alternative.

8. FINDING:

STATEMENT OF OVERRIDING CONSIDERATIONS -

The Board of Supervisors has weighed the project's economic, legal, social, technological, and other benefits, including region-wide and statewide environmental benefits against its unavoidable significant environmental impacts. The Board finds that the benefits of the project outweigh its unavoidable, adverse environmental impacts. Each benefit set forth below constitutes an overriding consideration warranting approval of the project, despite the identified unavoidable impact.

Additionally, each benefit, standing on its own, is sufficient to support this Statement of Overriding Considerations.

The Reduced Project will have a significant unavoidable impact on historic resources from the demolition of the Connell house. However, the Reduced Project will result in development that will provide benefits to both the surrounding community and the County as a whole. The Board finds that that the benefits of the project to the public outweigh the unavoidable adverse environmental effects. The Project would provide the following benefits to the public:

- i. The Project will result in a custom-built home within a setting known to support this type of development and consistent application of development policies related to the residential zoning of the site.
- ii. The Project will permanently preserve approximately 1.67 acres of sand dune habitat and open space on the project site. If a project that required demolition of the Neutra-designed house is not approved, because the applicant has repeatedly expressed to staff that she does not wish to live in the Neutra-designed house, and that she would not invest significant time and money to preserve the house or initiate the restoration and preservation of the 1.67 acres of sand dune habitat, then resell the property. The worst-case outcome would be that the applicant is granted the entitlement only for the Preservation Alternative and would not comply with its permitting requirements. In that case, the property would continue to present a risk to public health and safety. The sand dune would continue to be overtaken by iceplant and other invasive plants and the outcome would be similar to the No Project Alternative, which the EIR concluded were worse than Preservation.

- iii. The Project will create economic benefits to the County through the creation of construction jobs (temporary), and increased property tax revenue through higher property valuation, due to a foreseeable reassessment after a building permit is issued and increase of the property and structure values that are the bases for calculated property taxes.
- iv. The Project includes demolition of a dilapidated structure. By granting the demolition permit, hazardous and unsafe conditions of the existing structure will be corrected. Failing to demolish the existing, dilapidated home would undermine the policies of Title 18 (section 18.01.090.A-J) by allowing the hazard to continue, which would be detrimental to the public health, safety, and welfare. Reconstruction of the Neutra-designed house would remedy the violations of these Title 18 sections, as well. Although technically feasible, preservation of the Connell house would require at least some degree of tear down and reconstruction due to the unstable structural conditions of the existing building. The best case outcome of not granting the demolition permit is that the applicant would invest significant time and money to preserve the house and clear the violation, then resell the property. Another outcome could be that applicant sells the property without improving the structure because the Preservation Project entitlement would clear the violation. It is difficult to predict a buyer for the property with Preservation as the active permit would step forward. The worst-case outcome would be that the applicant is granted the entitlement only for the Preservation Alternative and would not comply with its requirements. In that case, the property would continue to present a risk to public health and safety. The Aesthetics and Historic Resources impacts would be similar to the No Project Alternative, which the EIR concluded were worse than Preservation.

- EVIDENCE:**
- a) The applicant has repeatedly expressed to staff that she does not wish to live in the Neutra-designed house.
 - b) Setting of Signal Hill in Pebble Beach is evidenced by the Project Setting and Background (Chapter 1) and Existing Conditions (Chapter 4.1) of the project FEIR.
 - c) Evidence of consistent application of development policies related to the residential zoning of the site is based on the opinion of County Planning experts. Nearby projects with similar viewshed and ESHA issues were discussed as part of County staff and Commissioner discussion on the project in the January 25, 2023 Planning Commission hearing.

- d) Hazardous conditions documented in violations file No. 13CE00338 as well as public testimony for the January 25, 2023 Planning Commission hearing on the project.
- e) Tax revenue increases related to higher valuation of properties are in records at County Treasurer’s and Assessor’s Offices. This project is expected to cause a higher valuation of this parcel and parcels nearby based on a review of the project file, properties in the local area and historical patterns of the removal of substandard dwellings resulting in higher property valuation.
- f) Estimates of cost and complexity to reconstruct the Connell house are included in the Simpson Gumpertz and Heger (2016) structural evaluation and alternative assessment was incorporated as Appendix F. Professional opinions were stated as part of County staff testimony for the January 25, 2023 Planning Commission hearing on the project.

9. FINDING:

MITIGATION MONITORING PROGRAM – Pursuant to Public Resources Code section 21081.6, the County is adopting a mitigation monitoring and reporting plan (MMRP) that incorporates and makes enforceable changes to the Project to mitigate for or avoid significant effects to the environment.

EVIDENCE:

- a) Adoption of the MMRP is part of the Board of Supervisors’ action. The mitigation measures identified in the FEIR as pertaining to the Reduced Project (Alternative 6 in the FEIR), are incorporated as conditions of approval; they are modified by the Board pursuant to Finding 5, evidence f. The project conditions are set forth as Exhibit 2 to this Resolution.
- b) The applicant will be required to enter an “Agreement to Implement a Mitigation Monitoring and Reporting Plan” as a condition of approval.
- c) Mitigation Measures are also found in the FEIR for the Signal Hill, LLC Project, October 2022 for reference.
- d) The application, plans, and supporting materials submitted by the Project applicant to County of Monterey HCD-Planning for the proposed development found in Project File PLN100338.

10. FINDING:

DEVELOPMENT WITHIN 100 FEET OF ESHA – The project minimizes impacts to Environmentally Sensitive Habitat Areas (ESHA) consistent with the Policies of the Del Monte Forest LUP and CIP.

EVIDENCE:

- a) The Reduced Project (Alternative 6 in the FEIR) does not include the removal of coastal dune habitat. The project site consists of approximately 2.2 acres of land. The total area of existing impervious surfaces is approximately 7,113 square feet, including the existing house and approximately 2,825

square feet of asphalt driveway and concrete patios. The area is within 100 feet of ESHA and will be redeveloped.

The Project has been sited over the location where the existing impervious area is located. The area around it will be impacted during grading from construction of the existing structure and from human occupation and landscaping associated with the existing structure. With mitigation incorporated, the construction phase of the project and residential use would not impact the long-term maintenance of the sand dune habitat.

- b) The site is in a disturbed portion of coastal sand dune and is adjacent to undisturbed sand dune habitat that is known to support rare plant and animal species. As such, staff required preparation of a biological report to determine the actual presence of rare or endangered plant or animal species or conditions that might support these species. Biological reports were prepared for the site by Mike Zander with Zander and Associates and Fred Ballerini. The reports describe the property as being sparsely vegetated open sands with a mix of coastal dune scrub, European beach grass, and iceplant. Special status plant species including those listed as 1A, 1B, or 2 on the California Native Plant Society (CNPS) known to occur in the dune habitat were noted. Surveys were conducted during the appropriate times of the year. Spring flowering plants found in the Signal Hill area confirmed the appropriate blooming season for the surveys, but none of these plants were found on the site.

Animal species, listed as rare, threatened, or endangered, or designated as “Species of Special Concern” by the U.S Fish and Wildlife Service or California Department of Fish and Wildlife, that are known to occur in the area and within dune habitat were also surveyed. The biologists did not positively identify any sensitive animal species on the site, but nevertheless, they assumed that legless lizards, horned lizards, and certain birds could be present.

- c) The project includes onsite restoration activities on 1.67 acres, which has the potential to impact protected plants and animals, as well as a wetland area on the property. A Restoration Plan was prepared by Zander Associates (2018) and incorporated into the EIR. The restoration plan recommended mitigation measures for the project to ensure the potential impacts are reduced to a less-than-significant level.
- d) Restoration and conservation will cause a portion of the parcel to be restored to ecologically functional ESHA (native dune habitat). The development footprint shall remain the same as the current development footprint. Therefore, in terms of area, the development of the parcel is subordinate to ESHA.

11. FINDING:

DEVELOPMENT ON SLOPES OF 30% OR GREATER:

There is no feasible alternative that would prevent development on slopes that exceed 30 percent. Non-sloped areas are occupied by ESHA. The proposed development better achieves the goals, policies, and objectives of the 1982 Monterey County General Plan and applicable land use plan than other development alternatives because it limits development impact to previously developed areas.

EVIDENCE:

- a) The project includes a Coastal Development Permit to allow development on slopes exceeding 30 percent. Some portions of the site surrounding the existing home contain slopes in excess of 30%. Grading and foundation preparation for the Project would impact small areas containing slopes near the existing building footprint (in concept). Outside of the existing footprint, the parcel is comprised of slopes mostly exceeding 30 percent. The project has been sited and designed to use the least sloped areas of the property. Most of the grading on slopes exceeding 30 percent would, in concept, be required to upgrade the driveway. However, as project plans are reviewed for the Reduced Project Design Approval, development on slopes shall be avoided as much as possible.
- b) The EIR's geologic and seismic analysis relied on a project-specific geotechnical study prepared by Cleary Consultants, Inc. (March 2010, Appendix E of the EIR). The analysis also considered the various existing state and local regulations that apply to geotechnical design and construction, including the California Building Code and the County ordinances for building and grading. Under these laws, and prior to issuance of construction permits, applicant must demonstrate adequate compliance with requirements to safely construct on the site given both the subsurface geology and local seismic conditions. The geotechnical engineer determined that the site is adequate for the Project, provided geotechnical engineer's recommendations are incorporated. The Project has been so conditioned by mitigation measure GEO/MM-1.1.
- c) During site inspections on November 27, 2013, June 30, 2015, and September 11, 2022, staff verified that the Project would, in concept, minimize development on slopes exceeding 30 percent. Additional analysis was done during the environmental assessment. Outside of the existing building pad area, other areas of the property have similarly steep slopes.
- d) These Mitigation Measures, in addition to GEO/MM-1.1, were proposed to reduce impacts to development on slopes to a less-than-significant level:

HYD/mm-1.1 - Prior to issuance of demolition, grading, or construction permits, the Applicant shall submit an erosion control plan to the County for review and approval.

HYD/mm-2.1 - Prior to issuance of demolition, grading, or construction permits, the Applicant shall submit a drainage plan to the County for review and approval.

12. FINDING:

PUBLIC ACCESS – The project conforms with the public access and recreation policies of the Coastal Act (specifically Chapter 3 of the Coastal Act of 1976, commencing with section 30200 of the Public Resources Code) and the applicable Local Coastal Program, and does not interfere with historic public use or trust rights.

- EVIDENCE:**
- a) No coastal access is required, so no substantial adverse impact on access, either individually or cumulatively, as described in Del Monte Forest Area CIP section 20.147.130, has been demonstrated.
 - b) No evidence or documentation has been submitted or found showing historic public use or trust rights over this property.
 - c) The subject property is in an area where the Local Coastal Program requires physical public access (Figure 8, Major Public Access and Recreational Facilities, in the Del Monte Forest Area LUP).
 - d) The subject project parcel is in an area where the Local Coastal Program requires visual public access (Figure 3, Visual Resources, in the Del Monte Forest Area LUP) and CIP section 20.147.070.
 - e) Based on the project location among large trees, more planned vegetative screening, planned restoration of sand dune habitat, and its topographical relationship to most visual public access points in the area, the development proposal will not interfere with visual access along 17-Mile Drive or from Point Lobos. Consistent with Del Monte Forest Area LUP Policies 123 and 137, the Reduced Project (Alternative 6 in the FEIR) will not block significant public views toward the ocean or adversely impact the public viewshed or scenic character in the project vicinity.
 - f) The application, plans, and supporting materials submitted by the project applicant to County of Monterey HCD-Planning for the proposed development are found in Project File PLN100338.

13. FINDING:

APPEAL – Pursuant to Monterey County Code section 20.86.030, Raymond Neutra, Sam Reeves, and Alliance of Monterey Preservationists (AMAP) separately and timely appealed the Planning Commission’s January 25, 2023 decision certifying the EIR and approving the Combined Development

Permit. Upon consideration of the written and documentary evidence, the staff report, oral testimony, other evidence presented, and the administrative record as a whole, the Board upholds all three appeals and reverses the decision on the Signal Hill LLC project decision. However, in some cases, finds no merit to appellants' contentions. Copies of the appeals are Attachment B to the staff report for the June 23, 2023 Board of Supervisors hearing. The Board finds that the appellants made compelling cases in written and oral presentations at the May 9, 2023 hearing and provided substantial evidence that the previously considered project did not comply with the Local Coastal Program. However, the appellants failed to provide substantial evidence to support the contentions that 1) the Preservation Alternative should be the approved project; 2) the site is inappropriate for a new single family dwelling; 3) the Planning Commission's findings were inadequate; and 4) the Planning Commission hearing on January 25, 2023 was not fair and impartial. The Board's reasoning and responses to contentions follows.

EVIDENCE: a)

Appellants Reeves, Neutra, and AMAP contend that the Planning Commission was not fair or impartial because the applicant was allowed to speak longer than is typically granted to an applicant and then was allowed to interrupt other speakers while other speakers during public comment period were only allowed three minutes. Furthermore, appellants contend that the applicant was allowed to make false statements that were not corrected.

County's response:

The Project has had a long, complicated history. The Chair allowed the applicant sufficient time to present the project and her experiences fully. There is no rule of order that limits applicant presentation time. This comment also puts undue responsibility on staff to control the applicant during hearing testimony. Material facts were stated during the staff presentation. In any instance in which a fact was extrapolated upon by the applicant to describe her personal experience in dealing with the appellant and their representatives or the consultants who accepted contracts both with her and the appellant, it was not feasible for staff to correct the record within any immediacy. Firstly, many of the interactions that the applicant described were outside of County involvement. Secondly, the Planning Commission did not direct staff to qualify the veracity of the statements. Had they done so, staff would have requested additional time to do the research. After listening to the video recording of the hearing, staff finds that the Chair handled the hearing as well as could be expected and was equally polite with all parties. He was not required to allow members of the public to speak for more than three

minutes in comment on the agenda item. He allowed the applicant to respond to remarks by the public without limiting their time, just as Planning Commission leadership has in previous meetings. Therefore, the meeting was fair and impartial.

- b) Appellants Neutra and AMAP contend that the Commissioners relied on the HRRB's recommendation without being knowledgeable about the content of the HRRB's discussion in its project review meeting.

County's response:

There is no evidence to support this claim. The staff report, Resolution, and staff presentation to the Planning Commission all discussed the meeting and the HRRB's deliberations at that meeting. Staff were available in the hearing to answer any questions on how the vote was captured in the draft minutes.

- c) Appellant Reeves contends that the Land Use Advisory Committee project should have reviewed the recommended project with the FEIR prior to the Planning Commission hearing on the project.

County's response:

Staff customarily routes projects to the Land Use Advisory Committees (LUAC) for its review and recommendation during staff's inter-departmental project review. The purpose of the LUAC is to advise an appropriate authority to consider a permit, by providing comments and recommendations that reflect the perspective of the local community with focus on neighborhood character, unique community conditions and potential local effects of a project. This review also provides a venue for neighbors to provide input on a proposed project. The LUAC review and recommendation is intended to occur early in the review process where there is still flexibility to incorporate changes in a project. The role of the LUAC is advisory.

In this case, the project was scheduled for LUAC consideration multiple times and there was a motion taken, but the vote was split. A split vote and minutes summarizing comments have been useful information for the appropriate authority to review the permit. If the LUAC requested to review the project again after the public draft EIR was released, staff may have scheduled another review. This was not the case in this instance.

Furthermore, The HRRB (also acting in an advisory capacity) held an open public meeting within a month of the Planning Commission hearing and a notice of the item was circulated in the paper and to all neighbors within 300 feet, as well as interested parties for PLN100338 (the subject project) and it was emailed to the HRRB distribution list. Therefore, the public was

given ample opportunity to comment on the recommended project after the Final EIR was available for review in the HRRB special meeting to review the project on January 12, 2023, in the Planning Commission hearing on January 25, 2023, and in Board hearings on May 9 and June 27, 2023.

- d) Appellants Reeves, Neutra, and AMAP contend that the site is not suitable due to the project's potential impacts to Environmentally Sensitive Habitat Areas (ESHA). They cite Policies of the Del Monte Forest Land Use Plan, Del Monte Forest Coastal Implementation Plan, and provisions in the Coastal Act, as well as letters from other agencies and organizations, as support for their contention that the siting is unsuitable for the proposed single-family dwelling. Neutra and AMAP refer to letters from the California Coastal Commission on the project in support of their contentions. Reeves further states that even when ESHA is disturbed and degraded, are resource dependent uses.

County's response:

Sand dunes in the Del Monte Forest Land Use Plan (LUP) area are considered ESHA by the LUP and, in turn, regulations for the treatment of such ESHA are set forth in the Del Monte Forest Coastal Implementation Plan (CIP) section 20.147.040. The intent of these ESHA regulations is that the areas be protected, maintained, and where possible, enhanced and restored. The County does not dispute that the Signal Hill sand dunes are ESHA. Even areas disturbed with iceplant and landscaping vegetation and patios from the previous owners, there is the potential for the substrate to be restored and become ESHA, so it is recognized as ESHA by the LUP. The Biological Report did not find protected species or species of special concern in the area that construction is proposed. Further, the Reduced Project will not expand the current footprint of development into additional ESHA. Finally, special circumstances exist because the subject parcel was created by a subdivision that was approved prior to the adoption of the California Coastal Initiative (Proposition 20 in 1972) and the Coastal Act (1976), including Coastal Act section 30240, the purpose of which is to protect ESHA.

By approving the Reduced Project (Alternative 6 in the FEIR), new development in ESHA is not allowed. The applicant has volunteered to restore and maintain 1.67 acres of sand dune habitat. In sum, the site is suitable for the Project, and appropriate steps have been taken pursuant to the LUP to allow the Project to proceed consistent with applicable LUP policies.

- e) Appellants Reeves, Neutra, and AMAP contend that the Connell house has not been properly maintained and restored, and the

condition of the home post-application should not be considered. Neutra and AMAP further contend that the Project is inconsistent with Goal 52 of the 1982 General Plan “to designate, protect, preserve, enhance, and perpetuate those structures and areas of historical, architectural, and engineering significance.”

County’s response:

CEQA Guidelines section 15125(a) recognizes the generally accepted principle that environmental impacts should be examined considering the environment as it exists *when a project is approved*. This is so even if a site’s condition results from prior illegal activity, since such conduct is subject to enforcement action, and it would place an undue burden on EIR preparers to adjudicate claims of illegal conduct. (*Riverwatch v. County of San Diego* (1999) 76 Cal.App.4th 1428, 1453; *Eureka Citizens for Responsible Government v. City of Eureka* (2007) 147 Cal.App.4th 357, 370 (quoting *Riverwatch*). Additionally, the applicant included demolition of the structure as a key project objective and as part of the Project Description from the start, including in the Notice of Preparation (NOP) of the EIR. In the eight years since the NOP was distributed, there is no evidence of an offer to buy the property to restore the Connell house much less of applicant’s willingness to entertain such an offer. The County acted promptly to cause the applicant to shore up the structure and remove materials that could further degrade the integrity of the Connell house after vandalism events. The Stipulated Agreement signed by the County and the applicant in 2015, as amended in 2017, recognized that PLN100338 was an active development application, and the resulting permit was anticipated to resolve the condition of the structure.

- f) Appellants Reeves, Neutra, and AMAP contend that either no evidence or insufficient evidence has been presented to demonstrate that all preservation options are infeasible. They note that the EIR did not reject several preservation alternatives due to infeasibility. Neutra and AMAP maintain that there would be no economic hardship to applicant if the County were to require the applicant to repair the damage incurred under the current ownership.

County’s response:

During EIR preparation, the applicant commissioned a physical and economic feasibility analysis report from Simpson Gumpertz & Heger (September 19, 2016). It was attached to the FEIR as Appendix F. The report’s objective was to analyze the building’s structural condition, its safety, and to opine as to whether repairing the structure and restoring or moving it to another site would be practical. In the report, section 5.2 discussed Reconstruction. The report concluded that such a task would

entail an effort comparable to the structure's original construction. This conclusion was further bolstered by testimony provided by County experts in construction at the January 25, 2023 Planning Commission hearing. The expert explained that a full rebuild would be prohibitively expensive in materials, labor, and cost. Like the Simpson Gumpertz & Heger report, the County concluded that abatement of the structure through demolition is the most feasible option at this time. The HRRB concluded that the preservation alternative is infeasible because of the property's condition and that, consequently, the preservation alternative would, in reality, result in little more than a replica. The County does not condone demolition by neglect. However, there is a limit to the County's power to control private behavior on private property post-permit issuance. That is why the feasibility of alternatives evidence in the Finding 8, Alternatives, of this Resolution sets forth the likelihood of disparate outcomes on the health and safety issues at the property and notes that applicant, or a successor-in-interest, would pursue the ministerial permits to complete alternatives that do not demolish the Historic Resource (the Preservation and Project Integration Alternatives). The County does not dispute that this situation shows the difficulty in always being consistent with Goal 52 of the 1982 General Plan. The Connell house was not publicly recognized as a Neutra-designed structure when the applicant bought the property. This was, in part, because the investigation into historic and notable qualities of structures usually commences fifty years after construction and the property was, at that time, not yet fifty years old.

- g) Appellant Reeves claims that the Statement of Overriding Considerations adopted by the Planning Commission did not contain substantial evidence because it was comprised mainly of general statements that Reeves maintains would apply to any project, without supporting evidence as to each consideration's applicability to this project.

County Response: This contention is too general to allow a meaningful response. The County disagrees, but, nevertheless, has modified the language supporting each overriding consideration to tailor each such finding more fully to this situation.

- h) Appellants Neutra and AMAP all challenge the Statement of Overriding Considerations on different grounds. Neutra and AMAP argue that the tax revenue increase is not a valid overriding consideration under CEQA.

County's response: CEQA Guidelines section 15093(a) states, in relevant part, "CEQA requires the decision-making agency to balance, as applicable, the *economic*, legal, social,

technological, or other benefits . . . when determining whether to approve the project” (emphasis supplied.) County tax revenue is such an economic concern, as it would be directly affected by the decision whether to demolish the existing home. The County has reasonably determined, based upon the professional opinions of the Director of Building Services and the Chief of Planning, both reached after reviewing the project file and visiting the site, that allowing a dilapidated structure to remain in the 17-Mile Drive area of the County, leading to both an eyesore and a health and safety hazard, would reduce tax revenue as opposed to new construction. The Reduced Project will address and ameliorate these issues, removing a long-term inhibitor of such revenue.

- i) Appellants Neutra, and AMAP challenge the consideration: “The Project would result in a custom-built estate home within a setting known to support this type of development and represents consistent application of development policies absent the historic resource considerations. Neutra and AMAP argue first, that “[t]he proposed project is significantly higher and larger than neighboring houses.”

County’s response: As to the size of the project, it is unclear whether Neutra and AMAP refer to the Full Height or RH project. Regardless, the Reduced Project addresses the height concern. The Project will be consistent with the size and height of other homes in the Signal Hill Road neighborhood.

Neutra and AMAP also argue that “[t]he demolition of the historic resource does not benefit the community or the county as a whole.”

County’s response: Given the current state of the historic resource, demolition protects the health and safety of the public. Failing to demolish the existing, dilapidated home would undermine the policies of Title 18 (section 18.01.090.A-J) by continued unreasonable state which is detrimental to the public health, safety, and welfare. Reconstruction of the Neutra-designed house would remedy the violations of these Title 18 sections, as well. However, the applicant has repeatedly expressed to staff that she does not wish to live in the Neutra-designed house. Although technically feasible, preservation of the Connell house would require at least some degree of tear down and reconstruction due to the unstable structural conditions of the existing building. The best case outcome of not granting the demolition permit is that the applicant would invest significant time and money to preserve the house and clear the violation, then resell the property. Another outcome could be that applicant sells the property without improving the

structure, because the Preservation Project entitlement would clear the violation. It is difficult to predict a buyer for the property with Preservation as the active permit would step forward. The worst-case outcome would be that the applicant is granted the entitlement only for the Preservation Alternative and would not comply with its requirements. In that case, the property would continue to present a risk to public health and safety. See Finding 9 for more information.

- j) Appellant Reeves contends that approving the Reduced Project would “approve[] ridgeline development when there are clear and reasonable alternatives that would not be ridgeline development; approves a house three times the average size of homes in the Signal Hill neighborhood.”

County’s response:

Ridgeline Development was discussed in the EIR in relation to the Full Height Project and the Reduced Project Alternative (the Alternative adopted in this Resolution). As discussed in the FEIR, the ridgeline effect that would potentially occur under the Reduced Project alternative project is zero. Therefore, the choice of Alternative 6 resolves the potential problem of ridgeline development and a related Coastal Development Permit is not required.

- k) Appellant Neutra contends that, in response to the vandalism on the Neutra-designed house in 2015, neither the county nor the owner demanded a thorough investigation at the time.

County response: In 2015, the County Sheriff’s office thoroughly investigated the vandalism but was not able to determine who the vandals were. The County’s Code Enforcement team and County Counsel’s Office pursued the code violations related to the vandalism by designing, with HRRB input, and enforcing, a Mothball Protection Plan, made applicable to the property through a Stipulated Agreement between the County and Applicant. All code violation fees are paid, and the Code Enforcement team continue to monitor the case. Since the project Final EIR was released, the County anticipates that the violations will be resolved through the Planning Permit PLN100338.

- l) Appellant Neutra contends that the HRRB and the Planning Commission recommended that the historic structure be demolished because it has been damaged beyond repair and has been allowed to deteriorate further. He contends that this sends a message to other purchasers of historic properties.
"Any intentional damage or neglect that threatens your historic property will not be seriously investigated and once the damage has occurred the county will deem it a sufficient reason to ignore its historicity and permit you to tear it down to make way for whatever project you propose."

County Response: The HRRB and the Planning Commission have both acknowledged that this is an unfortunate situation. There was neglect and decay of a structure that the applicant ties to the structure's inherent flaws (wood framing along the north side of the building was not anchored to the foundation, upper level walls are discontinuous and not supported on walls below, lateral resistance for the building was provided by cement plaster on the exterior and interior walls) and to sixty years of Pebble Beach weather that it was not built for (citing an earlier owner's account of extreme draftiness), which resulted in moisture infiltration and mold. The owner stated in a comment letter to the Draft EIR (Letter P-125) that her family moved out after the mold inspection, as she found the house unhealthy to live in. During its discussion of the Signal Hill LLC project, the Planning Commission referred to the previous violations on the subject parcel relating to the Connell house and tree removal. It did not take the decision to approve lightly, but remedies to the previous violations were in place and therefore such violations could be set aside for the decision at hand. In approving the Reduced Height Alternative, the Planning Commission understood that the EIR found the Preservation Alternative to be the environmentally superior alternative. Nevertheless, it rejected that Alternative, adopting a Statement of Overriding Considerations. See also Finding 17, evidence e.

- m) The appeal documents from each appellant are Exhibits D to the June 27, 2023 Staff Report to the Board and are incorporated herein as evidence.
- n) Coastal Commission. Pursuant to Title 20, section 20.86.080.A, the project is subject to appeal to the California Coastal Commission because it involves development between the sea and the first through public road paralleling the sea (i.e., State Route/Highway 1).

DECISION

NOW, THEREFORE, based on the above findings and evidence and the administrative record as a whole, the Board of Supervisors does hereby:

1. Uphold the appeal by Raymond Neutra, aka Neutra Institute for Survival Through Design from the January 25, 2023 Planning Commission decision approving the Combined Development Permit (PLN100338/Signal Hill LLC);
2. Uphold the appeal by Samuel Reeves represented by Anthony Lombardo, Esquire, from the January 25, 2023 Planning Commission decision approving the Combined Development Permit (PLN100338/Signal Hill LLC);
3. Uphold the appeal by Alliance of Monterey Area Preservationists from the January 25, 2023 Planning Commission decision approving the Combined Development Permit (PLN100338/Signal Hill LLC);

4. Approve a Combined Development Permit for the “Reduced Project” (Alternative 6 of the Final EIR) consisting of:
 - a) Coastal Administrative Permit for the demolition of an existing 4,124 square foot single family residence;
 - b) Coastal Administrative Permit for the construction of a new single family residence of similar size, in concept, as the existing residence;
 - c) Coastal Development Permit for development within 100 feet of environmentally sensitive habitat; development includes restoration of native dune habitat in dunes outside the building area;
 - d) Coastal Development Permit for development on slopes exceeding 30 percent;
 - e) Coastal Development Permit for development within 750 feet of a known archeological resource;
5. Adopt a Statement of Overriding Considerations; and
6. Adopt the Reduced Project Mitigation Monitoring and Reporting Plan.

All work must be in general conformance with the attached plans, and this approval is subject to 42 conditions (including 33 mitigation measures), all being attached hereto and incorporated herein by reference.

PASSED AND ADOPTED on this 27th day of June 2023, by roll call vote:

AYES: Supervisors Alejo, Church, Lopez, Askew, and Adams

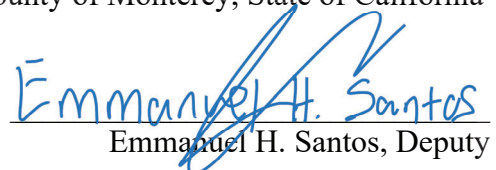
NOES: None

ABSENT: None

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 82 for the meeting on June 27, 2023.

REVISED Date: July 19, 2023
File ID: RES 23-113
Agenda Item No. 25

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


Emmanuel H. Santos, Deputy

THIS PROJECT IS LOCATED IN THE COASTAL ZONE AND IS APPEALABLE TO THE COASTAL COMMISSION. UPON RECEIPT OF NOTIFICATION OF THE FINAL LOCAL ACTION NOTICE (FLAN) STATING THE DECISION BY THE FINAL DECISION-MAKING BODY, THE COMMISSION ESTABLISHES A 10 WORKING DAY APPEAL PERIOD. AN APPEAL FORM MUST BE FILED WITH THE COASTAL COMMISSION. FOR FURTHER INFORMATION, CONTACT THE COASTAL COMMISSION AT (831) 427-4863 OR AT 725 FRONT STREET, SUITE 300, SANTA CRUZ, CA.