

JEFF MAIN
ZONING ADMINISTRATOR

COUNTY OF MONTEREY
STATE OF CALIFORNIA

RESOLUTION NO. 070339

A. P. # 416-023-016-000
416-023-017-000 and
416-023-018-000

In the matter of the application of
Marie Dart (PLN070339)

FINDINGS & DECISION

to allow a **Combined Development Permit** in accordance with Title 21 (Zoning) Chapter 21.76 (Combined Development Permits) of the Monterey County Code, 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. The property is located at 27455 Schulte Road Carmel, Carmel Valley Master Plan, and came on regularly for meeting before the Zoning Administrator on January 31, 2008.

Said Zoning Administrator, having considered the application and the evidence presented relating thereto,

FINDINGS OF FACT

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) Granting the subject Variance does not constitute the grant of special privileges due to the circumstances. The Variance is tied to a historical legal non-conforming structure and although no variances have been granted for similar circumstances in the immediate vicinity of the property it is anticipated that Variances under the same circumstances could be approved.

(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

8. **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."

DECISION

It is the decision of the Zoning Administrator of the County of Monterey that said application for a Combined Development Permit be granted as shown on the attached sketch and subject to the attached conditions.

PASSED AND ADOPTED this 31st day of January, 2008.



JEFF MAIN, ZONING ADMINISTRATOR

COPY OF THIS DECISION MAILED TO APPLICANT ON FEB 25 2008

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE SECRETARY TO THE PLANNING COMMISSION ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE MAR - 6 2008

This decision, if this is the final administrative decision, is subject to judicial review pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6. Any Petition for Writ of Mandate must be filed with the Court no later than the 90th day following the date on which this decision becomes final.

NOTES

1. You will need a building permit and must comply with the Monterey County Building Ordinance in every respect.

Additionally, the Zoning Ordinance provides that no building permit shall be issued, nor any use conducted, otherwise than in accordance with the conditions and terms of the permit granted or until ten days after the mailing of notice of the granting of the permit by the appropriate authority, or after granting of the permit by the Board of Supervisors in the event of appeal.

Do not start any construction or occupy any building until you have obtained the necessary permits and use clearances from the Monterey County RMA - Planning Department and RMA - Building Department offices in Salinas.

2. This permit expires 2 years after the above date of granting thereof unless construction or use is started within this period.

**Monterey County Resource Management Agency
Planning Department
Condition Compliance and/or Mitigation Monitoring
Reporting Plan**

Project Name: Dart

File No: PLN070339

APNs: 416-023-017-000

Approved by: The Zoning Administrator

Date: January 31st, 2008

**Monitoring or Reporting refers to projects with an EIR or adopted Mitigated Negative Declaration per Section 21081.6 of the Public Resources Code.*

<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>
1.		<p>PD001 - SPECIFIC USES ONLY 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	

2.		<p>PD002 - NOTICE-PERMIT APPROVAL The applicant shall record a notice which states: "A permit (Resolution 070339) was approved by the Zoning Administrator for Assessor's Parcel Number 416-023-017-000 on January 31, 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)</p>	<p>Proof of recordation of this notice shall be furnished to the RMA - Planning Department.</p>	<p>Owner/ Applicant</p>	<p>Prior to the issuance of grading and building permits or commencement of use.</p>	
3.		<p>PD045 – CERTIFICATES OF COMPLIANCE (LOT LINE ADJUSTMENTS) The applicant shall request unconditional certificates of compliance for the newly configured parcels. (RMA – Planning Department)</p>	<p>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.</p>	<p>Owner/ Applicant/ Surveyor</p>	<p>Concurrent with recording the Record of Survey</p>	
4.		<p>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)</p>	<p>Relocate the shed in a location where it will meet all applicable site development standards or remove the shed from the site.</p>	<p>Owner</p>	<p>Prior to recording the Record of Survey</p>	
5.		<p>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.</p>	<p>No variances will be approved on the adjacent specified lots in the future.</p>	<p>Owner</p>	<p>Ongoing</p>	

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	

END OF CONDITIONS

Schulte Road
(A County Road - Width Varies)

Property to be adjusted
104 Sq.±

Venn
APN 416-023-018
Duty 2000704238

Dart
APN 416-023-017
Duty 2005042714

Property to be adjusted
755 Sq.±

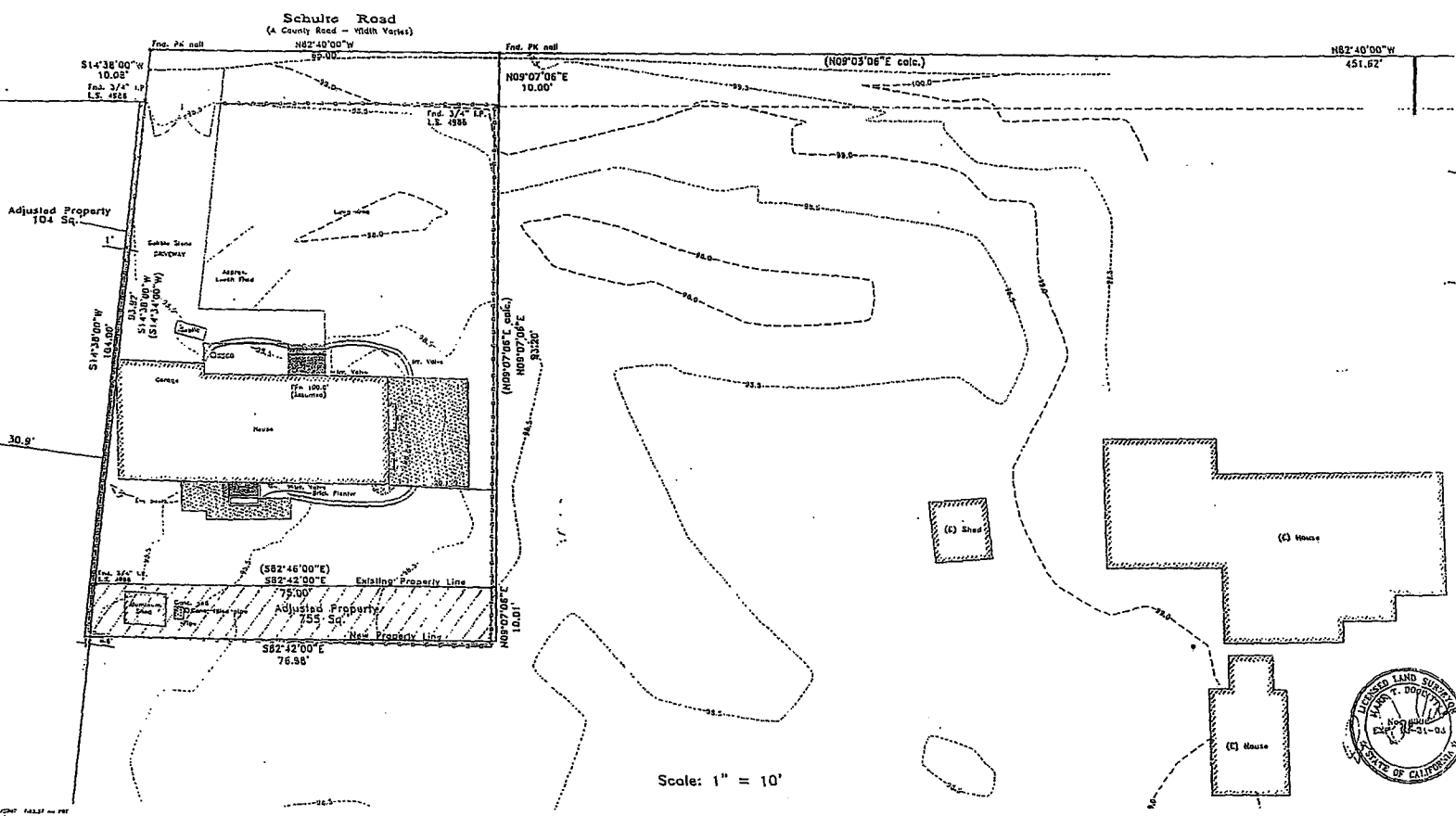
Existing PL

Sherman
APN 416-023-018
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Scale: 1" = 60'

Acreeage Table:

	Before Adjustment	After Adjustment
Dart	7,219 Sq.±	8,078 Sq.±
Sherman	108,694 Sq.±	107,939 Sq.±
Venn	20,468 Sq.±	20,364 Sq.±



CONSTRUCTOR STAIRS
LAND DEVELOPMENT

FORWARDING SURVEYS
ALTA SURVEYS

PLANNED BY: **ALTA SURVEYS**

APPROVED BY: **ALTA SURVEYS**

REVISIONS:
SCALE:
DATE:

162-831-3700 PH
162-831-3700 FAX
162-831-3700

Proposed Lot Line Adjustment
Between APN's 416-023-017 & 416-023-018
27455 Schulte Road, Carmel, Ca.
Prepared for:
Marti Dart






CARMEL VALLEY



APPLICANT: DART

APN: 416-023-016, 017, 018

FILE # PLN070339

 300' Limit  2500' Limit  City Limits

