

Exhibit A

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EXHIBIT B
DRAFT RESOLUTION

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

In the matter of the application of:

WILLIAM R AND DUNCAN B LEWIS TRS (PLN160746)

RESOLUTION NO. ----

Resolution by the Monterey County Planning
Commission:

- 1) Determining that a Short Term Rental can be considered as an “*other residential uses of a similar character, density and intensity*” to a Bed and Breakfast in the coastal zone; and
- 2) Finding that denial of the project is Statutorily Exempt per Section 15270 of CEQA Guidelines; and
- 3) Denying a Coastal Development Permit to allow a Short Term Rental at 3384 17 Mile Drive, Pebble Beach (Assessor's Parcel Number 008-393-006-000.)

[PLN160746, William R and Duncan B Lewis TRS, 3384 17 Mile Drive, Pebble Beach, Del Monte Forest Land Use Plan (APN: 008-393-006-000)]

The Coastal Development Permit application (PLN160746) came on for public hearing before the Monterey County Planning Commission on September 13, 2017. 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:** **INCONSISTENT** – The Project is inconsistent with the requirements of the applicable zoning ordinance (Title 20), specifically Monterey County Code (MCC) Section 20.14.050.Z related to land use development.
EVIDENCE: a) This is an application for a short term rental (STR). Currently, there is no specific use listed under Title 20 for “short term rentals”. However, under Section 20.14.050.Z, of Monterey County Code, one may apply for a Coastal Development Permit (CDP) to allow “*Other residential uses of a similar character, density and intensity to those uses listed in this Section determined by the Planning Commission to be consistent and compatible with the intent of this Chapter and the applicable land use plan.*” This is an applicable residential use similar to a Bed and Breakfast (B&B).

- b) The property is located at 3384 17 Mile Drive, Pebble Beach (Assessor's Parcel Number 008-393-006-000), Del Monte Forest Land Use Plan. The parcel is zoned LDR/1.5-D (CZ)" Low Density Residential/1.5 acres per unit-Design Control (Coastal Zone). The LDR portion of the zoning allows residential development, which the site has existing residential development.
- c) There are no policies within the Del Monte Forest Land Use Plan that would expressly prohibit a Short Term Rental (STR) use, or that restrict the number of Bed and Breakfast (B&B) permits allowed. The Planning Commission has determined that the subject application for a STR is similar enough in character, density and intensity to a B&B and qualifies as a similar use. The STR has been evaluated against the applicable standards for a Coastal Development Permit and is found to be a similar use to B&B in the coastal zone.
- d) According to the regulations for a B&B facility under section 20.64.100.C.1, one of the requirements is that *"The property owners shall occupy and manage the bed and breakfast facility."* In the case of this application, the owner will not occupy the home during visitor stays. However, the applicant does own a home on the parcel adjacent to the subject property and has stated that it is occupied year-round by a member of the applicant's family. It has been determined that owner occupation is a key element of a B&B, and without the owner occupying the subject property, the proposed use does not sufficiently meet the requirements of a B&B.
- e) Additionally, a draft Transient Use Ordinance was approved and adopted by the Board of Supervisors in 1997, for the Coastal Zone (Title 20) at approximately the same time that the Transient Use Ordinance was adopted for the Inland Zone (Title 21). The Title 20 Ordinance was not certified by the Coastal Commission and ultimately never went into effect. However, that Title 20 draft ordinance, as adopted by the Board, had the same regulatory language as the Inland ordinance with regard to the impact of the affected Homeowner's Association. The language from Section 21.64.280.D.2.g reads: *"In the event the homeowners' association objects to the issuance of the permit, the permit shall not be approved until the homeowners' association's objection has been withdrawn or the right of the applicant to use the subject residential property for transient use has been validated, approved, or otherwise ordered by a Court, arbitrator, or other appropriate entity with the authority to review, approve, validate, or otherwise act on the proposed use of the action of the homeowners' association."* Since that language was part of the coastal regulations, it has been determined that this language be applied as a regulation in this case.
- f) In prior Planning Commission hearings on STRs in the Inland Zone, (ie; PLN160233 – "Hill") The Pebble Beach Company submitted substantial evidence demonstrating that PBC is the de facto affected homeowners association for the Del Monte Forest (DMF) area, and was recognized as such by the County.
- g) The Pebble Beach Company has submitted a letter from their legal department opposing approval of this application for the equivalent of a Bed and Breakfast facility/operation on the applicant's parcel in the

coastal zone of the Del Monte Forest. Pebble Beach contends that the use is prohibited by their covenants, conditions, and restrictions (CC&Rs) applicable to the parcel and cannot be allowed. A copy of the original deed to the parcel states in Paragraph 1, under the heading, “Covenants and Restrictions” clearly states that no trade, business or profession of any description shall be conducted on said premises, and that the premises shall not be used for any purpose whatever except solely and exclusively for the construction and maintenance of not more than one private single family residence”. The Pebble Beach Company insists that “Running the equivalent of a “Bed and Breakfast” is operating a “business” at the parcel, and is not consistent with the parcel’s use for a “one private single family residence”. The principal purpose of these restrictions, which were imposed many years ago on the residential lots in Del Monte Forest and which purpose remains valid today, was to preclude facilities on the residential lots competing with the hotel units and operations of Pebble Beach Company.

- h) The Planning Commission finds that HOA objection applies to uses of similar character, density and intensity to a B&B and that having a home on the parcel adjacent to the subject property, which is occupied year-round by a member of the applicant’s family, does not qualify as owner occupation in this case and does not meet the requirements for a B&B set forth in Section 20.64.100.C.1 of the County Code.
- i) The project was heard by the Del Monte Forest Land Use Advisory Committee on May 18, 2017. They noted that all past STR applications in the Inland area were denied. However, this STR request is in the Coastal Zone. They recommended (vote 4-2) to deny the STR request without prejudice but they ask the County to consider interim relief for the Lewis’ until the Short Term Rental ordinances/policies are established.

Two comments were received at the meeting:

- A neighbors’ representative needed clearer specifics on how the County would handle short term rentals in the Coastal zone in the absence of an adopted ordinance; and
 - The Pebble Beach Company presented the letter from their legal department opposing approval of this application for the similar use to a Bed and Breakfast facility/operation due to the fact the use is prohibited by their covenants, conditions, and restrictions (CC&Rs).
- 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 PLN160746.

- 2. **FINDING:** **CEQA (Exempt):** - The project is statutorily exempt from environmental review.
EVIDENCE: a) California Environmental Quality Act (CEQA) Guidelines Section 15270 statutorily exempts projects which a public agency rejects or disapproves.
- 3. **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 involves development that is permitted in the underlying zone as a conditional use, and it is located between the sea and the first through public road paralleling the sea.

DECISION

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

1. Determine that a Short Term Rental can be considered as an “*other residential uses of a similar character, density and intensity*” to a Bed and Breakfast in the coastal zone; and
2. Find that denial of the project is Statutorily Exempt per Section 15270 of CEQA Guidelines; and
3. Deny a Coastal Development Permit to allow a Short Term Rental at 3384 17 Mile Drive, Pebble Beach (Assessor's Parcel Number 008-393-006-000)

PASSED AND ADOPTED this 13th day of September, 2017 upon motion of _____, seconded by _____, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Jacqueline R. Onciano, Planning Commission Secretary

COPY OF THIS DECISION MAILED TO APPLICANT ON _____.

THIS APPLICATION IS APPEALABLE TO THE BOARD OF SUPERVISORS.

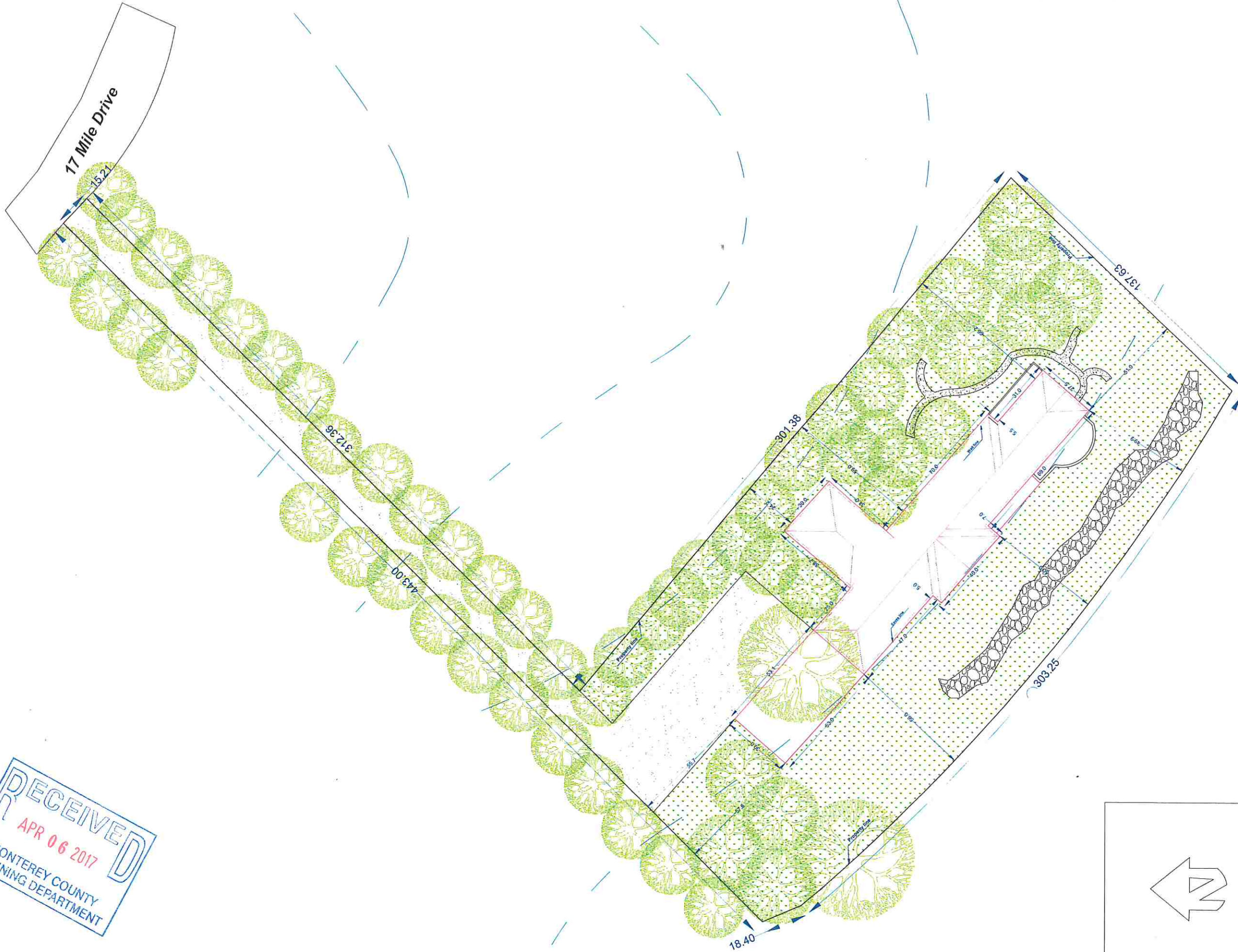
IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE CLERK TO THE BOARD ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE _____.

THIS PROJECT IS LOCATED IN THE COASTAL ZONE AND IS 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



ADDRESS: 3384 17 MILE DRIVE
CITY, STATE, ZIP: PEBBLE BEACH, CA 93953
COUNTY: MONTEREY
PURPOSE OF SITE PLAN: PERMIT

SCALE:



PLN160744

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