

RESOLUTION NO. 060404

A. P. # 008-533-007-000

In the matter of the application of
Judy and Graeme Mackenzie (PLN060404)

FINDINGS & DECISION

to allow a Combined Development Permit in accordance with Title 20 (Zoning) Chapter 20.76 (Combined Development Permits) of the Monterey County Code, consisting of: : 1) a Coastal Development Permit for the removal of five Monterey Pine trees ranging from 5 to 19 inches in diameter; 2) and a Coastal Administrative Permit and Design Approval to allow the construction of a 959.5 square foot three bedroom, one bathroom addition to a one-story single family dwelling. The property is located at 1230 Silver Court, Pebble Beach, Del Monte Forest Land Use Plan, Coastal Zone, and came on regularly for meeting before the Zoning Administrator on October 26, 2006.

Said Zoning Administrator, having considered the application and the evidence presented relating thereto,

FINDINGS OF FACT

1. **FINDING: CONSISTENCY** – The project, as described in Condition No. 1 and as conditioned, conforms to the policies, requirements, and standards of the Monterey County General Plan, Del Monte Forest Land Use Plan, Del Monte Forest Coastal Implementation Plan (Part 5), and the Monterey County Zoning Ordinance (Title 20), which designates this area as appropriate for development.

EVIDENCE: (a) The text, policies, and regulations in the above referenced documents have been evaluated during the course of review of applications. No conflicts were found to exist. No communications were received during the course of review of the project indicating any inconsistencies with the text, policies, and regulations in these documents.
(b) The property is located at 1230 Silver Cloud Court, Pebble Beach (Assessor's Parcel Number 008-533-007-000), Del Monte Forest Land Use Plan. The parcel is zoned Medium Density Residential, 4 units per acre with a Design Control Overlay, in the Coastal Zone or ("MDR/4-D [CZ]"). The subject property complies with all the rules and regulations pertaining to zoning uses and any other applicable provisions of Title 20, and is therefore suitable for the proposed development.
(c) The project planner conducted a site inspection on July 12, 2006 to verify that the project on the subject parcel conforms to the plans listed above.
(d) The project was not referred to the Del Monte Forest Land Use Advisory Committee (LUAC) for review. Based on the current review guidelines adopted by the Monterey County Board of Supervisors per Resolution No. 04-236, this application did not warrant referral to the LUAC.
(e) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN060404.

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

EVIDENCE: (a) The project has been reviewed for site suitability by the following departments and agencies: RMA - Planning Department, Pebble Beach Community Services District, Public Works, Environmental Health Division, Water Resources Agency and the California Coastal Commission. There has been no indication from these

departments/agencies that the site is not suitable for the proposed development. Conditions recommended have been incorporated.

- (c) Staff conducted a site inspection on July 12, 2006 to verify that the site is suitable for this use.
- (d) Materials in Project File PLN060404.
- (e) Technical reports prepared by outside biological and archaeological consultants indicated that there are no physical or environmental constraints that would indicate that the site is not suitable for the use proposed. County staff concurs. The following reports have been prepared:

“Preliminary Cultural Resources Reconnaissance of Assessor’s Parcel Number 008-533-007-000, Del Monte Forest, Monterey County California” (LIB060530) prepared by Susan Morley, M.A., Pacific Grove, Ca, prepared July 2006.

“Forest Management Plan for residential parcel APN 008-533-007-000” (LIB060539) prepared by Matt Horowitz of Forest City Consulting, Carmel, Ca, prepared August 6, 2006.

3. **FINDING: TREE REMOVAL** – The subject project minimizes tree removal in accordance with the applicable goals and policies of the Del Monte Forest Land Use Plan and Coastal Implementation Plan (Part 5).

- EVIDENCE:**
- (a) Section 20.147.050.D.4 of the Monterey County Coastal Implementation Plan, Part 5, states that “new residential development, including driveways and parking areas, shall be sited and designed to minimize cutting of trees, especially trees screening the development from neighboring properties.” The project includes the removal five Monterey Pines, ranging from 5 to 19 inches in diameter to allow the construction of a 959.5 square foot three bedroom, one bathroom addition to the one-story single family dwelling. The addition has been sited to avoid the removal of several protected trees.
 - (b) The potential impact to native trees close to the proposed development was assessed in the Forest Management Plan. The FMP prepared by Matt Horowitz included several recommendations for protection of the remaining trees, which have been incorporated as conditions of approval for the project.
 - (c) A condition has been added that the applicant record a notice stating that a Forest Management Plan has been prepared and any tree removal be in accordance with the approved plan.
 - (d) Forest Management Plan prepared by Matt Horowitz of Forest City Consulting, dated August 6, 2006 (Library No. LIB060539).

4. **FINDING: CEQA (Exempt):** - The project is categorically exempt from environmental review.

- EVIDENCE:**
- (a) California Environmental Quality Act (CEQA) Guidelines Section, 15301(e)(1) categorically exempts additions to existing structures provided that the addition will not result in an increase of more than 50 percent of the floor area of the structures before the addition. The proposed project will result in an increase of 26 percent to the existing floor area.
 - (b) No adverse environmental effects were identified during staff review of the development application during a site visit on July 12, 2006.
 - (c) See preceding and following findings and supporting evidence.

5. **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. Zoning violation abatement costs, if any, have been paid.

EVIDENCE: (a) Staff reviewed Monterey County RMA - Planning Department and Building Services Department Monterey County records and is not aware of any violations existing on subject property.

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

EVIDENCE: (a) Preceding findings and supporting evidence.

7. **FINDING: APPEALABILITY** - The decision on this project is appealable to the Board of Supervisors and the California Coastal Commission.

EVIDENCE: (a) Section 20.86.030.A of the Monterey County Zoning Ordinance Title 20 states, "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) Section 20.86.080.A of Title 20 states, "An appeal of a county decision on a coastal development application may be filed by an applicant or any aggrieved person who has exhausted all County appeals..."

DECISION

It is the decision of the Zoning Administrator of the County of Monterey that said application for a Combined Development Permit be granted as shown on the attached sketch and subject to the attached conditions.

PASSED AND ADOPTED this 26th day of October, 2006.



JEFF MAIN, ZONING ADMINISTRATOR

COPY OF THIS DECISION MAILED TO APPLICANT ON JAN - 3 2007

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 OF THE BOARD OF SUPERVISORS ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE JAN 13 2007

THIS APPLICATION IS ALSO APPEALABLE TO THE COASTAL COMMISSION. UPON RECEIPT OF NOTIFICATION OF THE DECISION BY THE BOARD OF SUPERVISORS, 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 the Monterey County RMA - Planning Department office in Salinas.

2. This permit expires 2 years after the above date of granting thereof unless construction or use is started within this period.

**Monterey County Resource Management Agency
Planning Department
Condition Compliance and/or Mitigation Monitoring
Reporting Plan**

Project Name: Mackenzie
File No: PLN060404 **APNs:** 008-533-007-000
Approved by: Zoning Administrator **Date:** October 26, 2006

| <i>Permit Cond. Number</i> | <i>Mitig. Number</i> | <i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i> | <i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i> | <i>Responsible Party for Compliance</i> | <i>Timing</i> | <i>Verification of Compliance (name/date)</i> |
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| 1. | | <p>PBD029 - SPECIFIC USES ONLY This Combined Development Permit (PLN060404) allows the construction of a 959.5 square foot three bedroom, one bathroom one-story single family dwelling addition, and the removal of five Monterey Pines ranging from 5 to 19 inches in diameter. The property is located at 1230 Silver Court, Pebble Beach (Assessor's Parcel Number 008-533-007-000), Del Monte Forest Land Use Plan. This permit was approved in accordance with County ordinances and land use regulations subject to the following terms and conditions. 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 RMA - Planning Department. 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. [Resource Management Agency (RMA) - Planning Department]</p> | Adhere to conditions and uses specified in the permit. | Owner/ Applicant | Ongoing unless other- wise stated | |
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| 2. | | <p>PBD025 - NOTICE-PERMIT APPROVAL The applicant shall record a notice which states: "A permit (Resolution No. 060404) was approved by the Zoning Administrator for Assessor's Parcel Number 008-533-007-000 on October 26, 2006. The permit was granted subject to 11 conditions of approval, which run with the land. A copy of the permit is on file with the Monterey County RMA - Planning Department." Proof of recordation of this notice shall be furnished to the Director of RMA - Planning Department prior to issuance of building permits or commencement of the use. (RMA - Planning Department)</p> | Proof of recordation of this notice shall be furnished to RMA - PD | Owner/ Applicant | Prior to Issuance of grading and building permits or start of use. | |
| 3. | | <p>PBD030 - STOP WORK - RESOURCES FOUND If, during the course of construction, cultural, archaeological, historical or paleontological resources are uncovered at the site (surface or subsurface resources) work shall be halted immediately within 50 meters (165 feet) of the find until a qualified professional archaeologist can evaluate it. The Monterey County RMA - Planning Department and a qualified archaeologist (i.e., an archaeologist registered with the Society of Professional Archaeologists) shall be immediately contacted by the responsible individual present on-site. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery. (RMA - Planning Department)</p> | Stop work within 50 meters (165 feet) of uncovered resource and contact the Monterey County RMA - Planning Department and a qualified archaeologist immediately if cultural, archaeological, historical or paleontological resources are uncovered. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery. | Owner/ Applicant/ Archaeologist | Ongoing | |

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| 4. | | <p>PBD016 - INDEMNIFICATION AGREEMENT The property owner agrees as a condition and in consideration of the 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. County may, at its sole discretion, participate in the defense of such action; but such participation shall not relieve applicant of his obligations under this condition. An agreement to this effect shall be recorded upon demand of County Counsel or concurrent with the issuance of building permits, use of the property, filing of the final map, 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. (RMA - Planning Department)</p> | Proof of recordation of the Indemnification Agreement, as outlined, shall be submitted to RMA-PD. | Owner/ Applicant | | Upon demand of County Counsel or concurrent with the issuance of building permits, use of the property, filing of the final map, which-ever occurs first and as applicable |
| 5. | | <p>PBD026 – NOTICE OF REPORT Prior to issuance of building or grading permits, a notice shall be recorded with the Monterey County Recorder which states: "A forest management plan has been prepared for this parcel by Matt Horowitz, dated August 6, 2006 and is on record in the Monterey County Planning and Building Inspection Department Library No. 060404. All development shall be in accordance with this report." (RMA - Planning Department)</p> | Proof of recordation of this notice shall be furnished to RMA-PD. | Owner/ Applicant | Prior to issuance of grading and building permits | |

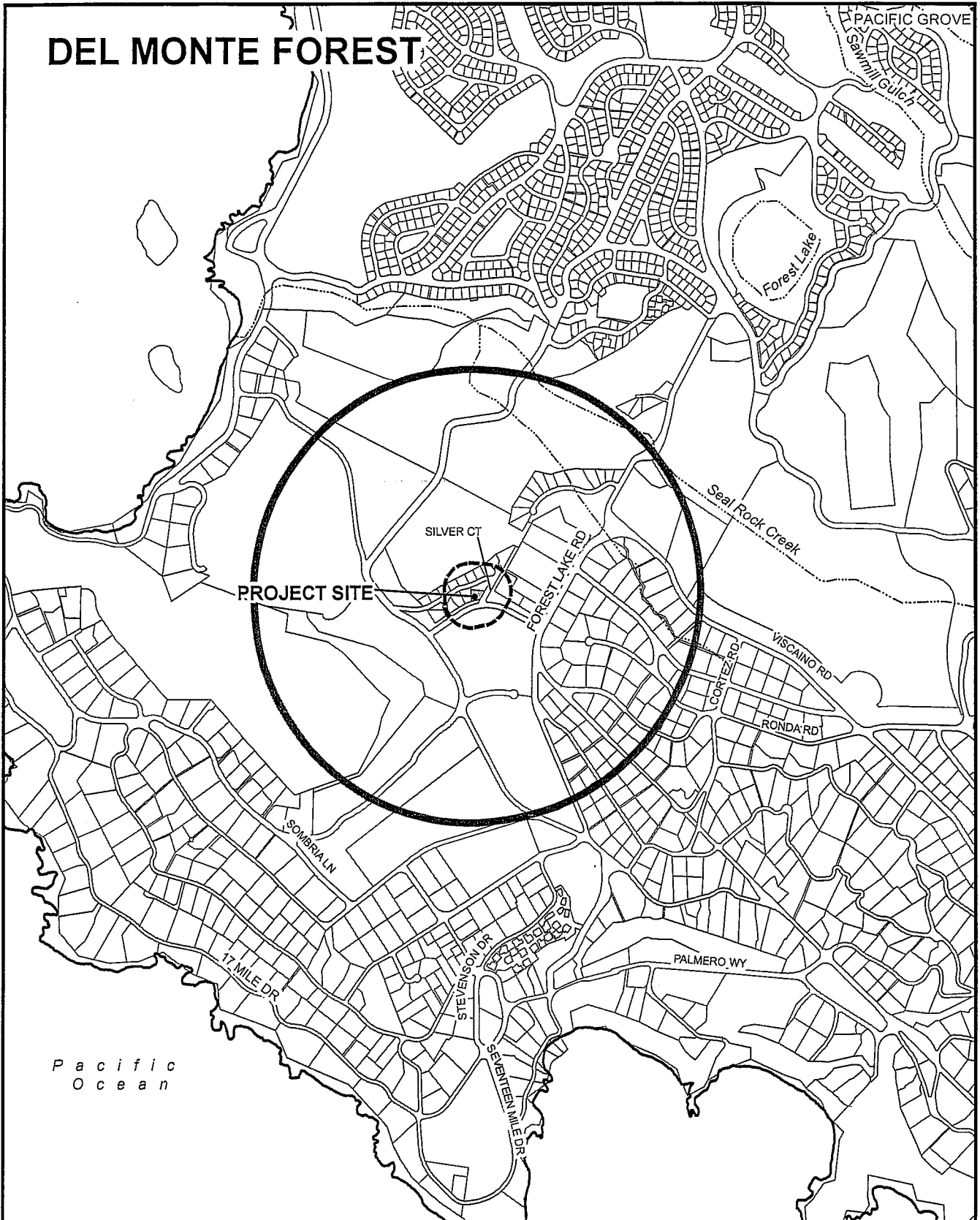
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| 6. | | <p>PBI – TREE REPLACEMENT (NON-STANDARD) The five Monterey Pine trees proposed for removal shall be replaced on a one-to-one ratio. Five 15 gallon Monterey Pines of local genetic stock must be planted as part of the landscaping around the project area immediately after construction has ceased. The replacement trees should not be planted under the drip line of existing trees. (RMA - Planning Department)</p> | <p>Submit three copies of landscape plans and a contractor's estimate to RMA-PD for review and approval.</p> | <p>Owner/ Applicant</p> | <p>Prior to issuance of grading and building permits</p> | |
| 7. | | <p>PBI – TREE PROTECTION (NON-STANDARD) In order to preserve the integrity of remaining trees of protected status on the site during construction activities the following protection measures must be taken: Construction activities shall be kept within the cleared area and on existing paved areas when feasible, forested areas and retained trees shall be protected by the placing of orange high-visibility fencing; once placed a qualified arborist must be retained by the property owner to inspect the installation of the fencing to ensure maximum protection of the retained trees. (RMA - Planning Department)</p> | <p>Submit evidence of tree protection to RMA-PD for review and approval</p> | <p>Owner/ Applicant</p> | <p>Prior to issuance of grading and building permits</p> | |
| 8. | | <p>PBI – TREE PROTECTION (NON-STANDARD) When possible, utilities should be placed in the same trench. Care must be taken to avoid trenching on two sides of a tree. Major roots encountered must be tunneled under or bridged over and retained. Any portion of utility trenching within the area protected by the tree protection fencing (TPF) must be dug using hand tools and under the supervision of a qualified arborist. (RMA - Planning Department)</p> | <p>Submit evidence of tree protection to RMA-PD for review and approval</p> | <p>Owner/ Applicant</p> | <p>Prior to issuance of grading and building permits</p> | |

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| 9. | | <p>WR0040 – WATER CONSERVATION MEASURES The applicant shall comply with Ordinance No. 3932, or as subsequently amended, of the Monterey County Water Resources Agency pertaining to mandatory water conservation regulations. The regulations for new construction require, but are not limited to:</p> <p>a. All toilets shall be ultra-low flush toilets with a maximum tank size or flush capacity of 1.6 gallons, all shower heads shall have a maximum flow capacity of 2.5 gallons per minute, and all hot water faucets and the hot water heater serving such faucet shall be equipped with a hot water recirculating system.</p> <p>b. Landscape plans shall apply xeriscape principles, including such techniques and materials as native or low water use plants and low precipitation sprinkler heads, bubblers, drip irrigation systems and timing devices.</p> <p>(Water Resources Agency)</p> | Compliance to be verified by building inspector at final inspection. | Owner/ Applicant | Prior to Final Building Inspection/Occupancy | |
| 10. | | <p>WR43 - WATER AVAILABILITY CERTIFICATION The applicant shall obtain from the Monterey County Water Resources Agency, proof of water availability on the property, in the form of an approved Monterey Peninsula Water Management District Water Release Form. (Water Resources Agency)</p> | Submit the Water Release Form to the Water Resources Agency for review and approval. | Owner/ Applicant | Prior to issuance of any building permits | |

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| 11. | | <p>FIRE011 - ADDRESSES FOR BUILDINGS</p> <p>All buildings shall be issued an address in accordance with Monterey County Ordinance No. 1241. Each occupancy, except accessory buildings, shall have its own permanently posted address. When multiple occupancies exist within a single building, each individual occupancy shall be separately identified by its own address. Letters, numbers and symbols for addresses shall be a minimum of 4-inch height, 1/2-inch stroke, contrasting with the background color of the sign, and shall be Arabic. The sign and numbers shall be reflective and made of a noncombustible material. Address signs shall be placed at each driveway entrance and at each driveway split. Address signs shall be and visible from both directions of travel along the road. In all cases, the address shall be posted at the beginning of construction and shall be maintained thereafter. Address signs along one-way roads shall be visible from both directions of travel. Where multiple addresses are required at a single driveway, they shall be mounted on a single sign. Where a roadway provides access solely to a single commercial occupancy, the address sign shall be placed at the nearest road intersection providing access to that site. Permanent address numbers (Pebble Beach Community Services District.)</p> | <p>Applicant shall incorporate specification into design and enumerate as "Fire Dept. Notes" on plans.</p> <hr/> <p>Applicant shall schedule fire dept. clearance inspection</p> | <p>Applicant or owner</p> <hr/> <p>Applicant or owner</p> | <p>Prior to issuance of building permit</p> <hr/> <p>Prior to final building inspection</p> | |
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END OF CONDITIONS

DEL MONTE FOREST



APPLICANT: MACKENZIE

APN: 008-533-007-000

FILE # PLN060404



300' Limit



2500' Limit



City Limits



0 1,000
Feet



PLANNER: NICHOLSON