

DEPARTMENT: Planning

By: Jay Pawlek

Phone: 966-5151

RECOMMENDED ACTION AND JUSTIFICATION: (Policy Item: Yes ___ No X)

Staff recommends that the Board of Supervisors adopt a resolution denying Appeal No. 97-6 (Lot Line Adjustment No. 533, Planning Commission Appeal No. 97-5, Miller/Archibald, applicants), upholding the Planning Director's approval of Lot Line Adjustment No. 533 and the Planning Commission's denial of Appeal No. 97-5.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

See attached memorandum

LIST ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Negative Action would result in the Lot Line Adjustment being denied and no modification to the current parcel configuration.

COSTS: () Not Applicable

A. Budgeted current FY \$ _____

B. Total anticipated Costs \$ _____

C. Required additional funding \$ _____

D. Internal transfers \$ _____

COSTS: () 4/5th Vote Required

A. Unanticipated revenues \$ _____

B. Reserve for contingencies \$ _____

C. Source description: _____

Balance in Reserve Contingencies, If Approved:
\$ _____

SPECIAL INSTRUCTIONS:

List the attachments and number the pages consecutively:

Memorandum to Board with Attachments

Attachment #1: Draft Board Resolution

Attachment #2: Planning Commission Minutes (8/14/97)

Attachment #3: Planning Director's Staff Approval

Attachment #4: Appeal Information

CLERK'S USE ONLY

Res. No.: 97-419 Ord. No.: _____

Vote - Ayes: 4 Noes: Reilly

Absent: _____ Abstained: _____

Approved Denied

Minute Order Attached No Action Necessary

The foregoing instrument is a correct copy of the original on file in this office.

Date: _____

ATTEST: _____

MARGIE WILLIAMS, Clerk of the Board

By: _____

Deputy

ADMINISTRATIVE OFFICER'S RECOMMENDATION:

This item on agenda as:

Recommended


Not Recommended

For Policy Determination

Submitted for Comment

Returned for Further Action

Comment: _____

A.O. Initials: 

MARIPOSA COUNTY BOARD OF SUPERVISORS
RESOLUTION NO. 97- 419

A RESOLUTION DENYING APPEAL NO. 97-6, RUTH SELLERS, APPELLANT
(LOT LINE ADJUSTMENT NO. 533, PLANNING COMMISSION APPEAL NO.
97-5, MILLER/ARCHIBALD, APPLICANTS)

WHEREAS, Appeal No. 97-6, appeals the Planning Director's approval of Lot Line Adjustment No. 533 and the Planning Commission's denial of Appeal No. 97-5; and

WHEREAS, the Board of Supervisors is responsible for reviewing the Appeal and for the approval or denial of the Appeal; and

WHEREAS, the Board of Supervisors has held a duly noticed public hearing on the matter in accordance with County Code and State Law and has considered all input, written and verbal, delivered to the Board.

NOW THEREFORE BE IT RESOLVED, that the Mariposa County Board of Supervisors hereby denies APPEAL NO. 97-6, based upon the findings contained in the Lot Line Adjustment Approval Checklist.

PASSED AND ADOPTED by the Mariposa County Board of Supervisors on this 28th day of October, 1997 by the following vote:

AYES: BALMAIN, STEWART, PARKER, PICKARD

NOES: REILLY

ABSTAINED: NONE

EXCUSED: NONE

NOT VOTING: NONE



ROBERT C. STEWART, Chairman
Mariposa County Board of Supervisors

ATTEST:



MARGIE WILLIAMS,
Clerk of the Board

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:



JEFFREY G. GREEN,
County Counsel

MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

TO: ED JOHNSON, Planning Director

FROM: MARGIE WILLIAMS, Clerk of the Board *MW*

SUBJECT: PUBLIC HEARING TO CONSIDER APPEAL NO. 97-6, RUTH SELLERS, APPELLANT (LOT LINE ADJUSTMENT NO. 533, PLANNING COMMISSION APPEAL NO. 97-5, MILLER/ARCHIBALD, APPLICANTS)
Resolution No. 97-419

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA,
ADOPTED THIS Order on October 28, 1997

ACTION AND VOTE:

11:01 a.m. Ed Johnson, Planning Director;
PUBLIC HEARING to Consider Appeal No. 97-6, Ruth Sellers, Appellant (Lot Line Adjustment No. 533, Planning Commission Appeal No. 97-5, Miller/Archibald, Applicants)

BOARD ACTION: Ed Johnson reviewed the process for this type of application. Jay Pawlek, Associate Planner, presented the staff report and reviewed the history of the existing project. Staff responded to questions from the Board relative to the location of the existing business, whether there is anything in County procedures to prohibit expansion of the existing business; purpose of the lot line adjustment; what constitutes a "minor" lot line adjustment; and whether this adjustment will still result in non-compliance for the parcel.

Appellant's presentation: Ruth Sellers, appellant, asked why the request for a lot line adjustment unless the applicant intends to expand the existing business; questioned whether the person living in the trailer on the project is an employee of the business; and she reviewed the appeal she filed. She responded to questions from the Board relative to location and size of her property in relation to the project, and relative to access.

Speakers in support of the appellant: Bart Brown asked if a mini-storage could be built on parcel "A" and cited CEQA and stated he does not feel that this qualifies as a "minor" lot line adjustment; stated he does not agree with the findings and he feels that this is poor planning to allow commercial development between two town planning areas. He urged the Board to approve the appeal.

Marylou Tiner questioned whether the Board could make a finding that both properties would be improved by approval of the lot line adjustment.

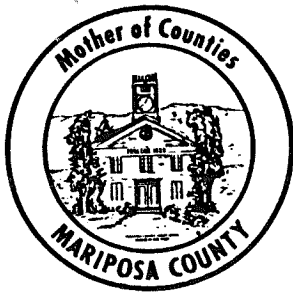
Opponents presentation: Tom Archibald, applicant, responded to the appeal and advised that he and the neighboring property owner agree to this lot line adjustment.

Larry Miller, applicant, stated he supports this lot line adjustment.

Rebuttal by the appellant: Ruth Sellers stated she disagrees with the emphasis on the five acre minimum and she stated she feels there is commercial property available for these projects -- however, the commercial property is not used because it is less expensive for businesses to develop on residential property.

Ed Johnson provided staff wind-up and provided clarification to questions from the Board relative to their recommendation. (M)Balmain, (S)Parker, Res. 97-419 adopted denying the appeal. Staff responded to additional questions from the Board as to whether this parcel was considered in the open window period applications for industrial and commercial use. Staff also clarified the findings for recommending this lot line adjustment and stated the findings do not require that both parcels must benefit, but that there must be an improvement of the circumstances and/or design of both parcels. The improvement in circumstances was that it is better to have two non-conforming parcels of similar size, consistent with the size of other neighboring parcels, versus one large and one small parcel. Ayes: Balmain, Stewart, Parker, Pickard; Noes: Reilly. Hearing was closed.

cc: File



Mariposa County Planning and Building Department

EDWARD J. JOHNSON
Director

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P.O. Box 2039
Mariposa, CA 95338
(209) 966-5151
FAX No. (209) 742-5024

MEMORANDUM

October 17, 1997

TO: Mariposa County Board of Supervisors

FROM: Ed Johnson, Planning Director
Jay Pawlek, Associate Planner

Handwritten signatures of Ed Johnson and Jay Pawlek.

RE: Appeal No. 97-6, Ruth Sellers, Appellant
(Lot Line Adjustment No. 533, Planning Commission Appeal No. 97-5, Miller/Archibald, Applicants)

RECOMMENDATION

Staff recommends that the Board of Supervisors adopt a resolution denying Appeal No. 97-6 (Lot Line Adjustment No. 533, Planning Commission Appeal No. 97-5, Miller/Archibald, applicants), upholding the Planning Director's approval of Lot Line Adjustment No. 533 and the Planning Commission's denial of Appeal No. 97-5.

PROJECT DESCRIPTION

This is an appeal of the Planning Commission's denial of Appeal No. 97-5 which upheld the Planning Director's approval of Lot Line Adjustment No. 533. The Lot Line Adjustment was approved to adjust the common property boundary between APN's 12-040-023 (Archibald) and 12-040-039 (Miller). The adjustment:

- Reduces the size of Parcel A, APN 12-040-039 from 9.419 acres to 5.02 acres; and
- Increases the size of Parcel B, APN 12-040-023 from 2.05 acres to 6.449 acres.

The project parcels are located within the Mountain Transition (20 acre minimum parcel size) zoning designation and are both non-conforming in size before and after the lot line adjustment. Parcel A is currently vacant and Parcel B is developed with an existing mini-storage facility and employee mobile home. The existing mini-storage facility is

currently being operated as a legal non-conforming rural home industry because the business owner does not live on-site.

PROJECT HISTORY

- August 27, 1997 Ruth Sellers, a neighboring property owner, files Appeal No. 97-6 appealing the Planning Commission's denial of Appeal No. 97-5 and the Planning Director's approval of Lot Line Adjustment No. 533.
- August 14, 1997 Planning Commission denies Appeal No. 97-5, upholding the Planning Director's approval of Lot Line Adjustment No. 533.
- June 26, 1997 Ruth Sellers, a neighboring property owner, files Appeal No. 97-5 appealing the Planning Director's approval of Lot Line Adjustment No. 533, based upon disagreement with the Planning Director's finding that the Lot Line Adjustment benefited both properties involved.
- June 9, 1997 Planning Director approves Lot Line Adjustment No. 533.
- May, 21, 1997 Archibald/Miller submit Lot Line Adjustment No. 533 application.

APPEAL ISSUES

Ruth Sellers, an adjoining property owner to the east, appealed the Planning Director's approval of the Lot Line Adjustment and the Planning Commission denial of Appeal No. 97-5. The Appeal is based upon the following issues:

- "The transfer of 4.339 acres of property as a lot line adjustment from Mr. Miller to Mr. Archibald cannot be justified based on increasing Parcel B to a 5 acre minimum",
- "It is my contention that to take highway frontage from Parcel A and give it to Parcel B would definitely create a negative impact on Parcel A",
- "Why is it desirable to create more for one parcel and less for the other parcel?",
- "If the intent to create a buffer was seriously considered why wasn't a minimum width strip of land considered",
- "There is definitely a negative impact on the surrounding properties due to the Commercial use of Parcel B for a Mini-Storage business",

- “The construction of additional units on the 4.339 acres of the buffer parcel would continue to deteriorate the value of my property as well as my neighbors properties”,
- “This is a fundamental change in land use patterns in this area. It is inconsistent to the uses as defined in the General Plan”,
- “I fail to understand how it can be stated both of these Parcels, A and B, met all the State and County requirements for a lot line adjustment with the negatives afforded Parcel A”.

The Appeals information and justification provided by the applicant is included in Attachment No. 1.

LOT LINE ADJUSTMENT FINDINGS

The Planning Director made the following findings to approve the Lot Line Adjustment.

- 1) The lot line adjustment involves 2 parcels which do not meet the minimum parcel size standards of the MT land use and zoning district. The modification will result in the improvement of the circumstances and / or design of the non-conforming parcel(s) as follows:
 - a. The smaller parcel, Parcel B, gets larger in size, creating more equal-area parcel sizes overall.
 - b. The adjustment creates a buffer area between mini-storage units on Parcel B and Parcel A.
 - c. The adjustment does not have a negative effect on the development potential of either parcel.

This finding is made in accordance with the provisions of Section 17.108.040.B. of the Mariposa County Zoning Ordinance and Section 3.602.C. of the Mariposa County General Plan.

- 2) The lot line adjustment involves 2 existing adjacent parcels. The adjustment results in land being taken from one parcel and added to an adjacent parcel, and a greater number of parcels than originally existed is not being created. This finding is made in accordance with the provisions of Section 66412(d) of the State Subdivision Map Act. The subdivision, upon compliance with the required conditions, complies with all standards of the Subdivision Map Act and Title 16 of the County Subdivision Ordinance.
- 3) The project is a minor lot line adjustment in an area with an average slope of less than 20%. The project will not result in any changes in land use or density, or

the creation of a new parcel. Accordingly, the project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA). This finding is made in accordance with the provisions of Section 15305(a) of the California Environmental Quality Act.

DISCUSSION OF APPEAL ISSUES

Ms. Seller's appeal issues generally address Finding #1 of the Planning Director's action (Attachment No. 2), related to the Lot Line Adjustment resulting "in the improvement of the circumstances and/or design of the non-conforming parcels".

The Lot Line Adjustment serves to bring the most non-conforming parcel, 2.05 acres, closer to compliance with the minimum parcel size of the Mountain Transition zone (20 acres). While this involves a reduction in size of the other parcel, the end result is an improvement in the overall situation by causing the smallest of the 2 parcels to be 5.02 acres instead of 2.05 acres. Additionally the lot line adjustment serves to increase the setback, from adjacent property line, of the existing mini-storage development on Parcel B from approximately 75 feet to approximately 650 feet. While the lot line adjustment removes Highway frontage from Parcel A it retains adequate access to Parcel A via the existing 60' wide non-exclusive easement. The proposed lot line adjustment does not have a negative affect on the development potential of either parcel. Parcel A retains 5+ acres which is adequate area for single family residential development with on-site septic and well. Both of the parcels are generally consistent with the parcel sizes in the area. Any potential expansion of the mini-storage use on Parcel B is not an issue which can be addressed through the Lot Line Adjustment process and will be governed by the County Rural Home Industry and Nonconforming Use standards.

Section 66412(d) of the Subdivision Map Act states "A local agency or advisory agency shall limit its review and approval to a determination of whether or not the parcels resulting from the lot line adjustment will conform to local zoning and building ordinances". In this case the Planning Director (upheld by the Planning Commission) found that the adjustment complied with local zoning, by improving the circumstances of both parcels.

SUMMARY

Based upon the ability to make all required findings as outlined in the Lot Line Adjustment Approval Checklist and Findings, staff recommends that the Board of Supervisors adopt a resolution denying appeal No. 97-6, upholding the Planning Commission's and Planning Director's actions .

MAP NO. LL-9 #533
 DATE REC'D 5-21-97
 REC'D BY: TOPP
 MURDER COUNTY PLANNING DEPARTMENT

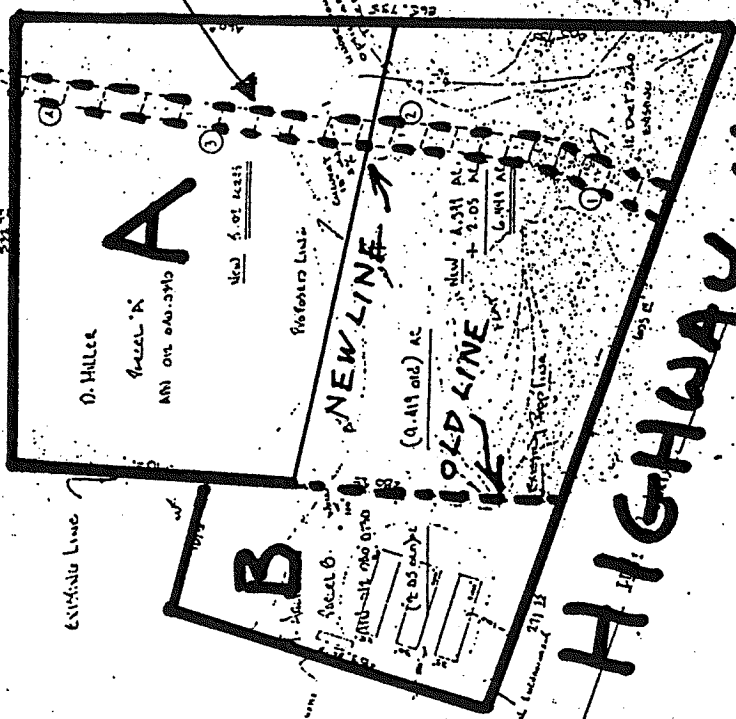
ROAD EASEMENT

NOTES:
 1. LAND SURVEY CALCULATED BY
 WOODS AND MOY TO CONFIRM
 2. _____ INCREASE LINE
 TO THE SCHEDULED

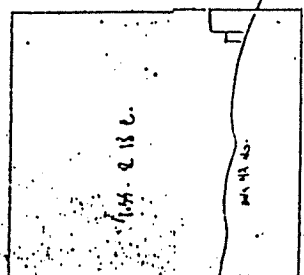
EXISTING TABLE

1	N	07'	50"	94.6	PARCELS
2	N	10'	05"	94.6	PARCELS
3	N	07'	05"	94.6	PARCELS
4	N	05'	55"	94.6	PARCELS

REMARKS:
 The Parcel of this Lot Line Parcel is
 to increase Parcel B to 6.449 AC.
 Parcel A also has an increase in area -
 Parcel B 5770 HULL'S WOODS, BARRINGTON



HIGHWAY 499 N



VEHICLE MAIL
 HD to MAIL

Parcel
 A. D. HULLER
 5766 419 TOP ROAD
 BARRINGTON, CA 95936
 Parcel
 B. THOMAS J. ARZATHANIS
 4851 MOUNTAIN VIEW DR
 BARRINGTON, CA 95936

DATE PREPARED 5/21/97	PROJECT ROAD EASEMENT
DATE PLOTTED 5/21/97	SCALE 1" = 100'
DRAWN BY TOPP	
CHECKED BY TOPP	
APPROVED BY TOPP	
TITLE ROAD EASEMENT	
DRAWN BY TOPP	
CHECKED BY TOPP	
APPROVED BY TOPP	
TITLE ROAD EASEMENT	