

**MONTECITO PLANNING COMMISSION DECISION
 APPEALED TO THE BOARD OF SUPERVISORS
 January 28, 2020**

Case Numbers: 16LLA-00000-00003 APN: 013-191-014, 013-191-015 District: First	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 20%;">Title:</td> <td>Hawker-Philippides Lot Line Adjustment</td> </tr> <tr> <td>Applicant:</td> <td>Craig Hawker and Athena Philippides</td> </tr> <tr> <td>Appealed by:</td> <td>Athena Philippides</td> </tr> <tr> <td>Date appealed:</td> <td>January 23, 2020; 2:53 P.M.</td> </tr> <tr> <td>Planner:</td> <td>Kathryn Lehr x83560</td> </tr> <tr> <td>Supervising Planner:</td> <td>Errin Briggs x82047</td> </tr> </table>	Title:	Hawker-Philippides Lot Line Adjustment	Applicant:	Craig Hawker and Athena Philippides	Appealed by:	Athena Philippides	Date appealed:	January 23, 2020; 2:53 P.M.	Planner:	Kathryn Lehr x83560	Supervising Planner:	Errin Briggs x82047
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Hearing Dates:	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%;">January 15, 2020</td> <td style="width: 67%;">Denied the project due to split 2-2 vote.</td> </tr> </table>	January 15, 2020	Denied the project due to split 2-2 vote.										
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APPELLANTS REASON FOR APPEAL: See attached appeal letter FACILITATION: N/A OUTCOME OF BOS HEARING:													

cc: Lisa Plowman, Director
 Jeff Wilson, Assistant Director
 Erring Briggs, Supervising Planner
 Kathryn Lehr, Planner
 Records Management
 Accounting
 Joe Dargel
 David Villalobos, Hearing Support

APPEAL TO THE BOARD OF SUPERVISORS
COUNTY OF SANTA BARBARA

Submit to: Clerk of the Board
County Administration Building
105 E. Anapamu Sreet, Suite 407
Santa Barbara, CA 93101

RE: Project Title HAWKER - PHILIPPIDES LOT LINE ADJUSTMENT
Case Number 16 LLA - 00000 - 00003
Tract/ APN Number 013-191-014 013-191-015
Date of action taken by Planning Commission, or Surveyor 1-15-2020

I hereby appeal the DENIAL of the MONTECITO Planning Commission
(approval/ approval with conditions/ or denial) (Planning Commission or County Surveyor)

Please state specifically wherein the decision of the Planning Commission or Surveyor is not in accord with the purposes of the appropriate ordinance (one of either Article II Coastal Zoning Ordinance, County Land Use and Development Code, Montecito Land Use and Development Code or Chapter 21, Land Division) or other applicable law, or wherein it is claimed that there was an error or an abuse of discretion by the Planning Commission or Surveyor, or that there was a lack of a fair and impartial hearing, or that the decision is not supported by the evidence presented for consideration leading to the making of the decision or determination that is being appealed, or that there is significant new evidence relevant to the decision which could not have been presented at the time the decision was made. {References: Article II Section 35-182.2.C; County Land Use and Development Code Section 35.102.020.C; Montecito Land Use and Development Code Section 35-492.020.C, Chapter 21 Section 21-71.4.2.C.2}

Attach additional documentation, or state below the reason(s) for this appeal.

see enclosed

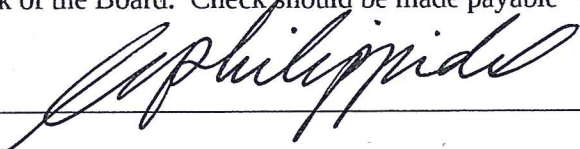
Specific conditions being appealed are:

See enclosed

Name of Appellant (please print): Athena Philippides
Address: 1420 Greenworth Place
(Street, Apt #) Santa Barbara CA 93108
(City/ State/ Zip Code) (Telephone)

Appellant is (check one): Applicant Agent for Applicant Third Party Agent for Third Party

Fee \$ _____ {Fees are set annually by the Board of Supervisors. For current fees or breakdown, contact Planning & Development or Clerk of the Board. Check should be made payable "County of Santa Barbara".}

Signature:  Date: 1/23/2020

FOR OFFICE USE ONLY

Hearing set for: _____ Date Received: _____ By: _____ File No. _____

January 23, 2019

Susan Petrovich
Attorney at Law
805.882.1405 tel
805.965.4333 fax
spetrovich@bhfs.com

VIA EMAIL HAND DELIVERY

Board of Supervisors
County of Santa Barbara
105 East Anapamu Street
Santa Barbara, CA 93101

RE: Hawker/Philippides Lot Line Adjustment (16LLA-00000-00003) – Appeal Issues

Dear Honorable Supervisors:

Brownstein Hyatt Farber Schreck represents Drs. Athena Philippides and Craig Hawker (“Philippides”) regarding their two legal parcels, located at 3140 Eucalyptus Hill Road and 740 Arcady Road, Montecito. The Philippides file this appeal to your Board (“Board”) to resolve a lengthy, frustrating and costly process to bring their two parcels into compliance with the County’s Montecito Zoning Ordinance to the maximum extent possible.

By a 2-2 vote, the Montecito Planning Commission (“Commission”) failed to approve the Philippides lot line adjustment despite staff’s recommendation for approval. The Commission provided no legitimate grounds, in fact or law, for its decision. In fact, the findings for denial adopted by the Commission are inconsistent with the evidence in the record. We ask that you reverse the Commission’s decision and approve the Philippides lot line adjustment consistent with the County’s regulations.

Relevant Background Information

On November 14, 2012, the Philippides purchased the two properties known as 740 Arcady Road (“Arcady Lot”) and 3140 Eucalyptus Hill Road (“Eucalyptus Hill Lot”), Montecito, as a long-term investment for their future retirement. They were aware that the property comprised two separate lots, each of which had a completely different entrance accessed via a completely different road. These have been separate legal lots, created by County-approved subdivisions, since 1955, the Eucalyptus Hill Lot having been created by a 1954 subdivision map and the Arcady Lot having been created by a 1955 subdivision map. Both maps were approved in conformity with then-applicable ordinances.

1021 Anacapa Street, 2nd Floor
Santa Barbara, CA 93101-2711
main 805.963.7000

Neither parcel complies with current zoning, but that is true for the majority of lots in the neighborhood. The project won't make either of the lots conformity as to size, but it will move square footage from the larger lot to the smaller lot to bring the latter into closer conformity.

The residence on the Arcady Lot, built in 1957, was in poor condition when the Philippides purchased it. They devoted the first few months of their ownership to making house repairs, replacing the landscaping and significantly improving the appearance of the entire property in order to attract responsible, long-term renters for the house. They have had the same tenant since the Philippides purchased it: a single, professional mother with a young son who attends Cold Spring School. The Philippides live elsewhere in Montecito.

A survey of the two parcels following purchase showed that the house at 740 Arcady Road straddled the property boundary between the two legal lots. The Philippides retained Brownstein to assist them with a lot line adjustment that would move the property line far enough from the house to respect the required backyard setbacks. Thus began the Philippides' arduous journey to bring the Arcady Road Lot into compliance with the backyard setback requirements in the Montecito Zoning Ordinance.

The Philippides submitted a lot line adjustment application on April 29, 2013.

Midway through the lot line adjustment process, County staff advised the Philippides that the County could not process the application because the two parcels did not appear to be separate legal lots. County staff would not process the application without Certificates of Compliance and the County Surveyor refused to issue the Certificates of Compliance.

The Philippides spent a small fortune on title and surveyor consultants to research all available documents, whether recorded or buried in the County's old records, that would reveal the full history of the lots' creation and title. During this research, the lot line adjustment process was suspended.

After gathering all relevant documents and discovering that, in fact, the parcels had been created through recorded subdivision maps, the Philippides applied for two Certificates of Compliance and included the documents with their application. The Philippides also discovered the case files on Santa Barbara Superior Court litigation filed by a landowner who had been in a dilemma similar to theirs, a case in which the landowner prevailed.

Despite the evidence in the record, the County Surveyor continued to refuse to issue the Certificates of Compliance, so the Philippides appealed to your Board.

Brownstein counsel, on behalf of Philippides, presented to the Board the entire historical record of the creation of the two lots, as well as the earlier lawsuit information. The

County Surveyor did not contest the factual or legal record but claimed that the two lots somehow had been merged prior to the Philippides' ownership.

Brownstein counsel and attorney Richard Monk, a recognized expert on lot merger law, presented the legal authority that demonstrated that there was no way under California law that such a merger could have occurred. Neither the County Surveyor nor the County Counsel presented any legal authority to the contrary. Of some import was the fact that, two years prior to County approval of the lot split that created the Arcady Lot, the County adopted an ordinance providing for "reversion to acreage" of parcels, but the land division in question was not a reversion to acreage – it was the opposite – it created a new lot. After hearing the evidence, the Board ruled in favor of the Philippides, finding that they owned two legal lots.

The County Surveyor recorded the two Certificates of Compliance on June 18, 2015, officially acknowledging the existence of two legal lots, pursuant to Government Code section 66499.35. We attach copies of the recorded Certificates of Compliance.

No one filed a legal challenge to the Board's decision (under Government Code section 66499.37, the statute of limitation for challenges to decision is 90 days).

After three (3) years of County process and tens of thousands of dollars, the Philippides finally were able to resume their lot line adjustment quest so they could bring their encroaching house into conformity with setback requirements. The lot line adjustment process was derailed again – this time by the Montecito Water District's moratorium on issuance of new meters during the drought. The County would not process the lot line adjustment application without proof of water and sewer service to both lots, even though the Philippides made it clear that they had no intention of selling or developing the Eucalyptus Hill Lot anytime in the foreseeable future. In 2016, the Montecito Water District allowed Philippides to purchase a new water meter and the Montecito Sanitary District allowed a new sewer line to be installed for the house at 740 Arcady Road. Both lines were buried in a 350-foot long trench running from Eucalyptus Hill Road to the house – another significant expense.

The Philippides have now been in process for a lot line adjustment for almost seven (7) years!

Staff's Recommendation

The Commission held two hearings to consider the Philippides lot line adjustment – the first on October 16, 2019 and the second on January 15, 2020. At both hearings, staff recommended that the Commission approve the lot line adjustment because it is consistent with the Santa Barbara County Code ("County Code"). Staff presented robust, accurate findings for approval, consistent with the evidence in the record and with the County Code and California law. With this appeal, we ask that the Board adopt staff's

recommended findings for approval, attached, and approve the Philippides' lot line adjustment.

Issues Raised in Commission's Hearings

To date, no one has introduced **any** evidence into the record that supports a decision to deny the lot line adjustment. The sole apparent reason for the 2-2 vote appears to be opposition from neighbors, primarily residents living in the Arcady Estates subdivision adjacent to the Philippides properties. These neighbors objected to the small size of the lots and characterized the lot line adjustment as being tantamount to a lot split. What follows is a discussion of and response to the issues discussed by the Commissioners.

Confusion between Lot Line Adjustment and Land Division

At both hearings, Commissioners expressed confusion over the difference between a lot line adjustment and a lot split. The Commission appeared perplexed with the Board's 2015 decision — consistent with County ordinances and California merger law — that the property comprises two legal lots as reflected in the recorded Certificates of Compliance.

Some Commissioners focused on whether the Philippides' lot line adjustment would create a new "buildable" lot because the Eucalyptus Hill Road Lot is vacant.

They were confused. Yes, the Arcady house straddles the shared property line. But that doesn't preclude ultimate development of the Eucalyptus Hill Road Lot. The Philippides retain the legal right to develop or redevelop either lot with or without the lot line adjustment. They have no plans to build another house in the foreseeable future — this was a long-term investment for their retirement, which is many years away. One day, they may need to sell either or both lots, or to build a home on the Eucalyptus Hill Road Lot for rental income, to help support them during retirement.

At the hearing, some Commissioners held the view that the lot line adjustment is a "functional" lot split, concluding that denying the lot line adjustment would maintain the status quo and prevent construction of another house. That was incorrect.

How could the Philippides develop the Eucalyptus Hill Road Lot?

There are two paths to correcting the property line encroachment. The first, and most sensible, is the lot line adjustment, which also increases the size of the smaller Arcady Road Lot to bring it closer to conformity with parcel sizes in the surrounding area. The second is expensive, wasteful and burdensome, but possible — they could remodel the Arcady Road Lot house to remove the portion overhanging the property line. Either way, they have two buildable lots.

Compatibility of Current Existing Parcels with Lot Size in Area

The Commission continued the hearing to hear from the neighbors about whether the proposed lot line adjustment was compatible with the neighborhood. The Commission and neighbors raised unfounded concerns that the proposed lot line adjustment would be “incompatible” with the neighborhood.

Neighborhood compatibility is irrelevant to the findings required to approve a lot line adjustment. Nothing in Section 21-93 of the County Code specifies that a lot line adjustment must conform to the average lot size – or current zoning -- in the neighborhood. The County Code merely requires that a lot line adjustment not create a parcel that does not conform to zoning requirements. Both of the Philippides lots – and most of the neighboring lots – are smaller than current zoning requires and are legal non-conforming.

As adjusted (with approval of the project), both Philippides lots would fall within the wide size range for the neighborhood. We attach a map showing the lot sizes in surrounding parcels. Despite the current 2-acre zoning, only a small percentage of the lots in the area conform to that minimum lot size. The Philippides lots currently are 0.19 acre (Arcady Road Lot) and 0.99 acre (Eucalyptus Hill Road Lot) in size. The lot line adjustment will change those figures to 0.50 acre and 0.68 acre, respectively.

With or without the lot line adjustment, both parcels fall within the wide size range for the neighborhood. (See attached maps.) With or without the lot line adjustment, both lots are non-conforming as to lot size, as are most of the lots in this area. With or without the lot line adjustment, both parcels are legally buildable. There is no legal or factual basis for denying the lot line adjustment.

Discussion of Potential Development

The fundamental opposition to this lot line adjustment is its *potential* effect on the development of the Arcady and Eucalyptus Hill Road Lots. The Philippides have not proposed any development associated with this lot line adjustment, and no development is contemplated. Despite this fact, some Commissioners and neighbors speculated over the future development potential of the two lots, which is not relevant to the lot line adjustment.

Although not relevant for the lot line adjustment, concern over future development potential is unfounded. Ironically, the current lot sizes would allow the Philippides to develop *slightly more* combined square footage than would be allowable after the proposed lot configuration. Under the Montecito Floor Area Ratio (FAR) guidelines, the existing lot sizes could result in development of 7,581 square feet (2,503 square feet and 5,078 square feet, respectively). With the lot line adjustment, the combined square footage would allow for total development of 7,751 square feet (4,076 square feet of

development on the Eucalyptus Hill Road Lot and 3,495 square feet of development on the Arcady Road Lot). The lot line adjustment would slightly reduce development potential.

The concerns about neighborhood compatibility are more appropriate when and if development is proposed for the Eucalyptus Hill Road Lot. The neighbors will receive notice of any such development and the project will be subject to public review by the Montecito Board of Architectural Review and potentially the Commission. Speculation about potential future development — of two existing, legally buildable parcels — has no place in consideration of this lot line adjustment.

The Arcady Estates Association Has No Jurisdiction

In an effort to derail the lot line adjustment, some neighbors raised spurious claims that the Arcady Estates Association has jurisdiction over these lots. Neither parcel was ever a part of the subdivision that created Arcady Estates lots. The Arcady Estates has CC&Rs, but they don't apply to land outside the Arcady Estates. The only connection between Arcady Estates and these lots is the fact that the Arcady Road Lot and the Arcady Estates lots share the private Arcady Road. The Eucalyptus Hill Road Lot takes its access solely off Eucalyptus Hill Road, a public roadway. The lot line adjustment will have no traffic impact on Arcady Road.

Apparently formed in 2000, the Arcady Estates Association, Inc. ("Association") is **not** a homeowners association. The President of the Association confirmed this in his testimony before the Commission. The Articles of Incorporation state that the Association's purposes are to maintain Arcady Road, Knapp Drive, and Cottage Lane and to encourage property owners to maintain their landscaping along these private road frontages. We understand that the Association is in the midst of re-formation because it has been improperly operating as a nonprofit public benefit corporation "for public and charitable purposes." Having been formed solely for the benefit of the Arcady Estates property owners, it provides no public benefit or charitable purpose. The Association, as a private corporation for road maintenance, has no role in land use decisions in the neighborhood outside the Arcady Estates subdivision of which the Philippides parcels are **Not A Part** (see attached subdivision map, labeling these lots as Not A Part).

Mr. Patillo incorrectly pointed out to the Commission that the Philippides voluntarily joined the Association, perhaps suggesting that, in doing so, they waived any claim that their lots aren't part of the Association. The reality is that the Philippides joined the Association to be good neighbors by bearing their fair share of the road maintenance. In reality, their decision was a costly one that resulted in their paying **FAR** more of the road maintenance than the law requires. The Philippides were unaware that, under California law, they are only responsible for paying a share of maintenance costs for the short length of Arcady Road between their driveway and Eucalyptus Hill Road. They have no

legal or moral obligation to pay a share of the maintenance and repair of the rest of the Arcady Estates extensive private road system. By bearing an equal share of roadway costs **for the entire private roadway system over the last seven (7) years — \$700 per year** — the Philippides have been paying far more road maintenance costs than their fair share or obligation under California law. They were unaware of this inequity until recently.

We have reviewed all of the minutes for the Arcady Estates Association meetings, which occur annually, throughout the entire period that the Philippides have owned their property and have found no evidence in those minutes that Association had taken any action to oppose approval of this lot line adjustment until immediately before the January 15, 2020 Commission hearing.

Conclusion

There is no factual, public policy or legal basis for denying the requested lot line adjustment. The Philippides have jumped through every County hoop over the last seven years to resolve an issue created by a prior owner of these existing lots. The lots are at the small end of the size range in the area, but they fall within the existing size range. If anything, the lot line adjustment will bring them into closer to the average lot size in the area by enlarging the Arcady lot. The lot line adjustment will **not** create a new legally buildable lot — that was done in the 1950's.

The Commission succumbed to neighborhood opposition and misinformation rather than make a decision consistent with the Montecito Zoning Ordinance and recommended by staff. **Is it any wonder that Santa Barbara County has a housing crisis when even a simple application is obstructed and delayed?**

We request that your Board approve this lot line adjustment consistent with the County's Code and staff recommendation.

Sincerely,



Susan F. Petrovich

Enclosures: Certificate of Compliance 13CC29 (740 Arcady)
Certificate of Compliance 14CC30 (3140 Eucalyptus Hill Road)
Map of neighborhood parcel sizes
Arcady Estates tract map
Staff-recommended findings for approval



2015-0031985

Recorded Official Records County of Santa Barbara Joseph E. Holland County Clerk Recorder REC FEE 24.00 OR 03:49PM 18-Jun-2015 Page 1 of 4

Recording Requested by and After Recording Return to: Athena Phillippides 1420 Greenworth Place Santa Barbara, CA 93108

REC'D 4 FC

COUNTY OF SANTA BARBARA

CERTIFICATE OF COMPLIANCE ON

PORTION OF ASSESSOR'S PARCEL NO. 013-191-012

Notice is hereby filed, as a public record, that the real property described in Exhibit "A" and shown as the shaded parcel on the map marked Exhibit "B" attached hereto and made a part hereof, is incorporated herein by this reference, and that said real property and the division creating said real property comply with the applicable provisions of the State Subdivision Map Act and County Ordinances enacted pursuant thereto.

This certificate relates only to issues of compliance or noncompliance with the Subdivision Map Act and local ordinances enacted pursuant thereto. The parcel described herein may be sold, leased, or financed without further compliance with the Subdivision Map Act or any local ordinance enacted pursuant thereto. Development of the parcel may require issuance of a permit or permits, or other grants of approval.

Owner: Craig Jon Hawker and Athiena Philippides, husband and wife as community property - by Grant deed recorded November 14, 2012 as Instrument No. 2012-0076767 of Official Records in the County of Santa Barbara, State of California.

Alex Jevremovic Aleksandar Jevremovic County Surveyor

6/15/2015 Date

APPROVED AS TO FORM: MICHAEL C. GHIZZONI COUNTY COUNSEL

By Kevin E. Ready, Sr. Senior Deputy County Counsel 13CC29



A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of the document.


State of California
County of Santa Barbara

County of SANTA BARBARA

On 6-15-2015 before me, Russ Barker, a Deputy Clerk, personally appeared County Surveyer Aleksandar Jevremovic, who proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature

(Seal)

California Civil Code section 4189

Escrow No.: 12-420402437-JW
Locata No.: CAPNT0942-0942-0004-0420402437
Title No.: 12-420402437-SA

EXHIBIT "A"

Those portions of the Outside Pueblo Lands of the City of Santa Barbara, located in El Montecito (so-called), in the County of Santa Barbara, State of California, described as follows:

Parcel One:

Beginning at a 1/2 inch survey pipe set in the Easterly line of the parcel of land described in the deed from Allen L. Simms, et ux., to Frank S. Solomon, et ux., recorded June 7, 1954 as Instrument No. 9403 in Book 1244, Page 289, of Official Records, records of said County, said 1/2 inch survey pipe being set at the Southeast corner of the parcel of land described in the deed from Frank S. Solomon, et ux. to Dennis G. Karzag, et ux., recorded March 16, 1955 as Instrument No. 4909 in Book 1304, Page 187 of Official Records, records of said County;

thence 1st, North 87°59' West along the Southerly line of said Karzag tract of land (at 361.62 feet a 1/2 inch survey pipe set in the east line of Eucalyptus Hill Road), 381.62 feet to the Southwest corner of said Karzag tract of land, being a point in the centerline of said Eucalyptus Hill Road;

thence 2nd, South 2°01' West along the centerline of Eucalyptus Hill Road, 114.14 feet to a point;

thence 3rd, South 87°59' East at right angles, 381.62 feet to a 1/2 inch survey pipe set in the Easterly line of said Solomon tract of land, from which the Southeast corner of said Solomon tract of land bears South 2°01' West, 65.72 feet distant;

thence 4th, North 2°01' East along said Easterly line, 114.14 feet to the point of beginning.

Parcel Two:

Beginning at a 1/2 inch survey pipe set at the Southeast corner of a tract of land described in the deed to Louis T. Paulson, et ux., recorded October 21, 1955 as Instrument No. 19044 in Book 1342, Page 101 of Official Records, records of said County, said point also being on the East line of a tract of land described in the deed to Frank S. Solomon, et ux., recorded June 7, 1954 as Instrument No. 9403 in Book 1244, Page 289 of Official Records, records of said County,

thence 1st, South 2°01' West along the East line of said Solomon tract, 65.72 feet to a 1/2 inch survey pipe set on the Northerly line of Arcady Road;

thence 2nd, South 78°55' West along the Northerly line of said road, 106.87 feet to a 1/2 inch survey pipe set at an angle point in said road;

thence 3rd, North 2°01' East leaving the Northerly line of said road, 89.94 feet to a point in the South line of the tract of land described in said deed to Paulson, hereinabove mentioned;

thence 4th, South 87°59' East along said South line, 104.09 feet to the point of beginning.

portion of
APN: 013-191-12

14 CC 29 = pcl 2



2015-0031986

Recorded Official Records County of Santa Barbara Joseph E. Holland County Clerk Recorder

REC FEE 24.00

03:49PH 18-Jun-2015 DR Page 1 of 4

Recording Requested by and After Recording Return to: Athena Phillippides 1420 Greenworth Place Santa Barbara, CA 93108

REC'd 4 FC

COUNTY OF SANTA BARBARA

CERTIFICATE OF COMPLIANCE ON

PORTION OF ASSESSOR'S PARCEL NO. 013-191-012

Notice is hereby filed, as a public record, that the real property described in Exhibit "A" and shown as the shaded parcel on the map marked Exhibit "B" attached hereto and made a part hereof, is incorporated herein by this reference, and that said real property and the division creating said real property comply with the applicable provisions of the State Subdivision Map Act and County Ordinances enacted pursuant thereto.

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Alexander Jevremovic Aleksandar Jevremovic County Surveyor

6/15/2015 Date

APPROVED AS TO FORM: MICHAEL C. GHIZZONI COUNTY COUNSEL

By Kevin E. Ready, Sr. Senior Deputy County Counsel



14CC30

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of the document.

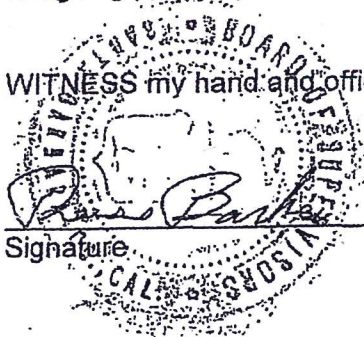
State of California
County of Santa Barbara

County of SANTA BARBARA

On 6-15-2015 before me, Russ Barker, a Deputy Clerk, personally appeared County Surveyer Aleksandar Jevremovic, who proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature

(Seal)

California Civil Code section 1189

LEGAL DESCRIPTION

EXHIBIT "A"

Those portions of the Outside Pueblo Lands of the City of Santa Barbara, located in El Montecito (so-called), in the County of Santa Barbara, State of California, described as follows:

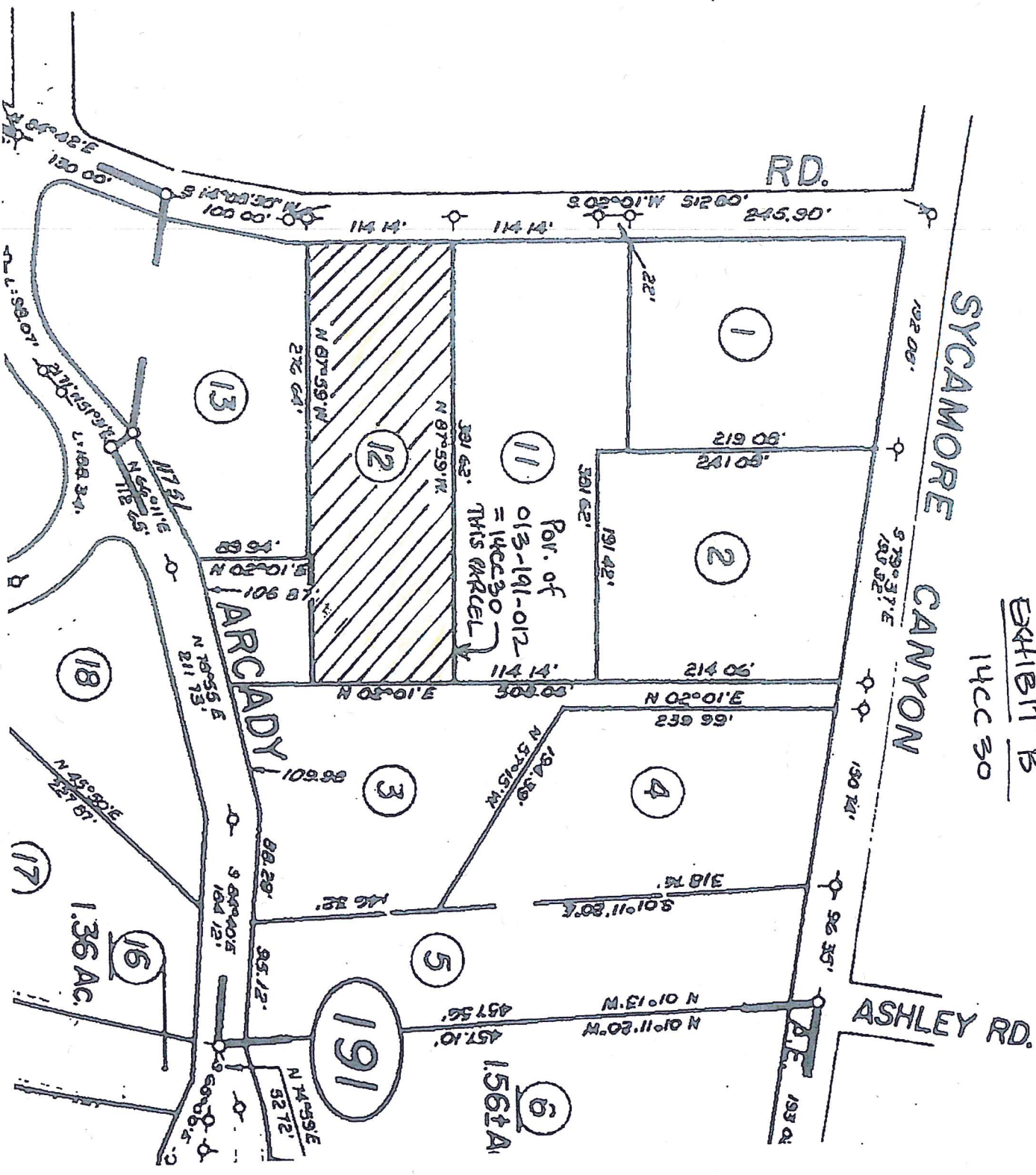
Beginning at a 1/2 Inch survey pipe set in the Easterly line of the parcel of land described in the deed from Allen L. Simms, et ux., to Frank S. Solomon, et ux., recorded June 7, 1954 as Instrument No. 9403 in Book 1244, Page 289, of Official Records, records of said County, said 1/2 Inch survey pipe being set at the Southeast corner of the parcel of land described in the deed from Frank S. Solomon, et ux. to Dennis G. Karzag, et ux., recorded March 16, 1955 as Instrument No. 4909 in Book 1304, Page 187 of Official Records, records of said County; thence 1st, North 87°59' West along the Southerly line of said Karzag tract of land (at 361.62 feet a 1/2 Inch survey pipe set in the east line of Eucalyptus Hill Road), 381.62 feet to the Southwest corner of said Karzag tract of land, being a point in the centerline of said Eucalyptus Hill Road; thence 2nd, South 2°01' West along the centerline of Eucalyptus Hill Road, 114.14 feet to a point; thence 3rd, South 87°59' East at right angles, 381.62 feet to a 1/2 inch survey pipe set in the Easterly line of said Solomon tract of land, from which the Southeast corner of said Solomon tract of land bears South 2°01' West, 65.72 feet distant; thence 4th, North 2°01' East along said Easterly line, 114.14 feet to the point of beginning.

APN: Ptn 13-191-12 ~~sp-011304~~

14CC30

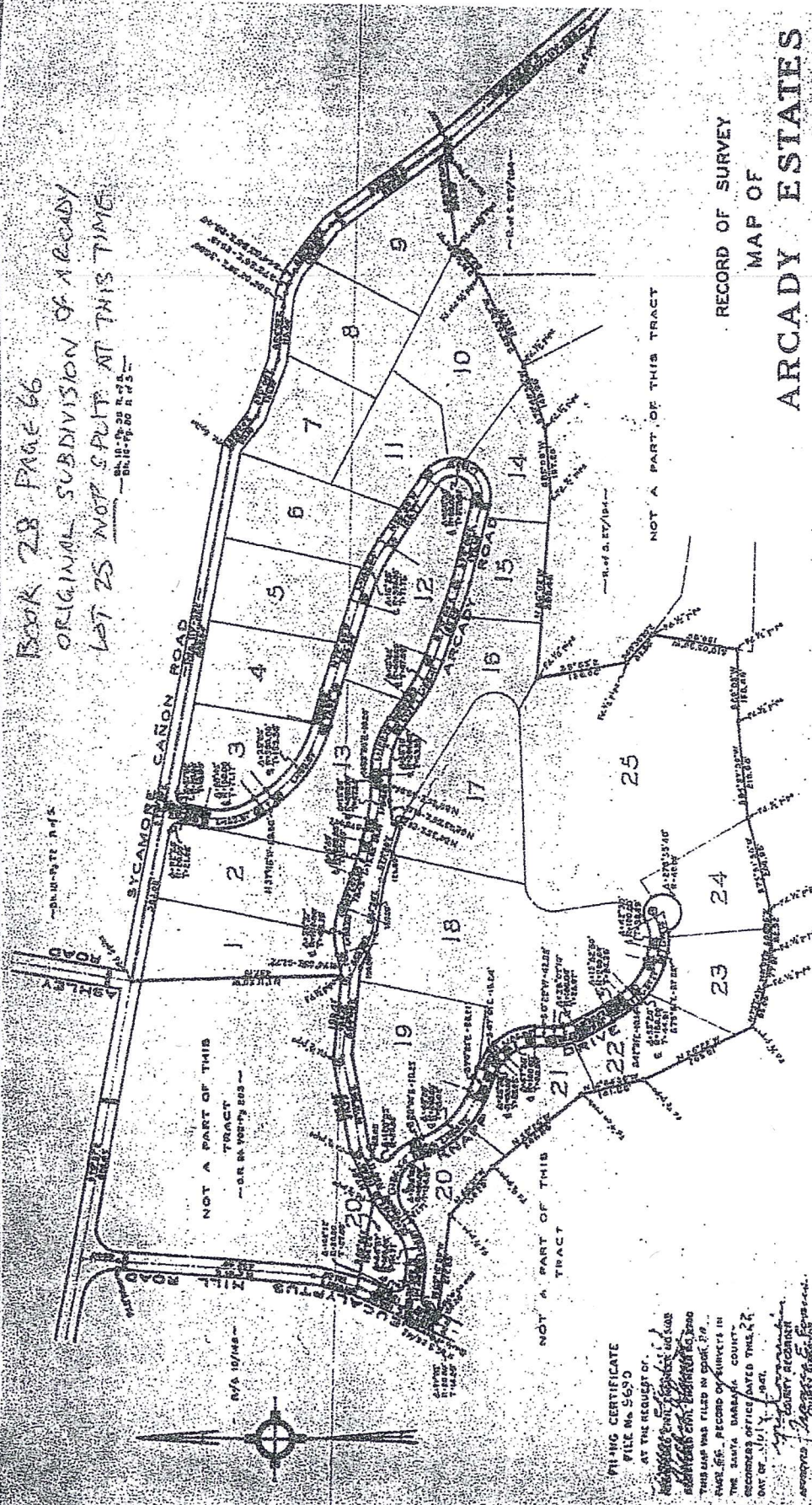
2 3 of 4

EXHIBIT B
14CC 30



NO SCALE
N

BOOK 28 PAGE 66
ORIGINAL SUBDIVISION OF ARCADY
LOT 25 NOT SPLIT AT THIS TIME



RECORD OF SURVEY

MAP OF

ARCADY ESTATES

BEING A PORTION OF "ARCADY" AND A
PORTION OF THE OUTSIDE PUEBLO LAND;

SANTA BARBARA COUNTY, CALIFORNIA

PENFIELD E. SMITH - ENGINEERS

JULY, 1947

SCALE: 1" = 150'

I HEREBY CERTIFY THAT I HAVE EXAMINED THIS MAP THAT ALL CONDITIONS OF THE MAP HAVE BEEN FULLY COMPLIED WITH AND THAT I AM SAVING THE POSITION AND INFORMATION IS SUBSTANTIALLY THE SAME AS IT APPEARS ON THE TENTATIVE MAP

[Signature]
COUNTY SURVEYOR

I DO HEREBY CERTIFY TO THE BOARD OF SUPERVISORS OF SANTA BARBARA COUNTY APPROVES THIS MAP AND THE INFORMATION CONTAINED THEREIN AS TRUE AND CORRECT AND THAT THE INFORMATION CONTAINED THEREIN IS SUBSTANTIALLY THE SAME AS IT APPEARS ON THE TENTATIVE MAP

[Signature]
COUNTY CLERK

BY WILLIAM F. PENFIELD AND OTHERS ENGINEERS
REGISTERED CIVIL ENGINEERS IN SANTA BARBARA COUNTY
THIS MAP WAS FILED IN BOOK 28 PAGE 66 RECORD OF SURVEY IN THE SANTA BARBARA COUNTY RECORDS OFFICE JANUARY 24, 1947.

[Signature]
COUNTY CLERK

FILING CERTIFICATE
FILE No. 5650

AT THE REQUEST OF

[Signature]
COUNTY ENGINEER

NOTE: CIRCLES TRUSTED PRINTED STATISTICAL BUREAU AND THE SURVEYOR'S NAME AND ADDRESS AS SHOWN ON THE TENTATIVE MAP.

ATTACHMENT A: FINDINGS

1.0 CEQA FINDINGS

The Montecito Planning Commission finds that the proposed project is exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15305(a). Please see Attachment C, Notice of Exemption.

2.0 ADMINISTRATIVE FINDINGS

2.1 CHAPTER 21 LOT LINE ADJUSTMENT FINDINGS

Finding required for all Lot Line Adjustments. In compliance with Section 21-93 of Chapter 21 (Subdivision Regulations), prior to the approval or conditional approval of an application for a Lot Line Adjustment the review authority shall first make all of the following findings:

2.1.1 The Lot Line Adjustment is in conformity with the County General Plan and purposes and policies of Chapter 35 of this Code, the Zoning Ordinance of the County of Santa Barbara.

As discussed in Sections 6.2 and 6.3 of this staff report dated October 16, 2019, herein incorporated by reference, the project is consistent with all applicable provisions of the Comprehensive Plan, including the Montecito Community Plan, and the Montecito Land Use and Development Code (MLUDC). Therefore, this finding can be made.

2.1.2 No parcel involved in the Lot Line Adjustment that conforms to the minimum parcel size of the zone district in which it is located shall become nonconforming as to parcel size as a result of the Lot Line Adjustment.

As discussed in Sections 6.2 and 6.3 of this staff report dated October 16, 2019 and herein incorporated by reference, the two subject lots are legal albeit nonconforming as to size. The proposed Lot Line Adjustment (LLA) would not convert a parcel that is currently conforming as to size prior to the adjustment to non-conforming as to size as a result of the adjustment. Therefore, this finding can be made.

2.1.3 Except as provided herein, all parcels resulting from the Lot Line Adjustment shall meet the minimum parcel size requirement of the zone district in which the parcel is located. A Lot Line Adjustment may be approved that results in nonconforming (as to size) parcels provided that it complies with Subsection a. or b. listed below:

- a. The Lot Line Adjustment satisfies all of the following requirements:**
- (1) Four or fewer existing parcels are involved in the adjustment;**
 - (2) The Lot Line Adjustment shall not result in increased subdivision potential for any affected parcel; and**
 - (3) The Lot Line Adjustment shall not result in a greater number of residential developable parcels than existed prior to the adjustment. For the purposes of this subsection only, a parcel shall not be deemed residentially developable if the documents reflecting its approval and/or creation identify that: 1) the parcel is not a building site, or 2) the parcel is designated for a non-residential purpose including, but not limited to, well sites, reservoirs and roads. A parcel shall be deemed residentially developable for the purposes of this subsection if it has an existing single family dwelling constructed pursuant to a valid County permit.**
- (b) Otherwise, to be deemed a residentially developable parcel for the purposes of this subsection only, existing and proposed parcels shall satisfy all of the following criteria as set forth in the County Comprehensive Plan and zoning and building ordinances:**
- (a) Water supply. The parcel shall have adequate water resources to serve the estimated interior and exterior needs for residential development as follows: 1) a letter of service from the appropriate district or company shall document that adequate water service is available to the parcel and that such service is in compliance with the Company's Domestic Water Supply Permit; or 2) a County approved onsite or offsite well or shared water system serving the parcel that meets the applicable water well requirements of the County Environmental Health Services.**
 - (b) Sewage disposal. The parcel is served by a public sewer system and a letter of available service can be obtained from the appropriate public sewer district. A parcel to be served by a private sewage disposal (septic) system shall meet all applicable County requirements for permitting and installation, including percolation tests, as determined by Environmental Health Services.**

- (c) Access. The parcel is currently served by an existing private road meeting applicable fire agency roadway standards that connects to a public road or right-of-way easement, or can establish legal access to a public road or right-of-way easement meeting applicable fire agency roadway standards.**
- (d) Slope stability. Development of the parcel including infrastructure avoids slopes of 30 percent and greater.**
- (e) Agriculture viability. Development of the parcel shall not threaten or impair agricultural viability on productive agriculture lands within or adjacent to the property.**
- (f) Environmentally sensitive habitat. Development of the parcel avoids or minimizes impacts where appropriate to environmentally sensitive habitat and buffer areas, and riparian corridor and buffer areas.**
- (g) Hazards. Development of the parcel shall not result in a hazard to life and property. Potential hazards include, but are not limited to flood, geologic and fire.**
- (h) Consistency with Comprehensive Plan and Development Code. Development of the parcel is consistent with the setback, lot coverage and parking requirements of the zoning ordinance and consistent with the Comprehensive Plan and the public health, safety and welfare of the community.**
- (i) To provide notification to existing and subsequent property owners when a finding is made that the parcel(s) is deemed not to be residentially developable, a statement of this finding shall be recorded concurrently with the deed of the parcel, pursuant to Section 21-92 (Procedures) of Chapter 21 of the Santa Barbara County Code.**

As discussed in Section 6.3 of this staff report dated October 16, 2019 herein incorporated by reference, the two subject lots are legal, nonconforming parcels as to lot size and will not result in increased subdivision potential. The same number of lots will exist before and after the LLA. During the creation of the subject lots,

neither lot was excluded from future construction or designated for a non-residential purposes including, but not limited to, well sites, reservoirs and roads. Lot 2 is currently developed with a single family dwelling constructed with a valid County Permit. Lot 1 and Lot 2 are considered to be residentially developable pursuant to Section 21-93(a)(3)(A)(iii) of Chapter 21 Subdivision Regulations of the Santa Barbara County Code. Therefore, the project meeting the requirements of the subsection (a) of this finding.

Both lots will be served by the Montecito Water District (letter dated June 5, 2019), the Montecito Sanitary District (letter dated September 16, 2019) pursuant to the services letters provided in Attachment E, herein incorporated by reference, as well as the Montecito Fire District and the County Sheriff. Lot 1 is accessible from Eucalyptus Road, a public road, and Lot 2 is served by Arcady Road, an existing private road. No environmentally sensitive habitat, including riparian corridors and associated buffer areas are located on either parcel. Neither lot is located within a designated flood plain or is known to have problem soils or unique geologic constraints. The existing and permitted single family dwelling is currently located atop Lot 1 and Lot 2's shared property line. As discussed in Section 6.3 of this staff report, the approval of the proposed LLA will adjust the common property line, bringing the existing dwelling into conformance with the MLUDC setback requirements. Lot 1 will remain vacant until such time as the property owner submits a permit application for development. Therefore, these findings can be made.

2.1.4 The Lot Line Adjustment will not increase any violation of parcel width, setback, lot coverage, parking or other similar requirement of the applicable zone district or make an existing violation more onerous.

The existing single family dwelling is currently located on Lot 1 and Lot 2's shared property line. As discussed in Section 6.3 of this staff report dated October 16, 2019, herein incorporated by reference, approval of the LLA will allow the existing permitted development to come into conformance with the applicable setbacks of the 2-E-1 zone district by relocating the property line over 25-feet from the existing dwelling. The subject properties are nonconforming as to minimum parcel size and will remain nonconforming after the Lot Line Adjustment. Therefore, this finding can be made.

2.1.5 The subject properties are in compliance with all laws, rules and regulations pertaining to zoning uses, setbacks and any other applicable provisions of this Article or the Lot Line Adjustment has been conditioned to require compliance with such rules and regulations and such zoning violation fees imposed pursuant to applicable

law have been paid. This finding shall not be interpreted to impose new requirements on legal nonconforming uses and structures under the respective county ordinances [the Montecito Land Use and Development Code (Section 35.491.020 and 35.491.030)].

Although the creation of the two legal lots resulted in the dwelling being located on the common lot line, no formal violation was established and no fees were imposed. As discussed in Section 6.3 of this staff report dated October 16, 2019, the approval of the proposed LLA will adjust the property lines, bringing the existing dwelling into conformance with the MLUDC setback requirements by relocating the property line over 25 feet from the existing single family dwelling. Upon approval of the LLA, the existing residence will meet the setback requirements of the 2-E-1 zone district, and will continue to adhere to its permitted existence. The reconfigured lots will be in full compliance with all laws, rules and regulations pertaining to zoning uses, setbacks and other applicable provisions of the County Subdivision Regulations (Chapter 21) and the MLUDC. The subject properties are nonconforming as to minimum parcel size and will remain nonconforming after the Lot Line Adjustment. No new requirements on legal nonconforming uses and structures under the Montecito Land Use and Development Code (Section 35.491.020 and 35.491.030) will be imposed. Lot 1 will remain vacant until such time as the property owner submits a permit application for development. All future development will be required to comply with the MLUDC and the Montecito Community Plan. Therefore, this finding can be made.

2.1.6 Conditions have been imposed to facilitate the relocation of existing utilities, infrastructure and easements.

No existing utilities, infrastructure, or easements will need to be relocated to accommodate the Lot Line Adjustment. Therefore, this finding can be made.

2.2 MLUDC LOT LINE ADJUSTMENT FINDINGS

Findings required for all Lot Line Adjustments. In compliance with Subsection 35.430.110.B of the Montecito Land Use and Development Code, prior to the approval or conditional approval of an application for a Modification the review authority shall make first all of the following findings:

2.2.1 The Lot Line Adjustment is in conformity with all applicable provisions of the Comprehensive Plan, including the Montecito Community Plan, and the Montecito Land Use and Development Code.

As discussed in Sections 6.2 and 6.3 of this staff report dated October 16, 2019, herein incorporated by reference, the project is consistent with all applicable provisions of the Comprehensive Plan, including the Montecito Community Plan, and the Montecito Land Use and Development Code (MLUDC). Therefore, this finding can be made.

2.2.2 No lot involved in the Lot Line Adjustment whose area is equal to or greater than the lot area requirement of the applicable zone shall become smaller than the minimum lot area requirement of the applicable zone as a result of the Lot Line Adjustment.

As discussed in Sections 6.2 and 6.3 of this staff report dated October 16, 2019 and herein incorporated by reference, the two subject lots are both legal albeit nonconforming as to size. The proposed Lot Line Adjustment (LLA) would not convert a parcel that is currently conforming as to size prior to the adjustment to non-conforming as to size as a result of the adjustment. Therefore, this finding can be made.

2.2.3 Except as provided in this Section, all lots resulting from the Lot Line Adjustment shall comply with the minimum lot area requirements of the applicable zone. A Lot Line Adjustment may be approved that results in one or more lots that are smaller than the minimum lot area requirement of the applicable zone provided it complies with all of the following requirements.

(a) The Lot Line Adjustment shall not result in increased subdivision potential for any lot involved in the Lot Line Adjustment.

(b) The Lot Line Adjustment will not result in a greater number of residentially developable lots than existed prior to the adjustment. For the purposes of this Subsection only, a lot shall not be deemed residentially developable if the documents reflecting its approval and/or creation identify that: 1) the lot is not a building site, or 2) the lot is designated for a non-residential purpose including well sites, reservoirs and roads. A lot shall be deemed residentially developable for the purposes of this Subsection if it has an existing one-family dwelling constructed in compliance with a valid County permit, or existing and proposed lots comply with all of the following criteria.

(1) Water supply. The lot shall have adequate water resources to serve the estimated interior and exterior needs for residential development as follows: 1) a letter of service from the appropriate district or company shall document that adequate water service is available to the lot and that the service complies with the Company's Domestic Water Supply Permit; or 2) a Public Health Department or State approved water system.

- (2) Sewage disposal. The parcel is served by a public sewer system and a letter of available service can be obtained from the appropriate public sewer district. A parcel to be served by a private sewage disposal (septic) system shall meet all applicable County requirements for permitting and installation, including percolation tests, as determined by Environmental Health Services.**
- (3) Access. The parcel is currently served by an existing private road meeting applicable fire agency roadway standards that connects to a public road or right-of-way easement, or can establish legal access to a public road or right-of-way easement meeting applicable fire agency roadway standards.**
- (4) Slope stability. Development of the parcel including infrastructure avoids slopes of 30 percent and greater.**
- (5) Agriculture viability. Development of the parcel shall not threaten or impair agricultural viability on productive agriculture lands within or adjacent to the property.**
- (6) Environmentally sensitive habitat. Development of the parcel avoids or minimizes impacts where appropriate to environmentally sensitive habitat and buffer areas, and riparian corridor and buffer areas.**
- (7) Hazards. Development of the parcel shall not result in a hazard to life and property. Potential hazards include, but are not limited to flood, geologic and fire.**
- (8) Consistency with Comprehensive Plan and Development Code. Development of the parcel is consistent with the setback, lot coverage and parking requirements of the zoning ordinance and consistent with the Comprehensive Plan and the public health, safety and welfare of the community.**

As discussed in Section 6.3 of this staff report dated October 16, 2019 herein incorporated by reference, the two subject lots are legal, nonconforming parcels as to lot size and will not result in increased subdivision potential. The same number of lots will exist before and after the LLA. During the creation of the subject lots, neither lot was excluded from future construction or designated for a non-residential purposes including, but not limited to, well sites, reservoirs and roads.

Lot 2 is currently developed with a single family dwelling constructed with a valid County Permit. Lot 1 and Lot 2 are considered to be residentially developable pursuant to Section 21-93(a)(3)(A)(iii) of Chapter 21 Subdivision Regulations of the Santa Barbara County Code.

Both lots will be served by the Montecito Water District, the Montecito Sanitary District pursuant to the services letters provided in Attachment E, herein incorporated by reference, as well as the Montecito Fire District and the County Sheriff. Lot 1 is accessible from Eucalyptus Road, a public road, and Lot 2 is served by Arcady Road, an existing private road. No environmentally sensitive habitat, including riparian corridors and associated buffer areas are located on either parcel. Neither lot is located within a designated flood plain or is known to have problem soils or unique geologic constraints. The existing and permitted single family dwelling is currently located atop Lot 1 and Lot 2's shared property line. As discussed in Section 6.3 of this staff report, the approval of the proposed LLA will adjust the common property line, bringing the existing dwelling into conformance with the MLUDC setback requirements. Lot 1 will remain vacant until such time as the property owner submits a permit application for development. Therefore, these findings can be made.

2.2.4 The Lot Line Adjustment will not increase any violation of lot width, setback, lot coverage, parking or other similar requirement of the applicable zone district, or make an existing violation more onerous.

The existing single family dwelling is currently located atop Lot 1 and Lot 2's shared property line. As discussed in Section 6.3 of this staff report dated October 16, 2019, herein incorporated by reference, approval of the LLA will allow the existing permitted development to come into conformance with the applicable setbacks of the 2-E-1 zone district. To staff's knowledge the existing dwelling remains in conformance with its permit conditions. Therefore, this finding can be made.

2.2.5 The affected lots are in compliance with all laws, rules and regulations pertaining to zoning uses, setbacks and any other applicable provisions of the Montecito Land Use and Development Code, or the Lot Line Adjustment has been conditioned to require compliance with these rules and regulations, and any zoning violation fees imposed in compliance with applicable law have been paid. This finding shall not be interpreted to impose new requirements on legal nonconforming uses and structures under the requirements of Chapter 35.491 (Nonconforming Uses, Structures, and Lots).

As detailed in Section 5.4 of this staff report dated October 16, 2019, herein incorporated by reference, a Certificate of Compliance was approved by the County's Board of Supervisors in 2015 which created two separate legal lots. The two legal lots retained the existing APN boundaries. Once these two lots were created, the single family dwelling was effectively situated atop the shared property line and was therefore no longer compliant with the MLUDC development standards for the 2-E-1 zone district. Although the creation of the two lots resulted in the dwelling being spilt by the common lot line, no violation was imposed and no fees were collected.

As discussed in Section 6.3 of this staff report dated October 16, 2019, the approval of the proposed LLA will adjust the property lines, bringing the existing dwelling into conformance with the MLUDC setback requirements. Upon approval of the LLA, the existing residence will meet the setback requirements of the 2-E-1 zone district, and will continue to adhere to its permitted existence. Lot 1 will remain vacant until such time as the property owner submits a permit application for development. All future development will be required to comply with the MLUDC and the Montecito Community Plan. Therefore, this finding can be made.

2.2.6 Conditions have been imposed to facilitate the relocation of existing utilities, infrastructure and easements.

No existing utilities, infrastructure, or easements will need to be relocated to accommodate the Lot Line Adjustment. Therefore, this finding can be made.