



# County of Monterey

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

## Board Report

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**File #:** PC 22-069, **Version:** 1

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### **PLN210167 - DOMAIN CORPORATION (FERRINI RANCH SUBDIVISION)**

Continued from July 13, 2022 - Consideration of a request for a 6 year extension to the expiration of the Domain Corporation (Ferrini Ranch Subdivision) project, which would extend the Combined Development Permit and Vesting Tentative Map through March 17, 2029.

**Project Location:** 715 Monterey Salinas Highway, Salinas, CA

**Proposed CEQA Action:** Consider Previously Certified Environmental Impact Report (EIR).

#### **RECOMMENDATION:**

It is recommended that the Planning Commission:

- a. Consider the previously certified Environmental Impact Report (EIR) for the Ferrini Ranch Project (SCH#2005091055); and
- b. Approve 6-year extension to the expiration of the Combined Development Permit and Vesting Tentative Map for the Domain Corporation (Ferrini Ranch Subdivision) project.

#### **PROJECT INFORMATION:**

**Planning File Number:** PLN210167-DEP (originally PLN040758, stay of expiration under PLN040758-EXT1 and amended by PLN150731))

**Owner:** Domain Corporation

**Project Location:** Highway 68 between San Benancio and River Road, Toro Area

**APNs:** 161-011-019-000, 161-011-030-000, 161-011-039-000, 161-011-057-000, 161-011-058-000, 161-011-059-000, 161-011-078-000, 161-011-084-000, 161-031-016-000, and 161-031-017-000

**Zoning:** Low Density Residential, 2.5 acres per unit, with a Design Control Overlay (LDR/2.5-D) and Agricultural Industrial with a Visually Sensitive zoning overlay (AI-VS)

**Parcel Size:** Division of 870 acres into 185 lots

**Agent:** Anthony Lombardo & Associates

**Plan Area:** Toro Area Plan

**CEQA Action:** Consider Previously Certified Environmental Impact Report (EIR) for the Ferrini Ranch subdivision.

#### **SUMMARY:**

The applicant requests a six-year extension to the Ferrini Ranch subdivision project. The reason for the request as explained by the applicant is that the ownership is attempting to work with developers and third parties to ensure satisfaction of conditions of approval prior to filling a final map, and that more time is needed given “changing and uncertain market conditions.” The Ferrini Ranch project included a Combined Development Permit consisting of a Standard Subdivision Vesting Tentative Map to divide a 870 acre parcel into 185 lots, a Use Permit for the removal of 921 trees, and a Use Permit to allow development on slopes in excess of 30 percent (Resolution No. 14-371). The Board’s approval of the subdivision on December 16, 2014 was preceded by the Board certifying the Environmental Impact Report (Resolution No. 14-370) for the project. Approval of the project included adoption of overriding consideration for significant impacts to traffic and greenhouse gases, as well as adoption of a mitigation monitoring and reporting plan.

This proposed extension came before the Planning Commission on July 13, 2022. At the hearing, the Planning Commission considered the extension and continued the hearing to August 24, 2022 with direction to staff to clarify review criteria and required findings for approval or denial of a Vesting Tentative Map extension and, if the criteria includes changes in circumstances, to provide clarification on changes to groundwater.

As it pertains to the timeline, and as presented at the Planning Commission hearing on July 13, 2022, the Board of Supervisors approved the project and certified the Environmental Impact Report on October 16, 2016. The Combined Development Permit would have expired two years after approval on December 16, 2014. However, a lawsuit was filed January 15, 2015, one-month into the life of the permit leaving 23 months remaining. The Board of Supervisors granted a stay on the expiration of the permit for a period of 5 years or until the case was resolved, whichever occurred first (Resolution No. 16-847). 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 project of September 17, 2021. An automatic extension under Assembly Bill 1561 (AB 1561) became effective granting an 18-month extension to qualifying residential development entitlements, such as a tentative 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. The project qualifies for this automatic 18-month extension, which extended the expiration date to March 17, 2023. More than 60 days prior to the expiration on March 17, 2023, the agent for the applicant (Anthony Lombardo) filed a request for a six year extension to the expiration of the permit. If a six-year extension request were granted the new expiration date would be March 17, 2029.

#### **Review criteria for an Extension:**

Following up on the Planning Commission direction from the July 13, 2022 hearing, staff has reviewed the criteria applicable to consideration of the extension of a Vesting Tentative Map. Criteria or required findings in state law and in the Monterey County Code is somewhat ambiguous. What is clear is that granting an extension on a vesting tentative map is a discretionary act under Government Code section 66452.6(e). However, the Planning Commission cannot impose additional conditions other than those related to the length of time a map is valid.

Staff have discussed the following options that may be considered in the extension request:

1. Consider the length of time the map should be extended (6 years or less);
2. Review and concurrence (or not) of the applicant stated justification for the extension request; and/or
3. Make findings based on criteria contained in Government Code section 66474.3(c) and Monterey County Code section 19.05.005(C) that granting the extension would place the residents of the subdivision or the immediate community, or both, in a condition dangerous to their health or safety, or because denial is required in order to comply with state or federal law;

Option 1 - The Planning Commission can exercise discretion on the term of the extension. A six year extension has been requested by the applicant; However, the Planning Commission may grant an extension for a shorter period of time (see Option 2). A shorter period for the extension would require the applicant to comply with conditions and file a final map in a shorter amount of time or request another extension which would be reviewed in the future.

Option 2 - The reason for the extension request, as explained by the applicant, is that the ownership is attempting to work with developer's and third parties to ensure satisfaction of conditions of approval prior to filling a final map and that more time is needed given "changing and uncertain market conditions." (See **Exhibit B**)

The Planning Commission could consider factors surrounding a reasonable amount of time to comply with

tentative map conditions, to file a final map, and any market or outside forces that may impact that timing. These factors could support the amount of time granted in the extension (Option 1).

The Ferrini Ranch project was approved subject to 138 conditions of approval in 2014. Litigation over the approval was resolved in 2019 and an automatic extension to the time were provided in state law due to the COVID-19 Pandemic resulting in a total period of time of 3 and ½ years (October 2019 through March 2023). Little progress has been made on compliance with the conditions as documented by the County during this time. Staff does feel that satisfaction of the 138 conditions of approval (**See Exhibit D**) will take a significant effort over some period of time.

Staff is aware that there was a period of time during this 3.5 years where the property owner was negotiating with the Ag Land Trust for Monterey County on the purchase of the land; however those negotiations did not come to fruition. The residential housing market has been historically strong over this period of time.

Option 3 - The specific language regarding extensions of a Vesting Tentative Map in the County Code, which mirrors the Subdivision Map act (other than the period of time that the map may be extended), states:

*“The subdivider may, upon written application, request extension(s) of the vesting tentative map approval. Such application shall be filed with the Director of Planning sixty (60) days before approval is due to expire and shall state the reason(s) for the extension. The Planning Commission may grant an extension(s) not to cumulatively exceed three years for standard subdivisions. In the case of a vesting tentative map for a minor subdivision the Planning Commission may grant an extension(s) not to cumulatively exceed two years. Prior to the expiration of an approved or conditionally approved vesting tentative map, upon an application by the subdivider to extend the approval of the map, the map approval shall automatically be extended for sixty (60) days or until the extension is approved, conditionally approved, or denied, whichever occurs first.”* (Monterey County Code, Section 19.05.065)

The quoted section above, applicable to extensions of approval of Vesting Tentative Maps, provides little direction on the criteria that should be considered in deciding whether or not to approve an extension. The purpose and intent of Vesting Tentative Maps provides some insight stating:

*“The appropriate decision making body may condition or deny a permit, approval, extension, or entitlement if it determines any of the following factors exist:*

- 1. A failure to do so would place the residents of the subdivision or the immediate community, or both, in a condition dangerous to their health or safety, or both.*
- 2. The condition or denial is required, in order to comply with State or Federal law.”* (Section 19.05.005, MCC)

Based on the above criteria, the Planning Commission could consider adopting findings to deny the extension request if there is evidence supporting the conclusion that extension of the Vesting Tentative Map would place people in conditions dangerous to their health or safety, or that state and federal law requires denial of the extension. Staff does not believe that such conditions exist in this case.

**Additional Information requested - Groundwater:** Questions were raised at the July 13, 2022 Planning Commission hearing about groundwater. Staff is providing a response to those concerns in the context of Health & Safety which is related to criteria discussed in Option 3. This analysis is not intended to reopen the subdivision findings or decision from 2016. That matter has been resolved including through review by the appeals courts. This analysis focuses on considerations pertaining to the decision to approve or deny a request to extend the expiration of the subdivision and to provide information in response to the Planning Commission direction.

At the July 13, 2022 Planning Commission hearing, questions were raised about information and circumstances surrounding the subdivisions water source. As approved by the Board of Supervisors, the Ferrini Ranch Subdivision will be served by the California Water Services Company (Cal-Water) system. Cal-Water wells serving the development were/are located in Spreckels which is within the 180/400-foot Pressure Subbasin of the Salinas Valley Groundwater Basin (See Finding Number 21 in Exhibit C). An Urban Water Management Plan (UWMP) was prepared for the Cal-Water (Salinas District) is referenced in the findings for the project as documentation of the ability of Cal-Water to serve the project. Analysis contained in the Resolution and in the EIR for the project recognized the Salinas Valley Groundwater Basin (SVGB) and the 180/400 foot Pressure Subbasin (Subbaisin) are in overdraft. It was found that the estimated use of 95 acre feet of water for the project represented a less than significant impact on the basin because there are a number of groundwater projects planned or in place, that are designed to slow seawater intrusion and reduce or replenish pumping of the basin and that the 95 acre feet needed for the project represented approximately 0.08% of the water in storage in the Subbasin and 0.0013% of the water in storage in the SVGB.

In 2020, pursuant to the State Groundwater Management Act (SGMA), The Salinas Valley Basin Groundwater Sustainability Agency (GSA) adopted a Groundwater Sustainability Plan (GSP). The GSA does not have authority over land use planning. However, the GSA will coordinate with the County on General Plans and land use planning/zoning as needed when implementing the GSP. As it pertains to this discussion, the GSP contains projects and management actions (Chapter 9) aimed at achieving groundwater sustainability by meeting Subbasin-specific sustainable management criteria by 2040. Actions focused on basin-wide infrastructure and programs that do not address individual land-use projects. In fact, some population growth is expected within the basins (based on AMBAG population forecasts and the 2010 General Plan).

Information in the GSP is more detailed, organized, and current but it is not substantial new information. It reaffirms overdraft conditions that were recognized at the time of the decision and it provides additional detail regarding groundwater projects planned or in place, that are designed to slow seawater intrusion and reduce or replenish pumping of the basin to achieve sustainability within the basin. There is no indication that the project would conflict or hinder the ability to implement the GSP.

There has been little change in the physical environment at or near the project site since the project was approved.

#### CEQA:

An Environmental Impact Report (EIR) was certified for the Ferrini Ranch Subdivision on December 16, 2014 (SCH#2005091055, Attachment C). This proposed extension to the approval will not change the project or any of the circumstances under which the project was considered. Staff recommends that the Planning Commission consider the previously certified EIR prior to approving the extension to the expiration date for the project.

#### OTHER AGENCY INVOLVEMENT:

This report has been prepared by Housing & Community Development.

The extension did not warrant referral to the Toro Land Use Advisory Committee pursuant to the Board adopted policies.

Prepared by: Kenny Taylor, Associate Planner, ext. 5096

Reviewed by: Craig Spencer, HCD-Chief of Planning

Approved by: Erik V. Lundquist, HCD Director

The following attachments are on file with the HCD:

Exhibit A - Draft Resolution

Exhibit B - Extension request dated June 29, 2021

Exhibit C - (hyperlink to HCD webpage) Ferrini Ranch EIR

Exhibit D - Board Resolution (No. 14-371) approving the project

cc: Front Counter Copy; Craig Spencer, HCD-Chief of Planning Services; Domain Corporation, Property Owner, Tony Lombardo, Agent; Erik Lundquist, HCD-Director of Planning Services; The Open Monterey Project (Molly Erickson); LandWatch (Executive Director); Project File PLN210167.