

## MONTEREY COUNTY ZONING ADMINISTRATOR

<b>Meeting:</b> December 9, 2010	<b>Time:</b> 2:30 P.M	<b>Agenda Item No.:</b> 2
<b>Project Description:</b> Use Permit and Design Approval to abate Zoning Violation No. 10CE00630 and allow open air retail sales consisting of the seasonal sale of Christmas trees.		
<b>Project Location:</b> 3705 Rio Road, Carmel Valley		<b>APN:</b> 009-562-002-000M
<b>Planning File Number:</b> PLN100630		<b>Owner:</b> Carmel Properties Company <b>Agent:</b> Doug De George
<b>Planning Area:</b> Carmel Valley Master Plan		<b>Flagged and staked:</b> No
<b>Zoning Designation:</b> LC-D-S-RAZ (Light Commercial with Design Control, Site Plan Review, and Residential Allocation Zoning District Overlays).		
<b>CEQA Action:</b> Categorically Exempt per Section 15303 (c)		
<b>Department:</b> RMA - Planning Department		

**RECOMMENDATION:**

Staff recommends that the Zoning Administrator adopt a resolution (**Exhibit A**) to:

- 1) Categorically Exempt the project; and
- 2) Approve the Use Permit and Design Approval (PLN100630), based on the findings and evidence and subject to the conditions of approval (**Exhibit A**):

**PROJECT OVERVIEW:**

The subject property is vacant lot located at 3705 Rio Road, Carmel Valley, at the northeast corner of the intersection of Rio Road and Carmel Center Place. The applicant proposes a temporary and seasonal use of the site to allow for Christmas tree sales.

Temporary site improvements for sales include: the installation of four (4) 70-foot tree corrals with hanging lights (not to exceed 20 watts per bulb), five (5) 16-foot tree corrals with hanging lights (not to exceed 20 watts per bulb), one (1) temporary tent (not to exceed 3,200 square feet), one (1) temporary inflatable slide, and two (2) advertising, informational, and directional signs.

Operation will begin the Monday before Thanksgiving and continue until January 1<sup>st</sup> on a seasonal basis. Sales will be conducted seven day a week from 9:00 A.M to 9:00 P.M. and there will be at least three employees on site Monday through Friday and seven employees onsite Saturday and Sunday.

**OTHER AGENCY INVOLVEMENT:** The following agencies and departments reviewed this project:

- √ RMA - Public Works Department
- √ Environmental Health Bureau
- √ Cypress Fire Protection District

Agencies that submitted comments are noted with a check mark ("√"). Conditions recommended by Public Works, Environmental Health Bureau, and Cypress Fire Protection District have been incorporated into the Condition Compliance/Mitigation Monitoring and Reporting Plan attached as Exhibit 1 to the draft resolution (**Exhibit A**).

The project was not referred to the Carmel Valley Land Use Advisory Committee (LUAC) for review. Based on the LUAC Procedure guidelines adopted by the Monterey County Board of Supervisors per Resolution No. 08-338, this application did not warrant referral to the LUAC.

Note: The decision on this project is appealable to the Planning Commission.



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November 24, 2010

cc: Front Counter Copy; Zoning Administrator; Monterey County Regional Fire Protection District; Public Works Department; Environmental Health Bureau; Water Resources Agency; Laura Lawrence, Planning Services Manager; Anna V. Quenga, Project Planner; Carol Allen, Senior Secretary; Carmel Properties Company, Owner; Doug De George, Agent; Planning File PLN100630.

Attachments: Exhibit A      Draft Resolution, including:  
   1. Conditions of Approval  
   2. Site Plan  
   Exhibit B      Operational Plan  
   Exhibit C      Vicinity Map

This report was reviewed by Laura Lawrence, Planning Services Manager



**EXHIBIT A  
DRAFT RESOLUTION**

**Before the Zoning Administrator in and for the  
County of Monterey, State of California**

In the matter of the application of:

**Carmel Properties Company (PLN100630)**

**RESOLUTION NO. 100630**

Resolution by the Monterey County Zoning  
Administrator:

- 1) Categorically exempt the project from environmental review pursuant to CEQA Guidelines Section 15303(c); and
- 2) Approving the Use Permit and Design Approval to abate Zoning Violation No. 10CE00434 and allow open air retail sales consisting of the seasonal sale of Christmas trees.

(PLN100630, Carmel Properties Company, Rio Road, Carmel Valley, Carmel Valley Master Plan (APNs: 009-562-002-000, 009-562-015-000, and 009-562-016-000))

**The Use Permit and General Development Plan application (PLN100630) came on for public hearing before the Monterey County Zoning Administrator on December 9, 2010. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Zoning Administrator finds and decides as follows:**

**FINDINGS**

1. **FINDING:** **CONSISTENCY** – The Project, as conditioned, is consistent with the applicable plans and policies which designate this area as appropriate for development.  
**EVIDENCE:** a) During the course of review of this application, the project has been reviewed for consistency with the text, policies, and regulations in:
  - the 2010 Monterey County General Plan,
  - Carmel Valley Master Plan,
  - Monterey County Zoning Ordinance (Title 21)No conflicts were found to exist. No communications were received during the course of review of the project indicating any inconsistencies with the text, policies, and regulations in these documents.  
b) The property is located at 3705 Rio Road (Assessor Parcel Number's 009-562-002-000, 009-562-015-000, and 009-562-016-000), north of the intersection of Carmel Center Place and Carmel Valley Road, Carmel Valley Master Plan. The parcel is zoned LC-D-S-RAZ (Light Commercial with Design Control, Site Plan Review, and Residential Allocation Zoning District Overlays, which allows open air retail sales. Therefore, the project is an allowed land use for this site.

- c) The proposed Operational Plan which addresses: parking layout, sign program, exterior lighting plan, hours of operation, and days of the year for Christmas tree sales, is consistent with the requirements of the Light Commercial Zoning District. The Operational Plan is attached hereto as Exhibit B of the December 9, 2010 Zoning Administrator staff report and incorporated herein by reference. **(Condition No. 4).**
- d) The subject property is located within a Design Control and Site Plan Review Districts; therefore a Design Approval is required. The project includes the temporary erection an 800 square foot temporary sales tent, nine Christmas tree corrals, and a fenced area for tree storage. Colors and materials used are consistent with Carmel Valley Master Plan Policy No. 28.1.20A as they contain a rural architectural theme.
- e) The project planner conducted a site inspection on November 24, 2010 to verify that the project on the subject parcel conforms to the plans listed above.
- f) The proposed project includes seasonal sales of Christmas trees. The permit includes a condition requiring monitoring for 3 years. If the permit requires necessary modifications based on data collected from monitoring, the applicant shall submit an application for an amendment or an additional permit based on the modification.
- g) The project was not referred to the Carmel Valley Land Use Advisory Committee (LUAC) for review. Based on the LUAC Procedure guidelines adopted by the Monterey County Board of Supervisors per Resolution No. 08-338, this application did not warrant referral to the LUAC.
- h) The subject properties are located within a Light Commercial District and are in excess of one acre. Pursuant to Section 21.18.030 of Title 21, a General Development Plan (GDP) is required. However, pursuant to Section 21.18.030.E of Title 21, the GDP may be waived by the Director of Planning if there is not potential significant adverse impact from the development. Therefore, the requirement of a GDP is waived due to the seasonal temporary nature of the project.
- i) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN100630.

2. **FINDING:** **SITE SUITABILITY** – The site is physically suitable for the use proposed.

- EVIDENCE:**
- a) The project has been reviewed for site suitability by the following departments and agencies: RMA - Planning Department, Cypress Fire Protection District, Public Works, and the Environmental Health Bureau. There has been no indication from these departments/agencies that the site is not suitable for the proposed development. Conditions recommended have been incorporated.
  - b) Staff identified no potential impacts to Biological Resources, Archaeological Resources, Soil/Slope Stability, etc. There are no physical or environmental constraints that would indicate that the site is not suitable for the use proposed.
  - c) Staff conducted a site inspection on November 24, 2010 to verify that the site is suitable for this use.

- d) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN100630.

3. **FINDING:** **HEALTH AND SAFETY** - The establishment, maintenance, or operation of the project applied for will not under the circumstances of this particular case be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.

- EVIDENCE:**
- a) The project was reviewed by Cypress Fire Protection District, Public Works, and the Environmental Health Bureau. The respective departments/agencies have recommended conditions, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood.
  - b) Necessary public facilities are available. The project does not require the water or sewer services. An existing electrical power supply is located on the site.
  - c) Bathroom facilities are available for employees of the site as required by the Environmental Health Bureau. The project has been conditioned requiring the applicant to submit proof from neighboring property owners allowing the use of their toilet facilities during the temporary use of the property.
  - d) Due to potential unsafe left turn movement off of Rio Road onto the property, Public Works has conditioned the project to require the applicant to replace the existing "No U-Turn" sign on the mast arm of the signal light located at the southwest corner of Rio Road and Carmel Center Place with a combination "No Left/ U-Turn" sign and install a second "No Left/ U-Turn" sign in the median west of the intersection.
  - e) Preceding findings and supporting evidence for PLN100630.

4. **FINDING:** **NO VIOLATIONS** - The subject property is not in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of the County's zoning ordinance. Issuance of this discretionary permit will correct the violation.

- EVIDENCE:**
- a) Staff conducted a site inspection on November 24, 2010 and researched County records to assess if any violation exists on the subject property.
  - b) Equipment, a sales tent, and tree corrals have been placed on the property prior to the applicant obtaining a discretionary permit. Therefore, a Code Enforcement case, violation No. 10CE00434 was opened for the property. Approval of the proposed project will abate the violation and the property will be in compliance with the Monterey County Zoning regulations for the Light Commercial Zoning district.
  - c) Zoning violation abatement costs, if any, have been paid. A condition is included to assure that all zoning abatement costs, if any, have been paid.
  - d) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the

proposed development are found in Project File PLN100630.

5. **FINDING:** **CEQA (Exempt):** - The project is categorically exempt from environmental review and no unusual circumstances were identified to exist for the proposed project.
- EVIDENCE:** a) California Environmental Quality Act (CEQA) Guidelines Section 15303(c), categorically exempts a store or similar structure not involving the use of significant amounts of hazardous substances and not exceeding 2,500 square feet of floor area.
- b) Section 15300.2 of the CEQA Guidelines list exceptions to the exemptions, were projects normally found to be exempt from CEQA may require an environmental review. These exceptions include: project location, cumulative impact, significant effect, scenic highways, hazardous waste sites, or historical resources. The subject property is not located within an officially designated state scenic highway, it is not listed on the Cortese List (for hazardous materials sites) from the Department of Toxic Substances Control (DTSC), nor are there any historic resources located on the site. No environmental resource of hazardous or critical concern was found on the property and no unusual circumstance exists where the project will have a significant effect on the environment. The project as proposed and conditioned will not create a significant impact on the environment and cumulative impacts were not identified.
- c) No adverse environmental effects were identified during staff review of the development application during a site visit on November 24, 2010.
- d) See preceding and following findings and supporting evidence.
6. **FINDING:** **APPEALABILITY** - The decision on this project may be appealed to the Planning Commission.
- EVIDENCE:** Section 21.80.040.A Monterey County Zoning Ordinance (Planning Commission).

### DECISION

**NOW, THEREFORE**, based on the above findings and evidence, the Zoning Administrator does hereby:

- A. Categorically exempt the project from environmental review pursuant to CEQA Guideline Section 15303(c); and
- B. Approve the Use Permit and Design Approval to abate Zoning Violation No. 10CE00434 and allow open air retail sales consisting of the seasonal sale of Christmas trees, in general conformance with the attached sketch (**Exhibit 2**) and subject to the conditions (**Exhibit 1**), both exhibits being attached hereto and incorporated herein by reference.

**PASSED AND ADOPTED** this 9<sup>th</sup> day of December by:

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Mike Novo, Zoning Administrator

COPY OF THIS DECISION MAILED TO APPLICANT ON

THIS APPLICATION IS APPEALABLE TO THE PLANNING COMMISSION.

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE SECRETARY OF THE PLANNING ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE

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.

NOTES

1. You will need a building permit and must comply with the Monterey County Building Ordinance in every respect.

Additionally, the Zoning Ordinance provides that no building permit shall be issued, nor any use conducted, otherwise than in accordance with the conditions and terms of the permit granted or until ten days after the mailing of notice of the granting of the permit by the appropriate authority, or after granting of the permit by the Board of Supervisors in the event of appeal.

Do not start any construction or occupy any building until you have obtained the necessary permits and use clearances from the Monterey County Planning Department and Building Services Department office in Salinas.

2. This permit expires 3 years after the above date of granting thereof unless construction or use is started within this period.

<b>RESOLUTION ### - EXHIBIT 1</b> <b>Monterey County Resource Management Agency</b> <b>Planning Department</b> <b>Condition Compliance and/or Mitigation Monitoring</b> <b>Reporting Plan</b>	<b>Project Name:</b> <u>Carmel Properties Company</u> <b>File No:</b> <u>PLN100630</u> <b>APNs:</b> <u>009-562-002-000M</u> <b>Approved by:</b> <u>Zoning Administrator</u> <b>Date:</b> <u>December 9, 2010</u>
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*\*Monitoring or Reporting refers to projects with an EIR or adopted Mitigated Negative Declaration per Section 21081.6 of the Public Resources Code.*

Permit Cond. Number	Mitig. Number	Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
<b>RMA – Planning Department</b>						
1.		<b>PD001 - SPECIFIC USES ONLY</b> This Use Permit and Design Approval (PLN10063) abates Zoning Violation No. 10CE00434 and allows open air retail sales consisting of the seasonal sale of Christmas trees. The property is located at 3705 Rio Road, Carmel Valley (Assessor Parcel Numbers 009-562-002-000, 009-562-015-000, and 009-562-016-000), Carmel Valley Master Plan. This permit was approved in accordance with County ordinances and land use regulations subject to the following terms and conditions. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. <b>(RMA-Planning Department)</b>	Adhere to conditions and uses specified in the permit.  Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of the RMA - Planning Department.  To the extent that the County has delegated any condition compliance or mitigation monitoring to the Monterey County Water Resources Agency, the Water Resources Agency shall provide all information requested by the County and the County shall bear ultimate responsibility to ensure that conditions and mitigation measures are properly fulfilled.	Owner/ Applicant  RMA - Planning  WRA  RMA - Planning	Ongoing unless otherwise stated	



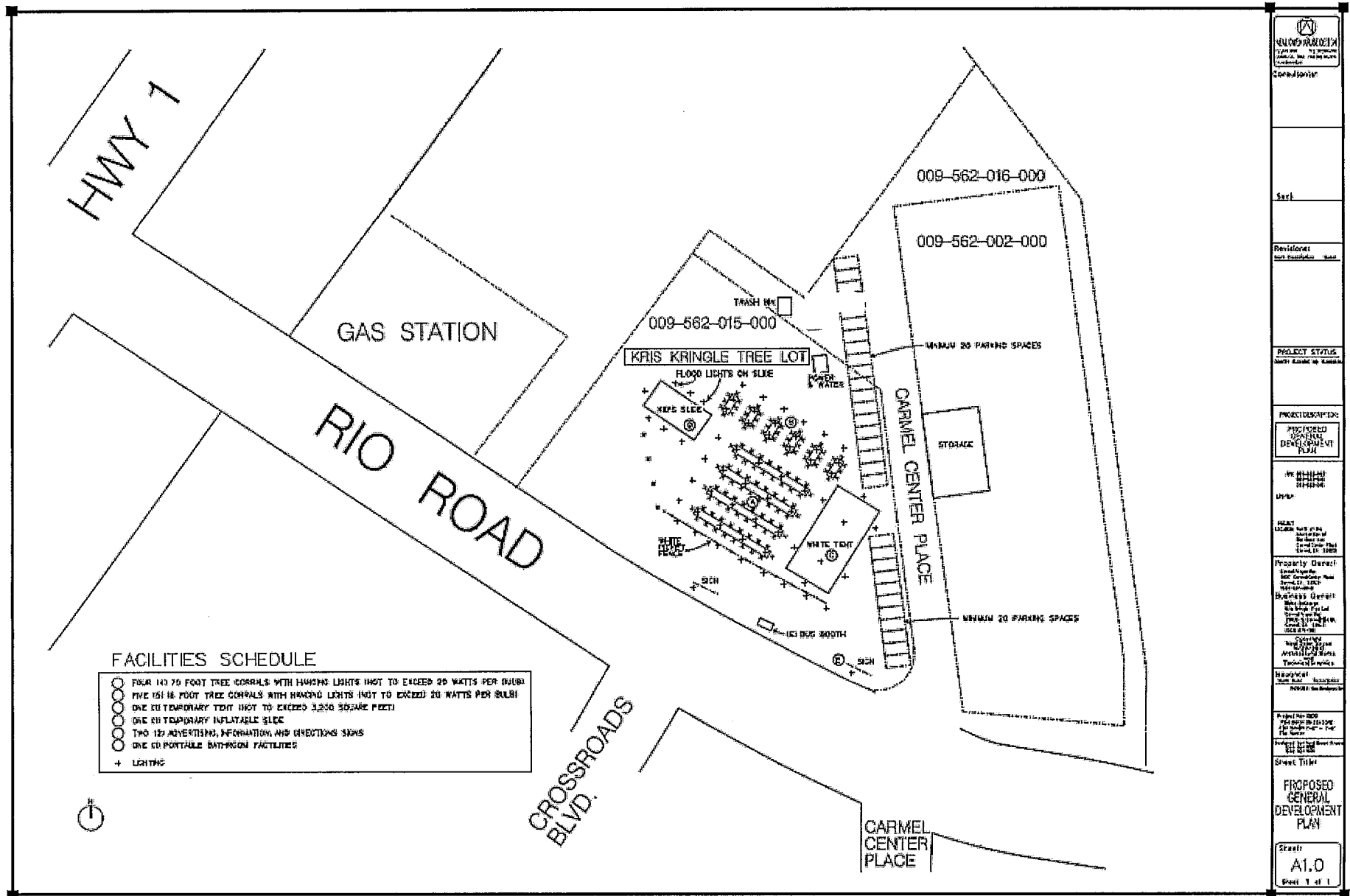
<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (name/date)</i>
2.		<b>PD002 - NOTICE-PERMIT APPROVAL</b> The applicant shall record a notice which states: "A permit (Resolution _____) was approved by the <b>Zoning Administrator</b> for Assessor's Parcel Number 009-562-002-000 on December 9, 2010. The permit was granted subject to 8 conditions of approval which run with the land. A copy of the permit is on file with the Monterey County RMA - Planning Department." <b>(RMA-Planning Department)</b>	Obtain appropriate form from the RMA-Planning Department.  The applicant shall complete the form and furnish proof of recordation of this notice to the RMA - Planning Department.	Owner/ Applicant  RMA- Planning	Prior to commencement of use.	
3.		<b>PDSP001 - PERMIT EXPIRATION (NON-STANDARD)</b> The permit shall be granted for a time period of 3 years, to expire on December 9, 2013 unless use of the property or actual construction has begun within this period. <b>(RMA – Planning Department)</b>	The applicant shall obtain a valid grading or building permit and/or commence the authorized use to the satisfaction of the Director of Planning. Any request for extension must be received by the Planning Department at least 30 days prior to the expiration date.	Owner/ Applicant	As stated in the conditions of approval	
4.		<b>PDSP002 – OPERATIONAL PLAN (NON-STANDARD)</b> The seasonal use of the property for Christmas tree sales shall be in conformance with the Operational Plan. Any deviation of this approved use shall require either an amendment to or an additional the Use Permit. <b>(RMA – Planning Department)</b>	Use of the property shall be in conformance with the approved Operational Plan.	Owner/ Applicant	Ongoing	
5.		<b>PDSP003 – PERMIT MONITORING (NON-STANDARD)</b> The approved use shall be monitored annually for the first three years of operation. Based on data collected from monitoring, the applicant shall submit an application for an amendment or an additional permit if modifications to the permit are necessary. <b>(RMA – Planning Department)</b>	For the first three years of operation, the RMA-Planning Department shall monitor the use of the site. If modifications to the permit are necessary, the applicant shall submit and application and obtain approval for an amendment or additional Use Permit.	Owner/ Applicant	Annually, for the first three years of operation.	

Permit Cond. Number	Mitig. Number	Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
<b>RMA – Public Works Department</b>						
6.		<b>PWSP001 – NO LEFT TURN (NON-STANDARD)</b> The applicant shall reimburse the Public Works Department for replacing the existing “No U-Turn” sign on the mast arm of the signal light located at the southwest corner of Rio Road and Carmel Center Place with a combination “No Left/U-Turn” sign and the installation of a second “No Left/U-Turn” sign in the median west of the intersection. <b>(Public Works)</b>	Prior to commencement of use, the existing “No U-Turn” sign on the mast arm of the signal light located at the southwest corner of Rio Road and Carmel Center Place shall be replaced with a “No Left Turn” sign.	Owner/ Applicant	Prior to commence-ment of use	
			The applicant shall reimburse the Public Works Department for expenses incurred for the replacement and installation of the signs.	Owner/ Applicant	Within 90 days of commence-ment of use	
<b>Health Department Environmental Health Bureau</b>						
7.		<b>EHSP001 – TEMPORARY USE OF RESTROOM FACILITIES FOR EMPLOYEES ON-SITE (NON-STANDARD)</b> The applicant shall submit proof of permission for employees to use restroom facilities on the adjacent lot. <b>(Environmental Health Bureau)</b>	Prior to commencement of use, the applicant shall submit a letter to the Environmental Health Bureau from the adjacent property owner indicating permission of use of restroom facilities by employees.	Owner/ Applicant	Prior to commence-ment of use	
<b>Cypress Fire Protection District</b>						
8.		<b>FIRES001 – TEMPORARY STRUCTURES (NON-STANDARD)</b> All tents, canopies and temporary membrane structures will comply with the requirements of the applicable Fire and Building Code. <b>(Cypress Fire Protection District)</b>	All tents, canopies, and temporary membrane structures erected shall comply with the applicable Fire and Building Code.	Owner/ Applicant	Ongoing	

**END OF CONDITIONS**

Rev. 08/25/2010

# EXHIBIT 2



# EXHIBIT B

## Operational Plan

for the Carmel Properties Company property,  
located at Rio Road, Carmel Valley,  
north of the intersection of Rio Road and Carmel Center Place.

County Planning File Number PLN100630.

### Requested uses

- **Open air retail sales to allow the seasonal sale of Christmas Trees pursuant to Section 21.18.060.F (Light Commercial Zoning District) of the Monterey County Zoning Ordinance.**

### Uses not to be considered

- **All extraneous uses other than the sale of Christmas trees.**

### Description of Proposed Site Improvements

- **Formal Site plan** – The site will contain:
  - Four (4) 70 foot tree corrals with hanging lights (not to exceed 20 watts per bulb)
  - Five (5) 16 foot tree corrals with hanging lights (not to exceed 20 watts per bulb)
  - One (1) temporary tent (not to exceed 3,200 square feet)
  - One (1) temporary inflatable slide
  - Two (2) advertising, informational, and directional signs
- **Materials and Colors** – White tent with natural wood tree corrals.
- **Parking Areas** – Parking area will provide at least 20, unmarked parking stalls.
- **Exterior Lighting** – Exterior lighting on the property will be located at the tent, tree corrals, and slide. Not to exceed 20 watts per bulb.
- **Trash and Recycling Bin enclosures** – One (1) trash bin located towards the rear of the property.

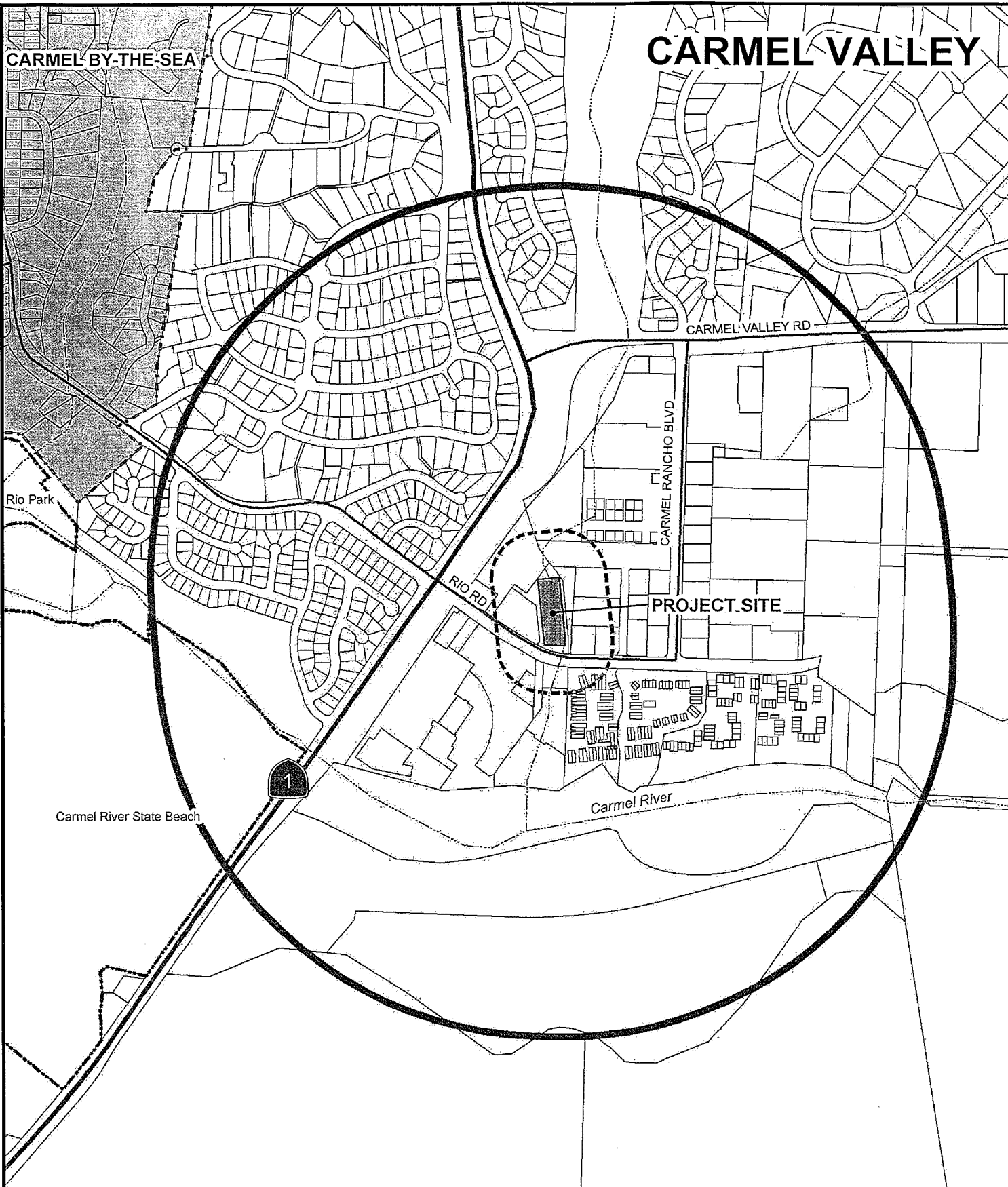
**Sign Program** two signs for advertising, sales information, and on-site directions will be located on the subject property, along Rio Road. Each sign will not to exceed 35 square feet in the aggregate.

**Proposed Number of Employees:** An average of three (3) employees will be on site during operation hours Monday through Friday and seven (7) employees Saturday and Sunday. Bathroom facilities on the neighboring property are available for employees of the site as approved by the property owner.

### Operations

Days of the Year in Operation: Seven days a week from the Monday before Thanksgiving to January 1<sup>st</sup>. Hours of Operation: 9:00 A.M to 9:00 P.M.

EXHIBIT C



**APPLICANT:** CARMEL PROPERTIES COMPANY

**APN:** 009-562-002-000      **FILE #** PLN100630

Water   
 2500' Limit   
 300' Limit   
 City Limits

