



Monterey County Planning Commission

Item No.5

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Agenda Item No. 5

September 28, 2022

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PLN210037 - BARONE CLAIRE F

Public hearing to consider demolition of an existing 1,439 square foot single family dwelling and 436 square foot garage; and construction of a new 1,378 square foot single-family dwelling with a 341 square foot attached garage, and 493 square foot Junior Accessory Dwelling Unit in substantially the same footprint.

Project Location: 2445 Bay View Avenue, Carmel Area Land Use Plan, Coastal Zone

Proposed CEQA action: Adopt a Mitigated Negative Declaration pursuant to Section 15074 of the CEQA Guidelines

RECOMMENDATION:

It is recommended that the Monterey County Planning Commission:

1. Adopt a Mitigated Negative Declaration pursuant to Section 15074 of the CEQA Guidelines;
and
2. Approve a Combined Development Permit consisting of:
 - a. a Coastal Administrative Permit and Design Approval to allow demolition of an existing 1,439 square foot single family dwelling and 436 square foot garage; and construction of a new 1,378 square foot single-family dwelling with a 341 square foot attached garage, and 493 square foot Junior Accessory Dwelling Unit in substantially the same footprint;
 - b. a Coastal Development Permit to allow development within 750 feet of known archaeological resources; and
 - c. a Coastal Administrative Permit to allow a modification in parking standards, to allow a tandem driveway parking space for the main residence; and
3. Adopt a Mitigation Monitoring and Reporting Plan.

The attached draft resolution includes findings and evidence for consideration (**Exhibit B**). Staff recommends approval subject to the conditions of approval attached to the draft resolution.

PROJECT INFORMATION:

Owner: Sister Claire Barone

Agent: Anderson Brulé Architects, Inc. (Represented by Daniel Ho and Pamela Anderson Brulé)

APN: 009--412--009--000

Zoning: Medium, 2 units per acre, with a Design Control Overlay [MDR/2-D(18)(CZ)]

Parcel Size: 0.16 acres (7,000 square feet)

Plan Area: Carmel Area Land Use Plan

Flagged and Staked: Yes

SUMMARY:

The project proposes demolition of an existing single-family house and construction of a new one in substantially the same footprint. The new home would also include an attached 1-car garage and a junior accessory dwelling unit, and the project would also include associated site improvements consisting of re-landscaping, construction of new exterior decks, and connection to existing utilities.

The project includes rebuilding the structure in a manner that will maintain a legal non-conforming front and side yard setback. The existing dwelling proposed for demolition was built in the late 1920's. At the time, the home was built approximately 16 feet from the front property line (20 feet required today) and approximately 2 feet from the side property line on the north (5 feet required today). As designed, the existing dwelling will be demolished and replaced with a new single-family dwelling in substantially the same location as the existing dwelling. This includes rebuilding portions of the home that are in the front and side yard setbacks. The portion of the home within the setbacks is proposed to be constructed as a junior accessory dwelling unit. Legal non-conforming building site regulations would preclude new construction and structural alterations within the setback areas, as is the case here; however, State Planning and Zoning Law requirements for junior accessory dwelling units (JADU) allow for modifications within an existing structure without regard for setbacks. In relevant part, JADU law states:

“No setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.” (65852.2(a)(1)(D)(vii)).

In this case the proposed JADU will be constructed in the same location and to the same dimensions as the existing structure (dwelling). The setback matches that of the existing residence and the applicants modified their design to reduce the proposed roof height to match that of the existing residence. The proposed design is consistent with all other development standards for the zoning district and will blend with the character of the surrounding neighborhood. The dwelling will remain one-story. No basement is proposed.

The project also proposes modifications to parking standards, to allow tandem parking for the driveway, and includes one fewer parking spaces that would typically be allowed by the County's zoning ordinance. The one space reduction is similarly superseded by State Planning and Zoning Law requirements, and both of these issues are discussed in more detail in the discussion section of this report (**Exhibit A**).

Due to the sensitivity of the Carmel point area for archaeological and tribal cultural resources, an Initial Study was prepared to evaluate the potential of the project to impact cultural resources. Impacts to Archaeological Resources were analyzed to be less than significant, and impacts to Tribal Cultural Resources were mitigated to a less than significant level with the incorporation of mitigation measures requiring cultural sensitivity training and an onsite tribal monitor.

DISCUSSION:

See Exhibit “A” for a detailed discussion.

CEQA:

Pursuant to Public Resources Code Section 21083 and CEQA Guidelines Sections 15063(a) and 15063(b)(2), Monterey County as Lead Agency completed environmental review to determine if the project may have a significant effect on the environment. The County prepared a draft Initial Study and Mitigated Negative Declaration (IS/MND) for this project (**Exhibit D**). The MND was filed with the County Clerk on August 2, 2022, and circulated for public review and comment from August 2, 2022 to September 1, 2022 (SCH No. 2022080038).

The initial study identified potentially significant impacts to Tribal Cultural Resources. All other subject areas were analyzed to have a less than significant impact or no impact. Staff is recommending mitigation measure No. 1 and 2, which would reduce potential impacts to Tribal Cultural Resources to a less than significant level by:

- Requiring a pre-construction cultural sensitivity training be conducted with the construction crew by a qualified archaeologist and with the tribal monitor present. The training shall include how to identify potential cultural resources, and procedures for if previously unknown resources are identified onsite; and
- Requiring that a tribal monitor approved by the appropriate tribal authority traditionally and culturally affiliated with the area be onsite to observe all project related grading and excavation. The monitor shall have the authority to temporarily halt work to examine any potentially significant cultural materials or features.

Comments on the Initial Study were received within the circulation period by neighbors Susan Lynch, Michael Lynch, Sherri Pogue, and Randy Pogue; and Kakoon Ta Ruk Band of Ohlone-Costanoan Vice-Chairperson and Tribal Cultural Specialist Sydia Bojorquez. Representative of the applicant Kathryn Avila also provided comments in response to the neighbor’s comments. The Comments are attached as (**Exhibit E**). County staff reviewed the comments received based on the specific circumstances of this project and determined that they do not alter the conclusions in the draft Initial Study, and no revisions to the draft Initial Study are necessary in response to the comments. The detailed County responses to the CEQA comments are attached in the draft resolution (**Exhibit B**).

OTHER AGENCY INVOLVEMENT:

The following County agencies or departments reviewed this project:

- The Environmental Health Bureau (EHB)
- HCD-Engineering Services
- Cypress Fire Protection District (FPD)
- HCD-Environmental Services

LUAC REVIEW:

County staff referred the project to the Carmel Unincorporated/Highlands Land Use Advisory Committee (LUAC) for review. The LUAC reviewed the project on November 15, 2021 and unanimously voted to recommend approval of the project as proposed.

Three neighbors identified concerns regarding the project. Concerns included:

- Whether the overgrown hedges on the rear of the project would be removed;
- Whether the junior accessory dwelling unit would be used as a long-term rental; and
- Whether utilities would be undergrounded.

Addressing each of these:

- The preliminary proposed landscaping plan includes removal of the hedges on the rear of the property. Staff is recommending Condition No. 7 in the attached resolution, which would require the applicant to submit a finalized landscaping plan prior to issuance of building permits for HCD-Planning review and approval, and install landscaping in accordance with this plan, including removal of these hedges.
- For properties with a junior accessory dwelling unit, State Planning and Zoning Law Section 65852.22(a)(2) requires owner-occupancy of either the main dwelling unit or the accessory dwelling unit. Therefore, the owner could either occupy the junior accessory dwelling unit. ADUs and JADUs may not be used for short-term rentals.
- The regulations for development in the Carmel Area Land Use Plan found in the Monterey County Coastal Implementation Plan Section 20.146.030.B. indicate that underground utilities shall be required for new development, unless there are overall physical or environmental constraints. Evaluating the surrounding vicinity, the majority of electrical and telecommunication lines do appear to be above ground on utility poles, however, there do not appear to be any physical constraints that would preclude undergrounding them. Condition No 9. has been applied, which would require that the electrical and telephone lines be undergrounded and the applicant provide verification that they've been undergrounded, unless the utility service provider indicates in writing that they would prohibit undergrounding of their lines.

The LUAC members also had concerns regarding whether the reduced front and side setbacks were allowable, particularly the north side two foot side setback, as it could present a fire access issue. County staff's independent judgement is that the proposed setbacks are allowable under State Planning and Zoning Law, unless the side setback would be inadequate for fire and safety [State Planning and Zoning Law Section 65852.2.(e)(1)(A)(iii)]. In this case, HCD-Building Services confirmed that a reduced side setback could be allowed under the building code as long as it complied with the building code requirement that walls within three feet of the property line are fire rated. The County also routed the project to the local fire agency, Cypress FPD, who deemed the project complete without comments or conditions. Should the planning permit be approved, the project would also require a building permit with HCD-Building Services, where the project would be further reviewed for compliance with building and fire code requirements.

Prepared by: Phil Angelo, Associate Planner
Reviewed by: Anna Quenga, AICP, Principal Planner
Approved by: Craig Spencer, Chief of Planning

The following attachments are on file with the HCD:

Exhibit A - Discussion

Exhibit B - Draft Resolution, including:

- Recommended Mitigation Measure and Condition of Approval Monitoring and Reporting Plan
- Site Plans, Floor Plans, Elevations, and Colors and Materials

Exhibit C - Carmel Unincorporated/Highlands LUAC Minutes

Exhibit D - Initial Study and Mitigated Negative Declaration

Exhibit E - Public Comments on Initial Study

Exhibit F - Excerpts from State Planning and Zoning Law

Exhibit G - Vicinity Map

cc: Front Counter Copy; Cypress Fire District; HCD-Engineering Services, HCD-Planning; HCD-Environmental Services; Environmental Health Bureau; Phil Angelo, Associate Planner; Anna Quenga, AICP, Principal Planner; Sister Claire Barone, Property Owner; Daniel Ho, Applicant's Agent; Pamela Anderson-Brule, Applicant's Agent; The Open Monterey Project (Molly Erickson); LandWatch; Project File PLN210037.