Atascadero City Council
Staff Report - Community Development Department

PLN 2007-1200
Road Abandonment / Lot Line Adjustment
6305 Morro Road
(Giessinger)

(This request is proposed to accommodate an 850 square foot car wash adjacent to an existing car wash / gas station.)

RECOMMENDATIONS:

Planning Commission recommends the Council:

1. Adopt Resolution A summarily vacating an undeveloped portion of Marchant Avenue right-of-way (Road Abandonment 2007-0018) based on findings and subject to Conditions of Approval.

2. Adopt Resolution B approving Lot Line Adjustment 2007-0082, based on findings and subject to Conditions of Approval.

3. Seek market rate compensation for the undeveloped portion of Marchant Avenue right-of-way.

REPORT-IN-BRIEF:

Consideration of a request to have the City of Atascadero abandon a portion of Marchant Avenue right-of-way and allow a Lot Line Adjustment between one legal lot of record (Tesoro Gas Station / Car Wash) located at 6305 Morro Road and adjacent Marchant Avenue right-of-way. The project is proposed to accommodate an 850 square foot car wash adjacent to an existing car wash / gas station.
DISCUSSION:

Situation and Facts:

1. Owner / Applicant: Donald A. Giessinger
   P.O. Box 791, Atascadero, CA 93423
   City of Atascadero
   6907 El Camino Real, Atascadero, CA 93422

2. Project Address: 6305 Morro Road, Atascadero, CA 93423 (APN 030-212-016) (San Luis Obispo County)
   Marchant Avenue right-of-way

3. General Plan Designation: GC (General Commercial) / Marchant right-of-way

4. Zoning District: CT (Commercial Tourist) / Marchant right-of-way

5. Site Area: 25,500 sq. ft. existing / 29,630 sq. ft. after adjustment

6. Existing Use: Gas Station / Car Wash and Public Roadway / Landscaping

7. Environmental Status: Categorical exemption: CEQA Section 15305; Minor Alterations in Land Use Limitations: Class 5

Background

On September 18, 2007, the Planning Commission held a public hearing for the proposed road abandonment and lot line adjustment and recommended that the City Council approve the proposed project.

The Commission recommended that the City Council approve the proposed project and seek market rate compensation for the requested portion of right-of-way to be abandoned on a 7-0 vote.
Surrounding Land Use and Setting:

North: Highway 101  
East: Residential Multi-Family – 10 (RMF-10)  
South: Commercial Tourist (CT)  
West: Commercial Tourist (CT)

The Marchant Avenue right-of-way is adjacent to the Tesoro Gas Station. The right-of-way has an unusual shape due to the property acquisition for the US 101 in the 1950's. This leaves City property between the Tesoro Property line and the back of existing sidewalk. The Tesoro Gas Station has a General Plan Land Use Designation of General Commercial and is zoned Commercial Tourist (CT). The surrounding neighborhood is developed with Commercial, Residential Multi-Family and U.S. Highway 101.

The planned U.S. Highway 101 / State Route 41 interchange improvements include the closure of Marchant Avenue between Morro Road and Tectorida. This is necessary to remove conflicting vehicle movements in the interchange and will reduce congestion and the potential for accidents. Both closed roads will be landscaped, and a pedestrian and bicycle path will be installed. Marchant will be closed from SR 41 to Tectorida Avenue. A knuckle will be installed at the intersection of Tectorida Avenue and Marchant Avenue. The improvements are to be constructed by Caltrans; however the ultimate maintenance will be returned to the City.
At the October 24, 2006 City Council Meeting the owner of the adjacent Tesoro Gas Station (Giessinger) offered to remove the roadway improvements in Marchant Ave and install and maintain the landscaping in the area in exchange for a license agreement to allow a carwash and parking in a portion of Marchant right-of-way. The City Council directed staff to proceed with this request since this would reduce the total construction cost of the project for Caltrans and reduce the landscape maintenance cost for the City.

The applicant is now requesting not to proceed with the License Agreement and to proceed with the abandon of a portion of Marchant Avenue for the expansion of a car wash facility and parking area, and

On February 13, 2007, the City Council approved a Wayfinding Program which identified a Wayfinding monument sign along Morro Road within the Marchant Avenue right-of-way. This approval would only affect the above-mentioned landscape improvements in terms of pedestrian walkway alignment and plant materials to accommodate the sign placement.
ANALYSIS:

Road Abandonment:

The applicant is requesting the City abandon a 4,130 square-foot portion of Marchant Avenue. The purpose of the requested right-of-way abandonment is to increase the size of the adjacent Tesoro Gas Station property to accommodate the construction of a second 850 square-foot car wash, adjacent to the existing car wash. The requested abandonment is for a portion of the existing right-of-way on Marchant Avenue which is approximately 28.5 feet by 191 feet, currently serving as back-of-sidewalk landscaping.
In order for the City to abandon the subject right-of-way, a finding of General Plan consistency and California Streets and Highway Code Requirements compliance would have to be made by the City Council. In addition, the adopted Resolution would have to be recorded with the county Recorder’s office.

As specified in the City’s General Plan and Zoning Ordinance and California Streets and Highway Code Requirements, the following specific findings for the proposed Road Abandonment shall be made in order to approve the proposed project:

Right-of-way abandonments are governed by the following code sections from the California Streets and Highways Code and the Atascadero Municipal Code. In order for the proposed abandonment to be approved, the project must comply with all of the provisions and requirements set forth in each code section.

**California Streets and Highway Code Requirements**

Requirements for summarily vacating a road are found in the Streets and Highways Code, Section 8331, which states:
“The legislative body of a local agency may summarily vacate a street or highway if both of the following conditions exist:

(a) For a period of five consecutive years, the street or highway has been impassable for vehicular travel.

(b) No public money was expended for maintenance on the street or highway during such period.”

The portion of Marchant Avenue proposed for abandonment is at the back-of-sidewalk that has been impassable by vehicular travel for more than five years and no public money has been expended for maintenance.

Lot Line Adjustment Analysis

There is no minimum lot size for commercial property in the Commercial Tourist Zone. Only building and zoning standards must be met. The State Subdivision Map Act (Section 66412(d) of the California Government Code) takes precedence over any local California jurisdiction’s subdivision regulations, and that act states that Lot Line Adjustments may be reviewed for compliance with building and zoning codes only. If they meet those codes or can be conditioned to meet them (or come as close as possible to meeting them), then they must be approved. Therefore, any specific standards in the City’s subdivision regulations that do not relate to building or zoning are not applicable. As noted below, the Lot Line Adjustment, as conditioned, is consistent with zoning and building codes.

The Lot Line Adjustment is consistent with the General Plan, Zoning Regulations, and the Building Code. The site is designated General Commercial (GC) in the General Plan and is presently zoned Commercial Tourist (CT). The Lot Line Adjustment will not result in a change to the land use designations of the site.

General Plan Consistency

Pursuant to the CA Government Code, “If a general plan or part thereof has been adopted...no real property shall be...vacated or abandoned...until the location, purpose and extent of such...street vacation or abandonment...has been submitted to and reported upon by the planning agency as to the conformity with said general plan or part thereof.”

The Planning Commission found that the abandonment itself will not diminish any circulation goal of the City, particularly since adequate street right-of-way will be reserved. Marchant Avenue is considered a local street and according to the General Plan, “local streets have the sole function of providing access to adjoining land uses.” Marchant Avenue will maintain its function as defined by the General Plan.
Property Value

The Planning Commission is recommending that the applicant pay the City the fair market value of the property. Staff has added a condition to the project requiring the applicant to pay the City the property value as determined by an appraiser.

Zoning Designation

Staff has determined that when a right-of-way or portion thereof is abandoned, the zoning shall become the same as the adjacent zoning designation. The requested abandonment will be for the benefit of the adjacent parcel and will become part of the Commercial Tourist zoned parcel. No new parcels will be created as a result of this abandonment.

Environmental Review

The Road Abandonment and Lot Line Adjustment qualifies for a Class 5 Categorical Exemption under CEQA: minor change in land use limitations.

Conclusion

The proposed abandonment meets both criteria of the State requirements, since this section of the Marchant Avenue right-of-way, has been impassable for vehicular travel for five consecutive years. In addition, no public money has been expended for maintenance on the subject right-of-way during the stated time period.

The abandonment is also consistent with the City's Circulation Element of the General Plan and will not reduce or interfere with necessary improvements to the road at build-out, future bikeways, or planned trails.

This small section of the Marchant Avenue right-of-way is not necessary for existing or future road purposes. Marchant Avenue, as constructed, provides sufficient circulation in the area. Adequate provisions for public utilities and future road purposes will be retained by the City to serve future commercial development. As development occurs in this area the burden of improvements will be administered with the building permits.

If approved, the Lot line Adjustment will be consistent with City zoning and General Plan policies.

The Planning Commission is recommending that the City Council summarily vacate the undeveloped portion of Marchant Avenue right-of-way (Road Abandonment 2007-0018) and approve Lot Line Adjustment 2007-0082, based on findings and subject to Conditions of Approval; and, seek market rate compensation for the undeveloped portion of Marchant Avenue right-of-way.
FISCAL IMPACT:

As conditioned, the applicant shall pay all fees and expenses to abandon the right-of-way. No significant fiscal impact is anticipated on the City with this Road Abandonment. If the City seeks fair market value of the property the project will be revenue positive to the City.

ALTERNATIVES

1. The City Council may make modifications to the project and/or conditions of approval.

2. The City Council may determine that more information is needed on some aspect of the project and may refer the item back to the applicant and staff to develop the additional information. The Council should clearly state the type of information that is required and move to continue the item to a future date.

3. The Council may deny the project. The Council should specify the reasons for denial of the project.

ATTACHMENTS:

Attachment 1: Location Map, General Plan, and Zoning
Attachment 2: Draft Resolution A
Attachment 3: Draft Resolution B
Surrounding Land Use and Setting:

North: Highway 101  
South: Commercial Tourist (CT)  
East: Residential Multi-Family – 10 (RMF-10)  
West: Commercial Tourist (CT)
DRAFT RESOLUTION A

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ATASCADERO, CALIFORNIA, APPROVING ROAD ABANDONMENT 2007-0018 TO SUMMARILY VACATE A PORTION OF MARCHANT AVENUE PURSUANT TO SECTION 8331 OF THE CALIFORNIA STREETS AND HIGHWAYS CODE (GIESSINGER)

WHEREAS, An application has been received from Donald A. Giessinger (PO Box 791, Atascadero, CA 93423), Owner / Applicant, to consider a request to abandon an approximately 4,130 square-foot portion of Marchant Avenue with an associated Lot Line Adjustment; and,

WHEREAS, the current General Plan Designation and Zoning Designation is right-of-way; and,

WHEREAS, the abandoned portion of the road will become a part of the adjacent property currently zoned Commercial Tourist; and,

WHEREAS, the project is in conformance with the Circulation Element of the General Plan and all other applicable General Plan policies; and,

WHEREAS, the proposed right-of-way abandonment is exempt from CEQA review per section 15305: Minor Alterations in Land Use Limitations; and,

WHEREAS, the Planning Commission held a duly noticed public hearing to consider the proposed Road Abandonment on September 18, 2007 at 7:00 p.m. and considered testimony, reports from staff, the applicants, and the public; and,

WHEREAS, the City Council of the City of Atascadero, at a Public Hearing held on October 9, 2007 studied and considered Road Abandonment 2007-0018, and,

NOW, THEREFORE, the City Council of the City of Atascadero takes the following actions:

SECTION 1. Findings of Approval for the Road Abandonment. The City Council finds as follows:

1. The proposed project is consistent with the General Plan.
2. The portion of Marchant Avenue right-of-way proposed to be abandoned has been impassable for vehicular travel for a period of five consecutive years and no public money has been expended for maintenance on the street during such period.

SECTION 2. Approval. The City Council of the City of Atascadero, in a regular session assembled on October 9, 2007 resolved to approve Road Abandonment 2007-0018 subject to the following:

EXHIBIT A: Zoning and Location Map
EXHIBIT B: Road Abandonment Diagram
EXHIBIT C: Conditions of Approval

On motion by Council Member __________ and seconded by Council Member __________, the foregoing Resolution is hereby adopted in its entirety on the following roll call vote:

AYES:
NOES:
ABSENT:
ADOPTED:

CITY OF ATASCADERO

By: _____________________________
    Dr. George Luna, Mayor

ATTEST:

Marcia McClure Torgerson, C.M.C., City Clerk

APPROVED AS TO FORM:

__________________________
Rob Schultz, Interim City Attorney
Surrounding Land Use and Setting:

North: Highway 101  
South: Commercial Tourist (CT)  
East: Residential Multi-Family – 10 (RMF-10)  
West: Commercial Tourist (CT)
Exhibit B: Road Abandonment Diagram

Area of Marchant Avenue to be abandoned
## Exhibit C: Conditions of Approval

### Conditions of Approval

**PLN 2007-1200/LLA 2007-0082**

**Address:** 6305 Morro Road

### Standard Planning Conditions

<table>
<thead>
<tr>
<th>Condition</th>
<th>Timing</th>
<th>Responsibility / Monitoring</th>
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<tbody>
<tr>
<td>1. Prior to City Council approval of the Road Abandonment, the applicant shall have the application reviewed by all applicable public and private utility companies (cable, telephone, gas, electric, Atascadero Mutual Water Company). The applicant shall obtain a letter from each utility company which indicates their review of the application. The letter shall identify any new easements which may be required by the utility company. A copy of the letter shall be submitted to the City. New easements shall be recorded prior to or concurrently with the Road Abandonment.</td>
<td>Final Map</td>
<td>CE/PS</td>
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<td>2. The Applicant shall pay all plan check and right-of-way abandonment costs.</td>
<td>Final Map</td>
<td>CE/PS</td>
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<td>3. The applicant shall submit a Final Parcel Map, per the requirements of the subdivision Map Act and California Streets and Highway Code, merging the abandoned right-of-way and the existing parcel. The Final Parcel Map shall be submitted after City Council approval of the right-of-way abandonment. The Final Parcel Map shall be in substantial conformance with the City Council’s action and shall be approved by the City Council prior to recordation.</td>
<td>Final Map</td>
<td>CE/PS</td>
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<tr>
<td>4. The applicant shall pay market rate compensation for the portion of land to be abandoned as determined by a property appraiser.</td>
<td>Final Map</td>
<td>CE/PS</td>
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RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF ATASCADERO, CALIFORNIA, APPROVING
LOT LINE ADJUSTMENT 2007-0082, ALLOWING THE ADDITION OF
4,130 SQUARE FEET TO A COMMERCIAL LOT
AT 6305 MORRO ROAD APN 030-212-016
(GIESSINGER)

WHEREAS, An application has been received from Donald A. Giessinger (PO Box 791, Atascadero, CA 93423), Owner / Applicant, to consider a request to abandon an approximately 4,130 square-foot portion of Marchant Avenue with an associated Lot Line Adjustment; and,

WHEREAS, a Categorical Exemption (Class 5) Section 15305, Minor Alterations in Land Use Limitations was prepared for the project in accordance with the requirements of the California Environmental Quality Act (CEQA); and,

WHEREAS, the site’s current General Plan Designation is General Commercial (GC); and,

WHEREAS, the site’s current zoning district is Commercial Tourists (CT); and,

WHEREAS, a timely and properly noticed Public Hearing upon the subject Lot Line Adjustment 2007-0082 application was held by the Planning Commission of the City of Atascadero on September 18, 2007, at which both oral and documentary evidence was admitted on behalf of said project; and,

WHEREAS, a timely and properly noticed Public Hearing upon the subject Lot Line Adjustment 2007-0082 application was held by the City Council of the City of Atascadero on October 9, 2007, at which both oral and documentary evidence was admitted on behalf of said project; and,

NOW, THEREFORE, the City Council of the City of Atascadero takes the following actions:

SECTION 1. Findings for approval of Tentative Lot Line Adjustment Map. The City Council finds as follows:

1. The proposed map, as conditioned, is consistent with the General Plan and applicable zoning requirements; and,

2. The design and improvement of the proposed map, as conditioned, is consistent with the General Plan and applicable zoning requirements; and,
3. The site is physically suitable for the density of development proposed; and,

4. The design and improvement of the proposed map will not cause substantial environmental damage or substantially and unavoidably injure fish and wildlife or their habitat; and,

5. The map is consistent with the character of the immediate neighborhood; and,

6. The design of the Lot Line Adjustment will not conflict with easements acquired by the public at large for access through, or the use of property within, the proposed subdivision; or substantially equivalent alternative easements are provided; and,

7. The proposed Lot Line Adjustment design and type of improvements proposed will not cause serious public health problems.

SECTION 2. Approval. The City Council of the City of Atascadero, in a regular session assembled on October 9, 2007 resolved to approve Lot Line Adjustment 2007-0082 (AT 07-0080) subject to the following:

EXHIBIT A: CEQA Exemption
EXHIBIT B: Conditions of Approval
EXHIBIT C: Lot Line Adjustment Map 2007-0082 (AT-AL- 07-0080)
On motion by Council Member ________________ and seconded by Council Member ________________, the foregoing Resolution is hereby adopted in its entirety on the following roll call vote:

AYES:

NOES:

ABSENT:

ADOPTED:

CITY OF ATASCADERO

By: ______________________________
   Dr. George Luna, Mayor

ATTEST:

_______________________________________
Marcia McClure Torgerson, C.M.C., City Clerk

APPROVED AS TO FORM:

_______________________________________
Roy Hanley, Interim City Attorney
CITY OF ATASCADERO
NOTICE OF EXEMPTION

6907 El Camino Real Atascadero, CA 93422 805.461.5000

TO: File  Date Received for Filing

FROM: City of Atascadero
Community Development Department
6907 El Camino Real
Atascadero, CA 93422

SUBJECT:  Filing of Notice of Determination in Compliance with Section 21152 of the Public Resources Code

Project Title
LOT LINE ADJUSTMENT AND ROAD ABANDONMENT, 6305 MORRO ROAD

Project Location (Include County)
6305 Morro Road
Atascadero, CA 93422 (San Luis Obispo County)

Project Description
Adjustment of boundary lines between two existing lots of record and road abandonment of 4,130 square feet of Merchant Avenue.

Name of Public Agency Approving Project
City of Atascadero

Name of Person or Agency Carrying Out Project
Donald A. Giessinger, and the City of Atascadero

Exempt Status:
☐ Ministerial (Sec. 21080 (b)(1); 15268)
☐ Declared Emergency (Sec. 21080(b)(3); 15269(a))
☐ Emergency Project (Sec.21080 (b)(4); 15269(b)(c))
☒ Categorical Exemption (Sec. 15305, Minor Alteration in Land Use Limitations)

Reasons why project is exempt:
Class 5 of the California Environmental Quality Act (CEQA) (Section 15305, Minor Alterations in Land Use Limitations) exempts lot line adjustments on slopes of less than 20% when the parcels have previously been improved.

Date: June 12, 2007

                                                                                     _______________________________
                                                                                     Steve McHarris
                                                                                     Deputy Director
ENVIRONMENTAL FINDING:

The proposed Lot Line Adjustment is exempt from the requirements of the California Environmental Quality Act (CEQA) under CEQA Guideline 15305, Class 5.

MAP FINDING:

The application as submitted conforms to all applicable building and zoning regulations of the City of Atascadero and is consistent with the City's General Plan.

CONDITIONS:

1. The Lot Line Adjustment as **generally** shown on Attachment A, provided herein shall be submitted as a final parcel map or in a record of survey with Certificates of Compliance, or deeds to be approved by the Community Development Department and City Engineer prior to recordation. If the Lot Line Adjustment is to be recorded through the use of deeds, the deeds shall be submitted in the City’s Certificate of Compliance standard format for review and approval prior to recordation.

2. Approval of this Lot Line Adjustment shall expire two years from the date of approval (date of this correspondence) unless a time extension has been granted in response to a written request received prior to the expiration date.

3. The applicant shall show the ATAL number issued by the County of San Luis Obispo (on the record of survey map or included in “Exhibit B” of the Certificates of Compliance); plat all plottable easements with recording information, list all unplottable easements, and show the legal description for the properties being adjusted.

4. If a record of survey is submitted, a mylar copy of the survey shall be submitted to the Community Development Department for approval prior to recordation.
Exhibit C:
Tentative Lot Line Adjustment
Lot Line Adjustment 2007-0082 (ATAL 07-0080)
6305 Morro Road