



# County of Monterey

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

## Board Report

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**File #:** PC 18-104, **Version:** 1

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### **PLN180198 - LONG (9 STORY ROAD)**

Public hearing to consider a Lot Line Adjustment between two legal lots of record to transfer 0.02 acres (780 square feet) from "Parcel C" (APN 187-541-020-000) to "Parcel D" (APN 187-541-023-000), an after the-fact Design Approval for structures including retaining walls, a tool shed, an irrigation shed, wooden fences, and a covered porch, and recommendation to the Board of Supervisors to amend Conservation and Scenic Easement Deeds.

**Project Location:** 5 Story Rd and 9 Story Rd, Carmel Valley, Carmel Valley Master Plan

**Proposed CEQA Action:** Categorically Exempt pursuant to Section 15305 and 15303

#### RECOMMENDATION:

It is recommended that the Planning Commission adopt a resolution:

- a. Finding the project is a minor Lot Line Adjustment not resulting in any changes in land use or density, with legalization of existing small accessory structures, and therefore qualifies for a categorical exemption under sections 15305 and 15303 of the CEQA Guidelines
- b. Approving:
  - i. A Lot Line Adjustment between two legal lots of record (Assessor's Parcel Numbers 187-541-020-000 and 187-541-023-000); and
  - ii. An after-the-fact Design Approval to clear Code Enforcement Case (18CE00098) to allow retaining walls, tool shed, hot tub, deck steps, adobe walls, irrigation shed and a covered porch.
- c. Recommending the Board of Supervisors approve an amendment to the Conservation and Scenic Easements on the subject parcels to allow certain structures to remain within the easement area.

A draft resolution, including findings and evidence, is attached for consideration (**Exhibit A**). Staff recommends approval subject to five (5) conditions of approval.

#### PROJECT INFORMATION:

**Planning File Number:** PLN180198

**Owner:** Long Robert A & Sheron L Trs and Caswell David W & Judith A Trs

**APN:** 187-541-020-000 and 187-541-023-000

**Parcel Size:** 1 acre

**Zoning:** LDR/1-D-S-RAZ

**Agent:** Mark Blum

**Plan Area:** Carmel Valley Master Plan

**Flagged and Staked:** No (Structures currently exist)

#### SUMMARY:

The property owned by Sheron and Robert Long, APN 187-541-020-000, contains an existing single family dwelling and various site improvements. Small structures on this lot are partially within a designated scenic easement and a drainage easement. In addition, some structures cross the northern property line onto the neighboring parcel, owned by David and Judith Caswell. Some of the structures are permitted while some were constructed without permits. A Notice of Violation was issued for the unpermitted improvements (Case No. 18CE00098).

The owner has worked with staff on solutions to remedy the violations. A settlement agreement between the County and the Longs, set to be recorded in September of 2018, requires the Longs to apply for certain entitlements to legalize existing structures, including the Lot Line Adjustment and Design Approval requested with this application. If approved, the requested action will partially resolve Code Enforcement Case 18CE00098 in accordance with the settlement agreement. Subsequent actions required by the Settlement Agreement, including recording an amendment to the Scenic Easement Deeds, will fully resolve the Code Enforcement Case. If amendments to the lot line and scenic easement are not approved, unpermitted improvements will need to be removed and the site restored.

## DISCUSSION:

### **Background**

The subject property was created as part of the Cerro Del Oso subdivision in 1966. The Planning Commission's recommendation to the Board of Supervisors for approval of the subdivision included a condition of approval that the portion of steep terrain that is not in the building sites themselves should be included in a scenic easement. Scenic easements were shown on the subdivision map and scenic easement deeds were recorded over portions of lots on the map including the areas now comprising parts of the Long's property.

In 1985, the County approved a setback variance and construction permits for construction of an addition to the main house. Final inspection was completed in 1986. In 1987, the County discovered that the approved addition encroaches into a 10-foot wide drainage easement which contains improvements maintained by the County through County Service Area No. 52. After an investigation showed the addition was built to the approved plans, the County proposed that the drainage easement be moved over five feet, and be properly graded to facilitate access. The Longs agreed in writing and facilitated access to the proposed new easement area, but did not obtain a survey and map of the new easement and failed to record documentation amending the drainage easement.

As part of the disclosure process for selling their home in 2017, the Longs attempted to record the 1987 drainage easement agreement. As part of a site visit by County staff to investigate the status of the drainage easement, the County discovered that certain improvements had been constructed without permits and were located within an area protected by a Conservation and Scenic Easement. Additionally, some of the improvements encroached into the neighboring parcel. At that time, the County issued a courtesy notice under 18CE00098, informing the Longs that certain unpermitted improvements were located within an area protected by a Conservation and Scenic Easement. Further investigations into the drainage easement and infrastructure revealed that a portion of the permitted addition is located over the County Storm Drain Line.

A Settlement Agreement was signed by both parties in September 2018 to address issues with the unpermitted structures; including: location in the drainage easement, location in the conservation and scenic easement, location over the lot line and on the neighboring property, and unpermitted structures in a Design Approval district. The drainage issues are addressed by the Settlement Agreement and do not require issuance of any additional entitlements. If approved, this application for a Lot Line Adjustment and Design approval would remedy the issues of encroachment onto the neighboring property and provide an after-the-fact Design Approval for those structures that are proposed to remain. A condition of approval requiring the applicant to apply for an amendment to the Conservation and Scenic Easement deed would address the issue of structures located in a Conservation and Scenic Easement. After-the-fact building permits will still be required.

## Lot Line Adjustment

The building site on the Long's property is bordered on the north and east by steep hillsides. Four tiers of retaining walls were constructed along the North property line. Building permits were obtained for Tier 1 and Tier 2; however, the height of the Tier 2 retaining walls was later increased without permits, and the Tier 3 and Tier 4 retaining walls were constructed without building permits. Portions of the retaining walls encroach into the neighboring property, APN 187-541-023-000. In addition, an unpermitted irrigation shed was also constructed over the property line. Preliminary structural reports indicate that removal of the retaining walls could compromise the integrity of the building site. The proposed Lot Line Adjustment, consistent with the settlement agreement, would adjust the property line so that these improvements would be located entirely within the Long's property.

The proposed Lot Line Adjustment meets the findings required by Section 66412 of the California Government Code (Subdivision Map Act) and Title 19 (Subdivision Ordinance) of the Monterey County Code. A greater number of parcels than originally existed will not be created as a result of the lot line adjustment and the resulting parcels would conform to the County's General Plan, the Carmel Valley Master Plan, and the Land Use Ordinance (Title 21). The Lot Line Adjustment would transfer 0.02 acres (780 square feet) from "Parcel D" (APN 187-541-030-000) to "Parcel C" (APN 187-541-020-000). The minimum parcel size in the LDR/1 zoning category is one acre. The resulting Parcel C will be 1.02 acres, and the resulting parcel D will be 1.17 acres.

Had permits for the retaining walls and irrigation shed been applied for prior to construction, the County would have required the Lot Line Adjustment prior to issuing a Design Approval or Construction permits. The irrigation shed is located on the flat portion of the site adjacent to the long's patio area, only approximately 20 feet from the house. The Caswell's house is located southwest of the Long's house and the entire building site is located over 200 feet from the improvements that have been constructed partially on their property. Structural and geotechnical analysis submitted in August 2018 indicate the retaining walls are necessary to preserve the integrity of the building site. While adjusting the lot line to accommodate the improvements does create a peculiar lot shape, it does not impede on the Caswell's use or enjoyment of their property and it allows for full use of the building site on the Long's property. Additionally, the resulting parcels conform to all Monterey County Code requirements and meet the findings required by the Subdivision Map Act. For these, reasons, the proposed Lot Line Adjustment would have been supportable had it been applied for prior to construction of the unpermitted structures. Should the Planning Commission decide not to approve the proposed Lot Line Adjustment, the structures that encroach onto the neighboring property will need to be removed to clear the Code Enforcement Case.

## Design Approval

Since the property is located in a D district, an After-the-Fact Design Approval is required to legalize the structures that were constructed without permits, including the retaining walls, tool shed, hot tub, deck steps, adobe walls around the deck, irrigation shed, wooden fence along the catch basin, dog run fence, and covered porch. All improvements are located behind the house and are not visible from the road. Many of the structures are the same colors and materials of the house. Other materials blend with the natural environment and include grey brick, wrought iron, and wood. All improvements are consistent with the rural character of the neighborhood and of Carmel Valley. Should the Planning Commission determine that any of the structures detailed below should not be issued an after-the-fact design approval, they will need to be removed to clear the Code Enforcement Case.

North Retaining Walls: The north retaining walls, discussed above, provide slope stability for the building site. They are constructed of light red/orange brick that matches the house and vary in height from three to five feet with vegetation planted between the walls. The design of these walls matches the house and blends in with the surrounding natural environment.

East Retaining Walls and Tool Shed: Four tiers of retaining walls have been constructed on the slopes that boarder the eastern portion of the building site. Tier 1 and Tier 2 were approved with building permits in 1985; however, the wall of Tier 2 was rebuilt with a different stone in 1993-1994 without permits. Tiers 3, and 4 were subsequently constructed without building permits. Preliminary structural and geotechnical analyses by Mayone Structural Engineering and Soil Surveys group in August 2018 indicate that removal of these walls would compromise the integrity of the building site. A 179-square-foot tool shed was constructed into the east retaining walls. The walls are grey brick and the roof and doors of the tool shed are blue, which matches the trim on the house. A low, 3 foot, 6-inch-tall “dog run” fence runs parallel to the tier 1 retaining wall.

Hot Tub, Deck, Steps, Adobe Walls: A 2 foot tall deck and hot tub area was constructed north of the house, between the northern corner of the house and the irrigation shed. The adobe wall is 3.5 feet tall and matches the house.

Irrigation Shed: A 5 foot, 5 inch shed, housing equipment for the hot tub and irrigation was constructed behind the hot tub area. The shed is a narrow “L” shape approximately 12 feet long on one side and 7 feet 6 inches on the other side and is only 3 feet in depth. The shed was constructed against the adobe wall described above and is composed of wood with a grey shingle roof.

Wooden Fence, Iron Gate: A 5-foot-tall wooden fence and a 3 foot 6 inch iron gate were constructed near the irrigation shed.

Covered Porch: A 355 square foot covered porch supported by a 6 foot 4 inch wood and brick beam was added to the east wall of the house. The porch colors and materials match the house.

### **Sauna to be Demolished**

A Sauna built along the eastern retaining walls is proposed to be demolished. A demolition permit will be required. New retaining walls will be constructed in place of the sauna. The retaining walls are proposed to match the existing retaining walls.

### **Development on Slopes**

Approximately 461 total square feet of development consisting of the retaining walls, and the east tool shed constitute development on slopes over 25%. Monterey County Code requires a use Permit for development on slopes over 25%; however, Open Space Policy OS-3.5(c) of the Monterey County General Plan exempts development on slopes over 25% when the total development impacting slopes over 25% does not exceed 10 percent or 500 square feet of the total development, whichever is less. In this case, the development on slopes of 25% meets the exemption and no Use Permit is required.

### **Conservation and Scenic Easement**

The hot tub, irrigation shed, sauna, and portions of the north and east retaining walls are located within the Conservation and Scenic Easement. Some of these structures, specifically, the Tier 1 and Tier 2 North retaining

walls and the Tier 1 East retaining walls, existed prior to recordation of the easement deeds. Others, specifically the irrigation shed and the hot tub, were constructed on a pre-existing concrete slab. Although these improvements were constructed within the approved flat building site and/or in place of other structures that already existed at the time the deeds were recorded, the wording of the Conservation and Scenic Easement deed does not specifically state that the easement is only intended to burden portions of steep terrain. Therefore, the structures are currently in conflict with the scenic easement deeds. Amending the Conservation and Scenic Easement deeds to be more in line with the intent of the Planning Commission recommendation that “that the portion of steep terrain that is other than building sites themselves should be included in the scenic easement” would allow the structures mentioned above to remain and to be consistent with the terms of the Conservation and Scenic Easement deeds. Preliminary structural reports have stated that removal of retaining walls constructed on the steep hillside would compromise the stability of the building site. Amending the Conservation and Scenic easement deeds to allow these structures to remain would continue to preserve the building site without allowing any future development within the Conservation and Scenic easement area. A suggested Condition of Approval (Condition No.4) requires that the property owner apply for an amendment to the Conservation and Scenic Easement Deeds that would allow some of the already constructed improvements to remain, including the retaining walls, deck and hot tub.

The sauna that currently exists in the easement area was not constructed on previously developed area and is located on the hillside. Per the settlement agreement, the property owners are required to obtain demolition permits to remove the sauna.

#### OTHER AGENCY INVOLVEMENT:

The following agencies have reviewed the project, have comments, and/or have recommended conditions:

- Environmental Health Bureau
- RMA-Public Works
- RMA-Environmental Services
- Water Resources Agency
- Monterey County Regional Fire Protection District

The proposed project was reviewed by the Carmel Valley Land Use Advisory Committee (LUAC) on August 6, 2018. The LUAC recommended approval of the project by a vote of 5 to 0 (Exhibit D).

The Office of the County Counsel was involved in negotiating the Settlement Agreement and has approved it as to form.

#### FINANCING:

Funding for staff time associated with this project is included in the FY17-18 and FY18-19 Adopted Budget for RMA-Planning.

Prepared by: Cheryl Ku, Senior Planner, x6049

Reviewed by: Brandon Swanson, RMA Planning Services Manager

Approved by: John M. Dugan, FAICP, RMA Deputy Director of Land Use and  
Development Services

The following attachments are on file with the RMA:

Exhibit A - Draft Resolution including:

- Lot Line Adjustment Map and Site Plan
- Conditions of Approval

Exhibit B - Vicinity Map

Exhibit C - Design Approval Photos

Exhibit D - Carmel Valley LUAC Minutes

cc: Front Counter Copy; California Coastal Commission (if applicable); Brandon Swanson, RMA Services Manager; Long Robert A & Sheron L Trs and Caswell David W & Judith A Trs, Applicant/Owner (Smith); The Open Monterey Project (Molly Erickson); LandWatch (Amy White); John H. Farrow; Janet Brennan; Project File PLN180198.