

**Before the Minor Subdivision Committee in and for the
County of Monterey, State of California**

In the matter of the application of:

JACK R. & MARY LOIS WHEATLEY TRS (PLN080038)

RESOLUTION NO. – 10-004

Resolution by the Monterey County Minor Subdivision Committee:

- 1) Adopting the Mitigated Negative Declaration with the attached Mitigation Monitoring and Reporting Program; and
- 2) Approving the Combined Development Permit consisting of a Coastal Development Permit to allow a Minor Subdivision, Tentative Map, to subdivide a 3.38 acre parcel into two parcels of 1.87 acres (Parcel A) and 1.51 Acres (Parcel B) Respectively; and 2) A Coastal Administrative Permit to convert an existing 1,002 square foot single family dwelling on resulting Parcel A to a second unit consistent with State Law (California Government Code Section 65852.2 Et Seq.).

[PLN080038, Wheatley, 3429 Carmel Way, Pebble Beach, Del Monte Forest Land Use Plan area (APN: 008-383-003-000)].

The Wheatley Combined Development Permit application (PLN080038) came on for public hearing before the Monterey County Minor Subdivision Committee on April 8, 2010. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Minor Subdivision Committee 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 Consistency 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,
- the Del Monte Forest Land Use Plan,
- Coastal Implementation Plan Part 5,
- Monterey County Zoning Ordinance (Title 20)
- Monterey County Subdivision Coastal Ordinance (Title 19)
- California State Second Unit Law (Government Code Section 65852.2 Et. Seq.)

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) Use Consistency The property is located at 3429 Carmel Way, Pebble

- b) Use Consistency The property is located at 3429 Carmel Way, Pebble Beach (Assessor's Parcel Number 008-383-003-000), Del Monte Forest Land Use Plan area. 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 Subdivisions subject to a Coastal Development Permit in each case. Second Units are allowed by the California Government Code Section 65852.2 Et Seq. The State law expressly allows local jurisdictions to permit second units meeting the provisions contained in the state law without having to amend any local plans, policies, or ordinances. Therefore, the project is an allowed land use for this site.
- c) Existing Development No physical development is proposed as part of the Combined Development Permit. The project includes subdividing land which requires no on-site improvements (other than surveyor's staking) and permitting the use of an existing structure as a second unit. Any future development will require separate permits and entitlements where appropriate.
- d) Site Visit The project planner conducted a site inspection on February 15, 2008 to verify that the project on the subject parcel conforms to the plans listed above.
- e) Building Site The total project area consists of one 3.38-acre parcel with one existing single family dwelling and a second unit. Based on current land use designations and Figure 5 of the Del Monte Forest Land Use Plan, the property could allow a density of 1.5 acres per unit. As designed, this minor subdivision would create two parcels of 1.87 acres (Parcel A) and 1.51 acres (Parcel B) with the larger of the two parcels (Parcel A) containing the existing structures. Pursuant to Section 20.14.060.A, the minimum building site in the LDR zoning classification shall be 1 acre unless otherwise approved as part of clustered residential development. This subdivision is consistent with the Del Monte Forest Land Use Plan which designates the area for residential uses.
- f) Density Staff has determined that adequate density exists in the Del Monte Forest Land Use Plan Area for the proposed project based on staff's review of maximum allowed densities and current zoning designations. The property is outside the areas designated by Table A of the Del Monte Forest LUP for residential planned development densities. The proposed project is consistent with the zoning density of 1.5 acres per unit. Second units do not count towards density at the site pursuant to the State Law regulations and because the house being considered for a second unit designation pre-dated the current Local Coastal Program, it should be considered to have been part of the baseline in establishing the Del Monte Forest build-out numbers of the 1984 Land Use Plan.
- g) Lot Dimensions Subdivision Ordinance Section 19.10.030.B establishes minimum and maximum lot dimensions for newly created parcels unless they are created as part of a planned unit development. The minimum lot width required is 60 feet and the minimum depth required is 85 feet but not more than three times the width. Parcel A is proposed at approximately 184 feet in width and approximately 375 feet in depth,

meeting the minimum and maximum lot dimensions. Parcel B is semi-triangular in shape with sides of 413 feet, 265 feet and 375 feet also which does not conflict with minimum and maximum lot dimensions. The proposed parcels comply with Section 19.10.030.B of the Coastal Subdivision Ordinance.

- h) Lot Legality The current property configuration was legally created in 1988 when a Lot Line Adjustment (File no. LL88005) was approved (Resolution 88-30) that resulted in a small movement in the north and northeastern lot lines as shown on the Record of Survey recorded at the Monterey County Recorder's Office (Volume 15 of Surveys at page 169).
- i) ESHA A Biological Report was submitted for the proposed subdivision because the subject property is adjacent to the Pescadero Creek riparian area. The Arroyo Willow habitat along the Pescadero Creek is considered environmentally sensitive habitat and could potentially support rare plant and animal species known to occur in the area including the Western Pond Turtle and the California Red-Legged Frog. The Del Monte Forest Land Use Plan requires a 100-foot setback from riparian areas which has been shown on the proposed tentative map. The newly created parcel will have a building area on a terrace above the riparian habitat outside of the 100-foot setback and has a well defined separation due to topography with a 15-foot tall drywall armoring along the creek bed and existing improvements including a 15-foot wide road. With the 100-foot riparian area setback, Conditions on drainage and runoff, and given the existing conditions no significant impacts to sensitive habitat are foreseen as a result of the proposed subdivision. The other types of vegetation at the site include a small area of non-native redwood on the developed parcel (Parcel A) and the most abundant vegetation which includes mature oaks with landscaped understory. See Evidence (j) below for a discussion of potential impacts to mature oak trees.
- j) Forest Resources The minor subdivision would create a new legal lot of record approximately 1.52 acres (65,775 square feet) in size (Parcel B), with a potential future building area constrained by required setbacks including the 100 foot riparian area setback, and other site development standards including a maximum of 15% lot coverage, 17.5% Floor Area Ratio, and further limited by the Pescadero Watershed coverage limitations. Worst case scenario regarding forest resources, in this case, would be approximately 9,000 square foot of structure covering setback to setback for most of the buildable area on the property. Given the theoretical maximum, up to 40 oak trees and one pine tree would need to be removed on the lot. No trees are proposed for removal as part of this permit and future development at the site will require a separate Coastal Permit(s) which will be reviewed for consistency with the policies of the Del Monte Forest Land Use Plan and Coastal Implementation Plan.
- k) Archaeological Resources The subject property is located in an area that is high in archaeological sensitivity. An initial Cultural Resource Evaluation was prepared for the property pursuant to the requirements of the Coastal Implementation Plan Part 5 (20.147.080.B), by

(LIB080514). So that the extent of potential impacts to archaeological resources from future development can be fully understood and considered, Monterey County Planning Staff requested an updated Archaeological Report providing more detail on the significance and extent of the resources at the site (LUP Policy 60). The updated report prepared by Archaeological Resource Management, dated February 4, 2009, (LIB100050), concludes that the archaeological resources identified in the original evaluation appear to be a limited deposit not extending into the area of future development. Conditions recommended in the report have been made conditions of approval for this project (Condition No. 3).

- l) Fire Access Currently, the subject property obtains its main ingress and egress via 2nd Ave, which is a street maintained by the City of Carmel-By-The-Sea. The property, however, is located within the Pebble Beach Community Services District (PBCSD) for emergency fire department response. The proposed lot split will create a shared access off the existing driveway from 2nd Ave which is a City maintained road right-of-way. Any improvements including encroachment and utilities on 2nd Avenue must be properly permitted by the City (**Condition No. 11**). The PBCSD has reviewed the project and recommended a special condition to improve emergency response time and effectiveness that would require that a note be placed on the parcel map and recordation of a deed restriction requiring improvements to the gate and driveway access prior to any future development on the newly created lot. The proposed Tentative Map already includes this language in General Note Number 9 and conditions recommended by PBCSD have been incorporated in the conditions of approval (**Conditions No. 17**).
- m) Second Unit The project involves permitting an existing structure as a second unit in accordance with the State Second Unit Law (California Government Code Section 65852.2 Et Seq.). In requesting the second unit, the applicant has also volunteered to restrict the potential future development of a caretaker unit on the same lot (**Condition No. 12**). See Finding 7 for more detail.
- n) LUAC The project was referred to the Del Monte Forest Land Use Advisory Committee (LUAC) for review. On October 16, 2008 the Del Monte Forest Land Use Advisory Committee unanimously recommended approval of the Coastal Development Permit for a Minor Subdivision (PLN080038) by a vote of 7-0. No concerns or recommendations were discussed. The project was not referred to the LUAC after the revision to the project description to include permitting a second unit because the structure was and is shown as existing on the proposed tentative map and no additional development is proposed with the revision. The project is substantially the same.
- o) 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 PLN080038.
- p) Slope Density The buildable area of the newly created Lot (Parcel B) contains a cross slope that is less than 19.9%. According to the site plan and based on the site visits conducted by staff, the buildable area

and based on the site visits conducted by staff, the buildable area contains a cross slope between 5 to 7 percent. Therefore, the existing zoning density of 1.5 units per acre is appropriate in this case.

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

- EVIDENCE:**
- a) The project has been reviewed for site suitability by the following departments and agencies: RMA - Planning Department, Pebble Beach Community Services District, Parks, Public Works, Environmental Health Division, Water Resources Agency, Sheriff, and Housing & Redevelopment. 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) The minor subdivision will split an existing 3.34 acre lot into two new lots meeting the maximum density specified in the Zoning District (LDR/1.5). One lot will contain the existing single family dwelling and a “second unit” (Parcel A) and the other lot will be vacant (Parcel B). Parcel B contains an area adequate for normal residential structures and uses. See Finding 1 with supporting evidence and the Technical reports listed in Evidence (c) below.
 - c) Staff identified potential impacts to Biological Resources, Archaeological Resources, and Tree Resources. 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:
 - *“Biotic Survey”, prepared by Jean Ferreira, PO Box 5506, Carmel, dated June 5, 2008 (LIB080513).*
 - *“Geologic and Soil Engineering Feasibility Report”, prepared by LandSet Engineers Inc. 520-B Crazy Horse Cyn Rd., Salinas, dated June 2008 (LIB080515).*
 - *“Forest Management Plan” prepared by Frank Ono, 1213 Miles Ave, Pacific Grove, dated June 5, 2008 (LIB080516).*
 - *“Cultural Resource Evaluation” prepared by Archeological Resource Management, 496 North Fifth St, San Jose, dated May 23, 2008 (LIB080514).*
 - *“Hand-Augering Program” prepared by Archaeological Resource Management, 496 North Fifth St, San Jose, dated February 4, 2009 (LIB100050).*
 - *“Phase I Historic Evaluation” prepared by Kent Seavey, 310 Lighthouse Ave, Pacific Grove, CA, dated August 17, 2009 (LIB100051).*
 - d) Staff conducted a site inspection on February 15, 2008 to verify that the site is suitable for this use.
 - e) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN080038.

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 Community Services District, Parks, Public Works, Environmental Health Division, Water Resources Agency, Sheriff, and Housing & Redevelopment. 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 at the site and will be provided to the newly created parcel. The existing structures are served potable water by California American Water. Water for proposed Parcel B has been purchased from the Pebble Beach Company through the Monterey Peninsula Water Management District Water Entitlement and Water Use Permit process. A copy of the Water Use Permit is contained in the project file PLN080038. Impacts from the proposed water source have been found to be less than significant as outlined in the Initial Study/Mitigated Negative Declaration prepared for the project. The existing structures are served by the Pebble Beach Community Services District (PBCSD) who has an agreement with the Carmel Area Wastewater District (CAWD) to provide sewage treatment. PBCSD and CAWD have provided a can-and-will serve letter stating that they have the capacity and ability to serve the project and that they have reserved this capacity upon the issuance of the letter. That letter is contained in the project file PLN080038. Adequate services and capacity will still exist to serve priority uses within the Del Monte Forest Area (LUP Policies 109, 112, and 113).
 - c) Preceding findings and supporting evidence for PLN080038.

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 February 15, 2008 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 PLN080038.

5. **FINDING:** **CEQA (Mitigated Neg Dec)** - On the basis of the whole record before the Monterey County Minor Subdivision Committee, 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 (PLN080038).
 - c) 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 effects would occur. The Initial Study is on file in the RMA-Planning Department and is hereby incorporated by reference (PLN080038).
 - d) Issues that were analyzed in the Mitigated Negative Declaration include: aesthetics, air quality, biological resources, cultural resources, geology and soils, hydrology/water quality, land use planning, traffic, and utilities and service systems. Substantial evidence supports the conclusion that impacts will be less than significant with mitigation incorporated for biological and cultural resource issues.
 - 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 PLN080038 was prepared in accordance with CEQA and circulated for public review from April 1, 2009 through May 1, 2009 (SCH#: 2009041001).
 - g) Based on the comments received during the public review period, the Mitigated Negative Declaration was substantially revised and re-circulated for public review from February 16, 2010 to March 16, 2010 (SCH#: 2009041001).
 - h) The County has considered the comments received during the public review periods and they do not alter the conclusions in the revised Initial Study and Mitigated Negative Declaration.
 - i) Evidence that has been received and considered includes: the application, technical studies/reports (*see Finding No. 2/Site Suitability*), staff reports that reflect the County's independent judgment, and information and testimony presented during public hearings (as applicable). These documents are on file in the RMA-Planning Department (PLN080038) and are hereby incorporated herein by reference.
 - j) 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 project could cause changes to the resources listed under Section 753.5 of Title 14, California Code of Regulations. Therefore, the project will be required to pay the State Fish & Game fee in place at the time said fee is paid with posting the Notice of Determination (NOD).

- k) 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 described as an area where the Local Coastal Program requires public access (Figure 16, of the Shoreline Access Map and complies with 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 PLN080038
 - e) The project planner conducted a site inspection on February 15, 2008.
 - f) The Carmel Beach Access point is located adjacent to the Wheatley property (Figure 11, Appendix B) and extends from the City of Carmel, south of the Wheatley property, north along Carmel Way and up towards 17 Mile Drive. The proposed subdivision will not affect the existing designated trail.

7. **FINDING: SECOND UNIT** – The subject project meets the regulations, standards and circumstances for a second unit in accordance with the State Second Unit Law (California Government Code Section 65852.2 Et. Seq.)

- EVIDENCE:**
- a) Monterey County has not adopted a Second Unit Ordinance. When a local agency has not adopted a Second Unit Ordinance, pursuant to Government Code Section 65852.2, the provisions on 65852.2(b) apply.
 - b) The lot is zoned for residential use (Low Density Residential) and contains an existing single family dwelling. The main single family dwelling and the second unit will remain on the same lot and the second unit is not intended for sale separately.

- c) This entitlement would permit the use of an existing structure as a second unit as defined in Government Code Section 65852.2 (i). No development is proposed as part of this permit
- d) The detached unit is approximately 1,002 square feet and meets the site development standards including height, coverage, and floor area; however, the existing structure is legal non-conforming as to front setback from 2nd Avenue and will remain non-conforming as to front setback.
- e) The unit is already connected to adequate utility services including sewer and water and existed prior to the overall buildout limitations established in the Del Monte Forest Land Use Plan. Therefore, the unit would be included in the existing buildout numbers.
- f) Because the structure is existing, the proposed second unit will not adversely impact traffic conditions in the area.
- g) The applicant proposes to restrict, by deed, the ability to develop a caretaker unit on the resulting Parcel A. This voluntary deed restriction on future development would reduce development and density potentials at the site that may have included the ability to apply for a caretaker unit in addition to the second unit and the main dwelling at the site (Condition No. 12).
- h) 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 PLN080038.

8. **FINDING:** **SUBDIVISION** – Section 66474 of the California Government Code (Subdivision Map Act) and Title 19 (Subdivision Ordinance) of the Monterey County Code requires that a request for subdivision be denied if any of the following findings are made:

- 1. That the proposed map is not consistent with the applicable general plan and specific plans.
- 2. That the design or improvement of the proposed subdivision is not consistent with the applicable general plan and specific plans.
- 3. That the site is not physically suitable for the type of development.
- 4. That the site is not physically suitable for the proposed density of development.
- 5. That the design of the subdivision or the proposed improvements is likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
- 6. That the design of the subdivision or type of improvements is likely to cause serious public health problems.
- 7. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision.

- EVIDENCE:**
- a) Consistency. The project as designed and conditioned is consistent with the 1982 Monterey County General Plan, the Del Monte Forest Land Use Plan, and the Coastal Implementation Plan Part 5 (*Finding No. 1*).
 - b) Design. The lot design is consistent with the Lot Design Standards of Section 19.10.030 County Codes. The resulting lots will meet or exceed the minimum and maximum lot widths and depths established in Section 19.10.030.A and B and appropriate setbacks from street

- frontages and riparian areas have been incorporated (Finding No. 1(g)).
- c) Site Suitability. The site is suitable for the proposed project including the type and density of the development (*Finding No. 2 and supporting evidence*)
 - d) Health and Safety. The proposed project as designed and conditioned 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 No. 3 and supporting evidence*)
 - e) Easements. The subdivision will not conflict with easements. No easements exist or are proposed at the subject property.
 - f) Water Supply. Section 19.10.070 MCC requires that provisions be made for domestic water supply as may be necessary to protect public health, safety, or welfare. Such water supply may be by connection to a public utility, in which case a letter from the public utility shall be submitted showing its ability to serve the proposed subdivision and evidence indicating that satisfactory agreement has been entered into for such services. The two dwellings to remain on resulting Parcel A are currently served by the California-American Water System (Cal-Am) and 0.60 acre/feet water for the newly created Parcel B has been purchased from the Pebble Beach Company as demonstrated by the Monterey Peninsula Water Management District Water Use Permit. A copy of the MPWMD Water Use Permit is contained in project file PLN080038.
 - g) Sewage Disposal (Sections 19.03.015.K and 19.07.020.J MCC Coastal Title 19). The existing structures are served by the Pebble Beach Community Services District (PBCSD) who has an agreement the Carmel Area Waste Water District (CAWD) to provide public sewage disposal and treatment. PBCSD has issued a letter stating that they have the can and will serve the resulting lots for sewage disposal. In issuing the letter CAWD and PBCSD have reserved capacity for the project. The ability of CAWD to serve the project in addition to the priority uses described in the Del Monte Forest Land Use Plan was confirmed in a phone conversation with general manager Ray VonDohren on January, 14, 2009 (*also see Finding No. 3*)
 - h) Traffic (Condition No. 16). The subdivision will result in one new residentially zoned parcel in addition to the existing development. To offset regional traffic impacts from the creation of a new residential lot the project will be required to pay the Transportation Agency of Monterey County (TAMC) Regional Development Impact Fees. The additional traffic trips resulting from one new residential parcel combined with payment of TAMC fees will not result in significant adverse effects on traffic at the site or in the area.
 - i) Affordable Housing The project will result in two lots and the existing residence is an exemption. Projects resulting in two or fewer new lots/units are exempt from the Inclusionary Housing Ordinance as described in Chapter 18.40 of the County Code. Therefore this project is exempt from inclusionary housing requirements (See memorandum from the County's Housing and Redevelopment Office, dated December 7, 2008 contained in the project file).

- j) Parks and Recreation (Condition No. 18). The Applicant shall comply with Section 19.12.010 - Recreation Requirements, of the Subdivision Ordinance, Title 19, Monterey County Code, by paying a fee in lieu of land dedication. The Parks Department shall determine the fee in accordance with provisions contained in Section 19.12.010 (D and E).
- k) The application, tentative map and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN080038.
- l) The project planner conducted a site inspection on February 15, 2008.

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

- EVIDENCE:**
- a) Section 19.01.050.A of Coastal Title 19, Monterey County Subdivision Ordinance (Board of Supervisors).
 - b) In the Coastal Zone, minor subdivisions require a Coastal Development Permit (20.16.050.PP). Coastal Development Permits are considered conditional use permits and projects involving development that is permitted as a conditional use are appealable to the Coastal Commission pursuant to Section 20.86.080.A.3 (Title 20).

DECISION

NOW, THEREFORE, based on the above findings and evidence, the Minor Subdivision Committee does hereby:

- A. Adopt the revised Mitigated Negative Declaration
- B. Approve Combined Development Permit PLN080038 consisting of 1) A Coastal Development Permit to allow a Minor Subdivision, Tentative Map, to subdivide a 3.38 acre parcel into two parcels of 1.87 acres (Parcel A) and 1.51 Acres (Parcel B) Respectively; and 2) A Coastal Administrative Permit to convert an existing 1,002 square foot single family dwelling on Parcel A to a second unit consistent with State Law (California Government Code Section 65852.2 Et Seq.), in general conformance with the attached sketch and subject to the conditions, both being attached hereto and incorporated herein by reference.
- C. Adopt the Mitigation Monitoring and Reporting Program.

PASSED AND ADOPTED this **8th** day of **April, 2010** upon motion of Ms. Janna Faulk, seconded by Mr. Jim McPharlin, by the following vote:

AYES: McPharlin, Moss, Onciano, Faulk, Alinio
NOES: None.
ABSENT: Vandevere
ABSTAIN: None.



JACQUELINE R. ONCIANO, SECRETARY

COPY OF THIS DECISION MAILED TO APPLICANT ON **APR 14 2010**

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 **APR 24 2010**

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 2 years after the above date of granting thereof unless the parcel map is recorded within this period.

RESOLUTION No. 10-004
Monterey County Resource Management Agency
Planning Department
Condition Compliance and/or Mitigation Monitoring
Reporting Plan

Project Name: **JACK & MARY LOUIS WHEATLEY**
 File No: **PLN080038** APNs: **008-383-003-000**
 Approved by: **Minor Subdivision Committee** Date: **April 8, 2010**

**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>
RMA – Planning Department						
1.		<p>PD001 - SPECIFIC USES ONLY This Combined Development Permit (PLN080038) allows A Coastal Development Permit for a Minor Subdivision, Tentative Map, to subdivide a 3.38 acre parcel into two parcels of 1.87 acres (Parcel A) and 1.51 Acres (Parcel B) Respectively; and a Coastal Administrative Permit to convert an existing 1,002 square foot single family dwelling on Parcel A to a second unit consistent with State Law (California Government Code Section 65852.2 Et Seq.). The property is located at 3429 Carmel Way, Pebble Beach (Assessor's Parcel Number 008-383-003-000), 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. (RMA-Planning Department)</p>	<p>Adhere to conditions and uses specified in the permit.</p> <p>Use of the vacant lot created as part of this minor subdivision permit shall not commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of the RMA - Planning Department.</p> <p>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.</p>	<p>Owner/ Applicant</p> <p>RMA - Planning</p> <p>WRA RMA - Planning</p>	<p>Ongoing unless otherwise stated</p>	

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2.		<p>PD002 - NOTICE-PERMIT APPROVAL</p> <p>The applicant shall record a notice which states: "A permit (Resolution <u>10-004</u>) was approved by the Minor Subdivision Committee for Assessor's Parcel Number 008-383-003-000 on April 8, 2010. The permit was granted subject to 18 conditions of approval which run with the land. A copy of the permit is on file with the Monterey County RMA - Planning Department." (RMA-Planning Department)</p>	<p>Obtain appropriate form from the RMA-Planning Department.</p> <p>The applicant shall complete the form and furnish proof of recordation of this notice to the RMA - Planning Department.</p>	<p>Owner/ Applicant</p> <p>RMA- Planning</p>	Prior to filling the parcel map	
3.	2.	<p>PD003(A) – CULTURAL RESOURCES – NEGATIVE ARCHAEOLOGICAL REPORT</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>	<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.</p>	<p>Owner/ Applicant/ Archaeologist</p>	Ongoing	
			<p>Add this requirement as a note on the parcel map</p>	<p>Owner/ Applicant/ Surveyor</p>	Prior to filling the parcel map	

Permit Cond. Number	Mitig. Number	Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
4.		<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 parcel map, 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.		<p>PD005 - FISH AND GAME FEE-NEG DEC/EIR 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. (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.	
6.		<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>	<p>1) Enter into agreement with the County to implement a Mitigation Monitoring Program.</p> <p>2) Fees shall be submitted at the time the property owner submits the signed mitigation monitoring agreement.</p>	Owner/ Applicant	Within 60 days after project approval or prior to filing the parcel map, whichever occurs first.	

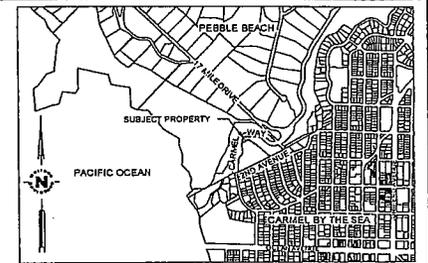
<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (name/date)</i>
7.		<p>PD015 - NOTE ON MAP-STUDIES</p> <p>A note shall be placed on the final map or a separate sheet to be recorded with the final map stating that: "A geotechnical report dated June 2008, has been prepared on this property by LandSet Engineering Inc (LIB080515), A biological survey dated June 5, 2008 prepared by Jean Ferreira (LIB080513), and a Forest Management Plan dated June 5, 2008 prepared by Frank Ono (LIB080516), are on file in the Monterey County RMA - Planning Department. The recommendations contained in these reports shall be followed in all further development of this property." The note shall be located in a conspicuous location, subject to the approval of the County Surveyor. (RMA – Planning Department)</p>	Final recorded map with notes shall be submitted to the RMA - Planning Department and Public Works for review and approval.	Owner/ Applicant	Prior to recordation of parcel map	
8.	1.	<p>PD022(B) –CONSERVATION AND SCENIC EASEMENT IN THE DEL MONTE FOREST</p> <p>A conservation and scenic easement shall be conveyed to the Del Monte Forest Foundation over the portion of the property from the northern most corner of the property, along the existing driveway, to incorporate the Pescadero Creek and riparian habitat at the site. 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 filing the parcel map. (RMA – Planning Department)</p>	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/ Certified Professional	Prior to filing the parcel map	
			Record the deed and map showing the approved conservation and scenic easement. Submit a copy of the recorded deed and map to the RMA – Planning Department.	Owner/ Applicant	Prior to filing the parcel map	
			Show the limits of the Conservation and Scenic Easement on the parcel map	Owner/ Applicant/ Engineer	Prior to filing the parcel map	

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9.		PD032(A) - PERMIT EXPIRATION The permit shall be granted for a time period of 2 years, to expire on April 8, 2012 unless use of the property or actual construction has begun within this period. (RMA – Planning Department)	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	
10.		PD036 – UTILITIES – SUBDIVISION A note shall be placed on the final map or a separate sheet to be recorded with the final map indicating that "Underground utilities are required in this subdivision in accordance with Chapter 19.10.095, Title 19 of the Monterey County Code." The note shall be located in a conspicuous manner subject to the approval of the Director of Public Works. (RMA – Planning Department)	Place note on map or a separate sheet and submit to the RMA - Planning Department for review and approval.	Owner/ Applicant	Prior to the recordation of parcel map.	
11.		PDSP001 – OTHER AGENCY PERMITS (NON-STANDARD) If applicable, prior to development at the site, obtain clearance and/or permits from the City of Carmel-By-The-Sea for encroachment onto 2 nd Avenue and any other development within the City's jurisdiction. (RMA – Planning Department)	Contact and obtain required clearances and/or permits from the City of Carmel-By-The-Sea for the proposed project. Submit evidence to the RMA-Planning Department that clearance and/or permits have been obtained.	Owner/ Applicant	Prior to beginning construction activities.	
			Add as a note on the parcel map	Owner/ Applicant/ Engineer	Prior to filing the parcel map	
12.		PDSP002 – VOLUNTARY DEED RESTRICTION – FUTURE DEVELOPMENT OF A CARETAKER UNIT (NON-STANDARD) Prior to recordation of the parcel map, the applicant shall record a deed restriction, as a voluntary part of their project, stating that	Submit signed and notarized document to the Director of RMA – Planning Department for review and signature by the County.	Owner/ Applicant	Prior to recordation of the final map	

<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>
		Parcel A resulting from the proposed minor subdivision relinquishes any potential right to future development of a caretaker unit on the parcel containing the permitted second unit. (RMA – Planning Department)	Proof of recordation of the document shall be submitted to the RMA – Planning Department.	Owner/ Applicant	Prior to recordation of the parcel map	
RMA – Public Works Department						
13.		PW0015 – UTILITY’S COMMENTS Submit the approved tentative map to impacted utility companies. Subdivider shall submit utility company recommendations, if any, to the Department of Public Works for all required easements. (Public Works)	Subdivider shall provide tentative map to impacted utility companies for review. Subdivider shall submit utility comments to DPW	Owner/ Applicant	Prior to Recordation of the parcel map	
14.		PW0031 – PARCEL MAP File a parcel map delineating all existing and required easements or rights-of-way and monument new lines. (Public Works)	Applicant’s surveyor shall prepare parcel map, submit to DPW for review and approval.	Owner/ Applicant/ Engineer	Prior to Recordation of Parcel Map	
15.		PW0036 – EXISTING EASEMENTS AND ROW Provide for all existing and required easements or rights of way. (Public Works)	Subdivider’s Surveyor shall include all existing and required easements or rights of way on Parcel Map.	Subdivider/ Surveyor	Prior to Recordation of Parcel Map	
16.		PW0043 – REGIONAL DEVELOPMENT IMPACT FEE 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. (Public Works)	Applicant shall pay Monterey County Building Services Department the traffic mitigation fee.	Owner/ Applicant	Prior to issuance of building permits	

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Fire Agency (Pebble Beach Community Services District)						
17.		FIRES001 – DRIVEWAY RECONFIGURATION (NON-STANDARD) A note shall be placed on the Final Map and a separate deed notice shall be recorded concurrent with the recordation of the Final Map which would state: Prior to issuance of a Grading/Building Permit the applicant shall submit plans to modify the existing gate and driveway located on Second Avenue to provide Emergency Vehicle access to serve both the existing residence and structures located on Parcel A as well as the future residence and structures to be located on Parcel B subject to review and approval of the Pebble Beach Fire Marshall. The gate shall be setback 30 feet from the property line, shall maintain a 28 foot radius from the street and shall be minimum of 12 feet wide. (Pebble Beach Community Services Department)	Final recorded map with notes shall be submitted to the RMA - Planning Department and Public Works for review and approval.	Owner/ Applicant	Prior to recordation of parcel map	
Parks Department						
18.		PKS002 – RECREATION REQUIREMENTS/FEES The Applicant shall comply with Section 19.12.010 - Recreation Requirements, of the Subdivision Ordinance, Title 19, Monterey County Code, by paying a fee in lieu of land dedication. The Parks Department shall determine the fee in accordance with provisions contained in Section 19.12.010(D) (Parks Department)	The Applicant shall comply with the Recreation Requirements contained in Section 19.12.010 of the Subdivision Ordinance Title 19, Monterey County Code.	Owner/ Applicant	Prior to the Recordation of the parcel map	

END OF CONDITIONS



VICINITY MAP
SCALE: 1" = 1000'

GENERAL NOTES

1. APN 008-383-003
2. THE SIZE, LOCATION, AND TYPE OF ALL UTILITIES SHOWN HEREON ARE APPROXIMATE ONLY.
3. PROJECT PHASING: NONE
4. THE PROPERTY IS NOT SUBJECT TO FLOODING.
5. NO BUILDING OR CONSTRUCTION IS PROPOSED AS PART OF THIS SUBDIVISION.
6. NO TREES ARE PROPOSED FOR REMOVAL AS PART OF THIS SUBDIVISION.
7. ACCESS TO PARCEL B SHALL BE FROM 2ND AVENUE.
8. FUTURE DEVELOPMENT ON PARCEL B CAN AND SHALL COMPLY WITH DEL MONTE FOREST LAND USE PLAN POLICIES REGARDING SLOPE, DRAINAGE, AND EROSION CONTROL.
9. PRIOR TO RESIANCE OF A GRADING OR BUILDING PERMIT, THE APPLICANT SHALL SUBMIT PLANS TO MODIFY THE EXISTING GATE AND DRIVEWAY ON 2ND AVENUE TO PROVIDE EMERGENCY ACCESS TO SERVIC BOTH THE EXISTING RESIDENCE ON PARCEL A AND A FUTURE RESIDENCE ON PARCEL B IN ACCORDANCE WITH THE FOLLOWING STANDARDS AND SUBJECT TO THE APPROVAL OF THE PEBBLE BEACH FIRE MARSHAL. THE GATE SHALL BE 30 FEET SETBACK FROM THE PROPERTY LINE, SHALL MAINTAIN A 20 FOOT RADIUS FROM THE STREET, AND SHALL BE A MINIMUM WIDTH OF 12 FEET.

SUBDIVIDER'S STATEMENT

- A. EXISTING ZONING: LDR/1.3-(D)(2)
- B. WATER SUPPLY: CALIFORNIA-AMERICAN WATER COMPANY
SEWER: PEBBLE BEACH COMMUNITY SERVICES DISTRICT
- C. PUBLIC AREAS TO BE DEDICATED: NONE
COMMON AREAS PROPOSED: NONE
- D. PROPOSED TYPE OF DEVELOPMENT: MINOR SUBDIVISION

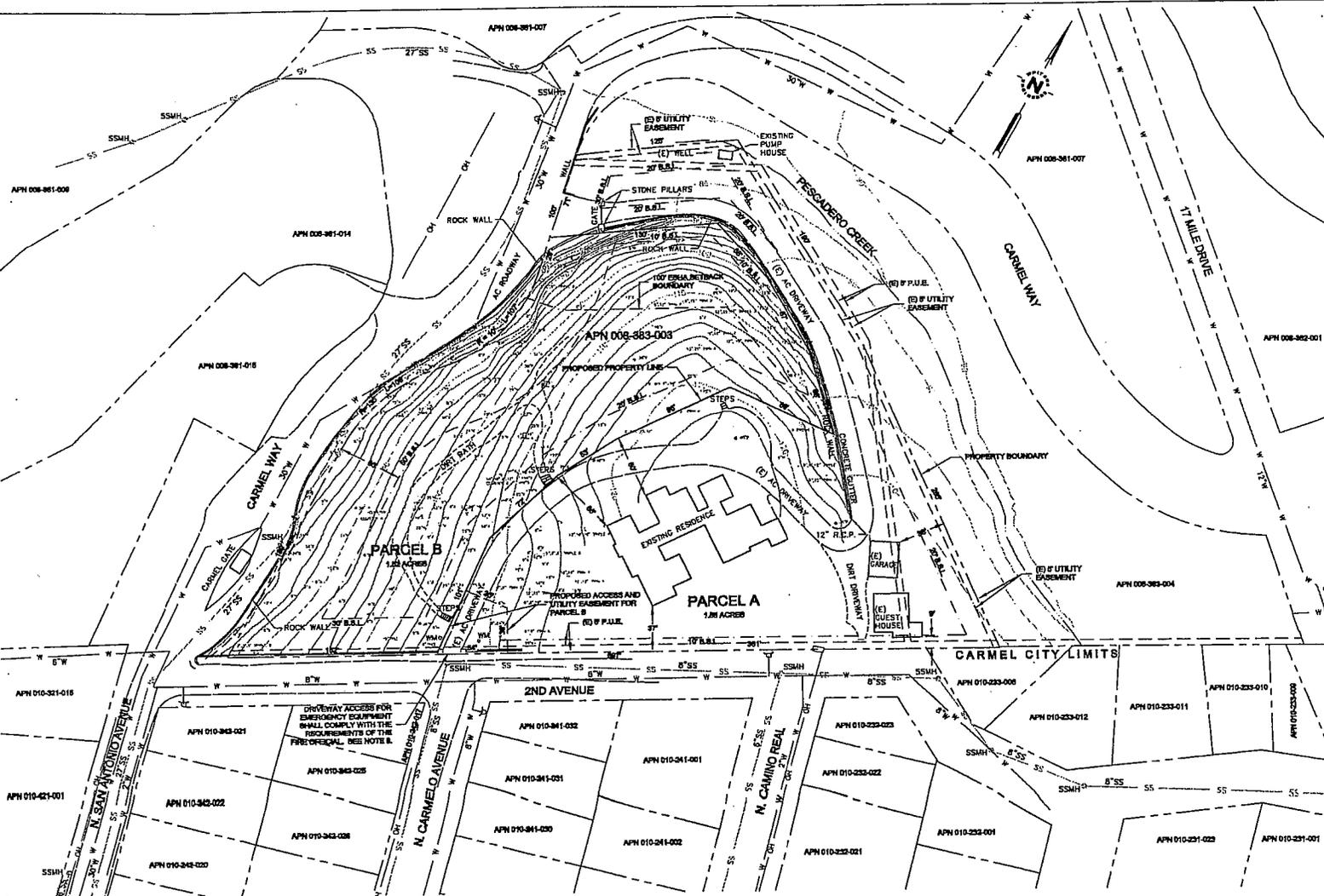
LEGEND

---	PROPERTY BOUNDARY
---	EXISTING PUBLIC UTILITY EASEMENT LINE (P.U.E.)
---	NEW PROPERTY LINE
---	NEW BUILDING SETBACK LINE (B.S.L.)
---	NEW EASEMENT LINE
---	RIPARIAN HABITAT SETBACK LINE
---	EXISTING CONTOURS
---	EXISTING EDGE OF AC PAVEMENT
---	EXISTING DIRT PATH OR DRIVE
---	EXISTING WATER LINE
---	EXISTING SEWER LINE
---	EXISTING OVERHEAD LINE
---	EXISTING WATER METER
---	EXISTING SEWER MANHOLE
---	EXISTING TREE, SIZE AND TYPE
---	EXISTING FIRE HYDRANT
---	EXISTING
---	B.S.L. BUILDING SETBACK LINE

**TENTATIVE MAP
PROPOSED MINOR SUBDIVISION**

OF APN 008-383-003
3249 CARMEL WAY, PEBBLE BEACH
MONTEREY COUNTY, CALIFORNIA

PREPARED BY:
WHITSON ENGINEERS
9960 Blue Lakeside Lane • Suite 100 • Monterey, CA 93940
831 948-2222 • Fax 831 973-8068
Civil, Environmental & Land Development & Project Management



PROJECT TEAM

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320 CRAZY HORSE ROAD
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LEGAL REPRESENTATIVE
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FENTON & KELLER
2801 MONTEREY-SALINAS HWY
MONTEREY, CA 93940
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NORTH COUNTY

Moss Landing Wildlife Area

Elkhorn Slough

Elkhorn Slough Nat'l Estuarine Sanctuary

AVILARD

DOLAN RD

ELKHORN RD

CASTROVILLE BLVD

Moro Cojo Slough

156

CASTROVILLE

PROJECT SITE

APPLICANT HARBOR CHAPEL INC

APN: 131-053-007-000

FILE # PLN090036

 300' Limit

 2500' Limit

 City Limits

