

# Attachment A

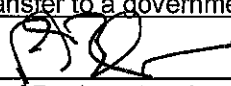
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When recorded return to:  
COUNTY OF MONTEREY HOUSING  
AND COMMUNITY DEVELOPMENT  
DEPARTMENT - PLANNING  
Attn: **MARY ISRAEL**  
1441 Schilling Place, South 2<sup>nd</sup> Floor  
Salinas, CA 93901  
(831) 755-4800

Space above for Recorder's Use

**Owner Name:** Peter Barbur, a married man  
**Permit No.:** PLN190088  
**Resolution No.:** 21-041  
**APN:** 419-031-034-000  
**Project Planner:** Mary Israel

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

  
\_\_\_\_\_  
Signature of Declarant or Agent

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

THIS DEED made this 16 day of MARCH, 2022, by and between  
Peter Barbur, a married man as Grantor, and the COUNTY OF MONTEREY, a political  
subdivision of the State of California, as Grantee,

### **WITNESSETH:**

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

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

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

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

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

**WHEREAS a Combined Development Permit (File Number PLN190088)** (hereinafter referred to as the "Permit") was granted on **December 2, 2021** by the Monterey County **Zoning Administrator** pursuant to the Findings, Evidence and Conditions contained in Resolution No. **21-041**. That resolution is attached hereto as Exhibit "B" (without plans) and hereby incorporated by reference, (hereinafter the "Resolution") subject to the following condition(s):

**Condition No.15, Mitigation Measure 3, section 3g**

Mitigation 3g: Pursuant to Monterey County Code section 20.145.040.B (Coastal Implementation Plan Part 3), the owner/applicant shall request a Coastal Development Permit for removal of ESHA and shall mitigate for the impacted habitat at a 3:1 ratio through preservation in the form of a scenic and conservation easement (SCE). The project's permanent impact to ESHA is estimated to be 19,160 square feet. The total area to be preserved in an extension of the existing SCE shall be at least 57,480 square feet (3 x 19,160 sf) and shall encompass, to the largest extent possible, areas mapped as CA-MNT-3. An approximately 100-foot wide buffer area around the structures cannot be included in the new SCE for wildfire safety controls to be freely implemented. The SCE shall prohibit uses other than those planned for onsite wastewater treatment system (e.g. leach fields) and shall be granted in perpetuity. The SCE shall be developed in consultation with a certified professional and the responsible entity. A Subordination Agreement shall be required, where necessary. The SCE deed shall be submitted to, reviewed, and approved by the Chief of Planning for HCD - Planning and the Executive Director of the California Coastal Commission prior to issuance of building construction permit, and accepted by the Board of Supervisors prior to building final or commencement of use, whichever comes first.

**WHEREAS**, the County, acting on behalf of the People of the State of California and pursuant to the Act, and in accordance with the findings contained in the Resolution

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

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

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

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

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

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

A. PROPERTY SUBJECT TO EASEMENT. The Property of the Grantor hereinabove referred to and to which the provisions of this instrument apply is situated in

the County of Monterey, State of California, and is particularly described and depicted in Exhibit "C", attached hereto, and made a part hereof, hereinafter referred to as the "Conservation and Scenic Easement Area".

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

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

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

3. That the Grantor shall not plant nor permit to be planted any vegetation upon the Conservation and Scenic Easement Area, except those native plants included in the project Restoration Plan, pursuant to Condition 11 of the Mitigation Monitoring and Reporting Plan.

4. That, except for the construction, alteration, relocation and maintenance of public roads, public and private pedestrian trails, and the planned primary, secondary and tertiary leach fields of the permitted onsite wastewater treatment system, the general topography of the landscape shall be maintained in its present condition and no excavation or topographic changes shall be made.

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

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

1. The right to maintain all existing private roads, bridges, trails and structures upon the Conservation and Scenic Easement Area, and the right to install the planned primary, secondary and tertiary leach fields of the permitted onsite wastewater treatment system

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

3. Management of vegetation within the Conservation and Scenic Easement Area in accordance with the Fuel Management Plan and Restoration Plan approved by the Chief of Planning as Conditions of the Permit on file with the Monterey County Planning Department.

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

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

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

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

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


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

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

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

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

Executed this 16 day of MARCH, 2022, at OCEAN GROVE NJ, California.

By:   
\_\_\_\_\_  
(Signature)

Peter Barbur a.k.a. Peter Thomas Barbur  
\_\_\_\_\_  
(Print or Type Name and Title)



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

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

STATE OF ~~CALIFORNIA~~ <sup>CS. New Jersey</sup>  
COUNTY OF ~~MONTEREY~~ <sup>CS. Monmouth</sup>

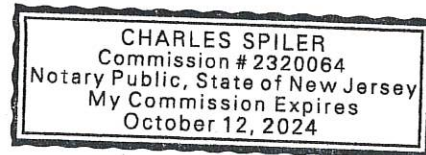
On MARCH 16, 2022 before me, CHARLES SPILER, a Notary Public, personally appeared PETER BARBUR, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of <sup>CS. New Jersey</sup> ~~California~~ that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

Charles Spiler



(Seal)



**EXHIBIT "A"**  
Legal Description

**For APN/Parcel ID(s): 419-031-034**

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

Parcel I:

Parcel 2, as shown on that certain Parcel Map filed September 11, 1997 in Book 20 of Parcel Maps, at Page 36, Records of Monterey County.

Parcel II:

An easement for road and utility purposes, 60 feet wide, the centerline of which is the centerline of the existing road, lying within the SE 1/4 of Section 33 and the North 1/2 of the SW 1/4 of Section 34, Township 19 S., Range 2 E., Mount Diablo Base and Meridian.

Parcel III:

A right of way for road and utilities, over a strip of land 60 feet wide, lying within the parcel of land described in the Deed to Big Sur Ventana Corp., recorded January 17, 1972 in Reel 747, at Page 239, Official Records. Said strip lying 30 feet on each side of the following described line, said right of way being along the route described in the Deed from J.W. Post, Sr., et al, to the United States of America, recorded February 20, 1941 in Book 707, at Page 103, Official Records, bearings of the below state courses being 2°20' clockwise of those stated in said Deed:

Beginning at a point in the centerline of California State Highway V-MON-56-E, from which the 1/4 corner, common to Section 32, Township 19 S., Range 2 E., and Section 5, Township 20 S., Range 2 E., bears N. 33°37'40" W. 773.4 feet, said point of beginning being Engineers Station 483 plus 71.48 of the centerline survey of said highway, as shown on said Highway Map, thence

- 1) S. 55°40' E. 102.8 feet; thence
- 2) S. 38°40' E. 70.0 feet; thence
- 3) S. 44°40' E. 168.5 feet; thence
- 4) S. 80°40' E. 245.1 feet; thence
- 5) S. 33°10' E. 162.0 feet; thence
- 6) S. 52°10' E. 172.2 feet; thence
- 7) S. 71°10' E. 123.0 feet; thence
- 8) S. 86°40' E. 181.3 feet; thence
- 9) N. 86°40' E. 129.8 feet; thence
- 10) N. 86°20' E. 77.6 feet; thence
- 11) S. 59°40' E. 62.7 feet; thence
- 12) N. 47°20' E. 104.3 feet (in said Deed to the USA, 84.3 feet); thence

**EXHIBIT "A"**  
Legal Description  
(continued)

- 13) S. 34°40' E. 116.5 feet; thence
- 14) S. 77°40' E. 108.6 feet; thence
- 15) N. 14°20' E. 288.8 feet (in said Deed, 218.8 feet); thence
- 16) N. 45°20' E. 162.5 feet; thence
- 17) N. 7°40' W. 200.00 feet; thence
- 18) N. 83°50' E. 200.00 feet; thence
- 19) N. 9°50' E. 178.1 feet; thence
- 20) S. 74°40' E. 165.6 feet; thence
- 21) N. 72°50' E. 31.15 feet (in said Deed, 34.3 feet), to the East line of Section 5, at a point distant S. 2°31'07" W. 320.59 feet from the 2" iron pipe marking the NE corner of Section 5.

Parcel IV:

A right of way for road and utilities, over a strip of land 60 feet wide, lying 30 feet on each side of the following described line:

Beginning at a point on the South line of Section 33, Township 19 S., Range 2 E., distant along said line, S. 87°27'40" E. 156.00 feet from the 2" capped iron pipe marking the SW corner of said Section 33; thence

- 1) N. 70°30' W. 60.00 feet; thence
- 2) N. 82°20' W. 170.00 feet; thence
- 3) N. 60.00 feet; thence
- 4) N. 67°48'50" E. 241.40 feet; thence
- 5) N. 15°20'20" E. 195.00 feet; thence
- 6) S. 81°01'50" E. 182.30 feet; thence
- 7) N. 21°16'40" E. 128.30 feet; thence
- 8) N. 41°44' E. 135.61 feet; thence
- 9) S. 49°31'15" E. 270.02 feet; thence
- 10) S. 82°54'40" E. 230.00 feet; thence
- 11) N. 44°30'40" E. 196.31 feet; thence
- 12) N. 83°13'40" E. 438.73 feet; thence
- 13) N. 56°20' E. 200.00 feet; thence

**EXHIBIT "A"**  
Legal Description  
(continued)

14) N. 20°50' W. 80.00 feet; thence

15) S. 86°177'52" W. 218.98 feet; thence

16) N. 63°20' W. 455.00 feet; thence

17) N. 32°28'20" W. 198.58 feet to a point on Course No. 22 of the boundary of parcel of land described in the Deed to Big Sur Ventana Corp., recorded January 17, 1972 in Reel 747, at Page 239, Official Records, distant thereon N. 87°23'33" W. 1011.04 feet from the Easterly terminus of said course sidelines of the above described right of way strip, to be prolonged as necessary to meet the boundaries of the described parcel of land to provided right of way strip of full uninterrupted width of 60 feet throughout its length.

Parcel V:

A non-exclusive right of way for road purposes, for ingress and egress over a portion of Section 4, Township 20 S., Range 2 E., Mount Diablo Base and Meridian. Said portion being a strip of land 60 feet wide, lying 30 feet on each side of the following described line, said right of way being along the route described in the Deed from J.W. Post, Sr., et al, to the United States of America, recorded February 20, 1941 in Book 707, at Page 103, Official Records, bearings of the below stated courses being 2°20' clockwise of those stated in said Deed, except where otherwise shown:

Beginning at a point on the West line of Section 4, distant thereon S. 2°31'07" W. 320.59 feet from the NW corner of said section, which is marked by a 2" capped iron pipe "LS2746"; thence crossing said Section 4,

1) N. 72°50' E. 37.5 feet; thence

2) N. 26°50' E. 73.5 feet; thence

3) N. 66°20' E. 68.2 feet; thence

4) N. 31°20' E. 22.1 feet; thence

5) N. 41°00' E. 175.53 feet (in said Deed, 156.2 feet, more or less), to the North line of said Section 4, at a point distant thereon S. 87°27'49" E. 156.0 feet from said 2" capped iron pipe, marking the NW corner of said Section 4.

Parcel VI:

An easement for ingress and egress for vehicular, pedestrian and equestrian access, over that portion of Coast Ridge Road, delineated in that certain Reciprocal Easement Agreement by and between Joseph W. Post, Mary Post Fleenor, Michael S. Freed and Coast Ridge Ranch, a partnership, recorded December 29, 1983 in Reel 1696, at Page 203, Official Records.

Parcel VII:

An easement for laying pipe and incidental purposes thereto, as set forth in that certain Easement Agreement-Water, by and between Joseph W. Post, Mary Post Fleenor, Michael S. Freed and Coast Ridge Ranch, a partnership, recorded December 29, 1983 in Reel 1696, at Page 212, Official Records.

NOTE: Parcels VI and VII herein described are only being included so as to avoid this company being the cause of excluding them from Deeds or encumbrances, but NO INSURANCE is to be provided as to said parcels.

**Before the Zoning Administrator  
in and for the County of Monterey, State of California**

In the matter of the application of:

**BARBUR (PLN190088)**

**RESOLUTION NO. 21-041**

Resolution by the Monterey County Zoning Administrator:

- 1) Adopting a Mitigated Negative Declaration pursuant to Section 15074 of the CEQA Guidelines;
- 2) Approving a Combined Development Permit consisting of:
  - a) Coastal Administrative and Design Approval to construct an approximately 3,090 square foot one-story single family dwelling with a 540 square foot basement, 540 square foot garage, 580 square foot covered screened porch, and 3,780 square feet of covered patios, estimated grading of 5,860 cubic yards;
  - b) Coastal Administrative Permit to convert one test well to a permanent well;
  - c) Coastal Development Permit to allow development within 100 feet of environmentally sensitive habitat; and
  - d) Coastal Development Permit to allow development on slopes in excess of 30%; and
- 3) Adopting a Condition Compliance and Mitigation Monitoring and Reporting Plan.

48200 Coast Ridge Road, Big Sur, Big Sur Coast Land Use Plan, Coastal Zone (APN 419-031-034-000)

**The Barbur application (PLN190088) came on for a public hearing before the Monterey County Zoning Administrator on December 2, 2021. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Zoning Administrator finds and decides as follows:**

**FINDINGS**

1. **FINDING:** **CONSISTENCY** - The project as conditioned and mitigated is consistent with the policies of the Monterey County 1982 General Plan, Big Sur Coast Land Use Plan, Big Sur Coastal Implementation Plan – Part 3, Monterey County Zoning Ordinance - Coastal (Title 20), and other County health, safety, and welfare ordinances related to land use development.

- EVIDENCE:**
- a) The project involves the construction of an approximately 3,090 square foot one-story single family dwelling with a 540 square foot basement, 540 square foot attached garage, 580 square foot covered screened porch, 3,780 square feet of covered patios and the conversion of one test well to a permanent well. Estimated grading is approximately 5,860 cubic yards of cut for the driveway, building pad and excavation of the basement, which will be balanced onsite. The project includes development within 100 feet of environmentally sensitive habitat and on slopes exceeding 30%.
  - b) The property is located at 48200 Coast Ridge Road, Big Sur (Assessor's Parcel Number 419-031-034-000), Big Sur Coast Land Use Plan and is zoned WSC/40-D (CZ), or Watershed and Scenic Conservation, 40 acres per unit with Design Control overlay district, in the Coastal Zone, which allows the first single family dwelling with the granting of a Coastal Administrative Permit and Design Approval. Therefore, as proposed, the project involves allowed land uses for this site. Development within 100 feet of environmentally sensitive habitat area (ESHA) and on slopes of 30% or greater are allowed subject to the granting of Coastal Development Permits.
  - c) The project has been reviewed for consistency with the text, policies, and regulations in the:
    - 1982 Monterey County General Plan;
    - Big Sur Coast Land Use Plan;
    - Coastal Implementation Plan (Part 3); and
    - Monterey County Zoning Ordinance - Coastal (Title 20).

No conflicts were found to exist with the General Plan. During the review of the project, inconsistencies with the policies of the Big Sur Coast Land Use Plan (LUP) were reviewed and mitigated sufficiently through the CEQA environmental document; regulations of the applicable Monterey County Code (MCC) were applied to grant entitlements with conditions and mitigations applied.

- d) Lot Legality. The lot has been confirmed legal as it is identified as Lot B as shown in the Michael Freed Parcel Map recorded September 11, 1997 and displayed on Volume 20 Par page 36.
- e) Development Standards. Development standards for the WSC zoning district are identified in MCC section 20.17.060. The maximum gross density in the zoning district is 40 acres per unit identified in MCC section 20.17.060.B. The lot area is 49.3 acres and the proposed single family dwelling unit is the first on the lot. Required setbacks in this WSC district are 30 feet (front), 20 feet (rear), and 20 feet (sides). The structure will meet all setbacks. The maximum allowed height in this zoning district is 24 feet above average natural grade and the proposed single family dwelling unit will have a height of approximately 20 feet, three inches above average natural grade. The site coverage maximum in this WSC district is 10 percent, or 214,751 square feet in this case. The proposed project has 10,420 square feet of site coverage (including an uncovered motorcourt more than 2 feet above natural grade). Therefore, pursuant to MCC and as proposed, the project conforms to applicable development standards regarding setbacks, height, and building site coverage.

- f) Design. Pursuant to MCC Chapter 20.44, the proposed project parcels and surrounding area are designated as a Design Control Zoning District ("D" zoning overlay), which regulates the location, size, configuration, materials, and colors of structures so they are consistent with neighborhood character. The applicant proposes a hacienda-inspired minimalist dwelling on two sides of a small Green Space joined by a Ha-Ha on the south side and a covered, screened patio on the north side. The proposed materials and colors would blend well with the surrounding natural environment and the neighborhood character. The exterior colors and materials include the following: warm gray pre-weathered Galvalume metal roof, warm gray stain wood body, gray concrete patio material. The exterior colors and materials that are consistent with the rural residential setting. Also, per LUP Policy 3.2.4, the proposed structure would be subordinate to and blend into the environment, using appropriate natural exterior materials. The proposed residence is consistent with the size and scale of surrounding residences, and the proposed bulk and mass would not contrast with the neighborhood character. The dwellings in the project vicinity have a variety of architectural styles. Therefore, the proposed project assures visual continuity and meets Design Control standards for Big Sur.
- g) Coastal Scenic Resources. The project, as proposed, is consistent with the LUP policies regarding Scenic Resources (Chapter 3.2) and will have no impact on the Big Sur Critical Viewshed. This development is on Coast Ridge Road, which is a private road. The project planner required staking and flagging of the project and conducted an onsite inspection on July 17, 2020 to determine if the development qualifies as intruding on the Critical Viewshed as defined in LUP section 3.2.2. The project planner observed Highway 1 turnouts at a great distance to the north from the development site. No turnouts or beaches were visible when looking in other directions. Then, the project planner assessed the visibility of the staking and flagging and nearest trees on the subject parcel from the closest turnout to the north on Highway 1, which was over 3 miles away. The trees and staking and flagging were not distinctive when viewed with unaided vision from the turnout. As such, the project does not qualify as development in the Critical Viewshed. The staff assessment was presented as a PowerPoint at the LUAC meeting and a PDF version was uploaded to Accela public access database prior to the circulation of the corresponding IS/MND. There was no concern raised by the public, the LUAC or reviewing agencies that the development should be interpreted as within the Critical Viewshed. LUP Policies in section 3.2.4 guide new development not in the Critical Viewshed and call for structures not to detract from the natural beauty of the ridgeline, be subordinate to the environment, incorporate vegetative screening with native species, avoid construction of visible access roads, and be considerate of the views and privacy of neighbors. Potential impact to the scenic vista by a project not in the Critical Viewshed may be created by shiny materials creating glare, windows catching sunlight, or exterior lighting at night. The materials and colors that are proposed for the project are muted and treated to



reduce glare, as described above and illustrated in the Design Approval application. The only side of the project that might cast light that could be perceptible from Highway 1 is the North elevation and, as shown in the project plan set, that side has one small window. That window is unlikely to cause sunlight flashing or nighttime glare when viewed from Highway 1 because the window portion of that side of the house would be behind existing trees as natural screening. The project is subject to condition of approval for an exterior lighting plan to assure that exterior lights are downlit and do not cause glare at night. The materials and colors are also subordinate to the environment. The driveway that will serve the dwelling is designed to connect up the southeastern slope from Coast Ridge Road, opposite to and fully hidden from the view from the north. Although it will be sited on the top of a knoll within view of Coast Ridge Road, the proposed dwelling will be screened from residences to the north and south by landscaping and intervening hills. In sum, the project conforms with section 3.2.4 of the LUP.

- h) No tree removal is proposed as part of this project.
- i) Environmentally sensitive habitat areas (ESHA). Development in and near habitat that is considered ESHA by the LUP is discussed in Finding 3.
- j) Shoreline Access and Public Access. See Finding 7.
- k) Water Resources. LUP Policies 3.4.3 A and B guide development so that Big Sur's water resources are protected while adequate water for use is dependable year-round. The project avoids impacting the headwater and streams below to the west through project design and compliance with erosion control plan Best Management Practices (BMP) that will be required by Environmental Services as part of the building permit. The project has dependable year-round water sources by connection to the Coast Ridge mutual water system as the primary source for potable water and by the installation of a permanent well on the parcel as the secondary source. Although the applicant anticipates that the onsite well will only be used for landscaping and fire suppression, the property could be sold to new owners in future who might use the well for household use. A deed restriction for long-term water supply condition of approval has been added to this permit to memorialize that well yields in fractured rock or non-alluvial aquifer systems have been shown to decline significantly over time due to their meager ability to store and transmit water and that additional water sources may be required in the future. Therefore, for the purpose of this development permit, protection of water resources both in rivers and streams and in supply are considered met.
- l) Development on slopes. Development on slopes of 30 percent or greater is to be minimized in the Big Sur Coastal zone. See Finding 4.
- m) Cultural Resources. County records identify that the project site is within an area of moderate sensitivity for cultural resources, so a Phase I Archaeological and Cultural Resource Report was prepared (LIB200134, Bellinger, EMC Planning). It did not find this to be development within 750 feet of known archaeological resources and included a surface pedestrian reconnaissance survey of the property that did not result in any indications of archaeological or cultural

resources. Pursuant to Public Resources Code Section 21080.3.1 *et seq.* and Title 20 of the Monterey County (Coastal Zoning Ordinance) section 20.66.050, HCD – Planning sent formal notification of the proposed project and held consultations with two tribal representatives. No tribal cultural resources were identified on the subject site. A standard condition of approval is applied for the project permit such that, during the course of construction, if cultural, archaeological, historical or paleontological resources are uncovered at the site (surface or subsurface resources), work shall be halted immediately within 50 meters (165 feet) of the find until a qualified professional archaeologist can evaluate it.

- n) Fire Hazards. In order to reduce exposure to people or structures to a significant risk of loss, injury or death involving wildland fires where residences are intermixed with wildlands, construction permits have requirements to ensure that individual property owners provide structural safeguards that would reduce the need for rapid response of fire resources. This will include but not be limited to the installation of fire sprinklers throughout every structure. To that end, the plans provided by the applicant for this development permit propose structural fire safety measures, including a metal roof and sprinklers. The well which is permitted as part of this Combined Development Permit has the primary purpose of fire suppression. Overall, the owners are aware of the fire danger on the property and will reduce the risk of loss, injury or death and reduce the need for rapid response of fire resources where and when it is preventable. Impacts related to wildfire were evaluated in the Initial Study and were found to be less than significant within the strict regulatory environment of Monterey County development services and, as the parcel is with the state responsibility area, Public Resources Code Section 4291 and California Government Code Section 51182 for hazardous vegetation and fuel management regulations.
- o) The project was referred to the Big Sur Land Use Advisory Committee (LUAC) for review because it is in a Design Approval overlay district and it required CEQA environmental assessment. The LUAC reviewed the proposed project on January 28, 2020. The LUAC voted 4 – 0 (1 absent) to support the project as proposed.
- p) The application, plans, and supporting materials submitted by the project applicant to Monterey County HCD-Planning for the proposed development found in project file PLN190088.

2. **FINDING:** **SITE SUITABILITY** – The site is physically suitable for the proposed use.

- EVIDENCE:**
- a) The project has been reviewed for site suitability by HCD-Planning, HCD-Engineering Services, HCD-Environmental Services, Environmental Health Bureau, and the Cypress Fire Protection District. County staff reviewed the application materials and plans, as well as the County's GIS database, to verify that the project conforms to the applicable plans, and that the subject property is suitable for the proposed development.
  - b) The following technical reports have been prepared:

- "Geotechnical Investigation for the Proposed Residence with Swimming Pool, Guest House and Caretaker Unit to be Located Off of Coast Ridge Road APN 419-031-034 Big Sur, California" September 23, 2019 (Monterey County Document No. LIB200095), Soil Services Group, Inc., Salinas California
  - "Percolation Investigation Report for Septic Feasibility for the Proposed Septic System to be Location on 26 Coast Ridge Road APN 419-031-034 Big Sur, California" April 1, 2019 (Monterey County Document No. LIB200096), Soil Services Group, Inc., Salinas California
  - "48200 Coast Ridge Road Residential Project Big Sur, CA Biological Resource Report" May, 2020 (Monterey County Document No. LIB200094), Denise Duffy & Associates, Monterey, California
  - "Spring Botanical Survey Report for the 48200 Coast Ridge Road Residential Project" April 30, 2020 (Monterey County Document No. LIB200093), Denise Duffy & Associates, Monterey, California
  - "Archaeological Investigation Report for the Property at 48200 Coast Ridge Road, Big Sur, Unincorporated Monterey County" July 16, 2020, (Monterey County Document No. LIB200134), Gail Bellinger, M.A., RPA, EMC Planning, Monterey, California
- c) County staff reviewed these reports independently and concurs with their conclusions. There are no physical or environmental constraints that are presented in these reports for this project. The property is suitable for the use proposed.
- d) The project planner reviewed submitted plans and conducted a site visit on July 17, 2020, to verify that the project conforms to the plans listed above and that the project area is suitable for this use.
- e) The application, plans, and supporting materials submitted by the project applicant to Monterey County HCD-Planning for the proposed development found in project file PLN190088.

3. **FINDING:**

**DEVELOPMENT WITHIN 100 FEET OF ENVIRONMENTALLY SENSITIVE HABITAT AREAS (ESHA) –**

The project demonstrates that it minimizes impact on ESHA in accordance with the applicable goals and policies of the applicable area plan and zoning codes.

**EVIDENCE:**

- a) In accordance with policies of the LUP and applicable county codes, the project includes a Coastal Development Permit to allow development within 100 feet of ESHA (i.e., mapped critical habitat for California red-legged frog) and criteria to grant said permit has been met.
- b) Policies in Chapter 3.3 of the LUP are directed at maintaining, protecting, and where possible enhancing sensitive habitats. As sited, designed and mitigated, the project minimizes potential impacts to ESHA. As described in the biological report prepared for the project site (LIB200094, Denise Duffy & Associates, Inc.), the area is considered ESHA because U.S. Fish and Wildlife Service (USFWS) included it in a mapped area called CA-MNT-3. The project area was

included not due to its vegetation or residency by California red-legged frog (CRLF), but due to its *function* as dispersal habitat for CRLF: located within a mile distance from occupied aquatic and upland habitats in the CA-MNT-3 area, cross-able terrain without barriers to movement for dispersal to other aquatic resources.

Although it is at the uppermost edge of CA-MNT-3, it is considered critical habitat. Pursuant to LUP Policy 3.3.2.1, County finds that disruption of the habitat caused by the development is not significant because, as conditioned and mitigated, the project would return most of the terrain to cross-able with native vegetation. The area of ESHA on the parcel is enhanced through stronger protection within private land (see Evidence "c").

- c) LUP Policy 3.3.2.3 and Coastal Implementation Plan section 20.145.040.B.2 require deed restrictions or dedications of permanent conservation easements in ESHA when new development is proposed on parcels containing such habitats. The proposed mitigation measures include a requirement to conserve an area of the ESHA in permanent conservation easement at a three to one ratio for the permanently disturbed area of 19,160 square feet. (Condition No. 15). The location of the additional easement area will be proposed by the applicant and reviewed by Planning during condition compliance.
- d) LUP Policy 3.3.2.4 and Coastal Implementation Plan section 20.145.040.B.3 are directed at limiting vegetation removal and grading to that needed for the structural improvements themselves within sensitive habitats. All graded and excavated material is proposed to be balanced onsite. Approximately 5,200 cubic yards of the 5,860 cubic yards of cut is proposed to be terraformed into the saddle to the north of the building site. By tamping and keying in the soil in the design and reseeding as part of restoration required project approval, the temporarily disturbed areas are expected the Biological Report to return the habitat to its previous function. At least part of the restored area is anticipated to be put into conservation easement as described above in Evidence "c". The proposed dwelling has a small permanent impact footprint relative to others in the area. Vegetation removal and grading is temporary and therefore sufficiently limited for this type of ESHA.
- e) The Initial Study prepared for the project analyzed the cumulative impact of development in relation to the CA-MNT-3 and found it less than cumulative due to the small size of this dwelling and the regulatory and zoning environment which has and will continue to limit development in the area. The proposed density of the project is the minimum anticipated for the parcel at its formation with the alignment of existing easements. Therefore, it meets the criteria for approval pursuant to LUP Policies 3.3.2.7 and 8. See Finding 6 and supporting evidence.
- f) The biological report analyzed potential impacts to plants, habitats, and wildlife and concluded that the development will not adversely impact the long-term maintenance of the habitat because the ESHA will continue to serve its function for CRLF to disperse across the site with the recommended mitigation measures therein. These were strengthened in the Initial Study/Mitigated Negative Declaration

through consultation with California Department of Fish and Wildlife (CDFW) and USFWS and made conditions of project approval which the applicant has agreed to perform.

- g) The biological report identified potential impacts to the Monterey dusky-footed woodrat, a CDFW species of special concern. Mitigation Measure No. 2 would reduce potentially significant impacts by requiring an employee education program and Mitigation Measure No. 4 would require a pre-construction survey for dusky-footed woodrat nests and protection of them with buffered area fencing or, in the case that the nest is unavoidable, dismantling and relocation by a qualified biologist only when litters are not suspected or found. Monitoring and reporting to HCD – Planning will also be required. With the implementation of these measures, impacts to Monterey dusky-footed woodrats will be reduced to a *less-than-significant* level.
- h) Nesting raptors and other protected avian species have the potential to occur within the project site, according to the biological report. Construction activities may result in direct mortality of individuals, disturbance of nests, and loss of habitat. This is a potentially significant impact that could be reduced to a *less-than-significant* level with implementation of the mitigation measures which are employee education, construction timing to avoid the nesting season period to avoid impacts to these species or, if avoidance of the nesting period is not feasible, pre-construction site surveys by a qualified biologist, installation of protective fencing for “no-disturbance” buffer zones of areas near the construction zone if necessary, and compliance with construction BMP for wildlife and birds (Condition Nos. 11, 12 and 13). No trees are planned to be impacted by the project.
- i) The Biological Report indicated that one occurrence of California red-legged frog (CRLF) is known within one mile of the project site and a potential aquatic breeding resource was identified approximately 0.6 mile of the project site in roughly the opposite direction (although there are no known occurrences within this resource it is unknown if this resource provides the specific features necessary to support CRLF breeding). No potential aquatic breeding resources are present within 100 meters of the project’s area of disturbance. The Biological Report predicts a low probability of encountering the species on the construction site because dispersal habitat is ubiquitous and migrating CRLF may be widely distributed across the landscape without specific timing of movement. In the unlikely event that CRLF are present within the project site, take of this species would be considered a potentially significant impact. Therefore, implementation of an employee education program administered by a qualified biologist, limiting construction activity to the period of the day during which CRLF are least likely to be crossing the area, biological surveys two days before the onset of work, daily surveys, covering of all trenches and holes when work is not being done, wildlife-safe erosion control materials, and regular reporting to County HCD – Planning as well as reporting to USFWS and CDFW if any CRLF are encountered are required conditions of

approval as part of the mitigation monitoring and reporting plan. Other measures that are made conditions of approval require the owner to restore most of the disturbed area to suitable, if not improved, dispersal zone vegetation and terrain for the critical habitat area (Condition Nos. 11, 14 and 15). Thus, a, potential impact to CRLF is reduced to a *less-than-significant* level.

- j) Pursuant to Section 30007.5 of the Public Resources Code, the legislature recognizes that conflicts may occur between one or more policies of the Coastal Act and “declares that in carrying out the provisions of this division such conflicts be resolved in a manner which on balance is the most protective of significant coastal resources.” For this project, the overall benefits to ESHA, which include mitigation for impact through restoration of the native grassland and California sagebrush scrub habitat on the parcel by native reseeding and eradication of invasive species (Condition Nos. 11 and 13) outweigh the impacts resulting from the proposed development. As described in Evidence “c” above, the project has been conditioned to require an additional conservation and scenic easement over remaining undeveloped portions of the critical habitat area (approximately 1.32 acres). In sum, the development would be subordinate to the protection of ESHA and consistent with the LUP Policies on ESHA directed at maintaining, protecting, and where possible enhancing sensitive habitats.

4. **FINDING:**

**DEVELOPMENT ON SLOPES.** Pursuant to Monterey County Code section 20.64.230.C.1, a Coastal Development Permit is required for development on slopes in excess of 30 percent and approval cannot occur unless the criteria to grant said permit have been met. Development on slopes that exceed 30 percent is prohibited unless there is no feasible alternative that would allow development to occur on slopes of less than 30 percent, or the proposed development better achieves the goals, policies and objectives of the 1982 Monterey County General Plan and applicable land use plan than other development alternatives.

**EVIDENCE:**

- a) The project includes a Coastal Development Permit to allow development on slopes exceeding 30 percent. The applicant’s architect found that generally alternative sites would be as intensive or more so after assessing parcel topography. After utilizing Monterey County GIS, staff concurred with this assessment. Outside of the proposed development footprint, the parcel is comprised of slopes mostly exceeding 30 percent, and the project has been sited and designed to use the least sloped areas of the property.
- b) Most of the grading on slopes exceeding 30 percent is in the area of the driveway. There are areas within the proposed dwelling footprint that exceed 30 percent slope that are unavoidable, as well. The applicant has sited the proposed development in the area of the parcel most suitable for development based on topography and views. The area includes an approved test well and has sufficient space for the proposed structure and an on-site wastewater treatment system. Alternative locations for this development were discussed during project review.

There is no other location on the parcel outside of existing easement that would not involve significant impacts to native trees as well as additional grading on slopes for a longer driveway. The proposed siting better meets LUP goals and policies.

- c) The project planner and an environmental health specialist from the Environmental Health Bureau conducted a site inspection on July 17, 2020 to analyze possible development alternatives and to verify that the proposed project minimized development on slopes exceeding 30 percent. Additional analysis was done during the environmental assessment. There are no other sites on the parcel outside of scenic and conservation easement that can be accessed without grading a longer driveway over similarly steep slopes.
- d) Conditions of approval and changes in the development deemed necessary to assure compliance with MCC section 20.64.230.E.1, which regulates the approval of development on slopes in excess of 30 percent, are generated from the environmental assessment document as part of Mitigation Measures 2 and 3.

5. **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:**
- a) The project was reviewed by HCD-Planning, HCD-Engineering Services, HCD-Environmental Services, Environmental Health Bureau, and the Cypress Fire Protection District, and conditions have been recommended, 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 is provided by connection to the Coast Ridge Road mutual water system. A test well located on the parcel would be converted to a permanent through this entitlement; the purpose of the well is for fire protection. A septic system is proposed to serve the project's wastewater needs. The Environmental Health Bureau reviewed the project application and applied a condition requiring deed restriction for long-term water supply to caution future buyers that well yields in fractured rock or non-alluvial aquifer systems have been shown to decline significantly over time. See Finding 1, Evidence "k".
  - c) The subject property is in a State Responsibility Area and is classified as a Very High Fire Hazard Severity Zone. As demonstrated in Finding 1, Evidence "n", fire hazards will be addressed through incorporation of safety measures as part of the construction permit process.
  - d) The development of the new dwelling will require a new septic system, the design of which has met the requirements for the Monterey County Environmental Health Bureau.

- e) The subject property is not served by a municipal waste collection company. Until this circumstance changes, the owners will haul their own trash to the landfill or a transfer station.
- f) The project planner reviewed submitted plans and conducted a site visit on July 17, 2020, to verify that the project, as proposed and conditioned/mitigated, would not impact public health and safety.
- g) The application, plans, and supporting materials submitted by the project applicant to Monterey County HCD-Planning for the proposed development found in project file PLN190088.

6. **FINDING:**

**CEQA (Mitigated Negative Declaration)** - On the basis of the whole record before the Monterey County Zoning Administrator, there is no substantial evidence that the proposed project as designed, conditioned and mitigated, would have a significant effect on the environment. The Mitigated Negative Declaration reflects the independent judgment and analysis of the County.

**EVIDENCE:**

- a) Pursuant to Public Resources Code Section 21083, and California Environmental Quality Act (CEQA) Guidelines sections 15063(a) and 15063(b)(2), the Lead Agency shall conduct environmental review in the form of an Initial Study to determine if the project may have a significant effect on the environment, and shall prepare a Negative Declaration if there is no substantial evidence that the project or any of its aspects may cause a significant effect on the environment.
- b) The County prepared an Initial Study pursuant to CEQA. The Initial Study is on file in the offices of HCD-Planning and is hereby incorporated by reference (HCD-Planning File No. PLN190088).
- c) There is no substantial evidence, based upon the whole record, that the project may have a significant effect on the environment. The Initial Study identified a few potential significant effects. Based upon the analysis of the Initial Study, HCD-Planning prepared a Mitigated Negative Declaration. The applicant has agreed to proposed mitigation measures that avoid the effects or mitigate the effects to a point where clearly no significant effects would occur.
- d) The Draft Initial Study and Mitigated Negative Declaration for HCD-Planning File No. PLN190088 was prepared in accordance with the CEQA Guidelines; filed with the County Clerk on October 7, 2021; and circulated for public review from October 7 through November 8, 2021 (State Clearinghouse No. 2021100128).
- e) Pursuant to Public Resources Code Section 21080.3.1, the County (HCD-Planning staff) initiated consultation notification on December 7, 2020, with the Kakoon Ta Ruk Band of Ohlone-Costanoan Indians of the Big Sur Rancheria and the Esselen Tribe of Monterey County, and the Ohlone/Costanoan-Esselen Nation (OCEN). On January 8, 2021, the County consulted with the Kakoon Ta Ruk Band and, separately, the Esselen Tribe, regarding the proposed project. The Kakoon Ta Ruk Band tribal representative had no requests relating to the project. No tribal cultural resources were identified through the consultations. No mitigation relating to such resources is required.



- f) Resource areas that were analyzed in the Draft Initial Study/Mitigated Negative Declaration included: aesthetics, agriculture and forest resources, air quality, biological resources, cultural resources, energy, geology and soils, greenhouse gas emissions, hazards and hazardous materials, hydrology and water quality, land use and planning, mineral resources, noise, population and housing, public services, recreation, transportation, tribal cultural resources, utilities and service systems, and wildfire.
- g) Evidence that has been received and considered includes: the application, technical studies/reports, staff reports that reflect the County's independent judgment, and information and testimony presented during public meetings and the Zoning Administrator hearing. These documents are on file in HCD-Planning (HCD-Planning File No. PLN190088) and are hereby incorporated herein by reference.
- h) The County identified no impacts to agriculture and forest resources, cultural resources, energy, greenhouse gas emissions, mineral resources, noise, population and housing, public services, recreation, transportation and traffic, or utilities and service systems.
- i) The County identified less than significant impacts to aesthetics, air quality, geology and soils, hazards and hazardous materials, hydrology and water quality, tribal cultural resources, and wildfire. Mitigation measures will not be required for these resource areas because the regulatory environment for the project brings any potential impacts to a level of *less-than-significant*.
- j) The County identified potentially significant impacts to biological resources and land use and planning. Due to the nature of the potential impacts, staff consulted with CDFW, USFWS and California Coastal Commission during the preparation of the Initial Study. Mitigation measures have been proposed to reduce the identified impacts to a level of less than significant. Mitigation Measure No. 1 would reduce the potentially significant impacts to special status plants by requiring focused botanical surveys in the spring and protective fencing for avoidance or restoration in the event that special status plants are disturbed. Mitigation Measure No. 2 requires an employee education program for all construction workers, avoidance of construction activities during nesting periods or pre-construction surveys and establishment of buffered no-entry areas as needed, construction BMPs to reduce impacts to birds and wildlife, including a revegetation plan for disturbed areas and regular reporting to HCD – Planning. Mitigation Measure No. 3 is a seven-part mitigation for surveys and species avoidance for California red-legged frog. The actions include implementation of employee education program mentioned above and biological surveys two days before the onset of work, daily surveys, covering of all trenches and holes when work is not being done, wildlife-safe erosion control materials, implementation of an employee education program administered by a qualified biologist, limiting construction activity to the period of the day during which CRLF are least likely to be crossing the area and other BMPs would ensure that no take of CRLF results from the project. Furthermore, the measures include regular

reporting to County HCD – Planning, as well as reporting to USFWS and CDFW if any CRLF are encountered. Mitigation for permanent disturbance of the dispersal habitat area is preservation in the form of a scenic and conservation easement (SCE) at a ratio of 3 : 1. This mitigation also serves to mitigate impact to land use and planning. Mitigation Measure No. 4 requires surveys for Monterey dusky-footed woodrats and avoidance of nests where possible; if avoidance is impossible, a qualified biologist will dismantle and move the nest and reports will be sent to HCD – Planning. The mitigation measures will reduce the impacts to biological resources and land use and planning to a *less-than-significant* level.

- k) All project changes required to avoid significant effects on the environment have been incorporated into the project and/or are made conditions of approval. A Condition Compliance and Mitigation Monitoring and Reporting Plan has been prepared in accordance with Monterey County regulations which is designed to ensure compliance during project implementation and is hereby incorporated herein by reference. The applicant must enter into an “Agreement to Implement a Mitigation Monitoring and Reporting Plan as a condition of project approval (Condition No. 10).
- l) Analysis contained in the Initial Study and the record as a whole indicate the project could result in changes to the resources listed in Section 753.5(d) of the CDFW regulations. The project is subject to a State filing fee plus the County recording fee. Initial Study was sent to CDFW for review and comment and no comments were received. The applicant will pay the State fee but only the processing fee payable to the Monterey County Clerk/Recorder for posting the Notice of Determination (Condition No. 7).
- m) County did not receive comments on the Initial Study/draft Mitigated Negative Declaration during the public review period.
- n) The County finds that there is no substantial evidence supporting a fair argument of a significant environmental impact.
- o) The Monterey County Zoning Administrator considered the Mitigated Negative Declaration, along with the Coastal Development Permit and Design Approval, at a duly noticed public hearing held on December 2, 2021.
- p) Monterey County HCD-Planning, located at 1441 Schilling Place, 2nd Floor, Salinas, California, is the custodian of documents and other materials that constitute the record of proceedings upon which the decision to adopt the Mitigated Negative Declaration is based.

**7. FINDING:**

**PUBLIC ACCESS** – The project is in conformance with the public access and recreation policies of the Coastal Act (specifically Chapter 3 of the Coastal Act of 1976, commencing with Section 30200 of the Public Resources Code) and Local Coastal Program (LCP), and does not interfere with any form of historic public use or trust rights.

**EVIDENCE:**

- a) No access is required as part of the project as no substantial adverse impact on access, either individually or cumulatively, as described in section 20.145.150 of the Monterey County Coastal Implementation Plan (Part 3), can be demonstrated.

- b) The project site is located on the side of Coast Ridge Road which is considered a private trail as mapped in the LUP, Figure 3 North Section of the Trails Plan of the LUP. The project will not block or change the road's private trail use or adversely impact the easement.
- c) No evidence or documentation has been submitted or found showing the existence of historic public use or trust rights over this property.
- d) As proposed, the project would not obstruct public views of the shoreline from surrounding roadways, nor obstruct public visual access to the shoreline from major public viewing corridors (LUP section 3.2.4). Views of the shoreline are not available from Coast Ridge Road from behind the subject site due to the large knoll to the west.
- e) The project planner conducted a site visit on July 17, 2020, to verify that the project, as proposed and conditioned/mitigated, would not impact public access.
- f) The application, plans and supporting materials submitted by the project applicant to Monterey County HCD-Planning for the proposed development found in project file PLN190088.

8. **FINDING:** **NO VIOLATIONS** - The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of the County's zoning ordinance. No violations exist on the property.

- EVIDENCE:**
- a) Monterey County HCD-Planning and HCD-Building Services records were reviewed, and the County is not aware of any violations existing on the subject property.
  - b) The application, plans and supporting materials submitted by the project applicant to Monterey County HCD-Planning for the proposed development found in project file PLN190088.

9. **FINDING:** **APPEALABILITY** - The decision on this project may be appealed to the Monterey County Board of Supervisors and the California Coastal Commission.

- EVIDENCE:**
- a) Board of Supervisors. Pursuant to section 20.86.030 of the Monterey County Zoning Ordinance (Title 20), an appeal may be made to the Board of Supervisors by any public agency or person aggrieved by a decision of an Appropriate Authority other than the Board of Supervisors.
  - b) Board of Supervisors. Pursuant to CEQA Guidelines section 15074(f), when a non-elected decision-making body within a local lead agency adopts a negative declaration, that adoption may be appealed to the agency's elected decision-making body.
  - c) California Coastal Commission. Pursuant to section 20.86.080.A of the Monterey County Zoning Ordinance, the project is subject to appeal by or to the California Coastal Commission because it involves development permitted as a conditional use in the zoning district.

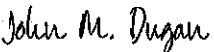
## DECISION

**NOW, THEREFORE**, based on the above findings and evidence, the Zoning Administrator does hereby:

- A. Adopt a Mitigated Negative Declaration pursuant to Section 15074 of the CEQA Guidelines;
- B. Approve a Combined Development Permit consisting of:
  - 1) Coastal Administrative and Design Approval to construct an approximately 3,090 square foot one-story single family dwelling with a 540 square foot basement, 540 square foot garage, 580 square foot covered screened porch, and 3,780 square feet of covered patios, estimated grading of 5,860 cubic yards;
  - 2) Coastal Administrative Permit to convert one test well to a permanent well;
  - 3) Coastal Development Permit to allow development within 100 feet of environmentally sensitive habitat; and
  - 4) Coastal Development Permit to allow development on slopes in excess of 30%.
- C. Adopt a Condition Compliance and Mitigation Monitoring and Reporting Plan.

All work must be in general conformance with the attached plans and this approval is subject to fourteen conditions (including four mitigation measures), all being attached hereto and incorporated herein by reference;

**PASSED and ADOPTED** this 2<sup>nd</sup> day of December, 2021 by:

DocuSigned by:  
  
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John M. Dugan, FAICP, Zoning Administrator

COPY OF THIS DECISION MAILED TO APPLICANT ON 12/03/2021.

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 TO THE BOARD ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE 12/13/2021.

THIS PROJECT IS LOCATED IN THE COASTAL ZONE AND IS APPEALABLE TO THE COASTAL COMMISSION. UPON RECEIPT OF NOTIFICATION OF THE FINAL LOCAL ACTION NOTICE (FLAN) STATING THE DECISION BY THE FINAL DECISION MAKING BODY, THE COMMISSION ESTABLISHES A 10 WORKING DAY APPEAL PERIOD. AN APPEAL FORM MUST BE FILED WITH THE COASTAL COMMISSION. FOR FURTHER INFO/CDTION, CONTACT THE COASTAL COMMISSION AT (831) 427-4863 OR AT 725 FRONT STREET, SUITE 300, SANTA CRUZ, CA.

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.

**NOTES:**

- 1. You will need a building permit and must comply with the Monterey County Building Ordinance in every respect.

Additionally, the Zoning Ordinance provides that no building permit shall be issued, nor any use conducted, otherwise than in accordance with the conditions and terms of the permit granted or until ten days after the mailing of notice of the granting of the permit by the appropriate authority, or after granting of the permit by the Board of Supervisors in the event of appeal.

Do not start any construction or occupy any building until you have obtained the necessary permits and use clearances from Monterey County HCD-Planning and HCD-Building Services offices in Salinas.

2. This permit expires 3 years after the above date of granting thereof unless construction or use is started within this period.

# Monterey County RMA Planning

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

PLN190088

### 1. PD001 - SPECIFIC USES ONLY

**Responsible Department:** RMA-Planning

**Condition/Mitigation Monitoring Measure:**

This Combined Development permit (PLN190088) allows construction of a one-story single family residence of approximately 3,090 square feet with a 540 square foot basement, 540 square foot garage, 580 square foot covered screened porch, and 3,780 square feet of covered patios with a new well and new septic system. The property is located at 48200 Coast Ridge Road, Big Sur (Assessor's Parcel Number 419-031-034-000), Big Sur Coast Land Use Plan. This permit was approved in accordance with County ordinances and land use regulations subject to the terms and conditions described in the project file. Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the HCD Chief of 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:** RMA-Planning

**Condition/Mitigation Monitoring Measure:**

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

"A Combined Development Permit (Resolution Number 21-041) was approved by the Zoning Administrator for Assessor's Parcel Number 419-031-034-000 on December 2, 2021. The permit was granted subject to 16 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 HCD Chief of 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.

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

**Responsible Department:** RMA-Planning

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

**Compliance or Monitoring Action to be Performed:** The Owner/Applicant shall adhere to this condition on an on-going basis.

Prior to the issuance of grading or building permits and/or prior to the recordation of the final/parcel map, whichever occurs first, the Owner/Applicant shall include requirements of this condition as a note on all grading and building plans. The note shall state "Stop work within 50 meters (165 feet) of uncovered resource and contact Monterey County HCD - Planning and a qualified archaeologist immediately if cultural, archaeological, historical or paleontological resources are uncovered."

When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery.

**4. PW0043 - REGIONAL DEVELOPMENT IMPACT FEE**

**Responsible Department:** RMA-Public Works

**Condition/Mitigation Monitoring Measure:** Prior to issuance of building permits, applicant shall pay the Regional Development Impact Fee (RDIF) pursuant to Monterey Code Chapter 12.90. The fee amount shall be determined based on the parameters adopted in the current fee schedule.

**Compliance or Monitoring Action to be Performed:** Prior to issuance of Building Permits Owner/Applicant shall pay Monterey County Building Services Department the traffic mitigation fee. Owner/Applicant shall submit proof of payment to the DPW.

**5. PW0045 - COUNTYWIDE TRAFFIC FEE**

**Responsible Department:** RMA-Public Works

**Condition/Mitigation Monitoring Measure:** Prior to issuance of building permits, the Owner/Applicant shall pay the Countywide Traffic Fee or the ad hoc fee pursuant to General Plan Policy C-1.8. The fee amount shall be determined based on the parameters in the current fee schedule.

**Compliance or Monitoring Action to be Performed:** Prior to issuance of Building Permits, the Owner/Applicant shall pay Monterey County HCD Building Services the traffic mitigation fee. The Owner/Applicant shall submit proof of payment to HCD Development Services.

**6. EHSP01 – LONG-TERM WATER SUPPLY DEED RESTRICTION**

**Responsible Department:** Health Department

**Condition/Mitigation Monitoring Measure:** The applicant shall record a deed restriction which includes the statement: Well yields in fractured rock or non-alluvial aquifer systems have been shown to decline significantly over time due to their meager ability to store and transmit water. Therefore, with the intrinsic uncertainties regarding the long-term sustainability of an on-site well proposed to provide a source of domestic potable water on this parcel, the present and any future owners of this property are hereby given notice that additional water sources may be required in the future. (Environmental Health)

**Compliance or Monitoring Action to be Performed:** Prior to issuance of construction permits, the applicant shall provide a legal description for the parcel and a copy of the Grant Deed to the Environmental Health Bureau ("EHB"). The EHB will prepare the deed restriction form.

Prior to final inspection of construction permits, the property owner shall sign and notarize the deed restriction form obtained from the EHB. Record the notarized deed restriction with the Monterey County Recorder. Proof of recordation shall be provided to the EHB.

If the applicant chooses not to pursue utilizing the well as a source for domestic use, this condition shall not be applicable.

**7. PD005 - FISH & GAME FEE NEG DEC/EIR**

**Responsible Department:** RMA-Planning

**Condition/Mitigation Monitoring Measure:** Pursuant to the State Public Resources Code Section 753.5, State Fish and Game Code, and California Code of Regulations, the applicant shall pay a fee, to be collected by the County, within five (5) working days of project approval. This fee shall be paid before the Notice of Determination is filed. If the fee is not paid within five (5) working days, the project shall not be operative, vested or final until the filing fees are paid. (HCD - Planning)

**Compliance or Monitoring Action to be Performed:** Within five (5) working days of project approval, the Owner/Applicant shall submit a check, payable to the County of Monterey, to the Chief of Planning.

If the fee is not paid within five (5) working days, the applicant shall submit a check, payable to the County of Monterey, to the Chief of Planning prior to the recordation of the final/parcel map, the start of use, or the issuance of building permits or grading permits.



## 8. PD011 - TREE AND ROOT PROTECTION

**Responsible Department:** RMA-Planning

**Condition/Mitigation Monitoring Measure:** Trees which are located close to construction site(s) shall be protected from inadvertent damage from construction equipment by fencing off the canopy driplines and/or critical root zones (whichever is greater) with protective materials, wrapping trunks with protective materials, avoiding fill of any type against the base of the trunks and avoiding an increase in soil depth at the feeding zone or drip-line of the retained trees. Said protection, approved by certified arborist or the consulting biologist for Mitigation Measures 1 and 2, shall be demonstrated prior to issuance of building permits subject to the approval of HCD Chief of Planning. If there is any potential for damage, all work must stop in the area and a report, with mitigation measures, shall be submitted by certified arborist. Should any additional trees not included in this permit be harmed, during grading or construction activities, in such a way where removal is required, the owner/applicant shall obtain required permits. (HCD - Planning)

**Compliance or Monitoring Action to be Performed:** Prior to issuance of grading and/or building permits, the Owner/Applicant shall submit evidence of tree protection to HCD - Planning for review and approval.

During construction, the Owner/Applicant/Arborist shall submit on-going evidence that tree protection measures are in place through out grading and construction phases. If damage is possible, submit an interim report prepared by a certified arborist.

Prior to final inspection, the Owner/Applicant shall submit photos of the trees on the property to HCD -Planning after construction to document that tree protection has been successful or if follow-up remediation or additional permits are required.

## 9. PD014(C) - LIGHTING-EXTERIOR LIGHTING PLAN (BIG SUR)

**Responsible Department:** RMA-Planning

**Condition/Mitigation Monitoring Measure:** All exterior lighting shall be unobtrusive, down-lit, compatible with the local area, and constructed or located so that only intended area is illuminated and off-site glare is fully controlled. Exterior lights shall have recessed lighting elements. Exterior light sources that would be directly visible from critical viewshed viewing areas as defined in Section 20.145.020.V, are prohibited. The applicant shall submit three (3) copies of an exterior lighting plan which shall indicate location, type, and wattage of all light fixtures and include catalog sheets for each fixture. The lighting shall comply with the requirements of the California Energy Code set forth in California Code of Regulations Title 24 Part 6. The exterior lighting plan shall be subject to approval by the HCD Chief of Planning, prior to the issuance of building permits. (HCD - Planning)

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

Prior to final/occupancy, staff shall conduct a site visit to ensure that the lighting has been installed according to the approved plan.

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

**10. PD006 - CONDITION OF APPROVAL / MITIGATION MONITORING PLAN**

**Responsible Department:** RMA-Planning

**Condition/Mitigation Monitoring Measure:** The applicant shall enter into an agreement with the County to implement a Condition of Approval/Mitigation Monitoring and/or Reporting Plan (Agreement) in accordance with Section 21081.6 of the California Public Resources Code and Section 15097 of Title 14, Chapter 3 of the California Code of Regulations. Compliance with the fee schedule adopted by the Board of Supervisors for mitigation monitoring shall be required and payment made to the County of Monterey at the time the property owner submits the signed Agreement. The agreement shall be recorded. (HCD - Planning)

**Compliance or Monitoring Action to be Performed:** Within sixty (60) days after project approval or prior to the issuance of building and grading permits, whichever occurs first, the Owner/Applicant shall:

- 1) Enter into an agreement with the County to implement a Condition of Approval/Mitigation Monitoring Plan.
- 2) Fees shall be submitted at the time the property owner submits the signed Agreement.
- 3) Proof of recordation of the Agreement shall be submitted to HCD - Planning.

## 11. PDSP001 -- BOTANICAL SURVEYS

Responsible Department: RMA-Planning

**Condition/Mitigation Monitoring Measure:** Mitigation Measure 1: Focused botanical surveys should be conducted by a qualified biologist within the project site during the appropriate blooming period for umbrella larkspur, Toren's grimmia, talus fritillary, and Dudley's lousewort (approximately April) to determine the presence or absence of special-status plant species.

- If no special-status plants are found on the site, no additional mitigation is required.
- If special-status plants are found on the site, these species should be avoided to the greatest extent feasible. If avoidance is not feasible, a restoration plan should be prepared by a qualified biologist prior to development. The plan shall include, but not be limited to, a detailed description of restoration areas, plant source material, planting specifications, and a monitoring program that describes annual monitoring efforts which incorporate success criteria and contingency plans if success criteria are not met.

If the Restoration Plan discloses take of plants that are rare, threatened or endangered within the State of California, the Restoration Plan will be shared with CDFW for review. The killing or possession of California rare, threatened or endangered plant species is prohibited by California law. Other actions may be taken by CDFW at that time; the owner/applicant shall follow those required steps and inform HCD-Planning staff of the procedures and the timing of completion.

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

**Mitigation Monitoring Action No. 1.1**

Prior to construction permits from HCD - Building Services, the owner/applicant shall submit to HCD - Planning for review and approval a contract with a qualified biologist on the County's list of approved biological consultants for the required focused botanical surveys. When the contract is reviewed and approved, and other mitigation actions and steps in conditions of approval required prior to construction permit issuance are met, HCD-Planning staff will remove hold on the issuance of construction permits from HCD - Building Services.

**Mitigation Monitoring Action No. 1.2**

Prior to construction permits from HCD - Building Services, the owner/applicant shall submit evidence to HCD - Planning for review and approval evidence that the botanical surveys took place during the appropriate blooming periods and submit the results of the presence/absence surveys. HCD-Planning will hold construction permits, including grading permits, until the botanical survey results are submitted and reviewed.

**Mitigation Monitoring Action No. 1.3**

If special-status plants are found on the site, prior to construction permits from HCD - Building Services, the owner/applicant shall submit to HCD - Planning for review and approval evidence that these species were avoided. If avoidance is not feasible, the owner/applicant or the qualified biologist shall submit to HCD - Planning for review and approval a Restoration Plan prepared by a qualified biologist. The restoration plan shall include the species and number of individual special-status plants that are expected to be impacted by development and detailed description of restoration areas, plant source material, planting specifications, and a monitoring program with annual monitoring efforts which incorporate success criteria and contingency plans if success criteria are not met. If the Restoration Plan discloses take of plants that are rare, threatened or endangered within the State of California, the Restoration Plan will be shared with CDFW for review. The killing or possession of California rare, threatened or endangered plant species is prohibited by California law. Other actions may be taken by CDFW at that time; the owner/applicant shall follow those required steps and inform HCD-Planning staff of the procedures and the timing of completion.

## 12. PDSP002 -- PROTECTED AVIAN SPECIES SURVEYS AND PROTECTIONS

Responsible Department: RMA-Planning

**Condition/Mitigation  
Monitoring Measure:**

Mitigation 2a: A qualified biologist will conduct an Employee Education Program for the construction crew prior to any construction activities. A qualified biologist will meet with the construction crew at the onset of construction at the project site to educate the construction crew on the following:

- 1) the appropriate access route(s) in and out of the construction area and review project boundaries;
- 2) how a biological monitor will examine the area and agree upon a method which will ensure the safety of the monitor during such activities,
- 3) the special-status species that may be present;
- 4) the specific mitigation measures that will be incorporated into the construction effort;
- 5) the general provisions and protections afforded by the USFWS and CDFW; and
- 6) the proper procedures if a special-status species is encountered within the project site.

Mitigation 2b: To avoid and reduce impacts to nesting raptors and other nesting avian species, construction activities can be timed to avoid the nesting season period. Specifically, vegetation removal can be scheduled after September 1 and before January 31 to avoid impacts to these species. Alternatively, if avoidance of the nesting period is not feasible, a qualified biologist shall be retained to conduct pre-construction surveys for nesting raptors and other protected avian species within 250 feet of proposed construction activities if construction occurs between February 1 and August 31. Pre-construction surveys will be conducted no more than 14 days prior to the start of construction activities during the early part of the breeding season (February through April) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May through August). Because some bird species nest early in spring and others nest later in summer, some breed multiple times in a season, surveys for nesting birds may be required to continue during construction to address new arrivals. The necessity and timing of these continued surveys will be determined by the qualified biologist based on review of the final construction plans.

If raptors or other protected avian species nests are identified during the pre-construction surveys, the qualified biologist will notify the project applicant and County Planning and an appropriate no-disturbance buffer will be imposed within which no construction activities or disturbance takes place as determined by the qualified biologist to ensure avoidance of impacts to the individuals. The buffer will remain in place until the young of the year have fledged and are no longer reliant upon the nest or parental care for survival, as determined by a qualified biologist.

(PDSP002 CONTINUES WITH Mitigation Measure 2c IN NEXT CONDITION MODULE)

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

**Mitigation Monitoring Action No. 2a.1**

The owner/applicant shall submit to HCD - Planning for review and approval a contract with a qualified biologist on the County's list of approved biological consultants for the required education program. When the contract is reviewed and approved, and other mitigation actions and steps in conditions of approval required prior to construction permit issuance are met, HCD-Planning staff will remove hold on the issuance of construction permits from HCD - Building Services.

**Mitigation Monitoring Action No. 2a.2**

Within one week of the commencement of construction activities including grading, the owner/applicant shall submit evidence to HCD - Planning for review and approval that the education program took place. This evidence shall be in the form of minutes and/or a list of attendees. The list will be updated as required when new personnel start work; no staff member may work in the field without participating in the Employee Education Program.

**Mitigation Monitoring Action No. 2a.3**

Prior to the building final, the owner/applicant shall submit to HCD - Planning a letter from the qualified biologist demonstrating how the education program was implemented, and how it was successful. The letter shall include the full and final list of all construction staff who participated in the Employee Education Program.

**Mitigation Monitoring Action No. 2b.1**

During construction permit application through HCD - Building Services, the owner/applicant shall submit a construction schedule detailing project activities, including when vegetation removal will be scheduled, to HCD - Planning and HCD - Building Services for review. If this action is not completed, HCD - Planning staff will place a hold on construction permits.

**Mitigation Monitoring Action No. 2b.2**

If, in the determination of HCD - Planning, the schedule indicates that vegetation removal is likely to occur during the raptor and other nesting avian species avoidance period, the applicant shall submit a contract with a qualified biologist from the County's list of approved consultants for the required surveying to HCD - Planning. The contract shall be submitted to HCD-Planning prior to construction permit issuance. If this action is not completed, HCD - Planning staff will place a hold on construction permits.

**Mitigation Monitoring Action No. 2b.3**

The owner/applicant or the qualified biologist shall promptly send the results of the qualified biologist's surveys in text and graphical form to HCD - Planning. If the qualified biologist deems a no-disturbance buffer is warranted, the owner/applicant shall establish the buffer in accordance with the qualified biologist's recommendations and update the grading plan with notes and graphical indications of the buffer areas. Alert HCD - Planning of the update to the grading permit for prompt review. HCD - Planning staff will place a hold on construction permits until this action is completed or written documentation is received from the biologist that buffers are not necessary.

**Mitigation Monitoring Action No. 2b.4**

If no-disturbance buffers are found to be necessary by the qualified biologist, the owner/applicant or the qualified biologist shall submit evidence to HCD - Planning for review and approval that the no-disturbance buffers have remained in place until the young of the year have fledged at the mapped locations in the form of photographic evidence and a brief report by the qualified biologist. This documentation shall be

received by HCD – Planning within four months of the survey dates.

13. PDSP002 -- PROTECTED AVIAN SPECIES SURVEYS, PART 2

Responsible Department: RMA-Planning

Condition/Mitigation  
Monitoring Measure:

Mitigation 2c: The following best management practices (BMPs) shall be employed during

construction to reduce impacts to special-status plant and wildlife species:

- Trees and vegetation not planned for removal but located within or adjacent to the construction area should be protected prior to and during construction to the maximum extent possible with exclusionary fencing. A biological monitor shall supervise the installation of protective fencing and regularly monitor the site until construction is complete to ensure that the protective fencing remains intact.
- Soil compaction, stockpiling of construction materials, and/or dumping of materials shall not be allowed adjacent to trees, especially within fenced areas, or in the critical habitat area not already within the development footprint.
- Following construction, disturbed areas will be restored to pre-project contours to the maximum extent possible and revegetated using locally occurring native species and native erosion control seed mix, per the recommendations of a qualified biologist.
- Grading, excavating, and other activities that involve substantial soil disturbance will be planned and carried out in consultation with a qualified hydrologist, engineer, or erosion control specialist, and will utilize standard erosion control techniques to minimize erosion and sedimentation to native vegetation (pre-, during, and post-construction).
- All food-related and other trash will be disposed of in closed containers and removed from the project area at least once a week during the construction period, or more often if trash is attracting avian or mammalian predators. Construction personnel will not feed or otherwise attract wildlife to the area.
- No firearms will be allowed on the parcel at any time.



Compliance or  
Monitoring  
Action to be  
Performed:

Mitigation Monitoring Action No. 2c.1

BMPs shall be noted on the grading and construction site plans.

Mitigation Monitoring Action No. 2c.2

Prior to the issuance of construction permits from HCD-Building Services, the owner/applicant shall submit to HCD - Planning for review and approval in the form of a presentation of photographic evidence with time and date stamp and brief explanations that all protective fencing proscribed by a qualified biologist is in place prior to construction.

Mitigation Monitoring Action No. 2c.3

Within one month of the commencement of construction, the owner/applicant shall submit a signed and dated report from the onsite construction manager attesting that all construction workers have been trained that soil compaction and stockpiling or construction materials or dumping will not be done adjacent to trees or in the critical habitat area not already within the development footprint, that food-related and other trash will be disposed of in closed containers and removed from the project area at least once a week during the construction period or more often if trash is attracting avian or mammalian predators, and that construction personnel will not feed or otherwise attract wildlife to the area, and that no firearms will be allowed on the parcel at any time during construction. If the documentation is not received by HCD - Planning within six weeks of the construction training, notice will be issued through the Code Compliance division of the Planning Department that the building final inspection will be on hold until MM Action No. 2c.3 is completed.

Mitigation Monitoring Action No. 2c.4

The owner/applicant or the qualified biologist shall submit evidence to HCD-Planning for review and approval in the form of a presentation of photographic evidence with date stamp and brief explanations that any protective fencing remained in place until construction was complete, that soil compaction and stockpiling or construction materials or dumping was not adjacent to trees or in the critical habitat area not already within the development footprint. The report shall include a signed affidavit from the onsite construction manager that all food-related and other trash was disposed of in closed containers and removed from the project area at least once a week during the construction period, or more often if trash is attracting avian or mammalian predators and that construction personnel did not feed or otherwise attract wildlife to the area, and that no firearms were allowed on the parcel at any time during construction. All evidence must be submitted to HCD - Planning in a timely manner. If the documentation is not received by HCD - Planning by building final or commencement of use, whichever comes first, the Code Compliance division of the Planning Department will be alerted.

Mitigation Monitoring Action No. 2c.5

Prior to building final, the owner/applicant shall submit a revegetation plan prepared by a qualified biologist on the County's list of approved biological consultants to HCD - Planning for review and approval. The plan shall show that disturbed areas will be restored to pre-project contours to the extent possible and revegetated using locally occurring native species and native erosion control seed mix, per the recommendations of a qualified biologist. If the documentation is not received by HCD - Planning three weeks after building final, the Code Compliance division of the Planning Department will be alerted.

14. PDSP003 -- CALIFORNIA RED-LEGGED FROG SURVEYS AND SPECIES AVOIDANCE

Responsible Department: RMA-Planning

Condition/Mitigation  
Monitoring Measure:

Mitigation 3a: A qualified biologist will survey the project site and immediately adjacent areas following the Revised Guidance for California red-legged frog (CRLF) Site Assessment and Field Survey (USFWS, 2005) 48 hours before and the morning of the onset of work activities for the presence of CRLF. If any life stage of CRLF is observed, construction activities will not commence until the USFWS is consulted and appropriate actions are taken to allow project activities to continue.

Mitigation 3b: During ground disturbing and vegetation removal activities, a qualified biologist shall survey appropriate areas of the construction site daily before the onset of work activities for the presence of CRLF. The qualified biologist shall also train a construction monitor who remains onsite during all ground disturbing and vegetation removal activities in a CRLF-specific Employee Education Program. This special CRLF training shall include:

- a) Identifying photographs of CRLF at typical age demographic and phenotypes for the dispersal habitat area and information about distribution and habitat needs of CRLF and their sensitivity to human activities;
- b) The special status of CRLF including legal protection, recover efforts and penalties for violation.
- c) Distribution of wallet-sized cards and/or a fact sheet handout containing the information identified in a - c for the construction monitor to carry when on the project site.

The Applicant/Owner shall make at least three copies of a version of the card/fact sheet in English and Spanish available to the construction monitor to provide to employees upon request. Each card or handout shall also direct personnel to contact the construction monitor if any tentative identification is made.

The qualified biologist shall remain available to come to the site if a CRLF is identified until all ground disturbing activities are completed. If any life stage of the CRLF is found and these individuals are likely to be killed or injured by work activities, the qualified biologist shall be contacted, and work shall stop in that area until the CRLF has moved on its own out of the work area and the USFWS has been contacted. Construction activities will not resume until the USFWS is consulted and appropriate actions are taken to allow project activities to continue.

PDSP003 CRLF SURVEYS AND SPECIES AVOIDANCE CONTINUES IN NEXT CONDITION MODULE WITH MM3c, 3d, 3e, 3f and 3g.

Compliance or  
Monitoring  
Action to be  
Performed:

Mitigation Monitoring Action No. 3a

During construction operations, the owner/applicant or the qualified biologist shall send the results of the qualified biologist's CRLF surveys to HCD - Planning. If the qualified biologist discovers any life stage of CRLF, construction activities will not commence and the owner/applicant or biologist will notify HCD - Planning that USFWS has been consulted. Next actions taken will be in accordance with the recommendations of USFWS. Pre-construction and morning-of-onset survey results and evidence must be submitted to HCD - Planning in a timely manner which is contingent on the rate of construction activity as determined by the construction timeline per Mitigation Monitoring Action No. 2b.1; results are expected either at the end of every two weeks or at the end of every month of ground disturbing and vegetation removal activities. Full documentation shall be submitted to HCD - Planning prior to building final or commencement of use, whichever comes first.

15. PDSP003 -- CALIFORNIA RED-LEGGED FROG SURVEYS AND SPECIES AVOIDANCE PART 2

Responsible Department: RMA-Planning

**Condition/Mitigation Monitoring Measure:** Mitigation 3c: After ground-disturbing and vegetation removal activities are complete, or earlier if determined appropriate by the qualified biologist, the qualified biologist will designate a construction monitor to oversee on-site compliance with all avoidance and minimization measures. The qualified biologist shall ensure that this construction monitor has fully understood the training described in Mitigation 3b on the identification and enforcement of protection of CRLF. The construction monitor or the qualified biologist is authorized to stop work if the avoidance and/or minimization measures are not being followed. If work is stopped, the USFWS shall be notified. The qualified biologist and the construction monitor shall complete a daily log summarizing activities and environmental compliance throughout the duration of the proposed project.

Mitigation 3d: To prevent inadvertent entrapment of CRLF during project construction, all excavated steep-walled holes or trenches more than two feet deep will be covered at the close of each working day with plywood or similar materials. Before such holes or trenches are filled, they will be thoroughly inspected for trapped animals.

Mitigation 3e: Only tightly woven fiber netting or similar material may be used for erosion control at the project site. Coconut coir matting is an acceptable erosion control material. No plastic mono-filament matting will be used for erosion control, as this material may ensnare wildlife, including CRLF.

Mitigation 3f: Because dusk and dawn are often the times when CRLF are most actively foraging and dispersing, all construction activities should cease one half hour before sunset and should not begin prior to one half hour after sunrise.

Mitigation 3g: Pursuant to Monterey County Code section 20.145.040.B (Coastal Implementation Plan Part 3), the owner/applicant shall request a Coastal Development Permit for removal of ESHA and shall mitigate for the impacted habitat at a 3:1 ratio through preservation in the form of a scenic and conservation easement (SCE). The project's permanent impact to ESHA is estimated to be 19,160 square feet. The total area to be preserved in an extension of the existing SCE shall be at least 57,480 square feet (3 x 19,160 sf) and shall encompass, to the largest extent possible, areas mapped as CA-MNT-3. An approximately 100-foot wide buffer area around the structures cannot be included in the new SCE for wildfire safety controls to be freely implemented. The SCE shall prohibit uses other than those planned for onsite wastewater treatment system (e.g. leach fields) and shall be granted in perpetuity. The SCE shall be developed in consultation with a certified professional and the responsible entity. A Subordination Agreement shall be required, where necessary. The SCE deed shall be submitted to, reviewed, and approved by the Chief of Planning for HCD - Planning and the Executive Director of the California Coastal Commission prior to issuance of building construction permit, and accepted by the Board of Supervisors prior to building final or commencement of use, whichever comes first.

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

**Mitigation Monitoring Action No. 3c**

The owner/applicant shall send the results of the designated construction monitor's daily CRLF surveys during ground-disturbing and vegetation removal activities in the form of a daily log summarizing activities and compliance with the CRLF monitoring to HCD - Planning. If the construction monitor or qualified biologist confirms discovery of any life stage of CRLF, construction activities will stop and the owner/applicant or biologist will notify HCD - Planning that USFWS has been notified. Next actions taken will be in accordance with the recommendations of USFWS.

All daily surveys and evidence must be submitted to HCD - Planning for review in a timely manner. Reporting timing is contingent on the rate of construction activity as determined by the construction timeline per Mitigation Monitoring Action No. 2b.1; results are expected either at the end of every two weeks or at the end of every month of construction activities. If HCD - Planning finds the daily CRLF surveys are not sufficiently complete (compared to the Biologist's survey log and evidence), then the Chief of Planning will communicate to the owner/applicant that the Biologist must 1) retrain the construction monitor, 2) train a different person for the task, or 3) monitor the grading/construction site fulltime. The change in protocol shall be commensurate with the intensity of the mishandling of the task. Full documentation shall be submitted to HCD - Planning prior to building final or commencement of use, whichever comes first.

**Mitigation Monitoring Actions No. 3d, 3e, and 3f: Notes on Plans**

Prior to the issuance of grading or building permits, the owner/applicant shall include a note on the plans encompassing the language within Mitigations 3d, 3e and 3f. The owner/applicant shall submit plans to HCD - Planning for review and approval.

**Mitigation Monitoring Actions No. 3d, 3e, and 3f: Monitor Reports**

The designated construction monitor shall make photographic evidence of Mitigations 3d, 3e and 3f as part of Mitigation Monitoring Action No. 3b and 3c reporting. The owner/applicant shall submit the evidence to HCD - Planning for review and in a timely manner. Full documentation shall be submitted to HCD - Planning prior to building final or commencement of use, whichever comes first.

**Mitigation Monitoring Action No. 3g.1**

Prior to the issuance of construction permits from HCD - Building Services, the owner/applicant submit a signed and notarized Subordination Agreement, if required, to HCD - Planning for review and approval.

**Mitigation Monitoring Action No. 3g.2**

Prior to the issuance of construction permits from HCD - Building Services, the owner/applicant shall submit the scenic and conservation easement (SCE) deed and corresponding map, showing the exact location of the easement on the property along with the metes and bound description with a total area of 57,480 square feet added adjacent to the existing SCE(s) with preference given to extending the existing SCE within CA-MNT-3. The SCE deed and corresponding map shall be developed in consultation with a certified professional, to HCD - Planning for review and approval.

**Mitigation Monitoring Actions No. 3g.3**

Prior to building final or commencement of the use, whichever comes first, the owner/applicant shall Record the deed and map showing the approved conservation and scenic easement. Submit a copy of the recorded deed and map to HCD - Planning.

**16. PDSP004 -- MONTEREY DUSKY-FOOTED WOODRAT SURVEY AND AVOIDANCE**

**Responsible Department:** RMA-Planning

**Condition/Mitigation Monitoring Measure:** Mitigation Measure 4: Monterey Dusky-footed Woodrats (MDFW) have the potential to be present within the project site. Not more than thirty (30) days prior to the start of construction (including vegetation removal), a qualified biologist shall conduct a survey of the project sites to locate existing Monterey Dusky-footed Woodrats (MDFW) nests. All MDFW nests shall be flagged for avoidance. Any MDFW that cannot be avoided shall be dismantled by hand, under the supervision of a qualified biologist. If a litter of young is found or suspected, nest material shall be replaced and the nest left alone for 2-3 weeks, after this time the nest will be rechecked to verify that young are capable of independent survival before proceeding with nest dismantling.

**Compliance or Monitoring Action to be Performed:** Mitigation Monitoring Action No. 4.1  
The owner/applicant shall submit to HCD - Planning for review and approval a contract with a qualified biologist on the County's list of approved biological consultants which includes MDFW nests surveying and flagging for avoidance, and oversight of any necessary nest dismantling procedures described in MM No. 4. When the contract is reviewed and approved, and other mitigation actions and steps in conditions of approval required prior to construction permit issuance are met, HCD-Planning staff will remove hold on issuance of construction permits from HCD - Building Services.

**Mitigation Monitoring Action No. 4.2**  
Prior to the issuance of permits by HCD - Building Services, the owner/applicant shall submit the survey results and photographs of the flagged nests to HCD - Planning.

**Mitigation Monitoring Action No. 4.3**  
If the survey identifies any MDFW nests that must be dismantled, the qualified biologist shall dismantle them in accordance with the requirements of MM No. 4, and include discussion in the report for Mitigation Monitoring Action No. 4.2 to HCD - Planning for review and approval.

EXHIBIT C

LEGAL DESCRIPTION

Certain Real Property situate in Big Sur, County of Monterey, State of California, being more particularly described as follows:

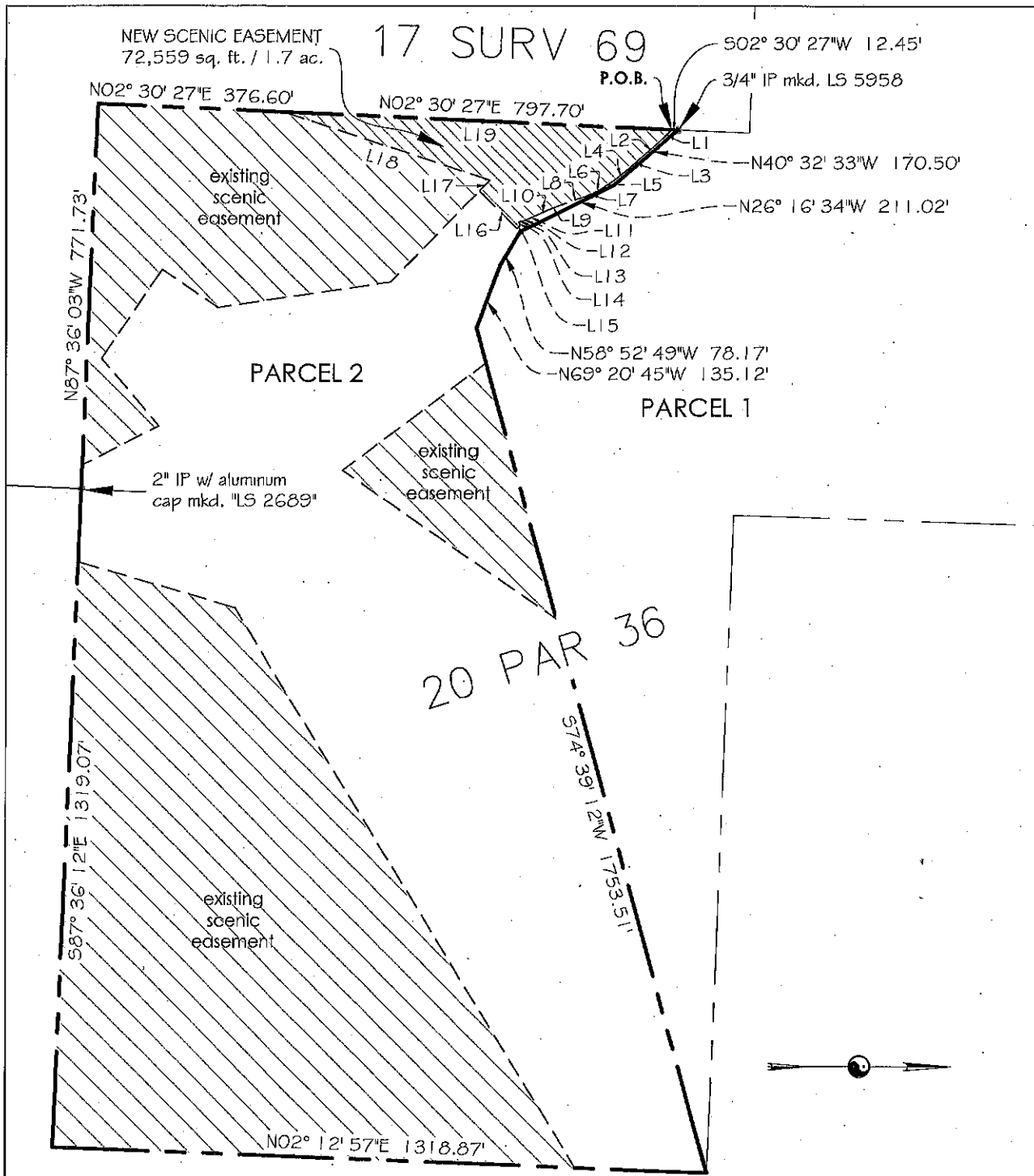
Scenic and Conservation Easement

A Scenic and Conservation Easement over and across a portion of Parcel 2 as said parcel is shown and so designated on that certain Parcel Map filed at the Office of the County Recorder of said County and State, in Volume 20 of Parcel Maps at Page 36, described as follows:

BEGINNING AT a point on the western boundary of said Parcel 2, distant South 02°30'27" West, 12.45 feet from a 3/4" iron pipe, tagged LS 5958, marking the northwest corner of said Parcel 2; thence leaving said western boundary

1. South 44° 58' 23" East, 34.37 feet; thence
2. South 40° 38' 58" East, 46.83 feet; thence
3. South 40° 42' 41" East, 39.09 feet; thence
4. South 38° 17' 05" East, 32.75 feet; thence
5. South 32° 45' 11" East, 31.61 feet; thence
6. South 27° 29' 52" East, 19.16 feet; thence
7. South 23° 03' 43" East, 19.22 feet; thence
8. South 19° 27' 05" East, 59.98 feet; thence
9. South 21° 09' 50" East, 19.25 feet; thence
10. South 25° 03' 09" East, 28.07 feet; thence
11. South 25° 33' 52" East, 17.42 feet; thence
12. South 22° 00' 53" East, 9.48 feet; thence
13. South 09° 46' 39" East, 8.10 feet; thence
14. North 75° 51' 47" East, 8.24 feet; thence
15. South 40° 00' 06" East, 5.49 feet; thence
16. South 44° 38' 20" West, 106.39 feet; thence
17. North 45° 21' 35" West, 30.26 feet; thence
18. South 18° 06' 25" West, 438.94 feet, more or less, to the western boundary of said Parcel 2; thence northerly and along said western boundary
19. North 02°30'27" East, 785.25 feet to the Point of Beginning.

CONTAINING A TOTAL OF 1.7 ACRES, MORE OR LESS.



**Exhibit B**

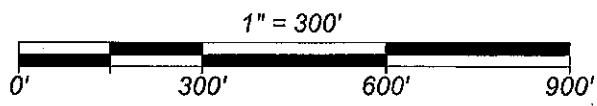
Showing a scenic and conservation easement on a portion of Parcel 2 (20 PAR 36).

February 28, 2022

**Rasmussen Land Surveying, Inc.**  
2150 Garden Road, Suite A-3, Monterey, California 93942  
P: 831.375.7240 F: 831.375.2545

RLS W.O. # 2022-012 Barbur

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- — — — — Subject Parcel Boundary
- — — — — Parcel Boundary
- - - - - Easement Line

<i>Course Table</i>		
<i>Course</i>	<i>Bearing</i>	<i>Distance</i>
L1	S44° 58' 23"E	34.37'
L2	S40° 38' 58"E	46.83'
L3	S40° 42' 41"E	39.09'
L4	S38° 17' 05"E	32.75'
L5	S32° 45' 11"E	31.61'
L6	S27° 29' 52"E	19.16'
L7	S23° 03' 43"E	19.22'
L8	S19° 27' 05"E	59.98'
L9	S21° 09' 50"E	19.25'
L10	S25° 03' 09"E	28.07'
L11	S25° 33' 52"E	17.42'
L12	S22° 00' 53"E	9.48'
L13	S09° 46' 39"E	8.10'
L14	N75° 51' 47"E	8.24'
L15	S40° 00' 06"E	5.49'
L16	S44° 38' 20"W	106.39'
L17	N45° 21' 35"W	30.26'
L18	S18° 06' 25"W	438.94'
L19	N02° 30' 27"E	785.25'

**Exhibit B**

Showing a scenic and conservation easement on a portion of Parcel 2 (20 PAR 36).

February 28, 2022

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