

**Before the Board of Supervisors in and for the
County of Monterey, State of California**

Resolution No.

- Public hearing to:)
- a. Approve a Lot Line Adjustment between four (4))
lots of record within Farmland Security Zone (FSZ) No.)
2012-010 and FSZ Contract No. 2012-010 and removal of)
7.42 acres from Williamson Act Agricultural Preserve)
(AgP) No. 73-12 and Land Conservation Contract No. 73-)
12 to: reduce a 349.33 acre parcel (Lot MM,)
Assessor's Parcel Numbers [APN] 167-081-006-000))
to a 335.11 acre parcel (proposed Lot 1);)
increase a 0.84 acre parcel (Lot LL, a portion of APN)
167-011-013-000) to a 14.22 acre parcel (proposed)
Lot 2); reduce a 30.7 acre parcel (Lot GG,)
a portion of APN 167-011-015-000) to a 6.28 acre)
parcel (proposed Lot 3); and increase)
a 29.3 acre parcel (Lot DD, a portion of APN 167-011-)
015-000 and a portion of APN 167-011-013-)
000) to a 54.56 acre parcel (proposed Lot 4). A 7.42 acre)
portion Lot GG (30.7 acres), a portion of APN 167-011-)
015-000, will be removed from Williamson Act Ag P and)
Land Conservation Contract No. 73-12. Approve)
administrative correction to remove a total of 24.33 acres)
(APN Nos. 137-151-006-000 [2.31 acres], 137-151-007-)
000 [1.59 acres] and 137-151-008-000 [20.43 acres]))
currently within FSZ No. 2012-010 from Ag P No. 83-05)
and Land Conservation Contract Nos. 83-05 and 83-26-)
05.a. to correct an inadvertent omission from Board of)
Supervisors Resolution No. 11-379 which placed portions)
of the property subject to Ag P No. 73-12 and Land)
Conservation Contract No. 73-12 and Ag P No. 83-05 and)
Land Conservation Contract Nos. 83-05 (Document G)
07577 recorded with the County Recorder on February 23,)
1983, at Reel 1613, Page 235) and 83-26-5.a. into FSZ)
No. 2012-010 and FSZ Contract No. 2012-010 without)
rescinding Ag P No. 83-05 and Land Conservation)
Contract Nos. 83-05 and 83-26-5.a. as applicable to the)
24.33 acres of property within FSZ No. 2012-010 and now)
subject to FSZ Contract No. 2012-010.)
- b. Authorizing the Chair to execute new or amended)
Land Conservation and FSZ Contracts, in order to)
rescind a portion of existing Ag P No. 73-12 and)
Land Conservation Contract No. 73-12 as)
applicable to the reconfigured lots within Ag P No.)
73-12, and to rescind Ag P No. 83-05 and Land)
Conservation Contract Nos. 83-05 and 83-26-5.a.)
from FSZ No. 2012-010, and amend FSZ Contract)
No. 2012-010 as applicable to the reconfigured lots,)

and simultaneously execute new or amended Land Conservation and FSZ Contracts for the reconfigured lots between the County and the Property Owners of Record, reflecting the new legal descriptions, current ownership interests and to incorporate any legislative changes to State Williamson Act provisions and current County Agricultural Preserve Policies or Procedures.

c. Directing the Clerk of the Board to record the new or amended Contracts concurrently with the recordation of the Certificates of Compliance for the reconfigured Williamson Act parcels.

[Lot Line Adjustment (PLN120746 / Sea Mist Farms LLC. and Desert Mist LLC, Desert Mist Farms LLC, [Sea Mist et al.] River Road, adjacent to Somavia Road, Chualar, Toro Area Plan & Central Salinas Valley Area Plan within the Agricultural and Winery Corridor Plan (AWCP)]

Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Monterey County Board of Supervisors hereby finds and decides as follows:

RECITALS

WHEREAS, on or about January 23, 1973, pursuant to Board of Supervisors Resolution No. 73-34-12, approximately 3,685 acres were placed under Williamson Act Agricultural Preserve (AgP) No. 73-12 and Land Conservation Contract No. 73-12 between the County of Monterey and the property owners and/or their predecessors in interest, as applicable. Said Land Conservation Contract No. 73-12 was executed pursuant to the California Land Conservation Act of 1965 (Williamson Act).

WHEREAS, on or about February 22, 1983, pursuant to Board of Supervisors Resolution No. 83-26-5, approximately 5,927 acres were placed under Williamson Act AgP No. 83-05 and Land Conservation Contract No. 83-05 between the County of Monterey and the property owners and/or their predecessors in interest, as applicable. Said Land Conservation Contract No. 83-05 was executed pursuant to the California Land Conservation Act of 1965 (Williamson Act).

WHEREAS, on or about November 24, 2004, pursuant to Board of Supervisors Resolution No. 2003-135, AgP No. 83-05 and Land Conservation Contract No. 83-05 were amended pursuant to Land Conservation Contract No. 83-26-5.a (Amendment) between the County of Monterey and the property owners and/or their predecessors in interest, as applicable. Said Amendment was executed pursuant to California Government Code Section 51257 and Condition No. 7 of Board of Supervisors Resolution No. 2003-135, adopted on April 22, 2003, to approve a Lot Line Adjustment between the Francioni Brothers and the Bengard Family.

WHEREAS, on May 26, 2011 Sea Mist et al. applied for a minor subdivision and Lot Line Adjustment which was deemed incomplete on June 24, 2011 by the Health Department and the Planning Department.

WHEREAS, the project site is located along River Road, adjacent to Somavia Road, in Chualar. The property consists of cultivated agricultural land. Access to each parcel is off of River Road, as each parcel fronts River Road before and after the Lot Line Adjustment. The subject Lot Line Adjustment is being requested to reconfigure four (4) existing parcels to facilitate the existing and planned agricultural operations.

WHEREAS, in November 2011, Sea Mist et al. submitted an Application for the Establishment of an FSZ and Contract (FSZ Application No. 2012-010). FSZ Application No. 2012-010 was approved by the Board in December 2011. This action placed portions of said property (Lot MM, a portion of Lot GG, and a portion of Lot DD) which is the subject of this application, under FSZ Contract No. 2012-10.

WHEREAS, FSZ Application No. 2012-010, submitted by Sea Mist et al., did not include the information and documentation required per the County's standard form FSZ Application which would have alerted Staff that AgP No. 83-05 and Land Conservation Contract Nos. 83-05 and 83-26-5.a should have been rescinded. (A copy of FSZ Application No. 2012-010 is on file with the Clerk of the Board and incorporated by this reference as though fully set forth herein.) California Government Code Section 51296.1 requires the rescission of Land Conservation Contracts and simultaneous placement of land under new farmland security zone contracts. Therefore, FSZ Contract No. 2012-010, executed by the County and Sea Mist et al. in December 2011, must now be amended to rescind AgP No. 83-05 and Land Conservation Contract Nos. 83-05 (Document G 07577 recorded with the County Recorder on February 23, 1983, at Reel 1613, Page 235) and 83-26-5.a, consistent with California Government Code Section 51296.1 (Rescission of contracts and simultaneous placement of land under new farmland security zone contracts).

WHEREAS, the Legal Description for FSZ No. 2012-010 (Exhibit "A" to FSZ Contract No. 2012-010) provided by Sea Mist et al. omitted a 7.42 acre portion of existing Lot GG (30.7 acres). (A copy of FSZ Contract No. 2012-010 is on file with the Clerk of the Board and incorporated by this reference as though fully set forth herein.) This omission left 7.42 acres (a portion of Lot GG and of APN 167-011-015-000) within AgP No. 73-12 and Land Conservation Contract No. 73-12. The current proposal will rescind AgP No. 73-12 and Land Conservation Contract No. 73-12 as applicable to the 7.42 acres spanning across the River Road frontage of the 30.7 acre parcel (Lot GG).

WHEREAS, on November 14 2012, Sea Mist et al. applied for a Lot Line Adjustment of Williamson Act lands (Planning File No. PLN120746). During the processing of said application for a Lot Line Adjustment of Williamson Act lands, it was discovered that a 7.42 acre portion of existing Lot GG (30.7 acres) of the project site was still subject to AgP No. 73-12 and Land Conservation Contract No. 73-12. The proposed Lot Line Adjustment will formally rescind the 7.42 acres from AgP No. 73-12 and Land Conservation Contract No. 73-12 and also adjust the lot lines accordingly.

WHEREAS, Sea Mist et al. is requesting a reconfiguration of the current lot lines to change the acreage as shown below:

Lot MM (APN 167-081-006-000) is a 349.33 acre parcel. Lot MM is within FSZ Contract No. 2012-010. Lot MM will be adjusted to create a 335.11 acre parcel (proposed Lot 1). Lot 1 will conform to applicable Monterey County General Plan and

Farmlands 40 acre minimum (F/40) and Farmlands 40 acre minimum Design Control overlay (F/40-D) zoning designations.

Lot LL (a portion of APN 167-011-013-000) is a 0.84 acre parcel which is not under Williamson Act AgP and Land Conservation Contract No. 73-12 nor FSZ Contract No. 2012-010. Lot LL will be adjusted to create a 14.22 acre parcel (proposed Lot 2). Monterey County General Plan Agricultural Winery Corridor Plan (AWCP) Policy 3.5.A.1.a allows the creation of lots with a minimum of five acres if the project reduces the number of non-conforming agricultural lots and results in retaining the rural character of the Corridor. Thus, the minimum density for this property, per AWCP Policy 3.5.A.1.a, is 5 acres. Proposed Lot 2 (14.22 acres) will be more conforming, as proposed.

Lot GG (a portion of APN 167-011-015-000) is a 30.7 acre parcel. Lot GG includes 7.42 acres within Williamson Act AgP and Land Conservation Contract No. 73-12 which is proposed for rescission with this Lot Line Adjustment. The remaining northeastern portion of Lot GG will be merged into Lot DD to create Lot 3 and will remain under FSZ Contract No. 2012-010. Lot GG will be adjusted to create a 6.28 acre parcel (proposed Lot 3). Lot 3 will conform with AWCP Policy 3.5.A.1.a, as proposed.

Lot DD (a portion of APN 167-011-015-000 and a portion of APN 167-011-013-000) is a 29.3 acre parcel. Lot DD is not under Williamson Act AgP and Land Conservation Contract No. 73-12 but the northeastern portion of Lot DD is now under FSZ Contract No. 2012-10. Lot DD will be adjusted to create a 54.56 acre parcel (proposed Lot 4) and will be conforming, as proposed. Lot 1 will conform to applicable Monterey County General Plan and Farmlands 40 (F/40) acre minimum zoning designations.

WHEREAS, FSZ Contract No. 2012-010 covers 604 acres. The legal description for FSZ Contract No. 2012-010 submitted by Sea Mist et al. omitted 7.42 acres within Lot GG. The proposed Lot Line Adjustment will rescind Williamson Act AgP and Land Conservation Contract No. 73-12 as it applies to the 7.42 acres which span across the River Road frontage of Lot GG. The omission of the 7.42 acres from Lot GG was not included in the FSZ acreage calculation included in the December 2011 Board of Supervisors action, pursuant to Board of Supervisors Resolution No. 11-379, which established FSZ No. 2012-010. However, 7.42 acres of 604 acres represents less than 1% of the 604 acres currently under FSZ No. 2012-010. Pursuant to California Government Code Section 51257, a Lot Line Adjustment which reduces the amount of land under a Williamson Act Contract is allowable as long as at least 90% of the land originally in the contract remains under contract. The proposed Lot Line Adjustment conforms to this requirement. California Government Code Section 51257 requires that specific findings be adopted by the Board of Supervisors to facilitate a Lot Line Adjustment of Williamson Act lands.

WHEREAS, the project is located within the Central/Arroyo Seco/River Road Segment of the Agricultural Winery Corridor Plan (AWCP) which is contained in the Monterey County General Plan adopted on October 26, 2010. Zoning on the property is Farmlands, 40 acre minimum (F/40) and Farmlands 40 acre minimum, Design Control overlay (F/40-D). The subject application includes two (2) parcels which are non-conforming as to the minimum parcel size of 40 acres before and after the Lot Line Adjustment. Existing Lot LL is a 0.84 acre parcel and existing Lot GG is a 30.7 acre parcel. Lot LL will be increased from 0.84 acres to 14.22 acres (proposed Lot 2). Existing Lot GG will be decreased from 30.7 acres to a 6.28 acre parcel (proposed Lot 3). Both adjusted parcels (Lots 2 and 3) will be less than 40 acres. However,

proposed Lots 2 and 3 will be consistent with the Monterey County AWCP which allows the creation of lots with a minimum of five acres.

WHEREAS, Monterey County General Plan, Policy 3.5.A.1.a, of the AWCP allows the creation of lots with a minimum of five acres if the project reduces the number of non-conforming agricultural lots and results in retaining the rural character of the Corridor. The Lot Line Adjustment will result in two (2) lots, proposed Lots 2 and 3, that are non-conforming with the F/40 and F/40-D zoning designation. However, both are over five acres. The proposal will decrease an existing 349.33 acre parcel (Lot MM) to 335.11 acres (proposed Lot 1), increase an existing 0.84 acre parcel (Lot LL) to 14.22 acres (proposed Lot 2), reduce an existing 30.7 acre parcel (Lot GG) to a 6.28 acre parcel (proposed Lot 3), increase a 29.3 acre parcel (Lot DD) to a 54.56 acre parcel (proposed Lot 4) and create a logical lot pattern with the smaller lots (proposed Lots 2 and 3), both over five acres, along River Road and the larger lots (proposed Lots 1 [335.11 acres] and 4 [54.56 acres]) consistent with General Plan Policy 3.5.A.1.a of the AWCP, and the existing agricultural operation.

WHEREAS, the proposed Lot Line Adjustment is categorically exempt under the California Environmental Quality Act (CEQA) Guidelines Section 15305(a) which exempts minor lot line adjustments with an average slope of less than 20% and not resulting in the creation of any new parcel. The project proposes to adjust lot lines between four (4) parcels totaling 410.70 acres with average slopes less than 20%. No changes in land use, nor physical changes in the land related to the lot line adjustment, are proposed or expected.

WHEREAS, the Board of Supervisors finds that the proposed Lot Line Adjustment is consistent with policies of the Monterey County General Plan, Toro Area Plan and Central Salinas Valley Area Plan within the Agricultural and Winery Corridor Plan (AWCP), regulations in the Zoning Ordinance (Title 21 of the Monterey County Code) and the Subdivision Ordinance (Title 19 of the Monterey County Code) and California Government Code Sections 51257 and 51296.1 (Williamson Act) as set forth below.

WHEREAS, the Board of Supervisors finds and declares that:

1. **FINDING:** **CONSISTENCY** – The Project, as conditioned, is consistent with the applicable plans and policies which designate this area as appropriate for development.
EVIDENCE: a) During the course of review of this application, the project has been reviewed for consistency with the text, policies, and regulations in:
 - the 2010 Monterey County General Plan;
 - Toro Area Plan
 - Central Salinas Valley Area Plan
 - Agricultural Winery Corridor Plan (AWCP);
 - Monterey County Zoning Ordinance (Title 21);
 - Monterey County Subdivision Ordinance (Title 19); and,
 - California Government Code Sections 51257 and 51296.1.No conflicts were found to exist. No communications were received during the course of review of the project indicating any inconsistencies with the text, policies, and regulations in these documents.
- b) The property is located on River Road, adjacent to Somavia Road in Chualar (Assessor’s Parcel Numbers [APN] 167-081-006-000, 167-011-013-000, 167-011-015-000, 137-151-006-000, 137-151-007-

000 and 137-151-008-000), Toro Area Plan and Central Salinas Valley Area Plan within the Agricultural Winery Corridor Plan (AWCP). The parcels are zoned Farmlands, 40 acre minimum (F/40) and Farmlands 40 acre minimum, Design Control overlay (F/40-D) which allow Lot Line Adjustments. Therefore, the project is an allowed land use for this site. No development is proposed.

- c) The Lot Line Adjustment will reduce a 349.33 acre parcel (Lot MM, APN 167-081-006-000) to a 335.11 acre parcel (Lot 1); increase a 0.84 acre parcel (Lot LL, a portion of APN 167-011-013-000) to a 14.22 acre parcel (Lot 2); reduce a 30.7 acre parcel (Lot GG, a portion of APN 167-011-015-000) of which a 7.42 acre portion is currently under Williamson Act AgP No. 73-12 and Land Conservation Contract No. 73-12 to a 6.28 acre parcel (Lot 3); and, increase a 29.3 acre parcel (Lot DD, a portion of APN 167-011-015-000 and a portion of APN 167-011-013-000) to a 54.56 acre parcel (Lot 4). A 7.42 acre portion of Lot GG (30.7 acres), a portion of APN 167-011-015-000, will be removed from Williamson Act AgP and Land Conservation Contract No. 73-12. Staff's recommendation includes administrative corrections to remove a total of 24.33 acres (APN Nos. 137-151-006-000 [2.31 acres], 137-151-007-000 [1.59 acres] and 137-151-008-000 [20.43 acres]) currently within FSZ No. 2012-010 from AgP No. 83-05 and Land Conservation Contract No. 83-05 to correct an inadvertent omission from Board of Supervisors Resolution No. 2011-379 which placed portions of the property subject to AgP No. 73-12 and Land Conservation Contract No. 73-12 and AgP No. 83-05 and Land Conservation Contract No. 83-05 into FSZ No. 2012-010 and FSZ Contract No. 2012-010 without rescinding AgP No. 83-05 and Land Conservation Contract No. 83-05 as applicable to the 24.33 acres of property within FSZ No. 2012-010 and now subject to FSZ Contract No. 2012-010.
- d) A portion of the subject property is located within a Design Control district which regulates the location, size, configuration, materials and colors of structures and fences. There are no structures proposed on the property as part of this application.
- e) The site is located within the Central/Arroyo Seco/River Road Segment of the Agricultural Winery Corridor Plan (AWCP) in the General Plan which was adopted on October 26, 2010.
- f) The project planner conducted a site inspection in May 2011 to verify that the project on the subject parcels conforms to the plans listed above.
- g) The project was not referred to a Land Use Advisory Committee (LUAC) as no LUAC exists for this area.
- h) The application, project plans, and related supporting materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN120746.

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

EVIDENCE: a) The project has been reviewed for site suitability by the following departments and agencies: RMA - Planning Department, North County Fire Protection District, Public Works, Environmental

Health Bureau, Parks Department and Water Resources Agency. There has been no indication from these departments/agencies that the site is not suitable for the proposed development. Recommended conditions have been incorporated.

- b) Staff did not identify any potential impacts to resources as no change in land use is proposed or expected as a result of this application. The property is cultivated in vineyards and no change in land use will occur as a result of the Lot Line Adjustment.
- c) Staff conducted a site inspection in May 2011 to verify that the site is suitable for this use.
- d) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN120746.

3. **FINDING:** **HEALTH AND SAFETY** - The establishment, maintenance, or operation of the project applied for will not under the circumstances of this particular case be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.

- EVIDENCE:**
- a) The project has been reviewed for site suitability by the following departments and agencies: RMA - Planning Department, North County Fire Protection District, Public Works, Environmental Health Bureau, Parks Department, and Monterey County Water Resources Agency. The respective agencies have recommended conditions, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood.
 - b) Necessary public facilities are available. Water is provided by private wells and waste water, if needed, will be permitted by the Environmental Health Bureau.
 - c) Preceding findings and supporting evidence for PLN120746.

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

- EVIDENCE:**
- a) Staff reviewed Monterey County RMA - Planning Department and Building Services Department records and is not aware of any violations existing on subject property.
 - b) Staff conducted a site inspection in May 2011 and researched County records to assess if any violation exists on the subject property.
 - c) There are no known violations on the subject parcel.
 - d) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN120746.

5. **FINDING:** **CEQA (Exempt):** - The project is categorically exempt from

environmental review and no unusual circumstances were identified to exist for the proposed project.

- EVIDENCE:**
- a) California Environmental Quality Act (CEQA) Guidelines Section 15305 (a), categorically exempts minor alterations in land use limitations in areas with an average slope of less than 20% which do not result in any changes in land use density, including minor Lot Line Adjustments.
 - b) The Lot Line Adjustment will adjust four (4) parcels totaling 434.50 acres with average slopes of less than 20%. The subject Lot Line Adjustment is needed for future agricultural facility uses including the establishment of wineries. Such new uses will be subject to separate environmental review at the time they are proposed.
 - c) No adverse environmental effects were identified during staff review of the development application during a site visit in May 2011.
 - d) Exceptions to exemptions listed in Section 15300.2.a-f are inapplicable. The project does not involve: alterations to a designated historical resource, a hazardous waste site, unusual circumstances that would result in a significant effect, development that would result in a cumulatively significant impact, nor development in a particularly sensitive environment.
 - e) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN120746.

6. **FINDING:** **LOT LINE ADJUSTMENT** – Section 66412 of the California Government Code (Subdivision Map Act) Title 19 (Subdivision Ordinance) of the Monterey County Code states that Lot Line Adjustments may be granted based upon the following findings:
- 1. The Lot Line Adjustment is between four (or fewer) existing adjoining parcels;
 - 2. A greater number of parcels than originally existed will not be created as a result of the Lot Line Adjustment;
 - 3. The parcels resulting from the Lot Line Adjustment conforms to the County’s general plan, any applicable specific plan, any applicable coastal plan, and zoning and building ordinances.
- a) The subject 349.33 acre parcel identified as Lot MM, APN 167-081-006-000, was created as a result of a Lot Line Adjustment for which a Record of Survey was filed on November 4, 2004 at Volume 27 of Surveys, Page 112 (Planning File No. PLN990201).
 - b) The subject 0.84 acre parcel identified as Lot LL (portion of APN 167-011-013-000) was created by a Deed conveying 0.84 acres from Robert A. Fatjo and Teresa F. Fatjo to Fred Chappel, recorded on August 12, 1918 in Book of Deeds Volume 158, Page 307.
 - c) The subject 30.7 acre parcel identified as Lot GG (a portion of APN 167-011-015-000) and the subject 29.3 acre parcel identified as Lot DD (a portion of APN 167-011-015-000 and a portion of APN 167-011-013-000) were created by a decree of Thomas Chappell recorded on May 28, 1919 at Volume 164 Deeds, Page 42.
 - d) The Lot Line Adjustment is between four (4) existing adjoining parcels.

The Lot Line Adjustment will reduce a 349.33 acre parcel (Lot MM, APN 167-081-006-000) to a 335.11 acre parcel (Lot 1); increase a 0.84 acre parcel (Lot LL, a portion of APN 167-011-013-000) to a 14.22 acre parcel (Lot 2); reduce a 30.7 acre parcel (Lot GG, a portion of APN 167-011-015-000) of which a 7.42 acre portion is currently under Williamson Act AgP No. 73-12 and Land Conservation Contract No. 73-12 to a 6.28 acre parcel (Lot 3); and increase a 29.3 acre parcel (Lot DD, a portion of APN 167-011-015-000 and a portion of APN 167-011-013-000) to a 54.56 acre parcel (Lot 4).

- e) The Lot Line Adjustment will not create a greater number of parcels than originally existed. Four (4) contiguous parcels of record will be adjusted and four (4) contiguous parcels of record will result. No new parcels will be created.
- f) Staff verified that the subject property is in compliance with all rules and regulations pertaining to the use of the property and that no violations exist on the property (see Finding 4). The proposed Lot Line Adjustment is consistent with the Monterey County Zoning Ordinance (Title 21). Staff verified that the subject property is in compliance with all of the rules and regulations pertaining to the use of the property.
- g) The proposed removal of 7.42 acres in Williamson Act Agricultural Preserve Land Conservation Contract No. 73-12 is applicable to 7.42 acres within the existing Lot GG (30.7 acres). After the Lot Line Adjustment, a portion of Lot GG will be merged into Lot DD to create a 54.56 acre parcel (Lot 4) which shall be entirely under FSZ No. 2012-010 and FSZ Contract No. 2012-010 as amended by this approval.
- h) The property is zoned Farmlands 40 acre minimum (F/40) and Farmlands 40 acre minimum with a Design Control overlay (F/40-D). The site is located within the Central/Arroyo Seco/River Road Segment of the Agricultural Winery Corridor Plan (AWCP) in the General Plan which was adopted on October 26, 2010. Two of the adjusted parcels (Lot LL and Lot GG) will result in parcels which will be less than 40 acres (Lots 2 and 3). However, the resulting parcels (Lots 2 and 3) are consistent with the Monterey County Agricultural Winery Corridor Plan (AWCP) of the Monterey County General Plan. AWCP Policy 3.5.A.1.a allows the creation of lots with a minimum of five acres if the project reduces the number of non-conforming agricultural lots and results in retaining the rural character of the Corridor. In this case, two of the existing lots (Lots LL and GG) do not meet the minimum 40 acre parcel size of the zoning designation. Lot LL is a 0.84 acre parcel and Lot GG is a 30.7 acre parcel. The proposed Lot Line Adjustment will reduce the number of non-conforming parcels. Lot LL will be increased from 0.84 acres to 14.22 acres (Lot 2). Lot GG will be decreased from an existing 30.7 acre parcel to a 6.28 acre parcel (Lot 3). Each parcel fronts River Road. The Lot Line Adjustment is being requested in order to allow agricultural uses on each parcel. Lot GG (a portion of APN 167-011-015-000) is located within the 100 year floodplain. The adjusted property line for Lot GG will follow the natural topography of the 100 year flood plain so that the resulting property line for Lot 3 is outside of the 100 year floodplain.
- i) General Plan policy LU 1.16 states in part that Lot Line Adjustments

between or among lots that do not conform to minimum parcel size standards may be allowed if they facilitate Routine and Ongoing Agricultural activities or reduce the non-conformity of existing legal lots of record. A 0.84 acre parcel fronting River Road (Lot LL, a portion of APN 167-011-013-000) will be increased to a 14.22 acre parcel (Lot 2). The new 14.22 acre parcel (Lot 2) will continue to front River Road. By increasing the size of Lot LL from 0.84 acres to 14.22 acres, a non-conforming parcel will be made more conforming. A 30.7 acre parcel (Lot GG, a portion of APN 167-011-015-000) will be reduced to a 6.28 acre parcel (Lot 3). Lot 2 and Lot 3 will both conform with the minimum parcel size of 5 acres in accordance with the AWCP Policy 3.5.A.1.a. Lot GG (30.7 acres) will be reduced to 6.28 acres (proposed Lot 3) to remove approximately 20 acres from the 100 year floodplain. The remaining acreage from existing Lot GG, will be merged into existing Lot DD to create Lot 4 (54.56 acres) which shall remain within FSZ Contract No. 2012-10 as shall be amended by this action and, conform with the 40 acre minimum zoning designation.

- j) As an exclusion to the Subdivision Map Act, no map is recorded for a Lot Line Adjustment. In order to appropriately document the boundary changes, a Certificate of Compliance for each reconfigured lot is required per a standard condition of approval.
- k) Necessary public facilities are available. The subject property is served by agricultural wells for the current agricultural cultivation on the properties. The Environmental Health Bureau has reviewed the Lot Line Adjustment with respect to well and septic facilities and identified no issues. The existing utilities will not be affected by the Lot Line Adjustment.

WHEREAS, California Government Code Section 51257 requires that certain findings be made by the Board of Supervisors to facilitate Lot Line Adjustments of land under Williamson Act Contract.

WHEREAS, the Board of Supervisors further finds that the request for a Lot Line Adjustment is consistent with California Government Code Section 51257 (Williamson Act).

WHEREAS, the materials and information presented in PLN120746 support staff's recommendation to approve the Lot Line Adjustment. No net decrease in the amount of acreage under Contract will result from the proposed adjustment. All of the land under the former Contract will be retained under the new or amended contract or contracts or, at least 90% of the land under the former contract or contracts will remain under the new contract or contracts. There will be no change in the agricultural operations currently on the properties. Therefore, the new or amended contract or contracts will not compromise the long-term agricultural productivity of the lots. The proposed Lot Line Adjustment is not likely to result in the removal of adjacent land for agricultural use as no changes in use are anticipated as a result of the lot line adjustment. No additional developable parcels or lots will be created as a result of the newly reconfigured lots. The reconfigured lots will remain under contract through a recorded new or amended contract or contracts which shall renew annually each January 1 unless a Notice of Non-Renewal has been issued by the property owners of record or by the County.

WHEREAS, the Board of Supervisors further finds that staff's recommendation to approve an administrative correction to remove a total of 24.33 acres (APN Nos. 137-151-006-000 [2.31 acres], 137-151-007-000 [1.59 acres] and 137-151-008-000 [20.43 acres]) currently within FSZ No. 2012-010 from AgP No. 83-05 and Land Conservation Contract Nos. 83-05 and 83-26-5.a to correct an inadvertent omission from Board of Supervisors Resolution No. 11-379 which placed portions of the property subject to AgP No. 73-12 and Land Conservation Contract No. 73-12 and AgP No. 83-05 and Land Conservation Contract Nos. 83-05 and 83-26-5.a into FSZ No. 2012-010 and FSZ Contract No. 2012-010 without rescinding AgP No. 83-05 and Land Conservation Contract Nos. 83-05 and 83-26-5.a as applicable to the 24.33 acres of property within FSZ No. 2012-010 and now subject to FSZ Contract No. 2012-010 is consistent with California Government Code Section 51296.1 (Rescission of contracts and simultaneous placement of land under new farmland security zone contracts).

Specifically, the Board finds and declares that:

**FINDINGS AND EVIDENCE TO APPROVE A LOT LINE ADJUSTMENT OF
WILLIAMSON ACT LANDS AND TO APPROVE ADMINISTRATIVE
CORRECTIONS TO AG P AND FSZ CONTRACTS**

7. **FINDING: WILLIAMSON ACT – CONTRACTS** – Pursuant to California Government Code Section 51257.a.1, the new contract or contracts would enforceably restrict the adjusted boundaries of the parcel for an initial term for at least as long as the unexpired term of the rescinded contract or contracts, but for not less than 10 years.
- a) The proposed removal of 7.42 acres in Williamson Act Agricultural Preserve Land Conservation Contract No. 73-12 is applicable to existing Lot GG. After the Lot Line Adjustment Lot DD and Lot GG will be merged to create a 54.56 acre parcel which shall be entirely within Farmland Security (FSZ) No. 2012-010 as shall be amended pursuant to this approval.
 - b) The term of AgP No. 73-12 and Land Conservation Contract No. 73-12 renews annually on each succeeding January 1. The terms of AgP No. 83-05, and Land Conservation Contract Nos. 83-05 and 83-26-a.5, renew annually on each succeeding January 1. The term of FSZ No. 2012-010 and FSZ Contract No. 2012-010 renews annually on each succeeding January 1. The new or amended contract or contracts for the reconfigured parcels propose an initial term of 20 years which shall renew annually on each succeeding January 1.
8. **FINDING: WILLIAMSON ACT – NO NET ACREAGE DECREASE** Pursuant to California Government Code Section 51257.a.2, there is no net decrease in the amount of acreage restricted. In cases where two parcels involved in a Lot Line Adjustment are both subject to contracts rescinded pursuant to this section, this finding will be satisfied if the aggregate acreage of the land restricted by the new contracts is at least as great as the aggregate acreage restricted by the rescinded contracts.
- EVIDENCE:** See Finding 9 below.

9. **FINDING:** **WILLIAMSON ACT – NEW CONTRACTS** - Pursuant to California Government Code Section 51257.a.3, at least 90 percent of the land under the former Contract or Contracts remains under the new Contract or Contracts.

EVIDENCE: a) FSZ Contract No. was intended to cover 604 acres. The legal description for FSZ Contract No. 2012-010 submitted by Sea Mist et al. omitted 7.42 acres within Lot GG. The proposed Lot Line Adjustment will rescind Williamson Act Land Conservation Contract No. 73-12 as it applies to 7.42 acres which span across the River Road frontage of Lot GG. The omission of the 7.42 acres from Lot GG was not included in the FSZ acreage calculation included in the December 2011 Board of Supervisors action which established FSZ No. 2012-010. However, 7.42 acres of 604 acres represents less than 1% of the 604 acres currently under FSZ No. 2012-010. Pursuant to California Government Code Section 51257 a Lot Line Adjustment which reduces the amount of land under a Williamson Act Contract is allowable as long as at least 90% of the land originally in the contract remains under contract. The proposed Lot Line Adjustment conforms to this requirement. The Lot Line Adjustment will not impact the acreage under FSZ Contract No. 2012-10. The new or amended contract or contracts will continue to cover 604 acres, within FSZ No. 2012-010, before and after the Lot Line Adjustment.

b) The application and plans for a Lot Line Adjustment found in Planning File No. PLN120746.

10. **FINDING:** **WILLIAMSON ACT – SUSTAIN AGRICULTURAL USE** Pursuant to California Government Code Section 51257.a.4, after the Lot Line Adjustment, the parcels of land subject to Contract will be large enough to sustain their agricultural use, as defined in Section 51222.

EVIDENCE: a) Proposed Lot 1 is 335.11 acres which will remain entirely under FSZ Contract No. 2012-10 as shall be amended pursuant to this approval. After the Lot Line Adjustment existing Lot DD and a portion of existing Lot GG will be merged into proposed Lot 4 (54.56 acres) which shall remain entirely under FSZ Contract No. 2012-010 as shall be amended pursuant to this approval.

b) Pursuant to Section 51222 of the California Government Code (Williamson Act), “agricultural land shall be presumed to be in parcels large enough to sustain their agricultural use if the land is (1) at least 10 acres in size in the case of prime agricultural land, or (2) at least 40 acres in size in the case of land which is not prime agricultural land.” The proposed Lot Line Adjustment will not change the acreage under contract.

c) County of Monterey Board of Supervisors Resolution No. 01-485 as amended per Board of Supervisors Resolution No. 03-

373 requires that agricultural preserves will not be considered unless the group of contiguous parcels included in the preserve contains 100 or more acres, or 40 or more acres if the Board finds that smaller preserves are necessary due to the unique characteristics of the agricultural enterprises in the area. FSZ Contract No. 2012-10 covers 604 acres which will remain subject to FSZ No. 2012-010 as amended by this approval.

d) The application, plans, and related support materials found in Planning File No. PLN120746.

11. FINDING: WILLIAMSON ACT – LONG-TERM AGRICULTURAL PRODUCTIVITY - Pursuant to California Government Code Section 51257.a.5, the Lot Line Adjustment would not compromise the long-term agricultural productivity of the parcel or other agricultural lands subject to a Contract or Contracts.

EVIDENCE: a) See Finding 10 and Evidence 10 (a-c) above.
b) The application, plans, and related support materials found in Planning File No. PLN120746.

12. FINDING: WILLIAMSON ACT – ADJACENT AGRICULTURAL LAND USE - Pursuant to California Government Code Section 51257.a.6, the Lot Line Adjustment is not likely to result in the removal of adjacent land from agricultural use.

EVIDENCE: a) The subject parcels are designated as “F/40” Farmlands, minimum building site of 40 acres and “F/40-D” Farmlands, minimum building site of 40 acres with a Design Control overlay. The Lot Line Adjustment will not affect current agricultural uses on the subject properties or on adjacent properties. No physical development is proposed. The adjustment would not allow any uses that could not also occur under the current configuration.
b) The application, plans, and related support materials found in Planning File No. PLN120746.
c) See Finding 6 above.

13. FINDING: WILLIAMSON ACT – NO NEW DEVELOPABLE PARCELS - Pursuant to California Government Code Section 51257.a.7, the Lot Line Adjustment does not result in a greater number of developable parcels than existed prior to the adjustment, or an adjusted lot that is inconsistent with the general plan.

EVIDENCE: a) The four (4) reconfigured parcels do not result in a greater number of developable parcels than existed prior to the adjustment. All four (4) lots fronted River Road prior to the Lot Line Adjustment and all four (4) of the reconfigured parcels will continue to front River Road after the Lot Line Adjustment.
b) See Finding No. 6 above.
c) The application, plans, and related support materials found in

- 14. FINDING: WILLIAMSON ACT– CONTRACT RESCISSION AND AMENDMENTS** - Government Code Section 51296.1 requires the rescission of Land Conservation Contracts and simultaneous placement of land under new farmland security zone contracts.
- EVIDENCE:**
- a) In November 2011, Sea Mist et al submitted an Application for the Establishment of an FSZ and Contract (FSZ Application No. 2012-010). FSZ Application No. 2012-010 was approved by the Board in December 2011. This action placed portions of said property (Lot MM, a portion of Lot GG, and a portion of Lot DD) which is the subject of this application, under FSZ Contract No. 2012-10.
 - b) FSZ Application No. 2012-010, submitted by Sea Mist et al., did not include the information and documentation required per the County’s standard form FSZ Application which would have alerted Staff that AgP No. 83-05 and Land Conservation Contract Nos. 83-05 and 83-26-5.a should have been rescinded. (A copy of FSZ Application No. 2012-010 is on file with the Clerk of the Board and incorporated by this reference as though fully set forth herein.) California Government Code Section 51296.1 requires the rescission of Land Conservation Contracts and simultaneous placement of land under new farmland security zone contracts. Therefore, FSZ Contract No. 2012-010, executed by the County and Sea Mist et al. in December 2011, must now be amended to rescind AgP No. 83-05 and Land Conservation Contract Nos. 83-05 and 83-26-5.a, consistent with California Government Code Section 51296.1 (Rescission of contracts and simultaneous placement of land under new farmland security zone contracts).
 - c) The Legal Description for FSZ No. 2012-010 (Exhibit “A” to FSZ Contract No. 2012-010) provided by Sea Mist et al. omitted a 7.42 acre portion of existing Lot GG (30.7 acres). (A copy of FSZ Contract No. 2012-010 is on file with the Clerk of the Board and incorporated by this reference as though fully set forth herein.) This omission left 7.42 acres (a portion of Lot GG and of APN 167-011-015-000) within AgP No. 73-12 and Land Conservation Contract No. 73-12. The current proposal will rescind AgP No. 73-12 and Land Conservation Contract No. 73-12 as applicable to the 7.42 acres spanning across the River Road frontage of the 30.7 acre parcel (Lot GG).
 - d) The application, plans, and related support materials found in Planning File No. PLN120746. FSZ Application No. 2012-010 on file with the Clerk of the Board. FSZ Contract No. 2012-010 on file with the Clerk of the Board. Board of Supervisors Resolution No. 11-379 on file with the Clerk of the Board. Board of Supervisors Resolution No. 2003-135 on file with the Clerk of the Board. Board of Supervisors Resolution No. 83-26, on file with the Clerk of the Board, establishing AgP No. 83-26-5 (commonly referred to as AgP No. 83-05 and Land Conservation Contract No. 83-05, recorded on February 23, 1983, as Document G 07577 with the Monterey County Recorder at Reel 1613, Page 235).

NOW THEREFORE, IT IS HEREBY RESOLVED that in order to facilitate said Lot Line Adjustment of Williamson Act lands, the Board; (1) rescinds a portion of existing Ag Preserve and Land Conservation Contract No. 73-12 as applicable to a 7.42 acre portion of Lot GG, a portion of APN 167-011-013-000, to be removed from said Ag Preserve and Land Conservation Contract No. 73-12 through this approval, (2) amends FSZ No. 2012-010 and FSZ Contract No. 2012-10 as it applies to the reconfigured parcels, (3) rescinds Ag Preserve No. 83-05 and Land Conservation Contract Nos. 83-05 (Document G 07577 recorded with the County Recorder on February 23, 1983, at Reel 1613, Page 235) and 83-26-5.a, as applicable to the property within FSZ No. 2012-010 and FSZ Contract No. 2012-010, and (4) authorizes the Chair to simultaneously execute a new or amended Contract or Contracts, which shall be applicable to the reconfigured parcels and to the property which is the subject of said Contract or Contracts as amended by this action, consistent with California Government Code Section 51257 (Lot Line Adjustments; rescind and enter into new contracts) and Government Code Section 51296.1 (Rescission of contracts and simultaneous placement of land under new farmland security zone contracts), pending receipt of new legal descriptions for the proposed reconfigured parcels, and administrative corrections to said Contracts, as applicable, and the execution of the new or amended Contract or Contracts by the property owners;

IT IS FURTHER RESOLVED that the new or amended Contract or Contracts shall reflect present ownership interests for the reconfigured parcels and shall incorporate any legislative changes to State Williamson Act provisions and current County Agricultural Preserve and Farmland Security Zone Policies and Procedures, and the Chair of the Board is authorized to sign the new or amended contract or contracts with the property owners;

IT IS FURTHER RESOLVED that the Clerk of the Board is directed to record said new or amended Contract or Contracts upon recordation of the Certificates of Compliance for the reconfigured parcels, completion of the legal description or descriptions, and execution of said new or amended Contract or Contracts by the Chair;

IT IS FURTHER RESOLVED that the Board of Supervisors hereby approves said Lot Line Adjustment as depicted on the attached map and subject to the attached conditions which are incorporated by this reference.

DECISION

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors does hereby:

- a. Approve a Lot Line Adjustment between four (4) lots of record within Williamson Act FSZ No. 2012-010 and FSZ Contract No. 2012-010 and removal of 7.42 acres from Williamson Act Agricultural Preserve (AgP) No. 73-12 and Land Conservation Contract No. 73-12 to: reduce a 349.33 acre parcel (Lot MM, APN 167-081-006-000) to a 335.11 acre parcel (proposed Lot 1); increase a 0.84 acre parcel (Lot LL, a portion of APN 167-011-013-000) to a 14.22 acre parcel (proposed Lot 2); reduce a 30.7 acre parcel (Lot GG, a portion of APN 167-011-015-000) to a 6.28 acre parcel (proposed Lot 3); and increase a 29.3 acre parcel (Lot DD, a portion of APN 167-011-015-000 and a portion of APN 167-011-013-000) to a 54.56 acre parcel (proposed Lot 4). A 7.42 acre portion of Lot GG (30.7 acres), a portion of APN 167-011-015-000, will be removed from Williamson Act Ag P No. 73-12 and Land Conservation Contract No. 73-12. Approve administrative

correction to remove a total of 24.33 acres (APN Nos. 137-151-006-000 [2.31 acres], 137-151-007-000 [1.59 acres] and 137-151-008-000 [20.43 acres]) currently within FSZ No. 2012-010 from Ag P No. 83-05 and Land Conservation Contract No. 83-05 to correct an inadvertent omission from Board of Supervisors Resolution No. 11-379 which placed portions of the property subject to Ag P No. 73-12 and Land Conservation Contract No. 73-12 and Ag P No. 83-05 and Land Conservation Contract Nos. 83-05 and 83-26-5.a. into FSZ No. 2012-010 and FSZ Contract No. 2012-010 without rescinding Ag P No. 83-05 and Land Conservation Contract Nos. 83-05 and 83-26-05.a. as applicable to the 24.33 acres of property within FSZ No. 2012-010 and now subject to FSZ Contract No. 2012-010.

- b. Authorize the Chair to execute new or amended Land Conservation and FSZ Contracts, in order to rescind a portion of existing Ag P No. 73-12 and Land Conservation Contract No. 73-12 as applicable to the reconfigured lots within Ag P No. 73-12 and Land Conservation Contract No. 73-12, and to rescind Ag P No. 83-05 and Land Conservation Contract Nos. 83-05 (Document G 07577 recorded with the County Recorder on February 23, 1983, at Reel 1613, Page 235) and 83-36-5.a. from FSZ No. 2012-010, and amend FSZ Contract No. 2012-010 as applicable to the reconfigured lots, and simultaneously execute new or amended Land Conservation and FSZ Contracts for the reconfigured lots between the County and the Property Owners of Record, reflecting the new legal descriptions, current ownership interests and to incorporate any legislative changes to State Williamson Act provisions and current County Agricultural Preserve Policies or Procedures; and
- c. Direct the Clerk of the Board to record the new or amended Contract of Contracts concurrently with the recordation of the Certificates of Compliance for the reconfigured Williamson Act parcels.

PASSED AND ADOPTED this 15th day of January, 2013, by the following vote, to wit:

AYES:
NOES:
ABSENT:

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof at page ____ of Minute Book 71, on _____.

Dated:

Gail T. Borkowski, Clerk of the Board of Supervisors
County of Monterey, State of California.

By _____
Deputy