

## MONTEREY COUNTY PLANNING COMMISSION

<b>Meeting:</b> March 11, 2009 <b>Time:</b> 9:30 AM		<b>Agenda Item No.:</b> 3
<p><b>Project Description:</b> Public hearing to consider resolutions recommending that the Board of Supervisors:</p> <ol style="list-style-type: none"> <li>1) Certify the EIR, approve a mitigation monitoring and reporting plan, and adopt statement of overriding considerations.</li> <li>2) Approve a 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.</li> <li>3) Approve amendments to the General Plan and Toro Area Plan: 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 72 acres with agricultural buffers and the upper 249 acres would remain Permanent Grazing.</li> <li>4) Approve a Zone Change: a) change the zoning designation of 17 acre parcel (APN 167-061-029-000/Samoske) from F/40-D to LDR/5-VS; and b) change the zoning designation of the lower 55 acres of a 249-acre parcel (APN 167-061-033-000/Mohsin) from PG/40-D to LDR/5-VS with 194 acres remaining PG/40.</li> <li>5) Approve, subject to conditions, a Combined Development Permit consisting of: a) 14-lot residential subdivision, and b) Administrative Permit for a small water system.</li> </ol>		
<b>Project Location:</b> 874, 884 & 870 River Road		<b>APN:</b> 167-061-029-000, 167-061-032-000 & 167-061-033-000
<b>Planning File Number:</b> PLN980516		<b>Name:</b> Mused and Terry Mohsin, Joseph and Sandra Samoske and Robert and Nancy Riehl
<b>Plan Area:</b> Toro Area Plan		<b>Flagged and staked:</b> No
<b>Zoning Designation:</b> : F/40-D [Farmlands/40 acre minimum-Design Control] and PG/40-D [Permanent Grazing/40 acre minimum-Design Control]		
<b>CEQA Action:</b> Environmental Impact Report prepared (EIR #06-01, SCH#: 2006051020), consisting of a draft EIR (DEIR), re-circulated draft EIR (RDEIR), and final EIR (FEIR)		
<b>Department:</b> RMA - Planning Department		

### RECOMMENDATION:

Staff recommends that the Planning Commission adopt draft resolutions recommending that the Board of Supervisors:

- 1) Certify the project EIR (#06-01), approve a mitigation monitoring and reporting plan, and adopt statement of overriding considerations. **(Exhibit B)**
- 2) Approve a Lot Line Adjustment of 3.47 acres between APN: 167-061-032-000/Riehl and APN: 167-061-033-000/Mohsin. **(Exhibit C)**
- 3) Amend the General Plan/Toro Area Plan as follows **(Exhibit D)**:
  - 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 72 acres with agricultural buffers and the upper 249 acres would remain Permanent Grazing.

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

**PROJECT OVERVIEW:**

On January 26, 2009, the Planning Commission held a hearing on the EIR and proposed project. Based on the testimony and a revised buffer plan introduced by the applicant, the Commission referred the matter back to the Agricultural Advisory Committee (AAC). The Commission stated intent to approve the project subject to the AAC acceptance of the revised buffers that generally provides 200 feet from the Pedrazzi property on the north, 75 feet from the Pizoni property property on the north, 50 feet from the Jardini property on the south and 200 feet from River Road.

Following the Commission hearing, a neighbor met with the Agricultural Commissioners office and expressed issues concerning conflicts in the agricultural viability report. In response, the Deputy Agricultural Commissioner conducted an independent review of the agricultural viability for the subject parcels. These finding are summarized in a memorandum dated February 12, 2009 (**Exhibit H**).

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

See **Exhibit A** 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 attached to a draft resolution for the combined development permit (**Exhibit F**).

As noted in the prior staff report, the project, and changes thereto, were referred to the Toro Land Use Advisory Committee (LUAC) on three occasions. A summary of those actions is included in the minutes attached to the December report and are summarized in the attached findings.

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 were included with the prior staff report.

The AAC was scheduled to complete their review on January 22, 2009, so staff prepared a summary memorandum that was presented to the Commission. The Commission requested additional review by the AAC, which was completed on February 26, 2009. Minutes from these two meetings are included as **Exhibit I**.

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Carl P. Holm, AICP, Assistant Director of Planning  
(831) 755-5103 or holmcp@co.monterey.ca.us  
March 1, 2009

cc: Front Counter Copy; Planning Commission; Public Works; Water Resources Agency; Environmental Health; Parks Department; Redevelopment and Housing Office; Agricultural Commissioner; Salinas Rural Fire Protection District; Sheriff's Office; Carl Holm; Alana Knaster, Wendy Stremming, 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 Discussion
Exhibit B	Draft Resolution, EIR
Exhibit C	Draft Resolution, Lot Line Adjustment
	1. LLA Map
	2. Conditions of Approval
Exhibit D	Draft Resolution, GPA
	1. General Plan Land Use Map
Exhibit E	Draft Resolution, Zone Change
	1. Zoning Map
Exhibit F	Draft Resolution, CDP
	1. Condition Compliance and Mitigation Monitoring Reporting Plan
	2. Tentative Subdivision Map
Exhibit G	Revised Agricultural Buffer Mitigation Plan (Samoske Property)
Exhibit H	Ag Commissioner Memo re Viability Report (dated February 12, 2009)
Exhibit I	AAC Minutes (1/22/09, 2/26/09)
Exhibit J	AAC Handouts (Aerial Photos, Articles)

**Exhibit A**  
**PROJECT DISCUSSION**  
**March 11, 2009**

Overview

The AAC actions on February 26, 2009 support that intent expressed by the Planning Commission (discussed below). Staff has prepared a series of successive resolutions in the order in which they need to be addressed based on how they may impact successive actions. Therefore, staff has prepared the following resolutions for the Commission to consider that reflect the direction on January 28, 2009:

- 1) Certify the project EIR (#06-01), approve a mitigation monitoring and reporting plan, and adopt statement of overriding considerations (**Exhibit B**). This is an initial action to assess the environmental impacts of all proposed actions. The following actions cannot proceed without action on the EIR. **Exhibit B** including findings and evidence specifically related to the CEQA actions. Although the Board makes the final action, this resolution includes suggested overriding considerations that the Commission may choose to forward as a recommendation. The Commission may add, delete or modify any of these findings.
- 2) Approve a Lot Line Adjustment of 3.47 acres between APN: 167-061-032-000/Riehl and APN: 167-061-033-000/Mohsin (**Exhibit C**). This is a first action that by itself could be exempt from CEQA. However, it has been included as part of the overall project description and once this action is taken, the Riehl property is not affected by the general plan, zone change, or subdivision actions.
- 3) Amend the General Plan/Toro Area Plan as follows (**Exhibit D**):
  - 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 72 acres with agricultural buffers and the upper 249 acres would remain Permanent Grazing.

This resolution is the first land use action that must pass in order to move on with the subsequent resolutions.

- 4) Approve Zone Changes amending the underlying zoning designation as follows (**Exhibit E**):
  - APN: 167-061-029-000/Samoske: change 17-acres from F/40-D to LDR/5-VS
  - APN 167-061-033-000/Mohsin: change 55 acres of a 249-acre parcel from PG/40-D to LDR/5-VS with 194 acres remaining PG/40.

This resolution recommends approving an ordinance to change the zoning to be consistent with the GPA note above. If the GPA action is changed, this action must change to be consistent.

- 5) Based on the findings and evidence and subject to the conditions of approval, approve a Combined Development Permit (PLN980516) for: a) Standard Subdivision to subdivide one 17-acre parcel (APN 167-061-029-000/Samoske into three parcels consisting of 7.0 acres (Parcel A), 5.0 acres (Parcel B) and 5 acres (Parcel C) and subdivide one 249.0 acre parcel (APN 167-061-033-000/Mohsin) into 11, 5-acre parcels (LDR/5) plus one remainder parcel totaling 194 acres (PG/40). b) Administrative Permit pursuant to Section 21.14.040.G to allow a small water system with 14 connections. (**Exhibit F**)

This action relies on approval of both the GPA and zone change above. If those actions are changed, then this action must change to be consistent.

For purposes of this report, staff's discussion is focused on the remaining agricultural issues. All other matters were discussed in prior staff reports to the Planning Commission (December 10, 2008, January 28, 2009).

#### Revised Agricultural Buffer Plan

On January 28, 2009, staff presented the Commission with a proposed Agricultural Buffer Plan that included 100 foot buffers on the Mohsin property and 75-foot buffers on the Samoske property. To achieve the increased buffers on Lot C, the applicant reduced the size of Parcel A (where the Samoske home is currently located) from 7 acres to 6 acres and increased the size of Parcel C (adjacent to River Road) from 5 acres to 6 acres. Lot B would remain at 5 acres. Following recommendation of the AAC, the Commission accepted the Mohsin plan, but not the Samoske plan.

The applicant submitted a revised plan for the Samoske property at the hearing that provides the following buffers:

- 200 feet from the Pedrazzi property on the north due to current use of that property for an active cattle operation.
- At the northwest corner of the Samoske property, the buffer is reduced to 75 feet where the property abuts Pizoni.
- 50 feet from the Jardini property on the south. Since the property line goes to middle of 60-foot right of way, there is effectively an 80-foot buffer that includes 30 feet of road easement on the Jardini property that cannot be farmed.
- 200 feet from River Road.

This design results in a, 86-foot wide building pad on the upper portion of Lot C in the Samoske proposed subdivision. It leaves a small sliver of area on lower portion of Lot C where there is no buffer.

This revised Agricultural Buffer Plan was presented to the AAC at their meeting on February 26, 2009. At the AAC hearing, Mr. Knott requested requirement for a 200 foot buffer from his eastern property line where it abuts the Samoske property. The Knott property is designated Farmland/40 acre minimum (F/40), and the current use of the lower portion is vineyards. The existing house on the Samoske property (parcel C) is approximately 370 feet from this property line at the closest point.

Some concerns were expressed for potential impact to agricultural operations if the use/crop adjacent to the Samoske property changes. It was also noted that this is a narrow a strip which both makes it infeasible for productive farming but also places homes on the edge of agricultural lands. Photos were provided of other jurisdictions that integrates agriculture (vineyards) with housing development (Livermore, Sonoma County, San Martin) by design (**Exhibit J**).

The AAC noted that the existing 14 residential parcels in this area have no buffers. Staff researched this matter and found no record of any conflicts in this area. In addition, staff investigated this matter in other similar areas along River Road. The only buffer applied to a project from this site to Highway 68 is Las Palmas. A few years back, there was one issue raised from Wild Things (Pine Canyon and River Road) when Pine Canyon Berries switched to

vegetable crops one year and began having aerial applications by helicopter. This caused complaints about noise because this is a B&B operation with tents and the early morning noise from the helicopters was waking the guests very early in the morning. There was also concern about how the noise might affect the elephants. In this case, because of the way noise travels in the area, even a 200-foot buffer would not have made a difference. They were able to work it out with the grower and the pilot to at least minimize the problem. Then they went back to berries and there were no more aerial applications.

Testimony was presented as to the affects of spraying. An article of an incident near Salinas was submitted (**Exhibit J**). A concern was noted for if an agricultural lot changes its crop/practice and how having homes nearby could impact their operation. Moss Landing (Portrero Road) was presented as an example of how this can happen.

After considering all of the evidence and testimony, the AAC voted 5-3 to accept the revised buffer plan as proposed.

#### Agricultural Viability

Following the Planning Commission hearing on January 28, 2009, one neighbor (Mr. Knott) met with the Deputy Agricultural Commissioner. Mr. Knott alleged potential “ghost writing” of the agricultural viability report due to similarities between work completed by a former owner (Avila) and the consultant who signed the report. The Ag Commissioners office contacted the consultant and then completed an independent review and analysis of the viability for these parcels. A memorandum from the Deputy Agricultural Commissioner summarizing their findings is attached as **Exhibit H**.

The Deputy Agricultural Commissioner tried to apply a conservative yet equitable assessment. This memorandum finds that the parcels could possibly be assigned a higher value overall, but the final conclusion is not changed. Some of the AAC noted that the Samoske property actually should score less due to the narrow lot configuration not being conducive to movement of farm equipment. The neighbor, Mr. Knott contended that each parcel should receive at least four additional points each making them marginal.

At the end of the discussion, the ACC was presented with the option to either reaffirm their prior action on the viability or take action to change their position. The AAC voted 8-0 to reaffirm their earlier action that was to accept the viability report conclusions.