

When recorded return to:
MONTEREY COUNTY RESOURCE
MANAGEMENT AGENCY
PLANNING DEPARTMENT
Attn: Anna Quenga
1441 Schilling Pl, South 2nd Floor
Salinas, CA 93901
(831) 755-5025

Space above for Recorder's Use

Permit No.: PLN160117
Resolution No.: 17-032
Owner Name: El Why Square LLC, a
Delaware Limited Liability
Project Planner: Company
APN:
Anna Quenga
008-491-021-000

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


Signature of Declarant or Agent

CONSERVATION AND SCENIC EASEMENT DEED (COASTAL)

THIS DEED made this 24th day of September, 2020, by and between, **EL WHY SQUARE 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, 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, a portion of the Property 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 certain areas of the Property of the Grantor, in such a way as to ensure enhancement, protection, and management of such areas as protected areas in perpetuity; 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 PLN160117**; hereinafter referred to as the "Permit") was granted on **August 9, 2017** by the **Monterey County Planning Commission** pursuant to the Findings, Evidence and Conditions contained in Resolution No. **17-032**, attached hereto as Exhibit "B" (without plans) and hereby incorporated by reference (hereinafter the "Resolution"), subject to the following condition:

30. MITIGATION MEASURE NO. 11 – PROTECTION OF SHELL MIDDEN SITE

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: In order to protect archaeological resources found on the site from future development impacts, a conservation easement shall be conveyed to the County over the portions of the property where the resources exist. Specifically, the shell midden site on the upper elevation of the parcel, as illustrated in Figure 9 of the Preliminary Cultural Resources Reconnaissance, prepared by Susan Morley (Monterey County File Number LIB160238). This easement shall be developed in consultation with a qualified archaeologist, show the exact location of the easement on the property with a metes and bounds description, and contain a clear and concise list of prohibited activities within the easement area.

Compliance or Monitoring Action to be Performed: Mitigation Measure Monitoring Action No. 11: Prior to final of construction permits for grading or building, the owner/applicant shall submit a final draft of the easement to deed to RMA-Planning for review and approval. The easement shall prohibit ground disturbance except for shallow soil maintenance of the existing Monterey cypress habitat. The easement shall allow the parking pad and the elevated walkway to be maintained. conveying the location of, for review and approval. Subsequent to RMA-Planning's approval, the Board of Supervisors shall accept the conveyance and the deed shall be recorded with the Monterey County Recorder's Office.

WHEREAS, the specific resources being protected consist of approximately 0.47 acres containing archaeological sites; and

WHEREAS, the Grantee, 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 the condition described above (hereinafter the "Condition") requiring, inter alia, that the Grantor record a conservation easement (hereinafter "Easement") affecting a portion of the Property as described in Exhibits "C-1" and "C-2" attached hereto and hereby incorporated by reference (the "Conservation 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 Grantee 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 Deed so as to enable Grantor to undertake the development authorized by the Permit; and

WHEREAS, it is intended that this Easement Deed is irrevocable and shall constitute enforceable restrictions within the meaning of Article XIII, Section 8, of the California Constitution and that the 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 execute this Easement Deed for the conservation and scenic use as herein expressed of the Property, and thereby enhance, protect, preserve, and manage the open space, scenic, and overall natural resource value by the restricted use and enjoyment of the Property by the Grantor through the imposition of the restrictions hereinafter expressed;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Grantor does hereby grant and convey unto Grantee, for the benefit of the People of the State of California, an estate, interest, and archaeological conservation easement in perpetuity for the purpose of protection and resource conservation over the Conservation Area in accordance with the following provisions (the "Easement"); and to that end and for the purposes of accomplishing the intent of the parties hereto, Grantor covenants on behalf of itself, its heirs, successors, and assigns, with the Grantee, its successors and assigns, to do and refrain from doing severally and collectively upon the Conservation Area the various acts hereinafter mentioned.

A. **PROPERTY SUBJECT TO EASEMENT.** The portion of the Property of the Grantor hereinabove referred to and to which the provisions of this instrument apply is situated in the County of Monterey, State of California, and is particularly described and depicted in Exhibits "C-1" and "C-2", attached hereto, and made part hereof, and is the

Conservation Area, consisting of that portion of the Property that contains archaeological resources as identified by Susan Morley, the project archaeologist. Angle points of easement boundaries shall be permanently marked or monumented with surveyors' pipe or similar so that the Conservation Area can be easily identified.

B. RESTRICTIONS. Upon recordation of this Easement Deed and thereafter in perpetuity, the use of the Conservation Area shall be limited to natural open space for habitat protection and resource conservation uses. No "development" (as defined in Section 20.06.310 of the LCP), including, but not limited to, removal of trees and other major or native vegetation, grading, paving, installation of structures such as signs, buildings, etc., and no grazing or agricultural activities shall occur or be allowed on the Conservation Area with exception of the following (subject to compliance with any applicable governmental regulatory requirements):

1. Grantor has the right to shallow soil maintenance of the existing Monterey cypress habitat within the Conservation Area as part of the Permit's restoration plan.

2. Grantor has the right to utilize and maintain the existing Monterey cypress habitat within the Conservation Area as a regular part of habitat maintenance, including control of exotic and invasive plants species, as part of the Permit's exotic species eradication plan.

3. Grantor has the right to maintain all existing and authorized future driveways, parking pads, elevated walkway, paths, and structures upon the Conservation Area, and the right to restore, renovate, and maintain the Conservation Area, in accordance with the conditions of the Permit.

4. Grantor has the right to the construction, maintenance, repair, and use of public service and utility lines, pipes, and transmission facilities (including those for gas, electricity, telephone, water, treated wastewater irrigation, sewer, and cable television), and facilities for drainage and erosion and sedimentation control.

5. Grantor shall not plant nor permit to be planted any vegetation upon the Conservation Area except plants native to Del Monte Forest, and/or vegetation specified in the Permit as appropriate for Monterey cypress habitat. Periodic efforts to control invasive non-native plants within the Conservation Area shall be undertaken.

6. Except for the construction, alteration, relocation, and maintenance of driveways, parking pads, elevated walkway, paths, and structures allowed by the Permit, no use of the Conservation Area which will or does materially alter the landscape or other attractive scenic features of said area other than those specified above shall be done or suffered.

7. Grantor shall have the use and occupancy of the Conservation Area not inconsistent with the conditions and restrictions herein imposed.

8. 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 and of the materials, and specifications for proposed grading and construction within and immediately adjacent to the Conservation Area. An advance notice is required from Grantor to Grantee whenever major maintenance or construction activities will occur within or immediately adjacent to the Conservation Area. Habitat maintenance activities shall not be subject to the advance notice requirement.

C. SUBJECT TO APPLICABLE LAWS. Land uses and development permitted or reserved to the Grantor by this instrument shall be subject to all applicable laws regulating the use of land.

D. BENEFIT AND BURDEN. This Easement shall run with and burden the Conservation Area, 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 Area from the date of recordation of this document and shall bind the Grantor and all of its successors and assigns. This Easement shall benefit Grantee on behalf of the People of the State of California and its successors and assigns forever.

E. RIGHT OF ENTRY. The Grantee, or its agents may enter onto the Property to ascertain whether the use restrictions set forth above are being observed at times reasonably acceptable to the Grantor.

F. 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 Area contrary to the terms of this Easement will be deemed a breach hereof. The Grantee may bring any action in court necessary to enforce this 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 of Easement Deed 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.

G. MAINTENANCE. The Grantee shall not be obligated to maintain, improve, or otherwise expend any funds in connection with the Conservation Area or any interest or easement created by this Easement Deed. 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.

H. LIABILITY AND INDEMNIFICATION. This conveyance is made and accepted upon the express condition that the Grantee, and its agencies, departments, officers, directors, agents, employees, and authorized volunteers 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 determined to be caused by the sole negligence of the Grantee while in, upon, or in any way connected with the Conservation Area, Grantor hereby covenanting and agreeing to indemnify and hold harmless the Grantee, and its agencies, departments, officers, directors, agents, employees, and authorized volunteers 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 Area which would subject the Grantee to any liability occurring upon the Conservation Area by virtue of the fact that the right of the Grantee to enter the Conservation 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 Area for the purposes of correcting any "dangerous condition" as those terms are defined by California Government Code Section 830.

I. TRANSFER OF TITLE. Grantor shall have the absolute right to transfer its right, title, and interest in and to all or any portion of the Conservation Area and upon such a transfer the transferee, by acceptance of the deed (whether or not so stated in the deed), shall have assumed and shall be obligated to perform all of the covenants of Grantor under this Easement Deed and shall have all of the rights and obligations of and be deemed to stand in the place of the Grantor for all purposes under this Easement Deed, with respect to the land transferred; and upon such a transfer Grantor shall be fully relieved and discharged from all of Grantor's obligations under this Easement Deed with respect to the land transferred.

J. ASSIGNMENT.

1. Grantor shall have the right to assign its rights or delegate its obligations under this Easement Deed, in whole or in part. No such assignment or delegation by Grantor, however, shall relieve the owner or owners of the Conservation Area from the obligations to perform the covenants in this Easement Deed, and such covenants shall continue as covenants running with the land as specified in Paragraph D above.

2. Grantee shall have the right to assign its rights and delegate its obligations under this Easement Deed, but only to a public agency or private entity which agrees to accept such rights and assume such obligations and is approved in writing in advance by the Grantor. Grantee shall not abandon the Easement, but may assign the Easement in accordance with the preceding sentence.

K. PUBLIC ENTRY AND USE OF ROADS IN DEL MONTE FOREST. This Easement Deed does not authorize access to or use of the Property (including Conservation Area) by members of the public. The road system of Del Monte Forest is privately owned by Pebble Beach Company, and the use of the roads in Del Monte Forest is by permission of Pebble Beach Company and subject to the payment of a fee for motor

vehicle use and rules and regulations imposed by Pebble Beach Company so long as they are consistent with the LCP and permits to which Pebble Beach Company is subject.

L. 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.

M. SEVERABILITY. If any provision of this Easement Deed is held to be invalid or for any reason becomes unenforceable, no other provision shall be thereby affected or impaired.

N. AMENDMENT/MODIFICATION. This Easement Deed may be amended, modified, or changed only with the written consent of the Grantor and the Grantee. In addition, an amendment to the Permit may be required, if necessary, as determined by the Grantee. Any amendment of this Easement Deed without the written consent of all three entities and any necessary amendment to the Permit shall be void and of no effect.

Executed this 24 day of September, 2020, at Dallas, Texas, California.

EI Why Square LLC, a Delaware Limited Liability Company

By: 
(Signature)

Geoffrey Y. Yang
(Print or Type Name and Title)

Member, EI Why Square, LLC

By: _____
(Signature)

(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.

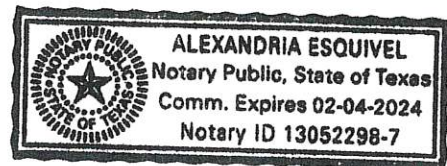
STATE OF ~~CALIFORNIA~~ ^{Texas})
COUNTY OF ~~MONTEREY~~ ^{Dallas}) SS.

On September 24, 2020 before me, Alexandria Esquivel, a Notary Public, personally appeared Geoffrey Y. Yang, 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~~ ^{Texas} that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Alexandria Esquivel
Signature



(Seal)

ACCEPTANCE AND CONSENT TO RECORDATION

This is to certify that the interest in real property conveyed by the deed or grant dated **August 9, 2017** from **EI Why Square LLC, a Delaware Limited Liability Company** 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.

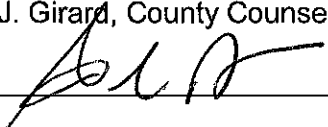
WITNESS my hand and official seal.

Signature: _____

(Seal)

Document Form/Content Acceptable:

Leslie J. Girard, County Counsel

By:  _____

DATED: 9-28-20

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

EXHIBIT A

LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE UNINCORPORATED AREA, COUNTY OF MONTEREY, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL I:

Beginning at a point distant 89.15 feet North and 120.50 feet West from that certain Monument numbered 3132, as said Monument is shown and so designated on that certain map entitled "Licensed Surveyor's Map of El Pescadero and Point Pinos Ranchos", etc., filed for record January 12, 1922 in Map Book 3 of "Surveys", at Page 3 therein, Records of Monterey County, California; and running thence

- (1) South 53° 00' 00" West, 452.11 feet; thence
- (2) North 42° 12' 00" West, 18.14 feet; thence
- (3) North 50° 21' 00" West, 129.29 feet; thence
- (4) North 30° 31' 00" West, 152.08 feet; thence
- (5) North 34° 43' 45" East, 49.65 feet; thence
- (6) North 44° 00' 00" East, 24.00 feet; thence
- (7) North 58° 28' 40" East, 32.00 feet; thence
- (8) North 62° 45' 00" East, 314.33 feet; thence
- (9) South 53° 30' 00" East, 143.57 feet; thence
- (10) Tangentially Southeasterly along the arc of a circular curve to the right described from a point which bears South 36° 30' 00" West, 180.00 feet distant from the terminus of the preceding course through a central angle of 12° 10' 00" for a distance of 38.22 feet; thence
- (11) Tangentially South 41° 20' 00" East, 83.09 feet to the point of beginning, comprising a portion of Rancho El Pescadero, Monterey County, California.

PARCEL II:

All right, title and interest in and to the following described land:

Beginning at the terminus of Course Numbered (1) in the above described Parcel I and running thence:

(1) South 53° 00' 00" West, 10.00 feet, more or less, to the line of ordinary high tide of the Pacific Ocean; thence

(2) Along the following said high tide line in a Northwesterly direction, 300.00 feet, more or less, to a point which bears South 34° 43' 45" West from the terminus of Course numbered (4) in the above described Parcel I; thence leaving said high tide line

(3) North 34° 43' 45" East, 10.00 feet, more or less, to the terminus of said Course numbered (4); thence

(4) South 30° 31' 00" East, 152.08 feet; thence

(5) South 50° 21' 00" East, 129.29 feet; thence

(6) South 42° 12' 00" East, 18.14 feet to the point of beginning.

APN: 008-491-021

Exhibit B

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

In the matter of the application of:

EL WHY SQUARE LLC (PLN160117)

RESOLUTION NO. 17-032

Resolution by the Monterey County Planning
Commission:

- 1) Adopting a Mitigated Negative Declaration;
and
- 2) Approving a Combined Development Permit
consisting of:
 - a. Coastal Administrative Permit to allow
the demolition of an existing 6,871 square
foot single family dwelling with a 1,550
square foot attached garage and
construction of a 13,130 square foot
single family dwelling with a 754 square
foot attached garage;
 - b. Coastal Development Permit to allow
development within an environmentally
sensitive habitat area;
 - c. Coastal Development Permit to allow
development within 750 feet of a known
archaeological resource; and
 - d. Design Approval; and
- 3) Adopting a Mitigation Monitoring and
Reporting Plan.

[PLN160117, El Why Square LLC, 3168 Seventeen
Mile Drive, Pebble Beach, Del Monte Forest Land
Use Plan (APN: 008-491-021-000)]

The El Why Square LLC application (PLN160117) came on for public hearing before the Monterey County Planning Commission on August 8, 2017. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Planning Commission finds and decides as follows:

FINDINGS

1. **FINDING:** **CONSISTENCY** – The Project, as conditioned, is consistent with the applicable plans and policies which designate this area as appropriate for development.
EVIDENCE: a) During the course of review of this application, the project has been reviewed for consistency with the text, policies, and regulations in:
 - the 1982 Monterey County General Plan;
 - Del Monte Forest Land Use Plan;
 - Monterey County Coastal Implementation Plan, Part 5;
 - 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) Zoning – The property is located at 3168 Seventeen Mile Drive, Pebble Beach (Assessor’s Parcel Number 008-491-021-000), Del Monte Forest Land Use Plan. The parcel is zoned Low Density Residential, 2 acres per unit with a Design Control overlay in the Coastal Zone or “LDR/2-D(CZ).” The project includes the demolition and construction of a single family dwelling. Pursuant to Section 20.14.040.A of Title 20, establishment of a single family is an allowed use in the LDR zoning district provided a Coastal Administrative Permit is obtained. Therefore, the project is an allowed land use for this site.
- c) Design Control – Design Control or “D” overlay district, as provided in Chapter 20.44 of Title 20, requires design review of structures within this district to assure protection of public viewshed, neighborhood character, and visual integrity of certain developments without imposing undue restrictions on private property. The proposed single family dwelling is a modern, two-story structure with a flat, planted roof (green roof). Colors and materials for the proposed single family dwelling consist of channel glass, tan limestone cladding, Ipe siding, and bronze metal accents. The design, material, and colors of the proposed open-slatted fence are consistent with the proposed dwelling. The proposed residence is approximately 27 feet below Seventeen Mile Drive and a majority of the roofline will be at the same elevation as Seventeen Mile Drive. Improved residential lots within proximity of the parcel contain single family dwellings that vary in architectural style (examples include but are not limited to: Modern with sharp clean lines, Spanish with the use of stucco and clay roofing, and Gothic with high pitched roofs and the use of stone) but are of similar size. The proposed design and massing of the structure fits within the eclectic style of the neighborhood.
- d) Scenic and Visual Resources – The objective of Scenic and Visual Resources Key Policy contained within the Del Monte Forest Land Use Plan (DMF LUP) is to protect scenic and visual resources of the area, avoid incompatible development, and encourage improvements that would complement the natural scenic environment. Furthermore, specific policies related to the 17-Mile Drive corridor (DMF LUP Policies 53 and 56 and Section 20.147.070 of the Coastal Implementation Plan) states that new development, including such structures as fences constructed between 17 Mile Drive and the sea, shall be designed and sited to minimize obstructions of and degradation to views from the road to the sea. Height limits, use of see-through materials for fences, and limitations on landscape materials that would block views, are methods that should be used to reduce obstruction. As discussed in the preceding Evidence “c” above, the location and topography of the project site allows for the proposed residence to create very little visual impact.

Consistent with these policies, the project proposal includes replacing the existing grapestake fence with an open-slatted fencing south of the accessory dwelling unit to the south property line to create more open

views to the sea and more closed-slatted fencing along the accessory dwelling unit to the north property line where views are hindered by existing development. A matching 30-foot wide gate entrance along Seventeen Mile Drive will also be installed. The existing Ornamental shrubbery along the fence line will be removed to further create open views.

- e) Hazards – Policy 38 of the DMF LUP states that new development shall be sited and designed to minimize risk from geological, flood, or fire hazards in order to assure stability and structural integrity; and to not threaten the stability of a site, contribute significantly to erosion, geologic instability, or destruction of the site or surrounding areas. Development will occur on an ocean front property, with the Pacific Ocean abutting the western property line. The project includes construction of a residence within the same general footprint of an existing residence which is over 80-feet from the coastal bluff. A Geologic Report and Coastal Bluff Recession Setback Study (File No. LIB160242) and Geotechnical Investigation report (File No. LIB160243) has been submitted with the application. Supporting information contained within these reports indicate that the coastal protection structures, consisting of seawalls and rip-rap, constructed in 1983 provide substantial coastal protection to the property improvements. The reports conclude that the development should not have negative impacts in the stability of the site and adjacent area, provided recommendations contained in said report are adhered to. Condition No. 8 has been incorporated to ensure this occurs.
- f) Development within Environmentally Sensitive Habitat Areas – The project includes development within an environmentally sensitive habitat area (ESHA). Based on the application materials and the incorporated conditions of approval and mitigation measures, the project is consistent with applicable polices for the protection, maintenance, and where possible, enhancement and restoration of ESHA. See Finding No. 5 for further discussion.
- g) Development within 750-feet of a known Cultural Resource – The Monterey County Geographic Information System indicates that the subject property is located within a high archaeological sensitivity zone and within a positive archaeological buffer zone. Pursuant to Section 21.147.080 – Cultural Resources, of the Coastal Implementation Plan, a Coastal Development Permit (CST) to allow development within 750-feet of a known archaeological resource as well as submittal of an archaeological report is required. Consistent with these requirements, a Preliminary Cultural Resources Reconnaissance was prepared for this project by Susan Morley (File No. LIB160238) and the Combined Development Permit includes a CST. The archaeological report identified two recorded sites are within 1/8-mile of the project parcel: CA-MNT-1084 and CA-MNT-1244. No recorded sites were reported to exist within the project parcel boundaries. Auger testing conducted on August 8, 2015 in the soils along the cliff west of the driveway were found to be highly disturbed but contained marine shell, faunal materials, ground stone, and chipped stone. The upper portion of the project parcel, above the main residence and west of the existing

accessory dwelling unit, contains a shell midden deposit; the subsequent auger testing conducted August 8, 2015 confirmed this deposit to be at least 80 cm. in depth. No paleontological resources or human remains were found on the property. Mitigation measures (see Finding No. 3 for further discussion) are proposed to monitor the site during soil-disturbing activities, to manage the discovery of cultural resources during construction, and to protect archaeological resources through easements.

- h) 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.
- i) 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. The project was reviewed by RMA-Planning, Pebble Beach Community Services District-Fire Department, RMA-Public Works, RMA-Environmental Services, and the Water Resources Agency. The respective agencies have recommended conditions, where appropriate, to ensure the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood. Necessary public facilities will be provided as connections to water and sewer exist on the site. Domestic water service will be provided by California American Water and sewer will be provided by Pebble Beach Community Services District.
- j) The project was referred to the Del Monte Forest Land Use Advisory Committee (LUAC) for review. The proposed project was reviewed by Del Monte Forest Land Use Advisory Committee on July 21, 2016. The LUAC recommended approval of the project by a vote of 6/0 with no comments.
- k) The project planner conducted a site inspection on April 4, 2017 to verify that the project on the subject parcel conforms to the plans listed above.
- l) The application, project plans, and related support materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development found in Project File PLN160117.

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, Pebble Beach Community Services District-Fire Department, RMA-Public Works, RMA-Environmental Services, and Water Resources Agency. There has been no indication from these departments/agencies that the site is not suitable for the proposed development. Conditions recommended have been incorporated.

- b) Staff identified potential impacts to historic resources, biological resources, archaeological resources, and soil/slope Stability. Therefore, the following reports have been prepared:
 - "Phase 1 Historic Review" (LIB150357) prepared by Kent L. Seavey, Pacific Grove, CA, September 25, 2015.
 - "Preliminary Cultural Resources Reconnaissance of Assessor's Parcel Number 008-491-021 in an Unincorporated Area of Pebble Beach County of Monterey, California" (LIB160238) prepared by Susan Morley, Marina, CA, April 2016.
 - "Tree Resource Evaluation, Project Impact Analysis, Tree Protection Plan" (LIB160239) prepared by Maureen Hamb, Santa Cruz, CA, June 22, 2016.
 - "Biological Assessment of El Why Square LLC Property" (LIB160240) prepared by Fred Ballerini, Pacific Grove, CA, June 24, 2016.
 - "Fuel Management Plan" (LIB160241) prepared by Fred Ballerini, Pacific Grove, CA, June 24, 2016.
 - "Geologic Report and Coastal Bluff Recession Setback Study for Sanderling Residence" (LIB160242) prepared by Haro, Kasunich & Associates, Inc., Watsonville, CA, June 2016
 - "Geotechnical Investigation for Sanderling Residence" (LIB160243) prepared by Haro, Kasunich & Associates, Inc., Watsonville, CA, June 2016.

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

- c) Staff conducted a site inspection on April 4, 2017 to verify that the site is suitable for this use.
- d) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning for the proposed development found in Project File PLN160117.

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

EVIDENCE: a) Public Resources Code Section 21080.d and California Environmental Quality Act (CEQA) Guidelines Section 15064.a.1 require environmental review if there is substantial evidence that the project may have a significant effect on the environment. Staff's analysis of the project application materials and onsite visit identified potential impacts to biological and cultural/tribal-cultural resources. Therefore, Monterey County RMA-Planning prepared an Initial Study pursuant to CEQA. The Initial Study is on file in the offices of RMA-Planning and is hereby incorporated by reference (PLN160117).

- b) The Draft Mitigated Negative Declaration (“MND”) for PLN160117 was prepared in accordance with CEQA and circulated for public review from June 19, 2017 through July 19, 2017 (SCH#: 2017061054). Issues analyzed in the Initial Study/Mitigated Negative Declaration include: aesthetics, air quality, biological resources, cultural and tribal cultural resources, geology/soils, greenhouse gas emissions, hazards/hazardous materials, hydrology/water quality, land use/planning, and noise. The applicant has agreed to proposed mitigation measures that avoid or mitigate the effects to a less than significant level.
- c) All project changes required to avoid significant effects on the environment have been incorporated into the project and/or are made conditions of approval. Approval of the project includes adoption of a Mitigation Monitoring and Reporting Plan (MMRP) prepared in accordance with Monterey County regulations. The MMRP is designed to ensure compliance during project implementation, and is hereby incorporated herein by reference. The applicant shall enter into an “Agreement to Implement a Mitigation Monitoring and/or Reporting Plan as a condition of project approval.
- d) Biological Resources – Potential biological impacts to Monterey cypress trees and coastal bluff habitat, which supports Seacliff buckwheat, have been identified. The project includes development within indigenous Monterey cypress habitat; Monterey cypress is a CNPS Listed 1B.2 rare species. Although no development is proposed within the coastal bluff habitat area, decommissioning of the driveway will occur in close proximity. Mitigation measures have been included to protect trees during demolition and construction; protect habitat from erosion; eradicate exotic species; restore Monterey cypress habitat areas; place a conservation easement over the areas outside of the development envelope; and restore & enhance off-site Monterey cypress habitat (see Conditions 20 – 26, Mitigation Measure Nos. 1-7). Implementation of these mitigations would reduce potential impacts to biological resources to a less than significant level.
- e) Cultural Resources – Potential impacts to cultural resources have been identified. A Preliminary Cultural Resources Reconnaissance of Assessor’s Parcel Number 008-491-021 prepared by Susan Morley (Archaeological Report) concluded that although plans for removal of non-native succulents and the proposed elevated walkway in located in an area where auger testing uncovered shell midden to a depth of 80cm, those activities do not include subsurface excavation or grading excavation and therefore would not have a direct impact to identified on the site. However, because cultural resources were found on the site, there is potential for additional archaeological resources to be accidentally uncovered elsewhere on the project site. Mitigation measures have been incorporated, requiring and archaeological monitor to be onsite during soil disturbing activities (Condition No. 27, Mitigation Measure No. 8) and the conveyance of a conservation easement over the areas on the property where resources exist (Condition No. 30, Mitigation Measure No. 11). Implementation of this mitigation would reduce impact to cultural resources to a less than significant level.

- f) Tribal Cultural Resources – Potential impacts to tribal cultural resources have been identified. On May 18, 2017, formal notification was sent to the Ohlone/Costanoan-Esselen Nation (OCEN) notifying them of the County’s intent to circulate a CEQA document and giving them the opportunity to request additional mitigation measures within the document. In a letter, dated June 12, 2017, Louise J. Miranda Ramirez, Tribal Chairperson of OCEN stated that OCEN objects to all excavation in known cultural lands, even when they are described as previously disturbed, and of no significant archaeological value. The letter further states that it is their desire that any cultural items uncovered during land disturbance be returned by the property owner to OCEN. Due to the subject property’s proximity of known sites and identification of shell midden deposit, OCEN recommends that all earth disturbance activities be monitored by an OCEN approved Tribal Monitor. Based on the potential to accidentally uncover cultural resources during earth disturbance and the recommended by the OCEN Tribe, a mitigation measure has been incorporated requiring an OCEN approved tribal monitor be present during earth disturbing activities (Condition No. 28, Mitigation Measure No. 9). This would ensure impacts to sacred tribal cultural resources are reduced to less than significant level.
- g) Evidence that has been received and considered includes: the application, technical studies/reports (see Finding 2/Site Suitability), staff reports that reflect the County’s independent judgment, and information and testimony presented during public hearings. These documents are on file in RMA-Planning (PLN160117) and are hereby incorporated herein by reference.
- h) Staff analysis contained in the Initial Study and the record as a whole indicate the project could result in changes to the resources listed in Section 753.5(d) of the California Department of Fish and Game (CDFG) regulations. All land development projects that are subject to environmental review are subject to a State filing fee plus the County recording fee, unless the Department of Fish and Game determines that the project will have no effect on fish and wildlife resources. The site supports Monterey cypress habitat and coastal bluff habitat. For purposes of the Fish and Game Code, the project may have a significant adverse impact on the fish and wildlife resources upon which the wildlife depends. The Initial Study was sent to the California Department of Fish and Game for review, comment, and to recommend necessary conditions to protect biological resources in this area. Therefore, the project will be required to pay the State fee plus a fee payable to the Monterey County Clerk/ Recorder for processing said fee and posting the Notice of Determination (NOD). See Condition No. 5.
- i) A comment letter from the Native American Heritage Commission (NAHC) was received during the public review period of the Initial Study/Mitigated Negative Declaration. The NAHC recognized that the text found in the Initial Study addressed some issues relating to Tribal Cultural Resources. However, their concern was that this text was not contained within a distinct subsection of the Initial Study Checklist for Tribal Cultural Resources as found within the “Final Text for tribal cultural resources update to Appendix G: Environmental Checklist

Form.” Pursuant to Section 15063(f) of the CEQA Guidelines, use of this form is only a suggestion and public agencies are free to devise their own format. In terms on content, Section 15063(d)(3) of the CEQA Guidelines states that environmental effects identified shall be explained indicating that there is some evidence to support the entry. As discussed in preceding Evidence “f,” the Initial Study disclosed potential impacts to sacred tribal cultural resources and based on the recommendation of the OCEN Tribe, a mitigation measure has been incorporated to reduce that impact to less than significant. The NAHC also commented on the timeline found in Condition No. 28, Mitigation Measure No. 10, relative to the specified time (24-hours) that a Most Likely Descendant (MLD) has to make recommendations for disposition of remains and associated grave goods. The NAHC cites Public Resources Code 5097.98 stating that the minimum time allowed should be 48-hours. Staff has made this modification accordingly. Based on the clarification contained in this resolution and modification to the mitigation, the Initial Study meets the content requirements of the CEQA Guidelines and recirculation to clarify impacts and mitigation to tribal cultural resources is not required.

- j) Monterey County RMA-Planning, located at 1441 Schilling Place, South 2nd Floor, Salinas, California, 93901, is the custodian of documents and other materials that constitute the record of proceedings upon which the decision to adopt the negative declaration is based.

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

- EVIDENCE:**
- a) Figure 8 – Major Public Access & Recreational Facilities, of the Del Monte Forest Land Use Plan (DMF LUP) indicates that the subject property is not described as an area where public access is required.
 - b) Figure 3 – Visual Resources, of the Del Monte Forest Land Use Plan indicates that the subject property is in an area where the Local Coastal Program requires visual public access. DMF LUP Policies 123 and 137 state that development shall not block significant public views and shall be compatible with the goal of retaining and enhancing public visual access, noting that specific attention to visual access along 17-Mile Drive corridor shall be given. As discussed in preceding Finding No. 1, Evidence “d,” the proposed development is consistent, and will not block significant public views toward the ocean and will not adversely impact the public viewshed or scenic character in the project vicinity. The design and siting of the proposed single-family dwelling would not increase the visual impacts over the existing baseline. The project includes replacing an existing grapestake fence with an open-slatted fencing south of the accessory dwelling unit to the south property line to create more open views to the sea and more closed-slatted fencing along the accessory dwelling unit to the north property line where views are hindered by existing development.
 - c) No evidence or documentation has been submitted or found showing the existence of historic public use or trust rights over this property.

- d) The project planner reviewed plans and visual simulations of the proposed development to verify that the structures will not impact public access or visual resources/access.
- e) 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 PLN160117.
- f) The project planner conducted a site inspection on April 4, 2017.

5. **FINDING:** **ESHA** – The subject project minimizes impacts on environmentally sensitive habitat areas (ESHA) in accordance with the applicable goals and policies of the 1982 Monterey County General Plan (1982 GP); Del Monte Forest Land Use Plan (DMF LUP); Monterey County Coastal Implementation Plan, Part 5 (CIP); and the Monterey County Zoning Ordinance (Title 20).

- EVIDENCE:**
- a) ESHA Determination – The dominant vegetation type on the project site is Monterey cypress forest, consisting of native stands of large and various aged indigenous Monterey cypress trees, which is an extension of the Crocker Grove. This vegetation type is found throughout the property and along the perimeter of the proposed construction zone. Coastal bluff habitat is also found along the western edge of the property. Approximately 10 Seacliff buckwheat plants were observed in this area. Although Seacliff buckwheat is not a listed species, it is a vital host plant for the Federally- Endangered Smith’s blue butterfly and is therefore considered potential habitat. Development is not proposed within this area; however, the proposed driveway decommissioning activities require work within approximately 25 feet of the buckwheat plant. Apart from the sensitive species Monterey cypress and the Seacliff buckwheat, no Federal or State listed Rare or Endangered species were found on the property. Vegetation onsite is consistent with the DMF LUP’s definition of ESHA.
 - b) Permit Requirement – 1982 GP states that Monterey County contains natural resources particularly sensitive to man’s land use activities and thus deserves protection. The DMF LUP states that a variety of plant and animal species, including some that are exceptionally rare, are found within the forest. ESHA Key Policy of the DMF LUP states that habitat areas shall be protected, maintained, and where, possible, enhanced and restored. The rare Monterey cypress forest community is one example of habitat area that has historically been determined to meet the definition of ESHA. Pursuant to Figure 2a of the DMF LUP, the subject property is within the range of indigenous Monterey cypress habitat. The proposed project consists of the demolition of an existing 6,871 square foot single family dwelling with a 1,550 square foot garage and construction of a 13,130 square foot two-story single family dwelling with an attached 754 square foot garage. In accordance with Section 20.14.030.E of Title 20, a Coastal Development Permit is required for development within 100-feet of ESHA.
 - c) Consistency with Policy 8 – Policy 8 requires development within ESHA to be compatible with the long-term maintenance of the habitat area. Siting and design of the proposed development shall prevent impacts that would significantly degrade the habitat areas. As proposed,

re-development of the site would occur on existing disturbed areas of containing hardscape and non-native landscape. The arborist (LIB160239) and biological (LIB160240) reports prepared for the project conclude that development would not result in impacts to sensitive species or habitat, and that Monterey cypress habitat would be enhanced and improved for seed germination and development. As discussed in preceding Finding No. 3, Evidence “d,” mitigation measures for the protection of ESHA during construction, restoration of ESHA, and the long-term conservation of ESHA have been incorporated. Therefore, the project is consistent with this policy.

- d) Consistency with Policies 12 & 16 – These policies require submittal of a biological report for developments proposed in or near documented ESHA. Consistent with these policies, the applicant has submitted necessary documentation. The biological report is consistent with the report requirements listed in Section 20.147.040.B of the CIP. See Finding No. 2, Evidence “b.”
- e) Consistency with Policy 13 – Implementation of Policy 13 requires protection of ESHA through deed restrictions or permanent openspace and conservation easements granted to the Del Monte Forest Foundation. Consistent with this policy, Condition No. 24, Mitigation Measure No. 6 has been incorporated.
- f) Consistency with Policy 14 – The project is consistent with Policy 14 as land disturbance is limited the minimum amount necessary to accommodate reasonable development. Development on the site is contained within pre-disturbed areas, requiring no native vegetation removal.
- g) Consistency with Policy 15 – The project is consistent with Policy 15 as the concept landscape plan submitted with the application includes mainly restoration and/or enhancement of ESHA areas with limited ornamental planting located at the courtyard and entry way. Notes on plans specify that landscape in these areas will be drought resistant California native perennial species. In addition, Condition No. 22, Mitigation Measure No. 4, has been incorporated ensuring exotic plant species onsite are eradicated.
- h) Consistency with Policy 20 – Policy 20 requires developments within the indigenous Monterey cypress habitat to be: accompanied by a biological report (also see preceding Evidence “d”); found compatible with the objective of protecting Monterey cypress habitat; carefully sited and designed to avoid potential damage or degradation of Monterey cypress habitat, including the microhabitat of individual cypress trees; and located within the *existing hardscaped areas* and outside of the dripline of individual cypress trees. Majority of the re-development will occur on existing hardscape areas. Less than 1,500 square feet of development will be outside of the existing footprint, but within disturbed landscape areas. However, the proposed improvements meet the intent and purpose of Policy 20 as implementation of the project will substantially reduce existing hardscape area (by approximately 12,500 square feet), restore 66,000 square feet of Monterey cypress and coastal bluff habitat, protect onsite habitat areas through dedication of a conservation easement, and restore and enhance

off-site Monterey cypress habitat; resulting in a net benefit to Monterey cypress habitat, in this particular case. Improvements to the site have been located and designed to avoid the critical root zone of cypress trees, as recommended by the project arborist, and alternative construction methods have been established to ensure careful development within the critical root zone areas. These methods have been included as mitigation measures (see Finding 3 for further discussion) to ensure protection of the Monterey Cypress habitat on site.

- i) Consistency with Development Standards within ESHA – Consistency with the preceding ESHA policies result in a project consistent with standards for development within ESHA listed in Section 20.147.040.C of the CIP and the criteria to grant said permit have been met.
- j) Consistency with Additional Development Standards for Monterey Cypress Habitat – Section 20.147.040.D.2 of the CIP list specific standards for development within Monterey cypress habitat. These standards include: siting and design of development to avoid adverse impacts to individual cypress and cypress habitat, development shall be compatible with the objective of protecting cypress habitat, avoid potential damage or degradation of cypress habitat and located within existing hardscaped areas and outside of the dripline of individual cypress trees, fences shall be designed to protect view of natural habitat from 17-Mile Drive, and open space conservation and scenic easements shall be dedicated on undeveloped areas of the property. The overall net benefit to the cypress habitat on the subject property, as a result in the substantial reduction in hardscape areas and restoration of habitat areas outside of the development footprint support project consistency with the additional standards for development within Monterey cypress habitat. (Also see information discussed in the preceding evidence of this finding.)
- k) The project planner conducted a site inspection on April 4, 2017 to verify ESHA locations and potential project impacts to ESHA.
- l) 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 PLN160117.

5. **FINDING:**

APPEALABILITY - The decision on this project may be appealed to the Board of Supervisors and the California Coastal Commission.

EVIDENCE:

- a) Section 20.86.030 of the Monterey County Zoning Ordinance states that the proposed project is appealable to the Board of Supervisors.
- b) Section 20.86.080.A.3 of the Monterey County Zoning Ordinance states that the proposed project is subject to appeal by/to the Coastal Commission based on project location, between the first public road and the sea.

DECISION

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

- 1) Adopt a Mitigated Negative Declaration; and
- 2) Approve a Combined Development Permit consisting of

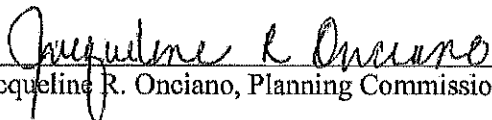
- a. Coastal Administrative Permit to allow the demolition of an existing 6,871 square foot single family dwelling with a 1,550 square foot attached garage and construction of a 13,130 square foot single family dwelling with a 754 square foot attached garage; a Coastal Development Permit to allow development within an environmentally sensitive habitat area;
- b. Coastal Development Permit to allow development within 750 feet of a known archaeological resource; and
- c. Design Approval; and

3) Adopt the attached Mitigation Monitoring and Reporting Program.

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

PASSED AND ADOPTED this 9th day of August, 2017 upon motion of Commissioner Vanderere, seconded by Commissioner Diehl, by the following vote:

- AYES: Ambriz, Diehl, Duflock, Getzelman, Hert, Mendez, Padilla, Roberts, Rochester, Vandervere
- NOES: None
- ABSENT: None
- ABSTAIN: None


Jacqueline R. Onciano, Planning Commission Secretary

COPY OF THIS DECISION MAILED TO APPLICANT ON **AUG 15 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 CLERK TO THE BOARD ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE **AUG 25 2017**

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

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

NOTES

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

Additionally, the Zoning Ordinance provides that no building permit shall be issued, nor any use conducted, otherwise than in accordance with the conditions and terms of the permit granted or

until ten days after the mailing of notice of the granting of the permit by the appropriate authority, or after granting of the permit by the Board of Supervisors in the event of appeal.

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

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

Monterey County RMA Planning

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

PLN160117

1. PD001 - SPECIFIC USES ONLY

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: This Combined Development Permit (PLN160117) consisting of: 1) a Coastal Administrative Permit to allow the demolition of an existing 6,871 square foot single family dwelling with a 1,550 square foot attached garage and construction of a 13,130 square foot single family dwelling with a 754 square foot attached garage; 2) Coastal Development Permit to allow development within an environmentally sensitive habitat area; 3) Coastal Development Permit to allow development within 750 feet of a known archaeological resource; and 4) Design Approval. The property is located at 3168 17 Mile Drive, Pebble Beach (Assessor's Parcel Number 008-491-021-000), 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 The applicant shall record a Permit Approval Notice. This notice shall state:

Monitoring Measure:

"A Combined Development Permit (Resolution Number 17-032) was approved by the Planning Commission for Assessor's Parcel Number 008-491-021-000 on August 9, 2017. The permit was granted subject to 30 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. 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.

4. 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 .

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

Responsible Department: RMA-Planning

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

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

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

6. PD016 - NOTICE OF REPORT

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: Prior to issuance of building or grading permits, a notice shall be recorded with the Monterey County Recorder which states:
"A Fuel Management Plan (Library No. LIB160241), was prepared by Fred Ballerini - Biological and Horticultural Services, on June 24, 2016 and is on file in Monterey County RMA - Planning. All development shall be in accordance with this report."
(RMA - Planning)

Compliance or Monitoring Action to be Performed: Prior to the issuance of grading and building permits, the Owner/Applicant shall submit proof of recordation of this notice to RMA - Planning.

Prior to occupancy, the Owner/Applicant shall submit proof, for review and approval, that all development has been implemented in accordance with the report to the RMA - Planning.

7. 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.

8. PD050 - RAPTOR/MIGRATORY BIRD NESTING

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: Any tree removal activity that occurs during the typical bird nesting season (February 22-August 1), the County of Monterey shall require that the project applicant retain a County qualified biologist to perform a nest survey in order to determine if any active raptor or migratory bird nests occur within the project site or within 300 feet of proposed tree removal activity. During the typical nesting season, the survey shall be conducted no more than 30 days prior to ground disturbance or tree removal. If nesting birds are found on the project site, an appropriate buffer plan shall be established by the project biologist. (RMA - Planning)

Compliance or Monitoring Action to be Performed: No more than 30 days prior to ground disturbance or tree removal, the Owner/Applicant/Tree Removal Contractor shall submit to RMA-Planning a nest survey prepared by a County qualified biologist to determine if any active raptor or migratory bird nests occur within the project site or immediate vicinity.

9. 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.

10. GEOTECHNICAL CERTIFICATION

Responsible Department: Environmental Services

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

11. GRADING PLAN

Responsible Department: Environmental Services

Condition/Mitigation Monitoring Measure: The applicant shall submit a grading plan incorporating the recommendations from a project Geotechnical Investigation prepared by Haro, Kasunich and Associates 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.

12. 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.

13. 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.

14. 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.

15. 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.

16. SLOPE SETBACK PLAN

Responsible Department: Environmental Services

Condition/Mitigation Monitoring Measure: The applicant shall submit plans, with supporting calculations and cross-sections, showing the proposed building(s) setback from ascending and descending slopes in accordance with the building code. The cross-sections shall identify all applicable information including the existing slope, proposed slope, extent of slope, height of slope, toe of slope, face of structure(s), face of footing(s), required setback distance, and the proposed setback distance. The location and extent of the cross-sections shall be shown on the plans.

If an alternate setback is requested, an updated geotechnical report shall be submitted to support the request. The report shall consider the material, height of slope, slope gradient, load intensity, and erosion characteristics of slope material to demonstrate the intent of the setback requirement has been. (RMA-Environmental Services)

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

17. 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, and shall reflect conformance with recommendations contained in the Geotechnical Investigation prepared by Haro, Kasunich & Assoc., dated 06/2016. 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.

18. WR010 - COMPLETION CERTIFICATION

Responsible Department: Water Resources Agency

Condition/Mitigation Monitoring Measure: The applicant shall provide certification from a registered civil engineer or licensed contractor that stormwater improvements have been constructed in accordance with the approved drainage plan. (Water Resources Agency)

Compliance or Monitoring Action to be Performed: Prior to final inspection, the owner/applicant shall submit a letter to the Water Resources Agency prepared by a registered civil engineer or licensed contractor.

19. 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.

20. MITIGATION MEASURE NO. 1 - TREE PROTECTION DURING DEMOLITION

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: In order to ensure impacts to cypress trees during removal of structures and hardscape are minimized, the following protection measures shall be in place during demolition activities:

1. Demolition of the driveway shall incorporate the following measures:
 - The existing driveway will be removed using manual labor and small track driven equipment.
 - No equipment will be allowed on the newly exposed soil; all equipment must operate from the existing pavement area.
 - Monitoring of excavation will be completed by the project arborist.
 - Any roots encountered will be properly pruned by the project arborist.

2. Demolition of the existing residence will be completed using the following specifications:
 - Perimeter walls along the northern and southern edge of the house will be removed from the interior of the house. Material will be pulled toward the center of the house.
 - Demolition of these areas will be monitored by the project arborist.

3. Trees #120-125, #130 and #132 are growing within or adjacent to existing paved areas and require special treatment and protection during the demolition process, including but not limit to:
 - The demolition of the pavement surrounding these trees will be done using either manual labor or small equipment that is run on tracks as wheeled equipment increases soil compaction when compared to a tracked system.
 - During the demolition, roots that may have been damaged during the past construction will be exposed and the damage can be evaluated. If necessary, root pruning that should have been completed previously will be done after exposure.
 - The project arborist will be on site to inspect and evaluate all root development. If necessary, dead or decayed roots will be removed using the appropriate tools.
 - Minor grading or contouring in these areas will be done using manual labor.
 - No equipment will be allowed within the CRZs unless approved by the project arborist

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

Mitigation Measure Monitoring Action No. 1a: Prior to issuance of permits for demolition, the owner/applicant shall submit a demolition plan with all protection measures identified in Mitigation Measure No. 1 to RMA-Planning for review and approval.

Mitigation Measure Monitoring Action No. 1b: Prior to the issuance of permits for demolition, the owner/applicant shall submit to RMA-Planning a copy of the contract between the owner/applicant and a qualified arborist (referred to as the project arborist). The contract shall include provisions for Monterey cypress trees, and include specific measures for trees identified as Nos. 120-125, 130, and 132. In addition, the contract shall include producing a final report indicating that the protection measures in place were successful. The contract shall be submitted to the RMA-Planning Department for review and approval. Should RMA-Planning find the contract incomplete or unacceptable, the contract will be returned to the owner/applicant and a revised contract shall be re-submitted for review and approval.

Mitigation Measure Monitoring Action No. 1c: Prior to issuance of construction permits for the single family dwelling, the owner, applicant, or project arborist shall submit a final report to RMA-Planning demonstrating that demolition has been completed and implementation of the protection measures were successful.

21. MITIGATION MEASURE NO. 2 - TREE MANAGEMENT DURING CONSTRUCTION

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: In order to ensure impacts to cypress trees during construction are minimized, the following protection measures shall be implemented:

1. All trees will be protected by exclusionary fencing bordered by straw bale barricades. The location of the fencing is shown on the site plan in the June 22, 2016 Tree Resource Evaluation (County File Number LIB160239) and will be inspected by the project arborist prior to the onset of construction.
2. Exposed soils from construction activities should be stabilized with proper erosion and sediment control devices so as to prevent any sedimentation deposits within the critical root zones of the trees.
3. In areas where encroachment into the CRZ cannot be avoided and tree retention is desired, alternative construction methods or preconstruction treatments are defined to avoid or substantially reduce impacts. The alternative methods can include, but not be limited to, the following:
 - Supplemental irrigation;
 - Manual digging or soil contouring;
 - Proper root pruning;
 - Modifications to traditional construction methods;
 - Spanning root structures, pier and above grade beams or cantilevering structures or bridging paved areas.
4. Construction of the new driveway/garage access shall incorporate the following measures:
 - The existing driveway will be removed using manual labor and small track driven equipment.
 - No equipment will be allowed on the newly exposed soil; all equipment must operate from the existing pavement area.
 - Monitoring of excavation will be completed by the project arborist.
 - Any roots encountered will be properly pruned by the project arborist.
5. Construction of the fire department hammerhead at the end of the drive shall be constructed utilizing turf rings and meadow plantings or an equivalent alternative paving system approved for emergency vehicles and reduces impacts to tree root systems.

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

Mitigation Measure Monitoring Action No. 2a: Prior to issuance of construction permits for grading or building, the owner/applicant shall include a note on the construction plans encompassing the language contained within Mitigation Measure No. 2. The owner/applicant shall submit plans to RMA-Planning for review and approval.

Mitigation Measure Monitoring Action No. 2b: Prior to the issuance of construction permits for grading or building, the owner/applicant shall submit to RMA-Planning a copy of the contract between the owner/applicant and a qualified arborist (referred to as the project arborist). The contract shall include provisions for monitoring construction activities and verifying that the protection measures outlined in Mitigation Measure No. 2 will be implemented. In addition, the contract shall include producing a final report indicating that the protection measures in place were successful. The contract shall be submitted to the RMA-Planning Department for review and approval. Should RMA-Planning find the contract incomplete or unacceptable, the contract will be returned to the owner/applicant and a revised contract shall be re-submitted for review and approval.

Mitigation Measure Monitoring Action No. 2c: Prior to final of construction permits for grading or building, the owner, applicant, or project arborist shall submit a final report to RMA-Planning demonstrating that demolition has been completed and implementation of the protection measures were successful.

22. MITIGATION MEASURE NO. 3 - EROSION CONTROL, RESTORATION, AND HABITAT PROTECTION GUIDELINES

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: In order to ensure biological impacts due to erosion are minimized and that restoration and habitat protection guidelines are implemented, the following best management practices shall be incorporated during construction activities:

1. Use of heavy equipment shall be restricted to areas within the building envelope and excluded from critical root zone areas.
2. Sediment control devices shall be installed on the downhill perimeter of the building envelope.
3. All disturbed, non-landscaped, and unvegetated areas shall be mulched with sterile mulch. Native seeding or plant installation should occur in the late fall months to take advantage of seasonal rains.
4. Prior to final grading, all construction debris shall be removed and construction activities completed in the areas to be treated with the native seed mix.
5. On-site stockpiled topsoil shall be spread over disturbed areas prior to seeding activities to provide a suitable medium for vegetation establishment and growth. If this is not achievable, excess soil shall be hauled off-site to the appropriate landfill.
6. Final grading shall consist of a roughened condition, perpendicular to the slope, in order to augment seed germination and soil stabilization.
7. The seed mix shall consist of local ecotypes of native grass and forbs species identified from existing native plant community locations and site-specific seed from coastal scrub species hand collected from site. Native seed collections should occur during the summer months as seed becomes viable for collection.
8. Native plant revegetation will be necessary, specifically on the coastal bluff, in the areas where exotic plants have been removed and the area of the existing driveway that is slated for decommission. After completion of soil disturbance activities, seed and plant materials should be installed in any non-landscaped areas in the fall months after the initial seasonal rains, when soil moisture levels have reached a minimum depth of 3 inches. Any transplanted stock can be replanted immediately and supplemented with a temporary irrigation system for the first year or two. Restoration implementation protocols shall be specified in the Landscape Plan and may contain additional Monterey cypress restoration protocols from the Project Arborist.
9. Protective fencing shall be installed to protect the existing trees and tree root zones per the recommendations of the Arborist Report (County File Number LIB160239). Site protection measures shall also be installed to protect the existing sensitive areas and restoration areas from construction and pedestrian impacts. Locations include the coastal bluff scrub along the southwest coastal bluff area where Seacliff buckwheat are present, coastal bluff restoration areas along the southwest, and cypress critical root zone areas. All construction personnel shall avoid these areas and maintain foot traffic to the construction impact areas and existing foot trails.

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

Mitigation Measure Monitoring Action 3a: Prior to issuance of construction permits for grading or building, the owner/applicant shall include a note on the construction plans encompassing the language contained within Mitigation Measure No. 3. The owner/applicant shall submit plans to RMA-Planning for review and approval.

Mitigation Measure Monitoring Action No. 3b: Prior to issuance of construction permits for grading or building, the owner/applicant shall submit a Landscape Plan incorporating the restoration measures including in Mitigation Measure No. 3.

Mitigation Measure Monitoring Action No. 3c: Prior to issuance of construction permits for grading or building, the owner, applicant, or contractor of record submit photo documentation to RMA-Planning demonstrating that protective fencing has been installed.

Mitigation Measure Monitoring Action No. 3d: Prior to final of construction permits for grading or building, the owner, applicant, or contractor of record shall notify RMA-Planning that Mitigation Measure No. 3 has been successfully implemented. In addition, RMA-Planning staff shall conduct a final site visit to verify successful implementation.

23. MITIGATION MEASURE NO. 4 - EXOTIC SPECIES ERADICATION

Responsible Department: RMA-Planning

**Condition/Mitigation
Monitoring Measure:**

To preserve and enhance the existing Monterey cypress understory and coastal bluff scrub habitat within the Coastal Bluff Zone, focused exotic plant eradication shall be instituted on the property. Invasive Ngaio trees (*Myoporum laetum*) and Karo trees (*Pittosporum crassifolium*) along the north fence near the accessory dwelling unit and northwest fence line above the main residence shall be thoroughly removed from the site. Eradication shall include hand-pulling of vegetation in conjunction with restoration activities after construction to prevent it from spreading to new areas on or off property. Prompt removal will help support the existing coastal bluff native plant species, minimize soil disturbance and avoid root impacts to native cypress tree critical root zones. Vegetation shall be responsibly disposed of at an approved offsite solid waste facility.

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

Mitigation Measure Monitoring Action No. 4a: Prior to issuance of construction permits for grading or building, the owner/applicant shall submit a Landscape Plan incorporating measures for the eradication of exotic species specified in Mitigation Measure No. 4.

Mitigation Measure Monitoring Action No. 4b: Prior to final of construction permits for grading or building, the owner, applicant, or contractor of record shall notify RMA-Planning that eradication of exotic plants species has been complete. RMA-Planning staff shall conduct a final site visit to verify successful implementation.

24. MITIGATION MEASURE NO. 5 - RESTORATION OF MONTEREY CYPRESS HABITAT

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: In order to ensure successful restoration of Monterey cypress habitat, the following activities shall be incorporated into the restoration plan.

1. Within the new cypress germination area identified on the site plan in the June 22, 2016 Tree Resource Evaluation (County File Number LIB160239), the following procedures shall be utilized to remove vegetation:

- All landscape material shall be removed with care using manual labor and small hand tools.
- Loose soil attached to roots shall be shaken off to the best extent possible.
- All existing irrigation lines and emitters shall be removed using manual labor
- Planting holes shall be backfilled with care and not compacted.
- The surface of new bare soil shall be carefully raked to remove approximately 0.5 to one inch of soil.
- Seedlings found on the site or obtained from Pebble Beach Company shall be installed in this area.
- No nursery propagated cypress shall be utilized on this site.

2. Within the existing cypress grove, the following procedures shall be implemented to increase potential for seed germination prior to final of the construction permit:

- Utilize fallen branching and foliage as a potential cypress seed source.
- Rake any open sunny areas within the existing grove to remove at least two inches of duff material.
- Spread potential seed sources within sunny areas.
- Plant seedlings found on site in areas identified by the project arborist and biologist.

Compliance or Monitoring Action to be Performed: Mitigation Measure Monitoring Action No. 5a: Prior to issuance of construction permits for grading or building, the owner/applicant shall submit a Landscape Plan incorporating a Monterey cypress habitat restoration plan as specified in Mitigation Measure No. 5.

Mitigation Measure Monitoring Action No. 5b: Prior to final of construction permits for grading or building, the owner, applicant, or contractor of record shall notify RMA-Planning that restoration of Monterey cypress habitat has been completed per the restoration plan. RMA-Planning staff shall conduct a final site visit to verify successful implementation.

25. MITIGATION MEASURE NO. 6 - PERMANENT CONSERVATION EASEMENT

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: In order to ensure implementation of LUP Policy 13, all areas outside of the approved development envelope shall be placed into a permanent conservation easement and conveyed from the property owner to the County of Monterey or the Del Monte Forest Conservancy.

Compliance or Monitoring Action to be Performed: Prior to final of construction permits for grading or building, the owner/applicant shall develop, in consultation with the project biologist and arborist, a Permanent Open Space and Conservation easement for all areas outside of the development envelope. The owner/applicant shall submit a final draft of the easement to RMA-Planning and the Coastal Commission for review and approval. Once the language has been approved by the respective agencies, the easement shall be conveyed to the County of Monterey or the Del Monte Forest Conservancy and accepted by the Board of Supervisors.

26. MITIGATION MEASURE NO. 7 - RESTORATION AND ENHANCEMENT OF OFF-SITE MONTEREY CYPRESS

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: All areas of new coverage shall be offset through restoration and/or enhancement (as high value and self-functioning Monterey cypress habitat) of an off-site area located within the Monterey cypress habitat area, as mapped in Del Monte Forest Land Use Plan Figure 2a at a ratio of 2:1 and/or payment of a mitigation fee, commensurate with the cost to restore/enhance such an area, to an acceptable public agency or private group effectively able to both manage such a fee and to implement such measures. Such off-site restoration/enhancement areas shall be selected for their potential to result in the greatest amount of overall benefit to the native Monterey cypress habitat in the Del Monte Forest.

Compliance or Monitoring Action to be Performed: Mitigation Measure Monitoring Action No. 7a: Prior to issuance of construction permits for grading or building, the owner/applicant shall work with RMA-Planning and the Del Monte Forest Conservancy to determine if there is an appropriate off-site area for restoration or if an off-set fee shall be paid.

Mitigation Measure Monitoring Action No. 7b: Prior to final of construction permits for grading or building, the owner/applicant shall submit sufficient evidence to RMA-Planning demonstrating compliance with Mitigation Measure No. 7.

27. MITIGATION MEASURE NO 8 - MONITORING OF CONSTRUCTION ACTIVITIES

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: In order to reduce potential impacts to cultural resources that may be discovered during grading and construction activities, a qualified archaeological monitor shall be present during soil disturbing activities. If at any time, potentially significant archaeological resources or intact features are discovered, the monitor shall temporarily halt work until the find can be evaluated by the monitor and/or principal archaeologist. If the find is determined to be significant, work shall remain halted until mitigation measures have been formulated, with the concurrence of the RMA-Planning, and implemented.

Compliance or Monitoring Action to be Performed: Mitigation Measure Monitoring Action No. 8a: Prior to issuance of construction permits for grading or building, the owner/applicant shall include a note on the construction plans encompassing the language contained in Mitigation Measure No. 8. The owner/applicant shall submit plans to RMA-Planning for review and approval.

Mitigation Measure Monitoring Action No. 8b: Prior to the issuance of construction permits for grading or building, the owner/applicant shall submit to RMA-Planning a copy of the contract between the owner/applicant and a qualified archaeological monitor. The contract shall include provisions that the monitor shall be present during all activities that involve soil disturbance, how sampling of the excavated soil will occur, giving the monitor authority to stop work in the event that resources are found, and any other logistical information such as providing monitor sufficient notice of when soil disturbing activities will occur. In addition, the contract shall include preparation of a report suitable for compliance documentation shall be prepared within four weeks of completion of the data recovery fieldwork. The contractor shall provide sufficient notice to the archaeologist so they may arrange to be present when construction begins. The contract shall be submitted to the RMA-Planning for review and approval. Should RMA-Planning find the contract incomplete or unacceptable, the contract will be returned to the owner/applicant and a revised contract shall be re-submitted for review and approval.

Mitigation Measure Monitoring Action No. 8c: If archaeological resources are unexpectedly discovered during construction, work shall be halted on the parcel until the find can be evaluated and appropriate mitigation measures are formulated and implemented. Data recovery shall be implemented during the construction and excavation monitoring. This means that if intact cultural features are exposed, they shall be screened for data recovery using method appropriate to site and soil conditions. Any potentially significant cultural materials will be subject to archaeological recovery and analysis, which will include at a minimum, the following:

- At least three radiocarbon dates shall be obtained from suitable shell samples, preferable Mytilus (mussel).
- Professional analyses should be conducted on other prehistoric materials if adequate amounts are recovered; this may include lithic artifacts and debitage, analysis of faunal remains, and shell bead analysis.

Mitigation Measure Monitoring Action No. 8d: A final technical report containing the results of all analyses shall be completed within one year following completion of the field work. This report shall be submitted to RMA-Planning and the Northwest Regional Information Center at Sonoma State University.

28. MITIGATION MEASURE NO. 9 - PROTECTION OF CULTURAL RESOURCES AND SACRED PLACES

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: In order to reduce potential impacts to cultural resources and sacred places, earth disturbance activities shall be observed by a Native American Monitor of Ohlone/Costanoan-Esselen Nation (OCEN), approved by the OCEN Tribal Council.

Compliance or Monitoring Action to be Performed: Mitigation Measure Monitoring Action No. 9a: Prior to issuance of construction permits for grading or building, the owner/applicant shall submit a contract with a OCEN approved tribal monitor to RMA Planning for review and approval. The contract shall outline logistics for monitoring during earth disturbance activities as well as how cultural resources will be handled if uncovered in coordination with the project archaeologist.

Mitigation Measure Monitoring Action No. 9b: During earth disturbance activities, the OCEN approved monitor shall be onsite observing the work, consistent with the approved contract discussed in Mitigation Measure No. 8. Prior to final of construction permits for grading or building, the owner/applicant shall submit a letter from the tribal monitor verifying all work was done consistent with the tribal monitor contract to RMA-Planning.

29. MITIGATION MEASURE NO. 10 - UNIDENTIFIED CULTURAL RESOURCES

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: Due to the project's proximity to existing recorded archaeological resources, there is potential for human remains to be accidentally discovered. If archaeological resources or human remains are inadvertently encountered during construction, work shall be halted within 50 meters (165 feet) of the find until a qualified professional archaeologist can evaluate it. Monterey County RMA - Planning and a qualified archaeologist 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 the discovery.

Compliance or Monitoring Action to be Performed: Mitigation Measure Monitoring Action No. 10a: Prior to the issuance of construction permits for grading or building, the owner/applicant shall include a note on the construction plans encompassing the language within Mitigation Measure No. 9. The owner/applicant shall submit plans to RMA-Planning for review and approval.

Mitigation Measure Monitoring Action No. 10b. If human remains are accidentally discovered during construction activities, there shall be no further excavation or disturbance within 50 meters (160 feet) of the find until it can be evaluated by a qualified professional archaeologist and the following shall occur:

- The owner, applicant or contractor shall contact the Monterey County Coroner to determine that no investigation of the cause of death is required,
- If the coroner determines the remains to be Native American:
 - The coroner shall contact the Native American Heritage Commission and RMA – Planning within 24 hours.
 - The Native American Heritage Commission shall identify the person or persons from a recognized local tribe of the Esselen, Salinan, Costonoans/Ohlone and Chumash tribal groups, as appropriate, to be the most likely descendent.
 - The most likely descendent may make recommendations to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in Public Resources Code Section 5097.9 and 5097.993.

When human remains are exposed, the Health and Safety Code §7050.5 requires that no further excavation or disturbance occurs in the area and that the County Coroner is called so that the coroner can verify that the remains are not subject to medical jurisprudence. Within 24 hours of notification, the coroner calls the Native American Heritage Commission if the remains are known or thought to be Native American. The Native American Heritage Commission reports to the Most Likely Descendant. The MLD has 48 hours to respond. All work will halt with a 50-yard radius until an osteologist can examine the remains, and a treatment plan for any said remains has been provided according to the Most Likely Descendant.

30. MITIGATION MEASURE NO 11 - PROTECTION OF SHELL MIDDEN SITE

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: In order to protect archaeological resources found on the site from future development impacts, a conservation easement shall be conveyed to the County over the portions of the property where the resources exist. Specifically, the shell midden site on the upper elevation of the parcel, as illustrated in Figure 9 of the Preliminary Cultural Resources Reconnaissance, prepared by Susan Morley (Monterey County File Number LIB160238). This easement shall be developed in consultation with a qualified archaeologist, show the exact location of the easement on the property with a metes and bounds description, and contain a clear and concise list of prohibited activities within the easement area.

Compliance or Monitoring Action to be Performed: Mitigation Measure Monitoring Action No. 11: Prior to final of construction permits for grading or building, the owner/applicant shall submit a final draft of the easement to deed to RMA-Planning for review and approval. The easement shall prohibit ground disturbance except for shallow soil maintenance of the existing Monterey cypress habitat. The easement shall allow the parking pad and the elevated walkway to be maintained.
conveying the location of, for review and approval. Subsequent to RMA-Planning's approval, the Board of Supervisors shall accept the conveyance and the deed shall be recorded with the Monterey County Recorder's Office.

Legal Description

A conservation easement over and across a portion of Parcel I as described in Document Number 2015058073, Official Records of Monterey County, and being more particularly described as follows:

Commencing at the most Northerly corner of said Parcel I; thence along the Northwesterly boundary of said Parcel I, South 62°45'00" West 90.00 feet to the True Point of Beginning; thence from said True Point of Beginning departing said Northwesterly boundary of said Parcel I,

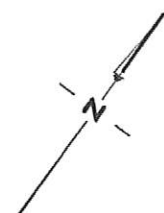
- 1) South 27°15'00" East 42.00 feet; thence,
- 2) South 44°43'00" East 46.00 feet; thence,
- 3) North 72°05'00" East 46.00 feet; thence,
- 4) South 64°14'00" East 24.00 feet; thence,
- 5) South 38°42'00" East 69.00 feet; thence,
- 6) South 53°58'00" West 70.50 feet; thence,
- 7) South 65°03'00" West 70.00 feet; thence,
- 8) North 50°22'00" West 33.00 feet; thence,
- 9) North 35°53'00" West 45.00 feet; thence,
- 10) North 26°02'00" West 73.00 feet; thence,
- 11) North 18°23'00" West 40.76 feet to a point on the Northwesterly boundary of said Parcel I; thence along the Northwesterly boundary,
- 12) North 62°45'00" East 64.16 feet to the True Point of Beginning.

Containing 0.47 acres, more or less.

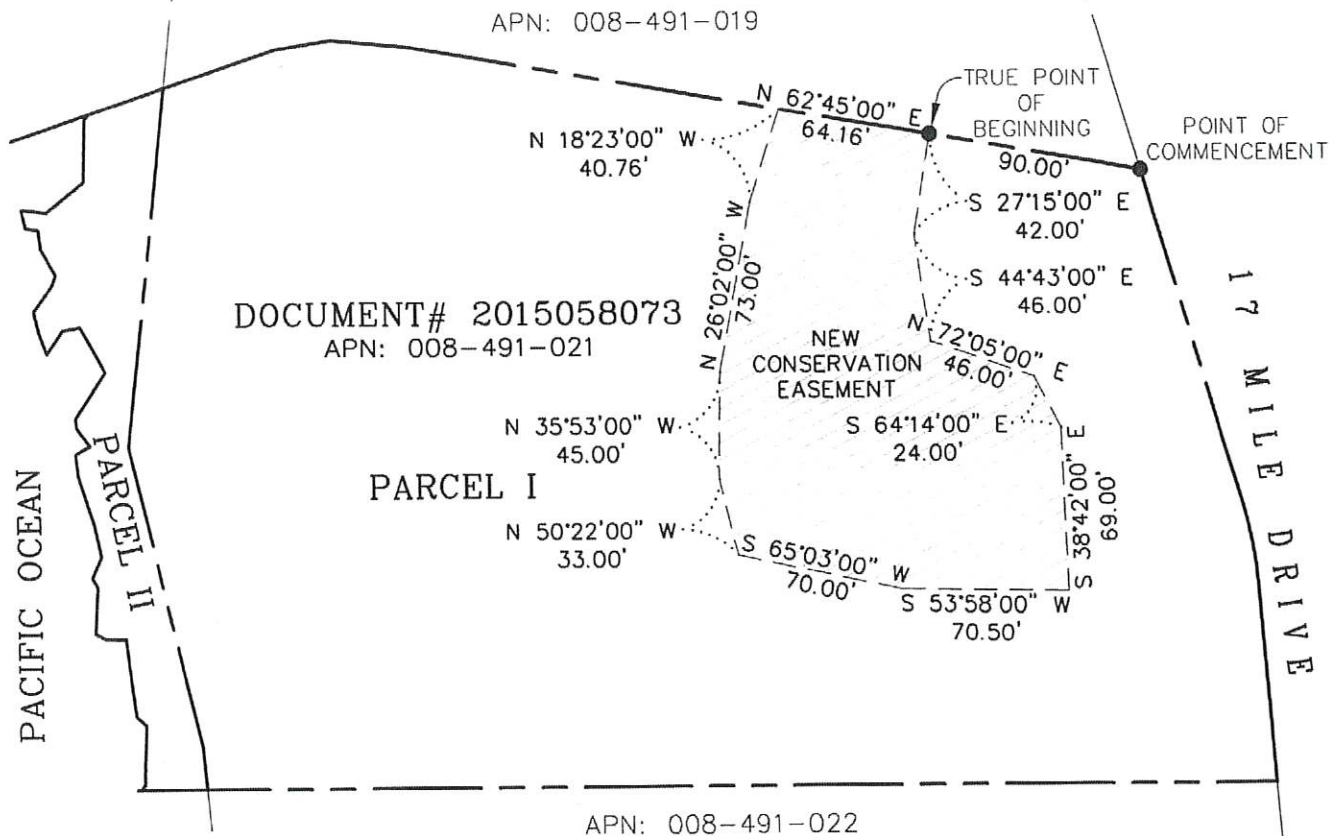


3/31/2020

Exhibit C-2



SCALE: 1" = 80'



**EXHIBIT TO ACCOMPANY
LEGAL DESCRIPTION FOR
NEW CONSERVATION EASEMENT
OVER AND ACROSS A PORTION OF
THE PARCEL DESCRIBED IN
DOCUMENT# 2015058073
OFFICIAL RECORDS OF MONTEREY COUNTY**

PEBBLE BEACH COUNTY OF MONTEREY STATE OF CALIFORNIA

BY
CENTRAL COAST SURVEYORS
5 HARRIS COURT, SUITE N-11 MONTEREY, CALIFORNIA 93940
Phone: (831) 394-4930 Fax: (831) 394-4931

SCALE: 1" = 80' JOB No. 15-62 MARCH 2020

PREPARER: LLJS

APN 008-491-021

NOTES:

1. ALL DISTANCES SHOWN HEREFON ARE EXPRESSED IN FEET AND DECIMALS THEREOF.