

# Attachment D

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5. What is the nature of your appeal?

a) Are you appealing the approval  or the denial  of an application? (Check appropriate box)

b) If you are appealing one or more conditions of approval, list the condition number and state the condition(s) you are appealing. (Attach extra sheets if necessary).

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. Check the appropriate box(es) to indicate which of the following reasons form the basis for your appeal:

There was a lack of fair or impartial hearing; or

The findings or decision or conditions are not supported by the evidence; or

The decision was contrary to law.

You must next give a brief and specific statement in support of each of the bases for appeal that you have checked above. The Board of Supervisors will **not** accept an application for appeal that is stated in generalities, legal or otherwise. If you are appealing specific conditions, you must list the number of each condition and the basis for your appeal. (Attach extra sheets if necessary).

Please see attachment 6.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

7. As part of the application approval or denial process, findings were made by the decision making body (Planning Commission, Zoning Administrator, Subdivision Committee or Director of Planning and Building Inspection). In order to file a valid appeal, you must give specific reasons why you disagree with the findings made. (Attach extra sheets if necessary).

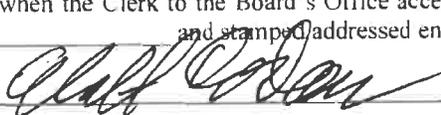
Please see attachment 7.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

8. You are required to submit stamped addressed envelopes for use in notifying interested persons that a public hearing has been set for the appeal. The Resource Management Agency - Planning Department will provide you with a mailing list.

9. Your appeal is accepted when the Clerk to the Board's Office accepts the appeal as complete on its face, receives the filing fee \$ \_\_\_\_\_ and stamped addressed envelopes.

APPELLANT SIGNATURE



DATE

2/11/16

ACCEPTED

DATE

(Clerk to the Board)

## Attachment 6

### I. THERE WAS A LACK OF FAIR OR IMPARTIAL HEARING

Due to a complaint by a neighbor this lot line adjustment was heard by the Planning Commission on January 13, 2016. Lot line adjustments are normally approved administratively.

The Proposed Resolution for Administrative Approval dated October 19, 2015 contained findings that the Proposed Project met the requirements of California Government Code § 66412 which are:

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 conform to the County's General Plan, any applicable specific plan, and applicable coastal plan, and zoning and building ordinances.

(See Proposed Resolution attached hereto as Exhibit "A")

Consistent with the Draft Resolution, the Staff Report by Planner Lister for the January 13, 2016, Planning Commission Hearing recommended approval and addressed the neighbor's complaints, finding that:

1. "The Resulting Adjustment is a negligible change to a property line shared by the project applicants and does not change the property line shared by concerned neighbor Sandra Khan." (See Staff Report for January 13, 2016 attached hereto as Exhibit "B")
2. "The side yard setback of ten feet at these locations will not substantially limit future development of the vacant 27,617 square foot property". (Supra Page 2)
3. "The lot line adjustment is very minor and does not significantly change where development would likely be located on the property". (Supra Page 2) (referring to **not yet proposed** development on the vacant parcel).
4. "The lot will be slightly narrower, but this will not affect the ability of the site to be developed". (Supra Page 2).

Mr. Lister's testimony at the hearing was consistent with his findings where he stated "the proposal is minor in nature, the whole property is sloped what is proposed does not affect future site development". (See hearing video, Lister report to the Planning Commission on January 13, 2016).

Because the Planning Commission received several letters from the complaining neighbor's attorney they began their consideration biased. The following are comments by the Commissioners during the hearing that demonstrate bias:

1. Commissioner Getzelman: "My concern is that we are opening up the door to accommodate bad behavior",

2. Commissioner Hert: "I agree with Getzelman and am likely not to vote for it for that reason",

3. Commissioner Padilla: "I cannot approve this because it will open up the doors to other people to go on other people's property and go to court, cannot support staff's recommendation",

4. Commissioner Getzelman: "Have problems approving. Need to be consistent, slapped someone else for doing the same thing, we need to set boundaries to not make this kind of behavior in the future",

5. Commissioner Rochester: "I wouldn't support this on my best day",

6. Commissioner Mendez: "As much as I dislike what this individual did, whether he has any morals..." (See hearing video, comments by the Planning Commission on January 13, 2016).

California Government Code § 66412 limits what can be considered in a lot line adjustment, those factors are:

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 conform to the County's General Plan, any applicable specific plan, and applicable coastal plan, and zoning and building ordinances.

Ms. Kemp provided letters and oral testimony (along with her clients) that incorrectly portrayed the applicant as being a "blatant code violator". Ms. Kemp represented as true several false allegations against the applicant despite evidence being presented that the applicant had received permits for the improvements that caused the necessity of the lot line adjustment. Because of this the Planning Commission was both misled and biased. Despite a Staff Report that demonstrated that the three factors for approval had been met and County Counsel advising the Commission that "right or wrong is not the standard" the Planning Commission directed Staff to return with findings of denial completely contrary to what staff had previously determined. The even more unfortunate part of this is that almost all of the bad behavior the applicant is accused of is completely false. Evidence was submitted that refutes almost all of the allegations (none of which should have been considered by the Commission).

Based on the foregoing evidence, the applicants did not receive a fair or impartial hearing and the application should be reconsidered based on the limited factors which the law permits.

## **II. THE FINDINGS AND DECISION ARE NOT SUPPORTED BY THE EVIDENCE**

Staff properly concluded that this project meets the limited criteria that can legally be considered. This is evidenced by the Staff Report dated October 19, 2015 and the Staff Report prepared for the January 13, 2016, Planning Commission Hearing. After being directed by the Planning Commission to find otherwise staff returned with the following finding:

FINDING 5: "The proposed Lot Line Adjustment is not consistent with Section 66412 of the California Government Code, Title 19, (Subdivision Ordinance) of the Monterey County Code because the following cannot be made: the parcels resulting from the lot line adjustment conform to the County's general plan, any applicable specific plan, any applicable coastal plan and zoning and building ordinances".

The evidence in support of Finding 5 (which is completely contrary to staff's uninfluenced initial findings and evidence) was:

"The lot line adjustment further constrains an already constrained lot. The vacant Friedman property, approximately half acre lot, is constrained by cross slopes ranging from 26 to 37% at the rear and western side of the property. The rear of the property contains slopes over 37% which connects to a natural drainage area. However, a small portion of the Friedman property, in the location of the proposed lot line adjustment, is the only location where slopes are less than 25% which is considered the prime building area on the property for future development because the location minimizes the development on slopes. The result of the lot line adjustment would remove a significant portion of the prime building area and relocate the area onto the Cordan Property; and therefore push future development onto slopes over 25%." The additional "evidence" simply repeats how the foregoing is inconsistent with Monterey County's General Plan and Zoning ordinance because the lot line adjustment area "contains a small portion of the Friedman property...".

Not only is this "evidence" contrary to staff's prior findings and evidence, it is inconsistent with the evidence presented to the Planning Commission. Attached hereto is Exhibit "C" is a document entitled "Proposed Lot Line Adjustment" (hereafter referred to as the "Map"). The Map shows the areas on both the Cordan Lot and Friedman Lot where the adjustments are proposed. The area being exchanged is a total of 421 square feet in two locations. The area depicted in red is what Friedman is giving to Cordan and the area depicted in green is the area Cordan is giving to Friedman. Although no project is currently proposed on the Friedman Property, there are conceptual plans of a building footprint that Friedman provided. This building footprint is depicted on the Map. Although what is proposed on the Friedman Property has no bearing on the limited legal criteria the Planning Commission can consider, this information was provided to the Planning Commission at the hearing. A transparent exhibit was

utilized to move the conceptual Friedman plan to several other locations on the Friedman Property to demonstrate that under no circumstance does the proposed lot line adjustment impact where Friedman *may*, sometime in the future, propose to build his house. The proposed lot line adjustment proposes to exchange 1.5% of a 27,617 square foot lot. If this is not obvious enough from a cursory inspection of the Map, Exhibit "D" attached hereto is confirmation from the applicant's expert that the evidence relied upon by the Planning Commission is absolutely incorrect.

Although not articulated in the Planning Commission Resolution, the impact to the trees on the Friedman Property was also considered by the Commission at the hearings. Evidence was submitted that demonstrates the trees in the vicinity of development are dead or dying (and are not protected by ordinance). (See Exhibit "E", Frank Ono reports.)

The evidence presented which the Planning Commission is allowed to consider supports approval of the lot line adjustment.

### **III. THE PLANNING COMMISSION'S DECISION IS CONTRARY TO LAW**

The Planning Commission has very limited discretion in approval or disapproval of a lot line adjustment. This is governed by California Government Code § 66412 which limits review to:

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 conform to the County's General Plan, any applicable specific plan, and applicable coastal plan, and zoning and building ordinances.

Staff found that the Lot Line Adjustment as proposed met this criteria and recommended approval. Instead of adopting Staff's Recommendation, the Planning Commission heard written and oral testimony that included false allegations of "Blatant code violations", "Mr. Cordan doing everything on his property without permits and without paying" and that if approved the Planning Commission would be "sanctioning bad behavior" (See Kemp testimony from both Planning Commission Hearings). The Planning Commission also considered several graphical exhibits provided by the complaining neighbor's attorney that included slope analysis and trees in an attempt to show that her client would be impacted by future development on the Friedman Property. None of this false information is criteria that the Planning Commission is allowed to consider in this context. California Government Code § 66412 does not enumerate allowed criteria as what "might" happen in the future. The proposal complies with all three criteria of California Government Code § 66412 and the law requires approval. As demonstrated by a

simple inspection of the Map, the Friedman Property is unaffected by the adjustment and because of required set backs what Friedman does in the future will never be closer to the Kahn Property. However, the law does not even allow the Planning Commission to consider any of these complaints. Quoting from San Dieguito Partn. v. City of San Diego, (Cal. App. 4th Dist. 1992) 9 Cal. Rptr. 2d 440, **“Thus, the regulatory function of the approving agency is strictly circumscribed by the Legislature in a lot line adjustment, with very little authority as compared to the agency’s function and authority in connection with a subdivision. In other words, the agency is not to deal with a lot line adjustment in a way similar to the way it deals with a subdivision. Certainly, when the lot line adjustment is within the language of the first sentence, the agency is not authorized to turn down a lot line adjustment approval request on the ground asserted here, that the lot line adjustment is a subdivision.”** This case says that the Planning Commission cannot consider this application like they typically consider other projects. They are “strictly circumscribed by the Legislature”. More importantly, San Dieguito also addressed other factors that **can’t be considered**, “The second point deserving mention is that, just as the statute does not mention such things as the amount of acreage or number of parcels that may be subject to a lot line adjustment and does not contain any mention of the word “minor,” **it also does not carve out any special consideration or contain any provision for “environmentally sensitive” areas which the trial court mentioned twice in its statement of decision. Thus, whether particular land is “environmentally sensitive” plays no role in determining the applicability of the statute. If the trial court factored the “environmentally sensitive” aspect into its decision, it erred**”. (Supra at 761). In San Dieguito both the government agency and the trial court considered environmental factors when denying the lot line adjustment which on appeal were said to “play no role in the determining the applicability of the statute”. In the present case, future proposed development being affected by slope and trees is “environmental sensitivity” and not something that the law allows to be considered. Therefore, the Planning Commission’s decision was contrary to the law and must be reversed.

## ATTACHMENT 7

### I. THE FINDINGS WERE IN ERROR

FINDING 5: “The proposed Lot Line Adjustment is not consistent with Section 66412 of the California Government Code, Title 19, (Subdivision Ordinance) of the Monterey County Code because the following cannot be made: the parcels resulting from the lot line adjustment conform to the County’s general plan, any applicable specific plan, any applicable coastal plan and zoning and building ordinances”. (See Exhibit “F”)

This finding was contrary to the evidence submitted and was reached by considering evidence that the law does not allow to be considered. All of which is discussed in Attachment 6.

### II. CONCLUSION

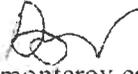
Staff concluded that this project met the criteria of California Government Code § 66412 and recommended approval of the project. Only after the Mrs. Kahn’s attorney, Christine Kemp, portrayed the applicant as a “blatant violator” of the codes and someone that intentionally built on his neighbor’s land did the Planning Commission decide to deny the application. The record reflects that the Commission sought to enforce their moral beliefs and directed staff to go back and somehow rearticulate the evidence to deny the application. The evidence presented demonstrates that Ms. Kemp’s allegations are untrue, this was a mistake and Mr. Cordan has the proper permits for his improvements on the Friedman Property. The decision was biased, contrary to the law, contrary to the evidence and must be reversed.



STAFF REPORT  
Monterey County Administrative Lot Line Adjustment  
Resource Management Agency - Planning  
168 W. Alisal St. 2<sup>nd</sup> Floor, Salinas, CA 93901  
(831) 755-5025; FAX (831) 757-9516

Date: October 19, 2015

To: Alan and Sandra Cordan, Property Owner/Applicant  
Kennard Friedman, Property Owner  
Stephan Beals, Agent

From: Dan Lister, Assistant Planner   
(831) 759-6617, [listerdm@co.monterey.ca.us](mailto:listerdm@co.monterey.ca.us)

cc: Front Counter Copy; Monterey County Regional Fire Department; RMA-Public Works; RMA-Environmental Services; Environmental Health Bureau; Water Resources Agency; Dan Lister, Planner; John Ford, RMA Services Manager; Alan and Sandra Cordan, Property Owner; Kennard Friedman, Property Owner; Stephan Beals, Agent; The Open Monterey Project (Molly Erickson); LandWatch (Amy White); John H. Farrow; Janet Brennan; George Brehmer (Carmel Valley only); Planning File PLN141011

Re: **Cordan/Friedman (PLN141011):** Lot Line Adjustment between two legal lots of record of approximately .63 acres (Lot 3, Assessor's Parcel Number 015-522-010-000) and .66 acres (Lot 4, Assessor's Parcel Number 015-0522-011-000) resulting in an equal exchange of 421 square feet.

Location: Assessor's Parcel Numbers: 015-522-010 and 015-522-011  
24960 and 24950 Outlook Drive, Carmel  
Carmel Valley Master Plan

Staff is recommending approval of the Lot Line Adjustment subject to the findings, evidence and conditions in **Exhibit A**. Please read these carefully and contact the planner if you have any questions. Unless otherwise noted in the conditions, the applicant will be required to satisfy all permit conditions prior to the issuance of a building/grading permits and/or commencement of the approved use.

On November 18, 2015, an administrative decision will be made. A public notice has been distributed for this project. The deadline for submittal of written comments in opposition to the project, its findings, or conditions, based on a substantive issue, is 5:00 p.m. on Tuesday, November 17, 2015. The permit will be administratively approved the following day, if we do not receive any written comments by the deadline. You will receive a copy of your approved permit in the mail. We will notify you as soon as possible in the event that we receive correspondence in opposition to your project or if the application is referred to a public hearing.

Note: This project will be referred to the Monterey County Planning Commission, if a public hearing is necessary. The decision on this project is appealable to the Board of Supervisors.

Attachments: Exhibit A Resolution

- Recommended Conditions of Approval
- Survey Map

Exhibit B Vicinity Map

This report was reviewed by John Ford, RMA Services Manager 

**EXHIBIT A  
DRAFT RESOLUTION**

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

In the matter of the application of:

**Cordan/Friedman (PLN141011)**

**RESOLUTION NO. \_\_\_\_\_**

Resolution by the Monterey County Director of  
RMA-Planning:

- 1) Finding the project categorically exempt per Section 15305(a) of the CEQA Guidelines; and
- 2) Approving a Lot Line Adjustment between two legal lots of record of approximately .63 acres (Lot 3, Assessor's Parcel Number 015-522-010-000) and .66 acres (Lot 4, Assessor's Parcel Number 015-0522-011-000) resulting in an equal exchange of 421 square feet.

(PLN141011), Cordan/Friedman, 24960 and 24950 Outlook Drive, Carmel, Carmel Valley Master Plan (APN(s): 015-522-010-000 and 015-522-011-000)

**The Cordan/Friedman application (PLN141011) for a Lot Line Adjustment came on for an administrative hearing before the Monterey County Director of RMA-Planning on November 18, 2015. Having considered all the written and documentary evidence, the administrative record, the staff report, and other evidence presented, the Director of RMA-Planning finds and decides as follows:**

**FINDINGS**

1. **FINDING:** **PROJECT DESCRIPTION** – The proposed project is a Lot Line Adjustment between two legal lots of record of approximately .63 acres (Lot 3, Assessor's Parcel Number 015-522-010-000) and .66 acres (Lot 4, Assessor's Parcel Number 015-0522-011-000) resulting in an equal exchange of 421 square feet. The adjustment is to partially clear a related violation (13CE00306).  
**EVIDENCE:** The application, project plans, and related support materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development found in Project File PLN141011.
2. **FINDING:** **CONSISTENCY/SITE SUITABILITY** – The Project, as conditioned, is consistent with applicable plans and policies which designate this area as appropriate for a lot line adjustment. The site is physically suitable for the proposed lot line adjustment.  
**EVIDENCE:** a) The project was reviewed for consistency with the text, policies, and regulations in the:
  - 2010 Monterey County General Plan;
  - Carmel Valley Master Plan
  - Monterey County Zoning Ordinance (Title 21); and

- Monterey County Subdivision Ordinance (Title 19);  
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 project has been reviewed for site suitability by the following departments and agencies: RMA-Planning, Monterey County Regional Fire Protection District, RMA-Public Works, RMA-Environmental Services, Environmental Health Bureau, and Water Resources Agency. There has been no indication from these departments/agencies that the proposed lot line adjustment will create unsuitable parcels. Conditions recommended by RMA-Planning have been incorporated.
- c) The properties are located at 24960 and 24950 Outlook Drive, Carmel Valley (Assessor's Parcel Numbers 015-522-010-000 and 015-522-011-000) Carmel Valley Master Plan. The 2010 Monterey County General Plan, Carmel Valley Master Plan and Monterey County Zoning Ordinance designate each property as "Residential – Low Density, 1 acre per unit". The parcels are zoned with a Building Site Zoning Overlay which indicates the lots were created by a final map, Carmel Views No. 2 Subdivision and cannot be further subdivided. Consistent with Section 21.42.030.F, regulations for the "B-6" designation, the adjustment is of equal exchange between two lots, and does not result in a subdivision. Lot line adjustments of equal exchange do not require a Administrative Permit or Variance. The result of the adjustment will allow development that currently encroaches onto the neighboring property to be reconfigured to conform to policies and standards of the General Plan and Monterey County Code (Title 21).
- d) The lot line adjustment is consistent with LU-1.14 and LU-1.15 of the Monterey County General Plan and regulations of Chapter 19.09, Lot Line Adjustment, in the Monterey County Subdivision Ordinance (Title 19). *See Findings and Evidence No. 6 for the consistency and site suitability determination.*
- e) The project planner conducted a site inspection on June 30, 2015 and verified that the project conforms to the plans listed above.
- f) The project was not referred to the Carmel Valley Land Use Advisory Committee (LUAC) for review. Based on the LUAC Procedure Guidelines adopted by the Monterey County Board of Supervisors, this application did not warrant referral to the LUAC because the project does not require a public hearing and does not create a conflict or have unresolved concerns.
- g) The application, project plans, and related support materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development found in Project File PLN141011.

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:**

The project was reviewed by the RMA-Planning, Monterey County Regional Fire Protection District, RMA-Public Works, RMA-Environmental Services, Environmental Health Bureau, and Water Resources Agency. The respective agencies have determined the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood.

4. **FINDING:**

**VIOLATIONS** - The subject property is not compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of the County's zoning ordinance. The approval of this lot line adjustment will clear violations related to Code Enforcement No. 13CE00306.

**EVIDENCE:**

a) Staff reviewed Monterey County RMA-Planning and RMA-Building Services records and identified that violations exist on subject properties (13CE00306). Assessor's Parcel Number: 015-522-011-000 (Cordan) has development that encroaches on the neighboring property, Assessor's Parcel Number: 015-522-010-000 (Friedman). The owners of each property have agreed to allow a lot line adjustment of equal exchange to resolve this matter. The approval of the lot line adjustment clears the encroachment violation on the Cordan and Friedman properties.

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 lot line adjustments with average slopes of less than 20%.
- b) The lot line adjustment results in an equal exchange of 421 square feet between two approximately half-acre properties.
- c) No adverse environmental effects were identified during staff review of the application.
- d) None of the exceptions under CEQA Guidelines Section 15300.2 apply to this project. The project does not involve a designated historical resource, a hazardous waste site, development located near or within view of a scenic highway, unusual circumstances that would result in a significant effect or development that would result in a cumulative significant impact.

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 conform to the County's general plan, any applicable specific plan, any applicable coastal plan, and zoning and building ordinances.

011-000) resulting in an equal exchange of 421 square feet. The adjustment is to partially clear a related violation (13CE00306). The adjustment allows development that currently encroaches onto the neighboring property to meet required side yard setbacks.

- b) Consistent with LU-1.14 of the 2010 Monterey County General Plan, the adjustment is between two, adjoining, lots that were created by the Carmel View No. 2 Subdivision.
- c) The lot line adjustment will not create a greater number of parcels than originally existed. The adjustment is between two legal lots of record and results in two adjusted lots.
- d) Consistent with LU-1.15 of the 2010 General Plan, the adjustment will allow Lot 4 (Assessor's Parcel Number: 015-522-011-000) to be reconfigured to result in a lot conforming with policies and standards of the General Plan and Monterey County Code (Title 21).
- e) 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 new lot is required per a standard condition of approval.
- f) As noted in preceding Findings and Evidence, staff visited the project site on June 30, 2015, and determined that it is suitable for the proposed use and development. All project-related material is found in Project File PLN141011.

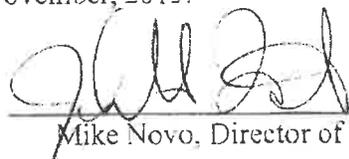
7. **FINDING:** **APPEALABILITY** - The decision on this project may be appealed to the Board of Supervisors.
- EVIDENCE:** Section 19.16.020.A of the Monterey County Zoning Ordinance.

### DECISION

**NOW, THEREFORE**, based on the above findings and evidence, the Director of RMA-Planning does hereby:

- A. Find the project categorically exempt per Section 15305(a) of the CEQA Guidelines; and
- B. Approve a Lot Line Adjustment between two legal lots of record of approximately .63 acres (Lot 3, Assessor's Parcel Number 015-522-010-000) and .66 acres (Lot 4, Assessor's Parcel Number 015-0522-011-000) resulting in an equal exchange. The adjustment is to partially clear a related violation (13CE00306), in general conformance with the attached map and subject to the conditions, both being attached hereto and incorporated herein by reference.

**PASSED AND ADOPTED** this 18th day of November, 2015.

  
\_\_\_\_\_  
Mike Novo, Director of RMA-Planning

COPY OF THIS DECISION MAILED TO APPLICANT ON \_\_\_\_.

THIS APPLICATION IS APPEALABLE TO THE PLANNING COMMISSION.

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE SECRETARY OF THE PLANNING COMMISSION ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE \_\_\_\_.

This decision, if this is the final administrative decision, is subject to judicial review pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6. Any Petition for Writ of Mandate must be filed with the Court no later than the 90th day following the date on which this decision becomes final.

NOTES

1. You will need a building permit and must comply with the Monterey County Building Ordinance in every respect.

Additionally, the Zoning Ordinance provides that no building permit shall be issued, nor any use conducted, otherwise than in accordance with the conditions and terms of the permit granted or until ten days after the mailing of notice of the granting of the permit by the appropriate authority, or after granting of the permit by the Board of Supervisors in the event of appeal.

Do not start any construction or occupy any building until you have obtained the necessary permits and use clearances from Monterey County RMA-Planning and RMA-Building Services Department office in Salinas.

2. This permit expires 2 years after the above date of granting thereof unless construction or use is started within this period.

# Monterey County RMA Planning

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

PLN141011

### 1. PD001 - SPECIFIC USES ONLY

**Responsible Department:** RMA-Planning

**Condition/Mitigation Monitoring Measure:** This permit (PLN141011) allows a Lot Line Adjustment between two legal lots of record of approximately .63 acres (Lot 3, Assessor's Parcel Number 015-522-010-000) and .66 acres (Lot 4, Assessor's Parcel Number 015-0522-011-000) resulting in an equal exchange of 421 square feet. The properties are located at 24960 and 24950 Outlook Drive, Carmel (Assessor's Parcel Numbers 015-522-010-000 & 015-522-011-000), Carmel Valley Master Plan. This permit was approved in accordance with County ordinances and land use regulations subject to the terms and conditions described in the project file. Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of RMA - Planning. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. To the extent that the County has delegated any condition compliance or mitigation monitoring to the Monterey County Water Resources Agency, the Water Resources Agency shall provide all information requested by the County and the County shall bear ultimate responsibility to ensure that conditions and mitigation measures are properly fulfilled. (RMA - Planning)

**Compliance or Monitoring Action to be Performed:** The Owner/Applicant shall adhere to conditions and uses specified in the permit on an ongoing basis unless otherwise stated.

## 2. PD002 - NOTICE PERMIT APPROVAL

**Responsible Department:** RMA-Planning

**Condition/Mitigation Monitoring Measure:** The applicant shall record a Permit Approval Notice. This notice shall state:  
"A Lot Line Adjustment (Resolution Number \*\*\*) was approved by the Director of RMA-Planning for Assessor's Parcel Numbers 015-522-010-000 and 015-522-011-000 on November 18, 2015. The permit was granted subject to five (5) conditions of approval which run with the land. A copy of the permit is on file with Monterey County RMA - Planning."

Prior to or concurrent with the recording to the Certificates of Compliance, the Owner/Applicant shall record the notice at the Monterey County Recorder's Office. (RMA-Planning)

**Compliance or Monitoring Action to be Performed:** Prior to or concurrent with the recording of the Certificates of Compliance, the Owner/Applicant shall provide proof of recordation of this notice to the RMA - Planning.

## 3. PD004 - INDEMNIFICATION AGREEMENT

**Responsible Department:** RMA-Planning

**Condition/Mitigation Monitoring Measure:** The property owner agrees as a condition and in consideration of approval of this discretionary development permit that it will, pursuant to agreement and/or statutory provisions as applicable, including but not limited to Government Code Section 66474.9, defend, indemnify and hold harmless the County of Monterey or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees to attack, set aside, void or annul this approval, which action is brought within the time period provided for under law, including but not limited to, Government Code Section 66499.37, as applicable. The property owner will reimburse the County for any court costs and attorney's fees which the County may be required by a court to pay as a result of such action. The County may, at its sole discretion, participate in the defense of such action; but such participation shall not relieve applicant of his/her/its obligations under this condition. An agreement to this effect shall be recorded upon demand of County Counsel or concurrent with the issuance of building permits, use of property, filing of the final map, recordation of the certificates of compliance whichever occurs first and as applicable. The County shall promptly notify the property owner of any such claim, action or proceeding and the County shall cooperate fully in the defense thereof. If the County fails to promptly notify the property owner of any such claim, action or proceeding or fails to cooperate fully in the defense thereof, the property owner shall not thereafter be responsible to defend, indemnify or hold the County harmless. (RMA - Planning)

**Compliance or Monitoring Action to be Performed:** Upon demand of County Counsel or concurrent with the issuance of building permits, use of the property, recording of the final/parcel map, whichever occurs first and as applicable, the Owner/Applicant shall submit a signed and notarized Indemnification Agreement to the Director of RMA-Planning for review and signature by the County.

Proof of recordation of the Indemnification Agreement, as outlined, shall be submitted to RMA-Planning .

#### 4. PD006(A) - CONDITION COMPLIANCE FEE

**Responsible Department:** RMA-Planning

**Condition/Mitigation Monitoring Measure:** The Owner/Applicant shall pay the Condition Compliance fee, as set forth in the fee schedule adopted by the Board of Supervisors, for the staff time required to satisfy conditions of approval. The fee in effect at the time of payment shall be paid prior to clearing any conditions of approval.

**Compliance or Monitoring Action to be Performed:** Prior to clearance of conditions, the Owner/Applicant shall pay the Condition Compliance fee, as set forth in the fee schedule adopted by the Board of Supervisors.

#### 5. PD045 - COC (LOT LINE ADJUSTMENTS)

**Responsible Department:** RMA-Planning

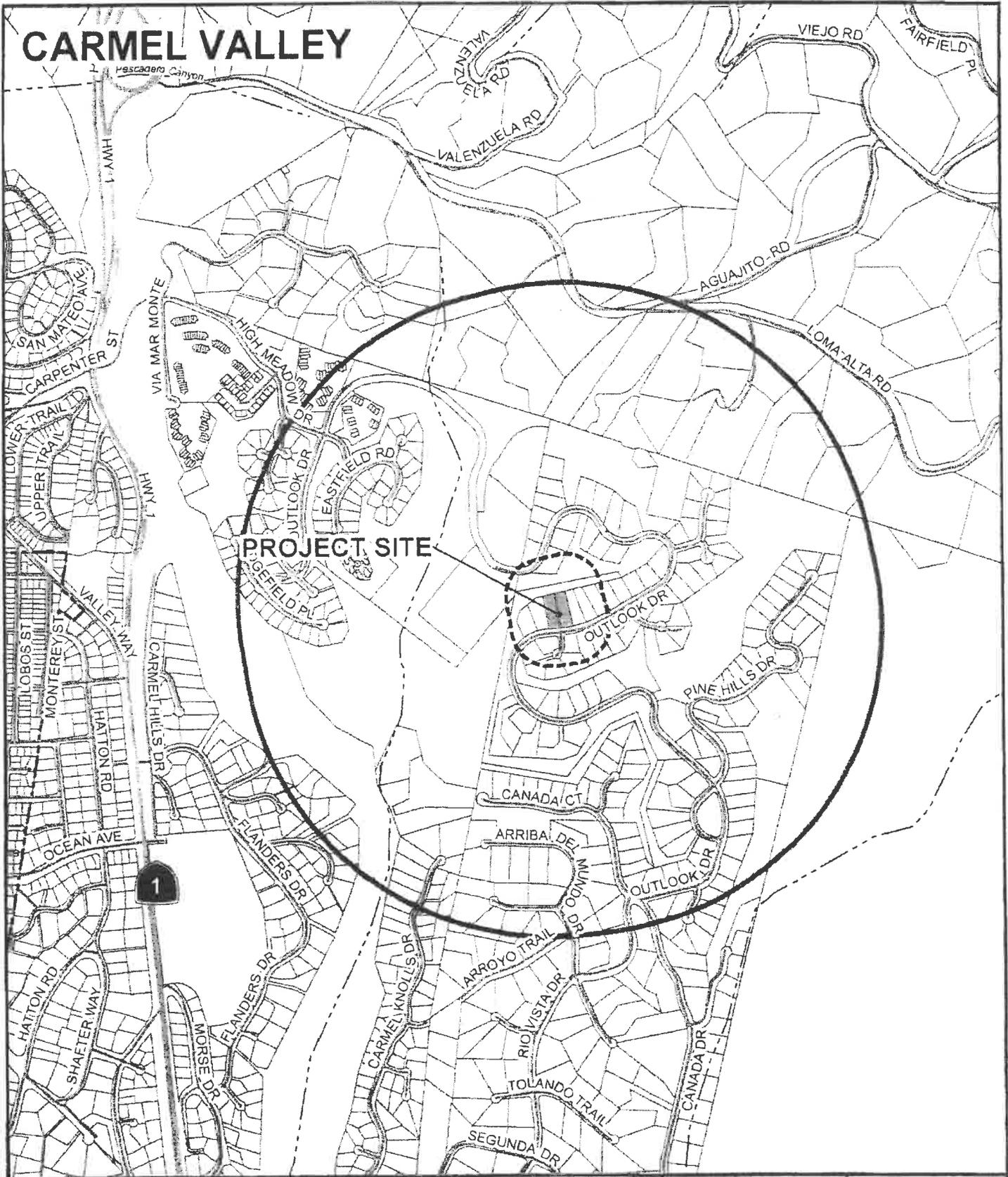
**Condition/Mitigation Monitoring Measure:** The applicant shall request unconditional Certificates of Compliance for the newly configured parcels. (RMA - Planning)

**Compliance or Monitoring Action to be Performed:** Prior to the expiration of the entitlement, the Owner/Applicant/Surveyor shall prepare legal descriptions for each newly configured parcel and submit them to RMA-Planning for review and approval. The legal descriptions shall be entitled "Exhibit A." The legal description shall comply with the Monterey County Recorder's guidelines as to form and content. The Applicant shall submit the legal descriptions with a check, payable to the Monterey County Recorder, for the appropriate fees to record the Certificates of Compliance.

Prior to the expiration of the entitlement and after the Certificates are recorded, the Owner/Applicant shall file a request and pay the fees for separate assessments or combination assessments (for lot mergers) with the Assessor's Office.



# CARMEL VALLEY

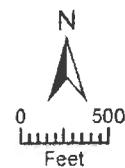


APPLICANT: FRIEDMAN HARRY R & ILSE TRS

APN: 015-522-010, 011

FILE # PLN141011

Project Site
  300' Limit
  2500' Limit
  City Limits
  Water



## MONTEREY COUNTY PLANNING COMMISSION

<b>Meeting:</b> January 13, 2016	<b>Agenda Item No.:</b>
<b>Project Description:</b> Lot Line Adjustment between two legal lots of record of approximately 0.63 acres (Lot 3, Assessor's Parcel Number 015-522-010-000) and 0.66 acres (Lot 4, Assessor's Parcel Number 015-0522-011-000) resulting in an equal exchange of 421 square feet.	
<b>Project Location:</b> 24960 and 24950 Outlook Drive, Carmel	<b>APN(s):</b> 015-522-010-000 and 015-522-011-000
<b>Planning File Number:</b> PLN141011	<b>Owner:</b> Alan and Sandra Cordan (APN: 015-522-011-000) <b>Owner:</b> Kennard Friedman (APN: 015-522-010-000) <b>Agent:</b> Stephen Beals
<b>Planning Area:</b> Carmel Valley Master Plan	<b>Flagged and staked:</b> No
<b>Zoning Designation:</b> "LDR/B-6-D-S-RAZ" [Low Density Residential with Building Site, Design Control, Site Plan Review and Residential Allocation Zoning Overlays]	
<b>CEQA Action:</b> Categorically Exempt per Section 15305(a) of the CEQA Guidelines	
<b>Department:</b> RMA-Planning	

### RECOMMENDATION:

Staff recommends that the Planning Commission adopt a resolution (**Exhibit A**) to:

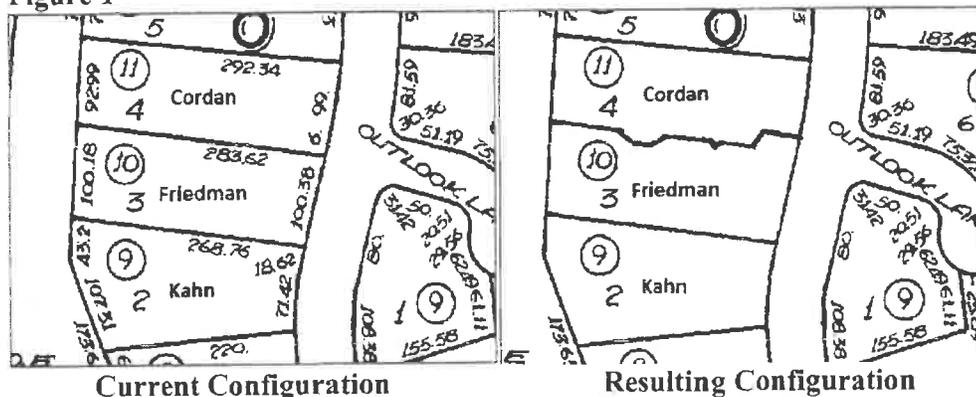
- 1) Find the project Categorically Exempt per Section 15305(a) of the CEQA Guidelines; and
- 2) Approve the Lot Line Adjustment (PLN141011) based on the findings and evidence and subject to the conditions of approval (**Exhibit A**).

### PROJECT SUMMARY:

Pursuant to Section 19.09.005.H of the Monterey County Subdivision Ordinance (Title 19), the Planning Commission is the appropriate authority to decide on Lot Line Adjustments for which a public hearing is requested due to evidence of public controversy or public opinion. On November 17, 2015, RMA-Planning received a letter from Christine Kemp, representing neighbor Sandra Kahn, concerned that the result of the proposed lot line adjustment will cause future development to be sited near her client's property (**Exhibit C**). Mrs. Kahn lives at 24970 Outlook Drive, Carmel (APN: 015-522-009-000), adjacent to the Friedman property which is currently vacant.

As shown in Figure 1 below, the proposed lot line adjustment between the Friedman and Cordan property will result in an equal exchange of approximately 421 square feet. The adjustment was agreed upon by each owner to rectify a code violation regarding structures, a portion of a deck, patio and retaining wall, encroaching onto the Friedman property. The resulting adjustment will remove violations on the Friedman property and allow the Cordans to work on resolving structural violations on their property. The adjustment allows the encroaching structures to meet required setbacks by creating an irregularly shaped property line (see Survey Map, **Exhibit B**).

Figure 1



The main concern addressed in Ms. Kemp's letter is that the survey map does not show site topography of the Friedman property; and therefore, does not show areas with slopes and other site constraints that may limit development on the property. The vacant property is forested and contains slopes over 25% on a relatively small parcel. If the lot line adjustment is approved, the irregular property line may push future development on the Friedman property closer to Mrs. Kahn's property.

The resulting adjustment is a negligible change to a property line shared by the project applicants and does not change the property line shared by concerned neighbor, Sandra Khan. The resulting adjustment creates two "bumps" along the Friedman/Cordan property line that include a 390 square foot area to accommodate a deck and retaining wall currently encroaching onto the Friedman property (approximately 7.8 feet wide) and a 31 square foot area to accommodate for a portion for decking currently encroaching into the Friedman property (approximately 2.5 feet wide). The side yard setback of ten feet at these locations will not substantially limit future development of the vacant 27,617 square foot property. The ten foot side yard setback along Mrs. Kahn's property line is not affected by the adjustment. No development is currently proposed on the vacant property, but all future development shall be consistent with the 2010 Monterey County General Plan, Carmel Valley Master Plan and Monterey County Zoning Ordinance. Future development must be consistent with all site development standards in the Low Density Residential Chapter of the Zoning Ordinance which include setbacks, structural height, and building coverage.

The normal minimum lot size for the Low Density Residential (LDR) District is one acre; in this case the site has a "B-6" Building Site Overlay so the minimum lot size is as shown on the final map. The minor change to the property line resulting in the equal exchange between the two properties is consistent with the "B-6" provisions. The issue at hand is whether the modification to the property line would compromise the ability to develop on this lot without a variance or without adversely affecting protected natural resources.

The neighbor has presented that there are constraints on the property including topography and trees which may affect the ability of the property to be developed. The lot line adjustment is very minor and does not significantly change where development would likely be located on the property. The existing lot is approximately 100 feet wide and is constrained by a cross slope and trees in the likely building site. The lot line adjustment will not significantly affect this. The lot will be slightly narrower, but this will not affect the ability of the site to be developed.



Exhibit C Letter from Christine Kemp, representing neighbor Susan Kahn,  
dated November 17, 2015.

This report was reviewed by John Ford, RMA-Service Manager.

**EXHIBIT A  
DRAFT RESOLUTION**

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

In the matter of the application of:

**Cordan/Friedman (PLN141011)**

**RESOLUTION NO. \_\_\_\_\_**

Resolution by the Monterey County Planning  
Commission:

- 1) Finding the project Categorically Exempt per Section 15305(a) of the CEQA Guidelines; and
- 2) Lot Line Adjustment between two legal lots of record of approximately 0.63 acres (Lot 3, Assessor's Parcel Number 015-522-010-000) and 0.66 acres (Lot 4, Assessor's Parcel Number 015-0522-011-000) resulting in an equal exchange of 421 square feet.

[PLN141011, Cordan/Friedman, 24960 and 24950 Outlook Drive, Carmel, Carmel Valley Master Plan (APN: 015-522-010-000 and 015-522-011-000)]

**The Cordan/Friedman application (PLN141011) came on for public hearing before the Monterey County Planning Commission on January 13, 2016. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Planning Commission finds and decides as follows:**

**FINDINGS**

1. **FINDING:** **PROJECT DESCRIPTION** – The proposed project is a Lot Line Adjustment between two legal lots of record of approximately .63 acres (Lot 3, Assessor's Parcel Number 015-522-010-000) and .66 acres (Lot 4, Assessor's Parcel Number 015-0522-011-000) resulting in an equal exchange of 421 square feet.  
**EVIDENCE:** The application, project plans, and related support materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development found in Project File PLN141011.
2. **FINDING:** **CONSISTENCY/SITE SUITABILITY** – The Project, as conditioned, is consistent with applicable plans and policies which designate this area as appropriate for a lot line adjustment. The site is physically suitable for the proposed lot line adjustment.  
**EVIDENCE:** a) The project was reviewed for consistency with the text, policies, and regulations in the:
  - 2010 Monterey County General Plan;
  - Carmel Valley Master Plan
  - Monterey County Zoning Ordinance (Title 21); and

- Monterey County Subdivision Ordinance (Title 19);

On November 17, 2015, RMA-Planning received a letter from Christine Kemp, representing neighbor Sandra Kahn, requesting a public hearing pursuant to Section 19.09.005.H of the Monterey County Subdivision Ordinance (Title 19) which states that the Planning Commission is the appropriate authority to decide on Lot Line Adjustments for which a public hearing is requested due to evidence of public controversy or public opinion. The letter addresses concerns with future development potentially being located along Mrs. Kahn's property due to the proposed lot line adjustment. The survey map for the adjustment does not show the site topography of the Friedman property; and therefore, does not show site constraints that limits development on the property. The vacant property is forested and contains slopes over 25% on a relatively small parcel. The irregular property line may further limit future development to be located closer to Mrs. Kahn's property. The project was duly noticed and heard by the Planning Commission on January 13, 2016. The preceding findings and evidence below provide information showing that the lot line adjustment is consistent with the policies and regulations listed above.

- b) The project has been reviewed for site suitability by the following departments and agencies: RMA-Planning, Monterey County Regional Fire Protection District, RMA-Public Works, RMA-Environmental Services, Environmental Health Bureau, and Water Resources Agency. There has been no indication from these departments/agencies that the proposed lot line adjustment will create unsuitable parcels. Conditions recommended by RMA-Planning have been incorporated.
- c) The properties are located at 24960 and 24950 Outlook Drive, Carmel Valley (Assessor's Parcel Numbers 015-522-010-000 and 015-522-011-000) Carmel Valley Master Plan. The 2010 Monterey County General Plan, Carmel Valley Master Plan and Monterey County Zoning Ordinance designate each property as "Residential - Low Density, 1 acre per unit". The parcels are zoned with a Building Site Zoning Overlay which indicates the lots were created by a final map, Carmel Views No. 2 Subdivision and cannot be further subdivided. Consistent with Section 21.42.030.F, regulations for the "B-6" designation, the adjustment is of equal exchange between two lots, and does not result in a subdivision. Lot line adjustments of equal exchange do not require an Administrative Permit or Variance. Therefore, the lot line adjustment is consistent with the Building Site Zoning Overlay regulations.
- d) The lot line adjustment is consistent with LU-1.14 and LU-1.15 of the Monterey County General Plan and regulations of Chapter 19.09, Lot Line Adjustment, in the Monterey County Subdivision Ordinance (Title 19). *See Findings and Evidence No. 6 for the consistency and site suitability determination.*
- e) The project planner conducted a site inspection on June 30, 2015 and verified that the project conforms to the plans listed above.
- f) The project was not referred to the Carmel Valley Land Use Advisory Committee (LUAC) for review. Based on the LUAC Procedure Guidelines adopted by the Monterey County Board of Supervisors, this application did not warrant referral to the LUAC because the project

does not require a public hearing and does not create a conflict or have unresolved concerns.

- g) The application, project plans, and related support materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development found in Project File PLN141011.

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:** The project was reviewed by the RMA-Planning, Monterey County Regional Fire Protection District, RMA-Public Works, RMA-Environmental Services, Environmental Health Bureau, and Water Resources Agency. The respective agencies have determined the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood.
4. **FINDING:** **VIOLATIONS** - The subject property is not compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of the County's zoning ordinance. The approval of this lot line adjustment will clear violations related to Code Enforcement No. 13CE00306.
- EVIDENCE:** Staff reviewed Monterey County RMA-Planning and RMA-Building Services records and identified that violations exist on subject properties (13CE00306). Assessor's Parcel Number: 015-522-011-000 (Cordan) has structures that encroach onto the neighboring property, Assessor's Parcel Number: 015-522-010-000 (Friedman). The owners of each property have agreed to allow a lot line adjustment of equal exchange to resolve this matter. The approval of the lot line adjustment clears the encroachment violation on the Friedman property and will allow the Cordans to resolve structural violations on their property.
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 lot line adjustments with average slopes of less than 20%.
  - b) The lot line adjustment results in an equal exchange of 421 square feet between two approximately half-acre properties.
  - c) No adverse environmental effects were identified during staff review of the application.
  - d) None of the exceptions under CEQA Guidelines Section 15300.2 apply to this project. The project does not involve a designated historical resource, a hazardous waste site, development located near or within view of a scenic highway, unusual circumstances that would result in a significant effect or development that would result in a cumulative significant impact.

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 conform to the County’s general plan, any applicable specific plan, any applicable coastal plan, and zoning and building ordinances.

- EVIDENCE:**
- a) The lot line adjustment is between two legal lots of record of approximately 0.63 acres (Lot 3, Assessor's Parcel Number 015-522-010-000) and 0.66 acres (Lot 4, Assessor's Parcel Number 015-0522-011-000) resulting in an equal exchange of 421 square feet. The adjustment is to partially clear a related violation (13CE00306). The adjustment allows development that currently encroaches onto the neighboring property to meet required side yard setbacks.
  - b) Consistent with LU-1.14 of the 2010 Monterey County General Plan, the adjustment is between two, adjoining, lots that were created by the Carmel View No. 2 Subdivision.
  - c) The lot line adjustment will not create a greater number of parcels than originally existed. The adjustment is between two legal lots of record and results in two adjusted lots.
  - d) Consistent with LU-1.15 of the 2010 General Plan, the adjustment will allow Lot 4 (Assessor’s Parcel Number: 015-522-011-000) to be reconfigured to result in a lot conforming with policies and standards of the General Plan and Monterey County Code (Title 21).
  - e) The lot line adjustment would not make future development on the Friedman property inconsistent with the 2010 General Plan, Carmel Valley Master Plan or Monterey County Zoning Ordinance (Title 21). The lot line adjustment does not reduce the size of the properties affected. The resulting adjustment will not cause a parcel to be inconsistent with site development standards listed in Chapter 21.14.060 of the Zoning Ordinance (Low Density Residential Zoning District). Pursuant to County GIS, the rear quarter for the property contains slopes over 25% and mature trees are located along the west and north portions of the property which the resulting adjustment does not change. Future development will be sited in consideration of all property constraints and shall be consistent with the 2010 Monterey County General Plan, Carmel Valley Master Plan and Monterey County Zoning Ordinance.
  - f) 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 new lot is required per a standard condition of approval.

7. **FINDING:** **APPEALABILITY** - The decision on this project may be appealed to the Board of Supervisors.

**EVIDENCE:** Section 19.16.020.A of the Monterey County Zoning Ordinance.

**DECISION**

**NOW, THEREFORE**, based on the above findings and evidence, the Planning Commission does hereby:

1. Find project Categorically Exempt per Section 15305(a) of the CEQA Guidelines; and
2. Approve a Lot Line Adjustment between two legal lots of record of approximately 0.63 acres (Lot 3, Assessor's Parcel Number 015-522-010-000) and 0.66 acres (Lot 4, Assessor's Parcel Number 015-0522-011-000) resulting in an equal exchange of 421 square feet, in general conformance with the attached survey map and subject to the attached conditions, all being attached hereto and incorporated herein by reference.

**PASSED AND ADOPTED** this 13th day of January, 2016 upon motion of \_\_\_\_\_, seconded by \_\_\_\_\_, by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
Mike Novo, Secretary

COPY OF THIS DECISION MAILED TO APPLICANT ON \_\_\_\_\_.

THIS APPLICATION IS APPEALABLE TO THE BOARD OF SUPERVISORS.

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE CLERK TO THE BOARD ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE \_\_\_\_\_.

This decision, if this is the final administrative decision, is subject to judicial review pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6. Any Petition for Writ of Mandate must be filed with the Court no later than the 90th day following the date on which this decision becomes final.

**NOTES**

1. You will need a building permit and must comply with the Monterey County Building Ordinance in every respect.

Additionally, the Zoning Ordinance provides that no building permit shall be issued, nor any use conducted, otherwise than in accordance with the conditions and terms of the permit granted or until ten days after the mailing of notice of the granting of the permit by the appropriate authority, or after granting of the permit by the Board of Supervisors in the event of appeal.

Do not start any construction or occupy any building until you have obtained the necessary permits and use clearances from Monterey County RMA-Planning and RMA-Building Services Department office in Salinas.

2. This permit expires 3 years after the above date of granting thereof unless construction or use is started within this period.







# Monterey Bay Engineers, Inc.

## Civil Engineering • Land Surveying

Steve C. Wilson, RCE 25,136 / PLS 5,207  
Brian M. Wilson, PLS 7,771  
Benjamin C. Wilson, RCE 72,928  
Timothy D. Martin, PLS 8,670

607 Charles Ave. Suite B, Seaside, Ca 93955  
Phone (831) 899-7899 Fax (831) 899-7879  
Email : mbayengr@mbay.net  
Website : mbeinc.com

February 11, 2016

Monterey County Board of Supervisors  
168 W. Alisal Street, First Floor  
Salinas, CA 93901

Re: Appeal of Planning Commission finding, PLN141011  
Lot Line Adjustment between Cordan and Friedman  
24950 and 24960 Outlook Drive, Carmel Views No. 2 Subdivision

Dear Sir or Madam:

I am the Professional Land Surveyor and Registered Civil Engineer representing the project applicant. I have been involved as a designer of subdivisions, together with commercial and residential development projects in this county for over 40 years. This application is consistent with the General Plan, Zoning Ordinance, Subdivision Ordinance, and the California Subdivision Map Act. The rationale, findings and decision made by the Planning Commission with this application do not make sense.

The subject application is a result of negotiations and a settlement reached by the two applicants. The areas that are proposed to be exchanged each total 421 square feet, being 1.5 percent of the respective lot areas. A Lot Line Adjustment (LLA) is intended to make property boundaries better fit natural constraints, and to allow corrections to be made that would alleviate problems that often result from construction deviations. When the involved property owners agree on a solution to a problem that would require a LLA, the Subdivision Map Act (SMA) wisely exempts the process from the usual land division requirements and local agency conditions. The SMA Section 66412(d) limits the local agency's review to conformance "*with the local general plan, any applicable specific plan, and applicable coastal plan, and zoning and building ordinances.*" The findings made by the Planning Commission all relate to development on slopes, and the assumed potential for this LLA to restrict development on the Friedman property. None of these findings are consistent with the specific limitations on the approval processes relevant to a LLA as clearly stated in the SMA. In fact, it is wrong and very inappropriate for the county to even consider these factors when the application is for only a LLA.

This application was challenged by an attorney representing a property owner to the west of these properties. **Assuming** that the basis for the Planning Commission's denial has any validity the following discussion is offered. Based on the development plan furnished by Friedman, including the siting of the proposed residence, the implementation of this LLA has no affect on the intended design. This property could potentially support a building coverage of 6,904 square feet within the allowed 10 foot side setbacks. The plan actually proposed by Freidman proposes

a building coverage of 4,100 square feet with 14 and 16 foot side setbacks. The area where the most land is proposed to be given to Cordan does not compromise the "prime building area" as described in the Planning Commission's findings. (If in the opinion of Friedman this were actually part of the "prime building area", he would not have agreed to the exchange). Furthermore, the shape of the proposed house together with any reasonable location within the existing or proposed building envelopes would be entirely unaffected by the proposed LLA. It should also be noted that there is a 20-foot elevation rise from the street to the "prime building area".

This LLA will not affect the rights of Friedman to construct a home on his property in complete accordance with the development standards established by the Zoning Ordinance, and County Code Section 21.64.230 that regulates development on slopes exceeding 30 percent.

I have been involved in many cases where property lines are brought into a dispute between neighbors. In most of these cases, the problems leading to the boundary dispute had nothing to do with the property boundary at all. The person causing this controversy cannot show a nexus between the approval of this application and any potential to affect enjoyment of her property. It is my opinion that the real motivation for the neighbor's objection does not involve this proposed LLA. Unfortunately, a discretionary approval process affords an easy target for vengeance.

I urge the Board of Supervisors to approve this LLA on its merits, and act in accordance with the restrictions on the approval process as provided in SMA Section 66412(d). Lot Line Adjustments are intended to mitigate problems with boundary lines, and this is exactly what is being sought.

Contact me should you have any questions or need for additional information.

Sincerely yours,



Steven C. Wilson  
Civil Engineer & Land Surveyor



**Frank Ono**  
**International Society of Arboriculture**  
**Certified Arborist # 536**  
**Society of American Foresters Professional Member 48004**  
**1213 Miles Avenue**  
**Pacific Grove CA, 93950**  
Telephone (831) 373-7086  
Cellular (831) 594-2291

May 19, 2014

Stephen Beals PLC  
PO Box 2210  
242 Capitol St  
Salinas, CA 93901

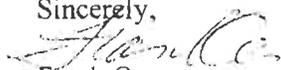
RE: 24960 Outlook Drive, Carmel

Mr. Beals;

You requested I perform a site visit to view a group of Monterey pines located at 24960 Outlook Drive, Carmel CA and render a brief opinion of their health and condition and potential for survivability during development. The trees were evaluated as a stand as no development plans were available for review.

The population of Monterey pines located on the lot are in stressed condition, many of which appear to be infected with Pine Pitch Canker (PPC) as evidenced by branch tip dieback and excessive resinosity in the branch attachments of the trees. Pine Pitch Canker is an incurable fungal disease. This disease attack followed by opportunistic engraver beetles (*Ips*), has thinned and defoliated the crowns of the trees. When combined with construction related events such as root disruption, the trees will attract Red turpentine (*Dendroctonus*) bark beetles which will attack the bases of the trees and interfere with resin and carbohydrate production. The trees are infected drought stressed pines, populated with both red turpentine bark beetles and engraver beetles. It is highly unlikely the trees will survive construction. Thank you very much and please feel free to call if there are any questions or if I can be of further assistance.

Sincerely,



Frank Ono  
Certified Arborist # 536  
Society of American Foresters Member #48004

FO

Enclosures

29460 Outlook Drive  
May 19, 2014

1

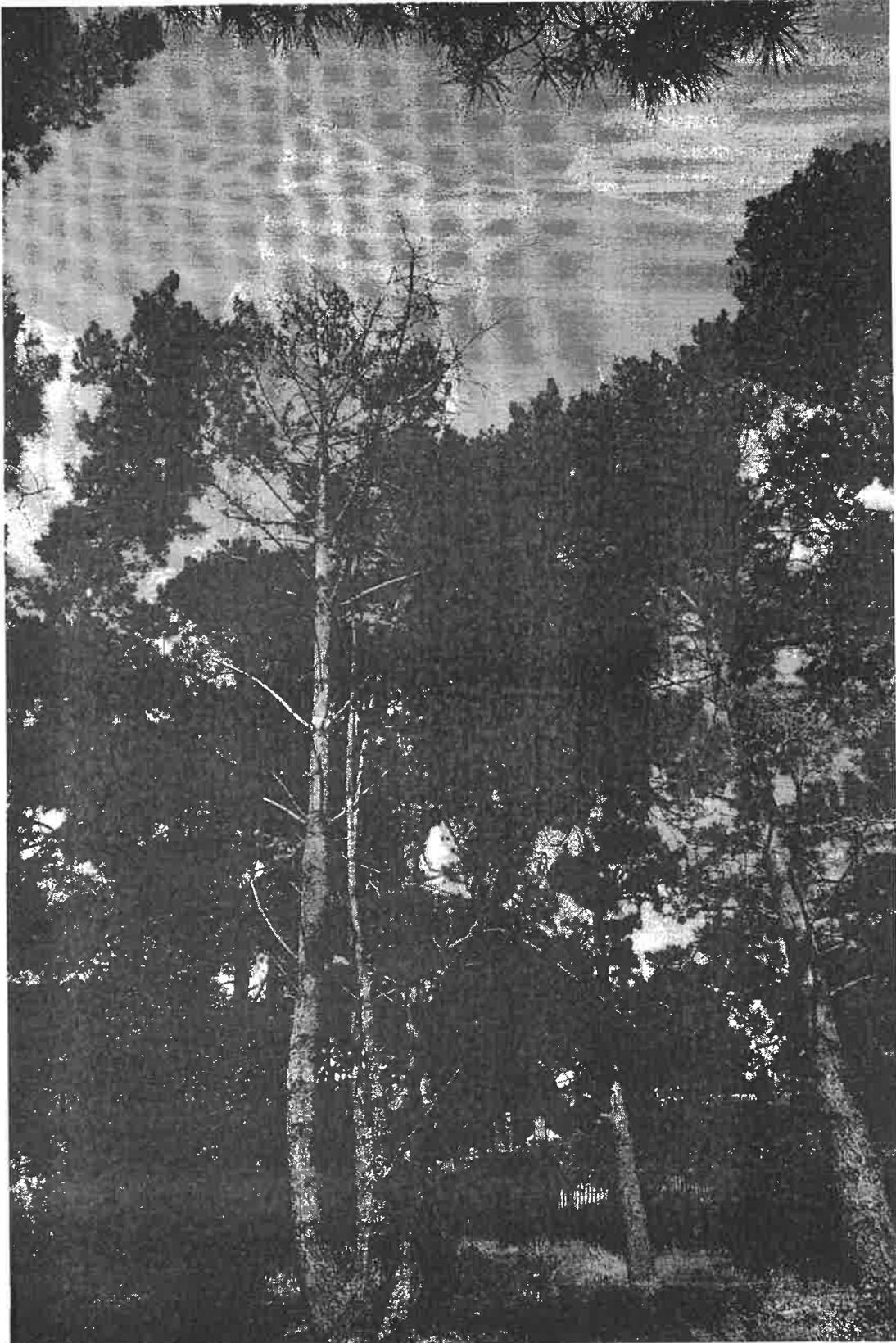
**PHOTOGRAPHS**

Stand of subject trees



Thinning crown due to Pine Pitch Canker and Ips beetles

29460 Outlook Drive  
May 19, 2014



Severely stressed pine

29460 Outlook Drive  
May 19, 2014



Heavy resinosity due to Pine Pitch Canker

29460 Outlook Drive  
May 19, 2014

**Frank Ono**  
**International Society of Arboriculture**  
**Certified Arborist # 536**  
**Society of American Foresters Professional Member 48004**  
**1213 Miles Avenue**  
**Pacific Grove CA, 93950**  
Telephone (831) 373-7086  
Cellular (831) 594-2291

February 10, 2016

Stephen J. Beals, Esq.  
1754 Technology Drive, Suite 135  
San Jose, CA 95110

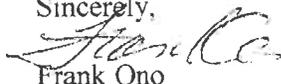
RE: 24960 Outlook Drive, Carmel

Mr. Beals;

You requested I re-visit 24960 Outlook Drive, Carmel CA and render a brief opinion of their health and condition. The trees were originally evaluated in a letter stating my opinion prepared dated May 19, 2014.

In viewing the lot, the population of Monterey pines observed are in the same stressed condition as when I first observed the site; many of which appear to be infected with Pine Pitch Canker (PPC) as evidenced by branch tip dieback and excessive resinosity in the branch attachments of the trees. The down slope trees have been topped and are growing with bleeding branches and poor attachments. All are infected and stressed pines, populated with both red turpentine bark beetles and engraver beetles. It appears several have died and most notably one large tree along the edge of the stand has failed. As the weather warms and insect activity increases, further defoliation of tree crowns is expected. Thank you very much and please feel free to call if there are any questions or if I can be of further assistance.

Sincerely,



Frank Ono  
Certified Arborist # 536  
Society of American Foresters # 048004

FO

Attachments

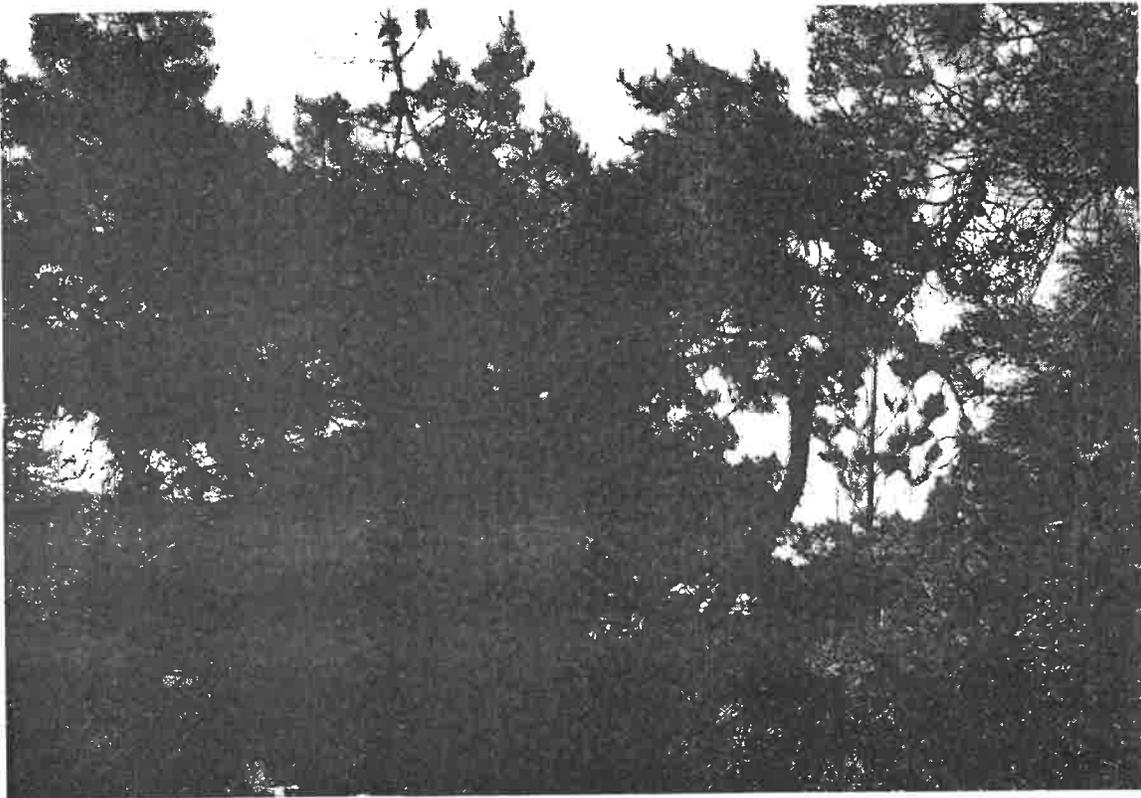
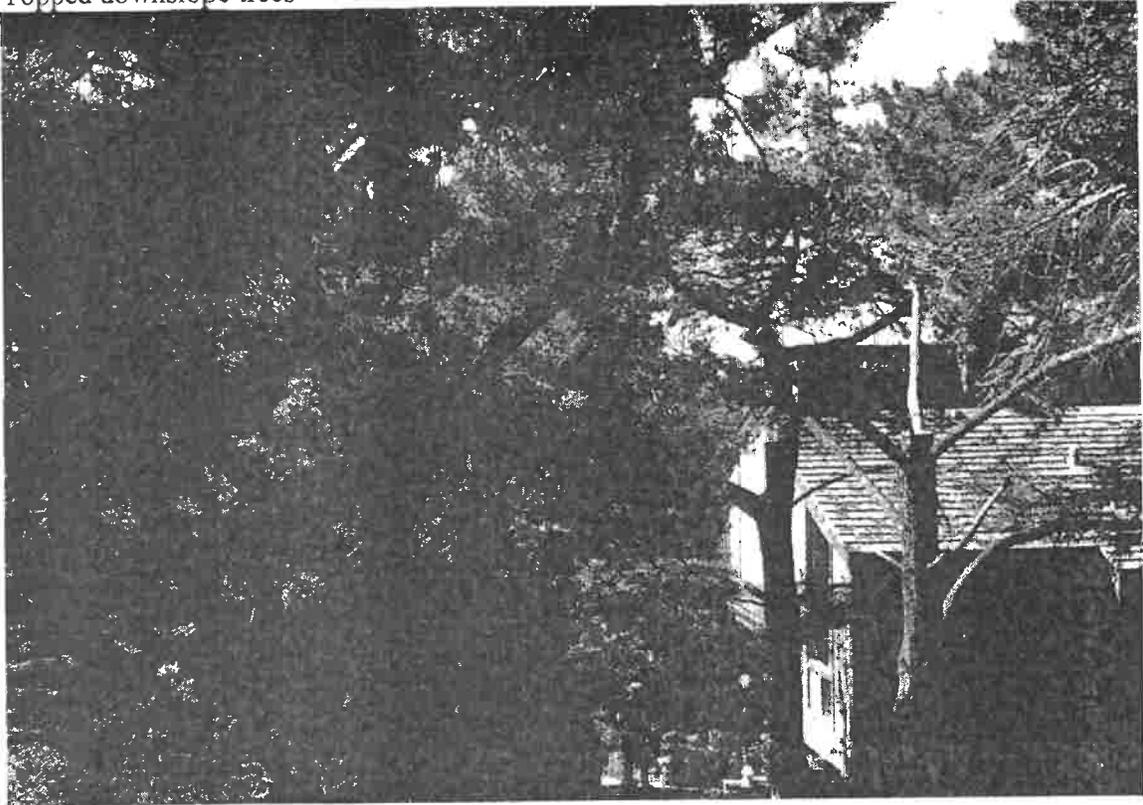
**PHOTOGRAPHS**

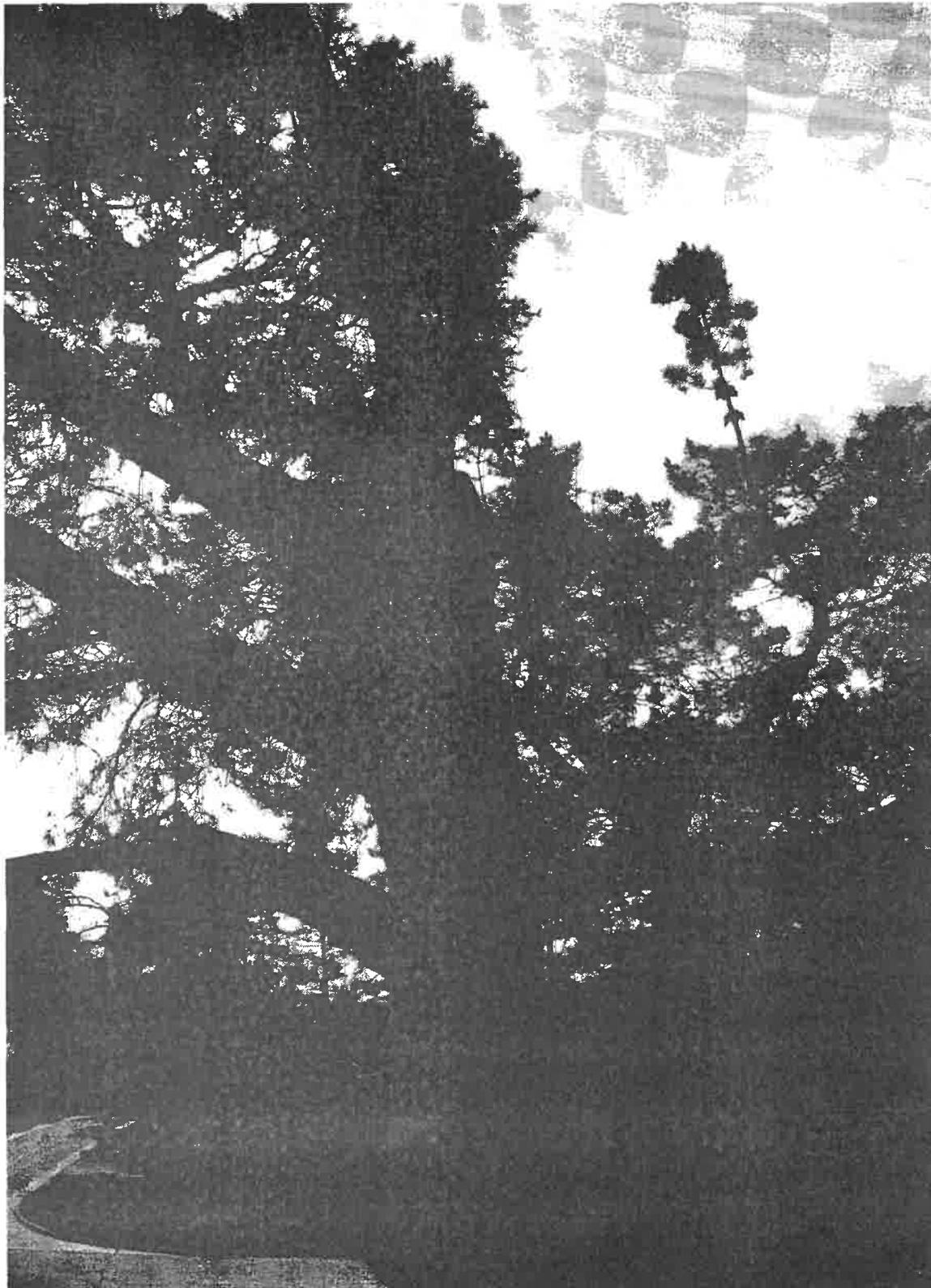
Upslope trees are in poor condition



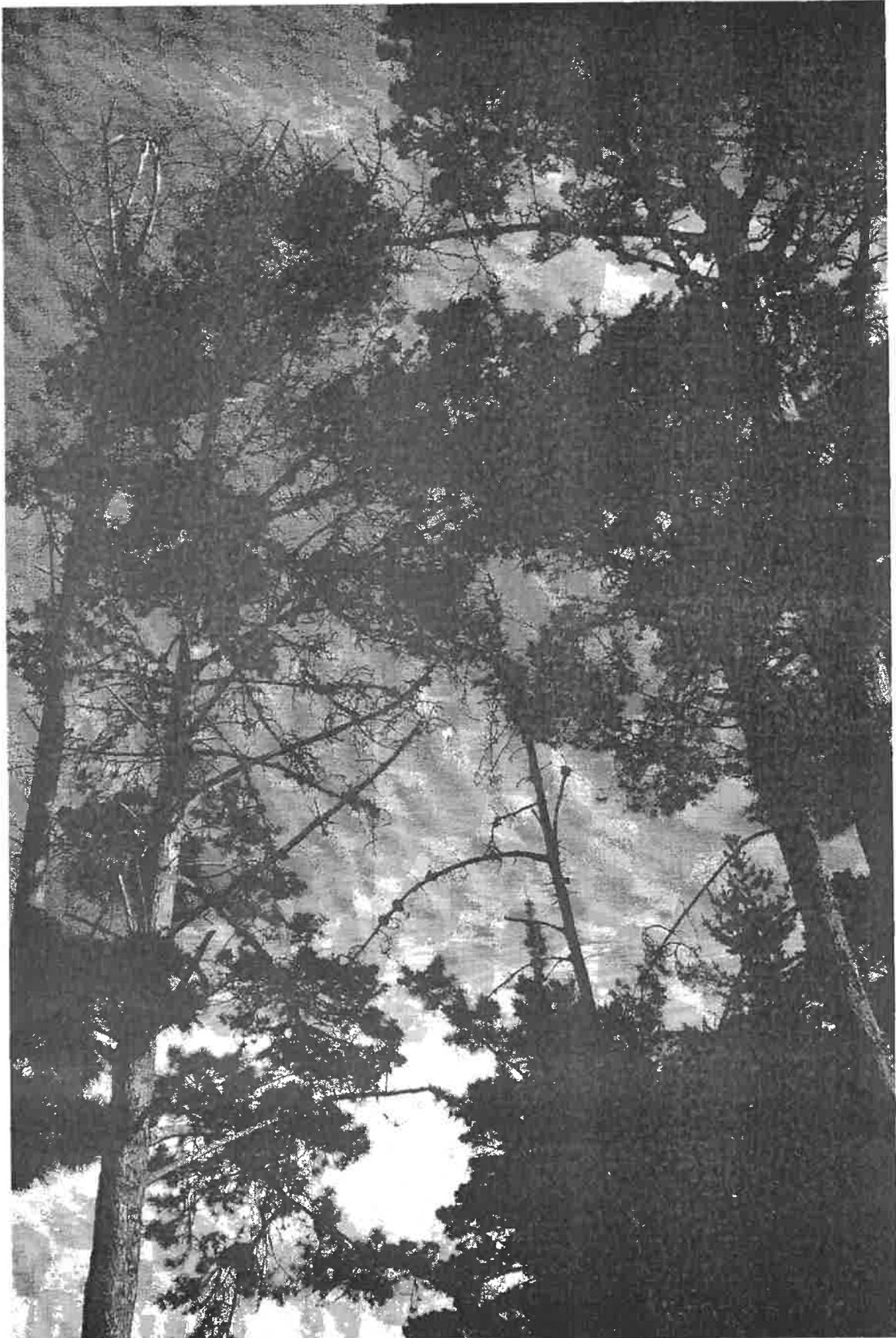
Down slope trees are topped with poor branch attachments

Topped downslope trees





Downslope trees



Upslope Trees

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

In the matter of the application of:

**Cordan/Friedman (PLN141011)**

**RESOLUTION NO. 16-005**

Resolution by the Monterey County Planning  
Commission:

- 1) Finding the project Statutory Exempt per Section 15270 of the CEQA Guidelines; and
- 2) Denying Lot Line Adjustment between two legal lots of record of approximately 0.63 acres (Lot 3, Assessor's Parcel Number 015-522-010-000) and 0.66 acres (Lot 4, Assessor's Parcel Number 015-0522-011-000) resulting in an equal exchange of 421 square feet.

[PLN141011, Cordan/Friedman, 24960 and 24950  
Outlook Drive, Carmel, Carmel Valley Master Plan  
(APN: 015-522-010-000 and 015-522-011-000)]

**The Cordan/Friedman application (PLN141011) came on for public hearing before the Monterey County Planning Commission on January 13, 2016 and January 27, 2016. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Planning Commission finds and decides as follows:**

**FINDINGS**

1.       **FINDING:**       **PROJECT DESCRIPTION** – The proposed project is a Lot Line Adjustment between two legal lots of record of approximately .63 acres (Lot 3, Assessor's Parcel Number 015-522-010-000) and .66 acres (Lot 4, Assessor's Parcel Number 015-0522-011-000) resulting in an equal exchange of 421 square feet.  
  
          **EVIDENCE:**       The application, project plans, and related support materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development found in Project File PLN141011.
  
2.       **FINDING:**       **INCONSISTENCY** – The Project, as conditioned, is inconsistent with the 2010 Monterey County General Plan, Monterey County Zoning Ordinance (Title 21) and Monterey County Subdivision Ordinance (Title 19).  
  
          **EVIDENCE:**    a) The project was reviewed for consistency with the text, policies, and regulations in the:
  - 2010 Monterey County General Plan;
  - Carmel Valley Master Plan
  - Monterey County Zoning Ordinance (Title 21); and
  - Monterey County Subdivision Ordinance (Title 19);  
                          b) On November 17, 2015, RMA-Planning received a letter from Christine Kemp, representing neighbor Sandra Kahn, requesting a public hearing

pursuant to Section 19.09.005.H of the Monterey County Subdivision Ordinance (Title 19) which states that the Planning Commission is the appropriate authority to decide on Lot Line Adjustments for which a public hearing is requested due to evidence of public controversy or public opinion. The letter addresses concerns with future development potentially being located along Mrs. Kahn's property due to the proposed lot line adjustment. The survey map for the adjustment does not show the site topography of the Friedman property; and therefore, does not show site constraints that limits development on the property. The vacant property is forested and contains slopes over 25% on a relatively small parcel. The irregular property line may further limit future development to be located closer to Mrs. Kahn's property. On January 5, 2016, an additional letter was received from Christine Kemp regarding the code violations on the Cordan's property that have encroached onto the Friedman property and that the lot line adjustment should be denied and removed instead of being allowed to remain. The project was duly noticed and heard by the Planning Commission on January 13, 2016.

- c) On January 13, 2016, the Planning Commission, after considering information from staff, the applicant's representative and appellants, directed staff to return on January 27, 2016 with a resolution to deny the lot line adjustment due to the adjustment being inconsistent with the 2010 Monterey County General Plan and Monterey County Zoning Ordinance (Title 21).
- d) The lot line adjustment is inconsistent with the General Plan and Zoning Ordinance. *See Findings and Evidence No. 5 for the consistency and site suitability determination.*
- e) The project was not referred to the Carmel Valley Land Use Advisory Committee (LUAC) for review. Based on the LUAC Procedure Guidelines adopted by the Monterey County Board of Supervisors, this application did not warrant referral to the LUAC because a minor lot line adjustment does not required a public hearing. The Planning Commission did not require the lot line adjustment to be referred to the LUAC.
- f) The application, project plans, and related support materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development found in Project File PLN141011.

3. **FINDING:**

**VIOLATIONS** - The subject property is not compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of the County's zoning ordinance.

**EVIDENCE:**

Staff reviewed Monterey County RMA-Planning and RMA-Building Services records and identified that violations exist on subject properties (13CE00306). Assessor's Parcel Number: 015-522-011-000 (Cordan) has structures that encroach onto the neighboring property, Assessor's Parcel Number: 015-522-010-000 (Friedman), as well as other unpermitted development on the Cordan property. The owners of each property have agreed, through a settlement agreement, to allow a lot line adjustment of equal exchange to resolve this matter. Also recognized in the settlement agreement, the denial of the lot line adjustment will

require all violations that encroach onto the Friedman property to be removed.

4. **FINDING:** **CEQA (Exempt):** - The project is statutory exempt from environmental review.
- EVIDENCE:**
- a) California Environmental Quality Act (CEQA) Guidelines Section 15270 statutorily exempts the projects that are disapproved.
  - b) On January 27, 2016, the project was denied by the Planning Commission at a duly noticed public hearing.
5. **FINDING:** **LOT LINE ADJUSTMENT** - The proposed Lot Line Adjustment is not consistent with Section 66412 of the California Government Code (Subdivision Map Act) Title 19 (Subdivision Ordinance) of the Monterey County Code because the following finding cannot be made:
- The parcels resulting from the lot line adjustment conform to the County's general plan, any applicable specific plan, any applicable coastal plan, and zoning and building ordinances.
- EVIDENCE:**
- a) The lot line adjustment is between two legal lots of record of approximately 0.63 acres (Lot 3, Assessor's Parcel Number 015-522-010-000) and 0.66 acres (Lot 4, Assessor's Parcel Number 015-0522-011-000) resulting in an equal exchange of 421 square feet. The adjustment is to partially clear a related violation (13CE00306). The adjustment allows development that currently encroaches onto the neighboring property to meet required side yard setbacks.
  - b) The lot line adjustment further constrains an already constrained lot. The vacant Friedman property, approximately half acre lot, is constrained by cross slopes ranging from 26 to 37% at the rear and western side of the property. The rear of the property contains slopes over 37% which connects to a natural drainage area. However, a small portion of the Friedman property, in the location of the proposed lot line adjustment, is the only location where slopes are less than 25% which is considered the prime building area on the property for future development because the location minimizes development on slopes. The result of the lot line adjustment would remove a significant portion of the prime building area and relocate the area onto the Cordan property; and therefore push future development onto slopes over 25%.
  - c) The lot line adjustment is inconsistent with the 2010 Monterey County General Plan. Policy OS-3.5 of the General Plan and Chapter 21.64.230, Monterey County Zoning Ordinance prohibits development on slopes over 25% unless there is no feasible alternative and/or the development better meets all General Plan policies. A small portion of the Friedman property, in the location of the proposed lot line adjustment, is the only location where slopes are less than 25% which is considered the prime building area on the property for future development. The result of the lot line adjustment would remove a significant portion of the prime building area and relocate the area onto the Cordan property. Therefore, the adjustment removes a feasible location where future development may be sited which would minimize slope impacts.
  - d) The lot line adjustment is inconsistent with the Monterey County

Zoning Ordinance (Title 21). Chapter 21.64.230, Monterey County Zoning Ordinance, in compliance with Policy OS-3.5 of the Monterey County General Plan, prohibits development on slopes over 25% unless there is no feasible alternative and/or the development better meets all General Plan policies. A small portion of the Friedman property, in the location of the proposed lot line adjustment, is the only location where slopes are less than 25% which is considered the prime building area on the property for future development. The result of the lot line adjustment would remove a significant portion of the prime building area and relocate the area onto the Cordan property. Therefore, the adjustment removes a feasible location where future development may be sited which would minimize slope impacts.

6. **FINDING:** **APPEALABILITY** - The decision on this project may be appealed to the Board of Supervisors.  
**EVIDENCE:** Section 19.16.020.A of the Monterey County Zoning Ordinance.

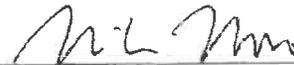
**DECISION**

**NOW, THEREFORE**, based on the above findings and evidence, the Planning Commission does hereby:

1. Find the project Statutorily Exempt per Section 15270 of the CEQA Guidelines; and
2. Deny a Lot Line Adjustment between two legal lots of record of approximately 0.63 acres (Lot 3, Assessor's Parcel Number 015-522-010-000) and 0.66 acres (Lot 4, Assessor's Parcel Number 015-0522-011-000) resulting in an equal exchange of 421 square feet.

**PASSED AND ADOPTED** this 27th day of January, 2016 upon motion of Commissioner Roberts, seconded by Commissioner Hert, by the following vote:

**AYES:** Ambriz, Diehl, Duflock, Getzelman, Hert, Mendez, Padilla, Roberts, Rochester, Vandevere  
**NOES:** None  
**ABSENT:** None  
**ABSTAIN:** None



Mike Novo, Secretary

COPY OF THIS DECISION MAILED TO APPLICANT ON FEB 02 2016

THIS APPLICATION IS APPEALABLE TO THE BOARD OF SUPERVISORS.

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE CLERK TO THE BOARD ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE FEB 12 2016

This decision, if this is the final administrative decision, is subject to judicial review pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6. Any Petition for Writ of Mandate must be filed with the Court no later than the 90th day following the date on which this decision becomes final.

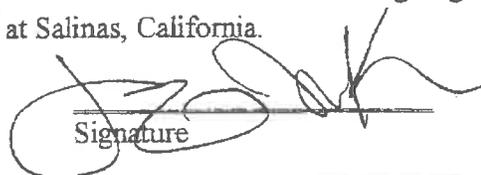
**PROOF OF SERVICE**

I am employed in the County of Monterey, State of California. I am over the age of 18 years and not a party to the within action. My business address is 168 W. Alisal Street, 2<sup>nd</sup> Floor, Salinas, California.

On *February 2, 2016* I served a true copy of the following document:  
***Resolution for PLN141011 Resolution Number 16-005***  
on the interested parties to said action by the following means:

- (BY HAND-DELIVERY) By causing a true copy thereof, enclosed in a sealed envelope, to be hand-delivered.
  
- (BY MAIL) By placing a true copy thereof, enclosed in a sealed envelope, for collection and mailing on that date following ordinary business practices, in the United States Mail at the Resource Management Agency Planning Department, 168 W. Alisal Street, 2<sup>nd</sup> Floor, Salinas, California, addressed as shown below. I am readily familiar with this business's practice for collection and processing of correspondence for mailing with the United States Postal Service, and in the ordinary course of business, correspondence would be deposited with the United States Postal Service the same day it was placed for collection and processing.
  
- (BY OVERNIGHT DELIVERY) By placing a true copy thereof, enclosed in a sealed envelope, with delivery charges to be billed to the Resource Management Agency, Planning Department, to be delivered by Overnight Delivery.
  
- (BY FACSIMILE TRANSMISSION) By transmitting a true copy thereof by facsimile transmission from facsimile number (831) 757-9516 to the interested parties to said action at the facsimile number(s) shown below.
  
- BY ELECTRONIC MAIL (EMAIL) By sending a true copy thereof by electronic mail.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on *Tuesday, Feb. 2, 2016* at Salinas, California.

  
\_\_\_\_\_  
Signature

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(OWNER)  
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