

Attachment A

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When recorded return to:
MONTEREY COUNTY RESOURCE
MANAGEMENT AGENCY - PLANNING
Attn: Joseph Sidor
1441 Schilling Place 2nd Floor
Salinas, CA 93901
(831) 755-5025

Space above for Recorder's Use

Permit No.: PLN130447
Resolution No.: Board of Supervisors
Resolution No. 16 - 220
Owner Name: Pebble Beach Company
Project Planner: Joseph Sidor
APN: Portion of 008-041-009-000

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



Signature of Declarant or Agent

OPEN SPACE CONSERVATION EASEMENT DEED (DEL MONTE FOREST)

THIS OPEN SPACE CONSERVATION EASEMENT DEED (this "Easement Deed") is made this 29th day of November, 2018, by and between PEBBLE BEACH COMPANY, a California general partnership, as Grantor, and the DEL MONTE FOREST CONSERVANCY, a California non-profit corporation (formerly named the Del Monte Forest Foundation), as Grantee.

WITNESSETH:

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

WHEREAS, the Property comprises the Conservation Area and provides natural scenic beauty and open space values; and

WHEREAS, the Grantor, the Grantee, and the County of Monterey (hereinafter "County") desire to preserve and conserve for the public benefit the Conservation Area, including its great natural scenic beauty, and its open space values, in such a way as to ensure enhancement, protection, and management of such areas as protected and self-functioning habitat areas in perpetuity; and including because such protection is essential to the health and well-being of the Del Monte Forest, not only in terms of the value of the resources themselves, but also in terms of fostering a natural environment within which the Forest's residential and visitor-serving commercial uses can thrive; and

WHEREAS, pursuant to the Monterey County 2010 General Plan, Grantor applied to the County for a permit to undertake development as defined in the General Plan; and

WHEREAS, a Combined Development Permit was granted (File Number PLN130447, hereinafter referred to as the "Permit") on August 23, 2016, by the Monterey County Board of Supervisors pursuant to the Findings, Evidence, and Conditions contained in Resolution No. 16-220, attached hereto as Exhibit "B" (without the attachments to such Resolution, which attachments are available for review upon request at Monterey County Resource Management Agency - Planning) and hereby incorporated by this reference in their entirety notwithstanding the omission of their attachments herein (hereinafter the "Resolution"), subject to the following condition(s):

"Condition No. 31 – MM BIO-A2: DEDICATE CONSERVATION EASEMENT TO THE DEL MONTE FOREST CONSERVANCY FOR THE OPEN SPACE PRESERVATION AREA IN AREA D – Prior to Project occupancy, the applicant shall be required to dedicate a conservation easement to the Del Monte Forest Conservancy or other approved entity for the entire open space preservation area (10.5 acres), including 4 acres west of SFB Morse Drive and 6.5 acres east of SFB Morse Drive, as shown in Figure 2-3 in the EIR.

The conservation easement shall incorporate specific development prohibitions based on the protection measures outlined in the Master RMP (Monterey County 2011/2012) and the site-specific RMP to be developed in accordance with Mitigation Measure BIO-A1. The conservation easement shall contain specific restrictive language that permanently prohibits all future development in the preservation areas, including the creation or expansion of trails, with the following exceptions.

- Existing trails in Area D to be retained, as identified in the site-specific RMP per the requirements of Mitigation Measure BIO-A1.
- Existing utility uses and their maintenance, as identified in the site-specific RMP.

The conservation easement shall also contain the following provisions:

- A guarantee of full funding for implementation and monitoring by the applicant of all agency-approved resource management methods established in all agreements and memoranda of understanding.
- A statement that these dedicated areas cannot be used for the mitigation of any other past, present, or future projects.

The intent of this language is to prevent the possibility of later revision, amendment, or interpretive disputes concerning the conservation easements that might directly or indirectly result in the loss of habitat area and quality that is intended and required solely as mitigation for this Project's effects. The intent is also to ensure the implementation of proposed resource management activities that are intrinsic to enhancing and maintaining the forest's ecological values, such as implementation of resource and wildfire management practices.

The applicant shall also be required to dedicate 8.4 acres of the Old Capitol Site for the purposes of permanent preservation and management of Monterey pine forest and supported habitat in perpetuity. The additional dedication area shall be outside the 16-acre area containing Yadon's piperia that the applicant previously agreed to preserve in the prior agreement with USFWS."

WHEREAS, the areas being protected include natural, scenic, and open space qualities and features valuable for plant and wildlife habitat; and

WHEREAS, the County, acting on behalf of the People of the State of California, and in accordance with the findings contained in the Resolution, granted the Permit to the Grantor upon the condition described above (hereinafter the "Condition") requiring, inter alia, that the Grantor record an open space conservation easement affecting the Conservation Area and agree to restrict development on and use of the Conservation Area so as to enhance, protect, preserve, and manage the habitat, open space, scenic, and overall natural resource values present in the Conservation Area as protected and self-functioning habitat areas in perpetuity, including to prevent any adverse direct and cumulative effects on these resources; and

WHEREAS, the County has placed the Condition on the Permit because a finding must be made under the law that the proposed development is in conformity with the provisions of the applicable General Plan and that in the absence of the protections provided by the Condition said finding could not be made; and

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

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

WHEREAS, the Grantor is willing to execute this Easement Deed for the conservation and scenic use as herein expressed of the Conservation Area, and thereby enhance, protect, preserve, and manage the habitat, open space, scenic, and overall natural resource value by the restricted use and enjoyment of the Conservation Area by the Grantor through the imposition of the restrictions hereinafter expressed; and

WHEREAS, the recitals set forth above are hereby incorporated in and made a part of this Easement Deed by this reference.

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

A. PROPERTY SUBJECT TO EASEMENT. This Easement shall be over the Property identified in this Easement Deed as the Conservation Area.

B. RESTRICTIONS. Upon recordation of this Easement Deed and thereafter in perpetuity, the use of the Conservation Area shall be limited to natural open space for habitat protection and resource conservation uses. No "development", including, but not limited to, removal of trees and other major or native vegetation, grading, paving, installation of structures such as signs, buildings, etc., and no grazing or agricultural activities shall occur or be allowed on the Conservation Area with the exception of the following (subject to compliance with any applicable governmental regulatory requirements and in accordance with the specific development prohibitions based on the protection measures outlined in the approved Master Resource Management Plan (Master RMP – Monterey County 2011/2012) and the Site-Specific RMP (SSRMP) developed per MM BIO A1):

1. The right to maintain, repair, and use all existing roads, bridges, trails, structures, public service and utility lines, pipes, and transmission facilities (including those for gas, electricity, telephone, water, sewer, and cable television), and facilities for drainage and erosion and sedimentation control, upon the Conservation Area, and the right to the construction, maintenance, repair, and use of the development and uses authorized by the Permit, including new and relocated fire roads and pedestrian and equestrian trails as allowed thereunder.

2. The right to the construction, maintenance, repair, and use of new public service and utility lines, pipes, and transmission facilities (including those for gas, electricity, telephone, water, sewer, and cable television), and facilities for drainage and erosion and sedimentation control, when such public service, utility, and drainage pipes and facilities are found to be infeasible to be located outside of such Conservation areas, and, if infeasible, when such facilities are the minimum necessary.

3. Intermittent grazing for use as a wildfire prevention measure, only if allowed in accordance with the approved Master RMP and SSRMP.

4. Conduct of public and private scientific study, consistent with the intent of this Easement.

5. The use and occupancy of the Conservation Area not inconsistent with the conditions and restrictions herein imposed, such as public and private visitation, hiking, equestrian, and similar passive or low-impact outdoor recreational uses.

6. Management of resources within the Conservation Area in accordance with the Master RMP and the SSRMP.

For any allowable use and development, Grantor shall provide Grantee with copies of all Site and Construction Plans (e.g. Site, Grading, Utility, Drainage, Erosion Control, and Landscape plans, etc.) showing the location of existing and proposed facilities and the materials and specifications for proposed grading and construction within the Conservation Area. Grantor shall give advance notice to Grantee whenever maintenance or construction activities will occur within the Conservation Area.

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

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

County, and in the event that Grantee is unable to adequately manage the Easement for the intended purpose, the County may perform such actions.

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

F. ENFORCEMENT. Any act or any conveyance, contract, or authorization, whether written or oral, by the Grantor which uses or would cause to be used or would permit use of the Conservation Area contrary to the terms of this Easement Deed will be deemed a breach hereof. The Grantee or the County may bring any action in court necessary to enforce this Easement Deed, including, but not limited to, injunction to terminate a breaching activity and to force the restoration of all damage done by such activity, or an action to enforce the terms and provisions hereof by specific performance. It is understood and agreed that the Grantee or the County may pursue any appropriate legal and equitable remedies. The Grantee or the County shall have sole discretion to determine under what circumstances an action to enforce the terms and conditions of this Easement Deed shall be brought in law or in equity. Any forbearance on the part of the Grantee or the County to enforce the terms and provisions hereof in the event of a breach shall not be deemed a waiver of Grantee's or the County's rights regarding any subsequent breach.

G. MAINTENANCE. The Grantee shall not be obligated to maintain, improve, or otherwise expend any funds in connection with the Conservation Area or any interest or easement created by this Easement Deed. All costs and expenses for such maintenance, improvement, use, or possession shall be borne by the Grantor, except for costs incurred by Grantee for monitoring compliance with the terms of this Easement Deed. Grantor and its successors and assigns shall manage and maintain the Conservation Area in accordance with the standards of the approved Master RMP and the SSRMP applicable to the Conservation Area as well as any other standards and requirements of whatever kind that may from time to time be legitimately imposed on the Conservation Area subject to all required approvals, including entitlement approvals for any development, including changes in intensity of use. Grantor hereby guarantees full funding for implementation and monitoring of all agency approved

resource management methods established in the approved Master RMP and the SSRMP. The SSRMP shall be consistent with the approved Master RMP and any other Permit requirements, including specifying the contemplated uses and the management, maintenance, restoration, and monitoring standards and activities to be carried out in furtherance of the protection of the natural habitat of the Conservation Area. The Conservation Area cannot be used for the mitigation of any other past, present, or future projects. The SSRMP and any other documents that may extend or revise their standards and requirements shall be reviewed and approved in writing by the Grantee, the RMA Chief of Planning of the County, and the other agencies described as the "Resource Management Team" in the approved Master RMP, as necessary.

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

Conservation Area for the purposes of correcting any "dangerous condition" as those terms are defined by California Government Code Section 830.

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

J. ASSIGNMENT.

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

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

K. PUBLIC ENTRY AND USE OF CONSERVATION AREA AND ROADS IN DEL MONTE FOREST. This Easement Deed does not govern access to or use of the Conservation Area by members of the public. Access to and the use of the Conservation Area by members of the public is governed by other agreements between Grantor and the County, and by other Permit terms and conditions. The road system of Del Monte Forest is privately owned by Grantor and the use of the roads in Del Monte Forest is by permission of Grantor and subject to the payment of a fee for motor vehicle

use and rules and regulations imposed by Grantor so long as they are consistent with applicable Plans and Permit terms and conditions.

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

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

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

PEBBLE BEACH COMPANY,
a California general partnership

(Signature)

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

[illegible]

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

Signature Alvin J. Smith



GRANTEE

Accepted and Authorized to be Recorded by the Del Monte Forest Conservancy:

DEL MONTE FOREST CONSERVANCY, INC.
A nonprofit California corporation

By: 
(Signature)

By: _____
(Signature)

Title: PRESIDENT

Title: _____

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

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

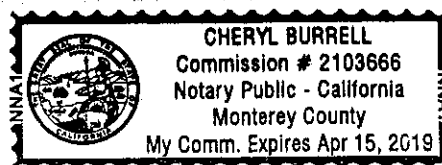
STATE OF CALIFORNIA)
) SS.
COUNTY OF MONTEREY)

On December 3, 2018 before me, CHERYL BURRELL, a Notary Public, personally appeared ZIGMONT JODY LETOWT, III, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.


Signature 



(Seal)

Document Form/Content Acceptable:

Charles J. McKee, County Counsel

By: _____

DATED: 12-19-18

Type/Print Name: Brian Briggs
Deputy County Counsel

EXHIBIT "A"

DESCRIPTION FOR AREA D CONSERVATION EASEMENTS

Certain real property being a portion of El Pescadero Rancho, County of Monterey, State of California, being more particularly described as follows:

Area D-1

BEGINNING at the most Northerly corner of Parcel "6", at the Northerly terminus of that certain course Number 40 shown as South 34° 04' 00" East, 1804.06 Feet on that certain map filed for record on October 24, 1984 in Volume 15 of Cities and Towns at Page 52 in the Office of the Recorder of the County of Monterey, California and as identified as POB D-1 on the attached exhibit; thence along the boundary of said Parcel "6" the following courses and distances:

- 1) South 32° 17' 06" East, 1804.06 Feet (shown as South 34° 04' 00" East on said record map); thence leaving the boundary of said Parcel "6"
- 2) North 55° 05' 47" West, 187.11 Feet to a point of curvature; thence along a non-tangent curve concave to the South, the center of which bears South 34° 54' 44" West, and having a radius of 710.00
- 3) 294.17 Feet along said curve through a central angle of 23° 44' 20" to a point of compound curvature; thence along a tangent curve concave to the South, having a radius of 305.00
- 4) 100.97 Feet along said curve through a central angle of 18° 58' 07", to a point of reverse curvature; thence along a tangent curve concave to the North, having a radius of 50.00
- 5) 66.89 Feet along said curve through a central angle of 76° 38' 42" to a point of compound curvature; thence along a tangent curve concave to the East, having a radius of 300.00

- 6) 108.99 Feet along said curve through a central angle of $20^{\circ} 48' 54''$ to a point of reverse curvature; thence along a tangent curve concave to the West having a radius of 170.00
- 7) 76.36 Feet along said curve through a central angle of $25^{\circ} 44' 12''$ to a point of reverse curvature; thence along a tangent curve concave to the East, having a radius of 25.00
- 8) 30.23 Feet along said curve through a central angle of $69^{\circ} 17' 32''$; thence
- 9) North $43^{\circ} 13' 14''$ East, 131.04 Feet to a point of curvature; thence along a tangent curve concave to the West, having a radius of 80.00 Feet,
- 10) 125.66 Feet along said curve through a central angle of $90^{\circ} 00' 00''$, thence
- 11) North $46^{\circ} 46' 46''$ West, 212.72 Feet; thence
- 12) North $5^{\circ} 42' 36''$ West, 210.09 Feet to a point of curvature; thence along a tangent curve concave to the South, having a radius of 80.00 Feet,
- 13) 124.35 Feet along said curve through a central angle of $89^{\circ} 03' 32''$, thence
- 14) South $85^{\circ} 13' 52''$ West, 93.02 Feet to a point hereinafter referred to as POINT "A"; thence
- 15) North $4^{\circ} 46' 08''$ West, 100.30 Feet to a point of curvature; thence along a tangent curve concave to the South, having a radius of 25.00 Feet,
- 16) 39.31 Feet along said curve through a central angle of $90^{\circ} 05' 48''$, thence
- 17) South $85^{\circ} 08' 04''$ West, 29.74 Feet; thence
- 18) North $4^{\circ} 51' 56''$ West, 305.34 Feet to a point hereinafter referred to as POINT "B"; thence
- 19) North $30^{\circ} 08' 54''$ East, 10.59 Feet to the **POINT OF BEGINNING.**

Containing an area of 5.51 acres more or less.

Area D-2

BEGINNING at a point distant South $13^{\circ} 55' 57''$ East, 60.78 Feet from POINT "A" hereinabove described and so identified as POB D-2 on the attached exhibit; thence the following courses and distances:

- 1) South $5^{\circ} 42' 36''$ East, 292.51 Feet; thence
- 2) South $46^{\circ} 46' 46''$ East, 297.53 Feet; thence
- 3) South $43^{\circ} 13' 14''$ West, 39.04 Feet to a point of curvature; thence along a tangent curve concave to the North, having a radius of 25.00 Feet,
- 4) 34.46 Feet along said curve through a central angle of $78^{\circ} 58' 11''$ to a point of reverse curvature; thence along a tangent curve concave to the South, having a radius of 170.00
- 5) 17.11 Feet along said curve through a central angle of $5^{\circ} 45' 56''$ to a point of reverse curvature; thence along a tangent curve concave to the East, having a radius of 400.00
- 6) 409.87 Feet along said curve through a central angle of $58^{\circ} 42' 35''$; thence
- 7) North $4^{\circ} 51' 56''$ West, 164.95 Feet to a point of curvature; thence along a tangent curve concave to the East, having a radius of 25.00 Feet,
- 8) 39.31 Feet along said curve through a central angle of $90^{\circ} 05' 48''$; thence
- 9) North $85^{\circ} 13' 52''$ East, 39.11 Feet to the **POINT OF BEGINNING**.

Containing an area of 0.97 acres more or less.

Area D-3

BEGINNING at a point distant South $30^{\circ} 08' 54''$ West, 269.98 Feet from POINT "B" hereinabove described and so identified as POB D-3 on the attached exhibit; thence the following courses and distances:

- 1) North $85^{\circ} 08' 04''$ East, 44.91 Feet to a point of curvature; thence along a tangent curve concave to the South, having a radius of 50.00 Feet,
- 2) 78.54 Feet along said curve through a central angle of $90^{\circ} 00' 00''$; thence
- 3) South $4^{\circ} 51' 56''$ East, 409.47 Feet to a point of curvature; thence along a tangent curve concave to the East, having a radius of 460.00 Feet,
- 4) 471.35 Feet along said curve through a central angle of $58^{\circ} 42' 35''$ to a point of reverse curvature; thence along a tangent curve concave to the West, having a radius of 110.00
- 5) 121.41 Feet along said curve through a central angle of $63^{\circ} 14' 25''$ to a point of reverse curvature; thence along a tangent curve concave to the East, having a radius of 360.00
- 6) 129.97 Feet along said curve through a central angle of $20^{\circ} 41' 09''$ to a point of reverse curvature; thence along a tangent curve concave to the West, having a radius of 50.00
- 7) 67.35 Feet along said curve through a central angle of $77^{\circ} 10' 42''$ to a point of reverse curvature; thence along a tangent curve concave to the South, having a radius of 305.00
- 8) 99.03 Feet along said curve through a central angle of $18^{\circ} 36' 11''$ to a point of curvature; thence along a non-tangent curve concave to the West, the center of which bears South $83^{\circ} 46' 31''$ West, and having a radius of 1280.00
- 9) 186.03 Feet along said curve through a central angle of $8^{\circ} 19' 37''$ to a point of compound curvature; thence along a tangent curve concave to the West, having a radius of 280.00
- 10) 289.96 Feet along said curve through a central angle of $59^{\circ} 20' 00''$; thence
- 11) North $73^{\circ} 53' 06''$ West, 80.19 Feet to a point of curvature; thence along a tangent curve concave to the East, having a radius of 140.00 Feet,
- 12) 223.17 Feet along said curve through a central angle of $91^{\circ} 20' 00''$; thence

- 13) North 17° 26' 54" East, 56.16 Feet to a point of curvature; thence along a tangent curve concave to the West, having a radius of 240.00 Feet,
- 14) 138.93 Feet along said curve through a central angle of 33° 10' 00"; thence
- 15) North 15° 43' 06" West, 157.69 Feet to a point of curvature; thence along a tangent curve concave to the East, having a radius of 300.00 Feet,
- 16) 240.16 Feet along said curve through a central angle of 45° 52' 00"; thence
- 17) North 30° 08' 54" East, 23.10 Feet to the **POINT OF BEGINNING**.

Containing an area of 3.97 acres more or less.

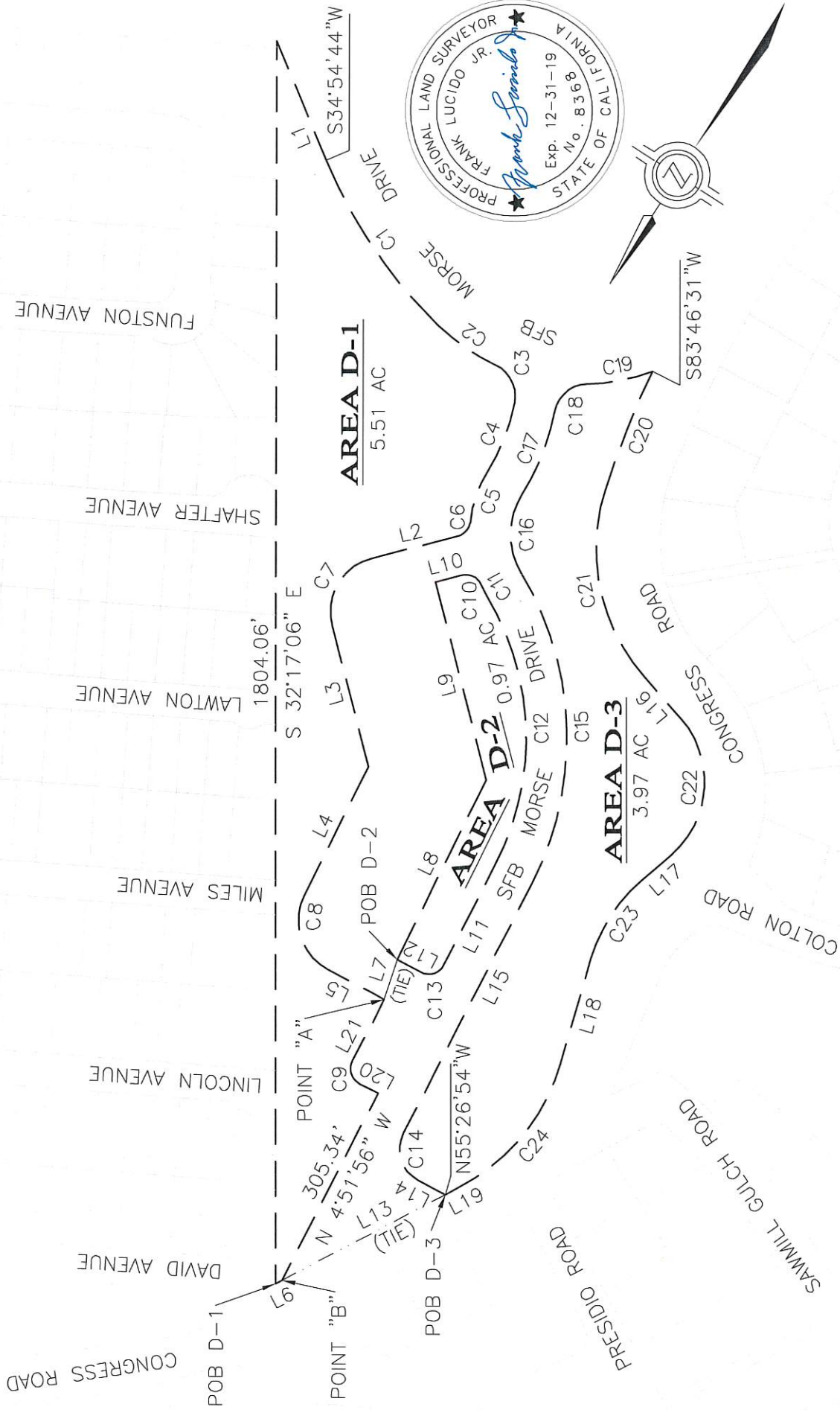
APN: Portion 008-041-009

END OF DESCRIPTION



Frank Lucido Jr.

Frank Lucido Jr., PLS 8368
September 24, 2018



NOTE: SEE PAGE 7 FOR LINE AND CURVE TABLES

NOTE: THIS PLAT IS FOR GENERAL REFERENCE ONLY; SEE ACCOMPANYING LAND DESCRIPTION FOR CONTROLLING BOUNDARY INFORMATION.



LINE TABLE

LINE	LENGTH	DIRECTION
L1	187.11'	N 55°05'47" W
L2	131.04'	N 43°13'14" E
L3	212.72'	N 46°46'46" W
L4	210.09'	N 5°42'36" W
L5	93.02'	S 85°13'52" W
L6	10.59'	N 30°08'54" E
L7	60.78'	S 13°55'57" E
L8	292.51'	S 5°42'36" E
L9	297.53'	S 46°46'46" E
L10	39.04'	S 43°13'14" W
L11	164.95'	N 4°51'56" W
L12	39.11'	N 85°13'52" E
L13	269.98'	S 30°08'54" W
L14	44.91'	N 85°08'04" E
L15	409.47'	S 4°51'56" E
L16	80.19'	N 73°53'06" W
L17	56.16'	N 17°26'54" E
L18	157.69'	N 15°43'06" W
L19	23.10'	N 30°08'54" E
L20	29.74'	S 85°08'04" W
L21	100.30'	N 4°46'08" W

CURVE TABLE

CURVE	LENGTH	RADIUS	DELTA
C1	294.17'	710.00'	23°44'20"
C2	100.97'	305.00'	18°58'07"
C3	66.89'	50.00'	76°38'42"
C4	108.99'	300.00'	20°48'54"
C5	76.36'	170.00'	25°44'12"
C6	30.23'	25.00'	69°17'32"
C7	125.66'	80.00'	90°00'00"
C8	124.35'	80.00'	89°03'32"
C9	39.31'	25.00'	90°05'48"
C10	34.46'	25.00'	78°58'11"
C11	17.11'	170.00'	5°45'56"
C12	409.87'	400.00'	58°42'35"
C13	39.31'	25.00'	90°05'48"
C14	78.54'	50.00'	90°00'00"
C15	471.35'	460.00'	58°42'35"
C16	121.41'	110.00'	63°14'25"
C17	129.97'	360.00'	20°41'09"
C18	67.35'	50.00'	77°10'42"
C19	99.03'	305.00'	18°36'11"
C20	186.03'	1280.00'	8°19'37"

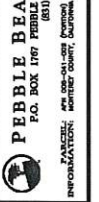
CURVE TABLE

CURVE	LENGTH	RADIUS	DELTA
C21	289.96'	280.00'	59°20'00"
C22	223.17'	140.00'	91°20'00"
C23	138.93'	240.00'	33°10'00"
C24	240.16'	300.00'	45°52'00"

NOTE: THIS PLAT IS FOR GENERAL
REFERENCE ONLY; SEE ACCOMPANYING
LAND DESCRIPTION FOR CONTROLLING
BOUNDARY INFORMATION.



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PEBBLE BEACH COMPANY
P.O. BOX 1767 PEBBLE BEACH, CALIFORNIA 93950
PACIFIC 408-461-0000
INFORMATION: MONTEREY COUNTY, CALIFORNIA

AREA D CONSERVATION EASEMENT
DEL MONTE FOREST PLAN
EXHIBIT A
PAGE 7 of 7

D

DATE: SEPT. 2018

**Before the Board of Supervisors in and for the
County of Monterey, State of California**

In the matter of the application of:

Pebble Beach Company (PLN130447)

Resolution No. 16 - 220

Resolution by the Monterey County Board of
Supervisors:

- 1) Denying the appeal from the decision of the)
Planning Commission to certify the Final)
Environmental Impact Report and approve a)
Combined Development Permit to allow the)
construction of 24 affordable housing units)
and manager's office building, the removal of)
approximately 725 trees, and associated)
grading;)
- 2) Certifying the Final Environmental Impact)
Report for the Pebble Beach Company)
Inclusionary Housing Project;)
- 3) Adopting CEQA Findings and a Statement of)
Overriding Considerations;)
- 4) Approving a Combined Development Permit)
consisting of a Use Permit and Design)
Approval to allow the construction of 24)
affordable housing units and manager's)
office, a Use Permit to allow removal of 725)
trees, and associated grading, subject to 47)
conditions; and)
- 5) Adopting a Mitigation Monitoring and)
Reporting Plan.....)

Easterly of SFB Morse Drive and south of Ortega
Road, Pebble Beach, Greater Monterey Peninsula Area
Plan (APN: portion of 008-041-009-000)

The Appeal by Del Monte Neighbors United from the decision by the Planning Commission to certify the Final Environmental Impact Report and approve a Combined Development Permit to allow the construction of 24 affordable housing units and manager's office, the removal of 725 trees, and associated grading (Pebble Beach Company application – PLN130447) came on for public hearing before the Monterey County Board of Supervisors on August 23, 2016. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Board of Supervisors finds and decides as follows:

FINDINGS

1. **FINDING:** **PROCESS** – The County has processed the subject Combined Development Permit application (PLN130447/Pebble Beach Company) ("project") in compliance with all applicable procedural requirements.
EVIDENCE: a) On August 12, 2013, pursuant to Monterey County Code (MCC)

Section 21.76, Pebble Beach Company (Applicant) filed an application for a discretionary permit to allow the construction of 24 affordable housing units and manager's office, removal of 725 trees, and associated grading on a project site located easterly of SFB Morse Drive and south of Ortega Road, Pebble Beach (portion of Assessor's Parcel Number 008-041-009-000), Greater Monterey Peninsula Area Plan area (non-coastal area).

- b) The Monterey County Planning Commission held a duly-noticed public hearing on the Pebble Beach Company application on June 8, 2016.
- c) On June 8, 2016, after review of the application and submitted documents, and a duly noticed public hearing at which all persons had the opportunity to be heard, the Planning Commission certified the Final Environmental Impact Report on the project, adopted CEQA findings and a Statement of Overriding Considerations, approved a Combined Development Permit to allow the proposed development, and adopted a Mitigation Monitoring and Reporting Plan (Monterey County Planning Commission Resolution No. 16-014).
- d) Del Monte Neighbors United (Appellant), pursuant to MCC Section 21.80.050.A, timely filed an appeal from the June 8, 2016, decision of the Planning Commission. The appeal challenged the Planning Commission's certification of the Final Environmental Impact Report and approval of the Combined Development Permit, and contends that the findings or decision or conditions are not supported by the evidence, and that the decision was contrary to law. See Finding No. 17 for the text of the Appellants' contentions and the County responses to the appeal.
- e) Pursuant to MCC Sections 21.80.050.C and E, an appeal shall be filed with the Clerk of the Board of Supervisors within 10 days after written notice of the decision of the Appropriate Authority (i.e., Planning Commission Resolution No. 16-014) has been mailed to the Applicant, and no appeal shall be accepted until the notice of decision has been given (i.e., mailed). The County mailed the written notice of the decision on June 10, 2016, and said appeal was filed with the Clerk of the Board of Supervisors on June 20, 2016, within the 10-day timeframe prescribed by MCC Section 21.80.050.C. The appeal hearing is de novo. A complete copy of the appeal is on file with the Clerk of the Board, and is attached to the August 23, 2016, staff report to the Board of Supervisors as Attachment C.
- f) Said appeal was timely brought to a duly-noticed public hearing before the Monterey County Board of Supervisors on August 23, 2016. Due to the Board's August recess, Appellant and Applicant agreed to the August 23, 2016, hearing date and to that extent waived the MCC requirement to bring the appeal to hearing within 60 days of receipt of the appeal. Notice of the hearing was published on August 11, 2016, in the Monterey County Weekly; notices were mailed on August 11, 2016, to all property owners within 300 feet of the project site and to persons who requested notice; and at least three (3) notices were posted at and near the project site on August 11, 2016.
- i) 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 PLN130447; Clerk of the Board of Supervisors' file(s) related to the appeal.

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

EVIDENCE: a) Project Description. The proposed project is a Combined Development Permit consisting of a Use Permit and Design Approval to allow the construction of 24 affordable housing units and a manager's office, and associated grading. The proposed project also includes a Use Permit to allow tree removal to remove 725 trees (135 Monterey pine and 590 oak). The majority of the 13.2-acre project site would be set aside in open space, with 6.5-acres surrounding the 2.7-acre development footprint on the east side of SFB Morse Drive and 4 acres on the west side of SFB Morse Drive, for a total of 10.5 acres of preserved open space.

- b) The 13.2-acre project site is actually part of a much larger 472 acre parcel that was created by the Poppy Hills Golf Course Subdivision (Parcel 6 of the Final Map recorded at Volume 15, Cities and Towns, Page 52 in the Office of the Recorder of the County of Monterey). The project site is located east of SFB Morse Drive and south of Ortega Road (portion of Assessor's Parcel Number 008-041-009-000, also known as Area D), within the Greater Monterey Peninsula Area Plan area.
- c) 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;
 - Greater Monterey Peninsula Area Plan;
 - Monterey County Tree Preservation Ordinance (Title 16); and
 - Monterey County Zoning Ordinance (Title 21).

No conflicts were found to exist. The County received communications during the course of review of the project contending that the project is inconsistent with the text, policies, and regulations in these documents; however, the County finds that the project is consistent with the text, policies, and regulations in the applicable documents.

- d) The parcel is bisected by SFB Morse Drive with approximately 9.2 acres located on the east side of SFB Morse Drive and 4 acres located west of SFB Morse Drive. The 13.2-acre project site is zoned Medium Density Residential, 4 units per acre, with Design Control and Parking and Use of Major Recreational Equipment Storage in Seaward Zone Overlays (MDR/4-D-RES), and Resource Conservation, 10 acres per unit, with Design Control and Parking and Use of Major Recreational Equipment Storage in Seaward Zone Overlays (RC/10-D-RES). The 2.7-acre development footprint is zoned MDR/4-D-RES, which allows multi-family housing with the granting of a Use Permit. The 13.2-acre project site includes an approximately 7.7 acre area zoned MDR used to calculate the density. The 24 units proposed within this area would result in an overall area density of approximately 3.1 units/acre.

Therefore, the project is consistent with the land use and zoning for the site with approval of the Use Permit.

- e) The project site sits on the border of the Del Monte Park neighborhood, which is in the City of Pacific Grove. The Del Monte Park neighborhood includes single-story and two-story single-family residences with an approximate gross density between 5 and 7 dwelling units per acre (du/ac). The areas within Pebble Beach to the west of the project site have lot sizes of approximately one-half acre.
- f) The project planner conducted site inspections on September 5 and October 3, 2013; August 5 and August 28, 2014; and October 8, 2015; to verify that the project on the subject parcel conforms to the plans listed above.
- g) Design. See Finding No. 5.
- h) Environmental Review. See Finding Nos. 6, 7, 8, 9, 10, 11, 12, and 13.
- i) Tree Removal. See Finding No. 14.
- j) Long-Term Sustainable Water Supply. See Finding No. 16.
- k) Inclusionary Housing Agreement. The County and Pebble Beach Company (PBC) entered into an Inclusionary Housing Agreement on July 14, 2014 (recorded as Document No. 2014032617 on July 15, 2014, in the Office of the Recorder of the County of Monterey) in compliance with Condition No. 18 of the PBC buildout project (Monterey County Board of Supervisors' Resolution No. 12-149, as Condition 18 was amended by Minor and Trivial Amendment on May 28, 2014). This agreement requires that the PBC and its successors in interest identify, acquire, entitle, and construct an affordable housing project of at least 18 units in the Greater Monterey Peninsula Area Plan planning area, which could include the incorporated cities located therein, within a five year time frame; if applicant fails to do so, \$5 million which PBC has deposited with the County as security for that obligation will convert to County funds to be used for assistance in development of affordable housing within the Greater Monterey Peninsula Planning Area. As proposed, the project is consistent with the Inclusionary Housing Agreement's affordable housing project requirement. This project is conditioned to require restrictions relating to rental for very low, low, and moderate-income housing (see Condition No. 13). As explained in Master Response No. 5 of the Final Environmental Impact Report, PBC's current intention is to build 90 market rate lots and the Spyglass Hotel, rather than 100 market rate lots. Because PBC is not yet certain the market will support a new hotel, it is possible PBC will elect the option of the additional 10 market rate lots, requiring 25 inclusionary housing units. Therefore, PBC is proposing construction of 24 inclusionary housing units to meet and exceed the minimum requirements of Condition No. 18 and satisfy the 20 percent inclusionary requirement for the maximum potential of 100 lots. If PBC elects the additional 10 lots instead of the hotel, the 24 unit project plus payment of an in-lieu fee for one inclusionary unit would satisfy the 20 percent inclusionary obligation for the build out project.
- l) 2010 Monterey County General Plan Policy LU-1.19. The project, as proposed and conditioned, is consistent with the applicable 2010

General Plan Policy LU-1.19. The project is outside of a Community Area, Rural Center or official Affordable Housing Overlay and is thus subject to Policy LU-1.19. While the project is being considered in advance of adoption of the Development Evaluation System (DES), the County applies the criteria in Policy LU-1.19 to projects as applicable, pending adoption of the Development Evaluation System. Based on the specific facts associated with this application, it is determined that the project meets the evaluation criteria set forth in Policy LU-1.19 and would pass the DES. Policy LU-1.19 states: "*Community Areas, Rural Centers and Affordable Housing Overlay districts are the top priority for development in the unincorporated areas of the County. Outside of those areas, a Development Evaluation System shall be established to provide a systematic, consistent, predictable, and quantitative method for decision-makers to evaluate developments of five or more lots or units and developments of equivalent or greater traffic, water, or wastewater intensity. The system shall be a pass-fail system and shall include a mechanism to quantitatively evaluate development in light of the policies of the General Plan and the implementing regulations, resources and infrastructure, and the overall quality of the development. Evaluation criteria shall include but are not limited to:*

- a Site Suitability*
- b Infrastructure*
- c Resource Management*
- d Proximity to a City, Community Area, or Rural Center Mix/Balance of uses including Affordable Housing consistent with the County Affordable/Workforce Housing Incentive Program adopted pursuant to the Monterey County Housing Element*
- e Environmental Impacts and Potential Mitigation*
- f Proximity to multiple modes of transportation*
- g Jobs-Housing balance within the community and between the community and surrounding areas*
- h Minimum passing score*

Residential development shall incorporate the following minimum requirements for developments in Rural Centers prior to the preparation of an Infrastructure and Financing Study, or outside of a Community Area or Rural Center:

- 1) 35% affordable/Workforce housing (25% inclusionary; 10% Workforce) for projects of five or more units to be considered.*
 - 2) If the project is designed with at least 15% farmworker inclusionary housing, the minimum requirement may be reduced to 30% total.*
- This Development Evaluation System shall be established within 12 months of adopting this General Plan."*

Policy LU-1.19 seeks to direct development to locations designated for development (Community Areas, Rural Centers and Affordable Housing Overlay districts). The subject parcel is designated for Medium Density Residential development which is one of the higher intensity residential land uses within the County. The site is suitable for the number of units proposed, and the Medium Density Residential

zoning district allows apartment units subject to a Use Permit. As noted in Evidence "d" above, the number of units proposed on the site is consistent with the land use and zoning.

Infrastructure exists to the project site in the adjacent roadways and has the capacity to support the level of development proposed. No new infrastructure will need to be extended to the site, so the project will not encourage growth on parcels currently lacking utility connections.

The site has a degraded, mixed forest consisting of Monterey pine trees and Coast Live oak trees. Of the 13.2 acre site, approximately 10.5 acres will be preserved in permanent open space. Thus the development will preserve most of the forest on the site, thereby protecting the majority of the natural resources that exist on a site designated for residential development.

The site is not located in a Community area, Rural Center, or City, but is immediately adjacent to the City of Pacific Grove, is within the Greater Monterey Peninsula Area Plan planning area (non-coastal), and is intended for employees working in Pebble Beach. Placing affordable housing at this location will place people employed in Pebble Beach in much closer proximity to their jobs, which reduces traffic on area roadways and reduces vehicle miles traveled. Public transportation is not provided in the Del Monte Forest, so placing housing in close proximity to employment will have a beneficial impact on traffic and the cost of employees commuting to work.

- m) 2010 Monterey County General Plan Policy LU-2.12. The Applicant proposes to own and operate the affordable units on a rental basis, and Policy LU-2.12 directs that affordable housing rental units be deed restricted in perpetuity. Section 5 of the Inclusionary Housing Agreement, entered into on July 14, 2014, and recorded on July 15, 2014 (Document No. 2014032617), states that "The affordability requirements of this Section 5 shall continue as restrictions on the Inclusionary Units in perpetuity." Therefore, the project is consistent with 2010 General Plan Policy LU-2.12. The County's Economic Development Department has recommended Condition No. 13 to further document the requirement of Policy LU-2.12.
- n) Archaeological/Cultural Resources. County records indicate the site is in an area identified as having a moderate sensitivity for archaeological or cultural resources. An archaeological survey (LIB130273) prepared for the project site did not identify any potential for impacts to prehistoric or historic resources. There is no evidence that any cultural resources would be disturbed, and the potential for inadvertent impacts to cultural resources is limited and will be addressed by Condition Nos. 3 and 4 which requires that in the event any cultural, historic or paleontological resources are found all work will be stopped and the resource shall be evaluated.
- o) State Housing Accountability Act. The California State Legislature finds that the lack of housing is a critical problem that threatens the economic, environmental, and social quality of life in California. It is

the policy of the state that a local agency shall not disapprove a housing development project for very low, low, or moderate income households, or condition approval in a manner that renders the project infeasible for development for the use of very low, low, or moderate income households including through the use of design review standards, unless it makes written findings based upon substantial evidence in the record (Government Code Section 65589.5(a)). This project is designed, reviewed and approved to provide housing for very low, low or moderate income families.

- p) The project was referred to the Del Monte Forest Land Use Advisory Committee (LUAC) for review. Based on the LUAC Procedures adopted by the Monterey County Board of Supervisors, this application warranted referral to the LUAC because it involved development requiring CEQA review, and development requiring a Design Approval subject to review by the Planning Commission. The LUAC heard the matter on September 5 and October 3, 2013, and voted unanimously (7 – 0) to not make a recommendation on the project as proposed.
- q) The project was referred to the Monterey County Housing Advisory Committee (HAC) for review. The HAC heard the matter on January 8, 2014, and voted unanimously (5 – 0) to support the project, conditioned upon preparation of an EIR, and to recommend the Planning Commission give consideration to additional parking spaces and recreation areas. These concerns have been addressed in the preparation of an Environmental Impact Report (EIR), and the applicant submitted revised plans in December 2014 that increased the number of parking spaces from 58 to 67 (9 more spaces than required under applicable development regulations). The applicant chose not to provide additional on-site recreation facilities due to the existing recreation facilities in the area and expansion of the project footprint into the open space area resulting from installation of active recreation areas.
- r) 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 PLN130447.

3. **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: Resource Management Agency (RMA)-Planning, Pebble Beach Community Services District (Fire Protection District), Parks Department, RMA-Public Works, RMA-Environmental Services, Environmental Health Bureau, Water Resources Agency, Economic Development Department (Housing), RMA-Building Services, and Monterey County Sheriff's Office (Coastal/Peninsula Station). There has been no indication from these departments/agencies that the site is not suitable for the proposed development. Standard conditions of approval to ensure orderly development and compliance with current development standards have been attached to this resolution.
 - b) Staff identified potential impacts to Biological Resources, Forest

Resources, Soil Stability, and Traffic. An Environmental Impact Report was prepared for the project which is addressed below in Finding Nos. 6, 7, 8, 9, 10, 11, 12, and 13 which address the significance of impacts related to development of this property. The following reports were used in the preparation of the EIR:

- Archaeological Assessment (LIB130273) prepared by Archaeological Consulting, Salinas, California, May 14, 2013.
 - Tree Resource Assessment/Arborist Report (LIB130274) prepared by Urban Forestry (Frank Ono), Pacific Grove, California, July 29, 2013.
 - Biological Resources (LIB130275) prepared by Zander Associates, San Rafael, California, July 9, 2013; including also a Preliminary Biological Assessment prepared March 7, 2012, and Seasonal Plant Surveys prepared September 13, 2012.
 - DEIR Review – Biological Resources (attached to the applicant's DEIR comment letter) prepared by Zander Associates, San Rafael, California, May 19, 2015.
 - Geologic Report (LIB130276) prepared by Haro, Kasunich, and Associates, Inc., Watsonville, California, April 29, 2013.
 - Geotechnical Investigation (LIB130277) prepared by Haro, Kasunich, and Associates, Inc., Watsonville, California, April 30, 2013.
 - Transportation Analysis (LIB130278) prepared by Fehr & Peers, Walnut Creek, California, July 27, 2013; including a Memorandum prepared March 16, 2012.
 - Transportation Analysis (LIB130416) prepared by Fehr & Peers, Walnut Creek, California, November 4, 2013.
- c) Staff conducted site inspections on September 5 and October 3, 2013; August 5 and August 28, 2014; and October 8, 2015; to verify that the site is suitable for this use.
- d) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning for the proposed development found in Project File PLN130447.

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

- EVIDENCE:** a) All necessary public facilities are available to the project site. The sewer service is provided by the Pebble Beach Community Services District (PBCSD) and water is provided by the California American Water Company (see Finding No. 16). Water and sewer are available to the site in SFB Morse Drive, and gas, electric, telephone, and television

utilities are in place in Ortega Road.

- b) A clustered medium density residential project in an area zoned for medium density residential land use is consistent with the land use pattern in the area and will not adversely affect the surrounding residential areas.
- c) Staff conducted site inspections on September 5 and October 3, 2013; August 5 and August 28, 2014; and October 8, 2015; and researched County records to assess if any violation exists on the subject property. Staff reviewed Monterey County RMA - Planning and Building Services records and is not aware of any violations existing on subject property, and there are no known violations on the subject parcel.
- d) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning for the proposed development found in Project File PLN130447.

5. **FINDING:** **DESIGN** - The design of the proposed project assures protection of the public viewshed, is consistent with neighborhood character, and assures visual integrity without imposing undue restrictions on private property.

EVIDENCE: a) Pursuant to Section 21.44, Title 21 (Zoning Ordinance) of the Monterey County Code (MCC), the proposed project site and surrounding area are designated as a Design Control Combining District (D District), which regulates the location, size, configuration, materials, and colors of structures and fences to assure the protection of the public viewshed and neighborhood character.

- b) The project design seeks to retain the forested character of the 13.2-acre project site. The project maintains a setback of over 70 feet from SFB Morse Drive, which will maintain the forested environment along that roadway. The buildings will be setback from the Del Monte Park neighborhood by a minimum of 127 feet. A small corner of the parking area will be approximately 55 feet from the Del Monte Park neighborhood, and the remainder of the parking area will exceed 90 feet from the property line. These distances will maintain the forested character along the project site boundary with the Del Monte Park neighborhood. The forested area surrounding the project's development footprint will provide a substantial buffer from the Del Monte Park neighborhood, and as a result protect the character of the neighborhood.
- c) The proposed multi-family housing within the proposed 2.7-acre development footprint is more concentrated than the housing in the Del Monte Park neighborhood, but the project is clustered, allowing substantial forested open space to be maintained around the development footprint. The forested area will serve as a transition from the multi-family housing to the adjacent neighborhood. This will not change the character of the Del Monte Park neighborhood.
- d) The buildings are designed to stagger the six units in each building providing variety in the building facades, and there is also designed variation along the long sections of the buildings and on the ends of the buildings. The height of the buildings has been minimized using a shallow roof pitch, resulting in a building height of 23 feet for a two story building. This is within the 30 feet maximum height allowed

within the zoning district. The appearance of the buildings and the height of the buildings would be consistent with the neighborhood character and not result in degrading any public views.

- e) Color and Material Finishes. Colors and materials are proposed that are consistent with any residential setting. The primary materials include horizontal ship-lap siding on the front and sides of the building, cement plaster on the rear of the buildings, and composition shingle roof material. Colors include medium gray siding and dark gray shingles. Metal deck railings and aluminum trim associated with windows and sliding doors would also be medium to dark gray, and portions of the patio fencing would be sided to match the buildings' facade. The medium to dark coloring used on these features would help these buildings blend with the natural setting. Portions of the facade and patio fencing would receive plaster cement that would be light to medium gray. Sand or beige colored accents would be used for smaller design details like exterior fascia, trim, gutters, downspouts, and roof eaves. While lighter, these elements would receive partial shading from eaves, building extrusions (e.g., deck storage areas and kitchens), and from the buildings because of the staggered layout.
- f) Access, Circulation, and Parking. Vehicular access to the project site would be from SFB Morse Drive via a new two-way roadway, called Morse Court, constructed to serve as the driveway into the project site. No new road or driveway connections would be constructed to the adjacent Del Monte Park neighborhood. A concrete sidewalk would extend the length of the residential development, between the carports and the residential buildings. The sidewalk would continue along Morse Court at the north and south ends of the development out to SFB Morse Drive. From the north driveway, a decomposed granite walkway would extend along the east side of SFB Morse Drive approximately 370 feet to an existing bus stop. The project includes 67 parking spaces [24 covered spaces (carports) and 43 uncovered spaces].
- g) Grading. Site grading activities would generate approximately 3,325 cubic yards (cy) of cut and 3,325 cy of fill, with no net export of soil. If there is any excess material, it would be removed offsite and transported to the Monterey Regional Waste Management Landfill in Marina, California. The applicant submitted an associated grading plan, which locates a stockpiling area at the southern end of the development site. The stockpiling area would be used for onsite parking and stockpiling during construction. The stockpiling area would be surrounded by silt fencing, and the stockpiles would be covered when not in use. The maximum depth of excavation would be approximately 6 feet for the new utilities.
- h) Based on the evidence described above, the proposed structures and uses are consistent with the surrounding residential neighborhood character (i.e., structural design features, colors, and material finishes). The proposed development would also not have a significant impact on a public viewshed. As proposed, the project assures protection of the public viewshed, is consistent with neighborhood character, and assures visual integrity.

- i) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning for the proposed development found in Project File PLN130447.

6. **FINDING:** CEQA (EIR) – The final Environmental Impact Report (EIR) on the Pebble Beach Company Inclusionary Housing Project has been completed in compliance with the California Environmental Quality Act (CEQA); the final EIR was presented to the County of Monterey Board of Supervisors, and the Board of Supervisors reviewed and considered the information contained in the EIR prior to approving the project; and the EIR reflects the County of Monterey's independent judgment and analysis.

- EVIDENCE:**
- a) CEQA requires preparation of an environmental impact report if there is substantial evidence in light of the whole record that the project may have a significant effect on the environment.
 - b) The EIR for the Pebble Beach Company Inclusionary Housing Project application (RMA-Planning File No. PLN130447) was prepared in accordance with CEQA. The Draft EIR (DEIR) for the project was circulated for public review from April 30 through June 19, 2015 (SCH#: 2014081052).
 - c) Issues that were analyzed in the EIR include Aesthetics, Air Quality, Biological Resources, Climate Change, Cultural Resources, Geology, Seismicity and Soils, Hydrology and Water Quality, Land Use and Recreation, Noise and Vibration, Public Services and Utilities, Transportation and Circulation, and Water Supply and Demand. The EIR identified potential significant impacts that are either less than significant or can be mitigated to less than significant levels on Aesthetics, Air Quality, Biological Resources, Climate Change, Cultural Resources, Geology, Seismicity and Soils, Hydrology and Water Quality, Land Use and Recreation, Noise and Vibration, Transportation and Circulation, and Public Services and Utilities (see Finding No. 7). The EIR also identified unavoidable significant impacts on Transportation and Circulation, and Water Supply and Demand that cannot be mitigated to less than significant levels (see Finding No. 8). As described in these findings and in the Final EIR, the mitigation measures avoid or substantially lessen the significant environmental effects to less than significant levels (see Finding No. 7), or, for impacts identified as significant and unavoidable, all feasible mitigation measures have been incorporated, but even with such mitigation, the impacts remain significant (see Finding No. 8).
 - d) Public review of the DEIR generated comments from the public and public agencies. The County responded to these comments and made revisions to the DEIR. The FEIR was released to the public on March 9, 2016. An Errata to the FEIR was also released to the public on March 9, 2016. Together, the DEIR, the revisions to the DEIR, the comments of persons and organizations commenting on the DEIR, and a list of all such persons and organizations, the March 9, 2016 FEIR containing responses to the comments, and the March 2016 errata constitute the Final Environmental Impact Report (FEIR) on the project.

- e) Cultural Landscape. The Alliance of Monterey Area Preservationists submitted a letter asserting that Area D qualifies as a cultural landscape because it has been used by neighbors for many years as a recreational area. To be considered under CEQA, a cultural landscape must either meet the criteria for the California register of historic places (Public Resources Code (PRC) section 5024.1), be identified in a local register of historic places (PRC section Code 5020.1(k)), be identified in a qualifying historical resource survey, or be *“any object, building, structure, site, area, place, record, or manuscript which a lead agency determines to be historically significant or significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California”*

The County's Pebble Beach Historic Context Statement (Final Report dated August 29, 2013) defines cultural landscapes as properties that represent the combined work of nature and man. The only identified cultural landscape considered significant in Pebble Beach is 17-Mile Drive (a designed cultural landscape). The inclusionary housing project site was not identified as a cultural landscape in the Pebble Beach Historic Context Statement, and based on available information the project site does not meet the definition of, nor qualify as, a cultural landscape.

- f) No consultation was conducted with a Native American Tribe relative to Tribal Cultural Resources because the Notice Of Preparation (NOP) for this project was issued on August 18, 2014, and was available for public review until September 16, 2014. The requirement for tribal consultation is for projects which have an NOP issued on or after July 1, 2015.
- g) All project changes required to avoid significant effects on the environment have been incorporated into the project and/or are made conditions of approval. A Condition Compliance and Mitigation Monitoring and/or Reporting Plan has been prepared in accordance with Monterey County regulations and is designed to ensure compliance during project implementation and is hereby incorporated herein by reference. The applicant must enter into an “Agreement to Implement a Mitigation Monitoring and/or Reporting Plan” as a condition of project approval (Condition No. 7).
- h) On March 15, 2016, pursuant to CEQA Guidelines Section 15088(b), the County notified those public agencies that submitted comments on the DEIR that a FEIR was available for review and provided the proposed responses to the public agency comments.
- i) The Mitigation Monitoring and Reporting Plan (MMRP) has been prepared and is adopted as part of this resolution (see Finding No. 11). The MMRP is attached to this resolution and incorporated herein by reference.
- j) Evidence that has been received and considered includes: the application, technical studies/reports (see Finding No. 3, Site Suitability), staff report that reflects the County's independent

judgment, and information and testimony presented during public meetings and hearings as applicable. These documents are on file in RMA-Planning (File No. PLN130447) and/or the Clerk of the Board of Supervisors' files.

- k) State Fish and Wildlife Fee See Finding No. 13.
- l) Monterey County RMA-Planning, located at 168 W. Alisal, 2nd Floor, Salinas, California, 93901, is the custodian of documents and other materials that constitute the record of proceedings upon which the decision to certify the Final EIR is based.

7. **FINDING: POTENTIALLY SIGNIFICANT ENVIRONMENTAL IMPACTS IDENTIFIED IN THE EIR THAT ARE REDUCED TO A LEVEL OF "LESS THAN SIGNIFICANT" BY THE MITIGATION MEASURES IDENTIFIED IN THE EIR AND ADOPTED FOR THE PROJECT** – The project would result in significant and potentially significant impacts that will be mitigated to a less than significant level due to incorporation of mitigation measures from the EIR into the conditions of project approval. Changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant effects on the environment as identified in the FEIR.

- EVIDENCE:**
- a) The EIR identified potentially significant impacts that require mitigation to Aesthetics, Biological Resources, Climate Change, Geology, Seismicity and Soils, Land Use and Recreation, Noise and Vibration, and Transportation and Circulation which could result from all components of the project. These impacts will be mitigated to a less than significant level with incorporation of mitigation measures from the EIR into the conditions of project approval. The Board of Supervisors considered project approval subject to conditions of approval that incorporate the proposed mitigation.
 - b) Aesthetics. The proposed project would change the visual character of the project site, and would introduce new sources of light and glare. Potentially significant impacts on aesthetics (visual character) have been mitigated to less than significant levels through mitigation measures and conditions of approval that incorporate native infill plantings, design features, landscaping requirements, and light & glare reduction measures in design plans. The Mitigation Measure (MM) from the DEIR and FEIR is AES-B1. MM BIO-A1 (see Evidence c of this Finding) would supplement MM AES-B1 and provide additional visual screening to further reduce impacts. Conditions of Approval Nos. 11 (Landscape Plan), 12 (Exterior Lighting Plan, 15 (Restoration of Natural Materials), 16 (Underground Utilities), and 17 (Tree Replacement) would also supplement these mitigation measures and further reduce impacts. See Section 3.1 of the Pebble Beach Company Inclusionary Housing Draft EIR and Final EIR.
 - c) Biological Resources. The proposed project would or could result in:
 - Direct removal and indirect impacts on Monterey Pine Forest (BIO-A1). This impact is reduced to less than significant through development of a resource management plan and dedication of a

conservation easement for the open space preserve area on site (MM BIO-A1 and MM BIO-A2).

- Degradation to the quality of waters extending through the project site (BIO-B1). This impact will be mitigated through best management practices for water quality (MM BIO-B1).
- Direct mortality of California red-legged frog, degradation of aquatic habitat, and loss and degradation of upland habitat (BIO-C1). Mitigation requiring a preconstruction survey and implementation of protection measures if frogs are found will reduce this impact to a less than significant level (MM BIO-A1, MM BIO-A2, MM BIO-B1, and MM BIO-C1).
- Loss of, or disturbance to, habitat occupied by non-listed special status species including Pallid Bats (BIO-C2). This impact will be mitigated by a preconstruction survey to determine presence and through protection measures if any individuals are found (MM BIO-A1, MM BIO-A2, and MM BIO-C2).

In the FEIR some of the mitigation measures have been modified or deleted:

- MM BIO-A1 has been clarified to identify the required components of the site resource management plan;
- MM BIO-A2 added dedication of additional area of undeveloped Monterey pine forest in the Old Capitol site;
- MM BIO-C1 clarified that CRLF preconstruction survey areas and exclusion fencing need to be determined by a biologist; and
- MM BIO-C2 was deleted. In the Draft EIR, MM BIO-C2 required a pre-construction survey for legless lizards and implementation of protection measures. However, additional evidence submitted by a qualified biologist (DEIR Review – Biological Resources prepared by Zander Associates, San Rafael, California, May 19, 2015) and reviewed by the County, supported the conclusion that the low potential for legless lizards to be found at the project site did not warrant mitigation.

These revised measures are equivalent or more effective in mitigating or avoiding potential significant effects, will not cause a new significant effect on the environment or substantial increase in the severity of the environmental impacts of the project, and merely amplify and clarify the analysis in the draft EIR. Accordingly, these changes do not require recirculation of the EIR (see also Finding No. 12).

In addition, certain standard Conditions of Approval reduce the impacts of some biological impacts:

- Nos. 9 (Tree and Root Protection),
- 15 (Restoration of Natural Materials),
- 17 (Tree Replacement), and
- 18 (Nesting Survey).

See Section 3.3 of the Pebble Beach Company Inclusionary Housing Draft EIR and Final EIR.

- d) Climate Change. The proposed project would generate greenhouse gas

(GHG) emissions during construction and operation, which would contribute to cumulative GHG impacts. Potentially significant impacts to climate change will be mitigated to a less than significant level through mitigation measures that require implementation of best management practices for greenhouse gas (GHG) emissions during construction and mitigating the operational impacts of the project once it is occupied. Operational impacts would be mitigated by either reducing GHG emissions by at least 24% below business as usual practices using a combination of design features, and/or preserving Monterey pine forest on the Old Capitol site. The Mitigation Measures (MM) from the DEIR and FEIR are CC-A1, and CC-A2a and/or CC-A2b. These mitigation measures would also reduce cumulative climate change impacts to less than cumulatively considerable and therefore less than significant. In the FEIR, MM CC-A2a has been revised to clarify methodology based on recent case law. The revised measure merely amplifies and clarifies the analysis in the draft EIR, is equivalent or more effective in mitigating or avoiding potential significant effects, will not cause a new significant effect on the environment or substantial increase in the severity of the environmental impacts of the project, and does not trigger recirculation of the EIR because the revised mitigation measure still requires reduction of greenhouse gas emissions in parallel to that necessary in the County overall consistent with AB 32. See Section 3.4 of the Pebble Beach Company Inclusionary Housing Draft EIR and Final EIR.

- e) Geology, Seismicity, & Soils. Project construction (e.g., excavation for utilities installation in areas of shallow groundwater and weak soils) could result in seepage and exacerbate soil instability. Potentially significant impacts to geology, seismicity, and soils have been mitigated to a less than significant level through a mitigation measure that requires de-watering where excavation activities would be greater than 5 feet and shoring of temporary cuts during construction. The Mitigation Measure from the DEIR is GSS-D1. See Section 3.6 of the Pebble Beach Company Inclusionary Housing Draft EIR and Final EIR.
- f) Noise & Vibration. Project construction activities would generate noise and vibration. Potentially significant impacts of noise and vibration would be mitigated to a less than significant level through mitigation measures that require monitoring the effectiveness of noise attenuation measures; noise-reducing treatments on equipment; locating equipment away from sensitive receptors as far as practicable; installation of temporary noise barriers; shielding, shrouding, or use of sound-control devices on equipment; shutting off equipment when not in use; limiting hours of construction that cause vibration; vibration testing; and disseminating essential construction schedule information to residents including complaint contact numbers and relocation provisions. The Mitigation Measures from the DEIR are NOI-B1 and NOI-C1. See Section 3.9 of the Pebble Beach Company Inclusionary Housing Draft EIR and Final EIR.
- g) Transportation & Circulation. Potentially significant impacts on transportation and circulation resulting from the addition of more

pedestrians to the site (TRA-D2) can be mitigated to a less than significant level through installation of a decomposed granite walkway southward along SFB Morse Drive. Additional potentially significant impacts on transportation and circulation that are significant and unavoidable that would not be mitigated to a less than significant level are discussed in Finding No. 8. See Section 3.11 of the Pebble Beach Company Inclusionary Housing Draft EIR and Final EIR.

- h) The revisions to mitigation measures were considered at a public hearing at the Board of Supervisors on August 23, 2016. The mitigation measures, revised as described herein, are made conditions of project approval.
- i) Pebble Beach Company Inclusionary Housing Project Final EIR.

8. **FINDING: SIGNIFICANT UNAVOIDABLE ADVERSE IMPACTS – (POTENTIALLY SIGNIFICANT ENVIRONMENTAL IMPACTS IDENTIFIED IN THE EIR THAT ARE NOT REDUCED TO A LEVEL OF “LESS THAN SIGNIFICANT” BY THE MITIGATION MEASURES)** – The project will result in significant and unavoidable impacts that will not be mitigated to a less than significant level even with the incorporation of mitigation measures from the EIR into the conditions of project approval, as further described in the evidence below. Specific economic, legal, social, technological, and other considerations, including provision of affordable housing opportunities for workers, make infeasible additional mitigation.

- EVIDENCE:**
- a) The EIR identified potentially significant impacts to Transportation and Circulation, and Water Supply and Demand, which could result from the project. Mitigation measures have been identified which reduce some of these impacts, but not to a level of insignificance. These impacts are significant and unavoidable and will not be mitigated to a less than significant level.
 - b) Transportation and Circulation. The DEIR identified significant and unavoidable impacts to the following areas:
 - Construction traffic, and construction traffic combined with cumulative traffic, would result in short-term increases in traffic volumes that would affect level of service and intersection operations (TRA-A1 and TRA-A1(C)). This impact can be minimized, but not reduced to less than significant, through development and implementation of a construction traffic control plan (MM TRA-A1).
 - The project will
 - o add traffic (project and cumulative) to certain far intersections and highway segments that would worsen existing and cumulative unacceptable levels of service (TRA-C1, TRA-C2(C)),
 - o add traffic to regional highway sections that are projected to operate at unacceptable levels of service (TRA-C2),
 These impacts can be minimized through payment of fair-share contributions for improvements at State Route (SR) 68 and Skyline Forest Drive, Sunset Drive and Congress Avenue, and SR68 and

Aguajito Road, but the County may credit the fair-share amount of the applicant's excess funding commitment for the SR1/SR68 roundabout; and fair-share payment of the Transportation Agency of Monterey County (TAMC) Regional Development Impact Fee (MM TRA-C1, MM TRA-C2, MM TRA-C3(C), MM TRA-C3(C), and MM TRA-C4(C)). This is the same approach used for the build-out project where Pebble Beach Company's fair share of the roundabout project was \$1.8 million. The total traffic mitigation requirement for the build-out project (including the SR1/SR68 improvement) is approximately \$2.5 million. Pebble Beach Company agreed to pay \$4.8 in mitigation in order to fund the roundabout project at SR1/SR68. The rationale for this is that the fair-share amounts for the other specific intersection improvements (other than those in the regional fee program) are insufficient to build any one of the intersection improvements and these improvements are not included in any existing transportation improvement programs. As such, at present, contribution of fees for such improvements would not result in actual improvements. As described in the Draft EIR, the fair-share fees can be redirected to other improvements that are programmed for completion, to result in an effective contribution to actual improvements.

The Draft EIR identified fair share contributions to several specific potential intersection improvements as well as a fair-share contribution to be paid to the Transportation Authority of Monterey County (TAMC) Regional Development Impact Fee Program prior to issuance of building permits. TAMC has identified a list of transportation projects that are funded through the impact fee program. Two of the projects identified by TAMC include improvements to two intersections currently operating at unacceptable levels of service within the study area. The projects are the SR 68 / Community Hospital of Monterey Peninsula (CHOMP) Widening Project and the SR 1 / SR 68 roundabout project. The intent of these projects is to facilitate better operations along SR 68. The SR 1 / SR 68 roundabout project is currently scheduled in 2016, and is expected to be completed by the end of 2016/early 2017.

- c) Transportation and Circulation. In the FEIR, mitigation measures TRA-C1, TRA-C2, TRA-C3(C), TRA-C4(C), and TRA-C5(C) have been revised to clarify that the County and/or TAMC may credit the fair-share amounts as partial repayment of the applicant's excess funding commitment for the SR1/SR68 roundabout project in excess of its overall fair share. The SR1/SR68 intersection currently operates at a failed level of Service (LOS F), but implementation of the SR1/SR68 roundabout will improve the function of the intersection to LOS C. The revised measures are equivalent or more effective in mitigating or avoiding potential significant effects, and they will not cause any potentially significant effect on the environment for the following reason: The mitigation measures have only been clarified in terms of the County's and TAMC's recognition of the applicant's excess funding

commitment for the SR1/SR68 roundabout project in excess of its overall fair share. The SR 1 / SR 68 roundabout project is currently scheduled in 2016, and is expected to be completed by the end of 2016/early 2017.

Although the project would contribute a relatively smaller number of new trips to the impacted locations, the County has identified these trips as a significant and unavoidable impact. Implementation of mitigation measures would reduce identified significant impacts; however, impacts related to certain roadways would remain significant and unavoidable even after mitigation. The fair-share contribution amounts identified in the mitigation measures are very small, and the improvements are not included in any local or regional improvement plan or fee program. Thus, it is unlikely the improvements would be built in the foreseeable future, and the impact would remain significant and unavoidable. Instead of dedicating fair-share fees for an improvement that will not likely happen in the foreseeable future, the fair-share fees would instead be redirected by the County to assist with the repayment of the excess funding commitment the applicant has made to the SR1/SR68 roundabout project beyond its fair-share.

- d) Water Supply and Demand. The project's water demand would represent an increase in water use at a time when the nature of Cal-Am's water supply is uncertain and water supply shortfalls and rationing could begin starting in 2017 with or without the project (WSD-A1 and WSD-A1(C)). Cumulative water demand on the Monterey Peninsula exceeds current water supplies requiring new regional water supplies to be developed. In 2017 and after, given the current uncertain nature of regional water supply planning, the additional project water demand could intensify cumulative water supply shortfalls and rationing until a regional water supply project is built. This is considered a significant unavoidable water supply impact.
- e) Water Supply and Demand. A regional water supply project will need to be built to serve existing demand and the increase in demand from the project. Regional water supply infrastructure and operations will have secondary environmental impacts (WSD-B1 and WSD-B1(C)). Existing, project, and other entitlement demand also create a cumulative demand for a regional water supply project. Regional water supply infrastructure and operations may have significant and unavoidable secondary environmental impacts, and the project would contribute to the need for such infrastructure. This is considered a significant and unavoidable impact.
- f) Water Supply and Demand. If the State Water Resources Control Board delays enforcement of unpermitted extractions from the Carmel River, then the project would likely increase withdrawals from the Carmel River aquifer compared to without project conditions and thus contribute to existing and cumulative impacts on Carmel River biological resources (WSD-C1 and WSD-C1(C)). This would be a significant and unavoidable impact in the contingency in which the State Water Board delays enforcement of the Carmel River withdrawal

legal limit limitations beyond December 31, 2016, until such a time as a regional water supply project provides adequate water to serve existing demand. When State Water Board Order WR95-10 and Order WR2009-0060, as amended by WR2010-0060, are fully enforced (e.g. limiting Cal-Am withdrawals to their legal right limits), it will result in a substantial reduction in Cal-Am withdrawals from the Carmel River. Thus, the project would not have a significant impact on biological resources in the Carmel River once the State Water Board orders are fully in force or a regional water supply project is operational.

- g) Water Supply and Demand. The EIR discloses that proposed regional water supply projects have faced substantial obstacles to implementation, and that an alternative water supply project may be necessary in order to provide the Monterey Peninsula with water, including water for the proposed inclusionary housing project. The EIR also discloses that there may be significant unavoidable secondary impacts of such water supply project infrastructure, and also discloses the potential impacts on water rationing if an alternative water supply is not developed by 2017. Thus, the EIR for the project appropriately discloses the general potential secondary impacts of alternative water supply infrastructure to the extent that they have been evaluated to date, and discloses potential significant and unavoidable impacts if the alternative water supply projects are not built prior to a potential cutoff of Cal-Am's illegal supply from the Carmel River in 2017.
- h) Water Supply and Demand. Mitigation is not feasible because any mitigation would be disproportionate to the impact of the project. This project would use up to 6.32 acre feet of water per year, while the regional excess demand is approximately 4,400 acre feet per year. Also of consideration is the applicant's prior financing of the infrastructure for the Carmel Area Wastewater District/Pebble Beach Community Services District Recycled Water Project. This reclamation project has provided an average of 974 acre feet of water per year between 1995 and 2014, while the applicant has been given the ability to use 380 acre feet per year, and there are still approximately 87 acre feet of water to be allocated to additional development. This reclamation project has resulted in a reduction in the amount of water pumped from the Carmel River Alluvial Aquifer. Thus, when comparing PBC's usage of water before the Recycled Water Project with the project's proposed water use, there would still be a net benefit to the Carmel River.
- i) Pebble Beach Company Inclusionary Housing Project Final EIR.

9. **FINDING:**

ALTERNATIVES TO THE PROPOSED PROJECT - The EIR evaluated a reasonable range of potentially feasible alternatives to the proposed project in compliance with CEQA Guidelines section 15126.6. The EIR considered the alternatives described below and as more fully described in the Draft EIR. Specific economic, legal, social, technological, or other considerations make infeasible the project alternatives identified in the EIR for the reasons described below.

- EVIDENCE:** a) Per the CEQA Guidelines, Section 15126.6 (f)(2), an alternative project location need only be analyzed if the significant effects of the proposed

project would be avoided or substantially lessened by putting the project in another location. None of the alternatives avoid or substantially lessen the significant and unavoidable impacts of the project. In addition, per Public Resources Code Section 21001, agencies should not adopt projects as proposed if there are feasible alternatives which would substantially lessen significant environmental effects of a project to a less than significant level. No such feasible alternatives were identified.

- b) Final EIR Table 4-6 identifies the Significant and Unavoidable Impacts of the project related to Transportation and Circulation, and Water Supply and Demand.
- c) Final EIR Table 5-1 identifies that the project alternatives analyzed in the EIR do not avoid significant effects. As described in the EIR, Significant and Unavoidable impacts are related to Transportation and Circulation, and Water Supply and Demand, but there are also other potentially significant impacts identified in the EIR which could be reduced or affected based upon the alternative. The alternatives were designed to address all potentially significant impacts identified for the project.
- d) Chapter 5 of the Draft EIR, as amplified and clarified by the Final EIR, analyzes a reasonable range of alternatives.
- e) There are no feasible alternatives that would avoid the project's significant unavoidable environmental effects. The EIR identified that the project would have significant and unavoidable effects to Transportation and Circulation, and Water Supply and Demand. While the EIR analyzed a reasonable range of alternatives that reduce or lessen the unavoidable impacts of the project, the EIR concluded there were no feasible alternatives that would reduce all significant and unavoidable impacts to a less than significant level. Because the alternatives do not reduce the significant unavoidable impacts to a less than significant level, and because the County finds that the alternatives are infeasible for the reasons stated below, the County does not choose to adopt the Alternatives analyzed in the EIR.
- g) Alternative 1 – No Project Alternative. The No Project Alternative would not necessarily reduce significant project impacts. Per Condition No. 18 of the Pebble Beach Company project (Resolution No. 12-149, as amended by Resolution No. 14-024), if the applicant does not identify, acquire, entitle, and construct an affordable housing project of at least 18 units in the Greater Monterey Peninsula Planning area within five years of the recordation of the first final map for the build-out project, applicant's \$5 million on deposit shall convert to County funds to be used to assist in the development of affordable housing within the Greater Monterey Peninsula area or cities therein. Therefore, the No Project alternative would likely result in the construction of 24 inclusionary housing units and the associated impacts occurring elsewhere in the Greater Monterey Peninsula Area Plan area. In addition, this alternative would leave open the foreseeable future cumulative build out of the proposed project site for market-rate housing. The No Project Alternative would also not meet the primary project objective of providing affordable housing in close proximity to

Pebble Beach Company facilities and other Del Monte Forest employment areas. Additionally, the No Project alternative is legally infeasible because there is not substantial evidence supporting findings to deny the project under the Housing Accountability Act (Government Code section 65589.5). Under Government Code section 65589.5, disapproval of the project or reduction of density of the project would require the County to find, based on substantial evidence, that the project as proposed would have a specific, adverse impact upon the public health or safety and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low or moderate income households. Substantial evidence does not support these findings. Therefore, the No Project Alternative is infeasible.

- h) Alternative 2 – Sunset Drive/17-Mile Drive. Under this offsite alternative, 24 units of inclusionary housing would be constructed at the southwest corner of Sunset Drive and 17-Mile Drive, located approximately 1 mile north of the proposed project site, within the city limits of Pacific Grove. The site is currently zoned C-2, Heavy Commercial District. To achieve the number of units on the proposed site, this commercial site would require a rezoning by the City of Pacific Grove. The County does not and cannot control the city's decision whether to rezone the property, a discretionary decision. Accordingly this alternative is legally infeasible. In comparison with the proposed project site, impacts at the Sunset Drive/17-Mile Drive site would be less for biological resources, more for hazardous materials (due to demolition of existing buildings and pavement), and similar for other resource topics, with some slightly less and some slightly more. There is also some uncertainty as to the potential for secondary environmental impacts due to the displacement of existing commercial/industrial uses on the site. Cumulative impacts could be similar to but greater than those identified for the proposed project site, because there would be direct impacts from developing 24 units at this alternative site and potential future cumulative build out impacts in the proposed project site, which could be developed with market-rate housing units in accordance with existing zoning. This alternative would also not avoid the project's significant unavoidable environmental effects.
- i) Alternative 3 – Corporation Yard. Under this alternative, 18 units of inclusionary housing would be constructed at the Pebble Beach Company Corporation Yard, located on Haul Road near the Sunridge Road/Lopez Road intersection, approximately 1 mile south of the proposed project site. In comparison with the proposed project site, impacts at the Corporation Yard would be less for biological resources and noise/vibration; more for geology/soils/hazardous materials, wildland fire hazard, construction-related air quality, traffic; and similar for other resource topics, with some slightly less and some slightly more. Cumulative impacts could be similar to but greater than those identified for the proposed project site, because there would be direct impacts from developing 18 units at this alternative site and potential future cumulative build out impacts in the proposed project site, which

could be developed with market-rate housing units in accordance with existing zoning. This alternative is legally infeasible because it would be a reduction of affordable housing as compared to the project, and there is no substantial evidence to support the findings County would be required to make under the Housing Accountability Act for the reduction (see 2.o and 9.g above). In addition, the Board of Supervisors, in the approval of the Pebble Beach Company Project on June 19, 2012 (Resolution No. 12-149, Finding No. 15, Inclusionary Housing, Evidence a), previously found "...the Corporation Yard is neither desirable or suitable for inclusionary housing..." This alternative site is also infeasible because it would not fulfill owner's obligations under the Inclusionary Housing Agreement which requires that the affordable housing units be constructed in the GMPAP area. The Corporation Yard site is not in the GMPAP area; it is in the Del Monte Forest Land Use Plan area. This alternative would also not avoid the project's significant unavoidable environmental effects.

- j) Alternative 4 – Collins Residential Area. Under this alternative, the 24 units of inclusionary housing would be constructed at the Collins Residential Area, located at the corner of Portola Road and Alva Lane, approximately two miles southwest of the proposed project site. In comparison with the proposed project site, impacts at this alternative site would be less for biological resources, and similar for other resource topics, with some slightly less and some slightly more. Cumulative impacts could be similar to but greater than those identified for the proposed project site, because there would be direct impacts from developing 24 units at this alternative site and potential future cumulative buildout impacts in the proposed project site, which could be developed with market-rate housing units in accordance with existing zoning. This alternative is infeasible because it would require a Local Coastal Program (LCP) amendment; current zoning only accommodates 7 units of affordable housing. The LCP embodies County's policy decisions to guide future growth and development, and that planning process did not envision 24 units of housing at this site. This alternative site is also infeasible because it is inconsistent with the Inclusionary Housing Agreement requirement that the affordable housing units be constructed in the GMPAP area; the Collins Residential Area is in the Del Monte Forest Land Use Plan Area. This alternative would also not avoid the project's significant unavoidable environmental effects.
- k) Alternative 5 – Reduced Density On-Site. Under this on-site alternative, 24 units of inclusionary housing would be constructed in the 7.7-acres currently zoned Medium Density Residential at the project site, instead of 24 units on the proposed 2.7-acre development footprint. The assumed gross density would be 3.1 dwelling units per acre, which would be the same average density as the proposed project's density, but the project would just be spread out across the entire area designated MDR. To determine the reduced density for this alternative, the residential densities of the surrounding neighborhoods were considered, as described in the Final EIR, Chapter 5, Alternatives. For this alternative, the Final EIR assumed that the 24 units would be single-

story, single-family dwellings. In comparison with the proposed project, this alternative's impacts would be similar for aesthetics, noise, public services, traffic and water; slightly less for land use; and slightly more for air quality, biological resources, climate change, geology, and hydrology due to the dispersed development. Overall, impacts would be similar to but greater than those identified for the proposed project because the development would be dispersed over a larger area. This alternative is infeasible as it would not avoid the project's significant unavoidable environmental effects and would result in more tree removal and greater impact to climate change, among other greater impacts, and reduce the amount of land set aside for forest preservation. Choosing an alternative that would result in greater tree removal is infeasible under County regulation, which requires a finding that the tree removal is the minimum required under the circumstances (see Finding No. 14 below).

- l) Alternative 6 – Reduced Units On-Site. Under this on-site alternative, 18 units of inclusionary housing would be constructed on 2.0 acres at the proposed project site, instead of 24 units on 2.7 acres. There would be three 2-story buildings, each with 6 units (instead of four 2-story buildings, each with 6 units). With fewer units, a smaller development footprint could be utilized. In comparison with the proposed project, impacts of this alternative would be similar for water and slightly less for all other resource topics because of the slightly smaller amount of development on a slightly smaller footprint. This alternative would not avoid the project's significant unavoidable environmental effects. This alternative is legally infeasible because it would be a reduction of affordable housing as compared to the project, and there is no substantial evidence in support of the findings the County would be required to make under the Housing Accountability Act for the reduction (see 2.0 and 9.g above).
- m) Environmentally Superior Alternative. Alternatives 2 (Sunset Drive/17-Mile Drive) and 4 (Collins Residential Area) would result in similar overall environmental impacts, especially since both sites are previously fully disturbed, and both could be considered the environmentally superior alternative. However, Alternative 2 would be less compatible with adjacent commercial/light industrial land uses, compared to the general compatibility of residential use adjacent to Alternative 4. In addition, Alternative 2 would result in somewhat higher construction impacts due to the demolition of existing buildings as well as the potential for secondary impacts due to displacement of existing commercial/industrial uses. Therefore, Alternative 4 (Collins Residential Area) is considered the Environmentally Superior Alternative. Although considered environmentally superior, the Board finds that Alternative 4 is actually infeasible because it would require a Local Coastal Program amendment and is inconsistent with the Inclusionary Housing Agreement requirement that the affordable housing units be constructed in the GMPAP area (see Finding No. 9j above). In addition, this alternative would still not avoid the project's significant unavoidable environmental effects, making this alternative

infeasible.

10. **FINDING:** **STATEMENT OF OVERRIDING CONSIDERATIONS** - Per Public Resources Code section 21081(b) and section 15093 of the CEQA Guidelines, with respect to the identified significant unavoidable environmental effects of the project, the Board of Supervisors has weighed the economic, legal, social, technological, and other benefits, including region-wide and statewide environmental benefits, of the project against its unavoidable significant environmental impacts in determining whether to approve the project. The Board of Supervisors finds that the benefits of the project outweigh its unavoidable, adverse environmental effects such that the adverse environmental effects may be considered acceptable. Each benefit set forth below constitutes an overriding consideration warranting approval of the project, independent of other benefits, despite each and every unavoidable impact.

- EVIDENCE:** a) The proposed project will result in development that will provide benefits described herein to the surrounding community and the County as a whole. Any one of the facts listed below would be sufficient, in balancing the public good in approving this project against the unavoidable significant impacts identified, to find that the benefits of the project outweigh the unavoidable adverse environmental effects. The project would provide the following benefits to the public:
- i. The project is 100 percent affordable housing in an area of the County where there has been little success in providing affordable housing. The project will provide 24 units of affordable housing at the Very Low, Low, and Moderate income levels in the Greater Monterey Peninsula Planning Area - an area with a recognized need for affordable housing. The 2015 – 2023 County of Monterey Housing Element, adopted by the Board of Supervisors on January 26, 2016, and certified by the California Department of Housing and Community Development on May 10, 2016, identifies a shortage of affordable housing in the unincorporated areas of the County. Based upon the fact that the rents in the Greater Monterey Peninsula Planning area are higher than elsewhere in the County, resulting in housing which is not affordable, this project will provide housing affordable to very low, low, and moderate income households in an area in particular need of it. This project helps achieve Policy H-3.7 of the Housing Element, to “work to achieve balanced housing production proportional to the job-based housing demand in each region of the unincorporated area.” This project will assist in providing the jobs/housing balance, as the project will provide housing affordable to hospitality employees who work on the Monterey Peninsula;
 - ii. The project will permanently preserve approximately 10.5 acres of open space of the 13.2-acre project site. The open space would consist of the 6.5-acre portion of the project site surrounding the 2.7-acre development area on the east side of SFB Morse Drive, and the 4-acre area west of SFB Morse Drive. This open space area will be

permanently protected and managed to enhance habitat values. Several conditions of approval of this project require the preservation and active management of this area. Without approval of the project, the area would remain designated for residential use, and there would be no conditions of approval requiring the applicant to place the majority of the area in permanent conservation easement or to actively protect and manage the area;

- iii. The project will also permanently preserve an additional 8.4 acres of undeveloped Monterey pine forest in the Old Capitol site; and
- iv. The project will create economic benefits to the County and the economy through the creation of jobs for construction (temporary), and the creation of new property tax revenue through higher property valuation.

- b) Pebble Beach Company Inclusionary Housing Project Final EIR; County of Monterey 2015-2023 Housing Element.

11. **FINDING:** **MITIGATION MONITORING PROGRAM** - Per Public Resources Code section 21081.6 and the County-adopted Condition of Approval and Mitigation Monitoring and Reporting Program, the County is, as part of this action, adopting a reporting or monitoring plan for the changes made to the project or conditions of project approval in order to mitigate or avoid significant effects on the environment.

- EVIDENCE:**
- a) At the August 23, 2016 hearing at the Board of Supervisors, in addition to certifying the EIR, the Board of Supervisors considered adoption of a Mitigation Monitoring and Reporting Plan (MMRP), and adoption of the MMRP is part of the project approval. The mitigation measures identified in the FEIR are incorporated as conditions of approval and are included as an attachment to this resolution approving the project.
 - b) All revisions to the mitigation measures since the DEIR provide clarification and additional detail. The changes do not result in a new significant impact or substantial increase in the severity of an environmental impact. See Finding Nos. 7 and 8 above, and Finding No. 12 below.
 - c) The Applicant/Owner of the project will be required to enter into an "Agreement to Implement a Mitigation Monitoring and Reporting Plan" as a condition of approval for the project (Condition No. 7).
 - d) Pebble Beach Company Inclusionary Housing Project Final EIR.
 - e) The application, plans and supporting materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development; RMA-Planning Project File PLN130447.

12. **FINDING:** **RECIRCULATION NOT REQUIRED** – No new significant information has been added to the EIR since circulation of the DEIR that would require recirculation of the EIR. Per Section 15088.5 of the CEQA Guidelines, the County of Monterey is required to recirculate an EIR when significant new information is added to the EIR after public notice is given of the availability of the draft EIR for public review but before certification. "Significant new information" requiring recirculation may include, for example, a disclosure showing:

- 1) A new significant environmental impact resulting from the

project or from a new mitigation measure proposed to be implemented;

- 2) A substantial increase in the severity of an environmental impact unless mitigation measures are adopted that reduce the impact to a level of insignificance;
- 3) A feasible project alternative or mitigation measure, considerably different from others previously analyzed, that clearly would lessen the significant environmental impacts of the project, but that the project's proponents decline to adopt; or
- 4) The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.

No such significant new information has been added.

- EVIDENCE:**
- a) Per Section 15088.5(b) of the CEQA Guidelines, recirculation of the draft EIR is not required where the new information merely clarifies, amplifies or makes minor modifications to an adequate EIR. The information provided, and revisions to the draft EIR since the public notice of availability of the draft EIR, meets those criteria.
 - b) All the text revisions to the draft EIR and revisions to mitigation measures since the DEIR provide clarification and additional detail. The changes do not result in a new significant impact or substantial increase in the severity of an environmental impact, and therefore recirculation is not required.
 - d) See Finding Nos. 6, 7, 8, 9, 10, and 11 above.
 - e) Pebble Beach Company Inclusionary Housing Project Final EIR.

13. **FINDING:** **FISH AND GAME FEE** – For purposes of the Fish and Game Code, the project will have a significant adverse impact on the fish and wildlife resources upon which the wildlife depends.

- EVIDENCE:**
- a) The California Department of Fish and Wildlife (DFW) reviewed the DEIR. Analysis contained in the EIR and the record as a whole indicate the project could result in changes to the resources listed in DFW regulations. All land development projects that are subject to environmental review are subject to a State filing fee plus the County recording fee, unless the DFW determines that the project will have no effect on fish and wildlife resources. The site supports biological and forest resources. For purposes of the Fish and Game Code, the project will have a significant adverse impact on the fish and wildlife resources upon which the wildlife depends. Therefore, the project will be required to pay the State fee in effect at the time of the recordation of the Notice of Determination to the Monterey County Clerk/Recorder for processing said fee and posting the Notice of Determination (NOD).
 - b) The County filed a Notice of Determination and forwarded the required impact fee to the California Department of Fish and Wildlife on June 9, 2016 (SCH # 2014081052).
 - c) The application, plans and supporting materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development found in Project File PLN130447.
 - d) Pebble Beach Company Inclusionary Housing Project Final EIR.

14. **FINDING:** **TREE REMOVAL** – The tree removal is the minimum required under the circumstances and the removal will not involve a risk of adverse environmental impacts.

- EVIDENCE:**
- a) The project includes application for the removal of 725 trees (135 Monterey pine and 590 oak). In accordance with the applicable policies of the 2010 General Plan, Greater Monterey Peninsula Area Plan, and Monterey County Code (Title 16 and Title 21), a Use Permit is required and the criteria to grant said permit have been met.
 - b) A Tree Resource Assessment/Arborist Report (LIB130274) was prepared by Urban Forestry (Frank Ono), and incorporated into the Environmental Impact Report prepared for the project.
 - c) The project site consists of 13.2 acres of undeveloped, forested land. As proposed, the development would result in the removal of up to approximately 725 trees. Regardless of placement, development of the project would result in a loss of forest habitat. Therefore, the applicant designed and sited the project to minimize the removal of trees by consolidating the development footprint onto approximately 2.7 acres.

General Plan policies encourage clustering of uses to reduce impacts, such as impacts to biological and forest resources. Clustering development allows retention of a larger preserve area than would be retained in an alternative scenario which reduces density, yet would potentially impact all of the 7.7 acres of area zoned for residential use or MDR. This is consistent with the intent of General Plan Policies LU-1.7, 8.2, and 8.5. Clustering allows the preservation of open space on the remaining 10.5 acres of the project site, which the County is requiring the owner to place under a conservation easement (Condition No. 31). To provide additional mitigation for the loss of Monterey pine forest habitat, the applicant is also required to dedicate 8.4 acres of the Old Capitol Site. The project, as conditioned and mitigated, would increase the quantity of preserved open space compared to a different residential development scenario allowable by current zoning.

- d) Relocation of the development footprint to the south is not feasible due to a drainage easement which crosses the project site from the Del Monte Park neighborhood to SFB Morse Drive. Movement of the development footprint to the north would locate the new units closer to the existing residences in the Del Monte Park neighborhood, thereby increasing potential visual and noise impacts.
- e) To provide for integrated resource management of the proposed preservation area, a Master Resource Management Plan (Master RMP) for implementing resource management was developed by the County with technical assistance from the County's environmental consultant. The Master RMP establishes a framework for the development of the site-specific RMP for the preservation area (Condition No. 30). The Master RMP also establishes a framework for development and approval of work plans for restoration activity, monitoring, and adaptive management of all dedicated areas. Through this framework, the habitat value of the dedicated lands can be preserved in perpetuity with an appropriate context of monitoring, funding, and oversight.

- f) The applicant will also be required to replace all trees removed at a 1:1 ratio (Condition No. 17), and implement tree protection measures for trees adjacent to the development area during construction activities (Condition No. 9).
- g) Staff conducted site inspections on September 5 and October 3, 2013; August 5 and August 28, 2014; and October 8, 2015, to verify that the tree removal is the minimum necessary for the project and to identify any potential adverse environmental impacts related to the proposed tree removal. Through the application of conditions and mitigation measures, all impacts related to tree removal will be reduced to less than significant; therefore, the removal will not involve a risk of adverse environmental impacts.
- h) 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 PLN130447.

15. **FINDING:**

WILDFIRE PROTECTION STANDARDS IN STATE

RESPONSIBILITY AREAS – The subject project, as conditioned, will ensure standardized basic emergency access and fire protection pursuant to Section 4290 of the Public Resource Code.

- EVIDENCE:**
- a) The project site is within the Monterey County State Responsibility Area, and the project would expose people and structures to risk of wildland fire where proposed residential development is adjacent to undeveloped open space.
 - b) Monterey County Code Section 18.56, Wildfire Protection Standards in State Responsibility Areas, requires that future design and construction of structures, subdivisions and developments in State Responsibility Areas shall provide for emergency access and perimeter wildfire protection measures. The proposed development, as designed and conditioned, provides for emergency access and fire suppression.
 - c) Emergency vehicle access to the project site would be from SFB Morse Drive. A new two-way private roadway, called Morse Court, would be constructed to serve as the driveway into the project site from SFB Morse Drive, and would have entrances at both the north and south ends of the project site.
 - d) The conceptual landscape plan submitted by the applicant and analyzed during environmental review provides for maintained defensible space around the proposed structures.
 - e) Condition of Approval Nos. 21 – 25 have been applied to the project to ensure the following: 1) all driveways meet minimum requirements regarding width, surface, grade, and turning radius or turnaround; 2) maintenance of adequate defensible space around all structures; and 3) all structures have adequate fire protection equipment [sprinkler systems], fire alarms systems, and roof construction.

16. **FINDING:**

LONG-TERM SUSTAINABLE WATER SUPPLY AND

ADEQUATE WATER SUPPLY SYSTEM – The project has a long-term, sustainable water supply, both in quality and quantity, and an adequate water supply system to serve the development as required by General Plan Policies PS-3.1 and PS-3.2, respectively.

- EVIDENCE:**
- a) The new development will use or require the use of water. The 24 affordable units and associated facilities will use between 5.57 and 6.32 acre feet of water per year depending upon the rainfall for the year.
 - b) The source of water for the project will be Cal-Am who will obtain water from the Carmel River Alluvial Aquifer. The State Water Board found that Cal-Am does not have sufficient rights to the amount of water it is pumping out of the Carmel River Alluvial Aquifer, and only has rights to 3,376 acre feet of water. The State Water Board has issued a Cease and Desist order which requires significant cutbacks to Cal Am's pumping by the end of 2016 (State Water Resources Control Board Orders WR 2009-0060 and WR 2010-0001). If a new water supply cannot be built by the end of 2016, or later deadline if extended by the CPUC, the CPUC may require water rationing and/or a moratorium on new construction. The subject project, which has its water permit as a result of the Recycled Water Project, would be subject to any rationing program.
 - c) The applicant participated in financing the infrastructure for the Carmel Area Wastewater District/Pebble Beach Community Services District Recycled Water Project. This reclamation project has provided an average of 974 acre feet of water per year between 1995 and 2014, while the applicant has been given the ability to use 380 acre feet per year. This Recycled Water Project has resulted in a reduction in the amount of water pumped from the Carmel River Alluvial Aquifer. There are still 87 acre feet of water to be allocated to additional development.
 - d) Cal Am as the water provider is a regulated public utility which is mandated to provide water that meets public health standards and thus has adequate water quality as required by PS-3.2(a)
 - e) Cal Am is regulated by the State Water Board in its extraction of water from the Carmel Valley Alluvial Aquifer. The extraction of water is being monitored, and alternative sources of water are being required to address the over-allocation of the Carmel River Alluvial Aquifer. In addition, the use of water from the Carmel River Alluvial Aquifer is monitored and regulated by the Monterey Peninsula Water Management District. The Carmel River Alluvial Aquifer is a water source that is highly regulated, and as a water provider Cal Am is regulated. This satisfies the criteria in PS-3.2(b), which points to the *authorized production capacity of a facility operating pursuant to a permit from a regulatory agency ...*
 - f) Cal Am has the technical, managerial, and financial capability to provide water to the subject site consistent with PS-3.2(c).
 - g) PS-3.2(d) requires consideration to the rights to water from the source. In this case Cal Am has the right to use 3,376 acre feet per year from the Carmel River Alluvial Aquifer. The applicant, in funding the Recycled Water Project, has obtained water entitlements for 380 acre feet of water annually. Currently, there remains 87 acre feet of water per year to allocate.
 - h) General Plan Policy PS-3.2(e) and (g) state:
 - e. *Cumulative impacts of existing and projected future demand for water*

from the source, and the ability to reverse trends contributing to an overdraft condition or otherwise affecting supply; and to those resources and species.

g. Completion and operation of new projects, or implementation of best practices, to renew or sustain aquifer or basin functions.

The project applicant has already provided a project which reverses the trends contributing to over allocation of the Carmel Alluvial Aquifer by implementing a project which uses best management practices to use reclaimed water to irrigate the golf course and large landscaped properties in the Del Monte Forest. Currently these properties use 100% reclaimed water.

- i) The result of the Recycled Water Project is less extraction of water from the Carmel River Alluvial Aquifer, which has had a beneficial impact upon the biological resources supported by the river.

17. **FINDING:** **APPEAL** – Upon consideration of the documentary evidence, the staff report, the oral and written testimony, and all other evidence in the record as a whole, the Board responds as follows to the Appellant's contentions:

EVIDENCE: a) The Appellant (Del Monte Neighbors United), pursuant to MCC Section 21.80.050.A, filed an appeal from the June 8, 2016, decision of the Planning Commission. The appeal challenged the Planning Commission's certification of the Final Environmental Impact Report and approval of the Combined Development Permit, and contended that the decision by the Planning Commission was not supported by the evidence and was contrary to the requirements of law set forth under the California Environmental Quality Act (CEQA). See the text of the Appellant's contentions and the County's responses to those contentions in Evidences b, c, d, and e below.

- b) **Appellant's Specific Contention A:** The Appellant stated: *The Planning Commission's Findings Regarding Alternatives is Fatally Flawed*

The Appellant argues that the FEIR identified Alternative 2 (Sunset Drive/17 mile Drive) and Alternative 4 (Collins Residential Area) as feasible and environmentally superior alternatives but the Planning Commission found these alternatives to be legally infeasible resulting in the Planning Commission findings being inconsistent with the FEIR analysis. The Appellant goes on to say the need for a rezone and Local Coastal Plan does not make an alternative infeasible and that the County has created an artificial construct and in the end rejected alternatives simply because they did not like them, not because they are truly infeasible. This appeal contention also indicates that Alternative 3 (Corporation Yard Site) was found infeasible because it would be a reduction in affordable housing, not consistent with the Housing Accountability Act, previous Board findings that it is not a desirable site for affordable housing and it is not in the Greater Monterey Peninsula Area Plan as required by the Inclusionary Housing Agreement which Appellant contends is "a classic bait and switch" calling into question the efficacy of alternatives analysis, and highlights the unlawful

segmentation of the project.

This contention by the Appellant overlooks that the issue of feasibility emerges at two distinct points in the review process: first, in the EIR and next during project approval. Different considerations and even different participants may come into play at each of the two phases. The FEIR addressed this issue in Master Response 6:

First, it is important to distinguish between the feasibility analysis in the EIR and the feasibility determination to be made by the decision-making body on the project. When assessing feasibility of alternatives, an EIR evaluates potential feasibility, taking into account factors such as site suitability, economic viability, availability of infrastructure, general plan consistency, jurisdictional boundaries, and ownership and control of the site (CEQA Guideline sec. 15126.6(a) and (f)). It is the County decision-making body on the project, however, who is ultimately responsible for determining the actual feasibility of alternatives. In determining feasibility, the decision-making body may take into account broader considerations of policy, including "specific economic, legal, social, technological, or other considerations" (CEQA Guidelines sec. 15091(a)(3)). Thus, the EIR considers a reasonable range of potentially feasible alternatives, but the EIR does not determine actual feasibility of alternatives, which is determination to be made by the decision-making body.

The Planning Commission findings reflect their judgment on the actual feasibility of the alternatives. The findings that alternatives are ultimately infeasible because they require modifications to the Local Coastal Program or require a General Plan Amendment and Rezone in an adjacent jurisdiction is based on the importance of the General Plan, zoning and the Local Coastal Plan in state law. Development in any local jurisdiction must be found consistent with the general plan. A General Plan is intended to be the development blueprint, establishing consistency between land uses, for a local jurisdiction and is intended to be stable as evidenced by the limited number of times it can be amended each year. The Planning Commission found that an alternative which required a modification to the zoning and general plan of an adjacent jurisdiction is not something foreseeable with certainty and is thus not feasible.

Similarly the Local Coastal Plan functions as the General Plan in the coastal area and also implements the Coastal Act which means it must be certified by the Coastal Commission making it even less subject to indiscriminate amendment. The concern for maintaining the integrity of the LCP is the same as that of the general plan. The Planning Commission found that amending the LCP to insert high density residential into a medium density residential area is not feasible due to the established land use pattern and paramount importance of

maintaining the integrity of the LCP.

The appellant takes issue with only assigning 18 units to the Corporation Yard site, which ignores that the Land Use Plan allows up to 18 units for the subject site if used for affordable housing. This is not a bait and switch as contended but a reflection that the Board of Supervisors designated the site for 18 units and also indicated that due to the site location deep in the forest, lack of convenient access to services and schools, the site is undesirable for affordable housing. The Planning Commission found that based on these factors, the site is not actually a feasible alternative.

c) Appellant's Specific Contention B: The Appellant stated: *The Project EIR Unlawfully Segmented the Inclusionary Housing Project from the Larger Pebble Beach Project*

This issue is addressed in Master Response 1 in Volume 3 of the Final EIR. Under the Concept Plan, Pebble Beach Company (PBC) had proposed paying an in-lieu fee to satisfy the inclusionary housing requirement. When the County approved the Concept Plan project in June 2012, PBC had not yet submitted any application to the County for development of Area D.

The Board of Supervisors adopted conditions for the approval of the buildout project that included two options for PBC to meet the inclusionary housing ordinance requirements: (1) pay an inclusionary housing fee; or (2) build inclusionary housing units within the greater Monterey Peninsula. The condition did not mandate a specific location to build such units, and PBC did not indicate at the time what manner it would choose to comply with this condition. As such, the prior EIR adequately analyzed the reasonably foreseeable conditions with the buildout project without engaging in speculation as to whether PBC would choose to pay the fee, or whether and where PBC might choose to build inclusionary housing units. Thus, there is no more analysis that was required in the EIR for the buildout project at the time of approval in June 2012.

PBC subsequently proposed to the County to build 24 inclusionary housing units in Area D, and submitted an application in August 2013 for that purpose. The County, upon reviewing the application, determined that an EIR would be prepared for the inclusionary housing project, and the Draft EIR was prepared and circulated for review. The Draft EIR properly analyzed the cumulative environmental impacts of the inclusionary housing project, in combination with the PBC buildout project, as well as other cumulative development. As indicated in Chapter 4 of the DEIR, the Pebble Beach buildout project is included as reasonably foreseeable projects addressed by the cumulative analysis (see Table 4-2 of DEIR). Thus, the public and decision-makers were properly informed of both the inclusionary housing project impacts, as well as the cumulative impacts of the buildout project plus the

inclusionary housing project.

The concern about “piecemealing” or “segmentation” under CEQA is that individual parts of an overall project will be separated in such a way that the full environmental effects will not be fully disclosed and/or that decision-makers will not be fully informed about the environmental effects of their discretionary decisions. In this case, the public and decision-makers have been fully informed about both the specific impacts of the inclusionary housing project and the cumulative impacts of both the buildout project and the inclusionary housing project, so that there is no deficiency in disclosure of environmental impacts. This is not a situation of dividing up a project to minimize the conclusion about environmental impacts. Rather, this is a situation where new information – the specific inclusionary housing project proposed for Area D – became available after the EIR for the PBC Concept Plan was certified, and in compliance with CEQA, the County prepared additional, thorough environmental review to address this new information, analyzing the impacts of the new project in conjunction with the impacts of the previously approved Concept Plan. Therefore, the environmental review has not been piecemealed or segmented.

- d) Appellant’s Specific Contention C: The Appellant stated: *Unavoidable Significant Impacts to Monterey Pine Forest ... Preserving other areas from development does not result in mitigation for loss of the species elsewhere. The Project would result in removal of 725 Monterey pine trees and a loss of 2.7 acres of Monterey pine forest..... The FEIR’s determination that the Project complies with the Greater Monterey Peninsula Area Plan Policy GMP-3.5, ..., is simply incorrect. Half of the native oak and Monterey pine will be removed... The Final EIR dismisses the cumulative impact to Monterey pine forest by simply adding a section defining fragmentation, instead of addressing the issue....*

The project site consists of 13.2 acres of undeveloped, forested land; however, as is pointed out in the EIR “*The Monterey pine forest on the Project site is degraded in part because of past and ongoing human activity and use of the unofficial recreation trails.*” The FEIR explains this evidence comes from the opinion of professional arborist and forester Frank Ono and also biologist Michael Zander. Condition 30 (Mitigation Measure BIO-A1) addresses the degraded condition of the existing forest by requiring development of a Resource Management Plan (RMP) to increase the functions and values of the preserved forest habitat to offset the loss of habitat and to minimize indirect impacts resulting from Project implementation. There will be a loss of 2.7 acres of degraded habitat, but the long term effect will be to improve the habitat value of the remaining 10.5 acres. The project is consistent with GMP-3.5 because it clusters development on 2.7 acres, thus preserving and improving the quality of the forest on the remaining 10.5 acres. The County standard for evaluating development on a parcel with existing land use and zoning is the extent to which development “minimizes”

removal of protected trees. This comes out of Monterey County Code Section 21.64.260.D.5.a: *"The tree removal is the minimum required under the circumstances of the case"*. The design of this project removes the minimum number of trees in order to develop the property, thus the appellant's contention that the project is inconsistent with GMP-3.5 is incorrect.

The contention that the Project would result in the loss of 725 Monterey pine is incorrect. The project would be authorized to remove up to 135 Monterey pine and 590 oak trees.

Regardless of placement on the project site, construction of the project would result in the loss of forest habitat. The Appellant correctly points out that the FEIR finds: *"Given the prior loss of nearly 50% of the historic extent of native Monterey Pine forest . . . the project would contribute considerably to significant cumulative losses and indirect effects to Monterey pine forest."* The Appellant contends that the loss of Monterey pine is not cumulatively evaluated and opines that the analysis of this project's impacts on Monterey Pines is segmented from the Pebble Beach build out project. This ignores the analysis and mitigation relied upon which stem from the Pebble Beach build out project involving the dedication of the Old Capitol Site.

Condition 143 of the Concept Plan project requires dedication of the 135-acre Old Capitol Site, including 75 acres of Monterey pine forest, if "an affordable housing site is successfully identified, acquired, entitled, and financed in the Greater Monterey Peninsula Planning Area pursuant to Condition No. 18. The dedication is tied to the construction of new inclusionary housing units. The total amount of preserved Monterey pine forest as part of the inclusionary housing project would be 85 acres (10.5 acres in Area D, 8.4 acres at the Old Capitol Site required by Mitigation Measure BIO-A2, and another 67 acres at the Old Capitol site).

Preservation does not recreate lost forest, and the Draft EIR correctly discloses that the project, even as mitigated, will not result in "no net loss" of forest. Instead, the Draft EIR used an overall cumulative threshold of significance to identify an overall cumulative level of forest loss that would avoid substantial adverse effects to Monterey pine forest on a regional basis. Though the Appellant may disagree with the concept that preservation can mitigate for forest loss, compensation mitigation is a common practice that is utilized throughout Monterey County and across the state as mitigation for loss of sensitive communities. Taking into account the comments on the Draft EIR and the Appellant's Notice of Appeal, the County does not find any substantial evidence that the preservation mitigation approach is flawed in concept or is substantially of lower value than previously thought.

- e) The Appellant also incorporated by reference comments made on the Draft EIR. The comment letters can be found in the Final EIR, Volume

III, Chapter 2, Comments Received on the Draft EIR. The full text of both master and individual responses can be found in the Final EIR, Volume III, Chapter 3, Responses to Comments, and are hereby incorporated by reference. The Appellant has submitted no new evidence that necessitates revision or recirculation of the Final EIR.

18. **FINDING:** **APPEALABILITY** – The decision on this project is final.
EVIDENCE: a) Section 21.80.090.I of the Monterey County Zoning Ordinance (Title 21) states that the decision of the Appeal Authority shall be final.

DECISION

NOW, THEREFORE, based on the above findings and evidence, and the administrative record as a whole, the Board of Supervisors does hereby:

1. Certify that the foregoing recitals and findings are true and correct;
2. Deny an appeal by Del Monte Neighbors United from the June 8, 2016, decision of the Planning Commission to certify the Final Environmental Impact Report and approve a Combined Development Permit to allow the construction of 24 affordable housing units and manager's office, the removal of 725 trees, and associated grading;
3. Certify with respect to the Final Environmental Impact Report (EIR) for the Pebble Beach Company Inclusionary Housing Project (SCH#: 2014081052) that the Final EIR has been completed in compliance with CEQA, that the Final EIR was presented to the Board of Supervisors, that the Board of Supervisors reviewed and considered the information contained in the Final EIR before taking action on the project, and that the Final EIR reflects the County of Monterey's independent judgment and analysis;
4. Adopt the above CEQA findings and Statement of Overriding Considerations;
5. Approve the Combined Development Permit (RMA-Planning File No. PLN130447) consisting of a Use Permit and Design Approval to allow the construction of 24 affordable housing units and a manager's office, a Use Permit to allow removal of 725 trees, and associated grading, in general conformance with the attached plans and subject to the attached 47 conditions, all being attached hereto and incorporated herein by reference; and
6. Adopt the attached Mitigation Monitoring and Reporting Plan.

PASSED AND ADOPTED upon motion of Supervisor Potter, seconded by Supervisor Armenta carried this 23rd day of August 2016, by the following vote, to wit:

AYES: Supervisors Armenta, Phillips, Salinas, Parker and Potter

NOES: None

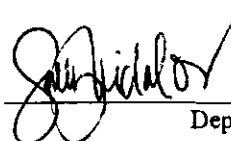
ABSENT: None

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 79 for the meeting on August 23, 2016.

Dated: August 30, 2016
File Number: 16-944
Corrected August 30, 2016

Gail T. Borkowski, Clerk of the Board of Supervisors
County of Monterey, State of California

By



Deputy