

**Before the Planning Commission in and for the
County of Monterey, State of California**

In the matter of the application of:

WESLEY VON SCHACK & KELLY JEAN SORENSON VON SCHACK (PLN160013)

RESOLUTION NO. 16-010

Resolution by the Monterey County Planning
Commission:

- 1) Finding the Categorically Exempt per Section 15305(a); and
- 2) Approving a Coastal Development Permit for a Lot Line Adjustment between two parcels of approximately 6.35 acres and 2 acres resulting in two parcels of 4.85 acres and 3.5 acres.

[31453 & 31525 Highway 1, Carmel, Big Sur Coast
Land Use Plan (APN: 243-221-028-000 AND 243-
221-026-000)]

The Van Schack LLA application (PLN160013) came on for public hearing before the Monterey County Planning Commission on May 11, 2016. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Planning Commission finds and decides as follows:

FINDINGS

1. **FINDING:** **CONSISTENCY/SITE SUITABILITY** – The Lot Line Adjustment, as conditioned, is consistent with the applicable plans and policies which regulate size and density of the subject parcels.
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 1982 Monterey County General Plan;
 - Big Sur Coast Land Use Plan;
 - Monterey County Zoning Ordinance (Title 20);
 - 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 31453 & 31525 Highway 1, Carmel (Assessor's Parcel Number 243-221-028-000 and 243-221-026-000), Big Sur Coast Land Use Plan. The parcel is zoned "WSC/40-D(CZ)" or Watershed and Scenic Conservation, 40 acre maximum density with Design Control Overlay, Coastal Zone, which allows development of the first single family dwelling per legal lot as a principally allowed use, subject to a Coastal Administrative Permit. Each lot is currently developed and no additional development is currently proposed.
 - c) The proposed project is a Coastal Development Permit for a Lot Line

Adjustment between two parcels of approximately 6.35 acres and 2 acres resulting in two parcels of 4.85 acres and 3.5 acres.

- d) Neither parcel is under Williamson Act contract or used for agricultural purposes.
- e) Legal Lots.

The current configuration and legality of the lots have been confirmed via Volume 15, Parcel Maps, Page 157 as Parcel B-3 (APN: 243-221-028-000) and Parcel B-1 (APN: 243-221-026-000), as recorded on July 22, 1983. When the lots were created the zoning was “SC-2” or “Scenic Conservation” and allowed minimum lot size of 2 acres. The current lot configuration and sizes were in effect prior to the existing zone designation of “WSC/40-D(CZ)”, or Watershed Scenic Conservation, with Design Control Overlay, Coastal Zone.
- f) Watershed Scenic Conservation (WSC) Site Development Standards.

The WSC/40 zoning designation, allows residential development subject to specific development standards (coverage, height, and setbacks), and requires a minimum building site of one acre (for clustering purposes only) and a maximum gross density of 40 acres/unit. Each of the existing lots has prior development, are sized larger than the 1 acre minimum, and are a part of a larger parcel map (which clustered development on parcels smaller than 40 acres). The subject parcels are consistent with the “WSC” development standards and are “legal and conforming”. Existing development remains consistent with applicable site development standards (coverage, height or setbacks). Parcels of 4.85 acres and 3.5 acres are allowed one residential unit, so no additional development density is created on either lot.
- g) Big Sur Coastal Land Use Plan Development Policies.

Policy 5.4.3.H.4 of the Big Sur Coast Land Use Plan encourages resubdivisions and lot line adjustments when no new developable lots are created when and plan policies are better met by the action. The transfer of approximately 1.5 acres from one lot to another, will not create any new developable lots, nor will it result in parcels which are inconsistent with or obstruct the objectives and policies of the applicable zoning (WSC) and land use plan (Big Sur Coastal).
- h) The project has been reviewed for site suitability by the following departments and agencies: RMA-Planning, Cal-Fire Coastal Fire Protection District, RMA-Public Works, RMA-Environmental Services, Environmental Health Bureau, and Water Resources Agency. There has been no indication from these departments/agencies that the Lot Line is not consistent with applicable regulations/policies. Conditions recommended by each agency have been incorporated.
- i) The proposed project was reviewed by the Big Sur Coast Land Use Advisory Committee (LUAC) on April 12, 2016. The LUAC recommended approval of the project by a vote of 4-0 (**Exhibit B** of the April 27, 2016 Planning Commission Staff Report). The LUAC did not express any concerns regarding the Lot Line Adjustment as proposed.

- j) See preceding and following Findings and Evidence.

2. **FINDING:** **LOT LINE ADJUSTMENT** – Section 66412 of the California Government Code (Subdivision Map Act) Title 19 (Subdivision Ordinance) of the Monterey County Code states that lot line adjustments may be granted based upon the following findings:

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 conforms to the County's general plan, any applicable specific plan, and zoning and building ordinances.

- EVIDENCE:**
- a) The lot line adjustment will transfer approximately 1.5 acres between two legal lots of record of approximately 6.35 acres (APN: 243-221-028-000) and 2.0 acres (APN: 243-221-026-000), resulting in two lots of 4.85 acres (Parcel A) and 3.5 acres (Parcel B).
 - b) The lot line adjustment is between two existing adjoining parcels and will not create a greater number of parcels than originally existed. Two contiguous separate legal parcels of record will be adjusted and two contiguous separate legal parcels of record will result from the adjustment. No new parcels will be created.
 - c) The proposed lot line adjustment is consistent with the Monterey County Zoning Ordinance (Title 20), Big Sur Coastal Land Use Plan, and 1982 Monterey County General Plan, which remains in effect for properties within the Coastal Zone. Staff verified that the subject properties are in compliance with all rules and regulations pertaining to the use of the property that no violations exist on the property.
 - d) There is a recorded easement on the portion of land involved in the lot line adjustment. This particular 60 foot easement is in place to allow road and utility improvements; the existing access road/driveway has been developed within this easement area. The existing road/driveway will remain in place and continue to serve both parcels. Each new parcel description (Certificate of Compliance) will need to reflect the presence of the easement. No changes to the metes/bounds of the easement are required due to the lot line adjustment.
 - e) As an exclusion to the Subdivision Map Act, no map is recorded for a Lot Line Adjustment. In order to appropriately document the boundary changes, a Certificate of Compliance for each new lot is required per a standard condition of approval.
 - f) See preceding and following Findings and Evidence.

3. **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 RMA-Building Services records and is not aware of any violations existing on subject property.

- b) See preceding and following Findings and Evidence.
4. **FINDING:** **CEQA (Exempt):** - The project is categorically exempt from environmental review and no unusual circumstances were identified to exist for the proposed project.
- EVIDENCE:**
- a) California Environmental Quality Act (CEQA) Guidelines Section 15305(a), categorically exempts minor lot line adjustments not resulting in the creation of any new parcel(s).
 - b) The project is an adjustment of approximately 1.5 acres between two existing legal lots of record. No new parcels will be created by this application.
 - c) The project does not involve land with an average slope of more than 20% and will not result in any changes to land use or density for the subject parcels.
 - d) No adverse environmental effects were identified during staff review of the development application.
 - e) None of the exceptions under CEQA Guidelines Section 15300.2 apply to this project. The project does not involve a designated historical resource, a hazardous waste site, development located near or within view of a scenic highway, unusual circumstances that would result in a significant effect or development that would result in a cumulative significant impact.
 - f) See preceding and following Findings and Evidence.
5. **FINDING:** **APPEALABILITY** - The decision on this project may be appealed to the Board of Supervisors.
- EVIDENCE:**
- a) Board of Supervisors: Section 19.01.050.A of the Monterey County Subdivision Ordinance (Title 19 – Coastal Zone) and Section 20.86.030 of the Monterey County Zoning Ordinance (Title 20) allow an appeal to be made to the Board of Supervisors by any public agency or person aggrieved by a decision of an Appropriate Authority other than the Board of Supervisors.
 - b) Coastal Commission: Section 20.86.080.A.3 of the Monterey County Zoning Ordinance (Title 20). The project is subject to appeal by/to the California Coastal Commission because it involves development that is permitted in the underlying zone as a conditional use.

DECISION

NOW, THEREFORE, based on the above findings and evidence, the Planning Commission does hereby:

1. Find the project Categorical Exempt per Section 15305(a);
2. Approve a Coastal Development Permit for a Lot Line Adjustment between two parcels of approximately 6.35 acres and 2 acres resulting in two parcels of 4.85 acres and 3.5 acres in general conformance with the attached parcel map and subject to the attached conditions, all being attached hereto and incorporated herein by reference.

PASSED AND ADOPTED this 11th day of May, 2016 upon motion of Commissioner Diehl, seconded by Commissioner Vandevere, by the following vote:

AYES: Ambriz, Diehl, Duflock, Getzelman, Hert, Mendez, Padilla, Roberts, Rochester, Vandevere
NOES: None
ABSENT: None
ABSTAIN: None



Carl P. Holm, AICP, Planning Commission Secretary

COPY OF THIS DECISION MAILED TO APPLICANT ON **MAY 12 2016**.

THIS APPLICATION IS APPEALABLE TO THE BOARD OF SUPERVISORS.

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE CLERK TO THE BOARD ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE **MAY 23 2016**.

THIS PROJECT IS LOCATED IN THE COASTAL ZONE AND IS APPEALABLE TO THE COASTAL COMMISSION. UPON RECEIPT OF NOTIFICATION OF THE FINAL LOCAL ACTION NOTICE (FLAN) STATING THE DECISION BY THE FINAL DECISION MAKING BODY, THE COMMISSION ESTABLISHES A 10 WORKING DAY APPEAL PERIOD. AN APPEAL FORM MUST BE FILED WITH THE COASTAL COMMISSION. FOR FURTHER INFORMATION, CONTACT THE COASTAL COMMISSION AT (831) 427-4863 OR AT 725 FRONT STREET, SUITE 300, SANTA CRUZ, CA

This decision, if this is the final administrative decision, is subject to judicial review pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6. Any Petition for Writ of Mandate must be filed with the Court no later than the 90th day following the date on which this decision becomes final.

NOTES

1. This permit expires 3 years after the above date of granting thereof unless construction or use is started within this period.

Monterey County RMA Planning

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

PLN160013

1. PD001 - SPECIFIC USES ONLY

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: This Coastal Development Permit (PLN160013) allows a Lot Line Adjustment between two parcels of approximately 6.35 acres and 2 acres resulting in two reconfigured lots of approximately 4.85 acres and 3.5 acres. The properties are located at 31453 and 31525 Highway 1, Carmel (Assessor's Parcel Numbers 243-221-028-000 and 243-221-026-000), Big Sur Coast Land Use 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. PD045 - COC (LOT LINE ADJUSTMENTS)

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: The applicant shall request conditional 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.

3. PD032(A) - PERMIT EXPIRATION

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: The permit shall be granted for a time period of 2 years, to expire on May 11, 2018 unless use of the required Certificates of Compliance (COC) have been recorded. (RMA-Planning)

Compliance or Monitoring Action to be Performed: Prior to the expiration date stated in the condition, the Owner/Applicant shall record the required Certificates of Compliance (COCs) to the satisfaction of the RMA-Director of Planning.

4. PDSP001 - ACCESS TO RECONFIGURED PARCELS

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: Prior to recordation of the Certificate of Compliance (COC), an appropriate legal mechanism to ensure access to both parcels shall be implemented and submitted for review and approval to the satisfaction of the Director of RMA-Planning and the Office of County Counsel.

Compliance or Monitoring Action to be Performed: Submit proof of appropriate measures demonstrating access to both parcels to County Counsel and the Director of RMA-Planning.

5. CC01 Indemnification Agreement

Responsible Department: County Counsel

**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. (County Counsel)

**Compliance or
Monitoring
Action to be Performed:**

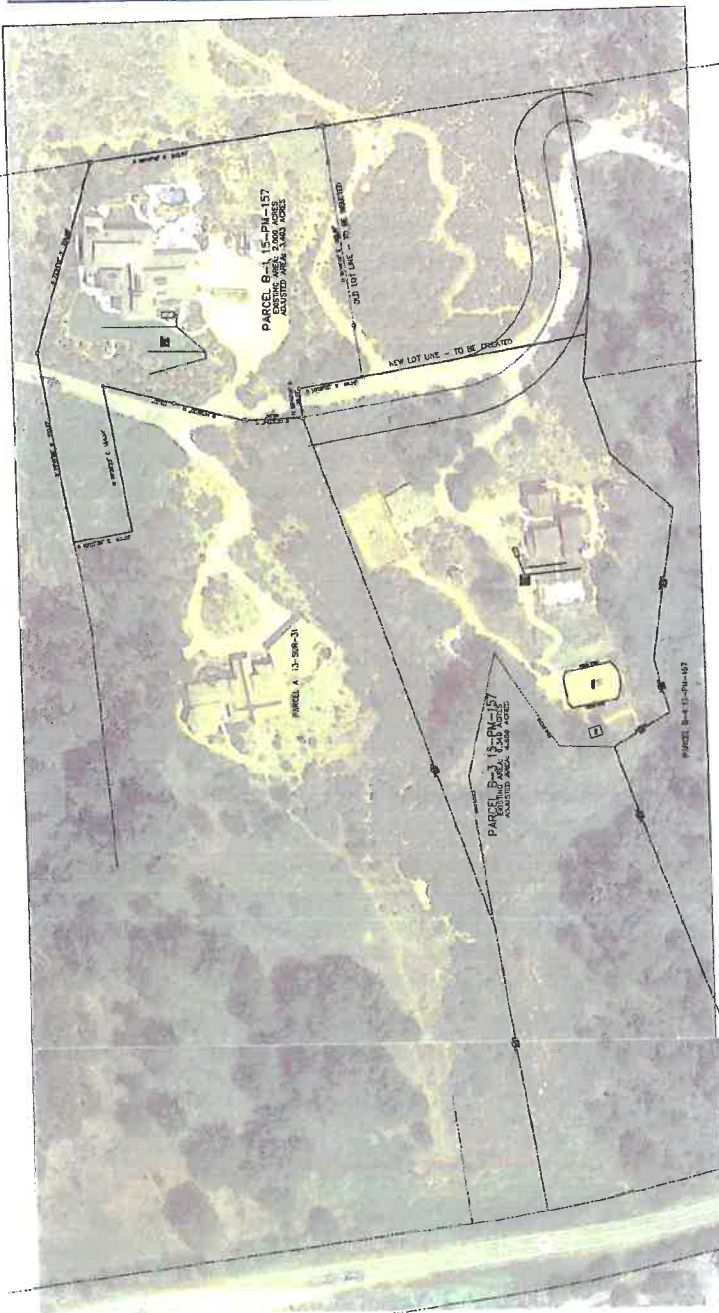
Upon demand of County Counsel or concurrent with the issuance of building permits, use of the property, recording of the final/parcel map, or recordation of Certificates of Compliance, whichever occurs first and as applicable, the Owner/Applicant shall submit a signed and notarized Indemnification Agreement to the County Counsel for review and signature by the County.

Proof of recordation of the Indemnification Agreement, as outlined, shall be submitted to the Office of County Counsel.

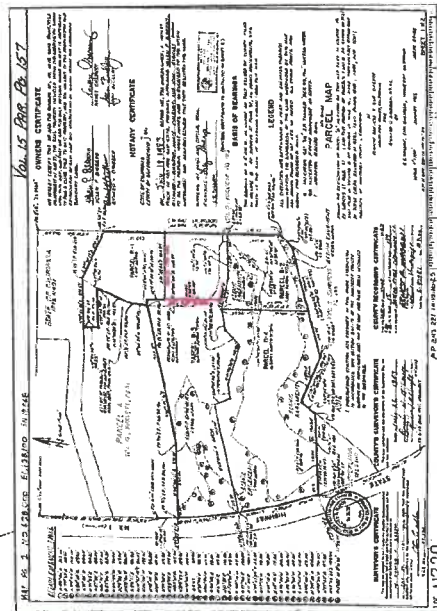
PLAN 160013



MONTEY MAP



PROPOSED LOT LINE ADJUSTMENT



FILED PARCEL MAP

