

**PLANNING COMMISSION
COUNTY OF MONTEREY, STATE OF CALIFORNIA**

RESOLUTION NO. 03043

A.P. # 259-111-020-000M

FINDINGS AND DECISION

In the matter of the request of
Monterra Ranch Properties LLC (PLN030058)

for a Map Amendment to a Standard Subdivision in accordance with Chapter 19.03, Title 19 (Subdivisions) of the County of Monterey Code, to adjust lot lines, building envelopes and scenic easements on four undeveloped lots totaling 12.40 acres including: 1) reducing Lot 87 from 3.56 acres to 3.17 acres (Assessor's Parcel Number 259-111-020-000); 2) reducing Lot 88 from 2.72 acres to 2.33 acres (Assessor's Parcel Number 259-111-021-000); 3) increasing Lot 89 from 3.05 acres to 3.39 acres (Assessor's Parcel Number 259-111-022-000); and 4) increasing parcel "Y" from 3.07 acres to 3.51 acres (Assessor's Parcel Number 259-092-013-000); located at Mills Road and Via Malpaso Road, Monterra Ranch, Greater Monterey Peninsula Area, came on regularly for hearing before the Planning Commission on August 13, 2003.

Said Planning Commission, having considered the application and the evidence presented relating thereto,

FINDINGS OF FACT

1. **FINDING – INCONSISTENT WITH REGULATIONS:** The proposed Map Amendment (PLN030058-Monterra Ranch Properties) does not conform with the plans, policies, requirements and standards of the General Plan, Greater Monterey Peninsula Area Plan, Monterey County Subdivision Ordinance (Title 19), and the Monterey County Zoning Ordinance (Title 21).

EVIDENCE:

- (a) The property is located at Mills Road and Via Malpaso Road, Monterra Ranch.
- (b) The application consists of adjusting lot lines between three developable parcels plus one parcel for road purposes. No new parcels will be created; however, recorded building envelopes and scenic easements would be required to be amended to conform with the new lot lines.
- (c) The project area has a total of 12.40 acres. The proposed adjustments include: 1) reducing Lot 87 from 3.56 acres to 3.17 acres (assessor's parcel number 259-111-020-000); 2) reducing Lot 88 from 2.72 acres to 2.33 acres (assessor's parcel number 259-111-021-000); 3) increasing Lot 89 from 3.05 acres to 3.39 acres (assessor's parcel number 259-111-022-000); and 4) increasing parcel "Y" (Mills Road) from 3.07 acres to 3.51 acres (assessor's parcel number 259-092-013-000).
- (d) The Planning and Building Inspection staff reviewed the project, as contained in the application and accompanying materials, for conformity with:
 - 1. Monterey County General Plan
 - 2. The Greater Monterey Peninsula Area Plan
 - 3. Chapter 19.09 of the Monterey County Zoning Ordinance regulations for Lot Line Adjustments.
 - 4. Chapter 19.08 of the Monterey County Zoning Ordinance regulations for Correcting and Amending Recorded Final Map.
- (e) The project area is designated for rural density residential (5 Ac. +/-unit) under the Greater Monterey Peninsula Planning Area Land Use Plan. The parcel is zoned "RDR/B-6/UR/D/S" Rural Density Residential, Building Site Control, Urban Reserve, Design Control, Site Plan Review.

- (f) Original approval of the tentative map for the subject property required “that a scenic easement be conveyed to the County over those portions of the subdivision not designated as building envelopes and all those portions of the property where the slopes exceed 30%” (Resolution No. 87-527, condition no. 2). Pursuant to this condition, a scenic easement was duly recorded and scenic easements and building envelopes are indicated on the final recorded map. Although the applicant applied for a “lot line adjustment,” the application proposes to adjust not only lot lines but also to amend the recorded building envelopes and amend the recorded scenic easements in order to adjust to the proposed new building envelopes. The proposed new building envelopes would extend into oak woodland areas that are currently part of existing recorded scenic easements.
- (g) 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 Salinas Rural Fire Department. There has been no indication from these agencies that the site is not suitable for the proposed development.
- (h) On April 16, 2003, the Greater Monterey Peninsula Land Use Advisory Committee voted 3 to 0 to recommend approval of the project. The Committee generally found that the applicant had met all requirements and commented that future building should be located to reduce impact to existing trees.
- (i) On May 29, 2003, the application came before the Subdivision Committee for hearing with a staff recommendation that the application be recommended for approval as a map amendment. The hearing on this item was continued for staff to address the applicant’s written and verbal contention that the project qualifies as a lot line adjustment and not a map amendment.
- (j) The Planning and Building Inspection discussed this issue and determined that when a map is recorded with building envelopes and scenic easements, a map amendment rather than a lot line adjustment is necessary because the application proposed to change not just lot lines but also recorded building envelopes and the recorded scenic easement areas. If a lot line adjustment does not impact a recorded envelope/easement then no map amendment would be required.
- (k) On June 26, 2003 staff returned to the Subdivision Committee with a recommendation that the project be recommended for approval as a map amendment. Government Code Section 66472.1 allows amendment of the final map if the local agency finds that there are “changes in circumstances that make any or all of the conditions of the map no longer appropriate or necessary” provided such change does not “impose additional burden on the fee owners of the real property” and does not “alter any right, title, or interest in the real property.” Staff presented evidence supporting the finding that a change in circumstance had occurred that justified a map amendment, including that the modification of the map was needed to provide fire access to a neighboring lot and that adjustments were required upon field surveys that provided more detailed site information not obtained for the tentative map. The Subdivision Committee unanimously voted to recommend approval of a Map Amendment.
- (l) Chapter 19.08 of the Monterey County Code requires that such map amendment be considered at consecutive public hearings by the same approving bodies that approved the original tentative map. To meet this requirement in the case, this project is required to be considered by the Planning Commission for recommendation to the Board of Supervisors.
- (m) On June 26, 2003 staff returned with a determination that the project does not qualify as a lot line adjustment. However, staff presented findings and evidence that the project would qualify as a map amendment. There was no further testimony from the applicant and the Subdivision Committee unanimously voted to recommend approval of a Map Amendment as recommended by staff.

(n) The Planning Commission held a public hearing on the application on July 30, 2003. Staff recommended that the Planning Commission recommend that the Board of Supervisors approve the application as a map amendment based on findings and evidence that supported a map amendment for this project (PLN030058). The applicant contended that these proposed modifications are “solely to improve building sites and the fact that they provided fire access to the neighboring property was a by-product but not the primary purpose of the proposed changes”; and therefore, does not qualify as a map amendment. Applicant further argued that there was no change in circumstance that renders unnecessary or inappropriate the original condition of approval requiring recordation of scenic easements outside building envelopes. Applicant also confirmed that the application would result in changes to recorded building envelopes and scenic easements as well as changes to lot lines. Based on applicant’s testimony, the Planning Commission passed a resolution of intent to recommend denial of the map amendment and directed staff to prepare findings and evidence accordingly.

(o) The application proposes to change scenic easements and building envelopes that are recorded on the original map. Accordingly, in order to approve the application, the Board would have to find, among other things, that there has been a change in circumstances that renders the original condition requiring recordation of scenic easements unnecessary or inappropriate. Based on applicant’s testimony, this finding to justify a map amendment cannot be made.

(p) Application materials contained in File PLN030058.

2. FINDING - CEQA: The California Environmental Quality Act (CEQA) does not apply to this project because the Planning Commission is recommending denial of the project.

EVIDENCE:

(a) CEQA Guidelines Section 15270.

DECISION

THEREFORE, it is the decision of the Planning Commission to recommend that the Board of Supervisors deny said request for a Map Amendment.

PASSED AND ADOPTED this 13th day of August, 2003, by the following vote:

AYES: Errea, Sanchez, Hawkins, Padilla, Brennan, Parsons, Diehl, Gonzalves, Rochester, Wilmot

NOES: None

ABSENT: None

Original Signed By:

JEFF MAIN, SECRETARY

COPY OF THIS DECISION WAS MAILED TO APPLICANT ON: