

Exhibit J
Planning Commission Staff Report
From January 26, 2011

Merrill (PLN110078)
Wayland (PLN110079)

Board of Supervisors
February 7, 2012

MONTEREY COUNTY PLANNING COMMISSION

Meeting: January 26, 2011		Time: 9:00 A.M		Agenda Item No.: 3 and 4	
Project Description:					
<u>PLN070366</u>					
Combined Development Permit consisting of: 1) Minor Subdivision Vesting Tentative Map to allow the division of a 38-acre parcel into four parcels of 9.7 acres, 5.3 acres, 9.3 acres, 5.2 acres and a remainder parcel of 8.8 acres; 2) Use Permit for development of areas in excess of 25 percent for roadway improvements; 3) Use Permit for development in a visually sensitive area ("VS" District); and 4) Use Permit to allow the removal of an estimated 39 oak trees; and grading of approximately 3,800 cubic yards of cut and 3,800 cubic yards of fill. The project proposes individual septic systems, a 50 foot by 50 foot water tank easement with a 100,000 gallon water tank and 15 foot wide utility easement, a 60-foot wide road and utility easement and a 30-foot wide road and utility easement. The project will be served by an existing well and a proposed mutual water company.					
<u>PLN070376</u>					
Combined Development Permit consisting of: 1) Minor Subdivision Vesting Tentative Map to allow the division of a 37.8 acre parcel into three parcels of 10.5 acres, 13.8 acres, 7.5 acres and a remainder parcel of 6.0 acres; and 2) Use Permit for development in a visually sensitive area ("VS" District); and grading of approximately 3,100 cubic yards of grading (combination of cut/fill), individual septic systems and 60 foot wide road and utility easements. The project will be served by an existing well and a proposed mutual water company. The project will not involve any tree removal or development in areas in excess of 30 percent slopes.					
Project Location:			APN:		
24975 Boots Road, Monterey (PLN070366-Wayland)			173-062-009-000 (PLN070366-Wayland)		
24915 Boots Road, Monterey (PLN070376-Merrill)			173-062-008-000 (PLN070376-Merrill)		
Planning File Number:			Owner:		
PLN070366 (Wayland)			Wayland Warren Trust et al (PLN070366)		
PLN070376 (Merrill)			Merrill Thomas Trust et al (PLN070376)		
			Agent: Maureen Wruck Planning Consultants, LLC (Joel Panzer)		
Planning Area:			Flagged and staked: No		
Greater Monterey Peninsula Area Plan					
Zoning Designation: : RDR/5.1-VS (Rural Density Residential, 5.1 acre per lot minimum, with Visual Sensitivity Overlay)					
CEQA Action: Statutorily exempt from CEQA per 15270					
Department: RMA - Planning Department					

RECOMMENDATION:

Staff recommends that the Planning Commission take the following actions:

- 1) Adopt a Resolution to:
 - a. Find PLN070366 (Wayland Minor Subdivision) Statutorily Exempt per Section 15270(a) of the California Environmental Quality Act Guidelines;
 - b. Deny PLN070366 (Wayland Minor Subdivision), based on the findings and evidence (**Exhibit C**);
- 2) Adopt a Resolution to:
 - a. Find PLN070376 (Merrill Minor Subdivision) Statutorily Exempt per Section 15270(a) of the California Environmental Quality Act Guidelines;
 - b. Deny PLN070376 (Merrill Minor Subdivision), based on the findings and evidence (**Exhibit D**).

PROJECT OVERVIEW:

The project sites are located adjacent to Highway 68 about 4 miles north of Monterey, across from the exiting Bishop Ranch/Pasadera development. Each project involves the minor subdivision of existing adjacent parcels. The Wayland parcel (38 acres) is proposed to be subdivided into four separate parcels of 9.7 acres, 5.3 acres, 9.3 acres, 5.2 acres and a remainder parcel of 8.8 acres. The Merrill parcel (37.8 acres) is proposed to be subdivided into three separate parcels of 10.5 acres, 13.8 acres, 7.5 acres and a remainder parcel of 6.0 acres. Together, the adjacent subdivisions would convert two existing parcels into seven separate parcels and two remainder lots (9 lots total), on lands located adjacent to State Route 68 (a designated Scenic Highway) and zoned LDR/5.1-VS (Low Density Residential, with Visual Sensitivity Overlay), and considered "Highly Sensitive" in Figure 14 (Scenic Highway Corridors & Visual Sensitivity) of the 2010 Monterey County General Plan.

Project Issues

Three main issues exist for each proposed Minor Subdivision: Sewage Feasibility, Water Quality (long-term sustainable water supply) and consistency with the 2010 General Plan; with water quality and being the primary issue. Without an adequate solution to each of the above issues, other factors/considerations for each project (traffic) are not relevant to projects which are denied and have not been evaluated in this report.

The Planning Commission's review of minor subdivisions is unusual. Normally minor subdivision applications are reviewed by the Minor Subdivision Committee. In this case, these applications are being recommended for denial based upon the lack of long-term water supply (water quality). This is a significant policy issue in the General Plan and so these applications are being referred to the Planning Commission.

Water Quantity

The proposed water supply for the projects is from a common well (off-site) that lies within the Seaside Groundwater Basin Court Adjudicated area (in the Laguna Seca sub-basin). The Court's decision in the adjudication of the Laguna Seca sub-basin states that 5 acre-feet or less of annual water use is considered diminimus. Under the Decision, the County of Monterey (as a party to the Decision) is precluded from performing environmental review regarding the impact of taking water from the Seaside basin as long as the proposed project's water use is less than the 5 acre feet; therefore Staff determined that the applicant had a long-term water source related to quantity.

Water Quality

Both the Wayland and Merrill proposals involve the development/formation of a mutual water company distributing water from an off-site well in the adjudicated Seaside Water Basin. During the course of review for each project, the applicant has been unable to provide proof that the well is capable of supplying a sustainable long-term source of potable water relative to quality. Water quality sampling data has consistently shown the presence of arsenic, the level of which has fluctuated above and below the maximum contaminant level (MCL) of 10 parts per billion (ppb). Testing data compiled between August 2007 and September 2010 have shown that arsenic concentration levels range from 6 ppb to as high as 17 ppb, with the overall average being 10.08 ppb; indicating the well's reliability of staying in compliance is questionable. Arsenic levels can fluctuate based on season, groundwater level, and amount of rainfall. Based on this average the Monterey County Environmental Health Bureau can not make a finding that the projects have a reliable source of water relative to quality; as no room for public health protection exists if any subsequent samples show the slightest increase and bring the average over 10 ppb.

In addition, the Monterey County Environmental Health Bureau is unable to find that the water will not be detrimental to health and safety, given the fluctuating arsenic levels. Technical, managerial, and financial (TMF) capability is a requirement for new water systems to assure delivery of safe water to the consumers of the system. Water systems with less than 15 connections do not have the TMF to maintain the complexity, ongoing reliability, and expense of treatment plants; therefore the Environmental Health Bureau cannot recommend approval of the projects with the proposed water source.

2010 General Plan Consistency

Both the Wayland and Merrill Minor Subdivision applications were evaluated for consistency objectives and policies within the 2010 General Plan; specifically policies related to visual sensitivity along State Route 68 (GMP 3.3-Figure 14), sustainable long-term water (GMP 3.14, PS-3.1, PS-3.2, and PS-3.9) and development on slopes in excess of 25% (OS-3.5). The analysis concluded that each individual project was not consistent with the objectives and policies contained within the General Plan. Detailed analysis of each evaluation can be found in Finding and Evidence No. 1 – Inconsistency.

Sewage Feasibility

The applicant prepared Sewage Feasibility reports for both the Wayland Minor Subdivision and Merrill Minor Subdivision and were reviewed by the Monterey County Environmental Health Bureau.

After comprehensive review of the reports for the Wayland property, it was concluded that this property possesses marginal soil composition and percolation rates required for the installation of conventional septic disposal systems. While evidence does exist to demonstrate the lots are technically buildable, there is not a consistent rate of percolation within and among all of the lots to give the Environmental Health Bureau the level of confidence necessary to support the subdivision utilizing the proposed Onsite Wastewater Treatment System (OWTS) design. Conversely, the Merrill property contained soil compositions having generally acceptable rate of percolation, suitable for the installation of conventional septic disposal systems.

In the event that a water quality from the proposed mutual water system be deemed acceptable (through additional sampling), Staff would recommend that the Wayland Minor Subdivision application be connected to a sanitary sewer system due to the inadequate soil composition and marginal percolation rates associated with this property. Should the Wayland property be connected to a sewer network, the adjacent Merrill property would also be conditioned to connect, as routing of sewer lines would traverse the Merrill property.

OTHER AGENCY INVOLVEMENT: The following agencies and departments reviewed this project:

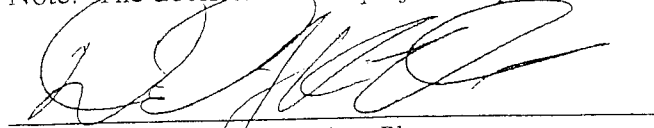
- √ RMA - Public Works Department
- √ Environmental Health Bureau
- √ Water Resources Agency
- √ Monterey County Regional Fire Protection District
Parks Department
Regional Water Quality Control Board, District 3

Agencies that submitted comments are noted with a check mark (“√”).

The Wayland Minor Subdivision (PLN070366) was referred to the Greater Monterey Peninsula Land Use Advisory Committee (LUAC) for review, on December 5, 2007. The GMPLUAC recommended approval by a 3-0 vote (1 absent, 1 abstain). The minutes and recommendation of the LUAC have been attached as Exhibit E.

The Merrill Minor Subdivision (PLN070376) was referred to the Greater Monterey Peninsula Land Use Advisory Committee (LUAC) for review, on December 19, 2007. The GMPLUAC recommended approval by a 4-0 vote (1 absent). The minutes and recommendation of the LUAC have been attached as Exhibit F.

Note: ~~The decision on this project is~~ appealable to the Board of Supervisors.



David J. R. Mack, Associate Planner
(831) 755- 5096, mackd@co.monterey.ca.us
January 26, 2011

cc: Front Counter Copy; Planning Commission; Monterey County Regional Fire Protection District; Public Works Department; Parks Department; Environmental Health Bureau; Water Resources Agency; John H. Ford, Planning Services Manager; David J. R. Mack, Project Planner; Carol Allen, Senior Secretary; Warren Wayland Trust, Owner (PLN070366); Tom and Susan Merrill, Owner (PLN070376); Maureen Wruck Planning Consultants LLC (Joel Panzer), Agent; Whitney "Tinker" Stolich, Neighbor; Michael Weaver, Neighbor; Planning File PLN070366 (Wayland) & PLN070376 (Merrill)

Attachments:	Exhibit A	Project Data Sheet – PLN070366 – Wayland
	Exhibit B	Project Data Sheet – PLN070376 - Merrill
	Exhibit C	Draft Resolution PLN070366 - Wayland
	Exhibit D	Draft Resolution PLN070376 - Merrill
	Exhibit E	Vicinity Map – PLN070366 – Wayland
	Exhibit F	Vicinity Map – PLN070376 - Merrill
	Exhibit G	Greater Monterey Peninsula Land Use Advisory Committee Minutes – PLN070366 (Wayland)
	Exhibit H	Greater Monterey Peninsula Land Use Advisory Committee Minutes – PLN070376 (Merrill)

This report was reviewed by John H. Ford, Planning Services Manager



EXHIBIT A

Project Data Sheet for PLN070366

Project Title: Wayland Minor Subdivision
Location: 24975 Boots Road, Monterey
Primary APN: 173-062-009-000
Applicable Plan: Greater Monterey Peninsula Area Plan
Coastal Zone: NO
Permit Type: Combined Development Permit
Zoning: RDR/5.1-VS(20'')
Environmental Status: Exempt – CEQA 15270(a)
Plan Designation: Rural Density Residential
Advisory Committee: Greater Monterey Peninsula
Final Action Deadline (884):

Project Site Data:
Lot Size: 38 Acres
Coverage Allowed: 25%
Coverage Proposed: 0%
Existing Structures (SF): 0
Height Allowed: 20 Feet
Proposed Structures (SF): 0
Height Proposed: 0
Total SF: 0
Floor Area Ratio Allowed: N/A
Floor Area Ratio Proposed: N/A

Resource Zones and Reports:
Environmentally Sensitive Habitat: N/A
Erosion Hazard Zone: HIGH
Biological Report #: LIB070623
Soils Report #: LIB110030
Forest Management Rpt. #: LIB070627
Archaeological Sensitivity Zone: Moderate
Geologic Hazard Zone: IV
Archaeological Report #: LIB070622
Geologic Report #: LIB070626
Fire Hazard Zone: Very High
Traffic Report #: LIB070628

Other Information:
Water Source: Mutual Water System - proposed
Sewage Disposal (method): Septic
Water Dist/Co: N/A
Sewer District Name: N/A
Fire District: Monterey County Regional Fire Protection District
Total Grading (cubic yds.): 3800 cut
3800 fill
Tree Removal: 39 Oak Trees

EXHIBIT B

Project Data Sheet for PLN070376

Project Title:	Merrill Minor Subdivision	Primary APN:	173-062-008-000
	Location: 24915 Boots Road, Monterey		
	Applicable Plan: Greater Monterey Peninsula Area Plan	Coastal Zone:	NO
	Permit Type: Combined Development Permit	Zoning:	RDR/5.1-VS(20")
Environmental Status:	Exempt – CEQA 15270(a)	Plan Designation:	Rural Density Residential
Advisory Committee:	Greater Monterey Peninsula	Final Action Deadline (884):	

Project Site Data:			
Lot Size:	37.8 Acres	Coverage Allowed:	25%
		Coverage Proposed:	0%
Existing Structures (SF):	0	Height Allowed:	20 Feet
Proposed Structures (SF):	0	Height Proposed:	0
Total SF:	0	Floor Area Ratio Allowed:	N/A
		Floor Area Ratio Proposed:	N/A

Resource Zones and Reports:			
Environmentally Sensitive Habitat:	N/A	Erosion Hazard Zone:	HIGH
Biological Report #:	LIB080571	Soils Report #:	LIB110032 / LIB110033
Forest Management Rpt. #:	N/A		
Archaeological Sensitivity Zone:	Moderate	Geologic Hazard Zone:	IV
Archaeological Report #:	LIB070657	Geologic Report #:	LIB110031
Fire Hazard Zone:	Very High	Traffic Report #:	LIB070658

Other Information:			
Water Source:	Mutual Water System - proposed	Sewage Disposal (method):	Septic
Water Dist/Co:	N/A	Sewer District Name:	N/A
Fire District:	Monterey County Regional Fire Protection District	Total Grading (cubic yds.):	3100 (cut and fill)
Tree Removal:	N/A		

EXHIBIT C
DRAFT RESOLUTION

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

In the matter of the application of:
Wayland Minor Subdivision (PLN070366)

RESOLUTION NO. ---

Resolution by the Monterey County Planning Commission
to:

- 1) Find the project statutorily exempt from CEQA per Section 15270.
- 2) Denying the Combined Development Permit consisting of Minor Subdivision Vesting Tentative Map to allow the division of a 38-acre parcel into 4 parcels of 9.7 acres, 5.3 acres, 9.3 acres, 5.2 acres and a remainder parcel of 8.8 acres; Use Permit for development of areas in excess of 30 percent for roadway improvements; Use Permit for development in a visually sensitive area ("VS" District); and Use Permit to allow the removal of an estimated 39 oak trees; and grading of approximately 3,800 cubic yards of cut and 3,800 cubic yards of fill. The project proposes individual septic systems, a 50 foot by 50 foot water tank easement with a 100,000 gallon water tank and 15 foot wide utility easement, a 60-foot wide road and utility easement and a 30-foot wide road and utility easement. The project will be served by an existing well and a proposed mutual water company.

(PLN070366, Wayland Warren Trust, 24975 Boots Road, Monterey, Greater Monterey Peninsula Area Plan (APN: 173-062-009-000))

The Wayland Minor Subdivision (PLN070366) application came on for public hearing before the Monterey County Planning Commission on 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 finds and decides as follows:

FINDINGS

1. **FINDING:** **INCONSISTENCY** – The Project, as designed is inconsistent with the applicable plans and policies which designate this area as appropriate for development.

EVIDENCE: a) During the course of review of this application, the project has been reviewed for consistency with the text, policies, and regulations in:
- 2010 Monterey County General Plan,

- Greater Monterey Peninsula Area Plan,
- Monterey County Zoning Ordinance (Title 21)
- Monterey County Subdivision Ordinance (Title 19)

Conflicts were found to exist during the course of review of the project indicating inconsistencies with the text, policies, and regulations in these documents.

- b) The property is located at 24975 Boots Road, Monterey (Assessor's Parcel Number: 173-062-009-000), Greater Monterey Peninsula Area Plan. The parcel is zoned RDR/5.1-VS (Rural Density Residential, 5.1 acre per lot minimum, with Visual Sensitivity Overlay), which allows residential development of a rural density and intensity. Therefore, the project is an allowed land use for this site.
- c) 2010 General Plan Policy GMP 3.3 refers to the Greater Monterey Peninsula Scenic Highway Corridors and Visual Sensitivity Map (Figure 14) to designate visually "sensitive" and "highly sensitive" areas generally visible from designated Scenic Highways. The subject property is designated as "highly sensitive" in Figure 14. Subsection (d) of GMP 3.3 states that new development shall not be sited on those portions of property that have been mapped "highly sensitive", unless such development maximizes the goals, objectives, and policies of the Greater Monterey Peninsula Area Plan. The proposed minor subdivision would result in the creation of three new residential parcels (and one remainder lot) located within the designated "highly sensitive" area. This would not maximize the goals, objective, and policies of the Greater Monterey Peninsula Area Plan; therefore the project is inconsistent with 2010 General Plan Policy GMP 3.3.
- d) 2010 General Plan Policy GMP 3.14 requires development projects to be served by water from public utilities or mutual water companies, and consider the cumulative effects of the developments water use on wildlife, fish, plant communities, and the supply available to existing users. The project will not be served by water from a public utility, and the project proposal is a small water system using a well with in adequate water quality (See Finding and Evidence No. 2 – Water Supply).
- e) 2010 General Plan Policy PS-3.1 and PS-3.2 establish requirements for the proof of a sustainable long-term water source for developments for which a discretionary permit is required, and that will use or require the use of water. The project has not proven a reliable source of long-term water; therefore the project is inconsistent with 2010 General Plan Policy PS-3.1 and PS-3.2. (See Finding and Evidence No. 2 – Water Supply)
- f) 2010 General Plan Policy PS-3.9 states that a tentative subdivision map and/or vesting tentative subdivision map for either a standard or minor subdivision shall not be approved until the applicant provides evidence of long-term sustainable water in terms of yield and quality for all lots to be created. The project has not proven a reliable source of long-term water; therefore the project is inconsistent with 2010 General Plan Policy PS-3.9. (See Finding and Evidence No. 2 – Water Supply)
- g) 2010 General Plan Policy OS-3.5 prohibits development on slopes in excess of twenty-five percent (25%) unless no feasible alternative exists

or the development better achieves the resource protection objectives and polices contained in the General Plan and accompanying Area Plans. The proposed project involves the subdivision of an existing parcel into four new lots (and one remainder), requiring the construction of roads on slopes in excess of 25%; this would not be consistent with 2010 General Plan Policy OS-3.5 and would not achieve the resource protection objective of either the General Plan or Greater Monterey Peninsula Area Plan. Feasible alternatives do exist, as the existing 38 acre parcel could be developed for residential use, without development on slopes in excess of 25%; which would be consistent this policy.

- h) Title 19 inconsistency – See Finding and Evidence 2 below.
- i) The project was referred to the Greater Monterey Peninsula Land Use Advisory Committee (LUAC) for review. Based on the LUAC Procedure guidelines adopted by the Monterey County Board of Supervisors per Resolution No. 08-338, this application did warrant referral to the LUAC because the project is subject to CEQA review and involves a discretionary permit application and land use matter which raises significant land use issues.
- j) The project planner conducted a site inspection on August 9, 2007 and December 28, 2010.
- k) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN070366.

2. **FINDING:** **SUBDIVISION** – Section 66474 of the California Government Code (Subdivision Map Act) and Title 19 (Subdivision Ordinance) of the Monterey County Code requires that a request for subdivision be denied if any of the following findings are made:

1. That the proposed map is not consistent with the applicable general plan and specific plans.
2. That the design or improvement of the proposed subdivision is not consistent with the applicable general plan and specific plans.
3. That the site is not physically suitable for the type of development.
4. That the site is not physically suitable for the proposed density of development.
5. That the design of the subdivision or the proposed improvements is likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
6. That the design of the subdivision or type of improvements is likely to cause serious public health problems.
7. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision.

- EVIDENCE:** a) **Inconsistency.** The project as designed and conditioned is inconsistent with the 2010 Monterey County General Plan, and Greater Monterey Peninsula Area Plan, and Monterey County Subdivision Ordinance (Title 19) (*Finding 1*).
- b) **Design.** The lot design is consistent with the Lot Design Standards of Section 19.10.030 County Codes.

- c) **Site Suitability.** The project has been reviewed for site suitability by the following departments and agencies: RMA - Planning Department, Monterey County Regional Fire Protection District, Housing and Redevelopment Office, Parks, Public Works, Environmental Health Bureau, and Water Resources Agency. The site is physically unsuitable for the proposed use.
- d) Staff identified potential impacts to Biological Resources, Archaeological Resources, Soil/Slope Stability, and on-site wastewater treatment feasibility. Technical reports by outside consultants indicated that there are physical or environmental constraints that would indicate that the site is not suitable for the use proposed. County staff independently reviewed these reports and concurs with their conclusions. The following reports have been prepared:
- *"Preliminary Archaeological Reconnaissance of Assessor's Parcel 173-062-009" (LIB070622) prepared by Archaeological Consulting, Salinas, California, November 26, 2007.*
 - *"Biological survey report for the Warren and Marjorie Wayland Property" (LIB070623) prepared by Ed Mercurio Biological Consultant, Salinas, California, October 31, 2007.*
 - *"Feasibility Level Geotechnical Investigation for Wayland Property" (LIB070625) prepared by Haro, Kasunich and Associates, Inc., Watsonville, California, October 2007.*
 - *"Preliminary Geologic Investigation – Wayland Property" (LIB070626) prepared by Rogers E. Johnson & Associates, Watsonville, California, October 16, 2007.*
 - *"Forest Management Plan for the Wayland Property" (LIB070627) prepared by Ralph Osterling Consultants, Inc., San Mateo, California, October 30, 2007.*
 - *"Traffic Analysis for Warren and Marjorie Wayland Subdivision" (LIB070628) prepared by Higgins Associates Civil & Traffic Engineers, Gilroy, California, October 29, 2007.*
 - *"Septic Report for Parcels 2, 3, and 4 – Wayland Subdivision" (LIB110030) prepared by Grice Engineering and Geology, Inc., Salinas, California, February 2010.*
- e) The percolation and groundwater study for the proposed Wayland Property did not demonstrate adequate feasibility for the installation of septic systems and associated leach fields, to the satisfaction of the Environmental Health Bureau (EHB) and Monterey County Code 15.20, based upon soil make-up and marginal and varying percolation rates. See Sewage Disposal section below.
- f) The project has not proven a sustainable long-term water source relative to water quality. The off-site well being utilized to serve the minor subdivision tested above the maximum contaminant level (MCL) for arsenic. See Water Supply section below.
- g) **Health and Safety.** The proposed project as designed will, under the circumstances of the particular application, is detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood or to the general welfare of the County.
- h) Necessary public facilities are not available and are not provided for the proposed project. A source of sustainable long-term water does not

exist, and on-site wastewater systems have not been determined to be feasible on the subject property. See Water Supply and Sewage Disposal sections below.

- i) **Easements**. The subdivision or the type of improvements will not conflict with easements. The project, as designed, would require the creation and conveyance of easements necessary for drainage, utilities, the off-site well, and development and construction of roadways.
- j) **Water Supply**. Section 19.10.070 MCC requires that provisions shall be made for such domestic water supply as may be necessary to protect public health, safety, or welfare, that the source of supply is adequate and potable, and that there is proof of a long term water supply with the proposed project. Sections 19.03.015.L MCC requires Water Supply and Nitrate Loading Information in order to assess these conditions. Proof that the well is capable of supplying a sustainable long-term source of potable water has not been demonstrated, as water quality sampling data has consistently shown the presence of arsenic, which has fluctuated above and below the maximum contaminant level (MCL) of 10 parts per billion (ppb). Testing data compiled between August 2007 and September 2010 have shown that arsenic concentration ranges from 6 ppb to as high as 17 ppb, with the overall average being 10.08 ppb; indicating the well's reliability of staying in compliance is questionable. Based on this average the Monterey County Environmental Health Bureau can not make a finding that the project has a reliable source of water; as no room for public health protection exists if any subsequent samples show the slightest increase and bring the average over 10 ppb. The installation of an arsenic treatment system for the off-site well is not a feasible solution, due to cost of infrastructure and installation. Technical, managerial, and financial (TMF) capability is a requirement for new water systems to assure delivery of safe water to the consumers of the system. Water systems with less than 15 connections do not have the TMF to maintain the complexity, ongoing reliability, and expense of treatment plants; therefore the proposed water source does not protect the public health and safety or meet minimum water quality standards
- k) **Sewage Disposal** (Section 19.03.015.K MCC). The soil composition and percolation rates of the Wayland property, do not adequately comply with Monterey County Code 15.20. The rate of percolation varied greatly at different depths and locations on each lot. Some percolation holes performed at rates that are within the acceptable range and while other rates failed according to Monterey County Code 15.20. The percolation data suggests that the upper soils are not suitable for septic dispersal. Deep trenches would function primarily as disposal of effluent; there will be little to no air in the soil/sidewalls of the trench to allow growth of aerobic bacteria that would provide additional treatment of the effluent. Shallow trenches in permeable soils are preferred over deep trenches to provide for as much aerobic treatment as possible. Due to the low permeability of the upper soils a shallow system is infeasible for this project. There is not a consistent rate of percolation within and among all of the lots to support the subdivision utilizing the proposed Onsite Wastewater Treatment System (OWTS) designs. It is not good practice to create new lots with OWTS

that have a high potential for failure due to existing environmental and geologic conditions.

- l) **Traffic.** A traffic analysis was prepared for the project, analyzing the potential impacts to the adjacent intersection (Boots Rd/State Route 68). Denial of this application would result in no impacts to the Boots Road/SR-68 intersection or intersections along State Route 68.
 - m) **Affordable Housing.** The project was reviewed by the Housing and Redevelopment Office relative to the County's Inclusionary Housing Ordinance No. 04185, as codified in Section 18.40.060 of County Code. Ordinance No. 04185 requires that all new development consisting of three or more lots or residential units contribute to the Inclusionary Housing Program. The project would be subject to this requirement, as it is developing 4 new lots.
 - n) **Parks and Recreation.** The project as reviewed by the Monterey County Parks department relative to County recreation requirements and/or payment of recreation fees. The project would be subject to this requirement, due to the creation of 4 new lots.
 - o) The application, tentative map and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN070366.
 - p) The project planner conducted a site inspection on August 9, 2007 and December 28, 2010.
3. **FINDING:** **CEQA (Exempt):** - The project is statutorily exempt from environmental review and no unusual circumstances were identified to exist for the proposed project.
- EVIDENCE:** a) California Environmental Quality Act (CEQA) Guidelines Section 15270(a) statutorily exempts projects which a public agency rejects or disapproves.
4. **FINDING:** **APPEALABILITY** - The decision on this project may be appealed to the Board of Supervisors.
- EVIDENCE:** a) Section 21.80.040(D) Monterey County Zoning Ordinance.

DECISION

NOW, THEREFORE, based on the above findings and evidence, the Planning Commission does hereby:

- A) Find PLN070366 statutorily exempt per Section 15270(a) of the California Environmental Quality Act Guidelines; and
- B) Deny PLN070366 (Wayland Minor Subdivision) based on the findings and evidence (**Exhibit C**):

PASSED AND ADOPTED this ____ day of ____, 2011 upon motion of ____, seconded by ____, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Mike Novo, Secretary, Planning Commission

COPY OF THIS DECISION MAILED TO APPLICANT ON _____

THIS APPLICATION IS APPEALABLE TO THE PLANNING COMMISSION.

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 _____

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.

**EXHIBIT D
DRAFT RESOLUTION**

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

In the matter of the application of:
Merrill Minor Subdivision (PLN070376)

RESOLUTION NO. ----

Resolution by the Monterey County Planning
Commission to:

- 1) Find the project statutorily exempt from CEQA per Section 15270(a);
- 2) Deny the Combined Development Permit consisting of: Minor Subdivision Vesting Tentative Map to allow the division of a 37.8 acre parcel into three (3) parcels of 10.5 acres, 13.8 acres, 7.5 acres and a remainder parcel of 6.0 acres; Use Permit for development in a visually sensitive area ("VS" District); and grading of approximately 3,100 cubic yards of grading (combination of cut/fill), individual septic systems and 60 foot wide road and utility easements. The project will be served by an existing well and a proposed mutual water company. The project will not involve any tree removal or development in areas in excess of 30 percent slopes.

(PLN070376, Merrill Thomas Trust, 24915 Boots Road, Monterey, Greater Monterey Peninsula Area Plan, APN: 173-062-008-000)

The Merrill Minor Subdivision application (PLN070376) came on for public hearing before the Monterey County Planning Commission on 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 finds and decides as follows:

FINDINGS

1. **FINDING:** **INCONSISTENCY** – The Project, as designed is inconsistent with the applicable plans and policies which designate this area as appropriate for development.

- EVIDENCE** a) During the course of review of this application, the project has been reviewed for consistency with the text, policies, and regulations in:
- :
- 2010 Monterey County General Plan,
 - Greater Monterey Peninsula Area Plan,
 - Monterey County Zoning Ordinance (Title 21)
 - Monterey County Subdivision Ordinance (Title 19)

Conflicts were found to exist during the course of review of the project

indicating inconsistencies with the text, policies, and regulations in these documents.

- b) The property is located at 24915 Boots Road, Monterey (Assessor's Parcel Number: 173-062-008-000), Greater Monterey Peninsula Area Plan. The parcel is zoned RDR/5.1-VS (Rural Density Residential, 5.1 acre per lot minimum, with Visual Sensitivity Overlay), which allows residential development of a rural density and intensity. Therefore, the project is an allowed land use for this site.
- c) 2010 General Plan Policy GMP 3.3 refers to the Greater Monterey Peninsula Scenic Highway Corridors and Visual Sensitivity Map (Figure 14) to designate visually "sensitive" and "highly sensitive" areas generally visible from designated Scenic Highways. The subject property is designated as "highly sensitive" in Figure 14. Subsection (d) of GMP 3.3 states that new development shall not be sited on those portions of property that have been mapped "highly sensitive", unless such development maximizes the goals, objectives, and policies of the Greater Monterey Peninsula Area Plan. The proposed minor subdivision would result in the creation of two new residential parcels (and one remainder lot) located within the designated "highly sensitive" area. This would not maximize the goals, objective, and policies of the Greater Monterey Peninsula Area Plan; therefore the project is inconsistent with 2010 General Plan Policy GMP 3.3.
- d) 2010 General Plan Policy GMP 3.14 requires development projects to be served by water from public utilities or mutual water companies, and consider the cumulative effects of the developments water use on wildlife, fish, plant communities, and the supply available to existing users. The project will not be served by water from a public utility, and the project proposal is a small water system using a well with in adequate water quality (See Finding and Evidence No. 2 – Water Supply).
- e) 2010 General Plan Policy PS-3.1 and PS-3.2 establish requirements for the proof of a sustainable long-term water source for developments for which a discretionary permit is required, and that will use or require the use of water. The project has not proven a reliable source of long-term water; therefore the project is inconsistent with 2010 General Plan Policy PS-3.1 and PS-3.2. (See Finding and Evidence No. 2 – Water Supply)
- f) 2010 General Plan Policy PS-3.9 states that a tentative subdivision map and/or vesting tentative subdivision map for either a standard or minor subdivision shall not be approved until the applicant provides evidence of long-term sustainable water in terms of yield and quality for all lots to be created. The project has not proven a reliable source of long-term water; therefore the project is inconsistent with 2010 General Plan Policy PS-3.9. (See Finding and Evidence No. 2 – Water Supply)

2. **FINDING:** **SUBDIVISION** – Section 66474 of the California Government Code (Subdivision Map Act) and Title 19 (Subdivision Ordinance) of the Monterey County Code requires that a request for subdivision be denied if any of the following findings are made:
- 1. That the proposed map is not consistent with the applicable general

- plan and specific plans.
2. That the design or improvement of the proposed subdivision is not consistent with the applicable general plan and specific plans.
 3. That the site is not physically suitable for the type of development.
 4. That the site is not physically suitable for the proposed density of development.
 5. That the design of the subdivision or the proposed improvements is likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
 6. That the design of the subdivision or type of improvements is likely to cause serious public health problems.
 7. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision.

- EVIDENCE** a) **Inconsistency**. The project as designed and conditioned is inconsistent with the 2010 Monterey County General Plan, and Greater Monterey Peninsula Area Plan, and Monterey County Subdivision Ordinance (Title 19) (*Finding 1*).
- b) **Design**. The lot design is consistent with the Lot Design Standards of Section 19.10.030 County Codes.
- c) **Site Suitability**. The project has been reviewed for site suitability by the following departments and agencies: RMA - Planning Department, Monterey County Regional Fire Protection District, Housing and Redevelopment Office, Parks, Public Works, Environmental Health Bureau, and Water Resources Agency. The site is physically suitable for the proposed use.
- d) Staff identified potential impacts to Biological Resources, Archaeological Resources, and on-site wastewater treatment feasibility. Technical reports by outside consultants indicated that there are physical or environmental constraints that would indicate that the site is suitable for the use proposed. County staff independently reviewed these reports and concurs with their conclusions. The following reports have been prepared:
- *"Preliminary Archaeological Reconnaissance of Assessor's Parcel 173-062-008" (LIB070657) prepared by Archaeological Consulting, Salinas, California, November 8, 2007.*
 - *"Traffic Analysis for Susan and Tom Merrill Subdivision" (LIB070658) prepared by Higgins Associates Civil & Traffic Engineers, Gilroy, California, October 29, 2007.*
 - *"Feasibility Level Geotechnical Investigation for Merrill Property" (LIB070659) prepared by Haro, Kasunich and Associates, Inc., Watsonville, California, November 2007.*
 - *"Biological survey report for the Tom and Susan Merrill Property" (LIB080571) prepared by Ed Mercurio Biological Consultant, Salinas, California, October 31, 2007.*
 - *"Preliminary Geologic Investigation – Merrill Property" (LIB110031) prepared by Rogers E. Johnson & Associates, Watsonville, California, November 2, 2007.*
 - *"Percolation & Groundwater Study for Parcels 1 & 2 – Merrill Subdivision" (LIB110032) prepared by Grice Engineering and*

Geology, Inc., Salinas, California, April 2009.

- "Second Evaluation Septic Report of Parcel 1 – Merrill Subdivision" (LIB110033) prepared by Grice Engineering and Geology, Inc., Salinas, California, August 2009.

- e) **Health and Safety.** The proposed project as designed will, under the circumstances of the particular application, be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood or to the general welfare of the County.
- f) Necessary public facilities are not available and are not provided for the proposed project. A source of sustainable long-term water does not exist. See Water Supply sections below.
- g) **Easements.** The subdivision or the type of improvements will not conflict with easements. The project, as designed, would require the creation and conveyance of easements necessary for drainage, utilities, the off-site well, and development and construction of roadways.
- h) **Water Supply.** Section 19.10.070 MCC requires that provisions shall be made for such domestic water supply as may be necessary to protect public health, safety, or welfare, that the source of supply is adequate and potable, and that there is proof of a long term water supply with the proposed project. Sections 19.03.015.L MCC requires Water Supply and Nitrate Loading Information in order to assess these conditions. Proof that the well is capable of supplying a sustainable long-term source of potable water has not been demonstrated, as water quality sampling data has consistently shown the presence of arsenic, which has fluctuated above and below the maximum contaminant level (MCL) of 10 parts per billion (ppb). Testing data compiled between August 2007 and September 2010 have shown that arsenic concentration ranges from 6 ppb to as high as 17 ppb, with the overall average being 10.08 ppb; indicating the well's reliability of staying in compliance is questionable. Based on this average the Monterey County Environmental Health Bureau can not make a finding that the project has a reliable source of water; as no room for public health protection exists if any subsequent samples show the slightest increase and bring the average over 10 ppb. The installation of an arsenic treatment system for the off-site well is not a feasible solution, due to cost of infrastructure and installation. Technical, managerial, and financial (TMF) capability is a requirement for new water systems to assure delivery of safe water to the consumers of the system. Water systems with less than 15 connections do not have the TMF to maintain the complexity, ongoing reliability, and expense of treatment plants; therefore the proposed water source does not protect the public health and safety or meet minimum water quality standards
- i) **Sewage Disposal** (Section 19.03.015.K MCC).
The percolation and groundwater studies for the proposed Merrill Property demonstrates adequate feasibility for the installation of septic systems and associated leach fields, to the satisfaction of the Environmental Health Bureau (EHB) and Monterey County Code 15.20, based upon soil make-up and percolation rates. Specific design requirements for individual septic systems are contained within the technical reports prepared for the project.
- j) **Traffic.** A traffic analysis was prepared for the project, analyzing the

potential impacts to the adjacent intersection (Boots Rd/State Route 68). Denial of this application would result in no impacts to the Boots Road/SR-68 intersection or intersections along State Route 68.

- k) **Affordable Housing.** The project was reviewed by the Housing and Redevelopment Office relative to the County's Inclusionary Housing Ordinance No. 04185, as codified in Section 18.40.060 of County Code. Ordinance No. 04185 requires that all new development consisting of three or more lots or residential units contribute to the Inclusionary Housing Program. The project would be subject to this requirement, as it is developing 4 new lots.
- l) **Parks and Recreation.** The project as reviewed by the Monterey County Parks department relative to County recreation requirements and/or payment of recreation fees. The project would be subject to this requirement, due to the creation of 4 new lots.
- m) The application, tentative map and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN070366.
- n) The project planner conducted a site inspection on August 9, 2007 and December 28, 2010.

3. **FINDING:** **CEQA (Exempt):** - The project is statutorily exempt from environmental review and no unusual circumstances were identified to exist for the proposed project.

EVIDENCE: a) California Environmental Quality Act (CEQA) Guidelines Section 15270(a) statutorily exempts projects which a public agency rejects or disapproves.

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

EVIDENCE: a) Section 21.80.040(D) Monterey County Zoning Ordinance

DECISION

NOW, THEREFORE, based on the above findings and evidence, the Planning Commission does hereby:

- A. Find PLN070376 statutorily exempt per Section 15270(a) of the California Environmental Quality Act Guidelines; and
- B. Deny the PLN070376 (Merrill Minor Subdivision) based on the findings and evidence (**Exhibit D**).

PASSED AND ADOPTED this ____ day of _____, 2011 upon motion of _____, seconded by _____, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

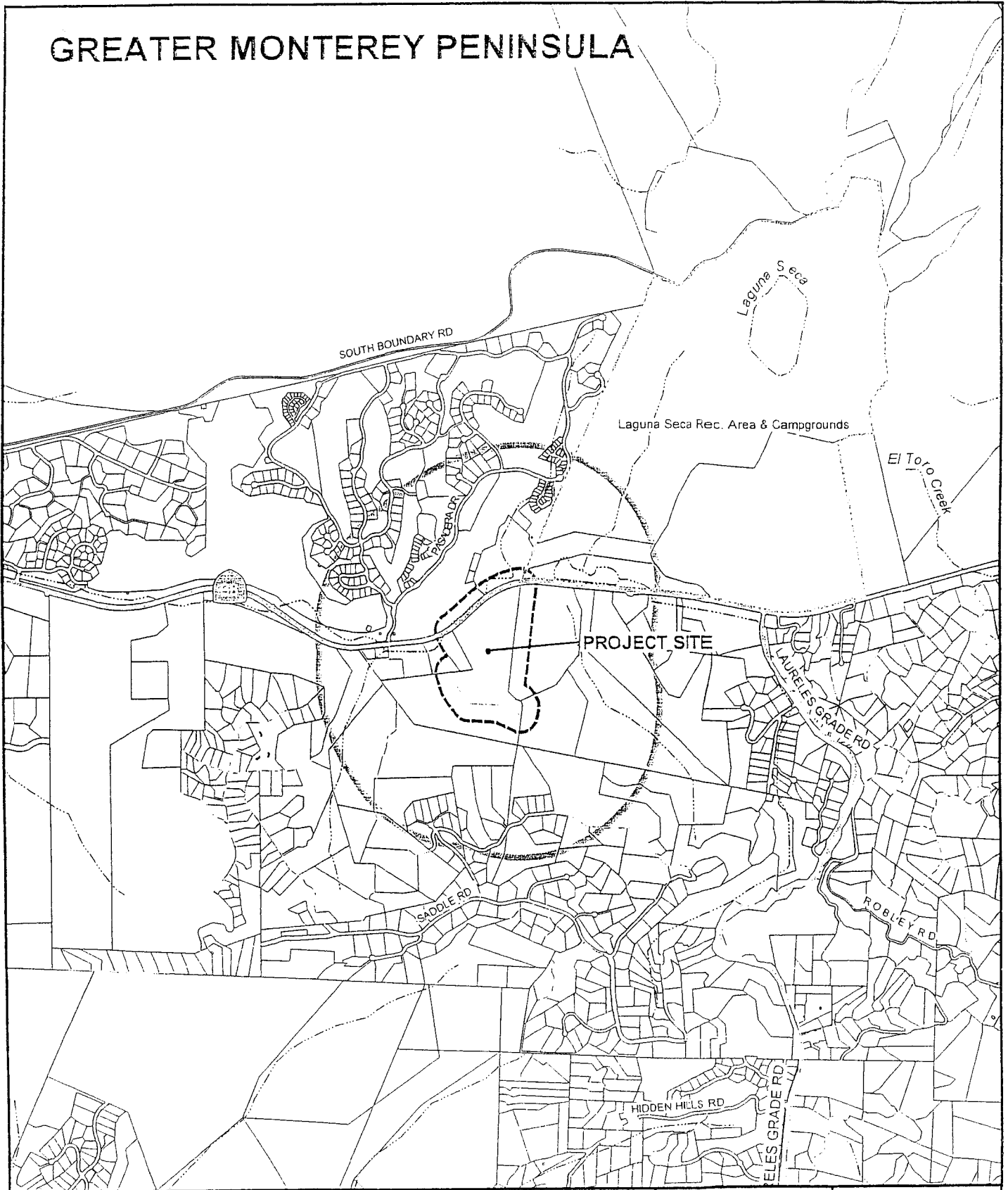
COPY OF THIS DECISION MAILED TO APPLICANT ON _____

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 _____

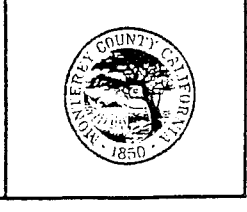
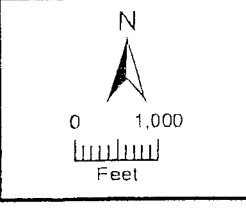
This decision, if this is the final administrative decision, is subject to judicial review pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6. Any Petition for Writ of Mandate must be filed with the Court no later than the 90th day following the date on which this decision becomes final.

GREATER MONTEREY PENINSULA

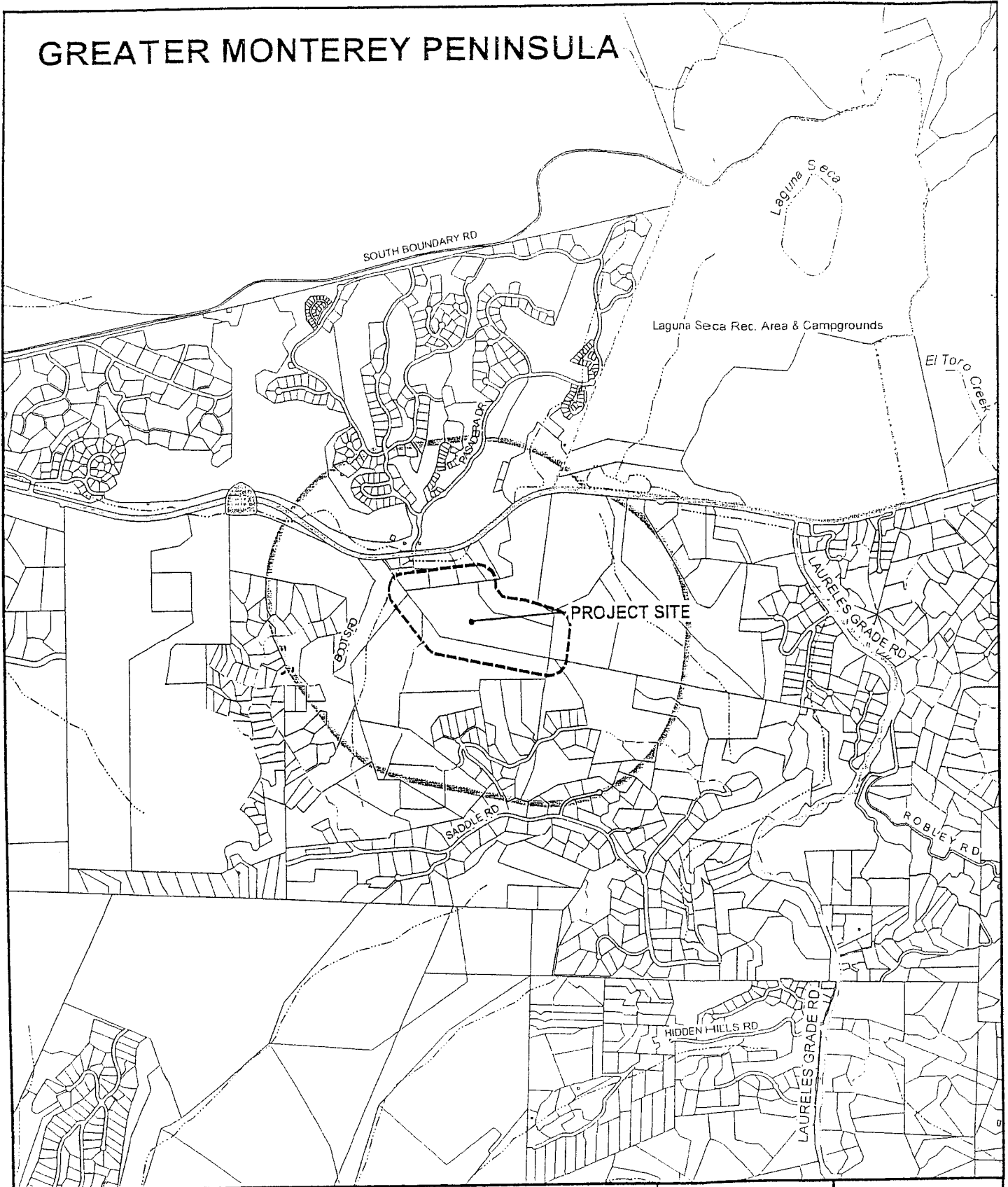


APPLICANT: WAYLAND
APN: 173-062-009-000 FILE # PLN070366

 300' Limit  2500' Limit  City Limits




GREATER MONTEREY PENINSULA





APPLICANT: MERRILL

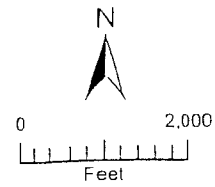
APN: 173-062-008-000

FILE # PLN070376

 300' Limit

 2500' Limit

 City Limits



PLANNER: AMADOR

MINUTES

Greater Monterey Peninsula Land Use Advisory
Wednesday, December 5, 2007

1. Meeting called to order 4:07 pm

2. Members Present: CHURCH, SMITH, NELSON, PAGNULO (4)

3. Members Absent: JACOBS (1)

4. Approval of Minutes: POSTPONED:
CHURCH & PAGNULO DID NOT RECEIVE MINUTES

Motion: _____ (LUAC Member's Name)
(August 15, 2007)

Second: _____ (LUAC Member's Name)

Ayes: _____

Noes: _____

Absent: _____

Abstain: _____

5. Public Comments:

- NONE -

6. Other Items: A) Preliminary Courtesy Presentations by Applicants Regarding Potential Projects/Applications:

- NONE -

Action by Land Use Advisory Committee Project Referral Sheet

Monterey County Planning Department
168 W Alisal St 2nd Floor
Salinas, California
(831) 755-5025

Advisory Committee: Greater Monterey Peninsula

Please submit your recommendations for this application by Wednesday, December 05, 2007.

Project Title: WAYLAND WARREN TR ET AL

File Number: PLN070366

File Type: MS

Planner: AMADOR

Location: 24975 BOOTS RD MONTEREY

Project Description:

COMBINED DEVELOPMENT PERMIT CONSISTING OF: 1) MINOR SUBDIVISION VESTING TENTATIVE MAP TO ALLOW THE DIVISION OF A 38-ACRE PARCEL INTO 4 PARCELS OF 9.7 ACRES, 5.3 ACRES, 9.3 ACRES, 5.2 ACRES AND A REMAINDER PARCEL OF 8.8 ACRES; 2) USE PERMIT FOR DEVELOPMENT OF AREAS IN EXCESS OF 30 PERCENT FOR ROADWAY IMPROVEMENTS; 3) USE PERMIT FOR DEVELOPMENT IN A VISUALLY SENSITIVE AREA; AND 4) USE PERMIT TO ALLOW THE REMOVAL OF AN ESTIMATED 39 OAK TREES; AND GRADING OF APPROXIMATELY 3,800 CUBIC YARDS OF CUT AND 3,800 CUBIC YARDS OF FILL. THE PROJECT PROPOSES INDIVIDUAL SEPTIC SYSTEMS, A 50 FOOT BY 50 FOOT WATER TANK EASEMENT WITH A 100,000 GALLON WATER TANK AND 15 FOOT WIDE UTILITY EASEMENT, A 60-FOOT WIDE ROAD AND UTILITY EASEMENT AND A 30-FOOT WIDE ROAD AND UTILITY EASEMENT. AN EXISTING WELL AND A PROPOSED MUTUAL WATER COMPANY WILL SERVE THE PROJECT. THE PROPERTY IS LOCATED AT 24975 BOOTS ROAD, MONTEREY (ASSESSOR'S PARCEL NUMBER 173-062-009-000), GREATER MONTEREY PENINSULA AREA.

Was the Owner/Applicant Representative Present at Meeting? Yes No

PUBLIC COMMENT:

Also that future design may molest neighbors.
Tinker (neighbor): Her house may be too close to Parcel #3. She is concerned the house will be too close to the ^{fence} line and that ^{the residents} they would be subject to flies and smell of horses.
Brian Finegan (attorney): The applicant wants to do a low intensity project choosing a well known architect to draw plans ~~that~~ and locate the houses to ^{be} suitable to public views.
Joel Panzer: Noted there are 29 oak trees being removed instead of 39 trees.

No other public comments

AREAS OF CONCERN (e.g. traffic, neighborhood compatibility, visual impact, etc.):

Riesman: He is concerned that Mrs Tinker has a valid point. It needs to be addressed in Parcel #3.

Noted that the existing flagging is in full view of Highway 68 and from Laguna Seca Park.

Mrs Smith asked Mrs Tinker for comments about Parcel #3 and to work with the developer.

Mrs Tinker had some suggestions about locating the house down slope or ^{due} south behind the trees ^{side}

Conceded: Parcel #3 is in full view of Hwy 68 to the south and in full view of Laguna Seca on north ^{side} but the proposed envelope ^{can} be located south on the parcel.

(over to continue)

Exhibit 6

Page 2 of 4 Pages

Pagnillo: The road is only 30' wide ^{that} feeds into 2 parcels. It is not wide enough and there are not enough turnouts. This is the section that goes by Parcel #4 and on to #3.

Mrs. Tinker: It would be advantageous to have a developable area known to us in the parcel. (ie. how much will be maintained in a natural state, how much or square footage that will be house) They are necessary and the LUPC wants to see this.

Pagnillo: Where is the water tank? The applicant said that it will be under ground and showed where.

Mr Finegan said there are 2 wells.

Mrs Smith: We want to know and that there be an assessment of the amount of water drawn out and flow so as not to deplete the aquifer. She wants the water ~~works~~ ^{works} ~~reviewed~~ ^{reviewed}.

Parcel #4: The LUPC does not have comments

Road B: Mrs. Smith: the road is graded up a drainage. Other options must be looked at. This from the junction to the hairpin turn. ~~It is a~~ This is a steep drainage. It must not interfere with the drainage.

Church: The hill side is way ~~too~~ ^{too} steep for this road. The proposed site on Parcel #1 is in ~~I recommend that~~ full view of Hwy 68 to the south, it is in view of Mrs Tinker's property and the roof is on a ridge line. I recommend the home be located on the parcel ^{as} to avoid the road.

Parcel #2:

Church: As drawn, there is no place on the parcel that is not in full view of Hwy 68 in both directions from the beginning of the Wayland property to and past the adjoining parcel to the east - east to west it is poorly drawn.

RECEIVED

DEC 11 2007

MONITORING
PLANNING
PROJECTS

RECOMMENDED CHANGES/CONDITIONS (e.g. reduce scale, relocate on property, reduce lighting, etc.):

Church: Keep the parcel lot lines of parcel #2⁰ that if ^{it} be extended into parcel 3 or 4 in such a way that a proposed building ^{can} be located out of view of Hwy 48 and Laguna Seca.

5:00 pm

Meet the areas of concern

- a) parcel #2 lines - adjustable for vision sightlines
- b) road way and drainage - parcels 1 ~~and 2~~
- c) road width and lack of Turn outs to parcels 3 & 4
- d) designated scenic easements

ADDITIONAL LUAC COMMENTS: None

RECOMMENDATION (e.g. recommend approval, recommend denial; recommend continuation):

Recommend approval subject to concerns and recommended conditions ^{Noted} above.

CONCUR WITH RECOMMENDATION:

Mr. Church had to leave at 5:00 pm

AYES: 3

NOES: 0

ABSENT: 1

ABSTAIN: 1

MEETING ADJOURNED AT: 5 pm

PREPARED BY: Mr. Church / Mrs. Pizzullo

MINUTES

Greater Monterey Peninsula Land Use Advisory
Wednesday, December 19, 2007

1. Meeting called to order 4:00 pm

2. Members Present: SMITH, RIERSON, PAGULLO, CHURCH (4)

3. Members Absent: JACOBS (1)

4. Approval of Minutes:
(August 15, 2007)

Motion: PAGULLO to approve (LUAC Member's Name)

Second: CHURCH
RIERSON seconded (LUAC Member's Name)

Ayes: 3 Church, Pagullo, Smith

Noes: 0

Absent: 1 Jacobs

Abstain: 1 Rierson was not at meeting

(December 5, 2007) Motion: Pagullo to approve with changes recommended by Mr. Church
(see addendum) (LUAC Member's Name)

Second: Rierson (LUAC Member's Name)

Ayes: 4 Church, Pagullo, Smith, Rierson

Noes: 0

Absent: 1 Jacobs

Abstain: 0

Exhibit H

5. Public Comments:

— none —

6. Other Items: A) Preliminary Courtesy Presentations by Applicants Regarding Potential Projects/Applications:

— none —

Exhibit H

Page 2 of 4 Pages

Action by Land Use Advisory Committee Project Referral Sheet

Monterey County Planning Department
168 W Alisal St 2nd Floor
Salinas, California
(831) 755-5025

Advisory Committee: Greater Monterey Peninsula

Please submit your recommendations for this application by Wednesday, December 19, 2007.

Project Title: MERRILL THOMAS TR ET AL

File Number: PLN070376

File Type: MS

Planner: AMADOR

Location: 24915 BOOTS RD MONTEREY

Project Description:

COMBINED DEVELOPMENT PERMIT CONSISTING OF: 1) MINOR SUBDIVISION VESTING TENTATIVE MAP TO ALLOW THE DIVISION OF A 37.8 ACRE PARCEL INTO THREE (3) PARCELS OF 10.5 ACRES, 13.8 ACRES, 7.5 ACRES AND A REMAINDER PARCEL OF 6.0 ACRES; AND 2) USE PERMIT FOR DEVELOPMENT IN A VISUALLY SENSITIVE AREA ("VS" DISTRICT). THE PROJECT PROPOSES APPROXIMATELY 3,100 CUBIC YARDS OF GRADING (COMBINATION OF CUT/FILL), INDIVIDUAL SEPTIC SYSTEMS AND 60 FOOT WIDE ROAD AND UTILITY EASEMENTS. THE PROJECT WILL BE SERVED BY AN EXISTING WELL AND A PROPOSED MUTUAL WATER COMPANY. THE PROJECT WILL NOT INVOLVE ANY TREE REMOVAL OR DEVELOPMENT IN AREAS IN EXCESS OF 30 PERCENT SLOPES. THE PROPERTY IS LOCATED AT 24915 BOOTS ROAD, MONTEREY (ASSESSOR'S PARCEL NUMBER 173-062-008-000), GREATER MONTEREY PENINSULA AREA.

Was the Owner/Applicant/Representative Present at Meeting? Yes X No _____

Mrs. Merrill, Mr. Joel Panzer, Mr. Fingerman,

PUBLIC COMMENT:

Shari Damon (no comment - gathering information for neighbor Wang)

- none -

AREAS OF CONCERN (e.g. traffic, neighborhood compatibility, visual impact, etc.):

Smith: There will be a 60' wide road easement containing the utilities. This was clarified by applicant.

- The LWAC was not provided the Scenic Easement diagram. So we don't know how to evaluate this topic per property.

- The suggested building sites really depend on the screening ~~off the~~ between ~~Scenic Easement~~ Parcel #1 and #2

- The ^{natural} drainage now existing south of the proposed road accessing parcel #3 needs to be retained and protected in building the new access road.

Exhibit H

RECOMMENDED CHANGES/CONDITIONS (e.g. reduce scale, relocate on property, reduce lighting, etc.):

Smith: Flesh out the scenic easements and be sensitive to the drainage.

Church:- Make sure the proposed backdrops are located adjacent to the access road for parcel #1, #2 and #3 on the north side of the parcels. The screening may be removed for road construction or infection of the trees/dying back. If this happens there will be no screen and proposed sites are in full view of Highway 68.

- Parcel #1 and #2: the proposed house envelope should be moved back (north) into the valley because you can see highway 68 as the story poles are situated.

- The screening disappears ^{in a blur} as you drive on Highway 68 and look at the pasture land.

ADDITIONAL LUAC COMMENTS:

- none -

RECOMMENDATION (e.g. recommend approval; recommend denial; recommend continuation):

^{recommend approval}
Pagillo, based and subject to our recommended changes/conditions

Rier son (seconded)

CONCUR WITH RECOMMENDATION:

AYES: 4 Smith, Church, Rier son, Pagillo

NOES: 0

ABSENT: 1 Jacobs

ABSTAIN: 0

MEETING ADJOURNED AT: 5:00 pm

PREPARED BY: Alan Church, Sec.

Exhibit H