

DISCUSSION

Project Site and Proposed Actions

The project site is located along River Road, adjacent to Somavia Road, in Chualar. The property consists of cultivated agricultural land. Access to each parcel is off of River Road, as each parcel fronts River Road before and after the Lot Line Adjustment. The proposed Lot Line Adjustment is being requested to reconfigure four (4) existing parcels to facilitate the existing and planned agricultural operations.

A 7.42 acre portion of one (1) of the existing parcels (Lot GG, 30.7 acres) is within Williamson Act Agricultural Preserve (AgP) No. 73-12 and Land Conservation Contract No. 73-12. The proposed Lot Line Adjustment will rescind AgP No. 73-12 and Land Conservation Contract No. 73-12 as applicable to the 7.42 acres spanning across the River Road frontage of the 30.7 acre parcel (Lot GG).

Staff's recommendation includes an administrative correction to remove a total of 24.33 acres (Assessor's Parcel Numbers [APN] Nos. 137-151-006-000 [2.31 acres], 137-151-007-000 [1.59 acres] and 137-151-008-000 [20.43 acres]) currently within Farmland Security Zone (FSZ) and FSZ Contract No. 2012-010 from AgP No. 83-05 and Land Conservation Contract Nos. 83-05 and 83-26-5.a. to correct an inadvertent omission from Board of Supervisors Resolution No. 11-379 which placed portions of the property subject to AgP No. 73-12 and Land Conservation Contract No. 73-12 and AgP No. 83-05 and Land Conservation Contract Nos. 83-05 (Document G 07577 recorded with the County Recorder on February 23, 1983, at Reel 1613, Page 235) and 83-26-5.a. into FSZ No. 2012-010 and FSZ Contract No. 2012-010 without rescinding AgP No. 83-05 and Land Conservation Contract Nos. 83-05 and 83-26-5.a as applicable to the 24.33 acres of property within FSZ No. 2012-010 and now subject to FSZ Contract No. 2012-010.

On May 26, 2011 Sea Mist Farms LLC, Desert Mist Farms LLC, and Desert Mist LLC (Sea Mist et al.) applied for a minor subdivision and Lot Line Adjustment, which was deemed incomplete on June 24, 2011 by the Health Department and the Planning Department. In November 2011, Sea Mist et al. submitted an Application for the Establishment of an FSZ and Contract (FSZ Application No. 2012-010). FSZ Application No. 2012-010 was approved by the Board in December 2011. This action placed portions of said property (Lot MM and a portion of Lot DD) which are the subject of this application, under FSZ Contract No. 2012-010. FSZ Application No. 2012-010, submitted by Sea Mist et al., did not include the information and documentation required per the County's standard form FSZ Application which would have alerted Staff that AgP No. 83-26-5 and Land Conservation Contract No. 83-26-5 (established pursuant to Board of Supervisors Resolution No. 83-26 and commonly known as AgP No. 83-05 and Land Conservation Contract No. 83-05) and Land Conservation Contract No. 83-26-5.a should have been rescinded. California Government Code Section 51296.1 requires the rescission of Land Conservation Contracts and simultaneous placement of land under new farmland security zone contracts. Therefore, FSZ Contract No. 2012-010, executed by the County and Sea Mist et al. in December 2011, must now be amended to rescind AgP No. 83-05 and Land Conservation Contract No. 83-05 (Document G 07577 recorded with the County Recorder on February 23, 1983, at Reel 1613, Page 235) and Land Conservation Contract No. 83-26-5.a (Document No. 2004125467 recorded with the County Recorder on November 24, 2004), consistent with

California Government Code Section 51296.1 (Rescission of contracts and simultaneous placement of land under new farmland security zone contracts).

In addition, the Legal Description for FSZ No. 2012-010 provided by Sea Mist et al. omitted a 7.42 acre portion of existing Lot GG (30.7 acres). This omission left 7.42 acres, a portion of Lot GG, within AgP No. 73-12 and Land Conservation Contract No. 73-12. The current proposal will rescind AgP No. 73-12 and Land Conservation Contract No. 73-12 as applicable to the 7.42 acres spanning across the River Road frontage of the 30.7 acre parcel (Lot GG).

On November 14 2012, Sea Mist et al. applied for a Lot Line Adjustment of Williamson Act lands (Planning File No. PLN120746). During the processing of said application for a Lot Line Adjustment of Williamson Act lands, it was discovered that a 7.42 acre portion existing Lot GG (30.7 acres) of the project site was still subject to AgP No. 73-12 and Land Conservation Contract No. 73-12. The proposed Lot Line Adjustment will formally rescind the 7.42 acres from AgP No. 73-12 and Land Conservation Contract No. 73-12 and also adjust the lot lines accordingly.

Sea Mist et al. is requesting a reconfiguration of the current lot lines to change the acreage as shown below:

Lot MM (APN 167-081-006-000) is a 349.33 acre parcel. Lot MM is within FSZ Contract No. 2012-010. Lot MM will be adjusted to create a 335.11 acre parcel (proposed Lot 1). Lot 1 will conform to applicable Monterey County General Plan and Farmlands 40 acre minimum (F/40) and Farmlands 40 acre minimum Design Control overlay (F/40-D) zoning designations.

Lot LL (a portion of APN 167-011-013-000) is a 0.84 acre parcel which is not under Williamson Act Land Conservation Contract No. 73-12, nor Farmland Security Zone Contract No. 2012-010. Lot LL will be adjusted to create a 14.22 acre parcel (proposed Lot 2). Monterey County General Plan Agricultural Winery Corridor Plan (AWCP), Policy 3.5.A.1.a allows the creation of lots with a minimum of five acres if the project reduces the number of non-conforming agricultural lots and results in retaining the rural character of the Corridor. Thus, the minimum density for this property, per AWCP Policy 3.5.A.1.a, is 5 acres. Proposed Lot 2 (14.22 acres) will be more conforming, as proposed.

Lot GG (a portion of APN 167-011-015-000) is a 30.7 acre parcel. Lot GG includes 7.42 acres within Williamson Act Land Conservation Contract No. 73-12 which is proposed for rescission with this Lot Line Adjustment. The remaining northeastern portion of Lot GG will be merged into Lot DD to create Lot 3 and will remain under FSZ Contract No. 2012-010. Lot GG will be adjusted to create a 6.28 acre parcel (proposed Lot 3). Lot 3 will conform with AWCP Policy 3.5.A.1.a, as proposed.

Lot DD (a portion of APN 167-011-015-000 and a portion of APN 167-011-013-000) is a 29.3 acre parcel. Lot DD is not under Williamson Act Land Conservation Contract No. 73-12 but the northeastern portion of Lot DD is now under FSZ Contract No. 2012-10.

Lot DD will be adjusted to create a 54.56 acre parcel (proposed Lot 4) and will be conforming, as proposed. Lot 1 will conform to applicable Monterey County General Plan and Farmlands 40 (F/40) acre minimum zoning designations.

Project Issues

Farmland Security Zone and Williamson Act Contracts

FSZ Contract No. 2012-010 covers 604 acres. The legal description for FSZ Contract No. 2012-010 submitted by Sea Mist et al. omitted 7.42 acres within Lot GG. The proposed Lot Line Adjustment will rescind Williamson Act Land Conservation Contract No. 73-12 as it applies to 7.42 acres which span across the River Road frontage of Lot GG. The omission of the 7.42 acres from Lot GG was not included in the FSZ acreage calculation included in the December 2011 Board of Supervisors action, pursuant to Board of Supervisors Resolution No. 11-379, which established FSZ No. 2012-010. However, 7.42 acres of 604 acres represents less than 1% of the 604 acres currently under FSZ No. 2012-010. Pursuant to California Government Code Section 51257, a Lot Line Adjustment which reduces the amount of land under a Williamson Act Contract is allowable as long as at least 90% of the land originally in the contract remains under contract. The proposed Lot Line Adjustment conforms to this requirement. California Government Code Section 51257 requires that specific findings be adopted by the Board of Supervisors to facilitate a Lot Line Adjustment of Williamson Act lands. These required findings have been prepared for the Board's consideration and are contained in Attachment "B."

Agricultural Winery Corridor Plan (AWCP)

The project is located within the Central/Arroyo Seco/River Road Segment of the AWCP which is contained in the General Plan, adopted on October 26, 2010. Zoning on the property is Farmlands 40 acre minimum (F/40) and Farmlands 40 acre minimum with a Design Control overlay (F/40-D). The subject application includes two (2) parcels which are non-conforming as to minimum parcel size of 40 acres before and after the Lot Line Adjustment. Existing Lot LL is a 0.84 acre parcel and existing Lot GG is a 30.7 acre parcel. Lot LL will be increased from 0.84 acres to 14.22 acres (proposed Lot 2) and existing Lot GG will be decreased from 30.7 acres to a 6.28 acre parcel (proposed Lot 3). Both adjusted parcels (Lots 2 and 3) will be less than 40 acres. However, proposed Lots 2 and 3 will be consistent with the Monterey County AWCP of the Monterey County General Plan.

Monterey County General Plan, Policy 3.5.A.1.a, of the AWCP allows the creation of lots with a minimum of five acres if the project reduces the number of non-conforming agricultural lots and results in retaining the rural character of the Corridor. The Lot Line Adjustment will result in two (2) lots, proposed Lots 2 and 3, that are non-conforming with the F/40 and F/40-D zoning designation. However, both are over five acres. The proposal will decrease an existing 349.33 acre parcel (Lot MM) to 335.11 acres (proposed Lot 1), increase an existing 0.84 acre parcel (Lot LL) to 14.22 acres (proposed Lot 2), reduce an existing 30.7 acre parcel (Lot GG) to a 6.28 acre parcel (proposed Lot 3), increase a 29.3 acre parcel (Lot DD) to a 54.56 acre parcel (proposed Lot 4) and create a logical lot pattern with the smaller lots (proposed Lots 2 and 3), both over five acres, along River Road and the larger lots (proposed Lots 1 [335.11 acres] and 4 [54.56 acres]) consistent with General Plan Policy 3.5.A.1.a of the AWCP, and the existing agricultural operation.

Environmental Review

The proposed Lot Line Adjustment is categorically exempt under the California Environmental Quality Act (CEQA) Guidelines Section 15305(a) which exempts minor Lot Line Adjustments with an average slope of less than 20% and not resulting in the creation of any new parcel. The project proposes to adjust lot lines between four (4) parcels totaling 410.70 acres with average slopes less 20%. No changes in land use, nor physical changes in the land related to the Lot Line Adjustment, are proposed or expected.

Findings (Lot Line Adjustment under Williamson Act (Farmland Security Zone)

The lot line reconfiguration is subject to California Government Code Section 51257, which requires specific findings for Lot Line Adjustments of Williamson Act lands. In order to facilitate a Lot Line Adjustment of property under Williamson Act Contract, Government Code Section 51257 (Lot Line Adjustments; rescind and enter into new contracts) requires that the Board must find all of the following (California Government Code Sections 51257(a)(1) – 51257(a)(7)):

- (1) The new contract or contracts would enforceably restrict the adjusted boundaries of the parcel for an initial term for at least as long as the unexpired term of the rescinded contract or contract, but for not less than 10 years.
- (2) There is no net decrease in the amount of the acreage restricted. In cases where two parcels involved in a Lot Line Adjustment are both subject to contract rescinded pursuant to this section, this finding will be satisfied if the aggregate acreage of the land restricted by the new contract is at least as great as the aggregate acreage restricted by the rescinded contract.
- (3) At least 90 percent of the land under the former contract or contracts remains under the new contract or contracts.
- (4) After the Lot Line Adjustment, the parcels of land subject to contract will be large enough to sustain their agricultural use, as defined in Section 51222.
- (5) The Lot Line Adjustment would not compromise the long-term agricultural productivity of the parcel or other agricultural lands subject to a contract or contracts.
- (6) The Lot Line Adjustment is not likely to result in the removal of adjacent land from agricultural use.
- (7) The Lot Line Adjustment does not result in a greater number of developable parcels than existed prior to the adjustment, or an adjusted lot that is inconsistent with the general plan.

The materials and information presented in PLN120746 support staff's recommendation to approve the Lot Line Adjustment. No net decrease in the amount of acreage under Contract will result from the proposed adjustment. All of the land under the former Contract will be retained under the new or amended contract or contracts or, at least 90% of the land under the former contract or contracts will remain under the new contract or contracts. There will be no change in the agricultural operations currently on the properties. Therefore, the new or amended contract or contracts will not compromise the long-term agricultural productivity of the lots. The proposed Lot Line Adjustment is not likely to result in the removal of adjacent land for agricultural use as no changes in use are anticipated as a result of the Lot Line Adjustment. No additional developable parcels or lots will be created as a result of the newly reconfigured lots.

The reconfigured lots will remain under contract through a recorded new or amended contract or contracts which shall renew annually each January 1 unless a Notice of Non-Renewal has been issued by the property owners of record or by the County.