

## MONTEREY COUNTY PLANNING COMMISSION

<b>Meeting:</b> December 9, 2009 Time: 11:00AM	<b>Agenda Item No.:</b> 5
<b>Project Description:</b> Consider the Denial of a Use Permit extension request (PLN020316) for a boarding school facility consisting of three modular classrooms (960 square feet each) serving two existing residential youth treatment residential homes. The property is located at 680 and 684 Harrison Road, Salinas (Assessor Parcel Number 113-271-006-000 and 113-271-008-000)	
<b>Project Location:</b> 680 and 684 Harrison Road, Salinas	<b>APN:</b> 113-271-006-000 and 113-271-008-000
<b>Planning File Number:</b> PLN080532	<b>Owner:</b> The Unity Care Group Inc. <b>Agent:</b> Andre Chapman, President
<b>Planning Area:</b> Greater Salinas Area Plan	<b>Flagged and staked:</b> No
<b>Zoning Designation:</b> "LDR/B-6" Low Density Residential with Building Site overlay	
<b>CEQA Action:</b> CEQA does not apply pursuant to Section 15270 of the CEQA guidelines	
<b>Department:</b> RMA - Planning Department	

### RECOMMENDATION:

Staff recommends that the Planning Commission take the following actions:

- 1) Conduct a public hearing on Unity Care Group's request to extend their Use Permit;
- 2) Deny the Use Permit Extension, based on the findings and evidence;

### PROJECT OVERVIEW:

The subject project is comprised of two contiguous parcels located at 680 (Parcel A) and 684 (Parcel C) Harrison Road, Salinas. In 2003, Unity Care Group received a five year approval to operate a school facility (PLN020316) for the 12 children residing in the two existing group homes on the property. In 2003, the Building Department cited Unity Care Group for converting a 2,000 square foot barn to an administrative office space and classrooms, constructing a 240 square foot deck on the barn with electrical work without building permits (CE030431).

Prior to the Use Permit expiring on December 13, 2008, Unity Care Group timely applied for an extension. Over the past year staff has worked with the applicant to remedy the outstanding violation, CE030431. The violation was cleared on September 3, 2009 however, in the interim, an additional modular structure was placed on the property without permits. A Compliance Order was issued to the applicant on October 30, 2009.

At this time, due to funding, Unity Care has decided to re-evaluate their program and the school use has ceased. To date, Unity Care has not submitted plans for the operation they intend to use. Whether or not they will use the new modulars (the subject of the last violation) is unknown but they have indicated they intend to amend the use. Staff has had ongoing meetings with the applicant and staff will continue to work with the applicant to abate their current violation; and staff will assist with the processing of any application for appropriate permits when Unity Care Group applies for such application.

In the meantime, because the Use Permit was set to expire a year ago but remains in effect until the County acts on the extension request, staff recommends that the Planning Commission act on Unity Care's extension request.

Staff recommends denial of the extension request for the following reasons:

1. The violation, CE030431, remained on the property until September 3, 2009, Unity Care Group (PLN080532)

2. During the processing of the extension and during the course of staff's meeting with the applicant, modular buildings were brought on the site without building or planning review creating a new violation,
3. The school use for which the Use Permit was issued has ceased, but to date, Unity Care has not decided on the changes and has not made a firm proposal for the site,
4. Unity Care will be making program changes,
5. The scope of the original permit has been exceeded and conditions of approval would need to be revised if a conditional use were to continue on site.

Once Unity Care has decided on a program, Unity Care can apply for any applicable permits, and staff will be able to analyze the revised project at that time.

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

- √ RMA - Public Works Department
- √ Water Resources Agency
- √ North County Fire Protection District
- √ Monterey County Sheriff's Department
- √ RMA – Building Department
- √ RMA – Building Department, Code Enforcement
- Monterey County Probation Department
- Monterey County Behavioral Health
- Department of Social Services

Agencies that submitted comments are noted with a check mark (“√”).

This project was not referred to a Land Use Advisory Committee (LUAC), as no LUAC exists for this area. Staff has been in contact with the prior Appellant for PLN020316 and as requested, copies of the staff report will be provided to interested parties.

Note: The decision on this project is appealable to the Board of Supervisors.

/S/ Valerie Negrete

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Valerie Negrete, Assistant Planner  
 (831) 755-5227, negretev@co.monterey.ca.us  
 November 23, 2009

cc: Front Counter Copy; Planning Commission; North County Fire Protection District; Public Works Department; Parks Department; Environmental Health Division; Water Resources Agency; Denise Shields, Monterey County Probation Department; Commander Joe Pedroza, Monterey County Sheriff's Department; Sheriff Mike Kanalakis, Monterey County Sheriff's Department; Tim McCormick, Building Official for Building Services; Wanda Hickman, RMA-Building Services; Albert Salvador, RMA-Building Services; Beth Shirk – RMA Ombudsperson; Wayne Clark, Division Chief for Monterey County Behavioral Health; Sid Smith, Monterey County Behavioral Health; Taven Kinison Brown, Planning Services Manager; Carl Holm, Assistant Director of Planning Services, Valerie Negrete, Project Planner; Carol Allen, Senior Secretary; Andre Chapman, President of Unity Care; Donna Halenstain, Neighbor; Danny Ralph, Neighbor; Planning File PLN080532.

Attachments: Exhibit A Project Discussion  
 Exhibit B Draft Resolution, including:  
 1. Site Plan

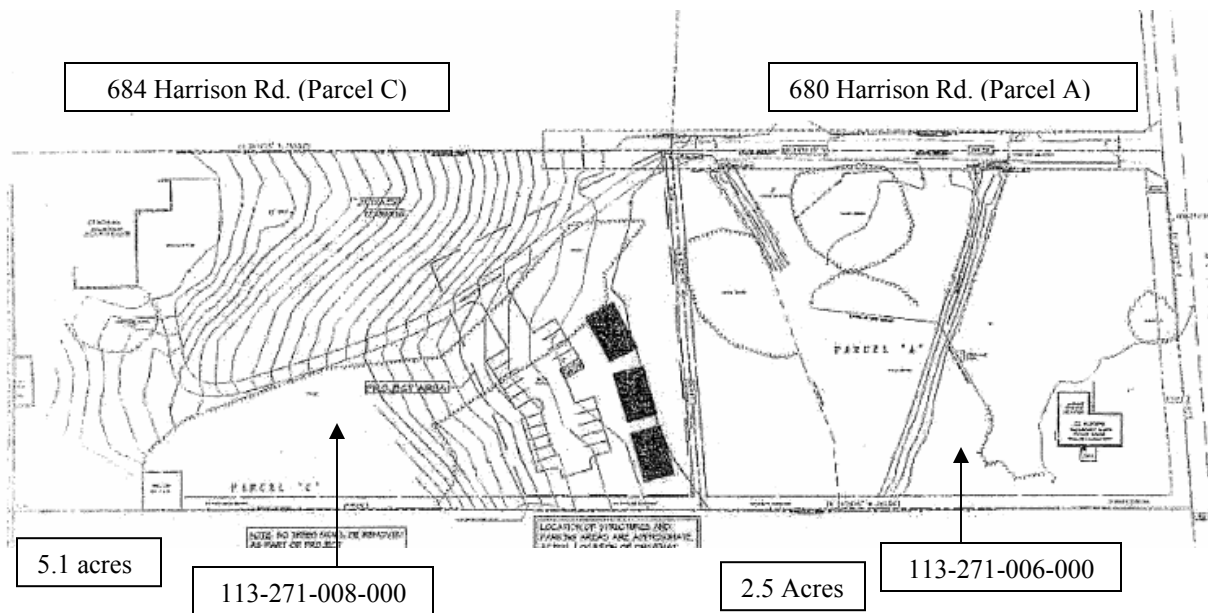
Exhibit C	Vicinity Map
Exhibit D	Unity Care Planning Commission Resolution 03056 (PLN020316) dated September 15, 2003
Exhibit E	Unity Care Planning Commission Resolution 03086 (PLN020316) dated December 10, 2003
Exhibit F	Violation Notice dated December 31, 2003
Exhibit G	Memorandum of Understanding (MOU) between Unity Care Group and neighbors
Exhibit H	Board of Supervisors Resolution dated December 11, 2003 for the Unity Care appeal
Exhibit I	Extension Request email from Andrea Baptist Scott of Unity Care Group for PLN020316
Exhibit J	Waiver of fees for Unity Care Group for PLN020316
Exhibit K	Letter from Building Services Code Enforcement Department dated October 30, 2009 Compliance Order #2 for 2 new modular buildings
Exhibit L	Letter from Monterey County Sheriff Mike Kanalakis dated November 3, 2009 detailing concerns of current operation (PLN020316)
Exhibit M	Health and Safety Code section 1566.3 regarding group homes

This report was reviewed by Carl Holm, Assistant Director of Planning and Taven Kinison Brown, Planning Services Manager.

## EXHIBIT A PROJECT DISCUSSION

### Project Background

The Unity Care Group property contains two contiguous parcels located at 680 (Parcel A) and 684 (Parcel C) Harrison Road, Salinas in the Greater Salinas Area Plan area (APN 113-271-006-000 and 113-271-008-000). The property is zoned "LDR/B-6" Low Density Residential with a Building Site overlay. The site is accessed through Harrison Road from Martinez Road and Highway 101. Parcel A contains a single family residence which housed up to 6 children in a group home. Parcel C, farthest from Harrison Road, contains a single family residence which also housed 6 children, a 2,000 square foot barn, and three 960 square foot classroom portables.



### Unity Care program

The Unity Care Group is a non-profit organization based out of San Jose that provides educational and social programs for disadvantaged youth. Unity Care provides several services such as counseling, mentoring and boarding for disadvantaged youth who are at-risk, emotionally, physically and mentally challenged.

State law requires the county to treat a residential facility of up to 6 residents per home in the same manner as a single family dwelling for purposes of applying zoning regulations (**Exhibit M**). Unity Care Group purchased the two parcels (Parcel A and Parcel C) in 2001, with the intent to operate a group home on each parcel and operate a school for the youth who resided in these two residences. Youth placed at the Unity Care campus were Level 14 children which is the highest level of disturbed juveniles with emotional and psychiatric issues, not requiring institutionalization.

### Background

In June of 2002, Unity Care Group applied for a Use Permit to run a school for the group home residents on the property. The Use Permit included the addition of three 960 square foot classroom portables, 430 square foot bathroom structure for students and 23 parking spaces for staff.

The Planning Commission approved Unity Care's Use Permit, Resolution # 03056 on September 15, 2003. Neighbors appealed the decision to the Board of Supervisors, and subsequent meetings were held between the neighbors surrounding the Harrison Road property and Unity Care Group. Ultimately, a Memorandum of Understanding (MOU) was signed between Unity Care and the concerned neighbors (**Exhibit G**). On November 25, 2003, the Board of Supervisors remanded the application to the Planning Commission to consider changes to the project proposed by the applicant as a result of the MOU.

The Use Permit was approved by the Planning Commission, Resolution #03086, subject to 23 conditions on December 10, 2003 (**Exhibit E**). The December 2003 permit included the following changes to conditions:

1. The permit was set to expire in five years from the date of approval unless renewed by the Planning Commission (Condition 3 of PLN020316),
2. The deletion of a 430 square foot restroom;
3. The classroom portables would be located on Parcel C farther away from Harrison Road;
4. The requirement of lighting for the parking area (Condition 15 of PLN020316),
5. Installation of the perimeter fence around Parcel C (Condition 20 of PLN020316) and,
6. Contact numbers of on-site management was to be given to the owners and occupants of the surrounding properties (Condition 23 of PLN020316).

### **Violations**

A complaint was received for the conversion of the barn to offices on Parcel C. The Building Department notified Unity Care in December 31, 2003 of violations on the property which included the conversion of the barn to an administrative office, the construction of a 12x20 deck and electrical work conducted without building permits (**Exhibit F**). Over the next five years the violation remained on the property for the barn conversion. As of the date of this report, there is an active violation on the property for a new modular structure (**Exhibit K**).

### **Building Permit and Use Permit History**

Unity Care applied for the following building permits:

1. On 4/1/2004 **BP040845** was issued for the demolition of unpermitted walls in the barn and demolition of the deck. During an inspection on 8/4/05 the deck was removed. Unity Care decided not to demolish the barn walls and instead final **BPH037698** on September 3, 2009 for the original barn configuration.
2. On 9/2/04 **BP040858** was issued for three 960 square foot classroom modulares. The classrooms were finalized on September 3, 2009.

In July 2008, staff received Unity Care's written request for an extension, which was set to expire December 13, 2008. Monterey County Zoning Code states "the Appropriate Authority may extend a Use Permit upon receipt of a written request from the permittee, provided such request is made at least thirty days prior to the expiration of the Use Permit. The written request shall be filed with the Appropriate Authority and set forth reasons supporting the request". (MCC section 21.74.110.A.) The applicant requested the same program but wanted to legalize the barn as their administrative offices and therapeutic center.

In August of 2008, Unity Care advised staff that they may not have the funding to convert the barn to a therapeutic center and administrative office. Staff met with the applicant several times over the past year to seek resolution of the numerous issues on the property. As of the date of this report, staff will

be meeting with the applicant sometime after November 20, 2009 to participate in discussions between Unity Care and Behavioral Health on potential future uses of the property.

### **Health and Safety Issues**

The Unity Care program worked with several other county agencies outside of the typical land use permitting agencies for service coordination and funding. These agencies included Monterey County Behavioral Health, Probation Department, and Department of Social Services and in cases where emergency issues arise, the Monterey County Sheriff's Department.

Planning staff has met with several other agencies that work with Unity Care and concerns were raised regarding adequate supervision, staff ratios, and training of personal directly overseeing the youth on site. The Sheriff's Department is directly impacted as a result of the calls for emergencies on site and had concerns related to the safety and oversight of the youth living at these residents. The Sheriff's Department reported 344 calls for service between 2/13/05-8/5/09. Attached is a letter expressing their concerns (**Exhibit L**). It should be noted that, as part of Unity Care's licensing requirements, Unity Care must call for a sheriff anytime a child steps out of the property or anytime there are any incidents on site. While quality of care is not an issue evaluated as part of the Use Permit process, the impacts of use at the property are a relevant consideration for extension of the use permit.

The neighbors claim that due to the amount of calls for service, there were increasing disruptions to the surrounding neighbors. Neighbors also claim they have been directly impacted as a result of run-away youth, calls to the Sheriff or ambulance visits to the site. As of the date of this report, the school use has ceased, there is no use on the site, and no plans before the County to review.

### **Use Permit Extension Request**

In order to recommend approval of a Use Permit staff is required to make findings that:

1. The establishment, maintenance, or operation of the use or structure applied for, will not, under the circumstances of the particular case, be detrimental to 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 improvement in the neighborhood; or to the general welfare of the County.
2. The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of this Title and any zoning violation abatement costs have been paid.

Staff is obliged to act on Unity Care's initial extension request and under these facts and circumstances staff can not make the findings to recommend an extension of this permit. The evidence in the record, including the prior track record under the Use Permit, the lack of proposal for future use, and the current violation, does not support the findings for use permit extension.

### **CEQA**

CEQA allows for the denial of a project without environmental review. CEQA Guideline Section 15270 provides that CEQA does not apply to projects which a public agency rejects or disapproves, specifically, "(b) this section is intended to allow an initial screening of projects on the merits for quick disapprovals prior to the initiation of the CEQA process where the agency can determine that the project cannot be approved".

Further, the scope of work for the new project has not been decided yet and therefore staff does not have a project to analyze. Once a program and scope of work is decided, the applicant can apply for appropriate permits, staff can analyze the project at that time and ensure all agencies have had a chance to review the project.

**EXHIBIT B  
DRAFT RESOLUTION**

**Before the Planning Commission in and for the  
County of Monterey, State of California**

In the matter of the application of:

**The Unity Care Group (PLN080532)**

**RESOLUTION NO. ----**

Resolution by the Monterey County Planning  
Commission:

1) Exempting PLN080532 under CEQA guidelines section 15270, and a Use Permit extension for a boarding school facility consisting of 3 modular classrooms (960 square feet each) serving two existing residential youth treatment residential homes.

2) Denying the Extension Request for PLN020316

(PLN080532, The Unity Care Group, Greater Salinas Area Plan, Assessor's Parcel Number's: 113-271-006-000 and 113-271-008-000)

**The Unity Care Group application for the extension (PLN080532) came on for public hearing before the Monterey County Planning Commission on December 9, 2009. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Planning Commission finds and decides as follows:**

**FINDINGS**

1. **FINDING:**                    **CONSISTENCY** – The Project, as conditioned, is not consistent with the applicable plans and policies which designate this area as appropriate for development.
- EVIDENCE:** a) A consistency finding can not be made because the Applicant has not decided upon a proposed use for the site. .
- b) During the course of review of this application, the project has been reviewed for consistency with the text, policies, and regulations in:
- the Monterey County General Plan,
  - Greater Salinas Area Plan,
  - Monterey County Zoning Ordinance Title 21,
- c) The property is located at 680 and 684 Harrison Road, Salinas (Assessor's Parcel Number 113-271-006-000 and 113-271-008-000). The parcel is zoned "LDR/B-6" Low Density Residential with Building Site overlay, which allows for low density and intensity uses in the rural and suburban areas of Monterey County. The applicants are requesting an extension to PLN020316 for a boarding school facility for the existing group home.
- d) Zoning Consistency – The property is situated on two parcels (113-271-006 and 113-271-008-000) located at 680 and 864 Harrison Road, Salinas. The parcels are zoned "LDR/B-6" Low Density Residential



- with Building Site overlay.
- e) The Unity Care Group received approval for a school facility (Level 14 youth treatment facility) for the group home residents residing at 680 and 684 Harrison Road, Salinas on December 13, 2009 pursuant to Planning Commission Resolution No. 03086 (PLN020316). This Use Permit had an expiration date of December 13, 2008.
  - f) Prior to the Use Permit's expiration, on July 29, 2008, the applicant requested an extension in writing pursuant to Monterey County code 21.74.110.B.
  - g) The applicant applied for and was granted a fee waiver for the Use Permit extension by the Director of Planning, pursuant to the Board of Supervisors Fee Waiver Policy adopted on August 29, 2000 (*Item 8, for Development, enhancement, expansion or modification of needed community facilities by non-profit organizations*).
  - h) The application was reviewed by the RMA - Planning Department, North County Fire Protection District, Parks, Public Works, Environmental Health Division, and Water Resources Agency.
  - i) The project planner conducted a Joint Site Inspection on March 26, 2009 with Public Works, Environmental Health, and the Building Department. Subsequent site visits were conducted by the Building Department in relation to code enforcement case CE030431 on October 30, 2009 and November 5, 2009.
  - j) During staff's meetings with the applicant, Unity Care advised staff that the operation applied for was no longer viable, and that Unity Care was exploring a new program to service Level 12 youth. To date, Unity Care does not have plans for the new program.
  - k) Staff has been in contact with Monterey County Behavioral Health, Probation Department, Sheriff's Department and Department of Social Services. Adequate conditions to ensure the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood would be necessary if and when Unity Care decides upon its proposed use.
  - l) The school use on the property has ceased, and no plans are before the County to analyze.
  - m) The project was not referred to a Land Use Advisory Committee (LUAC) for review because no LUAC exists for the Greater Salinas Area Plan.
  - n) The application, project plans, and related support materials submitted by the project applicant for the extension request to the Monterey County RMA - Planning Department for the proposed development can be found in Project File PLN080532 and PLN020316.

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

- EVIDENCE:**
- a) The applicant is no longer requesting the same use as originally applied for, and staff can not determine whether the site is suitable at this time.
  - b) The project has been reviewed for site suitability by the following departments and agencies: RMA - Planning Department, North County Fire Protection District, Parks, Public Works, Environmental Health Division, and Water Resources Agency. Further discussions were held with the Behavioral Health Department, Department of Probation,

- Department of Social Services and the Sheriffs Department.
- c) Concerns raised by the Sheriff's Department suggest the need for further analysis of impacts of continuation of the school use; however, to date there is no proposal for a new school, and the school has ceased to operate at the site.
- d) The project planner conducted a Joint Site Inspection on March 13, 2009 with Public Works, Environmental Health, and the Building Department. Subsequent site visits were conducted by the Building Department in relation to CE030431 on October 30, 2009 and November 5, 2009.
- e) 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 PLN080532.

3. **FINDING:** **HEALTH AND SAFETY** - The establishment, maintenance, or operation of the project applied for will 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) Licensing requirements required Unity Care to call for a Sheriff if any incidents occurred on site. The nature of the emergency calls varied from assaults to suicide attempts and may have required more than one Sheriff to address the issue. Due to the volume of calls, the Sheriff's office has concerns regarding the impact the operation and the level of Sheriff's resources the school required. If and when the applicant applies for a new Use Permit, project specific information will be analyzed at that time by the Sheriffs office to ensure health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood.
  - b) The Environmental Health Department has not received adequate information regarding the existing septic system serving the single family dwelling on Parcel C, the boy's dormitory. During staff's discussions with the applicant there was indication that the septic system may have been upgraded; however, to date there is no information regarding the upgrade. If and when the applicant applies for a new Use Permit, the septic system information will be analyzed prior to the Environmental Health Department deeming the project complete.
  - c) The project was reviewed by RMA - Planning Department, North County Fire Protection District, Parks, Public Works, Environmental Health Division, and Water Resources Agency. Further discussions were held with the Behavioral Health Department, Department of Probation, Department of Social Services and the Sheriffs Department. The Use Permit cannot be extended without additional conditions of approval to assure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood, but without a concrete proposal to address, the County cannot analyze the project or condition it appropriately.
  - d) During the review of the first permit, neighbors had concerns regarding

the peace, safety and comfort that may be compromised as a result of the school facility and the population the facility was going to serve. Following applicant's changes to the project based on an MOU with the neighbors, the County approved the use permit subject to 23 conditions, including stipulating that "the permit shall expire five years from the approval date, unless renewed by the Planning Commission." (Resolution of the Planning Commission re: December 10, 2003 approval, cond. 3.) The five year track record indicates that extension of the past use without additional conditions would have detrimental impacts on the neighborhood.

- e) Use as a school will have ceased when this permit is denied.
- f) Preceding findings and supporting evidence for PLN080532.

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. Violations exist on the property.

- EVIDENCE:**
- a) The property, APN 113-271-008-000, has a pending violation. When the applicant applied for the Use Permit extension request, there was an outstanding violation for a converted barn to office space, a 12x 20 deck, and electrical work performed without permits. A citation was issued for the illegal conversion of the 2,000 square foot barn to an office upstairs and classroom downstairs, construction of a 240 square foot deck and electrical work performed without building permits (CE030431). A Stop Work Notice and Citation was issued to Unity Care on December 31, 2003 for the violations detailing the steps Unity Care needed to take to attain necessary permits for the work performed. Although the applicant, Unity Care, requested extensions to allow for additional time to comply with the violation notices, the violations remained for the duration of the Use Permit until September 3, 2009. This violation has been cleared.
  - b) Shortly after the barn was finished, in an effort to find a location for Unity Care's administrative staff, the applicant purchased modulars and installed them onto the property without permits. On October 30, 2009 a second Compliance Order was issued and Unity Care has been given until November 30, 2009 to abate this violation.
  - c) The project planner conducted a Joint Site Inspection on April 13, 2009 and April 27, 2009 with Public Works, Environmental Health, and the Building Department. Subsequent site visits were conducted by the Building Department in relation to CE030431 on October 30, 2009 and November 5, 2009.
  - d) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed extension request are found in Project File PLN080532.

5. **FINDING:** **CEQA (Exempt):** - The project is statutorily exempt from environmental review because the action is denial.

- EVIDENCE:**
- a) California Environmental Quality Act (CEQA) Guidelines Section 15270 states that CEQA does not apply if an agency is recommending denial of a permit.
  - b) The subject request is for an extension to a Use Permit for a school

- facility for a residential youth treatment facility on site..  
c) See preceding and following findings and supporting evidence.

6. **FINDING:** **APPEALABILITY** - The decision on this project may be appealed to the Board of Supervisors.  
**EVIDENCE:** a) Monterey County Zoning Ordinance 21.040.080.D

**DECISION**

**NOW, THEREFORE**, based on the above findings and evidence, the Planning Commission does hereby:

- A. Determine that CEQA does not apply to this denial pursuant to CEQA Guideline section 15270,
- B. Deny the request to extend Use Permit (PLN020316) for a boarding school facility consisting of three modular classrooms (960 square feet each) serving two existing residential youth treatment residential homes.

**PASSED AND ADOPTED** this 9th day of December, 2009 upon motion of xxxx, seconded by xxxx, by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

\_\_\_\_\_  
Mike Novo, Secretary

COPY OF THIS DECISION MAILED TO APPLICANT ON

THIS APPLICATION IS APPEALABLE TO THE BOARD OF SUPERVISORS.

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.

