

Exhibit C
Draft Resolution to rescind
Development approvals

Monterey-Salinas Transit
(Whispering Oaks)
PLN110231

Board of Supervisors
February 7, 2012



**EXHIBIT C
DRAFT RESOLUTION**

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

In the matter of the application of:

**County of Monterey and Monterey-Salinas Transit (PLN110231)
RESOLUTION NO.**

Resolution by the Monterey County Board of Supervisors
rescinding the following actions:

- 1) Certification of the Final Environmental Impact Report prepared for the Monterey-Salinas Transit/Whispering Oaks Business Park project and adoption of a Statement of Overriding Considerations;
- 2) Approval of a Combined Development Permit consisting of:
 - a) Standard Subdivision Phased Vesting Tentative Map dividing two parcels of 30.3 acres and 85.2 acres (Assessor's Parcel Numbers 031-101-041-000 and 031-101-056-000) into 16 lots including a 24.4 acre lot and 15 smaller lots ranging in size from 1 acre to 3 acres, a roadway parcel (approximately 7.4 acres), a drainage detention and percolation parcel (approximately 1.7 acres), and three Open Space parcels (approximately 59 acres);
 - b) General Development Plan establishing Allowed Uses, Conditional Uses allowed, and site development standards and design criteria for the proposed Whispering Oaks Business Park;
 - c) General Development Plan and Use Permit to allow development of the Monterey-Salinas Transit (MST) administrative and maintenance facility containing the following: 1) a 36,000 square foot three-story administrative building; 2) a 96,450 square foot two-story bus maintenance building; 3) an 18,620 square foot fuel/brake/tire building with underground tanks attached by a canopy to an 8,373 square foot bus wash/steam cleaning building; and 4) approximately 15 acres of paved parking to accommodate up to 281 busses and 388 automobiles;
 - d) Use Permit to allow the removal of approximately 2,400 Coast Live Oak trees on Lot 1 (MST parcel); and
 - e) Use Permit to allow the removal of approximately 1,000 Coast Live Oaks on Lots 2 through 16, and for infrastructure improvements;
 - f) An Administrative Permit and Design Approval for development within the Site Plan Review ("S") zoning district
- 3) Adoption of the Mitigation Monitoring and Reporting Plan for the MST/Whispering Oaks Business Park; and
- 4) Allocation of 92.7 acre-feet of water per year for the MST/Whispering Oaks Combined Development Permit [PLN110231, County of Monterey and Monterey-Salinas Transit, A portion of the former Army Landfill site in Fort Ord, Fort Ord Master Plan Area (APNs: 031-101-041-000, 031-101-056-000, and 031-101-042-000)]

The Board of Supervisors' request to consider rescission of the approvals for the Monterey-Salinas Transit/ Whispering Oaks Business Park (PLN110231) came on for public hearing before the Monterey County Board of Supervisors on February 14, 2012. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Board of Supervisors finds and decides as follows:

I. RECITALS

1. The Redevelopment Agency of Monterey County applied on November 24, 2009 for approval of a Combined Development Permit ("MST/Whispering Oaks project") and Rezone to create a 16 lot business park including lot 1 (24 acres for development of a Maintenance and Operations facility for Monterey Salinas Transit (MST) (PLN090071)) and to set aside 58 acres of open space on land designated Planned Development for Mixed Use in the Fort Ord Reuse Plan ("Reuse Plan") and Monterey County General Plan ("General Plan"). A Draft Environmental Impact Report was prepared, and circulated for public review, pursuant to the California Environmental Quality Act for the MST/Whispering Oaks project. A Final Environmental Impact Report was prepared to respond to comments received on the Draft EIR.
2. The Project is located within the former Fort Ord and is governed by the Fort Ord Reuse Plan as well as the Monterey County General Plan.
3. The Fort Ord Reuse Plan, as adopted by the Fort Ord Reuse Authority on June 13, 1997, contains development policies and standards for the redevelopment of the former Fort Ord.
4. The Reuse Plan limits development through its Development and Resource Management Plan, Section 3.11.5, due to infrastructure and resource constraints. One of the constraints is water supply.
5. The land use designations and policies from the Fort Ord Reuse Plan for the unincorporated area were adopted into the County General Plan on November 20, 2001.
6. The 2010 Monterey County General Plan contains a Fort Ord Master Plan, which incorporates the Fort Ord Reuse Plan into the County General Plan.
7. The County has not undertaken a complete rezoning of the former Fort Ord unincorporated area, which will occur as part of the General Plan Implementation program currently underway by the County. This zoning will implement the Reuse Plan land use designations as incorporated into the 2010 Monterey County General Plan.
8. Until such time as rezoning of the former Fort Ord unincorporated area has been completed, zoning reclassification is occurring on a project-by-project basis as long as the project is in conformance with the Monterey County General Plan and Fort Ord Reuse Plan.
9. On April 13, 2011, the Monterey County Planning Commission held a duly noticed public hearing to consider the FEIR, the proposed MST/Whispering Oaks Combined Development Permit, and associated approvals, including an Ordinance to rezone the property to Heavy Commercial and Open Space. On April 13, 2011 the Monterey County

Planning Commission unanimously voted to deny the Combined Development Permit and recommend denial of the zoning amendment. At least 10 days before the public hearing, notices of the hearing before the Board of Supervisors were published in both the Monterey County Herald and the Salinas Californian. The notice was also posted on and near the property and mailed to property owners within 300 feet of the subject property as well as interested parties. On April 22, 2011, Monterey-Salinas Transit and the Redevelopment Agency of Monterey County timely appealed the decision of the Planning to deny the Combined Development Permit.

10. On June 14, 2011 the Monterey County Board of Supervisors held a duly noticed public hearing to consider certification of the FEIR, the proposed MST/Whispering Oaks Combined Development Permit, and associated approvals, including an Ordinance to rezone the property to Heavy Commercial and Open Space, to take effect upon the later of either: a) the 31st day after adoption, or b) the recordation of the first final Parcel Map for the Redevelopment Agency of Monterey County subdivision. At least 10 days before the public hearing, notices of the hearing before the Board of Supervisors were published in both the Monterey County Herald and the Salinas Californian. The notice was also posted on and near the property and mailed to property owners within 300 feet of the subject property as well as interested parties. After the June 14, 2011 hearing, the Board of Supervisors directed staff to return on July 12, 2011 with appropriate resolutions and ordinances to approve the project. After consideration of testimony and all information in the record, the Board of Supervisors certified the Final EIR, adopted the proposed rezoning ordinance (Ordinance No. 5181), granted the appeal, and approved the following on July 12, 2011:

- a. Combined Development Permit consisting of:
 - a) Standard Subdivision Phased Vesting Tentative Map dividing two parcels of 30.3 acres and 85.2 acres (Assessor's Parcel Numbers 031-101-041-000 and 031-101-056-000) into 16 lots including a 24.4 acre lot and 15 smaller lots ranging in size from 1 acre to 3 acres, a roadway parcel (approximately 7.4 acres), a drainage detention and percolation parcel (approximately 1.7 acres), and three Open Space parcels (approximately 59 acres);
 - b) General Development Plan establishing Allowed Uses, Conditional Uses allowed, and site development standards and design criteria for the proposed Whispering Oaks Business Park;
 - c) General Development Plan and Use Permit to allow development of the Monterey-Salinas Transit (MST) administrative and maintenance facility containing the following: 1) a 36,000 square foot three-story administrative building; 2) a 96,450 square foot two-story bus maintenance building; 3) an 18,620 square foot fuel/brake/tire building with underground tanks attached by a canopy to an 8,373 square foot bus wash/steam cleaning building; and 4) approximately 15 acres of paved parking to accommodate up to 281 busses and 388 automobiles;
 - d) Use Permit to allow the removal of approximately 2,400 Coast Live Oak trees on Lot 1 (MST parcel); and
 - e) Use Permit to allow the removal of approximately 1,000 Coast Live Oaks on Lots 2 through 16, and for infrastructure improvements;
 - f) An Administrative Permit and Design Approval for development within the Site Plan Review ("S") zoning district

- b. Adoption of a Mitigation Monitoring and Reporting Plan for the MST/Whispering Oaks Business Park; and
 - c. Allocation of 92.7 acre-feet of water per year for the MST/Whispering Oaks Combined Development Permit.
11. Following County approval of the CDP, a referendum petition was circulated protesting adoption of Ordinance No. 5181 related to the legislative act of rezoning the subject property from Public/Quasi-Public (PQP) to Heavy Commercial (HC) and Open Space (O). On August 24, 2011, the Registrar certified to the Clerk of the Board that the requisite number of voters signed the referendum petition. On September 20, 2012, the Board of Supervisors received the Registrar's Certificate to Referendum Petition. Pursuant to Election Code section 9144, as a result of the qualification of the referendum, the ordinance is suspended, and the Board of Supervisors must reconsider the ordinance.
12. Section 1410 and 9145 of California Election Code indicates that, when a petition is found sufficient, the Board of Supervisors may either (a) entirely repeal the Ordinance against which the referendum is filed, or (b) shall submit the Ordinance to the voters at the next regularly scheduled election not less than 88 days after the date of the order of the election, or at a special election called for that purpose that is also scheduled not less than 88 days after the date of the order.
13. As the referendum petition to protest adoption of Ordinance No. 5181 qualified for an election, the Board of Supervisors has chosen to reconsider its approvals of the entire project, including rescinding all entitlements granted to the project. The entitlements have not vested because the final map has not been approved, nor has applicant begun construction. At the Board of Supervisors meeting on December 6, 2011, the Board of Supervisors directed staff to return on January 24, 2012, for Board consideration of rescission of all approvals related to this project. On January 24, 2012, the Board of Supervisors set a public hearing on February 14, 2012 to consider rescinding those earlier actions.
14. Due to State Legislation abolishing redevelopment agencies as of February 1, 2012, on January 10, 2012, the Monterey County Board of Supervisors adopted resolutions to serve as the Successor Agency and the Successor Housing Agency for the Redevelopment Agency of Monterey County. As such, the County of Monterey, as Successor Agency, succeeds the Redevelopment Agency of Monterey County as the project applicant.
15. On February 14, 2012, by separate action, the Board of Supervisors adopted an ordinance repealing Ordinance No. 5181, thereby repealing the proposed rezoning. At least 10 days before the public hearing, notices of the hearing before the Board of Supervisors were published in both the Monterey County Herald and the Salinas Californian. The notice was also posted on and near the property and mailed to property owners within 300 feet of the subject property as well as interested parties.

DECISION

NOW, THEREFORE, BE IT RESOLVED, based on all of the above findings and evidence, that the Board of Supervisors does hereby take the following actions:

- 1) Rescind certification of the Final Environmental Impact Report prepared for the Monterey-Salinas Transit/Whispering Oaks Business Park project and rescinds the adoption of a Statement of Overriding Considerations;
- 2) Rescind approval of a Combined Development Permit consisting of:
 - a) Standard Subdivision Phased Vesting Tentative Map dividing two parcels of 30.3 acres and 85.2 acres (Assessor's Parcel Numbers 031-101-041-000 and 031-101-056-000) into 16 buildable lots including a 24.4 acre lot and 15 smaller lots ranging in size from 1 acre to 3 acres, a roadway parcel (approximately 7.4 acres), a drainage detention and percolation parcel (approximately 1.7 acres), and three Open Space parcels (approximately 49 acres and 8.7 acres);
 - b) General Development Plan establishing Allowed Uses, Conditional Uses allowed, and site development standards and design criteria for the proposed Whispering Oaks Business Park;
 - c) General Development Plan and Use Permit to allow development of the Monterey-Salinas Transit (MST) administrative and maintenance facility containing the following:
 - 1) a 36,000 square foot three-story administrative building;
 - 2) a 96,450 square foot two-story bus maintenance building;
 - 3) an 18,620 square foot fuel/brake/tire building with underground tanks attached by a canopy to an 8,373 square foot bus wash/steam cleaning building;
 - and 4) approximately 15 acres of paved parking to accommodate up to 281 busses and 388 automobiles;
 - d) Use Permit to allow the removal of approximately 2,400 Coast Live Oak trees on Lot 1 (MST parcel); and
 - e) Use Permit to allow the removal of approximately 1,000 Coast Live Oaks on Lots 2 through 16, and for infrastructure improvements;
 - f) Administrative Permit and Design Approval for development within the Site Plan Review ("S) district;
- 3) Rescind the Mitigation Monitoring and Reporting Plan for the MST/Whispering Oaks Business Park project; and
- 4) Rescind Allocation of 92.7 acre-feet of water per year to the MST/Whispering Oaks Combined Development Permit.

PASSED AND ADOPTED this 14th day of February, 2012, upon motion of Supervisor _____, seconded by Supervisor _____, by the following vote:

AYES:
 NOES:
 ABSENT:
 ABSTAIN:

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 ___ for the meeting on _____.

Dated:

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

By _____
 Deputy