



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: Planning and Development
Department No.: 053
For Agenda Of: March 15, 2022
Placement: Department
Estimated Time: 1 hr. 20 min.
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Lisa Plowman, Director, Planning and Development
Director (805) 568-2086
Contact Info: Travis Seawards, Deputy Director, Planning and Development
(805) 568-2518
SUBJECT: Applicant Appeal of the Montecito Planning Commission Deemed Denial of the
Hawker/Philippides Lot Line Adjustment, Case No. 20APL-000000-00003, First
Supervisory District

County Counsel Concurrence

As to form: Yes

Other Concurrence: N/A

Auditor-Controller Concurrence

As to form: N/A

Recommended Actions:

On March 15, 2022, staff recommends that your Board take the following actions to approve the project:

- a) Uphold the appeal, Case No. 20APL-00000-00003;
- b) Make the required findings for approval of the project, Case No. 16LLA-00000-00003, including California Environmental Quality Act (CEQA) findings included as Attachment 1 to this Board Letter;
- c) Determine the project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15305(a) included as Attachment 3 to this Board Letter; and,
- d) Grant *de novo* approval of the project, reversing the action of the Montecito Planning Commission, Case No. 16LLA-00000-00003, subject to the conditions of approval, included as Attachment 2 to this Board Letter.

A. Proposed Project

The proposed project will adjust the property line (Lot Line Adjustment) between two legal lots located within the Single-Family Residential (2-E-1) Zone District in the Montecito Community Plan area. An existing single-family dwelling, constructed in 1957, currently straddles the common lot boundary of the two properties. The purpose of the Lot Line Adjustment is to adjust the common lot line between the properties so that the existing dwelling is located solely on the proposed reconfigured Lot 2, in conformance with the Montecito Land Use and Development Code (MLUDC). The applicants, Craig Hawker and Athena Philippides, own both of the subject properties. The proposed project does not have the potential to increase the subdivision or development potential of either of the affected lots. The proposed project is as follows:

The applicant requests a Lot Line Adjustment to adjust the shared property boundary between two adjacent legal lots, existing Lot 1 (APN: 013-191-014) and existing Lot 2 (APN: 013-191-015). The boundaries will be adjusted as follows:

Existing Lot	Existing Lot	Proposed Lot	Change in Lot Area
Lot 1: 013-191-014	0.99 acre	0.68 acre	-0.31acre
Lot 2: 013-191-015	0.19 acre	0.50 acre	+0.31 acre

Existing Lot 2 is currently developed with a 2,135-square-foot, single-family dwelling. The structure will remain on proposed Lot 2. Existing Lot 1 is undeveloped. No new structural development is proposed as part of the Lot Line Adjustment, nor would the Lot Line Adjustment result in a change of land use or a greater number of residentially developable parcels than existed prior to the adjustment.

Services and Access

No development is proposed as part of the project. Existing Lot 2 is served by the Montecito Water District and the Montecito Sanitary District. Existing Lot 1 currently maintains a water meter, however, it is not actively serving development since the lot is vacant. Access to Lot 1 and Lot 2 is provided off of Eucalyptus Hill Road and Arcady Road, respectively. Fire protection is provided by the Montecito Fire Protection District. No grading is proposed. No tree or vegetation removal is proposed.

B. Background

- **January 2015** – The County Surveyor determined that the parcels did not represent two separate legal lots. The County Surveyor’s office issued a denial of Certificate of Compliance. The property owner appealed the Surveyor’s denial of the Certificate of Compliance to the Board of Supervisors.
- **June 2015** – The Board of Supervisors heard the property owner’s appeal of the Surveyor’s denial of Certificate of Compliance. The Board of Supervisors upheld the appeal, thereby granting the unconditional Certificate of Compliance, an official affirmation of lot legality. The Board’s action officially created two separate, legal lots with the existing dwelling straddling the common lot line.
- **April 2016** – The applicant submitted an application for a Lot Line Adjustment to Planning & Development. Pursuant to Section 35.430.110.B.3.c of the MLUDC and Section 21-93 of Chapter 21, in order to be considered residentially developable, both lots were required to have adequate

water and sanitary service, or a letter of service from an appropriate district or company. At the time of application submittal, the Montecito Water District had a moratorium on the installation of new water meters within its service boundaries. The application was deemed “Incomplete” and case processing was put on hold.

- **June 2019** –The Montecito Water District lifted the moratorium on new water meters, and the applicant submitted a service letter from the Montecito Water District stating that both properties are currently served by separate water meters and that the District is able to serve both lots. County staff deemed the 2016 application “Complete.”
- **October 2019** – At the October 16, 2019, public hearing, the Montecito Planning Commission considered the proposed project. The Commission continued the project to a later date in anticipation of additional public testimony and directed staff to return with findings for denial.
- **January 2020** – At the January 15, 2020, public hearing, staff returned to the Montecito Planning Commission with findings for denial, included as Attachment 5 to this Board Letter. The Montecito Planning Commission considered evidence in the record, statements given by the applicant, and public testimony with regard to the proposed project. The Montecito Planning Commission’s motion to approve the proposed Lot Line Adjustment failed by a vote of 2 to 2 and no subsequent motion was made, so the action was deemed a denial of the project. On January 23, 2020, the applicant filed a timely appeal to the Board of Supervisors.

Pursuant to the adopted *Montecito Planning Commission Procedures Manual*, Procedure for Conduct of Public Hearings #12 (Page 8) states that “*Any motion for final action must include the adoption of all required findings. A majority of the commissioners present must support a motion for any motion to pass. In the event of a split (2-2) vote on any matter, the motion would fail to pass. Unless the Commission makes another motion resulting in a majority decision, the motion’s failure to pass would be deemed a denial, or for purposes of a recommendation the recommendation would be deemed a recommendation for denial....*”

C. Appeal Issues and Staff Responses

The appeal application (Attachment 6) contains a letter detailing the issues raised in the appeal to your Board. These issues and staff’s responses are summarized below.

Appeal Issue 1: Lack of Evidence Supporting Denial of the Lot Line Adjustment

The applicant contends that no evidence entered into the record, including public input, supports the denial of the proposed Lot Line Adjustment. The applicant also asserts that the Montecito Planning Commission’s denial is due in large part to the neighbor’s opposition to the project as opposed to adherence with County ordinances.

Appeal Issue 1 Staff Response:

The Montecito Planning Commission based their denial on a finding that the lot size is incompatible with the size of the surrounding lots. However, lot size compatibility is not a required finding of a Lot Line Adjustment. Staff evaluated the proposed Lot Line Adjustment and found that it conforms to all applicable regulations in accordance with Section 21-90 of County Code Chapter 21, the County’s subdivision regulations, and Section 35.430.110 of the MLUDC. As detailed in Section 6.3 of Attachment 4 to this

Board Letter, herein incorporated by reference, staff found that the proposed Lot Line Adjustment conforms to the aforementioned requirements and regulations. The proposed Lot Line Adjustment was found to involve two existing, legal lots and would not result in an increased subdivision potential. There are currently two legal lots, both of which are “buildable,” and after the Lot Line Adjustment there will still only be two legal, “buildable” lots. The Lot Line Adjustment will adjust the size of the lots to be more similar in size, approximately 0.68 acres and 0.50 acres rather than the existing 0.99 acres and 0.19 acres. Furthermore, as proposed, the single-family dwelling will conform to setback requirements after the Lot Line Adjustment and therefore the proposed project complies with the requirements of the MLUDC and the Subdivision Map Act.

Appeal Issue 2: Land Division

The applicant contends that there was confusion at the Montecito Planning Commission hearing as to whether the proposed project would be considered a Lot Line Adjustment or a Lot Split and whether the Lot Line Adjustment would create a new “buildable” lot.

Issue 2 Staff Response

The proposed project is a Lot Line Adjustment and not a Lot Split, and the project will not result in the creation of a new “buildable” lot. A Lot Line Adjustment is the reconfiguration or adjustment of legal property boundaries between two or more adjacent parcels, where land taken from one parcel is added to an adjacent parcel. No new, legal parcels can be created via a Lot Line Adjustment. A Lot Split is the division of an existing, legal lot resulting in the creation of two or more legal lots. As detailed in Attachment 4 to this Board Letter, herein incorporated by reference, the same number of lots will exist before and after the Lot Line Adjustment, and the proposed adjustment will not result in increased subdivision potential. Further, there are currently two legal lots, both of which are “buildable,” and after the Lot Line Adjustment there will still only be two legal, “buildable” lots. The Lot Line Adjustment will adjust the size of the lots to be more similar in size, approximately 0.68 acres and 0.50 acres rather than the existing 0.99 acres and 0.19 acres.

Appeal Issue 3: Lot Size Compatibility

The applicant states that neighborhood compatibility is irrelevant to the findings required to approve a Lot Line Adjustment and that there is nothing in the County Code that specifies that a Lot Line Adjustment must conform to the average lot size in the neighborhood. They also state that, with or without the Lot Line Adjustment, both parcels are non-conforming as to lot size (as are most of the lots in this area) and with or without the lot line adjustment, both parcels are legally buildable.

Issue 3 Staff Response

The findings for a Lot Line Adjustment do not require a finding of neighborhood compatibility. The findings for a Lot Line Adjustment are included in Attachment 1 to this Board Letter.

There are two findings that discuss lot size. The first finding states that “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.” The subject parcels are legal, but are already nonconforming as to lot size. In June 2015, the Board of Supervisors confirmed the legality of the existing lots by granting an unconditional Certificate of Compliance for the properties in their current size and configuration. Many of the adjacent parcels are also nonconforming as to lot size as they do not meet the minimum two-acre lot size for the 2-E-1 zone. The Lot Line Adjustment will therefore not convert a parcel that is currently conforming as to size to non-conforming as a result of the adjustment.

The second finding states that “A Lot Line Adjustment may be approved that results in nonconforming (as to size) parcels provided that four or fewer existing parcels are involved in the adjustment, the Lot Line Adjustment shall not result in increased subdivision potential for any affected parcel, and the Lot Line Adjustment shall not result in a greater number of residential developable parcels than existed prior to the adjustment.” The Lot Line Adjustment involves two existing parcels, will not result in increased subdivision potential for either parcel since neither parcel will meet the minimum size requirement to be split, and will not result in a greater number of developable parcels than existed prior to the adjustment, thus complying with this finding.

Appeal Issue 4: Potential Development

The applicant contends that the primary opposition to the project is due to the perceived potential effect that future development will have and that although no development is proposed under the Lot Line Adjustment, there was speculation at the Montecito Planning Commission hearing about potential future development. The applicant states that concerns about neighborhood compatibility are more appropriate when and if development is proposed for the Eucalyptus Hill Road lot and notes that neighbors will receive notice of any such future proposed development.

Issue 4 Staff Response

Lot 1 and Lot 2 are already considered to be residentially developable as they are residentially-zoned and legally created. As such, the proposed Lot Line Adjustment will not increase the amount of allowed development on the properties. No development is proposed as part of the Lot line Adjustment, and any future development is required to comply with MLUDC requirements including setbacks, height, and noticing, and is also subject to review by the Montecito Board of Architectural Review. Additionally, the Lot Line Adjustment will bring the existing dwelling into conformance with the MLUDC setback requirements.

Appeal Issue 5: Arcady Estates Association:

During the Montecito Planning Commission hearing, there were claims that the Arcady Estates Association has jurisdiction over the subject lots. The applicant states that neither lot was ever a part of the subdivision that created Arcady Estates and that the Association has no role in land use decisions on the subject properties.

Issue 5 Staff Response

Pursuant to Section 21-94 of Chapter 21, Land Division, the decision-maker for Lot Line Adjustments is the Montecito Planning Commission, subject to appeal to the Board of Supervisors. The role of and restrictions of private associations is a private issue that does not impact the County’s jurisdiction over a project or the County’s ability to approve a project.

Fiscal and Facilities Impacts:

Budgeted: Yes

Total costs for processing the appeal are approximately \$14,000.00 (55 hours of staff time). The costs for processing appeals are partially offset by a fixed appeal fee and General Fund subsidy in Planning and Development’s adopted budget. The fixed appeal fee was paid by the appellant in the amount of \$685.06. Funding for processing this appeal is budgeted in the Planning and Development Department’s Permitting Budget Program, as shown on page D-301 of the County of Santa Barbara Fiscal Year (FY) 2021-2022 adopted budget.

Special Instructions:

The Clerk of the Board shall publish a legal notice in the *Santa Barbara News-Press* at least 10 days prior to the hearing on March 15, 2022. The Clerk of the Board shall also fulfill mailed noticing requirements. The Clerk of the Board shall forward the minute order of the hearing as well as a copy of the notice and proof of publication to the Planning and Development Department, Hearing Support, Attention: Willow Brown.

Attachments:

1. Findings for Approval
2. Conditions of Approval
3. CEQA Exemption
4. Planning Commission Staff Report dated September 26, 2019 with Attachments
5. Planning Commission Continuance Memorandum dated January 7, 2020 with Attachments
6. Board of Supervisors Appeal Application dated January 23, 2020
7. Proposed Lot Line Adjustment Plans

Authored by:

Willow Brown, Planner, (805) 568-2040
Development Review Division, Planning and Development Department