

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

RESOLUTION NO. 05014

APN# 420-011-002-000 AND 420-171-032-000

FINDINGS & DECISION

In the matter of the application of
WESTON JANE ET AL (PLN040180)

Combined Development Permit consisting of: Coastal Development Permit for a Lot Line Adjustment to reconfigure four existing lots of record of approximately 0.15, 23, 34, and 75 acres each in the coastlands subdivision into four lots of approximately 18, 27, 45, and 45 acres each; and a Variance to allow two resulting lots that do not meet the minimum lot size of 40 acres. The lots are located west of Highway One, southerly of Post Ranch Inn, Big Sur Area, Coastal Zone. This project came on regularly for hearing before the Minor Subdivision Committee on May 26, 2005.

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

FINDINGS OF FACT

1. **FINDING – CONSISTENT WITH PLAN/POLICIES:** The project proposed in this application consists of a Coastal Development Permit for a Lot Line Adjustment (PLN040368/Weston). The proposed project conforms to the plans, policies, requirements and standards of the Big Sur Coastal Area Plan.

EVIDENCE:

- (a) The property has approximately 2,855 lineal feet of frontage along the Pacific Ocean located approximately two miles west of Highway 1 along the Lower Coastlands Road, southerly of the Post Ranch Inn. This area is the Big Sur Coastal area of the Coastal Zone.
- (b) The Planning and Building Inspection staff reviewed the project, as contained in the application and accompanying materials, for conformity with:
 1. Big Sur Coastal Land Use Area Plan.
 2. Coastal Implementation Plan, Part 3 (Chapter 20.145 MCC).
- (c) The project area is designated for Watershed and Scenic Conservation (40 acres/unit) under the Big Sur, Local Coastal Program, Land Use Plan. Proposed parcels consist of 45 acres (Parcel A), 45 acres (Parcel B), 27 acres (Parcel C) and 18 acres (Parcel D).
- (d) Detailed plans including soils and other types of reports will be required with any proposed future development of these sites. Big Sur Land Use Plan regulations require the properties to identify and establish scenic and conservation easements over areas that include critical viewshed, slopes greater than 30% and environmentally sensitive habitat. A Condition has been included that requires the applicable owner to address this prior to development of their lot.
- (e) Necessary public facilities are available to the project site.
- (f) On May 25, 2004, the Big Sur Land Use Advisory Committee voted 4-0 to recommend approval of the project as proposed. The following concerns have been addressed:
 1. Water. A concern that the applicant only has rights to one water meter hookup and need to find water for the other three lots prior to reconfiguring the lots. No new lots would be created under this application and the owners will need to provide prove water before they would be issued any

entitlement to develop the properties. The Minor Subdivision Committee finds that with the same number of lots there is no intensification from the current development potential as it relates to water use.

2. Vehicle Access. Concerns were expressed regarding the increased road use by creating three more home sites. Access to the subject property is through use of a private road. There would be no new lots created under this application, so there is no increase from current development potential. Since this application is not intensifying potential development, the Committee finds that access using a private road is a civil issue between the interested parties.
3. Beach Access. The Coastlands expressed concern of configuring the lots in a manner that the existing beach trail becomes a liability. Table 1 of the Big Sur Land Use Plan identifies the Coastlands as a destination with a provision to retain existing access through Coastlands and Nepenthe or allow by permission of residents. The Committee finds that the revised lot configuration would have no affect on public access or trails.
4. Ridgeline. A concern that new development and tree removal would expose potential building sites to upslope neighbors. Proposed building sites have been located within a generally flat area of the resulting parcels on the ocean side of a ridgeline. Based on existing topography and landscape, development on the proposed lots would not be located where it would obstruct any existing private or public views. An existing access road off the Lower Coastlands Road would serve these parcels. The proposed sites would allow development oriented toward the ocean with dense tree over creating a buffer between the building sites and existing development in the Coastlands. As designed, reasonable development could occur without impact to any existing trees. As such, the Committee finds that there would be no impact to ridgeline views.

- (g) As conditioned, the subject property is in compliance with all rules and regulations pertaining to the use of the property and no violations exist on the property.
- (h) 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.
- (i) Materials in project file PLN040180/Weston-Short.

2. **FINDING- CONFORMS TO REGULATIONS**: The parcels resulting from the lot line adjustment conform to County's zoning and building ordinances. The proposed lot line adjustment is consistent with the Monterey County Subdivision Ordinance (Title 19) and the Monterey County Zoning Ordinance (Title 21).

EVIDENCE:

- (a) The
Planning and Building Inspection staff reviewed the project, as contained in the application and accompanying materials, for conformity with:
 1. Monterey County Coastal Subdivision Ordinance (Title 19).
 2. Chapter 20.16 of the Monterey County Zoning Ordinance regulations for development in the Rural Density Residential zone.
 3. Chapter 20.17 of the Monterey County Zoning Ordinance regulations for development in the Watershed and Scenic Conservation zone.
 4. Chapter 20.70 of the Monterey County Zoning Ordinance regulations for Coastal Development Permits.
 5. Chapter 20.78 of the Monterey County Zoning Ordinance regulations for Variances.
- (b) Parcels A, B and C are zoned "WSC/40(CZ)" Watershed and Scenic Conservation (minimum 40 acres), Coastal Zone. Parcel D is zoned "RDR/40(CZ)" Rural Density Residential (minimum 40 acres), Coastal Zone. All development in this area is subject to design approval. No development is proposed at this time.

- (c) The project is in conformance with the public access and public recreation policies of the Coastal Act and Local Coastal Program, and does not interfere with any form of historic public use or trust rights (Section 20.70.050.B.4 CIP). No access is required as part of the project as no substantial adverse impact 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.
- (d) There is no actual change in the use or proposed development at this time. Future developers will be required to process plans prior to development of these sites.
- (e) That the lot line adjustment is between four existing adjacent legal lots of record. Certificates of Compliance were recorded for Lots A, B and C in August 2002 and Lot D was part of the Coastlands subdivision (Coast Lands Tract No. 1) that was recorded in 1927. Copies of said documents are located in the project file.
- (f) The proposed project has been reviewed by the Monterey County Planning and Building Inspection Department, Water Resources Agency, Public Works Department, Environmental Health Division, and the California Department of Forestry and Fire Prevention. There has been no indication from these agencies that the site is not suitable for the proposed development.
- (g) Staff verified that the subject property is in compliance with all rules and regulations pertaining to the use of the property that no violations exist on the property. A condition is included to assure that all zoning abatement costs, if any, have been paid.
- (h) Application materials contained in File PLN040180/Weston-Short.

3. **FINDING – NO NEW PARCELS:** The proposed lot line adjustment will not create a greater number of parcels than originally existed.

EVIDENCE:

- (a) Two contiguous separate legal parcels of record will be adjusted and four contiguous separate legal parcels of record will result from the adjustment. No new parcels will be created.
- (b) The project area has a total of approximately 135.15 acres. Proposed amendments include: increasing Parcel 1 (portion of assessor's parcel number 420-011-002-000) from 34.00 acres to 45 acres (Parcel B), reducing Parcel 2 (portion of assessor's parcel number 420-011-002-000) from 75.00 acres to 27 acres (Parcel C), increasing Parcel 3 from 0.15 acres to 18 acres (Parcel D), and increasing Parcel 4 (portion of assessor's parcel number 420-011-002-000) from 26.00 acres to 45 acres (Parcel A).
- (c) Application materials contained in File PLN040368/Weston.

4. **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 the Monterey County Coastal Implementation Plan (Parts 1 and 3) is found to deprive the subject property of privileges enjoyed by other property owners in the vicinity under an identical zoning classification.

EVIDENCE:

- (a) The Land Use and Zoning designations require a minimum of 40 acres for each lot in the Watershed and Scenic Conservation zone. The intent of this density is to preserve natural views along the Big Sur Coast.
- (b) The project area consists of steep slopes ranging in elevation from the Pacific Ocean to about 900 feet that are covered with a mix of chaparral and coast sage scrub.
- (c) There are currently four lots and the current lot configuration would encourage development (grading, roads, structures) to occur on slopes and through habitat. Reconfiguring the lots provides adequate building sites on a relatively flat portion of the property using an existing access road. This

allows the remaining portion of the lots to be placed into an open space and conservation easement to prevent disruption of the scenic quality of these hillsides.

- (d) There are special circumstances on the site that warrant a variance to reduce the front set back requirement provided there is no special privilege (Finding 5) and it is an authorized use (Finding 6).
- (e) Materials and documents in Project File No. PLN040180/Weston-Short.

5. **FINDING - VARIANCE (Special Privileges):** The variance 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) Each legal lot of record has a right to develop one single family home. The reconfiguration does not increase the allowed density. Therefore, granting this variance would not constitute any special privilege.
- (b) Future development would be required to meet all development standards for the WSC/40 (CZ) zoning designation. Building sites and septic envelopes have been identified as part of the lot line adjustment process to illustrate the ability to meet these standards. The proposed building sites better meet the objectives of the Big Sur Land Use Plan by avoiding development on steep slopes that are part of the viewshed.
- (c) Materials and documents in Project File No. PLN040180/Weston-Short.

6. **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) The first single family dwelling on a legal lot of record is an allowed use subject to a Coastal Administrative Permit (Section 20.17.040.A CIP). No new development is proposed at this time.
- (b) Materials and documents in Project File No. PLN040180/Weston-Short.

7. **FINDING – HEALTH AND SAFETY:** The establishment, maintenance, or operation of the subdivision and building 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 of such proposed use, or be detrimental or injurious to property and improvement in the neighborhood, or to the general welfare of the County.

EVIDENCE:

- (a) The project as described in the application and accompanying materials was reviewed by the Department of Planning and Building Inspection, Environmental Health Division, Public Works Department, California Department of Forestry and Fire Prevention, and Water Resources Agency. The respective departments have recommended conditions, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood; or the County in general.

8. **FINDING- CEQA/EXEMPTION:** Lot Line Adjustment (PLN040180/Weston-Short) is exempt from the requirements of the California Environmental Quality Act (CEQA).

EVIDENCE:

- (a) Section 153005(a) is a Categorical Exemption (Class 5) for minor lot line adjustments, side yard, and set back variances not resulting in the creation of any new parcel.

- (b) The project consists of adjusting the lot lines for four legal lots of record and resulting in four lots that better meet the minimum lot size. There is no increase in the number of lots, density, or potential development. No development is proposed at this time.
- (c) The average slope of proposed building sites are less than 20%. This adjustment would avoid development on steep slopes and allow preservation of those areas in conservation easements thereby better meeting the objectives of the Big Sur Land Use Plan (LUP). Trees along the east portion of the property provide screening so no ridgeline development would occur. An existing house with some historical significance would remain and meets the minimum set back requirements based on the new lot line configuration.
- (d) Based on available information, there is no reasonable possibility that the proposed activity will have a significant effect on the environment due to unusual circumstances. The proposed Lot Line Adjustment would not require a change in building or access locations that could cause environmental impacts over the existing conditions.
- (e) File No. PLN040180/Weston-Short; administrative record.

9. **FINDING - APPEAL:** The project is appealable to the Board of Supervisors and California Coastal Commission.

EVIDENCE:

- (a) Section 19.01.040 of the Monterey County Coastal Zone Subdivision Ordinance (Title 19).
- (b) Section 20.86.080.A.3 of the Monterey County Coastal Implementation Plan (Part 1).

DECISION

THEREFORE, it is the decision of said Minor Subdivision Committee that said application be granted as shown on the attached sketch, subject to the attached conditions.

PASSED AND ADOPTED this 26th day of May, 2005 by the following vote:

AYES: McPharlin, Mulholland, Hori, Hodges, Mounday
 NOES: None
 ABSENT: Hawkins
 ABSTAIN: None

LYNNE MOUNDAY, SECRETARY

Copy of this decision mailed to the applicant on

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE CLERK OF 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

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 Planning and Building Inspection Department office in Marina.

2. The construction or use authorized by this permit must start within two years of the date of approval of this permit unless extended by the Director of Planning and Building Inspection pursuant to Section 20.140.100 of the Coastal Implementation Plan.

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

Project Name: WESTON-SHORT

File No: PLN040180 **APNs:** 420-011-002-000, 420-171-032-000

Approval by: Minor Subdivision **Date:** May 26, 2005

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

Permit Cond. Number	Mitig. Number	Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
PLANNING AND BUILDING INSPECTION (883-7500)						
1		<p>PBD029 - SPECIFIC USES ONLY This <i>Combined Development Permit (PLN040180)</i> consisting of: <i>Coastal Development Permit for a Lot Line Adjustment to reconfigure four existing lots of record (assessor's parcel numbers 420-011-002-000 and 420-171-032-000) of approximately 0.15, 23, 34, and 75 acres each in the coastlands subdivision into four lots of approximately 18, 27, 45, and 45 acres each; and a Variance to allow two resulting lots that do not meet the minimum lot size of 40 acres.</i> 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.</p>	Adhere to conditions and uses specified in the permit.	Owner/ Applicant PBI	Ongoing unless otherwise stated	

Permit Cond. Number	Mitig. Number	Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
2		<p>PBD025 - NOTICE-PERMIT APPROVAL</p> <p>The applicant shall record a notice which states: "A permit (Resolution 05014) was approved by the Minor Subdivision Committee for Assessor's Parcel Numbers 420-011-002-000 and 420-171-032-000 on May 26 2005. 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 Planning and Building Inspection Department." Proof of recordation of this notice shall be furnished to the Director of Planning and Building Inspection prior to issuance of building permits or commencement of the use.</p>	Proof of recordation of this notice shall be furnished to PBI.	Owner/ Applicant PBI	Prior to Issuance of grading and building permits or start of use.	
3		<p>PBD – SURVEY OF RESOURCES (NON-STANDARD)</p> <p>The owner of the lot being developed shall contract with a qualified biologist and licensed surveyor to accurately map the lot being developed in order to cartographically depict all areas: within the critical viewshed (as defined by Section 20.146.020.V of the <i>Big Sur Land Use Plan</i>); with environmentally sensitive habitat (as defined by Section 20.145.020.EE of the <i>Big Sur Land Use Plan</i>, as well as all other applicable State, federal, and local criteria); and/or with slopes of 30% or greater. (Planning and Building Inspection)</p>	Submit copies of the reports and maps to the County for approval by the Director of Planning & Building Inspection prior to conveyance of the easements to the County.	Owner/ Applicant PBI	Prior to the future residential development of any of the four subject lots of record	

<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>
4		PBD - SCENIC & CONSERVATION EASEMENT (NON-STANDARD) The owner of the lot being developed shall convey a Scenic & Conservation Easement to the County over all areas within the lot being developed identified under Condition 3 that: are located within the critical viewshed; contain environmentally sensitive habitat; and/or that have slopes of 30% or greater. (Planning and Building Inspection)	Submit approved and recorded easement to PBI.	Owner/ Applicant PBI	Prior to the future residential development of any of the four subject lots of record	
ENVIRONMENTAL HEALTH (755-4505)						
5		EH (NON-STANDARD) For Parcels A, B, and D: Submit an updated map indicating proposed septic envelopes for the parcels to the Division of Environmental Health for review and approval. Once approved the septic envelopes shall appear as part of the adjustment map. (Environmental Health)	Once approved the septic envelopes shall appear as part of the adjustment map	CA Licensed Engineer /Owner/ Applicant	Prior to filing a final map.	
6		EH (NON-STANDARD) For Parcels A, B, and D: A deed notification shall be recorded concurrently with the lot line adjustment map with the Monterey County Recorder which states: "A soils and percolation report has been prepared for this parcel by Grice Engineering, Inc., dated September 7, 2004 and is on record at the Division of Environmental Health, Monterey County, File Number PLN040180. (Environmental Health)	Submit proposed wording and forms to be recorded to EH and P&BI for review and approval. Record deed notification.	CA Licensed Engineer /Owner/ Applicant	Concurrently with filing the lot line adjustment map.	
PUBLIC WORKS (755-4800)						
7		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	

<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>
8		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	