

# Attachment B

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When recorded return to:  
MONTEREY COUNTY RESOURCE  
MANAGEMENT AGENCY  
PLANNING DEPARTMENT  
Attn: Project Planner  
168 West Alisal St 2<sup>nd</sup> Floor  
Salinas, CA 93901  
(831) 755-5025

Space above for Recorder's Use

Permit No.: PLN 140532  
Resolution No.: 14-046  
Owner Name: The KF Terra LP., California  
limited partnership  
Project Planner: Vargas  
APN: 243-231-015-000

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

  
Mike Novo  
Signature of Declarant or Agent

**CONSERVATION AND SCENIC EASEMENT DEED  
(COASTAL)**

THIS DEED made this 16<sup>th</sup> day of July, 2015, by and between the KF  
TERRA, L.P., a California limited partnership, as Grantor, and the COUNTY OF  
MONTEREY, a political subdivision of the State of California, as Grantee,

**WITNESSETH:**

**WHEREAS**, said Grantor is the owner in fee of the real property more particularly  
described in Exhibit "A" attached hereto and made a part hereof, situated in Monterey  
County, California (hereinafter the "Property"); and

**WHEREAS**, the Property of said Grantor has certain natural scenic beauty and  
existing openness; and

**WHEREAS**, the Grantor and the Grantee desire to preserve and conserve for the public benefit the great natural scenic beauty and existing openness, natural condition and present state of use of the Property of the Grantor; 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 Minor and Trivial Amendment (File Number PLN 140532) (hereinafter referred to as the "Permit") was granted on September 10, 2014 by the Monterey County Director of RMA - Planning pursuant to the Findings, Evidence and Conditions contained in Resolution No. 14-046, attached hereto as Exhibit "B" and hereby incorporated by reference, (hereinafter the "Resolution") subject to the following condition(s):

*Condition # 21A conservation and scenic easement shall be conveyed to the County over those portions of the property where Seacliff Buckwheat (host to Smith's Blue Butterfly) exist(s). The easement shall be developed in consultation with certified professionals. An easement deed shall be submitted to, reviewed and approved by, the Director of RMA – Planning and accepted by the Board of Supervisors prior to recording the parcel/final map or prior to the issuance of grading and building permits. (RMA – Planning).*

**WHEREAS**, the County, 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 condition (hereinafter the "Condition") described above requiring inter alia, that the Grantor record a conservation and scenic easement (hereinafter "easement") over the Property as shown in Exhibit "C" attached hereto and hereby incorporated by reference, 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 County 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 so as to enable Grantor to undertake the development authorized by the Permit; and

**WHEREAS**, it is intended that this easement is irrevocable and shall constitute enforceable restrictions within the meaning of Article XIII, Section 8, of the California Constitution and that said 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 grant to the County of Monterey the conservation and scenic use as herein expressed of the Property, and thereby protect the present scenic beauty and existing openness by the restricted use and enjoyment of the Property by the Grantor through the imposition of the conditions hereinafter expressed;

**NOW, THEREFORE**, the Grantor does hereby grant and convey unto the County of Monterey an estate, interest, and conservation and scenic easement in said real property of Grantor of the nature and character and to the extent hereinafter expressed, which estate, interest, and easement will result from the restrictions hereby imposed upon the use of said Property by said Grantor, and to that end and for the purposes of accomplishing the intent of the parties hereto, said Grantor covenants on behalf of itself, its heirs, successors, and assigns, with the said Grantee, its successors and assigns, to do and refrain from doing severally and collectively upon the Grantor's Property the various acts hereinafter mentioned.

A. PROPERTY SUBJECT TO EASEMENT. 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 Exhibit "C", attached hereto, and made a part hereof, hereinafter referred to as the "Conservation and Scenic Easement Area".

B. RESTRICTIONS. The restrictions hereby imposed upon the use of the Conservation and Scenic Easement Area by the Grantor and the acts which said Grantor shall refrain from doing upon the Conservation and Scenic Easement Area in connection herewith are, and shall be, as follows:

1. That no structures will be placed or erected upon said Conservation and Scenic Easement Area. No Exceptions.

2. That no advertising of any kind or nature shall be located on or within the Conservation and Scenic Easement Area. No exceptions.

3. That the Grantor shall not plant nor permit to be planted any vegetation upon the Conservation and Scenic Easement Area. No exceptions.

4. That, except for the construction, alteration, relocation and maintenance of private pedestrian trails, the general topography of the landscape shall be maintained in its present condition and no excavation or topographic changes shall be made. No exceptions.

5. That no use of the Conservation and Scenic Easement Area which will or does materially alter the landscape or other attractive scenic features of said Property other than those specified above shall be done or suffered.

C. EXCEPTIONS AND RESERVATIONS. The following are excepted and reserved to the Grantor to be implemented consistent with the objectives, purposes and conditions of this easement:

1. The right to maintain all existing private trails upon the Conservation and Scenic Easement Area.

2. The use and occupancy of the Conservation and Scenic Easement Area not inconsistent with the conditions and restrictions herein imposed.

3. Management of vegetation within the Conservation and Scenic Easement Area in accordance with the Fuel Management Plan approved with the Permit on file with the Monterey County Planning Department.

D. SUBJECT TO ORDINANCES. Land uses permitted or reserved to the Grantor by this instrument shall be subject to all applicable laws regulating the use of land.

E. BENEFIT AND BURDEN. This grant of conservation and scenic easement shall run with and burden the Property, 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 Property from the date of recordation of this document and shall bind the Grantor and all of its successors and assigns. This grant shall benefit the County of Monterey and its successors and assigns forever.

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

G. 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 and Scenic Easement Area contrary to the terms of this grant of easement will be deemed a breach hereof. The Grantee may bring any action in court necessary to enforce this grant of 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 grant of easement shall be brought in law or in equity. Any forbearance on the part of the Grantee to enforce the terms and provisions hereof in the event of a breach shall not be deemed a waiver of Grantee's rights regarding any subsequent breach.

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

I. LIABILITY AND INDEMNIFICATION. This conveyance is made and accepted upon the express condition that the Grantee, its agencies, departments, officers, agents, and employees 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 arising out of the sole negligence of the Grantee, while in, upon, or in any way connected with the Property, Grantor hereby covenanting and agreeing to indemnify and hold harmless the Grantee, its agencies, departments, officers, agents, and employees 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 Property which would subject the Grantee to any liability occurring upon the Property by virtue of the

**NOTE TO NOTARY PUBLIC:** If you are notarizing the signatures of persons, signing on behalf of a corporation, partnership, trust, etc., please use the correct notary jurat (acknowledgment) as explained in your Notary Public Law Book.

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)  
COUNTY OF MONTEREY)

On July 16, 2015 before me, Esmeralda Castillo-Medina, a Notary Public, personally appeared Lisa L.K. Kleissner, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Esmeralda Castillo-Medina



(Seal)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)  
COUNTY OF MONTEREY)

On \_\_\_\_\_ before me, \_\_\_\_\_, a Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_

(Seal)



## EXHIBIT "A"

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

### PARCEL I:

Beginning at a point of curvature on the West line of State Highway No. 1, from which point Engineers Centerline Station 374 + 49.33 E.C., as shown on that certain Record of Survey filed for record July 21, 1961 in Volume X-2 of Surveys at Page 210, bears S. 73° 22' E., 40.00 feet; thence, following the West line of State Highway No. 1

- (1) N. 16° 38' E., 87.88 feet; thence, leaving said West line of State Highway No. 1
- (2) N. 71° 00' W., 168.00 feet; thence
- (3) N. 23° 57' 50" W., 368.43 feet; thence
- (4) S. 26° 47' 10" W., 303.71 feet, to a point on the Southwesterly line of that certain 5.8 acre parcel designated "A" on said Record of Survey; thence following said Southwesterly line of said 5.8 acre parcel
- (5) S. 54° 03' 20" E. 195.00 feet, to a 1/2" pipe; thence
- (6) S. 51° 54' 10" E., 302.92 feet, to a 1/2" pipe on the West line of State Highway No. 1 at the most Southerly corner of said 5.8 parcel; thence
- (7) Northerly, 99.88 feet, along the arc of a curve to the right with radius 1040 feet, (L.C. bears N. 13° 52' 55" E., 99.84 feet) to the point of beginning.

Excepting therefrom all coal or mineral rights, and right of way for road or railroads, contained in the Deed from Carmelo Land and Coal Company, former owners of an undivided 31/32 interest, to John B. H. Cooper, et al, dated November 1, 1889, recorded in Book 30 of Deeds, Page 149.

### PARCEL II:

An easement of right-of-way for driveway access purposes for the benefit of and as appurtenant to the above described Parcel I, on, over and across those portions of Parcels "B" and "C" of that certain Record of Survey filed for record July 21, 1961 in Volume X-2 of Maps of Surveys, Monterey County Records, at Page 210, lying Easterly of the dotted line shown on said map, running from a point on the Northerly boundary of said Parcel "B" lying N. 51° 54' 10" W. 165.83 feet from the most Northeasterly corner of said Parcel "B"

- (1) S. 22° E. 100.29 feet, to a point on the Southerly boundary of said Parcel "B";
- (2) Southwesterly, 50.00 feet, more or less, to a point on the Southerly boundary of said Parcel "C", distant N. 19° 55' W., 48.21 feet, thence N. 51° 54' 10" W., 113.44 feet from the Southeasterly corner of said Parcel "C".

PARCEL III:

An easement of right-of way for pedestrian access to the Pacific Ocean from Parcel I herein above described, on, over and across:

- (1) A strip of land 10 feet wide lying along, contiguous to and Westerly of the Westerly boundary of State Highway No 1 from the Northeast corner of said above described Parcel I to the floor of Garrapata Creek Canyon, thence on, over and across the floor of Garrapata Creek Canyon from the Westerly boundary of State Highway No. 1 to the Pacific Ocean.

Assessor's Parcel Number: 243-231-015

## EXHIBIT "B"

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

In the matter of the application of:

**KLEISSNER (PLN140532)**

**RESOLUTION NO. 14-046**

Resolution by the Monterey County Director of RMA-Planning Approving a Minor and Trivial Amendment (PLN140532) to a Combined Development Permit (PLN110150) to allow: 1) a Coastal Administrative Permit for the construction of a new 1,680 square foot bi-level single family dwelling with a 320 square foot mechanical room, a 560 square foot detached garage with grading of 352 cubic yards of cut and 37 cubic yards of fill = approximately 315 cubic yards to be balanced on site, the removal of three planted non-protected Cypress trees (8", 9" and 12" in diameter), grid-tied photovoltaic system integrated into standing seam roof, new septic system and connection to existing Garrapata Water Company water system; 2) a Coastal Development Permit to allow development within 100 feet of Environmentally Sensitive Habitat; 3) a Coastal Development Permit to allow development on slopes in excess of 30%; 4) a Coastal Development Permit to allow development on a parcel with a positive archaeological report; and 5) Design Approval.

[PLN140532, Kleissner, 35670 Highway 1, Big Sur, Big Sur Coast Land Use Plan (APN: 243-231-015-000)]

The Director of the RMA-Planning, having considered the application and all the written and documentary evidence presented relating thereto, finds and decides as follows:

#### FINDINGS AND EVIDENCE

1. **FINDING:** **PROJECT DESCRIPTION** - The County has received and processed an amendment to Previous PLN110150.
- EVIDENCE:** (a) An application for a Minor and Trivial Amendment was submitted on July 15, 2014. The original permit will expire on August 8, 2015.
- (b) The property is located at 35670 Highway 1, Monterey (Assessor's Parcel Number 243-231-015-000), Big Sur Coast Land Use Plan. The parcel is zoned "WSC/40-D (CZ)" Watershed and Scenic Conservation/40 acres per unit, Design Control area in the Coastal Zone, which allow for residential dwellings. Therefore, the project is consistent with the zoning district.
- (c) On August 8, 2012, the Zoning Administrator approved PLN110150 in Resolution No. 12-030 for Combined Development Permit to allow: 1) a Coastal Administrative Permit for the construction of a

- new 3,617 square foot bi-level single family dwelling to include attached garage and storage below with associated grading (417 cubic yards of cut and 150 cubic yards of fill = 267 cubic yards to be hauled off-site), grid-tied photovoltaic system integrated into standing seam roof, new septic system and connection to existing Garrapata Water Company water system; 2) a Coastal Development Permit to allow development within 100 feet of Environmentally Sensitive Habitat; 3) a Coastal Development Permit to allow development on slopes in excess of 30%; 4) a Coastal Development Permit to allow development on a parcel with a positive archaeological report; and 5) Design Approval.
- (d) On July 15, 2014, applicants applied for a Minor and Trivial Amendment to PLN110150.
- (e) The Minor and Trivial Amendment consists of reducing the single family dwelling to 1,680 square feet with a 320 square foot mechanical room and detaching the 560 square foot garage which will require the removal of three planted non-protected Cypress trees (8", 9" and 12" in diameter) and reducing grading to 352 cubic yards of cut and 37 cubic yards of fill = approximately 315 cubic yards to be balanced on site. These modifications shall be in addition to the previously applied findings, evidence and conditions in PLN110150.
- (f) The new project (PLN140532) consists of a: Combined Development Permit to allow: 1) a Coastal Administrative Permit for the construction of a new 1,680 square foot bi-level single family dwelling with a 320 square foot mechanical room, a 560 square foot detached garage with grading of 352 cubic yards of cut and 37 cubic yards of fill = approximately 315 cubic yards to be balanced on site, the removal of three planted non-protected Cypress trees (8", 9" and 12" in diameter), grid-tied photovoltaic system integrated into standing seam roof, new septic system and connection to existing Garrapata Water Company water system; 2) a Coastal Development Permit to allow development within 100 feet of Environmentally Sensitive Habitat; 3) a Coastal Development Permit to allow development on slopes in excess of 30%; 4) a Coastal Development Permit to allow development on a parcel with a positive archaeological report; and 5) Design Approval.
- (g) None of the conditions of the permit being amended have been cleared; therefore, all of the conditions and mitigation measures will be transferred to the new permit.
- (h) All applicable conditions of approval and mitigation measures from PLN110150 have been carried forward to PLN140532. The following new conditions of approval have been incorporated into the attached Conditions of Approval: a Permit Approval Notice and Indemnification Agreement as the information and dates have changed.
- (i) The application, project plans, and related support materials submitted by the project applicant to Monterey County RMA-Planning for the proposed amendment found in Project Files PLN110150 and PLN140532.

2. **FINDING:** **CONSISTENCY** - The project as proposed is consistent with the previously approved permit(s) pursuant to Monterey County Code Section 20.70.105.A and does not cause impacts not already assessed in original permit action. As approved and amended, permit number PLN140532 will become and be referred to as the approved permit.

**EVIDENCE:** (a) Pursuant to Section 20.17.040.A, the first single family dwelling is a principal use allowed under the Watershed and Scenic Conservation zoning district. Therefore, the project is consistent with the zoning district.

(b) The project is minor or trivial in nature pursuant to the regulations in 20.70.105.A (Amendment to Coastal Development Permits) because the structure is being reduced and grading is being reduced. The garage is being detached and three cypress trees are being removed. However, these trees are planted trees and are not protected. They are not being used for screening. There are no additional impacts that were not already assessed in original permit action and the amendment is in keeping with the action of the appropriate authority.

(c) The application, project plans, and related support materials submitted by the project applicant to Monterey County RMA-Planning for the proposed amendment found in Project Files PLN110150 and PLN140532.

3. **FINDING:** **CEQA** - The Minor and Trivial Amendment does not require subsequent environmental review pursuant to CEQA Guidelines Section 15162. The original CEQA action on the project was a Mitigated Negative Declaration per CEQA Guidelines Section 15070.

**EVIDENCE:** (a) The impacts from the minor and trivial amendment have been reduced, and therefore, the project meets Section 15162. There are no substantial changes proposed that would require major revisions of the MND; and there are no substantial changes that would occur with respect to circumstances under which the project was undertaken that will require major revisions the MND. There is no new information of substantial importance.

(b) The application, project plans, and related support materials submitted by the project applicant to Monterey County RMA-Planning for the proposed amendment found in Project Files PLN110150 and PLN140532.

4. **FINDING:** **PUBLIC NOTICE** - Consideration of the request for the amendment has been carried out pursuant to Monterey County Code Section 20.84.040.A of Monterey County Code Title 20 (Zoning).

**EVIDENCE:** (a) On August 27, 2014, notices were mailed to residents within 300 feet of the project site and posted in at least 3 different public places on and near the subject property.

(b) No objections were received during the notification period from August 29, 2014 to September 9, 2014.

(c) The application, project plans, and related support materials

submitted by the project applicant to Monterey County RMA-  
Planning for the proposed amendment found in Project Files  
PLN110150 and PLN140532.

5. **FINDING:**

**APPEALABILITY** - The project, as approved, is appealable to the  
Zoning Administrator and to the California Coastal Commission.

**EVIDENCE:** (a)

Monterey County Code Section 20.70.105.A and B states that if  
objections are received, the amendment shall be considered by the  
original decision making body.

(b) No objections were received during the notification period from  
August 29, 2014 to September 9, 2014.

(c) Monterey County Code Section 20.86.080.A.3.

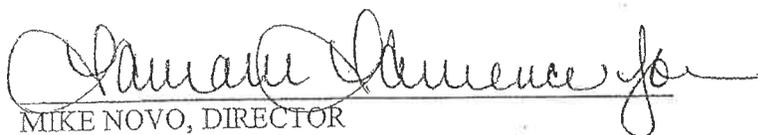
(d) The project is appealable to the California Coastal Commission  
because the original project included development that was permitted  
in the underlying zone as a conditional use and was appealable to  
the California Coastal Commission.

## DECISION

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

Approve a Minor and Trivial Amendment (PLN140532) to a Combined Development Permit (PLN110150) which consists of: 1) a Coastal Administrative Permit for the construction of a new 1,680 square foot bi-level single family dwelling with a 320 square foot mechanical room, a 560 square foot detached garage with grading of 352 cubic yards of cut and 37 cubic yards of fill = approximately 315 cubic yards to be balanced on site, the removal of three planted non-protected Cypress trees (8", 9" and 12" in diameter), grid-tied photovoltaic system integrated into standing seam roof, new septic system and connection to existing Garrapata Water Company water system; 2) a Coastal Development Permit to allow development within 100 feet of Environmentally Sensitive Habitat; 3) a Coastal Development Permit to allow development on slopes in excess of 30%; 4) a Coastal Development Permit to allow development on a parcel with a positive archaeological report; and 5) Design Approval, in general conformance with the attached sketch and subject to the attached conditions, and subject to the conditions in PLN110150 (Resolution No. 12-030) all being attached hereto and incorporated herein by reference.

PASSED AND ADOPTED this 10<sup>th</sup> day of September, 2014.



MIKE NOVO, DIRECTOR  
RMA - PLANNING DEPARTMENT

COPY OF THIS DECISION WAS MAILED TO THE APPLICANT AND THE CALIFORNIA COASTAL COMMISSION ON SEP 12 2014.

THIS APPLICATION IS ALSO APPEALABLE TO THE COASTAL COMMISSION. UPON RECEIPT OF NOTIFICATION OF THE DECISION BY THE DIRECTOR OF PLANNING, THE COMMISSION ESTABLISHES A 10 WORKING DAY APPEAL PERIOD. AN APPEAL FORM MUST BE FILED WITH THE COASTAL COMMISSION. FOR FURTHER INFORMATION, CONTACT THE COASTAL COMMISSION AT (831) 427-4863 OR AT 725 FRONT STREET, SUITE 300, SANTA CRUZ, CA 95060.

### NOTE:

1. You may need a building and/or grading permit and must comply with the Monterey County Resource Management Agency-Building Services Department 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 working days after the mailing of the 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 an 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.

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

Exhibit B

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# Monterey County RMA Planning

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

PLN140532

### 1. PD001 - SPECIFIC USES ONLY

Responsible Department: RMA-Planning

Condition/Mitigation  
Monitoring Measure:

This Minor and Trivial Amendment (PLN140532) to a Combined Development Permit (PLN110150) allowing: 1) a Coastal Administrative Permit for the construction of a new 1,680 square foot bi-level single family dwelling with a 320 square foot mechanical room, a 560 square foot detached garage with grading of approximately (352 cubic yards of cut and 37 cubic yards of fill = 315 cubic yards to be balanced on site), the removal of three planted non-protected Cypress trees (8", 9" and 12" in diameter), grid-tied photovoltaic system integrated into standing seam roof, new septic system and connection to existing Garrapata Water Company water system; 2) a Coastal Development Permit to allow development within 100 feet of Environmentally Sensitive Habitat; 3) a Coastal Development Permit to allow development on slopes in excess of 30%; 4) a Coastal Development Permit to allow development on a parcel with a positive archaeological report; and 5) Design Approval. The property is located at 35670 Highway 1, Big Sur (Assessor's Parcel Number 243-231-015-000), Big Sur Coast Land Use Plan. This permit was approved in accordance with County ordinances and land use regulations subject to the terms and conditions described in the project file. Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of RMA - Planning. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. To the extent that the County has delegated any condition compliance or mitigation monitoring to the Monterey County Water Resources Agency, the Water Resources Agency shall provide all information requested by the County and the County shall bear ultimate responsibility to ensure that conditions and mitigation measures are properly fulfilled. (RMA - Planning)

Compliance or  
Monitoring  
Action to be Performed:

The Owner/Applicant shall adhere to conditions and uses specified in the permit on an ongoing basis unless otherwise stated.

2. PD002 - NOTICE PERMIT APPROVAL

Responsible Department: RMA-Planning

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

"A Minor and Trivial Amendment for a Combined Development Permit (Resolution Number 14-046) was approved by the Director of RMA-Planning for Assessor's Parcel Number 243-231-015-000 on September 10, 2014. The permit was granted subject to 25 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 building permits or commencement of the use. (RMA - Planning)

Compliance or Monitoring Action to be Performed:

Prior to the issuance of grading and building permits or commencement of use, the Owner/Applicant shall provide proof of recordation of this notice to the RMA - Planning.

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

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: 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.

(RMA - Planning)

Compliance or Monitoring Action to be Performed:

Prior to the issuance of grading or building permits or approval of Subdivision Improvement Plans, whichever occurs first, the Owner/Applicant, per the archaeologist, shall submit the contract with a Registered Professional Archaeologist for on-call archaeological services should resources be discovered during construction activities. Submit the letter to the Director of the RMA – Planning for approval.

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, on the Subdivision Improvement Plans, in the CC&Rs, and shall be included as a note on an additional sheet of the final/parcel map.

Prior to Final, the Owner/Applicant, per the Archaeologist, shall submit a report or letter from the archaeologist summarizing their methods, findings, and recommendations if their services are needed during construction or if no resources were found.

4. PD004 - INDEMNIFICATION AGREEMENT

Responsible Department: RMA-Planning

**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. (RMA - Planning)

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

Proof of recordation of the Indemnification Agreement, as outlined, shall be submitted to RMA-Planning .

5. PD032(A) - PERMIT EXPIRATION

Responsible Department: RMA-Planning

**Condition/Mitigation Monitoring Measure:** The permit shall be granted for a time period of 3 years, to expire on September 10, 2017, unless use of the property or actual construction has begun within this period. (RMA-Planning)

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

6. 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.

7. PD012(F) - LANDSCAPE PLAN & MAINTENANCE (SFD ONLY)

Responsible Department: RMA-Planning

**Condition/Mitigation Monitoring Measure:** The site shall be landscaped. Prior to the issuance of building permits, three (3) copies of a landscaping plan shall be submitted to the Director of RMA - Planning. A landscape plan review fee is required for this project. Fees shall be paid at the time of landscape plan submittal. The landscaping plan shall be in sufficient detail to identify the location, species, and size of the proposed landscaping materials and shall include an irrigation plan. The plan shall be accompanied by a nursery or contractor's estimate of the cost of installation of the plan. Before occupancy, landscaping shall be either installed or a certificate of deposit or other form of surety made payable to Monterey County for that cost estimate shall be submitted to the Monterey County RMA - Planning. All landscaped areas and fences shall be continuously maintained by the applicant; all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition. (RMA - Planning)

**Compliance or Monitoring Action to be Performed:** Prior to issuance of building permits, the Owner/Applicant/Licensed Landscape Contractor/Licensed Landscape Architect shall submit landscape plans and contractor's estimate to the RMA - Planning for review and approval. Landscaping plans shall include the recommendations from the Forest Management Plan or Biological Survey as applicable. All landscape plans shall be signed and stamped by licensed professional under the following statement, "I certify that this landscaping and irrigation plan complies with all Monterey County landscaping requirements including use of native, drought-tolerant, non-invasive species; limited turf; and low-flow, water conserving irrigation fixtures."

Prior to occupancy, the Owner/Applicant/Licensed Landscape Contractor/Licensed Landscape Architect shall ensure that the landscaping shall be either installed or a certificate of deposit or other form of surety made payable to Monterey County for that cost estimate shall be submitted to the Monterey County RMA - Planning.

On an on-going basis, all landscaped areas and fences shall be continuously maintained by the Owner/Applicant; all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition.

8. PD014(C) - LIGHTING-EXTERIOR LIGHTING PLAN (BIG SUR)

Responsible Department: RMA-Planning

**Condition/Mitigation Monitoring Measure:** All exterior lighting shall be unobtrusive, down-lit, compatible with the local area, and constructed or located so that only intended area is illuminated and off-site glare is fully controlled. Exterior lights shall have recessed lighting elements. Exterior light sources that would be directly visible from critical viewshed viewing areas as defined in Section 20.145.020.V, are prohibited. The applicant shall submit three (3) copies of an exterior lighting plan which shall indicate 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 the 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.

9. PD006 - CONDITION OF APPROVAL / MITIGATION MONITORING PLAN

Responsible Department: RMA-Planning

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

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

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

10. EHSP01 ONSITE WASTEWATER TREATMENT SYSTEM DESIGN

Responsible Department: Health Department

Condition/Mitigation Monitoring Measure: Environmental Health has determined that adequate area exists for onsite wastewater disposal for the proposed development. Submit onsite wastewater treatment system plans for review and approval indicating the location, design layout and size specifications that meets standards found in Monterey County Code Chapter 15.20, Sewage Disposal Ordinance, and the Central Coast Basin Plan, Regional Water Quality Control Board.

Compliance or Monitoring Action to be Performed: Prior to issuance of building permit, submit onsite wastewater treatment system design plans for review and approval by the Environmental Health Bureau. Also submit new design plans showing new wastewater system location. Applicant shall obtain a permit to install the onsite wastewater treatment system from Environmental Health.

11. PW0043 - REGIONAL DEVELOPMENT IMPACT FEE

Responsible Department: RMA-Public Works

Condition/Mitigation Monitoring Measure: Prior to issuance of building permits, applicant shall pay the Regional Development Impact Fee (RDIF) pursuant to Monterey Code Chapter 12.90. The fee amount shall be determined based on the parameters adopted in the current fee schedule. (Public Works)

Compliance or Monitoring Action to be Performed: Prior to issuance of building permits, the owner/applicant shall pay Monterey County Building Services Department the traffic mitigation fee. Owner/Applicant shall submit proof of payment to the DPW.

12. WR002 - STORMWATER CONTROL

Responsible Department: Water Resources Agency

Condition/Mitigation Monitoring Measure: The applicant shall provide a drainage plan, prepared by a registered civil engineer or licensed architect, to mitigate on-site and off-site impacts. Impervious surface stormwater runoff shall be dispersed at multiple points, on the least steep available slopes, away from and below any septic leach fields. Erosion control shall be provided at each outlet. Drainage improvements shall be constructed in accordance with plans approved by the Water Resources Agency. (Water Resources Agency)

Compliance or Monitoring Action to be Performed: Prior to issuance of any construction permit, the owner/applicant shall submit a drainage plan with the construction permit application.

The Building Services Department will route a plan set to the Water Resources Agency for review and approval.

13. 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. CDF-Coastal 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.

14. FIRE008 - GATES

Responsible Department: Fire

**Condition/Mitigation Monitoring Measure:** All gates providing access from a road to a driveway shall be located at least 30 feet from the roadway and shall open to allow a vehicle to stop without obstructing traffic on the road. Gate entrances shall be at least the width of the traffic lane but in no case less than 12 feet wide. Where a one-way road with a single traffic lane provides access to a gated entrance, a 40-foot turning radius shall be used. Where gates are to be locked, the installation of a key box or other acceptable means for immediate access by emergency equipment may be required. CDF-Coastal 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 entry gate 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 the entry gate and obtain fire department approval the final fire inspection.

15. FIRE011 - ADDRESSES FOR BUILDINGS

Responsible Department: Fire

Condition/Mitigation Monitoring Measure: All buildings shall be issued an address in accordance with Monterey County Ordinance No. 1241. Each occupancy, except accessory buildings, shall have its own permanently posted address. When multiple occupancies exist within a single building, each individual occupancy shall be separately identified by its own address. Letters, numbers and symbols for addresses shall be a minimum of 4-inch height, 1/2-inch stroke, contrasting with the background color of the sign, and shall be Arabic. The sign and numbers shall be reflective and made of a noncombustible material. Address signs shall be placed at each driveway entrance and at each driveway split. Address signs shall be visible and legible from both directions of travel along the road. In all cases, the address shall be posted at the beginning of construction and shall be maintained thereafter. Address signs along one-way roads shall be visible from both directions of travel. Where multiple addresses are required at a single driveway, they shall be mounted on a single sign. Where a roadway provides access solely to a single commercial occupancy, the address sign shall be placed at the nearest road intersection providing access to that site. Permanent address numbers shall be posted prior to requesting final clearance. CDF-Coastal Fire District

Compliance or Monitoring Action to be Performed: Prior to issuance of building permit, Applicant shall incorporate specification into design and print the text of this condition as "Fire Dept. Notes" on plans.

Prior to requesting a final building inspection, Applicant shall install the required address signage and shall obtain fire department approval of the fire department final inspection.

16. FIRE015 - FIRE HYDRANTS/FIRE VALVES

Responsible Department: Fire

Condition/Mitigation Monitoring Measure: A fire hydrant or fire valve is required. The hydrant or fire valve shall be 18 inches above grade, 8 feet from flammable vegetation, no closer than 4 feet and no further than 12 feet from a roadway, and in a location where fire apparatus using it will not block the roadway. The hydrant serving any building shall be not less than 50 feet and not more than 1000 feet by road from the building it is to serve. Minimum hydrant standards shall include a brass head and valve with at least one 2 1/2 inch National Hose outlet supplied by a minimum 4 inch main and riser. More restrictive hydrant requirements may be applied by the Reviewing Authority. Each hydrant/valve shall be identified with a reflectorized blue marker, with minimum dimensions of 3 inches, located on the driveway address sign, non-combustible post or fire hydrant riser. If used, the post shall be within 3 feet of the hydrant/valve, with the blue marker not less than 3 feet or greater than 5 feet above the ground, visible from the driveway. On paved roads or driveways, reflectorized blue markers shall be permitted to be installed in accordance with the State Fire Marshal's Guidelines for Fire Hydrant Markings Along State Highways and Freeways, May 1988. CDF-Coastal Fire District

Compliance or Monitoring Action to be Performed: Prior to issuance of grading and/or building permit, Applicant shall incorporate specification into design and print the text of this condition as "Fire Dept. Notes" on construction plans.

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

17. FIRE019 - DEFENSIBLE SPACE REQUIREMENTS - (STANDARD)

Responsible Department: Fire

Condition/Mitigation Monitoring Measure: Manage combustible vegetation from within a minimum of 100 feet of structures, or to the property line, whichever is closer. Trim tree limbs to a minimum height of 6 feet from the ground. Remove tree limbs from within 10 feet of chimneys. Additional and/or alternate fire protection or firebreaks approved by the fire authority may be required to provide reasonable fire safety. Environmentally sensitive areas may require alternative fire protection, to be determined by Reviewing Authority and the Director of Planning and Building Inspection. CDF-Coastal Fire District

Compliance or Monitoring Action to be Performed: Prior to issuance of grading and/or building permit, Applicant shall incorporate specification into design and print the text of this condition as "Fire Dept. Notes" on construction plans.

Prior to requesting a final building inspection, the Applicant shall complete the vegetation management and shall obtain fire department approval of the final fire inspection.

18. FIRE022 - FIRE PROTECTION EQUIPMENT & SYSTEMS - FIRE SPRINKLER SYSTEM - (HAZARDOUS CONDITIONS)

Responsible Department: Fire

Condition/Mitigation Monitoring Measure: The building(s) and attached garage(s) shall be fully protected with automatic fire sprinkler system(s). Installation shall be in accordance with the applicable NFPA standard. A minimum of four (4) sets of plans for fire sprinkler systems must be submitted by a California licensed C-16 contractor and approved prior to installation. This requirement is not intended to delay issuance of a building permit. A rough sprinkler inspection must be scheduled by the installing contractor completed prior to requesting a framing inspection. Due to substandard access, or other mitigating factors, small bathroom(s) and open attached porches, carports, and similar structures shall be protected with fire sprinklers. CDF-Coastal Fire District

Compliance or Monitoring Action to be Performed: Prior to issuance of grading and/or building permit, Applicant shall print the text of this condition as "Fire Dept. Notes" on construction plans.

Prior to requesting a framing inspection, the Applicant shall obtain fire department approval of the rough sprinkler inspection.

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

19. FIRE024 - FIRE ALARM SYSTEM - (SINGLE FAMILY DWELLING)

Responsible Department: Fire

**Condition/Mitigation Monitoring Measure:** The residence shall be fully protected with an approved household fire warning system as defined by NFPA Standard 72. Plans and specifications for the household fire warning system shall be submitted by a California licensed C-10 contractor and approved prior to installation. Household fire warning systems installed in lieu of single-station smoke alarms required by the Uniform Building Code shall be required to be placarded as permanent building equipment. CDF-Coastal Fire District

**Compliance or Monitoring Action to be Performed:** Prior to issuance of building permit, Applicant shall print the text of this condition on the construction plans.

Prior to requesting a framing inspection, Applicant shall obtain fire department approval of the fire alarm system plans.

Prior to requesting a final building inspection, Applicant shall complete the installation of the fire alarm system, obtain fire department approval of the fire alarm acceptance test and final fire inspection.

20. FIRE027 - ROOF CONSTRUCTION - (VERY HIGH HAZARD SEVERITY ZONE)

Responsible Department: Fire

**Condition/Mitigation Monitoring Measure:** All new structures, and all existing structures receiving new roofing over 50 percent or more of the existing roof surface within a one-year period, shall require a minimum of ICBO Class A roof construction. CDF-Coastal Fire District

**Compliance or Monitoring Action to be Performed:** Prior to issuance of building permit, the Applicant shall print the text of this condition as "Fire Dept. Notes" on construction plans.

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21. PD022(A) - EASEMENT-CONSERVATION & SCENIC

Responsible Department: RMA-Planning

Condition/Mitigation  
Monitoring Measure:

A conservation and scenic easement shall be conveyed to the County over those portions of the property where Seacliff Buckwheat (host to Smith's Blue Butterfly) exist(s). The easement shall be developed in consultation with certified professionals. An easement deed shall be submitted to, reviewed and approved by, the Director of RMA - Planning and accepted by the Board of Supervisors prior to recording the parcel/final map or prior to the issuance of grading and building permits. (RMA - Planning)

Compliance or  
Monitoring  
Action to be Performed:

Prior to recordation of the parcel/final map or prior to the issuance of grading and building permits, the Owner/Applicant/Certified Professional shall submit the conservation and scenic easement deed and corresponding map, showing the exact location of the easement on the property along with the metes and bound description developed in consultation with a certified professional, to RMA - Planning for review and approval.

Prior to or concurrent with recording the parcel/final map, prior to the issuance of grading and building permits, or prior to the commencement of use, the Owner/Applicant shall record the deed and map showing the approved conservation and scenic easement. Submit a copy of the recorded deed and map to RMA-Planning.

22. MITIGATION MEASURE #1 - PROTECTION OF BUCKWHEAT PLANTS

Responsible Department: RMA-Planning

Condition/ Mitigation Monitoring Measure: Mitigation Measure 1: In order to assure no incidental taking of the Smith's blue butterfly, the applicant and contractor shall agree in writing to stage construction in such a way as to avoid impacting buckwheat plants. In consultation with the RMA Planning Department, the applicant shall implement the following measures, as necessary:

- a. Begin construction (i.e. brush clearing, grading) no earlier than on August 15th or a later date, unless a qualified biologist confirms that the Smith's blue butterfly flight season has ended prior to August 15th.
- b. Protect all buckwheat plants on or near the subject property with a five-foot buffer, install temporary protective fencing along the edge of the scrub vegetation containing dune buckwheat where it abuts the construction zone (silt fence or plastic orange fence).
- c. Inform construction crew of the sensitivity of the vegetation and prohibit access into the area during construction.
- d. Designate equipment staging and storage areas away from the scrub vegetation north of the proposed building site. Direct runoff from the construction site away from the sensitive vegetation area.
- e. Control dust during construction with water in accordance with current Best Management Practices and Monterey County grading regulations.

Compliance or Monitoring Action to be Performed: Monitoring Action 1a: Prior to issuance of grading permits, the applicant shall schedule a pre-construction site visit with RMA Planning staff and a qualified biologist to assess construction staging and to develop appropriate protective measures for the seacliff buckwheat *Eriogonum parvifolium*. Recommended protective measures shall be installed prior to commencement of grading activities and shall remain in place until final inspection.

Monitoring Action 1b: Prior to grading, a qualified biologist shall provide a report to the Director of RMA Planning that certifies the proper mitigation for the Smith's blue butterfly has been implemented in accordance with Mitigation Measure #1.

Monitoring Action 1c: During grading, the contractor and grading inspector shall monitor the site for continued compliance with dust control.

23. MITIGATION MEASURE #2 - PRECONSTRUCTION MEETING

Responsible Department: RMA-Planning

Condition/ Mitigation Monitoring Measure: Mitigation Measure #2: In order to avoid any impacts to the known recorded CA-MNT-98 resource, an on-site pre-construction meeting shall be held between the applicant, the archaeologist and the contractor to discuss the mitigation requirements, scheduling of construction and to assure an understanding of the mitigations.

Compliance or Monitoring Action to be Performed: Monitoring Action #2: Prior to any construction, evidence of a site meeting between all parties involved shall be submitted to the Director of the RMA Planning Department. Evidence shall consist of a letter summarizing what was discussed.

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24. MITIGATION MESURE #3 - EXECUTE ARCHAEOLOGICAL AGREEMENT

Responsible Department: RMA-Planning

Condition/Mitigation  
Monitoring Measure: Mitigation Measure #3:

In order to ensure that the archaeologist will be on-site during construction, an agreement between the applicant and a professional archaeologist shall be executed stating that the archaeologist shall be present during construction or pre-construction activities that involve earth disturbance, such as foundation demolition, grading, excavation for the garage and basement, footings and utilities, etc. The monitor shall be authorized to determine the level of monitoring, i.e., intermittent or continuous, as well as the appropriate end of such oversight.

Compliance or  
Monitoring  
Action to be Performed:

Monitoring Action #3:

A copy of the signed agreement shall be submitted to RMA-Planning Department for review and approval prior to issuance of any grading/building permits.

Additional on-going monitoring Action:

The text of the mitigation measure shall be posted and maintained at the project site for the duration of construction.

25. MITIGATION MEASURE #4 - ON-SITE MONITORING

Responsible Department: RMA-Planning

Condition/Mitigation  
Monitoring Measure:

Mitigation Measure #4:  
In order to ensure that the requirements of Big Sur Land Use Plan policies are followed, if, during the course of construction, cultural, archaeological, historical or 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. If human remains are accidentally discovered during construction, the following steps will be taken:

(a) There shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until:

(b) The coroner of the county in which the remains are discovered must be contacted to determine that no investigation of the cause of death is required, and

(c) If the coroner determines the remains to be Native American:

- The coroner shall contact the Native American Heritage Commission and the RMA Planning Department within 24 hours.

- The Native American Heritage Commission shall identify the person or persons from a recognized local tribe of the Esselen, Salinan, Costanoans/ Ohlone and Chumash tribal groups, as appropriate, to be the most likely descendent.

- The most likely descendent 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 descendent or the most likely descendent failed to make a recommendation within 24 hours after being notified by the commission.

2. The descendent identified fails to make a recommendation; or

3. The landowner or his authorized representative rejects the recommendation of the descendent, and the mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner.

Compliance or  
Monitoring  
Action to be Performed:

Monitoring Action #4:

The County of Monterey shall be notified immediately upon evidence of archaeological resources found on site. The applicant shall then submit the contracts with a Registered Professional Archaeologist, and a representative of the Ohlone Costanoan Esselen Nation within one week to the Director of the RMA -Planning Department for review and approval.

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

In the matter of the application of:

K F TERRA, LP (PLN110150)

RESOLUTION NO. 12-030

Resolution by the Monterey County Planning  
Commission:

- 1) Adopted a Mitigated Negative Declaration;
- 2) Approved the Combined Development Permit,  
based on the findings and evidence and subject to  
the conditions of approval; and
- 3) Adopted a Mitigation Monitoring and Reporting  
Plan

[PLN110150, K F Terra, LP, 35670 Highway 1, Big  
Sur, Big Sur Coast Land Use Plan (APN: 243-231-  
015-000)]

The Combined Development Permit application (PLN110150) came on for public hearing before the Monterey County Planning Commission on June 13, 2012 and August 8, 2012. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, 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;
  - Big Sur Coast Land Use Plan;
  - Monterey County Coastal Implementation Plan Part 3;
  - Monterey County Zoning Ordinance (Title 20);No conflicts were found to exist. No communications were received during the course of review of the project indicating any inconsistencies with the text, policies, and regulations in these documents.  
b) The property is located at 35670 Highway 1, Big Sur (Assessor's Parcel Number 243-231-015-000), Big Sur Coast Land Use Plan. The parcel is zoned "WSC/40-D (CZ)" Watershed and Scenic Conservation/40 acres per unit-Design Control Area in the Coastal Zone, which allows for residential dwellings. Therefore, the project is an allowed land use for this site.  
c) Rocky Point Exemption The Big Sur Coast Land Use Plan (LUP) and Coastal Implementation Plan (CIP) provide standards for development in the critical viewshed which allow the preservation of Big Sur's scenic resources. LUP Key Policy 3.2.1 and Section 20.145.030 of the CIP prohibit development visible from Highway 1. However, the LUP and CIP provide for exceptions to the key policy (Section 3.2.5.F) for the Rocky Point area. This exception allows development of vacant parcels in the Rocky Point area pursuant to LUP Section 3.2.4. and CIP section

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20.145.030.B.6, which establish development policies and standards for land not in the critical viewshed. The Planning and Building Inspection Department's interpretation of the LUP is that development on Rocky Point area parcels is also allowed provided that intrusion in the critical viewshed is minimized to the greatest extent feasible. This project site is located in the Rocky Point Area of the highly scenic Big Sur Coast. Views of the coastal hills and bluffs, Pacific Ocean, and rock outcroppings are predominant in the area. The proposed structure will not be visible from nearby public vista points and public coastal access points along Highway 1 because of existing vegetation and a knoll that is taller than the height of the proposed structure. Accordingly, the proposed structure meets the policies and regulations for development in the Critical Viewshed contained in the Big Sur Coast Land Use Plan and Implementation Plan.

- d) Design Approval Pursuant to Chapter 20.44, Design Control Zoning District, the project requires design review of structures to make sure they are appropriate to assure protection of the public viewshed, neighborhood character, and assure visual integrity. The proposed single family dwelling has been designed and sited to minimize intrusion in the critical viewshed. Design characteristics include placing the structure around existing topographic features and on an existing road, planted roof, use of earth tone colors, and landscaping with native species. Access to the site is provided through an existing driveway. The height of the structure does not extend above any existing landforms so it would not block any ocean view.
- e) ESHA In 2011, Zander Associates completed a biological resources assessment for the current project located on parcel 243-231-015-000. Because parcel 015 is located within an existing residential area it has been subjected to various levels of human disturbance as a result. Nevertheless, the northwestern portion of the parcel contains a relatively intact stand of coastal bluff scrub dominated by dune buckwheat, lizard tail, and Monterey Indian paintbrush. Several occurrences of Smith's blue butterfly are recorded within five miles of the project area and therefore, there is potential for the dune buckwheat plants on the parcel to provide habitat for this butterfly. No Smith's blue butterflies have been observed using the dune buckwheat plants on the parcel during past surveys, but the potential for this butterfly to be present in the area remains. No dune buckwheat plants were observed in any of the areas that will be disturbed for construction of the new residence, leach field, or new driveway. However, there are dune buckwheat plants immediately adjacent to the proposed residence that could be affected by construction activities. Therefore, mitigation measures implemented will protect the buckwheat plants during construction. (Condition #22/MM #1)
- f) Cultural Resources In January 2012, Archaeological Consulting prepared a Preliminary Archaeological Assessment for a new house construction on a portion of one of the Kleissner parcels on Highway One south of Carmel. Overall soil visibility was adequate for the purposes of the assessment. The field assessment consisted of a general surface reconnaissance of all project areas which could reasonably be

expected to contain visible cultural resources and which could be viewed without major vegetation removal or excavation. Previous research of the files found that CA-MNT-98 is recorded on the project parcel and on several other parcels west of the highway. Although the CA-MNT-98 midden is visible northwest of the project area, none of the materials frequently associated with prehistoric cultural resources in the area were observed in the current project footprint. The soil in the project area was lighter brown than the midden soil. No shell fragments were seen in the immediate vicinity of the project footprint. However, given the nature of archeological resources in a highly sensitive area, where they may be discovered during construction activities, potential adverse impacts could occur during construction. In order to reduce these potential impacts to a less than significant level, mitigation measures have been applied to this project to ensure that an archaeological monitor be present during construction activities. (Conditions #23, #24, #25/MM #2, #3, #4)

- g) 30% Slope Exception A 30% slope waiver better achieves the goals, policies and objectives of the Monterey County Local Coastal Program. The slope waiver proposes a portion of the proposed house site on a small area (238 square feet) that exceeds 30% grade (maximum 36%). The size of the proposed residence comprises 2,644 square feet of lot coverage. Development of the parcel is constrained by critical viewshed, trees and ESHA. The proposed development has been designed to take maximum advantage of previously disturbed area. The proposed footprint has been carefully sited to maximize consistency with the development standards and resource protection policies as follows:

- The proposed residence footprint avoids location of ESHA;
- The proposed residence is sited to avoid critical viewshed areas. The house footprint has been pushed as far eastward (away from open areas of parcel) as possible to avoid views of structure from Garrapata Bridge, nearby Garrapata beach trails and highway turnouts.
- The proposed residence footprint was purposefully sited to rest primarily on an existing developed area, a roadbed; thereby minimizing disruption of natural habitat;
- The location of the proposed residence avoids the removal of trees;
- The location of the proposed residence is one main level to avoid height issues related to the critical viewshed. The garage and storage is tucked under the house.

For these reasons staff supports the 30% slope waiver.

- h) The project planner conducted a site inspection on May 13, 2011 to verify that the project on the subject parcel conforms to the plans listed above.
- i) On March 13, 2012, the Big Sur Land Use Advisory Committee recommended (5-0 vote) to support the project as proposed.
- j) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN110150.

2. **FINDING:** **SITE SUITABILITY** – The site is physically suitable for the use proposed.
- EVIDENCE:**
- a) The project has been reviewed for site suitability by the following departments and agencies: RMA - Planning Department, CDF Coastal, Public Works, Environmental Health Bureau, and Water Resources Agency. There has been no indication from these departments/agencies that the site is not suitable for the proposed development. Conditions recommended have been incorporated.
  - b) Staff identified potential impacts to Aesthetics, Biological Resources, Cultural Resources and geotechnical. The following reports have been prepared:
    - "Biological Resources Assessment" (LIB120010) prepared by Zander Associates, San Rafael, CA, November 15, 2011;
    - "Preliminary Archaeological Assessment" (LIB120126) prepared by Archaeological Consulting, Salinas, CA, January 20, 2012;
    - "Geotechnical Investigation" (LIB120009) prepared by Tharp & Associates, Inc., December 2011The above-mentioned technical reports by outside consultants indicated that there are no physical or environmental constraints that would indicate that the site is not suitable for the use proposed. County staff has independently reviewed these reports and concurs with their conclusions.
  - c) Staff conducted a site inspection on May 13, 2011 to verify that the site is suitable for this use.
  - d) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN110150.

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 RMA - Planning Department, CDF Coastal, Public Works, Environmental Health Bureau, and Water Resources Agency. The respective agencies have recommended conditions, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood.
  - b) Necessary public facilities will be provided by an existing mutual water system called Garrapata Water Company and a new on-site septic system. The Environmental Health Bureau has determined that the new septic system will have no potential impacts on the project.
  - c) Preceding findings #1 and #2 and supporting evidence for PLN110150.
  - d) Staff conducted a site inspection on May 13, 2011 to verify that the site is suitable for this use.

- e) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN110150.
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 RMA - Planning Department and Building Services Department records and is not aware of any violations existing on subject property.
  - b) Staff conducted a site inspection on May 13, 2011 and researched County records to assess if any violation exists on the subject property.
  - c) There are no known violations on the subject parcel.
  - d) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN110150.
5. **FINDING:** **CEQA (Mitigated Negative Declaration)** - On the basis of the whole record before the Monterey County Planning Commission there is no substantial evidence that the proposed project as designed, conditioned and mitigated, will have a significant effect on the environment. The Mitigated Negative Declaration reflects the independent judgment and analysis of the County.
- EVIDENCE:**
- a) Public Resources Code Section 21080.d and California Environmental Quality Act (CEQA) Guidelines Section 15064.a.1 require environmental review if there is substantial evidence that the project may have a significant effect on the environment.
  - b) The Monterey County Planning Department prepared an Initial Study pursuant to CEQA. The Initial Study is on file in the offices of the Planning Department and is hereby incorporated by reference (PLN110150).
  - c) The Initial Study identified several potentially significant effects, but the applicant has agreed to proposed mitigation measures that avoid the effects or mitigate the effects to a point where clearly no significant effects would occur.
  - d) All project changes required to avoid significant effects on the environment have been incorporated into the project and/or are made conditions of approval. A Condition Compliance and Mitigation Monitoring and/or Reporting Plan has been prepared in accordance with Monterey County regulations, is designed to ensure compliance during project implementation, and is hereby incorporated herein by reference. The applicant must enter into an "Agreement to Implement a Mitigation Monitoring and/or Reporting Plan as a condition of project approval. (Condition #9)
  - e) The Draft Mitigated Negative Declaration ("MND") for PLN110150 was prepared in accordance with CEQA and circulated for public review from July 5 to August 6, 2012. (SCH#: 2012071005)
  - f) Issues that were analyzed in the Mitigated Negative Declaration include:

aesthetics, air quality, biological resources, cultural resources, and greenhouse gas emissions. Impacts for aesthetics, air quality and greenhouse gases were less than significant and potential impacts for biological and cultural resources were reduced to less than significant with proposed mitigation measures.

- g) Evidence that has been received and considered includes: the application, technical studies/reports (see Finding 2/Site Suitability), staff reports that reflect the County's independent judgment, and information and testimony presented during public hearings. These documents are on file in the RMA-Planning Department (PLN110150) and are hereby incorporated herein by reference.
- h) Staff analysis contained in the Initial Study and the record as a whole indicate the project could result in changes to the resources listed in Section 753.5(d) of the California Department of Fish and Game (CDFG) regulations. All land development projects that are subject to environmental review are subject to a State filing fee plus the County recording fee, unless the Department of Fish and Game determines that the project will have no effect on fish and wildlife resources. The site is located within 100 feet of a coastal bluff. For purposes of the Fish and Game Code, the project may have a significant adverse impact on the fish and wildlife resources upon which the wildlife depends. The Initial Study was sent to the California Department of Fish and Game for review, comment, and to recommend necessary conditions to protect biological resources in this area. No comments were received. Therefore, the project will be required to pay the State fee plus a fee payable to the Monterey County Clerk/Recorder for processing said fee and posting the Notice of Determination (NOD).
- i) No comments from the public were received.
- j) The Monterey County Planning Department, located at 168 W. Alisal, 2nd Floor, Salinas, California, 93901, is the custodian of documents and other materials that constitute the record of proceedings upon which the decision to adopt the negative declaration is based.

6. FINDING:

**PUBLIC ACCESS** – The project is in conformance with the public access and recreation policies of the Coastal Act (specifically Chapter 3 of the Coastal Act of 1976, commencing with Section 30200 of the Public Resources Code) and Local Coastal Program, and does not interfere with any form of historic public use or trust rights.

EVIDENCE:

- a) No access is required as part of the project as no substantial adverse impact on access, either individually or cumulatively, as described in Section 20.145.150 of the Monterey County Coastal Implementation Plan can be demonstrated.
- b) The subject property is not described as an area where the Local Coastal Program requires public access (Figure 2 in the Big Sur Coast Land Use Plan).
- c) No evidence or documentation has been submitted or found showing the existence of historic public use or trust rights over this property.
- d) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN110150.

- e) The project planner conducted a site inspection on May 13, 2011.
- f) There is an undeveloped 10 foot pedestrian access easement which exists between the common boundary of Assessor's Parcel Numbers 243-231-015-000 and 243-231-016-000. The subject pedestrian easement is for the benefit of and as appurtenant to Assessor's Parcel Number (APN) 243-231-013-000. There is another pedestrian access easement that runs along the eastern boundary of APN 243-231-015-000 and is for the benefit of and as appurtenant to APN 243-231-013-000. Neither of the pedestrian easements grants any rights to the general public or to the people of the State of California, since both easements benefit the privately owned APN 243-231-013-000, and were intended solely to grant the owners of APN 243-231-013-000 pedestrian access to Garrapata Beach and Garrapata Canyon over APN 243-231-015-000.
- g) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN110150.

7. **FINDING:**

**APPEALABILITY** - The decision on this project may be appealed to the Board of Supervisors and the California Coastal Commission

**EVIDENCE:**

- a) Section 20.86.030 of the Monterey County Zoning Ordinance states that the proposed project is appealable to the Board of Supervisors.
- b) Section 20.86.080 of the Monterey County Zoning Ordinance states that the proposed project is subject to appeal by/to the Coastal Commission because the project requires a Conditional Use Permit, is technically within the critical viewshed and is located within the first public road (Highway 1) and the ocean.

**DECISION**

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

- 1) Adopt a Mitigated Negative Declaration;
- 2) Approve the Combined Development Permit, based on the findings and evidence and subject to the conditions; and
- 3) Adopt a Mitigation Monitoring and Reporting Plan.

**PASSED AND ADOPTED** this 8<sup>th</sup> day of August, 2012 upon motion of Commissioner Diehl, seconded by Commissioner Vandevere, by the following vote:

**AYES:** Brown, Vandevere, Getzelman, Rochester, Salazar, Roberts, Mendez, Diehl, Padilla, Hert

**NOES:** None

**ABSENT:** None

**ABSTAIN:** None

  
Mike Novo, Secretary

COPY OF THIS DECISION MAILED TO APPLICANT ON AUG 22 2012

THIS APPLICATION IS APPEALABLE TO THE BOARD OF SUPERVISORS.

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE CLERK TO THE BOARD ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE SEP 04 2012

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 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 the Monterey County Planning Department and 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.

Form Rev. 05-09-2012

**Monterey County Planning Department**  
**Conditions of Approval/Mitigation Monitoring Reporting Plan**

PLN110150

**1. PD001 - SPECIFIC USES ONLY**

**Responsible Department:** Planning Department

**Condition/Mitigation  
Monitoring Measure:**

This permit for a Combined Development Permit to allow: 1) a Coastal Administrative Permit for the construction of a new 3,617 square foot bi-level single family dwelling to include attached garage and storage below with associated grading (417 cubic yards of cut and 150 cubic yards of fill = 267 cubic yards to be hauled off-site), grid-tied photovoltaic system integrated into standing seam roof, new septic system and connection to existing Garrapata Water Company water system; 2) a Coastal Development Permit to allow development within 100 feet of Environmentally Sensitive Habitat; 3) a Coastal Development Permit to allow development on slopes in excess of 30%; 4) a Coastal Development Permit to allow development on a parcel with a positive archaeological report; and 5) Design Approval 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 the RMA - Planning Department. 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 Department)

**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:** Planning Department

**Condition/Mitigation  
Monitoring Measure:**

The applicant shall record a Permit Approval Notice stating that "a Combined Development Permit has been approved by the Planning Commission on August 8, 2012, Resolution No. 12-030 for Assessor's Parcel Number 243-231-015-000" and that "The permit was granted subject to 25 conditions of approval which run with the land" and "A copy of the permit is on file with the Monterey County RMA - Planning Department." Proof of recordation of this notice shall be furnished to the Director of the RMA - Planning Department prior to issuance of building permits or commencement of the use. (RMA - Planning Department)

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

Prior to the issuance of grading and building permits or commencement of use, the Owner/Applicant shall provide proof of recordation of this notice to the RMA - Planning Department.

3. PD032(A) - PERMIT EXPIRATION

Responsible Department: Planning Department

Condition/Mitigation Monitoring Measure: The permit shall be granted for a time period of 3 years, to expire on August 8, 2015 unless use of the property or actual construction has begun within this period. (RMA-Planning Department)

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

4. PD004 - INDEMNIFICATION AGREEMENT

Responsible Department: Planning Department

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 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, 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. (RMA - Planning Department)

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

Proof of recordation of the Indemnification Agreement, as outlined, shall be submitted to the RMA-Planning Department.

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

Responsible Department: Planning Department

Condition/Mitigation Monitoring Measure: 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 remains 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 the RMA - Planning Department within 24 hours.
- The Native American Heritage Commission shall identify the person or persons from a recognized local tribe of the Esselen, Salinan, Costanoans/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.

(RMA - Planning Department)

Compliance or Monitoring Action to be Performed:

Prior to the issuance of grading or building permits or approval of Subdivision Improvement Plans, whichever occurs first, the Owner/Applicant, per the archaeologist, shall submit the contract with a Registered Professional Archaeologist to the Director of the RMA-Planning Department for approval.

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, on the Subdivision Improvement Plans, in the CC&Rs, and shall be included as a note on an additional sheet of the final/parcel map.

Exhibit B

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6. PD011 - TREE AND ROOT PROTECTION

Responsible Department: Planning Department

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 Department)

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 the RMA - Planning Department 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 the RMA-Planning Department after construction to document that tree protection has been successful or if follow-up remediation or additional permits are required.

7. PD014(C) - LIGHTING-EXTERIOR LIGHTING PLAN (BIG SUR)

Responsible Department: Planning Department

Condition/Mitigation Monitoring Measure: All exterior lighting shall be unobtrusive, down-lit, compatible with the local area, and constructed or located so that only intended area is illuminated and off-site glare is fully controlled. Exterior lights shall have recessed lighting elements. Exterior light sources that would be directly visible from critical viewshed viewing areas as defined in Section 20.145.020.V, are prohibited. The applicant shall submit three (3) copies of an exterior lighting plan which shall indicate 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 Department, prior to the issuance of building permits. (RMA - Planning Department)

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 the RMA - Planning Department for review and approval. Approved lighting plans shall be incorporated into final building plans.

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

8. PD012(F) - LANDSCAPE PLAN & MAINTENANCE (SFD ONLY)

Responsible Department: Planning Department

**Condition/Mitigation Monitoring Measure:** The site shall be landscaped. Prior to the issuance of building permits, three (3) copies of a landscaping plan shall be submitted to the Director of the RMA - Planning Department. A landscape plan review fee is required for this project. Fees shall be paid at the time of landscape plan submittal. The landscaping plan shall be in sufficient detail to identify the location, species, and size of the proposed landscaping materials and shall include an irrigation plan. The plan shall be accompanied by a nursery or contractor's estimate of the cost of installation of the plan. Before occupancy, landscaping shall be either installed or a certificate of deposit or other form of surety made payable to Monterey County for that cost estimate shall be submitted to the Monterey County RMA - Planning Department. All landscaped areas and fences shall be continuously maintained by the applicant; all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition. (RMA - Planning Department)

**Compliance or Monitoring Action to be Performed:** Prior to issuance of building permits, the Owner/Applicant/Licensed Landscape Contractor/Licensed Landscape Architect shall submit landscape plans and contractor's estimate to the RMA - Planning Department for review and approval. Landscaping plans shall include the recommendations from the Forest Management Plan or Biological Survey as applicable. All landscape plans shall be signed and stamped by licensed professional under the following statement, "I certify that this landscaping and irrigation plan complies with all Monterey County landscaping requirements including use of native, drought-tolerant, non-invasive species; limited turf; and low-flow, water conserving irrigation fixtures."  
Prior to occupancy, the Owner/Applicant/Licensed Landscape Contractor/Licensed Landscape Architect shall ensure that the landscaping shall be either installed or a certificate of deposit or other form of surety made payable to Monterey County for that cost estimate shall be submitted to the Monterey County RMA - Planning Department.

On an on-going basis, all landscaped areas and fences shall be continuously maintained by the Owner/Applicant; all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition.

9. PD006 - MITIGATION MONITORING

Responsible Department: Planning Department

**Condition/Mitigation Monitoring Measure:** The applicant shall enter into an agreement with the County to implement a Mitigation Monitoring and/or Reporting Plan 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 mitigation monitoring agreement (RMA - Planning Department)

**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 agreement with the County to implement a Mitigation Monitoring Program.
- 2) Fees shall be submitted at the time the property owner submits the signed mitigation monitoring agreement.

10. EHSP01 ONSITE WASTEWATER TREATMENT SYSTEM DESIGN

Responsible Department: Health Department

Condition/Mitigation Monitoring Measure: Environmental Health has determined that adequate area exists for onsite wastewater disposal for the proposed development. Submit onsite wastewater treatment system plans for review and approval indicating the location, design layout and size specifications that meets standards found in Monterey County Code Chapter 15.20, Sewage Disposal Ordinance, and the Central Coast Basin Plan, Regional Water Quality Control Board.

Compliance or Monitoring Action to be Performed: Prior to issuance of building permit, submit onsite wastewater treatment system design plans for review and approval by the Environmental Health Bureau. Also submit new design plans showing new wastewater system location. Applicant shall obtain a permit to install the onsite wastewater treatment system from Environmental Health.

11. PW0043 - REGIONAL DEVELOPMENT IMPACT FEE

Responsible Department: Public Works Department

Condition/Mitigation Monitoring Measure: Prior to issuance of building permits, applicant shall pay the Regional Development Impact Fee (RDIF) pursuant to Monterey Code Chapter 12.90. The fee amount shall be determined based on the parameters adopted in the current fee schedule. (Public Works)

Compliance or Monitoring Action to be Performed: Prior to issuance of building permits, the owner/applicant shall pay Monterey County Building Services Department the traffic mitigation fee. Owner/Applicant shall submit proof of payment to the DPW.

12. WR002 - STORMWATER CONTROL

Responsible Department: Water Resources Agency

Condition/Mitigation Monitoring Measure: The applicant shall provide a drainage plan, prepared by a registered civil engineer or licensed architect, to mitigate on-site and off-site impacts. Impervious surface stormwater runoff shall be dispersed at multiple points, on the least steep available slopes, away from and below any septic leach fields. Erosion control shall be provided at each outlet. Drainage improvements shall be constructed in accordance with plans approved by the Water Resources Agency. (Water Resources Agency)

Compliance or Monitoring Action to be Performed: Prior to issuance of any construction permit, the owner/applicant shall submit a drainage plan with the construction permit application.  
  
The Building Services Department will route a plan set to the Water Resources Agency for review and approval.

### 13. 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 long with a minimum 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. (Cal-Fire Coastal)

Compliance or  
Monitoring  
Action to be Performed:

1. Prior to issuance of grading and/or building permit, the applicant or owner shall incorporate specification into design and enumerate as "Fire Dept. Notes" on plans.
2. Prior to final building inspection, the applicant or owner shall schedule fire dept. clearance inspection

### 14. FIRE008 - GATES

Responsible Department: Fire

Condition/Mitigation  
Monitoring Measure:

All gates providing access from a road to a driveway shall be located at least 30 feet from the roadway and shall open to allow a vehicle to stop without obstructing traffic on the road. Gate entrances shall be at least the width of the traffic lane but in no case less than 12 feet wide. Where a one-way road with a single traffic lane provides access to a gated entrance, a 40-foot turning radius shall be used. Where gates are to be locked, the installation of a key box or other acceptable means for immediate access by emergency equipment may be required. (Cal-Fire Coastal)

Compliance or  
Monitoring  
Action to be Performed:

1. Prior to issuance of grading and/or building permit, the applicant or owner shall incorporate specification into design and enumerate as "Fire Dept. Notes" on plans.
2. Prior to final building inspection, the applicant or owner shall schedule fire dept. clearance inspection

15. FIRE011 - ADDRESSES FOR BUILDINGS

Responsible Department: Fire

Condition/Mitigation  
Monitoring Measure:

All buildings shall be issued an address in accordance with Monterey County Ordinance No. 1241. Each occupancy, except accessory buildings, shall have its own permanently posted address. When multiple occupancies exist within a single building, each individual occupancy shall be separately identified by its own address. Letters, numbers and symbols for addresses shall be a minimum of 4-inch height, 1/2-inch stroke, contrasting with the background color of the sign, and shall be Arabic. The sign and numbers shall be reflective and made of a noncombustible material. Address signs shall be placed at each driveway entrance and at each driveway split. Address signs shall be and visible from both directions of travel along the road. In all cases, the address shall be posted at the beginning of construction and shall be maintained thereafter. Address signs along one-way roads shall be visible from both directions of travel. Where multiple addresses are required at a single driveway, they shall be mounted on a single sign. Where a roadway provides access solely to a single commercial occupancy, the address sign shall be placed at the nearest road intersection providing access to that site. Permanent address numbers shall be posted prior to requesting final clearance. (Cal-Fire Coastal)

Compliance or  
Monitoring  
Action to be Performed:

1. Prior to issuance of grading and/or building permit, the applicant or owner shall incorporate specification into design and enumerate as "Fire Dept. Notes" on plans.
2. Prior to final building inspection, the applicant or owner shall schedule fire dept. clearance inspection

16. FIRE015 - FIRE HYDRANTS/FIRE VALVES

Responsible Department: Fire

Condition/Mitigation  
Monitoring Measure:

A fire hydrant or fire valve is required. The hydrant or fire valve shall be 18 inches above grade, 8 feet from flammable vegetation, no closer than 4 feet nor further than 12 feet from a roadway, and in a location where fire apparatus using it will not block the roadway. The hydrant serving any building shall be not less than 50 feet and not more than 1000 feet by road from the building it is to serve. Minimum hydrant standards shall include a brass head and valve with at least one 2 1/2 inch National Hose outlet supplied by a minimum 4 inch main and riser. More restrictive hydrant requirements may be applied by the Reviewing Authority. Each hydrant/valve shall be identified with a reflectorized blue marker, with minimum dimensions of 3 inches, located on the driveway address sign, non-combustible post or fire hydrant riser. If used, the post shall be within 3 feet of the hydrant/valve, with the blue marker not less than 3 feet or greater than 5 feet above the ground, visible from the driveway. On paved roads or driveways, reflectorized blue markers shall be permitted to be installed in accordance with the State Fire Marshal's Guidelines for Fire Hydrant Markings Along State Highways and Freeways, May 1988. (Cal-Fire Coastal)

Compliance or  
Monitoring  
Action to be Performed:

1. Prior to issuance of grading and/or building permit, the applicant or owner shall incorporate specification into design and enumerate as "Fire Dept. Notes" on plans.
2. Prior to final building inspection, the applicant or owner shall schedule fire dept. clearance inspection.

17. FIRE020 - DEFENSIBLE SPACE REQUIREMENTS (HAZARDOUS CONDITIONS)

Responsible Department: Fire

Condition/Mitigation Monitoring Measure: Remove combustible vegetation from within a minimum of 100 feet of structures. Limb trees 6 feet up from ground. Remove limbs within 10 feet of chimneys. Additional fire protection or firebreaks approved by the Reviewing Authority may be required to provide reasonable fire safety. Environmentally sensitive areas may require alternative fire protection, to be determined by Reviewing Authority and the Director of Planning and Building Inspection. (Cal-Fire Coastal)

Compliance or Monitoring Action to be Performed: 1. Prior to issuance of grading and/or building permit, the applicant or owner shall incorporate specification into design and enumerate as "Fire Dept. Notes" on plans.  
2. Prior to final building inspection, the applicant or owner shall schedule fire dept. clearance inspection.

18. FIRE022 - FIRE PROTECTION EQUIPMENT & SYSTEMS - FIRE SPRINKLER SYSTEM - (HAZARDOUS CONDITIONS)

Responsible Department: Fire

Condition/Mitigation Monitoring Measure: The building(s) and attached garage(s) shall be fully protected with automatic fire sprinkler system(s). Installation shall be in accordance with the applicable NFPA standard. A minimum of four (4) sets of plans for fire sprinkler systems must be submitted by a California licensed C-16 contractor and approved prior to installation. This requirement is not intended to delay issuance of a building permit. A rough sprinkler inspection must be scheduled by the installing contractor completed prior to requesting a framing inspection. Due to substandard access, or other mitigating factors, small bathroom(s) and open attached porches, carports, and similar structures shall be protected with fire sprinklers. (Cal-Fire Coastal)

Compliance or Monitoring Action to be Performed: 1. Prior to issuance of grading and/or building permit, the applicant or owner shall incorporate specification into design and enumerate as "Fire Dept. Notes" on plans.  
2. Prior to framing inspection, the applicant or owner shall schedule fire dept. rough sprinkler inspection.  
3. Prior to final building inspection, the applicant or owner shall schedule fire dept. final sprinkler inspection.

19. FIRE024 - FIRE ALARM SYSTEM - (SINGLE FAMILY DWELLING)

Responsible Department: Fire

Condition/Mitigation Monitoring Measure: The residence shall be fully protected with an approved household fire warning system as defined by NFPA Standard 72. Plans and specifications for the household fire warning system shall be submitted by a California licensed C-10 contractor and approved prior to installation. Household fire warning systems installed in lieu of single-station smoke alarms required by the Uniform Building Code shall be required to be placarded as permanent building equipment. (Cal-Fire Coastal)

Compliance or Monitoring Action to be Performed: 1. Prior to issuance of grading and/or building permit, the applicant or owner shall incorporate specification into design and enumerate as "Fire Dept. Notes" on plans.  
2. Prior to rough sprinkler or framing inspection, the applicant or owner shall submit fire alarm plans and obtain approval.  
3. Prior to final building inspection, the applicant or owner shall schedule fire dept. fire alarm system acceptance test.

20. FIRE027 - ROOF CONSTRUCTION - (VERY HIGH HAZARD SEVERITY ZONE)

Responsible Department: Fire

Condition/Mitigation Monitoring Measure: All new structures, and all existing structures receiving new roofing over 50 percent or more of the existing roof surface within a one-year period, shall require a minimum of ICBO Class A roof construction. (Cal-Fire Coastal)

Compliance or Monitoring Action to be Performed: 1. Prior to issuance of grading and/or building permit, the applicant or owner shall incorporate specification into design and enumerate as "Fire Dept. Notes" on plans.  
2. Prior to final building inspection, the applicant or owner shall schedule fire dept. clearance inspection.

21. PD022(A) - EASEMENT-CONSERVATION & SCENIC

Responsible Department: Planning Department

Condition/Mitigation Monitoring Measure: A conservation and scenic easement shall be conveyed to the County over those portions of the property where the coastal bluff scrub ESHA exist(s). The easement shall be developed in consultation with certified professionals. An easement deed shall be submitted to, reviewed and approved by, the Director of RMA - Planning Department prior to issuance of grading and building permits.  
(RMA - Planning Department)

Compliance or Monitoring Action to be Performed: Prior to recordation of the parcel/final map or prior to the issuance of grading and building permits, the Owner/Applicant/Certified Professional shall submit the conservation and scenic easement deed and corresponding map, showing the exact location of the easement on the property along with the metes and bound description developed in consultation with a certified professional, to the RMA - Planning Department for review and approval.

Prior to recordation of the parcel/final map, prior to the issuance of grading and building permits, or prior to the commencement of use, the Owner/Applicant shall record the deed and map showing the approved conservation and scenic easement. Submit a copy of the recorded deed and map to the RMA-Planning Department.

**22. MITIGATION MEASURE #1 - PROTECTION OF BUCKWHEAT PLANTS**

**Responsible Department:** Planning Department

**Condition/Mitigation Monitoring Measure:** Mitigation Measure 1: In order to assure no incidental taking of the Smith's blue butterfly, the applicant and contractor shall agree in writing to stage construction in such a way as to avoid impacting buckwheat plants. In consultation with the RMA Planning Department, the applicant shall implement the following measures, as necessary:

- a. Begin construction (i.e. brush clearing, grading) no earlier than on August 15th or a later date, unless a qualified biologist confirms that the Smith's blue butterfly flight season has ended prior to August 15th.
- b. Protect all buckwheat plants on or near the subject property with a five-foot buffer. Install temporary protective fencing along the edge of the scrub vegetation containing dune buckwheat where it abuts the construction zone (silt fence or plastic orange fence).
- c. Inform construction crew of the sensitivity of the vegetation and prohibit access into the area during construction.
- d. Designate equipment staging and storage areas away from the scrub vegetation north of the proposed building site. Direct runoff from the construction site away from the sensitive vegetation area.
- e. Control dust during construction with water in accordance with current Best Management Practices and Monterey County grading regulations.

**Compliance or Monitoring Action to be Performed:** Monitoring Action 1a: Prior to issuance of grading permits, the applicant shall schedule a pre-construction site visit with RMA Planning staff and a qualified biologist to assess construction staging and to develop appropriate protective measures for the seacliff buckwheat *Eriogonum parvifolium*. Recommended protective measures shall be installed prior to commencement of grading activities and shall remain in place until final inspection.

Monitoring Action 1b: Prior to grading, a qualified biologist shall provide a report to the Director of RMA Planning that certifies the proper mitigation for the Smith's blue butterfly has been implemented in accordance with Mitigation Measure #1.

Monitoring Action 1c: During grading, the contractor and grading inspector shall monitor the site for continued compliance with dust control.

**23. MITIGATION MEASURE #2 - PRECONSTRUCTION MEETING**

**Responsible Department:** Planning Department

**Condition/Mitigation Monitoring Measure:** Mitigation Measure #2: In order to avoid any impacts to the known recorded CA-MNT-98 resource, an on-site pre-construction meeting shall be held between the applicant, the archaeologist and the contractor to discuss the mitigation requirements, scheduling of construction and to assure an understanding of the mitigations.

**Compliance or Monitoring Action to be Performed:** Monitoring Action #2: Prior to any construction, evidence of a site meeting between all parties involved shall be submitted to the Director of the RMA & Planning Department. Evidence shall consist of a letter summarizing what was discussed.

24. MITIGATION MESURE #3 - EXECUTE ARCHAEOLOGICAL AGREEMENT

Responsible Department: Planning Department

Condition/Mitigation Monitoring Measure: Mitigation Measure #3:  
In order to ensure that the archaeologist will be on-site during construction, an agreement between the applicant and a professional archaeologist shall be executed stating that the archaeologist shall be present during construction or pre-construction activities that involve earth disturbance, such as foundation demolition, grading, excavation for the garage and basement, footings and utilities, etc. The monitor shall be authorized to determine the level of monitoring, i.e., Intermittent or continuous, as well as the appropriate end of such oversight.

Compliance or Monitoring Action to be Performed: Monitoring Action #3:  
A copy of the signed agreement shall be submitted to RMA-Planning Department for review and approval prior to issuance of any grading/building permits.

Additional on-going monitoring Action:  
The text of the mitigation measure shall be posted and maintained at the project site for the duration of construction.

25. MITIGATION MEASURE #4 - ON-SITE MONITORING

Responsible Department: Planning Department

Condition/Mitigation  
Monitoring Measure:

Mitigation Measure #4:

In order to ensure that the requirements of Big Sur Land Use Plan policies are followed, if, during the course of construction, cultural, archaeological, historical or 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. If human remains are accidentally discovered during construction, the following steps will be taken:

- (a) There shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until:
- (b) The coroner of the county in which the remains are discovered must be contacted to determine that no investigation of the cause of death is required, and
- (c) If the coroner determines the remains to be Native American:
  - The coroner shall contact the Native American Heritage Commission and the RMA & Planning Department within 24 hours.
  - The Native American Heritage Commission shall identify the person or persons from a recognized local tribe of the Esselen, Salinan, Costanoans/ Ohlone and Chumash tribal groups, as appropriate, to be the most likely descendent.
  - The most likely descendent 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 descendent or the most likely descendent failed to make a recommendation within 24 hours after being notified by the commission.
2. The descendent identified fails to make a recommendation; or
3. The landowner or his authorized representative rejects the recommendation of the descendent, and the mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner.

Compliance or  
Monitoring  
Action to be Performed:

Monitoring Action #4:

The County of Monterey shall be notified immediately upon evidence of archaeological resources found on site. The applicant shall then submit the contracts with a Registered Professional Archaeologist, and a representative of the Ohlone Costanoan Esselen Nation within one week to the Director of the RMA & Planning Department for review and approval.

Assessor's Parcel No. 243-231-015-000  
Monterey County

**EXHIBIT C**

A Conservation and Scenic Easement over a portion of certain real property in the unincorporated area of the County of Monterey, State of California, situate in Rancho San Jose Y Sur Chiquito and described as PARCEL I in the Grant Deed from Karl and Lisa L.K. Kleissner, Trustees of The Kleissner Trust UTA, dated 8/31/99 and KD CURA, CORP., a California corporation, to THE KF TERRA, L.P., a California partnership, recorded February 25, 2003 as Document Number 2003021896, records of said County and State, said conservation and scenic easement being more particularly described as follows:

**BEGINNING AT** the most northerly corner of said PARCEL I, distant North 23°57'50" West, 109.06 feet from a 5/8" iron bar with plastic cap, LS2689, marking a point on the northeasterly line of said PARCEL I, and running southeasterly along said boundary line

- 1) South 23°57'50" East (at 109.06 feet, the 5/8" bar previously described), a total distance of 277.87 feet to a 3/4" iron pipe; thence leaving said boundary
- 2) South 54°27'58" West, 15.88 feet; thence
- 3) North 63°11'52" West, 18.94 feet; thence
- 4) North 60°14'55" West, 22.21 feet; thence
- 5) North 60°20'14" West, 20.24 feet; thence
- 6) North 40°54'40" West, 39.97 feet; thence
- 7) North 63°26'10" West, 4.29 feet to the edge of an asphalt road; thence along the edge of said road
- 8) North 19°59'55" West, 54.09 feet; thence
- 9) Along a non-tangent curve to the right having a radius of 70.50 feet, through a central angle of 063°03'51" (the long chord of which bears North 12°57'21" East, 73.74 feet), an arc distance of 77.60 feet; thence

Exhibit C

Page 1 of 3 Pages

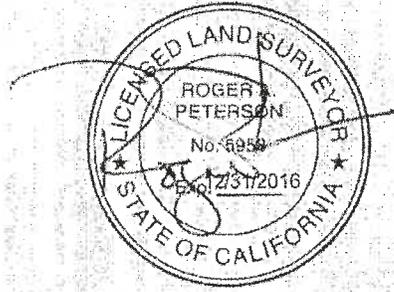
- 10) North 49°27'59" West, 7.52 feet; thence
- 11) Along a non-tangent curve to the left having a radius of 78.00 feet, through a central angle of 062°41'00" (the long chord of which bears South 12°45'55" West, 81.14 feet), an arc distance of 85.33 feet; thence leaving said road
- 12) North 51°33'08" West, 2.48 feet; thence
- 13) North 67°56'04" West, 13.33 feet; thence
- 14) North 14°08'58" West, 16.90 feet; thence
- 15) North 49°50'40" West, 14.68 feet; thence
- 16) North 44°15'35" West, 20.56 feet to the west boundary of said parcel; thence northeasterly, along said west boundary
- 17) North 26°47'10" East, 118.61 feet to the Point of Beginning.

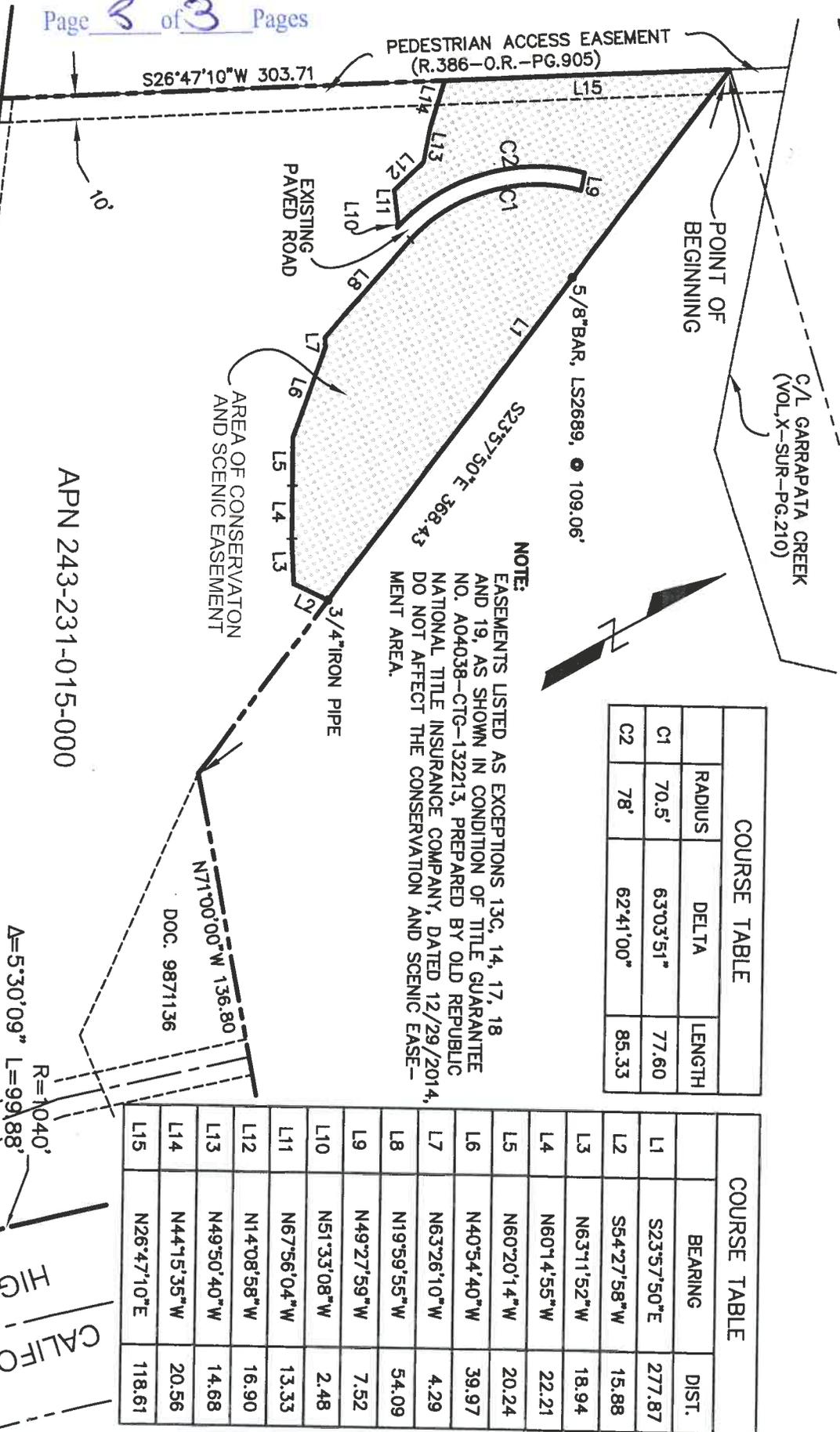
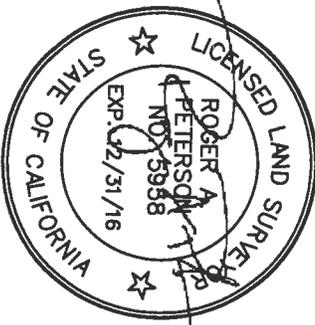
CONTAINING: 0.36 acres, more or less.

**Together with and subject to** any and all covenants and agreements of record.

See attached Exhibit "C" Page 3 of 3

End of Description



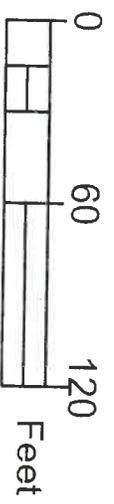


COURSE TABLE		
COURSE	RADIUS	DELTA
C1	70.5'	63°03'51"
C2	78'	62°41'00"

COURSE TABLE		
COURSE	BEARING	DIST.
L1	S23°57'50"E	277.87
L2	S54°27'58"W	15.88
L3	N63°11'52"W	18.94
L4	N60°14'55"W	22.21
L5	N60°20'14"W	20.24
L6	N40°54'40"W	39.97
L7	N63°26'10"W	4.29
L8	N19°59'55"W	54.09
L9	N49°27'59"W	7.52
L10	N51°33'08"W	2.48
L11	N67°56'04"W	13.33
L12	N14°08'58"W	16.90
L13	N49°50'40"W	14.68
L14	N44°15'35"W	20.56
L15	N26°47'10"E	118.61

**NOTE:**  
 EASEMENTS LISTED AS EXCEPTIONS 13C, 14, 17, 18 AND 19, AS SHOWN IN CONDITION OF TITLE GUARANTEE NO. A04038-CTG-132213, PREPARED BY OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY, DATED 12/29/2014, DO NOT AFFECT THE CONSERVATION AND SCENIC EASEMENT AREA.

EXHIBIT C  
 CONSERVATION & SCENIC EASEMENT AREA  
 SHEET 3 OF 3



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