

Attachment A

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Monterey County Board of Supervisors

Board Order

168 West Alisal Street,
1st Floor
Salinas, CA 93901
831.755.5066

Resolution No.: 16-228

Upon motion of Supervisor Potter, seconded by Supervisor Salinas and carried by those members present, the Board of Supervisors hereby:

- a. Determined that rescinding the 2014 Board action is Statutorily Exempted by CEQA Guidelines Section 15270.
- b. Rescinded the April 08, 2014 Board of Supervisors action on the appeal by Maria A. Vasquez Et Al. (PLN040529) of the Planning Commission's denial of a three lot parcel map.

PASSED AND ADOPTED on this 23rd day of August 2016, by the following vote, to wit:

AYES: Supervisors Armenta, Phillips, Salinas, Parker and Potter

NOES: None

ABSENT: None

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 79 for the meeting on August 23, 2016.

Dated: September 1, 2016
File ID: RES 16-044

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

By

Deputy



Monterey County

168 West Alisal Street,
1st Floor
Salinas, CA 93901
831.755.5066

Board Report

Legistar File Number: RES 16-044

August 23, 2016

Introduced: 8/10/2016

Current Status: Consent Agenda

Version: 1

Matter Type: BoS Resolution

PLN040529 - Vasquez

Proposed Action: Adopt a resolution rescinding the April 08, 2014 Board of Supervisors action on the appeal by Maria A. Vasquez Et Al (PLN040529) of the Planning Commission's denial of a three lot parcel map.

Proposed CEQA Action: Statutorily exempt per Section 15270 of the CEQA Guidelines.
34735 Metz Road, Soledad, Central Salinas Valley Area Plan)

RECOMMENDATION:

It is recommended that the Board of Supervisors adopt a resolution to:

- a. Determine that rescinding the 2014 Board action is Statutorily Exempted by CEQA Guidelines Section 15270
- b. Rescind the April 08, 2014 Board of Supervisors action on the appeal by Maria A. Vasquez Et Al (PLN040529) of the Planning Commission's denial of a three lot parcel map.

PROJECT INFORMATION:

Owner: Maria A. Vasquez Et Al (Fermin and Tony Vasquez)

APN: 257-121-019-000

Zoning: LDR/2.5

Lot Size: 9.24 acres

Agent: Jacqueline M. Zischke

Plan Area: Central Salinas Valley Area Plan

Flagged and Staked: No

SUMMARY:

On April 08, 2014, the Board of Supervisors considered an appeal of the subject application for a minor subdivision (PLN040529). A tie vote resulted in a determination that the minor subdivision was not approved. The Superior Court of California remanded the subject application (PLN040529) back to the Board of Supervisors for further consideration. This action would simply rescind the prior action thereby allowing the project to be reconsidered by the Board. Consideration of the project merits will be brought back to the Board of Supervisors at a future date.

DISCUSSION:

On April 8, 2014, the Board of Supervisors considered an appeal of the Planning Commission's denial of a three lot minor subdivision. The Planning Commission decision was based on the inability to prove adequate water quality and quantity. The Board of Supervisors voted 2-2 on a motion to approve the minor subdivision. This tie vote would not uphold or deny the appeal, so

the Board then voted on a motion to determine that the tie vote was the final action. The result of this vote was that the minor subdivision was not approved.

The appellant filed a lawsuit against the County. On November 23, 2015, the Superior Court heard the case (Attachment A). The court decided that there was ample evidence to support findings to deny the minor subdivision, but found that there were procedural irregularities in the action by the County and decided to remand the matter back to the Board of Supervisors.



The action of the Board of Supervisors to rescind the decision made on April 8, 2014 will allow staff to consider any new information the applicant submits, and bring the item back to the Board of Supervisors at a public hearing. A resolution has been prepared which rescinds the prior Board of Supervisor's action. Adoption of this resolution will not act on the application other than to set aside the prior action so that the project can be reconsidered.

OTHER AGENCY INVOLVEMENT:

County Counsel was involved in framing this report to comply with the court order arising from litigation.

FINANCING:

Funding for staff time associated with this project is included in the FY16/17 Budget adopted for RMA Planning.

Prepared by: John Ford, RMA Services Manager, Ext. 5158 
Approved by: Carl P. Holm, AICP, Resource Management Agency Director 

The following attachments are on file with the Clerk of the Board:
Attachment A - Resolution Rescinding April 8, 2014 Board Action.

cc: Front Counter Copy; John Ford, RMA Services Manager; Environmental Health Bureau; Fermin and Tony Vasquez, Applicant/Owner; Jacqueline M. Zischke, Attorney; Joel Panzer, Representative; The Open Monterey Project (Molly Erickson); LandWatch; Project File PLN040529

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BOARD RESOLUTION

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

Resolution No. 16-228

Resolution by the Monterey County Board of
Supervisors:

1. Determining that rescinding the 2014 Board action is)
Statutorily Exempt by CEQA Guidelines Section)
15270)
2. Rescinding the April 08, 2014 Board of Supervisors)
action on the appeal by Maria A. Vasquez Et Al)
(PLN040529) of the Planning Commission's denial)
of a three lot parcel map.....)

Consideration to rescind the April 08, 2014 Board of Supervisors action of the appeal by Maria A. Vasquez Et Al (PLN040529) of the Planning Commission's denial of a three lot parcel map came on for public hearing on August 23, 2016 before the Board of Supervisors of the County of Monterey. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and all other evidence presented, the Board of Supervisors hereby finds and decides as follows:

FINDINGS

1. 1 **FINDING:** The Board of Supervisors finds it necessary to rescind it's prior action on the minor subdivision map for Vasquez (PLN040529) due to the finding of the Superior Court of the state of California's that there were procedural irregularities in the action by the County.
- EVIDENCE:**
 - a) An application was submitted for a minor subdivision map on August 24, 2004 to subdivide the property into three lots. The project was never deemed complete because of the inability to demonstrate that the onsite wells could provide adequate water quality and quantity.
 - b) On February 2012 the applicant's submitted a revised tentative map proposing a two lot subdivision with a remainder. The modification sought to place a separate well on each parcel and not be subject to the requirements of a small water system. The results of the testing for the individual wells did not demonstrate that the wells could provide adequate water quality or quantity.
 - c) On October 30, 2013, the Planning Commission considered the applicant's revised tentative map and continued the hearing to allow the applicant to conduct additional water testing. The meeting was continued to January 8, 2014 at which time the applicant requested permission to use a point of entry treatment system. County staff recommended this not be used due to the Technical Managerial and Financial obligations this would place on future homeowners to provide safe drinking water. The Planning Commission denied the application due to the inability to find that the project had adequate water quality or

quantity as required by General Plan Policy PS-3.1 and PS-3.2 requiring finding of a Long Term Sustainable Water Supply.

- d) The applicants appealed the Planning Commission decision to the Board of Supervisors. On March 18, 2014 the Board considered this appeal and a motion was made to approve a water quality treatment conditioning system to meet quality standards; prove and substantiate quantity of 12 gallons per minute flow and create a Deed Notification to future owners that the water required treatment. The motion failed by a tie vote of 2-2. The Board then voted 3-1 to deem the tie vote the final action taken by the Board. The appeal was effectively denied, but without findings to support a denial.
- e) The Court found that there was sufficient evidence in the record to deny the application but that there were procedural irregularities in the action by the county.
- f) The Court remanded the project back to the Board of Supervisors for further proceeding consistent with the findings of the Court.

2. **FINDING:** **CEQA (Exempt):** - The project is statutorily exempt from environmental review.

EVIDENCE: Section 15270 of the CEQA Guidelines exempts projects which are not approved from environmental review. This action rescinds the prior action of the Board of Supervisors to not approve an appeal of the Planning Commission's decision. There is no approval in this action, as it will simply remove any prior decisions. Consideration of the minor subdivision map will be subject to further environmental review.

II. DECISION

NOW, THEREFORE, BASED ON THE ABOVE FINDINGS AND EVIDENCE, BE IT RESOLVED, that the Board of Supervisors does hereby:

- a Determine that rescinding the 2014 Board action is Statutorily Exempted by CEQA Guidelines Section 15270
- b Rescind the April 08, 2014 Board of Supervisors action on the appeal by Maria A. Vasquez Et Al (PLN040529) of the Planning Commission's denial of a three lot parcel map.

PASSED AND ADOPTED upon motion of Supervisor Potter, seconded by Supervisor Salinas carried this 23rd day of August 2016, by the following vote, to wit:

AYES: Supervisors Armenta, Phillips, Salinas, Parker and Potter

NOES: None

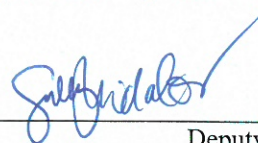
ABSENT: None

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 79 for the meeting on August 23, 2016.

Dated: September 1, 2016
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Gail T. Borkowski, Clerk of the Board of Supervisors
County of Monterey, State of California

By



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