



County of Monterey

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Board Report

File #: RES 14-019, **Version:** 1

Public hearing to consider:

- a. Adopting a resolution rescinding Resolution 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; and
- b. Authorizing the Chair to sign the resolution rescinding Resolution 12-112. (GPZ090004/Carmel Rio Road, LLC, 26500 Val Verde Drive, Carmel Valley, Carmel Valley Master Plan)

PROJECT INFORMATION:

Planning File Number: GPZ090004

Owner: Carmel Rio Road LLC

Project Location: 26500 Val Verde Drive, Carmel Valley

APNs: 015-021-015-000; 015-021-020-000; and 015-021-021-000

Agent: Brian Clark

Plan Area: Carmel Valley Master Plan

Flagged and Staked: No

CEQA Action: N/A

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Adopt a resolution rescinding Resolution 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; and
- b. Authorize the Chair to sign the resolution rescinding Resolution 12-112.

SUMMARY:

Adoption of the attached resolution rescinds the Board's May 1, 2012 denial of 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 Plan Review) Zoning Districts.

This Board has discretion to deny the attached resolution of rescission. Even if the Board adopts the attached resolution of rescission, it has discretion to deny any amended project for the site, in the same way it has discretion to deny any similar project (for example, if the Board determines that it cannot make the legally required findings). Under the terms of the settlement agreement, if the Board does deny the attached resolution, or does deny an amended project as described in the settlement agreement, the litigation in Monterey County Superior Court Case No. M118733 will resume.

DISCUSSION:

On May 1, 2012 the Board of Supervisors adopted Resolution No. 12-112 to deny 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 Plan Review) Zoning Districts. As set forth in the recitals of the proposed resolution, as a result of ensuing litigation, the Superior Court approved a Settlement and Release Agreement, which provides that the County of Monterey and its Board of Supervisors rescind its decision adopting Resolution No. 12-112. 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. Instead, 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. The Amended Project will be analyzed and subject to all the analyses, processes, findings, and hearings applicable to similar projects, including preparation of an environmental impact report (EIR).

As noted in the summary above, this Board has discretion to deny the attached resolution or an amended project, with the result that the litigation noted above will resume.

OTHER AGENCY INVOLVEMENT:

The staff of RMA-Planning prepared this report in consultation with County Counsel.

FINANCING:

Adoption of the resolution will have no impact on the General Fund.

Prepared by: Bob Schubert, Senior Planner ext. 5183

Approved by: Mike Novo, Director, RMA-Planning, ext. 5192

Benny Young, Director Resource Management Agency

cc: Front Counter Copy; Bob Schubert, Senior Planner, Mike Novo, Director of Planning, Jesse Avila, County Counsel, Brian Clark, Agent, Pamela Silkwood, Attorney, The Open Monterey Project; LandWatch; Project File GPZ090004

The following attachments on file with the Clerk of the Board:

Attachment A Draft Board Resolution