

Exhibit A
Discussion

Monterey-Salinas Transit
(Whispering Oaks)
PLN110231

Board of Supervisors
February 7, 2012

EXHIBIT A DISCUSSION

The County certified an EIR, adopted Ordinance No. 5181 to rezone certain property, and approved a Combined Development Permit (CDP) for the Whispering Oaks Business Park project in July 2011. The subject project area is located north of Intergarrison Road in the County unincorporated Fort Ord Master Plan area. The actions on July 12, 2011 included:

1. Certification of an Environmental Impact Report.
2. Adoption of an ordinance (Ordinance 5181) to rezone the property as follows:
 - a. Rezoning a 58 acre portion of the former landfill site from Public/Quasi-Public with Design Control and Site Plan Review overlay districts (PQP-D-S) to Heavy Commercial with Design Control and Site Plan Review overlay districts (HC-D-S);
 - b. Rezoning a 58 acre portion of the former landfill site from Public/Quasi-Public with Design Control and Site Plan Review overlay districts (PQP-D-S) to Open Space with Design Control and Site Plan Review overlay districts (O-D-S);
3. Standard Subdivision Phased Vesting Tentative Map consisting of subdividing two parcels of 30.3 acres and 85.2 acres;
4. General Development Plan for the proposed Whispering Oaks Business Park;
5. General Development Plan and Use Permit to allow for the development of the Monterey-Salinas Transit (MST) administrative and maintenance facility containing the following: A) a 36,000 square foot three-story administrative building; B) a 96,450 square foot two-story bus maintenance building; C) an 18,620 square foot fuel/brake/tire building with underground tanks attached by a canopy to an 8,373 square foot bus wash/steam cleaning building; and D) approximately 15 acres of paved parking to accommodate up to 281 busses and 388 automobiles;
6. Two Use Permits to allow the removal of oak trees;
7. Administrative Permit and Design Approval for development within Site Plan Review and Design Control zoning districts;
8. Off-site drainage, road, and utility improvements;
9. Adoption of a Mitigation Monitoring and Reporting Plan for the MST/Whispering Oaks Business Park project; and
10. Allocation of 92.7 acre feet of water per year to the MST/Whispering Oaks Combined Development Permit.

Following County adoption of the ordinance and approval of the entitlements, a referendum petition was circulated protesting adoption of Ordinance No. 5181 related to the legislative act of rezoning the subject property from Public/Quasi-Public (PQP) to Heavy Commercial (HC) and Open Space (O), as described above. On August 24, 2011, the Registrar certified to the Clerk of the Board that the requisite number of voters signed the referendum petition. On September 20, 2011, the Registrar's Certificate to Referendum Petition was presented to the Board of Supervisors.

Board action to repeal the zoning ordinance amendment must follow special requirements related to the referendum processes. The Board of Supervisors held a hearing on December 6, 2011, directing staff to return on January 24, 2012 for Board consideration of rescission of earlier approvals of the MST/Whispering Oaks project in light of a referendum to invalidate the rezoning of the property from PQP-D-S to HC-D-S and O-D-S (Ordinance No. 5181). On January 24, 2012, the Board of Supervisors set a public hearing for February 14, 2012.

Option for Board Consideration

The Board is holding a public hearing to consider actions to take in response to the referendum petition. Per Election Code section 9144, the qualified referendum petition suspends the ordinance, so the rezoning has not gone into effect. Elections Code section 9144 also requires the Board to reconsider the ordinance. Sections 1410 and 9145 of California Election Law indicates that the Board of Supervisors may either (a) entirely repeal the Ordinance against which the referendum is filed, or (b) shall submit the Ordinance to the voters at the next regularly scheduled election not less than 88 days after the date of the order of the election, or at a special election called for that purpose that is also scheduled not less than 88 days after the date of the order.

The Board can choose to let the voters decide whether the project should proceed on its own merits by putting the zoning ordinance on the ballot. The next regularly scheduled County election is June 5, 2012. The last possible date to order the election, per above, is Friday, March 9, 2012.

If the Board chooses to entirely repeal the ordinance, then the submission of the ordinance to the voters is not necessary. An ordinance repealing Ordinance No. 5181 is attached to this staff report for the Board's consideration (Exhibit B). If the Board repeals Ordinance No. 5181, then the existing zoning, Public/Quasi-Public with Design Control and Site Plan Review overlay districts, would remain. The rezoning to Heavy Commercial and Open Space zoning districts would not take effect.

Per the Board's direction, staff has also prepared a resolution (Exhibit C) for the Board's consideration, which would rescind all other actions taken on this project, including the certification of the EIR. Any other action by the Board of Supervisors would require direction to staff to prepare the necessary resolutions and/or Board Orders.

Recommendation

Staff recommends that the Board of Supervisors rescind Ordinance No. 5181 by adopting the Ordinance found in Exhibit B. Staff has prepared a resolution (Exhibit C) that rescinds all other actions, including rescinding certification of the EIR.

After public hearing, if the Board of Supervisors decides to pursue other options, staff recommends that the Board of Supervisors continue the public hearing to a date certain and direct staff to return with appropriate resolutions and, if necessary, ordinances to implement the Board's intent.