



Legislation Details (With Board Report)

**File #:** RES 14-048      **Name:** Harper Canyon Realty LLC  
**Type:** BoS Resolution      **Status:** Scheduled PM  
**File created:** 4/30/2014      **In control:** Board of Supervisors  
**On agenda:** 5/13/2014      **Final action:**

**Title:** Public hearing to consider:  
a. Granting the appeal by Harper Canyon Realty LLC from the Planning Commission’s denial of an application by Harper Canyon Realty LLC for a Combined Development Permit consisting of a Vesting Tentative Map for the subdivision of 344 acres into 17 lots and associated Use Permits;  
b. Certifying an EIR (SCH #2003071157);  
c. Adopting CEQA Findings and a Statement of Overriding considerations;  
d. Approving a Combined Development Permit consisting of a 1) A Vesting Tentative Map for the subdivision of 344 acres into 17 residential lots ranging in size from 5.13 acres to 23.42 acres on 164 acres with one 180-acre remainder parcel; 2) Use Permit for the removal of approximately 79 Coast live oak trees over six inches in diameter for road and driveway construction; 3) Use Permit for development on slopes in excess of 30 percent; 4) Use Permit for the creation of a public water system with a stand-alone treatment facility (Option B); 5) grading for net cut and fill of approximately 2,000 cubic yards; and Design Approval; and  
e. Adopting a Mitigation Monitoring and Reporting Plan.  
(Appeal of Combined Development Permit - PLN000696/Harper Canyon Realty LLC, San Benancio Road and Meyer Road, Salinas, Toro Area Plan area)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Attachment A - Discussion, 2. Attachment B - Notice of Appeal, 3. Attachment C - Draft Board Resolution, 4. Attachment D - PC Resolution No. 14-010, 5. Attachment E - Vicinity Map, 6. Attachment F - Environmental Documents, 7. Attachment F-1 - DEIR, 8. Attachment F-2 - Recirculated DEIR, 9. Attachment F-3 - Final EIR, 10. Attachment G - Referenced Exhibits, 11. Attachment H 2007 Geosyntec Tel Toro Ground Water Study & 2010 Supp, 12. Attachment I - Montgomery Watson Historic Benefits Analysis, 13. Attachment J - MCWRA Ground Water Level, 14. Attachment K - Advisory Committee Minutes, 15. Attachment L - March 11, 2014 letter, 16. Completed Board Order, 17. Completed Board Order - Revised

Date	Ver.	Action By	Action	Result
5/13/2014	1	Board of Supervisors	continued	Pass

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a. Granting the appeal by Harper Canyon Realty LLC from the Planning Commission’s denial of an application by Harper Canyon Realty LLC for a Combined Development Permit consisting of a Vesting Tentative Map for the subdivision of 344 acres into 17 lots and associated Use Permits;  
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d. Approving a Combined Development Permit consisting of a 1) A Vesting Tentative Map for the subdivision of 344 acres into 17 residential lots ranging in size from 5.13 acres to 23.42 acres on 164 acres with one 180-acre remainder parcel; 2) Use Permit for the removal of approximately 79 Coast live oak trees over six inches in diameter for road and driveway construction; 3) Use Permit for development on slopes in excess of 30 percent; 4) Use Permit for the creation of a public water system with a stand-alone treatment facility (Option B); 5) grading for net cut and fill of approximately 2,000 cubic yards; and Design Approval; and

e. Adopting a Mitigation Monitoring and Reporting Plan.  
(Appeal of Combined Development Permit - PLN000696/Harper Canyon Realty LLC, San Benancio Road and Meyer Road, Salinas, Toro Area Plan area)

PROJECT INFORMATION:

**Planning File Number:** PLN000696

**Owner:** Harper Canyon Realty LLC

**Project Location:** San Benancio Road and Meyer Road, Salinas

**APN:** 416-611-001-000, 416-621-001 and 416-611-002-000

**Agent:** Mike Cling

**Plan Area:** Toro Area Plan

**Flagged and Staked:** No

**CEQA Action:** Certify EIR

RECOMMENDATION:

It is recommended that the Board of Supervisors adopt a resolution (Attachment C) to:

- a. Grant the appeal by Harper Canyon Realty LLC from the Planning Commission's denial of an application by Harper Canyon Realty LLC for a Combined Development Permit consisting of a Vesting Tentative Map for the subdivision of 344 acres into 17 lots and associated Use Permits;
- b. Certify an EIR (SCH #2003071157);
- c. Adopt CEQA Findings and a Statement of Overriding considerations;
- d. Approve a Combined Development Permit consisting of a 1) A Vesting Tentative Map for the subdivision of 344 acres into 17 residential lots ranging in size from 5.13 acres to 23.42 acres on 164 acres with one 180-acre remainder parcel; 2) Use Permit for the removal of approximately 79 Coast live oak trees over six inches in diameter for road and driveway construction; 3) Use Permit for development on slopes in excess of 30 percent; 4) Use Permit for the creation of a public water system with a stand-alone treatment facility (Option B); 5) grading for net cut and fill of approximately 2,000 cubic yards; and Design Approval; and
- e. Adopt a Mitigation Monitoring and Reporting Plan.

SUMMARY:

On August 16, 2001, the project applicant, Harper Canyon Realty, LLC submitted an application for a Combined Development Permit for a Vesting Tentative Map in order to subdivide land into 17 lots. The application was deemed complete on November 22, 2002, which makes this application is subject to the 1982 General Plan. The Monterey County Standard Subdivision Committee reviewed this project on October 28, 2004 and recommended approval of the project by the Planning Commission. On February 12, 2014, following preparation and processing of an EIR as directed by the Planning Commission, the Planning Commission denied the project based on findings that: 1) the goal of promoting adequate water service for all county needs was better served by not approving new lots, and 2) the project does not have an assured long term water supply.

On February 24, 2014, the Applicant/Appellant, Harper Canyon LLC, filed a timely appeal from the Planning Commission's decision to deny the project. The appeal is brought on the basis that the Applicant was denied a fair and impartial hearing, that the findings, or decision or conditions are not supported by the evidence, and that the decision was contrary to law.

Staff was prepared to set the public hearing for the appeal within 60 days of filing the appeal (April 22, 2014). However, on March 11, 2014, the Appellant's agent, Michael Cling, requested to postpone the public hearing until May 13, 2014 to accommodate his client's schedule (**Attachment L**).

Staff recommends approval of the project and has prepared a draft resolution providing substantial evidence that the project is consistent with General Plan policies and Subdivision Ordinance (Title 19) and that the project has an assured long term water supply based upon the analysis contained in the 2002 project-specific hydrogeological report, the 2007 El Toro Ground Water Study, the Draft and Final EIR, and the project wells' location within Zone 2C. However, the Board could find that as a policy matter that the goal of promoting adequate water service for all county needs was better served by not approving new lots and thus deny the appeal. Should the Board make that determination, the Board would need to adopt a motion of intent to deny the appeal and project and continue the hearing to a date certain with direction to staff to return with a resolution for denial of the appeal and denial of the project.

DISCUSSION:

This 344-acre parcel is zoned for Rural Density Residential at a density of 5.1 acres per unit, which would allow up to 64 lots/units. The applicant is requesting to subdivide this parcel into 18 residential lots, including a remainder parcel. The project is located on the north side of San Benancio Road, which is on the edge of Zone 2C. Significant issues identified in the environmental impact report relate to water and traffic.

Wells proposed to serve this project are located within the boundary of Zone 2C and not within the County's B-8 zoning overlay district. While investigations indicate that there is an adequate water supply, the water quality in this area has contaminants that require treatment. The existing Ambler Park Treatment Facility is located in close proximity and has the capacity to serve this project. However, the treatment facility is located outside of Zone 2C and is served by wells within the B-8 zone. Staff recommends that the applicant construct a new treatment facility for wells that would benefit the proposed project as well as the existing nine lots of the Oaks Subdivision. A treatment facility would eliminate the need for exchanging water between zones and the associated administrative burdens of monitoring the exchange. This facility, as well as the applicant's proposal to donate land to the County for Toro Park, would provide public benefits that support a Statement of Overriding Considerations for the project impacts.

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
- √ Parks Department
- √ Water Resources Agency
- √ Salinas Rural Fire Protection District
- √ Toro Land Use Advisory Committee

The Planning Commission held a public hearing on the project on January 8, 2014 and February 12, 2014 and denied the project by a vote of 8-0 (**Attachment D**).

FINANCING:

Funding for staff time associated with this project is included in the FY 13-14 Adopted Budget for RMA-Planning.

Prepared by: Laura Lawrence, RMA Services Manager ext. 5148  
Approved by: Mike Novo, Director, RMA-Planning, ext. 5192  
Benny Young, Director Resource Management Agency

This report was prepared with assistance by Tad Stern, Pacific Municipal Consultants and reviewed by Mike Novo.

cc: Front Counter Copy; Laura Lawrence, RMA Services Manager; EHB, RMA-Public Works; MCWRA; Monterey County Regional Fire Protection District; County Counsel; Sheriff's Office; Harper Canyon Realty LLC, Owner; Mike Cling, Agent; The Open Monterey Project (Molly Erickson); LandWatch (Amy White); Mike Weaver; Richard Rosenthal; Rachel Saunders (Big Sur Land Trust); David Raye; Lauren and Bill Keenan; Beverly and Steve Bean; Julie Garvin; Mike Thompson; David Erickson; Steven Schmiess; Lowell Webster; Marianne Gennis; Raymond Lino Belli; Richard Dampier; Meyer Community Group; Laura Carley; The Highway 68 Coalition; Native American Heritage Commission; CRWQCB; MBUAPCD; TAMC; MPWMD; Caltrans District 5; Project File PLN000696

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

- Attachment A Discussion
- Attachment B Notice of Appeal
- Attachment C Draft Board Resolution including:
  - Attachment C-1 Conditions of Approval and Mitigation Monitoring and Reporting Plan
  - Attachment C-2 Vesting Tentative Map
- Attachment D Planning Commission Resolution No. 14-010
- Attachment E Vicinity Map
- Attachment F Environmental Documents:
  - Attachment F-1 Draft EIR Volumes I and II (on CD and on RMA-Planning website)
  - Attachment F-2 Recirculated DEIR Volumes I and II (on CD and on RMA-Planning website)
  - Attachment F-3 Final EIR (on CD and on RMA-Planning website)
- Attachment G Referenced Exhibits MR1-1, MR1-2, and MR1-3, MR2-1 and Figure 3.6-1 from the Final EIR
- Attachment H 2007 Geosyntec El Toro Ground Water Study Executive Summary (Full Report and 2010 Supplement are on CD)
- Attachment I Montgomery Watson Historic Benefits Analysis (1998) (on CD)
- Attachment J MCWRA Ground Water Level and Seawater Intrusion Information for 2011 (MCWRA Board of Directors presentation - August 27, 2012)
- Attachment K Advisory Committee Minutes (LUAC)
- Attachment L March 11, 2014 Letter from Michael Cling requesting delay of appeal hearing to May 13, 2014