

# Attachment B

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to ensure enhancement, protection, and management of such areas as protected areas in perpetuity; and

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

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

**WHEREAS**, a **Combined Development Permit (File Number PLN190082**; hereinafter referred to as the “Permit”) was granted on **February 24, 2021** by the **Monterey County Planning Commission** pursuant to the Findings, Evidence and Conditions contained in Resolution No. **21-002**, attached hereto as Exhibit “B” (without plans) and hereby incorporated by reference (hereinafter the “Resolution”), subject to the following condition:

PD022(B) - EASEMENT-CONSERVATION & SCENIC IN THE DEL MONTE FOREST

Responsible RMA-Planning  
Department:

Condition/Mitigation Monitoring Measure: A conservation and scenic easement shall be conveyed to the Del Monte Forest Conservancy over those portions of the property with archaeological resources in accordance with the procedures in Monterey County Code § 20.64.280.A. The easement conveyance shall include funding adequate to ensure the management and protection of the easement area over time. The conservation and scenic easement deed shall include a corresponding map, showing the exact location of the easement on the property along with the metes and bound description developed in consultation with a qualified archaeologist and the Del Monte Forest Conservancy Inc. A Subordination Agreement shall be required, where necessary. These instruments shall be subject to approval by the County as to form and content, shall provide for enforcement, if need be, by the County or other appropriate agency, and name the County as beneficiary in event the Conservancy is unable to adequately manage these easements for the intended purpose of scenic and visual resource protection. An easement deed shall be submitted to, reviewed, and approved by the Chief of HCD-Planning and the Executive Director of the California Coastal Commission, and accepted by the Board of Supervisors prior to recording the prior to issuance of grading and building permits. (HCD - Planning)

Compliance or Monitoring Action to be Performed: Prior to the issuance of grading or building permits, the Owner/Applicant shall submit the conservation and scenic easement deed and corresponding map to the Del Monte Forest Conservancy for review and approval. Prior to the issuance of grading and building permits, the Owner/Applicant shall submit to HCD - Planning the conservation and scenic easement deed and corresponding map for review and approval. Prior to final inspection, the Owner/Applicant, shall submit a signed and notarized Subordination Agreement, if required, to HCD - Planning for review and approval. Prior to commencement of use, the Owner/Applicant shall record the deed and map showing the approved conservation and scenic easement, and submit to HCD-Planning a copy of the recorded deed and map.

**WHEREAS**, the specific resources being protected consist of approximately 5,000 square feet containing archaeological sites; and

**WHEREAS**, the Grantee, acting on behalf of the People of the State of California and pursuant to the Act, and in accordance with the findings contained in the Resolution granted the Permit to the Grantor upon the condition described above (hereinafter the "Condition") requiring, inter alia, that the Grantor record a conservation easement (hereinafter "Easement") affecting a portion of the Property as described in Exhibits "C-1" and "C-2" attached hereto and hereby incorporated by reference (the "Conservation Area"), and agree to restrict development on and use of the Property so as to preserve the open space, scenic, and/or natural resource values present on the Property and so as to prevent the adverse direct and cumulative effects on coastal resources and public access to the coast which could occur if the Property were not restricted in accordance with this easement; and

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

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

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

**WHEREAS**, the said Grantor is willing to execute this Easement Deed for the conservation and scenic use as herein expressed of the Property, and thereby enhance,

protect, preserve, and manage the open space, scenic, and overall natural resource value by the restricted use and enjoyment of the Property by the Grantor through the imposition of the restrictions hereinafter expressed;

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

A. PROPERTY SUBJECT TO EASEMENT. The portion of the Property of the Grantor hereinabove referred to and to which the provisions of this instrument apply is situated in the County of Monterey, State of California, and is particularly described and depicted in Exhibits "C-1" and "C-2", attached hereto, and made part hereof, and is the Conservation Area, consisting of that portion of the Property that contains archaeological resources as identified by the Esselen Tribe of Monterey County ("ETMC") and the project archaeologists, Gail Bellenger of EMC Planning Group Inc. and Sue Morley. Angle points of easement boundaries shall be permanently marked or monumented with surveyors' pipe or similar so that the Conservation Area can be easily identified.

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

1. Grantor has the right to conduct shallow soil maintenance of the landscaping within the Conservation Area and above the protective resource cap implemented as part of the Permit's landscape plan.

2. Grantor has the right to utilize and maintain the existing and approved landscaping within the Conservation Area as a regular part of landscape maintenance, including control of exotic and invasive plants species.

3. Grantor has the right to maintain all existing and authorized future driveways, parking pads, elevated walkway, paths, and structures upon the Conservation Area, and the right to restore, renovate, and maintain the Conservation Area, in accordance with the conditions of the Permit.

4. Grantor has the right to the construction, maintenance, repair, and use of public service and utility lines, pipes, and transmission facilities (including those for gas, electricity, telephone, water, treated wastewater irrigation, sewer, and cable television), and facilities for drainage and erosion and sedimentation control.

5. Grantor shall not plant nor permit to be planted any vegetation upon the Conservation Area except plants native to Del Monte Forest, and/or vegetation specified in the Permit. Periodic efforts to control invasive non-native plants within the Conservation Area shall be undertaken.

6. Except for the construction, alteration, relocation, and maintenance of driveways, parking pads, elevated walkway, paths, and structures allowed by the Permit, no use of the Conservation Area which will or does materially alter the landscape or other attractive scenic features of said area other than those specified above shall be done or suffered.

7. Grantor shall have the use and occupancy of the Conservation Area not inconsistent with the conditions and restrictions herein imposed.

8. Grantor shall provide Grantee with copies of all Site and Construction Plans (e.g. Site, Grading, Utility, Drainage, Erosion Control and Landscape plans, etc.) showing the location of existing and proposed facilities and of the materials, and specifications for proposed grading and construction within and immediately adjacent to the Conservation Area. An advance notice is required from Grantor to Grantee whenever major maintenance or construction activities will occur within or immediately adjacent to the Conservation Area. Landscape maintenance activities shall not be subject to the advance notice requirement.

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

D. BENEFIT AND BURDEN. This Easement shall run with and burden the Conservation Area, and all obligations, terms, conditions, and restrictions hereby imposed shall be deemed to be covenants and restrictions running with the land and shall be effective limitations on the use of the Conservation Area from the date of recordation of this document and shall bind the Grantor and all of its successors and assigns. This Easement shall benefit Grantee on behalf of the People of the State of California and its successors and assigns forever.

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

F. ENFORCEMENT. Any act or any conveyance, contract, or authorization, whether written or oral, by the Grantor which uses or would cause to be used or would permit use of the Conservation Area contrary to the terms of this Easement will be deemed a breach hereof. The Grantee may bring any action in court necessary to enforce

this Easement, including, but not limited to, injunction to terminate a breaching activity and to force the restoration of all damage done by such activity, or an action to enforce the terms and provisions hereof by specific performance. It is understood and agreed that the Grantee may pursue any appropriate legal and equitable remedies. The Grantee shall have sole discretion to determine under what circumstances an action to enforce the terms and conditions of this of Easement Deed shall be brought in law or in equity. Any forbearance on the part of the Grantee to enforce the terms and provisions hereof in the event of a breach shall not be deemed a waiver of Grantee's rights regarding any subsequent breach.

G. MAINTENANCE. The Grantee shall not be obligated to maintain, improve, or otherwise expend any funds in connection with the Conservation Area or any interest or easement created by this Easement Deed. All costs and expenses for such maintenance, improvement, use, or possession shall be borne by the Grantor, except for costs incurred by Grantee for monitoring compliance with the terms of this Easement.

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

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

J. ASSIGNMENT.

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

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

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

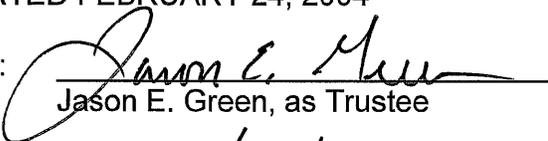
L. SUCCESSORS AND ASSIGNS. The terms, covenants, conditions, exceptions, obligations, and reservations contained in this conveyance shall be binding upon and inure to the benefit of the successors and assigns of both the Grantor and the Grantee, whether voluntary or involuntary.

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

N. AMENDMENT/MODIFICATION. This Easement Deed may be amended, modified, or changed only with the written consent of the Grantor and the Grantee. In addition, an amendment to the Permit may be required, if necessary, as determined by the Grantee. Any amendment of this Easement Deed without the written consent of all three entities and any necessary amendment to the Permit shall be void and of no effect.

Executed as of the last dated signature hereunder.

JASON E. GREEN AND ANN W. GREEN TRUSTEES OF THE GREEN FAMILY TRUST,  
DATED FEBRUARY 24, 2004

By:   
Jason E. Green, as Trustee

7/13/23  
Date

By:   
Ann W. Green, as Trustee

7/13/23  
Date





**EXHIBIT "A"**  
Legal Description

**For APN/Parcel ID(s): 008-423-017**

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

Beginning at the Northeasterly corner of Lot 62, as shown on that certain map entitled "Amended Map of Pebble Beach" filed October 13, 1911 in Book 2 of Maps, "Cities and Towns", at Pages 31, 31-A and 31-B, in the Office of the County Recorder of the County of Monterey, State of California, and running thence

(1) S. 0° 27' 30" W. 489.53 feet; thence

(2) N. 73° 56' W. 186.40 feet; thence

(3) N. 2° 05' E. 518.34 feet; thence

(4) Southeasterly, along the arc of a circular curve, described from a point bearing S. 10° 13' 10" W. 149.99 feet distant from the terminus of the preceding course, through a central angle of 30° 06' 37", for a distance of 78.82 feet to a point of reverse curvature; thence

(5) tangentially Southeasterly, along the arc of a circular curve, described from a point bearing N. 40° 19' 47" E. 219.70 feet distant from the terminus of the preceding course, through a central angle of 27° 35' 18", for a distance of 105.79 feet to the point of beginning. Comprising a portion of Lot 62, a portion of Lot 63 and a portion of Viscaino Avenue, as shown on said map.

## EXHIBIT "B"

### Before the Planning Commission in and for the County of Monterey, State of California

In the matter of the application of:

**GREEN JASON E & ANN W TRS (PLN190083)**

**RESOLUTION NO. 21-002**

Resolution by the Planning Commission to:

- 1) Adopt a Mitigated Negative Declaration;
- 2) Approve a Combined Development Permit consisting of:
  - a) Coastal Development Permit and Design Approval to allow construction of a new detached 799 sf garage, and 350 sf addition to the existing garage for conversion to a detached 1,810 sf gym/guesthouse/art studio, and
  - b) Coastal Development Permit to allow development on a site with a positive report for archaeological resources; and
- 3) Adopt a Mitigation Monitoring and Reporting Program.

[PLN190083, **GREEN, JASON E & ANN W TRS**, 3334 17-Mile Drive, Pebble Beach, Del Monte Forest Land Use Plan (APN: 008-423-017-000)]

The Green application (PLN190083) for a Combined Development Permit to allow the construction of an addition to an existing single family dwelling and new garage came on for public hearing before the Monterey County Planning Commission on 24 February 2021. Having considered all the written and documentary evidence, the administrative record, the staff report, and other evidence presented, the Planning Commission finds and decides as follows:

#### FINDINGS

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;*
    - Del Monte Forest Land Use Plan (LUP);
    - Coastal Implementation Plan (CIP) Part 5; and
    - Monterey County Zoning Ordinance (Title 20)No conflicts were found to exist.
  - b) The 2.03-acre (88,248 sf) property is located at 3334 17-Mile Drive, Pebble Beach (Assessor's Parcel Number 008-423-017-000), Del Monte Forest LUP. The parcel is zoned "LDR/1.5-D(CZ)", or Low Density Residential, maximum gross density of 1.5 acres per unit in the Coastal Zone with a Design Control Overlay. A single-family residence is a principal use allowed within this zone and there is no change to this residential use.
  - c) The existing residence is built on a site within 750 feet of known positive archaeological resources. Pursuant to the Coastal

Implementation Plan Chapter 20.147.080 of Monterey County Zoning ordinance (Title 20) for the Del Monte Forest Land Use Plan, an archaeological report is required. Four archaeological assessments (File Nos. LIB200139, PLN190324, and LIB200138, LIB200099) were prepared by two separate archaeologists, Susan Morley and Gail Bellenger, two each respectively. All reports identify mitigations to reduce potential impacts to less than significant (See Findings 2 and 6)

- d) The project is consistent with DMF LUP Key Policy on Cultural Resources to incorporate all site planning and design features to avoid impacts to archaeological resources because no construction or grading is located directly within the known boundary of the positive resources on the site. Condition No. 10 is a mitigation measure requiring implementation of a Protective Fencing Plan developed in consultation with qualified archaeologist and approved by HCD-Planning prior to issuance of permits. See Finding 6.
- e) In accordance with Section 20.14.030.F of Title 20, this application includes a request for a Coastal Development Permit (CST) to allow development on a site with a report of positive archaeological resources. The project proposes a minor addition to an existing detached accessory structure and two in-ground spas a minimum of approximately 100 feet from the area of known archaeological resources. The project includes construction of a detached 3-car garage at an existing paved area bound by railroad tie terraces, the installation of which caused disturbance of the resources, prior to adoption of the DMF CIP, Part 5 in 2012. Mitigations are applied to the project to reduce to less than significant potential impacts to archaeological resources. See Finding 6. Therefore, staff supports issuance of a CST in this case.
- f) Pursuant to Section 20.147.080.C.3 of the DMF CIP, Part 5, development on parcels positive for archaeological resources are subject to conditions of approval that require 1) the applicant request a rezoning of the parcel to add a Historical or Archaeological Resources (“HR”) overlay (Condition No. 13), and 2) a conservation easement be placed over the area of archeological resources (Condition No. 8).
- g) Pursuant to 20.44.020 of Title 20, the parcel is in the Design Control Zoning (“D”) District requiring architectural compatibility and consistency of neighborhood character. The colors and materials of the garage are consistent with the other structures on the parcel and with the overall character of the neighborhood. Parcels within a “D” District are required to stake and flag the project plan to illustrate its proposed mass and form. However, staking and flagging occurring without the benefit of either an archaeological or tribal monitor, of structures located not to be visible from any public viewing, brought staff to the decision not to require storypoles.
- h) The project includes installation of pervious paving that reduces an existing 19,937 square feet of impervious surfaces to 8,858 square feet. This brings the parcel into conformance with Del Monte Forest LUP Policy 77 of Chapter 3 that requires no more than 9,000 square feet of impervious surface coverage.

- i) The existing 742 sq. ft. guesthouse will be remodeled as a 388 sq. ft. guesthouse bringing the structure into floor area compliance with 20.64.020 of Title 20 that requires a guesthouse have no more than 425 sq. ft of livable floor area. Condition No. 15 requires the applicant/owner record a deed restriction on the guesthouse that discloses to current and future owners applicable regulations.
- j) The application, project plans, and related support materials submitted by the project applicant to Monterey County HCD-Planning for the proposed development found in Project File PLN190083.

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

- EVIDENCE:**
- a) The project has been reviewed for site suitability by the following departments and agencies: HCD-Planning, HCD-Environmental Services, Pebble Beach Community Services District (PBCSD), HCD-Public Works, Facilities, and Parks (PWFP), and Environmental Health Bureau (EHB). There has been no indication from these departments/agencies that the site is not suitable for the proposed development. Conditions recommended have been incorporated.
  - b) The following technical reports were prepared:
    - “Revised Preliminary Cultural Resources Reconnaissance” (LIB190324) prepared January 2019 by Susan Morley, M.A., Marina, CA
    - “Auger Testing and Mitigation Measures” (LIB200139) prepared January 2020 by Susan Morley, M.A., Marina, CA
    - “Archaeological Investigation” (LIB200099) prepared 5 June 2020 by Gail Bellenger of EMC Planning Group, Inc., Monterey, CA
    - “Archaeological Investigation” (LIB200138) prepared 17 June 2020 by Gail Bellenger of EMC Planning Group, Inc., Monterey, CA

The abovementioned technical reports by outside consultants indicate there are no physical or environmental constraints that render the site unsuitable for the use proposed. Staff has independently reviewed the reports and concurs with their conclusions.

- c) The subject parcel is in the Pescadero watershed which drains into the Carmel Area of Special Biological Significance (ASBS) and the project was reviewed by HCD-Environmental Services (ES). HCD-ES reviews implementation and operation of a project in terms of drainage, erosion, runoff, and sedimentation, for assessment of need for collection, filtration, and treatment. The parcel is fully developed and the new 799-ft structure is sited on an existing asphalt-paved parking area while the minor 350 square foot addition that would not require alteration or improvements to the existing systems. Therefore, the project would not diminish the quality of drainage into the Carmel ASBS pursuant to DMF CIP, Part 5 Section 20.147.030 that provides development standards for construction in the Pescadero watershed.

- d) The subject property receives fire protection services from PBCSD which applies Condition No. 6 for requirements to ensure deployment of fire protection can be accommodated at the site.
- e) The application, project plans, and related support materials submitted by the project applicant to Monterey County HCD-Planning for the proposed development found in Project File PLN190083.

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 the HCD-Planning, Pebble Beach Community Services District, HCD-Public Works, HCD-Environmental Services, and Environmental Health Bureau. 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) Staff confirmed on Google Earth that the site is suitable for this residential use.
  - c) The application, plans and supporting materials submitted by the project applicant to Monterey County HCD-Planning for the proposed development found in Project File PLN190083.

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

- EVIDENCE:**
- a) Staff reviewed Monterey County HCD-Planning and HCD-Building Services records and is not aware of any violations existing on the subject property.
  - b) The application, plans and supporting materials submitted by the project applicant to Monterey County HCD-Planning for the proposed development found in Project File PLN190083.

5. **FINDING:** **CEQA (Mitigated Negative Declaration):** The Planning Commission finds, on the basis of the whole record before it, there is no substantial evidence the project will have a significant effect on the environment, and the Mitigated Negative Declaration reflects the County's independent judgment and analysis.

- EVIDENCE:**
- a) Pursuant to California Environmental Quality Act (CEQA) Guidelines §15063(a), an Initial Study (IS) may be conducted to determine if a proposed project would have a significant impact on the environment. Staff has prepared a Mitigated Negative Declaration for the proposed project.
  - b) Pursuant to §15070(b) of CEQA Guidelines, a mitigated negative declaration may be prepared for a project when the Initial Study

identifies potential environmental impacts. The Initial Study identified potential impacts to Archaeological Resources and Tribal Cultural Resources.

- c) Proposed mitigations that would reduce potential impacts to less than significant have been agreed upon by the applicant.
- d) There is no substantial evidence in light of the whole record that the project, as mitigated, would have significant adverse effect on the environment.
- e) The IS for the Green (PLN190083) application was circulated for public review 9 October to 9 November 2020.
- f) The custodian of documents and materials which constitute the record of proceedings upon which the decision is based is the County Resource Management Agency, 1441 Schilling Place South, 2nd floor, Salinas, California.
- g) The application, project plans, and related support materials submitted by the project applicant to Monterey County HCD-Planning for the proposed development found in Project File PLN190083.

6. **FINDING:**

**INITIAL STUDY – POTENTIAL ENVIRONMENTAL IMPACTS LESS THAN SIGNIFICANT WITH MITIGATIONS**

The Initial Study identifies mitigations that could reduce potentially significant impacts to less than significant for cultural resources and tribal cultural resources. Implementation of recommended mitigations could reduce potential impacts to less than significant. Therefore, adoption of the Mitigated Negative Declaration is required prior to implementation of the project.

- a) The parcel is located within 750 feet of known archaeological resources, requiring a Phase 1 archaeological resources study that resulted in a positive report (midden) prepared by Susan Morley in January 2019 (LIB190324) and recommendation for further study for resources via auger testing that was executed by Morley in January 2020 (LIB200139). A separate archaeological study by Gail Bellenger of EMC Planning Group, Inc. (LIB200138) concludes that after a meeting at the site with Esselen Tribesperson Tom Nason and archaeologist Susan Morley, there was agreement that further archaeological study would be unnecessary due to the fact the new garage is proposed in a previously disturbed and paved area. However, given adjacency of the new garage site to the positive archaeological resource area, intact deposits or important features could be uncovered during implementation of the project. Morley's Auger Testing evaluation recommends precise delineation of the midden prior to any ground disturbance (Condition No. 9) and that both a qualified archaeologist (Condition No. 11 - MM No. 2) and a Tribal representative (Condition No. 12 - MM No. 3) monitor all ground-disturbing activities.
- b) Implementation of the project has potential to result in substantial adverse changes to the significance of tribal cultural resources if such resources were exposed or damaged during construction. Pursuant to AB 52, tribal consultation took place regarding the proposed project with a final response provided by the Esselen Tribe

which requested onsite consultation prior to any soil-disturbing activities and that a professional archaeologist and a Native American monitor be present onsite during any ground disturbance for the project. Response from the Costanoan Ohlone Rumsen-Mutsun Tribe recommends that no Native American cultural sites be disturbed. Archaeological reports that conclude intact deposits or important features could be uncovered during implementation of the project along with responses from area tribes are sufficient evidence to support mitigation through monitoring. To ensure tribal cultural resources incur less than significant impacts, a Tribal Monitor is required as Mitigation Measure No. 3 (Condition No. 12).

- c) The Initial Study for the project provides mitigation measures that reduce impacts to less than significant for archaeological resources and tribal cultural resources, and that are included as Conditions of Approval.

7. **FINDING:** **PUBLIC ACCESS** - The project is consistent with the ordinances related to public trust or public use, and is in conformance with the public access and public recreation policies of the Coastal Act and Local Coastal Program pursuant to 20.147.130 of Monterey County Code Title 20 Coastal Implementation Plan Part 5 for the Del Monte Forest Land Use Plan.

- EVIDENCE:**
- a) The subject parcel is seaward of the first public road. Therefore, in accordance with Section 20.70.050.B.4 of Title 20 Zoning Code for Monterey County Coastal Zone, the project is required to be in conformance with public access and public recreation policies of the Coastal Act.
  - b) **20.70.050.B.4.a – Protection of Historic Access and/or Public Trust.** There is no established trail or use area, nor any beach subject to ocean waves seaward of the first line of vegetation on the subject parcel. Therefore, implementation of the addition and new garage would not interfere with any form of historic public use or trust rights.
  - c) **20.70.050.B.4.b – Provision of Public Access.** Public access to the beach is not appropriate due to being contiguous with other residential parcels to the east and west, and Pebble Beach Golf Course at the southern boundary that do not accommodate access to the beach.
  - d) **20.70.050.B.4.c(i) – Application of Access Requirements to Single Family Residential Development.** The subject parcel is not characterized by any historic access, public trust, recreational value of, or accessibility to, the public beach, trails, recreation areas, or recreation support areas. Therefore, public access shall not be required.

8. **FINDING:** **APPEALABILITY** - The decision on this project may be appealed to the Board of Supervisors and to the California Coastal Commission (CCC).

- a) **Board of Supervisors.** Section 20.86.030 of the Monterey County Zoning Ordinance (Title 20). An appeal may be made to the Board of Supervisors by any public agency or person aggrieved by a

decision of an Appropriate Authority other than the Board of Supervisors.

- b) California Coastal Commission (CCC). The subject parcel is located between the sea and the first through public road paralleling the sea. Therefore, in accordance with Section 20.86.080.A.1 of Title 20, a decision on this project may be appealed to the CCC after exhausting all County appeals, or by any two members of the CCC following decision of the Planning Commission.

### DECISION

**NOW, THEREFORE**, based on the above findings and evidence, the Planning Commission does hereby:

1. Adopt a Mitigated Negative Declaration;
  2. Approve a Combined Development Permit consisting of:
    - a) Coastal Development Permit and Design Approval to allow construction of a new detached 799 sf garage, and 350 sf addition to the existing garage for conversion to a detached 1,810 sf gym/guesthouse/art studio, and
    - b) Coastal Development Permit to allow development on a site with a positive report for archaeological resources; and
  3. Adopt a Mitigation Monitoring and Reporting Program
- for Assessor's Parcel Number 008-423-017-000 (2.03 acres) in general conformance with the attached Plan set and subject to the twelve (15) Conditions of Approval and three (3) Mitigation Measures, all being attached hereto, and incorporated herein, by reference.

**PASSED AND ADOPTED** this 24<sup>th</sup> day of February 2021 upon motion of Commissioner Diehl, seconded by Commissioner Duflock, by the following vote:

AYES: Ambriz, Coffelt, Duflock, Diehl, Monsalve, Getzelman, Gonzales, Mendoza, Daniels, Roberts  
NOES: None  
ABSENT: None  
ABSTAIN: None

*Erik Lundquist*

\_\_\_\_\_  
Erik Lundquist, Planning Commission Secretary

COPY OF THIS DECISION MAILED TO APPLICANT ON

**MAR 03 2021**

THIS APPLICATION IS APPEALABLE TO THE BOARD OF SUPERVISORS.

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE CLERK OF THE BOARD ON OR BEFORE **MAR 15 2021**

THIS PROJECT IS LOCATED IN THE COASTAL ZONE AND IS APPEALABLE TO THE COASTAL COMMISSION. UPON RECEIPT OF NOTIFICATION OF THE FINAL LOCAL ACTION NOTICE (FLAN) STATING THE DECISION BY THE FINAL DECISION MAKING BODY, THE COMMISSION ESTABLISHES A 10 WORKING DAY APPEAL PERIOD. AN APPEAL FORM MUST BE FILED WITH THE COASTAL COMMISSION. FOR FURTHER

Green (PLN190083)

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 HCD-Planning and HCD-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

PLN190083

### 1. PD001 - SPECIFIC USES ONLY

**Responsible Department:** RMA-Planning

**Condition/Mitigation  
Monitoring Measure:**

This Combined Development Permit (PLN190083) allows a Coastal Development Permit and Design Approval for construction of a new detached 799 sf garage and 350 sf addition to the existing garage for conversion to a detached 1,810 sf gym/guesthouse/art studio; and a Coastal Development Permit for development on a site with positive archaeological resources.

The property is located at 3334 17-Mile Drive (Assessor's Parcel Number 008-423-017-000), Del Monte Forest Land Use Plan. This permit was approved in accordance with County ordinances and land use regulations subject to the terms and conditions described in the project file. Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of 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 on-going basis unless otherwise stated.

## 2. PD002 - NOTICE PERMIT APPROVAL

**Responsible Department:** RMA-Planning

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

"A Combined Development Permit (Resolution Number 21-002) was approved by the Planning Commission for Assessor's Parcel Number 008-423-017-000 on 24 February 2021. The permit was granted subject to fifteen (15) conditions of approval and three (3) Mitigation Measures 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. PD002(A) - ATTACH RESOLUTION TO CONSTRUCTION PLANS

**Responsible Department:** RMA-Planning

**Condition/Mitigation Monitoring Measure:** A copy of the Resolution of Approval (Resolution No. 21-002) for the Combined Development Permit (Planning File No. PLN190083) shall be incorporated onto the construction plans for the project prior to the issuance of a grading or building permit. The Contractor/Owner/Applicant shall be responsible for compliance with all conditions of approval. (HCD - Planning)

**Compliance or Monitoring Action to be Performed:** Prior to commencement of any grading or construction activities, the Owner/Applicant shall submit evidence to HCD-Planning for review and approval, that the Resolution of Approval, for the project, has been incorporated onto the construction plans for the project/approved development.

Ongoing throughout construction and until all Conditions of Approval and/or Mitigation Measures have been complied with, the Contractor/Owner/Applicant shall provide evidence of compliance with Conditions of Approval to the Responsible Land Use Department as specified in the "Condition of Approval Implementation Plan/Mitigation Monitoring Reporting Plan."

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

**Responsible Department:** RMA-Planning

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

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

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

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

**Responsible Department:** RMA-Planning

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

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

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

## 6. FIRE007 - DRIVEWAYS

**Responsible Department:** Fire

**Condition/Mitigation  
Monitoring Measure:**

Driveways shall not be less than 12 feet wide unobstructed, with an unobstructed vertical clearance of not less than 15 feet. The grade for all driveways shall not exceed 15 percent. Where the grade exceeds 8 percent, a minimum structural roadway surface of 0.17 feet of asphaltic concrete on 0.34 feet of aggregate base shall be required. The driveway surface shall be capable of supporting the imposed load of fire apparatus (22 tons), and be accessible by conventional-drive vehicles, including sedans. For driveways with turns 90 degrees and less, the minimum horizontal inside radius of curvature shall be 25 feet. For driveways with turns greater than 90 degrees, the minimum horizontal inside radius curvature shall be 28 feet. For all driveway turns, an additional surface of 4 feet shall be added. All driveways exceeding 150 feet in length, but less than 800 feet in length, shall provide a turnout near the midpoint of the driveway. Where the driveway exceeds 800 feet, turnouts shall be provided at no greater than 400-foot intervals. Turnouts shall be a minimum of 12 feet wide and 30 feet long with a minimum of 25-foot taper at both ends. Turnarounds shall be required on driveways in excess of 150 feet of surface length and shall be located within 50 feet of the primary building. The minimum turning radius for a turnaround shall be 40 feet from the center line of the driveway. If a hammerhead/T is used, the top of the "T" shall be a minimum of 60 feet in length. Responsible Land Use Department: \_\_\_\_\_ Fire District

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

Prior to issuance of grading and/or building permits, the Applicant shall incorporate the specification of the driveway into design and print the text of this condition as "Fire Department Notes" on plans.

Prior to requesting a final building inspection, the Applicant shall complete the installation of driveway improvements and obtain fire department approval the final fire inspection.

**7. 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 in full size both one hard copy and one full color digital copy of the 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 Chief of HCD-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 in full size both one hard copy and one full color digital copy of the lighting plans to HCD - Planning for review and approval. Approved lighting plans shall be incorporated into final building plans.

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

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

**8. PD022(B) - EASEMENT-CONSERVATION & SCENIC IN THE DEL MONTE FOREST**

**Responsible Department:** RMA-Planning

**Condition/Mitigation Monitoring Measure:** A conservation and scenic easement shall be conveyed to the Del Monte Forest Conservancy over those portions of the property with archaeological resources in accordance with the procedures in Monterey County Code § 20.64.280.A. The easement conveyance shall include funding adequate to ensure the management and protection of the easement area over time.

The conservation and scenic easement deed shall include a corresponding map, showing the exact location of the easement on the property along with the metes and bound description developed in consultation with a qualified archaeologist and the Del Monte Forest Conservancy Inc.

A Subordination Agreement shall be required, where necessary. These instruments shall be subject to approval by the County as to form and content, shall provide for enforcement, if need be, by the County or other appropriate agency, and name the County as beneficiary in event the Conservancy is unable to adequately manage these easements for the intended purpose of scenic and visual resource protection.

An easement deed shall be submitted to, reviewed, and approved by the Chief of HCD-Planning and the Executive Director of the California Coastal Commission, and accepted by the Board of Supervisors prior to recording the prior to issuance of grading and building permits. (HCD - Planning)

**Compliance or Monitoring Action to be Performed:** Prior to the issuance of grading or building permits, the Owner/Applicant shall submit the conservation and scenic easement deed and corresponding map to the Del Monte Forest Conservancy for review and approval.

Prior to the issuance of grading and building permits, the Owner/Applicant shall submit to HCD - Planning the conservation and scenic easement deed and corresponding map for review and approval .

Prior to final inspection, the Owner/Applicant, shall submit a signed and notarized Subordination Agreement, if required, to HCD - Planning for review and approval

Prior to commencement of use, the Owner/Applicant shall record the deed and map showing the approved conservation and scenic easement, and submit to HCD-Planning a copy of the recorded deed and map.

## 8. PD011 - TREE AND ROOT PROTECTION

**Responsible Department:** RMA-Planning

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

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

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

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

9. PD003(B) - CULTURAL RESOURCES POSITIVE ARCHAEOLOGICAL REPORT

Responsible Department: RMA-Planning

**Condition/Mitigation Monitoring Measure:** To determine the boundaries of the shell midden, a shovel test pit excavation of a one by one meter, or two meters by one meter transect shall be conducted where auger testing from Morley's report December 2019 (File No. LIB200139) indicates location of the significant, intact midden deposit.

Excavated soils and materials shall be passed through 1/8 inch mesh screen. Materials remaining in the screen shall be transported to a laboratory for wet screening, utilizing 1/8 to 1/16 inch mesh screens. Following drying and sorting, the appropriate analysis shall be completed to include professional analyses of faunal remains, shell, lithics, groundstone, and flaked stone. A minimum of three radiocarbon dates and other appropriate dating techniques shall be employed.

If archaeological resources or human remains are accidentally discovered during construction, the following steps will be taken:

There shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until the coroner of the county in which the remain are discovered must be contacted to determine that no investigation of the cause of death is required.

If the coroner determines the remains to be Native American:

- The coroner shall contact the Native American Heritage Commission and RMA - Planning within 24 hours.
- The Native American Heritage Commission shall identify the person or persons from a recognized local tribe of the Esselen, Salinan, Costonoans/Ohlone and Chumash tribal groups, as appropriate, to be the most likely descendant.
- The most likely descendant may make recommendations to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in Public Resources Code Section 5097.9 and 5097.993, Or

Where the following conditions occur, the landowner or his authorized representatives shall rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further subsurface disturbance:

1. The Native American Heritage Commission is unable to identify a most likely descendant or the most likely descendant failed to make a recommendation within 24 hours after being notified by the commission.
2. The descendant identified fails to make a recommendation; or
3. The landowner or his authorized representative rejects the recommendation of the descendant, and the mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner.

(HCD - Planning)

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

Prior to issuance of grading or construction permits, Owner/Applicant, shall submit to HCD-Planning for review and approval the results of the shovel test pit excavation based on the previous auger testing.

Prior to the issuance of grading or building permits, the Owner/Applicant shall include requirements of this condition as a note on all grading and building plans.

Prior to Final, the Owner/Applicant, shall submit to HCD-Planning a report or letter from the archaeologist summarizing methods, findings, and recommendations.

**10. PDSP001 - Mitigation Measure (MM) No. 1 - PROTECTIVE FENCING**

**Responsible Department:** RMA-Planning

**Condition/Mitigation  
Monitoring Measure:**

Construction activities have potential to cause damage to known cultural resources. The owner/applicant, in consultation with a qualified archaeologist, shall develop a Protective Fencing Plan (PFP), submit said fencing plan to HCD-Planning for review and approval.

Owner/applicant/contractor shall incorporate the approved PFP within the approved set of job site and office copy construction plans for grading and/or building.

The approved PFP shall incorporate the following components:

- A project site plan clearly delineating resource areas to be protected, all locations where protective fencing shall be installed, and identify the protective fencing materials to be used.
- A signature and statement from the project archaeologist certifying that the protective fencing plan is consistent with MM No. 1.
- Protective fencing materials shall consist of chain link, snowdrift, hay bales, or mesh/field fencing (with openings greater than 1-inch and consistent with the California Coastal Commission 2012 bulletin on Wildlife-Friendly Plastic-Free Netting in Erosion and Sediment Control Products). If hay bales are used, bales shall be composed of sterile or clean straw, e.g. rice straw, free of seed and weed elements and certified as weed-free by the hay vendor.
- Protection fencing shall remain in place and be maintained in proper working order during the entire construction period.

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

Mitigation Measure Action (MMA) No. 1.a:

Prior to issuance of permits for grading and/or building, the owner/applicant shall submit to HCD-Planning for review and approval a Protective Fencing Plan, developed in consultation with the project archaeologist.

Mitigation Measure Action (MMA) No. 1.b:

Prior to any project ground disturbance, applicant/owner shall submit evidence to the Chief of HCD-Planning implementation of the approved Protective Fencing Plan.

**11. PDSP002 - Mitigation Measure (MM) No. 2 - QUALIFIED ARCHAEOLOGICAL MONITOR**

**Responsible Department:** RMA-Planning

**Condition/Mitigation  
Monitoring Measure:**

A qualified archaeological monitor (i.e., an archaeologist registered with the Register of Professional Archaeologists [RPA] or a Registered Archaeologist [RA] under the supervision of an RPA) shall be present during soil disturbance for all grading and excavation. If at any time, potentially significant archaeological resources or intact features are discovered, the monitor shall temporarily halt work until the find can be evaluated by the archaeological monitor. If the find is determined to be significant, work shall remain halted until a plan of action has been formulated, with the concurrence of HCD-Planning, and implemented.

Owner/applicant shall enter into a contract with a qualified archaeological monitor and submit the signed contract to HCD-Planning for review and approval. Should HCD-Planning find the contract incomplete or unacceptable, the contract will be returned to the owner/applicant and a revised contract shall be re-submitted for review and approval. The contract shall include, though not be limited to, the following:

- Pre-construction meeting agenda with specific construction activities that the monitor shall be present for, any construction activities for which the archaeological monitor will not be present, how sampling of the excavated soil will occur, and any other logistical information such as when and how work on the site will be halted.
- Provisions requiring the monitor be present during soil disturbance for all grading and excavation, and authorizing the monitor to stop work in the event resources are encountered.
- Cultural Resource Awareness and Response Training for construction personnel prior to the commencement of any grading or excavation activity. The training shall include a description of the kinds of cultural and tribal cultural resources that are found in the area, protocols to be used in the event of an unanticipated discovery, and the importance of cultural resources to the Tribal community.
- Preparation of a report by the monitor suitable for compliance documentation to be prepared within four weeks of completion of any data recovery field work.

Data recovery shall be implemented during the construction and excavation monitoring. If intact archaeological features are exposed, these shall be screened for data recovery using the appropriate method for site and soil conditions. The owner/applicant shall allow the onsite Tribal monitor (See Mitigation Measure No. 3) an opportunity to make recommendations for the disposition of potentially significant archaeological materials found. To facilitate data recovery of smaller midden components, such as beads or lithic debitage, the excavated soil from the project site shall be screened during monitoring.

A final technical report shall be prepared within one year following completion of field work if archaeological resources are uncovered and data recovery is executed. This report shall contain results of all analyses implemented throughout Mitigation Measure Nos. 2 and 3.

Artifacts associated with a finding of human remains shall be reburied in accordance with State Law and penalty for violation pursuant to PRC section 5097.994.

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

**Mitigation Measure Action (MMA) No. 2.a:**

Prior to issuance of permits from HCD-Building Services, the owner/applicant shall include a note on the construction plans (each of the demolition and grading sheets) encompassing the language contained in Mitigation Measure No. 2, including all compliance actions. The owner/applicant shall submit said plans to HCD-Planning for review and approval.

**Mitigation Measure Action (MMA) No. 2.b:**

Prior to issuance of permits from HCD-Building Services, the owner/applicant shall submit to HCD-Planning a copy of the signed contract between the owner/applicant and a qualified archaeological monitor.

**Mitigation Measure Action (MMA) No. 2.c:**

Prior to any project ground disturbance, the owner/applicant shall submit to HCD-Planning evidence that a qualified archaeologist conducted a Cultural Resource Awareness and Response Training.

**Mitigation Measure Action (MMA) No. 2.d**

If during ground disturbance, archaeological resources are uncovered, work shall be halted on the parcel until the find can be evaluated and a plan of action formulated and implemented, with the concurrence of HCD-Planning.

**Mitigation Measure Action (MMA) No. 2.e:**

If archaeological resources are uncovered and data recovery is executed, a final technical report shall be submitted to HCD-Planning and to the Northwest Information Center of the California Historical Resources Information System at Sonoma State University within one year following completion of the field work.

**12. PDSP003 - Mitigation Measure (MM) No. 3 - TRIBAL MONITOR**

**Responsible Department:** RMA-Planning

**Condition/Mitigation  
Monitoring Measure:**

To ensure Tribal Cultural Resources incur less than significant impacts, a Tribal Monitor approved by the appropriate tribe traditionally and culturally affiliated with the vicinity of the subject parcel and that has consulted with the County and designated one lead contact person in accordance with AB 52 requirements, or another appropriately NAHC-recognized representative, shall be onsite during project-related grading and excavation to identify findings with tribal cultural significance. This Tribal Monitor shall have the authority to temporarily halt work to examine any potentially significant cultural materials or features. If resources are discovered, the owner/applicant/contractor shall refer to and comply with Mitigation Measures No. 2, as applicable. This mitigation is not intended to alleviate responsibility of the owner or its agents from contacting the County Coroner and complying with State law if human remains are discovered.

Any artifacts found that are not associated with a finding of human remains shall be cataloged by both the Tribal monitor and the qualified archaeological monitor. Once cataloged, the qualified archaeological monitor shall take temporary possession of the artifacts for testing and reporting purposes. Upon completion of these testing and reporting activities, all artifacts, at the discretion of the property owner, shall be returned within one year to a representative of the appropriate local tribe as recognized by the NAHC, or of the Monterey County Historical Society.

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

Mitigation Measure Action (MMA) No. 3.a:

Prior to the issuance of permits from HCD-Building Services, the owner/applicant shall include a note on the construction plans (each of the demolition and grading sheets) encompassing the language contained in Mitigation Measure No. 3, including all compliance actions. The owner/applicant shall submit said plans to HCD-Planning for review and approval.

**13. PDSP004 - HISTORICAL RESOURCES "HR" OVERLAY**

**Responsible Department:** RMA-Planning

**Condition/Mitigation  
Monitoring Measure:**

The applicant/owner shall request a rezoning of the parcel to add an "HR" (Historical or Archaeological Resources) zoning district to the existing zoning of the parcel.

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

Prior to issuance of permits, the applicant/owner shall request a rezoning of the parcel to add an "HR" (Historical or Archaeological Resources) zoning district to the existing zoning of the parcel.

#### 14. 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, 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

**15. PD019(B) - DEED RESTRICTION-GUESTHOUSE (COASTAL)**

**Responsible Department:** RMA-Planning

**Condition/Mitigation  
Monitoring Measure:**

The applicant shall record a deed restriction stating the regulations applicable to a Guesthouse (Coastal) as follows:

- Only 1 guesthouse shall be allowed per lot.
  - Detached guesthouses shall be located in close proximity to the principal residence.
    - Guesthouses shall share the same utilities with the main residence, unless prohibited by public health requirements.
    - The guesthouse shall not have cooking or kitchen facilities, including but not limited to microwave ovens, hot plates and toaster ovens.
    - The guesthouse shall have a maximum of 6 linear feet of counter space, excluding counter space in a bathroom. There shall be a maximum of 8 square feet of cabinet space, excluding clothes closets.
    - The guesthouse shall not exceed 425 square feet of livable floor area.
    - The guesthouse shall not be separately rented, let or leased from the main residence whether compensation be direct or indirect.
    - Subsequent subdivisions which divide a main residence from a guesthouse shall be prohibited.
    - The guesthouse shall be designed in such a manner as to be visually consistent and compatible with the main residence on site and other residences in the area.
    - The guesthouse height shall not exceed 12 feet nor be more than one story.
- (HCD - Planning)

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

Prior to the issuance of grading or building permits, the Owner/Applicant shall submit to HCD-Planning for review and approval guesthouse plans in compliance with regulations in Monterey County Code 20.64.020 of Title 20 regarding a guesthouse in the coastal zone.

Prior to the issuance of grading or building permits, the Owner/Applicant shall submit a signed and notarized document to the Director of HCD-Planning for review and signature by the County.

Prior to occupancy or commencement of use, the Owner/Applicant shall submit proof of recordation of the document to the Director of the HCD-Planning.

## EXHIBIT "C"

### LEGAL DESCRIPTION OF A CONSERVATION EASEMENT

Certain real property situate in the unincorporated area in the County of Monterey, State of California, described as follows:

Being a portion of that real property described in the deed recorded April 30, 2018 as Document Number 2018018445, Official Records of said County, also being a portion of Lot 62 as shown on that certain map entitled "Amended Map of Pebble Beach" filed October 13, 1911 in Book 2 of Maps, "Cities and Towns" at pages 31, 31-A and 31-B, records of said County, more particularly described as follows:

**Beginning** at a Point on the easterly boundary of said real property described in Document Number 2018018445, from which the northeasterly corner bears North 0°27'30" East, 25.57 feet; thence following the easterly boundary of said real property

1. South 0°27'30" West, 215.47 feet; thence leaving said easterly boundary
2. North 83°13'22" West, 32.39 feet; thence
3. North 0°27'32" West, 54.34 feet; thence
4. North 89°02'56" West, 26.83 feet; thence
5. North 0°06'05" East, 12.18 feet; thence
6. North 87°17'52" West, 24.18 feet; thence
7. North 2°15'53" East, 146.47 feet; thence
8. South 87°58'16" East, 79.55 feet to the Point of Beginning

Containing 14,532 square feet, more or less.

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

#### END OF DESCRIPTION

PREPARED BY:  
WHITSON ENGINEERS

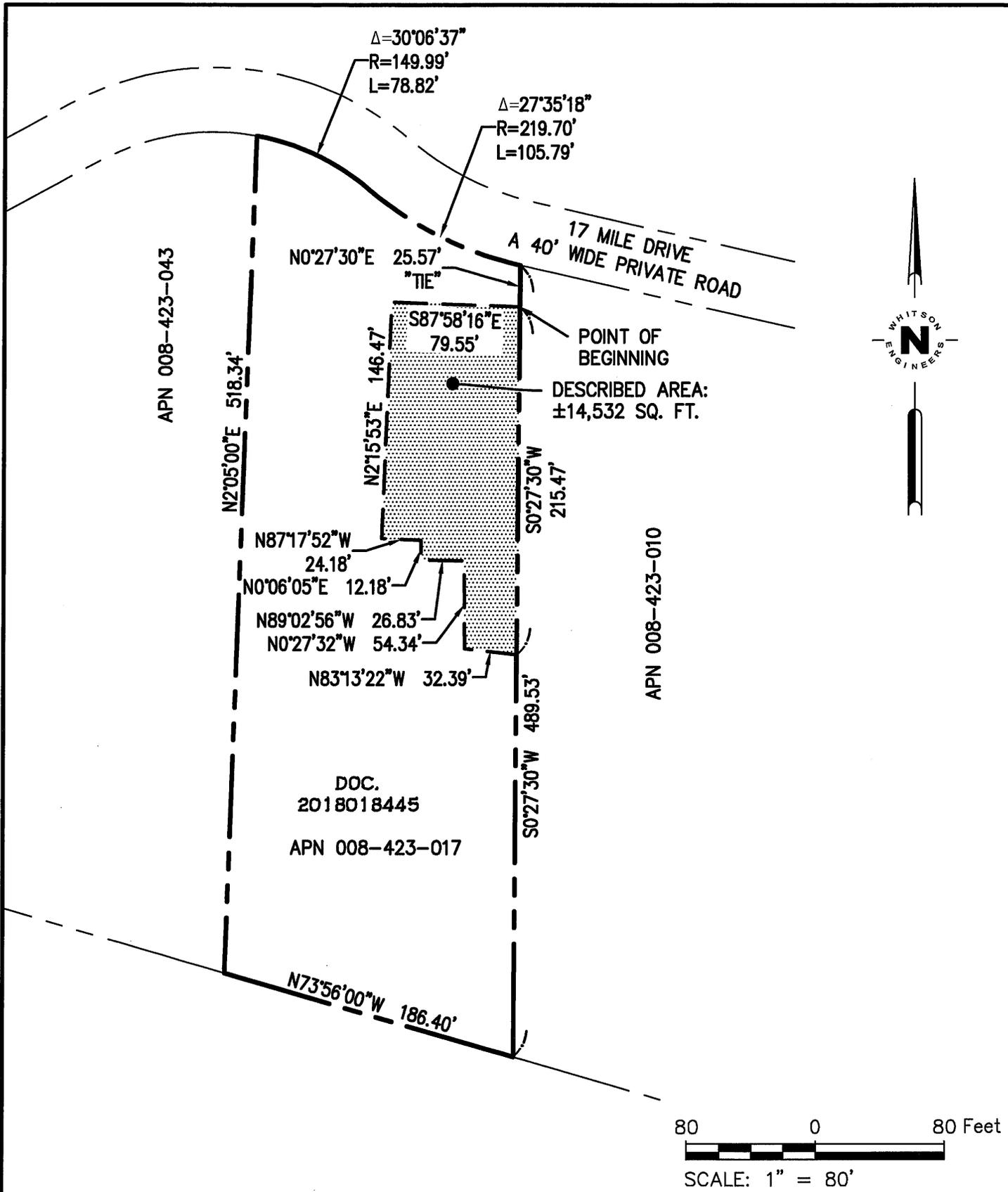


RICHARD P. WEBER P.L.S.  
L.S. NO. 8002  
Job No.: 4065

6/20/2023  
DATE



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### PLAT TO ACCOMPANY LEGAL DESCRIPTION

CONSERVATION EASEMENT  
 A PORTION OF LOT 62, AMENDED MAP OF PEBBLE BEACH  
 MONTEREY COUNTY, CALIFORNIA  
 MARCH 8, 2023



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