



County of Monterey

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

Board Report

File #: PC 18-018, **Version:** 1

PLN170649 - UCELLI DI NEMI

Public hearing to consider after-the-fact permits for development on slopes in excess of 25% and removal of 4 oak trees in order to construct a new 2,438 square foot two-story single-family dwelling.

Project Location: 25930 Canada Drive, Carmel (Assessor's Parcel Number 015-042-004-000), Carmel Valley Master

Proposed CEQA action: Categorically Exempt per Section 15303 of the CEQA Guidelines

RECOMMENDATION:

It is recommended that the Planning Commission adopt a resolution to:

- 1) Find the project is a single-family residence which qualifies as a Class 3 Categorical Exemption pursuant to Section 15303 of the CEQA Guidelines; and there are no exceptions pursuant to Section 15300.2; and
- 2) Adopt a resolution to approve a Combined Development Permit consisting of:
 - a. An after-the-fact Use Permit for development on slopes in excess of 25%;
 - b. An after-the-fact Use Permit for removal of 4 oak trees; and
 - c. An Administrative Permit and Design Approval to allow the construction of 2,438 square foot two-story single family dwelling and 111 linear feet of wooden and I-Beam retaining wall ranging from 5 feet to 8 feet high.

The attached draft resolution includes findings and evidence for consideration (**Exhibit C**). Staff recommends approval subject to 17 conditions of approval.

PROJECT INFORMATION:

Agent: Brian Congleton

Property Owner: Franco & Alessia Ucelli Di Nemi

APN: 007-692-005-000

Parcel Size: 12,469 sq. ft.

Zoning: LDR/1-D-S-RAZ

Plan Area: Greater Monterey Peninsula

Flagged and Staked: Yes

SUMMARY:

In September 2017, an application was submitted by the new owners of this property to develop a new single family residence. Staff conducted a site visit on October 12, 2017, and discovered prior grading on steep slopes and removal of trees without the benefit of a permit. The applicant stated that work had been done by a previous owner, and the new owners wished to obtain the proper entitlements and correct the violations. Due to this open dialogue, no code enforcement case was opened. However, despite the fact that no case was officially opened, staff applied a double fee per Section 21.84.140 (Fees of retroactive permit application) and is recommending additional considerations for tree replacement beyond the minimum requirement.

Staff proceeded to process this application, and analyze the proposed development, including the grading and tree removal as if none of the work had been performed to determine what would be the appropriate entitlements for the site. Ultimately, staff found that the siting and design of the proposed house is appropriate,

and the minor amount of prior grading is reasonable given the constraints on the lot. The number of trees removed would have been the minimum required to develop on the lot, and there are no views impacted by their removal.

Draft Condition No. 7 has been applied by staff to address and rectify the unpermitted tree removal requiring replacement beyond the arborist recommendation. Staff is not recommending the restoration of the minor grading work based on a geologist report concluding restoration is not recommended and would increase erosion potential and cause direct impacts on native vegetation at the site. Approval of this project will correct any violations on the site. If permits are not granted for this project, the applicant would be required to wholly restore the site.

DISCUSSION:

The project site is located at 25930 Canada Drive, situated on a 1.03 (44,867 square foot) acre parcel located in Carmel. Its proximity is 1/3 of a mile North of Carmel Valley Road and 3/4 of a mile East of Highway 1. It is situated on a hillside in a rural area surrounded by vegetation and trees. The parcel is part of the Rancho Rio Vista Subdivision and borders over 600 acres of forested open-space known as Parcel 2 of the Rancho Canada De La Segunda Parcel Map (Division of Portion of Lot 5 Hatton Partition). The proposed two-story single-family dwelling is of comparable size to the two-story single-family dwellings in the adjacent neighborhood area. The surrounding neighborhood also consists of homes on comparable size lots, mostly with some portion of development on slopes in excess of 25%.

The proposed project would allow for the construction of a 2,438-square foot two-story single family dwelling, 111 linear feet of wooden and I-Beam retaining wall ranging from 5 feet to 8 feet high and after-the-fact entitlements for grading on slopes over 25% and removal of 4 oak trees. Colors and materials are comprised of earthy tones such as dark brown siding, charcoal metal roof, and stone veneer, which are consistent with the surrounding character of the neighborhood. The proposed structure is not visible from Carmel Valley Road, nor from any common public viewing area; therefore, the proposed structures would not have an impact on a public viewshed. The property is zoned for low density residential use, which allows development of single-family dwellings, with habitable and non-habitable accessory structures as allowed uses pursuant to MCC Section 21.14.030, MCC Section 21.44.020 and MCC Section 21.45.040. The Design Control and Site Plan zoning overlay requires the granting of an Administrative Permit and Design Approval for the proposed dwelling. The after-the-fact development on slopes in excess of 25% and removal of four oak trees would require a Use Permit pursuant to MCC Section 21.64.260 and MCC Section 21.64.230.

Project Issues:

Staff conducted a site visit on October 12th, 2017. Staff confirmed that over 90% of the site contains slopes in excess of 25%. During the site visit, it was evident that ground disturbance and grading was done on site without the proper entitlements. Furthermore, the site is heavily surrounded with a variety of tree specimens such as Acacia, Monterey Pine, Coast Redwood, Douglas Fir and Oaks. An arborist report was prepared and submitted by Certified Arborist, Frank Ono dated November 8th, 2017 (**Exhibit D**). The Arborist concluded that although it is unknown what trees may have been removed during the prior disturbance of grading, judging by the stumpage found and looking at historical Google imagery, it appears that tree removal consisted of pines and smaller oaks. He further noted while it is also unknown what specific trees were removed, given the density of the small stand of oaks, it is estimated that at least four oaks over 6" in diameter were removed.

Restoration is typically required when there is a violation of the Monterey County Zoning Ordinance (Title 21) for grading, vegetation removal or tree removal. The fundamental goal of restoration is the re-vegetation of native plants and the reconstruction of natural land features which may have been altered in violation of County Code. Alternatives to restoration of the property shall not be considered unless the applicant can show that restoration would endanger the public health or safety, or that restoration is unfeasible due to circumstances beyond the control of the applicant or the property owner. Although, grading was done prior to obtaining the proper entitlement; all applications for after-the-fact permits are treated with the same requirements as if they are new submittal regardless if the parcel had been disturbed. In this case, after Staff's site visit and review of experts' reports, Staff concluded and concurs with the experts' opinions that the current site demonstrates the most suitable location. The area of disturbance avoided steeper portions of the slope and is situated on a lower section of the hillside. Furthermore, it avoided clusters of oaks towards the northeast and two landmark oaks (26" diameter) on the northwest of the property. For these reasons, Staff would have recommended approval of this project if they had come in for permits prior to doing the work.

Pursuant to the requirements of the Monterey County Zoning Ordinance Section 21.64.260 (Preservation of Oaks & Other Protected Trees) and Carmel Valley Master Plan, Oaks, Madrones and Redwoods are protected tree species. Pines are not listed as a protected species. The site is heavily covered with trees, so the arborist recommends oak trees to be replaced onsite at a one-to-one (1:1) ratio for the estimated four (4) oaks removed. However, staff recommends the ratio to be two-to-one (2:1) mature 15 gallon trees versus the 5 gallons recommend by the arborist to ensure the survivability of the newly planted trees that are being replaced. A condition of project approval, (Condition No. 7) requiring the replacement/replanting of all removed trees has been applied to the project. If the applicant had come in for a permit prior to the removal, pursuant to MCC Section 21.64.260, the Chief of Planning has authority to approve removal of up to three protected trees per lot in a *one-year* period subject to the required submittal materials for review. Due to unknown circumstances and time period of the tree removal, a Use Permit is now required. In addition, surrounding trees located close to the construction site shall be protected from construction equipment by fencing off the canopy driplines and/or critical root zones with protective materials (Condition No. 6).

Furthermore, pursuant to the requirements of the Monterey County Zoning Ordinance Section 21.84.140 (Fees of retroactive permit application), application for permits for any use for which a permit is required and where the use has been constructed, placed on the property, operated or has been otherwise established or initiated prior to the application for the permit, in violation of this Title, shall require a fee of twice the amount normally charged for the application. Although the applicant expressed the grading was performed by the previous owner, the double-fee was applied to this application.

Upon review of the submitted information and site visit, staff determined that the current disturbed building site represents the most feasible location for the proposed dwelling. After-the-fact grading was determined to be approximately 67 cubic yards of cut and 10.5 cubic yards of fill. The current proposed grading is 124.4 cubic yards of cut and 120 cubic yards of fill, which would result in a 4.4 cubic yard of net cut. The proposed cut and fill is intended to accommodate the retaining walls and provide a small outdoor space adjacent to the dwelling. A letter was received from Soil Surveys Group dated November 17, 2017 prepared by Civil Engineer, Belinda Taluban and Engineering Geologist, Michelle Garcia concluding restoration is not recommended and would increase erosion potential and cause direct impacts on native vegetation at the site (**Exhibit E**). Furthermore, Certified Arborist, Frank Ono supports the current building site due to the pre-existing disturbance and steep slopes outside of the building area.

Staff finds that the proposed structure was appropriately sited on a relatively constrained and steep parcel and concurs with the conclusions made in the technical reports. That is, restoration is unfeasible due to

circumstances described above and would cause more environmental harm. The current site is the most logical and appropriate site for the proposed development. Furthermore, to lessen impacts and avoid additional grading, the owners own the adjacent lot and will utilize the existing driveway to access the proposed dwelling. Should the property be sold in the future, an easement will be granted to accommodate access.

Design Review:

The development standards for the LDR zoning district are identified in MCC Section 21.14.060. Required setbacks in the LDR district for main dwelling units are 30 feet (front), 20 feet (rear), and 10% of the average lot width to a maximum required of 20 feet (sides). The proposed structural setbacks are approximately 66 feet (front), 15 feet (10% of the average lot width proposed lot width is 150' - sides), and 191 feet (rear).

Maximum allowed structure height is 30 feet. The proposed height for the single-family dwelling is 26'10". The allowed site coverage maximum in the LDR district is 25%. The property is 1.03 acres or 44,867 square feet, which would allow a max site coverage of approximately 11,217 square feet. The proposed single-family dwelling (2,438 sq. ft.) and retaining wall (approximately 700 sq. ft.) would result in total site coverage of 3,138 square feet or approximately 2.8%. Therefore, as proposed, the project meets all required development standards.

Staff has determined that the proposed residence is compatible with the surrounding neighborhood character in terms of size, color, location and mass. The classic modern architectural aesthetics incorporates simplified straight lines, avoiding ornate features. The multi-level structure subsides into the hillside and blends in seamlessly creating a less invasive and protruding effect. The proposed structure is consistent with the surrounding residential development and will blend with the natural environment since no further landscaping will be added. Landscaping will be kept at its natural state to remain consistent with the surrounding Carmel forest. Colors and materials, comprised of earthy tones such as dark brown siding, charcoal metal roof, and stone veneer, are consistent with the surrounding character of the neighborhood.

CEQA

California Environmental Quality Act (CEQA) Guidelines Section 15303(a) categorically exempts the construction of new, small facilities or structures, including structures accessory to a single-family dwelling or residential use. The project involves the construction of a single-family dwelling on steep slopes and removal of 4 oak trees. Therefore, the proposed development is consistent with the parameters of this Class 3 exemption. There are no exceptions pursuant to Section 15300.2. No evidence of significant adverse environmental effects were identified during staff review of the development application.

OTHER AGENCY INVOLVEMENT:

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

- Environmental Health Bureau
- RMA-Public Works
- RMA-Environmental Services
- Water Resources Agency
- Cypress Fire Protection Department

FINANCING:

Funding for staff time associated with this project is included in the FY17-18 Adopted Budget for RMA-Planning.

Prepared by: Son Pham-Gallardo, Assistant Planner, x5226

Reviewed by: Brandon Swanson, RMA Planning Services Manager

Approved by: John M Dugan, AICP, RMA Deputy Director of Land Use and Community Development

The following attachments are on file with the RMA:

Exhibit A - Project Data Sheet

Exhibit B - Draft Resolution including:

- B1 - Conditions of approval
- B2 - Site Plans, Floor Plans & Elevations

Exhibit C - Vicinity Map

Exhibit D - Arborist Report

Exhibit E - Soil Surveys Group Inc. Letter

cc: Front Counter Copy; Planning Commission; Son Pham-Gallardo, Assistant Planner, Brandon Swanson, RMA Services Manager; Brian Congleton, Agent; Franco & Alessia Ucelli Di Nemi, Applicant/Owner; The Open Monterey Project (Molly Erickson); LandWatch (Executive Director); John H. Farrow; Janet Brennan; Project File PLN170649