



County of Monterey

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Board Report

File #: RES 14-034, **Version:** 1

A public hearing, continued from March 18, 2014, to consider:

- a. Denial of the appeal by Maria A. Vasquez from the Planning Commission's decision to deny the application for a Minor Subdivision Vesting Tentative Map (Vasquez/PLN0040529); and
 - b. Denial of the application for a Minor Subdivision Vesting Tentative Map (Vasquez/PLN0040529) 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)

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 from CEQA pursuant to Section 15270

RECOMMENDATION:

It is recommended that the Board of Supervisors:

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

- a. 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
- b. Deny the application for a Minor Subdivision Vesting Tentative Map (Vasquez/PLN0040529) 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 information. For this reason, after providing several opportunities to provide water information, 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, after taking testimony that included discussion related

to water testing, 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 information to support a subdivision of the property, by a 7-2 vote (1 member absent) (PC Resolution No. 14-003). Information related to the water not meeting quality and quantity standards had been presented to the Planning Commission as part of their deliberations. 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 tested to be 5.1 gpm; 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 requirements for water quality and quantity to support subdivision of the property. 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 County 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, the evidence that the existing wells have quality problems and may not be able to meet quantity requirements, and a determination by the Planning Commission 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 **Attachments A and B**. The appeal was scheduled and legally noticed for a public hearing before the Board of Supervisors on March 18, 2014. The project applicant contended that the owner and representative did not receive notification of the hearing in a timely matter and requested a continuance. According to County records, at least 10 days prior to the public hearing, notices of the public hearing before the Board of Supervisors were published and were posted on and near the property and mailed to the property owners within 300 feet of the subject property as well as interested parties (including the project applicant.) The Board continued the hearing to April 8, 2014.

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 requirements for water supply. 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 until 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 and/or provided comments:

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

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); 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
- 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