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

In the matter of the application of:

WHISLER PATRICK A ET AL (PLN210353)

RESOLUTION NO. 23-019

Resolution by the Monterey County Planning Commission:

- 1) Finding that denial of the project is statutorily exempt from CEQA pursuant to CEQA Guidelines section 15270; and
- 2) Denying a Coastal Development Permit to allow transient use of a property (three single family dwellings) for remuneration as a similar use to a Bed and Breakfast Facility.

[PLN210353 WHISLER PATRICK A ET AL, 47 HIGHWAY 1, CARMEL AREA LAND USE PLAN, COASTAL ZONE (APN: 243-061-003-000)]

The WHISLER application (PLN210353) came on for a public decision hearing before the Monterey County Planning Commission on May 10, 2023 and June 28, 2023. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Monterey County Planning Commission finds and decides as follows:

FINDINGS

1. FINDING: INCONSISTENCY – The Project, as proposed, is not consistent with all the applicable regulations regarding development for the proposed use.

- EVIDENCE:**
- a) During the course of review of this application, the project has been reviewed for consistency with the text, policies, and regulations in:
 - the 1982 Monterey County General Plan;
 - Carmel Area Land Use Plan and Coastal Implementation Plan, Part 4; and
 - Monterey County Zoning Ordinance (Title 20).

Conflicts were found to exist with the Monterey County Zoning Ordinance (Title 20).

- b) The property is located at 47 Highway 1, Carmel (Assessor's Parcel Number [APN] 243-061-003-000), Carmel Area Land Use Plan, Coastal Zone. The parcel is zoned Low Density Residential, one unit per acre, with a Design Control overlay, within the Coastal Zone, or “LDR/1-D (CZ)”, which allows for the establishment of a Bed and Breakfast facility, subject to the granting of a Coastal Development Permit. Monterey County Code (MCC) section 20.14.050.Z allows “*Other residential uses of a similar character, density and intensity as those listed in this Section [20.14.060] determined by the Planning*

Commission to be consistent and compatible with the intent of this Chapter [20.14] and the applicable land use plan,” subject to the granting of a Coastal Development Permit. The applicant proposes the use of three existing single-family dwellings as a transient use for remuneration, commonly known as a short-term rental. Monterey County does not have adopted short term rental regulations within the Coastal Zone and therefore the applicant has applied under MCC section 20.14.050.Z for the proposed use to be considered a similar use to a Bed and Breakfast facility. As discussed in the subsequent evidence, the proposed use has been found inconsistent with Bed and Breakfast facilities.

- c) MCC section 20.64.100 establishes the regulations for Bed and Breakfast facilities. Pursuant to this section, the facility shall: be occupied and managed by the property owner(s); not be affiliated with hotels or motels operating anywhere in the County of Monterey; allow no more than 10 guest rooms; restrict a maximum stay for guests not exceed 29 consecutive days in a 30 day period and no more than 60 days in a one year period; prohibit long-term rental of rooms; allow sign(s) not to exceed 4 square feet; provide parking on site at the rate of 1 space per guestroom plus two spaces for the owners; be subject to the transient occupancy tax; and ensure any cooking facility comply with State and County codes. Inconsistent with Bed and Breakfast facility regulations, the proposed use does not require the property owner to permanently occupy the residence. Instead, the applicant proposes to use a local family member who resides one mile south of the subject property as the property manager. The Planning Commission finds that the proposed use does not have a similar character to a Bed and Breakfast facility because having a local property manager is inconsistent with the Bed and Breakfast facility regulations and does not meet the intent of having the property owner occupy the facility or protecting the residential housing supply in the unincorporated area of the County.
- d) The application, project plans, and related support materials submitted by the project applicant to Monterey County HCD-Planning found in Project File PLN210353.
- e) The County’s staff report for the June 28, 2023 Planning Commission hearing and oral testimony presented during the hearing.

2. FINDING: **CEQA (Exempt)** – Denial of the project is statutorily exempt from environmental review.

- EVIDENCE:**
- a) California Environmental Quality Act (CEQA) Guidelines section 15270 statutorily exempts projects which a public agency rejects or disapproves.
 - b) The Planning Commission’s action to deny the project fits within this exemption, the County is a public agency disapproving of a project.
 - c) Statutory exemptions from CEQA are not qualified by the exceptions applicable to categorical exemptions in CEQA Guidelines section 15300.2.

- 3. FINDING:** **APPEALABILITY** – The decision on this project may be appealed to the Board of Supervisors.
- EVIDENCE:** a) Board of Supervisors. Pursuant to MCC section 20.86.030, the Board of Supervisors is the appropriate authority to consider appeals made by any public agency or person aggrieved by a decision of the Planning Commission.

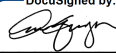
DECISION

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

- 1) Find that denial of the project is statutorily exempt from CEQA pursuant to CEQA Guidelines section 15270; and
- 2) Deny a Coastal Development Permit to allow transient use of a property (three single-family dwellings) for remuneration as a similar use to a Bed and Breakfast facility.

PASSED AND ADOPTED this 28th day of June, 2023, upon motion of Commissioner Diehl, seconded by Commissioner Roberts, by the following vote:

AYES: Gonzalez, Shaw, Diehl, Monsalve, Daniels, Roberts, Getzelman
NOES: Gomez, Work
ABSENT: Mendoza
ABSTAIN: None

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Anna Quenga on behalf of
Craig Spencer, Planning Commission Secretary

COPY OF THIS DECISION MAILED TO APPLICANT ON July 7, 2023 .

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 July 17, 2023 .

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.

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