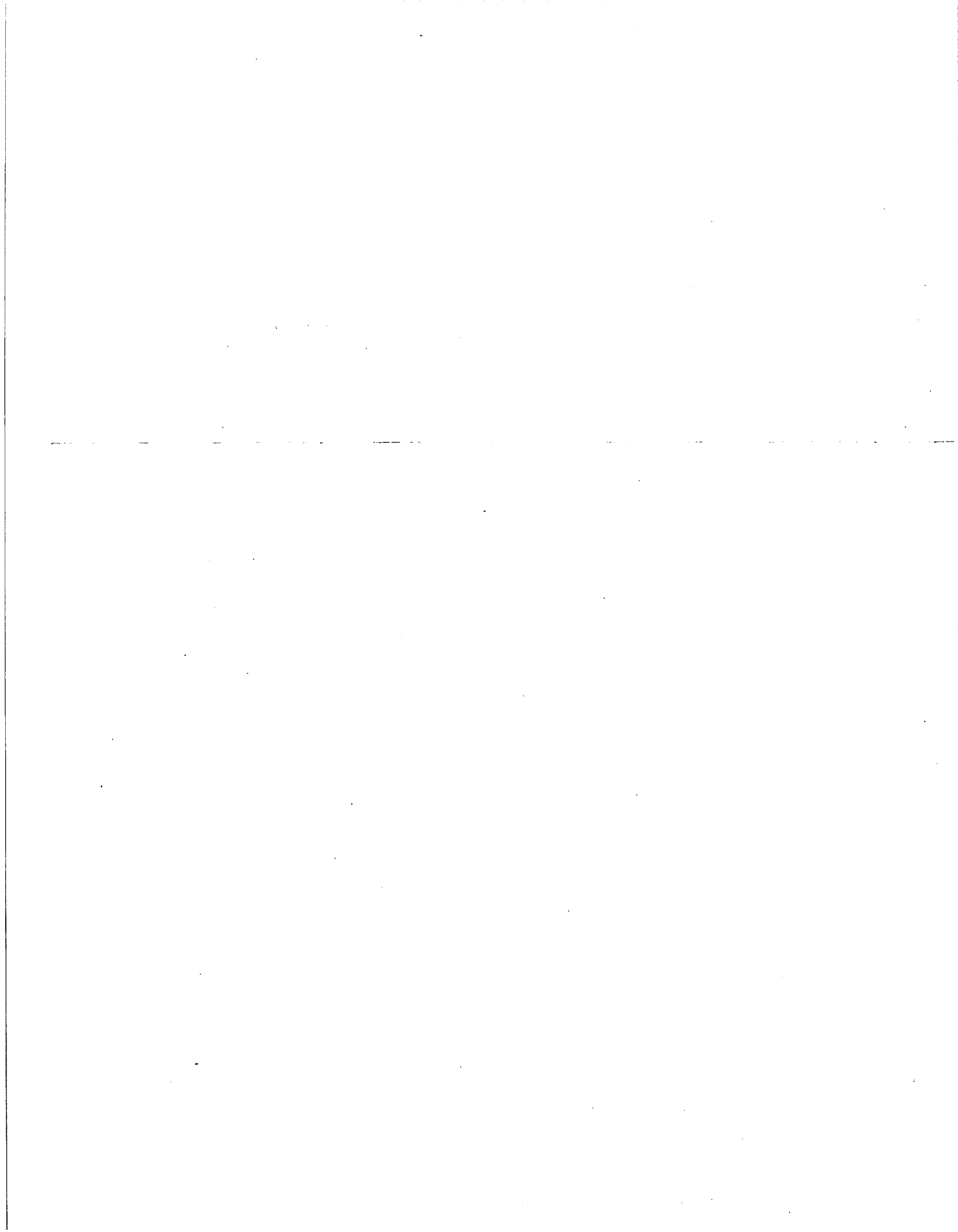


Exhibit No. 2
Draft Board Order

Carmel Rio Road, LLC
GPZ090004

Board of Supervisors
March 27, 2012



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

Resolution No.

- Resolution of the Monterey County Board of Supervisors to:)
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.)
(GPZ090004/Carmel Rio Road, LLC))

An appeal of the Planning Commission action to deny a Combined Development Permit for a 42-unit subdivision on 7.92 acres on Val Verde Drive in Carmel Valley came on for public hearing before the Monterey County Board of Supervisors on March 27, 2012. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Monterey County Board of Supervisors hereby finds and decides as follows:

RECITALS

WHEREAS, staff's interpretations of General Plan policies applicable to the proposed project were presented to the Planning Commission at a public hearing on November 9, 2011. At the hearing, the applicant submitted materials which he contended constituted a Draft Environmental Impact Report (EIR) for the project. 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.

WHEREAS, on January 25, 2012, the Planning Commission denied the Combined Development Permit due to inconsistency with Policy C-3.6 (Proof of Access) in the 2010 General Plan. Staff reviewed the materials submitted as the purported "Draft EIR" and determined that they do not meet County standards for a Draft EIR and do not reflect the County's independent judgment.

WHEREAS, on February 3, 2012, the applicant filed a timely appeal of the Planning Commission's denial of the Combined Development Permit. The appeal was brought 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.

WHEREAS, on March 2, 2012, the applicant filed a complaint in the Superior Court of California seeking a judgment that the Val Verde Drive easement can be used to provide access to the proposed 42 lot subdivision or any other residential or commercial development on the site. 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*".

WHEREAS, this project requires a water system with two water sources that meet all of the required regulations. Although there are two existing wells on the property, one of the wells (Travers) does not meet the well control zone requirements due to the lack of an easement with the neighboring property and the sewer main location in Val Verde Drive. On January 6, 2012, the applicant submitted a well permit application to the Environmental Health Bureau to replace the Travers well. Staff of the Environmental Health Bureau and Resource Management Agency reviewed the proposed well in accordance with Policies PS-3.3 and CV-3.20 of the 2010 General Plan. On March 3, 2012, the Environmental Health Bureau issued a permit for the replacement well. Due to the location of the replacement well, the tentative map will need to be revised to either create a well lot or provide an easement around the well. In addition, the replacement well will need to be drilled and tested to provide the required information in regard to "*production capacity, production capability and any adverse effect on the economic extraction of water or other effect on wells in the immediate vicinity*" in order to determine consistency with General Plan Policies PS-3.1, 3.2, 3.9 and 3.13 and CV 3.20.

WHEREAS, rather than grant the requested six month continuance, staff recommends that the Board: 1) provide direction on interpretation of the 2010 General Plan as it applies to the application; 2) continue to a date uncertain the Public Hearing on the appeal, 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; 3) remand the application to the Planning Commission for a recommendation on the application following the completion of an EIR; and 4) direct staff to set a Public Hearing on the application and appeal before the Board of Supervisors following a recommendation by the Planning Commission. This action will allow the applicant to make revisions to the project required to accommodate the newly approved well and to address the General Plan, density and lot size issues. This action will also allow the EIR process to proceed in compliance with CEQA while the court considers the lawsuit the applicant filed regarding the access easement.

WHEREAS, the Board of Supervisors interprets General Plan Policy CV-1.10 to mean that the increased density allowed under CV-1.10 is not meant to be used in conjunction, or stacked, with other density bonuses such as the State Density Bonus provisions. Accordingly, the options for applicant under the existing zoning and land use designation of the site are as follows: 1) up to 7 units with no density bonus or clustering; 2) up to 9 units applying the State Density Bonus provisions with appropriate affordability (e.g., seven one acre minimum single family lots with one lot containing three units); 3) up to 15 units applying the density bonus allowed under Policy CV-1.10 (2 units/acre with suitable clustering); or 4) up to 28 units applying the density bonus allowed under Policy CV-1.10 (4 units/acre provided at least 25% of the units for individuals of low and moderate income or for workforce housing) and designed as one acre (minimum) lots with a maximum of 4 units/lot pursuant to Section 21.14.050.A. Continuing the hearing will allow the applicant the opportunity to redesign the subdivision to address the land use and density issues.

WHEREAS, in order to satisfy the requirement of exercising its independent judgment and analysis, County practice has been to contract directly with an EIR consultant on the County's list and enter into a separate agreement with the applicant to reimburse the County for the cost of the EIR consultant. The Board of Supervisors has adopted Resolution No. 07-428 setting forth the process for selection of EIR consultants. As set forth in the resolution, the Planning Department prepares a Request for Proposals (RFP), sends it to three firms on the County's list (the applicant may remove one of the firms) and then selects a consultant based upon the proposals that are submitted. The County then enters into a contract with the EIR consultant and enters into a reimbursement agreement with the applicant.

DECISION

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors does hereby:

- 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.

PASSED AND ADOPTED on this 27th day of March 2012, 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 order 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