



County of Monterey

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

Board Report

File #: PC 24-064, **Version:** 1

PLN220063 - CUCCIA COLETTE TRS

Public hearing to consider the transient use of an existing two-story single family dwelling and cabin for remuneration (home-stay Short-Term Rental).

Project Location: 28180 Robinson Canyon Road, Carmel

Proposed CEQA action: Finding the project Categorically Exempt pursuant to CEQA Guidelines Section 15301

RECOMMENDATIONS

It is recommended that the Planning Commission:

- a. Waive fifty-percent of the permit application fee; and
- b. Adopt a resolution to:
 - 1) Find that the project is for leasing of existing private structures, involving negligible or no expansion of an existing use qualifies as a Class 1 Categorical Exemption pursuant to CEQA Guidelines Section 15301, and none of the exceptions contained in Section 15300.2 apply; and
 - 2) Approve an Administrative Permit to allow a transient use of a residential property (single family dwelling and cabin/guesthouse) for remuneration and abate zoning violations 20CE00068 and 23CE00404.

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

PROJECT INFORMATION

Agent: N/A

Property Owner: Colette Cuccia

APN: 416-025-008-000

Parcel Size: 1.25 acres

Zoning: Low Density Residential, 2.5 acres per unit with Design Control, Site Plan and Residential Allocation Zoning overlay districts or "LDR/2.5-D-S-RAZ"

Plan Area: Carmel Valley Master Plan

Flagged and Staked: No

SUMMARY

The subject property is located at 28180 Robinson Canyon Road, Carmel, in a "highly sensitive" visual sensitivity area, and is subject to the policies and regulations of the 2010 Monterey County General Plan, Carmel Valley Master Plan, and the Monterey County Zoning Ordinance Title 21. The proposed project includes the transient use of an existing single family dwelling and cabin/guesthouse for remuneration while the owner lives in the main dwelling, which is known as a home-stay short-term rental (home-stay STR).

By permitting the Staff recommends approval of the Administrative Permit for a limited time expiration of three (3) years.

DISCUSSION

Land Use

Based on staff review of the planning application materials, the property complies with most rules and regulations pertaining to zoning uses and other applicable provisions of the 2010 Monterey County General Plan, Carmel Valley Master Plan, and applicable sections of the Monterey County zoning ordinance, Title 21. The parcel is zoned Low Density Residential at 2.5 acres per unit with Design Control, Site Plan and Residential Allocation Zoning overlay districts (LDR/2.5-D-S-RAZ) which allows for transient use of a residential property for remuneration, subject to an Administrative Permit. Two areas of non-compliance with County Codes shall be remedied through the discretionary action. A habitable structure, “cabin with deck,” was constructed in 1983 with building permit No. 33201. Zoning clearance was signed off which did not indicate that there was an associated entitlement or that one was needed. The subject property was zoned Agricultural-Residential with Rural-Professional, Trailer Exclusion and Building Site combining districts or “K-G-J-B-4” which did not specifically list cabins as an allowed use. However, non-commercial guesthouses were allowed with a Use Permit. Based on the subordinate and incidental nature of the cabin in relation to the residence, the cabin should have been described as a guesthouse. As such, the cabin is considered legal non-conforming and as conditioned, will be required to file a deed restriction in accordance with Title 21 Section 21.64.020.8 (Condition No. 5). The second non-compliance at the subject site is the previous operation of a Short Term Rental (STR). There are open code enforcement cases for unpermitted an upermitted operation of an STR (20CE00068 and 23CE00404) and the granting of this permit shall resolve the code violation currently at the property.

Transient Use of Residential Property for Remuneration

The subject application was reviewed for consistency with the intent, purpose, and requirements of regulations contained in Title 21 Section 21.64.280, *Administrative permits for transient use of residential property for remuneration*. The current regulations serve to preserve and enhance the residential character of the zoning districts established in Title 21 https://library.municode.com/ca/monterey_county/codes/code_of_ordinances?nodeId=TIT21ZO and the sense of security and safety in stable neighborhoods of owner-occupied residences. In the subject case, the cabin has been rented as a home-stay for several years and there have been no complaints from the neighbors that the residential character, safety, or sense of security of the area has been damaged by the Cuccia home-stay STR. The current regulations also serve to implement the provisions and advance the purposes and objectives of Title 21 https://library.municode.com/ca/monterey_county/codes/code_of_ordinances?nodeId=TIT21ZO. These provisions and purposes include:

- A) To provide a definite plan of development for the County, and to guide, control and regulate the future growth of the County, in accordance with said plan;
- B) To protect the character and the social and economic stability of agricultural areas, residential areas, commercial areas, industrial areas, and other areas, within the County and to assure the orderly and beneficial development of such areas;
- C) To protect the public safety from the location of structures and other uses of land which may cause interference with existing or prospective traffic movement on highways;
- D) To implement the Monterey County General Plan, adopted area plans, specific plans and the policies and standards adopted by the Monterey County Board of Supervisors;
- E) To provide regulations of sufficient clarity and detail for the location and nature of Zoning Districts to provide the appropriate authorities and the public with clear standards and direction in the land use decision making process;
- F) To provide a sufficient level of review and public hearing processes for adequate and necessary public participation in the review of development projects; and
- G) To provide standards and procedures for preservation and exercise of property development rights.

(Title 21, Section 21.02.030)

The Cuccia home-stay STR supports the economic stability of the area by providing a home-stay vacation location for travelers who have an interest in Carmel Valley's wineries, restaurants, spas, and other attractions. The Cuccia home-stay STR does not interfere with the existing traffic movements as discussed in the CEQA section below - the STR is limited to one renter at a time, and vehicles on the road for a single-family dwelling are similar. The General Plan and the Carmel Valley Master Plan can be implemented while the Cuccia home-stay STR operates without undue conflict because it is an allowed use in the Zoning District. Pursuant to provision "E" above, the public were given clear standards and direction in the land use decision making process in May 2021, when the Board gave direction for more robust Code Enforcement inquiries to address the STRs so that illegal operations can become legal. The applicant felt invited by the Board of Supervisors to pursue an Administrative Permit for her STR and she initiated the Planning Permit in late February of 2022. By hearing the Cuccia home-stay STR in the Planning Commission public hearing, the County has provided adequate and necessary public participation in the review of the development. Finally, County has provides standards and procedures for the applicant to exercise property development rights by allowing the review of the subject development permit application at this time.

Except as provided in Title 21 Section 21.64.280, County regulations restrict transient use of property for remuneration, which use may be inharmonious with and injurious to the preservation of the character and environment of the various zoning districts in Title 21 https://library.municode.com/ca/monterey_county/codes/code_of_ordinances?nodeId=TIT21ZO. Finally, the current regulations serve to promote the public health, safety, and general welfare of the County. The Cuccia home-stay STR is harmonious with the character and environment of the Zoning District and does not reduce the County's ability to promote the public health, safety, and general welfare of its residents. This is evidenced by the long-standing function of the STR operation without conflicts in the neighborhood (see violation discussion below).

As detailed in the draft resolution (**Exhibit A**), the applicant has provided evidence of compliance with the applicable requirements. The Operations Plan limits the subject property to one rental contract with rental periods with no less than a 7-night consecutive stay and no greater than a 30-night consecutive stay, and a maximum occupancy of three individuals. Title 21 Section 21.64.280.D.2 regulations for guesthouses prohibit renting/leasing a guesthouse separately from the main dwelling. As such, an STR contract for the property shall include use of a room in the main dwelling and the cabin/guesthouse. The owner has made one bedroom in the main dwelling available to STR. The proposed occupancy does not exceed the limits set forth in the California Housing Code because there is 125 square feet of bedroom floor area per person. Adequate parking spaces are provided (three total); all parking spots are located within the driveway on the property. The property owner resides within the main house and proposes to be available 24/7 to respond tenant and neighborhood questions or concerns. Three neighbors wrote supportive letters (**Exhibit D**).

There are currently 5,033 residential dwellings in Carmel Valley Master Plan area and 30 STR applications in this same area on file with the County. It is estimated that 163 STRs are operating in the area. Although this information should not limit the Cuccia application from fair treatment that other STR have received in previous hearings, such information is useful when considering cumulative considerations in Carmel Valley.

In consideration of the Administrative Permit, the Planning Commission has previously set the permit expiration for three years, or until an updated ordinance is adopted by the Board of Supervisors. Therefore, the Cuccia STR should be given the same permit period with expectation of an extension request to be submitted at least one month prior to the end of the period.

Health and Safety

Necessary public facilities are provided. Water for the property is provided by a mutual well water system, Tao Woods Water System, which is shared among four neighbors. An existing onsite 2,000-gallon septic tank with a 1,500 square foot drainage field will continue to provide sewer treatment for the main dwelling and cabin/guesthouse. The Environmental Health Bureau has reviewed the submitted application materials and did not apply conditions to the proposed use. (**Exhibit A**).

Violation of Title 21 Code of Regulations

On February 12, 2020, a complaint was received, code enforcement case No. 20CE00068 was opened, and an inquiry letter was sent to the property owner for an unpermitted STR. On July 19, 2023 code enforcement case No. 23CE00404 was opened for unpermitted STR and a courtesy notice was sent to the property owner. On November 13, 2023 an inquiry letter was sent and an Administrative Citation was subsequently filed on March 18, 2024. Should the Planning Commission approve the project, the code enforcement cases will be cleared through their discretionary action and payment of retroactive fees. Pursuant to Title 21 Section 21.84.140, the fees for retroactive permit application are required to be twice the amount normally charged for the application. Staff is recommending the Planning Commission waive fifty-percent of the fees in this particular case, because the applicant applied for a waiver of the “double” portion of the Planning Permit fee, but the Planning Director was unable to approve the waiver as the applicant did not meet the criteria for Persons age 62 or over on a fixed, very low income as defined by Housing and Urban Development. Pursuant to Board of Supervisors resolution No. 2000-342, the Planning Commission shall consider all requests for fee waiver not meeting the criteria for which the Planning Director has authority to approve. Should the Planning Commission deny the fee waiver, then the code violation cannot be cleared, and therefor pursuant to Title 21 Section 21.84.120 the Planning Commission would not be able to approve the Administrative Permit authorizing the home stay STR.

Environmental Review

The project qualifies as a categorical exemption from environmental review pursuant to Section 15301 of the CEQA Guidelines. This exemption applies to the leasing of existing private structures, involving negligible or no expansion of an existing use. The applicant proposes to rent an existing single family dwelling and cabin/guesthouse as a transient use for remuneration and does not propose any additional development and/or expansion of the existing structures. The subject property will be limited to one rental contract at any given time, and therefore the property (cabin/guesthouse and main residence) as one rental home-stay. CEQA Guidelines Section 15125 states that in order to determine potential project impacts, the implementation of a project should be compared against the baseline conditions of the site at the time an environmental analysis is commenced. Although the homestay was not a permitted use (see Finding 4 and supporting evidence), CEQA case-law has demonstrated that Lead Agencies must evaluate impacts against actual conditions existing at the time of CEQA review and are not required to evaluate impacts compared to a baseline condition that predates the unpermitted activity. (Referring to *Fat v. County of Sacramento* (2002) 97 Cal.App.4th 1270, where the court (citing *Riverwatch v. County of San Diego* (1999) 76 Cal.App.4th 1428.) In the case of the subject property, it is appropriate to consider the baseline condition as a residential property used for both a long term residence by the property owner and as an STR (homestay) since there is substantial evidence identifying that the permitted long-term use has been in operation for almost 40 years and the non-permitted transient use been in operation for approximately 10 years. Therefore, the proposed project would have no increase in traffic generation beyond existing baseline conditions. Adequate onsite parking is provided and there has not been a history of visitors parking offsite in the neighborhood. All facilities are existing and have been confirmed by County agencies to be adequate for this use. The use of the single family residence as a home-stay STR will not substantially change the intensity of use of the property and the existing structure. The potential impact of STRs on long-term housing is not a unique circumstance which would disqualify the use of a categorical exemption.

Potential social and economic impacts of STRs are not required to be addressed in CEQA. Therefore, the proposed use is consistent with the CEQA Guidelines Section 15301 and none of the exceptions under CEQA Guidelines Section 15300.2 apply to this project.

OTHER AGENCY INVOLVEMENT

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

- HCD-Engineering Services
- HCD-Environmental Services
- Environmental Health Bureau
- Monterey County Regional Fire Protection District

LAND USE ADVISORY COMMITTEE (LUAC)

The project was referred to the Carmel Valley Land Use Advisory (LUAC) for review. The LUAC reviewed the project at a duly noticed public meeting on September 5, 2023 and voted to recommend approval of the project as proposed 5 - 0, 1 absent. See **Exhibit C**.

Prepared by: Mary Israel, Supervising Planner, x5183
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 including:

- Recommended Conditions of Approval
- Site Plans, Floor Plans & Site Photographs
- Operational Plan

Exhibit B - Vicinity Map

Exhibit C - LUAC Minutes, Dated September 5, 2023

Exhibit D - Letters of support from three neighbors

cc: Front Counter Copy; Monterey County Regional Fire Protection District; HCD-Environmental Services; HCD-Engineering Services; Environmental Health Bureau; Anna Ginette Quenga, Principal Planner; Colette Cuccia, Property Owner; Laborers International Union of North America (Lozeau Drury LLP); The Open Monterey Project; LandWatch (Executive Director); Planning File PLN220063.