



Legislation Details (With Board Report)

File #: RES 14-026 **Name:** Maria Vasquez et al
Type: BoS Resolution **Status:** Scheduled PM
File created: 3/6/2014 **In control:** Board of Supervisors
On agenda: 3/18/2014 **Final action:**
Title: Public hearing to consider an appeal by Maria A. Vasquez et al from the Planning Commission’s decision denying the application for a Minor Subdivision Vesting Tentative Map which proposes to subdivide an approximately 9.26 acre parcel into two parcels of 3.086 and 3.086 acres and one remainder parcel of 3.086 acres.
(Appeal, PLN040529/Vasquez Minor Subdivision, 34735 Metz Road, Soledad) (ADDED VIA ADDENDUM)

Sponsors:

Indexes:

Code sections:

Attachments: 1. Attachment A - Discussion, 2. Attachment B - Draft Board Resolutoion, 3. Attachment C - Vicinity Map, 4. Attachment D - Notice of Appeal, 5. Attachment E - PC Resolution No. 14-003, 6. Attachment F - Groundwater Quality & Quantity Review, 7. Attachment G - Correspondence from EHB, 8. Attachment H - Correspondence from EHB, 9. Attachment I - E-mail from Joel Panzer, 10. Completed Board Order

| Date | Ver. | Action By | Action | Result |
|-----------|------|----------------------|-----------|--------|
| 3/18/2014 | 1 | Board of Supervisors | continued | Pass |

Public hearing to consider an appeal by Maria A. Vasquez et al from the Planning Commission’s decision denying the application for a Minor Subdivision Vesting Tentative Map which proposes to subdivide an approximately 9.26 acre parcel into two parcels of 3.086 and 3.086 acres and one remainder parcel of 3.086 acres.
(Appeal, PLN040529/Vasquez Minor Subdivision, 34735 Metz Road, Soledad) (ADDED VIA ADDENDUM)

PROJECT INFORMATION:

Planning File Number: PLN040529
Owner: Vasquez
Project Location: 34735 Metz Road, Soledad
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: Statutorily Exempt

RECOMMENDATION:

It is recommended that the Board of Supervisors:

Adopt a Resolution (**Exhibit B**) to:

1. Deny the appeal by Maria A. Vasquez from the Planning Commission’s decision denying the application for a Minor Subdivision Vesting Tentative Map (Vasquez/PLN0040529); and
2. Deny the application for a Minor Subdivision Vesting Tentative Map which proposes to subdivide an

approximately 9.26 acre parcel into two parcels of 3.086 and 3.086 acres and one remainder parcel of 3.086 acres.

SUMMARY:

This is an appeal of the Planning Commission's denial of an application (Vasquez (PLN040529) for a Minor Subdivision Vesting Tentative Map. The project application has not been deemed complete due to inadequate water quality and quantity. For this reason the Planning Commission denied the application (**Attachment E**). The Planning Commission gave the applicant an opportunity to demonstrate that water was available and considered the application during three different hearing, as follows:

1. On February 9, 2011 the Planning Commission continued the hearing to allow the applicant additional time to prove adequate water quality and quantity;
2. On October 30, 2013, the Planning Commission continued the hearing on a revised application to allow the applicant additional time to prove adequate water quality and quantity; and
3. On January 8, 2014 the Planning Commission denied the application due to lack of water quality and water quantity by a 7-2 vote (1 member absent) (PC Resolution No. 14-003).

The key water quality and quantity issues associated with the three existing wells on site are:

Well #1 (existing): Capacity unknown; exceeds drinking water Maximum Contaminant Level (MCL) standards for arsenic and nitrate.

Well #2 (drilled April 2005): Capacity to be 5.1gpm; exceeds drinking water MCL standard for fluoride.

Well #3 (drilled January 2008): Capacity unknown; exceeds drinking water MCL standard for fluoride.

Based on the information stated above, the project is not consistent with the Subdivision Ordinance (Title 19) and 2010 Monterey County General Plan. The Subdivision Map Act and County's Subdivision Ordinance require a map to be denied if the proposed subdivision is inconsistent with the current General Plan and likely to cause serious health problems (Title 19, section 19.05.055.B(1)(6) and (8)). The Environmental Health Bureau determined that the water produced by the existing wells is likely to cause serious health problems due to the primary contaminants found in each well.

The 2010 Monterey General Plan Policy PS-3.9 states: "*A tentative subdivision map and/or vesting tentative subdivision map application for either a standard or minor subdivision shall not be approved until the applicant provides evidence of a long-term sustainable water supply in terms of yield and quality for all lots that are to be created through subdivision.*" Based upon the applicant's inability to provide evidence of water quantity and determination that the applicant does not have the technical, managerial and financial capacity, as determined by Environmental Health and as evidenced by the facts presented to the Planning Commission, to guarantee treatment of the water for primary contaminants to provide a reliable source of potable water, the Planning Commission found that the project does not have a long term sustainable water supply and is therefore inconsistent with the 2010 General Plan and would be detrimental to the health, safety and welfare.

On January 27, 2014, the applicant timely appealed the Planning Commission's decision (**Attachment D**). The basis of the appeal is: 1) the findings, decision or conditions are not supported by the evidence, and 2) the decision is contrary to law. A more detailed discussion of these contentions for each appeal can be found in **Attachment A and B**.

Staff recommends denial of the Vasquez Minor Subdivision (PLN040529) appeal because the application is not in conformance with the 2010 Monterey County General Plan or the Monterey County Subdivision Ordinance. Therefore, staff recommends that the Board of Supervisors adopt the resolution (**Attachment B**) to deny the

appeal and deny the application.

OTHER OPTION:

If the Board of Supervisors wishes to grant the appeal, the minor subdivision cannot be approved at this time. The application remains incomplete because the applicant has not provided evidence demonstrating that a long term sustainable water supply exists as to water quality or quantity. Environmental review under CEQA cannot be completed pending submission of water quantity data by the applicant and resolution of the water quality issues. Were the Board to desire to grant the appeal, staff recommends a motion of intent with direction to staff to return to the Board on a date certain with findings and evidence for granting of the appeal, which would result in a final determination on the appeal only. Action on the application would require submission of additional data by the applicant, preparation of environmental review, and hearings following completion of environmental review.

DISCUSSION:

A detailed discussion is provided in **Attachment A**.

OTHER AGENCY INVOLVEMENT:

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

- Environmental Health Bureau
- RMA-Public Works Department
- Water Resources Agency
- Mission Soledad Rural Fire Department

Due to late submission of this Board Report, the CAO Budget and Analysis Division was not provided adequate time to fully review for potential fiscal, organizational, policy or other implication to the County of Monterey.

FINANCING:

Funding for staff time associated with this project has been provided through payment of all appropriate appeal fees.

Prepared by: Dan Lister, Assistant Planner, ext. 6617
Approved by: Mike Novo, Director, RMA-Planning, ext. 5192
Benny Young, Director, Resource Management Agency

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

cc: Front Counter Copy; Board of Supervisor's (16); County Counsel; Environmental Health Division; Public Works; Monterey County Water Resources Agency; Mission Soledad Rural Fire Department; Regional Water Quality Control Board (District 3); Mike Novo, Director-RMA Planning Department; Benny Young, Director of the Resource Management Agency; John Ford, Planning Services Manager; Vasquez Et Al (Tony Vasquez), Owner; Maureen Wruck Planning Consultants LLC (Joel Panzer), The Open Monterey Project; LandWatch; Project File PLN040529.

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

- Attachment A Discussion
- Attachment B Draft Board Resolution
- Attachment C Vicinity Map

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| Attachment D | Notice of Appeal (January 27, 2014) |
| Attachment E | Planning Commission Resolution 14-003 |
| Attachment F | Groundwater Quality and Quantity Review from Bierman Hydrogeologic, September 18, 2012 |
| Attachment G | Correspondence from Environmental Health Bureau, September 19, 2013 |
| Attachment H | Correspondence from Environmental Health Bureau and RMA - Planning, November 13, 2013 |
| Attachment I | E-mail from Joel Panzer, January 3, 2014 |