

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

In the matter of the application of:

PEBBLE BEACH COMPANY (PLN140155)

RESOLUTION NO. 14 - 024

Resolution by the Monterey County Director of Planning approving a Minor and Trivial Amendment (PLN140155) to previously approved Combined Development Permits (PLN100138) to allow the modification of Condition of Approval No. 18 relating to Inclusionary Housing. The Combined Development Permits (PLN100138), which allow the development and preservation of Pebble Beach Company (PBC) properties throughout the Del Monte Forest, included a condition of approval requiring PBC to comply with the County's Inclusionary Housing Ordinance by, among other things, depositing an in-lieu fee in the amount of \$5 million to be utilized for costs associated with the development of an affordable project of at least 18 units in the Greater Monterey Peninsula Planning Area. This minor amendment (PLN140155) would modify the language of the condition of approval, consistent with the Board of Supervisors' intent in adopting the condition, to indicate that the \$5 million deposit by PBC shall be held by the County as security for PBC's identification, acquisition, entitlement, and construction of an affordable housing project or projects of at least 18 units in the Greater Monterey Peninsula Planning Area (including the incorporated cities located therein) within five (5) years of the recordation of the first residential subdivision Final Map. [PLN140155, Pebble Beach Company, Greater Monterey Peninsula Area Plan (Inland) and Del Monte Forest Land Use Plan (Coastal Zone) (APNs: 007-091-028-000, 007-091-033-000, 007-101-041-000, 007-991-001-000, 008-021-009-000, 008-022-024-000, 008-022-031-000, 008-022-032-000, 008-022-035-000, 008-031-014-000, 008-031-015-000, 008-031-019-000, 008-032-004-000, 008-032-005-000, 008-032-006-000, 008-034-001-000, 008-041-009-000, 008-163-001-000, 008-163-003-000, 008-163-005-000, 008-164-001-000, 008-165-001-000, 008-171-009-000, 008-171-022-000, 008-241-008-000, 008-242-007-000, 008-272-010-000, 008-272-011-000, 008-311-011-000, 008-312-002-000, 008-313-002-000, 008-313-003-000, 008-321-006-000, 008-321-007-000, 008-321-008-000, 008-321-009-000, 008-423-002-000, 008-423-019-000, 008-423-029-000, 008-423-030-000, 008-431-009-000, 008-561-020-000, and 008-991-001-000)]

The Director of the Resource Management Agency-Planning Department, having considered the application and all the written and documentary evidence presented relating thereto, finds and decides as follows:

Pebble Beach Company PLN140155

FINDINGS AND EVIDENCE

1. **FINDING:** **PROJECT DESCRIPTION** - The County has received and processed a minor amendment to PLN100138.
- EVIDENCE:**
- (a) An application for a Minor and Trivial Amendment was submitted on March 5, 2014.
 - (b) The properties are located throughout Pebble Beach (Assessor's Parcel Numbers 007-091-028-000, 007-091-033-000, 007-101-041-000, 007-991-001-000, 008-021-009-000, 008-022-024-000, 008-022-031-000, 008-022-032-000, 008-022-035-000, 008-031-014-000, 008-031-015-000, 008-031-019-000, 008-032-004-000, 008-032-005-000, 008-032-006-000, 008-034-001-000, 008-041-009-000, 008-163-001-000, 008-163-003-000, 008-163-005-000, 008-164-001-000, 008-165-001-000, 008-171-009-000, 008-171-022-000, 008-241-008-000, 008-242-007-000, 008-272-010-000, 008-272-011-000, 008-311-011-000, 008-312-002-000, 008-313-002-000, 008-313-003-000, 008-321-006-000, 008-321-007-000, 008-321-008-000, 008-321-009-000, 008-423-002-000, 008-423-019-000, 008-423-029-000, 008-423-030-000, 008-431-009-000, 008-561-020-000, and 008-991-001-000), Greater Monterey Peninsula Area Plan (Inland) and the Del Monte Forest Land Use Plan (Coastal Zone). The properties also include multiple zoning and land use designations, including residential, commercial, and open space.
 - (c) On June 19, 2012, the Board of Supervisors approved Combined Development Permits (PLN100138) in Resolution No. 12-149 for the phased development and preservation of the Pebble Beach Company properties located within the Del Monte Forest. The permits consisted of twelve vesting tentative maps for the subdivision of approximately 900 acres, resulting in the creation of 90 to 100 single-family residential lots, the renovation and expansion of visitor serving uses, and the preservation of 635 acres as forested open space.
 - (d) The Combined Development Permits (PLN100138), which allow the development and preservation of Pebble Beach Company (PBC) properties throughout the Del Monte Forest, included a condition of approval requiring PBC to comply with the County's Inclusionary Housing Ordinance by, among other things, depositing an in-lieu fee in the amount of \$5 million to be utilized for costs associated with the development of an affordable project of at least 18 units in the Greater Monterey Peninsula Planning Area. This minor amendment (PLN140155) would modify the language of the condition of approval, consistent with the Board of Supervisors' intent in adopting the condition, to indicate that the \$5 million deposit by PBC shall be held by the County as security for identification, acquisition, entitlement, and construction of an affordable housing project or projects of at least 18 units in the Greater Monterey Peninsula Planning Area (including the incorporated cities located therein) within five (5) years of the recordation of the first residential subdivision Final Map. This modification shall replace Condition

No. 18 of PLN100138. Other than the amended Condition No. 18, attached and incorporated herein by reference, all of the previously applied findings, evidence, and conditions of the Combined Development Permits (PLN100138) shall remain in effect, and are hereby incorporated by reference.

- (e) The application, project plans, and related support materials submitted by the project applicant to the Monterey County Resource Management Agency - Planning Department for the proposed amendment found in Project Files PLN100138 and PLN140155.

2. FINDING:

CONSISTENCY - The project as proposed is consistent with the previously approved permit(s) pursuant to Monterey County Code (MCC) Section 20.70.105.A and does not cause impacts not already assessed in original permit action. As approved and amended, permit number PLN100138 will remain as the approved permit.

EVIDENCE:

- (a) The proposed amendment to Condition No. 18 is consistent with the Board of Supervisors' intent in adopting the condition, to indicate that the \$5 million deposit by PBC shall be held by the County as security for identification, acquisition, entitlement, and construction of an affordable housing project or projects of at least 18 units in the Greater Monterey Peninsula Planning Area (including the incorporated cities located therein) within five (5) years of the recordation of the first residential subdivision Final Map.
- (b) Pursuant to MCC Section 20.70.105.A (Amendment to Coastal Development Permits), the proposed minor amendment (PLN140155) is in keeping with the action of the Board of Supervisors and does not raise any impacts not already assessed in the original permit action. This minor amendment would modify the language of the condition of approval to clarify the Board of Supervisors' intent in adopting the condition, and would not alter or reduce the compliance requirements of the Applicant.
- (c) There have been no previous amendments to PLN100138.
- (d) The application, project plans, and related support materials submitted by the project applicant to the Monterey County Resource Management Agency - Planning Department for the proposed amendment found in Project Files PLN100138 and PLN140155.

3. FINDING:

CEQA - The Minor and Trivial Amendment does not require subsequent environmental review pursuant to CEQA Guidelines Section 15162. The original CEQA action on the project was an Environmental Impact Report (EIR) per Article 7 of the CEQA Guidelines.

EVIDENCE:

- (a) Per CEQA Guidelines Section 15162, this minor amendment involves no substantial changes requiring major revisions of the EIR (SCH#2011041028; certified by the Board of Supervisors on June 19, 2012), and there is no new information of substantial importance.
- (b) The application, project plans, and related support materials submitted by the project applicant to the Monterey County

Resource Management Agency - Planning Department for the proposed amendment found in Project Files PLN100138 and PLN140155.

4. **FINDING:** **PUBLIC NOTICE** - Consideration of the request for the amendment has been carried out pursuant to Monterey County Code Section 20.84.040.A of Monterey County Code Title 20 (Zoning).
- EVIDENCE:** (a) On May 8, 2014, notices were posted in at least 3 different public places on and near the subject properties.
- (b) No objections were received during the notification period from May 13 to May 27, 2014.
- (c) The application, project plans, and related support materials submitted by the project applicant to the Monterey County Resource Management Agency - Planning Department for the proposed amendment found in Project Files PLN100138 and PLN140155.
5. **FINDING:** **PUBLIC ACCESS** - The proposed minor amendment 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) This minor amendment (PLN140155) does not does not raise any impacts not already assessed in the original permit action.
- (b) The application, project plans, and related support materials submitted by the project applicant to the Monterey County Resource Management Agency - Planning Department for the proposed amendment found in Project Files PLN100138 and PLN140155.
6. **FINDING:** **APPEALABILITY** - The project, as approved, is appealable to the California Coastal Commission.
- EVIDENCE:** (a) Monterey County Code Sections 20.70.105.A and B state that if objections are received, the amendment shall be considered by the original decision making body.
- (b) No objections were received during the notification period from May 13 to May 27, 2014.
- (c) California Coastal Commission: Section 20.86.080.A of the Monterey County Zoning Ordinance (Title 20). The project is subject to appeal by/to the California Coastal Commission because it involves development between the sea and the first through public road paralleling the sea, development within 100 feet of any wetland, and development that is permitted in the underlying zone as a conditional use. In addition, the original permit action was also appealable to the California Coastal Commission.

DECISION

NOW, THEREFORE, based on the above findings and evidence, the Director of the Resource Management Agency – Planning Department does hereby:

Approve a Minor and Trivial Amendment (PLN140155) to previously approved Combined Development Permits (PLN100138) modifying Condition of Approval No. 18 relating to Inclusionary Housing, in general conformance with the attached revised text and subject to the attached conditions, and subject to the conditions in Planning File No. PLN100138 (Resolution No. 12-149), all being attached hereto and/or incorporated herein by reference.

PASSED AND ADOPTED this 28th day of May, 2014.



MIKE NOVO, DIRECTOR
RMA – PLANNING DEPARTMENT

COPY OF THIS DECISION WAS MAILED TO THE APPLICANT AND THE CALIFORNIA COASTAL COMMISSION ON MAY 28 2014.

THIS APPLICATION IS ALSO APPEALABLE TO THE COASTAL COMMISSION. UPON RECEIPT OF NOTIFICATION OF THE DECISION BY THE DIRECTOR OF PLANNING, 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 95060.

NOTE:

1. You may need a building and/or grading permit and must comply with the Monterey County Resource Management Agency-Building Services Department 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 working days after the mailing of the 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 an appeal.

Do not start any construction or occupy any building until you have obtained the necessary permits and use clearances from the Monterey County Resource Management Agency - Planning Department.
2. This permit expires **3** years after the above date of granting thereof unless construction or use is started with this period.

Condition No. 18 – Inclusionary Housing (Clean Version)

18. PDSP013 – INCLUSIONARY HOUSING (NON-STANDARD)

Condition/Mitigation
Monitoring Measure:

The project is subject to the County's Inclusionary Housing Ordinance, codified in Chapter 18.40 of the County Code. Prior to the recordation of the first Final Map, the applicant shall execute an Inclusionary Housing Agreement, in a form acceptable to the Economic Development Director, to provide for the required inclusionary housing, as modified by the Board of Supervisors. The Applicant shall comply with the Inclusionary Housing Ordinance as follows: 1) The Applicant shall deposit \$5 million with the County, to be held by the County in a separate interest bearing fund as security for the Applicant's development of an affordable (as defined in the Inclusionary Housing Ordinance) housing project or projects of at least 18 units in the Greater Monterey Peninsula Planning Area (including the incorporated cities located therein); 2) If the Applicant identifies, acquires, entitles, and constructs an affordable housing project or projects of at least 18 units in the Greater Monterey Peninsula Planning Area within five (5) years of the recordation of the first residential subdivision Final Map, the County shall return the \$5 million deposit, plus any accrued interest, to the Applicant; and 3) Failing identification, acquisition, entitlement, and construction of a project pursuant to (2) above within five (5) years of the recordation of the first residential subdivision Final Map, the \$5 million on deposit as security with the County, plus any accrued interest, shall convert to County funds to be used for assistance in the development of affordable housing within the Greater Monterey Peninsula Planning Area (including the incorporated cities located therein) in compliance with the Inclusionary Housing Ordinance, and

the Applicant shall contribute an additional \$2 million to the County to be added to the separate fund, which fund may thereafter be utilized by the County for purposes of or leading to actual development and construction consistent with the Inclusionary Housing Ordinance, and within the Greater Monterey Peninsula Planning Area (including the incorporated cities located therein).

**Compliance or Monitoring
Action to be Performed:**

Prior to recordation of the first residential subdivision Final Map, the Applicant shall deposit \$5 million with the County as security and shall enter into an Inclusionary Housing Agreement with the County, in a form acceptable to the Economic Development Director, that 1) specifies the details of the required compliance, including but not limited to, the type, location, and size of units, the phasing of providing the units, and existence or not of preferences for employees in compliance with Fair Housing Law, if a site is identified, and return of deposit, plus any accrued interest, if Applicant constructs affordable housing within five (5) years.

Condition No. 18 – Inclusionary Housing (Strikethrough-Underline Version)

18. PDSP013 – INCLUSIONARY HOUSING (NON-STANDARD)

Condition/Mitigation
Monitoring Measure:

The project is subject to the County's Inclusionary Housing Ordinance, codified in Chapter 18.40 of the County Code. Prior to the recordation of the first Final Map, the applicant shall execute an Inclusionary Housing Agreement, in a form acceptable to the Economic Development Director, to provide for the required inclusionary housing, as modified by the Board of Supervisors. The Applicant shall comply with the Inclusionary Housing Ordinance by as follows: 1) The Applicant shall deposit paying an in lieu fee in the amount of \$5 million with to the County, to be held by the County in a separate interest bearing fund as security for the Applicant's to be utilized solely for costs associated with development of an affordable (as defined in the Inclusionary Housing Ordinance) housing project or projects of at least 18 units in the Greater Monterey Peninsula Planning Area (including the incorporated cities located therein); 2) If the Applicant working with the County to attempt to identify, acquires, entitles, and constructs finance an affordable housing project or projects of at least 18 units in the Greater Monterey Peninsula Planning Area within five (5) years of the recordation of the first residential subdivision Final Map, the County shall return the \$5 million deposit, plus any accrued interest, to the Applicant; and 3) Ffailing identification, acquisition, entitlement, and construction securing full financing of a project pursuant to (2) above within five (5) years of the recordation of the first residential subdivision Final Map, the \$5 million on deposit as security with the County, plus any accrued interest, shall convert to County funds to be used for assistance in the development of affordable

housing within the Greater Monterey Peninsula Planning Area (including the incorporated cities located therein) in compliance with the Inclusionary Housing Ordinance, and the Applicant shall contribute an additional \$2 million to the County to be added to the separate fund, which fund may thereafter be utilized by the County for purposes of or leading to actual development and construction consistent with the Inclusionary Housing Ordinance. If any monies remain in the segregated fund after five (5) years of the recordation of the first residential subdivision Final Map, the County shall retain the balance to be spent in compliance with the Inclusionary Housing Ordinance for , and within the Greater Monterey Peninsula Planning Area (including the incorporated cities located therein).

Compliance or Monitoring
Action to be Performed:

Prior to recordation of the first residential subdivision Final Map, the Applicant shall deposit pay the \$5 million in lieu fee with the County as security and shall enter into an Inclusionary Housing Agreement with the County, in a form acceptable to the Economic Development Director, that 1) specifies the details of the required compliance, including but not limited to, payment of the in lieu fee, disbursement of monies from the separate fund, the type, location, and size of units, the phasing of providing the units, and existence or not of preferences for employees in compliance with Fair Housing Law, if a site is identified, and 2) in compliance with Fair Housing Law return of deposit, plus any accrued interest, if Applicant constructs affordable housing within five (5) years.

Monterey County RMA Planning

Conditions of Approval/Implementation Plan/Mitigation Monitoring and Reporting Plan

PLN140155

1. PD002 - NOTICE PERMIT APPROVAL

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: The applicant shall record a Permit Approval Notice. This notice shall state: "A Minor and Trivial Amendment (Resolution Number 14-024) was approved by the Director of RMA-Planning for Assessor's Parcel Numbers 007-091-028-000, 007-091-033-000, 007-101-041-000, 007-991-001-000, 008-021-009-000, 008-022-024-000, 008-022-031-000, 008-022-032-000, 008-022-035-000, 008-031-014-000, 008-031-015-000, 008-031-019-000, 008-032-004-000, 008-032-005-000, 008-032-006-000, 008-034-001-000, 008-041-009-000, 008-163-001-000, 008-163-003-000, 008-163-005-000, 008-164-001-000, 008-165-001-000, 008-171-009-000, 008-171-022-000, 008-241-008-000, 008-242-007-000, 008-272-010-000, 008-272-011-000, 008-311-011-000, 008-312-002-000, 008-313-002-000, 008-313-003-000, 008-321-006-000, 008-321-007-000, 008-321-008-000, 008-321-009-000, 008-423-002-000, 008-423-019-000, 008-423-029-000, 008-423-030-000, 008-431-009-000, 008-561-020-000, and 008-991-001-000 on May 28, 2014. The permit was granted subject to two (2) conditions of approval which run with the land. A copy of the permit is on file with Monterey County RMA - Planning."

Proof of recordation of this notice shall be furnished to the Director of RMA - Planning prior to recordation of the first residential Final Map. (RMA - Planning)

Compliance or Monitoring Action to be Performed: Prior to the recordation of the first residential Final Map, the Owner/Applicant shall provide proof of recordation of this notice to the RMA - Planning.

2. PDSP013 - INCLUSIONARY HOUSING (NON-STANDARD)

Responsible Department: Economic Development

**Condition/Mitigation
Monitoring Measure:**

The project is subject to the County's Inclusionary Housing Ordinance, codified in Chapter 18.40 of the County Code. Prior to the recordation of the first Final Map, the applicant shall execute an Inclusionary Housing Agreement, in a form acceptable to the Economic Development Director, to provide for the required inclusionary housing, as modified by the Board of Supervisors. The Applicant shall comply with the Inclusionary Housing Ordinance as follows: 1) The Applicant shall deposit \$5 million with the County, to be held by the County in a separate interest bearing fund as security for the Applicant's development of an affordable (as defined in the Inclusionary Housing Ordinance) housing project or projects of at least 18 units in the Greater Monterey Peninsula Planning Area (including the incorporated cities located therein); 2) If the Applicant identifies, acquires, entitles, and constructs an affordable housing project or projects of at least 18 units in the Greater Monterey Peninsula Planning Area within five (5) years of the recordation of the first residential subdivision Final Map, the County shall return the \$5 million deposit, plus any accrued interest, to the Applicant; and 3) Failing identification, acquisition, entitlement, and construction of a project pursuant to (2) above within five (5) years of the recordation of the first residential subdivision Final Map, the \$5 million on deposit as security with the County, plus any accrued interest, shall convert to County funds to be used for assistance in the development of affordable housing within the Greater Monterey Peninsula Planning Area (including the incorporated cities located therein) in compliance with the Inclusionary Housing Ordinance, and the Applicant shall contribute an additional \$2 million to the County to be added to the separate fund, which fund may thereafter be utilized by the County for purposes of or leading to actual development and construction consistent with the Inclusionary Housing Ordinance, and within the Greater Monterey Peninsula Planning Area (including the incorporated cities located therein). (Economic Development)

**Compliance or
Monitoring
Action to be Performed:**

Prior to recordation of the first residential subdivision Final Map, the Applicant shall deposit \$5 million with the County as security and shall enter into an Inclusionary Housing Agreement with the County, in a form acceptable to the Economic Development Director, that 1) specifies the details of the required compliance, including but not limited to, the type, location, and size of units, the phasing of providing the units, and existence or not of preferences for employees in compliance with Fair Housing Law, if a site is identified, and return of deposit, plus any accrued interest, if Applicant constructs affordable housing within five (5) years.