

Attachment B

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When recorded return to:
COUNTY OF MONTEREY HOUSING
AND COMMUNITY DEVELOPMENT
DEPARTMENT - PLANNING
Attn: **MARY ISRAEL**
1441 Schilling Pl, South 2nd Floor
Salinas, CA 93901
(831) 755-5025

Space above for Recorder's Use

Owner Name: 5B SMD, LLC, a California
limited liability company
Permit No.: PLN210066-AMD1
Resolution No.: 23-056
APN: 008-261-003-000
Project Planner: Mary Israel

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
☒ Exempt from transfer tax,
Reason: Transfer to a governmental entity

Signature of Declarant or Agent

CONSERVATION AND SCENIC EASEMENT DEED (DEL MONTE FOREST - COASTAL)

THIS DEED made this 12th day of October, 2023, by and between
5B SMD, LLC, a California limited liability company as Grantor, and the DEL
MONTE FOREST CONSERVANCY, a California non-profit corporation, as Grantee, on
behalf of the County of Monterey (hereinafter "County")

WITNESSETH:

WHEREAS, said 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 of said Grantor has certain natural scenic beauty and
existing openness; and

WHEREAS, the Grantor and the Grantee desire to preserve and conserve for the public benefit the great natural scenic beauty and existing openness; natural condition and present state of use of the Property of the Grantor; and

WHEREAS, the California Coastal Act of 1976, (hereinafter referred to as the "Act") requires that any coastal development permit approved by the County must be consistent with the provisions of the certified Local Coastal Program (LCP); and

WHEREAS, pursuant to the Act, and the LCP, Grantor applied to the County for a permit to undertake development as defined in the LCP; and

WHEREAS, a Minor and Trivial Amendment (File Number **PLN210066-AMD1**) (hereinafter referred to as the "Permit") was granted on **August 16, 2023** by the Monterey County **Chief of Planning** pursuant to the Findings, Evidence and Conditions contained in Resolution No. **23-056**, attached hereto as Exhibit "B" and hereby incorporated by reference, (hereinafter the "Resolution") subject to the following condition(s): **Condition #10 EASEMENT --A conservation and scenic easement shall be conveyed to the Del Monte Forest Conservancy over those portions of the property where environmentally sensitive habitats, remnant native sand dune habitats, habitats of rare, endangered and sensitive native plants and animals, and visually prominent areas exist in accordance with the procedures in Monterey County Code § 20.64.280.A. The easement conveyance shall include funding adequate to ensure the management and protection of the easement area over time. The easement shall be developed in consultation with a certified professional and the Del Monte Forest Conservancy Inc. A Subordination Agreement shall be required, where necessary. These instruments shall be subject to approval by the County as to form and content, shall provide for enforcement, if need be, by the County or other appropriate agency, and name the County as beneficiary in event the Conservancy is unable to adequately manage these easements for the intended purpose of scenic and visual resource protection. An easement deed shall be submitted to, reviewed, and approved by the Director of HCD - 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.**

WHEREAS, the specific resources being protected are coastal dune scrub habitat which is considered Environmentally sensitive habitat; and

WHEREAS, the County, acting on behalf of the People of the State of California and pursuant to the Act, and in accordance with the findings contained in the Resolution granted the Permit to the Grantor upon condition (hereinafter the "Condition") described above requiring inter alia, that the Grantor record a conservation and scenic easement (hereinafter "easement") affecting a portion of the Property as shown in Exhibit "C" attached hereto and hereby incorporated by reference (the "Conservation and Scenic Easement Area"), and agree to restrict development on and use of the Property so as to preserve the open space, scenic, and/or natural resource values present on the Property and so as to prevent the adverse direct and cumulative effects on coastal resources and public access to the coast which could occur if the Property were not restricted in accordance with this easement; 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 certified Local Coastal Program 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 so as to enable Grantor to undertake the development authorized by the Permit; and

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

WHEREAS, the said Grantor is willing to grant to the Del Monte Forest Conservancy the conservation and scenic use as herein expressed of the Property, and thereby protect the present scenic beauty and existing openness by the restricted use and enjoyment of the Property by the Grantor through the imposition of the conditions hereinafter expressed;

NOW, THEREFORE, the Grantor does hereby grant and convey unto the Del Monte Forest Conservancy on behalf of the County of Monterey an estate, interest, and Conservation and Scenic Easement Area of the nature and character and to the extent hereinafter expressed, which estate, interest, and easement will result from the

restrictions hereby imposed upon the use of said Property by said Grantor, and to that end and for the purposes of accomplishing the intent of the parties hereto, said Grantor covenants on behalf of itself, its heirs, successors, and assigns, with the said Grantee, its successors and assigns, to do and refrain from doing severally and collectively upon the Grantor's Property the various acts hereinafter mentioned.

A. PROPERTY SUBJECT TO EASEMENT. The portion of Property of the Grantor hereinabove referred to and to which the provisions of this instrument apply is situated in the County of Monterey, State of California, and is particularly described and depicted in Exhibit "C", attached hereto, and made a part hereof, and is the Conservation and Scenic Easement Area (as previously defined). Angle points of easement boundaries shall be permanently marked or monumented with surveyors' pipe or similar prior to commencement of grading so that the Conservation and Scenic Easement Area can be easily identified both during and after construction.

B. RESTRICTIONS. Except as otherwise provided herein, the restrictions hereby imposed upon the use of the Conservation and Scenic Easement Area by the Grantor and the acts which said Grantor shall refrain from doing upon the Conservation and Scenic Easement Area in connection herewith are, and shall be, as follows:

1. That no structures will be placed or erected upon said Conservation and Scenic Easement Area, except structure(s) for utilities located in the southwest corner of the parcel, where a transformer box is now, as shown in Figure 3 of the Restoration Plan, HCD Library Document LIB210109.
2. That no advertising of any kind or nature shall be located on or within the Conservation and Scenic Easement Area, without exceptions.
3. That the Grantor shall not plant nor permit to be planted any vegetation upon the Conservation and Scenic Easement Area, except plants native to Asilomar Dune complex and, where appropriate, Cypress habitat found in the Del Monte Forest and approved by the County and the Grantee. Periodic efforts to control invasive non-native plants within the easement area are encouraged. No Exceptions.
4. That, except for the construction, alteration, relocation and maintenance of public roads, public and private pedestrian trails, and restoration of graded areas, the general topography of the landscape shall be maintained in its present condition and no excavation or topographic changes shall be made.

5. That no use of the Conservation and Scenic Easement Area which will or does materially alter the landscape or other attractive scenic features of said Property other than those specified above shall be done or suffered.

6. 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 of the materials and specifications for proposed grading and construction within and immediately adjacent to the Easement area. An advance notice is required from Grantor to Grantee whenever maintenance or construction activities will occur within or immediately adjacent to the Easement.

C. EXCEPTIONS AND RESERVATIONS. The following are excepted and reserved to the Grantor with the understanding that the purpose of the easement is to preserve to the most feasible extent the Asilomar Dune habitat and the natural vegetation and topography and that all exceptions and reservations of Grantor shall minimize disturbance to these features using the best available technologies and practices to be implemented consistent with the objectives, purposes and conditions of this easement in consultation with Grantee:

1. The right to maintain all existing private roads, bridges, trails and structures upon the Conservation and Scenic Easement Area, and the right to allow utility companies to maintain the transformer box and related utilities.

2. The use and occupancy of the Conservation and Scenic Easement Area not inconsistent with the conditions and restrictions herein imposed.

3. Management of vegetation within the Conservation and Scenic Easement Area in accordance with the Restoration Plan (HCD Library Document LIB210109) approved with the Permit on file with Monterey County HCD-Planning.

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

E. BENEFIT AND BURDEN. This grant of conservation and scenic easement shall run with and burden the Property, 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 Property from the date of recordation of this document and shall bind the Grantor and all of its

successors and assigns. This grant shall benefit the Del Monte Forest Conservancy on behalf of the County of Monterey and its successors and assigns forever. This grant shall further benefit the County of Monterey in the event that the Del Monte Forest Conservancy is unable to adequately manage the conservation and scenic easement for the intended purpose of scenic and visual resource protection.

F. RIGHT OF ENTRY. The Grantee or its agent may enter onto the Property to ascertain whether the use restrictions set forth above are being observed at times reasonably acceptable to the Grantor. The public may not enter onto the Property.

G. 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 and Scenic Easement Area contrary to the terms of this grant of easement will be deemed a breach hereof. The Grantee or the County may bring any action in court necessary to enforce this grant of easement, 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 grant of easement 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.

H. MAINTENANCE. The Grantee or the County shall not be obligated to maintain, improve, or otherwise expend any funds in connection with the Property or any interest or easement created by this grant of easement. All costs and expenses for such maintenance, improvement use, or possession shall be borne by the Grantor, except for costs incurred by Grantee or the County for monitoring compliance with the terms of this easement.

I. LIABILITY AND INDEMNIFICATION. This conveyance is made and accepted upon the express condition that the Grantee, the County, and their agencies, departments, officers, agents, and employees 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 of the Grantee or the County, while in, upon, or in any way connected with the Property, Grantor hereby covenanting and agreeing to indemnify and hold harmless the Grantee, the County, and their agencies, departments, officers, agents, and employees from all liability, loss, cost, and obligations on account of or arising out of such injuries or losses however occurring. The Grantee and the County shall have no right of control over, nor duties and responsibilities with respect to the Property which would subject the Grantee or the County to any liability occurring upon the Property by virtue of the fact that the right of the Grantee to enter the Property or Conservation and Scenic Easement Area is strictly limited to preventing uses inconsistent with the interest granted, the Property is not "property of a public entity" or "public property," and Grantee's rights herein do not include the right to enter the Property or Conservation and Scenic Easement Area for the purposes of correcting any "dangerous condition" as those terms are defined by California Government Code Section 830.

J. 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.

K. CONSTRUCTION OF VALIDITY. If any provision of this conservation and scenic easement is held to be invalid or for any reason becomes unenforceable, no other provision shall be thereby affected or impaired.

Executed this 12 day of OCTOBER 2023, at KEFEITHUN, California. 10410

5B SMD, LLC, a California limited liability company

By:

(Signature)
By: Chris R Stephens, President
5B Investments, Inc., Manager
(Print or Type Name and Title)

By:

(Signature)

(Print or Type Name and 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.

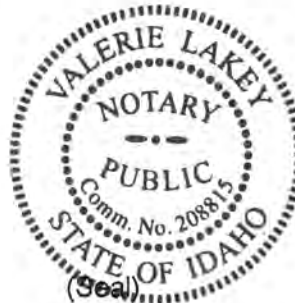
STATE OF CALIFORNIA)
) ~~IDAHO~~) SS.
COUNTY OF ~~MONTEREY~~)
) ~~BLAINE~~)

On October 12, 2023 before me, Valerie Lakey, a
Notary Public, personally appeared Chris R. Stephens, 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 Valerie Lakey



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 _____ before me, _____, a
Notary Public, personally appeared _____, 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)

ACCEPTANCE AND CONSENT TO RECORDATION

This is to certify that the interest in real property conveyed by the deed or grant dated **August 16, 2023** from **5B SMD, LLC, a California limited liability company** to the County of Monterey, a political corporation and/or governmental agency is hereby accepted by order of the Board of Supervisors on _____, (or by the undersigned officer or agent on behalf of the County of Monterey pursuant to authority conferred by resolution of the Board of Supervisors adopted on _____,) and the grantee consents to recordation thereof by its duly authorized officer.

DATED: _____

Luis Alejo
Chair, Monterey County Board of Supervisors

ATTEST:

DATED: _____

Valerie Ralph
Clerk of Said Board

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 _____ before me, _____, a
Notary Public, personally appeared _____, 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:
Leslie J. Girard, County Counsel

By: _____

DATED: 10-26-23

Type/Print Name: Robert I. Brayer, Deputy County Counsel

**CONSERVATION AND SCENIC EASEMENT DEED
SIGNATURE CONTINUATION PAGE**

GRANTEE:

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

DEL MONTE FOREST CONSERVANCY, INC.

A Nonprofit California Corporation

By: _____

Dated: _____

Print Name: _____

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 _____ before me, _____, a
Notary Public, personally appeared _____, 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)

EXHIBITS TO BE ATTACHED TO:

CONSERVATION AND SCENIC EASEMENT DEED

1. **EXHIBIT "A":** Full legal description of the entire property for which a Development Permit was granted. The legal description may be obtained from a grant deed or title report for the property. A parcel number will not be accepted as a legal description.
2. **EXHIBIT "B":** A copy of Monterey County Resolution granting the Development Permit.
3. **EXHIBIT "C":** An official surveyor's map, parcel map or plot plan, accompanied by a metes and bounds description, prepared by a licensed surveyor, showing the exact location of the easement on the property.

Exhibit A

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EXHIBIT "A"

Legal Description

For APN/Parcel ID(s): 008-261-003

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE UNINCORPORATED AREA IN COUNTY OF MONTEREY, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

Beginning at a point distant 40 feet South 75° 16' East from monument 4103, as said monument is delineated and so designated on that certain map entitled, "Licensed Surveyor's Map of El Pescadero and Point Pinos Ranchos", etc., filed for record January 12, 1922, in Volume 3 of Surveys at Page 3, Records of Monterey County, California; and running thence

(1) Northerly along the arc of a circular curve to the right (the center of which bears South 75° 16' East 360 feet distant) for a distance of 58.71 feet, through a central angle of 9° 20' 40" to a point of compound curvature; thence

(2) Tangentially Northeasterly along the arc of a circular curve to the right (the center of which bears South 65° 55' 20" East 164.25 feet distant) for a distance of 183.25 feet, through a central angle of 63° 55' 20": to a point of reverse curvature; thence

(3) Tangentially Easterly along the arc of a circular curve to the left (the center of which bears North 2° 00' West 360 feet distant) for a distance of 65.74 feet, through a central angel of 10° 27' 45"; thence

(4) South 6° 45' West 318.32 feet; thence

(5) North 81° 40' 45" West 226.05 feet; thence

(6) North 14° 44' East 126.86 feet for the point of beginning, and being a portion of Rancho El Pescadero, Monterey County, California.

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Exhibit B

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EXHIBIT B

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

In the matter of the application of:

5B SMD LLC (PLN210066-AMD1)

RESOLUTION NO. 23-056

Resolution by the County of Monterey Chief of Planning:

1. Finding that the project qualifies for Class 1, Class 3, and Class 33 Categorical Exemption pursuant to Sections 15301(l), 15303(a), and 15333 of the CEQA Guidelines and there are no exceptions pursuant to Section 15300.2; and
2. Approving a Minor and Trivial Amendment to a previously approved Combined Development Permit (PLN210066; Planning Commission Resolution No. 23-001) that allowed demolition of a 3,446 square foot one-story single-family dwelling with a detached 558 square foot garage, construction of a 6,590 square foot two-story single-family dwelling with an attached 1,400 square foot garage and mechanical room, development within 100 feet of Environmentally Sensitive Habitat Area, development within 750 feet of a known archaeological resource, and ridgeline development. The Amendment would clarify the existing “developed area” as 12,170 sq. ft. and proposed “development area” as 12,047 sq. ft. and increase dune habitat restoration to the remainder of the property.

[PLN210066-AMD1 – 5B SMD LLC, 3141 17 Mile Drive, Pebble Beach, Del Monte Forest Land Use Plan (APN: 008-261-003-000)]

The 5B SMD LLC Minor and Trivial Amendment (PLN210066-AMD1) came on for a public hearing before the Monterey County Chief of Planning on August 16, 2023. Having considered all the written and documentary evidence, the administrative record, the staff report, and other evidence presented, the Monterey County Chief of Planning finds and decides as follows:

FINDINGS

1. **FINDING:** **PROCESS** – The County has received and processed a Minor and Trivial Amendment to a previously approved Combined Development Permit (HCD-Planning File No. PLN210066; Planning Commission Resolution No. 23-001).

- EVIDENCE:**
- a) On June 6, 2023, an application for a Minor and Trivial Amendment (PLN210066-AMD1) was submitted to HCD-Planning staff.
 - b) On January 11, 2023, the Monterey County Planning Commission approved PLN210066 for a Combined Development Permit consisting of 1) Coastal Administrative Permit and Design Approval to allow the demolition of a 3,446 square foot (sq. ft.) one-story single family dwelling with a 558 sq. ft. detached garage, and construction of a 6,590 sq. ft. two-story single family dwelling with an attached 1,400 sq. ft. garage and mechanical room; 2) Coastal Development Permit to allow development within 100 feet of Environmentally sensitive habitat area (remnant dune habitat); 3) Coastal Development Permit to allow development within 750 feet of a positive archaeological resource; and 4) Coastal Development Permit to allow ridgeline development. This approval included 18 conditions of approval (Planning Commission Resolution No. 23-001).
 - c) On February 9, 2023, the County sent a Final Local Action Notice to the California Coastal Commission. The Combined Development Permit application was appealed by the California Coastal Commission on February 22, 2023 due to inconsistencies with the Local Coastal Program. Prior to the appeal being scheduled before the Coastal Commission, the applicant notified the County and the Coastal Commission staff of their desire to modify certain portions of the project contested during the appeal. As a result, in coordination with Coastal Commission staff, County staff requested a withdrawal the Final Local Action Notice on May 4, 2023. Withdrawing the FLAN does not rescind the Planning Commission's approval of the original Combined Development Permit (PLN210066).
 - d) This Amendment will carry forward the 18 conditions of approval from the previous permit and, upon entitlement, be the operative permit.
 - e) Consideration of the subject request for a Minor and Trivial Amendment has been carried out pursuant to Title 20 section 20.76.115. Notice of this Amendment has been carried out pursuant to Title 20 section 20.76.115.A.
 - f) The findings and evidence from PLN210066 (Planning Commission Resolution No. 23-001) have been carried forward to this permit amendment, PLN210066-AMD1.
 - g) The application, plans, and supporting materials submitted by the project applicant to Monterey County HCD-Planning for the proposed development found in Project File No. PLN210066 and PLN210066-AMD1.

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

- EVIDENCE:**
- a) The amended project has been reviewed for consistency with the text, policies, and regulations in:
 - 1982 Monterey County General Plan (General Plan);
 - Del Monte Forest Land Use Plan (DMF LUP);

- Monterey County Coastal Implementation Plan, Part 5, Regulations for Development in the Del Monte Forest Land Use Plan Area (DMF CIP); and
- CIP, Part 1, Monterey County Coastal Zoning Ordinance (Title 20).

No conflicts were found to exist that are not remedied through direction of the codes. The subject property is located within the Coastal Zone; therefore, the 2010 Monterey County General Plan does not apply.

- b) Allowed Use. The subject property is located at 3141 17 Mile Drive, Pebble Beach, Del Monte Forest Land Use Plan area (APN: 008-261-003-000). The subject parcel is zoned Low Density Residential with a maximum gross density of 1.5 acres/unit and a Design Control Overlay, Coastal Zone or “LDR/1.5-D(CZ)”. Per Title 20 section 20.14.040.A, a single-family dwelling is an allowed use, subject to the granting of a Coastal Administrative Permit. The amended project involves demolition of an existing 3,446 square foot single family dwelling and construction of a 6,590 square foot two-story single-family dwelling with an attached 1,400 square foot garage and mechanical room within the general footprint of the existing structure with restoration of sand dune habitat on the remainder of the parcel. Development within 750 feet of known archaeological resources, with 100 feet of Environmentally sensitive habitat area, and ridgeline development also allowed, subject to the granting of a Coastal Development Permit in each case. Therefore, the project is an allowed use.
- c) Amendment. The proposed Minor and Trivial Amendment (PLN210066-AMD1) to the previously approved Combined Development Permit (PLN210066) allows modification to the site plan and restoration area. The amended project reflects redesign recommendation received from the California Coastal Commission. The proposed Amendment to clarifies that the existing “developed area” is 12,170 square feet and the proposed “development area” is 12,047 square feet. The proposed Amendment also increases the previously approved project’s coastal scrub and dune habitat restoration to the remainder of the property. No changes to the previously approved demolition or rebuild of the single-family dwelling are proposed in this Amendment. The proposed Amendment would not intensify the overall use or have any impacts above what was already considered as part of the original project and approved pursuant to the Planning Commission Resolution 23-001. Approval of this Amendment allows demolition of a 3,446 square foot (sq. ft.) one-story single family dwelling with a detached 558 sq. ft. garage, construction of a 6,590 sq. ft. two-story single family dwelling with an attached 1,400 sq. ft. garage and mechanical room, development within 100 feet of Environmentally sensitive habitat area, development within 750 feet of a positive archaeological resource, ridgeline development, and restoration of the entire property’s coastal scrub and dune habitat.
- d) Lot Legality. The 1.7324 acre parcel (APN: 008-261-003-000), is shown in its current configuration and size as “Lot 37A” of the 1972

Assessor's Map of El Pescadero Ro., Block 151A, Book 8 Page 26. Therefore, the County recognizes the subject property as a legal lot of record.

- e) Design. The amended project is subject to the Design Control Zoning District ("D" district) standards contained in Title 20 Chapter 20.44, which is intended to regulate the location, size, materials and colors of the structures to assure protection of the public viewshed and neighborhood character. The development includes colors and materials consisting of gray non-reflective aluminum roofing, gray smooth stucco exterior walls, stone veneer and cedar wood siding accents, and black metal clad wood doors and windows (see attached colors and materials). Although the homes within the area have a variety of architectural styles, the design and architectural elements of the new residence are consistent with the neighborhood character and will not detract the visual integrity of the site. See Finding 5 and supporting evidence.
- f) Review of Development Standards. The LDR zoning district requires setbacks for main structures to be a minimum of 30 feet (front) and 20 feet (rear and side) and a maximum 30-foot height limitation. The subject property is a corner lot that fronts along two roads, 17-Mile Drive and Signal Hill Road. In accordance with DMF CIP Section 20.147.070.B.13, the setback from 17 Mile Drive is 100 feet whereas the front from Signal Hill Road is 30 feet. The newly constructed single family dwelling and attached garage is sited to exceed the minimum required front and side setbacks and while meeting the rear setback of 20 feet. As illustrated in the attached plans, the height of the new two-story single family dwelling will be at 27 feet and 1 inch. To confirm the project setbacks align with County regulations, HCD-Engineering Services applied a condition of approval (No. 17) requiring a boundary survey prior to foundation setting which requires a professional land surveyor provide evidence to the County Surveyor of conformance to the setbacks shown on the approved Site Plan. The maximum building site coverage in the LDR district is 15% (or 8,649 square feet) and floor area ratio is 17.5% (or 10,090 square feet). In accordance with the attached plans, the amended project will result in 13.5% (7,795 square feet) building site coverage and a floor area ratio of 14.8% (7,990 square feet). The amended project meets the building site coverage and floor area ratio regulations. As summarized above, the project complies with the development standards listed within this zoning district per Title 20 Section 20.14.060.
- g) Environmentally Sensitive Habitat. As demonstrated in Finding 4, the amended project is designed to avoid impacts to environmentally sensitive habitat areas (ESHA) on the parcel and through voluntary restoration of all other areas of dune habitat, the amended project is consistent with the ESHA policies and regulations within the DMF LUP and CIP.
- h) Visual Resources/Ridgeline Development. As demonstrated in Finding 5, the amended project is located and designed to avoid significant adverse impacts on public views and scenic character of the area.

- i) Cultural Resources. The amended project site is mapped as a high archaeological sensitive area and as demonstrated in Finding 6, the project has been found compatible with the objective of the DMF LUP Cultural Resources Key Policy.
- j) Public Access. As demonstrated in Finding 8, the development is consistent with public access policies of the DMF LUP and CIP.
- k) Land Use Advisory Committee (LUAC) Review. In accordance with the LUAC procedure guidelines adopted by the Monterey County Board of Supervisors, the original project (PLN210066) was referred to the Del Monte Forest LUAC for review and recommendation to the decision makers. On the September 16, 2021, the LUAC held a duly noticed meeting and the applicant presented revised plans which reduced the massing and roofline heights. The LUAC unanimously recommended the original project for approval (8 ayes, 0 noes) provided that staff confirms that the project complies with the County's ridgeline development requirements. As demonstrated in Finding 5, ridgeline development cannot be avoided, and the project has been designed to avoid a substantial adverse visual impact. The proposed Amendment retains the previously approved single family dwelling design and massing and therefore was not referred back to the LUAC.
- l) The application, plans and supporting materials submitted by the project applicant to Monterey County HCD-Planning for the proposed development are found in Project File Nos. PLN210066 and PLN210066-AMD1.

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

- EVIDENCE:**
- a) The project includes the demolition and construction single family dwelling and the continuance of the established use within an existing residential neighborhood. The project was reviewed by HCD-Planning, HCD-Engineering Services, HCD-Environmental Services, Pebble Beach Community Services District and the Environmental Health Bureau. There has been no indication from these departments/agencies that the site is not suitable for the proposed development. Conditions recommended have been incorporated.
 - b) Potential impacts to forest, biological, archaeological and historical resources as well as hazards relative to soil/slope stability were identified. The following reports have been prepared and submitted with the application:
 - Restoration Plan (LIB230155) prepared by Patrick Regan, Regan Biological & Horticultural Consulting, Carmel Valley, CA on May 1, 2023 and amended on July 7, 2023.
 - Biological Assessments (LIB210109) prepared by Patrick Regan, Regan Biological & Horticultural Consulting, Carmel Valley, CA on February 20, 2021 and May 6, 2021.
 - Tree Assessment/Forest Management Plan (LIB210107) prepared by Frank Ono, Salinas, CA with revisions on June 30, 2021.
 - Preliminary Cultural Resources Report and Phase II Archaeological Assessment (LIB210108) prepared by Susan

Morley, Marina on March 20, 2021 and October 2022, respectively.

- Historical Assessment (LIB210111) prepared by Anthony Kirk, Santa Barbara, CA on October 19, 2020.
- Geotechnical Report (LIB210110) prepared by Grice Engineering, Inc., Salinas on April 28, 2021.

County staff independently reviewed these reports and concurs with their conclusions. There are no further physical or environmental constraints that would indicate that the site is not suitable for the use proposed. Implementation of Condition No. 9 requires that all development associated with this amended project shall be in accordance with these reports.

- c) The application, plans and supporting materials submitted by the project applicant to Monterey County HCD-Planning for the proposed development are found in Project File Nos. PLN210066 and PLN210066-AMD1.

4. FINDING: **HEALTH AND SAFETY** – The establishment, maintenance, or operation of the amended 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 HCD-Planning, HCD-Engineering Services, HCD-Environmental Services, Pebble Beach Community Services District and the Environmental Health Bureau. Conditions have been recommended, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood.
 - b) Necessary public facilities are existing on the subject property. California American Water Company is the domestic water purveyor and wastewater services are provided by Carmel Area Wastewater District through the Pebble Beach Community Services District. The project is not expected to require additional water credits because the water fixture count is balanced between the existing and those required by the replacement single family dwelling to require the same total unit count. Therefore, both potable water and wastewater services can serve the project.
 - c) Preliminary civil plans were not processed as a part of the planning permit but for the construction permit, the applicant will be required to comply with erosion control regulations as outline in Chapter 16.12. HCD-Engineering Services reviewed the project submittal which included a Construction Management Plan (CMP). Although most of the roads in the Pebble Beach area are private roads, HCD-Engineering Services reviewed potential increased traffic on the public roads that will need to be taken to get to the project site in Pebble Beach. Implementation of the CMP will minimize traffic on public roads.
 - d) The application, plans, and supporting materials submitted by the project applicant to Monterey County HCD-Planning for the

proposed development found in HCD-Planning File Nos. PLN210066 and PLN210066-AMD1.

5. **FINDING:** **ENVIRONMENTALLY SENSITIVE HABITAT AREA** – The project minimizes impacts on environmentally sensitive habitat areas (ESHA) in accordance with the applicable goals and policies of the 1982 Monterey County General Plan (1982 GP) and Del Monte Forest Land Use Plan (DMF LUP) as well as the regulations contained in the Monterey County Coastal Implementation Plan, Part 5 (DMF CIP) and Part 1 (Title 20).
- EVIDENCE:**
- a) Identification of ESHA. DMF LUP Policy 8 states that development adjacent to ESHA shall be compatible with long-term maintenance of the habitat area, and such land use and development shall be sited and designed to prevent impacts that would significantly degrade the habitat areas. In accordance with DMF CIP Section 20.147.040.B.1, biological assessments (see Finding 3, Evidence “b”) were submitted with the amended project application. These reports identified that the subject property is located within the southern terminus of the Asilomar Dunes complex and contains Dune scrub and Monterey Cypress woodland habitat, which are both natural plant communities considered ESHA. The majority of the site has been heavily invaded by ice plant. However, there are localized areas that contain intact habitat. Pursuant to Title 20 Section 20.14.030.E, the original project (PLN210066-AMD1) required a Coastal Development Permit because it is within 100 feet of identified ESHA. This Amendment proposes an increased restoration area in accordance with applicable DML LUP and CIP section. No additional impacts to ESHA are proposed.
 - b) Special Status Plant Species. On February 8, 2020, the project biologist, Patrick Regan, conducted a site visit and noted that the property could potentially support several rare, threatened or endangered plant species. On April 29, 2021, during the appropriate blooming period, Regan revisited the site to confirm or deny the presence or absence of Beach Layia (*Layia carnosa*), Tidestrom’s lupin (*Lupinus tidestromii*), Monterey Spineflower (*Chorizanthe pungens* var. *pungens*), and Menzies wallflower (*Erysimum menziesii* ssp. *menziesii*). In order to confirm these species could be identified on the site, Regan first visited nearby locations where they are known to be present; 3 out of the 4 were observed. Regan surveyed the building pad, surrounding dune features and the property boundaries. The species listed above were not present onsite and no new species were identified.
 - c) Special Status Animal Species. Regan noted that the Northern California legless-lizard (*Anniella pulchra*) and Smith’s blue butterfly (*Euphilotes enoptes smithi*) may nest, occupy or forage on the property. After his site visits, Regan concluded that the host plant for the Smit’s blue butterfly, sea cliff buckwheat (*Eriogonum parvifolium*), is located approximately 600 feet from the development on an adjacent property. As such, impacts from the project would be low. On the other hand, protective fencing should be installed prior to

site disturbance to ensure accidental impacts to the Northern California legless-lizard do not occur.

- d) Compatibility with ESHA Requirements of Del Monte Forest. The amended project is located on approximately the same footprint as the existing development and does not expand significantly into any area considered ESHA. A small portion of the house, the driveway, walkways and retaining walls will encroach into previously graded and ecologically degraded habitat resulting from the creation of the building pad and installation of ornamental landscaping in 1956 as well as the unfortunate invasion of the dense non-native ice plant mats. One small area of the upper floor cantilevers over sand dune but does not impact it. The Plan sheet A1.2A entitled “Outdoor Use Area Calculations” attached to this resolution illustrates that the development coverage as it relates to ESHA would include the proposed house and garage, a driveway and motorcourt, and three small patio areas. The amended project clarifies existing “developed area” as 12,170 square feet and proposed “development area” as 12,047 square feet on the subject parcel. Therefore, as proposed, the project will reduce the site’s development coverage and allow for greater restoration efforts to be made. Consistent with the development standards listed in DMF CIP Section 20.147.040.C.1 and 2, Regan recommends installation of protection fencing prior site disturbance and removal of ice plant. The recommendations of Regan’s reports have been incorporated in the amended project through Condition No. 9, which requires all development occur in accordance with the reports’ recommendations. Standard conditions requiring installation of tree and root protection (Condition No. 6), grading and easement staking (Condition No. 12), and conducting a migratory bird nesting survey (Condition No. 14) have also been incorporated. Furthermore, as amended, the remainder of the parcel shall be included in the sand dune habitat restoration and maintenance project. Therefore, the project is consistent with the DMF LUP and CIP biological resource policies and regulations and the development would not cause negative impacts to ESHA.
- e) Voluntary Restoration. Although removal of ESHA is avoided, the amended project includes voluntary rehabilitation of degraded habitat on the remainder of the parcel. The updated Restoration Plan (as attached to this resolution) identifies the restoration areas which would result in approximately 44,908 square feet of restored coastal dune on the subject property and approximately 8,500 square feet of restoration in the Right-of-Way bounding the property. Regan concludes that the plan’s restoration activities would encourage the germination and recovery of native dune species. Condition No. 15 required submittal of evidence of successful restoration from a qualified biologist prior to final inspection of construction permits. Condition No. 16 requires the owner/applicant to receive approval and install landscape planting consistent with restoration plan, biological resource policies and regulations for Del Monte Forest.
- f) Conservation Easement. DMF LUP Policy 13 and DMF CIP Section 20.147.040.C.3.b requires the protection of ESHA through permanent open space conservation and scenic easement (CSE) conveyed to the

Del Monte Forest Foundation (DMFF). As such, Condition No. 10 has been incorporated requiring the owner applicant convey the areas outside of the approved development footprint to the DMFF through a CSE deed. The conveyance will allow maintenance of existing intact ESHA as well as the restored areas discussed in Evidence “d” above. In addition, this easement area would be contiguous to existing areas conveyed over ESHA on adjacent parcels.

- g) The application, plans, and supporting materials submitted by the project applicant to Monterey County HCD-Planning for the proposed development found in HCD-Planning File Nos. PLN210066 and PLN210066-AMD1.

6. FINDING:

SCENIC AND VISUAL RESOURCES/RIGELINE

DEVELOPMENT – The project, as proposed and conditioned, is compatible with the existing scenic and visual resources of Del Monte Forest and is consistent with the applicable scenic and visual resource protection policies set forth in the Del Monte Forest Land Use Plan (DMF LUP) and the regulations contained in Monterey County Coastal Implementation Plan, Part 5 (DMF CIP) and Part 1 (Title 20). The ridgeline development, as proposed and conditioned, will not create a substantially adverse visual impact when viewed from a common public viewing area and no alternative location exists on the subject property which would allow a reasonable development without the potential for ridgeline development.

- EVIDENCE:**
- a) Identification of Viewshed. DMF LUP Figure 3 identifies that the subject property is within the public viewshed of 17-Mile Drive and Fanshell Beach. On December 23, 2022, staff confirmed that the subject property is visible from 17-Mile Drive and Fanshell Beach. Due to distance, topography and existing vegetation, only a portion of the site was observed from Seal Rock Beach.
- b) Identification of Ridgeline Development. On December 23, 2022, staff observed the existing visual conditions of the site as well as staking and flagging of the proposed development. The elevation of 17-Mile Drive roadway ranges from approximately 24 to 35 feet above sea level (ASL) whereas the building pad graded and leveled in 1956 ranges in from 138.3 to 141.5 feet ASL. Although both the existing and new development are sited greater than 100 feet from 17-Mile Drive, the existing topography and elevation difference is such that ridgeline development when viewed from 17-Mile Drive, Fanshell Beach and Seal Rock Beach cannot be avoided. Pursuant to Title 20 Section 20.66.010.C, previous Combined Development Permit included a Coastal Development Permit to allow ridgeline development. This Amendment does not alter the previously approved ridgeline development.
- c) Compatibility with Scenic and Visual Resource Requirements of Del Monte Forest. DMF LUP Policy 48 states that development within visually prominent settings shall be sited and designed to avoid blocking or having a significant adverse impact on significant public views. This policy is implemented through DMF CIP Section 20.147.070.B which requires incorporation of development standards to ensure the siting and design of the structures minimizes impacts on

public views by harmonizing with the natural setting, being subordinate and blending into the environment and maintaining a minimum setback of 50 feet from such setting. Title 20 Section 20.06.1275 defines “substantial adverse visual impact” as “a visual impact which, considering the condition of the existing viewshed, the proximity and duration of view when observed with normal unaided vision, causes an existing visual experience to be materially degraded.” As described in Finding 2, Evidence “b” and “c” and as illustrated in the attached plans, redevelopment of the subject property will occur within the existing development footprint. When viewed from west, the primary 2nd story elements are clearstory windows topped with a metal fascia which extends from 4 to almost 7 feet above the first story. The remaining 2nd story elements is a section with an office, bedrooms, bathrooms and a sitting room located towards the east of the property, furthest away from the most visually sensitive portion of the site. When viewed from the west, this area extends above the 1st story by from approximately 9 to 11 feet. The architectural style incorporates flat roofing and wide elements evoking a low-lying horizontal structure. Avoiding vertical bulk and limiting the 2nd story elements results in avoiding an increased visual impact beyond what exists. Further, the exterior finish of the existing structure includes a white stucco body with a brown wooden roof, resulting in a clear contrast with the foreground and background. Conversely, and as described in Finding 2, Evidence “e”, the subdued colors and materials of the new structure will blend with the surrounding environment. The amended project is designed to be subordinate to and blend with the surrounding environment and neighborhood character and will not block significant public views of the beach, ocean or the dunes. To address visual impacts caused by glass reflexivity, implementation of Condition No. 8 requires incorporating all available materials and/or treatment options that reduce glare of the structure’s exterior windows. Therefore, the amended project would not result in a substantial adverse visual impact and is consistent with the DMF LUP policies and DMF CIP regulations for scenic and visual resources.

- d) Ridgeline Development and Substantially Adverse Visual Impact. Title 20 Section 20.06.950 defines “ridgeline development” as development on the “crest of a hill which has the potential to create a silhouette or other substantially adverse impact when viewed from a common public viewing area.” As described in preceding Evidence “b”, the existing and proposed development is considered ridgeline development from 17-Mile Drive, Fanshell Beach and Seal Rock Beach as portions of the structure would create a silhouette against the sky. However, findings allowing ridgeline development set forth in Title 20 Section 20.66.010.D can be made in this particular case. As demonstrated in Evidence “c” above, the project will not result in a substantial visual impact. As demonstrated in Evidence “b” above and Finding 4, ridgeline development cannot be avoided due to existing topography and site constraints relative to ESHA.
- e) The application, plans, and supporting materials submitted by the project applicant to Monterey County HCD-Planning for the

proposed development found in HCD-Planning File Nos. PLN210066 and PLN210066-AMD1.

- 7. FINDING: CULTURAL RESOURCES** – The siting, location, size and design of the development ensures that Del Monte Forest’s cultural resources are maintained, preserved, and protected.
- EVIDENCE:**
- a) Identification of Cultural Resources. In accordance with DMF LUP Policy 58 and DMF CIP Section 20.147.080.B, Archaeological Reports (see Finding 2, Evidence “b”) were submitted with the application. The reports identified that the entire subject property was methodically inspected for evidence of prehistoric or historic materials. The survey concluded that none of the indicators expected of a prehistoric archaeological or historical resource in this region were found and the closest prehistoric site is approximately 400 feet away from the subject property. Pursuant to DMF CIP Section 20.147.080.A.1, the previously approved Combined Development Permit included a Coastal Development Permit to allow development within 750 feet of a known archaeological resource. The proposed Amendment does not involve any additional work which would impact the known resource.
 - b) Compatibility with Cultural Resource Requirements of Del Monte Forest. A Phase I Archaeological Assessment was prepared March 2021. At that time, the project included a slab foundation and due to loose soils, extensive sub-excavation would be required. As such, the archaeologist recommended a pre-construction meeting with the demolition and construction crew and monitoring by an archaeologist and Tribal Cultural monitor. In April 2022, revised plans were prepared and submitted changing the foundation design to helical piers and grade beams resulting in limited grading (approximately 100 cubic yards (see Finding 3, Evidence “c”). A Phase II Archaeological Assessment was prepared October 2022 reevaluating the project with the helical pier foundation. Based on the reduced ground disturbance and analysis of boring soils obtained by the project geotechnical engineer, the archaeologist no longer finds monitoring necessary.
 - c) Conditions of Approval. The potential for inadvertent impacts to cultural resources is addressed through incorporation of 2 standard conditions of approval. Condition No. 3 requires construction be halted if archaeological resources are accidentally uncovered and necessary steps be taken if human remains are found. Condition No. 9 requires that all development occur in accordance with the recommendations of the Phase I and II assessments (construction training and halting construction if previously unidentified resources are discovered).
 - d) The application, plans, and supporting materials submitted by the project applicant to Monterey County HCD-Planning for the proposed development found in HCD-Planning File Nos. PLN210066 and PLN210066-AMD1.

8. **FINDING:** **CEQA (Exempt)** – The Project is categorically exempt from environmental review and no unusual circumstances were identified to exist for the proposed project.
- EVIDENCE:**
- a) California Environmental Quality Act (CEQA) Guidelines Sections 15301 (e) and 15303 (a) categorically exempt demolition of a single family dwelling and construction of single family dwellings in residential zones. CEQA Guidelines Section 15333 categorically exempts small habitat restoration projects (under five acres).
 - b) The proposed project involves demolition of an existing single-family dwelling and construction of a 6,590 square foot two-story single-family dwelling with an attached 1,400 square foot garage and mechanical room. Therefore, this component of the amended project qualifies for Class 1 and Class 3 Categorical Exemptions pursuant to Sections 15301(l) and 15303(a) of the CEQA Guidelines.
 - c) The amended project also involves an approximate 44,908 square foot restoration of sand dune habitat which qualifies for a Class 33 Categorical Exemptions pursuant to Sections 15333 of the CEQA Guidelines.
 - d) None of the exceptions under CEQA Guidelines Section 15300.2 apply to this amended project. The project does not involve a designated historical resource (see Finding 3, Evidence b), a hazardous waste site, development located within view of a State scenic highway, unusual circumstances that would result in a significant effect or development that would result in a cumulative significant impact. Although 17-Mile Drive is considered scenic in the LUP, it is not a State scenic highway. Due to the extensive voluntary sand dune habitat restoration that is proposed, no adverse environmental effects were identified during staff review of the development application.
 - e) The application, project plans, and related support materials submitted by the project applicant to Monterey County HCD-Planning for the proposed development found in Project File Nos. PLN210066 and PLN210066-AMD1.
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 applicable 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 amended project as no substantial adverse impact on access, either individually or cumulatively, as described in DMF CIP, Section 20.147.130 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) The subject property is not described as an area where the Local Coastal Program requires physical public access (Figure 8, Major Public Access and Recreational Facilities, in the DMF LUP).
 - d) The subject project site is not identified as an area where the Local Coastal Program requires visual public access (Figure 3, Visual Resources, in the DMF LUP).

- e) Based on the project location, and its topographical relationship to visual public access points in the area, the development proposal will not interfere with visual access along 17-Mile Drive or from Fanshell Beach. Consistent with DMF LUP Policies 123 and 137, the proposed development will not block significant public views toward the ocean and will not adversely impact the public viewshed or scenic character in the project vicinity.
- f) The application, plans and supporting materials submitted by the project applicant to Monterey County HCD-Planning for the proposed development are found in Project File Nos. PLN210066 and PLN210066-AMD1.

- 10. 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 HCD-Planning and HCD-Building Services records and is not aware of any violations existing on subject property.
 - b) The application, plans and supporting materials submitted by the project applicant to Monterey County HCD-Planning for the proposed development are found in Project File Nos. PLN210066 and PLN210066-AMD1.
- 11. FINDING:** **APPEALABILITY** – The decision on this amended project may be appealed to the Board of Supervisors and the Coastal Commission.
- EVIDENCE:**
- a) Board of Supervisors. Pursuant to Title 20 Section 20.86.030, an appeal may 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. Pursuant to Title 20 Section 20.86.080, a project is subject to appeal by/to the California Coastal Commission because it involves development located between the sea and the first through public road paralleling the sea (i.e., State Route/Highway 1).

DECISION

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

1. Finding that the project qualifies for Class 1, Class 3, and Class 33 Categorical Exemption pursuant to Sections 15301(l), 15303(a), and 15333 of the CEQA Guidelines and there are no exceptions pursuant to Section 15300.2; and
2. Approving a Minor and Trivial Amendment to a previously approved Combined Development Permit (PLN210066; Planning Commission Resolution No. 23-001) that allowed demolition of a 3,446 square foot one-story single-family dwelling with a detached 558 square foot garage, construction of a 6,590 square foot two-story single-family dwelling with an attached 1,400 square foot garage and mechanical room, development within 100 feet of Environmentally Sensitive Habitat Area, development within 750 feet of a known archaeological resource, and ridgeline development. The Amendment would clarify the existing “developed area” as 12,170 sq. ft. and proposed “development area” as 12,047 sq. ft. and increase dune habitat restoration to the remainder of the property.

All of which are in general conformance with the attached sketch and subject to the attached 17 conditions, all being attached hereto and incorporated herein by reference.

PASSED AND ADOPTED this 16th day of August, 2023,

DocuSigned by:

162E2067173F402...

Anna Quenga on behalf of
Craig Spencer, Chief of Planning

COPY OF THIS DECISION MAILED TO APPLICANT ON AUGUST 23, 2023.

THIS APPLICATION IS APPEALABLE TO THE BOARD OF SUPERVISORS.

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE CLERK TO THE BOARD ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE SEPTEMBER 5, 2023.

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

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

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

County of Monterey HCD Planning

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

PLN210066-AMD1

1. PD001 - SPECIFIC USES ONLY

Responsible Department: Planning

Condition/Mitigation Monitoring Measure: This Minor and Trivial Amendment to a Combined Development Permit (PLN210066) allows the demolition of a 3,446 square foot one-story single-family dwelling with a detached 558 square foot garage, construction of a 6,590 square foot two-story single-family dwelling with an attached 1,400 square foot garage and mechanical room, development within 100 feet of Environmentally Sensitive Habitat Area, development within 750 feet of a known archaeological resource, and ridgeline development. The Amendment would clarify the existing "developed area" as 12,170 sq. ft. and proposed "development area" as 12,047 sq. ft. and increase dune habitat restoration to the remainder of the property. The property is located at 3141 17-Mile Drive, Pebble Beach (Assessor's Parcel Number 008-261-003-000), Del Monte Forest 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 file. 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 Director of HCD - 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. No use 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. (HCD - Planning)

Compliance or Monitoring Action to be Performed: The Owner/Applicant shall adhere to conditions and uses specified in the permit on an on-going basis unless otherwise stated.

2. PD002 - NOTICE PERMIT APPROVAL

Responsible Department: Planning

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

Monitoring Measure: "A Minor and Trivial Amendment (Resolution Number 23-056) was approved by the Chief of Planning for Assessor's Parcel Number 008-261-003-000 on August 16, 2023. The permit was granted subject to 17 conditions of approval which run with the land. A copy of the permit is on file with Monterey County HCD - Planning."

Proof of recordation of this notice shall be furnished to the Director of HCD - Planning prior to issuance of grading and building permits, Certificates of Compliance, or commencement of use, whichever occurs first and as applicable. (HCD - Planning)

Compliance or Prior to the issuance of grading and building permits, certificates of compliance, or
Monitoring commencement of use, whichever occurs first and as applicable, the Owner/Applicant
Action to be shall provide proof of recordation of this notice to the HCD - Planning.
Performed:

3. PD003(B) - CULTURAL RESOURCES POSITIVE ARCHAEOLOGICAL REPORT

Responsible Department: Planning

Condition/Mitigation Monitoring Measure: If archaeological resources or human remains are accidentally discovered during construction, the following steps will be taken:

There shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until the coroner of the county in which the remain are discovered must be contacted to determine that no investigation of the cause of death is required.

If the coroner determines the remains to be Native American:

- The coroner shall contact the Native American Heritage Commission and HCD - Planning within 24 hours.
- The Native American Heritage Commission shall identify the person or persons from a recognized local tribe of the Esselen, Salinan, Costonoans/Ohlone and Chumash tribal groups, as appropriate, to be the most likely descendant.
- The most likely descendant may make recommendations to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in Public Resources Code Section 5097.9 and 5097.993, Or

Where the following conditions occur, the landowner or his authorized representatives shall rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further subsurface disturbance:

1. The Native American Heritage Commission is unable to identify a most likely descendant or the most likely descendant failed to make a recommendation within 24 hours after being notified by the commission.
2. The descendant identified fails to make a recommendation; or
3. The landowner or his authorized representative rejects the recommendation of the descendant, and the mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner.

(HCD - Planning)

Compliance or Monitoring Action to be Performed: Prior to the issuance of grading or building permits or approval of Subdivision Improvement Plans, whichever occurs first, the Owner/Applicant, per the archaeologist, shall submit the contract with a Registered Professional Archaeologist for on-call archaeological services should resources be discovered during construction activities. Submit the letter to the Director of the HCD – Planning for approval.

Prior to the issuance of grading or building permits and/or prior to the recordation of the final/parcel map, whichever occurs first, the Owner/Applicant shall include requirements of this condition as a note on all grading and building plans, on the Subdivision Improvement Plans, in the CC&Rs, and shall be included as a note on an additional sheet of the final/parcel map.

Prior to Final, the Owner/Applicant, per the Archaeologist, shall submit a report or letter from the archaeologist summarizing their methods, findings, and recommendations if their services are needed during construction or if no resources were found.

4. PD005(A) - NOTICE OF EXEMPTION

Responsible Department: Planning

Condition/Mitigation Monitoring Measure: Pursuant to CEQA Guidelines § 15062, a Notice of Exemption shall be filed for this project. The filing fee shall be submitted prior to filing the Notice of Exemption. (HCD-Planning)

Compliance or Monitoring Action to be Performed: After project approval, the Owner/Applicant shall submit a check, payable to the County of Monterey, to the Director of HCD - Planning.

5. PD006(A) - CONDITION COMPLIANCE FEE

Responsible Department: Planning

Condition/Mitigation Monitoring Measure: The Owner/Applicant shall pay the Condition Compliance fee, as set forth in the fee schedule adopted by the Board of Supervisors, for the staff time required to satisfy conditions of approval. The fee in effect at the time of payment shall be paid prior to clearing any conditions of approval.

Compliance or Monitoring Action to be Performed: Prior to clearance of conditions, the Owner/Applicant shall pay the Condition Compliance fee, as set forth in the fee schedule adopted by the Board of Supervisors.

6. PD011 - TREE AND ROOT PROTECTION

Responsible Department: Planning

Condition/Mitigation Monitoring Measure: Trees which are located close to construction site(s) shall be protected from inadvertent damage from construction equipment by fencing off the canopy driplines and/or critical root zones (whichever is greater) with protective materials, wrapping trunks with protective materials, avoiding fill of any type against the base of the trunks and avoiding an increase in soil depth at the feeding zone or drip-line of the retained trees. Said protection, approved by certified arborist, shall be demonstrated prior to issuance of building permits subject to the approval of HCD - Director of Planning. If there is any potential for damage, all work must stop in the area and a report, with mitigation measures, shall be submitted by certified arborist. Should any additional trees not included in this permit be harmed, during grading or construction activities, in such a way where removal is required, the owner/applicant shall obtain required permits. (HCD - Planning)

Compliance or Monitoring Action to be Performed: Prior to issuance of grading and/or building permits, the Owner/Applicant shall submit evidence of tree protection to HCD - Planning for review and approval.

During construction, the Owner/Applicant/Arborist shall submit on-going evidence that tree protection measures are in place through out grading and construction phases. If damage is possible, submit an interim report prepared by a certified arborist.

Prior to final inspection, the Owner/Applicant shall submit photos of the trees on the property to HCD-Planning after construction to document that tree protection has been successful or if follow-up remediation or additional permits are required.

7. CC01 INDEMNIFICATION AGREEMENT

Responsible Department: County Counsel-Risk Management

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/her/its 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, recordation of the certificates of compliance whichever occurs first and as applicable. 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. If 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. (County Counsel-Risk Management)

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, or recordation of Certificates of Compliance, whichever occurs first and as applicable, the Owner/Applicant shall submit a signed and notarized Indemnification Agreement to the Office of County Counsel-Risk Management for review and signature by the County.

Proof of recordation of the Indemnification Agreement, as outlined, shall be submitted to the Office of County Counsel-Risk Management

8. PD014(B) - LIGHTING-EXTERIOR LIGHTING PLAN (VS & RIDGELINE)

Responsible Department: Planning

Condition/Mitigation Monitoring Measure: All exterior lighting shall be unobtrusive, down-lit, harmonious with the local area, and constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. Exterior lighting shall have recessed lighting elements. Exterior light sources that would be directly visible from when viewed from a common public viewing area, as defined in Section 21.06.195, are prohibited. The applicant shall submit three (3) copies of exterior lighting plan which shall indicate the location, type, and wattage of all light fixtures and include catalog sheets for each fixture. The lighting shall comply with the requirements of the California Energy Code set forth in California Code of Regulations Title 24 Part 6. The exterior lighting plan shall be subject to approval by the Director of HCD - Planning, prior to issuance of building permits.
(HCD - Planning)

Compliance or Monitoring Action to be Performed: Prior to the issuance of building permits, the Owner/Applicant shall submit three copies of the lighting plans to HCD - Planning for review and approval. Approved lighting plans shall be incorporated into final building plans.

Prior to final/occupancy, staff shall conduct a site visit to ensure that the lighting has been installed according to the approved plan.

On an on-going basis, the Owner/Applicant shall ensure that the lighting is installed and maintained in accordance with the approved plan.

9. PD016 - NOTICE OF REPORT

Responsible Department: Planning

Condition/Mitigation Monitoring Measure: Prior to issuance of building or grading permits, a notice shall be recorded with the Monterey County Recorder which states:
"The following Reports were prepared for this property and they are on file in Monterey County HCD - Planning. All development shall be in accordance with these reports.
- Restoration Plan (LIB230155) prepared by Patrick Regan, Regan Biological & Horticultural Consulting, Carmel Valley, CA on May 1, 2023 and amended on July 7, 2023.
- Biological Assessments (LIB210109) prepared by Patrick Regan, Regan Biological & Horticultural Consulting, Carmel Valley, CA on February 20, 2021 and May 6, 2021.
- Tree Assessment/Forest Management Plan (LIB210107) prepared by Frank Ono, Salinas, CA with revisions on June 30, 2021.
- Geotechnical Report (LIB210110) prepared by Grice Engineering, Inc., Salinas on April 28, 2021."

(HCD - Planning)

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

Prior to occupancy, the Owner/Applicant shall submit proof, for review and approval, that all development has been implemented in accordance with the report to the HCD - Planning.

10. PD022(B) - EASEMENT-CONSERVATION & SCENIC IN THE DEL MONTE FOREST

Responsible Department: Planning

Condition/Mitigation Monitoring Measure: A conservation and scenic easement shall be conveyed to the Del Monte Forest Conservancy over those portions of the property where environmentally sensitive habitats, remnant native sand dune habitats, habitats of rare, endangered and sensitive native plants and animals, and visually prominent areas exist in accordance with the procedures in Monterey County Code § 20.64.280.A. The easement conveyance shall include funding adequate to ensure the management and protection of the easement area over time. The easement shall be developed in consultation with a certified professional and the Del Monte Forest Conservancy Inc. A Subordination Agreement shall be required, where necessary. These instruments shall be subject to approval by the County as to form and content, shall provide for enforcement, if need be, by the County or other appropriate agency, and name the County as beneficiary in event the Conservancy is unable to adequately manage these easements for the intended purpose of scenic and visual resource protection. An easement deed shall be submitted to, reviewed, and approved by the Director of HCD - 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. (HCD - Planning)

Compliance or Monitoring Action to be Performed: Prior to recording the parcel/final map or prior to the issuance of grading and building permits, the Owner/Applicant/Certified Professional shall submit the conservation and scenic easement deed and corresponding map, showing the exact location of the easement on the property along with the metes and bound description developed in consultation with a certified professional, to the to the Del Monte Forest Conservancy for review and approval.

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

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

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

11. PD041 - HEIGHT VERIFICATION

Responsible Department: Planning

Condition/Mitigation Monitoring Measure: The applicant shall have a benchmark placed upon the property and identify the benchmark on the building plans. The benchmark shall remain visible on-site until final building inspection. The applicant shall provide evidence from a licensed civil engineer or surveyor to the Director of HCD - Building Services for review and approval, that the height of the structure(s) from the benchmark is consistent with what was approved on the building permit associated with this project. (HCD - Planning and HCD - Building Services)

Compliance or Monitoring Action to be Performed: Prior to the issuance of grading or building permits, the Owner/Applicant shall have a benchmark placed upon the property and identify the benchmark on the building plans. The benchmark shall remain visible onsite until final building inspection.

Prior to the foundation pre-pour inspection, the Owner/Applicant shall provide evidence from a licensed civil engineer or surveyor, to the Director of HCD - Building Services for review and approval, that the height of first finished floor from the benchmark is consistent with what was approved on the building permit.

Prior to the final inspection, the Owner/Applicant/Engineer shall provide evidence from a licensed civil engineer or surveyor, to the Director of HCD - Building Services for review and approval, that the height of the structure(s) from the benchmark is consistent with what was approved on the building permit.

12. PD042 - GRADING/EASEMENT STAKING

Responsible Department: Planning

Condition/Mitigation Monitoring Measure: The conservation and scenic easement(s) and proposed grading shall be staked with 18" stakes at intervals as necessary to clearly delineate the easement and grading. The staking shall be consistent with recorded easement lines and proposed grading as indicated in the official record at Monterey County HCD - Building Services. The staking shall be verified at the grading pre-site inspection by the grading inspector. (HCD - Planning and HCD - Building Services)

Compliance or Monitoring Action to be Performed: Prior to the pre-site inspection, the Owner/Applicant shall stake the easement(s) and proposed grading with 18" stakes at intervals as necessary to clearly delineate the easement and grading. The staking shall be consistent with recorded easement lines and proposed grading as indicated in the official record at Monterey County HCD - Building Services and shall be verified by the grading inspector at the pre-site inspection.

13. PD047 - DEMOLITION/DECONSTRUCTION (MBUAPCD RULE 439)

Responsible Department: Planning

Condition/Mitigation Monitoring Measure: In accordance with Monterey Bay Unified Air Pollution Control District Rule 439, construction plans shall include "Demolition and Deconstruction" notes that incorporate the following work practice standards:

1. Sufficiently wet the structure prior to deconstruction or demolition. Continue wetting as necessary during active deconstruction or demolition and the debris reduction process;
 2. Demolish the structure inward toward the building pad. Lay down roof and walls so that they fall inward and not away from the building;
 3. Commencement of deconstruction or demolition activities shall be prohibited when the peak wind speed exceeds 15 miles per hour.
- All Air District standards shall be enforced by the Air District.

(HCD - Planning)

Compliance or Monitoring Action to be Performed: Prior to the issuance of a demolition permit, if applicable, the Owner/Applicant/Contractor shall incorporate a "Demolition/Deconstruction" note on the demolition site plan that includes, but is not limited to, the standards set forth in this condition.

During demolition, the Owner/Applicant/Contractor shall obtain any required Air District permits and the Air District shall conduct all deconstruction or demolition inspection activities as required by the Air District.

14. PD050 - RAPTOR/MIGRATORY BIRD NESTING

Responsible Department: Planning

Condition/Mitigation Monitoring Measure: Any tree removal activity that occurs during the typical bird nesting season (February 22-August 1), the County of Monterey shall require that the project applicant retain a County qualified biologist to perform a nest survey in order to determine if any active raptor or migratory bird nests occur within the project site or within 300 feet of proposed tree removal activity. During the typical nesting season, the survey shall be conducted no more than 30 days prior to ground disturbance or tree removal. If nesting birds are found on the project site, an appropriate buffer plan shall be established by the project biologist. (HCD - Planning)

Compliance or Monitoring Action to be Performed: No more than 30 days prior to ground disturbance or tree removal, the Owner/Applicant/Tree Removal Contractor shall submit to HCD -Planning a nest survey prepared by a County qualified biologist to determine if any active raptor or migratory bird nests occur within the project site or immediate vicinity.

15. PDSP001 – RESTORATION PLAN (NON-STANDARD)

Responsible Department: Planning

Condition/Mitigation Monitoring Measure: In order to ensure successful restoration of native Dune scrub habitat on the site, the Owner/Application shall submit a final Restoration Plan incorporating the recommendations contained in the "Final 3141 17-Mile Drive Restoration Plan" dated May 1, 2023 and amended on July 7, 2023 prepared by Patrick Regan, Consulting Biologist. Upon completion of the development, the area disturbed shall be restored to a condition to correspond with the adjoining area, in accordance with the goals and objectives set forth by the Consulting Biologist, and subject to the approval of the Chief of the HCD - Planning. Evidence of successful restoration shall be submitted to and approved by the Chief of the HCD - Planning prior to final of construction permits.

Compliance or Monitoring Action to be Performed: Prior to issuance of construction permits, the Owner/Applicant shall submit a restoration plan to HCD - Planning for review and approval.

Prior to final of construction permits, the Owner/Applicant shall submit evidence by a qualified biologist demonstrating implementation of the restoration activities took place in accordance with the approved plan and have been successful to HCD - Planning for review and approval.

16. PDSP002 – LANDSCAPE PLAN & MAINTENANCE (MPWMD AND DEL MONTE FOREST) (NON-STANDARD)

Responsible Department: Planning

Condition/Mitigation Monitoring Measure: The site shall be landscaped. Prior to the issuance of building permits, three (3) copies of a landscaping plan shall be submitted to the Chief of HCD – Planning consistent with the approved restoration plan (see Condition No. 15, PDSP001 – RESTORATION PLAN) and in accordance with Coastal Implementation Plan, Part 5, Regulations for Development in the Del Monte Forest Land Use Plan Area section 20.147.040.C.10. A landscape plan review fee is required for this project. Fees shall be paid at the time of landscape plan submittal. The landscaping plan shall be in sufficient detail to identify the location, species, and size of the proposed landscaping materials and shall include an irrigation plan. The plan shall be accompanied by a nursery or contractor's estimate of the cost of installation of the plan. Before occupancy, landscaping shall be either installed or a certificate of deposit or other form of surety made payable to Monterey County for that cost estimate shall be submitted to the Monterey County HCD - Planning. All landscaped areas and fences shall be continuously maintained by the applicant; all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition. (HCD - Planning)

Compliance or Monitoring Action to be Performed: Prior to issuance of building permits, the Owner/Applicant/Licensed Landscape Contractor/Licensed Landscape Architect shall submit landscape plans and contractor's estimate to HCD - Planning for review and approval. Landscaping plans shall include the recommendations from the "Final 3141 17-Mile Drive Restoration Plan" dated May 1, 2023 and amended on July 7, 2023, prepared by Patrick Regan, Consulting Biologist as applicable. In accordance with Coastal Implementation Plan, Part 5, Regulations for Development in the Del Monte Forest Land Use Plan Area section 20.147.040.C.10, the use of plant species native to the Del Monte Forest shall be required in landscape materials. All landscape plans shall be signed and stamped by licensed professional under the following statement, "I certify that this landscaping and irrigation plan complies with all Monterey County landscaping requirements including use of native, drought-tolerant, non-invasive species; limited turf; and low-flow, water conserving irrigation fixtures."

Prior to issuance of building permits, the Owner/Applicant/Licensed Landscape Contractor/Licensed Landscape Architect shall submit one (1) set landscape plans of approved by HCD-Planning, a Maximum Applied Water Allowance (MAWA) calculation, and a completed "Residential Water Release Form and Water Permit Application" to the Monterey Peninsula Water Management District for review and approval.

Prior to issuance of building permits, the Owner/Applicant/Licensed Landscape Contractor/ shall submit an approved water permit from the MPWMD to HCD-Building Services.

Prior to occupancy, the Owner/Applicant/Licensed Landscape Contractor/Licensed Landscape Architect shall ensure that the landscaping shall be either installed or a certificate of deposit or other form of surety made payable to Monterey County for that cost estimate shall be submitted to Monterey County HCD - Planning.

On an on-going basis, all landscaped areas and fences shall be continuously maintained by the Owner/Applicant; all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition.

17. PW0031 – BOUNDARY SURVEY

Responsible Department: Public Works

Condition/Mitigation Monitoring Measure: Owner/Applicant shall have a professional land surveyor perform a boundary survey of the easterly boundary line(s) of the subject parcel and have said lines monumented.

Compliance or Monitoring Action to be Performed: Prior to foundation inspection, Owner/Applicant shall have a professional land surveyor survey and monument the easterly boundary line(s) of the subject parcel and provide evidence to the County Surveyor of conformance to the setbacks shown on the approved Site Plan. The surveyor shall be responsible for compliance with the requirements of Section 8762 of the California Business and Professions Code (PLS Act).

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Exhibit C

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EXHIBIT "C"

CONSERVATION EASEMENT

A.P.N. 008-261-003

Certain real property, situate in the County of Monterey, State of California, particularly described as follows:

An easement for **Conservation Purposes**, said easement being more particularly described as follows:

That certain parcel of land as described in Recorder's Series Document No. 2020034911, Official Records of the County of Monterey, described as follows:

BEGINNING at a point distant 40 feet S 75° 16' E from monument 4103, as said monument is delineated and so designated on that certain map entitled, "Licensed Surveyor's Map of El Pescadero and Point Pinos Ranchos", etc., filed for record January 12, 1922, in Volume 3 of Surveys at Page 3, Records of the County of Monterey; and running thence

- 1) Northerly along the arc of a circular curve to the right (the center which bears S 75° 16' E, 360 feet distant) for a distance of 58.71 feet, through a central angle of 9° 20' 40" to a point of compound curvature; thence
- 2) Northeasterly along the arc of a circular curve to the right (the center which bears S 65° 55' 20" E, 164.25 feet distant) for a distance of 183.25 feet, through a central angle of 63° 55' 20" to a point of reverse curvature; thence
- 3) Easterly along the arc of a circular curb to the left (the center which bears N 2° 00' 00" W, 360.00 feet distant) for a distance of 65.74 feet, through a central angle of 10° 27' 45"; thence
- 4) S 6° 45' W, 318.32 feet; thence
- 5) N 81° 40' 45" W, 226.05 feet; thence
- 6) N 14° 44' E, 126.86 feet to the **POINT OF BEGINNING**, and being a portion of Rancho El Pescadero.

Containing **57,658 Square Feet**, more or less

Excepting therefrom the “**Residential Development Envelope**” particularly described as follows:

Residential Development Envelope

Being a portion of the aforementioned parcel, more particularly described as follows:

BEGINNING at a point lying on the northerly boundary of said parcel from which the most westerly corner of said parcel bears S 36° 40' 39" W, 343.62 feet distant; thence leaving said northerly boundary and running

- 1) Southeasterly 15.74 feet along the arc of a circular curve to the right, the center which bears S 60° 34' 53" W, 37.14 feet distant, through a central angle of 24° 17' 07" to a point of non-tangency; thence
- 2) S 78° 25' 36" W, 2.00 feet; thence
- 3) S 11° 34' 24" E, 2.00 feet; thence
- 4) N 78° 25' 36" E, 1.33 feet to a point of beginning of a non-tangent curve; thence
- 5) Southerly 3.85 feet along the arc of a circular curve to the right, the center which bears S 79° 36' 24" W, 51.58 feet distant, through a central angle of 4° 16' 22" to a point of non-tangency and compound curvature; thence
- 6) Southerly 26.83 feet along the arc of a circular curve to the right, the center which bears S 83° 25' 34" W, 65.46 feet distant, through a central angle of 23° 29' 12" to a point of non-tangency and compound curvature; thence
- 7) Southwesterly 14.07 feet along the arc of a circular curve to the right, the center which bears N 70° 26' 02" W, 49.54 feet distant, through a central angle of 16° 16' 07" to a point of non-tangency and reverse curvature; thence
- 8) Southwesterly 16.51 feet along the arc of a circular curve to the left, the center which bears S 53° 15' 28" E, 40.79 feet distant, through a central angle of 23° 11' 08" to a point of non-tangency and reverse curvature; thence
- 9) Southwesterly 11.61 feet along the arc of a circular curve to the right, the center which bears N 77° 15' 59" W, 9.33 feet distant, through a central angle of 71° 14' 48" to a point of non-tangency; thence

- 10) S 29° 34' 45" W, 23.65 feet; thence
- 11) N 60° 25' 33" W, 22.33 feet; thence
- 12) S 29° 34' 45" W, 7.12 feet; thence
- 13) N 60° 25' 15" W, 2.85 feet; thence
- 14) S 51° 25' 27" W, 16.07 feet; thence
- 15) S 60° 25' 15" E, 1.83 feet; thence
- 16) S 29° 34' 45" W, 2.00 feet; thence
- 17) S 60° 25' 15" E, 6.00 feet; thence
- 18) N 29° 34' 45" E, 2.00 feet; thence
- 19) S 60° 25' 15" E, 5.19 feet; thence
- 20) S 29° 34' 45" W, 2.25 feet; thence
- 21) S 60° 25' 15" E, 16.81 feet; thence
- 22) N 29° 34' 45" E, 2.96 feet; thence
- 23) N 60° 25' 15" W, 0.93 feet; thence
- 24) N 29° 34' 45" E, 2.85 feet; thence
- 25) S 60° 25' 15" E, 8.04 feet; thence
- 26) S 3° 35' 01" W, 21.52 feet; thence
- 27) S 70° 35' 08" W, 1.91 feet; thence
- 28) N 19° 24' 52" W, 13.12 feet; thence
- 29) S 70° 35' 08" W, 11.54 feet; thence
- 30) N 19° 24' 52" W, 12.67 feet; thence
- 31) S 70° 35' 08" W, 11.67 feet; thence

- 32) N 19° 24' 52" W, 2.00 feet; thence
- 33) S 70° 35' 08" W, 6.00 feet; thence
- 34) S 19° 24' 52" E, 6.00 feet; thence
- 35) N 70° 35' 08" E, 2.00 feet; thence
- 36) S 19° 24' 52" E, 6.00 feet; thence
- 37) S 70° 35' 08" W, 7.79 feet; thence
- 38) S 19° 22' 21" E, 14.09 feet; thence
- 39) S 3° 35' 01" W, 6.33 feet; thence
- 40) N 86° 24' 59" W, 5.00 feet; thence
- 41) N 3° 35' 01" E, 1.00 foot; thence
- 42) N 86° 24' 58" W, 1.00 foot; thence
- 43) N 3° 35' 01" E, 1.00 foot; thence
- 44) N 86° 28' 56" W, 16.99 feet; thence
- 45) S 3° 30' 49" W, 18.00 feet; thence
- 46) S 86° 28' 15" E, 20.47 feet; thence
- 47) N 3° 35' 01" E, 2.00 feet; thence
- 48) S 86° 24' 59" E, 2.50 feet; thence
- 49) S 3° 35' 01" W, 6.83 feet; thence
- 50) S 86° 24' 59" E, 9.46 feet; thence
- 51) S 19° 24' 52" E, 9.63 feet; thence
- 52) S 70° 35' 08" W, 1.42 feet; thence
- 53) N 19° 24' 52" W, 1.00 foot; thence

54) S 70° 35' 08" W, 5.00 feet; thence
55) S 19° 24' 52" E, 9.00 feet; thence
56) N 70° 35' 08" E, 1.17 feet; thence
57) N 19° 24' 52" W, 2.00 feet; thence
58) N 70° 35' 08" E, 0.83 feet; thence
59) S 19° 24' 52" E, 1.00 feet; thence
60) N 70° 35' 08" E, 6.33 feet; thence
61) S 19° 24' 52" E, 9.96 feet; thence
62) S 70° 35' 08" W, 8.00 feet; thence
63) S 19° 24' 49" E, 5.00 feet; thence
64) N 70° 35' 11" E, 2.50 feet; thence
65) S 19° 24' 49" E, 1.27 feet; thence
66) S 70° 35' 08" W, 3.31 feet; thence
67) N 19° 24' 52" W, 1.00 foot; thence
68) S 70° 35' 08" W, 1.00 foot; thence
69) N 19° 24' 52" W, 1.00 foot; thence
70) S 70° 35' 08" W, 4.00 feet; thence
71) S 19° 24' 52" E, 2.00 feet; thence
72) N 70° 35' 08" E, 1.00 foot; thence
73) S 19° 24' 52" E, 2.00 feet; thence
74) N 70° 35' 08" E, 1.00 foot; thence
75) S 19° 24' 52" E, 3.00 feet; thence

76) S 70° 35' 08" W, 1.00 foot; thence
77) S 19° 24' 52" E, 2.00 feet; thence
78) N 70° 35' 08" E, 1.00 foot; thence
79) S 19° 24' 52" E, 1.00 foot; thence
80) N 70° 35' 08" E, 4.50 feet; thence
81) N 19° 24' 52" W, 2.00 feet; thence
82) N 70° 35' 08" E, 1.81 feet; thence
83) S 19° 24' 52" E, 5.39 feet; thence
84) N 70° 35' 08" E, 2.75 feet; thence
85) S 19° 24' 52" E, 19.79 feet; thence
86) S 70° 35' 08" W, 1.00 foot; thence
87) N 19° 26' 09" W, 1.00 foot; thence
88) S 70° 35' 08" W, 0.50 feet; thence
89) N 19° 24' 52" W, 1.00 foot; thence
90) S 70° 35' 08" W, 3.50 foot; thence
91) S 19° 24' 52" E, 1.00 foot; thence
92) N 70° 35' 08" E, 1.00 foot; thence
93) S 19° 24' 52" E, 1.00 foot; thence
94) N 70° 35' 08" E, 1.00 foot; thence
95) S 19° 24' 52" E, 5.00 feet; thence
96) N 70° 35' 08" E, 3.00 feet; thence
97) S 19° 24' 52" E, 7.87 feet; thence

- 98) N 70° 35' 08" E, 37.75 feet; thence
- 99) N 19° 24' 52" W, 26.17 feet; thence
- 100) N 70° 35' 08" E, 20.50 foot; thence
- 101) N 19° 24' 51" W, 17.25 feet; thence
- 102) S 70° 35' 01" W, 16.50 feet; thence
- 103) S 19° 26' 03" E, 3.00 feet; thence
- 104) S 70° 35' 08" W, 14.83 feet; thence
- 105) N 19° 24' 52" W, 13.36 feet; thence
- 106) N 70° 35' 08" E, 21.33 feet; thence
- 107) N 19° 24' 52" W, 25.80 feet; thence
- 108) N 70° 44' 41" E, 10.41 feet; thence
- 109) S 19° 30' 41" E, 6.47 feet; thence
- 110) S 3° 35' 01" W, 4.00 feet; thence
- 111) S 86° 24' 59" E, 19.42 feet; thence
- 112) S 3° 35' 01" W, 0.67 feet; thence
- 113) S 86° 24' 59" E, 8.17 feet; thence
- 114) N 3° 35' 01" E, 13.90 feet; thence
- 115) N 16° 07' 59" E, 11.50 feet; thence
- 116) S 86° 24' 19" E, 3.48 feet; thence
- 117) N 3° 35' 01" E, 26.76 feet; thence
- 118) N 6° 07' 05" E, 11.67 feet; thence
- 119) N 87° 54' 28" E, 0.67 feet to the beginning of a non-tangent curve; thence

- 120) Northerly 19.30 feet along the arc of a circular curve to the left, the center which bears N 89° 30' 59" W, 111.01 feet distant, through a central angle of 9° 57' 33" to a point of non-tangency; thence
- 121) N 86° 29' 11" W, 14.10 feet to the beginning of a non-tangent curve; thence
- 122) Northwesterly 13.76 feet along the arc of a circular curve to the right, the center which bears N 8° 18' 02" E, 8.24 feet distant, through a central angle of 95° 41' 00" to a point of non-tangency and compound curvature; thence
- 123) Northeasterly 8.35 feet along the arc of a circular curve to the right, the center which bears S 75° 03' 57" E, 21.66 feet distant, through a central angle of 22° 04' 46" to a point of non-tangency and reverse curvature; thence
- 124) Northeasterly 10.10 feet along the arc of a circular curve to the left, the center which bears N 54° 00' 45" W, 68.87 feet distant, through a central angle of 8° 24' 01" to a point of non-tangency and compound curvature; thence
- 125) Northeasterly 27.65 feet along the arc of a circular curve to the left, the center which bears N 62° 58' 40" W, 69.94 feet distant, through a central angle of 22° 39' 16" to a point of non-tangency and compound curvature; thence
- 126) Northerly 17.56 feet along the arc of a circular curve to the left, the center which bears N 84° 39' 24" W, 84.79 feet distant, through a central angle of 11° 51' 59" to a point of non-tangency and compound curvature; thence
- 127) Northerly 6.26 feet along the arc of a circular curve to the left, the center which bears S 83° 49' 00" W, 70.91 feet distant, through a central angle of 5° 03' 30" to a point of non-tangency; thence
- 128) N 76° 27' 46" E, 1.31 feet; thence
- 129) N 13° 32' 14" W, 2.00 feet; thence
- 130) S 76° 27' 46" W, 1.92 feet to the beginning of a non-tangent curve; thence
- 131) Northwesterly 12.83 feet along the arc of a circular curve to the right, the center which bears N 73° 07' 28" E, 2408.10 feet distant, through a central angle of 0° 18' 19" to a point on the northerly boundary of said parcel; thence running along said northerly boundary
- 132) Westerly 18.52 feet along the arc of a circular curve to the right, the center which bears N 6° 25' 31" W, 360.00 feet distant, through a central angle of 2° 56' 51" to the **POINT OF BEGINNING**.

Containing **12,797 Square Feet**, more or less.

Said **Conservation Easement** containing **44,861 Square Feet**, more or less (the difference between the subject Parcel and the Residential Development Envelope).

All is shown on the **Conservation Easement Plat** attached hereto and by this reference being a part hereof.

END OF DESCRIPTION

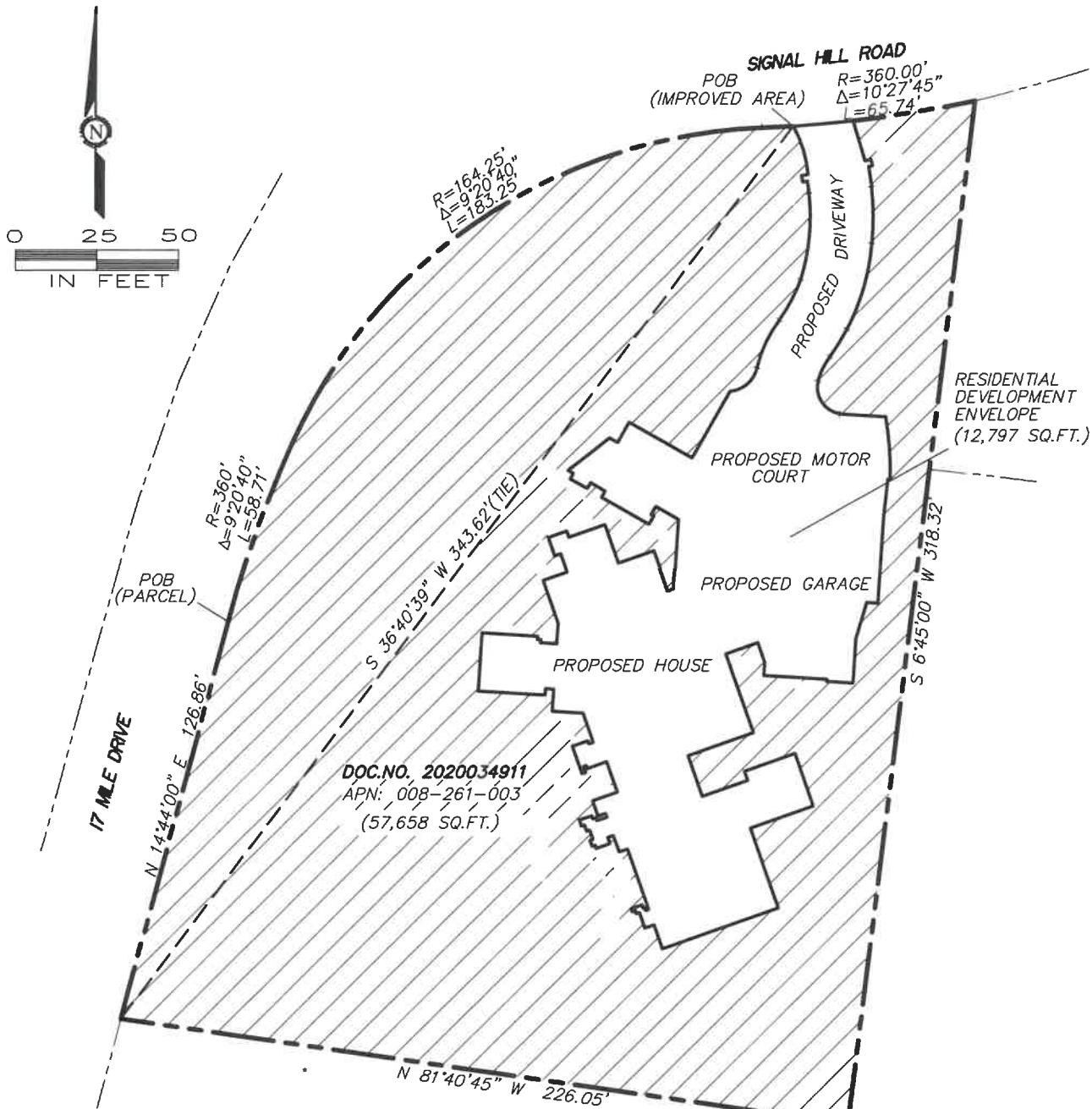
This real property description has been prepared by
Me, or under my direction, in conformance with the
Professional Land Surveyor's Act.

Signature _____

Date 9/14/23



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LEGEND

- PROPERTY BOUNDARY
- ADJACENT PROPERTY BOUNDARY
- CONSERVATION EASEMENT (44,861 SQ.FT.)
- POB POINT OF BEGINNING

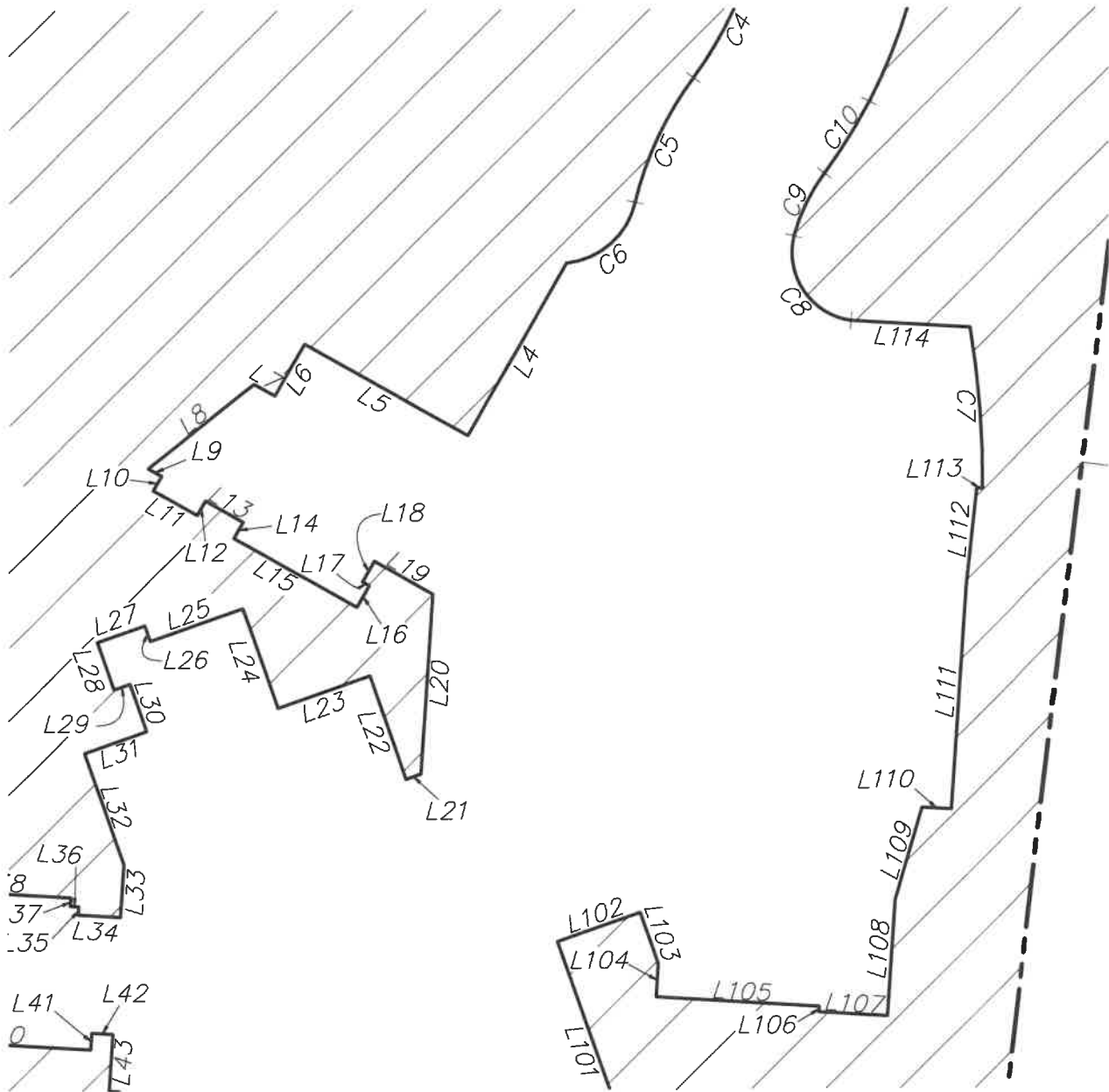
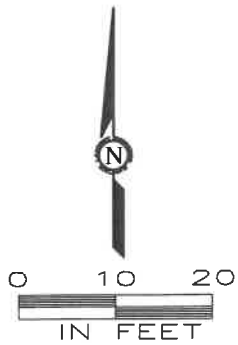


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DOC. NO. 2020034911
OFFICIAL RECORDS OF MONTEREY COUNTY
PEBBLE BEACH, CALIFORNIA
PREPARED FOR: 5B SMD, LLC

SCALE: 1"= 50'
DATE: AUGUST 2023
PROJECT NO: 2305-02
PAGE 1 OF 8





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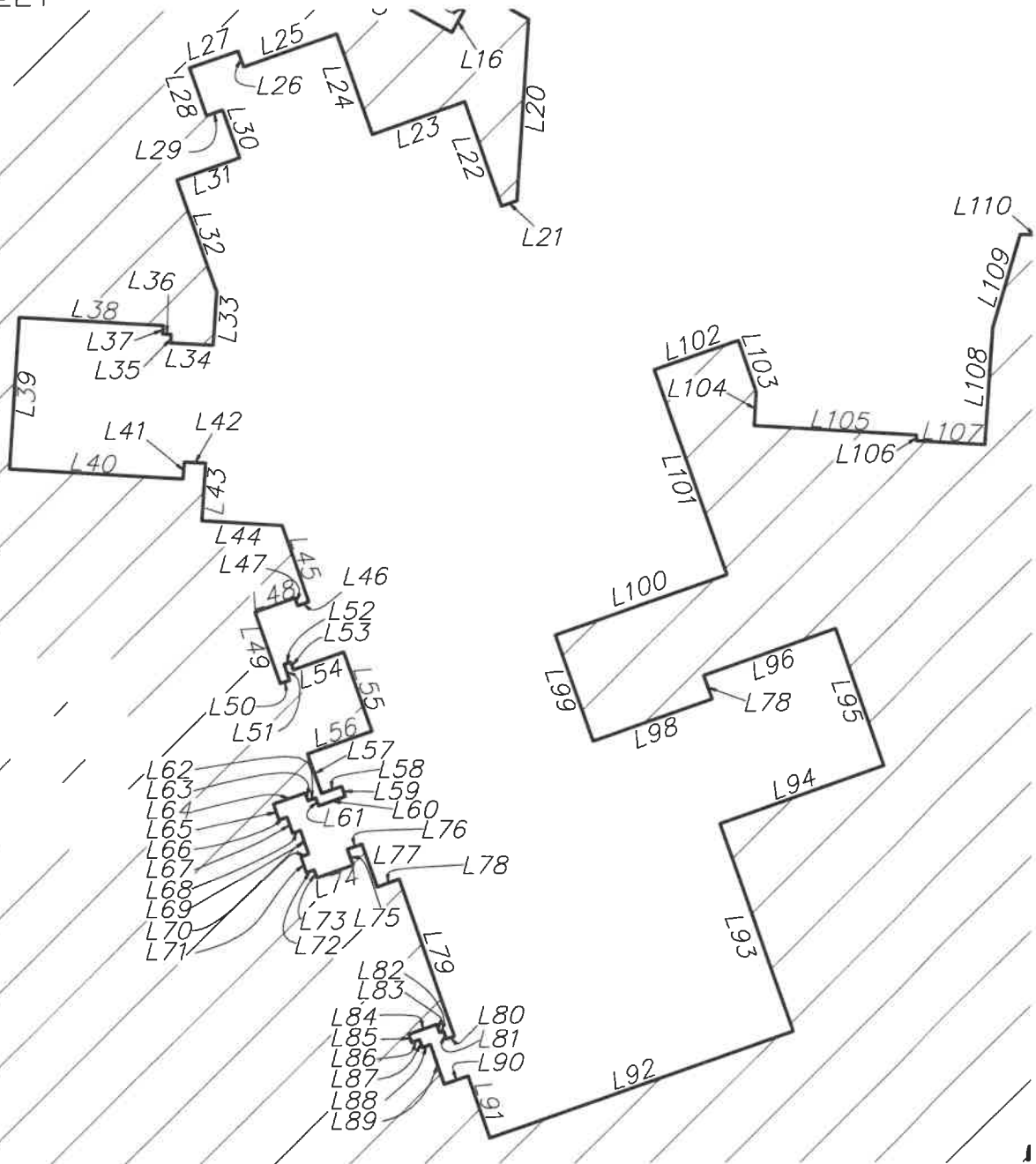
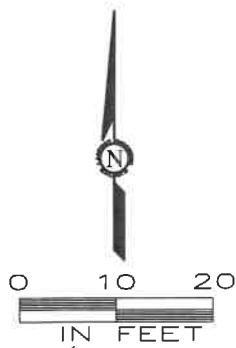
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LINE TABLE-1				LINE TABLE-2			
Line #/Curve #	Length	Bearing/Delta	Radius	Line #/Curve #	Length	Bearing/Delta	Radius
L1	2.00	S78° 25' 36"W		L21	1.91	S70° 35' 08"W	
L2	2.00	S11° 34' 24"E		L22	13.12	N19° 24' 52"W	
L3	1.33	N78° 25' 36"E		L23	11.54	S70° 35' 08"W	
L4	23.65	S29° 34' 45"W		L24	12.67	N19° 24' 52"W	
L5	22.33	N60° 25' 33"W		L25	11.67	S70° 35' 08"W	
L6	7.12	S29° 34' 45"W		L26	2.00	N19° 24' 52"W	
L7	2.85	N60° 25' 15"W		L27	6.00	S70° 35' 08"W	
L8	16.07	S51° 25' 27"W		L28	6.00	S19° 24' 52"E	
L9	1.83	S60° 25' 15"E		L29	2.00	S70° 35' 08"E	
L10	2.00	S29° 34' 45"W		L30	6.00	S19° 24' 52"E	
L11	6.00	S60° 25' 15"E		L31	7.79	S70° 35' 08"W	
L12	2.00	N29° 34' 45"E		L32	14.09	S19° 22' 21"E	
L13	5.19	S60° 25' 15"E		L33	6.33	S3° 35' 01"W	
L14	2.25	S29° 34' 45"W		L34	5.00	N86° 24' 59"W	
L15	16.81	S60° 25' 15"E		L35	1.00	N3° 35' 01"E	
L16	2.96	N29° 34' 45"E		L36	1.00	N86° 24' 58"W	
L17	0.93	N60° 25' 15"W		L37	1.00	N3° 35' 01"E	
L18	2.85	N29° 34' 45"E		L38	16.99	N86° 28' 56"W	
L19	8.04	S60° 25' 15"E		L39	18.00	S3° 30' 49"W	
L20	21.52	S3° 35' 01"W		L40	20.47	S86° 28' 15"E	



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LINE TABLE-3				LINE TABLE-4			
Line #/Curve #	Length	Bearing/Delta	Radius	Line #/Curve #	Length	Bearing/Delta	Radius
L41	2.00	N3° 35' 01"E		L61	1.00	N19° 24' 52"W	
L42	2.50	S86° 24' 59"E		L62	1.00	S70° 35' 08"W	
L43	6.83	S3° 35' 01"W		L63	1.00	N19° 24' 52"W	
L44	9.46	S86° 24' 59"E		L64	4.00	S70° 35' 08"W	
L45	9.63	S19° 24' 52"E		L65	2.00	S19° 24' 52"E	
L46	1.42	S70° 35' 08"W		L66	1.00	N70° 35' 08"E	
L47	1.00	N19° 24' 52"W		L67	2.00	S19° 24' 52"E	
L48	5.00	S70° 35' 08"W		L68	1.00	N70° 35' 08"E	
L49	9.00	S19° 24' 52"E		L69	3.00	S19° 24' 52"E	
L50	1.17	N70° 35' 08"E		L70	1.00	N70° 35' 08"W	
L51	2.00	N19° 24' 52"W		L71	2.00	S19° 24' 52"E	
L52	0.83	N70° 35' 08"E		L72	1.00	N70° 35' 08"E	
L53	1.00	S19° 24' 52"E		L73	1.00	S19° 24' 52"E	
L54	6.33	N70° 35' 08"E		L74	4.50	N70° 35' 08"E	
L55	9.96	S19° 24' 52"E		L75	2.00	N19° 24' 52"W	
L56	8.00	S70° 35' 08"W		L76	1.81	N70° 35' 08"E	
L57	5.00	S19° 24' 49"E		L77	5.39	S19° 24' 52"E	
L58	2.50	N70° 35' 11"E		L78	2.75	N70° 35' 08"E	
L59	1.27	S19° 24' 49"E		L79	19.79	S19° 24' 52"E	
L60	3.31	S70° 35' 08"W		L80	1.00	S70° 35' 08"W	



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LINE TABLE-5				LINE TABLE-6			
Line #/Curve #	Length	Bearing/Delta	Radius	Line #/Curve #	Length	Bearing/Delta	Radius
L81	1.00	N19° 26' 09"W		L101	25.80	N19° 24' 52"W	
L82	.50	S70° 35' 08"W		L102	10.41	N70° 44' 41"E	
L83	1.00	N19° 24' 52"W		L103	6.47	S19° 30' 41"E	
L84	3.50	S70° 35' 08"W		L104	4.00	S3° 35' 01"W	
L85	1.00	S19° 24' 52"E		L105	19.42	S86° 24' 59"E	
L86	1.00	N70° 35' 08"E		L106	0.67	S3° 35' 01"W	
L87	1.00	S19° 24' 52"E		L107	8.17	S86° 24' 59"E	
L88	1.00	N70° 35' 08"E		L108	13.90	N3° 35' 01"E	
L89	5.00	S19° 24' 52"E		L109	11.50	N16° 07' 59"E	
L90	3.00	N70° 35' 08"E		L110	3.48	S86° 24' 19"E	
L91	7.87	S19° 24' 52"E		L111	26.76	N3° 35' 01"E	
L92	37.75	N70° 35' 08"E		L112	11.67	N6° 07' 05"E	
L93	26.17	N19° 24' 52"W		L113	0.67	N87° 54' 28"E	
L94	20.50	N70° 35' 08"E		L114	14.10	N86° 29' 11"W	
L95	17.25	N19° 24' 51"W		L115	1.31	N76° 27' 46"E	
L96	16.50	S70° 35' 01"W		L116	2.00	N13° 32' 14"W	
L97	3.00	S19° 26' 03"E		L117	1.92	S76° 27' 46"W	
L98	14.83	S70° 35' 08"W					
L99	13.36	N19° 24' 52"W					
L100	21.33	N70° 35' 08"E					



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CURVE TABLE			
Line #/Curve #	Length	Bearing/Delta	Radius
C1	15.74	24°17'07"	37.14
C2	3.85	4°16'22"	51.58
C3	26.83	23°29'12"	65.46
C4	14.07	16°16'07"	49.54
C5	16.51	23°11'08"	40.79
C6	11.61	71°14'48"	9.33
C7	19.30	9°57'33"	111.01
C8	13.76	95°41'00"	8.24
C9	8.35	22°04'46"	21.66
C10	10.10	8°24'01"	68.87
C11	27.65	22°39'16"	69.94
C12	17.56	11°51'59"	84.79
C13	6.26	5°03'30"	70.91
C14	12.83	0°18'19"	2408.10
C15	18.52	2°56'51"	360.00



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