

Attachment J  
Mitigation Monitoring Agreement

Cathrein Estates  
PLN990330

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**When Recorded, Return To:**

County of Monterey  
Resource Management Agency (RMA)  
RMA - Planning Department  
Attn: Cynthia Bettencourt  
168 West Alisal, 2<sup>nd</sup> Floor  
Salinas, CA 93901  
(831) 755-5025

Space above for Recorder's Use

**AGREEMENT TO  
IMPLEMENT A CONDITION OF APPROVAL/MITIGATION MONITORING AND  
REPORTING PLAN**

IN ACCORDANCE with Section 21081.6 of the California Public Resources Code, and Section 15097 of Title 14, Chapter 3 of the California Code of Regulations, this AGREEMENT TO IMPLEMENT A CONDITION OF APPROVAL/MITIGATION MONITORING AND REPORTING PLAN (hereafter, "AGREEMENT") is made by and between the **County of Monterey**, a political subdivision of the State of California (hereafter, "COUNTY"), and **Cathrein Land LLC, a California Limited Liability Company and William M. Kelley, as Owner of Open Space Parcel "C" and Nicole F. Kelley, as Owner of Open Space Parcel "C"** (hereafter, "OWNER"), upon the following facts and circumstances:

A. COUNTY routinely applies a variety of conditions to projects requiring discretionary approvals when such projects are approved by the appropriate authority with jurisdiction to consider such matters. Such conditions ("Conditions of Approval") include, but are not limited to, mitigation measures identified in the Mitigated Negative Declaration prepared pursuant to the California Environmental Quality Act (Public Resources Code 21000 et seq., "CEQA"), and other conditions, both standard and unique, that are not mitigation measures.

B. OWNER is the owner of certain real property described in "Exhibit A", attached hereto and incorporated by this reference (hereafter, "subject property").

C. On May 4, 2004, pursuant to Monterey County Board of Supervisors Resolution No. 04-151, subject to the Conditions of Approval and Mitigation Measures listed therein, COUNTY adopted a Mitigated Negative Declaration, adopted a Mitigation Monitoring and Reporting Program and approved a Combined Development Permit for the Cathrein Estates Subdivision (hereafter, "project") subject to Findings and Evidence and Conditions of Approval, (Planning File/Permit Number PLN990330) and adopted Conditions of Approval and a Mitigation Monitoring and Reporting Plan (hereinafter, "the Plan"). The Plan is attached hereto as "Exhibit B" and incorporated by this reference. Resolution No. 04-151 is on file with the Resource Management Agency (RMA) – Planning Department and hereby incorporated by this reference.

D. As required by the California Environmental Quality Act, the OWNER agrees to implement the Plan.

E. OWNER has reviewed COUNTY's Conditions of Approval and the mitigation measures contained in the Mitigation Monitoring and Reporting Plan (collectively, "the Plan").

NOW, THEREFORE, in consideration of COUNTY'S adoption of a Mitigated Negative Declaration, adoption of the Mitigation Monitoring and Reporting Program and approval of the Combined Development Permit, Planning File/Permit Number **PLN990330**, OWNER agrees as follows:

1. Condition of Approval/Mitigation Monitoring and Reporting Plan. OWNER hereby agrees to implement the Plan attached hereto as "Exhibit B".
  - 1.01 Cost of Monitoring and/or Reporting. At OWNER's sole cost and expense, OWNER shall be responsible for the monitoring and/or reporting as may be required by the Plan.
  - 1.02 Alternative Mitigation Measure(s). If, for any reason, any mitigation measure specified in the Plan cannot be implemented due to factors beyond the control of the OWNER and/or COUNTY, the Director of the RMA Planning Department may, after good faith negotiation with OWNER, recommend substitution of another mitigation measure at a noticed public hearing before the decision-making body which originally approved the Permit herein.
2. Binding Effect. This AGREEMENT shall be construed as a covenant running with the land and shall bind and benefit COUNTY, its successors and assigns, and OWNER and its successors in interest.
3. Failure To Implement Mitigation Measures/Project Conditions of Approval. The parties acknowledge that if OWNER fails to comply with any adopted Mitigation Measures and/or project Conditions of Approval contained in the Plan, planning staff shall immediately notify the OWNER in writing, and request to meet and confer over the alleged failure to comply. OWNER/APPLICANT and appropriate COUNTY staff shall meet and confer within 30 days of the notice. If construction is on-going on a project for which the meet and confer process has been invoked, Planning Staff shall issue a "Stop Work Order" that shall be effective at least during the meet and confer process. If the alleged failure to comply is resolved during the meet and confer process, any "Stop Work Order" may be lifted at such time as the remedial action is completed or COUNTY indicates in writing that the failure to comply condition no longer exists. If the alleged failure to comply is not resolved pursuant to the meet and confer process, any "Stop Work Order" shall continue in effect, and COUNTY shall issue a "Notice of Violation," or other notice of COUNTY's intent to pursue a Code Enforcement action, and/or shall take other action designed to enforce the OWNER/APPLICANT's obligations pursuant to the Mitigation Measures, and/or the project Conditions of Approval contained in the Plan. The parties further acknowledge that the obligations of OWNER under this AGREEMENT are unique and that, in the event of a breach of this AGREEMENT by OWNER, the remedy of damages or any other remedy may be inadequate to fulfill the purpose of this AGREEMENT. Therefore, the parties agree that in addition to any other remedies available to COUNTY, COUNTY shall be entitled to the remedy of specific performance and said equitable remedy shall be cumulative and not

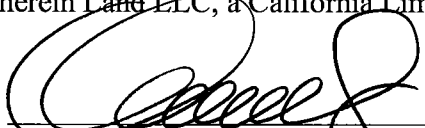
inclusive, and shall be in addition of any other remedy available to any of the other parties.

4. Severability. In the event any provision of this AGREEMENT is found to be invalid or unenforceable, such determination shall not affect the validity and enforceability of any other provision of this AGREEMENT.
5. Interpretation. It is agreed by the parties that this AGREEMENT has been arrived at through negotiation and neither party is to be deemed the party which prepared this AGREEMENT for the purposes of California Civil Code Section 1654.
6. Amendments. This AGREEMENT may be amended only by a written document signed by the parties.
7. Recordation. Upon execution of this AGREEMENT, the parties shall cause recordation thereof with the Monterey County Recorder's Office.
8. Mitigation Monitoring Fee. Pursuant to Condition of Approval No. 12, OWNER has paid a mitigation monitoring fee of \$9,648 to COUNTY for projects having 31 to 40 mitigation measures, pursuant to the Board of Supervisors' adopted fee schedule. Said mitigation monitoring fee was paid by OWNER and received by COUNTY on November 22, 2005 as indicated in COUNTY's Receipt#/Fee Item No. 73851 for \$9,648 on file with the RMA Planning Department in Planning File No. PLN990330 and incorporated by this reference.
9. Fees and Costs to Prevailing Party. If suit is commenced concerning this AGREEMENT, the prevailing party shall be entitled to reasonable attorney, accountant and professional fees and costs incurred.
10. Recitals. Recitals A through E above are incorporated into this AGREEMENT.

IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT on the day and year set out opposite his/her/their/its respective signatures.

OWNER:

Catherein Land LLC, a California Limited Liability Company

By:  \_\_\_\_\_, AND Date: 8-7-13  
Donald D. Chapin, Jr., as Managing Member

William M. Kelley and Nicole F. Kelley, as Owners of Open Space Parcel "C"

By:  \_\_\_\_\_, AND Date: 8/7/13  
William M. Kelley, as Owner of Open Space Parcel "C"

By:  \_\_\_\_\_ Date: 8/7/13  
Nicole F. Kelley, as Owner of Open Space Parcel "C"

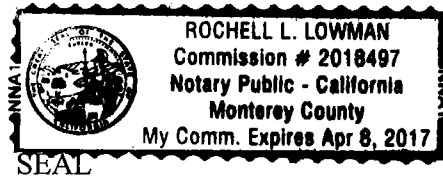
STATE OF CALIFORNIA }  
COUNTY OF MONTEREY }

On 8/7/13 before me, Rochell L. Lowman Notary Public,  
personally appeared Nicole J. Kelly, 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.

Rochell L. Lowman  
Notary Signature



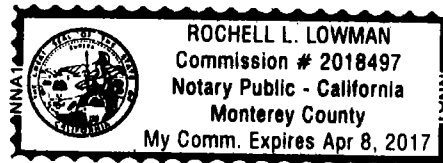
STATE OF CALIFORNIA }  
COUNTY OF MONTEREY }

On 8/7/13 before me, Rochell L. Lowman Notary Public,  
personally appeared William M. Kelly, 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.

Rochell L. Lowman  
Notary Signature

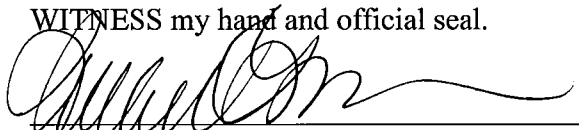


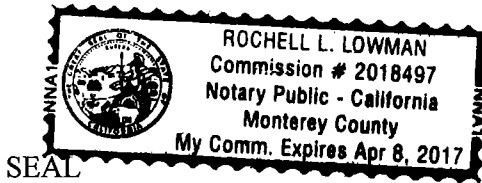
STATE OF CALIFORNIA }  
COUNTY OF MONTEREY }

On 8/7/13 before me, Rochell L Lowman Notary Public,  
personally appeared Donald R Chapin Jr, 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.

  
\_\_\_\_\_  
Notary Signature



COUNTY OF MONTEREY

By: Mike Novo  
Mike Novo, Director  
RMA - Planning Department

Date: 8/8/13

STATE OF CALIFORNIA }  
COUNTY OF MONTEREY }

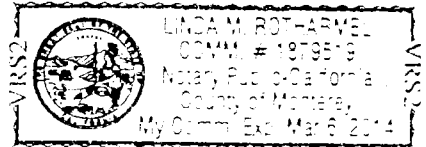
On August 8, 2013 before me, Linda M. Rotharmel Notary Public,  
personally appeared Mike Novo, who proved to me on the basis of  
satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within  
instrument and acknowledged to me that he/~~she~~/~~they~~ executed the same in 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.

Linda M. Rotharmel  
Notary Signature

SEAL



APPROVED AS TO FORM & LEGALITY:

Charles J. McKee, County Counsel

BY: Mary Grace Perry  
Mary Grace Perry  
Deputy County Counsel

Date: 8-8-2013



**EXHIBIT "A"**

**LEGAL DESCRIPTION**

That certain real property situated in the County of Monterey, State of California, described as follows:

All lots including Lots 1 through 28 and Open Space Lots A, B and C, as shown on that certain map filed for record this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, in Volume \_\_\_\_\_ "Cities and Towns," at Page \_\_\_\_\_, in the Office of the Recorder for the County of Monterey, State of California.

**EXHIBIT "B"**

**THE PLAN:**

**PLN990330**

**MITIGATION MEASURES  
AND CONDITIONS OF APPROVAL**

<p><b>Department: <u>Planning and Building Inspection</u></b></p> <p><b>Mitigation Monitoring and Reporting Plan</b></p>	<p><b>Project Name: Cathrein Estates (Chapin)</b></p> <p><b>File No: PLN990330</b>      <b>APNs: 129-291-001</b></p> <p><b>Approval by: Board of Supervisors</b>      <b>Date: May 4, 2004</b></p>
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\*Monitoring or Reporting refers to projects with an EIR or adopted Mitigated Negative Declaration per Section 21081.6 of the Public Resources Code.

Permit Cond. Number	Mitig. Number	Impact Addressed, and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name / date)
	1	In order to mitigate potential impacts to Aesthetic Resources: Should any street lights be proposed, they shall only be located at road intersections and be sodium vapor with full cut-off fixtures.	The applicant shall show such street lighting improvements, if desired on any Improvement Plans required by the Public Works and Planning Departments, and shall receive approval from those departments prior to installation.	Applicant	Prior to installation	
	2	In order to mitigate potential impacts to Aesthetic Resources: Lighting associated with dwellings and accessory structure shall be unobtrusive and constructed or located so that only the intended area is illuminated, long range visibility is reduced, and off-site glare is fully controlled. Deed Restrictions or a note on the map applicable to each lot after map recordation shall be recorded that exterior lighting plans be submitted with any application for a planning or building permit.	The applicant shall include a Note on the final map to be recorded stating this mitigation. All subsequent home development will be subject to providing an exterior lighting plan.	Applicant	Prior to Recordation of Final Map	
	3,4.	These numbers 3,4 were inadvertently left out of the listed mitigation measures in the Mitigated Negative Declaration. This place holder is meant to avoid confusion from renumbering all the following mitigation measures as discussed in the Initial Study/MND.	N/A	N/A	N/A	

EXHIBIT  
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Permit Cond. Number	Impact Addressed, and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Date of Compliance (name / date)
5	<p>In order to mitigate potential impacts to Air Quality: To reduce negative air quality impacts, the applicant shall incorporate the following Best Management Practices into their construction and building processes as listed herein.</p> <ul style="list-style-type: none"> <li>a. All unpaved construction areas shall be sprinkled with water (at least twice per day) during grading activities.</li> <li>b. Apply non-toxic tackifier, or other suitable cover (such as jute netting, erosion control fabric, mulch, etc.), to exposed areas immediately after cut-and-fill operations are complete.</li> <li>c. Trucks hauling dirt and debris must be covered.</li> <li>d. Post the project at two locations with a publicly visible sign during construction operations that specifies the telephone number and person to contact for complaints and/or injuries on dust generation and other air quality problems resulting from project construction.</li> <li>e. Immediately sweep up spilled dirt or debris onto paved surfaces.</li> <li>f. Cover on-site stockpiles of excavated materials.</li> <li>g. Vacuum (e.g. road sweeper/vacuum) construction-related soils on public roads whenever soils are visible.</li> <li>h. No more than 2.2 acres per day of grading activities shall be allowed.</li> </ul>	<p>Prior to construction, demonstrate to the satisfaction of the Planning and Building inspection department that all construction and truck crews are prepared to implement and practice the Best Management Practices.</p>	Applicant / Builder	Ongoing during construction	
6	<p>In order to mitigate potential impacts to Biological Resources: The applicant shall retain the services of a qualified biologist to designate (and mark with engineering fence) sensitive areas in the field prior to construction, and monitor activities during construction near designated natural areas, wetlands, riparian areas, and other sensitive biological resources to assure that they are not affected by the project as it builds out. (Reference 31, California Department of Fish and Game letter, dated October 3, 2003, Item 6)</p>	<ul style="list-style-type: none"> <li>• The applicant shall submit a copy of the biologist's contract to the P.B.I. Department.</li> <li>• The biologist shall perform the specified field work.</li> <li>• The PBI department shall be called out by the applicant or biologist for field inspection prior to ground disturbance.</li> <li>• The biologist shall monitor construction activities.</li> </ul>	Applicant	Prior to ground disturbance	

Permit Cond. Number	Impact Addressed, and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (map/ date)
7	<p>In order to mitigate potential impacts to Biological Resources: Building envelopes for individual lots shall conform to the boundaries indicated on the revised tentative map. Lot specific biological assessments shall be completed by a qualified biologist and /or forester/arborist prior to lot development to determine the exact limits of the building envelopes- footprints and adjacent yard space confines. No native habitat shall be removed beyond those limits. The areas outside of the building envelopes shall be managed as natural open space and protected by deed restriction, conservation easement or other legal means. (Strikeout and clarification made by PBI) (Reference 31. California Department of Fish and Game letter, dated October 3, 2003, Item 7)</p>	<ul style="list-style-type: none"> <li>The final map shall include the designation of building envelopes in substantial conformance to the tentative map.</li> <li>The final map shall include a NOTE stating the contents of this mitigation measure.</li> <li>All subsequent development plans for individual homes shall be accompanied by a biological assessment that demonstrates sensitivity to building footprint placement and yard space confines in accordance with this mitigation measure and the biological analysis.</li> </ul>	<p>Applicant</p> <p>Applicant's Biologist or Arborist</p> <p>Subsequent property owners /or developers of individual lots</p>	<p>Prior to Recordation of Final Map</p> <p>Reports to be submitted with all building plans.</p>	
8	<p>In order to mitigate potential impacts to Biological Resources: The Open Space Parcels A, B, and C, slopes over 30%, and the wetland/riparian areas shall be preserved to maintain and enhance existing habitat values for vegetation and wildlife that depend on these habitats. These areas to be protected shall be formally designated as habitat conservation areas through use of a conservation easement or similar binding mechanism. The easement should allow: 1) wet meadow enhancement through activities such as minor recontouring and installation and maintenance of appropriate erosion control features (e.g. check dams) and vegetation (e.g. willow sprigs) to slow flow velocities and maximize on-site water retention; 2) sensitive siting and design of water storage basins (if determined necessary for stormwater retention and groundwater recharge by project engineers) and maintenance to maximize the utility of the basins and also provide additional opportunity for enhancement of riparian/wetland values; 3) installation of urban runoff controls to reduce the potential for water quality degradation in these areas; 4) active enhancement of native plant communities through the introduction of native plants, control of invasive exotics, and other activities comparable with the long-term preservation of natural open space; and 5) designation of trails and other directed access to and through the common open</p>	<ul style="list-style-type: none"> <li>The Final Map shall include an exhibit page designating all Habitat Conservation Areas / and/or Conservation Easements consistent with this mitigation measure.</li> <li>The applicant shall draft for County review and approval, the appropriate documents that specify the allowed activities in the several areas subject to Habitat Conservation Areas and/or Conservation Easements.</li> <li>Upon approval by the County, these documents shall be recorded concurrently with the Final Map.</li> </ul>	<p>Applicant to prepare map and documents</p> <p>Planning staff to review</p> <p>Applicant to record</p>	<p>Prior to ground disturbance</p> <p>Prior to Recordation of Final Map</p> <p>With recordation of the Final Map</p>	

EXHIBIT B  
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Permit Cond. Number	Mitig. Number	Impact Addressed, and Responsible Land Use Department	Compliance or monitoring actions to be performed, where applicable, if certified professional is required for action to be accepted	Responsible Party for Compliance	Timing	Compliance date (name, date)
		space areas. (Reference 31. California Department of Fish and Game letter, dated October 3, 2003, Items 1 and 2.)				
	9	In order to mitigate potential impacts to Biological Resources: The applicant shall prepare an Open Space Management and Monitoring Plan to address the long-term sustainability and management of the designated open space parcels and areas to be protected on individual lots, including grassland, woodland, scrub and chaparral management prescriptions, access limitations, domestic pet restrictions and other issues. The plan shall establish performance criteria and specify an annual monitoring and reporting program over the course of five years to assure success of the management program. Adequate funding shall be provided to ensure full implementation of the plan. The Department of Fish and Game shall approve the plan prior to issuance of a grading permit. (Reference 31. California Department of Fish and Game letter, dated October 3, 2003, Item 9)	<ul style="list-style-type: none"> <li>The applicant shall prepare the Open Space and Management Plan in accordance with the mitigation measure, including a proposed funding mechanism.</li> <li>The plan shall be reviewed and commented on by both the PBI Department and the Dept. of Fish and Game.</li> <li>Approval of the plan by both agencies is required prior to grading and site disturbance.</li> </ul>	Applicant	Prior to ground disturbance and Prior to recordation of the Final Map	
	10	In order to mitigate potential impacts to Biological Resources: A suitable ownership structure, such as a Home Owners Association (HOA) shall be established to take long-term responsibility for the designated open space areas. A program for control of eucalyptus, Monterey pine, and exotics shall be established by the subdivider and included as a responsibility of the homeowner's association.	<ul style="list-style-type: none"> <li>The applicant shall draft for County review and approval, the appropriate documents creating a Home Owners Association (HOA)</li> <li>A component of that document shall include the specifications of this mitigation measure.</li> </ul>	Applicant to prepare County to review Applicant to record	Prior to Recordation of Final Map Upon Map recordation	
	11	In order to mitigate potential impacts to Biological Resources: Management provisions (an HOA) for the common open space parcels and the private property areas outside building envelopes shall be developed to further preserve the site's overall biological resource values consistent with the biological assessment for the project. The provisions shall include long-term maintenance and funding methods to be included as provisions and requirements in	<ul style="list-style-type: none"> <li>The applicant shall draft for County review and approval, the appropriate documents creating a Home Owners Association (HOA)</li> <li>A component of that document shall include the specifications of this</li> </ul>	Applicant to prepare County to review	Prior to Recordation of Final Map Upon Map recordation	

EXHIBIT B  
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Permit Cond. Number	Mitig. Number	Impact Addressed, and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (rule / date)
		the future homeowner association. Until the H.O.A. is formed and responsibility shifted to that body, the applicant shall be required to post a bond to ensure implementation of these provisions consistent with other home owner association bonds required for road and drainage maintenance.	mitigation measure.	Applicant to record		
	12	In order to mitigate potential impacts to Biological Resources: Prior to issuance of a grading permit, a qualified biologist shall submit a report demonstrating that sensitive areas are adequately protected and present a plan showing where individual sensitive plants identified for removal will be replaced on site. Any special-status plants shall be mapped and avoided to the maximum extent feasible.	<ul style="list-style-type: none"> <li>See Mitigation #6 above</li> <li>The applicant shall demonstrate the biologist's contract to the P.B.I. Department.</li> <li>The biologist shall perform the specified field work to protect sensitive areas.</li> <li>The PBI department shall be called out by the applicant or biologist for field inspection prior to ground disturbance.</li> <li>The biologist shall monitor construction activities.</li> </ul>	Applicant  PBI Staff	Prior to ground disturbance.	
	13	In order to mitigate potential impacts to Biological Resources: Any brush or undergrowth clearing shall use methods that do not materially disturb the ground surface. Areas laid clear by clearing, other than firebreaks, will be sown prior to the rainy season with suitable erosion control mix utilizing native grass and forb seeds as appropriate.	<ul style="list-style-type: none"> <li>Under guidance from the project biologist, all persons doing earthwork and ground disturbing activities shall be made aware of appropriate undergrowth clearing methods.</li> <li>These duties shall be written into the biologists contract.</li> </ul>	Applicant/ field contractor	Ongoing	
	14	In order to mitigate potential impacts to Biological Resources: A copy of the Forest Management Plan and any subsequent plans for managing the habitat and open space of this subdivision shall be included as an attachment to the CC&Rs.	<ul style="list-style-type: none"> <li>Attach these documents to the CC&amp;Rs document.</li> </ul>	Applicant to prepare document Staff to verify	Prior to recordation of the CC&Rs.	

EXHIBIT B  
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Permit Cond. Number	Mitig. Number	Impact Addressed, and Responsible Land Use Department	Compliance of Mitigating Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Compliance (name/ date)
	15	In order to mitigate potential impacts to Biological Resources: A note shall be included on the final map or a separate instrument recorded with the final map that states "No grading, structures, roads (except as in accordance with the recorded easement or subdivision map), animal grazing, vegetation removal (except in accordance with a County approved restoration plan), or other activities may take place in conservation and scenic easements established for the subdivision."	<ul style="list-style-type: none"> <li>• Include this note on the Final Map.</li> </ul>	Applicant to prepare document  Staff to verify	Prior to recordation of the Final Map	
	16	In order to mitigate potential impacts to Biological Resources: In order to mitigate potential impacts to wet and riparian habitats along identified drainage courses (potential streambed), the applicant shall apply for a Streambed Alteration Agreement (SAA) upon preparation of Construction and Improvement Plans. The applicant shall notify the Department of Fish and Game before beginning any phase of the project that may substantially divert or obstruct the natural flow or substantially change the bed, channel, or bank of any river, stream, or lake or use materials from a streambed. A qualified biologist shall review draft and final plans for construction and improvements (such as the emergency access road that crosses the drainage course of Parcel A). Adequate construction setbacks and techniques shall be identified consistent with the biological assessment for road and driveway improvements along Parcel A, as well as for the emergency access stream crossing.	<ul style="list-style-type: none"> <li>• Apply for a Streambed Alteration Agreement with the California Department of Fish and Game.</li> <li>• Prepare Construction and Improvement Plans</li> <li>• A qualified biologist shall review draft and final plans for construction and improvements</li> <li>• The applicant shall demonstrate to the Director of Planning and Building Inspection that all requirements or conditions imposed by the California Department of Fish and Game have been satisfied in accordance with the SAA.</li> <li>• If the California Department of Fish and Game determines that a Streambed Alteration Agreement is not necessary to protect these wet / riparian / streambed resources, a letter to this effect from the Department of Fish and Game shall be presented to the Director of Planning And Building Inspection.</li> </ul>	Applicant	Before ground disturbance	

EXHIBIT B  
PAGE 6 OF 23 PAGES



Permit Cond. Number	Mitig. Number	Impact Addressed, and Responsible Land Use Department	Compliance or Mitigating Actions to be performed. Have applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Vertical or of Compliance Date (Name/ Rate)
	17	In order to mitigate potential impacts to Biological Resources: The applicant shall provide evidence of approval from the US Army Corps of Engineers for grading within the wet meadow areas near the alignment of the common driveway to Lots 26, 27, 28, if such grading activity is proposed.	<ul style="list-style-type: none"> <li>The applicant shall demonstrate to the Director of Planning and Building Inspection that all requirements or conditions imposed by the US Army Corps of Engineers have been satisfied in regards to grading in the wet meadow area.</li> </ul>	Applicant	Prior to site disturbance in specified areas	
	18	In order to mitigate potential impacts to Biological Resources: No grading that could cause siltation into the seasonal pond or other wet areas shall be done during the wet season. (Reference 31. California Department of Fish and Game letter, dated October 3, 2003, Item 5) Grading plans approved by the Director of Planning and Building Inspection Department as complying with best management and grading practices for wet season construction between October 15 and March 15 shall be considered. Such plans and grading activities, if approved, would be in keeping with preventing siltation into the seasonal pond or other wet areas.	<ul style="list-style-type: none"> <li>Prepare grading plans for review and approval by the P.B.I. Department, in accordance with all recommendations from the biologist, and best management practices.</li> </ul>	Applicant	Prior to site disturbance in specified areas	
	19	In order to mitigate potential impacts to Biological Resources: The proposed drainage basins shall be sited outside of mapped seep/wet meadow areas identified by the biologist to the extent feasible. The locations shall be field located in consultation with a qualified biologist, who shall report the findings to the Monterey County Planning Department prior to issuance of a grading permit for the improvements. All existing seep/wet meadow and drainage areas shall be staked/flagged and fenced with orange construction fencing, as well as protected from sedimentation, prior to any construction activity. Construction equipment shall not be allowed within the fenced area. Construction activities in these areas shall occur in the summer months to avoid potential erosion and sedimentation problems, unless otherwise approved by the County Planning Department, in consultation with the project biologist. Appropriate erosion control measures shall be installed in accordance with an approved erosion control plan that includes the seeding and mulching of all exposed slopes prior to the onset of the rainy season.	<ul style="list-style-type: none"> <li>See Mitigation Measure #6 above</li> <li>The applicant shall demonstrate the biologist's contract to the P.B.I. Department and that it includes the provisions of this mitigation measure.</li> <li>The biologist shall perform the specified field work to protect sensitive areas.</li> <li>The P.B.I. department shall be called out by the applicant or biologist for field inspection prior to ground disturbance.</li> <li>The biologist shall monitor construction activities.</li> </ul>	Applicant  P.B.I. Staff	Prior to ground disturbance	

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Permit Cont. Number	Permitting Number	Impact Addressed, and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Point of Compliance (name / date)
	20	In order to mitigate potential impacts to Biological Resources: The proposed water retention basins shall be designed to enhance habitat values on the site. A biological assessment of the final design shall be submitted to the Monterey County Planning Department for review and approval. The construction and operation of basins should avoid disturbance to existing wet swale areas while allowing the establishment of new aquatic habitats and riparian/wetland vegetation.	<ul style="list-style-type: none"> <li>Operations of the basins and responsibility for maintenance shall be specified in the CC&amp;Rs HOA documents.</li> <li>A biological assessment of the final design shall be submitted to the Monterey County Planning Department for review and approval.</li> </ul>	Applicant	Prior to occupancy of the first residential	
	21	In order to mitigate potential impacts to Biological Resources: A note shall be included on an additional sheet of the Final Map and in the CC&Rs that the pond located on Parcel A is a protected wetland, and the area outside the building envelope for Lot 25 is a protected riparian area, and that no ground-disturbing activities shall occur within the building envelope, unless otherwise approved through subsequent permits.	<ul style="list-style-type: none"> <li>Include this note on the draft Final Map.</li> <li>Include as appropriate in the CC&amp;Rs.</li> <li>Prepare a Deed restriction for Lot 25 stating the contents of the mitigation measure.</li> </ul>	Applicant to prepare Staff to review Applicant to record	Prior to Recordation of the Final Map. And upon recordation	
	22	In order to mitigate potential impacts to Biological Resources: Prior to any tree removal or associated construction activities during the active raptor nesting/young rearing season (typically February through July), a systematic survey for nesting raptors shall be completed by a qualified biologist. Individual trees scheduled for removal shall be flagged and evaluated for both active raptor nests and bat maternity roosts. Grassland areas shall also be checked to confirm that burrowing owls have not colonized the site. In the event that active raptor nests and/or bat maternity roosts are observed, those locations shall be avoided through suitable construction setbacks until a qualified biologist determines that construction activities can proceed without harm to the animals.	<ul style="list-style-type: none"> <li>The applicant's biologist shall prepare and perform the study and present the findings to the PBI staff.</li> <li>Applicant shall call for PBI to field inspect and meet biologist on site.</li> <li>Upon inspection and approval by PBI staff grading and tree removal may occur, notwithstanding other items.</li> </ul>	Applicant  PBI Staff	Prior to Ground Disturbance and tree removal.	

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Permit Cond. Number	Mitig. Number	Impact Addressed, and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name / date)
	23	In order to mitigate potential impacts to Biological Resources: To avoid possible California tiger salamander impacts, the common driveway to Lots 26, 27, and 28 shall be aligned to avoid the seep/wet meadow and seasonal pond areas indicated on the habitat map and shall be engineered to allow hydrologic continuity on both sides of the wet meadow areas. (Reference 31. California Department of Fish and Game letter, dated October 3, 2003, Item 3)	<ul style="list-style-type: none"> <li>Applicant's biologist shall confer with applicant's civil engineer and prepare a letter and map complying with this mitigation to the satisfaction of the PBI Department.</li> </ul>	<p>Applicant to Prepare</p> <p>Staff to Verify</p>	<p>Prior to Recordation of Final Map And</p> <p>Prior to approval of Improvement Plans</p>	
	24	In order to mitigate potential impacts to Biological Resources: In order to facilitate California tiger salamander movement, all barriers shall be minimized. Low rounded curbs in the vicinity of the seasonal pond shall be incorporated into the design of the roadway. This design modification shall apply to the edge of the designated Open Space Parcel A and curbs within a reasonable dispersal distance, and shall be indicated on the habitat map prepared for the project. (Reference 31. California Department of Fish and Game letter, dated October 3, 2003, Item 4)	<ul style="list-style-type: none"> <li>Applicant's biologist shall confer with applicant's civil engineer and prepare a letter and map complying with this mitigation to the satisfaction of the PBI Department.</li> </ul>	<p>Applicant to Prepare</p> <p>Staff to Verify</p>	<p>Prior to Recordation of Final Map And</p> <p>Prior to approval of Improvement Plans</p>	
	25	In order to mitigate potential impacts to Biological Resources: Before any ground disturbing activity, all drainages, seeps and stock ponds need to be appropriately resurveyed by a biologist for the presence/absence of the California red-legged frog. If the California red-legged frog is present on the property (counter to the reporting of environmental consultants, Zander Associates), all ground disturbing activity shall be ceased immediately and the United States Department of the Interior: Fish and Wildlife Service (FWS) shall be contacted. Upon referral to the FWS, protocol level surveys may be required, as well as possible consultation with FWS or a Habitat Conservation Plan. (Reference 34. United States Department of the Interior: Fish and Wildlife Service. Letter dated November 20, 2001)	<ul style="list-style-type: none"> <li>The applicant's biologist shall prepare and perform the study and present the findings to the PBI staff.</li> <li>Applicant shall call for PBI to field inspect and meet biologist on site.</li> <li>Upon inspection and approval by PBI staff grading and tree removal may occur, notwithstanding other items.</li> </ul>	<p>Applicant</p> <p>PBI Staff</p>	<p>Prior to Ground Disturbance and tree removal.</p>	

Permit Cond. Number	Mitig. Number	Impact Addressed, and Responsible Land Use Department	Compliance or Monitoring Action to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Date of Compliance (range of dates)
	26	<p>In order to mitigate potential impacts to Biological Resources: Prior to issuance of a grading permit, the applicant shall stake or flag the road alignments and infrastructure improvements (e.g. water retention basins, storm drain improvements, wastewater facilities). Tree protection will be as outlined in the Forest Management Plan, Biological Assessment and California Fish and Game Letter dated October 3, 2003:</p> <p>a) Trees that will be preserved along the margins of the development area should be fenced at the drip line with a minimum of three foot high temporary high visibility fencing material. Encroachment into the drip line may be allowed, but only under the guidance of a forester or arborist and with notification to the County prior to activities. Retained trees that are located close to construction sites shall be protected by wrapping of trunks with protective materials, bridging or tunneling under major roots where exposed in the foundation or utility trenches, and other measures to protect a tree's well being.</p> <p>b) No storage of equipment or construction materials, or parking of vehicles, is permitted beyond the construction boundary identified by the fencing. In addition, Reasonable efforts shall be made to avoid Monterey ceanothus plants located along the proposed roads and driveways. Temporary fencing and/or flagging shall be placed around such plants to protect them and to indicate their presence during construction. For those individuals that cannot be avoided, material shall be collected and propagated for transplanting into an open space area.</p> <p>c) No soil may be removed from within the dripline of any tree and no fill of additional soil should exceed two inches within the driplines of trees, unless it is part of approved construction and is reviewed by a forester, arborist or other tree professional. Under no circumstances should any fill be allowed to rest against the base of any tree. Any well constructed around a trunk at original grade shall be a minimum of one foot from the trunk.</p>	<ul style="list-style-type: none"> <li>Applicant's Arborist / Forester or Biologist shall confer &amp; implement an appropriate Tree Protection Program.</li> <li>Applicant shall call for PBI to field inspect and meet the Arborist / Forester or Biologist on site.</li> <li>Upon inspection and approval by PBI staff, Grading and specific tree removal may occur - notwithstanding other items.</li> </ul>	Applicant  Staff	Prior to tree removal and issuance of grading permits	

Permit Cond. Number	Mitig. Number	Impact Addressed, and Responsible Land Use Department.	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (numeric, if applicable)
		<p>d) No tree may be removed or trimmed unless authorized under the Management Plan and/or further County review procedures.</p> <p>e) Any roots exposed through construction activities must be pruned to promote callusing, closure and regrowth.</p> <p>f) All tree work must be monitored by a qualified tree professional.</p> <p>g) Tree replacement shall be in accordance with the Forest Management Plan.</p> <p>h) Soil and debris from construction shall not be piled against tree trunks or moved into coastal live oak woodland, coastal scrub, riparian, swale or wet meadow habitat. A biologist shall ensure that the alignments of the improvements are such that biological habitat is protected, except as identified for removal in the biological report, forest management plan, and project approval.</p>	<p>i) Property owners shall maintain a spark arrester on any chimney and gas-powered equipment, establish a greenbelt by maintaining vegetation in a green, growing condition and/or controlling fuel accumulation in drought tolerant landscaping, and break up and clear away any dense accumulations of dead or dry underbrush or plant litter, especially near landmark trees and within the open space area.</p> <p>j) Any fire for clearing shall only be conducted under the direction of the Department of Forestry.</p> <p>k) Forested areas shall not be irrigated, except in the greenbelt established around structures.</p>	Homeowner	Ongoing	
	27	<p>In order to mitigate potential impacts to Biological Resources: The applicant shall retain the services of a Registered Professional Forester or equivalent to quantify actual tree loss of each project phase or component as completed and to prepare site specific tree replacement plans.</p> <p>All native trees shall be replaced at a 3:1 ratio.</p> <p>A minimum of 70 percent of the replacement trees shall be surviving in good health after five years.</p> <p>(Reference 31. California Department of Fish and Game letter, dated October 3, 2003, Item 8.)</p>	<ul style="list-style-type: none"> <li>Applicant's Arborist / Forester or Biologist shall confer &amp; prepare an appropriate Tree Replacement Plan.</li> <li>Applicant shall submit the Tree Replacement Plan for review and approval by the PBI Department.</li> <li>The forester shall document the success of the tree replacement plan (s) in annual monitoring reports with a final monitoring report at the end of the 5 year term or when the project completes build-out.</li> </ul>	Applicant to prepare Staff to verify Applicant to prepare and submit monitoring reports	Prior to Tree Removal  Ongoing - Yearly Reports due to PBI Department by July 1 each year for 5 years	

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Permit Cond. Number	Impact Addressed, and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Permit Complete Date (name date)
28	In order to mitigate potential impacts to Biological Resources: Additional Tree Replacement Plan Details. Any oak trees greater than six inches in diameter (when measured two feet above the ground) that need to be removed shall be replaced at a minimum on a three-to-one ratio. Trees shall be replaced in the nearest open space area. Prior to issuance of a grading permit, the applicant shall contract with an approved biologist. The biologist shall submit a plan showing the location and size of oak trees to be removed and suitable areas identified for tree replacement and the methods to ensure successful propagation.	<ul style="list-style-type: none"> <li>Applicant shall submit the Tree Replacement Plan for review and approval by the PBI Department.</li> </ul>	Applicant to prepare Staff to verify	As above.	
29	In order to mitigate potential impacts to Biological Resources: Structures, driveways and associated facilities for each lot shall be located to avoid unnecessary removal of oak woodland, coastal scrub and sensitive species such as Monterey ceanothus. For individual oak trees or Monterey ceanothus that cannot be avoided, replacement plants shall be transplanted consistent with approved tree replacement plans. This will be included as a note on the map or by a deed restriction.	<ul style="list-style-type: none"> <li>The Applicant's Tree Protection and Replacement Plans shall incorporate these elements.</li> <li>Applicant shall submit the Tree Replacement Plan for review and approval by the PBI Department.</li> <li>Place this Note on the Final Map</li> </ul>	Applicant	Prior to Grading and Prior to Recordation of Final Map	
30	In order to mitigate potential impacts to Biological Resources: The following notes shall be included on an additional sheet of the Final Map: <ul style="list-style-type: none"> <li>Notice of the availability of the Forest Management Plan, Biological Report, Geotechnical Report, Percolation Study, and a drainage study.</li> <li>Any building or grading permit application shall be required to include a detailed site plan showing all oak trees on the lot at</li> </ul>	<ul style="list-style-type: none"> <li>Place these Notes on the Final Map</li> </ul>	Applicant  Subsequent Property Owners		

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Permit Cond. Number	Mitig. Number	Impact Addressed, and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name, phone, date)
		issue.				
	31	In order to mitigate potential impacts to Biological Resources: A note shall be placed on a separate sheet of the Final Map and/or in the subdivision CC&Rs that prohibits property owners from removing oak trees except as allowed by the County or for fire control necessitated by state or local agencies.	<ul style="list-style-type: none"> <li>Place these Notes on the Final Map</li> <li>Include provisions in the CC&amp;Rs and HOA Responsibilities</li> </ul>	Applicant Staff to Verify	Prior to Recordation of Final Map and CC&Rs Document.	
	32	In order to mitigate potential impacts to Biological Resources: A note shall be included on an additional sheet of the Final Map and in the CC&Rs that a Forest Management Plan has been prepared for the subdivision and that the provisions of the plan will apply to the preservation of vegetation within the subdivision. All protected trees removed shall be replaced at a minimum 3:1 ratio.	<ul style="list-style-type: none"> <li>Place these Notes on the Final Map</li> <li>Include provisions in the CC&amp;Rs and HOA Responsibilities</li> </ul>	Applicant Staff to Verify	Prior to Recordation of Final Map and CC&Rs Document.	
	33	In order to mitigate potential impacts to human safety from geological or soil conditions: The subdivider and future homeowners shall incorporate all recommendations and mitigation measures identified in the Geotechnical Investigation prepared by M. Jacobs & Associates, Consulting Geotechnical Engineers, dated June 1992 into the grading plans for the subdivision improvements and grading and building permits for parcel development. Notice of the existence of the report shall be provided to all future owners of parcels within the subdivision.	<ul style="list-style-type: none"> <li>Place these Notes on the Final Map</li> <li>Place this note on Grading Plans</li> <li>Include reference and place of availability for report for homeowners in the CC&amp;R Document.</li> </ul>	Applicant to prepare Staff to Verify	Prior to Recordation of Final Map and CC&Rs Document.	
	34	In order to mitigate potential impacts Hydrology or Water Quality Resources: Prior to issuance of any building permits for homes or accessory structures, the applicant shall provide to the Monterey County Water Resources Agency certification from a registered civil engineer that the drainage improvements, including the stormwater detention facility, have been constructed in accordance	<ul style="list-style-type: none"> <li>Make arrangements with County staff for field confirmation.</li> </ul>	Applicant to prepare Staff to Verify	Prior to Issuance of Building Permit	

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Permit Cond. Number	Mitig. Number	Impact Addressed, and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Compliance (name/ title)
			with approved plans.			
	35	In order to mitigate potential impacts Hydrology or Water Quality Resources: Submit engineered septic system designs for lots 5 through 19, 22 and 23 for review and approval by the Director of Environmental Health prior to filing the final map. Also include availability of these designs as a deed notification for those parcels.	<ul style="list-style-type: none"> <li>Prepare Plans/ Septic Designs</li> <li>Submit the plans for review and approval</li> <li>Prepare Deed Notices for each required lot.</li> <li>Record these Notices with the Final map.</li> </ul>	Applicant to Prepare Staff to Verify	Prior to Recordation of Final Map  Record Notices with Final Map	
	36	In order to mitigate potential impacts Hydrology or Water Quality Resources: Submit a map indicating septic envelopes for all subdivision parcels to the Division of Environmental Health for review and approval, and incorporate the envelopes onto the final map.	<ul style="list-style-type: none"> <li>See Above #35</li> </ul>	Applicant to Prepare Staff to Verify	Prior to Recordation of Final Map	
	37	In order to mitigate potential impacts Hydrology or Water Quality Resources: Include a note on the Final Map or by separate instrument that states "The back-up water supply for this property may require on-site water treatment in order to meet secondary (aesthetic) drinking water standards. Water treatment units shall be regenerated off site unless otherwise approved by the Director of Environmental Health."	<ul style="list-style-type: none"> <li>Place Note on Final Map</li> </ul>	Applicant	Prior to Recordation of Final Map	
	38	In order to mitigate potential conflict with Land Use and Planning Policies of the County of Monterey: A note shall be included on an additional sheet of the Final Map or by separate instrument that structures proposed on slopes exceeding limits established in the Monterey County CEQA Guidelines (10%), shall provide a stepped foundation to minimize the need for grading a flat building site.	<ul style="list-style-type: none"> <li>Place Note on Final Map</li> <li>Record this Notice on each those lots with building envelopes that have slopes exceeding 10%.</li> </ul>	Applicant	Prior to Recordation of Final Map	

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Permit Cond. Number	Mitig. Number	Impact Addressed, and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name, date)
	39	In order to mitigate potential conflict with Land Use and Planning Policies of the County of Monterey: A 200 foot wide agricultural buffer easement shall be delineated along the south property line, either to the north (on the subdivision property) or south (on the adjoining property). This easement will affect the area of proposed lots 9, 10, 27 and 28. No development, except permanent roads, shall be allowed within the buffer. Land within the easement shall not be used for recreational areas. Minor storage structures or sheds associated with the residential use may be permitted within the easement area.	<ul style="list-style-type: none"> <li>Show easements on Final Map</li> <li>An easement document shall be prepared by the subdivider, subject to the approval of the Planning Director, and recorded concurrent with the Final Map.</li> </ul>	Applicant to prepare Staff to Review	Prior to Recordation of Final Map Record Document with Final Map	
	40	In order to mitigate potential cumulative water impacts that are individually limited, but potentially cumulatively considerable: The applicant shall pay the appropriate financial contribution in accordance with Ordinance #4005, adopted by the Board of Supervisors to implement an area-wide hydrological study to address ground water overdraft and water resources management in the project area.	<ul style="list-style-type: none"> <li>Pay \$1,000 for each parcel approved to the PBI Department (\$28,000).</li> </ul>	Applicant	Prior to Recordation of Final Map	
	41	In order to mitigate potential cumulative water impacts that are individually limited, but potentially cumulatively considerable: Prior to filing the Final Map, the applicant shall record a deed restriction prohibiting any commercial agricultural uses on the property.	<ul style="list-style-type: none"> <li>Prepare deed restriction documents for each parcel to be created, including Open Space parcels A, B, and C.</li> </ul>	Applicant to Prepare Staff to Verify	Prior to Recordation of Final Map Record Documents with Final Map	
	42	In order to mitigate potential traffic and regional circulation impacts that are individually limited, but potentially cumulatively considerable: Prior to filing the Final Map, the subdivider shall contribute a pro-rata share to 1) install a left turn lane on the northbound approach of San Juan Grade Road to Crazy Horse Canyon Road, 2) construct a traffic signal and intersection improvements of San Juan Grade Road at Rogge Road, and 3) construct a signal and intersection improvements at San Juan Grade Road and Russell Road.	<ul style="list-style-type: none"> <li>Demonstrate to the PBI Department that all in-lieu fees have been paid to the appropriate authorities.</li> <li>A copy of the paid receipts shall be placed in the file.</li> </ul>	Applicant to Pay P. W. to receive Fees PBI staff to verify	Prior to Recordation of Final Map	

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Permit Cond. Number	Mitig. Number	Impact Addressed, and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (initials/ date)
	43	<p>In order to mitigate potential traffic and regional circulation impacts that are individually limited, but potentially cumulatively considerable: Prior to issuance of a Building Permit for each lot, applicant shall pay County a traffic mitigation fee of \$1,164.69 per lot as a pro rata share of the future cost of an interchange at the intersection of Highway 101 and Crazy Horse Canyon Road. The fee shall be based on 2004 dollars and shall be updated annually based on the Engineering News Record Construction Cost Index. A notice to that effect shall be recorded concurrently with the recordation of the final map.</p>	<ul style="list-style-type: none"> <li>Demonstrate to the PBI Department that all in-lieu fees have been paid to the appropriate authorities.</li> <li>A copy of the paid receipts shall be placed in the file.</li> </ul>	<p>Applicant to pay P.W. to receive fees PBI staff to verify</p>	<p>Prior to issuance of Building Permit</p>	

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Cathrein Estates (PL990330)

Inspection Department, Water Resources Agency, and North County Fire District, Public Works Department and Environmental Health Division. There has been no indication from those agencies that the site is not suitable.

**EVIDENCE:** See Findings 1,2, 4,10.

13. **FINDING:** The project is appealable to the Board of Supervisors.  
**EVIDENCE:** The Monterey County Zoning Ordinance Title 21, Chapter 21.80.

### DECISION

THEREFORE, it is the decision of the Planning Commission to adopt the Mitigated Negative Declaration and Mitigation Monitoring Reporting Program and approve said application for a Combined Development Permit as shown on the attached sketch and subject to the following conditions:

- 1 The subject Combined Development Permit (Cathrein Estates PLN990330) consists of: 1) a Standard Subdivision Vesting Tentative Map for the division of a 143 acre parcel into 28 residential lots ranging in size from 1.23 to 5.2 acres, and 3 open space parcels totaling 79 acres; 2) a Use Permit for an addition to a Mutual Water System, 3) a Use Permit for tree removal (156 Oak trees, including two over 24" diameter), and a Grading Permit for approximately 40,000 cubic yards of cut and fill for roads and infrastructure. The property is located at the terminus of Pesante Road (Assessor's Parcel Number 125-291-001-000 and 125-621-017-000), southerly of the Hidden Canyon Ranch Subdivision and east of Crazy Horse Canyon Road, Prunedale area.

The project is in accordance with County ordinances and land use regulations subject to the following terms and conditions. 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 Planning and Building Inspection. 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. (Planning and Building Inspection)

2. In accordance with approval of the Cathrein Estates Subdivision and Combined Development Permit, all construction and improvements shall be in substantial conformance to the Vesting Tentative Map (Sheet 1 of 2) dated May 2003.
3. Pursuant to the State Public Resources Code, State Fish and Game Code and California Code of Regulations, the applicant shall pay a fee to be collected by the County of Monterey in the amount of \$1,275. This fee shall be paid within five days of project approval, before the filing of the Notice of Determination. Proof of payment shall be furnished by the applicant to the Director of Planning and Building Inspection prior to the recordation of the tentative map, the commencement of the use, or the issuance of building and/or grading permits, whichever occurs first. The project shall not be operative, vested, or final until the filing fees are paid. (Planning and Building Inspection)

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Cathrein Estates (PL990330)

4. The subdivider and subsequent property owners shall comply with all mitigation measures identified in the Mitigation Monitoring and Reporting Program adopted by the Planning Commission on February 26, 2004. **(Planning and Building Inspection)**
5. The applicant has a recreation credit which he intends to apply to this project. The credit is a part of Resolution 97-177. The Parks Department has no further conditions or requirements to be applied to the project. **(Parks)**
6. Annexation to Zone 9. Developer shall apply for annexation of the property to Zone 9 of the County Water Resources Agency. **(Water Resources Agency)**
7. All roads within this subdivision shall be private roads. **(Public Works)**
8. All proposed road names shall be approved by County Communications. **(Public Works)**

**Prior to Filing and Recording a Final Map:**

9. The property owner agrees as a condition and in consideration of the 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. County may, at its sole discretion, participate in the defense of such action; but such participation shall not relieve applicant of his 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 the property, or filing of the final map, 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. **(Planning and Building Inspection)**
10. A scenic easement shall be conveyed to the County over those portions of the property where the slope exceeds 30 percent and shall be shown on the final map. The scenic easement deed is to be submitted to and approved by Director of Planning and Building Inspection prior to issuance of building permits. **(Planning and Building Inspection Department)**
11. The applicant shall record a notice that states: "A permit (Resolution 04007) was approved by the Planning Commission for Assessor's Parcel Number 125-291-001-000 and 125-621-017-000 on date February 26, 2004. The permit was granted subject to 49 conditions of approval, which run with the land. A copy of the permit is on file with the Monterey County Planning and Building Inspection Department." A copy of the permit is on file with

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the Monterey County Planning and Building Inspection Department." Proof of recordation of this notice shall be furnished to the Director of Planning and Building Inspection prior to issuance of building permits or commencement of the use. **(Planning and Building Inspection)**

12. The applicant shall enter into an agreement with the County to implement a Mitigation Monitoring Plan, including payment of the \$9,648 fee for the County of Monterey to monitor compliance with mitigation measures (Fee for 31-40 measures). **(Planning and Building Inspection)**.
13. Design the water system improvements to meet the standards as found in Chapter 15.04 Title 17 and 22 California Code of Regulations and as found in the Residential Subdivision Water Supply Standards. Submit Engineered plans for the water system improvements and any associated fees to the Director of Environmental Health for review and approval prior to installing (or bonding) improvements. **(Environmental Health)**
14. Design the water system improvements to meet fire flow standards as required and approved by the local fire protection agency (North County Fire District). Submit evidence to the Division of Environmental Health that the proposed water system improvements have been approved by the local fire protection agency prior to installation or bonding of water system improvements. **(Environmental Health)**
15. The Developer shall install or bond the water system improvements to and within the subdivision and any appurtenances needed prior to filing the final map. The water improvements shall only be installed or bonded after the engineered designs have been approved by the Division of Environmental Health **(Environmental Health)**.
16. Obtain a new water system permit from the Division of Environmental Health prior to filing the final map. **(Environmental Health)**.
17. The applicant shall file deed notification concurrently with the filing of the final map stating that, "The water supply for this property may require on-site water treatment in order to meet secondary (aesthetic) drinking water standards. Water treatment units shall be regenerated off site unless otherwise approved by the Director of Environmental Health **(Environmental Health)**."
18. Prior to filing the final map, submit engineered septic system designs for Lots 22, 23, 24, 28 (former lots # 5,6,7,10) and 5 through 18 and 20 (former lots # 11-23) for review and approval by the Director of Environmental Health. **(Environmental Health)**.
19. The applicant shall record a deed notification with the Monterey County Recorder for Lots 22, 23, 24, 28 (former lots # 5,6,7,10) and 5 through 18 and 20 (former lots # 11-23) concurrently with filing the final map indicating that, "An approved septic system design is on file at the Division of Environmental Health. File number PC990330 and any future development or expansion on this property shall be in compliance with the design and Chapter 15.20 MCC unless otherwise approved by the Director of Environmental Health." **(Environmental Health)**.

Cathrein Estates (PL990330)

20. **Drainage Plan.** Prior to filing of the final map, a drainage plan shall be prepared by a registered civil engineer to address on-site and off-site impacts to include detention facilities to mitigate the impact of impervious surface stormwater runoff. Necessary improvements shall be constructed in accordance with approved plans. **(Water Resources Agency)**
21. **Notice Of Water Conservation Requirements.** Prior to filing of the final map, a notice shall be recorded on the deed for each lot that all new construction shall incorporate the use of low water use plumbing fixtures and drought tolerant landscaping, in accordance with Monterey County Water Resources Agency Ordinance #3539, or as subsequently amended. **(Water Resources Agency)**
22. **Landscaping Requirements.** The front yards of all homes shall be landscaped at the time of construction. Low water use or drought tolerant plants shall be used together with water efficient irrigation systems. This shall be the responsibility of the developer if the developer is also the builder. A notice shall be recorded on the deed for each lot prior to filing of the final map, to inform future builders of this requirement. **(Water Resources Agency)** Draft notices shall be submitted to the Planning and Building Inspection Department for review and approval prior to recordation. **(Planning and Building Inspection Department)**
23. **A homeowners association shall be formed for road and drainage maintenance. (Public Works)**
24. **Homeowners Association.** A homeowners association shall be formed for the maintenance of roads, drainage facilities, and open spaces. Documents for formation of association shall be approved by the Director of Public Works, the Director of Planning and Building Inspection, and the County Water Resources Agency, prior to filing of final map. C.C. & R.'s shall include provisions for a yearly report by a registered civil engineer, and the monitoring of impacts of drainage and maintenance of drainage facilities. Report shall be approved by the County Water Resources Agency. **(Water Resources Agency)**
25. **MCWRA Agreement:** If the homeowner's association, after notice and hearing fails to properly maintain, repair or operate the drainage and flood control facilities in the project, Monterey County Water Resources Agency shall be granted the right by the property owners to enter any and all portions of the property to perform repairs, maintenance or improvements necessary to properly operate the drainage and flood control facilities in the project. The County Water Resources Agency shall have the right to collect the cost for said repairs, maintenance, or improvements from the property owners upon their property tax bills. A hearing shall be provided by the Board of Supervisors as to the appropriateness of the cost. An agreement to this effect shall be entered into concurrent with the filing of the final map of the first phase of the subdivision. **(Water Resources Agency)**
26. **CC&R's. Water Conservation Provisions.** In accordance with Monterey County Water Resources Agency Water Conservation Ordinance No. 3932, or as subsequently amended, the CC&R's shall contain provisions that: all new construction incorporate the use of low water use plumbing fixtures including, where applicable, hot water recirculation systems; the front yards of all homes shall be landscaped at the time of construction; low water use or drought tolerant plants shall be used together with water efficient irrigation systems; leak repair is the property owner's responsibility; vehicle and building washing shall use hoses

Cathrein Estates (PL990330)

equipped with shut off nozzles; no potable water to be used for sidewalk washing; no water spillage into streets, curbs, and gutters; no emptying or refilling of swimming pools except for structural repairs or if required for public health regulations; no fountains unless water is recycled within the fountain. (Water Resources Agency)

27. The Subdivider shall submit three prints of the approved tentative map to utility companies. Utility companies shall submit their recommendation, if any, to the Public Works Director for all required easements. (Public Works)
28. The Subdivider shall pay for all maintenance and operation of private roads, fire hydrants, and storm drainage from the time of installation until acceptance of the improvements for the Subdivision by the Board of Supervisors as completed in accordance with the Subdivision Improvement Agreement and until a homeowners association or other agency with legal authorization to collect fees sufficient to support the services is formed to assume responsibility for the services. (Public Works)
29. All natural drainage channels shall be designated on the final map by easements labeled "Natural Drainage Easement." (Public Works)
30. A soils engineering report will be required before recording final maps. (Public Works)
31. That the Pesante Road Official Plan Line be shown on the final map. (Public Works)
32. Provide for emergency access to Pesante Road subject to the approval of the North County Fire District. (Public Works)
33. The applicant shall comply with the requirements of the Inclusionary Housing Ordinance, by payment of an in-lieu fee, or provision of an inclusionary unit, prior to filing of the final map. (Planning and Building Inspection)

Prior to Grading and Construction Activities Commencing:

34. Provide improvement plans for approval of the Department of Public Works and that the roads be constructed in accordance with the typical section shown on the tentative map. (Public Works)
35. That cut slopes not exceed 2 to 1 except as specifically approved in concurrence with the soils report. (Public Works)
36. Applicant shall submit roadway construction plans for approval to the North County Fire District prior to construction. (Fire)
37. Applicant shall submit water system plans for approval to North County Fire District prior to Construction. (Fire)
38. The water system shall be completed and installed prior to construction of combustible materials. (Fire)

Cathrein Estates (PL990330)

39. Where cut or fills at property line exceed 5,' driveways shall be rough graded in when streets are rough graded, and positive drainage and erosion control provided. (Public Works)
40. That all graded areas of the street right of way be planted and maintained as required by the County Surveyor to control erosion. The area planted shall include all shoulder areas and all cut and fill slopes. A report and plan prepared by a qualified person shall be submitted to the satisfaction of the County Surveyor and include the following (Public Works):
  - a) That the cut and fill slopes be stabilized.
  - b) Specific method of treatment and type of planting, by area, for each soil type and slope required to satisfy item (a).
  - c) Type and amount of maintenance required to satisfy item (a).
41. The applicant shall call for a preconstruction meeting with the Public Works Department, Environmental Health Department, Water Resources Agency, Planning and Building Inspection Department and North County Fire District. Mitigation measures, infrastructure, construction phasing, construction practices, inspection schedules, as well as county and applicant expectations will be discussed. (Planning and Building Inspection)
42. The applicant shall call for a field inspection by the Planning Department to verify that all appropriate mitigation measures for tree protection and erosion control as specified in the Negative Declaration, MMRP and Conditions of Approval have been implemented. (Planning and Building Inspection)

Prior to Issuance of Building Permits

43. The applicant is required to request rezoning of Parcels A, B, & C to an Open Space designation.
44. Detention Pond. Prior to Issuance of Building Permits, a stormwater detention/sediment retention pond(s) shall be constructed in accordance with plans by a registered civil engineer and the pond shall be fenced for public safety. (Water Resources Agency)
45. Completion Certification. Prior to issuance of any building permits, the applicant shall provide to the Monterey County Water Resources Agency certification from a registered civil engineer that the drainage improvements including the stormwater detention facility have been constructed in accordance with approved plans. (Water Resources Agency).
46. Road, street and private signs required by this article shall be installed prior to final acceptance of road improvements by the reviewing fire authority (Fire).
47. All exterior lighting shall be unobtrusive, harmonious with the local area, and constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. No general street lighting has been proposed or approved for this development. That the applicant shall submit 3 copies of an exterior lighting plan which shall indicate the location, type, and wattage of all light fixtures and include catalog sheets for each fixture. The exterior lighting plan shall be subject to approval by the Director of Planning and Building Inspection, prior to the issuance of building permits. (Planning and Building Inspection Department)



Cathrein Estates (PL990330)

48. A landscaping plan shall include low water use or native drought resistant plants, low precipitation sprinkler heads (disperses less than 0.75 inches of water per hour at any pipe pressure), bubblers, drip irrigation and timing devices. The landscaping plans shall conform to Chapter 18.50, Residential, Commercial, and Industrial Water Conservation Measures, found in Title 18 of the Monterey County Code. (Planning and Building Inspection)

**Prior to Occupancy of the First Residential Unit:**

49. All gates providing access from a road to a driveway shall be located at least 30 feet from the roadway and shall open to allow a vehicle to stop without obstructing traffic on that road. (Fire District)

**PASSED AND ADOPTED** this 25th day of February, 2004, by the following vote:

AYES: Errea, Sanchez, Hawkins, Padilla, Parsons, Salazar, Rochester, Wilmot  
NOES: Vandevere, Diehl  
ABSENT: None

  
JEFF MAIN, SECRETARY

COPY OF THIS DECISION WAS MAILED TO THE APPLICANT ON **MAR 09 2004**

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE CLERK TO THE BOARD OF SUPERVISORS ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE **MAR 19 2004**

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 90<sup>th</sup> day following the date on which this decision becomes final.

**When Recorded, Return To:**

County of Monterey  
Resource Management Agency (RMA)  
RMA - Planning Department  
Attn: Cynthia Bettencourt  
168 West Alisal, 2<sup>nd</sup> Floor  
Salinas, CA 93901  
(831) 755-5025

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Space above for Recorder's Use

**AGREEMENT TO  
IMPLEMENT A CONDITION OF APPROVAL/MITIGATION MONITORING AND  
REPORTING PLAN**

IN ACCORDANCE with Section 21081.6 of the California Public Resources Code, and Section 15097 of Title 14, Chapter 3 of the California Code of Regulations, this AGREEMENT TO IMPLEMENT A CONDITION OF APPROVAL/MITIGATION MONITORING AND REPORTING PLAN (hereafter, "AGREEMENT") is made by and between the **County of Monterey**, a political subdivision of the State of California (hereafter, "COUNTY"), and **Cathrein Land LLC, a California Limited Liability Company and William M. Kelley, as Owner of Open Space Parcel "C" and Nicole F. Kelley, as Owner of Open Space Parcel "C"** (hereafter, "OWNER"), upon the following facts and circumstances:

A. COUNTY routinely applies a variety of conditions to projects requiring discretionary approvals when such projects are approved by the appropriate authority with jurisdiction to consider such matters. Such conditions ("Conditions of Approval") include, but are not limited to, mitigation measures identified in the Mitigated Negative Declaration prepared pursuant to the California Environmental Quality Act (Public Resources Code 21000 et seq., "CEQA"), and other conditions, both standard and unique, that are not mitigation measures.

B. OWNER is the owner of certain real property described in "Exhibit A", attached hereto and incorporated by this reference (hereafter, "subject property").

C. On May 4, 2004, pursuant to Monterey County Board of Supervisors Resolution No. 04-151, subject to the Conditions of Approval and Mitigation Measures listed therein, COUNTY adopted a Mitigated Negative Declaration, adopted a Mitigation Monitoring and Reporting Program and approved a Combined Development Permit for the Cathrein Estates Subdivision (hereafter, "project") subject to Findings and Evidence and Conditions of Approval, (Planning File/Permit Number PLN990330) and adopted Conditions of Approval and a Mitigation Monitoring and Reporting Plan (hereinafter, "the Plan"). The Plan is attached hereto as "Exhibit B" and incorporated by this reference. Resolution No. 04-151 is on file with the Resource Management Agency (RMA) – Planning Department and hereby incorporated by this reference.

D. As required by the California Environmental Quality Act, the OWNER agrees to implement the Plan.

E. OWNER has reviewed COUNTY's Conditions of Approval and the mitigation measures contained in the Mitigation Monitoring and Reporting Plan (collectively, "the Plan").

NOW, THEREFORE, in consideration of COUNTY'S adoption of a Mitigated Negative Declaration, adoption of the Mitigation Monitoring and Reporting Program and approval of the Combined Development Permit, Planning File/Permit Number **PLN990330**, OWNER agrees as follows:

1. Condition of Approval/Mitigation Monitoring and Reporting Plan. OWNER hereby agrees to implement the Plan attached hereto as "Exhibit B".
  - 1.01 Cost of Monitoring and/or Reporting. At OWNER's sole cost and expense, OWNER shall be responsible for the monitoring and/or reporting as may be required by the Plan.
  - 1.02 Alternative Mitigation Measure(s). If, for any reason, any mitigation measure specified in the Plan cannot be implemented due to factors beyond the control of the OWNER and/or COUNTY, the Director of the RMA Planning Department may, after good faith negotiation with OWNER, recommend substitution of another mitigation measure at a noticed public hearing before the decision-making body which originally approved the Permit herein.
2. Binding Effect. This AGREEMENT shall be construed as a covenant running with the land and shall bind and benefit COUNTY, its successors and assigns, and OWNER and its successors in interest.
3. Failure To Implement Mitigation Measures/Project Conditions of Approval. The parties acknowledge that if OWNER fails to comply with any adopted Mitigation Measures and/or project Conditions of Approval contained in the Plan, planning staff shall immediately notify the OWNER in writing, and request to meet and confer over the alleged failure to comply. OWNER/APPLICANT and appropriate COUNTY staff shall meet and confer within 30 days of the notice. If construction is on-going on a project for which the meet and confer process has been invoked, Planning Staff shall issue a "Stop Work Order" that shall be effective at least during the meet and confer process. If the alleged failure to comply is resolved during the meet and confer process, any "Stop Work Order" may be lifted at such time as the remedial action is completed or COUNTY indicates in writing that the failure to comply condition no longer exists. If the alleged failure to comply is not resolved pursuant to the meet and confer process, any "Stop Work Order" shall continue in effect, and COUNTY shall issue a "Notice of Violation," or other notice of COUNTY's intent to pursue a Code Enforcement action, and/or shall take other action designed to enforce the OWNER/APPLICANT's obligations pursuant to the Mitigation Measures, and/or the project Conditions of Approval contained in the Plan. The parties further acknowledge that the obligations of OWNER under this AGREEMENT are unique and that, in the event of a breach of this AGREEMENT by OWNER, the remedy of damages or any other remedy may be inadequate to fulfill the purpose of this AGREEMENT. Therefore, the parties agree that in addition to any other remedies available to COUNTY, COUNTY shall be entitled to the remedy of specific performance and said equitable remedy shall be cumulative and not

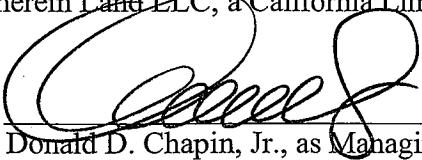
inclusive, and shall be in addition of any other remedy available to any of the other parties.

4. Severability. In the event any provision of this AGREEMENT is found to be invalid or unenforceable, such determination shall not affect the validity and enforceability of any other provision of this AGREEMENT.
5. Interpretation. It is agreed by the parties that this AGREEMENT has been arrived at through negotiation and neither party is to be deemed the party which prepared this AGREEMENT for the purposes of California Civil Code Section 1654.
6. Amendments. This AGREEMENT may be amended only by a written document signed by the parties.
7. Recordation. Upon execution of this AGREEMENT, the parties shall cause recordation thereof with the Monterey County Recorder's Office.
8. Mitigation Monitoring Fee. Pursuant to Condition of Approval No. 12, OWNER has paid a mitigation monitoring fee of \$9,648 to COUNTY for projects having 31 to 40 mitigation measures, pursuant to the Board of Supervisors' adopted fee schedule. Said mitigation monitoring fee was paid by OWNER and received by COUNTY on November 22, 2005 as indicated in COUNTY's Receipt#/Fee Item No. 73851 for \$9,648 on file with the RMA Planning Department in Planning File No. PLN990330 and incorporated by this reference.
9. Fees and Costs to Prevailing Party. If suit is commenced concerning this AGREEMENT, the prevailing party shall be entitled to reasonable attorney, accountant and professional fees and costs incurred.
10. Recitals. Recitals A through E above are incorporated into this AGREEMENT.

IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT on the day and year set out opposite his/her/their/its respective signatures.

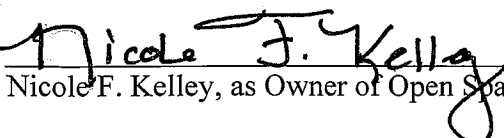
OWNER:

Catherein I and LLC, a California Limited Liability Company

By:  \_\_\_\_\_, AND Date: 8-7-13  
Donald D. Chapin, Jr., as Managing Member

William M. Kelley and Nicole F. Kelley, as Owners of Open Space Parcel "C"

By:  \_\_\_\_\_, AND Date: 8/7/13  
William M. Kelley, as Owner of Open Space Parcel "C"

By:  \_\_\_\_\_ Date: 8/7/13  
Nicole F. Kelley, as Owner of Open Space Parcel "C"

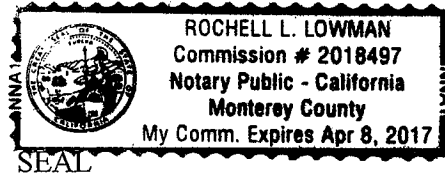
STATE OF CALIFORNIA }  
COUNTY OF MONTEREY }

On 8/7/12 before me, Rochell L. Lowman Notary Public,  
personally appeared Nicole J. Kelley, 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.

Rochell L. Lowman  
Notary Signature



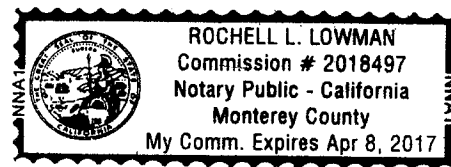
STATE OF CALIFORNIA }  
COUNTY OF MONTEREY }

On 8/7/12 before me, Rochell L. Lowman Notary Public,  
personally appeared William M. Kelley, 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.

Rochell L. Lowman  
Notary Signature

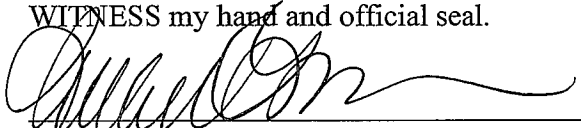


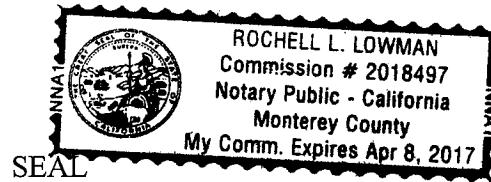
STATE OF CALIFORNIA }  
COUNTY OF MONTEREY }

On 8/7/13 before me, Rochell L Lowman Notary Public,  
personally appeared Donald R Chapin Jr, 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.

  
\_\_\_\_\_  
Notary Signature



COUNTY OF MONTEREY

By: Mike Novo  
Mike Novo, Director  
RMA - Planning Department

Date: 8/8/13

STATE OF CALIFORNIA }  
COUNTY OF MONTEREY }

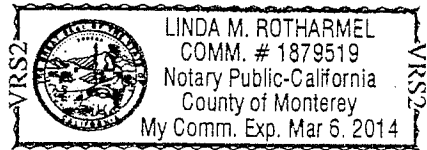
On August 8, 2013 before me, Linda M. Rotharmel Notary Public,  
personally appeared Mike Novo, who proved to me on the basis of  
satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within  
instrument and acknowledged to me that he/~~she~~/they executed the same in his/~~her~~/their  
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.

Linda M. Rotharmel  
Notary Signature

SEAL



APPROVED AS TO FORM & LEGALITY:

Charles J. McKee, County Counsel

BY: Mary Grace Perry  
Mary Grace Perry  
Deputy County Counsel

Date: 8-8-2013

**EXHIBIT "A"**

**LEGAL DESCRIPTION**

That certain real property situated in the County of Monterey, State of California, described as follows:

All lots including Lots 1 through 28 and Open Space Lots A, B and C, as shown on that certain map filed for record this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, in Volume \_\_\_\_\_ "Cities and Towns," at Page \_\_\_\_\_, in the Office of the Recorder for the County of Monterey, State of California.



**EXHIBIT "B"**

**THE PLAN:**

**PLN990330**

**MITIGATION MEASURES  
AND CONDITIONS OF APPROVAL**

**Department: Planning and Building Inspection**  
**Mitigation Monitoring and Reporting Plan**

**Project Name: Cathrein Estates (Chapin)**

**File No: PLN990330**

**APNs: 129-291-001**

**Approval by: Board of Supervisors**

**Date: May 4, 2004**

*\*Monitoring or Reporting refers to projects with an EIR or adopted Mitigated Negative Declaration per Section 21081.6 of the Public Resources Code.*

Permit Cond. Number	Mitig. Number	Impact Addressed, and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name / date)
	1	In order to mitigate potential impacts to Aesthetic Resources: Should any street lights be proposed, they shall only be located at road intersections and be sodium vapor with full cut-off fixtures.	The applicant shall show such street lighting improvements, if desired on any Improvement Plans required by the Public Works and Planning Departments, and shall receive approval from those departments prior to installation.	Applicant	Prior to installation	
	2	In order to mitigate potential impacts to Aesthetic Resources: Lighting associated with dwellings and accessory structure shall be unobtrusive and constructed or located so that only the intended area is illuminated, long range visibility is reduced, and off-site glare is fully controlled. Deed Restrictions or a note on the map applicable to each lot after map recordation shall be recorded that exterior lighting plans be submitted with any application for a planning or building permit.	The applicant shall include a Note on the final map to be recorded stating this mitigation. All subsequent home development will be subject to providing an exterior lighting plan.	Applicant	Prior to Recordation of Final Map	
	3,4	These numbers 3,4 were inadvertently left out of the listed mitigation measures in the Mitigated Negative Declaration. This place holder is meant to avoid confusion from renumbering all the following mitigation measures as discussed in the Initial Study/MND.	N/A	N/A	N/A	

EXHIBIT  
PAGE 1 OF 23

B

Permit Cond. Number	Mitig. Number	Impact Addressed, and Responsible Land Use Department	Compliance of Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Date of Compliance (month / day / year)
5		<p>In order to mitigate potential impacts to Air Quality: To reduce negative air quality impacts, the applicant shall incorporate the following Best Management Practices into their construction and building processes as listed herein.</p> <ul style="list-style-type: none"> <li>a. All unpaved construction areas shall be sprinkled with water (at least twice per day) during grading activities.</li> <li>b. Apply non-toxic tackifier, or other suitable cover (such as jute netting, erosion control fabric, mulch, etc.), to exposed areas immediately after cut-and-fill operations are complete.</li> <li>c. Trucks hauling dirt and debris must be covered.</li> <li>d. Post the project at two locations with a publicly visible sign during construction operations that specifies the telephone number and person to contact for complaints and/or injuries on dust generation and other air quality problems resulting from project construction.</li> <li>e. Immediately sweep up spilled dirt or debris onto paved surfaces.</li> <li>f. Cover on-site stockpiles of excavated materials.</li> <li>g. Vacuum (e.g. road sweeper/vacuum) construction-related soils on public roads whenever soils are visible.</li> <li>h. No more than 2.2 acres per day of grading activities shall be allowed.</li> </ul>	<p>Prior to construction, demonstrate to the satisfaction of the Planning and Building inspection department that all construction and truck crews are prepared to implement and practice the Best Management Practices.</p>	Applicant / Builder	Ongoing during construction	
6		<p>In order to mitigate potential impacts to Biological Resources: The applicant shall retain the services of a qualified biologist to designate (and mark with engineering fence) sensitive areas in the field prior to construction, and monitor activities during construction near designated natural areas, wetlands, riparian areas, and other sensitive biological resources to assure that they are not affected by the project as it builds out. (Reference 31. California Department of Fish and Game letter, dated October 3, 2003, Item 6)</p>	<ul style="list-style-type: none"> <li>• The applicant shall submit a copy of the biologist's contract to the P.B.I. Department.</li> <li>• The biologist shall perform the specified field work.</li> <li>• The P.B.I. department shall be called out by the applicant or biologist for field inspection prior to ground disturbance.</li> <li>• The biologist shall monitor construction activities.</li> </ul>	Applicant  P.B.I. Staff	Prior to ground disturbance	

Permit Cond. Number	Mitig. Number	Impact Addressed, and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification on of Compliance (name / date)
	7	<p>In order to mitigate potential impacts to Biological Resources: Building envelopes for individual lots shall conform to the boundaries indicated on the revised tentative map. Lot specific biological assessments shall be completed by a qualified biologist and /or forester/arborist prior to lot development to determine the exact limits of the building envelopes- footprints and adjacent yard space confines. No native habitat shall be removed beyond those limits. The areas outside of the building envelopes shall be managed as natural open space and protected by deed restriction, conservation easement or other legal means. (Strikeout and clarification made by PBI) (Reference 31. California Department of Fish and Game letter, dated October 3, 2003, Item 7)</p>	<ul style="list-style-type: none"> <li>The final map shall include the designation of building envelopes in substantial conformance to the tentative map.</li> <li>The final map shall include a NOTE stating the contents of this mitigation measure.</li> <li>All subsequent development plans for individual homes shall be accompanied by a biological assessment that demonstrates sensitivity to building footprint placement and yard space confines in accordance with this mitigation measure and the biological analysis.</li> </ul>	<p>Applicant</p> <p>Applicant's Biologist or Arborist</p> <p>Subsequent property owners /or developers of individual lots</p>	<p>Prior to Recordation of Final Map</p> <p>Reports to be submitted with all building plans.</p>	
<p>EXHIBIT B</p> <p>3 OF 23 PAGES</p>	8	<p>In order to mitigate potential impacts to Biological Resources: The Open Space Parcels A, B, and C, slopes over 30%, and the wetland/riparian areas shall be preserved to maintain and enhance existing habitat values for vegetation and wildlife that depend on these habitats. These areas to be protected shall be formally designated as habitat conservation areas through use of a conservation easement or similar binding mechanism. The easement should allow: 1) wet meadow enhancement through activities such as minor recontouring and installation and maintenance of appropriate erosion control features (e.g. check dams) and vegetation (e.g. willow sprigs) to slow flow velocities and maximize on-site water retention; 2) sensitive siting and design of water storage basins (if determined necessary for stormwater retention and groundwater recharge by project engineers) and maintenance to maximize the utility of the basins and also provide additional opportunity for enhancement of riparian/wetland values; 3) installation of urban runoff controls to reduce the potential for water quality degradation in these areas; 4) active enhancement of native plant communities through the introduction of native plants, control of invasive exotics, and other activities comparable with the long-term preservation of natural open space; and 5) designation of trails and other directed access to and through the common open</p>	<ul style="list-style-type: none"> <li>The Final Map shall include an exhibit page designating all Habitat Conservation Areas / and/or Conservation Easements consistent with this mitigation measure.</li> <li>The applicant shall draft for County review and approval, the appropriate documents that specify the allowed activities in the several areas subject to Habitat Conservation Areas and/or Conservation Easements.</li> <li>Upon approval by the County, these documents shall be recorded concurrently with the Final Map.</li> </ul>	<p>Applicant to prepare map and documents</p> <p>Planning staff to review</p> <p>Applicant to record</p>	<p>Prior to ground disturbance</p> <p>Prior to Recordation of Final Map</p> <p>With recordation of the Final Map</p>	

Permit Contd. Number	Mitigation Number	Impact Addressed, and Responsible Land Use Department	Compliance or Mitigating Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Compliance Date
		space areas. (Reference 31. California Department of Fish and Game letter, dated October 3, 2003, Items 1 and 2.)				
	9	In order to mitigate potential impacts to Biological Resources: The applicant shall prepare an Open Space Management and Monitoring Plan to address the long-term sustainability and management of the designated open space parcels and areas to be protected on individual lots, including grassland, woodland, scrub and chaparral management prescriptions, access limitations, domestic pet restrictions and other issues. The plan shall establish performance criteria and specify an annual monitoring and reporting program over the course of five years to assure success of the management program. Adequate funding shall be provided to ensure full implementation of the plan. The Department of Fish and Game shall approve the plan prior to issuance of a grading permit. (Reference 31. California Department of Fish and Game letter, dated October 3, 2003, Item 9)	<ul style="list-style-type: none"> <li>The applicant shall prepare the Open Space and Management Plan in accordance with the mitigation measure, including a proposed funding mechanism.</li> <li>The plan shall be reviewed and commented on by both the PBI Department and the Dept. of Fish and Game.</li> <li>Approval of the plan by both agencies is required prior to grading and site disturbance.</li> </ul>	Applicant	Prior to ground disturbance and Prior to recordation of the Final Map	
	10	In order to mitigate potential impacts to Biological Resources: A suitable ownership structure, such as a Home Owners Association (HOA) shall be established to take long-term responsibility for the designated open space areas. A program for control of eucalyptus, Monterey pine, and exotics shall be established by the subdivider and included as a responsibility of the homeowner's association.	<ul style="list-style-type: none"> <li>The applicant shall draft for County review and approval, the appropriate documents creating a Home Owners Association (HOA)</li> <li>A component of that document shall include the specifications of this mitigation measure.</li> </ul>	Applicant to prepare County to review Applicant to record	Prior to Recordation of Final Map Upon Map recordation	
	11	In order to mitigate potential impacts to Biological Resources: Management provisions (an HOA) for the common open space parcels and the private property areas outside building envelopes shall be developed to further preserve the site's overall biological resource values consistent with the biological assessment for the project. The provisions shall include long-term maintenance and funding methods to be included as provisions and requirements in	<ul style="list-style-type: none"> <li>The applicant shall draft for County review and approval, the appropriate documents creating a Home Owners Association (HOA)</li> <li>A component of that document shall include the specifications of this</li> </ul>	Applicant to prepare County to review	Prior to Recordation of Final Map Upon Map recordation	

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Permit Cond. Number	Mitig. Number	Impact Addressed, and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (month / date)
		the future homeowner association. Until the H.O.A. is formed and responsibility shifted to that body, the applicant shall be required to post a bond to ensure implementation of these provisions consistent with other home owner association bonds required for road and drainage maintenance.	mitigation measure.	Applicant to record		
	12	In order to mitigate potential impacts to Biological Resources: Prior to issuance of a grading permit, a qualified biologist shall submit a report demonstrating that sensitive areas are adequately protected and present a plan showing where individual sensitive plants identified for removal will be replaced on site. Any special-status plants shall be mapped and avoided to the maximum extent feasible.	<ul style="list-style-type: none"> <li>See Mitigation #6 above</li> <li>The applicant shall demonstrate the biologist's contract to the P.B.I. Department.</li> <li>The biologist shall perform the specified field work to protect sensitive areas.</li> <li>The PBI department shall be called out by the applicant or biologist for field inspection prior to ground disturbance.</li> <li>The biologist shall monitor construction activities.</li> </ul>	Applicant  PBI Staff	Prior to ground disturbance.	
	13	In order to mitigate potential impacts to Biological Resources: Any brush or undergrowth clearing shall use methods that do not materially disturb the ground surface. Areas laid clear by clearing, other than firebreaks, will be sown prior to the rainy season with suitable erosion control mix utilizing native grass and forb seeds as appropriate.	<ul style="list-style-type: none"> <li>Under guidance from the project biologist, all persons doing earthwork and ground disturbing activities shall be made aware of appropriate undergrowth clearing methods.</li> <li>These duties shall be written into the biologists contract.</li> </ul>	Applicant/ field contractor	Ongoing	
	14	In order to mitigate potential impacts to Biological Resources: A copy of the Forest Management Plan and any subsequent plans for managing the habitat and open space of this subdivision shall be included as an attachment to the CC&Rs.	<ul style="list-style-type: none"> <li>Attach these documents to the CC&amp;Rs document.</li> </ul>	Applicant to prepare document Staff to verify	Prior to recordation of the CC&Rs.	

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Permit Cond. Number	Mitig. Number	Impact Addressed, and Responsible Land Use Department	Compliance or Mitigating Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Completion (name / date)
	15	In order to mitigate potential impacts to Biological Resources: A note shall be included on the final map or a separate instrument recorded with the final map that states "No grading, structures, roads (except as in accordance with the recorded easement or subdivision map), animal grazing, vegetation removal (except in accordance with a County approved restoration plan), or other activities may take place in conservation and scenic easements established for the subdivision."	<ul style="list-style-type: none"> <li>• Include this note on the Final Map.</li> </ul>	Applicant to prepare document  Staff to verify	Prior to recording of the Final Map	
	16	In order to mitigate potential impacts to Biological Resources: In order to mitigate potential impacts to wet and riparian habitats along identified drainage courses (potential streambed), the applicant shall apply for a Streambed Alteration Agreement (SAA) upon preparation of Construction and Improvement Plans. The applicant shall notify the Department of Fish and Game before beginning any phase of the project that may substantially divert or obstruct the natural flow or substantially change the bed, channel, or bank of any river, stream, or lake or use materials from a streambed. A qualified biologist shall review draft and final plans for construction and improvements (such as the emergency access road that crosses the drainage course of Parcel A). Adequate construction setbacks and techniques shall be identified consistent with the biological assessment for road and driveway improvements along Parcel A, as well as for the emergency access stream crossing.	<ul style="list-style-type: none"> <li>• Apply for a Streambed Alteration Agreement with the California Department of Fish and Game.</li> <li>• Prepare Construction and Improvement Plans</li> <li>• A qualified biologist shall review draft and final plans for construction and improvements</li> <li>• The applicant shall demonstrate to the Director of Planning and Building Inspection that all requirements or conditions imposed by the California Department of Fish and Game have been satisfied in accordance with the SAA.</li> <li>• If the California Department of Fish and Game determines that a Streambed Alteration Agreement is not necessary to protect these wet / riparian / streambed resources, a letter to this effect from the Department of Fish and Game shall be presented to the Director of Planning And Building Inspection.</li> </ul>	Applicant	Before ground disturbance	

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Permit Cond. Number	Mitig. Number	Impact Addressed, and Responsible Land Use Department	Compliance or Mitigating Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Vertical out of Control (name, date)
	17	In order to mitigate potential impacts to Biological Resources: The applicant shall provide evidence of approval from the US Army Corps of Engineers for grading within the wet meadow areas near the alignment of the common driveway to Lots 26, 27, 28, if such grading activity is proposed.	<ul style="list-style-type: none"> <li>The applicant shall demonstrate to the Director of Planning and Building Inspection that all requirements or conditions imposed by the US Army Corps of Engineers have been satisfied in regards to grading in the wet meadow area.</li> </ul>	Applicant	Prior to site disturbance in specified areas	
	18	In order to mitigate potential impacts to Biological Resources: No grading that could cause siltation into the seasonal pond or other wet areas shall be done during the wet season. (Reference 31. California Department of Fish and Game letter, dated October 3, 2003, Item 5) Grading plans approved by the Director of Planning and Building Inspection Department as complying with best management and grading practices for wet season construction between October 15 and March 15 shall be considered. Such plans and grading activities, if approved, would be in keeping with preventing siltation into the seasonal pond or other wet areas.	<ul style="list-style-type: none"> <li>Prepare grading plans for review and approval by the PBI Department, in accordance with all recommendations from the biologist, and best management practices.</li> </ul>	Applicant	Prior to site disturbance in specified areas	
	19	In order to mitigate potential impacts to Biological Resources: The proposed drainage basins shall be sited outside of mapped seep/wet meadow areas identified by the biologist to the extent feasible. The locations shall be field located in consultation with a qualified biologist, who shall report the findings to the Monterey County Planning Department prior to issuance of a grading permit for the improvements. All existing seep/wet meadow and drainage areas shall be staked/flagged and fenced with orange construction fencing, as well as protected from sedimentation, prior to any construction activity. Construction equipment shall not be allowed within the fenced area. Construction activities in these areas shall occur in the summer months to avoid potential erosion and sedimentation problems, unless otherwise approved by the County Planning Department, in consultation with the project biologist. Appropriate erosion control measures shall be installed in accordance with an approved erosion control plan that includes the seeding and mulching of all exposed slopes prior to the onset of the rainy season.	<ul style="list-style-type: none"> <li>See Mitigation Measure #6 above</li> <li>The applicant shall demonstrate the biologist's contract to the P.B.I. Department and that it includes the provisions of this mitigation measure.</li> <li>The biologist shall perform the specified field work to protect sensitive areas.</li> <li>The PBI department shall be called out by the applicant or biologist for field inspection prior to ground disturbance.</li> <li>The biologist shall monitor construction activities.</li> </ul>	Applicant  P.B.I. Staff	Prior to ground disturbance	

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Permit Cond. Number	Impact Addressed, and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Date of Compliance (time / date)
20	In order to mitigate potential impacts to Biological Resources: The proposed water retention basins shall be designed to enhance habitat values on the site. A biological assessment of the final design shall be submitted to the Monterey County Planning Department for review and approval. The construction and operation of basins should avoid disturbance to existing wet swale areas while allowing the establishment of new aquatic habitats and riparian/wetland vegetation.	<ul style="list-style-type: none"> <li>• Operations of the basins and responsibility for maintenance shall be specified in the CC&amp;Rs HOA documents.</li> <li>• A biological assessment of the final design shall be submitted to the Monterey County Planning Department for review and approval.</li> </ul>	Applicant	Prior to occupancy of the first residential	
21	In order to mitigate potential impacts to Biological Resources: A note shall be included on an additional sheet of the Final Map and in the CC&Rs that the pond located on Parcel A is a protected wetland, and the area outside the building envelope for Lot 25 is a protected riparian area, and that no ground-disturbing activities shall occur within the building envelope, unless otherwise approved through subsequent permits.	<ul style="list-style-type: none"> <li>• Include this note on the draft Final Map.</li> <li>• Include as appropriate in the CC&amp;Rs.</li> <li>• Prepare a Deed restriction for Lot 25 stating the contents of the mitigation measure.</li> </ul>	Applicant to prepare Staff to review Applicant to record	Prior to Recordation of the Final Map. And upon recordation	
22	In order to mitigate potential impacts to Biological Resources: Prior to any tree removal or associated construction activities during the active raptor nesting/young rearing season (typically February through July), a systematic survey for nesting raptors shall be completed by a qualified biologist. Individual trees scheduled for removal shall be flagged and evaluated for both active raptor nests and bat maternity roosts. Grassland areas shall also be checked to confirm that burrowing owls have not colonized the site. In the event that active raptor nests and/or bat maternity roosts are observed, those locations shall be avoided through suitable construction setbacks until a qualified biologist determines that construction activities can proceed without harm to the animals.	<ul style="list-style-type: none"> <li>• The applicant's biologist shall prepare and perform the study and present the findings to the PBI staff.</li> <li>• Applicant shall call for PBI to field inspect and meet biologist on site.</li> <li>• Upon inspection and approval by PBI staff grading and tree removal may occur, notwithstanding other items.</li> </ul>	Applicant  PBI Staff	Prior to Ground Disturbance and tree removal.	

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Permit Cond. Number	Permit Ming. Number	Impact Addressed, and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a verified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (Name / Date)
	23	In order to mitigate potential impacts to Biological Resources: To avoid possible California tiger salamander impacts, the common driveway to Lots 26, 27, and 28 shall be aligned to avoid the seep/wet meadow and seasonal pond areas indicated on the habitat map and shall be engineered to allow hydrologic continuity on both sides of the wet meadow areas. (Reference 31. California Department of Fish and Game letter, dated October 3, 2003, Item 3)	<ul style="list-style-type: none"> <li>Applicant's biologist shall confer with applicant's civil engineer and prepare a letter and map complying with this mitigation to the satisfaction of the PBI Department.</li> </ul>	Applicant to Prepare  Staff to Verify	Prior to Recordation of Final Map And Prior to approval of Improvement Plans	
	24	In order to mitigate potential impacts to Biological Resources: In order to facilitate California tiger salamander movement, all barriers shall be minimized. Low rounded curbs in the vicinity of the seasonal pond shall be incorporated into the design of the roadway. This design modification shall apply to the edge of the designated Open Space Parcel A and curbs within a reasonable dispersal distance, and shall be indicated on the habitat map prepared for the project. (Reference 31. California Department of Fish and Game letter, dated October 3, 2003, Item 4)	<ul style="list-style-type: none"> <li>Applicant's biologist shall confer with applicant's civil engineer and prepare a letter and map complying with this mitigation to the satisfaction of the PBI Department.</li> </ul>	Applicant to Prepare  Staff to Verify	Prior to Recordation of Final Map And Prior to approval of Improvement Plans	
	25	In order to mitigate potential impacts to Biological Resources: Before any ground disturbing activity, all drainages, seeps and stock ponds need to be appropriately resurveyed by a biologist for the presence/absence of the California red-legged frog. If the California red-legged frog is present on the property (counter to the reporting of environmental consultants, Zander Associates), all ground disturbing activity shall be ceased immediately and the United States Department of the Interior: Fish and Wildlife Service (FWS) shall be contacted. Upon referral to the FWS, protocol level surveys may be required, as well as possible consultation with FWS or a Habitat Conservation Plan. (Reference 34. United States Department of the Interior: Fish and Wildlife Service, Letter dated November 20, 2001)	<ul style="list-style-type: none"> <li>The applicant's biologist shall prepare and perform the study and present the findings to the PBI staff.</li> <li>Applicant shall call for PBI to field inspect and meet biologist on site.</li> <li>Upon inspection and approval by PBI staff grading and tree removal may occur, notwithstanding other items.</li> </ul>	Applicant  PBI Staff	Prior to Ground Disturbance and tree removal.	

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Permit Cond. Number	Mitig. Number	Impact Addressed, and Responsible Land Use Department	Compliance or Monitoring Action to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Name of Compliance (name here)
26		<p>In order to mitigate potential impacts to Biological Resources: Prior to issuance of a grading permit, the applicant shall stake or flag the road alignments and infrastructure improvements (e.g. water retention basins, storm drain improvements, wastewater facilities). Tree protection will be as outlined in the Forest Management Plan, Biological Assessment and California Fish and Game Letter dated October 3, 2003:</p> <p>a) Trees that will be preserved along the margins of the development area should be fenced at the drip line with a minimum of three foot high temporary high visibility fencing material. Encroachment into the drip line may be allowed, but only under the guidance of a forester or arborist and with notification to the County prior to activities. Retained trees that are located close to construction sites shall be protected by wrapping of trunks with protective materials, bridging or tunneling under major roots where exposed in the foundation or utility trenches, and other measures to protect a tree's well being.</p> <p>b) No storage of equipment or construction materials, or parking of vehicles, is permitted beyond the construction boundary identified by the fencing. In addition, Reasonable efforts shall be made to avoid Monterey ceanothus plants located along the proposed roads and driveways. Temporary fencing and/or flagging shall be placed around such plants to protect them and to indicate their presence during construction. For those individuals that cannot be avoided, material shall be collected and propagated for transplanting into an open space area.</p> <p>c) No soil may be removed from within the dripline of any tree and no fill of additional soil should exceed two inches within the driplines of trees, unless it is part of approved construction and is reviewed by a forester, arborist or other tree professional. Under no circumstances should any fill be allowed to rest against the base of any tree. Any well constructed around a trunk at original grade shall be a minimum of one foot from the trunk.</p>	<ul style="list-style-type: none"> <li>Applicant's Arborist / Forester or Biologist shall confer &amp; implement an appropriate Tree Protection Program.</li> <li>Applicant shall call for PBI to field inspect and meet the Arborist / Forester or Biologist on site.</li> <li>Upon inspection and approval by PBI staff, Grading and specific tree removal may occur - notwithstanding other items.</li> </ul>	Applicant  Staff	Prior to tree removal and issuance of grading permits	

Permit Cond. Number	Mitig. Number	Impact Addressed, and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (Name/Date)
		<p>d) No tree may be removed or trimmed unless authorized under the Management Plan and/or further County review procedures.</p> <p>e) Any roots exposed through construction activities must be pruned to promote callusing, closure and regrowth.</p> <p>f) All tree work must be monitored by a qualified tree professional.</p> <p>g) Tree replacement shall be in accordance with the Forest Management Plan.</p> <p>h) Soil and debris from construction shall not be piled against tree trunks or moved into coastal live oak woodland, coastal scrub, riparian, swale or wet meadow habitat. A biologist shall ensure that the alignments of the improvements are such that biological habitat is protected, except as identified for removal in the biological report, forest management plan, and project approval.</p>	<p>i) Property owners shall maintain a spark arrester on any chimney and gas-powered equipment, establish a greenbelt by maintaining vegetation in a green, growing condition and/or controlling fuel accumulation in drought tolerant landscaping, and break up and clear away any dense accumulations of dead or dry underbrush or plant litter, especially near landmark trees and within the open space area.</p> <p>j) Any fire for clearing shall only be conducted under the direction of the Department of Forestry.</p> <p>k) Forested areas shall not be irrigated, except in the greenbelt established around structures.</p>	Homeowner	Ongoing	
	27	<p>In order to mitigate potential impacts to Biological Resources: The applicant shall retain the services of a Registered Professional Forester or equivalent to quantify actual tree loss of each project phase or component as completed and to prepare site specific tree replacement plans.</p> <ul style="list-style-type: none"> <li>All native trees shall be replaced at a 3:1 ratio.</li> <li>A minimum of 70 percent of the replacement trees shall be surviving in good health after five years.</li> <li>(Reference 31, California Department of Fish and Game letter, dated October 3, 2003, Item 8.)</li> </ul>	<ul style="list-style-type: none"> <li>Applicant's Arborist / Forester or Biologist shall confer &amp; prepare an appropriate Tree Replacement Plan.</li> <li>Applicant shall submit the Tree Replacement Plan for review and approval by the PBI Department.</li> <li>The forester shall document the success of the tree replacement plan (s) in annual monitoring reports with a final monitoring report at the end of the 5 year term or when the project completes build-out.</li> </ul>	<ul style="list-style-type: none"> <li>Applicant to prepare</li> <li>Staff to verify</li> <li>Applicant to prepare and submit monitoring reports</li> </ul>	<p>Prior to Tree Removal</p> <p>Ongoing - Yearly Reports due to PBI Department by July 1 each year for 5 years</p>	

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Permit Cond. Number	Mitig. Number	Impact Addressed, and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Compliance Date (month date)
	28	In order to mitigate potential impacts to Biological Resources: Additional Tree Replacement Plan Details. Any oak trees greater than six inches in diameter (when measured two feet above the ground) that need to be removed shall be replaced at a minimum on a three-to-one ratio. Trees shall be replaced in the nearest open space area. Prior to issuance of a grading permit, the applicant shall contract with an approved biologist. The biologist shall submit a plan showing the location and size of oak trees to be removed and suitable areas identified for tree replacement and the methods to ensure successful propagation.	<ul style="list-style-type: none"> <li>Applicant shall submit the Tree Replacement Plan for review and approval by the PBI Department.</li> </ul>	Applicant to prepare Staff to verify	As above.	
	29	In order to mitigate potential impacts to Biological Resources: Structures, driveways and associated facilities for each lot shall be located to avoid unnecessary removal of oak woodland, coastal scrub and sensitive species such as Monterey ceanothus. For individual oak trees or Monterey ceanothus that cannot be avoided, replacement plants shall be transplanted consistent with approved tree replacement plans. This will be included as a note on the map or by a deed restriction.	<ul style="list-style-type: none"> <li>The Applicant's Tree Protection and Replacement Plans shall incorporate these elements.</li> <li>Applicant shall submit the Tree Replacement Plan for review and approval by the PBI Department.</li> <li>Place this Note on the Final Map</li> </ul>	Applicant	Prior to Grading and Prior to Recordation of Final Map	
	30	In order to mitigate potential impacts to Biological Resources: The following notes shall be included on an additional sheet of the Final Map: <ul style="list-style-type: none"> <li>Notice of the availability of the Forest Management Plan, Biological Report, Geotechnical Report, Percolation Study, and a drainage study.</li> <li>Any building or grading permit application shall be required to include a detailed site plan showing all oak trees on the lot at</li> </ul>	<ul style="list-style-type: none"> <li>Place these Notes on the Final Map</li> </ul>	Applicant		

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Permit Cond. Number	Mitig. Number	Impact Addressed, and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Completion (month / year / date)
		issue.				
	31	In order to mitigate potential impacts to Biological Resources: A note shall be placed on a separate sheet of the Final Map and/or in the subdivision CC&Rs that prohibits property owners from removing oak trees except as allowed by the County or for fire control necessitated by state or local agencies.	<ul style="list-style-type: none"> <li>Place these Notes on the Final Map</li> <li>Include provisions in the CC&amp;Rs and HOA Responsibilities</li> </ul>	Applicant Staff to Verify	Prior to Recordation of Final Map and CC&Rs Document.	
	32	In order to mitigate potential impacts to Biological Resources: A note shall be included on an additional sheet of the Final Map and in the CC&Rs that a Forest Management Plan has been prepared for the subdivision and that the provisions of the plan will apply to the preservation of vegetation within the subdivision. All protected trees removed shall be replaced at a minimum 3:1 ratio.	<ul style="list-style-type: none"> <li>Place these Notes on the Final Map</li> <li>Include provisions in the CC&amp;Rs and HOA Responsibilities</li> </ul>	Applicant Staff to Verify	Prior to Recordation of Final Map and CC&Rs Document.	
	33	In order to mitigate potential impacts to human safety from geological or soil conditions: The subdivider and future homeowners shall incorporate all recommendations and mitigation measures identified in the Geotechnical Investigation prepared by M. Jacobs & Associates, Consulting Geotechnical Engineers, dated June 1992 into the grading plans for the subdivision improvement and grading and building permits for parcel development. Notice of the existence of the report shall be provided to all future owners of parcels within the subdivision.	<ul style="list-style-type: none"> <li>Place these Notes on the Final Map</li> <li>Place this note on Grading Plans</li> <li>Include reference and place of availability for report for homeowners in the CC&amp;R Document.</li> </ul>	Applicant to prepare Staff to Verify	Prior to Recordation of Final Map and CC&Rs Document.	
	34	In order to mitigate potential impacts Hydrology or Water Quality Resources: Prior to issuance of any building permits for homes or accessory structures, the applicant shall provide to the Monterey County Water Resources Agency certification from a registered civil engineer that the drainage improvements, including the stormwater detention facility, have been constructed in accordance	<ul style="list-style-type: none"> <li>Make arrangements with County staff for field confirmation.</li> </ul>	Applicant to prepare Staff to Verify	Prior to Issuance of Building Permit	

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Permit Cond. Number	Mitig. Number	Impact Addressed, and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Compliance Date
		with approved plans.				
	35	In order to mitigate potential impacts Hydrology or Water Quality Resources: Submit engineered septic system designs for lots 5 through 19, 22 and 23 for review and approval by the Director of Environmental Health prior to filing the final map. Also include availability of these designs as a deed notification for those parcels.	<ul style="list-style-type: none"> <li>Prepare Plans/ Septic Designs</li> <li>Submit the plans for review and approval</li> <li>Prepare Deed Notices for each required lot.</li> <li>Record these Notices with the Final map.</li> </ul>	<p>Applicant to Prepare</p> <p>Staff to Verify</p>	<p>Prior to Recordation of Final Map</p> <p>Record Notices with Final Map</p>	
	36	In order to mitigate potential impacts Hydrology or Water Quality Resources: Submit a map indicating septic envelopes for all subdivision parcels to the Division of Environmental Health for review and approval, and incorporate the envelopes onto the final map.	<ul style="list-style-type: none"> <li>See Above #35</li> </ul>	<p>Applicant to Prepare</p> <p>Staff to Verify</p>	<p>Prior to Recordation of Final Map</p>	
	37	In order to mitigate potential impacts Hydrology or Water Quality Resources: Include a note on the Final Map or by separate instrument that states "The back-up water supply for this property may require on-site water treatment in order to meet secondary (aesthetic) drinking water standards. Water treatment units shall be regenerated off site unless otherwise approved by the Director of Environmental Health."	<ul style="list-style-type: none"> <li>Place Note on Final Map</li> </ul>	<p>Applicant</p>	<p>Prior to Recordation of Final Map</p>	
	38	In order to mitigate potential conflict with Land Use and Planning Policies of the County of Monterey: A note shall be included on an additional sheet of the Final Map or by separate instrument that structures proposed on slopes exceeding limits established in the Monterey County CEQA Guidelines (10%), shall provide a stepped foundation to minimize the need for grading a flat building site.	<ul style="list-style-type: none"> <li>Place Note on Final Map</li> <li>Record this Notice on each those lots with building envelopes that have slopes exceeding 10%.</li> </ul>	<p>Applicant</p>	<p>Prior to Recordation of Final Map</p>	

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Permit Cond. Number	Mjts. Number	Impact Addressed, and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (range of dates)
	39	In order to mitigate potential conflict with Land Use and Planning Policies of the County of Monterey. A 200 foot wide agricultural buffer easement shall be delineated along the south property line, either to the north (on the subdivision property) or south (on the adjoining property). This easement will affect the area of proposed lots 9, 10, 27 and 28. No development, except permanent roads, shall be allowed within the buffer. Land within the easement shall not be used for recreational areas. Minor storage structures or sheds associated with the residential use may be permitted within the easement area.	<ul style="list-style-type: none"> <li>Show easements on Final Map</li> <li>An easement document shall be prepared by the subdivider, subject to the approval of the Planning Director, and recorded concurrent with the Final Map.</li> </ul>	Applicant to prepare  Staff to Review	Prior to Recordation of Final Map  Record Document with Final Map	
	40	In order to mitigate potential cumulative water impacts that are individually limited, but potentially cumulatively considerable: The applicant shall pay the appropriate financial contribution in accordance with Ordinance #4005, adopted by the Board of Supervisors to implement an area-wide hydrological study to address ground water overdraft and water resources management in the project area.	<ul style="list-style-type: none"> <li>Pay \$1,000 for each parcel approved to the PBI Department (\$28,000).</li> </ul>	Applicant	Prior to Recordation of Final Map	
	41	In order to mitigate potential cumulative water impacts that are individually limited, but potentially cumulatively considerable: Prior to filing the Final Map, the applicant shall record a deed restriction prohibiting any commercial agricultural uses on the property.	<ul style="list-style-type: none"> <li>Prepare deed restriction documents for each parcel to be created, including Open Space parcels A, B, and C.</li> </ul>	Applicant to Prepare  Staff to Verify	Prior to Recordation of Final Map  Record Documents with Final Map	
	42	In order to mitigate potential traffic and regional circulation impacts that are individually limited, but potentially cumulatively considerable: Prior to filing the Final Map, the subdivider shall contribute a pro-rata share to 1) install a left turn lane on the northbound approach of San Juan Grade Road to Crazy Horse Canyon Road, 2) construct a traffic signal and intersection improvements of San Juan Grade Road at Rogge Road, and 3) construct a signal and intersection improvements at San Juan Grade Road and Russell Road.	<ul style="list-style-type: none"> <li>Demonstrate to the PBI Department that all in-lieu fees have been paid to the appropriate authorities.</li> <li>A copy of the paid receipts shall be placed in the file.</li> </ul>	Applicant to Pay  P. W. to receive Fees  PBI staff to verify	Prior to Recordation of Final Map	

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Permit Cond. Number	Mitig. Number	Impact Addressed, and Responsible Land Use Department	Compliance or Monitoring Action to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (Name/ date)
	43	In order to mitigate potential traffic and regional circulation impacts that are individually limited, but potentially cumulatively considerable: Prior to issuance of a Building Permit for each lot, applicant shall pay County a traffic mitigation fee of \$1,164.69 per lot as a pro rata share of the future cost of an interchange at the intersection of Highway 101 and Crazy Horse Canyon Road. The fee shall be based on 2004 dollars and shall be updated annually based on the Engineering News Record Construction Cost Index. A notice to that effect shall be recorded concurrently with the recordation of the final map.	<ul style="list-style-type: none"> <li>Demonstrate to the PBI Department that all in-lieu fees have been paid to the appropriate authorities.</li> <li>A copy of the paid receipts shall be placed in the file.</li> </ul>	Applicant to pay P.W. to receive fees PBI staff to verify	Prior to issuance of Building Permit	

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Inspection Department, Water Resources Agency, and North County Fire District, Public Works Department and Environmental Health Division. There has been no indication from those agencies that the site is not suitable.

EVIDENCE: See Findings 1,2, 4,10.

13. **FINDING:** The project is appealable to the Board of Supervisors.  
**EVIDENCE:** The Monterey County Zoning Ordinance Title 21, Chapter 21.80.

### DECISION

THEREFORE, it is the decision of the Planning Commission to adopt the Mitigated Negative Declaration and Mitigation Monitoring Reporting Program and approve said application for a Combined Development Permit as shown on the attached sketch and subject to the following conditions:

- 1 The subject Combined Development Permit (Cathrein Estates PLN990330) consists of: 1) a Standard Subdivision Vesting Tentative Map for the division of a 143 acre parcel into 28 residential lots ranging in size from 1.23 to 5.2 acres, and 3 open space parcels totaling 79 acres; 2) a Use Permit for an addition to a Mutual Water System, 3) a Use Permit for tree removal (156 Oak trees, including two over 24" diameter), and a Grading Permit for approximately 40,000 cubic yards of cut and fill for roads and infrastructure. The property is located at the terminus of Pesante Road (Assessor's Parcel Number 125-291-001-000 and 125-621-017-000), southerly of the Hidden Canyon Ranch Subdivision and east of Crazy Horse Canyon Road, Prunedale area.

The project is in accordance with County ordinances and land use regulations subject to the following terms and conditions. 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 Planning and Building Inspection. 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. (Planning and Building Inspection)

2. In accordance with approval of the Cathrein Estates Subdivision and Combined Development Permit, all construction and improvements shall be in substantial conformance to the Vesting Tentative Map (Sheet 1 of 2) dated May 2003.
3. Pursuant to the State Public Resources Code, State Fish and Game Code and California Code of Regulations, the applicant shall pay a fee to be collected by the County of Monterey in the amount of \$1,275. This fee shall be paid within five days of project approval, before the filing of the Notice of Determination. Proof of payment shall be furnished by the applicant to the Director of Planning and Building Inspection prior to the recordation of the tentative map, the commencement of the use, or the issuance of building and/or grading permits, whichever occurs first. The project shall not be operative, vested, or final until the filing fees are paid. (Planning and Building Inspection)

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4. The subdivider and subsequent property owners shall comply with all mitigation measures identified in the Mitigation Monitoring and Reporting Program adopted by the Planning Commission on February 26, 2004. **(Planning and Building Inspection)**
5. The applicant has a recreation credit which he intends to apply to this project. The credit is a part of Resolution 97-177. The Parks Department has no further conditions or requirements to be applied to the project. **(Parks)**
6. Annexation to Zone 9. Developer shall apply for annexation of the property to Zone 9 of the County Water Resources Agency. **(Water Resources Agency)**
7. All roads within this subdivision shall be private roads. **(Public Works)**
8. All proposed road names shall be approved by County Communications. **(Public Works)**

**Prior to Filing and Recording a Final Map:**

9. The property owner agrees as a condition and in consideration of the 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. County may, at its sole discretion, participate in the defense of such action; but such participation shall not relieve applicant of his 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 the property, or filing of the final map, 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. **(Planning and Building Inspection)**
10. A scenic easement shall be conveyed to the County over those portions of the property where the slope exceeds 30 percent and shall be shown on the final map. The scenic easement deed is to be submitted to and approved by Director of Planning and Building Inspection prior to issuance of building permits. **(Planning and Building Inspection Department)**
11. The applicant shall record a notice that states: "A permit (Resolution 04007) was approved by the Planning Commission for Assessor's Parcel Number 125-291-001-000 and 125-621-017-000 on date February 26, 2004. The permit was granted subject to 49 conditions of approval, which run with the land. A copy of the permit is on file with the Monterey County Planning and Building Inspection Department." A copy of the permit is on file with

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the Monterey County Planning and Building Inspection Department." Proof of recordation of this notice shall be furnished to the Director of Planning and Building Inspection prior to issuance of building permits or commencement of the use. **(Planning and Building Inspection)**

12. The applicant shall enter into an agreement with the County to implement a Mitigation Monitoring Plan, including payment of the \$9,648 fee for the County of Monterey to monitor compliance with mitigation measures (Fee for 31-40 measures). **(Planning and Building Inspection)**.
13. Design the water system improvements to meet the standards as found in Chapter 15.04 Title 17 and 22 California Code of Regulations and as found in the Residential Subdivision Water Supply Standards. Submit Engineered plans for the water system improvements and any associated fees to the Director of Environmental Health for review and approval prior to installing (or bonding) improvements. **(Environmental Health)**
14. Design the water system improvements to meet fire flow standards as required and approved by the local fire protection agency (North County Fire District). Submit evidence to the Division of Environmental Health that the proposed water system improvements have been approved by the local fire protection agency prior to installation or bonding of water system improvements. **(Environmental Health)**
15. The Developer shall install or bond the water system improvements to and within the subdivision and any appurtenances needed prior to filing the final map. The water improvements shall only be installed or bonded after the engineered designs have been approved by the Division of Environmental Health **(Environmental Health)**.
16. Obtain a new water system permit from the Division of Environmental Health prior to filing the final map. **(Environmental Health)**.
17. The applicant shall file deed notification concurrently with the filing of the final map stating that, "The water supply for this property may require on-site water treatment in order to meet secondary (aesthetic) drinking water standards. Water treatment units shall be regenerated off site unless otherwise approved by the Director of Environmental Health **(Environmental Health)**."
18. Prior to filing the final map, submit engineered septic system designs for Lots 22, 23, 24, 28 (former lots # 5,6,7,10) and 5 through 18 and 20 (former lots # 11-23) for review and approval by the Director of Environmental Health. **(Environmental Health)**.
19. The applicant shall record a deed notification with the Monterey County Recorder for Lots 22, 23, 24, 28 (former lots # 5,6,7,10) and 5 through 18 and 20 (former lots # 11-23) concurrently with filing the final map indicating that, "An approved septic system design is on file at the Division of Environmental Health. File number PC990330 and any future development or expansion on this property shall be in compliance with the design and Chapter 15.20 MCC unless otherwise approved by the Director of Environmental Health." **(Environmental Health)**.

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20. Drainage Plan. Prior to filing of the final map, a drainage plan shall be prepared by a registered civil engineer to address on-site and off-site impacts to include detention facilities to mitigate the impact of impervious surface stormwater runoff. Necessary improvements shall be constructed in accordance with approved plans. (Water Resources Agency)
21. Notice Of Water Conservation Requirements. Prior to filing of the final map, a notice shall be recorded on the deed for each lot that all new construction shall incorporate the use of low water use plumbing fixtures and drought tolerant landscaping, in accordance with Monterey County Water Resources Agency Ordinance #3539, or as subsequently amended. (Water Resources Agency)
22. Landscaping Requirements. The front yards of all homes shall be landscaped at the time of construction. Low water use or drought tolerant plants shall be used together with water efficient irrigation systems. This shall be the responsibility of the developer if the developer is also the builder. A notice shall be recorded on the deed for each lot prior to filing of the final map, to inform future builders of this requirement. (Water Resources Agency) Draft notices shall be submitted to the Planning and Building Inspection Department for review and approval prior to recordation. (Planning and Building Inspection Department)
23. A homeowners association shall be formed for road and drainage maintenance. (Public Works)
24. Homeowners Association. A homeowners association shall be formed for the maintenance of roads, drainage facilities, and open spaces. Documents for formation of association shall be approved by the Director of Public Works, the Director of Planning and Building Inspection, and the County Water Resources Agency, prior to filing of final map. C.C. & R.'s shall include provisions for a yearly report by a registered civil engineer, and the monitoring of impacts of drainage and maintenance of drainage facilities. Report shall be approved by the County Water Resources Agency. (Water Resources Agency)
25. MCWRA Agreement: If the homeowner's association, after notice and hearing fails to properly maintain, repair or operate the drainage and flood control facilities in the project, Monterey County Water Resources Agency shall be granted the right by the property owners to enter any and all portions of the property to perform repairs, maintenance or improvements necessary to properly operate the drainage and flood control facilities in the project. The County Water Resources Agency shall have the right to collect the cost for said repairs, maintenance, or improvements from the property owners upon their property tax bills. A hearing shall be provided by the Board of Supervisors as to the appropriateness of the cost. An agreement to this effect shall be entered into concurrent with the filing of the final map of the first phase of the subdivision. (Water Resources Agency)
26. CC&R's. Water Conservation Provisions. In accordance with Monterey County Water Resources Agency Water Conservation Ordinance No. 3932, or as subsequently amended, the CC&R's shall contain provisions that: all new construction incorporate the use of low water use plumbing fixtures including, where applicable, hot water recirculation systems; the front yards of all homes shall be landscaped at the time of construction; low water use or drought tolerant plants shall be used together with water efficient irrigation systems; leak repair is the property owner's responsibility; vehicle and building washing shall use hoses

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equipped with shut off nozzles; no potable water to be used for sidewalk washing; no water spillage into streets, curbs, and gutters; no emptying or refilling of swimming pools except for structural repairs or if required for public health regulations; no fountains unless water is recycled within the fountain. (Water Resources Agency)

27. The Subdivider shall submit three prints of the approved tentative map to utility companies. Utility companies shall submit their recommendation, if any, to the Public Works Director for all required easements. (Public Works)
28. The Subdivider shall pay for all maintenance and operation of private roads, fire hydrants, and storm drainage from the time of installation until acceptance of the improvements for the Subdivision by the Board of Supervisors as completed in accordance with the Subdivision Improvement Agreement and until a homeowners association or other agency with legal authorization to collect fees sufficient to support the services is formed to assume responsibility for the services. (Public Works)
29. All natural drainage channels shall be designated on the final map by easements labeled "Natural Drainage Easement." (Public Works)
30. A soils engineering report will be required before recording final maps. (Public Works)
31. That the Pesante Road Official Plan Line be shown on the final map. (Public Works)
32. Provide for emergency access to Pesante Road subject to the approval of the North County Fire District. (Public Works)
33. The applicant shall comply with the requirements of the Inclusionary Housing Ordinance, by payment of an in-lieu fee, or provision of an inclusionary unit, prior to filing of the final map. (Planning and Building Inspection)

Prior to Grading and Construction Activities Commencing:

34. Provide improvement plans for approval of the Department of Public Works and that the roads be constructed in accordance with the typical section shown on the tentative map. (Public Works)
35. That cut slopes not exceed 2 to 1 except as specifically approved in concurrence with the soils report. (Public Works)
36. Applicant shall submit roadway construction plans for approval to the North County Fire District prior to construction. (Fire)
37. Applicant shall submit water system plans for approval to North County Fire District prior to Construction. (Fire)
38. The water system shall be completed and installed prior to construction of combustible materials. (Fire)

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39. Where cut or fills at property line exceed 5,' driveways shall be rough graded in when streets are rough graded, and positive drainage and erosion control provided. (Public Works)
40. That all graded areas of the street right of way be planted and maintained as required by the County Surveyor to control erosion. The area planted shall include all shoulder areas and all cut and fill slopes. A report and plan prepared by a qualified person shall be submitted to the satisfaction of the County Surveyor and include the following (Public Works):
  - a) That the cut and fill slopes be stabilized.
  - b) Specific method of treatment and type of planting, by area, for each soil type and slope required to satisfy item (a).
  - c) Type and amount of maintenance required to satisfy item (a).
41. The applicant shall call for a preconstruction meeting with the Public Works Department, Environmental Health Department, Water Resources Agency, Planning and Building Inspection Department and North County Fire District. Mitigation measures, infrastructure, construction phasing, construction practices, inspection schedules, as well as county and applicant expectations will be discussed. (Planning and Building Inspection)
42. The applicant shall call for a field inspection by the Planning Department to verify that all appropriate mitigation measures for tree protection and erosion control as specified in the Negative Declaration, MMRP and Conditions of Approval have been implemented. (Planning and Building Inspection)

Prior to Issuance of Building Permits

43. The applicant is required to request rezoning of Parcels A, B, & C to an Open Space designation.
44. Detention Pond. Prior to Issuance of Building Permits, a stormwater detention/sediment retention pond(s) shall be constructed in accordance with plans by a registered civil engineer and the pond shall be fenced for public safety. (Water Resources Agency)
45. Completion Certification. Prior to issuance of any building permits, the applicant shall provide to the Monterey County Water Resources Agency certification from a registered civil engineer that the drainage improvements including the stormwater detention facility have been constructed in accordance with approved plans. (Water Resources Agency).
46. Road, street and private signs required by this article shall be installed prior to final acceptance of road improvements by the reviewing fire authority (Fire).
47. All exterior lighting shall be unobtrusive, harmonious with the local area, and constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. No general street lighting has been proposed or approved for this development. That the applicant shall submit 3 copies of an exterior lighting plan which shall indicate the location, type, and wattage of all light fixtures and include catalog sheets for each fixture. The exterior lighting plan shall be subject to approval by the Director of Planning and Building Inspection, prior to the issuance of building permits. (Planning and Building Inspection Department)

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48. A landscaping plan shall include low water use or native drought resistant plants, low precipitation sprinkler heads (disperses less than 0.75 inches of water per hour at any pipe pressure), bubblers, drip irrigation and timing devices. The landscaping plans shall conform to Chapter 18.50, Residential, Commercial, and Industrial Water Conservation Measures, found in Title 18 of the Monterey County Code. (Planning and Building Inspection)

**Prior to Occupancy of the First Residential Unit:**

49. All gates providing access from a road to a driveway shall be located at least 30 feet from the roadway and shall open to allow a vehicle to stop without obstructing traffic on that road. (Fire District)

**PASSED AND ADOPTED** this 25th day of February, 2004, by the following vote:

AYES: Errea, Sanchez, Hawkins, Padilla, Parsons, Salazar, Rochester, Wilmot  
NOES: Vandeverre, Diehl  
ABSENT: None

  
JEFF MAIN, SECRETARY

COPY OF THIS DECISION WAS MAILED TO THE APPLICANT ON MAR 09 2004

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE CLERK TO THE BOARD OF SUPERVISORS ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE MAR 19 2004

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 90<sup>th</sup> day following the date on which this decision becomes final.