

Exhibit A

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

Resolution No. 04-151

Deny the appeal of Landwatch Monterey County of the February 25, 2004)
Planning Commission decision to approve the Cathrein Estates Subdivision)
proposal, and Adopt the Mitigated Negative Declaration, Adopt the)
Mitigation Monitoring Program and Approve the Combined Development)
Permit for the Cathrein Estates Subdivision (PLN990330), subject to)
Findings and Evidence and Conditions of Approval. The property is located)
at the terminus of Pesante Road (Assessor's Parcel Number 125-291-001-000)
and 125-621-017-000), southerly of the Hidden Canyon Ranch Subdivision)
and east of Crazy Horse Canyon Road, Prunedale area.....)

In the matter of application No. PLN990330 (Cathrein Estates: Chapin)

A Mitigated Negative Declaration, Mitigation Monitoring and Reporting Program and Combined Development Permit Application for property located at the terminus of Pesante Road (Assessor's Parcel Number 125-291-001-000 and 125-621-017-000), southerly of the Hidden Canyon Ranch Subdivision and east of Crazy Horse Canyon Road, Prunedale came for a de Novo public hearing before the Monterey County Board of Supervisors on May 4, 2004. The proposal includes:

1. Adoption of a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Plan, and
2. A Combined Development Permit consisting of: 1) a Standard Subdivision Vesting Tentative Map for the division of a 143 acre parcel into 28 residential lots ranging in size from 1.23 to 5.2 acres, and 3 open space parcels totaling 79 acres; 2) a Use Permit for an addition to a Mutual Water System, 3) a Use Permit for tree removal (156 Oak trees, including two over 24" diameter), and a Grading Permit for approximately 20,000 cubic yards of cut and 46,000 cubic yards of fill for roads and infrastructure.

Whereas having considered all the written and documentary information submitted, the staff reports, oral testimony, other evidence presented, and the administrative record as a whole, the Board of Supervisors hereby finds and decides as follows:

1. **FINDING:** The project proposed in this application consists of a Combined Development Permit and Vesting Tentative Map request (**Cathrein Estates PLN990330**), as described in Condition #1, conforms with the plans, policies, requirements and standards of the Monterey County Subdivision Ordinance (Title 19), the General Plan, North County Area Plan, and the Monterey County Zoning Ordinance (Title 21). The property is located at the terminus of Pesante Road (Assessor's Parcel Number 125-291-001-000 and 125-621-017-000), southerly of the Hidden Canyon Ranch Subdivision and east of Crazy Horse Canyon Road, Prunedale area. The parcel is zoned "RDR/5.1" (Rural Density Residential, 5.1 acre minimum.)

EVIDENCE: The Planning and Building Inspection staff reviewed the project, as contained in the application and accompanying materials, for conformity with:

- a) The North County Area Plan.
- b) Chapters of the Monterey County Zoning Ordinance: 21.16 Regulations for Rural Density Residential Zoning District; 21.76 Combined Development Permits; 21.74 Use Permit for Mutual Water System modification; 21.64.260 Preservation of Oaks and Other Protected Trees;
- c) Chapter 19.05. Monterey County Code Title 19 Subdivision Ordinance

EVIDENCE: The proposed development has been reviewed by the Monterey County Planning and Building Inspection Department, Water Resources Agency, Public Works Department, Environmental Health Division, Parks and Recreation Department, and the applicable Fire Department. There has been no indication from these agencies that the site is not suitable for the proposed development. The Initial Study demonstrates that no physical or environmental constraints exist that would indicate the site is not suitable for the proposed development. Each agency has recommended conditions for subdivision improvements.

EVIDENCE: Written and verbal public testimony submitted at public hearings before the decision-making body.

EVIDENCE: The on-site inspection of the subject parcel by the project planner.

EVIDENCE: The application, plans, and support materials found in the project file.

2. **FINDING:** The proposed project, including all permits and approvals, will not have significant adverse impacts on the environment. A Mitigated Negative Declaration has been prepared and is on file (File# PLN0990330 in the Department of Planning and Building Inspection). All mitigation measures identified in the Initial Study and Mitigated Negative Declaration and all project changes required to avoid significant effects on the environment have been incorporated into the approved project or are made conditions of approval. A Program for Mitigation Monitoring and/or Reporting on Conditions of Approval (hereafter "the MMRP") has been prepared pursuant to Public Resources Code 21081.6 and is made a condition of approval. The MMRP is attached hereto as Exhibit "J" and is incorporated herein by reference. Potential environmental effects have been studied, and there is no substantial evidence in the record, as a whole, that supports a fair argument that the project, as designed, may have a significant effect on the environment. The Mitigated Negative Declaration reflects the independent judgment and analysis of the County based upon the findings and conclusions drawn in the Initial Study and the testimony and information received, and scientific and factual data presented as evidence during the public review process. The Coastal Offices of the Monterey County Planning and Building Inspection Department, located at 2620 1st Avenue, Marina is the custodian of the documents and the materials that constitute the record of proceedings upon which the adoption of the Mitigated Negative Declaration is based.

EVIDENCE: The application, plans, and support materials submitted by the project applicant to the Monterey County Planning and Building Inspection Department for the proposed development, found in the project file.

EVIDENCE: County staff prepared an Initial Study for the project in compliance with the California Environmental Quality Act (CEQA), its Guidelines, and the Monterey County CEQA Guidelines. The Initial Study provided substantial evidence that the project, with the addition of mitigation measures, would not have significant environmental impacts. A Negative Declaration was filed with the County Clerk on December 11, 2003, and noticed for public review. All comments received on the Initial Study have been considered as well as all evidence in the record, which includes studies, data, and reports supporting the Initial Study; additional documentation requested by staff in support of the Initial Study findings; information presented or discussed during public hearings; staff reports that reflect the County's independent judgment and analysis regarding the above referenced studies, data, and reports; application materials; and expert testimony. Among the studies, data, and reports analyzed as part of the environmental determination are the following:

- A. The Project Plans and Application Materials
- B. North County Area Plan
- C. Monterey County General Plan
- D. US Department of Agriculture, SCS, 1978. *Soil Survey of Monterey County, California.*
- E. Higgins Associates, March 29, 1999. Cathrein Acres Subdivision Traffic Analysis Report.
- F. Higgins Associates, October 27, 1999. Letter addendum to Traffic Analysis Report.
- G. Zander Associates, December 17, 1999. *Biological Resource Assessment, Cathrein Acres Project, Monterey County, California.*
- H. Zander Associates, March 1, 2000. *Addendum: Biological Resource Assessment, Cathrein Acres Project, Monterey County, California.*
- I. Landset, Inc., August 19, 1999 (and Addendum October 19, 1999). *Percolation Test Report: Cathrein Acres.*
- J. Monterey Bay Unified Air Pollution Control District, Revised August 1998. *CEQA Air Quality Guidelines.*
- K. Dan Takacs, May 2, 2000. Higgins Associates, personal communication.
- L. Stephen R. Staub, Registered Professional Forester, December 1999. *Forest Management Plan.*
- M. M. Jacobs & Associates, June 1992. Geotechnical Report.
- N. Soil Surveys, Inc., December 1979. Soils Report
- O. Wy'east Engineering, March 1999. *Hidden Canyon Ranch Water System: Engineer's Report.*
- P. LandSet Engineers, June 1, 1999. *Preliminary Drainage Study, Cathrein Acres.*
- Q. Steve Sakata, April 24, 2000. CALTRANS, personal communication.

- R. Mike Novo, May 3, 2000. Monterey County Planning, Associate Planner, Site Visit.
- S. Wy'east Engineering, January 10, 2000. *Cathrein Acres Water System: Engineer's Report.*
- T. Ed Schreck, May 3, 2000. Monterey County Environmental Health, personal communication.
- U. Michael Zander, May 9, 2000. Zander Associates, personal communication.
- V. Monterey County Planning Department, June 30, 1999. *Initial Study, Alta Loma Subdivision, PLN980541.*
- W. Ed Schreck, May 9, 2000. Monterey County Environmental Health, personal communication.
- X. Al Mulholland, May 11, 2000. Monterey County Water Resources Agency, personal communication.
- Y. Nicolas Papadakis, Association of Monterey Bay Area Governments, May 9, 2000. *Consistency Determination for Cathrein Acres Subdivision Project.*
- Z. AMBAG, October 1, 1997. *1997 Regional Population and Employment Forecast for Monterey, San Benito and Santa Cruz Counties—Draft Final Report.*
- AA. Bryce Hori, May 15, 2000. Monterey County Public Works Department, personal communication.
- BB. Landset Engineers, June 1, 2000. *Cathrein Acres Subdivision, PLN990330, Groundwater Recharge.*
- CC. Nicolas Papadakis, Association of Monterey Bay Area Governments, June 9, 2000. *Revised Consistency Determination for Cathrein Acres Subdivision Project.*
- DD. Geoconsultants, Inc., February 26, 2001. *Ground-water Assessment Proposed Cathrein Acres Project.*
- EE. Department of Fish and Game Letter, October 3, 2003. Review of Supplemental information for Mitigated Negative Declaration (SCH 2001101084)
- FF. Zander Associates, November 18, 2003. Review and response to October 3, 2003 Dept. of F & G Letter.
- GG. Taven M. Kinison Brown, November 20, 2003. Monterey County Planning, Associate Planner, Site Visit.
- HH. United States Department of the Interior: Fish and Wildlife Service. Letter dated November 20, 2001, Review of first circulation of the proposed Mitigated Negative Declaration (SCH 2001101084).
- II. Metadata for liquefaction for Monterey County. This layer is the product of a geologic data set produced by Lewis Rosenberg, CA State Certified geologist, under contract to the Monterey County General Plan Update team.

EVIDENCE: The Program for Mitigation Monitoring and/or Reporting on Conditions of Approval, prepared and required pursuant to Section 21081.6 of the Public Resources Code, is made a condition of approval and is designed to ensure compliance during project implementation.

EVIDENCE: Studies, data and reports prepared by staff from various County departments including Planning and Building Inspection, Public Works, Environmental Health and Monterey County Water Resources Agency support the adoption of the Mitigated Negative Declaration for the project.

EVIDENCE: File and application materials; Initial Study with mitigation measures; additional supporting information from California Department of Fish and Game, CalTrans, and Monterey Bay Unified Air Pollution Control District, which agencies, consultants' names and study types; and Negative Declaration contained in the project file.

EVIDENCE: * The Salinas Valley Water Project is nearing implementation according to the Director of the Water Resources Agency, Curtis Weeks (See **Exhibit F**). In a presentation to the Board of Supervisors December 9, 2003 Mr. Weeks states that:

- There was a successful (Proposition 218-type) ballot proceeding that provides the funding to service the debt on the Salinas Valley Water Project (a new supply)
- As of December 2003, the SVWP was close to having all state and local permits.
- Consultants were doing the design work.
- Design will be completed in 2004 and construction will begin in 2005.

3. **FINDING:** For Purposes of the Fish and Game Code, the project will have a potential for adverse impact on fish and wildlife resources upon which the wildlife depends.

EVIDENCE: Staff analysis contained in the Initial Study and the record as a whole indicate the project may or will result in changes to the resources listed in Section 753.5(d) of the Department of Fish and Game regulations. Implementation of the project described herein will affect changes to native and non-native plant life and soils, and the biological analyses identified potential impacts to wildlife and special status species.

EVIDENCE: Initial Study and Mitigated Negative Declaration contained in the project file.

4. **FINDING:** None of the findings found in Section 19.05.055 B of the Subdivision Ordinance can be made.

EVIDENCE: Section 19.05.055 B requires that the subdivision be denied if any one of the findings are made. Planning staff has analyzed the project against the findings for denial outlined in this section. The map and its design and improvements are consistent with the County General Plan and the applicable Area Plan. The site has been determined to be physically suitable for the type and density of development (see Evidence below). The design and improvements are not likely to cause substantial environmental damage, substantially and avoidably injure fish, wildlife, or their habitat, or cause serious public health problems as demonstrated in the Mitigated Negative Declaration adopted for this project. The design and improvements will not conflict with easements for access through or use of property within the proposed subdivision. Planning staff reviewed

the Title Report and applicable recorded documents to identify all easements and ensure that the project does not conflict with existing easements.

EVIDENCE: The property provides for adequate building sites as evidenced by the application materials submitted for the site.

EVIDENCE: The application, plans, and support materials, including the thirteen technical reports submitted by the project applicant to the Monterey County Planning and Building Inspection Department for the proposed development. The reports are:

- A. Higgins Associates, March 29, 1999. *Cathrein Acres Subdivision Traffic Analysis Report.*
- B. Higgins Associates, October 27, 1999. Letter addendum to Traffic Analysis Report.
- C. Zander Associates, December 17, 1999. *Biological Resource Assessment, Cathrein Acres Project, Monterey County, California.*
- D. Zander Associates, March 1, 2000. *Addendum: Biological Resource Assessment, Cathrein Acres Project, Monterey County, California.*
- E. Landset, Inc., August 19, 1999 (and Addendum October 19, 1999). *Percolation Test Report: Cathrein Acres.*
- F. Stephen R. Staub, Registered Professional Forester, December 1999. *Forest Management Plan.*
- G. M. Jacobs & Associates, June 1992. Geotechnical Report.
- H. Soil Surveys, Inc., December 1979. Soils Report
- I. Wyeast Engineering, March 1999. *Hidden Canyon Ranch Water System: Engineer's Report.*
- J. LandSet Engineers, June 1, 1999. *Preliminary Drainage Study, Cathrein Acres.*
- K. Wy'east Engineering, January 10, 2000. *Cathrein Acres Water System: Engineer's Report.*
- L. Landset Engineers, June 1, 2000. *Cathrein Acres Subdivision, PLN990330, Groundwater Recharge*
- M. Geoconsultants, Inc., February 26, 2001. *Ground-water Assessment Proposed Cathrein Acres Project.*

The reports concluded the proposed development is suitable for the site, subject to environmental protections/mitigations and recommendations for construction.

EVIDENCE: * Chapter 18.51 of the Monterey County Code was in effect November 16, 1990 through January 1, 2001 and imposed a Water Impact Fee of which the subdivision proposal is subject to.

EVIDENCE: * Section 18.51.050 requires payment of \$1,000 for each parcel approved in a subdivision. Chapter 18.51 of the Monterey County Code, Section 6 A. The purpose of the (Water Impact) fee is to help alleviate the ground water problems ... in the North Monterey County Area.

EVIDENCE: * In accordance with the Cathrein Estates subdivision application (PLN990330) "complete" date of August 2, 1999 and the State Subdivision Map Act Section 66474.2, "Tentative map approval can only be based on the standards in effect when application is complete." "The local agency shall apply only those ordinances, policies and standards in effect at the date the local agency has determined the application is complete pursuant to Section 65943 of the Government Code.

EVIDENCE: The on-site inspection of the project site by the project planner.

EVIDENCE: Maps (dated May 2003) and application materials contained in the project file.

EVIDENCE: See Evidence for Findings 1,2 and 5.

5. **FINDING:** The establishment, maintenance, or operation of the use or structure applied for will not, under the circumstances of the particular case, be detrimental to 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 improvement in the neighborhood, or to the general welfare of the County.

EVIDENCE: The project as described in the application and accompanying materials was reviewed by the Department of Planning and Building Inspection, Environmental Health Division, Public Works Department, North County Fire District, and Water Resources Agency. The respective departments 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; or the County in general.

EVIDENCE: Adoption of the Negative Declaration includes mitigation measures that address potential impacts to Aesthetics, Air Quality, Biological Resources, Geology and Soils, Hydrological / Water Quality, Land Use / Planning, Utilities and Service Systems and Cumulative Impacts for Traffic and Water Quality. No other significant issues have been identified for the project.

EVIDENCE: File and application materials, Initial Study with mitigation measures, and Negative Declaration contained in the project file.

6. **FINDING:** The subject property is in compliance with the rules and regulations pertaining zoning uses, subdivision, and any other applicable provisions of this Title and any zoning violation abatement costs have been paid.

EVIDENCE: The subject property is mostly vacant and undeveloped and there are no zoning violations recorded or pending to be resolved.

7. **FINDING:** Pursuant to Section 19.03.15. L, the source capacity and water quality for all lots proposed to be created through the subdivision meets the

requirements of the applicable health and safety regulations prior to approval of the vesting tentative map.

EVIDENCE: Monterey County Environmental Health Department Memorandum dated May 04, 2000 with a review and determination that, "the referenced application has proven an adequate water source for both quantity and quality"...subject to eight recommended conditions of approval.

EVIDENCE: Wy'east Engineering, March 1999. *Hidden Canyon Ranch Water System: Engineer's Report.*

EVIDENCE: Wy'east Engineering, January 10, 2000. *Cathrein Acres Water System: Engineer's Report.*

EVIDENCE: Conditions of Approval applied by the Environmental Health Department.

EVIDENCE: See Evidence for Finding #2.

8. **FINDING:** That in approving the final map, the decision-making body has balanced the housing needs of the County against the public service needs of its residents and available fiscal and environmental resources.

EVIDENCE: The applicant will be required to comply with the Inclusionary Housing Ordinance as a condition of approval.

9. **FINDING:** The recommended conditions regarding Inclusionary Housing, recreation requirements, and underground utilities have been applied to ensure that the health, safety, and welfare is preserved and protected.

EVIDENCE: Section 18.40 of the Monterey County Code (Inclusionary Housing Ordinance)

EVIDENCE: Section 19.12.010 of the Monterey County Code (Recreation Ordinance).

EVIDENCE: Section 19.10.095 of the Monterey County Code (underground utilities)

10. **FINDING:** The proposed tree removal is the minimum required under the circumstances of the case.

EVIDENCE: Numerous staff members have worked with the applicant for several years through plan revisions to lessen and reduce the proposed tree removal associated with development of the Cathrein Estates Subdivision.

EVIDENCE: Site visits by the project planner.

EVIDENCE: Materials in project File #PLN990330.

11. **FINDING:** Tree removal will not involve a risk of adverse environmental impacts.

EVIDENCE: The Forest Management Plan (Steven Staub) specifies environmental protections and measures that will be required of the project to lessen potential environmental impacts to less than significant levels, and these mitigations have been incorporated and required in the Conditions of Approval and MMRP documents.

EVIDENCE: A Tree Replacement Plan has been required as mitigation for proposed tree removal in conformance with Section 21.64.260 of the Zoning Code.

12. **FINDING:** The site is physically suitable for the use proposed.

EVIDENCE: Necessary public facilities are available for the use proposed. The project has been reviewed by the Monterey County Planning and Building

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

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

13. FINDING: The property which is the subject of this appeal is located at the terminus of Pesante Road (Assessor's Parcel Number 125-291-001-000 and 125-621-017-000), southerly of the Hidden Canyon Ranch Subdivision and east of Crazy Horse Canyon Road, Prunedale area, County of Monterey.

EVIDENCE: Planning Commission Resolution No.04007; Planning and Building Inspection Department File No. PLN990330; administrative record.

14. FINDING: Applicant filed with the County of Monterey an application for a Combined Development Permit consisting of 1) a Standard Subdivision Vesting Tentative Map for the division of a 143 acre parcel into 28 residential lots ranging in size from 1.23 to 5.2 acres, and 3 open space parcels totaling 79 acres; 2) a Use Permit for an addition to a Mutual Water System, 3) a Use Permit for tree removal (156 Oak trees, including two over 24" diameter), and a Grading Permit for approximately 40,000 cubic yards of cut and fill for roads and infrastructure.

EVIDENCE: Planning and Building Inspection Department File No. PLN990330; administrative record.

15. FINDING: The application for a Combined Development Permit came for consideration before the Planning Commission at a public hearing on February 25, 2004.

EVIDENCE: Planning Commission Resolution No. 04007; Planning and Building Inspection Department File No. PLN990330.

16. FINDING: At the conclusion of the public hearing on February 25, 2004, the Planning Commission adopted a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program, and approved the application on the basis of the Findings and Evidence and Conditions of Approval contained in Planning Commission Resolution No. 04007.

EVIDENCE: Planning Commission Resolution No. 04007; Planning and Building Inspection Department File No. PLN990330.

FINDINGS FOR APPEAL

17. FINDING: Appellant timely filed an appeal from the Planning Commission alleging that (1) the Planning Commission findings, decision and conditions of approval are not supported by the evidence; and (2) the decision was contrary to law.

EVIDENCE: Appellant's Notice of Appeal dated March 19, 2004; files of Clerk of the Board of Supervisors.

18. FINDING: Pursuant to the provisions of the Monterey County Zoning Ordinance and other applicable laws and regulations, the Board of Supervisors, on May 4, 2004, heard and considered the appeal.

EVIDENCE: Minutes of the Board of Supervisors' meeting of May 4, 2004; files of the Clerk of the Board of Supervisors and Planning and Building Inspection Department.

19. FINDING: The Board of Supervisors denies the appeal based on the following findings:

- A. Applicant Contention. Regarding Finding 1: County Code Section 19.02.143 of the Monterey County Code (Title 19) establishes the following definition for a long term water supply (safe yield): Safe yield is the amount of water that can be extracted continuously from the basin or hydrologic sub-area without degrading water quality or damaging the economical extraction of water, or producing unmitigable adverse environmental impacts.

Staff Response: The applicant's water system, the Hidden Canyon Ranch Mutual Water Company, was approved in 2002 for 61 connections. Currently only 32 connections are active. Connecting another 28 residential properties to the system is within the capacity of the approved system. When the Monterey County Water Resources Agency (MCWRA) made the Cathrein Acres Subdivision application complete in 1999, it was recognized that the subdivision would contribute an additional 10.2 AF/y in overdraft to the Granite Ridge Subarea. The MCWRA determined that payment of the fee of \$1,000.00 per lot (Ordinance #4005) was adequate mitigation to help alleviate groundwater problems in North Monterey County.

- B. Applicant Contention. The proposed project does not conform with the provisions of the Monterey County General Plan to "promote adequate, replenishable water supplies of suitable quality to meet the county's various needs [Goal 6, Page 22]."

- Objective 6.1, carrying out this goal is to "Eliminate long-term groundwater over-drafting in the County as soon as practically possible."

Staff Response: The subdivision application is subject to paying the Water Impact Fee that was in place November 16, 1990 through January 1, 2001. Section 18.51.050 requires payment of \$1,000 for each parcel approved in a subdivision. Chapter 18.51 of the Monterey County Code, Section 6 A. The purpose of the (Water Impact) fee is to help alleviate the ground water problems ... in the North Monterey County Area.

- Objective 53.1.3 says that "The County shall not allow water consuming development in areas which do not have proven adequate water supplies."

Staff Response: When the Monterey County Water Resources Agency (MCWRA) made the Cathrein Acres Subdivision application complete in 1999, it was recognized that the subdivision would contribute an additional 10.2 AF/y in overdraft to the Granite Ridge Subarea. The

MCWRA determined that payment of the fee of \$1,000.00 per lot (Ordinance #4005) was adequate mitigation to help alleviate groundwater problems in North Monterey County. The applicant should be allowed to rely on approvals that have already been through the public review processes and subject to duly noticed discretionary hearings.

- Policy 26.1.18 that "Development proposals which are consistent with the land use plan designation may be denied due to factors including, but not limited to, lack of public facilities and services, infrastructure phasing problems, water availability and sewage problems, or presence of environmental and/or plan policy constraints which cannot be mitigated [Pages 109-110]."

Staff Response: The applicant's proposal was approved by the Planning Commission because it demonstrated consistency with the North County Land Use Plan, General Plan, Zoning Code and Subdivision Ordinances as applicable in 1999. The project demonstrates that infrastructure can be safely and sensitively applied to the subject property and that there are no plan policy or environmental constraints that have not been addressed through improved project design and appropriate environmental mitigation measures to lessen potential impacts to less than significant levels.

C. Appellant Contention The proposed project is also inconsistent with the North County Area Plan.

- Policy 6.1.4(NC) [Page 49], that "New development shall be phased until a safe, long-term yield of water supply can be demonstrated and maintained. Development levels that generate water demand exceeding safe yields of local aquifers shall only be allowed once additional water supplies are secured [Emphasis added]."

Staff Response: See above. When the Monterey County Water Resources Agency (MCWRA) made the Cathrein Acres Subdivision application complete in 1999, it was recognized that the subdivision would contribute an additional 10.2 AF/y in overdraft to the Granite Ridge Subarea. The MCWRA determined that payment of the fee of \$1,000.00 per lot (Ordinance #4005) was adequate mitigation to help alleviate groundwater problems in North Monterey County.

Additional water supplies, such as to be provided by the Salinas Valley Water Project, are also coming to fruition and construction may begin as early as 2005. The Salinas Valley Water Project can be considered "secured" for these purposes as confirmed by the Director of The Monterey County Water Resources Agency in the following presentation made before the Board of Supervisors (December 2003):

- *There was a successful (proposition 218-type) ballot proceeding that provides the funding to service the debt on the Salinas Valley Water Project (a new supply)*
- *As of December 2003, the SVWP was close to having all State and local permits.*
- *Consultants were doing the design work*
- *Design will be completed in 2004 and Construction will begin in 2005.*

D. Appellants Contention. The General Plan also prohibits development approvals that would exacerbate existing traffic problems, which this proposed project would do.

- *General Plan Objective 37.2.1 says that "Transportation demands of proposed development shall not exceed an acceptable level of service for existing transportation facilities, unless appropriate increases in capacities are provided for [Page 131]."*

Staff Response: (From the Initial Study):

- *Crazy Horse Canyon Road/Highway 101;*
- *Crazy Horse Canyon Road/Hidden Canyon Ranch Road; and*
- *Crazy Horse Canyon Road/San Juan Grade Road.*

Adding this project traffic to the existing traffic and approved projects that have not yet been constructed or are under construction, the intersections studied would still operate at LOS A, except Crazy Horse Canyon Road and Highway 101, which currently operates at LOS F.

The Highway 101/Crazy Horse Canyon Road intersection would operate at LOS F conditions under the cumulative scenario. The planned Highway 101/Crazy Horse Canyon Road interchange project will mitigate cumulative impacts at this location (Reference 6). Construction of this interchange is scheduled along with the Prunedale bypass for 2008 (Reference 27 of the Initial Study/Mitigated Negative Declaration). The following mitigation measures will reduce cumulative impacts to a level of insignificance.

43	<i>In order to mitigate potential traffic and regional circulation impacts that are individually limited, but potentially cumulatively considerable: Prior to issuance of a Building Permit for each lot, applicant shall pay County a traffic mitigation fee of \$1,164.69 per lot as a pro rata share of the future cost of an interchange at the intersection of Highway 101 and Crazy Horse Canyon Road. The fee shall be based on 2004 dollars and shall be updated annually based on the Engineering News Record Construction Cost Index. A notice to that effect shall be recorded concurrently with the recordation of the final map.</i>
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E. Appellant Contention. The North County Area Plan specifies, in Objectives 7.1.3 and 8.2.1 that the County shall "discourage the removal of healthy, native oak and madrone trees in North Monterey County [Page 50]."

Staff Response: The road and lot layout indicates that roads and potential building locations have been sited to minimize tree removal (References 18 and 33 of the Initial Study/Mitigated Negative Declaration). Approximately 1.2 acres of oak woodland and 1.0 acres of coastal scrub vegetation will be removed for road and driveway construction. The amount of oak tree removal has been quantified, about 2%, for the project as follows (Reference 12 of the Initial Study/Mitigated Negative Declaration):

<u>Diameter class</u>	<u>Total</u>	<u>Estimated Removal</u>
6 to 11"	6395	125
12 to 23"	995	29
24"+	<u>165</u>	<u>2</u>
Total	7555	156

27	<p>In order to mitigate potential impacts to Biological Resources: The applicant shall retain the services of a Registered Professional Forester or equivalent to quantify actual tree loss of each project phase or component as completed and to prepare site specific tree replacement plans.</p> <ul style="list-style-type: none"> • All native trees shall be replaced at a 3:1 ratio. • A minimum of 70 percent of the replacement trees shall be surviving in good health after five years. • (Reference 31. California Department of Fish and Game letter, dated October 3, 2003, Item 8.) 	<ul style="list-style-type: none"> • Applicant's Arborist / Forester or Biologist shall confer & prepare an appropriate Tree Replacement Plan. • Applicant shall submit the Tree Replacement Plan for review and approval by the PBI Department. • The forester shall document the success of the tree replacement plan (s) in annual monitoring reports with a final monitoring report at the end of the 5 year term or when the project completes build-out.
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F. Applicant Contention. The current Monterey County General Plan, adopted in 1982, is chronologically out of date, internally inconsistent and

legally inadequate. We urge the Board, in connection with its decision on this appeal, not only to deny the proposed project, but to provide direction that no action on new subdivisions and other significant proposals will take place until after the adoption of the new General Plan Update.

Staff Response: This is a broad and conclusory argument made without providing any specifics or supporting evidence. The General Plan is presumed to be valid. Unless this presumption is overcome by contrary evidence, which has not been provided by the appellant, the General Plan is internally consistent and legally adequate.

- What does "chronologically" out of date mean?
- Where is it internally inconsistent?
- In what way is it legally inadequate?

- G. Applicant Contention. "Finding 2" claims that the proposed project will "not have significant adverse impacts on the environment." This finding is flatly contradicted by the more accurate "Finding 3."

Staff Response: Finding 3 and Finding 2 are separate issues. Finding 2 addresses the findings, conclusions and extensive documentation of the CEQA review process.

- H. Applicant Contention. "Finding 3," which states, "For purposes of the Fish and Game Code, the project will have a potential for adverse impact on fish and wildlife resources..."

Staff Response: The Appellant's argument draws a false conclusion. Much as the County requires applicants to pay for the County's costs to monitor mitigation and environmental compliance efforts and activities, such is the nature of the Fish and Game Fee requirement. When monitoring and mitigation compliance activities are required by the California Department of Fish and Game, applicants are responsible for payment of these services. The finding that the project will have a potential for adverse impact on fish or wildlife resources is made to justify the requirement to pay and or collect the mitigation monitoring fee on behalf of the California Fish and Game Department; this is not the same finding that the project will have significant impacts.

- I. Applicant Contention: Regarding Finding 4" states that "None of the findings found in Section 19.05.055 B of the Subdivision Ordinance can be made." This is not true. Section 19.05.055 (1) says that a vesting tentative map shall be denied if the proposed map is "not consistent with the general plan [or] area plan."

Staff Response: See discussion above about Safe Yield, and phased development

J. Applicant Contention: Section 19.05.055 (3) says that a vesting tentative map shall be denied if the site is not "physically suitable for the type of development."

- In view of the water supplies available to the site, and the overall groundwater situation at the site, the site is most emphatically "not physically suitable."
- In addition, the materials submitted to the Planning Commission demonstrate a significant potential problem on the site with nitrate contamination.

Section 19.05.055 (5) says that a vesting tentative map shall be denied if the design of the subdivision or type of improvements is "likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat."

- As noted in "Finding 3," the proposed project "will affect changes to native and non-native plant life and soils, and the biological analyses identified potential impacts to wildlife and special status species."

Staff Response: The applicant's argument in Finding 3 does not stand, as the reference to the Fish and Game Code refers to the requirement for the payment of Mitigation Monitoring Fees by the F & G department should any resource relating to their jurisdiction be effected, such a soils movement through grading activity.

The report and Initial Study as written provide mitigation measures to reduce or lessen potential environmental impacts to less than significant levels (not cause substantial environmental damage).

K. Applicant Contention: "Finding 5" claims that the proposed project would not be detrimental in any way to persons, property, or the County. The increased nitrate loading of the aquifers in the area caused by this proposal and others cumulatively could potentially devalue property in the area, as water supplies become less and less suitable for residential use.

Staff Response: The project was reviewed by the Department of Planning and Building Inspection, Environmental Health Division, Public Works Department, North County Fire District, and Water Resources Agency, Caltrans, California Department of Fish and Game, and the US Fish and Wildlife Service. The departments have recommended conditions, 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; or the County in general.

Adoption of the Negative Declaration includes mitigation measures that address potential impacts to Aesthetics, Air Quality, Biological Resources, Geology and Soils, Hydrological / Water Quality, Land Use / Planning, Utilities and Service Systems and Cumulative Impacts for

Traffic and Water Quality. No other significant issues have been identified for the project.

- L. Applicant Contention: "Finding 7" claims: "Pursuant to Section 19.03.15 L, the source capacity and water quality for all lots proposed to be created through the subdivision meets the requirements of the applicable health and safety regulations prior to approval of the vesting tentative map." As indicated above, this is simply not true.

Staff Response:

- *EVIDENCE: Monterey County Health Department, Division of Environmental Health Memorandum dated May 04, 2000 with a review and determination that, "the referenced application has proven an adequate water source for both quantity and quality" ...subject to eight recommended conditions of approval.*
- *EVIDENCE: Wy'east Engineering, March 1999. Hidden Canyon Ranch Water System: Engineer's Report.*
- *EVIDENCE: Wy'east Engineering, January 10, 2000. Cathrein Acres Water System: Engineer's Report.*
- *EVIDENCE: Conditions of Approval applied by the Environmental Health Department.*
- *EVIDENCE: See Evidence for Finding #2.*

- M. Appellant Contention. "Finding 8" states, "That in approving the final map, the decision-making body has balanced the housing needs of the County against the public service needs of its residents and available fiscal and environmental resources." To the contrary, no such balance has been struck.

- This development will provide luxury homes for upper income persons. It is a well-established fact in Monterey County that this market is driven heavily by buyers from the "Silicon Valley" area.
- The proposed project does not address the housing needs of the County, but it would increase the stress on the County's already over-stretched public services, and would further degrade groundwater quality and quantity in North Monterey County.
- Furthermore, "available fiscal and environmental resources" would be consumed-substantially-in the effort.
- Swallowing all of these costs, without effectively addressing the housing needs of the County, does not represent a "balance."

Staff Response: Marti Noel of the ERP, Housing Department has reviewed the application and applied the condition of approval appropriate for when this subdivision project was deemed "complete" in 1999. Condition # 33, states. "The applicant shall comply with the requirements of the Inclusionary Housing Ordinance, by payment of an in-lieu fee, or provision of an inclusionary unit, prior to filing of the final map."

N. Applicant Contention: "Finding 10" claims, "The proposed tree removal is the minimum required under the circumstances of the case." This is not true.

- There is nothing demonstrated in the Initial Study or Staff Report that would preclude a less intensive development proposal.
- Consequently, the proposed tree removal is not the minimum required-the minimum is zero, as stated by Staff on Page 8 of that staff report.

Staff Response: This is a general point of frustration for much of the community, Planning Commissioners and planning staff; How to define: "minimum required," and "circumstances of the case."

- In the given case of Cathrein Estates, it is apparent from aerial photographs, site visits and graphic documentation by the project biologist, Jud Vandevere, that the access road, driveways and building envelopes have been sited in such a way as to be sensitive to the existing mature trees.
- The North County Area Plan states that, "The County shall discourage the removal of healthy, native oak and madrone trees in North Monterey County. A permit shall be required for the removal of any of these trees with a trunk diameter in excess of six inches, measured two feet above ground level. Where feasible, trees removed will be replaced by nursery-grown trees of the same species and not less than one gallon in size." This is not a restriction per se, but is a requirement for compensation. Non-protected trees can be cut without permit or bureaucratic intrusion – and without a replanting penalty.

O. Applicant Contention: "Finding 11" posits that "Tree removal will not involve a risk of adverse environmental impacts." Again, it is clear that the tree removal will have adverse impacts, as noted in the Initial Study and "Finding 3."

Staff Response: Finding # 3 has been addressed earlier and relates to the need for Fish and Game to be compensated for mitigation monitoring. Finding #3 is not a conclusion of significant adverse impact.

P. Applicant Contention: "Finding 12" claims that "The site is physically suitable for the use proposed." As already noted, the site is located in North Monterey County, which exists in a state of aquifer overdraft, and the use proposed would exacerbate that overdraft, and add to nitrate contamination. Thus, the site is not physically suitable for the use proposed.

Staff Response: Necessary public facilities are available for the use proposed. The project has been reviewed by the Monterey County Planning and Building Inspection Department, Water Resources Agency,

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

- EVIDENCE: Oral testimony, staff reports, and documents in the administrative record.
- EVIDENCE: Staff report for the Board of Supervisors' May 4, 2004 public hearing.
- EVIDENCE: Planning Commission Staff Report for the February 25, 2004 Planning Commission Hearing.
- EVIDENCE: Initial Study, Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program.
- EVIDENCE: Minutes of the February 25, 2004 Planning Commission hearings.

NOW, THEREFORE, BE IT RESOLVED THAT the Board of Supervisors does hereby:

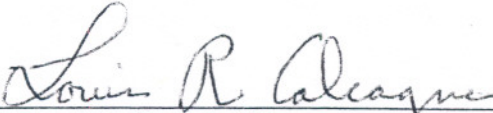
- 1. Deny the appeal of Landwatch Monterey County from the February 25, 2004 Planning Commission decision to approve the project, and**
- 2. Adopts the Mitigated Negative Declaration, Mitigation Monitoring and Reporting Program and approves the Cathrein Estates Combined Development Permit request (Chapin File #PLN990330) subject to the Mitigation Measures and Conditions of Approval contained in Exhibits I, J and L and incorporated herein by reference.**

On motion by Supervisor Armenta, seconded by Supervisor Lindley, the foregoing Findings and Decision are adopted this 4th day of May, 2004, by the following vote:

AYES: Supervisors Armenta, Calcagno, Lindley, Johnsen

NOES: Supervisor Potter

ABSENT: None



Chair of the Board of Supervisors
County of Monterey, State of California

ATTEST:

SALLY REED
Clerk of the Board

By 

Deputy

ACOPY OF THIS DECISION WAS MAILED TO THE APPLICANT ON _____

THIS DECISION IS SUBJECT TO REVIEW PURSUANT TO THE CODE OF CIVIL PROCEDURE, SECTION 1094.5. THE TIME WITHIN WHICH JUDICIAL REVIEW OF THIS DECISION MUST BE SOUGHT IS GOVERNED BY THE CODE OF CIVIL PROCEDURE, SECTION 1094.6. ANY PARTY SEEKING JUDICIAL REVIEW OF THIS FINAL DECISION MUST COMPLY WITH THE TIME LIMITS SET FORTH IN THE CALIFORNIA CODE OF CIVIL PROCEDURE, SECTION 1094.6.

Department: Planning and Building Inspection

Mitigation Monitoring and Reporting Plan

Project Name: Cathrein Estates (Chapin)

File No: PLN990330

APNs: 129-291-001

Approval by: Board of Supervisors

Date: May 4, 2004

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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	43	<p>In order to mitigate potential traffic and regional circulation impacts that are individually limited, but potentially cumulatively considerable: Prior to issuance of a Building Permit for each lot, applicant shall pay County a traffic mitigation fee of \$1,164.69 per lot as a pro rata share of the future cost of an interchange at the intersection of Highway 101 and Crazy Horse Canyon Road. The fee shall be based on 2004 dollars and shall be updated annually based on the Engineering News Record Construction Cost Index. A notice to that effect shall be recorded concurrently with the recordation of the final map.</p>	<ul style="list-style-type: none"> • Demonstrate to the PBI Department that all in-lieu fees have been paid to the appropriate authorities. • A copy of the paid receipts shall be placed in the file. 	<p>Applicant to pay P.W. to receive fees PBI staff to verify</p>	<p>Prior to issuance of Building Permit</p>	