



Monterey County

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Board Order

Upon motion of Supervisor Potter, seconded by Supervisor Salinas and carried by those members present, the Board of Supervisors hereby:

Held Public hearing and adopted Resolution 14-231:

- a. Denying an appeal by Kevin Dunne, from the decision of the Zoning Administrator approving a Design Approval application (Herman/PLN140098) to demolish an existing one story single family dwelling and allow the construction of a 3,223 square foot two-story single family residence with a 417 square foot attached garage, 573 square feet of covered patios, a 54 square foot covered patio on second floor, and grading (approximately 35 cubic yards of cut and 20 cubic yards of fill); and
- b. Finding the project categorically exempt from CEQA pursuant to CEQA Guidelines Section 15302; and
- c. Approving the Design Approval to demolish an existing one story single family dwelling and allow the construction of a 3,223 square foot two-story single family residence with a 417 square foot attached garage, 573 square feet of covered patios, and a 54 square foot covered patio on second floor, and grading (approximately 35 cubic yards of cut and 20 cubic yards of fill), subject to the conditions contained in exhibit 1. (Appeal of Design Approval PLN140098/Herman, 1024 Rodeo Road, Pebble Beach, Greater Monterey Area Plan)


PASSED AND ADOPTED on this 22nd day of July 2014, by the following vote, to wit:

AYES: Supervisors Armenta, Calcagno, Salinas, Parker and Potter
 NOES: None
 ABSENT: None

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 77 for the meeting on July 22, 2014.

Dated: July 29, 2014
File Number: RES 14-062

Gail T. Borkowski, Clerk of the Board of Supervisors
County of Monterey, State of California

By 
Deputy

Before the Board of Supervisors in and for the County of Monterey, State of California

Resolution No. 14-231

Resolution by the Monterey County Hearing Body:

- a. Denying an appeal by Kevin Dunne from the decision of the Zoning Administrator to approve a Design Approval to demolish an existing one story single family dwelling and allow the construction of a 3,223 square foot two-story single family residence with a 417 square foot attached garage, 573 square feet of covered patios, and, a 54 square foot covered patio on second floor, and grading (approximately 35 cubic yards of cut and 20 cubic yards of fill); and;
b. Finding the project categorically exempt from CEQA pursuant to CEQA Guidelines Section 15302; and
c. Approving the Design Approval to demolish an existing one story single family dwelling and allow the construction of a 3,223 square foot two-story single family residence with a 417 square foot attached garage, 573 square feet of covered patios and a 54 square foot covered patio on second floor, and grading (approximately 35 cubic yards of cut and 20 cubic yards of fill). (Appeal of Design Approval - PLN140098 Herman, 1024 Rodeo Road, Pebble Beach, Greater Monterey Area Plan).....

WHEREAS: The Appeal by Kevin Dunne from the decision of the Zoning Administrator approving a Design Approval application (Herman/PLN140098) came on for public hearing before the Monterey County Board of Supervisors on July 22, 2014. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Board of Supervisors finds and decides as follows:

FINDINGS

- 1. FINDING: PROCESS – The County has processed the subject Design Approval application (PLN140098/Bruce and Susan Herman) in compliance with Monterey County procedures.
EVIDENCE: a) On February 11, 2014, “Applicants”, Bruce and Susan Herman applied for a Design Approval to demolish an existing one story single family dwelling and construct a new two story 3,223 square foot two-story single family residence with a 417 square foot attached garage, 573 square foot covered patios, a 36 square foot entry gate, a 173 square foot

BBQ area, a 36 square foot trash enclosure, 265 lineal feet of retaining walls, a 28 square foot fire pit, a 44 square foot fountain, a 54 square foot covered patio on second floor, and grading (approximately 35 cubic yards of cut and 20 cubic yards of fill).

- b) Pursuant to Section 21.44.040 (Monterey County Code), the Zoning Administrator may approve plans for a new single family dwelling or the replacement of an existing structure in the Design Control District. This project is the demolition of an existing single family home and the construction of a new home. On May 29, 2014, the Zoning Administrator approved the Design Approval. On May 29, 2014, a Notice of Approved Design Approval was mailed to all property owners within 300 feet of the subject property.
- c) Pursuant to Section 21.44.070 (MCC), appeals to any action taken by an Appropriate Authority on a Design Approval application may be appealed to the Board of Supervisors.
- d) On June 6, 2014, Kevin Dunne, (Appellant), filed a timely appeal from the Zoning Administrator’s approval of the Design Approval (PLN140098). The appeal is brought on the basis that 1) the findings or decision or conditions are not supported by the evidence; and 2) the decision is contrary to law. The hearing on the appeal at the Board of Supervisors is de novo.
- e) On July 9, 2014, public notices for the appeal were published in the Monterey County Herald, mailed to neighbors within 300 feet, and posted in three different public places pursuant to Monterey County Code Chapter 21.80.
- f) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA – Planning Department for the proposed development found in project file PLN140098.

2. **FINDING:** **CONSISTENCY** – The Project, as conditioned, is consistent with the applicable plans and policies which designate this area as appropriate for development.

EVIDENCE: a) During the course of review of this application, the project has been reviewed for consistency with the text, policies, and regulations in:

- the 2010 Monterey County General Plan; and
- Monterey County Zoning Ordinance (Title 21); and
- Greater Monterey Peninsula Area Plan.

No conflicts were found to exist.

b) The property is located at 1024 Rodeo Road, Pebble Beach. The parcel is zoned “MDR/B-6-D-RES” [Medium Density Residential, Building Site Overlay, Design Control District with Recreational Equipment Storage], which allows new single family residences provided it meets the site development standards per Section 21.12.060 of the Monterey County Zoning Ordinance (Title 21). The project is in compliance with the building height, setback, lot coverage and floor area ratio regulations of the MDR district. Therefore, the project is an allowed land use for this site.

- c) Design Approval Pursuant to Chapter 21.44, Design Control Zoning Districts, zoning for the project requires design review of structures to make sure they are appropriate to assure protection of the public viewshed, neighborhood character, and assure visual integrity. The project consists of the replacement of the existing house. The location, size, materials, and colors have been reviewed by staff and found to be consistent with the character of the neighborhood. The proposed colors and materials are to match the existing residence and consist of: stucco siding (beige), windows/doors (dark brown), and roof (deep orange). As proposed, the colors and materials are consistent with the design in the neighborhood.
- d) The project planner conducted a site inspection on March 7, 2014 to verify that the project on the subject parcel conforms to the plans listed above. The project was staked and flagged to show required setbacks consistent with the application and the required zoning regulations.
- e) The project is located within a high archaeological sensitivity area. Pursuant to Monterey County Zoning Ordinance Section 21.66.050 (Standards for Archaeological Resource Areas), an archaeological report is required for development within seven hundred fifty (750) feet of a known archaeological resource. An archaeological report was prepared by Archaeological Consulting. Although the report states that recorded sites exist within one kilometer of the project parcel, no evidence of potentially significant historic period archaeological resources were found onsite during the survey. A standard Condition of Approval has been added to ensure that if, during the course of construction, any resources are uncovered at the site (surface or subsurface resources) work shall be halted immediately.
- f) On April 17, 2014 the Del Monte Forest Land Use Advisory Committee (LUAC) recommended approval (7-0 vote) vote of the site design and setbacks recommended by staff.
- g) A front setback is measured from a right-of-way. Pursuant to Chapter 21.06.960, definition of, "Right-of-way" means a strip of land either public or private commonly allocated for transportation purposes, such as a public or private road, a railroad, or a utility transmission line. The lanes, as labeled on the final map for Monterey Peninsula Country Club, have no access easement, private road or right-of-way attached to them, do not provide any public transportation services and therefore do not have a right of way line. Without a right-of-way this cannot be a front yard setback, but is considered to be a side yard setback.
- h) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN140098.

3. **FINDING:** **CEQA (Exempt):** - The project is categorically exempt from environmental review and no unusual circumstances were identified to exist for the proposed project.

EVIDENCE: a) California Environmental Quality Act (CEQA) Guidelines Section

15302 categorically exempts replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced.

- b) The project consists of the demolition of an existing single family home and the construction of a new single family home.
- c) No adverse environmental effects were identified during staff review of the development application during a site visit on March 7, 2014.
- d) None of the exceptions under CEQA Guidelines Section 15300.2 apply to this project. Baseline is an existing house on the property. The proposed project consists of demolishing an existing structure and constructing another one. There is no change in baseline. There are no environmental issues or unusual circumstances related to the project. There is no encroachment into the lane and no environmentally changed circumstances.
- e) See Preceding Findings #2 and #3
- f) Staff conducted a site inspection on March 7, 2014 to verify that the site is suitable for this use.
- g) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN140098.

4. **FINDING:**

APPEAL – Upon consideration of the documentary evidence, the staff report, the oral and written testimony, and all other evidence in the record as a whole, the Board responds, as follows, to the Appellant’s contentions:

- a) ***Appellant’s Contention No. 1:*** *The project does not comply with the applicable zoning setback requirements. Zoning Ordinance setback requirements for this property are simple and straightforward. Section 21.62.040.M states, “In case of a lot abutting upon two or more streets, the main structure and accessory structures shall not be erected so as to encroach upon the front setback required on any of the streets.” Section 21.12.060.C.1 defines the applicable minimum front setback from all streets as 20 feet for main structures. Section 21.06.1180 defines a private street as: ‘Private street means an avenue, place, way, drive, lane, boulevard, highway, or road not owned or maintained by a state, county or incorporated city, or other public agency’. As reflected on the subdivision map for the neighborhood approved by Monterey County and recorded at Volume 3, Cities and Towns, Page 29, the access way immediately adjacent to and north of the Herman property is defined as a “lane”. Similarly, said access way is also defined as a “lane” on the Assessor’s parcel map at Book 7, Pages 31 and 32. Accordingly, the zoning ordinance clearly and unambiguously requires a minimum 20 foot front setback from the lane. The project conflicts with this requirement in that it only provides a 10 foot setback from the lane.*

Response to Contention No. 1: The “lane” was created with the recordation of the subdivision maps for the Monterey Peninsula Country Club Subdivision #2. The recorded map identifies this lane, and about a dozen other lanes in the immediate neighborhood, as a “lane”. There is nothing in the recorded maps that describes how these lanes are to be used; however, the facts associated with how the lanes have been treated and used demonstrate that these lanes are not “private streets” within the meaning of County’s zoning ordinance. These facts are as follows:

1. The “Lanes” are labeled on the map but no access easement, private road or right of way has been attached to these lanes. They are privately owned property. If there was any intent for these to be private roads, this was not reflected with any type of easement granting access.
2. These lanes are property privately owned by the Pebble Beach Company who has indicated that they consider them “open space” for wildlife migration, pedestrian use and with the consent of the Pebble Beach Company for utilities and access to garages. These lanes are not a part of their road system and it has been their practice to only require a side yard setback from PBC’s lanes in keeping with the current zoning.
3. Homes throughout the Monterey Peninsula Country Club have been approved by the County and constructed adjacent to these lanes with less than a 20 foot setback giving indication that these lanes have previously not been considered to be a private street.
4. Several lanes do provide access to garages, and some of those have only 10 foot setbacks consistent with the Herman application. To name a few, 1045 Marcheta Road, 3012 Cormorant and 3000 Cormorant Road use the lanes for access to their garages and two of them have only 10 foot setbacks from these “lanes”.

The Appellant argues that the title “lane” on these parcels automatically gives it the status of a private street and therefore requires a front yard setback. When viewed in the context of the County’s definition of a private street, terms like avenue, drive, way and lane make clear that if a route has the typical attribute of a street, i.e., a thoroughfare for vehicular traffic, then it is considered a street. This lane does not have those attributes. It is not a thoroughfare, it does not provide vehicular access from one place to another. These parcels provide pedestrian and golf cart connectivity from the interior of the subdivision to the golf course but not vehicular access. It is only 15 feet wide. There are other properties located in the Country Club that currently use the abutting lane their property as a private drive into their garages, but this does not make the lane a street. These parcels are private property with access to

an adjoining property owner. Several of these lanes either have large trees growing within them or have been landscaped to benefit the neighbor. All the lanes dead end at the Monterey Peninsula Country Club Golf Course which is posted for no trespassing.

- b) ***Appellant's Contention No. 2:*** *The project conflicts with and compromises the neighborhood character and aesthetics by infringing upon the required 20 foot setback from the lane. The lane at issue, as well as many other lanes throughout the Monterey Peninsula Country Club Subdivision (MPCC) area, was intentionally designed by the original subdivider as an integral part of the neighborhood character. These lanes serve multiple purposes including, but not limited to, access to adjoining property, public view corridors to the golf course, forested open space and the Pacific Ocean, and prevention of the creation of a solid wall of building mass bordering the golf course (i.e., to ensure open space relief and view opportunity for interior properties). These lanes are critical to the land value and reasonable enjoyment of the interior property owners whose homes do not immediately adjoin the golf course.*

Response to Contention No. 2: The Appellant's primary contention is that the project conflicts with the neighborhood character and aesthetics by infringing upon the required 20 foot setback from the lane. The primary disagreement at this point is whether a twenty foot (20') front yard setback located along the parcel labeled lane is required by County zoning. As discussed in response to contention 1 above, the "lane" at issue does not function as a street, has not been considered a street and should not be considered a street and thus County zoning does not require a front yard setback along this property line. Other homes in the Monterey Peninsula Country Club area have only 10 foot setbacks from the "lanes". Thus there is no compromise in the neighborhood character by not requiring a 20 foot setback.

In terms of neighborhood character there are many other houses in the neighborhood that have been approved and constructed with less than a 20' setback along the parcels labeled as a lane. This includes homes with a 10' setback for a garage which is the scenario proposed in this project (see staff's response to Contention 1, #4 above). Requiring a 20' setback at this time would be a change in the neighborhood character because this has not been the standard at which the community has been planned and developed.

The claim that the lanes are critical to the land value and reasonable enjoyment of the interior property owners whose homes do not immediately adjoin the golf course is without merit. The manner in which the "lane" parcel is used will not change. The "lane" parcel itself will not be closed or encumbered in any way. To the extent, the appeal is requesting that the subject property owner's property be restricted for the benefit of an adjoining property owner. The appeal requests that a setback be applied to this parcel which has not previously been required

of any other parcel.

A larger implication here is that if it is determined that a 20' setback should be maintained from all "lanes" then all the properties adjacent to "lanes" constructed with less than a 20' setback would become non-conforming with respect to setbacks from these "lane" parcels. The development pattern established in the area does not maintain 20' setbacks at these locations. This would affect expectations of what these property owners can do on their property. The implications of changing the definition of these "lane" parcels and determining that these parcels should be considered streets would affect more than the development potential of the subject property it would affect the ability of other property owners to add on to their homes.

This project is consistent with the County zoning and established neighborhood character and to interpret otherwise would cause a change in the neighborhood character.

- c) ***Appellant's Contention No. 3:*** *The project does not qualify for a categorical exemption under CEQA. CEQA Guidelines section 15300.2 provides that a categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances. In this case, the adjacency of the property to the lane as well as the unique placement and role of the lanes in the original subdivision design constitute unusual circumstances applicable to this property and project. Inconsistency with the zoning and the adverse impacts on the public view opportunities that would result from the proposed project create a reasonable possibility that the activity will have a significant effect on the environment. Section 15300.2.B provides that categorical exemptions are inapplicable when the cumulative impact of successive projects of the same type in the same place over time is significant. As discussed above, without proper setback protection of the lanes, the cumulative impact of successive large homes being built along the golf course frontage will result in a significant impact to the neighborhood character and aesthetic for all interior property owners in the neighborhood as well as the general public.*

Response to Contention No. 3:

The CEQA exemption is CEQA Guidelines Section 15302 allowing replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced. This is exactly the case of the proposed house. It is a residential structure in compliance with the existing Medium Density Zoning District regulations and is essentially a reconstruction of an existing house of the same type.

The appellant argues the exceptions to Categorical Exemptions from

CEQA based upon the presence of the "lane." The Appellant has presented no evidence that the lane is an unusual circumstance that would render the categorical exemption inapplicable. The project would replace an existing house that takes access from the lane with a new house that takes access from the lane. Thus, the project falls precisely with the Section 15302 categorical exemption for replacement of existing structures "where the new structure will be located in the same location as the structure replaced". Appellant also argues that the inconsistency with zoning setback requirement is an unusual circumstance, but as discussed above, staff disagrees with appellant's assertion of zoning inconsistency; the setback requirement cited by Appellant does not apply to the "lane" because it is not a private street, and therefore the project is consistent with zoning. In regard to Appellant's argument that the project will affect public views, Appellant has not proved an unusual circumstance exists, and even if the lane were an unusual circumstance, replacing one house with another house does not create a reasonable possibility of a new impact over baseline on the public view.

The appellant also indicates that the Categorical Exemption is not appropriate to "*the cumulative impact of successive projects of the same type in the same place over time.*" The argument is that the impact of successive large homes being built along the golf course frontage without a 20 foot setback will adversely impact the neighborhood character and aesthetic for the interior property owners. There are a couple of important reasons why this argument is without merit. First the size of the home is governed by the Zoning Ordinance Standards related to height, setbacks and coverage. The overall size of the home is primarily limited by the lot coverage and floor area ratio limitations which in this case are 35%. The same size house could be built on this lot regardless of whether there is a 20 foot setback or a 10 foot setback adjacent to the "lane" parcel. Other houses in the area have less than a 20 foot setback to these lanes, so the project does not alter the neighborhood character or aesthetic. The proposed house is in compliance with the zoning district standards. The decision to rebuild a home on an established lot that does not have sensitive environmental resources does not pose a threat to environmental resources or change the neighborhood character, and thus does not result in a cumulative impact.

5. **FINDING:**

a)

APPEALABILITY - The decision on this project is final.

Section 21.80.090.I of the Monterey County Zoning Ordinance states that the decision of the appeal authority (Board of Supervisors) shall be final.

DECISION

NOW, THEREFORE, BASED ON THE ABOVE FINDINGS AND EVIDENCE, BE IT RESOLVED, that the Board of Supervisors does hereby:

- a. Deny an appeal by Kevin Dunne from the decision of the Zoning Administrator to approve a Design Approval application (Herman/PLN140098) to demolish an existing one story single family dwelling and allow the construction of a 3,223 square foot two-story single family residence with a 417 square foot attached garage, 573 square feet of covered patios, and, a 54 square foot covered patio on second floor, and grading (approximately 35 cubic yards of cut and 20 cubic yards of fill); and
- b. Find the project categorically exempt from CEQA pursuant to CEQA Guidelines Section 15302; and
- c. Approve the Design Approval (Herman/PLN140098) to demolish an existing one story single family dwelling and allow the construction of a 3,223 square foot two-story single family residence with a 417 square foot attached garage, 573 square feet of covered patios and a 54 square foot covered patio on second floor, and grading (approximately 35 cubic yards of cut and 20 cubic yards of fill), subject to the conditions attached hereto as Exhibit 1.

PASSED AND ADOPTED upon motion of Supervisor Potter, seconded by Supervisor Salinas and carried this 22nd day of July 2014, by the following vote, to wit:

AYES: Supervisors Armenta, Calcagno, Salinas, Parker and Potter


NOES: None

ABSENT: None

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 77 for the meeting on July 22, 2014.

Dated: July 29, 2014
File Number: RES 14-062

Gail T. Borkowski, Clerk of the Board of Supervisors
County of Monterey, State of California

By  _____
Deputy

Monterey County RMA Planning

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

PLN140098

1. PD001 - SPECIFIC USES ONLY

Responsible Department: RMA-Planning

**Condition/Mitigation
Monitoring Measure:**

This Design Approval permit (PLN140098) allows the demolition of an existing 3,012 square foot one-story single family residence and allow the construction of a 3,223 square foot two-story single family residence with a 417 square foot attached garage, 573 square foot covered patios, a 36 square foot entry gate, a 173 square foot BBQ area, a 36 square foot trash enclosure, 265 lineal feet of retaining walls, a 28 square foot fire pit, a 44 square foot fountain, a 54 square foot covered patio on second floor, and grading (approximately 35 cubic yards of cut and 20 cubic yards of fill).. The property is located at 1024 Rodeo Road, Pebble Beach (Assessor's Parcel Number:007-323-001-000), Greater Monterey Peninsula Area Plan. This permit was approved in accordance with County ordinances and land use regulations subject to the terms and conditions described in the project file. Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of RMA - Planning. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. To the extent that the County has delegated any condition compliance or mitigation monitoring to the Monterey County Water Resources Agency, the Water Resources Agency shall provide all information requested by the County and the County shall bear ultimate responsibility to ensure that conditions and mitigation measures are properly fulfilled. (RMA - Planning)

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

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

2. PD002 - NOTICE PERMIT APPROVAL

Responsible Department: RMA-Planning

Condition/Mitigation The applicant shall record a Permit Approval Notice. This notice shall state:

Monitoring Measure:

"A Design Approval (PLN140098) was approved by the Board of Supervisors for Assessor's Parcel Number: 007-323-001-000 on July 22, 2014. The permit was granted subject to 7 conditions of approval which run with the land. A copy of the permit is on file with Monterey County RMA - Planning."

This notice shall be furnished to the Director of RMA - Planning prior to issuance of building permits or commencement of the use. (RMA - Planning)

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

Prior to the issuance of grading and building permits or commencement of use, the Owner/Applicant shall provide proof of recordation of this notice to the RMA - Planning.

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

Responsible Department: RMA-Planning

**Condition/Mitigation
Monitoring Measure:**

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

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

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

Prior to the issuance of grading or building permits, the Owner/Applicant shall include requirements of this condition as a note on all grading and building plans. The note shall state "Stop work within 50 meters (165 feet) of uncovered resource and contact Monterey County RMA - Planning and a qualified archaeologist immediately if cultural, archaeological, historical or paleontological resources are uncovered." When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery.

4. PD004 - INDEMNIFICATION AGREEMENT

Responsible Department: RMA-Planning

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

Compliance or Monitoring Action to be Performed: Upon demand of County Counsel or concurrent with the issuance of building permits, use of the property, recording of the final/parcel map, whichever occurs first and as applicable, the Owner/Applicant shall submit a signed and notarized Indemnification Agreement to the Director of RMA-Planning for review and signature by the County.

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

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

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: All exterior lighting shall be unobtrusive, down-lit, harmonious with the local area, and constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. The lighting source shall be shielded and recessed into the fixture. The applicant shall submit three (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 lighting shall comply with the requirements of the California Energy Code set forth in California Code of Regulations Title 24 Part 6. The exterior lighting plan shall be subject to approval by the Director of RMA - Planning, prior to the issuance of building permits.
(RMA - Planning)

Compliance or Monitoring Action to be Performed: Prior to the issuance of building permits, the Owner/Applicant shall submit three copies of the lighting plans to RMA - Planning for review and approval. Approved lighting plans shall be incorporated into final building plans.

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

6. PD041 - HEIGHT VERIFICATION

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: The applicant shall have a benchmark placed upon the property and identify the benchmark on the building plans. The benchmark shall remain visible on-site until final building inspection. The applicant shall provide evidence from a licensed civil engineer or surveyor to the Director of RMA - Building Services for review and approval, that the height of the structure(s) from the benchmark is consistent with what was approved on the building permit associated with this project. (RMA - Planning and RMA - Building Services)

Compliance or Monitoring Action to be Performed: Prior to the issuance of grading or building permits, the Owner/Applicant shall have a benchmark placed upon the property and identify the benchmark on the building plans. The benchmark shall remain visible onsite until final building inspection.

Prior to the foundation pre-pour inspection, the Owner/Applicant shall provide evidence from a licensed civil engineer or surveyor, to the Director of RMA- Building Services for review and approval, that the height of first finished floor from the benchmark is consistent with what was approved on the building permit.

Prior to the final inspection, the Owner/Applicant/Engineer shall provide evidence from a licensed civil engineer or surveyor, to the Director of RMA- Building Services for review and approval, that the height of the structure(s) from the benchmark is consistent with what was approved on the building permit.

7. PW0044 - CONSTRUCTION MANAGEMENT PLAN

Responsible Department: RMA-Public Works

Condition/Mitigation Monitoring Measure: The applicant shall submit a Construction Management Plan (CMP) to the RMA-Planning Department and the Department of Public Works for review and approval. The CMP shall include measures to minimize traffic impacts during the construction/grading phase of the project and shall provide the following information:
Duration of the construction, hours of operation, an estimate of the number of truck trips that will be generated, truck routes, number of construction workers, parking areas for both equipment and workers, and locations of truck staging areas. Approved measures included in the CMP shall be implemented by the applicant during the Construction/grading phase of the project.

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

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