CITY COUNCIL RESOLUTION NO. 22-002


FACTS

1. The subject site is located at 109/125 Ocean View Boulevard and 124 Central Avenue, Pacific Grove, 93950; APNs 006-231-001, 006-234-004, 006-234-005, and 006-234-008, as well as the portion of the Sloat Avenue right-of-way (ROW) between Eardley Avenue and Dewey Avenue a portion of an existing encroachment along Ocean View Boulevard.

2. The subject site including the Sloat Avenue ROW has a land use designation of Visitor Serving Commercial (V-C) in the adopted City of Pacific Grove Coastal Land Use Plan.

3. The subject site is located in the C-V-ATC Commercial Visitor-American Tin Cannery (APNs 006-231-001, 006-234-004, and 006-234-005, as well as the portion of the Sloat Avenue ROW between Eardley Avenue and Dewey Avenue) and C-1 Light Commercial (APN 006-234-008) Zoning Districts.

4. The subject site is in the Point Cabrillo Planning Area per the City’s Coastal Land Use Plan and drainage from the site drains into the Pacific Grove Area of Special Biological Significance (ASBS).

5. The subject site is a 5.597-acre property, including the 26,770-Sq. Ft. ROW segment proposed for vacation and hotel development and uses and the 3,190-sq. ft. encroachment on Ocean View Boulevard.

6. The subject site is within the Monterey Regional Airport’s Airport Influence Area (AIA) Safety Zone 7. The project was referred to and received a consistency finding from the Monterey County Airport Land Use Committee (ALUC) in February 2020 with the inclusion of two ALUC-related conditions of approval (refer to Exhibit A Permit and Conditions of Approval).

7. The City’s Architectural Review Board considered the project on December 15, 2020, and an inconsistency in the City’s Implementation Plan of the Local Coastal Program
(LCP) was discovered. The LCP amendment was certified by the California Coastal Commission in August 2021, and the project applicant submitted an amended planning application including revisions to project design to ensure compliance with the LCP amendment. The amended CDP application was submitted on September 8, 2021, with the revised design incorporating many of the recommendations of the City’s Architectural Review Board.

8. The City’s Planning Commission considered the project and associated EIR on October 28, 2021 and November 18, 2021, and denied the project and EIR on 4-2 votes.

9. On November 24, 2021, the applicant, CCS Pacific Grove Manager, LLC, filed an appeal of the Planning Commission’s denial of the project.

10. The proposed project provides 290 parking spaces, located in three parking lots, including the lower-level parking lots accessed via Ocean View Boulevard and Eardley Avenue serving the Shoreline Wing and Bluffs Wing, respectively, and on a surface parking lot on a portion of the 124 Central Avenue parcel. Of the 290 parking spaces, 255 are provided as valet parking spaces, and 35 spaces are reserved for metered, self-parking open to the public.

11. The site’s parking demand was analyzed in a draft parking study and a draft transportation demand management (TDM) analysis prepared for the project by Walker Parking Consultants (Appendices M and N of the EIR). The draft TDM analysis analyzed the parking demand factoring in the parking demand reductions anticipated as a result of implementation of the draft TDM plan. The draft TDM analysis concluded that the recommended amount of parking to meet the demand for the typical peak event during weekdays would be 290 parking spaces and that the recommended amount of parking for the typical peak event during weekend days would be 246 parking spaces. These typical peak event demands are met by the proposed parking supply of 290 spaces. An updated parking demand analysis memo from Walking Consulting dated October 28, 2021, concluded that because of the reduction in retail floor area in the current project, the updated peak parking demand of 255 spaces.

12. The draft TDM Plan prepared for the project sets forth a menu of alternative transportation measures that the project would implement to reduce use of single-occupant vehicles by both employees and patrons of the site. The submittal for City approval of a final Commute Trip Reduction and TDM Plan is required pursuant to EIR Mitigation Measure MM GHG-2.1 and is incorporated into the project conditions of approval (refer to Exhibit A). This is required prior to the issuance of grading permits for the project to further reduce mobile greenhouse gas (GHG) emissions for all uses.

13. A Biological Resources Technical Memorandum and Habitat Assessment was prepared for the project by Biotic Resources Group and Dana Bland & Associates to evaluate on-site and nearby biological resources that may be affected by the project and provide recommended mitigation measures (see Chapter 7 of the EIR and Appendix C of the EIR).
14. A Tree Resources Assessment was prepared by Certified Arborist Frank Ono (Appendix D of the EIR) to evaluate the proposed removal of 79 on-site trees and provide recommended mitigation measures (see Chapter 7 of the EIR).

15. In response to input from the Architectural Review Board and the Planning Commission, the applicant has prepared a revised tree planting schedule, which is reflected in the current project plan set dated December 8, 2021. The revised tree planting schedule incorporates a total of 133 on-site trees and a greater share of native trees.

16. A Historic Resources Technical Report (HRTR) was prepared for the project by a qualified historian firm, Page & Turnbull (Appendix E of the EIR). The HRTR determined that the American Tin Cannery meets the criteria for listing in the California Register and on the Pacific Grove Historic Resources Inventory (HRI) and should be considered a historical resource under the California Environmental Quality Act (CEQA) and recommended mitigation measures (see Chapter 8 of the EIR).

17. The project site is not listed on the City’s Historic Resources Inventory.

18. An Archaeological Monitoring and Treatment Plan (AMTP) was prepared for the project by a qualified historian firm, Page & Turnbull (Confidential Report on file with the City). The AMTP evaluated potential impacts to cultural, paleontological, and tribal cultural resources and recommended mitigation measures (see Chapters 8 and 18 of the EIR).

19. A Coastal Engineering/Coastal Hazards Analysis was prepared for the project by Haro, Kasunich, & Associates Inc. (Appendix I of the EIR). The Coastal Hazards Analysis concluded that the proposed development would not be subject to coastal hazards including, but not limited to, shoreline retreat, temporary flooding, and/or wave attack over at least the next 80 years or its useful design life.

20. A Preliminary Storm Water Control Plan was prepared for the project by Whitson Engineers (Appendix J of the EIR).

21. A Preliminary Noise Assessment was prepared for the project by Veneklasen Associates, Inc. (Appendix K of the EIR).

22. A Water Demand Analysis was prepared for the project by Stantec in January 2020 (Appendix O of the EIR). According to the Stantec water demand analysis, the proposed project would utilize 17.91-acre feet per year (AFY) with incorporation of proposed water conservation measures. The project water demand is less than the 18.53-AFY credit for the site recognized by the Monterey Peninsula Water Management District (MPWMD). The analysis was reviewed by staff from MPWMD for concurrence with its findings. The December 8, 2021 (and prior September 8, 2021) revised project design has a smaller surface area for pools and a lower square footage of retail development, which reduce the project’s water demand by 0.82 AFY or to a new demand of 17.09 AFY with incorporation of proposed water conservation measures.
23. A Lower-Cost Overnight Accommodations (LCOA) Feasibility and Impact Analysis was prepared for the project by Economic & Planning Services. This is included as Attachment 14 to the October 28, 2021 Planning Commission agenda report. The LCOA Feasibility Analysis determined that the project could not provide on-site lower-cost overnight accommodations and established a per-unit mitigation fee of $32,000 for each of the 56 lower-cost rooms required for the 225-room hotel development pursuant to PGMC §23.90.220.C.

24. The vacation of the Sloat Avenue ROW easement requires review by the Planning Commission pursuant to State Government Code Section 65402. This section of the Government Code stipulates that prior to the disposition of real property by a government agency, the planning agency of the jurisdiction in which said property is located must first make the finding that the disposition of said real property is in conformity with the adopted General Plan of the local jurisdiction. With the appeal of the project to the City Council, the City Council is required to make the Government Code Section 65402 conformity finding.

25. The California Environmental Quality Act (CEQA), (Public Resources Code Section 21000 et seq.) and the Guidelines for California Environmental Quality Act (California Code of Regulations, Title 14, Chapter 3, Section 15000 et seq.) require review of a project subject to said Act to identify the significant effects on the environment of the project, to identify alternatives to the project, and to indicate the manner in which those significant effects can be mitigated or avoided.

26. An Environmental Impact Report (EIR) was prepared for this project, with the Draft EIR circulated for public and agency review from July 30, 2020 through September 28, 2020. The preparation of the EIR included peer review of the technical reports prepared for the project. Significant unavoidable impacts were identified for the project’s effect on the existing visual character or quality of the site and its surroundings and for the project’s impact on a significant historic resource through the demolition of the Warehouse Building (Building 2) and the partial demolition of the Factory Building (Building 1).

27. The City Council by separate resolution has certified the Final EIR for the American Tin Cannery Hotel and Commercial Project, adopted the associated CEQA findings including the findings of overriding considerations, and adopted a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program for the American Tin Cannery Hotel and Commercial Project.

28. A duly-noticed public hearing on the project, on the General Plan consistency for the Sloat Avenue ROW easement vacation, and on the associated Final EIR was held by the Planning Commission on October 28, 2021 and November 18, 2021, at which hearing, the Planning Commission duly considered all evidence, including the testimony of the applicant, interested parties, and the evaluation and recommendations by staff, presented at said hearing.
29. A duly-noticed public hearing on the appeal of the Planning Commission’s decision, and a de novo consideration of the project, the General Plan consistency for the Sloat Avenue ROW easement vacation, and the associated Final EIR was held by the City Council on January 12, 2022, at which hearing, the City Council has duly considered all evidence, including the testimony of the appellant, interested parties, and the evaluation and recommendations by staff, presented at said hearing.

FINDINGS

Architectural Permit findings per PGMC Section 23.70.060

1. The architecture and general appearance of the completed project are compatible with the neighborhood.

The proposed development for the portion of the project site zoned C-V-ATC meets the development standards for the C-V-ATC Zoning District, including with respect to height limits, setbacks, and site coverage. Subgrade parking for the Bluffs hotel wing, the stepped nature of the development that follows the existing topography, and the inclusion of several courtyards, terraces, and landscaped areas reduces the project’s perceived overall size and bulk. The project design’s separation of the Executive Wing and Group/Family Wing further reduces the perceived size and bulk. Project sidewalks would be replaced, and the landscaping plan includes street trees along each of the major project frontages with landscaped terraces and the rooftop garden to complement the new structures. The Upper Lot portion of the project at 124 Central Avenue is Zoned C-1, which allows for neighborhood scale and locally oriented retail, and which also allows an off-site parking lot subject to the approval of a Use Permit. While no structures are proposed for the Upper Lot, the existing surface parking lot would be reconfigured and restriped, with new landscaping including several new trees. This reconfiguration would also improve the aesthetics of this portion of the project. While the project proposes to remove 79 trees on the project site, the vast majority of these (over 90%) are in fair to poor health, according to the Tree Resource Assessment prepared for the project. A total of 133 new trees are proposed on-site as part of the project’s landscape plan, with extensive on-street, courtyard, and rooftop plantings. Overall, the project would be compatible with the neighborhood and revitalize an underutilized, somewhat dated commercial area.

2. The completed project will neither be detrimental to the orderly and harmonious development of the City nor impair the desirability of investment or occupation in the neighborhood.

The project proposes to redevelop and revitalize the existing retail outlet which was formerly an industrial manufacturing facility. The proposed project meets all development standards of the applicable zoning districts, as noted above in Finding 1. The new hotel, associated hotel uses such as meeting rooms, restaurants, bars, and fitness spa, along with the street-front retail uses, would enhance the desirability of
investment in the neighborhood and provide additional amenities for both Pacific Grove residents as well as visitors.

3. The City Architectural Review Board and Planning Commission have been guided by and have made reference to applicable provisions of the architectural review guidelines in making its determinations on single-family residences.

This finding is not applicable to the proposed project. The City’s Architectural Review Guidelines for Single-Family Residents pertain to residential development. The proposed project is for a commercial development.

4. Additional Finding for Sign Permits. The proposed sign effectively conveys the business identity to the public and possesses pleasing elements of design that protect and enhance the architectural character and harmony of the buildings and neighborhood in which it is located.

This finding is not applicable to the proposed project. No signage is currently proposed. Any such signage would need to comply with City signage requirements and regulations and requires a subsequent permit.

Tree Permit issuance requirements per Section 12.60.080

1. [The tree permit] will not create, continue, or aggravate any hazardous condition or public nuisance.

In compliance with City requirements, a Tree Resource Assessment was prepared for the project. The Tree Resource Assessment evaluated the 79 trees proposed for removal. Of these 79 trees, five trees were noted as not meeting the criteria for protected trees under PGM C Section 12.20.020. The Tree Resource Assessment determined that four trees were in poor health such that removal would abate an existing safety hazard, and 72 trees were noted as in fair health. In the September 8, 2021 revised design, the extent of proposed tree removal remains the same, and a total of 133 trees will be planted on the site and maintained for the life of the project as a condition of approval. This exceeds the City’s 1:1 tree planting requirement in PGM C Chapter 12.60; however, a 2:1 tree replacement ratio is required by Mitigation Measure MM BIO-3.2, which is incorporated as a condition of approval. The 2:1 tree replacement requirement will be achieved through replanting on-site, replanting off-site, through payment of in-lieu fees, or a combination of these measures. Tree protection measures and tree pruning standards are included in the tree assessment report, and adherence to these measures is required as a condition of approval.

2. [The Tree Permit] will not prevent or interfere with the growth, location, or planting of approved Public Trees.

Significant long-term impacts to the urban forest ecosystem are not anticipated due to fact that the trees being removed are planted landscape trees which can be replanted or
other mitigation implemented such as paying an in-lieu fee to place trees on other areas. The species and size of replanting will be reviewed and approved by the City Arborist, and the City Arborist has reviewed the tree resource assessment. The project proposes to replant 38 street trees (within or adjacent to the right-of-way) along the project frontages, and as a condition of approval, is required to meet a 2:1 replanting ratio. The replanting requirement may be met through a combination of planting replacement trees onsite, offsite, or through payment of an in-lieu fee. As the proposed number of new trees is less than the replanting requirement, payment of in-lieu fees is anticipated, and these fees could support additional planting of public trees in the City.

Use Permit findings per PGMC Section. 23.70.080.a.4

1. The proposed use is allowed with a use permit within the applicable zoning district and complies with all applicable provisions of these regulations.

   The proposed use of the ATC portion of the project site for a hotel and commercial use is allowed in the C-V-ATC Zoning District per PGMC Section 23.31.025(b). The hotel and hotel-accessory uses including sales of alcoholic beverages require a use permit. The proposed use of the Upper Lot for parking and landscaping is allowed in the C-1 Zoning District with a use permit per PGMC Section 23.31.030. The project meets all development standards for the C-V-ATC and C-1 Zoning Districts, as pertinent to each portion of the project, including setbacks, height limits, and site coverage.

2. The proposed use is consistent with the general plan, the local coastal program, and any applicable specific plan.

   The proposed uses are consistent with land use guidance in the general plan, and all applicable policies and development standards of the local coastal program. The proposed commercial uses are consistent with the project site’s Central-Eardley Commercial general plan land use designation and the Visitor-Serving Commercial land use designation in the Coastal Land Use Plan, which support the development of new commercial uses that promote a healthy local economy while preserving the local community character. A detailed local coastal program consistency review is included as an attachment to the October 28, 2021 Planning Commission staff report for the project. This analysis noted no inconsistencies with the policies and standards of the City’s Local Coastal Program.

3. The establishment, maintenance, or operation of the use will not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.

   An Environmental Impact Report (EIR) was prepared for the project. The EIR evaluated a range of potential impacts, including those related to geology, hazards and hazardous materials, noise and vibration, traffic, and land use compatibility. The EIR identified mitigation measures and standard City or State requirements that would avoid health and safety-related impacts to adjacent properties and persons. In addition, the project was reviewed by the Monterey County Airport Land Use Commission and determined to be consistent with the Monterey Airport Land Use Compatibility Plan with the inclusion of standard conditions of approval for an avigation easement and for glare reduction.
measures. The project will be subject to all applicable Building, Seismic, and Fire Code requirements.

4. The use, as described and conditionally approved, will not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the city.

The proposed hotel and commercial development project is for an area zoned for commercial uses and would revitalize an existing retail outlet mall. The EIR prepared for the project analyzed potential construction-phase and operational-phase impacts and identified mitigation measures to reduce potential impacts to a less than significant level. The mitigation measures have been incorporated into conditions of approval that will ensure the safety of property and improvements on-site and in the neighborhood. The project will be subject to all applicable Building Seismic, and Fire Code requirements.

5. The location, size, design, and operating characteristics of the proposed use are compatible with the existing and future land uses in the vicinity.

The project meets all development standards of the applicable Zoning Districts, including height limits, setbacks, and site coverage. The proposed project’s subgrade and lower-level parking, stepped nature of the development that follows the existing topography, and the inclusion several courtyards, terraces, and landscaped areas reduce the project’s perceived overall size and bulk. The project’s separation of the Bluffs hotel wing and Shoreline hotel wing further reduces the perceived size and bulk. The project is extensively landscaped and includes lighting that complies with City lighting standards. Operational conditions of approval including annual review of the effectiveness of the project’s transportation demand management program, compliance with City requirements for alcoholic beverage sales, and City noise regulations will ensure compatibility with existing and future land uses in the vicinity. The proposed project complements the character of the neighborhood improves the economic viability of this area of the City.
Coastal Development Permit findings per PGMC Section. 23.90.080.

1. LCP Consistency. The project is consistent with the LCP.
   
   A detailed LCP consistency analysis was prepared and is included an attachment to the Planning Commission agenda report dated October 28, 2021. The analysis noted no policy inconsistencies after the implementation of specific conditions of approval. The project, as conditioned, is consistent with the City’s LCP.

2. Public Views. The project protects or enhances public views.
   
   The project’s effect on public views is analyzed in Chapter 5 (Aesthetics) of the EIR prepared for the project. No significant impacts on public views were noted in the EIR. The project complies with the 40-ft building height limits that were specifically established for the ATC site in PGMC Sub-Section 23.90.180.C.5. Rooftop equipment would not exceed the additional 8-ft height limit for rooftop mechanical appurtenances. The project also meets setback and 90% maximum site coverage standards and provides a minimum width of 8 feet for landscaping along the project frontages that are not occupied by structures. View planes to the ocean such as those also Central Avenue are already blocked to a large extent by existing structures and vegetation. Through adherence to these development standards and because of the project’s stepped design, the project does not substantially impact existing public views. Moreover, the project provides public access to rooftop viewing areas and rooftop gardens. Significant new coastal vistas are provided from these roof top areas, substantially enhancing public views.

3. Habitat Protection. The project protects vegetation, natural habitats and natural resources consistent with LCP.
   
   The project’s potential effect on biological resources including vegetation, coastal and marine fauna, and natural habitats is analyzed in Chapter 7 (Biological Resources) of the EIR prepared for the project. No significant impacts on biological resources were noted in the EIR, although several required mitigation measures were identified. The project proposes to remove 79 on-site trees to facilitate the extensive redevelopment of the site and site frontage improvements such as sidewalks. The project would be extensively landscaped, with a total of 133 trees would be replanted on the site and the site frontages. Mitigation measures were included to ensure that replanting activities meet the City’s 2:1 replanting requirement or provide off-site mitigation or payment of in-lieu fees. Mitigation measures were also identified to protect trees adjacent to the work site. Additional noise mitigation was required in Chapter 15 (Noise & Vibration) to address temporary or periodic increase in ambient noise levels during construction that could substantially disturb sensitive receptors and for excessive groundborne vibration or groundborne noise from typical construction-related activities. The September 8, 2021 revised design avoids excavation activities under the Shoreline hotel wing and requires 38% less excavation in comparison to the original design. This revision substantially reduces the noise and vibration exposure to sensitive coastal resources including shorebirds and marine mammals. Mitigation measures identified in the EIR are still incorporated into the project as conditions of approval to further ensure the protection of vegetation, natural habitats, and natural resources consistent with the LCP.
4. Design Consistency. The design, location, size, and operating characteristics of the proposed development are consistent with applicable LCP design requirements, including design plans and area plans incorporated into the LCP.

A detailed LCP consistency analysis was prepared and is included in an attachment to the Planning Commission agenda report dated October 28, 2021. The analysis includes a review of the project’s consistency with design-related policies in the LCP and noted no such policy inconsistencies after the implementation of specific conditions of approval. The project site’s land use designation and zoning district designation allow the proposed development with the approval of a use permit. The proposed lighting is muted (2700K) and is downward-directed and shielded. The project meets all design-related development standards including height limits, setbacks, and site coverage. The project, as conditioned, is consistent with the design-related policies of the City’s LCP.

5. Coastal Access. The project protects or enhances public access to and along the coast.

The project is located on the south (landward) side of Ocean View Boulevard. It is across the street from the Monterey Bay Coastal Recreation Trail, an 18-mile long Class I bicycle and pedestrian trail that provides ample opportunities for public access to and along the coast. There is an existing crosswalk at the corner of the project site at the intersection of Eardley Avenue and Oceanview Boulevard. This crosswalk would provide convenient access to the Monterey Bay Coastal Recreation Trail for patrons and visitors to the site. However, to provide enhanced access from the project site to the Coastal Recreation Trail, Mitigation Measure MM TRA-3.2 required the funding or installation of a designated crosswalk across Ocean View Boulevard at Dewey Avenue. This mitigation measure will be incorporated into the project’s conditions of approval. The project also provides valet parking for public use and traffic demand management plan components that would enhance alternative transportation options serving the site and its coastal access amenities. The additional parking opportunities, alternative transportation measures, and provision of a new crosswalk across Ocean View Boulevard would enhance public access to and along the coast.

6. Visitor Serving. The project supports the LCP goal of providing for visitor-serving needs as appropriate, including providing low and no cost visitor and recreational facilities.

The project involves the conversion of a former industrial site to a new 225-room hotel with associated hotel amenities, 16,202 square feet of retail commercial uses, and on-site valet parking for 290 cars. A hotel and additional commercial uses at this location would provide additional visitor-serving accommodations and commercial uses on a currently underutilized commercial site. A hotel at this location would revitalize the site, bring additional business and revenues to the City, and would provide visitor-serving amenities close to both downtown Pacific Grove and to Cannery Row. The hotel and additional commercial uses would be within walking distance to the Monterey Bay Aquarium, the Monterey Bay Coastal Recreation Trail, and other Cannery Row destinations. A Lower-Cost Overnight Accommodations (LCOA) Feasibility and Impact Analysis was prepared for the project by Economic & Planning Services. The LCOA Feasibility Analysis determined that the project could not provide on-site lower-cost overnight accommodations and established a per-unit mitigation fee of $32,000 for each of the 56
lower-cost rooms required for the 225-room hotel development pursuant to PGMC §23.90.220.C.

7. Appropriate Use. The project is consistent with the allowed LCP uses associated with the property.

The proposed uses are consistent with land use guidance in the LCP. The proposed commercial uses are consistent with the project site's Visitor-Serving Commercial land use designation in the Coastal Land Use Plan, which supports the development of new commercial uses that promote a healthy local economy while preserving the local community character. The proposed use of the ATC portion of the project site for a hotel and commercial uses is allowed in the C-V-ATC Zoning District as specifically set forth in Section 23.31.025(b) of the LCP Implementing Ordinances. The hotel and hotel-accessory uses including alcoholic beverage sales require a use permit as does the proposed use of the Upper Lot for parking and landscaping. The project meets all development standards for the C-V-ATC and C-1 Zoning Districts, as pertinent to each portion of the project, including setbacks, height limits, and site coverage.

8. Coastal Resources. The proposed development protects or enhances coastal resources, where applicable.

A detailed LCP consistency analysis was prepared and is included an attachment to the Planning Commission agenda report dated October 28, 2021. The analysis noted no policy inconsistencies after the implementation of specific conditions of approval. Protection of coastal views is discussed above in CDP Finding 2. Biological resource protection is discussed above in CDP Finding 3. The project’s potential effects on historical, archaeological, and tribal cultural resources are analyzed in Chapter 8 (Cultural Resources) and Chapter 18 (Tribal Cultural Resources) of the EIR. Mitigation measures were identified to avoid or reduce significant impacts on cultural and tribal cultural resources. In terms of historical resources, the EIR concluded that the proposed demolition of the Warehouse Building (Building 2) and a portion of the sawtooth roof Factory Building (Building 1) would result in a substantial adverse change in a significant historical resource. The project proposes to retain, repurpose, and repair as necessary the majority of Building 1, which was noted as the primary component of the American Tin Cannery complex. Mitigation measures were identified to reduce impacts on historical resources. The HABs written and photographic documentation of the ATC complex and the public interpretive display would provide access to the historic resources. The above-noted mitigation measures will be incorporated into the project’s conditions of approval to ensure that the proposed development protects and enhances coastal resources.

General Plan consistency review requirements of the Sloat Avenue ROW easement
vacation per State Government Code Section 65402

1. Prior to the disposition of real property by a government agency, the planning agency of the jurisdiction in which said property is located must first make the finding that the disposition of said real property is in conformity with the adopted General Plan of the local jurisdiction.
The vacation of the Sloat Avenue ROW easement is in conformance with the adopted General Plan. The project site designated for visitor-serving commercial uses in the City’s adopted Local Coastal Program Land Use Plan, and the main portion of the project site, including the Sloat Avenue ROW, is zoned C-V-ATC. The proposed hotel and commercial uses are allowed in the C-V-ATC Zoning District as specifically set forth in Section 23.31.025(b) of the LCP Implementing Ordinances. The vacation of the subject segment of Sloat Avenue ROW is consistent with Land Use Policy 15, which states: Encourage land uses that generate revenue to the City while maintaining a balance with other community needs, such as housing, open space, and recreation, and with Land Use Policy 16, which states: Attract and retain a variety of businesses and services in the community. The subject segment of Sloat Avenue would primarily serve the hotel and would accommodate commercial deliveries to the hotel. An access easement would be required to serve the three remaining non-hotel properties along the subject segment of Sloat Avenue. The proposed hotel and commercial uses would be accessible from the remaining streets adjacent to the project site, including Eardley Avenue, Ocean View Boulevard, and Dewey Avenue, and one of the three valet parking lots serving the hotel and commercial uses would be accessed from Central Avenue.

CEQA Findings

1. The City Council by separate resolution has certified the Final EIR for the American Tin Cannery Hotel and Commercial Project, adopted the associated CEQA findings including the findings of overriding considerations, and adopted a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program for the American Tin Cannery Hotel and Commercial Project.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PACIFIC GROVE:

1. The City Council determines that each of the Findings set forth above is true and correct, and by this reference incorporates those Findings as an integral part of this Resolution.

2. The City Council finds that the vacation of the Sloat Avenue ROW easement is in conformance with the City’s adopted General Plan.

3. The City Council authorizes Approval of Architectural Permit, Use Permit, Tree Permit with Development, and Coastal Development Permit (AP/UP/TPD/CDP) 19-0363 for the American Tin Cannery Hotel and Commercial Project.

4. Attachments are hereby approved as attached to this Resolution, which by this reference are incorporated as set forth in its entirety, including Exhibit A: Joint Permit and Project Conditions of Approval.
5. This permit shall become effective immediately upon approval by the City Council, or if duly appealed to the Coastal Commission, following Coastal Commission final action on the appeal.

6. This permit shall not take effect until the owner acknowledges and agrees to all terms and conditions and agrees to conform to and comply with those terms and conditions.

PASSED AND ADOPTED AT A SPECIAL MEETING OF THE CITY COUNCIL OF THE CITY OF PACIFIC GROVE this 12TH day of January, 2022, by the following vote:

AYES: Mayor Peake, Mayor Pro Tem McAdams, Councilmembers Amelio, Poduri, Smith, and Tomlinson.
NOES: Councilmember Coletti.
ABSENT: None.

APPROVED:

BILL PEAKE, Mayor

ATTEST: 1/18/2022

SANDRA KANDELL, City Clerk

APPROVED AS TO FORM:

DAVID C. LAREDO, City Attorney
Exhibit A
EXHIBIT A TO CITY COUNCIL RESOLUTION 22-002

PERMIT AND CONDITIONS OF APPROVAL FOR THE AMERICAN TIN CANNERY HOTEL AND COMMERCIAL PROJECT

ARCHITECTURAL PERMIT, TREE PERMIT WITH DEVELOPMENT, USE PERMIT, AND COASTAL DEVELOPMENT PERMIT AP/TPD/UP/CDP 19-0363 TO ALLOW THE PARTIAL DEMOLITION OF EXISTING COMMERCIAL BUILDINGS, REMOVAL OF ON-SITE TREES, AND THE REDEVELOPMENT OF THE SITE FOR A 225-ROOM HOTEL WITH ASSOCIATED HOTEL AMENITIES INCLUDING THE SALE OF ALCOHOLIC BEVERAGES, 10,968 SQUARE FEET OF RETAIL COMMERCIAL USES, AND ON-SITE VALET AND SELF-SERVICE PARKING FOR A TOTAL OF 290 CARS. THE PROJECT PROPOSES A TOTAL FLOOR AREA OF 353,489 SQUARE FEET ON AN APPROXIMATELY 5.597-ACRE PROJECT SITE.

PERMIT

ARCHITECTURAL PERMIT, USE PERMIT, TREE PERMIT WITH DEVELOPMENT, AND COASTAL DEVELOPMENT PERMIT AP/UP/TPD/CDP 19-0363;

To allow the partial demolition of existing commercial buildings, removal of on-site trees, and the redevelopment of the site for a 225-room hotel with associated hotel amenities including sales of alcoholic beverages, 10,968 square feet (sf) of retail commercial uses, and on-site parking for 290 cars, including 255 valet parking spaces. The project proposes a total floor area of 353,489 sf (gross floor area of 317,160 sf) on a 5.597-acre project site (including the Sloat Avenue right-of-way component and the Ocean View Boulevard encroachment), with the Use Permit also applying to the use and improvements to the parking lot at 124 Central Avenue. The project is proposed pursuant to PGMC §23.31.025, §12.60.010, §23.31.020, and Chapter 23.90.

CONDITIONS OF APPROVAL

General Conditions

1. Conformance to Plans. Development and uses of the site shall substantially conform to the approved plans for the American Tin Cannery Hotel and Commercial Project dated December 8, 2021, on file with the Community Development Department and to the Building Code, with the exception of any subsequently-approved changes. Minor plan changes shall be subject to review and approval by the Community Development Director and/or Public Works Director as appropriate, prior to implementation. Major plan changes may also require review and approval of the City Council. Project revisions may require additional CEQA analysis.

2. Agreement Required. The approved development and uses of the site as described in this permit and on the approved project plans are predicated on the applicant securing a real property agreement or similar instrument from the City of Pacific Grove to allow hotel development and uses in the portion of the Sloat Avenue right-of-way (ROW) between Eardley Avenue and Dewey Avenue. Should the agreement not be obtained from the City by the applicant, the applicant would need to submit a revised project design in the form of a revised Architectural Permit, Use Permit, Tree Permit with Development, and Coastal Development Permit for City review and approval.
3. **Permit Expiration.** The project permits shall expire and be null and void if a building permit has not been applied for within two (2) years from and after the date of approval, or on January 12, 2024. Application for extension of this approval must be made prior to the expiration date.

4. **Construction Compliance.** All construction must occur in general compliance with the proposal as set forth in the application, subject to any special conditions of approval herein. Any deviation from approvals must be reviewed and approved by staff and may require City Council approval.

5. **Compliance with Other Agency Requirements and Permits.** The project shall obtain all applicable agency permits and comply with the requirements of these permits. Applicant shall provide evidence of compliance to the City Community Development Director no later than five business days of securing such agency permit(s).

6. **Terms and Conditions.** These terms and conditions shall run with the land and bind to all future owners and possessors of the subject property, unless amended. Amendments to this permit may be achieved only if an application is made and approved, pursuant to the Zoning Code.

**Prior to Issuance of Grading Permits**

7. **Master Encroachment Permit.** The project applicant shall obtain a master encroachment permit for project components in the City right-of-way. The master encroachment permit shall include but not be limited to traffic control measures, utility plans, sidewalk plans, and any proposed use on-street parking for construction vehicles or staging. The master encroachment permit shall be submitted for review and approval by City Building Official and Public Works Director.

8. **Public Access Plan.** Prior to issuance of grading, building, or demolition permits, the project applicant shall prepare a detailed public access plan for the project for review and approval by the Community Development Department and/or Public Works Department. The plan shall specify areas of dedicated public access, any quasi-public access, and private access areas along with hours of operation, amenities provided, ADA compliance measures, and any restrictions on the use of the dedicated public access and quasi-public access areas.

9. **Construction Traffic Plan.** Prior to issuance of grading or building permits, the project applicant shall prepare a plan for traffic control and truck routes during project construction for review and approval by the Public Works, Fire, and Police Departments. Two-lane, two-way traffic shall be maintained as much as practicable on all project frontages. Any lane closures require prior approval by the Public Works Director and Building Official, with the issuance of an encroachment permit.

10. **Grading Plans.** All grading-phase related conditions of approval for the Planning permit(s) shall be printed on a full-size plan sheet and included with the grading plan set submitted to the Building Division.

11. **Permit Compliance.** The applicant shall fund post-project Planning Division and/or consultant staff time for ensuring compliance with all project conditions of approval. Prior to issuance of grading permits or commencement of tree removals, the applicant shall submit adequate funds (as determined by the City) for condition compliance monitoring activities to ensure the compliance with all project mitigation measures, pre-construction, construction-phase, and operational-phase conditions of approval. The applicant shall fund the preparation of a condition compliance monitoring plan, which may be prepared by Community Development Department staff or a consultant and which would set forth a program for tracking and ensuring compliance with all project conditions of approval. The condition compliance monitor would be the primarily liaison between the City, the project’s construction superintendent, and on-site subject area monitors (biologist(s), arborist, etc.).
archaeologist(s), Native American monitor(s) etc.). The condition compliance monitor would have the authority to temporarily stop work in the event of non-compliance with project conditions of approval. The condition compliance monitor would file with the City periodic monitoring reports noting the construction activities that took place and any issues or instances of non-compliance as well as how such issues were resolved. At the conclusion of the project construction, a final construction-phase compliance monitoring report would be prepared and submitted to the Community Development Department. Subsequent reports regarding monitoring of the project’s operational-phase may be required at the City’s discretion.

The Condition Compliance Plan would specify the format and frequency of compliance reports, identify how reports would be available to the public, and specify the public’s primary contact. The reporting frequency could be daily for heavier construction periods including demolition and grading, becoming less frequent during less intensive construction. A project-specific web page would be maintained for project updates, monitoring reports, clearance/completion of each condition of approval, and contact person information.

12. **Commute Trip Reduction/Transportation Demand Management Plan (EIR Mitigation Measure MM GHG-2.1):** Prior to the issuance of grading permits for the project, the project applicant shall develop a final and qualifying Commute Trip Reduction (CTR)/Transportation Demand Management (TDM) plan to reduce mobile GHG emissions for all uses. The TDM plan shall be approved by the City prior to the issuance of building permits and incorporated into the project’s Conditions of Approval. The TDM plan shall discourage single-occupancy vehicle trips and encourage alternative modes of transportation such as carpooling, taking transit, walking, and biking. The following measures shall be incorporated into the TDM plan.

- The CTR/TDM plan for the project shall include, but not be limited to the following potential measures or combination of measures: ride-matching assistance, preferential carpool parking, flexible work schedules for carpools, half-time transportation coordinators, providing a web site or message board for coordinating rides, transit subsidies for employees, employee vanpool/shuttle, guest shuttle, designating adequate passenger loading and unloading and waiting areas for ride-sharing vehicles, extension or funding of MST Trolley, and including bicycle end of trip facilities. This list may be updated as new or alternative methods become available. Verification of this measure and quantification of trip and emission reduction shall occur prior to the first building permit issuance for the hotel and commercial uses.

Refinement of the estimated project GHG emissions may be completed at the time of discretionary approval is granted in order to reflect the project refinements and the most current and accurate data available regarding the project’s estimated emissions (including emission rates). Once project emissions are shown to be below 1,100 MTCO2e per year and trips are reduced at key intersections as identified in Chapter 17 of the EIR, then this GHG-related mitigation may be considered satisfied.

13. **Storm Water Pollution Prevention:** Plans for during-construction storm water management and BMPs, such as a Storm Water Pollution Prevention Plan (SWPPP), shall be submitted to the City and subject to review and approval of the Public Works/Community Development Director and Building Official prior to issuance of a grading permit.

14. **Construction Phase Parking Plan.** The project applicant shall prepare a construction-phase parking and staging area plan for review and approval by the Community Development Director, Public Works Director, and Building Official. Should the project require use of offsite parking areas or lots, these should be identified and a lease or other documentation obtained that demonstrates the capacity of such lots to handle the number of construction
worker vehicles anticipated for the term required. Construction workers shall not be allowed to park along streets
fronting the project site without approval for such uses in the master encroachment permit nor in on-street parking
spaces in the adjacent neighborhoods.

Prior to Issuance of Building Permits

15. **Building Plans.** All conditions of approval for the Planning permit(s) shall be printed on a full-size plan sheet and
included with the construction plan set submitted to the Building Division.

16. **Public Works, Fire, and Building.** Review and approval by the Public Works Department, Fire Department, and
Building Division are required prior to issuance of a building permit. Work taking place in the public right-of-way
shall require an encroachment permit prior to issuance of the building permit.

17. **Ocean View Boulevard Encroachment Permit.** A separate encroachment permit is required for the
continued/operational phase encroachment of structures in the Ocean View Boulevard right-of-way, prior to the
issuance of the building permit.

18. **Trash/Recycling Management Plan.** Prior to issuance of a building permit, the project applicant shall prepare a
Trash/Recycling Management Plan and submit it to the Community Development Department and the Public
Works Department for review and approval. The plan shall address the proper sizing and location of
trash/recycling areas and containers on the project site. The plan shall also specify routes, anticipated days of the
week and times of day for trash and recycling pick up, and management practices for maintaining trash and
recycling areas in a clean, odor-free, and vector-free manner.

19. **Sanitary Sewer Infrastructure Capacity Analysis and Improvements.** The existing sanitary sewer line in Sloat
Avenue is proposed to be replaced with a new sewer line to and down Dewey Avenue to the mainline in Ocean
View Boulevard. Prior to issuance of a building permit, the applicant shall submit a sanitary sewer infrastructure
capacity analysis that demonstrates the sizing adequacy of the new sewer line segments and that evaluates the
adequacy of down-stream sewer infrastructure to handle the increase in flows as a result of the project. The
analysis shall also include and provide any necessary measures for increased flows during pool draining and
maintenance activities. The sanitary sewer infrastructure capacity analysis shall be submitted for review and
approval by the Public Works Director. Any identified capacity upgrades shall be installed and operational prior
to certificate of occupancy.

20. **Removal of Abandoned Utilities.** The portions of sanitary sewer line and all other utilities that are proposed for
abandonment through the remainder of Sloat Avenue shall be removed, rather than abandoned in place. For
utilities other than City utilities, removal of such utilities, rather than abandoned in place, shall require
concurrence from the appropriate outside agency or district (CalAm, PG&E, etc.) in consultation with the City
Public Works Director. The project’s utility plans shall be revised accordingly.

21. **Fire and Water Flow Evaluation.** The City is not responsible for the operation, maintenance, and delivery of the
municipal water source. The project applicant shall demonstrate that the project will have adequate flows to meet
fire suppression and domestic water delivery needs. The developer shall confer with California American Water
(Cal Am) to ensure that the system is adequate to properly operate fire suppression, surrounding hydrants, and the
water conveyance system throughout the project. The project applicant shall provide the Public Works Director
and Community Development Director a copy of any such evaluation and/or written concurrence from Cal Am
regarding the adequacy of flows.
22. **Relocated Storm Drain Facilities.** Currently, a storm drain system runs the length of Sloat Avenue. With the proposed Sloat Avenue agreement, the existing storm drain system shall become the responsibility of the applicant.

23. **Plan Set Revisions: Exterior Lighting Schedule and Landscape Plan.** A note shall be included on the project’s Overall Landscape Lighting Plan (Sheet LT1.00) of the plan set noting that all proposed exterior lighting fixtures are downward-directed and shielded in conformance with Coastal Land Use Plan Community Design Policy DES-6. The project’s proposed landscape plan shall include a note stating that for any retained trees, recommendations for Best Management Practices for tree protection shall comply with ANSI A300 (Part 5) Management of Trees and Shrubs during Site Planning, Site Development, and Construction. The project’s proposed landscape plan shall also include a note regarding the installation of appropriate root barriers for the Metrosideros excelsa trees and the use of a geogrid mat under hardscape near these trees as noted in the City Arborist’s landscape plan review memo dated 12/2/2020.

24. **Landscaping Installation Bond.** The project sponsor shall post a bond or other surety to ensure that all proposed landscaping is installed in accordance with the approved landscape plans. An estimate of the improvements prepared by a qualified landscape architect or landscape contractor shall be submitted by the project sponsor for review and approval by Community Development staff. The approved estimate shall be used to determine the amount of the landscaping installation bond, which shall be submitted prior to certificate of occupancy. The bond shall be released upon verification of installation of the approved landscaping at or before final inspection.

25. **Glare Reduction (EIR Mitigation Measure MM AES-3.1):** Prior to issuance of building permits, the project shall incorporate anti-reflective (AR) glass products and surfaces selected specifically to minimize reflective glare along the project’s eastern/northeastern elevations. In addition, throughout project construction and operation, the project shall use directional lighting, shielding and (if necessary) window tinting or similar treatment to ensure that increased light from the project site does not unnecessarily spill over on adjacent properties and associated beaches at night. The project’s Exterior Lighting Plan shall also be submitted to the Monterey Peninsula Airport Manager for review and approval consistent with ALUC standard conditions. “Bird friendly” window material shall be used within the project design.

26. **Soil Vapor and Groundwater Barriers (EIR Mitigation Measure MM HAZ-2.3):** For areas proposed to be structurally developed where contamination has been identified or suspected, final improvement plans shall demonstrate that lower stories of the project are impermeable to both groundwater and soil vapor. Plans shall be prepared and submitted by the applicant or review and approval of the City.

27. **Avigation Easement (EIR Mitigation Measure MM HAZ-5.1):** Prior to issuance of the first construction permit for the project, the owner/developer shall grant an avigation and hazard easement to the appropriate airport authority. The easement shall be recorded at the Monterey County Recorder’s Office and shall include rights and restrictions as specified by the ALUC’s February 2020 review and conditional approval.

28. **Construction Noise Reduction (EIR Mitigation Measure MM N-1.1):** Prior to the issuance of demolition or grading permits, the City shall ensure that the project applicant includes the following on all construction plans and contracts for the proposed project:

   **Construction Hours.** Limit construction activity to the following hours: 10:00 am to 5:00 pm on Sundays and 8:00 am to 6:00 pm on Monday through Saturday.
Construction Equipment. Properly maintain construction equipment and ensure that all internal combustion engine driven machinery with intake and exhaust mufflers and engine shrouds (if the equipment had such devices installed as part of its standard equipment package) that are in good condition and appropriate for the equipment. Equipment engine shrouds shall be closed during equipment operation. The developer shall require all contractors, as a condition of contract, to maintain and tune-up all construction equipment to minimize noise emissions.

Vehicle and Equipment Idling. Construction vehicles and equipment shall not be left idling for longer than five minutes when not in use.

Stationary Equipment. All noise-generating stationary equipment such as air compressors or portable power generators shall be located as far as possible from sensitive receptors. Temporary noise barriers shall be constructed to screen stationary noise generating equipment when located near adjoining sensitive land uses. Temporary noise barriers shall be designed to reduce construction noise levels by at least 10 dBA.

Construction Route. All construction traffic to and from the project site shall be routed via designated truck routes where feasible. All construction-related heavy truck traffic in residential areas shall be prohibited where feasible.

Workers’ Radios. All noise from workers’ radios shall be controlled to a point that they are not audible at sensitive receptors near the construction activity.

Construction Plan. Prior to issuance of any grading and/or building permits, the contractor shall prepare and submit to the City for approval a detailed construction plan identifying the schedule for major noise-generating construction activity.

Disturbance Coordinator. A “noise disturbance coordinator” shall be designated by the contractor. The noise disturbance coordinator shall be responsible for responding to any local complaints about construction noise. The noise disturbance coordinator shall determine the cause of the noise complaint (e.g. starting too early, bad muffler, etc.) and shall require that project construction activities cease until all reasonable measures warranted to correct the problem have been implemented. The project applicant shall conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.

29.Commercial Vehicle Access and Movement (EIR Mitigation Measure TRA-3.1): Prior to approval of final improvement plans, the following design elements shall be included:

- Dewey Avenue between Ocean View Boulevard and Sloat Avenue, and the remaining portion of Sloat Avenue, shall be widened along the project frontage as necessary to allow improved commercial vehicle access while minimizing loss of on-street parking.

- During site plan review, the intersections of Ocean View Boulevard/Dewey Avenue and Dewey Avenue/Sloat Avenue shall reflect geometric dimensions based on truck turning templates. Turning radii shall be designed to limit truck size/type.

- The loading dock area at the end of Sloat Avenue shall include a hammerhead turn around to allow trucks to enter and exit the site head-in and head-out.

- Commercial truck traffic shall be required to adhere to an established truck route from David Avenue to Ocean View Boulevard to Sloat Avenue, returning the same way.
• Commercial deliveries to the retail center shall be allowed within a loading zone along the Ocean View Boulevard frontage to allow more direct access to individual retailers and to reduce the volume of commercial truck traffic accessing Sloat Avenue.

Prior to Grading, Tree Removal, Demolition, and Building Activities

30. Pre-Construction Survey and Repair of Construction-Related Damage to City Roadways and Other Improvements. A pre-construction survey shall be completed prior to the commencement of construction that will be approved and signed off by the City. This survey will include adjoining roadways, trees, storm drain inlets and any other public infrastructure, including road markings and signage. The survey will identify existing conditions and it will be expected of the developer to restore all infrastructure to its original state prior to the completion of the project. The project applicant shall repair any project-related damage to City improvements to the satisfaction of the Public Works Director prior to certificate of occupancy.

31. Construction Screening (EIR Mitigation Measure MM AES-2.1): To minimize and soften the visual effect as seen from visitors and nearby residents, the project applicant shall incorporate construction fencing or screening around the perimeter of the site. The screening material shall be of sufficient height to mask activities within and be designed with graphics, murals, historic references or other design features to blend as much as possible with the neighborhood surroundings while communicating the future uses at the site. Screening shall remain in place during demolition of existing structures, site preparation and new building construction. Applicant shall be responsible for continued maintained and condition of the screening throughout the construction period. Screening shall not be necessary during the final stages of construction when architectural coatings, detailing and landscaping are applied. The screening concept and design shall be submitted for approval to the City of Pacific Grove prior to groundbreaking.

32. Noise Attenuation to Minimize Effects on Shoreline Species during Project Construction (EIR Mitigation Measure MM BIO-1.1): Prior to the start of demolition work, the project applicant shall install construction perimeter fencing or similar barriers that incorporate noise attenuating materials (such as noise absorbing fiberglass blankets, tarps, tubular framing, sheathing etc.) along the Dewey Avenue and Ocean View Boulevard perimeters nearest the shoreline, including the entirety of the project boundary that faces Hopkins Marine Station and associated beaches. Barriers shall interrupt the “line of sight” between the noise source and the protected species. The barriers shall remain in place as long as noise-generating excavation and construction activities continue. This measure should be combined with MM AES-1.1 (construction screening) and MM N-1.2 (noise construction barriers) to provide a single barrier system that addresses both noise and aesthetic issues.

33. Preconstruction Bird Surveys (EIR Mitigation Measure MM BIO-2.1): The applicant shall schedule all on-site tree removal to occur between August 31st and February 1 of any given year to avoid the Central Coast bird nesting season and harbor seal pupping and weaning season. If this schedule is not practical, the project sponsor shall fund the engagement of a qualified biologist to conduct preconstruction nesting bird surveys no more than two weeks prior to removal of trees and grading. If no active bird nests are observed, no additional measures are required. If nesting birds are observed, the biologist will establish a buffer zone where no tree removal will occur until the biologist confirms that all chicks have fledged. Regardless of season, tree removal seaward of Sloat Avenue shall not occur during the harbor seal pupping and weaning season (February to May).

34. Pre-Construction Meeting and Training (EIR Mitigation Measure MM BIO-3.1): Prior to site disturbance the project applicant shall retain a City-approved or -qualified project arborist/forester to conduct a meeting and
training session to communicate and instruct personnel about tree removal, retention of trees on adjacent properties, and their protection. The pre-construction meeting shall include instruction on required tree protection and exclusionary fencing to be installed prior to grading, excavation and construction procedures. Meeting attendees shall include all involved parties such as site clearance personnel, construction managers, heavy equipment operators, and tree service operators. A list of pre-construction attendees and the materials discussed shall be maintained and be provided to the City for review. Meeting attendees must agree to abide to tree protection and instructions as indicated during the meeting and agree to ensure any tree protection implemented will remain in place and maintained during entire construction period.

35. **Off Site Mitigation and/or Payment of In-Lieu Fees (EIR Mitigation Measure MM BIO-3.2):** For all trees that ultimately require removal and cannot be incorporated into the site plan, the project sponsor shall either replace/replant new trees on a 2:1 ratio on site; replace/replant at another location(s) identified in consultation with the City of Pacific Grove if 2:1 on-site replanting is not feasible; pay an in-lieu tree impact fee (“tree fund”) as acceptable mitigation pursuant to Chapter 12 of the Municipal Code; or, a combination thereof to fully mitigate for tree loss. Mitigation shall be implemented prior to occupancy. Should in-lieu mitigation fees be proposed, these fees shall be collected prior to issuance of grading permits and prior to any tree removal activities.

36. **Designate a Dust Compliance Monitor (EIR Mitigation Measure MM AQ-2.2):** The project applicant shall require the contractor(s) or builder(s) to designate a person or persons to monitor the fugitive dust emissions and enhance the implementation of the measures as necessary to minimize dust complaints, reduce visible emissions below 20 percent opacity, and to prevent transport of dust off-site. Their duties shall include monitoring during holidays and weekend periods when work may not be in progress. The name and telephone number of such persons shall be provided to the MBARD Compliance Division prior to the start of any grading, earthwork, or demolition. The project applicant shall provide and post a publicly visible sign that specifies the telephone number and name to contact regarding dust complaints. This person shall respond to complaints and take corrective action within 48 hours. The phone number of the MBARD shall also be visible to ensure compliance with Rule 402 (Nuisance).

37. **HABS Documentation (EIR Mitigation Measure MM CR-1.1):** Prior to the start of demolition, the project applicant shall retain a qualified professional acceptable to the City to prepare written and photographic documentation the ATC complex.

The documentation for each property shall be prepared based on the National Park Service’s Historic American Building Survey (HABS) Historical Report Guidelines. This type of documentation is based on a combination of the HABS standards and the National Park Service’s new policy for National Register of Historic Places (NRHP)/National Historic Landmark photographic documentation as outlined in the NRHP and the National Park Service’s 2013 National Historic Landmarks Survey Photo Policy Expansion. The documentation will include the following:

a) **Sketch Plan Drawings:** Efforts should be made to locate original construction drawings or plans of the property during the period of significance. If located, these drawings should be photographed or scanned at high resolution, reproduced, and included in the dataset. If construction drawings or plans cannot be located, sketch plans in accordance with HABS Documentation Level III shall be prepared. HABS guidance for sketch plans notes that these should be floor plans "generally not to exact scale although often drawn from measurements, where the features are shown in proper relation and proportion to one another. A sketch site plan should also be produced that includes buildings and landscape features. Sketch plans shall be prepared
by an architect who meets or exceeds the Secretary of the Interior’s Professional Qualification Standards for Historic Architecture or Architecture, and be reviewed by the qualified consultant preparing the HABS report.

b) Photographs: Standard large-format or digital photography shall be used. If digital photography is used, the ink and paper combinations for printing photographs must comply with the NRHP/National Historic Landmark photo expansion policy and have a permanency rating of approximately 115 years. Digital photographs shall be taken in uncompressed .TIF file format. The size of each image shall be 1600x1200 pixels at 300 pixels per inch or larger, color format, and printed in black and white. The file name for each electronic image shall correspond with the index of photographs and photograph labels. Photographs should include general overviews that illustrate the setting and include Building 3; all exterior façades of Buildings 0, 1, and 2; typical original windows and doors; and exterior details indicative of era of construction or of historic or architectural interest from the period of significance (1927-1954), including but not limited to the sawtooth roof and chevron capped pilasters of Building 1, the metal smokestacks of Building 2, and the concrete smokestack remnant south of Building 1. All views shall be referenced on a photographic key. This photograph key shall be on a map of the property and shall show the photograph number with an arrow indicating the direction of the view. Historical photographs shall also be collected, reproduced, and included in the dataset.

c) Written data: A historical report shall be prepared, summarizing the history of the buildings, property description, and historical significance. Documentation shall adhere to National Park Service standards for “short form” HABS documentation.

d) Drone photography: Drone photography of the historic resource and site is recommended as additional documentation. Execution of drone photography is understood to be conditional upon ability to fly a drone over the site within relevant local and FAA regulations and approvals. Drone photography should capture the full extent of the site, all buildings and their special relationships on the site and immediate surroundings, as well as the character of the Building 1 sawtooth roof and representative portions of facades of Buildings 0, 1, and 2. If conducted, drone photography should be submitted in digital format along with HABS documentation to the City of Pacific Grove Community Development Department and publicly accessible repositories such as the Pacific Grove Heritage Society, Pacific Grove Public Library, and the Monterey County Public Library California History Room. If desired, the drone photography could also be used in the public interpretive displays on site.

Copies of the HABS documentation shall be provided to the City of Pacific Grove Community Development Department and publicly accessible repositories such as the Pacific Grove Heritage Society, Pacific Grove Public Library, and the Monterey County Public Library California History Room. This measure would create a collection of reference materials that would be available to the public and inform future research.

38. Protection of Historical Resources from Construction Activities (EIR Mitigation Measure MM CR-1.3):
The project sponsor shall undertake a construction monitoring program to minimize damage to remaining portions of Building 0 and Building 1. Prior to the start of any ground-disturbing activity, the project sponsor shall engage a historic architect or qualified historic preservation professional to undertake a preconstruction survey of Building 0 and Building 1 and photograph the buildings’ existing conditions. This survey may be completed in conjunction with MM CR-1.1. The construction monitoring plan may include staging of equipment and materials as far as feasible from historic buildings to avoid direct damage; using techniques in demolition, excavation, shoring, and construction to minimize vibration (such as using concrete saws instead of jackhammers or hoe-rams
to open excavation trenches, the use of non-vibratory rollers, and similar measures); maintaining a buffer zone when possible between heavy equipment and historic resource(s); and/or enclosing construction scaffolding to avoid damage from falling objects or debris.

The consultant shall conduct a final post-construction survey to document the condition of the contributing historic buildings to the ATC at that time and produce a report on the condition of the historic structures. The final post-construction report shall be submitted to the City Community Development Department for review and approval.

39. **Preconstruction Archaeological and Paleontological Sensitivity Training (EIR Mitigation Measure MM CR-2.1):** Prior to construction, all personnel directly involved in project related ground disturbance shall be provided archaeological and paleontological sensitivity training. The training will be conducted by a qualified Archaeologist who meets the Secretary of the Interior’s standards for archaeology, and a qualified professional paleontologist, as defined by the Society of Vertebrate Paleontology, who is experienced in teaching non-specialists. A Native American representative from the Ohlone/Costanoan-Esselen Nation (OCEN) will also be invited to be present and participate in the training from a tribal perspective. The training will take place at a day and time to be determined in conjunction with the project construction foreman, and prior to any scheduled ground disturbance. The training will include: a discussion of applicable laws and penalties; samples or visual aids of artifacts and paleontological resources that could be encountered in the project vicinity, including what those artifacts and resources may look like partially buried, or wholly buried and freshly exposed; and instructions to halt work in the vicinity of any potential cultural resources discovery, and the need to notify the archaeological monitor as necessary.

40. **Preconstruction Identification and Avoidance of Recorded Archaeological Resources (EIR Mitigation Measure MM CR-2.2):** Prior to construction, the Project Archaeologist and OCEN’s tribal leadership shall be provided with the following: (1) plans, blueprints, conceptual drawings, etc., detailing sub-surface impacts to the project area (grading or excavation prints will normally be sufficient); and (2) the proposed construction schedule or activity to be monitored, with types of excavation and/or earthmoving identified. Final grading plans will be reviewed by the Archaeologist to ensure all recorded archaeological resources adjacent to the project site will remain unaffected by project related ground disturbance. Any changes in project construction (or related off-site facilities) that could potentially impact known archaeological resources will require review by the Project Archaeologist who will then make a determination regarding the need and scope of any further work or mitigation required.

41. **Soil and Groundwater Management (EIR Mitigation Measure MM HAZ-2.2):** Prior to excavation within the ATC parking lot and/or where soil contaminants have been identified or suspected, the project applicant shall prepare a soil management plan (SMP) to establish management practices for isolating the veneer of contaminated sediments from cleaner overburden to minimize the volume of material requiring disposal as an impaired waste. The plan shall be reviewed and approved by City prior to implementation.

42. **Testing and Disposal of Contaminated Materials (EIR Mitigation Measure MM HAZ-2.4):** Prior to demolition, the applicant shall perform testing for the presence of lead paint and asbestos containing materials (ACMs) consistent with regulatory protocols and shall implement the resulting recommendations. The applicant shall ensure that all contaminated materials – known or that may be identified during excavation and demolition – are handled, transported, and disposed of consistent with all applicable laws and regulations.
43. **Vibration Monitoring (EIR Mitigation Measure MM N-3.1):** Prior to any ground-disturbing activities, the applicant shall fund the installation of vibration (seismic) monitoring devices at the nearest Hopkins Marine Station tuna research tank(s) and closest exhibits of the Monterey Bay Aquarium. The applicant shall provide evidence acceptable to the City that the vibration monitoring devices have been installed. The purpose of these devices is to allow Marine Station research staff to observe changes in vibration during the construction and excavation phase, if any, relative to ongoing research and observed fish behavior. If specific adverse effects are observed during construction and excavation, representatives of Hopkins Marine Station shall notify the City Community Development Department, and such effects shall cause immediate work stoppage and notification of the project sponsor. Work shall resume only after additional vibration protection measures are employed, tested, and confirmed to reduce vibration at Hopkins Marine Station to acceptable levels. Monitors shall also be placed at adjacent business and residences consistent with industry standards. The specific location and number of seismic monitoring devices will be determined within the Vibration Management Plan required by MM N-3.2 and as included in construction documents.

44. **Vibration Management Plan (EIR Mitigation Measure MM N-3.2):** Prior to any construction or demolition activities, the applicant shall provide a Vibration Management Plan or other evidence acceptable to the City that demonstrates that vibration control of demolition and construction activities will be implemented to minimize the effects of vibration at nearby receptors. This includes performing high-vibration activities during the middle of the day and spaced as far apart as possible to avoid multiple high-vibration activities at once, equipment choices and construction methods to minimize vibration, or other measures. Vehicle routes should use designated truck routes and avoid residential areas as much as possible.

**During Construction and Prior to Final Inspection**

45. **Sidewalk Reconstruction.** Existing sidewalks surrounding the property shall be reconstructed prior to final building permit inspection. All curb ramps surrounding the project and on all adjacent corners shall be constructed to meet current Cal Trans and/or City of Pacific Grove standards.

46. **Rooftop Equipment Screening.** The project’s rooftop equipment shall be screened in compliance with Sub-Section 23.90.180.C.5.g.ii. while not exceeding the allowed height limit for mechanical appurtenances.

47. **Timing of Demolition and Excavation (EIR Mitigation Measure MM BIO-1.2):** Demolition, grading and excavation of the site for sub grade construction shall take place only between July 1 and February 1 (outside the harbor seal pupping and weaning season of February through May) to avoid potential disturbance of the local harbor seal population that may be using the beach areas to the east and west of Hopkins Marine Station. A qualified biologist retained by the City shall monitor the rookery prior to the start of construction to identify any late season pupping/weaning activity. Construction may be temporarily delayed until the biologist confirms that active pupping is complete.

48. **Biological Monitor (EIR Mitigation Measure MM BIO-1.3):** During the phases of construction that generate higher noise and vibration levels, the project applicant shall fund the engagement of a qualified biological monitor(s) approved by and under contract to the City to observe and document behavior of both harbor seal and black oystercatcher populations. The monitor(s) shall regularly confer with the designated representative(s) from the Hopkins Marine Station for their input, particularly regarding activity or behavior of harbor seal and black oystercatcher populations. Monitoring shall occur daily during the initial demolition and excavation phase, and approximately twice monthly during the remainder of the construction program. Activity or behavior identified by
the monitor(s) indicative of unusual stress or threatening relocation shall cause immediate work stoppage and notification of the City and project sponsor. Work shall resume only after noise levels are reduced and additional noise/disturbance protection measures are employed and tested in the field for effectiveness.

49. **Tree Planting/Replanting (EIR Mitigation Measure MM BIO-3.3):** Replacement trees (on- or off-site) shall be fifteen-gallon stock or larger. Spacing between trees should be at least 8 feet apart where available space is indicated. Occasional deep watering (more than two weeks apart) during the late spring, summer, and fall is recommended during the first two years after establishment.

50. **Tree Protection Best Management Practices (EIR Mitigation Measure MM BIO-3.4):** During construction, the project sponsor shall ensure compliance with the following best practices for potentially affected trees on adjacent properties:

   - Do not deposit any fill around trees that may compact soils and alter water and air relationships. Avoid depositing fill, parking equipment, or staging construction materials near existing trees. Covering and compacting soil around trees can alter water and air relationships with the roots. Fill placed within the dripline may encourage the development of oak root fungus (*Armillaria mellea*). As necessary, trees shall be protected by boards, fencing or other materials to delineate protection zones.

   - Pruning, when necessary, shall be conducted to avoid injury to any tree. General principals of pruning include placing cuts immediately beyond the branch collar, making clean cuts by scoring the underside of the branch first, and for live oak, avoiding the period from February through May.

   - Native trees are not adapted to summer watering and may develop crown or root rot as a result. Do not regularly irrigate within the drip line of native trees.

   - Root cutting should occur outside of the springtime. Late June for such root cutting is optimal. Pruning of the live crown should not occur February through May.

   - A mulch layer up to approximately 4 inches deep shall be applied to the ground under selected trees in disturbed areas following construction. Only 1 to 2 inches of mulch should be applied within 1 to 2 feet of the trunk, and under no circumstances should any soil or mulch be placed against the root crown (base) of trees. The best source of mulch would be from chipped material generated on site.

   - If trees along near the development site are visibly declining in vigor, a Professional Forester or Certified Arborist shall be contacted to inspect the site, contact the owner, and to recommend a course of action.

51. **Additional Tree Protection and Pruning Standards (EIR Mitigation Measure MM BIO-3.5):** If for any reason on site trees are not removed and preserved within the site plan, the project sponsor shall implement all tree protection standards as identified in the ATC Hotel and Commercial Project Tree Resource Assessment prepared for the project. Such measures may include reasonable disturbance setbacks, protective netting, protection of trunks with lumber, and limiting work within the dripline.

52. **Historic Materials and Features Rehabilitation (EIR Mitigation Measure MM CR-1.4):** The project applicant shall ensure that the project complies with National Park Service treatment recommendations for the cleaning, repair, and rehabilitation of all remaining historic materials and features to be retained and incorporated into the project. Features such as exterior stucco cladding, original doors, and original wood and steel sash
windows at Building 0 and Building 1 that are retained should be repaired and rehabilitated in accordance with the below guidance documents. Features that cannot be rehabilitated may be replaced.


Abrasive chemical or physical treatments or cleaning methods must not be used. For additional information, see:


53. **Construction Monitoring for Archaeological and Paleontological Resources (EIR Mitigation Measure MM CR-2-3):** Due to the hardscaped and highly developed nature of the site, archaeological testing is impractical and unlikely to reveal scientifically significant results. All project related ground disturbance shall therefore be monitored by an Archaeologist who meets the Secretary of Interior’s qualification standards for archaeology, as well as the assigned Native American representative(s) from OCEN tribal leadership. Due to the paleontological sensitivity of the site, a Paleontological Resources Monitor shall also be present during all project excavations. A qualified cross-trained Monitor in archaeology and paleontology may serve in both capacities on-site.

Archaeological and paleontological monitoring will involve the close inspection of excavations and other ground disturbing activities within the project area. The Site Supervisor, Foreman, or similar on-site authority must be informed of the Monitors’ presence and authority to halt and/or relocate construction work. The Supervisor shall inform all construction personnel of the Monitors’ role. The Monitors will follow excavations and construction as closely as conditions require, making all reasonable efforts for safety and noninterference with construction. The number and placement of Monitors will be determined by the Project Archaeologist after consultation with the Client or their designated representative(s).

Activities that require monitoring include but are not limited to: clearing and grubbing; demolition activities that could disturb native soil; or any earthmoving (e.g., grading or excavation for foundations, footings or other subterranean elements, and trenching for underground utilities). Monitors shall keep a daily log and photographic record of all activities involving ground disturbance during the construction phase and shall submit a final report (upon completion of the ground-disturbing activities) to the City Community Development Department for review and approval.
54. Procedures for Inadvertent Discovery (EIR Mitigation Measure MM CR-2-4):

Inadvertent Discovery of Archaeological Resources

In the event archaeological resources are encountered during ground disturbing activities, the Archaeological Monitor shall temporarily halt or divert excavations within a 100-foot radius of the find until it can be evaluated.

California Environmental Quality Act (CEQA) Guidelines requires that all potentially significant archaeological deposits be evaluated to demonstrate whether the resource is eligible for inclusion on the California Register of Historic Resources, even if discovered during construction. If archaeological deposits are encountered they will be evaluated and mitigated simultaneously in the timeliest manner practicable, allowing for recovery of materials and data by standard archaeological procedures. For prehistoric archaeological sites, this data recovery involves the hand-excavated recovery and non-destructive analysis of a small sample of the deposit. Historic resources are also sampled through hand excavation, though architectural features may require careful mechanical exposure and hand excavation.

Any previously undiscovered resources found during construction activities shall be recorded on appropriate DPR forms and evaluated for significance in terms of CEQA criteria by a qualified Archaeologist. Potentially significant cultural resources consist of but are not limited to stone, bone, glass, ceramics, fossils, wood, or shell artifacts, or features including hearths, structural remains, or historic dumpsites. If the resource is determined significant under CEQA, the qualified Archaeologist shall prepare and implement a research design and archaeological data recovery plan that will capture those categories of data for which the site is significant in accordance with Section 15064.5 of the CEQA Guidelines. If such resources or artifacts are of native tribal origin, any mitigation or recovery program shall include direction from OCEN tribal leadership. The Archaeologist shall also perform appropriate technical analyses, prepare a comprehensive report complete with methods, results, and recommendations, including recommendations of the Tribal Representatives and monitors. The report shall be submitted to the City of Pacific Grove, the NWIC, and the State Historic Preservation Office, as required.

Inadvertent Discovery of Paleontological Resources

In the event that fossils or fossil-bearing deposits are discovered during construction activities, the paleontological monitor shall temporarily halt or divert excavations within a 100-foot radius of the find until it can be evaluated. If the find is deemed significant, the applicant shall retain a qualified Paleontologist to document the discovery as needed in accordance with Society of Vertebrate Paleontology standards and assess the significance of the find under the criteria set forth in CEQA Guidelines Section 15064.5. The Paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction activities are allowed to resume at the location of the find. If the applicant determines that avoidance is not feasible, the Paleontologist shall prepare an Excavation Plan for mitigating the effect of construction activities on the discovery. The Excavation Plan shall be submitted to the City of Pacific Grove for review and approval prior to implementation, and the applicant shall adhere to the recommendations in the Excavation Plan.

Inadvertent Discovery of Human Remains

In the event that human remains (or remains that may be human) are discovered at the project site, Public Resource Code Section 5097.98 must be followed. All grading or earthmoving activities shall immediately stop within a 100-foot radius of the find. The project proponent shall then inform the Monterey County Coroner and
the City of Pacific Grove immediately, and the Coroner shall be permitted to examine the remains as required by California Health and Safety Code Section 7050.5(b).

Section 7050.5 also requires that excavation be stopped in the vicinity of discovered human remains until the Coroner can determine whether the remains are those of a Native American. If human remains are determined as those of Native American origin, the applicant shall comply with applicable State regulations relating to the disposition of Native American burials that fall within the jurisdiction of the NAHC (Public Resource Code [PRC] § 5097). The Coroner shall contact the NAHC to determine the most likely descendant(s) (MLD). The MLD shall complete his or her inspection and make recommendations or preferences for treatment within 48 hours of being granted access to the site. The MLD will determine the most appropriate means of treating the human remains associated grave artifacts, and shall oversee the disposition of the remains.

In the event the NAHC is unable to identify an MLD or the MLD fails to make a recommendation within 48 hours after being granted access to the site, the landowner or his/her authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity within the project area in a location not subject to further subsurface disturbance.

55. **Reduce Fugitive Dust (EIR Mitigation Measure MM AQ-2.1):** The project applicant shall implement the following measures to minimize nuisance impacts and to significantly reduce fugitive dust emissions, and the project applicant shall require all of the following measures to be shown on grading and building plans:

- Limit grading, demolition, and excavation to 2.2 acres per day.
- Water graded/excavated areas and active unpaved roadways, unpaved staging areas, and unpaved parking areas at least twice daily or apply non-toxic chemical soil stabilization materials per manufacturer’s recommendations. Frequency should be based on the type of operations, soil and wind exposure.
- Prohibit all grading activities during periods of high wind (more than 15 mph).
- Apply chemical soil stabilizers on inactive construction areas (disturbed lands within construction projects that are unused for at least four consecutive days).
- Stabilize all disturbed soil areas not subject to using approved chemical soil binders, jute netting, or gravel for temporary roads and any other methods approved in advance by the APCD.
- Sow exposed ground areas that are planned to be reworked at dates greater than one month after initial grading with a fast germinating, non-invasive grass seed, and water until vegetation is established.
- Plant vegetative ground cover in disturbed areas as soon as possible.
- Use street sweepers, water trucks, or sprinkler systems in sufficient quantities to prevent airborne dust from leaving the site. Reclaimed (non-potable) water should be used whenever possible.
- Spray dirt stock pile areas daily as needed (without causing off-site runoff).
- Place gravel on all roadways and driveways as soon as possible after grading. In addition, construct building pads as soon as possible after grading unless seeding, soil binders, or frequent water application are used.
• Not exceed a 15-mph vehicle speed for all construction vehicles on any unpaved surface at the construction site.

• Cover or maintain at least 2 feet of freeboard (minimum vertical distance between top of load and top of trailer) on all trucks hauling dirt, rock, sand, soil, or other loose materials in accordance with California Vehicle Code Section 23114.

• Limit unpaved road travel to the extent possible, for example, by limiting the travel to and from unpaved areas, by coordinating movement between work areas rather than to central staging areas, and by busing workers where feasible.

• Install wheel washers where vehicles enter and exit unpaved roads onto streets, or wash off trucks and equipment leaving the site, and inspect vehicle tires to ensure free of soil prior to carry-out to paved roadways.

• Sweep streets at the end of each day, or as needed, if visible soil material is carried onto adjacent paved roads. Water sweepers with reclaimed water shall be used where feasible.

56. **Dry Season Excavation and Testing of Discharge (EIR Mitigation Measure MM HAZ-2.1):** Construction shall be timed for dry-season excavation of potentially contaminated areas in order to minimize the amount of groundwater that could be generated by dewatering. To ensure that groundwater discharges during construction do not pose an environmental hazard, the applicant shall test exposed groundwater prior to discharge to ensure that PERC levels are below actionable levels. If above actionable levels, groundwater sources shall be treated to regulated levels prior to discharge.

57. **Noise Barriers (EIR Mitigation Measure MM N-1.2):** Construction shall use temporary noise barriers along the project boundary to break the line of sight between construction equipment and adjacent sensitive receptors as well as the adjacent Monterey Bay Aquarium offices. The temporary noise barrier shall be designed to reduce construction noise by a minimum of 10 dB. To achieve this, the barrier may consist of steel tubular framing, welded joints, a layer of 18-ounce tarp, a two-inch thick fiberglass blanket, a half-inch thick weatherwood asphalt sheathing, and 7/16-inch sturdy board siding. Additionally, to avoid objectionable noise reflections, the source side of the noise barrier shall be lined with an acoustic absorption material. Temporary construction noise barriers shall be used at the following locations where construction noise impacts to sensitive receptors have been identified:

- Along the northeastern project boundary along Dewey Avenue
- Along the northern project boundary along Ocean View Boulevard
- Between the construction area and the Monterey Bay Aquarium administrative office building

This measure shall be implemented with MM BIO-1.1 to provide multi-purpose noise attenuation.

58. **During-Construction Pollution Prevention (a):** During construction, the developer shall employ storm water best management practices (BMPs) for erosion and sediment control, prevention of non-stormwater discharges, and implement good housekeeping and construction waste management practices to protect the storm drainage system and water quality as required by City Code Section 9.30.130(c), the City Phase II NPDES Permit, State
Water Resources Control Board (SWRCB) Construction General Permit (CGP), and the Monterey Regional Storm Water Management Program (MRSWMP).

59. **During-Construction Pollution Prevention (b):** Construction activities subject to BMP requirements shall continuously employ measures to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality, contamination, or unauthorized discharge of pollutants.

60. **During-Construction Pollution Prevention (c):** Whenever construction activity is being done contrary to and in violation of Municipal Code Chapter 9.30, the Public Works/Community Development Director may order that construction activity to stop by posting a written notice on the premises. All persons shall immediately stop such work unless or until the public works director authorizes removing the stop work order and allows construction activity to proceed.

61. **Native American Consultation and Participation (EIR Mitigation Measure MM TCR-1.1):** Consistent with current California requirements and LCP policy, the project’s Archaeological Monitoring and Treatment Plan will be provided to representatives of the Ohlone Costanoan Esselen Nation for review and comment as part of the City’s consultation process. Amendments to this plan will be made as necessary following the completion of the consultation process. During project construction, a Native American monitor assigned by the Ohlone/Costanoan Esselen Nation (OCEN) tribal leadership will be present for all ground disturbance. If any tribal cultural resources are found, the project applicant and/or its contractor shall cease all work within 100 feet of the discovery and immediately notify the City of Pacific Grove Planning Division. The OCEN Native American monitor(s) will contact the OCEN Tribal Chair and in consultation with the City and an archeologist evaluate the finds. Appropriate mitigation measures for the inadvertently discovered tribal cultural resource shall be at the direction of OCEN tribal leadership. The City and tribal representative shall consider the mitigation recommendations and agree on implementation of the measure(s) that are feasible and appropriate. Such measures may include reburial of any ancestral remains, avoidance, preservation in place, excavation, documentation, or other appropriate measures.

62. **Reporting of Monitoring Results (EIR Mitigation Measure MM TCR-1.2):** At the completion of grading, excavation, and ground disturbing activities on the site, an Archaeological and Paleontological Monitoring Report shall be submitted to the City and the project applicant documenting all monitoring activities and observations. This report shall document any impacts to known resources on or adjacent to the property; describe how each mitigation measure was fulfilled; document the type of cultural resources identified and the disposition and treatment of such resources; provide evidence of the required cultural sensitivity training for the construction staff held during the required pre-construction meeting; and, in a confidential appendix, include the daily/weekly monitoring notes from the Project Archaeologist and tribal monitor(s). All reports produced will be submitted to the Northwest Information Center (NWIC) at Sonoma State University and the State Historic Preservation Office as required.

Any TCRs will be handled and reburied in a location designated through coordination with the OCEN tribal leadership in a location that will not be subject to further disturbance. Following repatriation, a legal description and map showing the reburial location shall be prepared by the Project Engineer and filed with the NAHC, NWIC, and the City.
**Prior to Certificate of Occupancy**

63. **Roadway Improvements for New Sewer Line Route.** Prior to certificate of occupancy, the segment of Sloat Avenue from its proposed terminus at the hotel back of house operations to Dewey Avenue, and the segment of Dewey Avenue from Sloat Avenue to Ocean View Boulevard shall be repaved from curb to curb by the project applicant. Complete reconstruction of both roadways rather than patching is required, and approval of the completed road work by the Public Works Director is required.

64. **Support of MST Trolley.** The project sponsor shall work with the cities of Pacific Grove and Monterey and with Monterey-Salinas Transit staff, to determine the project sponsor’s fair-share funding support of the MST Trolley. The project sponsor shall also work with the cities of Pacific Grove and Monterey and with Monterey-Salinas Transit staff to expand the MST Trolley route to include one or more stops in downtown Pacific Grove.

65. **Project Operations Traffic Management Plan.** The project sponsor shall prepare an operational-phase traffic management plan that describes routes used to access and leave the hotel site for truck deliveries, any hotel-affiliated shuttles including the MST Trolley, valet parking operations, and employee parking. The traffic management plan shall include the requirements of Chapter 16.44 of the Pacific Grove Municipal Code with respect to truck and commercial vehicle deliveries. The traffic management plan shall be submitted for review and approval of the Community Development Director and the Public Works Director.

66. **Noise Control and Noise Management Plan.** The project sponsor shall prepare a noise management plan that describes how noise levels will be monitored and controlled for hotel operations including deliveries, outdoor restaurants and bars, and for events that occur in outdoor areas. The plan shall ensure that all activities and events comply with the regulations on noise levels in the City’s Municipal Code. The plan shall identify the phone number and correct hotel staff person or department to call in the event of complaints. In the event that repeated violations (confirmed by the City Police Department) occur, a revised noise management plan shall be submitted to the Community Development Department for review and approval. Any such revised noise management plan may include additional restrictions on hours, locations, or size of events to ensure compliance with City noise regulations.

67. **Crosswalk Installation (EIR Mitigation Measure MM TRA-3.2):** The project sponsor shall fund or install a designated crosswalk across Ocean View Boulevard at Dewey Avenue.

68. **Public Interpretive Display (EIR Mitigation Measure MM CR-1.2):** As a component of the finished project, the project sponsor shall prepare a plan for permanent exhibit/display in consultation with the City of Pacific Grove Community Development Department staff that would commemorate the industrial fish canning history of the American Can Company. The exhibit/display may consist of static, video and/or interactive displays, as deemed appropriate, but should include relevant historical information, interpretive text, historical photographs, and/or drawings that may be based on this Historic Resource Technical Report and/or the HABS documentation. The exhibit/display shall be installed at a publicly accessible location on the project site, near the remaining historic portions of the complex.

**Ongoing Operational Conditions**

69. **Stormwater Treatment Measure.** The stormwater treatment measures shall be maintained by the property owner in perpetuity. City staff shall be allowed access to inspect all stormwater treatment measures on an annual basis.
70. **Transportation Demand Management Plan Reporting.** One year following the granting of the first certificate of occupancy, and each year thereafter, the property owner of the ATC Hotel parcels shall submit a report on the effectiveness of the project’s Transportation Demand Management (TDM) Plan. Should any deficiencies be identified, the report shall indicate what adjustments will be necessary. The annual TDM Plan reports shall be submitted to the Community Development Department and Public Works Department for review and approval.

71. **Valet Parking Operations.** The project sponsor shall ensure that valet parking operations for the hotel minimize interference with normal roadway operations at project entrances and avoid queuing back-ups onto City streets. Should such interference and queuing back-ups occur, the project sponsor shall identify and implement operational improvements to ensure acceptable roadway operations. The project sponsor shall also maintain a long-term lease for the Upper Lot for valet parking uses. A copy of documentation of the lease shall be provided to Community Development staff prior to issuance of the building permit. Prior to the expiration or discontinuation of the leased use of the Upper Lot, the project sponsor shall secure a lease or other arrangement for additional valet parking uses within ¼ mile of the site and shall provide documentation of this lease to Community Development staff.

72. **Alcoholic Beverage Sales.** Proposed alcoholic beverage sales for the hotel and ancillary uses to the hotel such as restaurants and bars shall comply with the requirements of Section 23.64.290 of the Pacific Grove Municipal Code. Non-hotel related commercial establishments proposing to sell alcoholic beverages shall obtain a separate administrative use permit or use permit as appropriate in accordance with Sections 23.70.030 and 23.70.080 of the Pacific Grove Municipal Code.

73. **Pool Draining Measures.** Draining of the pools for major maintenance work would need to be conditioned to limit flow rates during such maintenance work to ensure that the capacity of the sanitary sewer pump station on Ocean View Boulevard is not exceeded.

74. **Coastal Access Parking.** The project shall provide a minimum of 24 parking spaces available to the public including for coastal access purposes. Prior to certificate of occupancy, the project sponsor shall identify the method to monitor and ensure the provision of such coastal access parking.

75. **Maintenance of Landscaping and Lighting.** All landscaping, hardscaping, paved areas, and lighting shall be maintained in good condition for the life of the project. Any plants that die or are diseased shall be promptly removed and replaced. Trees and shrubs shall be pruned regularly and kept in good health. Groundcover shall be similarly maintained as needed. Paved areas and hardscaping shall be maintained and repaired or replaced if not in good condition. All lighting equipment, bulbs, conduit, shall be maintained and replaced in-kind as needed. Any deficiencies noted by City staff shall be addressed within 7 calendar days of written notice of non-compliance by the City.

76. **On-Site Lower-Cost Overnight Accommodations and Payment of In-lieu Lower-Cost Overnight Accommodations Fees.** In compliance with the City’s requirement for inclusion of lower-cost overnight accommodations for new hotels, prior to the issuance of building permits, the project sponsor shall provide for Community Development Director review and approval, a revised project description noting that 56 hotel rooms will be available as on-site lower-cost overnight visitor accommodations, the eligibility requirements for such rooms, and how the lower-cost overnight visitor accommodations program will be implemented. In addition, the project sponsor shall pay $8,000.00 into the City’s fund for development of lower-cost overnight accommodations as the in-lieu contribution for the 0.25-unit fractional remainder to meet the City’s 25% minimum number of lower-cost overnight accommodations.
77. **Use of Entitlement Water.** Use of entitlement water deriving from the Pacific Grove Local Water Project to meet project water demand shall not be allowed in the event the State Water Resources Control Board transmits its written objection to reliance on such entitlement water.

- END OF CONDITIONS -

The undersigned hereby acknowledge and agree to the approved terms and conditions, and agree to fully conform to, and comply with, said terms and conditions.

<table>
<thead>
<tr>
<th>Foursome Development Company, Owner (ATC site)</th>
<th>Date</th>
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<tbody>
<tr>
<td>Marion L. Paul Living Trust and Forest Paul, Owner (124 Central Ave. parcel)</td>
<td>Date</td>
</tr>
<tr>
<td>CCS Pacific Grove Manager, LLC, Applicant</td>
<td>Date</td>
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