

RESOLUTION

Before the Planning Commission in and for the County of Monterey, State of California

In the matter of the application of:

CARMEL RIO ROAD LLC (PLN140089)

RESOLUTION NO. 17-019

Recommend that the Board of Supervisors not certify the Environmental Impact Report, not adopt the proposed Zoning Ordinance Amendments, and deny the Combined Development Permit for the Carmel Rio Road LLC Project.

[PLN140089, Carmel Rio Road LLC, 26500 Val Verde Drive, Carmel Valley Master Plan (APN: 015-021-020-000, 015-021-021-000 and 105-021-015-000)]

The Carmel Rio Road Project (PLN140089) came on for public hearing before the Monterey County Planning Commission on May 10, 2017. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Planning Commission finds and recommends to the Board of Supervisors as follows:

FINDINGS

1. **FINDING:** **GENERAL PLAN CONSISTENCY** – The project is not consistent with the 2010 General Plan and Carmel Valley Master Plan.
EVIDENCE: a) On April 1, 2014, Carmel Rio Road, LLC through its representative Brian Clark (“applicant”) submitted an application (Amended Project) to subdivide three parcels totaling 7.92 acres into 24 single-family lots and one parcel to accommodate seven affordable units (six inclusionary and one Workforce I), 31 units total (PLN140089). The entitlements considered by the Planning Commission consist of:
 - i) Zoning Ordinance Amendments to amend Sections 21.14.050.A, 21.14.060.A and 21.14.060.B of Title 21 (inland zoning) of the Monterey County Code to add clarifications that allow exceptions to exceed 4 units/acre on a lot, create lots under the minimum one acre building site size, and exceed the maximum development density in the Low Density Residential zoning district if it is done to achieve affordable housing pursuant to Policy CV 1.10 in the Carmel Valley Master Plan; and
 - ii) A Combined Development Permit consisting of a Tentative Map to subdivide three parcels totaling 7.92 acres into 25 lots, including 24 single-family lots and one parcel to accommodate

seven affordable units (six inclusionary and one Workforce I); and a Use Permit pursuant to Section 21.12.050.A of the Monterey County Code to allow seven units on Lot 25.

EVIDENCE: b) The property is located at 26500 Val Verde Drive, Carmel (Assessor's Parcel Numbers 015-021-020-000, 015-021-021-000 & 015-021-015-000), Carmel Valley Master Plan. Zoning for this property is LDR/1-D-S-RAZ (Low Density Residential/with a maximum gross density of 1 one acre/unit-Design-Site Control-Residential Allocation Zoning).

EVIDENCE: c) 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;
- 2010 Carmel Valley Master Plan;
- Monterey County Zoning Ordinance (Title 21)
- Monterey County Subdivision Ordinance (Title 19); and,
- Monterey County Inclusionary Housing Ordinance (Title 18.40).

EVIDENCE: d) General Plan Policy LU-1.19 calls for the establishment of a Development Evaluation System (DES) for areas of the County outside of Community Areas, Rural Centers and Affordable Housing Overlay Districts. The project is not in a Community Area, Rural Center or Affordable Housing Overlay District and therefore is subject to the DES. General Plan Policy LU-1.19 states that residential development shall incorporate a minimum of 35% affordable/workforce housing (25% inclusionary; 10% Workforce). The proposed project is inconsistent with General Plan Policy LU-1.19 because it does not provide 35% affordable/workforce housing or farmworker inclusionary housing. For this project, the 35% affordable/workforce housing criterion is essential to finding General Plan consistency because these are among the last units remaining under the unit cap in the Carmel Valley Master Plan area. (See evidence below.) Given the preference stated in Policy CV 1.6 for projects that include at least 50% affordable housing and given that the project would commit most of the remaining units, having at least 35% affordable housing per Policy LU 1.19 is essential to comply with the policies and goals of the General Plan and Carmel Valley Master Plan.

EVIDENCE: e) Carmel Valley Master Plan Policy CV-1.6 establishes a building cap of 190 new residential units as a way to control development, and thereby traffic, throughout Carmel Valley. If approved, the proposed project would commit 28 new units of the 34 units currently remaining under unit cap. General Plan Policy CV-1.6.a states that there shall be preference to projects including at least 50% affordable housing units. Although this policy does not require a minimum 50% affordable housing, there is clearly a preference for projects that are approved under the building cap that provide more than the minimum required amount of affordable housing. With a limited number of units

remaining, there would be no other opportunity for affordable housing in Carmel Valley beyond this project.

EVIDENCE: f) The Planning Commission determined that it is imperative to get at least the 35% required by Policy LU-1.19. The Commission indicated a willingness to consider the project in this location if the amount of affordable housing was increased to at least 35%. The applicant has not proposed such an alternative.

EVIDENCE: g) Chapter 18.40 requires a minimum of 25% inclusionary housing. Carmel Valley Master Plan Policy CV-1.10 requires a minimum of 25% inclusionary units in order to receive a density increase from one (1) unit per acre to up to four (4) units per acre. Of the 31 units proposed, the project includes seven (7) inclusionary affordable units plus an in-lieu fee. The site consists of three existing lots that could each have one unit built. Consistent with the method for applying 2010 General Plan affordability policies to other projects, the first unit on an existing lot of record does not count toward the unit total. Accordingly, the proposed project provides 25% affordable units (25% of 28 units is 7 units). The seven (7) affordable units include one (1) very low, two (2) low, three (3) moderate and one (1) workforce unit. In addition, the project applicant has agreed to provide an in-lieu fee of \$206,544 under the terms of a Settlement and Release Agreement between the County and Carmel Rio Road LLC.

EVIDENCE: h) On April 21, 2014, the Carmel Valley LUAC reviewed plans for the proposed 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.

EVIDENCE: i) 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 due to non-conformance with several policies in the Carmel Valley Master Plan and the rural character of the area.

EVIDENCE: j) The application, project plans, and related support materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development are found in Project File PLN140089. General Plan and Carmel Valley Master Plan policies and maps.

2. **FINDING:** **ZONING ORDINANCE CONSISTENCY** - The project is not consistent with the Zoning Ordinance.

EVIDENCE: a) The application includes a request for approval of an ordinance amending Title 21 of the Monterey County Code to to modify the list of uses allowed with a use permit and the site development standards in the Low Density Residential (LDR) zoning district if done to achieve a density bonus pursuant to Policy CV-1.10 in the Carmel Valley Master Plan and to provide affordable housing meeting criteria established in

Policy LU-2.13 in the General Plan, including the following amendments:

1. Amend Section 21.14.050.A to allow exceedance of 4 units/acre on a lot;
2. Amend Section 21.14.060.A to allow creation of lots under the minimum one acre building site size; and
3. Amend Section 21.14.060.B to allow the maximum development density to exceed the acres/unit shown for the specific “LDR” District as shown on the zoning map.

EVIDENCE: b) Without the proposed amendments to the Zoning Ordinance, the project is inconsistent with zoning.

EVIDENCE: c) The Planning Commission recommends against adopting these amendments because the exceptions to the LDR zoning standards are not justified for a project that does not provide a greater percentage of affordable housing.

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

- i. That the proposed map is not consistent with the applicable general plan and specific plans.
- ii. That the design or improvement of the proposed subdivision is not consistent with the applicable general plan and specific plans.
- iii. That the site is not physically suitable for the type of development.
- iv. That the site is not physically suitable for the proposed density of development.
- v. 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.
- vi. That the design of the subdivision or type of improvements is likely to cause serious public health problems.
- vii. 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.

EVIDENCE: a) i. **Consistency:** The proposed project is inconsistent with the 2010 General Plan and Carmel Valley Master Plan (see Finding 1). Without the proposed amendments to the Zoning Ordinance, the project is inconsistent with zoning (see Finding 2).

ii. **Site Suitability.** The site is suitable for the proposed project including the type and density of development. The site is served by public sewer and can be served by public water.

- iii. **Substantial Environmental Damage.** The EIR concluded that the project would have significant unavoidable impacts on transportation and circulation. These impacts are significant and unavoidable and will not be mitigated to a less than significant level.
- iv. **Public Health.** The Monterey County land use departments/agency have reviewed the application and have not identified any potential for the subdivision or improvements to cause serious health problems.
- v. **Conflict with Easements.** Val Verde Drive is a private road. General Plan Policy C-3.6 requires proof of access as part of any development application when the proposed use is not identified in the provisions of the applicable agreement. The applicant has provided proof of access in the form of court judgments as part of the project application consistent with this policy. The Monterey County land use departments/agency have reviewed the application and have not identified any conflicts with easements.

EVIDENCE: b) The application, tentative map and supporting materials submitted by the project applicant to RMA-Planning found in Project File PLN140089.

4. **FINDING:** **CEQA (Exempt)** - The project is statutorily exempt from environmental review because the Planning Commission is recommending denial of the application. The Planning Commission does not recommend certification of the EIR prepared for this project.

EVIDENCE: a) RMA-Planning filed a Notice of Preparation (NOP) with the County Clerk and distributed the NOP to all Responsible Agencies for the required 30-day period from on July 20, 2015 to August 19, 2015. Responses to the Notice of Preparation were considered in the preparation of the EIR.

EVIDENCE: b) An EIR Scoping Meeting was held at St. Phillips Lutheran Church in Carmel Valley on July 30, 2015 to receive comments on the scope of the Draft EIR. The intent of the scoping meeting was to provide interested individuals, groups, public agencies and others a forum to provide input to the County verbally in an effort to assist in further refining the intended scope and focus of the EIR.

EVIDENCE: c) A Draft EIR was prepared to assess the potential adverse environmental impacts from the project (Carmel Rio Road Project Draft Environmental Impact Report prepared by Rincon Consultants dated November 2016). The public review period on the Draft EIR was from December 2, 2016 to January 23, 2017. The project analyzed in the Draft EIR was a mixed income residential subdivision on 7.9 acres of land located at 26500 Val Verde Drive, within the Carmel Valley Master Plan Area, in unincorporated Monterey County, California. The Draft EIR analyzed all components of the project including the tentative

subdivision map, Zoning Ordinance Amendment, Use Permit, Administrative Permit and Design Approval. Issues that were analyzed in the Draft EIR include aesthetics, air quality, biological resources, climate change, cultural resources, geology and soils, hazards, hydrology and water quality, land use, noise, population and housing, public services, recreation, transportation and circulation, utilities and service systems.

EVIDENCE: d) The Draft EIR was duly noticed and circulated for public review, and public comments were received and considered. The County distributed a Notice of Availability to Responsible Agencies and Interested Parties on December 1, 2016. The County sent a Notice of Completion and CDs of the Draft EIR to the State Clearinghouse on December 1, 2016. The County placed the Notice in the County Clerk's office for 30 days (Public Resources Code Section 21092) and sent a copy of the Notice to anyone requesting it (*State CEQA Guidelines* Section 15087). Additionally, the NOA was distributed to property owners and occupants within 300 feet of the site, consistent with CEQA Guidelines Section 15087(a)(3).

EVIDENCE: e) During the review period on the Draft EIR (December 2, 2016 through January 23, 2017) the County received comment letters from Brian Clark (Applicant), Stan & Bozena Kluz, LandWatch Monterey County, Glenn Robinson, Arroyo Carmel Home Owners Association, Bob Byrne, Margaret Robbins, Richard Stott, Karen Wood, Neil & Stephanie Johnston, Lea Magee, Carmel Valley Association, Monterey Bay Air Resources District, Monterey Peninsula Water Management District, Molly Erickson and Peter Neumeier. A Final EIR was prepared which included written responses to the significant issues raised. The Final EIR was made available to the public on May 3, 2017 and provided to the Planning Commission for its consideration.

EVIDENCE: f) The Draft EIR contains extensive analysis of the proposed development, with and without mitigations, compared to No Project/No Development, No Project/Existing Zoning, Modified Subdivision, Reduced Density and Clustered Design. The Final EIR included a second reduced density alternative.

EVIDENCE: g) The information contained in and the conclusions reached in the EIR reflect the County of Monterey's independent judgement and analysis.

EVIDENCE: h) The Planning Commission does not recommend certification of the EIR prepared for this project because it would be premature to certify the EIR for the project if the project were to need to be redesigned to accommodate 35% affordability.

EVIDENCE: i) Projects which are disapproved by the lead agency are statutorily exempt from CEQA pursuant to Public Resources Code Section 21080(b)(5) and CEQA Guidelines Section 15270(a).

5. **FINDING: PUBLIC HEARING** – The Planning Commission conducted a fair and impartial public hearing on the project.

- EVIDENCE:** a) On May 10, 2017, the Planning Commission held a duly noticed public hearing where members of the public were given the opportunity to be heard.
- EVIDENCE:** b) On April 25, 2017 public hearing notices of the May 10, 2017 Planning Commission hearing were mailed to property owners within 300 feet of the site.
- EVIDENCE:** c) A public hearing notice of the May 10, 2017 Planning Commission hearing was published in the Monterey County Coast Weekly newspaper on April 27, 2017.
- EVIDENCE:** d) On April 27, 2017 public hearing notices of the May 10, 2017 Planning Commission hearing were sent to those persons on the County's interested parties distribution list for this project.

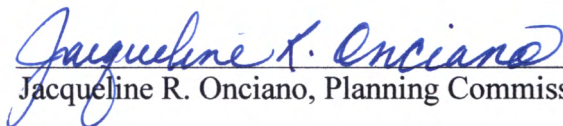
DECISION

NOW, THEREFORE, based on the above findings and evidence, the Planning Commission does hereby recommend that the Board of Supervisors:

1. Not certify the Environmental Impact Report;
2. Not adopt the Zoning Ordinance Amendments; and
3. Deny the application (Carmel Rio Road LLC /PLN 140089) for a Combined Development Permit consisting of a Tentative Map to subdivide three parcels totaling 7.92 acres into 25 lots, including 24 single-family lots and one parcel to accommodate seven affordable units (six inclusionary and one Workforce I); and a Use Permit pursuant to Section 21.12.050.A of the Monterey County Code to allow seven units on Lot 25.

PASSED AND ADOPTED this 10th day of May, 2017 upon motion of Commissioner Vandevere, seconded by Commissioner Diehl, by the following vote:

AYES: Ambriz, Diehl, Duflock, Getzelman, Hert, Roberts, Rochester, Vandevere
NOES: Mendez
ABSENT: Padilla
ABSTAIN: None


Jacqueline R. Onciano, Planning Commission Secretary

COPY OF THIS DECISION MAILED TO APPLICANT ON JUNE 15, 2017.

This decision, if this is the final administrative decision, is subject to judicial review pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6. Any Petition for Writ of Mandate must be filed with the Court no later than the 90th day following the date on which this decision becomes final.