

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST AREA OFFICE

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W13a



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Hearing Open: 11/06/97
Hearing Date: 3/11/98

STAFF REPORT: APPEAL
SUBSTANTIAL ISSUE & COASTAL PERMIT REVIEW

LOCAL GOVERNMENT: County of Monterey

DECISION: Approval with Conditions (See Exhibit 2)

APPEAL NO.: A-3-MCO-97-079

APPLICANT: DALE FEHR; JAMES & LORETTA SANDERSON

PROJECT LOCATION: Ormart Road, on south side of Castroville Boulevard, North Monterey County (Monterey County) (APN(s) 131-041-22, 131-041-27, 131-042-28, 131-042-01, 131-041-23, 131-042-24, 000-000-12) (see Exhibit 1)

PROJECT DESCRIPTION: Major lot line adjustment among five parcels (totaling 24.4 acres) which will result in creation of one new buildable parcel. (see Exhibit 4)

APPELLANTS: Commissioner Sara Wan; Commissioner Rusty Areias

FILE DOCUMENTS: Monterey County Coastal Development Permit 965036; Monterey County Certified Local Coastal Program including *North Coast Land Use Plan* and *Monterey County Coastal Implementation Plan*; Coastal Permits files 3-82-168 & 3-82-247; Flood Insurance Rate Map and Floodway Map, Monterey County Panel 52.

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends that the Commission determine that a **substantial issue** exists with respect to the grounds on which the appeal has been filed and that, after a de novo hearing, the Commission **deny** a coastal permit for the proposed lot line adjustment. This is because the resulting lots do not meet all Local Coastal Program (LCP) requirements,

such as for minimum density and avoidance of ridgeline development, as discussed in the recommended findings. The purpose of the lot line adjustment application is for each of the five lots to be buildable. The aggregate acreage of the five lots is not, however, sufficient to create five, at least five acre lots as required by the zoning.

TABLE OF CONTENTS

I. APPELLANTS' CONTENTIONS.....	2
II. LOCAL GOVERNMENT ACTION.....	3
III. APPEAL PROCEDURES.....	3
IV. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE.....	4
V. STAFF RECOMMENDATION ON COASTAL PERMIT.....	4
VI. RECOMMENDED FINDINGS AND DECLARATIONS.....	5
A. BACKGROUND.....	5
B. ANALYSIS OF CONSISTENCY WITH LCP.....	6
EXHIBITS	
1. LOCATION MAP	
2. COUNTY PERMIT FINDINGS AND CONDITIONS	
3. EXISTING PARCEL CONFIGURATION	
4. PROPOSED PARCEL CONFIGURATION	
5. APPELLANTS' CONTENTIONS	

I. APPELLANTS' CONTENTIONS

A. There are two Commissioner appellants who both contend in full:

- 1) Zoning Map: minimum parcel size is 5 acres. The approval is for a parcel of less than 5 acres (4.3 acres).
- 2) 20.144.030A6: Ridgeline development not allowed unless no alternatives. The approval is said to potentially result in ridgeline development, but here is nothing in the findings to indicate that alternatives were investigated.
- 3) 20.144.030A.7: Lot line adjustments shall not reconfigure a lot to result in ridgeline development. The approval is said to potentially result in ridgeline development.
- 4) 20.144.040A: Biological Survey required if potential environmentally sensitive habitat. The approval involves a "man-made" pond with no findings as to whether it is a wetland and/or harbors endangered species.
- 5) 20.144.040B: Criteria for developing/preserving environmentally sensitive habitats. Without a finding regarding possible environmentally sensitive habitat, it is possible that this approval is inconsistent with these provisions.

- 6) LUP Policy 4.3.6D3: Low density areas --housing densities and lot sizes shall be consistent with the ability of septic systems to dispose of waste without problems. The approval is for five parcels and sizes that according to the Initial Study may be problematic for septic systems.

II. LOCAL GOVERNMENT ACTION

The Monterey County Minor Subdivision Committee approved a coastal permit for the proposed lot line adjustment project with 9 conditions on September 11, 1997 (see Exhibit 2). The County's final action was received by the Coastal Commission on September 22, 1997, triggering an appeal period running from September 23, 1997 through October 7, 1997.

III. APPEAL PROCEDURES

After certification of Local Coastal Programs (LCPs), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits. Developments approved by cities or counties may be appealed if they are located within the mapped appealable areas, such as those located between the sea and the first public road paralleling the sea. Furthermore, developments approved by counties may be appealed if they are not the designated "principal permitted use" under the certified LCP. This project is appealable because lot line adjustments are shown as conditional uses in the LDR and RDR zoning districts in which the subject property is located. Also, a portion of the site is within the mapped appeal area. The statement on the County approval that the permit is not appealable is in error. Finally developments which constitute major public works or major energy facilities may be appealed, whether approved or denied by a city or county (Coastal Act Section 30603(a)).

For projects not located between the sea and the first public road paralleling the sea, which is the case for this project, the grounds for an appeal shall be limited to an allegation that the development does not conform to the certified LCP (Coastal Act Section 30603(b)(1)). For projects located between the sea and the first public road paralleling the sea, the grounds for appeal to the Coastal Commission can also include an allegation that the development does not conform to the public access and recreation policies of the Coastal Act.

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue is raised by the appeal. If the staff recommends "substantial issue," which is the case here, and no Commissioner objects, the substantial issue question will be considered moot, and the Commission will proceed directly to a de novo public hearing on the merits of the project.

If the staff recommends "no substantial issue" or the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have 3 minutes per side to address whether the appeal raises a substantial issue. It takes a majority of Commissioners present to find that no substantial issue is raised. If substantial issue is found, the Commission will proceed to a full public hearing on the merits of the project. If the Commission conducts a de novo hearing on the permit application, the applicable test for the Commission to consider is whether the proposed development is in conformity with the certified Local Coastal Program.

In addition, for projects located between the sea and the first public road paralleling the sea, Section 30604(c) of the Coastal Act requires that a finding must be made by the approving agency, whether the local government or the Coastal Commission on appeal, that the development is in conformity with the public access and public recreation policies of Chapter 3 of the Coastal Act.

The only persons qualified to testify before the Commission on the substantial issue question are the applicant, persons who made their views known before the local government (or their representatives), and the local government. Testimony from other persons regarding substantial issue must be submitted in writing. Any person may testify during the de novo stage of an appeal.

IV. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

The staff recommends that the Commission determine that substantial issue exists with respect to the grounds on which the appeal was filed, pursuant to Coastal Act Section 30603.

MOTION: Staff recommends a "NO" vote on the following motion:

I move that the Commission determine that Appeal No. A-3-MCO-97-079 raises **no** substantial issue with respect to the grounds on which the appeal has been filed.

A majority of the Commissioners present is required to pass the motion.

V. STAFF RECOMMENDATION ON COASTAL PERMIT

Staff recommends that the Commission adopt the following resolution to deny a coastal permit:

MOTION: Staff recommends a "NO" vote on the following motion:

I move approval of coastal development permit A-3-MCO-97-079.

A majority of the Commissioners present is required to pass the motion.

RESOLUTION: Denial

The Commission hereby **denies** a permit for the a portion of the proposed development on the grounds that the development is not in conformance with the applicable provisions of the certified Monterey County Local Coastal Program.

VI. FINDINGS AND DECLARATIONS

The Commission finds and declares as follows:

A. Background

1. **Setting:**

The subject site located at the intersection of Castroville Boulevard and Dolan Road in North Monterey County is approximately 24.4 acres in total, according to the latest survey map. The subject area currently contains five parcels from west to east (see Exhibit 3):

- Fehr: AP#131-041-027 6.8 acres with house and horse riding academy (arena, barn); PG&E transmission line
- Fehr AP#131-041-028 6.9 acres with part of the horse riding academy (barn); PG&E transmission line
- Fehr AP#131-041-022 6.0 acres vacant except for PG&E transmission line
- Fehr AP#131-042-012 .01 acres (520 sq. ft) vacant
- Sanderson AP#131-042-01 5.1 acres: with house

The first three parcels are west of Ormart Road and slope upward from Castroville Boulevard. Historical maps show that the lower area is a remnant of Moro Cojo Slough, which currently contains a pond. Grassy slopes to the south are over 25%. A PG&E easement for transmission lines runs across the upper portion of the lots. There is a slight acreage discrepancy in the current and proposed map configurations: the former showing 19.7 acres west of Ormart Road and the latter, more recent (and presumably more accurate) one, showing only 19.3 acres. The other two subject parcels are east of Ormart Road. The larger one also slopes up to the south and contains a residence. Portions are tree-covered. The small 520 square foot parcel is vacant.

2. **Subject Permit Request:**

The proposed project is described in the County staff report as a lot line adjustment¹ between the subject five parcels totaling 24.4 acres. The resulting lots sizes from west to east will be 5, 5, 5, 4.3, and 5.1 acres (see Exhibit 4). Although still substandard, a new buildable lot will

¹ The County has processed this permit as a lot line adjustment however, and for the reasons discussed in the findings for denial, the Commission finds that it is more appropriately described as a redivision of land.

result because the 520 sq. ft. lot is reconfigured as a \pm 4.3 parcel on the other side of Ormart Rd. No physical development is proposed as part of the application. However, the County file includes an illustrative site plan showing residences with septic systems on the four resultant lots west of Ormart Road.

B. Analysis of Consistency with LCP

1. Appellants' Contention:

The appellants contend in full:

- 1) Zoning Map: minimum parcel size is 5 acres. The approval is for a parcel of less than 5 acres (4.3 acres).
- 2) 20.144.030A6: Ridgeline development not allowed unless no alternatives. The approval will result in ridgeline development, but there is nothing in the findings to indicate that alternatives were investigated.
- 3) 20.144.030A.7: Lot line adjustments shall not reconfigure a lot to result in ridgeline development. The approval is said to result in ridgeline development.
- 4) 20.144.040A: Biological Survey required if potential environmentally sensitive habitat. The approval involves a "man-made" pond which was historically identified as part of Moro Cojo Slough with no findings as to whether it is a wetland and/or harbors endangered species.
- 5) 20.144.040B: Criteria for developing/preserving environmentally sensitive habitats. Without a finding regarding possible environmentally sensitive habitat, it is possible that this approval is inconsistent with these provisions.
- 6) LUP Policy 4.3.6D3: Low density areas --housing densities and lot sizes shall be consistent with the ability of septic systems to dispose of waste without problems. The approval is for five parcels and sizes that according to the Initial Study may be problematic for septic systems.

2. Local Government Action:

The County approved the project with 9 conditions (see Exhibit 2). As contended, the County did not make any findings regarding habitat values on the site. The County findings justify the project as follows:

APN 131-042-012-000 is approximately 520 sq. ft. in size. As such the parcel is not developable. Approval of the lot line adjustment would result in the creation of one new buildable lot. While this small parcel appears to be a well lot, neither the original subdivision or title records indicate that the parcel was created as a well lot, nor was it

conveyed as such. As a result, County Counsel has stated that the unbuildable lot could be used in a lot line adjustment to create a buildable lot.

Ormart Road separates two of the five parcels. There was a question regarding whether this rendered the parcels non-contiguous, and therefore not eligible for a lot line adjustment. It has been determined by County Counsel that Ormart Rd. does not create a non-contiguous situation and the lot line adjustment could be processed.

The County conditioned the project to require the applicant to record a deed restriction agreeing to obtain future permits for a waiver of development on slopes over 25% and/or a coastal permit for ridgeline development (see Condition #6 of Exhibit 2).

3. Local Coastal Program Provisions

The appellants have adequately summarized the pertinent LCP provisions. The zoning of the subject site is Rural Density Residential 5 acre minimum west of Ormart Road and Low Density Residential 5 acre minimum east of Ormart Road. Additionally, *North County Land Use Plan* policy 2.8.2.5 states, "those portions of parcels which are unsuitable due to the presence of geologic, flood, or fire hazard, shall not be included in computations of density for proposed developments." According to the site plan, a substantial portion of the site on the west side of the Ormart Road is a pond and steep slopes present a geologic hazard.

Lot line adjustment procedures are found in the County's Subdivision Ordinance which is contained in the LCP. Lot line adjustments are considered major and thus subject to the provisions of the California Environmental Quality Act when they relocate the building area or have the potential to result in the creation of additional buildable lots. In order to approve a lot line adjustment, the Minor Subdivision Committee must find it in conformance with the County Zoning Ordinance, which is Title 20 for the Coastal Zone. As noted, however, the staff recommends that the County action results in a redivision rather than a lot line adjustment.

4. Substantial Issue Analysis

It is clear that the resulting project is inconsistent with various LCP policies i.e., with respect to both density and potential impacts on environmentally sensitive habitat and ridgeline development. The reconfigured parcels are not consistent with the minimum 5 acre zoning and building envelopes are located on the ridgeline. In fact the County approval was conditioned to acknowledge that policy variances or waivers to allow development on slopes over 25% or for ridgeline development would likely be required. There is no way the density standard of 5 acre minimum parcel size could be met, as a minimum of 25 acres is necessary to have five buildable lots. The total site area is about 24.4 acres. Therefore a substantial issue is raised.

With regard to the appellants' other contentions, they are supportive of the above analysis indicating the necessity of adequate land area to avoid adverse impacts from site constraints.

Although no structural development is proposed, the file includes an illustrative site plan for the area west of Ormart Road. It appears to be the only possible way to accommodate four homes; showing them on the upper portion of the proposed lots. The result would be ridgeline development as the appellants' contend. This is only addressed by the County to the extent that it would have to be evaluated in a future permit. Were the zoning density test met for the redivision, an approval would then have to resolve issues of wetland setbacks, ridgeline development, and septic constraints, which the County action has not completely done.

5. Coastal Permit Findings

a. Procedure:

Procedure Regardless of the County's characterization of the proposed project as a "lot line adjustment", the Commission finds that it is a redivision of the five parcels. The LCP includes a definition of development which defines it to mean "a change in the density or intensity of use of land, including but not limited to Subdivision Map Act (commencing with Section 66410 of the Government Code) and any other division of land, including lot splits. This definition applies to the applicant's project which proposes to modify existing property boundary lines to redivide five parcels into five differently configured parcels.

As the following finding states, the proposed redivision of land is inconsistent with the certified LCP.

b. Density:

The *North County Land Use Plan* designates the site as west of Ormart Road as "Rural Density Residential 5-40 acres/unit" and the site east of Ormart Road as "Low Density Residential 2.5 -10 acres/unit." The certified zoning for the existing three parcels west of Ormart Road is "Rural Density Residential" with five acre minimum building sites. The existing three parcels west of Ormart Road currently comply with minimum zoning standards, being each at least 6 acres. The two lots on the east side of Ormart Road are zoned "Low Density Residential", also with a five acre minimum parcel size. One of the parcels east of Ormart Road is ± 5 acres in size, the other is much smaller, only 520 sq. ft. in size, or about 1/90th of an acre. The five parcels proposed for the redivision total approximately 24.4 acres.

In order to comply with the minimum acreage per unit required by the *Land Use Plan* and the certified zoning, each parcel that results from the redivision must be at least five acres in size. It is impossible to obtain five, five acre lots from 24.4 acres of area, and the proposed lot line adjustment is no exception to this mathematical certainty. The resulting lots are estimated to be 5.0, 5.0, 5.0, 4.3 and 5.1 acres in size on the map in the file prepared by a surveying company.

c. Conclusion:

The redivision parcels is not consistent with the minimum zoning standards or the density provided in the Land Use Plan. In order for the Commission to approve the proposal, it would have to meet all the LCP standards for a redivision of parcels. The density and zoning require five acre minimum parcel sizes. The total acreage of the five parcels totals 24.3 acres. A minimum of 25 acres is needed. Additional acreage beyond this figure is required because of the presence of a floodplain, which does not count as net developable acreage under policy 2.8.2.5.

The proposed redivision is also inconsistent with LCP policies and zoning standards which prohibit development on ridgelines unless there is no alternative. The redivided site on the west side of Ormart Road contains a ridgeline and steep slopes. Although no structural development is proposed by this redivision, a site plan submitted as part of the County's record shows building envelopes on the ridgeline and, in their action, the County acknowledged this situation by conditioning their action to require a waiver from this requirement to be approved for subsequent development on the new parcels. The result of the County's action therefore is to create three new building sites on ridgetops. Under the existing parcelization, no new ridgeline parcels are created and it appears that only one of the existing two vacant parcels may not be able to accommodate development outside of either steep slopes or on a ridgeline.

The site also contains a large pond in the north-east portion of the property. The wetland and other habitat values of this area are not discussed in the County findings although the zoning ordinance requires that biological surveys should be undertaken when there is a potential, as there is here, for environmentally sensitive habitat to exist on the site. The ordinance also includes criteria for new development in areas of environmentally sensitive habitat. The County did not require a biological survey to determine habitat values and thus did not apply any limitations on the project regarding the protection of habitat. Given the resources apparent on the site, compliance with the requirement to survey to determine the extent and nature of resources should have been undertaken. Without this information it is not possible to determine whether the project is consistent with these requirements of the LCP.

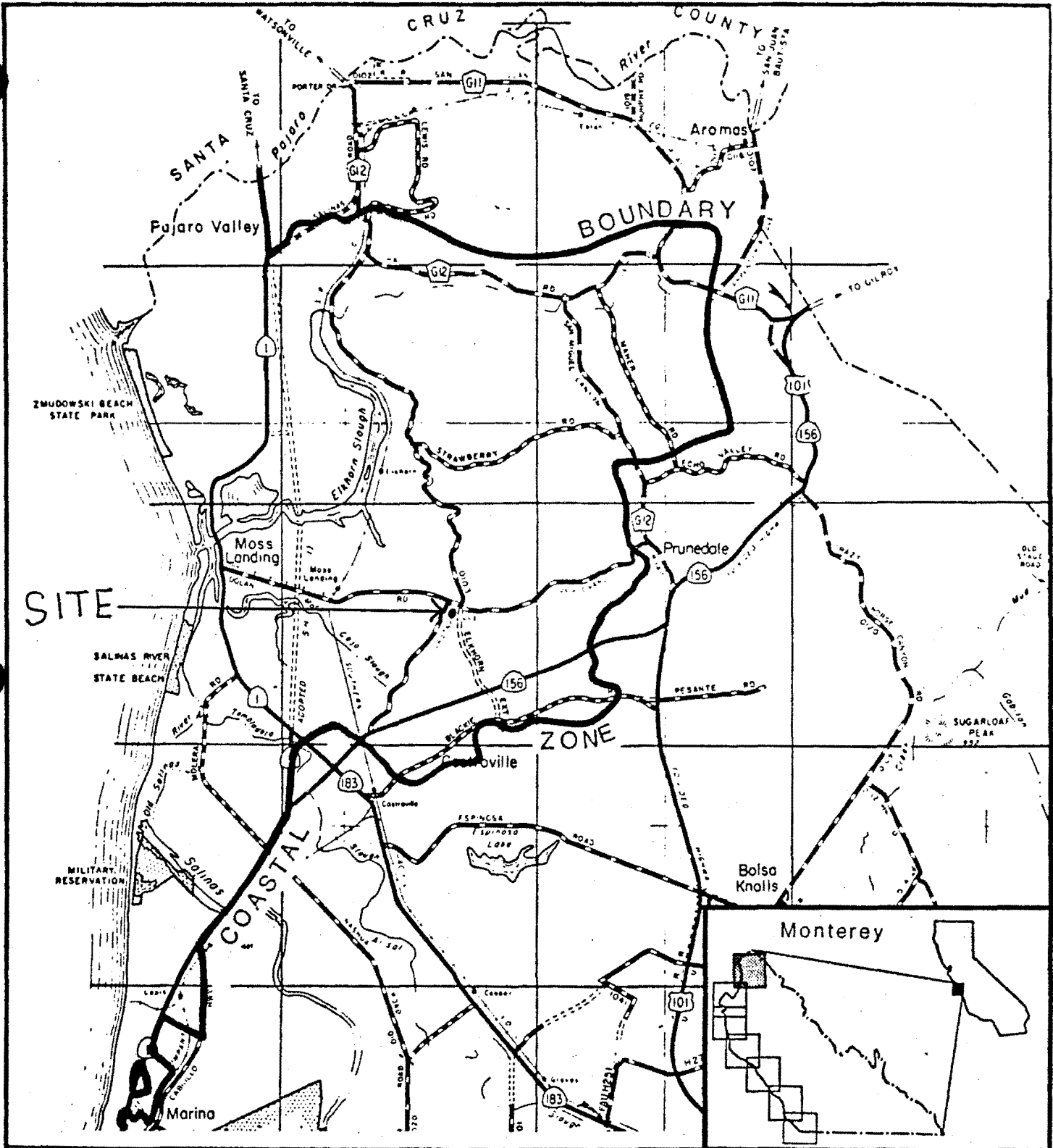
In conclusion, the proposed redivision is inconsistent with the *Land Use Plan* and certified zoning. The effect of the denial of the lot line adjustment will be to retain the status quo of four parcels ranging in size from 5 to over 6 acres and one small, 520 square foot parcel. The four larger parcels are consistent with current zoning and are either developed with, or designated for, rural residential uses. The small parcel remains a legal lot of record but its small size, 520 square feet or slightly larger than the average hotel room, may limit its development potential in this rural area. The lot was recorded on September 10, 1914 as part of the Del Monte Farms subdivision of Lots 4 and 5 of the Karner Tract. Most lots in this subdivision are on the order of five acres. They are denoted by consecutive numbers; however, this subject lot is numbered "#49A," surrounded on three sides by the 5-plus acre Lot #49. Ormart Road bounds Lot #49 and #49A to the west, and Lot #48, another 5-plus acre parcel is to the west of the road. The record is unclear as to why such a small lot was created. Some lots similar in size elsewhere in North Monterey County are labeled "well

lots" on Assessor's maps; this is not. The parcel is assessed for no value. If, and when, development is proposed on this site an analysis of the legitimate, investment backed expectations of the owner would be appropriately included in any staff report.

d. California Environmental Quality Act (CEQA)

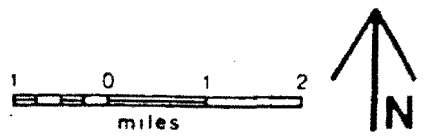
Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(i) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. There are feasible alternatives that would substantially lessen impacts on the environment. The Commission therefore finds that there are feasible alternatives or mitigation measures available which would substantially lessen the significant adverse impacts which the proposed development may have on the environment of the coastal zone and the project cannot be found consistent with CEQA.

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California Coastal Commission

LOCATION MAP



County of Monterey

Sheet 1 of 7
EXHIBIT 1

A-3-MCO-97-79

MINOR SUBDIVISION COMMITTEE
COUNTY OF MONTEREY, STATE OF CALIFORNIA

RESOLUTION NO. 97015

LOT LINE ADJUSTMENT #965036

A.P. # 131-041-022-000

FINDINGS AND DECISION

In the matter of the request of
DALE FEHR (965036)

for a lot line adjustment in accordance with Chapter 19.09, Title 19 (Subdivisions) of the County of Monterey Code to allow a Lot Line Adjustment between five parcels; located on Lots 46, 47, 48, 49 and 49A of Del Monte Farms fronting and southerly of Castroville Boulevard, North County Area, Coastal Zone, came on regularly for hearing before the Minor Subdivision Committee on September 11, 1997.

Said Minor Subdivision Committee, having considered the application and the evidence presented relating thereto,

FINDINGS OF FACT

1. FINDING: The proposed project consists of a major lot line adjustment between five parcels: APN 131-041-022-000; 131-041-027-000; 131-041-028-000; 131-042-012; 131-042-001-000 (APN 131-041-022; APN 131-041-023; APN 131-042-012 owned by Dale Fehr; and APN 131-041-001 owned by James and Loretta Sanderson). The parcels are fronting and southerly of Castroville Blvd., in the North County area of the Coastal Zone. Zoning for the lots are RDR/5 (CZ) (Rural Density Residential) and LDR/5 (CZ) (Low Density Residential).

The proposed lot line adjustment would result in the creation of one new buildable lot. According to the applicant, the lot line adjustment is being requested to improve lot configuration. Three 5 acre parcels, one 4.3 acre parcel and one 5.1 acre parcel would be created.

Approval of the proposed lot line adjustment would not change the ability of existing structures to conform with the requirements of the various zoning districts governing these parcels.

EXHIBIT NO. 2
APPLICATION NO.
A-3-MCO-97-79 FEHR
Co. FINDINGS + CONDITIONS

EVIDENCE: The application and plans submitted for a lot line adjustment as found in Minor Subdivision File #LL965036.

EVIDENCE: The requirements for development in the Rural Density Residential and the Low Density Residential Zoning District as found in Chapter 20.16 and 20.14 of the Monterey County Coastal Implementation Plan.

EVIDENCE: APN 131-042-012-000 is approximately 520 sq. ft. in size. As such the parcel is not developable. Approval of the lot line adjustment would result in the creation of one new buildable lot. While this small parcel appears to be a well lot, neither the original subdivision or title records indicate that the parcel was created as a well lot, nor was it conveyed as such. As a result, County Counsel has stated that the unbuildable lot could be used in a lot line adjustment to create a buildable lot.

EVIDENCE: Ormart Road separates two of the five parcels. There was a question regarding whether this rendered the parcels non-contiguous, and therefore not eligible for a lot line adjustment. It has been determined by County Counsel that Ormart Rd. does not create a non-contiguous situation and the lot line adjustment could be processed.

2. FINDING: The project will not have a significant adverse impact on the environment and a Negative Declaration has been adopted by the Minor Subdivision Committee. An initial study was prepared for the project and it was determined that the project would have no significant impacts and a Negative Declaration was filed with the County Clerk on July 29, 1997, noticed for public review and circulated to the State Clearinghouse. The Minor Subdivision Committee considered public testimony and the initial study.

EVIDENCE: Initial Study and Negative Declaration contained in File #LL965036.

3. FINDING: That the proposed lot line adjustment will not create any new parcels, nor will it render any parcel substandard.

EVIDENCE: No new parcels would be created. However, the proposed lot line adjustment would make the existing 520 sq. ft. parcel into a buildable lot, capable of holding a single family dwelling.

EVIDENCE: No new parcels would be created. However, the proposed lot line adjustment would make the

existing 520 sq. ft. parcel into a buildable lot, potentially capable of containing a single family dwelling.

4. FINDING: Reconfigured parcels 2, 3 and 4 have limited capacity in regards to future residential development. The reconfigured lot subject to new ridgeline and slope constraints would be the existing 520 sq. ft. parcel. The parcel may hold a maximum of only one single family dwelling due to slope and ridgeline constraints.

EVIDENCE: Portions of the parcel are located on a ridgeline and have slopes greater than 25 percent. Development may be inconsistent with the North County Coastal Land Use Plan policies proscribing development on a ridgeline and an over percent proscribing development on a ridgeline and on 25% slopes.

5. FINDING: A greater number of parcels than originally existed will not be created as a result of the lot line adjustment.

EVIDENCE: Minor Subdivision Committee file LL 965036.

6. FINDING: The parcels resulting from the lot line adjustment conform to the County Zoning and Building Ordinances.

EVIDENCE: Section 20.17 and 20.70 of the Monterey County Coastal Implementation Plans.

7. FINDING: The project, as described in the application and accompanying materials and as conditioned, conforms with the plans, policies, requirements, and standards of the Monterey County Local Coastal Program.

EVIDENCE: The Planning and Building Inspection staff reviewed the project, as contained in the application and accompanying materials, for conformity with 1) the certified North County Land Use Plan, and 2) the certified Monterey County Coastal Implementation Plan regulations for RDR/5 (CZ) and LDR/5 (CZ) district in the Coastal Zone, and 3) Chapter 20.70 of the Monterey County Coastal Implementation Plan, Regulations for Development in the Carmel Land Use Plan Area.

8. FINDING: The establishment, maintenance, or operation of the use or building applied for will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort, and general welfare of the County.

EVIDENCE: The project as described in the application and accompanying materials was reviewed by the Department of Planning and Building Inspection, Health Department, Public Works Department, County Counsel and the Water Resources Agency. The respective departments have recommended conditions, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons wither residing or working in the neighborhood, or the County in general.

9. FINDING: The project, as approved by the Coastal Development Permit, is appealable to the Board of Supervisors. It is also appealable to the California Coastal Commission.

EVIDENCE: Section 20.86 of the Monterey County Coastal Implementation Plan.

DECISION

THEREFORE, it is the decision of said Minor Subdivision Committee that the Negative Declaration be adopted and said request for a lot line adjustment be hereby approved as shown on the attached sketch.

1. This permit allows a Coastal Development Permit and Lot Line Adjustment to adjust the lot lines between five parcels, 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 Planning and Building Inspection. 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. (Planning and Building Inspection).
2. Owner shall record a notice concurrently with the Record of Survey for parcel 4 stating that: "A soils report, dated May 13, 1997, by Soil Surveys, Inc., is on file at the Monterey County Division of Environmental Health, File number MS965036. The conclusions and recommendations contained in this report shall be used for the installation of septic systems for this parcel." (Environmental Health)
3. Owner shall record a notice stating that the property is located within or partially within a floodplain and may be subject to building and/or land use restrictions. A copy of

the recorded notice shall be provided to the County Water Resources Agency. (Water Resources Agency)

4. Obtain a Survey of the new lines and have the lines monumented. (Public Works)
5. File a Record of Survey showing new lines and the monumentation. (Public Works)
6. In that potential building areas on proposed Parcels 2, 3 and 4 appear to be located on either slopes greater than 25% or on a ridgeline, prior to issuance of building permits, the property owner shall obtain any required discretionary permits from the County, including but not limited to a Coastal Development Permit for waiver of development on slopes over 25% and/or a Coastal Development Permit for ridgeline development. Certain conditions may be imposed on the project, including but not limited to those required to mitigate potential visual impacts and impacts of development on steep slopes. This condition shall be included as a note on the Record of Survey to be recorded and as a Deed Restriction which shall be recorded on each reconfigured lot. Wording of the proposed note and deed restriction shall be subject to the approval of the Director of Planning and Building Inspection prior to filing of the Record of Survey. (Planning and Building Inspection)
7. The property owner agrees as a condition of the approval of this permit to defend at his sole expense any action brought against the County because of the approval of this permit. 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 any such action; but such participation shall not relieve applicant of his obligations under this condition. Said indemnification agreement shall be recorded upon demand of County Counsel or prior to the issuance of building permits or use of the property, whichever occurs first. (Planning and Building Inspection).
8. The applicant shall record a notice which states: "A Permit (Resolution 97015) was approved by the Minor Subdivision Committee for Assessor's Parcel Numbers 131-041-022-000; 131-041-027-000; 131-041-028-000I; 131-042-012-000 on September 11, 1997. The permit was granted subject to 8 conditions of approval which run with the land. A copy of the permit is on file with the Monterey County Planning and

Building Inspection department." Proof of recordation of this notice shall be furnished to the Director of Planning and Building Inspection prior to filing the Record of Survey for the lot line adjustment. (Planning and Building Inspection)

PASSED AND ADOPTED this 11th day of September, 1997, by the following vote:

AYES: Dias, Chiulos, McPharlin, Hori, Mulholland

NOES: None

ABSENT: Hawkins


NICHOLAS CHIULOS

COPY OF THIS DECISION WAS MAILED TO APPLICANT ON: SEP 17 1997

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE CLERK TO THE BOARD OF SUPERVISORS ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE SEP 27 1997

THIS PROJECT IS LOCATED IN THE COASTAL ZONE AND IS APPEALABLE TO THE BOARD OF SUPERVISORS. IT IS NOT APPEALABLE TO THE COASTAL COMMISSION.

UNLESS EXTENDED AS PROVIDED BY CHAPTER 19.03.035, TITLE 19 (SUBDIVISIONS) MONTEREY COUNTY CODE, THIS APPROVAL EXPIRES ON SEP 11 1999. EXTENSION REQUESTS MUST BE MADE IN WRITING 30 DAYS PRIOR TO THE AFOREMENTIONED EXPIRATION DATE.

EXHIBIT NO. 3
APPLICATION NO.
A-3-MCO-97-79 FEHR
Existing Parcel Configuration

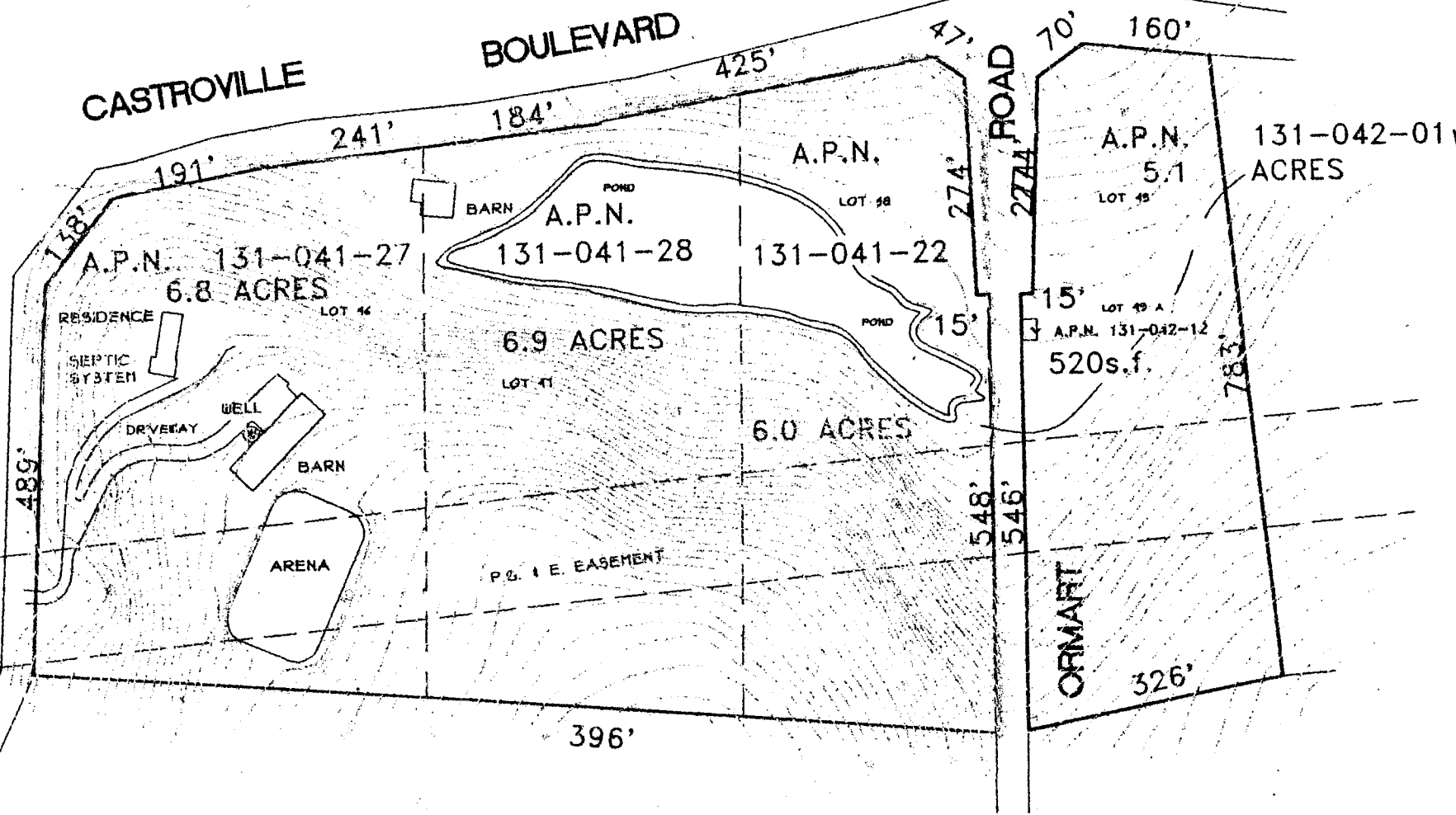


EXHIBIT NO. 4
APPLICATION NO.
A-3-MCO-97-79 FEHL
Proposed Parcel Configuration



CASTROVILLE

BOULEVARD

(A COUNTY ROAD - WIDTH VARIES)

PARCEL 1
5.0 ACRES

PARCEL 2
5.0 ACRES

PARCEL 3
5.0 ACRES

PARCEL 4
4.3 ACRES

PARCEL 5
5.1 ACRES

ROAD

ORMART

SEPTIC SYSTEM

HOUSE

DRIVEWAY

DRIVEWAY

WELL

BARN

RIDING ARENA

P. G. I. E. BASEMENT

P. G. I. E. BASEMENT

POND

POND

389'

138'

137'

191'

241'

131'

53'

399'

28' 4"

214'

214'

5'

70'

160'

183'

389'

411'

280'

275'

1208'

224'

308'

801'

299'

548'

546'

326'

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

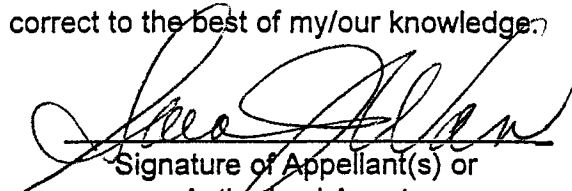
State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

- 1) Zoning map: minimum parcel size is 5 acres. The approval is for a parcel of less than 5 acres (4.3 acres).
- 2) 20.144.030A6: Ridgeline development not allowed unless no alternatives. The approval is said to potentially result in ridgeline development, but there is nothing in the findings to indicate that alternatives were investigated.
- 3) 20.144.030A.7: Lot line adjustments shall not configure a lot to result in ridgeline development. The approval is said to potentially result in ridgeline development.
- 4) 20.144.040A: Biological Survey required if potential environmentally sensitive habitat. The approval involves a "man-made" pond with no findings as to whether it is a wetland and/or harbors endangered species.
- 5) 20.144.040B: Criteria for developing/preserving environmentally sensitive habitats. Without a finding regarding possible environmentally sensitive habitat, it is possible that this approval is inconsistent with these provisions.
- 6) LUP Policy 4.3.6D3: Low density areas -- housing densities and lot sizes shall be consistent with the ability of septic systems to dispose of waste without problems. The approval is for five parcels and sizes that according to the Initial Study may be problematic for septic systems.

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.


Signature of Appellant(s) or
Authorized Agent

Date 10/4/97

NOTE: If signed by agent, appellant(s)
must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____ to act as my/our repre:

EXHIBIT NO. 5
APPLICATION NO.
A-3-MCO-97-79 FEHR
Appellants' Contentions