



Monterey County

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Board Report

Legistar File Number: 16-345

March 22, 2016

Introduced: 3/10/2016

Version: 1

Current Status: Agenda Ready

Matter Type: General Agenda Item

Public hearing to:

- a. Consider an appeal by Alan and Sandra Cordan from a decision of the Monterey County Planning Commission denying a Lot Line Adjustment application (Friedman-Cordan/PLN141011) 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 015-522-011-000).
- b. Find the application statutorily exempt from the California Environmental Quality Act; and
- c. Deny the Lot Line Adjustment application (Friedman-Cordan/PLN141011) 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 015-522-011-000).
(Appeal, PLN141011/Friedman-Cordan; 24960 and 24950 Outlook Drive, Carmel, Carmel Valley Master Plan Area)

PROJECT INFORMATION:

Planning File Number: PLN141011

Owners: Kennard Friedman (015-522-010-000); Alan and Sandra Cordan (015-522-011-000)

Project Location: 24960 and 24950 Outlook Drive, Carmel

APN: 015-522-010-000 (Friedman); 015-522-011-000 (Cordan)

Agent: Stephen Beals

Plan Area: Carmel Valley Master Plan

Flagged and Staked: No

CEQA Action: Statutorily Exempt

RECOMMENDATION:

It is recommended that the Board of Supervisors:

Adopt a Resolution (**Attachment B**) to:

1. Deny the appeal by Alan and Sandra Cordan from a decision of the Monterey County Planning Commission denying a Lot Line Adjustment application (Friedman-Cordan/PLN141011) 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 015-522-011-000);
2. Find the application statutorily exempt from the California Environmental Quality Act; and
3. Deny the Lot Line Adjustment application (Friedman-Cordan/PLN141011) the Lot Line Adjustment application (Friedman-Cordan/PLN141011) 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 015-522-011-000).

SUMMARY:

This Lot Line Adjustment application comes to the Board on appeal by Alan and Sandra Cordan from the Planning Commission's denial of a Lot Line Adjustment application between two legal lots of record of approximately 0.63 acres (Friedman) and 0.66 acres (Cordan) resulting in an equal exchange of 421 square feet. The Lot Line Adjustment application would correct a condition Cordan created by constructing structures without permits that currently encroach onto the Friedman property (13CE00306). The application is made pursuant to a private settlement agreement between the applicants (Friedman and Cordan) regarding the illegal encroachment. The settlement agreement does not govern the Board's actions. Under the Subdivision Map Act, the determination to be made by the Board is whether the Lot Line Adjustment is consistent with the General Plan and zoning.

The Notice of Appeal (**Attachment D**) alleges that there was a lack of fair or impartial hearing, the findings and decision are not supported by the evidence, and the decision is contrary to law on the basis that: 1) the decision by the Planning Commission was unfair and solely based on accusations of the Cordans being "blatant code violators"; 2) the Lot Line Adjustment is minor and does not substantially impact future development on the Friedman property and was initially supported by staff; and 3) review of code violations, environmental sensitivity (slopes and trees), and future development of the vacant Friedman lot are beyond the scope of the approving authority regarding Lot Line Adjustments. (See **Attachment A** for a detailed discussion of all contentions).

On January 13, 2016, at a duly noticed public hearing on the application, the Planning Commission heard testimony from the applicant's representative (Stephen Beals) and neighbors (Sandra Kahn, represented by Christine Kemp). Staff recommended that the Planning Commission approve the Lot Line Adjustment based on staff's interpretation of the applicable regulations and information contained in the application. The Planning Commission rejected the staff's recommendation and found the Lot Line Adjustment inconsistent with the General Plan. The property contains cross-slopes with slopes over 25% except a relatively small area where the slopes converge where slopes are less than 25%. The result of the Lot Line Adjustment would be to remove the area on the Friedman property that is not on slope over 25%, resulting in greater likelihood of more development on slopes over 25%, in contravention of General Plan policy to avoid development on slopes over 25% if feasible. On January 13, the Planning Commission adopted a motion of intent to deny the application, directed staff to return 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, and continued the hearing to January 27, 2016. On January 27, the Planning Commission voted 10-0 to deny the Lot Line Adjustment application. (**Attachment E**). The Cordans timely appealed the denial to the Board of Supervisors. The Board's hearing on the application and appeal is de novo.

Whether the Lot Line Adjustment is consistent with the General Plan is a factual determination for the Board of Supervisors. Based on the Planning Commission action, staff recommends denial of the Cordan appeal and denial of the Lot Line Adjustment application (PLN141011) based on finding that the adjustment will remove a critical portion of the developable area on the Friedman property that is not on slope over 25%, resulting in greater likelihood of more development on slopes over 25%, in contravention of General Plan policy to avoid development

on slopes over 25% if feasible. If the Board were to find that the LLA is consistent with the General Plan, then the appropriate action would be to adopt a motion of intent to grant the appeal and application and continue the hearing to a date certain to enable staff to return with a resolution with the findings and evidence to support the Board's determination.

DISCUSSION:

A detailed discussion is provided in **Attachment A**.

OTHER AGENCY INVOLVEMENT:

The project was reviewed by the Environmental Health Bureau, Water Resources Agency, RMA-Public Works, and Cypress Fire Protection District. No comments or conditions were provided by the above agencies.

FINANCING:

Funding for staff time associated with this project has been provided through payment of the Lot Line Adjustment application. Associated appeal fees were paid at the time the Notice of Appeal was submitted (**Attachment D**)

Prepared by: Dan Lister, Assistant Planner, ext. 6617
Approved by: Mike Novo, RMA-Planning Director, ext. 5192
Carl P. Holm, Resource Management Agency Director

This report was reviewed by John Ford, Planning Services Manager.

The following Attachments are on file with the Clerk of the Board:

- Attachment A Discussion
- Attachment B Draft Board Resolution
- Attachment C Vicinity Map
- Attachment D Notice of Appeal (February 12, 2016)
- Attachment E Planning Commission Resolution No. 16-005
- Attachment F Letters and Information submitted by Christine Kemp
- Attachment G Letters and Information submitted by Stephen Beals
- Attachment H Letter from Friedman

CC: Front Counter Copy; Board of Supervisor's (16); County Counsel; Mike Novo, Director-RMA Planning Department; Carl Holm, Director of the Resource Management Agency; John Ford, Planning Services Manager; Kennard Friedman, Owner; Alan and Sandra Cordan, Owner; Stephen Beals, Applicant's Representative; Sandra Kahn; Neighbor/Appellant; Christine Kemp, representative of Susan Kahn; Robert Kahn, Interested Party; The Open Monterey Project; LandWatch; Project File PLN141011.