



## Board Report

---

**File #:** PC 19-050, **Version:** 1

---

### **PC07704-AMD1 - 12 PASADERA LP (PASADERA SUBDIVISION AFFORDABLE HOUSING AMENDMENT)**

Public hearing to consider modification of Condition No. 136 (Mitigation Measure No. 56) of the Bishop Ranch Subdivision (Pasadera) to change the term of the affordability restriction of the twelve (12) affordable rental units on Parcel A-2 from Low-Income to Moderate-Income.

**Project Location:** 504 Estrella De Oro Avenue, Monterey, Greater Monterey Peninsula Area Plan

**Proposed CEQA Action:** Recommend the Board of Supervisors find the project statutorily exempt pursuant to Section 15270 of the CEQA Guidelines.

#### **RECOMMENDATION:**

It is recommended that the Planning Commission adopt a resolution recommending that the Board of Supervisors:

- a. Find the project statutorily exempt from CEQA per Section 15270 of the CEQA Guidelines as a project that is not approved; and
- b. Deny the request for an amendment to a previously-approved Combined Development Permit (Board of Supervisors Resolution No. 95-574; RMA-Planning File No. PC07704) for the Bishop Ranch Subdivision (aka Pasadera Subdivision) to allow the modification of Condition No. 136 (Mitigation Measure No. 56) to change the term of the affordability restriction of the twelve (12) affordable rental units on Parcel A-2 in the subdivision from Low-Income to Moderate-Income.

A draft resolution, including findings and evidence, is attached for consideration (**Exhibit A**).

#### **PROJECT INFORMATION:**

**Owner/Applicant:** 12 Pasadera LP

**APN:** 173-074-074-000

**Zoning:** Medium Density Residential, with Building Site 6 and Design Control overlays (MDR/B-6-D)

**Project Site Size:** approximately 3.606-acre (157,069 square feet)

**Plan Area:** Greater Monterey Peninsula Area Plan

**Flagged and Staked:** Not required. Existing structural development would not change.

#### **SUMMARY:**

The Applicant (12 Pasadera LP) requests the County amend a previously-approved Combined Development Permit for the Bishop Ranch Subdivision to allow the modification of Condition No. 136 (Mitigation Measure No. 56) to change the term of the affordability restriction of the twelve (12) affordable rental units on Parcel A-2 in the subdivision from Low-Income to Moderate-Income. The 12 low-income rental units were part of 38 total units the applicant was required to construct as part of the approval for the Bishop Ranch Subdivision, consistent with applicable policies and regulations at the time of approval in 1995. However, the proposed amendment to Condition No. 136 would not be consistent with current policies and regulations, nor would it be consistent with those in effect at the time of original project approval. CAO Housing Office staff was consulted for this project. Their comments and analysis are incorporated throughout this staff report.

#### **DISCUSSION:**

As approved by the Board in 1995, Condition No. 136 of the Bishop Ranch Subdivision required the applicant

to comply with the requirements of the Inclusionary Housing Ordinance by agreeing to build 26 moderate-income for-sale units and 12 low-income rental units prior to filing the subdivision final map (see **Exhibit E**). The applicant complied with the requirement by constructing and selling 26 units at the moderate-income level (separate single-family dwellings on individual parcels; Assessor's Parcel Numbers 173-131-001 through 026-000; 101 - 126 Circulo de Casitas), and constructing 12 units for rent to low-income households. For reference, the Bishop Ranch or Rancho Monterey Subdivision is now known as the Pasadera Country Club or the Nicklaus Club - Monterey.

In 2005, the Pasadera developer began renting the 12 units to low-income households. The owner is responsible for maintaining the units as Inclusionary Rental Units in perpetuity. The applicant is requesting an amendment to the affordability level of the rental units because they claim to have experienced high vacancy rates and difficulty in finding qualifying renters, and believe the units would better serve moderate income households given that the location of the units (at the northern edge of the Pasadera subdivision) results in limited access to services and facilities, including transportation and shopping in the area. Under the terms of the developer's Inclusionary Housing Agreement, the owner is responsible for identifying potential renters and referring them to Economic Development and Housing for income and asset certification. The owner pays the Housing Office a flat fee of \$200.00 for each potential tenant the Housing Office must review.

The following table is provided for reference and summarizes the maximum annual income, maximum monthly rent, and maximum sales price at four different income levels based on Area Median Income (AMI). Again, the 12 units in question are restricted at the "low income" level and the developer proposes to modify that restriction to "moderate income" levels.

	Low (<80% AMI)	Moderate (80%-120% AMI)	Workforce 1 (120%-150% AMI)	Workforce 2 (150%-180% AMI)
<u>Maximum Annual Income</u>				
2 Person Household	\$52,100	\$65,950	\$ 82,450	\$ 98,900
3 Person Household	\$58,600	\$74,200	\$ 92,800	\$111,350
4 Person Household	\$65,100	\$82,450	\$103,050	\$123,650
5 Person Household	\$70,350	\$89,050	\$111,300	\$133,550
<u>Maximum Monthly Rent</u>				
2 Person Household	\$1,303	\$1,649	\$2,405	\$2,885
3 Person Household	\$1,465	\$1,855	\$2,707	\$3,248
4 Person Household	\$1,628	\$2,061	\$3,006	\$3,606
5 Person Household	\$1,759	\$2,226	\$3,246	\$3,895
<u>Maximum Sales Price</u>	\$200,879	\$296,750	\$346,339	\$445,324

The Inclusionary Housing Ordinance in effect at the time Pasadera was approved only required units to be affordable to low or moderate income households. The Workforce I and II levels of affordability were adopted as part of the 2010 General Plan, but are not yet reflected in the Inclusionary Housing Ordinance.

### Original Subdivision

The Board resolution to approve the subdivision allowed 253 residential units; including 160 single-family dwelling lots, 55 townhomes, and 38 inclusionary or affordable housing units. At the time of project approval in 1995, the County's Housing Element and Inclusionary Housing Ordinance (Monterey County Code Section 18.40) required 15 percent affordable units. The number of units used to calculate the requirement would be 250; therefore, 15 percent of 250 units equaled 37.50 units, which the County rounded up to 38 units. Additionally, 30 percent of the 38 affordable units were required to be designated for low income households;

therefore, 30 percent of 38 units equaled 11.25 units, which the County rounded up to 12 units.

Specifically, Board Resolution No. 95-574 contains the following Findings and Evidence:

*Finding No. 13: The Bishop Ranch vesting tentative subdivision map is consistent with applicable policies of the Monterey County General Plan, including the following: ...; 58.1.4.*

*Evidence - 58.1.4 (Housing): The project includes 253 housing units, of which 15 percent (37.95 units) are required to be inclusionary. The project contains 38 inclusionary housing units, of which no less than 30% shall be provided for low income housing units.*

*Finding No. 14: The Bishop Ranch Monterey County vesting tentative map for the project is consistent with applicable policies of the Greater Monterey Peninsula Area Plan including the following: ...; 62.1.14, ....*

*Evidence - 62.1.14 (Housing): See consistency discussion for policy 58.1.4 of the Monterey County General Plan.*

[The 1982 Greater Monterey Peninsula Area Plan Supplemental Policy 62.1.14 states: All development proposals shall make provision for low or moderate income housing in accordance with the Inclusionary Housing Ordinance.]

*Finding No 21: The applicant is required to comply with provisions of Monterey County Inclusionary Housing Ordinance. The Board of Supervisors has considered low and moderate income inclusionary housing requirements and the housing needs of the County's residents and has balanced those housing needs of its residents and environmental resources.*

*Evidence - Condition No. 136 requires the subdivider to comply with the provisions of the inclusionary housing ordinance.*

*Attachment A to Resolution Nos. 95-415 and 95-574, CEQA Certification and Findings:*

*Finding No. 5.A.1: The "No Project Alternative" is infeasible because it is inconsistent with the goal of the County to increase the supply of housing units, including low income and moderate income units in the local housing market....*

*Finding No. 6.C: Given the constraints of the site, the Project will provide the maximum amount of affordable housing feasible through the construction of 38 units of inclusionary housing on the Project site. This will have a beneficial impact of the shortage of affordable housing which currently exists in Monterey County. In addition, the project will result in an increase in the supply of housing, including affordable housing, which is from 65% to 70% greater than that which would result from development consistent with the existing area plan.*

Additionally, the Inclusionary Housing Agreement ("Agreement"; Document No. 9877554; recorded November 6, 1998; see **Exhibit F** for the full text of the Agreement) states the following:

*Recital C. County has designated thirty-eight (38) lots within the Development to be "Inclusionary Units for Moderate and Low Income Households" as defined in Subsection 18.40.030 of the COUNTY CODE. Developer shall provide twenty-six (26) units for Moderate Income households on Parcel A-1, and twelve (12) units for Low Income households on Parcel A-2.*

As proposed, the conversion of low income rental units to moderate income rental units would not comply with the affordable housing requirements in place at the time of the original subdivision nor would it comply with the terms of the Inclusionary Housing Agreement entered into between the subdivider and the County.

### **Current General Plan and Affordable Housing Requirements**

The proposed amendment is subject to the current rules in place including the policies of the 2010 General Plan. The 2010 General Plan Policy LU-2.13 requires consistent application of an affordable housing ordinance that requires 25 percent of new housing units to be affordable to very low, low, moderate, and workforce income households at the following levels:

- 1) 6% of the units affordable to very low-income households
- 2) 6% of the units affordable to low-income households
- 3) 8% of the units affordable to moderate -income households
- 4) 5% of the units affordable to Workforce I income households

If the original project were approved under the current General Plan including the 2015 - 2023 Housing Element and the current Inclusionary Housing Ordinance, the percentage of affordable units required would be 25 percent, which would equate to 62.50 total affordable units. The current element and ordinance would also require 6 percent of the total number of units to be designated for low income households, which would equate to 15.00 low income units.

Moreover, the proposed amendment is subject to the provisions of Goal H-1, and Policies H-1.2 and H-1.4 of the 2015 - 2023 Housing Element (adopted January 26, 2016; Board Resolution No. 16-011) regarding the preservation of affordable housing; and is subject to the provisions of Section 2.8 of the Housing Element regarding preservation of affordable housing. The applicant has not provided any documentation to support the need for this proposed change to the affordability restriction. Contrary to the applicable Housing Element goals and policies, this proposed change would not preserve the existing affordable housing stock.

The proposed amendment is also inconsistent with the provisions of Section 19.08.010.A, Modification(s) of Conditions to an Approved Tentative Map, of the Monterey County Subdivision Ordinance (Title 19). Pursuant to Section 19.08.010.A, modifications to conditions to an approved tentative map may be considered by the appropriate decision making body provided that: 1. The final has not been filed for record; 2. No lots, units or building sites are added or deleted; 3. The changes are consistent with the applicable General Plan, Area Plan, Coastal Land Use Plan, Master Plan or Specific Plan; 4. There are no resulting violations of Monterey County Codes; and 5. There will be no new significant adverse environmental affect from the change. While the modification to the affordability requirement does not involve further subdivision, site improvements, development intensification or change of use within the subdivision, the proposed amendment would occur after recordation of the final map (the final map was recorded on November 4, 1998) and is not consistent with applicable plans.

As proposed, the conversion of low income rental units to moderate income rental units would not comply with the affordable housing requirements of the 2010 General Plan or the Inclusionary Housing Ordinance and would conflict with policies of the Housing Element and the Subdivision Ordinance.

### **OTHER AGENCY INVOLVEMENT:**

The following agencies have reviewed the project:

Monterey County CAO Housing Department

### **Greater Monterey Peninsula Land Use Advisory Committee (LUAC)**

The project was referred to the Greater Monterey Peninsula LUAC for review. The LUAC reviewed the proposed amendment at a duly-noticed public meeting on October 4, 2017, at which all persons had the opportunity to be heard, and provided comments to the County regarding the proposal (see **Exhibit C**). The LUAC did not vote on a recommendation because they believed they did not have sufficient information to

make a recommendation to the appropriate authority.

### **Housing Advisory Committee (HAC)**

The project was referred to the Housing Advisory Committee (HAC) for review. The HAC reviewed the proposed amendment at duly-noticed public meetings on September 27, 2017; March 14, 2018; and January 9, 2019; at which all persons had the opportunity to be heard (see **Exhibits D1, D2, and D3**). On January 9, 2019, the HAC voted 6 - 0 to adopt a recommendation to the Planning Commission and the Board of Supervisors that Condition of Approval No. 136 for the Pasadera/Bishop Ranch Subdivision (RMA-Planning File No. PC07704) not be amended to allow the conversion of 12 low-income rental properties to moderate income rental properties.

The HAC requested the applicant submit additional information; however, the applicant did not provide any information responsive to the HAC's requests. The HAC requested a marketing plan or strategy; documentation to support anecdotal statements made by the applicant regarding access to schools, jobs, and services; information regarding how the applicant selects and pre-qualifies tenants before sending the information over to the County for income certification; and any other information and/or documentation supporting the proposed amendment.

At the January 9, 2019, HAC meeting, the applicant's agent informed the HAC that: 1) the applicant did not have a marketing program for the units; and 2) the proposed increase in the affordability requirement would accommodate Pasadera employees whose incomes currently exceed the allowed income level for low-income affordable units. The agent also stated that 11 of the 12 units are currently occupied, that the remaining unit has been vacant for one month, and that typical turnover is 1 - 2 vacant units on a recurring basis.

Prepared by: Joe Sidor, Associate Planner, x5262

Reviewed by: Craig Spencer, Interim RMA Services Manager

Approved by: John M. Dugan, FAICP, RMA Deputy Director for Land Use and Community Development

The following attachments are on file with the RMA:

Exhibit A - Draft Resolution

Exhibit B - Vicinity Map

Exhibit C - LUAC Minutes - October 4, 2017

Exhibit D - Housing Advisory Committee Minutes

Exhibit E - Board Resolution 95-574 (December 5, 1995)

Exhibit F - Inclusionary Housing Agreement (November 6, 1998)

Exhibit G - Correspondence

cc: Front Counter Copy; County Counsel; Economic Development and Housing; Joseph Sidor, Associate Planner; Craig Spencer, Interim RMA Services Manager; Brandon Swanson, Interim RMA Chief of Planning; 12 Pasadera LP, Property Owner/Applicant; Anthony Lombardo & Associates, Agent; The Open Monterey Project (Molly Erickson); LandWatch; Project File PC07704-AMD1