



County of Monterey Planning Commission

Item No.3

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

Agenda Item No. 3

April 24, 2024

Legistar File Number: PC 24-041

Introduced: 4/16/2024

Current Status: Agenda Ready

Version: 1

Matter Type: Planning Item

PLN220137 - SHAUGHNESSY THOMAS E & PAMELA A

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

Project Location: 2862 Oak Knoll Road, Pebble Beach, Greater Monterey Peninsula Area Plan

Proposed CEQA Action: Finding the project statutorily exempt pursuant to CEQA Guidelines Section 15270.

RECOMMENDATION:

It is recommended that the Planning Commission adopt a resolution:

- 1) Finding the project statutorily exempt pursuant to CEQA Guidelines Section 15270; and
- 2) Denying an Administrative Permit to allow transient use of residential property (existing single-family dwelling), commonly known as a short-term rental.

A draft resolution with findings and evidence supporting this recommendation is attached for consideration (**Exhibit A**).

PROJECT INFORMATION:

Owner: Thomas and Pamela Shaughnessy

APN: 007-201-018-000

Zoning: MDR/B-6-D-RES (Medium Density Residential)

Parcel Size: 0.21 acres

Plan Area: Greater Monterey Peninsula Area Plan

Flagged and Staked: No

Project Planner: Fionna Jensen, (831) 796-6407, JensenF1@co.monterey.ca.us

SUMMARY:

The applicant requests approval of an Administrative Permit to allow use of the property's existing single-family dwelling for transient use (short-term rental). The subject property is within a residential neighborhood of Pebble Beach and is subject to the regulations of the County's 2010 General Plan, Greater Monterey Peninsula Area Plan, and Inland Zoning Ordinance (Title 21).

Title 21 section 21.64.280.D.1 allows transient use of residential property for remuneration in all zoning designations which allow residential uses upon issuance of an Administrative Permit, and where adequate services and facilities exist to support the use. A copy of the proposed operations plan is attached to **Exhibit A**. Although the proposed project complies with the requirements of this section strictly pertaining to the minimum rental period(s), on-site advertising, payment of transient occupancy taxes (TOT), designation of a local contact person and supervision of transient occupants, and

maximum number of occupants allowed during transient use; the proposed use is in violation with applicable conditions, covenants, and restrictions (CC&Rs). This violation is discussed below in more detail.

Restrictions imposed by CC&Rs, including their enforcement, are a matter of real property law between private parties, generally between homeowner's associations, or an equivalent enforcer of such restrictions, and private property owners. The County is not involved in the application or enforcement of CC&Rs, unless required by code. In this case, Title 21 section 21.64.280.D(2)(g) states that "*[t]he use of a residential unit for a transient use shall not violate any applicable conditions, covenants, or other restrictions on real property*" and requires that applicants notice the affected homeowner's association in a manner consistent with the notice requirements for a use permit. This section also requires that the County not approve the requested Administrative Permit or entitlement "...until the homeowners' association's objection has been withdrawn or the right of the applicant to use the subject residential property for transient use has been validated, approved, or otherwise ordered by a Court, arbitrator, or other appropriate entity with the authority to review, approve, validate, or otherwise act on the proposed use of the action of the homeowners' association." A copy of Title 21 section 21.64.280 is attached as **Exhibit B**.

Violation of CC&Rs

The subject property is identified as Lot 17 of Block 11 of the Monterey Peninsula Country Club Subdivision No. 1 (Cities and Towns, Volume 3, Page 26). A copy of the conditions, covenants, and other restrictions (CC&Rs) (Contract No. 851, dated November 12, 1926) for the subject property was provided to HCD-staff by the Pebble Beach Company (**Exhibit C**). The first CC&R of this contract prohibits conducting "*any trade or business of any description*" within the residence or using the residence for any purpose other than a private dwelling, unless written consent is granted by the seller. Thus, utilizing and occupying a private dwelling for a purpose other than long-term residential use (i.e., renting the residence as a commercial venture on a short-term basis), as proposed by the project, violates the subject property's CC&Rs.

Although this contract was provided to the Applicant/Owner on March 17, 2023, and December 20, 2023, the Applicant asserts that there are no CC&Rs on the subject property because none are identified on the property's grant deed or Title Report (**Exhibit I**). Contract No. 851 is a recorded document on a real property described as "Lot seventeen (17), Block eleven (11) as shown on that certain map entitled, "Monterey Peninsula Country Club Subdivision No. 1..." The subject property's grant deed describes this property as Lot 17, in Block 11, according to the map of Monterey Peninsula Country Club No. 1..." and therefore is subject to the terms and conditions of Contract No. 851.

HCD-Planning informed the Applicant and Agent that PLN220137 was in violation of applicable CC&Rs and consequently inconsistent with the requirements of Title 21 section 21.64.280.D(2)(g) on March 17, 2023 and December 20, 2023, and requested that additional information confirming that the project is not in conflict with any CC&R would be needed for staff to support the application. No additional information has been provided.

Affected Homeowner's Association

The applicant asserts that the Pebble Beach Company is not a legally formed or authorized homeowner's association subject to the Davis-Sterling Act and thus cannot enforce any CC&Rs on the subject property (**Exhibit G**).

The seller or conveyor of Contract No. 851 was the Del Monte Properties Company. The Del Monte Properties Company was the original owner that created a majority of the existing residential lots in Pebble Beach, and in conveying (selling) those lots, it established CC&Rs applicable to those lots for the benefit of its retained property. As of date, the Pebble Beach Company is the successor in ownership to the Del Monte Properties Company and the subsequent owners of its property, and as such it occupies the position of the original "Grantor" of those lots. Consequently, the Pebble Beach Company asserts that it possesses the rights of the Grantor to enforce the CC&Rs. A letter detailing the Pebble Beach Company's position is attached as **Exhibit D**. In 2016, through consideration of a separate discretionary permit for the establishment of a short-term rental (PLN160233), the Planning Commission found that the Pebble Beach Company was the affected homeowners' association for the purposes of implementation of Title 21 section 21.64.280.D.2.g (Resolution No. 17-007; **Exhibit F**).

Homeowner's Association Objection

On October 18, 2016, the PBC submitted a letter to HCD-Planning detailing its position regarding short-term rental and the enforcement of CC&Rs on residential lots in Pebble Beach, or the Del Monte Forest (**Exhibit D**). This letter states, "*PBC generally considers "short-term" rentals to be rentals of less than 30 days, and considers them to be a violation of the CC[&]Rs.*" and "*PBC considers the use of a residence for an Airbnb, VRBO, or similar transient occupancy to be the conduct of a "trade or business" in violation of the restriction, as well as a violation of the single-family residence restriction.*" The PBC asserts that it has the discretion to determine, in its judgment, whether a project or use violates applicable CC&Rs, based on all of the circumstances surrounding the particulate use. The Pebble Beach Company has previously found that certain short-term rentals are not in violation of applicable CC&Rs where "*the purposes of the CC[&]Rs are not well served; examples include residences located in the general area of The Lodge at Pebble Beach during special events such as the AT&T Pebble Beach Pro-Am golf tournament or the Concours d'Elegance, when that area becomes a widespread hub of commercial activity*" (excerpt from **Exhibit D**). **Exhibit E** illustrates the approved short-term rentals in the Inland Area of the Del Monte Forest. The PBC's October 18, 2016 letter objects to the issuance of additional permits for short-term rentals in the inland portion of Pebble Beach (within the Greater Monterey Peninsula Area Plan planning area) until "(1) the County has decided on a policy direction and the adopted a new ordinance, and (2) the County has more thoroughly analyzed the unique situation in DMF where CC[&]Rs restrict such use."

The County's short-term rental ordinance requires that the Applicant/Owner notify the affected homeowner's association of the proposed use. No evidence has been provided to HCD-Planning staff indicating that the applicant has notified or received a response from the Pebble Beach Company. HCD-Planning staff notified the Pebble Beach Company on multiple occasions of the proposed use. On March 25, 2024, HCD-Planning met with the PBC to better understand their process of reviewing short-term rental applications and understand whether their position has changed since 2016. During this meeting, PBC reaffirmed its 2016 position, stating that it will not support short-term rental applications until such time that the County adopted a new short-term rental ordinance. Therefore, the

Pebble Beach Company's 2016 letter (**Exhibit C**) serves as the affected homeowner's association's objection for the purpose of Title 21 section 21.64.280.D(2)(g). The objection has not been withdrawn and thus staff recommends the Planning Commission deny this request based on the requirements of Title 21 section 21.64.280.D(2)(g).

Violation with County Zoning Ordinance

Complaints alleging the use of the subject property as a short-term rental were received in 2020 and 2016, as well as at the March 7, 2024 Del Monte Forest Land Use Advisory Committee meeting. One active violation exists on the subject property (20CE00218). Based on the County records, the subject property has had short-term rental bookings with verified occupancies since April 2023. A courtesy notice and a follow-up inquiry letter were sent on January 8, 2024 and March 25, 2024 by HCD-Code Compliance. No discretionary permit has been granted by the County of Monterey that would allow use of the subject property as a short term rental. As detailed in the draft Resolution (**Exhibit A**), staff is recommending the Planning Commission deny the proposed project. Denial of the requested Administrative Permit will not abate the violation. Therefore, the subject property is not in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of Title 21. A Notice of Violation is scheduled to be mailed to the Applicant/Owner on or around April 25, 2024, if evidence has not been provided to HCD-Code Enforcement demonstrating that the unpermitted use has ceased.

Public Comment

Members of the public submitted correspondence objecting to the issuance of the proposed short-term rental (**Exhibit H**). One letter requested that short-term rentals not be approved in Monterey County until such time that a new short-term rental ordinance is adopted. Concerns raised in this public comment letter included the lack of existing regulations governing short-term rentals and additional noise generated from short-term rentals. The other letters raised concerns about the impact of short-term rentals on residential neighborhoods. The impacts discussed in this letter included a change in neighborhood character, a decrease in long-term rentals, an increase in short-term rental prices, and the constant "commotion and loud parties."

ENVIRONMENTAL REVIEW:

California Environmental Quality Act (CEQA) Guidelines Section 15270 statutorily exempts projects that a public agency rejects or disapproves. The action of the Planning Commission to deny the project would fit within this exemption as the County is a public agency that would be disapproving of a project. Statutory exemptions from CEQA are not subject to the exceptions applicable to categorical exemptions set forth in CEQA Guidelines section 15300.2.

OTHER AGENCY INVOLVEMENT:

The following agencies have reviewed the project:

- HCD-Engineering Services
- HCD-Environmental Services
- Environmental Health Bureau
- Pebble Beach Community Services District
- Office of County Counsel

LAND USE ADVISORY COMMITTEE

The project was referred to the Del Monte Forest Land Use Advisory Committee (LUAC) for review. On March 7, 2024, the LUAC voted six to zero (6 - 0) to not support the project. The LUAC supported the PBC's enforcement of CC&Rs as a means to distinguish land uses (residential, commercial, open space) in the Del Monte Forest (**Exhibit I**). During this meeting, staff identified that a meeting between the County and the PBC was forthcoming and re-referral of the item may be warranted if the PBC withdraws its objections. Members of the public objected to the short-term rental due to noise and strangers, and alleged that the subject property is currently operating as a short-term rental.

Prepared by: Fionna Jensen, Senior Planner, x6407

Reviewed by: Anna Ginette Quenga, AICP, Principal Planner

Approved by: Melanie Beretti, AICP, Acting Chief of Planning

The following attachments are on file with HCD:

Exhibit A - Draft Resolution

- Draft Operations Plan & Project Plans

Exhibit B - Administrative Permits for Transient Use of Residential Property for Remuneration Ordinance

Exhibit C - Applicable Conditions, Covenants, and Other Restrictions

Exhibit D - Pebble Beach Company letter, dated October 18, 2016

Exhibit E - Map of Approved Short-Term Rentals in the Inland Area of the Del Monte Forest

Exhibit F - Planning Commission Resolution No. 17-007

Exhibit G - Applicant Correspondence

Exhibit H - Public Comment

Exhibit I - Del Monte Forest LUAC (March 7, 2024)

Exhibit J - Vicinity Map

cc: Front Counter Copy; Pebble Beach Community Service District; HCD-Engineering Services; HCD-Environmental Services; Environmental Health Bureau; Fionna Jensen, Project Planner; Anna Ginette Quenga, AICP, Principal Planner; Melanie Beretti, AICP, Acting Chief of Planning; Thomas and Pamela Shaughnessy, Property Owner; Pebble Beach Company; Christina McGinnis, Interested Party; The Open Monterey Project; LandWatch (Executive Director); Lozeau Drury LLP; Planning File PLN220137

This page intentionally left blank