

Attachment A

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WHEN RECORDED, RETURN TO:
Monterey County Resource Management
Agency Planning Department
Attn Ku
1441 Schilling Place
Salinas CA 93901

THIS SPACE FOR RECORDER'S USE ONLY

AMENDMENT TO CONSERVATION AND SCENIC EASEMENT DEEDS

(Development Permit PLN180198, Condition No. 5;
Conservation and Scenic Easement Amendment, Board of
Supervisors Resolution No. 18-036)

This AMENDMENT TO CONSERVATION AND SCENIC EASEMENT DEEDS ("Deed Amendment") dated 22 October, 2018 for reference purposes only, shall become effective on the date last appearing on the signature page hereof ("Effective Date"), and is made by Robert A. Long and Sheron L. Long as Trustees of the Long Living Trust under agreement dated April 22, 2010 (referred to herein as "Grantor"), and County of Monterey, a political subdivision of the State of California (referred to herein as "Grantee").

RECITALS

WHEREAS, Grantor is the owner in fee simple of certain real property in the County of Monterey, State of California, more particularly described in **Exhibit "A"** attached hereto and incorporated herein by this reference (the "Subject Property").

WHEREAS, the Subject Property is subject to those certain Conservation and Scenic Easement Deeds filed for record in Reel 530 Page 171 and Reel 530 Page 162 of Official Records, Office of the Recorder, County of Monterey (referred to herein as "Deeds").

WHEREAS, the Conservation and Scenic Easements imposed by the Deeds were intended to be imposed on the portions of the Subject Property comprising steep terrain that are other than the building sites.

WHEREAS, the Conservation and Scenic Easements imposed by the Deeds were erroneously imposed on a portion of the flat building site on the Subject Parcel, and on portions of the steep terrain that is retained to create and maintain the flat building site on the Subject Parcel.

WHEREAS, a development permit (File Number PLN180198) (hereinafter referred to as the "Permit") was granted on September 12, 2018, by the Planning Commission of the County of Monterey pursuant to the Findings, Evidence and Conditions contained in Resolution No. 18-036, in order to modify the restrictions the Deeds have erroneously imposed upon portions of

the Subject Parcel. Resolution No. 18-036 is attached hereto as **Exhibit "B"** and incorporated herein by this reference, subject to the following condition(s):

Condition No. ____

Prior to issuance of construction permits, the applicant must record an amendment to the Scenic and Conservation Easement deeds on parcels 187-541-020-000 and 187-541-023-000 to provide exceptions to the scenic easement development prohibitions to allow the right to development of such uses as may be allowed pursuant to all applicable laws, policies, and regulations of the Monterey County Code in the area establishing the flat building site which existed when the Conservation and Scenic Easement Deed was imposed, and which is shown and described in Exhibit ____ hereto, as well as maintenance of structures existing as of the date of recordation.

WHEREAS, Grantor and Grantee desire to amend the Deeds in certain particulars as they affect the Subject Property in order to accomplish the objective of Resolution No. 18-036.

NOW, THEREFORE, in consideration of the Permit, the parties do hereby agree that this AMENDMENT TO CONSERVATION AND SCENIC EASEMENT DEEDS shall amend the Deeds as provided herein.

TERMS AND PROVISIONS

1. Section 4(1) of each of the Deeds is amended and restated as follows:

"The right to development of such uses and structures as may be allowed pursuant to all applicable laws, policies, and regulations of the Monterey County Code in the area establishing the flat building site area which existed when this Conservation and Scenic Easement Deed was imposed, and which area is shown and described in **Exhibit "C"**, attached hereto and incorporated herein by this reference, as well as maintenance, repair and replacement of structures existing as of the date of recordation of this Deed Amendment, as said existing structures are described in **Exhibit "D"** attached hereto and incorporated herein by this reference, and in Monterey County Resource Management Agency Permit File Number PLN180198."

2. Except as herein expressly set forth herein, all of the terms and conditions that are contained in the Deeds will remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have hereby caused this AMENDMENT TO CONSERVATION AND SCENIC EASEMENT DEEDS to be executed as of the day and year below.

Executed this 22 day of October, 2018
at Saint-Remy-de-Provence

The Long Living Trust

By: Sharon L. Long

Sharon L. Long, Trustee

By: Robert A. Long

Robert A. Long

Je soussigné Me MILAN Bertrand
Notaire associé à Saint Rémy de
Provence (13) certifie et atteste que la
(les) signature(s) ci-dessus a
(ont) été apposée(s) par
M. Robert LONG et Mme Sharon LONG
Fait à : SAINT REMY DE PROVENCE
Le : 22 octobre 2018



DATED: _____

Type/Print Name: _____

Chair, Monterey County Board of Supervisors



APOSTILLE

Convention de La Haye du 5 octobre 1961

- 1- République Française
Le présent acte public
- 2- a été signé par Me Bertrand MILAN
- 3- agissant en qualité de Notaire
- 4- est revêtu du sceau de l'Etude Notariale à SAINT
REMY DE PROVENCE (BDR)
Attesté
- 5- à AIX-en-PROVENCE
- 6- le 22 Octobre 2018
- 7- Par le Procureur Général près la Cour d'Appel
d'AIX-EN-PROVENCE.
- 8- sous le n° 15327/2018
- 9- Sceau
- 10-Signature



Pro Le Procureur Général

Isabelle POUEY
Substitut Général

“L’Apostille confirme seulement l’authenticité de la signature, du sceau ou timbre sur le document. Elle ne signifie pas que le contenu du document est correct ou que la République Française approuve son contenu”.



Document Form/Content Acceptable:

Charles J. McKee, County Counsel

By: _____

DATED: _____

Type/Print Name: _____
Deputy County Counsel

EXHIBIT "A"

LEGAL DESCRIPTION

PARCEL 1

A.P.N. 187-541-020

Situate within portions of Parcel C and Parcel D as they are shown on that certain map recorded in Volume 8 of Surveys at Page 154, within the Rancho Los Laureles, County of Monterey, State of California, being more particularly described as follows:

BEGINNING at the westerly most corner of said Parcel C, thence along the common boundary line between said Parcel C and said Parcel D

1. North $26^{\circ} 54' 00''$ East for a distance of 99.72 feet to a $5/8''$ rebar; thence continuing along said common boundary
2. North $23^{\circ} 40' 18''$ East for a distance of 73.82 feet to a $3/4''$ iron pipe tagged R.C.E. 15310; thence continuing along said common boundary
3. North $74^{\circ} 30' 00''$ East for a distance of 86.12 feet to a 1" iron pipe tagged L.S. 5321; thence leaving said common boundary
4. North $17^{\circ} 41' 50''$ West for a distance of 3.31 feet to a 1" iron pipe tagged L.S. 5321; thence
5. North $12^{\circ} 25' 51''$ East for a distance of 2.96 feet to a 1" iron pipe tagged L.S. 5321; thence
6. North $44^{\circ} 08' 42''$ East for a distance of 10.87 feet to a 1" iron pipe tagged L.S. 5321; thence
7. North $56^{\circ} 12' 22''$ East for a distance of 25.91 feet to a 1" iron pipe tagged L.S. 5321; thence
8. South $75^{\circ} 07' 25''$ East for a distance of 36.63 feet to a 1" iron pipe tagged L.S. 5321; thence
9. South $33^{\circ} 53' 59''$ East for a distance of 1.08 feet to a 1" iron pipe tagged L.S. 5321 on said common boundary; thence along said common boundary
10. North $74^{\circ} 30' 00''$ East for a distance of 13.60 feet to a point; thence continuing along said common boundary

EXHIBIT "A" (cont.)
LEGAL DESCRIPTION

PARCEL 1
A.P.N. 187-541-020

11. North $61^{\circ} 42' 45''$ East for a distance of 336.60 feet to a point; thence continuing along said common boundary
12. South $74^{\circ} 30' 00''$ East for a distance of 40.47 feet to a point on the west side of El Caminito Road; thence leaving said common boundary and following the west side of El Caminito Road
13. South $9^{\circ} 30' 00''$ West for a distance of 44.04 feet to a point; thence
14. Along a tangent curve to the left, having a radius of 100.00 feet, through a central angle of $3^{\circ} 35' 07''$, for an arc length of 6.25 feet; thence leaving El Caminito Road and following the common boundary of Parcel A and Parcel C as shown on said map
15. North $74^{\circ} 30' 00''$ West for a distance of 0.88 feet to a point; thence continuing along said common boundary
16. South $66^{\circ} 17' 20''$ West for a distance of 79.67 feet to a point; thence continuing along said common boundary
17. South $28^{\circ} 08' 35''$ West for a distance of 70.97 feet to the most northerly corner of Parcel B as show on said map; thence leaving said common boundary and following the common boundary between Parcel B and Parcel C as shown on said map
18. South $75^{\circ} 19' 00''$ West for a distance of 213.44 feet to a point; thence continuing along said common boundary
19. South $76^{\circ} 45' 34''$ West for a distance of 77.88 feet to a point; thence continuing along said common boundary
20. South $20^{\circ} 18' 00''$ West for a distance of 37.57 feet to a point; thence continuing along said common boundary
21. South $69^{\circ} 40' 00''$ West for a distance of 40.73 feet to a point; thence continuing along said common boundary
22. North $84^{\circ} 22' 00''$ West for a distance of 49.39 feet to a point; thence continuing along said common boundary

EXHIBIT "A" (cont.)
LEGAL DESCRIPTION

PARCEL 1
A.P.N. 187-541-020

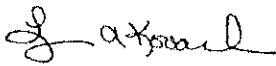
23. South $5^{\circ} 38' 00''$ West for a distance of 122.50 feet to the most southerly common corner of said Parcel B and Parcel C; thence continuing along the southern boundary of Parcel C

24. North $61^{\circ} 53' 00''$ West for a distance of 69.09 feet, more or less, to the POINT OF BEGINNING.

Said parcel is as shown on the plat attached hereto and made a part hereof.

Containing an area of 44,359 square feet, more or less.

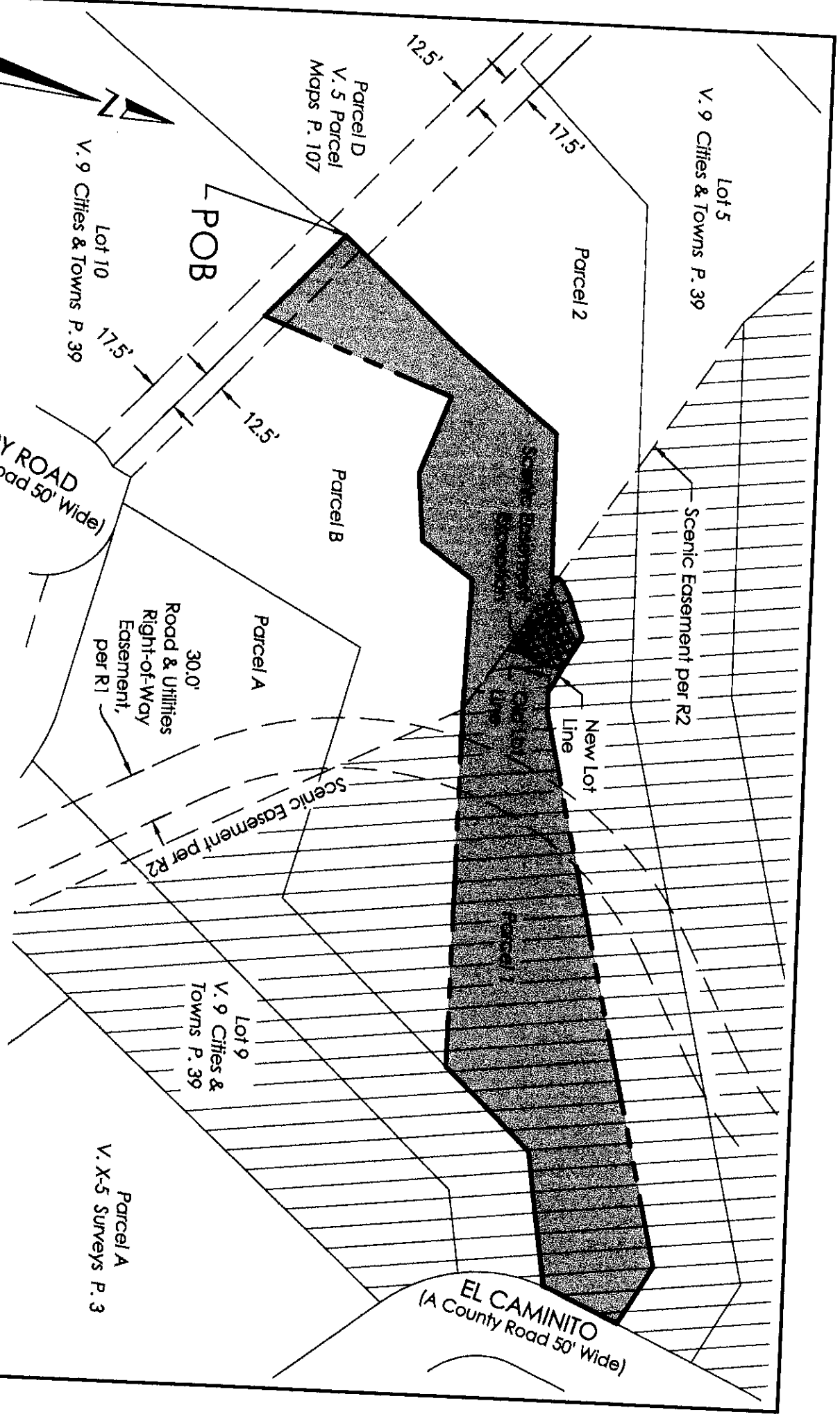
This legal description was prepared by:



Lynn A. Kovach
October 9, 2018

P.L.S. 5321





LEGEND

— PROPERTY LINE

- - - EASEMENT LINE

POB POINT OF BEGINNING

R1 RECORD DATA PER
VOLUME 9 CITIES & TOWNS PAGE 39

EXHIBIT A

PARCEL 1 - P.L.N. #180329

Portions of Parcels C & D

Vol. 8 of Surveys at Page 154

Within Rancho Los Laureles

PREPARED BY:
ROLARIS CONSULTING

CARMEL VALLEY, CA
831-659-9564

SCALE: 1" = 80' VIEW: PLAT PARCEL 1 DATE: 10-3-2018

FILE NAME: Long ROS.DWG 17219

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

In the matter of the application of:

LONG ROBERT A & SHERON L TRS AND CASWELL DAVID W & JUDITH A TRS
(PLN180198)

RESOLUTION NO. 18-036

Resolution by the Monterey County Hearing Body:

- 1) Finding the project meets the categorical exemptions under CEQA Section 15305 and 15303.
- 2) Approving a Lot Line Adjustment between two legal lots of record (Assessor's Parcel numbers 187-541-020-000 and 187-541-023-000) and an after-the-fact Design Approval to partially clear Code Enforcement Case (18CE00098) to allow retaining walls, tool shed, hot tub, deck steps, adobe walls, wooden fences, iron gate, irrigation shed and a covered porch.
- 3) Recommending that the Board of Supervisors approve an amendment to Conservation and Scenic Easements.

[PLN180198, Long Robert A & Sheron L Trs and Caswell David W & Judith A Trs, 5 Story Rd and 9 Story Rd, Carmel Valley Master Plan
(APN: 187-541-020-000 and 187-541-023-000)]

The Long/Caswell application (PLN180198) came on for public hearing before the Monterey County Planning Commission on September 12, 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:** **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:
 - The 2010 Monterey County General Plan;
 - Monterey County Master Plan
 - Monterey County Zoning Ordinance (Title 21);
 - 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 9 Story Road in Carmel Valley. (Assessor's Parcel Number 187-541-020-000), Carmel Valley Master Plan. The parcel

- is zoned Low Density Residential/1acre per unit with Design Control, Site Plan, and Residential Allocation Zoning, which allows lot line adjustments conforming to minimum parcel size and code requirements. The resulting parcels will conform to minimum parcel size and will meet all County Code requirements. Therefore, the project is an allowed use for this site.
- c) The property includes a Design Control "D" overlay, which requires a Design Approval for structures and fences to ensure protection of the public viewshed, neighborhood character, and to assure the visual integrity of certain developments without imposing undue restrictions on private property. The structures included in the requested Design Approval are located behind the house and are not visible from the road. They were designed to match the materials and colors of the house and they blend with the natural environment and rural character of the neighborhood.
 - d) The property includes an "S" overlay, which requires Site Plan Approval Application for development in areas of the County where development by reason of its location has the potential to adversely affect or be adversely affected by natural resources or site constraints. The project application includes a Site Plan. Pursuant to Section 21.45.040 of the Monterey County Land Use Ordinance, this development constitutes small structures, which can be approved without the benefit of an Administrative Permit. The Design Approval also serves as the site plan review application for this project.
 - e) The project planner conducted a site inspection on May 14, 2018 to verify that the project on the subject parcel conforms to the plans listed above.
 - f) The project meets the required findings for a Lot Line Adjustment in Title 19 of the Monterey County Code (Subdivision Ordinance) and Section 66412 of the Subdivision Map Act. See Finding 4.
 - g) The project is consistent with Carmel Valley Master Plan Policy CV-1.1, which states that development shall follow a rural architectural theme with design review. The project includes small structures located behind a main house. Retaining walls, fences, and small structures are composed of earth tones materials in grey, brick, or wood and blend in the with natural environment and rural character of the neighborhood. The Design Review process was not followed prior to construction of the structures. Approval of the After-the-Fact Design Approval will correct that action and legalize the structures.
 - h) The project meets the criteria for an exemption to the Use Permit requirement for slopes over 25% under Policy OS-3.51.c. of the Open Space Element of the Monterey County General Plan. The development impacting slopes in excess of 25% does not exceed 10% or 500 square feet of the total development footprint. Approximately 461 total square feet of development consisting of retaining walls and the tool shed were constructed on slopes over 25%. This constitutes less than 25 percent of the total development on site including the 2400 square foot house, 500 square foot garage, 1000+ square foot driveway, and 700+ square feet of patios/decks/retaining walls.
 - i) Carmel Valley Master Plan Policy CV-3.4 states that alteration of hillsides and natural landforms shall be minimized through sensitive siting and design of all improvements and maximum feasible restoration including botanically appropriate landscaping. The constructed retaining walls did

not significantly alter the hillside and are not visible from off-site. Most improvements located on the property are within a previous building site.

j) The project includes development within a high archeological sensitivity area. The improvements were constructed without a Phase 1 Inventory of Archaeological Resources as required by Section 21.66.050 (Land Use Ordinance). The applicant has submitted request for a report waiver, which meets the criteria necessary to waive the Phase 1 report requirement. Evidence of a previous building site in the form of a concrete pad indicates the site was previously disturbed. The retaining walls constructed into the hillside involved minimal soil disturbance pursuant to section 21.66.050C.2.d.

- k) The project was referred to the Carmel Valley 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 included a Design Approval subject to review by the Planning Commission.
- l) 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 PLN180198.

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, Monterey County Regional 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 site is not suitable for the proposed development. Conditions recommended have been incorporated.
- b) Staff identified potential impacts to Soil/Slope Stability. The following letters have been prepared:
- "Structural Engineering Observation Report Non-Permitted Site Retaining Walls 9 Story Road, Carmel Valley" (LIB#180310) prepared by Mayone Structural Engineering, Monterey, CA; August 6, 2018.
 - "Retaining Walls and Slope Stability at 9 Story Road, in Carmel Valley, California" (LIB#180310) prepared by Soil Surveys Group, Salinas, CA August 1, 2018.

The above-mentioned technical reports by outside consultants indicated that there are no physical or environmental constraints that would indicate that the site is not suitable for the use proposed. County staff has independently reviewed these reports and concurs with their conclusions.

- c) Staff conducted a site inspection on May 14, 2018 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 PLN180198.

3. **FINDING:**

HEALTH AND SAFETY - The establishment, maintenance, or operation of the project applied for will not under the circumstances of this particular

EXHIBIT "B" cont. RESOLUTION 18-036

- EVIDENCE:**
- a) The project was reviewed by the RMA - Planning, Fire Protection District, 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. The existing house is and will continue to be served by CalAm Water and onsite septic tanks. None of the improvements require water or wastewater services.
 - c) Staff conducted a site inspection on May 14, 2018 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 PLN180198.

4. **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 conform to the County's general plan, and zoning ordinances.

- EVIDENCE:**
- a) The lot line adjustment is between four or fewer existing adjoining parcels. The project involves two existing parcels to the northwest and southeast of each other.
 - b) The property is zoned Low Density Residential/1 acre per unit, with Design Control, Site Plan, and Residential Allocation overlays.
 - c) The project has a total of 1.19 acres. The project is a Lot Line Adjustment between two legal lots of record. Lot 1, the Long's property, is 1.02 acres. Lot 2, the Caswell's property, is 1.17 acres. The proposed Lot Line Adjustment will transfer 780 square feet containing structures accessory to the house on Lot 1 from Lot 2 to Lot 1. The resulting lots are shown as "Parcel D" and "Parcel C". Parcel D will be 1.17 acres and Parcel C will be 1.02 acres.
 - 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.
 - e) The proposed lot line adjustment is consistent with the Monterey County Zoning Ordinance (Title 21). If the lot line adjustment and the Design Approval is granted, this action will correct an existing violation on the property (18CE00098). The resulting parcels exceed the minimum required parcel size of 1 acre.

- f) The structures will meet the required side and rear setbacks of six feet under the resulting parcel configuration. All retaining walls are under 6 feet in height and not subject to setback requirements. The irrigation shed is six feet from the property line. The existing sauna is 6 feet from the property line, but is proposed for removal.
- g) 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 (Condition No. 4).
- h) The application, plans, and supporting materials submitted by the project applicant to Monterey County RMA-Planning for the proposed project are found in Project File PLN180198.

5. **FINDING:**

NO VIOLATIONS - The subject property is in not compliance with all rules and regulations pertaining to the Conservation and Scenic Easement deeds and a drainage easement that exists on the property and setback requirements for the Low Density Residential Zoning category. 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 and Building Services Department records and is aware of violations existing on subject property.
- b) Staff conducted a site inspection on May 14, 2018 and researched County records to assess violations that exist on the subject property.
- c) The proposed project corrects an existing violation regarding construction of structures within a Conservation and Scenic Easement, within a drainage easement, within the setbacks and over property lines, and structures constructed in a Design Control District without a Design Approval (18CE00098). When implemented, the project, as required by an adopted settlement agreement, will bring the subject property into compliance with all rules and regulations pertaining to the property and will remove the existing violations
- d) Zoning violation 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 PLN180198.

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, side yard, and set back variances not resulting in the creation of any new parcel.
- b) The project includes a minor lot line adjustment to transfer 780 square feet of land containing small improvements to the neighboring parcel. Not new parcels will be created as a result of the Lot Line Adjustment.
- c) California Environmental Quality Act (CEQA) Guidelines Section 15303e categorically exempts accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences.

- d) The project includes a Design Approval for small accessory structures including retaining walls, fences, a hot tub, a deck, adobe walls, a tool shed, and irrigation shed, and a covered porch.
- e) None of the exceptions under CEQA Guidelines Section 15300.2 apply to this project. The project is not located in a particularly sensitive environment, cannot be expected to contribute to a cumulative impact, is not visible from any scenic highway, does not involve a hazardous waste site, and does not involve a historic resource.
- f) Refer to other specific findings and evidence to support conclusion as applicable.
- g) No adverse environmental effects were identified during staff review of the development application during a site visit on May 14, 2018.
- h) 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 PLN180198.

7. **FINDING:**

EVIDENCE:

- APPEALABILITY** - The decision on this project may be appealed to the Board of Supervisors.
- a) Section 19.16.020 of the Monterey County Subdivision Ordinance states that the proposed project is appealable to the Board of Supervisors.
 - b) Section 21.80.040 of the Monterey County Inland Land Use Ordinance states that the Board of Supervisors is the Appeal Authority to consider appeals from discretionary decisions of the Planning Commission.

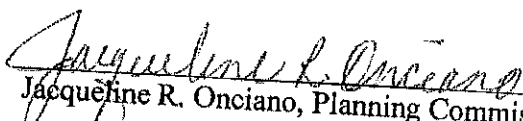
DECISION

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

1. Find the project is a minor lot line adjustment not resulting in the creation of any new parcel and the project involves small accessory structures, and therefore qualifies for exemptions pursuant to sections 15305 and 15303 of the California Environmental Quality Act.
2. Approving a Lot Line Adjustment between two legal lots of record (Assessor's Parcel numbers 187-541-020-000 and 187-541-023-000) in general conformance with the attached Lot Line Adjustment Map, and an after-the-fact Design Approval to partially clear Code Enforcement Case (18CE00098) to allow retaining walls, tool shed, hot tub, deck steps, adobe walls, wooden fences, iron gate, irrigation shed and a covered porch, subject to the attached conditions all being attached hereto and incorporated herein by reference.
3. Recommend that the Board of Supervisors amended Conservation and Scenic Easements to allow for the retaining walls, irrigation shed, hot tub, deck, steps, adobe walls, and wooden fence to remain in place as well as any future development which can be permitted in accordance with County Code.

PASSED AND ADOPTED this 12 day of September, 2018 upon motion of Commissioner Diehl, seconded by Commissioner Ambriz, by the following vote:

AYES: Ambriz, Diehl, Duflock, Getzelman, Gonzalez, Mendoza, Roberts, Wizard
NOES: None
ABSENT: Vandevere, Wizard
ABSTAIN: None


Jacqueline R. Onciano, Planning Commission Secretary

COPY OF THIS DECISION MAILED TO APPLICANT ON SEP 19, 2018

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 OCT 01, 2018

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

EXHIBIT "B" cont. RESOLUTION 18-036

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 1 year 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

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

PLN180198

1. PD001 - SPECIFIC USES ONLY

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: This Lot Line Adjustment and Design Approval (PLN180198) allows a Lot Line Adjustment between two legal lots of record (Assessor's Parcel numbers 187-541-020-000 and 187-541-023-000) and an after-the-fact Design Approval to partially clear Code Enforcement Case (18CE00098) to allow retaining walls, tool shed, hot tub, deck steps, adobe walls, wooden fences, iron gate, irrigation shed and a covered porch. The property is located at 5 Story Road and 9 Story Road (Assessor's Parcel Number 187-541-020-000 and 187-541-023-000), Carmel Valley Master 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 Lot Line Adjustment (Resolution Number 18-036) and an after-the-fact Design Approval for accessory structures was approved by the Planning Commission for Assessor's Parcel Number 187-541-020-000 and 187-541-023-000 on September 12, 2018. 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 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. PD003(A) - CULTURAL RESOURCES NEGATIVE ARCHAEOLOGICAL REPORT

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: If, during the course of construction, cultural, archaeological, historical or paleontological resources are uncovered at the site (surface or subsurface resources) work shall be halted immediately within 50 meters (165 feet) of the find until a qualified professional archaeologist can evaluate it. Monterey County RMA - Planning and a qualified archaeologist (i.e., an archaeologist registered with the Register of Professional Archaeologists) shall be immediately contacted by the responsible individual present on-site. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for recovery.
(RMA - Planning)

Compliance or Monitoring Action to be Performed: The Owner/Applicant shall adhere to this condition on an on-going basis.

Prior to the issuance of grading or building permits and/or prior to the recordation of the final/parcel map, whichever occurs first, the Owner/Applicant shall include requirements of this condition as a note on all grading and building plans. The note shall state "Stop work within 50 meters (165 feet) of uncovered resource and contact Monterey County RMA - Planning and a qualified archaeologist immediately if cultural, archaeological, historical or paleontological resources are uncovered."

When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery.

4. 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.

5. PDSP01_AMENDMENT TO CONSERVATION EASEMENT DEEDS

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: Prior to issuance of construction permits, the applicant must record an amendment to the Scenic and Conservation Easement deeds on parcels 187-541-020-000 and 187-541-023-000 to provide exceptions to the scenic easement development prohibitions to allow the right to development of such uses as may be allowed pursuant to all applicable laws, policies, and regulations of the Monterey County Code in the area establishing the flat building site which existed when the Conservation and Scenic Easement Deed was imposed, and which is shown and described in Exhibit ___ hereto, as well as maintenance of structures existing as of the date of recordation.

Compliance or Monitoring Action to be Performed: Prior to construction permit issuance, the applicant shall apply for amendment to the scenic and conservation deeds.

Following approval of the amendments by the Board of Supervisors and prior to issuance of construction permits, the applicant shall record the amendments.

6. 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.

EXHIBIT "C"

LEGAL DESCRIPTION

FLAT BUILDING SITE AREA

A.P.N. 187-541-020 & A.P.N. 187-541-023

Situate within Parcel C and Parcel D as they are shown on that certain map recorded in Volume 8 of Surveys at Page 154, lying within the Rancho Los Laureles, County of Monterey, State of California, being more particularly described as follows:

COMMENCING at the most westerly corner of said Parcel C; thence along the common boundary line between said Parcel C and said Parcel D North $26^{\circ} 54' 21''$ East 99.72 feet to a $5/8''$ iron rebar; thence continuing along said boundary line North $23^{\circ} 40' 18''$ East 73.82 feet to a $3/4''$ iron pipe tagged RCE 15310; thence continuing along said boundary line North $74^{\circ} 30' 00''$ East 86.12 feet to a $1''$ iron pipe tagged L.S. 5321; thence leaving said common boundary line North $82^{\circ} 20' 10''$ East 6.80 feet to a point on the Scenic Easement line as shown on that certain map recorded in Volume 9 of Cities & Towns at Page 39 being also THE TRUE POINT OF BEGINNING; thence

1. North $46^{\circ} 28' 20''$ East for a distance of 9.31 feet to a point; thence
2. North $40^{\circ} 40' 54''$ East for a distance of 10.61 feet to a point; thence
3. South $65^{\circ} 30' 48''$ East for a distance of 1.38 feet to a point; thence
4. North $42^{\circ} 41' 39''$ East for a distance of 16.77 feet to a point; thence
5. South $75^{\circ} 07' 25''$ East for a distance of 15.38 feet to a point; thence
6. South $24^{\circ} 32' 24''$ East for a distance of 1.97 feet to a point; thence
7. South $69^{\circ} 03' 43''$ East for a distance of 3.15 feet to a point; thence
8. South $20^{\circ} 56' 17''$ West for a distance of 3.75 feet to a point; thence
9. South $69^{\circ} 03' 43''$ East for a distance of 1.75 feet to a point; thence
10. South $16^{\circ} 50' 28''$ West for a distance of 7.44 feet to a point; thence
11. South $73^{\circ} 03' 13''$ East for a distance of 2.05 feet to a point; thence
12. South $19^{\circ} 13' 02''$ West for a distance of 4.53 feet to a point; thence
13. South $16^{\circ} 03' 41''$ West for a distance of 2.13 feet to a point; thence

LEGAL DESCRIPTION

EXHIBIT "C" (cont.)

FLAT BUILDING SITE AREA

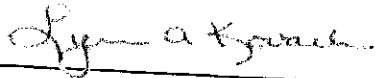
A.P.N. 187-541-020 & A.P.N. 187-541-023

14. South $4^{\circ} 42' 00''$ West for a distance of 7.99 feet to a point; thence
15. South $5^{\circ} 24' 12''$ East for a distance of 7.84 feet to a point on said Scenic Easement line as shown on said map; thence along said Scenic Easement line
16. North $71^{\circ} 15' 01''$ West for a distance of 45.42 feet, more or less, to the POINT OF BEGINNING.

Said area is as shown on the plat attached hereto and made a part hereof.

Containing an area of 1,066 square feet, more or less.

This legal description was prepared by:



Lynn A. Kovach P.L.S. 5321

Dated: October 17, 2018



EXHIBIT C FLAT BUILDING SITE AREA

WITHIN PARCELS C & D

Vol. 8 of Surveys at Page 154

Within Rancho Los Laureles

MONTEREY COUNTY, CALIFORNIA

Parcel D

Vol. 8 - Surveys - Pg. 154

A.P.N. 187-541-023

N42° 41' 39"E

16.77'

4.45'

S75° 07' 24"E
15.38'

S24° 32' 24"E

1.97'

S69° 03' 43"E

3.15'

S20° 56' 17"W

3.75'

S69° 03' 43"E

1.75'

S16° 50' 28"W

7.44'

S73° 03' 13"E

2.05'

S19° 13' 02"W

4.53'

S16° 03' 41"W

2.13'

S04° 42' 00"W

7.99'

S05° 24' 12"E

7.84'

S65° 30' 48"E

1.38'

N40° 40' 54"E

10.61'

N46° 28' 20"E

9.31'

Tie: N82° 20' 10"E 6.80'

Parcel C

Vol. 8 - Surveys - Pg. 154

A.P.N. 187-541-020

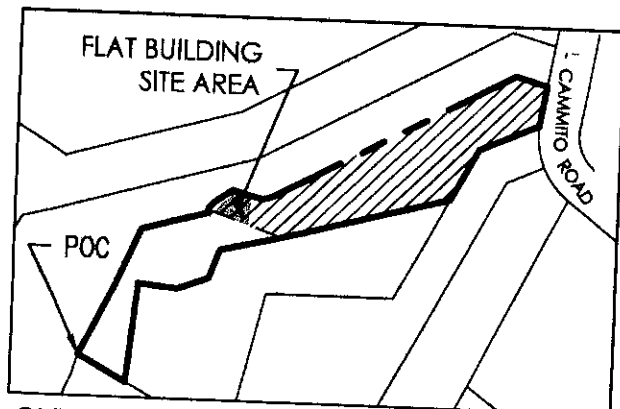
N71° 15' 01"W

45.42'

SCENIC EASEMENT
per 9-C&T-39

POB

Flat Building Site
Area



OVERVIEW MAP
(Not to Scale)

LEGEND

--- PROPERTY LINE
--- EASEMENT LINE

FLAT BUILDING SITE AREA

SCENIC EASEMENT

POB POINT OF BEGINNING
POC POINT OF COMMENCEMENT



PREPARED BY:
POLARIS CONSULTING
CARMEL VALLEY, CA
31-659-9564

SCALE: 1" = 10' VIEW: PLAT DATE: 10-17-2018
FILE NAME: Long ROS.DWG 17219

Exhibit "D"

to Amendment of Conservation and Scenic Easement Deed

Existing Improvement

North retaining walls:

Tier 3

Tier 4

East retaining walls:

Tier 2

Tier 3

Tier 4

Document Form/Content Acceptable:

Charles J. McKee, County Counsel

By: _____

DATED: _____

Type/Print Name: _____
Deputy County Counsel

EXHIBIT "A"

LEGAL DESCRIPTION

PARCEL 1

A.P.N. 187-541-020

Situate within portions of Parcel C and Parcel D as they are shown on that certain map recorded in Volume 8 of Surveys at Page 154, within the Rancho Los Laureles, County of Monterey, State of California, being more particularly described as follows:

BEGINNING at the westerly most corner of said Parcel C, thence along the common boundary line between said Parcel C and said Parcel D

1. North $26^{\circ} 54' 00''$ East for a distance of 99.72 feet to a $5/8''$ rebar; thence continuing along said common boundary
2. North $23^{\circ} 40' 18''$ East for a distance of 73.82 feet to a $3/4''$ iron pipe tagged R.C.E. 15310; thence continuing along said common boundary
3. North $74^{\circ} 30' 00''$ East for a distance of 86.12 feet to a 1" iron pipe tagged L.S. 5321; thence leaving said common boundary
4. North $17^{\circ} 41' 50''$ West for a distance of 3.31 feet to a 1" iron pipe tagged L.S. 5321; thence
5. North $12^{\circ} 25' 51''$ East for a distance of 2.96 feet to a 1" iron pipe tagged L.S. 5321; thence
6. North $44^{\circ} 08' 42''$ East for a distance of 10.87 feet to a 1" iron pipe tagged L.S. 5321; thence
7. North $56^{\circ} 12' 22''$ East for a distance of 25.91 feet to a 1" iron pipe tagged L.S. 5321; thence
8. South $75^{\circ} 07' 25''$ East for a distance of 36.63 feet to a 1" iron pipe tagged L.S. 5321; thence
9. South $33^{\circ} 53' 59''$ East for a distance of 1.08 feet to a 1" iron pipe tagged L.S. 5321 on said common boundary; thence along said common boundary
10. North $74^{\circ} 30' 00''$ East for a distance of 13.60 feet to a point; thence continuing along said common boundary

EXHIBIT "A" (cont.)
LEGAL DESCRIPTION

PARCEL 1
A.P.N. 187-541-020

11. North $61^{\circ} 42' 45''$ East for a distance of 336.60 feet to a point; thence continuing along said common boundary
12. South $74^{\circ} 30' 00''$ East for a distance of 40.47 feet to a point on the west side of El Caminito Road; thence leaving said common boundary and following the west side of El Caminito Road
13. South $9^{\circ} 30' 00''$ West for a distance of 44.04 feet to a point; thence
14. Along a tangent curve to the left, having a radius of 100.00 feet, through a central angle of $3^{\circ} 35' 07''$, for an arc length of 6.25 feet; thence leaving El Caminito Road and following the common boundary of Parcel A and Parcel C as shown on said map
15. North $74^{\circ} 30' 00''$ West for a distance of 0.88 feet to a point; thence continuing along said common boundary
16. South $66^{\circ} 17' 20''$ West for a distance of 79.67 feet to a point; thence continuing along said common boundary
17. South $28^{\circ} 08' 35''$ West for a distance of 70.97 feet to the most northerly corner of Parcel B as show on said map; thence leaving said common boundary and following the common boundary between Parcel B and Parcel C as shown on said map
18. South $75^{\circ} 19' 00''$ West for a distance of 213.44 feet to a point; thence continuing along said common boundary
19. South $76^{\circ} 45' 34''$ West for a distance of 77.88 feet to a point; thence continuing along said common boundary
20. South $20^{\circ} 18' 00''$ West for a distance of 37.57 feet to a point; thence continuing along said common boundary
21. South $69^{\circ} 40' 00''$ West for a distance of 40.73 feet to a point; thence continuing along said common boundary
22. North $84^{\circ} 22' 00''$ West for a distance of 49.39 feet to a point; thence continuing along said common boundary

EXHIBIT "A" (cont.)
LEGAL DESCRIPTION

PARCEL 1
A.P.N. 187-541-020

23. South $5^{\circ} 38' 00''$ West for a distance of 122.50 feet to the most southerly common corner of said Parcel B and Parcel C; thence continuing along the southern boundary of Parcel C

24. North $61^{\circ} 53' 00''$ West for a distance of 69.09 feet, more or less, to the POINT OF BEGINNING.

Said parcel is as shown on the plat attached hereto and made a part hereof.

Containing an area of 44,359 square feet, more or less.

This legal description was prepared by:



Lynn A. Kovach
October 9, 2018

P.L.S. 5321

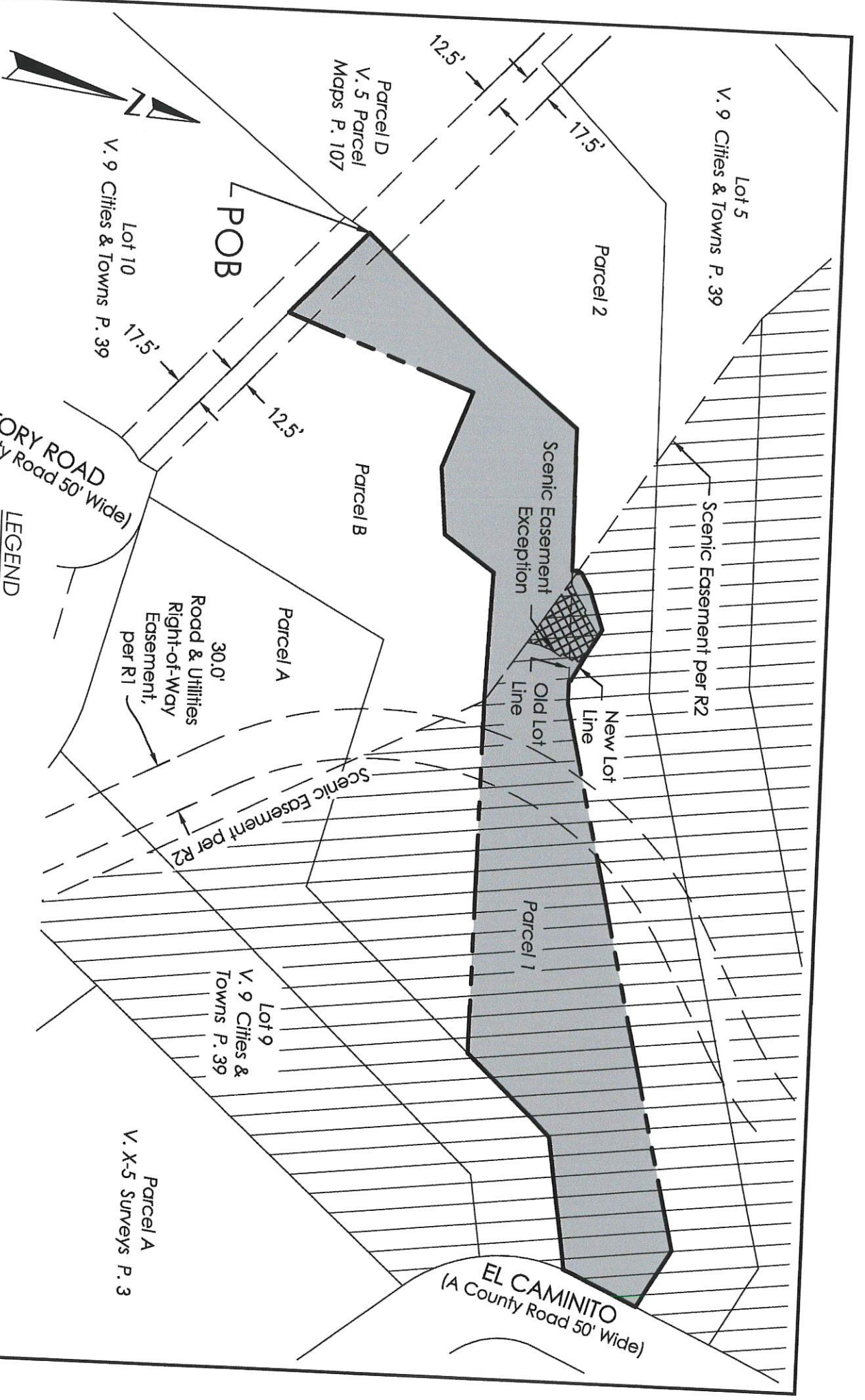


PREPARED BY:
ROSARIS CONSULTING
 CARMEL VALLEY, CA
 831-659-9564
 SCALE: 1" = 80' VIEW: PLAT PARCEL 1 DATE: 10-3-2018
 FILE NAME: Long ROS.DWG 17219

LEGEND

— PROPERTY LINE
 --- EASEMENT LINE
 --- POINT OF BEGINNING
 R1 RECORD DATA PER
 VOLUME 9 CITIES & TOWNS PAGE 39

EXHIBIT A
 PARCEL 1 - P.L.N. #180329
 Portions of Parcels C & D
 Vol. 8 of Surveys at Page 154
 Within Rancho Los Laureles
 MONTEREY COUNTY CALIFORNIA



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

In the matter of the application of:

LONG ROBERT A & SHERON L TRS AND CASWELL DAVID W & JUDITH A TRS
(PLN180198)

RESOLUTION NO. 18-036

Resolution by the Monterey County Hearing Body:

- 1) Finding the project meets the categorical exemptions under CEQA Section 15305 and 15303.
- 2) Approving a Lot Line Adjustment between two legal lots of record (Assessor's Parcel numbers 187-541-020-000 and 187-541-023-000) and an after-the-fact Design Approval to partially clear Code Enforcement Case (18CE00098) to allow retaining walls, tool shed, hot tub, deck steps, adobe walls, wooden fences, iron gate, irrigation shed and a covered porch.
- 3) Recommending that the Board of Supervisors approve an amendment to Conservation and Scenic Easements.

[PLN180198, Long Robert A & Sheron L Trs and Caswell David W & Judith A Trs, 5 Story Rd and 9 Story Rd, Carmel Valley Master Plan
(APN: 187-541-020-000 and 187-541-023-000)]

The Long/Caswell application (PLN180198) came on for public hearing before the Monterey County Planning Commission on September 12, 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:** **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:
 - The 2010 Monterey County General Plan;
 - Monterey County Master Plan
 - Monterey County Zoning Ordinance (Title 21);
 - 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 9 Story Road in Carmel Valley. (Assessor's Parcel Number 187-541-020-000), Carmel Valley Master Plan. The parcel

- is zoned Low Density Residential/1acre per unit with Design Control, Site Plan, and Residential Allocation Zoning, which allows lot line adjustments conforming to minimum parcel size and code requirements. The resulting parcels will conform to minimum parcel size and will meet all County Code requirements. Therefore, the project is an allowed use for this site.
- c) The property includes a Design Control "D" overlay, which requires a Design Approval for structures and fences to ensure protection of the public viewshed, neighborhood character, and to assure the visual integrity of certain developments without imposing undue restrictions on private property. The structures included in the requested Design Approval are located behind the house and are not visible from the road. They were designed to match the materials and colors of the house and they blend with the natural environment and rural character of the neighborhood.
 - d) The property includes an "S" overlay, which requires Site Plan Approval Application for development in areas of the County where development by reason of its location has the potential to adversely affect or be adversely affected by natural resources or site constraints. The project application includes a Site Plan. Pursuant to Section 21.45.040 of the Monterey County Land Use Ordinance, this development constitutes small structures, which can be approved without the benefit of an Administrative Permit. The Design Approval also serves as the site plan review application for this project.
 - e) The project planner conducted a site inspection on May 14, 2018 to verify that the project on the subject parcel conforms to the plans listed above.
 - f) The project meets the required findings for a Lot Line Adjustment in Title 19 of the Monterey County Code (Subdivision Ordinance) and Section 66412 of the Subdivision Map Act. See Finding 4.
 - g) The project is consistent with Carmel Valley Master Plan Policy CV-1.1, which states that development shall follow a rural architectural theme with design review. The project includes small structures located behind a main house. Retaining walls, fences, and small structures are composed of earth tones materials in grey, brick, or wood and blend in the with natural environment and rural character of the neighborhood. The Design Review process was not followed prior to construction of the structures. Approval of the After-the-Fact Design Approval will correct that action and legalize the structures.
 - h) The project meets the criteria for an exemption to the Use Permit requirement for slopes over 25% under Policy OS-3.51.c. of the Open Space Element of the Monterey County General Plan. The development impacting slopes in excess of 25% does not exceed 10% or 500 square feet of the total development footprint. Approximately 461 total square feet of development consisting of retaining walls and the tool shed were constructed on slopes over 25%. This constitutes less than 25 percent of the total development on site including the 2400 square foot house, 500 square foot garage, 1000+ square foot driveway, and 700+ square feet of patios/decks/retaining walls.
 - i) Carmel Valley Master Plan Policy CV-3.4 states that alteration of hillsides and natural landforms shall be minimized through sensitive siting and design of all improvements and maximum feasible restoration including botanically appropriate landscaping. The constructed retaining walls did

not significantly alter the hillside and are not visible from off-site. Most improvements located on the property are within a previous building site.

- j) The project includes development within a high archeological sensitivity area. The improvements were constructed without a Phase 1 Inventory of Archaeological Resources as required by Section 21.66.050 (Land Use Ordinance). The applicant has submitted request for a report waiver, which meets the criteria necessary to waive the Phase 1 report requirement. Evidence of a previous building site in the form of a concrete pad indicates the site was previously disturbed. The retaining walls constructed into the hillside involved minimal soil disturbance pursuant to section 21.66.050C.2.d.
- k) The project was referred to the Carmel Valley 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 included a Design Approval subject to review by the Planning Commission.
- l) 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 PLN180198.

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, Monterey County Regional 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 site is not suitable for the proposed development. Conditions recommended have been incorporated.
- b) Staff identified potential impacts to Soil/Slope Stability. The following letters have been prepared:
 - "Structural Engineering Observation Report Non-Permitted Site Retaining Walls 9 Story Road, Carmel Valley" (LIB#180310) prepared by Mayone Structural Engineering, Monterey, CA; August 6, 2018.
 - "Retaining Walls and Slope Stability at 9 Story Road, in Carmel Valley, California" (LIB#180310) prepared by Soil Surveys Group, Salinas, CA August 1, 2018.

The above-mentioned technical reports by outside consultants indicated that there are no physical or environmental constraints that would indicate that the site is not suitable for the use proposed. County staff has independently reviewed these reports and concurs with their conclusions.

- c) Staff conducted a site inspection on May 14, 2018 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 PLN180198.

3. **FINDING:**

HEALTH AND SAFETY - The establishment, maintenance, or operation of the project applied for will not under the circumstances of this particular

EXHIBIT "B" cont. RESOLUTION 18-036

- EVIDENCE:**
- a) The project was reviewed by the RMA - Planning, Fire Protection District, 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. The existing house is and will continue to be served by CalAm Water and onsite septic tanks. None of the improvements require water or wastewater services.
 - c) Staff conducted a site inspection on May 14, 2018 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 PLN180198.

4. **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 conform to the County's general plan, and zoning ordinances.

- EVIDENCE:**
- a) The lot line adjustment is between four or fewer existing adjoining parcels. The project involves two existing parcels to the northwest and southeast of each other.
 - b) The property is zoned Low Density Residential/1 acre per unit, with Design Control, Site Plan, and Residential Allocation overlays.
 - c) The project has a total of 1.19 acres. The project is a Lot Line Adjustment between two legal lots of record. Lot 1, the Long's property, is 1.02 acres. Lot 2, the Caswell's property, is 1.17 acres. The proposed Lot Line Adjustment will transfer 780 square feet containing structures accessory to the house on Lot 1 from Lot 2 to Lot 1. The resulting lots are shown as "Parcel D" and "Parcel C". Parcel D will be 1.17 acres and Parcel C will be 1.02 acres.
 - 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.
 - e) The proposed lot line adjustment is consistent with the Monterey County Zoning Ordinance (Title 21). If the lot line adjustment and the Design Approval is granted, this action will correct an existing violation on the property (18CE00098). The resulting parcels exceed the minimum required parcel size of 1 acre.

- f) The structures will meet the required side and rear setbacks of six feet under the resulting parcel configuration. All retaining walls are under 6 feet in height and not subject to setback requirements. The irrigation shed is six feet from the property line. The existing sauna is 6 feet from the property line, but is proposed for removal.
- g) 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 (Condition No. 4).
- h) The application, plans, and supporting materials submitted by the project applicant to Monterey County RMA-Planning for the proposed project are found in Project File PLN180198.

5. **FINDING:**

NO VIOLATIONS - The subject property is in not compliance with all rules and regulations pertaining to the Conservation and Scenic Easement deeds and a drainage easement that exists on the property and setback requirements for the Low Density Residential Zoning category. 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 and Building Services Department records and is aware of violations existing on subject property.
 - b) Staff conducted a site inspection on May 14, 2018 and researched County records to assess violations that exist on the subject property.
 - c) The proposed project corrects an existing violation regarding construction of structures within a Conservation and Scenic Easement, within a drainage easement, within the setbacks and over property lines, and structures constructed in a Design Control District without a Design Approval (18CE00098). When implemented, the project, as required by an adopted settlement agreement, will bring the subject property into compliance with all rules and regulations pertaining to the property and will remove the existing violations
 - d) Zoning violation 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 PLN180198.

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, side yard, and set back variances not resulting in the creation of any new parcel.
 - b) The project includes a minor lot line adjustment to transfer 780 square feet of land containing small improvements to the neighboring parcel. Not new parcels will be created as a result of the Lot Line Adjustment.
 - c) California Environmental Quality Act (CEQA) Guidelines Section 15303E categorically exempts accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences.

- d) The project includes a Design Approval for small accessory structures including retaining walls, fences, a hot tub, a deck, adobe walls, a tool shed, and irrigation shed, and a covered porch.
- e) None of the exceptions under CEQA Guidelines Section 15300.2 apply to this project. The project is not located in a particularly sensitive environment, cannot be expected to contribute to a cumulative impact, is not visible from any scenic highway, does not involve a hazardous waste site, and does not involve a historic resource.
- f) Refer to other specific findings and evidence to support conclusion as applicable.
- g) No adverse environmental effects were identified during staff review of the development application during a site visit on May 14, 2018.
- h) 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 PLN180198.

7. **FINDING:**

EVIDENCE:

APPEALABILITY - The decision on this project may be appealed to the Board of Supervisors.

- a) Section 19.16.020 of the Monterey County Subdivision Ordinance states that the proposed project is appealable to the Board of Supervisors.
- b) Section 21.80.040 of the Monterey County Inland Land Use Ordinance states that the Board of Supervisors is the Appeal Authority to consider appeals from discretionary decisions of the Planning Commission.

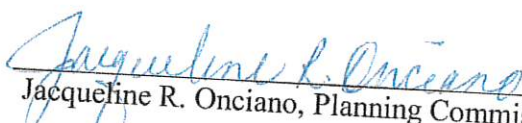
DECISION

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

1. Find the project is a minor lot line adjustment not resulting in the creation of any new parcel and the project involves small accessory structures, and therefore qualifies for exemptions pursuant to sections 15305 and 15303 of the California Environmental Quality Act.
2. Approving a Lot Line Adjustment between two legal lots of record (Assessor's Parcel numbers 187-541-020-000 and 187-541-023-000) in general conformance with the attached Lot Line Adjustment Map, and an after-the-fact Design Approval to partially clear Code Enforcement Case (18CE00098) to allow retaining walls, tool shed, hot tub, deck steps, adobe walls, wooden fences, iron gate, irrigation shed and a covered porch, subject to the attached conditions all being attached hereto and incorporated herein by reference.
3. Recommend that the Board of Supervisors amended Conservation and Scenic Easements to allow for the retaining walls, irrigation shed, hot tub, deck, steps, adobe walls, and wooden fence to remain in place as well as any future development which can be permitted in accordance with County Code.

PASSED AND ADOPTED this 12 day of September, 2018 upon motion of Commissioner Diehl, seconded by Commissioner Ambriz, by the following vote:

AYES: Ambriz, Diehl, Duflock, Getzelman, Gonzalez, Mendoza, Roberts, Wizard
NOES: None
ABSENT: Vandevere, Wizard
ABSTAIN: None


Jacqueline R. Onciano, Planning Commission Secretary

COPY OF THIS DECISION MAILED TO APPLICANT ON SEP 19, 2018

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 OCT 01, 2018

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

EXHIBIT "B" cont. RESOLUTION 18-036

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 1 year 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

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

PLN180198

1. PD001 - SPECIFIC USES ONLY

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: This Lot Line Adjustment and Design Approval (PLN180198) allows a Lot Line Adjustment between two legal lots of record (Assessor's Parcel numbers 187-541-020-000 and 187-541-023-000) and an after-the-fact Design Approval to partially clear Code Enforcement Case (18CE00098) to allow retaining walls, tool shed, hot tub, deck steps, adobe walls, wooden fences, iron gate, irrigation shed and a covered porch. The property is located at 5 Story Road and 9 Story Road (Assessor's Parcel Number 187-541-020-000 and 187-541-023-000), Carmel Valley Master 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 Lot Line Adjustment (Resolution Number 18-036) and an after-the-fact Design Approval for accessory structures was approved by the Planning Commission for Assessor's Parcel Number 187-541-020-000 and 187-541-023-000 on September 12, 2018. 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 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. PD003(A) - CULTURAL RESOURCES NEGATIVE ARCHAEOLOGICAL REPORT

Responsible Department: RMA-Planning

**Condition/Mitigation
Monitoring Measure:**

If, during the course of construction, cultural, archaeological, historical or paleontological resources are uncovered at the site (surface or subsurface resources) work shall be halted immediately within 50 meters (165 feet) of the find until a qualified professional archaeologist can evaluate it. Monterey County RMA - Planning and a qualified archaeologist (i.e., an archaeologist registered with the Register of Professional Archaeologists) shall be immediately contacted by the responsible individual present on-site. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for recovery.
(RMA - Planning)

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

The Owner/Applicant shall adhere to this condition on an on-going basis.

Prior to the issuance of grading or building permits and/or prior to the recordation of the final/parcel map, whichever occurs first, the Owner/Applicant shall include requirements of this condition as a note on all grading and building plans. The note shall state "Stop work within 50 meters (165 feet) of uncovered resource and contact Monterey County RMA - Planning and a qualified archaeologist immediately if cultural, archaeological, historical or paleontological resources are uncovered."

When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery.

4. 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.

5. PDSP01_AMENDMENT TO CONSERVATION EASEMENT DEEDS

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: Prior to issuance of construction permits, the applicant must record an amendment to the Scenic and Conservation Easement deeds on parcels 187-541-020-000 and 187-541-023-000 to provide exceptions to the scenic easement development prohibitions to allow the right to development of such uses as may be allowed pursuant to all applicable laws, policies, and regulations of the Monterey County Code in the area establishing the flat building site which existed when the Conservation and Scenic Easement Deed was imposed, and which is shown and described in Exhibit — hereto, as well as maintenance of structures existing as of the date of recordation.

Compliance or Monitoring Action to be Performed: Prior to construction permit issuance, the applicant shall apply for amendment to the scenic and conservation deeds.

Following approval of the amendments by the Board of Supervisors and prior to issuance of construction permits, the applicant shall record the amendments.

6. 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.

EXHIBIT "C"

LEGAL DESCRIPTION

FLAT BUILDING SITE AREA

A.P.N. 187-541-020 & A.P.N. 187-541-023

Situate within Parcel C and Parcel D as they are shown on that certain map recorded in Volume 8 of Surveys at Page 154, lying within the Rancho Los Laureles, County of Monterey, State of California, being more particularly described as follows:

COMMENCING at the most westerly corner of said Parcel C; thence along the common boundary line between said Parcel C and said Parcel D North 26° 54' 21" East 99.72 feet to a 5/8" iron rebar; thence continuing along said boundary line North 23° 40' 18" East 73.82 feet to a 3/4" iron pipe tagged RCE 15310; thence continuing along said boundary line North 74° 30' 00" East 86.12 feet to a 1" iron pipe tagged L.S. 5321; thence leaving said common boundary line North 82° 20' 10" East 6.80 feet to a point on the Scenic Easement line as shown on that certain map recorded in Volume 9 of Cities & Towns at Page 39 being also THE TRUE POINT OF BEGINNING; thence

1. North 46° 28' 20" East for a distance of 9.31 feet to a point; thence
2. North 40° 40' 54" East for a distance of 10.61 feet to a point; thence
3. South 65° 30' 48" East for a distance of 1.38 feet to a point; thence
4. North 42° 41' 39" East for a distance of 16.77 feet to a point; thence
5. South 75° 07' 25" East for a distance of 15.38 feet to a point; thence
6. South 24° 32' 24" East for a distance of 1.97 feet to a point; thence
7. South 69° 03' 43" East for a distance of 3.15 feet to a point; thence
8. South 20° 56' 17" West for a distance of 3.75 feet to a point; thence
9. South 69° 03' 43" East for a distance of 1.75 feet to a point; thence
10. South 16° 50' 28" West for a distance of 7.44 feet to a point; thence
11. South 73° 03' 13" East for a distance of 2.05 feet to a point; thence
12. South 19° 13' 02" West for a distance of 4.53 feet to a point; thence
13. South 16° 03' 41" West for a distance of 2.13 feet to a point; thence

LEGAL DESCRIPTION

FLAT BUILDING SITE AREA

A.P.N. 187-541-020 & A.P.N. 187-541-023

14. South 4° 42' 00" West for a distance of 7.99 feet to a point; thence
15. South 5° 24' 12" East for a distance of 7.84 feet to a point on said Scenic Easement line as shown on said map; thence along said Scenic Easement line
16. North 71° 15' 01" West for a distance of 45.42 feet, more or less, to the POINT OF BEGINNING.

Said area is as shown on the plat attached hereto and made a part hereof.

Containing an area of 1,066 square feet, more or less.

This legal description was prepared by:



Lynn A. Kovach P.L.S. 5321

Dated: October 17, 2018



EXHIBIT C FLAT BUILDING SITE AREA

WITHIN PARCELS C & D

Vol. 8 of Surveys at Page 154

Within Rancho Los Laureles

MONTEREY COUNTY, CALIFORNIA

Parcel D

Vol. 8 - Surveys - Pg. 154

A.P.N. 187-541-023

N42° 41' 39"E

16.77'

4.45'

S75° 07' 24"E
15.38'

S24° 32' 24"E

1.97'

S69° 03' 43"E

3.15'

S20° 56' 17"W

3.75'

S65° 30' 48"E

1.38'

N40° 40' 54"E

10.61'

N46° 28' 20"E

9.31'

OLD LOT LINE

S69° 03' 43"E

1.75'

S16° 50' 28"W

7.44'

S73° 03' 13"E

2.05'

S19° 13' 02"W

4.53'

S16° 03' 41"W

2.13'

S04° 42' 00"W

7.99'

Tie: N82° 20' 10"E 6.80'

Parcel C

Vol. 8 - Surveys - Pg. 154

A.P.N. 187-541-020

N71° 15' 01"W

45.42'

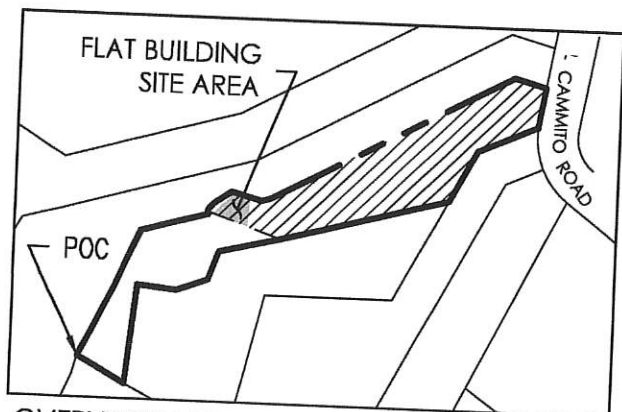
SCENIC EASEMENT
per 9-C&T-39

S05° 24' 12"E

7.84'

POB

Flat Building Site Area



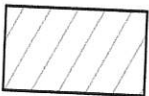
OVERVIEW MAP
(Not to Scale)

LEGEND

--- PROPERTY LINE
--- EASEMENT LINE



FLAT BUILDING SITE AREA



SCENIC EASEMENT

POB

POC

POINT OF BEGINNING

POINT OF COMMENCEMENT



PREPARED BY:

POLARIS CONSULTING

CARMEL VALLEY, CA

31-659-9564

SCALE: 1" = 10' VIEW: PLAT DATE: 10-17-2018

FILE NAME: Long ROS.DWG 17219

Exhibit "D"

to Amendment of Conservation and Scenic Easement Deed

Existing Improvement

North retaining walls:

Tier 3

Tier 4

East retaining walls:

Tier 2

Tier 3

Tier 4