

Attachment B

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**Before the Board of Supervisors in and for the
County of Monterey, State of California**

Resolution No:

- a. Certifying that the Environmental Impact Report (EIR) for the Ferrini Ranch subdivision (SCH#2005091055) has been considered and no subsequent environmental review is required pursuant to Section 15162 of the CEQA Guidelines;
- b. Granting the appeal of the August 24, 2022 Planning Commission decision approving a three year extension to the expiration of the Vesting Tentative Map and Combined Development Permit for the Ferrini Ranch Subdivision; and
- c. Approving a six year extension to the expiration of the Vesting Tentative Map and Combined Development Permit for the Domain Corporation (Ferrini Ranch Subdivision) project extending the expiration date to March 17, 2029.

The Domain Corporation (Ferrini Ranch Subdivision) project came on for public hearing before the Monterey County Board of Supervisors on **October 11, 2022**. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Monterey County Board of Supervisors hereby finds and decides as follows:

WHEREAS, on December 16, 2014, the Board of Supervisors approved a Combined Development Permit (“Permit”) consisting of a Vesting Tentative Map (“VTM”) to create 185 residential lots, a Use Permit for the removal of 921 trees, and a Use Permit to allow development on slopes in excess of 30 percent. The Board of Supervisors also certified the related Final Environmental Impact Report and Statement of Overriding Considerations for the Ferrini Ranch Subdivision.

WHEREAS, the Permit would have expired two years after approval on December 16, 2016.

WHEREAS, a lawsuit was filed January 15, 2015 one-month into the life of the Permit leaving 23 months remaining.

WHEREAS, subsequent to the filing of the lawsuit, the Board of Supervisors granted a stay on the expiration of the Permit for a period of five years or until the case was resolved, whichever occurred first (Resolution No. 16-847).

WHEREAS, on October 17, 2019, the litigation on the project was resolved and the two-year expiration time resumed providing a new expiration date for the Permit of September 17, 2021.

WHEREAS, on September 28 2020, Assembly Bill 1561 (AB 1561) became effective granting an 18-month extension to qualifying residential development entitlements, such as a vesting tentative subdivision map, if the entitlements were issued prior to, and were in effect as of March 4, 2020, but were set to expire prior to December 31, 2021.

WHEREAS, the project entitlements were issued prior to March 4, 2020 (December 16, 2016) and would have expired prior to December 31, 2021 (September 17, 2021) so the Permit qualified for the AB 1561 automatic 18-month extension, which extended the expiration date to March 17, 2023.

WHEREAS, in compliance with Monterey County Code section 19.05.065, the agent for the owner filed a written request for an extension of the project with the Director of Housing Community & Development on June 29, 2021, more than 60 days prior to the expiration. The reason for the extension request was that the owner needs additional time to satisfy the conditions necessary to finalize the VTM.

WHEREAS, on July 13, 2022, the Planning Commission considered the request for a six-year extension of the Combined Development Permit and Vesting Tentative Map at duly noticed. At the hearing the Planning Commission continued to matter to August 24, 2022 with direction to staff to clarify the criteria applicable to review of the extension and to provide additional information on the water source.

WHEREAS, The item returned to the Planning Commission on August 24, 2022, with the requested information. Granting an extension on a vesting tentative map (“VTM”) is a discretionary act. Government Code section 66452.6(e) states that a VTM may be extended for up to six years. Government Code section 66498.1(c) limits review of the extension of a VMT to consideration of the length of the extension or denial of the extension based on the following:

1. [Extension of the map] would place residents of the subdivision or the immediate community, or both, in a condition dangerous to their health or safety, or both; or
2. Denial is required in order to comply with state or federal law.

The Planning Commission focused on the length of time the map should be extended and approved a three-year extension. The Planning Commission considered the following: the property owner’s justification); the reasonable amount of time needed to satisfy the 138 conditions of approval applied to the VTM; and other social and economic factors. Specifically, excluding the stay of expiration due to litigation and accounting for the automatic 18 month extension, the owner has had a total of three and half years (October 2019 through March 2023) to work on satisfaction of these 138 conditions. The Planning Commission took into account other factors that have delayed progress on compliance with conditions, including the Covid-19 pandemic and failed negotiations to sell the property to the Agricultural Land Trust of Monterey County. The Planning Commission finally reasoned that the three-year extension would not preclude the applicant from applying for another extension in the future (up to the six years maximum allowed by state law) allowing for another review in a quickly changing land use environment.

WHEREAS, an appeal of the Planning Commission’s August 24, 2022 decision was timely filed by the applicants representative on September 1, 2022. In the appeal, the owner requests that the Board approve a six-year extension to the expiration rather than the 3 years granted by the Planning Commission. The appeal of the Planning Commission’s decision granting a three-year extension alleges that the Planning Commission’s decision was not supported by the evidence, was contrary to law, and the full six year extension is needed to allow the applicants to proceed

with condition compliance without potentially having to redirect efforts to another extension request in a few years.

WHEREAS, the length of time that the map should be extended is related to factors surrounding a reasonable amount of time needed to comply with tentative map conditions, to file a final map, and any market or outside forces that may impact this timing as well as the applicants stated reasoning for the extension. The Ferrini Ranch project was approved subject to 138 conditions of approval. Excluding the stay of expiration due to litigation and accounting for the automatic 18 month extension, the applicant has had a total of 3 and ½ years (October 2019 through March 2023) to work on satisfaction of these 138 conditions. Other factors that have delayed progress on compliance with conditions include the Covid-19 pandemic and failed negotiations to sell the property to the Agricultural Land Trust of Monterey County.

WHEREAS, there is no evidence in the record that extending the project will place people in conditions dangerous to their health or safety as there have been no substantial changes in circumstances since the project approval in 2016 and denial of the extension is not required under state or federal law.

WHEREAS, due to the complexity and number of conditions associated with approval of the Combined Development Permit and Vesting Tentative Map for the Ferrini Ranch subdivision project combined with failed negotiations to sell the property and the Covid-19 pandemic, a 6-year extension of the expiration is warranted in this case.

WHEREAS, section 19.05.065 of the Monterey County Code (MCC) authorizes the County to grant an extension(s) not to cumulatively exceed 3 years for standard subdivisions. In contrast, section 66452.6(e) of the Subdivision Map Act (SMA) authorizes local governments to approve or conditionally approve extensions to tentative maps or vesting tentative maps for a period or periods not exceeding a total of 6 years. The difference between MCC and the SMA timeframes is a result of a change in the SMA that has not been reflected in MCC as of the date of this resolution. As it applies to changes in state law that are not reflected in the local subdivision regulations, MCC section 19.01.065 states: “The provisions of this Title are mandated by the Subdivision Map Act are subject to change without notice or action by the County in the event the State Legislature amends the Subdivision Map Act. This Title will be periodically updated to reflect such changes.” Given that MCC has not been updated to reflect the 6 year maximum extension provisions contained in the SMA, the County may allow a maximum extension of vesting tentative maps not to exceed 6 years pursuant to the state law and the state pre-emption language contained in MCC section 19.01.065.

WHEREAS, the Board of Supervisors has considered the certified environmental impact report (SCH#2005091055) for the Ferrini Ranch project prior to granting this extension. The decision on the proposed extension not change the project or any of the circumstances under which the project was considered and therefore no subsequent environmental review is required for this extension pursuant to Section 15162 of the CEQA Guidelines.

NOW, THEREFORE BE IT RESOLVED, that the Board of Supervisors does hereby:

- A. Certify that the Environmental Impact Report (EIR) for the Ferrini Ranch subdivision (SCH#2005091055) has been considered and no subsequent environmental review is required pursuant to Section 15162 of the CEQA Guidelines;
- B. Grant the appeal of the August 24, 2022 Planning Commission decision approving a three year extension to the expiration of the Vesting Tentative Map and Combined Development Permit for the Ferrini Ranch Subdivision; and

- C. Approve a six-year extension to the expiration of the Vesting Tentative Map and Combined Development Permit for the Domain Corporation (Ferrini Ranch Subdivision) project extending the expiration date to March 17, 2029.

PASSED AND ADOPTED upon motion of Supervisor _____, seconded by Supervisor _____, and carried this 11th day of October, 2022, by the following vote to wit:

AYES:
NOES:
ABSENT:
ABSTAIN:

I, Valarie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book _____ for the meeting on _____.

Dated:

Valerie Ralph, Clerk of the Board of Supervisors
County of Monterey, State of California

By _____
Deputy