

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

RESOLUTION NO. 04012

MINOR SUBDIVISION # 040163

A.P. # 418-161-002-000
418-161-003-000

In the matter of the request of
Robert Brian Lyke et al (PLN040163)

FINDINGS AND DECISIONS

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 legal lots of record (the resultant lot size for Assessor's Parcel Number 418-161-002-000 will be reduced from 40.87 acres to 40.10 acres and the resultant lot size for Assessor's Parcel Number 418-161-003-000 will be increased from 15.01 acres to 15.70); a Coastal Administrative Permit for a new well on Assessor's Parcel Number 418-161-002-000; and a Coastal Administrative Permit for a new well on Assessor's Parcel Number 418-161-003-000. The properties are located at 38747 & 38749 Palo Colorado Road, Carmel, Big Sur Land Use Plan area, Coastal Zone, came on regularly for hearing before the Minor Subdivision Committee on June 24, 2004.

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

- 1. FINDING: CONSISTENCY** – The Lyke Combined Development Permit (PLN040163), as described in Condition #1, and as conditioned, is consistent with the plans, policies, requirements, and standards of the Local Coastal Program (LCP). The LCP for this site consists of the Big Sur Coast Land Use Plan, Big Sur Coastal Implementation Plan (Part 3), Part 6 of the Coastal Implementation Plan, and Part 1 of the Coastal Implementation Plan (Title 20 Zoning Ordinance).

EVIDENCE: (a) Plans/Regulations – The Planning and Building Inspection staff reviewed the project, as contained in the application and accompanying materials, for conformity with:

- 1) Big Sur Coast Land Use Plan
- 2) Big Sur Coastal Implementation Plan (Part 3)
- 3) Part 6 of the Coastal Implementation Plan
- 4) Part 1 of the Coastal Implementation Plan (Title 20 Zoning Ordinance)

There would be no conflict or inconsistencies with these policies or regulations. Staff's record of review is provided in project file PLN040163.

(b) Land Use Designation – The parcels are zoned Watershed and Scenic Conservation, 40 acres per unit, Coastal Zone (“WSC/40 (CZ)”). The lot line adjustment and new wells are allowed uses in accordance with Sections 20.17.050.JJ and 20.17.040.J. The project is in compliance with the Site Development Standards for Watershed and Scenic Conservation Residential Zoning District in accordance with Section 20.17.060.

(c) **Site Description** – The properties are located at 38747 and 38749 Palo Colorado Road, Carmel. The properties are currently developed with single-family residences and other accessory structures. The properties contain potential future building sites with access roads already in place. No new building sites will be created as a result of the lot line adjustment.

(d) **Environmentally Sensitive Habitat** – The project is consistent with policies of the Big Sur Coast Land Use Plan dealing with environmentally sensitive habitats (Chapter 3.3). A biological survey, dated March 8, 2003, was prepared for the project by Jeff Norman, Consulting Biologist. The survey states that no adverse biological impacts will occur as a result of the proposed lot line adjustment. Staff's site visit did not observe environmentally sensitive habitats within or near the proposed well sites. Conditions of approval will require implementation of erosion/runoff control measures prior to and during well drilling and appropriate retention and disposal of all well drilling spoils.

(e) **Scenic Resources** – The project is consistent with policies of the Big Sur Coast Land Use Plan dealing with scenic resources (Chapter 3.2). The project planner conducted a site visit on January 31, 2003 to verify that the proposed project will not have a significant adverse effect on the public viewshed. The adjusted lots will not contain building sites within the critical viewshed. The lot line adjustment will not result in building sites occurring on undeveloped skylines and ridgelines.

(f) **Water Resources** – The project is consistent with policies of the Big Sur Coast Land Use Plan dealing with water resources (Chapter 3.4). Currently, no wells exist on the properties. Water is either collected from a surface spring source via a catch basin or brought to the properties off-site. The purpose of the new wells is to provide an adequate supply of water to the properties. The Division of Environmental Health and the Water Resources Agency have reviewed the project application and deemed it complete with conditions.

(g) **Site Visits** – The project planner conducted site visits on January 31, 2003 and April 20, 2004 to verify that the proposed project complies with the LCP. Staff's memos regarding the site visits are in project file PLN040163.

(h) **Land Use Advisory Committee** – The Big Sur Land Use Advisory Committee reviewed and recommended approval (5 - 0 vote) of the Combined Development Permit on April 13, 2004 with no changes.

(i) **Application Materials** – The application and plans submitted for the Combined Development Permit in project file PLN040163 at the Monterey County Planning and Building Inspection Department.

(j) **Testimony** – 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.

2. **FINDING: SITE SUITABILITY** – The site is suitable for the use proposed.

EVIDENCE: (a) The project has been reviewed for suitability by the Monterey County Planning and Building Inspection Department, Coastal Commission, California Department of Forestry and Fire Protection, Monterey County Water Resources Agency, Monterey County Public Works Department, Monterey County Parks Department, and Monterey County Health Department. There has been no indication from these agencies that the site is not suitable. Conditions recommended by these agencies have been incorporated as project conditions.

(b) The project planner conducted site visits on January 31, 2003 and April 20, 2004 to verify that the site is suitable for this use.

(c) Necessary public facilities are available and will be provided.

3. **FINDING: PUBLIC ACCESS** – The project is in conformance with the public access and public recreation policies of the Coastal Act and the Local Coastal Program, 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 impacts 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.

EVIDENCE: (a) The subject properties are not described as an area where the Local Coastal Program requires access and is not indicated as part of any designated trails or shoreline access. No evidence or documentation has been submitted or found showing the existence of historic public use or trust rights over this property.

(b) Staff site visits on January 31, 2003 and April 20, 2004.

4. **FINDING: CEQA (Exempt)** – The proposed project will not have a significant environmental impact.

EVIDENCE: (a) Sections 15305(a) and 15304 of the CEQA Guidelines categorically exempt the proposed development from environmental review. The proposed lot line adjustment qualifies for the categorical exemption since the lot line adjustment will not result in any changes in land use or density and will not result in the creation of a new parcel. Nor will it create new development sites that may, when developed, create the potential for additional environmental impacts compared to current conditions without the lot line adjustment. The new wells qualify for the categorical exemption since they constitute a minor alternation to land having negligible or no permanent effects on the environment. Further, no trees will be removed and no environmentally sensitive habitat is present within or near the well sites.

(b) No adverse environmental impacts were identified during staff review of the project application.

(c) There are no unusual circumstances related to the project or properties.

5. **FINDING: EXISTING PARCELS** – The lot line adjustment is between two existing adjoining parcels.

EVIDENCE: The application and plans submitted for the lot line adjustment in project file PLN040163 at the Monterey County Planning and Building Inspection Department.

6. **FINDING: NO NEW PARCELS** – A greater number of parcels than originally existed will not be created as a result of the lot line adjustment.
EVIDENCE: (a) Two contiguous separate legal lots of record will be adjusted and two contiguous separate legal lots of record will result from the adjustment.
(b) The application and plans submitted for the lot line adjustment in project file PLN041063 at the Monterey County Planning and Building Inspection Department.
7. **FINDING: CONFORMING PARCELS** – The parcels resulting from the lot line adjustment conform or increase in conformity to Title 20.
EVIDENCE: (a) The proposed lot line adjustment is consistent with the lot and setback requirements for parcels with the "WSC/40 (CZ)" zoning designation. Both lots are currently developed with single-family residences. This lot line adjustment will not cause the existing residences to become nonconforming in terms of zoning regulations.
(b) The zoning designation requires that parcels be a minimum of 40 acres. The parcels are currently 40.87 acres and 15.01 acres in size. The 15.01-acre parcel is legal non-conforming as to size. However, the 15.01-acre parcel will be adjusted to 15.70 acres and will result in an increase in conformity. The 40.87-acre parcel will be adjusted to 40.10 acres and will remain in conformance with the size requirement.
8. **FINDING: NO VIOLATIONS** – The subject properties are in compliance with all rules and regulations pertaining to zoning uses, subdivisions and other applicable provisions of Title 20. Zoning violation abatement costs, if any, have been paid.
EVIDENCE: Section 20.17.020 of the Monterey County Zoning Ordinance. Staff verification of the Monterey County Planning and Building Inspection Department records indicates that no violations exist on subject property.
9. **FINDING: HEALTH AND SAFETY** – The establishment, maintenance, and operation of the proposed development 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: Preceding findings and supporting evidence.
10. **FINDING: APPEALABILITY** – The decision on this project is appealable to the Board of Supervisors and the Coastal Commission.
EVIDENCE: Sections 20.86.030 and 20.86.080 of the Monterey County Zoning Ordinance

DECISION

THEREFORE, it is the decision of said Minor Subdivision Committee that said request for a Combined Development Permit be approved as shown on the attached sketch, subject to the attached conditions.

PASSED AND ADOPTED THIS 24th day of June, 2004 by the following vote:

AYES: McPharlin, Hawkins, Novo, Hori, Lawrence, Moss
NOES: None
ABSENT: None

MIKE NOVO, Acting Secretary

COPY OF THIS DECISION WAS MAILED TO APPLICANT ON

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

UNLESS EXTENDED AS PROVIDED BY CHAPTER 19.03.035, TITLE 19 (SUBDIVISIONS), MONTEREY COUNTY CODE, THIS APPROVAL EXPIRES ON June 24, 2006. 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.