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

In the matter of the application of:
The Nature Conservancy and Teresa and Juan Alcantar
(PLN120150)
RESOLUTION NO. 12-028B
Resolution by the Monterey County Hearing Body:
1) Finding the project Categorically Exempt per Sections 15305(a); and
2) Approving a Coastal Development Permit for a lot line adjustment to correct the placement of a single family dwelling across a property line between two legal lots of record of approximately 0.56 acres (Parcel A) and 3.39 acres (Parcel B), resulting in two lots of 0.56 acres (Adjusted Parcel A) and 3.39 acres (Adjusted Parcel B)

[PLN120150, The Nature Conservancy and Teresa and Juan Alcantar, 150 Garin Road, Royal Oaks North County Land Use Plan (APN: 119-022-008-000 and 119-022-006-000) Coastal Zone]

The Nature Conservancy and Teresa and Juan Alcantar application (PLN120150) came on for public hearing before the Monterey County Planning Commission on July 11, 2012. 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:** **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 1982 Monterey County General Plan;
- North County Land Use Plan;
- Monterey County Coastal Implementation Plan Part 4;
- Monterey County Zoning Ordinance Title 20;
- 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 150 Garin Road, Royal Oaks (Assessor's Parcel Number 119-022-008-000 and 119-022-006-000), North County Land Use Plan. The parcels are zoned AC (CZ) or "Agricultural Conservation (Coastal Zone)" and RC/10 or "Resource Conservation, 10 acres minimum (Coastal Zone)", which allows minor lot line adjustments. Therefore, the project is an allowed land use for this site.

c) The Alcantar property (Assessor's Parcel Number 119-022-006-000) was approved for a variance to side yard setback from 20 feet to 11.6 feet and to the front yard setback from 30 feet to 26 feet for the main structure. The

subject lot line adjustment will bring the Alcantar property into conformance with a 26 foot side yard setback. The adjustment would facilitate the movement of the common property line between the parcels to be in conformance with approved permits, PLN020488 & BP032543. The Alcantar dwelling was built 1.8 feet over the common property line.

d) The subject lot line adjustment would be an even exchange of 5,179 square feet between Assessor's Parcel Number 119-022-006-000 (Alcantar) and Assessor's Parcel Number 119-022-008-000 (Nature Conservancy). The adjustment would facilitate the movement of the common property line to be in conformance with approved permits, PLN020488 & BP032543.

e) The project planner conducted a site inspection in April 2012 to verify that the project on the subject parcel conforms to the plans listed above.

f) The project was not referred to the North County Coastal 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 not warrant referral to the LUAC because the lot line adjustment did not involve any conflicts and the Fee Waiver request is not a project.

g) 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 PLN120150.

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, North County 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. Conditions recommended have been incorporated.

b) Staff did not identify any potential impacts to Biological Resources, Archaeological Resources, or Soil/Slope Stability.

c) Staff conducted a site inspection in April 2012 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 PLN120150.

3. **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, North County 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. Assessor's Parcel Number 119-022-006 (Alcantar property) is a developed lot served by a private well for domestic water and a septic system for waste disposal. Assessor's Parcel Number 119-022-008-000 (Nature Conservancy) is a vacant undeveloped lot.

c) Staff conducted a site inspection in April 2012 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 PLN120150.

4. **FINDING:** **VIOLATIONS -** The subject properties are not compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of the County's zoning ordinance. A violation exists on both properties. The approval of this permit will correct the violations and bring both properties into compliance.

EVIDENCE:

a) Staff conducted a site inspection in April 2012 and researched County records to assess if any violation exists on the subject property. The applicant approached the county in order to voluntarily correct the violation on the property.

b) The proposed project will correct the existing encroachment of the Alcantar home on the Nature Conservancy's property line. In order to be in compliance with land use regulations, the applicant must either move the single family dwelling or process a lot line adjustment.

c) Once the subject lot line adjustment is approved, both properties will be in compliance with all rules and regulations pertaining to the property.

d) 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 PLN120150.

5. **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 (a) categorically exempts lot line adjustments where the land has slopes of less than twenty percent and no change in land use or density is proposed.

b) The project consists of a lot line adjustment which would exchange 5,179 square feet from both parcels (Assessors Parcel Numbers 119-022-008-000 and 119-022-006-000) resulting in no net change in overall area and no net change to the size of either parcel. The average slope is less than 20% and the parcels are relatively flat.

c) No adverse environmental effects were identified during staff review of the development application during a site visit in April 2012.

d) None of the exceptions under CEQA Guidelines Section 15300.2 apply

to this project.

e) 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 PLN120150.

6. **FINDING:** **PUBLIC ACCESS** – The project is in conformance with the public access and recreation policies of the Coastal Act (specifically Chapter 3 of the Coastal Act of 1976, commencing with Section 30200 of the Public Resources Code) and Local Coastal Program, and does not interfere with any form of historic public use or trust rights.

EVIDENCE:

a) No access is required as part of the project as no substantial adverse impact on access, either individually or cumulatively, as described in Section 20.144.150 of the Monterey County Coastal Implementation Plan can be demonstrated.

b) The subject property is not described as an area where the Local Coastal Program requires public access (Figure 6 in the North County Land Use Plan).

c) No evidence or documentation has been submitted or found showing the existence of historic public use or trust rights over this property.

d) 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 PLN120150.

e) The project planner conducted a site inspection in April 2012.

7. **FINDING:** **LOT LINE ADJUSTMENT** – Section 66412 of the California Government Code (Subdivision Map Act) Title 19 (Subdivision Ordinance) of the Monterey County Code states that lot line adjustments may be granted based upon the following findings:

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 conforms to the County's general plan, any applicable specific plan, any applicable coastal plan, and zoning and building ordinances.

EVIDENCE:

a) The subject lot line adjustment is between four or fewer parcels. The project consists of a lot line adjustment between two lots, resulting in an equal exchange of 5,179 square feet from both parcels (Assessor's Parcel Numbers 119-022-008-000 and 119-022-006-000) with no net change in overall area.

b) The lot line adjustment will not create a greater number of parcels than originally existed. Two contiguous separate legal parcels of record will be adjusted and two contiguous separate legal parcels of record will result from the adjustment. No new parcels will be created.

c) The proposed lot line adjustment is consistent with the Monterey County Zoning Ordinance Title 20. Staff verified that the subject property complies with all rules and regulations pertaining to the use of the property with the implementation of the lot line adjustment. The proposed lot line adjustment will correct the violations on the property.

The parcels are zoned AC (CZ) or ["Agricultural Conservation (Coastal Zone)"] and RC/10 or ["Resource Conservation, 10 acres minimum (Coastal Zone)"]. The minimum lot size for AC (CZ) is one acre and the minimum lot size for RC/10 (CZ) is ten acres. Although the lots are non-conforming in density to begin with, there is no feasible way to make the lots conforming, therefore the lot line adjustment is allowed. The existing two lots are 0.56 acres (Assessor's Parcel Number 119-022-006-000) and 3.39 acres (Assessor's Parcel Number 119-022-008-000) respectively and there will be no net increase.

d) Evidence that has been received and considered includes: the application and staff report that reflect the County's independent judgment, and information and testimony presented during public hearings. These documents are on file in the RMA-Planning Department (PLN120150) and are hereby incorporated herein by reference.

e) 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 PLN120150.

8 **FINDING:** **APPEALABILITY** - The decision on this project may be appealed to the Board of Supervisors and the California Coastal Commission.

EVIDENCE:

a) Section 19.01.050.A Monterey County Subdivision Ordinance (Board of Supervisors).

b) Section 20.86.080.A Monterey County Zoning Ordinance (Coastal Commission). The project is subject to appeal by/to the California Coastal Commission because the lot line adjustment is a conditional use within the applicable zoning districts.

DECISION

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

1. Find the project Categorically Exempt per Section 15305(a); and
2. Approve the Coastal Development Permit for a lot line adjustment to correct the placement of a single family dwelling across a property line between two legal lots of record of approximately 0.56 acres (Parcel A) and 3.39 acres (Parcel B), resulting in two lots of 0.56 acres (Adjusted Parcel A) and 3.39 acres (Adjusted Parcel B) in general conformance with the attached sketch and subject to the attached conditions, all being attached hereto and incorporated herein by reference.

PASSED AND ADOPTED this 11th day of July, 2012 upon motion of Commissioner Brown, seconded by Commissioner Rochester, by the following vote:

AYES: Brown, Getzelman, Rochester, Salazar, Diehl
NOES: Vandevere, Mendez, Hert
ABSENT: Padilla, Roberts
ABSTAIN: None

Mike Novo, Secretary

COPY OF THIS DECISION MAILED TO APPLICANT ON JUL 19 2012

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 JUL 29 2012

THIS PROJECT IS LOCATED IN THE COASTAL ZONE AND IS APPEALABLE TO THE COASTAL COMMISSION. UPON RECEIPT OF NOTIFICATION OF THE FINAL LOCAL ACTION NOTICE (FLAN) STATING THE DECISION BY THE FINAL DECISION MAKING BODY, THE COMMISSION ESTABLISHES A 10 WORKING DAY APPEAL PERIOD. AN APPEAL FORM MUST BE FILED WITH THE COASTAL COMMISSION. FOR FURTHER INFORMATION, CONTACT THE COASTAL COMMISSION AT (831) 427-4863 OR AT 725 FRONT STREET, SUITE 300, SANTA CRUZ, CA

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.

Monterey County Planning Department

Conditions of Approval/Mitigation Monitoring Reporting Plan

PLN120150

1. PD001 - SPECIFIC USES ONLY

Responsible Department: Planning Department

Condition/Mitigation Monitoring Measure: This Coastal Development Permit for a lot line adjustment to correct the placement of a single family dwelling across a property line between two legal lots of record of approximately 0.56 acres (Parcel A) and 3.39 acres (Parcel B), resulting in two lots of 0.56 acres (Adjusted Parcel A) and 3.39 acres (Adjusted Parcel B); and denial of Fee Waiver Request to waive all application fees was approved in accordance with County ordinances and land use regulations subject to the terms and conditions described in the project file. 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 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)

Compliance or Monitoring Action to be Performed: The Owner/Applicant shall adhere to conditions and uses specified in the permit on an ongoing basis unless otherwise stated.

2. PD002 - NOTICE PERMIT APPROVAL

Responsible Department: Planning Department

Condition/Mitigation Monitoring Measure: The applicant shall record a Permit Approval Notice. This notice shall state:
"A Coastal Development Permit (Resolution Number 12-028B) was approved by the Planning Commission for Assessor's Parcel Numbers 119-022-006-000 and 119-022-008-000 on July 11, 2012. The permit was granted subject to 5 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)

Compliance or Monitoring Action to be Performed: Prior to the issuance of grading and building permits or commencement of use, the Owner/Applicant shall provide proof of recordation of this notice to the RMA - Planning Department.

3. PD032(A) - PERMIT EXPIRATION

Responsible Department: Planning Department

Condition/Mitigation Monitoring Measure: The permit shall be granted for a time period of 2 years, to expire on July 11, 2014 unless all conditions of approval have been met and all documents have been recorded within this period. (RMA-Planning Department)

Compliance or Monitoring Action to be Performed: Prior to the expiration date stated in the condition, the Owner/Applicant shall obtain a valid grading or building permit and/or commence the authorized use to the satisfaction of the Director of Planning. Any request for extension must be received by the Planning Department at least 30 days prior to the expiration date.

4. PD045 - COC (LOT LINE ADJUSTMENTS)

Responsible Department: Planning Department

Condition/Mitigation Monitoring Measure: The applicant shall request unconditional certificates of compliance for the newly configured parcels.
(RMA - Planning Department)

Compliance or Monitoring Action to be Performed: The Owner/Applicant/Surveyor shall submit legal descriptions for each newly configured parcel as prepared by the Surveyor. The legal descriptions shall be entitled "Exhibit A." The legal description 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 Monterey County Recorder, for the appropriate fees to record the certificates.

5. WRSP1 - FLOODPLAIN NOTICE - LL (NON-STANDARD CONDITION)

Responsible Department: Water Resources Agency

Condition/Mitigation Monitoring Measure: The applicant shall record a floodplain notice, for each of the newly aligned parcels, stating: "The property is located within or partially within a Special Flood Hazard Area and may be subject to building and/or land use restrictions." (Water Resources Agency)

Compliance or Monitoring Action to be Performed: Prior to recordation of the notices, submit signed and notarized originals to the Water Resources Agency for review and approval.

A copy of the standard notice can be obtained at the Water Resources Agency or online at: www.mcwra.co.monterey.ca.us.

The Water Resources Agency will deliver the approved originals to the Planning Department, and they shall be recorded concurrently with the certificates of compliance.

Monterey County Planning Department

Conditions of Approval/Mitigation Monitoring Reporting Plan

PLN120150

1. PD001 - SPECIFIC USES ONLY

Responsible Department: Planning Department

Condition/Mitigation Monitoring Measure: This Coastal Development Permit for a lot line adjustment to correct the placement of a single family dwelling across a property line between two legal lots of record of approximately 0.56 acres (Parcel A) and 3.39 acres (Parcel B), resulting in two lots of 0.56 acres (Adjusted Parcel A) and 3.39 acres (Adjusted Parcel B); and denial of Fee Waiver Request to waive all application fees was approved in accordance with County ordinances and land use regulations subject to the terms and conditions described in the project file. 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 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)

Compliance or Monitoring Action to be Performed: The Owner/Applicant shall adhere to conditions and uses specified in the permit on an ongoing basis unless otherwise stated.

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Responsible Department: Planning Department

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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)

Compliance or Monitoring Action to be Performed: Prior to the issuance of grading and building permits or commencement of use, the Owner/Applicant shall provide proof of recordation of this notice to the RMA - Planning Department.

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Responsible Department: Planning Department

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Compliance or Monitoring Action to be Performed: Prior to the expiration date stated in the condition, the Owner/Applicant shall obtain a valid grading or building permit and/or commence the authorized use to the satisfaction of the Director of Planning. Any request for extension must be received by the Planning Department at least 30 days prior to the expiration date.

4. PD045 - COC (LOT LINE ADJUSTMENTS)

Responsible Department: Planning Department

Condition/Mitigation Monitoring Measure: The applicant shall request unconditional certificates of compliance for the newly configured parcels.
(RMA - Planning Department)

Compliance or Monitoring Action to be Performed: The Owner/Applicant/Surveyor shall submit legal descriptions for each newly configured parcel as prepared by the Surveyor. The legal descriptions shall be entitled "Exhibit A." The legal description 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 Monterey County Recorder, for the appropriate fees to record the certificates.

5. WRSP1 - FLOODPLAIN NOTICE - LL (NON-STANDARD CONDITION)

Responsible Department: Water Resources Agency

Condition/Mitigation Monitoring Measure: The applicant shall record a floodplain notice, for each of the newly aligned parcels, stating: "The property is located within or partially within a Special Flood Hazard Area and may be subject to building and/or land use restrictions." (Water Resources Agency)

Compliance or Monitoring Action to be Performed: Prior to recordation of the notices, submit signed and notarized originals to the Water Resources Agency for review and approval.

A copy of the standard notice can be obtained at the Water Resources Agency or online at: www.mcwra.co.monterey.ca.us.

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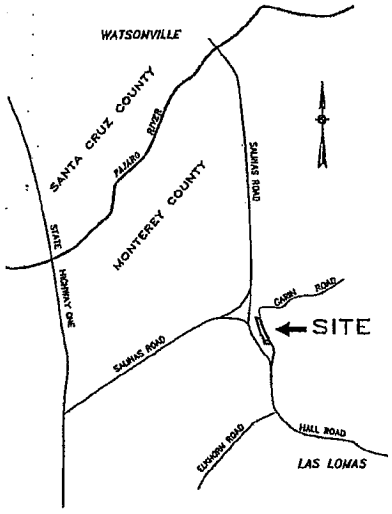


VICINITY MAP
SCALE: 1" = 2000'

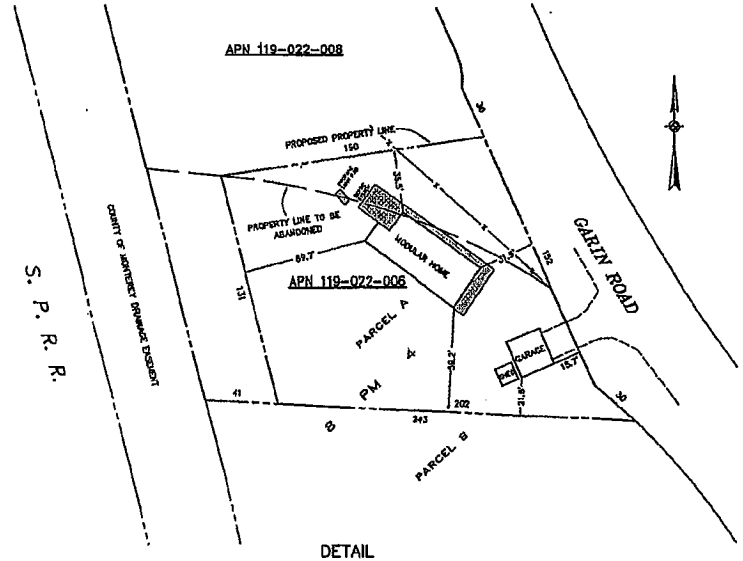
PROJECT DATA

1. OWNER: APN 119-022-006-000
   JUAN & TERESA ALCANTAR
   150 GARIN ROAD
   ROYAL OAKS, CA 95076
2. WATER SOURCE: PRIVATE WELL
3. SEWAGE DISPOSAL: SEPTIC
4. PRESENT ZONING: AC (C2)
5. PROPOSED ZONING: AC (C2)
6. PRESENT LAND USE: RESIDENTIAL
7. PROPOSED LAND USE: RESIDENTIAL
8. AREAS SUBJECT TO INUNDATION:
   FLOOD ZONE AE, FEMA FIRM 06053C0038G
9. NO PROPOSED NEW UTILITIES
   NO PROPOSED GRADING
   NO PROPOSED NEW LANDSCAPING
   NO PROPOSED NEW BUILDINGS
10. PERMITTED BUILDING SETBACKS AS PER
    RESOLUTION NO. 020188, DATED 09/23/2003:
    RESIDENCE:
    FRONT 20'
    SIDE 10.5'
    DETACHED GARAGE:
    FRONT 18.5'

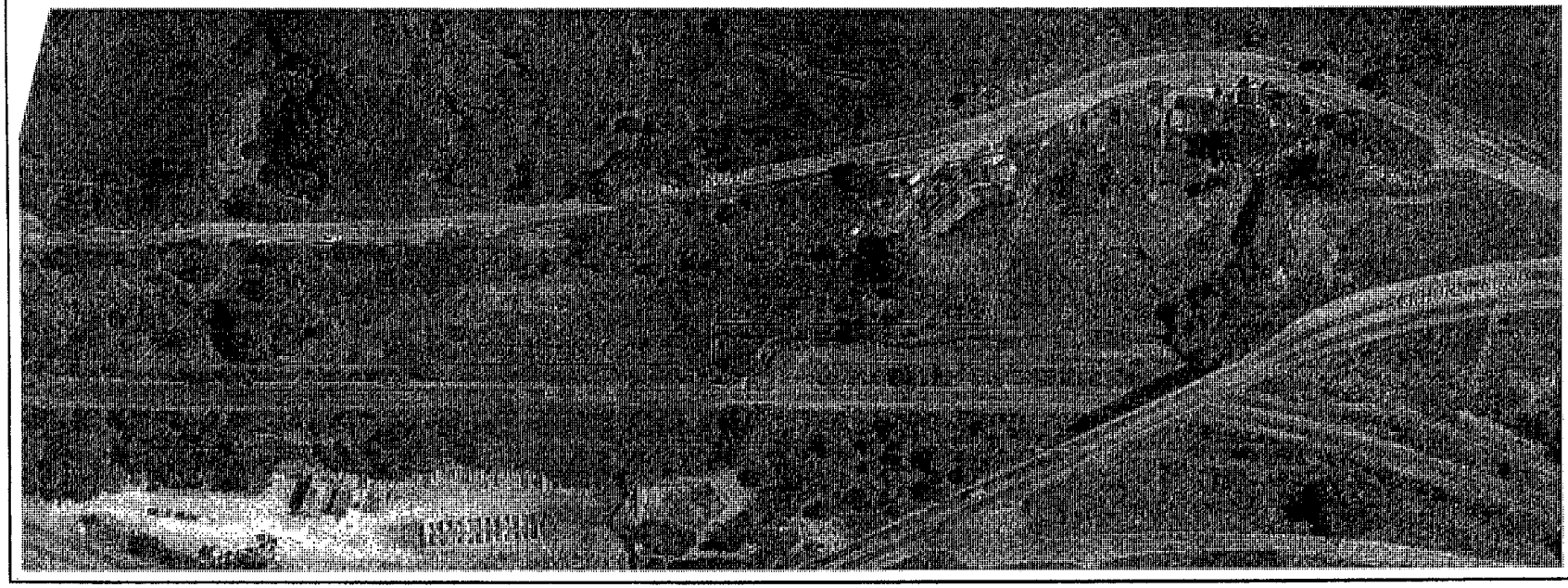
1. OWNER: APN 119-022-008-000
   THE NATURE CONSERVANCY
   201 MISSION STREET, 19th FLOOR
   SAN FRANCISCO, CA 94105
2. WATER SOURCE: NONE
3. SEWAGE DISPOSAL: NONE
4. PRESENT ZONING: RC 10
5. PROPOSED ZONING: RC 10
6. PRESENT LAND USE: NATURE PRESERVE (VACANT)
7. PROPOSED LAND USE: NATURE PRESERVE (VACANT)
8. AREAS SUBJECT TO INUNDATION:
   FLOOD ZONE AE, FEMA FIRM 06053C0038G
9. NO PROPOSED NEW UTILITIES
   NO PROPOSED GRADING
   NO PROPOSED NEW LANDSCAPING
   NO PROPOSED NEW BUILDINGS

AREA CALCULATIONS

PARCEL NO.	EXISTING	TO BE SUBTRACTED	TO BE ADDED	TOTAL ADJUSTED
APN 119-022-006	24,329 SQ FT 0.58 AC	-5179 SQ FT	+5179 SQ FT	24,329 SQ. FT. 0.56 AC
APN 119-022-008	147,747 SQ FT 3.39 AC	-5179 SQ FT	+5179 SQ FT	147,747 SQ. FT. 3.39 AC



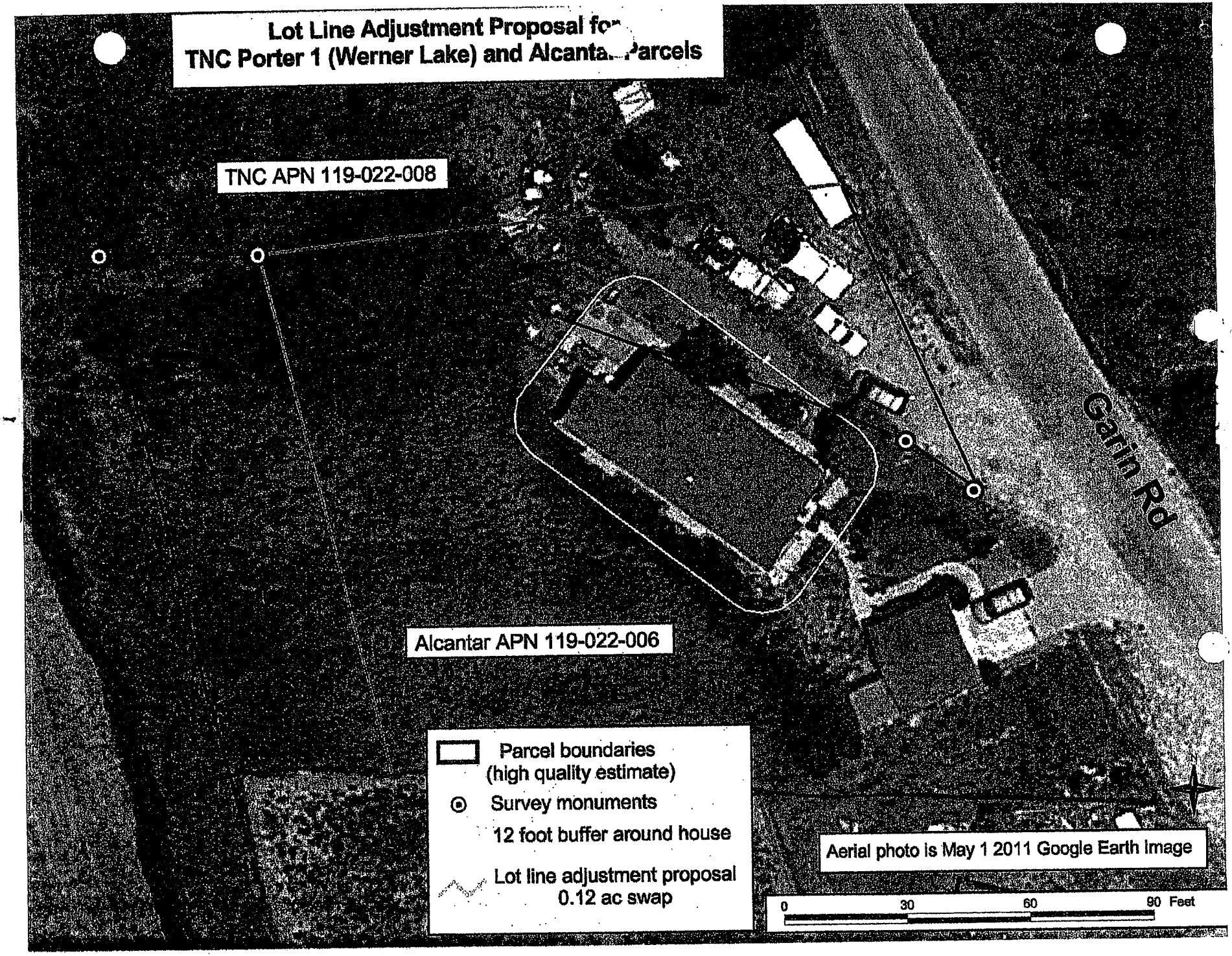
DETAIL
SCALE: 1" = 30'



MID COAST ENGINEERS
CIVIL ENGINEERS AND LAND SURVEYORS
70 PENNY LANE, SUITE A WATSONVILLE, CA 95076 - (831) 724-2580

TENTATIVE MAP FOR LOT LINE ADJUSTMENT
ALCANTAR & THE NATURE CONSERVANCY
APN 119-022-006 & 119-022-008
GARIN ROAD
MONTEREY COUNTY, CALIFORNIA

SCALE:	AS SHOWN
DESIGNED BY:	LV
DRAWN BY:	HP430
DATE:	APRIL 19, 2012
REVISED:	
JOB NO.:	11089A
SHEET	1
OF	1 SHEETS


Lot Line Adjustment Proposal for
TNC Porter 1 (Werner Lake) and Alcantar Parcels
TNC APN 119-022-008
Alcantar APN 119-022-006
Garin Rd
Parcel boundaries
(high quality estimate)
Survey monuments
12 foot buffer around house
Lot line adjustment proposal
0.12 ac swap
Aerial photo is May 1 2011 Google Earth Image
0
30
60
90 Feet