

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

RESOLUTION NO. 03019

MINOR SUBDIVISION # 020437

A.P. # 169-181-051-000

169-181-045-000

169-181-052-000

In the matter of the application of
JEM Partners (PLN020437)

FINDINGS & DECISION

for a Lot Line Adjustment in accordance with Title 19 (Subdivisions), Chapter 19.09 (Lot Line Adjustment), of the Monterey County Code, to allow an adjustment between two developed legal lots of record from 10.02 to 5.01 acres (APN169-181-051-000), an adjacent legal lot from 14.73 to 19.74 acres (APN 169-181-045-000 & APN 169-181-052-000), located southerly of and at the intersection of Carmel Valley Road and Schulte Road, Carmel Valley Master Plan area, came on regularly for meeting before the Minor Subdivision Committee on August 28, 2003.

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

1. FINDING: The JEM Partners Lot Line Adjustment (PLN020437), as described in Condition No. 1, and as conditioned, is consistent with the policies, requirements, and standards of the Monterey County General Plan, the Carmel Valley Master Plan, Monterey County Subdivision Ordinance (Title 19), the Monterey County Zoning Ordinance (Title 21), and the Stipulation and Order of the Monterey County Superior Court in Case No. M-43343. The subject properties are in compliance with all rules and regulations pertaining to the use of the properties, and no violations exist on the properties.

EVIDENCE: (a) The Lot Line Adjustment has been reviewed against the text and policies of these documents. No conflicts with the project were found to exist. No communication was received during the course of review of this project to indicate that there is any inconsistency with the text and policies of these documents.

(b) The parcels are currently developed, as confirmed by a site visit by the project planner on Tuesday, May 20, 2003. Staff verification of the Monterey County Planning and Building Inspection Department records indicate that no violations exist on subject properties.

(c) The project parcels are zoned LDR/2.5-D-S (Low Density Residential, 2.5 acres per unit, with Design and Site Plan Review). The adjusted lot sizes are consistent with this zoning designation.

(d) Application plans and information found in the project file.

2. **FINDING:** The use of the produce stand on Assessor's Parcel Number 169-181-051-000 will be discontinued.
- EVIDENCE:** (a) The lot line adjustment, as proposed, requires that the produce stand be disconnected from septic and water. Condition No. 6 states the requirement for disconnection in order to meet health regulations as determined by the Environmental Health Division of the Monterey County Department of Health.
- (b) No proposal currently exists for reconnection of the produce stand to a new septic system, or for the reconfiguration of the lots such that the disconnection of the produce stand would not be required, as evidenced by the project application materials in file number PLN020437 (JEM Partners).
3. **FINDING:** The project, as conditioned, is consistent with Policy 28.1.16 of the Carmel Valley Master Plan.
- EVIDENCE:** (a) Policy 28.1.16 of the Carmel Valley Master Plan states, "(t)he Valley Hills and Begonia Gardens nurseries and Martin's produce stand should be made nonconforming uses. These sites must continue in their present use, or, if discontinued, another agriculturally related commercial use shall be allowed."
- (b) Condition No. 7 requires that "In no event shall water use on the 5.01 acre parcel (a portion of that property identified as the Remainder Parcel (...)) exceed 10.91 AFY without the owner applying for, and the County's processing and granting of, discretionary permits, subject to environmental review and associated public hearings." Condition No. 8 provides for an additional 5 AFY on an adjacent 7.21 acres (part of the property to be adjusted).
- (c) No use type comparable to the produce stand exists under Table II (Commercial Water Use Factors) of the Monterey Peninsula Water Management District (MPWMD) Rules and Regulations for Determination of Projected Water Consumption by Category of Use. However, comparable produce stands in the region have used between 0.078 and 0.080 AFY, per year 2001 figures. Comparable produce stands which also accommodate retail have used as much as 0.41 AFY in 2001. (Sources: Castroville Water District and Cal-Am Water). Additionally, the combined AFY amounts needed for the historical agricultural use (crop or nursery water demand) and the produce stand uses described do not collectively exceed the AFY collectively allocated to the subject properties. Therefore, at least one and perhaps two distinct examples of an "agriculturally related commercial use" are feasible for the newly adjusted parcel.
4. **FINDING:** Approval of this Lot Line Adjustment is based in part on the premise and condition that all that property identified as the Remainder Parcel consisting of 10.02 acres on the Record of Survey (now reduced to 5.01 acres) recorded September 22, 1997 in Volume 21 of Record of Survey, at Page 45, filed in the Office of the County Recorder, County of Monterey, State of California, and that 2.2 acre portion of the other resulting parcel which was conveyed to All Saints Parish by JEM Partners in September of 1997), are and shall remain subject to the

Stipulation and Order (regarding water usage on the remainder parcel) in Case No. M-43343 (Save Our Carmel River (SOCR) v. County of Monterey / Mills College) of the Superior Court of California, County of Monterey, and the deed restriction recorded under document number 2002125605 on December 27, 2002 at the office of the Monterey County Recorder.

- EVIDENCE:** (a) Stipulation and Order for Case No. M-43343 (Save Our Carmel River (SOCR) v. County of Monterey / Mills College).
 (b) Deed restriction recorded as document number 2002125605 on December 27, 2002, at the office of the Monterey County Recorder.
 (c) Project plans submitted by the applicant.
 (d) Letter dated June 4, 2003 from Environmental Health regarding the AFY (acre-feet per year) allowable for the subject properties, on file with the Planning and Building Inspection Department in file number PLN020437.

5. **FINDING:** The Lot Line Adjustment is between 2 existing contiguous lots of record, including Assessor's Parcel Numbers 169-181-045-000, 169-181-051-000, and 169-181-052-000.

EVIDENCE: (a) Application plans and information contained in the project file.

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

EVIDENCE: (a) The existing 2 contiguous legal lots of record will be adjusted and no new lots will be created.

(b) Application, plans and information contained in the project file.

7. **FINDING:** The proposed project is categorically exempt under CEQA and will not have a significant environmental impact.

EVIDENCE: (a) Section 15300.2 of the CEQA Guidelines, which states that "a categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances." With the conditions recommended by staff, the lot line adjustment application will not result in a significant effect on the environment. Section 15305(a) of the CEQA Guidelines categorically exempts this project from environmental review, as a minor lot line adjustment.

(b) Based on a site visit and review of the project plans, staff has determined approval of the project would not result in any potentially adverse impacts.

8. **FINDING:** The current assigned parcel numbers (Assessor's Parcel Numbers 169-181-045-000, 169-181-051-000 and 169-181-052-000) may change as a result of this project.

EVIDENCE: (a) The Monterey County Assessor's Office assigns new Assessor's Parcel Numbers.

- 9. FINDING:** Public notice of the pending Lot Line Adjustment was provided pursuant to Section 19.01.055 and 19.09, Title 19, Monterey County Code (Subdivisions).
- EVIDENCE:** (a) The application, plans, and supporting materials submitted by the project applicant to the Monterey County Planning and Building Inspection Department for the proposed development in the project file.
- 10. FINDING:** A public hearing is being held, because there is evidence of public controversy or public opinion to the proposed development.
- EVIDENCE:** (a) A written request meeting the definition of evidence requiring referral to the Minor Subdivision Committee (as established by Section 19.09.005.H.3, Title 19, Monterey County Code (Subdivisions)) has been submitted to the Planning and Building Inspection Department.
- 11. FINDING:** The establishment, maintenance, and operation of the proposed Lot Line Adjustment 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 or to the general welfare of the County.
- EVIDENCE:** (a) Preceding findings and supporting evidence.
- 12. FINDING:** The decision on this project is appealable to the Board of Supervisors.
- EVIDENCE:** (a) Chapter 19.16.020.B of Title 19, Monterey County Subdivision Ordinance.

DECISION

THEREFORE, it is the decision of said Minor Subdivision Committee that said request for a Lot Line Adjustment be approved as shown on the attached sketch subject to Findings and Evidence and subject to the following conditions:

- 1.** The JEM Partners application (PLN020437) consists of a Lot Line Adjustment between two developed legal lots of record, to adjust Assessor's Parcel Numbers 169-181-051-000 and an adjacent legal lot (Assessor's Parcel Numbers 169-181-045-000 and 169-181-052-000). The resultant lot sizes for Assessor's Parcel Number 169-181-051-000 will be 5.01 acres (originally 10.02 acres), and for the adjacent legal lot (Assessor's Parcel Numbers 169-181-045-000 and 169-181-052-000), the resultant size will be 19.74 acres (originally 14.73 acres). No new lots will be created. The properties are located southerly of and at the intersection of Carmel Valley Road and Schulte Road, Carmel Valley Master Plan Area. 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 Record of Survey:

2. The applicant shall record a notice which states: "A Lot Line Adjustment (Resolution No. 03019) was approved by the Minor Subdivision Committee for Assessor's Parcel Numbers 169-181-051-000 and an adjacent legal lot (Assessor's Parcel Numbers 169-181-045 and 169-181-052-000) on August 28, 2003. The permit was granted subject to 10 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 permits, recordation of grant deeds, and recordation of record of survey. **(Planning and Building Inspection)**
3. Applicant shall obtain a survey of the new line and have the line monumented. **(Public Works)**
4. Applicant shall file a Record of Survey showing the Official Plan Line, the new line and its monumentation. **(Public Works)**
5. Owner shall record a notice for the newly aligned parcel that includes the All Saints Parish (Assessor's Parcel Number 169-181-045-000), stating that "the property is located within or partially within a floodplain and may be subject to building and/or land use restrictions." A copy of the recorded notice shall be provided to the County Water Resources Agency. **(Water Resources Agency)**
6. Prior to filing the record of survey, the existing building (produce stand) that will be located on Assessor's Parcel Number 169-181-051-000 after the lot line adjustment shall be disconnected from the existing septic system that will be located on the adjacent legal lot. Additionally, all water use fixtures shall be removed from the building and the building vacated (storage allowed) until such time as a new septic system is installed on Assessor's Parcel Number 169-181-051-000. Applicant shall contact the Division of Environmental Health for an inspection prior to clearing condition. **(Environmental Health)**
7. Prior to the recordation of grant deeds or record of survey, and prior to the creation of any new Assessor's Parcel Numbers which would be assigned to the properties affected by the JEM Partners lot line adjustment (PLN020437), the applicant shall record a deed restriction against Assessor's Parcel Number 169-181-051-000 stating that "In no event shall water use on the 5.01 acre parcel (a portion of that property identified as the Remainder Parcel {consisting of 10.02 acres on the parcel map recorded September 22, 1997 in Volume 21 of Parcel Maps, at Page 45, filed in the Office of the County Recorder, County of Monterey, State of California},

and as shown on the approved plans in file number PLN020437, on file with the Monterey County Planning and Building Inspection Department) exceed 10.91 AFY without the owner applying for, and the County's processing and granting of, discretionary permits, subject to environmental review and associated public hearings. Any revisions to the allocation of water between the 5.01 acre parcel and the other newly configured parcel (as shown on the approved plan in file number PLN020437) shall be in accordance with Monterey County Superior Court Case No. M-43343 (Save Our Carmel River (SOCR) v. County of Monterey/Mills College).” **(Environmental Health)**

8. Prior to the recordation of grant deeds or record of survey, and prior to the creation of any new Assessor's Parcel Numbers which would be assigned to the properties affected by the JEM Partners Lot Line Adjustment (PLN020437), the applicant shall record a deed restriction against Assessor's Parcel Number 169-181-052 stating that “In no event shall water use on the 7.21 acres (2.2 acres {being that 2.2 acres conveyed to JEM Partners by All Saint's Parish, Sept. 1997} plus 5.01 acres {being a portion of that property identified as the Remainder Parcel {consisting of 10.02 acres on the parcel map recorded September 22, 1997 in Volume 21 of Parcel Maps, at Page 45, filed in the Office of the County Recorder, County of Monterey, State of California}, and as shown on the approved plans in file number PLN020437, on file with the Monterey County Planning and Building Inspection Department}) of the newly configured 19.74 parcel exceed 5 AFY without the owner applying for, and the County's processing and granting of, discretionary permits, subject to environmental review and associated public hearings. Any revisions to the allocation of water between the newly configured parcels (as shown on the approved plans in file number PLN020437, on file with the Monterey County Planning and Building Inspection Department) shall be in accordance with Monterey County Superior Court Case No. M-43343 (Save Our Carmel River (SOCR) v. County of Monterey/Mills College). **(Environmental Health)**
9. The property owner agrees as a condition and in consideration of the approval of this discretionary development permit that it will, pursuant to agreement and/or statutory provisions as applicable, including but not limited to Government Code Section 66474.9, defend, indemnify and hold harmless the County of Monterey or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees to attack, set aside, void or annul this approval, which action is brought within the time period provided for under law, including but not limited to, Government Code Section 66499.37, as applicable. The property owner will reimburse the county for any court costs and attorney's fees which the County may be required by a court to pay as a result of such action. County may, at its sole discretion, participate in the defense of such action; but such participation shall not relieve applicant of his obligations under this condition. An agreement to this effect shall be recorded upon demand of County Counsel or prior to recordation of grant deeds or record of survey, whichever occurs first and as applicable. The County shall promptly notify the property owner of any such claim, action or proceeding and the County shall cooperate fully in the defense thereof. If the County fails to promptly notify the property owner of any such claim, action or proceeding or fails to cooperate fully in the defense thereof, the property owner shall not thereafter be responsible to defend, indemnify or hold the county harmless. **(Planning and Building Inspection Department)**

Continuous Condition:

- 10. The owner shall notify the Planning and Building Inspection Department of the following action(s) prior to execution of same action(s): recordation of deeds, owner's / agent's request for new parcel numbers, or other action which would result in new Assessor's Parcel Numbers being created for the subject parcels, whichever occurs first. **(Planning and Building Inspection)**

PASSED AND ADOPTED this 28th day of August, 2003, by the following vote:

AYES: McPharlin, Lawrence, Mulholland, Hori, Towner
 NOES: None
 ABSENT: Hawkins, Brandau
 ABSTAIN: None

Original Signed By:

ANN TOWNER, Secretary

COPY OF THIS DECISION WAS MAILED TO THE APPLICANT ON

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

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 is started within this period.