

Attachment A

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When recorded return to:
MONTEREY COUNTY RESOURCE
MANAGEMENT AGENCY
PLANNING DEPARTMENT
ATTN: **CHERYL KU**
1441 Schilling Place, South 2nd Floor
Salinas, CA 93901
(831) 755-5025

Space above for Recorder's Use

No fee document pursuant to
Government Code Section 27383

Permit No.: PLN170705
Resolution No.: 18-046
Owner Name: David Martinez and Antonia
Martinez, husband and wife as
joint tenants
Project Planner: CHERYL KU
APN: 129-091-071-000

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
[X] 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 3 day of April, 2019, by and between
David Martinez and Antonia Martinez, husband and wife as joint tenants 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 2 (two) Coastal Development Permits** (File Number **PLN170705**) (hereinafter referred to as the "Permit") was granted on **November 14, 2018** by the Monterey County **Planning Commission** pursuant to the Findings, Evidence and Conditions contained in Resolution No. **18-046**. 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. 16

Mitigation Measure No. 3: Conservation Easement. In accordance with Policy 20.144.040.B.6 of the North County Coastal Implementation Plan and Policy 7.2.5 of the North County Coastal Land Use Plan, and with the recommended mitigations in the Biology Report, a conservation easement shall be recorded to preserve the best central maritime chaparral sensitive habitat areas on the property, which are in the un-cleared portions of the high point area and un-cleared slope areas. The area to be encumbered by the easement is shown on the site plan. Fuel reduction/management within 30 feet of structures or as otherwise directed by the North County Fire Protection District shall be allowed with the exception of Pajaro Manzanita. The effect of the easement will be to prohibit structures, grading, or landscaping in in order to protect the habitat in its natural state. Prior to issuance of building or grading permits, the applicant shall submit a draft easement deed and corresponding map showing the exact location of the easement on the property along with the metes and bounds to RMA-Planning for review and approval by the Board of Supervisors. The applicant must record the conservation easement prior to final of the construction permit.

Mitigation Monitoring Action No. 3a. Prior to issuance of building or grading permits, the applicant shall submit a draft conservation easement deed and corresponding map, showing the exact location of the easement on the property along with the metes and bounds to RMA-Planning for review and approval by the Board of Supervisors.

Mitigation Monitoring Action No. 3b. Prior to final of the construction permit for the house, the applicant shall record the conservation easement.

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 proposed development is in conformity with the provisions of the certified Local Coastal Program and that in the absence of the protections provided by the Condition said finding could not be made; and

WHEREAS, 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.

2. That no fencing be erected upon the Conservation and Scenic Easement Area except fencing designed to allow wildlife to cross, specifically, wire fencing with a clearance of eighteen inches between the ground and the first wire, and/or board fencing with at least two panels every ten feet with at least fifteen inches between boards.

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

3. That the Grantor shall not plant nor permit to be planted any vegetation upon the Conservation and Scenic Easement Area, except as permitted in an approved Landscaping and Restoration Plan for the property.

4. That, except for the construction, alteration, relocation and maintenance of public roads, public and private pedestrian trails, and fuel reduction/management

activities as required by the North County Fire Protection District, 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 structures upon the Conservation and Scenic Easement Area, and the right to install or remove vegetation in accordance with an approved landscape and restoration plan and as required by the North County Fire Protection District.

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 Fuel Management Plan approved with the Permit on file with the Monterey County Planning Department.

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 3 day of April, 2019, at ~~Los~~ ^{dom} prunedale, California.

By: 
(Signature)

David Martinez
(Print or Type Name and Title)

By: 
(Signature)

Antonia Martinez
(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.

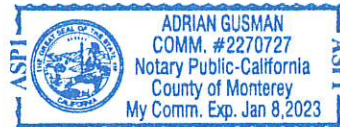
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
COUNTY OF MONTEREY)

On April 3, 2019 before me, Adrian J Gusman, a Notary Public, personally appeared David Martinez, 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 _____

A handwritten signature in blue ink, appearing to be "David Martinez", written over a horizontal line.

(Seal)

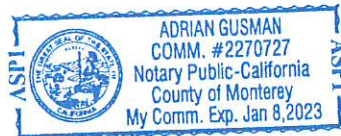
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
COUNTY OF MONTEREY)

On April 3, 2019 before me, Adrian J Gusman, a Notary Public, personally appeared Antonia Martinez, 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 _____

A handwritten signature in blue ink, appearing to be "Antonia Martinez", written over a horizontal line.

(Seal)

EXHIBIT A

LEGAL DESCRIPTION
PLN170705

CONSERVATION EASEMENT

ALL that real property situated in the County of Monterey, State of California, described as follows:

BEING a portion of the Lands described in that certain Grant Deed from Allen M. Wasylychyn and Phyllis Wasylychyn, husband and wife as joint tenants to David Martinez and Antonia Martinez, husband and wife as joint tenants, recorded in Document No. 2015003246, Monterey County Records and more particularly a Conservation Easement, over, under, across, and through, described as follows:

BEGINNING at the Northwesterly corner of the above described Parcel of land; thence along the Northerly line thereof, North 76°15'00" East 144.46 feet to the **True Point of Beginning**; thence continuing along said Northerly line North 76°15'00" East 120.19 feet; thence departing said Northerly line South 06°37'41" East 46.31 feet; thence South 82°11'30" East 44.83 to a point on the Easterly line of said Parcel of land; thence along the Easterly line thereof, South 14°33'00" East 47.47 feet to the Southeasterly corner of said Parcel of land; thence along the Southerly line of said Parcel of land South 70°20'00" West 158.37; thence North 13°25'16" West 126.22 feet to the **True Point of Beginning**. Containing 0.38 acres, more or less, therein.

SEE EXHIBIT "B" FOR THE ACCOMPANING MAP, ATTACHED HERETO AND MADE A PART THEREOF.

This description was prepared by me or under my direction in conformance with the requirements of the Land Surveyor's Act.

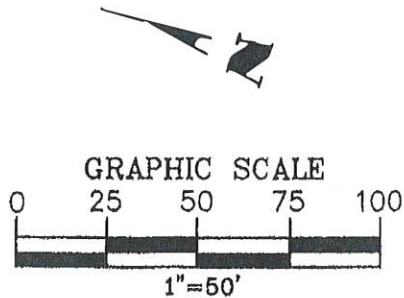
Gary Carnes

Gary D. Carnes, P.L.S. 4516
Expires 9/30/19

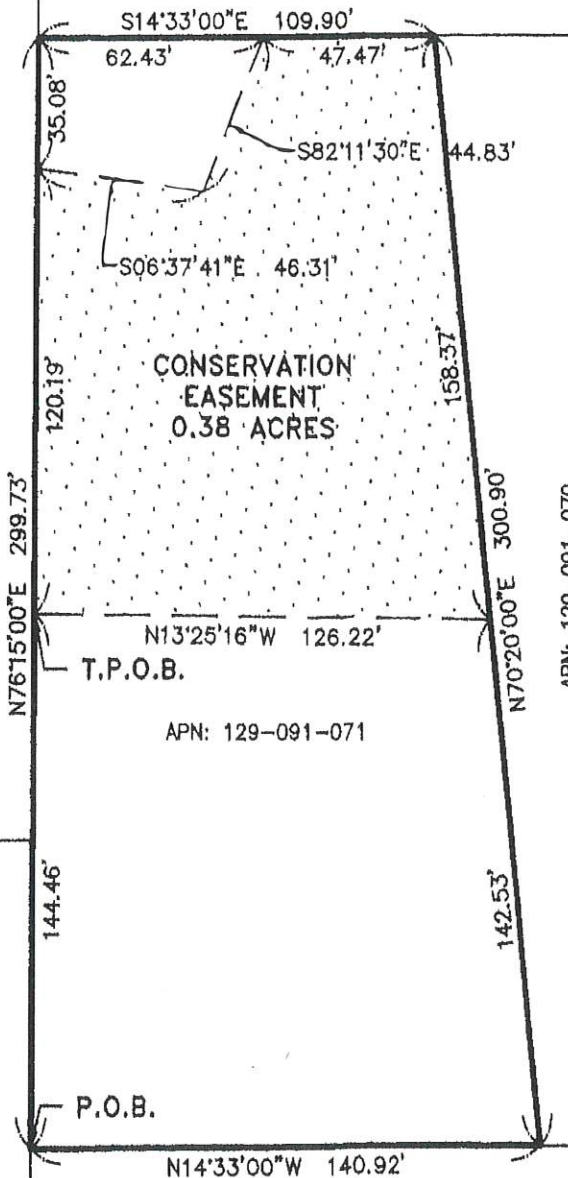
2-14-19
Date



Prepared by:
Carnes & Associates, Gilroy, Calif.
9505 Sugar Babe Drive, Gilroy 95020
(408)847-2013 e-mail:
gary@carnesandassociates.net



APN: 129-091-074



APN: 129-112-020

APN: 129-112-018



EXHIBIT "B"

TO ACCOMPANY EXHIBIT A - LEGAL DESCRIPTION PLN 170705


 CARNES & ASSOCIATES LAND SURVEYORS 9505 SUGAR BABE DRIVE GILROY CA 95020 T: (408) 847-2013 F: (408) 846-7248 EMAIL: OFFICE@CARNESANDASSOCIATES.NET	DRAWN BY: J.H.	DATE: 02-13-2019	PAGE: 2 OF 2
	PROJECT MANAGER: G.C.	SCALE: 1" = 50'	JOB NO.: 1914

Exhibit "A"

Legal Description

A.P.N.: 129-091-071-000 and 129-091-068-000

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

PARCEL ONE:

BEING A PART OF THE TRACT OF LAND CONVEYED BY F. O. OAKES AND WIFE TO WALTER D. OAKES, BY DEED DATED SEPTEMBER 22, 1892, RECORDED IN BOOK 36 OF DEEDS, AT PAGE 242, MONTEREY COUNTY RECORDS, AND BEGINNING AT THE NORTHWESTERLY CORNER OF SAID TRACT OF LAND ABOVE REFERRED TO AND RUNNING THENCE ALONG THE NORTHERLY BOUNDARY LINE THEREOF, N. 76° 15' E., 300 FEET TO THE NORTHWESTERLY CORNER OF LAND CONVEYED BY EDWARD L. PADDON AND B. L. PADDON, HIS WIFE, TO J. H. ROWE AND WIFE, BY DEED DATED FEBRUARY 1, 1939; THENCE S. 14° 33' E., ALONG THE WESTERLY BOUNDARY LINE OF SAID LAND OF ROWE, 1239.90 FEET, MORE OR LESS, TO THE CENTER LINE OF THE COUNTY ROAD RUNNING THROUGH THE TRACT OF LAND FIRST ABOVE REFERRED TO; THENCE ALONG THE CENTER LINE OF SAID COUNTY ROAD, S. 70° 20' W., 300.90 FEET TO THE WESTERLY BOUNDARY LINE OF THE TRACT FIRST ABOVE REFERRED TO; THENCE LEAVING SAID ROAD, N. 14° 33' W., ALONG THE WESTERLY BOUNDARY LINE OF SAID TRACT FIRST ABOVE REFERRED TO, 1267.60 FEET, MORE OR LESS, TO THE POINT OF BEGINNING, AND BEING OF THE RANCHO BOLSA NUEVA Y MORO COJO.

EXCEPTING ANY PORTIONS THEREOF IN PARADISE COUNTY ROAD.

EXCEPTING THEREFROM THE FOLLOWING PORTIONS:

- A) THAT PORTION CONVEYED TO ROBERT L. BIRCH, ET UX, BY DEED RECORDED SEPTEMBER 11, 1963, REEL 226, OFFICIAL RECORDS, PAGE 151.
- B) THAT PORTION CONVEYED TO STANDARD SAVINGS AND LOAN ASSOCIATION BY TRUSTEE'S DEED RECORDED OCTOBER 13, 1964 ON REEL 368, OFFICIAL RECORDS, PAGE 1090.
- C) THAT PORTION CONVEYED TO ALLIED CONCORD FINANCIAL CORPORATION (DELAWARE) BY TRUSTEE'S DEED RECORDED JUNE 2, 1965 ON REEL 408, OFFICIAL RECORDS, PAGE 532.
- D) THAT PORTION CONVEYED TO CLARA V. MILLER BY TRUSTEE'S DEED RECORDED JANUARY 20, 1967 ON REEL 490, OFFICIAL RECORDS, PAGE 825.
- E) EXCEPT THEREFROM ONE QUARTER INTEREST IN ANY OIL OR GAS THAT MAY BE PRODUCED THEREFROM, AS RESERVED IN THE DEED FROM EDWARD L. PADDON, ET UX, RECORDED JULY 11, 1945 IN BOOK 876, PAGE 137, OFFICIAL RECORDS.

PARCEL TWO:

A NON-EXCLUSIVE EASEMENT FOR ROAD AND UTILITY PURPOSES 40 FEET WIDE AND LYING 20 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE SOUTHERLY BOUNDARY OF THE PROPERTY DESCRIBED IN PARCEL 4 OF THE DEED FROM NEAL A. GLEASON, ET UX, TO HENRY MEYERS, A SINGLE MAN RECORDED SEPTEMBER 29, 1981 ON REEL 1508, OFFICIAL RECORDS, PAGE 191, FROM WHICH POINT, POINT 'A' SET FORTH IN PARCEL 1 OF SAID DEED BEARS N. 14° 33' 00" W., 220.00 FEET DISTANT, THENCE, IN A NORTHWESTERLY DIRECTION IN A STRAIGHT LINE TO THE POINT OF INTERSECTION WITH THE NORTHERLY BOUNDARY OF SAID PARCEL 4, FROM WHICH POINT THE NORTHWEST CORNER OF SAID PARCEL 4 BEARS S. 70° 20' 00" W., 67.12 FEET DISTANT, THENCE; IN A STRAIGHT LINE IN A NORTHWESTERLY DIRECTION TO A POINT ON THE NORTHERLY BOUNDARY OF PARCEL 1 IN SAID DEED RECORDED SEPTEMBER 29, 1981, FROM WHICH POINT THE NORTHWEST CORNER OF SAID PARCEL 1 BEARS S. 70° 20' 00" W., 40 FEET DISTANT.

PARCEL THREE:

A NON-EXCLUSIVE EASEMENT FOR ROAD AND UTILITY PURPOSES OVER A STRIP OF LAND 40 FEET WIDE AND LYING 20 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT THAT CERTAIN POINT DESIGNATED "A" IN THE DEED FROM NEAL A. GLEASON AND CLAIRE J. GLEASON, HIS WIFE, TO HENRY MEYERS, A SINGLE MAN, RECORDED SEPTEMBER 29, 1981 IN REEL 1508, OFFICIAL RECORDS PAGE 191, AND THENCE

A) S. 14° 33' 00" E., 220.00 FEET TO THE TRUE POINT OF BEGINNING; THENCE

1) S. 12° 33' 00" E., 602.17 FEET MORE OR LESS TO THE NORTHERLY BOUNDARY OF PARADISE CANYON ROAD.

PARCEL FOUR:

AN UNDIVIDED 2/12 INTEREST IN AND TO THE FOLLOWING DESCRIBED LAND:

BEGINNING AT POINT "B" REFERRED TO IN THE DEED FROM A PROPERTY MANAGEMENT COMPANY RECORDED MAY 3, 1983 ON REEL 1631, OFFICIAL RECORDS PAGE 433, THENCE

(A) S. 77° 27' 00" W., 20.00 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING

(1) S. 77° 27' 00" W., 12.00 FEET; THENCE

(2) N. 12° 33' 00" W., 12.00 FEET; THENCE

(3) N. 77° 27' 00" E., 12.00 FEET; THENCE

(4) S. 12° 33' 00" E., 12.00 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL FIVE:

THAT PORTION OF THE RANCHO BOLSA NUEVA Y MORO COJO, IN THE COUNTY OF MONTEREY, STATE OF CALIFORNIA, BEING A PORTION OF THE LAND DESCRIBED IN THE DEED TO HOBERT HIGGENBOTHAM, ET UX, RECORDED MARCH 16, 1962 IN REEL 33, PAGE 25, OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

A NON-EXCLUSIVE ROAD AND UTILITY EASEMENT, 40 FEET WIDE, LYING 20 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED LINE, OVER AND ACROSS THAT CERTAIN PARCEL OF LAND DESCRIBED IN PARCEL 1 IN REEL 368, AT PAGE 1090, FURTHER DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE SOUTHERLY BOUNDARY OF SAID PARCEL 1, FROM WHICH THE SOUTHWEST CORNER BEARS S 70° 20' W, 67.12 FEET, THENCE

- 1) N 19° 54' 47" W, 143.24 FEET, THENCE
- 2) N 12° 51' 49" E, 54.53 FEET, THENCE
- 3) N 06° 42' 36" W, 65.11 FEET, THENCE
- 4) N 22° 23' 09" W, 36.22 FEET, TO A POINT IN THE NORTHERLY BOUNDARY OF SAID PARCEL 1 FROM WHICH THE NORTHWEST CORNER BEARS S 70° 20' W, 82.84 FEET.

THE SIDELINES OF SAID EASEMENT TO BE LENGTHENED OR SHORTENED TO TERMINATE IN THE RESPECTIVE BOUNDARY.

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

In the matter of the application of:

MARTINEZ (PLN170705)

RESOLUTION NO. 18-046

Resolution by the Monterey County Hearing Body:

- 1) Adopting a Mitigation Negative Declaration;
- 2) Approving a Combined Development Permit consisting of:
 - a. A Coastal Administrative Permit to allow the construction of an approximately 2,460 square foot single family dwelling with an approximately 680 square foot attached two-car garage and storage area.
 - b. A Coastal Development Permit for the removal of three oak trees
 - c. A Coastal Development Permit to allow development within 100 yards of Environmentally Sensitive Habitat (Central Maritime Chaparral, Pajaro Manzanita).
- 3) Adopting a Mitigation Monitoring and Reporting Plan

[PLN170705, David and Antonia Martinez, 473 Paradise Rd. Salinas, CA 93907, (APN: 129-091-071-000)]

The Martinez application (PLN170705) came on for public hearing before the Monterey County Planning Commission on November 14, 2018. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Planning Commission finds and decides as follows:

FINDINGS

1. **FINDING:** **CONSISTENCY** – The Project, as conditioned, is consistent with the applicable plans and policies which designate this area as appropriate for development.

EVIDENCE: a) During the course of review of this application, the project has been reviewed for consistency with the text, policies, and regulations in:

- the 1982 Monterey County General Plan;
- North County Coastal Land Use Plan;
- Monterey County Coastal Implementation Plan Parts 1 and 2;
- Monterey County Zoning Ordinance (Title 20);

No conflicts were found to exist. No communications were received during the course of review of the project indicating any inconsistencies with the text, policies, and regulations in these documents.

- b) The property is located at 473 Paradise Rd. (Assessor's Parcel Number APN 129-091-071-000), North County Coastal Land Use Plan. The parcel is zoned LDR/2.5(CZ), which allows development of a single family dwelling with a Coastal Administrative Permit. Therefore, the project is an allowed land use for this site.
- c) The project planner conducted a site inspection on July 18, 2017 to verify that the project on the subject parcel conforms to the plans listed above.
- d) The 0.73 acre parcel is identified in its current configuration in both the 1964 (Volume 1) and 1972 (Volume 2) Assessor's Map Book 129 page 9-1. Additionally, Monterey County records state the following in referring to this lot "legal as per County Counsel Opinion 6-13-83 see correspondence" 'WJC 6-13-83'. Thus, the property is a legal lot of record.
- e) Tree Removal – Policies in the North County Land Use Plan and Standards in Section 20.144 of the Coastal Implementation plan provide for protection of native trees and require development to be sited to minimize tree removal. As demonstrated in Finding 6, the project is consistent with NC LUP policies and CIP regulations for protection of native trees and no issues remain.
- f) Environmentally Sensitive Habitat Area (ESHA) – The proposed project includes development within 100 feet of ESHA. As demonstrated in Findings 5 and 7, the development, as sited, conditioned, and mitigated is consistent with NC LUP and CIP regulations for protection of ESHA and impacts will be less than significant.
- g) Pursuant to Assembly Bill 52, RMA-Planning notified the chairperson of the Ohlone-Costanoan-Esselen Nation (OCEN) of the project. The chairperson requested consultation with staff, which was conducted on March 13, 2017. Although the project is within a low archeologic sensitivity zone, the OCEN chairperson requested that a tribal monitor be onsite during tree removal and during installation of the septic system. Due to a lack of substantive evidence that the subject parcel would contain tribal cultural resources, staff has proposed Mitigation Measure Number 17, to require a note on all grading and construction plans to provide direction if resources are uncovered, including halting work and contacting OCEN Tribal Council.
- h) The proposed development is consistent with height, setback and coverage regulation for the LDR zoning designation. Maximum allowed height is 30 feet. The structure will be 26 feet, 2 inches at its tallest point. Required minimum setbacks are Front: 30 feet, Rear: 20 feet, Side: 20 feet. Setbacks for the proposed structure will be: Front: 34 feet, 2 inches; Rear: 26 feet, 4 inches; Side 23 feet, 4 inches and 247 feet. Maximum allowed coverage is 15 percent. Total coverage will be 9.86 percent.
- i) A 240 square foot storage shed currently located on the front of the property is proposed to be relocated to the North West corner of the property. The required rear setback is 1 foot and the proposed rear setback is 1 foot. The required side setback for the rear half of the property is one foot. The proposed setback is 11 feet, 10 inches.

- j) The project was referred to the North County Land Use Advisory Committee (LUAC) for review. Based on the LUAC Procedure guidelines adopted by the Monterey County Board of Supervisors, this application warranted referral to the LUAC because it includes development involving CEQA review. The LUAC voted 6-0 to approve the project as proposed.
- k) 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 PLN170705.

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: RMA- Planning, North County Fire Protection District, RMA-Public Works, RMA-Environmental Services, Environmental Health Bureau, and Water Resources Agency. There has been no indication from these departments/agencies that the site is not suitable for the proposed development. Conditions recommended have been incorporated.
 - b) Staff identified potential impacts to Biological Resources and Soil/Slope Stability. The following reports have been prepared:
 - “Soil Investigation Report” (LIB170452) prepared by GMD Foundation and Soil Engineering, Salinas, CA, May 2, 2017
 - “Martinez Residence Forest management Plan/Tree Resource Assessment” (LIB170450) prepared by Frank Ono, Pacific Grove, CA, November 14, 2017
 - “Biological Survey for the Martinez Property, 477 Paradise Road, Salinas, CA 93907. APN 129-091-071-000” (LIB 170451) prepared by Ed Mercurio, Biological Consultant, Salinas, CA, March 2017.

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

- c) Staff conducted a site inspection on July 18, 2017 to verify that the site is suitable for this use.
- d) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning for the proposed development found in Project File PLN170705.

3. **FINDING:** **HEALTH AND SAFETY** - The establishment, maintenance, or operation of the project applied for will not under the circumstances of this particular case be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.

- EVIDENCE:**
- a) The project was reviewed by the RMA - Planning, North County Fire Protection District, Public Works, Environmental Health Bureau, and

Water Resources Agency. The respective agencies have recommended conditions, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood.

- b) Necessary public facilities are available. Water will be provided through an approved connection to Paradise Road Water System Number 4. The Environmental Health Bureau has reviewed the project and approves of the connection to this water system. Due to site constraints, an alternative onsite septic system is required. The Environmental Health Bureau has reviewed and approved the preliminary septic system design. Additionally, the project biologist has reviewed the design and confirmed that the septic system facilities will not impact sensitive habitat.
- c) Staff conducted a site inspection on July 17, 2018 to verify that the site is suitable for this use.
- d) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning for the proposed development found in Project File PLN170705.

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 Building Services Department records and is not aware of any violations existing on subject property.
 - b) Staff conducted a site inspection on July 18, 2017 and researched County records to assess if any violation exists on the subject property.
 - c) The application, plans and supporting materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development are found in Project File PLN170705.

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

- EVIDENCE:**
- a) Public Resources Code Section 21080.d and California Environmental Quality Act (CEQA) Guidelines Section 15064.a.1 require environmental review if there is substantial evidence that the project may have a significant effect on the environment.
 - b) Monterey County RMA-Planning prepared an Initial Study pursuant to CEQA. The Initial Study is on file in the offices of RMA-Planning and is hereby incorporated by reference (PLN170705).
 - c) The Initial Study identified potentially significant effects, but the applicant has agreed to proposed mitigation measures that avoid the effects or mitigate the effects to a point where clearly no significant effects would occur.

- d) All project changes required to avoid significant effects on the environment have been incorporated into the project and/or are made conditions of approval. A Condition Compliance and Mitigation Monitoring and/or Reporting Plan has been prepared in accordance with Monterey County regulations, is designed to ensure compliance during project implementation, and is hereby incorporated herein by reference. The applicant must enter into an "Agreement to Implement a Mitigation Monitoring and/or Reporting Plan as a condition of project approval.
- e) The Draft Mitigated Negative Declaration ("MND") for PLN170705 was prepared in accordance with CEQA and circulated for public review from September 28, 2018 through October 29, 2018 (SCH#: 2015021054).
- f) Issues that were analyzed in the Mitigated Negative Declaration include: aesthetics, agriculture and forest resources, air quality, biological resources, cultural resources, geology/soils, greenhouse gas emissions, hazards/hazardous materials, hydrology/water quality, land use/planning, mineral resources, noise, population/housing, public services, recreation, transportation/traffic, and utility/service systems.
- g) The project was found to have potential impacts to biological, cultural, and tribal cultural resources. As discussed in Findings 1, 6, and 7, mitigation measures have been incorporated to reduce impacts to these resources to a less than significant level.
- h) Evidence that has been received and considered includes: the application, technical studies/reports (see Finding 2/Site Suitability), staff reports that reflect the County's independent judgment, and information and testimony presented during public hearings. These documents are on file in RMA-Planning (PLN170705) and are hereby incorporated herein by reference.
- i) Staff analysis contained in the Initial Study and the record as a whole indicate the project could result in changes to the resources listed in Section 753.5(d) of the California Department of Fish and Game (CDFG) regulations. All land development projects that are subject to environmental review are subject to a State filing fee plus the County recording fee, unless the Department of Fish and Game determines that the project will have no effect on fish and wildlife resources. The site supports central maritime chaparral habitat and Pajaro manzanita. For purposes of the Fish and Game Code, the project may have a significant adverse impact on the fish and wildlife resources upon which the wildlife depends. The Initial Study was sent to the California Department of Fish and Game for review, comment, and to recommend necessary conditions to protect biological resources in this area. Therefore, the project will be required to pay the State fee plus a fee payable to the Monterey County Clerk/Recorder for processing said fee and posting the Notice of Determination (NOD).
- j) No comments from the public were received during the public review period.
- k) Monterey County RMA-Planning, located at 1441 Schilling Place, 2nd Floor, Salinas, California, 93901, is the custodian of documents and other materials that constitute the record of proceedings upon which the decision to adopt the negative declaration is based.

6. **FINDING:** **TREE REMOVAL** – The tree removal conforms with North County Land Use Plan (NC LUP) policies and Coastal Implementation Plan (CIP) standards. The development has been sited, designed, and conditioned to minimize tree removal and protect retained trees.

- EVIDENCE:**
- a) The project includes the removal of three oak trees (two 12-inch diameter oak trees and one 18-inch diameter oak tree. In accordance with policy 2.2.2.5 of the North County Land Use Plan, structures have been sited to minimize tree removal and grading. Due to site constraints including slopes, environmentally sensitive habitat area, and septic system requirements, no design and/or location alternatives that would avoid tree removal are available.
 - b) Consistent with policy 20.144.030.B.4 of the North County Coastal Implementation Plan, the structure has been located and sited so as to minimize the amount of tree removal and grading to that amount necessary for construction of the building site and access road. Alternative siting for the residence was analyzed and the proposed siting in the existing flat and previously disturbed portion of the building site best minimizes grading, potential impacts to environmentally sensitive habitat, and tree removal.
 - c) Section 20.144.050 of the North County Coastal Implementation Plan requires a Coastal Development permit for removal of oak trees over 6 inches in diameter and states that a forester’s assessment and recommendation must be prepared by a qualified professional forester for the removal of three or more trees requiring a Coastal Development Permit. A Coastal Development Permit is included in this entitlement. A Forest Management Plan/Tree Resource Assessment was prepared by Frank Ono, a certified arborist, on November 14, 2017, and was updated on April 28, 2017.

7. **FINDING:** **ENVIRONMENTALLY SENSITIVE HABITAT AREAS** – The project minimizes impacts on environmentally sensitive habitat areas (ESHA) in accordance with the applicable goals and policies of the 1982 Monterey County General Plan, North County Land Use Plan (NC LUP), Monterey County Coastal Implementation Plan, Part 2 (CIP), and the Monterey County Zoning Ordinance (Title 20).

- EVIDENCE:**
- a) ESHA Determination – As described in subsequent Evidence b, biological reports were submitted for the project. These reports confirm the presence of central maritime chaparral on the sloped areas of the property and identified two sensitive species, Pajaro manzanita and a hybrid Pajaro and brittleleaf manzanita, within 100 feet of proposed development.
 - b) Report Requirement – CIP Section 20.144.040 requires a biological survey for developments proposed in or near documented ESHA. A biological survey was conducted by a qualified biologist and a report including all of the elements required by section 20.144.040.A.4 was submitted.
 - c) Central Maritime Chaparral Habitat – Policy 2.3.3A.2 of the NC LUP identifies maritime chaparral as an uncommon, highly localized and variable plant community that has been reduced in North County by residential and agricultural development and requires that where new

residential development is proposed in chaparral areas, it shall be sited and designed to protect the maximum amount of maritime chaparral and that all chaparral on land exceeding 25 percent slope be left undisturbed to prevent potential erosion impacts as well as to protect the habitat itself. The house has been sited on the previously disturbed, flat portion of the site. The project avoids disturbance of habitat on the sloped areas, which will be protected by a conservation easement required by Mitigation Measure Number 3.

- d) Sensitive Species – Two sensitive species, Pajaro manzanita and hybrid Pajaro and brittle manzanita are located within 100 feet of the proposed development. Although not proposed for removal, these plants could potentially be impacted by construction activities. Mitigation Measures recommended in the biological report, including a preconstruction survey and replacement planting are included in the Mitigation Monitoring and Reporting Plan.
- e) Restoration – Policy 2.3.4 states that the County shall encourage the restoration of sensitive plant habitats on public and private lands. Mitigation Measure number 5 requires a landscaping and restoration plan, to include removal of invasive exotics and native seed mix to restore impacted understory and ground cover.
- f) Conservation Easement – Policy 2.3.2(6) of the North County Land Use Plan states that The County shall ensure protection of environmentally sensitive habitats through deed restrictions of dedications of permanent conservation easements. Mitigation Measure No. 3 requires that a conservation easement be recorded to preserve the best central maritime chaparral sensitive habitat areas on the property, which are the un-cleared portions of the high point area and un-cleared slope areas.

8. **FINDING:** **APPEALABILITY** - The decision on this project may be appealed to the Board of Supervisors and the California Coastal Commission.
- EVIDENCE:**
- a) Section 20.86.030 of the Monterey County Zoning Ordinance states that the proposed project is appealable to the Board of Supervisors.
 - b) Section 20.86.080 of the Monterey County Zoning Ordinance states that the proposed project is subject to appeal by/to the Coastal Commission because it involves development in the Low Density Residential Zoning Designation that requires a Coastal Development Permit (Development within 100 feet of mapped or field identified environmentally sensitive habitats).

DECISION

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

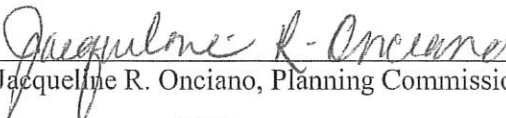
1. Adopt a Mitigated Negative Declaration;
2. Approve a Combined Development Permit consisting of: Coastal Administrative Permit to allow the construction of an approximately 2,460 square foot single family dwelling with an approximately 680 square foot attached two-car garage and storage area; 2) a Coastal Development permit for the removal of three oak trees, 3) a Coastal Development

Permit to allow development within 100 yards of Environmentally Sensitive Habitat (Central Maritime Chaparral and Pajaro Manzanita), in general conformance with the attached sketch and subject to the attached conditions, all being attached hereto and incorporated herein by reference; and

3. Adopt the attached Mitigation Monitoring and Reporting Program.

PASSED AND ADOPTED this 14th day of November, 2018 upon motion of Commissioner Mendoza, seconded by Commissioner Getzelman, by the following vote:

AYES: Coffelt, Duflock, Diehl, Getzelman, Gonzalez, Mendoza, Roberts, Vandevere, Wizard
NOES: None
ABSENT: Ambriz
ABSTAIN: None


Jacqueline R. Onciano, Planning Commission Secretary

COPY OF THIS DECISION MAILED TO APPLICANT ON NOV 20 2018

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 NOV 30 2018.

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 Department office in Salinas.

2. This permit expires 3 years after the above date of granting thereof unless construction or use is started within this period.

Form Rev. 5-14-2014

Monterey County RMA Planning

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

PLN170705

1. PD001 - SPECIFIC USES ONLY

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: This Combined Development Permit (PLN170705) allows 1) A Coastal Administrative Permit to allow the construction of a 2,456 square foot single family dwelling with a 676 square foot attached two-car garage and storage area, associated grading; 2) a Coastal Development Permit for the removal of three Oak trees; and 3) a Coastal Development Permit to allow development within 100 yards of Environmentally Sensitive Habitat. The property is located at 473 Paradise Rd, Salinas, CA 93907 (Assessor's Parcel Number 129-091-071-000), North County Coastal Land Use Plan. 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 Monitoring Measure: The applicant shall record a Permit Approval Notice. This notice shall state:

"A Combined Development Permit (Resolution Number 18-046) was approved by the Planning Commission for Assessor's Parcel Number 129-091-071-000 on November 14, 2018. The permit was granted subject to 24 conditions of approval which run with the land. A copy of the permit is on file with Monterey County RMA - Planning."

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

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

3. PD011(A) - TREE REMOVAL

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: Tree removal shall not occur until a construction permit has been issued in conformance with the appropriate stage or phase of development in this permit. Only those trees approved for removal shall be removed. (RMA-Planning)

Compliance or Monitoring Action to be Performed: Prior to tree removal, the Owner/ Applicant/ Tree Removal Contractor shall demonstrate that a construction permit has been issued prior to commencement of tree removal.

4. PD048 - TREE REPLACEMENT/RELOCATION

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: Within 60 days of permit approval, the applicant shall replace and or relocate each tree approved for removal as follows:
- Replacement ratio:1:1

Replacement tree(s) shall be located within the same general location as the tree being removed or as recommended by the project arborist. (RMA - Planning)

Compliance or Monitoring Action to be Performed: The Owner/Applicant shall submit evidence of tree replacement to RMA-Planning for review and approval. Evidence shall be a receipt for the purchase of the replacement tree(s) and photos of the replacement tree(s) being planted.

Six months after the planting of the replacement tree(s), the Owner/Applicant shall submit evidence demonstrating that the replacement tree(s) are in a healthy, growing condition.

One year after the planting of the replacement tree(s), the Owner/Applicant shall submit a letter prepared by a County-approved tree consultant reporting on the health of the replacement tree(s) and whether or not the tree replacement was successful or if follow-up remediation measures or additional permits are required.

5. PW0044 - CONSTRUCTION MANAGEMENT PLAN

Responsible Department: RMA-Public Works

Condition/Mitigation Monitoring Measure: The applicant shall submit a Construction Management Plan (CMP) to the Resource Management

Agency (RMA) for review and approval. The CMP shall include measures to minimize traffic

impacts during the construction/grading phase of the project and shall provide the following

information:

Duration of the construction, hours of operation, an estimate of the number of truck trips that will

be generated, truck routes, number of construction workers, parking areas for both 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 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.

6. PW0045 – COUNTYWIDE TRAFFIC IMPACT FEE

Responsible Department: RMA-Public Works

Condition/Mitigation Monitoring Measure: Prior to issuance of building permits, the Owner/Applicant shall pay the Countywide Traffic Impact Fee or the ad hoc fee pursuant to General Plan policy C-1.8. The fee amount shall be determined based on the parameters in the current fee schedule.

Compliance or Monitoring Action to be Performed: Prior to issuance of Building Permits, the Owner/Applicant shall pay Monterey County RMA-Building Services Department the traffic mitigation fee. The Owner/Applicant shall submit proof of payment to the RMA-Development.

7. STORMWATER CONTROL PLAN (PR1)

Responsible Department: Environmental Services

Condition/Mitigation Monitoring Measure: The applicant shall submit a Stormwater Control Plan addressing the Post-Construction Requirements (PCRs) for Development Projects in the Central Coast Region. The Stormwater Control Plan shall incorporate the measures identified on the completed Site Design and Runoff Reduction Checklist. (RMA-Environmental Services)

Compliance or Monitoring Action to be Performed: Prior to issuance of any grading or building permits, the applicant shall submit a Stormwater Control Plan to RMA-Environmental Services for review and approval.

8. EROSION CONTROL PLAN

Responsible Department: Environmental Services

Condition/Mitigation Monitoring Measure: The applicant shall submit an Erosion Control Plan in conformance with the requirements of Monterey County Code Chapter 16.12. The Erosion Control Plan shall include a construction entrance, concrete washout, stockpile area(s), material storage area(s), portable sanitation facilities and waste collection area(s), as applicable. (RMA-Environmental Services)

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

9. GEOTECHNICAL CERTIFICATION

Responsible Department: Environmental Services

Condition/Mitigation Monitoring Measure: The applicant shall provide certification from a licensed practitioner that all development has been constructed in accordance with the recommendations in the project Geotechnical Report. (RMA- Environmental Services)

Compliance or Monitoring Action to be Performed: Prior to final inspection, the owner/applicant shall provide RMA-Environmental Services a letter from a licensed practitioner.

10. GRADING PLAN

Responsible Department: Environmental Services

Condition/Mitigation Monitoring Measure: The applicant shall submit a Grading Plan incorporating the recommendations from the project Soil Investigation Report prepared by Geri Martin Daliva Engineers. The Grading Plan shall include contour intervals and cross-sections that identify the existing grade, proposed grade, and the extent of any proposed excavation and/or fill. The Grading Plan shall include the geotechnical inspection schedule that identifies when the inspections will be completed, who will conduct the inspection (i.e., PG, PE, and/or Special Inspector), a description of the required inspection, inspector name, and the completion date. The applicant shall also provide certification from the licensed practitioner that the Grading Plan incorporates their geotechnical recommendations. (RMA-Environmental Services)

Compliance or Monitoring Action to be Performed: Prior to issuance of any grading or building permits, the applicant shall submit a Grading Plan to RMA-Environmental Services for review and approval.

Prior to issuance of any grading or building permits, the applicant shall submit certification from a licensed practitioner that they have reviewed the Grading Plan for conformance with the geotechnical recommendations.

11. INSPECTION-DURING ACTIVE CONSTRUCTION

Responsible Department: Environmental Services

Condition/Mitigation Monitoring Measure: The applicant shall schedule an inspection with RMA-Environmental Services to inspect drainage device installation, review the maintenance and effectiveness of BMPs installed, and to verify that pollutants of concern are not discharged from the site. At the time of the inspection, the applicant shall provide certification that all necessary geotechnical inspections have been completed to that point. This inspection requirement shall be noted on the Erosion Control Plan. (RMA – Environmental Services)

Compliance or Monitoring Action to be Performed: During construction, the applicant shall schedule an inspection with RMA-Environmental Services.

12. INSPECTION-FOLLOWING ACTIVE CONSTRUCTION

Responsible Department: Environmental Services

Condition/Mitigation Monitoring Measure: The applicant shall schedule an inspection with RMA-Environmental Services to ensure all disturbed areas have been stabilized and all temporary erosion and sediment control measures that are no longer needed have been removed. This inspection requirement shall be noted on the Erosion Control Plan. (RMA – Environmental Services)

Compliance or Monitoring Action to be Performed: Prior to final inspection, the owner/applicant shall schedule an inspection with RMA-Environmental Services.

13. INSPECTION-PRIOR TO LAND DISTURBANCE

Responsible Department: Environmental Services

Condition/Mitigation Monitoring Measure: The applicant shall schedule an inspection with RMA-Environmental Services to ensure all necessary sediment controls are in place and the project is compliant with Monterey County regulations. This inspection requirement shall be noted on the Erosion Control Plan. (RMA – Environmental Services)

Compliance or Monitoring Action to be Performed: Prior to commencement of any land disturbance, the owner/applicant shall schedule an inspection with RMA-Environmental Services.

14. MM01 - PRECONSTRUCTION SURVEY AND ONGOING MONITORING

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: Mitigation Measure No. 1: Preconstruction Survey and Ongoing Monitoring. Within ten days prior to the start of grading or construction activities a preconstruction survey shall be conducted by a qualified biologist. If construction or tree trimming begins between April 1 and August 31, the survey shall also include breeding birds. Monitoring inspections shall also be performed once within the three months following completion of the development and once per year, in the spring season for the following two years.

Compliance or Monitoring Action to be Performed: Mitigation Monitoring Action No. 1a: Prior to the start of grading or construction activities, the applicant shall submit to the county a report from a qualified biologist containing the results of the preconstruction survey. The report shall include verification that all Pajaro Manzanitas have been identified and shall state whether any Pajaro Manzanitas will require removal. If construction or tree trimming is to begin between April 1 and August 31st, the survey shall also state if any breeding birds were identified and if so shall recommend appropriate protection measures.

Mitigation Monitoring Action No. 1b: Within three months following final inspection of the construction permit, the applicant shall submit to RMA-Planning a report from a qualified biologist detailing the results of the monitoring inspection. If the report includes any recommendations to address concerns revealed during the monitoring inspection, the property owner shall implement these recommendations.

Mitigation Monitoring Action No. 1c: Once per year, in the spring season, for two years following the completion of the development, the applicant shall submit a report from a qualified biologist indicating the results of the monitoring survey. If the report includes any recommendations to address concerns revealed during the inspections, the property owner shall implement those recommendations.

15. MM02 - PROTECTIVE FENCING

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: Mitigation Measure No. 2: Protective Fencing. All healthy native trees and shrubs on the property will be protected from all impacts that may occur before, during or after construction. This includes protection from direct damage to the branches and roots of the plants, deposition or removal of soil around the plants and compaction of soil around the plants through vehicle use. Care shall be taken to make sure that the soil levels within driplines, and especially around the trunks of native trees and shrubs, are not altered and to make sure that drainage slopes away from trunks. These plants shall be marked with orange fencing during the installation of the new developments to make their locations obvious.

Compliance or Monitoring Action to be Performed: Mitigation Monitoring Action No. 2a. Prior to issuance of grading or construction permits, the applicant shall submit verification, including photographs and a letter from a qualified biologist or arborist, that tree protection measures have been installed in accordance with the arborist and biological reports.

16. MM03 - CONSERVATION EASEMENT

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: Mitigation Measure No. 3: Conservation Easement. In accordance with Policy 20.144.040.B.6 of the North County Coastal Implementation Plan and Policy 7.2.5 of the North County Coastal Land Use Plan, and with the recommended mitigations in the Biology Report, a conservation easement shall be recorded to preserve the best central maritime chaparral sensitive habitat areas on the property, which are in the un-cleared portions of the high point area and un-cleared slope areas. The area to be encumbered by the easement is shown on the site plan. Fuel reduction/management within 30 feet of structures or as otherwise directed by the North County Fire Protection District shall be allowed with the exception of Pajaro Manzanita. The effect of the easement will be to prohibit structures, grading, or landscaping in in order to protect the habitat in its natural state. Prior to issuance of building or grading permits, the applicant shall submit a draft easement deed and corresponding map showing the exact location of the easement on the property along with the metes and bounds to RMA-Planning for review and approval by the Board of Supervisors. The applicant must record the conservation easement prior to final of the construction permit.

Compliance or Monitoring Action to be Performed: Mitigation Monitoring Action No. 3a. Prior to issuance of building or grading permits, the applicant shall submit a draft conservation easement deed and corresponding map, showing the exact location of the easement on the property along with the metes and bounds to RMA-Planning for review and approval by the Board of Supervisors.

Mitigation Monitoring Action No. 3b. Prior to final of the construction permit for the house, the applicant shall record the conservation easement.

17. MM04 - REPLACEMENT PLANTING

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: Mitigation Measure No. 4: Replacement Planting. Three Pajaro manzanitas will be planted on the property as mitigation for the area of development being closer than 100 feet from the Pajaro manzanitas growing on the property.

Compliance or Monitoring Action to be Performed: Mitigation Monitoring Action No. 4a: Prior to final of the construction permit, the applicant shall submit evidence, including photographs, that the pajaro manzanitas have been planted in accordance with the approved site plan and the arborist recommendations.

18. MM05 - LANDSCAPING AND RESTORATION PLAN

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: Mitigation Measure No. 5: Landscaping and Restoration Plan. Landscaping and restoration plantings other than immediately around the home shall be composed primarily of native plants of local origin. Other native plants and drought tolerant, fire resistant plants with similar requirements to our native vegetation may also be planted immediately around the home. All other restoration plantings will be plants native to the area, preferably of local origin. A native plant seed mix from stock of local origin will be used to restore impacted native understory and ground cover as well as for erosion control. Invasive exotic plants will as much as possible, be removed from the property. The invasive exotics observed on the property are Hottentot Fig (*Carpobrotus edulis*), French Broom (*Genista monspessulana*), Pampas Grass (*Cortaderia jubata*), Monterey Pine (*Pinus radiata*), and Blue Gum Eucalyptus (*Eucalyptus globulus*). Kill and removal of the exotic and invasive vegetation through the use of pesticides shall be carried out by a Qualified Applicator certified by the California Department of Pesticide Regulation. Fuel reduction/management within 30 feet of structures or as otherwise required by the North County Fire Protection District shall be allowed with the exception of Pajaro Manzanita. The Landscaping and Restoration Plan shall be reviewed approved by the North County Fire Protection District.

Compliance or Monitoring Action to be Performed: Mitigation Monitoring Action No. 5: Prior to the issuance of grading or construction permits, applicant shall submit a landscape and restoration plan prepared by a qualified landscape architect that conforms to the specifications in Mitigation Measure No. 5 including specifying areas where exotics will be removed and techniques for doing so. The Landscape and Restoration Plan shall also be reviewed and approved by the North County Fire Protection District.

Mitigation Measure No. 5a: Prior to final of construction permits, the applicant shall submit evidence, including photographs, that the landscaping has been installed and invasive exotics removed according to the approved landscape plan.

19. MM06 - BEST MANAGEMENT PRACTICES

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: Mitigation Measure No. 6: Best Management Practices. In order to ensure construction activities include best management practices that provide overall protection measures for tree resources, central maritime chaparral habitat, and sensitive specie onsite, the following shall be included as a note on the construction plans.

- Depositing fill, parking equipment, or staging construction materials near existing trees or close to areas of natural habitat shall be prohibited.
- Less than one third of branches will be removed from any native tree or shrub that may need to be trimmed. Pruning shall be conducted so as to not unnecessarily injure the tree. General Principles of pruning include placing cuts immediately beyond the branch collar, making clean cuts by scoring the underside of the branch first, and for live oak, avoiding the period from February through May
- Native trees are not adapted to summer watering and may develop crown or root rot as a result. Do not regularly irrigate within the drip line of oaks.
- Less than one third of area under the dripline on any native tree or shrub should be paved.
- Coast live oaks should not be trimmed from February through May. There should be no pavement closer than four feet from the trunks of trees unless permeable pavement is used in these areas and surface roots are deep enough to allow paving without their extensive removal.
- A mulch layer up to approximately 4 inches deep should be applied to the ground under selected trees following construction. Only 1 to 2 inches of mulch should be applied within 1 to 2 feet of the trunk, and under no circumstances should any soil or mulch be placed against the root crown (base) of trees. The best source of mulch would be from chipped material generated onsite.
- If trees near the development are visibly declining in vigor, a Professional Forester or Certified Arborist should be contacted to inspect the site to recommend a course of action.

Compliance or Monitoring Action to be Performed: Prior to issuance of building or grading permits, the note shall be included on the plans.

20. MM07 - PERIMETER FENCING

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: Mitigation Measure No. 7: Perimeter Fencing. If perimeter fencing is installed on the property, it shall be designed to allow wildlife to cross. Wire fencing shall have a clearance of eighteen inches between the ground and the first wire. Board fencing should have at least two panels every ten feet with at least fifteen inches between boards.

Compliance or Monitoring Action to be Performed: Mitigation Monitoring Action No. 7a: The conservation easement deed required by Mitigation Measure No. 3 shall specify that the property is not to be fenced except in accordance with the regulations outlined Mitigation Measure No. 7. On an ongoing basis, if any fencing is to be installed on the property, the property owner shall ensure that the fencing is designed in accordance with Mitigation Measure No. 7.

21. MM17 - PROTECTION OF CULTURAL RESOURCES

Responsible Department: RMA-Planning

Condition/Mitigation Measure No. 17 Protection of Cultural Resources

Monitoring Measure:

The subject parcel is located in the aboriginal territory of Ohlone/Costanoan-Esselen Nation (OCEN). Pursuant to AB 52, tribal consultation took place regarding the proposed project. In order to prevent impacts to Tribal Cultural Resources, Owner/Applicant shall include requirements of this condition as a note on all grading and construction plans. The note shall state "If, during the course of construction, cultural, archaeological, historical or paleontological resources are uncovered at the site (surface or subsurface resources) work shall be halted immediately within 50 meters (165 feet) of the find until a qualified professional archaeologist can evaluate it. Monterey County RMA - Planning, OCEN Tribal Council 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, OCEN Tribal Council and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the recovery.

Prior to resuming any further project-related ground disturbance, Owner/Applicant shall coordinate with the project planner, OCEN Tribal Council and a qualified archaeologist to determine a strategy for either return to the Tribe or reburial. Any artifacts found that are not associated with a skeletal finding shall be returned to the aboriginal tribe.

If human remains are accidentally discovered during construction, the following steps will be taken:

There shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent resources until:

The coroner of the county in which the remains are discovered must be contacted to determine that no investigation of the cause of death is required, and

If the coroner determines the remains to be Native American:

- The coroner shall contact the Native American Heritage Commission and RMA – Planning within 24 hours.
- The Native American Heritage Commission shall identify the person or persons from a recognized local tribe of the Esselen, Salinan, Costanoan/Ohlone and Chumash tribal groups, as appropriate, to be the most likely descendent.
- The most likely descendent may make recommendations to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in Public Resources Code Section 5097.9 and 5097.993, or
- Where the following conditions occur, the landowner or his authorized representatives shall rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further subsurface disturbance:

1. The Native American Heritage Commission is unable to identify a most likely descendent or the most likely descendent failed to make a recommendation within 48 hours after being notified by the commission.
2. The descendent identified fails to make a recommendation; or
3. The landowner or his authorized representative rejects the recommendation of the descendent, and the mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner.

(RMA - Planning)

**Compliance or
Monitoring
Action to be Performed:**

Prior to issuance of grading or construction permits, the note shall be included on the plans.

Throughout grading and construction activities, the procedures outlined in Mitigation Measure No. 17 shall be adhered to.

22. PD005 - FISH & GAME FEE NEG DEC/EIR

Responsible Department: RMA-Planning

**Condition/Mitigation
Monitoring Measure:**

Pursuant to the State Public Resources Code Section 753.5, State Fish and Game Code, and California Code of Regulations, the applicant shall pay a fee, to be collected by the County, within five (5) working days of project approval. This fee shall be paid before the Notice of Determination is filed. If the fee is not paid within five (5) working days, the project shall not be operative, vested or final until the filing fees are paid. (RMA - Planning)

**Compliance or
Monitoring
Action to be Performed:**

Within five (5) working days of project approval, the Owner/Applicant shall submit a check, payable to the County of Monterey, to the Director of RMA - Planning.

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

23. PD006 - CONDITION OF APPROVAL / MITIGATION MONITORING PLAN

Responsible Department: RMA-Planning

**Condition/Mitigation
Monitoring Measure:**

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

**Compliance or
Monitoring
Action to be Performed:**

Within sixty (60) days after project approval or prior to the issuance of building and grading permits, whichever occurs first, the Owner/Applicant shall:

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

24. CC01 INDEMNIFICATION AGREEMENT

Responsible Department: County Counsel

Condition/Mitigation
Monitoring Measure:

The property owner agrees as a condition and in consideration of approval of this discretionary development permit that it will, pursuant to agreement and/or statutory provisions as applicable, including but not limited to Government Code Section 66474.9, defend, indemnify and hold harmless the County of Monterey or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees to attack, set aside, void or annul this approval, which action is brought within the time period provided for under law, including but not limited to, Government Code Section 66499.37, as applicable. The property owner will reimburse the County for any court costs and attorney's fees which the County may be required by a court to pay as a result of such action. The County may, at its sole discretion, participate in the defense of such action; but such participation shall not relieve applicant of his/her/its obligations under this condition. An agreement to this effect shall be recorded upon demand of County Counsel or concurrent with the issuance of building permits, use of property, filing of the final map, recordation of the certificates of compliance whichever occurs first and as applicable. The County shall promptly notify the property owner of any such claim, action or proceeding and the County shall cooperate fully in the defense thereof. If the County fails to promptly notify the property owner of any such claim, action or proceeding or fails to cooperate fully in the defense thereof, the property owner shall not thereafter be responsible to defend, indemnify or hold the County harmless. (County Counsel)

Compliance or
Monitoring
Action to be Performed:

Upon demand of County Counsel or concurrent with the issuance of building permits, use of the property, recording of the final/parcel map, or recordation of Certificates of Compliance, whichever occurs first and as applicable, the Owner/Applicant shall submit a signed and notarized Indemnification Agreement to the County Counsel for review and signature by the County.

Proof of recordation of the Indemnification Agreement, as outlined, shall be submitted to the Office of County Counsel.

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