# Exhibit B



# EXHIBIT B DRAFT RESOLUTION

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

In the matter of the application of:

HELEN M RAISER TR (RAISER ORGANIZATION) (PLN100396) RESOLUTION NO.

Resolution by the Monterey County Planning Commission:

- a) Adopt the Mitigated Negative Declaration; and
- b) Approve: Combined Development Permit consisting of:
  - 1. An after-the-fact Coastal Development Permit and Design Approval to allow construction of an approximately 30 foot tall, 130 foot long Hilfiker wall (terraced retaining wall) to stabilize and repair a failing slope supporting an existing single family dwelling;
  - 2. A Coastal Development Permit for the installation of drainage improvements including a drainage inlet, subterranean culvert system, and concrete check dams placed below the bank;
  - 3. A Coastal Development Permit for development within 100 feet of environmentally sensitive habitat;
  - 4. A Coastal Development Permit for development within 50 feet of a Coastal bluff;
  - 5. A Coastal Development Permit for development on slopes exceeding 30 percent; and
  - 6. A Coastal Development Permit for development within 750 feet of known archaeological resources; and
- 7. Adopt a Mitigation Monitoring and Reporting Plan.

The Helen M Raiser TR application (PLN100396) came on for public hearing before the Monterey County Planning Commission on April 8, 2020. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Planning Commission finds and decides as follows:

# **FINDINGS**

# 1. FINDING:

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

**EVIDENCE:** 

- a) During the course of review of this application, the project has been reviewed for consistency with the text, policies, and regulations in:
  - the 1982 Monterey County General Plan;
  - Big Sur Coast Land Use Plan;
  - Monterey County Coastal Implementation Plan Part 3;
  - Monterey County Zoning Ordinance (Title 20); and

No conflicts were found to exist. Communications were received during the course of review of the project and the applicant revised the project to implement recommendations that brought the project into compliance with development standards. These changes described later in this resolution, did not indicate any inconsistencies with the text, policies, and regulations in those documents cited above.

- The property is located at 30650 Aurora Del Mar, Carmel Highlands (Assessor's Parcel Number 243-341-001-000), Big Sur Coast Land Use Plan. The parcel is zoned RDR/40-D (CZ) [Rural Density Residential, acres per unit, Design Control Overlay (Coastal Zone)]. Single-family residential uses are an allowed use on the site. The project site is a 1.1 acre parcel developed in the 1980s with a single family dwelling. In October 2009, stormwater runoff concentrated within an arroyo leading to the failure of the northern arroyo bank. Failure of the arroyo bank undermined the single-family dwelling. The eroded arroyo sidewall exposed the dwelling's shallow conventional foundation and pylons supporting the residence. The residence was thus "red tagged" by the Monterey County Building Division, which prohibited people from entering the structure because of structural instability and imminent safety concerns for human occupation. On February 10, 2010, an emergency permit (PLN100094) was issued by RMA to allow the owner to mitigate the emergency situation. The permit allowed construction of a Hilfiker wire retaining wall system of approximately 135 lineal feet with a maximum height of approximately 30-feet, and importation of backfill soil materials to repair and stabilize the foundation on the south side of the existing residence. Additional drainage improvements were also constructed during the installation of the Hilficker retaining wall. Drainage improvements all occurred within a dedicated drainage easement on the property. Allowed uses on the parcel include accessory uses such as a retaining [Hilfiker] wall and site drainage conveyances and work performed under the Emergency Permit was related to stabilization of the primary residential use of the property. Therefore, the project is an allowed land use for this site.
- c) Public Access: No access is required as part of the project as no substantial adverse impact on access, either individually or cumulatively, as described in Section 20.145.150 of the Monterey County Coastal Implementation Plan (Part 3) can be demonstrated. The project site features coastal or shoreline frontage. However, there is no public access to the shoreline from Aurora Del Mar, a private roadway with controlled access. There is no public access to the shoreline from

- Highway 1, no public parking is available in the vicinity that would ensure safety for pedestrians and motorists. The site does not contain any historical public access to the shoreline, therefore, the project does not interfere with any form of historic public use or trust rights. Therefore, the project is in conformance with the public access and recreation policies of the Coastal Act (specifically Chapter 3 of the Coastal Act of 1976, commencing with Section 30200 of the Public Resources Code).
- d) Slope Exceeding 30 Percent: The existing parcel includes an arroyo with banks that include slopes in excess of 30 percent. The Hilfiker wall was constructed on slopes of approximately 1:1, a nearly vertical bank face. The wall is designed to preserve the natural contours of the arroyo, stop erosion of the northern bank of the arroyo wall, and the arroyo bottom, and to protect private property, a single-family residence is located above the banks of the arroyo. Due to the nature and location of the slope failure, there was no feasible alternative to the development that would avoid slopes greater than 30 percent.
- Environmentally Sensitive Habitat Areas (ESHA): The arroyo that was the subject of flooding, land sliding, and stabilization with the Hilficker retaining wall meets the definition of a "wetland" pursuant to the Big Sur Coastal Implementation Plan. A biological report was prepared for the project (Ballerini 2010) that described a mix of plant species within the arroyo, including poison oak and arroyo willow. The poison oak understory was dense and consequently lacked native habitat diversity. The project included habitat restoration (WRA August 2011) with seeds harvested from coastal scrub habitat found on the site, and with riparian plant species. The planting of the Hifiker wall with coastal upland species has occured. Site inspections were conducted by Rana Creek in February, March, and August of 2018 and again in April 2019. The site inspections note that the restoration has matured and spread into a mosaic of native plant cover that is characteristic of the surrounding area. The plantings reflect a riparian habitat in the bottom of the arroyo, and of a coastal bluff habitat on the banks and Hilfiker wall. Additional native plant species not listed on the landscape plans have "recruited' to the site, a typical and desirable occurrence in restoration environments. Native coverage of the restored areas is approximately 80 percent with only isolated incidents of non-native plants present. Ongoing efforts to remove non-native plant species are occurring.
- f) Cultural Resources: The project site is in an area identified in County records as having a high archaeological sensitivity. The site contains midden and potentially other cultural artifacts. Portions of a recorded archaeological site, CA-MNT-438, are located on the property and the property is part of a larger site. An archaeological survey of the site was prepared related to this project.; However, the reconnaissance was conducted after the construction of the Hilfiker wall and subterranean drainage system were complete. Grading activities had been completed by July 2010; the archaeological study was conducted in September of 2010. Recommendations for mitigation included recovery, if possible, of at least six (6) artifacts for radiocarbon dating and the recordation of a conservation easement over the southeastern portion of the site to

- protect that portion of the site from future disturbance. The recommendation for recovery of artifacts was/is not pragmatic to implement. Approximately 350 cubic yards of fill were imported to the site to back-fill the Hilfiker wall and to restore the arroyo bottom to its approximate elevation prior to the flood event. Thus, exploration would have been conducted in soils not native to the site. However, the project is condition such that a conservation easement will be recorded over the southeastern portions of the site as recommended by the archaeologist (Morley 2010).
- g) Water Resources: Water for existing and future use of the property will continue to be provided by Carmel Riviera Mutual Water Company. The Hilfiker wall and native landscaping do not require additional water supplies over what the residence currently requires; the native landscaping is not irrigated. As proposed and conditioned, the project is consistent with applicable policies of the Big Sur Coast Land Use Plan, Chapter 3.4, Water Resources. (See Finding Nos. 3 and 7)
- h) Development within 50 feet of a Coastal Bluff: The development included repairs to the side walls of a drainage course or "arroyo" that was located within 50 feet of a Coastal Bluff. A geotechnical and geologic report were prepared for the development. The development did not place new structures (other than the hilficker wall) in proximity to a bluff, did not change the setback of the existing residence from the bluff, and all work done was designed to conform to the topography of the site and minimize erosion and hazards in accordance with Implementation Plan policies in Big Sur. (See Finding 6 with supporting evidence).
- i) The project was referred to the Big Sur Coast Land Use Advisory Committee (LUAC) for review. This application did warrant referral to the LUAC because it involves development requiring CEQA review and a Design Review subject to review by the Planning Commission. The LUAC, at a duly-noticed public meeting on February 8, 2011, voted unanimously, 6 0, to recommend changes to the project to modify the project such that the culvert system inlet be plugged to allow surface flows in the arroyo during storm events. (The applicant modified the inlet in response to California Fish and Game [Wildlife] request that the inlet allow surface water flows up to a two (2) year storm event, with excess waters being diverted to the subterranean culvert drainage system).
- j) The project planners conducted site inspections April 18, 2014, August 1, 2018 and April 4, 2019 to verify that the project on the subject parcel conforms to the plans and ordinances listed above.
- k) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN100396.
- **2. FINDING: SITE SUITABILITY** The site is physically suitable for the use proposed.
  - **EVIDENCE:** a) The project has been reviewed for site suitability by the following departments and agencies: RMA Planning Department, Carmel

Highlands Fire Protection District, RMA - Public Works Department, Environmental Services, and the Environmental Health Bureau, the California Coastal Commission, and California Fish and Game [Wildlife]. Coastal Commission staff initially did not support the project, in part because the drainage system would not be approved under normal circumstances, because the arroyo vegetation had been removed, and because the culvert system did not allow for surface flows. The applicant revised the design of the subterranean drainage system in response to Fish and Wildlife, notably lowering the top of the weirs to make them flush with the arroyo bottom, redesign of the inlet so that surface flows of up to a two (2) year event would flow on the surface, and restoration of the riparian habitat in the arroyo (and planting the Hilfiker wall with coastal bluff plants). The Coastal Commission has accepted the recommendations and conclusions of Fish and Wildlife regarding the revised drainage system and habitat restoration. Conditions recommended have been incorporated into the project design.

- b) Staff identified potential impacts to Cultural (Archaeological) Resources, Biological Resources, and Soil Stability. The following reports have been prepared:
  - Preliminary Cultural Resources Reconnaissance of Assessor's Parcel Number 243-341-001, Lot 6, of the Carmel Sur Subdivision Otter Cove, south of Yankee Point, an unincorporated area in the County of Monterey, California. Prepared by Susan Morley M.A., December 2010. (LIB110012)
  - Biological Resource Analysis of Phillip Raiser Residence, PLN 10094. Prepared by Fred Ballerini Horticultural Services, June 21, 2010. (LIB110013)
  - Biological Resource Assessment: Supplemental Information for the Otter Residence. Prepared by WRA, Inc., August 2011. (LIB130222)
  - Stream Restoration. Site inspection to verify restoration consistent with the 2011 WRA Landscape/Restoration Plan. Prepared by Rana Creek Design, John Wandke, biologist, May 30, 2019. (LIB190153)
  - Geotechnical Engineering Investigation for Proposed Arroyo Retaining Wall, Existing Raiser Residence, 30650 Aurora Del Mar, Otter Cove – Carmel Highlands, Monterey County, California. Prepared by Haro, Kasunich and Associates, Inc., September 2010. (LIB110011)
  - Geologic and Geotechnical Evaluation, Otter House 30650
     Aurora Del Mar, Carmel Highlands, California. Prepared by Miller Pacific Engineering Group, April 20, 2013. (LIB130223)
  - Final Engineering Report & Construction Documents 04/15/2010 to 07/27/2010 for 30650 Aurora Del Mar, Otter Cove, Carmel Highlands, California. Grice Engineering, August 2010. (LIB110014)

 California Department of Fish and Wildlife Memorandum, Design for Corrective Actions to Unpermitted Work on an Unnamed Stream, Raiser Residence, Carmel Highlands, Monterey County, August 27, 2012.

The above-mentioned technical reports by outside consultants indicated that there were physical and environmental constraints that were recognized and responded to so that the safety and integrity of the residential dwelling could be achieved and that the environmental surroundings would not be harmed but restored and enhanced to reflect native habitat. It was determined that the site is suitable for the use proposed. County staff has independently reviewed these reports and concurs with their conclusions.

- c) The project planners conducted site inspections April 18, 2014, August 1, 2018 and April 4, 2019 to verify that the project on the subject parcel conforms to the plans and ordinances listed above.
- d) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA Planning Department for the proposed development found in Project File PLN100396.

# 3. FINDING:

**HEALTH AND SAFETY -** The establishment, maintenance, or operation of the project applied for will not under the circumstances of this particular case be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.

# **EVIDENCE:**

- a) The project was reviewed by the RMA Planning Department, Carmel Highlands Fire Protection District, RMA Public Works Department, Environmental Services, and the Environmental Health Bureau in addition to California Fish and Game [Wildlife] and the California Coastal Commission. The respective agencies had recommended conditions, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood. Those recommendations were integrated into the project.
- b) Necessary water and sanitary facilities are available for the property. The property will continue to be served by a mutual water system and sewage disposal from an existing private septic system. The storm events of 2009 and 2010 did not compromise the septic system. The Hilfiker wall or stream restoration did not interfere with the septic system. The Environmental Health Bureau did not impose any conditions for project approval.
- c) See Finding Nos. 1, 2, 4, 5, 7 and supporting evidence.
- d) The project planners conducted site inspections April 18, 2014, August 1, 2018 and April 4, 2019 to verify that the project on the subject parcel conforms to the plans and ordinances listed above.
- e) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning

Department for the proposed development found in Project File PLN100396.

# 4. FINDING:

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

# **EVIDENCE:**

- a) Staff reviewed Monterey County RMA Planning Department and Building Services Department records and is not aware of any violations existing on the subject property. Work done on the arroyo bottom (drainage improvements) did exceed the scope of Emergency Permit which was limited to construction of a hilficker retaining wall. The drainage improvements were substantially related to the work done on the back of the drainage course and have been addressed within this follow-up permit.
- b) The project planners conducted site inspections April 18, 2014, August 1, 2018 and April 4, 2019 to verify that the project on the subject parcel conforms to the plans and ordinances listed above.
- c) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN100396.

# 5. FINDING:

# ENVIRONMENTALLY SENSATIVE HABITAT AREA (ESHA)

The project is located adjacent to plant communities that includes wetlands, riparian habitat, and chaparral. The subject project minimized impacts on environmentally sensitive habitat areas in accordance with the applicable goals and policies of the Big Sur Land Use Plan and Coastal Implementation Plan, Part 3.

# **EVIDENCE:**

- a) Chaparral plant communities are located along the southeastern portions of the parcel, and in the western reaches of the parcel, in close proximity to the coastal bluff. The project avoided impacts to these areas; the limits of disturbance of the project did not encroach into these environments. Development was limited to the Hilficker retaining wall in the area where slopes had already been compromised from erosion and to drainage improvements to address future flooding hazards. A conservation easement that would preclude development from taking place adjacent to the drainage easement is proposed. The Hilfiker wall was planted with coastal scrub and other native plants that are typical of immediate vicinity. These plantings are mature and disguise the elements of the Hilfiker wall.
- b) Riparian habitat existed in the arroyo prior to the flooding events. However, this habitat was degraded because of the dominance of poison oak that created a dense understory that crowded out other native species and included the presence of non-native plants. The project included the removal of the vegetation in the arroyo bottom to implement the emergency permit. Grading activities exceed the scope of the Emergency Permit to include a subterranean drainage system that required additional vegetation removal in the arroyo bottom and grading. Once the drainage culverts were installed, the arroyo was backfilled, the soils compacted, then replanted with native riparian species. The drainage system was designed such that water flows of up to a two (2) year storm event will

- flow on the surface and discharge to the shoreline. Flows exceeding a two (2) year event are diverted to the drainage culverts that discharge at the shoreline.
- c) The project planners conducted site inspections on April 18, 2014, August 1, 2018 and April 4, 2019 to verify the subject grading on slopes exceeding 30 percent is in accordance with the applicable goals and policies of the applicable land use plan and zoning codes.
- d) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN100396.

# 6. FINDING:

# DEVELOPMENT WITHIN 50 FEET OF A COASTAL BLUFF

New development on blufftops subject to erosion shall be set back sufficiently to avoid the need for seawalls during the development's economic lifespan.

# **EVIDENCE:**

- a) The bluff top is characterized by loose sandy soils subject to erosion. The soils are on top of a rocky granite substrate at the shoreline. The existing single-family dwelling is approximately 6 9 feet from the bluff face. The single-family residence was built in 1983, before the setback standard was adopted by the Board of Supervisors. The setback of the existing house from the bluff edge did not change as a result of the work authorized under the Emergency Permit or this follow-up permit.
- b) As built, a portion of the Hilfiker wall extends around to the face of the bluff top, approximately 85 feet from the shoreline and approximately 28 feet above the shoreline and tidal influxes. This extension was done to prevent further erosion of the bluff top and potential damage to the residence.
- c) The lifespan of the Hilfiker wall is estimated to be 30 years.
- d) The project did not include a sea wall. All work on the bluff face was limited to that portion of the blufftop located beneath the western extent of the residence, approximately 30 feet above the shoreline and approximately 20 feet east of the shoreline.
- e) Pursuant to Section 20.145.080 of the Coastal Implementation Plan, a geotechnical and geological report were prepared for the development. Recommendations contained in the report have been implemented in the construction. The site and Hilficker wall are subject to future erosion and bluff retreat. The Hilficker wall has stabilized a portion of the bluff top that had eroded as a result of storm drainage runoff from the east of the project site and does not protect against wave erosion. The Hilficker wall is not a structure or use that would itself necessitate or warrant future protection against bluff erosion.
- f) The project planners conducted site inspections on April 18, 2014, August 1, 2018 and April 4, 2019 to verify the subject grading on slopes exceeding 30 percent is in accordance with the applicable goals and policies of the applicable land use plan and zoning codes.
- g) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA Planning Department for the proposed development found in Project File PLN100396.

# 7. FINDING:

**DEVELOPMENT ON SLOPE** – There is no feasible alternative which would allow grading on slopes of less than 30 percent.

# **EVIDENCE:**

- a) In accordance with applicable policies of the Big Sur Coast Land Use Plan and the Monterey County Zoning Ordinance (Title 20, Parts 1 and 3), a coastal development permit is required and the criteria to grant said permit have been met.
- b) The project included the construction of a Hilfiker retaining wall to preserve the arroyo bank, a geologic feature that is characterized by slopes of 30 percent or greater, and in some case nearly vertical. The slope had failed and would have been subject to retreat and continued erosion. By its nature and intent, repair and protection of slopes could not be avoided.
- c) The purpose of the project was to restore the lost arroyo bank and to protect the restored arroyo bank with a Hilficker retaining wall. The project was necessary to protect a legal residential development.
- d) The project planners conducted site inspections on April 18, 2014, August 1, 2018 and April 4, 2019 to verify the subject grading on slopes exceeding 30 percent is in accordance with the applicable goals and policies of the applicable land use plan and zoning codes.
- e) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA Planning Department for the proposed development found in Project File PLN100396.

# 8. FINDING:

- **CULTURAL RESOURCES** Development proposed within 750 feet of a known archaeological resource, as identified through the survey report, or as shown on current County resource maps or other available information, shall be required to obtain a Coastal Development Permit.
- a) The project site contains portions of a known archaeological site, CA-MNT-438. The site contains midden, chert, and other cultural artifacts. Additionally, bone fragments were exhumed in 1984 during excavation activities when the residence was under construction. The bones and other artifacts were sent to a lab for radiocarbon dating where it was determined that the material was at least 4,500 years old. There was an agreement between the property owner of the time and the tribal representatives that the artifacts, including the bones, could be returned to the site. However, there is no evidence that the artifacts were returned to the site or where they would be located.
- b) The archaeological report associated with the project (Morley 2010) recommended two (2) mitigation measures as discussed in Finding 1(g) above. Recovery of additional cultural materials was not and is not practical at this time and would be disruptive to the site. The archaeological survey was conducted after the grading and construction of the project was completed. The project included the importation of fill material to replace the soils washed away during the flood events of 2009 2010. These soils were not native to the site. It is unlikely that any cultural materials would be found in fill material. Additionally, the fill was engineered backfill for the Hilfiker wall, compacted in the arroyo bottom to provide structural support and prevent erosion under

typical flow conditions. Thus, the imported soils capped the native soils.

The second mitigation measure recommended was to protect the undeveloped southeastern portions of the site be placed under a conservation easement to prevent any future development of this portion of the site. The applicant has agreed to create such a conservation easement over this portion of the development. The easement is a Condition of Approval relating to this project.

- c) The project planners conducted site inspections on April 18, 2014, August 1, 2018 and April 4, 2019 to verify the subject grading on slopes exceeding 30 percent is in accordance with the applicable goals and policies of the applicable land use plan and zoning codes.
- d) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN100396.

# 9. FINDING:

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

# **EVIDENCE:**

- a) No access is required as part of the project as no substantial adverse impact on access, either individually or cumulatively, as described in Section 20.145.150 of the Monterey County Coastal Implementation Plan (Part 3) can be demonstrated.
- b) No evidence or documentation has been submitted or found showing the existence of historic public use or trust rights over this property.
- c) No access is required as part of the project as the project was a maintenance activity (Monterey County Coastal Implementation Plan, part 3 Section 20.145.150.D.5).
- d) The project planners conducted site inspections April 18, 2014, August 1, 2018 and April 4, 2019 to verify that the project on the subject parcel conforms to the plans and ordinances listed above.
- e) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA Planning Department for the proposed development found in Project File PLN100396.

# 10. FINDING:

- **CEQA** (Mitigated Negative Declaration) On the basis of the whole record before the Monterey County Planning Commission, there is no substantial evidence that the proposed project as designed and conditioned, will have a significant effect on the environment. The Mitigated Negative Declaration reflects the independent judgment and analysis of the County.
- a) Public Resources Code Section 21080.d and California Environmental Quality Act (CEQA) Guidelines Section 15064.a.1 require environmental review if there is substantial evidence that the project may have a significant effect on the environment.

- b) The Monterey County Planning Department prepared an Initial Study pursuant to CEQA. The Initial Study is on file in the offices of the Planning Department and is hereby incorporated by reference (PLN100396).
- c) As designed and conditioned, the Initial Study prepared for the Hilfiker retaining wall, subterranean drainage system, and habitat restoration identified less than significant effects on Aesthetics, Air Quality, Biological Resources, Cultural Resources, Geology/Soils, and Cumulative impacts. No Impacts were identified in other environmental categories listed in Appendix G of the CEQA Guidelines.
- d) A Draft Mitigated Negative Declaration (MND) for PLN100396 was prepared in accordance with CEQA and circulated for public review from January 3 through February 3, 2020 (SCH# 2020019005). No public comments were made to Monterey County RMA during the 30-day review period. However, County RMA did receive comments from the State of California Native American Heritage Commission. The Commission noted that there was no information relating to consultation with affiliated California tribes. RMA met with the OCEN representative on three (3) separate instances to discuss the project. Emergency work included import of soil that capped the native soils. This work has already been completed and no new mitigation is needed since no new soil disturbance is proposed. A condition requiring an easement over a portion of the southern edge of the property has been included in this permit.
- e) An archaeological reconnaissance was prepared for the project in September 2010. The project, approved under Emergency Permit PLN100394, was completed as designed at the time the survey was conducted. The survey contained two recommendations as mitigation measures: (1) The survey recommended that at least six (6) cultural artifacts should be recovered and sent to a lab for radiocarbon dating so that a better understanding of the history of the native cultures in the area. No artifacts were recovered during the implementation of the Emergency Permit. No soils were exported from the site. Soils were, however, imported to complete the project and to replace the soils that were carried to the sea from the flooding waters resulting from the storm events of 2009 and 2010; and (2). The imported soils are not native to the site. The survey recommended that a conservation easement be placed over the south eastern portions of the property to preserve any possible cultural artifacts that may be present in this location. The project is conditioned such that a conservation easement must be recorded on this portion of the site as described in the archaeological study (Condition 5).
- f) Staff analysis contained in the Initial Study and the record as a whole indicate the project did result in changes to the resources listed in Section 753.5(d) of the California Department of Fish and Game (CDFG) regulations. All land development projects that are subject to environmental review are subject to a State filing fee plus the County recording fee, unless the Department of Fish and Wildlife determines that the project will have no effect on fish and wildlife resources.

The Initial Study was sent to the California Department of Fish and Wildlife for review, comment, and to recommend necessary conditions to protect biological resources in this area. No comments were received from the Department during the comment period; however, the project did not receive a *no effect determination* (NED). Therefore, the project will be required to pay the State fee plus a fee payable to the Monterey County Clerk/Recorder for processing said fee and posting the Notice of Determination (NOD).

- g) Evidence that has been received and considered includes: the application, technical studies/reports (see Finding No. 2 / Site Suitability), staff reports that reflect the County's independent judgment, and information and testimony presented during public meetings and hearings. These documents are on file in the RMA-Planning Department (PLN100396) and are hereby incorporated herein by reference.
- h) The Monterey County Resource Management Agency, Planning Department, located at 1441 Schilling Place, 2nd Floor, Salinas, California, 93901, is the custodian of documents and other materials that constitute the record of proceedings upon which the decision to adopt the negative declaration is based.

# 12. FINDING:

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

**EVIDENCE:** 

- a) Board of Supervisors: Section 19.01.050.A of the Monterey County Subdivision Ordinance (Title 19 Coastal Zone) and Section 20.86.030 of the Monterey County Zoning Ordinance (Title 20) allow an appeal to be made to the Board of Supervisors by any public agency or person aggrieved by a decision of an Appropriate Authority other than the Board of Supervisors.
- b) Coastal Commission: Section 20.86.080.A.1, A.2, and A3 of the Monterey County Zoning Ordinance (Title 20). The project is subject to appeal by/to the California Coastal Commission because it involves development between the sea and the first through public road paralleling the sea and development that is permitted in the underlying zone as a conditional use.

# **DECISION**

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

- a) Adopt the Mitigated Negative Declaration;
- b) Approve a Combined Development Permit consisting of:
- 1. An after-the-fact Coastal Administrative Permit and Design Approval to allow construction of an approximately 30 foot tall, 130 foot long Hilfiker wall (terraced wall) to stabilize and repair a failing slope supporting an existing single family dwelling;
- 2. A Coastal Development Permit for the installation of drainage improvements including a drainage inlet, subterranean culvert system, and concrete check dams placed below the bank;

- 3. A Coastal Development Permit for development within 100 feet of environmentally sensitive habitat:
- 4. A Coastal Development Permit for development within 50 feet of a Coastal bluff;
- 5. A Coastal Development Permit for development on slopes exceeding 30 percent; and
- 6. A Coastal Development Permit for development within 750 feet of known archaeological resources; and
- c) Adopt a Mitigation Monitoring and Reporting Plan.

PASSED AND seconded by		•	-	-	tion of	
AYES:						
NOES:						
ABSENT:						
ABSTAIN:						
					John	Dugan, Secretary
COPY OF THIS D	DECISION MA	AILED TO APP	PLICANT ON	<b>1</b>	·	
THIS APPLICAT	ION IS APPE	ALABLE TO T	HE BOARD	OF SUPERVI	SORS.	
IF ANYONE WIS AND SUBMITTE FEE ON OR BEF	ED TO THE C	LERK OF THE				

THIS PROJECT IS LOCATED IN THE COASTAL ZONE AND IS APPEALABLE TO THE COASTAL COMMISSION. UPON RECEIPT OF NOTIFICATION OF THE FINAL LOCAL ACTION NOTICE (FLAN) STATING THE DECISION BY THE FINAL DECISION MAKING BODY, THE COMMISSION ESTABLISHES A 10 WORKING DAY APPEAL PERIOD. AN APPEAL FORM MUST BE FILED WITH THE COASTAL COMMISSION. FOR FURTHER INFORMATION, CONTACT THE COASTAL COMMISSION AT (831) 427-4863 OR AT 725 FRONT STREET, SUITE 300, SANTA CRUZ, CA.

This decision, if this is the final administrative decision, is subject to judicial review pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6. Any Petition for Writ of Mandate must be filed with the Court no later than the 90th day following the date on which this decision becomes final.

# **NOTES**

1. You may need a building permit and must comply with the Monterey County Building Ordinance in every respect.

Additionally, the Zoning Ordinance provides that no building permit shall be issued, nor any use conducted, otherwise than in accordance with the conditions and terms of the permit granted or until ten days after the mailing of notice of the granting of the permit by the appropriate authority, or after granting of the permit by the Board of Supervisors in the event of appeal.

Do not start any construction or occupy any building until you have obtained the necessary permits and use clearances from the Monterey County Planning Department and Building Services Department office in Salinas.

2. This permit does not expire since the work has already been done.

# Monterey County RMA Planning

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

PLN100396

## 1. PD001 - SPECIFIC USES ONLY

Responsible Department: RMA-Planning

Condition/Mitigation
Monitoring Measure:

This Combined Development Permit (PLN100396) consists of a Coastal Development Permit and Design Approval to allow 1) for the construction of an approximately 30 foot tall, 130 foot long Hilfiker wall (terraced retaining wall) to stabilize and repair a failing slope around an existing single family dwelling, 2) Coastal Development Permit for the installation of subterranean drainage improvements including a culvert and concrete check dams placed below the slope; 3) Coastal Development Permit for development within 100 feet of environmentally sensitive habitat: Development Permit for development within 50 feet of a Coastal bluff; 5) Coastal Development Permit for development on slopes exceeding 30 percent: 5) Coastal development within 750 feet of known Development Permit for archaeological resources. The property is located at 30650 Aurora Del Mar, Carmel (Unincorporated Highlands) (Assessor's Parcel Number 243-341-001-000), Big Sur Coast Plan/Land Use Plan. This permit was approved in accordance with County ordinances and land use regulations subject to the terms and conditions described in the project Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the RMA Chief of Planning. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. To the extent that the County has delegated any condition compliance or mitigation monitoring to the Monterey County Water Resources Agency, the Water Resources Agency shall provide all information requested by the County and the County shall bear ultimate responsibility to ensure that conditions and mitigation measures are properly fulfilled. (RMA -Planning)

Compliance or Monitoring Action to be Performed:

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

Print Date: 3/5/2020 5:16:05PM Page 1 of 3

## 2. PD002 - NOTICE PERMIT APPROVAL

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure:

The applicant shall record a Permit Approval Notice. This notice shall state:

"A Combined Development Permit (Resolution Number \_\_\_\_\_\_) was approved by the Monterey County Planning Commission for Assessor's Parcel Number 243-341-001-000 on April 8, 2020. The permit was granted subject to 5 Conditions of Approval which run with the land. A copy of the permit is on file with Monterey County RMA - Planning."

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

# 3. PD004 - INDEMNIFICATION AGREEMENT

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: The property owner agrees as a condition and in consideration of approval of this discretionary development permit that it will, pursuant to agreement and/or statutory provisions as applicable, including but not limited to Government Code Section 66474.9, defend, indemnify and hold harmless the County of Monterey or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees to attack, set aside, void or annul this approval, which action is brought within the time period provided for under law, including but not limited to, Government Code Section 66499.37, as applicable. The property owner will reimburse the County for any court costs and attorney's fees which the County may be required by a court to pay as a result of such action. The County may, at its sole discretion, participate in the defense of such action; but such participation shall not relieve applicant of his obligations under this condition. An agreement to this effect shall be recorded upon demand of County Counsel or concurrent with the issuance of building permits, use of property, filing of the final map, whichever occurs first and as The County shall promptly notify the property owner of any such claim, action or proceeding and the County shall cooperate fully in the defense thereof. the County fails to promptly notify the property owner of any such claim, action or proceeding or fails to cooperate fully in the defense thereof, the property owner shall not thereafter be responsible to defend, indemnify or hold the County harmless. (RMA - Planning Department)

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

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

Print Date: 3/5/2020 5:16:05PM Page 2 of 3

# 4. PD005 - FISH & GAME FEE NEG DEC/EIR

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure:

Pursuant to the State Public Resources Code Section 753.5, State Fish and Game Code, and California Code of Regulations, the applicant shall pay a fee, to be collected by the County, within five (5) working days of project approval. This fee shall be paid before the Notice of Determination is filed. If the fee is not paid within five (5) working days, the project shall not be operative, vested or final until the filing fees are paid. (RMA - Planning)

Compliance or Monitoring Action to be Performed:

Within five (5) working days of project approval, the Owner/Applicant shall submit a check, payable to the County of Monterey, to the Director of RMA - Planning.

If the fee is not paid within five (5) working days, the applicant shall submit a check, payable to the County of Monterey, to the Director of RMA - Planning prior to the recordation of the final/parcel map, the start of use, or the issuance of building permits or grading permits.

# 5. PD022(C) - EASEMENT-CONSERVATION AND SCENIC (COASTAL)

Responsible Department:

RMA-Planning

Condition/Mitigation **Monitoring Measure:** 

A conservation and scenic easement shall be conveyed to the County over those portions of the property where cultural resources and environmentally sensitive sensitive habitat exists in accordance with the procedures in Monterey County Code § A Subordination Agreement shall be required, where necessary. The 20.64.280.A. easement shall be developed in consultation with certified professional. deed shall be submitted to, reviewed and approved by the RMA Chief of Planning and the Executive Director of the California Coastal Commission, and accepted by the Board of Supervisors prior to recording the parcel/final map or prior to issuance of grading and building permits. (RMA - Planning)

Compliance or Monitoring Action to be Performed:

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

Prior to recording the parcel/final map or prior to issuance of grading and building permits, the Owner/Applicant shall submit a signed and notarized Subordination Agreement, if required, to RMA - Planning for review and approval.

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

Print Date: 3/5/2020 5:16:05PM Page 3 of 3

# RECOMMENDED GRADING SPECIFICATIONS FOR EARTHWORK

# ET:1 General Description:

- 1.1 This item shall consist of all clearing and grubbing; preparation of land to be filled; excavation and fill of the land; spreading, compaction and control of the fill; and all subsidiary work necessary to complete the graded area to conform with the lines, grades and slopes as shown on the approved plans.
- 1.2 The Contractor shall provide all equipment and labor necessary to complete the work as specified herein, as shown on the approved plans as stated in the project specifications.

1.2 De-siltation of runoff may take form of stilling basins, gravel berm, turf or vegetation screens, reforestation,

ER:1 General Description:

**EROSION CONTROL PLANNING** 

1.3 Retaining walls require a separate building permit.

2.1 The standard test used to define maximum densities of all compaction work shall be the A.S.T.M. D-1557, Moisture Density of Soils, using a 10-pound ram and 18-inch drop. All densities shall be expressed as a relative density in terms of the maximum density obtained in the laboratory by the foregoing standard procedure.

ER:2 Materials Storage:

- 2.2 In-place density shall be determined by Test Methods A.S.T.M. D-1556, Density of Soil In-Place by Sand Cone Method and D-2922, Density of Soil In-Place by Nuclear Method.
- 2.3 Pad elevations shall be certified ot 0.1 feet, prior to digging any footings or scheduling any inspections
- ET:3 Clearing, Grubbing and Preparing Areas To Be Excavated Or Filled:
- 3.1 All vegetable matter, irreducible material greater than 4 inches and other deleterious materials shall be removed from the areas in which grading is to be done. Such materials not suitable for reuse shall be disposed of as directed.

ER:3 Re-vegetation and Planting:

Recommended Seed Schedule is as follows: 40 pounds per acre of California Brome 15 pounds per acre of Blue Wild Rye

4 pounds per acre of Red Creeping Fescue 6 pounds per acre of Red Creeping

3.2 After the foundation for fill has been cleared, it shall be brought to the proper moisture content by adding water or aerating and compacting to a relative density of not less than 90% or as specified. The soils shall be tested to a depth sufficient to determine quality and shall be approved by the Soils Engineer for foundation purposes prior to placing engineered fill.

# ET 4 Materials

- 4.1 The material for engineered fill shall be approved by the Soils Engineer before commencement of grading operations. Any imported material must be approved for use before being brought to the site. The material used shall be free from vegetable matter and other deleterious materials.
- 4.2 Imported materials for engineered fill shall consist of non-expansive soil with maximum aggregate size of 4 inches, a PI less than 15 and/or a Cu greater than 4 and shall be approved by the Engineer.

# ET:5 Placing, Spreading and Compacting Fill Material:

5.1 The selected fill material shall be placed in layers which, when compacted, shall not exceed 6 inches in thickness. Each layer shall be spread evenly and shall be thoroughly mixed during the spreading to ensure uniformity of material in each layer. Fill shall be placed such that cross fall does not exceed 1 foot in 20 unless otherwise directed.

4.1 All erosion

ER:4 County

4.2 All erosion control measures shall conform with Monterey County Erosion Control Ordinance #2806.

control measures for grading shall be in place at the end of each working day between October 15

and April 15.

- 5.2 When fill material includes rock or concrete rubble, no irreducible material larger than 4 inches in greatest dimension will be allowed except under the direction of the Soils Engineer.
- 5.3 The moisture content of the fill material shall be maintained in a suitable range to permit efficient compaction. Engineer may require adding moisture, aerating, or blending of wet and dry soils. The Soils
- Each layer shall be compacted to a relative density of not less than 90% relative density or as specified in the soils report and on accepted plans. Compaction shall be continuous over the entire area of each layer.
- 5.5 Field density test shall be made by the Soils Engineer of each compacted layer. At least one test shall be made for each 500 cubic yards or fraction thereof, placed with a minimum of two tests per layer in isolated areas. Where a sheep-foot roller is used, the soil may be disturbed to a depth of several inches. Density tests shall be taken in compacted materials below the disturbed surface. When these tests indicate that the density of any layer of fill or portion thereof, is below the required density, that particular layer or portion shall be reworked until the required density has been obtained.
- 5.6 All earth moving and work operations shall be controlled to prevent water from running into excavated areas. shall be promptly removed and the site kept dry. All such water
- 5.7 Cut and fill slopes steeper than two horizontal to one vertical must be approved by the soils engineer

# ET:6 Seasonal Limits:

When the work is interrupted by rain, fill operations shall not be resumed until field tests by the Soils Engineer indicate that the sture content and density of the fill is as previously specified and soils to be placed are in suitable condition.

DRAIN,

AGE

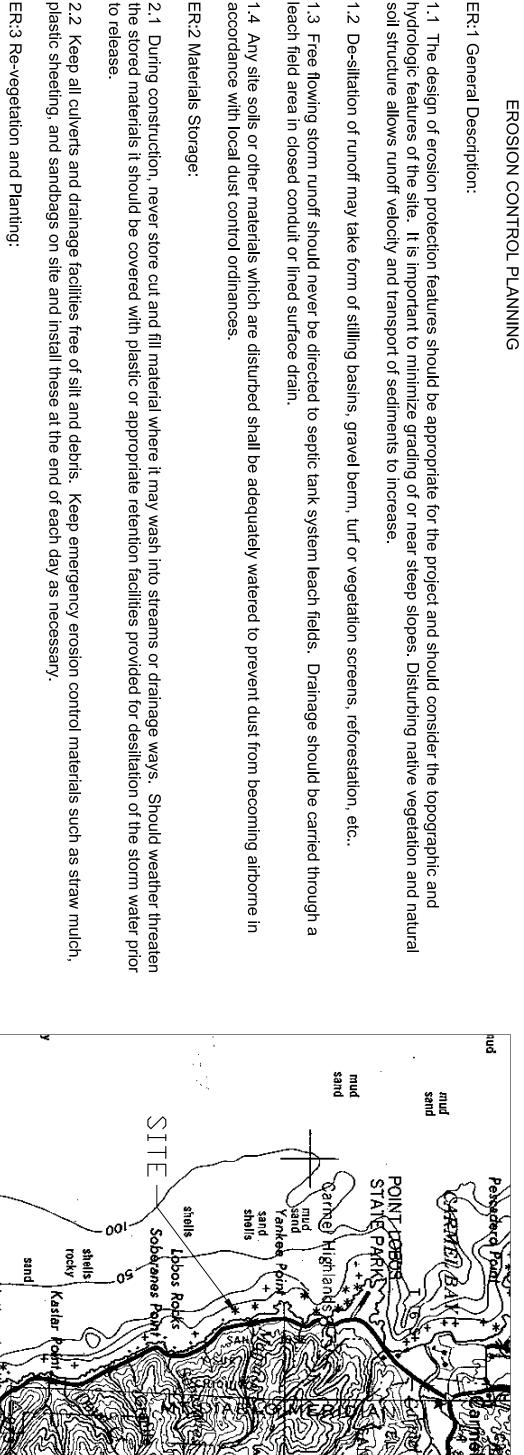
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# ET:7 Unusual Conditions:

7.1 In the event that any unusual conditions are encountered during grading operations which are not covered by the soil investigation or the specifications, the Soils Engineer shall be immediately notified such that additional recommendations may be

# ET:8 County

- A copy of all compaction tests and final grading reports shall be submitted to the County prior to scheduling any inspections
- 8.2 All grading shall conform with the Monterey County Grading Ordinance #2535.
- 8.3 The Soils Engineer shall inspect the building pad and foundation excavations & submit written approval to the building inspection before requesting foundation inspection and pouring of any footings.



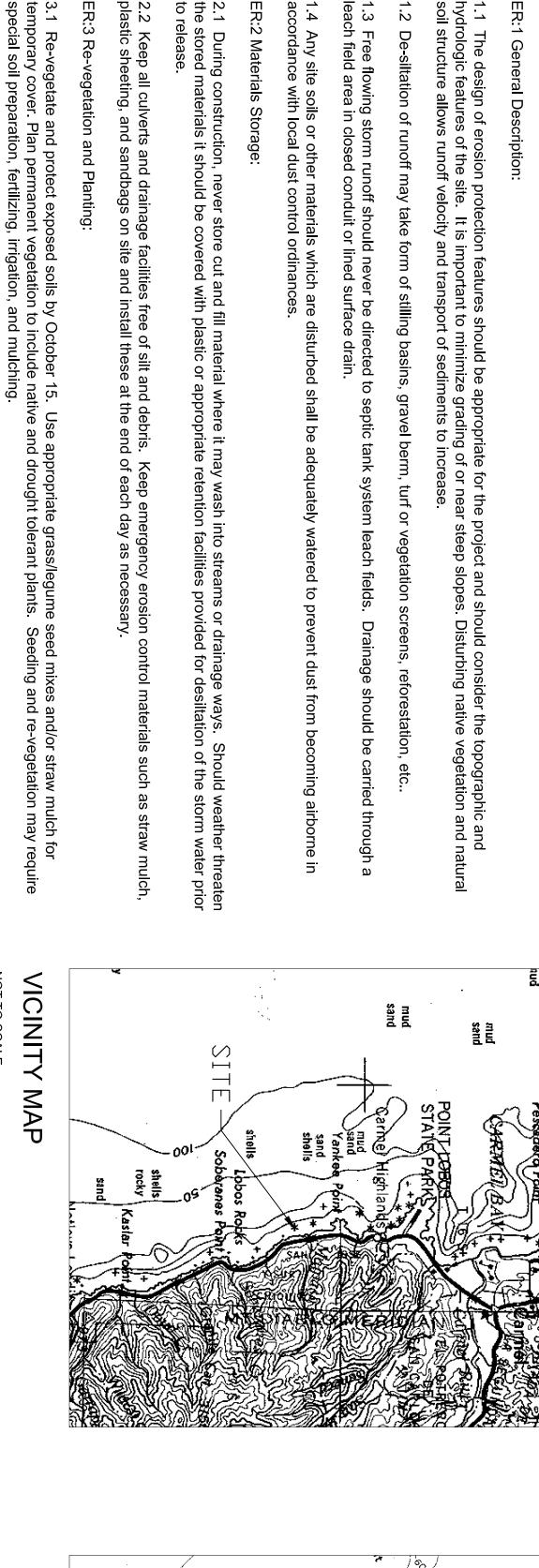
NOT TO SCALE

# SCOPE OF WO RX:

retaining structure and drainage system around residence the West and South facing areas of existing Work is to include the construction of new Hilfiker

3.2 In the absence of a detailed Erosion Control Plan, the work will be protected in accordance with the appropriate ordinance, regulation and/or standard practice which ever provides satisfactory erosion protection.

3.3 Actual grading shall begin within 30 days of vegetation removal or the area shall be planted to control erosion



# NOT TO SCALE LOCATION MAP

# **GRADING BALANCE**

TOTAL IMPORT	TOTAL EXCESS	TOTAL FILL	TOTAL CUT
II	П	Ш	П
50 CUBIC YARDS	0 CUBIC YARDS	330.0 CUBIC YARDS	280.0 CUBIC YARDS

PLACED ON SITE AT OWNERS DIRECTION AS ENGINEERED FILL. 15% SHRINKAGE FACTOR UTILIZED. **EXPORT** TO BE REMOVED FROM SITE OR

# INDEX

SPECIFICATIONS TITLE SHEET AND

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RESIDENCE

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- C-2 SITE PLAN SITE PLAN - DRAINAGE LAYOUT
- C-3 **BASKET CROSS - SECTION**
- C-4 BASKET CROSS -**SECTION**
- HILFIKER BASKET
- INSTALLATION DETAILS
- PROPERTY LINE 144.31' C-6 **EROSION CONTROL PLAN**

# JHR TRUST PROJECT OWNER:

REVISION DATES

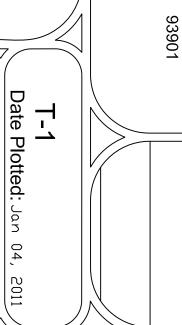
800 S. CLAREMONT ST. SUITE 201 SAN MATEO, CALIFORNIA 944021

# SHARP ENGINEERING AND CONSTRUCTION, INC. 26008 PUERTA DEL CAJON MONTEREY. CALIFORNIA PROJECT CONTRACTOR:

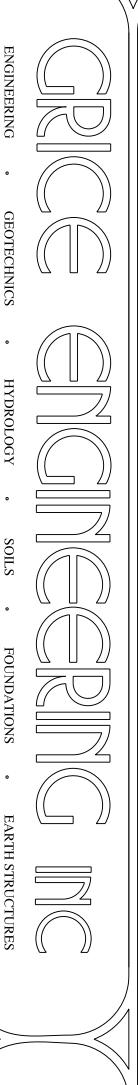
EASEMENT

SALIAD

42.01° GEOTECHNICAL ENGINEER:
GRICE ENGINEERING, INC.
561A BRUNKEN AVENUE
SALINAS, CALIFORNIA 93901 PROJECT CIVIL AND (831)915-9124 FAX (831) 319-0310



(831) 422-9619



JHR TRUST 800 S. CLAREMONT ST. SUITE 201 SAN MATEO,CALIFORNIA 944021

OT VALID WITHOUT STAMP AND SIGNATURE

REPARED FOR

TTER

HOUSE

PLAN VIEW

OTTER CARMEI TITLE AS-BUILT IMPROVEMENT PLANS HOUSE - OTTER COVE 30650 AURORA DEL L HIGHLANDS, CALIFORNIA. AND SPECIFICATIONS

Date Plotted: Jan

MAR,

OTTER HOUSE FILE NO. 5531-10.01

