

# Attachment E

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When recorded return to:  
MONTEREY COUNTY RESOURCE  
MANAGEMENT AGENCY  
PLANNING DEPARTMENT  
Attn: Nadia Garcia  
1441 Schilling Pl 2<sup>nd</sup> Floor  
Salinas, CA 93901  
(831) 755-5025

Space above for Recorder's Use

No fee document pursuant to  
Government Code Section 27383

Permit No.: PLN050001  
Resolution No.: 10-312  
Owner Name: Carmel Reserve, LLC  
Project Planner: Nadia Garcia  
APN: 015-171-010; 015-171-012;  
015-361-013; 015-361-014

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 governmental entity

Signature of Declarant or Agent

## ***CONSERVATION AND SCENIC EASEMENT DEED (INLAND)***

**THIS DEED** made this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between  
**CARMEL RESERVE, LLC**, a Delaware limited liability company, 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 said Property of the Grantor; and

**WHEREAS**, a Combined Development Permit (File Number **PLN050001**) (hereinafter referred to as the "Permit") was granted on **November 9, 2010** by the Monterey County **Board of Supervisors** pursuant to the Findings, Evidence and Conditions contained in Resolution No. **10-312**. That resolution is attached hereto as Exhibit "B" and hereby incorporated by reference, (hereinafter the "Resolution") subject to the following condition(s):

**Condition #3**

A conservation and scenic easement shall be conveyed to the County over those portions of the property outside of the building and/or development envelope.

**WHEREAS**, the County, acting on behalf of the People of the State of California and in accordance with the Findings, Evidence and Conditions 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 natural resources and public access to those resources which could occur if the Property were not restricted in accordance with this easement; 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 in Exhibit "C", attached hereto, and made a part hereof, hereinafter referred to as the "Conservation and Scenic Easement Area." The Conservation and Scenic Easement Area are those areas outside the development/building envelopes on the residential lots as they appear on the final map.

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 the Conservation and Scenic Easement Area except those which are approved pursuant to Board of Supervisors Resolution No. 10-312, including, but not limited to, public and private driveways, restricted trails for pedestrians, hiking and equestrian uses, residential gates and address markers that identify and provide access to properties, auto courts, utilities, and drainage facilities as well as land alteration consistent with the intent and purpose of the scenic easement deed as stated in Condition 162, incorporated by reference, to allow for alterations to land to enhance habitat.

2. That no advertising of any kind or nature shall be located on or within the Conservation and Scenic Easement Area except directional signs, and signage required by state or local regulations, as approved by the Director of the RMA.

3. That the Grantor shall not plant nor permit to be planted any vegetation upon the Conservation and Scenic Easement Area, except as set forth in the Open Space Management Plan (dated November 22, 2019), and other vegetation consistent with an approved landscape plan.

4. That the Grantor shall not remove trees or other major vegetation from the described premises with the exception of i) the removal of hazardous substances or conditions, or non-native and diseased plants or trees; ii) the removal of any vegetation which constitutes or contributes to a fire or other hazard to the residential use of the individual or neighboring properties; iii) the creation and maintenance of defensible space for fuel management and fire safety purposes. Such defensible space shall meet all applicable guidelines and regulations set forth by Monterey County, Cal Fire, and the Fuel Management Plan (dated October 22, 2019) and Open Space Management Plan (dated November 22, 2019).

5. That, except for the construction, alteration, relocation and maintenance of roads, public and private pedestrian trails, driveways, ponds, reservoirs, utilities and structures required pursuant to the geotechnical or geologic report, the general topography of the landscape shall be maintained in its present condition and no excavation or topographic changes shall be made.

6. 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 conduct any activity and construct any improvements consistent with Board of Supervisors Resolution No. 10-312.

2. The use and occupancy of the Conservation and Scenic Easement Area not inconsistent with the approved tentative map pursuant to Board of Supervisors Resolution No. 10-312 and 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, and the right to create and maintain defensible space for fuel management and fire safety purposes.

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 Conservation and Scenic Easement Area 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, except the portions of the Property located on residential Lots, to ascertain whether the use restrictions set forth above are being observed at times reasonably acceptable to the Grantor.

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

the terms and provisions hereof in the event of a breach shall not be deemed a waiver of Grantee's rights regarding any subsequent breach.

H. MAINTENANCE. The Grantee shall not be obligated to maintain, improve, or otherwise expend any funds in connection with the Conservation and Scenic Easement Area 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 Conservation and Scenic Easement Area, 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 Conservation and Scenic Easement Area which would subject the Grantee to any liability occurring upon the Conservation and Scenic Easement Area 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 7 day of October 2020, at Los Angeles, California.

Carmel Reserve, LLC

a Delaware ~~corporation~~ Limited Liability Company

*W.H.*

By: *Wei*

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

(Signature)

(Signature)

*WEI HUANG*

*Authorized Signatory*

(Print or Type Name and Title)

(Print or Type Name and Title)

## ACKNOWLEDGMENT

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 Los Angeles

On October 7, 2020 before me, Jennifer Kalinowski, Notary Public  
(insert name and title of the officer)

personally appeared Wei Huang,  
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 J Kalinowski (Seal)



**ACCEPTANCE AND CONSENT TO RECORDATION**

This is to certify that the interest in real property conveyed by the deed or grant dated December 8, 2020, from Carmel Reserve, LLC to the County of Monterey, a political corporation and/or governmental agency is hereby accepted by order of the Board of Supervisors on December 8, 2020, and the grantee consents to recordation thereof by its duly authorized officer.

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

\_\_\_\_\_  
**Christopher Lopez**  
Chair, Monterey County Board of Supervisors

ATTEST:

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

\_\_\_\_\_  
**Valerie Ralph**  
Clerk of the 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

## LEGAL DESCRIPTION

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

A portion of Lot 8, as said Lot is shown and designated on the "Partition Map of Hatton Property in Rancho Canada De La Segunda, Monterey County, California, surveyed by H.F. Cozzens and WM. Davies, Salinas, California 1926", which is annexed to the order of the Superior Court in and for the County of Monterey, made on the 17th day of March 1927 in the matter of the guardianship of the persons and Estate of (Various Mcaulays) in proceedings No. 3911, a certified copy of which is recorded in Volume 109 of Official Records at Page1", more particularly described as follows:

Beginning at a 4" by 4" wood post scribed "AR CS 26" and marking the northwest corner of said Lot 8 as shown on said Partition Map, scribing now only partially legible; thence along the northerly boundary of Lot 8

1. South 72°28'01" East, 5974.76 feet to a 50-inch diameter oak stump, shown as a 50-inch oak tree on that certain map entitled "Tract No. 1398 Tehama Phase 1" filed September 9, 2003 in Volume 22 of Cities and Towns, at Page 35, Records of Monterey County, California; and marking the northwest corner of said Tract; thence continuing along the westerly boundary of said Map and Tract the following five courses as shown on said Map of Tract No.1398
2. South 19°38'36" West, 380.85 feet to a 2-inch diameter iron pipe; thence
3. South 37°15'21" West, 388.66 feet to a 30-inch oak tree as shown on said Map of Tract No.1398; thence
4. South 26°56'01" West, 2,855.85 feet to a 60-inch oak tree; thence
5. South 21°20'46" West, 2,669.67 feet to a 38-inch oak tree; thence
6. South 07°03'25" West, 254.22 feet to the northeast corner of that certain 1.427-acre parcel shown on that map filed January 19, 1966 in Volume X-4 of Surveys at page 9 Records of Monterey County, California; thence along the northerly boundary of said 1.427-acre parcel and the northerly boundary of "Parcel B" as shown and designated on that map filed September 2, 1966 in Volume X-4 of Surveys at Page 49, Records of said County
7. North 79°24'49" West, 689.53 feet to a 3/4-inch diameter iron pipe with no tag marking the northwest corner of said "Parcel B"; thence along the westerly sideline of said "Parcel B"
8. South 13°27'36" West, 713.65 feet to a point on the northerly line of the right of way of Carmel Valley Road as shown on that map entitled "Right of Way Map Carmel Valley

Road" filed November 20, 1992 in Book A at Page 93 of the County Surveyor Maps, also being a point on the northerly line of that certain 5.94 acre parcel as described in deed from Irene M. Hatton to County of Monterey, dated August 1, 1950, and recorded November 10, 1950 in Book 1258 of Official Records at Page 395, Monterey County Records; thence along said northerly line of said right of way of Carmel Valley Road

9. South 89°58'03" West, 315.64 feet; thence
10. North 80°07'27" West, 190.93 feet; thence
11. North 70°29'38" West, 191.86 feet; thence
12. North 60°06'28" West, 290.14 feet to a 3/4-inch iron pipe as shown on said Right of Way map; thence
13. North 39°09'26" West, 203.03 feet; thence
14. North 48°47'52" West, 191.76 feet; thence
15. North 39°48'42" West, 948.48 feet; thence
16. Northwesterly 400.32 feet along the arc of a tangent curve to the left having a radius of 1,532.48 feet, through a central angle of 14°58'01"; thence from said curve but not tangent thereto
17. North 52°01'27" West, 208.06 feet; thence
18. North 60°29'29" West, 100.44 feet; thence
19. North 54°46'43" West, 657.19 feet; thence
20. Northwesterly 552.60 feet along the arc of a tangent curve to the left having a radius of 1,629.71 feet, through a central angle of 19°25'40"; thence from said curve but not tangent thereto
21. North 70°24'48" West, 100.69 feet; thence
22. North 82°20'21" West, 153.53 feet; thence
23. North 85°24'30" West, 256.17 feet; thence
24. South 80°59'17" West, 323.72 feet to a point on the westerly boundary of said Lot 8, said point also being on the easterly boundary of Lot 7 as shown on said Partition Map, and also being on the easterly boundary of "Tract No. 506 Del Mesa Carmel" as shown on that map filed January 26, 1966 in Volume 8 of Cities and Towns, at Page 75, Records of Monterey County, California; thence along said westerly boundary

25. North 15°09'43" West, 760.29 feet, at 87.12 feet a 3/4-inch iron pipe with illegible tag, at 253.15 a 3/4-inch iron pipe with illegible tag; thence
26. North 22°44'07" East, 1,554.55 feet; thence
27. North 21°28'52" East, 620.66 feet; thence
28. North 14°01'02" West, 508.16 feet; thence
29. North 05°10'32" East, 762.63 feet; thence
30. North 33°39'43" East, 521.09 feet; thence
31. North 57°03'11" East, 354.76 feet; thence
32. North 49°10'58" East, 371.83 feet; thence
33. North 29°47'35" East, 339.93 feet; thence
34. North 34°48'30" East, 579.75 feet; thence
35. North 13°12'47" East, 349.43 feet to the Point of Beginning.

**EXCEPTING THEREFROM**, all that certain piece or parcel of land granted to the County of Monterey, recorded December 23, 1991, in Reel 2734, Page 469, Official Records, more fully described as follows:

Beginning at the Northwesterly corner of that certain parcel described in that certain Grant Deed to September Ranch Partners, a partnership, recorded December 30, 1987 in Reel 2183, Page 788, Official Records of Monterey County, California, said corner also being a point on the Patent Survey boundaries of the Rancho Canada de la Segunda and the Rancho Aguajito; thence along said rancho boundary

1. South 72°28'01" East, 772.74 feet; thence leaving said boundary
2. South 17°31'59" West, 170.00 feet; thence
3. North 72°28'01" West, 422.74 feet; thence
4. South 58°16'10" West, 235.49 feet; thence
5. South 34°48'30" West, 260.00 feet; thence
6. North 72°28'01" West, 170.00 feet; thence
7. North 34°48'30" East, 260.00 feet; thence

8. North 13°12'47" East, 349.43 feet; thence to the POINT OF BEGINNING.

The preceding eight (8) courses reflect the rotational difference between the calls contained in Reel 2183, Page 788 and the lines as surveyed.

Containing an area of 890.4 acres, more or less.

As shown on the plat attached hereto and made a part hereof.

**END OF DESCRIPTION**

PREPARED BY:  
WHITSON ENGINEERS



November 17, 2020

RICHARD P. WEBER P.L.S.  
L.S. NO. 8002  
Job No.: 595.03



Before the Board of Supervisors in and for the  
County of Monterey, State of California

**Resolution No: 10 – 312**

- a. Certify the Final Revised Environmental Impact Report including the Final Revised Water Demand Analysis for the September Ranch Subdivision Project; )
- b. Reaffirm the Board of Supervisor's 2006 passing score for the Project, based on the Findings and Evidence; )
- c. Approve the Combined Development Permit for the September Ranch Subdivision Project consisting of 73 market-rate and 22 affordable lots (15 inclusionary and 7 deed-restricted workforce lots) based on the Findings and Evidence and subject to the recommended conditions of approval; and )
- d. Adopt the Mitigation Monitoring and Reporting Plan. )  
(September Ranch - PC95062 / PLN050001, September Ranch Partners, Carmel Valley Road, Carmel Valley, Carmel Valley Master Plan) )

**The Final Revised Environmental Impact Report including the Final Revised Water Demand Analysis (EIR SCH# 1995083033) for the September Ranch Subdivision project application (PC95062 / PLN050001), scoring for the Project, and the September Ranch Combined Development Permit came on for public hearing before the Monterey County Board of Supervisors on November 9, 2010. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Board of Supervisors finds and decides as follows:**

**FINDINGS**

- 1. **FINDING:** **PROJECT BACKGROUND.** The September Ranch Partners Combined Development Permit, as described in Condition #1 in **Exhibit 1**, attached, consists of: 1) a Preliminary Project Review Map and Vesting Tentative Map (**Exhibit 2**) for the subdivision of 891 acres into 73 market-rate residential lots and 22 affordable housing lots (15 inclusionary and 7 deed-restricted workforce housing lots) for a total of 95 residential lots; a 20.2 acre existing equestrian facility and accessory structures related to that use (Parcel E); 300.5 acres of common open space (Parcels A & C); 242.9 acres of public open space for donation/dedication (Parcel D); 250.7 acres of private open space (conservation and scenic easement) on each lot outside of the building envelope; 6.9 acres of open space reserved for future public facilities (Parcel B); annexation to the Carmel Area Wastewater District for sewage disposal; 2) a Use Permit for the public/commercial use of the equestrian center & stables for a maximum of 50 horses and a maximum water use of 3.0 acre-feet per year; 3) a Use Permit for an on-site water system including new wells, backup well(s), booster pumps, water tanks and piping for fire suppression and residents of the subdivision; 4) a Use Permit for removal of a maximum of 819



protected Coast live oaks; 5) an Administrative Permit for up to 100,000 cubic yards of grading in an "S" (Site Plan Review) Overlay Zoning District for subdivision infrastructure and improvements including, but not limited to, development of roads, water tanks, water system, and drainage detention areas; 6) a Use Permit to allow development on slopes greater than 30 percent for affordable housing on Lots 5 through 11, subdivision infrastructure and subdivision improvements; and 7) an Administrative Permit for affordable housing, equestrian center caretaker unit/public office, a tract sales office and a security gatehouse (hereafter "the Project"). The Project comes before the Board of Supervisors following the preparation of the Final Revised Water Demand Analysis, as described below.

- EVIDENCE:**
- a) On June 16, 1995, September Ranch Partners filed an application for a Combined Development Permit (PC95062, September Ranch Partners) consisting of a preliminary Project Review Map, a Vesting Tentative Map to allow the division of 902 acres creating 100 market rate units, 17 inclusionary housing units, a lot for the existing equestrian facility, and open space. The application was deemed completed on July 13, 1995. The application, plans, and support materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project Files PC95062 and PLN050001.
  - b) On December 1, 1998, the Board of Supervisors approved the Combined Development Permit (PC95062, September Ranch Partners) consisting of a preliminary Project Review Map, a Vesting Tentative Map to allow the division of an 891-acre parcel creating 94 market rate units, 15 inclusionary housing units, a 20.2 acre lot for the existing equestrian facility (with one employee unit), and 791 acres of open space. The application, plans, and support materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project Files PC95062 and PLN050001.
  - c) The approval was challenged in court by *Save Our Peninsula Committee et al.* and *Sierra Club et al.* The Superior Court of Monterey County (Nos. M42412 and M42485) held that the EIR was legally inadequate under the California Environmental Quality Act (CEQA), Public Resources Code §21000 *et seq.* In 2001, the Sixth District Court of Appeal affirmed a Superior Court determination that additional analysis was needed with respect to water supply baseline, water rights, water-related mitigation, and growth-inducing impacts. In Resolution No. 01-374, the Board of Supervisors vacated its December 1998 certification and approval.
  - d) The County took a fresh look at the Project and all potential impacts and prepared a Revised EIR. On December 12, 2006, the County Board of Supervisors adopted Resolution No. 06-363 certifying a Revised Environmental Impact Report on the September Ranch

Subdivision (“Revised EIR”), adopting a passing score, approving a Combined Development Permit for the September Ranch Subdivision Project, and adopting the associated Mitigation Monitoring and Reporting Plan. The project approved under the Combined Development Permit consisted of the 73/22 Alternative as identified in the Revised EIR as modified by the Board following public hearing. The Combined Development Permit included approval of a Vesting Tentative Map for the subdivision of 891 acres into 73 market-rate residential lots, 15 inclusionary housing lots and 7 workforce housing lots. (Board of Supervisors’ Resolution No. 06-363). A copy of Board of Supervisors’ Resolution No. 06-363 (without the conditions of approval which were Exhibit B-1 to that resolution) is attached to this resolution as **Exhibit 3** and incorporated herein by reference.

- e) The approval was challenged in court by *Sierra Club et al.* and *Helping Our Peninsula’s Environment*. (Monterey County Superior Court Case Nos. M82632 and M82643.) In September 2008, the Superior Court of Monterey County entered judgment finding that the EIR was legally sufficient under the California Environmental Quality Act (CEQA), Public Resources Code §21000 *et seq.* except as to issues of water demand, water cap, and cumulative impacts as to water demand. A Peremptory Writ of Mandate, signed by the judge on December 23, 2008 and signed by the Court’s Clerk on January 23, 2009, was issued requiring the County to vacate the certification of the Revised EIR, void the approvals of the Project, and take no further action on the Project “without the preparation, circulation, and consideration under CEQA of a legally adequate document adopted in compliance with CEQA which properly analyzes water demand, water cap, and cumulative impacts as to water demand.” (Peremptory Writ of Mandate (Nos. M82632 and M82643).) A copy of the Peremptory Writ of Mandate is attached hereto as **Exhibit 4** and incorporated herein by reference.
- f) In compliance with the Judgments Granting Peremptory Writs of Mandate, issued by the court on September 16, 2008 and September 30, 2008 (Monterey County Superior Court Case Nos. M82632 and M82643), the Board of Supervisors rescinded Resolution No. 06-363, thereby vacating the certification of the Final Revised EIR and voiding the approval of permits and entitlements for the September Ranch Project (Board of Supervisors’ Resolution No. 09-356.).
- g) The County has prepared the Revised Water Demand Analysis, fulfilling the Court’s direction for analysis of water demand, water cap, and cumulative impacts as to water demand. The Revised Water Demand Analysis makes the following changes to the Revised EIR:
- Replaces the Revised EIR’s water demand analysis, which consists of the two full paragraphs and table (Table 4.3-5) immediately following the heading “Less than Significant Impact – Substantially Degrade Groundwater or Interfere with Groundwater

Recharge” within the Water Supply and Availability Chapter on pages 4.3-41 to 4.3-42 of the Recirculated Portion of the Draft Revised EIR;

- Replaces Master Response 17 in the July 2006 Final EIR on pages 3-15 to 3-19.
- Updates Table 5-1 and some accompanying text within the Cumulative Impacts Analysis Section (Section 5.1.1) on pages 5-2 and 5-3 of the Recirculated Portion of the Draft Revised EIR.

The document entitled “Revised Water Demand Analysis: 2009 Recirculated Portion of the Final Revised Environmental Impact Report” was circulated for public comment from August 11, 2009 through September 28, 2009. The Final Revised Water Demand Analysis, which contains responses to comments on the Revised Water Demand Analysis, was released to the public on August 27, 2010. Additional Errata to the Final Revised Water Demand Analysis were distributed on October 29, 2010 and are made a part of the Final Revised Water Demand Analysis. The Final Revised Water Demand Analysis, together with the Final Revised EIR which the court has held contains a legally sufficient discussion on all other issues, provides the environmental review of the Project.

- h) The application filed in 1995 remains on file; the proposed project is substantially consistent with the application deemed complete in 1995. The Project analyzed in the Revised Water Demand Analysis is the 73/22 Alternative that was approved by the Board in 2006; the applicant is no longer pursuing the larger version of the project.

## 2. FINDING:

**CONSISTENCY.** The Project, as conditioned, is consistent with applicable provisions of the Monterey County General Plan, Carmel Valley Master Plan, Monterey County Zoning Ordinance (Title 21 of the Monterey County Code), Monterey County Subdivision Ordinance (Title 19 of the Monterey County Code), Monterey County Code 18.46.040, Monterey County Inclusionary Housing Ordinance, Air Quality Management Plan and Transportation Plans & Policies.

- EVIDENCE:**
- a) The project site is located on Carmel Valley Road (Assessor’s Parcel Numbers 015-171-010-000, 015-171-012-000, 015-361-013-000, and 015-361-014-000), Carmel Valley in the County of Monterey.
- b) The evidence from Finding 1 (Consistency) in Resolution 06-363 is incorporated herein by reference except as amplified and/or revised herein.
- c) The County of Monterey adopted a new General Plan for the inland unincorporated area of the County on October 26, 2010 that will take effect 31 days after its adoption. However, pursuant to Government Code Section 66474.2, the County is applying those ordinances, policies, and standards as of the date the application for the vesting tentative map was deemed complete (July 13, 1995). Therefore the 1982 General Plan and the ordinances in effect as of the completeness date apply.

- d) Nothing in the Final Revised Water Demand Analysis or Additional Errata changes the consistency analysis and conclusions contained in Finding 1 of Resolution No. 06-363.
- e) Administrative record including material in Planning Department files PC95062 and PLN050001.

**3. 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. Zoning violation abatement costs, if any, have been paid.

- EVIDENCE:**
- a) Staff reviewed Monterey County Planning Department and Building Services Department records and is not aware of any violations existing on subject property.
  - b) Staff conducted site visits on March 16, 2005 and July 25, 2006 to verify that the project on the subject parcel conforms to the plans submitted under PLN050001.
  - c) The application, plans, and support materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project Files PC95062 and PLN050001.

**4. FINDING:**

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

- EVIDENCE:**
- a) The proposed development has been reviewed by the Monterey County RMA – Planning Department, Water Resources Agency, Public Works Department, Environmental Health Bureau, Parks Department, Housing and Redevelopment Agency, Sheriff's Office and the Carmel Valley Fire Protection District as part of the project design and environmental review process. The respective departments 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 or in the County in general.
  - b) The application, plans, and support materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project Files PC95062 and PLN050001.
  - c) In order to construct internal access roads, the project proposes grading over slopes in excess of 30 percent. Therefore, the project requires the granting of a Use Permit to allow development on slopes of 30 percent or more (Monterey County Code Section 21.64.230).

See Finding 6.

- d) Up to approximately 34.90 acres of Monterey pine/Coast live oak forest habitat will be impacted for construction of roads, utilities, and building pads. Therefore, the project requires a Use Permit for tree removal (Monterey County Code Section 21.64.260.D). See Finding 5.
- e) Draft Revised EIR dated December 2004, Recirculated Draft Revised EIR dated February 2006, and Final Revised EIR dated July 2006, Final Revised Water Demand Analysis dated August 2010, and Additional Errata dated October 2010.
- f) Preceding and following Findings and supporting evidence.

**5. FINDING:**

**TREE REMOVAL.** The tree removal is the minimum required under the circumstances of the case. The removal will not involve a risk of adverse environmental impacts, as fully described in Monterey County Code Section 21.64.260.D.5, such as soil erosion, impacts to water quality, ecological impacts, increases in noise pollution, reductions in the ability of vegetation to reduce wind velocities, or significant reductions in available habitat.

- EVIDENCE:**
- a) The evidence from Finding 3 (Tree Removal) in Resolution 06-363 is incorporated herein by reference except as amplified and/or revised herein.
  - b) In place of the 8<sup>th</sup> evidence of Finding 3 (Tree Removal) in Resolution 06-363, the Board finds as follows: "The tree removal under the Proposed Project, the 73/22 Alternative, involves five percent of the oak trees and two percent of the Monterey pine trees found on the project site."

**6. FINDING:**

**30 PERCENT SLOPES.** The proposed development on over 30 percent slopes better achieves the goals, policies, and objectives of the Monterey County General Plan and Carmel Valley Master Plan than other development alternatives consistent with CVMP Policy 26.1.10.1. There is no feasible alternative which would allow development to occur on slopes of less than 30 percent.

- EVIDENCE:** The evidence from Finding 5 (30 Percent Slopes) in Resolution 06-363 is incorporated herein by reference.

**7. FINDING:**

**TENTATIVE MAP** – None of the findings in Section 19.05.055.B of the Monterey County Code Title 19 (Subdivision Ordinance) can be made.

- EVIDENCE:**
- a) The evidence from Finding 6 (Tentative Map) in Resolution 06-363 is incorporated herein by reference except as amplified by the Final Revised Water Demand Analysis dated August 2010 and Additional Errata dated October 2010.

**8. FINDING:**

- a) **INCLUSIONARY HOUSING.** In approving the vesting tentative map, the decision-making body has balanced the housing needs of the County against the public service needs of its residents and available

- fiscal and environmental resources. The applicant is required to comply with provisions of Monterey County's Inclusionary Housing Ordinance. The evidence from Finding 8 (Inclusionary Housing) in Resolution 06-363 is incorporated herein by reference.
- EVIDENCE:**
9. **FINDING:** **RECREATIONAL REQUIREMENTS.** The applicant will be required to comply with the recreational requirements of Title 19, Section 19.12.010.
- EVIDENCE:** The evidence from Finding 9 (Recreational Requirements) in Resolution 06-363 is incorporated herein by reference.
10. **FINDING:** **SITE SUITABILITY.** The site is physically suitable for the proposed development.
- EVIDENCE:** The evidence from Finding 10 (Site Suitability) in Resolution 06-363 is incorporated herein by reference.
11. **FINDING:** **PRELIMINARY PROJECT REVIEW MAP.** The Board of Supervisors finds based on substantial evidence that Project complies with the requirements of Monterey County Code Section 19.07.025.H.
- EVIDENCE:**
- a) See Findings 7 and 12 and associated evidence.
  - b) Draft Revised EIR dated December 2004, Recirculated Draft Revised EIR dated February 2006, and Final Revised EIR dated July 2006, Final Revised Water Demand Analysis dated August 2010, and Additional Errata dated October 2010.
12. **FINDING:** **SCORING.** The final score of 708.8 out of 970 possible points, with a score of greater than 50% for each category, is based upon the project consisting of 73 market rate and 22 affordable units. No modifications to the project have been made since December 2006. The changes to conditions of approval and new conditions of approval reinforce the limitations on water used for landscaping; therefore, the Board of Supervisors reaffirms the score.
- EVIDENCE:**
- a) This hearing on the scoring has been duly noticed in accordance with County regulations.
  - b) In compliance with the Peremptory Writ, the Board rescinded Resolution 06-363 (Board Resolution 09-356), thereby resulting in voiding all approvals including the scoring.
  - c) The evidence from Findings 11-11j (Scoring) in Resolution 06-363 is incorporated herein by reference except as amplified and/or revised herein.
  - d) The analysis in the Final Revised Water Demand Analysis dated August 2010 and Additional Errata dated October 2010 confirms the scoring because the analysis supports the conclusion that the project will live within its projected water demand of 57.21 acre-feet per year.
  - e) Draft Revised EIR dated December 2004, Recirculated Draft Revised EIR dated February 2006 and the Final Revised EIR dated July 2006, Final Revised Water Demand Analysis dated August 2010, and

- Additional Errata dated October 2010 for PC95062 and PLN050001.
- f) The application, plans, and support materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project Files PC95062 and PLN050001.
- g) The overall score is based on the scores set forth in the following Scoring Results Summary Table:

Category	Possible Score	1998 LUAC Score	50% of Possible Points Met? (Y/N)	Score Recommended by Staff	Modified Score	50% of Possible Points Met? (Y/N)
1. Land Use	200	156	Y	194	156	Y
2. Rural/Visual	210	186	Y	205	186	Y
3. Water/Hydrology	85	36	N	45	45	Y
4. Traffic	210	141.8	Y	172	141.8	Y
5. Noise	10	10	Y	10	10	Y
6. Geology	90	49	Y	90	49	Y
7. Ecology	105	66	Y	90	66	Y
8. Cultural Resources	10	0	N	10	10	Y
9. Public Services	20	17	Y	20	20	Y
10. Hazards	30	23	Y	25	25	Y
<b>Totals</b>	<b>970</b>	<b>684.8</b>	<b>2 NO</b>	<b>861</b>	<b>708.8</b>	<b>0 YES</b>

**13. FINDING:**

**DRAFT REVISED WATER DEMAND ANALYSIS CIRCULATED.** A Revised Water Demand Analysis on the Recirculated Portion of the Final Revised Environmental Impact Report, dated August 2009, was distributed to responsible agencies, trustee agencies, other departments and agencies, and interested parties including the State Clearinghouse (SCH#1995083033) in accordance with the California Environmental Quality Act. The public comment period for this document was from August 11, 2009 to September 28, 2009.

- EVIDENCE:**
- a) A Notice of Completion, dated August 10, 2009, was sent to the State Clearinghouse, along with copies of the Draft Revised Water Demand Analysis, which were circulated to State agencies.
- b) A Notice of Availability was published, mailed to interested parties and property owners within 300 feet of the project boundaries, and was provided to the Carmel Valley Library and the City of Carmel-by-the-Sea Library.
- c) Administrative record including material in Planning Department files PC95062 and PLN050001.
- d) This finding supplements Finding 16 (Draft Revised EIR Circulated) in Board of Supervisors Resolution No. 06-363.

**14. FINDING:**

**DRAFT REVISED WATER DEMAND ANALYSIS COMMENTS.** Comments on the Draft Revised Water Demand Analysis were received from agencies and interested parties.

- EVIDENCE:** Administrative record including material in Planning Department files

PC95062 and PLN050001.

**15. FINDING:**

**FINAL REVISED EIR RELEASED.** On August 27, 2010, the Final Revised Water Demand Analysis was released to the public, responsible agencies, trustee agencies, other departments and agencies, and interested parties which responded to significant environmental issues raised in the comments. The Final Revised Water Demand Analysis responds to all significant environmental issues raised in the comments on the Revised Water Demand Analysis and includes a list of commenters, all comment letters, and minor revisions to the Final Revised Water Demand Analysis made in response to the comments. Additional Errata to the Final Revised Water Demand Analysis were released to the public on October 29, 2010. The Additional Errata document is incorporated into and made a part of the Final Revised Water Demand Analysis.

**EVIDENCE:**

Administrative record including material in Planning Department files PC95062 and PLN050001.

**16. FINDING:**

**BOARD OF SUPERVISORS RESOLUTION 06-363.** The Findings and the associated Evidence in Board of Supervisors Resolution No. 06-363 in relation to the environmental review conducted under the California Environmental Quality Act (CEQA) and the findings under CEQA, specifically Findings 12 through 32 and associated evidence of Resolution No. 06-363, are incorporated herein by reference, except as amplified and revised by the findings in this resolution relating to water demand, water cap and cumulative impacts as to water demand.

**EVIDENCE:**

The Judgments entered in Case No. M82632 and Case No. M82643 declare that the revised EIR certified by the Board of Supervisors in 2006 contains a legally adequate discussion on all issues other than water demand, water cap, and cumulative impacts as to water demand.

**17. FINDING:**

**ENVIRONMENTAL IMPACTS FOUND TO BE LESS THAN SIGNIFICANT - WATER DEMAND AND WATER CAP.** The County has systematically reanalyzed the water demand for the Project in light of the Superior Court writ issued in *Sierra Club, Save Our Carmel River, Patricia Bernardi v. County of Monterey Board of Supervisors* and *Helping Our Peninsula's Environment v. County of Monterey* (Monterey County Superior Court Case Nos. M82632 and M82643). To conduct the analysis, the County computed the estimated indoor and outdoor water use for three hypothetical homes/lots within September Ranch, taking into account (a) conditions of approval formulated specifically to reduce each lot's water consumption, (b) County and District ordinances concerning water use, and (c) the new Model Water Efficient Landscape Ordinance prepared by the State Department of Water Resources, Cal. Code Regs., tit. 23, § 490 et seq. The County compared the resulting demand figures against consumption within neighboring large-lot subdivisions in the



Carmel Valley, and evaluated the County and District enforcement capabilities for ensuring the subdivision will remain within a fixed annual quantity of no more than 57.21 acre-feet per year (AFY). The Revised Water Demand Analysis and other documents in the record demonstrate to the Board of Supervisors' satisfaction that, subject to the recommended conditions of approval, the September Ranch Project will consume no more than 57.21 AFY. This finding supplements Finding 25b (Water Supply and Availability (REIR Chapter 4.3)), Finding 25b (ii) (Water Demand), and Finding 25b (iii) (Treatment Water) in Board of Supervisors Resolution No. 06-363.

- EVIDENCE:**
- a) In Resolution 06-363, Finding 25b (iv) (c) (Impact Conclusions – The project will not use water in a wasteful manner) shall be revised to read "...Relevant Conditions of Approval include but are not limited to Conditions 33, 40, 41, 45, 46, 107, 108, 110-112, 120, 122-124, 146, and 148, and 188-190."
  - b) In Resolution 06-363, Finding 25b (v) (Project Elements/Mitigations/Conditions – Mitigation Measure 4.3-1) shall be revised to add the following text at the end of the paragraph: "In addition to meeting all reporting requirements of MPWMD, the reports will separately detail the number of active connections of employee, inclusionary and market-rate houses, the monthly water use (interior, exterior and combined) for each connection, the permitted water amount for the lot, based on the fixture unit count, identification of whether the home at each connection is under construction or has completed construction and is accepting routine water service. Upon request of RMA – Planning Department or MPWMD, the applicant, per the water system operator, shall make available the name and address information for any connection exceeding its permitted water limit; such disclosures will be made pursuant to a public nondisclosure agreement consistent with State constitutional privacy guarantees. If the quarterly water use reporting shows that the subdivision is exceeding its Pro Rata Expansion Capacity or a total of 57.21 AFY, RMA Planning will review individual water use to determine which lots are exceeding their permitted water amounts and will direct an enforcement action or actions as appropriate to correct the overuse. Such actions may be initiated against the applicant, the water system operator, the lot owners, or each of them."
  - c) In Resolution 06-363, Finding 25b (v) (Project Elements/Mitigations/Conditions – Mitigation Measure 4.3-2) shall be revised in the second paragraph to read: "Related Conditions of Approval include but are not limited to Conditions 33, 45, 46, 108, 111, 112, 120, 122-124, 146, and 147, and 188-190."
  - d) Draft Revised EIR dated December 2004, Recirculated Draft Revised EIR dated February 2006, Final Revised EIR dated July 2006, Final Revised Water Demand Analysis dated August 2010, and Additional Errata dated October 2010.

- e) Administrative record including material in Planning Department files PC95062 and PLN050001.
- 17a. **FINDING:** **Interior Water Use.** The interior water use estimates were made pursuant to the Monterey Peninsula Water Management District (MPWMD) fixture count, using water-saving fixtures as required by recommended conditions of approval for the Project. The number of fixtures for the market-rate lots was estimated high (5 to 6 bathrooms) even though all homes would be single-family dwellings. To ensure that the homeowner will not cause an exceedance of the subdivision's water cap, no additional fixtures may be installed unless the property owner first obtains a water permit amendment approved by MPWMD (see Condition No. 189 in **Exhibit 1**).
- 17b. **FINDING:** **Exterior Water Use.** Exterior water use was estimated using the Maximum Applied Water Allowance as described in the Model Ordinance, which relies primarily on regional evapotranspiration rates and the square footage of landscaping and water features. This method is reliable for September Ranch lots because the square footage of landscaping and exterior water features for all types of lots is limited by a condition of approval. Further, the estimates are conservative because the Model Ordinance assumes medium water-use plants, while the Project is required to use drought-tolerant / low water-use plants. The exterior water demand will be accurate even taking into account individual watering habits because under the Model Ordinance, water efficient irrigation systems will be designed for each lot, with certification that they were installed as designed. For market-rate lots, the irrigation system must have controllers equipped with soil moisture sensors to avoid overwatering. In addition, no changes in type or location of landscaping or changes to the irrigation system can be made absent evidence demonstrating that the modifications will not result in either an increase in annual water use or a reduction in water use efficiency, and the landowner first obtains written concurrence from the RMA – Planning Department and MPWMD (see Condition Nos. 188-189 in **Exhibit 1**).
- 17c. **FINDING:** **Equestrian Center Water Use.** Water use for the equestrian center was based on demonstrated historical usage (3 AFY) and may not be increased (see Condition No. 45 in **Exhibit 1**).
- 17d. **FINDING:** **Water Treatment Loss.** The water treatment loss is estimated at a maximum of 10% of total water deliveries based on a condition requiring the lowest losses feasible, from 0 to 10%. Applicants submitted Kennedy/Jenks Consultants, Technical Memorandum No. 8, which discusses several treatment options capable of achieving the required loss percentage.
- 17e. **FINDING:** **Water Conveyance Loss.** The estimated conveyance loss percentage (7%) is higher than the standard loss estimated by MPWMD (5%), and is comparable to losses in neighboring subdivisions.
- 17f. **FINDING:** **Computation of Water Treatment and Conveyance Loss.** The

treatment and conveyance losses were computed as a function of total subdivision water deliveries according to MPWMD's standard formula.

17g. **FINDING:**

**MPWMD Rule 11.** Pursuant to MPWMD regulations (Rule 11), if the lots' proportional share of the overall Project water limit is exceeded when more than half of the total allowed connections have been installed, MPWMD will not process new individual water permits until the system is brought back into compliance and credible expert analysis demonstrates that the system can and will remain in compliance into the future. Before the County will approve the final map for each phase, the applicant must demonstrate the subdivision water use is within MPWMD Rule 11 (see Condition No. 45 in **Exhibit 1**).

17h. **FINDING:**

**Demand Data by Subdivision.** The market-rate homes in other large-lot subdivisions in the Carmel Valley have used, on average, somewhat more water than the average use estimated for market-rate homes in September Ranch (0.535 AFY)—i.e., Monterra Ranch (0.58 to 0.78 AFY including caretaker units), Tehama (0.48 to 0.76 AFY including caretaker units), Santa Lucia Preserve (0.43 to 0.66 AFY). Unlike September Ranch, however, these subdivisions have no maximum limits on area for irrigated landscaping and exterior water features other than the building envelope, which averages 1.3 acres or more. At September Ranch, the outside area for water use will be limited to less than 1/10 of an acre (4,275 square feet). This difference is substantial given that outside water use is often two to three times as much as interior use. Additional subdivision-specific conditions limit September Ranch water use relative to other subdivisions—e.g., Model Ordinance compliance, specific low-water fixture limits, limitations on the landscaped acreage (see Condition Nos. 20, 33, 123, 188, 189, and 190 in **Exhibit 1**).

17i. **FINDING:**

**Enforcement.** The County will have sufficient means of enforcement to ensure water use at September Ranch remains at or below 57.21 AFY, including installing flow restrictors at homeowner cost if unauthorized fixture or landscaping changes are made; administrative citations; hearings; fines; and legal actions. These are in addition to the means available to MPWMD, which has committed to collaborating with the County on enforcement at September Ranch (see Condition Nos. 45, 146, 188, and 189 in **Exhibit 1**).

17j. **FINDING:**

**Cumulative Impacts.** The court ordered the Board of Supervisors to not take "further action approving the project without the preparation, circulation, and consideration under CEQA of a legally adequate document adopted in compliance with CEQA which properly analyzes . . . cumulative impacts as to water demand." The Revised Water Demand Analysis affirms the cumulative impacts analysis in the Revised EIR based on (1) a determination that water use will be at or below 57.21 AFY, which was the measure of Project water demand in

the Revised EIR, and (2) there is no increase in water consumed by recently built and proposed future projects.

**EVIDENCE:**

The following evidence supports Findings 17a through 17j inclusive:

- Draft Revised EIR dated December 2004, Recirculated Draft Revised EIR dated February 2006, Final Revised EIR dated July 2006, Final Revised Water Demand Analysis dated August 2010, and Additional Errata dated October 2010.
- Administrative record including material in Planning Department files PC95062 and PLN050001.

**18. FINDING:**

**FINDINGS PURSUANT TO CEQA GUIDELINES §15091.** The Board certifies that changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effects as identified in the Final Revised EIR. No new impacts have been identified.

**EVIDENCE:**

- a) The Administrative Record which includes the application, plans, and support materials submitted by the project applicant to the Monterey County Planning Department for the proposed development found in Project Files PC95062 and PLN050001.
- b) See Findings 16 and 17-17j inclusive.
- c) The Final EIR as supplemented by the Final Revised Water Demand Analysis evaluates the potential environmental impacts of the Project and recommends feasible mitigation measures to reduce impacts to a less than significant level. These measures are included as conditions of project approval as described in the record, in these findings, in Resolution No. 06-363, and as set forth in **Exhibit 1**.
- d) The Compliance or Monitoring Action in Mitigation Measure 4.3-1 (Condition No. 146 in **Exhibit 1**) was modified in the Final Revised Water Demand Analysis and the Additional Errata dated October 2010. The mitigation measure, as modified, is equivalent or more effective in mitigating or avoiding the potential environmental impacts because the modifications clarify the specific reporting requirements for compliance with the water cap and provide enforcement actions to correct overuse.
- e) In accordance with CEQA and the CEQA Guidelines, a Mitigation Monitoring and Reporting Plan (**Exhibit 1**) has been prepared for the Project. The Board is adopting a Mitigation Monitoring Reporting Plan as part of its action herein. See Finding 22.
- f) Various documents and other materials constitute the record upon which the Planning Commission bases its findings and its recommendations. The location and custodian of these documents and materials is the Monterey County Resource Management Agency – Planning Department, 168 West Alisal Street, Salinas, California.

**19. FINDING:**

**PLANNING COMMISSION HEARINGS.** The Planning Commission conducted a duly noticed public hearing on the Project on September 8, 2010 to consider the Final Revised EIR and the Project. Written and verbal public comment and staff input was received and

considered. The Planning Commission, by a vote of 6 to 4, recommended that the Board of Supervisors certify the Final Revised EIR, approve the Project, and adopt the Mitigation Monitoring and Reporting Plan.

- EVIDENCE:**
- a) A public notice for the hearing on the Project was published in the *Monterey County Herald* on August 29, 2010.
  - b) Public notices were mailed to the property owners within 300 feet of the project site and interested parties on August 25, 2010.
  - c) Public notices were posted in three different public places on and near the property at 10:30 a.m. on August 27, 2010. The notices were posted:
    - On the property entry gate;
    - On the address marker for the property on Carmel Valley Road;
    - On the fence next to the bus stop near Brookdale Road.
  - d) Administrative record including material in Planning Department files PC95062 and PLN050001.

**20. FINDING:**

**CERTIFICATION OF THE REVISED EIR.** The Board certifies that it has been presented with the Final Revised EIR as supplemented by the Final Revised Water Demand Analysis and that it has reviewed and considered the information prior to approving the Project and prior to making the findings and approvals contained herein. Pursuant to 14 Cal. Code Regs. §15090, the Board certifies that the Final Revised EIR as supplemented by the Final Revised Water Demand Analysis has been completed in accordance with the California Environmental Quality Act and the CEQA Guidelines contained at Title 14, California Code of Regulations. The Board certifies the Final Revised EIR as supplemented by the Final Revised Water Demand Analysis for the actions described in these findings. The Board further certifies that the Final Revised EIR as supplemented by the Final Revised Water Demand Analysis reflects its independent judgment and analysis.

- EVIDENCE:**
- a) The Final Revised Water Demand Analysis, which includes the Final Revised Water Demand Analysis dated August 2010 and Additional Errata dated October 2010, analyzes the issues of water demand, water cap, and cumulative impacts as to water demand. The Final Revised Water Demand Analysis, together with the Final Revised EIR dated July 2006 which has been held by the Monterey County Superior Court to contain a legally sufficient discussion on all other issues, comprises the Final EIR for the Project.
  - b) Various documents and other materials constitute the record upon which the Planning Commission bases its findings and its recommendations. The location and custodian of these documents and materials is the Monterey County Resource Management Agency – Planning Department, 168 West Alisal Street, Salinas, California.

**21. FINDING:**

**RECIRCULATION NOT REQUIRED.** The Board of Supervisors has assessed all changes and new information identified from public

comments and staff investigation since circulation of the Revised Water Demand Analysis in August-September 2009, and based on the record as a whole finds that recirculation is not required.

- EVIDENCE:** a) Recirculation is generally not required when the only additional information clarifies or amplifies or makes insignificant modifications to the EIR, while recirculation would be required if there were significant new information showing a new significant environmental impact, a substantial increase in the severity of a previously identified environmental impact, a mitigation measure considerably different from others previously analyzed that would clearly lessen the project's environmental impacts but has not been adopted, or the draft was so fundamentally inadequate and cursory that it precluded meaningful public comment.
- b) Minor changes and edits have been made to the text, tables and figures of the Revised Water Demand Analysis, as set forth in the Errata (pages 67-71 of the Final Revised Water Demand Analysis dated August 2010) and the Additional Errata dated October 2010. Most of the changes involved tightening the conditions of approval to provide further assurance that water use at September Ranch will remain within the forecasted estimates. These changes are principally requiring more details in the required water use reporting, further requirements for irrigation equipment and water-saving interior fixtures, prohibiting subdivision phase approval absent compliance with MPWMD's Pro Rata Expansion Capacity policy, ensuring County and MPWMD entry onto individual lots for monitoring and enforcement, prohibiting changes in installed landscaping or irrigation system absent evidence that the changes will not increase water use, and limiting the total area that may be used on each lot for irrigated landscaping and exterior water features. These changes reinforce the conclusion that water demand at September Ranch will not exceed 57.21 AFY, and thereby clarify or amplify the adequate analysis in the Revised Water Demand Analysis.
- c) Additional data on water use in neighboring subdivisions has also been added to reflect acquisition of water use reports released since preparation of the Revised Water Demand Analysis, as well as correcting numerical errors and making minor adjustments to the data. This information is included in The Final Revised Water Demand Analysis dated August 2010 and the Additional Errata dated October 2010. The Board of Supervisors finds that these changes are of a minor, non-substantive nature and do not require recirculation of the Revised EIR.
- d) Draft Revised EIR dated December 2004, Recirculated Draft Revised EIR dated February 2006, Final Revised EIR dated July 2006, Final Revised Water Demand Analysis dated August 2010, and Additional Errata dated October 2010.
- e) Administrative record including material in Planning Department files PC95062 and PLN050001.

22. **FINDING:**           **MITIGATION MONITORING REPORTING PLAN.** In accordance with CEQA and the CEQA Guidelines, the Board must adopt a mitigation monitoring and reporting plan to ensure that the mitigation measures adopted herein are implemented in the implementation of the approved project. By this resolution, the Board is adopting the Mitigation Monitoring and Reporting Plan attached to these findings as **Exhibit 1**.
23. **FINDING:**           **BOARD OF SUPERVISORS HEARING.** On November 9, 2010, the Board of Supervisors conducted a duly noticed public hearing on the Project and the Final EIR as supplemented by the Final Revised Water Demand Analysis.
- EVIDENCE:** a) A public notice for the hearing on the Project was published in the Monterey County Herald on October 24, 2010.
- b) Public notices were mailed to the property owners within 300 feet of the project site and interested parties on October 22, 2010.
- c) Public notices were posted in three different public places on and near the property at on October 22, 2010. The notices were posted:
- On the "September Ranch" sign;
  - On the fence west of the Ranch entry;
  - On the fence next to the bus stop.

### DECISION

**NOW, THEREFORE, BE IT RESOLVED**, that having independently reviewed and analyzed the Final Revised EIR as supplemented by the Final Revised Water Demand Analysis and other evidence in the record, the Board of Supervisors hereby:

- a) Certifies the Final Revised Environmental Impact Report including the Final Revised Water Demand Analysis for the September Ranch Subdivision Project;
- b) Adopts as conditions of approval all mitigation measures and other conditions set forth in attached **Exhibit 1**;
- c) Reaffirms the Board of Supervisor's 2006 passing score for the Project;
- d) Adopts these findings in their entirety as findings for these actions and approvals pursuant to CEQA Guidelines, 14 Cal. Code Regs. §15091 and other requirements;
- e) Approves the Combined Development Permit for the September Ranch Subdivision Project consisting of 73 market-rate and 22 affordable lots (15 inclusionary and 7 deed-restricted workforce lots) subject to the recommended conditions of approval attached hereto as Exhibit 1. The Combined Development Permit encompasses the following permits and approvals: 1) a Preliminary Project Review Map and Vesting Tentative Map (**Exhibit 2**) for the subdivision of 891 acres into 73 market-rate residential lots and 22 affordable housing lots (15 inclusionary and 7 deed-restricted workforce housing lots) for a total of 95 residential lots; a 20.2 acre existing equestrian facility and accessory structures related to that use (Parcel E); 300.5 acres of common open space (Parcels A & C); 242.9 acres of public open space for donation/dedication (Parcel D); 250.7 acres of private open space (conservation and scenic easement) on each lot outside of the building envelope; 6.9 acres of open space reserved for future public facilities (Parcel B); annexation to the Carmel Area

- Wastewater District for sewage disposal; 2) a Use Permit for the public/commercial use of the equestrian center & stables for a maximum of 50 horses and a maximum water use of 3.0 acre-feet per year; 3) a Use Permit for an on-site water system including new wells, backup well(s), booster pumps, water tanks and piping for fire suppression and residents of the subdivision; 4) a Use Permit for removal of a maximum of 819 protected Coast live oaks; 5) an Administrative Permit for up to 100,000 cubic yards of grading in an "S" (Site Plan Review) Overlay Zoning District for subdivision infrastructure and improvements including, but not limited to, development of roads, water tanks, water system, and drainage detention areas; 6) a Use Permit to allow development on slopes greater than 30 percent for affordable housing on Lots 5 through 11, subdivision infrastructure and subdivision improvements; and 7) an Administrative Permit for affordable housing, equestrian center caretaker unit/public office, a tract sales office and a security gatehouse; and
- f) Approves the Mitigation Monitoring and Reporting Plan set forth in **Exhibit 1** attached.

PASSED AND ADOPTED on this 9<sup>th</sup> day of November, 2010, upon motion of Supervisor Armenta, seconded by Supervisor Calcagno, by the following vote, to-wit:

AYES: Supervisors Armenta, Calcagno, Salinas  
NOES: Supervisors Parker, Potter  
ABSENT: None

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 75 for the meeting on November 9, 2010.

Dated: December 2, 2010

Gail T. Borkowski, Clerk of the Board of Supervisors  
County of Monterey, State of California

By  Deputy





**EXHIBIT C**

All that certain property located within Lots 1 through 33, 39, 40 and 73, excluding the areas designated as Building Envelopes and Development Envelopes as shown on the Map entitled "Tract No.\_\_\_\_, September Ranch Phase 1", filed \_\_\_\_\_, in Volume \_\_\_\_\_ of Maps "Cities and Towns" at Page \_\_\_\_\_, Monterey County Records.

T:\Monterey\Projects\595\CIVIL\EXHIBITS\595-XBHT-LEGAL.dwg

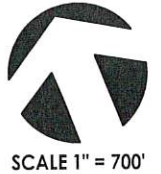
**PARCEL G**  
FUTURE DEVELOPMENT  
350.5 AC

**PARCEL D**  
OPEN SPACE  
242.93 AC

TEHAMA  
SUBDIVISION



LEGEND:  
 PRIVATE CONSERVATION AND SCENIC EASEMENTS



# EXHIBIT C

**PLAT TO ACCOMPANY LEGAL DESCRIPTION  
PRIVATE CONSERVATION AND SCENIC EASEMENTS**

ONE CARMEL - CARMEL VALLEY, CALIFORNIA

NOVEMBER 13, 2020

**Exhibit C**

**Page 2 of 2**



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