

# Exhibit A

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**EXHIBIT A  
DRAFT RESOLUTION**

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

In the matter of the application of:

**LEAVY-HOGLUND PENELOPE CHRISTINE TRUST (PLN171029)**

**RESOLUTION NO. 18 -**

Resolution by the Monterey County Planning  
Commission:

- 1) Finding the project statutorily exempt pursuant to Section 15270 of the CEQA Guidelines; and
- 2) Denying a Coastal Development Permit to allow issuance of a conditional certificate of compliance for Assessor's Parcel Number 009-231-023-000.

25735 Mesa Drive, Carmel, Carmel Area Land Use  
Plan, Coastal Zone (APN 009-231-023-000)

**The Leavy-Hoglund application (PLN171029) came on for public hearing before the Monterey County Planning Commission on September 26, 2018. 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:** **INCONSISTENT** – The 1969 lot conveyance has been found to be inconsistent with the Monterey County Subdivision Ordinance (Title 19 – Coastal) and the Subdivision Map Act (SMA).  
**EVIDENCE:**
  - a) Pursuant to the requirements of Monterey County Code (MCC) Sections 20.12.050.T (Title 20 – Coastal Zoning Ordinance) and 19.14.050 (Title 19 – Coastal Subdivision Ordinance), the Applicant requested approval of a Coastal Development Permit to allow issuance of a conditional certificate of compliance for Assessor's Parcel Number (APN) 009-231-023-000.
  - b) The subject property is located at 25735 Mesa Drive, Carmel (APN 009-231-023-000), Carmel Area Land Use Plan, Coastal Zone. The property is zoned Medium Density Residential, 2 units per acre; with a Design Control Overlay (Coastal Zone) [MDR/2-D (CZ)], which allows conditional certificates of compliance with the granting of a Coastal Development Permit.
  - c) The subject property is under common ownership with APN 009-231-013-000, an adjacent property also located at 25735 Mesa Drive, and zoned MDR/2-D (CZ).
  - d) During the course of review of this application, conflicts were found to exist with the SMA and MCC. Issuance of a conditional certificate of

compliance relies on a determination of a 1969 conveyance of the subject property area. In 1969, if this conveyance was done with the intent to create a separate lot for development, it would have been a violation of the SMA and County Ordinance 1496, and the conveyed parcel would be an illegal lot. Due to 1964 changes in the SMA and MCC, parcels conveyed or created via grant deed in 1969 were required to meet certain minimum requirements. The conveyed property area did not meet the minimum requirements pursuant to the SMA nor MCC in effect at that time.

- e) Both properties (i.e., APNs 009-231-013-000 and 009-231-023-000) have consistently been described separately in applicable grant deeds; however, describing parcels separately would only validate individual parcels if both parcels were legally created. The primary purpose of APNs is for property tax assessment, and APNs are not equivalent to legal parcels or legal lots of record. Consistent with past County determinations, separately describing an illegally created parcel does not make it legal. Additionally, no separate address has ever been requested for or assigned to APN 009-231-023-000. The address book maintained by RMA-Development Services lists 25735 Mesa Drive as the address for both APNs 009-231-013-000 and 009-231-023-000 (see also Evidences b and c above).
- f) Furthermore, based on applicable permit history, the County has never approved nor issued any permits solely or primarily for the benefit of APN 009-231-023-000. Primary development has always been connected to APN 009-231-013-000. The applicant for every permit issued, either graphically or in written form, represented that only one parcel was the subject parcel. All the permit history facts support the conclusion that the 1969 conveyance was understood by the respective owners and their successors in interest to be what is now known as a lot line adjustment.
- g) As described in Evidence d above, APN 009-231-023-000 was not legally created in 1969 as a standalone parcel. However, what is now known as a lot line adjustment would have been a legal conveyance. Prior to 1977, parcel boundaries could be adjusted by one owner deeding a sliver, strip, or property area to an adjoining owner. These property area transfers were not necessarily intended by the parties to be separately developed, but were added to the adjoining owner's land holding. Although these conveyances often did not meet minimum lot size, they were not considered an illegal lot by the County, but rather as an addition to an adjoining lot. The subject conveyance in 1969 fits the pattern of a lot line adjustment.
- h) Based on the preceding information and evidence, the County has determined that the 1969 property transfer did not create a separate developable lot or legal lot of record. The County has also determined that the appropriate process to create two separate developable lots would be for the owner to apply for a minor subdivision. Therefore, the County views APNs 009-231-013-000 and 009-231-023-000 as one combined legal lot of record.
- i) County staff reviewed Monterey County RMA-Planning and RMA-Building Services records and is not aware of any current or active building violations existing on the subject property; therefore, upon

application of the owner, the County may issue a single, unconditional certificate of compliance for APNs 009-231-013-000 and 009-231-023-000.

- j) The project was not referred to the Carmel Unincorporated/Highlands Land Use Advisory Committee (LUAC) for review. Based on the LUAC Procedure guidelines adopted by the Monterey County Board of Supervisors, this application did not warrant referral to the LUAC.
- k) 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 PLN171029.

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

- EVIDENCE:**
- a) California Environmental Quality Act (CEQA) Guidelines Section 15270 statutorily exempts projects which a public agency rejects or disapproves.
  - b) 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 PLN171029.

3. **FINDING:** **APPEALABILITY** – The decision on this project may be appealed to the Board of Supervisors and not the California Coastal Commission.

- EVIDENCE:**
- a) Board of Supervisors. Pursuant to 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), an appeal may 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. Pursuant to Section 20.86.080.A of the Monterey County Zoning Ordinance (Title 20), the project is not subject to appeal by/to the California Coastal Commission because it does not involve an approved project, a major public works project, or a major energy facility.

### **DECISION**

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

1. Find the project statutorily exempt pursuant to Section 15270 of the CEQA Guidelines; and
2. Deny a Coastal Development Permit to allow issuance of a conditional certificate of compliance for Assessor's Parcel Number 009-231-023-000.

**PASSED AND ADOPTED** this 26<sup>th</sup> day of September, 2018, upon motion of \_\_\_\_\_, seconded by \_\_\_\_\_, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

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Jacqueline R. Onciano, Planning Commission Secretary

COPY OF THIS DECISION MAILED TO THE 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 NOT APPEALABLE TO 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.

# Monterey County RMA Planning

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

PLN171029

### 1. PD001 - SPECIFIC USES ONLY

**Responsible Department:** RMA-Planning

**Condition/Mitigation Monitoring Measure:** This Coastal Development Permit (RMA-Planning File No. PLN171029) allows the issuance of a Conditional Certificate of Compliance. The property is located at 25735 Mesa Drive, Carmel (Assessor's Parcel Number 009-231-023-000), Carmel Area Land Use Plan, Coastal Zone. Related to RMA-Planning File No. PLN170128. 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 RMA Chief of 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 on-going 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 Coastal Development Permit (Resolution Number 18 - ) was approved by the Planning Commission for Assessor's Parcel Number 009-231-023-000 on August 29, 2018. The permit was granted subject to five (5) 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 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 RMA-Planning.

### 3. 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. (RMA-Planning)

**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.

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

**Responsible Department:** RMA-Planning

**Condition/Mitigation Monitoring Measure:** The permit shall be granted for a time period of two (2) years, to expire on August 29, 2020, unless the Conditional Certificate of Compliance has been issued within this period. (RMA-Planning)

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

### 5. EHSP01 – Water Source (Non-Standard)

**Responsible Department:** Health Department

**Condition/Mitigation Monitoring Measure:** The lot, currently identified with Assessor's Parcel Number 009-231-023-000, does not meet the size requirements to drill an onsite well. No well construction permit will be issued by the Monterey County Environmental Health Bureau. Prior to approval of a Coastal Administrative Permit for a dwelling unit on this property, the Owner shall submit a Can and Will Serve letter from the water system that will serve the lot, as well as evidence showing that the lot has a legal water supply sufficient to support the requested development on the lot. (Environmental Health Bureau)

**Compliance or Monitoring Action to be Performed:** Prior to approval of a Coastal Administrative Permit for a dwelling unit on this property, submit a can and will serve letter from the water system that will serve the lot, as well as evidence showing that the lot has a legal water supply sufficient to support the requested development on the lot.