

COUNTY OF SANTA BARBARA CALIFORNIA

PLANNING COMMISSION

COUNTY ENGINEERING BUILDING
123 E. ANAPAMU ST.
SANTA BARBARA, CALIF. 93101-2058
PHONE: (805) 568-2000
FAX: (805) 568-2030

September 4, 2007

Tish Beltranena
MNS Engineering
201 Industrial Way
Buellton, CA 93427

PLANNING COMMISSION
HEARING OF AUGUST 22, 2007

RE: Herthel Montanaro Appeal of Zoning Administrator's Approval, 07APL-00000-00012

Hearing on the request of Vincent Armenta, Santa Ynez Band of Chumash Indians, appellant, to consider the Appeal, Case No. 07APL-00000-00012 [appeal filed on April 4, 2007], of the Zoning Administrator's decision to approve Lot Line Adjustment, Case No. 05LLA-00000-00015, in compliance with Section 35.102 of the County Land Use and Development Code on property located in the 1-E-1 Zone. The application involves AP Nos. 135-240-079 and -080 (portion), located at 2531 Grand Avenue in the Los Olivos Area, Third Supervisorial District.

Dear Ms. Beltranena:

At the Planning Commission hearing of August 22, 2007, Commissioner Blough moved, seconded by Commissioner Valencia and carried by a vote of 4-0 (Smyser absent) to:

1. Adopt the required findings for the project specified in Attachment A of the staff report, dated August 15, 2007;
2. Deny the appeal, 07APL-00000-00012 thereby upholding the Zoning Administrator's approval of Lot Line Adjustment No. 05LLA-00000-00015; and
3. Approve the Lot Line Adjustment No. 05LLA-00000-00015 subject to the conditions specified as Attachment C of the staff report, dated August 15, 2007.

REVISIONS TO THE CONDITIONS OF APPROVAL

Condition 3, language is added:

3. Archaeological Study

The Phase 1 Archaeological Study prepared for the project site shall be supplemented by limited subsurface testing conducted by a County-listed Archaeologist, monitored by a Native American observer, and approved by P&D. The Santa Ynez Band of Chumash Indians shall receive mailed notice of all development permit applications on the subject property. Any cultural materials identified as a result of the limited subsurface testing shall be: 1) avoided; or 2) evaluated and treated pursuant to County Archaeological Guidelines. **Plan**

Requirements/Timing: Prior to Land Use Permit approval for any development requiring ground disturbance, the results of limited subsurface testing shall be provided to P&D. The limited subsurface testing is required to assess the presence or absence of cultural materials within the lot(s). The work and report shall be completed according to County guidelines for an Extended Phase 1. The work shall be conducted by a qualified archaeologist and subsurface investigations shall be monitored by a Native American Observer.

MONITORING: The County-listed archaeologist shall coordinate with P&D personnel on submittal and review of the required study. P&D compliance personnel shall field check during grading and construction activities to ensure compliance with approved plans and conditions.

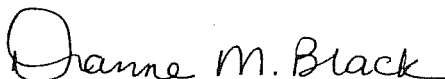
The attached findings and conditions reflect the Planning Commission's actions of August 22, 2007.

Decisions of the Planning Commission may be appealed to the Board of Supervisors by the applicant or any interested person adversely affected by such decision. Appeal applications may be obtained at the Clerk of the Board's office. The appeal form must be filed along with any attachments to the Clerk of the Board. In addition to the appeal form a concise summary of fifty words or less, stating the reasons for the appeal, must be submitted with the appeal. The summary statement will be used for public noticing of your appeal before the Board of Supervisors. The appeal, which shall be in writing together with the accompanying applicable fee must be filed with the Clerk of the Board of Supervisors within ten (10) calendar days of the date of the Planning Commission's decision. **The appeal period for this project ends on Tuesday, September 4, 2007 at 5:00 p.m.**

If this decision is appealed, the filing fee for both non-applicant and applicant is \$443 and must be delivered to the Clerk of the Board Office at 105 East Anapamu Street, Room 407, Santa Barbara, CA.

If this action is appealed, this letter or a copy should be taken to the Clerk of the Board of Supervisors in order to determine that the appeal is filed within the allowed appeal period and to collect the required appeal fee.

Sincerely,



Dianne M. Black
Secretary to the Planning Commission

cc: ✓ Case File: 07APL-00000-00012
Planning Commission File
Records Management
Address File: 2531 Grand Ave, Los Olivos, CA
Owner: Douglas Herthel, PO Box 387, Los Olivos, CA 93441
Appellant: Vincent Armenta, Santa Ynez Band of Chumash Indians, PO Box 517, Santa Ynez, CA 93460
County Chief Appraiser
County Surveyor
Fire Department
Flood Control
Park Department
Public Works
Environmental Health Services
APCD
Brooks Firestone, Third District Supervisor
David Smyser, Third District Commissioner

David Allen, Deputy County Counsel
Brian Tetley, Planner

Attachments: Attachment A – Findings
Attachment C – Conditions of Approval

DMB:cnm

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ATTACHMENT A: FINDINGS

1.0 CEQA FINDINGS

- 1.1 The Planning Commission has considered the Mitigated Negative Declaration (06NGD-00000-00029) together with the comments received and considered during the public review process. The Negative Declaration reflects the independent judgment of the Planning Commission, has been completed in compliance with CEQA, and is adequate for this proposal.
- 1.2 The Planning Commission finds that through feasible conditions placed upon the project, the potentially significant impacts on the environment have been eliminated or substantially mitigated.
- 1.3 The documents and other materials which constitute the record of proceedings upon which this decision is based are in the custody of the Secretary of the Santa Barbara County Planning Commission, Ms. Dianne Black, Planning and Development, located at 123 East Anapamu Street, Santa Barbara, CA 93101.
- 1.4 Public Resources Code Section 21081.6 requires the County to adopt a reporting or monitoring program for the changes to the project that it has adopted or made a condition of approval in order to mitigate or avoid significant effects on the environment. The approved project description and conditions of approval, with their corresponding permit monitoring requirements, are hereby adopted as the monitoring program for this project. The monitoring program is designed to ensure compliance during project implementation.

2.0 ADMINISTRATIVE FINDINGS

Pursuant to Article III, Section 35-134 and Chapter 21, Section 21-93 of the Subdivision Regulations, a Lot Line Adjustment application shall only be approved provided the following Findings are made:

- 2.1 **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.**

Pursuant to the discussion in Sections 5.2 (Comprehensive Plan Consistency) and 5.3 (Ordinance Compliance) of the Staff Reports (dated September 15, 2006, January 5 and March 15, 2007), the Lot Line Adjustment is consistent with these policies and provisions of the General/Comprehensive Plan and Zoning Ordinance/Land Use Development Code. None of the three affected parcels will be nonconforming as a result of the Lot Line Adjustment. Structural development that currently straddles lot lines will be contained within one lot, and the Neighborhood Commercial (CN) zoning now located on multiple lots will also be contained within one lot. Therefore the project is consistent with this finding.

- 2.2 **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.**

The parcels will comply with the minimum lot size requirements, each over the one acre minimum parcel size. Therefore the project is consistent with this finding.

- 2.3 **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 2.4 or 2.5 listed below:**

The Lot Line Adjustment satisfies all of the following requirements:

i. Four or fewer existing parcels are involved in the adjustment;

Three parcels are involved in this Lot Line Adjustment. Therefore the project is consistent with this finding.

ii. The Lot Line Adjustment shall not result in increased subdivision potential for any affected parcel; and,

An increase in subdivision potential or residential developability will not occur as a result of the Lot Line Adjustment. Potential developability as a result of the proposed parcel configurations could include two new residences: a new residence on each of Adjusted Parcels 2 and 3 Adjusted Parcel 1 is currently developed with a single family dwelling.

With approval of a Tentative Parcel Map, there is potential for subdivision on Adjusted Parcel 3. Under the base zoning (predominately 1-E-1), this parcel could technically be subdivided to create 2 new parcels. However, practically this is an unlikely scenario as the potential parcel configurations would be highly irregular in shape and would include severe constraints including limitations due to Flood Control setbacks from Alamo Pintado Creek located in the western half of the property.

As discussed in Section 4.0 of the Staff Report, a total of 5 parcels and 4 additional residences have the potential to be developed under the current and proposed parcel configurations and zoning. No net change or increase in subdivision potential or residential developability will occur. Therefore the project is consistent with this finding.

iii. 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.

One parcel (05-CC-115) is currently developed with a single family dwelling. The remaining two parcels (05-CC-113 and 05-CC-114) are undeveloped; however these parcels are residentially developable. The Lot Line Adjustment will not change the number of residentially developable parcels. Therefore the project is consistent with this finding.

- 2.4 **The parcels involved in the adjustment are within the boundaries of an Official Map for the Naples Townsite adopted by the County pursuant to Government Code Section 66499.50 et seq. and the subject of an approved development agreement certified by the California Coastal Commission as an amendment to the Santa Barbara County Local Coastal Program that sets forth the standards of approval to be applied to Lot Line Adjustments of existing adjacent parcels within the boundaries of the Naples Townsite Official Map. This exception provision shall expire 5 years after its effective date unless otherwise extended pursuant to a certified amendment to the Santa Barbara County Local Coastal Program.**

The parcels involved are located in the Los Olivos area and not within the boundaries of an Official Map for the Naples Townsite. Therefore the project is consistent with this finding.

- 2.5 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 lot line adjustment will eliminate structural development and zoning that currently straddle multiple lots lines. Structural development that currently straddles multiple lots will be contained within one lot, and the Neighborhood Commercial (CN) zoning now located on multiple lots will also be contained within one lot. Therefore the project is consistent with this finding.

- 2.6 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 non-conforming uses and structures under the respective County Ordinances: Article III (Section 35-161 and 35-162).**

All adjusted parcels are in compliance with all provisions of Article III. The Lot Line Adjustment will correct the current configuration in which existing lot lines bisect structures and zoning lines. Structural development that currently straddles multiple lots will be contained within one lot, and the Neighborhood Commercial (CN) zoning now located on multiple lots will also be contained within one lot. Therefore the project is consistent with this finding.

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

No existing utilities, infrastructure and easements will need to be relocated to accommodate the proposed lot line adjustment. A new access easement will be created over Adjusted Parcel 2 in favor of Adjusted Parcel 1, as shown on the preliminary map and required by Conditions of Approval. Therefore the project is consistent with this finding.

- 2.8 A Lot Line Adjustment proposed on agricultural zoned parcels which are under Agricultural Preserve Contract pursuant to the County Agricultural Preserve Program Uniform Rules shall only be approved provided the following findings are made:**

The subject Parcels are not under Agricultural Preserve Contract. Therefore the project is consistent with this finding.

ATTACHMENT C: CONDITIONS OF APPROVAL

05LLA-00000-00015

I. PROJECT DESCRIPTION

This Lot Line Adjustment is based upon and limited to compliance with the project description, the hearing exhibit marked Exhibit #1, dated September 25, 2006, and conditions of approval set forth below. Any deviations from the project description, exhibits or conditions must be reviewed and approved by the County for conformity with this approval. Deviations may require approved changes to the permit and/or further environmental review. Deviations without the above-described approval will constitute a violation of permit approval.

1. The project description is as follows:

The proposal is for a lot line adjustment between three (3) legal lots created by 05-CC-113 through 05-CC-115, zoned 1-E-1, and CN (in part) under Article III, under the provisions of Chapter 35. The application involves portions of Assessor's Parcel Number 135-240-079 and a portion of APN 135-240-080, known as the Herthel Montanaro property, located at 2531 Grand Avenue. All three of these existing, legal lots are described as follows: 1) 05-CC-113 (1.63/1.49 gross/net acres, zoned 1-E-1); 2) 05-CC-114 (1.54/1.36 gross/net acres, zoned CN and 1-E-1), and 3) 05-CC-115 (3.79/3.36 gross/net acres, zoned 1-E-1 and CN). The proposed Lot Line Adjustment would reconfigure these parcels to create lot lines that align with existing development and the Neighborhood Commercial Zoning. The proposed Lot Line Adjustment would create three (3) adjusted parcels as follows:

- Proposed Adjusted Parcel 1- consisting of 1.77/1.63 gross/net acres created through a reconfiguration of a portion of 05-CC-115. Zoning would entirely be 1-E-1.
- Proposed Adjusted Parcel 2- consisting of 1.00/0.82 gross/net acres created through a reconfiguration of a portion of existing 05-CC-115. Zoning would entirely be 1-E-1.
- Proposed Adjusted Parcel 3- consisting of 4.19/3.76 gross/net acres created through a reconfiguration of: a portion of 05-CC-115 (1.02/.91 gross/net acres); the entirety of 05-CC-114 (1.54/1.36 gross/net acres); and the entirety of 05-CC-113 (1.63/1.49 gross/net acres). Zoning would consist of both CN and 1-E-1.

Existing development consists of a 2,008.0 square foot (s.f.) single family residence (the Montanaro Residence) located on Proposed Adjusted Parcel 1. Additional existing development consists of a 3,737.0 s.f. commercial building, a 2,208.0 s.f. barn, and a 692.0 s.f. shed, all located on Proposed Adjusted Parcel 3. Proposed Adjusted Parcel 2 is vacant with no structural development.

Both Proposed Adjusted Parcels 1 and 3 would have existing private septic systems (leach line). Proposed Adjusted Parcel 2 would be serviced by a private septic system upon approval by Environmental Health Services. Water would be provided by the Santa Ynez River Water Conservation District.

Access to Reconfigured Lots 1, 2, and 3 would be via Grand Avenue. An access ingress/egress easement would be recorded over Proposed Adjusted Parcel 2 in favor of Proposed Adjusted Parcel 1. Proposed Adjusted Parcels 2 and 3 would be accessible directly off of Grand Avenue.

The grading, development, use, and maintenance of the property, the size, shape, arrangement, and location of structures, parking areas and landscape areas, and the protection and preservation of resources shall conform to the project description above and the conditions of approval below. The property and any portions thereof shall be sold, leased or financed in

compliance with this project description and the conditions of approval hereto. All plans submitted for review and approval shall be implemented as approved.

II. MITIGATION MEASURES FROM 06NGD-00000-00029

2. Outdoor Lighting

All exterior night lighting installed on the project site shall be of low intensity, low glare design and shall be hooded to direct light downward onto the subject parcel and prevent spill-over onto adjacent parcels. **Plan Requirements/Timing:** This condition shall be printed on all building and grading plans.

MONITORING: P&D shall check plans prior to approval of Land Use Permits and shall spot check in the field.

3. Archaeological Study

The Phase 1 Archaeological Study prepared for the project site shall be supplemented by limited subsurface testing conducted by a County-listed Archaeologist, monitored by a Native American observer, and approved by P&D. The Santa Ynez Band of Chumash Indians shall receive mailed notice of all development permit applications on the subject property. Any cultural materials identified as a result of the limited subsurface testing shall be: 1) avoided; or 2) evaluated and treated pursuant to County Archaeological Guidelines. **Plan Requirements/Timing:** Prior to Land Use Permit approval for any development requiring ground disturbance, the results of limited subsurface testing shall be provided to P&D. The limited subsurface testing is required to assess the presence or absence of cultural materials within the lot(s). The work and report shall be completed according to County guidelines for an Extended Phase 1. The work shall be conducted by a qualified archaeologist and subsurface investigations shall be monitored by a Native American Observer.

MONITORING: The County-listed archaeologist shall coordinate with P&D personnel on submittal and review of the required study. P&D compliance personnel shall field check during grading and construction activities to ensure compliance with approved plans and conditions.

4. Archaeological Discovery

In the event archaeological remains are encountered during ground disturbance, work shall be stopped immediately or redirected until a P&D qualified archaeologist and Native American representative are retained by the applicants to evaluate the significance of the find pursuant to Phase 2 investigations of the County Archaeological Guidelines. If remains are found to be significant, they shall be subject to a Phase 3 mitigation program consistent with County Archaeological Guidelines and funded by the applicants. **Plan Requirements/Timing:** This condition shall be printed on all building and grading plans.

MONITORING: P&D shall check plans prior to approval of Land Use Permits and shall spot check in the field.

III. PROJECT SPECIFIC CONDITIONS

5. Departmental Conditions

Compliance with Departmental memoranda and conditions:

- a. Flood Control District memorandum dated November 9, 2005
- b. Fire Department memorandum dated November 23, 2005

IV. LOT LINE ADJUSTMENT CONDITIONS

6. Two copies of the document that will be recorded to effectuate the lot line adjustment and any required review fees in effect at the time, shall be submitted to Planning and Development (P&D) for compliance review of P&D conditions before P&D will issue clearance for recordation to the County Surveyor.
7. The Lot Line Adjustment 05LLA-00000-00015 shall expire three years after approval or conditional approval by the final decision maker unless otherwise provided in the Subdivision Map Act, Government Code §66452.6.
8. The following language shall be included on the deeds arising from the lot line adjustment:

This deed arises from the lot line adjustment 05LLA-00000-00015 and defines a single parcel within the meaning of California Civil Code §1093. Any document used to record the lot line adjustment shall include a statement that the document arises from a lot line adjustment that is intended to identify two legal parcels.

The document used to record the Lot Line Adjustment shall state the findings and Conditions of Approval of the lot line adjustment.

9. A notice of the Lot Line Adjustment shall be recorded with the deed of each property to be adjusted. Said notice shall include the following:
 - a. Legal description for each adjusted parcel; and
 - b. Statement of the findings and conditions approving the Lot Line Adjustment

V. COUNTY RULES AND REGULATIONS

10. Prior to recordation, the applicant shall pay all applicable P&D permit processing fees in full.
11. **Indemnity and Separation Clauses**

Developer shall defend, indemnify and hold harmless the County 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, in whole or in part, the County's approval of the Lot Line Adjustment. In the event that the County fails promptly to notify the applicant of any such claim, action or proceeding, or that the County fails to cooperate fully in the defense of said claim, this condition shall thereafter be of no further force or effect.

12. **Legal Challenge**

In the event that any condition imposing a fee, exaction, dedication or other mitigation measure is challenged by the project sponsors in an action filed in a court of law or threatened to be filed therein which action is brought within the time period provided for by law, this approval shall be suspended pending dismissal of such action, the expiration of the limitation period applicable to such action, or final resolution of such action. If any condition is invalidated by a court of law, the entire project shall be reviewed by the County and substitute conditions may be imposed.

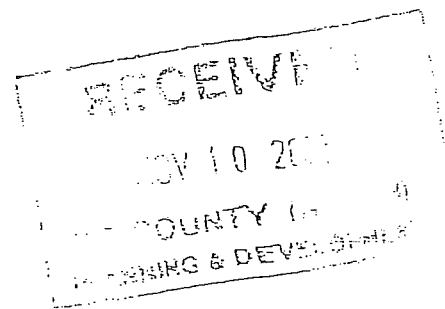
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S.B. COUNTY
PLANNING & DEVELOPMENT



Santa Barbara County Public Works Department
Flood Control & Water Agency

November 9, 2005

Stephen Chase, Zoning Administrator
County of Santa Barbara
Planning & Development Department
123 East Anapamu Street
Santa Barbara, CA 93101



Reference: G5LLA-GG000-00015; Herthel Lot Line Adjustment
APN: 135-240-001/Los Olivos

Dear Mr. Chase:

This District recommends that approval of the above referenced project be subject to the following conditions.

1. Prior to filing a record of survey or other documents used to record the lot line adjustment, the applicant shall comply with the Flood Control Standard Conditions of Approval.
2. An informational sheet or other recordable document shall be recorded concurrently with the Lot Line Adjustment which indicates the following:
 - a. The limits of the 100-year Floodplain & Floodway as shown on the current FEMA Flood Insurance Rate Map (FIRM);
 - b. New development shall have finish floors elevated a minimum of 2 feet above the 100-year base flood elevation (BFE) of Alamo Pintado Creek;
 - c. Encroachment into the Floodway shall not be allowed unless certified by a registered civil engineer that no loss of conveyance and no-rise in the 100-year BFE will occur;
 - d. The District Approved Top of Bank of Alamo Pintado Creek and a minimum 50 foot development setback.
3. The applicant will be required to pay the current plan check fee deposit at the time the Lot Line Adjustment documents are submitted to the District for review and approval.

Sincerely,

A handwritten signature in cursive script, appearing to read "Dale W. Weber".

Dale W. Weber, P.E.
Development Engineer

cc: Lorie Baker, Planner
Doug Herthel, P.O. Box 387, Los Olivos, CA 93441
MN&S Engineers, 201 Industrial Way, Suite A, Buellton, CA 93427

Memorandum

Date: November 23, 2005
To: Lorie Baker
Planning & Development
Buellton

From: Martin Johnson, Captain
Fire Department



Subject: APN: 135-240-001; Case #: 05LLA-00015; Site: 2531 Grand Ave., Los Olivos
Project Description: Lot Line Adjustment

The above project is located within the jurisdiction of the Santa Barbara County Fire Department. To comply with the established standards, we submit the following with the understanding that the Fire Protection Certificate application may involve modifications, which may determine additional conditions.

PRIOR TO MAP RECORDATION THE FOLLOWING CONDITIONS MUST BE MET:

1. The fire department shall determine and assign all address numbers and shall issue such numbers to property owners and occupants.
2. Building address numbers shall be posted in conformance with fire department standards.
3. When access ways are gated, a fire department approved locking system shall be installed.

THE FOLLOWING ITEMS ARE ADVISORY ONLY BASED UPON POTENTIAL FUTURE DEVELOPMENT

PRIOR TO ERECTION OF COMBUSTIBLE BUILDING MATERIALS THE FOLLOWING CONDITIONS MUST BE MET:

1. Because these parcels are located inside of Santa Barbara County's designated "Urban Limit Line" all driveways will be required to be paved.

All access ways (public or private) shall be installed and made serviceable. Roadway plans, acceptable to the fire department, shall be submitted for approval prior to any work being undertaken.

Access to this project shall conform to Santa Barbara County Private Road and Driveway Standard #1. Dead end access roads shall terminate with a fire department approved turnaround.

Access ways shall be extended to within 150 feet of all portions of the exterior walls of the first story of any building.

A minimum of 13 feet 6 inches of vertical clearance shall be provided and maintained for the life of the project for emergency apparatus access.

Driveways serving one residential dwelling are required to have a minimum width of 12 feet. Driveways serving two residential dwellings are required to have a minimum width of 16 feet. Driveways serving three to nine residential dwellings are required to have a minimum width of 20 feet. If any future development is planned for this parcel or will be served by this driveway, the applicant is encouraged to coordinate these standards into their plans and with other interested parties.

These conditions apply to the project as currently described. Future changes, including but not limited to further division, change of occupancy, intensification of use, or increase in hazard classification, may require additional mitigation to comply with applicable development standards in effect at the time of change.

As always, if you have any questions or require further information please call 681-5500.

MJ:reb

c: Tish Beltranena, MNS Engineers, 201 Industrial Way, Buellton, CA 93427
APN/Chron