

Attachment C

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NOTICE OF APPEAL

Monterey County Code

Title 19 (Subdivisions)

Title 20 (Zoning)

Title 21 (Zoning)

No appeal will be accepted until written notice of the decision has been given. If you wish to file an appeal, you must do so on or before Nov. 19, 2020 (10 days after written notice of the decision has been mailed to the applicant).

Date of decision: Nov. 9, 2020

1. Appellant Name: Pamela Silkwood, Representing Lilia Wojtak
Address: 26385 Carmel Kincho Blvd., Ste 200, Carmel,
Telephone: CA 93923 (831) 373-4131

2. Indicate your interest in the decision by placing a check mark below:

Applicant

Neighbor

Other (please state) _____

3. If you are not the applicant, please give the applicant's name:

La Resaca LLC

4. Fill in the file number of the application that is the subject of this appeal below:

	Type of Application	Area
a)	Planning Commission: PC- _____	_____
b)	Zoning Administrator: ZA- _____	_____
c)	Administrative Permit: AP- <u>20-049 (PLN160608-AMD)</u>	<u>Du Montex Forest (CB)</u>

Notice of Appeal

5. What is the nature of your appeal?

a) Are you appealing the approval or denial of an application? Approval

b) If you are appealing one or more conditions of approval, list the condition number and state the condition(s) you are appealing. (Attach extra sheet if necessary)

6. Place a check mark beside the reason(s) for your appeal:

There was a lack of fair or impartial hearing
The findings or decision or conditions are not supported by the evidence
The decision was contrary to law

7. Give a brief and specific statement in support of each of the reasons for your appeal checked above. The Board of Supervisors will not accept an application for an appeal that is stated in generalities, legal or otherwise. If you are appealing specific conditions, you must list the number of each condition and the basis for your appeal. (Attach extra sheets if necessary)

Please see the attachment.

8. As part of the application approval or denial process, findings were made by the decision-making body (Planning Commission, Zoning Administrator, or Chief of Planning). In order to file a valid appeal, you must give specific reasons why you disagree with the findings made. (Attach extra sheets if necessary)

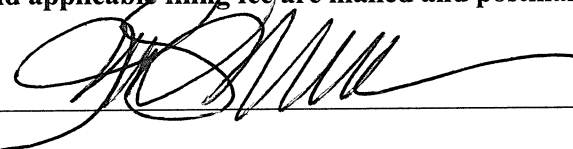
Please see the attachment.

9. You must pay the required filing fee of \$3,540.00 (make check payable to "County of Monterey") at the time you file your appeal. (Please note that appeals of projects in the Coastal Zone are not subject to the filing fee.)

10. Your appeal is accepted when the Clerk to the Board accepts the appeal as complete and receives the required filing fee. Once the appeal has been accepted, the Clerk to the Board will set a date for the public hearing on the appeal before the Board of Supervisors.

The appeal and applicable filing fee must be delivered to the Clerk to the Board or mailed and postmarked by the filing deadline to PO Box 1728, Salinas CA 93902. A facsimile copy of the appeal will be accepted only if the hard copy of the appeal and applicable filing fee are mailed and postmarked by the deadline.

APPELLANT SIGNATURE



Date:

11/19/2020

RECEIVED SIGNATURE

Date:



NOTICE OF APPEAL

To Administrative Interpretation of the Zoning Ordinance

Monterey County Code
Title 20.88 (Coastal Zoning)
Title 21.82 (Non-Coastal Zoning)

No appeal will be accepted until a written interpretation of the Zoning Ordinance is provided by the Director of the RMA-Planning Department. If you wish to file an appeal, pursuant to Monterey County Code Section 20.88.040.C (Coastal Zoning Ordinance) or Monterey County Code Section 21.82.040.C, you must do so no later than 5:00 P.M. on the date specified in the written decision or interpretation provided by the Director. For assistance in completing this form, please contact Carol Allen or Linda Rotharmel at (831) 755-5025.

Submit to: Secretary to the Monterey County Planning Commission
c/o Carol Allen or Linda Rotharmel
Monterey County RMA-Planning Department
168 West Alisal Street, Second Floor
Salinas, CA 93901

1. Please give the following information:

- a) Your name: Pamela Silkwood, representing Lidia Woytak, Trustee of the Lidia T. Woytak Revocable Family Trust
- b) Address: PO Box 844, Pebble Beach, CA 93953 ; 26385 Carmel Rancho Blvd., Ste. 200
- c) Phone Number: 831-917-2204 / 831-373-4131

2. Indicate your interest in the interpretation by checking the appropriate box:

- Applicant
- Neighbor
- Other (please state) _____

3. What administrative decision or interpretation do you wish to appeal? Please attach a copy of the written response from the Director of Planning:

LA RESACA LLC (PLN160608-AMD1) Resolution No. 20-049. (See Exhibit A)

4. Please give a clear, complete but brief statement of the reasons why, in your opinion, the administrative decision or interpretation is unjustified or inappropriate because:
- a) The findings, interpretation and decision are not supported by the evidence, or
 - b) The decision or interpretation is contrary to law.
- The Planning Commission will *not* accept an application for appeal that is stated in generalities, legal or otherwise. (Attach extra sheets if necessary).

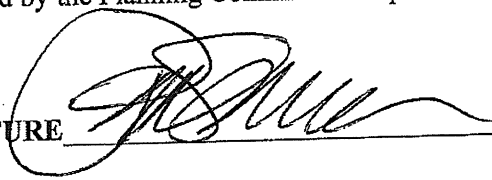
Please see Exhibit B.

5. In order to file a valid appeal, you must give specific reasons why you disagree with the decision or interpretation. (Attach extra sheets if necessary).

Please see Exhibit B. *1 C.*

6. Your appeal is accepted when the Secretary to the Planning Commission accepts the appeal as complete on its face, and receives the filing fee (\$ 0). The appeal will be considered by the Planning Commission at public hearing within 60 days of the receipt thereof.

APPLICANT SIGNATURE



DATE 11/18/2020

ACCEPTED

DATE

SECRETARY TO THE PLANNING COMMISSION

Exhibit A

**Before the RMA Chief of Planning
in and for the County of Monterey, State of California**

In the matter of the application of:

LA RESACA LLC (PLN160608-AMD1)

RESOLUTION NO. 20 - 049

Resolution by the Monterey County RMA Chief of Planning:

1. Considering the previously adopted Mitigated Negative Declaration; and
2. Approving a Minor and Trivial Amendment to a previously-approved Combined Development Permit (PLN160608) to allow a reduction in the overall footprint size of the previously-approved one-story 2,717 square feet of additions to an existing single-family dwelling and a one-story 1,135 square foot attached 3-car garage. This Minor and Trivial Amendment would allow construction of a one-story 1,412 square foot addition to an existing single-family dwelling and an attached 1,326 square foot two-car garage/storage/utility room with a 1,092 square foot game room above the proposed garage, within the same general footprint and within the parcels existing disturbed and hardscape areas.
3257 17- Mile Drive, Pebble Beach, Del Monte Forest Land Use Plan, Coastal Zone (APN 008-461-010-000)

The La Resaca LLC application (PLN160608-AMD1) came on for an administrative hearing before the Monterey County RMA Chief of Planning on November 4, 2020. Having considered all the written and documentary evidence, the administrative record, the staff report, and other evidence presented, the RMA Chief of Planning finds and decides as follows:

FINDINGS

1. **FINDING:** **PROCESS** - The County has received and processed a minor amendment to RMA-Planning File No. PLN160608.
EVIDENCE:
 - a) An application for a Minor and Trivial Amendment was submitted to RMA-Planning on June 17, 2020.
 - b) On March 28, 2018, the Monterey County Planning Commission approved a Coastal Development Permit (RMA-Planning File No. PLN160608) consisting of a Coastal Administrative Permit and Design Approval for 2,717 square feet of single family dwelling additions with an attached garage; and Coastal Development Permit to allow development within 100 feet of ESHA (Monterey Cypress habitat).
 - c) Pursuant to Section 30603 (d) of the Coastal Act, Monterey County sent the California Coastal Commission (CCC) a Final Local Action Notice

(FLAN) notifying the CCC of the subject Coastal Development Permit approval and CCC's right to appeal.

- d) The CCC appealed Monterey County's decision to approve the project determining that the entire site was Cypress Habitat area and not only the portion outside of the proposed development, as Monterey County had determined. The CCC required the applicant to modify the proposed development by reducing the development to those areas of existing hardscape and structural footprint.
- e) The applicants agreed to scale back the development to CCC recommendations and thus have submitted a Minor and Trivial Amendment application reducing the footprint area of proposed development to existing hardscape and structural footprint areas.
- f) The proposed minor and trivial amendment would reduce the total ground footprint square footage by 1,088 square feet, from 3,852 square feet to 2,764 square feet. With a reduction in size and limited to existing hardscape and existing structural footprint along with no change in development site location on the parcel, the amendment would not result in new impacts not previously considered in the original approval. Therefore, the amendment is of a minor and trivial nature.
- g) All applicable findings, evidence, and conditions of approval from the original entitlement (RMA-Planning File No. PLN160608) have been carried forward to the amended entitlement. As approved and amended, the Minor and Trivial Amendment under RMA-Planning File No. PLN160608-AMD1 will become the operative entitlement, and all conditions of approval will be cleared under PLN160608-AMD1.
- h) The application, project plans, and related support materials submitted by the project applicant to Monterey County RMA-Planning for the original project and the proposed amendment found in Project File Nos. PLN160608 and PLN160608-AMD1.

2. FINDING:

CONSISTENCY / SITE SUITABILITY/NO VIOLATIONS - The proposed project and/or use, as conditioned, is consistent with the previously-approved permit, as well as policies of the applicable Local Coastal Program (LCP) and other County health, safety, and welfare ordinances related to land use development. Additionally, as amended, the proposed project is consistent with the previously-approved permit pursuant to Monterey County Code (MCC) Sections 20.70.105.A and 20.76.115.A, and does not cause impacts not already assessed in the original permit action. The site is physically suitable for the use proposed, and no violations exist on the property.

EVIDENCE:

- a) The proposed minor amendment is consistent with the original permit action in that both involve the construction of single-family dwelling additions with an attached garage within the existing developed footprint and hardscape on the site. Pursuant to MCC Sections 20.70.105.A and 20.76.115.A, the proposed minor amendment is in keeping with the previous action of the Planning Commission (Resolution No. 18-103; RMA-Planning File No. PLN160608) and is minor and trivial in nature. All potential impacts were already assessed in the original permit action, and the amendment is in keeping with the action of the appropriate authority.

- b) On March 28, 2018, the Monterey County Planning Commission approved a Combined Development Permit (RMA-Planning File No. PLN160608) consisting of a Coastal Administrative Permit and Design Approval for 2,717 square feet of single family dwelling additions with an attached garage; and Coastal Development Permit to allow development within 100 feet of ESHA (Monterey Cypress habitat). This minor and trivial amendment would reduce the total ground footprint square footage by 1,088 square feet - from 3,852 square feet to 2,764 square feet. With a reduction in size and limited to existing hardscape and existing structural footprint along with no change in development site location on the parcel.
- c) The property is located at 3257 17-Mile Drive, Pebble Beach (Assessor's Parcel Number 008-461-010-000), Del Monte Forest Land Use Plan. The parcel is zoned Low Density Residential, 2.5 acres per unit, Design Control Overlay (Coastal Zone) [LDR/2.5-D (CZ)]. LDR zoning allows residential development as a principle use subject to the granting of a Coastal Administrative Permit. In this case, the County determined that a Minor and Trivial Amendment to the previously-approved Coastal Administrative Permit (RMA-Planning File No. PLN160608) is the applicable and appropriate entitlement to consider the reduction in size of the previously approved residence. The amendment incorporates the use of colors and materials to match existing, clay barrel-tile roof and stucco exterior wall cladding. Therefore, the proposed project is an allowed land use for this site.
- d) Environmentally Sensitive Habitat Area (ESHA)- Indigenous Monterey Cypress Habitat. On March 28, 2018, the Monterey County Planning Commission approved a Combined Development Permit (RMA-Planning File No. PLN160608) also consisting of a Coastal Development Permit to allow development within 100 feet of ESHA. The County had previously determined that a portion of the property fell within the area of the Del Monte Forest delineated as indigenous Monterey Cypress habitat, while the rest of property was outside the mapped boundaries. The County determined the proposed development as approved on March 28, 2018 (PLN160608) was outside of the Monterey Cypress habitat. However, the California Coastal Commission appealed the County's approval of the original project stating that the entire property was in Monterey Cypress habitat and the proposed project's footprint should be reduced to existing hardscape areas and existing structural footprint in order to minimize impacts to the Monterey Cypress habitat. The applicant agreed to reduce the project to existing hardscape and structural footprint areas and therefore, has submitted revised plans demonstrating this with the filing of the minor and trivial amendment. The original project carried seven (7) mitigation measures to mitigate potential impacts to ESHA to a less than significant level, two (2) of which are non-standard conditions protecting wildlife. Therefore, the proposed project, which reduces the size of the proposed additions, continues to be consistent with the mitigation measures for ESHA and these mitigations will be carried over to this minor and trivial amendment.

- e) Historic Resources. The re-design was referred to the Historic resources Review Board (HRRB) on October 1, 2020. At a duly-noticed public meeting at which all persons and interested members of the public had the opportunity to be heard, the HRRB voted 7 - 0 to recommend approval of the re-design and the Minor and Trivial Amendment to the previously-approved Combined Development Permit (HRRB Resolution No. 20-005; the HRRB resolution is attached to the November 4, 2020, staff report to the Chief of Planning as Exhibit D).
- f) No conflicts were found to exist. The County received communications from an interested member of the public during the course of project review indicating inconsistencies with the text, policies, and regulations in the applicable plans and MCC; however, the County finds that the project is consistent with the text, policies, and regulations in the applicable MCC documents.
- g) Pursuant to MCC Section 20.70.105.A and 20.76.115.A the County has determined that the proposed project qualifies as a minor amendment to the previously-approved Combined Development Permit. The amendment is minor in nature as follows:
- The project would not create new environmental impacts;
 - The project would not increase the severity of environmental impacts identified in the original Permit;
 - The project is in keeping with the action of the appropriate authority regarding development of a single-family dwelling and accessory structures;
 - The project would have an inconsequential effect on land in relation to the approved permit; and
 - The project meets all relevant site development standards.
- h) Review of Development Standards. As proposed, the project meets all required development standards. The structure is setback over 60-feet from the front property line, 20-feet from the side and over 80-feet from the rear property line. The proposed lot coverage, approximately 9.7% is with 15% limitation and the proposed floor area, approximately 10.6% is within the 17.5% limitation. The proposed height of approximately 26-feet is within the 30-foot maximum height.
- i) The 1.24 acre lot (53,884 square feet) was created with the Amended Map of Pebble Beach in Monterey County, filed on October 13, 1911 in the office of the County Recorder of the County of Monterey; Map Book Two "Cities and Towns," pages 31, 31A and 31B. Therefore, the County recognizes the subject property as a legal lot of record.
- j) Under the original permit review, the project planner conducted a site inspection on September 8, 2017, to verify that the project on the subject parcel conforms to applicable plans and MCC, and to verify that the site is suitable for the proposed use. The proposed minor amendment does not change that determination.
- k) Monterey County RMA-Planning and RMA-Building Services records were reviewed, and the County is not aware of any violations existing on the subject property.

- l) The project was not referred to the Del Monte Forest Land Use Advisory Committee (LUAC) for review. Based on the current LUAC Guidelines, this project did not warrant referral.
- m) The application, project plans, and related support materials submitted by the project applicant to Monterey County RMA-Planning for the original project and the proposed amendment found in Project File Nos. PLN160608 and PLN160608-AMD1.

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 originally (PLN160608) reviewed by RMA-Planning, Pebble Beach CSD, RMA-Public Works, RMA-Environmental Services, and Water Resources Agency, and conditions have been recommended, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood.
 - b) Necessary public facilities will be provided. For potable water, the parcel will continue to be served by the Cal-AM. For wastewater and collection/treatment the property is served by Pebble Beach Community Services District. As proposed, the minor amendment will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood.
 - c) The application, plans, and supporting materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development found in RMA-Planning File No. PLN160608-AMD1.

4. **FINDING:** **CEQA (Mitigated Negative Declaration)** - The original CEQA action on the project was a Mitigated Negative Declaration, and this Minor and Trivial Amendment does not require subsequent environmental review pursuant to CEQA Guidelines Section 15162 (a) of the CEQA Guidelines. No unusual circumstances were identified to exist for the proposed project.

- EVIDENCE:**
- a) Per CEQA Guidelines Section 15162 (a), this minor amendment involves no substantial changes requiring subsequent environmental review, and there is no new information of substantial importance.
 - b) The proposed project involves a reduction in size of the previously-approved project. Based on review of the current application and plans, no new potentially significant issues were identified for the proposed minor amendment. The current proposal does not alter the analysis or conclusions reached under the original permit. The minor amendment is consistent with the Mitigated Negative Declaration.
 - c) No adverse environmental effects were identified during staff review of the development application.

5. **FINDING:** **PUBLIC NOTICE** - Consideration of the request for the minor amendment has been carried out pursuant to Monterey County Code Section 20.84.040.A of Monterey County Code Title 20 (Zoning).
- EVIDENCE:**
- a) Notice of the administrative hearing was published on October 22, 2020, in the Monterey County Weekly.
 - b) On October 21, 2020, notices were mailed to all property owners within 300 feet of the project site and to persons who requested notice.
 - c) On or about October 24, 2020, notices were posted in at least 3 different public places on and near the subject property.
6. **FINDING:** **PUBLIC ACCESS** – The proposed minor amendment 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:** This minor amendment does not raise any access impacts not already assessed in the original permit action. Figure 8 (Major Public Access & Recreational Facilities) of the Del Monte Forest Land Use Plan (DMF LUP) indicates that the subject property is not described as an area where public access is required. This proposed minor amendment does not change that determination.
7. **FINDING:** **APPEALABILITY** - The decision on this project may be appealed to the Board of Supervisors and the California Coastal Commission.
- EVIDENCE:**
- a) Section 20.86.030 of the Monterey County Zoning Ordinance (Title 20) states that the proposed project is appealable to the Board of Supervisors.
 - b) Section 20.86.080 of the Monterey County Zoning Ordinance (Title 20) states that the proposed project is subject to appeal by an applicant or an aggrieved person who has exhausted all County appeals, or by any two (2) members of the California Coastal Commission because this project is between the sea and the first public road paralleling the sea.

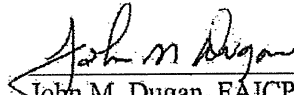
DECISION

NOW, THEREFORE, based on the above findings and evidence, the RMA Chief of Planning does hereby:

1. Consider the previously adopted Mitigated Negative Declaration; and
2. Approve a Minor and Trivial Amendment to a previously-approved Combined Development Permit (PLN160608) to allow a reduction in the overall footprint size of the previously-approved one-story 2,717 square feet of additions to an existing single-family dwelling and a one-story 1,135 square foot attached 3-car garage. This Minor and Trivial Amendment would allow construction of a one-story 1,412 square foot addition to an existing single-family dwelling and an attached 1,326 square foot two-car garage/storage/utility room with a 1,092 square foot game room above the proposed garage, within the same general footprint and within the parcels existing disturbed and hardscape areas.

All development shall be in general conformance with the attached plans and nineteen (19) conditions of approval (including seven mitigation measures), both being attached hereto and incorporated herein by reference.

PASSED AND ADOPTED this 4th day of November, 2020.



John M. Dugan, FAICP, RMA Deputy Director
of Land Use and Community Development

COPY OF THIS DECISION MAILED TO APPLICANT ON NOV 09 2020

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

~~NOV 19 2020~~

THIS PROJECT IS LOCATED IN THE COASTAL ZONE AND IS NOT APPEALABLE TO 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 offices in Salinas.

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

Exhibit B

Exhibit B

- I. **Please give a clear, complete but brief statement of the reasons why, in your opinion, the administrative decision or interpretation is unjustified or inappropriate because: a) The findings, interpretation and decision are not supported by the evidence, or b) The decision or interpretation is contrary to law.**
 1. The project does not constitute a minor and trivial amendment. It requires a new Coastal Development Permit application properly processed through the County quasi-judicial bodies.
 2. The project proposes prohibitive development within the environmentally sensitive habitat area inconsistent with the Coastal Act.
 3. The project requires further environmental review under CEQA.
 4. The project fails to adequately address cultural resources.

- II. **In order to file a valid appeal, you must give specific reasons why you disagree with the decision or interpretation.**

1. **The project does not constitute a minor and trivial amendment.**

The project's design has changed significantly from the original design. The original project involved an addition to a single family residential dwelling unit with an attached garage. The new project comprises an addition to the single family residential dwelling unit AND a detached (attached only by trellis) two-story structure comprising a garage and game room located further uphill within the sensitive woodland habitat, which the California Coastal Commission considers to be environmentally sensitive habitat area ("ESHA").

The new project is neither minor nor trivial. It requires a new Coastal Development Permit application requiring a full review before the Del Monte Forest Land Use Advisory Committee ("LUAC"). Exhibit A of Board of Supervisors Resolution No. 15-103, entitled Guidelines for Review of Matters Referred to Land Use Advisory Committees by the Appropriate Authority specifies, in relevant part, as follows:

The Land Use Advisory Committee (LUAC) shall review and make recommendations on land use issues only as specifically set out by the following guidelines:

1. The applicable LUAC shall review projects that require the following: a) Development requiring CEQA review [Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report (EIR)] b) Lot Line Adjustments involving conflicts (e.g.; modifications to Scenic Easements or Building Envelopes, Williamson Act, the Coastal Zone, etc.). c) Variances. d) Design

Approvals for projects subject to review by the Zoning Administrator or Planning Commission.

2. The LUAC shall review any discretionary permit application for which the local area plan, land use plan, master plan, specific plan, or community plan requires review by a local citizens' committee.

The improper Minor and Trivial Amendment Application for this new project is discretionary subject to CEQA review. The Chief of Planning improperly and without authority, considered the previously adopted Mitigated Negative Declaration in approving this discretionary project without bringing the project before the LUAC as required under Resolution No. 15-103. The approval involving CEQA cannot be made by the Chief of Planning. The failure to follow the proper procedure set forth in law is a fatal flaw.

2. **The project is prohibitive development within the environmentally sensitive habitat area ("ESHA") inconsistent with the Coastal Act.**

The draft Resolution (different from that adopted – See Attachment 1) that was before the RMA Chief of Planning states, in relevant part, "[T]he California Coastal Commission appealed the County's approval of the original project stating that the entire property was in Monterey Cypress habitat." That is, the entire project site is considered ESHA. In fact, the Initial Study states, **"The Monterey Cypress stand found on the subject property is but one of only two endemic Monterey Cypress habitats in the world."** Specific to development within ESHA, Coastal Act section 30240 states as follows:

Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

The addition to an existing residence and the construction of a new two-story structure are not considered uses dependent on ESHA and thus, the development proposed in ESHA by the new project is prohibited under the Coastal Act.

The Initial Study recognizes that indigenous Monterey cypress trees may be impacted by the proposed development, yet inadequately mitigates the impacts. Specifically, the Initial Study states that the proposed location of a new garage comes within the dripline of a Cypress tree, and two other trees may be potentially impacted by the proposed improvements. This is in direct contravention to the Del Monte Forest Coastal Implementation Plan's prohibition on any activity (grading, paving, building construction activity) "within the driplines of the outermost indigenous Monterey cypress trees on a site."

Since the Chief of Planning relied on the Initial Study for the prior project to approve this new project even though development is proposed in an entirely different area, the County failed to proceed as required by law. Greater impacts to the indigenous Monterey cypress habitat are

likely with the new project because development is proposed at the foothills of the sensitive woodland habitat.

The property is located within a high fire hazard severity zone in the State Responsibility Area (See Attachment 2). The proposed development located in the foothill of the sensitive woodland habitat would require 100-foot fuel clearance, meaning removal or limbing of trees as required under Public Resources Code section 4291, which impact was not analyzed and would be considered significant. Section 4291 requires a firebreak 30 feet on each side of any structure with 100-feet around any structure serving as fuel clearance. Due to this requirement, the new project would result in significant impact to one of only two endemic Monterey Cypress habitats in the world, which was not considered by the Chief of Planning in approving the new project.

3. The project requires further environmental review under CEQA.

Despite the Initial Study's acknowledgement that the property comprises one of only two endemic Monterey Cypress habitats in the world, there is no further environmental analysis of habitat impact as a result of the new project even though the development is proposed closer to the hillside of the woodland habitat and fuel clearance will be required in this high fire hazard severity zone. The County is proceeding contrary to law in its reliance of the prior Initial Study for an entirely different project. Development within ESHA, by itself, would result in significant impact to the ESHA that would trigger the need for an environmental impact report ("EIR") under CEQA's fair argument test.

The fair argument test under CEQA is a statutory mandate that an EIR must be prepared for any project that "may have a significant effect on the environment." (Pub Res C §21151.) Under this test, if a proposed project *may* cause a significant effect on the environment, the lead agency must prepare an EIR. (Pub Res C §§21100(a), 21151; 14 Cal Code Regs §15064(a)(I), (f)(I).) A project "may" have a significant effect on the environment if there is a "reasonable probability" that it will result in a significant impact. To put it another way, if any aspect of the project may result in a significant impact on the environment, an EIR must be prepared even if the overall effect of the project is beneficial. (14 Cal Code Regs §15063(b)(I).) This standard under CEQA sets a "low threshold" for preparation of an EIR.

The new project also proposes a two-story building without a visual analysis. The visual impact from the project site -- designated as visually sensitive -- would clearly worsen with the new project. The prior project proposed a 14-foot high structure which is significantly different than that of the current proposal of a 26-foot high structure at the hillside, particularly as viewed from the designated scenic corridor, yet the County again relies on an irrelevant Initial Study without sufficient evidence in the record.

Finally, the new project would need to be analyzed under the updated Appendix G which includes an evaluation of wildfire hazards.

4. The project fails to adequately address cultural resources.

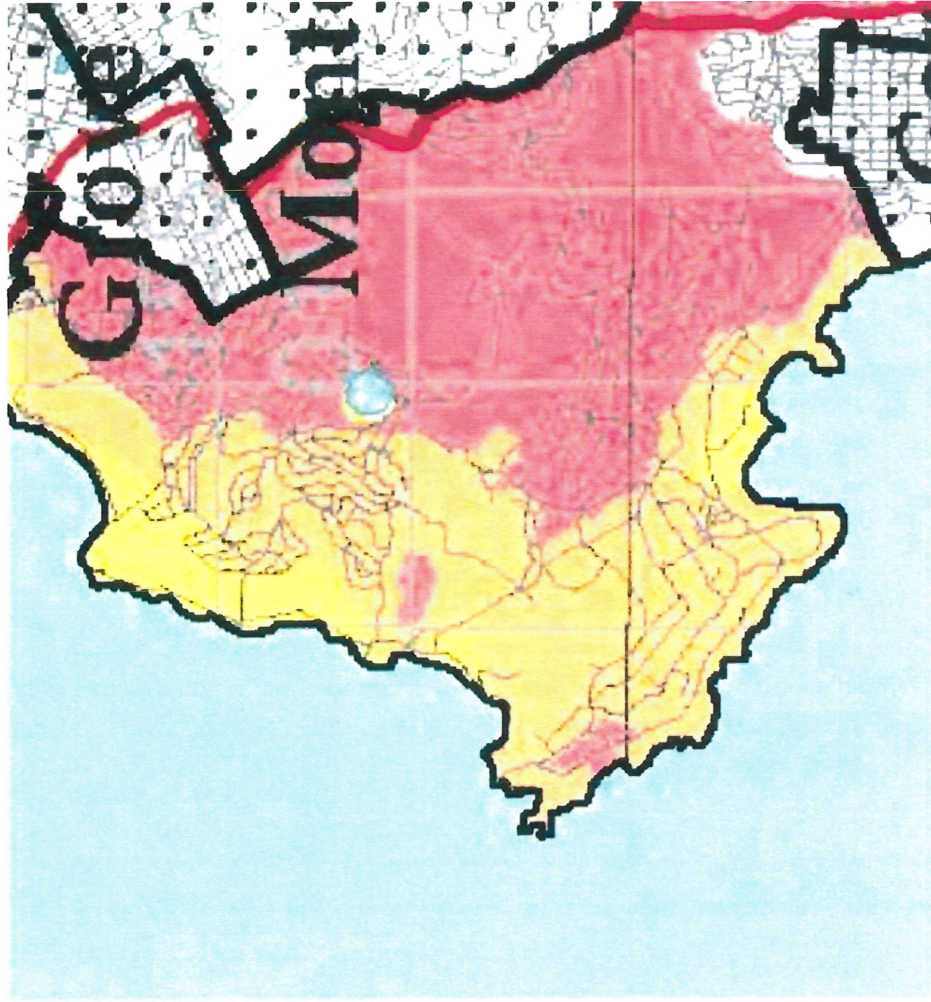
According to the resolution of approval, the OCEN Chairperson objected to all excavation in known cultural lands, and the property is located within a high archeological sensitivity zone. The only evidence that the property may not have tribal resources is a visual surface assessment of archeological resources. And the prior project proposed to grade 388 cubic yards (Attachment 3), which amount would likely increase with the new project since it is proposed on the hillside of the woodland habitat. Aside from the erosion and sedimentation issue, which has already been flagged by the County as condition noncompliant, there is insufficient evidence in the record to demonstrate that tribal resources do not exist in this high archeological sensitivity zone, and the County's dismissal of the OCEN Chairperson's objection is without basis.

Attachment 1

(Resolution No. 18-103; RMA-Planning File No. PLN160608) and is minor and trivial in nature. All potential impacts were already assessed in the original permit action, and the amendment is in keeping with the action of the appropriate authority.

- b) On March 28, 2018, the Monterey County Planning Commission approved a Combined Development Permit (RMA-Planning File No. PLN160608) consisting of a Coastal Administrative Permit and Design Approval for 2,717 square feet of single family dwelling additions with an attached garage; and Coastal Development Permit to allow development within 100 feet of ESHA (Monterey Cypress habitat). This minor and trivial amendment would reduce the total ground footprint square footage by 1,088 square feet - from 3,852 square feet to 2,764 square feet. With a reduction in size and limited to existing hardscape and existing structural footprint along with no change in development site location on the parcel.
- c) The property is located at 3257 17-Mile Drive, Pebble Beach (Assessor's Parcel Number 008-461-010-000), Del Monte Forest Land Use Plan. The parcel is zoned Low Density Residential, 2.5 acres per unit, Design Control Overlay (Coastal Zone) [LDR/2.5-D (CZ)]. LDR zoning allows residential development as a principle use subject to the granting of a Coastal Administrative Permit. In this case, the County determined that a Minor and Trivial Amendment to the previously-approved Coastal Administrative Permit (RMA-Planning File No. PLN160608) is the applicable and appropriate entitlement to consider the reduction in size of the previously approved residence. The amendment incorporates the use of colors and materials to match existing, clay barrel-tile roof and stucco exterior wall cladding. Therefore, the proposed project is an allowed land use for this site.
- d) Environmentally Sensitive Habitat Area (ESHA)- Indigenous Monterey Cypress Habitat. On March 28, 2018, the Monterey County Planning Commission approved a Combined Development Permit (RMA-Planning File No. PLN160608) also consisting of a Coastal Development Permit to allow development within 100 feet of ESHA. The County had previously determined that a portion of the property fell within the area of the Del Monte Forest delineated as indigenous Monterey Cypress habitat, while the rest of property was outside the mapped boundaries. The County determined the proposed development as approved on March 28, 2018 (PLN160608) was outside of the Monterey Cypress habitat. However, the California Coastal Commission appealed the County's approval of the original project stating that the entire property was in Monterey Cypress habitat and the proposed project's footprint should be reduced to existing hardscape areas and existing structural footprint in order to minimize impacts to the Monterey Cypress habitat. The applicant agreed to reduce the project to existing hardscape and structural footprint areas and therefore, has submitted revised plans demonstrating this with the filing of the minor and trivial amendment. The original project carried seven (7) mitigation measures to mitigate potential impacts to ESHA to a less than significant level, two (2) of which are non-standard conditions protecting wildlife. Therefore, the

Attachment 2



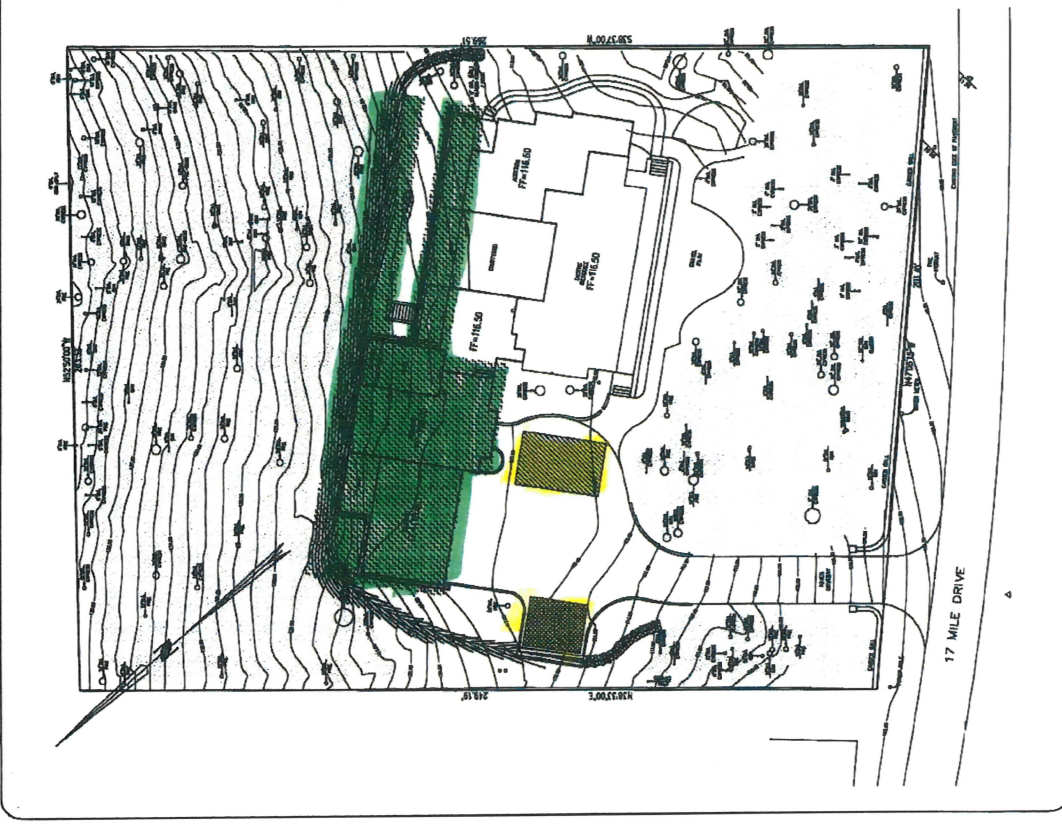
FIRE HAZARD SEVERITY ZONES in State Responsibility Area (SRA)

- Moderate
- High
- Very High

FIRE PROTECTION RESPONSIBILITY

- Federal Responsibility Area (FRA)
- Local Responsibility Area (LRA) - Unincorporated
- Local Responsibility Area (LRA) - Incorporated

Attachment 3



LEGEND

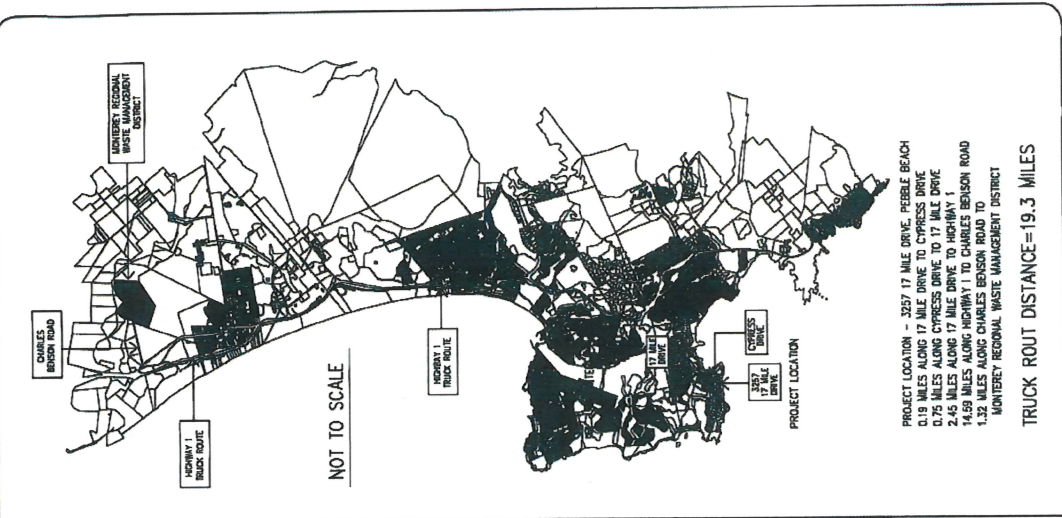
- DENOTES SENSITIVE AREAS
- DENOTES PARKING AREAS
- DENOTES STOCKPILE AND STAGING AREA
- DENOTES AREAS OF EXCAVATION

SUMMARY

TOTAL EXCESS EXCAVATION = 388 CUBIC YARDS = 853,600 POUNDS
 TOTAL NUMBER OF 10 TON TRUCKS = 43
 TOTAL TRUCK TRIPS PER DAY = 10 = 4.3 DAYS
 HOURS OF OPERATION = 8 AM TO 5 PM MONDAY THRU FRIDAY

CONSTRUCTION SCHEDULE

PROJECT START DATE = JULY, 2018
 CONSTRUCTION COMPLETION = JANUARY, 2020



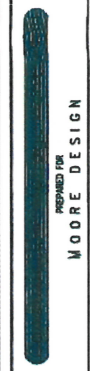
PROJECT LOCATION - 3257 17 MILE DRIVE, PEBBLE BEACH
 0.19 MILES ALONG 17 MILE DRIVE TO CYPRESS DRIVE
 0.75 MILES ALONG CYPRESS DRIVE TO 17 MILE DRIVE
 2.45 MILES ALONG 17 MILE DRIVE TO HIGHWAY 1
 14.69 MILES ALONG HIGHWAY 1 TO CHARLES BENSON ROAD
 1.32 MILES ALONG CHARLES BENSON ROAD TO
 MONTEREY REGIONAL WASTE MANAGEMENT DISTRICT

TRUCK ROUT DISTANCE=19.3 MILES

SHEET
C4
 OF 4

SCALE 1" = 16 MILES
 DRAWN JOB NO. 1050
 DATE APRIL, 2017 FILE NO. 410 DRUMME PLANNING

BAILEY RESIDENCE
 3257 17 MILE DRIVE, PEBBLE BEACH, CA 93953
 ASSESSOR'S PARCEL NUMBER 009-41-010-000



PREPARED FOR
MOORE DESIGN

H. D. PETERS CO.
 ENGINEERING - SURVEYING - LAND PLANNING
 1100 BAYVIEW AVENUE, SUITE 200, SAN JOSE, CALIFORNIA 95128-1200 TEL: (408) 434-2200 FAX: (408) 434-2201



Exhibit C

Lidia Woytak, PH.D.
PO Box 844
Pebble Beach, CA 93953

Nov. 15, 2020

Mr. Carl Holm, Director
Monterey County Planning Commissioners
Monterey County Resource Management Agency
Land Use and Community Development
1441 Schilling Place-South, 2nd Floor
Salinas, CA 93901

Subject: APPEAL OF APPROVAL OF MINOR AND TRIVIAL AMENDMENT FOR LA RESACA, LLC, DEVELOPMENT PLN 160608-AMD1

I request that the Minor and Trivial Amendment PLN160608 for La Resaca Residence Remodel and Addition request be rejected immediately due to violation of the zoning laws of Del Monte Forest Land Use (DLFLU): It states on page 26, point 74:

“Detached or at attached guest houses are not to be equipped for permanent living and are not considered residences. They may be permitted at the maximum rate of one for each principal residence provided the constraints of the lot and other LUP policies are met. Furthermore, detached guesthouses shall be located in close proximity to the principal residence, share the same utilities except were prohibited by public health or water management district requirements, contain no kitchen or cooking facilities, and be limited to 425 square feet. Conditions shall be implemented by CC&Rs or other legal restrictions, including revocation provisions for non-conformance. Subdivisions shall not be permitted to divide a principal residence from a guesthouse.”

Contrary to the zoning law, La Resaca proposes an addition of a two level dwelling of 26' in height and 2308 square. Its dwelling space amounts to approximately 1700 square feet, thus more than tripling the allowable amount of square footage.

The La Resaca Resolution No.20-049 erroneously states :

“This Minor and Trivial Amendment would allow construction of a one-story 1,412 square foot addition to an existing single-family dwelling and an attached 1,326 square foot two-car garage/storage/utility room with a 1,092 square foot game above the proposed garage...”

The dwelling described above is NOT attached to the main residence. It is located in the distance of 16 feet. In other words, the main residence is separated from the second dwelling on this property by 16 feet. There is no zoning law that states that two dwellings are attached when they are 16 feet apart!!! Note that this violation

sets a bad precedent allowing owners to build multiple dwellings on their properties by limiting square footage of one and transferring it into another.

Moreover, I request the denial because the Notice for Minor and Trivial Amendment No. PLN 160608 presents the following misrepresentations:

1. It misclassifies the amendment as minor and trivial. This is a MAJOR change in design from one dwelling with an attached garage into two detached dwellings fully separated by open space of over 16 feet.. None of the walls of the two buildings are attached
2. It falsely claims the increase of the size of the garage from 1135 to 1326 square feet. In fact the opposite is true: the size of the garage is decreased by approximately 400 square feet. These 400 square feet plus 200 square feet on the ground level plus 1092 square feet on the second story are all used to create an additional detached dwelling of 1692 square feet. The notice fails to mention that this 26 feet high 2318 square feet dwelling contains also two toilets, mechanical room, storage room, laundry room and approximately 400 square feet of second-story balconies. Note that the Del Monte Forest Area Land use Plan /Monterey County Local Coastal Program allows an additional dwelling Not to exceed 425 feet. P.26, point 74. In other words, the second dwelling amounts to two thirds of the size of the first dwelling.

Further the notice falsely labels the second dwelling as an "attached garage." This garage is NOT attached; it occupies only half of the first floor along with several dwelling rooms and topped by the second floor. There is a 16 feet distance to another dwelling!.

Moreover, Application for two dwellings on one property in this sensitive habitat area calls for a full investigation of the Coast Commission. CEQA standards need to be applied to the application for two dwellings on one parcel. The application fails to address the damaging cumulative impact of two dwellings on the environmental status of the property. Building two separate dwellings in sensitive habitat within the coast commission regulations would be a further violation of CEQA principles.

In summary, building two dwellings on a lot zoned for one is a serious zoning violation. Further, building two dwellings on a one-dwelling parcel along the 17-Mile Drive view-shed, in sensitive habitat, negligence in posting nets alerting neighbors and public regarding future walling are all extremely serious violations calling for an immediate denial of the application. ,Additionally, I request a denial of this **major** in substance and in impact, and neither "minor" nor "trivial" amendment.

Sincerely,

Lidia Woytak Trust

cc. California Coast Commission

Ms Mendez, Pebble Beach Architectural Office