

Attachment A

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When recorded return to:
MONTEREY COUNTY RESOURCE
MANAGEMENT AGENCY
PLANNING DEPARTMENT
Attn: **JAIME SCOTT GUTHRIE**
1441 Schilling Pl, 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.: PLN160144

Resolution No.: 17-048

Sharene Hamrock Virnig, Trustee of
the Sharene Hamrock Virnig
Separate Trust dated May 29, 2004;
Kenneth J. Virnig II, as Trustee of
the 2017 Kenneth J. Virnig II Trust
U/D/T October 2, 2017, as to an
undivided 75% tenants in common
interest

Owner Name:

Project Planner: JAIME SCOTT GUTHRIE

APN: 008-012-013-000

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

Signature of Declarant or Agent

CONSERVATION AND SCENIC EASEMENT DEED (DEL MONTE FOREST - COASTAL)

THIS DEED made this ____ day of _____, _____, by and between
**Sharene Hamrock Virnig, Trustee of the Sharene Hamrock Virnig Separate Trust
dated May 29, 2004; Kenneth J. Virnig II, as Trustee of the 2017 Kenneth J. Virnig
II Trust U/D/T October 2, 2017, as to an undivided 75% tenants in common interest**
as Grantor, and the *DEL MONTE FOREST CONSERVANCY*, a California non-profit
corporation, as Grantee, on behalf of the County of Monterey (hereinafter "County")

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 (File Number PLN160144) (hereinafter referred to as the "Permit") was granted on December 13, 2017, by the Monterey County Planning Commission pursuant to the Findings, Evidence and Conditions contained in Resolution No. 17-048 attached hereto as Exhibit "B" and hereby incorporated by reference, (hereinafter the "Resolution") subject to the following condition(s):

Condition No. # 9: Easement – Conservation & Scenic in the Del Monte Forest

A conservation and scenic easement shall be conveyed to the Del Monte Forest Conservancy over those portions of the property where environmentally sensitive habitats, remnant native sand dune habitats, habitats of rare, endangered and sensitive native plants and animals exist, and are restored, in accordance with the procedures in Monterey County Code § 20.64.280.A. The easement conveyance shall include funding adequate to ensure the management and protection of the easement area over time. The easement shall be developed in consultation with a certified professional and the Del Monte Forest Conservancy Inc. A Subordination Agreement shall be required, where necessary. These instruments shall be subject to approval by the County as to form and content, shall provide for enforcement, if need be, by the County or other appropriate agency, and name the County as beneficiary in event the Conservancy is unable to adequately manage these easements for the intended purpose of scenic and visual resource protection. An easement deed shall be submitted to, reviewed, and approved by the Director of RMA - Planning and the Executive Director of the California Coastal Commission, and accepted by the Board of Supervisors prior to recording the parcel/final map or prior to issuance of grading and building permits.

Prior to the issuance of grading and building permits, the Owner/Applicant/Certified Professional shall submit the conservation and scenic easement deed and corresponding map, showing the exact location of the easement on the property along with the metes and bound

description developed in consultation with a certified professional, to the to the Del Monte Forest Conservancy for review and approval.

Prior to recording the parcel/final map or prior to the issuance of grading and building permits, the Owner/Applicant/Certified Professional shall submit the conservation and scenic easement deed and corresponding map, showing the exact location of the easement on the property along with the metes and bound description developed in consultation with a certified professional, to RMA - Planning for review and approval.

Prior to the issuance of grading and building permits, the Owner/Applicant, shall submit a signed and notarized Subordination Agreement, if required, to RMA - Planning for review and approval

Prior to the issuance of grading and building permits, or commencement of use, the Owner/Applicant shall record the deed and map showing the approved conservation and scenic easement. Submit a copy of the recorded deed and map to RMA-Planning.

WHEREAS, the specific resources being protected are where environmentally sensitive habitats, remnant native sand dune habitats, habitats of rare, endangered and sensitive native plants and animals exist, and are restored; and

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") affecting a portion of the Property as shown in Exhibit "C" attached hereto and hereby incorporated by reference (the "Conservation and Scenic Easement Area"), 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 Del Monte Forest Conservancy 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 Del Monte Forest Conservancy on behalf of the County of Monterey an estate, interest, and Conservation and Scenic Easement Area 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 portion of 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, and is the Conservation and Scenic Easement Area (as previously defined). Angle points of easement boundaries shall be permanently marked or monumented with surveyors' pipe or similar prior to commencement of grading so that the Conservation and Scenic Easement Area can be easily identified both during and after construction.

B. **RESTRICTIONS.** Except as otherwise provided herein, 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. **NO EXCEPTIONS.**

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

3. That the Grantor shall not plant nor permit to be planted any vegetation upon the Conservation and Scenic Easement Area, except plants native to Del Monte Forest SAND DUNE HABITAT and approved by the County and the Grantee. Periodic efforts to control invasive non-native plants within the easement area are encouraged. No Exceptions.

4. That, except for the construction, alteration, relocation and maintenance of public roads, public and private pedestrian trails, and dune habitat restoration, 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.

6. Grantor shall provide Grantee with copies of all Site and Construction Plans (e.g. Site, Grading, Utility, Drainage, Erosion Control and Landscape plans, etc.) showing the location of existing and proposed facilities of the materials and specifications for proposed grading and construction within and immediately adjacent to the Easement area. An advance notice is required from Grantor to Grantee whenever maintenance or construction activities will occur within or immediately adjacent to the Easement.

C. EXCEPTIONS AND RESERVATIONS. The following are excepted and reserved to the Grantor with the understanding that the purpose of the easement is to preserve to the most feasible extent the environmentally sensitive habitats, remnant native sand dune habitats, habitats of rare, endangered and sensitive native plants and animals exist, and are restored, and the natural vegetation and topography and that all exceptions and reservations of Grantor shall minimize disturbance to these features using the best available technologies and practices to be implemented consistent with the objectives, purposes and conditions of this easement in consultation with Grantee:

1. The right to maintain all existing private roads, bridges, trails and structures upon the Conservation and Scenic Easement Area, and the right to manually remove invasive, non-native plant materials, as identified by a professional biologist, and dispose of the removed plant materials, as appropriate for invasive green waste.

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 procedures in Monterey County Code Section 20.64.280.A.

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 Del Monte Forest Conservancy on behalf of the County of Monterey and its successors and assigns forever. This grant shall further benefit the County of Monterey in the event that the Del Monte Forest Conservancy is unable to adequately manage the conservation and scenic easement for the intended purpose of scenic and visual resource protection.

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. The public may not enter onto the Property.

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 or the County 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 or the County may pursue any appropriate legal and equitable remedies. The Grantee or the County 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 or the County to enforce the terms and

provisions hereof in the event of a breach shall not be deemed a waiver of Grantee's or the County's rights regarding any subsequent breach:

H. MAINTENANCE. The Grantee or the County 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 or the County 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, the County, and their 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 or the County, while in, upon, or in any way connected with the Property, Grantor hereby covenanting and agreeing to indemnify and hold harmless the Grantee, the County, and their 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 and the County shall have no right of control over, nor duties and responsibilities with respect to the Property which would subject the Grantee or the County 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 and the County, whether voluntary or involuntary.

Executed this 15 day of October 2020, at Pacific Grove, California.

The 2017 Kenneth J. Virnig II Trust U/D/T October 2, 2017

By: [Signature]
(Signature)

Kenneth J Virnig II
(Print or Type Name and Title)

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.

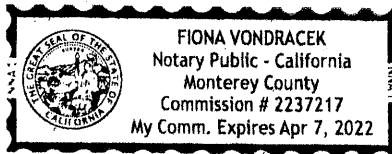
STATE OF CALIFORNIA)
) SS.
COUNTY OF MONTEREY)

On Oct 15, 2020 before me, Fiona Vondracek, a Notary Public, personally appeared Kenneth J Virnig II, 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 [Signature]



(Seal)

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

Executed this 15 day of October, 2020, at Pacific Grove, California.

The Sharene Hamrock Virnig Separate Trust dated May 29, 2004

By: Sharene Hamrock Virnig, Trustee
(Signature)

Sharene Hamrock Virnig, Trustee
(Print or Type Name and Title)

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

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

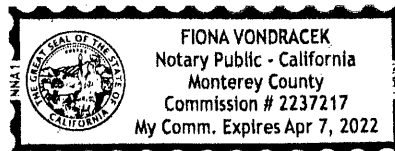
STATE OF CALIFORNIA)
) SS.
COUNTY OF MONTEREY)

On October 15, 2020 before me, Fiona Vondracek, a Notary Public, personally appeared Sharene Hamrock, 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 Fiona Vondracek



(Seal)

ACCEPTANCE AND CONSENT TO RECORDATION

This is to certify that the interest in real property conveyed by the deed or grant dated **December 13, 2017** from **Sharene Hamrock Virnig, Trustee of the Sharene Hamrock Virnig Separate Trust dated May 29, 2004; Kenneth J. Virnig II, as Trustee of the 2017 Kenneth J. Virnig II Trust U/D/T October 2, 2017, as to an undivided 75% tenants in common interest** to the County of Monterey, a political corporation and/or governmental agency is hereby accepted by order of the Board of Supervisors on _____, (or by the undersigned officer or agent on behalf of the County of Monterey pursuant to authority conferred by resolution of the Board of Supervisors adopted on _____,) and the grantee consents to recordation thereof by its duly authorized officer.

DATED: _____.

Chris Lopez
Chair, Monterey County Board of Supervisors

ATTEST:
DATED: _____.

Valerie Ralph
Clerk of Said Board

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

STATE OF CALIFORNIA)
) SS.
COUNTY OF MONTEREY)

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

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

WITNESS my hand and official seal.

Signature _____

(Seal)

Document Form/Content Acceptable:
Leslie J. Girard, County Counsel-Risk Manager

By: *[Signature]* DATED: 10-21-20

Type/Print Name: Robert I. Bayler, Deputy County Counsel

**CONSERVATION AND SCENIC EASEMENT DEED
SIGNATURE CONTINUATION PAGE**

GRANTEE:

Accepted and Authorized to be Recorded by the Del Monte Forest Conservancy:

DEL MONTE FOREST CONSERVANCY, INC.

A Nonprofit California Corporation

By: *Zigmont J. Le Touc*
Print Name: ZIGMONT J. LE TOUC

Dated: March 3, 2021

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)
) 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)

** SEE ATTACHED **

CALIFORNIA ACKNOWLEDGMENT

CIVIL CODE § 1189

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.

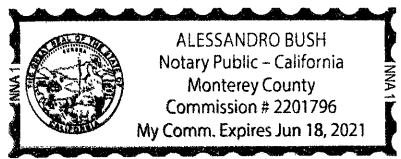
State of California

County of Monterey }

On 3/3/21 before me, Alessandro Bush
Date Here Insert Name and Title of the Officer

personally appeared Zigmont Jody III LETOWT
Name(s) of Signer(s)

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.

[Handwritten Signature]

Signature _____
Signature of Notary Public

Place Notary Seal and/or Stamp Above

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Conservation and Scenic EASEMENT Deed

Document Date: 3/3/21 Number of Pages: 19

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: Zigmont Jody III LETOWT Signer's Name: _____

Corporate Officer – Title(s): President Corporate Officer – Title(s): _____

Partner – Limited General Partner – Limited General

Individual Attorney in Fact Individual Attorney in Fact

Trustee Guardian or Conservator Trustee Guardian or Conservator

Other: _____ Other: _____

Signer is Representing: _____ Signer is Representing: _____

*Signature
Continuation
Page*

APN: 008-012-013-000

aka: 1154 Silver Trail, Pebble Beach, CA

The following described real property in the City of Pebble Beach, County of Monterey, State of California:

Parcel I:

Parcel A, as shown on that certain Record of Survey Map filed August 25, 1967 in Volume X-4 of Surveys, at Page 101, Official Records of Monterey County, California.

Parcel II:

An easement for scenic and view shed purposes as created in that Declaration RE Easement and Imposing Covenants, Conditions and Restrictions recorded June 11, 1990 in Reel 2519, Page 50, of Official Records and as Amended by Instrument recorded March 20, 1991 in Reel 2619, Page 955, of Official Records.

Exhibit A

Page 1 of 1 Pages

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

In the matter of the application of:
**VIRNIG SHARENE HAMROCK TR & VIRNIG
KENNETH JOHN II (PLN160144)**

RESOLUTION NO. 17-048

Resolution by the Planning Commission to:

- 1) Find the project is an addition to an existing structure that will not result in the increase of more than 50% of existing floor area before the remodel which qualifies as a Class 1 Categorical Exemption pursuant to Section 15301(e)(1) of the CEQA guidelines, and there are no exceptions pursuant to Section 15300.2 of the CEQA guidelines;
- 2) Find the project is a small habitat restoration project of less than five acres which qualifies as a Class 33 Categorical Exemption pursuant to Section 15333 of the CEQA guidelines and there are no exceptions pursuant to Section 15300.2 of the CEQA guidelines; and
- 3) Approve Combined Development Permit consisting of:
 - a) Coastal Administrative Permit and Design Approval to:
 - i. Demolish 240 square feet and 1,334 linear feet of walls of an existing 5,866 square foot single family residence
 - ii. Add 1,604 square feet of living area
 - iii. Demolish existing garage and hallway of 960 square feet total
 - iv. Add 1,005 square feet to existing 845 square foot garage
 - v. Add 3,715 square feet of storage and patios
 - vi. Add 196 linear feet to existing retaining walls and planter
 - vii. Replace 6,438 square foot existing asphalt driveway with pervious pavers
 - viii. Grade approximately 810 cubic yards of cut and 440 cubic yards of fill with approximately 370 cubic yards of off haul
 - ix. Restore 4,858 square feet of dune habitat
 - x. Rehabilitate 13,178 square feet of fill slope with non-invasive native plant species which results in a 7,470 square foot single family residence and 1,850 square foot attached garage.
 - b) Coastal Development Permit to allow development within 100 feet of environmentally sensitive habitat (ESHA); and c) Coastal Development Permit to allow development within 750 feet of a known archaeological resource

- 4) Approve Restoration Plan to:

- a) Restore 4,380 square feet of iceplant to coastal sand dune habitat
- b) Rehabilitate 13,178 square feet of fill slope with non-invasive native vegetation
- c) Dedicate 26,346 square foot conservation easement to Del Monte Forest Conservancy
- d) Restore 478 square feet of area across the property line into Spyglass Hill Golf Course to coastal sand dune habitat

[PLN160144, VIRNIG SHARENE HAMROCK TR & VIRNIG KENNETH JOHN II, 1154 The Dunes, Pebble Beach, Del Monte Forest Land Use Plan (APN: 008-012-013-000)]

The Virnig application (PLN160144) for a Combined Development Permit to allow the partial demolition and expansion of a single family dwelling came on for public hearing before the Monterey County Planning Commission on December 13, 2017. Having considered all the written and documentary evidence, the administrative record, the staff report, 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;
 - Del Monte Forest Land Use Plan (LUP);
 - Coastal Implementation Plan (CIP) Part 5; and
 - 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 1154 The Dunes, Pebble Beach (Assessor's Parcel Number 008-012-013-000), Del Monte Forest LUP. The parcel is zoned "LDR" (Low Density Residential). A single-family residence is a principal use allowed within this zone and there is no change to this residential use.
 - c) The existing residence is built within 100 feet of environmentally sensitive habitat (ESHA). Pursuant to Chapter 20.17.030.E of Monterey County Zoning ordinance (Title 20), development within 100 feet of identified ESHA is nonexempt development that requires a Coastal Development Permit (CST). The biological assessment (File No. LIB170394) prepared by Jeffrey Froke identified ESHA species outside the development envelope but within 100 feet of the development area (See Finding 3).
 - d) The parcel is located in a zone with a maximum gross density of 1.5 acres per dwelling unit. The subject property is 1.26 acres within a neighborhood with either the same or similar zoning that limits

intensification of use and growth inducement. Therefore, the proposed project would not establish a precedent for continued land development which, on a cumulative basis, could degrade adjoining ESHA.

- e) The project was referred to the Del Monte Forest Land Use Advisory Committee (LUAC) for review. Based on LUAC Procedure guidelines adopted by the Monterey County Board of Supervisors (Resolution No. 15-103), this application warranted referral to the LUAC because the project has a design control (D) overlay subject to a public hearing. The Del Monte Forest LUAC recommended approval of the project in a 7-0 vote.
- f) Pursuant to the CIP Part 5, Section 20.147.040.C.8, deed restrictions or conservation easement dedication to the Del Monte Forest (DMF) Foundation shall be required as a Condition of Approval. The dedication or restriction shall comprise ESHA on the subject parcel. Therefore, Condition No. 9 requires submittal of a Conservation and Scenic Easement Deed (CSED) to RMA-Planning for review and approval prior to issuance of construction permits and recordation of the CSED to DMF Conservancy prior to final.
- g) The application, project plans, and related support materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development are found in Project File PLN160144.

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, RMA-Environmental Services, Pebble Beach Community Services District (PBCSD), RMA-Public Works, Environmental Health Bureau, and Water Resources Agency. There has been no indication from these departments/agencies that the site is not suitable for the proposed development. Conditions recommended have been incorporated.
 - b) The subject parcel comprises a State Responsibility Area (SRA) ranked as high risk for fire damage. However, during review of the proposed project, PBCSD gave no indication the site would be unsuitable for implementation of the project.
 - c) The existing access to the parcel is via Silver Trail, a private road that is the access easement to the subject property, from 17 Mile Drive. This will remain as access to the residence on the subject parcel and the existing driveway will be improved with pervious pavers that accommodate the weight of a fire truck.
 - d) The existing structure is to be partially demolished and remodeled with additional grading of approximately 810 cubic yards of cut and 370 cubic yards of fill for the attached garage foundation and asphalt driveway excavation. Pursuant to DMF LUP Policy 3.14, the amount of excavation proposed for development is the least amount necessary for implementation of the proposed project.
 - e) The subject parcel is not within the Pescadero Watershed nor does it drain into the Carmel Bay Area of Special Biological Significance (ASBS) or those of Seal Rock Creek and Sawmill Gulch. Therefore,

the project is not subject to Del Monte Forest LUP Policy 77 of Chapter 3 that limits site coverage of impervious surfaces to 9,000 square feet. Nevertheless, the project will result in impervious area site coverage of approximately 8,230 square feet.

- f) The application, project plans, and related support materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development are found in Project File PLN160144.

3. **FINDING:** **CONSISTENCY – ESHA:** The existing structure on the subject parcel is within environmentally sensitive habitat pursuant to Chapter 2 of the Del Monte Forest (DMF) LUP due to the parcel location within coastal sand dunes.

- EVIDENCE:**
- a) Project-related development is within the previously disturbed development envelope on the property. There is no direct disturbance of ESHA proposed for the project. Approximately 8,800 square feet of Native dune habitat on the property exists adjacent to 4,380 square feet of dune habitat restoration area and 13,178 square feet of ruderal fill-slope that will be revegetated with non-dune native plant materials. Therefore, the project proposal is consistent with DMF LUP Policy 3.8 that requires protection of ESHA against significant disruption of habitat values caused by land use and development.
 - b) The opportunity exists to enlarge and support long-term maintenance of coastal dune habitat in Pebble Beach. The southern edge of the proposed conservation and scenic easement is contiguous with a previously conveyed easement of coastal dune habitat. The western edge of the proposed easement is contiguous with an area of coastal dune habitat that has not been conveyed. The eastern boundary of the existing native dune habitat on the subject property is adjacent to the ruderal fill-slope which may be planted with appropriate plant materials that serve as a buffer between the residential use and the native coastal dune habitat. Therefore, the restoration and conservation project is consistent with DMF LUP Policy 3.11 that requires low intensity development immediately adjacent to ESHA as much as possible while maintaining consistency with other planning criteria.
 - c) A biological report (File No. LIB170394) that includes field surveys and impact analysis was prepared by Jeffrey Froke pursuant to DMF LUP Policy 3.12.
 - d) Along with conveyance of a recorded conservation and scenic easement to the Del Monte Forest Conservancy prior to final, Condition 9 requires that Monterey County be named beneficiary in the event the Conservancy is unable to adequately manage these easements for the intended purpose of natural habitat preservation. Therefore, the proposed project is consistent with DMF LUP Policy 3.13.
 - e) Although ESHA is exclusively outside the development for the proposed project, the restoration and conservation of coastal dune habitat on the subject property is proposed to enhance and be compatible with ESHA. The fill-slope nearest to development is

proposed for re-vegetation with native plant materials and will serve as a buffer between the project development and native dune habitat. This is consistent with DMF LUP Policy 3.14 that requires development be sited and designed to prevent impacts that would significantly degrade nearby ESHA.

- f) An integral aspect of the dune habitat restoration proposed in the biological report (LIB170394) is removal of the invasive ice plant that currently covers an area of dune habitat and revegetation with species that are native to coastal Pebble Beach. The fill-slope will be replanted with non-invasive native plant species that are expected not to encroach on adjacent dune species. Therefore, implementation of the project is consistent with DMF LUP Policy 3.15 that requires use of non-invasive Del Monte Forest-appropriate native plant species and prohibits the use of invasive plant species.
- g) Pursuant to the DMF LUP Policy 3.17, approval of any development adjacent to 17-Mile Drive in the Spyglass Cypress planning area requires preservation of the remnant native sand dune habitat through open space conservation and scenic easements conveyed to the Del Monte Forest Conservancy. Condition No. 9 requires conveyance of a conservation and scenic easement to the Del Monte Forest Conservancy over those portions of the property where environmentally sensitive habitats, remnant native sand dune habitats, habitats of rare, endangered, and sensitive plants and animals either exist or are restored. The project includes 0.60 of an acre easement, approximately 48% of the subject parcel.
- h) Pursuant to DMF LUP Policy 3.18, the proposed use of the remnant native sand dune habitat is a conservation easement that is resource dependent.

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

- EVIDENCE:**
- a) The project was reviewed by the RMA-Planning, Pebble Beach Community Services District, RMA-Public Works, RMA-Environmental Services, 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) Staff conducted a site inspection on 20 December 2016 to verify that the site is suitable for this use.
 - 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 PLN160144.

5. **FINDING:** **NO VIOLATIONS** - The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any

other applicable provisions of the County's zoning ordinance. No violations exist on the property.

- EVIDENCE:**
- a) Staff reviewed Monterey County RMA-Planning and RMA-Building Services records and is not aware of any violations existing on subject property.
 - b) Staff conducted a site inspection on 20 December 2016 to verify that the site has no violations.
 - 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 PLN160144.

6. **FINDING:** **CEQA (Exempt) – RESIDENTIAL REMODEL & SMALL HABITAT RESTORATION PROJECT:** The Planning Commission finds on the basis of the whole record before it that the proposed remodel, restoration and conservation project would assure the maintenance, enhancement, and protection of Pebble Beach dune habitat and that this reflects the County's independent judgment and analysis.

- EVIDENCE:**
- a) Pursuant to Section 15301(e)(1) of the CEQA guidelines, an addition to an existing structure that will not result in the increase of more than 50% (3,355.50 square feet) of total floor area before the remodel (6,711 square feet) qualifies as a Class 1 Categorical Exemption. Therefore, the proposed addition of approximately 2,694 square feet of floor area is less than 50%.
 - b) Pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15333, a small habitat restoration project that does not exceed five acres in size may qualify for Class 33 categorical exemption pursuant to the three provisions, as follows.
 - c) First, the remodel and addition are proposed completely outside of dune habitat on the parcel. The proposal includes restoration of coastal dune habitat within native and ruderal areas on the property. Therefore, no significant adverse impact would result on endangered, rare or threatened species or their habitat pursuant to section 15065.
 - d) Second, no hazardous materials exist at or around the project site that may be disturbed or removed.
 - e) Third, the project will not result in adverse impacts that are significant when viewed cumulatively with past, current, or probable future projects. The project proposes enlargement and enhancement of dune habitat that is contiguous with an existing stand of largely natural sand dune on the subject property and could connect to a string of natural and ruderal dunes that stretch southward from the southernmost boundary of the property.
 - f) There are no exceptions pursuant to Section 15300.2 of the CEQA guidelines. No significant adverse impact would result on endangered, rare or threatened species or their habitat pursuant to section 15065; no hazardous materials exist at or around the project site that may be disturbed or removed; and no adverse impacts will result that are significant when viewed cumulatively with past, current, or probable future projects.

- g) The custodian of documents and materials which constitute the record of proceedings upon which the decision is based is the County Resource Management Agency, 1441 Schilling Place South, 2nd floor, Salinas, California.
- h) The application, project plans, and related support materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development are found in Project File PLN160144.

7. **FINDING:** **APPEALABILITY** - The decision on this project may be appealed to the Board of Supervisors. The decision on the appeal made by the Board of Supervisors may be appealed to the California Coastal Commission (CCC).
- a) The subject parcel is located within 300 feet of the inland extent of the beach. Therefore, in accordance with Section 20.86.080.A.1 of Title 20, a decision on this project may be appealed to the CCC.

DECISION

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

- A. Find the project is an addition to an existing structure that will not result in the increase of more than 50% of existing floor area before the remodel which qualifies as a Class 1 Categorical Exemption pursuant to Section 15301(e)(1) of the CEQA guidelines, and there are no exceptions pursuant to Section 15300.2 of the CEQA guidelines;
- B. Find the project is a small habitat restoration project of less than five acres which qualifies as a Class 33 Categorical Exemption pursuant to Section 15333 of the CEQA guidelines, and there are no exceptions pursuant to Section 15300.2 of the CEQA guidelines;
- C. Approve Combined Development Permit consisting of:
 - 1) Coastal Administrative Permit and Design Approval to:
 - xi. Demolish 240 square feet and 1,334 linear feet of walls of an existing 5,866 square foot single family residence
 - xii. Add 1,604 square feet of living area
 - xiii. Demolish existing garage and hallway of 960 square feet total
 - xiv. Add 1,005 square feet to existing 845 square foot garage
 - xv. Add 3,715 square feet of storage and patios
 - xvi. Add 196 linear feet to existing retaining walls and planter
 - xvii. Replace 6,438 square foot existing asphalt driveway with pervious pavers
 - xviii. Grade approximately 810 cubic yards of cut and 440 cubic yards of fill with approximately 370 cubic yards of off haul
 - xix. Restore 4,858 square feet of dune habitat
 - xx. Rehabilitate 13,178 square feet of fill slope with non-invasive native plant species

which results in a 7,470 square foot single family residence and 1,850 square foot attached garage.

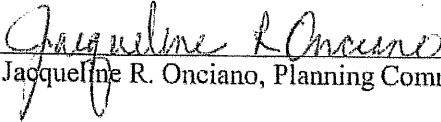
- 2) Coastal Development Permit to allow development within 750 feet of a known

- archaeological resource; and
- 3) Coastal Development Permit to allow development within 100 feet of ESHA;
- D. Approve Restoration Plan to:
- 1) Restore 4,380 square feet of iceplant to coastal sand dune habitat
 - 2) Rehabilitate 13,178 square feet of fill slope with non-invasive native vegetation
 - 3) Dedicate 26,346 square foot conservation easement to Del Monte Forest Conservancy
 - 4) Restore 478 square feet of area across the property line into Spyglass Hill Golf Course to coastal sand dune habitat

for Assessor's Parcel Number 008-012-013-000 (1.26 acres) in general conformance with the attached Plan set and subject to the nineteen (19) Conditions of Approval, all being attached hereto and incorporated herein by reference.

PASSED AND ADOPTED this 13th day of December 2017 upon motion of Commissioner Diehl, seconded by Commissioner Ambriz, by the following vote:

AYES: Ambirz, Diehl, Getzelman, Mendez, Roberts, Vandever, Wizard
 NOES: None
 ABSENT: Duflock, Padilla
 ABSTAIN: None



 Jacqueline R. Onciano, Planning Commission Secretary

COPY OF THIS DECISION MAILED TO APPLICANT ON **DEC 22 2017**

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 SECRETARY OF THE PLANNING COMMISSION ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE **JAN 02 2018**

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.

Monterey County RMA Planning

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

PLN160144

1. PD001 - SPECIFIC USES ONLY

Responsible Department: RMA-Planning

**Condition/Mitigation
Monitoring Measure:**

This Combined Development permit (PLN160144) allows: 1) Coastal Administrative Permit and Design Approval to allow the remodel of and additions to an existing 5,700 square foot single family residence (600 square foot upper floor addition, 1,000 square foot lower floor addition, 1,000 square foot addition to existing garage, 85 square foot storage at lower floor, a 1,450 square foot upper front patio, a 1,050 square foot upper rear patio, 245 square foot fire pit at great room at upper floor, a 770 square foot master bedroom patio & deck, a 200 linear foot addition to the existing retaining walls and planter, re-pave existing 6,400 square foot asphalt driveway, and approximately 800 cubic yards total of grading including removal of a fire pit; 2) Coastal Development Permit to allow development within environmentally sensitive habitat (dune); and 3) Coastal Development Permit to allow development within 750 feet of a known archaeological resource. The property is located at 1154 The Dunes, Pebble Beach (Assessor's Parcel Number 008-012-013-000), Del Monte Forest Land Use Plan, Coastal Zone. This permit was approved in accordance with County ordinances and land use regulations subject to the terms and conditions described in the project file. Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of RMA - Planning. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. To the extent that the County has delegated any condition compliance or mitigation monitoring to the Monterey County Water Resources Agency, the Water Resources Agency shall provide all information requested by the County and the County shall bear ultimate responsibility to ensure that conditions and mitigation measures are properly fulfilled. (RMA - Planning)

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

The Owner/Applicant shall adhere to conditions and uses specified in the permit on an ongoing basis unless otherwise stated.

2. PD002 - NOTICE PERMIT APPROVAL

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: The applicant shall record a Permit Approval Notice. This notice shall state:
"A Combined Development Permit (Resolution Number 17-048) was approved by Monterey County Planning Commission for Assessor's Parcel Number 008-012-013-000 on 13 December 2017. The permit was granted subject to 19 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. PD002(A) - ATTACH RESOLUTION TO CONSTRUCTION PLANS

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: A copy of the Resolution of Approval (Resolution No. 17-0148) for the Combined Development Permit (Planning File No.: PLN160144) shall be incorporated onto the construction plans for the project prior to the issuance of a grading or building permit. The Contractor/Owner/Applicant shall be responsible for compliance with all conditions of approval. (RMA - Planning)

Compliance or Monitoring Action to be Performed: Prior to commencement of any grading or construction activities, the Owner/Applicant shall submit evidence to RMA-Planning for review and approval, that the Resolution of Approval, for the project, has been incorporated onto the construction plans for the project/approved development.

Ongoing throughout construction and until all Conditions of Approval and/or Mitigation Measures have been complied with, the Contractor/Owner/Applicant shall provide evidence of compliance with Conditions of Approval to the Responsible Land Use Department as specified in the "Condition of Approval Implementation Plan/Mitigation Monitoring Reporting Plan."

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

Responsible Department: RMA-Planning

Condition/Mitigation
Monitoring Measure:

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

Compliance or
Monitoring
Action to be Performed:

The Owner/Applicant shall adhere to this condition on an on-going basis.

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

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

5. PD004 - INDEMNIFICATION AGREEMENT

Responsible Department: RMA-Planning

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. (RMA - Planning)

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 Director of RMA-Planning for review and signature by the County.

Proof of recordation of the Indemnification Agreement, as outlined, shall be submitted to RMA-Planning .

6. PD005(A) - NOTICE OF EXEMPTION

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: Pursuant to CEQA Guidelines § 15062, a Notice of Exemption shall be filed for this project. The filing fee shall be submitted prior to filing the Notice of Exemption. (RMA-Planning)

Compliance or Monitoring Action to be Performed: After project approval, the Owner/Applicant shall submit a check, payable to the County of Monterey, to the Director of RMA - Planning.

7. PD006(A) - CONDITION COMPLIANCE FEE

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: The Owner/Applicant shall pay the Condition Compliance fee, as set forth in the fee schedule adopted by the Board of Supervisors, for the staff time required to satisfy conditions of approval. The fee in effect at the time of payment shall be paid prior to clearing any conditions of approval.

Compliance or Monitoring Action to be Performed: Prior to clearance of conditions, the Owner/Applicant shall pay the Condition Compliance fee, as set forth in the fee schedule adopted by the Board of Supervisors.

8. PD007 - GRADING WINTER RESTRICTION

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: No land clearing or grading shall occur on the subject parcel between October 15 and April 15 unless authorized by the Director of RMA - Building Services. (RMA - Planning and RMA - Building Services)

Compliance or Monitoring Action to be Performed: The Owner/Applicant, on an on-going basis, shall obtain authorization from the Director of RMA - Building Services Department to conduct land clearing or grading between October 15 and April 15.

9. PD022(B) - EASEMENT-CONSERVATION & SCENIC IN THE DEL MONTE FOREST

Responsible Department: RMA-Planning

Condition/Mitigation
Monitoring Measure:

A conservation and scenic easement shall be conveyed to the Del Monte Forest Conservancy over those portions of the property where environmentally sensitive habitats, remnant native sand dune habitats, habitats of rare, endangered and sensitive native plants and animals exist, and are restored, in accordance with the procedures in Monterey County Code § 20.64.280.A. The easement conveyance shall include funding adequate to ensure the management and protection of the easement area over time. The easement shall be developed in consultation with a certified professional and the Del Monte Forest Conservancy Inc. A Subordination Agreement shall be required, where necessary. These instruments shall be subject to approval by the County as to form and content, shall provide for enforcement, if need be, by the County or other appropriate agency, and name the County as beneficiary in event the Conservancy is unable to adequately manage these easements for the intended purpose of scenic and visual resource protection. An easement deed shall be submitted to, reviewed, and approved by the Director of RMA - Planning and the Executive Director of the California Coastal Commission, and accepted by the Board of Supervisors prior to recording the parcel/final map or prior to issuance of grading and building permits. (RMA - Planning)

Compliance or
Monitoring
Action to be Performed:

Prior to the issuance of grading and building permits, the Owner/Applicant/Certified Professional shall submit the conservation and scenic easement deed and corresponding map, showing the exact location of the easement on the property along with the metes and bound description developed in consultation with a certified professional, to the to the Del Monte Forest Conservancy for review and approval.

Prior to recording the parcel/final map or prior to the issuance of grading and building permits, the Owner/Applicant/Certified Professional shall submit the conservation and scenic easement deed and corresponding map, showing the exact location of the easement on the property along with the metes and bound description developed in consultation with a certified professional, to RMA - Planning for review and approval.

Prior to the issuance of grading and building permits, the Owner/Applicant, shall submit a signed and notarized Subordination Agreement, if required, to RMA - Planning for review and approval

Prior to the issuance of grading and building permits, or commencement of use, the Owner/Applicant shall record the deed and map showing the approved conservation and scenic easement. Submit a copy of the recorded deed and map to RMA-Planning.

10. PD047 - DEMOLITION/DECONSTRUCTION (MBUAPCD RULE 439)

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: In accordance with Monterey Bay Unified Air Pollution Control District Rule 439, construction plans shall include "Demolition and Deconstruction" notes that incorporate the following work practice standards:

1. Sufficiently wet the structure prior to deconstruction or demolition. Continue wetting as necessary during active deconstruction or demolition and the debris reduction process;

2. Demolish the structure inward toward the building pad. Lay down roof and walls so that they fall inward and not away from the building;

3. Commencement of deconstruction or demolition activities shall be prohibited when the peak wind speed exceeds 15 miles per hour.

All Air District standards shall be enforced by the Air District.

(RMA - Planning)

Compliance or Monitoring Action to be Performed: Prior to the issuance of a demolition permit, if applicable, the Owner/Applicant/Contractor shall incorporate a "Demolition/Deconstruction" note on the demolition site plan that includes, but is not limited to, the standards set forth in this condition.

During demolition, the Owner/Applicant/Contractor shall obtain any required Air District permits and the Air District shall conduct all deconstruction or demolition inspection activities as required by the Air District.

11. WR049 - WATER AVAILABILITY CERTIFICATION

Responsible Department: Water Resources Agency

Condition/Mitigation Monitoring Measure: The applicant shall provide the Monterey County Water Resources Agency proof of water availability in the form of a complete Monterey Peninsula Water Management District Water Release Form. (Water Resources Agency)

Compliance or Monitoring Action to be Performed: Prior to issuance of any construction permit, the owner/applicant shall submit a Water Release Form to the Water Resources Agency for review and approval.

A copy of the Water Release Form can be obtained at the Monterey Peninsula Water Management District, the Water Resources Agency, or online at:
www.mcwra.co.monterey.ca.us.

12. WR001 - DRAINAGE PLAN

Responsible Department: Water Resources Agency

Condition/Mitigation Monitoring Measure: The applicant shall provide a drainage plan, prepared by a registered civil engineer or licensed architect, to mitigate on-site and off-site impacts from impervious surface stormwater runoff. Drainage improvements shall be constructed in accordance with plans approved by the Water Resources Agency. (Water Resources Agency)

Compliance or Monitoring Action to be Performed: Prior to issuance of any construction permit, the owner/applicant shall submit a drainage plan with the construction permit application.

The Building Services Department will route a plan set to the Water Resources Agency for review and approval.

13. PW0044 - CONSTRUCTION MANAGEMENT PLAN

Responsible Department: RMA-Public Works

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

Department and the Department of Public Works 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-Planning Department and the Department of Public Works for review and approval.

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

14. GRADING PLAN

Responsible Department: Environmental Services

Condition/Mitigation Monitoring Measure: The applicant shall submit a grading plan incorporating the recommendations from the project Soil Engineering Investigation prepared by Landset Engineers Inc. 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 and geotechnical report 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.

15. 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.

16. 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.

17. 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.

18. 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.

19. 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 Soil Engineering Investigation. (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.

Exhibit B

Legal Description

An area over, under and across a portion of that tract of land described as Parcel A on that Record of Survey of a portion of Rancho El Pescadero filed in Volume X-4 of Surveys at Page 101 in the Monterey County Recorder's Office, State of California, described as follows:

Commencing at the northerly corner of the above described Parcel A, thence southwesterly along the westerly boundary line of said Parcel A South 18°30'00" West 86.18 feet to the **Point of Beginning**, thence;

- 1) Continuing along the westerly line of Parcel A South 18°30'00" West 221.86 feet to the westerly corner of Parcel A, thence;
- 2) Along the southwesterly line of Parcel A South 70°41'52" East 33.00 feet to a point, thence;
- 3) Leaving the southwesterly line of Parcel A North 19°18'08" East 74.37 feet to a point, thence;
- 4) South 54°49'09" East 34.92 feet to the beginning of a non-tangent curve to the left, concave northwesterly with a radius of 96.00 feet and a delta angle of 35°08'00" whose center bears North 28°41'16" West, thence;
- 5) Northeasterly along the arc of the last described curve 58.87 feet to the beginning of a reverse curve to the right, concave southeasterly with a radius of 110.00 feet and a delta angle of 36°02'42", thence;
- 6) Northeasterly along the arc of the last described curve 69.20 feet to the beginning of a reverse curve to the left, concave northwesterly with a radius of 400.00 feet and a delta angle of 08°07'03", thence;
- 7) Along the arc of the last described curve 56.67 feet to a point, thence;
- 8) North 43°34'37" West 29.61 feet to a point, thence;
- 9) North 46°25'23" East 16.58 feet to a point in the northeasterly line of Parcel A and the beginning of a non-tangent curve to the left, concave southwesterly with a radius of 400.00 feet and a delta angle of 6°05'23" whose center bears South 46°25'23" West 400.00 feet, thence;
- 10) Northwesterly along the arc of the last described curve and the northeasterly line of Parcel A 42.51 feet, thence;
- 11) Continuing along the northeasterly line of Parcel A North 49°40'00" West 94.72 feet to the **Point of Beginning**

CONTAINING: 25,894 square feet/0.594 acres , more or less.
Together with and subject to any and all covenants and agreements of record.

End of Description

See Exhibit C for graphical depiction of the location of this license area.

