



# Monterey County

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## Board Order

Upon motion of Supervisor Potter, seconded by Supervisor Calcagno and carried by those members present, the Board of Supervisors hereby:

Public hearing held and adopted Resolution No. 13-340 to:

- a. Certify that the Board has reviewed and considered the Addendum together with the Environmental Impact Report (EIR) for the Santa Lucia Preserve (EIR No. 94-005); and
- b. Approve a Map Amendment to increase the Homeland boundary of adjusted Lot 65 of the Santa Lucia Preserve Phase A Subdivision Map by 1.08 acres. (Map Amendment - PLN130466/Vardell, 34205 Robinson Canyon Road, Carmel, Greater Monterey Peninsula Area Plan)

PASSED AND ADOPTED on this 5th day of November 2013, by the following vote, to wit:

AYES: Supervisors Armenta, Calcagno, Salinas, Parker and Potter

NOES: None

ABSENT: None

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 77 for the meeting on November 5, 2013.

Dated: November 5, 2013  
File Number: 13-1142

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

By *Denise Hincade*  
Deputy

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

Resolution No. 13-340

Resolution of the Monterey County Board of Supervisors to:
a) Certify the Board has considered the Addendum together with the Santa Lucia Preserve EIR No. 94-005; and
b) Approve the Map Amendment to adjust the Homeland Boundary of adjusted Lot 65 of the Santa Lucia Preserve Phase A and B Subdivision Map, by 1.08 acres.
[PLN130466, Vardell Living Trust, 34205 Robinson Canyon Road, Carmel (Lot 65 in Santa Lucia Preserve), Greater Monterey Peninsula Area Plan (APN: 239-061-011-000)].....

The Map Amendment application (PLN130466) came on for public hearing before the Monterey County Board of Supervisors on November 5, 2013. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Board of Supervisors finds and decides as follows:

FINDINGS

1. FINDING: CONSISTENCY – The Project, as conditioned, is consistent with the applicable plans and policies which designate this area as appropriate for development. The project involves the increase of the Homeland boundary of adjusted Lot 65 of the Santa Lucia Preserve Phase A and B Subdivision Map by 1.08 acres.

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);
- the Comprehensive Development Plan for the Santa Lucia Preserve.

The project complies with all of the above texts, policies, and regulations with the exception of the Comprehensive Development Plan for the Santa Lucia Preserve (“Development Plan”). The Comprehensive Development Plan requires that residential development and all be improvements be contained within the Homeland areas. The Vardell property has development outside of the Homeland area and therefore is not consistent the Development Plan. The proposed Map Amendment would expand the Homeland area to include the existing development and ensure compliance with the Development Plan.

- b) The property is located at 34205 Robinson Canyon Road, Carmel (Lot 65 in Santa Lucia Preserve) (Assessor's Parcel Number 239-061-011-000), Greater Monterey Peninsula Area Plan. The parcel is zoned Resource Conservation, 40 acres per unit with Design Control and Site Plan Review Overlays or "RC/40-D-S". The subject property is not in compliance with all the rules and regulations pertaining to zoning uses and any other applicable provisions of Title 21. See Finding 4. The proposal is to amend the Santa Lucia Preserve Phase A and B Subdivision Map, filed in the Office of the Recorder of the County of Monterey at Volume 20, Cities and Towns, Pages 8 and 33, in order to expand the Homeland boundary on Lot 65 for the inclusion of existing structures. These uses are consistent with the RC/40-D-S zoning regulations, and therefore the site is suitable for the proposed amendment.
- c) Site Plan Review or "S" zoning requires review of development in those areas of the County of Monterey where development, by reason of its location has the potential to adversely affect or be adversely affected by natural resources or site constraints, without imposing undue restrictions on private property. The project does not involve, or include, the construction of any structures, but in the future, any proposed structures within the Homeland boundary would be subject to the regulations of Chapter 21.45 of Monterey County Code, in order to assure protection of the resources described previously in this paragraph.
- d) The project was not referred to a Land Use Advisory Committee (LUAC) for review because no LUAC exists for this area.
- e) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN130466.

2. **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 Department. There has been no indication from these departments/agencies that the site is not suitable for the proposed development. Conditions recommended have been incorporated.
  - b) Staff did not identify potential impacts to Biological Resources, Archaeological Resources, or Soil/Slope Stability.
  - c) Existing Archaeological/Wetlands/Conservation/Scenic Easements are recorded on the subject property and will not be impacted by the proposed map amendment.
  - d) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN130466.

3. **FINDING:** **HEALTH AND SAFETY** - The establishment, maintenance, or

operation of the project applied for will not under the circumstances of this particular case be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.

- EVIDENCE:**
- a) The project was reviewed by the RMA - Planning Department. The respective agency has 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. The applicant has agreed to these conditions as evidence by the application and accompanying materials and conditions.
  - b) The purpose for moving (increasing) the location of the Homeland boundary is to relocate existing structures out of the Openlands and into the Homeland. The remaining lands will be put under a new Conservation Easement as Openlands, which will assure that there is a net benefit to the Protected Values of the Preserve and requirements of the Comprehensive Development Plan for Santa Lucia Preserve.
  - c) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN130466.

4. **FINDING:** **NO VIOLATIONS** – The subject property is not in compliance with all rules and regulations pertaining to zoning. Violations exist on the property. The approval of this permit will correct the violations and bring the property into compliance.

- EVIDENCE:**
- a) Staff reviewed Monterey County RMA - Planning Department and Building Services Department records and is aware of a violation existing on subject property.
  - b) The Conservation Easements were required by the conditions of approval for the Santa Lucia Preserve Combined Development Permit. A violation of conditions of approval is a violation of MCC 21.84.050. The proposed project corrects an existing violation regarding the prohibited residential uses within the Openlands Conservation Easement. When implemented, the map amendment and new Conservation Easement will bring the subject property into compliance with all rules and regulations pertaining to the property and will remove the existing violation.
  - c) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN130466.

5. **FINDING:** **CEQA (Addendum):** - An Addendum to a previously certified EIR was prepared pursuant to the CEQA Guidelines (California Code of Regulations, Title 14, Section 15164) to reflect changes or additions in the project that do not cause substantial changes or new information that would require major revisions to the adopted EIR. The Board has

reviewed and considered the Addendum together with the EIR for the Santa Lucia Preserve and finds, based on substantial evidence in the record, that there are no substantial changes in the project, no substantial changes in circumstances, and no new information of substantial importance which would require major revisions of the EIR due to the involvement of new significant effects or a substantial increase in the severity of previously identified significant effects.

- EVIDENCE:**
- a) An EIR for Santa Lucia Preserve was prepared and certified by the Board of Supervisors on February 6, 1996 (Board Resolution No. 96059).
  - b) The Addendum, attached as **Attachment G** to the November 5, 2013 Board of Supervisors Staff Report, reflects the County's independent judgment and analysis.
  - c) Staff's analysis of the Santa Lucia EIR indicated that the reason for the creation of the Homeland boundaries was a compilation of analyzed resources and constraints, such as archaeology, biology and geology. The result of this analysis created the location of the existing homeland boundary on Lot 65. At that time, the area occupied by the gatehouse and associated shed (existing development) was located *inside* Lot 65, but *outside* of the designated Homelands area. An Openlands Conservation Easement was recorded in on all portions of Lot 65 outside the Homeland area, including the portion of the lot occupied by the structures. The Conservation Easement flatly prohibits, among other things, development, residential uses and structures with the Openlands as designated on the Final Map. The Map Amendment will bring the existing structures into an expanded Homeland area, and require the remaining lands to be designated as Openlands. The new Openlands designation assures that there is a net benefit to the Protected Values of the Preserve, and obligations under the Conservation Easement burdening Lot 65. The enlarged Homeland area is not located in an area which poses a risk to Protected Values of the site. All impacts (biological, archaeological, and geological) of the revise boundary are equal to, or less than the boundary evaluated under the Certified EIR.
  - d) The addition of 1.08 acres to the Homeland area on Lot 65 does not increase the development potential of the parcel. The existing Homeland area on Lot 65 is already constrained. The Homeland is bisected down the center by a fault trace with a 50 foot setback on either side of the fault trace and a sewer easement. These areas encompass just over 1 acre of the 2.9 acre Homeland area. The fault trace setback area and the sewer easement reduce the developable portion of the existing Homeland area to less than 2 acres in two non-contiguous areas within the Homeland. See the map for Lot 65 in Volume 20 of Cities and Towns at Page 8.
  - e) The original developer set a limit of 4,000 square feet for the main dwelling on Homeland for Lot 65. This limitation is enforced by the Santa Lucia Preserve Design Review Board. With the addition of the new Homeland area, the size of the main dwelling on Lot 65 will remain 4,000 square feet or less. Therefore, there is no increase in the

- development potential on Lot 65.
- f) According to the Santa Lucia Conservancy, there is no ecological value to the 1.08 acres of new Homeland area. In addition, the proposed project will add nearly 8 acres of fragile habitat area that will be protected in perpetuity by an Openlands Conservation Easement.
  - g) By adding the new Homeland area with the existing structures, the future development on the property will be anchored on the southeastern portion of the existing Homeland area. This reduces the development potential on the northwestern portion of the Homeland area which contains greater habitat values.
  - h) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN130466.

6. **FINDING:**

**MAP AMENDMENT** – The Board finds that there are changes in circumstances that make the Homeland boundary as designated on the Santa Lucia Preserve Phase A and B Final Map in need of revision, that the modifications do not impose any additional burden on the fee owners of the subject property, that the modifications do not alter any right, title, or interest in the real property reflected on the recorded map, and that the map as modified conforms to Government Code Section 66474.

**EVIDENCE:**

- a) A Map Amendment is required to amend a recorded building envelope pursuant to Monterey County's Subdivision Ordinance (Chapter 19.08.015 County Code) and the Subdivision Map Act (Section 66469 and 66472.1 Government Code).
- b) The subject application (PLN130466) consists of an amendment to the *Santa Lucia Preserve Phase A and B* Subdivision Map, filed as *Volume 20, Cities and Towns, Pages 8 and 33*. The amendment is required because the applicant is proposing to move the "Homeland Boundary" (commonly referred to as a building envelope) on Lot 65 of this map. The existing parcel is 16.38 acres with a current Homeland Boundary of 2.90 acres. The proposal would expand the Homeland Boundary south-easterly and increase the size to 3.98 acres. The purpose for moving the location of the boundary is to comply with a Settlement Agreement, to allow the inclusion of existing structures within the Homeland, and remove them from the Openland Conservation Easement area.
- c) There are changes in circumstances that make the originally recorded building envelope (Homeland), as previously created, no longer appropriate or necessary. When the lot was created, development existed on site, which was not included in the Homeland designation. The existing development is not located in an area which poses a risk to protected resources on the site (biological, archaeological, and/or geological). Impacts resulting from the revised (expanded) building envelope (Homeland) are equal to, or less than the boundary evaluated under the Certified EIR.
- d) The modification (expansion) of the Homeland Boundary would not impose any burden on the fee owner of the subject property because the

- modification has been requested by the property owner.
- e) The modifications do not alter any right, title, or interest in the real property reflected on the recorded map. This modification has been agreed upon through a settlement agreement among the property owner, the Santa Lucia Preserve Association, and the Santa Lucia Conservancy.
  - f) The map, as modified, conforms to the provisions of Government Code 66474. None of the findings for denial of the map amendment under Government Code section 66474 can be made.
  - g) Monterey County Code Section 19.08.015.A.7 requires that the map amendment be considered at consecutive hearings by the appropriate decision making body(s) that approved or recommended the original tentative map. The Planning Commission held a hearing on October 9, 2013 and recommended approval to the Board of Supervisor by a 10-0 vote. The Board of Supervisors held a duly noticed public hearing on November 5, 2013.
  - h) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN130466.

### DECISION

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

1. Certify that the Board has reviewed and considered the Addendum together with the Environment Impact Report for the Santa Lucia Preserve (EIR No. 94-005); and
2. Approve the Map Amendment to adjust the Homeland Boundary of adjusted Lot 65 of the Santa Lucia Preserve Phase A and B Subdivision Map, filed as Volume 20, Cities and Towns, Pages 8 and 33 in the Office of the Recorder of the County of Monterey, by 1.08 acres, in general conformance with the attached draft amended map (Attachment B-2) and subject to the attached conditions (Attachment B-1), all being attached hereto and incorporated herein by reference.

**PASSED AND ADOPTED** upon motion of Supervisor Potter, seconded by Supervisor Calcagno and carried this 5th day of November 2013, by the following vote, to wit:

AYES: Supervisors Armenta, Calcagno Salinas, Parker and Potter  
 NOES: None  
 ABSENT: None

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 77 for the meeting on November 5, 2013.

Dated: November 5, 2013  
 File Number: 13-1142

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

By Denise Hancock  
 Deputy

# Monterey County RMA Planning

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

PLN130466

### 1. PD001 - SPECIFIC USES ONLY

**Responsible Department:** RMA-Planning

**Condition/Mitigation Monitoring Measure:** This Map Amendment (PLN130466) allows the adjustment of Homeland Boundary on "Lot 65" of the Santa Lucia Preserve, Phase A and B Subdivision Map. The property is located at 34205 Robinson Canyon Road, Carmel, (Assessor's Parcel Number 239-061-011-000), 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 RMA - Planning. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. To the extent that the County has delegated any condition compliance or mitigation monitoring to the Monterey County Water Resources Agency, the Water Resources Agency shall provide all information requested by the County and the County shall bear ultimate responsibility to ensure that conditions and mitigation measures are properly fulfilled. (RMA - Planning)

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

### 2. PD002 - NOTICE PERMIT APPROVAL

**Responsible Department:** RMA-Planning

**Condition/Mitigation Monitoring Measure:** The applicant shall record a Permit Approval Notice. This notice shall state:  
"A Map Amendment (Resolution Number 13-340) was approved by the Monterey County Board of Supervisors for Assessor's Parcel Number 239-061-011-000 on November 5, 2013. The permit was granted subject to 6 conditions of approval which run with the land. A copy of the permit is on file with Monterey County RMA - Planning."

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

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



### 3. PD004 - INDEMNIFICATION AGREEMENT

**Responsible Department:** RMA-Planning

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

**Compliance or Monitoring Action to be Performed:** Upon demand of County Counsel or prior to recording of the amended map, whichever occurs first and as applicable, the Owner/Applicant shall submit a signed and notarized Indemnification Agreement to the Director of RMA-Planning for review and signature by the County.

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

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

**Responsible Department:** RMA-Planning

**Condition/Mitigation Monitoring Measure:** The permit shall be granted for a time period of 3 years, to expire on November 5, 2016 unless the conditions of approval have been cleared 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 record an amended map 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. PDSP001 - APPROVAL FROM THE SANTA LUCIA CONSERVANCY FOR AMENDMENT OF CONSERVATION EASEMENT (C**

**Responsible Department:** RMA-Planning

**Condition/Mitigation Monitoring Measure:** The Conservation Easement on Lot 65 (Document No. 9882397, recorded on November 24, 1998) shall be amended, by the means described below, to accurately depict the new Homeland and Openland boundaries, consistent with the terms of Condition No. 109 of the Conditions of Approval of the original subdivision (Board of Supervisors Resolution No. 96-060, 96-061, and 97-360).

A new Conservation Easement shall be recorded on the land formerly included in the Golf Club's Lot 264, now comprising a 7.73 acre portion of Lot 65, shown and designated "Portion of Lot 65 (Parcel 2) From Volume 30 Surveys, Page 70" . The new Conservation Easement shall be recorded in the form attached as Exhibit E to the settlement agreement attached to the staff report. The location of the new conservation easement (Openlands) shall be shown on "Lot 65" and "Portion of Lot 65 (Parcel 2) from Volume 30 Surveys, Page 8" on the Amending Map.

A Quitclaim Deed shall be recorded in the form attached to the settlement agreement at Exhibit F to extinguish a portion of the Existing Conservation Easement on the 0.89 acre portion of Lot 65 designated as "Additional Homeland - Lot 65 From Volume 20 Cities and Towns, Page 8" . (RMA-Planning)

**Compliance or Monitoring Action to be Performed:** Concurrently with Recordation of the Amended Map, the owners shall record the new Conservation Easement and the Quitclaim Deed. The location of the new conservation easement (Openlands) shall be shown on "Lot 65" and "Portion of Lot 65 (Parcel 2) From Volume 30 Surveys, Page 70" on the Amending Map.

**6. PDSP002 - AMENDED MAP (NON-STANDARD)**

**Responsible Department:** RMA-Planning

**Condition/Mitigation Monitoring Measure:** File an Amended Map delineating the new homeland site(s), all existing and required easements or right-of-way and monument new lines. (RMA-Planning and RMA-Public Works)

**Compliance or Monitoring Action to be Performed:** Prior to Recordation of Amended Map, the applicant's surveyor shall prepare an Amended Map, submit to RMA-Planning and RMA-Public Works for review and approval.