

MONTEREY COUNTY ZONING ADMINISTRATOR

Meeting: January 31 st , 2008 Time:	Agenda Item No.:
Project Description: Combined Development Permit consisting of: 1) a Lot Line Adjustment to adjust the boundaries between three legal lots of record of approximately 7,129 square feet (Assessor's Parcel Number 416-023-017-000), a 108,694 square foot parcel (Assessor's Parcel Number 416-023-018-000) and a 20,468 square foot parcel (Assessor's Parcel Number 416-023-016-000); resulting in three legal lots of record of approximately 8,078 (Assessor's Parcel Number 416-023-017-000), a 107,939 square foot parcel (Assessor's Parcel Number 416-023-018-000) and a 20,364 square foot parcel (Assessor's Parcel Number 416-023-016-000); 2) a Variance to allow the reduction of the required side yard setbacks for an existing single family dwelling 3) a Use Permit in accordance with Title 21 Sections 21.68.020 and 21.68.030 to allow modifications to an existing legal non-conforming use and a legal non-conforming structure use.	
Project Location: 27455 Schulte Road Carmel	APN: 416-023-017-000, 416-023-018-000 and 416-023-016-000
Planning File Number: PLN070339	Name: Marie Dart, Property Owner
Plan Area: Carmel Valley Master Plan	Flagged and staked: No structure proposed
Zoning Designation: RG/10-D-S [Rural Grazing, 10 acres per unit with Design Control and Site Plan Review Overlays]	
CEQA Action: Categorically Exempt per Section 15305 (a)	
Department: RMA - Planning Department	

RECOMMENDATION:

Staff recommends that the Zoning Administrator approve the Combined Development Permit based on the Findings and Evidence (**Exhibit C**) and subject to the recommended Conditions (**Exhibit D**).

PROJECT OVERVIEW:

(See **Exhibit B**)

OTHER AGENCY INVOLVEMENT:

- ✓ Carmel Valley Fire Protection District
- ✓ Public Works Department
- ✓ Environmental Health Division
- ✓ Water Resources Agency

The above checked agencies and departments have reviewed this project. Conditions recommended have been incorporated into the condition compliance reporting plan (**Exhibit D**).

The project was not referred to the Carmel Valley Land Use Advisory Committee (LUAC) for review. Based on the current review guidelines adopted by the Monterey County Board of Supervisors per Resolution No. 04-236, this application did not warrant referral to the LUAC because the project is exempt from CEQA per Section 15305(a).

Note: The decision on this project is appealable to the Planning Commission.

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December 06, 2007

cc: Front Counter Copy, Zoning Administrator; Carmel Valley Fire Protection District; Public Works Department; Environmental Health Division; Water Resources Agency; Bob Schubert, Acting Services Manager; Brittany Nicholson, Planner; Carol Allen, Marie Dart, Applicant; Planning File PLN070339.

Attachments: Exhibit A Project Data Sheet
 Exhibit B Project Overview
 Exhibit C Recommended Findings and Evidence
 Exhibit D Recommended Conditions of Approval
 Exhibit E Site Plan, Elevations, Floor Plans

This report was reviewed by Luis Osorio, Senior Planner.

EXHIBIT B

PROJECT OVERVIEW

BACKGROUND:

The Dart property (Assessor's Parcel Number 416-023-017-000) is a non-conforming parcel as to the minimum building site and maximum development density requirements of the "RG/10" zoning district. The property contains a 680 square foot one-story single family dwelling. The Monterey County Assessor's Office began assessing the referenced single family dwelling in 1954. This means the structure existed in or before 1954 prior to the building permit requirement for a dwelling. The property is a portion of what was a 2.61 acre tract of land that was first zoned in 1957 with the Agricultural Residential zoning designation and Rural Professional with a B-4 overlay or "K-G-B-4". The application of this zoning designation rendered the dwelling a legal non-conforming structure as to the then required side yard setback of six feet (when the house encroached/encroaches onto the neighboring property by 1 foot). It also rendered the property as a legal non-conforming use in relation to the then required minimum parcel size of 10,000 square feet when the lot is only 7,129 square feet.

The property received an additional zoning overlay of Trailer Exclusion or "J" overlay district prohibiting mobile homes as living units in 1970 but otherwise held the same zoning classification. The property was split into its current size before or in 1963 which left the property as legal non-conforming in regards to lot size requirements. The property was re-classified from the "K-G-J-B-4" designation to the current zoning designation of Rural Grazing, 10 acre minimum with Design Control and Site Plan Review overlays or "RG/10-D-S" in or shortly after 1990. This re-classification left the parcel as legal non-conforming since it requires a minimum parcel size of 10 acres per unit when the lot is 7,219 square feet. This Designation also mandates a side setback of 20 feet for the main dwelling when the main dwelling encroaches onto the neighboring property by 1 foot.

PROJECT DESCRIPTION:

The subject application consists of a Combined Development Permit including: 1) a Lot Line Adjustment; 2) a Variance to allow the reduction of the required side yard setbacks for an existing single family dwelling and a increase in lot coverage and; 3) a Use Permit in accordance with Title 21 Sections 21.68.020 and 21.68.030 to allow modifications to a legal non-conforming use and a legal non-conforming structure use. The following discussion addresses the specifics of each component of the application.

Lot Line Adjustment:

The lot line adjustment would adjust the boundaries between three legal lots of record of approximately 7,129 square feet (Assessor's Parcel Number 416-023-017-000), a 108,694 square foot parcel (Assessor's Parcel Number 416-023-018-000) and a 20,468 square foot parcel (Assessor's Parcel Number 416-023-016-000); resulting in three legal lots of record of approximately 8,078 (Assessor's Parcel Number 416-023-017-000), a 107,939 square foot parcel (Assessor's Parcel Number 416-023-018-000) and a 20,364 square foot parcel (Assessor's Parcel Number 416-023-016-000). The purpose of the lot line adjustment is to remove the encroachment of the existing main dwelling on the Dart property (416-023-017-000) from the Venn property (416-023-016-000) and to remove the encroachment of the aluminum shed owned by Ms. Dart from the Sherman property (416-023-018-000) by adding the land with the aluminum shed to the Dart property.

Variance:

A Variance is necessary (in accordance with the Monterey County Zoning Ordinance [Title 21] Section 21.72.020) for a reduced side yard setback because the existing main dwelling will not meet the 20 foot setback requirement; the house will be setback 1 foot from the Venn property. A Variance exceeds the required because the Dart property is over the 5 percent coverage requirement; currently the Dart property is at 13 percent coverage and after the Lot Line Adjustment the property will be at 12.25 percent.

Section 21.72.040 of Title 19 requires that in order to grant a Variance three findings have to be made by the appropriate authority: 1) That because of special circumstances applicable to the property strict application of Title 21 deprives the property owners of privileges enjoyed by neighboring properties under the identical zoning classification, 2) That the Variance does not grant special privileges to the applicant inconsistent with the limitations upon other neighboring properties and 3) That the Variance is not being granted for a use that is not authorized by the governing zoning classification.

Typically a 7,219 square foot lot provides an adequate amount of area for a single family dwelling to be constructed in compliance with the site development standards governing the property. In this case however, the Rural Grazing site development standards, specifically the required setbacks, leave the parcel with a building site of 1,650 square feet. The setbacks required by the Monterey Code 15.20 (Septic Ordinance) further reduces the building site from 1,650 square feet to 1,241 square feet. The main portion of the dwelling that encroaches into the 20 foot side setback is the attached garage. A covered parking space is required for a dwelling unit in accordance with Title 21, Section 21.58.050.F. The living area of the dwelling encroaches into the side setback by 25 square feet.

Residential use is allowed under the Rural Grazing zoning designation. The residence is an existing legal non-conforming structure in regards to setbacks and a legal non-conforming use in regards to lot size/density. Based on these circumstances staff has determined that the granting of the Variance is appropriate and consistent with County policy.

Use Permit:

The Monterey County Zoning Ordinance (Title 21) Section 21.68.020.C states, a “legal nonconforming use may be changed to a use of a similar or more restricted nature, subject to a Use Permit in each case”. The current size of the Dart property (7,219 square feet) renders it a legal non-conforming parcel in regards to the minimum 10 acres per unit required under the governing zoning district. The lot line adjustment will result in an 8,078 square foot parcel which would still be non-conforming but is closer to the minimum requirement. The “RG” zoning designation allows a maximum building site coverage of 5 percent which would give the parcel a lot coverage allowance of 380 square feet. Presently the property is at 13 percent coverage. The lot line adjustment will bring the Dart property closer to conformance by reducing the coverage to 12.25 percent. Title 21 Section 21.68.030.A states, “The non-conforming use of a structure may be changed to a use of the same or more restricted nature subject to the issuance of a Use Permit in each case”. After the lot line adjustment the dwelling on the Dart property will remain a legal non-conforming structure because it will not meet the 20 foot setback requirement; the non-conformity is being modified to better achieve the goals and policies of Title 21 by allowing the dwelling to reside on the property to which it belongs.

CONCLUSION:

Staff has found this project to be consistent with the Monterey County General Plan, the Carmel Valley Master Plan and the Monterey County Zoning Ordinance (Title 21). Therefore staff is recommending approval of the Combined Development Permit subject to the findings and evidence of Exhibit C and the recommended conditions of approval of Exhibit D.

EXHIBIT C

RECOMMENDED FINDINGS AND EVIDENCE

1. **FINDING: CONSISTENCY** – The project, as described in Condition No. 1 and as conditioned, conforms to the policies, requirements, and standards of the Monterey County General Plan, Carmel Valley Master Plan and the Monterey County Zoning Ordinance (Title 21), which designates this area as appropriate for development.

EVIDENCE: (a) The text, policies, and regulations in the above referenced documents have been evaluated during the course of review of applications. No conflicts were found to exist. No communications were received during the course of review of the project indicating any inconsistencies with the text, policies, and regulations in these documents.

(b) The parcel is zoned Rural Grazing, 10 acre minimum with Design Control and Site Plan Review Overlays or (“RG/10-D-S”) which allows residential development. Therefore, the property is suitable for the proposed development.

(c) The project planner conducted a site inspection on September 13, 2007 to verify that the project on the subject parcel conforms to the plans listed above.

(d) The project was not referred to the Carmel Valley Advisory Committee (LUAC) for review. Based on the current review guidelines adopted by the Monterey County Board of Supervisors per Resolution No. 04-236, this application did not warrant referral to the LUAC because the project is exempt from CEQA per Section 15305(a).

(e) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN070339.

2. **FINDING: SITE SUITABILITY** – The site is physically suitable for the use proposed.

EVIDENCE: (a) The project has been reviewed for site suitability by the following departments and agencies: RMA - Planning Department, Carmel Valley Fire Protection District, Public Works, Environmental Health Division, and Water Resources Agency. There has been no indication from these departments/agencies that the site is not suitable for the proposed development. Conditions recommended have been incorporated.

(b) Staff conducted a site inspection on September 13, 2007 to verify that the site is suitable for this use.

(c) Materials in Project File PLN070339.

3. **FINDING: CEQA (Exempt):** - The project is categorically exempt from environmental review and no unusual circumstances were identified to exist for the proposed project.

EVIDENCE: (a) California Environmental Quality Act (CEQA) Guidelines Section 15305(a) categorically exempts minor lot line adjustments and variances to side setbacks.

(b) No adverse environmental effects were identified during staff review of the development application during a site visit on September 13, 2007.

(c) See preceding and following findings and supporting evidence.

4. **FINDING: NO VIOLATIONS** - The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of the County's zoning ordinance. No violations exist on the property. Zoning violation abatement costs, if any, have been paid.

EVIDENCE: (a) Staff reviewed Monterey County RMA - Planning Department and Building Services Department Monterey County records and is not aware of any violations existing on subject property.

FINDINGS FOR VARIANCE

5. **FINDING: VARIANCE (Special Circumstances)** - Because of special circumstances applicable to the subject property, including the size, shape, topography, location of the lot, or the surrounding area, the strict application of Title 21 of the Monterey County Zoning Ordinance is found to deprive the subject property of privileges enjoyed by other property owners in the vicinity under an identical zoning classification.

EVIDENCE:

- (a) A Variance is necessary (in accordance with the Monterey County Zoning Ordinance [Title 21] Section 21.72.020) for a reduced side yard setback because the existing main dwelling will not meet the 20 foot setback requirement; the house will be setback 1 foot from the Venn property. A Variance is required because the subject property (Dart) exceeds the 5 percent coverage requirement; currently the Dart property is at 13 percent coverage and after the Lot Line Adjustment the property will be at 12.25 percent.
- (b) Typically a 7,219 square foot lot provides an adequate amount of area for a single family dwelling to be constructed in compliance with the site development standards governing the property. In this case however, the Rural Grazing site development standards, specifically the required setbacks, leave the parcel with a building site of 1,650 square feet. The setbacks required by the Monterey Code 15.20 (Septic Ordinance) further reduces the building site from 1,650 square feet to 1,241 square feet. The main portion of the dwelling that encroaches into the 20 foot side setback is the attached garage. A covered parking space is required for a dwelling unit in accordance with Title 21, Section 21.58.050.F, therefore the removal of the garage is an infeasible alternative. The living area of the dwelling encroaches into the side setback by 25 square feet.
- (c) One of the intentions of setback regulations is to comply with Fire Code requirements. The Carmel Valley Fire Department deemed the application complete with conditions of approval on August 13th, 2007. Condition 5 states that all setback requirements on parcels 416-023-016-000 and 416-023-018-000 will be strictly enforced if new structures or structure additions are applied for in the future.
- (d) Materials and documents in Project File No. PLN070339.

6. **FINDING: VARIANCE (Special Privileges)** - The variance to allow a lot line adjustment which adjusts the current lot lines in such a way that the Dart dwelling unit will reside on the property to which it belongs instead of encroaching onto the neighboring property by 1 foot. This action shall not constitute a grant of privileges inconsistent with the limitations upon other property owners in the vicinity and zone in which such property is situated.
- EVIDENCE:** (a) Currently, the main dwelling located on the Dart property encroaches onto the Venn property by 1 foot. The subject lot line adjustment/variance would remove the encroachment from the Venn property allowing the existing dwelling to be fully located on the subject property. The dwelling unit will not meet the mandated 20 foot side setback. The dwelling would be setback 1 foot from the Venn property.
- (b) See Finding 6.
- (c) Materials and documents in Project File No. PLN070339.
7. **FINDING: VARIANCE (Authorized Use)** – The Variance shall not be granted for a use or activity which is not otherwise expressly authorized by the zone regulation governing the parcel of property.
- EVIDENCE:** (a) Residential use is allowed under the Rural Grazing zoning designation. The residence is an existing legal non-conforming structure in regards to setbacks and a legal non-conforming use in regards to lot size/density. See Legal Non-Conforming discussion for details.
- (b) Materials and documents in Project File No. PLN070339.

FINDINGS FOR THE USE PERMIT

9. **FINDING: LEGAL NON-CONFORMING LAND USE/STRUCTURE USE** – No such use or structure use shall be expanded, enlarged, increased or extended to occupy an area greater than that occupied when the legal non-conforming use/structure use was established. The legal non-conforming use/structure use may be changed to a use of the same or more restricted nature subject to the issuance of a Use Permit in each case.
- EVIDENCE:** (a) The Monterey County Zoning Ordinance (Title 21) Section 21.68.020.C states, a “legal nonconforming use may be changed to a use of a similar or more restricted nature, subject to a Use Permit in each case”. The current size of the subject (Dart) property (7,219 square feet) renders it a legal non-conforming parcel in regards to the minimum 10 acres per unit required under the governing zoning district. The lot line adjustment will result in an 8,078 square foot parcel which would still be non-conforming but is closer to the minimum requirement and therefore better conforms to the zoning requirement regarding parcel size.
- (b) The “RG” zoning designation allows a maximum building site coverage of 5 percent which would give the parcel a lot coverage allowance of 380 square feet. Presently the property is at 13 percent coverage. The lot line adjustment will bring the subject (Dart) property closer to conformance by

reducing the coverage to 12.25 percent and therefore better conforms to the zoning requirement regarding lot coverage.

(c) After the lot line adjustment the dwelling on the Dart property will remain a legal non-conforming structure because it will not meet the 20 foot setback requirement; the non-conformity is being modified to better achieve the goals and policies of Title 21 by allowing the dwelling to reside on the property to which it belongs.

FINDING FOR THE LOT LINE ADJUSTMENT

9. **FINDING: SUBDIVISION ORDINANCE (TITLE 19) – LOT LINE ADJUSTMENT (CHAPTER 19.09)** – The Lot Line Adjustment is between three legal lots of record. The Lot Line Adjustment will not result in the creation of new legal lots of record.

EVIDENCE: (a) The Lot Line Adjustment is between three legal lots of record of approximately 7,129 square feet (Assessor's Parcel Number 416-023-017-000), a 108,694 square foot parcel (Assessor's Parcel Number 416-023-018-000) and a 20,468 square foot parcel (Assessor's Parcel Number 416-023-016-000); resulting in three legal lots of record of approximately 8,078 (Assessor's Parcel Number 416-023-017-000), a 107,939 square foot parcel (Assessor's Parcel Number 416-023-018-000) and a 20,364 square foot parcel (Assessor's Parcel Number 416-023-016-000).
(b) The Lot Line Adjustment will not result in the creation of new legal lots of record.
(c) The Lot Line Adjustment involves legal non-conforming parcels. Special findings have been made the lot line adjustment in that regard in accordance with Title 21 Sections 21.68.020 and 21.68.030.

8. **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) Preceding findings and supporting evidence.

10. **FINDING: APPEALABILITY** - The decision on this project is appealable to the Planning Commission.

EVIDENCE: Section 21.80.040.B of the Monterey County Zoning Ordinance (Title 21) states, "The Planning Commission is the Appeal Authority to consider appeals from the discretionary decisions of the Zoning Administrator made pursuant to this Title. The decision of the Planning Commission shall be final and may not be appealed, except as provided for in Section 21.80.040 C."

<p style="text-align: center;">EXHIBIT D</p> <p style="text-align: center;">Monterey County Resource Management Agency</p> <p style="text-align: center;">Planning Department</p> <p style="text-align: center;">Condition Compliance and/or Mitigation Monitoring Reporting Plan</p>	<p>Project Name: Dart</p> <p>File No: PLN070339</p> <p>APNs: 416-023-017-000</p> <p>Approved by: The Zoning Administrator</p> <p>Date: January 31st, 2008</p>
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**Monitoring or Reporting refers to projects with an EIR or adopted Mitigated Negative Declaration per Section 21081.6 of the Public Resources Code.*

Permit Cond. Number	Mitig. Number	Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
1.		<p>PD001 - SPECIFIC USES ONLY</p> <p>This Combined Development permit (PLN070339) allows a Lot Line Adjustment between three legal lots of record; 2) a Variance to allow the reduction of the required side yard setbacks for an existing single family dwelling 3) a Use Permit in accordance with Title 21 Sections 21.68.020 and 21.68.030 to allow modifications to a legal non-conforming use and a legal non-conforming structure use. The property is located at 27455 Schulte Road in Carmel (Assessor's Parcel Number 416-023-017-000), Carmel Valley Master Plan. This permit was approved in accordance with County ordinances and land use regulations subject to the following terms and conditions. Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of the RMA - Planning Department. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. To the extent that the County has delegated any condition compliance or mitigation monitoring to the Monterey County Water Resources Agency, the Water Resources Agency shall provide all information requested by the County and the County shall bear ultimate responsibility to ensure that conditions and mitigation measures are properly fulfilled. (RMA - Planning Department)</p>	Adhere to conditions and uses specified in the permit.	Owner/ Applicant	Ongoing unless otherwise stated	

<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (name/date)</i>
2.		PD002 - NOTICE-PERMIT APPROVAL The applicant shall record a notice which states: "A permit (Resolution _____) was approved by the (Zoning Administrator) for Assessor's Parcel Number 416-023-017-000 on (January 31 st , 2008). 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 RMA - Planning Department." Proof of recordation of this notice shall be furnished to the Director of the RMA - Planning Department prior to issuance of building permits or commencement of the use. (RMA - Planning Department)	Proof of recordation of this notice shall be furnished to the RMA - Planning Department.	Owner/ Applicant	Prior to the issuance of grading and building permits or commencement of use.	
3.		PD045 – CERTIFICATES OF COMPLIANCE (LOT LINE ADJUSTMENTS) The applicant shall request unconditional certificates of compliance for the newly configured parcels. (RMA – Planning Department)	The Surveyor shall prepare legal descriptions for each newly configured parcel. The legal descriptions shall be entitled "Exhibit A". The legal description shall comply with the Monterey County Recorder's guidelines as to form and content. The Applicant shall submit the legal descriptions with a check, payable to the Monterey County Recorder, for the appropriate fees to record the certificates.	Owner/ Applicant/ Surveyor	Concurrent with recording the Record of Survey	
4.		PD001 – NON STANDARD – REMOVAL OF TOOL SHED The aluminum shed does not meet the required rear setback of 6 feet. The specified shed must be relocated as to meet setbacks or removed from the site. (RMA – Planning Department)	Relocate the shed in a location where it will meet all applicable site development standards or remove the shed from the site.	Owner	Prior to recording the Record of Survey	

<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (name/date)</i>
5.		FIRE030 – NON STANDARD –SETBACK REQUIREMENTS Setback requirements will be strictly enforced on the three adjacent parcels (416-023-016, 017 and 018) if future permits are applied for.	No variances will be approved on the adjacent specified lots in the future.	Owner	Ongoing	
6.		PW0034 – LOT LINE ADJUSTMENT Obtain a survey of the new line and have the line monumented. (Public Works)	Owner shall have a surveyor monument the new lines. Evidence of completion of monumentation shall be submitted to DPW for review and approval.	Owner/ Applicant/ Surveyor	Prior to Recordation of Survey	
7.		PW0035 – RECORD OF SURVEY File a Record of Survey showing the new line and it's monumentation. (Public Works)	Owner's Surveyor to prepare record of survey and submit to DPW for review and approval.	Owner/ Surveyor	Prior to Recordation of Record of Survey	
8.		WR001 – NON STANDARD – FLOODPLAIN RECORDATION The owner shall provide the Water Resources Agency with a recorded Floodplain Notice for each newly created parcel stating: "The property is located within or partially within a floodplain and may be subject to building and/or land use restrictions." (Water Resources Agency)	Submit a floodplain notice to the Water Resources Agency for review and approval. The approved notice shall be recorded concurrently with the deed or record of survey.	Owner/ Applicant	Prior to Recordation of Record of Survey	