

# Exhibit B

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## **DRAFT RESOLUTION**

### **Before the Zoning Administrator in and for the County of Monterey, State of California**

In the matter of the application of:

**SWC PARTNERS LLC (PLN160742)**

#### **RESOLUTION NO. ----**

Resolution by the Monterey County Zoning  
Administrator:

- 1) Considering the addendum together with the previously adopted Mitigated Negative Declaration; and
- 2) Approving an Amendment to previously approved Combined Development Permit (PLN070024 & PLN120103) to:
  - a. revoke demolition of the existing single family dwelling;
  - b. incorporate a previously approved Design Approval (PLN150291) which allowed a remodel to the existing single family dwelling including a 144 square foot addition to the existing basement level; and
  - c. allow an after-the-fact 566-square foot expansion of the basement over and above what was previously approved within 750 feet of a known archaeological resource amendment to previously approved Combined Development Permits (PLN070024 & PLN120103) to allow a 566-square foot expansion of a basement over and above an expansion that was previously approved.

[PLN160742, SWC Partners LLC, 3296 17 Mile Drive, Pebble Beach, Del Monte Forest Land Use Plan (APN: 008-455-015-000)]

**The SWC Partners LLC application (PLN160742) came on for public hearing before the Monterey County Zoning Administrator on May 11, 2017. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Zoning Administrator finds and decides as follows:**

### **FINDINGS**

1. **FINDING:**      **PROJECT DESCRIPTION** – The proposed project is an amendment to previously approved Combined Development Permits (PLN070024 & PLN120103) to allow a 566-square foot expansion of a basement over and above an expansion that was previously approved.

**EVIDENCE:** The application, project plans, and related support materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development found in Project File PLN160742.

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

- EVIDENCE:**
- a) The application for an Amendment was submitted on February 10, 2017 and deemed complete by RMA-Planning on March 10, 2017. During the course of review of this application, the project has been reviewed for consistency with the text, policies, and regulations in:
    - the 1982 Monterey County General Plan;
    - Del Monte Forest Land Use Plan;
    - Monterey County Coastal Implementation Plan Part 5;
    - 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 3296 17 Mile Drive, Pebble Beach (Assessor's Parcel Number 008-455-015-000), Del Monte Forest Land Use Plan. The parcel is zoned LDR/1.5-D (CZ), which allows residential development. The amendment proposes the after-the-fact expansion of a basement by 566 square feet over and above an expansion that was previously approved. Therefore, the project is an allowed land use for this site.
  - c) Original Project. On February 14, 2008, the Zoning Administrator approved PLN070024 in Resolution No. 070024 for a Combined Development Permit consisting of a Coastal Administrative Permit to allow the demolition of an existing 4,584 square foot single family dwelling; a Coastal Development Permit to allow an existing 1,323 square foot, legal nonconforming guesthouse to remain, and a Coastal Development Permit to allow development within 750 feet of a known archaeological site.
  - d) Extension. On May 2, 2012, an extension (PLN120103) was approved to extend the previously approved Combined Development Permit (PLN070024) consisting of a Coastal Administrative Permit to allow the demolition of an existing 4,584 square foot single family dwelling; a Coastal Development Permit to allow an existing 1,323 square foot, legal non-conforming guesthouse to remain, and a Coastal Development Permit to allow development within 750 feet of a known archaeological site.
  - e) Amendment. On June 3, 2016, a Design Approval (PLN150291) was approved to allow an interior remodel, dormer window additions, new roof, new siding, new windows and doors, rebuilding the ocean side patio and stairs, and the conversion of a 144-square foot crawl space into additional basement. The Design Approval did not require a monitor on site during the addition of the basement. An updated archaeological report was submitted concluding that there was a cultural resource (CA-MNT-972) within the developed area.

- f) Revised Project. Most recently, during construction of the remodel approved in PLN150291, the existing crawl space was expanded into an additional 566 square feet of basement without an amendment to the Combined Development Permit and without an archaeological monitor. The expansion of the basement, over what was allowed under PLN150291, was discovered when the Applicant applied for a building permit to allow the additional square footage. Work has stopped on all inspections until the Amendment is approved.
- g) To rectify the situation, staff requested a contract with an archaeological monitor and an after-the-fact assessment of the site to determine if any resources had been disturbed. The Archaeological Dating Report (LIB170118) determined that the additional excavation resulted in disturbance to the cultural resource, recorded as archaeological site CA-MNT-972. However, no human remains were uncovered nor was there any evidence that there were human remains on site. Abalone and mussel shells, along with trace amounts of sea urchin and other marine species, were the only resources disturbed. These materials are consistent with a residential base of some kind rather than just a shellfish gathering area. This parcel had a number of midden constituents suggesting that this was a residential base for at least part of the year.
- h) LUAC. The original project was referred to the Del Monte Forest Land Use Advisory Committee (LUAC) for review. On June 7, 2007, the Del Monte Forest LUAC recommended approval of the project without stating any comments or concerns by a vote of 4-0. The revised project was not referred to the LUAC.
- i) The project planner verified that the project on the subject parcel conforms to the plans listed above.
- j) The application, project plans, and related support materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development found in Project File PLN160742.

3. **FINDING::** **SITE SUITABILITY** - The site is physically suitable for the use proposed.

- EVIDENCE**
- a) The project has been reviewed for site suitability by RMA - Planning. There has been no indication that the site is not suitable for the proposed development. Conditions have been incorporated. All applicable conditions of approval from PLN070024 and PLN120103 have been cleared.
  - b) The follow report has been prepared:  
“Archaeological Dating Report for APN 008-455-015, 3296 Seventeen Mile Drive” (LIB170118), prepared by Gary Breschini, Archaeological Consulting, Salinas, CA, December 16, 2016 (LIB170118)
  - c) The above-mentioned technical report by an outside consultant indicated that there are no physical or environmental constraints that would indicate that the site is not suitable for the use proposed.
  - d) Staff conducted a site inspection on March 3, 2017, to verify that the site is suitable for this use

4. **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. The respective agency has 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 on site. Wastewater services are provided by the Pebble Beach Community Services District. Water services are provided by California-American Water through Pebble Beach Company water entitlements.
  - c) See Evidence in Findings #1, #3, and #4.
  - d) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning for the proposed development found in Project File PLN160742.

5. **FINDING:** **NO VIOLATIONS** - The subject property is in not compliance with all rules and regulations pertaining to zoning uses. Violations exist on the property. The approval of this permit will correct the violations and bring the property into compliance.

- EVIDENCE:**
- a) Staff reviewed Monterey County RMA - Planning and Building Services Department records and is not aware of any other violations existing on subject property.
  - b) The proposed project corrects an existing violation regarding expansion of the basement without an amendment to the Combined Development Permit. When implemented, the project will bring the subject property into compliance with all rules and regulations pertaining to the property and will remove the existing violation.
  - c) See Finding #1 Evidence (f) and (g).
  - d) Zoning violation abatement costs have been paid. This Amendment was assessed with double fees.
  - e) The application, plans and supporting materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development are found in Project File PLN160742.

6. **FINDING:** **CEQA (Addendum)** - An Addendum to a previously adopted Mitigated Negative Declaration (MND) was prepared pursuant to Code of Regulations, Title 14, Section 15164 to reflect changes or additions in the project that do not cause substantial changes or new information that would require major revisions to the adopted MND.

- EVIDENCE:**
- a) A Mitigated Negative Declaration was prepared for PLN070024 and circulated to the State Clearing House from December 6, 2007 to January 6, 2008. Pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15162, when an MND has been adopted, no subsequent MND shall be prepared for the project unless the agency determines that substantial changes are proposed which require major revisions or substantial changes occur with respect to the circumstances under which the project is undertaken due to new significant

environmental effects. In this case, no new information has been presented to warrant further environmental review.

- b) An Addendum to the Mitigated Negative Declaration (MND) was prepared pursuant to Code of Regulations, Title 14, Section 15164 (CEQA Guidelines). The MND adopted for the previous project identified potential impacts to cultural resources and land use and planning. The proposed project will have the same or fewer impacts than the previous project.
- c) The proposed project consists of expansion of the crawl space into an additional 566 square feet of basement over and above the 144-square foot expansion of the crawl space that was approved in Design Approval PLN150291.
- d) The previously approved project has five mitigation measures. Mitigation Measures #1, #2, and #5 apply to demolition of the structure, reconstruction of the structure, and the use of the guesthouse as a residence during construction. These measures do not apply to the proposed project. Mitigation Measure #3 required the owner to contract with a qualified archaeologist for monitoring during earth disturbing activities. Mitigation Measure #4 required that a report be prepared by the archaeologist analyzing any resources found. These measures do apply to the proposed project.

The expansion of the basement occurred without an archaeological monitor. To rectify the situation, staff requested a contract with an archaeological monitor and an after-the-fact assessment of the site to determine if any resources had been disturbed. The Archaeological Dating Report (LIB170118) determined that the additional excavation resulted in disturbance to the cultural resource, recorded as archaeological site CA-MNT-972. However, no human remains were uncovered nor was there any evidence that there were human remains on site. Abalone and mussel shells, along with trace amounts of sea urchin, and other marine species were the only resources disturbed. These materials are consistent with a residential base of some kind rather than just a shellfish gathering area. This parcel had a number of midden constituents suggesting that this was a residential base for at least part of the year.

Because the expansion of the basement has been completed and compliance with the mitigation measures occurred after-the-fact, the mitigation measures will not carry over to this permit.

- e) No adverse environmental effects were identified other than what was analyzed in the MND during staff review of the development application.

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.A of the Monterey County Zoning Ordinance states that the proposed project is appealable to the Board of Supervisors.
- b) Section 20.86.080.A.1 of the Monterey County Zoning Ordinance states that the proposed project is subject to appeal by/to the Coastal Commission because the project is between the sea and the first public road.

## **DECISION**

**NOW, THEREFORE**, based on the above findings and evidence, the Zoning Administrator does hereby:

1. Consider the addendum together with the previously adopted Mitigated Negative Declaration;
2. Approve an amendment to previously approved Combined Development Permits (PLN070024 & PLN120103) to allow a 566-square foot expansion of a basement over and above an expansion that was previously approved, in general conformance with the attached sketch and subject to the attached conditions, all being attached hereto and incorporated herein by reference.

**PASSED AND ADOPTED** this 11<sup>th</sup> day of May, 2017.

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Mike Novo, Zoning Administrator

COPY OF THIS DECISION MAILED TO APPLICANT ON

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

THIS PROJECT IS LOCATED IN THE COASTAL ZONE AND IS / IS NOT 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 Monterey County RMA-Planning and RMA-Building Services Department office in Salinas.



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

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