

Exhibit D-2

Draft Resolution to:

1. Grant the appeal of MST/Redevelopment Agency
2. Approve the Combined Development Permit
3. Adopt the Mitigation Monitoring and Reporting Plan

The Redevelopment Agency of  
Monterey County  
The Monterey-Salinas Bus  
Maintenance and  
Administrative Facility and  
Whispering Oaks Business Park  
PLN090071

Appeal PLN110231  
Board of Supervisors  
June 14, 2011

**EXHIBIT D-2  
DRAFT RESOLUTION**

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

In the matter of the application of:

**The Redevelopment Agency of Monterey County (PLN110231)  
RESOLUTION NO.**

Resolution by the Monterey County Board of Supervisors:

- 1) Granting the appeal by Monterey-Salinas Transit (MST)/Redevelopment Agency of the County of Monterey from the April 13, 2011 decision of the Monterey County Planning Commission; and
  - 2) Approving a Combined Development Permit consisting of:
    - a) Standard Subdivision Phased Vesting Tentative Map dividing two parcels of 30.3 acres and 85.2 acres (Assessor's Parcel Numbers 031-101-041-000 and 031-101-056-000) into 16 buildable lots including a 24.4 acre lot and 15 smaller lots ranging in size from 1 acre to 3 acres, a roadway parcel (approximately 7.4 acres), a drainage detention and percolation parcel (approximately 1.7 acres), and two Open Space parcels (approximately 49 acres and 8.7 acres);
    - b) General Development Plan establishing Allowed Uses, Conditional Uses allowed, and site development standards and design criteria for the proposed Whispering Oaks Business Park;
    - c) General Development Plan and Use Permit to allow development of the Monterey- Salinas Transit (MST) administrative and maintenance facility containing the following: 1) a 36,000 square foot three-story administrative building; 2) a 96,450 square foot two-story bus maintenance building; 3) an 18,620 square foot fuel/brake/tire building with underground tanks attached by a canopy to an 8,373 square foot bus wash/steam cleaning building; and 4) approximately 15 acres of paved parking to accommodate up to 281 busses and 388 automobiles;
    - d) Use Permit to allow the removal of approximately 2,400 Coast Live Oak trees on Lot 1 (MST parcel); and
    - e) Use Permit to allow the removal of approximately 1,000 Coast Live Oaks on Lots 2 through 16, and for infrastructure improvements; and
  - 3) Adopting the Mitigation Monitoring and Reporting Plan.
- [PLN110231, Redevelopment Agency of Monterey County, A portion of the former Army Landfill site in Fort Ord, Fort Ord Master Plan Area (APNs: 031-101-041-000 and 031-101-056-000)]**

**The Monterey-Salinas Transit and Whispering Oaks Business Park application (PLN110231) came on for public hearing before the Monterey County Board of Supervisors on June 14, 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:** **CONSISTENCY** – The Project, as conditioned, is consistent with the applicable plans and policies which designate this area as appropriate for development.

**EVIDENCE:** a) Plan Consistency During the course of review of this application, the project has been reviewed for consistency with the text, policies, and regulations in:

- The 2010 Monterey County General Plan
- Fort Ord Master Plan,
- Monterey County Zoning Ordinance (Title 21)
- Monterey County Subdivision Ordinance (Title 19)
- The City of Marina General Plan
- Fort Ord Base Reuse Plan

Conflicts with the City of Marina General Plan land use designation were identified. The project is within the sphere of influence of the City of Marina and the City of Marina General Plan designates the subject property as Open Space and Recreation. However, the Marina General Plan land use designation is not consistent with the Fort Ord Reuse Plan designation for the property. The site is under the jurisdiction of the County of Monterey who has designated the property for development consistent with the Fort Ord Reuse Plan. Findings of consistency with the Marina General Plan land use designation are not required for this project. No other communications were received during the course of review of the project indicating any inconsistencies with the text, policies, and regulations in these documents.

- b) Use Allowed The project is designated for “planned development – mixed use” by the Fort Ord Reuse Plan. This land use designation has been incorporated into the Monterey County General Plan. The uses allowed by the mixed use designation include retail, business parks, offices, research and development, light industrial development, and transit centers. The General Development Plans for the proposed project allows these same uses. Therefore, the proposed uses are consistent with the 2010 Monterey County General Plan designation.
- c) General Plan Consistency The site is located within Fort Ord which is a designated Community Area in the 2010 General Plan and the proposed development is consistent with the land use designation of the Fort Ord Master Plan (LU-1.11). Community Areas are a top priority for development according to the General Plan (LU-1.19) because these areas have opportunities for adequate public services and facilities. The subject project has adequate public services and facilities. A Water Supply Assessment (WSA) has been adopted for the proposed project by the Marina Coast Water District. The WSA contains findings that there is an assured long-term water supply and adequate water quality for the project (PS-3.1 and PS-3.2). All traffic impacts were evaluated using a minimum level of service standard C which is more restrictive than the General Plan acceptable level of service D (C-1.1). Mitigations for traffic impacts comply with policy C-1.3 by installing improvements for Tier 1 impacts and paying a fair-share for Tier 2 and 3 impacts. The project has been clustered in the area corresponding to the Fort Ord Master Plan land use designation on the property (Figure #LU6a).

Program E-2.2 of the Fort Ord Master Plan specifically lists and encourages commercial development compatible with the landfill site including the MST facility and Whispering Oaks Business Park. Open space area equal to the area proposed for development has been incorporated, and mitigations have been included to minimize biological impacts at the site (OS-5.4). The applicant has consulted with the Department of Fish and Game and is in the process of obtaining a "Take Permit" for *sand gilia*.

- d) Zoning Consistency The property is located off Intergarrison Road, north of Seventh Avenue, in the Former Fort Ord (Assessor's Parcel Numbers: 031-101-041-000 and 031-101-056-000), Fort Ord Master Plan area. The parcel is currently zoned Public Quasi-Public with Design Control and Site Plan Review overlays (PQP-D-S). The proposed project includes a request to amend the zoning on the newly created parcels from PQP to Heavy Commercial with the D and S overlays remaining (HC-D-S). Parcels C and D of the Tentative Map are to be rezoned to Open space (O-D-S). Prior to adopting this resolution approving the Combined Development Permit, the Board adopted a zoning ordinance that rezones the property as described, with the rezoning to go into effect only if and when the first final map for the subdivision herein approved is recorded. The two open space parcels are beneficial as vegetated buffers between housing located to the east and the project site and for connectivity of open space from the landfill site to the open space south of Intergarrison Road. The Heavy Commercial Zoning district will allow commercial uses including bus storage, offices, maintenance, repair, and fueling subject to a General Development Plan. This project includes a General Development Plan and Use Permit for the construction of a new Bus Maintenance and Operations facility on over 24 acres of land and a separate General Development Plan to guide the construction and end users of the Whispering Oaks Business Park. The proposed zoning with uses restrictions of the General Development Plans complies with the 2010 General Plan designation of "Planned Development/Mixed Use". With the zoning amendment approved by the Board of Supervisors under separate ordinance, the project will be an allowed land use under the HC zoning on this site. No development is proposed in the area of the Open Space parcels
- e) Site Visit The project planner conducted site inspections on January 5, 2010 and February 16, 2010 to verify that the project on the subject parcel conforms to the plans.
- f) Subdivision The proposed subdivision complies with Monterey County Code, Title 19 (Subdivision Ordinance). The site is within a Community area and has adequate public services and facilities to serve the proposed development. On February 10, 2011 the Monterey County Standard Subdivision Committee recommended approval of the project by a vote of 5-0. See Finding #7 for more detail.
- g) General Development Plans The project includes a General Development Plan for the Monterey-Salinas Transit property (Lot 1) and for the Whispering Oaks Business Park properties (Lots 2-16). The General Development Plans establishes parking, setbacks, height, design standards, landscaping requirements, sign programs, and use restrictions. (see Finding #6)

- h) Use Permit – MST Subject to rezoning the property to Heavy Commercial, the use of the property for bus maintenance and operations is allowed subject to a Use Permit. Approval of a Use Permit is included in this resolution. A General Development Plan is proposed for the property that describes the proposed development and anticipated operations. The MST buildings have been designed to meet anticipated operations and future fleet expansion needs. The main operations building has been designed with a color palate that is appropriate and meets LEED silver requirements. The other maintenance buildings will be shorter and less visible from off-site due to the tree screening, topography and security wall.
- i) Use Permits – Tree Removal A Use Permit to approve removal of approximately 2,400 oak trees for the MST development on Lot 1 and approximately 1,000 additional oak trees for the Whispering Oaks Business Park is included in this resolution. An Oak Woodlands Mitigation Strategy has been prepared for the project and a comprehensive approach to tree preservation and replanting has been developed. See Finding #8.
- j) Biological Resources – 2081 Permit The project site contains sensitive plant and animal species. Conditions and mitigations have been incorporated to minimize impacts to these resources to the maximum extent feasible. The project is consistent with the Installation-Wide Habitat Management Plan for the former Fort Ord (HMP). A 2081 incidental take permit from the Department of Fish & Game (DFG) will be required for Sand Gilia prior to construction. The take permit has been applied for and is currently in process. The project site is also located on the outer limits of the two (2) kilometer California Tiger Salamander (CTS) habitat buffer. As a result of negotiations with DFG, biological monitoring is required for all development. If presence of CTS is discovered at the site, work must cease and consultation with DFG will be required (Mitigation Measure #53). In order to diminish any potential of the presence of CTS beyond the 2k buffer, the applicant proposes to install fencing with one-way doors prior to development for Phase 1 and a portion of Phase 2 including lots 2, 3, 7, and 8. The remaining lots and improvements in the subdivision will require protocol level surveys (Mitigation Measure #53). If presence of CTS is identified, development of the remaining Lots and improvements will require permits through DFG and US Fish and Wildlife (most likely through the base-wide Habitat Conservation Plan currently being developed). Prior to development in Phase 3 of the project if protocol level surveys do not reveal presence of CTS, development can proceed subject to conditions imposed through the 2081 permit for Sand Gilia and this permit. The project as mitigated and conditioned will not jeopardize the long-term existence of rare or endangered plant or animal species.
- k) Oak Tree Corridor The project site design seeks to maintain oak woodland corridor along Intergarrison Road by incorporating a tree preservation area on Lot 1, a 24 foot landscaped buffer between Intergarrison Road and the MST security wall, and a 20 foot setback outlined in the General Development Plan for the Whispering Oaks Business Park along Intergarrison Road. Oaks will also be preserved

along the roads within the subdivision and between lots in the Whispering Oaks Business Park.

- l) Access Title 19 Section 19.10.045 requires each parcel to provide access either by fronting on a publicly maintained road or by having approved legal access via a private road of adequate right-of-way width. The proposed parcels would be accessed by Engineer's Equipment Road and Intergarrison Road. Both of these roads will be open to the public but are not currently publicly maintained roads and there is currently no legal access on these Roads. The underlying property at Engineer's Equipment Road is owned by the University of California at Santa Cruz and the underlying property on Intergarrison Road is owned by California State University at Monterey Bay. A condition requiring that the applicants obtain adequate access pursuant to Title 19 requirements or fund the condemnation of the access pursuant to the Subdivision Map Act (California Government Code Section 66462.5) has been incorporated (Condition #13). See Findings 7 for more detail.
- m) Recreation Trail Comments have been made at the Planning Commission hearing and received in writing from the public regarding the recreational uses at the project site. The subdivision ordinance (Title 19) Section 19.05.055.B.7 requires denial of a Vesting Tentative Map when the project would conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. This provision applies only to easements of record or to easements established by judgment of a court of competent jurisdiction. The trail at the project site does not have a recorded easement and is not established per any court order nor does it have a planned alignment. In order to facilitate the possibility of a trail on the land fill parcel, a condition has been added to incorporate language in the Whispering Oaks General Development Plan that would allow a 10 foot wide trail easement along the northern portion of the subdivision (Condition #10).
- n) LUAC The project was not referred to the Land Use Advisory Committee (LUAC) for review because no advisory committee has been created to review and make recommendations on development projects in the Fort Ord area.
- o) 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 PLN090071.

2. **FINDING:** **SITE SUITABILITY** – The site is physically suitable for the use proposed.

- EVIDENCE:**
- a) The project has been reviewed for site suitability by the following departments and agencies: RMA - Planning Department, Monterey Regional Fire Protection District, Parks, Public Works, Environmental Health Bureau, Water Resources Agency, the Transportation Agency of Monterey County, and the Monterey County Sheriff's Department. There has been no indication from these departments/agencies that the site is not suitable for the proposed development. Conditions recommended have been incorporated.
  - b) Potential impacts to Biological Resources, Hydrology and Water Quality, Hazards and Hazardous materials, Traffic and Circulation,

Forest Resources, Noise, and Geology and Soils have been identified. Technical reports by outside consultants indicated that there are no 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. These impacts were evaluated in the EIR and the Board of Supervisors has certified the EIR (see Finding #5). The following reports have been prepared:

- *"Finding of Suitability to Transfer" prepared by the United States Army, Hampton Field Office, VA, July 27, 2005.*
- *"Biological Assessment" prepared by Denise Duffy and Associates, Inc., Monterey, CA, August 2009.*
- *"Biological Assessment Letter Addendum 1" prepared by Denise Duffy and Associates, Inc., Monterey, CA, December 22, 2009.*
- *"Biological Assessment Letter Addendum 2" prepared by Denise Duffy and Associates, Inc. Monterey, CA, April 20, 2010.*
- *"Biological Assessment Letter Addendum 3" prepared by Denise Duffy and Associates, Inc., Monterey, CA, June 18, 2010.*
- *"Oak woodland Habitat Tree Removal and Mitigation Strategy" prepared by Denise Duffy and Associates, Inc., Monterey, CA, August 25, 2009.*
- *"Forest Management Plan for MST" prepared by Bill Ruskin, Ben Lomond, CA, August 2009.*
- *"Forest Management Plan for Whispering Oaks Business Park" prepared by Bill Ruskin, Ben Lomond, CA, August 2009.*
- *"Geotechnical Report" prepared by Furgo West, Inc., Ventura, CA, May 7, 2009.*
- *"Traffic Impact Analysis" prepared by Hatch Mott McDonald (including subsequent addendums), Gilroy, CA, June 18, 2010.*
- *"Preliminary Drainage Calculations" prepared by Whitson Engineers, Monterey, CA, April 8, 2010.*
- *"Noise Assessment" prepared by Illingworth and Rodkin, Inc., Petaluma, CA, January 19, 2010.*
- *"Water Supply Assessment" prepared by Carollo Engineers, Fresno, CA, November 2010.*

All reports are appendices to the Draft EIR and are contained in Library File number LIB090306.

- c) The project is located adjacent to a landfill area. Because of the proximity to the landfill there are restrictions on the types of uses allowed at the site. The proposed uses are allowed within a landfill buffer area. No residential uses, hospitals, or schools are allowed on the resulting properties.
- d) Staff conducted site inspections on January 5, 2010 and February 16, 2010 to verify that the site is suitable for this use.
- e) 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 PLN090071.

3. **FINDING: HEALTH AND SAFETY** - The establishment, maintenance, or operation of the project applied for will not under the circumstances of this particular case be detrimental to the health, safety, peace, morals,

comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.

- EVIDENCE:** a) The project was reviewed by the Planning Department, the Environmental Health Bureau, Water Resources Agency, Public Works, Parks, Monterey Regional Fire District, the Sheriff's Department, and Marina Coast Water District,. The respective departments/agencies have recommended conditions, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood.
- b) Necessary public facilities will be provided. Public water and sewage disposal will be provided using existing facilities maintained by the Marina Coast Water District. The water used by the project would be subtracted from the Monterey County water allocation provided through the base closure and reuse plan. The project will also be served gas and electric through existing Pacific Gas and Electric Services. The project involves relocating several PG&E power poles and the CSUMB Gas meter.
- c) A "Finding of Suitability to Transfer" has also been issued by the Department of Defense meaning that the project was suitable to be transferred from the Army to local jurisdictions.
- d) Preceding findings and supporting evidence for PLN110231.

4. **FINDING:** **NO VIOLATIONS** - The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of the County's zoning ordinance. No violations exist on the property.

- EVIDENCE:** a) Staff reviewed Monterey County RMA - Planning Department and Building Services Department records and is not aware of any violations existing on subject property.
- b) Staff conducted site inspections on January 5, 2010 and February 16, 2010 and researched County records to assess if any violation exists on the subject property. The property was formerly under the control of the Department of Defense and was not subject to County permits or zoning requirements. No development or uses have occurred since the land was transferred to the Redevelopment Agency of Monterey County.
- c) There are no known violations on the subject parcel.
- d) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN090071.

5. **FINDING:** **CEQA (EIR)** – By separate resolution, the Board of Supervisors certified the Final Environmental Impact Report for the proposed project and adopted CEQA findings and a statement of overriding considerations in accordance with CEQA, prior to granting approval of this permit.

- EVIDENCE:** a) A separate resolution containing Findings and Evidence for the certification of the Environmental Impact Report prepared for the Monterey-Salinas Transit and Whispering Oaks Business Park project



was adopted by the Board of Supervisors on June 14, 2011 prior to adopting this resolution. The Board voted to certify the Environmental Impact Report made CEQA findings for each environmental impact identified by the EIR, and adopted a statement of overriding considerations.

6. **FINDING:** **GENERAL DEVELOPMENT PLAN** –Monterey County Code requires a General Development Plan (GDP) prior to the establishment of uses/development if there is no prior approved GDP, and if: 1) the lot is in excess of one acre; or, 2) the development proposed includes more than one use; or, 3) the development includes any form of subdivision.
- EVIDENCE:** a) The proposed project meets the size and number of uses criteria to require a GDP pursuant to the Monterey County Zoning Ordinance (Title 21) Section 21.20.030.A; therefore, approval of a GDP included in this resolution.
- b) The project as described in the application and accompanying materials was reviewed by the Planning Department, Monterey Regional Fire Protection District, Parks Department, Public Works Department, Environmental Health Bureau, Sheriff, and the Water Resources Agency. The respective departments have recommended conditions, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood; or the County in general.
- c) A General Development Plan (GDP) has been developed for the Monterey-Salinas Transit facility on Lot 1 that describes the proposed structure locations, heights, design, general operations to occur at the site, establishes a sign program, guides landscape installation and maintenance, discusses hazardous materials handling, transport, spill prevention, and response; requires best management practices during construction, addresses storm drainage and maintenance, and establishes parking needs and requirements. The GDP is attached hereto as **Exhibit K** and incorporated herein by reference (Condition #9).
- d) A General Development Plan has been developed for the Whispering Oaks business Park that establishes allowed uses and conditional uses allowed in the business park, provides guidance and requirements dealing with operations, site design including setbacks, access, circulation, building placement, materials, heights, architecture, lighting, signage, and parking, sets requirements for landscaping and tree protection, and provides incentives for vehicle trip reductions. The GDP is attached hereto as **Exhibit L** and incorporated herein by reference. Language has been added to the General Development Plan condition to require that new policy language be added to the General Development Plan that would allow a trail easement along the northern edge of the Whispering Oaks Business Park subject to appropriate trail planning and implementation (Condition #10).
- e) Staff conducted site inspections on January 5, 2010 and February 16, 2010, to verify that the proposed uses contained in the GDPs are consistent with surrounding land uses.
- f) Materials in Planning File PLN090071.

7. **FINDING:** **SUBDIVISION** – Section 66474 of the California Government Code (Subdivision Map Act) and Title 19 (Subdivision Ordinance) of the Monterey County Code require 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) Consistency. The project as designed and conditioned is consistent with the 2010 Monterey County General Plan (Fort Ord is designated as a community area), and the Fort Ord Master Plan. (*Finding 1*)
  - b) Design. The lot design is consistent with the Lot Design Standards of Section 19.10.030 of the Monterey County Code.
  - c) Site Suitability. The site is suitable for the proposed project including the type and density of the development (*Finding 2*)
  - d) Environment. The subdivision design and improvements will not cause environmental damage to fish or wildlife habitat (see *Finding 5*).
  - e) Health and Safety. The proposed project as designed and conditioned will not, 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 (see *Finding 3*).
  - f) Water Supply. Section 19.10.070 of the Monterey County Code requires provision be made for domestic water supply as may be necessary to protect public health, safety, or welfare, and that the source of supply is adequate to serve the project in the long-term. The project would be connected to the Marina Coast Water District for water supply. A Water Supply Assessment was done by Carollo Engineers for the project pursuant to California Water Code Section 10620 et. seq. and Section 10910 et. seq. The proposed project requires approximately 92.7 acre-feet of water per year. This 92.7 acre-feet per year demand is subtracted from the Fort Ord allotment of which the County's share was 710 acre-feet (plus 144 acre-feet from other sources). 233.8 acre-feet per year would remain in the Monterey County share. As a public utility Marina Coast Water District manages quality and quantity of the water provided and has approved the Water Supply Assessment for the proposed project.
  - g) Sewage Disposal (Section 19.05.040.K). Sewage Disposal will be provided by the Marina Coast Water District (MCWD). The MCWD has an agreement with the Monterey Regional Water Pollution Control

Agency (MRWPCA) to have the district's wastewater treated at the regional treatment plant. The regional treatment plant has a permitted capacity of 29.6 million gallons per day (mgd). The project is estimated to generate approximately 71,562 gallons per day (gpd) of wastewater. MRWPCA has concluded based on existing demands including other projects in the vicinity that adequate capacity exists at their facility to serve the proposed project. Some infrastructure improvements will be required to convey the wastewater to the treatment plants including on-site lift stations and piping to connect to the existing main sewer lines in the streets. The collection and conveyance improvements have been designed to accommodate peak flows and oil/grease separators will be included where appropriate. (*also see Finding 3*)

- h) Easements. The subdivision or the type of improvements will not conflict with easements. The subdivision ordinance (Title 19) Section 19.05.055.B.7 requires denial of a Vesting Tentative Map when the project would conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. This provision applies only to easements of record or to easements established by judgment of a court of competent jurisdiction. The trail at the project site does not have a recorded easement or judgment from the court. Although no official easement exists, provisions to allow trail opportunities near where the trail currently exists are warranted. This accommodation would allow approval of the subdivision pursuant to the requirements of the Subdivision Ordinance (Title 19) Section 19.10.045; however, even if official easements existed at the site the project would be consistent with the Objectives of the Fort Ord Master Plan (Objective E and F). A condition requiring that policy language be added to the Whispering Oaks General Development Plan to allow a 10 foot trail easement along the northern portion of the subdivision subject to future trail planning has been incorporated in the conditions of approval for the project (Condition #10). The Department of Defense maintains the right to access the landfill site through Engineer's Equipment Road. The project will not restrict, prohibit, or impede this access. Provisions have been made with Pacific Gas and Electric Company to accommodate or relocate existing gas and electric utility easements through the property.
- i) Traffic Projects located in Fort Ord are subject to the FORA development impact fees which have been established to pay for area wide circulation improvements. Impacts to roads and intersections not covered by a fee program were also identified. Mitigations have been applied that would require fair share payments for improvements to impacted intersections not covered by one of the fee programs. The exception to this is the City of Marina impacted intersections which are covered by a fee program but will be mitigated based on a fair-share contribution for each intersection instead of paying the more general traffic impact fee because the project will only impact a small number of intersections whereas payment of the traffic fee is more generally distributed. Payment of fair-share fees to the City of Marina more directly addresses the project impacts and the method and amount has been agreed upon by the City. All immediate project impacts are required to be corrected through project improvements funded by the

applicant including improvements of internal roads Intergarrison Road, and Engineers Equipment Road, and turn-lanes at Imjin Road/Imjin Parkway, Imjin Road/Eighth Street, and signals at warranted intersections. A significant unavoidable traffic impact has been identified at the Imjin Parkway/Highway 1 interchange due to the addition of project generated trips on an intersection already operating at LOS F under background conditions.

- j) Affordable Housing Subdivisions in Monterey County are subject to review by the Resource Management Agency – Housing and Redevelopment Office for conformance to the Inclusionary Housing Ordinance as codified in Chapter 18.40 of the Monterey County Code. In this case the RMA-Planning Department has reviewed the project for consistency with the Inclusionary Housing Ordinance. The project consists of the subdivision of a 115-acre site into 16 parcels and two open space parcels, that will accommodate a new bus maintenance and operations facility and a 15 lot commercial business park. The project is not for residential use and will not create any new residential lots. Therefore, the project is not required to provide affordable housing or pay affordable housing fees pursuant to the Inclusionary Housing Ordinance.
- k) Parks and Recreation The project includes a commercial subdivision that will not affect park lands. No new residential units are proposed and the project includes two open space parcels totaling approximately 58 acres. The project has been reviewed by the Monterey County Parks Department who did not require any conditions of approval. The County has begun a process to address trails and recreation in the Habitat Reserve and Habitat Corridor areas of Fort Ord. A portion of the landfill site, just north of the project location is designated for “Habitat Management” is planned to be included in the trail planning efforts. The portion of the parcels being subdivided that are within this “Habitat Management” area are proposed to be rezoned to open space and no development will occur within these areas.
- l) 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 PLN090071.

8. **FINDING:** **TREE REMOVAL** –The tree removal is the minimum required under the circumstances and the removal will not involve a risk of adverse environmental impacts.

- EVIDENCE:**
- a) The project includes application for the removal of approximately 3,400 trees. In accordance with the applicable policies of the Fort Ord Reuse Plan and the Monterey County Zoning Ordinance (Title 21), a Use Permit is required and the standards to grant said permit have been met.
  - b) On a programmatic level, designation of the lot for development at the site was mitigated for by way of permanent conservation of over 17,000 acres of the former Fort Ord. At the site, the Habitat Management Plan (HMP) allowed 88 acres of the 308 acre landfill property to be developed leaving approximately 227 acres to be managed as habitat area pursuant to the HMP (Programs A-2.3 and 2.4 of the Fort Ord Reuse Plan). The MST/Whispering Oaks Business Park project includes development of approximately 58 acres. Specific policies were also

included in the Fort Ord Reuse Plan to further guide development and limit tree and habitat impacts at the sites designated for development. Consistency with those policies is described further in the evidence that follows.

- c) **(Bio Policy A-9)** The County shall encourage the preservation of small pockets of habitat and populations of HMP species within and around developed areas. The proposed project includes two open space parcels totaling approximately 58 acres of land to be maintained as open space. The Oak tree preservation and recovery strategy includes design requirements that would preserve pockets of trees on-site where possible, in addition to providing detailed plans for protection, relocation, and replanting of trees both on and off-site to mitigate the impacts of tree removal.
- d) **(Bio Policy B-2)** The County shall coordinate with the Cities of Seaside and Marina, California State University, FORA and other interested entities in the designation of an oak woodland conservation area connecting open space lands of the HMP. Proposed open space Parcel D would connect open space and woodland areas to the south across Intergarrison Road with the landfill site and the open space Parcel C on the west side of the landfill. The Cities, CSU, and FORA have all been involved, consulted with, and provided notice of, the proposed project.
- e) **Bio Policy C-2)** The County shall preserve and encourage the preservation and enhancement of the oak woodland elements in the natural and built environments. The MST project requires construction of three large buildings and large paved areas to accommodate their operations in the foreseeable future. Therefore, MST proposes an Oak preservation area at the south west corner of the property. Additionally, provisions have been made to preserve oaks along Intergarrison Road and Engineer's Equipment Road frontages to the maximum extent including a landscape buffer between the edge of the pavements (including road and driveway improvements) and the planned security wall. MST will replant native oaks in their landscaping where possible including in the drainage detention basin area, the administrative building parking lot, and around the edges of the property in and outside the security wall where possible. Similarly, the Whispering Oaks Business Park General Development Plan includes a 20 foot oak tree buffer along the Intergarrison Road frontage, and policies that require siting and design to preserve Oaks in landscaping in and around the built environment.
- f) **(Bio Policy D-1)** The applicant shall implement a contractor education program that instructs construction workers on the sensitivity of biological resource in the vicinity and provides specifics for certain species that may be recovered and relocated from particular development areas. Oak woodlands provide habitat for several plant and animal species identified in the biological assessments and potential habitat for several other animal species known to occur in the area but not specifically identified at the project site. Mitigation has been incorporated to require biological education of contractors and contractors' employees (MM - BIO5).
- g) Forest Management Plans (FMPs) for MST and for Whispering Oaks Business Parks were prepared by Bill Ruskin. Recommendations from

the FMPs have been incorporated in the project design and a condition requiring compliance with the FMPs has been incorporated (MM – BIO10).

- h) An Oak Woodland Habitat Tree Removal and Mitigation Strategy Plan has also been prepared for the project by Denise Duffy and Associates, Inc. to demonstrate and ensure compliance with California Public Resources Code section 21083.4 (Oak Woodlands Conservation Act). A condition requiring compliance with this strategy has been incorporated (MM – BIO11). To compliment this document an Oak tree Preservation and Recovery plan has also been prepared outlining the tree preservation and replacement strategy above and beyond the minimum regulatory requirements.
- i) Measures for protection of trees to be preserved that are located in proximity to construction activities have been incorporated as conditions and include tree protection zones, trunk protection, hand excavation and bridging roots (Condition #6).
- j) The project has been designed and sited to minimize the removal of protected trees to the greatest extent feasible. Due to the restrictions on land use from the landfill buffer, the project includes development of commercial and industrial uses. These types of uses require large building area necessitating removal of trees. The strategy for tree preservation is to reserve areas within the subdivision for tree preservation which also provides a visual buffer. Policies have been incorporated in the Whispering Oaks General Development Plan to minimize removal of trees between lots. Based on the limitations built into the project, the applicant has indicated that 1,000 trees, which were previously identified for removal, can be preserved. Preserving 1,000 trees reduces the number of trees previously analyzed for removal from 4,400 to 3,400. The project description has been updated to reflect the reduced tree removal numbers.
- k) The removal will not involve a risk of adverse environmental impacts. The project has been designed consistent with the appropriate plans and policies in place. Those Plans are designed to protect tree and biological resources among other things. With previous mitigation considered and project specific mitigation incorporated the tree removal has been sufficiently mitigated. The project is also subject to a 2081 incidental take permit from the Department of Fish & Game. DFG will need to determine that the project will not jeopardize the existence of state listed plant and animal species prior to construction.
- l) Staff conducted site inspections on January 5, 2010 and February 16, 2010, to verify that the tree removal is the minimum necessary for the project and to identify any potential adverse environmental impacts related to the proposed tree removal.
- m) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN090071.

9. **FINDING:** **APPEAL** – On May 10, 2010 the subject application was deemed complete. On April 13, 2011 the Monterey County Planning Commission unanimously voted to deny the Combined Development Permit and recommend denial of the zoning amendment. On April 22, 2011

Monterey-Salinas Transit and the Redevelopment Agency of Monterey County timely appealed the decision of the Planning to deny the Combined Development Permit. On June 14, 2011 the Board of Supervisors held a duly noticed public hearing to consider the appeal. In the appeal the appellants contend that the Planning Commission's decision was not supported by the evidence. Upon consideration of the documentary information in the files, the staff reports, the oral and written testimony, and all other evidence presented before the Board of Supervisors, the Board responds and finds as follows to the Appellants' contentions:

**EVIDENCE:** a) *Appellant's Contention #1: The Planning Commission's decision to deny the project based on the number of trees to be removed and the possibility of alternative sites for the proposed development is not supported by substantial evidence demonstrated by all the available technical and supporting documentation included in the EIR and corresponding appendices."*

Response No. 1: Since the Planning Commission action, the applicant has revised the number of trees to be removed down from a maximum of 4,400 to 3,400 to reflect the preservation measures which were presented to the Planning Commission. The preservation measures have not changed but the limit on the trees to be removed have been modified to reflect the effectiveness of the preservation measures. This supports the finding that the minimum number of trees is being removed in this particular case can be made. Based on the supporting documentation in the record and the additional clarification on the tree preservation strategy, the project is consistent with the Monterey County tree preservation policies as further described in Findings 1 and 8 including supporting evidence.

Alternative locations for the project have been considered. The only economically viable location for MST is the property that they were given as part of the Fort Ord Reuse Plan at 7<sup>th</sup> and Giggling. There are a limited number of areas within Monterey County's jurisdiction near the subject site that can accommodate the proposed development. The subject site is designated for development by the 2010 General Plan and contains restrictions stemming from the closed landfill. The site is consistent with the General Plan land use and the landfill buffer limitations making it appropriate for the type of development proposed. Any other location within Monterey County would have less convenient access, and would also require significant tree removal. Sites with old dilapidated buildings that could be redeveloped do not exist within Monterey County's jurisdiction. Relocation to one of these locations would require additional property acquisition which makes them economically infeasible. There are not alternative sites which are more desirable when all factors (land use, existing use patterns, convenient access, and biological impacts) are considered as a whole

b) *Appellants Contention #2: The project does conform to the 2010 Monterey County General Plan and the Zoning Ordinance Titles 19 and 21. The site is physically suitable for the proposed project and the proposed project is consistent with the county tree preservation policies and regulations.*

Response No. 2: Findings of consistency with the 2010 General Plan, the Zoning Ordinance Title 21 and the Subdivision Ordinance Title 19 have been made (see Findings 1- 8 with supporting Evidence). Specifically Finding 2 contains evidence supporting the conclusion that the site is physically suitable for the proposed development and Finding 8 contains evidence supporting the conclusion that the project is consistent with the tree preservation policies and removal requirements of Monterey County Code.

- c) Conclusion: Based on all the facts in the record, the Board finds that the appeal has merit.

### **DECISION**

**NOW, THEREFORE, BE IT RESOLVED**, based on all of the above findings and evidence, that the Board of Supervisors does hereby:

1. Grant the appeal by Monterey-Salinas Transit (MST)/Redevelopment Agency of the County of Monterey from the April 13, 2011 decision of the Monterey County Planning Commission;
2. Approve a Combined Development Permit consisting of: a) Standard Subdivision Phased Vesting Tentative Map dividing two parcels of 30.3 acres and 85.2 acres (Assessor's Parcel Numbers 031-101-041-000 and 031-101-056-000) into 16 buildable lots including a 24.4 acre lot and 15 smaller lots ranging in size from 1 acre to 3 acres, a roadway parcel (approximately 7.4 acres), a drainage detention and percolation parcel (approximately 1.7 acres), and two Open Space parcels (approximately 49 acres and 8.7 acres); b) General Development Plan establishing Allowed Uses, Conditional Uses allowed, and site development standards and design criteria for the proposed Whispering Oaks Business Park; c) General Development Plan and Use Permit to allow development of the Monterey- Salinas Transit (MST) administrative and maintenance facility containing the following: 1) a 36,000 square foot three-story administrative building; 2) a 96,450 square foot two-story bus maintenance building; 3) an 18,620 square foot fuel/brake/tire building with underground tanks attached by a canopy to an 8,373 square foot bus wash/steam cleaning building; and 4) approximately 15 acres of paved parking to accommodate up to 281 busses and 388 automobiles; d) Use Permit to allow the removal of approximately 2,400 Coast Live Oak trees on Lot 1 (MST parcel); and e) Use Permit to allow the removal of approximately 1,000 Coast Live Oaks on Lots 2 through 16, and for infrastructure improvements, in general conformance with the attached sketch (**Attachment 2**) and subject to the conditions (**Attachment 1**), both exhibits being attached hereto and incorporated herein by reference; and
3. Adopt the Mitigation Monitoring and Reporting Program (**Attachment 1**)

**PASSED AND ADOPTED** this 14<sup>th</sup> day of June, 2011 upon motion of \_\_\_\_\_, seconded by \_\_\_\_\_, by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:



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 \_\_\_\_ for the meeting on \_\_\_\_\_.

Dated:

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

By \_\_\_\_\_  
Deputy