



Zoning Administrator

Legistar File Number: ZA 24-051

Introduced: 11/1/2024

Current Status: Agenda Ready

Version: 1

Matter Type: Zoning Administrator

PLN240018 - ISABELLA 2 LLC

Public hearing to consider an amendment to a previously approved Combined Development Permit (PLN180523, Board of Supervisors Resolution No. 21-273) as amended by PLN180523-AMD1 (Board of Supervisors Resolution No. 23-127) to allow construction of an attached 708 square foot accessory dwelling unit, modification to parking standards to remove requirement for a parking space for an accessory dwelling unit, and removal of one (1) Coast Live oak tree. The previous permits allowed construction of a 1,837 square foot two-story single-family dwelling, and associated site improvements including 484 square feet of decks, removal of four (4) Coast Live oaks, and 114 cubic yards of grading; development within 750 feet of known archaeological resources; modification of parking standards; and increase to the allowed floor area from 45 percent to 51 percent. All previously approved components would remain.

Project Location: 26308 Isabella Avenue, Carmel, Carmel Area Land Use Plan, Coastal Zone

Proposed CEQA Action: Consider a previously adopted Mitigated Negative Declaration.

RECOMMENDATION:

It is recommended that the Zoning Administrator:

- a. Consider a previously adopted Mitigated Negative Declaration (SCH No. 2020029094), and finding that the preparation of a subsequent environmental document is not required, pursuant to Section 15162 of the CEQA Guidelines; and
- b. Approve an Amendment to a previously approved Combined Development Permit (PLN180523, Board of Supervisors Resolution 21-273) as amended by PLN180523-AMD-1 (Board of Supervisors Resolution No. 23-127) to allow construction of a 708 square foot attached accessory dwelling unit, modification to parking standards to remove requirement for a parking space for an accessory dwelling unit, and the removal of one (1) Coast Live oak tree. The prior approvals and amendments consisted of:
 1. Coastal Administrative Permit and Design Approval to allow construction of a 1,837 square foot single-family dwelling and associated site improvements;
 2. Coastal Development Permit to allow development within 750 feet of known archaeological resources;
 3. Coastal Administrative Permit to allow the modification of parking standards;
 4. Variance to allow an increase to the allowed floor area from 45 percent to 51 percent; and
 5. Coastal Development Permit to allow the removal of four (4) Coast live oak trees.

These previously approved components would remain unchanged with the exception of the modification to parking standards and added tree removal.

A draft resolution, including findings and evidence, is attached for consideration (**Exhibit B**). Staff recommends approval subject to eleven (11) conditions, including three (3) mitigation measures.

PROJECT INFORMATION:

Property Owner: Isabella 2 LLC

Agent: Rob Carver, Studio Carver Architects

APN: 009-451-015-000

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

Flagged and Staked: Yes

SUMMARY:

The subject property is a vacant lot located on Isabella Avenue, near the intersection of Isabella Avenue and 16th Avenue in the unincorporated area of Carmel Point. The surrounding residential neighborhood has been developed with dwellings and accessory structures.

On November 13, 2018, the applicant submitted a project (PLN180523) that involved construction of a 2,968 square foot three-story single-family dwelling, inclusive of a 1,250 square foot basement level and garage; removal of 4 Coast live oak trees, and development within an area of known archaeological resources. Subsequent to a California Coastal Commission decision regarding excavation within the Carmel Point area, the applicant submitted a revised project in October 2020 to eliminate the basement level and garage (thereby reducing the total amount of excavation by over 600 cubic yards), reduce the overall size of the residence and garage by 653 square feet (from 2,968 to 2,315 square feet), to modify the parking standards to allow a required parking space within the front setback, reduce the front setback from 20 feet to 14 feet to accommodate the grade-level garage, and increase the allowed site coverage from 35 percent to 37.5 percent and floor area from 45 percent to 64.4 percent to accommodate the garage and an upper level bedroom relocated from the previously-proposed basement level.

The Planning Commission considered the revised design, dated October 2020, on April 28, 2021. On April 28, 2021, the Planning Commission, after hearing public testimony, continued the item to May 26, 2021, with direction to reduce the overall site coverage and square footage of the proposed development. On May 26, 2021, the Planning Commission considered a revised scope of work which included removing the 1-car garage thus reducing lot coverage by 133 square feet and floor area by 215 square feet (2,100 square foot single family dwelling). Removing the garage required additional modification to the parking standard to allow both required parking spaces within the front setback and no covered parking space. The revised scope of work also eliminated the Variances for the front setback and site coverage reductions. The revised project additionally reduced the Variance amount for floor area from 64.4 percent to 58.4 percent. The number of trees being removed did not change in the revised project scope (4). On May 26, 2021, at a duly-noticed public hearing at which all persons had the opportunity to be heard, the Planning Commission voted 8 - 0 to adopt a Mitigated

Negative Declaration and approve the revised project scope (Planning Commission Resolution No. 21-015; **Exhibit D**). The Planning Commission approved scope of work is referred to as the “previously proposed project” throughout this staff report.

The Planning Commission’s decision (Planning Commission Resolution No. 21-015; **Exhibit D**) was subsequently appealed to the Monterey County Board of Supervisors by The Open Monterey Project. The Appellant’s contentions related to the interior and exterior design of the proposed residence, neighborhood character, the amount of grading, tribal representative receipt of draft mitigation measure language, privacy of neighbors, the County’s history regarding Variances, the adequacy of the Initial Study and Mitigated Negative Declaration, and comparable development lots at Carmel Point. Staff reviewed the contentions and determined that the project was adequately designed and mitigated to minimize potential impacts to resources at the site. On August 24, 2021, the Board of Supervisors considered the appeal and the Planning Commission’s decision to adopt a Mitigated Negative Declaration and approve a Combined Development Permit to allow construction of 2,100 square foot single family dwelling and associated site improvements. The Board of Supervisors voted 6-0 to deny the appeal of The Open Monterey Project, adopt a Mitigated Negative Declaration, and approve the Combined Development Permit (Board of Supervisors Resolution No. 21-273; **Exhibit E**).

The County sent a Final Local Action Notice (FLAN) to the California Coastal Commission (CCC) on September 13, 2021 [FLAN No. 3-MCO-21-0855 (PLN180523/Isabella 2)]. The Board of Supervisor’s decision was appealed to the California Coastal Commission on September 28, 2021 (Commission Appeal No. A-3-MCO-21-0064; **Exhibit F**) by The Open Monterey Project contending that the development does not conform to the Local Coastal Program, “does not meet the requirements for an FAR [Floor Area Ratio] Variance,” the FAR Variance “would give this site preferential treatment,” “excessive excavation,” and interior staircase to roof is for a foreseeable use of a roof deck. Prior to the appeal being scheduled before the Coastal Commission, the applicant notified the County and the Coastal Commission staff of their desire to modify certain portions of the project contested during the appeal. As a result, in coordination with Coastal Commission staff, County staff requested a withdrawal the Final Local Action Notice on October 21, 2022. Withdrawing the FLAN does not rescind the Board’s adoption of the Negative Declaration or the Board’s approval of the original Combined Development Permit (PLN180523). The Coastal Commission accepted the County’s request and notified the appellants of the withdrawn status.

On October 19, 2022, the applicant submitted a minor and trivial amendment to the previously proposed project (PLN180523) in efforts to satisfy appeal contentions. The proposed project (PLN180523-AMD1) involved the construction of a 1,837 square foot two-story single-family dwelling and associated site improvements including 484 square feet of decks, removal of 4 Coast live oaks, and 114 cubic yards of grading. The project also involved development within an area of known archaeological resources, modification of parking standards to allow both required parking spaces to within the front setback (uncovered) and variance of floor area standards to increase the allowed floor area from 45 percent to 51 percent.

In comparison to the previously proposed project (PLN180523), the proposed amendment reduced the residence’s floor area by 263 square feet, thereby reducing the required floor area ratio Variance

from 58.4 percent to 51 percent (45 percent is allowed) and minimized grading (114 cubic yards compared to 304 cubic yards). Additionally, the proposed amendment increased the square footage of decking from 318 to 484 and eliminated the previously proposed 6-foot chimney. The revisions were minor in nature and consistent with the previous approval. Pursuant to County of Monterey Zoning Ordinance Section 20.70.105 a Minor & Trivial Amendment was required for the changes. Although County of Monterey Zoning Ordinance Section 20.70.105.A authorizes the HCD Director to approve Minor & Trivial Amendments administratively, the project agent requested a public hearing. Therefore, the Minor & Trivial Amendment (PLN180523-AMD1) was referred to a public hearing before the County of Monterey Zoning Administrator.

On February 9, 2023, the County of Monterey Zoning Administrator held a duly-noticed public hearing on the Isabella 2 LLC application amendment and found the project consistent with the previously adopted Mitigated Negative Declaration and approved the Minor & Trivial Amendment to a previously approved Combined Development Permit (County of Monterey Zoning Administrator Resolution No. 23-007; **Exhibit G**).

The Open Monterey Project, represented by Molly Erickson, timely filed an appeal of the February 9, 2023 decision of the Zoning Administrator's environmental determination and approval of the Minor and Trivial Amendment. The appeal contended that the findings were not supported by the evidence, and that the decision was contrary to law.

On April 18, 2023, the Board of Supervisors considered the appeal by The Open Monterey Project and the Zoning Administrator's decision. The Board of Supervisors voted 5-0 to deny the appeal of The Open Monterey Project, adopt a Mitigated Negative Declaration, and approve the Combined Development Permit and Variance (Board of Supervisors Resolution No. 23-127; **Exhibit H**).

The County sent a Final Local Action Notice (FLAN) to the California Coastal Commission (CCC) on May 9, 2023 [FLAN No. 3-MCO-23-0463 (PLN180523-AMD1/Isabella 2 LLC)]. The Open Monterey Project appealed the Board of Supervisor's decision to the California Coastal Commission on May 25, 2023 (Commission Appeal No. A-3-MCO-23-0018; **Exhibit I**). The appeal was scheduled before the California Coastal Commission on July 12, 2023. The California Coastal Commission approved a resolution which stated, "The Commission finds that Appeal Number A-3-MCO-23-0018 does not present a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the certified Local Coastal Program and/or the public access and recreation policies of the Coastal Act."

On January 18, 2024, the property owners applied for a second amendment to the project (PLN240018) to construct a 708 square foot accessory dwelling unit (ADU), attached to the previously approved single-family dwelling, modification to parking standards to remove requirement for a parking space for an accessory dwelling unit, and to remove one additional Coast Live Oak tree. This amendment is the subject of this resolution.

DISCUSSION:

Public Viewshed and Design.

The project, as proposed, is consistent with the Carmel Area LUP policies regarding Visual

Resources (Chapter 2.2) and will have no impact on the public viewshed. The project site is located in a residential neighborhood, and the adjacent parcels have been developed with single-family dwellings and accessory structures. The Applicant proposes exterior colors and materials that are consistent with the residential setting and matching with the previously approved single-family dwelling. The primary colors and materials include grey metacrylics (solid membrane) roofing, Carmel stone veneer and cedar siding, and bronze aluminum windows and doors. The proposed exterior colors and finishes would blend with the surrounding environment, are consistent with the surrounding residential neighborhood character, and are consistent with other dwellings in the neighborhood. Therefore, as proposed, the project assures protection of the public viewshed, is consistent with neighborhood character, and assures visual integrity.

Cultural Resources

County records identify that the project site is within an area of high sensitivity for cultural resources, and the project includes a Coastal Development Permit to allow development within 750 feet of known archaeological resources. Archaeological survey and testing reports (LIB180439, LIB190047, and LIB190293) prepared for the project determined that the potential for impacts to archaeological resources on this particular site is low; however, given the parcel's location in the archaeologically sensitive Carmel Point area, the reports recommended the presence of a monitor during all excavation activities. No significant archaeological resources were found during auger and ground penetrating radar testing; yet given the site's location in Carmel Point and within the assumed boundary of CA-MNT-16, the potential for resources to be uncovered during construction could not be ruled out. The County prepared an Initial Study and mitigation measures were included to minimize potential impacts to resources if discovered during construction, including a requirement for the presence of both an archaeological monitor and a tribal monitor during excavation activities.

Site Coverage and Floor Area

The site coverage maximum in this MDR district is 35 percent, and the floor area ratio maximum is 45 percent. The property is 3,595 square feet, which would allow site coverage of 1,258 square feet and floor area of 1,618 square feet. The development proposed and approved under PLN180523-AMD1 resulted in site coverage of 1,216 square feet (33.8 percent), and floor area of 1,837 square feet (51 percent or 219 square feet over the allowed maximum). The applicant applied for and received approval of a Variance to increase the allowed floor area ratio under PLN180523-AMD1. The proposed development of the 708 square foot two-story accessory dwelling unit under PLN240018 would increase the site coverage by 401 square feet and floor area by 708 square feet thereby resulting in a total of 1,659 square feet of site coverage (46.1 percent), and 2,326 square feet floor area (64.7 percent). Pursuant to Government Code Section 65852 subdivision "c" a local agency shall not establish by ordinance any minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit that is at least 16 feet in height with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards. The proposed accessory dwelling unit is 708 square feet, shares the 18-foot height of the previously approved single-family dwelling as it is an attached accessory structure, and exceeds the four-foot side and rear yard setbacks. As proposed, it meets the criteria of Government Code Section 65852 subdivision "c" and development standards for height exceptions

pursuant to County of Monterey Zoning Section 20.62.030.D.

Modification of Parking Standards

The previously approved project involved modification of parking standards to allow two uncovered parking spaces within the front setback to count toward the amount of required parking, and to not require a covered parking space. As proposed, the amendment would add an ADU to the previously approved single-family dwelling while maintaining two parking spaces within the front setback (driveway). This amendment would increase the need for parking on the street. Section 65852.2(d) of the California Government Code prohibits a local government from imposing parking standards if the ADU is part of a proposed or existing residence, among other things. The intent of the legislature is captured in Section 65852.150, which states, “It is the intent of the Legislature that an accessory dwelling unit ordinance adopted by a local agency has the effect of providing for the creation of accessory dwelling units and that provisions in this ordinance relating to matters including unit size, parking, fees, and other requirements, are not so arbitrary, excessive, or burdensome so as to unreasonably restrict the ability of homeowners to create accessory dwelling units in zones in which they are authorized by local ordinance.” Applying the parking standard to require a parking space for an accessory dwelling unit in this case would prohibit its development and therefore would be incongruous with the intent of the legislative action. Moreover, many of the properties in the Carmel Point vicinity have minimal on-site parking, and parallel parking along the street is common. Continuation of this pattern would not change the existing conditions within the neighborhood.

Tree removal

Forest resource policies of the Carmel Area LUP and development standards contained in Section 20.146.060 of the Coastal Implementation Plan provide for protection of native forest areas and require development to be sited to minimize the amount of tree removal to the greatest extent feasible.

Eleven Coast live oak trees are present on the project site, four of which were approved to be removed. This amendment proposes the removal of one additional tree, which is the minimum necessary for development of the accessory dwelling unit. The tree proposed for removal is not considered a landmark tree, as it is 10 inches in diameter at breast height. Efforts to minimize development footprint have been made. Due to the limited size of the property and location of existing trees, the proposed tree removal is the minimum number necessary and there is no feasible alternative which would result in the removal of less than four native trees. Therefore, as proposed, the project minimizes tree removal in accordance with the applicable goals, policies, and regulations of the Carmel Area LUP and the associated Coastal Implementation Plan. Condition No. 5 requires the Applicant/Owner to replant on-site at a 1:1 ratio.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) REVIEW:

On August 24, 2021, the Monterey County Board of Supervisors adopted a Mitigated Negative Declaration for the construction of the Isabella 2 LLC residence (SCH No. 2020029094; **Exhibit K**), pursuant to Resolution No. 21-273. The adopted Mitigated Negative Declaration contemplated the construction of a 2,315 square foot two-story single-family residence within 750 feet of a known archaeological resource, approximately 300 cubic yards of grading, and the relocation of four Coast live oaks. The Mitigated Negative Declaration identified potentially significant impacts to biological resources, cultural resources, geology and soils, land use and planning, and tribal cultural resources.

Four mitigation measures were adopted to reduce the identified impacts to a level of less than significant. The proposed project involves the construction of a 1,837 square foot two-story single-family dwelling and site improvements including removal of four Coast live oak trees and approximately 114 cubic yards of grading. In the aggregate, the proposed project description remains stable with the scope analyzed in the adopted Mitigated Negative Declaration - the development of a single-family dwelling.

Pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15162, when an EIR has been certified or a negative declaration has been adopted, no subsequent EIR or negative declaration shall be prepared for the project unless the agency determines that substantial changes are proposed, or substantial changes occur with respect to the circumstances under which the project is undertaken. In this case, no new information has been presented to warrant further environmental review. None of the conditions described in Section 15162 calling for preparation of a subsequent EIR or negative declaration have occurred. Mitigation Measure No. 1 (Tree Relocation) does not apply the proposed project as relocation of four Coast live oaks is no longer incorporated into the project scope. Therefore, only Mitigation Measures 2, 3 and 4 have been carried forward to this Amendment. Consideration of the proposed amendment does not delete or alter Mitigation Measure No. 1 from the adopted Mitigated Negative Declaration.

OTHER AGENCY INVOLVEMENT:

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

- Environmental Health Bureau
- HCD-Engineering Services
- HCD-Environmental Services
- Cypress Fire Protection District

LAND USE ADVISORY COMMITTEE:

Based on the Land Use Advisory Committee (LUAC) procedure guidelines adopted by the Monterey County Board of Supervisors per Resolution No. 08-338, this amendment was not referred to the Carmel Highlands/Unincorporated Land Use Advisory Committee for review as it does not meet any of the criteria in the guidelines requiring LUAC review for the following reasons: 1) there are no new environmental documents; 2) there are no conflicts (e.g. modifications to Scenic Easements or Building Envelopes, etc.); 3) the amendment does not include a Design Approval subject to review by the Zoning Administrator or Planning Commission; 4) there is no new Variance; 5) it is not a discretionary permit for which the local area plan, land use plan, master plan, specific plan, or community plan requires review by a local citizens' committee; and 6) the LUAC shall review any discretionary permit application, and any land use matter that in the opinion of the Board of Supervisors, the Planning Commission, or Director of Planning, raises significant land use issues that necessitate review prior to a public hearing by the Appropriate Authority, which this project did not elicit.

Prepared by: Benjamin Moulton, Assistant Planner, x5240
Reviewed by: Anna Quenga, AICP, Principal Planner
Approved by: Melanie Beretti, AICP, Chief of Planning

Attachments:

Exhibit A - Project Data Sheet

Exhibit B - Draft Resolution, including:

- Conditions of Approval
- Project Plans, elevations, and colors and materials

Exhibit C - Vicinity Map

Exhibit D - Planning Commission Resolution No. 21-015 (PLN180523/Isabella 2 LLC)

Exhibit E - Board Order Resolution No. 21-273 (PLN180523/Isabella 2 LLC)

Exhibit F - California Coastal Commission Appeal No. A-3-MCO-21-0064 (PLN180523/Isabella 2 LLC)

Exhibit G - Zoning Administrator Resolution No. 23-007

Exhibit H - Board Order Resolution No. 23-127

Exhibit I - California Coastal Commission Appeal No. A-3-MCO-23-0018

Exhibit J - Carmel Highlands LUAC minutes for April 5, 2021 and December 2, 2019

Exhibit K - Adopted Mitigated Negative Declaration (SCH No. 2020029094)

Exhibit L - Correspondence

cc: Front Counter Copy; California Coastal Commission; Anna Quenga, AICP, Principal Planner; Melanie Beretti, AICP, Chief of Planning; Benjamin Moulton, Assistant Planner; HCD Engineering Services; Environmental Health Bureau; Environmental Services; Cypress Fire Protection District; Isabella 2 LLC, Applicant/Owner; Studio Carver Architects INC, Agent; The Open Monterey Project; LandWatch (Director); Project File No. PLN240018