

## MONTEREY COUNTY PLANNING COMMISSION

<b>Meeting:</b> November 18, 2009 <b>Time:</b> 9:00 A.M	<b>Agenda Item No.: 2</b>
<b>Project Description:</b> Combined Development Permit Consisting of: 1) A Coastal Administrative Permit to allow the construction of a new 4,713 square foot, three-level, single family dwelling with a 619 square foot attached garage and approximately 86 cubic yards of cut and 380 cubic yards of fill; 2) A Coastal Administrative Permit to allow the construction of a new 849 square foot detached senior unit; 3) A Coastal Development Permit to allow removal of 33 Monterey pine Trees; 4) A Coastal Development Permit to allow development within 100 feet of environmentally sensitive habitat (Yadon's Piperia); and 5) A Design Approval.	
<b>Project Location:</b> 1440 Oleada Road, Pebble Beach	<b>APN:</b> 008-331-007-000
<b>Planning File Number:</b> PLN070333	<b>Owner:</b> Robert Enea <b>Agent:</b> David Prew
<b>Planning Area:</b> Del Monte Forest Land Use Plan	<b>Flagged and staked:</b> Yes
<b>Zoning Designation:</b> LDR/1.5-D (CZ) [Low Density Residential, 1.5 acres per unit with a Design Control Overlay (Coastal Zone)]	
<b>CEQA Action:</b> Mitigated Negative Declaration	
<b>Department:</b> RMA - Planning Department	

### RECOMMENDATION:

Staff recommends that the Planning Commission adopt a resolution (**Exhibit C**) to:

- 1) Adopt the Mitigated Negative Declaration (**Exhibit F**);
- 2) Approve PLN070333, based on the findings and evidence and subject to the conditions of approval (**Exhibit C**); and
- 3) Adopt the Mitigation Monitoring and Reporting Plan (**Exhibit C-1**).

### PROJECT OVERVIEW:

The applicant proposes construction of a new 4,713 square foot single family dwelling and 849 square foot senior unit is proposed at 1440 Oleada Road in Pebble Beach. The site is currently undeveloped and contains a stand of Monterey pine trees. The construction of the proposed structures, with associated improvements including the driveway and site grading, requires removal of 33, live, Monterey Pine trees. Six dead trees are also proposed for removal.

During review of the proposed development, potential resource impacts were identified. These include visual resources, archaeological resources, tree resources, and biological resources. The property is located an area mapped as visually sensitive because of its location on a south facing hillside of Pebble Beach that is visible from Carmel State Beach and Point Lobos, both sensitive public viewing areas. The site is also within an area that is mapped as high in archaeological sensitivity. Biological resources discovered at the site include Monterey Pine trees (33 to be removed), the federally-endangered Yadon's Piperia (16 proposed for removal), Hickman's Onion, and pine rose (to be retained).

Due to the potential for impacts to sensitive resources, an Initial Study was prepared. Potential impacts to visual and archaeological resources were found to be less than significant and minor design changes were made, which, in combination with the suggested mitigations, reduce the biological and tree impacts to a less than significant level. See **Exhibit B** for a more detailed discussion.

**OTHER AGENCY INVOLVEMENT:** The following agencies and departments reviewed this project:

√ RMA - Public Works Department  
Enea (PLN070333)

- ✓ Environmental Health Division
- ✓ Water Resources Agency
- ✓ Pebble Beach Community Services District (PBCSD)
- California Coastal Commission
- California Department of Fish & Game

Agencies that submitted comments are noted with a check mark ("✓"). Conditions recommended by RMA – Planning, Water Resources Agency, and Pebble Beach Fire have been incorporated into the Condition Compliance/Mitigation Monitoring and Reporting Plan attached as Exhibit 1 to the draft resolution (**Exhibit C**).

The Enea project was referred to the Del Monte Forest Land Use Advisory Committee (LUAC) for review. On November 1, 2007, the LUAC voted to recommend approval of the project by a vote of 5-0. Two recommendations were suggested including, controlling ground water (or storm water runoff) and restricting the use of the senior unit. Standard conditions of approval are recommended to require control of storm-water runoff and to deed restrict the use of the senior unit to those allowed by the Zoning Ordinance (Title 20).

Note: The decision on this project is appealable to the Board of Supervisors and the Coastal Commission.

/S/

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Craig W. Spencer, Assistant Planner  
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 October 12, 2009

cc: Front Counter Copy; Planning Commission; Pebble Beach Fire Protection District; Public Works Department; Environmental Health Division; Water Resources Agency; California Coastal Commission; Regional Water Quality Control Board; Del Monte Forest Foundation; Laura Lawrence, Planning Services Manager; Craig Spencer, Project Planner; Carol Allen, Senior Secretary; Robert Enea, Owner; David Prew, Agent; Planning File PLN070333.

Attachments:	Exhibit A	Project Data Sheet
	Exhibit B	Project Discussion
	Exhibit C	Draft Resolution, including:
		1. Conditions of Approval and Mitigation Monitoring and Reporting Program
		2. Site Plan, Floor Plan and Elevations, Parcel Map, Tentative Map
	Exhibit D	Vicinity Map
	Exhibit E	Land Use Advisory Committee Minutes
	Exhibit F	Mitigated Negative Declaration
	Exhibit G	Forest Management Plan
	Exhibit H	Biological Report
	Exhibit I	Comment letter from RWQCB
	Exhibit J	Interpretation letters dated March 27, 1998 and October 18, 2001

This report was reviewed by Laura Lawrence, Planning Services Manager

**EXHIBIT B**  
**PROJECT DISCUSSION**  
**PLN070333 (Enea)**

**I. PROJECT SETTING AND DESCRIPTION:**

**Setting**

The Enea property is approximately 0.875 acres and is located on Oleada Road in Pebble Beach. The parcel is zoned Low Density Residential 1.5 acres per unit with a Design Control Overlay, in the Coastal zone. Surrounding land use is residential, with established single family structures on neighboring lots. Overall, the site is predominantly disturbed Monterey Pine forest. The under story has been mowed and maintained in the past to reduce fire fuel loads. The underbrush now consists of non-native annual plants, approximately 1,200 Yadon's Piperia, and some isolated native plants including Coast live oak and shaggy-barked manzanitas. There are a fair amount of dead and declining trees on the property that shows evidence of topping sometime in the past.

**Project Description**

The project entails construction of a new 4,713 square foot two-story single family dwelling with a 619 square foot attached garage and a detached 849 square foot senior unit, 86 cubic yards of cut, 380 cubic yards of fill, removal of 33 live Monterey Pine trees and 6 dead ones, and removal of approximately 16 Yadon's Piperia. Pervious materials are proposed for the driveway access and walkways to the dwelling and senior unit.

**II. ANALYSIS**

**Development Standards**

The site is designated for low density residential development (LDR/1-D (CZ)). Standards for height, lot coverage, setbacks, and floor area ratio (FAR) are all met. Additionally, the impermeable surface limitations of the Pescadero watershed are also met. During review of the application, staff identified potential impacts relative to compliance with the Del Monte Forest Land Use Plan policies (tree removal, environmentally sensitive habitat, archaeological resources, and visual resources). The following discussion contains an analysis of LUP policy compliance and potential resource impacts associated with the main components and resources affected by the proposed project.

**Senior Unit**

Senior units are conditionally allowed based on the suitability of the site to allow for the use. Six (6) Monterey pines and six (6) Yadon's Piperia would be removed for the construction of the proposed senior unit. These twelve plants could be retained if the senior unit were eliminated from the project. The project, including the senior unit, has been found to have a less than significant effect on the protected plants at the site, and, as designed, appears appropriately sited. Justification for the senior unit has been submitted by the owner citing a need to provide housing for their parents, who, in return, may still be able to provide caretaker-like services for the property. Senior units are encouraged as an appropriate means of providing affordable housing for seniors. The property is served by the Pebble Beach Sanitary Sewer District, is not within a planned unit area shown on Figure 5 of the Del Monte Forest Land Use Plan and is allowed based on the current dwelling unit/density maximum for the Del Monte Forest Planning area (see Finding 7 Evidence f). A standard condition of approval has been incorporated to insure compliance with senior unit standards (Condition #13).

## **Tree Removal**

Forest Resource policies within the Del Monte Forest Land Use Plan (LUP) and Coastal Implementation Plan Part 5 (CIP) require review of project design and siting to minimize removal of trees and vegetative cover (LUP Policies 31 - 34). The subject project would disturb approximately 9,000 square feet of area for the construction of a new single family dwelling, senior unit, and driveway resulting in removal of 33 Monterey pine trees. Removal of 33 Monterey pines is the minimum required for the construction of the proposed improvements in this case. The proposed development was originally sited to minimize tree removal to the maximum extent; however, additional resource constraints (e.g. Yadon's *Piperia*) were identified that required minor modification to the design. Subsequently, the tree removal numbers were increased by a total of 5 trees. In this case, significant development anywhere on the lot would require the removal of protected trees.

The Forest Management Plan (FMP) prepared for the project states "The driveway and house placement is located to take advantage of current openings in the canopy and to avoid disruption of protected plant species discovered during the biological assessment." It was discovered that the original proposed location of the house was in an area that did not contain large populations of sensitive meaning that only minor changes in siting were needed to further reduce impacts including rotating the orientation of the house slightly to the north and placing the proposed senior unit closer to the proposed dwelling. As the original siting was selected to minimize tree removal, the revised design still accomplishes this objective while also minimizing removal of other protected plant species.

Protection of the federally endangered Yadon's *Piperia* was given priority to protection of the Monterey pines while still attempting to minimize tree removal. This priority rating is due to the elevated sensitivity of the *Piperia* plant and the indication in the FMP that the health of the Pines at the site is poor due to past topping, over crowded conditions, and beetle infestation. The stand of pines at the site also lacks in continuity with the surrounding forest which is the result of past development (mostly single family dwellings and infrastructure such as roads). Given these criteria, staff has determined that the house and senior unit are adequately located and meet the intent of the LUP Policies 31 through 34 by retaining to the maximum feasible degree the natural forest character and minimizing removal of vegetation.

Six additional dead Monterey pine trees are proposed for removal based on the Forester's recommendations because the trees are dead. According to the Del Monte Forest CIP, removal of native trees or other major vegetation requires a Coastal Development Permit. A waiver or exception can be given to pines that are dead, diseased, or hazardous (Section 20.147.050.A.1 CIP). Recommendations contained in the report have been made conditions of approval to protect the trees not proposed for removal (Condition 23). Replanting of six (6) Monterey pines at the site is proposed (Condition 26). The LUP requires replanting on a 1:1 basis except where it is demonstrated by the forester that a 1:1 replacement will result in an overcrowded, unhealthy environment (20.147.050.D.4 CIP).

## **Environmentally Sensitive Habitat**

Due to the potential for biological impacts stemming from known sensitive species in proximity to the project site and the required tree removal, a biologist was required (CIP 20.147.040.A.2). A biological report, prepared by Ed Mercurio dated August 31, 2007, was submitted. That report identified the potential for sensitive resources at the site and recommended seasonal-specific surveys to identify the actual presence and location of any resources that may not have been identifiable at the time of the original report. Surveys were conducted by the biologist in mid-February, mid-April and late May in 2009. Three sensitive species, not previously identified,

were discovered including many Yadon's rein orchards (aka: Yadon's Piperia), one Hickman's onion, and three pine rose plants. These three sensitive plant species are in addition to the Monterey pines identified in the original report.

Tree impacts are discussed above and the biological relevance of the trees themselves are mainly from habitat association. The pine rose and Hickman's onion were found outside the improvement area where they can be preserved during construction.

Of the approximately 1,265 piperia plants were identified, 3 are within the proposed footprint of the new dwelling, 6 are within the proposed footprint of the senior unit, and approximately 7 are within the footprint of the proposed driveway for a total proposed removal of 16 plants. Yadon's Piperia is a federally endangered plant species and is the most common piperia plant in the project vicinity. When the presence of such a large population of plants were discovered on the lot, a meeting at the site was conducted at the site and included Planning Department staff, the applicants, the biologist, and a representative from the California Department of Fish & Game (DFG).

Following that meeting, the applicant revised the plan slightly to avoid the plants as much as possible. In consultation with the project biologist, DFG, and U.S. Fish and Wildlife Service, mitigations were identified and incorporated in the Mitigated Negative Declaration. With the mitigations incorporated, impacts to approximately 16 out of approximately 1,265 plants at the site was determined to be less than significant.

The proposed project is consistent with LUP policies 8 through 15 by siting the project to minimize impacts to vegetation, and limiting the development to only the amount needed to construct a new driveway, single family dwelling, and senior unit (Policy 14). Mitigations contained in the Mitigated Negative Declaration and required by LUP policy to protect the piperia and it's habitat, including removal of invasive species (Policy 15) and dedication of an easement (Policy 13) are included in the Conditions and Mitigation Monitoring and Reporting Plan (**Exhibit C-1**).

### **Archaeological Resources**

An archaeological survey is required for all development within the Del Monte Forest (CIP Policy 20.147.080.B.1). A Preliminary Cultural Resources Reconnaissance, prepared by Archaeological Consulting, dated July 3, 2007, was submitted for the subject property. No potentially significant resources were discovered or are believed to exist on the property and the project is not within 750 feet of any known archaeological resources. However, lack of surface evidence of archeological resources does not preclude their subsurface existence. To project unforeseen resources, a standard condition of approval is suggested that requires work to stop and the appropriate level of review, by qualified individuals, to be conducted if resources are discovered during construction (Condition 3).

### **Visual Resources**

Figure 2C of the Del Monte Forest Land Use Plan (LUP) maps the project area as visually sensitive. The mapped area is part of a south facing hillside of the Del Monte Forest that can be viewed across Carmel Bay from Carmel State Beach and Point Lobos State Park. The viewshed from Point Lobos and Carmel State Beach currently consists of a Monterey pine-covered, south facing hillside, highly fractured by structures and the golf course. The subject property, with the orange netting delineating the height and location of the proposed structures, is not readily visible from Point Lobos or Carmel State Beach due to the screening provided by trees between the two locations. Several trees lining the back of the property that faces Point Lobos and Carmel

State Beach (southwestern side) are not proposed for removal and will help to continue to screen the development from view. Tree protection, height verification, and exterior lighting standard conditions are suggested (Conditions 24, 15, & 9).

### **Initial Study and Mitigated Negative Declaration**

Potential Impacts were identified during review of the project. An Initial Study was prepared for the proposed project and a Mitigated Negative Declaration was circulated from July 30, 2009 to August 31, 2009. The Initial Study (IS) identified potential impacts to aesthetics, air quality, biological resources, cultural resources, geology and soils, and land use planning. Mitigations were recommended to reduce potential impacts to biological resources to a less than significant level. As mitigated the project was found to have a less than significant impact on the environment.

One comment was received from the California Regional Water Quality Control Board (RWQCB) during the Initial Study comment period. The Regional Water Board commented that the Mitigated Negative Declaration (MND)/Initial Study failed to address significant cumulative offsite environmental impacts to the Carmel River and concluded that any new connections, or additional diversions of water, from the Carmel River constitutes a cumulatively significant impact to the environment and therefore, an Environmental Impact Report (EIR) is required.

Staff reviewed the RWQCB comments extensively and disagreed with their conclusions and the timing and nature of their comments in this case. In reviewing the comments of the RWQCB, key points in staff's initial responses were: first, that RWQCB misplaced their comments toward Cal-Am in this forum which entailed the comment period for the Enea project consisting of an application for a new single family dwelling and senior unit on a legal lot of record; and second, that RWQCB was relying on findings in a draft order that had not been adopted or vetted yet. Both of these initial responses from staff have been proven accurate given the State Water Board adoption of a new cease and desist order that clearly exempted Pebble Beach Water granted pursuant to the Carmel Area Wastewater District Water Reclamation Project, contrary to the draft findings that RWQCB was relying upon in their comment letter. Staff has talked with RWQCB staff and has requested a letter from RWQCB revising their position that an EIR is required for the Enea project. As of the drafting of this report the no letter is available.

The process and regulatory framework aside, staff contends that the subject MND was prepared in compliance with CEQA. The water source for the proposed development was identified and found to have no impact. This determination was made in reliance upon the permit issued by the appropriate authority (MPWMD Permit Number 74) and based on the certified Water Reclamation Project EIR that contemplated this water source with related impacts. In other words, the impacts of the proposed water source have been pre-mitigated as evidenced by the permit and the certified EIR. This is consistent with Section 15162 of CEQA which states that when an EIR has been certified or a negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence that major changes are required from the original EIR. In light of the RWQCB comments, County staff has determined that no subsequent EIR is required, based on substantial evidence in the record, including the Water Reclamation project EIR, Monterey Peninsula Water Management District (MPWMD) Rules and Ordinances, the issued Water Use Permit, and the recent State Water Board action to recognize and exempt Pebble Beach water entitlements from the cease and desist order.

**EXHIBIT C**  
**DRAFT RESOLUTION**

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

In the matter of the application of:

**Robert Enea (PLN070333)**

**RESOLUTION NO. ----**

Resolution by the Monterey County Planning  
Commission:

- 1) Adopting the Mitigated Negative Declaration;
- 2) Approving the Combined Development Permit  
Consisting of: 1) A Coastal Administrative  
Permit to allow the construction of a new 4,713  
square foot, three-level, single family dwelling  
with a 619 square foot attached garage and  
approximately 86 cubic yards of cut and 380  
cubic yards of fill; 2) A Coastal Administrative  
Permit to allow the construction of a new 849  
square foot detached senior unit; 3) A Coastal  
Development Permit to allow removal of 33  
Monterey pine Trees; 4) A Coastal Development  
Permit to allow development within 100 feet of  
environmentally sensitive habitat (Yadon's  
Piperia); and 5) A Design Approval; and
- 3) Adopting the Mitigation Monitoring and  
Reporting Plan

(PLN070333, Enea, 1440 Oleada Road, Pebble Beach,  
Del Monte Forest Land Use Plan (APN: 008-331-  
007-000))

**The Enea application (PLN070333) came on for public hearing before the Monterey County Planning Commission on November 18, 2009. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Planning Commission finds and decides as follows:**

**FINDINGS**

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

**EVIDENCE:** a) Plan Conformance During the course of review of this application, the project has been reviewed for consistency with the text, policies, and regulations in:

- the Monterey County General Plan,
- Del Monte Forest Land Use Plan,
- Coastal Implementation Plan Part 5,
- Monterey County Zoning Ordinance (Title 20)

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) Zoning Consistency The property is located at 1440 Oleada Road, Pebble Beach (Assessor's Parcel Number 008-331-007-000), Del Monte Forest Land Use Plan. The parcel is zoned Low Density Residential, 1.5 acres per unit, with a Design Control Overlay, in the Coastal Zone [LDR/1.5-D (CZ)], which allows single family dwellings and senior units as principally permitted uses subject to a Coastal Administrative Permit in each case. Therefore, the project is an allowed land use for this site.
- c) Design Control Zoning at the site includes a Design Control Overlay or "D" district which requires review of proposed development for the overall design concept including colors and materials. The proposed colors are similar to those previously permitted in the area including a light beige stucco body, clay tile roofing, and some stone veneer.
- d) Site Visits The project planner conducted a site inspection on August 13, 2008 and March 24, 2009 to verify that the project on the subject parcel conforms to the plans listed above.
- e) Senior Unit The subject project meets the regulations, standards and circumstances for a senior unit (size, height, public sewer and water, and setbacks). See Finding 7 for more detail.
- f) Tree Removal The project minimizes tree removal in accordance with applicable goals and policies of the Del Monte Forest Land Use Plan. See Finding 9.
- g) Sensitive Habitat The project has been sited and designed to minimize impacts to environmentally sensitive habitat at the site. See Finding 8.
- h) Viewshed The project site is within the area mapped in the Del Monte Forest Land Use Plan as visible from Point Lobos State Park across Carmel Bay (Figure 2C). Due to screening from existing trees and topography, the proposed house and senior unit will not impact the viewshed from Point Lobos or Carmel State Beach.
- i) Archaeological Resources The area is a high archaeological sensitivity zone. An archaeological report prepared for the project by Archaeological Consulting dated July 3, 2007 concluded that there was no surface evidence of potentially significant resources at the site and that the project should not be delayed for archaeological reasons. Conditions will be included to ensure that previously unidentified resources are not significantly impacted if they are discovered during construction (Condition #3).
- j) LUAC The project was referred to the Del Monte Forest Land Use Advisory Committee (LUAC) for review. On November 1, 2007, the LUAC unanimously recommended approval of the project by a vote of 5-0. Two concerns were expressed including ground water control/runoff and the use of the senior unit. Conditions are included to restrict the use of the senior unit to those permitted by the zoning code and to retain storm water on site according to an approved plan prepared by a registered civil engineer (Conditions 13 & 17).
- k) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN070333.



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 Fire Protection District, Public Works, Environmental Health Division, and 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.
  - b) Technical reports by outside 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 independently reviewed these reports and concurs with their conclusions. The following reports have been prepared:
    - *“Preliminary Archaeological Reconnaissance” (LIB070498) prepared by Archaeological Consulting, Salinas, CA, July 3, 2007.*
    - *“Geotechnical & Geoseismic Report” (LIB070497) prepared by Grice Engineering and Geology Inc, Salinas, CA, July 2005.*
    - *“Biological Survey” (LIB070502) prepared by Ed Mercurio, Salinas, CA, August 31, 2007.*
    - *“Spring Biological Survey” (LIB090381) prepared by Ed Mercurio, Salinas, CA, May 26, 2009.*
    - *“Forest Management Plan” (LIB090382) prepared by Frank Ono, Pacific Grove, CA, February 25, 2008.*
    - *“Forest Management Plan” (LIB090383) prepared by Frank Ono, Pacific Grove, CA, June 25, 2009.*
  - c) Staff conducted a site inspection on August 13, 2008 and March 24, 2009 to verify that the site is suitable for this use.
  - d) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN070333.
3. **FINDING: HEALTH AND SAFETY** - The establishment, maintenance, or operation of the project applied for will not under the circumstances of this particular case be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.
- EVIDENCE:**
- a) The project was reviewed by RMA - Planning Department, Pebble Beach Fire Protection District, Public Works, Environmental Health Division, and Water Resources Agency. The respective departments/agencies have recommended conditions, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood.
  - b) Necessary public facilities are available including water purchased from the Pebble Beach Company (0.5 acre feet), sewer services provided by the Pebble Beach Community Services District who carries the sewage to the Carmel Area Wastewater District, and electric and gas utilities

from PG&E.

- c) Preceding findings and supporting evidence for PLN070333.

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

- EVIDENCE:**
- a) Staff reviewed Monterey County RMA - Planning Department and Building Services Department records and is not aware of any violations existing on subject property.
  - b) Staff conducted a site inspection on August 13, 2008 and March 24, 2009 and researched County records to assess if any violation exists on the subject property.
  - c) There are no known violations on the subject parcel.
  - d) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN070333.

5. **FINDING:** **CEQA (Mitigated Neg Dec)** - On the basis of the whole record before the Monterey County 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) Public Resources Code Section 21080.d and California Environmental Quality Act (CEQA) Guidelines Section 15064.a.1 require environmental review if there is substantial evidence that the project may have a significant effect on the environment.
  - b) The Monterey County Planning Department prepared an Initial Study pursuant to CEQA. The Initial Study is on file in the offices of the Planning Department and is hereby incorporated by reference (PLN070333).
  - c) The Initial Study provides substantial evidence based upon the record as a whole, that the project would not have a significant effect on the environment. Staff accordingly prepared a Mitigated Negative Declaration.
  - d) Issues that were analyzed in the Mitigated Negative Declaration include: aesthetic resources, air quality, biological resources, cultural resources, geology and soils, and land use planning.
  - e) All project changes required to avoid significant effects on the environment have been incorporated into the project and/or are made conditions of approval. A Condition Compliance and Mitigation Monitoring and/or Reporting Plan has been prepared in accordance with Monterey County regulations and is designed to ensure compliance during project implementation and is hereby incorporated herein by reference as **Exhibit 1**. The applicant must enter into an "Agreement to Implement a Mitigation Monitoring and/or Reporting Plan as a condition of project approval (Condition 6)
  - f) The Draft Mitigated Negative Declaration ("MND") for PLN070333 was prepared in accordance with CEQA and circulated for public review from July 30, 2009 through August 31, 2009 (SCH#:

2009071107).

- g) Evidence that has been received and considered includes: the application, technical studies/reports (*see Finding 2/Site Suitability*), staff reports that reflect the County's independent judgment, and information and testimony presented during public hearings (as applicable). These documents are on file in the RMA-Planning Department (PLN070333) and are hereby incorporated herein by reference.
- h) Staff analysis contained in the Initial Study and the record as a whole indicate the project could result in changes to the resources listed in Section 753.5(d) of the Department of Fish and Game (DFG) regulations. All land development projects that are subject to environmental review are subject to a State filing fee plus the County recording fee, unless the Department of Fish and Game determines that the project will have no effect on fish and wildlife resources. The site supports Yadon's Piperia. For purposes of the Fish and Game Code, the project will have a significant adverse impact on the fish and wildlife resources upon which the wildlife depends. State Department of Fish and Game reviewed the MND to comment and recommend necessary conditions to protect biological resources in this area. Therefore, the project will be required to pay the State fee of \$1,993.00 plus a fee of \$50.00 payable to the Monterey County Clerk/Recorder for processing said fee and posting the Notice of Determination (NOD).
- i) The County has considered the comments received during the public review period, and they do not alter the conclusions in the Initial Study and Mitigated Negative Declaration.
- j) One comment was received during the comment period from July 30, 2009 through August 31, 2009. The Regional Water Quality Control Board (RWQCB) suggested that the Mitigated Negative Declaration (MND)/Initial Study failed to address significant cumulative offsite environmental impacts to the Carmel River. They supported their comments by saying that new diversions of water, in the form of new connections in the Cal-Am services district, violate Order WR 95-10 and the pending draft cease and desist order against Cal-Am. Staff considered the comments and maintains that the MND is adequate and no EIR is required. RWQCB comments tie the Pebble Beach Company to the responsibility of Cal-Am for reduction in pumping from the Carmel River through the water reclamation project and Order WR 95-10. They fail to adequately describe and support with evidence their interpretation on the water reclamation project and the 365 acre feet of water per year granted to the Pebble Beach Company. The subject MND relied on Monterey Peninsula Water Management District's (MPWMD) Water Use Permit and the history behind the reclamation project that includes a certified EIR. That EIR contemplated the use of this water and its associated environmental effects. Pursuant to Section 15162 of CEQA, when an EIR has been certified or a negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence, that major changes are required from the original EIR. RWQCB comments and contentions rest heavily on findings in a draft pending cease and desist order which, were overturned by the

State Water Board on October 20, 2009. Given this decision by the State Water Board and the substantial evidence in the record, including a certified EIR, MPWMD Ordinances 39 and 109 which have been fully vetted and accepted for more than 5 years, and the Water Use Permit issued ministerially pursuant to the above-mentioned environmental documentation and operating laws, the no effect determination made in the Enea MND is supported by the evidence and the law. There have been no substantial changes in circumstances that require major revisions to the certified EIR and no new effects have been identified that were not previously considered in the Water Reclamation project EIR.

- k) Responses to comments received on the revised Initial Study contains information clarifying and amplifying information in the Mitigated Negative Declaration. No new significant impacts have been identified. Recirculation of the Initial Study is not required because the new information merely clarifies and amplifies information in the Initial Study.
- l) There is no fair argument supported by substantial evidence the project would have a significant effect on the environment or that the mitigations suggested are inadequate to reduce potential impacts to a less than significant level. Potential impacts that were identified were mitigated or conditioned to reduce impacts to a less than significant level. The proposed water source was evaluated in a certified EIR and no substantial evidence requiring subsequent environmental review pursuant to Section 15162 of CEQA has been presented. Therefore, an EIR is not required in this case.
- m) The Monterey County Planning Department, located at 168 W. Alisal, Second Floor, Salinas, California, 93901, is the custodian of documents and other materials that constitute the record of proceedings upon which the decision to adopt the negative declaration is based.

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

- EVIDENCE:**
- a) No access is required as part of the project as no substantial adverse impact on access, either individually or cumulatively, as described in Section 20.70.050.B.4.c of the Monterey County Coastal Implementation Plan can be demonstrated.
  - 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 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) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN070333.
  - e) The project planner conducted a site inspection on August 13, 2008 and March 24, 2009.

- f) Although the project is located between the sea and the first public road (Highway 1), the subject parcel is well inland from the coast, is located in a residentially-zoned area, and essentially constitutes infill development of a currently vacant lot.

7. **FINDING: SENIOR UNIT** – The subject project meets the regulations, standards and circumstances for senior units in accordance with the applicable goals, policies, and regulations of the applicable area plan and zoning codes.

- EVIDENCE:**
- a) That the establishment of the senior unit will not, under the circumstances of the particular application, be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood or to the general welfare of the County. (*Finding 3*)
  - b) The subject property upon which the senior unit is to be built is in compliance with all rules and regulations pertaining to zoning uses, subdivisions and any other applicable provisions of this Title. All standards for height, setbacks, lot coverage, floor area, and Pescadero watershed coverage limitations are met.
  - c) That adequate sewage disposal and water supply facilities exist or are readily available, as approved by the Director of Environmental Health. Water will be served by CalAm through the Pebble Beach Community Services District and sewer will be provided by Carmel Area Wastewater District (CAWD) also through the Pebble Beach Community Services District. A copy of the Monterey Peninsula Water Management District “Water Use Permit” demonstrating the availability of 0.5 acre feet of water for use at the site is on file in the RMA-Planning Department (PLN070333) and is hereby incorporated herein by reference.
  - d) That the proposed senior unit will not adversely impact traffic conditions in the area. The new house and senior unit are within the build-out numbers considered in the Del Monte Forest Land Use Plan (see evidence f below). In addition, regional traffic impact fees are assessed on the construction of new dwelling units based on the Transportation Agency for Monterey County (TAMC) nexus study (Condition 16). These fees are applied to needed regional traffic projects that would alleviate congested or hazardous road conditions in the general project vicinity.
  - e) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN070333.
  - f) Senior Units shall be subject to the overall buildout in Del Monte Forest as defined by Table A in the Del Monte Forest Land Use Plan. Staff has determined that adequate density exists in the Del Monte Forest Area for the proposed project based on staff’s review of maximum allowed densities, current zoning designations, total acreages within each zoning classification, number of units allowed, number of buildable lots, number of existing vacant lots, and number of existing caretaker and senior units. The most current information indicates that approximately 789 “unit credits” remain in the Del Monte Forest Coastal Zone area. The proposed project is outside the areas designated by Table A of the

8. **FINDING:** **ESHA** – The subject project minimizes impact on environmentally sensitive habitat areas in accordance with the applicable goals and policies of the applicable area plan and zoning codes.
- EVIDENCE:**
- a) The project includes application for development within 100 feet of environmentally sensitive habitat areas (ESHA). In accordance with the applicable policies of the Del Monte Forest Land Use Plan and the Monterey County Zoning Ordinance (Title 20), a Coastal Development Permit is required and the authority to grant said permit has been met.
  - b) The Del Monte Forest Land Use Plan contains policies (8-30a) that are intended to protect, promote, maintain, and where possible enhance and restore environmentally sensitive habitat areas. Applicable planning policies relative to the subject development project include: identification of species and habitat by a qualified biologist (Policy 13), careful siting and design of development to avoid impacts to the maximum extent (Policy 9), and long-term protection of resources through permanent conservation easements (Policy 14).
  - c) The Enea property was surveyed by a qualified biologist to determine the location and extent of any environmentally sensitive habitat. Four species maintaining a protected status were identified during the biologist's surveys. Those species include numerous Monterey pine trees, one Hickman's onion, three individuals of pine rose, and approximately 1,265 Yadon's Piperia plants. All of these plant species maintain a California Native Plant society 1B listing, meaning they are rare, threatened or endangered in California and elsewhere. In addition, the Yadon's Piperia is a Federally-listed endangered species. The plants were located and staked at the property.
  - d) Based on the locations of the resources at the site, minor modifications were made to the siting of the proposed structures in order to avoid direct impacts to the identified species at the site to the maximum extent. Given the revised design, removal of 33 Monterey pine trees, and approximately 16 Yadon's Piperia are required for the construction of the proposed improvements. The location of the driveway and structures takes advantage of openings in the tree canopy at the site which also happens to correspond with an area containing a significantly lower population of Yadon's Piperia than other areas on the site. The Hickman's onion and pine rose are located outside the development footprint and are expected to be protected and maintained.
  - e) Conditions and mitigations are recommended to ensure maximum protection of resources at the site including the use of temporary construction fencing, tree replacement planting, biological monitoring, and granting of a conservation easement in the front of the property where the distribution of Yadon's Piperia plants is most dense (Conditions 24, 26, 27, 28, & 29).
  - f) The project planner conducted a site inspection on August 13, 2008 and March 24, 2009 to verify ESHA locations and potential project impacts to ESHA.
  - g) In consultation with United States Fish & Wildlife Services (USFWS) and the California Department of Fish & Game (DFG), no take permits or Habitat Conservation Plan (HCP) is required for impacts to the

federally-listed plant species.

- h) Due to the density and distribution of Yadon's Piperia and Monterey pines at the site, development anywhere on the subject property would likely require impacts to these resources. The proposed development achieves the goals and policies of the Del Monte Forest Land Use Plan by minimizing impacts to sensitive species through appropriate siting and design. A good ratio of impacted plants to preserved plants has also been achieved. Because of the low ratio of impacted plants to preserved plants and given the recommended mitigations, the impacts of the development on ESHA were determined to be less than significant.
- i) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN070333.

9. **FINDING:** **TREE REMOVAL** - The subject project minimizes tree removal in accordance with the applicable goals and policies of the applicable land use plan and the Coastal Implementation Plan.

- EVIDENCE:**
- a) The project includes application for the removal of 33 Monterey pine trees. In accordance with the applicable policies of the Del Monte Forest Land Use Plan and the Monterey County Zoning Ordinance (Title 20), a Coastal Development Permit is required and the authority to grant said permit has been met.
  - b) The Del Monte Forest Land Use Plan (LUP) contains policies 31-39 intended to preserve the forested character of the Del Monte Forest for its many beneficial environmental qualities. The applicable policies try to accomplish this goal by requiring conformance with interrelated resource protection policies including marine resources, environmentally sensitive habitat, and visual resources (Policy 31), minimizing removal of trees and vegetative cover and protecting trees not proposed for removal (Policy 34), and appropriate siting and design of driveways with simple and direct access and replacement planting on a one to one basis where appropriate (Policy 36).
  - c) Conformance with Environmentally Sensitive Habitat Policies related to the forest and habitat resources is described in Finding 8 with supporting evidence. Visual resource policies are addressed in Finding 1 Evidence h). As designed, conditioned, and mitigated, the project will not have an impact on marine resources.
  - d) Forest Management Plan were prepared by Frank Ono for the property and the proposed development as amended. A condition of approval has been implemented requiring the applicant to record a notice stating that a Forest Management Plan has been prepared and any tree removal shall be in accordance with the approved plan (20.147.050.D.7 CIP). (Condition 11)
  - e) Measures for tree protection during construction have been incorporated as conditions and include tree protection zones, trunk protection, hand excavation and bridging roots (Condition 8). Additional protection measures in the form of a mitigation measure are suggested to ensure protection of trees and other sensitive plant species at the site (Conditions 24).
  - f) Originally, the project was designed and sited to minimize the removal of protected trees to the greatest extent feasible. Subsequently, other

sensitive species including the Federally endangered Yadon's Piperia were discovered at the site and minor design changes were made to protect the more sensitive, by designation, Piperia plants. The design changes were minor because the area where the structures were originally proposed turned out to be the most appropriate to avoid impacts to Yadon's Piperia in addition to Monterey pine trees. The changes made included moving the proposed senior unit closer to the proposed residence and realigning the driveway (still simple and direct). These changes increased the number of pines to be removed by 5; however, given the circumstances, including the other protected species at the site, the proposed siting and design minimize impacts to native trees consistent with the goals and policies of the LUP.

- g) Replanting on a 1:1 basis was determined to be inappropriate in this case because of overcrowding of pines and because replanting pine trees could impact other sensitive plant species at the site. The project biologist recommended replanting 6 Monterey pines at the site in openings where competition from other trees and impacts to piperia plants can be avoided.
- h) Staff conducted a site inspection on August 13, 2008 and March 24, 2009 to verify that the tree removal is the minimum necessary for the project and to identify any potential adverse environmental impacts related to the proposed tree removal.
- i) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN070333.

10. **FINDING:** **APPEALABILITY** - The decision on this project may be appealed to the Board of Supervisors and the California Coastal Commission
- EVIDENCE:**
- a) Section 20.86.030 of the Monterey County Coastal Implementation Plan - Part 1 (Board of Supervisors).
  - b) The project may be appealed to the California Coastal Commission pursuant to Section 20.86.080 of the Monterey County Coastal Implementation Plan - Part 1 because the site is located between the sea (Pacific Ocean) and the first public road paralleling the sea (Highway 1). In addition the project involves conditional uses including development with 100 feet of environmentally sensitive habitat, tree removal, and a senior unit.

### **DECISION**

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

- A. Adopt the Mitigated Negative Declaration;
- B. Approve a Combined Development Permit Consisting of: 1) A Coastal Administrative Permit to allow the construction of a new 4,713 square foot, three-level, single family dwelling with a 619 square foot attached garage and approximately 86 cubic yards of cut and 380 cubic yards of fill; 2) A Coastal Administrative Permit to allow the construction of a new 849 square foot detached senior unit; 3) A Coastal Development Permit to allow removal of 33 Monterey Pine Trees; 4) A Coastal Development Permit to allow development within 100 feet of



environmentally sensitive habitat (Yadon's Piperia); and 5) A Design Approval, in general conformance with the attached sketch (**Exhibit 2**) and subject to the conditions (**Exhibit 1**), both exhibits being attached hereto and incorporated herein by reference.

C. Adopt the Mitigation Monitoring and Reporting Program (**Exhibit 1**)

**PASSED AND ADOPTED** this 18th day of November, 2009 upon motion of \_\_\_\_\_, seconded by \_\_\_\_\_, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Mike Novo, Planning Commission Secretary

COPY OF THIS DECISION MAILED TO APPLICANT ON \_\_\_\_\_

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 \_\_\_\_\_

THIS PROJECT IS LOCATED IN THE COASTAL ZONE AND IS / IS NOT 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 the Monterey County Planning Department and Building Services Department office in Salinas.

2. This permit expires 4 years after the above date of granting thereof unless construction or use is started within this period.

<b>RESOLUTION - EXHIBIT 1</b> <b>Monterey County Resource Management Agency</b> <b>Planning Department</b> <b>Condition Compliance and/or Mitigation Monitoring</b> <b>Reporting Plan</b>	<b>Project Name:</b> <u>Robert Enea</u> <b>File No:</b> <u>PLN070333</u> <b>Approved by:</b> <u>Planning Commission</u>	<b>APN:</b> <u>008-331-007-000</u> <b>Date:</b> <u>November 18, 2009</u>
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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>
<b>RMA – Planning Department</b>						
1.		<b>PD001 - SPECIFIC USES ONLY</b> This Combined Development Permit (PLN070333) allows 1) A Coastal Administrative Permit to allow the construction of a new 4,713 square foot, three-level, single family dwelling with a 619 square foot attached garage and approximately 86 cubic yards of cut and 380 cubic yards of fill; 2) A Coastal Administrative Permit to allow the construction of a new 849 square foot detached senior unit; 3) A Coastal Development Permit	Adhere to conditions and uses specified in the permit.  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 the RMA - Planning Department.	Owner/ Applicant  RMA - Planning	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>
		to allow removal of 33 Monterey pine Trees; 4) A Coastal Development Permit to allow development within 100 feet of environmentally sensitive habitat (Yadon's Piperia); and 5) A Design Approval. The property is located at 1440 Oleada Road, Pebble Beach (Assessor's Parcel Number 008-331-007-000), 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. 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. <b>(RMA-Planning Department)</b>	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.	WRA  RMA - Planning		
2.		<b>PD002 - NOTICE-PERMIT APPROVAL</b> The applicant shall record a notice which states: "A permit (Resolution ) was approved by the Planning Commission for Assessor's Parcel Number 008-331-007-000 on November 18, 2009. The permit was granted subject to 29 conditions of approval which run with the land. A copy of the permit is on file with the Monterey County RMA - Planning Department." <b>(RMA-Planning Department)</b>	Obtain appropriate form from the RMA-Planning Department.  The applicant shall complete the form and furnish proof of recordation of this notice to the RMA - Planning Department.	Owner/ Applicant  RMA-Planning	Prior to the issuance of grading and building permits or commencement of use.	

<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>
3.		<p><b>PD003(A) – CULTURAL RESOURCES – NEGATIVE ARCHAEOLOGICAL REPORT</b></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. <b>(RMA - Planning Department)</b></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/ Archaeo- logist	Ongoing	

<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>
4.		<p><b>PD004 - INDEMNIFICATION AGREEMENT</b></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. <b>(RMA - Planning Department)</b></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, whichever occurs first and as applicable	

<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>
5.		<b>PD005 - FISH AND GAME FEE-NEG DEC/EIR</b> Pursuant to the State Public Resources Code § 753.5, State Fish and Game Code, and California Code of Regulations, the applicant shall pay a fee, to be collected by the County, within five (5) working days of project approval. This fee shall be paid before the Notice of Determination is filed. If the fee is not paid within five (5) working days, the project shall not be operative, vested or final until the filing fees are paid. <b>(RMA - Planning Department)</b>	The applicant shall submit a check, payable to the <i>County of Monterey</i> , to the Director of the RMA - Planning Department.  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.	Owner/ Applicant  Owner/ Applicant	Within 5 working days of project approval.  Prior to issuance of building or grading permits	
6.		<b>PD006 - MITIGATION MONITORING PROGRAM</b> 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. <b>(RMA - Planning Department)</b>	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.	
7.		<b>PD007 - GRADING-WINTER RESTRICTION</b> No land clearing or grading shall occur on the subject parcel between October 15 and April 15 unless authorized by the Director of RMA - Building Services Department. <b>(RMA – Planning Department and Building Services Department)</b>	Obtain authorization from the Director of RMA - Building Services Department to conduct land clearing or grading between October 15 and April 15.	Owner/ Applicant	Ongoing	

<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>
8.		<b>PD011 – TREE AND ROOT PROTECTION</b> Trees which are located close to the 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 a certified arborist, shall be demonstrated prior to issuance of building permits subject to the approval of the RMA – 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 a 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.( <b>RMA - Planning Department</b> )	Submit evidence of tree protection to the RMA - Planning Department for review and approval.	Owner/ Applicant	Prior to the issuance of grading and/or building permits	
			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.	Owner/ Applicant/ Arborist	During Construction	
			Submit photos of the trees on the property to the RMA – Planning Department after construction to document that tree protection has been successful or if follow-up remediation or additional permits are required.	Owner/ Applicant	Prior to final inspection	
9.		<b>PD014(A) – LIGHTING – EXTERIOR LIGHTING PLAN</b> 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. The applicant shall submit 3 copies of an 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 the RMA - Planning Department, prior to the issuance of building permits. ( <b>RMA – Planning Department</b> )	Submit three copies of the lighting plans to the RMA - Planning Department for review and approval. Approved lighting plans shall be incorporated into final building plans.	Owner/ Applicant	Prior to the issuance of building permits.	
			The lighting shall be installed and maintained in accordance with the approved plan.	Owner/ Applicant	Prior to Occupancy / Ongoing	



<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>
10.		<b>PD016 – NOTICE OF REPORT</b> Prior to issuance of building or grading permits, a notice shall be recorded with the Monterey County Recorder which states: "A Biological report has been prepared for this parcel by Ed Mercurio, dated May 26, 2009 and is on record in the Monterey County RMA - Planning Department , Library No. LIB090381. All development shall be in accordance with this report." <b>(RMA – Planning Department)</b>	Proof of recordation of this notice shall be furnished to the RMA - Planning Department.	Owner/ Applicant	Prior to the issuance of grading and building permits.	
			Submit proof that all development has been implemented in accordance with the report to the RMA - Planning Department for review and approval.	Owner/ Applicant	Prior to Occupancy	
11.		<b>PD016(A) – NOTICE OF REPORT</b> 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 Frank Ono, dated June 25, 2009 and is on record in the Monterey County RMA - Planning Department , Library No. LIB090383. All development shall be in accordance with this report." <b>(RMA – Planning Department)</b>	Proof of recordation of this notice shall be furnished to the RMA - Planning Department.	Owner/ Applicant	Prior to the issuance of grading and building permits.	
			Submit proof that all development has been implemented in accordance with the report to the RMA - Planning Department for review and approval.	Owner/ Applicant	Prior to Occupancy	
12.		<b>PD016 (B)– NOTICE OF REPORT</b> Prior to issuance of building or grading permits, a notice shall be recorded with the Monterey County Recorder which states: "A Geotechnical and Geoseismic report has been prepared for this parcel by Grice Engineering and Geology Inc., dated July 2005 and is on record in the Monterey County RMA - Planning Department , Library No. LIB070497. All development shall be in accordance with this report." <b>(RMA – Planning Department)</b>	Proof of recordation of this notice shall be furnished to the RMA - Planning Department.	Owner/ Applicant	Prior to the issuance of grading and building permits.	
			Submit proof that all development has been implemented in accordance with the report to the RMA - Planning Department for review and approval.	Owner/ Applicant	Prior to Occupancy	

<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>
13.		<p><b>PD020(B) – DEED RESTRICTION – SENIOR CITIZEN UNIT (COASTAL)</b></p> <p>The applicant shall record a deed restriction stating the regulations applicable to a Senior Citizen Unit as follows:</p> <ul style="list-style-type: none"> <li>• An attached senior citizen unit shall not exceed 700 square feet. A detached senior citizen unit shall not exceed 850 square feet.</li> <li>• The senior citizen unit shall not be occupied by more than 2 persons, 1 of whom shall be sixty years of age or handicapped.</li> <li>• Not more than 1 senior citizen unit shall be permitted on any lot or parcel.</li> <li>• The senior citizen unit shall conform with all of the zoning and development standards of the zoning district which governs the lot.</li> <li>• The senior citizen unit shall be designed in such a manner as to be visually consistent and compatible with</li> </ul>	Submit signed and notarized document to the Director of RMA – Planning Department for review and signature by the County.	Owner/ Applicant	Prior to the issuance of grading or building permits	

<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>
		<p>the main residence on site and other residences in the area.</p> <ul style="list-style-type: none"> <li>• One (1) usable and accessible parking space shall be provided in addition to the parking required for other uses on-site.</li> <li>• Senior citizen units shall not be permitted on lots of less than two acres if located in an area not served by public sewer systems. In North County, senior citizen units shall not be permitted on lots of less than five acres if located in an area not served by public sewer systems.</li> <li>• Senior citizen units are not permitted on any lot less than 10 acres where a guesthouse or caretaker unit already exists. Such units may be converted to a senior unit, subject to a Coastal Administrative Permit.</li> <li>• Subsequent subdivisions which divide a main residence from the senior citizen unit shall not be permitted except where lots created meet the minimum lot size and density requirements of the existing zoning. <b>(RMA – Planning Department)</b></li> </ul>	Proof of recordation of the document shall be submitted to the RMA – Planning Department.	Owner/ Applicant	Prior to occupancy or commencement of use	

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14.		<b>PD032(A) - PERMIT EXPIRATION</b> The permit shall be granted for a time period of 4 years, to expire on November 18, 2013 unless use of the property or actual construction has begun within this period. <b>(RMA – Planning Department)</b>	The applicant shall obtain a valid grading or building permit and/or commence the authorized use to the satisfaction of the Director of Planning. Any request for extension must be received by the Planning Department at least 30 days prior to the expiration date.	Owner/ Applicant	As stated in the conditions of approval	
15.		<b>PD041 – HEIGHT VERIFICATION</b> The 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. The applicant shall provide evidence from a licensed civil engineer or surveyor, to the Director of the RMA- Building Services Department for review and approval, that the height of the structure(s) from the benchmark is consistent with what	1) The 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	Owner/ Applicant	Prior to the issuance of grading or building permits	

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		was approved on the building permit associated with this project. <b>(RMA – Planning Department and Building Services Department)</b>	2) The applicant shall provide evidence from a licensed civil engineer or surveyor, to the Director of the RMA- Building Services Department for review and approval, that the height of the structure(s) from the benchmark is consistent with what was approved on the building permit.	Owner/ Applicant/ Engineer	Prior to the final inspection	
<b>RMA – Public Works Department</b>						
16.		<b>PW0043 – REGIONAL DEVELOPMENT IMPACT FEE</b> Prior to issuance of building permits, applicant shall pay the Regional Development Impact Fee (RDIF) pursuant to Monterey Code Chapter 12.90. The fee amount shall be determined based on the parameters adopted in the current fee schedule. <b>(Public Works)</b>	Applicant shall pay Monterey County Building Services Department the traffic mitigation fee.	Owner/ Applicant	Prior to issuance of Building Permits	
<b>Monterey County Water Resources Agency</b>						
17.		<b>WR3 - DRAINAGE PLAN - RETENTION</b> The applicant shall provide the Water Resources Agency a drainage plan prepared by a registered civil engineer or architect addressing on-site and off-site impacts. The plan shall include retention/percolation facilities to mitigate the impact of impervious surface stormwater runoff. Drainage improvements shall be constructed in accordance with plans approved by the Water Resources Agency. <b>(Water Resources Agency)</b>	Submit 3 copies of the engineered drainage plan to the Water Resources Agency for review and approval.	Owner/ Applicant/ engineer	Prior to issuance of grading or building permits	

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18.		<b>WR40 - WATER CONSERVATION MEASURES</b> 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: 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 that have more than ten feet of pipe between the faucet and the hot water heater serving such faucet shall be equipped with a hot water recirculating system. 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. <b>(Water Resources Agency)</b>	Compliance to be verified by building inspector at final inspection.	Owner/ Applicant	Prior to final building inspection/occupancy	
19.		<b>WR43 - WATER AVAILABILITY CERTIFICATION</b> 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. <b>(Water Resources Agency)</b>	Submit the Water Release Form to the Water Resources Agency for review and approval.	Owner/ Applicant	Prior to issuance of any building permits	
<b>Fire Agency (Pebble Beach Community Services District)</b>						



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21.		<b>FIRE008 - GATES</b> All gates providing access from a road to a driveway shall be located at least 30 feet from the roadway and shall open to allow a vehicle to stop without obstructing traffic on the road. Gate entrances shall be at least the width of the traffic lane but in no case less than 12 feet wide. Where a one-way road with a single traffic lane provides access to a gated entrance, a 40-foot turning radius shall be used. Where gates are to be locked, the installation of a key box or other acceptable means for immediate access by emergency equipment may be required. <b>(Pebble Beach Fire)</b>	Applicant shall incorporate specification into design and enumerate as "Fire Dept. Notes" on plans.	Applicant or owner	Prior to issuance of grading and/or building permit.	
			Applicant shall schedule fire dept. clearance inspection	Applicant or owner	Prior to final building inspection.	
22.		<b>FIRE011 - ADDRESSES FOR BUILDINGS</b> 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.	Applicant shall incorporate specification into design and enumerate as "Fire Dept. Notes" on plans.	Applicant or owner	Prior to issuance of building permit.	



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		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 shall be posted prior to requesting final clearance. <b>(Pebble Beach Fire)</b>	Applicant shall schedule fire dept. clearance inspection	Applicant or owner	Prior to final building inspection	
23.		<b>FIRE021 - FIRE PROTECTION EQUIPMENT &amp; SYSTEMS - FIRE SPRINKLER SYSTEM (STANDARD)</b> The building(s) and attached garage(s) shall be fully protected with automatic fire sprinkler system(s). Installation shall be in accordance with the applicable NFPA standard. A minimum of four (4) sets of plans for fire sprinkler systems must be submitted by a California licensed C-16 contractor and approved prior to installation. This requirement is not intended to delay issuance of a building permit. A rough sprinkler inspection must be scheduled by the installing contractor and completed prior to requesting a framing inspection. <b>(Pebble Beach Fire)</b>	Applicant shall enumerate as “Fire Dept. Notes” on plans.	Applicant or owner	Prior to issuance of building permit.	
			Applicant shall schedule fire dept. rough sprinkler inspection	Applicant or owner	Prior to framing inspection	
			Applicant shall schedule fire dept. final sprinkler inspection	Applicant or owner	Prior to final building inspection	
Mitigation Measures						

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24.	1	<b>MITIGATION MEASURE #1 – PROTECTION MEASURES</b> To minimize construction related impacts to sensitive species at the site, the locations of Yadon’s rein orchid, Hickman’s onion, and Pine rose shall remain flagged during the course of construction. Temporary orange construction fencing shall be placed around the plants and pine trees that are not proposed for removal to the effect that construction and staging areas are appropriately delineated to avoid construction related impacts to trees and sensitive plants at the subject property. Prior to commencement of construction all construction personal and sub-contractors shall be instructed on the importance of the fencing and avoiding impacts to the sensitive plants on site. <b>(RMA - Planning Department)</b>	Prior to the issuance of grading or building permits, the applicant shall submit evidence to the Resource Management Agency (RMA) – Planning Department for review and approval that the plant species locations are flagged and that temporary orange construction fencing has been installed that clearly identifies access, construction staging, and building footprint areas.	Owner/ Applicant/ Contractor	Prior to the issuance of grading or building permits	
			Prior to the issuance of grading or building permits, the applicant shall submit a statement from the appropriate construction personal that they have been informed of the purpose and trained on the importance of avoiding the sensitive plant species on site, to the RMA-Planning Department for review and approval.	Owner/ Applicant/ Contractor/ Biologist	Prior to commencement of construction	
			Prior to final of the building permits, the applicant shall submit photos of the protective fencing on the property to the RMA – Planning Department for review and approval after construction to document that plant and tree protection has been successful or if follow-up remediation or additional permits are required.	Owner/ Applicant/ Contractor/ Biologist	Prior to occupancy or final inspection	

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25.	2	<b>MITIGATION MEASURE #2 – NESTING BIRDS</b> To avoid impacting nesting avian species, trees shall only be removed only during the non-breeding season of nesting birds from September 1 through January 31. If trees must be removed outside the non-breeding season the owner/applicant shall have a qualified biologist survey the site for active nests and submit a report to the RMA – Planning Department for review and approval prior to removal of trees. If active nests are found a “no-disturbance” buffer shall be applied within 250 feet of all active nests. <b>(RMA - Planning Department)</b>	The owner/applicant/contractor shall notify the RMA-Planning Department at least one week prior to removing any trees at the site. If the tree removal is to occur during the bird breeding season from February through August than the owner/applicant shall have a qualified biologist survey the site for nesting birds no more than 30 days prior to the removal of trees and submit a report to the RMA-Planning Department for review and approval. If active nests are found a 250-foot no-disturbance buffer shall be established around that nest until a biologist determines that the birds have fledged.	Owner/ Applicant/ Contractor/ Biologist	At least one week prior to removing any trees as applicable	
26.	3	<b>MITIGATION MEASURE #3 – TREE REPLACEMENT</b> To minimize impacts to the long-term health of the forest resources at the site, the applicant shall plant six new Monterey pine trees of locally genetic, pitch canker resistant, stock, in the areas where dead trees will be removed. <b>(RMA - Planning Department)</b>	Proposed replacement tree planting locations shall be identified on the required landscaping plan.	Owner/ Applicant/ Landscape Architect	Prior to issuance of building permits	
			Trees shall be planted according to the approved landscaping plan and evidence of planting shall be supplied to the satisfaction of the RMA-Planning Department prior to building permit final.	Owner/ Applicant/ Landscape Architect	Prior to final inspection	

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27.	4	<b>MITIGATION MEASURE #4 – LANDSCAPING</b> To reduce long-term impacts of residentially-related uses within the sensitive habitat, landscaping at the site shall be minimized as much as possible. New landscaping adjacent to the home and driveway shall be compatible with the identified sensitive species and shall use only native plants. Additionally, the landscaping plans shall include removal of invasive species at the site where possible without affecting the sensitive plants. (RMA - Planning Department)	Prior to the issuance of grading or building permits, the applicant shall submit landscape plans to a qualified biologist for review and approval in order to verify that the plans coordinate with the recommendations made in the project's biological report. The applicant shall submit the landscape plans, the biologist's concurrence with the plan, and the contractor's estimate to the RMA - Planning Department for review and approval. Landscaping plans shall include the recommendations from the Biological Survey and the tree replacement planting as applicable.	Owner/ Applicant/ Biologist/ Landscape Contractor	Prior to the issuance of grading or building permits	
			Landscaping shall be installed according to the approved landscape plans	Owner/ Applicant/ Landscape Contractor	On-going	

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28.	5	<b>MITIGATION MEASURE #5 – MONITORING</b> To ensure proper implementation of mitigation measures and best management practices, the applicant shall submit periodic letters from a qualified biologist to the RMA – Planning Department for review and approval. The reports shall be submitted once approximately two-weeks prior to commencement of construction, once a year in the spring season (April 1 – June 30) for a five-year duration, and once prior to final of the building permits. The reports shall be sufficient in detail to identify the success of the mitigation measures and any impacts incurred outside those analyzed in this project. If additional impacts are discovered, the RMA – Planning Department may require additional permitting and review. <b>(RMA - Planning Department)</b>	<p>Prior to commencement of grading or building activities, the applicant shall submit a letter from a qualified biologist describing the quality of mitigation implementation required prior to construction and any changes necessary to protect resources at the site, to the RMA – Planning Department for review and approval.</p> <p>Prior to final of building permits, the applicant shall submit a letter from a qualified biologist describing the quality of mitigation implementation maintained during construction and any unforeseen impacts that may have occurred, to the RMA – Planning Department for review and approval.</p>	<p>Owner/ Applicant/ Biologist/ Contractor</p> <p>Owner/ Applicant/ Biologist/ Contractor</p>	<p>Prior to commencement of grading or building activities</p> <p>Prior to building permit final</p>	

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			The applicant shall submit yearly spring biological monitoring reports, no later than July 31 of any one year, to the RMA – Planning Department for review and approval. The biologist shall have the authority to recommend minor modifications to the implementation of mitigation measures associated with this permit for the purpose of habitat restoration and protection and based on the biologist report, subject to the discretion of the Director of the RMA – Planning Department. If unforeseen impacts are identified, corrective measures will be required to restore the impacted area to its original state subject to continued monitoring by a qualified biologist and until full restoration of unforeseen impacts is achieved.	Owner/ Applicant/ Biologist	Yearly, no later than July 31 of any one year, during the course of construction As stated in the condition	

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29.	6	<p><b>MITIGATION MEASURE #6 – CONSERVATION EASEMENT</b></p> <p>To insure the long term protection of sensitive resources, a conservation and scenic easement shall be conveyed to the Del Monte Forest Foundation over those portions of the property where habitats of rare, endangered and sensitive native plants exist. The easement shall be developed in consultation with a certified professional and the Del Monte Forest Foundation. 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 Foundation is unable to adequately manage these easements for the intended purpose of scenic and visual resource protection. An easement deed shall be submitted to the Director of the RMA - Planning Department for review and approval prior to issuance of grading and building permits. <b>(RMA - Planning Department)</b></p>	Prior to the issuance of grading or building permits, the applicant 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 RMA - Planning Department for review and approval.	Owner/ Applicant/ Licensed Surveyor	Prior to the issuance of grading or building permits	

**END OF CONDITIONS**