

MONTEREY COUNTY BOARD OF SUPERVISORS

Meeting: May 19, 2009 Time: 1:30 pm	Agenda Item No.:
Project Description: Public hearing to consider taking the following actions:	
<ol style="list-style-type: none"> 1) Certify the EIR and adopt statement of overriding considerations. 2) Approve, subject to conditions, a Lot Line Adjustment between two parcels reducing APN167-061-032-000 (Riehl) from 52.0 acres to 48.53 acres and increasing APN167-061-033-000 (Mohsin) from 245.51 acres to 249.0 acres. 3) Amend the 1982 Monterey County General Plan and Toro Area Plan to: a) Amend land use map for 17-acres (APN: 167-061-029-000/Samoske) from Farmland/40 acre minimum (F/40) to Low Density Residential with a Special Treatment Area (STA) Overlay; and b) Amend land use map for 266-acres (APN 167-061-033-000/Mohsin) from Permanent Grazing/40 acre minimum (PG/40) to Low Density Residential with a STA Overlay; and c) Adopt Toro Area Plan policy 30.1.1.2(T), establishing a STA Overlay policy that would generally allow a maximum of 14 new single-family residential lots on the lower 72 acres with an agricultural buffer plan and require the upper 249 acres to remain Permanent Grazing. 4) Adopt an Ordinance to: a) change the zoning designation of 17 acre parcel (APN 167-061-029-000/Samoske) from F/40-D to LDR/5-VS; and b) change the zoning designation of the lower 55 acres of a 249-acre parcel (APN 167-061-033-000/Mohsin) from PG/40-D to LDR/5-VS, with 194 acres remaining PG/40. 5) Approve, subject to conditions, a Combined Development Permit consisting of: a) 14-lot residential subdivision, and b) Administrative Permit for a small water system; and adopt a mitigation monitoring and reporting plan. 	
Project Location: 874, 884 & 870 River Road	APN: 167-061-029-000, 167-061-032-000 & 167-061-033-000
Planning Number: PLN980516	Name: Mused and Terry Mohsin, Joseph and Sandra Samoske and Robert and Nancy Riehl
Plan Area: Toro Area Plan	Flagged and staked: No
Zoning Designation: : F/40-D [Farmlands/40 acre minimum-Design Control] and PG/40-D [Permanent Grazing/40 acre minimum-Design Control]	
CEQA Action: Environmental Impact Report prepared (EIR #06-01, SCH#: 2006051020), consisting of a draft EIR (DEIR), re-circulated draft EIR (RDEIR) and final EIR (FEIR)	
Department: RMA - Planning Department	

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- 1) Certify the project EIR (#06-01) and adopt statement of overriding considerations. (Resolution attached as **Exhibit B**)
- 2) Approve a Lot Line Adjustment between APN: 167-061-032-000/Riehl and APN: 167-061-033-000/Mohsin. (Resolution attached as **Exhibit C**)
- 3) Amend the 1982 General Plan and Toro Area Plan as follows (Resolution attached as **Exhibit D**):
 - Change land use map for 17 acres (APN: 167-061-029-000/Samoske) from Farmland/40 acre minimum (F/40) to a Special Treatment Area (STA) Overlay.
 - Change land use map for 249 acres (APN 167-061-033-000/Mohsin) from Permanent Grazing/40 acre minimum (PG/40) to a STA Overlay.
 - Adopt Toro Area Plan Policy 30.1.1.2(T), establishing a STA overlay policy that would generally allow a maximum of 14 new single-family residential lots on the

lower 72 acres with an agricultural buffer plan and the upper 249 acres would remain Permanent Grazing.

- 4) Adopt an ordinance to amend the underlying zoning designation as follows (Ordinance attached as **Exhibit E**):
 - APN: 167-061-029-000/Samoske: change 17-acres from F/40-D to LDR/5-VS
 - APN 167-061-033-000/Mohsin: change 55 acres of a 249-acre parcel from PG/40-D to LDR/5-VS, with 194 acres remaining PG/40.
- 5) Based on the findings and evidence and subject to the conditions of approval, approve a Combined Development Permit (PLN980516) for: (a) Standard Subdivision to subdivide one 17-acre parcel (APN 167-061-029-000/Samoske into three parcels consisting of 7.0 acres (Parcel A), 5.0 acres (Parcel B) and 5 acres (Parcel C) and subdivide one 249.0 acre parcel (APN 167-061-033-000/Mohsin) into 11, 5-acre parcels (LDR/5) plus one remainder parcel totaling 194 acres (PG/40); and (b) Administrative Permit pursuant to Monterey County Code Section 21.14.040.G to allow a small water system with 14 connections, and adopt a mitigation monitoring and reporting plan. (Resolution attached as **Exhibit F**).

SUMMARY:

On March 11, 2009 the Planning Commission voted 5-2-1 to recommend that the Board of Supervisors approve a series of actions that would amend the General Plan and Toro Area Plan to designate a Special Treatment Area (STA), rezone the property to convert 72 acres from Farmland/Grazing to Low Density Residential, and approve a subdivision for 14 new single family lots. Due to unique components of this project and the surrounding area, a Special Treatment Area designation is proposed with language to maintain the upper 194 acres as permanent grazing, including an agricultural conservation easement over 150 of the 194 acres.

A public hearing for the Board of Supervisors to consider certification of the EIR, approval of the General Plan and Toro Area Plan amendments, rezoning, and approval of the Combined Development Permit was duly noticed for the meeting of April 21, 2009. On April 21, 2009, the Board of Supervisors continued the public hearing on the project to May 5, 2009. On May 5, 2009, the Board of Supervisors continued the public to May 19, 2009.

DISCUSSION:

On February 15, 2005, the Board of Supervisors adopted a Mitigated Negative Declaration, approved a Combined Development Permit and took related actions for this project. Litigation was brought challenging these actions. The court granted a writ of mandate, holding that an Environmental Impact Report (EIR) was required because there was a fair argument that the project may have an environmental impact. The Board of Supervisors set aside its prior approvals, and the County proceeded to prepare an EIR. The project now before the Board proposes roughly the same subdivision, but the project also includes a General Plan amendment to establish a Special Treatment Area (STA) overlay with specific criteria for future development of the subject site. In addition, the applicant has proposed an agricultural buffer plan.

A Draft EIR (DEIR) was prepared that addresses potential impacts to aesthetic resources, agricultural resources, air quality, biological resources, geology and soils, hydrology and water quality, land use and planning, population and housing, public services, traffic and transportation and utilities and service systems. The DEIR was circulated for comment from February 8 to March 24, 2008. In response to comments on the DEIR, the project was modified to include

amendments to the Toro Area Plan to create a Special Treatment Area overlay policy, and staff developed a revised alternative with a clustered design. Subsequently, the Executive Summary, Project Description, Land Use and Planning and Alternatives chapters were revised. The Recirculated Portion of the Draft EIR was circulated for public review from September 26 to November 10, 2008. The Planning Commission considered a draft of the Final EIR including possible Overriding Considerations to address significant unavoidable growth inducing impacts to surrounding agricultural lands (see Finding 13 in **Exhibit B**).

Detailed discussion is provided in **Exhibit A**.

OTHER AGENCY INVOLVEMENT:

The following checked agencies and departments reviewed the subject project and CEQA documents.

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|---------------------------------|--|
| ✓ Water Resources Agency | ✓ Office of Redevelopment and Housing |
| ✓ Environmental Health Division | ✓ Salinas Rural Fire Protection District |
| ✓ Public Works Department | ✓ Monterey County Sheriff's Office |
| ✓ Parks Department | ✓ Agricultural Commissioner |

Conditions recommended by the Planning Department, Water Resources Agency, Housing and Redevelopment Agency, Environmental Health Division, Sheriff's Office, Parks Department, Agricultural Commissioner and Salinas Rural Fire Protection District have been incorporated into the Condition Compliance and Mitigation Monitoring Reporting Plan attached to the draft resolution for the Combined Development Permit (**Exhibit F**).

FINANCING:

Funding for staff time associated with this project is included FY07-08 Final Budget for the Planning Department.

Prepared by:

Approved by:

Bob Schubert, AICP, Senior Planner
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Mike Novo, Planning Director

cc: Front Counter Copy; Planning Commission; Public Works; Water Resources Agency; Environmental Health; Parks Department; Redevelopment and Housing Office; Agricultural Commissioner; Salinas Rural Fire Protection District; Sheriff's Office; Carl Holm; Alana Knaster, Wendy Stremling, Bob Schubert, Representative (Tony Lombardo), Owners (Mohsin, Samoske); LandWatch (A. White), Neighbor (Knott); Neighbor (Reihl); Neighbor (Pedrazzi); Neighbor (Hillard); Project File PLN980516.

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|--------------|-----------|--|
| Attachments: | Exhibit A | Project Discussion |
| | Exhibit B | Draft Resolution, EIR |
| | Exhibit C | Draft Resolution, Lot Line Adjustment |
| | | 1. LLA Map |
| | | 2. Conditions of Approval |
| | Exhibit D | Draft Resolution, GPA |
| | | 1. General Plan Land Use Map |
| | Exhibit E | Draft Ordinance, Zone Change |
| | | 1. Zoning Map |
| | Exhibit F | Draft Resolution, CDP |
| | | 1. Condition Compliance and Mitigation Monitoring Reporting Plan |

	2. Tentative Subdivision Map
Exhibit G	Revised Agricultural Buffer Mitigation Plan (Samoske Property)
Exhibit H	Agricultural Suitability and Land Capability Assessment (Agricultural Viability Report)
Exhibit I	Agricultural Commissioner Memorandum "Review and Update of the Agricultural Viability Report (dated February 12, 2009)
Exhibit J	AAC Minutes (1/22/09, 2/26/09)
Exhibit K	AAC Handouts (Aerial Photos, Articles)
Exhibit L	Minutes from Toro LUAC meetings on 10/13/1998, 7/8/2002 and 11/10/2008
Exhibit M	Standard Subdivision Committee resolution of meeting on 11/10/2008
Exhibit N	Planning Commission Resolutions of meeting on 3/11/2009
Exhibit O	Planning Commission Handouts (meeting of 3/11/2008)
Exhibit P	Tentative Subdivision Map (Board members only) *
Exhibit Q	Final EIR (Board members only) *
Exhibit R	Correspondence received following March 11, 2009 Planning Commission meeting
Exhibit S	Memorandum from Building Services Department dated May 7, 2009
Exhibit T	E-mail message from RMA-Planning Department dated May 7, 2009

* Available for review at the RMA – Planning Department counter, 168 West Alisal, Salinas.

Exhibit A
PROJECT DISCUSSION
May 19, 2009

PROJECT DESCRIPTION

The proposed project area consists of approximately 266 acres on three parcels.

1. 17-acre parcel (APN 167-061-029) zoned as Farmland (F/40-D) and owned by Joseph and Sandra Samoske,
2. 245.51-acre parcel (APN 167-061-033) zoned as Permanent Grazing (PG/40-D) and owned by Mused and Terry Mohsin, and
3. 3.47 acres of a 52-acre parcel (APN 167-061-032) zoned as Permanent Grazing (PG/40-D) and owned by Robert and Nancy Riehl.

The properties currently consist of grazing land, open space hilly terrain with one existing residence on each lot with stables. They are located west of River Road, about ¼ mile north of where Chualar River Road bridges the Salinas River.

There are multiple components to the project:

1. Lot Line Adjustment. A Lot Line Adjustment was required as part of a purchase and sales agreement between Robert and Nancy Riehl’s property (APN: 167-061-032-000) and the Mohsin property (APN: 167-061-033-000). This Lot Line Adjustment would transfer 3.47 acres from the Riehl property to the 245.51 acre Mohsin parcel. This would result in increasing the size of the Mohsin parcel to 249 acres and reducing the Riehl property from 52.0 to 48.53 acres. The proposed parcel sizes are consistent with the existing land use designations of the Monterey County General Plan and the Toro Area Plan and also conform to the current PG/40-D zoning designating and the amendments and reclassification as proposed. The Lot Line Adjustment is a prerequisite for the rest of the actions, however, it is also independent of the project.

Table 1 below provides a summary of the project.

TABLE 1: Project Summary				
Parcel	Subdivision		Lot Line Adjustment	
	Proposed # Lots	Proposed Size	Existing Lot Size	Proposed Lot Size
167-061-029 (Samoske)	3	1 @ 6.5 acres 2 @ 5 acres	17 acres	
167-061-032 (Riehl)	n/a	n/a	52 acres	48.53 acres
167-061-033 (Mohsin)	12	11 lots, 5 acres each 1 lot 194 acres (remainder)	245.51 acres	55 acres sub; 194 acre remainder

2. General Plan/Toro Area Plan Amendments. Current general plan/area plan land use designations for the two properties are Farmlands (Samoske, 17 acres) and Permanent

Grazing (Mohsin, 249 acres). Both are limited to a minimum of 40 acres, which when combined (266 acres) would allow up to six lots under this designation. The proposed project includes two amendments to the General Plan and the Toro Area Plan:

- (a) Designate the entire 266 acres of land as a Special Treatment Area (“STA”) with reference to Policy 30.1.1.2(T), a new Toro Area Plan policy (see below).
- (b) Adopt Policy 30.1.1.2(T) with the following policy language that defines uses allowed under this STA:
 - (1) Development shall be limited to the creation of a clustered, rural density, residential subdivision consistent with the surrounding residential development.
 - (2) No more than 13 new residential lots may be created and shall be clustered on the lower 72 acres of land closest to River Road. The lots shall be a minimum of 5 acres.
 - (3) Agricultural buffers shall be established where applicable taking into account conditions such as the type of adjacent agriculture use, topography, and climate (e.g., prevailing winds) with the intent to protect agricultural operations from impacts of non-agricultural uses. An Agricultural Buffer Plan, to be approved by the Agricultural Commissioner, shall be required for any proposed subdivision within the STA.
 - (4) Development of the residential properties shall be required to comply with visual sensitivity policies of the Toro Area Plan.
 - (5) The upper 194 acres shall remain as permanent grazing with a habitat and scenic conservation easement over at least 150 acres, including areas where slopes exceed 30%.
 - (6) Any subdivision within the STA must comply with the inclusionary housing ordinance in effect as of 1998.
 - (7) Neither an infrastructure study nor a rural center plan is required for the development of the Mohsin-Samoske STA.

The STA would establish specific land use limits at the General Plan level. This policy allows subdivision to of only the lower 72 acres and requires that the upper 194 acres be retained as permanent grazing. There could be no further subdivision within the STA without a General Plan amendment to this STA language.

3. Zone Change. If the GP/AP Amendments are approved, then the Board may consider the proposed zone change. The current zoning for the properties reflect the general plan/area plan land uses of Farmland (F) and Permanent Grazing (PG). This project includes a request to change the underlying zoning consistent with the STA overlay. The proposed zoning ordinance would rezone the properties as follows:
 - (a) APN: 167-061-029-000/Samoske: 17 acre parcel would be changed from Farmland/40 acre minimum (F/40-D) to Low Density Residential/5 acres per unit (LDR/5-VS).
 - (b) APN: 167-061-033-000/Mohsin: The lower 55 acres of a 249-acre parcel would be changed from Permanent Grazing/40 acre minimum (PG/40-D) to Low Density Residential/5 acres per unit (LDR/5-VS). The remaining 194 acres will remain Permanent Grazing/40 acres minimum (PG/40-D). Approximately 157.7

acres of the remainder parcel which would be created by the proposed subdivision would be deeded to the County as a Conservation and Scenic Easement in order to preserve viewshed, habitat and open space.

- 4. **Combined Development Permit.** The Combined Development Permit consists of:
 - (a) *Standard Subdivision:* proposed tentative map to create a 14-lot residential subdivision (See Figure 1 below):
 - (1) APN: 167-061-033/Mohsin: eleven new 5-acre parcels on the lower 55 acres of the 249-acre parcel, and
 - (2) APN: 167-061-029/Samoske: three parcels (7 acres, 5 acre, and 5 acre) on the 17-acres closest to River Road.
 - (b) *Administrative Permit:* authorizes a small water system with 14 connections for the new lots, pursuant to Monterey County Code Section 21.14.040.G.

Approval of the Combined Development Permit is predicated upon the Board approving the Lot Line Adjustment, General Plan Amendment and rezoning and those actions taking effect.

FIGURE 1: Existing and Proposed (Dashed) Lot Configuration



TABLE 2: Land Use Summary

Parcel	Owner	General Plan		Zoning	
		Existing	Proposed	Existing	Proposed
167-061-029	Samoske	Farmlands, 40 acres min.	17 acres: Special Treatment Area (Toro AP Policy 30.1.1.2)	F/40-D	LDR/5-VS
167-061-032	Riehl	Permanent Grazing, 40 acres min.	3.47 Acres (Mohsin): Special Treatment Area (Toro AP Policy 30.1.1.2)	PG/40-D	3.47 acres LDR/5-VS; Remainder No Change
167-061-033	Mohsin	Permanent Grazing, 40 acres min.	245.51 acres: Special Treatment Area (Toro AP Policy 30.1.1.2)	PG/40-D	55 acres LDR/5-VS 194 acres: PG/40-VS

F/40-D = Farmlands, 40 acres minimum lot size, Design Control; PG = Permanent Grazing; LDR = Low Density Residential, VS = Visual Sensitivity District

Inclusionary Housing: The project consists of a subdivision creating 14 new residential lots. Two existing residences are currently located on the project site. The application was deemed complete in November of 1999, which was prior to the effective date of the County's current Inclusionary Ordinance (#04185) and is therefore subject to the prior Ordinance #3419. Ordinance #3419 requires that all development resulting in residential units or lots contribute to the Inclusionary Housing Program, in an amount equal to 15% of the total number of lots/units being created, (that are not determined to be exempt). The Ordinance further allows the developer to select the form of compliance including the payment of an in-lieu fee instead of supplying Inclusionary units.

The in-lieu fee shall be based on the adopted Inclusionary In-Lieu Fee Schedule in effect at the time that the project application was deemed complete by the County. This project will result in total of 14 lots; however the two existing residences are exempt. The project is therefore subject to compliance for 12 lots/units, which equals 1.8 Inclusionary units. The project application indicates that the applicant is electing to pay an In-Lieu fee for compliance. The In-Lieu fee is calculated based on the fee schedule that was in effect at the time that the application was deemed complete (1994 In-Lieu Fee Schedule).

BACKGROUND

On February 15, 2005, the Board of Supervisors approved a Mitigated Negative Declaration (Resolution No. 05-071) and Combined Development Permit (Resolution No. 05-071) for the Mohsin, Riehl, and Samoske project. Litigation was brought challenging these actions. The court granted a writ of mandate, holding that an Environmental Impact Report (EIR) was required because there was a fair argument that the project may have an environmental impact. The Board of Supervisors set aside its prior approvals, and the County proceeded to prepare an EIR. The project now before the Board proposes roughly the same subdivision, but the project also includes a General Plan amendment to establish a Special Treatment Area (STA) overlay with specific criteria for future development of the subject site. In addition, the applicant has proposed an agricultural buffer plan.

A draft EIR (DEIR) was released for public comment between February 8 and March 24, 2008. In response to comments, the County revised portions of the DEIR and re-circulated the revised chapters (RDEIR). The RDEIR was circulated for public review between September 26 and

November 10, 2008. A final EIR (FEIR) was completed and released on January 16, 2009. The DEIR, REIR, and FEIR together make up the complete EIR for this project.

Toro Land Use Advisory Commission (LUAC)

On November 10, 2008, the Toro LUAC voted to support the Lot Line Adjustment (7-1 vote) but oppose (8-0 vote) the General Plan Amendment, Rezoning and Combined Development Permit. Members of the public expressed concerns regarding traffic impacts on River Road, agricultural viability, agricultural buffers, drainage water, lack of emergency services, jobs/housing balance and workforce housing. The LUAC expressed concerns regarding the proposed reduction in the agricultural buffers and the loss of viable farmland. One LUAC member suggested that residential development should stop at Pine Canyon Road in order to preserve agricultural land. Minutes from the November 10, 2008 meeting are attached to this report as **Exhibit J**.

Standard Subdivision Committee

On October 30, 2008, the Subdivision Committee considered the proposed project along with the technical analysis of the Draft EIR (DEIR) and re-circulated portion of the Draft EIR (RDEIR). The Committee adopted findings and evidence to recommend (5-1 vote) that the Planning Commission approve the project subject to Conditions of Approval.

Agricultural Advisory Committee (AAC)

In response to issues raised regarding agricultural matters, staff forwarded the project to the Agricultural Advisory Committee (AAC) to address agricultural related issues. The AAC held a hearing on December 4, 2008 at which time they voted to conduct a site visit in order to assess specific site conditions. This site visit was held on December 11, 2008, and the properties were staked relative to proposed buffers. The AAC discussed the Agricultural Suitability and Land Capability Assessment (hereafter referred to as Agricultural Viability Report) for the project and the proposed agricultural buffers at meetings on January 22, 2009 and February 26, 2009.

The AAC reviewed the memorandum from the Agricultural Commissioner reviewing and updating the Agricultural Viability Report for the subject parcels. The AAC voted to reaffirm their opinion that the lands could be used for grapes and grazing, but not for row crops. The AAC also voted to support the proposed conversion of agricultural land as designed. The AAC noted that the project was designed with 5-acre lots that could allow limited agriculturally-related uses such as limited equestrian/ livestock or small vineyards. They found this to be consistent with the existing 5-acre lots abutting the 55-acre portion of the Mohsin property. In addition, the AAC noted that approximately 200 acres would remain PG with $\frac{3}{4}$ (150 acres) of that land being placed in a permanent agricultural conservation easement. The AAC also recommended approval of the applicant's revised agricultural buffer plan. Minutes from these meetings are included as **Exhibit J**.

Planning Commission

The Planning Commission conducted a workshop on December 10, 2008 where staff presented the proposed project, the Draft Environmental Impact report (DEIR), and a Revised Draft Environmental Impact Report (RDEIR). This public hearing was continued to January 28, 2009 in anticipation of releasing the Final EIR. In addition, the Commission wanted to allow the Agricultural Advisory Committee (AAC) adequate time to complete their review before taking their action. The Final EIR was completed and distributed on January 16, 2009. The AAC scheduled the project for the meeting of January 22, 2009.

On January 28, 2009, the Planning Commission held a hearing on the EIR and proposed project. At the hearing, the applicant presented a revised agricultural buffer plan. The Planning Commission passed a motion of intent to recommend approval of the project contingent upon the AAC's consideration and recommendation to the Planning Commission as to whether the AAC approves the applicant's revised 200 foot/50 foot buffer plan for the Samoske lot. Following the Commission hearing, the Agricultural Commissioner prepared a memorandum dated February 12, 2009 (**Exhibit D**) to thoroughly review and update the Agricultural Viability Report. The Agricultural Commissioner found that the parcels could possibly be assigned a higher value overall, but the final conclusion is not changed.

The revised buffer plan and agricultural viability assessment memorandum were presented to the AAC on February 26, 2009. The AAC voted 5-3 to recommend approval of the revised buffer plan and voted 8-0 to reaffirm their determination regarding the agricultural viability of the parcels. That determination is that the parcels could generally be considered suitable for vineyards/orchard and grazing but not row crops.

On March 11, 2009 the Planning Commission voted 5-2-1 to recommend that the Board of Supervisors approve a series of actions that would amend the General Plan and Toro Area Plan to designate a Special Treatment Area (STA), rezone the property to convert 72 acres from Farmland/Grazing to Low Density Residential, and approve the subdivision for 14 new single family lots.

The Planning Commission also recommended that staff add a condition of approval in regard to the Right to Farm Ordinance as set forth in Monterey County Code Section 16.40 (see Condition 73 (**Exhibit F, Attachment 1**)).

CEQA

The Samoske property contains a large stable/residence combination, a number of paddocks with pole barn-type horse shelters, and an equestrian riding ring. This property was occasionally used for dry farming in the past but is not currently in agricultural production and currently is used for equestrian-related activities. Some portions of the Mohsin property were used for dry farming in the past but have not been in production for more than 20 years. The Mohsin property is currently leased for grazing and it has been utilized as grazing land for many years. Some of the adjacent properties are developed with single-family homes (approximately 14 single family home lots).

A Draft Environmental Impact Report (DEIR) was prepared to assess the potential environmental impacts from the project and was circulated starting on February 8, 2008. The public review period ended on March 24, 2008. Issues that were analyzed in the Draft EIR include aesthetic resources, agricultural resources, air quality, biological resources, geology and

soils, hydrology and water quality, land use and planning, population and housing, public services, traffic and transportation and utilities and service systems. Seven comment letters were received that questioned or requested further information regarding the following issues: traffic impacts, scenic impacts to River Road, biological impacts, suitability of the site for agricultural uses, conversion of farmland to residential use, adequacy of the proposed agricultural buffers, growth inducing impacts and impacts on greenhouse gas emissions.

In response to certain comments on the DEIR, modifications were made to the project that required revision to four sections of the DEIR: Executive Summary, Project Description, Land Use, and Alternatives. The primary project modifications were the creation of a Special Treatment Area (STA) overlay and a revised design alternative to illustrate a clustered design concept. The revised portions of the Draft EIR (RDEIR) were circulated starting on September 26, 2008. The public review period on the RDEIR ended on November 10, 2008. Responses to comments that were received on the Draft EIR and the Re-circulated Portion of the Draft EIR are contained in the Final EIR.

Agriculture: The Draft EIR concludes that impacts related to agricultural buffer requirements would be less than significant. However, there would be a cumulative growth inducing impact on adjacent agricultural lands that is significant unavoidable.

The Toro Area Plan designates the Mohsin and Samoske parcels as Farmlands of Local Importance. The General Plan, however, classifies the Mohsin and Samoske parcels based on the Department of Conservation (DOC) Farmland Mapping and Monitoring Program (FMMP). The DOC classifies the site as primarily “Other Lands” with a small portion of the Mohsin property classified as “Grazing Land”.

Agricultural Viability: An agricultural viability report submitted by the applicant concluded that the subject properties are not prime farmland and have low suitability for farming use. While some small portions of a parcel may have soil types that are conducive to farming, these conclusions are based on potential use of the parcels as a whole. The Agricultural Commissioners office had reviewed this report and found that the methodology and conclusions were reasonable. At its meeting on January 22, 2009, the Agricultural Advisory Committee found that the lands could be used for grapes and grazing, but not for row crops.

Following the Planning Commission hearing on January 28, 2009, the Agricultural Commissioner contacted the consultant who had prepared the report. The Agricultural Commissioner then completed an independent review and analysis of the agricultural viability for these parcels. The “Review and Update of the Agricultural Viability Report” from the Agricultural Commissioner is attached as **Exhibit I**. On February 26, 2009, the ACC considered the review and update and 8-0 to reaffirm their earlier action to accept the viability report conclusions that the parcels had marginal agricultural viability.

Agricultural Buffers: The proposed Special Treatment Area (STA) requires that “agricultural buffers shall be established where applicable taking into account conditions such as the type of adjacent agricultural use, topography and climate (e.g., prevailing winds) with the intent to protect agricultural operations from impacts of non-agricultural uses.” The setback areas must be labeled on the final map as “agricultural buffer easement.” The easement deed must describe the easement on each parcel containing an agricultural buffer to exclude habitable structures. The applicant’s revised buffer plan proposes buffers of 200 feet from the Pedrazzi property on the

north, except at the southeast corner of the Pedrazzi property where the buffer varies from 75 feet to 200 feet; 75 feet from the Pizoni property on the north; 50 feet from the Jardini property on the south and 200 feet from River Road. These revised buffers were reviewed and recommended for approval by the AAC on February 26, 2009 and are included in the Planning Commission's recommendation.

Water: An existing water supply well (State Well #16S/4E-8C2) provides domestic water to one rural residential property. Domestic water demand for this parcel is estimated to be 375 gallons per day (gpd) or approximately 0.42 acre-feet per year (af/year). The Samoske parcel currently maintains approximately 9.5 acres of horse pasture and approximately one acre of ornamental landscaping. Based on technical data (electrical bills, etc) provided, the existing irrigation demand for the property is estimated to be approximately 64.4 af/year. There is also an existing well on the Mohsin property that will remain.

The proposed subdivision would include 13 new single-family dwellings. Each parcel would be a minimum of 5 acres in area. Under the proposed project, the domestic water demand would increase to approximately 5,025 gpd or 5.88 ac-ft per year. The project is located in the Salinas Valley aquifer, which is referred to as Zone 2C. This area is found to have a long-term water supply. The wells have been tested and are shown to have adequate water quality.

As part of the development of the subdivision, the existing Small Water System serving the Samoske parcel would be expanded to serve the additional lots through completion of the following:

- A new well would be drilled and added to the system on a well lot easement on Parcel C of the Samoske portion of the subdivision.
- Water storage tanks would be added in accordance with the requirements of the Salinas Rural Fire Department and Monterey County Department of Health, Division of Environmental Health.
- Underground pipelines would be expanded, and the permitted Small Water System would be replaced with a mutual water company to be licensed by the State of California, Department of Corporations.
- Both phases would include the placement of new fire hydrants in accordance with the requirements of the Salinas Rural Fire Department.
- The project includes an Administrative Permit to allow a small water system with 14 connections, pursuant to Monterey County Code Section 21.14.040.G.

Traffic: The proposed single-family homes would generate approximately 124 daily trips, 10 trips during the a.m. peak hour (3 in, 7 out), and 13 trips during the p.m. peak hour. The Draft EIR concludes that traffic impacts will be less than significant after implementation of all standard procedures and mitigation measures.

Biology: The Draft EIR (page IV-80) states that potential impacts to biological resources from the proposed project will be mitigated to levels that are less than significant with implementation of the proposed mitigation measures. Therefore, no significant impacts associated with biological resources will remain after implementation of all standard procedures and mitigation measures.

Following the Planning Commission meeting on March 11, 2009, Mitigation Measure BR-4 was revised to require the applicant to consult with the USFWS and the California Department of Fish and Game to determine whether the project requires incidental take permit(s) and a Habitat Conservation Plan for California Tiger Salamander (see Condition 53 in **Exhibit F, Attachment 1**). Previously, the mitigation measure required that a Habitat Restoration Plan be prepared even though no California Tiger Salamander have ever been recorded or observed on the project site. Representatives of the California Department of Fish and Game and USFWS reviewed the revised mitigation measure with Planning Department staff on April 15, 2009 and determined that it provided equal or greater mitigation compared to the previous mitigation measure.

Final EIR: The Final EIR (FEIR) consists of comments on both the DEIR and RDEIR. The full environmental impact report for the project includes all of the components DEIR, RDEIR and FEIR. The FEIR was completed and distributed on January 16, 2009.

Since this EIR includes reference to the draft 2007 General Plan (GPU5), it should be noted that additional protections are included in that draft plan, if adopted. The draft General Plan includes a new policy that requires development in the unincorporated areas of the County to be subject to a Development Evaluation System to provide a systematic, predictable, and quantitative method to evaluate residential development proposed for lands currently zoned for agricultural uses. The draft 2007 General Plan Policy LU-1.19 would mitigate any growth inducing impacts associated with the proposed project if adopted as drafted. Because the County is currently comprehensively updating its General Plan, it is not feasible to amend the 1982 General Plan in a piecemeal fashion to include only this one new policy. The proposed policy is part of an integrated approach in GPU5 directing new residential growth to already developed areas. Such a policy needs to be adopted in the context of a larger framework, such as is provided by GPU5.

Mitigation Measures and Statement of Overriding Consideration: Mitigation Measures are incorporated into the condition matrix starting at Condition 47 (**Exhibit F**). The EIR concludes that most impacts can be reduced to a less than significant level with mitigation. However, potential growth inducing development pressure to neighboring agriculture lands cannot be fully mitigated and therefore remains a significant unavoidable impact. As such, the Board of Supervisors is required under CEQA to adopt a Statement of Overriding considerations if the Board approves this project. Staff has included overriding considerations that are being presented to the Board of Supervisors (see Finding 13 in **Exhibit B**):

- As conditioned, the project would result in construction of improvements to River Road that will relieve existing traffic deficiencies.
- The upper 194 acres of the site will remain as permanent grazing with a habitat and scenic conservation easement over at least 150 acres, including areas where slopes exceed 50%.
- The project includes development of a large water storage tank that will improve fire suppression capabilities for the existing homes in this area as well as the proposed subdivision.

Investigation of Potential Code Violation (CE090103) On March 12, 2009, the County received a complaint regarding a potential Code violation in regard to grading for roads and two stock ponds on the proposed remainder parcel (Mohsin). County staff conducted an investigation and found no conclusive evidence of a code violation (see memoranda from the RMA-Building Services Department and e-mail message from RMA-Planning Department attached as **Exhibits S and T**). The ponds and roads appear to have been created as part of a historical cattle operation

prior to the time when a County permit would have been required. While evidence of recent grading work was found near one of the ponds, it was determined that the work was done as maintenance for the pre-existing road and therefore no permit was required.