

When recorded return to:  
MONTEREY COUNTY RESOURCE  
MANAGEMENT AGENCY  
PLANNING DEPARTMENT  
ATTN: JACQUELYN NICKERSON  
1441 SCHILLING PL, SOUTH 2<sup>nd</sup> FLOOR  
SALINAS, CA 93901  
(831) 755-5025

Space above for Recorder's Use

**Permit No.:** PLN190042  
**Resolution No.:** 19-033  
Reagan Sweitzer-Schoone  
and Cornelis Jan Schoone,  
Trustees of The Sundance  
Trust Agreement dated  
**Owner Name:** August 3, 2016  
**Project Planner:** JACQUELYN NICKERSON  
**APN:** 009-122-031-000

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 12<sup>th</sup> day of December, 2019, by and between  
Reagan Sweitzer-Schoone and Cornelis Jan Schoone, Trustees of The Sundance  
Trust Agreement dated August 3, 2016 as Grantor, 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**, 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 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, Grantor applied to the County for a permit to undertake development as defined in the LCP; and

**WHEREAS**, a **Combined Development Permit consisting of a Coastal Administrative Permit and Design Approval, two (2) Coastal Development Permits and Variance** (File Number **PLN190042**) (hereinafter referred to as the "Permit") was granted on **September 26, 2019** by the Monterey County **Zoning Administrator** pursuant to the Findings, Evidence and Conditions contained in Resolution No. **19-033**. That resolution is attached hereto as Exhibit "B" (without plans) and hereby incorporated by reference, (hereinafter the "Resolution") subject to the following condition(s):

**Condition No. 4**

*"A conservation and scenic easement shall be conveyed to the County over the southwestern portions of the property where slopes in excess of 30% exists in accordance with the procedures in Monterey County Code § 20.64.280.A and Carmel Area Coastal Implementation Plan Section 20.146.110.A.6. The easement shall be developed in consultation with certified professional. An easement deed shall be submitted to, reviewed and approved by the RMA Chief of Planning and the Executive Director of the California Coastal Commission, and accepted by the Board of Supervisors prior to the final of grading and building permits. (RMA - Planning)"*

**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 Grantor 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 the



Property so as to preserve the open space, scenic, and/or natural resource values present on the Property 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 <sup>proposed</sup> 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**, Grantor has elected to comply with the Condition and execute this easement so as to enable Grantor 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**, the said Grantor is willing to grant to the County of Monterey the conservation and scenic use as herein expressed of the Property, and thereby protect the present scenic beauty and existing openness by the restricted use and enjoyment of the Property 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 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 Grantor's Property the various acts hereinafter mentioned.

A. PROPERTY SUBJECT TO EASEMENT. 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 except: No exceptions.

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

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

4. That, except for the construction, alteration, relocation and maintenance of public roads, public and private pedestrian trails, or existing easements, the general topography of the landscape 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 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 right to maintain all existing private roads, bridges, trails, and easements and structures upon the Conservation and Scenic Easement Area.

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

3. Management of vegetation within the Conservation and Scenic Easement Area in accordance with the approved permit on file with Monterey County Planning.

D. SUBJECT TO APPLICABLE LAWS. Land uses permitted or reserved to the Grantor by this instrument shall be subject to all applicable laws 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 Property 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 Property 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 Grantor, 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. SEVERABILITY. 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 12<sup>th</sup> day of December, 2019, at Seaside, California.

The Sundance Trust Agreement dated August 3, 2016

By:   
\_\_\_\_\_  
(Signature)  
Regan Sweitzer-Schoone, Trustee  
\_\_\_\_\_  
(Print or Type Name and Title)

By:   
\_\_\_\_\_  
(Signature)  
Cornelis Jan Schoone, Trustee  
\_\_\_\_\_  
(Print or Type Name and Title)



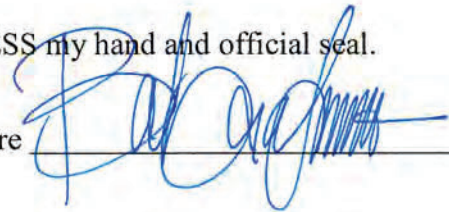
**NOTE TO NOTARY PUBLIC:** If you are notarizing the signatures of persons, signing on behalf of a corporation, partnership, trust, etc., please use the correct notary jurat (acknowledgment) as explained in your Notary Public Law Book.

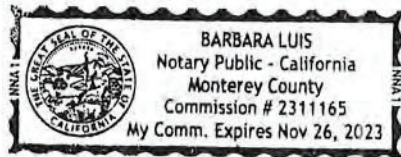
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)  
COUNTY OF MONTEREY)

On December 12, 2019 before me, Barbara Luis, a Notary Public, personally appeared Regan Sweitzer-Schone and Cornelis Jan Schoone, 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)

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)  
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)



**ACCEPTANCE AND CONSENT TO RECORDATION**

This is to certify that the interest in real property conveyed by the deed or grant dated **September 26, 2019** from **Reagan Sweitzer-Schoone and Cornelis Jan Schoone, Trustees of The Sundance Trust Agreement dated August 3, 2016** 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: \_\_\_\_\_.

\_\_\_\_\_  
**John M. Phillips**  
Chair, Monterey County Board of Supervisors

ATTEST:

DATED: \_\_\_\_\_.

\_\_\_\_\_  
**Valerie Ralph**  
Clerk of Said Board

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:  
Leslie J. Girard, County Counsel-Risk Manager

By: \_\_\_\_\_ DATED: \_\_\_\_\_

Type/Print Name: \_\_\_\_\_, Deputy County Counsel



**EXHIBITS TO BE ATTACHED TO:  
CONSERVATION AND SCENIC EASEMENT DEED**

1. **EXHIBIT "A"**: Full legal description of the entire property for which a Development Permit was granted. The legal description may be obtained from a grant deed or title report for the property. A parcel number will not be accepted as a legal description.
2. **EXHIBIT "B"**: A copy of Monterey County Resolution granting the Development Permit.
3. **EXHIBIT "C"**: An official surveyor's map, parcel map or plot plan, accompanied by a metes and bounds description, prepared by a licensed surveyor, showing the exact location of the easement on the property. Exhibits shall be marked as C-1, C-2, etc.

"ANY EXHIBIT(S) MUST BE NO LARGER THAN 8 1/2" X 14"



## EXHIBIT A

The land referred to is situated in the unincorporated area of the County of Monterey, State of California, and is described as follows:

### Parcel One:

Beginning at a point on the Western boundary of Lot 14, Block 150, as said Lot and Block are shown and designated on that certain Map entitled "Map of Carmel Woods", etc., filed in the Office of the Monterey County Recorder on June 9, 1922 in Volume 3 of Cities and Towns at Page 21, Monterey County, California, distant South 13.07 feet from the Northwest corner of said Lot 14; thence leaving said boundary

1. N. 40° 30' E. 44.48 feet; thence
2. N. 25° 00' E., 83.02 feet; thence
3. North, 47.00 feet; thence
4. East 57.00 feet; thence
5. S. 0° 50' E. 87.48 feet; thence
6. S. 11° 30' E., 56.42 feet; thence
7. S. 84° 18' 20" W., 134.16 feet to the point of beginning.

Together with an undivided one-sixth (1/6) interest in and to the following described parcel of land for private road purposes only to-wit:

Beginning at a point on the Southeastern boundary of said Lot 14, Block 150, distant S. 60° 36' 30" W., 95.85 feet from the Southeast corner of said Lot 14; thence following said boundary

1. S. 60° 36' 30" W., 22.95 feet; thence leaving said boundary
2. North 157.42 feet; thence
3. N. 11° 30' W., 80.65 feet; thence
4. N. 69° 00' E., 20.28 feet; thence
5. S. 11° 30' E., 86.00 feet; thence
6. South, 148.17 feet to the point of beginning.

The above description is pursuant to the Certificate of Compliance issued by the County of Monterey and recorded March 7, 2018 in Official Records under Recorder's Serial Number

Exhibit A

Page 1 of 3 Pages



2018009508.

APN: 009-122-031-000 (new)  
009-122-013-000 (previous)

Parcel Two:

A non-exclusive easement for sewer line purposes, 3.00 feet in width, lying 1.50 feet on either side of the following described centerline:

Beginning at a point on the western boundary of Lot 14, Block 150, as said Lot and Block are shown and designated on that certain Map entitled "Map of Carmel Woods," etc., filed in the Office of the Monterey County Recorder on June 9, 1922 in Volume 3 of Cities and Towns at Page 21, Monterey County, California, distant South 13.07 feet from the northwest corner of said Lot; thence leaving said boundary and following the boundary between Parcels 1 and 2 of that certain Deed Instrument No. 2012069740, filed in the Office of the Monterey County Recorder on November 15, 2012 (Course No. 1 of Parcel 2), North 84° 18' 20" East 96.16 feet to the true point of beginning; thence leaving said boundary of said Parcel 2:

- 1) South 5° 25' East 14.26 feet; thence
- 2) South 64° 25' West 45.79 feet to a point on the East boundary of said Parcel from which the southeast corner of said Parcel 2 bears South 41.57 feet.

Parcel Three:

A non-exclusive easement for waterline, parking, ingress and egress purposes, described as follows:

Beginning at a point on the western boundary of Lot 14, Block 150, as said Lot and Block are shown and designated on that certain Map entitled "Map of Carmel Woods," etc., filed in the Office of the Monterey County Recorder on June 9, 1922 in Volume 3 of Cities and Towns at Page 21, Monterey County, California, distant South 13.07 feet from the northwest corner of said Lot; thence leaving said boundary and following the boundary between Parcels 1 and 2 of that certain Deed Instrument No. 2012069740, filed in the Office of the Monterey County Recorder on November 15, 2012 (Course No. 1 of Parcel 2), North 84° 18' 20" East 134.16 feet to the true point of beginning; thence following said boundary of said Parcel 2:

- 1) South 11° 30' East 24.23 feet; thence leaving said boundary
- 2) South 78° 30' West 6.00 feet; thence
- 3) North 83° 00' West 22.00 feet; thence
- 4) North 5° 41' 40" West 19.88 feet to a point on said boundary of said Parcels; thence following said boundary

Exhibit A

Page 2 of 3 Pages

5) North  $84^{\circ} 18' 20''$  East 24.98 feet to the true point of beginning.



**Before the Zoning Administrator  
in and for the County of Monterey, State of California**

In the matter of the application of:

**SWEITZER-SCHOONE REAGAN TRS ET AL (PLN190042)**

**RESOLUTION NO. 19-033**

Resolution by the Monterey County Zoning Administrator:

1. Finding that the project involves the addition to an existing single family dwelling, which qualifies as a Class 1 Categorical Exemption pursuant to Section 15301 (e) of the CEQA Guidelines, and there are no exceptions pursuant to Section 15300.2;
2. Approving a Combined Development Permit consisting of a: 1.) Coastal Administrative Permit and Design Approval to allow an approximately 530 square foot addition to an existing 1,636 square foot single family dwelling; 2.) Coastal Development Permit to allow development on slopes greater than 30%; 3.) Coastal Development Permit to allow development within 100 feet of environmentally sensitive habitat; and 4.) Variance to allow a reduction in the front setback from 20 feet to 12 feet.

[PLN190042, Reagan Sweitzer-Schoone, 2511 2nd Avenue, Carmel (Assessor's Parcel Number 009-122-031-000) , Carmel Land Use Plan, Coastal Zone]

**The SWEITZER-SCHOONE application (PLN190042) came on for a public hearing before the Monterey County Planning Commission on September 26, 2019. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Monterey County Zoning Administrator finds and decides as follows:**

**FINDINGS**

1. **FINDING:** **CONSISTENCY** – The project, as conditioned, is consistent with the applicable plans and policies which designate this area as appropriate for development.  
**EVIDENCE:** a) The project has been reviewed for consistency with the text, policies, and regulations in:
  - 1982 Monterey County General Plan (General Plan);
  - Carmel Area Land Use Plan (CAR LUP);
  - Carmel Area Coastal Implementation Plan, Part 4 (CIP); and

- Monterey County Coastal Zoning Ordinance (Title 20).

No conflicts were found to exist. The subject property is located within the coastal zone; therefore, the 2010 Monterey County General Plan does not apply.

- b) Allowed Use. The subject property (0.25 acres) is located at 2511 2<sup>nd</sup> Avenue, Carmel (Assessor's Parcel Number 009-122-031-000), Carmel Valley Master Plan. The subject parcel is zoned Medium Density Residential with a maximum gross density of 2 units per acre and Design Control overlay within the Coastal Zone or "MDR/2-D (CZ)." Title 20, Section 20.12.040.A allows for the first single family dwelling per lot as a principal use. There is an existing 1,636 square foot two-story single family dwelling on the lot. The 530 square foot addition adds approximately 305 square foot addition to the upper level and an approximately 225 square foot addition to the lower level. The addition to the existing single family dwelling is consistent with the established residential use of the property within a residential zoning district. Therefore, the project is an allowed use.
- c) Lot Legality. The subject property is a vacant lot recognized through a Certificate of Compliance (CC160022), identified as Lot 14, Block 150 in the Carmel Woods Subdivision, as shown on Map of Carmel Woods in Volume 3 of Cities and Towns at page 21.
- d) Cultural Resources. Title 20 Section 21.66.050, states that a Phase 1 Archaeological assessment shall be provided for moderate archaeological sensitivity zones and if the project requires an environmental assessment. The subject property is in an area identified in the Monterey County Geographic Informational System (GIS) as having a moderate archaeological sensitivity and although the project is categorically exempt from CEQA (Finding 5), the applicant provided a Phase 1 Archaeological Assessment (Finding 2, Evidence "c"). The report concluded that there is no evidence that any cultural resources would be disturbed. The nearest archaeological site is approximately one and a half miles away from the subject property. The potential for inadvertent impacts to cultural resources is limited. Further, the project will not result in any excavation or grading.
- e) Design Review and Visual Analysis. The project is subject to the Design Control Zoning District ("D" zoning overlay), which is intended to regulate the location, size, materials and colors of the structures to assure protection of the public viewshed and neighborhood character. The existing single family dwelling has a ranch style architecture with colors and materials consisting of: beige stucco siding, with white wooden trim and dark brown composition shingle roofing. The proposed addition would match the existing colors and materials. The neighborhood consists of homes similar in architectural style with a variation in size. The existing single family



dwelling is consistent with the neighborhood character and will not detract from the surrounding environment.

- f) Environmentally Sensitive Habitat Areas (ESHA). General Policies 2.3.3 of the CAR LUP and Section 20.146.040 of the CAR CIP state that development shall be avoided in critical and sensitive habitat areas, and that development adjacent to sensitive habitat areas shall only be allowed at densities which are compatible with the protection and maintenance of the resources adjacent to the development. The subject property backs up into the Pescadero Canyon, which is a known ESHA, and according to Section 20.12.030 of Title 20, a Coastal Development Permit is required for development within 100 feet of ESHA. The subject property is zoned for residential use with a maximum gross density of 2 units per acre, within an established residential neighborhood. There is an existing single family dwelling on the property which is approximately 0.8 feet away from the rear of the property line adjacent to the canyon. The project is to construct an approximately 530 square foot addition to the area of the existing single family dwelling that is furthest away from the canyon. The area has been previously disturbed with an existing deck and is within the most suitable location of the property, considering the topography, slopes, existing vegetation and shape of the parcel. The addition would not result in any vegetation removal and would require minimal grading, approximately 30 cubic yards. There is an existing stairway with a bench that extends into the canyon. The applicant will remove the stairway and allow for natural vegetation restoration within that area. Therefore, the project would not impact any ESHA but would occur within 100 feet of ESHA.
- g) Review of Development Standards. The subject parcel is zoned Medium Density Residential with a maximum gross density of 2 units per acre and Design Control overlay within the Coastal Zone or "MDR/2-D (CZ)." Title 20 Section 20.12.040.A allows for the development of the first single family dwelling per lot. Therefore, the project is an allowed use.

The required minimum setbacks are the MDR zoning district are: 20 foot front setback, 5 foot side setback and 10 foot rear setback. The setbacks for the existing single family dwelling are: 13 foot front setback, 15 foot side setback and 0.8 foot rear setback. The addition would result in a 12 foot front setback, while maintaining the legal non-conforming rear and required side setbacks. As discussed in Finding 8, a Variance to reduce the required front yard setback from 20 feet to 12 feet is applied. The existing legal non-conforming rear yard setback would remain the same.

The height of the structure will be at 22 feet, below the allowed height for this zoning district, which is 30 feet. The site coverage



maximum is 55%. The subject property is 0.25 acre lot, which would allow site coverage of 3,812 square feet. The project results in structural site coverage of 15% or 1,636 square feet. The allowed floor area ratio is 45% or 4,900 square feet, which the project meets at 20% or 2,166 square feet. The project complies with the development standards listed in the MDR zoning district, Title 20, Section 20.12.060, except for the front and rear setbacks.

- h) Public Access. As demonstrated in Finding 6 below, the project is consistent with the applicable regulations for public access.
- h) Slopes in Excess of 30%. As demonstrated in Finding 7 below, the project is consistent with the applicable regulations for development on slopes in excess of 30%.
- i) Variance. As demonstrated in Finding 8 below, the project meets the required findings to approve a Variance.
- j) Based on the Land Use Advisory Committee (LUAC) procedure guidelines adopted by the Monterey County Board of Supervisors, the project was referred to the Carmel Unincorporated/Highlands LUAC for review on June 3, 2019. The LUAC recommended approval of the project with comments on the possibility of setting a precedent with recommending approval on variances to reduce development standards. Title 20 Chapter 20.78 allows for applicants to make an application for variances to development standards, providing specific findings to approve or deny them. These findings must be supported by factual evidence. The RMA-Planning reviews applications for variances on a case by case basis, and determines if the subject property meets these findings. In this particular case, the topography of the subject property is constrained by slopes greater than 30% and existing trees. Further, the shape of the subject property limits the areas of development. The existing single family dwelling was constructed in 1952, prior to the establishment of development standards in Title 20, making the single family dwelling a legal non-conforming structure as defined in Title 20, Section 20.68.010. The applicant is proposing to construct an addition to the single family dwelling to lessen the impact on slopes in excess of 30% and any needed tree removal. The addition would be approximately 12 feet within the required 20 foot front setback, which is where the existing single family dwelling is sited.
- k) Staff conducted site inspections on June 3, 2019 to verify that the project on the subject property conforms to the plans attached.
- l) The application, plans, and supporting materials submitted by the project applicant to Monterey County RMA-Planning for the development found in RMA-Planning File No. PLN190042.

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



- EVIDENCE:**
- a) The project includes a new single family dwelling associated with an established residential use in a residential neighborhood. Therefore, the use is suitable for the site.
  - b) The project was reviewed by RMA-Planning, Cypress Fire Protection District, RMA-Public Works, RMA-Environmental Services and Environmental Health Bureau. There has been no indication from these departments/agencies that the site is not suitable for the proposed development. Conditions recommended have been incorporated.
  - c) The following reports have been prepared and submitted with the application:
    - Historic Assessment (LIB190080) prepared by Historic Resource Associates, Dana E. Supernowicz, El Dorado Hills, CA on March 6, 2019
    - Preliminary Archaeological Assessment (LIB190223) Historic Resource Associates, Dana E. Supernowicz, El Dorado Hills, CA on October 1, 2018
    - Geotechnical Evaluation (LIB190224) prepared by Haro, Kasunich and Associates Inc, Christopher George, Watsonville, CA on March 15, 2019

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

- d) Staff conducted site inspections on June 3, 2019 to verify that the site is suitable for this use.
- e) The application, plans and supporting materials submitted by the project applicant to Monterey County RMA-Planning for the development are found in Project File PLN190042.

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, 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 RMA-Planning, Cypress Fire Protection District, RMA-Public Works, RMA-Environmental Services and Environmental Health Bureau (EHB). Conditions have been recommended, 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) The project would result in the use of public County roads. To ensure measures are taken to minimize traffic impacts during the construction phase of the project, RMA-Public Works has added a



condition to identify the proposed haul routes, hours of operation, estimated number of truck trips and location of on-site or off-site parking.

- c) The application, plans, and supporting materials submitted by the project applicant to Monterey County RMA-Planning for the development found in RMA-Planning File No. PLN190042.

4. **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 and RMA-Building Services records and is not aware of any violations existing on subject property.
  - b) The application, plans and supporting materials submitted by the project applicant to Monterey County RMA-Planning for the development are found in Project File PLN190042.

5. **FINDING:** **CEQA (Categorically Exempt)** – The project is categorically exempt from environmental review and no unusual circumstances were identified to exist for the project.

- EVIDENCE:**
- a) California Environmental Quality Act (CEQA) Guidelines Section 15301 (e) categorically exempts the addition to existing single family dwellings in residential zones. The project is to construct an approximately 530 square foot addition to an existing 1,636 two-story single family dwelling with an attached two-car garage; therefore, the project qualifies for a Class 1 categorical exemption pursuant to Sections 15301 (e) of the CEQA guidelines.
  - b) None of the exceptions under CEQA Guidelines Section 15300.2 apply to this project. The project does not involve a designated historical resource (see Finding 2, Evidence c), a hazardous waste site, development located near or within view of a scenic highway, unusual circumstances that would result in a significant effect or development that would result in a cumulative significant impact. No adverse environmental effects were identified during staff review of the development application.
  - c) The application, project plans, and related support materials submitted by the project applicant to Monterey County RMA-Planning for the development found in Project File PLN190042.

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



- EVIDENCE:**
- a) No access is required as part of the project as no substantial adverse impact on access, either individually or cumulatively, as described in Section 20.146.130 of the CIP can be demonstrated.
  - b) No evidence or documentation has been submitted or found showing the existence of historic public use or trust rights over this property.
  - c) The subject project site is not described as an area where the Local Coastal Program requires public access (Figure 3, Local Coastal Program Public Access), in the Carmel Area Land Use Plan.
  - d) Staff conducted site inspections on June 3, 2019 to verify that the project on the subject property conforms to the plans attached.
  - e) The application, project plans, and related support materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development found in Project File PLN190042.

7. **FINDING:** **SLOPES IN EXCESS OF 30%** – The project has no feasible alternative option which would allow for development to occur on slopes less than 30%.

- EVIDENCE:**
- a) Carmel Land Use Plan (LUP) Policy 2.2.4.10 and Implementation Plan Policy 20.126.030.C.1.a, state that buildings located on slopes requires a Coastal Development Permit in each case. In order to approve a Coastal Development Permit, the Appropriate Authority must find that there are no alternative feasible options or that the project better achieves the goals and policies of the LUP. A Coastal Development Permit has been applied for and the findings to grant the permit can be made in this case because there is no feasible alternative design or location that would allow for the addition to the existing single family dwelling on slopes less than 30%.
  - b) The subject property is a 0.25 acre parcel that slopes steeply down and away from a private road, which is the primary access road to the site off of 2<sup>nd</sup> Avenue. The existing single family dwelling is sited 13 feet from the private access road and is built on post and piers. The Monterey County Geographic Informational System (GIS), site plans provided by the applicant and site photos indicate the subject property constrained with slopes in excess of 30% (see attached plans). The addition has been appropriately sited and designed given the site constraint circumstances. Any area added to the existing single family dwelling would occur on slopes in excess of 30%. The applicant will construct an approximately 530 square foot addition to the area of the house that results in minimal impact to the slope by placing the addition at the front of the property closest to the road where the site has relatively flatter area. Grading for the addition would be less than 30 cubic yards of cut and fill in the location. Given the shape and topography of the lot, there is no feasible alternative that would allow development on slopes of less than 30%. Further, consistent with the policies in the General Plan, CAR LUP and CIP Section 20.146.120.A.6, a condition of approval requiring recordation of a



conservation and scenic easement on portions of the lot in the rear of the home with slopes in excess of 30% is implemented (see attached conditions).

- c) Staff conducted site inspections on June 3, 2019 to verify that the project on the subject property conforms to the plans attached.
- d) The application, project plans, and related support materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development found in Project File PLN190042.

8. **FINDING:** **VARIANCE** – Application of front setbacks would deprive the subject property of privileges enjoyed by other properties within the vicinity due to special circumstances and does not constitute a grant of special privileges nor does the project grant a use or activity which is not otherwise authorized by the zone regulation.

**EVIDENCE:** a) Title 20, Chapter 20.78 provides a mechanism for applicants to make an application for variances to development standards such as setback, coverage, height, etc., provided specific findings area made. Required findings for a Variance include:

- 1) that because of the special circumstances applicable to the subject property, including size, shape, topography, location or surroundings, the strict application of Title 20 deprives the subject property of privileges enjoyed by other properties within the vicinity;
  - 2.) that the variance does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity; and
  - 3.) A variance shall not be granted for a use of activity which is not otherwise authorized by the zone regulation.
- b) The subject property backs up into the Pescadero Canyon and steeply slopes down and away from a private road accessed off of 2<sup>nd</sup> Avenue. The subject property is developed with a single family dwelling, which was built in 1952, that is constrained by slopes in excess of 30% and is located within the required front setback from the private road. Since the existing single family dwelling was constructed prior to the establishment of development standards for this zoning district, the structure is considered a legal non-conforming structure with respect to front and rear setbacks for the MDR zoning district. The required minimum setbacks in the MDR zoning district are: 20 foot front setback, 5 foot side setback and 10 foot rear setback. The setbacks for the existing single family dwelling are: 13 foot front setback, 15 foot side setback and 0.8 foot rear setback. Given the existing legal non-conforming structure, and the topography and the shape of the parcel, the areas of development are limited. The addition would occur on the side of the existing house, within the southeastern area. The Variance would reduce the required front yard setback from 20 feet to 12 feet.



The existing legal non-conforming portion of the structure that extends into the required rear yard setback would remain legal non-conforming and no alterations are proposed in the non-conforming rear area of the house. As discussed in Finding 7, areas in the rear of the property constrained by slopes in excess of 30% would be placed into a conservation and scenic easement. Due to the size, shape and topography of the site, application of the required front setback prohibits construction of a comparable sized home without placing the home and additions to the home, on slopes and necessitating removal of additional vegetation.

- c) Title 20, Section 20.12.040.A allows for the first single family dwelling per lot as principal use. The addition to the existing single family dwelling is consistent with the established residential use of the property within a residential zoning district. Therefore, the Variance would not result in a use or activity not authorized by the zoning regulation. Further, the Variance would not constitute a grant of special privileges inconsistent with the properties in the vicinity as there are three other properties on the same block who have been granted a variance to setbacks as well (Monterey County Planning File Numbers: PC94069, ZA04522 and ZA96043). The required findings to grant a Variance have been met in this particular case.
- d) Staff conducted site inspections on June 3, 2019 to verify that the project on the subject property conforms to the plans attached.
- e) The application, project plans, and related support materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development found in Project File PLN190042.

9. **FINDING:** **APPEALABILITY** – The decision on this project may be appealed to the Board of Supervisors and California Coastal Commission.
- EVIDENCE:**
- a) Board of Supervisors. Pursuant to Title 20, Section 20.86.030, an appeal may be made to the Board of Supervisors by any public agency or person aggrieved by a decision of an Appropriate Authority other than the Board of Supervisors.
  - b) California Coastal Commission. Pursuant to Title 20, Section 20.86.080, the project is subject to appeal by/to the California Coastal Commission because it involves development that is permitted in the underlying zone as a conditional use.



**DECISION**

**NOW, THEREFORE**, based on the above findings and evidence, the Monterey County Zoning Administrator does hereby:

1. Find that the project involves the addition to an existing single family dwelling, which qualifies as a Class 1 Categorical Exemption pursuant to Section 15301 (e) of the CEQA Guidelines, and there are no exceptions pursuant to Section 15300.2;
2. Approve a Combined Development Permit consisting of a: 1.) Coastal Administrative Permit and Design Approval to allow an approximately 530 square foot addition to an existing 1,636 square foot single family dwelling; 2.) Coastal Development Permit to allow development on slopes greater than 30%; 3.) Coastal Development Permit to allow development within 100 feet of environmentally sensitive habitat; and 4.) Variance to allow a reduction in the front setback from 20 feet to 12 feet.

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

**PASSED AND ADOPTED** this 26<sup>th</sup> day of September 2019.

  
\_\_\_\_\_  
Mike Novo, Zoning Administrator

COPY OF THIS DECISION MAILED TO APPLICANT ON SEP 30 2019

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 OCT 10 2019

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

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

**NOTES**

1. You will need a building permit and must comply with the Monterey County Building Ordinance in every respect.

Additionally, the Zoning Ordinance provides that no building permit shall be issued, nor any use conducted, otherwise than in accordance with the conditions and terms of the permit granted or until ten days after the mailing of notice of the granting of the permit by the appropriate authority, or after granting of the permit by the Board of Supervisors in the event of appeal.



Do not start any construction or occupy any building until you have obtained the necessary permits and use clearances from Monterey County RMA-Planning and RMA-Building Services offices 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 RMA Planning

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

PLN190042

### 1. PD001 - SPECIFIC USES ONLY

Responsible Department: RMA-Planning

**Condition/Mitigation Monitoring Measure:** This Combined Development Permit (PLN190042) consisting of a: 1.) Coastal Administrative Permit and Design Approval to allow an approximately 530 square foot addition to an existing 1,636 square foot single family dwelling; 2.) Coastal Development Permit to allow development on slopes greater than 30%; 3.) Coastal Development Permit to allow development within 100 feet of environmentally sensitive habitat; and 4.) Variance to allow a reduction in the front setback from 20 feet to 12 feet. The property is located at 2511 2nd Avenue, Carmel (Assessor's Parcel Number 009-122-031-000), Carmel Land Use Plan, Coastal Zone. This permit was approved in accordance with County ordinances and land use regulations subject to the terms and conditions described in the project file. Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of RMA - Planning. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. To the extent that the County has delegated any condition compliance or mitigation monitoring to the Monterey County Water Resources Agency, the Water Resources Agency shall provide all information requested by the County and the County shall bear ultimate responsibility to ensure that conditions and mitigation measures are properly fulfilled. (RMA - Planning)

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



**2. PD002 - NOTICE PERMIT APPROVAL**

**Responsible Department:** RMA-Planning

**Condition/Mitigation** The applicant shall record a Permit Approval Notice. This notice shall state:

**Monitoring Measure:** "A Combined Development Permit (Resolution Number 19-033) was approved by Monterey County Zoning Administrator for Assessor's Parcel Number 009-122-031-000 on September 26, 2019. The permit was granted subject to five (5) conditions of approval which run with the land. A copy of the permit is on file with Monterey County RMA - Planning."

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

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

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

**Responsible Department:** RMA-Planning

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

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

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

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



**4. PD022(C) - EASEMENT-CONSERVATION AND SCENIC (COASTAL)**

**Responsible Department:** RMA-Planning

**Condition/Mitigation Monitoring Measure:** A conservation and scenic easement shall be conveyed to the County over the southwestern portions of the property where slopes in excess of 30% exists in accordance with the procedures in Monterey County Code § 20.64.280.A and Carmel Area Coastal Implementation Plan Section 20.146.110.A.6. The easement shall be developed in consultation with certified professional.

An easement deed shall be submitted to, reviewed and approved by the RMA Chief of Planning and the Executive Director of the California Coastal Commission, and accepted by the Board of Supervisors prior to the final of grading and building permits. (RMA - Planning)

**Compliance or Monitoring Action to be Performed:** Prior to the issuance of any construction permits, the Owner/Applicant/Certified Professional shall submit the conservation and scenic easement deed and corresponding map, showing the exact location of the easement on the property along with the metes and bound description developed in consultation with a certified professional, to RMA - Planning for review and approval.

Prior to final inspection of any construction permits, the Owner/Applicant shall record the deed and map showing the approved conservation and scenic easement. Submit a copy of the recorded deed and map to RMA – Planning.

**5. PW0044 - CONSTRUCTION MANAGEMENT PLAN**

**Responsible Department:** RMA-Public Works

**Condition/Mitigation Monitoring Measure:** The applicant shall submit a Construction Management Plan (CMP) to RMA-Planning and RMA - Public Works for review and approval. The CMP shall include measures to minimize traffic impacts during the construction/grading phase of the project.

CMP shall include, at a minimum, duration of the construction, hours of operation, truck routes, estimated number of truck trips that will be generated, number of construction workers, and on-site/off-site parking areas for equipment and workers and locations of truck staging areas. Approved measures included in the CMP shall be implemented by the applicant during the construction/grading phase of the project.

**Compliance or Monitoring Action to be Performed:** 1. Prior to issuance of the Grading Permit or Building Permit, Owner/Applicant/Contractor shall prepare a CMP and shall submit the CMP to the RMA-Planning Department and the Department of Public Works for review and approval.

2. On-going through construction phases Owner/Applicant/Contractor shall implement the approved measures during the construction/grading phase of the project.



EXHIBIT "A"  
SHEET 1 OF 2

CONSERVATION AND SCENIC EASEMENT  
LEGAL DESCRIPTION

Certain real property situate in the unincorporated area of the County of Monterey, State of California, particularly described as follows:

A portion of Parcel One as described in Document No. 2018023373 filed for record May 29, 2018, in the Official Records of Monterey County, California, being more particularly described as follows:

Beginning at the southwest corner of Parcel One as described on said Document and as shown on that certain map filed for record June 7, 2019, in Volume 34 of Surveys at Page 48, records of Monterey County, California; thence from said point of beginning,

- 1) along the northeasterly line of said Parcel One, North 40° 30' 00" East, 44.50 feet; thence,
- 2) North 25° 00' 00" East, 35.70, thence,
- 3) leaving said northeasterly line of Parcel One, North 84° 18' 20" East, 36.16 feet; thence,
- 4) South 05° 41' 40" East, 61.50 feet to a point on the southerly line of said Parcel One; thence,
- 5) along the southerly line of said Parcel One, South 84° 18' 20" West, 86.50 feet to the point of beginning.

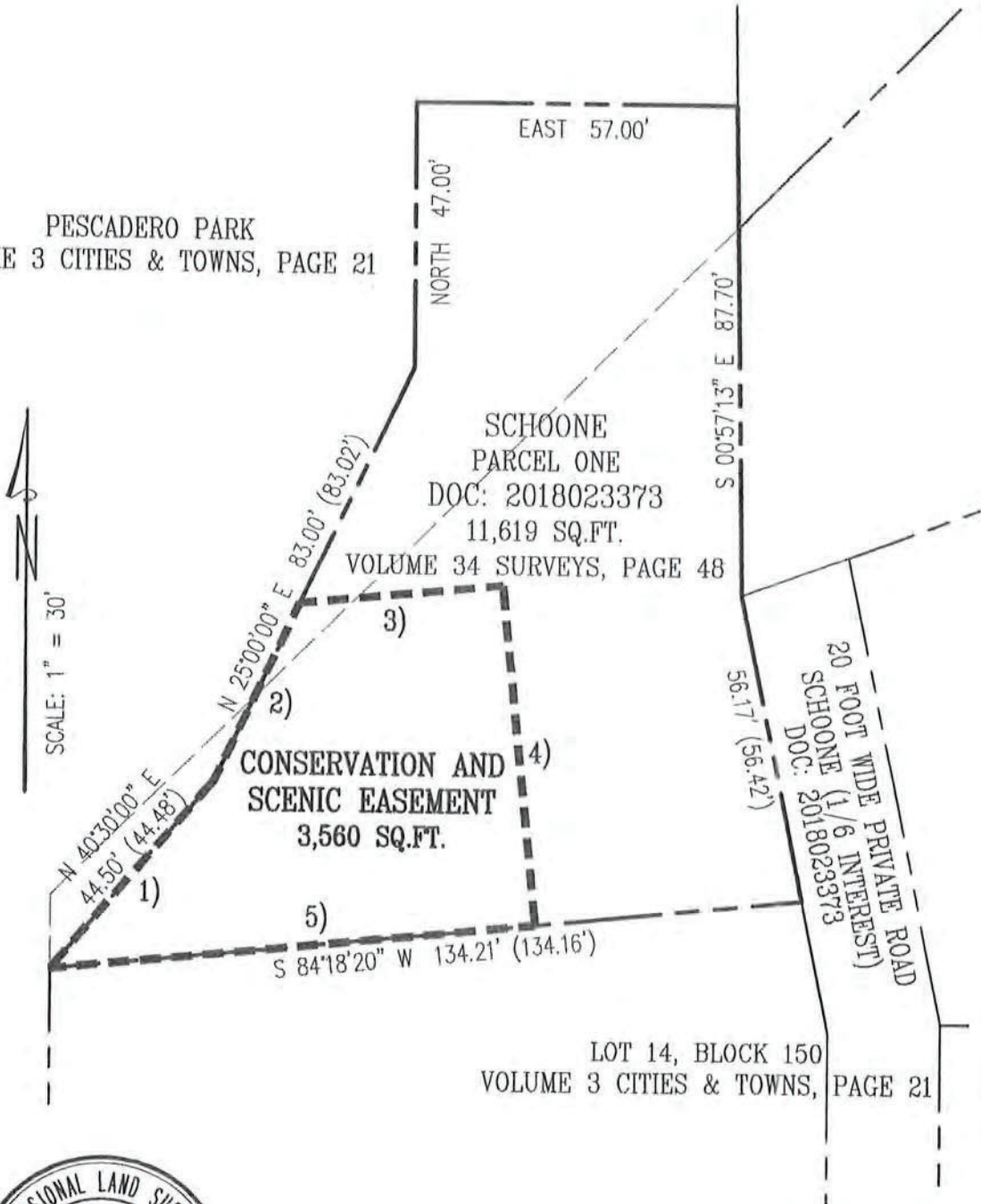
Containing 3,560 square feet, more or less.



EXHIBIT "A"

SHEET 2 OF 2

PESCADERO PARK  
VOLUME 3 CITIES & TOWNS, PAGE 21



11/19/2019

PREPARED BY:  
MONTEREY BAY ENGINEERS, INC.  
607 CHARLES AVENUE, SUITE B  
SEASIDE, CA 93955  
(831) 899-7899

Exhibit C