

MONTEREY COUNTY PLANNING COMMISSION

Meeting: January 28, 2009 Time: 1:30 PM	Agenda Item No.: 5
Project Description: Public hearing to consider an environmental impact report and the following project:	
<p>1) Lot Line Adjustment of 3.47 acres 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.</p> <p>2) General Plan/Toro Area Plan Amendment: a) Amend 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; and b) Amend land use map for 266-acres (APN 167-061-033-000/Mohsin) from Permanent Grazing/40 acre minimum (PG/40) to STA Overlay; and c) Adopt Toro Area Plan policy 30.1.1.2(T), establishing language for a STA overlay that would generally allow a maximum of 14 new single-family residential lots on the lower 62 acres with agricultural buffers and the upper 249 acres would remain Permanent Grazing.</p> <p>3) Zone Change: a) change the underlying zoning designation of 17 acre parcel (APN 167-061-029-000/Samoske) from F/40-D to LDR/5-VS; and b) change the underlying zoning designation of the lower 51 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.</p> <p>4) Combined Development Permit consisting of: 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). The proposed subdivision includes agricultural buffer plans for buffers of at least 75 feet on Parcels B and C of the Samoske portion of the subdivision, and buffers of at least 100 feet for 11 residential parcels on the residential portion of the Mohsin subdivision. b) Administrative Permit pursuant to Section 21.14.040.G to allow a small water system with 14 connections.</p>	
Project Location: 874, 884 & 870 River Road	APN: 167-061-029-000, 167-061-032-000 & 167-061-033-000
Planning File 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:

Staff recommends that the Planning Commission recommend that the Board of Supervisors:

- 1) Certify the EIR, approve a mitigation monitoring and reporting plan (**Exhibit D**), and adopt statement of overriding considerations; and
- 2) Based on the findings and evidence (**Exhibit C**) and subject to the conditions of approval (**Exhibit D**), approve PLN980516 consisting of:
 - a) Lot Line Adjustment of 3.47 acres between APN: 167-061-032-000/Riehl and APN: 167-061-033-000/Mohsin;
 - b) General Plan/Toro Area Plan Amendments:
 - Change land use map for APN: 167-061-029-000/Samoske: 17 acres from Farmland/40 acre minimum (F/40) to a Special Treatment Area (STA) Overlay.
 - Change land use map for APN 167-061-033-000/Mohsin: 249 acres from Permanent Grazing/40 acre minimum (PG/40) to a STA Overlay.

- Adopt Toro Area Plan policy 30.1.1.2(T), establishing language for a STA overlay that would generally allow a maximum of 14 new single-family residential lots on the lower 62 acres with agricultural buffers and the upper 249 acres would remain Permanent Grazing.
- c) Zone Change amending the underlying zoning designation:
 - 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.
- d) Combined Development Permit for: a) 14-lot residential subdivision, and b) Administrative Permit for a small water system.

PROJECT OVERVIEW:

The Planning Commission conducted a workshop on December 10, 2008 where staff presented the proposed project, a 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 response to comments on the environmental impact report, which in total creates a 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 this matter for January 22, 2009 following a site visit on December 11, 2008. Staff will report on the AAC actions at the hearing.

See **Exhibit B** for a more detailed discussion of the proposed project.

OTHER AGENCY INVOLVEMENT: The following checked agencies and departments reviewed the subject project and CEQA documents.

- | | |
|---------------------------------|--|
| ✓ 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.

The project, and changes thereto, has been referred to the Toro Land Use Advisory Committee (LUAC) on three occasions:

- October 13, 1998: voted 3-1-1-0 opposing the proposed project.
- July 8, 2002: voted 3-2 supporting a proposed change of the General Plan land use designation and rezoning from agricultural to low density residential designations.
- November 10, 2008: voted 7-1 supporting the Lot Line Adjustment and 8-0 opposing the General Plan Amendment, Rezoning, and Combined Development Permit.

Minutes from these meetings are included as **Exhibit K**.

The proposed project was presented to the Agricultural Advisory Committee (AAC) to address agriculturally related issues such as agricultural buffers and conversion of agricultural lands. The AAC held a hearing on December 4, 2008 and continued the matter for a site visit on December 11, 2008. Minutes from these meetings are included as **Exhibit L**. The AAC is scheduled to

scheduled to complete their review on January 22, 2009, so staff will verbally present their recommendations at the Planning Commission meeting.

Bob Schubert, AICP, Senior Planner
(831) 755-5183 or schubertbj@co.monterey.ca.us
January 20, 2009

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

Attachments:	Exhibit A	Project Data Sheet
	Exhibit B	Project Overview
	Exhibit C	Recommended Findings and Evidence
	Exhibit D	Recommended Conditions of Approval
	Exhibit E	General Plan Amendment Map
	Exhibit F	Draft Ordinance (Zoning Map)
	Exhibit G	Tentative Subdivision Map
	Exhibit H	Agricultural Buffer Mitigation Plan (Samoske Property)
	Exhibit I	Agricultural Suitability and Land Capability Assessment
	Exhibit J	Vicinity Map
	Exhibit K	Toro LUAC Minutes (10/13/98, 7/8/02, 11/10/08)
	Exhibit L	AAC Minutes (12/4/08, 12/11/08)
	Exhibit M	Standard Subdivision Committee Resolution No. 08021
	Exhibit N	Board Resolutions (05-024 and 05-071)
	Exhibit O	DEIR, RDEIR, FEIR distributed under separate cover (PC only)

This report was reviewed by Carl Holm, AICP, Assistant Planning Director

Exhibit A

Project Data Sheet

EXHIBIT B
PROJECT OVERVIEW
January 28, 2009

BACKGROUND

On February 15, 2005, a Mitigated Negative Declaration and Combined Development Permit for the Mohsin, Riehl, and Samoske project were considered by the Board of Supervisors. The total project area consists of 266 acres on two properties (Mohsin and Samoske) with only a minor lot line adjustment affecting a third parcel (Riehl). The Lot Line Adjustment, General Plan/Toro Area Plan amendment, Zoning Amendments, Tentative Subdivision map for 14 lots, and Variance to reduce agricultural buffer set backs was approved under Resolution 05-024 (**Exhibit N1**). The Mitigated Negative Declaration was approved under Resolution 05-071 (**Exhibit N2**). General Plan and Zoning amendments consisted of changes to 72 acres on the lower portion of the project site from agricultural land uses to low density residential. A remainder parcel of 194 acres would remain permanent grazing (PG).

In response to litigation, the County re-initialized the application and began preparation of an environmental impact report (EIR). A draft EIR (DEIR) was released for public comment between February 8 and March 24, 2008. In response to comments, the County determined that portions of the DEIR required revisions that must be re-circulated (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.

As the project progressed, minor changes to the project have been incorporated to address issues raised through the hearings. The project was referred to the Toro Land Use Advisory Committee (LUAC) for review on three separate occasions to address changes in the project:

- 1) On October 13, 1998, the Toro LUAC voted 3-1-1-0 opposing the project as proposed. The minutes of the meeting indicate that the “aye” votes were based on inconsistencies between the project and the Toro Area Plan. The rationale for the “no” vote was because denial of the project would deprive the property owners from subdividing land that is used for neither row crops nor grazing.
- 2) On July 8, 2002, the Toro LUAC reviewed a Property Owner Request from the applicants to change the General Plan land use designation and rezone the property from agriculture (Farmland and Permanent Grazing) to low density residential. The Committee voted to support (3-2 vote) the proposed changes.
- 3) 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 these meetings are attached to this report as **Exhibit K**.

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 (**Exhibit D**). The Committee expressed concerns regarding the proposed reduction in the agricultural buffers but decided to move the project along to the Planning Commission to address the impacts of the project.

In response to issues raised regarding agricultural matters, staff forwarded the project to the Agricultural Advisory Committee (AAC). The AAC held a hearing on December 4, 2008 where, based on public testimony, 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. Minutes from these meetings as are included as **Exhibit L**. The AAC has this item scheduled for January 22, 2009 when they intend to make final recommendations regarding agricultural matters presented to them on this project. Recommendations of the Agricultural Advisory Committee will be presented at the Planning Commission meeting.

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 that require a specific order of consideration. Some of components require action by the Board of Supervisors, so staff recommends that the entire project be considered with a recommendation to the Board.

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.

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 includes two lots and two lots will exist after completion of the lot line adjustment.

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. The intent of this language is to limit subdivision to only the lower 72 acres and retain the upper 194 acres as permanent grazing. There could be no further subdivision within the STA without a GP Amendment to this STA language. A draft Agricultural Buffer Plan has been included with the project, and proposed buffers of 75 and 100 feet have been evaluated in the EIR for this project. Issues regarding conversion of agricultural lands and the proposed agricultural set backs have been forwarded to the County’s Agricultural Advisory Committee for their review and recommendation.

Table 1 below provides a summary for the general plan land uses.

3. Zone Change. If the GP/AP Amendments are approved, then the Commission/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 with the STA overlay established by the GP/AP.

- (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 would be deeded the County as a Conservation and Scenic Easement to County in order to preserve viewshed, habitat and open space.

Table 1 below provides a summary for the general plan land uses.

TABLE 1: 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

4. Combined Development Permit. If the GP/AP Amendments plus the zone change are approved, then the Commission/Board may consider the proposed project:
- (a) *Standard Subdivision*: is designed 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*: is included to develop a small water system with 14 connections for the new lots.
 - (c) *Agricultural Buffer Plan*: proposes to reduce the set back from agricultural lands. Set backs are required to be 200 feet, but a reduction is permitted where conditions do not warrant a full 200 feet. Buffers must be located on the developing (non-agricultural) lands to avoid impacting operations of neighboring agriculturally designated lands. As proposed, the Agricultural Buffer Plan proposes buffers of 75

proposes buffers of 75 feet for Parcels B and C of the Samoske portion of the subdivision and buffers of 100 feet for the 11 new residential parcels on the Mohsin portion of the subdivision.

TABLE 2: 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

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).

Consistency: The recommended findings and evidence (**Exhibit C**) conclude that the project is consistent with Toro Area Plan goals and impacts of the proposed changes are evaluated in the EIR (discussed below).

Policy 26.1.2 of the General Plan is to discourage premature or scattered development.” The project includes the adoption of Policy 30.1.1.2 as part of the Toro Area Plan, which designates the proposed project site as a STA. Such designation identifies a limited specific area for a unique project rather than generalized residential land use designation that would open the door to expansion of similar designations.

Policy 26.1.15 states that “Only very low density development shall be allowed outside of urban service areas, areas of development concentration designated in accordance with the County’s adopted Growth Management Policy, and outside of the County’s existing unincorporated communities.” In Resolutions 05-024 and 05-071 (February 2005), the Board of Supervisors determined that the proposed project was consistent with its growth policies because the proposed project clusters low density development around an existing nucleus of previously developed

developed parcels. Providing services to the existing parcels and new parcels is facilitated by their location in an area that is near the Chualar River Road and has access to both Highway 101 and Highway 68 via River Road. Clustered, low density residential development is consistent with the proposed STA.

Policy 27.1.3 states that “Residential development should be concentrated in growth areas.” The County has residential enclaves around the county that are supplemental to the concentrated and planned high density growth areas. For example, portions of the River Road corridor are designated for residential growth, but are not considered to be located in “growth areas”. In Resolutions 05-024 and 05-071 (February 2005), the Board of Supervisors determined that the proposed project will expand the residential area that is adjacent to the project site, which is part of the River Road corridor. In addition, the proposed project includes the adoption of *Policy 30.1.1.2* as part of the Toro Area Plan, which designates the proposed project site as a STA. Low density residential development is consistent with the proposed STA.

The design and improvement of the subdivision complies with applicable provisions of the Subdivision Ordinance (Title 19), Zoning Ordinance, General Plan, as amended and Toro Area Plan, as amended.

Section 19.10.030 Monterey County (Subdivision) Code: The project is consistent with the Lot Design Standards. Underlying zoning for the lower 62 acres would change LDR/5-VS with 194 acres remaining PG/40 and the proposed subdivision is clustered such that the overall density does not exceed 5 acres/unit on the lower portion of the project area. No residential development is proposed at this time and future residential development is subject to project specific review. Conditions of approval require the applicants to assure long-term maintenance of the improvements by use of a homeowners association. Lots, building sites and improvements have been designed to meet the standards of the Subdivision Ordinance (Title 19).

FIGURE 1: Existing and Proposed (Dashed) Lot Configuration



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 adverse 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 question or request 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, staff developed modifications that required revision to four sections of the DEIR: Executive Summary, Project Description, Land Use, and Alternatives. The primary focus was the creation of a Special Treatment Area (STA) overlay and a revised design alternative to illustrate a clustered design concept. Comments affecting these sections were incorporated into the revisions. These 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. Comments on the RDEIR were limited to the sections being re-circulated only.

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 (discussed below)

Agriculture: The Draft EIR concludes that this Plan would ensure that impacts related to agricultural buffer requirements would remain 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". At its meeting of February 15, 2005, the Monterey County Board of Supervisors established that the County threshold is to rely on the categories and classifications of the DOC.

An agricultural viability report prepared by the applicant concludes 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 for farming, these conclusions are based on potential

potential use of the parcels as a whole. The Agricultural Commissioners office reviewed this report and found that the methodology and conclusions were reasonable.

Criteria set forth as part of the STA requires an Agricultural Buffer Plan for the areas where residential development would abut lands remaining in agriculture. An Agricultural Buffer Plan was submitted with the proposed project that addresses each parcel separately since the surrounding conditions are different:

- 1) Mohsin property: A 100-foot buffer would be created on the eastern, western and southern boundaries. The eastern boundary of the property is bordered by a 60-foot right-of-way, which results in an effective buffer of the same width. The western boundary of the property is bordered by a steep drainage, which in addition to the 100-foot buffer provides a natural topographic buffer with the property to the west. The southern boundary of the property is bordered by open space.
- 2) Samoske property: A 75-foot buffer would be established on the eastern, western, and northern boundaries of the. The southern boundary of the property is bordered by River Road.

The Agricultural Commissioners office found that the proposed buffers are reasonable given the surrounding conditions.

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 a 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.

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.

Mitigation: Mitigation measures are incorporated into the condition matrix starting at Condition 47 (**Exhibit D**). 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 overriding considerations must be made by the Board of Supervisors for this project (discussion below).

Final EIR: The Final EIR (FEIR) consists of comments on both the DEIR and RDEIR. The full environmental impact report EIR for the project that is to be considered includes all of the components DEIR, RDEIR, and FEIR. The FEIR was completed and distributed on January 16, 2009. Mitigation measures are proposed to mitigate project impacts. However, the potential development pressure to neighbor agricultural lands is determined to be growth inducing and therefore a significant unavoidable impact. As such overriding considerations must be made by the Board of Supervisors for this project. Staff has included some considerations that will be presented to the Board of Supervisors in the mitigation measure discussion below:

- As conditioned, the project would construct 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.

The draft 2007 General Plan Update, if adopted, includes added protection from pressure to convert to development for the neighboring agricultural lands.

EXHIBIT C
RECOMMENDED FINDINGS AND EVIDENCE
January 28, 2009

1. **FINDING: CONSISTENCY** – The project, as conditioned, conforms to the policies, requirements, and standards of the Monterey County General Plan, as amended, Toro Area Plan, as amended, Toro Area Plan Inventory and Analysis, Monterey County Subdivision Ordinance (Title 19), and the Monterey County Zoning Ordinance (Title 21).

EVIDENCE:

- (a) The text, policies, and regulations in the above referenced documents have been evaluated during the course of review of applications. No conflicts were found to exist.
- (b) The project involves three parcels located along the foothills west of River Road north of Chualar River Road.
 - APN: 167-061-029-000/Samoske: 17-acre parcel designated Farmland, 40 acre minimum (F/40)
 - APN: 167-061-033-000/Mohsin 249-acre parcel designated Permanent Grazing, 40 acre minimum (PG/40).
 - APN: 167-061-032-000/Riehl: 52 parcel designated Permanent Grazing, 40 acre minimum (PG/40).
- (c) The project planner conducted a site inspection on August 6, 2006 to verify that the project on the subject parcel conforms to the plans listed above.
- (d) The Planning Commission adopted Resolution ### (attached hereto as Exhibit A) on January 28, 2009 recommending that the Board of Supervisors amend the Monterey County General Plan/Toro Area Plan to designate 266 acres of land from Farmlands (Samoske, 17 acres) and Permanent Grazing (Mohsin, 249 acres) as a Special Treatment Area (“STA”) with reference to Policy 30.1.1.2(T), a new Toro Area Plan policy that would generally allow a maximum of 14 new single-family residential lots on the lower 72 acres with agricultural buffers and the upper 249 acres would remain Permanent Grazing.
- (e) The Planning Commission recommends that the Board of Supervisors adopt changes to the zoning district section maps as follows:
 - 1. Section 21-19: Change the zoning of a 17 acre parcel (APN 167-061-029-000/Samoske) from F/40-D to LDR/5-VS; and
 - 2. Section 21-19: Change 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.

Parcels are proposed that do not exceed a maximum gross density of 5 acres/unit. Furthermore, no residential development is proposed at this time. Future residential development is subject to project specific review. A draft ordinance is attached to this resolution as *Exhibit B*, and incorporated herein by reference.

- (f) A Lot Line Adjustment (LLA) and subdivision design are consistent with the land use designation of the Special Treatment Area (STA). (See Findings 8 and 9)
- (g) On February 15, 2005, the Board of Supervisors took action determining that PLN980516 was consistent with policies of the General Plan and Toro Area Plan. The project was challenged and the courts directed preparation of an

environmental impact report (EIR). On February 15, 2005, the Monterey County Board of Supervisors adopted resolution 05-024 and 05-071 stating that the proposed project was consistent with the following policies:

1. **Policy 26.1.2 - The County shall discourage premature and scattered development.** The proposed project includes the adoption of Policy 30.1.1.2 as part of the Toro Area Plan, which designates the proposed project site as a Special Treatment Area (STA). Clustered, low density residential development is consistent with the proposed STA and with surrounding 5-acre lots. Therefore, the proposed project is consistent with Policy 26.1.2 of the General Plan.
2. **Policy 26.1.4 - The County shall designate growth areas only where there is provision for adequate levels of service and facilities such as water, sewage, fire and police protection, transportation, and schools. Phasing of development shall be required as necessary in growth areas in order to provide a basis for long-range services and facilities planning.** Public facilities and services required for new residential development are based on population generated by the development and include parks, police services, fire services, and school facilities. The service providers for these services review the project for compliance with their existing and future requirements and are ultimately responsible for the provision of such services. While the proposed project is being proposed in an area that is surrounded primarily by land used for agricultural purposes, the proposed project site is currently served by public services, utilities, and roads; the need for new services for the proposed subdivision is not anticipated to cause significant impacts to service providers (see Chapter IV.I, Public Services; Chapter IV.K, Utilities and Service Systems; and Chapter IV.J, Traffic and Transportation). The proposed project is, therefore, consistent with General Plan Policy 26.1.4.
3. **Policy 26.1.14 - The County shall encourage that development be annexed to existing cities where annexation will facilitate the logical and economical provision of services, if annexation is feasible.** The proposed project is not adjacent to an existing city (the City of Salinas is 12 mi away). Therefore it is neither logical nor economical to consider annexing the proposed project; annexation would create a fracture of incorporated and unincorporated designated property and could cause inconsistencies with the adopted policies applicable to the General Plan and the Toro Area. Policy 26.1.14 is not directly applicable to the proposed project.
4. **Policy 26.1.15 - Only very low density development shall be allowed outside of urban service areas, areas of development concentration designated in accordance with the County's adopted Growth Management Policy, and outside of the County's existing unincorporated communities.** As discussed under Policy 26.1.2, the Monterey County Board of Supervisors adopted resolution 05-024 and 05-071 stating that the proposed project was consistent with its growth policies because the proposed project clusters low density development around an existing nucleus of previously developed parcels. Providing services to the existing parcels and new parcels is facilitated by their location in an area

location in an area that is near the Chualar River Road and has access to both Highway 101 and Highway 68 via River Road. In addition, the proposed project includes the adoption of Policy 30.1.1.2 as part of the Toro Area Plan, which designates the proposed project site as a STA. Clustered, low density residential development is consistent with the proposed STA. Therefore, the proposed project is consistent with Policy 26.1.15 of the General Plan.

5. **Policy 27.1.1 - Sufficient areas for residential use shall be designated consistent with the County’s growth policies and projections.** The purpose of Policy 27.1.1 is to ensure that the County has set aside sufficient area to accommodate projected growth for different income categories. The accommodation for higher density housing has occurred in other parts of the county, but does not preclude additional housing units at lower densities in other areas. In addition, the proposed project includes the adoption of Policy 30.1.1.2 as part of the Toro Area Plan, which designates the proposed project site as a STA. Low density residential development is consistent with the proposed STA. Therefore, the proposed project is consistent with Policy 27.1.1.
6. **Policy 27.1.2 - The County shall limit residential development in areas that are unsuited for more intensive development due to the presence of physical hazards and development constraints, the necessity to protect natural resources, and/or the lack of public services and facilities.** The environmental analysis of the proposed project (see Chapters IV.A through IV.L) did not identify any potential physical hazards associated with the proposed project or the site of the proposed project other than those common to all parts of Monterey County, such as seismic hazards. For example: (1) The Geotechnical Soils-Foundation and Geologic Hazards Report concluded that the project was suitable for construction of single-family dwellings, subject to common earthquake-resistant construction techniques as referenced in the report; (2) the Hydrogeologic Report determined that the specific yield of the aquifer would not be exceeded by the project; and (3) the analyses of public services, utilities, and service systems did not identify the lack of any public services or facilities associated with the proposed project. Therefore, the proposed project is consistent with Policy 27.1.2.
7. **Policy 27.1.3 - Residential development should be concentrated in growth areas.** Policy 27.1.3 indicates that higher density development should be centered around growth areas as designated in the General Plan. However, Policy 27.1.3 does not preclude lower density development outside of the designated growth areas. The county has residential enclaves around the county that are supplemental to the concentrated and planned high density growth areas. For example, portions of the River Road corridor are designated for residential growth, but are not considered to be located in “growth areas”. As discussed in resolutions 05-024 and 05-071 adopted by the Monterey County Board of Supervisors in February 2005, the proposed project will expand the residential area that is adjacent to the project site, which is part of the River Road corridor. In addition, the proposed project includes the adoption of Policy 30.1.1.2 as part of the Toro Area Plan, which designates the proposed project site as a STA. Low density

density residential development is consistent with the proposed STA. Therefore, the proposed project is consistent with Policy 27.1.3.

8. **Policy 27.2.1 - Residential areas shall be located with convenient access to employment, shopping, recreation, and transportation.** The project area is approximately 12 miles from Salinas, the nearest urban center. However, the distance between the proposed project and access to employment, shopping, recreation and transportation is not unique in that many of the residents who live in the Toro Area either work in Salinas or the Monterey Peninsula. The Monterey Peninsula is approximately 20 mi from the project site. Furthermore, employment in the Toro Area occurs throughout the Area and not just in urban centers. In designating the residential areas in the Toro Plan, the Board of Supervisors found that the residential areas were consistent with the General Plan and Toro Area Plan policies. Therefore, the proposed project is consistent with Policy 27.2.1.

9. **Policy 30.0.3 - The County shall allow division of viable farmland designated as prime, of statewide importance, unique, or of local importance only for exclusive agricultural purposes when demonstrated not to be detrimental to the agricultural viability of adjoining parcels.** The proposed project would be located on lands that, according to the most recent map (2004) prepared by the California Department of Conservation's Farmlands Mapping and Monitoring Program, are classified as "Other Lands" and "Grazing Lands" (see the Project Impacts discussion in Chapter IV.B, Agricultural Resources). The proposed project area does not contain any Prime Farmland, Unique Farmland, Farmland of Statewide Importance, or Farmland of Local Importance. Therefore, the proposed project would not result in the division of viable farmland that is designated as prime, unique, or of State or local importance. Furthermore, low-density rural development is considered a typical use for land that is categorized as "Other Land." Therefore, the proposed project is consistent with Policy 30.0.3.

10. **Policy 30.0.4 - The County shall make every effort to preserve, enhance, and expand viable agricultural land uses on farmland designated as prime, of statewide importance, unique, or of local importance through application of the "agricultural" land use designation and encouragement of large-lot agricultural zoning.** The proposed project would be located on lands that, according to the most recent map (2004) prepared by the California Department of Conservation's Farmlands Mapping and Monitoring Program, are classified as "Other Lands" and "Grazing Lands." The proposed project area does not contain any Prime Farmland, Unique Farmland, Farmland of Statewide Importance, or Farmland of Local Importance. Implementation of the proposed project would not convert Prime or Unique Farmland, Farmland of Statewide Importance, or Farmland of Local Importance to non-agricultural uses. Furthermore, while the lands proposed for development are zoned for agricultural purposes, according to the Agricultural Suitability and Land Capability Assessment prepared for the proposed project, the property has a low suitability for farming use. Therefore, implementation of the proposed project would not have a significant impact on the County's goal of

significant impact on the County's goal of preserving, enhancing, and expanding viable agricultural land uses on farmland designated as prime, of statewide-importance, unique, or of local importance. Therefore, the proposed project is consistent with Policy 30.0.4.

(h) The following Toro Area goals apply to the proposed project:

1. **To preserve the essential rural quality of life.** Development will be limited to the creation of a clustered, rural density, residential subdivision consistent with the surrounding residential development. 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. Agricultural buffers shall be established where applicable taking into account conditions such as the type of adjacent agriculture use, topography, and climate 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 Special Treatment Area. Development of the residential properties shall be required to comply with visual sensitivity policies of the Toro Area Plan. 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%. Therefore, the proposed project is consistent with this goal.
2. **To preserve important visual elements that give the Toro Area its identity.** The proposed land-use change from agriculture to low-density residential would have an adverse impact on the scenic quality of the River Road corridor, including views from US 101 and Chualar River Road by dividing the open agricultural areas into a suburban pattern of development with 5-acre (ac) residential lots (LDR/5) served by paved roads and cul-de-sacs. The resulting residential uses have the potential to further break up and degrade the existing pastoral vista by the use of property line fences, the introduction of nonnative plant species, and outdoor storage areas. The County shall apply the requirements of the Visual Sensitivity Zoning designation to all property proposed for the LDR/5 zoning designation. The Visual Sensitivity Zone designation requires the County to find that the proposed development would not adversely affect the natural scenic beauty of the area (See Title 21, Chapter 21.46). With strict adherence to the regulations provided in Chapter 21.46 of the Monterey Zoning Ordinance, which are geared towards protecting the scenic resources of Monterey County, the proposed project would not have a substantial adverse impact on scenic vistas. Therefore, the proposed project is consistent with this goal.
3. **Native trees, ridgeline, frontal slopes, and scenic road corridors are especially critical.** Approximately 27 percent of the project site would be developed with up to 13 single-family homes. The homesites would be developed on the lowest elevations of the project site with the majority of the property at higher elevations protected by a scenic easement. Because the area proposed for development is lower in elevation and less visible than the surrounding hills and the open hillsides would be retained as open space, the construction of homes on the project site would not significantly block existing distant views and vistas. The Monterey County General Plan

County General Plan currently allows a primary single-family residence to be built up to 30 ft in height and an accessory structure to be built up to 15 ft in height. The proposed project would therefore be visible from nearby public roads, such as US 101 and River Road, and would have an adverse impact on scenic views and vistas from these public roads. Through the use of the Visual Sensitivity Zoning designation to ensure that homesites are sensitive to the surrounding natural and scenic environment, the proposed project would have a less than significant effect on scenic views and vistas. The proposed project would not affect significant visual resources in the proposed project area such as rock outcroppings or historic buildings; therefore, impacts to significant visual resources would be less than significant. Therefore, the proposed project is consistent with this goal.

4. **Road improvements should enhance scenic corridors and promote pedestrian circulation and safety.** The road improvements would be developed on the lowest elevations of the project site and the majority of the property at higher elevations protected by a scenic easement. A mitigation measure would require the removal or trimming of brush at the project driveway off River Road which will increase the sight distance and promote pedestrian safety. Therefore, the proposed project is consistent with this goal.
 5. **Where relatively large undeveloped areas still predominate, the plan does not encourage higher density growth.** Development will be limited to the creation of a clustered, rural density, residential subdivision consistent with the surrounding residential development. The majority of the property at higher elevations protected by a scenic easement. Therefore, the proposed project is consistent with this goal.
- (i) The project, and changes thereto, has been referred to the Toro Land Use Advisory Committee (LUAC) on three occasions:
 - a. October 13, 1998: voted 3-1-1-0 opposing the proposed project.
 - b. July 8, 2002: voted 3-2 supporting a proposed change of the General Plan land use designation and rezoning from agricultural to low density residential designations.
 - c. November 10, 2008: voted 7-1 supporting the Lot Line Adjustment and 8-0 opposing the General Plan Amendment, Rezoning, and Combined Development Permit.
 - (j) The proposed project was presented to the Agricultural Advisory Committee (AAC) to address agriculturally related issues such as agricultural buffers and conversion of agricultural lands. The AAC held a hearing on December 4, 2008 and continued the matter to January 22, 2009 following a site visit on December 11, 2008. On January 22, 2009, the AAC took the following actions:
 1. Agricultural Viability Report: The AAC noted that the report concluded that the viability for the project was an “8” for the lower (Samoske) property and a “6” for the Mohsin property, and that this is based on science by a reputable consultant. These rating are out of a possible 30 with higher numbers being better suited for farming. Having also visited the site, the AAC acknowledged that the lands could be used for grapes and grazing, but not for row crops. The

crops. The AAC voted 9-0 finding that the Ag Viability Report is adequate.

2. Conversion of Agricultural Lands: Public testimony raised issue for potential impact on nearby Williamson Act lands and growth pressure in general to continue conversion of Ag lands in this area. The proposed project is designed with 5-acre lots that could allow limited agriculturally-related uses such as limited equestrian/livestock or small vineyards. This is consistent with the existing 5-acre lots abutting the 55-acre portion of the Mohsin property. In addition, 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 voted 8-1 to support the proposed conversion as designed.
 3. Agricultural Set Back: The AAC had generally found that we need to honor the 200 foot standard. However, the group recognized that different conditions warrant reducing the required set back:
 - a. *Mohsin Property*: To the north, there is a ravine that provides a natural buffer from Riehl property (PG/40). Part of this property abuts existing residential 5-acre properties and vineyards are located south of the site (Knott property). On a 7-2 vote, the AAC found that based on the topography, climate (e.g. prevailing wind), and surrounding conditions, the proposed 100 foot buffers were adequate. The AAC further recommended that building envelopes be situated toward the north (e.g. toward the existing 5-acre parcels) to effectively create a larger buffer from the vineyards to the south.
 - b. *Samoske Property*: The AAC raised concern on reducing this set back matter due to active major Ag operations located to the north (Pedrazzi property). On a 7-2 vote, the AAC recommended denial of the proposed 75-foot buffers/mitigation. Upon further discussion, they felt that a full 200 feet was required from the Pedrazzi property due to the active cattle operation there.
- (k) Draft EIR for the Mohsin-Samoske General Plan Amendment prepared by LSA. Re-circulated Portion of Draft EIR for the Mohsin-Samoske General Plan Amendment prepared by LSA.
- (l) The application, project plans, and related support materials submitted by the project applicant to the Monterey County Resource Management Agency – Planning Department for the proposed development found in Project File PLN980516.

2. FINDING: SITE SUITABILITY – The site is physically suitable for the use proposed.

EVIDENCE:

- (a) The project has been reviewed for site suitability by the following departments and agencies: RMA - Planning Department, Salinas Rural Fire Protection District, Sheriff, Parks Department, Public Works, Environmental Health Division, Water Resources Agency, Housing & Redevelopment and Agricultural Commissioner. There has been no indication from these departments/agencies that the site is not suitable for the proposed development.

- development. Conditions recommended have been incorporated.
- (b) Monterey County Geographic Information System which shows that the property is outside of any 100 year flood zone as mapped by the Federal Emergency Management Agency (FEMA).
 - (c) Technical reports by outside (specify) consultants indicated that there are no physical or environmental constraints that would indicate that the site is not suitable for the use proposed. County staff concurs. The following reports have been prepared:
 - 1. Agricultural Suitability and Land Capability Assessment, Avila, Pisoni and Samoske Properties, Rush, Macroft and Associates, 1997-1998.
 - 2. Geotechnical Soils-Foundation and Geologic Hazards Report for the Avila, Pisoni and Samoske Subdivisions, Grice Engineering, Inc., June 1998.
 - 3. Title 21.14.060B which states: "The maximum development density shall not exceed the acres/unit shown for the specific "LDR" district as shown on the zoning map (e.g., "LDR/2" means an "LDR" district with a maximum gross density of 2 acres/unit)."
 - 4. Stormwater and Ground Water Impacts for the Avila, Pisoni and Samoske Subdivisions, Grice Engineering Inc., June 1998.
 - 5. Project Application File PLN980516 slope density map.
 - 6. An archeological survey entitled "Preliminary Archaeological Reconnaissance of Assessor's Parcel Number 167-061-025 and 167-061-029 River Road, Monterey County, California by Mary Doane and Trudy Haversat, SOPA, June 18, 1997 which found that no archaeological resources existed on this site.
 - (d) Staff conducted a site visit on August 6, 2006 to verify that the site is suitable for this use.
 - (e) The application, project plans, and related support materials submitted by the project applicant to the Monterey County Resource Management Agency – Planning Department for the proposed development found in Project File PLN980516.

**3. FINDING: INITIAL STUDY -
EVIDENCE:**

- 1. Initial Study for the Avila General Plan Amendment, Zone Change, Subdivision and Variance dated March 2, 2004. An Initial Study prepared by the County in March 2004 indicated that the proposed project may have a significant effect on the environment and that an EIR would be required to more fully evaluate potential adverse environmental impacts that may result from development of the proposed project.
- 2. Initial Study for the Avila General Plan Amendment, Zone Change, Subdivision and Variance dated June 2, 2004. A subsequent Initial Study prepared by the County in June 2004 indicated that because revisions in the project were made or agreed to by the project proponent, the project would not have a significant effect on the environment and concluded that a Mitigated Negative Declaration (MND) would be prepared for the proposed project.
- 3. Board of Supervisors Resolution No. 05-071. On February 15, 2005, a Mitigated Negative Declaration and Combined Development Permit for

Mohsin, Riehl, and Samoske consisting of a Toro Area Plan amendment and zoning amendments for 70 acres changing Farmlands & Permanent Grazing to Low Density Residential/5 acre minimum with Design Control and to subdivide 55 acres into 5 acre parcel for 11 lots with a remainder parcel of 186.7 acres created by a lot line adjustment and subdivision of 17 acres into three parcel of five acres and seven acres; and Variance for relief from section 21.66.030(a) was approved by the Board of Supervisors.

4. On September 19, 2005, Land Watch Monterey County and River Road Ranchers for Responsible Growth filed a Petition with the Superior Court of California objecting to the proposed project on the grounds that it violated the County General Plan, the Toro Area Plan, and Monterey County Code. Petitioners were also concerned with the failure of the County to comply with CEQA by failing to prepare an EIR for the proposed project.
5. The Superior Court of California ruled that an EIR must be prepared for the proposed project. As a result, a Draft EIR was prepared in accordance with CEQA, as amended (Public Resources Code Section 21000 et seq.), and the State CEQA Guidelines for Implementation of CEQA (California Code of Regulations, Title 14, Section 15000 et seq.). The Draft EIR also complies with the procedures established by the County for implementation of CEQA.
6. The materials for the proposed development, found in the project file.

- 4. FINDING: CEQA** – The County has prepared the EIR in accordance with the requirements of CEQA, and the final EIR has been completed in compliance with CEQA. Public Resources Code Section 21080(d) and the California Environmental Quality Act (CEQA) Guidelines Section 15064(a)(1) require environmental review if there is substantial evidence that the project may have a significant effect on the environment.

EVIDENCE:

- (a) The County filed a Notice of Preparation (NOP) with the County Clerk and distributed the NOP to all Responsible Agencies on March 30, 2006. Responses to the Notice of Preparation were considered in the preparation of the EIR.
- (b) A draft environmental impact report (DEIR) was prepared to assess the potential adverse 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.
- (c) Draft EIR – Mohsin-Samoske General Plan Amendment prepared by LSA dated January 2008.
- (d) The Mohsin Samoske General Plan Amendment EIR was duly noticed and circulated for public review, and public comments were received and considered. The County distributed a Notice of Completion with copies of the Draft EIR (DEIR) on February 4, 2008. The County published a Notice of Availability of the DEIR in the Salinas Californian.
- (e) During the public review period for the DEIR (February 8, 2008 to March 24, 2008) the County received comment letters from the Monterey Bay Unified Air Pollution Control District, Landwatch Monterey County, Wittwer & Parkin,

Parkin, LLP, Pacific Engineering Group, Inc., Dale Hillard, Debbie Pedrazzi, Douglas Fay and the Native American Heritage Commission and responded to their comments.

- (f) CEQA Guidelines Section 15088.5 requires re-circulation of an EIR if the lead agency determines that significant new information is added to the EIR after public review but before certification, and the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental impact.
- (g) In response to certain comments on the DEIR, staff developed modifications that required revision to four sections of the DEIR: Executive Summary, Project Description, Land Use, and Alternatives. The primary focus was the creation of a Special Treatment Area (STA) overlay and a revised design alternative to illustrate a clustered design concept. The County distributed a Notice of Completion with copies of the Re-circulated Draft EIR (RDEIR) on September 25, 2008. The County published a Notice of Availability of the RDEIR in the Salinas Californian. These 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. Comments on the RDEIR were limited to the sections being re-circulated only. During the public review period for the RDEIR, the County received comments from Wittwer & Parkin, LLP and Pacific Engineering Group and responded to their comments.
- (h) Re-circulated Portion of Draft EIR - Mohsin-Samoske General Plan Amendment prepared by LSA Associates, Inc. dated September 2008.
- (i) The DEIR and RDEIR contain extensive analysis of the proposed development, with and without mitigations compared to a No Project Alternative, a Reduced Density Project Alternative, a Redesigned Project Alternative and an Alternative Project Location. *See Finding 7.*
- (j) Responses to Comments on the Mohsin-Samoske General Plan Amendment Draft EIR and Recirculated Draft EIR was prepared and released to the public on January 16, 2009 and responds to all significant environmental points raised by persons and organizations that commented on the DEIR and RDEIR. Together, the DEIR, RDEIR and Responses to Comments constitute the Mohsin-Samoske General Plan Amendment project EIR.
- (k) Response to Comments – Mohsin-Samoske General Plan Amendment Draft EIR and Recirculated Draft EIR prepared by LSA Associates and Monterey County RMA-Planning Department dated January 2009.
- (l) Staff reviewed the development application and conducted numerous site visits.
- (m) The Mohsin-Samoske General Plan Amendment EIR reflects the independent judgment and analysis of the County.
- (n) Upon approval of the project analyzed in the Mohsin-Samoske General Plan Amendment EIR, the County will monitor the implementation of mitigation measures in accordance with the applicable Mitigation Monitoring Program.
- (o) The Monterey County Resource Management Agency Planning Department, located at 168 West Alisal Street, 2nd Floor in Salinas, is the custodian of the documents that constitute the record of proceedings upon which the determination to adopt the EIR is based.
- (p) See also the preceding and following findings and supporting evidence.

- 5. FINDING: ENVIRONMENTAL IMPACTS MITIGATED TO LESS THAN SIGNIFICANT WITH THE EXCEPTION OF GROWTH INDUCING IMPACTS** – Mitigation measures reduce most impacts to a level of insignificance. However, the potential growth inducing development pressure to neighboring agriculture lands cannot be fully mitigated and therefore remains a significant unavoidable impact. As such overriding considerations must be made by the Board of Supervisors for this project.

EVIDENCE:

- (a) Public Resources Code section 21004 and CEQA Guidelines sections 15040 and 15041 provide the authority for a lead agency to impose mitigation measures on discretionary approvals to the extent those measures are consistent with the general provisions of state law, the state constitution, and case law relating to such authority. The project is a discretionary action upon which the County can impose conditions of approval.
- (b) Draft EIR – Mohsin-Samoske General Plan Amendment prepared by LSA dated January 2008.
- (c) Re-circulated Portion of Draft EIR - Mohsin-Samoske General Plan Amendment prepared by LSA Associates, Inc. dated September 2008.
- (d) Response to Comments – Mohsin-Samoske General Plan Amendment Draft EIR and Recirculated Draft EIR prepared by LSA Associates and Monterey County RMA-Planning Department dated January 2009.
- (e) The Mohsin-Samoske Mitigation Monitoring Program, adopted in conjunction with this project approval.
- (f) Administrative record maintained at the Monterey County Resources Agency – Planning Department, 168 West Alisal Street, Salinas, California, including material in Planning Department file PLN980516.

- 5a FINDING: IMPACT TO VISUAL CHARACTER WILL BE MITIGATED TO LESS THAN SIGNIFICANT** – Mitigation Measures AES-1 and AES-2 will reduce potentially significant visual impacts to a less than significant level. The mitigation measures are feasible to implement and are fully enforceable through permit conditions.

Effects on Project Site and Vicinity Visual Character (DEIR Chapter IV-A). The proposed project has the potential to significantly impact the visual character of the project site and the surrounding visual area. The proposed residential and street light sources have the potential to significantly impact the nighttime view from designated scenic highways.

EVIDENCE:

- (a) Mitigation Measure AES-1. A conservation and scenic easement shall be conveyed to the County over those portions of the property not proposed for five-acre lots, excluding the existing home site on the remainder parcel. The easement shall be developed in consultation with certified professional. An easement deed shall be submitted to, reviewed and approved by, the Director of the RMA - Planning Department prior to issuance of grading and building permits.
- (b) Mitigation Measure AES-2. All exterior lighting shall be unobtrusive, down-lit, harmonious with the local area, and constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. Exterior lights shall have

shall have recessed lighting elements. The applicant shall submit 3 copies of an exterior lighting plan which shall indicate the location, type, and wattage of all light fixtures and include catalog sheets for each fixture. The lighting shall comply with the requirements of the California Energy Code set forth in California Code of Regulations, Title 24, Part 6. The exterior lighting plan shall be subject to approval by the Director of the RMA - Planning Department, prior to the issuance of building permits.

5.b. FINDING: IMPACTS TO AGRICULTURAL RESOURCES WILL BE MITIGATED TO LESS THAN SIGNIFICANT LEVEL – Mitigation Measure AG-1 will reduce impacts to agricultural resources to a less than significant level. *Effects on Agricultural Resources (DEIR Chapter IV.B). The proposed project has the potential to significantly impact neighboring lands currently used for agriculture.*

EVIDENCE:

Mitigation Measure AG-1. Prior to recordation of a final map, the applicant shall submit Agricultural Buffer Mitigation Plans for the Mohsin and Samoske properties to the Planning Department and Agricultural Commissioner for review and approval. The plans shall establish agricultural buffers of at least 75 feet for Parcels B and C of the Samoske portion of the subdivision and buffers of at least 100 feet for the 11 residential parcels on the Mohsin portion of the subdivision. The buffers shall take 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. Said setback areas shall be labeled on the final map as “agricultural buffer easement. The easement deed shall describe the easement on each parcel containing an agricultural buffer to exclude habitable structures.

5c. FINDING: IMPACT TO BIOLOGICAL RESOURCES WILL BE MITIGATED TO LESS THAN SIGNIFICANT LEVEL – Mitigation Measures BR-1 through BR-6 will reduce biological impacts to a less than significant level. The mitigation measures are feasible to implement and are fully enforceable through permit conditions.

Effects on Biological Resources (DEIR Chapter IV.D). The proposed project could:

- a) *result in the removal one coast live oak tree protected by the Monterey County Tree Ordinance;*
- b) *impact nesting raptors and/or other birds;*
- c) *impact burrowing owls;*
- d) *impact the CTS and western spadefoot;*
- e) *impact the Congdon’s tarplant; and*
- f) *impact wetlands and/or other waters of the U.S.*

EVIDENCE:

(a) Mitigation Measure BR-1 - Prior to final map approval, the applicant shall submit a landscape plan to the County RMA- Planning Department, which includes the following oak tree protective measures:

- 1) Protection of the 54-inch dbh coast live oak tree growing on the Mohsin property;
- 2) A protective buffer no less than 20 feet away from the dripline of the oak

tree canopy.

- 3) The provision of orange construction fencing defining the boundary of the oak tree protection zone prior to and during construction; and

A provision prohibiting grading, deposition of fill, or irrigation within the oak tree protection zone.

- (b) Mitigation Measure BR-2 - The following measures shall be implemented to mitigate for potential impacts to nesting birds:

- 1) If possible, all trees, brush, and other potential nesting habitat that will be impacted by project construction shall be removed during the non-nesting season (September 1 through February 15).
- 2) If suitable nesting habitat cannot be removed during the non-nesting season and project construction is to begin during the nesting season (February 16 through August 31), all suitable nesting habitat within the limits of work and a 500-foot buffer shall be surveyed by a qualified biologist prior to initiating construction-related activities. Surveys shall be conducted no more than 14 days prior to the start of work. If an active nest is discovered, a buffer shall be established on the project site around the nest and delineated using orange construction fence or equivalent. Buffers for raptor nests shall be 500 feet; buffers for non-raptor nests shall be 100 feet. The buffer shall be maintained in place until the end of the breeding season or until the young have fledged, as determined by a qualified biologist.

If no nesting is discovered, construction may begin as planned. Construction beginning during the non-nesting season and continuing into the nesting season shall not be subject to these measures.

Alternatively, the California Department of Fish and Game (CDFG) may be consulted to determine if it is appropriate to decrease the specified buffers with or without implementation of other avoidance and minimization measures (e.g., having a qualified biologist on-site during construction activities during the nesting season to monitor nesting activity).

- (c) Mitigation Measure BR-3 - The following measures shall be implemented to mitigate for potential impacts to burrowing owls:

- 1) Presence/absence surveys shall be conducted for burrowing owls within the work limits in accordance with CDFG's Staff Report on Burrowing Owls (CDFG, 1995). The protocol requires 4 surveys during the nesting season (April 15 through July 15) and 4 surveys during the winter season (December 1 through January 31). If the survey results are negative, measures 2 and 3 are not required.
- 2) If burrowing owls are found to be occupying the site in either season, compensation for loss of foraging habitat shall be required in accordance with the CDFG Staff Report on Burrowing Owls (CDFG, 1995). Compensation shall consist of preservation of 6.5 acres of suitable foraging habitat for each breeding pair or unpaired winter resident. Preservation of this habitat shall be accomplished through:
 - a) Acquisition of suitable habitat and recording a conservation easement over the property;

- b) Purchasing sufficient credits at an approved conservation bank;
 - c) A combination of the above methods; or
 - d) Another method acceptable to CDFG.
- 3) Prior to issuance of a grading permit or other project-related disturbance of the site, the project proponent shall provide evidence that adequate mitigation has been provided for the loss of burrowing owl foraging habitat, as described above.
- 4) No more than 30 days prior to any ground disturbing activities, a qualified biologist shall conduct a preconstruction survey for burrowing owls. A preconstruction survey is not necessary if the last presence/absence survey was conducted within 30 days of the start of ground disturbing activities. If ground disturbing activities are delayed or suspended for more than 30 days after the initial preconstruction surveys, the site shall be resurveyed. All surveys shall be conducted in accordance with CDFG's Staff Report on Burrowing Owls (CDFG, 1995). If no burrowing owls are present, construction can begin as planned. Construction beginning during the non-nesting season and continuing into the nesting season shall not be subject to these measures.
- 5) If the preconstruction surveys identify burrowing owls on the site during the non-breeding season (September 1 through January 31), burrowing owls occupying the project site shall be evicted from the project site by passive relocation as described in the CDFG's Staff Report on Burrowing Owls (CDFG 1995).

If the preconstruction surveys identify burrowing owls nesting on the site during the breeding season (February 1 through August 31), a 250-foot buffer shall be established on the project site around the nest burrow and delineated using orange construction fence or equivalent. The buffer shall be maintained in place until the end of the breeding season or until a qualified biologist determines through non-invasive methods that: 1) the birds have not begun egg laying, or 2) juveniles from the occupied burrows are foraging independently and are capable of independent survival. Once the fledglings are capable of independent survival, the burrow(s) can be destroyed.

- (d) Mitigation Measure BR-4 – Per discussions with the USFWS (Diel, Christopher, November 1, 2007), CTS are assumed to be present on the project site based on the presence of suitable habitat. The following measures shall be implemented to mitigate potential impacts to CTS. Western spadefoot could also be present on the project site; the following measures for CTS will also mitigate potential impacts to western spadefoot.

It should be noted that the wetlands/water features on the project site are expected to be non-jurisdictional under the CWA. As a result, it is expected that no authorization will be required from the Corps to fill the subject features and the project will not have a federal nexus with which to consult with the USFWS. Measure 1 reflects this approach. In the event the wetlands/water features are determined to be jurisdictional under the CWA, authorization will be required from the Corps to fill the subject features, thus creating a federal

creating a federal nexus with which to consult with the USFWS. Measure 2 reflects this approach.

- 1) The project proponent shall prepare a Habitat Conservation Plan (HCP) in accordance with Section 10 of the FESA to support issuance of an incidental take permit from the USFWS. The HCP shall include the following information:
 - a) Impacts likely to result from the proposed taking of the species for which permit coverage is requested;
 - b) Measures that will be implemented to monitor, minimize, and mitigate impacts; funding that will be made available to undertake such measures; and procedures to deal with unforeseen circumstances;
 - c) Alternative actions considered that would not result in take; and
 - d) Additional measures the USFWS may require as necessary or appropriate for purposes of the plan.

OR

- 2) The project proponent shall prepare a Biological Assessment (BA) to facilitate consultation with the USFWS under Section 7 of the FESA. The BA shall provide an evaluation of project impacts to CTS and include proposed avoidance and minimization measures. Section 7 consultation shall be initiated as part of the Corps permit process.
- 3) Depending on the approach (i.e., measure 1 or 2), the HCP or BA shall describe proposed compensatory mitigation to offset the loss of approximately 45.7 acres of CTS habitat resulting from project implementation. Compensatory mitigation for CTS habitat typically consists of habitat preservation at a minimum 2:1 ratio. Preservation of this habitat shall be accomplished through one or more of the following methods contingent upon approval from the USFWS:
 - a) Acquisition of suitable habitat and recording a conservation easement over the property;
 - b) Purchasing sufficient credits at an approved conservation bank;
 - c) Another method acceptable to USFWS;

Prior to issuance of a grading permit or other authorization to proceed with project construction, the project proponent shall complete any consultation requirements with USFWS pursuant to FESA and obtain any required permits and provide documentation to the County.

- (e) Mitigation Measure BR-5 - The following measures shall be implemented to mitigate for potential impacts to Congdon's tarplant.

Prior to the start of ground disturbing activities, a qualified biologist or botanist shall conduct focused surveys for Congdon's tarplant in the proposed work area. Surveys shall be conducted during the normal blooming period for this species, which is normally September through November. If survey results are negative, no additional mitigation is required.

If Congdon's tarplant is identified in the work area, seed shall be salvaged from

from the plants present and relocated to one or more appropriate locations on the southern part of the project site. The relocations area(s) shall be within the dedicated open space portion of the site. Seed shall be salvaged after the plants are done flowering and the seed has set. The salvaged seed shall be relocated and spread immediately following salvage activities, so that the timing is as close to the natural cycle as possible.

Prior to issuance of a grading permit or other authorization to proceed with project construction, the project proponent shall provide documentation to the County of Monterey that measures 1 and 2 (if necessary) are complete.

- (f) Mitigation Measure BR-6 - As noted in Section D.2, in the event the Corps determines the wetlands on the northern part of the project site are non-jurisdictional under Section 404 of the CWA, it is likely the RWQCB will regulate these features as waters of the State under PCWQCA.

The following measures shall be implemented to mitigate for potential impacts to jurisdictional waters under Section 404 of the CWA and/or PCWQCA, depending on the jurisdiction determination made by the Corps.

Waters of the United States (waters of the U.S.) permanently impacted during construction shall be mitigated by one of the following methods, or by using a combination of the methods, contingent upon approval by the Corps and/or RWQCB:

Preservation, creation, and/or restoration of the impacted resources at a minimum ratio of 2:1. If this method is utilized, a Mitigation and Monitoring Proposal (MMP) shall be prepared and submitted to the Corps and/or RWQCB for approval. The MMP shall be prepared in accordance with the Corps 2004 Mitigation and Monitoring Proposal Guidelines. The MMP shall address the following: Responsible Parties; Project Description; Site Characteristics; Mitigation Design; Success Criteria and Monitoring; Implementation Plan; Maintenance; Monitoring Reports; Contingency Measures; Completion of Mitigation; and Long-Term Management.

Purchase of credits at an approved mitigation bank at a minimum 1:1 mitigation ratio.

Prior to issuance of a grading permit or other authorization to proceed with project construction, the project proponent shall obtain any necessary permits (e.g., from the Corps, RWQCB) and provide documentation to the County of Monterey.

- 5d FINDING: IMPACTS RELATED TO GEOLOGY AND SOILS WILL BE MITIGATED TO LESS THAN SIGNIFICANT.** Mitigation Measure GEO-1 will reduce potentially significant impacts from geology and soils to a less than significant level. The mitigation measure is feasible to implement and are fully enforceable through permit conditions.
Potential Impacts Related to Geology and Soils (DEIR Chapter IV-E). Structures and buildings associated with the proposed project have the potential to be significantly impacted by ground-shaking commensurate with a maximum credible earthquake.

EVIDENCE:

- (a) Mitigation Measure GEO-1. Project design shall assume that project facilities

would be exposed to ground shaking commensurate with a maximum credible earthquake. Project design specifications, in accordance with the requirements of the Uniform Building Code's current edition for Seismic Zone IV that requires all buildings to be founded on undisturbed native soils and/or accepted engineering fill to prevent resonance amplification between soils and the structure, shall be prepared by the project engineer and submitted to the County of Monterey for approval prior to issuance of a building permit.

- (b) Implementing Mitigation Measure GEO-1 that requires all structures to be designed and built in accordance with the requirements of the Uniform Building Code's current edition, Seismic Zone IV would ensure that impacts related to seismic ground shaking are reduced to a less than significant level. The project poses no other significant, unavoidable impacts resulting from geologic hazards.

5e FINDING:IMPACTS TO HYDROLOGY AND WATER QUALITY – Mitigation Measures HYD-1 through HYD-9 will reduce impacts to hydrology and water quality to a less than significant level.

Effects on Hydrology and Water Quality (DEIR Chapter IV.F). The proposed project has the potential to:

- a) discharge pollutants via project runoff;*
- b) discharge pollutants during demolition, grading and construction operations;*
- c) significantly impact storm water runoff and surface erosion;*
- d) impact storm water detention facilities and surface runoff;*
- e) significantly impact detention ponds and retention/infiltration systems including on and off-site drainage;*
- f) significantly impact drainage conditions associated with roads at the project site;*
- g) significantly impact drainage and flood control systems; and*
- h) impact the demand for groundwater.*

EVIDENCE:

- (a) Mitigation Measure HYD-1. Prior to issuance of a grading or building permit, the applicant shall submit construction plans for the project that include features meeting the applicable construction activity Best Management Practices (BMPs) and erosion and sediment control BMPs published in the California Stormwater BMP Handbook—Construction Activity or equivalent for review and approval by the RMA- Planning Department. The applicant shall submit a Storm Water Pollution Prevention Plan (SWPPP) to the County that includes the BMP types listed in the handbook or equivalent. The SWPPP shall be prepared by a civil or environmental engineer and would be reviewed and approved by the County Building Official prior to the issuance of any grading or building permits. The SWPPP shall reduce the discharge of pollutants to the maximum extent practicable using BMPs, control techniques and systems, design and engineering methods, and such other provisions as appropriate. A copy of the SWPPP shall be kept at the project site.
- (b) Mitigation Measure HYD-2. Prior to issuance of grading permits, the applicant shall demonstrate to Monterey County RMA- Planning Department that coverage has been obtained under the State General Construction Activity National Pollutant Discharge Elimination System (NPDES) Permit by providing a copy of the Notice of Intent (NOI) submitted to the State Water Resources Control Board (SWRCB). During grading and construction, the applicant shall

applicant shall ensure that the project complies with the requirements of the State General Construction Activity NPDES Permit.

- (c) Mitigation Measure HYD-3. The applicant shall comply with the provisions of the NPDES General Permit and Waste Discharge Requirements for the Storm Water Discharges from Small Municipal Separate Storm Sewer Systems Order No. 2003-0005-DWQ NPDES No. CAS000004 as they relate to construction activities for the project. This shall include a Notification of Construction to the Central Coast Regional Water Quality Control Board (RWQCB) at least 30 days prior to the start of construction, preparation and implementation of a SWPPP and Notice of Completion to the Central Coast RWQCB upon completion of construction and stabilization of the site.
- (d) Mitigation Measure HYD-4. Prior to issuance of any grading permits, the applicant shall provide the County Water Resources Agency a road improvement plan prepared by a registered civil engineer that includes dispersing storm water runoff onto a non-erodible surface. Improvements shall be constructed in accordance with plans approved by the Water Resources Agency.
- (e) Mitigation Measure HYD-5. Prior to recordation of the final map, the applicant shall provide the County Water Resources Agency a drainage report that includes calculations certifying storm water detention facilities will be sized to store the difference between the 100-year post-development runoff and the 10-year pre-development runoff, while limiting discharge to the 10-year pre-development rate. The location of the detention facilities shall be shown on the final map.
- (f) Mitigation Measure HYD-6. A note shall be recorded on the final map stating: "A drainage plan shall be prepared, for each lot, by a registered civil engineer or architect prior to issuance of any grading or building permits. Impervious surface stormwater runoff shall be directed to the stormwater drainage system for the subdivision. If runoff cannot be directed to the subdivision drainage improvements, on-site retention/detention facilities shall be constructed in accordance with plans approved by the Water Resources Agency." Prior to recordation of the final map, the applicant shall provide the Water Resources Agency a copy of the map to be recorded.
- (g) Mitigation Measure HYD-7. A Homeowner's Association shall be formed for the maintenance of roads, drainage facilities, and open spaces. Prior to filing of the final map, the Director of Public Works, the RMA- Planning Director and the County Water Resources Agency shall approve the documents forming the Homeowner's Association. Applicant shall prepare an operation and maintenance plan for all facilities and shall implement a fee program to fund operation and maintenance, and have appropriate documentation recorded against each parcel within the subdivision. The covenants, conditions and restrictions shall include provisions for a yearly report by a registered civil engineer, for maintaining the drainage facilities, and for monitoring impacts associated with the drainage facilities. The annual drainage report shall be submitted to the Water Resources Agency by August 15 for review and approval.
- (h) Mitigation Measure HYD-8. Prior to recordation of the final map, a signed and notarized Drainage and Flood Control Systems Agreement shall be provided to the Water Resources Agency for review and approval. The agreement shall

include a summary of required annual maintenance activities and provisions for the preparation of an annual drainage report. The annual report shall be prepared by a registered civil engineer and submitted to the Water Resources Agency by August 15 for review and approval. If the Homeowner's Association, after notice and hearing, fails to properly maintain, repair, or operate the subdivision drainage and flood control facilities, the Monterey County Water Resources Agency shall be granted the right by the property owners to enter any and all portions of the property to perform repairs, maintenance or improvements necessary to properly operate the drainage and flood control facilities at the project site. The County Water Resources Agency shall have the right to collect the cost for said repairs, maintenance or improvements from the property owners upon their property tax bills. A hearing shall be provided by the Board of Supervisors as to the appropriateness of the costs. The Drainage and Flood Control Systems Agreement shall be recorded concurrently with the final map.

- (i) Mitigation Measure HYD-9. Prior to the issuance of any grading or building permits, the applicant shall provide the Monterey County RMA- Planning Department with three copies of a landscaping plan prepared by a licensed landscape architect utilizing xeriscape and/or native drought tolerant plantings to minimize the amount of groundwater needed to irrigate the rural residential parcels.

5f FINDING: LAND USE AND PLANNING IMPACTS WILL BE MITIGATED TO LESS THAN SIGNIFICANT LEVELS. Mitigation Measure LU-1 will reduce land use and planning impacts to a less than significant level.

Effects on L and Use and Planning (DEIR Chapter IV.G and RDEIR Chapter IV.G). The proposed project must comply with the requirements of the Inclusionary Housing Ordinance #3419 of the County of Monterey. Chapter IV.G Land Use and Planning was updated in the RDEIR to reflect the designation of the proposed project site as a Special Treatment Area (STA). This chapter was also updated to include the findings of the Monterey County Board of Supervisor's February 15, 2005 adopted resolutions 05-024 and 05-071, which are included as Appendix A of the RDEIR. Accordingly, the policy consistency discussion included as part of the CEQA Threshold 4G.2 analysis in the February 2008 DEIR was updated to reflect revised conclusions that the proposed project is consistent with all applicable General Plan policies. The policy consistency discussion provided in the February 2008 DEIR made clear that whether a project is consistent with a specific policy can be subjective and that a project's inconsistency with a policy is only considered significant if such inconsistency would cause physical environmental impacts. The Land Use and Planning analysis contained in the DEIR concluded that the identified policy-related inconsistencies would not result in a direct, identifiable physical environmental impact. Therefore, although the recirculated Land Use and Planning analysis interprets the land use policies differently, in all instances, the impact conclusions remain the same.

EVIDENCE:

Mitigation Measure LU-1. Prior to recordation of the final map, the applicant shall comply with the County's Inclusionary Housing Ordinance #3419 by paying, or securing, to the satisfaction of the Redevelopment and Housing Director, an in-lieu fee of \$164,313.

5.g FINDING: IMPACTS TO PUBLIC SERVICES WILL BE REDUCED TO LESS

THAN SIGNIFICANT – Mitigation Measure PS-1 will reduce potentially significant impacts to public services to a level of less than significant. The mitigation measure is feasible to implement and is fully enforceable through permit conditions.

Effects on Public Services (DEIR Chapter IV.I) - The proposed project has the potential for significantly impacting public services.

EVIDENCE:

Mitigation Measure PS-1. The applicant shall comply with Section 19.12.010 - Recreation Requirements, of the Subdivision Ordinance, Title 19, Monterey County Code, by paying a fee in lieu of land dedication. The Parks Department shall determine the fee in accordance with provisions contained in Section 19.12.010(D).

5.h FINDING: IMPACTS TO TRAFFIC AND CIRCULATION WILL BE REDUCED TO LESS THAN SIGNIFICANT

– Mitigation Measures TRA-1 through TRA-4 will reduce potentially significant traffic and transportation impacts to a less than significant level. The mitigation measures are feasible to implement and are fully enforceable through permit conditions.

Effects on Traffic and Transportation (DEIR Chapter IV.J). The proposed project has the potential to impact:

- a) *site distances and traffic safety along River Road;*
- b) *the intersection of SR-68 WB and Reservation-River Road;*
- c) *the intersection of US 101 Northbound Ramps and Main Street; and*
- d) *the regional road network.*

EVIDENCE:

- (a) Mitigation Measure TRA-1 – Any brush located within the project R.O.W. shall be cleaned and maintained by the project applicant so adequate sight distance at the project driveway is provided. Brush is growing on the west side of River Road, remove or trim brush to increase sight distance from 430 ft to 550 ft, meeting the minimum required sight distance of 512 ft.
- (b) Mitigation Measure TRA-2 – Prior to recordation of the final map, applicant shall contribute \$2,533 to the County as the project's fair share contribution toward future improvements to the Highway 68 westbound ramps/Reservation Road intersection.
- (c) Mitigation Measure TRA-3 – Prior to recordation of the final map, applicant shall contribute \$5,266 to the County as the project's fair share contribution toward future improvements to the northbound on and off ramps in Chualar.
- (d) Mitigation Measure TRA-4 – Prior to issuance of building permits, applicant shall pay the Transportation Agency for Monterey County (TAMC) regional traffic mitigation fee (currently \$4,113.00 per dwelling unit). The fee required by TAMC shall be reduced by \$2,523.77 per lot to account for traffic mitigation fees previously paid by the subdivider.

6. FINDING: ENVIRONMENTAL IMPACTS NOT MITIGATED TO LESS THAN

SIGNIFICANT – The project would result in significant and unavoidable growth-inducing impacts that would not be mitigated to a less than significant level as described in this finding (see DEIR Chapter V.C).

EVIDENCE:

- (a) The DEIR concludes that indirectly, by way of creating an example of what can be achieved on parcels with similar land use designations or on land located in similar environments in the Toro Area, the proposed project could encourage or facilitate conversion of other agriculturally zoned properties in the Toro Area. The DEIR (page V-3) states that the proposed project could have an indirect growth inducing impact in that it could create an example of what can be achieved on parcels with similar land use designations or lands located in similar environments in the Toro Area. However, the DEIR (page V-3) also notes that the older subdivision adjacent to and north of the proposed project does not appear to have spawned additional residential growth on surrounding agricultural lands since there have been no other conversions of agriculturally zoned land in the immediate area since the 1982 General Plan was adopted.
- (b) Geographic boundaries of parcels with similar land use designations or that are located in similar environments are primarily located west of River Road, east of the Sierra de Salinas Mountains, south of Pine Canyon Road and North of Limekiln Road and amount to a relatively small percentage of the entire Toro Area. Of the 38 lots located west of River Road near the project site, the majority (27 parcels) are under Williamson Act contracts. According to the Agricultural Commissioner, to date, there has not been a cancellation of a Williamson Act contract in Monterey County.
- (c) The project includes the creation of a Special Treatment Area (see RDEIR, page 16) which limits development of the project site to 13 new residential lots clustered on the lower 72 acres with the upper portion remaining as permanent grazing with an agricultural conservation easement over at least 150 acres.
- (d) Since this EIR includes reference to the draft 2007 General Plan, 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.
- (e) Statement of Overriding Considerations – The Planning Commission has considered if the benefits of the proposed project, as conditioned, outweigh the significant and unavoidable impacts of the project. The proposed project will result in development that will provide the following benefits to the surrounding community and the County has a whole:
 - a. As conditioned, the project would construct improvements to River Road that will relieve existing traffic deficiencies.

- b. 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 are 30% or greater.
- c. 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.

7. FINDING: CEQA ALTERNATIVES TO THE PROPOSED PROJECT – The EIR considered several alternatives to the proposed project in compliance with CEQA Guidelines Section 15126.6. The EIR considered the following alternatives as more fully described in Chapter VI of the RDEIR:

EVIDENCE:

- (a) No Project Alternative. The No Project Alternative would entail no subdivision of the subject Mohsin and Samoske properties as proposed, and, for purposes of this EIR analysis, the properties would remain as current uses of agriculture/grazing with associated residences. Overall, the No Project Alternative would have less impacts, or no impacts to the environmental issues and resources than the proposed project would impact. However, the No Project Alternative would not meet the project objective of providing 13 additional low-density rural residential opportunities with a minimum of 5-ac sites near the City of Salinas.
- (b) Reduced Density Alternative. The Reduced Density Project Alternative would subdivide the project site into fewer parcels than the 13 proposed in the proposed project, and would redesign the size and shape of the parcels with the intent to reduce any environmental effects considered significant or adverse. Under this alternative, the 17 ac Samoske parcel would be subdivided into three parcels of at least five ac in size (same as the proposed project for this part of the site primarily due to the narrow shape of the parcel and the negligible resource impacts) and the 249 ac Mohsin parcel would be subdivided into seven (7) homesite lots on 55 ac and a remainder parcel of 194 ac, which would be dedicated as permanent open space via conservation easement on all lands that have a slope 30% or greater, exclusive of the existing dwelling area. Overall, the Reduced Density Alternative would have similar environmental effects as the proposed project, but would generate incrementally fewer physical changes (e.g., number of school students, traffic trips, consumption of utilities and services, etc.). The alternative would provide additional buffer area on four of the alternative lots thereby providing better protection for sensitive biological resources and reducing the potential indirect effects to those resources from residential development.
- (c) Redesigned Project Alternative. The Redesigned Project Alternative would subdivide the project site into the same number of new residential lots as the proposed project. However, the configuration of the majority of the newly subdivided lots (11) would be clustered with the intent to reduce potential biological effects considered significant or adverse. The proposed project would subdivide and rezone 55 ac of the 249 ac Mohsin property into 11 low density residential parcels. Under the Redesigned Project Alternative, the residential uses would be clustered on the southwestern portion of the proposed 55 ac parcel to be subdivided so that the 11 homesites (minimum 1 ac) would comprise approximately 25 ac of the 55 ac site (see RDEIR, Figure VI.2). This

VI.2). This area is depicted as Lots 1, 2, 3, 4, and 5 on the proposed project Site Plan, RDEIR, Figure III.3. The remaining 30 ac parcel would be dedicated as permanent open space (keeping the underlying residential zoning) via conservation easement to avoid the sensitive biological resources on the project site including a freshwater marsh, seasonal wetland, a landmark coast live oak tree, and oak woodland habitat. In addition, under this alternative, the 17 ac Samoske parcel would be subdivided in a manner identical to that which is proposed in the proposed project for this part of the site (three parcels of at least five ac in size) primarily due to the narrow shape of the parcel and the negligible resource impacts. Overall, the Redesigned Project Alternative would have similar environmental effects as the proposed project in all areas except biological resources. The Redesigned Project Alternative would cluster 11 of the 13 proposed homesites into an area separated from the sensitive biological resources including the seasonal wetland, freshwater marsh, landmark coast live oak tree, and oak woodland habitat, thereby providing better protection for these resources and reducing the potential indirect effects to those resources from residential development.

- (d) Alternative Project Location. Per the CEQA Guidelines, Section 15126.6 (f)(2), an alternative project location need only be analyzed if the significant effects of the proposed project would be avoided or substantially lessened by putting the project in another location. The project is being proposed within the Toro Area of County where land uses are predominantly rural/agricultural. The primary impacts associated with the proposed project (e.g., aesthetics, biological resources, and agricultural resources) stem from the fact that the proposed project would develop what is currently undeveloped, agricultural land. Because the predominant land use in the Toro Area is agricultural, none of the significant impacts associated with the proposed project would be avoided or lessened by developing the project in an alternate location within the Toro Area. Therefore, this EIR does not analyze an alternative project location for the proposed project.
- (e) Environmentally Superior Alternative. Each of the alternatives either avoided or minimized to a greater extent the impacts associated with the proposed project. The proposed project itself does not result in any impacts that cannot be mitigated to a level below significance. When all the alternatives were considered, the No Project Alternative is considered to be the Environmentally Superior Alternative because only the No Project Alternative avoided all the impacts related to the proposed project. However, as mentioned previously, Section 15126.6(e) of CEQA requires that if the No Project Alternative is the environmentally superior alternative, than another alternative must be identified amongst the alternatives considered as the Environmentally Superior Alternative. Therefore, the Reduced Density Project Alternative is considered to be the Environmentally Superior Alternative because it meets most of the three project objectives with incrementally less environmental impacts to aesthetics, air quality, biological resources, hydrology and water quality, population and housing, public services, traffic, and utilities than the proposed project, none of which remain significant after mitigation. The Reduced Density Project Alternative would not change the impacts associated with agricultural resources, and geology and soils.

- 8. FINDING: LOT LINE ADJUSTMENT** – The parcels resulting from the Lot Line Adjustment conform to County of Monterey zoning and building ordinances. The proposed Lot Line Adjustment is consistent with the County of Monterey Subdivision Ordinance (Title 19) and the County of Monterey Zoning Ordinance (Title 21). The proposed lot line adjustment will not create a greater number of parcels than originally existed.

EVIDENCE:

- (a) 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) and the Mohsin property (APN 167-061-033). This Lot Line Adjustment would transfer 3.47 acres from the Riehl property to the 245.51 acre Mohsin parcel increasing the size of the Mohsin parcel to 249 acres. The proposed Lot Line Adjustment intends to create land holdings that conform to natural topographic features, bench land and dissecting arroyo or eroded gully dividing the property. The size of the parcels before the adjustment is as follows:
1. APN 167-061-033-000 is approximately 245.51 acres.
 2. APN 167-061-032-000 is approximately 52.0 acres.
- The size of the parcels after the adjustment would be as follows:
1. APN 167-061-033 is approximately 249.0 acres.
 2. APN 167-061-032 is approximately 48.53 acres
- (b) Two contiguous separate legal parcels of record will be adjusted and no new parcels will be created. Two legal lots of record exist at the time of lot line adjustment and two legal lots of record will exist after completion of the lot line adjustment. Staff review of the Assessor's Map Book for 1972 indicated that the two parcels were established at the time that state law required subdivision processing to create legal lots of record, and that they are therefore presumed to be legal lots of record.
- (c) The parcels resulting from the lot line adjustment conform to County zoning and building ordinances. The adjusted sizes of the parcels 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. *See Finding 1.*
- (d) Tentative Map of Avila Ranch dated September 15th, 1998 sheet two of three submitted by the project applicant to the Monterey County RMA -Planning Department for the proposed development, found in the project file.

- 9. FINDING: SUBDIVISION ORDINANCE (TITLE 19)** – Lots, building sites and improvements have been designed to meet the standards and requirements of the Subdivision Ordinance (Title 19).

EVIDENCE:

- (a) The project is consistent with the Lot Design Standards of Section 19.10.030. The design and improvement of the subdivision complies with applicable provisions of the Subdivision Ordinance (Title 19), Zoning Ordinance, General Plan, as amended and Toro Area Plan, as amended.
- (b) Section 19.03.025.F requires that the subdivision be denied if any one of the findings is made. Planning staff has analyzed the project against the findings

for denial outlined in this section.

- 1) **The proposed tentative map is consistent with the applicable general plan, area plan, coastal land use plan or specific plan.** The application includes a proposed amendment to the General Plan and Toro Area land use plan Figures 13a and 10 to allow consistency with the proposed subdivision. The proposed subdivision and design are consistent with the land use designating of Low Density Residential/5 acre minimum parcel size in the Monterey County General Plan and the Toro Area Plan. The Tentative Subdivision Map contained in Planning File PLN980516 indicated that all lots will be at least 5.0 acres in size or larger. *See Finding 1.*
- 2) **The design or improvement of the proposed subdivision is consistent with general plan, area plan, coastal plan or specific plan.** The application includes proposed Zone Changes to amend the zoning of the proposed subdivision to: LDR/5-VS (Low Density Residential-5 acre minimum parcel size with Visual Sensitivity zoning. The proposed Standard Subdivision meets the requirements of and conforms to the standards for the LDR/5-VS “Low Density Residential zoning with 5.0 acre minimum parcel sizes and Visual sensitivity” zoning district applied to the property. Title 21.46.010 of Monterey County Code explaining the purpose of the “VS” or Visual Sensitivity District as being: “The purpose of this Chapter is to provide district regulations for the review of development in those areas of the County of Monterey in which such development could potentially create adverse visual impacts when viewed from a common public viewing area.” *See Finding 1.*
- 3) **The site is physically suitable for the type of development.** The lands proposed have existing natural slopes from 2% to 6% and are therefore relatively flat. The project provides home sites requiring little or no grading. Monterey County Geographic information System shows that the property is outside of any 100 year flood zone as mapped by the Federal Emergency Management Agency (FEMA). An archaeological survey entitled “Preliminary Archaeological Reconnaissance of Assessor’s Parcel Number 167-061-025 and 167-061-029 River Road, Monterey County, California by Mary Doane and Trudy Haversat, SOPA, June 18, 1997 which found that no archaeological resources existing on this site. Stormwater Drainage and Ground Water Impacts for the Avila, Pisoni and Samoske Subdivision, Grice Engineering Inc., June 1998 indicates adequate safe leach field and percolation rates for septic effluent. Geotechnical Soils-Foundation and Geologic Hazards Report for the Avila, Pisoni and Samoske Subdivisions, Grice Engineering Inc., June 1998 contains recommendations for the foundations and construction to withstand expected seismic events. *See Finding 2.*
- 4) **The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.** 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.
- 5) **The design of the subdivision or type of improvements is not likely to cause serious public health problems.** The land is at sufficient elevation that it is not subject to inundation or flood hazard from the Salinas River. The Geotechnical report prepared for the subdivision indicated that the land is an old alluvial fan, but that the water table is sufficiently low that the hazard from liquefaction is low and that problems from seismically induced ground shaking are moderate. The subdivision source capacity and water quality of the water supply as reviewed and conditioned by the Health Officer pursuant to Title 19.03.015 of the Monterey County Code meets the requirements of all applicable health and safety regulations. The project hydrogeologic report states water quality test results indicate the supply well has high water quality and recent testing found all Title 22 parameters to be below the State's Maximum Contaminate Levels (MCLs). Further, Nitrogen loading estimates indicate the total nitrogen loads are substantially lower than the maximum allowable loading rates established by the County of Monterey and the Regional Water Quality Control Board, and the project will result in only a minor increase existing levels, and remain below allowable loading rates ("Hydrogeologic Report for the Mohsin and Samoske Subdivision, Grice Engineering Inc., September 2003"). As stated above, water is presently consumed for residential and pasture uses, and is estimated by the hydrogeologic report to be 64.80 AFA. The report estimates project water use to diminish to 35.62 AFA, and potentially to 12.45 AFA if xeriscape landscaping methods are used. The reason for the reduction is grazing uses on the property would cease, and be replaced with residential uses which use less water.
 - 6) **The design of the subdivision or the type of improvements will not conflict with an easement acquired by the public at large, for access through or use of, property within the proposed subdivision.** The Tentative Map contained in PLN980516 shows all easements. The Preliminary Title Report describes easements pertaining to pole lines, access and utilities which are shown on and maintained in the Tentative Map. The conditions of approval require easements for all public utilities serving the site. There is a 25-foot wide cattle drive easement across the remainder parcel reserved in favor of the Pedrazzi family cattle drive to pass through the Mohsin property.
 - 7) **The subdivision meets the requirements or conditions of the Subdivision Map Act and the Subdivision Ordinance (Title 19).** Government Code §66426 "A Tentative and Final Map shall be required for all subdivisions creating five or more parcels..." This project creates 14 new parcels and a remainder, Parcel "A". Government Code §66426 Local Agencies to regulate and Control the Design of subdivisions. Title 19 of Monterey County Code requires the information and Provisions in accord with Government Code §66411.
 - 8) Conditions of approval require the applicants to assure long-term maintenance of the improvements by use of a homeowners association.

10. FINDING: INCLUSIONARY HOUSING REQUIREMENT – Subdivisions in

Monterey County are subject to review by the Resource Management Agency – Housing and Redevelopment Office for conformance to the Inclusionary Housing Ordinance as codified in Chapter 18.40 of the Monterey County Code.

EVIDENCE:

- (a) The project consists of the subdivision of a 55-acre site into 11 five-acre residential parcels and a subdivision of a 17-acre parcel into two parcels of five acres and one parcel of seven acres. Two existing residences are currently located on the project site. The project site is located on River Road, in the Toro Planning Area.
- (b) The project 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.
- (c) The in-lieu fee is 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).
- (d) Memorandum from the County’s Housing and Redevelopment Office, dated October 2, 2008.
- (e) Materials in project file PLN980516.

- 11. FINDING: NO VIOLATIONS** - The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of the County’s zoning ordinance. No violations exist on the property. Zoning violation abatement costs, if any, have been paid.

EVIDENCE: Staff reviewed Monterey County RMA – Planning Department and Building Services Department records and is not aware of any violations existing on subject property.

EXHIBIT A
Before the Planning Commission in and for the
County of Monterey, State of California

<p>Resolution No. _____ Resolution of the Monterey County Planning Commission recommending that the Board of Supervisors amend the Monterey County General Plan/Toro Area Plan to designate 266 acres of land from Farmlands (Samoske, 17 acres) and Permanent Grazing (Mohsin, 249 acres) as a Special Treatment Area (“STA”) with reference to Policy 30.1.1.2(T), a new Toro Area Plan policy that would generally allow a maximum of 14 new single-family residential lots on the lower 72 acres with agricultural buffers and the upper 249 acres would remain Permanent Grazing.</p>	
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Amendments to the Monterey County General Plan and the Toro Area Plan came on for a public hearing on December 10, 2008 and January 28, 2009. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Planning Commission hereby recommend approval of the following amendments with reference to the following facts:

RECITALS

1. Section 65300 et seq. of the California Government Code requires each county to adopt a comprehensive, long-term General Plan for the physical development of each county.
2. On September 30, 1982, the Board of Supervisors of the County of Monterey (“County”) adopted a county-wide General Plan (“General Plan”).
3. On December 13, 1983, the Board of Supervisors adopted the Toro Area Plan (“Area Plan”) as an amendment to the General Plan. Said Plan was amended by the Board on May 22, 1990.
4. The Area Plan “Land Use Plan” (Figure 10) provides a graphic representation of the general distribution, location, extent and intensity of land uses and transportation routes in this planning area.
5. Pursuant to Government Code sections 65350 et seq., the County may amend the adopted General Plan provided the County follows certain procedures, including that the County Planning Commission hold a noticed public hearing and make a written recommendation to the Board of Supervisors on the proposed amendment of the General Plan.
6. Section 65860(a) of the Government Code requires that zoning be consistent with the General Plan.
7. All policies of the General Plan and the Area Plan have been reviewed by the Planning Department staff to ensure that the proposed amendments maintain the compatibility and internal consistency of the General Plan and the Area Plan.
8. The Environmental Impact Report (“EIR”) prepared for PLN980516/Mohsin Samoske included and analyzed the environmental impacts associated with the General Plan and Area Plan amendments.

9. On December 10, 2008 and January 28, 2009, the Monterey County Planning Commission held a duly noticed public hearing to consider and make recommendations to the Board of Supervisors regarding certification of the EIR, the proposed General Plan and Area Plan amendments, proposed related amendments to the County's zoning and subdivision ordinances, the proposed Combined Development Permit for PLN980516. At least 10 days before the first public hearing date, notices of the hearing before the Planning Commission were published in the Salinas Californian and were also posted on and near the property and mailed to property owners within 300 feet of the subject property.
10. On January 28, 2009, the Planning Commission took actions to recommend that the Board: (1) Certify the EIR and associated Mitigation Monitoring and/or Reporting Plan; (2) Approve amendments to the Monterey County General Plan and Monterey County Toro Area Plan; (3) Approve the proposed amendments to Titles 21 of the Monterey County Code; and (4) Approve the Combined Development Permit, including a 14-lot subdivision and water system.

NOW THEREFORE, BE IT RESOLVED that the Planning Commission hereby adopt the following amendments to the Monterey County General Plan and the Toro Area Plan:

- A. Amend the Toro Area Plan Land Use Plan Map (see Attachment A):**
 - a. APN: 167-061-029-000/Samoske: change 17 acres from Farmland/40 acre minimum (F/40) to a Special Treatment Area (STA) Overlay with reference to Toro Policy 30.1.1.2.
 - b. APN: 167-061-033-000/Mohsin: change 249 acres from Permanent Grazing/40 acre minimum (PG/40) to a Special Treatment Area (STA) Overlay with reference to Toro Policy 30.1.1.2.

- B.** **Amend the Toro Area Plan.** Adopt Toro Area Plan Policy 30.1.1.2(T):
- “30.1.1.2 Special Treatment Area: Mohsin-Samoske – Two parcels totaling 266 acres on River Road north of Chualar River Road and the Salinas River bridge shall be designated as a "special treatment" area (APN: 167-061-029-000 and 167-061-033-000) subject to the following criteria:
- (8) *Development shall be limited to the creation of a clustered, rural density, residential subdivision consistent with the surrounding residential development.*
 - (9) *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.*
 - (10) *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.*
 - (11) *Development of the residential properties shall be required to comply with visual sensitivity policies of the Toro Area Plan.*
 - (12) *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%.*
 - (13) *Any subdivision within the STA must comply with the inclusionary housing ordinance in effect as of 1998.*
 - (14) *Neither an infrastructure study nor a rural center plan is required for the development of the Mohsin-Samoske STA.”*

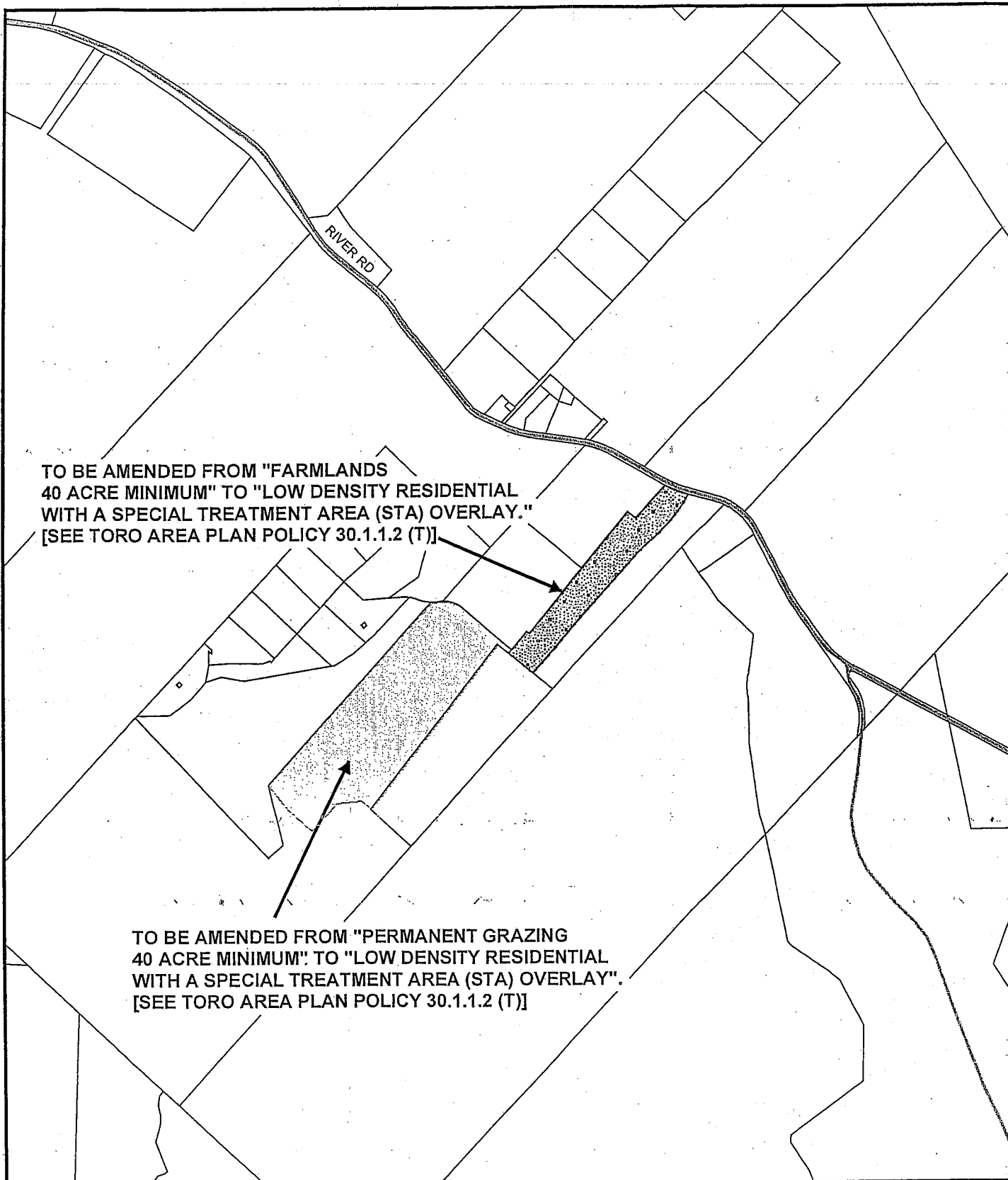
DECISION

The Planning Commission hereby recommends that the Board of Supervisors amend the General Plan and Toro Area Plan as noted herein.

PASSED AND ADOPTED on this 28th day of January 2009, upon motion of Commissioner _____, seconded by Commissioner ____, by the following vote, to-wit:

AYES:
 NOES:
 ABSTAIN:
 ABSENT:

ATTACHMENT 1



GENERAL PLAN AMENDMENT, TORO AREA

APN: 167-061-033-000 & 167-061-029-000

FILE # PLN980516

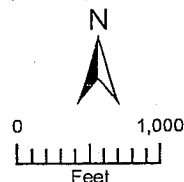


EXHIBIT B
ORDINANCE NO. _____

AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA AMENDING SECTION 21.08.060 OF TITLE 21 OF THE MONTEREY COUNTY CODE TO RECLASSIFY CERTAIN PROPERTY IN THE COUNTY OF MONTEREY.

County Counsel Synopsis

This ordinance amends Section 21-19 of the Zoning Maps to rezone 72 acres on River Road near Parker Road to change the underlying zoning designation of: a) 17 acre parcel from F/40-D to LDR/5-VS; and b) the lower 55 acres of a 249-acre parcel from PG/40-D to LDR/5-VS with 194 acres remaining PG/40.

The Board of Supervisors of the County of Monterey ordains as follows:

SECTION 1. ZONING DISTRICT MAP

Section 21-19 of Section 21.08.060 of the Monterey County Code is hereby amended as shown on the map attached hereto as *Attachment A* and incorporated herein by reference. Said amendment reclassifies the underlying zoning for a 17-acre parcel located west of River Road and north of Chualar River Road (APN 167-061-029-000/Samoske) from Farmland, 40 acre minimum (F/40) to Low Density Residential, 5 acre minimum, visually sensitive overlay (LDR/5-VS).

SECTION 2. ZONING DISTRICT MAP

Section 21-19 of Section 21.08.060 of the Monterey County Code is hereby amended as shown on the map attached hereto as *Attachment A* and incorporated herein by reference. Said amendment reclassifies the underlying zoning for 55-acres of a 249 acre parcel located west of River Road and north of Chualar River Road (APN 167-061-033-000/Mohsin) from Permanent Grazing, 40 acre minimum (PG/40) to Low Density Residential, 5 acre minimum, visually sensitive overlay (LDR/5-VS).

SECTION 3. SEVERABILITY

If any section, subsection, sentence, clause or phrase of this Title is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Title. The Board of Supervisors hereby declares that it would have passed this Title and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

SECTION 4. EFFECTIVE DATE.

This Ordinance shall become effective after formal adoption by the Board of Supervisors.

PASSED AND ADOPTED on this ____ day of _____ 2009, upon motion of Supervisor _____, seconded by Supervisor _____, by the following vote, to-wit:

AYES:
NOES:
ABSTAIN:
ABSENT:

Lou Calcagno, Chair
Monterey County Board of Supervisors

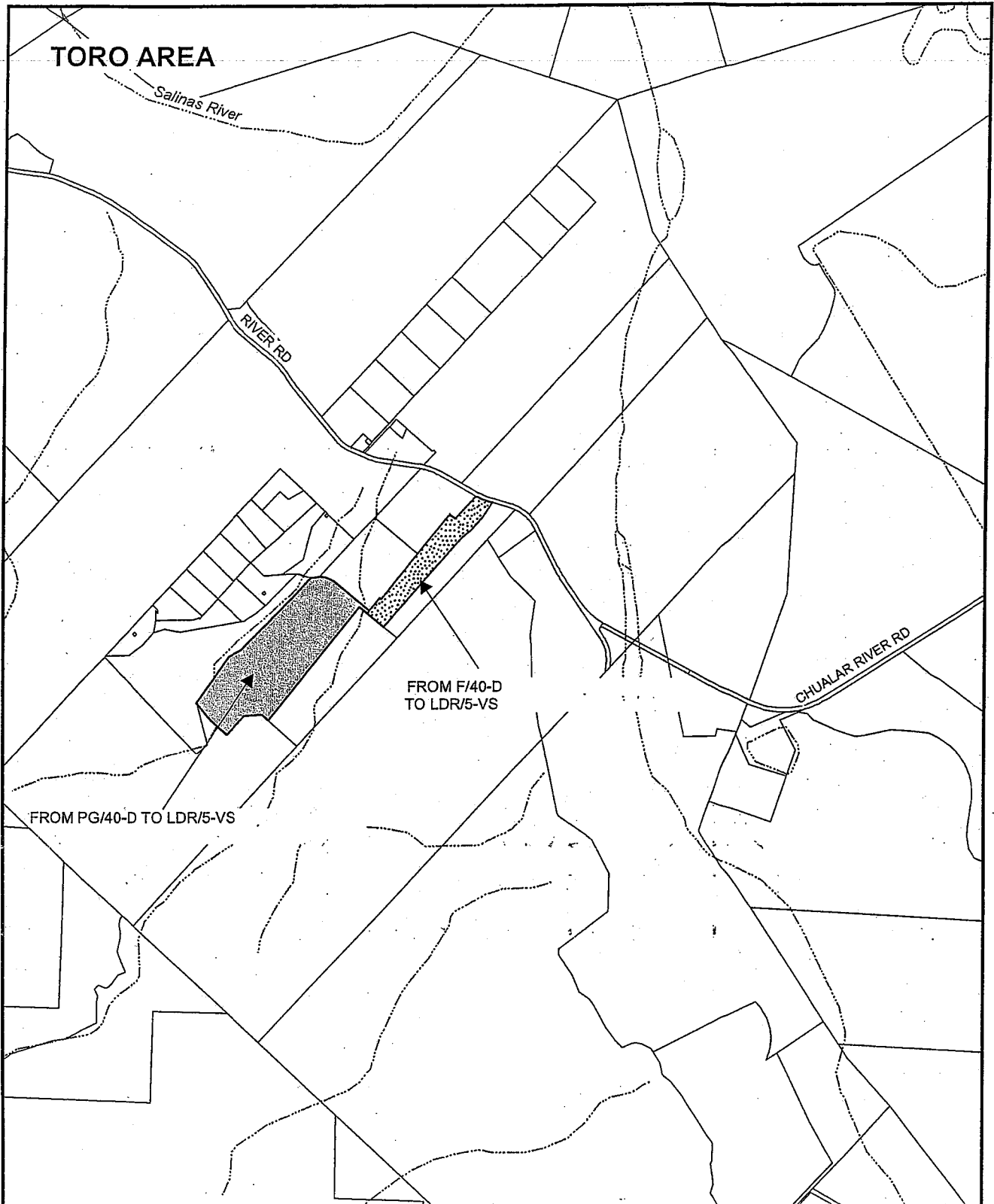
Attest:
LEW C. BAUMAN, Clerk
to the Board of Supervisors

By: _____
Deputy

APPROVED AS TO FORM:
Charles McKee, County Counsel

By: _____
Deputy

ATTACHMENT 1



PROPOSED REZONING, TORO AREA

APNS: 167-061-029-000, 167-061-032-000 & 167-061-033-000

FILE # PLN980516

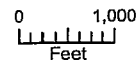


EXHIBIT D Monterey County Resources Management Agency Planning Department Condition Compliance and Mitigation Monitoring Reporting Plan	Project Name: <u>Mohsin-Samoske General Plan Amendment</u> File No: <u>PLN980516</u> APN: <u>167-061-029-000, 167-061-032-000 & 167-061-033-000</u> Approved by: <u>Planning Commission</u> Date: <u>January 27, 2009</u>
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**Monitoring or Reporting refers to projects with an EIR or adopted Mitigated Negative Declaration per Section 21081.6 of the Public Resources Code.*

<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (name/date)</i>
1.		PD001 - SPECIFIC USES ONLY The project consists of: 1) Lot Line Adjustment of 3.47 acres 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; 2) amend General Plan and Toro Area Plan land use maps for two parcels: a) change 17-acre parcel (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) change a 55-acre portion of a 249-acre parcel (APN 167-061-033-000/Mohsin) from Permanent Grazing/40 acre minimum (PG/40) to Single Family Residential with a STA Overlay. The STA would allow 14 single-family residential lots and a Permanent Grazing remainder parcel and would require an agricultural buffer as part of any subdivision within the STA. 3) Zone Change for two parcels: a) change 17 acre parcel (APN 167-061-029-000/Samoske) from F/40-D to LDR/5-VS; and b) change 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-	Adhere to conditions and uses specified in the permit.	Owner/ Applicant	Ongoing unless otherwise stated	

<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (name/date)</i>
		<p>D; 4) Combined Development Permit consisting of: 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-VS) plus one remainder parcel totaling 194 acres (PG/40-D). The proposed subdivision will require agricultural buffer plans for a buffer of at least 75 feet for Parcels B and C of the Samoske portion of the subdivision, and a buffer of at least 100 feet for 11 residential parcels on the Mohsin portion of the subdivision. b) Administrative Permit pursuant to Section 21.14.040.G to allow a small water system with 14 connections. The property is located at 874, 884 & 870 River Road (Assessor's Parcel Number 167-061-029-000, 167-061-032-000 & 167-061-033-000), Toro Area Plan. This permit was approved in accordance with County ordinances and land use regulations subject to the following terms and conditions. Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of the RMA - Planning Department. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. To the extent that the</p>				

<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (name/date)</i>
		County has delegated any condition compliance or mitigation monitoring to the Monterey County Water Resources Agency, the Water Resources Agency shall provide all information requested by the County and the County shall bear ultimate responsibility to ensure that conditions and mitigation measures are properly fulfilled. (RMA - Planning Department)				
2.		PD005 - FISH AND GAME FEE-NEG DEC/EIR Pursuant to the State Public Resources Code § 753.5, State Fish and Game Code, and California Code of Regulations, the applicant shall pay a fee, to be collected by the County, within five (5) working days of project approval. This fee shall be paid before the Notice of Determination is filed. If the fee is not paid within five (5) working days, the project shall not be operative, vested or final until the filing fees are paid. (RMA - Planning Department)	The applicant shall submit a check, payable to the <i>County of Monterey</i> , to the Director of the RMA - Planning Department. If the fee is not paid within five (5) working days, the applicant shall submit a check, payable to the <i>County of Monterey</i> , to the Director of the RMA - Planning Department.	Owner/ Applicant	Within 5 working days of project approval.	
3.		PD004 - INDEMNIFICATION AGREEMENT The property owner agrees as a condition and in consideration of the approval of this discretionary development permit that it will, pursuant to agreement and/or statutory provisions as applicable, including but not limited to Government Code Section 66474.9, defend, indemnify and hold harmless the County of Monterey or its agents, officers and employees	Submit signed and notarized Indemnification Agreement to the Director of RMA – Planning Department for review and signature by the County. Proof of recordation of the Indemnification Agreement, as	Owner/ Applicant	Upon demand of County Counsel or concurrent with the issuance of building permits, use of the property, filing of the final map, whichever occurs first and as	

<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (name/date)</i>
		from any claim, action or proceeding against the County or its agents, officers or employees to attack, set aside, void or annul this approval, which action is brought within the time period provided for under law, including but not limited to, Government Code Section 66499.37, as applicable. The property owner will reimburse the county for any court costs and attorney's fees which the County may be required by a court to pay as a result of such action. County may, at its sole discretion, participate in the defense of such action; but such participation shall not relieve applicant of his obligations under this condition. An agreement to this effect shall be recorded upon demand of County Counsel or concurrent with the issuance of building permits, use of the property, filing of the final map, whichever occurs first and as applicable. The County shall promptly notify the property owner of any such claim, action or proceeding and the County shall cooperate fully in the defense thereof. If the County fails to promptly notify the property owner of any such claim, action or proceeding or fails to cooperate fully in the defense thereof, the property owner shall not thereafter be responsible to defend, indemnify or hold the county harmless. (RMA - Planning Department)	outlined, shall be submitted to the RMA – Planning Department.		applicable	
4.		PD013 – LIGHTING - STREET LIGHTS All street lights in the development shall be approved by the Director of the RMA - Planning Department. (RMA – Planning Department)	Submit three copies of the lighting plans to the RMA - Planning Department for review and approval. Approved lighting plans shall be incorporated into final building plans.	Owner/ Applicant	Prior to the issuance of grading or building permits for street lights.	

<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (name/date)</i>
			The lighting shall be installed and maintained in accordance with the approved plan	Owner/ Applicant	Prior to occupancy/ ongoing	
5.		PD006 - MITIGATION MONITORING PROGRAM The applicant shall enter into an agreement with the County to implement a Mitigation Monitoring and/or Reporting Plan in accordance with Section 21081.6 of the California Public Resources Code and Section 15097 of Title 14, Chapter 3 of the California Code of Regulations. Compliance with the fee schedule adopted by the Board of Supervisors for mitigation monitoring shall be required and payment made to the County of Monterey at the time the property owner submits the signed mitigation monitoring agreement. (RMA - Planning Department)	1) Enter into agreement with the County to implement a Mitigation Monitoring Program. 2) Fees shall be submitted at the time the property owner submits the signed mitigation monitoring agreement.	Owner/ Applicant	Within 60 days after project approval or prior to the issuance of grading and building permits, whichever occurs first.	
6.		PD015 - NOTE ON MAP-STUDIES A note shall be placed on the final map or a separate sheet to be recorded with the final map stating that: "A Geotechnical Soils-Foundation (June 1998); Stormwater, Drainage and Groundwater Impact Report (June 1998); and Septic Report (June 1998), have been prepared on this property and are on file in the Monterey County RMA - Planning Department. The recommendations contained in said reports shall be followed in all further development of this property." The note shall be located in a conspicuous location, subject to the approval of the County Surveyor. (RMA – Planning Department)	Final recorded map with notes shall be submitted to the RMA - Planning Department and Public Works for review and approval.	Owner/ Applicant	Prior to recordation of final map	

<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (name/date)</i>
7.		PD002 - NOTICE-PERMIT APPROVAL The applicant shall record a notice which states: "A permit (Resolution _____) was approved by the Board of Supervisors for Assessor's Parcel Numbers 167-061-029-000, 167-061-032-000 & 167-061-033-000 on (DATE) . The permit was granted subject to 72 conditions of approval which run with the land. A copy of the permit is on file with the Monterey County RMA - Planning Department." Proof of recordation of this notice shall be furnished to the Director of the RMA - Planning Department prior to issuance of building permits or commencement of the use. (RMA - Planning Department)	Proof of recordation of this notice shall be furnished to the RMA - Planning Department.	Owner/ Applicant	Prior to the issuance of grading and building permits or commencement of use.	
8.		PD036 – UTILITIES – SUBDIVISION A note shall be placed on the final map or a separate sheet to be recorded with the final map indicating that "Underground utilities are required in this subdivision in accordance with Chapter 19.10.095, Title 19 of the Monterey County Code." Such facilities shall be installed or bonded prior to filing the final map. The note shall be located in a conspicuous manner subject to the approval of the Director of Public Works. (RMA – Planning Department)	Place note on map or a separate sheet and submit to the RMA - Planning Department for review and approval. Install or bond for the underground utility facilities.	Owner/ Applicant	Prior to the recordation of final map.	
9.		PD035 - UTILITIES - UNDERGROUND All new utility and distribution lines shall be placed underground. (RMA - Planning Department; Public Works)	Install and maintain utility and distribution lines underground.	Owner/ Applicant	Ongoing	
10.		PD009 - GEOTECHNICAL CERTIFICATION Prior to final inspection, the geotechnical consultant shall provide certification that all development has been constructed in accordance with the geotechnical report. (RMA – Planning Department and Building Services)	Submit certification by the geotechnical consultant to the RMA – Building Services Department showing project's compliance with the geotechnical report.	Owner/ Applicant Geotech-nical Consul-tant	Prior to final inspection	

<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (name/date)</i>
		Department)				
11.		PD042 – GRADING/EASEMENT STAKING The conservation and scenic easement(s) and proposed grading shall be staked with 18” stakes at intervals as necessary to clearly delineate the easement and grading. The staking shall be consistent with recorded easement lines and proposed grading as indicated in the official record at the Monterey County RMA – Building Services Department. The staking shall be verified at the grading pre-site inspection by the grading inspector. (RMA – Planning Department and Building Services Department)	The easement(s) and proposed grading shall be staked with 18” stakes at intervals as necessary to clearly delineate the easement and grading. The staking shall be consistent with recorded easement lines and proposed grading as indicated in the official record at the Monterey County RMA – Building Services Department.	Owner/ Applicant	At pre-site inspection by the grading inspector	
12.		PD045 – CERTIFICATES OF COMPLIANCE (LOT LINE ADJUSTMENT) The applicant shall request unconditional certificates of compliance for the newly configured parcels. (RMA – Planning Department)	The Surveyor shall prepare legal descriptions for each newly configured parcel. The legal descriptions shall be entitled “Exhibit A”. The legal description shall comply with the Monterey County Recorder’s guidelines as to form and content. The Applicant shall submit the legal descriptions with a check, payable to the <i>Monterey County Recorder</i> , for the appropriate fees to record the certificates.	Owner/ Applicant/ Surveyor	Concurrent with recording the Record of Survey	

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13.		PW0023 – IMPROVEMENT PLANS Provide improvement plans for approval of the Department of Public Works and that the roads be constructed in accordance with the typical section shown on the tentative map. (Public Works)	Subdivider shall submit improvement plans prepared by his Engineer to DPW for approval. Improvements to be bonded prior to recordation of final map.	Subdivider	Prior to Recordation of Final Map	
14.		PW0014 – DRAINAGE IMPROVEMENT STUDY Provide an on-site/off-site drainage improvement study prepared by a registered Civil Engineer. Study to be approved by Public Works Department and the Water Resources Agency and shall be incorporated in the improvement plans. (Public Works)	Applicant's Engineer shall prepare drainage study and improvement plans for review and approval by DPW.	Owner/ Applicant/ Engineer	Prior to Building/ Grading Permits Issuance or Recordation of Final Map	
15.		PW0015 – UTILITY'S COMMENTS Submit the approved tentative map to impacted utility companies. Subdivider shall submit utility company recommendations, if any, to the Department of Public Works for all required easements. (Public Works)	Subdivider shall provide tentative map to impacted utility companies for review. Subdivider shall submit utility comments to DPW	Owner/ Applicant	Prior to Recordation of Map	
16.		PW0016 – MAINTENANCE OF SUBDIVISIONS Pay for all maintenance and operation of subdivision improvements from the time of installation until acceptance of the improvements for the Subdivision by the Board of Supervisors as completed in accordance with the subdivision improvement agreement and until a homeowners association or other agency with legal authorization to collect fees sufficient to support the services is formed to assume responsibility for the services. (Public Works)	Subdivider shall be responsible to maintain improvements until maintenance is assumed by another entity.	Subdivider	Ongoing	

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17.		PW0017 – NATURAL DRAINAGE EASEMENT Designate all natural drainage channels on the final map by easements labeled “Natural Drainage Easement”. (Public Works)	Subdivider’s surveyor shall include labeling as described on Final Map.	Subdivider/ Surveyor	Prior to Recordation of Final Map	
18.		PW0018 – ROUGH GRADING FOR SLOPE Where cut or fills at property line exceed 5’ driveways shall be rough graded when streets are rough graded. Positive drainage and erosion control shall be provided. (Public Works)	Subdivider’s Engineer shall include notes on improvement plans.	Subdivider/ Engineer	Prior to Recordation of Final Map	
19.		PW0020 – PRIVATE ROADS Designate all subdivision roads as private roads. (Public Works)	Subdivider’s Surveyor shall designate private roads on final map.	Subdivider	Ongoing	
20.		PW0021 – ROAD NAMES Submit all proposed road names to the Department of Public Works for approval by County Communications. (Public Works)	Subdivider shall submit proposed road names to DPW. DPW will submit to County Communications for Approval.	Subdivider	Prior to Recordation of Final Map	
21.		PW0025 – GRADING PERMIT A grading permit shall be obtained from the Planning and Building Inspection Department if required. (Public Works)	Subdivider to make application for Grading Permit.	Subdivider	Prior to Commencement of Grading	
22.		PW0026 – PLANTING FOR GRADED AREAS Plant and maintain all graded areas of the street right-of-way as required by the Department of Public Works to control erosion. The area planted shall include all shoulder areas and all cut and fill slopes. A report and plan prepared by a qualified person shall be submitted for approval of the Department of Public Works and	Subdivider’s Engineer to include erosion control measures on improvement plans.	Subdivider/Engineer	Prior to Recordation of Final Map	

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		include the following: a. That the cut and fill slopes be stabilized. b. Specific method of treatment and type of planting, by area, for each soil type and slope required to satisfy item (a). c. Type and amount of maintenance required to satisfy item (a). (Public Works)				
23.		PW0024 – STOP SIGN Install and maintain a stop sign on the subdivision access at River Road. (Public Works)	Subdivider/Applicant shall install and maintain stop sign.	Subdivider/ Applicant	Ongoing	
24.		WR41 - NOTICE OF WATER CONSERVATION REQUIREMENTS A notice shall be recorded on the deed for each lot stating: “All new construction shall incorporate the use of low water use plumbing fixtures and drought tolerant landscaping, in accordance with County Water Resources Agency Ordinance No. 3932.” Prior to recordation of the final map, a copy the completed notice shall be provided to the Water Resources Agency for approval. (Water Resources Agency)	Submit a recorded notice to the Water Resources Agency for review and approval. (A copy of the County’s standard notice can be obtained at the Water Resources Agency.)	Owner/ Applicant	Recordation of the notice shall occur concurrently with the final map	
25.		WR42 - LANDSCAPING REQUIREMENTS A notice shall be recorded on the deed for each lot stating: “The front yards of all homes shall be landscaped at the time of construction. Low water use or drought tolerant plants shall be used together with water efficient irrigation systems.” Prior to recordation of the final map, a copy the completed notice shall be provided to the Water Resources Agency for approval. (Water Resources Agency)	Submit the recorded notice to the Water Resources Agency for review and approval. (A copy of the County’s standard notice can be obtained at the Water Resources Agency.)	Owner/ Applicant	Recordation of the notice shall occur concurrently with the final map	

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26.		COMPLETION CERTIFICATION (NON-STANDARD WORDING) The applicant shall provide the Water Resources Agency certification from a registered civil engineer or licensed contractor that stormwater detention facilities have been constructed in accordance with approved plans. (Water Resources Agency)	Submit a letter to the Water Resources Agency, prepared by a registered civil engineer or licensed contractor, certifying compliance with approved drainage plan.	Owner/ Applicant	Prior to issuance of any building permits	
27.		EH1 - WATER SYSTEM PERMIT Obtain a new or amended water system permit from the Division of Environmental Health. (Environmental Health)	Submit necessary application, reports and testing results to EH for review and approval.	CA Licensed Engineer /Owner/ Applicant	Prior to issuance of grading/ building permits or prior to filing final map	
28.		EH2 - WATER SYSTEM IMPROVEMENTS (CO. PERMITTED SYSTEM) Design the water system improvements to meet the standards as found in Chapter 15.04 of the Monterey County Code, Titles 17 and 22 of the California Code of Regulations and as found in the Residential Subdivision Water Supply Standards. Submit engineered plans for the water system improvements, including plans for secondary treatment, and any associated fees to the Director of Environmental Health for review and approval prior to installing (or bonding) the improvements. (Environmental Health)	Submit engineered plans for the water system improvements, including plans for secondary treatment, and any associated fees to EH for review and approval prior to installing (or bonding) the improvements.	CA Licensed Engineer /Owner/ Applicant	Prior to issuance of grading/ building permit or Prior to filing final map	
29.		EH4 - FIRE FLOW STANDARDS Design the water system improvements to meet fire flow standards as required and approved by the local fire protection agency. (Environmental Health)	Submit evidence to the Division of Environmental Health that the proposed water system improvements have been approved by the local fire protection agency.	CA Licensed Engineer /Owner/ Applicant	Prior to installing or bonding water system improve- ments	

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30.		<p>EH5 - INSTALL/BOND WATER SYSTEM IMPROVEMENTS</p> <p>The developer shall install the water system improvements to and within the subdivision and any appurtenances needed or shall enter into a Subdivision Improvement Agreement with the County to install the water system improvements and provide security guaranteeing the performance of the Agreement. (Environmental Health)</p>	The developer shall install the water system improvements to and within the subdivision and any appurtenances needed or shall enter into a Subdivision Improvement Agreement with the County to install the water system improvements and provide security guaranteeing the performance of the Agreement.	CA Licensed Engineer /Owner/ Applicant	Prior to filing final map	
31.		<p>EH9 - NEW WELL PUMP TESTS</p> <p>All new or rehabilitated wells to be added to the potable water distribution system shall first undergo a minimum of a 72-hour continuous pump test to determine the yield of the well. Unless otherwise approved by the Director of Environmental Health, the yield of the well shall be calculated by multiplying the 24-hour specific capacity by the available drawdown. If the apparent transmissivity decreases between the first 24 hours of the test and the end of the test, the 24-hour specific capacity shall be adjusted by multiplying the ratio of late-time transmissivity to early-time transmissivity. For the purposes of this condition, available drawdown is defined as two-thirds of the vertical distance from the static water level to the lowest perforations of the well. The pump tests shall be made no earlier than June 1 of each year and no later than the first significant rainfall event of the wet season. The pump test results shall be presented in a form for direct comparison to the criteria set forth in this condition. A representative of the Division of</p>	Submit a report to EH for review and approval	CA Licensed Engineer /Owner/ Applicant	Prior to the issuance of a building permit	

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		Environmental Health shall witness the pump tests. The applicant shall pay all associated fees to the Division of Environmental Health. (Environmental Health)				
32		EHSP01 – SEPTIC SYSTEM FLOWS The septic system design for all lots in this subdivision shall be designed to comply with Chapter 15.20 of the Monterey County Code (Septic Ordinance) and “Prohibitions,” Central Basin Plan, RWQCB. Maximum five (5) foot effective flows shall be required per MCC 15.20. (Environmental Health)	Submit plans for review and approval to the Division of Environmental Health.	CA Licensed Engineer/Owner/Applicant	Prior to issuance of building permit.	
33.		EH22 – DEED NOTIFICATION – PERC REPORT A deed notification shall be recorded concurrently with the final map with the Monterey County Recorder which states: “A soils and percolation report has been prepared for the parcels APN 167-067-029-000 and 167-061-033-000 that are included in file number PLN980516 by Grice Engineering, dated June 31, 1998 and is on record at the Division of Environmental Health, Monterey County, File No. PLN980516. All proposed development shall be in compliance with this report and the recommendations therein. (Environmental Health)	Submit proposed wording and forms to be recorded to EH and RMA-Planning for review and approval. Record deed notification.	Owner/Applicant	Concurrently with filing of final map.	
34.		EH44 – WELL LOTS Submit a tentative map indicating proposed well lots, water distribution, and access easements for the water system to the Director of Environmental Health for review and approval.	Submit plans to the Division of Environmental Health for review and approval	CA Licensed Engineer/ Owner/Applicant	Prior to filing the final map.	

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		Once approved, well lots and easements shall appear as part of the final map. (Environmental Health)				
35.		FIRE001 - ROAD ACCESS Access roads shall be required for every building when any portion of the exterior wall of the first story is located more than 150 feet from fire department access. All roads shall be constructed to provide a minimum of two nine-foot traffic lanes with an unobstructed vertical clearance of not less than 15 feet. The roadway surface shall provide unobstructed access to conventional drive vehicles including sedans and fire apparatus and shall be an all-weather surface designed to support the imposed load of fire apparatus (22 tons). Each road shall have an approved name (Salinas Rural Fire District)	Applicant shall incorporate specification into design and enumerate as "Fire Dept. Notes" on plans.	Applicant or owner	Prior to issuance of grading and/or building permit.	
			Applicant shall schedule fire dept. clearance inspection for each phase of development.	Applicant or owner	Prior to final building inspection	
36.		FIRE002 - ROADWAY ENGINEERING The grade for all roads shall not exceed 15 percent. Where road grades exceed 8 percent, a minimum structural roadway surface of 0.17 feet of asphaltic concrete on 0.34 feet of aggregate base shall be required. The length of vertical curves in roadways, exclusive of gutters, ditches and drainage structures designed to hold or divert water, shall not be less than 100 feet. No roadway turn shall have a horizontal inside radius of less than 50 feet. A roadway	Applicant shall incorporate specification into design and enumerate as "Fire Dept. Notes" on plans.	Applicant or owner	Prior to issuance of grading and/or building permit.	
			Applicant shall schedule fire dept. clearance inspection for each phase of development.	Applicant or owner	Prior to final building inspection	

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		turn radius of 50 to 100 feet is required to have an additional 4 feet of roadway surface. A roadway turn radius of 100 to 200 feet is required to have an additional 2 feet of roadway surface. Roadway turnarounds shall be required on dead-end roads in excess of 150 feet of surface length. The minimum turning radius for a turnaround shall be 40 feet from the center line of the road. If a hammerhead/T is used, the top of the "T" shall be a minimum of 60 feet in length. (Salinas Rural Fire District)	Applicant shall schedule fire dept. clearance inspection	Applicant or owner	Prior to final building inspection.	
37.		FIRE008 - GATES All gates providing access from a road to a driveway shall be located at least 30 feet from the roadway and shall open to allow a vehicle to stop without obstructing traffic on the road. Gate entrances shall be at least the width of the traffic lane but in no case less than 12 feet wide. Where a one-way road with a single traffic lane provides access to a gated entrance, a 40-foot turning radius shall be used. Where gates are to be locked, the installation of a key box or other acceptable means for immediate access by emergency equipment may be required. (Salinas Rural Fire District)	Applicant shall incorporate specification into design and enumerate as "Fire Dept. Notes" on plans.	Applicant or owner	Prior to issuance of grading and/or building permit.	
			Applicant shall schedule fire dept. clearance inspection	Applicant or owner	Prior to final building inspection.	
38.		FIRE009 - BRIDGES All new and reconstructed bridges shall be at least the width of the roadbed and berms, but in no case less than 12 feet wide. Bridge width on all roads exceeding tertiary standards shall not be less than the width of the two lanes with berms. All bridges shall be designed for HS15-	Applicant shall incorporate specification into design and enumerate as "Fire Dept. Notes" on plans.	Applicant or owner	Prior to issuance of grading and/or building permit.	

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		44 loading and have guardrails. Appropriate signage, including but not limited to, weight ratings or vertical clearance limitations, and one-way road or single-lane road conditions, shall be provided at both entrances to any bridge. One-lane bridges may be permitted if there is unobstructed visibility across the entire bridge, and turnouts are provided at both bridge ends. The fire authority may impose more stringent requirements for bridges. (Salinas Rural Fire District)	Applicant shall schedule fire dept. clearance inspection	Applicant or owner	Prior to final building inspection.	
39.		FIRE010 - ROAD SIGNS All newly constructed or approved roads and streets shall be designated by names or numbers, posted on signs clearly visible and legible from the roadway. Size of letters, numbers and symbols for street and road signs shall be a minimum 4-inch letter height, ½-inch stroke, and shall be a color that is reflective and clearly contrasts with the background color of the sign. All numerals shall be Arabic. Street and road signs shall be non-combustible and shall be visible and legible from both directions of vehicle travel for a distance of at least 100 feet. Height, visibility, legibility, and orientation of	Applicant shall incorporate specification into design and enumerate as “Fire Dept. Notes” on improvement plans.	Applicant or owner	Prior to filing of final map.	

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		street and road signs shall be meet the provisions of Monterey County Ordinance No. 1241. This section does not require any entity to rename or renumber existing roads or streets, nor shall a roadway providing access only to a single commercial or industrial occupancy require naming or numbering. Signs required under this section identifying intersecting roads, streets and private lanes shall be placed at the intersection of those roads, streets and/or private lanes. Signs identifying traffic access or flow limitations (i.e., weight or vertical clearance limitations, dead-end road, one-way road or single lane conditions, etc.) shall be placed: (a) at the intersection preceding the traffic access limitation; and (b) not more than 100 feet before such traffic access limitation. Road, street and private lane signs required by this article shall be installed prior to final acceptance of road improvements by the Reviewing Fire Authority. (Salinas Rural Fire District)	Applicant shall schedule fire dept. clearance inspection for each phase of development	Applicant or owner	Prior to issuance of building permit(s) for develop-ment on individual lots within the phase of the subdivi-sion.	
40.		FIRE011 - ADDRESSES FOR BUILDINGS All buildings shall be issued an address in accordance with Monterey County Ordinance No. 1241. Each occupancy, except accessory buildings, shall have its own permanently posted address. When multiple occupancies exist within a single building, each individual occupancy shall be separately identified by its own address. Letters, numbers and symbols for addresses shall be a minimum of 4-inch height, 1/2-inch stroke, contrasting with the background color of the sign, and shall be Arabic. The sign	Applicant shall incorporate specification into design and enumerate as "Fire Dept. Notes" on plans.	Applicant or owner	Prior to issuance of building permit.	

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		and numbers shall be reflective and made of a noncombustible material. Address signs shall be placed at each driveway entrance and at each driveway split. Address signs shall be and visible from both directions of travel along the road. In all cases, the address shall be posted at the beginning of construction and shall be maintained thereafter. Address signs along one-way roads shall be visible from both directions of travel. Where multiple addresses are required at a single driveway, they shall be mounted on a single sign. Where a roadway provides access solely to a single commercial occupancy, the address sign shall be placed at the nearest road intersection providing access to that site. Permanent address numbers shall be posted prior to requesting final clearance. (Salinas Rural Fire District)	Applicant shall schedule fire dept. clearance inspection	Applicant or owner	Prior to final building inspection	
41.		FIRE012 - EMERGENCY WATER STANDARDS - WATER SYSTEMS The provisions of this condition shall apply when new parcels are approved by a local jurisdiction. The emergency water system shall be available on-site prior to the completion of road construction, where a community water system is approved, or prior to the completion of building construction, where an individual	Applicant shall incorporate specification into design and enumerate as "Fire Dept. Notes" on plans.	Applicant or owner	Prior to issuance of permit.	

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		system is approved. Approved water systems shall be installed and made serviceable prior to the time of construction. Water systems constructed, extended or modified to serve a new development, a change of use, or an intensification of use, shall be designed to meet, in addition to average daily demand, the standards shown in Table 2 of the Monterey County General Plan, NFPA Standard 1142, or other adopted standards. The quantity of water required pursuant to this chapter shall be in addition to the domestic demand and shall be permanently and immediately available. (Salinas Rural Fire District)	Applicant shall schedule fire dept. clearance inspection for each phase of development	Applicant or owner	Prior to final building inspection	
42.		FIRE015 - FIRE HYDRANTS/FIRE VALVES A fire hydrant or fire valve is required. The hydrant or fire valve shall be 18 inches above grade, 8 feet from flammable vegetation, no closer than 4 feet nor further than 12 feet from a roadway, and in a location where fire apparatus using it will not block the roadway. The hydrant serving any building shall be not less than 50 feet and not more than 1000 feet by road from the building it is to serve. Minimum hydrant standards shall include a brass head and	Applicant shall incorporate specification into design and enumerate as "Fire Dept. Notes" on plans.	Applicant or owner		

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		valve with at least one 2 1/2 inch National Hose outlet supplied by a minimum 4 inch main and riser. More restrictive hydrant requirements may be applied by the Reviewing Authority. Each hydrant/valve shall be identified with a reflectorized blue marker, with minimum dimensions of 3 inches, located on the driveway address sign, non-combustible post or fire hydrant riser. If used, the post shall be within 3 feet of the hydrant/valve, with the blue marker not less than 3 feet or greater than 5 feet above the ground, visible from the driveway. On paved roads or driveways, reflectorized blue markers shall be permitted to be installed in accordance with the State Fire Marshal's Guidelines for Fire Hydrant Markings Along State Highways and Freeways, May 1988. (Salinas Rural Fire District)	Applicant shall schedule fire dept. clearance inspection	Applicant or owner		
43.		FIRE016 - SETBACKS All parcels 1 acre and larger shall provide a minimum 30-foot setback for new buildings and accessory buildings from all property lines and/or the center of the road. For parcels less than 1 acre, alternate fuel modification standards or other requirements may be imposed by the local fire jurisdiction to provide the same practical effect. (Salinas Rural Fire District)	Applicant shall incorporate specification into design and enumerate as "Fire Dept. Notes" on plans. Applicant shall schedule fire dept. clearance inspection	Applicant or owner Applicant or owner		
44.		FIRE017 - DISPOSAL OF VEGETATION AND FUELS Disposal, including chipping, burying, or removal to a landfill site approved by the local jurisdiction, of vegetation and debris caused by site development and construction, road and driveway construction, and fuel modification shall be completed prior to final clearance of the	Applicant shall schedule fire dept. clearance inspection	Applicant or owner		

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		related permit. (Salinas Rural Fire District)				
45.		FIRE021 - FIRE PROTECTION EQUIPMENT & SYSTEMS - FIRE SPRINKLER SYSTEM (STANDARD) The building(s) and attached garage(s) shall be fully protected with automatic fire sprinkler system(s). Installation shall be in accordance with the applicable NFPA standard. A minimum of four (4) sets of plans for fire sprinkler systems must be submitted by a California licensed C-16 contractor and approved prior to installation. This requirement is not intended to delay issuance of a building permit. A rough sprinkler inspection must be scheduled by the installing contractor and completed prior to requesting a framing inspection. (Salinas Rural Fire District)	Applicant shall enumerate as "Fire Dept. Notes" on plans.	Applicant or owner	Prior to issuance of building permit.	
			Applicant shall schedule fire dept. rough sprinkler inspection	Applicant or owner	Prior to framing inspection	
46.		FIRE026 - ROOF CONSTRUCTION (STANDARD) All new structures, and all existing structures receiving new roofing over 50 percent or more of the existing roof surface within a one-year period, shall require a minimum of ICBO Class B roof construction. (Salinas Rural Fire District)	Applicant shall enumerate as "Fire Dept. Notes" on plans.	Applicant or owner	Prior to issuance of building permit.	
MITIGATION MEASURES						

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47.	AES-1	PD022(A) – EASEMENT – CONSERVATION AND SCENIC A conservation and scenic easement shall be conveyed to the County over those portions of the property not proposed for five-acre lots, excluding the existing home site on the remainder parcel. The easement shall be developed in consultation with certified professional. An easement deed shall be submitted to, reviewed and approved by, the Director of the RMA - Planning Department prior to issuance of grading and building permits. (RMA – Planning Department)	Submit the conservation and scenic easement deed and corresponding map, showing the exact location of the easement on the property along with the metes and bound description developed in consultation with a certified professional, to the RMA - Planning Department for review and approval.	Owner/ Applicant		Prior to issuance of grading and building permits
			Record the deed and map showing the approved conservation and scenic easement. Submit a copy of the recorded deed and map to the RMA – Planning Department.	Owner/ Applicant		Prior to final map, final inspection or commencement use
48.	AES-2	PD014(A) – LIGHTING – EXTERIOR LIGHTING PLAN All exterior lighting shall be unobtrusive, down-lit, harmonious with the local area, and constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. Exterior lights shall have recessed lighting elements. The applicant shall submit 3 copies of an exterior lighting plan which shall indicate the location, type, and wattage of all light fixtures and include catalog sheets for each fixture. The lighting shall comply with the requirements of the California Energy Code set forth in California Code of Regulations, Title 24, Part 6. The exterior lighting plan shall be subject	Submit three copies of the lighting plans to the RMA - Planning Department for review and approval. Approved lighting plans shall be incorporated into final building plans.	Owner/ Applicant	Prior to the issuance of building permits.	

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		to approval by the Director of the RMA - Planning Department, prior to the issuance of building permits. (RMA – Planning Department)				
			The lighting shall be installed and maintained in accordance with the approved plan.	Owner/ Applicant	Prior to Occupancy/ Ongoing	
49.	AG-1	Prior to recordation of a final map, the applicant shall submit Agricultural Buffer Mitigation Plans for the Mohsin and Samoske properties to the Planning Department and Agricultural Commissioner for review and approval. The plans shall establish agricultural buffers of at least 75 feet for Parcels B and C of the Samoske portion of the subdivision and buffers of at least 100 feet for the 11 residential parcels on the Mohsin portion of the subdivision. The buffers shall take 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. Said setback areas shall be labeled on the final map as “agricultural buffer easement. The easement deed shall describe the easement on each parcel containing an agricultural buffer to exclude habitable structures. (Agricultural Commissioner and RMA-Planning Department)	<p>The applicant shall submit Agricultural Buffer Mitigation Plans and cost estimates to the Planning Department and Agricultural Commissioner for review and approval.</p> <p>The applicant’s engineer shall prepare Final Map with agricultural buffer easements.</p> <p>Landscaping shall be either installed or a certificate of deposit or other form of surety made payable to Monterey County for that cost estimate shall be submitted to the RMA – Planning Department.</p> <p>All landscaping and fences shall be continuously maintained by the property owner; all plant material shall be continuously maintained in a litter-free,</p>	<p>Applicant</p> <p>Applicant’s engineer</p> <p>Property owner</p> <p>Property owner</p>	<p>Prior to approval of Final Map</p> <p>Prior to approval of Final Map</p> <p>Prior to occupancy</p> <p>Ongoing</p>	

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			healthy growing condition.			
50.	BR-1	<p>Prior to the issuance of a grading or building permit for Lot 6 of the Mohsin portion of the subdivision, three (3) copies of a landscaping plan shall be submitted to the Director of the RMA - Planning Department. The plan shall preserve 33.96 acres of mixed oak woodland on the project site. The landscape plan shall include the following oak tree protective measures:</p> <ol style="list-style-type: none"> 1) Protection of the 54-inch dbh coast live oak tree growing on the Mohsin property; 2) A protective buffer no less than 20 feet away from the dripline of the oak tree canopy. 3) The provision of orange construction fencing defining the boundary of the oak tree protection zone prior to and during construction; and 4) A provision prohibiting grading, deposition of fill, or irrigation within the oak tree protection zone. <p>A landscape plan review fee is required for this project. Fees shall be paid at the time of landscape plan submittal. The landscaping plan shall be in sufficient detail to identify the location, species, and size of the proposed landscaping materials and shall include an irrigation plan. The plan shall be accompanied by a nursery or contractor's estimate</p>	Submit three copies of landscape plan to the RMA - Planning Department for review and approval.	Applicant/Owner	Prior to issuance of a grading or building permit for Lot 6 of the Mohsin portion of the subdivision	

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		of the cost of installation of the plan. Before occupancy, landscaping shall be either installed or a certificate of deposit or other form of surety made payable to Monterey County for that cost estimate shall be submitted to the Monterey County RMA - Planning Department. All landscaped areas and fences shall be continuously maintained by the applicant; all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition. (RMA – Planning Department)				
51.	BR-2	<p>The following measures shall be implemented to mitigate for potential impacts to nesting birds:</p> <ol style="list-style-type: none"> 1. If possible, all trees, brush, and other potential nesting habitat that will be impacted by project construction shall be removed during the non-nesting season (September 1 through February 15). 1. If suitable nesting habitat cannot be removed during the non-nesting season and project construction is to begin during the nesting season (February 16 through August 31), all suitable nesting habitat within the limits of work and a 500-foot buffer shall be surveyed by a qualified biologist prior to issuance of a grading or building permit. Surveys shall be conducted no more than 14 days prior to the start of work. If an active nest is discovered, a buffer shall be established on the project site around the nest and delineated using orange construction fence or equivalent. Buffers for raptor nests shall be 500 feet; buffers for non-raptor nests 	<p>The applicant shall remove any trees, brush, or potential habitat during the non-nesting season. If suitable nesting habitat cannot be removed during the non-nesting season and project construction is to begin during the nesting season (February 16 through August 31), all suitable nesting habitat within the limits of work and a 500-foot buffer shall be surveyed by a qualified biologist.</p>	Qualified Biologist	Prior to issuance of grading or building permit	

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		<p>shall be 100 feet. The buffer shall be maintained in place until the end of the breeding season or until the young have fledged, as determined by a qualified biologist.</p> <p>If no nesting is discovered, construction may begin as planned. Construction beginning during the non-nesting season and continuing into the nesting season shall not be subject to these measures.</p> <p>Alternatively, the California Department of Fish and Game (CDFG) may be consulted to determine if it is appropriate to decrease the specified buffers with or without implementation of other avoidance and minimization measures (e.g., having a qualified biologist on-site during construction activities during the nesting season to monitor nesting activity). (RMA – Planning Department)</p>				
52.	BR-3	<p>The following measures shall be implemented to mitigate for potential impacts to burrowing owls:</p> <p>1) Presence/absence surveys shall be conducted for burrowing owls within the work limits in accordance with CDFG's Staff Report on Burrowing Owls (CDFG, 1995). The protocol requires 4 surveys during the nesting season (April 15 through July 15) and 4 surveys during the winter season (December 1 through January 31). If the survey results are negative, measures 2 and 3 are not required.</p>	<p>The applicant shall have presence/absence surveys conducted by a qualified biologist for burrowing owls and preconstruction surveys 30 days prior to any ground disturbing activities.</p>	Qualified Biologist	Prior to issuance of grading or building permit	

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		<p>2) If burrowing owls are found to be occupying the site in either season, compensation for loss of foraging habitat shall be required in accordance with the CDFG Staff Report on Burrowing Owls (CDFG, 1995). Compensation shall consist of preservation of 6.5 acres of suitable foraging habitat for each breeding pair or unpaired winter resident. Preservation of this habitat shall be accomplished through:</p> <ul style="list-style-type: none"> a) Acquisition of suitable habitat and recording a conservation easement over the property; b) Purchasing sufficient credits at an approved conservation bank; c) A combination of the above methods; or d) Another method acceptable to CDFG. <p>3) Prior to issuance of a grading or building permit, the project proponent shall provide evidence that adequate mitigation has been provided for the loss of burrowing owl foraging habitat, as described above.</p> <p>4) No more than 30 days prior to any ground disturbing activities, a qualified biologist shall conduct a preconstruction survey for burrowing owls. A preconstruction survey is not necessary if the last presence/absence survey was conducted within 30 days of the start of ground disturbing activities. If ground disturbing activities are delayed or suspended for more than 30 days after the</p>				

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		<p>initial preconstruction surveys, the site shall be resurveyed. All surveys shall be conducted in accordance with CDFG's Staff Report on Burrowing Owls (CDFG, 1995). If no burrowing owls are present, construction can begin as planned. Construction beginning during the non-nesting season and continuing into the nesting season shall not be subject to these measures.</p> <p>5) If the preconstruction surveys identify burrowing owls on the site during the non-breeding season (September 1 through January 31), burrowing owls occupying the project site shall be evicted from the project site by passive relocation as described in the CDFG's Staff Report on Burrowing Owls (CDFG 1995).</p> <p>If the preconstruction surveys identify burrowing owls nesting on the site during the breeding season (February 1 through August 31), a 250-foot buffer shall be established on the project site around the nest burrow and delineated using orange construction fence or equivalent. The buffer shall be maintained in place until the end of the breeding season or until a qualified biologist determines through non-invasive methods that: 1) the birds have not begun egg laying, or 2) juveniles from the occupied burrows are foraging independently and are capable of independent survival. Once the fledglings are capable of independent survival, the</p>				

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		burrow(s) can be destroyed. (RMA – Planning Department)				
53.	BR-4	<p>Per discussions with the USFWS (Diel, Christopher, November 1, 2007), California Tiger Salamander (CTS) are assumed to be present on the project site based on the presence of suitable habitat. The following measures shall be implemented to mitigate potential impacts to CTS. Western spadefoot could also be present on the project site; the following measures for CTS will also mitigate potential impacts to western spadefoot.</p> <p>It should be noted that the wetlands/water features on the project site are expected to be non-jurisdictional under the CWA. As a result, it is expected that no authorization will be required from the Corps of Engineers to fill the subject features and the project will not have a federal nexus with which to consult with the USFWS. Measure 1 reflects this approach. In the event the wetlands/water features are determined to be jurisdictional under the CWA, authorization will be required from the Corps of Engineers to fill the subject features, thus creating a federal nexus with which to consult with the USFWS. Measure 2 reflects this approach.</p> <p>1) The project proponent shall prepare a Habitat Conservation Plan (HCP) in accordance with Section 10 of the FESA to support issuance of an</p>	CTS and western spadefoot site assessment shall be conducted by the applicant and submitted to USFWS for review and concurrence. If necessary, the applicant must prepare a mitigation plan and complete necessary USFWS requirements, obtain required permits, and provide documentation to the RMA-Planning Department.	Applicant/Owner	Prior to issuance of grading or building permit	

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		<p>incidental take permit from the USFWS. The HCP shall include the following information:</p> <ul style="list-style-type: none"> a) Impacts likely to result from the proposed taking of the species for which permit coverage is requested; b) Measures that will be implemented to monitor, minimize, and mitigate impacts; funding that will be made available to undertake such measures; and procedures to deal with unforeseen circumstances; c) Alternative actions considered that would not result in take; and d) Additional measures the USFWS may require as necessary or appropriate for purposes of the plan. <p>OR</p> <p>1) The project proponent shall prepare a Biological Assessment (BA) to facilitate consultation with the USFWS under Section 7 of the FESA. The BA shall provide an evaluation of project impacts to CTS and include proposed</p>				

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		<p>avoidance and minimization measures. Section 7 consultation shall be initiated as part of the Corps permit process.</p> <p>2) Depending on the approach (i.e., measure 1 or 2), the HCP or BA shall describe proposed compensatory mitigation to offset the loss of approximately 45.7 acres of CTS habitat resulting from project implementation. Compensatory mitigation for CTS habitat typically consists of habitat preservation at a minimum 2:1 ratio. Preservation of this habitat shall be accomplished through one or more of the following methods contingent upon approval from the USFWS:</p> <ul style="list-style-type: none"> a) Acquisition of suitable habitat and recording a conservation easement over the property; b) Purchasing sufficient credits at an approved conservation bank; c) Another method acceptable to USFWS; <p>Prior to issuance of a grading or building permit, the project proponent shall complete any consultation requirements with USFWS pursuant to FESA and obtain any required permits and provide documentation to the</p>				

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		County. (RMA – Planning Department)				
54.	BR-5	<p>The following measures shall be implemented to mitigate for potential impacts to Congdon’s tarplant.</p> <ol style="list-style-type: none"> 1) Prior to the issuance of a grading or building permit, a qualified biologist or botanist shall conduct focused surveys for Congdon’s tarplant in the proposed work area. Surveys shall be conducted during the normal blooming period for this species, which is normally September through November. If survey results are negative, no additional mitigation is required. 2) If Congdon’s tarplant is identified in the work area, seed shall be salvaged from the plants present and relocated to one or more appropriate locations on the southern part of the project site. The relocations area(s) shall be within the dedicated open space portion of the site. Seed shall be salvaged after the plants are done flowering and the seed has set. The salvaged seed shall be relocated and spread immediately following salvage activities, so that the timing is as close to the natural cycle as possible. 3) Prior to issuance of a grading permit or other authorization to proceed with project construction, the project proponent shall provide documentation to the County of Monterey that (RMA – Planning 	The applicant shall have a qualified biologist or botanist shall conduct focused surveys for Congdon’s tarplant in the proposed work area and take appropriate action as necessary.	Qualified Biologist or Botanist	Prior to issuance of grading or building permit	

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		Department)				
55.	BR-6	<p>As noted in Section D.2 of the Draft EIR, in the event the Corps of Engineers determines the wetlands on the northern part of the project site are non-jurisdictional under Section 404 of the CWA, it is likely the RWQCB will regulate these features as waters of the State under PCWQCA.</p> <p>The following measures shall be implemented to mitigate for potential impacts to jurisdictional waters under Section 404 of the CWA and/or PCWQCA, depending on the jurisdiction determination made by the Corps.</p> <p>1) Waters of the United States (waters of the U.S.) permanently impacted during construction shall be mitigated by one of the following methods, or by using a combination of the methods, contingent upon approval by the Corps and/or RWQCB:</p> <p>a) Preservation, creation, and/or restoration of the impacted resources at a minimum ratio of 2:1. If this method is utilized, a Mitigation and Monitoring Proposal (MMP) shall be prepared and submitted to the Corps and/or RWQCB for approval. The MMP shall be prepared in accordance with the Corps 2004 Mitigation and Monitoring Proposal Guidelines. The MMP shall</p>	The applicant shall consult with the Corps of Engineers and shall comply with all federal and State requirements pertaining to jurisdictional and nonjurisdictional waters as appropriate, obtain any necessary permits, and purchase credits at an approved mitigation bank.	Applicant/Owner	Prior to issuance of grading or building permit	

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		<p>address the following: Responsible Parties; Project Description; Site Characteristics; Mitigation Design; Success Criteria and Monitoring; Implementation Plan; Maintenance; Monitoring Reports; Contingency Measures; Completion of Mitigation; and Long-Term Management.</p> <p>b) Purchase of credits at an approved mitigation bank at a minimum 1:1 mitigation ratio.</p> <p>2) Prior to issuance of a grading permit or other authorization to proceed with project construction, the project proponent shall obtain any necessary permits (e.g., from the Corps, RWQCB) and provide documentation to the County of Monterey. (RMA – Planning Department)</p>				
56.	GEO-1	<p>Project design shall assume that project facilities would be exposed to ground shaking commensurate with a maximum credible earthquake. Project design specifications, in accordance with the requirements of the Uniform Building Code’s current edition for Seismic Zone IV that requires all buildings to be founded on undisturbed native soils and/or accepted engineering fill to prevent resonance amplification between soils and the structure, shall be prepared by the project engineer and submitted to the County of Monterey for approval prior to issuance of a building permit. (RMA – Building Department)</p>	<p>Project design specifications shall be prepared in accordance with the Uniform Building Code by the project engineer and submitted to the RMA – Building Department for review and approval prior to issuance of a building permit.</p>	Project Engineer	Prior to issuance of building permit	

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57.	HYD-1	Prior to issuance of a grading or building permit, the applicant shall submit construction plans for the project that include features meeting the applicable construction activity Best Management Practices (BMPs) and erosion and sediment control BMPs published in the California Stormwater BMP Handbook— Construction Activity or equivalent for review and approval by the RMA- Planning Department. The applicant shall submit a Storm Water Pollution Prevention Plan (SWPPP) to the County that includes the BMP types listed in the handbook or equivalent. The SWPPP shall be prepared by a civil or environmental engineer and would be reviewed and approved by the County Building Official prior to the issuance of any grading or building permits. The SWPPP shall reduce the discharge of pollutants to the maximum extent practicable using BMPs, control techniques and systems, design and engineering methods, and such other provisions as appropriate. A copy of the SWPPP shall be kept at the project site. (RMA – Planning Department)	The applicant shall ensure that construction plans for the project include features meeting the applicable construction activity BMPs and erosion and sediment control BMPs and shall submit construction plans and a SWPP for the project to the RMA- Planning Department	Applicant/Owner		
58.	HYD-2	Prior to issuance of grading permits, the applicant shall demonstrate to Monterey County RMA- Planning Department that coverage has been obtained under the State General Construction Activity National Pollutant Discharge Elimination System (NPDES) Permit by providing a copy of the Notice of Intent (NOI) submitted to the State Water Resources Control Board (SWRCB). During grading and construction, the applicant shall ensure that the	The applicant shall provide a copy of the NOI submitted to the SWRCB to demonstrate that coverage has been obtained under the State General Construction Activity NPDES Permit The applicant shall ensure that	Applicant	Prior to issuance of grading permits	

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		project complies with the requirements of the State General Construction Activity NPDES Permit. (RMA – Planning Department)	the project complies with the requirements of the State General Construction Activity NPDES Permit.	Applicant	During grading and construction	
59.	HYD-3	The applicant shall comply with the provisions of the NPDES General Permit and Waste Discharge Requirements for the Storm Water Discharges from Small Municipal Separate Storm Sewer Systems Order No. 2003-0005-DWQ NPDES No. CAS000004 as they relate to construction activities for the project. This shall include a Notification of Construction to the Central Coast Regional Water Quality Control Board (RWQCB) at least 30 days prior to the start of construction, preparation and implementation of a SWPPP and Notice of Completion to the Central Coast RWQCB upon completion of construction and stabilization of the site. (RMA – Planning Department)	The project applicant shall obtain a Notification of Construction from the Central Coast RWQCB at least 30 days prior to the start of construction, prepare and implement a SWPPP, and shall obtain a Notice of Completion upon completion of construction and stabilization of the site.	Applicant	At least 30 days prior to start of construction, preparation and implementation of a SWPPP and Notice of Completion to the Central Coast RWQCB upon completion of construction and stabilization of the site	
60.	HYD-4	Prior to issuance of any grading permits, the applicant shall provide the County Water Resources Agency a road improvement plan prepared by a registered civil engineer that includes dispersing storm water runoff onto a non-erodible surface. Improvements shall be constructed in accordance with plans approved by the Water Resources Agency. (RMA – Planning Department)	The applicant shall provide the County Water Resources Agency a road improvement plan (prepared by a registered civil engineer) including the methods of dispersing storm water runoff onto a non-erodible surface.	Registered civil engineer	Prior to issuance of any grading permits	
61.	HYD-5	Prior to recordation of the final map, the applicant shall provide the County Water Resources Agency a drainage report that includes calculations certifying storm water detention facilities will be sized to store the	The project applicant shall provide the County Water Resources Agency a drainage report that includes a map of the location of the detention	Applicant/Owner	Prior to recordation of the final map	

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		difference between the 100-year post-development runoff and the 10-year pre-development runoff, while limiting discharge to the 10-year pre-development rate. The location of the detention facilities shall be shown on the final map. (Water Resources Agency)	facilities and calculations certifying that the storm water detention facilities are sized sufficiently.			
62.	HYD-6	DRAINAGE NOTE A note shall be recorded on the final map stating: “A drainage plan shall be prepared, for each lot, by a registered civil engineer or architect prior to issuance of any grading or building permits. Impervious surface stormwater runoff shall be directed to the stormwater drainage system for the subdivision. If runoff cannot be directed to the subdivision drainage improvements, on-site retention/detention facilities shall be constructed in accordance with plans approved by the Water Resources Agency.” Prior to recordation of the final map, the applicant shall provide the Water Resources Agency a copy of the map to be recorded. (Water Resources Agency)	The project applicant shall provide the County Water Resources Agency a drainage plan including construction details for the detention ponds and retention/infiltration systems.	Owner/ Applicant	Prior to filing of the final map	
63.	HYD-7	A Homeowner’s Association shall be formed for the maintenance of roads, drainage facilities, and open spaces. Prior to filing of the final map, the Director of Public Works, the RMA-Planning Director and the County Water Resources Agency shall approve the documents forming the Homeowner’s Association. Applicant shall prepare an operation and maintenance plan for all facilities and shall implement a fee program to fund operation and maintenance, and have appropriate documentation recorded against each parcel	The subdivider shall submit documentation to DPW and WRA for formation of homeowners association or other entity to maintain roads and drainage improvements.	Subdivider	Prior to recordation of final map	

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		within the subdivision. The covenants, conditions and restrictions shall include provisions for a yearly report by a registered civil engineer, for maintaining the drainage facilities, and for monitoring impacts associated with the drainage facilities. The annual drainage report shall be submitted to the Water Resources Agency by August 15 for review and approval. (Public Works, RMA – Planning Department and Water Resources Agency)				
64.	HYD-8	Prior to recordation of the final map, a signed and notarized Drainage and Flood Control Systems Agreement shall be provided to the Water Resources Agency for review and approval. The agreement shall include a summary of required annual maintenance activities and provisions for the preparation of an annual drainage report. The annual report shall be prepared by a registered civil engineer and submitted to the Water Resources Agency by August 15 for review and approval. If the Homeowner’s Association, after notice and hearing, fails to properly maintain, repair, or operate the subdivision drainage and flood control facilities, the Monterey County Water Resources Agency shall be granted the right by the property owners to enter any and all portions of the property to perform repairs, maintenance or improvements necessary to properly operate the drainage and flood control facilities at the project site. The County Water Resources Agency shall have the right to collect the cost for said repairs, maintenance or improvements from the property owners upon their property	<p>The applicant shall submit a signed and notarized Drainage and Flood Control Systems Agreement to the Water Resources Agency for review and approval.</p> <p>The applicant shall submit annual report to the Water Resources Agency by August 15 for review and approval.</p> <p>The Drainage and Flood Control Systems Agreement shall be recorded.</p>	<p>Applicant</p> <p>Registered civil engineer</p> <p>Applicant</p>	<p>Prior to recordation of the final map</p> <p>By August 15th</p> <p>Concurrently with the recordation of the final map</p>	

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		tax bills. A hearing shall be provided by the Board of Supervisors as to the appropriateness of the costs. The Drainage and Flood Control Systems Agreement shall be recorded concurrently with the final map. (Water Resources Agency)				
65.	HYD-9	Prior to the issuance of any grading or building permits, the applicant shall provide the Monterey County RMA- Planning Department with three copies of a landscaping plan prepared by a licensed landscape architect utilizing xeriscape and/or native drought tolerant plantings to minimize the amount of groundwater needed to irrigate the rural residential parcels. (RMA – Planning Department)	The applicant shall provide the Monterey County RMA- Planning Department with three copies of a landscaping plan utilizing xeriscape and/or native drought tolerant plantings.	Licensed landscape architect	Prior to the issuance of grading or building permit	
66.	LU-1	INCLUSIONARY HOUSING Prior to recordation of the final map, the applicant shall comply with the County’s Inclusionary Housing Ordinance #3419 by paying, or securing, to the satisfaction of the Redevelopment and Housing Director, an in-lieu fee of \$164,313. (Housing and Redevelopment)	The applicant shall pay the in-lieu fee to the Redevelopment and Housing Director.	Applicant	Prior to recordation of final map	
67.	PS-1	PKS002 – RECREATION REQUIREMENTS/FEES The Applicant shall comply with Section 19.12.010 - Recreation Requirements, of the Subdivision Ordinance, Title 19, Monterey County Code, by paying a fee in lieu of land dedication. The Parks Department shall determine the fee in accordance with provisions contained in Section 19.12.010(D) (Parks	The Applicant shall comply with the Recreation Requirements contained in Section 19.12.010 of the Subdivision Ordinance Title 19, Monterey County Code.	Owner/ Applicant	Prior to Recordation of the Final Map	

<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (name/date)</i>
		Department)				
68.	TRA-1	NON-STANDARD – SIGHT DISTANCE Any brush located within the project R.O.W. shall be cleaned and maintained by the project applicant so adequate sight distance at the project driveway is provided. Brush is growing on the west side of River Road, remove or trim brush to increase sight distance from 430 ft to 550 ft, meeting the minimum required sight distance of 512 ft. (Public Works)	The subdivider and Public Works Department shall clean and maintain any brush growing on the west side of River Road to meet the minimum required sight distance of 512 feet.	Subdivider and Public Works Department	Ongoing	
69.	TRA-2	NON-STANDARD – TRAFFIC FEES (RIVER ROAD) Prior to recordation of the final map, applicant shall contribute \$2,533 to the County as the project's fair share contribution toward future improvements to the Highway 68 westbound ramps/Reservation Road intersection. (Public Works)	The applicant shall pay the fee to Public Works.	Subdivider	Prior to recordation of final map	
70.	TRA-3	NON-STANDARD – TRAFFIC FEES (CHUALAR) Prior to recordation of the final map, applicant shall contribute \$5,266 to the County as the project's fair share contribution toward future improvements to the northbound on and off ramps in Chualar. (Public Works)	The subdivider shall pay the fee to Public Works.	Subdivider	Prior to recordation of final map	
71.	TRA-4	NON-STANDARD – TAMC Prior to issuance of building permits, applicant shall pay the Transportation Agency for Monterey County (TAMC) regional traffic mitigation fee (currently \$4,113.00 per dwelling unit). The fee required by TAMC shall be reduced by \$2,523.77 per lot to account for traffic mitigation fees	The applicant shall pay the fee to the RMA-Building Department.	Subdivider	Prior to issuance of building permits	

<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (name/date)</i>
		previously paid by the subdivider. (Public Works)				
72.	CR-1	PD003(A) – CULTURAL RESOURCES – NEGATIVE ARCHAEOLOGICAL REPORT If, during the course of construction, cultural, archaeological, historical or paleontological resources are uncovered at the site (surface or subsurface resources) work shall be halted immediately within 50 meters (165 feet) of the find until a qualified professional archaeologist can evaluate it. The Monterey County RMA - Planning Department and a qualified archaeologist (i.e., an archaeologist registered with the Society of Professional Archaeologists) shall be immediately contacted by the responsible individual present on-site. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery. (RMA - Planning Department)	Stop work within 50 meters (165 feet) of uncovered resource and contact the Monterey County RMA - Planning Department and a qualified archaeologist immediately if cultural, archaeological, historical or paleontological resources are uncovered. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery.	Owner/ Applicant/ Archaeo-logist	Ongoing	

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