

MONTEREY COUNTY PLANNING COMMISSION

Meeting: December 11, 2013 Time: 9:00 a.m.	Agenda Item No.: 1
Project Description: Consider a Lot Line Adjustment between two (2) legal lots of record of approximately 4.6 acres (portion of Assessor's Parcel Number 103-061-015-000 - northerly Parcel [Certificate of Compliance Document No. 2004079692]) and 4.3 acres (portion of Assessor's Parcel Number 103-061-015-000 - southerly parcel [Certificate of Compliance Document No. 2004079684]), resulting in two (2) newly configured lots of 4.6 acres (westerly parcel to be identified as Parcel A) and 4.3 acres (easterly parcel to be identified as Parcel B), respectively.	
Project Location: 570 Aguajito Road, Carmel	APN: 103-061-015-000
Planning File Number: PLN130209	Owner: Gordon and Sandra Steuck Agent: Aaron Johnson, Attorney
Planning Area: Greater Monterey Peninsula Area Plan.	Flagged and staked: No
Zoning Designation: RDR/5.1-UR-D-S (Rural Density Residential, 5.1 acres per unit / Urban Reserve / Design Control District / Site Plan Review)	
CEQA Action: Negative Declaration	
Department: RMA - Planning Department	

RECOMMENDATION:

Staff recommends that the Planning Commission adopt a resolution (**Exhibit C**) to:

- 1) Adopt the Negative Declaration (**Exhibit E**); and
- 2) Approve a Lot Line Adjustment between two (2) legal lots of record of approximately 4.6 acres (portion of Assessor's Parcel Number 103-061-015-000 - northerly Parcel [Certificate of Compliance Document No. 2004079692]) and 4.3 acres (portion of Assessor's Parcel Number 103-061-015-000 - southerly parcel [Certificate of Compliance Document No. 2004079684]), resulting in two (2) newly configured lots of 4.6 acres (westerly parcel to be identified as Parcel A) and 4.3 acres (easterly parcel to be identified as Parcel B), respectively (PLN130209), based on the findings and evidence and subject to the conditions of approval (**Exhibit C**)

PROJECT OVERVIEW:

The subject application is for a Lot Line Adjustment (LLA) between two (2) legal lots of record of approximately 4.6 acres (portion of Assessor's Parcel Number 103-061-015-000 - northerly Parcel [Certificate of Compliance Document No. 2004079692]) and 4.3 acres (portion of Assessor's Parcel Number 103-061-015-000 - southerly parcel [Certificate of Compliance Document No. 2004079684]), resulting in two (2) newly configured lots of 4.6 acres (westerly parcel to be identified as Parcel A) and 4.3 acres (easterly parcel to be identified as Parcel B) was considered at the November 13, 2013 Planning Commission meeting and continued to December 11, 2013 for staff to make changes to the staff report which reflect the potential development of the newly configured Parcel B. The two existing (northerly and southerly) parcels, and resulting westerly parcel (proposed Parcel A) and easterly parcel (proposed Parcel B) are developable prior to and after the subject LLA.

OTHER AGENCY INVOLVEMENT: The following agencies and departments reviewed this project:

RMA - Public Works Department

√ Environmental Health Bureau
Water Resources Agency
Cypress Fire Protection District
Parks Department

Agencies that submitted comments are noted with a check mark (“√”). Conditions recommended by the RMA – Planning Department and the Environmental Health Bureau have been incorporated into the Condition Compliance/Mitigation Monitoring and Reporting Plan attached to the draft resolution (**Exhibit C**).

The project was referred to the Greater Monterey Peninsula Land Use Advisory Committee (LUAC) for review on November 4, 2013. Based on the revisions to Monterey County LUAC Procedure (“Guidelines”) adopted by the Monterey County Board of Supervisors per Board of Supervisors Resolution No. 08-338, this application warranted referral to the LUAC because the proposed LLA is considered development which requires CEQA review. However, the November 4, 2013 Greater Monterey Peninsula LUAC meeting was cancelled due to lack of a quorum.

Note: The decision on this project is appealable to the Board of Supervisors

/S/ Valerie Negrete



Valerie Negrete, Assistant Planner
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(October 20, 2013)

cc: Front Counter Copy; Planning Commission; Cypress Fire Protection District; RMA-
Public Works Department; Environmental Health Bureau; Water Resources Agency;
Laura Lawrence; Planning Services Manager; Valerie Negrete, Project Planner; John
and Sandra Steuck, Owners; Aaron Johnson, Attorney; The Open Monterey Project;
LandWatch; Planning File PLN130209

Attachments: Exhibit A Project Data Sheet
 Exhibit B Draft Resolution, including:
 • Conditions of Approval
 • Lot Line Adjustment Survey Map

**EXHIBIT C
DRAFT RESOLUTION**

**Before the Planning Commission in and for the
County of Monterey, State of California**

In the matter of the application of:
Gordon and Sandra Steuck (PLN130209)

RESOLUTION NO. ----

Resolution by the Monterey County Planning
Commission:

- 1) Adopting the Negative Declaration; and
- 2) Approving a Lot Line Adjustment between two (2) legal lots of record of approximately 4.6 acres (portion of Assessor's Parcel Number 103-061-015-000 - northerly Parcel [Certificate of Compliance Document No. 2004079692]) and 4.3 acres (portion of Assessor's Parcel Number 103-061-015-000 - southerly parcel [Certificate of Compliance Document No. 2004079684]), resulting in two (2) newly configured lots of 4.6 acres (westerly parcel to be identified as Parcel A) and 4.3 acres (easterly parcel to be identified as Parcel B), respectively.

[PLN130209, Gordon and Sandra Steuck, 570
Aguajito Road, Carmel, Greater Monterey Peninsula
(APN:103-061-015-000)]

The Gordon and Sandra Steuck application for a Lot Line Adjustment (PLN130209) came on for public hearing before the Monterey County Planning Commission on November 13, 2013 and was continued to December 11, 2013. 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:** **PROJECT DESCRIPTION** – The proposed project is a Lot Line Adjustment (LLA) between two (2) legal lots of record of approximately 4.6 acres (portion of Assessor's Parcel Number 103-061-015-000 - northerly parcel [Certificate of Compliance Document No. 2004079692]) and 4.3 acres (portion of Assessor's Parcel Number 103-061-015-000 - southerly parcel [Certificate of Compliance Document No. 2004079684]) (subject property), resulting in two (2) newly configured lots of 4.6 acres (westerly parcel to be identified as Parcel A) and 4.3 acres (easterly parcel to be identified as Parcel B), respectively. (hereafter referred to as “project” or “subject LLA”).

EVIDENCE: The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN130209.

2. **FINDING:** **CONSISTENCY** – The project, as conditioned, is consistent with the applicable plans and policies which designate this area as appropriate for development.

EVIDENCE: a) During the course of review of this application, the project has been reviewed for consistency with the text, policies, and regulations in:

- the 2010 Monterey County General Plan;
- Greater Monterey Peninsula Area Plan;
- Monterey County Zoning Ordinance (Title 21);
- Monterey County Subdivision Ordinance (Title 19);

No conflicts were found to exist. 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) The property is located at 570 Aguajito Road, Carmel (Assessor's Parcel Number 103-061-015-000), Greater Monterey Peninsula Area Plan. The parcel is zoned "RDR/5.1-UR-D-S" [Rural Density Residential, 5.1 acres per unit / Urban Reserve / Design Control District / Site Plan Review], which allows LLAs with an Administrative Permit. Therefore, the project is an allowed land use for this site.

c) The subject LLA involves the adjustment of two (2) legal lots of record of approximately 4.6 acres (portion of Assessor's Parcel Number 103-061-015-000 - northerly Parcel [Certificate of Compliance Document No. 2004079692]) and 4.3 acres (portion of Assessor's Parcel Number 103-061-015-000 - southerly parcel [Certificate of Compliance Document No. 2004079684]), resulting in two (2) newly configured lots of 4.6 acres (westerly parcel to be identified as Parcel A) and 4.3 acres (easterly parcel to be identified as Parcel B), respectively. No development is proposed at this time.

d) The current zoning for the subject property requires a density of 5.1 acres per unit for each building site. The existing parcels are less than 5.1 acres each but remain consistent with the General Plan (GP) Policies governing LLAs (See Finding No. 7 below).

e) The reconfigured existing lots of record better meet the objectives of the General Plan by reconfiguring the lots to better achieve a superior lot design to the newly configured Parcel B. Currently the property has a 30-foot wide access and utility easement created in 1937, which transects the mid-point of the parcels going east to west dividing the two (2) existing lots of record into a northerly parcel and a southerly parcel. The southern property slopes downward to Aguajito Road with all slopes exceeding 25% in steepness. This LLA would allow Parcel B to potentially be developed without placing structures on slopes over 25% or requiring the removal of protected vegetation. If structures are proposed in the future the County would scrutinize the design and location to determine if such proposals were consistent with the General Plan, Area Plan and Zoning Ordinance. The surrounding properties are

of a rural residential nature and range in size from 4.8 acres to 6.43 acres, each with a single family residence. The Steuck properties are consistent with the general size of the properties in the immediate area and conform with the rural character of the area.

- f) Goal OS-1 of the 2010 General Plan Conservation and Open Space Goals and Policies provides for the retention of the character and natural beauty of Monterey County by preserving, conserving and maintaining unique physical features and natural resources. The project better achieves the goals and policies of the General Plan because the reconfigured parcels will result in better protection of slopes, avoid development in the viewshed of slopes, control the location of structures on slopes and avoid unnecessary erosion, which will serve to retain the character and natural beauty of Monterey County as characterized by Goal OS-1 of the General Plan. Additionally, Policy OS-1.9 in the same Conservation and Open Space Goals and Policies Section of the General Plan, states that, "Development that protects and enhances the County's scenic qualities shall be encouraged." This project provides this protection.
- g) The project planner conducted a site inspection on March 28, 2013 to verify that the project on the subject property conforms to the plans listed above.
- h) The project was referred to the Greater Monterey Peninsula Area Land Use Advisory Committee (LUAC) for review on November 4, 2013. Based on the revisions to the LUAC Procedure ("Guidelines") adopted by the Monterey County Board of Supervisors per Monterey County Board of Supervisors Resolution No. 08-338, this application warranted referral to the LUAC because the subject LLA is considered development which requires CEQA review. However, the November 4, 2013 LUAC meeting was cancelled due to lack of a quorum.
- i) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN130209.

3. **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 Department, Cypress Fire Protection District, Public Works, 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. Recommended conditions have been incorporated.
 - b) Staff did not identify any potential impacts to Biological Resources, Archaeological Resources, or Soil/Slope Stability. An Initial Study was prepared for the LLA and no impacts were found to impact resources (See Finding No. 6 below).
 - c) Staff conducted a site inspection on March 28, 2013 to verify that the site is suitable for this use.
 - d) The application, project plans, and related support materials submitted

by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN130209.

4. **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 Department, Cypress Fire Protection District, Public Works, 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) Necessary public facilities are available. Water will be provided by a private well and septic system. No development is proposed with this application for an LLA.
 - c) Staff conducted a site inspection on March 28, 2013 to verify that the site is suitable for this use.
 - d) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN130209.

5. **FINDING:** **NO VIOLATIONS** - The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of the County's zoning ordinance. No violations exist on the property.

- EVIDENCE:**
- a) Staff reviewed Monterey County RMA - Planning Department and Building Services Department records and is not aware of any violations existing on the subject property.
 - b) Staff conducted a site inspection on March 23, 2013 and researched County records to assess if any violation exists on the subject property.
 - c) There are no known violations on the subject parcels.
 - d) There are no violations on the subject property. The Initial Study, included with the Negative Declaration states on Page 2 that:
Fill Areas Restored
Prior to (submittal of the application for) the subject Lot Line Adjustment there was fill placed on the property... The property owner was required to attain a grading permit, GP090013, in order to restore the areas that were disturbed. After working closely with the Monterey County Building Department the property owner restored the fill areas by removing and redistributing fill in other areas that were impacted.... There are no unresolved issues with the restoration completed.

In a March 11, 2011 Inter-Office Memorandum to Leslie J. Girard,

Assistant County Counsel, from John Huntley, Management Analyst, Building Services Department Re. Enforcement Case Review and Chronology / Gordon & Sandra Steuck / Assessor's Parcel Number 103-061-015-000, the Building Services Department concludes:

Inspections were undertaken during and following the corrective work. All fill material originally placed on the east side of the property (slopes exceeding 30%) prior to May of 1988 was removed and that section of the property was returned to the original elevations and contours, reseeded and prepared for final inspection approval. On the west side of the property adjacent to the Del Piero property, un-compacted fill material was excavated, stockpiled and replaced in compacted lifts in accordance with the approved revised grading plan. Re-vegetation was undertaken, storm water runoff infrastructure was installed and the site was prepared for final inspection approval in compliance with the revised grading plan. Inspections were undertaken and final inspection on grading permit GP090013 was granted July 1, 2010.

A letter confirming full compliance with requirements under grading permit GP090013 was sent to Dr. and Mrs. Steuck August 25, 2010. Enforcement Case CE090292 was closed that same day. (See March 11, 2011 Inter-Office Memo to Leslie J. Girard from John Huntley, Exhibit A to Johnson, Moncrief & Hart letter dated October 8, 2013).

6. FINDING:

CEQA (Negative Declaration) - On the basis of the whole record before the Monterey County Planning Commission, there is no substantial evidence that the proposed project as designed, conditioned and mitigated, will have a significant effect on the environment. The Negative Declaration reflects the independent judgment and analysis of the County.

EVIDENCE:

- a) Public Resources Code Section 21080.d and California Environmental Quality Act (CEQA) Guidelines Section 15064.a.1 require environmental review if there is substantial evidence that the project may have a significant effect on the environment.
- b) The Monterey County Planning Department prepared an Initial Study pursuant to CEQA. The Initial Study is on file in the offices of the Planning Department and is hereby incorporated by reference (PLN130209).
- c) The Initial Study provides substantial evidence based upon the record as a whole, that the project would not have a significant effect on the environment. Staff accordingly prepared a Negative Declaration.
- d) The Negative Declaration ("ND") for PLN130209 was prepared in accordance with CEQA and circulated for a 30-day public review circulation period from September 17, 2013 through October 17, 2013 (SCH#: 2013091053).
- e) Issues that were analyzed in the Negative Declaration include: aesthetics, agriculture and forest resources, air quality, biological resources, cultural resources, geology/soils, greenhouse gas emissions, hazards/hazardous materials, hydrology/water quality, land

use/planning, mineral resources, noise, population/housing, public services, recreation, transportation/traffic, and utility/service systems.

- f) Evidence that has been received and considered includes: the application, technical studies/reports (see Finding 2/Site Suitability), staff reports that reflect the County's independent judgment, comment letters and information and testimony presented during public hearings. These documents are on file in the RMA-Planning Department and are hereby incorporated by this reference.
- g) LLAs are typically categorically exempt from CEQA per CEQA Guidelines Section 15305, which exempts projects involving minor land use alterations that do not result in changes in land use or density and have an average slope of less than 20 percent. In this case, even though the proposed LLA would not result in a land use change or increased density, the overall project site has an average slope greater than 20 percent. Therefore, the project was not exempt from CEQA review; and, an Initial Study was prepared for the project and a Negative Declaration was circulated for public review.
- h) Staff analysis contained in the Initial Study and the record as a whole indicate the project could result in changes to the resources listed in Section 753.5(d) of the California Department of Fish and Game (CDFG) regulations. All land development projects that are subject to environmental review are subject to a State filing fee plus the County recording fee, unless CDFG determines that the project will have no effect on fish and wildlife resources.
For purposes of the Fish and Game Code, the project may have a significant adverse impact on the fish and wildlife resources upon which the wildlife depends. The Initial Study was sent to CDFG for review and comment, and for CDFG to recommend necessary conditions to protect biological resources in this area. Therefore, the project will be required to pay the State fee plus a fee payable to the Monterey County Clerk/Recorder for processing said fee and posting the Notice of Determination (NoD).
- i) The county received seven (7) comment letters during the Initial Study circulation period. Comment letters received were reviewed against the analysis completed by the county in the Initial Study.
- j) The first letter received during the Initial Study circulation period was dated September 24, 2013 from Anthony Lombardo & Associates. The letter makes several contentions which mirror previous comments from made concerning the applicants' previous application for an LLA. The comment letter includes comments that; 1) the Initial Study contains flaws and omissions; 2) the Project Description is incorrect because it did not include future plans for the construction of a single family dwelling on the property; 3) the parcel legality of the two (2) lots was questioned because the property was conveyed in a single transaction; 4) the Initial Study did not discuss an unresolved grading violation; 5) fill areas to be restored do not mention that the an engineered building pad may now exist; 6) aesthetics were not analyzed because there was no staking of future structures; 7) biological resources were not addressed because the site contains oak habitat (GMP 3-5) and there should be mention of tree

removal; 8) greenhouse gasses and hydrology were not analyzed because there was no analyses of two (2) homes (the owner had previously applied for a three [3] connection water system); 9) land use was not addressed (LU-1.16 & OS 3.5); 10) the resultant lots are not more feasible than the existing configuration and slope impacts are not less impacted; 11) the Initial Study did not analyze PS- 3.1, 3.2, 3.3 and 3-4 for long term proof of water; 12) transportation/traffic was not analyzed as there may be no proof of access from Gentry Hill to Aguajito.

Response: The county has reviewed said comments and finds that the Initial Study analyzes the project in accordance with CEQA. The subject LLA is between two (2) legal lots of record, for which Certificates of Compliance (CoCs) were approved and recorded for approximately 4.6 acres (portion of Assessor's Parcel Number 103-061-015-000 - northerly Parcel [Certificate of Compliance Document No. 2004079692]) and 4.3 acres (portion of Assessor's Parcel Number 103-061-015-000 - southerly parcel [Certificate of Compliance Document No. 2004079684]). There are no violations on the property. (See Finding 5). There is no current development over 25% slopes. General Plan Policy Greater Monterey Peninsula (GMP) 3.5 relates to development being designed to discourage the removal of healthy, native oak trees. The project does not include a proposal for oak tree removal. General Plan Policy LU 1.16 allows LLAs between or among lots that do not conform to minimum parcel size standards if the resultant lots are consistent with all other General Plan policies, zoning and building ordinances and the LLA would, among other things, produce a superior parcel configuration, or reduce the non-conformity of existing legal lots of record; or promote resource conservation, including open space and critical viewshed protection, or better achieve the goals, policies and objectives of the General Plan. The Initial Study states that the purpose of the LLA is to reconfigure two (2) properties in such a manner where impacts to protected slopes and trees could be avoided if development is proposed in the future. Given the topography of the overall site, the reconfiguration of the existing lots of record through the proposed lot line adjustment would result in a superior configuration by reconfiguring the undeveloped southerly parcel into resulting Parcel B (easterly parcel). The newly configured parcels will not change the development potential of the subject property. Reconfiguration will place any future development in areas that will have less impacts to slopes and require less tree removal. Development of the newly configured Parcel B will have less impacts to slopes and require less tree removal. The development potential of the parcels before and after the LLA will not change. Currently, both of the existing (northerly and southerly) parcels can be developed. Further, the proposed LLA will adjust the lot lines in order to place any future development away from Aguajito Road. Analysis of Public Services (PS) Policies PS - 3.1 and PS - 3.2 is applicable to new development for which a discretionary permit is required. As previously indicated, no structures are proposed as part of the subject application for an LLA. General Plan Policy PS - 3.3 pertains to the development of specific criteria for use in the evaluation and

approval of adequacy of all new domestic wells. Policy PS - 3.4 pertains to the assessment of impacts on adjacent wells and in-stream flows for new high-capacity wells. The availability of water was reviewed by the Environmental Health Bureau (EHB). EHB has recommended two (2) conditions of approval which require the recordation of deed restrictions concurrently with the recordation of the Certificates of Compliance as follows: EHB Condition No. 7 requires the recordation of a Deed Restriction which states, *“Well yields in fractured rock aquifer systems have been shown to decline significantly over time due to meager ability of fractured rock to store and transmit water. Therefore, with intrinsic uncertainties regarding the long term sustainability of an on-site well proposed to provide a source of domestic potable water on this parcel, the present and any future owners of this property are hereby given notice that additional water sources may be required in the future.”* EHB Condition No. 8 requires the recordation of a Deed Restriction which states, *“In the event of sale of either lot, water easements shall be recorded to maintain access to the well water for both lots.”* A separate letter was submitted from Anthony Lombardo & Associates dated September 25, 2013 requesting a public hearing.

- k) Letters dated May 29, 2009 to October 4, 2013 from the Aguajito Property Owners Association were received during the circulation period and mirror previous comments made regarding the Steucks' original application for an LLA. Said correspondence requested an EIR for the LLA, review of any hazardous materials and review of a new buildable lot. The County has generated an Initial Study which analyzed impacts to resources as a result of the LLA. No violations exist on the property. There is no plan for development of a single family dwelling included in the subject application for an LLA. However, development of the newly reconfigured Parcel B is reasonably foreseeable. Currently, both existing (northerly and southerly) parcels can be developed. Development of the newly configured Parcel B will have less impacts to slopes and require less tree removal. Therefore, the reconfigured parcels will produce a superior parcel configuration. No additional lot will be created. Two (2) lots exist before and after the LLA. See Finding No. 6. Evidence j for further discussion.
- l) A Letter dated October 8, 2013 from the Monterey Peninsula Water management District (MPWMD) was received during the circulation period. The MPWMD commented that a Water Distribution System (WDS) is needed for one well serving two (2) parcels and that the MPWMD would like the new Assessor's Parcel Numbers (APNs) once the LLA has been finalized and new APNs are issued by the County. The County has added this comment to the record.
- m) A Letter dated October 8, 2013 was received from Frank and Marie Chiorazzi during the circulation period. The letter requests an EIR for a “housing project” with a comprehensive evaluation of disputed facts. Specifically, the comment letter states that proof of access across the Chiorazzi property and well capacity is not adequate and that there is undocumented fill on the property that was never removed. The subject

LLA will not impact existing access and the County has not found any language in the easement document to the contrary. An existing 30 foot wide access and utility easement was created in 1937, which transects the midpoint of the parcel east and west, dividing the two (2) lots of record into a northerly parcel and a southerly parcel. Well capacity is reviewed by EHB. EHB has recommended two (2) conditions of approval which require the recordation of deed restrictions concurrently with the recordation of the Certificates of Compliance as follows: EHB Condition No. 7 requires the recordation of a Deed Restriction which states, *“Well yields in fractured rock aquifer systems have been shown to decline significantly over time due to meager ability of fractured rock to store and transmit water. Therefore, with intrinsic uncertainties regarding the long term sustainability of an on-site well proposed to provide a source of domestic potable water on this parcel, the present and any future owners of this property are hereby given notice that additional water sources may be required in the future.”* EHB Condition No. 8 requires the recordation of a Deed Restriction which states, *“In the event of sale of either lot, water easements shall be recorded to maintain access to the well water for both lots.”* There are no violations on the subject property. The Initial Study, included with the Negative Declaration at Exhibit E states, at Page 2: **“Fill Areas Restored.**

Prior to (submittal of the application for) the subject Lot Line Adjustment there was fill placed on the property... The property owner was required to attain a grading permit, GP090013, in order to restore the areas that were disturbed. After working closely with the Monterey County Building Department the property owner restored the fill areas by removing and redistributing fill in other areas that were impacted.... There are no unresolved issues with the restoration completed.”

- n) In a letter dated October 8, 2013 from Johnson, Moncrief and Hart, the Steucks contend this project is exempt from CEQA and argue that the County should limit its review and approval to a determination of whether or not the parcels resulting from the LLA conform to county zoning and building ordinances and to whether or not the resulting parcels will conform to the General Plan, and applicable specific plan. Because of these limitations, the Steucks contend the decision to approve this LLA is a ministerial decision and thus exempt from CEQA.

County's Response:

CEQA:

CEQA Guidelines Section 15305 – Minor Alterations in Land Use Limitations, provides for a Class 5 - Categorical Exemption for:
...minor alterations in land use limitations in areas with an average slope of less than 20%, which do not result in any changes in land use or density, including but not limited to:

(a) Minor lot line adjustments, side yard, and set back variances not resulting in the creation of any new parcel....

In this case, the total area does not have an average slope of less than 20% and, after the LLA Parcel B will have a more buildable area. However, it will better meet the General Plan policies regarding resource protection. Therefore, because the overall project site has an

average slope greater than 20%, the proposed LLA is not categorically exempt from the CEQA review process.

Subdivision Map Act:

The Subdivision Map Act requires a local agency to limit its review of LLAs to a determination of whether the LLA “will conform to the local general plan, any applicable specific plan, any applicable coastal plan, and zoning and building ordinances.” (Govt. Code §66412(d)) This determination is discretionary. A determination of consistency with the general plan involves an exercise of judgment.

Before the appropriate authority can approve this LLA, it must first have determined by a majority vote that the proposed LLA conforms to the local general plan, applicable specific plan and zoning and building ordinances. (Cal. Gov’t Code § 66412(d))

An LLA may be granted only after the following findings are made:

1. The lot line adjustment is between four (or fewer) existing adjoining parcels.
2. A greater number of parcels than originally existed will not be created as a result of the lot line adjustment.
3. The parcels resulting from the lot line adjustment conform to the County’s general plan, any applicable specific plan, any applicable coastal plan, and zoning and building ordinances. (Cal. Gov’t Code § 66412(d))

County’s Subdivision Ordinance - Lot Line Adjustments:

The County’s Subdivision Ordinance treats LLAs as discretionary, requiring CEQA review, notice of public hearing, and a right of appeal. Under the County’s Subdivision Ordinance, the Planning Director forwards the proposed application for an LLA to affected departments, committees and public agencies for their findings and recommendations (MCC 19.09.020.C) Public notice is provided (MCC 19.09.005.F and 19.01.055) The lower hearing body’s determination is appealable. (MCC 19.16.010 - Applicability)

General Plan Consistency:

In regard to the General Plan consistency determination, the relevant 2010 Monterey County General Plan Policy LU-1.16 provides as follows:

LLAs between or among lots that do not conform to minimum parcel size standards may be allowed if the resultant lots are consistent with all other General Plan policies, zoning and building ordinances and the lot line adjustment would:

- a. accommodate legally constructed improvements which extend over a property line; or
- b. facilitate the relocation of existing utilities, infrastructure, or public utility easements; or
- c. resolve a boundary issue between or among affected owners; or
- d. produce a superior parcel configuration; or
- e. reduce the non-conformity of existing legal lots of record; or
- f. promote resource conservation, including open space and critical viewshed protection, without triggering eminent domain; or
- g. better achieve the goals, policies and objectives of the General

Plan; or

h. facilitate Routine and Ongoing Agricultural activities.

Discretionary Review:

Whether the proposed LLA meets these criteria involves an exercise of judgment, the hallmark of discretionary review. (See, e.g., definition of “discretionary project” in CEQA Guidelines Section 15357).

Determining whether a lot configuration is superior is not merely a question of rote application of measurable quantitative standards. The County Subdivision Ordinance appropriately establishes discretionary procedures. It provides that the decision making body shall approve, disapprove, or conditionally approve the adjustment in conformance with standards set forth in the SMA and Chapter 19.09 (LLA) of the County Code. (MCC 19.09.025.A) Conformance with Government Code Section 66412, the 2010 Monterey County General Plan, and the County Subdivision Ordinance, and the authority of the decision maker to deny or conditionally approve this LLA makes this LLA application discretionary in nature. (Cal. Gov’t Code § 66412(d); Land Use Element Policy LU-1.16, MCC 19.09.025.A)

- o) The County has considered the comments received during the public review period and said comments do not alter the conclusions in the Initial Study and Negative Declaration.
- p) The Monterey County Planning Department, located at 168 W. Alisal, 2nd Floor, Salinas, California, 93901, is the custodian of documents and other materials that constitute the record of proceedings upon which the decision to adopt the negative declaration is based.
- q) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN130209.

7. FINDING:

LOT LINE ADJUSTMENT – Section 66412 of the California Government Code (Subdivision Map Act) states that LLAs may be granted based upon the following findings:

- 1. The lot line adjustment is between four (or fewer) existing adjoining parcels, where the land taken from one parcel is added to an adjoining parcel;
- 2. A greater number of parcels than originally existed will not be created as a result of the lot line adjustment; and
- 3. The parcels resulting from the lot line adjustment will conform to the County’s general plan, any applicable specific plan, any applicable coastal plan, and zoning and building ordinances.

EVIDENCE:

- a) The parcel is zoned “RDR/5.1-UR-D-S” [Rural Density Residential, 5.1 acres per unit / Urban Reserve / Design Control District / Site Plan Review] which allows LLAs.
- b) The project area has a total of 8.9 acres.
- c) The LLA is between four (or fewer) existing adjoining parcels. The properties share the southern and northern boundaries and are located north of Aguajito Road.
- d) The LLA will not create a greater number of parcels than originally existed. Two (2) contiguous separate legal parcels of record will be

- adjusted and two (2) contiguous separate legal parcels of record will result from the adjustment. No new parcels will be created.
- e) The LLA is consistent with the Monterey County Zoning Ordinance (Title 21). Staff verified that the subject property is in compliance with all rules and regulations pertaining to the use of the property that no violations exist on the property.
 - f) Both of the existing parcels are nonconforming regarding lot size, having areas of 4.6 acres (northerly parcel) and 4.3 acres (southerly parcel), respectively. The subject LLA would not alter the existing lot sizes in that both of the resulting parcels would retain the same acreage. The proposed westerly parcel, identified as Parcel A, will be 4.6 acres. The proposed easterly parcel, identified as Parcel B, will be 4.3 acres.. The existing southerly 4.3 acre parcel lies immediately south of the existing northerly 4.6 acre parcel. The existing southerly parcel is uniformly characterized by steeply sloping terrain, often in excess of 25 percent. The subject LLA proposes to reconfigure the southerly parcel into resulting Parcel B (4.3 acres) so that it would be located immediately east of Parcel A (4.6 acres)(westerly parcel) and would include a portion of the existing northerly parcel that is relatively level and would, therefore, lessen impacts to the newly reconfigured Parcel B's topography, natural features and protected tree species that could result from future development on the existing southerly parcel, whenever it may occur.
 - g) The LLA is consistent with General Plan Policy LU-1.14 which states, "*Consistent with the provisions of the State Subdivision Map Act, lot line adjustments shall be between four or fewer adjoining parcels.*" The subject LLA is between two (2) adjoining parcels and; therefore, the LLA is consistent with LU-1.14.
 - h) The LLA is consistent with General Plan Policy LU -1.15 which states, "*Where a lot line adjustment may be configured to result in lots conforming to the policies and standards of this General Plan, that configuration is required. Lot line adjustments that may compromise the location of wells, on-site wastewater systems or envelopes should not be approved.*" Both parcels (4.3 acres and 4.6 acres) are legal non-conforming parcels and it is not possible to configure them both to 5.1 acres each. EHB reviewed the application for an LLA and found the proposed LLA to be consistent with applicable General Plan Policies related to wells and on-site waste water systems. No well will be compromised and waste-water systems will be located with required setbacks between property lines.
 - i) There is an existing access easement within the LLA area. The county reviewed all the title documents including descriptions in the grant deeds and each deed of trust for the current road right of way (access easement) for the Steuck properties. No restrictions were identified regarding the number of houses that may have access to the easement. There will be no additional easements required to access the newly configured lots.
 - j) The LLA involves two (2) lots which are non-conforming as to minimum parcel size. However, General Plan Policy LU-1.16 provides

that LLAs between or among lots that do not conform to minimum parcel size standards may be allowed if the resultant lots are consistent with General Plan policies, Zoning and Building Ordinances and, the LLA “...would produce a superior parcel configuration.” Additionally, GP LU-1.18 states, “If the standards in this General Plan render a legal lot of record substandard in size, the substandard size of the parcel shall not by itself render the parcel a legal non conforming use. Any proposed expansion, enlargement, extension, or intensification of uses on such a lot shall not be prohibited due to its substandard size unless there are overriding public health impacts. Development of the lot shall comply with all other policies, standards and designated land use requirements of this Plan.” In this case, there is no other development proposed with this LLA and no issues remain unresolved. Further, given the topography of the overall site, the reconfiguration of the existing lots of record through the proposed LLA would result in the superior configuration of the undeveloped southerly parcel which will be reconfigured into Parcel B (easterly parcel). The newly configured parcels will not change the development potential of the subject property. Reconfiguration will place any future development in areas that will have less impacts to slopes and require less tree removal. In comparison to the potential development of the existing southerly parcel, development of the newly configured Parcel B would have less impacts to slopes and require less tree removal. Development potential of the parcels before and after the LLA will not change. Both of the existing (northerly and southerly) parcels are developable. The resulting westerly and easterly parcels will result in a superior parcel configuration.

- k) As an exclusion to the Subdivision Map Act, no map is recorded for a LLA. In order to appropriately document the boundary changes, a Certificate of Compliance for each new lot is required per a standard condition of approval.
- l) The project planner conducted a site inspection on March 28, 2013 to verify that the project would not conflict with zoning or building ordinances.
- m) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN130209.

- 8. **FINDING:** APPEALABILITY - The decision on this project may be appealed to the Board of Supervisors.
- EVIDENCE:** a) MCC Section 19.16.020.C. states, “The Board of Supervisors is the Appeal Authority to consider appeals from the decisions of the Planning Commission.”

DECISION

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

1. Adopt the Negative Declaration; and
2. Approve a Lot Line Adjustment between two (2) legal lots of record of approximately 4.6 acres (portion of Assessor's Parcel Number 103-061-015-000 - northerly Parcel [Certificate of Compliance Document No. 2004079692]) and 4.3 acres (portion of Assessor's Parcel Number 103-061-015-000 - southerly parcel [Certificate of Compliance Document No. 2004079684]), resulting in two (2) newly configured lots of 4.6 acres (westerly parcel identified as Parcel A) and 4.3 acres (easterly parcel identified as Parcel B), in general conformance with the attached Lot Line Adjustment Survey Map and subject to the attached conditions, all being attached hereto and incorporated herein by this reference.

PASSED AND ADOPTED this 11th day of December, 2013 upon motion of ~~xxxxx~~, seconded by ~~xxxxx~~, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Mike Novo, Planning Commission Secretary

COPY OF THIS DECISION MAILED TO APPLICANT ON ~~DATE~~

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 ~~DATE~~

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.

NOTES

1. You will need a ~~building permit~~ and must comply with the Monterey County Building Ordinance in every respect.

Additionally, the Zoning Ordinance provides that no building permit shall be issued, nor any use conducted, otherwise than in accordance with the conditions and terms of the permit granted or until ten days after the mailing of notice of the granting of the permit by the appropriate authority, or after granting of the permit by the Board of Supervisors in the event of appeal.

Do not start any construction or occupy any building until you have obtained the necessary permits and use clearances from the Monterey County Planning Department and Building Services Department office in Salinas.

2. This permit expires 2 years after the above date of granting thereof unless construction or use is started within this period.