



Monterey County Zoning Administrator

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

Agenda Item No. 4

Legistar File Number: ZA 20-019

June 11, 2020

Introduced: 5/28/2020

Current Status: ATS Review

Version: 1

Matter Type: Zoning Administrator

PLN170674 - CYPRESS STABLES, LLC

Public hearing to consider continuation of a legal non-conforming use (previously approved Use Permit ZA7267) for a horse-riding academy and stables on a lot less than 10 acres.

Project Location: 550 Aguajito Road, Carmel, Greater Monterey Peninsula Area Plan

Proposed CEQA action: Categorically Exempt per section 15301 of the CEQA Guidelines

RECOMMENDATION:

It is recommended that the Zoning Administrator adopt a resolution to:

- a. Find that the project continued use of existing structures and facilities, and no expansion is proposed, and therefore it qualifies as a Class 1 Categorical Exemption pursuant to section 15301 of the California Environmental Quality Act Guidelines and that none of the exceptions under Section 15300.2 apply; and
- b. Approve a Use Permit to allow continued legal non-conforming use (Use Permit ZA7267) of a riding academy and stables on a lot less than 10 acres.

The attached draft resolution includes findings and evidence for consideration (**Exhibit A**). Staff recommends approval subject to 21 conditions of approval.

PROJECT INFORMATION:

Agent: Luke Ingram

Owner: Cypress Stables, LLC

APN: 103-091-013-000

Parcel Size: 5.42 acres

Zoning: RDR/5.1-UR-D-S

Plan Area: Greater Monterey Peninsula Advisory Committee

Flagged and Staked: No

Application Submitted: January 1, 2020

Application Complete: February 14, 2020

SUMMARY:

The proposed project is a continuation of an existing legal non-conforming use. A riding academy and stables has been on the property since prior to 1989. A Use Permit granted in 1989 recognized the use and noted that it was in compliance with standards in place at the time; however, the Use Permit included a 20-year expiration date. The current version of Title 21, adopted in 2010, allows Public Stables on Rural Density Residential properties of 10 acres or larger, and the subject property is only 5.42 acres. The property is in compliance with all other

rules and regulations and with the Conditions of Approval included in the 1989 Use Permit. Approval would allow the use to continue on the property with no expiration date.

DISCUSSION:

The project site is a 5.4 acre Rural Density Residential parcel on Aguajito Road in the Greater Monterey Peninsula Area Plan. The riding academy and stables already exist on the property, and no structural changes are proposed.

In December of 1989, a Use Permit for a Riding Academy and stables was approved on the subject property by the Zoning Administrator. The 1989 permit notes that the facilities and use had been in existence and operation for at least twenty years, and that the use is allowed based on the zoning ordinance in place at the time. The permit included a Condition of Approval (Condition 13) that stated “that this permit expire on December 14, 2009”. The property changed ownership in 2005 and again in 2014, all while the use continued. In September of 2017 the current owners applied for an Administrative Design Approval for a new corral cover over an existing corral and were informed of the expiration date on the original permit and informed they would need to re-apply for the Use Permit. The applicant submitted an application request at this time, and the Design Approval was issued with the condition that they re-apply for the Use Permit.

The current Land Use Ordinance (Title 21), specifically allows “public stables” in the Rural Density Residential zoning designation with a Use Permit on a minimum of ten (10) acres (21.16.050.F), and also allows “Other uses of a similar nature, intensity and density as those listed in this [the] section” (21.16.050.HH). The existing use which is proposed to be extended includes stables and a riding academy, and therefore is similar to “public stables”. This would allow for a Use Permit to be granted as a “similar use” under section 21.16.050. The subject parcel is 5.42 acres. Thus, when considered similar in use to a public stable, the current use became legal nonconforming when the current version of Title 21 was adopted. There is a minor discrepancy in the available data concerning the parcel size. Monterey County GIS information lists the parcel as 5.42 acres, whereas Monterey County Assessor’s database lists the parcel as 6.5 acres.

Professional survey data was not available at the time of writing of this staff report. For purposes of this application and the draft resolution, staff is conservatively using the smaller parcel size of 5.42 acres. The project would be non-conforming regardless of which of the two parcel sizes is used.

Monterey County Code (21.68.020) states that a legal nonconforming land use may be continued from the time that legal nonconforming land use is established, except that:

- A. No such use shall be expanded, enlarged, increased, or extended to occupy a greater area than that occupied when the legal nonconforming use was established.
- B. No such use may be intensified over the level of use that existed at the time the legal nonconforming use was established.
- C. The legal nonconforming use may be changed to a use of a similar or more restricted nature, subject to a use permit in each case.

In this case, the use is not proposed to expand, intensify, or change. It is simply proposed to continue in the same manner and in the same location. Normally, this would not require a new

entitlement; however, since the 1989 Use Permit expired via Condition 13, the use is currently not covered under an existing entitlement.

Staff searched County records but could not identify any reason for the expiration date. Minutes from the hearing were not available. Anecdotally, 20-year expiration dates were not uncommon at the time of issuance. In absence of any evidence of concern over the continued use of the site as a riding academy and stables, staff recommends the use continue as proposed. There is no record of code enforcement cases on the property. Staff has not received any communication from the community that would indicate any objection to the use continuing as proposed.

Staff has reviewed the Conditions of Approval included with the 1989 Use Permit and has determined that all conditions have either been met or are ongoing. Applicable conditions from the original permit have been carried forward and will continue to apply to this Use Permit. Staff made efforts to remove any conditions that were not relevant to the permit anymore (e.g.: Condition for permit expiration).

CEQA:

Section 15301 categorically exempts operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use. The project involves re-permitting the existing facilities and qualifies for this exemption. None of the exceptions under CEQA Guidelines Section 15300.2 apply to this project. The project does not involve a designated historical resource, a hazardous waste site, development located near or within view of a scenic highway, unusual circumstances that would result in a significant effect or development that would result in a cumulative significant impact.

OTHER AGENCY INVOLVEMENT:

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

RMA-Planning

Environmental Health Bureau

RMA - Public Works

Monterey County Regional Fire

RMA-Environmental Services

LUAC

The project was referred to the Greater Monterey Peninsula Land Use Advisory Committee on staff's discretion since it involves an expired Use Permit. The LUAC considered the project on May 20, 2020 and voted 3-0 to recommend approval of the project but recommended a change to a previous condition of approval to change the maximum number of horses that can be stabled on the property from 35 to 30. The owners discussed this recommendation after the meeting and expressed to staff that they would not accept the reduction in the maximum number of horses allowed. Based on the history of no complaints about the property or the number of horses and the potential impact to the financial viability of the property, they desire to keep the conditions the same as on the previous Use Permit. Since there is no direct code requirement limiting the number

of horses for a public stable approved by a Use Permit, staff is not recommending modification of the condition (Condition 14).

Prepared by: Cheryl Ku, Senior Planner, ext. 6049

Reviewed by: Brandon Swanson, RMA Planning Services Manager

Approved by: John M Dugan, FAICP, RMA Deputy Director of Land use and Community
Development

The following attachments are on file with the RMA:

Exhibit A - Draft Resolution, including:

- Site Plan
- Conditions of approval

Exhibit B - Vicinity Map

Exhibit C - Previous Use Permit ZA7267

Exhibit D - Greater Monterey Peninsula LUAC Minutes

Exhibit E - Project Data Sheet

cc: Front Counter Copy; Zoning Administrator, Brandon Swanson, Planning Services Manager; Cypress Stables LCC, Applicant/Owner; Luke Ingram, Agent; The Open Monterey Project (Molly Erickson); LandWatch (Executive Director); John H. Farrow; Janet Brennan; Project File PLN170674.