



# Monterey County

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## Board Report

Legistar File Number: 17-0905

September 12, 2017

**Introduced:** 8/29/2017

**Current Status:** Agenda Ready

**Version:** 1

**Matter Type:** General Agenda Item

### **PLN140089 - CARMEL RIO ROAD LLC (CLARK)**

Public hearing (continued from June 27, 2017) to consider an Environmental Impact Report, an ordinance amending Sections 21.14.050.A, 21.14.060.A, and 21.14.060.B of Title 21 (non-coastal zoning) of the Monterey County Code, and an application for a Combined Development Permit to subdivide three existing lots totaling approximately 7.92 acres into 25 lots, including 24 lots that could accommodate one unit on each lot and one lot that could accommodate up to seven affordable units (31 units total).

**Project Location:** 26500 Val Verde Drive, Carmel Valley Master Plan

**Proposed CEQA Action:** Consider certification of Environmental Impact Report SCH#2015071046 (if Board approves project or an alternative); statutory exemption (if Board denies project).

### RECOMMENDATION:

It is recommended that the Board of Supervisors:

1. Hold a public hearing to consider:
  - a. An Environmental Impact Report prepared for the project;
  - b. A proposed project consisting of:
    - i. An ordinance amending Title 21 of the Monterey County Code to allow the following exceptions in the Low Density Residential (LDR) zoning district if done both to receive a density bonus allowed by Policy CV-1.10 in the Carmel Valley Master Plan and to provide affordable housing meeting criteria established in Policy LU-2.13 of the General Plan:
      1. Amend Section 21.14.050.A to allow the number of residential units to exceed 4 units on a lot and to exceed the zoning density of the lot;
      2. Amend Section 21.14.060.A to allow building sites under the one acre minimum; and
      3. Amend Section 21.14.060.B to allow exceedance of the maximum development density.
    - ii. Combined Development Permit consisting of:
      1. Tentative Map for a standard subdivision of three parcels totaling 7.92 acres into 25 lots with 31 units as follows: a) 24 lots that could accommodate a maximum of one unit on each lot and b) one lot that could accommodate up to seven units; and
      2. Use Permit pursuant to Section 21.14.050.A to allow seven affordable units on Lot 25 (six inclusionary units and one workforce unit);
2. Adopt a motion of intent for the Board's preferred option; and
3. Continue the public hearing to October 10, 2017 for staff to return with a resolution.

On May 10, 2017, the Planning Commission held a public hearing on this project. Staff presented policy interpretations that could support a recommendation of approval for the project. The Planning Commission found that the project location was appropriate but interpreted policies such that the project should provide at least 35% affordable housing. The applicant stated that he would not accept a continuance to consider 35% affordable units because that would not be financially feasible. Therefore, the Planning Commission voted 8 to 1 to recommend that the Board of Supervisors not certify the EIR and not approve the zoning amendments and Combined Development Permit.

**PROJECT INFORMATION:**

**Applicant/Agent:** Brian Clark

**Property Owner:** Carmel Rio Road LLC

**APN:** 015-021-020-000, 015-021-021-000 and 015-021-015-000

**Site Size:** 1.3 acres, 1.3 acres and 5.3 acres (7.92 acres total)

**Zoning:** LDR/1-D-S-RAZ

**Plan Area:** Carmel Valley Master Plan

**Flagged and Staked:** No

**SUMMARY:**

Mr. Brian Clark, representing Carmel Rio Road LLC, has submitted applications to develop 7.92 acres on Val Verde Drive (private road) between Rio Road and Carmel Valley Road near the mouth of Carmel Valley. The site consists of three existing legal lots of record. Approximately 6.6 acres, or 83.5% of the site, are currently used for row crop agriculture producing strawberries, melons, artichokes, squash, pumpkins, fennel, fava beans, zucchini, radishes, and flowers. The remaining 1.3 acres (APN 015-021-020-000), located at the southeast corner of the site, are developed with an existing single-family residence and a detached garage. The southeast corner of the site also contains planted mixed woodland habitat.

This application is to subdivide the 7.92 acres into 25 lots to accommodate 31 units, including 24 single family residences and one lot with seven affordable housing units. Entitlements for consideration include the subdivision and a use permit for more than two units on one lot. The applicant provided conceptual plans adequate for environmental review, but did not submit specific site plans, landscape plans, etc. for each lot. Therefore, construction of the units/homes would require subsequent Administrative Permits and Design Approvals (AP/DA) for each parcel prior to vertical construction on each lot, and conditions for the current action would be limited to what is necessary for the subdivision and infrastructure in preparation for building homes/units. A key aspect to reviewing AP/DA will be to review designs for a rural character.

The proposed action requires amending zoning regulations, a legislative matter, in order to bring the zoning into conformity with Carmel Valley Master Plan Policy CV 1.10, which allows up to four units per acre for projects that include at least 25% affordable units. In order to meet the higher density, the project would exceed the maximum development density for the LDR/1 zone (Monterey County Code (MCC) Section 21.14.060.B). Density required to achieve inclusionary level of affordability exceeds four units on a lot and the zoning density (MCC Section 21.14.050.A). In order to achieve the 4 units/acre density allowed by CV-1.10, the lots must be smaller than one acre (MCC Section 21.14.060.A). A zoning ordinance to make these amendments has been prepared for the Board's

consideration.

An Environmental Impact Report (EIR) was prepared for this project. If the Board of Supervisors approves the project or a project alternative, it must first certify the EIR and adopt Findings of Overriding Consideration. More information about the environmental review is in **Attachment A**. If the Board rejects the project, action to deny a project is Statutorily Exempt from CEQA pursuant to Section 15270 of the CEQA Guidelines.

DISCUSSION:

On May 10, 2017, the Planning Commission held a public hearing on the project and voted 8 Ayes, 1 No and 1 Absent to recommend that the Board of Supervisors not certify the EIR and not approve the zoning amendments and Combined Development Permit. Staff presented policy interpretations supporting a recommendation of approval for the project.

At the Planning Commission hearing on May 10, 2017, staff recommended approval of the project. A key issue for the decision-maker is whether the project is consistent with applicable policies in the 2010 General Plan and the Carmel Valley Master Plan. The Planning Commission found that the project location was appropriate but the project should provide at least 35% affordable housing under Policy LU-1.19 because this project would utilize most of the remaining units allowable under the Carmel Valley Master Plan unit cap. (Carmel Valley Master Plan Policy CV-1.6).

The Planning Commission asked the applicant if he would be willing to revise the project to increase the number of affordable units to provide at least 35% affordable housing. The applicant stated at the Commission hearing that he was not willing to provide 35% affordable units because then the project would not be financially feasible. Therefore, the Planning Commission voted 8 to 1, with 1 absent, to recommend denial. Staff prepared the final resolution (findings and evidence) at the Commission's direction.

Following the Planning Commission meeting, staff had communications with the applicant regarding the possibility of increasing the percentage of affordable/workforce housing. A number of options were discussed. Staff presented an option that basically would change two units from market-rate to workforce, resulting in a mix that includes 21 market rate units and 10 affordable units (e.g., 7 inclusionary and 3 workforce). However, the proposed project includes 24 market rate units and 7 affordable units. As of the preparation of this staff report, the applicant has not agreed to change the affordability mix of the units. Mr. Clark asked staff if the County would entertain additional considerations. Staff finds that allowing four times the density under Policy CV-1.10 and the code amendments to allow this project are significant modifications.

A public hearing on the project was noticed before the Board of Supervisors for June 27, 2017. Following the release of the Board Report, staff received communication from the applicant, Brian Clark, requesting that the hearing be continued. At the meeting, the Board continued the public hearing on the project to September 12, 2017.

Following the Board meeting, staff met with the applicant to discuss the new proposals. The applicant

indicated that he had recently acquired the 5.1 acre property located directly across Val Verde Drive from the current project site and proposed incorporating that property into the project, which would increase the size of project site from 7.92 acres to approximately 13 acres, and changing the unit mix to 26 market rate lots and no affordable units. Staff discussed issues raised by the proposal with the applicant. Following the meeting, Mr. Clark indicated that he would not be pursuing the new proposal and desired to continue with the September 12 hearing on the 31-unit proposal on the original project site.

Additional details are provided in the attached discussion exhibit from Board Report for the June 27, 2017 meeting. (see **Attachment A**). Also attached are the proposed ordinance and correspondence for the Board of Supervisors on the project.

OTHER AGENCY INVOLVEMENT:

The following agencies have reviewed the project, have comments, and/or have recommended conditions (if approved):

- Environmental Health Bureau
- RMA-Planning
- RMA-Parks
- RMA-Public Works
- RMA-Environmental Services
- Water Resources Agency
- Cypress Fire Protection District
- Carmel Valley Land Use Advisory Committee
- Economic Development Department (Housing Office)
- Monterey Peninsula Water Management District

On April 21, 2014, the Carmel Valley LUAC reviewed plans for the Amended Project. The committee expressed concerns regarding traffic, water, floodplain encroachment, inconsistency with the rural character of adjacent homes and excessive density. The item was continued to a date uncertain to return for further review following completion of the Draft EIR.

The proposed project was reviewed a second time by the Carmel Valley LUAC on April 17, 2017. The LUAC recommended denial of the project by a vote of 7-0 stating that they feel the project, as proposed, does not conform with the Carmel Valley Master Plan and the rural character of the area.

FINANCING:

Pursuant to Section 7 of the Settlement and Release Agreement, the County waived the application fees for this project. However, the applicant is required to pay the consultant's cost of preparing the EIR and County staff's cost of processing the EIR. Funding for staff time associated with this project is included in the FY17-18 Adopted Budget for RMA-Planning.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

This action represents effective and timely response to our RMA customers. Processing this application in accordance with all applicable policies and regulations also provides the County accountability for proper management of our land resources. The project has been processed within

the timeline in the Settlement Agreement.

Check the related Board of Supervisors Strategic Initiatives:

- Economic Development
- Administration
- Health & Human Services
- Infrastructure
- Public Safety

Prepared by: Bob Schubert, AICP, Senior Planner, Ext. 5183

Reviewed by: Jacqueline R. Onciano, Chief of Planning

Approved by: Carl P. Holm, AICP, RMA Director

The following attachments are attached or on file with the RMA and the Clerk of the Board:

Attachment A - Board Report (with Exhibits including EIR) for June 27, 2017 meeting

Attachment B - Additional Correspondence

Attachment C - Errata Memorandum dated June 27, 2017

cc: Front Counter Copy; Planning Commission; Jacqueline Onciano, RMA Services Manager; Brian Clark, Applicant; Yuri Anderson; Harry Finkle; Patrick Lynch; Lea Magee; Richard Nystrom; Margaret Robbins; Richard Stott; Gillian Taylor; Jackie Zischke; The Open Monterey Project (Molly Erickson); Michael DeLapa, LandWatch; John H. Farrow; Janet Brennan; Project File PLN140089.