

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

Resolution No. _____

- a. Adopt a resolution rescinding Resolution)
No. 12-112, which denied the appeal on)
behalf of Carmel Rio Road, LLC from the)
Planning Commission's denial of the)
application for a Combined Development)
Permit (GPZ090004), to implement the)
Settlement and Release Agreement in)
Carmel Rio Road, LLC v. County of)
Monterey, Monterey County Superior)
Court Case No. M118733.)
- b. Authorize the Chair to sign the resolution)
rescinding Resolution 12-112.)
(GPZ090004/Carmel Rio Road, LLC))

WHEREAS, On May 1, 2012, the Board of Supervisors adopted Resolution No. 12-112 denying the appeal by Brian Clark on behalf of Carmel Rio Road, LLC from the Planning Commission's denial of the application for a Combined Development Permit (GPZ090004) consisting of: 1) Standard Subdivision of a 7.92 acre property into 31 Market Rate lots and one Inclusionary Housing lot containing 11 Inclusionary units (2 very low, 5 low and 4 moderate); and 2) Administrative Permit and Design Approval for development in the "D" (Design Control) and "S" (Site Review) Zoning Districts;

WHEREAS, Carmel Rio Road LLC ("Petitioner") filed a Petition for Writ of Mandate and Complaint in the State of California Superior Court, County of Monterey against Respondent on May 30, 2012, (Case No. M118773) (the "Action") generally challenging the denial of the Subdivision Project by County;

WHEREAS, County and Petitioner have mutually agreed to settle the Action on the terms and conditions set forth in the Settlement Agreement;

WHEREAS, the County and Petitioner presented the Settlement Agreement to the Monterey County Superior Court for approval and for monitoring the implementation of its provisions;

WHEREAS, the Settlement and Release Agreement provides that the County of Monterey Board of Supervisors rescind its decision adopting Resolution No. 12-112;

WHEREAS, Rescission of Resolution No. 12-112 will not result in the grant of permits or entitlements sought by Carmel Rio Road LLC in the project described in Resolution No. 12-112;

WHEREAS, The Settlement and Release Agreement calls for the rescission of Resolution No. 12-112 within 30 working days of the Effective Date of the settlement Agreement in order for Carmel Rio Road LLC to submit a scaled down Amended Project; and

WHEREAS, The Amended Project will be subject to all the analyses, processes, findings, and hearings applicable to similar projects, including preparation of an environmental impact report (EIR).

NOW THEREFORE, BE IT RESOLVED that the Board of Supervisors of the County of Monterey hereby rescinds Resolution 12-112, in order to implement the Settlement and Release Agreement in Carmel Rio Road, LLC v. County of Monterey, Monterey County Superior Court Case No. M118733.

PASSED AND ADOPTED on this 25th day of February, 2014, upon motion of Supervisor _____, seconded by Supervisor _____, 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 resolution of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book _____, for the meeting on _____.

Dated:

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

By _____
, Deputy