

[ADA Compliant Transcription of Original]

Appendix 12

Deed Restriction



Memorandum

To: Permit Applicant, Coastal Development Permit No. _____

Subject: Requirements for Compliance With Condition for a deed Restriction, Condition No. _____

Your project has been approved with a condition requiring a deed restriction. This memo outlines the steps necessary to comply with the condition. Please read and follow the instructions carefully.

The Steps are as follow:

1. Complete the attached Deed Restriction Form and Subordination Agreement form, if applicable. Read the attached memo on subordination agreements in order to determine if you must submit a Subordination Agreement along with the Deed Restriction.
2. Sign the Deed Restriction Form and Subordination Agreement, if applicable, and have the documents notarized.
3. Send the documents to the Planning Department. The Planning Department staff and County Counsel staff will review the documents to assure proper form and content. If not acceptable, the documents will be returned to you for correction.
4. Once staff determines the documents to be of acceptable form and content, the documents will be signed by the Director of Planning.
5. After the documents have been signed, they will be returned to you by the Planning Department.
6. Record the documents at the Monterey County Recorder's Office at the County Courthouse. If a Subordination Agreement must be recorded in addition to the Deed Restriction, you must record it as a separate document.

7. After you have recorded the documents, submit to the Planning Department an update preliminary title report showing the recorded documents in the chain of title and free of prior liens or encumbrances which could affect the interest being conveyed.
8. Planning Department and County Counsel staffs will review the title report to assure that the documents have been recorded and are free of all prior liens and encumbrances except tax liens. Once assured, the Planning Department shall consider the condition fulfilled.

Please Note

The above instructions must be followed exactly. Failure to complete each item properly will necessitate return of the document for re-execution and delay issuance of your permits.

All signatures must be complete and properly notarized. Corporations, partnerships, government entities, and trusts require different forms of notary acknowledgement from the "personal" form provided here. The signature line must indicate the name of the corporation, etc., and the notary public must use the appropriate form of acknowledgement. If the notary public uses the wrong form, the document will be returned for a new notary acknowledgement.

Instructions For Completing Deed Restriction

Page 1

Introduction: Date and Owner. Enter the date that the document is being executed and the legal owner of the property. The legal owner is the record owner exactly as shown in the title report. In some cases, the owner of the property may not be the same person as the permit applicant because a lessee or optionee may apply for a permit. If a lessee or optionee has obtained approval of a project subject to an access condition which must be executed by an owner, the owner must execute the offer to dedicate. If the property is in escrow, escrow instructions are to be submitted with the executed offer.

Item I. Legal Description. Enter the full legal description of the property. The legal description can be obtained from a grant deed or title report for the property. A parcel number will not be accepted as a legal description.

Item V. Coastal Development Permit Number. This number may be found in the County resolution approving your permit and listing the permit conditions.

Item V. Date of Permit Approval, name of Decision-Making Body & Resolution Number. This information may be found in the County resolution approving your permit.

Item V. Exhibit "A". Attach a copy of the resolution approving your permit, marked as "Exhibit A".

Page 2

Item VI. Coastal Development Permit Number. See Item V.

Item VI. Permit Condition. Enter the complete text of Condition No. _____, as adopted by the County. The condition text is found in the resolution approving your permit and listing the permit conditions.

Item IX. Coastal Development Permit Number. See Item V.

Page 3

Item IX. Owner's Agreement. Enter whatever the Deed Restriction stipulates as what the owner agrees to do or not to do. This must be recited from the condition.

Recording Requested by and
When Recorded, Mail To:
Monterey County Planning Dept.
P. O. Box 1208
Salinas, CA 93906

Permit No. _____
Applicant Name: _____
Project Planner: _____

Deed Restriction

I. **Whereas**, on this _____ day of _____, 19_____,

_____ hereinafter referred to as owner(s), is the record owner of the following real property:

_____ hereinafter referred to as the subject property; and

II. **Whereas**, Monterey County Board of Supervisors is acting on behalf of the People of the County of Monterey; and

III. **Whereas**, the subject property is located within the coastal zone as defined in Section 30103 of the California Public Resources Code (hereinafter referred to as the California Coastal); and

IV. **Whereas**, pursuant to the California Coastal Act of 1976, the owner applied to Monterey County for a coastal development permit for the development on the subject property described above; and

V. **Whereas**, coastal development permit No. _____ was granted on _____, by the _____ in accordance with the provision of the Findings, contained in Resolution No. _____, attached hereto as "Exhibit A," and hereby incorporated by reference; and

VI. **Whereas**, coastal development permit No. _____ was subject to the terms and conditions including but not limited to the following conditions:

VII. **Whereas**, Monterey County found that but for the imposition of the above conditions the proposed development could not be found consistent with the provisions of the California Coastal Act of 1976 and that a permit could therefore not have been granted; and

VIII. **Whereas**, it is intended that this Deed Restriction is irrevocable and shall constitute enforceable restrictions; and

IX. **Whereas**, Owner has elected to comply with the conditions imposed by Permit No. _____ so as to enable owner to undertake the development authorized by the permit.

Now, Therefore, in consideration of the granting of Permit No. _____ to the Owner by Monterey County, the owner hereby irrevocably covenants with Monterey County that there be and hereby is created the following restrictions on the use and enjoyment of said subject property, to be attached to and become a part of the deed to the property. The undersigned owner, for himself/herself and for his/her heirs, assigns, and successors in interest, covenants and agrees that:

If any provision of these restrictions is held to be invalid or for any reason becomes unenforceable, no other provision shall be thereby affected or impaired.

Said deed restriction shall remain in full force and effect during the period that said permit, or any modification or amendment thereof, remains effective, and during the period that the development authorized by said permit or any modification of said development, remains in existence in or upon any part of, and thereby confers benefit upon, the subject property described herein, and to that extent, said deed restriction is hereby deemed and agreed by owner to be a covenant running with the land, and shall bind owner and all his/her assigns or successors in interest.

The property owner agrees as a condition of this offer to dedicate or easement required pursuant to approval of the coastal development permit that it will, pursuant 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 offer to dedicate or easement, which action is brought within the time period provided for in Government Code Section 66499.37. 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.

Owner agrees to record this Deed Restriction in the Recorder's Office for the County of Monterey as soon as possible after the date of execution.

Date: _____, 19 _____

Signed: _____

Print or Type Name Above

Signed: _____

Print or Type Name Above

Note To Notary Public: If you are notarizing the signatures of persons signing on behalf of a corporation, partnership, trust, etc. please use the correct notary jurat (acknowledgement) as explained in your Notary Public Law Book.

State of California, County of Monterey. ss

On this _____ day of _____, in the year _____, before me _____, a Notary Public, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person (s) whose name is subscribed to this instrument, and acknowledged that he/she/they execute it.

**Notary Public In and For
Said State and County**

State of California, County of Monterey. ss

On this _____ day of _____, in the year _____,
before me _____, a Notary Public, personally
appeared _____, personally known to me (or proved to me
on the basis of satisfactory evidence) to be the person (s) whose name is subscribed
to this instrument, and acknowledged that he/she/they execute it.

**Notary Public In and For
Said State and County**

This is to Certify that the (offer)(deed restriction) set forth above is hereby
acknowledged by the Director of the Monterey County Planning Department
pursuant to the action of the _____ on _____ and that
Monterey County Consents to its recordation thereof.

Dated: _____

Robert Slimmon, Jr.
Director of Planning

Acknowledgment

State of California)
) ss.
County of Monterey)

On _____, 198____, before me _____ the undersigned Notary Public, personally appeared Robert Slimmon, Jr., known to me to be the Director of the Monterey County Planning Department, who executed the within instrument and acknowledged to me that he executed the same.

Witness my hand and official seal.

Notary Public

My Commission expires _____.

Document Content/Form Acceptable:

County Counsel

Planning Department