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Stephen L. Vagnini
Monterey County Clerk-Recorder
10/27/2020 02:57 PM

Recorded at the request of:
MONTEREY COUNTY RESOURCE MAN

Titles: 1 Pages: 28

Fees: \$103.00
Taxes: \$0.00
AMT PAID: \$103.00



When recorded return to:
MONTEREY COUNTY RESOURCE
MANAGEMENT AGENCY
PLANNING DEPARTMENT
Attn: Craig Spencer
1441 Schilling Pl, South 2nd Floor
Salinas, CA 93901
(831) 755-5025

Space above for Recorder's Use

Permit No.: PLN170198
Resolution No.: 18-007
Owner Name: 1536 Venadero LLC
Project Planner: Craig Spencer
APN: 008-422-013-000

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

[Handwritten Signature]
Signature of Declarant or Agent

**CONSERVATION EASEMENT DEED
(DEL MONTE FOREST - COASTAL)**

THIS DEED made this 21 day of August, 2020, by and between,
1536 VENADERO LLC, as Grantor, and the COUNTY OF MONTEREY, a political
subdivision of the State of California, as Grantee.

WITNESSETH:

WHEREAS, 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, a portion of the Property 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 a portion of the Property, in such a way as to ensure
enhancement, protection, and management of this area as a protected area in perpetuity;
and

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and present state of use of a portion of the Property, in such a way as to ensure
enhancement, protection, and management of this area as a protected area in perpetuity;
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 PLN170198; hereinafter referred to as the "Permit") was granted on February 22, 2018 by the Monterey County Zoning Administrator pursuant to the Findings, Evidence and Conditions contained in Resolution No. 18-007, attached hereto as Exhibit "B" (without plans) and hereby incorporated by reference (hereinafter the "Resolution"); and

WHEREAS, during construction, consistent with the Permit and applicable Permit conditions of approval, archaeological resources were identified, cataloged, and relocated under the supervision of the project's tribal monitor and archaeologist; and

WHEREAS, pursuant to Policy 59 of the Del Monte Forest LCP, where significant archaeological resources are identified, all available measures including dedication of open space conservation or scenic easements and purchase of development rights shall be considered to avoid development on significant archaeological sites; and

WHEREAS, the Grantor and the Grantee, acting on behalf of the People of the State of California and in accordance with Del Monte Forest LCP Policy 59 requiring, inter alia, that the Grantor record a conservation easement (hereinafter "Easement") affecting a portion of the Property as described in Exhibit "C" attached hereto and hereby incorporated by reference (the "Conservation Area"), agree to restrict development on and use of the Conservation Area so as to preserve the open space, scenic, and/or natural resource values present on the Conservation Area as protected areas in perpetuity, including to prevent the adverse direct and cumulative effects on these resources; and

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

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Grantor does hereby grant and convey unto Grantee, for the benefit of the People of the State of California, an estate, interest, and archaeological conservation easement in perpetuity for the purpose of protection and resource conservation over the Conservation Area in accordance with the following provisions (the "Easement"); and to that end and for the purposes of accomplishing the intent of the parties hereto, Grantor covenants on behalf of itself, its heirs, successors, and assigns, with the Grantee, its successors and assigns, to do and refrain from doing severally and collectively upon the Conservation Area the various acts hereinafter mentioned.

A. PROPERTY SUBJECT TO EASEMENT. This Easement shall be over that portion of the Property identified in this Easement as the Conservation Area.

B. RESTRICTIONS. Upon recordation of this Easement and thereafter in perpetuity, the use of the Conservation Area shall be limited to natural open space for habitat protection and resource conservation uses. No "development" (as defined in Section 20.06.310 of the LCP), including, but not limited to, removal of trees and other major or native vegetation, grading, paving, installation of structures such as signs, buildings, etc., and no grazing or agricultural activities shall occur or be allowed on the Conservation Area with the exception of the following (subject to compliance with any applicable governmental regulatory requirements):

1. Development of the Conservation Area shall be limited to native landscaping and low intensity recreational access. No structures shall be placed or erected upon the Conservation Area except a wooden fence and native landscape vegetation. Without first consulting with the project archaeologist, or another archaeological monitor approved by Grantee, the Conservation Area shall not be excavated to a depth greater than the depth of fill over the Conservation Area.

2. Grantor has the right to utilize and maintain the Conservation Area as a regular part of the Property, including the right for persons entering the site to perform landscaping and property maintenance, including the right to employ all standard practices for landscape maintenance, including control of exotic and invasive plants species.

3. Within the Conservation Area, Grantor has the right to construct, maintain, repair, and use the public service and utility lines, pipes, and transmission facilities (including those for gas, electricity, telephone, water, treated wastewater irrigation, sewer, and cable television), and facilities for drainage and erosion and sedimentation control.

4. Grantor shall not plant nor permit to be planted any vegetation upon the Conservation Area except native plants and/or vegetation specified in the Permit as appropriate.

5. Except for the construction, alteration, relocation, and maintenance of structures allowed by the Permit, no use of the Conservation Area which will or does materially alter the landscape of said area other than those specified above shall be done or suffered.

6. Grantor may enjoy the use and occupancy of the Conservation Area not inconsistent with the conditions and restrictions herein imposed.

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

D. BENEFIT AND BURDEN. The Easement shall run with and burden the Conservation Area, 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 Conservation Area from the date of recordation of this document and shall bind the Grantor and all of its successors and assigns. The Easement shall benefit Grantee on behalf of the People of the State of California and its successors and assigns forever.

E. RIGHT OF ENTRY. The Grantee, or its agents may enter onto the Conservation Area to ascertain whether the use restrictions set forth above are being observed at times reasonably acceptable to the Grantor.

F. 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 Conservation Area contrary to the terms of the Easement will be deemed a breach hereof. The Grantee may bring any action in court necessary to enforce the 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 the 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.

G. MAINTENANCE. The Grantee shall not be obligated to maintain, improve, or otherwise expend any funds in connection with the Conservation Area or any interest or easement created by the 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.

H. LIABILITY AND INDEMNIFICATION. This conveyance is made and accepted upon the express condition that the Grantee, and its agencies, departments, officers, directors, agents, employees, and authorized volunteers 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 determined to be caused by the sole negligence of the Grantee while in, upon, or in any way connected with the Conservation Area, Grantor hereby covenanting and agreeing to indemnify and hold harmless the Grantee, and its agencies, departments, officers, directors, agents, employees, and authorized volunteers 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 Conservation Area which would subject the Grantee to any liability occurring upon the Conservation Area by virtue of the fact that the right of the Grantee to enter the Conservation 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 Area for the purposes of correcting any "dangerous condition" as those terms are defined by California Government Code Section 830.

I. TRANSFER OF TITLE. Grantor shall have the absolute right to transfer its right, title, and interest in and to all or any portion of the Conservation Area and upon such a transfer the transferee, by acceptance of the deed (whether or not so stated in the deed), shall have assumed and shall be obligated to perform all of the covenants of Grantor under this Conservation Easement Deed and shall have all of the rights and obligations of and be deemed to stand in the place of the Grantor for all purposes under this Conservation Easement Deed, with respect to the land transferred; and upon such a transfer Grantor shall be fully relieved and discharged from all of Grantor's obligations under this Easement Deed with respect to the land transferred.

J. ASSIGNMENT.

1. Grantor shall have the right to assign its rights or delegate its obligations under this Conservation Easement Deed, in whole or in part. No such assignment or delegation by Grantor, however, shall relieve the owner or owners of the Conservation Area from the obligations to perform the covenants in the Easement, and such covenants shall continue as covenants running with the land as specified in Paragraph D above.

2. Grantee shall have the right to assign its rights and delegate its obligations under this Conservation Easement Deed, but only to a public agency or private entity which agrees to accept such rights and assume such obligations and is approved in writing in advance by the Grantor. Grantee shall not abandon the Easement, but may assign the Easement in accordance with the preceding sentence.

K. PUBLIC ENTRY AND USE OF ROADS IN DEL MONTE FOREST. The Easement does not authorize access to or use of the Property (including Conservation Area) by members of the public. The road system of Del Monte Forest is privately owned by Pebble Beach Company, and the use of the roads in Del Monte Forest is by permission of Pebble Beach Company and subject to the payment of a fee for motor vehicle use and rules and regulations imposed by Pebble Beach Company so long as they are consistent with the LCP and permits to which Pebble Beach Company is subject.

L. 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.

M. SEVERABILITY. If any provision of this Conservation Easement Deed is held to be invalid or for any reason becomes unenforceable, no other provision shall be thereby affected or impaired.

N. AMENDMENT/MODIFICATION. This Conservation Easement Deed may be amended, modified, or changed only with the written consent of the Grantor and the

Grantee. In addition, an amendment to the Permit may be required, if necessary, as determined by the Grantee. Any amendment of this Conservation Easement Deed without the written consent of all three entities and any necessary amendment to the Permit shall be void and of no effect.

Executed this 21 day of August, 2020 at Shelter Island, New York ~~California~~
New York
SJP

1536 Venadero LLC

By: Sara J Penn, Sole Member (Signature)

Sara J. Penn, Sole Member
(Print or Type Name and Title)

By: _____ (Signature) TP
_____ (Signature) TP
TP
(Print or Type Name and Title)

EXHIBIT A

The land referred to is situated in the unincorporated area of the County of Monterey, State of California, and is described as follows:

Parcel One:

That portion of El Pescadero Rancho in the County of Monterey, State of California, described as follows:

Beginning at a point which bears North 12 Degrees 44' 29" East, 21.00 feet from Monument No. 2310, which monument is shown on the "Licensed Surveyor's Map of El Pescadero and Point Pinos Ranchos", filed January 12, 1922 in Vol. 3, PG. 3, of Surveys, Monterey County Records, thence:

- (1) North 12 Degrees 51' East, 166.37 feet; thence
- (2) Tangentially curving to the left 105.07 feet on the arc of a curve of 100 feet radius, thence, tangentially
- (3) North 47 Degrees 27' West, 139.10 feet; thence
- (4) South 8 Degrees 29' 30" West, 282.44 feet; thence
- (5) Southeasterly and curving to the right 70.08 feet on the arc of a curve of 189.99 feet radius (long chord bears South 60 Degrees 14' 15" East, 69.98 feet); thence
- (6) Tangentially curving to the left 86.53 feet on the arc of a curve of 179.70 feet radius to the point of beginning.

APN: 008-422-012

Parcel Two:

That portion of El Pescadero Rancho in the County of Monterey, State of California, described as follows:

Beginning at a point which bears North 12 Degrees 44' 29" East, 20.00 feet from Monument No. 2310, which monument is shown on the "Licensed Surveyor's Map of El Pescadero and Point Pinos Ranchos", filed January 12, 1922 in Vol. 3, PG. 3, of Surveys, Monterey County Records, thence

- (1) North 12 Degrees 51' East, 166.37 feet; thence
- (2) Tangentially curving to the left 105.07 feet on the arc of a curve of 100 feet radius, thence

(3) Tangentially curving to the right 261.80 feet on the arc of a curve of 750 feet radius (long chord bears South 37 Degrees 27' East, 260.48 feet); tangentially

(4) South 27 Degrees 27' East, 59.46 feet; thence

(5) Tangentially curving to the right 56.81 feet on the arc of a curve of 25.00 feet radius; thence, tangentially

(6) North 77 Degrees 15' 31" West 169.33 feet to the point of beginning.

APN: 008-422-013

EXHIBIT "B"

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

In the matter of the application of:

1536 VENADERO LLC - PENN (PLN170198)

RESOLUTION NO. 18-007

Resolution by the Monterey County Zoning
Administrator:

- 1) Adopting a Mitigated Negative Declaration;
- 2) Approving a Combined Development Permit consisting of 1) a Coastal Development Permit to allow landscaping improvements including replacement and reconfiguration of driveway, patios, walkways, fountains, and plants within a positive archaeological site; and 2) a Variance to exceed the 9,000 square feet impervious surface limit by 553 square feet; and
- 3) Adopting a Mitigation Monitoring and Reporting Plan

[PLN170198, 1536 Venadero LLC, 1536 Venadero Road, Del Monte Forest Land Use Plan (APNs: 008-422-012-000 and 008-422-013-000)]

The 1536 Venadero LLC Combined Development Permit application (PLN170198) came on for public hearing before the Monterey County Zoning Administrator on February 22, 2018. 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 AND EVIDENCE

1. **FINDING:** **CONSISTENCY** – The Project, as conditioned and mitigated, is, under the circumstances of this case, consistent with the applicable plans and policies which designate this area as appropriate for development.

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

- the 1982 Monterey County General Plan;
- Del Monte Forest Land Use Plan;
- Monterey County Coastal Implementation Plan Part 5;
- Monterey County Zoning Ordinance (Title 20);

Potential conflicts with cultural resource policies, due to the historic nature of the existing structures and the potential for impacts to archaeological resources have been identified. In addition, potential conflicts with land use development policy 77 of the Del Monte Forest Land Use Plan which limits impervious surfaces to 9,000 square feet have been identified during review of the project. However, changes to the plan have been incorporated and based on the circumstances of the case, the project is designed appropriately to balance reasonable residential development with resource protection policies of the

applicable regulations. Findings to support a Variance to the 9,000-square foot impervious surface area can be made in this case (see Findings 6-8) and conditions and mitigations are proposed to minimize impacts to cultural resources consistent with the applicable text, policies, and regulations.

- b) Allowed Use: The property is located at 1536 Venadero Road, Pebble Beach (Assessor's Parcel Numbers 008-422-012-000 and 008-422-013-000), Del Monte Forest Land Use Plan area. The parcel is zoned Low Density Residential, 1.5 acres per unit, with a Design Control Overlay, in the Coastal Zone [LDR/1.5-D (CZ)], which allows residential uses and development as a principally permitted use. The project involves landscape improvements associated with an existing residential use of the property. Therefore, the project is an allowed land use for this site.
- c) Design Review: The project site is subject to the design criteria contained in Chapter 20.44 of the Coastal Implementation Plan, Part 1 (the Design Control "D" Zoning District), which regulates the location, size, configuration, materials, and colors of structures and fences to assure the protection of the public viewshed and neighborhood character. The project involves minor changes to the existing gate and fencing surrounding the site and changes to flat surfaces such as driveway materials, patios, and walkways. The landscape improvements are appropriately sited in locations that already contain similar improvements and by their nature require location near the existing residential structures. Proposed colors and materials are consistent with the area and with the historic integrity of the existing structures and include stone pavers and gravel. The project is not in the public viewshed and will be consistent with the character of the site and surrounding neighborhood.
- d) Cultural Resources: The project site contains an existing residence, garage/guesthouse, and greenhouse that have been determined to be historic structures that qualify for listing on the Monterey County register of Historic Resources and has been identified as containing potentially significant archaeological resources.
Historic Structure: A phase II historic analysis was prepared for the project (LIB170280), by Kent Seavey. The Phase II report determined that the proposed landscape improvements are consistent with the historic setting of the site, are consistent with the Secretary of the Interior Standards for the Rehabilitation of historic resources, and the project will not adversely impact the historic resources.
Archaeological and Tribal Cultural Resources: A Phase I archaeological survey and a Phase II archaeological investigation were conducted for the project. In addition, the tribal chairperson of the Ohlone, Coastanoan, Esselen Nation was consulted to review potential impacts to tribal cultural resources. Consistent with Policy 60 of the Del Monte Forest Land Use Plan, revisions to the project were required to minimize potential impacts to resources including modification of the locations of the proposed patios and walkways and the proposed depths of the footings for new landscape improvements. In addition, conditions and mitigations have been incorporated that require monitors and

appropriate treatment of resources if discovered (Conditions Numbers: 13, 14, and 15)

- e) Variance: The site is located within the “Pescadero Watershed” area of the Del Monte Forest which is an area that drains to the Carmel Bay Area of Special Biological Significance (ASBS). The Del Monte Forest Land Use Plan calls for heightened concern of non-point sources of pollutants to the Carmel Bay ASBS. Specific policies to protect freshwater and marine resources are provided that require erosion control measures and stormwater runoff best management practices for all development projects in the watershed. This Penn project is required to implement erosion control measures during construction (Condition 6) and will provide on-site retention of stormwater. Policy 77 of the Del Monte Forest Land Use Plan limits impervious surfaces in the Pescadero watershed to 9,000 square feet per parcel. Assessor’s Parcel Number 008-422-012-000 is currently considered legal non-conforming and contains 15,666 square feet of impervious area. The project would substantially reduce impervious surface area by 6,113 square feet but would still exceed the 9,000 square foot limit (9,553 square feet proposed). Overall, with adequate protections for erosion and stormwater runoff, the balance of the project design with respect to cultural resources, and the significant reduction in impervious area, staff believes that the project has been sited and designed in such a manner consistent with LUP policies. Findings for a Variance to exceed the Pescadero Watershed impervious surface area by 553 square feet can be made in the case (See Findings 6-8 below). Improvements located on Assessor’s Parcel Number 008-422-013-000 would conform to the impervious surface area policies as proposed (2,093 square feet existing, 2,033 square feet proposed).
- f) Advisory Committee: The project was referred to the Del Monte Forest Land Use Advisory Committee (LUAC) for review. There were no public comments or concerns with approval of the project expressed by the LUAC at the meeting and the LUAC unanimously recommended approval of the project.
- g) Public Access: The subject property is not described as an area where the Local Coastal Program requires access and is not indicated as part of any designated trails or shoreline access as shown in Figure 8 of the Del Monte Forest Area Land Use Plan.
- h) The application, project plans, and related support materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development found in Project File PLN170198.

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

EVIDENCE: a) The project has been reviewed for site suitability by the following departments and agencies: RMA- Planning, Pebble Beach Community Services District, RMA-Public Works, RMA-Environmental Services, Environmental Health Bureau, and Water Resources Agency. There has been no indication from these departments/agencies that the site is not suitable for the proposed development. Conditions recommended have been incorporated.

- b) Staff identified potential impacts to Archaeological Resources and Historic Resources. The following reports have been prepared:
 - “Archaeological Subsurface Testing” (LIB170279) prepared by John Schlagheck of Holman & Associates Archeological Consultants, San Francisco, CA, July 2016 and revised June 2017.
 - “Phase II Historic Report” (LIB170280) prepared by Kent Seavey, Pacific Grove, CA, July 8, 2017.

Conditions and Mitigations suggested in these reports have been incorporated and the project, as conditioned and mitigated, as recommended by the above-mentioned technical reports, is suitable for the proposed project. County staff has independently reviewed these reports and concurs with their conclusions.

- c) Necessary public facilities are available to serve the development. Water for landscape irrigation will be provided by Cal-Am.
- d) The project involves revisions to an existing landscape surrounding an existing residential structure/use and is located within a residential zone.
- e) The application, project plans, and related support materials submitted by the project applicant to Monterey County RMA - Planning for the proposed development found in Project File PLN170198.

3. **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 RMA - Planning, Pebble Beach Community Services District, RMA - Public Works, Environmental Health Bureau, and Water Resources Agency. The respective agencies have recommended conditions, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood.
 - b) Water for landscape irrigation will be provided by Cal-Am.
 - c) The project involves revisions to an existing landscape surrounding an existing residential structure/use and is located within a residential zone.
 - d) Staff conducted a site inspection on August 31, 2017 to verify that the site is suitable for this use.
 - e) The application, project plans, and related support materials submitted by the project applicant to Monterey County RMA - Planning for the proposed development found in Project File PLN170198.

4. **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) Staff conducted a site inspection on August 31, 2017 and researched County records to assess if any violation exists on the subject property.
 - b) There are no known violations on the subject parcel.

- c) The application, plans and supporting materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development are found in Project File PLN170198.

5. **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, will have a significant effect on the environment. The Mitigated Negative Declaration reflects the independent judgment and analysis of the County.

- EVIDENCE:**
- a) Public Resources Code Section 21080.d and California Environmental Quality Act (CEQA) Guidelines Section 15064.a.1 require environmental review if there is substantial evidence that the project may have a significant effect on the environment.
 - b) Monterey County RMA-Planning prepared an Initial Study pursuant to CEQA. The Initial Study is on file in the offices of RMA-Planning and is hereby incorporated by reference (PLN170198).
 - c) The Initial Study identified several potentially significant effects, but revisions have been made to the project and 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) 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/or Reporting Plan has been prepared in accordance with Monterey County regulations, 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/or Reporting Plan as a condition of project approval.
 - e) The Draft Mitigated Negative Declaration ("MND") for PLN170198 was prepared in accordance with CEQA and circulated for public review from November 7, 2017 through December 8, 2017 (SCH#: 2017111023).
 - f) Issues that were analyzed in the Mitigated Negative Declaration include: cultural resources, land use/planning, and tribal cultural resources.
 - g) Potential impacts to archaeological resources and tribal cultural resources were identified in the MND. Mitigations were applied (Conditions 13, 14, and 15) that require an onsite archaeological monitor and on-site tribal monitor during construction and direct appropriate treatment and analysis of resource if discovered. With the mitigations applied, the project will have a less than significant impact on the environment.
 - h) Evidence that has been received and considered includes: the application, technical studies/reports (see Finding 2/Site Suitability), staff reports that reflect the County's independent judgment, and information and testimony presented during public hearings. These documents are on file in RMA-Planning (PLN170198) and are hereby incorporated herein by reference.
 - i) Staff 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 California Department of Fish and Wildlife (CDFW) regulations. All land development projects that are subject to environmental review are subject to a State filing fee plus the County recording fee, unless the Department of Fish and Wildlife determines that the project will have no effect on fish and wildlife resources. The Initial Study was sent to the California Department of Fish and Wildlife for review, comment, and to recommend necessary conditions to protect biological resources in this area. No comments were received; however, the project will be required to pay the State fee plus a fee payable to the Monterey County Clerk/Recorder for processing said fee and posting the Notice of Determination (NOD).

- j) The County has considered the comment received by the California Coastal Commission staff during the public review period. The project has been modified by the applicant to address the comments received. Modification includes additional reductions in the proposed impervious surface area by replacing the entire driveway with pervious surface and reducing the size of the proposed patios and walkway along the side and rear of the home. In addition, the MND was modified to provide clarification and amplification of the analysis in support of the conclusion that the project is consistent with the intent of the Pescadero Watershed coverage limitation. Revisions made to the project plans in response to the Coastal Commission comments on the MND do not create new effects or change the information or determinations made in the MND. The revisions to the MND clarify and amplify the analysis contained in the MND and no new impacts or mitigations are required for the project. Therefore, pursuant to Section 15073.5 of the CEQA guidelines, recirculation of the MND is not required.
- k) Proposed mitigation measures are incorporated into the conditions of approval and as proposed and conditioned, the project will not have a significant adverse effect on the environment.
- l) Monterey County RMA-Planning, located at 1441 Shilling Place, 2nd Floor, Salinas, California, 93901, is the custodian of documents and other materials that constitute the record of proceedings upon which the decision to adopt the negative declaration is based.

6. **FINDING:**

VARIANCE (SPECIAL CIRCUMSTANCE) – There are special circumstances applicable to Assessor’s Parcel Number 008-422-012-000, including size, shape, topography, location or surroundings. As a result, the strict application of Title 20 and Policy 77 of the Del Monte Forest Land Use Plan would deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification. Although it was determined that special circumstances exist, Variances are granted on a case-by-case basis and the findings and evidence for this project do not necessarily apply to other parcels.

EVIDENCE:

- a) Assessor’s Parcel Number 008-422-012-000 was developed in the 1920’s and 1930’s and contains an historically significant Spanish eclectic style residence with surrounding driveway, patios and walkways. Together the structures and landscape surfaces total 15,666 square feet of impervious surface area which does not conform to the

9,000 square foot impervious surface limitations that currently are applicable to the site.

- b) Due to the historic nature of the site, particular attention must be made to avoid significantly altering the landscaping and areas surrounding the home to avoid adverse effects on the historic setting.
- c) Strict interpretation of the 9,000 square foot impervious surface limitations could adversely impact the historic setting and would deprive the property of reasonable exterior living spaces such as walkways and patios.
- d) One dwelling is located on two parcels. If the total impervious surfaces were divided among the two parcels, the limit of 9,000 square feet per parcel would be met.

7. **FINDING:** **VARIANCE (SPECIAL PRIVILEGE)** – The Variance does not constitute a grant of special privileges inconsistent with the limitation upon other properties in the vicinity and identical zoning classification in which such property is situated
- a) Other property owners in the vicinity and under identical zoning classification have been afforded the same privilege sought by the property owner of this application. The Steakley project (PC93167) established the precedence to allow a Variance for a developed parcel to exceed the 9,000 square foot combined coverage limitation where a net reduction in the existing combined coverage will occur. Within the general vicinity, several residential projects have been granted similar variances. For PLN980384 (Rachleff), PLN020361 (Griggs), PLN980540 (Schwab), PLN090061 (Rachleff), PLN120663 (Bardis) and PLN170535 (Heverdejs) the Zoning Administrator approved Variances to exceed the structural and impervious coverage limitations, and allowed an increase to structural coverage, based on a reduction of impervious surface coverage, and an overall net reduction in total coverage.
 - b) The subject project would reduce the impervious surfaces on the lot from 15,666 square feet to 9,553 square feet.
8. **FINDING:** **VARIANCE (AUTHORIZED USE)** – This project will not constitute a grant for an activity or use otherwise not expressly authorized by the zone regulations governing the parcel.
- EVIDENCE:** Single Family residential uses, inclusive of patios, driveways, walkways, and landscaping improvements are listed as principally permitted uses in the LDR zoning district.
9. **FINDING:** **APPEALABILITY** - The decision on this project may be appealed to the 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) California Coastal Commission: Pursuant to Section 20.86.080.A of the Monterey County Zoning Ordinance (Title 20), the project is subject to

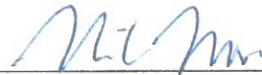
appeal by/to the California Coastal Commission because it involves development between the sea and the first through public road paralleling the sea (State Route 1), and development that is permitted in the underlying zone as a conditional use (i.e.; development within an area of known archaeological resources).

DECISION

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

1. Adopt a Mitigated Negative Declaration;
2. Approve a Combined Development Permit consisting of 1) a Coastal Development Permit to allow landscaping improvements including replacement and reconfiguration of driveway, patios, walkways, fountains, and plants within a positive archaeological site; and 2) a Variance to exceed the 9,000 square feet impervious surface limit by 553 square feet, in general conformance with the attached sketch and subject to the attached conditions, all being attached hereto and incorporated herein by reference; and
3. Adopt the attached Mitigation Monitoring and Reporting Program.

PASSED AND ADOPTED this 22nd day of February, 2018



Mike Novo, Zoning Administrator

COPY OF THIS DECISION MAILED TO APPLICANT ON **FEB 23 2018**

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 **MAR 05 2018**

THIS PROJECT IS LOCATED IN THE COASTAL ZONE AND IS / IS NOT 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 INFORMATION, 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 RMA-Planning and RMA-Building Services Department office 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

PLN170198

1. PD001 - SPECIFIC USES ONLY

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: This Combined Development Permit and Variance (PLN170198) allows Landscaping improvements including replacement and reconfiguration of driveway, patios, walkways, fountains, and plants; and an exceedance to the Pescadero Watershed coverage limitation by 553 square feet. The property is located at 1536 Venadero Road, Pebble Beach (Assessor's Parcel Number's 008-422-012-000 and 008-422-013-000), Del Monte Forest 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 Director of RMA - Planning. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. To the extent that the County has delegated any condition compliance or mitigation monitoring to the Monterey County Water Resources Agency, the Water Resources Agency shall provide all information requested by the County and the County shall bear ultimate responsibility to ensure that conditions and mitigation measures are properly fulfilled. (RMA - Planning)

Compliance or Monitoring Action to be Performed: The Owner/Applicant shall adhere to conditions and uses specified in the permit on an ongoing basis unless otherwise stated.

2. PD002 - NOTICE PERMIT APPROVAL

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: The applicant shall record a Permit Approval Notice. This notice shall state:
"A Combined Development Permit and Variance (Resolution Number 18-007) was approved by the Zoning Administrator for Assessor's Parcel Number's 008-422-012-000 and 008-422-013-000 on February 22, 2018. The permit was granted subject to 15 conditions of approval which run with the land. A copy of the permit is on file with Monterey County RMA - Planning."

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

3. 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. (RMA - 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 Director of RMA - 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 Director of RMA - Planning prior to the recordation of the final/parcel map, the start of use, or the issuance of building permits or grading permits.

4. 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. (RMA - 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 RMA-Planning.

5. PDSP001 - HISTORIC RESOURCES ZONING OVERLAY

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: The applicant shall formally request to re-zone the property adding a "HR" zoning district overlay to assure adequate review and long-term protection of archaeological resources and the house. (RMA – Planning Department)

Compliance or Monitoring Action to be Performed: Prior to final building inspection, the applicant/owner shall request that the RMA – Planning Department to amend the zoning map to include a "HR" zoning overlay

6. EROSION CONTROL PLAN

Responsible Department: Environmental Services

Condition/Mitigation Monitoring Measure: The applicant shall submit an Erosion Control Plan in conformance with the requirements of Monterey County Code Chapter 16.12. The Erosion Control Plan shall include a construction entrance, concrete washout, stockpile area(s), material storage area(s), portable sanitation facilities and waste collection area(s), as applicable. (RMA-Environmental Services)

Compliance or Monitoring Action to be Performed: Prior to issuance of any grading or building permits, the applicant shall submit an Erosion Control Plan to RMA-Environmental Services for review and approval.

7. INSPECTION-DURING ACTIVE CONSTRUCTION

Responsible Department: Environmental Services

Condition/Mitigation Monitoring Measure: The applicant shall schedule an inspection with RMA-Environmental Services to inspect drainage device installation, review the maintenance and effectiveness of BMPs installed, and to verify that pollutants of concern are not discharged from the site. At the time of the inspection, the applicant shall provide certification that all necessary geotechnical inspections have been completed to that point. This inspection requirement shall be noted on the Erosion Control Plan. (RMA – Environmental Services)

Compliance or Monitoring Action to be Performed: During construction, the applicant shall schedule an inspection with RMA-Environmental Services.

8. INSPECTION-FOLLOWING ACTIVE CONSTRUCTION

Responsible Department: Environmental Services

Condition/Mitigation Monitoring Measure: The applicant shall schedule an inspection with RMA-Environmental Services to ensure all disturbed areas have been stabilized and all temporary erosion and sediment control measures that are no longer needed have been removed. This inspection requirement shall be noted on the Erosion Control Plan. (RMA – Environmental Services)

Compliance or Monitoring Action to be Performed: Prior to final inspection, the owner/applicant shall schedule an inspection with RMA-Environmental Services.

9. INSPECTION-PRIOR TO LAND DISTURBANCE

Responsible Department: Environmental Services

Condition/Mitigation Monitoring Measure: The applicant shall schedule an inspection with RMA-Environmental Services to ensure all necessary sediment controls are in place and the project is compliant with Monterey County regulations. This inspection requirement shall be noted on the Erosion Control Plan. (RMA – Environmental Services)

Compliance or Monitoring Action to be Performed: Prior to commencement of any land disturbance, the owner/applicant shall schedule an inspection with RMA-Environmental Services.

10. WRSP1 - STORMWATER MANAGEMENT PLAN - DEL MONTE FOREST

Responsible Department: Water Resources Agency

Condition/Mitigation Monitoring Measure: The Owner/Applicant shall incorporate measures to ensure runoff is minimized and stormwater infiltration is maximized. New development including replaced impervious surfaces shall comply with the freshwater and marine resource policies of the Del Monte Forest Area Land Use Plan. Provisions shall be made to collect and conduct runoff to drainage areas/devices capable of polluted runoff filtration/treatment (e.g., vegetated filtration strips, detention/retention basins, storm drains, etc.). A registered civil engineer or other qualified professional shall design a stormwater management plan to the satisfaction of the Water Resources Agency. (Water Resources Agency)

Compliance or Monitoring Action to be Performed: Prior to issuance of any construction permit, the Owner/Applicant shall submit a stormwater management plan to the Water Resources Agency for review and approval.

11. WRSP2 - DRIVEWAY RUNOFF - DEL MONTE FOREST

Responsible Department: Water Resources Agency

Condition/Mitigation Monitoring Measure: The Owner/Applicant shall incorporate permeable materials or surfaces into the project design. The new or replaced driveway surface shall comply with the freshwater and marine resource policies of the Del Monte Forest Area Land Use Plan. The driveway surface shall be designed to minimize runoff through the use of permeable materials, filtration strips, engineered collection/treatment units, or similar. A registered civil engineer or other qualified professional shall design the driveway runoff measures to the satisfaction of the Water Resources Agency. (Water Resources Agency)

Compliance or Monitoring Action to be Performed: Prior to issuance of any construction permit, the Owner/Applicant shall submit details for the pervious driveway design to the Water Resources Agency for review and approval.

12. WRSP3 - WRA INSPECTION - PRIOR TO FINAL

Responsible Department: Water Resources Agency

Condition/Mitigation Monitoring Measure: The Owner/Applicant shall schedule an inspection with the Water Resources Agency to ensure all necessary drainage and stormwater controls are in place and the project is compliant with respective water resources policies. This inspection requirement shall be noted on the stormwater management plan. (Water Resources Agency)

Compliance or Monitoring Action to be Performed: Prior to final inspection, the Owner/Applicant shall schedule an inspection with the Water Resources Agency.

13. MM1 - ARCHAEOLOGY MONITOR

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: The contractor shall sign and record an agreement created by an Archaeologist informing them of the potential for incidental impacts and requirements to contract the archaeologist for monitoring during earth disturbing activities associated with new construction on the parcel, such as grading, foundation excavations, etc. An archaeological monitor shall be on-site during all earth disturbing activities. The monitor shall have the authority to temporarily halt work in order to examine any potentially significant cultural materials or features.

Compliance or Monitoring Action to be Performed: Prior to issuance of a permit, the applicant shall provide the Chief of Planning with a copy of a written agreement demonstrating that an Archaeological monitor will be on-site during earth disturbing activities and a copy of the agreement signed by the contractor, if different. The archaeological monitor shall be authorized to halt excavation activities until finds are properly evaluated. Prior to final building inspection, the applicant shall provide evidence of the presence of the Archaeologist on-site during demolition of existing structures and earth disturbing activities. Such evidence shall include measures taken for protection or analysis of resources during construction. The report shall be certified by the Archaeologist.

14. MM2 - DATA RECOVERY

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: Prior to footing excavation, archaeological data recovery, consistent with contemporary archaeological practices, shall be conducted within the areas of intact deposits that will be impacted by the Project. At a minimum, the data recovery should include the following:

1. One 1x1 meter test unit to be excavated in 10 centimeter levels from the surface to 20 centimeters below the cultural deposit and recovered material passed through a 1/8 - inch screen with any materials remaining in the screen transported to a laboratory for fine sorting. Professional analysis of specific categories of artifacts and ecofactual materials will be conducted as warranted by the type and amount of material recovered. Following testing, all items recovered shall be returned to the site and offered to the Native American tribal monitor for treatment and ultimate disposition.
2. At least two radiocarbon dates from single-specimens of mussel shell or other appropriate material shall be obtained with at least one specimen taken from the intact portion of the deposit.

Compliance or Monitoring Action to be Performed: Prior to issuance of permits, the applicant shall provide the Chief of Planning with a copy of a written agreement that includes data recovery functions meeting the standards described in Mitigation Measure #2 above. Prior to final building inspection, the applicant shall provide evidence that the data recovery has been implemented and carried out in accordance with the required mitigation. The evidence shall also include a summary of the findings from the data recovery efforts.

15. MM3 - TRIBAL MONITOR

Responsible Department: RMA-Planning

**Condition/Mitigation
Monitoring Measure:**

A tribal monitor from the Ohlone-Coastanon, Esselen Nation shall be present during all earth disturbing activities on the site including any pre-construction data recovery activities conducted by the archaeologist. The tribal monitor shall have the authority to temporarily halt work in order to examine any potentially significant cultural materials or features. If resources are discovered, and following any carbon dating or analysis by the archaeologist, the property owner shall provide an area for reburial of resources on-site or provide an adequate off-site location for reburial. The tribal monitor shall be given the authority to determine the ultimate disposition of any artifacts or remains on site. This mitigation is not intended to alleviate the property owner or applicant from contacting the coroner and complying with state law if human remains are discovered.

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

Prior to final inspection, the applicant shall provide the Chief of Planning with photographs during construction and a written statement from the designated tribal monitor that the mitigation has been complied with.

EXHIBIT "C"
LEGAL DESCRIPTION
EASEMENT

Certain real property situate in El Pescadero Rancho, County of Monterey, State of California, described as follows:

Being a portion of that certain real property shown as Parcel Two recorded February 20, 2015 in Document Number 2015008300, Official Records of said County, more particularly described as follows:

Beginning at a point on the easterly line of said Parcel Two, also being the westerly line of Venadero Road, said point being the southerly terminus of the course described as South 27° 27' 00" East, 59.46 feet on said document; thence from said Point of Beginning and departing said easterly line

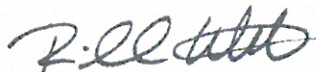
- 1) North 86° 06' 54" West, 5.30 feet; thence
- 2) South 3° 12' 54" West, 26.01 feet, thence
- 3) South 63° 48' 37" West, 23.34 feet to a point on the southerly line of said Parcel Two, said line also being the northerly line of 17 Mile Drive; thence along the boundary of said Parcel Two
- 4) Northeasterly 56.81 feet along the arc of a curve to the left having a radius of 25.00 feet, the center of which bears North 12° 44' 29" East, through a central angle of 130° 11' 29" to the Point of Beginning

Containing an area of 307 square feet, more or less.

Attached hereto is a plat to accompany legal description, and by this reference made a part hereof

END OF DESCRIPTION

PREPARED BY:
WHITSON ENGINEERS



RICHARD P. WEBER P.L.S.
L.S. NO. 8002
Job No.: 3592.00



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PARCEL TWO
DOC:2015008300

VENADERO ROAD
(A PRIVATE ROAD)

S27°21'00"E
59.46'

N86°06'54"W 5.30'

S3°12'54"W 26.01'

N12°44'29"E 25.00'(R)

S63°48'37"W 23.34'

N77°15'31"W 169.33'

17 MILE DRIVE
(A PRIVATE ROAD)

POINT OF BEGINNING

$\Delta=130°11'29"$

R=25.00'

L=56.81'

EASEMENT AREA
307 SQ. FT. ±



SCALE: 1" = 40'

PLAT OF EASEMENT

PENN RESIDENCE

PEBBLE BEACH, CALIFORNIA
5/15/2020



Whitson
ENGINEERS

Civil Engineering +
Land Surveying
6 Harris Court
Monterey, CA 93940
831.649.5225
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