

#4

**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:

CLIFTON HEATHER JOY & WOLSKE RUSSELL D (PLN160849)

RESOLUTION NO.

Resolution by the Planning Commission to:

- 1) Adopt a Mitigated Negative Declaration;
- 2) Approve Combined Development Permit consisting of:
 - a) Administrative Permit and Design Approval to allow construction of a 2,792 square foot single story single family dwelling, a 600 square foot attached guesthouse, and a 414 square foot attached carport;
 - b) Use Permit to allow the removal of 25 Oak trees;
 - c) After-the-fact Use Permit for the removal of 43 oak trees to clear Code Enforcement case (17CE00197); and
 - d) Use Permit to allow construction on slopes greater than 25%; and
- 3) Adopt a Mitigation Monitoring and Reporting Program.

[PLN160849, CLIFTON HEATHER JOY & WOLSKE RUSSELL D, 26735 Laureles Grade, Carmel Valley, Toro Area Plan (APN: 416-361-043-000)]

The Clifton & Wolske application (PLN160849) for a Combined Development Permit to allow the partial demolition and expansion of a single family dwelling came on for public hearing before the Monterey County Planning Commission on 11 April 2018. Having considered all the written and documentary evidence, the administrative record, the staff report, and other evidence presented, the Planning Commission finds and decides as follows:

FINDINGS

1. **FINDING:** **CONSISTENCY** – The project, as conditioned, is consistent with the applicable plans and policies which designate this area as appropriate for development.
EVIDENCE: a) During the course of review of this application, the project has been reviewed for consistency with the text, policies, and regulations in the:
 - 2010 Monterey County General Plan;
 - Toro Area Plan; and
 - Monterey County Zoning Ordinance (Title 21)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 26735 Laureles Grade, Carmel Valley (Assessor's Parcel Number 416-361-043-000), Toro Area Plan. The

parcel is zoned "RDR" (Rural Density Residential). A single-family residence and guest house are principal uses allowed within this zone.

- c) The parcel contains oak woodlands. Pursuant to Section 21.64.260.3 of Monterey County Zoning ordinance (Title 21), removal of more than three protected trees requires approval of a use permit. Therefore, this application includes a request for a use permit to allow removal of the 25 oaks for project development along with 43 oaks that were previously removed without the benefit of permitting.
- d) The Use Permit for tree removal is also a remedy required to abate the Code Enforcement case 17CE00197 that was opened for investigation of alleged unpermitted tree removal on the property.
- e) The parcel is in a Visual Sensitivity (VS) zone due to visibility from Laureles Grade. Pursuant to Chapter 21.46 of Title 21, the project requires analysis for potential to create a substantially adverse visual impact when viewed from a common public viewing area. Therefore, staking-and-flagging was required and observed by staff. Staff observed on 6 July 2017 that none of the structures have potential to create substantially adverse visual impact from a common public viewing area. There is some possibility that portions of the new road may be seen from Laureles Grade. However, placement of the new road is restricted to the proposed location which is encompassed by the existing scenic easement and would not create a substantially adverse visual impact from a common public viewing area. Therefore, a Use Permit is not required to allow development of this project in a VS district (Section 21.46.030.D.1 of Title 21).
- f) Portions of the new road are proposed on slopes 25% or greater. Therefore, this application includes a request for a Use Permit to allow development on slopes 25% or greater.
- g) The parcel has a B-8 overlay that limits intensification of use and growth inducement. The B-8 overlay is in accordance with Section 21.42.030.H of Title 21 where measurable public-facility type constraints could cause additional development to be detrimental to health, safety, and welfare of the residents of the area, or the County as a whole. Therefore, the proposed project would not establish a precedent for continued land development which, on a cumulative basis, could degrade adjoining environmental resources oak woodlands.
- h) The project was referred to the Toro Land Use Advisory Committee (LUAC) for review. Based on LUAC Procedure guidelines adopted by the Monterey County Board of Supervisors (Resolution No. 15-103), this application warranted referral to the LUAC because an Initial Study/Mitigated Negative Declaration (IS/MND) was prepared for the project in accordance with CEQA. The Toro LUAC meeting 28 August 2017 resulted in a 5-10 vote in favor of supporting recommendation of the project.
- i) The application, project plans, and related support materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development are found in Project File PLN160849.

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, RMA-Environmental Services, Monterey County Regional Fire Protection District (MCRFPD), RMA-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) The subject parcel comprises a State Responsibility Area (SRA) ranked as high risk for fire damage. However, during review of the proposed project, MCRFPD gave no indication the site would be unsuitable for implementation of the project.
 - c) The southern edge of the property is proximate to Laureles Grade and to an existing paved road for the first western half of the boundary line. This unnamed paved road continues eastward. Access to the development site on the parcel will be along a newly constructed road that is proposed along a curving portion of land that divides in half the scenic easement on the property. The project includes the first single family dwelling on a legal lot of record. Therefore, the new private road is exempt from the private road ordinance pursuant to Section 21.64.320.D.4 of Title 21.
 - d) The 27.87 acre parcel is restricted by approximately 16 acres of Scenic Easement. Dense oak woodlands cover approximately 5.5 acres, much of which stabilize slope areas of 25% or greater on the property. Those areas of the property located on slopes less than 25% do not have the site opportunity of optimizing views to the east. Optimal views occur within the area proposed for development and the structures are positioned such that the number of oaks proposed for removal is the minimum number required for implementation of the project in accordance with Section 21.64.260.5.a of Title 21.
 - e) In accordance with the *2010 General Plan* that exterior lighting be unobtrusive, reduce off-site glare, and only light an intended area, the project is required to adhere to Chapter 21.63 – Design Guidelines for Exterior Lighting of Title 21.
 - e) The application, project plans, and related support materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development are found in Project File PLN160849.

4. **FINDING:** **CONSISTENCY – PROTECTED OAK TREES:** The subject parcel comprises approximately 5.5 acres of oak woodlands. Oak tree removal is discouraged in the Toro Area Plan. However, the removal of protected oak trees is regulated by Section 21.64.260 of Title 21. There are 25 oak trees proposed for removal within the development footprint and 43 oak trees previously removed without the benefit of permits.

- EVIDENCE:**
- a) The following reports and correspondence were prepared and consulted in analysis of project-related tree removal and previous tree removal:

- 1) Hamb, Maureen. (April 2017). "Tree Resource Evaluation Project Impact Analysis." File No. LIB170255
 - 2) Nedeff, Nicole. (24 April 2017). "Biological Assessment of Clifton-Wolske Property." File No. LIB170256
 - 3) Nedeff, Nicole. (3 August 2017). "Tree Removal Investigation." File No. LIB170304
 - 4) Nedeff, Nicole. "Re: Clifton Wolske Residence Revised Site Plan." Received by Jaime Scott Guthrie and Bill Foster, 11 January 2018
 - 5) Ono, Frank. (31 October 2017). "Clifton and Wolske Residence Tree Assessment/Forest Management Plan." File No. LIB170415
- b) In accordance with Section 21.64.260.3.d, an Initial Study was prepared under CEQA.
 - c) A Forest Management Plan (FMP) was prepared by licensed forester Frank Ono (File No. LIB170415) pursuant to Section 21.64.260.3.
 - d) Pursuant to Section 21.64.260.4, the 25 trees proposed for project-related removal require one-to-one replacement.
 - e) The application for a Use Permit includes a request to permit the removal of 43 trees prior to possession of the subject property by the current owner. In order to abate the Code Enforcement Case (17CE00197), the applicant has agreed to replant the 43 oak trees oak trees as restoration on a one-to-one ratio for a total of 68 replanted oak trees.
 - f) Removal of the trees does not involve a risk of adverse environmental impacts for soil erosion, water quality, ecological systems, noise pollution, or air movement. The Initial Study provides a mitigation that requires a migratory bird nesting study prior to grading or construction (See Finding 11 below). This mitigation would reduce the risk of adverse environmental impacts on wildlife habitat to less than significant.
 - g) The twenty-five trees proposed for removal are either directly within the building footprint or adjacent to the development and in fair to poor condition. In response to recommendation from the Ohlone/Costanoan-Esselen Nation (OCEN), the applicant revised the site plan to accommodate removal of few trees, from an original 33 down to a proposed 25. Therefore, removal of twenty-five trees is the minimum required under the circumstances of this project.

6. FINDING:

CONSISTENCY – SLOPES 25% OR GREATER:

A Use Permit for development on slopes 25% or greater is appropriate for this project due to evidence required in General Plan Policy OS-3.5.1.a as follows:

EVIDENCE:

- a) All of the proposed structures would be constructed on slopes less than 25%. However, the proposed project includes development of portions of the driveway on slopes 25% or greater. The 27.87 acre parcel is restricted by approximately 16 acres of Scenic Easement. Dense oak woodlands cover approximately 5.5 acres, much of which stabilize slope areas of 25% or greater on the property. Proposed location of the new road is completely outside of the existing Scenic Easement on the property and road construction is restricted to areas

outside the Scenic Easement, much of which comprises 25% or greater slopes. Therefore, no feasible alternative exists for construction of the road on slopes less than 25%.

- b) There is an existing dirt road access to the building pad on the parcel with switchbacks and hairpin turns through 25% slopes and that would necessitate an excess of grading and retaining walls to construct a road that would be able to accommodate a fire truck. Although portions of the new driveway are proposed for construction within 25% or greater slopes, fire trucks and other emergency vehicles will have a less hazardous approach to the residence with implementation of the proposed driveway location. Given the Very High SRA status for damage due to fire hazard, fire truck access through oak woodlands along steep slopes and hairpin turns is not appropriate if there is a safer alternative. Therefore, along with the finding above, the proposed driveway location better achieves the the resource protection objectives contained in this General Plan policy.
- c) In order to ensure regulation of activity on slopes, it is the general policy of the County to require dedication of a scenic easement over portions of the parcel exceeding 25% slopes. Therefore, Condition number 29 requires conveyance of a conservation easement developed in consultation with a certified professional.

7. **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, Monterey County Regional Fire Protection District, RMA-Public Works, RMA-Environmental Services, Environmental Health Bureau, and Water Resources Agency. The respective agencies have recommended conditions, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood.
- b) Staff conducted a site inspection on 6 July 2017 to verify that the site is suitable for this use.
- c) 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 PLN160849.

8. **FINDING:**

VIOLATIONS - The subject property is not in compliance with all rules and regulations pertaining to zoning uses, subdivision, permitting, or other applicable provisions of the County's zoning ordinance. The Code Enforcement Case (17CE00197) would be abated upon procurement of the after-the-fact Use Permit for removal of 43 protected oaks along with adherence to the requirements of mitigations prepared for the Initial Study.

- EVIDENCE:**
- a) During the application process for the proposed project, Code Enforcement Case (17CE00197) was opened in response to a complaint of possible oak tree removal on the subject parcel that may have been performed without the benefit of permits.
 - b) The applicant requested that Nicole Nedeff, familiar with the property from preparation of the biological report (File No. LIB170256), investigate the allegation. Nedeff observed 43 oak stumps that indicate tree removal on the property (File No. LIB170304).
 - c) The decomposing condition of cut stumps and the development of callouses on a majority of cut tree limbs appear to be consistent with tree removal occurrence between May and December 2012, prior to possession of the property by the current owner. Tree removal had not been permitted and the current owners do not appear to be the perpetrators of the code violation.
 - d) No punitive action was taken for the illegal removal of protected oak trees on the parcel. However, the fees required are twice the amount normally charged pursuant to Title 21 Section 21.84.140 for a retroactive permit application. Therefore, the planning fees for this application were assessed 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 PLN160849.

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

- EVIDENCE:**
- a) Pursuant to California Environmental Quality Act (CEQA) Guidelines §15063(a), an Initial Study (IS) may be conducted in order to determine if a proposed project would have a significant impact on the environment. Staff has prepared a Mitigated Negative Declaration for the proposed project.
 - b) Pursuant to §15070(b) of CEQA Guidelines, a mitigated negative declaration may be prepared for a project when the Initial Study identifies potential environmental impacts. The Initial Study identified potential impacts to Biological Resources and Tribal Cultural Resources.
 - c) Proposed mitigations that would reduce potential impacts to less than significant have been agreed upon by the applicant.
 - d) There are no exceptions pursuant to Section 15300.2 of the CEQA guidelines. No significant adverse impact would result on endangered, rare or threatened species or their habitat pursuant to section 15065; no hazardous materials exist at or around the project site that may be disturbed or removed; and no adverse impacts will result that are significant when viewed cumulatively with past, current, or probable future projects.
 - e) There is no substantial evidence in light of the whole record that the project, as conditioned, would have significant adverse effect on the environment.

- f) The IS for the Clifton & Wolske (PLN160849) application was circulated for public review 9 March 2018 through 10 April 2018.
- g) The custodian of documents and materials which constitute the record of proceedings upon which the decision is based is the County Resource Management Agency, 1441 Schilling Place South, 2nd floor, Salinas, California.
- h) The application, project plans, and related support materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development are found in Project File PLN160849.

10. FINDING:

INITIAL STUDY – LESS THAN SIGNIFICANT

ENVIRONMENTAL IMPACTS - The Initial Study identified less than significant impacts for the following resources: aesthetics, air quality, geology/soils, greenhouse gases, hazards/hazardous materials, hydrology and water quality, noise, transportation/traffic, and utilities/service systems. Implementation of the project would incorporate Conditions of Approval to assure compliance with County requirements, which reduce the identified potential impacts. Therefore, mitigations would not be necessary for the project to have a less than significant impact on these resources.

EVIDENCE:

- a) There is some possibility that portions of the new road may be seen from Laureles Grade. However, placement of the new road is restricted to the proposed location which is encompassed by the existing scenic easement. Therefore, implementation of the new road at its proposed location would reduce impacts to less than significant on Aesthetic Resources.
- b) The position of the structure within the forested oak trees obscures glare and interior light from the windows during dawn and sunrise. Furthermore, Condition number 22 requires alternatively treated windows as protection against glare and visibility of interior lighting. Placement of Condition number 21 to comply with criteria set by County of Monterey Lighting Ordinance 5262 would ensure no new source of substantial light or glare would be created by exterior lighting. Therefore, impacts on day or nighttime views in the area would be reduced to less than significant.
- c) Monterey County Code (MCC) Chapter 16.12 requires plans for control measures of runoff, dust, and erosion resulting from construction and grading activities caused by dust generation and fuel combustion of construction vehicles. Emissions from implementation of the proposed project would not cause measures of air quality to reach thresholds of significance. Therefore, potential impacts on air quality are reduced to less than significant with implementation of MCC 16.12.
- d) San Andreas fault zone is approximately 26 km northeast of the subject parcel and has the greatest potential for seismic activity that may result in damages. However, site soils are considered not susceptible to liquefaction and to be resistant to seismic strength loss. Therefore, these characteristics of the soils reduce potential impacts on people or structures due to strong seismic ground shaking or liquefaction to less than significant.

- e) Near surface soil conditions within the development footprint are characterized as loose and expansive with the potential for erosion. Therefore, implementation of the project could have adverse impacts on soils. The subject parcel is expected to incur 1,800 cubic yards of cut and 2,160 cubic yards of fill. The project is conditioned to provide an erosion control plan and an engineered drainage plan prior to the issuance of any grading or building permits. RMA-ES requires, prior to final inspection, certification that development will have been constructed in accordance with the recommendations of the project geotechnical report which has been placed as a condition. Therefore, the potential impacts on people or structures due to substantial soil erosion or loss of top soil are reduced to less than significant.
- f) Implementation of the project would result in temporary impacts resulting from construction and grading activities that require fuel combustion of construction vehicles, a primary source of GHG precursors, NOx and ROG. Typical construction equipment would be used for the project and ROG and NOx emitted from that equipment have been accommodated within the Monterey Bay Air Resources District (MBARD) *2008 Air Quality Management Plan for the Monterey Bay Region (AQMP)*. Therefore, these emissions would have a less than significant impact on GHGs.
- g) The subject parcel is in the very high risk category of the State Responsibility Area (SRA) for fire protection. Pursuant to California PRC §4291, development must maintain a 100-foot buffer of defensible space around all structures and use non-flammable construction materials. Therefore, adherence to these requirements would reduce the risk of loss due to wildland fires to less than significant.
- h) Implementation of the proposed project would result in 1,800 cubic yards of cut and 2,160 cubic yards of fill in addition to an approximate net of 54,000 square feet impervious surface, thus, potentially altering the existing drainage pattern. A storm water control plan is required by the Water Resources Agency (WRA) for handling impervious surface storm water runoff at multiple dispersal points away from and below any septic leach fields. RMA-ES has conditioned the project to submit, prior to final inspection, certification by the Geotechnical Engineer that all development has been constructed in accordance with the recommendations contained in the Geotechnical Report (File No. LIB170257) and approved plans. Therefore, alteration of the existing drainage pattern would result in less than significant impact to erosion or siltation.
- i) Temporary increase in noise levels and groundborne vibration would occur during construction of the proposed project. However, the increases are estimated to stay below thresholds of significance pursuant to Chapter 10.60 – Noise Control of the Monterey County Code (MCC). Therefore, impacts from the temporary increase in noise levels and groundborne vibration would be reduced to less than significant.
- j) The subject parcel is located along a Laureles Grade road segment with a level of service rating “D”, and there is a single access to the

parcel on an unpaved private dirt road from Rinconada Drive approaching off Laureles Grade. There is a proposed import of approximately 360 cubic yards of earth which will require an estimated ten truck trips per day for 21 miles per trip during two days total. Total increase in traffic throughout construction of the project would cause temporary degradation of the level of service standard. However, traffic levels would return to normal service level after completion of the project. Therefore, impacts due to a temporary increase in construction traffic would be less than significant.

- k) Stormwater runoff would be handled with an onsite drainage system. A storm water control plan is required by the Water Resources Agency for handling impervious surface storm water runoff at multiple dispersal points away from and below any septic leach fields. Therefore, construction of new stormwater drainage facilities would have less than significant impacts.
- l) The project includes construction of the first single family dwelling on a legal lot of record. The project will use an estimated 0.25 AF/yr of groundwater from the Hidden Hills Water System operated by California American Water (CAW). The project has received notification that it can be served by this CAW system. The CAW Hidden Hills Water System is under the jurisdiction of the Monterey Peninsula Water Management District (MPWMD). If the availability of water service to the proposed project changes due to any new regulations imposed by the MPWMD, then the project could seek the consideration of other existing water systems or new water sources to serve the project. Therefore, although sufficient water supplies are likely currently available to service the completed dwelling, a new entitlement may be needed which would have less than significant impact on the provision of residential water.

11. FINDING:

INITIAL STUDY – POTENTIAL ENVIRONMENTAL IMPACTS LESS THAN SIGNIFICANT WITH MITIGATIONS

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

EVIDENCE:

- a) Project implementation would have potential impacts to oak woodlands identified as an important biological resource in the Toro Area Plan (TAP) and Monterey County Code Title 16 – Environment Section 16.60 – Preservation of Oak and Other Protected Trees. Implementation of General Best Management Practices (BMPs) is consistent with the Title 16 Section 16.60.040.F to ensure mitigation of potential environmental impacts. In order to reduce those impacts to less than significant, mitigative actions have been identified as necessary for long term maintenance and regeneration of the existing woodland environment.
- b) Pursuant to Section 21083.4 of the PRC, the project will include Mitigation Measures Actions (Condition number 25) that are in

accordance with this particular environmental legislation which includes dedication of a Conservation Easement over the oak woodlands on the subject parcel and a seven year maintenance agreement

- c) The oak woodland resources on the subject parcel shall be managed for not only forest stability and character, but also for fire protection. In order to prevent fire hazard in the very highly sensitive State Responsibility Area for fire protection, the Owner/applicant/certified arborist/professional forester shall maintain fire defensible space around all structures on the property.
- d) Migratory bird species are protected by the U. S. Federal government and protection of migratory bird habitats entails avoidance of construction during times of nesting. The applicant/owner shall procure an expert biologist to implement a survey for potential presence of nesting migratory bird species.
- e) The subject parcel is located in the aboriginal territory of Ohlone/Costanoan-Esselen Nation (OCEN). Pursuant to AB 52, tribal consultation took place regarding the proposed project. The outcome of the consultation with OCEN was a recommendation to have a Native American Monitor from OCEN, approved by the OCEN Tribal Council, be present onsite during any ground disturbance for the project. There is no listed archaeological resource on the site. Based on staff discussions with the Tribe's Most Likely Descendent (MLD), nomadic tribal ancestors, prior to migration, traditionally buried tools and personal items at the base of oak trees which are considered sacred. Although an on-site Tribal Monitor is recommended by OCEN, and oak trees are known to be sacred to the civic and spiritual culture of Native American Tribes, there is no substantive evidence that these oak woodlands on the subject property would contain tribal cultural resources. A mitigation was proposed in the Initial Study to require a Tribal Monitor on-site during project-related ground disturbance. Therefore, in order to ensure that Tribal Cultural Resources incur less than significant impacts, an OCEN-approved Monitor shall be onsite during any project-related grading or excavation to identify findings with tribal cultural significance.
- f) However, staff recommends Mitigation Measure 006 (Condition number 28) requesting a Native American Tribal Monitor be deleted and substituted with Mitigation Measure 006a to require on all grading and construction plans the following note: "Stop work within 50 meters (165 feet) of uncovered resource. Immediately contact Monterey County RMA-Planning and the OCEN Tribal Council." Owner/Applicant shall coordinate with the project planner and OCEN to determine the extent of the resources and to develop proper mitigation measures required for recovery.
- g) This substitution is equivalent to the previous measure in avoiding potential significant adverse effects on Tribal Cultural Resources and would not create an adverse effect on its own.
- h) The proposed deletion and substitution shall be heard during this public hearing to consider the proposed project.

- i) No recirculation of the proposed Mitigated Negative Declaration for the project is required provided the hearing body adopts the Mitigation Measure 006a as a Condition of Approval for this project.
- j) The Initial Study for the project provides mitigation measures that reduce impacts to less than significant for Biological Resources and Tribal Cultural Resources, and that are included as Conditions of Approval.

12. **FINDING:** **APPEALABILITY** - The decision on this project may be appealed to the Board of Supervisors.
- a) Section 21.80.040.D of Title 21 designates the Board of Supervisors as the appropriate authority to hear an appeal of the decision on this application.

DECISION

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

- 1. Adopt a Mitigated Negative Declaration;
 - 2. Approve Combined Development Permit consisting of:
 - a) Administrative Permit and Design Approval to allow construction of a 2,792 square foot single story single family dwelling, a 600 square foot attached guesthouse, and a 414 square foot attached carport;
 - b) Use Permit to allow the removal of 25 Oak trees;
 - c) After-the-fact Use Permit for the removal of 43 oak trees to clear Code Enforcement case (17CE00197); and
 - d) Use Permit to allow construction on slopes greater than 25%; and
 - 3. Adopt a Mitigation Monitoring and Reporting Program
- for Assessor's Parcel Number 416-361-043-000 (27.87 acres) in general conformance with the attached Plan set and subject to the twenty-two (22) Conditions of Approval and six (6) Mitigation Measures, all being attached hereto and incorporated herein by reference.

PASSED AND ADOPTED this 11th day of April 2018 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 SECRETARY OF THE PLANNING COMMISSION ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE

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.

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: Planting and restoration of the oak woodland on the subject property entails replacement of removed trees on a one-to-one ratio pursuant to Title 16 Section 16.60.040.D. Forty-three oaks were removed from the parcel prior to the 2012 possession of the property by the current owner; and twenty-five oaks are proposed for removal to accommodate the project development. The 43 previously removed oaks shall be replanted with 15-gallon container trees and the 25 additional oaks for removal shall be replanted with no less than 5-gallon container trees. The quantity of trees proposed for replacement is sixty-eight total.

Compliance or Monitoring Action to be Performed: Prior to commencement of any ground disturbance or construction activity, the Owner/applicant/certified arborist/professional forester shall adhere to all Tree Protection Standards as explained in the project FMP prepared by Frank Ono (File No. LIB170415) and as monitored by the Certified Arborist or Professional Forester.

Prior to final, Owner/applicant/certified arborist/professional forester shall adhere to all recommendations for Tree Planting and Restoration as explained in the project FMP prepared by Frank Ono (File No. LIB170415) and as monitored by the Certified Arborist or Professional Forester.

On a continued basis, for a minimum of seven years from planting, Owner/applicant/certified arborist/professional forester shall adhere to all recommendations for Tree Pruning as explained in the project FMP prepared by Frank Ono (File No. LIB170415) and as monitored by the Certified Arborist or Professional Forester.

Prior to final occupancy and after initial planting of the 68 replacement trees, in a manner prescribed by the Forest Management Plan (File No. LIB170415), the applicant/owner shall record a Conservation Easement over the Oak woodlands on the subject parcel.

On a continued basis, for a minimum of seven years from planting, Owner/applicant/certified arborist/professional forester shall adhere to all recommendations for oak woodland management as explained under Agreement by Landowner of the project FMP prepared by Frank Ono (File No. LIB170415) and as monitored by the Certified Arborist or Professional Forester.

Responsible Department: RMA-Planning

Condition/Mitigation
Monitoring Measure:

The subject parcel is located in the aboriginal territory of Ohlone/Costanoan-Esselen Nation (OCEN). Pursuant to AB 52, tribal consultation took place regarding the proposed project. In order to ensure that Tribal Cultural Resources incur less than significant impacts, Owner/Applicant shall include requirements of this condition as a note on all grading and construction plans. The note shall state "Stop work within 50 meters (165 feet) of uncovered resource and immediately contact Monterey County RMA-Planning and the OCEN Tribal Council"

Applicant/owner shall immediately contact Monterey County RMA - Planning. When contacted, the project planner shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for recovery.

Prior to resuming any further project-related ground disturbance, Owner/Applicant shall coordinate with the project planner and the Monitor to determine a strategy for either return to the Tribe or reburial. Any artifacts found that are not associated with a skeletal finding shall be returned to the aboriginal tribe.

If 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, and

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, 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 48 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.

(RMA - Planning)

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

Prior to issuance of construction permit for grading and/or building, Owner/Applicant shall include requirements of this condition as a note on all grading and construction plans. The note shall state "Stop work within 50 meters (165 feet) of uncovered resource and Immediately contact Monterey County RMA-Planning and the OCEN Tribal Council"

Owner/Applicant shall coordinate with the project planner and OCEN to determine the extent of the resources and to develop proper mitigation measures required for recovery.

Prior to resuming any further project-related ground disturbance, Owner/Applicant shall coordinate with the project planner and the Monitor to determine a strategy for either return to the Tribe or reburial. Any artifacts found that are not associated with a skeletal finding shall be returned to the aboriginal tribe.

29. PD023 - CONSERVATION AND SCENIC EASEMENT (SLOPE)

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 the slope exceeds 25% percent. The easement shall be developed in consultation with certified professional. A conservation and scenic easement deed shall be submitted to, 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 or building permits. (RMA - Planning)

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

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, final inspection, or 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.

PC 4/10/18

Initial Study Errata PLN160849

#4

4. BIOLOGICAL RESOURCES

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance? (Source: 1, 2, 3, 6, 17, 25, 26)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan? (Source: 1, 2, 3, 6, 17, 20, 25, 26)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

As discussed in section III – Project Consistency with Other Applicable Local and State Plans and Mandated Laws of this Initial Study, the proposed project is subject to regulations set forth in the Toro Area Plan (TAP) of the 2010 Monterey County General Plan (General Plan). Policy T-3.7 of the TAP discourages removal of healthy, native oak trees (See Source 2, p. 27). Section 16.60 of the Monterey County Code identifies protected trees as those specified within the various area and land use plans of Monterey County and provides regulations for removal of these trees. Therefore, removal of oak trees for implementation of this project requires adherence to this protected tree ordinance. (See Source 6)

The biological report submitted by Nicole Nedeff in April 2017 assessed the proposed project development on this parcel. There are no other sensitive or special status species of plants or wildlife noted within the proposed development footprint. Nedeff noted two active nests of the special status Monterey Dusky Footed Woodrat on the parcel. However, this project would not have any adverse impact on their habitat. (See Sources 26 & 28)

The Tree Resource Evaluation prepared by Maureen Hamb in April 2017 includes documentation of visual analysis and assessment of 33 *Quercus agrifolia* (Coast Live Oak) trees that were identified as necessary for removal. These trees are located either within the development footprint or in close proximity to grading or excavation. Impacts are rated low to moderate based on mechanical assessment for evaluation of tree health and tree structure. Remaining trees adjacent to the development footprint were assessed with protection measures, such as exclusionary fencing and straw bale barricades, to prevent inadvertent damage to tree roots or branch structures. (See Source 25)

During the application process for the proposed project, RMA-Code Enforcement received a complaint of possible oak tree removal on the subject parcel that may have been performed without the benefit of permits. The applicant requested that Nicole Nedeff, familiar with the property from preparation of the biological report, investigate the allegation. Nedeff observed 43 oak stumps that indicate tree removal on the property. The decomposing condition of cut stumps and the development of callouses on a majority of cut tree limbs appear to be consistent with tree removal occurrence between May and December 2012, prior to possession of the property by the

4200/14/19 at 00:00 14/01/19
81/01/19 09

current owner. Tree removal had not been permitted and the current owners do not appear to be the perpetrators of the code violation. In addition, the tree removal has resulted in both an overall reduction in competition between standing oaks as well as fuel ladder, fuel loads, and fire hazard. The report addresses how compensatory replacement one-to-one could be accomplished without inappropriately overcrowding the remaining trees in proximity to the proposed structures. While no punitive action was taken for the illegal removal of protected oak trees on the parcel, mitigation is proposed for the potential environmental impact of the tree removal. Implementation of the mitigations, herein, for proposed and previous vegetation removal will abate the code violation case 17CE00197 addressing the previously unpermitted tree removal. (See Source 27)

Chapter 16.60.040 of the Monterey County Code requires preparation of a Forest Management Plan (FMP) for removal of more than three protected trees. The FMP for the proposed project was prepared by Frank Ono in October 2017 and encompasses the aforementioned reports prepared by Nedeff and Hamb. Ono agrees with Nedeff that the competition in the oak woodland is reduced with the 43 previously removed trees and that further thinning of the forest is important for subsequent vigor of the oak woodland. (See Source 29)

The existing forest is mature, yet stunted, due to the significant presence of insects and pathogens such as Oak Root Fungus (*Armillaria mellea*), Water Mold (*Phyophthora*), and Western Oak Bark Beetle (*Pseudopityophthorus pubipennis*). Other factors that likely contribute to the suboptimal condition of the existing oak woodland on the subject parcel are two characteristic extremes of over-watering, especially in the summer months, prolonged saturation of soil or standing water around the base of the tree which are favorable conditions for mold and fungus; and trees on the south facing exposure of the building site experience drought related stress as increased sun and heat has led to competition between individual trees for water. (See Source 29)

The original plan proposed removal of an additional 33 oak trees as the minimum necessary for project implementation. The reports from Nedeff, Hamb, and Ono concur that few trees within the areas of development are in better than fair to poor condition. Notwithstanding, the Ohlone Costanoan Esselen Nation (OCEN) tribe was consulted pursuant to AB52 (See Section VI.17 Tribal Cultural Resources of this Initial Study). The OCEN consider oak trees sacred and expressed a concern over the number of oak trees being removed. The applicant made revisions to the site plan that resulted in 25 total trees being removed. Therefore, the number of trees that would require replacement is sixty-eight total. (See Source 1)

The protected tree ordinance requires replacement of each tree on a one-to-one ratio. The FMP recommends that replacement trees get replanted at the margins of the wooded area near the proposed structure, in 15-20 foot spacing within areas of the greatest opening in the canopy. Stumps that are sprouting are recommended in the FMP to succeed old declining oaks. The slow and variable process of natural seeding and regeneration of the oak woodland can be supported by a program that maximizes the potential for favorable growing conditions. This program includes appropriately placing planted trees, nurturing stem regeneration, and cultivating light availability. (See Source 29)

Pursuant to Section 21083.4 of the PRC, the project will include Mitigation Measures and Actions that are in accordance with this particular environmental legislation which includes dedication of a Conservation Easement over the oak woodlands on the subject parcel and a seven year maintenance agreement (See Mitigation Measure Actions 4.B.0, 4.B.4, and 4.B.5 below). The Conservation Easement, along with the required tree plantings, would fulfill the mitigation requirement for the project. These requirements are imposed as both restoration of the previously removed trees and as mitigation for the trees proposed for removal.

4(b), (c), (e), and (f). Conclusion: No Impact.

Consistency with Monterey County Code Title 21 Standards for Environmentally Sensitive Habitats (ESHA) §21.66.020 would meet the *General Plan* goal of preserving and conserving the County's native vegetation and wildlife. No conflicts exist for any State and Federal guidelines for sensitive habitat protection. The subject parcel has no federally protected wetlands as defined by Section 404 of the Clean Water Act. The proposed project would not have an adverse effect on any migratory fish or wildlife habitat or corridor, riparian habitat, native resident or sensitive natural community.

4(a) and (d). Conclusion: Less Than Significant With Mitigation Incorporated.

Mitigation Measure (MM) 4.A: General Best Management Practices (BMPs)

Project implementation would have potential impacts to oak woodlands identified as an important biological resource in the Toro Area Plan (TAP) and Monterey County Code Title 16 – Environment Section 16.60 – Preservation of Oak and Other Protected Trees. Implementation of General Best Management Practices (BMPs) is consistent with the Title 16 Section 16.60.040.F to ensure mitigation of potential environmental impacts. In order to reduce those impacts to less than significant, mitigative actions have been identified as necessary for long term maintenance and regeneration of the existing woodland environment. The applicant/owner shall implement BMPs that include procurement of a Certified Arborist or Professional Forester (See below MMA 4.A.1) who monitors the implementation of biological resource mitigations, communicates with the applicant/owner and contractors for implementation of notes on Demolition and Construction Plans (See below MMA 4.A.2), and provides Monitoring and Reporting (See below MMA 4.A.3).

Mitigation Measure Action (MMA) 4.A.1: Certified Arborist or Professional Forester

Prior to issuance of construction permits for grading and/or building, the applicant/owner shall submit to RMA-Planning for review and approval, a signed contract with a certified arborist or professional forester for onsite monitoring of identification of landmark oak trees requiring protective measures, protective measure installation, tree and stump removal, and oak tree replacement. The contract shall include the following responsibilities:

1. Monitor implementation of Mitigation Measures 4.A – 4.E for protection of tree resources as described in this initial study and in the reports prepared by Nedeff (April 2017 and August 2017) and Hamb (April 2017).
2. Collaborate with the project Civil Engineer (see MMA 6.A.1) in preparation of any Grading and Drainage Plans and Erosion Control Plans;

3. Identify landmark oak trees and oak trees sensitive to project development;
4. Monitor installation of all protective measures of sensitive trees;
5. Identify oak trees and stumps to be removed;
6. Monitor oak tree and stump removal activities;
7. Monitor, salvage and propagate oak sprouts and seedlings;
8. Monitor all oak tree replacement planting;
9. Monitor adherence to Notes on Demolition and Construction Plans throughout implementation of the project;
10. Develop "Tree Protection Standards;"
11. Develop "Tree Pruning Guidelines;"
12. Develop a "Plan for Fire Defensible Space" that includes a "Concept Landscape Plan;" and
13. Generate reports sufficient in detail to identify the success of mitigation measures and any impacts incurred outside those analyzed in this project.

Mitigation Measure Action 4.A.2: Demolition and Construction Plans and Implementation

Prior to issuance of construction permits for grading and/or building, the owner/applicant/certified arborist/professional forester shall submit to RMA-Planning evidence of the following measures as notes on Demolition and Construction Plans:

1. Avoid depositing fill, parking equipment, or staging construction materials near existing trees;
2. As necessary, protect trees using boards, fencing, or other materials to delineate protection zones;
3. Avoid all pruning of oak trees during the period from February through May;
4. Conduct pruning so as not to injure the tree;
5. Avoid all root cutting in springtime;
6. Avoid irrigation of oaks in the summer;
7. Avoid irrigation within the drip line of oak trees;
8. Propagate from native, locally adapted, drought resistant specimens;
9. Cover all oak material greater than three inches in diameter with black plastic that is dug in securely around the pile if the material is remaining on site for more than a month;
10. Place a mulch layer in the following manner: after construction under selected oaks and never against the root crown (base) of the oaks, up to 4 inches deep except within 2 feet of the trunk where mulch may be placed up to 2 inches;
11. Harvest mulch from chipped material generated on site; and
12. Observe if trees near the development are visibly declining in vigor and contact the certified arborist/professional forester to make inspection and recommendations.

Mitigation Measure Action 4.A.3: Monitoring and Reporting

The way in which mitigation measures are examined for implementation and effectiveness shall be through monitoring and reporting. The owner/applicant/certified

arborist/professional forester shall submit periodic letters to RMA-Planning for review and approval. Submittals shall take place in the following manner:

1. *Approximately two weeks prior to commencement of construction* – This report shall describe, in narrative and with photographs, the quality of mitigation implementation required for protection of sensitive oak trees and any changes necessary to protect sensitive tree resources at the site;
2. *Reporting for a three-year duration* – These reports shall be submitted biannually for the first two years after implementation of mitigation measures. Annual monitoring shall be conducted during year three. Each report shall describe, in narrative and with photographs, the status of each replacement oak tree, analysis of mitigation measure effects, and any adjustments necessary for improving the likelihood of success of mitigation measures. Reports shall utilize the recommendations of the Three Year Replant Success Criteria as explained in the project FMP prepared by Frank Ono (File No. LIB170415). The final report in year three shall survey all replacement oaks for the project, and shall assess future needs for maintaining the health and rigor of the entire oak woodland.
3. *Prior to final building permits* – This report shall describe the quality of mitigation implementation maintained during construction, any unforeseen impacts that may have occurred, and modifications for the purpose of oak woodland restoration and protection.

Mitigation Measure 4.B: Oak Woodland Planting and Restoration

Planting and restoration of the oak woodland on the subject property entails replacement of removed trees on a one-to-one ratio pursuant to Title 16 Section 16.60.040.D. Forty-four oaks were removed from the parcel prior to the 2012 possession of the property by the current owner; and twenty-five oaks are proposed for removal to accommodate the project development. The quantity of trees proposed for replacement is sixty-eight total. There is potential for migratory bird nesting activity in existing tree canopies on the subject property. Migratory bird species are protected by the U. S. Federal government and protection of migratory bird habitats entails avoidance of construction during times of nesting. The applicant/owner shall procure an expert biologist to implement a survey for potential presence of nesting migratory bird species (See below MMA 4.B.1).

Mitigation Measure Action 4.B.0: Prior to final occupancy and after initial planting of the 68 replacement trees, in a manner prescribed by the Forest Management Plan (File No. LIB170415), the applicant/owner shall record a Conservation Easement over the Oak woodlands on the subject parcel.

Mitigation Measure Action 4.B.1: No more than 30 days prior to ground disturbance and during potential nesting months of February to August, owner/applicant/biologist shall submit a nesting survey to RMA-Planning for review and approval. The nesting survey shall be of migratory bird species that may find suitable nesting habitat in trees on the parcel. Should nesting be observed and the nesting locations are determined to be potentially disturbed by tree removal or proposed development, protocols shall be developed to ensure nesting activities are not disturbed.

Mitigation Measure Action 4.B.2: Prior to commencement of any ground disturbance or construction activity, the Owner/applicant/certified arborist/professional forester shall adhere to all Tree Protection Standards as explained in the project FMP prepared by Frank Ono (File No. LIB170415) and as monitored by the Certified Arborist or Professional Forester of MMA 4.A.1 above.

Mitigation Measure Action 4.B.3: Prior to final, Owner/applicant/certified arborist/professional forester shall adhere to all recommendations for Tree Planting and Restoration as explained in the project FMP prepared by Frank Ono (File No. LIB170415) and as monitored by the Certified Arborist or Professional Forester of MMA 4.A.1 above.

Mitigation Measure Action 4.B.4: On a continued basis, for a minimum of seven years from tree planting, Owner/applicant/certified arborist/professional forester shall adhere to all recommendations for Tree Pruning as explained in the project FMP prepared by Frank Ono (File No. LIB170415) and as monitored by the Certified Arborist or Professional Forester of MMA 4.A.1 above.

Mitigation Measure Action 4.B.5: On a continued basis, for a minimum of seven years from tree planting, Owner/applicant/certified arborist/professional forester shall adhere to all recommendations for oak woodland management as explained under Agreement by Landowner of the project FMP prepared by Frank Ono (File No. LIB170415) and as monitored by the Certified Arborist or Professional Forester of MMA 4.A.1 above.

Mitigation Measure 4.C: Landscape Plan for Fire Defensible Space

The oak woodland resources on the subject parcel shall be managed for not only forest stability and character, but also for fire protection. In order to prevent fire hazard in the very highly sensitive State Responsibility Area for fire protection, the Owner/applicant/certified arborist/professional forester shall maintain fire defensible space around all structures on the property. The reduction of fuel load and fuel ladders are achieved by creating 30-foot and 100-foot buffer clearings outside structures. In order to ensure a fire defensible space, the Owner/applicant/certified arborist/professional forester shall submit to RMA-Planning for review and approval a "Concept Landscape Plan" developed by the expert certified arborist/professional forester.

Mitigation Measure Action 4.C.1: Prior to any issuance of construction permits for grading and/or building, Owner/applicant/certified arborist/professional forester shall submit to RMA-Planning for review and approval the Concept Landscape Plan developed by the expert certified arborist/professional forester. The Concept Landscape Plan shall include all recommendations for Fire Defensible Space as explained in the project FMP prepared by Frank Ono (File No. LIB170415) and as monitored by the Certified Arborist or Professional Forester of MMA 4.A.1 above.

Mitigation Measure Action 4.C.2: Prior to final, Owner/applicant/certified arborist/professional forester shall provide evidence of adherence to the approved Concept Landscape Plan from MMA 4.C.1 above, in the form of photographs, descriptive narrative, receipts and invoices.

Mitigation Measure Action 4.C.3: On a continued basis, Owner/applicant/certified arborist/professional forester shall maintain the Fire Defensible Space as described in the

implementation of this project would have no impact on public transit, bicycle, and pedestrian facilities.

16(b) Conclusion: Less Than Significant Impact.

There is a proposed import of approximately 360 cubic yards of earth which will require an estimated ten truck trips per day for 21 miles per trip during two days total. Total increase in traffic throughout construction of the project would cause temporary degradation of the level of service standard. However, traffic levels would return to normal service level after completion of the project. Therefore, impacts due to a temporary increase in construction traffic would be less than significant.

17. TRIBAL CULTURAL RESOURCES

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Cause a substantial adverse change in the significance of a tribal cultural resource defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and is:				
i) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or (Source: 1, 2, 3, 38, 40)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ii) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.17 (Source: 1, 2, 3, 39, 40)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Discussion: The subject parcel is located in the aboriginal territory of Ohlone/Costanoan-Esselen Nation (OCEN). Pursuant to AB 52, tribal consultation took place regarding the proposed project. The outcome of the consultation with OCEN was a recommendation to have a Native American Monitor from OCEN, approved by the OCEN Tribal Council, be present onsite during any ground disturbance for the project. Although there is no listed historical resource, there is evidence that significant cultural resources exist for the OCEN.

17(a.i) Conclusion: No Impact.

The parcel does not contain any resource listed on a State or local register pursuant to Section 5020.1(k). Therefore, implementation of the project would not cause a substantial adverse change in the significance of a cultural resource listed with the California Register or any local register of historical resources (See Source 38).

17(a.ii). Conclusion: Less Than Significant Impact With Mitigation Incorporated.

Mitigation Measure 17.D – Potential Cultural Value to California Native American Tribe

In order to ensure that Tribal Cultural Resources incur less than significant impacts, applicant/owner shall include a note on all grading and construction plans. The note shall state "Stop work within 50 meters (165 feet) of uncovered resource and Immediately contact Monterey County RMA-Planning and the OCEN Tribal Council." Applicant/owner shall immediately contact Monterey County RMA - Planning. When contacted, the project planner shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for recovery. an OCEN-approved Monitor shall be onsite during any project-related ground disturbance to identify findings with tribal cultural significance (See Source 39).

Mitigation Measure Action 17.D.1: Prior to issuance of construction permit for grading and/or building, Applicant/Owner shall include a note on all grading and construction plans. The note shall state "Stop work within 50 meters (165 feet) of uncovered resource and immediately contact Monterey County RMA-Planning and the OCEN Tribal Council." Applicant/owner shall immediately contact Monterey County RMA - Planning. When contacted, the project planner shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for recovery. shall submit to RMA-Planning a copy of a signed contract with an OCEN-approved onsite Cultural Resources Monitor. This Monitor shall be retained onsite for the duration of any project-related ground disturbance.

Mitigation Measure Action 17.D.2: Prior to issuance of construction permit for grading and/or building, include a note on all grading and demolition plans. The note shall state "Stop work within 50 meters (165 feet) of uncovered resource and immediately contact Monterey County RMA-Planning." If resources are uncovered, the County Coroner shall be contacted immediately by the project planner and findings shall be conveyed to the appropriate authorities. then prior to resuming any further project-related ground disturbance, Owner/Applicant shall coordinate with the project planner and the Monitor to determine a strategy for either return to the Tribe or reburial. Any artifacts found that are not associated with a skeletal finding shall be returned to the aboriginal tribe. Uncovered artifacts associated with a skeletal finding shall be reburied along with the remains with which it was found.

HEARING SUBMITTAL	
PROJECT NO./AGENDA	PLN160849 #4
DATE RECEIVED	4/11/18
SUBMITTED BY/VIA	Public Hearing
DISTRIBUTION TO DATE	PC 4/11
DATE OF HEARING	4/11/18

CLIFTON-WOLSKE PLN160849

HANDOUTS from

VICKI and CRAIG PHILLIPS
26747 Laureles Grade Rd.
Carmel Valley, CA 93924

(831) 659-0320

vickiphillips@montereybay.com

April 8, 2018

Monterey County Planning Department
1441 Schilling Place, South 2nd. Floor
Salinas, CA 93901

Attn: Jaime Guthrie

Dear Ms. Guthrie,

I have a number of concerns about the Clifton-Wolske application, PLN160849. I have always believed that a house should be built to fit the land, not the land changed to fit the house. The new owners of this property wish to (1) destroy a protected oak woodland; (2) pave over 55,000 square feet of land without considering where rainwater will go and what kind of erosion will inevitably result; and (3) build a road across 16 acres of protected scenic easement.

Let's first discuss the destruction of the oak woodland. The owners of the property have said that they were not the ones who illegally cut the 43 oaks, many of them being large signature trees. They blame the previous owners. However Bruce Britton will soon speak to the fact that this is not true. He is the father of Lori Pfeiffer and the father-in-law of James Pfeiffer, as well as the realtor who handled the sale of this property to Lori and James and kept a careful eye on Parcel 1, which borders Lori and James' property. He was visiting them one weekend when he heard chainsaws being used in Parcel 1, so he jumped into his Jeep, drove to the site and encountered men cutting these trees. He will tell you about this in more detail. Now Clifton-Wolske wants to cut another 25 trees to make room for their house, guest house, carport, numerous decks, and a pool (to be dangerously located on the steep slope overlooking Lori and James' property below)!

The overall footprint they have designed is almost 55,000 square feet, primarily centered in the oak woodland, which would pretty much result in its decimation. The few remaining trees would undoubtedly be targeted by the Fire Department's rule which demands that there be a wide area around a home's footprint where trees need to be removed for fire prevention purposes. So even if Clifton-Wolske replants one to three one gallon trees for each tree removed, these "baby oaks" would be scattered over the remaining acres. The oak woodland, which is supposed to be protected by state law and county ordinance, would be gone, having been virtually "logged."

The Clifton-Wolske's architect, William Foster, claimed that the impervious surfaces summary of 54,813.35 square feet for the 27.87 acre property, is just 0.05% of their property area. But it is primarily centered in the oak grove woodlands, close to a steep slope of up to and over a 25 percent grade, composed of alluvial surface on top of clay and unsecured shale, presently held stable only by trees and foliage. The number of trees which have been illegally removed has already destabilized the soil. Further removal of additional trees and foliage only exasperates the potential of a massive slide.

My husband, Craig, will be discussing how this newly unsettled ground, no longer held in place by oak roots, is very subject to erosion. Where is rainwater supposed to go? What is the drainage plan? This could be a huge potential problem, especially to the property of Lori and James Pfeiffer, which sits below this soon-to-be homesite, formerly an oak grove! Craig will also talk about the Clifton-Wolske plan to build a long driveway across the 16.032 acres of scenic easement, which should be protected as part of the granting of land by Joy and Mel Pritchard for the private drive to the houses in the Four Parcel Development, approved by the county in 1979. (Please review the letter from Joy and Mel Pritchard on this issue, attached.)

Finally, I wish to point out the attached map of the Four Parcels Development from page 18 of the August 28th LUAC minutes. It shows what the County provided in 1979 as the egress for the Parcel 1 property. I have highlighted in yellow the center for the 60 foot diameter turn-around, which wasn't built when the map was drawn, but had been built in that spot before we purchased Parcel 3 in 1986. Also highlighted in yellow is the 20 foot wide Driveway Easement for Parcel 1. I think that the planners must have assumed that whoever purchased Parcel 1 would build in that location. Building on this alternative site would save Clifton-Wolske a relative fortune in roadway construction expense, would not violate the regulation forbidding building on a slope over 25 percent, would not violate a protected scenic easement, would not destroy the oak woodland, and would still provide a beautiful view—all without endangering the property of their neighbors below.

Sincerely,



Vicki and Craig Phillips
26747 Laureles Grade Rd.
Carmel Valley, CA 93924



P.S.—I would like to point out that Max Mazenko, who wrote you a letter representing himself as speaking for the entire Woodside organization, was really only expressing his own opinion. Max did attend the first LUAC meeting, but not the second one where decisions were made. And none of the Woodside homeowners attended either LUAC meeting except for my husband Craig and myself, who attended both meetings, and James Pfeiffer and his father-in-law, Bruce Britton, who attended the second LUAC meeting. Since there was no Woodside meeting in which the facts and other opinions could be shared and discussed, Max's letter represents merely his own opinion.

To: Toro Land Use Advisory Committee
Attn: Michael Weaver, Chairperson of Toro LUAC
Jaime Guthrie, Monterey County Planner

From: Mel and Joy Pritchard
27130 Laureles Grade Rd.
Carmel Valley, CA 93924
831-659-2533

Re: Project of Clifton, Heather Joy and Wolske, Russell D.
File #: PLN 160849
26735 Laureles Grade Rd.
Carmel Valley, CA 93924

Date: August 25, 2017

Dear Sirs:

We own the land adjoining the above parcel whose owners are requesting a development permit. Our APN is 416-051-005-000. We have owned our property here for 42 years and treasure the rural nature of the area.

We are especially concerned with any alteration to the scenic easement that exists on Parcel 1, which Wolske-Clifton have submitted plans to develop. The ingress-egress shown on their plans crosses a piece of our property before crossing the 16.032 acres of scenic easement which was protected by the County when the Four Parcel Development was approved by the County in 1979. Our property line intersects the existing road that Parcels 2, 3, and 4 use for ingress and egress. We share this road with them and all pay to keep the road in satisfactory condition.

The address sign recently placed on our property by Wolske-Clifton was a surprise to us. The scenic easement land to the west was designated many years ago and was not meant to be a driveway to a buildable part of the parcel in question. That parcel has access from Rinconada Drive at the top. There is also a twenty foot wide driveway easement onto Parcel 1 which starts at the 60' diameter turn-around shown on the 1979 Four Parcel Development map (See the attached copy) where a cul-de-sac has since been built. Either choice would allow access onto Wolske-Clifton property without crossing our property or the protected scenic easement. In contrast, if a road were to be built going directly through the middle of the scenic easement, it would violate the very purpose of a scenic easement, i.e., an area undeveloped by roads or buildings.

We would appreciate the opportunity to discuss this issue with anyone involved to further clarify the scenic easement matter.

Sincerely,

Mel Pritchard

Joy Pritchard

Par.D, 3-Par-132
Reel 511, P. 666

588°39'20"E 869.73

20' wide Utilities
Easement

3.030 Acres
1.064 Ac. in SE.

Vol. 13-Par-15

Vol. 13-Par-15

R2 Corral
Par. 4 Vol. 12-
Homelanc
Reel 1310, P.

PARCEL 1
27.871 Acres
16.032 AC. IN SE.

20' wide Driveway
Easement
Center of 60' Dia.
turn around
@ 30.00

PARCEL 2
1.517 AC. IN SE.

PARCEL 3
1.703 AC. IN SE.

Pritchard
R. 825 P. 1101

Pritchard
Property

BASIS OF BEARINGS

The basis of bearings is the bearing
S66°49'55"W between monuments found,
and as shown in Volume 8 of Parcel
Maps at Page 135.

- ① Found 3/4" pi
- ② Set 3/4" pipe,
- ③ Found 1 1/2" ca
- ④ Found 3/4" pif
- ⑤ Found 2x3" p

Scenic Easement lines shown a
ceeding 39% ground slope. No
are an exact and definitive boi
exceeds 30%.

R.U.E. = Road & Utiliti

Distances are stated in feet and d

Points not indicated as found or

The symbol  indicates it
by this map.

M.S. 7
PARCE

Showing division
shown in Vol. 8 of Par
Corral De Tierra & Se

ATE

ents of the Subdivision Map Act

RECORDER'S CERTIFICATE

Filed this 19TH day of JUNE 1979 at 11:41 in Book
PARCEL

LANDSLIDE TRIGGERING MECHANISMS

Excavation at the base of a slope or excavation on a hillside

Removal of vegetation

Timbering

Addition of moisture

Rainfall

Sewage or runoff disposal, broken water pipes, improper grading

Addition of weight

Placement of fill

Oversteepening

Placing fill at a gradient that exceeds the angle of repose

Vibrations

Earthquakes, Thunder

Operation of heavy equipment

Public Submittal

4/11/18

NR1313 PAGE .37

mined by majority vote of such owners based upon one vote per building site owned; provided however, that the road shall be maintained in such manner as to provide reasonable access for residential use of all building sites served and shall be so maintained regardless of the building sites in actual use thereof. Any maintenance in excess of that necessary to provide reasonable access shall be born by the owner providing same. Any owner, or agent, or guest thereof, or any other person using the roadway shall be responsible for and promptly repair, any damage thereto caused by such person, reasonable wear and tear excepted.

5. ASSESSMENTS FOR MAINTENANCE: The owner(s) providing the maintenance under this Article I shall assess all owners for the cost thereof on the basis provided in Paragraph (3) of this ARTICLE I. Any assessment made hereunder shall be payable within thirty (30) days from notice thereof.

6. REMEDIES FOR NON-PAYMENT OF ASSESSMENT: In the event that any owner fails to pay any road maintenance assessment, the owner(s) providing the construction or maintenance may maintain an action for collection thereof against the defaulting owner in a court of competent jurisdiction and said defaulting owner shall also have no right to use the road. In the event that it is necessary to bring legal action against an owner to collect any unpaid road assessment, reasonable attorneys' fees and all other expenses for such actions may be recovered from the defaulting owner. Unpaid assessments shall also constitute a lien against the real property of any defaulting owner until paid, and shall carry interest at the rate of ten percent (10%) per annum for the date due.

7. OWNERSHIP: Roads on the subject property shall be private and title to the roads shall remain in those owners holding title thereto subject to the easements provided herein for all building sites within the property.

MM1313 PAGE 36

ARTICLE II:

UTILITIES DEVELOPMENT, MAINTENANCE & EASEMENTS

1. PURPOSE: It is the purpose of this provision to provide for mutual development of electric, telephone, TV cable, gas, and other utilities service to all building sites on the property.

2. EASEMENTS: Easements are hereby reserved over the road easements described in ARTICLE I, Paragraph 2 for the construction and maintenance of utility lines on the property for the benefit of each and every building site. Additional, as yet undetermined, easements are hereby reserved for the construction and maintenance of utility lines for the benefit of the property and of all building sites provided, however, that said easements for utilities shall be located within such sites in such an economical manner as to impair as little as reasonably practicable the use and marketability of each building site. Owners of building sites within the property shall grant to P.O. & E, Pacific Telephone Company, and such other public and private utility companies providing utility services, the additional easements herein reserved for construction and maintenance of utility lines.

3. SECONDARY LINES: All Secondary utility lines must be underground, unless otherwise approved in writing by the Architectural and Environmental Review Committee.

ARTICLE III

ARCHITECTURAL AND ENVIRONMENTAL RESTRICTIONS

1. PURPOSE: It is the purpose of this provision to establish an architectural and environmental control instrument to guide the development of the property, protecting and enhancing the environment and property values. This

NH1313 MCF . 38

covenant is to run with the land and shall be binding on all persons having or acquiring any right, title or interest in any of the property.

2. ARCHITECTURAL CONTROL: It is hereby declared that the property shall be held, conveyed, encumbered and improved subject to the restriction of architectural control, that no residence or other structure shall be erected, placed or altered on the above described land until construction plans indicating design, height, materials, location and finish grade elevations of modified land have been approved by the Architectural and Environmental Review Committee in writing. "Other structure" as used in this provision shall include not by way of limitation, water tanks, sheds, detached garages, fences, walls and plantings having a matured height of over six (6) feet.

3. ARCHITECTURAL AND ENVIRONMENTAL REVIEW COMMITTEE: Each year the owners, each having one vote per building site owned, shall choose an Architectural and Environmental Review Committee composed of three persons, one of whom must have at least eight years of architectural training or experience and two of whom must be owners of legal building sites on the property. The function of the Committee is to review, and approve or reject with recommendations, any and all proposed buildings and other structures to be developed on the property.

4. ARCHITECTURAL REVIEW PROCESS: All owners are required to consult with the Architectural and Environmental Review Committee prior to starting design of buildings and other structures to identify areas of community concern. Preliminary plans shall be submitted to the Committee for general concept approval. Final complete plans will be

sa1313 MEX . 40

approved or rejected with conditions and recommendations for all development within said lands. The fee for architectural review is \$150 for each residence reviewed, and \$25 for each request regarding another structure costing over \$500, and no charge for other requests, and such fee shall be paid upon submission of the preliminary plans. The Committee shall respond to each design review request within twenty (20) days of submission by either approving the request or denying it with recommendations and the Committee's failure to respond shall be deemed an approval of the request.

5. DESIGN GUIDELINES: The following guidelines shall be followed by the Architectural and Environmental Review Committee:

A. Building Siting and Height: The siting of residences and other structures should be as unobtrusive as possible to the neighbors as well as the community. Privacy and view from neighboring building sites must be considered. Buildings shall be no more than one story and a maximum of sixteen feet in height. Split level or other use of building space resulting from slope of sites will be considered in an effort to make the building form harmonize with natural terrain. Equally, on sites with tall trees or other natural tall elements, higher structures will be considered as they harmonize with terrain. Strong contrast with natural features is discouraged.

B. Exterior Materials: Wood, stone, concrete, masonry and stucco are recommended for walls. Flat roofs are acceptable if they are out of view to neighbors and roadways or are covered to blend with surroundings, e.g., earth planted with native vegetation, larger rocks of surrounding earth tones.

C. Colors: Colors should harmonize with surrounding landscape. Natural tones are recommended. White and bright colors are discouraged and are acceptable only where they are out of view to neighbors and roadways.

ARTICLE IV

MHI1313 PAGE 41

ALLOWED USES

It is the purpose of this provision to preserve as much as practicable the natural beauty and tranquility of the environment of the property consonant with residential use and development. All building sites within the property are herein limited to uses allowed by the Monterey County Zoning Ordinance with the following additional limitations:

A. No motorcycles or dirt bikes shall be permitted on the property unless approved in writing by the Architectural Environmental Review Committee.

B. All permitted motorized vehicles, equipment and tools must have sound control equipment such as mufflers, etc. to bring the sound emission into conformance with criteria established by the Architectural and Environmental Review Committee, which criteria shall be no less stringent than forty-eight (48) decibels.

C. Each building site within said property is limited to a maximum total of four (4) farm animals, e.g. horses, ponies, cows, cattle, pigs, goats, and a maximum total of five (5) domestic pets, dogs, cats, etc., (excluding infant animals) unless otherwise approved in writing by the Architectural and Environmental Review Committee.

D. No public or commercial development will be allowed unless approved in writing by the owners of the property, each owner having one vote per building site owned.

E. All those portions of each building site where the slope exceeds thirty degrees (30°) shall remain natural and

SH 1313 RE - 42

unfenced (as a county scenic easement) unless otherwise approved
in writing by the Architectural & Environmental
Review Committee.

Dated: Sept 18, 1978

X Myron E. Etienne, Jr.
Myron E. Etienne, Jr.

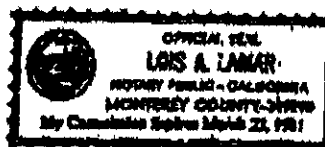
X D.E. Evenson
D.E. Evenson

X Sanaye Evenson
Sanaye Evenson

STATE OF CALIFORNIA

County of Monterey

On Sept. 18, 1978 before me, the undersigned
a Notary Public, in and for said State, personally appeared
D. E. Evenson and Sanaye Evenson, husband and wife
known to me to be the persons whose names are subscribed
to the within instrument, and acknowledged to me that they executed the same
for the purposes and consideration therein expressed.



STATE OF CALIFORNIA

County of Monterey

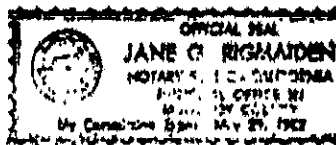
On this 23rd day of JANUARY, 1979, at the year one thousand nine hundred and seventy-nine

before me, _____
a Notary Public in and for the _____ County of _____
Monterey State of California, residing at _____

city, county and state, personally appeared
Myron E. Etienne, Jr.

known to me to be the person whose name is subscribed to the within instrument,
and acknowledged to me that he executed the same.

IN WITNESS WHEREOF I have hereunto set my hand and official seal
this _____ day of _____ 1979.



Jane G. Rigmaiden
Notary Public in and for the _____ County of _____ State of California.

END OF DOCUMENT

BOARD OF SUPERVISORS

CONSERVATION AND SCENIC EASEMENT DEED

NR1309 NR1242

THIS DEED made this 27th day of December,
19 78, by and between D.H. Evenson and Samaya Evenson

as Grantor, and the COUNTY OF MONTEREY, a political subdivision of the State of California, as Grantee;

WITNESSETH:

WHEREAS, the said Grantor is the owner in fee of the real property hereinafter described, situate in Monterey County, California; and

WHEREAS, the said land 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 said property of the Grantor; and

WHEREAS, the said Grantor is willing to grant to the County of Monterey the scenic use as hereinafter expressed of the said land, and thereby protect the present scenic beauty and existing openness by the restricted use and enjoyment of said property by the Grantor through the imposition of the conditions hereinafter expressed;

NOW, THEREFORE, for and in consideration of the premises, 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 purpose 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 said property the various acts hereinafter mentioned.

READ & APPROVED

Sign DM

C 06388

CLERK OF
BOARD OF SUPERVISORS
FEB 15 10 46 AM '79
OFFICE OF RECORDER
COUNTY OF MONTEREY

J. J. J.

C 06388

NEL1309 NHE1243

The restrictions hereby imposed upon the use of said property of the Grantor and the acts which said Grantor shall refrain from doing upon their said property in connection herewith are, and shall be, as follows:

1. That no structures will be placed or erected upon said described premises except utilities

2. That no advertising of any kind or nature shall be located on or within said property except _____

3. That the Grantor shall not plant nor permit to be planted any vegetation upon said premises, except _____

4. That, except for the construction, alteration, relocation and maintenance of public roads, public and private pedestrian trails, utilities

the general topography of the landscape shall be maintained in its present condition and no excavation or topographic changes shall be made.

5. That no use of said described property which will or does materially alter the landscape or other attractive scenic features of said land other than those specified above shall be done or suffered.

The land 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 in Exhibit A, attached hereto, and made a part hereof.

Excepting and reserving to the Grantor:

(1) The right to maintain all existing private roads, bridges, trails and structures upon said land, and the right to _____

(2) The use and occupancy of said land not inconsistent with the conditions and restrictions herein imposed.

EXHIBIT "A"

SEN 1309, MER 1244

That certain real property sitsuate in the County of Monterey, State of California, described as follows:

That area designated as "scenic easement" as shown on that Parcel Map filed the 15th day of February 1979 in Volume 13 of Parcel Maps at page 15, Monterey County Records.

REL 1309 PAGE 1245

Land uses permitted, or reserved to the Grantor by this instrument, shall be subject to the ordinances of Grantee regulating the use of land.

To have and to hold unto the said County of Monterey, its successors and assigns forever. This grant shall be binding upon the heirs and assigns of the said Grantor.

[Signature]

[Signature]

COUNTY OF MONTEREY

By

[Signature]
Chairman, Board of Supervisors
GRANTEE



(To be followed by appropriate acknowledgement of signature of Grantor)

TO 1994 SA 18-761

(Individuals)

STATE OF CALIFORNIA

COUNTY OF Monterey

On December 27, 1978

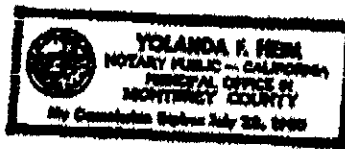
before me, the undersigned, a Notary Public in and for said State, personally appeared D. E. Evenson and Sandy Evenson

known to me to be the person or persons whose name or names are subscribed to the within instrument and acknowledged that they executed the same.

WITNESS my hand and official seal.

Signature

[Signature]



(This area for official notarial seal)

STATE OF CALIFORNIA)
COUNTY OF MONTEREY)

On this 9th day of January, 1979, before me, Ernest A. Mackinn, County Clerk of the County of Monterey, and ex-officio Clerk of the Board of Supervisors and of the Superior Court, in and for said County and State, personally appeared [Signature], known to me to be the Chairman of said Board of Supervisors of the County of Monterey, and known to me to be the person who executed the within instrument on behalf of said political subdivision, and acknowledged to me that such County of Monterey executed the same.

