Exhibit C
Draft Board Resolution for approval

Banker's Development Group, LLC
York Highlands
PLN100020

Board of Supervisors
October 18, 2011
EXHIBIT C
DRAFT BOARD RESOLUTION FOR APPROVAL OF PLN100020

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

Resolution No.
Resolution of the Monterey County Board of Supervisors approving Combined Development Permit PLN100020.

Combined Development Permit (PLN100020) consisting of:
1) A Vesting Tentative Map for the re-subdivision of lots created by Monterra Ranch Final Map Phases 6, 8 & 10 consisting of the reconfiguration of 24 residential lots (Phase 6: Lot 44 Remainder; Phase 8: Lots 164 - 171; Phase 10: Lots 5-10, 117 -122, Ranch Lots 1, 3 and 4), 3 open space parcels (Phase 8: Parcels A, B & C), 1 scenic easement parcel (Phase 10, Parcel H), and 3 road and utility parcels (Phase 6: Parcel R2; Phase 8: Parcel L; Phase 10: Parcel M); 2) Use Permit for tree removal for subdivision improvements (not for building envelopes); 3) Administrative Permit for grading of less than 131,100 cubic yards (approximately 70,500 cubic yards cut and 60,600 cubic yards fill) in a Visually Sensitive District; and 4) Use Permit for development on slopes greater than 25 percent (hereafter “Project”) came on for public hearing before the Monterey County Board of Supervisors on October 18, 2011. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Monterey County Board of Supervisors hereby finds and decides as follows:

FINDINGS

1. FINDING: CONSISTENCY – The Project, as conditioned, is consistent with the applicable plans and policies, which designate this area as appropriate for development.

EVIDENCE: a) Consistency During the course of review of this application, the project has been reviewed for consistency with the text, policies, and regulations in:
- the 2010 Monterey County General Plan;
- Monterey County Zoning Ordinance (Title 21); and
- Monterey County Subdivision Ordinance (Title 19).
All potential conflicts with the above listed documents have been resolved (see evidences that follow). No communications were received during the course of review of the project indicating any inconsistencies with the text, policies, and regulations in these documents. The Monterra Ranch subdivision was approved under the 1982 General Plan and final maps were recorded that created the lots herein being re-configured or re-subdivided. No additional lots are being created and the revised lot configuration will better meet the Monterey County goals and policies relative to tree removal and development on slopes.

b) This project consists of a Combined Development permit which includes: 1) A Vesting Tentative Map for the re-subdivision of lots created by Monterra Ranch Final Map Phases 6, 8 & 10 consisting of the reconfiguration of 24 residential lots (Phase 6: Lot 44 Remainder;
Phase 8: Lots 164 - 171; Phase 10: Lots 5-10, 117 -122, Ranch Lots 1, 3 and 4), 3 open space parcels (Phase 8: Parcels A, B & C), 1 scenic easement parcel (Phase 10, Parcel H), and 3 road and utility parcels (Phase 6: Parcel R2; Phase 8: Parcel L; Phase 10: Parcel M); 2) Use Permit for tree removal for subdivision improvements (not for building envelopes); 3) Administrative Permit for grading of less than 131,100 cubic yards (approximately 70,500 cubic yards cut and 60,600 cubic yards fill) in a Visually Sensitive District; and 4) Use Permit for development on slopes greater than 25 percent. The Vesting Tentative map is shown on the map prepared by WWD Engineering, dated March 11, 2011 and revised October 7, 2011, on file in the RMA-Planning Department (PLN100020). A copy of said map is attached to this resolution as Exhibit 2.

c) **Land Use** The project area contains 3 different Land Use designations as shown in Figure No. LU5. A small area along Highway 68 south of the York Road entrance is designated Resource Conservation (RC), a larger area where the Equestrian center was contemplated under the original Monterra Ranch subdivision is designated Public/Quasi-Public (PQP), and the remaining property is designated Rural Density Residential (RDR). The original lot configuration contained lots that were located entirely within the RDR designation and the re-subdivision would place new building envelopes in both the RDR and PQP designated areas of the site. The PQP designation does not allow for the intended residential use so a General Plan amendment is required based on the proposed lot design. By amending the General Plan designation on the former equestrian site from PQP to RDR, an equestrian center will no longer be a part of the Monterra Ranch subdivision. The proposed map will be consistent with the General Plan Land Use Map when the General Plan Amendment becomes effective. Prior to approving this Combined Development Permit, by a separate resolution the Board of Supervisors amended the General Plan to change the land use designation of a portion of Parcel H from Public/Quasi-Public and Urban Reserve to Rural Density Residential and Urban Reserve. With this amendment, the project is consistent with the land use designation in the General Plan.

d) **Zoning** The property is located South of the Intersection of Highway 68 and York Road, Monterey (Assessor’s Parcel Number 259-092-072-000, 259-092-075-000, 259-191-023-000, 259-191-024-000, 259-231-016-000 through 259-231-026-000, 259-231-028-000, 259-241-001-000, 259-241-004-000, 259-251-001-000 through 259-251-014-000) within the Greater Monterey Peninsula planning area. The project involves a merger and re-subdivision of 24 lots within the Monterra Ranch subdivision. The intended residential use of the lots will not change. Unlike the General Plan designation, the parcels all share the same base zoning designation of “RDR/10-UR” (Rural Density Residential, 10 acres per unit with an Urban Reserve overlay). In addition to the base zoning and the Urban Reserve combining district, all of the subject lots have either a “VS” (Visual Sensitivity) overlay or a “D” (Design Control) overlay depending on the lots proximity to Highway 68 (See Figure No. 14 of the GMPA). The RDR/10 zoning designation allows residential uses at a density of 10 acre per unit. The project is for residential purposes and the density of the proposed project is
approximately 50 acres per unit. Therefore, the project complies with the zoning designation.

e) **Visual Sensitivity** The project includes the creation of parcels in a Visual Sensitivity (VS) zoning area. Policy GMP-3.3 of the 2010 General Plan strongly discourages new development within visually sensitive areas; however an exception can be made where appropriate to maximize the goals, objectives, and policies of the General Plan. In this case, the proposed project qualifies for such exception because the revised lot configuration will require less development on slopes (Policy OS-3.5), removal of fewer trees (Policy GMP-3.5), and less grading. Where an exception can be made, development must be sited in a manner that minimizes visible effects of development to the greatest extent possible using a variety of techniques. Many of reconfigured lots will be located outside the visually sensitive area and many of the lots within the mapped visually sensitive area will not be visible from Highway 68 due to existing topography and vegetation with the exception of proposed Lots 2, 6, and 44. Lots 2 and 6 have been adjusted but are still located near the top of a ridge and development on these lots could be visible from Highway 68. Lot 44 is located on a slope that faces Highway 68 and may be highly visible from Highway 68. This location was selected because it is currently used as a borrow site for on-going subdivision improvements. The borrow site is already highly disturbed and has an access road already graded making it a sensible building site from an environmental perspective. All three lots have been evaluated and specific design criteria including a three dimensional building envelopes and landscape screening have been developed for all three lots. The special 3-dimensional envelopes and landscaping requirements will minimize visibility of future development to a point where structures will be inconspicuous when viewed from Highway 68 (non-standard Condition No. 22). All of the building envelopes will be on slopes of 25% or less and all areas outside of the building envelopes will be placed in a Conservation and Scenic Easement. All development within the VS zoning district is subject to Chapter 21.46 of the zoning ordinance Title 21.

f) **Urban Reserve** Pursuant to General Plan Policy LU-2.15 and Section 21.50.030.C of the Zoning Ordinance (Title 21), the project was referred to the City of Monterey for review and comment. The City of Monterey commented that they have no issue with the proposed project.

g) **Design Control** No structures are proposed at this time but all future development will be subject to Chapter 21.44 of the Zoning Ordinance (Title 21).

h) **General Plan Policies** In addition to specific policies quoted in the preceding evidences, the merger and re-subdivision project has been evaluated for consistency with relevant General Plan Policies. Some policies are complied with through carrying forward conditions and mitigations from the Monterra Ranch subdivision such as lighting requirements and are not described here again. Other more specific policies applicable to the proposed project are described in the evidences that follow.

i) **LU-1.7 Policy** LU-1.7 strongly encourages clustering of residential development to those portions of the property which are most suitable for development and where appropriate infrastructure exist to support
the development. The same policy also allows re-subdivisions that do not increase the total number of lots without a general plan amendment. The proposed design complies with this policy even though the re-configured lot locations are of a less clustered nature because the new lot configuration reduces grading requirements, tree removal requirements and development on slopes thus placing lots in the “most suitable” location for development. The re-subdivision will not result in a greater number of lots than previously existed; therefore, evaluation pursuant to LU-1.19 (Development Evaluation System) is not necessary in this case.

j) LU-1.8 The project is consistent with LU-1.8, which encourages voluntary reduction or limitation of development potential in rural areas through dedication of scenic or conservation easements or other appropriate techniques. This project proposes to voluntarily dedicate over 88 percent of the land area (approximately 730 acres) as scenic easement.

k) OS-1.5 General Plan Policy OS-1.5 requires that lot configurations avoid creating building sites that will constitute ridgeline development. Lots 2 and 6 have the potential of creating ridgeline development, but the three dimensional building envelopes, and additional screening to be placed on site will minimize to the potential for ridgeline development. To insure that ridgeline development will not occur, Planning Commission review of these units is required.

l) OS-3.5 Overall, the revised lot configuration takes advantage of existing ranch roads and minimizes grading quantities. Still subdivision improvements will occur on slopes greater than 25% in some areas. A Use Permit to allow development on slopes greater than 25% is included in this permit and the ability to grant the Use Permit has been met (See Finding No. 6).

m) OS-5.4 A biological report was prepared for the proposed subdivision. The biological report identified several sensitive species at or near the site but no direct impact to these sensitive species was identified. The one exception is oak woodland habitat. Overall impacts to oak woodland habitat are less severe under the proposed lot configuration; however, habitat fragmentation is slightly increased due to the dispersed lot layout. Prohibiting perimeter fencing and reducing direct impacts to oak woodlands on the balance of the parcels results in a net biological benefit to the habitat.

n) S-3.1 A drainage plan has been prepared for the revised subdivision design by a licensed engineer. The drainage plan maintains the same method and effect required under the original design by installing detention basins that can maintain pre-development runoff rates.

o) PS-1.1 Adequate Public Services and facilities including water and sewer are available to serve the lots in their new locations. The project does not create more lots than already exist.

p) GMP-1.4 The project is consistent with GMP-1.4, which requires development proposals to include compatible open space uses located between other developed areas in order to maintain a rural atmosphere and to protect scenic resources. As proposed, new building envelope locations will have a rural atmosphere with open space between building sites. Everything outside the revised building envelope locations will be placed in a conservation and scenic easement resulting
in approximately 730 acres of open space in and around the building envelopes.

q) **GMP-1.5** The project is consistent with GMP-1.5, which identifies open space and recreational uses as appropriate and compatible land uses within areas of high visual sensitivity. Over 90 percent of the area of the site that is located within the area of high visual sensitivity is proposed to be in scenic easement. The areas not within the scenic easement consist of building envelopes for residential use that either will not be visible from major public viewing areas or have been conditioned consistent with the requirements of GMP-3.3 to remain inconspicuous when viewed from major public viewing areas.

r) **GMP-3.2** The project is consistent with GMP-3.2, which directs that development on canyon edges and hilltops be designed to minimize the visual impact of the development. Three-dimensional building envelopes and performance based design criteria are proposed for lots that have the potential for development on hillside or hilltops (Lots 2, 6 & 44). See also Finding No. 9.

s) **GMP-3.5** The project is consistent with GMP-3.5, which discourages the removal of healthy, native oak, Monterey pine and redwood trees within the GMP Planning Area. The proposed lot configuration will result in an approximately 20-acre reduction in Oak woodland habitat removal when compared to the existing lot configuration.

t) **GMP-3.11** The project is consistent with GMP-3.11 and GMP-3.13, which encourage the acquisition and development of trails with the intent of creating a coordinated, area-wide trails system. Open space parcels within the project area are subject to an irrevocable offer to dedicate a trail and declaration of restrictions recorded at Document 200110850 in the Monterey County Recorder’s Office. Additionally, a non-standard condition has been incorporated requiring that the irrevocable offer to dedicate a trail is re-recorded and that under specified conditions, obligating the developer to construct the trail (Condition No. 68).

u) **Site Visit** The project planner conducted site inspections on April 26, 2011, June 13, 2011, August 18, 2011 and August 22, 2011 to verify that the project on the subject parcel conforms to the plans listed above.

v) **LUAC** The project was referred to the Greater Monterey Peninsula Land Use Advisory Committee (LUAC) for review. Based on the LUAC Procedure guidelines adopted by the Monterey County Board of Supervisors per Resolution No. 08-338, this application did warrant referral to the LUAC because the project is subject to CEQA review. On May 4, 2011, the LUAC examined the project and heard comments from a neighbor who was concerned about impacts to Monterra residence from traffic through the subdivision. The LUAC commented that York Highlands should be a separate development from Monterra Ranch and stated a concern about congestion at the York Road intersection before recommending approval of the project by a vote of 6-0. LUAC comments were noted during review of the project.

w) The application was heard by the Standard Subdivision Committee at a duly noticed public hearing held on September 12, 2011. As a technical committee, the Standard Subdivision Committee did not consider the General Plan Amendment. The Standard Subdivision Committee adopted Resolution No. 11-011 recommending that the Planning
Commission approve the Combined Development Permit.

x) The application was heard by the Planning Commission at a duly noticed public hearing held on September 28, 2011. The Planning Commission adopted Resolution No. 11-033 recommending that the Board of Supervisors adopt the proposed Negative Declaration, approve the General Plan Amendment, approve the Combined Development Permit and adopt the Mitigation Monitoring and Reporting Plan. Subsequent to the Planning Commission hearing, it was determined that an Addendum to the previously certified EIR is the more appropriate form of environmental review for the project than adoption of a Negative Declaration, and an Addendum was prepared, but the underlying analysis in the Initial Study has not changed.

y) On October 18, 2011, the Monterey County Board of Supervisors held a duly noticed public hearing to consider the Addendum, the proposed General Plan amendment, and the proposed Combined Development Permit. At least 10 days before the public hearing, notices of the hearing before the Board of Supervisors were published in the Monterey Herald, were posted on and near the property and mailed to property owners within 300 feet of the subject property as well as interested parties.

z) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN100020.

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, Monterey Regional Fire Protection District, Parks, Public Works, Environmental Health Bureau, and Water Resources Agency. There has been no indication from these departments/agencies that the site is not suitable for the proposed development. Conditions recommended have been incorporated.

   b) The site was previously found suitable for development of the 24 lots in question when the Monterra Ranch subdivision was approved (Resolution No. 87-527). Lot and building envelope locations are being reconfigured within the boundaries of the previously approved Monterra Ranch subdivision. Suitability of the new lot locations has been considered. See following evidences.

   c) Staff identified potential impacts to Biological Resources, Archaeological Resources, and Soil/Slope Stability in considering the new building envelope locations. Technical reports by outside consultants indicated that there are no physical or environmental constraints that would indicate that the new building envelope locations are not suitable for the use proposed. County staff independently reviewed these reports and concurs with their conclusions. The following reports have been prepared:

- Supplemental Biological Assessment York Highlands (LIB110168), prepared by Zander Associates, San Rafael, California, May 9, 2011.

- Geological and Preliminary Geotechnical Investigation (LIB110169), prepared by Environmental Risk Specialties Corporation, Santa Clara, California, March 31, 2011.

- Drainage Report for York Highlands Re-Subdivision Project (LIB110170), prepared by WWD Engineering, Monterey, California, April, 2011.

- Preliminary Cultural Resources Reconnaissance of a Portion of the Monterra Ranch, (LIB030110) Monterey, Monterey County, California, prepared by Archaeological Consulting, Salinas, California, August 21, 1989.

d) Staff conducted site inspections on April 26, 2011, June 13, 2011, August 18, 2011 and August 22, 2011 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 RMA - Planning Department for the proposed development found in Project File PLN100020.

3. **FINDING:** **HEALTH AND SAFETY** - The establishment, maintenance, or operation of the project applied for will not under the circumstances of this particular case be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.

**EVIDENCE:**

a) The project was reviewed by the RMA - Planning Department, Monterey Regional Fire Protection District, Parks, Public Works, Environmental Health Bureau, Water Resources Agency, and the City of Monterey. The respective departments/agencies have recommended conditions, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood.

b) Necessary public facilities are available. The project will be served water by the Monterra Ranch water system. Each individual lot will have a septic tank and the effluent will be processed by a sewer system, which is operated by the Canada Woods Water Company.

c) Preceding findings and supporting evidence for PLN100020.

4. **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.

**EVIDENCE:**

a) Staff reviewed Monterey County RMA - Planning Department and Building Services Department records and is not aware of any violations existing on subject property.

b) Staff conducted site inspections on April 26, 2011, June 13, 2011, August 18, 2011 and August 22, 2011 and researched County records to assess if any violation exists on the subject property.
c) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN100020.

5. **FINDING:**

**CEQA (Addendum):** An Addendum to previously certified EIR No. 84-007 for Monterra Ranch Subdivision was prepared pursuant to Code of Regulations, Title 14, Section 15164 to reflect changes or additions in the project that do not cause substantial changes or new information that would require major revisions to the adopted EIR.

**EVIDENCE:**

a) Public Resources Code Section 21080.1 and 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.

b) An EIR for the Monterra Ranch Subdivision was prepared and certified by the Board of Supervisors on October 6, 1987 (Board Resolution 87-257)

c) The Monterey County Planning Department prepared an Initial Study pursuant to CEQA. The Initial Study is on file in the offices of the Planning Department and is hereby incorporated by reference (PLN100020). The Initial Study uses the baseline that there are 24 existing lots created as part of the Monterra Ranch Subdivision which could be developed and tiers from the previously certified EIR (No. 84-007) for the Monterra Ranch Subdivision (Board Resolution No. 87-527) for the purposes of evaluating the merger and re-subdivision.

d) None of the conditions described in Public Resources Code Section 21166 or CEQA Guidelines Section 15162 (a) calling for the preparation of a subsequent EIR have occurred:

1. No substantial changes are proposed in the project which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.

2. No substantial changes have occurred with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or

3. No new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete exists to show that the project will have significant effects not discussed in the previous EIR or that substantial effects previously examined will be more severe than shown in the previous EIR.

e) A Draft Negative Declaration was prepared and circulated for public review from September 8, 2011 through September 27, 2011. Because the initial study demonstrated that none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred, a determination has been made that this Addendum is more appropriate than a Negative Declaration; the underlying analysis has not changed.
f) Issues that were analyzed in the Initial Study include: aesthetic resources, biological resources, cultural resources, geology and soils, hazards/hazardous materials, hydrology/water quality, land use and planning, mineral resources, and noise.

g) Changes in the location and configuration of 24 lots and associated access roads and infrastructure, within the larger Monterra Ranch subdivision, have been proposed (Merger and Re-subdivision). An Initial Study was prepared for the project that tiered from the Monterra Ranch EIR. The Initial Study found no potentially significant effects from the revised lot locations. Impacts were found to be substantially the same or less than those evaluated in the previously certified EIR.

h) All project changes required to avoid significant effects on the environment have been incorporated into the project and/or are made conditions of approval. A Condition Compliance and Mitigation Monitoring and/or Reporting Plan has been prepared in accordance with Monterey County regulations and is designed to ensure compliance during project implementation and is hereby incorporated herein by reference as Exhibit 1. All applicable mitigations have been carried forward from the Mitigation Monitoring Program adopted when the Monterra Ranch Subdivision was approved (Resolution No. 87-527). The applicant must enter into a new “Agreement to Implement a Mitigation Monitoring and/or Reporting Plan as a condition of project approval.

i) Pursuant to Section 15162 of the CEQA Guidelines, there are no substantial changes proposed in the project that would require major revisions to the prior EIR. The proposed merger and re-subdivision of 24 lots within the larger Monterra Ranch subdivision will not result in creation of any additional lots nor extend infrastructure that could induce growth in the area. New building envelope locations, including those within the area that was previously proposed to contain an equestrian facility, will result in minor and mostly beneficial changes to the environmental impacts already considered in the certified EIR. The land use designation change in itself will not have a substantial impact on the environment.

j) Pursuant to Section 15162 of the CEQA Guidelines, there is no new information of substantial importance that was not known at the time the EIR was certified. There have been some changes in the regulatory setting since the time that Monterra Subdivision EIR was certified; however, the new regulations and policies do not suggest that the project would have new significant impacts on the environment not previously identified in the EIR. Water supply, traffic, visual sensitivity, noise, air quality, biology, and a variety of other topics were considered in certifying the Monterra Ranch EIR and creating the subject lots. There is no substantial change in circumstances that would result in new impacts not previously considered in the EIR. For example, traffic was identified as a significant unavoidable impact in the EIR. This would remain true today.

k) The state law (PRC §21083.4) has been enacted since approval of the Monterra Ranch Subdivision. This legislation gives direction in determining significant effects on oak woodlands and providing mitigation. In this particular case the new project will result in approximately a 20 acre reduction of impacts to oak woodlands. The
modified design will not constitute a significant adverse impact to Oak Woodlands. Additionally, conditions of approval requiring minimization of vegetation removal (Condition No. 16), maintenance of the natural habitat (Condition No. 15) and replacement of protected trees which are removed (Condition Nos. 27 and 29) have been incorporated to ensure protection of all protected trees.

l) Pursuant to CEQA Guidelines section 15126.4.c lead agencies are required to consider measures to mitigate the significant effects of greenhouse gas emissions. The proposed project is equivalent to the existing Monterra Ranch project with respect to the number of units, and thus vehicle trips. The project will produce less greenhouse gas emissions related to the reduction in the amount of grading needed, the amount of paving provided and the amount of carbon sequestration resulting from tree removal. In 2010, amendments to the CEQA guidelines were adopted to incorporate GHG analysis in CEQA. Although evaluation of GHG impacts is now a requirement of CEQA, there has been a recent court case ruling that found that a new EIR does not need to be prepared when a project EIR was certified prior to the requirement to analyze GHG emissions (Citizens for Responsible Equitable Environmental Development (CREED) v. City of San Diego). In this case the court upheld the use of a 2008 addendum to a 1994 EIR used in connection with approving a revised project. The courts found that a new GHG analysis was not required because it is not new information that could not have been known in 1994 when the EIR was certified. The Court found that GHG impacts were known as early as the 1970s.

m) Evidence that has been received and considered includes: the application, technical studies/reports (see Finding 2/Site Suitability), staff reports that reflect the County’s independent judgment. These documents are on file in the RMA-Planning Department (PLN100020) and are hereby incorporated herein by reference.

n) Staff analysis contained in the Initial Study and the record as a whole indicate the project could result in changes to the resources listed in Section 753.5(d) of the Department of Fish and Game (DFG) regulations. All land development projects that are subject to environmental review are subject to a State filing fee plus the County recording fee, unless the Department of Fish and Game determines that the project will have no effect on fish and wildlife resources. The site has the potential to support Hickman’s Onion and supports Oak woodland habitat. For purposes of the Fish and Game Code, the project may have an impact on the fish and wildlife resources upon which the wildlife depends. Therefore, the project will be required to pay the State fee plus a fee payable to the Monterey County Clerk/Recorder for processing said fee and posting the Notice of Determination (NOD).

o) Comments were received on the Initial Study during the comment period from September 8, 2011 to September 27, 2011 from LandWatch, Monterey Bay Unified Air Pollution Control District and the Law Offices of Michael Stamp. Although the determination was later made that an Addendum was the appropriate environmental document and an Addendum has been prepared, staff evaluated the comments and determined that none require preparation of a subsequent or supplemental EIR or identify new significant impacts or an increase in the severity of
impacts not previously analyzed.

The Monterey County Planning Department, located at 168 W. Alisal, Second Floor, Salinas, California, 93901, is the custodian of documents and other materials that constitute the record of proceedings upon which the decision to adopt the negative declaration is based.

6. **FINDING:** DEVELOPMENT ON SLOPE – The proposed development better achieves the goals, policies and objectives of the Monterey County General Plan and Greater Monterey Peninsula Area Plan and the Monterey County Zoning Ordinance (Title 21) than other development alternatives.

**EVIDENCE:**

a) In accordance with the applicable policies of the Greater Monterey Peninsula Area Plan and the Monterey County Zoning Ordinance (Title 21), a Use Permit is required and the authority to grant said permit has been met.

b) The project includes an application for development on slopes exceeding 25%. The original lot design and road improvements were proposed on slopes greater than 30% (the threshold of the 1982 General Plan). The 2010 General Plan lowered the threshold for a discretionary permit requirement to 25% slope and no specific entitlement for development on slopes was granted under the original approval but has been included in this permit under the baseline condition that included a project with development on 30% slope. As proposed, the revised lot locations avoid placing building envelopes on slopes greater than 25% and take advantage of existing ranch roads at the project site; however, road improvements will still affect slopes greater than 25%. The revised lot and infrastructure locations minimize disturbance to slopes and better achieve the goals and policies of the 2010 General Plan by minimizing grading quantities and tree removal.

c) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN100020.


e) A letter of justification for development on slopes in excess of 25% was submitted by the applicant’s representative for the project. The justification provided in the letter is that there is no feasible alternative that would avoid development on slopes and that the project better achieves the resource protection goals and policies by reducing impacts to oak woodlands. Staff concurs that the new lot locations better meet the resource protection goals of the 2010 General Plan.

7. **FINDING:** SUBDIVISION – Section 66474 of the California Government Code (Subdivision Map Act) and Title 19 (Subdivision Ordinance) of the Monterey County Code (MCC) requires that a request for subdivision be denied if any of the following findings are made:

1. That the proposed map is not consistent with the applicable general plan and specific plans.
2. That the design or improvement of the proposed subdivision is not consistent with the applicable general plan and specific plans.
3. That the site is not physically suitable for the type of development.
4. That the site is not physically suitable for the proposed density of
5. That the design of the subdivision or the proposed improvements is likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

6. That the design of the subdivision or type of improvements is likely to cause serious public health problems.

7. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision.

None of these findings are made.

EVIDENCE: a) Consistency. The project as designed and conditioned is consistent with the 2010 Monterey County General Plan, (see Finding 1). None of the

b) Design. The lot designs are consistent with the Lot Design Standards of MCC Section 19.10.030. All Lots of the proposed Vesting Tentative Map meet the 5 acre minimum lot size for the Rural Density Residential zoning.

c) Site Suitability. The site is suitable for the proposed project including the type and density of the development (see Finding 2).

d) Environment The Subdivision Ordinance requires denial of a tentative map if the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat. An Initial Study was prepared with a baseline of the existing 24 units from Monterra Ranch and tiered form the previously certified EIR for the Monterra Ranch subdivision. The Initial Study did not identify any new substantial environmental impacts or more severe environmental impacts than previously identified. Mitigation measures from the EIR which are applicable to the current project have been carried forward and are incorporated as conditions of project approval. The new design and improvements will not injure fish and is an improvement for habitat from the previously approved design (see Finding 5).

e) Health and Safety. The proposed project as designed and conditioned will not, under the circumstances of the particular application, be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood or to the general welfare of the County (see Finding 3).

f) Water Supply. MCC Section 19.10.070 requires provision shall be made for domestic water supply as may be necessary to protect public health, safety, or welfare, and that the source of supply is adequate and potable. MCC Sections 19.03.015.L and 19.07.020.K require Water Supply and Nitrate Loading Information in order to assess these conditions and proof that there is a long term water supply with the project. The project involves relocating 24 lots within the Monterra Ranch subdivision. The use and intensity of the project will not change and water supply and demand will similarly not change. The lots will be served water by the Monterra Ranch water system that has been found to have an adequate quantity and quality of water to serve the project. (See Finding No. 3).

g) Sewage Disposal MCC Sections 19.03.015.K and 19.07.020.J requires a can and will serve letter from the sewage treatment provider for projects on a sewer system. The subject project does not include new connections beyond those already approved and contemplated. The lots
will continue to be connected to the Canada Woods sewage treatment plant.

h) **Easements.** The project involves an amendment to a Conservation and Scenic Easement deed in order to recognize the new locations of the building envelopes and to include all the areas outside the new building envelope locations. No other easements will be affected by the re-subdivision.

i) **Traffic.** No new lots are being created so there would be no increase in potential traffic beyond what was anticipated and evaluated in the previously certified Environmental Impact Report (EIR) for the Monterra Subdivision. Access for the area would remain as approved, located at the York Road/State Route 68 intersection.

j) **Affordable Housing.** Affordable housing has been developed for the Monterra Ranch subdivision. No new lots will be created; therefore no additional affordable units are required.

k) **Parks and Recreation.** Parks and recreation requirements have been satisfied for the Monterra Ranch subdivision. No new lots are proposed and a condition that requires dedication of access for trails will continue to apply to the re-subdivision (Condition No. 67).

l) The application, tentative map and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN100020.

m) The project planner conducted site inspections on April 26, 2011, June 13, 2011, August 18, 2011 and August 22, 2011.

8. **FINDING:** TREE REMOVAL – The tree removal is the minimum required under the circumstances and the removal will not involve a risk of adverse environmental impacts.

**EVIDENCE:**

a) The project includes application for the removal of approximately 15 acres of oak trees for subdivision improvements. In accordance with the applicable policies of the Greater Monterey Peninsula Area Plan and the Monterey County Zoning Ordinance (Title 21), a Use Permit is required and the authority to grant said permit has been met.

b) Under the previously approved design, road improvements and future development of lots would have required removal of approximately 45 acres of oak trees. This included an estimate on the acreage of oak woodland within the proposed building envelopes. As proposed approximately 7 acres of oak woodland would be within the building envelopes for a total impact of approximately 22 acres. This approval does not authorize tree removal within the building envelopes. Development of the lots within the building envelopes will be subject to individual permitting at which time tree removal standards will apply. This permit allows removal of approximately 15 acres of oaks for road and subdivision improvements.

c) A non-standard condition of approval (Condition No. 29) requiring that the CC&Rs include a statement that all removal of native trees shall be subject to a tree permit has been incorporated.

d) Greater Monterey Peninsula Area Plan Policy GMP-3.5 states “Removal of healthy, native oak, Monterey pine, and redwood trees in the Greater Monterey Peninsula Area shall be discouraged.” The project proposes removal of 15 acres of oak woodland. This is a significant decrease from the tree removal implied with the approval of the previous design
in keeping with the intent of the policy.

e) Measures for tree protection during construction have been incorporated as conditions of approval and include tree protection zones, trunk protection and monitoring and reporting requirements (See Condition No. 24)

f) The project has been designed and sited to minimize the removal of protected trees to the greatest extent feasible. There are many challenges to the project design including visual requirements, slopes, and trees. The proposed design takes advantage of existing ranch roads within the subdivision to minimize effects of road improvements on trees. The building envelopes have also been appropriately sited to avoid slopes greater than 25% and to avoid ridgeline development.

g) The removal will not involve a risk of adverse environmental impacts. The new lot configuration has been evaluated by a biologist. The biologist has concluded that except for a minor increase in habitat fragmentation the proposed design is biologically superior to the original lot design.

h) Staff conducted site inspections on April 26, 2011, June 13, 2011, August 18, 2011 and August 22, 2011 to verify that the tree removal is the minimum necessary for the project and to identify any potential adverse environmental impacts related to the proposed tree removal.

j) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN100020.

9. FINDING: VIEWSHED – The subject project minimizes development within the viewedsh in accordance with the applicable goals and policies of the Monterey County Planning Department and zoning codes.

EVIDENCE:  
a) The project includes application for a merger and re-subdivision that would create new lots within a highly sensitive viewedsh. The new lots contain building envelopes that will be the location of future development for single family purposes. The creation of new building areas within the viewedsh requires a Use Permit pursuant to Section 21.46.030.D of the Monterey County Zoning Ordinance (Title 21). Future development of structures will be subject to additional review and approval.

b) New lot locations were staked and flagged and have been evaluated pursuant to Policies under Goal OS-1 of the 2010 General Plan, Policy GMP-3.3 of the Greater Monterey Peninsula Area Plan and Chapter 21.46 of the Zoning Ordinance Title 21.

c) Of the 24 relocated building envelopes proposed, three lots (Lots 2, 6, and 44) were considered to have the potential to create a substantial adverse visual impact when viewed from Highway 68. Lots 2 and 6 are proposed near the crest of a hill south of Highway 68. Those building envelope locations were slightly revised to avoid ridgeline development. Lot 44 is proposed to be located in the side of the north facing slope that is highly visible from Highway 68. The location of the building envelope was chosen because it is currently highly disturbed from the grading activities associated with subdivision road improvements. Lot 44 is void of vegetation and from that perspective is a sensible location for development. Proposed design and landscaping techniques to
minimize visibility of the subject lots which include three dimensional building envelopes and native plant and tree screening. (Condition No. 22). Staff has reviewed the staking and flagging and the specific design restrictions on the subject lots. The proposed restrictions are consistent with minimization measures and techniques contained in subsection e of Policy GMP-3.3 and will render the future development compatible and inconspicuous with the visual character of the area. All other lots will not be visible from Highway 68.

d) For nighttime views, all exterior lighting including street lighting will be subject to review by the Planning Department to ensure that lighting is unobtrusive and constructed so that only the intended area is illuminated, long-range visibility is avoided, and off-site glare is fully controlled in compliance with General Plan Policy LU-1.13 (Condition No’s. 10 and 20).

e) The project as proposed, conditioned, and mitigated is consistent with policies of the Greater Monterey Peninsula Area Plan dealing with visual resources. The location of the new building envelopes take advantage of existing disturbed areas such as a borrow site and existing ranch roads, avoids placing building envelopes on slopes greater than 25%, avoids ridgeline development, minimizes grading and tree removal, and with design and landscape restrictions on Lots 2, 6, and 44 minimizes impacts on the highly sensitive viewshed.

f) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN100020.

g) The project planner conducted site inspections on site inspections on April 26, 2011, June 13, 2011, August 18, 2011 and August 22, 2011 to verify that the project minimizes development within the viewshed or to identify methods to minimize the development.

10. FINDING: WATER SUPPLY – The project has a long-term water sustainable supply and manages development in the area so as to minimize adverse effects on the aquifers and preserve them as viable sources of water for human consumption.

EVIDENCE: a) Potable water for the Monterra Ranch Subdivision is provided by an independent permitted large water system. The water system draws water from wells located in the Monterey Shale fractured rock formations which are geologically isolated from neighboring properties. The Monterra Ranch subdivision EIR stated that the demand to serve the newly created lots can be accommodated by groundwater contained in the fractured siltstone and that production of the net demand of 117 acre feet of water per year (afy) will have no adverse effect on developments along Highway 68 or in Seaside.

b) The Monterra Ranch EIR evaluated impacts based on a total of 283 lots. This number is greater than the actual number of lots that have been created within the overall subdivision. The subject re-subdivision will remain well within this number and will not increase the number of lots thereby not increasing the total water demand.

c) The existing water system that serves the Monterra Ranch subdivision has a sophisticated treatment system in accordance with mitigations suggested in the FEIR which has been effectively treating water to serve the development in the subdivision.
d) The project has been reviewed by the Water Resources Agency. Conditions recommended have been included in this permit.

e) The project complies with General Plan Policies PS-3.1 and PS-3.2. The project will not result in the creation of additional lots or uses that would increase water demand or substantially affect water quality both on-site and off. The subject project reconfigures already approved lots and water for these lots will continue to be provided by the approved Monterra Ranch water system.

DECISION

NOW, THEREFORE, BE IT RESOLVED, based on the above findings and evidence, the Board of Supervisors does hereby:

A. Consider the Addendum to previously certified EIR No. 84-007 for Monterra Ranch Subdivision;

B. Approve the Combined Development Permit consisting of:
   1) A Vesting Tentative Map for the re-subdivision of Monterra Ranch Final Map Phases 6, 8 & 10 consisting of the reconfiguration of 24 residential lots (Phase 6: Lot 44 Remainder; Phase 8: Lots 164 - 171; Phase 10: Lots 5-10, 117 -122, Ranch Lots 1, 3 and 4), 3 open space parcels (Phase 8: Parcels A, B & C), 1 scenic easement parcel (Phase 10, Parcel H), and 3 road and utility parcels (Phase 6: Parcel R2; Phase 8: Parcel L; Phase 10: Parcel M);
   2) Use Permit for tree removal for subdivision improvements only (not for building envelopes);
   3) Administrative Permit for grading of less than 131,100 cubic yards (70,500 cubic yards cut and 60,600 cubic yards fill) in a Visually Sensitive District; and
   4) Use Permit for development on slopes greater than 25 percent, in general conformance with the attached copy of the Vesting Tentative Map (Exhibit 2) and subject to the attached conditions (Exhibit 1), all being attached hereto and incorporated herein by reference; and

C. Adopt the attached Mitigation Monitoring and Reporting Plan (Exhibit 1).

DECISION

PASSED AND ADOPTED on this 18TH day of October 2011, by the following vote, to-wit:

AYES:
NOES:
ABSENT:

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book____ for the meeting on October 18, 2011.

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

By ___________________________ Deputy