

MONTEREY COUNTY PLANNING COMMISSION

Meeting: September 28, 2011 Time: 11:00 A.M.		Agenda Item No.: 4	
Project Description: A) General Plan Amendment for a portion of Parcel H to change the land use designation in the Greater Monterey Peninsula Area Plan (part of the 2010 Monterey County General Plan) from Public Quasi-Public and Urban Reserve to Rural Density Residential, 10 acres per unit and Urban Reserve; and B) Combined Development Permit consisting of: 1) Vesting Tentative Map for the merger and re-subdivision of Monterra Ranch Final Map Phases 6, 8 & 10 consisting of the reconfiguration of 24 residential lots (Phase 6: Adj Lot 44 Remainder; Phase 8: Lots 164 - 171; Phase 10: Lots 5-10, 117 -122, Ranch Lots 1, 3 and 4), 3 open space parcels (Phase 8: Parcels A, B & C), 1 scenic easement parcel (Phase 10, Parcel H), and 3 road and utility parcels (Phase 6: Parcel R2; Phase 8: Parcel L; Phase 10: Parcel M); 2) Use Permit to allow tree removal for subdivision improvements only (not for building envelopes); 3) Administrative Permit for grading of less than 70,500 cubic yards cut and 60,600 cubic yards fill in a Visually Sensitive District; 4) Use Permit for development on slopes greater than 25 percent.			
Project Location: South of the Intersection of Highway 68 and York Road, Monterey		APN: 259-092-072-000, 259-092-075-000, 259-191-023-000, 259-191-024-000, 259-231-016-000 through 259-231-026-000, 259-231-028-000, 259-241-001-000, 259-241-004-000, 259-251-001-000 through 259-251-014-000	
Planning File Number: PLN100020		Owner: Banker's Development Group, LLC Agent: Alan Williams, Carmel Development Company	
Planning Area: Greater Monterey Peninsula Area Plan		Flagged and staked: Yes	
Zoning Designation: "RDR/10-UR-VS" (Rural Density Residential, 10 acres per unit with Urban Reserve and Visual Sensitivity overlays); and "RDR/10-UR-D" (Rural Density Residential, 10 acres per unit with Urban Reserve and Design Control Overlays)			
CEQA Action: Adopt the Negative Declaration			
Department: RMA - Planning Department			

RECOMMENDATION:

Staff recommends that the Planning Commission:

- 1) Recommend that the Board of Supervisors adopt the Negative Declaration (**Exhibit G**);
- 2) Recommend that the Board of Supervisors approve the General Plan Amendment (**Exhibit J**);
- 3) Adopt a resolution recommending approval of PLN100020 to the Board of Supervisors, based on the findings and evidence and subject to the conditions of approval (**Exhibit C**); and
- 4) Recommend that the Board of Supervisors adopt the Mitigation Monitoring and Reporting Plan (**Exhibit C**).

PROJECT OVERVIEW:

The subject properties are located within the Monterra Ranch Subdivision, south of Highway 68, approximately 6 miles east of the City of Monterey and 14 miles southwest of the city of Salinas. Zoning for the subject properties include: Rural Density Residential, 10 acres per unit with Urban Reserve and Visual Sensitivity Overlay Districts (RDR/10-UR-VS) and Rural Density Residential, 10 acres per unit with a Design Control Overlay District (RDR/10-UR-D).

The proposed project includes the re-subdivision of Monterra Ranch Final Map Phases 6, 8 & 10¹. Improvements associated with the re-subdivision include: tree removal, grading, and development on slopes in excess of 25%.

Pursuant to the properties' zoning designations and policies of the Greater Monterey Peninsula Area Plan, the entitlements for the project include a Combined Development Permit consisting of: a Vesting Tentative Map, a Use Permit for tree removal, an Administrative Permit to allow grading within a Visually Sensitive Zoning District, a Use Permit to allow development on slopes in excess of 25%, a General Plan Amendment to re-designate a portion of current Parcel H from Public Quasi-Public to Rural Density Residential will also be required for approval of the project. (Project issues are discussed in detail within **Exhibit B** of the staff report).

An Initial Study tiering from the Certified EIR (No. 84-007) of the Monterra Ranch Subdivision and a Negative Declaration is being circulated for review and comment from September 8, 2011 to September 27, 2011. The Planning Commission will consider the Negative Declaration. Potential impacts to aesthetics, air quality, biological resources, cultural resources, geology/soils, greenhouse gas emissions, hydrology/water quality, land use/planning, noise were identified to be less than significant (See attached **Exhibit G**).

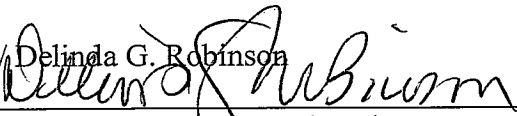
OTHER AGENCY INVOLVEMENT: The following agencies and departments reviewed this project:

- √ RMA - Public Works Department
- √ Environmental Health Bureau
- √ Water Resources Agency
- √ Monterey Regional Fire Protection District
- √ Parks Department
- City of Monterey

Agencies that submitted comments are noted with a check mark ("√"). Conditions recommended by RMA-Public Works Department, Environmental Health Bureau, Water Resources Agency and Monterey County Regional Fire District have been incorporated into the Condition Compliance/Mitigation Monitoring and Reporting Plan attached to the draft resolution (**Exhibit C**).

The project was referred to the Greater Monterey Peninsula Land Use Advisory Committee (LUAC) for review. Based on the LUAC Procedure guidelines adopted by the Monterey County Board of Supervisors per Resolution No. 08-338, this application did warrant referral to the LUAC because the project is subject to CEQA review. On May 4, 2011, the LUAC considered the project and heard comments from a neighbor who was concerned about impacts to Monterra residence from traffic through the subdivision. The LUAC commented that York Highlands should be a separate development from Monterra Ranch and stated a concern about congestion at the York Road intersection before recommending approval of the project by a vote of 6-0. LUAC comments were noted during review of the project (See attached **Exhibit E**).

¹ The Final Map for Phase 6 was recorded in Volume 22, Cities and Towns, Page 56. The Final Map for Phase 8 was recorded in Volume 23, Cities and Towns, Page 14. The Final Map for Phase 10 was recorded in Volume 23, Cities and Towns, Page 16.

/s/ Delinda G. Robinson

Delinda G. Robinson, Senior Planner
(831) 755-5198, robinsond@co.monterey.ca.us
September 20, 2011

cc: Front Counter Copy; Planning Commission; Monterey Regional Fire Protection District; Public Works Department; Parks Department; Environmental Health Bureau; Water Resources Agency; Laura Lawrence, Planning Services Manager; Delinda Robinson, Project Planner; Carol Allen, Senior Secretary; Banker's Development Group, LLC, Owner; Alan Williams, Agent; The Open Monterey Project; LandWatch; Planning File PLN100020

Attachments: Exhibit A Project Data Sheet
Exhibit B Project Discussion
Exhibit C Draft Resolution, including:
1. Conditions of Approval and Mitigation Monitoring and Reporting Program
2. Vesting Tentative Map
Exhibit D Vicinity Map
Exhibit E Greater Monterey Peninsula LUAC Minutes
Exhibit F Justification Letters for 25% slope
Exhibit G Negative Declaration
Exhibit H Trail Map
Exhibit I Three Dimensional Building Envelopes and Development Criteria.
Exhibit J Resolution for General Plan Amendment
1. General Plan Amendment map
Exhibit K Standard Subdivision Committee Resolution No. 11-011


This report was reviewed by Laura Lawrence,  Planning Services Manager

EXHIBIT A PROJECT DATA SHEET

Project Title: Banker's Development Group, LLC (York Highlands)

Location:	South of the Intersection of Highway 68 and York Road, Monterey	Primary APN:	259-092-072-000M
Applicable Plan:	Greater Monterey Peninsula Area Plan	Coastal Zone:	No
Permit Type:	Combined Development Permit	Zoning:	RDR/10-UR-VS and RDR/10-UR-D
Environmental Status:	Negative Declaration	Plan Designation:	Rural Density Residential & Public Quasi-Public
Advisory Committee:	GMP LUAC	Final Action Deadline (884):	10/02/2011

Project Site Data:

Lot Size:	900 Acres	Coverage Allowed:	25%
		Coverage Proposed:	N/A
Existing Structures (SF):	N/A	Height Allowed:	30'
Proposed Structures (SF):	N/A	Height Proposed:	N/A
Total SF:	N/A	Floor Area Ratio Allowed:	N/A
		Floor Area Ratio Proposed:	N/A

Resource Zones and Reports:

Environmentally Sensitive Habitat:	N/A	Erosion Hazard Zone:	N/A
Biological Report #:	LIB110168	Soils Report #:	LIB110169
Forest Management Rpt. #:	N/A	Drainage Report #:	LIB110170
Archaeological Sensitivity Zone:	Moderate	Geologic Hazard Zone:	IV, VI, & UND
Archaeological Report #:	EIR	Geologic Report #:	LIB110169
Fire Hazard Zone:	N/A	Traffic Report #:	N/A

Other Information:

Water Source:	Public	Sewage Disposal (method):	Sewer
Water Dist/Co:	Canada Woods Water Co. LLC	Sewer District Name:	Canada Woods Water Co. LLC
Fire District:	Monterey County Regional FPD	Total Grading (cubic yds.):	70,500 yards ³ cut and 60,600 yards ³ fill
Tree Removal:	Yes		

EXHIBIT B DISCUSSION

Project Description

The proposed Vesting Tentative Map involves the merging of recorded, but undeveloped, portions of Phases 6, 8 and 10 of the Monterra Ranch Subdivision and the subdivision of the property to create newly configured lots, building envelopes, roads and scenic easements. The project will not result in the creation of additional lots, but involves the merger and re-subdivision of 24 existing lots.

The re-subdivision will result in the creation of larger lots with building envelopes placed in natural clearings instead of the previously approved lots concentrated within an oak woodland habitat, resulting in a reduction of tree removal. The areas around the proposed building envelopes will be retained in scenic and conservation easements to protect the existing natural habitat, providing large contiguous habitat areas between parcels. Impacts from the development have been reduced as the newly proposed roads now follow existing jeep trails and ranch roads, further minimizing grading amounts (minimized by approximately 20,000 cubic yards) and tree removal (decreased by approximately 20 acres).

Background and History

On October 6, 1987, the Monterey County Board of Supervisors certified the Environmental Impact Report (EIR) and approved the tentative subdivision map for the Monterra Ranch Subdivision (Resolution No. 87-527). This tentative map consisted of the subdivision of 2,911.60 acres into 283 parcels ranging in size from 2 to 60 acres and included: a recreation, tennis, and equestrian complex, one parcel of 47 acres for inclusionary housing, and 115 acres of dedicated parkland. Although the Monterra Ranch Subdivision was approved as a whole, it was developed in phases. The proposed project will affect Phases 6, 8, and 10.

Phase 6

The Phase 6 final map was approved by the Board of Supervisors on May 25, 2004 and with the exception of the fire road connecting Phase 6 and York Road, the improvements for Phase 6 have been completed. There is an existing home constructed within Phase 6. Lot 44 which is identified in this application as "Adjusted Lot 44 Remainder" is within phase 6. This lot is discussed in more detail below.

Phase 8

The Phase 8 final map was approved by the Board of Supervisors on August 30, 2005. A grading permit (GP060305) was issued for the construction of improvements for Phases 8 and 10 and construction of improvements is ongoing. A large portion of this phase will remain unchanged. The project includes the merger and re-subdivision of Lots 164-171, creating Lots 3, 4, and 5. In addition, the three Open Space Parcels A, B, and C will be modified to Open Space Parcels I, J, and K and Road Parcel L will be modified to Road Parcel 2.

Phase 10

The Phase 10 final map was approved by the Board of Supervisors on November 8, 2005. The final map for Phase 10 created Parcel H; Parcel M; Ranch Lot 1; Ranch Lot 3; Ranch Lot 4; and Lots 5-10 and 117-122.

Parcel H was created as a 327.62 acre lot and dedicated as a Scenic Easement (see Conservation and Scenic Easement Deed recorded in Document No. 2005127223) as a requirement of Condition of Approval No. 2. However, the original tentative map for Monterra Ranch showed this area to be used for an equestrian center and a recreational center. A portion of this parcel was given a General Plan Land Use designation of Public Quasi-Public when the Greater Monterey Peninsula Area Plan was adopted in 1984 while the zoning remained Rural Density Residential at 10 acres per unit. Therefore, in order for the project to be consistent with the Land Use Designation, and the Land Use Designation to be consistent with the zoning, the applicant proposes a General Plan Amendment (see below for further discussion).

The project includes the merger and re-subdivision of all the approved lots within Phase 10 resulting in Lots 1, 2, 6-22, Ranch Lot 1, and Open Space Parcels A, B, C, H, F, E1, and E2.

Legal Context

The California Subdivision Map Act section 66499.20 ½ allows “*subdivided lands may be merged and resubdivided without reverting to acreage by complying with all the applicable requirements for the subdivision of land as provided by this division and any local ordinance adopted pursuant thereto. The filing of the final map or parcel map shall constitute legal merging of the separate parcels into one parcel and the resubdivision of such parcel, and the real property shall thereafter be shown with the new lot or parcel boundaries on the assessment role.*”

If this tentative map is approved and the final is recorded, the existing parcel configurations will be eliminated and replaced with the parcel configurations shown on the final map. This is not a modification of the existing map; it is a new map which makes it subject to the requirements of the 2010 Monterey County General Plan. While this is a new subdivision, there are currently 24 existing lots which can be developed. The existence of these 24 legal lots establishes a baseline for consideration of potential impacts analyzed pursuant to the California Environmental Quality Act.

Analysis

Subdivision Design

Access and Road Network

The subdivision will continue the private street design of the rest of Monterra Ranch. The street system is designed to provide access through the existing Monterra Ranch Subdivision and also to provide access at York Road. The original Monterra Ranch subdivision included an access point at York Road and Highway 68. This access point would be installed as part of the subdivision improvements for this project. The certified EIR analysis included specific improvements including left turn lanes and acceleration lanes that will need to be constructed.

The road network has been designed to follow jeep trails and ranch roads to minimize grading. The prior Monterra Ranch design included a loop road, whereas the subject design will function as a very long cul-de-sac without an emergency access point. This is a trade off for other competing goals of the project. The reduction in roadway area preserves more habitat and open space and reduces the amount of grading which is needed. This works because of the limited number of homes that will be at the end of the road. The design only leaves a few homes at the

end, rather than a cluster of homes concentrated in a small area. The Monterey County Regional Fire Department has reviewed the design and found it to be acceptable for emergency response.

Lot Configuration

The design of the subdivision is to create larger sized lots with specified building envelopes. The areas outside of the building envelopes will be conserved in scenic and conservation easements. The building envelopes have been designed to minimize disruption to the natural environment, while allowing development of the lots.

The property has a zoning district of Rural Density residential which has a minimum lot size of 5 acres. A revision to the map has been submitted insuring that all the lots are a minimum of 5 acres.

Water and Sewer

The project will be serviced by a private utility (Canada Woods Water Company) which provides water and sewer service to Tehema and Monterra.

Adjusted Lot 44 Remainder

A merger and resubdivision is not dependent upon the number of lots involved unless, there is concern with maintaining the same number of legally created lots. Adjusted Lot 44 Remainder requires some explanation. Lot 44 was initially created in Phase 1 of the Monterra Ranch Subdivision. In 1999, Lot 44 was involved in a lot line adjustment with a 2,257.15 acre parcel (Lot 2), resulting in Lot 44 increasing to a 320.94 acre lot and Lot 2 decreasing to a 1938.37 acre lot. The findings for the lot line adjustment indicated that both were legal lots at the time. In 2001 Lot 44 was again involved in a lot line adjustment with 22 other lots. This resulted in the land area of the original Lot 44 being relocated from the boundaries of the newly configured lot 44. The net result was a decrease in the number of lots. Subsequent to that action, Lot 44 was involved in the recordation of Phase 6 of the Monterra Subdivision. Phase 6 is within the boundary of Lot 44. The remnant of the lot after phase 6 was recorded is essentially the Lot 44 that exists today.

As part of the improvement plans for Monterra Ranch a grading permit was issued to allow the proposed building envelope for Lot 44 to be used as a borrow site (excavation area so dirt could be used elsewhere.) As fill material was needed for other areas of the site it was removed from this location. This is what created the existing building pad area in which the upper building envelope is proposed.

General Plan Consistency

Policy LU-1.19

General Plan Policy LU-1.19 makes community areas and Affordable Housing Overlay districts the top priority for development and requires that everything outside of those areas be subject to a Development Evaluation System. This project has not been subjected to a development evaluation system because it is the location of 24 existing lots which are being reallocated within the boundaries of the original subdivision.

Public/Quasi Public

A portion of the property is designated Public Quasi Public (PQP), but zoned Rural Density Residential. The PQP Land Use designation is intended for publicly or privately owned uses such as schools, parks, regional parks, public works facilities and hospitals that serve the public

at large. This Land Use designation is not intended for residential uses and a General Plan Amendment is required in order to find the proposed map consistent with the General Plan. The change in land use designation is discussed in more detail below.

Policies OS-1.3, 1.4, 1.5 – Ridgeline Development

These policies preclude ridgeline development. The subject project has been reviewed for the potential of creating ridgeline development. Lots 2, 6, and 44 each have that potential. The applicant has submitted three dimensional building envelopes and specific design criteria for each of these lots. These lots have been flagged and staked and it has been determined that Lots 2 and 6 have the potential to result in ridgeline development. In order to mitigate this, the applicant is proposing to plant additional native plants and trees outside the building envelopes as part of the subdivision improvements. In addition, additional plantings will be required as part of the future development of these lots. The implementation of these design requirements are being implemented in the CC&Rs for the subdivision which will also include the requirement that these lots be reviewed by the Planning Commission as a Use Permit.

OS-3.5 – Slopes in Excess of 25%

The York Highlands area within the Monterra Ranch Subdivision contains several ridges and valleys and fairly mountainous terrain. Much of the hillsides between the ridges and valleys at the site contain relatively steep slopes making siting of lots challenging. Policy OS-3.5 of the 2010 General Plan restricts development on slopes greater than 25%. Development on slopes is allowed only when there is no feasible alternative which would avoid development on slopes greater than 25% and/or if the proposed development better achieves the resource protection policies of the General Plan.

At the time of the approval the Monterra Ranch Subdivision, the 1982 General Plan required discretionary review of development on slopes greater than 30%. As approved, the Monterra Ranch Subdivision improvements involve development on slopes greater than 30%. The approved design contains a cluster of home sites on an area that contains gently sloping terrain; however, this configuration requires new roads and a single large area of development that necessitates the need for large amounts of grading and tree removal. The grading for access and for some lots is on slopes that are greater than 30%.

The proposed design disperses the proposed lots and spreads development out amongst the hills and valleys at the site. While the fragmented design places development across the terrain at the site, the design takes advantage of existing ranch roads at the site and places building envelopes in pockets where terrain levels out enough to support residential development.

Overall, the proposed design minimizes grading and tree removal by taking advantage of existing roads and clearings. Minimization of grading and tree removal from the original design better achieves the resource protection objectives and policies contained in the 2010 General Plan.

Policy PS-3.1

This policy requires that new development must demonstrate that there is a long term sustainable water source prior to approval of any discretionary project. In this particular case the Canada Woods Water company provides water to the subject site. The EIR for the Monterra Ranch Subdivision demonstrated that there was sufficient water for the project. This is discussed in greater detail in the Negative Declaration/Initial Study (**Exhibit H**)

GMP-3.3 – Visual Sensitivity.

Provision "c" of this policy encourages areas that are designated "Highly Sensitive" as shown in the Scenic Highway Corridors and Visual Sensitivity exhibit for the Greater Monterey Peninsula Plan be "preserved as open space to the maximum extent possible through scenic easements or, if necessary fee acquisition." Three lots (2, 6, and 44) do encroach into this area in a manner that they would be visible. The remainder of the area within the subdivision will be set aside for open space through a scenic and conservation easement.

Provisions "d and e" of this policy state:

- d. *New development should not be sited on those portions of property that have been mapped as "highly sensitive." Where exceptions are appropriate to maximize the goals, objectives, and policies of this plan, development shall be sited in a manner that minimizes visible effects of proposed structures and roads to the greatest extent possible, and shall utilize landscape screening and other techniques to achieve maximum protection of the visual resource.*
- e. *New development to be located in areas mapped as "sensitive" or "highly sensitive" and which would be visible from a designated scenic route shall maintain the visual character of the area. In order to adequately mitigate the visual impacts of development in such areas, the following shall be required:*
1. *Development shall be rendered compatible with the visual character of the area using appropriate siting, design, materials, and landscaping;*
 2. *Development shall maintain no less than a 100-foot setback from the scenic route right-of-way;*
 3. *The impact of any earth movement associated with the development shall be mitigated in such a manner that permanent scarring is not created;*
 4. *Tree removal shall be minimized;*
 5. *Landscape screening and restoration shall consist of locally native plant and tree species consistent with surrounding native vegetation;*
 6. *Architectural review of projects shall be required to ensure visual compatibility of the development with the surrounding area; and*
 7. *New development in open grassland areas shall minimize its impact on the uninterrupted viewshed.*

Exceptions to the above may be considered if compelling circumstances are demonstrated. In cases where the extent of visibility of development proposed in "highly sensitive" areas is not clear, individual on-site investigations by the Planning Department staff shall be required.

The Initial Study prepared for this project describes the project characteristics which address the visibility concerns associated with these three lots in more detail, but the concern associated with Lots 2, 6, and 44 can be addressed as follows:

Proposed Lot 44

Lot 44 is proposed as an 8.91-acre lot with two building envelopes of 1 acre and 0.36 acres with the larger building envelope visible from State Highway 68. A three dimensional building envelope has been designed for this lot so that the roof line of the structure would tie into the existing topography. The edges of the building envelope would be softened by requiring the planting of native plants and trees as part of the subdivision improvements (Condition No. 22) This approach meets both the policy objectives of the General Plan and the findings of the Monterra Ranch EIR.

Proposed Lot 2

Proposed Lot 2 is located at the knoll of a hill and has the potential to be very visible from State Highway 68 and result in ridgeline development. A three dimensional building envelope has been developed for this lot in order to use the existing topography and trees to minimize the visibility of any future structures. However, there are angles in which the existing three dimensional building envelope is visible, such as from the York Road/State Highway 68 intersection. The applicant proposes to plant native trees outside the building envelope as part of the subdivision improvements and the project has been conditioned to assure this occurs. In addition, the future structure will require a discretionary review to determine if it constitutes ridgeline development. If it is determined to be ridgeline, the size or location of the structure will need to be modified until it is no longer ridgeline development.

Proposed Lot 6

The building envelope for proposed Lot 6 is located along a saddle formation at a significant distance from State Highway 68. It is only visible from State Highway 218 corridor and is difficult to see with the unaided eye due to its distance. However, a three dimensional building envelope has been prepared for this lot. The maximum height of the roof will tie into the topography of the hill to the south and the trees located on the northern portion of the lot. There could be some visibility of the area between the slope and trees, but the height limitation of the three dimensional building envelope will make it difficult to see the structure. In order to ensure that the building ties into the topography and trees, the applicant proposes that trees be planted as part of the future house design to break up any solid angles which may be noticeable; therefore, the project has been conditioned accordingly (Condition No. 22).

Policy GMP-3.3 of the 2010 General Plan strongly discourages new development within visually sensitive areas; however an exception can be made where appropriate to maximize the goals, objectives, and policies of the General Plan. The proposed project qualifies for such exception because the revised lot configuration will require less development on slopes (Policy OS-3.5), removal of fewer trees (Policy GMP-3.5), and less grading. Furthermore, all of the building envelopes will be on slopes of 25% or less and all areas outside of the building envelopes will be placed in a Conservation and Scenic Easement. In addition, the project has been conditioned (Condition No. 22) requiring the applicant to place a note on the Final Map stating the design criteria for Lots 44, 2, and 6.

Biology

Oak woodland habitat is a significant native plant community on the site. As discussed in the Initial Study and Biology Report, the project will substantially reduce the overall impact to oak woodlands in particular.

Habitat fragmentation was identified in the biological analysis to “slightly increase” under the reconfigured project since it disperses residential units over a larger area of the site,” while the existing approved configuration uses a clustered approach. However, development of the clustered lots would require more habitat removal because the new roads and parcel improvements were within a very dense oak woodland forest. The York Highlands building envelopes were carefully placed to minimize impacts and the proposed open space (scenic easement) areas that will be designated outside the building envelopes will continue to function as habitat.

Comments from other Agencies

Parks Department

1. Title 19, Monterey County Code, has been satisfied by the dedication of approximately 115 acres of parkland lying contiguous to Jacks Peak Park that reasonably serves both the proposed York Highlands Subdivision and the existing, neighboring Canada Woods North subdivision.
2. The Applicant shall offer to dedicate a twenty (20) foot public recreational trail easement over the subdivided property in accordance with the Greater Monterey Peninsula Area Plan Policy GMP-3.11 by providing a portion of a connection trail along the Jacks Peak Park / Laureles Grade ridgeline and in conference with Parks Department.

General Plan Amendment

The project involves amending the General Plan designation from Public/Quasi-Public (PQP) and Urban Reserve to Rural Density Residential (RDR), 10 acres per unit and Urban Reserve on a portion of the Monterra Ranch subdivision that was contemplated to be the location of an equestrian center (a portion of Parcel H). The reason that this was designated PQP in the Greater Monterey Peninsula Area Plan is not clear. The site is not intended for any type of public project or even a private project that serves the public. Modifying the land use plan to allow the parcels to be spread out over a greater area will not intensify development.

Tree Removal

The Monterra Ranch subdivision did not include a specific Use Permit for removal of the trees. In order to comply with the General Plan and Zoning ordinance this project includes a Use Permit to allow the removal and replacement of trees for the subdivision infrastructure. Trees which need to be removed for infrastructure improvements will be flagged and staked prior to issuance of permits and the applicant will either relocate the tree, or provide a replacement with a relocated tree or through planting of a native tree of the same species and of locally grown stock. Future lot development will each be required to permit the trees to be removed on an individual basis. The subdivision has been designed so that the building envelopes can be developed without tree removal. As discussed in the Biology Report and in the initial study, the proposed design reduces the impact to oak woodland habitat by 20 acres. The current proposal will remove up to seven acres of oak woodland associated with the building envelopes and up to 15 acres associated with the road network. The tree permit included in this request would only authorize tree removal of trees associated with the infrastructure improvements. The tree permits for the building pads will be processed on a case by case basis.

Environmental Review

An Initial Study was prepared using the existence of 24 buildable lots within the York Highlands area of the Monterra Ranch Subdivision as the baseline and tiering off the Certified EIR (No. 84-007) of the Monterra Ranch Subdivision. The project was found to be consistent with the 2010 General Plan, the Air Quality Management Plan, and the Airport Land Use Plan. Potential impacts to aesthetics, air quality, biological resources, cultural resources, geology/soils, greenhouse gas emissions, hydrology/water quality, land use/planning, noise were identified to be less than significant. Therefore, no mitigation measures are required to reduce any new impacts and a Negative Declaration has been circulated for review and comment from September 8, 2011 to September 27, 2011.

As discussed above, the baseline for environmental review was the fact that there are 24 existing buildable lots within the project area and the Initial Study tiered off of the Certified EIR (No. 84-007). The Certified EIR included 92 mitigation measures. The assumption was made that all of

the mitigation measures included in that EIR would continue to apply to the York Highlands resubdivision. After reviewing the mitigation measures, a determination was made that some of the mitigation measures have been satisfied or are not applicable to the current project. Therefore, all of the applicable mitigation measures included in the previously certified EIR (No. 84-007) have been incorporated as conditions of approval (See Condition No. 7) and a Mitigation Monitoring and Reporting Plan has been prepared to ensure compliance with all of the mitigation measures.

Standard Subdivision Committee

The project was heard by the Standard Subdivision Committee on September 12, 2011. Minor corrections were made to Finding 5, Evidence 1 to accurately describe the potential for impacts on fish and wildlife resources for the purpose of applying the Fish and Game Code. Minor modifications were made to three conditions:

Condition No. 15, Item c – The words “poison oak” were deleted from the list of exotic plant species that are aggressive colonizers of disturbed areas in Item c because poison oak is a native plant, not an exotic plant species.

Condition No. 17 – The words “and development envelopes” were inserted to reflect the fact that a conservation and scenic easement will be conveyed to the County over all areas outside the designated development envelopes as well as those areas designated as building envelopes. Development envelopes have been identified on specific lots, where patios and other flat work may be allowed, but not structures.

Condition No. 43 was modified to eliminate the reference to a specific road width to allow flexibility in road design subject to the review and approval of the Department of Public Works.

The Standard Subdivision Committee adopted Resolution No. 11-011 recommending that the Planning Commission approve the project (**Exhibit K**).

Recommendation

All project issues have been resolved and the project as designed and conditioned has been found to be consistent with the 2010 General Plan, the Monterey County Zoning Ordinance (Title 21), and the Monterey County Subdivision Ordinance (Title 19). In addition, the project has been found to have a less than significant impact on the environment. Therefore, staff recommends that the Planning Commission adopt a resolution recommending that the Board of Supervisors adopt the Negative Declaration, approve the General Plan Amendment, approve the project, based on the findings and evidence and subject to the conditions of approval; and adopt the Mitigation Monitoring and Reporting Plan.

**EXHIBIT C
DRAFT RESOLUTION**

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

In the matter of the application of:

BANKER'S DEVELOPMENT GROUP, LLC (PLN100020)

RESOLUTION NO. ----

Resolution by the Monterey County Planning Commission Recommending that the Board of Supervisors:

- A. Adopt the Negative Declaration;
- B. Approve the General Plan Amendment amending the General Plan designation from Public/Quasi-Public (PQP) to Rural Density Residential (RDR) on a portion of the Monterra Ranch (a portion of Parcel H).
- C. Approve the Combined Development Permit consisting of:
 - 1) A Vesting Tentative Map for the re-subdivision of Monterra Ranch Final Map Phases 6, 8 & 10 consisting of the reconfiguration of 24 residential lots (Phase 6: Lot 44 Remainder; Phase 8: Lots 164 - 171; Phase 10: Lots 5-10, 117 -122, Ranch Lots 1, 3 and 4), 3 open space parcels (Phase 8: Parcels A, B & C), 1 scenic easement parcel (Phase 10, Parcel H), and 3 road and utility parcels (Phase 6: Parcel R2; Phase 8: Parcel L; Phase 10: Parcel M);
 - 2) Use Permit for tree removal for subdivision improvements only (not for building envelopes);
 - 3) Administrative Permit for grading of less than 131,100 cubic yards (70,500 cubic yards cut and 60,600 cubic yards fill) in a Visually Sensitive District; and
 - 4) Use Permit for development on slopes greater than 25 percent.
- D. Adopt the Mitigation Monitoring and Reporting Plan.

[PLN100020, Banker's Development Group, LLC, South of the Intersection of Highway 68 and York Road, Monterey, Greater Monterey Peninsula Area Plan (APN: 259-092-072-000, 259-092-075-000,

259-191-023-000, 259-191-024-000, 259-231-016-000 through 259-231-026-000, 259-231-028-000, 259-241-001-000, 259-241-004-000, 259-251-001-000 through 259-251-014-000)]

The York Highlands application (PLN100020) came on for public hearing before the Monterey County Planning Commission on September 28, 2011. 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:** **CONSISTENCY** – The Project, as conditioned, is consistent with the applicable plans and policies, which designate this area as appropriate for development.

EVIDENCE: a) Consistency During the course of review of this application, the project has been reviewed for consistency with the text, policies, and regulations in:

- the 2010 Monterey County General Plan;
- Monterey County Zoning Ordinance (Title 21); and
- Monterey County Subdivision Ordinance (Title 19).

All potential conflicts with the above listed documents have been resolved (see evidences that follow). No communications were received during the course of review of the project indicating any inconsistencies with the text, policies, and regulations in these documents. The Monterra Ranch subdivision was approved under the 1982 General Plan and final maps were recorded that created the lots herein being re-configured or re-subdivided. No additional lots are being created and the revised lot configuration will better meet the Monterey County goals and policies relative to tree removal and development on slopes.

- b) Land Use The project area contains 3 different Land Use designations as shown in Figure No. LU5. A small area along Highway 68 south of the York Road entrance is designated Resource Conservation (RC), a larger area where the Equestrian center was contemplated under the original Monterra Ranch subdivision is designated Public/Quasi-Public (PQP), and the remaining property is designated Rural Density Residential (RDR). The original lot configuration contained lots that were located entirely within the RDR designation and the re-subdivision would place new building envelopes in both the RDR and PQP designated areas of the site. The PQP designation does not allow for the intended residential use so a General Plan amendment is required based on the proposed lot design. By amending the General Plan designation on the former equestrian site from PQP to RDR, an equestrian center will no longer be a part of the Monterra Ranch subdivision. The proposed map will be consistent with the General Plan Land Use Map when the General Plan Amendment becomes effective. A condition has been added to not record a map until the Land Use is amended.

- c) Zoning The property is located South of the Intersection of Highway 68 and York Road, Monterey (Assessor's Parcel Number 259-092-072-000, 259-092-075-000, 259-191-023-000, 259-191-024-000, 259-231-016-000 through 259-231-026-000, 259-231-028-000, 259-241-001-000, 259-241-004-000, 259-251-001-000 through 259-251-014-000) within the Greater Monterey Peninsula planning area. The project involves a merger and re-subdivision of 24 lots within the Monterra Ranch subdivision. The intended residential use of the lots will not change. Unlike the General Plan designation, the parcels all share the same base zoning designation of "RDR/10-UR" (Rural Density Residential, 10 acres per unit with an Urban Reserve overlay). In addition to the base zoning and the Urban Reserve combining district, all of the subject lots have either a "VS" (Visual Sensitivity) overlay or a "D" (Design Control) overlay depending on the lots proximity to Highway 68 (See Figure No. 14 of the GMPAP). The RDR/10 zoning designation allows residential uses at a density of 10 acre per unit. The project is for residential purposes and the density of the proposed project is approximately 50 acres per-unit. Therefore, the project complies with the zoning designation.
- d) Visual Sensitivity The project includes the creation of parcels in a Visual Sensitivity (VS) zoning area. Policy GMP-3.3 of the 2010 General Plan strongly discourages new development within visually sensitive areas; however an exception can be made where appropriate to maximize the goals, objectives, and policies of the General Plan. In this case, the proposed project qualifies for such exception because the revised lot configuration will require less development on slopes (Policy OS-3.5), removal of fewer trees (Policy GMP-3.5), and less grading. Where an exception can be made, development must be sited in a manner that minimizes visible effects of development to the greatest extent possible using a variety of techniques. Many of reconfigured lots will be located outside the visually sensitive area and many of the lots within the mapped visually sensitive area will not be visible from Highway 68 due to existing topography and vegetation with the exception of proposed Lots 2, 6, and 44. Lots 2 and 6 have been adjusted but are still located near the top of a ridge and development on these lots could be visible from Highway 68. Lot 44 is located on a slope that faces Highway 68 and may be highly visible from Highway 68. This location was selected because it is currently used as a borrow site for on-going subdivision improvements. The borrow site is already highly disturbed and has an access road already graded making it a sensible building site from an environmental perspective. All three lots have been evaluated and specific design criteria including a three dimensional building envelopes and landscape screening have been developed for all three lots. The special 3-dimensional envelopes and landscaping requirements will minimize visibility of future development to a point where structures will be inconspicuous when viewed from Highway 68 (Condition No. 22). All of the building envelopes will be on slopes of 25% or less and all areas outside of the building envelopes will be placed in a Conservation and Scenic Easement. All development within the VS zoning district is subject to Chapter 21.46 of the zoning

ordinance Title 21.

- e) Urban Reserve Pursuant to General Plan Policy LU-2.15 and Section 21.50.030.C of the Zoning Ordinance (Title 21), the project was referred to the City of Monterey for review and comment. The City of Monterey commented that they have no issue with the proposed project.
- f) Design Control No structures are proposed at this time but all future development will subject to the Chapter 21.44 of the Zoning Ordinance (Title 21).
- g) General Plan Policies In addition to specific policies quoted in the preceding evidences, the merger and re-subdivision project has been evaluated for consistency with relevant General Plan Policies. Some policies are complied with through carrying forward conditions and mitigations from the Monterra Ranch subdivision such as lighting requirements and are not described here again. It is also acknowledged that policy language on subjects such as traffic, water, and public services may have changed in regulatory nature but the project is not proposing to change or intensify the nature of the use of the project and therefore some of these policies are not affected as there will be no change from the baseline conditions (same number of lots with same intended use). Other more specific policies applicable to the proposed project are described in the evidences that follow.
- h) LU-1.7 Policy LU-1.7 strongly encourages clustering of residential development to those portions of the property which are most suitable for development and where appropriate infrastructure exist to support the development. The same policy also allows re-subdivisions that do not increase the total number of lots without a general plan amendment. The proposed design complies with this policy even though the re-configured lot locations are of a less clustered nature because the new lot configuration reduces grading requirements, tree removal requirements and development on slopes thus placing lots in the "most suitable" location for development. The re-subdivision will not result in a greater number of lots than previously existed; therefore, evaluation pursuant to LU-1.19 (Development Evaluation System) is not necessary in this case.
- i) LU-1.8 The project is consistent with LU-1.8, which encourages voluntary reduction or limitation of development potential in rural areas through dedication of scenic or conservation easements or other appropriate techniques. This project proposes to voluntarily dedicate over 88 percent of the land area (approximately 730 acres) as scenic easement.
- j) LU-9.7 The project involves amending the General Plan designation from Public/Quasi-Public (PQP) to Rural Density Residential (RDR) on a portion of the Monterra Ranch subdivision that was contemplated to be the location of an equestrian center. The equestrian center will not be placed at this location and there is no other reason for the PQP zoning to exist at this location, therefore the amendment of the Land Use is appropriate.
- k) OS-1.5 General Plan Policy OS-1.5 requires that lot configurations avoid creating building sites that will constitute ridgeline development. Lots 2 and 6 have the potential of creating ridgeline development, but

the three dimensional building envelopes, and additional screening to be placed on site will minimize to the potential for ridgeline development. To insure that ridgeline development will not occur Planning Commission review of these units is required.

- l) OS-3.5 Overall, the revised lot configuration takes advantage of existing ranch roads and minimizes grading quantities. Still subdivision improvements will occur on slopes greater than 25% in some areas. A Use Permit to allow development on slopes greater than 25% is included in this permit and the ability to grant the Use Permit has been met (See Finding No. 6).
- m) OS-5.4 A biological report was prepared for the proposed subdivision. The biological report identified several sensitive species at or near the site but no direct impact to these sensitive species was identified. The one exception is oak woodland habitat. Overall impacts to oak woodland habitat are less severe under the proposed lot configuration; however, habitat fragmentation is slightly increased due to the dispersed lot layout. Prohibiting perimeter fencing and reducing direct impacts to oak woodlands on the balance of the parcels results in a net biological benefit to the habitat.
- n) S-3.1 A drainage plan has been prepared for the revised subdivision design by a licensed engineer. The drainage plan maintains the same method and effect required under the original design by installing detention basins that can maintain pre-development runoff rates.
- o) PS-1.1 Adequate Public Services and facilities including water and sewer are available to serve the lots in their new locations.
- p) GMP-1.4 The project is consistent with GMP-1.4, which requires development proposals to include compatible open space uses located between other developed areas in order to maintain a rural atmosphere and to protect scenic resources. As proposed, new building envelope locations will have a rural atmosphere with open space between building sites. Everything outside the revised building envelope locations will be placed in a conservation and scenic easement resulting in approximately 725 acres of open space in and around the building envelopes.
- q) GMP-1.5 The project is consistent with GMP-1.5, which identifies open space and recreational uses as appropriate and compatible land uses within areas of high visual sensitivity. Over 90 percent of the area of the site that is located within the area of high visual sensitivity is proposed to be in scenic easement. The areas not within the scenic easement consist of building envelopes for residential use that either will not be visible from major public viewing areas or have been conditioned consistent with the requirements of GMP-3.3 to remain inconspicuous when viewed from major public viewing areas.
- r) GMP-3.2 The project is consistent with GMP-3.2, which directs that development on canyon edges and hilltops be designed to minimize the visual impact of the development. Three-dimensional building envelopes and performance based design criteria are proposed for lots that have the potential for development on hillsides or hilltops (Lots 2, 6 & 44). See also Finding No. 9.
- s) GMP-3.5 The project is consistent with GMP-3.5, which discourages

the removal of healthy, native oak, Monterey Pine and redwood trees within the GMP Planning Area. The proposed lot configuration will result in an approximately 20-acre reduction in oak tree removal when compared to the existing lot configuration.

- t) GMP-3.11 The project is consistent with GMP-3.11 and GMP-3.13, which encourage the acquisition and development of trails with the intent of creating a coordinated, area-wide trails system. Open space parcels within the project area are subject to an irrevocable offer to dedicate a trail and declaration of restrictions recorded at Document 200110850 in the Monterey County Recorder's Office. Additionally, a non-standard condition has been incorporated requiring that the irrevocable offer to dedicate a trail is re-recorded and that under specified conditions, obligating the developer to construct the trail (Condition No. 64).
- u) Site Visit The project planner conducted site inspections on April 26, 2011, June 13, 2011, August 18, 2011 and August 22, 2011 to verify that the project on the subject parcel conforms to the plans listed above.
- v) LUAC The project was referred to the Greater Monterey Peninsula Land Use Advisory Committee (LUAC) for review. Based on the LUAC Procedure guidelines adopted by the Monterey County Board of Supervisors per Resolution No. 08-338, this application did warrant referral to the LUAC because the project is subject to CEQA review. On May 4, 2011, the LUAC considered the project and heard comments from a neighbor who was concerned about impacts to Monterra residence from traffic through the subdivision. The LUAC commented that York Highlands should be a separate development from Monterra Ranch and stated a concern about congestion at the York Road intersection before recommending approval of the project by a vote of 6-0. LUAC comments were noted during review of the project.
- w) The application was heard by the Standard Subdivision Committee at a public hearing on September 12, 2011. As a technical committee, the Standard Subdivision Committee did not consider the General Plan Amendment. The Standard Subdivision Committee adopted Resolution No. 11-011 recommending that the Planning Commission approve the Combined Development Permit.
- x) 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 PLN100020.

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

EVIDENCE: a) The project has been reviewed for site suitability by the following departments and agencies: RMA - Planning Department, Monterey Regional Fire Protection District, Parks, Public Works, Environmental Health Bureau, and Water Resources Agency. There has been no indication from these departments/agencies that the site is not suitable for the proposed development. Conditions recommended have been incorporated.

b) The site was previously found suitable for development of the 24 lots in

question when the Monterra Ranch subdivision was approved (Resolution No. 87-527). Lot and building envelope locations are being reconfigured within the boundaries of the previously approved Monterra Ranch subdivision. Suitability of the new lot locations has been considered. See following evidences.

- c) Staff identified potential impacts to Biological Resources, Archaeological Resources, and Soil/Slope Stability in considering the new building envelope locations. Technical reports by outside consultants indicated that there are no physical or environmental constraints that would indicate that the new building envelope locations are not suitable for the use proposed. County staff independently reviewed these reports and concurs with their conclusions. The following reports have been prepared:
- York Highlands Grading letter, prepared by WWD Engineering, June 14, 2011.
 - Biological Impact Letter, prepared by Vern Yadon, Pacific Grove, California, March 11, 2011.
 - Supplemental Biological Assessment York Highlands (LIB110168), prepared by Zander Associates, San Rafael, California, May 9, 2011.
 - Geological and Preliminary Geotechnical Investigation (LIB110169), prepared by Environmental Risk Specialties Corporation, Santa Clara, California, March 31, 2011.
 - Drainage Report for York Highlands Re-Subdivision Project (LIB110170), prepared by WWD Engineering, Monterey, California, April, 2011.
 - Preliminary Cultural Resources Reconnaissance of a Portion of the Monterra Ranch, (LIB030110) Monterey, Monterey County, California, prepared by Archaeological Consulting, Salinas, California, August 21, 1989.
- d) Staff conducted site inspections on April 26, 2011, June 13, 2011, August 18, 2011 and August 22, 2011 to verify that the site is suitable for this use.
- e) 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 PLN100020.

3. **FINDING:** **HEALTH AND SAFETY** - The establishment, maintenance, or operation of the project applied for will not under the circumstances of this 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 improvements in the neighborhood or to the general welfare of the County.

EVIDENCE: a) The project was reviewed by the RMA - Planning Department, Monterey Regional Fire Protection District, Parks, Public Works, Environmental Health Bureau, Water Resources Agency, and the City of Monterey. The respective departments/agencies 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.

- b) Necessary public facilities are available. The project will be served water by the Monterra Ranch water system. Each individual lot will have a septic tank and the effluent will be processed by a sewer system, which is operated by the Canada Woods Water Company.
- c) Preceding findings and supporting evidence for PLN100020.

4. **FINDING:** **NO VIOLATIONS** - The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of the County's zoning ordinance. No violations exist on the property.

- EVIDENCE:**
- a) Staff reviewed Monterey County RMA - Planning Department and Building Services Department records and is not aware of any violations existing on subject property.
 - b) Staff conducted site inspections on April 26, 2011, June 13, 2011, August 18, 2011 and August 22, 2011 and researched County records to assess if any violation exists on the subject property.
 - c) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN100020.

5. **FINDING:** **CEQA (Neg Dec)** – Prior to considering the recommendation to the Board of Supervisors, the Monterey County Planning Commission, reviewed the information contained in the Negative Declaration prepared for the project. The Negative Declaration reflects the independent judgment and analysis of the County.

- EVIDENCE:**
- a) Public Resources Code Section 21080.d and California Environmental Quality Act (CEQA) Guidelines Section 15064.a.1 require environmental review if there is substantial evidence that the project may have a significant effect on the environment.
 - b) The Monterey County Planning Department prepared an Initial Study pursuant to CEQA. The Initial Study is on file in the offices of the Planning Department and is hereby incorporated by reference (PLN100020). The Initial Study uses the baseline that there are 24 existing lots created as part of the Monterra Ranch Subdivision which could be developed and based upon this tiers from the previously certified EIR (No. 84-007) for the Monterra Ranch Subdivision (Board Resolution No. 87-527) for the purposes of evaluating the merger and re-subdivision. Within the same Initial Study an amendment to the General Plan land use designation is analyzed and on a stand alone basis.
 - c) The Initial Study provides substantial evidence based upon the record as a whole, that impacts of the merger and re-subdivision has been examined at a sufficient level of detail in the prior Environmental Impact Report to enable those effects to be mitigated or avoided by site specific revisions, the imposition of conditions, or by other means in connection with approval of the subject project. The Initial Study also provides substantial evidence based upon the record as a whole, that the General Plan land use designation amendment would not have a

significant effect on the environment. Staff accordingly prepared a Negative Declaration.

- d) Issues that were analyzed in the Negative Declaration include: aesthetic resources, biological resources, cultural resources, geology and soils, hazards/hazardous materials, hydrology/water quality, land use and planning, mineral resources, and noise.
- e) Changes in the location and configuration of 24 lots and associated access roads and infrastructure, within the larger Monterra Ranch subdivision, have been proposed (Merger and Re-subdivision). An Initial Study was prepared for the project that tiered from the Monterra Ranch EIR. The Initial Study found no potentially significant effects from the revised lot locations. Impacts were found to be substantially the same or less than those evaluated in the previously certified EIR.
- f) All project changes required to avoid significant effects on the environment have been incorporated into the project and/or are made conditions of approval. A Condition Compliance and Mitigation Monitoring and/or Reporting Plan has been prepared in accordance with Monterey County regulations and is designed to ensure compliance during project implementation and is hereby incorporated herein by reference as **Exhibit 1**. Mitigations have been carried forward from the Mitigation Monitoring Program adopted when the Monterra Ranch Subdivision was approved (Resolution No. 87-527). The applicant must enter into a new "Agreement to Implement a Mitigation Monitoring and/or Reporting Plan as a condition of project approval.
- g) Pursuant to Section 15162 of the CEQA Guidelines, there are no substantial changes proposed in the project that would require major revisions to the prior EIR. The proposed merger and re-subdivision of 24 lots within the larger Monterra Ranch subdivision will not result in creation of any additional lots nor extend infrastructure that could induce growth in the area. New building envelope locations, including those within the area that was previously proposed to contain an equestrian facility, will result in minor and mostly beneficial changes to the environmental impacts already considered in the certified EIR. The land use designation change in itself will not have a substantial impact on the environment.
- h) Pursuant to Section 15162 of the CEQA Guidelines, there is no new information of substantial importance that was not known at the time the EIR was certified. There have been some changes in the regulatory setting since the time that Monterra Subdivision EIR was certified; however, the new regulations and policies do not suggest that the project would have new significant impacts on the environment. Water supply, traffic, visual sensitivity, noise, air quality, biology, and a variety of other topics were considered in certifying the Monterra Ranch EIR and creating the subject lots. There is no substantial change in circumstances that would result in new impacts not previously considered in the EIR. For example, traffic was identified as a significant unavoidable impact in the EIR. This would remain true today.
- i) The state law (PRC §21083.4) has been enacted since approval of the Monterra Ranch Subdivision. This legislation gives direction in

determining significant effects on oak woodlands and providing mitigation. In this particular case the new project will result in approximately a 20 acre reduction of impacts to oak woodlands. The modified design will not constitute a significant adverse impact to Oak Woodlands.

- j) Pursuant to CEQA Guidelines section 15126.4.c lead agencies are required to consider measures to mitigate the significant effects of greenhouse gas emissions. The proposed project is equivalent to the existing Monterra Ranch project with respect to the number of units, and thus vehicle trips. The project will produce less greenhouse gas emissions related to the reduction in the amount of grading needed, the amount of paving provided and the amount of carbon sequestration resulting from tree removal. In 2010, amendments to the CEQA guidelines were adopted to incorporate GHG analysis in CEQA. Although evaluation of GHG impacts is now a requirement of CEQA, there has been a recent court case ruling that found that a new EIR does not need to be prepared when a project EIR was certified prior to the requirement to analyze GHG emissions (*Citizens for Responsible Equitable Environmental Development (CREED) v. City of San Diego*). In this case the court upheld the use of a 2008 addendum to a 1994 EIR used in connection with approving a revised project. The courts found that a new GHG analysis was not required because it is not new information that could not have been known in 1994 when the EIR was certified. The Court found that GHG impacts were known as early as the 1970s.
- k) Evidence that has been received and considered includes: the application, technical studies/reports (*see Finding 2/Site Suitability*), staff reports that reflect the County's independent judgment, and information and testimony presented during public hearings (as applicable). These documents are on file in the RMA-Planning Department (PLN100020) and are hereby incorporated herein by reference.
- l) Staff analysis contained in the Initial Study and the record as a whole indicate the project could result in changes to the resources listed in Section 753.5(d) of the Department of Fish and Game (DFG) regulations. All land development projects that are subject to environmental review are subject to a State filing fee plus the County recording fee, unless the Department of Fish and Game determines that the project will have no effect on fish and wildlife resources. The site has the potential to support Hickman's Onion and supports Oak woodland habitat. For purposes of the Fish and Game Code, the project may have an impact on the fish and wildlife resources upon which the wildlife depends. Therefore, the project will be required to pay the State fee plus a fee payable to the Monterey County Clerk/Recorder for processing said fee and posting the Notice of Determination (NOD).
- m) Any comments received on the Negative Declaration during the comment period from September 8, 2011 to September 27, 2011 will be considered prior to consideration by the Planning Commission. Staff will evaluate comments and revisions to determine if any of the conditions requiring recirculation of the Negative Declaration prior to adoption are met prior

pursuant to Section 15073.5 of CEQA.

- n) The Monterey County Planning Department, located at 168 W. Alisal, Second Floor, Salinas, California, 93901, is the custodian of documents and other materials that constitute the record of proceedings upon which the decision to adopt the negative declaration is based.

6. **FINDING:** **DEVELOPMENT ON SLOPE** – The proposed development better achieves the goals, policies and objectives of the Monterey County General Plan and Greater Monterey Peninsula Area Plan and the Monterey County Zoning Ordinance (Title 21) than other development alternatives.

- EVIDENCE:**
- a) In accordance with the applicable policies of the Greater Monterey Peninsula Area Plan and the Monterey County Zoning Ordinance (Title 21), a Use Permit is required and the authority to grant said permit has been met.
 - b) The project includes an application for development on slopes exceeding 25%. The original lot design and road improvements were proposed on slopes greater than 30% (the threshold of the 1982 General Plan). The 2010 General Plan lowered the threshold for a discretionary permit requirement to 25% slope and no specific entitlement for development on slopes was granted under the original approval but has been included in this permit under the baseline condition that included a project with development on 30% slope. As proposed, the revised lot locations avoid placing building envelopes on slopes greater than 25% and take advantage of existing ranch roads at the project site; however, road improvements will still affect slopes greater than 25%. The revised lot and infrastructure locations minimizes disturbance to slopes and better achieve the goals and policies of the 2010 General Plan by minimizing grading quantities and tree removal.
 - c) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN100020.
 - d) The project planner conducted site inspections on April 26, 2011, June 13, 2011, August 18, 2011 and August 22, 2011.
 - e) A letter of justification for development on slopes in excess of 25% was submitted by the applicant's representative for the project. The justification provided in the letter is that there is no feasible alternative that would avoid development on slopes and that the project better achieves the resource protection goals and policies by reducing impacts to oak woodlands. Staff concurs that the new lot locations better meet the resource protection goals of the 2010 General Plan.

7. **FINDING:** **SUBDIVISION** – Section 66474 of the California Government Code (Subdivision Map Act) and Title 19 (Subdivision Ordinance) of the Monterey County Code (MCC) requires that a request for subdivision be denied if any of the following findings are made:

- 1. That the proposed map is not consistent with the applicable general plan and specific plans.
- 2. That the design or improvement of the proposed subdivision is not consistent with the applicable general plan and specific plans.

3. That the site is not physically suitable for the type of development.
4. That the site is not physically suitable for the proposed density of development.
5. That the design of the subdivision or the proposed improvements is likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
6. That the design of the subdivision or type of improvements is likely to cause serious public health problems.
7. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision.

- EVIDENCE:**
- a) Consistency. The project as designed and conditioned is consistent with the 2010 Monterey County General Plan, (see Finding 1).
 - b) Design. The lot designs are consistent with the Lot Design Standards of MCC Section 19.10.030. All Lots of the proposed Vesting Tentative Map meet the 5 acre minimum lot size for the Rural Density Residential zoning.
 - c) Site Suitability. The site is suitable for the proposed project including the type and density of the development (see Finding 2).
 - d) Environment. The Subdivision Ordinance requires denial of a tentative map if the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat. An Initial Study was prepared with a baseline of the existing 24 units from Monterra Ranch and tiered from the previously certified EIR for the Monterra Ranch subdivision. The Initial Study did not identify any new substantial environmental impacts and a Negative Declaration was circulated. The new design and improvements will not injure fish and is an improvement for habitat from the previously approved design (see Finding 5).
 - e) Health and Safety. The proposed project as designed and conditioned will not, under the circumstances of the particular application, 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 (see Finding 3).
 - f) Water Supply. MCC Section 19.10.070 requires provision shall be made for domestic water supply as may be necessary to protect public health, safety, or welfare, and that the source of supply is adequate and potable. MCC Sections 19.03.015.L and 19.07.020.K require Water Supply and Nitrate Loading Information in order to assess these conditions and proof that there is a long term water supply with the project. The project involves relocating 24 lots within the Monterra Ranch subdivision. The use and intensity of the project will not change and water supply and demand will similarly not change. The lots will be served water by the Monterra Ranch water system that has been found to have an adequate quantity and quality of water to serve the project. (See Finding No. 3).
 - g) Sewage Disposal MCC Sections 19.03.015.K and 19.07.020.J requires a can and will serve letter from the sewage treatment provider for projects on a sewer system. The subject project does not include new connections beyond those already approved and contemplated. The lots

will continue to be connected to the Canada Woods sewage treatment plant.

- h) Easements. The project involves an amendment to a Conservation and Scenic Easement deed in order to recognize the new locations of the building envelopes and to include all the areas outside the new building envelope locations. No other easements will be affected by the re-subdivision.
- i) Traffic. No new lots are being created so there would be no increase in potential traffic beyond what was anticipated and evaluated in the previously certified Environmental Impact Report (EIR) for the Monterra Subdivision. Access for the area would remain as approved, located at the York Road/State Route 68 intersection.
- j) Affordable Housing. Affordable housing has been developed for the Monterra Ranch subdivision. No new lots will be created; therefore no additional affordable units are required.
- k) Parks and Recreation. Parks and recreation requirements have been satisfied for the Monterra Ranch subdivision. No new lots are proposed and a condition that requires dedication of access for trails will continue to apply to the re-subdivision (Condition No. 64).
- l) The application, tentative map and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN100020.
- m) The project planner conducted site inspections on April 26, 2011, June 13, 2011, August 18, 2011 and August 22, 2011.

8. **FINDING:** **TREE REMOVAL** – The tree removal is the minimum required under the circumstances and the removal will not involve a risk of adverse environmental impacts.

- EVIDENCE:**
- a) The project includes application for the removal of approximately 15 acres of oak trees for subdivision improvements. In accordance with the applicable policies of the Greater Monterey Peninsula Area Plan and the Monterey County Zoning Ordinance (Title 21), a Use Permit is required and the authority to grant said permit has been met.
 - b) Under the previously approved design, road improvements and future development of lots would have required removal of approximately 45 acres of oak trees. This included an estimate on the acreage of oak woodland within the proposed building envelopes. As proposed approximately 7 acres of oak woodland would be within the building envelopes for a total impact of approximately 22 acres. This approval does not authorize tree removal within the building envelopes. Development of the lots within the building envelopes will be subject to individual permitting at which time tree removal standards will apply. This permit allows removal of approximately 15 acres of oaks for road and subdivision improvements.
 - c) Greater Monterey Peninsula Area Plan Policy GMP-3.5 states “Removal of healthy, native oak, Monterey pine, and redwood trees in the Greater Monterey Peninsula Area shall be discouraged.” The project proposes removal of 15 acres of oak woodland. This is a significant decrease from the tree removal implied with the approval of the previous design in keeping with the intent of the policy.

- d) Measures for tree protection during construction have been incorporated as conditions of approval and include tree protection zones, trunk protection and monitoring and reporting requirements (See Condition No. 24)
- e) The project has been designed and sited to minimize the removal of protected trees to the greatest extent feasible. There are many challenges to the project design including visual requirements, slopes, and trees. The proposed design takes advantage of existing ranch roads within the subdivision to minimize effects of road improvements on trees. The building envelopes have also been appropriately sited to avoid slopes greater than 25% and to avoid ridgeline development.
- f) The removal will not involve a risk of adverse environmental impacts. The new lot configuration has been evaluated by a biologist. The biologist has concluded that except for a minor increase in habitat fragmentation the proposed design is biologically superior to the original lot design.
- g) Staff conducted site inspections on April 26, 2011, June 13, 2011, August 18, 2011 and August 22, 2011 to verify that the tree removal is the minimum necessary for the project and to identify any potential adverse environmental impacts related to the proposed tree removal.
- h) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN100020.

9. **FINDING:** **VIEWSHED** – The subject project minimizes development within the viewshed in accordance with the applicable goals and policies of the applicable area plan and zoning codes.

- EVIDENCE:**
- a) The project includes application for a merger and re-subdivision that would create new lots within a highly sensitive viewshed. The new lots contain building envelopes that will be the location of future development for single family purposes. The creation of new building areas within the viewshed requires a Use Permit pursuant to Section 21.46.030.D of the Monterey County Zoning Ordinance (Title 21). Future development of structures will be subject to additional review and approval.
 - b) New lot locations were staked and flagged and have been evaluated pursuant to Policies under Goal OS-1 of the 2010 General Plan, Policy GMP-3.3 of the Greater Monterey Peninsula Area Plan and Chapter 21.46 of the Zoning Ordinance Title 21.
 - c) Of the 24 relocated building envelopes proposed, three lots (Lots 2, 6, and 44) were considered to have the potential to create a substantial adverse visual impact when viewed from Highway 68. Lots 2 and 6 are proposed near the crest of a hill south of Highway 68. Those building envelope locations were slightly revised to avoid ridgeline development. Lot 44 is proposed to be located in the side of the north facing slope that is highly visible from Highway 68. The location of the building envelope was chosen because it is currently highly disturbed from the grading activities associated with subdivision road improvements. Lot 44 is void of vegetation and from that perspective is a sensible location for development. Proposed design and landscaping techniques to

minimize visibility of the subject lots which include three dimensional building envelopes and native plant and tree screening. (Condition No. 22). Staff has reviewed the staking and flagging and the specific design restrictions on the subject lots. The proposed restrictions are consistent with minimization measures and techniques contained in subsection e of Policy GMP-3.3 and will render the future development compatible and inconspicuous with the visual character of the area. All other lots will not be visible from Highway 68.

- d) For nighttime views, all exterior lighting including street lighting will be subject to review by the Planning Department to ensure that lighting is unobtrusive and constructed so that only the intended area is illuminated, long-range visibility is avoided, and off-site glare is fully controlled in compliance with General Plan Policy LU-1.13 (Condition No's. 10 and 20).
- e) The project as proposed, conditioned, and mitigated is consistent with policies of the Greater Monterey Peninsula Area Plan dealing with visual resources. The location of the new building envelopes take advantage of existing disturbed areas such as a borrow site and existing ranch roads, avoids placing building envelopes on slopes greater than 25%, avoids ridgeline development, minimizes grading and tree removal, and with design and landscape restrictions on Lots 2, 6, and 44 minimizes impacts on the highly sensitive viewshed.
- f) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN100020.
- g) The project planner conducted site inspections on site inspections on April 26, 2011, June 13, 2011, August 18, 2011 and August 22, 2011 to verify that the project minimizes development within the viewshed or to identify methods to minimize the development.

10. **FINDING:** **WATER SUPPLY** – The project has a long-term water sustainable supply and manages development in the area so as to minimize adverse effects on the aquifers and preserve them as viable sources of water for human consumption.

- EVIDENCE:**
- a) Potable water for the Monterra Ranch Subdivision is provided by an independent permitted large water system. The water system draws water from wells located in the Monterey Shale fractured rock formations which are geologically isolated from neighboring properties. The Monterra Ranch subdivision EIR stated that the demand to serve the newly created lots can be accommodated by groundwater contained in the fractured siltstone and that production of the net demand of 117 acre feet of water per year (afy) will have no adverse effect on developments along Highway 68 or in Seaside.
 - b) The Monterra Ranch EIR evaluated impacts based on a total of 283 lots. This number is greater than the actual number of lots that have been created within the overall subdivision and the subject re-subdivision will remain well within this number and will not increase the number of lots proposed within the subject Phase thereby not changing any water demand.
 - c) The existing water system that serves the Monterra Ranch subdivision

has a sophisticated treatment system in accordance with mitigations suggested in the FEIR which has been effectively treating water to serve the development in the subdivision.

- d) The project has been reviewed by the Water Resources Agency. Conditions recommended have been included in this permit.
- e) The project complies with General Plan Polices PS-3.1 and PS-3.2. The project will not result in the creation of additional lots or uses that would increase water demand or substantially effect water quality both on-site and off. The subject project reconfigures already approved lots and water for these lots will continue to be provided by the approved Monterra Ranch water system.

11. **FINDING:** **APPEALABILITY** – This application is presented for the Planning Commission to evaluate the proposed project with the technical analysis provided in the FEIR and Initial Study prepared for the project. The Planning Commission’s recommendation to the Board of Supervisors cannot be appealed.

- EVIDENCE:**
- a) Section 21.80.040 of the Monterey County Zoning Ordinance allows any person aggrieved by a discretionary decision of an Appropriate Authority to appeal that decision to the appropriate appeal authority. The Planning Commission is making a recommendation to the appropriate authority (Board of Supervisors) and is not making any decisions on the project.
 - b) Section 21.80.040 of the Monterey County Zoning Ordinance allows appeals from the discretionary decisions of the Planning Commission by aggrieved persons to the Board of Supervisors.

DECISION

NOW, THEREFORE, based on the above findings and evidence, the Planning Commission does hereby recommend that the Board of Supervisors:

- A. Adopt the Negative Declaration;
- B. Approve the General Plan Amendment amending the General Plan designation from Public/Quasi-Public (PQP) to Rural Density Residential (RDR) on a portion of the Monterra Ranch (a portion of Parcel H).
- C. Approve the Combined Development Permit consisting of:
 - 1) A Vesting Tentative Map for the re- subdivision of Monterra Ranch Final Map Phases 6, 8 & 10 consisting of the reconfiguration of 24 residential lots (Phase 6: Lot 44 Remainder; Phase 8: Lots 164 - 171; Phase 10: Lots 5-10, 117 -122, Ranch Lots 1, 3 and 4), 3 open space parcels (Phase 8: Parcels A, B & C), 1 scenic easement parcel (Phase 10, Parcel H), and 3 road and utility parcels (Phase 6: Parcel R2; Phase 8: Parcel L; Phase 10: Parcel M);
 - 2) Use Permit for tree removal for subdivision improvements only (not for building envelopes);
 - 3) Administrative Permit for grading of less than 131,100 cubic yards (70,500 cubic yards cut and 60,600 cubic yards fill) in a Visually Sensitive District; and
 - 4) Use Permit for development on slopes greater than 25 percent; and
- D. Adopt the Mitigation Monitoring and Reporting Plan.

PASSED AND ADOPTED this 28th day of September, 2011 upon motion of _____,
seconded by _____, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Mike Novo, Secretary to Planning Commission

COPY OF THIS DECISION MAILED TO APPLICANT ON _____

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 Department and Building Services Department office in Salinas.

2. This permit expires 2 years after the above date of granting thereof unless the final map is recorded within this period.