



County of Monterey Planning Commission

Item No.7

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

Agenda Item No. 7
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PLN210292 - CUDE JESSE AND SANDRA TRUST

Public hearing to consider after-the-fact construction of a two story single family dwelling (1,175 sq. ft.) with deck (872 sq. ft.), a non-habitable accessory structure (225 sq. ft. shed), a platform deck (215 sq. ft.), three water tanks (two 2,500 gallons each and one 5,000 gallon), and associated improvements; removal of one protected Madrone tree (8 inch diameter), within 100 feet of an environmentally sensitive habitat area (Redwood Forest, intermittent stream), and grading on slopes exceeding 30 percent.

Project Location: 37761 Palo Colorado, Big Sur, Big Sur Coast Land Use Plan, Coastal Zone

Proposed CEQA Action: Finding the project qualifies for a Class 3 Categorical Exemption pursuant to CEQA Guidelines Section 15303

RECOMMENDATION

It is recommended that the Planning Commission:

- a. Find the project involves construction of the first single family dwelling and accessory structures on a parcel that allows residence as a primary use, which qualifies for a Class 3 Categorical Exemption pursuant to CEQA Guidelines Section 15303 and there are no exceptions pursuant to Section 15300.2;
- b. Approve a Combined Development Permit to clear a Code Enforcement violation (14CE00095) consisting of:
 - 1) Coastal Administrative Permit and Design Approval to allow after-the-fact construction of a two-story single family dwelling (1,175 square feet) with 872 square feet of deck, a shed (approximately 225 square feet), a 215 square foot platform deck, two 2,500-gallon dark green water tanks, one proposed 5,000 gallon water tank and associated improvements; colors and materials are beige siding and dark green/gray trim and green metal rooves;
 - 2) Coastal Development Permit to allow after-the-fact and new development within 100 feet of environmentally sensitive habitat area (Redwood Forest and intermittent stream);
 - 3) Coastal Development Permit to allow after-the-fact and new grading and driveway on slopes exceeding 30 percent; and
 - 4) Coastal Development Permit to allow the after-the-fact removal of one Madrone tree (approximately 8 inches diameter).

The project also includes partial restoration including stabilization of 890 square feet of disturbed slope and revegetation of the approximate 2,820 square feet of disturbed area with native forest understory and coastal scrub plants.

A draft resolution, including findings and evidence, is attached for consideration (**Exhibit B**). Staff recommends approval subject to 16 conditions of approval.

PROJECT INFORMATION

Property Owner: Cude Jesse L. and Sandra Trust

Agent: James Renfro, Hogan Land Services

APN: 418-081-033-000

Zoning: Rural Density Residential, 40 acres per unit, Design Control Overlay (Coastal Zone)
[RDR/40-D (CZ)]

Parcel Size: 13.97 acres

Flagged and Staked: No

Planner: Mary Israel, ext. 5183, israelm@countyofmonterey.gov

SUMMARY

The proposed project involves after-the-fact permitting of a single-family dwelling and associated improvements as well as permitting of new driveway, drainage and septic improvements at 37761 Palo Colorado, Big Sur. The project site and the surrounding area are zoned and designated for rural residential use. The subject site is located within 100 feet of an intermittent stream and existing Redwood Forest, in the County's Big Sur Coast Land Use Plan (LUP) area of the Coastal Zone. The approximately 14 acre parcel includes a buildable area which was flattened in the period that the previous parcel was logged, approximately in the decade of 1910-1920. Access to the original cabin at the site was via a road along Palo Colorado Creek from where Palo Colorado Canyon Road now turns to ascend Murray grade. The original cabin is long destroyed, but the flattened area utilized by the current owner remained (with approximately 50 cubic yards of cut). After purchasing the property in December 2002, the current owner impacted natural vegetation and graded around the pre-existing cabin site in three locations: 1) pre-existing terraces were expanded on the slope along the northern side of the level area, 2) pre-existing slope cut was enlarged at the western edge of the level area, and 3) soil was removed at the edge of the level area behind the current location of the sheds.

Furthermore, vegetation was removed to install two water tanks and a ground-mounted solar array. The after-the-fact construction of a single family dwelling and these other developments which was cited by Code Enforcement Case No. 14CE00095. The site is accessed via a gravel driveway easement through APNs 418-081-032-000, 418-081-030-000 and 418-131-006-000 (all to the south of the subject parcel) which the current owner was granted in February, 2001 (**Exhibit F** shows the easement map). The project includes a request for permit for development on slopes exceeding 30 percent, which is primarily related to the driveway area and, secondarily, after-the-fact cut to slopes described above. Therefore, part of this entitlement allows the improvement to the existing driveway to meet fire safety regulations (approx. 61 cubic yards of cut and 65 cubic yards of fill on 3,230 square feet of area) and stabilization of the cut slope following the recommendations of the project engineer. The development is within 100 feet of the intermittent stream known as Palo Colorado and a healthy stand of Redwood trees. A biological report prepared for the project investigated the potential impacts of the project to these resources (Nedeff, Consulting Ecologist, March 21, 2023 HCD Library Doc. No. LIB230318). The biologist concluded that no sensitive species are found on the parcel but did report on 1,100 square feet of coastal scrub removal, 1,315 square feet of Mixed Evergreen Forest understory removal, and 400 square feet of Redwood Forest understory removal directly related to the project development. The biologist proposed a restoration plan (**Exhibit E**) of approximately 2,820 square feet of forest understory and coastal scrub which the owner has agreed to follow to restore these natural communities to the greatest extent feasible. LUP Policy 3.3.3.A.4

requires a 150 foot setback on each side of the streambank to protect riparian communities. The LUP policies related to protection of environmentally sensitive resources such as Policies 3.3.2.1, .4 and .7 guide this restoration and allow the development to be retained, despite the inconsistency with LUP Policy 3.3.3. (See the Discussion, **Exhibit A** for full exploration of how the project conforms with these policies.)

Staff reviewed the application and found the project, as proposed and conditioned, consistent with the LUP and the associated section of Title 20, the Coastal Implementation Plan, Part 3 (CIP). The after-the-fact construction involved the removal of one tree (madrone) and impacts to the existing forest were avoided, no views were/are impacted by the development as it is tucked into the Palo Colorado ravine, and erosion control measures appear to have protected the slopes and stream during ground disturbing activities. See additional detail in the Discussion (**Exhibit A**) and Environmental Review (CEQA Exempt).

DISCUSSION

The Discussion is found attached to this staff report as **Exhibit A**.

ENVIRONMENTAL REVIEW (CEQA EXEMPT)

The project is categorically exempt from environmental review pursuant to Section 15303 of the CEQA Guidelines. This exemption applies to the construction of new residential structures on a vacant lot. None of the exceptions under CEQA Guidelines Section 15300.2 apply to this project. The location of the project site is not a particularly sensitive environment and hazards are avoided, as evidenced by the project-specific Geotechnical Report (Damien Georis, CMAG Engineering, Inc., November 8, 2019 with an Addendum prepared by Adrian Garner, also CMAG, September 10, 2021, HCD-Planning Library Doc. No. LIB220220) and Biological Report (Nedeff, Consulting Ecologist, March 21, 2023 HCD Library Doc. No. LIB230318).

Successive projects of the same type and in the same place (construction of a new single-family dwellings within the residential area of Palo Colorado) would not contribute to a significant cumulative impact. There are no unusual circumstances regarding this project that would cause a significant effect to the environment. The project site is not visible from any scenic highways, and the proposed development would not result in damages to scenic resources. Finally, the project site is not located on or near any hazardous waste sites listed in Section 65962.5 of the Government Code.

OTHER AGENCY INVOLVEMENT

The following agencies and HCD-groups have reviewed the project, have comments, and/or have recommended conditions:

- Environmental Health Bureau
- HCD-Engineering Services
- HCD-Environmental Services
- Carmel Highlands Fire Protection District

LAND USE ADVISORY COMMITTEE

Staff referred the proposed project to the Big Sur Land Use Advisory Committee (LUAC) for review (**Exhibit D**). The LUAC, at a duly-noticed public meeting at which all persons had the opportunity to be heard, reviewed the project on February 13, 2024, and voted 4 - 0 - 1 (4 yes and 0 no, 1

abstained) to support the project as proposed.

Prepared by: Mary Israel, Supervising Planner

Reviewed: 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 - Discussion

Exhibit B - Draft Resolution, including:

- Conditions of Approval
- Project Plans, Elevations, Colors and Materials, Slope analysis sheets

Exhibit C - Vicinity Map

Exhibit D - Big Sur LUAC minutes for February 13, 2024

Exhibit E - Project Biological Report/Restoration Plan

Exhibit F - Driveway Easement Plat

cc: Front Counter Copy; California Coastal Commission; Anna Ginette Quenga, AICP, Principal Planner; Mary Israel, Project Planner; HCD-Engineering Services; Environmental Health Bureau; HCD-Environmental Services; Carmel Highlands Fire Protection District; Jesse Cude, Applicant/Owner; James Renfro, Agent; Laborers International Union of North America (Lozeau Drury LLP); The Open Monterey Project (Molly Erickson); LandWatch; Project File PLN210292