

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

RESOLUTION NO. 03008

MINOR SUBDIVISION NO. 020137

A.P. # 420-021-023-000

In the matter of the request of

Joseph P. Schoendorf (PLN020137)

FINDINGS AND DECISION

for a **Combined Development Permit** pursuant to regulations established by local ordinance and state law, consisting of a Coastal Development Permit for a Lot Line Adjustment between two parcels, "Parcel A" and "Parcel B," involving the transfer of 4.7 acres from Parcel A (resulting in 20.4 acres) to Parcel B (resulting in 20.8 acres), and a Coastal Development Permit for an accessory structure and use (swimming pool and pool house) on proposed Parcel B prior to establishment of a main use or structure. The Parcels are located at 52170 Highway One, Big Sur, west of Highway One and extending to the Pacific Ocean shoreline, southwest of Partington Point in the Julia Pfeiffer Burns State Park area, Coastal Zone, came on regularly for hearing before the Minor Subdivision Committee on April 10, 2003.

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

1. **FINDING:** The project proposed in this application consists of a Combined Development Permit for a lot line adjustment (PLN020137) and accessory structure prior to establishment of a main use or structure, as described in condition #1 and as conditioned, conforms with the plans, policies, requirements and standards of the Monterey County Coastal Subdivision Ordinance (Title 19), and with the Big Sur Land Use Plan and Coastal Implementation Plan (Part 3), Part 6 of the Coastal Implementation Plan, and the Monterey County Zoning Ordinance (Title 20), which together comprise the Local Coastal Program for the project site. The property is located at 52170 Highway 1 in the Big Sur area of the Coastal Zone. The parcel is zoned "WSC/40 (CZ)" or Watershed and Scenic Conservation Residential, 1 unit/ 40 acres - Design Control District. The project is in conformance with the public access and public recreation policies of the Coastal Act and the Big Sur Coastal Implementation Plan, 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 impact on access, either individually or cumulatively, as described in Section 20.70.050.B.4.c of the Big Sur Coastal Implementation Plan, can be demonstrated. The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of Title 20, and any zoning violation abatement costs have been paid.

EVIDENCE: The Planning and Building Inspection staff reviewed the project, as contained in the application and accompanying materials, for conformity with:

- a) The certified Big Sur Land Use Plan
- b) The certified Monterey County Coastal Implementation Plan regulations for the "WSC/40 (CZ)" District in the Coastal Zone, and
- c) Chapter 20.17 Monterey County Coastal Implementation Plan regulations for development in the Big Sur Land Use Plan.

EVIDENCE: Necessary public facilities are available to the project site.

EVIDENCE: The proposed development has been reviewed by the Monterey County Planning and Building Inspection Department, Water Resources Agency, Public Works Department, Environmental Health Division, Parks and Recreation Department, and applicable Fire Department. There has been no indication from these agencies that the site is not suitable for the proposed development. This review and the site visit demonstrate that no physical or environmental constraints exist that would indicate the site is not suitable for the proposed development. Each agency has recommended conditions for improvements.

EVIDENCE: The Big Sur Land Use Advisory Committee recommended approval of the project on June 11, 2002, by a vote of 7 to 0.

EVIDENCE: Written and verbal public testimony submitted at public hearings before the decision-making body.

EVIDENCE: Geologic Report, Karl Vonder Linden, June 15, 2000.

EVIDENCE: Geotechnical Report, Haro, Kasunich and Associates, Inc., August, 2000.

EVIDENCE: The on-site inspection of the subject parcel by the project planner pursuant to Section 20.145.030.A.1.a of the Big Sur Coastal Implementation Plan.

EVIDENCE: The application, plans, and support materials submitted by the project applicant to the Monterey County Planning and Building Inspection Department for the proposed development, found in the project file.

EVIDENCE: Staff verification of the Monterey County Planning and Building Inspection Department records indicated that no violations exist on subject property.

EVIDENCE: County File Nos. PC965101, PLN970217, PLN980186, and PLN000482 demonstrate that the existing single family dwelling, caretaker unit, and accessory structure on the proposed eastern (existing northern) parcel are not located in the Critical Viewshed.

EVIDENCE: The subject property is not described as an area where the Local Coastal Program requires access.

EVIDENCE: A Scenic and Conservation Easement Deed was required for the caretaker unit project approved under PLN980186. The easement precludes development on slopes over 30% and areas within the Critical Viewshed. The easement has not yet been recorded; it will be accepted by the County and recorded prior to a final inspection for that project.

2. **FINDING:** The proposed project will not have a significant environmental impact.

EVIDENCE: The Monterey County CEQA Guidelines categorically exempts this project from environmental review. No adverse environmental impacts were identified during review of the proposed project. The potential building site for the proposed vacant parcel is already a flat area that will be served by the existing driveway. The water line is already in place to the building site. No ground disturbance or infrastructure is needed to serve the building site, except possibly a septic system.

EVIDENCE: See evidence for Finding 1, above.

3. **FINDING:** That the lot line adjustment is between two (or more) existing adjacent parcels.

EVIDENCE: The application and plans for a lot line adjustment found in the project file.

EVIDENCE: Certificates of Compliance, recorded as documents 04541 (recorded January 22, 1997) and 9968120 (recorded September 10, 1999) at the Monterey County Recorder's Office, describe the parcels as two legal lots of record. The northerly parcel is Lot 1, Section 30, T20S, R3E. The southerly parcel is Lots 2, 3, and 4, Section 30, T20S, R3E.

4. **FINDING:** A greater number of parcels than originally existed will not be created as a result of the lot line adjustment.

EVIDENCE: Two contiguous separate legal parcels of record will be adjusted and two contiguous separate legal parcels of record will result from the adjustment.

EVIDENCE: See evidence to Finding 3.

5. **FINDING:** The parcels resulting from the lot line adjustment conform to the County Zoning and Building Ordinances.

EVIDENCE: The proposed lot line adjustment is not consistent with the minimum parcel density for parcels within the "WSC/40 (CZ)" Zoning District. However, the zoning ordinance allows adjustments of non-conforming parcels if the adjustment will result in building sites that better meet the resource protection requirements of the Big Sur Coastal Implementation Plan (see Finding 7). The new building site on the proposed vacant parcel will be able to utilize existing driveway and water infrastructure, will be located on an existing flat building pad, and is out of the Critical Viewshed. The existing southerly parcel is located entirely within the Critical Viewshed.

EVIDENCE: Policies requiring protection of the Critical Viewshed and steep slopes are better served by adjusting the parcel boundaries. Development of a single family dwelling on the existing, vacant southern parcel would require that the house either be located within the Critical Viewshed, which is not permitted, or would require extensive grading of steep slopes to reach and create a building site. Some of that grading could potentially be located within the Critical Viewshed, depending on the location of an adequate building site. The only areas on the existing southerly parcel that are less than 30% slope are located in the Critical Viewshed.

EVIDENCE: The application and plans found in the project file.

EVIDENCE: Site visit by project planner. The planner determined that the area shown as a potential building site for the proposed vacant parcel (with existing accessory structure) is not located within the Critical Viewshed and could use existing infrastructure. The site visit also demonstrated that the remaining portions of the site are either within the Critical Viewshed or would require extensive earthmoving activities on very steep slopes.

6. **FINDING:** 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: 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, applicable Fire Department, 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.

7. **FINDING:** The lot line adjustment will create buildable parcels pursuant to Section 20.145.140.A.15 of the Big Sur Coastal Implementation Plan.

EVIDENCE: The project is consistent with the resource protection policies of the Big Sur Coastal Implementation Plan, particularly the following applicable regulations:

- 1. 20.145.030.A.2.d Resiting development to not intrude upon viewshed
- 2. 20.145.030.C.2.b Use natural screening/topography; avoid scarring
- 3. 20.145.030.C.2.e Avoid visible access roads; minimize environmental and engineering problems
- 4. 20.145.040.A Earlier biological survey for the property showed no sensitive species (PLN980186, Jeff Norman, biologist, May 28, 1998)
- 5. 20.145.040.C.2.d No major land modification to screen structures
- 6. 20.145.050.A Water supply permit obtained for all three lots (Number 105-8298, Issued 10-9-97 for 3 connections)
- 7. 20.145.060 No tree removal necessary or proposed
- 8. 20.145.080.A.2.g Development sites conform to site topography
- 9. 20.145.080.C.1.a.1.a Deed restriction for fire hazard areas
- 10. 20.145.120.D.2.a Archaeological report showed nothing on property; but site in area
- 11. 20.145.130.D.1 No new roads in critical viewshed
- 12. 20.145.140.A.4 No development on slopes over 30%
- 13. 20.145.040.B.5.a Accessory structure meets policies of LCP

EVIDENCE: Evidence for Finding 1.

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

EVIDENCE: Section 20.86.080.A.3 of the Monterey County Coastal Implementation Plan (Part 1) and Section 19.01.040 of the Monterey County Coastal Zone Subdivision Ordinance (Title 19).

DECISION

It is the decision of the Minor Subdivision Committee of the County of Monterey that the said application for a Combined Development Permit be granted as shown on the attached sketch and subject to the following conditions:

- 1. This permit allows a lot line adjustment between two existing parcels, resulting in a 20.4- and a 20.8-acre parcel and an accessory structure (pool and changing room) prior to a main structure or use on the proposed 20.8 acre parcel. The project is 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)**

Prior to recordation of Grant Deeds or concurrent with recording a Record of Survey:

- 2. The applicant shall record a notice which states: "A permit (Resolution 03008) was approved by the Minor Subdivision Committee for Assessor's Parcel Number 420-021-023 on April 10, 2003. 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. **(Planning and Building Inspection Department)**
- 3. Obtain a survey of the new line and have the line monumented. **(Public Works)**
- 4. File a record of survey showing new line and its monumentation. **(Public Works)**
- 5. Concurrent with recording the Record of Survey, record new Certificates of Compliance for each of the new parcels. **(Planning and Building Inspection Department)**
- 6. Pursuant to Section 20.145.140.B.5.c of the Big Sur Coastal Implementation Plan, the applicant shall record a deed restriction for the 20.8-acre parcel stating that the accessory structure shall not be inhabited, nor contain cooking or kitchen facilities. **(Planning and Building Inspection Department)**
- 7. The applicant record a deed restriction which states: "The parcel is located in a high fire hazard area and development may be subject to certain restrictions required as per Section 20.145.080 of the Coastal Implementation Plan and per the standards for development of residential property." **(Planning and Building Inspection Department)**
- 8. Prior to filing the record of survey demonstrate that the pool house septic system will be located entirely on Parcel B or install a septic system on Parcel B for the pool house. **(Environmental Health)**

PASSED AND ADOPTED this 10th day of April, 2003, by the following vote:

AYES: McPharlin, Hawkins, Main, Beretti, Hori, Mulholland
 NOES: None
 ABSENT: Brandau, Lawrence

Original Signed By: _____

JEFF MAIN, SECRETARY

COPY OF THIS DECISION WAS MAILED TO THE APPLICANT ON APRIL 14, 2003.

THIS APPLICATION IS APPEALABLE TO THE BOARD OF SUPERVISORS. 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 APRIL 24, 2003.

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

UNLESS EXTENDED AS PROVIDED BY CHAPTER 19.04.040, TITLE 19 (SUBDIVISIONS), MONTEREY COUNTY CODE, THIS APPROVAL EXPIRES ON April 10, 2005. EXTENSION REQUESTS MUST BE MADE IN WRITING 30 DAYS PRIOR TO THE AFOREMENTIONED EXPIRATION DATE.

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 Monterey.

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