

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

RESOLUTION # 04027

STANDARD SUBDIVISION NO. 04007

A.P. # 416-522-020-000
416-522-017-000

In the matter of the application of
Carmel Valley Ranch LLP (PLN020280)

FINDINGS & DECISION

for a Combined Development Permit in accordance with Chapter 20.82 (Combined Development Permits) of the Monterey County Code, consisting of a 1) Standard Subdivision Tentative Map for the subdivision of an existing, approximately 218-acre parcel into 12 residential lots approximately 6.8 to 16.9 acres in size and 4 open space parcels totaling approximately 99 acres; 2) Use Permit for development on slopes greater than 30% for construction of an access road; 3) Use Permit for removal of 193 protected oak trees; 4) Zoning Reclassification to rezone 11 existing lots in the Oakshire Subdivision from "MDR/5-D-S" (Medium Density Residential) to "O-D-S" (Open Space); and 5) assignment of the "LDR/B-6-D-S" zoning classification (Low Density Residential with Building Site, Design and Site Review Overlays) to the residential portion of the proposed subdivision and the "O-D-S" zoning classification (Open Space with Design and Site Review Overlays) to the open space portions of the subdivision. The site of the proposed subdivision is located in the area designated as "Land Reserve" in the Carmel Valley Ranch Specific Plan. The subdivision would not result in the creation of additional lots as 11 of the proposed residential lots would substitute 11 existing undeveloped lots in the Oakshire Subdivision of the Specific Plan. The project site is located in the southwestern portion of the Carmel Valley Ranch with portions fronting on Robinson Canyon Road, Carmel Valley Master Plan, came on regularly for meeting before the Planning Commission on June 9, 2004.

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

- 1. FINDING:** The project proposed in this application consists of a Combined Development Permit and Standard Subdivision Vesting Tentative Map (Carmel Valley Ranch – PLN020280). As described in condition #1 and as conditioned, the project conforms with the plans, policies, requirements and standards of the Monterey County Subdivision Ordinance (Title 19), the General Plan, the Greater Monterey Peninsula Area Plan, the Carmel Valley Master Plan, the Carmel Valley Ranch Specific Plan and the Monterey County Zoning Ordinance (Title 21). The project site is located within the Carmel Valley Ranch property and includes two adjacent and separate parcels [Assessor's Parcel Numbers (APN) 416-522-020-000 & 416-522-017-000]. The proposed subdivision would be located on APN 416-522-020-000, an approximately 218-acre parcel designated in the Carmel Valley Ranch Specific Plan as "Land Reserve" for development of up to 100 single family residential units; the subdivision's vehicular access road would be partially located on APN 416-522-017-000 which is zoned "MDR/4.54-D-S" in the Zoning Ordinance. The overall project site is located in the southwestern portion of the Carmel Valley Ranch with portions fronting on Robinson Canyon Road, Carmel Valley Master Plan.

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

- a) Greater Monterey Peninsula Area Plan
- b) The Carmel Valley Master Plan
- c) Carmel Valley Ranch Specific Plan
- d) Monterey County Zoning Ordinance: Chapter 21.14 (Regulations for Low Density Residential Zoning Districts); Chapter 21. 12 (Regulations for Medium Density Residential Zoning Districts); Chapter 21.38 (Regulations for Open Space Zoning Districts); Chapter 21.64.30 (Development on Slopes in Excess of 30%); 2 Chapter 1.64.260 (Preservation of Oak and Other Protected Trees); Chapter 21.66.020 (Standards for Environmentally Sensitive Habitats).

e) Applicable Sections of Monterey County Subdivision Ordinance (Title 19).

EVIDENCE: The application includes assignment of the "LDR/B-6-D-S" zoning classification (Low Density Residential with Building Site, Design and Site Review overlays) to the residential portion (Parcels 1 through 12) of the proposed subdivision and the "O-D-S" zoning classification (Open Space with Design and Site Review overlays) to the open space portions (Parcels A, B, C, D) of the subdivision. Assignment of these zoning classifications would make the project compliant with the land use and zoning regulations of the Carmel Valley Master Plan and the General Plan.

EVIDENCE: The proposed development has been reviewed by the Monterey County Planning and Building Inspection Department, Water Resources Agency, Public Works Department, Environmental Health Division, Parks and Recreation Department, and the Carmel Valley Fire District. There has been no indication from these agencies that the site is not suitable for the proposed development. The Initial Study demonstrates that no physical or environmental constraints exist that would indicate the site is not suitable for the proposed development. Each agency has recommended conditions for subdivision improvements.

EVIDENCE: The California American Water Company has indicated that it will provide water and sewer treatment services to the proposed project.

EVIDENCE: The Carmel Valley Land Use Advisory Committee recommended approval of the project on March 1, 2004, by a 4-0 vote with one abstention.

EVIDENCE: Written and verbal public testimony submitted at public hearings before the decision-making body.

EVIDENCE: Site inspections of the subject parcel by the project planner conducted in October, 2003 and April 2004.

EVIDENCE: The application plans and support materials found in the project file.

2. FINDING: The proposed project is consistent with the policies of the Carmel Valley Master Plan and the provisions and conditions of the Carmel Valley Ranch Specific Plan.

EVIDENCE: The Combined Development Permit results in the extinguishment of the development potential of 11 existing lots of record in the Oakshire area of the Carmel Valley Ranch property, and relocation of the development potential of 11 of the 12. The existing area of the 11 lots of record would be placed in an irrevocable scenic and conservation easement. Thus, the proposed project would not result in additional development within the Carmel Valley Ranch or the Carmel Valley Master Plan.

EVIDENCE: The existing and located lots are within the Carmel Valley Ranch Property. Land use within the Ranch is regulated by the approved Carmel Valley Ranch Specific Plan, which

designates the site of the proposed subdivision as “*Land Reserve*” for potential development of a maximum of 100 single-family residential units. The proposed project complies with the “*Land Reserve*” land use designation in that it includes only 12 of the maximum of 100 residential units identified for potential development. The project would be developed in compliance with the land use designation and applicable provisions of the Specific Plan.

EVIDENCE: Water for the proposed development would be provided for from unused water from approved but undeveloped portions of the Carmel Valley Ranch Specific Plan. Specifically, the applicant proposes to use water from unused water allocations from 25 approved but not built residential units in Area F of the Ranch; Area F is located adjacent to the project site. These water allocations have been deemed valid by the Water resources Agency. Therefore, there would be no water use in addition to the total water use approved for the allowed development under the Carmel Valley Ranch Specific Plan.

3. **FINDING:** The proposed project is consistent with the current policy of the Board of Supervisors Board of Supervisors (Resolution No. 02-024) of denying new residential and commercial subdivisions that would generate additional vehicular traffic on Carmel Valley Road and State Highway One, pending construction of certain highway/road capacity-infrastructure improvements to portions of those roads.

EVIDENCE: The proposed project includes the extinguishment and relocation of the development potential of 11 existing lots of record in the Oakshire area of the Carmel Valley Ranch. The existing 11 lots of record would be placed in irrevocable scenic and conservation easements therefore disallowing future development. Thus, the proposed project would not result in the generation of additional vehicular traffic or increased traffic impacts within the area of the Carmel Valley Master Plan.

EVIDENCE: To avoid the generation of additional vehicular traffic and to maintain the existing levels of service on Carmel Valley Road and Highway 1, the project is conditioned to prohibit development of habitable accessory structures (senior citizen units and caretaker units) on the proposed lots (See recommended Condition of Approval No. 18). Development of habitable accessory structures on the existing lots in Oakshire is not possible due to zoning regulations that restrict the amount of building site coverage, the small lot sizes and steep topography.

EVIDENCE: Traffic Study prepared for the project by Hexagon transportation Consultants, dated June 16, 2003 and reviewed and approved by the Department of Public Works.

4. **FINDING:** The proposed project is consistent with Section 19.10.070 of the Subdivision Ordinance (Title 19) which states that: “Water supply to serve a minor, standard, or vesting subdivision may not be established through the reduction or elimination of water use on a parcel other than the parcel which is subject of the subdivision.”

EVIDENCE: The proposed project site is located within the boundary of the Carmel Valley Ranch property. Land use within the property is regulated by the Board-approved Carmel Valley Ranch Specific Plan. The Specific Plan identified a maximum level of development within the Ranch. Portions of the development have never been constructed and there remains a corresponding amount of water available. Twenty-five of the approved residential units within Area F of the Ranch have not been developed and the corresponding water allowance, approximately 9.5 acre/feet of water, has not been used. The existence of the 9.5 acre/feet of water has been confirmed by the Water Resources Agency.

EVIDENCE: The proposed project is consistent with the maximum level of development envisioned for the Ranch in the Specific Plan. Approximately 9.5 acre/feet of water approved for residential development (Area F) in the Ranch remains unused. Thus, there will be no reduction or elimination of water use within the area of the Ranch and the project is consistent with Section 19.10.070 G of the Subdivision Ordinance (Title 19).

5. **FINDING:** The proposed project, including all permits and approvals, will not have any significant adverse impacts on the environment and a Mitigated Negative Declaration has been prepared and is on file in the Planning and Building Inspection Department (File # PLN020280). Potential environmental effects have been studied and there is no substantial evidence in the record, as a whole, that supports a fair argument that the project, as designed, mitigated and conditioned, may cause a significant effect on the environment.

The Mitigated Negative Declaration reflects the independent judgment and analysis of the County based upon the findings and conclusions drawn in the Initial Study and in consideration of testimony and information received, and scientific and factual data presented in evidence during the public review process. Conditions of project approval and/or mitigation measures have been identified in the Initial Study, incorporated into the project, and agreed to by the applicant, to reduce any impact to an insignificant level. These conditions of project approval and mitigation measures have been included into the Mitigation Monitoring / Condition Compliance Reporting Plan.

The custodian of the documents and materials that constitute the record of proceedings upon which the adoption of the Negative Declaration is based is the Monterey County Planning and Building Inspection Department located at 2620 1st Avenue, Marina, CA. No facts, reasonable assumptions predicated on facts, testimony supported by adequate factual foundation, or expert opinions supported by facts have been submitted that refute the conclusions reached by these studies, data, and reports. Nothing in the record alters the environmental determination, as presented by staff, based on investigation and the independent assessment of those studies, data, and reports.

EVIDENCE: County staff prepared an Initial Study for the project in compliance with the California Environmental Quality Act (CEQA), its Guidelines, and the Monterey County CEQA Guidelines. The Initial Study was circulated for public review from January 26, 2004 to February 26, 2004. At the public hearing on March 11, 2004, the Subdivision Committee requested staff to make certain corrections and clarifications to the document. The Initial Study was revised and the revised Initial Study and Notice of Intent to adopt a Mitigated Negative Declaration was filed with the clerk on April 21, 2004, noticed, and recirculated for public review from April 22, 2004 to May 11, 2004. The revised Initial Study concluded that the project, with the addition of mitigation measures and the recommended condition so approval, would not have significant environmental impacts. All comments received on the Initial Study have been considered as well as all evidence in the record, which includes studies, data, and reports supporting the Initial Study; additional documentation requested by staff in support of the Initial Study findings; information presented or discussed during public hearings; staff reports that reflect the County's independent judgment and analysis regarding the above referenced studies, data, and

reports; application materials; and expert testimony. Among the studies, data, and reports analyzed as part of the environmental determination are the following:

1. Monterey County Zoning Ordinance, Title 21
2. Monterey County General Plan, Greater Monterey Peninsula Area Plan, Carmel Valley Master Plan and Carmel Valley Ranch Specific Plan
3. Rogers E. Johnson & Associates, *Preliminary Geologic Investigation, Carmel Valley Ranch Reserve*, February 17, 2003.
4. Haro, Kasunich & Associates Inc., *Preliminary Geotechnical Feasibility Report, Carmel Valley Ranch Reserve*, February, 2003.
5. Stephen R. Staub, *Forest Management Plan for Carmel Valley Ranch 12 Lot Subdivision*, February 2003.
6. Stephen R. Staub, *Supplemental Report to Forest Management Plan prepared for Carmel Valley Ranch Addressing Tree Removals for Alternative Road Alignment*, November 14, 2003
7. Archaeological Consulting, *Preliminary Archaeological Reconnaissance for the Watt Property at Carmel Valley Ranch*, February 28, 2003.
8. Hexagon Transportation Consultants, Inc., *Traffic Study, Carmel Valley Ranch Residential Development*, June 16, 2003.
9. Rana Creek Habitat Restoration, Carmel Valley Ranch Parcel 6 Biological Assessment, May 30, 2003.
10. March 1, 2004 memorandum from Tom Moss, Monterey County Water Resources Agency stating availability of 8.802 acre feet of water necessary for development of the project.

EVIDENCE: Studies, data, and reports prepared by staff from various County departments including Planning and Building Inspection, Public Works, Environmental Health and the Water Resources Agency support the adoption of the Mitigated Negative Declaration.

6. **FINDING:** For purposes of the Fish and Game Code, the project will have a potential for adverse impact on fish and wildlife resources upon which the wildlife depends.

EVIDENCE: Staff analysis contained in the Initial Study and the record as a whole indicates the project would result in potential changes to the resources listed in Section 753.5(d) of the Department of Fish and Game regulations. Specifically, the following wildlife resources are identified on the project site: 1) and Nassella grassland areas identified as *Species of Concern* by the California Department of Fish and Game; 2) areas considered as *areas of biological significance* in the Carmel Valley Master Plan (wetland area, coast redwood areas and Nassella grassland areas); and 3) nests of Monterey dusky-footed rat throughout. Mitigation measures have been identified which implementation would reduce potential impacts on these species to less than significant impacts.

EVIDENCE: Initial Study and Mitigated Negative Declaration contained in the project file.

7. **FINDING:** That in approving the parcel map, the decision-making body has balanced the housing needs of the County against the public service needs of its residents and available fiscal and environmental resources.

EVIDENCE: Approval of the project is conditioned to comply with the requirements of the Inclusionary Housing Ordinance.

8. **FINDING:** The proposed/estimated oak tree removal is the minimum required under the circumstances of the proposed project.

EVIDENCE: Development of the proposed project would require removal of approximately 193- 277 oak tree of varying sizes. This amount of tree removal constitutes approximately 1% of the entire amount of oak trees existing on the site of the project.

EVIDENCE: The estimated oak tree removal for the proposed project would result in removal of 41-125 trees in addition to the estimated 152 trees that would be required for the development of the existing lots in the Oakshire area. Therefore, since the lots in Oakshire would be zoned into open space and not developed, in reality the proposed project would result in the removal of a maximum of approximately 125 oak trees which is not a significant amount given the amount of oak trees existing on the site of the project.

EVIDENCE: The proposed lot lay out and road configuration would allow for consideration of building sites, driveway location, and design and construction methods that would allow development with minimum tree removal.

EVIDENCE: Additional reductions in tree removal would be achieved through implementation of recommended conditions of approval which require reduction of building envelopes on lot Nos. 4, 5, 6 and 7 to exclude oak woodland areas (Condition No. 11) and that the final road alignment is adjusted to the maximum extent possible to avoid tree removal where possible (Condition No. 12).

9. **FINDING:** The development on slopes in excess of 30% better achieves the goals, policies, and objectives of the General Plan, Greater Monterey Peninsula Area Plan, and the Carmel Valley Master Plan.

EVIDENCE: Construction of portions of the access road located on Assessor's Parcel Number 416-522-017-000 would require development on slopes in excess of 30%. Upon request by staff and the Carmel Valley Advisory Committee, the applicant has considered an alternative location for development of this portion of the road. Although construction at this location would result in additional amounts of oak tree removal, grading, and development on slopes greater than 30%, it would result in less visual impacts. Development of the road at this location better achieves the policies of the General and Area Plan. The additional tree removal, grading, and development on slopes greater than 30% are offset by the reductions on visibility. Therefore, development at this location is a preferred alternative and is recommended by staff for development of the road.

10. **FINDING:** Based upon the Monterey Peninsula Water Management District's ("District") water allotment system, the County of Monterey ("County") has established a system of priority distribution of water allocation for properties within its own jurisdiction. Current information available to the County indicates that the County's share of water under the District's allotment system, over which the County has no control, has been exhausted to the point that the County is unable to assure that property owners who do or have obtained development permits for their properties will be able to proceed with their development projects.

EVIDENCE: Memorandum from the Water Resources Agency dated March 1, 2004, which states that water from previously approved but undeveloped projects within the Carmel Valley Ranch is

available for re-allocation to the proposed project and therefore development of the project will result in a net increase of zero acre feet per year of water and is consistent with the Monterey Peninsula Water Management District's Ordinance #70 and the Board of Supervisors' action dated October 11, 1994.

EVIDENCE: Staff report, oral testimony at the hearing; administrative record.

- 11. FINDING:** In view of the preceding finding, and the fact that the present application for a use permit otherwise meets all County requirements, the County approves the application subject to determination by the Monterey County Water Resources Agency, in the form of a water availability certification, that water is available for the project and the applicant's being able to obtain a water permit from the District.

EVIDENCE: Staff report, oral testimony at the hearing; administrative record.

- 12. FINDING:** That none of the findings found in Section 19.04.025.I of the Subdivision Ordinance can be made for denial of the application.

EVIDENCE: Section 19.04.025.I requires that the subdivision be denied if any one of the findings is made. Planning staff has analyzed the project against the findings for denial outlined in this section. The map and its design and improvements are consistent with the County General Plan, the Carmel Valley Master Plan and with the provisions of the Carmel Valley Ranch Specific Plan. The site has been determined to be physically suitable for the type and density of development (see Evidence below). The design and improvements are not likely to cause substantial environmental damage, substantially and avoidably injure fish or wildlife or their habitat, or cause serious public health problems as demonstrated in the Mitigated Negative Declaration adopted for this project. The design and improvements will not conflict with easements for access through or use of property within the proposed subdivision. Planning staff reviewed the Title Report and applicable recorded documents to identify all easements and ensure that the project does not conflict with existing easements.

EVIDENCE: The property provides for adequate building sites as evidenced by the application materials submitted for the project and review of these materials by staff.

EVIDENCE: The application, plans, and support materials, including the technical background reports submitted by the project applicant to the Monterey County Planning and Building Inspection Department for the proposed development. The report(s) concluded the site is suitable for proposed development, subject to recommendations for construction and structure location. The reports are contained in the project file and are listed under Finding/Evidence No. 2 above.

EVIDENCE: 1) The on-site inspection of the parcel by the project planner.
2) Maps and application contained in the project file.

- 13. FINDING:** The establishment, maintenance, or operation of the use or building applied for will not, under the circumstances of the particular case, be detrimental to health, safety, comfort, peace, morals, and general welfare of persons residing or working in the neighborhood or to the general welfare of the County.

EVIDENCE: The project as described in the application and accompanying materials was reviewed by the Planning and Building Inspection Department, Health Department, Public Works Department, Water Resources Agency and the Carmel Valley Fire Protection District. The respective Departments 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; or the County in general.

EVIDENCE: Approval of the project, including adoption of the Mitigated Negative Declaration, includes conditions of approval that address potential impacts to Aesthetics, Biological Resources, Geology/Soils, Hydrology/Water Quality, and Transportation/Traffic. No other significant issues have been identified for the project.

14. FINDING: The site is suitable for the use proposed.

EVIDENCE: There has been no testimony received either written or oral, during the course of public hearings to indicate that the site is not suitable for the project. Necessary public facilities are available for the use proposed. The project has been reviewed by the Monterey County Planning and Building Inspection Department, Water Resources Agency, Public Works Department, Health Department and the Carmel Valley Fire Protection District. There has been no indication from those agencies that the site is not suitable. There are no physical or environmental constraints such as geologic or seismic hazard areas or similar areas that would indicate the site is not suitable for the use proposed.

DECISION

THEREFORE, it is the decision of the Planning Commission, to recommend to the Board of Supervisors to adopt the Mitigated Negative Declaration and approve the Combined Development Permit subject to the recommended Findings and Evidence and the attached proposed Conditions of Approval.

PASSED AND ADOPTED this 9th day of June, 2004.

JEFF MAIN, SECRETARY

COPY OF THIS DECISION WAS MAILED TO THE APPLICANT ON