

MONTEREY COUNTY ZONING ADMINISTRATOR

Meeting: February 26, 2009 Time: 1:40 PM	Agenda Item No.: 3
Project Description: Combined Development Permit consisting of: 1) a Use Permit to allow a change in a legal non-conforming residential use related to parcel size/density to a legal non-conforming residential use of a similar nature and; 2) a Lot Line Adjustment between two legal lots of record of 12.38 acres (Parcel 1) and 40.79 acres (Parcel 2) resulting in two legal lots of record of 14.42 acres (New Parcel 1) and 38.78 acres (New Parcel 2).	
Project Location: 79540 Watkins Lane, San Miguel and 79545 Watkins Lane, San Miguel	APN: 424-404-031-000 and 424-404-077-000
Planning File Number: PLN070239	Name: Joel Cox, Property Owner King Ranch, Property Owner
Plan Area: South County Area Plan	Flagged and staked: No
Zoning Designation: : “PG/160” or Permanente Grazing, 160 acres per unit	
CEQA Action: Categorically Exempt per Section 15305	
Department: RMA - Planning Department	

RECOMMENDATION:

Staff recommends that the Zoning Administrator approve the Combed Development Permit based on the Findings and Evidence (**Exhibit B**) and subject to the recommended Conditions (**Exhibit C**).

PROJECT OVERVIEW: The project consists of a Combined Development Permit composed of: 1) a Use Permit to allow a change in a legal non-conforming residential use related to parcel size/density to a legal non-conforming residential use of a similar nature and; 2) a Lot Line Adjustment between two legal lots of record of 12.38 acres (Parcel 1) and 40.79 acres (Parcel 2) resulting in two legal lots of record of 14.42 acres (New Parcel 1) and 38.78 acres (New Parcel 2).

Parcel 1 was created in 1920 through the Ranchita Almond Heights subdivision (Volume 2, Page 18 of Maps). The property was not zoned until April 22, 1975 in which time it was zoned Agricultural Preserve or “AP” which required 40 acre lots; which rendered the property legal non-conforming as to parcel size. The current configuration of Parcel 2, which does not meet minimum lot size, was created in 2004 through Lot Line Adjustment No. PLN040195; therefore Parcel 2 is also legal non-conforming. Both properties were re-zoned in April of 1979 to Agricultural Preserve with a B-5 overlay and a 160 acre minimum building site; the properties remained as such until the adoption of Title 21 on March 3, 1993 when they were re-zoned to Permanent Grazing, 160 acre minimum or “PG/160” which remains the zoning classification to date.

Both parcels are undeveloped. Parcel 1 is currently accessed utilizing Watkins Lane which is located on Parcel 2. Parcel 2 is accessed through Reinart Road. The purpose of the Lot Line Adjustment is to allow for the access to Parcel 1 (Watkins Lane) to be located within that parcel.

The Monterey County Zoning Ordinance (Title 21), Section 21.68.020.C, states, “The legal non-conforming use may be changed to a use of a similar or more restricted nature, subject to a Use Permit in each case.” In accordance with Section 21.68.020 the legal non-conforming use is not being intensified, expanded, enlarged, increased or extended to occupy an area greater than that

occupied when the legal non-conformity was established due to both lots being non-conforming in relation to lot size from the time the lots were first zoned; and because approval of the Combined Development Permit would not result in any conforming lots becoming non-conforming in regards to parcel size.

In conclusion, staff recommends approval of the proposed project, subject to the findings and evidence of Exhibit B and the Conditions of Approval of Exhibit C.

OTHER AGENCY INVOLVEMENT:

- ✓ CDF – South County Fire
- ✓ Public Works Department
- ✓ Environmental Health Division
- ✓ Water Resources Agency

The above checked agencies and departments have reviewed this project. Conditions recommended have been incorporated into the condition compliance reporting plan (**Exhibit D**).

Based on the current review guidelines adopted by the Monterey County Board of Supervisors per Resolution No. 04-236, this application was referred to the South County Land Use Advisory Committee (LUAC) on January 21, 2009 because the project includes a Lot Line Adjustment with conflicts (non-conforming). The referenced LUAC unanimously recommend that the Zoning Administrator approve the project.

Note: The decision on this project is appealable to the Planning Commission.

Brittanyann C. Nicholson
(831) 755-5854, nicholsonb@co.monterey.ca.us
(January 6, 2008)

cc: Front Counter Copy; California Coastal Commission; Zoning Administrator; CDF – South County; Public Works Department; Environmental Health Division; Water Resources Agency; Luis Osorio, Planning Services Manager; Brittanyann C. Nicholson, Planner; Carol Allen; South County LUAC; Joel Cox & King Ranch, Applicants; Pamela Jardini, Agent; Planning File PLN070239.

Attachments: Exhibit A Project Data Sheet
 Exhibit B Recommended Findings and Evidence
 Exhibit C Recommended Conditions of Approval
 Exhibit D LUAC comments
 Exhibit E Site Plan
 Exhibit F Vicinity Map

This report was reviewed by Luis Osorio, Planning Services Manager

EXHIBIT B

RECOMMENDED FINDINGS AND EVIDENCE

1. **FINDING: CONSISTENCY** – The project, as described in Condition No. 1 and as conditioned, conforms to the policies, requirements, and standards of the Monterey County General Plan, South County Area Plan and the Monterey County Zoning Ordinance (Title 21), which designates this area as appropriate for development.

- EVIDENCE:**
- (a) The text, policies, and regulations in the above referenced documents have been evaluated during the course of review of applications. 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 properties are located at 79540 Watkins Lane, San Miguel and 79545 Watkins Lane, San Miguel (Assessor's Parcel Numbers 424-404-031-000 and 424-404-077-000), South County Area Plan. The parcels are zoned Permanent Grazing, 160 acres per unit or ("PG/160"). Parcel 1 was created in 1920 through the Ranchita Almond Heights subdivision (Volume 2, Page 18 of Maps). The property was not zoned until April 22, 1975 in which time it was zoned Agricultural Preserve or "AP" which required 40 acre lots, rendering the property legal non-conforming. The current configuration of Parcel 2, which does not meet minimum lot size, was created in 2004 through Lot Line Adjustment No. PLN040195; therefore Parcel 2 is also legal non-conforming. Both properties were re-zoned in April of 1979 to Agricultural Preserve with a B-5 overlay and a 160 acre minimum building site; the properties remained as such until the adoption of Title 21 on March 3, 1993 when they were re-zoned to Permanent Grazing, 160 acre minimum or "PG/160" which remains the zoning to date.
 - (c) The Monterey County Zoning Ordinance (Title 21), Section 21.68.020.C, states, "The legal non-conforming use may be changed to a use of a similar or more restricted nature, subject to a Use Permit in each case." In accordance with Section 21.68.020 the legal non-conforming use is not being intensified, expanded, enlarged, increased or extended to occupy an area greater than that occupied when the legal non-conformity was established due to both lots being non-conforming in relation to lot size from the time the lots were first zoned; and because approval of the Combined Development Permit would not result in any conforming lots becoming non-conforming in regards to parcel size.
 - (d) The project planner conducted a site inspection on January 01, 2009 to verify that the project on the subject parcel conforms to the plans listed above.
 - (e) The project was referred to the South County Land Use Advisory Committee (LUAC) for review; based on the LUAC Procedure guidelines adopted by the Monterey County Board of Supervisors per Resolution No. 08-338, this application did warrant referral to the LUAC because the project consists of a Lot Line Adjustment with conflicts (parcels non-conforming as to parcel size). The referenced LUAC unanimously recommend that the Zoning Administrator approve the project.

- (f) 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 PLN070239.
2. **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, CDF – South County Fire, Public Works, Environmental Health Division, and Water Resources Agency. There has been no indication from these departments/agencies that the site is not suitable for the proposed development. Conditions recommended have been incorporated.
(b) Staff conducted a site inspection on January 01, 2009 to verify that the site is suitable for this use.
(c) Materials in Project File PLN070239.
3. **FINDING: CEQA (Exempt):** - The project is categorically exempt from environmental review and no unusual circumstances were identified to exist for the proposed project.
EVIDENCE: (a) California Environmental Quality Act (CEQA) Guidelines Section 15305, categorically exempts minor lot line adjustments, such as the one proposed for this project.
(b) No adverse environmental effects were identified during staff review of the development application during a site visit on January 01, 2009.
(c) See preceding and following findings and supporting evidence.
4. **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. Zoning violation abatement costs, if any, have been paid.
EVIDENCE: (a) Staff reviewed Monterey County RMA - Planning Department and Building Services Department Monterey County records and is not aware of any violations existing on subject property.
5. **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 has been reviewed for Health and Safety compliance by the following departments/agencies: RMA – Planning Department, CDF – South County, Public Works, Environmental Health Division and the Water Resources Agency. There has been no indication from these departments/agencies that the site is not suitable for the proposed development. Conditions recommended have been incorporated.
6. **FINDING: SUBDIVISION ORDINANCE (TITLE 19) LOT LINE ADJUSTMENT (CHAPTER 19.09)** – In order to approve a Lot Line Adjustment; the Appropriate Authority must make the following findings: 1) That the Lot Line Adjustment is between legal lots of record, 2) That the Lot Line Adjustment is between contiguous lots of record and 3) That the Lot Line Adjustment does

not create additional parcels than what existed prior to the Lot Line Adjustment.

EVIDENCE:

- (a) Parcel 1 was created in 1920 through the Ranchita Almond Heights subdivision (Volume 2, Page 18 of Maps). The property was not zoned until April 22, 1975 in which time it was zoned Agricultural Preserve or “AP” which required 40 acre lots, rendering the property legal non-conforming.
- (b) The current configuration of Parcel 2, which does not meet minimum lot size, was created in 2004 through Lot Line Adjustment No. PLN040195; therefore Parcel 2 is also legal non-conforming.
- (c) The Lot Line Adjustment is between two legal lots of record; and will result in two legal lots of record.
- (d) Application plans and information contained in Planning File No. PLN070239.

7. **FINDING:** **APPEALABILITY** - The decision on this project is appealable to the Planning Commission.

EVIDENCE: Section 21.80.040.B of the Monterey County Zoning Ordinance (Title 21) states, “The Planning Commission is the Appeal Authority to consider appeals from the discretionary decisions of the Zoning Administrator made pursuant to this Title. The decision of the Planning Commission shall be final and may not be appealed, except as provided for in Section 21.80.040 C.”

EXHIBIT D Monterey County Resource Management Agency Planning Department Condition Compliance and/or Mitigation Monitoring Reporting Plan	Project Name: Cox File No: PLN070239 Approved by: Zoning Administrator	APNs: 424-404-031-000 and 424-404-077-000 Date: February 26, 2009
--	---	--

**Monitoring or Reporting refers to projects with an EIR or adopted Mitigated Negative Declaration per Section 21081.6 of the Public Resources Code.*

<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (name/date)</i>
1.		<p>PD001 - SPECIFIC USES ONLY</p> <p>This Combined Development permit (PLN070239) allows allow a change in a legal non-conforming residential use to a legal non-conforming residential use of a similar nature and; 2) a Lot Line Adjustment between two legal lots of record of 12.38 acres (Parcel 1) and 40.79 acres (Parcel 2) resulting in two legal lots of record of 14.42 acres (New Parcel 1) and 38.78 acres (New Parcel 2). . The property is located at 79540 and 79545 Watkins Lane, San Miguel (Assessor's Parcel Numbers 424-404-031-000 and 424-404-077-000), South County Area Plan. This permit was approved in accordance with County ordinances and land use regulations subject to the following terms and conditions. Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of the RMA - Planning Department. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and</p>	Adhere to conditions and uses specified in the permit.	Owner/ Applicant	Ongoing unless otherwise stated	

Permit Cond. Number	Mitig. Number	Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
		subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. To the extent that the County has delegated any condition compliance or mitigation monitoring to the Monterey County Water Resources Agency, the Water Resources Agency shall provide all information requested by the County and the County shall bear ultimate responsibility to ensure that conditions and mitigation measures are properly fulfilled. (RMA - Planning Department)				
2.		PD002 - NOTICE-PERMIT APPROVAL The applicant shall record a notice which states: "A permit (Resolution _____) was approved by the Zoning Administrator for Assessor's Parcel Numbers 424-404-031-000 and 424-404-077-000 on February 26, 2009. The permit was granted subject to 7 conditions of approval which run with the land. A copy of the permit is on file with the Monterey County RMA - Planning Department." Proof of recordation of this notice shall be furnished to the Director of the RMA - Planning Department prior to issuance of building permits or commencement of the use. (RMA - Planning Department)	Proof of recordation of this notice shall be furnished to the RMA - Planning Department.	Owner/ Applicant	Prior to the issuance of grading and building permits or commencement of use.	
3.		PD004 - INDEMNIFICATION AGREEMENT The property owner agrees as a condition and in consideration of the 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,	Submit signed and notarized Indemnification Agreement to the Director of RMA – Planning Department for review and signature by the County. Proof of recordation of the Indemnification Agreement, as	Owner/ Applicant	Prior to the filing of the map.	

Permit Cond. Number	Mitig. Number	Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
		<p>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. County may, at its sole discretion, participate in the defense of such action; but such participation shall not relieve applicant of his 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 the property, filing of the final map, 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. (RMA - Planning Department)</p>	<p>outlined, shall be submitted to the RMA – Planning Department.</p>			
4.		<p>PD045 – CERTIFICATES OF COMPLIANCE (LOT LINE ADJUSTMENTS) The applicant shall request unconditional certificates of compliance for the newly configured parcels. (RMA – Planning Department)</p>	<p>The Surveyor shall prepare legal descriptions for each newly configured parcel. The legal descriptions shall be entitled “Exhibit A”. The legal description</p>	<p>Owner/ Applicant / Surveyor</p>	<p>Concurrent with recording the Record of</p>	

<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (name/date)</i>
			shall comply with the Monterey County Recorder's guidelines as to form and content. The Applicant shall submit the legal descriptions with a check, payable to the <i>Monterey County Recorder</i> , for the appropriate fees to record the certificates.		Survey	
5.		PW0034 – LOT LINE ADJUSTMENT Obtain a survey of the new line and have the line monumented. (Public Works)	Owner shall have a surveyor monument the new lines. Evidence of completion of monumentation shall be submitted to DPW for review and approval.	Owner/ Applicant/ Surveyor	Prior to Recordation of Survey	
6.		PW0035 – RECORD OF SURVEY File a Record of Survey showing the new line and it's monumentation. (Public Works)	Owner's Surveyor to prepare record of survey and submit to DPW for review and approval.	Owner/ Surveyor	Prior to Recordation of Record of Survey	
7.		EHSP01 – WELL IDENTIFICATION All existing wells and proposed well sites shall appear as part of the final parcel map. Submit map to the Environmental Health Division for review and approval.	Submit map to EHD for review and approval. Once approved all wells shall appear as part of the final parcel map.	CA Licensed Engineer/ Owner/Applicant	Prior to Recordation of the record of survey.	