

MONTEREY COUNTY

HOUSING AND COMMUNITY DEVELOPMENT

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MEMORANDUM

Date: October 19, 2021

To: Monterey County Board of Supervisors

From: Erik v. Lundquist, Director
Michael Goetz, County Surveyor

Subject: Agenda Item Number 27
CC200010 & CC200011 LB Homebuyers LLC
Response to Appellant's October 13, 2021 letter

Cc: Maureen Wruck Planning Consultants, LLC
Lewis Homebuyers, LLC

This memorandum is in response to Maureen Wruck Planning Consultants letter dated October 13, 2021. In that letter, Mr. Panzer provided eight points of evidence. However, none of the points serve to substantiate the existence of two legal lots. Following is a consideration of each point:

1. Title Company Report (two separately described parcels)

Although two parcels are listed in the legal description contained in the Title Report and in several deeds in the chain of title of the Subject Property (APN 416-022-006), they are not truly "separately described." The two described "parcels" are fractional parcels, and Parcel II is a parcel that was conveyed as part of a boundary adjustment. The determination of the resultant legal status is discussed in detail in Board Report Attachment A.

2. Assessor Lists two residences

This is not an indication of two separate legal parcels. Throughout the County, there are many single legal lots that have two or more legally constructed residences on them.

3. Building Permit No. 31355 Plot Plan shows two parcels

First, the plot plan "parcels" do not align to Parcels I and II as described in the Title Report. Second, the plot plan clearly labels the alleged parcel line as "**TYPICAL LOT LINE FOR SETBACKS ONLY.**" The notation is initialed by the owner and is dated 7-13-81, which is the same day planning staff signed off the permit. This indicates planning staff required the meaning of the line to clarify that it did NOT represent a separate lot line. The line is apparently shown to demonstrate that setbacks could conform to then zoning requirements if the property

was to be subdivided in the future, and to indicate building code compliance for separation between structures.

4. Zoning District (RR/2.5-RAZ)

Building Permit No. 31355 clearly shows the zoning was “K-G-J-B-4.” (The B-4 district allowed for a 1 acre building site, which would allow for two units on the 2.03-acre Subject Property.) This is consistent with the zoning district shown on Zoning Section Map 10-5J dated February 12, 1980, and on a later map dated June 14, 1983. These zoning maps contain a list of prior amendments in the upper left corner indicating amendments that affect the map area. The 1983 Zoning Map lists the last amendment as being dated February 12, 1980. No mention is made of an April 8, 1980 amendment. The map dated April 8, 1980 does not contain a listing of amendments.

Several other building permit cards were reviewed for permits in the Schulte Road area. All show a zoning district of “K-G-J-B-4.”

5. Monterey County Building Permit Review

As discussed above, the building permit indicates the zoning was designated “K-G-J-B-4.” This allowed for two units on two acres. This explains why planning staff could sign off on zoning conformance. The “Minor Subdivision” section of the permit card basically required planning staff to review the legal lot status of the project subject parcel. It is well understood that California Government Code sections 66499.34 and 66499.35 state that issuance of a permit for development on a parcel would effectively make that parcel a legal lot. Therefore, prior to issuance of a development permit, the legal lot status of the parcel must be confirmed by planning staff. In the case of the Subject Property, planning staff accepted that the 2.03-acre parcel was legally created, which is a fact that is not currently in dispute.

6. Non-Conforming Use

As discussed in Item No. 4 above, construction of the second house on the Subject Property was reviewed using zoning district “K-G-J-B-4.” A second unit was allowable under that zoning. Therefore, there was no non-conforming use.

7. Utility Billing (two separate electric meters)

The existence of multiple meters on one property is very common. Apartment buildings typically have separate electric, gas, and water meters for each unit. This allows each unit to properly pay for their utility usage. It gives no evidence of legal lot status.

8. Owner’s Statement

The owner’s belief, understanding, or interpretation of the legal lot status does not have a bearing on the true legal lot status of the Subject Property, unless it is based on evidence. Interestingly, a Site Plan, dated 7/21/21 was submitted by Lewis Builders (who are listed as the owner on the plans), and this Site Plan does not show two parcels. The plans clearly state: “SITE AREA: 2.03 ACRES.” The owner’s statement is inconsistent with this recent plan set.

All evidence presented by Mr. Panzer fails to support the existence of two legal parcels.