

Attachment C

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NOTICE OF APPEAL

*Monterey County Code
Title 19 (Subdivisions)
Title 20 (Zoning)
Title 21 (Zoning)*

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CLERK OF THE BOARD

dh DEPUTY

No appeal will be accepted until a written decision is given. If you wish to file an appeal, you must do so on or before _____ (10 days after written notice of the decision has been mailed to the applicant). Date of decision _____.

1. Please give the following information:
 - a) Your name Dale Ellis, Lombardo and Associates
 - b) Phone Number 831-751-2330
 - c) Address 144 West Gabilan City Salinas Zip 93901
 - d) Appellant's name (if different) Johannes and Kristi Van Greunen

2. Indicate the appellant's interest in the decision by checking the appropriate box:
 - Applicant
 - Neighbor
 - Other (please state) _____

3. If you are not the applicant, please give the applicant's name: _____

4. Indicate the file number of the application that is the subject of the appeal and the decision making body.

	File Number	Type of Application	Area
a) Planning Commission:	<u>PLN150489</u>	<u>Lot Line Adjustment</u>	<u>Long Valley, North County</u>
b) Zoning Administrator:	_____	_____	_____
c) Subdivision Committee:	_____	_____	_____
d) Administrative Permit:	_____	_____	_____

5. What is the nature of the appeal?

- a) Is the appellant appealing the approval or the denial of an application? (Check appropriate box)
- b) If the appellant is appealing one or more conditions of approval, list the condition number and state the condition(s) being appealed. (Attach extra sheets if necessary).

N/A

6. Check the appropriate box(es) to indicate which of the following reasons form the basis for the 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 the appellant is appealing specific conditions, you must list the number of each condition and the basis for the appeal. (Attach extra sheets if necessary).

Attached

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). In order to file a valid appeal, you must give specific reasons why the appellant disagrees with the findings made. (Attach extra sheets if necessary).

Attached

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 will provide you with a mailing list.

9. Your appeal is accepted when the Clerk of the Board's Office accepts the appeal as complete on its face, receives the filing fee (Refer to the most current adopted Monterey County Land Use Fees document posted on the RMA Planning website at http://www.co.monterey.ca.us/planning/fees/fee_plan.htm) and stamped addressed envelopes.

APPELLANT SIGNATURE *Dee J. H. for James L. Gougeon* DATE 1/19/17

ACCEPTED _____ DATE _____
 (Clerk to the Board)

POINTS OF APPEAL

VAN GREUNEN/ PLN150489

THE PLANNING COMMISSION'S DECISION IS NOT SUPPORTED BY THE FACTS.

1. The finding of the Planning Commission was that the proposed lot line adjustment was not clustering and was therefore inconsistent with the minimum lot size requirements. The North County LUP designates the property as Rural Residential at a maximum density of one unit per ten acres. The property is zoned "RDR/10 (CZ)" (Rural Density Residential, at a density of 1 unit per 10 acres). The minimum building site in the RDR district is "...5 acres unless otherwise approved as part of clustered residential development (20.16.060 A)."

Neither the North County Land Use Plan nor Implementation Plan defines the word "cluster." Cluster is not defined in any County planning documents. Merriam-Webster does define cluster as "a group of buildings and especially houses built close together on a sizable tract in order to preserve open spaces larger than the individual yard for common recreation." And, it is that type of cluster the Van Greuenens propose.

During the hearing the Planning Commission indicated that the proposed lots were not small enough or have building sites close enough together to be considered a cluster. The lots however could not be made smaller in light of the required acreage minimums for septic systems, including primary and secondary areas, slopes, highly erodible soils and Pajaro Manzanita. If lots cannot be clustered in this case, then the provisions for clustering in the zoning district regulations are meaningless.

The Planning Department in its written recommendation to the Planning Commission for approval found that the proposed Lot Line Adjustment was clustering for the purpose of complying with MCC Section 20.16.060 A.

2. The finding of the Planning Commission was that the proposed lot line adjustment was "...inconsistent with the Monterey County Zoning Ordinance (Title 20) and 1982 Monterey County General Plan..."

The Commission's conclusion was based solely on the lot size and completely ignored adopted policies in the North County Land Use Plan which not only support clustering in general but specifically in Long Valley area. Policy 4.3.6.D.7 was added to the NCLUP in 1987 to address habitat and erosion issues in Long Valley. The key point in that policy is "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."

The Planning Commission was provided substantial evidence by way of biological reports, soils maps and aerial photographs which clearly identified the areas of the property occupied by Maritime Chaparral and Arnold Loamy Sand soils and showing how the proposed lot configuration avoided and protected those areas to the "...to the maximum extent feasible."

The Planning Commission was also provided with the opinion of Pat Regan, who did two biological surveys of the property, stating “The lot adjustments [are] clustered in the nonnative annual grasslands have been carefully sited and chosen and will have no negative impacts to sensitive species or habitat on other adjacent properties and will in fact reduce peripheral impacts to the maritime chaparral east and west of the development area. This will allow virtually all of the potential development including single family dwellings, driveways, access roads and extension of utilities to occur entirely within previously developed or disturbed areas. This keeps all of the maritime chaparral intact and protects the plant community and individual species from development impacts and protects the natural beauty of this unique plant assemblage for future owners and generations. I applaud the sensitivity and effort at good planning!” (Pat Regan, 2015)

The Planning Department in its written recommendation to the Planning Commission for approval found that the proposed Lot Line Adjustment was consistent with zoning, the North County Land Use Plan and the 1982 General Plan.

THE PLANNING COMMISSION’S DECISION IS CONTRARY TO THE LAW.

The Subdivision Map Act and Title 19 of the Monterey County Code provide a three part test for the approval of lot line adjustments:

- Is the proposed lot line adjustment among four or fewer lots? *The proposed lot line adjustment is among three existing lots of record.*
- Will any additional lots be created as a result of the lot line adjustment? *The proposed lot line adjustment results in three lots. No new lots are being created.*
- Do the lots conform to the general plan (in this case the North County Land Use Plan), zoning and building codes? *As previously discussed the proposed lots are fully consistent with and carry out the direction of the NCLUP and meet the purpose and intent of Title 20.*

The Planning Department in its written recommendation to the Planning Commission for approval found that the proposed Lot Line Adjustment was consistent with zoning, the North County Land Use Plan and the 1982 General Plan.

**NORTH COUNTY LAND USE PLAN AMENDED SEPTEMBER 9, 1987 TO ADD
POLICY SPECIFICALLY FOR LONG VALLEY**

Policy 4.3.6.D.7:

7. 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.

Proposed development within the Long Valley watershed shall be required to minimize, to the greatest extent feasible, removal of vegetation, erosion, and contamination of groundwater resulting from the use of residential septic systems, agricultural pesticides, or fertilizers. Erosion control plans for proposed development shall be approved by the Building Inspection Department. All potable-water and residential-wastewater-disposal systems shall be approved by the Environmental Health Department, as Long Valley may provide a source of potable water to other water problem areas in North County.

When development is proposed on a parcel, the following conditions shall be required for approval of any Coastal Development Permit. Scenic easements shall be dedicated in all areas with slopes greater than 25% slope. A public access easement shall be dedicated for the establishment of a trails system. Proposed development which necessitates grading for dwellings, driveways, and appurtenant uses shall be required to appropriately replace topsoil to minimize erosion. Wherever feasible, revegetation with native plants shall be required in all graded areas. Improved access, roads, and drainage facilities for all proposed development within the Long Valley watershed area shall meet the standards and requirements of the Monterey County Public Works Department, North County Fire Protection District, and the Flood Control and Water Conservation District.

ADDITIONAL POLICIES RE CLUSTERING

2.3.2 4. To protect environmentally sensitive habitats and the high wildlife values associated with large areas of undisturbed habitat, the County shall maintain significant and, where possible, contiguous areas of undisturbed land for low intensity recreation, education, or resource conservation use. To this end, parcels of land totally within sensitive habitat areas shall not be further subdivided. On parcels adjacent to sensitive habitats, or containing sensitive habitats as part of their acreage, development shall be clustered to prevent habitat impacts.

2.5.3.3 c. Clustering of building sites on the least erodible portions of the parcel(s) shall be required where it will result in reduced erosion and where such clustering is consistent with other policies of this plan.

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