

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

Resolution No. 08018

Resolution of the Monterey County Planning Commission recommending that the Board of Supervisors delete Condition of Approval #61 of the **Commons at Rogge Road** Combined Development Permit PLN030065, remove Workforce Housing restrictions, and require Repayment and/or adjustments of concessions for the 123 non-Inclusionary units. (PLN080153)

The requested modifications to the Workforce Housing Agreement and Condition of Approval #61 related to the Commons at Rogge Road Combined Development Permit (PLN030065) came before the Planning Commission at a duly noticed public hearing on April 16, 2008. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Planning Commission hereby makes the following recommendation with reference to the following facts:

RECITALS

1. On January 24, 2006, the Monterey County Board of Supervisors endorsed an Affordable/Workforce Housing Incentive Program Concept in order for an effective program to be developed.

2. On January 24, 2006, the Monterey County Board of Supervisors endorsed a Preliminary Incentive Program for the Commons at Rogge Road Project including the applicant's Affordable Housing Implementation Program.
3. On March 28, 2006 the Monterey County Board of Supervisors approved a Combined Development Permit (PLN030065), which included approval of a tentative map for the Commons at Rogge Road Project (Project). The approval included Condition #61 which required that the developer execute a Workforce Housing Agreement that would specify, among other provisions, certain affordability levels and include an equity sharing component for the 123 non-Inclusionary single-family units.
4. On April 24, 2007 the final map for the Project was recorded for the Project.
5. On April 24, 2007 a Workforce Housing Agreement was recorded for the Project which, among other provisions, sets forth the provisions for developing the single-family residential component of the project and specific affordability levels, buyer qualification requirements and resale restrictions.

6. On July 18, 2007 Amendment #1 to the Workforce Housing Agreement (Agreement) for the Project was recorded to replace Exhibit B – Map Showing location of Workforce Units with a revised map.
7. On January 18, 2008 the current developer of the Workforce component of the Project submitted a letter requesting modifications to the recorded Agreement due to changes in the regional housing market.
8. Government Code Section 66472.1 permits the amending or modification of a recorded final map, if authorized by local ordinance, and if certain findings are made.
9. Title 19 of the County Code contains the local ordinance authorizing amendments to final recorded maps, and sets forth requirements for amendments to recorded final maps, including requiring that the modification be considered at consecutive public hearings by the appropriate decision making body(s) that approved or recommended approval of the original tentative map.
10. On March 12, 2008 the Monterey County Housing Advisory Committee considered the developer's request and forwarded a recommendation onto the Planning Commission and the Board of Supervisors.
11. On March 27, 2008 the Monterey County Standard Subdivision Committee considered the Developer's request and forwarded the request onto the Planning Commission without any comments.
12. On April 1, 2008 the current developer of the Workforce component of the Project submitted a revised request for modifications to the recorded Workforce Housing Agreement.

13. Pursuant to Section 66472.1 of the State Map Act the recommended modifications to Condition #61 of the Combined Development Permit approval have been considered in light of changes in circumstances in the housing market conditions that make the requested modifications appropriate and do not impose any additional burden on the fee owners of the real property and do not alter any right, title, or interest in the real property reflected on the recorded map.
14. Pursuant to section 66474 of the State Map Act the recommended modifications to Condition #61 have been considered in light of the following:
The recommended modifications:
 - a. are consistent with the Monterey County General Plan;
 - b. do not affect the physical design or improvements contained in the Final Map;
 - c. do not affect the physical suitability of the site for the approved development;
 - d. do not affect the approved density of the Project;
 - e. will not result in any physical changes to the approved Project and will therefore not result in any environmental impacts;

- f. will not cause any public health problems; and
 - g. will not affect access or use of the Property or easements contained on the Final Map.
15. The Planning Commission has considered the Mitigated Negative Declaration adopted March 28, 2006 for the Commons at Rogge Road Project. The Planning Commission finds, on the basis of substantial evidence in light of the whole of the record, that the proposed modifications to Condition #61 and proposed modifications to the Workforce Housing Agreement do not involve new significant environmental effects and do not involve a substantial increase in the severity of previously identified significant effects. The changes to the condition relate to financial terms and do not have direct or indirect physical impacts on the environment.
16. The Planning Commission considered the proposed modifications at a duly noticed public hearing on April 16, 2008. At least 10 days before the public hearing date, notices of the hearing before the Board of Supervisors were published in the Monterey County Herald and the Salinas Californian.
17. The proposed modifications to Condition #61 revise the required affordability levels and remove the equity sharing provisions for the 123 for-sale, non-Inclusionary moderate-income units and workforce level units.
18. After deliberation at the public hearing on April 16, 2008, the Planning Commission determined that the proposed modifications to Condition of Approval #61 and to the Workforce Housing Agreement would result in the single-family units no longer meeting the definition of Workforce Housing, and therefore the Project would no longer meet the definition of a 100% Affordable Project. Accordingly, rather than modify Condition #61, ~~the Planning Commission finds that it would be more appropriate to remove the Workforce Housing restrictions and require repayment and/or adjustment of fee waivers/reductions and other concessions that the County had granted to the project for the 123 non-Inclusionary units.~~ The Planning Commission recognizes that the Project continues to have features that may make the units affordable by design.

DECISION

NOW, THEREFORE, the Planning Commission of the County of Monterey, State of California, hereby recommends that the Board of Supervisors:

- 1. Adopt the following findings allowing deletion of Condition #61:
 - a) There are changes in circumstances relating to the dramatic fall in prices and the tightening of credit within the housing market of the State and County of Monterey that make the conditions imposed by Condition #61 no longer appropriate.

- b) The proposed deletion of Condition #61 does not impose any additional burden on the fee owners of the real property reflected on the recorded map. None of the 123 Workforce units have been sold.
 - c) The proposed deletion of Condition #61 of the recorded map (1) is consistent with the Monterey County General Plan; (2) does not affect the physical design or improvements of the recorded map and is therefore still consistent with the Monterey County General Plan; (3) does not affect the physical suitability of the approved development or the site; (4) does not affect the approved density of the approved development or the site; (5) will not result in any physical changes to the approved Project and will therefore not result in any environmental impacts; (6) will not cause any serious public health problems; and (7) will not affect any easements for access to or use of property within the approved subdivision.
2. Find that The Commons at Rogge Road single-family units would no longer meet the definition of "Moderate" and "Workforce Units" and therefore the project would no longer be characterized as a 100% Affordable Project.
 3. Prior to Board of Supervisors action, have staff examine if the deletion of Condition #61 would result in environmental effects that were not analyzed or that are more severe than those previously identified in the previously adopted Mitigated Negative Declaration;
 4. The Planning Commission specifically recommends that the Board of Supervisors:
 - a) delete Condition #61 of the conditions of approval of the Combined Development Permit for the Commons at Rogge Road Project;
 - b) consider the previously adopted Mitigated Negative Declaration;
 - c) rescind the recorded Workforce Housing Agreement; and
 - d) require payment of fees and make adjustments to other concessions to reflect the change in status of the 123 non-Inclusionary units from restricted-affordable units to non-restricted market rate units, including:
 - i) rescind the waiver and require payment of land use application fees for the 123 units;
 - ii) rescind the reduction in regional transportation (TAMC) fees and require payment of the regional transportation (TAMC) fees for the 123 units; and
 - iii) adjust the Inclusionary Housing Credits granted for the Project.

PASSED AND ADOPTED this 16th day of April, 2008, by the following vote:

AYES: Pessagno, Brown, Isakson, Salazar, Padilla, Diehl, Rochester, Ottone
 NOES: Vandevere
 ABSENT: Sanchez


 MIKE NOVO, SECRETARY

A COPY OF THIS DECISION WAS MAILED TO THE APPLICANT ON APR 22 2008