

Attachment B  
Draft Board Resolution including  
Recommended Conditions of Approval and  
Lot Line Adjustment Survey Map

PLN130209



**ATTACHMENT B  
DRAFT RESOLUTION**

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

In the matter of the appeal of the application of Gordon and Sandra Steuck (PLN130209) by Save Aguajito Forever, Aguajito Property Owners Association, Frank Chiorazzi, Dr. Eric Del Piero and Theresa Del Piero:

**RESOLUTION NO. ----**

Resolution by the Board of Supervisors of the County of Monterey denying the appeal and taking the following actions:

- a. Adopting the Negative Declaration; and
- b. Approving a Lot Line Adjustment between two (2) legal lots of record of approximately 4.6 acres (portion of Assessor's Parcel Number 103-061-015-000 – “Northerly Parcel”) and 4.3 acres (portion of Assessor's Parcel Number 103-061-015-000 – “Southerly Parcel”) in area, resulting in two (2) newly reconfigured lots also 4.6 acres (westerly parcel, to be identified as Parcel A) and 4.3 acres (easterly parcel, to be identified as Parcel B) in area.

[PLN130209, Gordon and Sandra Steuck, 570 Aguajito Road, Carmel, Greater Monterey Peninsula (APN:103-061-015-000)]

**An appeal by Save Aguajito Forever, Aguajito Property Owners Association, Frank Chiorazzi, Dr. Eric Del Piero and Theresa Del Piero from the Planning Commission approval of the Gordon and Sandra Steuck application for a Lot Line Adjustment (PLN130209) came on for public hearing before the Monterey County Board of Supervisors on February 25, March 18, 2014 and April 1, 2014. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Board of Supervisors hereby finds and decides as follows:**

**FINDINGS**

1. **FINDING:** **PROJECT DESCRIPTION** – The proposed project is a Lot Line Adjustment (LLA) between two (2) legal lots of record of approximately 4.6 acres (portion of Assessor's Parcel Number 103-061-015-000 – “Northerly Parcel” [Certificate of Compliance Document No. 2004079692]) and 4.3 acres (portion of Assessor's Parcel Number 103-061-015-000 – “Southerly Parcel” [Certificate Compliance Document No. 2004079684]) (subject property) in area, resulting in two (2) newly

reconfigured lots also 4.6 acres (westerly parcel, to be identified as Parcel A) and 4.3 acres (easterly parcel to be identified as Parcel B), respectively. (Hereafter referred to as “project” or “subject LLA”).

**EVIDENCE:** The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning for the proposed adjustment found in Project File PLN130209.

2. **FINDING:** **CONSISTENCY** – The project, as conditioned, is consistent with the applicable plans and policies that designate this area as appropriate for development.

**EVIDENCE:** a) During the course of review of this application, the project has been reviewed for consistency with the text, policies, and regulations in:

- the 2010 Monterey County General Plan;
- Greater Monterey Peninsula Area Plan;
- Monterey County Zoning Ordinance (Title 21);
- Monterey County Subdivision Ordinance (Title 19);

No conflicts were found to exist. No communications were received during the course of review of the project indicating any inconsistencies with the text, policies, and regulations in these documents.

- b) The property is located at 570 Aguajito Road, Carmel (Assessor’s Parcel Number 103-061-015-000), Greater Monterey Peninsula Area Plan. The parcel is zoned “RDR/5.1-UR-D-S” [Rural Density Residential, 5.1 acres per unit / Urban Reserve / Design Control District / Site Plan Review], which allows LLAs through an administrative process. Therefore, the project is an allowed land use for this site.
- c) The subject LLA involves the adjustment of two (2) legal lots of record of approximately 4.6 acres (portion of Assessor's Parcel Number 103-061-015-000 – “Northerly Parcel” [Certificate of Compliance Document No. 2004079692]) and 4.3 acres (portion of Assessor's Parcel Number 103-061-015-000 – “Southerly Parcel” [Certificate of Compliance Document No. 2004079684]) in area, resulting in two (2) newly reconfigured lots also 4.6 acres (westerly parcel, to be identified as Parcel A) and 4.3 acres (easterly parcel, to be identified as Parcel B) in area. No development, redevelopment or intensification of land use is proposed as part of the subject Lot Line Adjustment.
- d) The current zoning for the subject property requires a density of 5.1 acres per unit for each building site. The existing parcels are less than 5.1 acres each, but remain consistent with the General Plan (GP) Policies governing LLAs (See Finding No. 7, below; see also Staff Report for the April 1, 2014 Board of Supervisors Meeting (hereafter “Staff Report”), “Discussion” section).
- e) The reconfigured existing lots of record better meet the objectives of the General Plan by reconfiguring the lots to better achieve a superior lot design to the newly-reconfigured Parcel B. Currently the property has a 30-foot wide access and utility easement, created in 1937, which transects the mid-point of the parcels going east-to-west, dividing the two (2) existing lots of record into a “Northerly Parcel” and a “Southerly Parcel.” The Southerly Parcel slopes downward to Aguajito Road, with all slopes exceeding 25% in steepness. This LLA would

allow Parcel B to potentially be developed without placing structures on slopes over 25% or requiring the removal of protected vegetation. If structures are proposed in the future, the County would scrutinize the design and location to determine if such proposals were consistent with the General Plan, Area Plan and Zoning Ordinance. The surrounding properties are of a rural residential nature and range in size from 4.8 acres to 6.43 acres, each with a single family residence. The Steuck properties are consistent with the general size of the properties in the immediate area and conform to the rural character of the area.

- f) Goal OS-1 of the 2010 General Plan ,Conservation and Open Space Goals and Policies, provides for the retention of the character and natural beauty of Monterey County by preserving, conserving and maintaining unique physical features and natural resources. The project better achieves the goals and policies of the General Plan because, if development were to occur on the vacant parcel, the reconfiguration would result in better protection of slopes, avoid development in the viewshed of slopes, control the location of structures on slopes and avoid unnecessary erosion, which will serve to retain the character and natural beauty of Monterey County as characterized by Goal OS-1 of the General Plan. Additionally, Policy OS-1.9 in the same Conservation and Open Space Goals and Policies Section of the General Plan, states that, “Development that protects and enhances the County’s scenic qualities shall be encouraged.” This adjustment provides for this protection.
- g) The project planner conducted a site inspection on March 28, 2013 to verify that the project on the subject property conforms to the plans listed above.
- h) The project was referred to the Greater Monterey Peninsula Land Use Advisory Committee (LUAC) for review on November 4, 2013. Based on the revisions to the LUAC Procedure (“Guidelines”) adopted by the Monterey County Board of Supervisors per Monterey County Board of Supervisors Resolution No. 08-338, this application warranted referral to the LUAC because the subject LLA is considered development which requires CEQA review. However, the November 4, 2013 LUAC meeting was cancelled due to lack of a quorum, so no recommendation was made by the LUAC.
- i) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning for the proposed LLA found in Project File PLN130209. The Planning Commission held duly noticed public hearings on the subject LLA on November 13 and December 11, 2013. The Planning Commission unanimously approved (10-0-0) the subject LLA at its December 11, 2013 meeting.

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

**EVIDENCE:** a) The project has been reviewed for site suitability by the following departments and agencies: RMA - Planning, Cypress Fire Protection District, RMA-Public Works, Environmental Health Bureau, and Water

Resources Agency. There has been no indication from these departments/agencies that the site is not suitable for the proposed development. Recommended conditions have been incorporated.

- b) Staff did not identify any potential impacts to Biological Resources, Archaeological Resources, or Soil/Slope Stability. An Initial Study was prepared for the LLA and no significant impacts were found to impact resources (See Finding No. 6 below).
- c) Staff conducted a site inspection on March 28, 2013 to verify that the site is suitable for this use.
- d) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning for the proposed adjustment found in Project File PLN130209.

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

- EVIDENCE:**
- a) The project was reviewed by RMA - Planning, Cypress Fire Protection District, RMA-Public Works, Environmental Health Bureau, and Water Resources Agency. The respective agencies have recommended conditions, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood.
  - b) No development is proposed with this application for an LLA. Water supply will be evaluated if and when development is proposed. EHB has required a deed restriction as information to potential buyers of issues related to well water capacity.
  - c) Staff conducted a site inspection on March 28, 2013 to verify that the site is suitable for this use.
  - d) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning for the proposed adjustment found in Project File PLN130209.

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

- EVIDENCE:**
- a) Staff reviewed Monterey County RMA - Planning and Building Services records and is not aware of any violations existing on the subject property.
  - b) Staff conducted a site inspection on March 23, 2013 and County records to assess if any violation exists on the subject property.
  - c) The Initial Study, included with the Negative Declaration states on page 2 that:  
*Fill Areas Restored:*  
*Prior to (submittal of the application for) the subject Lot*

*Line Adjustment there was fill placed on the property... The property owner was required to attain a grading permit, GP090013, in order to restore the areas that were disturbed. After working closely with the Monterey County Building Department the property owner restored the fill areas by removing and redistributing fill in other areas that were impacted.... There are no unresolved issues with the restoration completed.*

In a March 11, 2011, Inter-Office Memorandum to Leslie J. Girard, Assistant County Counsel, from John Huntley, Management Analyst, Building Services Department Re. "Enforcement Case Review and Chronology / Gordon & Sandra Steuck / Assessor's Parcel Number 103-061-015-000," the Building Services Department concluded:

*Inspections were undertaken during and following the corrective work. All fill material originally placed on the east side of the property (slopes exceeding 30%) prior to May of 1988 was removed and that section of the property was returned to the original elevations and contours, reseeded and prepared for final inspection approval. On the west side of the property adjacent to the Del Piero property, un-compacted fill material was excavated, stockpiled and replaced in compacted lifts in accordance with the approved revised grading plan. Re-vegetation was undertaken, storm water runoff infrastructure was installed and the site was prepared for final inspection approval in compliance with the revised grading plan. Inspections were undertaken and final inspection on grading permit GP090013 was granted July 1, 2010.*

*A letter confirming full compliance with requirements under grading permit GP090013 was sent to Dr. and Mrs. Steuck August 25, 2010. Enforcement Case CE090292 was closed that same day. (See March 11, 2011 Inter-Office Memo to Leslie J. Girard from John Huntley, Exhibit A to Johnson, Moncrief & Hart, letter dated October 8, 2013).*

6. **FINDING:**

**CEQA (Negative Declaration)** - On the basis of the whole record before the Monterey County Board of Supervisors, there is no substantial evidence that the proposed project will have a significant effect on the environment. The Negative Declaration reflects the independent judgment and analysis of the County.

**EVIDENCE:**

- a) Monterey County RMA-Department prepared an Initial Study pursuant to CEQA. The Initial Study is on file in the offices of RMA-Planning and is hereby incorporated by reference (PLN130209).
- b) The Initial Study provides substantial evidence based upon the record as a whole, that the project would not have a significant effect on the environment. Staff accordingly prepared a Negative Declaration.
- c) The Initial Study/proposed Negative Declaration ("ND") for

PLN130209 was prepared in accordance with CEQA and circulated for a 30-day public review circulation period from September 17, 2013 through October 17, 2013 (SCH#: 2013091053).

- d) Issues that were analyzed in the Initial Study include: aesthetics, agriculture and forest resources, air quality, biological resources, cultural resources, geology/soils, greenhouse gas emissions, hazards/hazardous materials, hydrology/water quality, land use/planning, mineral resources, noise, population/housing, public services, recreation, transportation/traffic, and utility/service systems.
- e) Evidence that has been received and considered includes: the application, technical studies/reports (see Finding 2/Site Suitability), staff reports that reflect the County's independent judgment, comment letters, and information and testimony presented during public hearings. These documents are on file in RMA-Planning and are hereby incorporated by this reference.
- f) LLAs are typically categorically exempt from CEQA per CEQA Guidelines Section 15305, which exempts projects involving minor land use alterations that do not result in changes in land use or density and have an average slope of less than 20 percent. In this case, even though the proposed LLA would not result in a land use change or increased density, the overall project site has an average slope greater than 20 percent. Therefore, staff prepared an Initial Study/proposed Negative Declaration and circulated it for public review.
- g) Staff circulated the Initial Study to the California Department of Fish and Wildlife (CDFW). All land development projects that are subject to environmental review are subject to a State filing fee plus the County recording fee, unless CDFW waives the filing fee (Fish & Game Code, sec. 711.4.) The Initial Study was sent to CDFW for review and comment, and to provide opportunity for CDFW to recommend conditions to protect biological resources in this area if it determined such conditions were necessary. Therefore, unless CDFG grants a waiver, the project will be required to pay the State filing fee plus a fee payable to the Monterey County Clerk/Recorder for processing said fee and posting the Notice of Determination (NOD).
- h) The County received seven (7) comment letters during the Initial Study circulation period. Comment letters received were reviewed against the analysis completed by the County in the Initial Study. None of the comment letters caused the Board of Supervisors to determine that the project would create any potentially significant environmental effects.
- i) The first letter received during the Initial Study circulation period was dated September 24, 2013 from Anthony Lombardo & Associates. The letter makes several contentions which mirror previous comments concerning the applicants' previous application for an LLA. The comment letter includes comments that: 1) the Initial Study contains flaws and omissions; 2) the Project Description is incorrect because it did not include future plans for the construction of a single family dwelling on the property; 3) the parcel legality of the two (2) lots was questioned because the property was conveyed in a single transaction; 4) the Initial Study did not discuss an unresolved grading violation; 5) fill areas to be restored do



not mention that an engineered building pad may now exist; 6) aesthetics were not analyzed because there was no staking of future structures; 7) biological resources were not addressed because the site contains oak habitat (GMP 3-5) and there should be mention of tree removal; 8) greenhouse gasses and hydrology were not analyzed because there was no analyses of two (2) homes (the owner had previously applied for a three connection water system); 9) land use was not addressed (LU-1.16 & OS 3.5); 10) the resultant lots are not more feasible than the existing configuration and slope impacts are not less impacted; 11) the Initial Study did not analyze PS- 3.1, 3.2, 3.3 and 3-4 for long term proof of water; 12) transportation/traffic was not analyzed as there may be no proof of access from Gentry Hill to Aguajito.

Response: The County has reviewed said comments and finds that the Initial Study analyzes the project in accordance with CEQA and the comments do not raise substantial evidence of a fair argument that the Lot Line Adjustment may have a significant impact on the environment. The subject LLA is between two (2) legal lots of record, for which Certificates of Compliance (CoCs) were approved and recorded for approximately 4.6 acres (portion of Assessor's Parcel Number 103-061-015-000 - Northerly Parcel [Certificate of Compliance Document No. 2004079692]) and 4.3 acres (portion of Assessor's Parcel Number 103-061-015-000 - Southerly parcel [Certificate of Compliance Document No. 2004079684]). California Civil Code Section 1093 specifically states, "*Absent the express written statement of the grantor contained therein, the consolidation of separate and distinct legal descriptions of real property contained in one or more deeds, mortgages, patents, deeds of trust, contracts of sale, or other instruments of conveyance, or security documents, into a subsequent single deed, mortgage, patent, deeds of trust, contract of sale, or other instrument of conveyance, or security document...does not operate in any manner to alter or affect the separate and distinct nature of the real property so described....*" The frequent sale of the adjacent lots, one of which (the Southerly Parcel) has been undeveloped and characterized by steeply sloping topography, shows that the lots have had numerous relatively short-term owners, with the exception of the current owners (the current owners, the Steucks, have owned the lots since 1986, according to the Appellant's document), over the years. The frequent sale of the adjacent lots does not negate the County's issuance of Certificates of Compliance in 2004, establishing two (2) legal lots of record, or demonstrate that the overall site is a single parcel. There are no violations on the property. (See Finding 5). There is no current development over 25% slopes. General Plan Policy Greater Monterey Peninsula (GMP) 3.5 relates to development being designed to discourage the removal of healthy, native oak trees. The project does not include a proposal for oak tree removal. General Plan Policy LU 1.16 allows LLAs between or among lots that do not conform to minimum parcel size standards if the resultant lots are consistent with all other General Plan policies, zoning and building ordinances and the LLA would, among other things, produce a superior parcel

configuration, or reduce the non-conformity of existing legal lots of record; or promote resource conservation, including open space and critical viewshed protection, or better achieve the goals, policies and objectives of the General Plan. The Initial Study states that the purpose of the LLA is to reconfigure two (2) properties in such a manner where impacts to protected slopes and trees could be avoided if development is proposed in the future. Given the topography of the overall site, the reconfiguration of the existing lots of record through the proposed lot line adjustment would result in a superior configuration by reconfiguring the undeveloped southerly parcel into resulting Parcel B (easterly parcel). The newly configured parcels will not change the development potential of the subject property. Reconfiguration will likely place any future development in areas that will likely lessen impacts to slopes and require less tree removal. The development potential of the parcels before and after the LLA will not change. Currently, both of the existing (“Northerly” and “Southerly”) parcels can be developed. Further, the proposed LLA will adjust the lot lines in order to place any future development away from Aguajito Road. The project is not inconsistent with the 2010 General Plan Public Service Element Policies. Analysis of Public Services (PS) Policies PS - 3.1 and PS - 3.2 is applicable to new development for which a discretionary permit is required, and the Lot Line Adjustment is not “development” as defined by the General Plan. If a single family home were eventually developed on the vacant lot, which is matter of speculation at this point in time, Policy PS-3.1 exempts the development of the first single family dwelling on a legal lot of record. As previously indicated, no structures are proposed as part of the subject application for an LLA. General Plan Policy PS - 3.3 pertains to the development of specific criteria for use in the evaluation and approval of adequacy of all new domestic wells. The availability of water was reviewed by the Environmental Health Bureau (EHB). EHB has recommended two (2) conditions of approval which require the recordation of deed restrictions concurrently with the recordation of the Certificates of Compliance for the Lot Line Adjustment to put future buyers on notice concerning the water supply and preserve access to the well. EHB Condition No. 7 requires the recordation of a Deed Restriction which states, *“Well yields in fractured rock aquifer systems have been shown to decline significantly over time due to meager ability of fractured rock to store and transmit water. Therefore, with intrinsic uncertainties regarding the long term sustainability of an on-site well proposed to provide a source of domestic potable water on this parcel, the present and any future owners of this property are hereby given notice that additional water sources may be required in the future.”* EHB Condition No. 8 requires the recordation of a Deed Restriction which states, *“In the event of sale of either lot, water easements shall be recorded to maintain access to the well water for both lots.”* A separate letter was submitted from Anthony Lombardo & Associates dated September 25, 2013 requesting a public hearing. Public hearings have been conducted on this application.

- j) Letters dated May 29, 2009 to October 4, 2013 from the Aguajito

Property Owners Association were received during the circulation period and mirror previous comments made regarding the Steucks' original application for an LLA. Said correspondence requested an EIR for the LLA, review of any hazardous materials and review of a new buildable lot. There is no substantial evidence of a fair argument that the Lot Line Adjustment may have a significant environmental impact, and therefore an EIR is not required. (See CEQA finding above.) There is no plan for development of a single family dwelling included in the subject application for an LLA and therefore analysis of specific impacts of future development would be speculative. However, even if development of the newly reconfigured Parcel B is reasonably foreseeable in as much as it will result in superior lot configuration, the Lot Line Adjustment does not result in the potential for intensification because currently, both existing (northerly and southerly) parcels can be developed. No additional lot will be created. Two (2) lots exist before and after the LLA. Development of the newly configured Parcel B would likely have fewer impacts to slopes and require less tree removal. Therefore, the reconfigured parcels will produce a superior parcel configuration. See Finding No. 6. Evidence j for further discussion.

- k) A Letter dated October 8, 2013 from the Monterey Peninsula Water Management District (MPWMD) was received during the circulation period. The MPWMD commented that a Water Distribution System (WDS) is needed for one (1) well serving two (2) parcels and that the MPWMD would like the new Assessor's Parcel Numbers (APNs) once the LLA has been finalized and new APNs are issued by the County. The County has added this comment to the record.
- l) A Letter dated October 8, 2013 was received from Frank and Marie Chiorazzi during the circulation period. The letter requests an EIR for a "housing project" with a comprehensive evaluation of disputed facts. Specifically, the comment letter states that proof of access across the Chiorazzi property and well capacity is not adequate and that there is undocumented fill on the property that was never removed. The subject LLA will not impact existing access and the County has not found any language in the easement document to the contrary. An existing 30 foot wide access and utility easement was created in 1937, which transects the midpoint of the parcel east and west, dividing the two (2) lots of record into a northerly parcel and a southerly parcel. Well capacity was reviewed by EHB. EHB has recommended two (2) conditions of approval which require the recordation of deed restrictions concurrently with the recordation of the Certificates of Compliance as follows: EHB Condition No. 7 requires the recordation of a Deed Restriction which states, *"Well yields in fractured rock aquifer systems have been shown to decline significantly over time due to meager ability of fractured rock to store and transmit water. Therefore, with intrinsic uncertainties regarding the long term sustainability of an on-site well proposed to provide a source of domestic potable water on this parcel, the present and any future owners of this property are hereby given notice that additional water sources may be required in the future."* EHB Condition No. 8

requires the recordation of a Deed Restriction which states, “*In the event of sale of either lot, water easements shall be recorded to maintain access to the well water for both lots.*” There are no violations on the subject property. The Initial Study, included with the Negative Declaration, at Page 2, states: “***Fill Areas Restored.***

*Prior to (submittal of the application for) the subject Lot Line Adjustment there was fill placed on the property... The property owner was required to attain a grading permit, GP090013, in order to restore the areas that were disturbed. After working closely with the Monterey County Building Department the property owner restored the fill areas by removing and redistributing fill in other areas that were impacted.... There are no unresolved issues with the restoration completed.”*

- m) In a letter dated October 8, 2013 from Johnson, Moncrief and Hart, the Steucks contend this project is exempt from CEQA and argue that the County should limit its review and approval to a determination of whether or not the parcels resulting from the LLA conform to county zoning and building ordinances and to whether or not the resulting parcels will conform to the General Plan, and applicable specific plan. Because of these limitations, the Steucks contend the decision to approve this LLA is a ministerial decision and thus exempt from CEQA.  
County’s Response:

CEQA:

CEQA Guidelines Section 15305 – Minor Alterations in Land Use Limitations, provides for a Class 5 - Categorical Exemption for:

*...minor alterations in land use limitations in areas with an average slope of less than 20%, which do not result in any changes in land use or density, including but not limited to:*

*(a) Minor lot line adjustments, side yard, and set back variances not resulting in the creation of any new parcel....*

In this case, the overall site has an average slope greater than 20 percent. See also the CEQA finding above.

Subdivision Map Act:

The Subdivision Map Act requires a local agency to limit its review of LLAs to a determination of whether the LLA “will conform to the local general plan, any applicable specific plan, any applicable coastal plan, and zoning and building ordinances.” (Govt. Code §66412(d)) This determination is discretionary. A determination of consistency with the general plan involves an exercise of judgment. Before the appropriate authority can approve this LLA, it must first have determined by a majority vote that the proposed LLA conforms to the local general plan, applicable specific plan and zoning and building ordinances. (Cal. Gov’t Code § 66412(d))

An LLA may be granted only after the following findings are made:

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. (Cal. Gov't Code § 66412(d))

County's Subdivision Ordinance - Lot Line Adjustments:

The County's Subdivision Ordinance treats LLAs as discretionary, requiring CEQA review, notice of public hearing, and a right of appeal. Under the County's Subdivision Ordinance, the Planning Director forwards the proposed application for an LLA to affected departments, committees and public agencies for their findings and recommendations (MCC 19.09.020.C). Public notice is provided (MCC 19.09.005.F and 19.01.055) and the lower hearing body's determination is appealable. (MCC 19.16.010 - Applicability)

General Plan Consistency:

In regard to the General Plan consistency determination, the relevant 2010 Monterey County General Plan Policy LU-1.16 provides as follows:

LLAs between or among lots that do not conform to minimum parcel size standards may be allowed if the resultant lots are consistent with all other General Plan policies, zoning and building ordinances and the lot line adjustment would:

- a. accommodate legally constructed improvements which extend over a property line; or
- b. facilitate the relocation of existing utilities, infrastructure, or public utility easements; or
- c. resolve a boundary issue between or among affected owners; or
- d. produce a superior parcel configuration; or
- e. reduce the non-conformity of existing legal lots of record; or
- f. promote resource conservation, including open space and critical viewshed protection, without triggering eminent domain; or
- g. better achieve the goals, policies and objectives of the General Plan; or
- h. facilitate Routine and Ongoing Agricultural activities.

Discretionary Review:

Whether the proposed LLA meets these criteria involves an exercise of judgment, the hallmark of discretionary review. (See, e.g., definition of "discretionary project" in CEQA Guidelines Section 15357).

Determining whether a lot configuration is superior is not merely a question of rote application of measurable quantitative standards. The County Subdivision Ordinance appropriately establishes discretionary procedures. It provides that the decision making body shall approve, disapprove, or conditionally approve the adjustment in conformance with standards set forth in the SMA and Chapter 19.09 (LLA) of the County Code. (MCC 19.09.025.A) Conformance with Government Code Section 66412, the 2010 Monterey County General Plan, and the County Subdivision Ordinance, and the authority of the decision maker to deny or conditionally approve this LLA makes this LLA application discretionary in nature. (Cal. Gov't Code § 66412(d); Land Use Element Policy LU-1.16, MCC 19.09.025.A)

- n) The County has considered the comments received during the public review period and said comments do not alter the conclusions in the

- Initial Study and Negative Declaration.
- o) Monterey County RMA-Planning, located at 168 W. Alisal, 2nd Floor, Salinas, California, 93901, is the custodian of documents and other materials that constitute the record of proceedings upon which the decision to adopt the negative declaration is based.
- p) The application, plans and supporting materials submitted by the project applicant to Monterey County RMA-Planning for the proposed adjustment are found in Project File PLN130209.

7. **FINDING:** **LOT LINE ADJUSTMENT** – The Lot Line Adjustment application meets the following standards set forth in Section 66412(d) of the California Government Code (Subdivision Map Act) allowing the County to approve a Lot Line Adjustment without a subdivision map: :

1. The lot line adjustment is between four (or fewer) existing adjoining parcels, where the land taken from one parcel is added to an adjoining parcel;
2. A greater number of parcels than originally existed will not be created as a result of the lot line adjustment; and
3. The parcels resulting from the lot line adjustment will conform to the County’s general plan, any applicable specific plan, any applicable coastal plan, and zoning and building ordinances.

- EVIDENCE:**
- a) The parcel is zoned “RDR/5.1-UR-D-S” [Rural Density Residential, 5.1 acres per unit / Urban Reserve / Design Control District / Site Plan Review] which allows LLAs.
  - b) The project area has a total of 8.9 acres.
  - c) The LLA is between four (or fewer) existing adjoining parcels. The properties share the southern and northern boundaries and are located north of Aguajito Road.
  - d) The LLA will not create a greater number of parcels than originally existed. Two (2) contiguous separate legal parcels of record will be adjusted and two (2) contiguous separate legal parcels of record will result from the adjustment. No new parcels will be created.
  - e) The LLA is consistent with the Monterey County Zoning Ordinance (Title 21). Staff verified that the subject property is in compliance with all rules and regulations pertaining to the use of the property and that no violations exist on the property.
  - f) Both of the existing parcels are nonconforming regarding lot size, having areas of 4.6 acres (northerly parcel) and 4.3 acres (southerly parcel), respectively. The subject LLA would not alter the existing lot sizes in that both of the resulting parcels would retain the same acreage. The proposed westerly parcel, identified as Parcel A, will be 4.6 acres. The proposed easterly parcel, identified as Parcel B, will be 4.3 acres. The existing southerly 4.3 acre parcel lies immediately south of the existing northerly 4.6 acre parcel. The existing southerly parcel is uniformly characterized by steeply sloping terrain, often in excess of 25 percent. The subject LLA proposes to reconfigure the southerly parcel into resulting Parcel B (4.3 acres) so that it would be located immediately east of Parcel A (4.6 acres)(westerly parcel) and would include a portion of the existing northerly parcel that is relatively level

and would, therefore, lessen impacts to the newly reconfigured Parcel B's topography, natural features and protected tree species that could result from future development on the existing southerly parcel, whenever it may occur.

- g) The LLA is consistent with General Plan Policy LU-1.14 which states, "*Consistent with the provisions of the State Subdivision Map Act, lot line adjustments shall be between four or fewer adjoining parcels.*" The subject LLA is between two (2) adjoining parcels and; therefore, the LLA is consistent with LU-1.14.
- h) The LLA is consistent with General Plan Policy LU -1.15 which states, "*Where a lot line adjustment may be configured to result in lots conforming to the policies and standards of this General Plan, that configuration is required. Lot line adjustments that may compromise the location of wells, on-site wastewater systems or envelopes should not be approved.*" Both parcels (4.3 acres and 4.6 acres) are legal non-conforming parcels and it is not possible to configure them both to 5.1 acres each. EHB reviewed the application for an LLA and found the proposed LLA to be consistent with applicable General Plan Policies related to wells and on-site wastewater systems. No well will be compromised and there is room to locate wastewater systems with required setbacks between property lines if development should be proposed.
- i) There is an existing access easement within the LLA area. The County reviewed all the title documents including descriptions in the grant deeds and each deed of trust for the current road right of way (access easement) for the Steuck properties. No restrictions were identified regarding the number of houses that may have access to the easement. There will be no additional easements required to access the newly configured lots.
- j) The LLA involves two (2) lots which are non-conforming as to minimum parcel size. However, General Plan Policy LU-1.16 provides that LLAs between or among lots that do not conform to minimum parcel size standards may be allowed if the resultant lots are consistent with General Plan policies, Zoning and Building Ordinances and, the LLA "*...would produce a superior parcel configuration.*" Additionally, GP LU-1.18 states, "*If the standards in this General Plan render a legal lot of record substandard in size, the substandard size of the parcel shall not by itself render the parcel a legal non conforming use. Any proposed expansion, enlargement, extension, or intensification of uses on such a lot shall not be prohibited due to its substandard size unless there are overriding public health impacts. Development of the lot shall comply with all other policies, standards and designated land use requirements of this Plan.*" In this case, there is no other development proposed with this LLA and no issues remain unresolved. Further, given the topography of the overall site, the reconfiguration of the existing lots of record through the proposed LLA would result in a superior configuration of the undeveloped southerly parcel which will be reconfigured into Parcel B (easterly parcel). The newly configured parcels will not change the development potential of the subject

property. Reconfiguration will place any future development in areas that will have fewer impacts to slopes and require less tree removal. In comparison to the potential development of the existing southerly parcel, development of the newly configured Parcel B would have fewer impacts to slopes and require less tree removal. Development potential of the parcels before and after the LLA will not change. Both of the existing (northerly and southerly) parcels are developable. The resulting westerly and easterly parcels will result in a superior parcel configuration.

- k) As an exclusion to the Subdivision Map Act, the Lot Line Adjustment does not require recordation of a subdivision map. In order to appropriately document the boundary changes, a Certificate of Compliance for each new lot will be required per a standard condition of approval.
- l) The project planner conducted a site inspection on March 28, 2013 to verify that the project would not conflict with zoning or building ordinances.
- m) The application, plans and supporting materials submitted by the project applicant to Monterey County RMA-Planning for the proposed adjustment are found in Project File PLN130209.

8. **FINDING:** **APPEAL** - The Appellants state several issues of contention for their appeal of the Planning Commission's approval of the subject LLA. The following addresses the Appellants' contentions (summarized in italics) in the order in which they were raised in their Notice of Appeal (**Attachment E to the STAFF REPORT**):

**EVIDENCE:** a) *Appellant's Contention No. 1: The Initial Study (IS) prepared by the County is inadequate. The Negative Declaration (ND) should have addressed future development of the two parcels and should not have been adopted by the Planning Commission. There are inconsistencies in the Planning Commission's adopted findings.*

**Board Response:** Sections 15300-15333 of the California Environmental Quality Act (CEQA) Guidelines addresses a range of land use and development projects which are often reviewed and approved by government agencies and that are generally determined not to have a potentially significant effect on the environment. These projects are classified as categorical exemptions. LLAs, such as the proposed project, are typically exempt from CEQA review per CEQA Guidelines Section 15305(a) [Minor alterations in land use limitations in areas with an average slope of less than 20% which do not result in any changes in land use or density], which specifically addresses minor LLAs. However, given that much of the subject site has slopes in excess of 20%, the subject project was not considered by staff to be categorically exempt and an Initial Study (IS)/Negative Declaration (ND) was prepared and circulated for public review. This IS/ND was adopted by the Planning Commission as part of its December 11, 2013 decision to approve the LLA.



The Appellant's contention is that the future physical development of the two reconfigured Parcels A and B should have been addressed in the IS/ND. While an LLA is sometimes part of a proposal to develop, or redevelop, a site, the subject proposal is solely a request for an LLA. The site presently consists of two (2) lots: one 4.6 acres in area and developed with a single-family residence; one 4.3 acres and undeveloped. The proposed LLA reorients the existing property line from an east-west orientation to a north-south orientation, resulting in a 4.6-acre lot (Parcel A) developed with a single-family residence and an undeveloped 4.3-acre lot (Parcel B).

The reconfiguration of the undeveloped Parcel B establishes a lot that is physically better suited to accommodate future development in that it has a larger, relatively-level area, rather than the uniformly steep slope of the existing Southerly Parcel, and less dense tree cover, but it does not mean that development of Parcel B and the redevelopment of Parcel A are part of the subject proposal requiring analysis at this time or that their development/redevelopment is imminent. The proposal to reorient the parcel configuration would not indirectly cause a new or potentially increase a significant effect on the environment. The proposed orientation allows for potentially less impact to forest and slope resources. Site development issues will be addressed when an application is submitted. Until that time, it is speculative to anticipate what will be developed on the site, and when that development will occur.

Moreover, the subject LLA is consistent with the General Plan concerning the reconfiguration of existing nonconforming lots, such as these. Specifically, General Plan Land Use Element Policies LU-1.16(d) and (f) state:

*(LU-1.16) Lot line adjustments between or among lots that do not conform to minimum parcel size standards may be allowed if the resultant lots are consistent with all other General Plan polices, zoning and building ordinances and the lot line adjustment would:*

....

*(d) produce a superior parcel configuration;*

*or*

....

*(f) promote resource conservation, including open space and critical viewshed protection, without triggering eminent domain.*

Regarding the language inconsistencies in the Planning Commission's findings approving the LLA (**Attachment F to STAFF REPORT**, Planning Commission Resolution 13-042), cited by the Appellant on

pages 1 and 2 of the Notice of Appeal, “Finding 3, Evidence (b)” correctly states that the IS found that the LLA would not result in impacts to environmental resources. The subsequent language cited by the Appellant in “Finding 6,” stating that, “there is no substantial evidence that the proposed project [the subject LLA] as designed, conditioned and mitigated, will have a significant effect on the environment,” should not have recited the words “as designed, conditioned and mitigated” since the project does not include any physical development or elements of design or have any impacts to mitigate. Inclusion of this phrase was an oversight on the part of staff, but the finding that there is no substantial evidence that the project will have a significant effect on the environment is warranted on the facts of this case.

The Appellant’s remaining comment regarding inconsistent language in the Planning Commission’s findings (“Finding 6, Evidence (h)”) pertains to payment of State Department of Fish and Game (now California Department of Fish and Wildlife) fees. This language was included in the findings to inform the applicant, as stated, that, “All land development projects that are subject to environmental review [as the proposed LLA is] are subject to a State filing fee...unless the CDFG (California Department of Fish and Wildlife) determines that the project will have no effect on fish and wildlife resources upon which the wildlife depends.” The language found in “Finding 6, Evidence (h)” does not address CEQA impacts but rather addresses CDFG’s criteria for receipt of a filing fee for reviewing environmental documents. (Fish and Game Code, section 711.4.) The finding does not contradict any other findings made by the Planning Commission or imply that the subject LLA would result in any environmental impacts, but rather informs the applicant that appropriate fees would be payable to the California Department of Fish and Wildlife upon approval of the LLA and that the County is not the appropriate agency to determine whether the applicant would be eligible for a fee waiver.

b) *Appellant’s Contention No. 2: A new lot is being created by the Lot Line Adjustment.*

**Board Response:** As previously described, the subject LLA involves the adjustment of two (2), existing legal lots of record, the Northerly Parcel, approximately 4.6 acres in area, (Certificate of Compliance Document No. 2004079692) and the Southerly Parcel, approximately 4.3 acres in area (Certificate of Compliance Document No. 2004079684), resulting in two (2) reconfigured lots of 4.6 acres (westerly parcel, to be identified as Parcel A) and 4.3 acres (easterly parcel, to be identified as Parcel B), respectively. In 2004, the County issued Certificates of Compliance (CoC), which are documents issued by the County confirming that the described parcels are officially recognized as legal lots. The CoC document numbers are referenced above. The issuance of said CoCs reflects the County’s determination that the existing Northerly and Southerly Parcels are recognized as independent legal lots

of record. On pages 2 and 3 of the Appellants' Notice of Appeal, the Appellants state that since the two (2) existing lots were sold a number of times over a period of years (1950-1986) but were always under single ownership that the overall site was intended to be a single lot, rather than two (2) lots. This argument has no legal basis. California Civil Code Section 1093 specifically states, "*Absent the express written statement of the grantor contained therein, the consolidation of separate and distinct legal descriptions of real property contained in one or more deeds, mortgages, patents, deeds of trust, contracts of sale, or other instruments of conveyance, or security documents, into a subsequent single deed, mortgage, patent, deeds of trust, contract of sale, or other instrument of conveyance, or security document... does not operate in any manner to alter or affect the separate and distinct nature of the real property so described....*" The frequent sale of the adjacent lots, one of which (the Southerly Parcel) has been undeveloped and characterized by steeply sloping topography, shows that the lots have had numerous relatively short-term owners, with the exception of the current owners (the current owners, the Steucks, who have owned the lots since 1986, according to the Appellant's document), over the years. It does not, however, negate the County's issuance of Certificates of Compliance in 2004, establishing two (2) legal lots of record, or demonstrate that the overall site is a single parcel.

- c) *Appellant's Contention No. 3: The Lot Line Adjustment is inconsistent with General Plan Policy PS-3.1, related to proof of water.*

**Board Response:** Pages 3 and 4 of the Appellant's Notice of Appeal states that the subject LLA is inconsistent with General Plan Policy PS-3.1, which states that "new development for which a discretionary permit is required, and that will use or require the use of water, shall be prohibited without proof, based on specific findings and supported by evidence, that there is a long-term, sustainable water supply, both in quality and quantity to serve the development."

First, the subject LLA does not propose any new development that will require the use of water. Moreover, Chapter 10.0 (Glossary) of the General Plan defines development as, "...any activity that occurs on land or water that involves the placement of any structure, the discharge or disposal of any waste material, grading, dredging or mineral extraction, any change in density and/or intensity of use including the subdivision of land, construction of any structure, and the harvesting of major vegetation other than the growing and harvesting of agricultural crops." In other words, the subject LLA is not, by definition, considered "development" per the County's General Plan. Second, General Plan Policy PS-3.1, referenced by the Appellant, further states under sub-section PS-3.1(a) that "the first single family dwelling and non-habitable accessory uses on an existing lot of record" are exempt from the provisions of Policy PS-3.1, meaning that even if a single

family house on the undeveloped parcel were reasonably foreseeable, a first single family dwelling on the existing 4.3-acre, undeveloped Southerly Parcel, which would be reconfigured as the 4.3-acre Parcel B, is exempt from provisions of Policy PS-3.1.

- d) *Appellant's Contention No 4: The Lot Line Adjustment is inconsistent with General Plan Policy 3.6, related to proof of access.*

**Board Response:** Page 4 of the Appellant's Notice of Appeal states that "General Plan Policy C-3.6 requires that the 'County shall establish regulations for new development that would intensify use of a private road or access easement. Proof of access shall be required as part of any development application when the proposed use is not identified in the provisions of the applicable agreement.' That proof of access does not exist with this [the subject LLA] application." Similar to the Appellant's preceding statement regarding inconsistency with General Plan Policy PS-3.1, the subject LLA is not proposing any new development. And, since no new development is proposed by the subject LLA, the use of the existing private access easement will not be intensified or negatively impacted by the reorientation of the existing lot line. More importantly, the access that currently exists to/from both parcels will not be affected by the LLA.

- e) *Appellant's Point No. 5: The Lot Line Adjustment is inconsistent with General Plan Policy OS-3.5(1)(d) regarding development on slopes over 25%.*

**Board Response:** Page 5 of the Appellant's Notice of Appeal states that, "The majority of the property is over 25% slope. [General Plan] Policy OS-3.5 1 d states that it is the 'general policy of the County to require dedication of a scenic easement on slopes over 25%. However there is no requirement in this [the subject LLA] approval that the areas on slopes over 25% be placed in scenic easement. Nor is there an explanation as to why a scenic easement is [sic] not been required or any discussion as to how this application can be determined to be consistent with the general plan without a requirement for a scenic easement." As with the preceding General Plan-related points raised by the Appellant, dedication of a scenic easement was not required as part of the approval of the LLA due to the nature of the project, which is solely an LLA between two (2) existing lots. General Plan Policy OS-3.5(1), and all of its subsections, pertains to the development, or use and activity, on sites with slopes exceeding 25%. The subject LLA does not propose any development, use or activity relevant to General Plan Policy OS-3.5(1). Should future development be proposed on either of the two (2) lots that constitute the site, dedication of a scenic easement in accordance with the General Plan would be applicable.

- f) *Appellant's Point No. 6: Non-compliance with the Zoning and Building Ordinances related to past onsite grading activities.*

**Board Response:** The Appellant states on pages 5 through 7 of the Notice of Appeal that unresolved grading and site disturbance issues remain on the site due to work performed by the property owner circa 1986-1987. Staff acknowledges that grading work, including the importation of fill material to the site, was done in the past without the appropriate County approvals. However, staff and the Planning Commission concluded that this issue has been addressed and that no current grading-related violations exist on the property. As stated on page 2 of the Initial Study prepared for the LLA:

*Fill Areas Restored:*

*Prior to (submittal of the application for) the subject Lot Line Adjustment there was fill placed on the property... The property owner was required to [obtain] a grading permit, GP090013, in order to restore the areas that were disturbed. After working closely with the Monterey County Building Department the property owner restored the fill areas by removing and redistributing fill in other areas that were impacted.... There are no unresolved issues with the restoration completed.*

Additionally, staff reviewed Monterey County RMA - Planning and Building Services records and is not aware of any other violations existing on the subject property. Staff also conducted a site inspection on March 23, 2013 and further researched County records to assess if any violation remains on the subject property. Again, there are no known current violations on the subject parcels.

More specifically, regarding the issue of onsite grading and imported fill raised by the Appellant, an Inter-Office Memorandum, dated March 11, 2011, to Leslie J. Girard, Assistant County Counsel, from John Huntley, Management Analyst, Building Services Department Re. "Enforcement Case Review and Chronology / Gordon & Sandra Steuck / Assessor's Parcel Number 103-061-015-000," the Building Services Department concluded:

*Inspections were undertaken during and following the corrective work. All fill material originally placed on the east side of the property (slopes exceeding 30%) prior to May of 1988 was removed and that section of the property was returned to the original elevations and contours, reseeded and prepared for final inspection approval. On the west side of the property adjacent to the Del Piero property, un-compacted fill material was excavated,*

*stockpiled and replaced in compacted lifts in accordance with the approved revised grading plan. Re-vegetation was undertaken, storm water runoff infrastructure was installed and the site was prepared for final inspection approval in compliance with the revised grading plan. Inspections were undertaken and final inspection on grading permit GP090013 was granted July 1, 2010.*

The same memorandum from Mr. Huntley to Mr. Girard additionally states, “A letter confirming full compliance with requirements under grading permit GP090013 was sent to Dr. and Mrs. Steuck August 25, 2010. Enforcement Case CE090292 was closed that same day.”

In summary, the majority of the points raised by the Appellant concerning the Planning Commission’s approval of the subject LLA on December 11, 2013 focus on physical development, or redevelopment, occurring on the two (2) existing lots. As stated, the current project is solely an LLA, which does not involve any physical alteration to the lots or intensification of the use of the land. Should such development, redevelopment or intensification of use not presently at issue, be proposed in the future, the issues associated with that development or intensification will be addressed at that time, consistent with County planning and development policies and regulations.

9. **FINDING:** **APPEALABILITY** – The Planning Commission unanimously approved (10-0-0) the subject Lot Line Adjustment on December 11, 2013. The appellants, Save the Aguajito Forever, Aguajito Property Owners Association, Frank Chiorazzi, Dr. Eric Del Piero and Theresa Del Piero, submitted a timely appeal of the Planning Commission’s decision on January 2, 2014. The appeal was duly noticed for and initially scheduled to be heard by the Board of Supervisors on February 25, 2014; however, at that meeting at concurrence of the applicant and appellants, the Board voted (4-0-1) to continue the hearing on the appeal to March 18, 2014. All parties to the appeal had previously agreed in writing to continue the hearing. At the March 18, 2014 hearing, at the request of the applicant at the hearing, the Board voted (3-0-1-1) to continue the hearing on the appeal to the April 1, 2014 Board of Supervisors meeting. The appeal sets aside the Planning Commission’s decision in its entirety, and the Board’s hearing is de novo. The decision of the Board of Supervisors on this project is final.

- EVIDENCE:**
- a) MCC Section 19.016.050(B) states, *“The Board of Supervisors may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision, as should be made, and such action shall be final.”*
  - b) Emails from David Balch (representing applicant) dated February 19, 2014 and February 24, 2014, to Monterey County Managers Luke

Connolly and John Ford; email from Michael Stamp (representing Save Aguajito Forever) to Monterey County Planning Director Mike Novo dated February 24, 2014 and copied to appellants' representatives and County staff.

- c) Testimony of David Balch (representing applicant) at the March 18, 2014 Board of Supervisors hearing requesting a continuance of the public hearing. Board Order reflecting said continuance to April 1, 2014 as found in the project file found in RMA-Planning file number PLN130209.

### DECISION

**NOW, THEREFORE**, based on the above findings and evidence, the Board of Supervisors does hereby:

- a. Deny the appeal by Save Aguajito Forever, Aguajito Property Owners Association, Frank Chiorazzi, Dr. Eric Del Piero and Theresa Del Piero from the Planning Commission approval of a Lot Line Adjustment between two (2) legal lots of record; and
- b. Adopt the Negative Declaration; and
- c. Approve an application (Steuck/PLN130209) for a Lot Line Adjustment between two (2) legal lots of record approximately 4.6 acres (portion of Assessor's Parcel Number 103-061-015-000 – “Northerly Parcel” [Certificate of Compliance Document No. 2004079692]) and 4.3 acres (portion of Assessor's Parcel Number 103-061-015-000 – “Southerly Parcel” [Certificate of Compliance Document No. 2004079684]) in area, resulting in two (2) newly-reconfigured lots also 4.6 acres (westerly parcel identified as Parcel A) and 4.3 acres (easterly parcel identified as Parcel B) in area, in general conformance with the attached Lot Line Adjustment Record of Survey and subject to the attached conditions, attached hereto as Exhibits 1 and 2 respectively and incorporated herein by this reference.

**PASSED AND ADOPTED** this 1<sup>st</sup> day of April, 2014 upon motion of Supervisor \_\_\_\_\_, seconded by Supervisor \_\_\_\_\_, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of minute Book \_\_\_\_ for the meeting on \_\_\_\_\_.

Dated:

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

By \_\_\_\_\_  
Deputy





# Monterey County Planning Department

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

PLN130209

### 1. PD001 - SPECIFIC USES ONLY

**Responsible Department:** Planning Department

**Condition/Mitigation  
Monitoring Measure:**

This Lot Line Adjustment (PLN130209) allows the adjustment of two legal lots of record of approximately 4.6 acres (portion of Assessor's Parcel Number 103-061-015-000 - northerly Parcel [Certificate of Compliance Document No. 2004079692]) and 4.3 acres (portion of Assessor's Parcel Number 103-061-015-000 - southerly parcel [Certificate of Compliance Document No. 2004079684]), resulting in two newly configured lots of 4.6 acres (westerly parcel to be identified as Parcel A) and 4.3 acres (easterly parcel to be identified as Parcel B). The property is located at 570 Aguijito Road, Carmel (Assessor's Parcel Number 103-061-015-000), Greater Monterey Peninsula Area 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 the RMA - Planning Department. 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 Department)

**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:** Planning Department

**Condition/Mitigation Monitoring Measure:** The applicant shall record a Permit Approval Notice. This notice shall state:  
"A Lot Line Adjustment (Resolution Number 14-\_\_\_\_) was approved by the Monterey County Board of Supervisors for Assessor's Parcel Number 103-061-015-000 on April 1, 2014. The permit was granted subject to 8 conditions of approval which run with the land. A copy of the permit is on file with the Monterey County RMA - Planning Department."

Proof of recordation of this notice shall be furnished to the Director of the RMA - Planning Department prior to issuance of building permits or commencement of the use.

(RMA - Planning Department)

**Compliance or Monitoring Action to be Performed:** Concurrently with the recordation of the Certificates of Compliance, prior to the issuance of grading and building permits or commencement of use, whichever comes first, the Owner/Applicant shall provide proof of recordation of this notice to the RMA - Planning Department.

## 3. PD004 - INDEMNIFICATION AGREEMENT

**Responsible Department:** Planning Department

**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 Department)

**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, recordation of the certificates of compliance whichever occurs first and as applicable, the Owner/Applicant shall submit a signed and notarized Indemnification Agreement to the Director of RMA-Planning Department for review and signature by the County.

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

#### 4. PD032(A) - PERMIT EXPIRATION

**Responsible Department:** Planning Department

**Condition/Mitigation Monitoring Measure:** The permit shall be granted for a time period of 2 years, to expire on April 1, 2016, unless use of the property or actual construction has begun within this period. (RMA-Planning)

**Compliance or Monitoring Action to be Performed:** Prior to the expiration date stated in the condition, the Owner/Applicant shall obtain a Certificate or Certificates of Compliance to the satisfaction of the RMA-Director of Planning. Any request for extension must be received by RMA-Planning at least 30 days prior to the expiration date.

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

**Responsible Department:** Planning Department

**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.

#### 6. PD005 - FISH & GAME FEE NEG DEC/EIR

**Responsible Department:** Planning Department

**Condition/Mitigation Monitoring Measure:** Pursuant to the State Public Resources Code Section 753.5, State Fish and Game Code, and California Code of Regulations, the applicant shall pay a fee, to be collected by the County, within five (5) working days of project approval. This fee shall be paid before the Notice of Determination is filed. If the fee is not paid within five (5) working days, the project shall not be operative, vested or final until the filing fees are paid. (RMA - Planning)

**Compliance or Monitoring Action to be Performed:** Within five (5) working days of project approval, the Owner/Applicant shall submit a check, payable to the County of Monterey, to the Director of RMA - Planning.

If the fee is not paid within five (5) working days, the applicant shall submit a check, payable to the County of Monterey, to the Director of RMA - Planning prior to the recordation of the Certificates of Compliance.

**7. EHSP01 - Long-Term Water Supply Deed Restriction (Non-Standard)**

**Responsible Department:** Health Department

**Condition/Mitigation Monitoring Measure:** The applicant shall record a deed restriction which includes the statement: Well yields in fractured rock aquifer systems have been shown to decline significantly over time due to meager ability of fractured rock to store and transmit water. Therefore, with the intrinsic uncertainties regarding the long-term sustainability of an on-site well proposed to provide a source of domestic potable water on this parcel, the present and any future owners of this property are hereby given notice that additional water sources may be required in the future.

**Compliance or Monitoring Action to be Performed:** The property owner shall submit the deed restriction for review and approval by the Environmental Health Bureau and the Office of the County Counsel.

Once approved, the deed restriction shall be recorded with the Monterey County Recorder to be recorded concurrently with the recordation of the Certificates of Compliance. Proof of recordation shall be provided to EHB and the Planning Department.

**8. EHSP02 - Deed Restriction - Water Source (Non-Standard)**

**Responsible Department:** Health Department

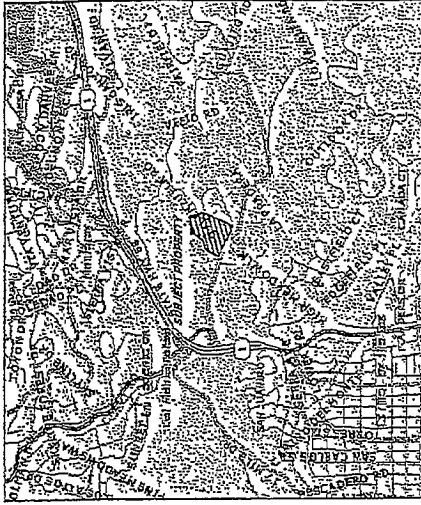
**Condition/Mitigation Monitoring Measure:** The applicant shall record a deed restriction as a condition of project approval which includes but is not limited to the following:  
The owner of APN: \_\_\_-\_\_\_-\_\_\_-000 shall, in perpetuity, grant access and use of the well to serve future development on the newly configured vacant lot (APN: \_\_\_-\_\_\_-\_\_\_-000) resulting from PLN080454.

A 72 hour source capacity test was completed on APN: \_\_\_-\_\_\_-\_\_\_-000 in September 2010. The Environmental Health Bureau (EHB) credited the well capacity at 8.5 gallons per minute. This yield is sufficient to server a maximum of two single family dwellings. The newly configured vacant lot (APN: \_\_\_-\_\_\_-\_\_\_-000) is to be served by the onsite well on APN: \_\_\_-\_\_\_-\_\_\_-000. The access to the well water for APN: \_\_\_-\_\_\_-\_\_\_-000 (currently vacant property) can only be severed if the property has a separate source approved by EHB that meets capacity requirements. Severance of the water access shall not be done without EHB approval.

In the event of sale of either lot, water easements shall be recorded to maintain access to the well water for both lots.

**Compliance or Monitoring Action to be Performed:** The property owner shall submit the deed restriction for review and approval by the Environmental Health Bureau and the Office of the County Counsel.

Once approved, the deed restriction shall be recorded with the Monterey County Recorder to be recorded concurrently with the recordation of the Certificates of Compliance. Proof of recordation shall be provided to EHB and the Planning Department.



VICINITY MAP  
NOT TO SCALE

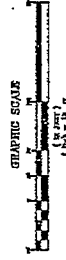
APPLICANT'S NAME: **THE SIVICK GROUP, INC.**  
 PROJECT ADDRESS: **1000 S. 10TH AVENUE, SUITE 100, DENVER, CO 80202**  
 PROJECT TYPE: **COMMERCIAL/RESIDENTIAL DEVELOPMENT**  
 PROJECT DESCRIPTION: **REDEVELOPMENT OF EXISTING LOT**  
 PROJECT AREA: **APN 100-081-002**  
 PROJECT AREA: **APN 100-081-003**  
 PROJECT AREA: **APN 100-081-004**  
 PROJECT AREA: **APN 100-081-005**  
 PROJECT AREA: **APN 100-081-006**  
 PROJECT AREA: **APN 100-081-007**  
 PROJECT AREA: **APN 100-081-008**  
 PROJECT AREA: **APN 100-081-009**  
 PROJECT AREA: **APN 100-081-010**

**PROPOSED LOT LINE ADJUSTMENT**

A PART OF LOT 11, LOS ANGELES PL, CITY OF DENVER, COUNTY OF DENVER, COLORADO

PREPARED FOR: **GORDON STRICK**

PREPARED BY: **GORDON STRICK**  
 REGISTERED PROFESSIONAL SURVEYOR  
 LICENSE NO. **10000**  
 DENVER, COLORADO  
 DATE: **DEC. 14, 2000**



**Existing Lot Line**

**Proposed Lot Line**

