



Monterey County

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Board Report

Legistar File Number: RES 14-119

December 16, 2014

Introduced: 12/11/2014

Current Status: Agenda Ready

Version: 1

Matter Type: BoS Resolution

Public hearing to consider:

- a. Adoption of a finding that the Corral de Tierra Neighborhood Retail Village project (Omni Resources LLP) has a long term sustainable water supply both in quality and quantity to serve the project pursuant to Policies PS 3.1 and PS 3.2 of the 2010 Monterey County General Plan, in response to the Order of Interlocutory Remand issued by the Monterey County Superior Court in litigation resulting from the Board of Supervisors' February 7, 2012 approval of the project. The project previously approved by the Board included a Combined Development Permit consisting of a: 1) Use Permit; 2) General Development Plan; and 3) Design Approval for development of a 99,970 square foot retail center known as the Corral de Tierra Neighborhood Retail Village and 4) Lot Line Adjustment to modify the lot line between two existing parcels (5.6 acres and 5.38 acres in area) to create Parcel A (1.12 acres) and Parcel B (9.86 acres); and
- b. Authorize County Counsel to advise the court that the County has completed its proceedings on remand

(Omni Resources LLP/(File Nos. PLN110077 and PLN020344; 5 Corral de Tierra Road, Toro Area Plan.)

PROJECT INFORMATION:

Planning File Number: PLN110077 an appeal of PLN020344

Owner: Omni Resources LLP

Project Location: 5 Corral de Tierra Road

APN: 161-571-003, 161-581-001

Agent: Brian Finegan

Plan Area: Toro Area Plan

Flagged and Staked: No

CEQA Action: Previously Certified EIR.

RECOMMENDATION:

It is recommended that the Board of Supervisors adopt a resolution (Attachment B) to:

- a. Find that the Corral de Tierra Neighborhood Retail Village project (Omni Resources LLP) has a long term sustainable water supply both in quality and quantity to serve the project pursuant to Policies PS 3.1 and PS 3.2 of the 2010 Monterey County General Plan, in response to the Order of Interlocutory Remand issued by the Monterey County Superior Court in litigation resulting from the Board of Supervisors' February 7, 2012 approval of the project; and
- b. Authorize County Counsel to advise the court that the County has completed its proceedings on remand.

SUMMARY:



On February 7, 2012, the Board of Supervisors certified an EIR and approved a Combined Development Permit to allow a 99,970 square foot retail shopping center known as the Corral de Tierra Neighborhood Retail Village at 5 Corral de Tierra Road in the Toro Area Plan area of the unincorporated County. This approval was challenged in court by the Highway 68 Coalition. (*The Highway 68 Coalition v. County of Monterey et al (Real Parties in Interest Omni Resources, LLC.)* Monterey County Superior Court Case No. M116436). On July 29, 2014, the Monterey County Superior Court issued an "Order of Interlocutory Remand," staying its intended decision and issuing an "interlocutory remand so that the Board of Supervisors can decide whether or not there is a Long Term Sustainable Water Supply" to serve the project within the meaning of Policies PS 3.1 and PS 3.2 of the 2010 Monterey County General Plan. (Attachment H) The court directed the County to advise the court when it had completed its proceedings on remand. The applicant has requested the County to conduct the remand hearing. (Attachment C.)

This hearing is limited to the single issue identified by the court of whether the project has a long term sustainable water supply under the policies of the 2010 Monterey County General Plan. During the Board's previous consideration of the project, staff presented substantial evidence supporting a finding that the project has a Long Term Sustainable Water Supply ("LTSWS") under the 2010 General Plan. The Board's resolution approving the project (Resolution No. 12-040) included a finding that the project complied with the 2010 Monterey County General Plan and had an Adequate Long Term Water Supply, but did not use the word "Sustainable" in the finding. (Resolution No. 12-040, attached as Attachment D.) Staff recommends the Board find that the project has a LTSWS, and staff has presented a draft resolution with that finding for the Board's consideration.

For a more detailed discussion, please see Attachment A.

FINANCING:

Funding for staff time associated with this project is included in the FY14-15 Adopted Budget for RMA-Planning.

Prepared by: John H Ford, RMA Services Manager, ext. 5158 
Approved by: Mike Novo, Director, RMA-Planning, ext. 5192
Carl Holm, Acting Director, Resource Management Agency ext. 5103 

cc: Front Counter Copy; Monterey County Rural Fire Protection District; Public Works Department; Environmental Health Bureau; Water Resources Agency; John Ford, Senior Planner; Carl Holm Interim Deputy RMA Director, Carol Allen, Senior Secretary; Eric Phelps, c/o OMNI Resources LTD, Owner; Brian Finegan, Applicant's Attorney; Mike Weaver; Marit Evans; Gerry Bolles; The Highway 68 Project c/o Law Offices of Stamp Erickson c/o Molly Erickson; The Open Monterey Project (Molly Erickson); LandWatch (Amy White); John H. Farrow; Janet Brennan, Planning File PLN 110077 (an appeal of PLN020344).

The following attachments on file with the Clerk of the Board:

- Attachment A Discussion
- Attachment B Draft Board Resolution
- Attachment C Request by Applicant for Interlocutory Remand Hearing
- Attachment D Resolution 12-040 approving the Omni Resources application
- Attachment E Excerpt from 4/12/2011 Staff Report to the Board of Supervisors discussing
Long Term Sustainable Water Supply
- Attachment F Excerpt of Transcript from 4/12/2011 Board of Supervisors meeting
discussing Long Term Sustainable Water Supply
- Attachment G Excerpt of Transcript from 2/07/2012 Board of Supervisors Meeting
discussing Long Term Sustainable Water Supply
- Attachment H Order of Interlocutory Remand