

MONTEREY COUNTY BOARD OF SUPERVISORS

MEETING: March 27, 2012 SCHEDULED		AGENDA NO:
SUBJECT: Public hearing to:		
<ul style="list-style-type: none"> a. Provide direction on interpretation of the 2010 General Plan as it applies to the application for a Combined Development Permit for a 42-unit subdivision on 7.92 acres on Val Verde Drive in Carmel Valley; b. Continue to a date uncertain the Public Hearing on the appeal by Brian Clark from the Planning Commission denial of the Combined Development Permit, with direction to prepare an Environmental Impact Report (EIR) for the project in accordance with the County's EIR consultant selection policy and to address General Plan consistency and density issues; c. Remand the application to the Planning Commission for a recommendation on the application following the completion of an EIR; and d. Direct staff to set a public hearing on the application and appeal before the Board of Supervisors following a recommendation by the Planning Commission. 		
(Appeal of denial of a Combined Development Permit – GPZ090004/Carmel Rio Road, LLC, 15 and 26500 Val Verde Drive, Carmel Valley Master Plan)		
Project Location: 15 and 26500 Val Verde Drive, Carmel Valley	APNs: 015-021-020-000, 015-021-021-000 and 015-021-015-000	
Planning File Number: GPZ090004	Owner: Carmel Rio Road, LLC Applicant: Brian Clark	
Plan Area: Carmel Valley Master Plan	Flagged and Staked: No	
Zoning Designation: LDR/1-D-S-RAZ (Low Density Residential/Maximum Gross Density of 1 acre/unit-Design Control-Site Plan Review-Residential Allocation Zoning)		
CEQA Action: Recommend preparation of an Environmental Impact Report (EIR).		
DEPARTMENT: RMA – Planning Department		

RECOMMENDATION: It is recommended that the Board of Supervisors:

- a. Provide direction on interpretation of the 2010 General Plan as it applies to the application for a Combined Development Permit for a 42-unit subdivision on 7.92 acres on Val Verde Drive in Carmel Valley;
- b. Continue to a date uncertain the Public Hearing on the appeal by Brian Clark from the Planning Commission denial of the Combined Development Permit, with direction to prepare an Environmental Impact Report (EIR) for the project in accordance with the County's EIR consultant selection policy and to address General Plan consistency and density issues;
- c. Remand the application to the Planning Commission for a recommendation on the application following the completion of an EIR; and
- d. Direct staff to set a public hearing on the application and appeal before the Board of Supervisors following a recommendation by the Planning Commission.

SUMMARY: Carmel Rio Road, LLC (Brian Clark) requests approvals for a 42-unit subdivision on 7.92 acres on Val Verde Drive in Carmel Valley. The project includes 31 Market Rate lots and one Inclusionary Housing lot containing 11 Inclusionary units (2 very low, 5 low and 4 moderate). Subdivision applications deemed complete after October 16, 2007 are subject to the 2010 General Plan (Policy LU-9.3). This application was deemed complete as of December 9, 2010.

From the point that the application was submitted, staff identified issues including conflicts with General Plan policies. Over time, the applicant has worked to address the various issues; however, land use remains a significant unresolved issue that requires Board interpretation. The General Plan/Carmel Valley Master Plan land use map designates Val Verde Drive as LDR/1

(low density residential, one unit per acre). Policy CV-1.10 states that a density of up to four units per acre *may be allowed* provided at least 25% of the units are *developed* for low and moderate income or workforce housing. Staff interprets the language to mean that the added density is at the discretion of the County and only if the units are made affordable by design (not deed restrictions). Policy CV-1.10 concludes that the policy is not intended to be used in conjunction with other density bonus provisions, specifically Policy CV-1.11. The project proposes to apply the four units per acre density bonus from CV-1.10, PLUS a separate and additional density bonus is requested pursuant to the State Density Bonus provisions. Staff interprets that the intent of Policy CV-1.10 is to allow one density bonus or the other, but not both CV-1.10 and the State Density Bonus combined. Staff has also identified inconsistency with development standards of the LDR zone in Title 21 (e.g.; lot size). Another unresolved issue is proof of access (Policy CV-3.6) which was the basis for the Planning Commission denial. The applicant proposes to use Val Verde Drive, a non-exclusive, privately held easement, for access to the project. Since the Planning Commission meeting, the applicant has filed a lawsuit to seek a judicial determination as to the use of the Val Verde Drive easement.

Interim Ordinance 5171, as modified and extended by Ordinance Nos. 5172 and 5193, establishes a process for determining General Plan consistency for discretionary projects pending the adoption of applicable programs and ordinances to implement the 2010 General Plan. In accordance with this ordinance, staff prepared a consistency analysis of the application and determined that the project is inconsistent with the General Plan. On November 9, 2011, the Planning Commission agreed with staff's General Plan consistency determination and afforded the applicant 60 days to request a General Plan Amendment or revise the application to attain consistency. The applicant did not revise the application and waived the 60-day period in order to be heard as soon as possible by the Planning Commission. On January 25, 2012, the Planning Commission denied the Combined Development Permit due to inconsistency with the 2010 General Plan.

On February 3, 2012, the applicant appealed the Planning Commission's denial of the Combined Development Permit on the basis that the application is consistent with General Plan Policy C-3.6 and that staff should be directed to do an independent judgment of the "Draft EIR" that the applicant submitted on November 9, 2011. On March 7, 2012, the applicant requested a six month continuance of the public hearing on the appeal because "*additional time is needed by the applicant in order to conform to the Planning Staff and Planning Commission's requirement to seek a court judgment for the Val Verde easement*" (see **Exhibit No. 5**, Letter from Pamela Silkwood).

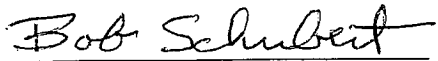
DISCUSSION: Detailed discussion is provided in Exhibit No. 1.

OTHER AGENCY INVOLVEMENT: The following agencies have reviewed the project and those that are checked ("✓") have comments and/or recommended conditions:

✓	RMA - Public Works Department
✓	RMA-Office of Redevelopment and Housing
✓	Environmental Health Bureau
✓	Water Resources Agency
✓	Cypress Fire Protection District
✓	Parks Department
✓	Monterey County Sheriff's Department

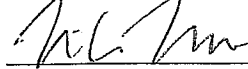
FINANCING: The applicant has paid fees associated with processing a development application. Therefore, funding for staff time associated with this project is included FY11-12 Final Budget for the Planning Department.

Prepared by:



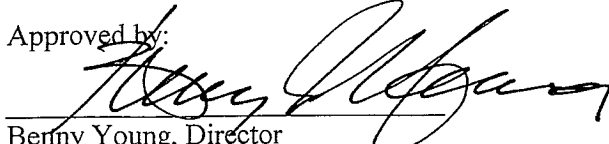
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Approved by:



Benny Young, Director
Resource Management Agency

This report was prepared by Bob Schubert and reviewed by Carl Holm and Wendy Strimling.

cc: Front Counter Copy; Board of Supervisors (14); County Counsel; Wendy Strimling, Senior Deputy County Counsel; Cypress Fire Protection District; Public Works Department; Parks Department; Janna Faulk, Environmental Health Bureau; Jennifer Bodensteiner, Water Resources Agency; Marti Noel, Economic Development Department; Carl Holm, Acting Deputy Director of RMA Department; Wanda Hickman, Planning Services Manager; Bob Schubert, Senior Planner; Carol Allen, Senior Secretary; Brian Clark, Applicant; Pam Silkwood, Attorney; Margaret Robbins; DeeAnne Howe; The Open Monterey Project; Landwatch; Planning File GPZ090004.

The following Exhibits are on file with the Clerk of the Board:

Exhibit No. 1	Discussion
Exhibit No. 2	Draft Resolution
Exhibit No. 3	Planning Commission Resolution No. 12-004
Exhibit No. 4	Notice of Appeal submitted on February 3, 2012
Exhibit No. 5	Letter from Pamela Silkwood dated March 7, 2012
Exhibit No. 6	Vicinity Map
Exhibit No. 7	Minutes of Planning Commission meeting of January 25, 2012
Exhibit No. 8	Minutes of Planning Commission meeting of November 9, 2011
Exhibit No. 9	Comments from members of the public
Exhibit No. 10	Reduced Tentative Subdivision Map
Exhibit No. 11	Resolution No. 07-428

