

**MINOR SUBDIVISION COMMITTEE
COUNTY OF MONTEREY, STATE OF CALIFORNIA**

RESOLUTION NO. 04020

MINOR SUBDIVISION # 040228

A.P. # 241-081-003-000
241-081-004-000

In the matter of the application of
Alan and Sandra Silvestri (PLN040228)

FINDINGS & DECISION

for a Coastal Development Permit in accordance with Title 20 (Monterey County Coastal Implementation Plan Ordinances) Chapter 20.140 (Coastal Development Permits) of the Monterey County Code, to allow a Lot Line Adjustment to reconfigure the parcels identified in the Assessor's Parcel Map as Parcel 36A (0.5 acres) and Parcel 36B (14.3 acres). The reconfiguration will result in Parcel A (7.6 acres) and Parcel B (7.2 acres). The properties are located at 72 Fern Canyon Road, Carmel Highlands area, Coastal Zone, came on regularly for meeting before the Minor Subdivision Committee on October 28, 2004.

Said Minor Subdivision Committee, having considered the application and the evidence presented relating thereto,

1. FINDING: CONSISTENCY – The Silvestri Coastal Development Permit (PLN040228), as described in Condition #1, and as conditioned, is consistent with the plans, policies, requirements and standards of the Local Coastal Program (LCP). The LCP for this site consists of the Carmel Area Land Use Plan, Carmel Area Coastal Implementation Plan (Part 4), Part 6 of the Coastal Implementation Plan, and Part 1 of the Coastal Implementation Plan (Title 20 Zoning Ordinance).

EVIDENCE: (a) Plans/Regulations – The Planning and Building Inspection staff reviewed the project, as contained in the application and accompanying materials, for conformity with:

- 1) Carmel Area Land Use Plan
- 2) Carmel Area Coastal Implementation Plan (Part 4)
- 3) Part 6 of the Coastal Implementation Plan
- 4) Part 1 of the Coastal Implementation Plan (Title 20 Zoning Ordinance)

There would be no conflict or inconsistencies with these policies or regulations. Staff's record of review is provided in project file PLN040228.

(b) Land Use Designation – The parcels are zoned Low Density Residential, 1 acre per unit, Design Control, Special Treatment Overlay, Coastal Zone (“LDR/1-D-SpTr (CZ)”). The lot line adjustment is an allowed use in accordance with Section 20.14.050.BB. The project is in compliance with the Site Development Standards for Low Density Residential Zoning District in accordance with Section 20.14.060.

(c) Site Description – The parcels are located at 72 Fern Canyon Road, Carmel Highlands. One parcel is currently developed with a single family residence and other accessory structures while the other parcel is undeveloped. The undeveloped parcel

contains potential future building sites with slopes less than 30%. No new building sites will be created as a result of the lot line adjustment.

(d) Environmentally Sensitive Habitats – The project is consistent with policies of the Carmel Area Land Use Plan dealing with environmentally sensitive habitats (Chapter 2.3). Staff’s site visit did not observe environmentally sensitive habitats that could be impacted by the proposed lot line adjustment.

(e) Visual Resources – The project is consistent with policies of the Carmel Area Land Use Plan dealing with visual resources (Chapter 2.2). The project planner conducted a site visit on June 10, 2004 to verify that the proposed project will not have a significant adverse effect on the public viewshed. The adjusted lots will not contain building sites visible from the public viewshed. The lot line adjustment will not result in building sites occurring on undeveloped skylines and ridgelines.

(f) Site Visit – The project planner conducted a site visit on June 10, 2004 to verify that the proposed project complies with the LCP. Staff’s memo regarding the site visit is in project file PLN040228.

(g) Land Use Advisory Committee – The Carmel Unincorporated/Highlands Land Use Advisory Committee reviewed and recommended approval (4 - 0 vote) of the Coastal Development Permit on June 7, 2004 with no changes.

(h) Application Materials – The application and plans submitted for the Coastal Development Permit in project file PLN040228 at the Monterey County Planning and Building Inspection Department.

(i) Testimony – No testimony, either written or oral, was received during the course of the public hearing process to indicate that there is any inconsistency with these plans or policies.

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

EVIDENCE: **(a)** The project has been reviewed for suitability by the Monterey County Planning and Building Inspection Department, Coastal Commission, California Department of Forestry and Fire Protection, County Counsel, Monterey County Water Resources Agency, Monterey County Public Works Department, Monterey County Parks Department, and Monterey County Health Department. There has been no indication from these agencies that the site is not suitable. Conditions recommended by these agencies have been incorporated as project conditions.

(b) The project planner conducted a site visit on June 10, 2004 to verify that the site is suitable for this use.

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

3. FINDING: PUBLIC ACCESS – The project is in conformance with the public access and public recreation policies of the Coastal Act and the Local Coastal Program, and does not interfere with any form of historic public use or trust rights. No access is required as part of the project as no substantial adverse impacts 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 properties are not described as an area where the Local Coastal Program requires access and is not indicated as part of any designated trails or shoreline access. No evidence or documentation has been submitted or found showing the existence of historic public use or trust rights over this property.

(b) Staff site visit on June 10, 2004.

4. FINDING: CEQA (Exempt) – The proposed project will not have a significant environmental impact.

EVIDENCE: (a) Section 15305(a) of the CEQA Guidelines categorically exempts the proposed development from environmental review. The proposed lot line adjustment qualifies for the categorical exemption since the lot line adjustment will not result in any changes in land use or density and will not result in the creation of a new parcel. Nor will it create new development sites that may, when developed, create the potential for additional environmental impacts compared to current conditions without the lot line adjustment.

(b) No adverse environmental impacts were identified during staff review of the project application.

(c) There are no unusual circumstances related to the project or properties.

5. FINDING: EXISTING PARCELS – The lot line adjustment is between existing adjoining parcels.

EVIDENCE: (a) The purpose of the lot line adjustment is to resolve an outstanding lot legality issue. A legal opinion was prepared by Dennis LeClere, Deputy County Counsel, on March 18, 2002, which assesses the lot legality issue. Additionally, a legal lot analysis was performed by Wesley Arvig, Planning Consultant, on September 15, 2003. According to staff analysis, four parcels are involved in this issue. The first parcel is shown as that portion described as 36A within Parcel 2 (241-081-004-000) on the Assessor's Parcel Map. The creation of 36A is described in the deed recorded on April 12, 1923 in Volume 12 Page 290 of Official Records and is a legal lot of record. The second parcel is shown as 36Z (includes Parcel 1 and Parcel 2, excluding that portion described as 36A) on the Assessor's Parcel Map. The creation of 36Z is described in the deed recorded on February 8, 1951 in Book 1279 Page 506 of Official Records and is a legal lot of record. The third parcel is shown as Parcel 1 (241-081-003-000) on the Assessor's Parcel Map. The issuance and recordation of an unconditional certificate of compliance for Parcel 1 on June 24, 2002 legalized this parcel. The fourth parcel is shown as Parcel 2 (241-081-004-000), excluding that portion described as 36A, on the Assessor's Parcel Map. The lot legality of this parcel is questionable.

(b) The application and plans submitted for the lot line adjustment in project file PLN040228 at the Monterey County Planning and Building Inspection Department.

6. FINDING: NO NEW PARCELS – A greater number of parcels than originally existed will not be created as a result of the lot line adjustment.

EVIDENCE: (a) The lot line adjustment consists of the reconfiguration of two legal parcels in order to resolve the lot legality issue. These parcels are shown as Parcel 36A and Parcel 36Z. The lot line adjustment proposes to adjust the lot line for 36A to correspond with the boundary between Parcel 1 and Parcel 2. This will cause the merger of Parcel 2 into 36A and the merger of Parcel 1 into 36Z. The resultant lots will become Parcel A and

Parcel B. Thus, two contiguous separate legal lots of record will be adjusted and two contiguous separate legal lots of record will result from the adjustment.

(b) The application and plans submitted for the lot line adjustment in project file PLN040228 at the Monterey County Planning and Building Inspection Department.

7. **FINDING: CONFORMING PARCELS** – The parcels resulting from the lot line adjustment conform to Title 20.

EVIDENCE: The proposed lot line adjustment is consistent with the lot and setback requirements for parcels with the "LDR/1 (CZ)" zoning designation. One lot is currently developed with a single family residence. This lot line adjustment will not cause the existing residence to become nonconforming in terms of zoning regulations.

8. **FINDING: NO VIOLATIONS** – The subject properties are in compliance with all rules and regulations pertaining to zoning uses, subdivisions and other applicable provisions of Title 20. Zoning violation abatement costs, if any, have been paid.

EVIDENCE: Sections 20.14.020 and 20.44.020 of the Monterey County Zoning Ordinance. Staff verification of the Monterey County Planning and Building Inspection Department records indicates that no violations exist on subject property.

9. **FINDING: HEALTH AND SAFETY** – The establishment, maintenance, and operation of the proposed development applied for will not under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood or to the general welfare of the County.

EVIDENCE: Preceding findings and supporting evidence.

10. **FINDING: APPEALABILITY** – The decision on this project is appealable to the Board of Supervisors and the Coastal Commission.

EVIDENCE: Sections 20.86.030 and 20.86.080 of the Monterey County Zoning Ordinance (Title 20).

DECISION

THEREFORE, it is the decision of said Minor Subdivision Committee that said request for a Lot Line Adjustment be approved as shown on the attached sketch subject to Findings and Evidence and subject to the attached conditions.

PASSED AND ADOPTED this 28th day of October, 2004, by the following vote:

AYES: McPharlin, Hawkins, Hori, Lawrence, Mulholland, Mounday

NOES: None

ABSENT: None

ABSTAIN: None

LYNNE MOUNDAY, Secretary

COPY OF THIS DECISION WAS MAILED TO THE APPLICANT ON

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE CLERK TO THE BOARD OF SUPERVISORS ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE

THIS APPLICATION IS ALSO APPEALABLE TO THE COASTAL COMMISSION. UPON RECEIPT OF NOTIFICATION OF THE DECISION BY THE BOARD OF SUPERVISORS, THE COMMISSION ESTABLISHES A 10 WORKING DAY APPEAL PERIOD. AN APPEAL FORM MUST BE FILED WITH THE COASTAL COMMISSION. FOR FURTHER INFORMATION, CONTACT THE COASTAL COMMISSION AT (831) 427-4863 OR AT 725 FRONT STREET, SUITE 300, SANTA CRUZ, CA.

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 Planning and Building Inspection Department office in Salinas.

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

**Monterey County Planning and Building Inspection
Condition Compliance & Mitigation Monitoring and/or
Reporting Plan**

Project Name: Silvestri

File No: PLN040228

APN: 241-081-003, 004-000

Approval by: Minor Subdivision Committee Date: October 28, 2004

**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>Impact Addressed, 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 Clearing Condition</i>	<i>Timing</i>	<i>Verif- ication of compliance</i>
1		<p>PBD029 - SPECIFIC USES ONLY The Silvestri Coastal Development Permit (PLN040228) allows for a lot line adjustment to reconfigure the parcels identified in the Assessor's Parcel Map as Parcel 36A (0.5 acres) and Parcel 36Z (14.3 acres). The reconfiguration will result in Parcel A (7.6 acres) and Parcel B (7.2 acres). The properties are located at 72 Fern Canyon Road, Carmel (Parcels 36A and 36Z are represented as Assessor's Parcel Numbers 241-081-003-000 and 241-081-004-000), Carmel Highlands area, Coastal Zone. 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 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)</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>Impact Addressed, 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 Clearing Condition</i>	<i>Timing</i>	<i>Verif- ication of comp- liance</i>
2		PBD025 - NOTICE-PERMIT APPROVAL 1 The applicant shall record a notice which states: "A permit (Resolution No. 04020) was approved by the Minor Subdivision Committee for Assessor's Parcel Numbers 241-081-003-000 and 241-081-004-000 on October 28, 2004. The permit was granted subject to 4 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 recordation of record of survey or commencement of the use. (Planning and Building Inspection)	Proof of recordation of this notice shall be furnished to PBI.	Owner/ Applicant	Prior to recordation of record of survey or commencement of use	
3		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 record of survey	
4		PW0035 – RECORD OF SURVEY File a Record of Survey showing the new line and its 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	