Before the Planning Commission in and for the County of Monterey, State of California

In the matter of the application of:
HARPER CANYON (ENCINA HILLS) (PLN000696)
RESOLUTION NO. 14-010
Resolution by the Monterey County Planning Commission denying an application for a Combined Development Permit consisting of a 1) A Vesting Tentative Map for the subdivision of 344 acres into 17 residential lots ranging in size from 5.13 acres to 23.42 acres on 164 acres with one 180-acre remainder parcel; 2) Use Permit for the removal of approximately 79 Coast live oak trees over six inches in diameter for road and driveway construction; 3) Use Permit for development on slopes in excess of 30 percent; 4) Use Permit for the creation of a public water system with a stand-alone treatment facility (Option B); 5) grading for net cut and fill of approximately 2,000 cubic yards; and Design Approval.
[PLN000696, Harper Canyon Realty, LLC, Toro Area Plan, (APNs 416-611-001-000, 416-611-002-000, and 416-621-001-000)]

The Harper Canyon (Encina Hills) application (PLN000696) came on for public hearing before the Monterey County Planning Commission on January 8, 2014, and February 12, 2014. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Planning Commission finds and decides as follows:

FINDINGS

1. **FINDING:** **PROJECT DESCRIPTION** – The proposed project is a Combined Development Permit consisting of a 1) A Vesting Tentative Map for the subdivision of 344 acres into 17 residential lots ranging in size from 5.13 acres to 23.42 acres on 164 acres with one 180-acre remainder parcel; 2) Use Permit for the removal of approximately 79 coast live oak trees over six inches in diameter for road and driveway construction; 3) Use Permit for development on slopes in excess of 30 percent; 4) Use Permit for the expansion of a public water system; 5) grading for net cut and fill of approximately 2,000 cubic yards; and Design Approval.

   EVIDENCE: The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN000696.

2. **FINDING:** **CONSISTENCY** – The Planning Commission finds that project is inconsistent with some of the applicable plans and policies.

   EVIDENCE: a) During the course of review of this application, the project has been

reviewed for consistency with the text, policies, and regulations in:
- the 1982 Monterey County General Plan;
- Toro Area Plan;
- Monterey County Zoning Ordinance (Title 21);
- Monterey County Subdivision Ordinance (Title 19); and
- Monterey County Code Section 18.50.

Conflicts were found to exist. The project application was deemed complete on November 22, 2002. Pursuant to Government Code section 66474.2, the application is subject to the ordinances, policies, and standards in effect when the application was deemed complete. Additionally, 2010 General Plan Policy LU-9.3 provides that subdivision applications deemed complete on or before October 16, 2007 shall be governed by the plans, policies, ordinances, and standards in effect at the time the application was deemed complete. Therefore, the 1982 General Plan applies to this project application and the 2010 Monterey County General Plan (adopted 10/26/2010) does not apply to this subdivision application. References in these findings to the General Plan are to the 1982 General Plan.

b) The property is located east of San Benancio Road in the Toro area (Assessor's Parcel Numbers 416-611-001-000, 416-621-001 and 416-611-002-000), Toro Area Plan. The parcel is zoned "RDR/5.1-D," or Rural Density Residential, 5.1 acres per unit with Design Control Overlay and a small portion designated as LDR/1, or Low Density Residential, 1 acre per unit, which allows the subdivision of two parcels totaling 344 acres into 17 lots for 17 single-family homes, and one remainder parcel of 180 acres with a combined development permit. Therefore, the project is an allowed land use for this site.

c) The Planning Commission finds that the proposed project is inconsistent with the following General Plan goal, objective and policies:
   - **<u>Goal 53 (Water Service)</u> – To promote adequate water service for all county needs.**
   - **<u>Objective 53.1</u> – Achieve a sustained level of adequate water services.**
   - **<u>Policy 53.1.3</u> – The County shall not allow water consuming development in areas which do not have proven adequate water supplies.**

     The new homes will use water and therefore are considered to be "water consuming development" under Policy 53.1.3. The new well proposed for the project is located in Zone 2C, a benefit assessment zone for the Salinas Valley Water Project; however, public testimony presented at the January 8, 2014 hearing raised questions based on the *Salinas Valley Historical Benefits Analysis* (Montgomery Watson, 1998) about whether the subarea where the proposed project's new well is located receives hydrologic benefits from the Salinas Valley Water Project. The Planning Commission also determined as a policy matter that the goal of promoting adequate water service for all county needs was better served by not approving new lots. Accordingly, the Planning Commission finds that the project is inconsistent with Goal 53, Objective 53.1 and

Policy 53.1.3.

d) The Planning Commission finds that the proposed project is inconsistent with the following Toro Area Plan policy:

- **Policy 26.1.4.3 – A standard tentative subdivision map and/or vesting tentative and/or Preliminary Project Review Subdivision map application for either a standard or minor subdivision shall not be approved until: (1) an applicant provides evidence of an assured long term water supply in terms of yield and quality for all lots which are to be created through subdivision. A recommendation on the water supply shall be made to the decision making body by the County's Health Officer and the General Manager of the Water Resources Agency, or their respective designees. (2) The applicant provides proof that the water supply to serve the lots meets both the water quality and quantity standards as set forth in Title 22 of the California Code of Regulations, and Chapters 15.04 and 15.08 of the Monterey County Code subject to the review and recommendation by the County's Health Officer to the decision making body.**
  Although the new well proposed for the project is located in Zone 2C, a benefit assessment zone for the Salinas Valley Water Project, public testimony presented at the January 8, 2014 hearing raised questions based on the *Salinas Valley Historical Benefits Analysis* (Montgomery Watson, 1998) about whether the subarea where the proposed project's new well is located receives hydrologic benefits from the Salinas Valley Water Project, Accordingly, the Planning Commission finds that the project does not have an assured long term water supply and is therefore inconsistent with Policy 26.1.4.3.

e) Public testimony and comments received at the January 8, 2014 Planning Commission hearing.

3. **FINDING:** **SUBDIVISION** –Three of the findings requiring denial of a subdivision set forth in Government Code Section 66474 of the California Government Code (Subdivision Map Act) and Section 19.05.055.B of Title 19 (Subdivision Ordinance) of the Monterey County Code (MCC) can be made.

EVIDENCE:

a) **The proposed map is not consistent with the general plan, area plan, coastal land use plan, or specific plan.** The vesting tentative map is inconsistent with Goal 53, Objective 53.1, and Policy 53.1.3 of the 1982 Monterey County General Plan and Policy 26.1.4.3 of the Toro Area Plan (see Finding 2).

b) **The design or improvements of the proposed subdivision are not consistent with the applicable general plan, area plan, coastal land use plan, Master Plan or specific plan.** The design or improvement of the proposed subdivision is not consistent with Goal 53, Objective 53.1, and Policy 53.1.3 of the 1982 Monterey County General Plan and Policy 26.1.4.3 of the Toro Area Plan (see Finding 2).

c) **The subdivision does not meet the requirements or conditions of the Subdivision Map Act and the Subdivision Ordinance (Title 19).** The subdivision does not meet the findings for approval as set forth in Government Code Section 66474 or Section 19.05.055.B of the

Monterey County Subdivision Ordinance. See Finding 2 and Finding 3, Evidence a) and b).

4. **FINDING:** **CEQA** – CEQA does not apply to the proposed project.

EVIDENCE:

a) Pursuant to Public Resources Code Section 21080 and CEQA Guidelines Section 15270, CEQA does not apply to projects which are disapproved.

b) The County of Monterey prepared a Final Environmental Impact Report (Final EIR) in compliance with CEQA and presented it to the Planning Commission, but the Planning Commission did not certify the final EIR.

c) Harper Canyon (Encina Hills) Subdivision Draft EIR prepared by PMC dated October 2008, Harper Canyon (Encina Hills) Subdivision Recirculated Draft EIR prepared by PMC dated December 2009, Harper Canyon (Encina Hills) Subdivision Final EIR prepared by PMC dated December 2013.

5. **FINDING:** **PUBLIC HEARING** – The Planning Commission held a duly noticed public hearing on the project on January 8, 2014 and February 12, 2014. On January 8, 2014, the Planning Commission passed a motion of intent to deny the application and continued the hearing to February 12, 2014 with direction to staff to return with findings and evidence for denial.

EVIDENCE:

a) A public hearing notice was published in the *Monterey County Weekly* on December 26, 2013. A public hearing notice was posted on or near the project site and notice was mailed to interested persons on December 27, 2013.

b) The applicant and all members of the public who attended the hearing had the opportunity to testify and be heard.

6. **FINDING:** **APPEALABILITY** - The decision on this project is appealable to the Board of Supervisors.

EVIDENCE: Section 21.80.040.C of the Monterey County Zoning Ordinance states that the proposed project is appealable to the Board of Supervisors.

DECISION

NOW, THEREFORE, based on the above findings and evidence, the Planning Commission does hereby deny the application (Harper Canyon (Encina Hills)/Harper Canyon Realty LLC – PLN000696) for a Combined Development Permit consisting of a 1) A Vesting Tentative Map for the subdivision of 344 acres into 17 residential lots ranging in size from 5.13 acres to 23.42 acres on 164 acres with one 180-acre remainder parcel; 2) Use Permit for the removal of approximately 79 Coast live oak trees over six inches in diameter for road and driveway construction; 3) Use Permit for development on slopes in excess of 30 percent; 4) Use Permit for the creation of a public water system with a stand-alone treatment facility (Option B); 5) grading for net cut and fill of approximately 2,000 cubic yards; and Design Approval.

PASSED AND ADOPTED this 12th day of February, 2014 upon motion of Commissioner Vandevere, seconded by Commissioner Hert, by the following vote:

AYES: Brown, Vandevere, Rochester, Mendez, Roberts, Diehl, Padilla, Hert
NOES: None

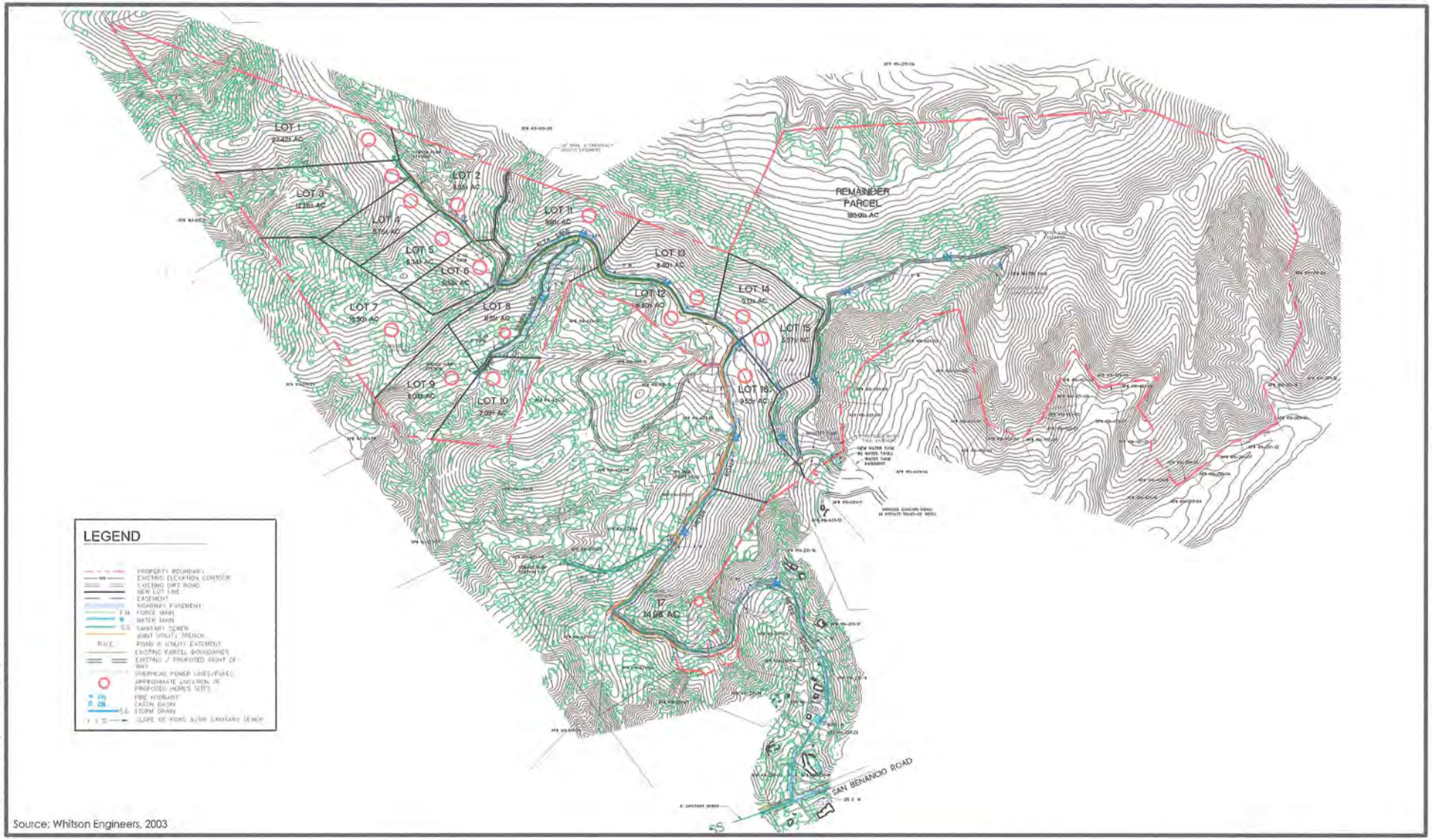
ABSENT: Getzelman, Salazar
ABSTAIN: None

Mike Novo, Secretary

COPY OF THIS DECISION MAILED TO APPLICANT ON FEB 14 2014

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 ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE FEB 24 2014



Source: Whitson Engineers, 2003

T:\Harper Canyon (Encina Hills)\figures

0 330 660
SCALE IN FEET
SCALE 1" = 660'

FIGURE 2-5
VESTING TENTATIVE MAP

PMC