



# County of Monterey Planning Commission

## Agenda Item No. 4

Legistar File Number: PC 23-021

March 08, 2023

**Introduced:** 2/28/2023

**Current Status:** Agenda Ready

**Version:** 1

**Matter Type:** Planning Item

### **PLN220134 - LOOMIS**

Public hearing to consider establishment of the transient use of a residential property (single-family dwelling) for remuneration, commonly known as a short-term rental.

**Project Location:** 114 Story Rd, Carmel Valley, Carmel Valley Master Plan (APN: 187-541-016-000)

**Proposed CEQA action:** Find the project categorically exempt pursuant to Section 15301, Existing Structures, of the CEQA Guidelines.

### RECOMMENDATION:

It is recommended that the Planning Commission adopt a Resolution:

1. Finding that the project qualifies for a Class 1 Categorical Exemption pursuant to Section 15301 of the CEQA Guidelines, and there are no exceptions pursuant to Section 15300.2 and;
2. Approving an Administrative Permit to allow the transient use of a residential property for remuneration at 114 Story Road, Carmel Valley.

### PROJECT INFORMATION:

**Agent:** Sean Ward

**Property Owner:** Leslie Loomis

**APN:** 187-541-016-000

**Parcel Size:** 74,052 square feet (1.7 Acres)

**Zoning:** Low Density Residential, with a B-6, Design Control, Site Plan Review and Residential Allocation Zoning overlay districts or "LDR/B-6-D-S-RAZ"

**Plan Area:** Carmel Valley Master Plan

**Flagged and Staked:** No

### SUMMARY:

The project is located at 114 Story Rd, Carmel Valley, within the Rancho Los Laureles subdivision, and is subject to the policies and regulations of the 2010 Monterey County General Plan, Carmel Valley Master Plan and the Monterey County Zoning Ordinance Title 21. The proposed project includes the use of an existing single-family dwelling as a short-term rental.

An Administrative Permit is required for the transient use of residential properties for remuneration. This Administrative permit has been referred to the Planning Commission via the Zoning Administrator because an objection has been filed to the Administrative Approval by Richard Rosenthal representing the "Save our Peninsula Committee". The Planning Commission discussed this project at a public

hearing on February 22, 2023 and voted to continue the project with direction to staff to provide options for consideration.

Staff has reviewed options for the permit including:

1. Approval of the permit as recommended on February 22, 2023 (no expiration)
2. Denial of the permit;
3. Approval of the permit for a limited time (expiration condition); and
4. Approval of the permit with expiration to occur upon either:
  - a. Sale of the property; or
  - b. Cessation of use for a period of time

Staff recommends approval of the permit for a limited time (Option 3). This is the most straight forward approach to addressing the concerns raised about granting open-ended permits. It would also allow for a future review of the use to ensure that it remains compliant with the terms of the permit and is not causing a substantial adverse effect on the neighborhood. Other options are problematic because they do not address the concerns (Options 1 and 2); and the mechanisms for monitoring and tracking are not in place (Option 4). For this reason, staff is recommending a condition that would apply an expiration date of 7 years after granting the permit. The applicant would be given the opportunity to apply for an extension of the permit before its expiration date. That permit would be subject to the rules in place at the time the extension is considered. The recommended condition has been applied as Condition No. 10.

As addressed at the February 22, 2023 Planning Commission hearing, written objections and verbal testimony were provided during review of the permit. A letter attached as **Exhibit B** to this report objects to issuance of open ended administrative permits for Short-Term Rentals (STRs) until the EIR for the revised STR Ordinance is certified, and the revised Ordinance is adopted by the Board of Supervisors. Objections include the use of Categorical Exemptions from CEQA because of alleged cumulative effects of STRs including impacts on housing.

Staff reviewed the letter and suggests that the rules in place apply until such time as those rules are modified. This means reviewing applications for the transient use of residential property for remuneration for consistency with the intent, purpose, and requirements of regulations contained in Section 21.64.280 of the Monterey County Code. The stated purposes of the current regulations are to:

1. Preserve and enhance the residential character of the zoning districts established in [Title 21](https://library.municode.com/ca/monterey_county/codes/code_of_ordinances?nodeId=TIT21ZO) [\(<https://library.municode.com/ca/monterey\\_county/codes/code\\_of\\_ordinances?nodeId=TIT21ZO>](https://library.municode.com/ca/monterey_county/codes/code_of_ordinances?nodeId=TIT21ZO) and the sense of security and safety in stable neighborhoods of owner-occupied residences.
2. Implement the provisions and advance the purposes and objectives of [Title 21](https://library.municode.com/ca/monterey_county/codes/code_of_ordinances?nodeId=TIT21ZO) [\(<https://library.municode.com/ca/monterey\\_county/codes/code\\_of\\_ordinances?nodeId=TIT21ZO>](https://library.municode.com/ca/monterey_county/codes/code_of_ordinances?nodeId=TIT21ZO).
3. Except as provided in this Section, restrict transient use of property for remuneration, which use may be inharmonious with and injurious to the preservation of the character and environment of the various zoning districts in [Title 21](https://library.municode.com/ca/monterey_county/codes/code_of_ordinances?nodeId=TIT21ZO) [\(<https://library.municode.com/ca/monterey\\_county/codes/code\\_of\\_ordinances?nodeId=TIT21ZO>](https://library.municode.com/ca/monterey_county/codes/code_of_ordinances?nodeId=TIT21ZO).

[https://library.municode.com/ca/monterey\\_county/codes/code\\_of\\_ordinances?nodeId=TIT21ZO](https://library.municode.com/ca/monterey_county/codes/code_of_ordinances?nodeId=TIT21ZO).

4. Promote the public health, safety, and general welfare of the County.

Specific regulations are provided that are intended to promote the purpose. Staff has reviewed the application materials and found them consistent with the stated regulations. Regarding the CEQA determination, there is no physical development proposed that would have a direct impact on the environment. The use of the single-family residence as short-term rental, with a rental period of 7 days or more per rental (as required in 21.64.280.D.2.a), will not substantially change the intensity of use of the property and the existing structure. The potential impact of short-term rentals on long-term housing is not a unique circumstance which would disqualify the use of a categorical exemption. Potential social and economic impacts of short-term rentals are not required to be addressed in CEQA.

To understand the cumulative considerations in an empirical fashion, staff has researched the number of residential properties in Carmel Valley and the number of applications pending for short-term rentals in that area. There are currently 5,033 residential dwellings in Carmel Valley Master Plan area and 25 short-term rental applications in this same area on file with the County.

In consideration of the Administrative Permit, the Planning Commission may weigh the specific facts and circumstances of the case and may also designate reasonable conditions. Mr. Rosenthal suggests limiting the term of the Administrative Permit. Limits on the duration of the Administrative Permit can be applied if it is deemed appropriate. Typically, Administrative permits are valid for 2 years unless construction begins, or use commences within that time. In other words, if the short-term rental use begins within the two-year timeline, there would be no expiration to the permit allowing the short-term rental of the property without an expiration date specified. Staff is now proposing to apply an expiration condition to this permit.

DISCUSSION:

*Carried forward from the February 22, 2023 Planning Commission Report - Land Use*

Based on staff review of the planning application materials, the property complies with all rules and regulations pertaining to zoning uses and other applicable provisions of the 2010 Monterey County General Plan, Carmel Valley Master Plan, and applicable sections of the Monterey County Coastal zoning ordinance (Title 21). The parcel is zoned Low Density Residential with Design Control, Site Plan and Regulations for Residential Allocation Zoning overlay districts (LDR/2.5-D-S-RAZ) which allows for transient use of a residential property for remuneration, subject to an Administrative Permit.

Monterey County Code (MCC) Section 21.64.280.D.2 establishes the requirements and regulations for which a property operating as a transient use for remuneration must abide by. As detailed in the draft resolution (**Exhibit B**), the applicant has provided evidence of compliance with the applicable requirements. The Operations Plan, as attached to the draft resolution, limits the subject property to one rental contract with rental periods with no less than a 7-night consecutive stay and no greater than a 30-night consecutive stay, and a maximum occupancy of 8 individuals. The proposed occupancy does not exceed the limits set forth in the California Housing Code and are within the abilities of the existing septic system. Adequate parking spaces will be provided (7 total), all parking spots are

located on the property, no street parking is proposed. The property owner (Leslie Loomis) does not reside within 5 miles of the property and has therefore designated a local contact/property manager who will be available 24/7 to respond tenant and neighborhood questions or concerns.

To ensure the proposed use will not affect the residential character of the neighborhood Condition #8, No Events Allowed, has been implemented. This will ensure the property will only be used as a short-term rental, and not an event space.

Public Comment

No public concerns or objections were received at the Carmel Valley LUAC on January 3, 2023. In accordance with MCC Section 21.64.280.D.1, the proposed project was scheduled for consideration before the HCD Chief of Planning. However, prior to the administrative hearing, staff received one public comment letter. This letter was submitted by an attorney representing the Save Our Peninsula “SOP” Committee, in opposition of the proposed project and a request for the project to be reviewed by the Planning Commission.

The public objection letter raised concerns regarding the need for a global assessment of short-term rental approvals on available housing stock, potential impacts to the character of residential neighborhoods and potential environmental impacts on the unincorporated areas of the County. Specifically to this project, the letter expressed concerns around potential increase of environmental impacts including noise and traffic, HCD’s ability to enforce the 7-30 day rental period, the lack of a cumulative impact assessment within the CEQA finding of the draft resolution and no evidence that the applicant had been paying the Transient Occupancy Tax prior to June of 2022.

To address the concerns regarding increased noise and traffic and the impacts to the residential neighborhood character; the subject property is zoned for residential development, rezoning is not proposed. The property is subject to Monterey County’s Noise Ordinance (Chapter 10.60), which prohibits loud or unreasonable noise between the hours of 9:00PM and 7:00AM the following morning. Short-term rentals are not exempt from this ordinance. Through adoption of the Transient Use of a Residential Property for Remuneration Ordinance (No. 5135), the Board of Supervisors found that the “use permitted pursuant to this ordinance, as regulated, will not constitute a substantial adverse physical change to the environment or any substantive change in the intensity of use of existing single-family dwellings.”

Regarding HCD’s ability to enforce the restrictions, HCD Code Compliance does have the ability to enforce the terms and conditions of this permit as well as noise complaints. Based on review the County’s records, no complaint has been received by the Code Compliance Division and thus no violation has been issued on this property. The granting of this Administrative Permit will bring the property into conformance with applicable Monterey County Codes. If a complaint is filed with the County Code Compliance department following the issuance of this Administrative Permit relating to a violation of the Operations Plan or Conditions of Approval, the County would investigate the claim.

Another letter from the public was received on February 2, 2022. Shaun Murphy expressed their support of the administrative approval of PLN220134 and rebutted the comments made in Mr. Rosenthal’s letter. This letter is included in Exhibit B.

Health and Safety

The property receives water via public utilities, and has an onsite wastewater system:

- The property currently has a Cal Am water connection and sufficient credits to support the proposed project.
- The property currently has a septic system which was reviewed by the Environmental Health Bureau and found to be adequate to support the proposed project.

This project was conditioned by the Monterey County Regional Fire Protection District to install the proper number of smoke alarms in the house prior to occupancy. The Monterey County Regional FPD reviewed the project and found, as conditioned, the property is suitable for transient use for remuneration.

CEQA:

The project qualifies as a categorical exemption from environmental review pursuant to Section 15301 of the CEQA Guidelines. This exemption applies to the leasing of existing private structures, involving negligible or no expansion of an existing use. The applicant proposes to use (lease) an existing residential single-family dwelling for transient use for remuneration and does not propose any additional exterior development and/or expansion of the existing structure. The main dwelling in question is existing and has been confirmed by County agencies to be adequate for this use. The use of the single-family residence as short-term rental will not substantially change the intensity of use of the property and the existing structure. The potential impact of short-term rentals on long-term housing is not a unique circumstance which would disqualify the use of a categorical exemption. Potential social and economic impacts of short-term rentals are not required to be addressed in CEQA. Therefore, the proposed use is consistent with the CEQA Guidelines Section 15301. None of the exceptions under CEQA Guidelines Section 15300.2 apply to this project.

OTHER AGENCY INVOLVEMENT:

The project was reviewed by HCD-Planning, HCD-Engineering Services, HCD-Environmental Services, the Environmental Health Bureau, and Monterey County Regional FPD. The respective 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.

LUAC:

The project was referred to the Carmel Valley Land Use Advisory (LUAC) for review. The LUAC reviewed the project at a duly noticed public meeting on January 3rd, 2023 and voted to recommend approval of the project as proposed. No public comment was received at the meeting.

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Reviewed by: Anna Quenga, AICP, Principal Planner  
Approved by: Craig Spencer, HCD Chief of Planning

The following attachments are on file with the HCD:

- Exhibit A - Draft Resolution including:
- Recommended Conditions of Approval

- Site Plans, Floor Plans
- Operational Plans

Exhibit B - Public Comment

Exhibit C - LUAC Recommendation

Exhibit D - Vicinity Map