

MONTEREY COUNTY PLANNING COMMISSION

Meeting: December 12, 2007. Time: 9:00 A.M.	Agenda Item No.: 1
Combined Development Permit consisting of: 1) a Coastal Development Permit for development and for the permanent installation of a sea wall within 50 feet of the edge of a coastal bluff; 2) A Coastal Development Permit to allow development within 100 feet of environmentally sensitive habitat; 3) a Coastal Development permit to allow development on slopes of 30% or greater; 4) a Coastal Development Permit for development within 750 of a known archaeological resource.	
Project Location: 3158 17 Mile Drive Pebble Beach	APN: 008-491-013-000
Planning File Number: PLN060059	Name: Peter Read, Property Owner/Agent, Bud Carney
Plan Area: Del Monte Forest Land Use Plan (Coastal Zone)	Flagged and staked: Yes
Zoning Designation: "LDR/2. (CZ) [Low Density Residential, 2 acres per unit (Coastal Zone)]	
CEQA Action: Mitigated Negative Declaration	
Department: RMA - Planning Department	

RECOMMENDATION:

Staff recommends that the Planning Commission take the following actions:

- 1) Adopt the Mitigated Negative Declaration,
- 2) Approve described project based on Findings and Evidence (**Exhibit C**) and subject to proposed conditions (**Exhibit D**), and
- 3) Adopt Mitigation Monitoring and/or Reporting Program (**Exhibit D**)

PROJECT OVERVIEW:

The proposed Combined Development Permit if approved would all the construction of a five-foot high and 50-foot long seawall on the edge of a five-foot bluff. The purpose of the Sea wall is to install permanent measures to protect the subject Landmark Cypress from future episodic storm events. The preservation of this resource (Landmark Cypress) would provide continued protection of the public viewshed by stabilizing the eroded bluff. The seawall would be tied to existing low granite outcrops in front of the tree on the back beach and would appear as a natural outcropping of rocks. The sea wall includes a rock fascia designed to blend the sea wall with the surrounding environment. The project requires that it be constructed on slopes exceeding 30% in order to restore the area lost to erosion and provide a permanent protection to the bluff where the tree resides. The proposed development would be constructed in an archaeological sensitive area; within the Monterey Cypress Community of trees, an environmentally sensitive habitat area (ESHA).

CEQA:

An Initial study was conducted and circulated for public comment for the project. Impacts associated with the proposed sea wall were mitigated to a less than significant level and incorporated into the project as conditions of approval. Therefore, no unresolved issues remain for the project as proposed.

See attached discussion (**Exhibit B**)

OTHER AGENCY INVOLVEMENT:

✓	Environmental Health Division	✓	Resources Agency
✓	Public Works Department	✓	Regional Water Quality Control Board, Region 3
✓	Parks Department	✓	Department of Parks and Recreation
✓	Water Resources Agency	✓	Native American Heritage Commission
✓	Environmental Health Division	✓	Office of Historic Preservation
✓	Calif. Dept. of Fish and Game (Marine Region)	✓	Department of Fish and Game, Region 4
✓	California Coastal Commission	✓	Department of Water Resources
✓	California Highway Patrol	✓	Caltrans, District 5
✓	State Lands Commission		

All have reviewed and recommended conditions (conditions attached) where applicable. The Del Monte Forest Land Use Advisory Committee heard the project on January 4, 2007 and recommended approval of the project by a vote of 5-0.

Notes: This project is appealable to the Board of Supervisors and the California Coastal Commission. Per Sections 20.86.020 and 20.86.030 of the Monterey County Zoning Ordinance (Title 20).

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cc: Planning Commission (10); County Counsel; Coastal Commission, Pebble Beach Community Service District; Public Works, Parks Department, Environmental Health Division Water Resources Agency; Director Mike Novo; Bob Schubert Building and Planning Services Manager, Ramon A. Montano, Carol Allen, Property Owner Peter Read, Agent, Bud Carney Project File.

Attachments: Exhibit A Project Data Sheet
Exhibit B Detailed Project Discussion
Exhibit C Recommended Findings and Evidence
Exhibit D Recommended Conditions of Approval Mitigation Monitoring Reporting Plan
Exhibit E Land Use Advisory Committees comments
Exhibit F Emergency Permit PLN050605
Exhibit G Mitigated Negative Declaration
Exhibit H Project Plans
Vicinity Map

This report was reviewed by Bob Schubert, Acting Planning Manager

EXHIBIT A

Project Information for

Project Title:

Location:

Applicable Plan:

Permit Type:

Environmental Status:

Advisory Committee:

Primary APN:

Coastal Zone:

Zoning:

Plan Designation:

Final Action Deadline (884):

Project Site Data:

Lot Size:

Existing Structures (sf):

Proposed Structures (sf):

Total Sq. Ft.:

Coverage Allowed:

Coverage Proposed:

Height Allowed:

Height Proposed:

FAR Allowed:

FAR Proposed:

Resource Zones and Reports:

Environmentally Sensitive Habitat:

Biological Report #:

Forest Management Rpt. #:

Archaeological Sensitivity Zone:

Archaeological Report #:

Fire Hazard Zone:

Erosion Hazard Zone:

Soils Report #:

Geologic Hazard Zone:

Geologic Report #:

Traffic Report #:

Other Information:

Water Source:

Water Dist/Co:

Fire District:

Tree Removal:

Sewage Disposal (method):

Sewer District Name:

Grading (cubic yds.):

EXHIBIT B
DETAILED DISCUSSION
PLN060059 (Read)

A. PROJECT DESCRIPTION:

The property is located at 3158 Seventeen Mile Drive (Assessor's Parcel Number 008-491-013-000) in Pebble Beach (see Figure 1). The project consists of a Combined Development Permit (PLN060059/Read) that includes the following:

- A Coastal Development Permit for development and for the permanent installation of a seawall within 50 feet of the edge of a coastal bluff;
- A Coastal Development Permit to allow development within 100 feet of environmentally sensitive habitat;
- A Coastal Development permit to allow development on slopes of 30% or greater; and
- A Coastal Development Permit for development within 750 feet of a known archaeological resource.

The measure considered most appropriate was the construction of a sea wall. The proposed seawall would be located on land above the mean high tide line and will be five feet above the surface with an artificial rock fascia. The permit request includes a five foot high and 50 foot long seawall that would be near the edge of a coastal bluff. The seawall would be tied to existing low granite outcrops in front of the tree on the back beach, and also includes tie backs into the terrace deposits above the granite bedrock. Which would establish a more permanent solution to any future episodic storm events as well as improve the existing site drainage conditions which currently affect the tree. The seawall would include a rock fascia designed to blend with the surrounding environment and would be constructed on slopes exceeding 30%; the project is located in an archaeological sensitive area; and within the Monterey cypress community, an environmentally sensitive habitat area (ESHA).

The beach located west of the Monterey cypress tree is an important area for harbor seals (*Phoca vitulina richardsi*) during the pupping season when they utilize the existing sandy beach for newborn pups and their mothers. The parking lot is 250 feet from where the pupping occurs. Several geologic investigations have been conducted on the site in relation to past and proposed development. The existing geologic conditions at the property create the potential for erosion and bluff retreat with the low-lying coastal bluff fully susceptible to attack from ocean waves. The bluff is composed of a highly erodible terrace deposit underlain by granite bedrock. The proposed seawall would be located on land above the mean high tide line and will be five feet above the surface with an artificial rock fascia.

B. BACKGROUND:

According to a September 8, 2005 letter from Stephen Staub, of Staub Forestry & Environmental Consulting, "the stability and health of the [landmark cypress] tree are threatened by exposure of its roots on its seaward side due to erosion of the native soil bank from a recent El Nino storm event. The health and stability of this significant tree, though still largely intact, are at great risk if there is any further erosion of the existing soil bank. Since such erosion normally occurs during the winter storm season, I strongly recommend immediate action to protect the exposed rooting zones ..."



Photo #1; View north to Cypress Point Parking Lot Photo



#2; View of the sand bags at the base of Cypress

The Read property, located along the Seventeen Mile Drive in Pebble Beach, has several Monterey cypress trees throughout the site. One Monterey cypress tree (54-inch diameter landmark tree) located at the edge of a low bluff backing Otter Cove has had significant erosion at the base, undermining the root system to the point that the tree was in danger of failure.

Previous Permit Approvals

On December 8, 2005, an emergency Coastal Development Permit, PLN060684050605 was granted to allow temporary placement of sandbags at the base of the Monterey cypress tree in order to protect the root structure (refer to Photo #1 and 2). A condition of the emergency CDP was to develop permanent measures to protect the tree and apply for a Coastal Development Permit to implement those improvements.



Read residence and beach area below subject Cypress tree.

C. PROJECT RELATED ISSUES:

Biological Resources-The proposed project is located within Otter Cove, a private beach with no public access adjacent to the Cypress Point parking lot. The property has several Monterey cypress trees onsite as well as provide an area currently suitable for Harbor seals to utilize during pupping season. One Monterey cypress tree (54-inch diameter landmark tree) located at the edge of a low bluff backing Otter Cove has had significant erosion at the base, undermining the root system to the point that the tree was in danger of failure. The Staub Forestry report evaluated the health of the tree (September 8, 2005; December 1, 2005; and November 1, 2006); and determined that currently it is in good health and the roots of the Monterey cypress tree would not be damaged during construction of the seawall. Therefore, no impact to the tree is anticipated as a result of the project. In fact, the tree is in danger of failure if no action is taken.

Environmentally Sensitive Habitat-Monterey cypress trees are one of California's rarest endemic conifers and considered environmentally sensitive habitat area (ESHA) under the Del Monte Forest Land Use Plan. They grow within one quarter mile of the ocean in two populations adjacent to Carmel Bay. The project site is located in the northern population that extends 1.8 miles from Cypress Point to Pescadero Point, along the central portion of 17-mile Drive. The proposed project includes the construction of a seawall adjacent to a Monterey cypress tree, California Native Plant Society Lists Monterey Cypress as a 1B species. The plants of List 1B are rare throughout their range and all but a few are endemic to California. All of them are judged to be vulnerable under present circumstances or to have a high potential for becoming so because of their limited or vulnerable habitat, or their limited number of populations.

The DMF LUP Policy 8 states, "ESHA areas not designated as rehabilitation areas shall be protected against any significant disruption of habitat values." Policy 37 of the DMF LUP, states "Landmark trees defined as visually, historically, or botanically significant specimens shall be protected as representative of the Del Monte Forest natural heritage." In addition, the Coastal Implementation Plan defines native trees which are 24 inches or more and visually significant as "landmark" trees. This tree is considered visually significant.

Marine Habitat-Otter Cove beach is an established area for harbor seals and important during the pupping season because they utilize the existing sandy beach for newborn pups and their mothers. The Marine Mammal Center (October 25, 2006) determined that the tree provides protection to the harbor seals from human and vehicle noise from the adjacent parking lot. The proposed project could potentially impact the beach and the harbor seal habitat. The installation of a seawall would require trenching on the beach, which could impact the harbor seals. This is a potentially significant impact. Mitigation Measure BIO-1, which specifies the timing of construction, would reduce impacts to a less than significant level. The project would not substantially degrade the marine habitat through the construction process. See discussion in Section 8, *Hydrology and Water Quality*. Implementation of Mitigation Measure HYDRO-1 would reduce impacts to the marine environment.

Beach Erosion and Sand Loss-The total beach area in Otter Cove is approximately 31,000 sq. ft. The proposed project would only include approximately 60 feet or 0.2% of the beach area. The loss of sand supply from eroding bluffs was determined to be approximately 30 cubic feet or 1.1 cubic yard/year of beach compatible sand. This small loss is considered less than significant. With respect to passive erosion resulting from the hard structural seawall, the beach width reduction is estimated at 4 to 6 feet in one corner of the beach over the next 100 years (40 feet or 12.5% of the 320 lineal feet of the bluff). Active erosion, or the potential for a seawall to induce or accelerate erosion, was studied by surveying several sea walls along the shoreline of Monterey Bay over the course of eight years. The study determined that there was no evidence of increased beach erosion or scouring troughs in front of the seawalls when compared to unarmored beaches. Due to the proposed thinness of the structure (18

inches) and location at the far back edge of the beach where wave run up is greatly reduced, there would not be any wave reflection directed towards the adjacent bluff or properties.

However, the DMF LUP specifically discouraged shoreline alterations including DMF LUP Policy 47 states, "Alteration of the shoreline, including...erection of shoreline protection devices (sea walls, riprap, etc.) shall not be permitted unless necessary to protect existing development..." In addition, Policy 29 allows alteration of the shoreline only "when required to serve coastal-dependent uses, to protect existing structures, or to restore and enhance the habitat." Policy 32 states "Where LUP objectives conflict, preference should be given to long-term protection of the forest resource." Therefore, preference should be given to the proposed project since the objective is to protect the Monterey cypress tree.

Viewshed-The proposed seawall would protect a landmark Monterey Cypress located within the viewshed of 17-mile drive and the surrounding scenic vista, The purpose of the proposed retaining wall (Sea Wall) is to not only protect the Land Mark Cypress from further erosion but to also preserve the existing visual quality of the environment. Therefore by protecting and maintaining the tree the Land Mark Cypress would continue to provide screening thereby preventing the existing residential structure from becoming visually intrusive the public viewshed.

Policy 33 in the DMF LUP identifies preservation of scenic resources a primary objective, with special consideration to the corridors along 17-Mile Drive. Policy 75 states, "Within their indigenous range, Monterey cypress trees shall be protected to the maximum extent possible." The subject tree is 54 inches and visible from the Cypress Point vista along the 17-Mile Drive. The Monterey cypress tree partially screens the residential development from the public view at the Cypress Point vista and provides habitat value for seal pupping activities on the beach fronting the property. The objective of the project is to protect such a tree.

The Del Monte Forest (LUP Policy #56) requires that development should not detract from the scenic values of the shoreline. Therefore visual impacts as seen from the ocean and surrounding area minimized by the artificial rock fascia design which uses stone fascia, which will be made of concrete. Colored and texturized to match adjacent bluff color, texture, and stratigraphy, and aesthetically blend into the surrounding area. The artificial rock fascia has been utilized in similar projects in the County. In addition, the sea wall located on a private beach with no public access would not be visible to the Cypress Point public parking area and vista point due to the tree location below the bluff top. The project is consistent with DMF LUP Policy # 84 requiring development fronting 17-Mile Drive to maintain an adequate natural buffer.

Development on Slopes in Excess of 30%

The purpose of the project is to prevent soil erosion on two coastal bluff slopes that are in excess of 30%. The project is designed to provide permanent stabilization of the slopes only where the erosion occurred exposing the tree roots. The threat to the tree was identified in 2005 (Steven Staub, August 30, 2005) and an emergency permit was granted to place sandbags around the base of the tree for protection. The forester's report found soil erosion had exposed nearly all the roots on the seaward side of the tree with several roots actually hanging in the air. The existing sandbags were implemented as a temporary measure to preserve the integrity of this native resource. The seawall will reduce the rate of erosion around the base of the Monterey Cypress tree for adequate long-term protection. The report also noted that the existing Cypress Point parking lot drainage outfall is located in close proximity to the tree which contributes to the erosion around the tree at peak flows. The six foot bluff will be armored by the proposed retaining wall to restore the area around the Cypress tree and to protect it from further erosion and to correct the drainage issues. For that reason the project as proposed better meets the policies specific to Marine Habitats by preserving the existing Cypress habitat and the beach which the Harbor Seals utilize as a pupping area.

C. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) REVIEW

Pursuant to CEQA, staff prepared an initial study to assess the potential adverse and cumulative environmental impacts to Biological resources from the proposed project. Although potentially significant adverse environmental impacts could occur from project implementation, (Exhibit “G” and *Biological Resources*, above) mitigation measures were identified that would decrease the impacts to a less than significant level. Consequently, a Mitigated Negative Declaration was prepared and filed with the County Clerk. The Initial Study/Mitigated Negative Declaration was circulated for public review through the State Clearinghouse between November 27, 2002 and December 26, 2003. No comments from the public were received during the review period. Therefore no issues remain unresolved for this project.

EXHIBIT C
RECOMMENDED FINDINGS AND EVIDENCE
PLN060059 Read

1. FINDING: CONSISTENCY – The project as described in Condition No.1 and as conditioned, policies, requirements, and standards of the Monterey County General Plan, certified Monterey County Local Coastal Program (LCP). The LCP for this site consists of the Del Monte Forest Land Use Plan, Coastal Implementation Plan (Part 3), and the Coastal Implementation Plan Appendices (Part 6); Monterey County Coastal Implementation Plan (Part 1) or Zoning Ordinance (Title 20), which designates this area as appropriate for the proposed development.

- EVIDENCE:**
- (a) The text, policies, and regulations in the above referenced documents have been evaluated during the course of review of the application. 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 3158 Seventeen Mile Drive (Assessor's Parcel Number 008-491-013-000) in Pebble Beach, Del Monte Forest Land Use Plan, Coastal Zone. Low Density Residential/ two (2) unit per acre with Design Control Overlay, in the Coastal Zone (“LDR/2-D (CZ)”). The project for the development of a 50 foot long, rock faced retaining wall (Sea Wall) is a conditionally allowed use in accordance with Section 20.14.030 (E). & 20.66.020. The proposed sea wall will require a small portion of the sea wall to cross over slopes in excess of 30%. 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) On January 8, 2007, the owner submitted an application requesting to allow the development of a 50 foot long, rock faced retaining wall (Sea Wall) for the purpose of preventing the loss of a 54 inch land mark Monterey Cypress pursuant to Section 20.14.030 (E) & 20.66.020. this development proposal is considered non exempt and requires a Coastal Development Permit (CDP) to allow development within 100 feet of environmentally sensitive habitat (Monterey Cypress & shore line area used by harbor seals); and to allow the proposed sea wall to traverse a small portion of slopes in excess of thirty percent. Additionally a CDP is required in order to develop within 750 feet of a known archeological site, the subject property is identified as having a potential remains however the Archaeological report indicated no significant remains were found on the site.
 - (d) The project is consistent with the Coastal Act as enumerated in the Section 30001.5 of the Coastal Act and as set forth in the Del Monte Forest Land Use Plan to establish a policy context. Goals 1) to protect, maintain, and, where feasible, enhance and restore the overall quality of the Coastal Zone environment and its natural manmade resources.
 - (e) The project is consistent with the following development standards as required by Section 20.12.060 of the Monterey County Zoning Ordinance (Title 20) for those areas designated Medium Density Residential, 2 units per acre
 - Height Allowed height measured from the average natural grade for accessory structure is 15 feet. The proposed retaining wall (Sea Wall) measures approximately 5 feet at the highest point.

- Setbacks The proposed retaining wall (Sea Wall) is above mean high tide, development less than six feet in height is not required to maintain setback under the site development standards established in Section 20.14.060.
 - Building Site Coverage Maximum allowed building site coverage within the LDR zoning designation is 15%, the subject property maintains site coverage of 7.6 percent. The proposed retaining wall (Sea Wall) will increase the site coverage by 300 square feet.
- (f) The project planner conducted a site inspection in January, 2007 to verify that the project on the subject parcels conforms to the plans listed above.
- (g) The project was referred to the Carmel Area Land Use Advisory Committee recommended approval of the project by a vote of 5-0. LUAC meeting minutes dated January 4, 2007 with one comment see (Exhibit "D")
- (h) The application, project plans, and related support materials submitted by the applicant to the Monterey County RMA - Planning Department for the proposed development, found in Project File PLN060059.

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

- EVIDENCE:**
- (a) The project has been reviewed for site suitability by the following departments and agencies: RMA - Planning Department, Carmel Highlands Fire Protection District, Public Works, Environmental Health Division, and the Water Resources Agency. There has been no indication from these departments/agencies that the site is not suitable for the proposed development. Conditions recommended have been incorporated.
- (c) Technical reports by outside archaeological, geological, and Biological consultants indicated that there are not physical or environmental constraints that would indicate that the site is not suitable for the use proposed.
- (d) Technical reports by outside archaeological, geological, and Biological consultants were created for the project as proposed. The reports 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:
- I. *"Preliminary Cultural Resources Reconnaissance" (LIB070604) prepared by Archaeological Consulting, Salinas, CA, May 8, 1987 and follow up report dated July 27, 1987.*
 - II. *"Biological Assessment" (LIB070607) prepared by Dale Hameister Biological Consulting Salinas, CA, dated December 1, 2005.*
 - III. *"Foresters assessment" (LIB070608) prepared by Staub Forestry and Environmental Consulting, Felton California. The report is dated November 1, 2006.*
 - IV. *"Geological Analysis" (LIB070603) prepared by Gary B. Griggs, Bluff stabilization and sand loss, Santa Cruz CA, dated September 14, 2007.*
- (e) Staff conducted a site inspection in January, 2007 to verify that the site is suitable for this use.
- (f) 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 PLN060059.

3. FINDING: DEVELOPMENT ON SLOPES EXCEEDING 30%: There is no feasible alternative which would allow development to occur on slopes of 30% or less. The project better meets the policies specific to preserve Marine Habitats, Monterey Cypress & shore line area used by harbor seals.

- EVIDENCE:** (a) The purpose of the project is to prevent soil erosion on two coastal bluff slopes that are in excess of 30%. The project is designed to provide permanent stabilization of the slopes only.
- (b) The project site is a 2.36-acre parcel within the Pebble Beach area adjacent to the Cypress Point overlook. This property is zoned Low Density Residential, 2 acres per unit with Design Control, Coastal Zone (“LDR/2-D”). The site of the critical erosion of the tree roots and the location of the retaining wall (Sea Wall) is approximately 15 feet from the property line. The area where the erosion occurred exposing the tree roots created an average bluff height of six feet. The proposed development will provide protection from further erosion of the trees root system. The six foot bluff will be armored by the proposed retaining wall to restore the area immediately around the Cypress tree and to protect it from further erosion. For that reason the project as proposed better meets the policies specific to Marine Habitats by preserving the existing Cypress habitat.
- (c) Project description and project plans contained in File No. PLN060059.

4. FINDING: CEQA: On the basis of the whole record before the Planning Commission there is no substantial evidence that the proposed project as designed, conditioned and mitigated, will have a significant effect on the environment. The mitigated negative declaration reflects the independent judgment and analysis of the County.

- EVIDENCE:** (a) The Monterey County Planning and Building Inspection Department prepared an Initial Study pursuant to CEQA. The Initial Study identified several potentially significant effects, but the applicant has agreed to proposed mitigation measures that avoid the effects or mitigate the effects to a point where clearly no significant affect would occur. The Initial Study is on file in the office the Resource Management Agency (RMA)-Planning Department and is hereby incorporated by reference (PLN060059). All project changes required to avoid significant effects on the environment have been incorporated into the project and/or are made conditions of approval. (Exhibit C)
- (b) A Condition Compliance and Mitigation Monitoring and Reporting Plan has been prepared in accordance with Monterey County regulations and is designed to ensure compliance during project implementation. The applicant must enter into an “Agreement to Implement a Mitigation Monitoring and/or Reporting Plan as a condition of project approval (Condition #3, Exhibit “G”)
- (c) Evidence that has been received and considered includes:
- I. The application materials and plans; Initial Study for Read Retaining Walls (Sea Wall), Monterey County – SCH #2007101008.*
- II. “Preliminary Cultural Resources Reconnaissance” (LIB070604) prepared by Archaeological Consulting, Salinas, CA, May 8, 1987 and follow up report dated July 27, 1987.*
- III. “Biological Assessment” (LIB070607) prepared by Dale Hameister Biological Consulting Salinas, CA, dated December 1, 2005.*
- IV. “Foresters assessment” (LIB070608) prepared by Staub Forestry and Environmental Consulting, Felton California. The report is dated November 1, 2006.*
- V. “Geological Analysis” (LIB070603) prepared by Gary B. Griggs, Bluff stabilization and sand loss, Santa Cruz CA, dated September 14, 2007.*
- (d) *The mitigated negative declaration was circulated for public review from October 2, 2007 to November 1, 2007.*
- (e) No comments from the public were received.

- (f) The Monterey County Resource Management Agency (RMA)-Planning Department, located at 168 West Alisal, second floor, Salinas CA, 93901, is the custodian of documents and other materials that constitute the record of proceedings upon which the decision to adopt the mitigated negative declaration is based.
- (g) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN060059.

5. FINDING: PUBLIC ACCESS: The project is in conformance with the public access and public recreation policies of the Coastal Act and Local Coastal Program, and does not interfere with any form of historic public use or trust rights. No access is required as part of the project as no substantial adverse impact on access, either individually or cumulatively, as described in Section 20.70.050.B.4.c of the Monterey County Coastal Implementation Plan, can be demonstrated.

- EVIDENCE:**
- (a) The subject property is not described as an area where the Local Coastal Program requires access.
 - (b) The subject property is not indicated as part of any designated trails or shoreline access as shown in Figure 15, the Recreational Facilities Map, and Figure 16, the Shoreline Access Map, of the Del Monte Forest Area Land Use Plan.
 - (c) No evidence or documentation has been submitted or found showing the existence of historic public use or trust rights over this property.
 - (d) Staff site visit in January of 2007.

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

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

EVIDENCE: Preceding findings and supporting evidence.

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

EVIDENCE: Sections 20.86.020 and 20.86.030 of the Monterey County Zoning Ordinance (Title 20).

- (a) In accordance with Section 20.86.080 of the Monterey County Zoning Ordinance (Title 20) the project may be appealed to the California Coastal Commission because the project is located between the sea and the first through public road paralleling the sea and includes the granting of a conditional use.

EXHIBIT D Monterey County Resource Management Agency Planning Department Condition Compliance and/or Mitigation Monitoring Reporting Plan	Project Name: Peter Read File No: PLN060059 Approved by: Planning Commission	APN: 008-491-013-000 Date: December 12, 2007
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**Monitoring or Reporting refers to projects with an EIR or adopted Mitigated Negative Declaration per Section 21081.6 of the Public Resources Code.*

<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>
1.		<p>PBD029 - SPECIFIC USES ONLY</p> <p>This Combined Development Permit consisting of: 1) a Coastal Development Permit for development and for the permanent installation of a sea wall within 50 feet of the edge of a coastal bluff; 2) A Coastal Development Permit to allow development within 100 feet of environmentally sensitive habitat; 3) a Coastal Development permit to allow development on slopes of 30% or greater; 4) a Coastal Development Permit for development within 750 feet of a known archaeological resource. The property is located at 3158 17 Mile Drive Pebble Beach (Assessor's Parcel Number 008-491-013-000) west of 17 Mile Drive Del Monte Forest Area of the Coastal Zone 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 the appropriate authorities approve additional permits.</p> <p>[Resource Management Agency (RMA) - Planning Department]</p>	Adhere to conditions and uses specified in the permit.	Owner/ Applicant	Ongoing unless otherwise stated	

<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>
2.		<p>PBD025 - NOTICE-PERMIT APPROVAL</p> <p>The applicant shall record a notice, which states: "A permit (Resolution No.) was approved by the Planning Commission for Assessor's Parcel Number 008-491-013-000 on December 12, 2007. The permit was granted subject to 9 conditions of approval and 3 mitigations and monitoring actions, 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.</p> <p>(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</p> <p>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>PD005 - FISH AND GAME FEE-NEG DEC/EIR Pursuant to the State Public Resources Code § 735.5, State Fish and Game Code, and California Code of Regulations, the applicant shall pay a fee, to be collected by the County, within five (5) working days of project approval. This fee shall be paid before the Notice of Determination is filed. If the fee is not paid within five (5) working days, the project shall not be operative, vested or final until the filing fees are paid. (RMA - Planning Department)</p>	<p>The applicant shall submit a check, payable to the <i>County of Monterey</i>, to the Director of the RMA - Planning Department.</p> <p>If the fee is not paid within five (5) working days, the applicant shall submit a check, payable to the <i>County of Monterey</i>, to the Director of the RMA - Planning Department.</p>	Owner/ Applicant	Within 5 working days of project approval.	
5		<p>PD006 - MITIGATION MONITORING PROGRAM The applicant shall enter into an agreement with the County to implement a Mitigation Monitoring and/or Reporting Plan in accordance with Section 21081.6 of the California Public Resources Code and Section 15097 of Title 14, Chapter 3 of the California Code of Regulations. Compliance with the fee schedule adopted by the Board of Supervisors for mitigation monitoring shall be required and payment made to the County of Monterey at the time the property owner submits the signed mitigation monitoring agreement. (RMA - Planning Department)</p>	<ol style="list-style-type: none"> 1) Enter into agreement with the County to implement a Mitigation Monitoring Program. 2) Fees shall be submitted at the time the property owner submits the signed mitigation monitoring agreement. 	Owner/ Applicant	Within 60 days after project approval or prior to the issuance of grading and building permits, whichever occurs first.	

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6		<p>PD004 - INDEMNIFICATION AGREEMENT</p> <p>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>	<p>Submit signed and notarized Indemnification Agreement to the Director of RMA – Planning Department for review and signature by the County.</p> <p>Proof of recordation of the Indemnification Agreement, as outlined, shall be submitted to the RMA – Planning Department.</p>	Owner/ Applicant	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	

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7	1	Mitigation Measure BIO-1 (Pupping): In order to avoid impacts to harbor seals during the pupping season and other marine mammals, the applicant shall conduct all construction activities outside of the peak breeding season (February 15 to June 15) If construction is to be initiated between February 15 and June 15, a pre-construction marine mammal survey shall be prepared by a County-approved marine biologist. If marine mammals are identified during pre-construction surveys, an appropriate buffer; to be determined by the marine biologist in coordination with the California Department of Fish and Game, shall be imposed within which no construction activities or disturbance shall take place. (RMA - Planning Department)	If construction is to be initiated between February 15 and June 15, then prior to the issuance of a grading or building permit, the applicant shall submit a pre-construction marine mammal survey to the Planning and Building Inspection Department for review and approval.	Owner/ Applicant	Prior to the issuance of grading and building permits, whichever occurs first.	
8	2	Mitigation Measure BIO-2 (Nesting): In order to avoid impacts to nesting raptors and other avian species, which could result in take that is prohibited under CDFG Code 3503 and 3503.5 and the federal Migratory Bird Treaty Act, construction activities shall be conducted outside of the peak breeding season (February 15 to August 1). If construction is to be initiated between February 15 and August 1, a pre-construction survey shall be conducted for nesting avian species (including raptors) within 300 feet of proposed construction activities. If nesting raptors (or any other nesting birds) are identified during pre-construction surveys, an appropriate buffer; to be determined by a County-approved biologist in coordination with the California Department of Fish and Game, shall be imposed within which no construction activities or disturbance shall take place. If nests are identified, work may only proceed prior to August 1 st if a County-approved biologist conducts periodic nest checks and confirms that the nest is no longer active (i.e. the young have fledged) and work re-initiation has been specifically authorized by the appropriate regulatory agency. (RMA - Planning Department)	If construction is to be initiated between February 15 and August 1, then prior to the issuance of a grading or building permit, the applicant shall submit a pre-construction raptor survey to the Planning and Building Inspection Department for review and approval.	Owner/ Applicant	Prior to the issuance of grading and building permits, whichever occurs first.	

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9	3	<p>Mitigation Measure HYDRO-1 (Construction Waste Control Plan). A Construction Waste Control Plan shall be prepared for project activities, and incorporated into contract specifications. The plan shall include, but not be limited to, the following measures to reduce waste and pollutants from the construction of the seawall into the Monterey Bay National Marine Sanctuary: A Construction Waste Control Plan shall be prepared for project activities, and incorporated into contract specifications. The plan shall include, but not be limited to, the following measures to reduce waste and pollutants from the construction of the seawall into the Monterey Bay National Marine Sanctuary:</p> <ol style="list-style-type: none"> (1) Ground-disturbing activities shall be performed during dry weather to reduce water erosion. Activities shall cease within two (2) days of forecasted rain events. (2) Areas used to stockpile fill shall be graded to disperse water. (3) Silt fences and/or hay bales shall be placed at the toe of fill slopes to contain sediments prior to stabilization. (4) During and after construction, inspection and maintenance shall be performed to identify and repair areas of concentrated runoff and sediment transport. <p>(RMA - Planning Department)</p>	<p>Prior to the issuance of grading or building permits, the applicant shall submit the Construction Waste Control Plan to the Planning and Building Inspection Department for review and approval. Prior to final building inspection, the applicant shall submit a letter prepared by a civil engineer which certifies that the measures contained in the approved Construction Waste Control Plan have been fully implemented.</p>	<p>Owner/ Applicant</p>		

Attachments