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

In the matter of the application of:

Risdel Inc (PLN160366)

RESOLUTION NO. 16-052

Resolution by the Monterey County Director of
RMA-Planning:

- 1) Finding the project exempt from CEQA per Section 15301 of the CEQA Guidelines; and
- 2) Approving an Administrative Permit and Design Approval to allow the construction of a 1,687 square foot underground home theater addition with 524 square feet of above ground stairwells within a "VS" (Visual Sensitivity) Zoning District Overlay.

(PLN160366), Risdel Inc, 5479 Covey Ct. Carmel ,
Carmel Valley Master Plan (APN: 157-171-032-000)

The Risdel Inc application (PLN160366) came on for an administrative hearing before the Monterey County Director of RMA-Planning on November 2, 2016. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Director of RMA-Planning finds and decides as follows:

FINDINGS

1. **FINDING:** **CONSISTENCY / SITE SUITABILITY** - The proposed project and/or use, as conditioned, is consistent with the 2010 Monterey County General Plan, the applicable area plan, and the requirements of the Title 21 Zoning Ordinance to include Chapter 21.70 (Administrative Permits) and other County health, safety, and welfare ordinances related to land use development. The site is physically suitable for the use proposed.
EVIDENCE:
 - a) One conflict was found to exist. Quail Meadows Subdivision placed a Scenic Easement on slopes over 30% for each parcel in accordance with Section 21.64.030 of the Monterey County Code. Building envelopes were approved to protect the 30% slope, trees and the viewshed. The intent of the Easement is to preserve views of the hillside as seen from Carmel Valley. However, when the map was recorded on this parcel, the scenic easement extended into areas that were not on slopes over 30%. Once the original development for the house, carriage house and motor court on this parcel were approved, an amendment to the scenic easement was approved to accommodate this development (PLN990291). Trees located within the scenic easement were removed in order to accommodate the motor court of the original residential development.
 - b) The project consists of an Administrative Permit and Design Approval to allow the construction of a 1,687 square foot underground home theater and additional 524 square foot above ground stairwells within a "VS" (Visual Sensitivity) Zoning District

Overlay.

- c) No trees are proposed for removal as part of this project. A portion of the proposed home theater and the above ground stairs will encroach into the scenic easement; however, the development is not located on slopes greater than 30%. An amendment to the existing Scenic Easement deed will be required as a condition of approval, by the Board of Supervisors, prior to the construction of the underground home theater and stairs. The amendment is not amending the location of the scenic easement, but only allow the underground theater and stairs within the easement as it is located outside of the 30% slope area (Condition #14).
- d) Most of the development for the underground home theater addition will not be seen above ground with the exception of the 524 square foot above ground stairwell for entrance into the theater. However, the stairwell is located in the backyard behind a substantial amount of trees and vegetation. There is no tree removal proposed for the project, the project is not located within a high archaeological sensitivity zone, there is no Environmentally Sensitive Habitat Area (ESHA) within the development area, and the project will not be developed on slopes greater than 30%.
- e) The project has been reviewed for site suitability by the following departments and agencies: RMA-Planning, Cypress Fire Protection District, RMA-Public Works, RMA-Environmental Services, Environmental Health Bureau, and Water Resources Agency. There has been no indication from these departments/agencies that the site is not suitable for the proposed development. Conditions recommended have been incorporated.
- f) The project planner conducted a site inspection on August 12, 2016, to verify that the project on the subject parcel conforms to the plans listed above and to verify that the site is suitable for this use.
- g) On August 15, 2016, the Carmel Valley Land Use Advisory Committee (LUAC) recommended approval (4-0 vote) with one stipulation that no building would be allowed above the underground theater.
- h) The application plans and supporting materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development are found in Project File PLN160366.

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

EVIDENCE: a) The project was reviewed by the RMA-Planning, Cypress Fire Protection District, RMA-Public Works, RMA-Environmental Services, Environmental Health Bureau, and Water Resources Agency. The respective agencies have recommended conditions, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either

residing or working in the neighborhood.

3. **FINDING:** **NO VIOLATIONS** - The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of the County's zoning ordinance. No violations exist on the property.
- EVIDENCE:** a) Staff reviewed Monterey County RMA-Planning and RMA-Building Services records and is not aware of any violations existing on subject property.
4. **FINDING:** **CEQA (Exempt):** - The project is categorically exempt from environmental review and no unusual circumstances were identified to exist for the proposed project.
- EVIDENCE:** a) California Environmental Quality Act (CEQA) Guidelines Section 15301 categorically exempts additions to existing structures provided that the addition will not result in an increase of more than 50% of the floor area before the addition or 2,500 square feet whichever is less.
- b) The proposed development, a home theater, is a 1,687 square foot below grade addition with 292 square feet at the ground level to an existing 5,938 square foot carriage house. The proposed development meets the criteria for a categorical exemption.
- c) No adverse environmental effects were identified during staff review of the development application during a site visit on August 12, 2016.
- d) None of the exceptions under CEQA Guidelines Section 15300.2 apply to this project. The project does not involve a designated historical resource, a hazardous waste site, development located near or within view of a scenic highway, unusual circumstances that would result in a significant effect or development that would result in a cumulative significant impact.
- e) The application, project plans, and related support materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development found in Project File PLN160366.
5. **FINDING:** **APPEALABILITY** - The decision on this project may be appealed to the Planning Commission.
- EVIDENCE:** Section 21.80.040.A of the Monterey County Zoning Ordinance (Planning Commission).

DECISION

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

- A. Find the project exempt from CEQA per Section 15301 of the CEQA Guidelines; and
- B. Approve an Administrative Permit and Design Approval to allow the construction of a 1,687 square foot underground home theater addition and 524 square feet of above ground stairwells within a "VS" (Visual Sensitivity) Zoning District Overlay, in general conformance with the attached sketch and subject to the conditions, both being attached hereto and incorporated herein by reference.

PASSED AND ADOPTED this 2nd day of November, 2016.



Carl P. Holm, AICP
Resource Management Agency Director

COPY OF THIS DECISION MAILED TO APPLICANT ON NOV 04 2016.

THIS APPLICATION IS APPEALABLE TO THE PLANNING COMMISSION.

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE SECRETARY OF THE PLANNING COMMISSION ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE NOV 14 2016.

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

NOTES

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

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

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

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

Monterey County RMA Planning

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

PLN160366

1. PD001 - SPECIFIC USES ONLY

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: This Administrative Permit and Design Approval (PLN160366) allows the construction of a 1,687 square foot underground home theater addition with 524 square feet of above ground stairwells within a "VS" (Visual Sensitivity) Zoning Overlay District. Materials and colors to match existing. The property is located at 5479 Covey Court, Carmel (Assessor's Parcel Number 157-171-032-000), Carmel Valley Master Plan. This permit was approved in accordance with County ordinances and land use regulations subject to the terms and conditions described in the project file. Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of RMA - Planning. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. To the extent that the County has delegated any condition compliance or mitigation monitoring to the Monterey County Water Resources Agency, the Water Resources Agency shall provide all information requested by the County and the County shall bear ultimate responsibility to ensure that conditions and mitigation measures are properly fulfilled. (RMA - Planning)

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

2. PD002 - NOTICE PERMIT APPROVAL

Responsible Department: RMA-Planning

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

Monitoring Measure: "An Administrative Permit and Design Approval (Resolution Number 16-052) was approved by Chief of Planning for Assessor's Parcel Number 157-171-032-000 on November 2, 2016. The permit was granted subject to 14 conditions of approval which run with the land. A copy of the permit is on file with Monterey County RMA - Planning."

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

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

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

Responsible Department: RMA-Planning

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

Compliance or The Owner/Applicant shall adhere to this condition on an on-going basis.
Monitoring

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

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

4. PD006(A) - CONDITION COMPLIANCE FEE

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: The Owner/Applicant shall pay the Condition Compliance fee, as set forth in the fee schedule adopted by the Board of Supervisors, for the staff time required to satisfy conditions of approval. The fee in effect at the time of payment shall be paid prior to clearing any conditions of approval.

Compliance or Monitoring Action to be Performed: Prior to clearance of conditions, the Owner/Applicant shall pay the Condition Compliance fee, as set forth in the fee schedule adopted by the Board of Supervisors.

5. PD011 - TREE AND ROOT PROTECTION

Responsible Department: RMA-Planning

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

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

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

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

6. PD014(B) - LIGHTING-EXTERIOR LIGHTING PLAN (VS & RIDGELINE)

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: All exterior lighting shall be unobtrusive, down-lit, harmonious with the local area, and constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. Exterior lighting shall have recessed lighting elements. Exterior light sources that would be directly visible from when viewed from a common public viewing area, as defined in Section 21.06.195, are prohibited. The applicant shall submit three (3) copies of exterior lighting plan which shall indicate the location, type, and wattage of all light fixtures and include catalog sheets for each fixture. The lighting shall comply with the requirements of the California Energy Code set forth in California Code of Regulations Title 24 Part 6. The exterior lighting plan shall be subject to approval by the Director of RMA - Planning, prior to issuance of building permits. (RMA - Planning)

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

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

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

7. EROSION CONTROL PLAN

Responsible Department: Environmental Services

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

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

8. GEOTECHNICAL CERTIFICATION

Responsible Department: Environmental Services

Condition/Mitigation Monitoring Measure: The applicant shall provide certification from a licensed practitioner that all development has been constructed in accordance with the recommendations in the project Geotechnical Investigation. (RMA- Environmental Services)

Compliance or Monitoring Action to be Performed: Prior to final inspection, the owner/applicant shall provide RMA-Environmental Services a letter from a licensed practitioner.

9. GRADING PLAN

Responsible Department: Environmental Services

Condition/Mitigation Monitoring Measure: The applicant shall submit a grading plan incorporating the recommendations from the project Geotechnical Investigation prepared by Haro, Kasunich and Associates Inc. The grading plan shall include contour intervals and cross-sections that identify the existing grade, proposed grade, and the extent of any proposed excavation and/or fill. The grading plan shall include the geotechnical inspection schedule that identifies when the inspections will be completed, who will conduct the inspection (i.e., PG, PE, and/or Special Inspector), a description of the required inspection, inspector name, and the completion date. The applicant shall also provide certification from the licensed practitioner that the grading plan incorporates their geotechnical recommendations. (RMA-Environmental Services)

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

Prior to issuance of any grading or building permits, the applicant shall submit certification from a licensed practitioner that they have reviewed the grading plan for conformance with the geotechnical recommendations.

10. INSPECTION-DURING ACTIVE CONSTRUCTION

Responsible Department: Environmental Services

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

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

11. INSPECTION-FOLLOWING ACTIVE CONSTRUCTION

Responsible Department: Environmental Services

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

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

12. INSPECTION-PRIOR TO LAND DISTURBANCE

Responsible Department: Environmental Services

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

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

13. WR049 - WATER AVAILABILITY CERTIFICATION

Responsible Department: Water Resources Agency

Condition/Mitigation Monitoring Measure: The applicant shall provide the Monterey County Water Resources Agency proof of water availability in the form of a complete Monterey Peninsula Water Management District Water Release Form. (Water Resources Agency)

Compliance or Monitoring Action to be Performed: Prior to issuance of any construction permit, the owner/applicant shall submit a Water Release Form to the Water Resources Agency for review and approval.

A copy of the Water Release Form can be obtained at the Monterey Peninsula Water Management District, the Water Resources Agency, or online at:
www.mcwra.co.monterey.ca.us.

14. SPPD001 - AMENDED SCENIC EASEMENT DEED

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: An Amendment to the existing Scenic Easement is required prior to construction of the underground theater. A portion of the proposed home theater and the above ground stairs will encroach into the scenic easement that is not located on any 30% slope areas. No trees are proposed for removal. The applicant shall submit a revised amendment document prepared for the Board of Supervisors showing the revised line of the scenic easement.
(RMA - Planning)

Compliance or Monitoring Action to be Performed: Prior to issuance of grading and/or building permits, approval of the amended scenic easement deed from the Board of Supervisors is required.