



# County of Monterey

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

## Board Report

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**File #:** RES 18-127, **Version:** 1

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### **PLN130339 - COLLINS - Continued from July 24, 2018**

Public hearing to adopt a resolution to deny the request by applicant (Collins/PLN130339) to amend the Monterey County Local Coastal Program to rezone applicant's 30-acre property, without prejudice to applicant to reapply for the rezone following a judicial determination that the Conservation and Scenic Easement Deed is no longer in effect.

**Proposed CEQA Action:** Statutorily exempt per Public Resources Code Section 21080(b)(5) and CEQA Guidelines Section 15270(a).

**Project Location:** 83 Mt. Devon Road, Carmel (APN: 241-021-007-000), Carmel Area Land Use Plan

#### RECOMMENDATION:

It is recommended that the Board of Supervisors adopt a resolution to:

- a. Deny the request by applicant (Collins/PLN130339) to amend the Monterey County Local Coastal Program to rezone applicant's 30-acre property from Resource Conservation, Coastal Zone [RC(CZ)] to Watershed and Scenic Conservation, Special Treatment, Coastal Zone [WSC/SpTr(CZ)] without prejudice to applicant to reapply for the rezone following a judicial determination that the Conservation and Scenic Easement Deed is no longer in effect.

#### PROJECT INFORMATION:

**Agent:** Robert Carver

**Property Owner:** James G Collins

**APN:** 241-021-007-000

**Parcel Size:** 30 acres

**Zoning:** "RC(CZ)" Resource Conservation, Coastal Zone.

**Plan Area:** Carmel Area Land Use Plan

**Flagged and Staked:** Yes

#### SUMMARY:

On July 24, 2018, the Collins application to rezone a 30 acre property from the Resource Conservation, Coastal Zone ["RC(CZ)"] to Watershed and Scenic Conservation, Special Treatment, Coastal Zone ["WSC/SpTr(CZ)"] zoning classification was heard before the Board of Supervisors. The ultimate purpose of the rezone was to facilitate construction of a single family dwelling on the parcel, which would be considered by the Planning Commission if the rezone was approved. After review and consideration of the facts before the Board and public testimony given, the Board adopted a motion of intent to deny the applicant's request to rezone the property without prejudice to the applicant and continued the hearing to September 25 for staff to prepare the resolution. The main factor in the Board's denial of the request was the uncertainty surrounding the status of a Conservation and Scenic Easement Deed on the property. The applicant contends that the easement had been legally terminated by a previous owner. Conversely, project opponents and Coastal Commission staff contend that the easement was not properly terminated, and therefore is still in effect. This denial without prejudice will allow the applicant to seek a quiet title action (judicial judgement) by a court to determine whether or not the

Conservation and Scenic Easement Deed was previously terminated. If a court determines that the easement was validly terminated, this action by the Board allows Collins to return and apply to amend the Monterey County Local Coastal Program to rezone the 30-acre property without waiting for the one year reapplication period to be exhausted as required by Section 20.70.090 of the Monterey County Zoning Code.

**ENVIRONMENTAL REVIEW:**

The Board's action on the rezone is exempt from CEQA under Public Resources Code Section 21080(b)(5) and CEQA Guidelines Section 15270(a).

**OTHER AGENCY INVOLVEMENT:**

The following County agencies or departments reviewed this project:

- RMA-Public Works
- RMA-Environmental Services
- Bureau of Environmental Health
- Carmel Highlands Fire Department
- Water Resources Agency

**FINANCING:**

Funding for staff time associated with this project is included in the FY2018-19 Adopted Budget within RMA-Planning's General Fund 001, Appropriation Unit RMA001.

**BOARD OF SUPERVISORS STRATEGIC INITIATIVES:**

This action represents effective and timely response to our RMA customers. Processing this application in accordance with all applicable policies and regulations also provides the County accountability for proper management of our land resources.

Check the related Board of Supervisors Strategic Initiatives:

- ☐ Economic Development
- ☒ Administration
- ☐ Health & Human Services
- ☐ Infrastructure
- ☐ Public Safety

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Reviewed by: Brandon Swanson, RMA Services Manager

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

The following attachments are on file with the Clerk of the Board:

Attachment A - Draft Resolution

The staff report and all attachments are also available for review on the RMA-Planning public website at the following link: <http://www.co.monterey.ca.us/government/departments-i-z/resource-management-agency-rma-/planning>

cc: Front Counter Copy; California Coastal Commission; Carmel Highlands Fire District; RMA-Public Works; RMA-Environmental Services; Environmental Health Bureau; Water Resources Agency; Anna V. Quenga, Senior Planner; Brandon Swanson, RMA Services Manager; James G. Collins, Property Owner/Applicant; Robert Carver, Agent; Michael Harrington, Attorney for Applicant; Kelly Davidian, Marc Davidian, Gwyn De

Amaral, Meghan De Amaral, Zane De Amaral, Charlotte Hallam, Maura Kelley, Jim & Dolores King, Tracy Piazza-Leaton, Brian Wilson, Donald & Marion Yan, Deborah Reitz, Robert Hylle, and Gary Fontana (Interested Parties); The Open Monterey Project (Molly Erickson); LandWatch; Project File PLN130339.