

**PLANNING COMMISSION  
COUNTY OF MONTEREY, STATE OF CALIFORNIA**

RESOLUTION NO. 02065

A.P. # 015-021-036-000

**FINDINGS AND**

**DECISION**

In the matter of the application of  
**Elvira Gamboa (CP) (PLN000357)**

for a Use Permit in accordance with Title 21 (Zoning) Chapter 21.74 (Use Permits) of the Monterey County Code, to allow for a 64 suite, 78 bed assisted care living facility consisting of a three building complex totaling 43,400 square feet, 35 vehicle spaces including four handicap-accessible parking lot, plus improvements to Val Verde Drive from Rio Road to the subject parcel and Design Approval, located on the 4.5 acre vacant parcel at the southwest corner of Carmel Valley Road and Val Verde Drive (private road), east of Carmel Rancho Boulevard in the Carmel Rancho Boulevard in the Carmel Valley Master Plan Area, came on regularly for hearing before the Planning Commission on November 13, 2002.

Said Planning Commission, having considered the application and the evidence presented relating thereto,

**FINDINGS OF FACT**

1. **FINDING – PROPOSED PROJECT:** The project consists of a Use Permit (Gamboa/PLN000357) and Design Approval for an assisted care living facility (a.k.a. the Sunrise Assisted Living Center) with 64 suites and 78 beds, located within a complex consisting of three buildings totaling 43,400 square feet on a 4.5 acre parcel. A total of 30 employees would work at the facility. Thirty-five vehicle parking spaces are proposed with four (4) designated for handicap-access. Extension of Val Verde Drive to the subject parcel is also proposed. The property is located on the south side of Carmel Valley Road (Assessor's Parcel Number 015-021-036-000), east of Carmel Rancho Boulevard, and is within the Carmel Valley Master Plan area.

**EVIDENCE:** Materials in project file PLN000357.

2. **FINDING – PLAN/POLICY INCONSISTENCY:** The subject Use Permit, as described in Finding #1 does not conform to the plans, policies, requirements and standards of the Monterey County General Plan, Greater Monterey Peninsula Area Plan, Carmel Valley Master Plan and the Monterey County Zoning Ordinance (Title 21). The parcel is zoned “LDR/B-6-D-S” or Low Density Residential, design and site plan review required.

**EVIDENCE:** The Planning and Building Inspection Department staff reviewed the project, as contained in the application and accompanying materials, for conformity with:

- a) Monterey County General Plan.
- b) Greater Monterey Peninsula Area Plan.
- c) Carmel Valley Master Plan.
- d) Chapters 21.14, 21.44, 21.45, 21.58, 21.60, 21.62 and 21.74, 21.78 and 21.80 of the Monterey County Zoning Ordinance.

**EVIDENCE:** The subject site is located within an “LDR” or Low Density Residential zoning district. Carmel Valley master Plan (CVMP) Policy 31.1.3.1 states that “facilities, classified as either Public Quasi-Public or Special Use (such as schools, churches, hospitals, convalescent homes, rehabilitation centers, hospice facilities, emergency facilities and

public facilities such as community halls) may be considered in any land use category provided that they meet the following criteria:

- Low visibility
- Safe and unobtrusive access away from pedestrian traffic areas.
- Low noise impact on surrounding uses.
- Development should follow a rural architectural theme with design review.
- Conform to all other Plan requirements.

The evidence shows that the project does not meet the above criteria in that: three structures totaling 43,400 square feet in building area would be highly visible; the project would increase traffic on Val Verde Drive which is used for pedestrian and equestrian traffic; the facility would have limited emergency access; and the larger parcel of development is not consistent with the rural character of this area which has been developed with single family homes on 4+ acres. A number of smaller Assisted Care facilities in the area provide the necessary services for the group of people that would be served by this facility. These smaller facilities are more in keeping with the rural character associated with this area and the vacancy in these existing facilities indicates there is no need for this project (CVMP Policy 26.1.22).

**EVIDENCE:** Carmel Valley Master Plan policies include minimizing disruption of views (CVMP Policy 26.1.32) and reducing impacts to resources (CVMP Policy 26.1.22), which applies specifically to water in this case. In addition, CVMP Policy 26.1.34 limits the maximum density allowable to the lesser allowed between the slope/density formula and other plan policies. The low density residential zoning for this area of the land use plan allows a maximum of one (1) acre per unit. Since the site is 4.5 acres, a maximum of four (4) units would allow be allowed by density. However, the B-6 zoning designation restricts the parcel from further subdivision. Therefore, only one unit should be allowed on this site by policy and the proposed project includes three buildings with 64 units and 78 beds.

**EVIDENCE:** The proposed development is not visually compatible with the low density residential character of the surrounding area (CVMP Policy 26.1.26). The proposed large-scale assisted care facility would be operated in a commercial manner. For example, the proposed facility would require parking lots and security lighting that are not consistent with a character of smaller homes on larger lots mixed in with agricultural uses. The planned commercial district located west of the site should be considered as the limit/edge of commercial development up Carmel Valley Road and the proposed project site should contain smaller scale development.

**EVIDENCE:** Most of the proposed project site is within the 500-year floodplain with the southern end (swale) dropping into the 100-year floodplain. CVMP Policy 16.2.11 restricts new development in the flood prone area. The applicant proposes to include retaining walls and fill within the swale to raise this part of the site above the 100-year flood level, which is noted on the Site Plan to be the 35.2-foot elevation line. A detention pond is proposed to collect “excess” runoff for on-site drainage before it is discharged into the Carmel River. However, County Service Area #50 indicates that the additional impervious surfaces could impact the surrounding lower area with increases in the off-site runoff. CVMP Policy 16.2.12 encourages transferring development away from the floodway fringe.

**EVIDENCE:** Val Verde Drive is currently a 1-lane, private road with a 60-foot wide right of way. As such, the road is limited to local traffic only. Truck/delivery traffic will create a new noise source that is not consistent with a low density residential neighborhood (CVMP Policy 39.2.2.1). No public access to Carmel Valley Road is proposed as part of this project; however, a 12-foot wide emergency vehicle access would connect to Carmel Valley Road from the terminus of Val Verde Drive. Said access lane would open the area to potential traffic that is not currently associated with this neighborhood (CVMP Policy 37.4.1).

**EVIDENCE:** Project and exterior security lighting required for the project would be obtrusive and inconsistent with the low density residential neighborhood (CVMP Policy 56.2.3). Increased glare would

significantly decrease night time views in this area.

**EVIDENCE:** The proposed project will create a substantially adverse visual impact when viewed from a common public viewing area (CVMP Policy 26.1.9.1). The proposed development will be visible from Carmel Valley Road as well as other public roads in the area. Multiple buildings totaling 43,400 square feet would impact views and view corridors around the site.

**EVIDENCE:** On September 9, 2002, the Carmel Valley Land Use Advisory Committee voted 7 to 0 to recommend denial of the project. The Committee generally found that the project does not meet the standards of CVMP Policy 31.1.3.1 (visibility, access, noise, character) based on the following:

- The buildings would be highly visible. Lighting for the facility would negatively impact the nighttime views of stars. In addition, headlights from vehicles would be a nuisance to neighboring properties.
- Access to the site is limited to Rio Road. The traffic study does not fully account for visitor and ambulance traffic. There is nothing to support the report's claim that 50% of the workers will carpool. The project does not provide safe access to shopping for the residents and does not provide socio-economic diversity.
- The three large buildings at a density of 16 units/acre are not consistent with the mix of agriculture and low density residential character of the surrounding neighborhood. The commercial development should be limited to the wall along the west property line. This use would allow an intrusion of commercial development further up the Valley.

3. **FINDING – SITE SUITABILITY:** The site is not physically suitable for the proposed use.

**EVIDENCE:** The project planner conducted on-site inspections in July and September 2002.

**EVIDENCE:** Concerns have been identified relative to the quantity of water available for such uses and the ability of a project this size to operate within the limits of water availability. See Finding #4 and the supporting evidence.

**EVIDENCE:** The project is located east of existing commercial development in a low density residential neighborhood. Smaller residential homes on 4-acre lots are intermixed with agricultural and equestrian uses. The proposed project involves 64 units/78 beds in three buildings totaling 43,400 square feet on 4.5 acres. This project would be incompatible with the existing land uses in this neighborhood.

**EVIDENCE:** This neighborhood, including the subject property is accessed via Val Verde Drive, which is currently a 1-lane dirt road. Access to Val Verde Road is provided via Rio Road. The subject project would create an increase in traffic that includes regular ambulance response to the site, which would impact traffic in the residential neighborhoods.

**EVIDENCE:** Public testimony on record for the October 9, 2002 Planning Commission hearing.

4. **FINDING – WATER ALLOCATION:** The applicant has failed to demonstrate that there is sufficient water allocated for the proposed project, based on the allocation system established by Monterey County and the Monterey Peninsula Water Management District.

**EVIDENCE:** Development of properties located in the Monterey Peninsula Water Management District (“District”) depends in large part, on the availability of water pursuant to an allotment system established by the District based on pro-rationing of the known water supply for each of the jurisdictions served by the California-American Water Service Company.

**EVIDENCE:** In 1993, the Board of Supervisors adopted a water allocation plan (63.71 acre feet) for the unincorporated areas of Monterey County based upon the Monterey Peninsula Water Management District's water allotment system within its jurisdiction. In 1994, the Board allocated 4.8-acre feet of water to part of the Carmel Greens project that included 24 units of affordable, senior housing.

**EVIDENCE:** The Carmel Greens project included the subject (Gamboa) site as part of the overall project. However, the Gamboa project (PLN00357) changes the scope of development to 64, market-rate, units (78 beds) with no affordable component from the 24 units of affordable housing for seniors in the Carmel Greens project. In response to the Gamboa project (PLN000357), the Board of Supervisors adopted Resolution No. 01-497 (December 11, 2001) amending the water allocation plan's list of priority land uses as follows:

1. Remodels/additions to single family units and commercial projects.
2. First units on existing residential and commercial lots of record.
3. Affordable Housing.
4. Senior Citizen/Caretaker Units.
5. Assisted Care Living Facilities.
6. Special Projects.

While this resolution was amended to include assisted care living facilities as a potential use that could apply under this water allocation plan, it did not approve any particular project or proposal for any specific assisted care facility.

**EVIDENCE:** The applicant may apply to the Board of Supervisors for allocation of water to this project. At this time no water has been allocated for this project.

**EVIDENCE:** The proposed project (Gamboa – PLN000357) is a market-rate, senior, assisted care facility. Resolution 01-497 lists the priority land uses in the order of preference and Assisted Care facilities are listed fifth in a list of six uses. There is a high need for affordable housing projects and the subject project is not affordable. Therefore, the proposed project is not a high enough priority to allocate the entire 4.8 acre feet that has been set aside for these priority uses. There are a number of smaller Assisted Care facilities in the area that provide the necessary services for the group of people that would be served by this facility.

**EVIDENCE:** A prior, separate application for a less intensive project was denied in this area based on findings that the additional structure was not consistent with the character of this area. The subject project is larger, requires more water, and is a lower priority use based on the Board's Resolution #01-497. Therefore, this project should be denied in order to be consistent with prior decisions and as a matter of equal application of rules and regulations.

5. **FINDING – WATER QUANTITY:** Necessary public facilities (e.g. water quantity) are not available to the project site.

**EVIDENCE:** Monterey County's Division of Environmental Health reviewed a report analyzing the expected water use and found that this project may consume up to 5.53 acre feet per year of water, which would exceed the 4.8 acre feet allocated for such uses (memorandum by Laura Lawrence dated September 5, 2002).

**EVIDENCE:** The standard water demand factor used by the Monterey Peninsula Water Management District (District) for this type of use is 0.085-0.11 acre-feet/bed/year. With 78 beds, this would require 6.63-8.58 acre feet of water per year. A letter from Stephanie Pinter, Water Demand Manager with the District (District), dated June 13, 2001, estimates that the water use for the proposed facility would be between 4.25 and 4.44 acre-feet per year based on a number of water conservation devices. However, a number of the proposed conservation methods have not been proven for their effectiveness. Therefore, the applicant has requested that the District make a finding of “special circumstances” to allow a water connection permit to be issued using and estimated annual demand of 4.8 acre-feet. The District will not address the “special circumstances” until the applicant provides assurance that the County has allocated water for the project. At this point, there is no additional water to allocate should the project exceed this limit. See Findings #4 and the supporting evidence.

6. **FINDING- HEALTH, SAFETY, AND WELFARE:** The establishment, maintenance, or operation of the use and buildings will, under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the neighborhood, or to the general welfare of the County.

**EVIDENCE:** Val Verde Drive is a 1-lane dirt road that will be improved to two lanes with asphalt pavement from the project access south to Rio Road. There is a 60-foot right-of-way that will allow the necessary widening. A 12-foot wide emergency access lane would be developed from the site access north to Carmel Valley Road. Rio Road and Carmel Valley Road are both heavily traveled and would be impacted by the subject project.

**EVIDENCE:** Preceding findings and supporting evidence (1-5).

7. **FINDING - CEQA:** The California Environmental Quality Act (CEQA) does not apply to this project because the County is denying the project.

**EVIDENCE:** CEQA Guidelines Section 15270.

8. **FINDING –APPEAL:** The decision on this project may be appealed to the Board of Supervisors.

**EVIDENCE:** Section 21.80 of the Monterey County Zoning Ordinance (Title 21).

## **DECISION**

It is the decision of the Planning Commission of the County of Monterey that said application for a Use Permit be denied.

**PASSED AND ADOPTED** this 13th day of November, 2002, by the following vote:

AYES:	Errea, Sanchez, Brennan, Parsons, Diehl, Engell
NOES:	Hernandez, Wilmot
ABSENT:	None
ABSTAIN:	Pitt-Derdivanis, Hawkins

Original Signed By:

---

DALE ELLIS, SECRETARY

Copy of this decision mailed to applicant on

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE CLERK OF THE BOARD OF SUPERVISORS 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 90<sup>th</sup> day following the date on which this decision becomes final.