

MONTEREY COUNTY

HOUSING AND COMMUNITY DEVELOPMENT

Mike Novo, AICP, Interim Director



1441 Schilling Place South, 2nd Floor
Salinas, CA 93901-4527

HOUSING | PLANNING | BUILDING | ENVIRONMENTAL SERVICES | (831) 755-4800 | www.co.monterey.ca.us

MEMORANDUM

Date: 23 February 2021

To: Board of Supervisors

From: Jaime Scott Guthrie, AICP, Associate Planner – HCD-Planning

Subject: PLN170765 McIntosh, Corrections

cc: File PLN170765, Dale Ellis c/o Anthony Lombardo and Assoc. – Agent, Leonard McIntosh – Applicant/Owner, Valerie Ralph – Clerk of the Board of Supervisors, Erik Lundquist – Chief of HCD-Planning, Craig Spencer – HCD-Planning Services Manager

Attachment: Revised Draft Conditions of Approval for PLN170765

This memo contains corrections in the resolution for PLN170765 McIntosh (APN 173-121-005).

Edits are indicated by Strike through for deletions and Underline for additions.

ITEM	LOCATION IN DOCUMENT	CHANGES
Exhibit C: DRAFT Conditions of Approval	14. PD026 – BANNER, FLAGS, PENNANTS	CONDITION DELETED
Exhibit C: DRAFT Conditions of Approval	22. PDSP004 – BIOLOGICAL MONITOR	21 <u>2</u> . PDSP004 – BIOLOGICAL MONITOR <u>The project site is within 2 kilometers from California Tiger Salamander (CTS) habitat which is the generally accepted dispersal distance for CTS upland habitat. Notwithstanding the low quality habitat at the project site, if CTS are found present during project implementation, the California and Federal Endangered Species Acts require site work to be halted to obtain proper permissions, such as a "Take Permit" from US Fish and Wildlife Service (USFWS). Therefore, in accordance with 2010 General Plan Policy OS-5.16, the Owner/applicant shall retain a qualified biologist to monitor construction.</u>

ITEM	LOCATION IN DOCUMENT	CHANGES
Exhibit C: DRAFT Conditions of Approval	23. PDSP005 – CONSTRUCTION HOURS OF OPERATION	223. PDSP005 – CONSTRUCTION HOURS OF OPERATION This Plan shall include at least the following measures: 1) Limit loud construction activities and the use of heavy equipment, bulldozers, heavy trucks, backhoes, and pneumatic tools to the hours of 3pm and 7pm on weekdays while school is in session, and from 7am to 7pm on non-school days and Saturdays <u>in accordance with 2010 General Plan Policy S-7.9, Table S-2 that limits project construction within 500 feet of a school to a “conditionally acceptable” 60-70 dB. Noise complaints from the public shall warrant a complete stop to all heavy equipment operation until after the Chief of HCD-Planning makes a determination as to next steps.</u>
Exhibit C: DRAFT Conditions of Approval	1. PD001 – SPECIFIC USES ONLY	and conditions of approval carried over from the previous permit incorporated herein as Condition Nos. 6 and 20-2421-25 .
Exhibit C: DRAFT Conditions of Approval	2. PD002 – NOTICE OF PERMIT APPROVAL	on 9 <u>23</u> February 2021. A legal description of each APN on this permit is included herein. The permit was granted, subject to 245 conditions of approval
Exhibit C: DRAFT Conditions of Approval	CONDITION NOS. 15-25	RENUMBERED 14-24
Exhibit C: DRAFT Resolution	1. FINDING: CONSISTENCY – EVIDENCE: h)	with application of Condition Nos. 6 and 20-2421-25 , incorporated herein, as carried over from the previous approval.
Exhibit C: DRAFT Resolution	2. FINDING: SITE SUITABILITY – EVIDENCE: d)	the Zone 4 incorporation of the LSOP is fully disclosed and Condition No. 167 requires
Exhibit C: DRAFT Resolution	3. FINDING: HEALTH AND SAFETY – EVIDENCE: c)	The Sherriff’s Office provided a request for safety considerations regarding signage, alarms, lighting, landscaping, parking, and security, applied to the project as Condition No. 189 .
Exhibit C: DRAFT Resolution	5. FINDING: CONSISTENCY – DEVELOPMENT EVALUATION SYSTEM (DES) – EVIDENCE: e)	Condition No. 17 <u>8</u> has been added to require

ITEM	LOCATION IN DOCUMENT	CHANGES
Exhibit C: DRAFT Resolution	8. FINDING: APPEAL AND APPELLANT CONTENTIONS	appeal to: 1) Revise Condition No. 17 8 – Inclusionary Housing
Exhibit C: DRAFT Resolution	<u>DECISION</u>	in general conformance with the attached General Development Plan and Plan Set, and subject to the twenty- four five (24 5) Conditions of Approval

Please contact me with any questions or concerns at either (831) 796-6414
or guthriejs@co.monterey.ca.us.

Monterey County RMA Planning

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

PLN170765

1. PD001 - SPECIFIC USES ONLY

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: This General Development Plan allows the Laguna Seca Office Park (LSOP) lots for which the owner provides written agreement to the GDP [thus far, Lots 2-7, 9, 11, 15, & 16, and portions of Lots 10 (Condominium Units 103 & 104) and 19 (Condominium Unit 002)] to allow residential and/or commercial uses on any single lot covered by the GDP such that the cumulative total of residential square footage across the lots covered by this GDP, does not exceed commercial square footage throughout the LSOP; and Amendment to a previously approved Combined Development Permit (PLN020332) including a Use Permit and Design Approval to allow construction of a 22,137 square foot, 15-unit residential apartment building as modified from construction of a 20,306 square foot two-story professional office building and associated grading (approximately 3,850 cubic yards cut and 3,350 cubic yards fill), on Lot 5 of the LSOP. The previously approved Combined Development Permit (PLN020332) included a Use Permit to allow removal of 43 protected Coast live oak trees, an Administrative Permit to allow development in the Site Plan ("S") zoning district; and a Design Approval. This Amendment supersedes the previously approved CDP (PLN020332) except for the Use Permit to allow removal of 43 Coast live oak trees, the Administrative Permit to allow development in the Site Plan ("S") zoning district, and conditions of approval carried over from the previous permit incorporated herein as Condition Nos. 6 and 20-24. The properties are located at Laguna Seca Office Park (LSOP) and Lot 5 is located at 24491 Citation Court [Assessor's Parcel Numbers: 173-121-002, 173-121-003, 173-121-004, 173-121-005 (Lot 5), 173-121-023, & 173-121-026, 173-121-009, 173-121-011, 173-121-015, 173-121-016, 173-123-001, 173-123-003, 173-123-006, & 173-124-001], Monterey, Greater Monterey Peninsula Area Plan.

This permit was approved in accordance with County ordinances and land use regulations subject to the terms and conditions described in the project file. Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of HCD - 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. (HCD - Planning)

Compliance or Monitoring Action to be Performed: The Owner/Applicant shall adhere to conditions and uses specified in the permit on an on-going 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 General Development Plan and Amendment to previously approved permit PLN020332 (Resolution Number 20-032) were approved by the Board of Supervisors for Assessor's Parcel Numbers 173-121-002, 173-121-003, 173-121-004, 173-121-005 (Lot 5), 173-121-023, & 173-121-026, 173-121-009, 173-121-011, 173-121-015, 173-121-016, 173-123-001, 173-123-003, 173-123-006, & 173-124-001 on 23 February 2021. A legal description of each APN on this permit is included herein. The permit was granted, subject to 24 conditions of approval, which run with the land. A copy of the permit is on file with Monterey County HCD - Planning."

Proof of recordation of this notice shall be furnished to the Director of HCD - Planning prior to issuance of grading and building permits, Certificates of Compliance, or commencement of use, whichever occurs first and as applicable. (HCD - 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 HCD - 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.
(HCD - 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 HCD - 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. PD011 - TREE AND ROOT PROTECTION

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: Trees which are located close to construction site(s) and those trees close to trees to be removed, shall be protected from inadvertent damage from construction equipment by fencing off the canopy driplines and/or critical root zones (whichever is greater) with protective materials, wrapping trunks with protective materials, avoiding fill of any type against the base of the trunks and avoiding an increase in soil depth at the feeding zone or drip-line of the retained trees. Said protection, approved by certified arborist, shall be demonstrated prior to issuance of building permits subject to the approval of HCD - Director of Planning. If there is any potential for damage, all work must stop in the area and a report, with mitigation measures, shall be submitted by certified arborist. Should any additional trees not included in this permit be harmed, during grading or construction activities, in such a way where removal is required, the owner/applicant shall obtain required permits. (HCD - Planning)

Compliance or Monitoring Action to be Performed: Prior to issuance of grading and/or building permits, the Owner/Applicant shall submit evidence of tree protection to HCD - Planning for review and approval.

During construction, the Owner/Applicant/Arborist shall submit on-going evidence that tree protection measures are in place through out grading and construction phases. If damage is possible, submit an interim report prepared by a certified arborist.

Prior to final inspection, the Owner/Applicant shall submit photos of the trees on the property to HCD-Planning after construction to document that tree protection has been successful or if follow-up remediation or additional permits are required.

5. PD011(A) - TREE REMOVAL

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: Tree removal shall not occur until a construction permit has been issued in conformance with the appropriate stage or phase of development in this permit. Only those trees approved for removal shall be removed. Prior to tree removal, a nesting bird/raptor survey shall be executed in by a professional biologist on the County-approved consultant list. (HCD-Planning)

Compliance or Monitoring Action to be Performed: Applicant shall demonstrate that a construction permit has been issued prior to commencement of tree removal.

Prior to tree removal, applicant/owner shall submit to HCD-Planning the nesting bird/raptor survey.

6. PD048 - TREE REPLACEMENT/RELOCATION

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: Each removed Oak trees shall be replaced at a 1:1 ratio. Due to the potential for overcrowding at the project site, a maximum of twenty (20) Coast Live Oak trees shall be planted at the project site and at least twenty-three (23) Coast Live Oak trees shall be planted within the open space parcels of the Laguna Seca Office Park.

Applicant/owner shall have the trees inspected by a qualified arborist. The arborist shall prepare a report describing the condition of the replacement trees. At the time of inspection by the arborist, any trees that have died or are in poor condition, shall be replaced and documented in the report.

Compliance or Monitoring Action to be Performed: 1) Prior to final inspection, the applicant/owner shall submit receipts and photographic evidence, demonstrating that a maximum of 20 Coast Live oak trees have been planted at the site and that at least 23 Coast Live Oak trees have been planted within open space parcel of the Laguna Seca Office Park.

2) One year following planting of the replacement trees, the applicant/owner shall submit to HCD-Planning for review and approval the report prepared by the arborist.

7. PD012(E) - LANDSCAPE PLAN & MAINTENANCE (MPWMD-OTHER)

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: The site shall be landscaped. Prior to issuance of building permits, a landscaping plan shall be submitted to the Director of HCD - Planning. A landscape plan review fee is required for this project. Fees shall be paid at the time of landscape plan submittal. The landscaping plan shall be in sufficient detail to identify the location, species, and size of the proposed landscaping and shall include an irrigation plan with calculations of MAWA and ETWU. The landscaping shall be installed and inspected prior to occupancy. All landscaped areas and/or fences shall be continuously maintained by the applicant and all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition. (HCD - Planning)

Compliance or Monitoring Action to be Performed: Prior to issuance of building permits, the Owner/Applicant/Licensed Landscape Contractor/Licensed Landscape Architect shall submit landscape plans and contractor's estimate to HCD - Planning for review and approval. Landscaping plans shall include the recommendations from the Forest Management Plan or Biological Survey, as applicable.

All landscape plans shall be signed and stamped by the licensed professional under the following statement, "I certify that this landscaping and irrigation plan complies with all Monterey County landscaping requirements including use of native, drought-tolerant, non-invasive species; limited turf; and low-flow, water conserving irrigation fixtures."

Prior to issuance of building permits, the Owner/Applicant/Licensed Landscape Contractor/Licensed Landscape Architect shall submit one (1) set landscape plans of approved by HCD-Planning, a Maximum Applied Water Allowance (MAWA) calculation, and a completed "Non-Residential Water Release Form and Water Permit Application" to the Monterey County Water Resources Agency for review and approval.

Prior to issuance of building permits, the Owner/Applicant/Licensed Landscape Contractor/Licensed Landscape Architect shall submit an approved water permit from the MPWMD to HCD-Building Services.

Prior to occupancy, the Owner/Applicant/Licensed Landscape Contractor/Licensed Landscape Architect shall submit to HCD-Planning a letter verifying the landscaping has been installed in accordance with the approved landscape plans.

On an on-going basis, all landscaped areas and fences shall be continuously maintained by the Owner/Applicant; all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition.

8. PD014(A) - LIGHTING - EXTERIOR LIGHTING PLAN

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: All exterior lighting shall be unobtrusive, down-lit, harmonious with the local area, and constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. The lighting source shall be shielded and recessed into the fixture. The applicant shall submit an exterior lighting plan that shall indicate location, type, and wattage of all light fixtures and include catalog sheets for each type of fixture. The lighting shall comply with the requirements of the California Energy Code set forth in California Code of Regulations Title 24 Part 6.

Exterior lighting plan shall be subject to review by the Monterey Regional Airport for sources of glare, distracting light, dust, smoke, water vapor, or electrical interference that could cause potential detriment to safety in Zone 4 (2019 ACLUP)
(HCD - Planning)

Compliance or Monitoring Action to be Performed: Prior to issuance of building permits, Owner/applicant shall submit to the Director of HCD-Planning evidence that the Monterey Regional Airport reviewed and supports the exterior lighting plan.

Prior to the issuance of building permits and after review by the Monterey Regional Airport, Owner/Applicant shall submit to HCD - Planning the exterior lighting plan for review and approval. Approved lighting plans shall be incorporated into final building plans.

Prior to final/occupancy, the Owner/Applicant/Contractor shall submit written and photographic evidence demonstrating that the lighting has been installed according to the approved plan.

On an on-going basis, the Owner/Applicant shall ensure that the lighting is installed and maintained in accordance with the approved plan.

9. GEOTECHNICAL CERTIFICATION

Responsible Department: Environmental Services

Condition/Mitigation Monitoring Measure: The applicant shall provide certification from a licensed practitioner that all development has been constructed in accordance with the recommendations in the project Geotechnical Report (File No. LIB180115) and the Drainage Report Update (File No. LIB180117). (RMA- Environmental Services)

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

10. 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.

11. INSPECTION-DURING ACTIVE CONSTRUCTION

Responsible Department: Environmental Services

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

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

12. INSPECTION-FOLLOWING ACTIVE CONSTRUCTION

Responsible Department: Environmental Services

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

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

13. PW0044 - CONSTRUCTION MANAGEMENT PLAN

Responsible Department: RMA-Public Works

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

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

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

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

14. EHSP01- RECYCLABLES IN RENTAL HOUSING (NON-STANDARD)

Responsible Department: Health Department

Condition/Mitigation Monitoring Measure: Recyclables must be separated from refuse, collected, stored and properly recycled for each of the multifamily rental housing units pursuant to Assembly Bill AS341 (Chesbro) and Monterey County Code, Chapter 10.41.

Compliance or Monitoring Action to be Performed: Prior to issuance of construction permit, submit a written plan on how recyclables will be collected and stored for each of the multifamily rental housing units to Recycling and Resource Recovery Services of Environmental Health Bureau for review and approval.

15. PD052 - PRE-CONSTRUCTION MEETING

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: Owner/applicant shall retain a qualified professional biologist to conduct a pre-construction meeting held onsite. The meeting shall include representatives of each of the selected contractors, the Owner/Applicant, and any other appropriate County Departments. The purpose of the meeting is to review the conditions of approval that are applicable to the grading and construction of the approved development.

Contract with the biologist shall include a scope of work for conducting the onsite meeting and information to be conveyed to meeting attendees. Owner/Applicant shall be responsible for ensuring that all appropriate contractors and technical consultants are in attendance.

(HCD - Planning)

Compliance or Monitoring Action to be Performed: Prior to issuance of building permits, the Owner/Applicant shall submit to HCD-Planning for review and approval, a signed contract with the project biologist.

Prior to the pre-construction meeting, owner/applicant shall notify HCD-Planning of the date and time for the scheduled onsite meeting.

After conclusion of the meeting, Owner/applicant shall submit to HCD-Planning a post-meeting log and summary.

16. PD017 - DEED RESTRICTION-USE

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: Applicant/owner shall record a deed restriction to that requires full disclosure within each rental agreement that shall include the following language:
"The Laguna Seca Office Park is approximately 1.5 miles from the Monterey Regional Airport and within Zone 4 as identified in the 2019 Airport Compatibility Land Use Plan (2019 ACLUP) for the Monterey Regional Airport. Zone 4 is the Outer Approach/Departure Zone (OADZ) situated along the extended runway centerline beyond the Inner Approach/Departure Zone (IADZ) where aircraft travel at relatively low altitude during approach and departure. The accident risk level is considered to be moderate, encompassing approximately five percent of general aviation aircraft accidents. Residents and residential buildings within the Laguna Seca Office Park shall be subject to safety performance standards that eliminate sources of glare, distracting light, dust, smoke, water vapor, or electrical interference; and restrictions on activities that include the use of kites, drones, blimps, balloons, projectiles, or launchers."
(HCD - Planning)

Compliance or Monitoring Action to be Performed: Prior to the issuance of grading or building permits, the Owner/Applicant shall submit the signed and notarized deed restriction to the Director of HCD-Planning for review and signature by the County.

Prior to occupancy or commencement of use, the Owner/Applicant shall submit proof of recordation of the deed restriction to HCD-Planning.

17. PDSP001 - INCLUSIONARY HOUSING

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: The applicant/owner shall enter into an Affordable Housing Agreement with the County of Monterey to satisfy the obligation to provide affordable units as required by the Planning Commission in approval of the project on 9/30/2020.

In accordance with 2010 General Plan Land Use Policy LU-1.19 (Development Evaluation System) requirement of 35% inclusionary housing, County Housing and Community Development quantifies provision of the following minimum number of units (4.9 total) within each household income category as follows:

(1) Very Low,

(2) Moderate, and

(1) Workforce II,

all of which are to be built onsite; and

waive the remaining 0.9 fractional unit i- lieu fee obligation.

Compliance or Monitoring Action to be Performed: Prior to any building permit approval, the applicant/owner shall enter into an Inclusionary and Workforce Housing Agreement with the County of Monterey.

18. PDSP002 - SAFETY & SECURITY

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: The Monterey County Sherriff's Office requests the applicant/owner integrate safety considerations in the provision and design of signage, alarms, lighting, landscaping, parking, and security.
HCD-Planning

Compliance or Monitoring Action to be Performed: Prior to issuance of building permits, applicant/owner shall provide to HCD-Planning evidence of communication with the Monterey County Sherriff's Office indicating support of project provision and design of signage, alarms, lighting, landscaping, parking, and security.

19. CC01 INDEMNIFICATION AGREEMENT

Responsible Department: County Counsel-Risk Management

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

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 Office of County Counsel-Risk Management for review and signature by the County.

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

20. PDSP003 - MBARD RECOMMENDED MEASURES

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: The applicant/owner shall implement best available control measures to reduce airborne particulate matter during all phases of construction, as recommended by Monterey Bay Unified Air Resources District (MBARD) and in accordance with Policy OS-10.9 of the 2010 General Plan. The applicant /owner shall submit an Air Pollution Control Program (APCP) to HCD-Planning for review and approval, including all or part of the following measures:

- Minimize the use of diesel-powered equipment to the maximum extent feasible;
- Use alternative fuels (e.g. bio-diesel) where feasible;
- Where diesel equipment use is necessary, the equipment should be recent model, equipped with particulate matter filters.
- All diesel-powered equipment shall have up-to-date emission control labels; and
- Diesel-powered equipment shall not be left idling.

The APCP that may be combined with an overall Construction Management Plan.

The APCP shall include a list of the heavy equipment to be used during construction including year, make, and model with photos showing up -to-date emissions control labels (where applicable) and a list of Best Management Practices to be implemented to minimize diesel exhaust during construction.

Compliance or Monitoring Action to be Performed: 1) Prior to issuance of grading or building permits, the applicant /owner/contractor shall submit an Air Pollution Control Program to HCD-Planning for review and approval.

2) Prior to final grading or building inspection, the applicant /owner/contractor shall submit to HCD-Planning for review and approval a description, and photographs if available, demonstrating the ways in which Best Management Practices were implemented during construction.

21. PDSP004 - BIOLOGICAL MONITOR

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: Owner/applicant shall retain a qualified biologist to monitor construction. The biological monitor shall conduct an Employee Education Program for the construction crew and shall be onsite during initial grading and vegetation removal activities to monitor for potential encounter of any special status species encountered. The qualified biologist shall identify and explain the necessary precautions during the Employee Education Program. These methods could include, but are not limited to, stopping work in the area where the animal is encountered until it has moved, on its own outside the project site, or to stop work; and HCD-Planning shall be contacted immediately to identify the appropriate authority. Work shall not resume until after receiving authorization from the appropriate authority as identified by HCD-Planning.

Compliance or Monitoring Action to be Performed:

- 1) Prior to issuance of grading or construction permits, owner/applicant shall submit to HCD-Planning for review and approval a signed contract with a qualified biological monitor. The contract shall contain the Employee Education Program including
- 2) Prior to removal of any vegetation, the biologist shall submit evidence to the HCD-Planning demonstrating that the Employee Education Program was conducted in accordance with the approved contract.
- 3) Prior to foundation/footing building inspection approval, the project biologist shall submit evidence to HCD-Planning that the grading and construction occurred in accordance with the approved contract.

22. PDSP005 - CONSTRUCTION HOURS OF OPERATION

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: The applicant/owner/contractor shall prepare and submit a Construction Activities Schedule and Management Plan (Plan) identifying all phases of the project, and all related construction activities and their timing to HCD-Planning for review and approval. The Plan shall include the entire development process and shall address all pertinent aspects including specific hours of operation, muffling of internal combustion engines and other factors which affect construction noise.

This Plan shall include at least the following measures:

- 1) Limit loud construction activities and the use of heavy equipment such as bulldozers, heavy trucks, backhoes and pneumatic tools in accordance with 2010 General Plan Policy S-7.9, Table S-2 that limits project construction within 500 feet of a school to a "conditionally acceptable" 60-70 dB. Noise complaints from the public shall warrant a complete stop to all heavy equipment operation until after the Chief of HCD-Planning makes a determination as to next steps.
- 2) Ensure that construction equipment is properly maintained and equipped with noise-reduction intake and exhaust mufflers and engine shrouds, in accordance with manufacturer recommendations.
- 3) When not in use, motorized construction equipment should not be left idling; and
- 4) Establish a contact person and notify adjacent property-owners and -users as to the contact person and complaint solution process.

This Plan may be combined with an overall Construction Management Plan.

Applicant/Owner/Contractor shall prepare a report describing how the Plan was implemented, including all steps taken to to comply with this condition and to address any complaints received.

Compliance or Monitoring Action to be Performed: 1) Prior to the issuance of grading or building permits, the applicant shall submit to HCD-Planning for review and approval the Construction Activities Schedule and Management Plan.

2) Prior to final inspection, the applicant /owner/contractor shall submit to HCD-Planning for review and approval the report on implementation of the Plan.

23. 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.

24. PD032(A) - PERMIT EXPIRATION

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: The permit shall be granted for a time period of 3 years from the 9 February 2021 date of approval unless use of the property or actual construction has begun within this period. (HCD-Planning)

Compliance or Monitoring Action to be Performed: Prior to the expiration date stated in the condition, the Owner/Applicant shall obtain a valid grading or building permit and/or commence the authorized use to the satisfaction of the Chief of HCD-Planning. Any request for extension must be received by HCD-Planning at least 30 days prior to the expiration date.