



Monterey County

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

Board Report

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PLN040529 - Maria A Vasquez, Fermin Vasquez, and Juan Antonio Vasquez (Continued from July 24, 2018 and August 28, 2018)

Public hearing to consider a Minor Subdivision Vesting Tentative Map to subdivide an approximately 9.26 acre parcel into three parcels of 3.086 acres each.

Proposed CEQA Action: Categorically Exempt pursuant to CEQA Guidelines Section 15305

Location: The project is located 2.7 miles east of the City of Soledad at 34735 Metz Road, Soledad, CA 93960.

RECOMMENDATION:

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

- a. Find that the project is a minor alteration in land use limitations in an area with an average slope of less than 20% which will not result in changes in land use or density and therefore qualifies for a Categorical Exemption under Section 15305 of the California Environmental Quality Act (CEQA) Guidelines.
- b. Approve a Minor Subdivision vesting tentative map to allow the subdivision of an approximately 9.26 acre parcel into three parcels as follows:
 - a. Parcel 1: One existing approximately 2,000 square foot single family dwelling on 3.086 acres served by an existing well (Well 1).
 - b. Parcel 2: One existing approximately 1,444 square foot single family dwelling on 3.086 acres served by an existing well (Well 2)
 - c. Parcel 3: One existing approximately 2,315 square foot single family dwelling and one approximately 900 square foot Accessory Dwelling Unit on 3.086 acres served by an existing well (Well 3)

A draft resolution, including findings and evidence and subject to 10 conditions, is attached for consideration (**Attachment A**). Staff recommends approval.

PROJECT INFORMATION:

Planning File Number: PLN040529

Owner: Maria A Vasquez, Fermin Vasquez, and Juan Antonio Vasquez

Project Location: 34735 Metz Road

APN: 257-121-019-000

Agent: Joel Panzer, Maureen Wruck Planning Consultant, LLC

Plan Area: Central Salinas Valley Area Plan

Flagged and Staked: No

CEQA Action: Categorical Exemption under Section 15305

SUMMARY:

The Vasquez family submitted an application for a minor subdivision Vesting Tentative Map to allow the subdivision of an approximately 9.26 acre parcel into three parcels of 3.086 acres each. The application requests Parcel 3 to be a remainder parcel. A parcel qualifies as a "remainder" only if it is not divided for the purpose of sale, lease, or financing. (Gov't Code sec. 66424.6.) Four existing dwelling units served by three existing wells would be divided amongst the three parcels with one single family dwelling and one well located on each of the three proposed resulting parcels. Parcel 3 would also retain the fourth unit as an Accessory Dwelling Unit.

Minor Subdivisions are typically subject to consideration by the Planning Commission. However, after a previous hearing and denial of the initial project application by the Planning Commission in January 2014, the Board heard and acted upon the appeal of the denial in April 2014. A motion to allow the application to proceed with a proposed water quality treatment system failed on a tie vote, and the Board then voted 3-1 to deem the action a final action. That action was challenged in court. The court held the Board's action was invalid, and the County subsequently rescinded the project denial per court order. Therefore, consideration of this project is returning to the Board.

This item was scheduled for the July 24, 2018 Board of Supervisors hearing. Staff recommended approval as a 3-lot subdivision without a remainder parcel based on our reading of the Subdivision Map Act, as well as a desire to reduce cost, process, and restrictions that would be required if there is to be a remainder parcel. Discussions with the applicant's representative identified concerns with staff's recommendation due to how the conditions were worded. The applicant requested a continuance to allow time for discussions with the County regarding the recommended Conditions of Approval. All but one condition has been resolved to the satisfaction of all parties.

Since the conclusion of the litigation, the applicant submitted new information relative to the water conditions including evidence that water treatment systems have been installed and the treated water meets drinking water standards. In addition, since 2014, a change in state regulation has resulted in EHB accepting 'Point of Use' treatment systems to address water quality under some circumstances. Based on this new information, staff recommends two conditions that include deed restrictions to notify current and future property owners of the maintenance responsibilities associated with the water treatment systems.

Staff recommends approving the map without a remainder parcel because we interpret law to allow remainders where there are no improvements and this parcel is fully improved/developed with infrastructure and two units. If the Board allows the applicant's request for a remainder parcel, staff recommends adding conditions that require recording a deed restriction on Parcel 3 such that it cannot be sold, leased or financed and there is no expansion of use until/unless a Conditional Certificate of Compliance is approved and recorded. Staff finds that this would add restriction as well as burden of process and cost to the applicant without any real benefit because the water condition applies whether Parcel 3 is a remainder or not since it is fully developed with two units.

DISCUSSION:

Site Setting

The Vasquez property is a 9.26 acre parcel zoned Low Density Residential located approximately 1.5 miles east of the City of Soledad. The parcel slopes gradually upward from the southwest to the northeast with all existing development on level ground. There are four existing dwelling units on the property served by three existing wells. The parcel is accessed off Metz Road, and a proposed road and utility easement will provide access to Parcel 2 and Parcel 3. The property is bordered by other developed Low Density Residential parcels that are surrounded by farmland.

Procedural Background

In 2004, the property owners applied for a Minor Subdivision to subdivide an approximately 9.26 acre parcel into three parcels. The application remained incomplete due to lack of water quality and quantity data. On February 14, 2012, the applicants submitted a revised vesting tentative map to divide the property into two parcels of 3.086 and 3.086 acres and one remainder parcel of 3.086 acres. That application was deemed incomplete on March 13, 2012 with a recommendation for denial due to issues with water quality and quantity, including that the water quality in the wells which would serve the subdivision exceeded the state's Maximum Contaminant Levels (MCL) for arsenic, nitrates, or fluoride, respectively. The project went to hearing before the Planning Commission on October 30, 2013 and was continued by the Planning Commission to allow the applicant the opportunity to demonstrate sufficient water quantity and to propose a treatment method that may be acceptable to the Environmental Health Bureau (EHB) to address the water quality issues. The applicant then submitted a plan for a Point of Entry treatment system. At the time, staff recommended denial of the application due to the lack of demonstrated technical, managerial and financial ability of the current and future lot owners to maintain the system and because the method of treatment was a departure from acceptable practice at the time for creation of new lots. Additionally, pending resolution of the water quality issues, the applicant had not conducted the water quantity testing requested by EHB. On January 8, 2014, the Planning Commission denied the application due to absence of information indicating availability of a long-term water supply.

The applicant, Maria Vasquez et al, appealed the Planning Commission denial to the Board of Supervisors, and the Board conducted a public hearing on the project on April 8, 2014. On April 8, 2014, on the appeal by Maria Vasquez et al from the Planning Commission's decision to deny the application for a Minor Subdivision Vesting Tentative Map (Vasquez/ PLN040529), a motion was made to allow the subdivision application to proceed with a proposed water quality treatment system. The motion failed on a tie vote. The Board then voted 3 to 1 to deem the action a final action on the appeal, effectively denying the appeal and the subdivision. Applicants brought suit against the County to challenge that action, and the Superior Court ruled in a manner that required the County to rescind its denial and allow the applicant to submit new water information using the 2004 application; no new fees were collected. (Vasquez et al v. County of Monterey, et al (Superior Court Case No. M128437)). On August 23, 2016, pursuant to the Judgment Granting Peremptory Writ of Mandate (filed Feb. 3, 2016), the County rescinded the Board's 2014 action (Resolution No. 16-228). Since that time, the applicant has supplied water quality and quantity data to the County and proposed Point of Use and Point of Entry treatment systems, as described further below.

Following the processing of the application based on the new information, staff scheduled a public hearing on the application for the July 24, 2018 Board of Supervisors meeting. Upon request from the applicant, the Board continued the hearing to August 28, 2018 to allow time for applicant to have discussions with County staff regarding the recommended Conditions of Approval. Subsequently, the applicant submitted additional information, including verification that the proposed treatment systems had been installed and water quality test results following installation of those systems. Since some of the information was received after the staff report deadline, staff requested a continuance to allow time to evaluate the new information and update the recommended conditions of approval accordingly. On August 28, 2018, at staff's request which was acceptable to applicant, the Board continued the hearing to September 11, 2018. Additional information submitted by the applicant since July 24, 2018 is reflected in the recommended Conditions of Approval.

New Information Submitted

Following the court decision, the applicant worked with the Environmental Health Bureau (EHB) to conduct Source Capacity Tests for the three on-site wells and to discuss possible Point of Entry and Point of Use treatment systems. Point of Use treats the water directly at the sink while Point of Entry treats the water before it enters the house. The applicants proposed Point of Use Treatment systems on Parcel 1 and Parcel 2. Previously, Point of Use systems were not preferred for single family dwellings; however, EHB received new guidance from the State Water Resources Control Board (SWRCB) stating that Point of Use systems can be acceptable and even preferable in some situations. Based on the recent information from SWRCB, EHB determined that the proposed treatment systems, submitted in November 2017, and installed in March of 2018 are sufficient to ensure that the water for Parcel 1 and Parcel 2 meets drinking water standards. Well 1 (to serve parcel 1) is being treated for high nitrates and arsenic. Well 2 (to serve Parcel 2) is being treated for high Fluoride.

A Reverse Osmosis Point of Entry treatment system has been installed to treat the water from Well 3 (to serve Parcel 3) for high Fluoride. This well serves both the main house and the Accessory Dwelling Unit. A recommended Condition of Approval has been added to notify all current and future property owners of maintenance requirements associated with this system and to require owner to obtain a water system permit if either dwelling unit is ever occupied by non-family members in the future.

In August of 2018 the applicant submitted water quality test results indicating that the water quality on all parcels meets drinking water standards with the installed required treatment systems. Conditions of Approval have been revised to remove conditions that required installation of treatment systems and submittal of water quality information since this information has already been received.

Existing Development

The three resulting residential parcels are fully built out. The proposed Parcel 3 contains a single family dwelling and an accessory dwelling unit. Since the minimum density per unit within the parcel's zoning designation is 2.5 acres, the three-acre parcel will not be able to accommodate any additional units. Parcel 1 and Parcel 2 both have an existing single family dwelling. Since these parcels are also each 3 acres, no further units would be allowed on the properties since additional units would exceed maximum density; however, accessory dwelling units may be exempted from density requirements. Currently, no additional structures are proposed to be developed on the property. Accessory Dwelling

Units are a Use Allowed in the Low Density Residential zoning designation; however, health and safety requirements, including adequate water and wastewater services, would need to be demonstrated before a building permit could be issued for an Accessory Dwelling Unit on either parcel. Currently, Monterey County's local regulations related to Point of Use and Point of Entry water treatment systems are under review. If owner were to request additional Accessory Dwelling Units, requirements in place at the time would be used to evaluate whether an Accessory Dwelling Unit could be allowed on Parcel 1 or Parcel 2.

Remainder Parcel

The applicant has requested that Parcel 3 be considered a remainder parcel, which would result in the creation of two 3.086 acre parcels, each with one dwelling unit, and one 3.086 acre remainder parcel, with one dwelling unit and an Accessory Dwelling Unit. Remainder lots are legal lots, but pursuant to Monterey County Code Section 19.01.080, "when a subdivision is of a portion of any unit or units of improved or unimproved land, the subdivider may designate as a remainder that portion which is *not divided for the purpose of sale, lease, or financing*." A remainder parcel is not counted as a parcel for purposes of determining whether a final map (five or more parcels) or parcel map is required, and the fulfillment of construction requirements for offsite improvements may be delayed until a permit or other grant of approval for development is issued on the omitted parcel. In this particular case, staff finds that Parcel 3 should be considered a legal lot as part of the minor subdivision and not a remainder parcel because it is already fully developed with dwelling units. Section 66419 of the Subdivision Map Act defines "improvement" as "...street work and utilities to be installed, or agreed to be installed, by the subdivider on the land to be used for the public or private streets, highways, ways, and easements, as are necessary for the general use of the lot owners in the subdivision and local neighborhood traffic and drainage needs as a condition precedent to the approval and acceptance of the final map thereof..." This definition refers to infrastructure improvements (specifically roads and utilities) and does not include development, such as dwelling units, which already exist on Parcel 3. Section 66426 of the Subdivision Map Act states that a tentative and final map shall be required for all subdivisions creating five or more parcels, thus only a parcel map would be required in either case.

When the original application was filed in 2004, the application stated that the purpose of the subdivision was for financing for a new home. In 2012, the applicant submitted a revised map to reflect a change from a three-lot minor subdivision to a Vesting Tentative Map for a two-lot minor subdivision with a remainder parcel. In a letter submitted with the revised subdivision map, the applicant stated that the minor subdivision was being proposed so that the current property owners/residents may take title to their own lot and that individual lot ownership is particularly needed in the case of one of the applicants in order to secure financing for handicap accessible improvements to the residence. County Counsel raised concerns at the Planning Commission hearing about whether the proposed remainder parcel qualified as a "remainder" when one of the property owners stated in public testimony that approval of the minor subdivision was needed in order to obtain financing. The applicant contends that Juan Antonio's stated intent to secure financing to obtain a VA loan should have no bearing on their ability to designate a Remainder Parcel because Juan Antonio is the intended owner of Parcel 1, and the needed financing is for his house only, not for the requested remainder parcel (Parcel 3). In correspondence received on January 26, 2018 (Attachment E), Fermin Vasquez asserted that he is the subdivider listed on the subdivision application and that the purpose of the

subdivision is no longer to secure financing. In a subsequent letter dated March 28, 2018 (Attachment F) Fermin Vasquez stated that he intends to retain the Remainder parcel for his family use and that it is not being created for the purpose of sale, lease, or finance. Despite the property owner's assertions, Parcel 3 should not be considered a remainder parcel because it is already developed with a single family dwelling and an accessory dwelling unit, and because there is evidence in the record that one of the current owners might rely upon the subdivision to sell, lease or finance Parcel 3.

Staff finds that creating a parcel (no remainder) has no effect on the Parcel Map designation, and the owner would be required to record deed restrictions disclosing water system maintenance requirements in either case. On the other hand, designation of Parcel 3 as a remainder parcel is inconsistent with the definition of a remainder Parcel in Monterey County Code Section 19.01.080 and creates unnecessary procedural processes related to water treatment requirements, deed restrictions, and a Certificate of Compliance should the property ever be sold in the future (see Alternative Conditions discussion).

Alternative Conditions

Staff recommends Parcel 3 be designated a lot as part of the Parcel Map for the minor subdivision, rather than a remainder parcel, because the parcel is already developed and can logically be assumed to transfer ownership in the future. Should the Board decide to grant the applicant's request to designate Parcel 3 as a remainder parcel, staff recommends that additional Conditions of Approval be added to require that:

- The owner File a Conditional Certificate of Compliance (CCOC) before the lot is considered a legal lot for purposes of sale, lease or financing; and
- The owner records a Deed Restriction preventing sale, lease and/or finance until the CCOC is filed.

Staff recommends these alternative Conditions of Approval if the Board chooses to grant the applicant's request for a remainder parcel, as discussed in more detail below:

Water Treatment Requirement for Remainder Parcel

Water quality tests for Well 3, the well proposed to serve Parcel 3, indicated the water was high in Fluoride. A treatment system was installed to treat the water, and test results submitted in August 2018 indicate the treated water meets primary drinking water standards; however, the installed system disposes of wastewater through the existing septic system. The Regional Water Quality Control Board is currently evaluating requirements for wastewater disposal on these types of systems. Staff recommends a condition of approval be added to require verification that the system meets RQWCB requirements.

Should the Board wish to grant the applicant's request to designate Parcel 3 as a remainder parcel, staff recommends recordation of a deed restriction notifying current and future property owners of the maintenance requirements and restrictions associated with the water treatment system be required. Even if Parcel 3 is called a remainder parcel, the imposition of this deed restriction is permissible under Government Code Section 66424.6, which allows a local agency to require fulfillment of the construction requirements for a remainder parcel within a reasonable time following approval of the parcel map and prior to the issuance of a permit or other grant of approval for the development upon a finding that fulfillment of the construction requirements is necessary for public health and safety. In this

case, Well 3 exceeds the maximum contaminant levels for fluoride set by the State of California if the water is not treated. It is essential for all current and future property owners to understand the ongoing treatment system and associated wastewater disposal system maintenance requirements in order to continue to protect occupants' health and safety. A Condition of Approval would require the deed restriction be recorded prior to filing the parcel map. As such, there would be no practical benefit for the applicant to classify this parcel as a remainder.

Deed Restriction/Certificate of Compliance for Remainder Parcel

Because the remainder parcel would be a legal lot of record but would be predicated on owner's assertion of no present intent to sell, lease or finance the lot, staff would also recommend pursuant to the Subdivision Map Act requiring a Conditional Certificate of Compliance (CCOC) prior to sale, lease or finance. In conjunction with the Condition for the CCOC, staff recommends that a condition requiring the property owner to record a deed restriction on the remainder parcel stating that the property cannot be sold, leased, or financed until such a time that the CCOC was filed. This is recommended so that lending institutions are fully aware of this restriction. The combination of these two conditions assures the County that the parcel designated as a remainder would not be able to be sold, leased, or financed without the knowledge of the County. Essentially, this ensures that the legal lot is memorialized for the record, prevents avoidance of the requirements of the Subdivision Map Act, and ensures future owners are aware of the water quality treatment requirements.

Although implementation of the above conditions would mitigate the health concerns associated with designating Parcel 3 as a remainder, this action would not meet the intent of Monterey County Code Section 19.01.080, and would require unnecessary additional time and procedural requirements for County staff and property owners. Creating a remainder parcel would require subsequent County actions to: 1) process a certificate of compliance application, and 2) process the deed restriction.

Subdivision Findings

The parcels resulting from the proposed minor subdivision will meet all Monterey County Code requirements for Low Density Residential/2.5 acre per unit parcels. The resulting parcels will be 3.086 acres and will meet all minimum dimensions. The existing dwellings will meet all setback requirements. Since the resulting parcels are already developed, no change in density or intensity of development will occur and the site will continue to be suitable for the existing uses. With implementation of the required Conditions of Approval, the minor subdivision will not be detrimental to public health or safety.

Long Term Sustainable Water Supply

The minor subdivision is consistent with the Public Services Element General Plan Policies PS-3.1 and PS-3.2 for Long Term Sustainable Water Supply. The property is located within Zone 2C of the Salinas Valley Groundwater Basin. Within this zone there is a rebuttable presumption of a long-term sustainable water supply and there is no substantial evidence to rebut the presumption of a long-term sustainable water supply for this project. Additionally, all three resulting parcels are already built out to the maximum density for the LDR/2.5 zoning district.

CEQA

Section 15305 of the California Environmental Quality Act Categorically exempts minor alterations in land use limitations in areas with an average slope of less than 20% which do not result in any change

in land use or density. The project will not result in changes in land use density or intensity because the resulting parcels are already developed to the maximum allowable density. An Accessory Dwelling Unit is not counted toward density requirements and is a use allowed in the LDR Zoning designation. Any future proposal to add an accessory dwelling unit would be subject to the health and safety requirements in place at the time of application and would be required to demonstrate adequate water and wastewater services. Parcel 3 already has an accessory dwelling unit and cannot accommodate any further development.

OTHER AGENCY INVOLVEMENT:

The following agencies have reviewed the project, have comments, and/or have recommended conditions:

Environmental Health Bureau
RMA-Public Works
Water Resources Agency
Mission Soledad Rural Fire Protection Department
Office of County Counsel

The proposed project was not reviewed by a Land Use Advisory Committee because there is no Land Use Advisory Committee (LUAC) established for the Central Salinas Valley Area.

FINANCING:

Funding for staff time associated with this project is included in the FY2018-19 Adopted Budget within RMA-Planning's General Fund 001, Appropriation Unit RMA001.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

This action represents effective response to our RMA customers. Processing this application in accordance with all applicable policies and regulations also provides the County accountability for proper management of our land resources, as well as the protection of human life and health.

Check the related Board of Supervisors Strategic Initiatives:

☐ Economic Development
☒ Administration
☒ Health & Human Services
☐ Infrastructure
☐ Public Safety

Prepared by: Cheryl Ku, Senior Planner, 796-6049
Reviewed by: Brandon Swanson, RMA-Planning Services Manager
Approved by: John M. Dugan, FAICP, RMA Deputy Director of Land Use and
Development Services



The following attachments are on file with the Clerk of the Board:

Attachment A - Draft Resolution with conditions and Proposed Vesting Tentative Map

Attachment B - Project Data Sheet

Attachment C - BOS Resolution 16-228

Attachment D - January 26, 2018 Letter from Property Owner

Attachment E - March 28, 2018 Letter from Property Owner

Attachment F - Vicinity Map

cc: Front Counter Copy; Brandon Swanson, RMA Services Manager; Tony Vasquez, Property Owner, Joel Panzer, Agent; The Open Monterey Project (Molly Erickson); LandWatch (Executive Director); John H. Farrow; Janet Brennan; Project File PLN040529.

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Attachment A

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

Resolution No.

Resolution of the Monterey County Board of)
Supervisors to approve a Minor Subdivision)
Vesting Tentative Map to divide an
approximately 9.26 acre parcel into three
parcels of 3.086 acres each.

The Vasquez application (PLN040529) came on for public hearing before the Board of Supervisors of the County of Monterey on July 24, August 28, and September 11, 2018. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Board of Supervisors hereby finds and decides as follows:

1. **FINDING:** **CONSISTENCY** – The Project, as conditioned, is consistent with the applicable plans and policies which designate this area as appropriate for development. The Project is a vesting tentative map to subdivide an approximately 9.26 acre parcel into three parcels of 3.086 acres each. The current owners of the real property are Fermin Vasquez, Maria A. Vasquez, and Juan Antonio (“Applicant”).
- EVIDENCE:** a) The project has been reviewed for consistency with the text, policies, and regulations in:
- The 2010 Monterey County General Plan
 - Central Salinas Valley Area Plan
 - Monterey County Zoning Ordinance (Title 21)
 - Monterey County Subdivision Ordinance (Title 19)
- No conflicts were found to exist. No communications were received during the course of this round of review of the project indicating any inconsistencies with the text, policies, and regulations in these documents.
- b) The resulting parcels will meet minimum density requirements for the LDR/2.5 zoning category. All parcels will be 3.086 acres. One single family dwelling and a detached garage exists on Parcel 1 and one single family dwelling exists on Parcel 2. Parcel 3 contains one single family dwelling and one accessory dwelling unit. All structures will meet minimum setback requirements.
- c) The minimum building site in the LDR Zoning District is 1 acre. All resulting parcels will be greater than one acre.
- d) The maximum coverage for the LDR category is 25 percent, which equals 33,606 square feet for the resulting 3.086 acre parcels. The largest structure on any of the resulting parcels is only 2,315 square feet.
- e) The project is consistent with General Plan Policies PS-3.1 and PS-3.2 for Long Term Sustainable Water Supply (see Finding 5).
- f) The project meets all requirements of the Monterey County Subdivision Ordinance (Title 19) Section 19.04 (Minor Subdivisions) of the Monterey County Code. None of the findings requiring denial can be made. (See Finding 4).

- g) The project is returning to the Board of Supervisors following litigation. On April 8, 2014, on an appeal by Maria Vasquez et al from the Planning Commission's decision to deny the application for a Minor Subdivision Vesting Tentative Map (Vasquez/ PLN040529), a motion was made to allow the subdivision to proceed with a proposed water quality treatment system. The motion failed on a tie vote. The Board then voted 3 to 1 to deem the action a final action on the appeal, effectively denying the appeal. Applicants brought suit against the County to challenge that action, and the Superior Court ruled in Applicants' favor. (Vasquez et al v. County of Monterey, et al (Superior Court Case No. M128437). On August 23, 2016, pursuant to the Judgment Granting Peremptory Writ of Mandate (filed Feb. 3, 2016), the County rescinded the Board's 2014 action (Resolution No. 16-228).
- h) The applicant has provided new information since 2016, including source capacity testing demonstrating adequate water supply to serve the existing dwellings, a proposal for water treatment systems, and water quality testing information after the treatment systems were installed to demonstrate that water quality meets drinking water standards.
- i) A Public Hearing was scheduled before the Board of Supervisors on July 24, 2018. Notice of the public hearing was published in the Monterey Coast Weekly on July 12, 2018 and mailed to property owners within 300 feet of the project site on July 12, 2018. The hearing was continued to August 28, 2018 on applicant's request. On August 28, 2018, the Board continued the hearing to September 11, 2018 to enable staff to complete the draft conditions. The public hearing was held on September 11, 2018.

2. **FINDING** **SITE SUITABILITY** – The site is physically suitable for the use proposed.
 - a) The project has been reviewed for site suitability by the following departments and agencies: RMA-Planning, Environmental Health Bureau, RMA-Public Works, Mission Soledad Rural Fire Protection Department, and Water Resources Agency. 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) Staff conducted a site inspection on June 26, 2018 to verify that the site is suitable for this use.
 - c) The application, project plans, and related support materials submitted by the applicant to Monterey County RMA-Planning for the proposed development found in PLN040529.
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 RMA-Planning, Mission Soledad Rural Fire Protection Department, RMA-Public Works, RMA-Environmental Services, Environmental Health Bureau, and Water Resources Agency. The respective 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) All parcels are served by their own onsite waste water treatment system. The Environmental Health Bureau determined that adequate onsite wastewater dispersal system replacement area exists for each dwelling based on the proposed parcel configuration and has added a condition of approval (Condition No. 6) to require a revised parcel map which indicates the future Onsite Wastewater Treatment System replacement area for each of the existing dwellings showing that it meets all minimum horizontal setback, including water wells and labels each of the three wells.
 - c) Source capacity tests for each well indicated the wells have adequate capacity to serve the existing dwellings on site.
 - d) Water quality tests for each well indicated that treatment is necessary because the water exceeds the state's Maximum Contaminant Levels. The tests show that Well 1, to serve Parcel 1, is high in nitrates and arsenic, Well 2, to serve Parcel 2, is high in Fluoride, and Well 3, to serve Parcel 3, is high in Fluoride. . The Subdivision Map Act requires denial of a tentative map if the subdivision is likely to cause serious public health problems. Hence, in this case, continuous treatment of the water is required in order to approve the tentative map because, untreated, the water poses a serious threat to health. The applicant has proposed and subsequently installed Point of Use treatment for Parcel 1 and Parcel 2. Based on the recent information from the State Water Resources Control Board, EHB determined that the Point of Use treatment systems, submitted in November 2017, and installed in March of 2018, would be sufficient to ensure that the water meets drinking water standards. Point of Use systems treat the water directly at the sink. Well 1 (to serve parcel 1) is being treated for high nitrates and arsenic. Well 2 (to serve parcel 2) is being treated for high Fluoride. Well 3 (to serve the two dwellings on Parcel 3) is being treated for high Fluoride through a Point of Entry Reverse Osmosis treatment system.
 - e) On March 15, 2016 the State Water Resources Control Board adopted regulations (Resolution No. 20016-0015) to permit Point of Entry and Point of Use treatment systems for Public Water Systems. The Monterey County Environmental Health Bureau reviewed the treatment strategy and determined that the proposed treatment systems would be sufficient to meet primary drinking water standards for the existing dwellings. In August of 2018 the applicant notified the County that the systems had been installed and submitted water quality information showing that the water on all three parcels meets primary drinking water standards. Additionally, Condition No. 7 and No. 8 have been added to require recordation of deed restrictions to notify all future property owners of water treatment system and associated wastewater system maintenance requirements.

- f) The parcel is fully developed with a single-family dwelling on Parcel 1, a single-family dwelling on Parcel 2, and a single family dwelling and an accessory dwelling unit on Parcel 3. The LDR/2.5 zoning designation does not allow for any additional units to be developed on the resulting 3 acre parcels. Although Parcel 1 and Parcel 2 could potentially accommodate an accessory dwelling unit since accessory dwelling units are not subject to density requirements, any future proposal for an accessory dwelling unit would be required to demonstrate adequate health and safety services before a building permit could be issued.

4. **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 findings below are made. None of these findings are made.

1. That the tentative map is not consistent with the applicable General Plan, area plan, coastal land use plan or specific plan.
2. That the design or improvement of the proposed subdivision is not consistent with the General Plan, area plan, coastal land use plan or specific plan.
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 are 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. In this connection, the appropriate decision making body may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public. This Subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to the decision-making body to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision.
8. That the subdivision fails to meet any of the requirements or conditions imposed by the Subdivision Map Act or this Title.

EVIDENCE: a) Consistency: The project as designed and conditioned is consistent with the 2010 Monterey County General Plan. (See Finding 1 and Finding 6.)

b) Design: the lot design is consistent with the Lot Design Standards of MCC Section 19.10.030. The resulting parcels meet minimum lot size, and dimensions.

- c) Site Suitability: The site is suitable for the proposed project including the type and density of the development. See Finding 1 and 2.
- d) Environment: The subdivision design and improvements will not cause environmental damage to fish or wildlife habitat. The property is located in a residential area and is already developed with residential structures.
- e) Health and Safety: The proposed project as designed and conditioned is not likely to cause serious public health problems because the parcels are already developed, water treatment systems are in place, and the map has been conditioned to require deed restrictions notifying current and future property owners of requirements for water treatment system maintenance and restrictions.
- f) Easements: The subdivision or the type of improvements will not conflict with easements. There are no existing easements on the property.
- g) Subdivision Requirements: The subdivision meets the requirements or conditions imposed by the Subdivision Map Act and Title 19. (See Findings 4 and 5)
- h) The application, plans and supporting materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development are found in Project File PLN040529.

5. **FINDING:** **GENERAL PLAN CONSISTENCY – WATER SUPPLY:** - The project is consistent with General Plan Policies PS-3.1 and PS-3.2 requiring proof of a Long Term Sustainable Water Supply and Adequate Water Supply System for new development requiring a discretionary permit.
- a) The property is located within Zone 2C of the Salinas Valley groundwater basin. Within this zone there is a rebuttable presumption of a long-term sustainable water supply, and there is a lack of substantial evidence to rebut the presumption of a long-term sustainable water supply for this project.
 - b) Source capacity testing for the existing onsite wells has proven adequate capacity to continue serving the existing dwelling units. The Environmental Health Bureau has reviewed the source capacity studies for the existing wells and found that the wells have adequate capacity to continue serving the existing on-site dwelling units.
 - a) Four dwelling units already exist on the subject property (Three single-family dwellings, and one accessory dwelling unit) and no intensification of use will occur. The parcel is zoned Low Density Residential/2.5 acres per unit. The proposed parcels will be 3.086 acres each, which will not accommodate any additional units.
 - b) The density of the proposed parcels cannot accommodate any additional units. The only future development possibility is an Accessory Dwelling Unit, which is an allowed use in the LDR zoning designation and is not subject to density requirements. Any future proposal for an accessory dwelling unit would be required to demonstrate adequate water supply and septic capacity.

6. **FINDING:** **CEQA:** - The Project is categorically exempt under Section 15305 of the California Environmental Quality Act (CEQA) Guidelines because the project is a minor alteration in land use limitations in an area with an

average slope of less than 20% which will not result in and changes in land use or density, and no unusual circumstances were identified to exist for the proposed project.

- EVIDENCE :**
- a) California Environmental Quality Act (CEQA) Guidelines Section 15305 categorically exempts minor alterations in land use limitations in areas with an average slope of less than 20%, which do not result in any change in land use or density.
 - b) The subject application for the subdivision of residential property will result in three parcels that already have existing residential development. The proposed division will not increase the density of development because the parcels are already built out to the maximum density for the LDR/2.5 zoning designation.
 - c) The property is zoned LDR/2.5. The resulting parcels will all be 3.086 acres. All parcels have an existing single family dwelling unit, and any additional units would not be permissible as this would exceed the density regulations. Accessory Dwelling Units do not count toward density restrictions. The resulting Parcel 3 already has one existing Accessory Dwelling Unit and does not have any additional potential for development. Any proposal for an Accessory Dwelling Unit on Parcel 1 or Parcel 2 would not be considered an increase in density and is a use allowed in the LDR zoning category subject to a ministerial permit. Any proposal for an ADU in the future would be required to demonstrate adequate water and wastewater capacity through the building permit process.
 - d) No adverse environmental effects were identified during staff review of the development application during a site visit on June 26, 2018.
 - e) None of the exceptions under CEQA Guidelines Section 15300.2 apply to this project. The project does not involve a designated historical resource, a hazardous waste site, development located near or within view of a scenic highway, unusual circumstances that would result in a significant effect or development that would result in a cumulative significant impact.
 - f) The application, project plans, and related support materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development found in Project File PLN040529.

7. **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 and Building Services Department records and is not aware of any violations existing on subject property.
 - b) No correspondence was received indicating the property may be out of compliance with County Code or regulations.
 - c) The application, plans and supporting materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development are found in Project File PLN040529.

NOW, THEREFORE, BE IT FURTHER RESOLVED, based on the above findings and evidence and the record as a whole, that the Board of Supervisors does hereby:

- A. Find the project qualifies for a Categorical Exemption under Section 15305 of the California Environmental Quality Act (CEQA) Guidelines; and
- B. Approve a vesting tentative map to allow the division of an approximately 9.26 acre parcel into three parcels of 3.086 acres, as shown on the vesting tentative map (Exhibit A) and subject to the conditions of approval (Exhibit B), both being attached hereto and incorporated herein by reference.

PASSED AND ADOPTED on this _____, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

I, Valerie Ralph, 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:

Valerie Ralph, Clerk of the Board of Supervisors
County of Monterey, State of California

By _____
Deputy

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Monterey County RMA Planning

DRAFT Conditions of Approval/Implementation Plan/Mitigation Monitoring and Reporting Plan

PLN040529

1. PD001 - SPECIFIC USES ONLY

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: This permit was approved in accordance with County ordinances and land use regulations subject to the terms and conditions described in the project file. Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of the RMA - Planning Department. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. To the extent that the County has delegated any condition compliance or mitigation monitoring to the Monterey County Water Resources Agency, the Water Resources Agency shall provide all information requested by the County and the County shall bear ultimate responsibility to ensure that conditions and mitigation measures are properly fulfilled.
(RMA - Planning Department)

Compliance or Monitoring Action to be Performed: The Owner/Applicant shall adhere to conditions and uses specified in the permit on an ongoing basis unless otherwise stated.

2. PD002 - NOTICE PERMIT APPROVAL

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: The applicant shall record a Permit Approval Notice. This notice shall state:
"A Minor Subdivision Vesting Tentative Map was approved by the Board of Supervisors for Assessor's Parcel Number 257-121-019-000 on July 24, 2018. The permit was granted subject to 11 conditions of approval which run with the land. A copy of the permit is on file with the Monterey County RMA - Planning Department."
Proof of recordation of this notice shall be furnished to the Director of the RMA - Planning Department prior to issuance of building permits or commencement of the use.
(RMA - Planning Department)

Compliance or Monitoring Action to be Performed: Prior to filing the final map, the Owner/Applicant shall provide proof of recordation of this notice to the RMA - Planning Department.

3. PD004 - INDEMNIFICATION AGREEMENT

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: The property owner agrees as a condition and in consideration of approval of this discretionary development permit that it will, pursuant to agreement and/or statutory provisions as applicable, including but not limited to Government Code Section 66474.9, defend, indemnify and hold harmless the County of Monterey or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees to attack, set aside, void or annul this approval, which action is brought within the time period provided for under law, including but not limited to, Government Code Section 66499.37, as applicable. The property owner will reimburse the County for any court costs and attorney's fees which the County may be required by a court to pay as a result of such action. The County may, at its sole discretion, participate in the defense of such action; but such participation shall not relieve applicant of his obligations under this condition. An agreement to this effect shall be recorded upon demand of County Counsel or concurrent with the issuance of building permits, use of property, filing of the final map, whichever occurs first and as applicable. The County shall promptly notify the property owner of any such claim, action or proceeding and the County shall cooperate fully in the defense thereof. If the County fails to promptly notify the property owner of any such claim, action or proceeding or fails to cooperate fully in the defense thereof, the property owner shall not thereafter be responsible to defend, indemnify or hold the County harmless.
(RMA - Planning Department)

Compliance or Monitoring Action to be Performed: Upon demand of County Counsel or concurrent with the issuance of building permits, use of the property, recording of the final/parcel map, whichever occurs first and as applicable, the Owner/Applicant shall submit a signed and notarized Indemnification Agreement to the Director of RMA-Planning Department for review and signature by the County.

Proof of recordation of the Indemnification Agreement, as outlined, shall be submitted to the RMA-Planning Department.

4. FIRE-DRIVEWAY IMPROVEMENTS

Responsible Department: Fire

Condition/Mitigation Monitoring Measure: As a condition of this application, the applicant shall roll, compact and grade the existing roadway to remove and compact the large chunks of recycled road materials. Also, the eucalyptus tree clump that is encroaching the roadway shall either be cut back and pruned up to provide a roadway clearance height of 13'6" which shall be maintained across the entire roadway width, or be removed. Future applications for new construction will result in the roadway being up to county roadway standards and will require that a road maintenance agreement be developed and titled to all parcels gaining access or egress across the road.

Compliance or Monitoring Action to be Performed: Prior to filing the parcel map, the applicant shall submit evidence to Mission Soledad Rural Fire Protection Department that the driveway improvements detailed above have been completed as described.

5. PW0031 - PARCEL MAP

Responsible Department: RMA-Public Works

Condition/Mitigation Monitoring Measure: File a parcel map delineating all existing and required easements or rights-of-way and monument new lines.

Compliance or Monitoring Action to be Performed: Prior to Recordation of Parcel Map Owner/Applicant/Engineer Applicant's surveyor shall prepare Parcel Map submit to DPW for review and approval.

6. EHSP01 – PARCEL MAP NOTATIONS (NON-STANDARD)

Responsible Department: Health Department

Condition/Mitigation Monitoring Measure: The existing parcel currently has 4 dwellings, each served by a separate, existing onsite wastewater treatment system (OWTS). The Environmental Health Bureau (EHB) has determined that adequate onsite wastewater dispersal system replacement area exists for each dwelling based on the proposed parcel configuration. Domestic water is provided to the existing dwellings from three (3) existing onsite wells, specifically:

- Well 1 serves proposed Parcel 1 (34727 Metz Road)
- Well 2 serves proposed Parcel 2 (34731 Metz Road)
- Well 3 serves proposed Parcel 3 (34735 and 34733 Metz Road)

The parcel map shall be updated to reflect the OWTS dispersal system replacement area for each dwelling and label the existing wells in accordance with this condition.

- Parcel 1 shall indicate 1000 square feet (s.f.) of area for future OWTS replacement.
 - Parcel 2 shall indicate 1000 s.f. of area for future OWTS replacement.
 - Parcel 3 shall indicate 1700 s.f. of area for future OWTS replacement for each of the existing dwellings.
- (Environmental Health)

Compliance or Monitoring Action to be Performed: Prior to filing the parcel map, submit a revised parcel map which indicates the future OWTS dispersal system replacement area for each of the existing dwellings that meets all minimum horizontal setbacks, including water wells. In addition, label each of the three (3) wells.

7. EHSP02- DEED RESTRICTION FOR PROPOSED PARCELS 1 AND 2 (NON-STANDARD)

Responsible Department: Health Department

Condition/Mitigation Monitoring Measure: Proposed Parcel 1 is served by Well No. 1; water quality analyses indicate that the water exceeds the primary drinking water standards for nitrates and arsenic. Proposed Parcel 2 is served by Well No. 2; water quality analyses indicate that the water exceeds the primary drinking water standards for fluoride. The Environmental Health Bureau (EHB) has required the installation of water treatment systems to serve the existing dwellings on Proposed Parcel Nos. 1 and 2.

An EHB-approved deed restriction shall be recorded to notify the current and all future property owners of the requirements and restrictions for domestic water use on the Proposed Parcel Nos. 1 and 2, including but not limited to the following:

- An EHB-approved Point of Use (POU) water treatment system with pretreatment water softener has been installed by a qualified professional;
- Water quality analysis of water from the POU water treatment system collected August 13, 2018 confirms that the treatment system produces water that meets primary drinking water standards;
- Owner is responsible to operate and maintain the EHB-approved POU water treatment system to keep it in good working order, including the pretreatment water softener; and
- Owner acknowledges and understands that a portable exchange tank service is required for the pretreatment water softener system and that onsite discharge is prohibited.

(Environmental Health)

Compliance or Monitoring Action to be Performed: Prior to filing the parcel map, the applicant shall provide a legal description for the existing parcel, with a copy of the Grant Deed, to the EHB. The EHB will prepare the deed restriction form. Once approved, the property owner shall sign and notarize the EHB-approved deed restriction form and return it to the EHB for approval to form.

Once the deed restriction is approved to form by the EHB and County Counsel, the document will be returned to the applicant to be recorded by the Monterey County Recorder; owner/applicant is responsible to pay all Recorder's fee. The applicant shall provide proof of recordation to the EHB.

8. EHSP03 – DEED RESTRICTION FOR PROPOSED PARCEL 3 (NON-STANDARD)

Responsible Department: Health Department

Condition/Mitigation Monitoring Measure: The Environmental Health Bureau (EHB) has determined that the water distribution system on Proposed Parcel 3 (that is served by Well No. 3) is exempt from Chapter 15.04 of the Monterey County Code, Titles 17 and 22 of the California Code of Regulations and is not required to obtain a water system permit until one of the existing dwelling units is occupied exclusively by non-family members. If either of the dwelling units is occupied exclusively by non-family members, a water system permit shall be required from EHB.

Proposed Parcel 3 is served by Well No. 3; water quality analyses indicate that the water exceeds primary drinking water standards for fluoride. Applicant has installed an EHB-approved Reverse Osmosis (RO) system that provides water to the two dwellings (34735 Metz Road and 34733 Metz Road) on Proposed Parcel 3. The wastewater from the RO system (also called concentrate flow) has been directed to the existing OWTS dispersal system that serves 34735 Metz Road, which was not originally designed to accommodate the additional wastewater from the RO system and may result in premature dispersal system failure. The applicant reserves the right to obtain EHB approval of a Point of Use (POU) treatment system to be installed at each dwelling that would replace the RO system that currently serves both dwellings.

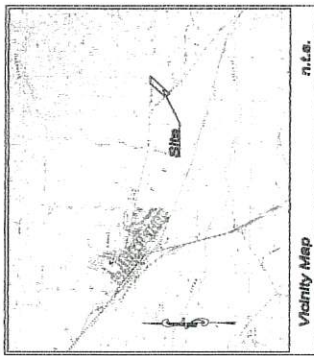
An EHB-approved deed restriction shall be recorded to notify the current and all future property owners of the requirements and restrictions for domestic water use on the Proposed Remainder Parcel, including but not limited to the following:

- Declaration for an Unregulated Domestic Water System
 - Owner had an EHB-approved water treatment system installed by a qualified professional;
 - Owner has submitted water quality analysis of treated water provided to each dwelling on Parcel 3 to demonstrate the treatment system is capable of producing water that meets primary drinking water standards;
 - Owner is responsible to operate and maintain the EHB-approved water treatment system to keep it in good working order.
 - Owner may elect to obtain EHB approval of a Point of Use treatment system to be installed at each dwelling to replace the RO system that currently serves both dwellings, provided it is capable of producing water that meets all primary drinking water standards.
 - Owner acknowledges that the wastewater from the Reverse Osmosis (RO) water treatment system (also called concentrate flow) has been directed to the existing OWTS dispersal system that serves 34735 Metz Road, which was not originally designed to accommodate the additional wastewater from the RO system and may result in premature dispersal system failure.
 - Owner acknowledges and agrees that future OWTS dispersal system replacements for 34735 and 34733 Metz Road shall be designed to accommodate the additional volume of wastewater from the RO system.
- (Environmental Health)

**Compliance or
Monitoring
Action to be Performed:**

Prior to filing the parcel map, the applicant shall provide a legal description for the existing parcel, with a copy of the Grant Deed, to the EHB. The EHB will prepare the deed restriction form. Once approved, the property owner shall sign and notarize the EHB-approved deed restriction form and return it to the EHB for approval to form.

Once the deed restriction is approved to form by the EHB and County Counsel, the document will be returned to the applicant to be recorded by the Monterey County Recorder. The applicant shall provide proof of recordation to the EHB.

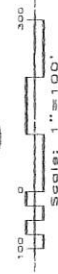


N.T.S.

Vicinity Map

NOTES:

1. EASEMENTS AND DISBURSERS SHOWN ARE EXPRESSED IN FEET AND DECIMAL NOTICES.
2. DATA WITHIN PARALLELS (NAD 83) REFERS TO THE MONTEREY COUNTY RECORDS.
3. CONTIGUOUS INTERVAL IS FIVE FEET.
4. DATUM IS NATIONAL GEODETIC VERTICAL DATUM OF 1988.
5. THIS PROPERTY MAY BE SUBJECT TO EASEMENTS OF RECORD NOT SHOWN UPON THIS MAP. THE OWNER SHALL BE RESPONSIBLE FOR OBTAINING A TITLE INSURANCE POLICY TO DETERMINE THE EXISTENCE OF ANY EASEMENTS OF RECORD. MONTEREY COUNTY SURVEYORS, INC. SHALL BEAR NO RESPONSIBILITY FOR NON-EXISTENCE OF SAID EASEMENT(S), THEIR EXISTENCE OR LOCATION.
6. LOCATION IS BASED UPON RECORD DATA. MONTEREY COUNTY SURVEYORS, INC. SHALL BE RESPONSIBLE FOR THE CONTRACTED SCOPE OF WORK.



Scale: 1" = 100'

PLN 040529

MONTEREY COUNTY SURVEYORS, INC.
233 Marina St., Marina, CA 93955-1004 (831) 424-1984
831-424-1008 ext. info@montereycountysurveyors.com

Vesting Tentative Parcel Map

A portion of the 257-01-018, located at Parcel 2 is shown on this map and is subject to a portion 2 of Parcel Map of page 76.

In the Marine San Juan, Monterey County, CA

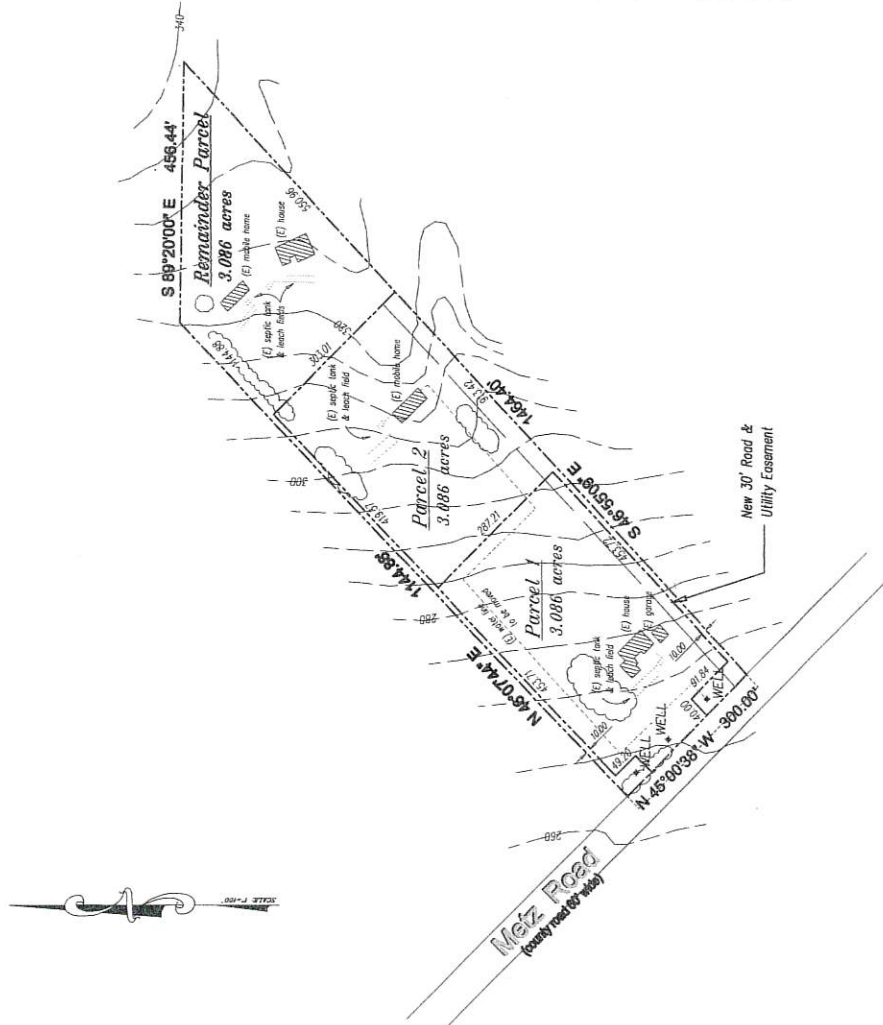
MADE FOR: Vazquez, et al

SCALE: 1"=100' JOB NO. 2011.087 DATE: JANUARY 2012 SHEET 1 OF 1

APN 257-01-018

Parcel Boundary Courses:

PARCEL 1	
1.1 North 44°59'22" East 40.00'	
1.2 South 45°00'30" East 97.84'	
1.3 North 46°07'44" East 453.71'	
1.4 South 44°59'44" East 287.21'	
1.5 South 46°35'09" West 453.72'	
1.6 North 45°00'30" West 40.00'	
1.7 South 44°59'22" West 138.91'	
1.8 North 45°00'30" West 138.91'	
Containing 3.086 acres, more or less.	
PARCEL 2	
2.1 North 44°59'22" East 40.00'	
2.2 South 45°00'30" East 97.84'	
2.3 North 46°07'44" East 453.71'	
2.4 South 44°59'44" East 287.21'	
2.5 North 46°07'44" East 419.37'	
2.6 South 45°00'30" East 303.07'	
2.7 South 46°35'09" West 453.72'	
2.8 North 45°00'30" West 100.50'	
Containing 3.086 acres, more or less.	
REMAINDER PARCEL	
R.1 North 44°59'22" East 40.00'	
R.2 North 45°00'30" West 48.20'	
R.3 North 46°07'44" East 873.00'	
R.4 South 45°00'30" East 303.07'	
R.5 South 46°35'09" West 453.72'	
R.6 North 45°00'30" West 40.00'	
R.7 North 46°07'44" West 144.88'	
R.8 South 71°20'12" East 67.01'	
Containing 3.086 acres, more or less.	



Owner & Applicant:
Vazquez, et al
34735 Metz Road
Sonoma, CA 94960

County File No. PLN040529

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Attachment B

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Attachment B

Project Information for PLN040529

Application Name: Vasquez Fermin & Juan Antonio

Location: 34735 Metz Rd, Soledad

Applicable Plan: Central Salinas Valley

Advisory Committee: None

Permit Type: Minor Subdivision

Environmental Status: Exempt

Zoning: LDR/2.5

Primary APN: 257-121-019-000

Coastal Zone: No

Final Action Deadline (884): 11/18/2013

Land Use Designation: Residential - Low Density 5
- 1 Acres/Unit

Project Site Data:

Lot Size:

Existing Structures (sf):

Proposed Structures (sf):

Total Sq. Ft.:

Special Setbacks on Parcel:

Coverage Allowed:

Coverage Proposed:

Height Allowed:

Height Proposed:

FAR Allowed:

FAR Proposed:

Resource Zones and Reports:

Seismic Hazard Zone: II

Erosion Hazard Zone: High/Moderate

Fire Hazard Zone: High

Flood Hazard Zone: X (unshaded)

Archaeological Sensitivity: low

Visual Sensitivity: None

Soils Report #:

Biological Report #:

Forest Management Rpt. #:

Geologic Report #:

Archaeological Report #:

Traffic Report #: N/A

Other Information:

Water Source:

Water Purveyor:

Fire District: Mission Soledad Rural FPD

Tree Removal: N/A

Grading (cubic yds.):

Sewage Disposal (method):

Sewer District Name: n/a

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Attachment C

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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

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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

Attachment A

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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:

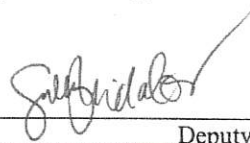
AYES: Supervisors Armenta, Phillips, Salinas, Parker and Potter
 NOES: None
 ABSENT: None

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
 File Number: RES 16-044

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

By _____


 Deputy

Attachment D

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Subdivider Statement
(PLN040529)

JAN 26 2018

I hereby certify that I am the subdivider whose name appears on the application for minor subdivision in Monterey County File PLN040529. A copy of the County application confirming this is attached as Exhibit A. Government Code Section 66242.6(a) states that: "...the subdivider may designate as a remainder that portion which is not divided for the purpose of sale, lease or financing." I have designated a Remainder Parcel on the proposed subdivision map. That Remainder Parcel will be retained by myself and is not for sale, lease or financing.

At the time the subdivision application was filed in 2004, I noted on the application form that the purpose of the subdivision was financing for a new home. At this point in time that response is no longer the case. Two applications were filed with Monterey County for the home noted on the form:

1. The land use permit (PLN040503) for my residence was approved by Monterey County; and,
2. The building permit (BP020474) for my residence was finalized by the Building Inspector on October 24, 2006.

I hereby certify that the information contained in this Subdivider Statement is true and correct to the best of my knowledge.


Fermin Y. Sandoval
Subdivider

Dated January 23, 2018 at Soledad, California

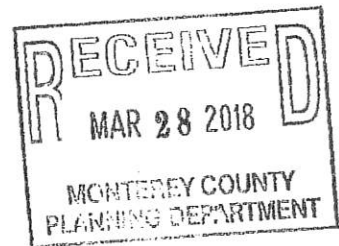
PLN040529

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Attachment E

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Fermin Vasquez
34735 Metz Road
Soledad, CA 93960-9706



March 28, 2018

Cheryl Ku, Associate Planner
Monterey County RMA- Planning
1441 Schilling Place -- South 2nd Floor
Salinas, CA 93901

Re: Remainder Parcel (Vasquez Minor Subdivision, PLN040529)

Dear Ms. Ku:

Please be advised that I am the subdivider for the pending project PLN040529. As allowed by Government Code Section 66424.6, I have designated as a remainder a portion of the property which is not divided for the purpose of sale, lease or finance. This portion is labeled as: Remainder Parcel (see attached).

I intend to retain the Remainder Parcel for my family use. It is not being created for the purpose of sale, lease or finance.

I hope this clarifies the purpose of designating a Remainder Parcel on the proposed subdivision map.

Respectfully Submitted,

Fermin Vasquez
Subdivider

A handwritten signature in black ink, appearing to be "F. Vasquez", written over a horizontal line.

3/28/18

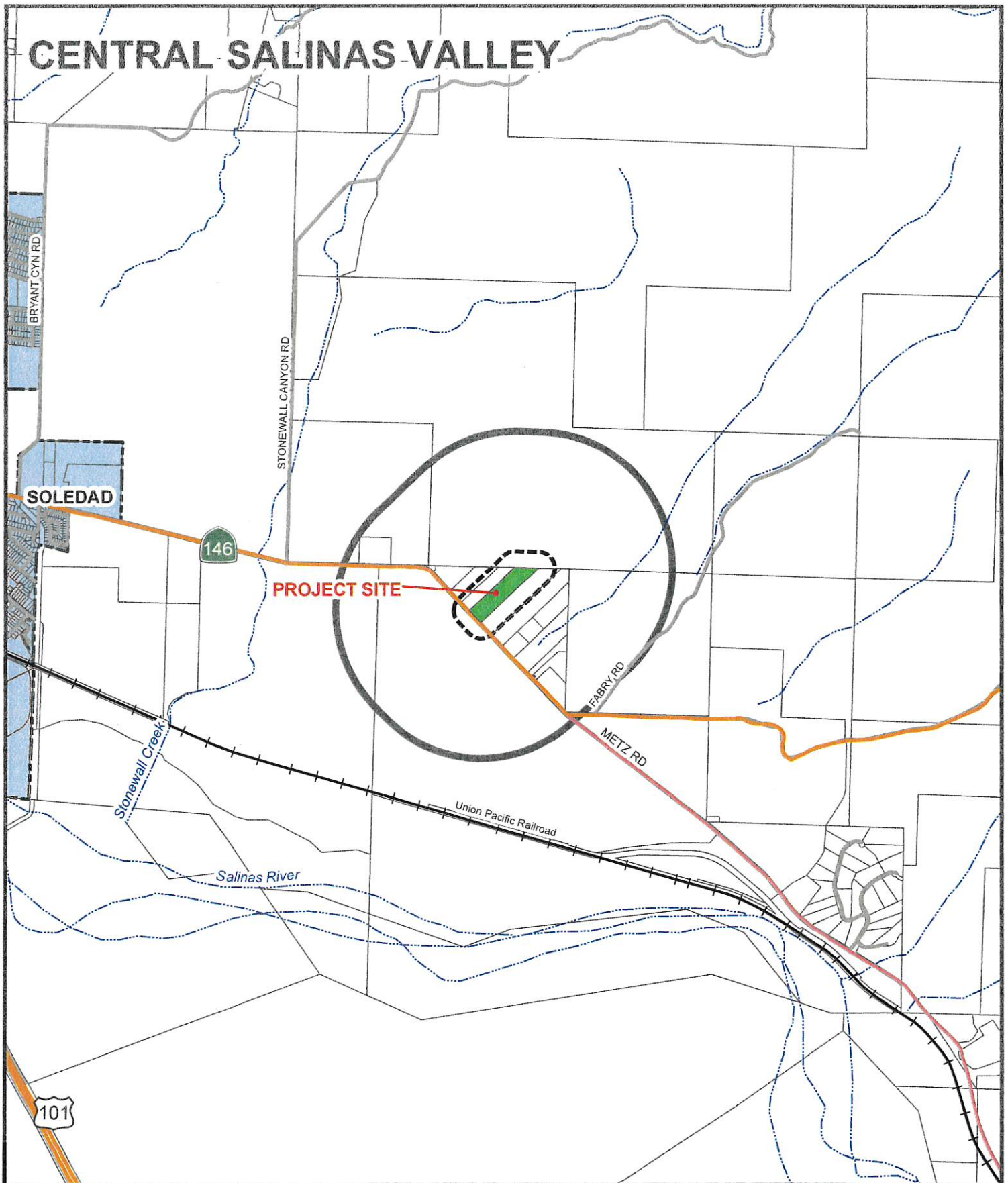
PLN040529

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Attachment F

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CENTRAL SALINAS VALLEY

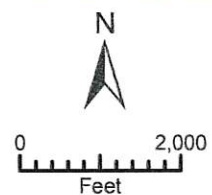


APPLICANT: VASQUEZ

APN:257-121-019-000

FILE # PLN040529

Water 2500' Limit 300' Limit City Limits



PLANNER: AMADOR

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