

Attachment A

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DRAFT RESOLUTION FOR PLN190252

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

In the matter of the application of:

KOSTIGEN GREGORY & DONNA STARKS TRS (PLN190252)

RESOLUTION NO. 22-

Resolution by the Monterey County Board of Supervisors
to:

- 1) Find that the project involves construction of three retaining walls and installation of drainage culvert improvements, and acceptance of an amended Conservation and Scenic Easement Deed, which qualifies as a Class 3 and Class 17 Categorical Exemption pursuant to Section 15303 and 15317 of the CEQA Guidelines and no exceptions under Section 15300.2 apply;
- 2) Accept the Amended Conservation and Scenic Easement Deed for the Kostigen & Starks TRS property;
- 3) Direct the Clerk of the Board to submit the amended Conservation and Scenic Easement Deed and Map to the County Recorder for recording with all applicable recording fees paid by the applicant; and
- 4) Approve an after-the-fact Coastal Development Permit and Design Approval to partially clear Code Enforcement violation (19CE00007) to allow development on slopes exceeding 30%, the construction of three retaining walls, and the installation of drainage culvert improvements.

[PLN190252, Kostigen Gregory & Donna Starks TRS,
24956 Lincoln Street, Carmel, Carmel Area Land Use
Plan, Coastal Zone (APN: 009-122-026-000)]

The KOSTIGEN GREGORY & DONNA STARKS application (PLN190252) came on for a public hearing before the Monterey County Board of Supervisors on January 25, 2022. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, including the conditions of approval (Attachment A.1) and project plans (Attachment A.2), the Monterey County Board of Supervisors finds and decides as follows:

FINDINGS AND EVIDENCE

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

- EVIDENCE:** a) During the course of review of this application, the project has been reviewed for consistency with the text, policies, and regulations in:
- the 1982 Monterey County General Plan;
 - Carmel Area Plan/Land Use Plan;
 - Carmel Coastal Implementation Plan (CIP)
 - Monterey County Zoning Ordinance (Title 20).

No conflicts were found to exist. No communications were received during the course of review of the project indicating any inconsistencies with the text, policies, and regulations in these documents. The subject property is located within the Coastal Zone; therefore, the 2010 Monterey County General Plan does not apply.

- b) Process. In September 2017, the applicants constructed three retaining walls to help stabilize the foundation of a single-family dwelling and installed a 24” double wall pipe with rock gabion energy dissipations systems to help control and slow the flow of the stormwater runoff that was conveyed on the northern portion of their property in a natural drainage culvert. This work was unpermitted. Installation of the retaining walls and the 24” pipe did not adversely change the drainage course of the culvert as the new pipe still conveys and releases stormwater into the natural culvert as it descends west on the subject property.

In May 2019, the Resource Management Agency (now Housing and Community Development) Code Compliance Division cited the property for development on slopes exceeding 30 percent and for construction of retaining walls without a Coastal Development Permit and Design Approval, as required by Monterey County Code. This after-the-fact Coastal Development Permit and Design Approval will partially abate the code violation (19CE00007) on the property. Issuance and final of a Building Permit will still be required after planning approval to clear the violation. Once this permit is approved, and together with the subsequent issuance and final of a building permit, the subject property will achieve compliance with all zoning and building regulations and the violation case will be closed. Abatement costs were paid but double fees were not invoiced because the drainage culvert improvements enhance the neighborhood’s drainage system and the original work may have qualified for an emergency permit.

- c) Project. The project consists of an after-the-fact Coastal Development Permit and Design Approval to allow development on slopes exceeding 30 percent and to allow the construction of three retaining walls and the installation of structural improvements within an existing natural drainage culvert. These drainage culvert improvements included the installation of a 24-inch High-Density Polyethylene (HDPE) double wall pipe and two rock filled gabion baskets at the western end of the pipe. HDPE pipes are typically used for municipal and industrial water systems. Construction of the retaining walls and the installation of drainage culvert improvements were unpermitted corrective measures to address the erosion and foundation stability concerns that the subject property was facing. The subject lot also contains a natural drainage culvert that collects stormwater from a City of Carmel storm drain and

conveys the runoff towards Pescadero Canyon. This drainage culvert runs north to west on the subject property and is located primarily in the Conservation and Scenic Easement, which was conveyed to the County of Monterey in 1983. The drainage culvert is approximately 2.5 feet to 3.5 feet north of the existing single-family dwelling. The existing retaining wall separates the single-family dwelling from the drainage culvert.

During planning review, staff discovered that a portion of the unpermitted retaining walls and drainage culvert improvements are located within the Conservation and Scenic Easement area. The recorded Conservation and Scenic Easement deed states that no structures shall be allowed or constructed within the easement boundaries. Therefore, the un-permitted retaining walls (3) and drainage culvert improvements are not allowed without amending this restriction. The existing single-family dwelling, approved in 1994 under Planning Commission Resolution No. 94156, included the removal of three Monterey Pines, a permit to allow parking within the front setback, development on slopes exceeding 30 percent, and a single retaining wall (“deflection wall”). This deflection wall (not included in the Code Violation Case) is approximately 32 linear feet, parallels the drainage culvert, and was constructed in conjunction with the single-family dwelling. Although this deflection wall was allowed under the previously approved Combined Development Permit (Resolution No. 94156), HCD staff has discovered that a portion of the structure (approximately 7.5 feet) is located within the Conversation and Scenic Easement area. Approval of the proposed amended Conservation and Scenic Easement Deed will partially abate the code violation (19CE00007) and allow the existing retaining wall to remain as is. The amended easement for consideration by the Board of Supervisors would change the deed language to allow “*repairs and maintenance to the drainage culvert for slope stability and conveyance of stormwater, subject to approval of an appropriate discretionary permit in each case.*” Also see Finding 1, evidence “h.”

- d) Allowed Use. The property is located at 24956 Lincoln Street, Carmel, Carmel Area Land Use Plan (APN: 009-122-026-000). The parcel is zoned Medium Density Residential, 2 units per acre with a Design Control Overlay within the Coastal Zone or “MDR/2-D(CZ).” Development on slopes exceeding 30 percent, subject to granting of a Coastal Development permit, is an allowed use to Monterey County Code (MCC) Section 20.12.030.C. The Design Control zoning overlay requires the granting of a Design Approval for the construction of the retaining walls. Therefore, the project is an allowed land use for this site. Pursuant to MCC 20.82.030.B, the Planning Commission shall act as the recommending body to the Board of Supervisors when said Board is the Appropriate Authority for the Combined Development Permit. Although this project does not require a combined development permit, it does require acceptance of an Amended Conservation and Scenic Easement Deed for which the Board of Supervisors is the appropriate authority. The Planning Commission, at a duly noticed public hearing

on December 1, 2021, recommended approval of the project as constructed.

- e) Lot Legality. The subject parcel, Parcel A, was created as a result of a minor subdivision (MS 82-5) of Lot 13, Block 150 of Carmel Woods; Rancho El Pescadero. This minor subdivision was recorded in 1983 in Volume 15 of Parcel Maps, Page 154.
- f) Design/Neighborhood and Community Character. Pursuant to MCC Section 20.44.010, the project site and surrounding area are designated as a Design Control District (D 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 consists of a black 24-inch pipe, which is primarily covered by soil and tree litter, and grey (cinder block) retaining walls that have been tarnished by weather. The applicant intends to fully cover the pipe with soil after the approval of this project. The project is consistent with the residential setting and neighborhood characteristics and blends with the surrounding environment.
- g) Visual Resources/Public Viewshed. The subject parcel is located in the general viewshed, as illustrated in Map A of the Carmel Area Land Use Plan. The project is not visible from a designated scenic corridor or major public viewing area (Section 20.146.020.Z of the Carmel Coastal Implementation Plan (CIP)) due to topography, existing vegetation, and project siting. As designed and conditioned, the project is consistent with CIP Section 20.146.030 relating to viewshed.
- h) Conservation and Scenic Easement. The subject parcel was created as a result of a minor subdivision (MS 82-5; Board of Supervisors Resolution No. 82-43) of Lot 13, Block 150 of Carmel Woods; Rancho El Pescadero. MS 82-5 involved a Coastal Development Permit to allow the division of a 13,936 square foot legal lot of record into two legal lots of record containing 6,920 square feet (Parcel A; subject lot) and 7,016 square feet (Parcel B; south of subject lot). A negative declaration was prepared for this minor subdivision and identified potentially significant impacts to biological resources and geology/soils. Therefore, and in accordance with the Carmel Area Land Use Plan and Carmel CIP, the applicant was required to convey a Conservation and Scenic Easement over a portion of both parcels to the County to protect nearby stands of Monterey Pines and to reduce the risk of geologic and erosion hazards by restricting development on slopes exceeding 30%. Amending the Conservation and Scenic Easement deed to allow structures providing repairs and maintenance to the drainage culvert for slope stability and conveyance of stormwater maintains the preservation and conservation of the resources on site and meets the intent of Board of Supervisors condition (Condition No. 3 of Resolution No. 82-43), which required the establishment of this easement. Also see Finding 1, evidence “i” and “j.”

The existing retaining (deflection) wall separates the single-family dwelling from the drainage culvert. This separation provides erosion control measures by deflecting the runoff away from the single-family dwelling and by providing stability to the single-family dwelling’s

foundation. Without this deflection wall, the runoff has the potential to be directed towards the single-family dwelling rather than away from it. Therefore, the existing deflection wall meets the structure exception notated in the proposed amended easement deed. As indicated in the prepared geotechnical report, the unpermitted retaining walls constructed below the existing deflection wall, are providing support to the deflection wall and the foundation of the single-family dwelling and improve protections from erosion. Therefore, the three retaining walls also meet the exception requirements of the proposed amended easement. Finally, the installation of the 24-inch pipe and two gabion energy dispersion systems are considered maintenance to the drainage culvert since they improve its functionality, and therefore meet the proposed amended exception requirement of the easement deed.

- i) Restoration to Pre-Violation. The residence to the west of the subject property has a similar drainage system to the one included in this project; it consists of a 24-inch pipe to control and collect the runoff from the subject drainage culvert. The pre-violation condition of this culvert consisted of bricks, broken cinder blocks, and various rocks. The erosion and sediment that was conveyed down this natural culvert often caused a blockage in the neighbor's drainage pipe and hence, resulted in flooding of their property and public safety concerns. According to the applicant, installation of the subject property's pipe and gabion systems has solved this issue. Additionally, as stated in the prepared geotechnical report, the three retaining walls are providing support to the existing deflection wall, the culvert, and the foundation of the single-family dwelling. For these reasons, restoration of the property to its pre-violation condition is not feasible because without the retaining walls and the drainage culvert improvements, the safety of the single-family dwelling and adjacent residences may be compromised.
- j) Environmentally Sensitive Habitat Areas (ESHA). The Conservation and Scenic Easement was conveyed to the County to protect habitat areas and restrict development on slopes exceeding 30 percent. This easement is located on the western portion (approximately 40 percent) of the subject parcel and continues south into the adjoining parcel. In accordance with section 20.146.040.A of the Carmel CIP, a biological assessment was prepared for the subject site (LIB210148). According to the report, although the subject property is in a Monterey Pine dominated residential community, there was no evidence of ESHA or protected special status occurrence. The report noted that non-native acacia trees are the most common tree species occurring around the project site. Additionally, the biological assessment concluded that no ESHA or protected status species were adversely impacted during construction and installation of the subject project. Therefore, amending the Conservation and Scenic Easement Deed to allow the unpermitted retaining walls and drainage culvert improvements, and the existing deflection wall will not reduce the easement's effectiveness of protecting the parcel's natural habitat.
- k) Slopes Exceeding 30 percent. Most of the lot consists of slopes exceeding 30 percent because of the subject property's proximity to Pescadero Canyon. All neighboring parcels to the north and west also

contain slopes exceeding 30 percent. Therefore, and in this case, development of the retaining walls on slopes exceeding 30 percent was unavoidable. The project is properly sited and located in the most feasible location. A geotechnical report was prepared for the subject property (LIB210083). This report concluded that 1) the retaining walls are necessary to support the culvert, the existing deflection wall, and the foundation of the residence; 2) the 24-inch drain pipe reduces the volume of uncontrolled runoff which tends to cause erosion; 3) the gabion energy dissipation structures are required to reduce the discharge velocity and guide the runoff in the proper direction; and 4) the since the construction/installation in 2017, the project has performed adequately and no future construction will be necessary. However, if future maintenance to the culvert or construction of structures providing slope stability are needed, separate discretionary review and approval of an appropriate entitlement may be required.

- l) Public Concern. This project was scheduled for the September 8, 2021 Planning Commission but was continued to a date uncertain due to public concern. Staff received correspondence from the neighbor, Mr. Boghosian, who owns property to the north of the subject site. Mr. Boghosian's concerns revealed that a portion of the development was not constructed on the Kostigen's property (APN: 009-122-026-000). Approximately 3 square feet of the inlet riprap (cemented rocks) were constructed on the neighbor's property. Mr. Boghosian did not approve of the development on his property (APN: 009-122-023-000) and therefore, the applicants were required to remove the portion of riprap on the neighbor's property as determined by a boundary survey. Staff received a letter from Grice Engineering, dated September 7, 2021, concluding that removal of the riprap, which Grice Engineering refers to as the 'inlet apron,' encroaching onto the neighbor's property would not cause "significant change to the function of the improvements." On October 25, 2021, the applicants removed the portion of riprap on Mr. Boghosian's property. The project planner conducted a second site visit on October 28, 2021 to verify that all development is located entirely on the subject property (APN: 009-122-026-000).
- m) Cultural Resources. Carmel CIP section 20.146.090.B.1 states that an archaeological survey report shall be required for all development in a high archaeological sensitivity zone or within 750 feet from a known archaeological resource. According to the Monterey County Geographic Informational System (GIS), the subject property has a high archaeological sensitivity and is also within 750 feet of a known archeological resource. An archeological report (LIB210114), dated March 1988, was prepared by Gary Breschini and Charles Smith for the development of the subject parcel's single-family dwelling. The report concluded that there is no surface evidence of potentially significant archaeological resources. Construction of the retaining walls required minimal ground disturbance; thus, the potential for inadvertent impacts to cultural resources was limited.
- n) Land Use Advisory Committee (LUAC) Review. The project was referred to the Carmel Unincorporated/Highlands Land Use Advisory Committee (LUAC) for review. The LUAC, at a duly-noticed public

meeting on June 7, 2021, voted 5 – 0, with one member absent and one member abstaining, to support the project with changes. During the meeting, the LUAC members expressed their concerns about the structural integrity of the retaining walls and requested that the County approve of the engineering aspect of the project. Staff commented that the prepared geotechnical report indicates that the project is performing adequately. The subject retaining walls are load-bearing and therefore require a construction permit. HCD-Building Services will review the engineering of the project.

- o) Sphere of Influence. The subject property is located in the City of Carmel-by-the-Sea’s sphere of influence. On July 21, 2021, Staff sent the City’s planning department a copy of the application and plans. Their planning department had no comments. Staff did not receive a response from their Public Works department.
- p) Abatement of Violation. This after-the-fact Coastal Development Permit and Design Approval will partially abate the zoning violation (19CE00007) on the subject property. Also see Finding 4 and supporting evidence.
- q) The project planner conducted a site inspection on June 30, 2021 and October 28, 2021, to verify that the project on the subject parcel conforms to the plans listed above.
- r) The application, project plans, and related support materials submitted by the project applicant to Monterey County HCD-Planning found in Project File PLN190252.

2. FINDING: **SITE SUITABILITY** – The site is physically suitable for the development and/or use.

- EVIDENCE:**
- a) The project has been reviewed for site suitability by the following departments and agencies: HCD-Planning, PWF&P-Public Works, HCD-Environmental Services, Environmental Health Bureau, and Cypress Fire Protection District. County staff reviewed the application materials and plans to verify that the project on the subject site conforms to the applicable plans and regulations, and there has been no indication from these departments/agencies that the site is not suitable for the development. Conditions recommended have been incorporated.
 - b) Staff identified potential impacts to geological hazards, cultural resources and biological resources. The following reports have been prepared:
 - “Preliminary Cultural Resources Reconnaissance” (LIB210114) prepared by Gary Breschini and Charles Smith, Salinas, California, March 21, 1988.
 - “Biological Impact Assessment” (LIB210148) prepared by Rob Thompson, Monterey, California, July 17, 2021.
 - “Geotechnical Report” (LIB210083) prepared by Lawrence Grice, Salinas, California, March 26, 2021
 - “Reduction of Inlet Apron” letter prepared by Lawrence Grice, Salinas, California, September 7, 2021

County staff independently reviewed these reports and concurs with their conclusions. There are no physical or environmental constraints

that would indicate that the site is not suitable for the use. All development shall be in accordance with these reports.

- c) Staff conducted a site inspection on July 30, 2021 and October 28, 2021, to verify that the site is suitable for this use.
- d) The application, project plans, and related support materials submitted by the project applicant to Monterey County HCD-Planning found in Project File PLN190252.

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 HCD-Planning, PWF&P-Public Works, HCD-Environmental Services, Environmental Health Bureau, and Cypress Fire Protection District. 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) Necessary public facilities are provided. Potable water for the single-family dwelling is being provided by Cal-Am. Carmel Wastewater Management District is providing wastewater service. No additional services are needed for the drainage improvements and the drainage system itself accommodates stormwater runoff from within the vicinity of the property.
 - c) The project consists of improvements to the existing natural drainage culvert. Although no public correspondence was received, drainage in this neighborhood has been a concern in the past. The project will help to reduce and control the velocity and direction of the runoff. As indicated by the geotechnical report, the project is necessary to prevent future erosion from occurring on the subject parcel.
 - d) Staff conducted a site inspection on July 7, 2021 and October 28, 2021, 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 HCD-Planning found in Project File PLN190252.

4. FINDING: NO VIOLATIONS – Approval of this after-the-fact Coastal Development Permit and Design Approval will bring the subject property partially into compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of the County’s zoning ordinance.

- EVIDENCE:**
- a) Staff reviewed Monterey County HCD-Planning and HCD-Building Services records and is aware of one violation existing on the subject property (19CE00007). Corrective actions provided in the notice of violation included obtaining necessary permits from Monterey County – Housing and Community Development (HCD) for the unpermitted

development or obtaining necessary permits from HCD to restore the site to its pre-violation state.

- b) The site is unable to be restored to its pre-violation state, and therefore, the applicants seek approval of an after-the-fact Combined Development Permit. This after-the-fact Coastal Development Permit and Design Approval will partially abate the code violation (19CE00007) on the property regarding the Planning permits required. Once this permit is approved, and together with the subsequent issuance and final of a building permit, the subject property will comply with all zoning and building regulations and the violation case will be closed. Condition No. 4 (Permit Expiration) has been applied to this project to ensure that the applicants obtain the final on their applied for building permit (21CP02570) in a timely manner. Obtaining the final on the associated building permit will fully abate the violation (19CE00007).
- c) Staff conducted a site inspection on July 30, 2021 and October 28, 2021, and researched County records to assess if any violation exists on the subject property.
- d) The application, project plans, and related support materials submitted by the project applicant to Monterey County HCD-Planning found in Project File PLN190252.

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

- EVIDENCE:**
- a) California Environmental Quality Act (CEQA) Guidelines section 15303 and 15317, categorically exempts the construction and installation of new, small structures, and easements that maintain open space character of an area. The acceptance of the amended Conservation and Scenic Easement Deed is consistent with this exemption.
 - b) The construction of three retaining walls, the installation of drainage culvert improvements, and acceptance of the amended Conservation and Scenic Easement Deed are consistent with these exemptions.
 - c) None of the exceptions under CEQA Guidelines section 15300.2 apply to this project. There is no significant effect on the environment due to unusual circumstances. The Project is not located in a sensitive environment. There is no cumulative impact, as there are no prior successive projects of the same type in the same place, over time. Additionally, no new land use is proposed. The site is not included on any hazardous waste site list compiled pursuant to Government Code section 65962.5. No known historical resources are found in the geotechnical or archaeological reports that may cause a substantial adverse change in the significance of a historical resource. Finally, the project is not visible from an officially designated scenic highway.
 - d) No adverse environmental effects were identified during staff review of the development application during a site visit on July 30, 2021 and October 28, 2021.
 - e) See supporting evidence in Finding Nos. 1 and 2. The application, project plans, and related support materials submitted by the project applicant to Monterey County HCD-Planning found in Project File PLN190252.

- 6. 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 applicable Local Coastal Program, and does not interfere with any form of historic public use or trust rights.
- EVIDENCE:**
- a) No public access is required as part of the project as no substantial adverse impact on access, either individually or cumulatively, as described in Section 20.147.130 of the Monterey County Coastal Implementation Plan can be demonstrated.
 - b) No evidence or documentation has been submitted or found showing the existence of historic public use or trust rights over this property.
 - c) The subject property is not described as an area where the Local Coastal Program requires public access, as shown in Figure 3, of the Public Access Map and complies with the Carmel Area Land Use Plan.
 - 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 (Carmel Area Land Use Plan Policy 5.3.3.4.a).
 - e) The application, project plans, and related support materials submitted by the project applicant to Monterey County HCD-Planning found in Project File PLN190252.
- 7. FINDING:** **APPEALABILITY** – The decision on this project may be appealed to the Coastal Commission.
- EVIDENCE:**
- a) Coastal Commission. Pursuant to Title 20, Section 20.86.080.A, the project is subject to appeal by/to the California Coastal Commission (CCC) because it involves development between the first public road and the sea.

DECISION

NOW, THEREFORE BE IT RESOVED, based on the above findings and evidence, and the administrative record as a whole, that the Board of Supervisors does hereby:

- 1) Find that the project involves construction of three retaining walls and installation of drainage culvert improvements, and acceptance of an amended Conservation and Scenic Easement Deed, which qualifies as a Class 3 and Class 17 Categorical Exemptions pursuant to Section 15303 and 15317 of the CEQA Guidelines and no exceptions under Section 15300.2 apply;
- 2) Accept the Amended Conservation and Scenic Easement Deed for the Kostigen & Starks TRS property;
- 3) Direct the Clerk of the Board to submit the amended Conservation and Scenic Easement Deed and Map to the County Recorder for recording with all applicable recording fees paid by the applicant; and
- 4) Approve an after-the-fact Coastal Development Permit and Design Approval to partially clear Code Enforcement violation (19CE00007) to allow development on slopes exceeding 30%, the construction of three retaining walls, and the installation of drainage culvert improvements.

All of which are in general conformance with the attached plan set (Attachment A.2) and subject to the attached conditions (Attachment A.1), all being attached hereto and incorporated herein by reference.

PASSED AND ADOPTED upon motion of Supervisor _____, seconded by Supervisor _____, and carried this 25th day of January, 2022, by the following vote to wit:

AYES:
NOES:
ABSENT:
ABSTAIN:

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof Minute Book _____ for the meeting on May 5, 2020.

Date:
File Number:

Valerie Ralph, Clerk of the Board of Supervisors
County of Monterey, State of California

By _____
Deputy

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Attachment A.1
Conditions of Approval

PLN190252

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Monterey County RMA Planning

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

PLN190252

1. PD001 - SPECIFIC USES ONLY

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: This After-the-fact Coastal Development Permit and Design Approval to partially clear Code Enforcement violation (19CE00007) allows development on slopes exceeding 30% and the construction of three retaining walls and the installation of drainage culvert improvements. This project also consists of an amended Conservation and Scenic Easement deed. The property is located at 24956 Lincoln Street, Carmel (Assessor's Parcel Number 009-122-026-000), Carmel Land Use Plan, Coastal Zone. 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 HCD - Planning. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. To the extent that the County has delegated any condition compliance or mitigation monitoring to the Monterey County Water Resources Agency, the Water Resources Agency shall provide all information requested by the County and the County shall bear ultimate responsibility to ensure that conditions and mitigation measures are properly fulfilled. (HCD - Planning)

Compliance or Monitoring Action to be Performed: The Owner/Applicant shall adhere to conditions and uses specified in the permit on an 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:
"An after-the-fact Coastal Development Permit and Design Approval (Resolution Number _____) was approved by the Board of Supervisors for Assessor's Parcel Number 009-122-026-000 on January 25, 2022. The permit was granted subject to 4 conditions of approval which run with the land. A copy of the permit is on file with Monterey County HCD - Planning."

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

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

3. CC01 INDEMNIFICATION AGREEMENT

Responsible Department: County Counsel-Risk Management

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

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

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

4. PD032(A) - PERMIT EXPIRATION

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: The permit shall be granted for a time period of 2 years, to expire on September 28, 2023 unless the building permit has been cleared within this period. (HCD-Planning)

Compliance or Monitoring Action to be Performed: Prior to the expiration date stated in the condition, the Owner/Applicant shall obtain a valid building permit to the satisfaction of the HCD-Director of Planning. Any request for extension must be received by HCD-Planning at least 30 days prior to the expiration date.

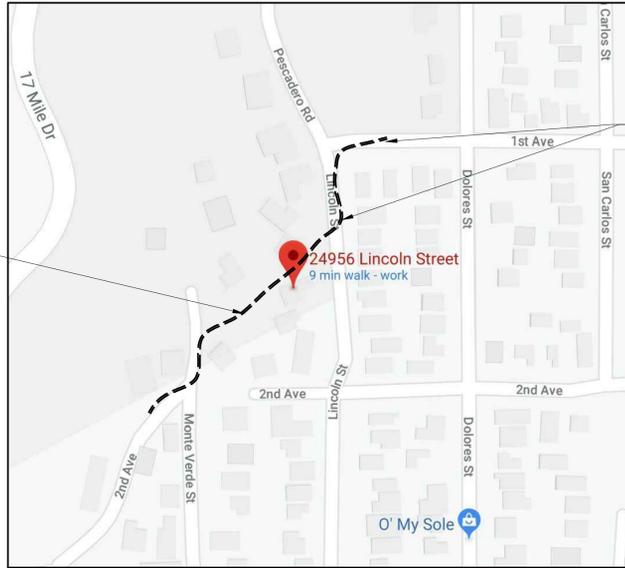
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Attachment A.2
Site Plan and Elevations

PLN190252

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Use of these plans and specifications shall be restricted to the original job for which they were prepared and publication thereof is prohibited. This and the plans and specifications remain the property of the architect without prejudice. When stated with these plans and specifications shall constitute part of the contract. No reliance of the association of these conditions.



VICINITY MAP SHOWING EXISTING DRAINAGE SYSTEM LEADING THROUGH THE KOSTIGEN PROPERTY

APPROX. LOCATION OF STORM DRAINAGE SYSTEM COLLECTING STORM WATER RUNOFF FROM LINCOLN ST, 1ST AVE AND BEYOND - UPSLOPE FROM THE KOSTIGEN RESIDENCE

SCOPE OF WORK

INSTALL GRAVITY WALLS (UNDER 4'-0" HEIGHT) AND 24" DRAINAGE CULVERT TO PROTECT OWNERS HOUSE FOUNDATION FROM EROSION AND PROPERTY DAMAGE DUE TO CITY/COUNTY STORM WATER DRAINAGE SYSTEM

DRAWING LIST

- A-1 COVER SHEET, EXISTING SITEPLAN (PRIOR TO IMPROVEMENTS)
- A-2 PROPOSED SITEPLAN
- A-3 ELEVATIONS AND SECTIONS

PROJECT DATA

OWNER	GREG & DONNA KOSTIGEN 24956 LINCOLN ST . CARMEL, CALIFORNIA, 93923
ARCHITECT	THOMAS RETTENWENDER, ARCHITECT PO BOX 6451 CARMEL CA 93921 Tel. 831-920-8333 THOMAS@ECOLOGICDESIGNLAB.COM
GEOTECHNICAL ENGINEER	GRICE ENGINEERING INC 561A BRUNKEN AVE SALINAS CA 93901 GRICEENGINEERING@SBCGLOBAL.NET
PROPERTY ADDRESS	24956 LINCOLN ST . CARMEL, CALIFORNIA, 93923
APN	009-122-026-000
ZONING	MDR/2-D(CZ)



EXISTING MONTEREY COUNTY STORM WATER DRAINAGE CHANNEL DOWNSLOPE FROM THE KOSTIGEN RESIDENCE AT THE PROPERTY BOUNDARY



EXISTING MONTEREY COUNTY MAINTAINED STORM WATER DRAINAGE CHANNEL CAUSING SEVERE EROSION AND DAMAGE TO BUILDING FOUNDATIONS.

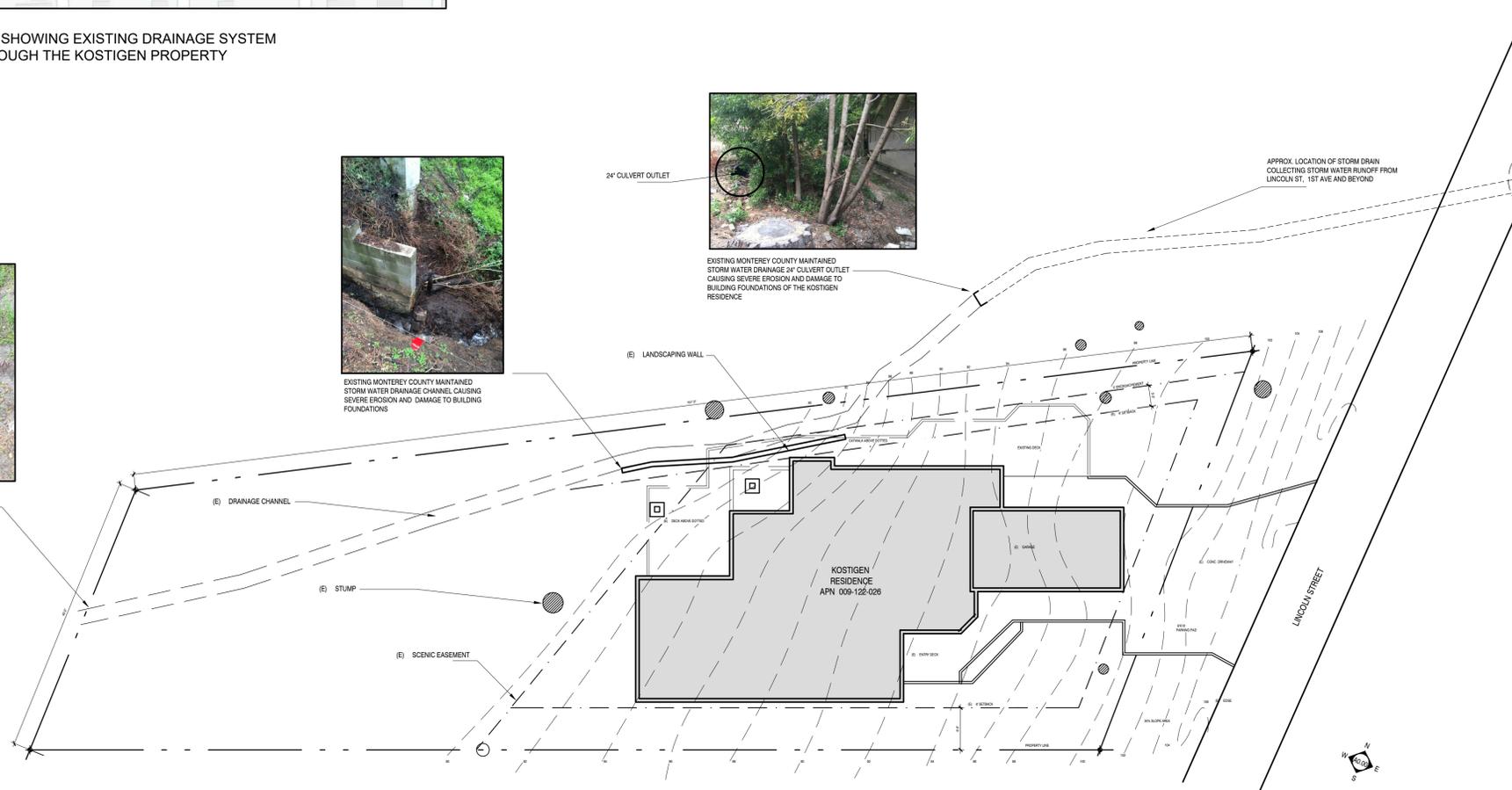


24" CULVERT OUTLET

EXISTING MONTEREY COUNTY MAINTAINED STORM WATER DRAINAGE 24" CULVERT OUTLET CAUSING SEVERE EROSION AND DAMAGE TO BUILDING FOUNDATIONS OF THE KOSTIGEN RESIDENCE



APPROX. LOCATION OF STORM DRAIN COLLECTING STORM WATER RUNOFF FROM LINCOLN ST, 1ST AVE AND BEYOND - UPSLOPE FROM THE KOSTIGEN RESIDENCE



EXISTING DRAINAGE SYSTEM (PRIOR TO IMPROVEMENTS) SHOWING STRUCTURAL DAMAGE DUE TO COUNTY/CITY MAINTAINED STORMWATER DRAINAGE SYSTEM



DATE	9/02/20
SCALE	3/32" = 1'-0"
DRAWN BY	TR
JOB NUMBER	# 1930

TITLE EXISTING DRAINAGE SYSTEM (PRIOR TO IMPROVEMENTS)

KOSTIGEN RESIDENCE GRAVITY WALL

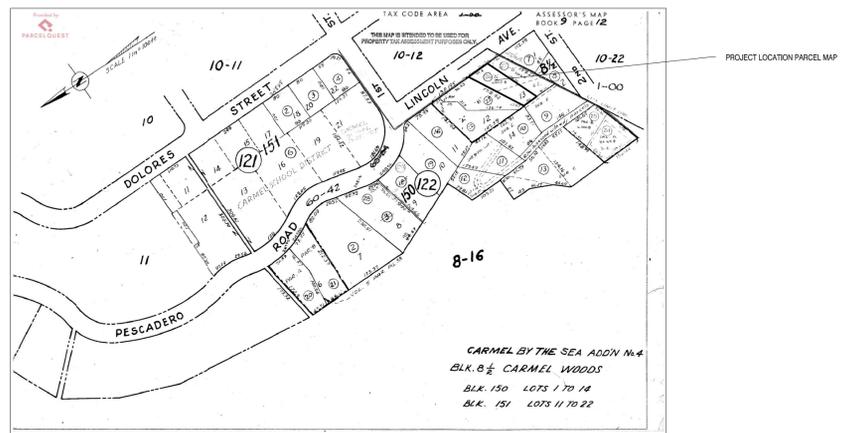
24956 LINCOLN ST. CARMEL CA 93923



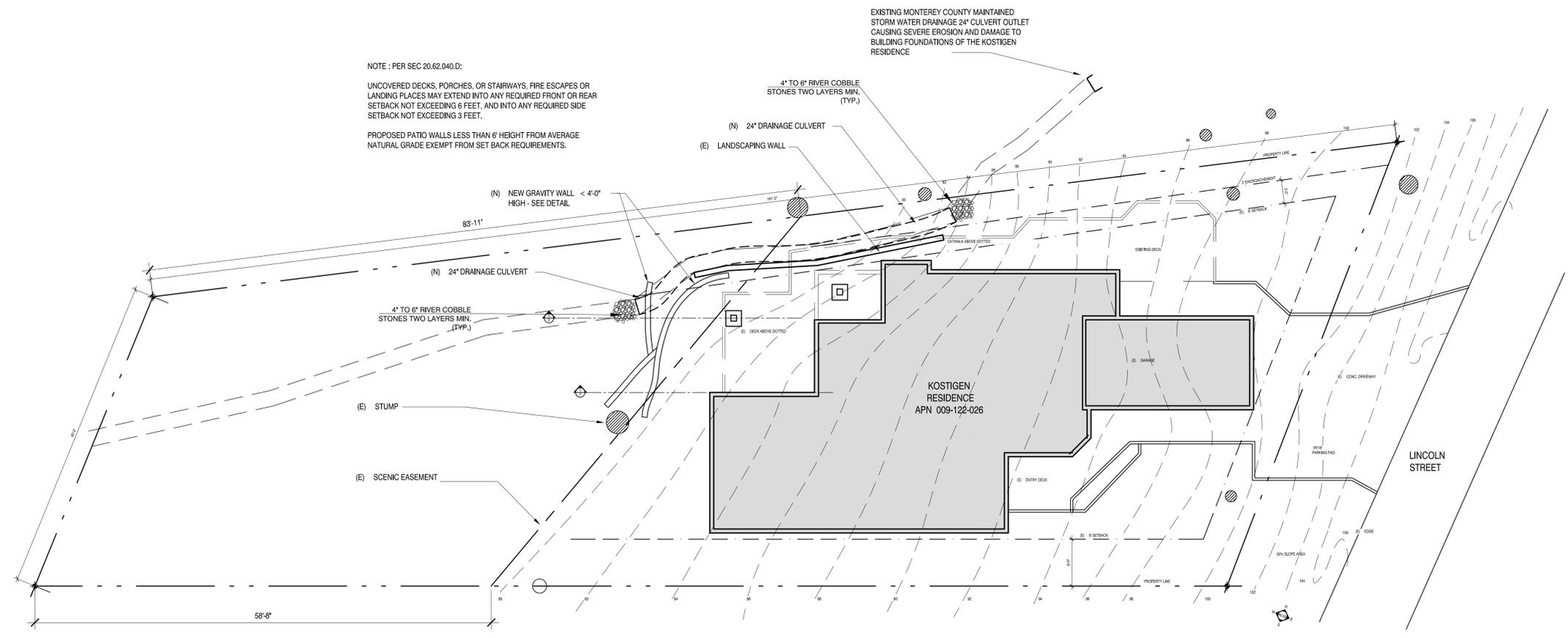
Thomas Rettenwender, Architect
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SHEET	A-1
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NOTE: PER SEC 20.62.040.D:
 UNCOVERED DECKS, PORCHES, OR STAIRWAYS, FIRE ESCAPES OR LANDING PLACES MAY EXTEND INTO ANY REQUIRED FRONT OR REAR SETBACK NOT EXCEEDING 6 FEET, AND INTO ANY REQUIRED SIDE SETBACK NOT EXCEEDING 3 FEET.
 PROPOSED PATIO WALLS LESS THAN 6' HEIGHT FROM AVERAGE NATURAL GRADE EXEMPT FROM SET BACK REQUIREMENTS.



DATE 12/10/20
 SCALE
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 JOB NUMBER # 1930

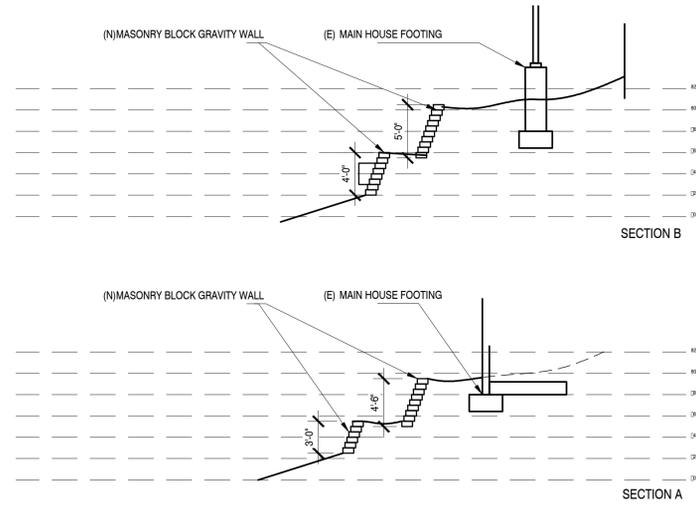
TITLE
PROPOSED SITEPLAN
KOSTIGEN RESIDENCE GRAVITY WALL
 24956 LINCOLN ST, CARMEL CA 93923



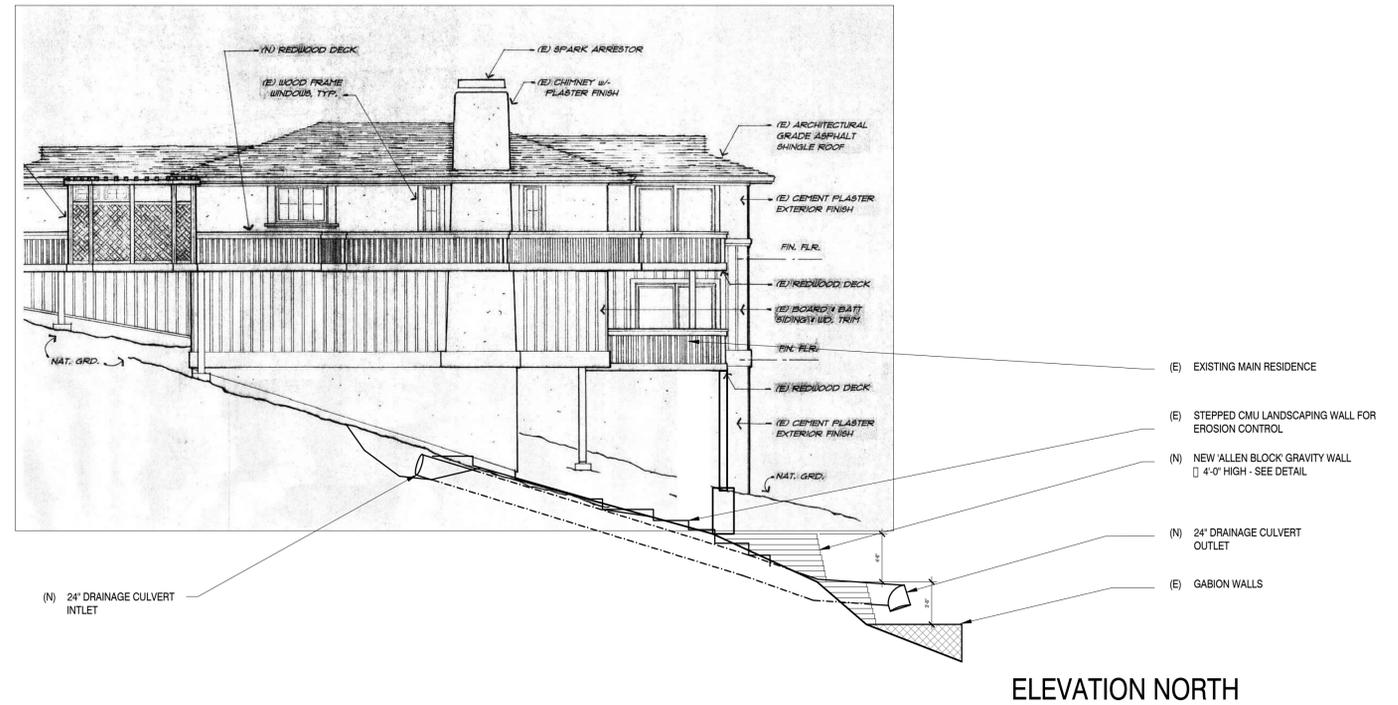
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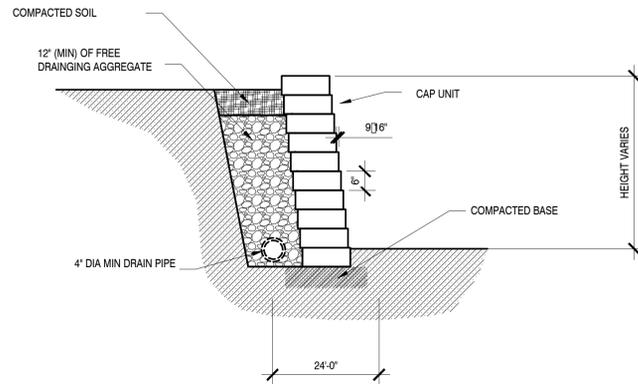
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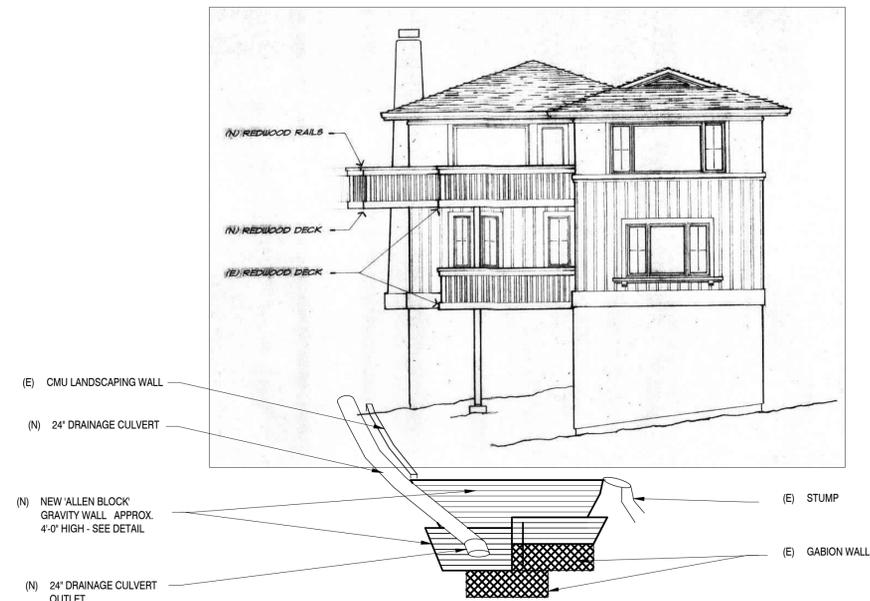
CROSS SECTIONS
NOT TO SCALE



ELEVATION NORTH



TYPICAL SECTION
NOT TO SCALE



ELEVATION WEST



DATE 12/1/20
SCALE
DRAWN BY
JOB NUMBER # 1930

TITLE
PROPOSED ELEVATIONS AND SECTIONS
KOSTIGEN RESIDENCE GRAVITY WALL
24956 LINCOLN ST. CARMEL CA 93923



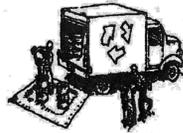
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CONSTRUCTION BEST MANAGEMENT PRACTICES (BMPs)

Construction Projects Are Required to Implement the Stormwater Best Management Practices (BMP) on this Page, as they Apply to Your Project, All Year Long.



MATERIALS & WASTE MANAGEMENT

Non-Hazardous Materials

- Berm and cover stockpiles of sand, dirt or other construction material with tarps when rain is forecast or if not actively being used within 14 days.
- Use (but don't overuse) reclaimed water for dust control.

Hazardous Materials

- Label all hazardous materials and hazardous wastes (such as pesticides, paints, thinners, solvents, fuel, oil, and antifreeze) in accordance with city, county, state and federal regulations.
- Store hazardous materials and wastes in water tight containers, store in appropriate secondary containment, and cover them at the end of every work day or during wet weather or when rain is forecast.
- Follow manufacturer's application instructions for hazardous materials and be careful not to use more than necessary. Do not apply chemicals outdoors when rain is forecast within 24 hours.
- Arrange for appropriate disposal of all hazardous wastes.

Waste Management

- Cover waste disposal containers securely with tarps at the end of every work day and during wet weather.
- Check waste disposal containers frequently for leaks and to make sure they are not overfilled. Never hose down a dumpster on the construction site.
- Clean or replace portable toilets, and inspect them frequently for leaks and spills.
- Dispose of all wastes and debris properly. Recycle materials and wastes that can be recycled (such as asphalt, concrete, aggregate base materials, wood, gyp board, pipe, etc.)
- Dispose of liquid residues from paints, thinners, solvents, glues, and cleaning fluids as hazardous waste.

Construction Entrances and Perimeter

- Establish and maintain effective perimeter controls and stabilize all construction entrances and exits to sufficiently control erosion and sediment discharges from site and tracking off site.
- Sweep or vacuum any street tracking immediately and secure sediment source to prevent further tracking. Never hose down streets to clean up tracking.



EQUIPMENT MANAGEMENT & SPILL CONTROL

Maintenance and Parking

- Designate an area, fitted with appropriate BMPs, for vehicle and equipment parking and storage.
- Perform major maintenance, repair jobs, and vehicle and equipment washing off site.
- If refueling or vehicle maintenance must be done onsite, work in a bermed area away from storm drains and over a drip pan big enough to collect fluids. Recycle or dispose of fluids as hazardous waste.
- If vehicle or equipment cleaning must be done onsite, clean with water only in a bermed area that will not allow rinse water to run into gutters, streets, storm drains, or surface waters.
- Do not clean vehicle or equipment onsite using soaps, solvents, degreasers, steam cleaning equipment, etc.

Spill Prevention and Control

- Keep spill cleanup materials (rags, absorbents, etc.) available at the construction site at all times.
- Inspect vehicles and equipment frequently for and repair leaks promptly. Use drip pans to catch leaks until repairs are made.
- Clean up spills or leaks immediately and dispose of cleanup materials properly.
- Do not hose down surfaces where fluids have spilled. Use dry cleanup methods (absorbent materials, cat litter, and/or rags).
- Sweep up spilled dry materials immediately. Do not try to wash them away with water, or bury them.
- Clean up spills on dirt areas by digging up and properly disposing of contaminated soil.
- Report significant spills immediately. You are required by law to report all significant releases of hazardous materials, including oil. To report a spill: 1) Dial 911 or your local emergency response number, 2) Call the Governor's Office of Emergency Services Warning Center, (800) 852-7550 (24 hours).



EARTHWORK & CONTAMINATED SOILS

Erosion Control

- Schedule grading and excavation work for dry weather only.
- Stabilize all denuded areas, install and maintain temporary erosion controls (such as erosion control fabric or bonded fiber matrix) until vegetation is established.
- Seed or plant vegetation for erosion control on slopes or where construction is not immediately planned.

Sediment Control

- Protect storm drain inlets, gutters, ditches, and drainage courses with appropriate BMPs, such as gravel bags, fiber rolls, berms, etc.
- Prevent sediment from migrating offsite by installing and maintaining sediment controls, such as fiber rolls, silt fences, or sediment basins.
- Keep excavated soil on the site where it will not collect into the street.
- Transfer excavated materials to dump trucks on the site, not in the street.
- Contaminated Soils
- If any of the following conditions are observed, test for contamination and contact the Regional Water Quality Control Board:
 - Unusual soil conditions, discoloration, or odor.
 - Abandoned underground tanks
 - Abandoned wells
 - Buried barrels, debris, or trash.



PAVING/ASPHALT WORK

- Avoid paving and seal coating in wet weather, or when rain is forecast before fresh pavement will have time to cure.
- Cover storm drain inlets and manholes when applying seal coat, tack coat, slurry seal, fog seal, etc.
- Collect and recycle or appropriately dispose of excess abrasive gravel or sand. Do NOT sweep or wash it into gutters.
- Do not use water to wash down fresh asphalt concrete pavement.

Sawcutting & Asphalt/Concrete Removal

- Completely cover or barricade storm drain inlets when saw cutting. Use filter fabric, catch basin inlet filters, or gravel bags to keep slurry out of the storm drain system.
- Shovel, absorb, or vacuum saw-cut slurry and dispose of all waste as soon as you are finished in one location or at the end of each work day (whichever is sooner!).
- If sawcut slurry enters a catch basin, clean it up immediately.



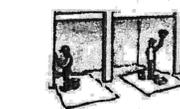
CONCRETE, GROUT & MORTAR APPLICATION

- Store concrete, grout and mortar under cover, on pallets and away from drainage areas. These materials must never reach a storm drain.
- Wash out concrete equipment/trucks offsite or in a contained area, so there is no discharge into the underlying soil or onto surrounding areas. Let concrete harden and dispose of as garbage.
- Collect the wash water from washing exposed aggregate concrete and remove it for appropriate disposal offsite.



LANDSCAPE MATERIALS

- Contain stockpiled landscaping materials by storing them under tarps when they are not actively being used.
- Stack erodible landscape material on pallets. Cover or store these materials when they are not actively being used or applied.
- Discontinue application of any erodible landscape material within 2 days before a forecast rain event or during wet weather.



PAINTING & PAINT REMOVAL

Painting cleanup

- Never clean brushes or rinse paint containers into a street, gutter, storm drain, or surface waters.
- For water-based paints, paint out brushes to the extent possible. Rinse to the sanitary sewer once you have gained permission from the local wastewater treatment authority. Never pour paint down a drain.
- For oil-based paints, paint out brushes to the extent possible and clean with thinner or solvent in a proper container. Filter and reuse thinners and solvents. Dispose of residue and unusable thinner/solvents as hazardous waste.

Paint Removal

- Chemical paint stripping residue and chips and dust from marine paints or paints containing lead or tributyltin must be disposed of as hazardous waste.
- Paint chips and dust from non-hazardous dry stripping and sand blasting may be swept up or collected in plastic drop cloths and disposed of as trash.



DEWATERING

- Effectively manage all run-on, all runoff within the site, and all runoff that discharges from the site. Divert run-on water from offsite away from all disturbed areas or otherwise ensure compliance.
- When dewatering, notify and obtain approval from the local municipality before discharging water to a street gutter or storm drain. Filtration or diversion through a basin, tank, or sediment trap may be required.
- In areas of known contamination, testing is required prior to reuse or discharge of groundwater. Consult with the Engineer to determine whether testing is required and how to interpret results. Contaminated groundwater must be treated or hauled off-site for proper disposal.

STORM DRAIN POLLUTERS MAY BE LIABLE FOR FINES OF UP TO \$10,000 PER DAY!

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TITLE CONSTRUCTION MANAGEMENT

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