Before the Planning Commission in and for the County of Monterey, State of California

In the matter of the application of:

FEDERICO DAVID ALLEN & DEBRA JUNE TRS (PLN230117) RESOLUTION NO. 23-040

Resolution by the Monterey County Planning Commission:

- 1) Finding the project exempt from CEQA pursuant to Section 15301, Existing Structures, of the CEQA Guidelines and there are no exceptions pursuant to Section 15300.2; and
- 2) Approving an after-the-fact Administrative Permit to allow transient use of an existing single-family dwelling for remuneration and abate Code Enforcement Violation No. 23CE00179.

[PLN230117 Federico David Allen & Debra June Trs., 1138 Josselyn Canyon Rd, Monterey, Greater Monterey Peninsula Area Plan, (Assessor's Parcel Number 101-161-004-000)]

The Federico David Allen & Debra June Trs. application (PLN230117) came before the Monterey Planning Commission on December 13, 2023. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Planning Commission finds and decides as follows:

FINDINGS

1. FINDING:

CONSISTENCY / SITE SUITABILITY - The Project, as conditioned, is consistent with the applicable plans and policies which designate this area as appropriate for transient use for remuneration.

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

No conflicts were found to exist. Staff has reviewed the contents of the application, and the County finds that the project is consistent with the text, policies, and regulations in the applicable documents.

b) Allowed Uses. The property is located at 1138 Josselyn Canyon Rd, Monterey, (Assessor's Parcel Number 101-161-004-000), Greater Monterey Peninsula Area Plan. The parcel is zoned Medium Density Residential, 1 unit per acre with Urban Reserve and Design Control District overlays (MDR/1-UR-D) which allows for transient use of an existing residential property (single-family dwelling) for remuneration subject to an Administrative Permit. The regulations of the "UR" and "D" do not apply to this project since there is no

- additional development being proposed. Therefore, the project is an allowed land use for this site.
- c) <u>Lot Legality.</u> The property is shown in its current size and configuration as Lot 4 on the 1972 Assessor's Parcel Map Book 101, page 16. Therefore, the County recognizes the property as a legal lot of record.
- d) <u>Suitability</u>. The project has been reviewed for site suitability by the following departments and agencies: HCD-Planning, Monterey County Regional Fire Protection District, HCD-Engineering Services, HCD-Environmental Services and Environmental Health Bureau. There has been no indication from these departments/agencies that the site is not suitable for the proposed project. Conditions recommended have been incorporated.
- e) The applicant has applied for an Administrative Permit to allow transient use of the subject residential property and the project has been conditioned to comply with the requirements found in Monterey County Code (MCC) Section 21.64.280.D.2 pertaining to the minimum rental period(s), on-site advertising, payment of transient occupancy taxes (TOT), designation of a local contact person and limitation on the total number of occupants. As proposed and detailed in the attached Operations Plan, the rental periods for the subject property shall be no less than a 7-night consecutive stay and no greater than a 30-night consecutive stay, no on-site advertising shall be allowed, and the total occupancy shall not exceed 6 guests.
- Pursuant to MCC Section 21.64.280.D.2.b, the number of occupants in any residential unit for transient use shall not exceed the limits set forth in the California Uniform Housing Code. The house has 4 bedrooms, inclusive of a guest unit which will not be separately rented, 3 bathrooms and 1 kitchen. Under the Uniform Housing Code, each bedroom shall have a minimum of 70 square feet for the first two (2) people and 50 square feet for each additional person beyond two (2) people in that bedroom. The property owner is proposing a maximum of 6 occupants to stay at their property at a time. Contracts will fall under one of two scenarios: 1) when the owners remain on property, they will occupy the guest unit and a maximum of 4 guests during transient use will be allowed to occupy the main dwelling; or 2) a maximum of 6 guests will be allowed to occupy the main dwelling and guest unit when the owners are off property during transient use. Therefore, as proposed, the project is consistent with applicable MCC and California Housing Standards.
- The owners reside on the property and pursuant to MCC Section 21.64.280.D.2.d, the attached Operational Plan identifies that they will be the 24-hour point of contact for all guests. However, if and when the owners are not occupying the home, consistent with MCC section 21.64.280.D.2.d, a local property manager who resides within twenty-five miles of the property, will be available to respond tenant and neighborhood questions or concerns when the two owners do not occupy the home during transients use. Contact information for the local property manager has been provided to HCD-Planning and will be available to renters. The property manager will be available twenty-four hours a day seven days a week to respond to tenant and

- neighborhood questions or concerns and to otherwise be responsible for assuring that the rental unit complies with the requirements of the Administrative Permit.
- h) <u>Parking</u>. Adequate parking spaces will be provided: 6 total spaces are available. No street parking is proposed.
- i) Conditions of Approval. Pursuant to MCC Section 21.64.280, the County may apply conditions of approval to ensure use of a singlefamily dwelling for transient use does not result in adverse impacts to the neighborhood and to maintain integrity of the zoning district. To protect the public, health, welfare, as well as the residential character of the neighborhood, additional conditions have been applied to expressly prohibit events on the property. A Deed Restriction has been applied to ensure all the applicable conditions run with the land (Condition No. 4). Additionally, a condition has been added that this permit will expire 3 years from the day it was granted. The applicant could apply to extend the permit before its expiration. That permit would be subject to the rules in place at the time the extension is considered. The purpose of the expiration date is to provide for review of the approved use to ensure that it remains compliant with the terms of this permit and that such use is not detrimental to the neighborhood.
- j) Land Use Advisory Committee. Based on the Short-term rental project review preferences expressed by the Planning Commission during 2023 reviews and the Land Use Advisory Committee (LUAC) guidelines adopted by the Monterey County Board of Supervisors, this application warranted referral to the Greater Monterey Peninsula LUAC. On August 15, 2023, staff routed the project to the LUAC for the September 5, 2023 meeting but the meeting was cancelled due to lack of quorum. The project was not referred again because the LUAC guidelines state that a project continued by the LUAC twice and not heard does not require LUAC hearing prior to review by decision makers.
- Neighborhood Compatibility. MCC Section 21.64.280.D.2.g states k) that the applicant shall provide notice to any affected homeowners' association. The applicant notified HCD-staff that the subject property is not located within an area governed by a homeowners' association. However, as demonstrated in Evidence "l" below, staff received comment letters from adjacent property owners stating that they have been aware of the short term rental operation and have had no issues with transient guests. The proposed project provides more than the required number parking spots to ensure that vehicles will not overflow onto the private driveway. As stated in the attached Operations Plan, the property is subject to and will abide by Monterey County's Noise Ordinance (Chapter 10.60), which prohibits loud or unreasonable noise between the hours of 10:00PM and 10:00AM the following morning. Short-term rentals are not exempt from this ordinance. The attached Operations Plan lists quiet time hours consistent with Chapter 10.60. Through adoption of the Transient Use of a Residential Property for Remuneration Ordinance (No. 5135), the Board of Supervisors found that the "use permitted pursuant to this ordinance, as regulated, will not constitute a

- substantial adverse physical change to the environment or any substantive change in the intensity of use of existing single family dwellings." For the above reasons, the proposed project is considered a compatible use with the surrounding neighborhood.
- 1) Public Comment. Comment letters were received on this project on August 8th, 2023 and are included as **Exhibit B** of the December 13, 2023 Planning Commission staff report. The letters were submitted by immediate neighbors, James and Dina Zapanta as well as Fred Steudler, and expressed support of the applicants operating a short-term rental on the property.
- m) The application, plans and supporting materials submitted by the project applicant to Monterey County HCD-Planning for the proposed project are found in Project File PLN230117.

2. FINDING:

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

EVIDENCE:

- The project was reviewed by HCD-Planning, the Monterey County Regional Fire Protection District, HCD-Engineering Services, HCD-Environmental Services and the Environmental Health Bureau. The respective agencies have recommended conditions, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood.
- b) Water for the property is, and will continue to be, provided by California American Water. Necessary public facilities will continue to be provided by the current providers. The sewer utility bills were provided to determine the property has adequate water and sewage management to serve the proposed short-term rental. EHB has reviewed the submitted application materials and indicated no concerns with the proposed use.
- c) This project was reviewed by the Monterey County Regional Fire Protection District and was found to be safe and suitable for the Use proposed. No conditions were applied as applicant provided the proper number of smoke alarms.
- d) To address emergency situations, the attached Operations Plan includes an evacuation map which is placed in a location that is easy to access by renters.
- e) The application, plans and supporting materials submitted by the project applicant to Monterey County HCD-Planning for the proposed project are found in Project File PLN230117.

3. FINDING:

VIOLATIONS - The subject property shall comply with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of the County's zoning ordinance. A violation exists on the property and approval of this permit would abate said violation.

EVIDENCE:

- a) Staff reviewed Monterey County HCD-Planning and HCD-Building Services records and is aware of a violation existing on subject property which will be corrected with the approval of this Administrative Permit. On April 14, 2023, an inquiry letter from HCD-Code Compliance was sent to the property owner stating that the property may possibly be in violation with Monterey County Code through the operation of a non-permitted short term rental and that immediate action shall be taken to bring the property into compliance. The applicant submitted a request for an Administrative permit to allow transient use of a residential property for remuneration to bring their property into compliance with the Monterey County Code on May 1, 2023. No additional complaints have been received.
- b) MCC section 21.64.280 provides an administrative procedure to legalize existing visitor serving opportunities and increase and enhance public access to areas of the County and other visitor destinations. By approving this Administrative Permit, the subject property will be brought into full conformance with the County Zoning Ordinance.
- c) Staff reviewed aerial imagery (Google Maps & Monterey County GIS) and did not identify any additional violations on the property.
- d) The application, plans and supporting materials submitted by the project applicant to Monterey County HCD-Planning for the proposed project are found in Project File PLN230117.

4. FINDING:

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

EVIDENCE:

- California Environmental Quality Act (CEQA) Guidelines Section 15301, categorically exempts operation of existing private structures, involving negligible or no expansion of an existing use.
- b) The applicant proposes operation of an existing residential single-family dwelling for transient use for remuneration and does not propose any additional development and/or expansion of the existing structure, no physical changes to the environment will occur. All facilities are existing and have been confirmed by other agencies to be adequate for this use. Limiting the number of occupants for the transient use and the duration and frequency of the use will not intensify the existing use of the property. Potential social and economic impacts of short-term rentals are not required to be addressed in CEQA. Therefore, the proposed use is consistent with the CEQA Guidelines Section 15301.
- c) None of the exceptions under CEQA Guidelines Section 15300.2 apply to this project. The project does not involve a designated historical resource, a hazardous waste site, development located near or within view of a scenic highway, unusual circumstances that would result in a significant effect or development that would result in a cumulative significant impact. The project will not impact sensitive environmental resources and there will be no significant effect on the environment due to unusual circumstances. The site is not included on any list compiled pursuant to Section 65962.5 of the

Government Code to be considered on a hazardous waste site. Potential impacts of short-term rentals on long-term housing are not a unique circumstance that would disqualify the use of a categorical exemption. There are currently 3,879 residential dwellings in Greater Monterey Peninsula Area Plan. To this date 14 short-term rental applications have been approved in this Planning area. Given the limited number of short-term rentals, the application of regulations that address cumulative concerns, and the negligible effects of short-term use compared to long-term occupancy of residential structures, exceptions to categorical exemptions due to potential cumulative considerations are not warranted.

d) The application, project plans, and related support materials submitted by the project applicant to Monterey County HCD-Planning for the proposed project found in Project File PLN230117.

5. FINDING:

APPEALABILITY - The decision on this project may be appealed to the Board of Supervisors.

EVIDENCE:

<u>Board of Supervisors</u>. Pursuant to Title 21 Section 21.80.050.A, an appeal of the Planning Commission's approval for this project may be made to the Board of Supervisors by any public agency or person aggrieved by their decision.

DECISION

NOW, THEREFORE, based on the above findings and evidence, the Planning Commission does hereby:

- A. Find the project qualifies for an exemption from CEQA per Section 15301, Existing Structures, of the CEQA Guidelines and there are no exceptions pursuant to Section 15300.2; and
- B. Approve an after-the-fact Administrative Permit to allow the transient use of an existing single-family dwelling for remuneration and abate Code Enforcement Violation No. 23CE00179.

All of which are in general conformance with the attached sketch and subject to the attached conditions, all being attached hereto and incorporated herein by reference.

PASSED AND ADOPTED this 13th day of December, 2023, upon motion of Commissioner Diehl, seconded by Commissioner Work, by the following vote:

AYES: Gonzalez, Diehl, Roberts, Monsalve, Getzelman, Work, Shaw

NOES: None

ABSENT: Gomez, Daniels, Mendoza

ABSTAIN: None

—pocusigned by: Mulanic S Beretti

Melanie Beretti, AICP Planning Commission Secretary

COPY OF THIS DECISION MAILED TO APPLICANT ON 12/18/2023.

THIS APPLICATION IS APPEALABLE TO THE BOARD OF SUPERVISORS. IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE CLERK OF THE BOARD ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE 1/2/2024.

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

County of Monterey HCD Planning

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

PLN230117

1. PD001 - SPECIFIC USES ONLY

Responsible Department:

Planning

Condition/Mitigation Monitoring Measure:

This Administrative permit (PLN230117) allows transient use of residential (single family dwelling) property for remuneration. The property is located at 1138 Josselyn Monterey (Assessor's Parcel Number 101-161-004-000), 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 Neither the uses nor the construction allowed by this permit shall the project file. commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of HCD - Planning. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. To the extent that the County has delegated any condition compliance or mitigation monitoring to the Monterey County Water Resources Agency, the Water Resources Agency shall provide all information requested by the County and the County shall bear ultimate responsibility to ensure that conditions and mitigation measures are properly fulfilled. (HCD - Planning)

Compliance or Monitoring Action to be Performed:

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

2. PD002 - NOTICE PERMIT APPROVAL

Responsible Department:

Planning

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

"An Administrative Permit (Resolution Number 23-040) was approved by the Monterey County Planning Commission for Assessor's Parcel Number 101-161-004-000 on December 13, 2023. The permit was granted subject to 6 conditions of approval which run with the land. A copy of the permit is on file with Monterey County HCD - Planning."

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

Compliance or Monitoring Action to be Performed: Prior to the issuance of grading and building permits, certificates of compliance, or commencement of use, whichever occurs first and as applicable, the Owner/Applicant shall provide proof of recordation of this notice to the HCD - Planning.

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3. CC01 INDEMNIFICATION AGREEMENT

Responsible Department:

County Counsel-Risk Management

Condition/Mitigation Monitoring Measure:

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

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

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

4. PD017 - DEED RESTRICTION-USE

Responsible Department:

Planning

Condition/Mitigation Monitoring Measure: Prior to issuance of a building permit the applicant shall record a deed restriction as a condition of project approval stating the regulations applicable to the requested use.

(HCD - Planning)

Compliance or Monitoring Action to be Performed:

Prior to the issuance of grading or building permits, the Owner/Applicant shall submit the signed and notarized document to the Director of HCD-Planning for review and signature by the County.

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

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5. PDSP001 - NO EVENTS ALLOWED

Responsible Department:

Planning

Condition/Mitigation Monitoring Measure: Pursuant to Monterey County Code Sections 21.64.280.A and B, to protect the residential character of the neighborhood on an on-going basis, the property shall only be rented for residential-related use. The property shall not be rented to transient or short-term occupants for the purpose of holding a corporate or private event, unless the County approves a separate entitlement to allow such events on the property. (HCD-Planning)

Compliance or Monitoring Action to be Performed: On an on-going basis, the property shall only be rented for residential-related use.

6. PDSP002 - PERMIT LIMITATION OF THE TRANSIENT USE OF A RESIDENCE

Responsible Department:

Planning

Condition/Mitigation Monitoring Measure: This permit is valid for 3 years and shall expire on December 13, 2026, unless an extension is granted. Approval of this Administrative Permit is limited to 3 years to provide an adequate, on-going review of the approved transient use of the residential property for remuneration.

Prior to its expiration, the owner/applicant shall file an extension in accordance with Title 21 section 21.70.120. The appropriate authority to consider this extension shall be the Chief of Planning. This subsequent review will ensure: 1) the use continues to meet the standards of Title 21; 2) that the nature and character of the neighborhood has not changed so to cause the transient use to be detrimental to the area; and 3) an opportunity for Planning staff's review for ongoing compliance with the Administrative Permit's conditions of approval.

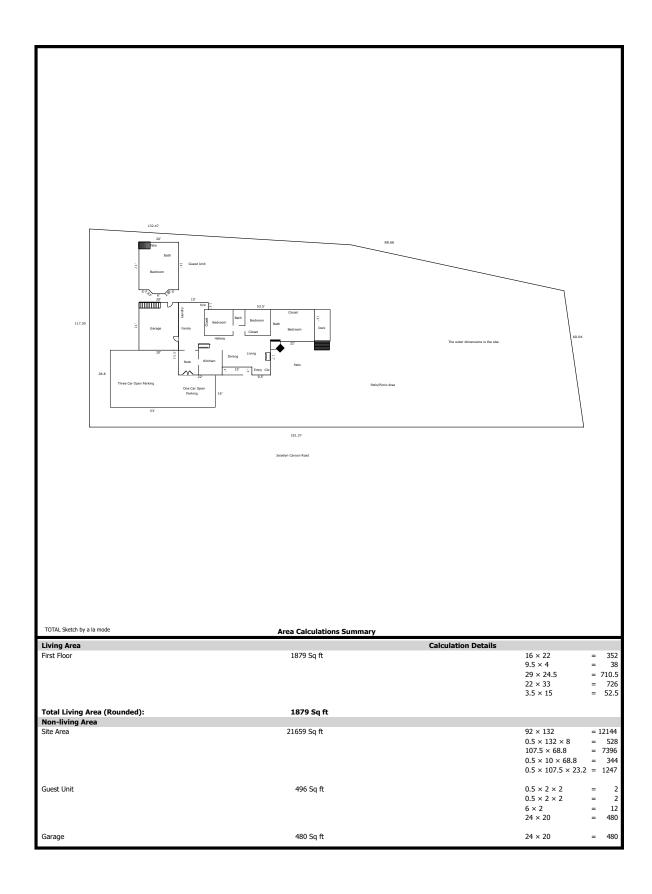
Compliance or Monitoring Action to be

The applicant shall commence and operate the authorized use to the satisfaction of the HCD-Chief of Planning. Any request for extension must be received by HCD-Planning at least 30 days prior to the expiration date.

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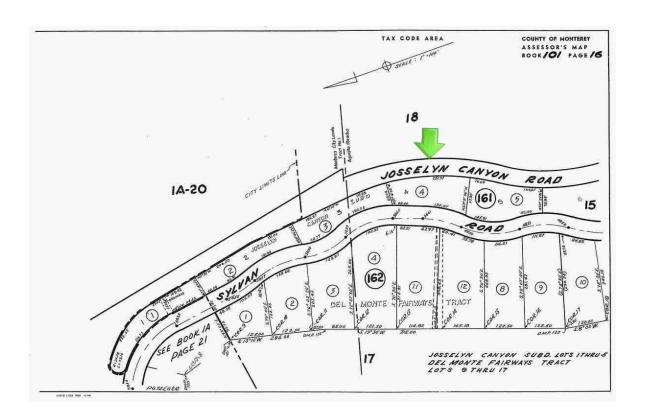
Building Sketch

Borrower								
Property Address	1138 Josselyn Canyon Rd							
City	Monterey	County	Monterey	State	CA	Zip Code	93940	
Lender/Client								



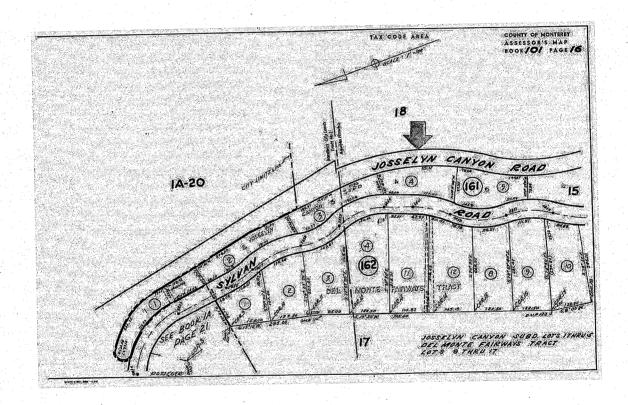
Plat Map

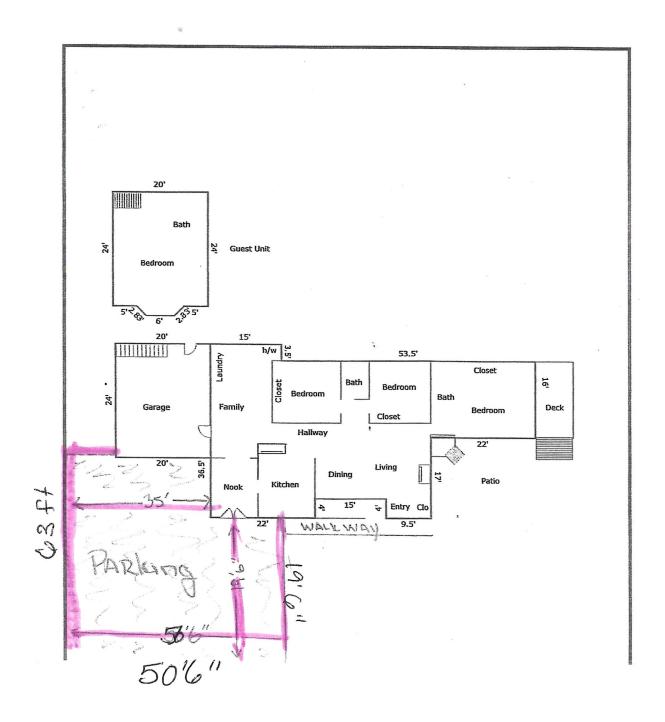
Borrower									
Property Address	1138 Josselyn Canyon Rd								
City	Monterey	County	Monterey	5	tate	CA	Zip Code	93940	
Lender/Client									



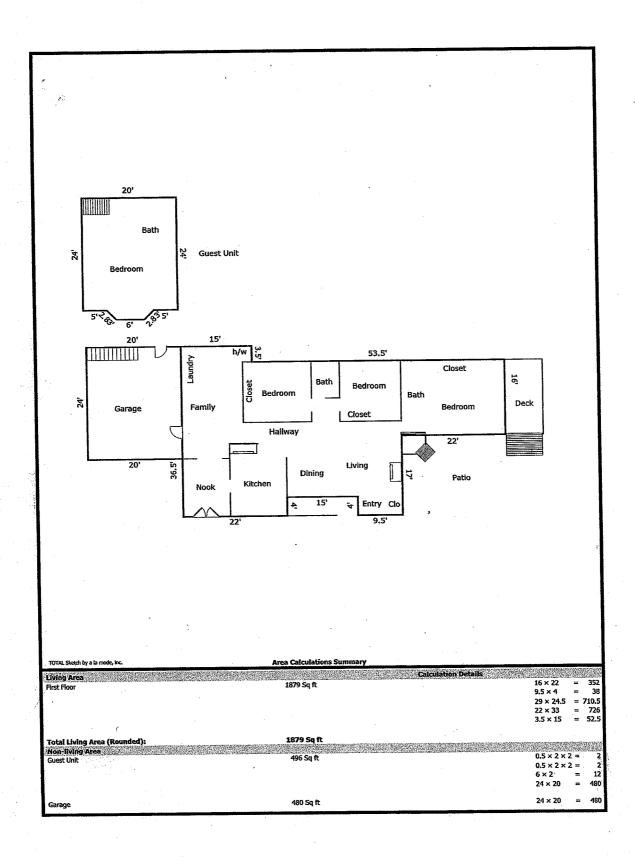
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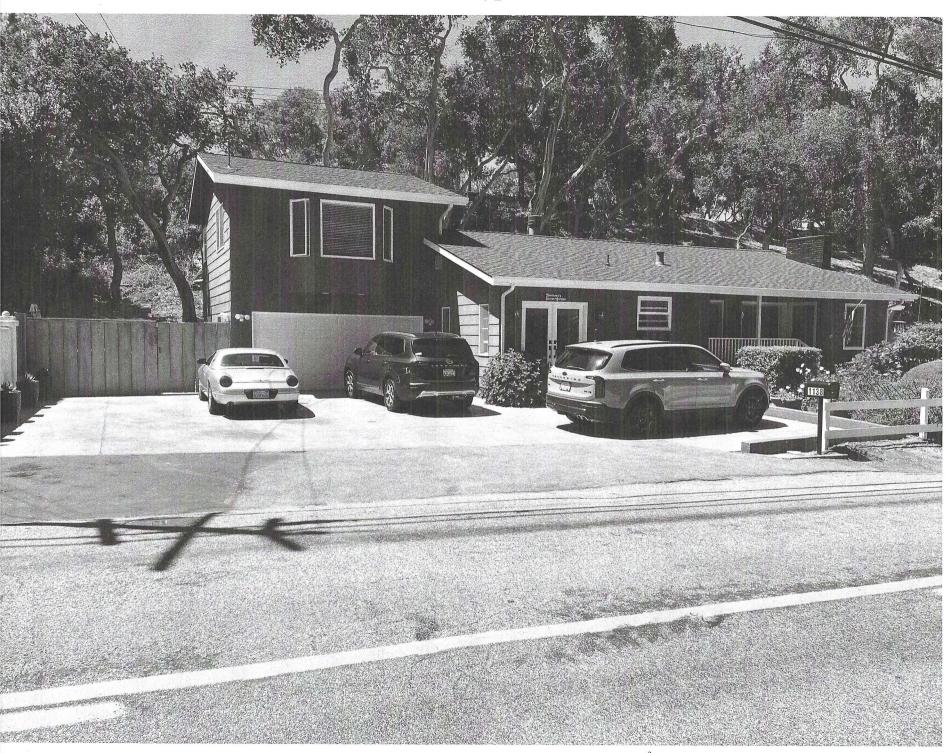
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Borrower	n				
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City	Monterey		Monitory		
Lender/Clien	nt				



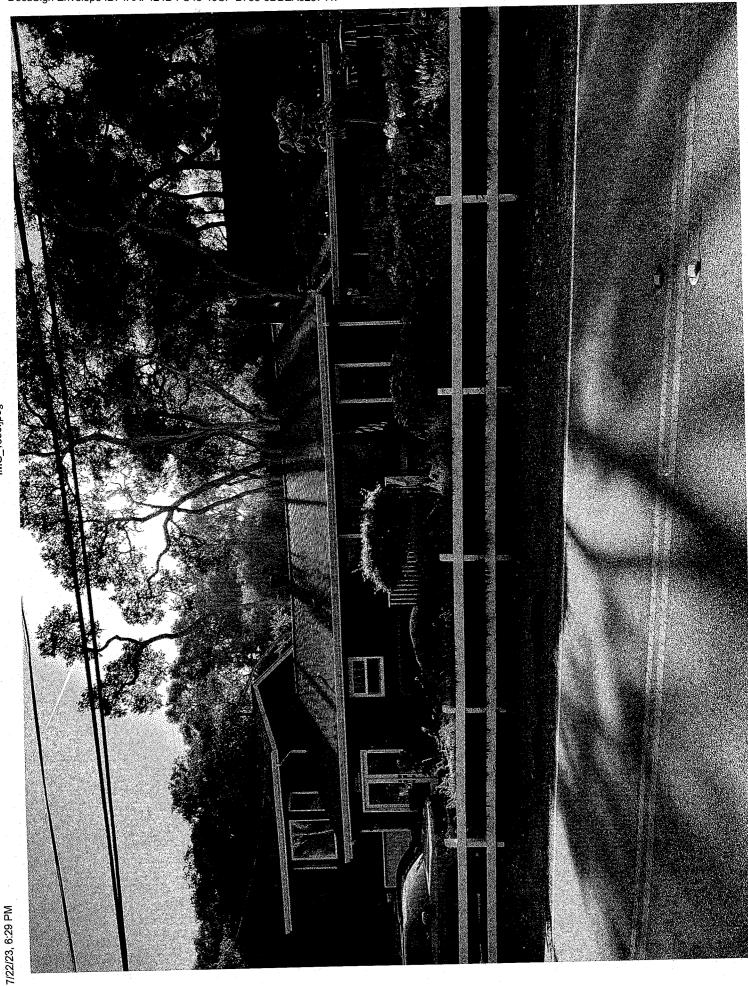


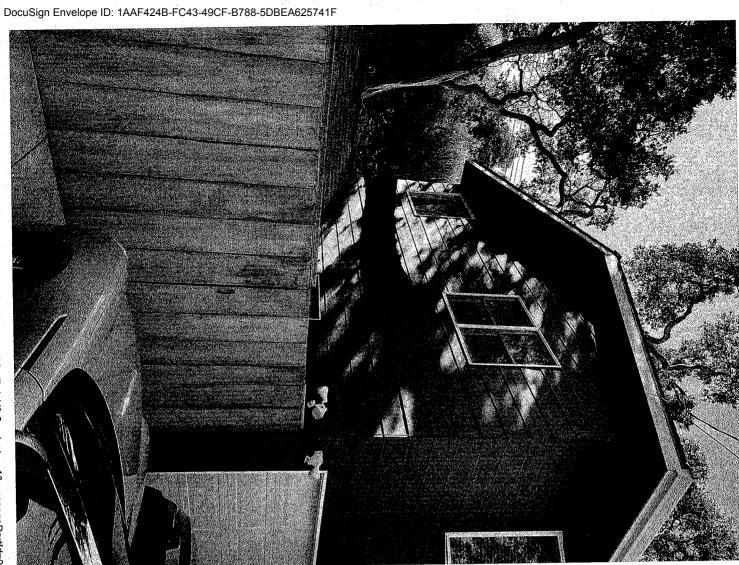
Parking

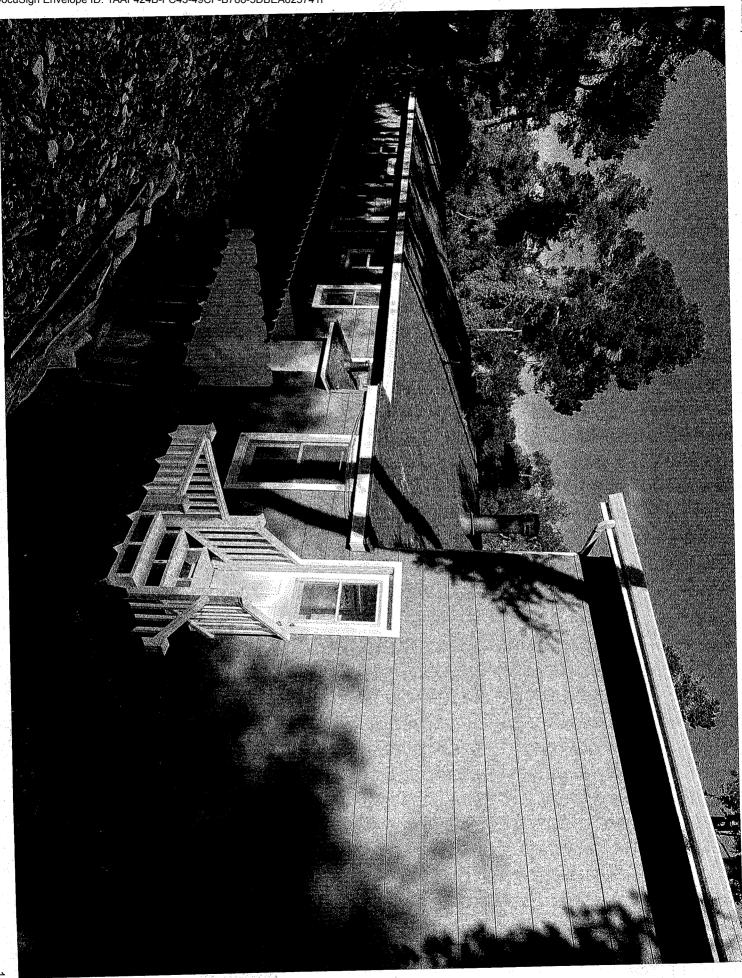




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Vacation Rental House Rules

- QUIET HOURS are before 10am and after 9pm
- Parking is allowed in the drive way. Parked properly we fit six cars. No street parking please.
- Rental periods with no less than a 7-night consecutive stay and no greater than a 30-night consecutive stay, no on-site advertising shall be allowed, and the total occupancy shall not exceed 6 guests.
- Property Guest Capacity: 6 people
- 1. Main House-4 guest bedrooms: 6 adults, including when 2 owners occupy and 4 guests, making total 6 during transients use.
- 2. Main House-4 guest bedrooms: 6 adults when owners do not occupy the home during transients use.

24-hour point of contact for all guests. However, if and when the owners are not occupying the home, a local property manager who resides within twenty-five miles of the property, will be available to respond tenant and neighborhood questions or concerns when the two owners do not occupy the home during transients use. Contact information for the local property manager is:

Donna Bomarito resides at 15170 Amaral Rd. Castroville, Ca 95012 Donna Bomarito (831)-236-8704)

Emergency numbers - David Federico (831)-521-4878, Debra Federico (831)-392-7274, Donna Bomarito (831)-236-8704)

Dave and Debra Federico reside at 1138 Josselyn Canyon Rd. Monterey, Ca 93940, Donna Bomarito resides at 15170 Amaral Rd. Castroville, Ca 95012

- No outdoor fires, live music, special events, no parties or extra guests
- No pets
- No smoking
- Please do not burn candles
- If you break something, please tell me so that I can replace or repair it.
- Please keep manual on the desk in the gym
- Treat the property with gentleness and respect

Safety and Emergency Information Plan

- In Case of Emergency please contact appropriate Department 911-Police Department and or Fire Department Monterey Police Department, 381 Madison Street, Monterey, CA 93940
- Non-emergency Police Department (831) 646-3914
- Monterey County Sheriff's Office (831) 755-5111
- Owners David Federico (831)-521-4878, Debra Federico- (831)-392-7274,
 If you cannot reach owners, please call Donna Bomarito (831)-236-8704)
- Emergency numbers David Federico (831)-521-4878, Debra Federico- (831)-392-7274, Donna Bomarito (831)-236-8704)
- Dave and Debra Federico reside at 1138 Josselyn Canyon Rd. Monterey, Ca 93940, Donna Bomarito resides at 15170 Amaral Rd. Castroville, Ca 95012
- Montage Hospital (831) 624-5311, 24-hour Emergency room and clinic,
 23625 Holman Highway, Monterey, CA 93940
- Poison Control 1-800-222-1222
- Fire Extinguisher is stored in the closet in the second bedroom
- CAL AM Water Company (831) 646-3205
- This House Manual information plan will remain on the desk
- Smoke Alarm. Carbon Monoxide Detectors, Breaker Box, Main Electrical Service Panel and Shut Off Values are labeled below
- 1. Main water shut off
- 2. Main electrical shut off
- 3. Carbon monoxide detectors
- 4. Combo smoke and carbon monoxide detector