

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

Resolution No.: 08015

Grant the appeal and direct the Director of)
Planning to issue three Certificates of)
Compliance for Lots 1, 2 and 3 on the Yuki)
Farms Limited Partnership III LP request for)
three Certificates of Compliance (Planning)
Files CC060024, CC060025, and CC060026).)

The appeal of **Yuki Farms Limited Partnership III LP** from the administrative determination by the Director of Planning which would have resulted in the issuance of two Certificates of Compliance came on for a public hearing before the Planning Commission of the County of Monterey on March 26, 2008. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Planning Commission hereby finds and decides as follows:

I. RECITALS, FINDINGS & EVIDENCE

1. On July 13, 2006, pursuant to Monterey County Code Section 19.14.050.A.1, Yuki Farms Limited Partnership III LP applied for three Certificates of Compliance on a parcel located west of Highway 183, at the intersection of Highway 183 and San Jon Road, in Salinas (Assessor's Parcel Number 414-011-011-000).
2. On June 6, 2007, the Planning Department issued a determination that the property in question is entitled to two (2) unconditional Certificates of Compliance pursuant to Section 66499.35 (a) of the Subdivision Map Act and Section 19.14.050.A.1.a and 19.14.050.A.1.e of Title 19 of the Monterey County Code.
3. On July 24, 2007, County staff was contacted by Tim Baldwin, the Applicant's representative, regarding these certificates. Mr. Baldwin verbally disputed the issuing of only two certificates, but asked that the County not issue a final determination until he submitted more information.
4. On December 4, 2007, the Planning Department issued the final determination letter indicating that the decision is appealable to the Planning Commission pursuant to Monterey County Code Section 19.17.030 and that said appeal should be filed no later than December 17, 2007 at 5:00 PM.
5. On December 17, 2007, the Appellant, Yuki Farms Limited Partnership III LP, filed a timely appeal of the December 4, 2007 determination of the Director of Planning to grant two and deny one Certificates of Compliance.
6. Said appeal was filed with the Secretary to the Planning Commission within the 10-day time prescribed by Monterey County Code Section 19.17.040.C.
7. Said appeal was timely brought to a duly noticed public hearing, with concurrence from the Applicant, before the Planning Commission on March 26, 2008.

8. In the Appeal, the Appellant made the following contentions: 1) Lot 2 and Lot 3 were separately created and conveyed and were not merged; 2) Civil Code section 1093 requires an express (not implied) statement of intention to merge the lots; and 3) The words 'body' or 'tract' of land may be defined as containing separate legal parcels and are therefore not conclusive of the grantors' intent to merge or combine the two lots.
9. Lot 1 was created in a deed from Boronda to Fabry recorded on January 27, 1874 in Book P of Deeds at page 69 excepting the portion conveyed in a deed to the County of Monterey recorded on May 15, 1930 in Volume 242 Official Records at page 269.
10. Lot 2 was created in a deed from Gigling to Kopman, recorded on January 15, 1876 in Book T of Deeds at page 260, excepting out the portion conveyed in a deed from Fontes to Bordges, recorded on December 21, 1886 in Book 12 of Deeds at page 471.
11. Lot 3 was created in a deed from Bordges to Fontes recorded on December 21, 1886 in Book 12 of Deeds at page 479.
12. In the 1925 Decree of Final Distribution from the Estate of Miguel Fontes (Volume 54 Official Records at page 262), the property that comprises Lots 1, 2 and 3 are described as Parcels Three, One and Two, respectively. The Decree and subsequent deeds contains the following phrase: "Said parcels 1 and 2 comprise one body or tract of land situate in Section 23; Township 14 South, Range 2 East, Mount Diablo Meridian containing 77.24 acres of land." The Director of Planning interpreted the phrase "comprise one body or tract of land... containing 77.24 acres..." as the express written statement by the grantor to merge Lots 2 and 3, and therefore, per Civil Code section 1093, the Director of Planning determined that Parcels 1 and 2 had been merged. The Applicant disagreed and appealed the determination. Following a hearing on the Appeal, the Planning Commission adopted a motion of intent to grant the appeal and direct the Director of Planning to issue three Certificates of Compliance.
13. Lot 2 and Lot 3 were separately created and conveyed and were not merged in the Final Decree of Distribution from the Estate of Miguel Fontes ("Decree") issued by the Superior Court for the County of Monterey. The evidence does not clearly show that the Decree of Distribution was an express statement of the grantor's intent to merge the parcels. The Decree separately described the acreage in Lot 2 and Lot 3 as Parcels One and Two ("Parcels"). The phrase in the Decree simply enhances the quality of the description of the body of land and may not have been intended to merge the Parcels. The word "parcel" in the Decree is used to describe individual pieces of land. If the Court intended the acreage in Parcels One and Two to be a single parcel, the phrase could have stated "shall hereafter be considered a single parcel containing 77.24 acres of land."
14. The term "body or tract of land" can mean more than one parcel. The word 'tract' has historically been used in the State's regulation of subdivision maps in reference to a larger area of land within which 'land shall be laid out into lots for the purposes of sale...' (Chapter 231, Statutes 1907). By their definition and common usage, a 'body' or 'tract' of land may contain separate legal parcels.
15. Because the facts and evidence are at minimum ambiguous as to the grantor's intent, the Planning Commission finds that there was no express written statement by the grantor to merge the parcels.

II. DECISION

NOW THEREFORE, BASED ON THE ABOVE RECITALS, FINDINGS AND EVIDENCE AND THE RECORD AS A WHOLE, BE IT RESOLVED that the Planning Commission hereby grants the appeal and directs the Director of Planning to issue three Certificates of Compliance for Lots 1, 2, and 3 on the Yuki Farms Limited Partnership III LP request for three Certificates of Compliance (Planning Files CC060024, CC060025, and CC060026).

PASSED AND ADOPTED on this 9th day of April, 2008, upon motion of Commissioner Isakson, seconded by Commissioner Rochester, by the following vote, to-wit:

AYES: Pessagno, Brown, Isakson, Padilla, Ottone, Rochester, Diehl, Salazar, Vandevere
NOES: None
ABSENT: Sanchez

I, Mike Novo, Secretary to the Planning Commission of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Planning Commission duly made and entered in Resolution 08015, on April 9, 2008.

Dated: 4/9 of April, 2008

Mike Novo, Secretary to the Planning Commission,
County of Monterey, and State of California.

By Mike Novo