

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

In the matter of the application of:

**Omni Enterprises LLC (PLN020344)**

**RESOLUTION NO. 11-004A**

Resolution by the Monterey County Planning  
Commission:

- 1) Finding that the project is Statutorily Exempt from CEQA pursuant to Public Resources Code Section 21080(b) (5) and CEQA Guidelines Section 15061(b) (4).
- 2) Denying the Combined Development Permit including 1) Use Permit, 2) General Development Plan and 3) Design approval based upon the Findings and Evidence

(PLN020344, **Omni Enterprises LLC, 5 Corral de Tierra Road**, Toro Area Plan, (APN: 161-157-003-000, and 161-581-001-000)

**The OMNI Enterprises LLC application (PLN020344) came on for public hearing before the Monterey County Planning Commission on December 8, 2010, January 12, 2011 and January 26, 2011. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Planning Commission was unable to reach a majority decision regarding findings for approval or findings for denial. Therefore, the Planning Commission finds and decides as follows:**

**FINDINGS**

1. **FINDING:** **CEQA (Exempt):** - The project is statutorily exempt from environmental review because the County is neither approving nor denying the application.  
**EVIDENCE:** a) A project that will be disapproved by the lead agency is statutorily exempt from CEQA. (Public Resources Code Section 21080(b) (5); CEQA Guidelines Section 15061(b)(4)). The project is exempt from CEQA because the County is neither approving nor denying the project.  
b) The County of Monterey prepared a Final Environmental Impact Report, but the Planning Commission chose not to take action
2. **FINDING:** **DEADLOCK-** The Commission was unable to reach a majority decision regarding findings for approval or findings for denial. Accordingly, in accordance with the Rules for the Transaction of Business of the Planning Commission for the County of Monterey (Rule 10.1) the Planning Commission has prepared these findings.  
**EVIDENCE:** a) On January 12, 2011, a motion was made to approve the Modified Reduced Density alternative proposed by staff. This motion failed with a 5-5 vote.

- b) On January 12, 2011, the Planning Commission adopted a motion of intent to deny the application (both the Combined Development Permit as proposed by applicant and the staff recommended alternative) and directed staff to return with a Resolution of Denial.
- c) On January 26, 2011, a draft resolution for denial of the Combined Development Permit and General Development Plan was brought before the Planning Commission for its consideration. A motion to approve the resolution of denial failed with a 4-4 vote.
- d) The Planning Commission was unable to reach consensus for consideration of a substitute motion.
- e) The staff report and draft resolutions considered by the Planning Commission are included in the project file for PLN020344.
- f) The Commission was split with half of the Commission finding that the Project Alternative proposed and modified by staff was suitable for the site, while half the Commission felt that the size and scale of the project was not appropriate for the site.

**3. FINDING  
EVIDENCE**

**PROJECT DESCRIPTION --**

- a) The applicant's project included a Combined Development Permit including 1) Use Permit, 2) General Development Plan and 3) Design Approval consisting of a 126,523 square foot commercial center.
- b) The staff alternative included a Combined Development Permit including 1) Use Permit, 2) General Development Plan and 3) Design Approval consisting of a 112,000 square foot commercial center

**4. FINDING:**

**PUBLIC HEARING-**The Planning Commission held a duly noticed public hearing on the Project on December 8, 2010, January 12, 2011 and January 26, 2011.

**EVIDENCE:**

- a) A public hearing notice was published in the Monterey County Herald on November 25, 2010.
- b) The applicant and all members of the public who attended the hearing had the opportunity to testify and be heard.

**5. FINDING:**

**APPEALABILITY -** The decision on this project may be appealed to the Board of Supervisors.

**EVIDENCE:**

Action by the Planning Commission is appealable to the Board of Supervisors per Section 21.80.040 D of the Monterey County Zoning Ordinance (Title 21).

**DECISION**

**NOW, THEREFORE**, the Planning Commission does hereby approve these findings for the record as required by rule 10.1 of Rules for the Transaction of Business of the Planning Commission for the County of Monterey.

**PASSED AND ADOPTED** this 26<sup>th</sup> day of January, 2011 upon motion of Commissioner Vandevere, seconded by Commissioner Diehl by the following vote:

AYES: Vandevere, Roberts, Salazar, Diehl, Getzelman, Brown, Mendez, Padilla  
NOES: None  
ABSENT: Rochester, Ottone  
ABSTAIN: None

  
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Mike Novo, Secretary

COPY OF THIS DECISION MAILED TO APPLICANT ON **JAN 27 2011**

**THIS APPLICATION IS APPEALABLE TO THE BOARD OF SUPERVISORS.**

**IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE CLERK TO THE BOARD ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE FEB 06 2011**

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.