



Monterey County

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Board Order

Resolution No.: 15-315

Upon motion of Supervisor Potter, seconded by Supervisor Armenta and carried by those members present, the Board of Supervisors hereby:

- a. Granted the appeals by Quail Lodge, Inc. and Friends of Quail from the Planning Commission's decision certifying the Environmental Impact Report, adopting a Statement of Overriding Consideration, and approving an application by Carmel Canine Sports Center (Wolter Properties, LLC/PLN130352) for a Combined Development Permit;
- b. Found the denial of the project statutorily exempt from the California Environmental Quality Act (CEQA) per Public Resources Code section 21080(b)(5) and CEQA Guidelines section 15270(a); and
- c. Denied the application by Carmel Canine Sports Center (Wolter Properties, LLC/PLN130352) for a Combined Development Permit consisting of: 1) Use Permit for the development of a canine training/sports facility and event center for daily member usage and up to 24 "event days" (daily maximum of 250 people/300 dogs) per year; 2) Administrative Permit to allow the construction/placement of modular (temporary) structures to include a 700 square foot office trailer, 600 square foot member trailer, 600 square foot restroom trailer and 400 square foot electrical/storage room; and 3) Design Approval.

PASSED AND ADOPTED on this 15th day of December 2015, by the following vote, to wit:

AYES: Supervisors Armenta, Phillips, Salinas, Parker and Potter

NOES: None

ABSENT: None

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 78 for the meeting on December 15, 2015

Dated: January 13, 2016
File ID: 15-1316

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

By

Deputy

County of Monterey, State of California

Resolution No. 15-315

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- b. Find the denial of the project statutorily exempt from the California Environmental Quality Act (CEQA); and)
- a. Deny the application by Carmel Canine Sports Center (Wolter Properties, LLC/PLN130352) for a Combined Development Permit consisting of: 1) Use Permit for the development of a canine training/sports facility and event center for daily member usage and up to 24 "event days" (daily maximum of 250 people/300 dogs) per year; 2) Administrative Permit to allow the construction/placement of modular (temporary) structures to include a 700 square foot office trailer, 600 square foot member trailer, 600 square foot restroom trailer and 400 square foot electrical/storage room; and 3) Design Approval....)

The appeals by Quail Lodge, Inc. and Friends of Quail from the Planning Commission's decision on the Carmel Canine Sports Center application (Wolter Properties, LLC/PLN130352) for a Combined Development Permit came on for a consolidated public hearing before the Monterey County Board of Supervisors on October 27, 2015 and December 15, 2015. 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:** **PROJECT DESCRIPTION** – The proposed project is a Combined Development Permit consisting of: 1) Use Permit for the development of a canine training/sports facility and event center for daily member usage and up to 24 "event days" (daily maximum of 250 people/300 dogs) per year; 2) Administrative Permit to allow the construction /placement of modular (temporary) structures to include a 700 square foot office trailer, 600 square foot member trailer, 600 square foot restroom trailer and 400 square foot electrical/storage room; and 3) Design Approval. Site will also accommodate up to 70 Recreational Vehicles (RVs) on a short-term basis during "events" (Maximum of 24 nights per year).
- EVIDENCE:**
- 1. Application filed on May 16, 2013, by Carmel Canine Sports Center (CCSC) and was deemed complete on September 21, 2013. Information contained in the associated file labeled PLN130352.
 - 2. The Combined Development Permit (PLN130352) was deemed complete on September 21, 2013.

2. **FINDING:** **PROCEDURAL BACKGROUND** – The project has been processed in compliance with County regulations, including Chapter 21.76 for Combined Development Permits, and due process has been afforded the applicant and the public.

- EVIDENCE:**
- a) On May 16, 2013, Carmel Canine Sports Center filed an application with Monterey County RMA-Planning for a Combined Development Permit. The County prepared an Environmental Impact Report (EIR) for the project (see Finding 3 below).
 - b) The project was brought to public hearing before the Monterey County Planning Commission on August 26, 2015. On August 26, 2015 the Planning Commission certified the EIR, adopted a Statement of Overriding Considerations, and approved the Combined Development Permit (PC Resolution No. 15-044 and 15-045).
 - c) An appeal from the Planning Commission’s approval of the Combined Development Permit was timely filed by Quail Lodge, represented by Anthony Lombardo & Associates, on September 8, 2015.
 - d) An appeal from the Planning Commission’s approval of the Combined Development Permit was timely filed by Friends of Quail, represented by Stamp/Erickson, on September 8, 2015.
 - e) The appeals were brought to a consolidated de novo public hearing before the Board of Supervisors on October 27, 2015. At least 10 days prior to the public hearing, notices of the public hearing before the Board of Supervisors were published in the *Monterey County Weekly* and were posted on and near the property and mailed to the property owners within 300 feet of the subject property as well as interested parties.
 - f) On October 27, 2015 the Board of Supervisors conducted a public hearing on the appeal and the application and voted to adopt a motion of intent to uphold the appeal and deny the project. The hearing on the matter was continued to December 15, 2015 to allow staff to prepare a resolution addressing the intended Board action and to allow for final action and vote.

3. **FINDING:** **CEQA** - The County of Monterey has completed an appropriate level of environmental analysis in compliance with CEQA, and finds that the action to deny the project is statutorily exempt.

- EVIDENCE:**
- a) Monterey County RMA-Planning prepared an Initial Study pursuant to CEQA. The Initial Study resulted in the preparation of a Mitigated Negative Declaration which was circulated from December 23, 2013 to January 24, 2014. Comments on the Initial Study/Mitigated Negative Declaration did not identify potentially significant effects which would result from the project; however the comments submitted on the Initial Study presented a “fair argument” of potential impacts related to Traffic/Transportation. Therefore an Environmental Impact Report was prepared. The Initial Study is on file in the offices of RMA-Planning (PLN130352).

- b) A Draft Environmental Impact Report (DEIR) was prepared in accordance with CEQA and circulated for public review from April 1, 2015 through May 18, 2015.
- c) A Final Environmental Impact Report (FEIR) was released to the public on August 14, 2015.
- d) The Board of Supervisors in denying the application takes no action on the Environmental Impact Report.
- e) The denial of the project is statutorily exempt from CEQA. Public Resources Code Section 21080(b)(5) and California Environmental Quality Act Guidelines Section 15270(a) statutorily exempt projects which a public agency rejects or disapproves

4. **FINDING: INCONSISTENCY** – The Project, as designed, is not consistent with the applicable plans and policies which guide land use of the subject site.

EVIDENCE: a) During the course of review of this application, the project has been reviewed for consistency with the text, policies, and regulations in:

- 2010 Monterey County General Plan, including the Carmel Valley Master Plan,
- Monterey County Zoning Ordinance (Title 21)

Conflicts were found to exist during the course of review of the project indicating inconsistencies with the text, policies, and regulations in these documents.

- b) The property is located at 8100 Valley Greens Drive (Assessor Parcel Numbers: 169-431-001, -002, -003, -006, -007, -008, -011, and -012), Carmel Valley Master Plan Area. The parcel is zoned “LDR/2.5” or “Low Density Residential, 2.5 acre minimum. The purpose of the LDR zone is to provide a district to accommodate low density and intensity uses in the rural and suburban areas of the County and to insure that allowable land uses are compatible in the area. The project is not consistent with this purpose, as it proposes a use with a higher intensity than that expected in the LDR Zoning District and is thus not compatible in the area. The potential presence of 300 dogs per day on the site, the presence of up to 70 Recreational Vehicles during special events and noise from the daily operation of the site and from special events are examples of an intensity not found in an LDR Zone. The sense of the Board is that the project, while worthy, is in the wrong location.
- c) General Plan Policy LU-2.34 states: “Low Density Residential areas are appropriate for residential (1-5 acres/unit) recreational, public and quasi public and limited agricultural activities that are incidental and subordinate to the residential use.” The use of the site for RV camping is not incidental or subordinate to the residential land use of the site or the residential districts in the area. The application proposed events on the site that would include overnight parking of up to 70 RVs and commercial vendors, which are more of a commercial use of the site,

which is not incidental or subordinate to the residential land use of the site. Based upon these factors the project is not consistent with this policy.

- d) Monterey County General Plan Policy LU-2.6 states, “New land use activities that may potentially be nuisances and/or hazards shall be discouraged within and in close proximity to residential areas.” The proposed canine training/sport facility and event center would result in an increase in ambient neighborhood noise levels, due to barking of dogs and intermittent event noise, which neighbors testified would create a nuisance to the neighboring residential developments. The intersection at Carmel Valley Road/Valley Greens Drive would not operate at an adequate level of service during special events and has limited site visibility. This would be a nuisance and a hazard to people driving in the area. The project site only has access via the Valley Greens Drive/Carmel Valley Road intersection.
- e) The project was referred to and reviewed by the Carmel Valley Land Use Advisory Committee (LUAC), on June 3, 2013 and January 6, 2014, pursuant to the LUAC Procedures adopted by the Monterey County Board of Supervisors per Resolution No. 08-338. This application warranted referral to the LUAC because the project involved the potential to raise significant land use issues (aesthetics and neighborhood character). On June 3, 2013, the LUAC took no action on the proposed project, and continued the item pending environmental review. On January 6, 2014, the LUAC recommended denial of the project, as proposed, by a 7-0 (0 members absent). The LUAC’s purpose is to provide a recommendation from the community on the project. The input received from the LUAC was that the project is not compatible with the development pattern of the area.
- f) 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 PLN130352.

5. **FINDING:** **HEALTH AND SAFETY** - The establishment, maintenance, and operation of the project applied for will 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, and be detrimental and injurious to property and improvements in the neighborhood and to the general welfare of the County.

EVIDENCE: a Section 21.74.050.B(1) of Title 21 (County zoning) requires that, in order to grant a use permit, the decision-making body must find that the “establishment, maintenance, or operation of the use or structure applied for, will not, under the circumstances of the particular case, be detrimental to health, safety, peace, orals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed

use; or be detrimental or injurious to property and improvement in the neighborhood; or to the general welfare of the County.” This finding cannot be made, as indicated by testimony at the October 27, 2015 hearing.

- b) The project would result in a concentration of dogs in one location which would include barking. This would be a noise nuisance to the community and disturb the general welfare of the area residents.
- c) The project would result in the creation of 500 daily vehicle trips at a location with access through a single intersection. Residents testified that this would dramatically change the amount of traffic on Valley Greens Drive which would adversely affect the comfort of the area residents.
- d) The project proposed to allow up to 70 RV’s to stay overnight which could involve the use of generators which would produce noise not currently part of the ambient environment.
- e) The canine training center with special events is not compatible with the residential zoning district because it introduces commercial use elements that are inconsistent with a residential setting.
- f) The area streets and thoroughfares are not designed for RV movements. This includes the uncontrolled intersection of Carmel Valley Road and Valley Greens Drive.

6. **FINDING:** **LACK OF OVERRIDING CONSIDERATIONS** –The Board of Supervisors has weighed the economic, legal, social, technological, and other benefits of the project, including region wide or statewide environmental benefits, of the proposed project against its unavoidable environmental risks and has determined that the economic, legal, social, technological, and other benefits of the proposed project do not outweigh its unavoidable significant adverse environmental impacts.
- EVIDENCE:** a) CEQA Guidelines Section 15093 states: ”CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered ‘acceptable’.”
- b) Traffic in Carmel Valley and particularly along Carmel Valley Road is a well established concern as evidenced by General Plan Policy CV-2.17 which establishes thresholds for traffic along Carmel Valley Road, requires annual monitoring to determine if the traffic thresholds are close to being exceeded, and establishes criteria for evaluating projects in relation to these thresholds. The segment of Carmel Valley between Schulte Road and Rancho San Carlos Road currently operates at a LOS

of E which is a less than acceptable level of service (LOS D considered acceptable for this segment.) The project would not result in a change in the LOS for this segment, but will add traffic to it.

- c) The EIR prepared for the Project identified that there would be significant impacts that could not be mitigated to a less than significant level. The impacts included:
 - i. Direct project impacts to the multi-lane segment of Highway 1 from Ocean Avenue to Carmel Valley Road, which currently operates at an unacceptable LOS F and there is no feasible project to mitigate this condition to an acceptable level. The project would add additional trips to this failed segment as a result of daily operations and during special events which is an unavoidable significant impact.
 - ii. Under the Cumulative Plus Daily Operation Conditions, Project traffic would degrade the Carmel Valley Road and Valley Greens Drive intersection from LOS D or better to LOS F resulting in an unavoidable significant impact.
 - iii. Under the Cumulative Plus Special Events Conditions, Project traffic would degrade the Carmel Valley Road and Valley Greens Drive intersection from LOS D or better to LOS F resulting in an unavoidable significant impact.
- d) The project proponent identified that the project would provide the following benefits to the public:
 - 1) Continuance of agricultural production on prime farmland consistent with historical on-site use in the face of increasing development pressures.
 - 2) Creation of a new local recreation resource for canine activities.
 - 3) Contribution to the local economy with the creation of employment opportunities (8 jobs) on-site.
- e) The continuance of the agricultural production is not viewed as an actual use, but is speculative. The new recreational resource would be available only to 500 members with private memberships and paying event participants from outside the County during special events. This is not a benefit to the general populace of Monterey County. The number of jobs being created is 8 which is not significant. It is unknown what the wage scale of these jobs will be and the applicant has not presented an economic analysis to demonstrate what economic benefit may result from the project. The applicant has not provided adequate evidence that the economic benefit of this project will be significant.
- f) In balancing the impacts of the project with the proposed benefits, the County finds that the continuance of agricultural production on the site as a component of the Canine Training Facility, the provision of a new private recreational resource which is only available to dues paying members, and the creation of 8 jobs do not provide a positive balance that outweighs the significant adverse traffic impacts associated with the project.

7. **FINDING: APPEALS FROM QUAIL LODGE AND FRIENDS OF QUAIL.** The appellants' contentions that there is a lack of substantial evidence to support a Statement of Overriding Contentions are upheld. Because the appeals are granted on that basis, the Board does not reach the other contentions in the appeals.

EVIDENCE: a) See Findings and Evidence 6 (above.)

DECISION

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors does hereby:

- a. Grant the appeals by Quail Lodge, Inc. and Friends of Quail from the Planning Commission’s decision certifying the Environmental Impact Report, adopting a Statement of Overriding Consideration, and approving an application by Carmel Canine Sports Center (Wolter Properties, LLC/PLN130352) for a Combined Development Permit;
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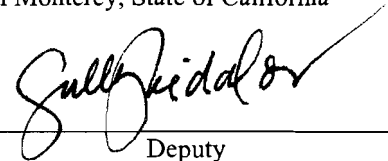
PASSED AND ADOPTED upon motion of Supervisor Phillips, seconded by Supervisor Parker carried this 15th day of December 2015, by the following vote, to wit:

AYES: Supervisors Armenta, Phillips, Salinas, Parker and Potter
 NOES: None
 ABSENT: None

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 78 for the meeting on December 15, 2015.

Dated: January 13, 2016
File Number: 15-315

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

By  _____
Deputy