

# Exhibit C

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## DRAFT RESOLUTION

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

In the matter of the application of:

**Mark and Mary Anne Goldberg and  
Garry and Nirupa Sheppard (PLN160533)**

#### **RESOLUTION NO. 160533**

- 1) Resolution by the Monterey County Planning Commission: Finding the project Categorically exempt per CEQA Section 15305 (a) of the CEQA Guidelines; and, Approve a Coastal Development Permit to allow an equal Lot Line Adjustment between two (2) contiguous legal lots of record of approximately 4.2 acres (Parcel A) and 3.6 acres (Parcel B), resulting in two (2) legal lots of record of approximately 4.2 acres (Parcel A) and 3.6 acres (Parcel B). **[PLN160533/Mark and Mary Goldberg (Parcel B) 835 Elkhorn Rd, Royal Oaks and Garry and Nirupa Sheppard 855 Elkhorn Rd, Royal Oaks, North County Area Plan (APNs: 181-151-001-000 & 181-151-003-000).**

**The Goldberg's and Sheppard's application (PLN160533) came on for a public hearing before the Monterey County Planning Commission on February 22, 2017. 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:** **PROJECT DESCRIPTION** -- The proposed project is a Coastal Development Permit to allow an equal area Lot Line Adjustment between two (2) contiguous legal lots of record consisting of Parcel A: 4.2 acres (Assessor's Parcel Number 181-151-003-000) and Parcel B: 3.6 acres, (Assessor's Parcel Number 181-151-001-000), resulting in two (2) legal lots of record of approximately 4.2 acres (Parcel A) and 3.6 acres (Parcel B). This is an equal area lot line adjustment that is requested to meet the setback requirements in the RDR/5 (CZ) zoning district for existing improvements on Parcel B.  
**EVIDENCE:** The application, project plans, and related support materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development found in Project File PLN160533.

2. **FINDING:** **CONSISTENCY** – The Project, as conditioned, is consistent with the applicable plans and policies which 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:

- Monterey County -North County Land Use Plan, 1982;
- Monterey County Coastal Implementation Plan Part 2;
- Monterey County Zoning Ordinance (Title 20); and
- Monterey County Subdivision Ordinance (Title 19-Coastal)

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) Parcel A (Assessor's Parcel Number: 181-151-003-000) is located at 855 Elkhorn Rd, and Parcel B (Assessor's Parcel Numbers 181-151-001-000) is at 835 Elkhorn Rd. Both Parcels A and B are zoned Rural Residential /Coastal Zone (RDR/5 (CZ)), with a minimum density of five acres per dwelling and a minimum building site area of 5 acres. Both parcels are within the Coastal Zone; therefore a Coastal Development permit is required for a Lot Line Adjustment, per the Monterey County Zoning Ordinance, Section 20.86.080.A.3.

Zoning: On Parcel A, there is an existing storage shed/carport with attached deck, and septic tank. These structures all meet the required setbacks of the RDR/5 (CZ) zoning. On Parcel B, there is an existing residence and detached art studio, neither of which meets the setback requirements. (See Attachment A for discussion of the legality of the existing structures on Parcels A and B.) By relocating the new lot line between Parcels A and B as shown on Sheet 1, all of the existing structures on these two parcels will meet the setback requirements of the RDR/5 (CZ) zoning.

Under the Subdivision Map Act (Section 66412.d), a lot line adjustment is limited to review of whether or not the resulting parcels will conform to zoning and building (if applicable for existing structures). In addition, local agencies may impose conditions that conform to existing local zoning and building ordinances only.

c) The project planner conducted a site inspection on December 6, 2016, to verify that the project on the subject parcel conforms to the plans listed above.

d) Legal non-conforming lot: Per Section 20.16.060.A. of the Coastal Zoning Ordinance, the minimum building site area is 5 acres in the RDR/5 (CZ) zone, with a residential density of 1 dwelling/5 acres. Both Parcel A (3.6 acres) and Parcel B (4.2 acres) are below the 5 acre minimum area. Section 19.09.005.A. of the Coastal Subdivision Ordinance requires that resulting lots conform to zoning and building ordinances; however, this lot line adjustment will not change lot size, developable area, further constrain lots, or result in the creation of an additional lot, consistent with Section 19.09.005.A-D. It is requested to meet the setback requirements for an existing structure and propane tank on Parcels B.

The current configuration and legality of the lots has been confirmed via the Assessor's Map: Parcel A: "Los Carneros Rancho, portion of Lot B13, as described in R757, page 300", and Parcel B: "Los Carneros Rancho, portion of Lot B13, as described in R756 page 1016, except portion described in R756, page 301 in road".

- e) Public Viewshed: Per Section 20.144.020.SSS, public viewshed is "the composite area visible from major public use areas and scenic corridors... including views to and along the shoreline of Elkhorn Slough". Portions of both Parcels A and B can be seen from Elkhorn Slough.

Public Access: The project is in conformance with the public access and public recreation policies of the Coastal Act, and the Local Coastal Program, and does not interfere with any form of historic public use or trust rights (Section 20.70.050.B.4. CIP).

Ridgeline Development: The higher elevation portions of both Parcels A and B (on the north side) currently have areas with the potential for being ridgeline development. This equal area lot line adjustment does not significantly change, or increase the severity of the potential areas; therefore, it is consistent with Section 20.144.030.B.7: "New subdivisions and lot line adjustments shall not configure a lot so as to create a building site that will result in ridgeline development".

No development is proposed with this lot line adjustment; however, all future development must be consistent with the County's Coastal Implementation Plan (CIP), Section 20.144.030: Visual Resources Development Standards, Section 20.144.030.B.7, and Section 20.16.030.C and D.

- f) The project was referred to the North County Land Use Advisory Committee (LUAC) for review. Based on the LUAC Procedure guidelines adopted by the Monterey County Board of Supervisors, this application did warrant referral to the LUAC because it involves a lot line adjustment in the coastal Zone. The LUAC unanimously voted (7) seven ayes and (0) zero noes to support the project as proposed at a public meeting held on October 19, 2016.
- g) The application, project plans, and related support materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development found in Project File PLN160533.

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, North County 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. Conditions recommended have been incorporated.
  - b) Staff did not identify any potential impacts to Biological Resources, Archaeological Resources, or Soil/Slope Stability related to the proposed Lot Line Application. The applicant is not proposing any development, grading, tree or vegetation removal with this application.

There are no existing Archaeological, Historic, or Geological Reports in the County records for Parcels A or B. On the south side of Parcel B, there is an area approximately 100 to 120 feet deep adjacent to Elkhorn Road that is designated as “high sensitivity for potential archaeological impact”. There will be a condition related to this associated with any future construction.

- c) Staff conducted a site inspection on December 6, 2106, to verify that the site is suitable for this use. Both Parcels A and B are accessible by a shared private gravel road off Elkhorn Road, as shown on the proposed Tentative Plan. The gravel road runs uphill, at grades varying from approximately 0% to 10% grade, until it reaches the driveway for Parcel B. The driveway for Parcel B is a paved concrete surface. Both Parcels A and B have slopes varying from 0% to approximately 20%. No development is proposed with this lot line adjustment, however, any future development must be consistent with Section 20.144.030, and 20.16.030.C. (CIP) so that not development is not on slopes over 25%.
- d) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning for the proposed development found in PLN160533.

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 the RMA - Planning, North County 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) Necessary public facilities are available. On Parcel A, there is an existing storage shed/carport and septic tank. There is no existing residence on Parcel A. On Parcel B, there is an existing residence and art studio, with on-site septic system. The water source for these parcels is a mutual water system: Elkhorn Rd. Water No. 9 and 21. No additional development is proposed with this Lot Line Adjustment, however, if the parcels are developed, they would be required to meet all applicable zoning and land use regulations.
- c) Staff conducted a site inspection on December 6, 2016, 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 development found in Project File PLN160533.

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 Department records and is not aware of any violations existing on the subject properties.
  - b) Staff conducted a site inspection on December 6, 2016, and researched County records to assess if any violation exists on the subject property.
  - c) There are no known violations on the subject parcel.
  - d) Zoning violation abatement costs, if any, have been paid. A condition is included to assure that all zoning abatement costs, if any, have been paid.
  - e) The application, plans and supporting materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development are found in Project File PLN160533.
6. **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 that do not result in the creation of any new parcel.
  - b) The County, pursuant to Monterey County Code Title 19 (Subdivision Ordinance-- Coastal) Section 19.09.005.C, has determined that lot line adjustments which do not result in the relocation of the building area are consistent with the intent of the categorical exemption for minor lot line adjustments. This determination and application to the subject lot line adjustment is also consistent with CEQA Guidelines Section 15061 (b) (3), which exempts projects where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.
  - c) No adverse environmental effects were identified during staff review of the development application during a site visit on December 6, 2016.
  - d) None of the exceptions under CEQA Guidelines Section 15300.2.(a-f ) are applicable to this project. This project does not involve: alterations to a designated historical resource, a hazardous waste site, unusual circumstance that would result in a significant impact, nor development in a particularly sensitive environment. Portions of Parcels A and B are visible from Elkhorn Road and Elkhorn Slough, which is directly across Elkhorn Road to the south. The lot line adjustment does not involve any development.
  - e) Staff conducted a site inspection on December 6, 2016, to verify that the site is suitable for this use.
  - f) The application, project plans, and related support materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development found in Project File PLN160533.
7. **FINDING:** **PUBLIC ACCESS** - The project is in conformance with the public access and recreation policies of the Coastal Act (specifically Chapter 3 of the Coastal Act of 1976, commencing with Section 30200 of the Public Resources Code) and Local Coastal Program, and does not interfere with any form of historic public use or trust rights.
- EVIDENCE:**
- a) No access is required as part of the project as no substantial adverse impact on access, either individually or cumulatively, as described in

Section 20.145.150 of the Monterey County Coastal Implementation Plan can be demonstrated.

- b) The subject property is not described as an area where the Local Coastal Program requires public access (Figure 6, Table 2), in the North County Land Use Plan), and Section 20.70.050.B.
- c) No evidence or documentation has been submitted or found showing the existence of historic public use or trust rights over this property.
- d) Staff conducted a site inspection on December 6, 2016,
- 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 PLN160533.

8. **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;

The parcels resulting from the lot line adjustment conforms to the County's general plan, any applicable specific plan, any applicable coastal plan, and zoning and building ordinances.

- EVIDENCE:**
- a) Both Parcels A and B are zoned RDR/5 (CZ), Rural Density Residential with 5 acres per unit, with a Design Control Overlay (Coastal Zone).
  - b) Parcel A (APN: 181-151-003-000) is approximately 4.2 acres, and Parcel B (APN: 181-151-001-000) is approximately 3.6 acres. The project area has a total of approximately 8.07 acres.
  - c) The lot line adjustment is between four (or fewer) existing adjoining parcels. The two existing parcels share a common boundary of approximately 944 feet.
  - d) The lot line adjustment 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. The adjustment will not alter the size of either Parcel A (APN: 181-151-003-000) or Parcel B (181-151-001-000), as it is an equal area exchange.

9. **FINDING:**

**APPEALABILITY -** The decision on this project may be appealed to the Board of Supervisors and the California Coastal Commission

- EVIDENCE:**
- a) Section 19.01.050 of the Monterey County Coastal Subdivision Ordinance states that the proposed project is appealable to the Board of Supervisors.
  - b) Section 20.86.080. A.3 of the Monterey County Zoning Ordinance states that the proposed project is subject to appeal by/to the Coastal Commission because the lot line adjustment is a conditional use under the RDR/5 (CZ) zone district, per 20.86.080.A.3. The proposed lot line adjustment is permitted via a Coastal Development Permit.



## **DECISION**

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

1. Find the project categorically exempt per CEQA Guidelines Section 15305 (a); and
2. Approve a Coastal Development Permit to allow an equal area Lot Line Adjustment between two legal lots of record consisting of Parcel A: 4.2 acres (Assessor's Parcel Number 181-151-003-000) and Parcel B: 3.6 acres, (Assessor's Parcel Number 181-151-001-000).

**PASSED AND ADOPTED** this 22<sup>nd</sup> day of February, 2017 upon motion of \_\_\_\_\_, seconded by \_\_\_\_\_, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Jacqueline R. Onciano, Planning Commission Secretary

COPY OF THIS DECISION MAILED TO APPLICANT ON \_\_\_\_\_.

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 \_\_\_\_\_.

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. You will need a building permit and must comply with the Monterey County Building Ordinance in every respect.

Additionally, the Zoning Ordinance provides that no building permit shall be issued, nor any use conducted, otherwise than in accordance with the conditions and terms of the permit granted or

until ten days after the mailing of notice of the granting of the permit by the appropriate authority, or after granting of the permit by the Board of Supervisors in the event of appeal.

Do not start any construction or occupy any building until you have obtained the necessary permits and use clearances from Monterey County RMA-Planning and RMA-Building Services Department office in Salinas.

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

Form Rev. 5-14-2014

# Monterey County RMA Planning

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

PLN160533

### 1. PD001 - SPECIFIC USES ONLY

**Responsible Department:** RMA-Planning

**Condition/Mitigation Monitoring Measure:** This Coastal Development Permit (PLN160533) allows a lot line adjustment between two lots of record of 3.6 acres (Assessor's Parcel Number 181-151-003-000) and 4.2 acres (Assessor's Parcel Number 181-151-001-000), resulting in equal exchanges of land between two lots of 3.87 acres and 4.2 acres, respectively. The properties are located at 855 & 835 Elkhorn Road, Royal Oaks (Assessor's Parcel Numbers 181-151-003-000 & 181-151-001-000), North County Land Use Plan, Coastal Zone. 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 Coastal Development Permit to allow a lot line adjustment (Resolution Number 160533) was approved by Monterey County Planning Commission for Assessor's Parcel Numbers 181-151-003-000 and 181-151-001-000 on [Date the permit was approved]. The permit was granted subject to 3 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** Prior to the issuance of grading and building permits, certificates of compliance, or  
**Monitoring** commencement of use, whichever occurs first and as applicable, the Owner/Applicant  
**Action to be Performed:** shall provide proof of recordation of this notice to the RMA - Planning.

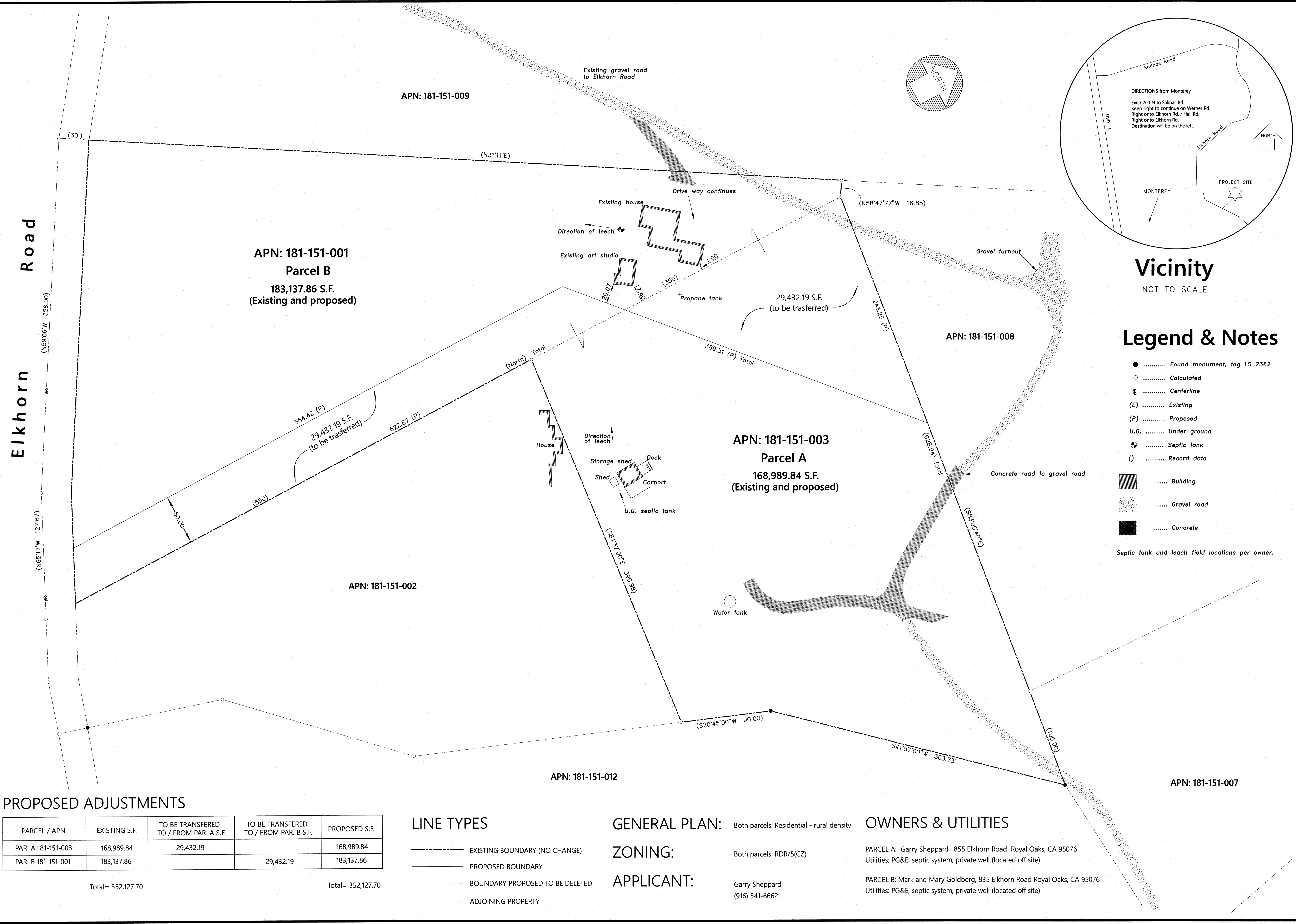
## 3. PD045 - COC (LOT LINE ADJUSTMENTS)

**Responsible Department:** RMA-Planning

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

**Compliance or** Prior to the expiration of the entitlement, the Owner/Applicant/Surveyor shall prepare  
**Monitoring** legal descriptions for each newly configured parcel and submit them to RMA-Planning  
**Action to be Performed:** 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.



PROPOSED ADJUSTMENTS

PARCEL / APN	EXISTING S.F.	TO BE TRANSFERRED TO / FROM PAR. A S.F.	TO BE TRANSFERRED TO / FROM PAR. B S.F.	PROPOSED S.F.
PAR. A 181-151-003	168,989.84	29,432.19		168,989.84
PAR. B 181-151-001	183,137.86		29,432.19	183,137.86

Total= 352,127.70

Total= 352,127.70

LINE TYPES

- EXISTING BOUNDARY (NO CHANGE)
- PROPOSED BOUNDARY
- BOUNDARY PROPOSED TO BE DELETED
- ADJOINING PROPERTY

GENERAL PLAN:

Both parcels: Residential - rural density

ZONING:

Both parcels: RDR/5(CZ)

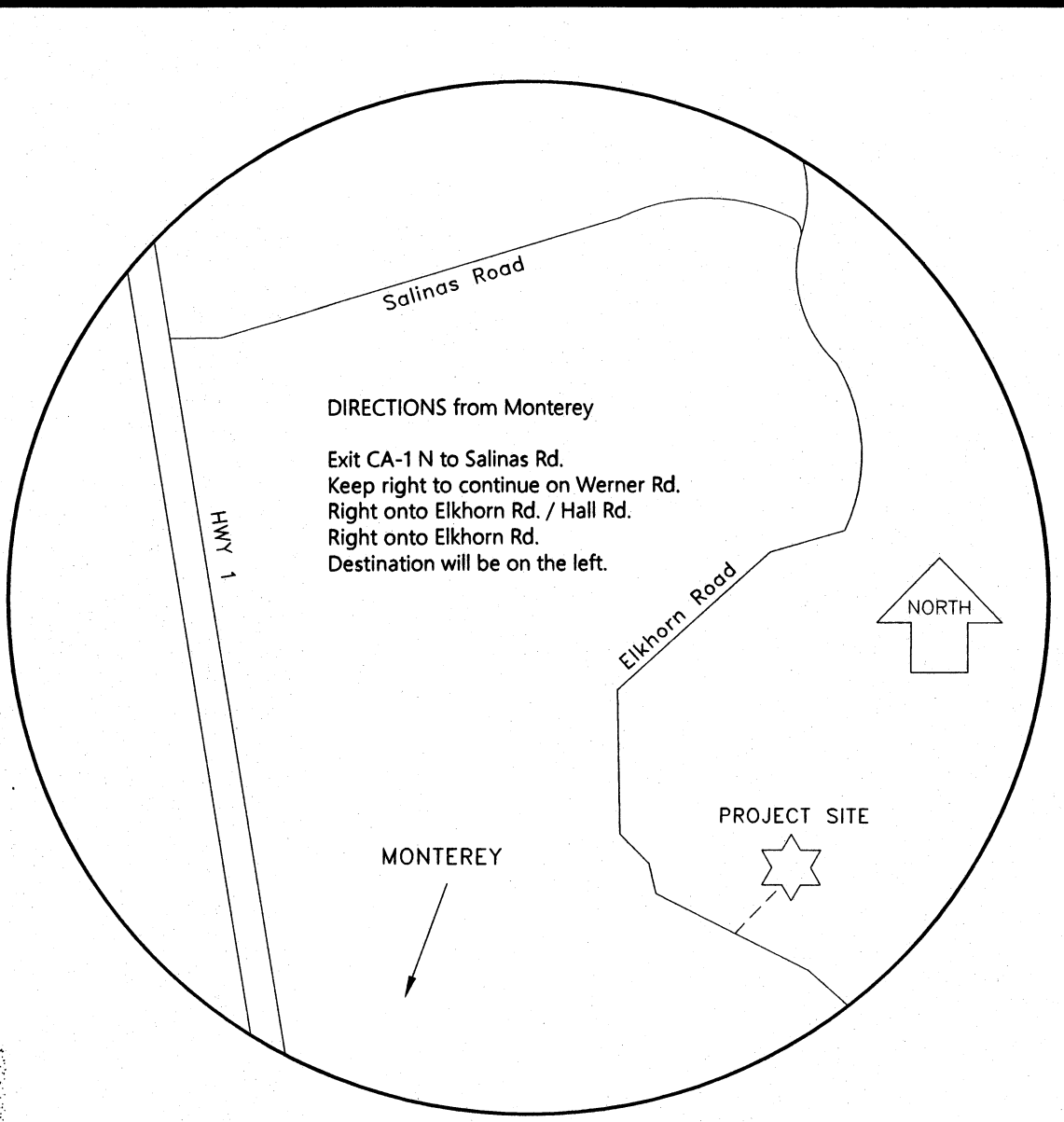
APPLICANT:

Garry Sheppard  
(916) 541-6662

OWNERS & UTILITIES

PARCEL A: Garry Sheppard, 855 Elkhorn Road Royal Oaks, CA 95076  
Utilities: PG&E, septic system, private well (located off site)

PARCEL B: Mark and Mary Goldberg, 835 Elkhorn Road Royal Oaks, CA 95076  
Utilities: PG&E, septic system, private well (located off site)



Vicinity  
NOT TO SCALE

Legend & Notes

- ..... Found monument, tag LS 2362
  - ..... Calculated
  - Ⓢ ..... Centerline
  - (E) ..... Existing
  - (P) ..... Proposed
  - U.G. ..... Under ground
  - ⊕ ..... Septic tank
  - () ..... Record data
  - [Pattern] ..... Building
  - [Pattern] ..... Gravel road
  - [Pattern] ..... Concrete
- Septic tank and leach field locations per owner.

**BRIDGETTE LAND SURVEYING**  
**PROFESSIONAL LAND SURVEYORS**  
80 ASPEN WY. STE. A WATSONVILLE, CA 95076  
831.722.5800 / bridgettelandsurveying.com

Tentative Map for Lot Line Adjustment

Requested by: **Garry Sheppard**

855 Elkhorn Road Royal Oaks, CA 95076

**APN: 181 - 151 - 003**  
**APN: 181 - 151 - 001**  
**MONTEREY COUNTY**  
**CALIFORNIA**

DATE: July 13, 2016  
SCALE: 1" = 40'  
CONTOUR INTERVAL: N/A  
REVISIONS: 

1	
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REVISIONS: 

2	
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REVISIONS: 

3	
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**1**  
of 1

**16-23**

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