

Attachment A

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DISCUSSION

PROJECT HISTORY

The project was deemed complete on November 20, 2015.

The project was brought to public hearing before the Monterey County Planning Commission on September 14, 2016, and the hearing was subsequently continued to September 28, 2016.

On September 28, 2016, the Planning Commission opened the public hearing, took public testimony, considered the application, discussed issues pertaining to clustering of lots; preservation of environmental sensitive habitat areas (ESHA) (Maritime Chaparral) and slopes in excess of 25%; and presence of highly erodible soil (Arnold Loamy Sand) throughout the properties. Furthermore, the Planning Commission directed staff to continue analysis of the potential lot line adjustment, including evaluating potential building sites/envelopes on the proposed reconfigured lots, and mechanisms to preserve slopes, erodible soil and ESHA. At the conclusion of the September 28, 2016 hearing, the hearing was continued to October 26, 2016.

On October 26, 2016, RMA-Planning staff requested a second continuance to November 9, 2016 to allow for additional project analysis.

During the November 9, 2016 hearing, issues pertaining to clustering of lots, preservation of environmental habitat areas (ESHA), slopes in excess of 25%, and highly erodible soils were again discussed as they related to the proposed lot line adjustment. At the close of the hearing, the Planning Commission denied the Coastal Development Permit/Lot Line Adjustment application by an 8-0 vote (2 members absent). (The Planning Commission resolution is attached at Attachment B.)

On December 19, 2016, Johannes and Kristi Van Greunen (represented by Lombardo and Associates), appellant, timely appealed the Planning Commission's decision denying the Coastal Development Permit/Lot Line Adjustment (Attachment C). The appellant requests that the Board of Supervisors grant the appeal and approve the Coastal Development Permit/Lot Line Adjustment application. The Appellant contends the Planning Commission's findings and decision are not supported by the evidence, and the decision was contrary to law.

Pursuant to Monterey County Code, the appeal was set for hearing on February 14, 2017. The hearing at the Board is de novo.

Project Analysis

"Clustered Development" / Consistency with Land Use and Zoning

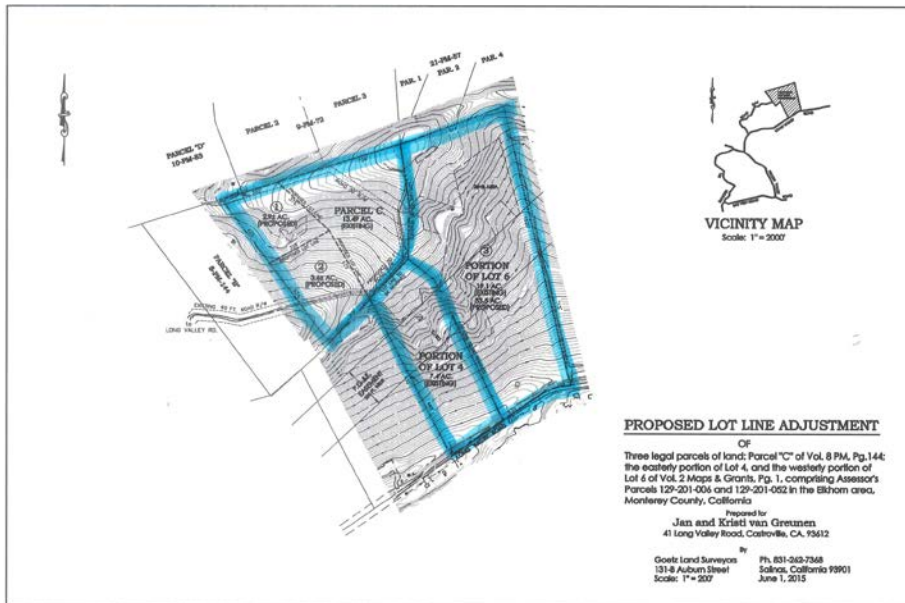
The property has a Land Use Designation of Rural Density Residential (RDR). The Zoning density is 10 acres per unit. Density does not establish minimum parcel size; it identifies how many units can be constructed in a given area. In this case the density of one unit for every 10 acres would allow a total of four units on the subject property (40 acres in total area.) The RDR district establishes a minimum lot size or building site as follows:

“The minimum building site shall be 5 acres unless otherwise approved as part of clustered residential development.”

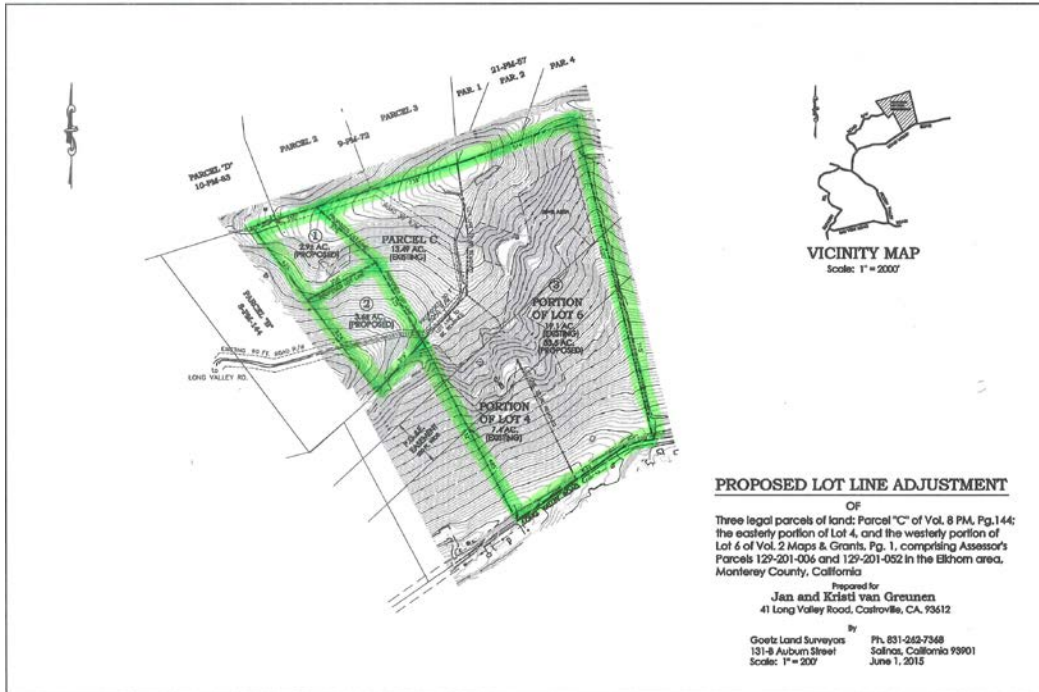
The applicant is requesting to reconfigure three existing lots of 13.5 acres, 7.4 acres, and 19.1 acres into three new parcels of 2.9, 3.6 and 33.5 acres. The existing parcels all conform to the minimum lot size requirements and are developable as configured. Under the proposed Lot Line Adjustment, the 33.5 acre parcel would comply with the minimum lot size requirement, but the 3.6 and 2.9 acre parcels would be less than the 5 acre minimum.

However, if the reconfiguration is found to be “clustered residential development,” the 5 acre minimum lot size could be reduced, with the overall density remaining the 10 acres per unit. The key question is whether the reconfigured lot pattern is considered to be “clustered development”. Monterey County Code, specifically Title 20 (Coastal Zoning Ordinance), does not contain a definition of “clustered” or “clustering”, therefore no code guidance exists. Furthermore, the applicable Land Use Plan (North County Coastal) does not contain a definition for “clustering” or “clustered”.

Existing Lot Line Pattern



Proposed Lot Pattern/Lot Line Adjustment



During review and processing of the application, staff presented a viewpoint that the reconfigured lot pattern could be considered “clustered development”, as it would place the potential building sites closer together than the existing lot pattern, which could result in development being moved away from and better preserve environmentally sensitive habitat area (ESHA) (Maritime Chaparral), slopes in excess of 25% and avoid highly erodible soils (Arnold Sandy Loamy). These particular areas are required to be preserved by North County Land Use Plan, as discussed further in the sections below. It should be noted, that under the current lot pattern configuration, each of the existing lots could still be developed and preservation/avoidance of these areas to the greatest extent feasible would be encouraged, but potential impacts may result depending on the design proposed in future development applications.

Additionally, during the Planning Commission hearing, opponents of the project presented a viewpoint and information arguing that lots of 2.9, 3.6, and 33.5 acres does not constitute “clustered development” and that sensitive resources would not be further protected with the proposed lot line adjustment. The basis for arguing that the reconfigured lots are not “clustered” is that, although two of the lots would be smaller in size than the current configuration(s), potential houses would not be located in a small concise area, and would still be spread out over large amounts of land. Using this rationale, the opponents also argued that the reconfigured parcel sizes would therefore not be consistent with the minimum lot size (5 acres) required within the zoning designation; and therefore the project could not be approved as proposed.

Density of Development Potential

The current lot pattern configuration (3 lots of 13.5 acres, 7.4 acres, and 19.1 acres into) would allow 1 single family dwelling (SFD) on each lot (total of 3 SFDs), based on the 10 acre minimum development density, as no single lot is more than 20 acres.

The reconfigured lot pattern (3 lots of 2.9 acres, 3.6 acres, and 33.5 acres) would allow 1 SFD on each of the 2.9 and 3.6 acre lots, but the potential for 3 SFDs on the 33.5 acre lot (1 SFD/10 acres) is a concern. This would have the potential to result in a total of 5 SFDs on the reconfigured lot pattern. This is a concern with the proposed lot line adjustment. The only available mechanism to ensure that the density of development of the overall site (3 parcels/3 SFDs) remains the same, through recordation of a resolution, is to document that the intent of the Board of Supervisors when approving the reconfigured 33.5 acre parcel is to limit future on-site construction to one SFD.

While a B-6 overlay would prohibit future subdivision it would not prevent the construction of 3 SFDs on the 33.5 acre lot and it would not prevent a subsequent lot line adjustment. If the Board is inclined to adopt a motion of intent to approve the project, the subsequent resolution of approval would need to include detailed language expressing the restriction of development on each site to one SFD because the clustering of home sites absorbs the overall building density of the parcels.

If the Board is inclined to adopt a motion of intent to deny the project, then no nexus for development restrictions would exist, and no further action regarding is required.

The remainder of this discussion focuses on what was is contained within/on the project site(s) and explains policies which apply to the general area for both the existing lot pattern and reconfigured lot pattern.

North County Coastal Land Use Plan

Environmental Sensitive Habitat Areas (ESHA)

Protection of Environmentally Sensitive Habitat Areas is a critical objective of the North County Coastal Land Use Plan. Among the critical habitat areas of the North County is the Maritime Chaparral. The following two policies identify that when Maritime Chaparral is present, especially on slopes in excess of 25%, it should be protected with a conservation easement.

NCCLUP Policy 2.3.2.6

The County shall ensure the protection of environmentally sensitive habitats through deed restrictions or dedications of permanent conservation easements. Where land divisions or development are proposed in areas containing environmentally sensitive habitats, such restrictions or easements shall be established through the development review process. Where development has already occurred in areas supporting sensitive habitat, property owners should be encouraged to voluntarily establish conservation easements or deed restrictions.

NCCLUP Policy 2.3.3.2

Maritime chaparral is an uncommon, highly localized and variable plant community that has been reduced in North County by residential and agricultural development. Further conversion of maritime chaparral habitat to agricultural uses is highly discouraged. Where new residential development is proposed in chaparral areas, it shall be sited and designed to protect the maximum amount of maritime chaparral. All chaparral on land exceeding 25 percent slope should be left undisturbed to prevent potential erosion impacts as well as to protect the habitat itself.

The site was surveyed and it was identified that Maritime Chaparral is present on the property.

Under the lot line adjustment application, Maritime Chaparral would not be located in potential development areas on the reconfigured lots. Approval of the Lot Line Adjustment with all development clustered in the northwest corner of the site, would minimize the potential degradation of the Maritime Chaparral on slopes in excess of 25%.

As the sites are configured now, Maritime Chaparral could be impacted by future residential development however every effort to avoid impacts would need to be made at the time that residential development is proposed.

If the Board is inclined to adopt a motion of intent to approve the Lot Line Adjustment application, Staff recommends that the project be conditioned with the requirement that all areas covered by Maritime Chaparral and areas containing slopes in excess of 25% be covered with a conservation easement.

If the Board is inclined to adopt a motion of intent to deny the project, then no nexus for the requirement of a conservation easement would exist, and no further action for protection of these ESHA resources would be required.

Erodible Soils

Protection of highly erodible soils is also a critical objective of the North County Coastal Land Use Plan, which identifies “Arnold Loamy Sand” as highly erodible. The following policy requires protection of this specific soil type.

NCCLUP Policy 4.3.6.D.7 (portion)

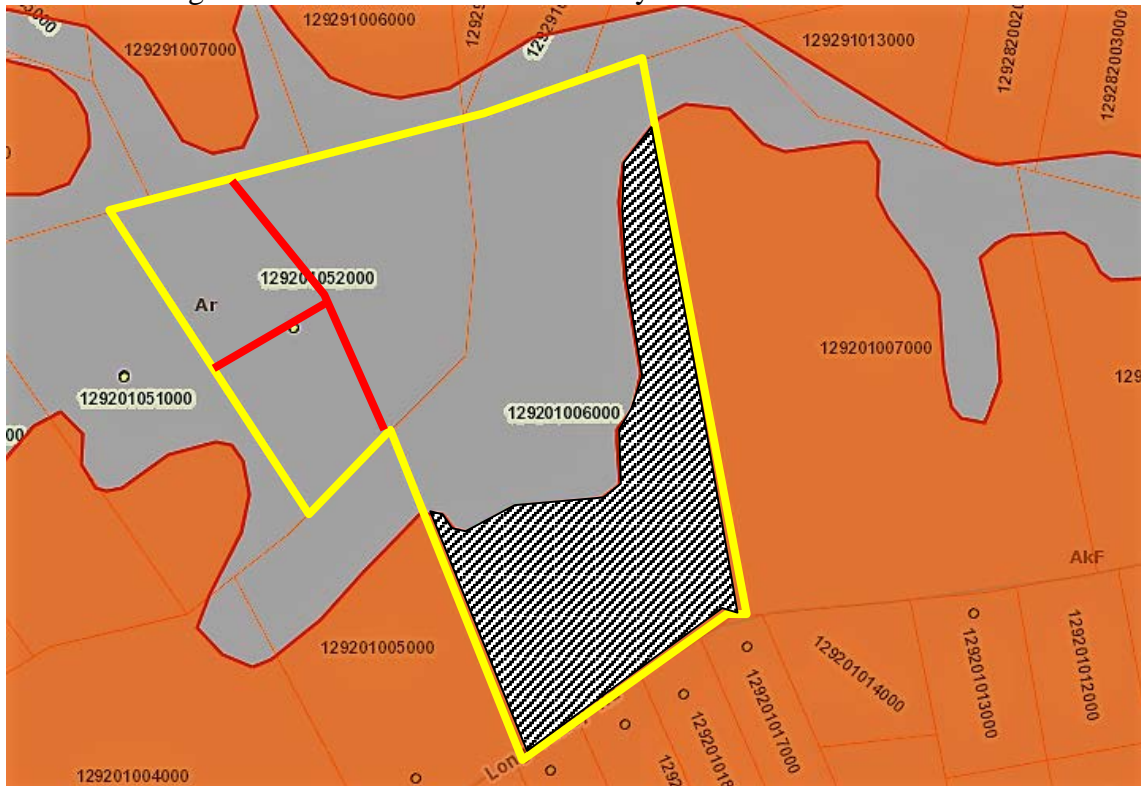
The Long Valley watershed area shall be bounded by the ridgelines located south of Strawberry Canyon Road and north of Paradise Canyon Road; by Elkhorn Road and Walker Valley Road on the west; and the Coastal Zone boundary on the east.

Preservation of both the natural habitat and watershed shall be of the utmost priority.

Maritime Chaparral and stands of Monterey Pine, Coast Live Oak, Madrone, and Manzanita shall be protected to the maximum extent feasible. The highly erodible, Arnold Loamy Sand soils shall be protected to the maximum extent feasible.... (Underline added).

The photo below shows the location and expanse of Arnold Loamy Sand on the project area (shown in hatched lines) (proposed lot lines shown in map)

Aerial showing Location/Extent of Arnold Loamy Sand



Approval of the Lot Line Adjustment with all development clustered in the northwest corner of the site, would eliminate potential degradation and impacts to the highly erodible Arnold Loamy Sand.

If the Board is inclined to adopt a motion of intent to approve the Lot Line Adjustment application, Staff recommends that the project be conditioned with the requirement that the areas consisting of Arnold Loamy Sand be covered with a conservation easement.

If the Board is inclined to adopt a motion of intent to deny the project, then no nexus for the requirement of a conservation easement would exist, and no further action for protection of these soil resources would be required.

Visual Resources/Ridgeline Development

This site is not identified as a visually sensitive area in the North County Coastal Land Use Plan; however if future homes were located at the upper elevations of the property, they would have the potential to create ridgeline development. The Policies of the North County Coastal Land Use Plan, and Coastal Implementation Plan (applicable policies listed below) do not support a project which would result in Ridgeline Development or development which would significantly affect a ridgeline.

The least visually obtrusive portion of a parcel should be considered the most desirable site for the location of new structures. Structures should be located where existing topography and vegetation provide natural screening.

NCCLUP Policy 2.2.3.1

The scenic areas of North County including the coastal beaches and dunes, estuaries, wetlands, slopes adjacent to scenic corridors and viewpoints, and ridges shall be zoned for scenic conservation treatment.

North County Implementation Plan Section 20.144.030.B.6

Development constituting "ridgeline development shall not be allowed unless a Use Permit is first obtained. Ridgeline development is development on the crest of a hill which has the potential to create a silhouette or other substantially adverse impact when viewed from a - common public viewing area. A use permit for such development may only be granted if the decision-making body is able to make findings that: 1) there are no alternatives to development so as to avoid ridgeline development; 2) the proposed development will not have significant adverse visual impacts due to required landscaping, required modifications to the proposal, or other conditions; or, 3) development on the ridge will minimize grading, tree removal, or otherwise better meet resource protection policies of the North County Land Use Plan or development standards of this ordinance. The proposed development shall be modified for height, bulk, design, size, location, and siting, and/or shall incorporate landscaping or other techniques so as to avoid or minimize the visual impacts of ridgeline development as viewed from a public viewing area

North County Implementation Plan Section 20.144.030.B.7

New subdivisions and lot line adjustments shall not configure a lot so as to create a building site that will result in ridgeline development. Where initial application review indicates that ridgeline development may result on a proposed lot, the applicant shall demonstrate that there is a building site and building height(s) available which will not create ridgeline - development. As such, possible building site dimensions and roof heights shall be delineated by poles with flags, subject to an on-site investigation by the planner prior to the application being considered complete. A condition of project approval shall be the establishment of a building site and a building height envelope that provides specifications for non-ridgeline development on the lot(s) in question. Both envelopes shall require approval of the Director of Planning and an on-site investigation by the project planner prior to such approval.

If the Board is inclined to adopt a motion of intent to approve the Lot Line Adjustment application, Staff recommends that the project be conditioned with the requirement that the areas of the highest elevations/ridgelines be restricted and included in any proposed conservation easement, in an effort to reduce the potential for future ridgeline development.

If the Board is inclined to adopt a motion of intent to deny the project, then no nexus for the requirement of a conservation easement would exist, and no further action to restrict the upper elevations of the site would be required.

In either case, future residential development is subject to discretionary action (Coastal Administrative Permit) during which time flagging/staking and structure placement can be further analyzed. At that time, each respective site would need to be fully flagged/staked to the proposed building height and mass, to ensure that ridgeline development is not allowed.

CEQA

If the Board is inclined to adopt a motion of intent to approve the Lot Line Adjustment application, the project would be categorically exempt from California Environmental Quality Act (CEQA) pursuant to Section 15305(a), which exempts minor lot line adjustments not resulting in the creation of any new parcels(s). In this case, the Lot Line Adjustment is between three existing lots and results in three lots; therefore no new parcels are created.

If the Board is inclined to adopt a motion of intent to deny the Lot Line Adjustment application, the project would be statutorily exempt from CEQA pursuant to Section 15270, which states CEQA does not apply to projects which a public agency rejects or disapproves.

Based upon Board direction, staff will present the appropriate CEQA finding in the resolution when the project is returned for additional Board consideration.