

MONTEREY COUNTY

PLANNING & BUILDING INSPECTION DEPARTMENT
2620 1st AVENUE MARINA, CA 93933
(831) 883-7500 FAX: (831)384-3261



MONTEREY COUNTY MINOR SUBDIVISION COMMITTEE

Meeting: May 8, 2003 @ 09:25 a.m.	Agenda Item: 3
Combined Development Permit (PLN020569-Simon) consisting of a Coastal Development Permit for a Lot Line Adjustment of equal land exchange (2,090 square feet) between two adjacent parcels (APNs 419-261-041-000 and 419-261-040-000) and an amendment to a previously approved permit AP95103 to: a) delete the approved but unbuilt main residence, b) change the designation and use of the approved studio to a main residence, c) approve a 217 square-foot addition to the new main residence, d) delete the approved carport, and e) allow the use of a portion of the approved but unbuilt barn as a garage; and design approval.	
Project Location: 9201 Sycamore Canyon Road, west of Highway 1	
Plan Area: Big Sur Coast (Coastal Zone)	Flagged and staked: No
Zoning Designation: Watershed and Scenic Conservation Residential, 40 acres per unit, Design Approval, Coastal Zone [WSC/40-D(CZ)]	
CEQA Action : Categorically Exempt - CEQA Guidelines Section 15305	
Date application deemed complete: March 29, 2003	
Department: Planning and Building Inspection	

RECOMMENDATION: Staff recommends the following:

- 1) Approve described project based on Findings and Evidence (**Exhibit B**) and subject to proposed conditions (**Exhibit C**)

OVERVIEW OF PROPOSED ACTION:

See Exhibit "A" (Project Discussion)

OTHER AGENCY INVOLVEMENT:

- ✓ Water Resources Agency
- ✓ Environmental Health Division
- ✓ Public Works Department
- ✓ Carmel CDF

All have reviewed and recommended conditions (conditions attached) where applicable. The Big Sur Coast Land Use Advisory Committee heard the project on March 25, 2003 and recommended approval of the project by a vote of 5-0.

Notes: This project is appealable to the Board of Supervisors and the California Coastal Commission

Lautaro Echiburú, Associate Planner
(831) 883-7530 echiburul@co.monterey.ca.us

cc: Coastal Commission; Minor Subdivision Committee; County Counsel; Health Department; Public Works; Carmel CDF; Monterey County Water Resources Agency; Housing and Redevelopment Office, Jeff Main; Lautaro Echiburú; Linda Rotharmel; Applicant; Representative; Owners

Attachments: Exhibit "A" Overview of Proposed Action
 Exhibit "B" Recommended Findings and Evidence
 Exhibit "C" Recommended Conditions of Approval
 Exhibit "D" Land Use Advisory Committee Recommendation
 Exhibit "E" Project Plans
 Exhibit "F" Biological Report

This report reviewed by Jeff Main, Planning and Building Services Manager

EXHIBIT "A"
OVERVIEW OF PROPOSED ACTION

Project Location and Description

The project is located west of Highway 1, north of and off Sycamore Canyon Road in the Big Sur area of the Coastal Zone as shown in Figure 1.

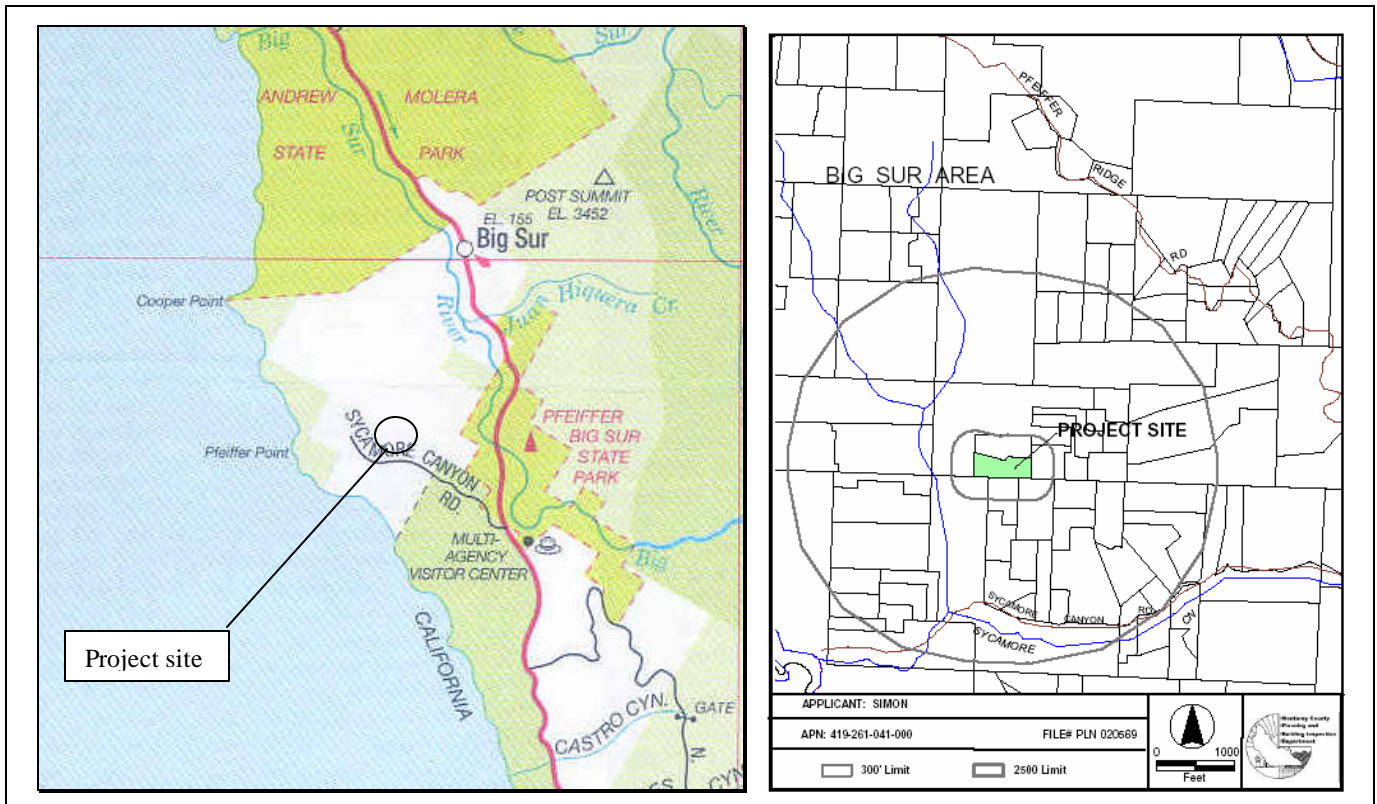


Figure 1

Background

In 1996, the Director of Planning and Building Inspection Department approved a Combined Development Permit on the property (AP95103). The Permit included a main residence, a studio, and other accessory structures. The required side yard setbacks for main and accessory habitable structures in this zoning designation are 20 feet and 6 feet respectively. Following approval of the Combined Development Permit, the owner built the studio, which was sited at the required 6-foot side yard setback. The main residence was never built. Subsequently, the studio was modified to be used as the main residence. As a main residence, this structure does not meet the required 20-foot side yard setback. In July, 2002 the property was “red tagged” for construction of an addition to the studio without a building permit. This illegal addition converted an existing carport attached to the studio to a mud room. During the course of project review to correct the violation, Planning and Building Inspection Department staff realized that the studio had been converted and was being illegally used as

the main residence and that as such, this main residence did not meet the required 20-foot side yard setback.

Permit Amendment

In order to resolve the illegal use of the studio, the applicant is requesting an amendment to the originally approved permit (AP95103). The amendment will delete the approved, but unbuilt, main residence from the project description and designate the existing studio as the main residence. The amendment request includes the partially built 217 square-foot addition to the studio, which replaces an approved carport. The amendment also includes the use of a portion of an approved unbuilt barn as a garage to comply with covered parking requirements of the Zoning Ordinance. These amendments will resolve the issue of illegal use of an existing structure and the unpermitted conversion of the carport to a mud room.

Lot Line Adjustment

Given the unfeasibility of moving the building to the required setback or of rebuilding the structure, the owner entered into an agreement with the neighboring property owner to adjust the lot lines to obtain the required 20-foot distance (Exhibit “E”). The lot line adjustment will be of equal land exchange. The area of land exchanged is approximately 2,090 square feet and will resolve the issue of side yard setback for the main residence.

Project Related Issues

Lot Line Adjustment and Zoning

The zoning designation for this parcel is WSC/40-D(CZ). Most parcels in the project area, including the subject parcels, are less than the 40-acre minimum size required. Effective January 1, 2002, Government Code Section 66412 (d) excludes from the Map Act a lot line adjustment between four or fewer existing adjoining parcels as long as the requirements contained in Section 66412 (d) are met. In considering such LLA’s, the general plan and coastal plan must now be considered to ensure that proposed lot line adjustments are consistent with the policies and standards contained in those plans. The law now requires local agencies or advisory agencies to “limit its review and approval to a determination of whether or not the parcels resulting from the lot line adjustment will conform to the local general plan, any applicable coastal plan, and zoning and building ordinances, as specified.” The lot line adjustment proposed does not conform to the land use designation because it will not result in a parcel of the minimum 40-acre size. However, the lot line adjustment is proposed only to correct the side yard setback for the existing structure that will be used as a main residence. No new building sites will be created as a result of the lot line adjustment and no existing building sites will be altered. The proposed lot line adjustment and permit amendment conform to all other provisions of the Zoning Ordinance, Land use Plan and Coastal Implementation Plan. Therefore, staff recommends approval of the lot line adjustment because no other circumstances regarding the property or proposed project will be altered by the lot line adjustment in the context of the General Plan, Land Use Plan or Zoning Ordinance.

Permit Amendment-Biological Resources

During the original permit review, no resource issues were identified. A single planted pine tree will be removed in order to accommodate construction of the barn. The most significant biological resource present on the site is coastal terrace prairie, a relatively rare grassland community. A biological report was prepared for the current proposal (Exhibit “F”). The report acknowledges the wide presence of

coastal prairie on the parcel, including the area where the original main residence was to be located. In the consulting biologist's opinion, deletion of the main residence from the project description along with the establishment of a conservation easement will benefit this biotically important plant community by allowing its long term maintenance. The requirement to record a conservation easement has been incorporated into the conditions of project approval (Condition 9).

EXHIBIT "B"
RECOMMENDED FINDINGS AND EVIDENCE

1. **FINDING: CONSISTENCY** - The Project, as conditioned is consistent with applicable plans and policies, Big Sur Coast Land Use Plan, Coastal Implementation Plan (Part 3), Part 6 of the Coastal Implementation Plan, and the Monterey County Zoning Ordinance (Title 20) which designates this area as appropriate for residential development.

EVIDENCE: (a) PBI staff has reviewed the project as contained in the application and accompanying materials for consistency with the Big Sur Coast Land Use Plan, Coastal Implementation Plan (Part 3), Part 6 of the Coastal Implementation Plan. PBI staff has reviewed the project as contained in the application and accompanying materials for conformity with the Monterey County Zoning Ordinance (Title 20) and has determined that the project is consistent with the Big Sur Coast Land Use Plan which designates this area as appropriate for residential development. Staff notes are provided in Project File PLN020569.

(b) Project planner conducted an on-site inspection on April 24, 2003 to verify that the project on the subject parcel conforms to the plans listed above.

(c) The project for a lot line adjustment and a single family home is a conditional use and an allowed use, respectively, in accordance with Sections 20.17.050.JJ and 20.17.040.A.

(d) The parcel is zoned Watershed and Scenic Conservation Residential, 40 acres per unit, Design Control District, Coastal Zone ("WSC/40-D (CZ))." Upon approval of the Lot Line Adjustment, the project will be in compliance with Site Development Standards for a Watershed and Scenic Conservation Residential District in accordance with Section 20.17.060.

(e) **LAND USE ADVISORY COMMITTEE:** The Big Sur Coast Land Use Advisory Committee recommended approval of the project by a vote of 5-0. LUAC meeting minutes dated March 25, 2003 (Exhibit "D").

(f) The application, plans, and support materials submitted by the project applicant to the Monterey County Planning and Building Inspection Department for the proposed development, found in Project File PLN020569.

(g) Previously approved permit AP95103

2. **FINDING: VIOLATIONS** - The proposed project remedies existing violations (CE010080) to include the use of an accessory structure as a main residence and inadequate yard setbacks. When implemented, the project will bring the subject property into compliance with all rules and regulations pertaining to the property and will remove the existing violations. All zoning violation abatement cost, if any, have been paid.

EVIDENCE: (a) In the process of reviewing a violation for the addition to an existing structure on the property, staff found that an accessory habitable structure, allowed under a previously approved Combined Development Permit, was being illegally used as a main residence. As such, this structure did not meet the required 20-foot side yard setback. The permit amendment will allow the designation and use of

the studio to be changed from an accessory habitable structure to a main structure. The lot line adjustment will move the property line to the required minimum setback distance for a main structure.

(b) Code Enforcement file CE010080

(c) Project file PLN020569

3. **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 and Building Inspection, Public Works Department, Water Resources Agency, Environmental Health Division, and Carmel CDF. The respective departments and agencies have recommended conditions, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood. The applicant has agreed to these conditions as evidenced by the application and accompanying materials and conditions (Exhibit "C").

4. **FINDING: SITE SUITABILITY** - The site is suitable for the use proposed.

EVIDENCE: (a) The project has been reviewed for suitability by Planning and Building Inspection, Public Works Department, Water Resources Agency, Environmental Health Division, and Carmel CDF. Conditions recommended have been incorporated (Exhibit "C").

(b) Staff conducted an on-site visit on April 24, 2003 to verify that the site is suitable for this use.

(c) Necessary public facilities are available and will be provided.

5. **FINDING: ENVIRONMENTALLY SENSITIVE HABITAT AREAS:** - The project site contains the relatively rare Coastal Terrace Prairie grassland community. The proposed lot line adjustment and permit amendment is consistent with the policies and regulations regarding development in environmentally sensitive habitat areas because no new building sites will be created in the sensitive habitat area. Further, the permit amendment will benefit Coastal Terrace Prairie present on the property by deleting a proposed building site in this area and by conveying a conservation easement over the habitat.

EVIDENCE: (a) The application, plans, and support materials submitted by the project applicant to the Monterey County Planning and Building Inspection Department for the proposed development, found in Project File PLN020569.

(c) Biological Report by Jeff Norman, consulting biologist, dated June 8, 2001.

(b) Staff site visit on April 24, 2003.

6. **FINDING: CEQA:** - The project is exempt from environmental review.
- EVIDENCE:** (a) CEQA Guidelines Section 15305 categorically exempts minor lot line adjustments not resulting in the creation of new parcels, where the average slope is less than 20%.
- (c) Although the parcel contains slopes in excess of 30%, this lot line adjustment represents an equal land exchange (approximately 2,090 square feet) between two adjacent parcels to correct a setback for the existing structure. No new parcels or building sites will be created.
- (d) No potential adverse environmental effects were identified during staff review of the development application or during the site visit on April 24, 2003.
7. **FINDING: PUBLIC ACCESS** - The project is in conformance with the public access and public recreation policies of the Coastal Act and Local Coastal Program, and does not interfere with any form of historic public use or trust rights (see 20.70.050.B.4). No access is required as part of the project as no substantial adverse impact on access, either individually or cumulatively, as described in Section 20.70.050.B.4.c of the Monterey County Coastal Implementation Plan, can be demonstrated.
- EVIDENCE** (a) The subject property is not described as an area where the Local Coastal Program requires access.
- (b) The subject property is not indicated as part of any designated trails or shoreline access as shown in Figures 2 and 3, the Shoreline Access Plan and the Trails Plan, of the Big Sur Coast Land Use Plan.
- (c) No evidence or documentation has been submitted or found showing the existence of historic public use or trust rights over this property.
- (d) Staff site visit on April 24, 2003.
8. **FINDING: LOT LINE (ADJACENT PARCELS)** - The lot line adjustment is between two existing adjacent parcels.
- EVIDENCE:** Application and plans for a lot line adjustment found in the Project File PLN020569.
9. **FINDING: LOT LINE (PARCEL CREATION)** - A greater number of parcels than originally existed will not be created as a result of the lot line adjustment.
- EVIDENCE:** Two contiguous separate legal parcels of record will be adjusted and two contiguous separate legal parcels of record will result from the adjustment (Exhibit "F").
10. **FINDING: LOT LINE (ZONING CONFORMITY)** - The parcels resulting from the lot line adjustment conform to the County Zoning and Building Ordinances.
- EVIDENCE:** (a) With the exception of lot size, the proposed lot line adjustment is consistent with the site development standards for parcels within the WSC/40(CZ) Zoning Districts, pursuant to Section 20.17.060 of the Monterey County Zoning Ordinance (Title 20). Most surrounding parcels in this area are less than the 40 acre minimum in size. The two subject parcels are currently 5.01 acres each,

which is non-conforming to the 40 acre lot size requirement of the zoning district they are in. The lot line adjustment is of equal land exchange (approximately 2,090 square feet) and will result in two 5.01 acre parcels. There is no possibility to adjust lot lines between four or less contiguous parcels in this area where the resulting parcels would conform to the 40-acre minimum lot size. The purpose of the lot line adjustment is to correct the side yard setback for an existing structure. The lot line adjustment will not create new building sites.

- (b) On October 8, 2002, the Planning and Building Inspection Department issued an interpretation that lot line adjustments conforming to all plan policies except for density requirements are found to be effectively consistent with the applicable plan as long as the lot line adjustment does not obstruct the other objectives of and policies of the zoning and applicable plans. Additionally, there must be no evidence that there is a possibility to make the proposed project conform to the density requirement. The proposed lot line adjustment meets the above criteria because except for the 40-acre minimum lot size, the project does not interfere with the objectives of the appropriate zoning district and applicable plans. In addition, there is no possibility to adjust lot line with adjoining properties in such a way that the resulting parcels would meet the 40-acre minimum lot size.
- (c) The application and plans for a lot line adjustment found in Project File PLN020569.

11. FINDING: **APPEALABILITY** - The project is appealable to the Board of Supervisors and California Coastal Commission.

EVIDENCE: Section 20.86.030 and 20.86.080 of the Monterey County Coastal Implementation Plan (Part 1) and Section 19.01.040 of the Monterey County Coastal Zone Subdivision Ordinance (Title 19).

EXHIBIT "C"

RECOMMENDED CONDITIONS OF APPROVAL

1. The subject Combined Development Permit consists of a Coastal Development Permit for a Lot Line Adjustment of equal land exchange (2,090 square feet) between two adjacent parcels and an amendment of previously approved permit AP95103 to: a) delete the approved but unbuilt main residence, b) change the designation and use of the approved studio to a main residence, c) approve a 217 square-foot addition to the new main residence, d) delete the approved carport, and e) allow the use of a portion of the approved but unbuilt barn as a garage; and Design Approval. The properties are located at 9201 Sycamore Canyon Road, west of Highway 1 (Assessor's Parcel Numbers 419-261-041-000 and 419-261-040-000), Big Sur, area, Coastal Zone. The proposed project is in accordance with County ordinances and land use regulations, subject to the following terms and conditions. Neither the use 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)**

Prior to the Issuance of Grading and Building Permits:

2. The applicant shall record a notice which states: "A permit (Resolution # _____) was approved by the Minor Subdivision Committee for Assessor's Parcel Number 419-261-041-000 and 419-261-040-000 on May 8, 2003. The permit was granted subject to 15 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 issuance of building permits or commencement of the use. **(Planning and Building Inspection)**
3. The applicant shall obtain a survey of the new line and have the line monumented. **(Public Works)**
4. The applicant shall file a record of survey showing new line and its monumentation. **(Public Works)**
5. All exterior lighting shall be unobtrusive, harmonious with the local area, and constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. The applicant shall submit 3 copies of an exterior lighting plan which shall indicate the location, type, and wattage of all light fixtures and include catalog sheets for each fixture. The exterior lighting plan shall be subject to approval by the Director of Planning and Building Inspection, prior to the issuance of building permits. **(Planning and Building Inspection)**

6. All cut and/or fill slopes exposed during the course of construction shall be covered, seeded with native grasses or otherwise treated to control erosion subject to the approval of the Director of Planning and Building Inspection. **(Planning and Building Inspection)**
7. The location, type and size of all antennas, satellite dishes, towers, and similar appurtenances shall be approved by the Director of Planning and Building Inspection. **(Planning and Building Inspection)**
8. A drainage plan shall be prepared by a registered civil engineer or architect to address on-site and off-site impacts, and necessary improvements shall be constructed in accordance with approved plans. **(Water Resources Agency)**

Prior to Final Building Inspection/Occupancy:

9. Based on information contained in the biological report, the applicant shall expand the existing conservation easement on the property to include the area where Coastal Terrace Prairie has been identified. Prior to recordation, the conservation easement deed and the map prepared by the consulting biologist shall be submitted to and approved by Director of Planning and Building Inspection. **(Planning and Building Inspection)**
10. The applicant shall comply with Ordinance No. 3932, or as subsequently amended, of the Monterey County Water Resources Agency pertaining to mandatory water conservation regulations. The regulations for new construction require, but are not limited to:
 - a) All toilets shall be ultra-low flush toilets with a maximum tank size or flush capacity of 1.6 gallons, all shower heads shall have a maximum flow capacity of 2.5 gallons per minute, and all hot water faucets that have more than ten feet of pipe between the faucet and the hot water heater serving such faucet shall be equipped with a hot water recirculating system.
 - b) Landscape plans shall apply xeriscape principles, including such techniques and materials as native or low water use plants and low precipitation sprinkler heads, bubblers, drip irrigation systems and timing devices. **(Water Resources Agency & Planning and Building Inspection)**

Continuous Permit Conditions:

11. All applicable conditions of permit AP95103 are still in effect and are not modified by this permit. **(Planning and Building Inspection)**
12. Any future building permits associated with this property must address proper access, address signage and required fuel modifications. **(CDF – Carmel Hills)**
13. If during the course of construction activity on the subject property, cultural, archaeological, historical, paleontological resources are uncovered at the site (surface or subsurface resources) work shall be halted immediately within 50 meters (165 feet) of the find until it can be evaluated by

a qualified professional archaeologist. The Monterey County Planning and Building Inspection Department and a qualified archaeologist (i.e., an archaeologist registered with the Society of Professional Archaeologists) shall be immediately contacted by the responsible individual present on-site. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery. **(Planning and Building Inspection)**

14. All landscaped areas and replanted trees shall be continuously maintained by the applicant; all plant material shall be native to the area and continuously maintained in a litter-free, weed-free, healthy, growing condition. **(Planning and Building Inspection)**

15. No land clearing or grading shall occur on the subject parcel between October 15 and April 15 unless authorized by the Director of Planning and Building Inspection. **(Planning and Building Inspection)**