

Attachment B

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ATTACHMENT B
DRAFT BOARD RESOLUTION

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

Resolution No.

- a. Approve a Lot Line Adjustment)
between four (4) legal lots of record)
under Land Conservation Contract)
Nos. 69-027 and 69-028 established by)
County Resolution Nos. 69-35-27 and)
69-35-28, respectively, with no net)
decrease in acreage under Williamson)
Act Contract; and)
- b. Authorize the Chair to execute new or)
amended Land Conservation Contracts)
in order to rescind a portion of the)
existing Land Conservation Contracts)
as applicable to the reconfigured lots)
only and simultaneously execute a new)
or amended Land Conservation)
Contract or Contracts for the)
reconfigured lots between the County)
and Eric Lindberg and Megan)
Lindberg, Trustees of the Lindberg)
Revocable Trust, dated February 14,)
2006, and Anthony L. Lombardo, as)
Trustee of the Anthony L. Lombardo)
Separate Property Trust, created UTA)
dated September 28, 2007, reflecting)
the new legal descriptions, current)
ownership interests and to incorporate)
any legislative changes to State)
Williamson Act provisions and current)
County Agricultural Preserve Policies)
or Procedures; and)
- c. Direct the Clerk of the Board to record)
the new or amended Contracts upon)
submittal of the appropriate recording)
fees by the property owners.)
(PLN150357/ Eric Lindberg and)
Megan Lindberg, Trustees of the)
Lindberg Revocable Trust, dated)
February 14, 2006, and Anthony L.)
Lombardo, as Trustee of the Anthony)
L. Lombardo Separate Property Trust,)
created UTA dated September 28,)
2007,)

RECITALS

WHEREAS, an application was submitted for a Lot Line Adjustment between four (4) legal lots of record involving Assessor's Parcel Numbers 423-133-002-000, 423-133-021-000, 423-111-009-000 and 423-133-022-000 in their entireties, as owned by Eric Lindberg and Megan Lindberg, Trustees of the Lindberg Revocable Trust, dated February 14, 2006, and Anthony L. Lombardo, as Trustee of the Anthony L. Lombardo Separate Property Trust, created UTA dated September 28, 2007. The legality of the four (4) subject parcels is based on deeds and Certificates of Compliance found in Planning File No. PLN150357; and,

WHEREAS, the lots are subject to Land Conservation Contract Nos. 69-027 and 69-028 (Williamson Act Agricultural Preserve) and will be reconfigured. They will remain under Land Conservation Act Contract. The Lot Line Adjustment will result in four (4) reconfigured separate lots totaling approximately 652.49 acres, and will allow the continued utilization of the land by the property owners for commercial agricultural production; and,

WHEREAS, the Board of Supervisors finds that the proposed Lot Line Adjustment of property is consistent with policies of the Monterey County General Plan, the South County Area Plan, regulations in the Zoning Ordinance (Title 21 of the Monterey County Code) and the Subdivision Ordinance (Title 19 of the Monterey County Code), and Section 51257 of the California Government Code (Williamson Act), and Land Conservation Contract Nos. 69-027 and 69-028 as evidenced below:

FINDINGS AND EVIDENCE FOR APPROVAL OF LOT LINE ADJUSTMENT

- 1. FINDING: CONSISTENCY** – The project, as described in Condition No. 1 and as conditioned, conforms to the policies, requirements, and standards of the Monterey County General Plan, South County Area Plan, the Monterey County Zoning Ordinance (Title 21), the Monterey County Subdivision Ordinance (Title 19 - Inland Subdivision Ordinance), and Section 51257 of the California Government Code (Williamson Act). The properties are located at Hare Canyon Road, San Miguel, California, approximately seven (7) miles due northeast from the town of Bradley (Assessor's Parcel Numbers 423-133-002-000, 423-133-021-000, 423-111-009-000 and 423-133-022-000) in the South County Plan Area.
- EVIDENCE:**
- (a) The text, policies, and regulations in the above referenced documents have been evaluated during the course of review of this application. No conflicts between these documents and this application were found to exist. No communications were received during the course of review of the project indicating any project inconsistencies with the text, policies, and regulations in these documents.
 - (b) Policy No. AG-1.4 of the 2010 General Plan encourages conservation of viable agricultural lands. The resulting Lot Line Adjustment is consistent with this Policy and will not alter the continued agricultural use if ever leased or sold separately. No new development is proposed. The intent of the Lot Line Adjustment is to re-align all the parcels so as to maximize their respective frontages on Hare Canyon Road and to move their respective acreage entirely to one side (or the other) of Hare Canyon Road. Therefore, the lot reconfiguration will enhance the agricultural use of the parcels by increasing potential accessibility.
 - (c) General Plan Policy LU-1.16 states:

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 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.

The proposed Lot Line Adjustment is consistent with LU-1.16.

Specifically, the Adjustment will produce superior parcel configurations for the purpose of access. The General Plan designations for the subject lots are "Permanent Grazing 10-160 Acre Minimum," and the parcels are zoned "Permanent Grazing/160 acre-minimum." The Lot Line Adjustment will result in three (3) parcels of 160 acres or greater, whereas only two (2) of the four (4) parcels are presently larger than 160 acres. The remaining parcel will be adjusted from 120.57 acres to 156.93 acres, and while still "non-conforming," will be brought closer to zoning conformity.

- (d) The Lot Line Adjustment application was not referred to the Agricultural Advisory Committee for review as no significant issues were identified by staff of the Planning Department or of the Agricultural Commissioner's Office. No conditions were recommended by the Agricultural Commissioner's Office.
- (e) The application plans, and related support materials found in Planning File No. PLN150357.

2. FINDING: CONFORMANCE WITH SUBDIVISION ORDINANCE AND PARCEL LEGALITY DETERMINATION - Pursuant to Section 19.09.025.B.1 of the Monterey County Subdivision Ordinance (Title 19), the Lot Line Adjustment is between two (or more) existing adjacent lots.

EVIDENCE:

- (a) Lot "A", containing approximately 120.57 acres, was recognized on October 31, 1917, by deed from the Department of the Interior General Land Office to "G. Alfred Carson, and his heirs" (Volume K, page 320)
- (b) Lot "B", containing approximately 40.62 acres, was recognized on July 20, 1920 when it was deeded from "Charles Carter Nichols and Charlotte M. Nichols" to "George B. Azbell and Winn S. Azbell" (Volume 180 of Deeds, pg. 429).
- (c) Lot "C", containing approximately 320 acres, was recognized on March 27, 1918 when it was deeded from "F.H. Button and Ethel P. Button" to "W.N. Rose" (Volume 156 of Deeds, pg. 482).

(d) Lot “D”, containing approximately 171.3 acres, was recognized as a legal lot by Monterey County by a Certificate of Compliance (CC150031/Document No. 2015031694 on file with the County Recorder).

3. **FINDING: NO NEW LOTS CREATED** – Pursuant to Section 19.09.025.B.2 of the Monterey County Subdivision Ordinance (Title 19), a greater number of parcels or lots than originally existed will not be created as a result of the Lot Line Adjustment.

EVIDENCE: (a) The existing four (4) contiguous lots of record will be adjusted, resulting in four (4) lots. No new lots will be created.

(b) The application, plans, and related support materials found in Planning File No. PLN150357.

4. **FINDING: CONTIGUOUS LOTS OF RECORD** – Pursuant to Section 19.09.025.B.1 of the Monterey County Subdivision Ordinance (Title 19), the lots resulting from the Lot Line Adjustment are, and will remain, contiguous parcels.

EVIDENCE: The application and plans for a Lot Line Adjustment found in Planning File No. PLN150357.

5. **FINDING: CEQA (Exempt)** - The project is categorically exempt from environmental review.

EVIDENCE: (a) Section 15305(a) of the CEQA Guidelines categorically exempts minor Lot Line Adjustments, side yard, and set back variances in areas with an average natural slope of less than 20% not resulting in the creation of any new parcel.

(b) Based on a review of the project plans, approval of the project would not result in any potentially adverse impacts. No additional development is proposed with this project.

(c) See preceding findings and related evidence.

6. **FINDING: PUBLIC NOTICE** - Public notice of the pending Lot Line Adjustment was provided pursuant to Section 19.01.055, Title 19, Monterey County Code (Subdivisions).

EVIDENCE: Materials in Planning File No. PLN150357.

7. **FINDING: NO VIOLATIONS** - The subject properties are 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. Zoning violation abatement costs, if any, have been paid.

EVIDENCE: Staff has reviewed Monterey County RMA - Planning Department and Building Services Department records and is not aware of any violations existing on the subject property.

FINDINGS AND EVIDENCE TO ALLOW THE LOT LINE ADJUSTMENT OF PROPERTY FOR LANDS IN WILLIAMSON ACT

WHEREAS, California Government Code Section 51257 requires that certain findings be made by the Board of Supervisors to facilitate Lot Line Adjustments of land under Williamson Act Contract;

WHEREAS, the Board of Supervisors finds that the request for a Lot Line Adjustment is consistent with California Government Code Section 51257 (Williamson Act). Specifically, the Board finds and declares that:

- 8. FINDING: WILLIAMSON ACT – CONTRACTS** – Pursuant to California Government Code Section 51257(a)(1), the new or amended Contract or Contracts would enforceably restrict the adjusted boundaries of the parcel for an initial term for at least as long as the unexpired term of the rescinded Contract or Contracts, but for not less than 10 years.

EVIDENCE: (a) The proposed revision to Land Conservation Contract Nos. 69-027 and 69-028 applicable to the four (4) reconfigured lots, will reflect the redistribution of acreage of land under Williamson Act Contract as illustrated in Table 2 (below). There will be no change to the exterior boundaries of the Contracts.

Redistribution of Acreage (Approximate)

	EXISTING ACREAGE	PROPOSED ACREAGE	NET ADJUSTMENT
LOT “A”	120.57	156.93	+ 36.36
LOT “B”	40.62	175.51	+134.89
LOT “C”	320	160	-160
LOT “D”	171.3	160.05	-10.98

- (b) The term of the original Land Conservation Contract(s) renew annually on each succeeding January 1. The new or amended Contract or Contracts for the reconfigured parcels propose an initial term of 20 years which will also renew annually on each succeeding January 1.

- 9. FINDING: WILLIAMSON ACT – NO NET ACREAGE DECREASE** - Pursuant to California Government Code Section 51257(a)(2), there is no net decrease in the amount of the acreage restricted.

EVIDENCE: (a) The Lot Line Adjustment will reconfigure the lots but will not result in a change in Contract boundaries or a net loss of acreage currently under Contracts.

- (b) The application, plans, and related support materials found in Planning File No. PLN150357.

- 10. FINDING: WILLIAMSON ACT – NEW CONTRACTS** - Pursuant to California Government Code Section 51257(a)(3), at least 90 percent of the land under the former Contract or Contracts remains under the new or amended Contract or Contracts.

EVIDENCE: (a) All of the land under Contract will remain under Contract.

- (b) The application and plans for a Lot Line Adjustment found in Planning File No. PLN150357.

- 11. FINDING: WILLIAMSON ACT – SUSTAIN AGRICULTURAL USE -** Pursuant to California Government Code Section 51257(a)(4), after the Lot Line Adjustment, the parcels of land subject to Contract will be large enough to sustain their agricultural use, as defined in Section 51222.

EVIDENCE: (a) The four (4) reconfigured lots will range in size from 156.93 acres to 175.51 acres.
(b) Pursuant to Section 51222 of the California Government Code (Williamson Act), “agricultural land shall be presumed to be in parcels large enough to sustain their agricultural use if the land is (1) at least 10 acres in size in the case of prime agricultural land, or (2) at least 40 acres in size in the case of land which is not prime agricultural land.”
(c) The application plans, and related support materials found in Planning File No. PLN150357.

- 12. FINDING: WILLIAMSON ACT – LONG-TERM AGRICULTURAL PRODUCTIVITY -** Pursuant to California Government Code Section 51257(a)(5), the Lot Line Adjustment would not compromise the long-term agricultural productivity of the parcel or other agricultural lands subject to a Contract or Contracts.

EVIDENCE: (a) The intent of the Lot Line Adjustment is for the purpose of creating lots of greater functionality, by maximizing access frontage to a public road.
(b) No new development is proposed for the four (4) reconfigured lots, which will continue to be used for agricultural purposes.
(c) The application plans, and related support materials found in Planning File No. PLN150357.

- 13. FINDING: WILLIAMSON ACT – ADJACENT AGRICULTURAL LAND USE -** Pursuant to California Government Code Section 51257(a)(6), the Lot Line Adjustment is not likely to result in the removal of adjacent land from agricultural use.

EVIDENCE: (a) The Lot Line Adjustment will not affect current agricultural operations on the subject properties and on adjacent properties. No physical development is proposed. The adjustment would not allow any uses that could not also occur under the current lot configurations.
(b) The application and plans for a Lot Line Adjustment found in Planning File No. PLN150357.

- 14. FINDING: WILLIAMSON ACT – NO NEW DEVELOPABLE PARCELS -** Pursuant to California Government Code Section 51257(a) (7), the Lot Line Adjustment does not result in a greater number of developable parcels than existed prior to the adjustment.

EVIDENCE: (a) The four (4) reconfigured lots will not result in a greater number of developable lots than existed prior to the adjustment.
(b) The application, plans, and related support materials found in Planning File No. PLN150357.

DECISION

NOW, THEREFORE, BE IT RESOLVED THAT in order to facilitate the Lot Line Adjustment of Williamson Act Agricultural Preserve lands, the Board rescinds a portion of the existing Land Conservation Act Contract Nos. 69-027 and 69-028 as applicable to the reconfigured lots, and authorizes the Chair to simultaneously execute a new or amended Land Conservation Act Contract or Contracts which shall be applicable to the reconfigured parcels, consistent with Government Code Section 51257 (Williamson Act), pending receipt of new legal descriptions for the proposed reconfigured lots and the execution of the new or amended Contract or Contracts by the property owners;

IT IS FURTHER RESOLVED that, consistent with Government Code Section 51257, the Board authorizes the Chair to sign a new or amended Land Conservation Act Contract or Contracts, to simultaneously rescind a portion of the existing Land Conservation Act Contracts as applicable to the reconfigured parcels only, and to execute a new or amended Land Conservation Contract or Contracts, which shall be applicable to the reconfigured lots;

IT IS FURTHER RESOLVED that the new or amended Land Conservation Act Contract or Contracts shall reflect current ownership interests for the reconfigured parcels and shall incorporate any legislative changes to State Williamson Act provisions and current County Agricultural Preserve Policies or Procedures, and the Chair of the Board is authorized to sign the new or amended Land Conservation Contract or Contracts with the property owners;

IT IS FURTHER RESOLVED that the Clerk is directed to record said new or amended Contract or Contracts upon recordation of the Certificates of Compliance, completion of the legal description or descriptions, and execution by the Chair;

IT IS FURTHER RESOLVED that the Board of Supervisors does hereby approve said Lot Line Adjustment subject to the attached conditions and Proposed Lot Line Adjustment Map.

PASSED AND ADOPTED on this 17th day of November, 2015, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

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 RMA Planning

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

PLN150357

1. PD001 - SPECIFIC USES ONLY

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: This permit (PLN150357) allows a Lot Line Adjustment between four (4) legal lots of record under Land Conservation Contract Nos. 69-027 and 69-028, established by County Resolution Nos. 69-35-27 and 69-35-28, respectively, with no net decrease in acreage under Williamson Act Contract. The properties are located at Hare Canyon Road, San Miguel (Assessor's Parcel Numbers 423-133-021-000, 423-133-002-000, 423-133-022-000 and 423-111-009-000), South County 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 The applicant shall record a Permit Approval Notice. This notice shall state:

Monitoring Measure:

"A Lot Line Adjustment (Resolution Number ***) was approved by the Board of Supervisors for Assessor's Parcel Numbers 423-133-021-000, 423-133-002-000, 423-133-022-000 and 423-111-009-000 on November 17, 2015. The permit was granted subject to eight (8) 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 grading and building permits, Certificates of Compliance, or commencement of use, whichever occurs first and as applicable. (RMA - Planning)

Compliance or
Monitoring
Action to be Performed:

Prior to the issuance of grading and building permits, certificates of compliance, or commencement of use, whichever occurs first and as applicable, the Owner/Applicant shall provide proof of recordation of this notice to the RMA - Planning.

3. PD004 - INDEMNIFICATION AGREEMENT

Responsible Department: RMA-Planning

Condition/Mitigation
Monitoring Measure:

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

Compliance or
Monitoring
Action to be Performed:

Upon demand of County Counsel or concurrent with the issuance of building permits, use of the property, recording of the final/parcel map, or recordation of 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 for review and signature by the County.

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

4. PD006(A) - CONDITION COMPLIANCE FEE

Responsible Department: RMA-Planning

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

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

5. PD032(A) - PERMIT EXPIRATION

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: The permit shall be granted for a time period of three years, to expire on November 17, 2018, unless the Certificates of Compliance have been recorded. (RMA-Planning)

Compliance or Monitoring Action to be Performed: Prior to the expiration date stated in the condition, the Certificates of Compliance shall be recorded. Any request for extension must be received by RMA-Planning at least 30 days prior to the expiration date.

6. PD037 - WILLIAMSON ACT

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: The property owner shall enter into a new or amended Agricultural Preserve Land Conservation Contract or Contracts with the Board of Supervisors of the County of Monterey for the Lot Line Adjustment of Williamson Act lands deemed necessary by the Office of the County Counsel. (RMA - Planning)

Compliance or Monitoring Action to be Performed: Upon demand of County Counsel, the property owners of record shall execute a new or amended contract or contracts to be prepared by the Office of the County Counsel, which shall be recorded after the recordation of the Certificates of Compliance and subject to the submittal of the appropriate recording fees by the property owners of record.

7. PD045 - COC (LOT LINE ADJUSTMENTS)

Responsible Department: RMA-Planning

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

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

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

8. PDSP01 - ACCESS EASEMENT

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: Pursuant to 19.10.045: An Access Easement shall be recorded to provide access to proposed Parcel "C" from a public roadway.

19.10.045 – Access: Access to each parcel shall be provided either by fronting on a Publicly maintained road or by having approved legal access via a private road of adequate right-of-way width. Access shall meet the applicable road standards and be deemed adequate only if it will allow reasonable ingress and egress for emergency vehicles.

Compliance or Monitoring Action to be Performed: Prior to recordation of the Certificate of Compliance: An Access Easement shall be recorded to provide access to proposed Parcel "C" from a public roadway.

