

EXHIBIT C
RECOMMENDED FINDINGS AND EVIDENCE
LOT LINE ADJUSTMENT (PLN980516)

Before the Board of Supervisors in and for the
County of Monterey, State of California

In the matter of the application of:
MOHSIN/RIEHL (PLN980516)

Resolution No. _____
Resolution of the Monterey County Board of Supervisors approving a Lot Line Adjustment of 3.47 acres between two parcels reducing APN: 167-061-032-000 (Riehl) from 52.0 acres to 48.53 acres and increasing APN: 167-061-033-000 (Mohsin) from 245.51 acres to 249.0 acres. The project is located at 874, 884 and 870 River Road, Toro Area Plan.

A Lot Line Adjustment transferring 3.47 acres from Robert and Nancy Riehl’s property (APN 167-061-032-000) to the Mohsin property (APN 167-061-033-000) came on for public hearing as part of the hearing on the application of Mohsin-Samoske-Riehl (PLN980516/) before the Monterey County Board of Supervisors on May 19, 2009. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Board of Supervisors finds and decides as follows:

I. FINDINGS

1. **FINDING:** **CONSISTENCY** – The Lot Line Adjustment (see **Attachment 1**), as conditioned (see **Attachment 2**), is consistent with the applicable plans and policies which designate this area as appropriate for development.
- EVIDENCE:** a) A Lot Line Adjustment is required as part of a purchase and sales agreement between Robert and Nancy Riehl’s property (APN 167-061-032) and the Mohsin property (APN 167-061-033). The Lot Line Adjustment would transfer 3.47 acres from the Riehl property to the 245.51 acre Mohsin parcel, increasing the size of the Mohsin parcel to 249 acres. The Lot Line Adjustment intends to create land holdings that conform to natural topographic features, bench land and dissecting arroyo or eroded gully dividing the property. The size of the parcels before the adjustment is as follows:
1. APN 167-061-033-000 is approximately 245.51 acres.
 2. APN 167-061-032-000 is approximately 52.0 acres.
- The size of the parcels after the adjustment would be as follows:
1. APN 167-061-033 would be approximately 249.0 acres.
 2. APN 167-061-032 would be approximately 48.53 acres.
- While the Lot Line Adjustment is part of the larger Mohsin-Samoske project (PLN980516), it is a separate action whose validity is independent of action on the larger project. The Lot Line Adjustment, as conditioned, conforms to the policies, requirements, and standards of

the Monterey County General Plan, as amended, Toro Area Plan, as amended, Toro Area Plan Inventory and Analysis, Monterey County Subdivision Ordinance (Title 19), and the Monterey County Zoning Ordinance (Title 21). No conflicts were found to exist applicable to the subject Lot Line Adjustment.

- b) The project planner conducted a site inspection on August 3, 2006 to verify that the project on the subject parcel conforms to the plans listed above.
- c) The project, and changes thereto, has been referred to the Toro Land Use Advisory Committee (LUAC) on three occasions:
October 13, 1998: voted 3-1-1-0 opposing the proposed project.
July 8, 2002: voted 3-2 supporting a proposed change of the subject property's land use designation in the draft General Plan update and rezoning from agricultural to low density residential designation.
November 10, 2008: voted 7-1 supporting the Lot Line Adjustment and 8-0 opposing the General Plan Amendment, Rezoning, and Combined Development Permit.
- d) The Subdivision Committee held a duly noticed public hearing on October 30, 2008 and recommended approval of the Lot Line Adjustment.
- e) On December 10, 2008, January 28, 2009 and March 11, 2009 the Planning Commission held duly noticed public hearings on the project. On March 11, 2009 the Planning Commission voted 5-2 with one abstention to recommend that the Board of Supervisors approve the Lot Line Adjustment (Resolution No. 09012, on file in the RMA-Planning Department, 168 West Alisal, Salinas).
- f) On April 21, 2009, the Board of Supervisors continued the public hearing on the project to May 5, 2009. On May 5, 2009, the Board of Supervisors continued the public hearing to May 19, 2009.
- 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 PLN980516.

2. **FINDING:** **SUBDIVISION ORDINANCE (TITLE 19)** – All of the findings required under Government Code Section 66412(d) and, to the extent not preempted by State law, Section 19.09.025.B of the Subdivision Ordinance can be made.

- EVIDENCE:**
- a) *The lot line adjustment is among four or fewer existing adjoining parcels.* The Lot line Adjustment is between two adjacent parcels of 50.0 acres (Riehl) and 239.7 acres (Mohsin). The Lot Line Adjustment will allow the transfer of 3.47 acres from Robert and Nancy Riehl's property (APN 167-061-032-000) to the Mohsin property (APN 167-061-033-000). Two legal lots of record exist at the time of lot line adjustment and two legal lots of record will exist after completion of the lot line adjustment. Staff review of the Assessor's Map Book for 1972 indicated that the two parcels were established at the time that state law required subdivision processing to create legal lots of record, and that they are therefore presumed to be legal lots of record.
 - b) *A greater number of parcels than originally existed will not be created as a result of the lot line adjustment.* No additional parcels will be

created by the Lot Line Adjustment. The proposal is an equal exchange of land between two existing adjacent parcels.

- c) *The parcels resulting from the lot line adjustment conforms to the County zoning and building ordinances.* Each newly configured parcel will conform to the County zoning and building ordinances with regard to residential use, minimum lot size, density regulations.

3. **FINDING:** **CEQA** – The EIR prepared for the Mohsin-Samoske project (PLN980516) analyzed the environmental impacts associated with the Lot Line Adjustment.

- EVIDENCE:**
- a) On March 11, 2009, the Planning Commission adopted a resolution recommending that the Board of Supervisors certify the EIR for the project, approve a mitigation monitoring and reporting plan and adopt a statement of overriding considerations.
 - b) Prior to taking this action, the Board of Supervisors adopted a resolution certifying the EIR and adopting a statement of overriding considerations.

4. **FINDING:** **HEALTH AND SAFETY** - The establishment, maintenance, or operation of the project applied for will not under the circumstances of this particular case be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.

- EVIDENCE:**
- a) The project was reviewed by Planning, Water Resources Agency, Environmental Health, Public Works, and Salinas Rural Fire. The respective departments/agencies have recommended conditions. The Lot Line Adjustment is conditioned in accordance with requirements allowed under Government Code Section 66412(d). The applicant has agreed to these conditions as evidenced by the application and accompanying materials and conditions (see **Attachment 2**).
 - b) The two properties have existing residences and necessary facilities exist for the two parcels.
 - c) Preceding findings and supporting evidence.

5. **FINDING:** **NO VIOLATIONS** – On March 12, 2009, the County received a complaint regarding a potential Code violation (CE090103) in regard to grading for roads and two stock ponds on the proposed remainder parcel (870 River Road, Mohsin). County staff conducted an investigation and found no conclusive evidence of a code violation. The ponds and roads appear to have been created as part of a historical cattle operation prior to the time when a County permit would have been required. While evidence of recent grading work was found near one of the ponds, it was determined that the work was done as maintenance for the pre-existing road and therefore no permit was required. In conclusion, the subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of the County’s zoning ordinance. No violations exist on the property.

- EVIDENCE:**
- a) Staff reviewed Monterey County RMA - Planning Department and Building Services Department Monterey County records and is not aware of any violations existing on subject property.
 - b) Staff conducted numerous site visits to verify that there are no violations on the subject parcel.
 - c) E-mail message regarding Mohsin's Stock Pond from Assistant Planning Director dated May 7, 2009.
 - d) Memorandum regarding CE090103 from Building Services Department Management Specialist dated May 7, 2009.
 - 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 Files PLN980516.

DECISION

NOW, THEREFORE, based on the above findings and evidence, the Board of Supervisors does hereby approve a Lot Line Adjustment (see **Attachment 1**) transferring 3.47 acres from Robert and Nancy Riehl's property (APN 167-061-032) to the Mohsin property (APN 167-061-033), in general conformance with the sketch attached hereto as Exhibit 1 and incorporated herein by reference, and subject to the conditions attached hereto as **Attachment 2**.

PASSED AND ADOPTED this 19th of May, 2009 by the following vote:

AYES: Supervisors

NOES:

ABSENT:

By _____
Lou Calcagno, Chair
Monterey County Board of Supervisors

ATTEST:

Gail T. Borkowski

Clerk of the Board of Supervisors

By: _____
Deputy

Attachment 1 – Lot Line Adjustment Map

Attachment 2 – Conditions of Approval

ATTACHMENT 2 Monterey County Resources Management Agency Planning Department Condition Compliance Plan	Project Name: <u>Mused and Terry Mohsin and Robert and Nancy Riehl</u> File No: <u>PLN980516</u> APNs: <u>167-061-032-000 & 167-061-033-000</u> Approved by: <u>Board of Supervisors</u> Date: <u>April 21, 2009</u>
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**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.		PD001 - SPECIFIC USES ONLY This Lot Line Adjustment (PLN980516) allows the transfer of 3.47 acres from Robert and Nancy Riehl's property (APN 167-061-032-000) to the Mohsin property (APN 167-061-033-000). The property is located at 884 & 870 River Road. 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 subsequent legal action. No use or	Adhere to conditions and uses specified in the permit.	Owner/ Applicant	Ongoing unless otherwise stated	

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		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 Lot Line Adjustment (Resolution _____) was approved by the Board of Supervisors for Assessor's Parcel Numbers 167-061-033-000 and 167-061-032 on April 21, 2009. The permit was granted subject to 6 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.	

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3.		<p>PD004 - INDEMNIFICATION AGREEMENT</p> <p>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, 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</p>	<p>Submit signed and notarized Indemnification Agreement to the Director of RMA – Planning Department for review and signature by the County.</p> <p>Proof of recordation of the Indemnification Agreement, as outlined, shall be submitted to the RMA – Planning Department.</p>	Owner/ Applicant	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	

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		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)				
4.		PD045 – CERTIFICATES OF COMPLIANCE (LOT LINE ADJUSTMENTS) The applicant shall request unconditional certificates of compliance for the newly configured parcels. (RMA – Planning Department)	The Surveyor shall prepare legal descriptions for each newly configured parcel. 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 <i>Monterey County Recorder</i> , for the appropriate fees to record the certificates.	Owner/ Applicant/ Surveyor	Concurrent with recording the Record of 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	

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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	