

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

In the matter of the application of:

ALTA LAND COMPANY LLC (PLN110146)

RESOLUTION NO. 11-166

Resolution by the Monterey County Board of Supervisors denying a request by Carmel Valley Association to waive the fee for the appeal of the Monterey County Planning Commission approval of amendments to a Combined Development Permit (PLN110146).

(PLN110146/Alta Land Company LLC)

The request by Carmel Valley Association to waive the appeal fee was heard by the Board of Supervisors as part of the public hearing on the Carmel Cottages application (PLN110146) on April 26, 2011 and May 17, 2011. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Board of Supervisors finds and decides as follows:

FINDINGS

- 1 FINDING:** BACKGROUND – An appeal was filed by Carmel Valley Association from the decision of the Planning Commission approving amendments to a Combined Development Permit for an Assisted Living Facility. Fee waivers may be requested pursuant to Board of Supervisors resolution.
- EVIDENCE:**
- a) Monterey County Planning Commission Resolution 11-013, approving amendments to a Combined Development Permit for Alta Land Company LLC.
 - b) The Board of Supervisors, pursuant to Resolution No. 08-132, established an appeal fee at \$4903.65 for fiscal year 2010-2011.
 - c) An appeal was filed with the Monterey County Clerk of the Board of Supervisors on March 23, 2011 by Carmel Valley Association. The appeal packet included payment of \$4903.65.
 - c) Paperwork submitted as part of the appeal packet included a protest of the appeal fee.
 - d) Pursuant to a resolution adopted by the Board of Supervisors on August 29, 2000, fee waivers may be requested for discretionary permit applications and appeals.
- 2 FINDING:** FEE WAIVER – The waiver of the appeal fee is not justified.
- EVIDENCE:**
- a) The Planning Commission made no errors in their determination, there was a fair and impartial hearing, the conditions are supported by the evidence, and the decision was not contrary to law (See findings and supporting evidence adopted pursuant to Board of Supervisors Resolution No. 11-166.
 - b) County staff initiated the proceedings to modify the Combined Development Permit for the project in response to violation of the condition of approval relating to protecting a Monterey pine tree (See preceding findings and supporting evidence). County staff

recommended the modifications to the original permit to reflect changes in circumstances related to the project. The Planning Commission determined, after a full public hearing, including testimony from the appellants, that the changes were appropriate.

- c) The project does not meet any of the criteria in the fee waiver policy under which the Director of Planning has authority to waive the fee.
- d) There are no unique circumstances that justify waiving the fee for the appeal.
- e) The fee covers a portion of the cost of staff processing the appeal.
- f) The application, project plans, and related support materials submitted to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN110146.
- g) Findings and supporting evidence adopted by Board of Supervisors on May 17, 2011 related to appeal by Carmel Valley Association (Board of Supervisors Resolution No. 11-166.
- h) Board of Supervisors Resolution relating to fee waivers.

DECISION

NOW, THEREFORE, based on the above findings and evidence, the Board of Supervisors does hereby deny a request by Carmel Valley Association to waive the appeal fee.

PASSED AND ADOPTED this 17th day of May, 2011 upon motion of Supervisor Potter, seconded by Supervisor Armenta, by the following vote:

AYES: Supervisors Armenta, Calcagno, Salinas, Parker, and Potter
NOES: None
ABSENT: None
ABSTAIN: None

I, Gail T. Borkowski, 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 75 for the meeting on May 17, 2011.

Dated: June 3, 2011

Gail T. Borkowski, Clerk of the Board of Supervisors
County of Monterey, State of California

By Dennis Hancock
Deputy

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.