



County of Monterey

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

Board Report

File #: PC 18-108, **Version:** 1

**PLN171029 - LEAVY-HOGLUND PENELOPE CHRISTINE TR
(CONTINUED FROM AUGUST 29, 2018)**

Public hearing to consider a Resolution denying a Conditional Certificate of Compliance.

Project Location: 25735 Mesa Drive, Carmel, Carmel Area Land Use Plan, Coastal Zone

Proposed CEQA Action: Statutory Exemption pursuant to Section 15270 of the CEQA Guidelines.

RECOMMENDATION:

It is recommended that the Planning Commission adopt a resolution to:

- Find that the project, as a denial, qualifies as a Statutory Exemption pursuant to Section 15270 of the CEQA Guidelines; and
- Deny a Coastal Development Permit (RMA-Planning File No. PLN171029) to allow issuance of a conditional certificate of compliance for Assessor's Parcel Number 009-231-023-000.

A draft resolution based on Planning Commission direction, including findings and evidence, is attached for consideration (**Exhibit A**).

PROJECT INFORMATION:

Property Owner: Leavy-Hoglund Penelope Christine TR

Agent: Anthony Lombardo & Associates

APN: 009-231-023-000

Zoning: Medium Density Residential, 2 units per acre, with a Design Control Overlay (Coastal Zone) [MDR/2-D (CZ)]

Existing Parcel Size: 7,861 square feet

Plan Area: Carmel Area Land Use Plan, Coastal Zone

Flagged and Staked: Not Required because the proposed conditional certificate of compliance does not include any proposed structural development.

SUMMARY:

The Applicant requested the County issue a conditional certificate of compliance for a 7,861 square foot area of land with Assessor's Parcel Number (APN) 009-231-023-000 (i.e., the subject parcel). The Planning Commission continued this item from the public hearing on August 29, 2018. After consideration of the evidence and testimony presented by staff, the Applicant, and members of the public, the Planning Commission found that the subject parcel did not qualify for a conditional certificate of compliance, and directed staff to return on September 26, 2018, with a resolution to deny the granting of a Coastal Development Permit to allow issuance of a conditional certificate of compliance. Therefore, based on the Planning Commission's direction, staff has prepared a draft resolution (**Exhibit A**) for consideration and adoption.

DISCUSSION:

The subject property is under common ownership with APN 009-231-013-000, an adjacent property also located at 25735 Mesa Drive, and zoned MDR/2-D (CZ). The granting of a Coastal Development Permit to allow issuance of two conditional certificates of compliance in this case would have effectively memorialized two developable lots.

At the August 29th hearing, the Planning Commission made the determination that the APNs 009-231-013-000 and 009-231-023-000 should be considered as one combined legal lot of record eligible for issuance of a single unconditional certificate of compliance, rather than two separate conditional certificates of compliance.

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

Both properties (i.e., APNs 009-231-013-000 and 009-231-023-000) have consistently been described separately in applicable grant deeds; however, describing parcels separately would only validate individual parcels if both parcels were legally created. Consistent with past County determinations, separately describing an illegally created parcel does not make it legal. Additionally, no separate address has ever been requested for or assigned to APN 009-231-023-000. Furthermore, based on applicable permit history, the County has never approved nor issued any permits solely or primarily for the benefit of APN 009-231-023-000. Primary development has always been connected to APN 009-231-013-000.

As described above, the Planning Commission found that APN 009-231-023-000 was not legally created in 1969 as a standalone parcel. Based on the preceding information and evidence, the Commission made the determination that the 1969 property transfer did not create a separate developable lot. The Planning Commission also determined that the appropriate process to create two separate developable lots would be for the owner to apply for a minor subdivision.

For additional history on the parcels, the complete August 29th Planning Commission Staff Report has been attached as **Exhibit C**.

CEQA

With the Planning commission decision to deny this project, the original CEQA determination of a Categorical Exemption is no longer applicable. As a denial, this action is now a Statutory Exemption pursuant to Section 15270 of the CEQA Guidelines.

OTHER AGENCY INVOLVEMENT:

The following County agencies or departments reviewed this project:

- RMA-Public Works
- RMA-Environmental Services
- Environmental Health Bureau
- Water Resources Agency
- Cypress Fire Protection District

The proposed project was not referred to the Carmel Unincorporated/Highlands Land Use Advisory Committee (LUAC) for review.

Prepared by: Joseph Sidor, Associate Planner, x5262

Reviewed by: Brandon Swanson, RMA Services Manager

Approved by: John M. Dugan, FAICP, RMA Deputy Director for Land Use Community Development

The following attachments are on file with the RMA:

Exhibit A - Draft Resolution

Exhibit B - Vicinity Map

Exhibit C - August 29, 2018 Staff Report (PLN171029)

cc: Front Counter Copy; Planning Commission; California Coastal Commission; Cypress Fire Protection District; Environmental Health Bureau; RMA-Public Works; RMA-Environmental Services; Water Resources Agency; Brandon Swanson, RMA Services Manager; Joseph Sidor, Project Planner; Anthony Lombardo & Associates, Agent; Leavy-Hoglund Penelope Christine TR, Owner; The Open Monterey Project (Molly Erickson); LandWatch; RMA-Planning File No. PLN171029