



Monterey County

Item No.

Board Report

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

Legistar File Number: RES 21-124

July 13, 2021

Introduced: 7/2/2021

Current Status: Agenda Ready

Version: 1

Matter Type: BoS Resolution

PLN190030 - AMD1 - SKEEN & CHANG

Public hearing to consider:

- a. Denial of an appeal by David Sabih from the April 29, 2021 decision of the Zoning Administrator to approve a Minor and Trivial Amendment to a previously approved Combined Development Permit (PLN060735), as modified by the 2011 and 2019 Design Approvals (PLN110448 and PLN190030) and extended under PLN150766;
- b. Consider the previously adopted Mitigated Negative Declaration for the Skeen & Chang Combined Development Permit; and
- c. Approve a Minor and Trivial Amendment to a previously approved Combined Development Permit (PLN060735), as modified by 2011 and 2019 Design Approvals (PLN110448 and PLN190030) and extended under PLN150766, to allow exterior and interior modifications to an approved three-story single-family dwelling including modifications to the roof, main level's ceiling height, front access steps, and upper-level windows; addition of an approximately 255 square foot terrace, 65 square foot balcony, 250 square foot patio, an outdoor spa, and side access steps; relocation of outdoor firepit; removal of one (1) light well; replacement of a main-level window with double doors; and interior floor plan changes.

Proposed CEQA Action: Consider previously adopted Mitigated Negative Declaration

Project Location: 26327 Scenic Road, Carmel, Carmel Land Use Plan

RECOMMENDATIONS

It is recommended that the Board of Supervisors adopt a resolution to:

- a) Deny the appeal of David Sabih of the April 29, 2021 decision of the Zoning Administrator decision finding the project consistent with the previously adopted Mitigated Negative Declaration and approving an application (PLN190030-AMD1) for a Minor and Trivial Amendment to a previously approved Combined Development Permit (PLN060735), modified by PLN110448 and PLN190030 and extended under PLN150766, to allow exterior and interior modifications and improvements to the three-story single-family dwelling;
- b) Consider the previously adopted Mitigated Negative Declaration (MND) for the Skeen & Chang residence (PLN060735) and find that the proposed Minor and Trivial Amendment does not require subsequent environmental review pursuant to Section 15162 of the CEQA Guidelines; and
- c) Approve a Minor and Trivial Amendment to a previously approved Combined Development Permit (PLN060735), as modified by the 2011 and 2019 Design Approvals (PLN110448 and PLN190030) and extended under PLN150766, to allow exterior and interior improvements to the previously approved three-story single-family dwelling. Improvements include modifications to the roofline, main level's ceiling height, front access steps, and upper-level windows; addition

of an approximately 255 square foot terrace, 65 square foot balcony, 250 square foot patio, an outdoor spa, and side access steps; relocation of outdoor firepit; removal of one (1) light well; replacement of a main-level window with double doors; and interior floor plan changes. Materials and colors, and associated grading of 1,130 cubic yards of cut to remain as previously approved.

A draft resolution, including findings and evidence, is attached for consideration (Attachment B). Staff recommends approval subject to seventeen (17) conditions.

PROJECT INFORMATION

Project Owner: Dale Skeen & JoMei Chang

APNs: 009-442-013-000

Zoning: Medium Density Residential (2 units per acre), Design Control, 18-foot height limit, Coastal Zone [MDR/2-D(18)(CZ)].

Parcel Size: 0.106 acres (4,606 square feet)

Flagged and Staked: Not required; this minor amendment only involves minor changes to the previously approved project.

SUMMARY

The Applicants, Mr. Skeen and Ms. Chang, propose to amend the previously approved Combined Development Permit (PLN060735), as modified by the prior Design Approvals (PLN110448 and PLN190030) and as previously extended (PLN150766), to allow minor exterior and interior improvements. The colors and materials of the proposed amendment will remain the same as previously approved in PLN190030 and will not change the site grading associated with the previously approved Combined Development Permit (PLN060735). The totality of the project (Combined Development Permit (Resolution No. 08-251; PLN060735)), as proposed to be amended herein and as amended by the prior Design Approvals, consists of: an approximately 2,895 square foot three story single family dwelling with an attached 556 square foot garage, a 360 square foot main-level patio, a 160 square foot upper-level balcony, an 815 square foot terrace (front and rear), 2 firepits (located in front and rear terrace), a rear spa/hot tub, 300 linear feet of retaining walls, and 1,130 cubic yards of cut.

The concerns expressed by interested members of the public referenced specific additions and alterations proposed in the amendment. These concerns related to potential impacts of the above listed modifications on privacy, drainage, private view obstruction, and appearance, and the impact on the proposed structure's height, lot coverage, and setbacks. An interested public member also stated the need for the project to be reviewed by the Carmel Highlands/Unincorporated LUAC (**Attachment F1**).

Staff finds the project amendment, as proposed, is consistent with the applicable provisions of the 1982 Monterey County General Plan, Carmel Area Land Use Plan, Carmel Coastal Implementation Plan (Part 4), and Zoning Ordinance (Title 20).

On April 29, 2021, the Zoning Administrator found the project amendment consistent with the previously adopted Mitigated Negative Declaration (MND) and approved a Minor and Trivial Amendment (Monterey County Zoning Administrator Resolution No. 21-019; **Attachment H**).

The Appellant, David Sabih, timely filed an appeal from the April 29, 2021 decision of the Zoning Administrator to approve the Minor and Trivial Amendment. The Appellant contends that Zoning Administrator's decision is not supported by the evidence and that the decision is contrary to law. The specific contentions raised by the Appellant are identified below and are addressed in more detail in the Project Discussion (**Attachment A**) and the Draft Resolution (**Attachment B**) of this report. In staff's analysis, these contentions are without merit for the reasons stated in the draft resolution.

The hearing on the project at the Board is de novo. Staff recommends denial of the appeal and approval of the proposed permit amendment. Staff has prepared a draft resolution to deny the appeal, certify consideration of the previously adopted Mitigated Negative Declaration, and approve the amendment to the Combined Development Permit. If the Board desires to take a different action, the Board could adopt a motion of intent and continue the hearing to a date certain for the staff to prepare a resolution with modified findings.

This project has a long history which included an appeal of the Zoning Administrator's approval of the original permit approving a single-family dwelling (PLN060735) to the Board of Supervisors. The Board's approval was challenged by a lawsuit, which was settled. Thereafter, several minor changes to the project have been approved through two Design Approvals. The subject amendment represents the third proposed plan change since the original approval. Additionally, a building permit was issued for construction of the dwelling in April 2018. Construction work began at the property but was subsequently stopped because of lack of compliance with conditions including grading without the required monitors on-site. Fines have been paid and violations have been rectified. This appeal focuses on the proposed amendment to the previously approved permit.

DISCUSSION

On November 2, 2020, Dale Skeen & Jo-Mei Chang, represented by Anthony Lombardo & Associates, applied for a Minor and Trivial Amendment to allow minor exterior and interior improvements to the previously approved three-story single-family dwelling.

On April 29, 2021, the Zoning Administrator found the project consistent with the previously adopted Mitigated Negative Declaration and approved the Minor and Trivial Amendment (Resolution No. 21-019) (**Attachment H**).

The Appellant, David Sabih, filed an appeal raising numerous contentions (**Attachment C**). County Staff has grouped and summarized the contentions as follows:

1. The amendment violates setback, drainage, lot coverage and floor area regulations;
2. Grading, drainage and/or erosion control plans should be required;
3. The owners "piece-meal" approach evades proper environmental review and public review;
4. The project has been controversial since the original permit (PLN060735);
5. The cumulative impacts of the previously approved projects and this amendment are hard to analyze;
6. The goal of the project is to maximize profits as a "spec. house;"
7. The amendment maximizes all development standards (floor area ratio, lot coverage, height, setbacks) and requires excessive grading;

8. The project is inconsistent with the surrounding neighborhood and looks out of place;
9. A licensed civil engineer should verify that the house does not exceed the required setbacks and height regulations;
10. A grading, drainage or erosion control should be required to verify the applicant's claim of "no new grading;"
11. The patio should be considered a deck structure and should not be allowed in the front setback;
12. The firepits should not be allowed in the setbacks and spark arrestors should be required;
13. The spa, which compromises the neighbor's privacy, should not be allowed in the setback.
14. The improvements are not of minor and trivial nature;

Staff has reviewed the contentions and has determined that the project meets all development standards established in Monterey County Code (MCC) for the Medium Density Residential zoning district, is comparable to other dwellings in the vicinity, and has received proper environmental, public, and County review. A more detailed Project Discussion is included as **Attachment A**, in which County staff has provided a summary of contentions and responses. Detailed responses to the contentions are included in the Draft Resolution at **Attachment B**.

ENVIRONMENTAL REVIEW

No supplemental environmental review is required under Section 15162 of the CEQA Guidelines because no substantial changes are proposed requiring major revisions of the Mitigated Negative Declaration (MND), no substantial changes have occurred with respect to circumstances under which the project was undertaken that will require major revisions to the MND, and no new information of substantial importance was presented that involves new significant environmental impacts or increase in severity of impacts relative to the impact analysis in the MND. All work proposed under this amendment is located within the existing building footprint or previously disturbed areas, and none of the work is within the sensitive habitat area (**Attachment G**).

OTHER AGENCY INVOLVEMENT

No other County agencies or departments reviewed this project.

LUAC

The project was referred to the Carmel Highlands Land Use Advisory Committee (LUAC) for review. The LUAC, at a duly-noticed public meeting on April 5, 2021, voted 4 - 0, with two absent members, to support the project with changes. (**Attachment E1**).

FINANCING:

Funding for staff time associated with this project is included in the FY2021-22 Adopted Budget within Community Development General Fund 001, Appropriation Unit HCD002, Unit 8543.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

This action represents effective and timely response to our HCD customers. Processing this application in accordance with all applicable policies and regulations also provides the County accountability for proper management of our land resources.

Check the related Board of Supervisors Strategic Initiatives:

Administration

Economic Development

Health & Human Services

Infrastructure

Public Safety

Prepared by: Fionna Jensen, Assistant Planner

Reviewed by: Craig Spencer, HCD Planning Services Manager CS

Reviewed by: Lori Woodle, Finance Manager I

Approved by: Erik Lundquist, AICP, Director of Housing and Community Development

The following attachments are on file with the Clerk of the Board:

Attachment A - Discussion

Attachment B - Draft Resolution, including:

- B.1 Conditions of Approval
- B.2 Site Plan, Floor Plans and Elevations
- B.3 Color and Material Finishes

Attachment C1 - Notice of Appeal

Attachment C2 - Applicant's response letter

Attachment D - Vicinity Map

Attachment E1 - Carmel/Carmel Highlands LUAC Minutes (April 5, 2021)

Attachment E2 - Applicant's response to LUAC recommendation (April 20, 2021)

Attachment F1 - Written Objection

Attachment F2 - Applicant Response

Attachment G - Previously Adopted Mitigated Negative Declaration

Attachment H - Zoning Administrator Resolution No. 21-019, dated April 29, 2021

Attachment I - Board of Supervisors Resolution No. 08-251 (PLN060735)

Attachment J - RMA- Director of Planning approved Design Approval (PLN110448)

Attachment K - RMA- Director of Planning Resolution No. 16-080 (PLN150766)

Attachment L - RMA- Director of Planning approved Design Approval (PLN190030)

cc: Front Counter Copy; Carmel Fire Protection District; Monterey County -Public Works, Parks and Facilities; HCD-Environmental Services; Environmental Health Bureau; Fionna Jensen, Assistant Planner; Anna Quenga, HCD Planning Manager; Craig Spencer, HCD Planning Services Manager; Dale Skeen & JoMei Chang, Property Owners; Gail Hatter, Agent; The Open Monterey Project (Molly Erickson); LandWatch; Project File PLN190030-AMD1; David Sabih, Appellant; Fenton & Keller (Alex Lorca), Appellant Representative; Ray Park, Interested Party; Debbie Lynn Dillon-Adams, Interested Party; Paul Ingemanson, Interested Party; Sandra Trush; Interested Party.