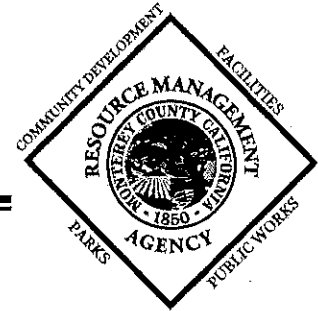


MONTEREY COUNTY

RESOURCE MANAGEMENT AGENCY

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MEMORANDUM

Date: August 29, 2018

To: Monterey County Planning Commission

From: RMA-Planning

Subject: PLN171029/Leavy-Hoglund; Agenda Item #2

Since the printing of the staff report, RMA-Planning recommends the following revisions and/or additions to the draft resolution and conditions of approval for PLN171029:

(Note: Recommended revisions/additions are delineated by either strikethrough (~~deletions~~) or underline (additions).)

Finding No. 1

CONSISTENCY -- The project is a conditional certificate of compliance for Assessor's Parcel Number 009-231-023-000. 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 1969 lot conveyance 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.

Finding No. 1, Evidence 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. See the history described in Exhibit A of the staff report to the Planning Commission for the August 29, 2018, public hearing on this matter.

Finding No. 3, Evidence 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, prior to issuance of a permit for a dwelling unit on the parcel, 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.

Addition of a Condition of Approval No. 6, CC01 Indemnification Agreement, and correction of the number of conditions of approval where listed in the resolution and conditions of approval.

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)

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.