

**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 - 037**

Resolution by the Monterey County Planning  
Commission:

- 1) Finding that a conditional certificate of compliance qualifies as a Categorical Exemption pursuant to Section 15315 of the CEQA Guidelines, and there are no exceptions pursuant to Section 15300.2; and
- 2) Approving a Coastal Development Permit for a conditional certificate of compliance for Assessor's Parcel Number 009-231-023-000, subject to five (5) conditions of approval.

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 August 29 and 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:** **CONSISTENCY** – The project, as conditioned, is consistent with the 1982 Monterey County General Plan, the Carmel Area Land Use Plan, the Monterey County Coastal Implementation Plan (Part 4), and the requirements of the applicable zoning ordinance (Title 20), to include Monterey County Code (MCC) Chapter 20.12 (Medium Density Residential Zoning District), and other County ordinances related to land use development. The project has been found to be in violation of the Monterey County Subdivision Ordinance and the Subdivision Map Act however, in finding this violation exists, the project would be brought into conformance with the applicable requirements with issuance of a conditional certificate of compliance.  
**EVIDENCE:** a) Conformance with Plans. During the course of review of this application, the project has been reviewed for consistency with the text, policies, and regulations in the:
  - 1982 Monterey County General Plan;
  - Carmel Area Land Use Plan;
  - Monterey County Coastal Implementation Plan, Part 4;
  - Monterey County Zoning Ordinance – Coastal (Title 20); and
  - Monterey County Subdivision Ordinance – Coastal (Title 19)Conflicts were found to exist with the Subdivision Map Act and Title 19 of the MCC; however, issuance of a conditional certificate of

compliance would bring the project into conformance with the applicable rules and regulations (see Evidence c below). 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) Allowed Use. The property is located at 25735 Mesa Drive, Carmel [Assessor's Parcel Number (APN) 009-231-023-000], Carmel Area Land Use Plan, Coastal Zone. The parcel 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. Therefore, the project is an allowed land use for this site.
- c) Map Act Consistency. Pursuant to Subdivision Map Act (SMA) Section 66499.35(b), as well as MCC Section 19.14.050.A, if a local agency determines that the real property does not comply with the provisions of this division or of local ordinances enacted pursuant to this division, it shall issue a conditional certificate of compliance and may impose any conditions as would have been applicable to the division of the property at the time the applicant acquired interest therein. Furthermore, fulfillment and implementation of the conditions shall be required prior to the parcel in question being deemed a legal parcel for the purpose of sale, lease, or financing.
- d) Williamson Act. The subject parcel is zoned for residential purposes, and is not under Williamson Act contract or used for agricultural purposes.
- e) At this time, the County is only authorizing and granting a Coastal Development Permit for a conditional certificate of compliance. Future development on the subject parcel would be required to conform to applicable MCC requirements in effect at the time of the proposed development, and/or apply for an applicable Variance.
- f) Design. Pursuant to MCC Chapter 20.44, the proposed project parcels and surrounding area are designated as a Design Control Zoning District ("D" zoning overlay), which regulates the location, size, configuration, materials, and colors of structures and fences to assure the protection of the public viewshed and neighborhood character. The proposed conditional certificate of compliance does not include any new structural development. Exterior finishes and colors of any development proposed in the future would be required to blend with the surrounding environment, and maintain consistency with the surrounding residential neighborhood character and with other dwellings in the neighborhood.
- g) 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.
- 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 PLN171029.

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, RMA-Public Works, RMA-Environmental Services, Cypress Fire Protection District, 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) 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 PLN171029.
3.       **FINDING:**       **HEALTH AND SAFETY** - The establishment, maintenance, or operation of the project applied for will not under the circumstances of this particular case be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.
- EVIDENCE:**   a) The project was reviewed by the RMA-Planning, RMA-Public Works, RMA-Environmental Services, Cypress Fire Protection District, 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) As conditioned, necessary public facilities would be required to be provided. The County has applied a condition of approval (Condition No. 5) to require the Owner to 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. Also, the parcel would be served by the Carmel Area Wastewater District (CAWD), and CAWD has adequate remaining public sewer capacity to serve the parcel.
- c) 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 PLN171029.
4.       **FINDING:**       **NO VIOLATIONS** - The subject property is in not compliance with all rules and regulations pertaining to subdivisions. The subject lot has been created in violation of the Subdivision Map Act. The approval and issuance of a conditional certificate of compliance will correct the violations and bring the property into compliance.
- EVIDENCE:**   a) County staff reviewed Monterey County RMA-Planning and RMA-Building Services records and is not aware of any building or zoning violations existing on the subject property.
- b) Pursuant to Section 66499.35(b) of the Subdivision Map Act and MCC Section 19.14.050.A. Pursuant to these Sections, if a local agency determines that the real property does not comply with the provisions of this division or of local ordinances enacted pursuant to this division, it

shall issue a conditional certificate of compliance and may impose any conditions as would have been applicable to the division of the property at the time the applicant acquired interest therein. Furthermore, fulfillment and implementation of the conditions shall be required prior to the parcel in question being deemed a legal parcel for the purpose of sale, lease, or financing.

- c) 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 PLN171029.

5.       **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 15315 categorically exempts minor land divisions in urbanized areas zoned for residential use when the division is in conformance with the General Plan and zoning, no variances or exceptions are required, and all services and access to the proposed parcel are available, the parcel was not involved in a division of a larger parcel within the previous 2 years, and the parcel does not have an average slope greater than 20 percent.
  - b) The Applicant proposes a conditional certificate of compliance for Assessor's Parcel Number (APN) 009-231-023-000, resulting in a minor land division of land from Assessor's Parcel Number 009-231-013-000. As proposed, the conditionally created lot would be in conformance with the General Plan and applicable zoning standards. No variances or exceptions are required for the proposed lot, and all services and access to the proposed parcel are available. The parcel was not involved in a division of a larger parcel within the previous 2 years, and the parcel does not have an average slope greater than 20 percent. Therefore, the proposed development is consistent with CEQA Guidelines Section 15315.
  - c) No adverse environmental effects were identified during staff review of the development application.
  - d) None of the exceptions under CEQA Guidelines Section 15300.2 apply to this project. The project does not involve alterations to a designated historical resource, a hazardous waste site, unusual circumstances that would result in a significant effect, nor development that would result in a cumulatively significant impact.
  - e) 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.

6.       **FINDING:**       **PUBLIC ACCESS** – The project is in conformance with the public access and recreation policies of the Coastal Act (specifically Chapter 3 of the Coastal Act of 1976, commencing with Section 30200 of the Public Resources Code) and Local Coastal Program, and does not interfere with any form of historic public use or trust rights.

- EVIDENCE:**
- a) No access is required as part of the project as no substantial adverse impact on access, either individually or cumulatively, as described in

Section 20.146.130 of the Monterey County Coastal Implementation Plan can be demonstrated.

- b) The subject property is not described as an area where the applicable Local Coastal Program requires public access (Figure 3, Public Access, in the Carmel Area Land Use Plan).
- c) No evidence or documentation has been submitted or found showing the existence of historic public use or trust rights over this property.
- d) 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.

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

- EVIDENCE:**
- a) Board of Supervisors. Section 19.01.050.A of the Monterey County Subdivision Ordinance (Title 19 – Coastal Zone) and Section 20.86.030 of the Monterey County Zoning Ordinance (Title 20) allow an appeal to be made to the Board of Supervisors by any public agency or person aggrieved by a decision of an Appropriate Authority other than the Board of Supervisors.
  - b) Coastal Commission. Section 20.86.080.A.3 of the Monterey County Zoning Ordinance (Title 20). The project is subject to appeal by/to the California Coastal Commission because it involves development that is permitted in the underlying zone as a conditional use.

The subject parcels are not located between the sea and the first through public road paralleling the sea. Also, the subject parcels are not within 300 feet of the inland extent of any beach or of the mean high tide line of the sea, or located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, stream or within 300 feet of the top of the seaward face of any coastal bluff.

### **DECISION**

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

1. Find that a conditional certificate of compliance qualifies as a Categorical Exemption pursuant to CEQA Guidelines Section 15315, and there are no exceptions pursuant to Section 15300.2; and
2. Approve a Coastal Development Permit for a conditional certificate of compliance for Assessor's Parcel Number 009-231-023-000, in general conformance with and subject to five (5) conditions of approval, all being attached hereto and incorporated herein by reference.

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

AYES: Ambriz, Getzelman, Gonzalez, Mendoza, Duflock

NOES: Roberts, Vandever, Wizard

ABSENT: None

ABSTAIN: Diehl

  
Jacqueline R. Onciano, Planning Commission Secretary

COPY OF THIS DECISION MAILED TO THE APPLICANT ON OCT 03 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 15 2018.

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

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

NOTE

This permit expires 2 years after the above date of granting thereof unless the conditional certificate of compliance is recorded within this period.

# Monterey County RMA Planning

## 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 - 037) was approved by the Planning Commission for Assessor's Parcel Number 009-231-023-000 on September 26, 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 September 26, 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.