

Attachment A

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When recorded return to:
MONTEREY COUNTY RESOURCE
MANAGEMENT AGENCY
PLANNING DEPARTMENT
Attn: **Ramon Montano**
168 West Alisal St 2nd Floor
Salinas, CA 93901
(831) 755-5025

Space above for Recorder's Use

Permit No.: PLN 010528
Resolution No.: 03075
Owner Name: Stevenson
Project Planner: Ramon Montano
APN: 243-113-007-000

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

Signature of Declarant or Agent

***CONSERVATION AND SCENIC EASEMENT DEED
(COASTAL)***

THIS DEED made this 3rd day of October, 2016, by and between
Delaine Stevenson, Trustee of the Delaine Stevenson Trust dated 2/1/2006, as
amended as Grantor, and the COUNTY OF MONTEREY, a political subdivision of the
State of California, as Grantee,

WITNESSETH:

WHEREAS, said Grantor is the owner in fee of the real property more particularly
described in Exhibit "A" attached hereto and made a part hereof, situated in Monterey
County, California (hereinafter the "Property"); and

WHEREAS, the Property of said Grantor has certain natural scenic beauty and
existing openness; and

WHEREAS, the Grantor and the Grantee desire to preserve and conserve for the public benefit the great natural scenic beauty and existing openness, natural condition and present state of use of the Property of the Grantor; and

WHEREAS, the California Coastal Act of 1976, (hereinafter referred to as the "Act") requires that any coastal development permit approved by the County must be consistent with the provisions of the certified Local Coastal Program (LCP); and

WHEREAS, pursuant to the Act, and the LCP, Grantor applied to the County for a permit to undertake development as defined in the LCP; and

WHEREAS, a Coastal Development Permit (File Number **PLN010528**) (hereinafter referred to as the "Permit") was granted on **November 12, 2003** by the Monterey County **Planning Commission** pursuant to the Findings, Evidence and Conditions contained in Resolution No. 03075. That resolution is attached hereto as Exhibit "B" (without sketches) and hereby incorporated by reference, (hereinafter the "Resolution") subject to the following condition(s):

Condition No. 28 (Mitigation Measure 2): In order to ensure the long-term conservation of the Yadon's piperia habitat adjacent to the existing and approved development, a scenic and conservation easement shall be conveyed to the County over those portions of the property where sensitive habitats exist including those buffers outlines [sic] in the e-mail from Vern Yadon dated October 8, 2003. The scenic easement deed shall be submitted to and approved by Director of Planning and Building Inspection. (PBI)

WHEREAS, the County, acting on behalf of the People of the State of California and pursuant to the Act, and in accordance with the findings contained in the Resolution granted the Permit to the Grantor upon condition (hereinafter the "Condition") described above requiring inter alia, that the Grantor record a conservation and scenic easement (hereinafter "easement") over the Property as shown in Exhibit "C" attached hereto and hereby incorporated by reference, and agree to restrict development on and use of the Property so as to preserve the open space, scenic, and/or natural resource values present on the Property and so as to prevent the adverse direct and cumulative effects on coastal resources and public access to the coast which could occur if the Property were not restricted in accordance with this easement; and

WHEREAS, the County has placed the Condition on the permit because a finding must be made under the law that the proposed development is in conformity with the provisions of the certified Local Coastal Program and that in the absence of the protections provided by the Condition said finding could not be made; and

WHEREAS, Grantor has elected to comply with the Condition and execute this easement so as to enable Grantor to undertake the development authorized by the Permit; and

WHEREAS, it is intended that this easement is irrevocable and shall constitute enforceable restrictions within the meaning of Article XIII, Section 8, of the California Constitution and that said easement shall thereby qualify as an enforceable restriction under the provision of the California Revenue and Taxation Code, Section 402.1; and

WHEREAS, the said Grantor is willing to grant to the County of Monterey the conservation and scenic use as herein expressed of the Property, and thereby protect the present scenic beauty and existing openness by the restricted use and enjoyment of the Property by the Grantor through the imposition of the conditions hereinafter expressed;

NOW, THEREFORE, the Grantor does hereby grant and convey unto the County of Monterey an estate, interest, and conservation and scenic easement in said real property of Grantor of the nature and character and to the extent hereinafter expressed, which estate, interest, and easement will result from the restrictions hereby imposed upon the use of said Property by said Grantor, and to that end and for the purposes of accomplishing the intent of the parties hereto, said Grantor covenants on behalf of itself, its heirs, successors, and assigns, with the said Grantee, its successors and assigns, to do and refrain from doing severally and collectively upon the Grantor's Property the various acts hereinafter mentioned.

A. PROPERTY SUBJECT TO EASEMENT. The Property of the Grantor hereinabove referred to and to which the provisions of this instrument apply is situated in the County of Monterey, State of California, and is particularly described and depicted in Exhibit "C", attached hereto, and made a part hereof, hereinafter referred to as the "Conservation and Scenic Easement Area".

B. RESTRICTIONS. The restrictions hereby imposed upon the use of the Conservation and Scenic Easement Area by the Grantor and the acts which said Grantor shall refrain from doing upon the Conservation and Scenic Easement Area in connection herewith are, and shall be, as follows:

1. That no structures will be placed or erected upon said Conservation and Scenic Easement Area.

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

3. That the Grantor shall not plant nor permit to be planted any vegetation upon the Conservation and Scenic Easement Area, except in accordance with: a) landscape plan approved or amended pursuant to Condition No. 16 of the Permit; or b) the Invasives Management Plan approved or amended under Condition No. 29 (Mitigation Measure 3).

4. That, except for the alteration, relocation, repair, replacement and maintenance of existing underground utilities and the repair and maintenance of existing unpaved service roads and private pedestrian trails, the general topography of the landscape shall be maintained in its present condition and no excavation or topographic changes shall be made.

5. That no use of the Conservation and Scenic Easement Area which will or does materially alter the landscape or other attractive scenic features of said Property other than those specified above shall be done or suffered.

C. EXCEPTIONS AND RESERVATIONS. The following are excepted and reserved to the Grantor to be implemented consistent with the objectives, purposes and conditions of this easement:

1. The right to maintain and repair all existing unpaved services roads and private pedestrian trails upon the Conservation and Scenic Easement Area, and the right to repair, replace and maintain existing underground utilities.

2. The use and occupancy of the Conservation and Scenic Easement Area not inconsistent with the conditions and restrictions herein imposed.

3. Management of vegetation within the Conservation and Scenic Easement Area in accordance with: a) landscape plan approved or amended pursuant to Condition No. 16 of the Permit; or b) the Invasives Management Plan approved or amended under

Condition No. 29 (Mitigation Measure 3) of the Permit on file with the Monterey County Planning Department.

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

E. BENEFIT AND BURDEN. This grant of conservation and scenic easement shall run with and burden the Property, and all obligations, terms, conditions, and restrictions hereby imposed shall be deemed to be covenants and restrictions running with the land and shall be effective limitations on the use of the Property from the date of recordation of this document and shall bind the Grantor and all of its successors and assigns. This grant shall benefit the County of Monterey and its successors and assigns forever.

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

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

H. MAINTENANCE. The Grantee shall not be obligated to maintain, improve, or otherwise expend any funds in connection with the Property or any interest or easement created by this grant of easement. All costs and expenses for such

maintenance, improvement use, or possession shall be borne by the Grantor, except for costs incurred by Grantee for monitoring compliance with the terms of this easement.

I. LIABILITY AND INDEMNIFICATION. This conveyance is made and accepted upon the express condition that the Grantee, its agencies, departments, officers, agents, and employees are to be free from all liability and claim for damage by reason of any injury to any person or persons, including Grantor, or property of any kind whatsoever and to whomsoever belonging, including Grantor, from any cause or causes whatsoever, except matters arising out of the sole negligence of the Grantee, while in, upon, or in any way connected with the Property, Grantor hereby covenanting and agreeing to indemnify and hold harmless the Grantee, its agencies, departments, officers, agents, and employees from all liability, loss, cost, and obligations on account of or arising out of such injuries or losses however occurring. The Grantee shall have no right of control over, nor duties and responsibilities with respect to the Property which would subject the Grantee to any liability occurring upon the Property by virtue of the fact that the right of the Grantee to enter the Property or Conservation and Scenic Easement Area is strictly limited to preventing uses inconsistent with the interest granted, the Property is not "property of a public entity" or "public property," and Grantee's rights herein do not include the right to enter the Property or Conservation and Scenic Easement Area for the purposes of correcting any "dangerous condition" as those terms are defined by California Government Code Section 830.

J. SUCCESSORS AND ASSIGNS. The terms, covenants, conditions, exceptions, obligations, and reservations contained in this conveyance shall be binding upon and inure to the benefit of the successors and assigns of both the Grantor and the Grantee, whether voluntary or involuntary.

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

Executed this 3rd day of October, 2016, at Carmel, California, Colorado.

Delaine Stevenson Trust dated 2/1/2006, as amended

By: 
Delaine Stevenson, Trustee

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

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

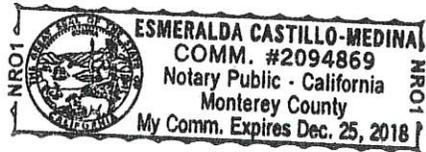
STATE OF ~~COLORADO~~ **CALIFORNIA**
COUNTY OF ~~ARAPAHOE~~ **MONTEREY**

On October 3, 2016 before me, Esmeralda Castillo-Medina, a Notary Public, personally appeared Delaine Stevenson, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature Esmeralda Castillo-Medina



(Seal)

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

STATE OF CALIFORNIA)
COUNTY OF MONTEREY)

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

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

(Seal)

WITNESS my hand and official seal.

Signature _____

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Exhibit A

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EXHIBIT "A"
Legal Description

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

PARCEL I:

Lot 7 of Tract 1345 "Lands of Riley Ranch at Point Lobos" as shown on the Map recorded June 2, 2000 in Volume 21 of Cities and Towns, at page 12, in the Office of the County Recorder of the County of Monterey.

PARCEL II:

A non-exclusive easement for road access purposes over, across and on that certain sixty foot (60') right of way for road access as shown on that certain Parcel Map filed May 4, 1988 in Volume 17, Page 104, Parcel Maps and as amended by Certificate of Correction recorded May 27, 1988 in Reel 2233, Page 821, Official Records, in the Office of the County Recorder of said County.

PARCEL III:

A non-exclusive easement designated as "Public Service Easement for Private Water Company and Public Utilities" lying within Lots 1 through 6 as shown on the filed map referred to in Parcel I above.

PARCEL IV:

A. An easement for use of water system as disclosed by an instrument entitled "Conveyance of Water Wells and Water Systems", between Margaret A. Hudson, et al, dated September 1, 1949 and recorded on January 25, 1950, in Volume 1188, Page 401.

B. Easements for ingress, egress, telephone and electrical utility service as disclosed by an instrument entitled "Agreement Relating to Right-of-Way Easement for Road and Utilities", executed by Eunice A. Riley, et al., dated January 24, 1950 and recorded on February 27, 1950, in Book 1196, Page 468, Official Records.

C. A road easement as reflected in a Decree to Quiet Title and Declaratory Judgment dated March 30, 1966 in Virginia Nielson, et al. v. Alexander M. Allan Jr., et al, Monterey County Superior Court Action No. 56136, and recorded May 23, 1968, in Reel 558, Page 522, and by virtue of an Order Nunc Pro Tunc Supplementing Judgment dated June 8, 1968, in such action and recorded on May 23, 1968 in Reel 558, Page 524, Official Records.

D. Rights to use recreational and equestrian amenities as may be developed as set forth in a certain Real Property Exchange Agreement, with Real Property Exchange Agreement is disclosed by a Memorandum between Mary Riley Whisler, et al and Ted Richter, et al, dated November 19, 1984 and recorded on November 26, 1984, in Reel 1788, Page 1031, and an Amendment to the Memorandum between Rancho Chiquita Associates, et al, and Mary Riley Whisler, et al, dated May 17, 1988 and recorded June 3, 1988 in Reel 2235, Page 1230.

E. Easements for road access, use of a water system, for utilities and other service facilities and for scenic and viewshed purposes as described in that certain Deed and Grant of Easements between Rancho Chiquita Associates, et al, and Mary Riley Whisler, et al, dated May 17, 1988 and recorded on June 3, 1988 in Reel 2235, Page 1210.

APN: 243-113-007

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Exhibit B

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**PLANNING COMMISSION
COUNTY OF MONTEREY, STATE OF CALIFORNIA**

RESOLUTION NO. 03075

A.P. # 243-113-007-000

In the matter of the request of
Francis L. Whisler AIA (PLN010528)

FINDINGS & DECISIONS

for a Combined Development Permit pursuant to regulations established by local ordinance and state law, to allow for a Coastal Development Permit for a new single family dwelling with a main floor (3,369 sq. ft.), a partial second floor (897 sq. ft.), a partial basement (632 sq. ft.), and an attached three-car garage (709 sq. ft.); a Coastal Administrative Permit for a detached 425 sq. ft. guest house with attached carport and grading (approx 900 cu. yds. cut and 250 cu. yds. fill); a Coastal Development Permit to allow the removal of 21 Monterey pines exceeding 12 inches in diameter and approximately 24 coast live oaks less than six inches in diameter; a Coastal Development Permit for development within 100 feet of environmentally sensitive habitat; and Design Review. The property is located at 61 Riley Ranch Road (Lot #7), Carmel, Carmel area, Coastal Zone. came on regularly for hearing before the Planning Commission on November 12, 2003.

Said Planning Commission, having considered the application and the evidence presented relating thereto,

FINDINGS OF FACT

1. **FINDING:** *PLAN, POLICY, AND ZONING CONSISTENCY FINDING:* The Project, as conditioned is consistent with the Carmel Area Land Use Plan, the Regulations for Development in the Carmel Area Land Use Plan/Chapter 20.146, and the Zoning Ordinance (Title 20) which designate this area as appropriate for residential development.
- EVIDENCE:** (a) PBI staff have reviewed the project as contained in the application and accompanying materials for consistency with the Carmel Area Land Use Plan, the Regulations for Development in the Carmel Area Land Use Plan/Chapter 20.146. PBI staff have reviewed the project as contained in the application and accompanying materials for conformity with the Zoning Ordinance (Title 20) and have determined that the project is consistent with the Carmel Area Land Use Plan which designates this area as appropriate for residential development within the Special Treatment Overlay for the Point Lobos Ranch (Section 4.4.3.F.4). Staff notes are provided in PBI File No. PLN010528.
- (b) Project planner conducted an on-site inspection on November 14, 2002 to verify that the project on the subject parcel conforms to the plans listed above. Staff notes regarding the site visit are in PBI File No. PLN010528.
- (c) The use/project, which is a single family home, is a conditional use allowed in accordance with Section 20.22.060.L. of Title 20
- (d) The parcel is zoned Visitor Serving Commercial/Special Treatment Area in the Coastal Zone ("VSC/SPTR [CZ]"). Project Review Sheet, Attachment A, indicates compliance with Site Development Standards in accordance with Section 20.22.070 of

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Title 20.

(e) The proposal is consistent with the County's approval given to the Riley Ranch Subdivision (Tract 1345 - Planning File SB94001).

(f) Applicant has revised his original plans and re-sited the home on the parcel to minimize tree removal on this heavily wooded lot in accord with advice from the Land Use Advisory Committee.

(g) The Carmel Area LUAC voted on December 2, 2002 on a 5 - 0 vote (with 2 absent) to recommend approval of the project. LUAC meeting minutes dated December 2, 2002.

2. **FINDING:** *NO VIOLATIONS EXIST FINDING:* The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision and any other applicable provisions of the County's zoning ordinance. No violations exist on the property, and all zoning violation abatement cost, if any, have been paid.

EVIDENCE: (a) Staff reviewed Monterey County Planning and Building Inspection Department records and is not aware of any violations that exist on subject property.

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

EVIDENCE: (a) The project was reviewed by Planning & Building Inspection, the Carmel Highlands Fire Protection District, Environmental Health, Public Works, and Water Resources. The respective departments/agencies have recommended conditions, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood. The applicant has agreed to these conditions as evidenced by the application and accompanying materials and conditions.

4. **FINDING:** *SITE SUITABILITY FINDING:* The site is suitable for the use proposed.

EVIDENCE: (a) Staff conducted on-site visit and prepared a written report indicating that the site is suitable for this use. Staff notes regarding the site visit are in PBI File No. PLN010528.

(b) The project was reviewed by Planning & Building Inspection, the Carmel Highlands Fire Protection District, Environmental Health, Public Works, and Water Resources. Conditions recommended have been incorporated.

(c) A Forest Management Plan has been provided by Forest City Consulting. This report indicates that the number of trees to be removed is the minimum necessary and prescribes a tree replacement policy. Forest Management Plan for Residential Parcel, 61 Riley Ranch Road, prepared by Glenn C. Flamik, Forest City Consulting, February 28, 2003. Report is in the project file.

(d) A Biological Report was prepared by Vandevere and Associates (October 17, 1995) for the subdivision application. This found that the development of the subdivision would not have significant biological impacts. Report is in the project file for subdivision

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(SB94001).

(e) A Geotechnical report on the subdivision was prepared by Grice Engineering and Geology, Inc. in April 1994. This report concluded that the subsurface materials of the site are suitable for the proposed subdivision, and recommend erosion control conditions are included in the conditions of approval. Report is in the project file for subdivision (SB94001).

(f) A Cultural Resource Evaluation of the Point Lobos Ranch Project in the County of Monterey" was prepared by Archaeological Resource Management on October 29, 1990. This report indicated that the subject parcel ("Lot 7") is not located within an archaeologically sensitive area, although several prehistoric sites do exist closer to Highway 1.

(g) Necessary public facilities are available/will be provided as shown in the application materials

5. **FINDING:** *ENVIRONMENTALLY SENSITIVE HABITAT (ESHA)* The proposed project is consistent with policies of the Carmel Area Land Use Plan dealing with development adjacent to environmentally sensitive habitats. The Biological Report prepared for the site by Vern Yadon states that no significant negative impact will result from this development. Conditions contained in the report include avoidance of ESHA, buffer areas, and the dedication of conservation easements.

EVIDENCE: (a) The Biological Report dated August 8, 2003, including follow up letters dated August 20, 2003, and October 8, 2003 prepared for the site by Vern Yadon pursuant to requirements of the Carmel Area Land Use Plan.

(b) Mitigation Measures 1, 2, and 3.

6. **FINDING:** *LANDMARK TREE FINDING:* The five landmark Monterey pine trees proposed for removal are the minimum required under the circumstances and will not involve risk of adverse environmental impacts pursuant to Section 20.146.060.D of the Carmel Area Coastal Implementation Plan.

EVIDENCE: (a) Staff conducted a site visit and observed that the site is uniformly covered by mature Monterey pine trees, and that no house site location would avoid these trees.

(b) The applicant revised his plans following review of the original plans by staff and the land use advisory committee. The revised plans reduced the maximum number of trees to be removed from 28 to 21 and the maximum number of landmark trees to be removed dropped from six to five.

(c) A condition of approval will insure that eight of the 21 trees tentatively approved for removal will be spared unless their removal is shown to be necessary. Three of these eight are landmark trees.

(d) The Forest Management Plan indicates that "tree cover on the parcel is abundant and the proposed placement of the improvements attempted to limit tree removal." It states that six various site plans were reviewed and this one chosen as the one which minimized tree removal. It notes that "the building site, as proposed, was chosen to limit long-term impacts to the forest resources."

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7. **FINDING:** *CEQA FINDING:* On the basis of the whole record before the Planning Commission, there is no substantial evidence that the proposed project as designed, conditioned and mitigated, will have a significant effect on the environment. The mitigated negative declaration reflects the independent judgment and analysis of the County.
- EVIDENCE:** (a) The Monterey County Planning and Building Inspection Department prepared an Initial Study pursuant to CEQA. This Initial Study identified potentially significant impacts to biological resources. The applicant has agreed to proposed mitigation measures that reduce the effects to a point where clearly no significant impact would occur. The Initial Study is on file in the office of P&BI and is hereby incorporated by reference (PLN010528). All project changes required to avoid significant effects on the environment have been incorporated into the project and/or are made conditions of approval (Condition 3).
- (b) A Mitigation Monitoring and/or Reporting Plan has been prepared in accordance with Monterey County regulations and is designed to ensure compliance during project implementation. Applicant must enter into an "Agreement to Implement a Mitigation Monitoring and/or Reporting Plan" as a condition of project approval.
- (c) Evidence that has been received and considered includes:
- I. Project Applications & Plans in file PLN010528/Whisler.
 - II. Initial Study for SB94001: the Whisler Trust Subdivision (Riley Ranch Subdivision at Point Lobos), September 6, 1996 (Revised November 27, 1996)
 - III. *Monterey County General Plan*
 - IV. *Carmel Area Land Use Plan*
 - V. *Regulations for Development in the Carmel Area Land Use Plan*
 - VI. Title 20 of the Monterey County Code (Zoning Ordinance)
 - VII. *CEQA Air Quality Guidelines*, Monterey Bay Unified Air Pollution Control District, Revised September 2002
 - VIII. Site visits conducted by project planner on November 14, 2002 and July 30, 2003
 - IX. Planning & Building Inspection Department's Geographic Information System
 - X. Forest Management Plan for Residential Parcel, 61 Riley Ranch Road, Prepared by Glenn C. Flamik, Forest City Consulting, February 28, 2003
 - XI. Biological Report for a New Residence at 61 Riley Ranch Road, Vern Yadon, Consultant, August 8, 2003
 - XII. Follow-Up Letter from Vern Yadon to Thomas A. McCue, August 20, 2003
 - XIII. Follow-Up E-mail from Vern Yadon to Thom McCue, October 8, 2003

7. **FINDING:** *APPEAL FINDING:* The decision on this project may be appealed to the Board of Supervisors and Coastal Commission.
- EVIDENCE:** (a) Section 20.86.030 of the Monterey County Zoning Ordinance (Board of Supervisors).
 (b) Section 20.86.080.A.3 of the Monterey County Coastal Implementation Plan, Part 1 (Coastal Commission).

DECISION

THEREFORE, it is the decision of said Planning Commission that said request for a Combined Development Permit be approved as shown on the attached sketch, subject to the following conditions:

1. The subject Combined Development Permit (PLN010528 - Whisler) consisting of a Coastal Development Permit for a new one-story single family dwelling with a main floor (3,369 sq. ft.), a partial second floor (897 sq. ft.), a partial basement (632 sq. ft.), and an attached three-car garage (709 sq. ft.); a Coastal Administrative Permit for a detached 425 sq. ft. guest house with attached carport and grading (approx 900 cu. yds. cut and 250 cu. yds. fill); a Coastal Development Permit to allow the removal of 21 Monterey pines exceeding 12 inches in diameter and approximately 24 coast live oaks less than six inches in diameter; a Coastal Development Permit for development within 100 feet of environmentally sensitive habitat; and design approval. The property is located at 61 Riley Ranch Road (Lot #7), Carmel (Assessor's Parcel Number 243-113-007-000), Carmel Area, Coastal Zone. The proposed project is in accordance with County ordinances and land use regulations, subject to the following terms and conditions. Neither the use 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)**

Prior to the Issuance of Demolition, Grading or Building Permits:

2. The applicant shall record a notice which states: "A permit (Resolution 03075) was approved by the Planning Commission for Assessor's Parcel Number 243-113-007-000 on November 12, 2003. The permit was granted subject to twenty-six (26) 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." 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)**
3. The applicant shall enter into an agreement with the County to implement the Mitigation Monitoring and/or Reporting Plan in accordance with Section 21.08.6 of the California Public Resources Code and Section 15097 of Title 14, Chapter 3 of the California Code of Regulations. The Mitigation Monitoring and/or Reporting Plan contained in the staff report is hereby incorporated herein in its entirety by reference. Compliance with the fee schedule adopted by the Board of Supervisors for mitigation monitoring shall be required and payment made to the County of Monterey at the time the property owner submits the signed mitigation monitoring agreement. **(Planning and Building Inspection)**

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4. 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 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, Fish and Game Code Section 711.4)**
5. 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. The applicant shall submit three 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)**
6. The applicant shall obtain a grading permit from the Building Inspection Division. **(Planning and Building Inspection)**
7. **DRAINAGE PLAN:** Prior to issuance of grading or building permits, a drainage plan shall be prepared by a registered civil engineer or architect addressing on-site and off-site impacts, to include retention/percolation facilities to mitigate the impact of impervious surface stormwater runoff, as recommended in Grice Engineering's *Geotechnical Soils and Foundations Report for the Riley Ranch Major Subdivision*, dated April 1994. Necessary improvements shall be constructed in accordance with approved plans. **(Water Resources Agency)**
8. **WATER AVAILABILITY CERTIFICATION:** Prior to the issuance of a building permit, the applicant shall obtain from the Monterey County Water Resources Agency (MCWRA), proof of water availability on the property in the form of an approved Water Release Form. **(Water Resources Agency)**
9. **WELL INFORMATION:** The applicant shall provide to the Water Resources Agency information on the water system to serve the project, including the location of all water wells on the property, any well logs available, and the number of current hookups. **(Water Resources Agency)**
10. The applicant shall record a deed restriction which states: "The parcel is located in a high fire hazard area and development may be subject to certain restrictions required as per Section 20.146.08C of the Coastal Implementation Plan and per the standards for development of residential property." **(Planning and Building Inspection Department)**
11. Native trees which are located close to the construction site shall be protected from inadvertent damage from construction equipment by wrapping trunks with protective materials, avoiding fill of any type against the base of the trunks, avoiding an increase in soil depth at the feeding zone or drip line of the retained trees, and installing a barrier around the drip line. Said protection shall be demonstrated prior to issuance of building permits subject to the approval of the Director of Planning and Building Inspection. **(Planning and Building Inspection Department)**

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12. **GUESTHOUSE - DEED REQUIREMENT:** Prior to the issuance of permits for guesthouse construction, or for use of an existing structure as a guesthouse, the applicant shall record a deed restriction stating the regulations applicable to the guesthouse, including that the guesthouse shall not be separately rented, let or leased from the main residence and shall not have cooking or kitchen facilities. **(Planning and Building Inspection Department)**

Prior to the Issuance of Building Permits:

13. Roadway turnarounds shall be required on driveways and dead-end roads in excess of 150 feet of surface length. Required turnarounds on access roadways shall be located within 50 feet of the primary building. The minimum turning radius for a turnaround shall be 40 feet from the centerline of the road. If a hammerhead/T is used, the top of the "T" shall be a minimum of 60 feet in length. **(Carmel Highlands Fire Protection District)**
14. A notice shall be recorded with the Monterey County Recorder which states: "A Forest Management Plan has been prepared for this parcel by Glenn Flamik of Forest City Consulting dated February 28, 2003 and is on record in the Monterey County Planning and Building Inspection Department Library, No. _____. All tree removal on the parcel must be in accordance with the Forest Management Plan, as approved by the Director of Planning and Building Inspection." This notice shall be recorded prior to issuance of building or grading permits. **(Planning and Building Inspection Department)**

Prior to Final Building Inspection/Occupancy:

15. **WATER CONSERVATION MEASURES:** The applicant shall comply with Ordinance No. 3932, or as subsequently amended, of the Monterey County Water Resources Agency pertaining to mandatory water conservation regulations. The regulations for new construction require, but are not limited to:
- a. All toilets shall be ultra-low flush toilets with a maximum tank size or flush capacity of 1.6 gallons, all shower heads shall have a maximum flow capacity of 2.5 gallons per minute, and all hot water faucets that have more than ten feet of pipe between the faucet and the hot water heater serving such faucet shall be equipped with a hot water recirculating system.
 - b. Landscape plans shall apply xeriscape principles, including such techniques and materials as native or low water use plants and low precipitation sprinkler heads, bubblers, drip irrigation systems, and timing devices. **(Water Resources Agency, Planning & Building Inspection)**
16. The site shall be landscaped. At least three weeks prior to occupancy, three copies of a landscaping plan shall be submitted to the Director of Planning and Building Inspection for approval. A landscape plan review fee is required for this project. Fees shall be paid at the time of landscape plan submittal. The landscaping plan shall be in sufficient detail to identify the location, specie, and size of the proposed landscaping materials and shall be accompanied by a nursery or contractor's estimate of the cost of installation of the plan. Before occupancy, either landscaping shall be installed or a certificate of deposit or other form of surety made payable to Monterey County for that cost estimate shall be submitted to the Monterey County Planning and Building Inspection Department. **(Planning and Building Inspection)**

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17. All cut and/or fill slopes exposed during the course of construction be covered, seeded, or otherwise treated to control erosion during the course of construction, subject to the approval of the Director of Planning and Building Inspection. **(Planning and Building Inspection Department)**
18. All new utility and distribution lines shall be placed underground. **(Planning and Building Inspection)**
19. All development on the parcel shall be in accordance with the Geological/Geotechnical report prepared for the site by Grice Engineering. Written certification shall be provided prior to final of the building permit. **(Planning and Building Inspection)**
20. Before construction begins, temporary or permanent address numbers shall be posted. Permanent address numbers shall be posted prior to requesting final clearance. All address numbers (permanent and temporary) shall be posted on the property so as to be clearly visible from the road. Where visibility cannot be provided, a post or sign bearing the address numbers shall be set adjacent to the driveway or access road to the property. Address numbers posted shall be Arabic, not Roman or written out in words. Address numbers posted shall be a minimum number height of 3 inches with a 3/8 inch stroke, and contrasting with the background colors of the sign. **(Carmel Highlands Fire Protection District)**
21. The building(s) shall be fully protected with automatic fire sprinkler system(s). The following notation is required on the plans when a building permit is applied for:

"The building shall be fully protected with an automatic fire sprinkler system. Installation, approval, and maintenance shall be in compliance with applicable National Fire Protection Association and/or Uniform Building Code Standards, the editions of which shall be determined by the enforcing jurisdiction. Four (4) sets of plans for fire sprinkler systems must be submitted and approved prior to installation. Rough-in inspections must be completed prior to requesting a framing inspection." **(Carmel Highlands Fire Protection District)**
22. Remove flammable vegetation from within 30 feet of structures. Limb trees 6 feet up from ground. Remove limbs within 10 feet of chimneys. **(Carmel Highlands Fire Protection District)**

Continuous Permit Conditions:

23. None of the eight trees identified as trees #2, 3, 5, 6, 10, 20, 21, and 22 on the site map of the February 28, 2003 Forest City Consulting Forest Management Plan shall be removed unless the following criteria are met: a) a forester listed on the Department's forester list has certified in writing that the tree will likely lead to a hazardous condition and b) the Director of the Planning & Building Inspection Department has reviewed this certification and concurred that the tree should be removed. These trees are among the 21 trees tentatively approved for removal through this permit. **(Planning and Building Inspection)**
24. If during the course of construction activity on the subject property, cultural, archaeological, historical, paleontological resources are uncovered at the site (surface or subsurface resources) work shall be halted immediately within 50 meters (165 feet) of the find until it can be evaluated by a qualified professional archaeologist. The Monterey County Planning and Building Inspection Department and a qualified archaeologist (i.e., an archaeologist registered with the Society of Professional Archaeologists) shall be immediately contacted by the responsible individual present on-site. When contacted, the project planner

Exhibit B

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and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery. **(Planning and Building Inspection)**

- 25. All landscaped areas and replanted trees shall be continuously maintained by the applicant and all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition. **(Planning and Building Inspection)**
- 26. No land clearing or grading shall occur on the subject parcel between October 15 and April 15 unless authorized by the Director of Planning and Building Inspection. **(Planning and Building Inspection)**

PASSED AND ADOPTED this 12th day of November, 2003, by the following vote:

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



 JEFF MAIN, SECRETARY

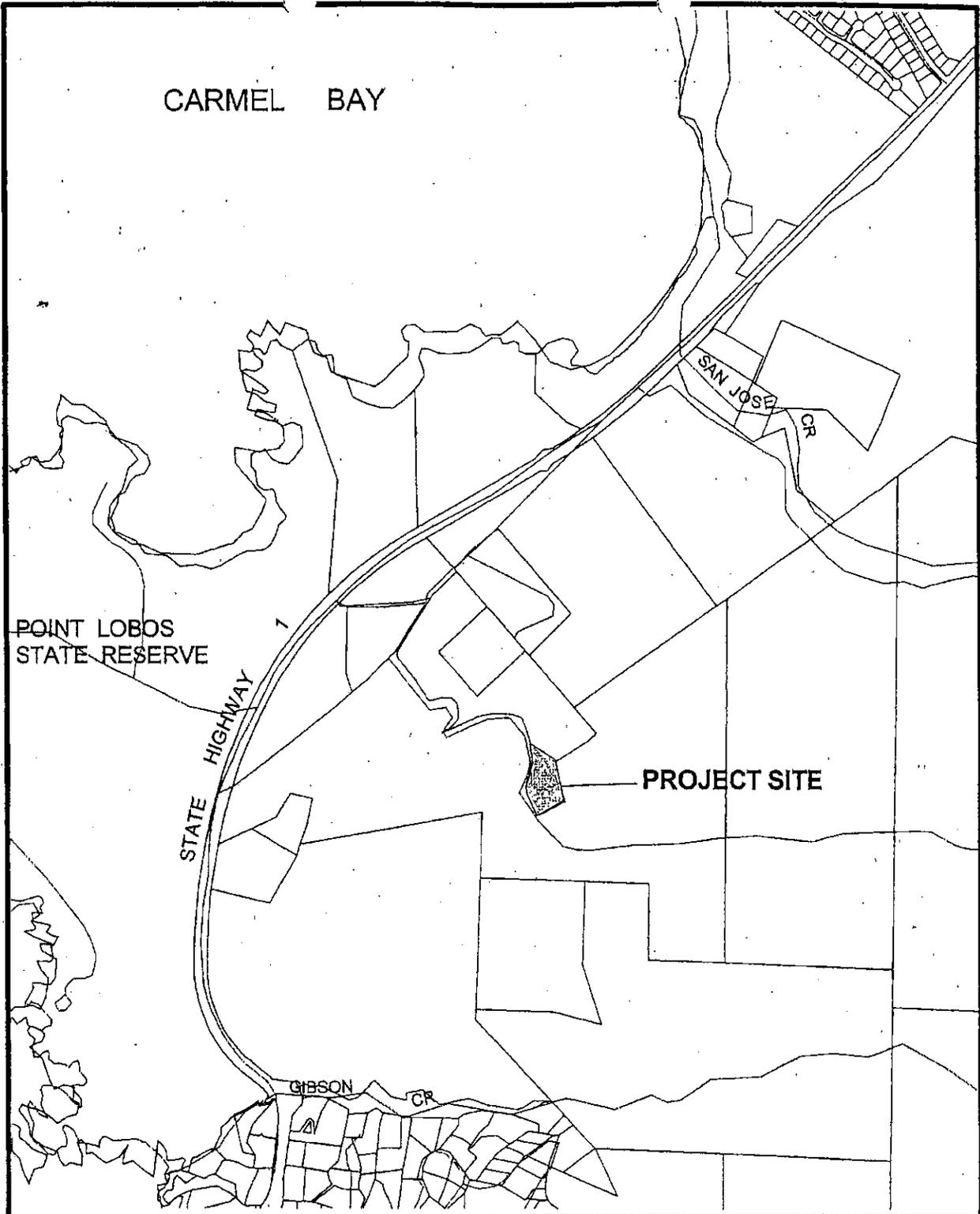
COPY OF THIS DECISION WAS MAILED TO APPLICANT ON **DEC 1 2003**

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 **DEC 10 2003**

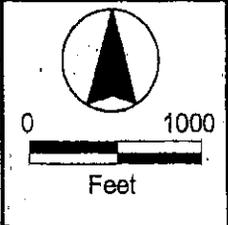
THIS APPLICATION IS ALSO APPEALABLE TO THE COASTAL COMMISSION. UPON RECEIPT OF NOTIFICATION OF THE DECISION BY THE BOARD OF SUPERVISORS, THE COMMISSION ESTABLISHES A 10 WORKING DAY APPEAL PERIOD. AN APPEAL FORM MUST BE FILED WITH THE COASTAL COMMISSION. FOR FURTHER INFORMATION, CONTACT THE COASTAL COMMISSION AT (831) 427-4863 OR AT 725 FRONT STREET, SUITE 300, SANTA CRUZ, CA.

UNLESS EXTENDED AS PROVIDED BY CHAPTER 19.03.035, TITLE 19 (SUBDIVISIONS), MONTEREY COUNTY CODE, THIS APPROVAL EXPIRES ON NOVEMBER 12, 2005. EXTENSION REQUESTS MUST BE MADE IN WRITING 30 DAYS PRIOR TO THE AFOREMENTIONED EXPIRATION DATE.

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



APPLICANT: WHISLER	
APN: 243-113-007-000	FILE# PLN 010528
300' Limit	2500' Limit



**Monterey County Planning & Building Inspection
Condition Compliance and Mitigation Monitoring and/or Reporting Plan**

Project Name: <u>Whisler</u>	APN(s): <u>243-113-007-000</u>
File No: <u>PLN010528</u>	Date: <u>October 9, 2003</u>
Approval by: _____	

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

Cond. #	Mitigation Measure Number, Category, Text, Impact Addressed and Responsible Land Use Department	Monitoring Actions to be performed or documented including performance measures if applicable	Responsible Party	Monitoring Schedule (Timing)	Verification of Completed or Ongoing Mitigation or Non-Compliance	Action to Achieve Compliance
	<p>(Biological Resources). Mitigation Measure 1 - In order to minimize impacts to environmentally sensitive habitat area (ESHA) to the greatest extent feasible, and to avoid setting a precedent for continued land development with the potential to degrade ESHA, the applicant shall: (a) Move the main entry access road a minimum of six feet southerly from its present location, (b) reconfigure or move the fire department required turn around, and (c) alter the location of the lower access or exit road. If during construction, pipera plants are discovered in the area to be disturbed these plants shall be transplanted. (PBI)</p>	<p>Monitoring Action 1.1 - The project plans shall be redesigned in accord with this measure. The grading and building plans shall incorporate the recommendations of a qualified biologist to ensure that the final siting of the proposed new driveway minimizes impacts to environmentally sensitive habitat. To this effect, each page of the grading plans depicting the proposed development shall be signed and dated by the qualified consulting biologist and shall be accompanied by notes on the plans from the qualified consulting biologist verifying that the final alignment minimizes impacts to Yaden's piperia. P&BI staff shall verify that the plans have been revised accordingly and that they carry the notes and dated signature of the qualified consulting biologist prior to issuance of grading and building permits.</p>	<p>Applicant Architect Consulting Biologist</p>	<p>Prior to issuance of grading/building permits</p>		

<p>(Biological Resources). <i>Mitigation Measure 1</i>continued.....</p>	<p><i>Monitoring Action 1.2</i> - The applicant shall retain a qualified consulting biologist to review the site and submit a plan for the relocation of any <i>Yadon's pipera</i> which will be impacted by construction. This relocation should occur during winter months by removing the plant with its roots kept intact in a ball of soil and transplanted on site to a location near other <i>pipera</i>. This plan shall be submitted for the review and approval of the Director of the Planning & Building Inspection Department.</p>	<p>Applicant Consulting Biologist</p>	<p>Prior to issuance of grading/building permits</p>	
<p>(Biological Resources). <i>Mitigation Measure 2</i> - In order to ensure the long-term conservation of the <i>Yadon's pipera</i> habitat adjacent to the existing and approved development, a scenic and conservation easement shall be conveyed to the County over those portions of the property where sensitive habitats exist including those buffers outlined in the e-mail from Vern Yadon dated October 8, 2003. The scenic easement deed shall be submitted to and approved by Director of Planning and Building Inspection. (PBI)</p>	<p><i>Monitoring Action 1.3</i> - The qualified biologist shall submit a report on the results of the transplantation for the review and approval of the Director of the Planning & Building Inspection Department.</p> <p><i>Monitoring Action 2</i> - The applicant shall provide evidence of the recording of a scenic and conservation easement over all areas identified as containing environmentally sensitive habitat.</p>	<p>Applicant Qualified Biologist</p>	<p>Prior to final building inspection</p>	
<p>(Biological Resources). <i>Mitigation Measure 3</i> - In order to ensure the long-term maintenance of the <i>Yadon's pipera</i> habitat adjacent to the existing and approved development, the applicant shall remove invasive plants from the property and develop a systematic weed control program to remove and keep off the property such invasive plants as Blue Gum Eucalyptus, French Broom, Cape Ivy, Hottentot Fig, Victorian Box, Pampas-grass, and all species in the genus <i>Acacia</i>. (PBI)</p>	<p><i>Monitoring Action 3.1</i> - A qualified biologist shall prepare a weed-control program. A copy of the program shall be submitted to the Monterey County Planning and Building Inspection Department, subject to the approval of the Director, prior to issuance of grading and building permits.</p> <p><i>Monitoring Action 3.2</i> - The qualified biologist shall conduct site inspections annually for at least three consecutive years to verify that the weed control program is being implemented and that invasive and/or exotic weedy plants are eradicated from the site. Said verification shall be submitted annually to the Director of Planning and Building Inspection. Successful compliance with this <i>Mitigation Measure</i> shall be based on three (3) consecutive years of the verified eradication of invasive and/or exotic plant species throughout the subject parcel, plus inspections once again at 5 years and 10 years, starting after three (3) consecutive years of verified successful compliance. If ongoing successful eradication cannot be verified at the fifth- or tenth-year inspections, the inspection process shall start over again in the manner described above, including the fifth- and tenth-year subsequent inspections and success criteria, until such time that complete eradication can be</p>	<p>Applicant Qualified Biologist</p>	<p>Prior to issuance of grading/building permits</p>	

Exhibit B

				<p>successfully verified at the end of the tenth-year inspection, starting from the end of three (3) consecutive years of verified eradication of invasive and/or exotic plant species throughout the subject parcel. Adequacy of the inspection/monitoring reports shall be subject to the approval of the Director of the Planning and Building Inspection Department. Failure to submit an adequate report shall cause the project to be in noncompliance with the adopted Mitigation Monitoring and Reporting Program, and shall subject the project to intervention by the Department's Code Enforcement Division.</p>		
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Exhibit B

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Exhibit C

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EXHIBIT C

A CONSERVATION EASEMENT in the unincorporated area of the County of Monterey, State of California, over a portion of Lot 7, Tract 1345, shown on that certain map entitled, "Lands of Riley Ranch at Point Lobos", filed June 2, 2000, in Volume 21 of Cities and Towns maps at Page 12, records of said County and State, said easement being more particularly described as follows:

BEGINNING AT a 1/2" iron pipe, tagged LS 4172, marking the northeast corner of said Lot 7; thence southerly along the easterly boundary of said Lot 7

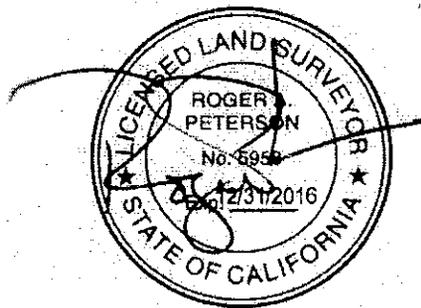
- 1) South 16°12'10" East, 193.45 feet; thence leaving said boundary
- 2) North 63°23'00" West, 260.19 feet; thence
- 3) South 20°39'48" West, 172.87 feet; thence
- 4) North 18°23'08" West, 46.95 feet, more or less, to the westerly boundary of said Lot 7; thence along said boundary
- 5) North 15°42'59" East, 37.99 feet; thence
- 6) North 21°37'52" East, 117.06 feet; thence
- 7) North 06°35'53" West, 91.42 feet; thence leaving said boundary
- 8) North 66°49'52" East, 15.00 feet; thence
- 9) North 23°10'08" West, 30.07 feet, more or less, to the northerly boundary of said Lot 7, distant South 68°18'28" East, 21.16 feet from a 1/2" iron pipe, tagged LS 4172, marking the northwest corner of said lot; thence along said northerly boundary
- 10) South 68°18'28" East, 225.53 feet, more or less, to the Point of Beginning.

CONTAINING: 0.91 acres, more or less.

See attached Exhibit C-1.

End of Description

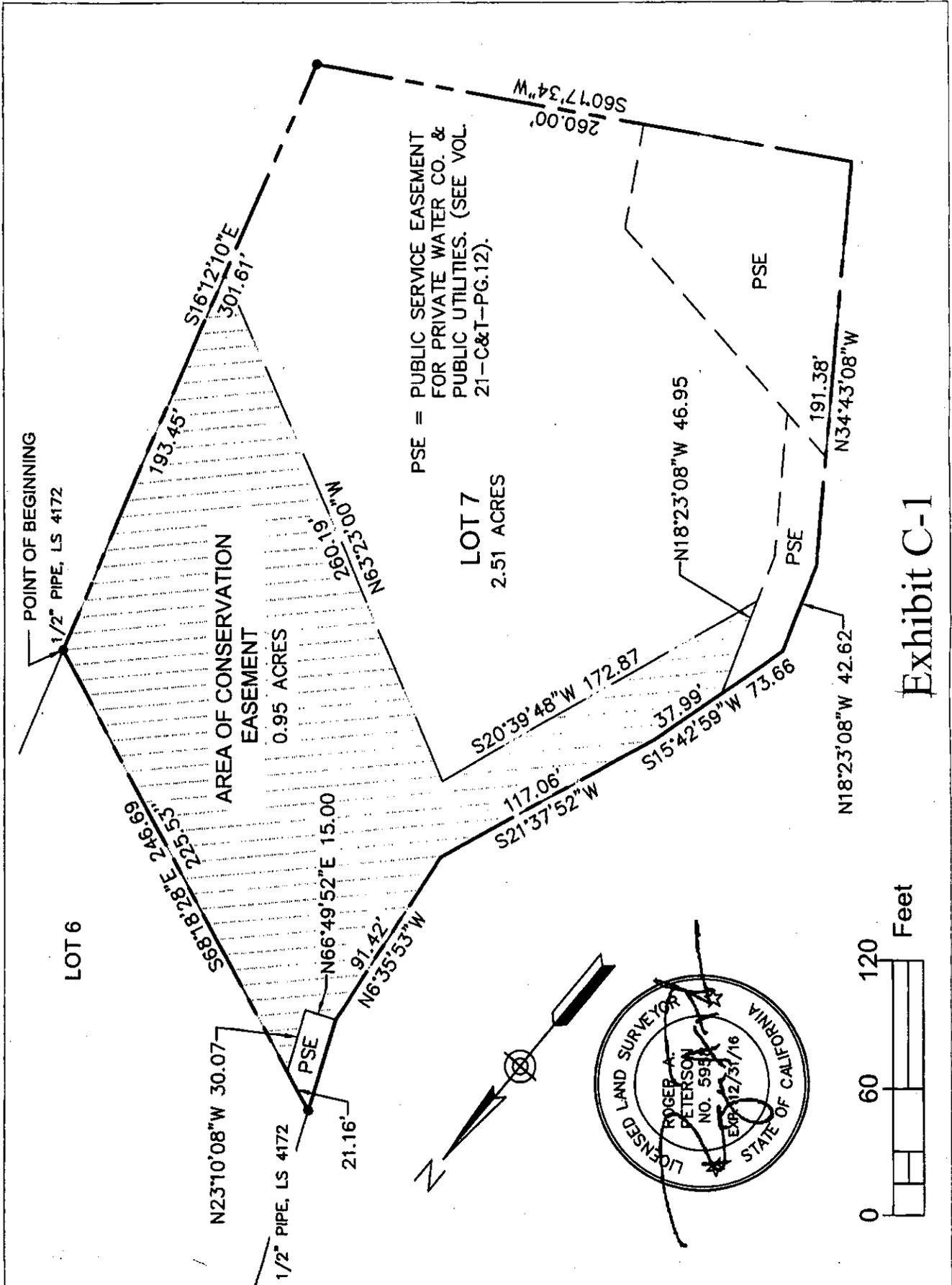
Together with and subject to any and all covenants and agreements of record.



4811-9408-5935, v. 1

Exhibit D

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POINT OF BEGINNING

1/2" PIPE, LS 4172

LOT 6

S81°18'28"E 246.69'

2235.53'

AREA OF CONSERVATION
EASEMENT
0.95 ACRES

S167°12'10"E

301.61'

193.45'

21.16'

N66°49'52"E 15.00'

91.42'

N6°35'53"W

PSE = PUBLIC SERVICE EASEMENT
FOR PRIVATE WATER CO. &
PUBLIC UTILITIES. (SEE VOL.
21-C&T-PG.12).

LOT 7
2.51 ACRES

S20°39'48"W 172.87'

117.06'

S21°37'52"W

S15°42'59"W 73.66'

37.99'

N18°23'08"W 46.95'

PSE

191.38'

N34°43'08"W

N18°23'08"W 42.62'

260.00'

S60°17'34"W

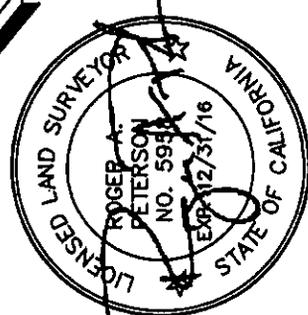
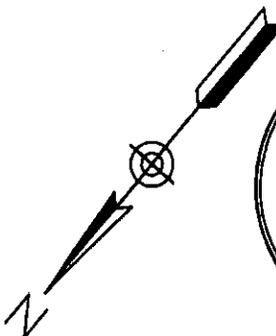


Exhibit C-1

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