



County of Monterey

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

Board Report

File #: 17-0664, **Version:** 1

PLN140089 - CARMEL RIO ROAD LLC (CLARK)

Public hearing 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); 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 exceed 4 units on a lot and to exceed the zoning density of the lot;
 2. Amend Section 21.14.060.A to create lots under the minimum one acre building site size; and
 3. Amend Section 21.14.060.B to exceed 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 July 11, 2017 for staff to return with a resolution.

On May 10, 2017, the Planning Commission held a public hearing on the project and voted 8 Ayes, 1 Noe and 1 Absent to recommend that the Board of Supervisors not certify the EIR and not approve the zoning

amendments and Combined Development Permit (Resolution attached, **Exhibit C**). Staff presented policy interpretations supporting a recommendation of approval for the project.

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).

Options for the Board of Supervisors to consider include the following:

1. **Approve Project** - If the Board chooses this option, the Board could adopt a motion of intent and continue the hearing to July 11, 2017 for staff to return with the ordinance and a resolution with findings and evidence to certify the EIR (including overriding considerations) and approve the project subject to conditions of approval. There would be a public hearing to consider the resolution.
2. **Deny Project** - Under this option, the Board could adopt a motion of intent to deny and state reasons for denial and continue the hearing to July 11, 2017 for staff to return with a resolution with findings and evidence for denial. An action to deny the project qualifies for a statutory exemption from CEQA.
3. **Approve Project with 35% Affordable Housing** - Under this option, the Board could continue the

hearing to allow applicant to revise the project if and as needed to provide at least 35% affordable units. The applicant would need to agree to provide at least 35% affordable units and allow additional time to work with staff to develop an appropriate unit mix. Once the project is revised to provide 35% affordable units, the applicant would need to submit a revised Tentative Subdivision Map if the revision necessitates a change to the proposed tentative map. Following review of the revised tentative map, staff would return to the Board with a resolution and conditions of approval.

4. Approve Clustered Design Alternative - Under this option, the Board could continue the hearing to allow applicant to revise the project. The applicant would need to agree to propose a clustered design project and allow additional time to work with staff to revise the Tentative Subdivision Map. The Draft EIR includes a Cluster Design Alternative that involves the development of 15 units clustered on 2.6 acres in the southern portion of the site. Because this alternative would concentrate development on one third of the site, it would not only reduce buildout but would also substantially reduce overall site disturbance. Because this alternative would retain approximately 66% of the site in agricultural production, it could reduce impacts associated with site disturbance, including: aesthetics, cultural resources, flooding and geology and soils.

The project is denoted the “Amended Project” because it is applicant’s second application for the site. In 2012, a Combined Development Permit (GPZ09004) to subdivide the same 7.92 acres into 31 market rate lots plus 11 inclusionary units (42-units total) was denied on appeal to the Board of Supervisors. That project, evaluated under the 2010 General Plan, was denied in part based on a finding of inconsistency with General Plan/Carmel Valley Master Plan policies relative to private roads (Val Verde Drive) and clustering/ density. Subsequently, a legal settlement was reached among private parties relative to the private road. The applicant also sued the County over the denial, which ultimately resulted in a Settlement Agreement. Pursuant to the Settlement Agreement, applicant will dismiss its lawsuit with prejudice if the current proposed 31-unit project (called the “Amended Project”) is brought to hearing before the Board of Supervisors by July 12, 2017 and approved. The Settlement Agreement does not limit County’s discretion, but the applicant may reinstitute its lawsuit if the Board does not approve the 31-unit project.

DISCUSSION:

An EIR was prepared for the project. With the exception of transportation and circulation, the EIR finds that environmental impacts have been reduced to a level of less than significant. Since the impact to transportation and circulation was identified as a significant unavoidable impact, a statement of overriding considerations would be required to approve the project. CEQA requires decision makers to balance the economic, legal, social, technological or other benefits, including region-wide environmental benefits of a proposed project against its unavoidable environmental risks when determining whether to approve a project with significant unavoidable impacts. Potential project benefits that outweigh the significant unavoidable traffic impacts are as follows:

1. Provides a range of housing types, including small lot single-family and apartment units, that are not typical of Carmel Valley and thereby would be relatively more affordable by design in comparison to the typical large-lot (one acre or more) single-family residences and ranch homes that characterize Carmel Valley.
2. The project provides 25% affordable units consistent with Policy CV-1.10. Despite meeting the 25% inclusionary housing threshold, the 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.
3. Provides housing in a location that is within walking distance to shopping and services.
4. Would create economic benefits to the County and the local economy through the creation of temporary construction jobs and the creation of new property tax revenue through higher property

valuation.

5. Would reduce baseline consumptive water use on average by approximately 47% which will be a benefit to Carmel River and its biological resources.

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 there is a preference for projects in Carmel Valley that include at least 50% affordable housing and 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 (see Planning Commission Resolution, **Exhibit C**).

Following the Planning Commission meeting, staff had discussions with applicant regarding the possibility of increasing the percentage of affordable/workforce housing. There are a number of options available. Staff presented an option for affordable unit mix that includes 21 market rate units and 10 affordable units (e.g., 7 inclusionary and 3 workforce). The proposed project includes 24 market rate units and 7 affordable units. For a breakdown of the unit mix between the proposed project and the option presented by staff as well as the income limits for the various income categories see **Exhibit A, Discussion**. As of the writing of this staff report, 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 considerations.

Additional details are provided in the attached Discussion (**Exhibit A**).

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-Public Works
- RMA-Environmental Services
- Water Resources Agency
- Cypress Fire Protection District
- Carmel Valley Land Use Advisory Committee
- Economic Development Department (Housing Office)
- RMA-Parks
- 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. Minutes from both LUAC meetings are attached (**Exhibit D**).

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 FY16-17 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, RMA Chief of Planning

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

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); LandWatch; John H. Farrow; Janet Brennan; Project File PLN140089.

The following attachments are on file with the RMA:

Attachments:

- Exhibit A - Discussion
- Exhibit B - Draft Ordinance
- Exhibit C - Planning Commission Resolution
- Exhibit D - Carmel Valley LUAC Minutes
- Exhibit E - Vicinity Map
- Exhibit F - Tentative Subdivision Map
- Exhibit G - Draft EIR (CDs distributed to Board on 12/1/2016) *
- Exhibit H - Final EIR (hard copies distributed to Board on 5/3/2017) *
- Exhibit I - Mitigation Measures

Exhibit J - Correspondence from the public

*Copies of the Draft EIR and Final EIR are available for review on the RMA-Planning public website at the following link:

<http://www.co.monterey.ca.us/government/departments-i-z/resource-management-agency-rma-/planning/current-major-projects/carmel-rio-road-subdivision>