



County of Monterey Planning Commission

Item No.7

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

Agenda Item No. 7

December 13, 2023

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PLN230117 - FEDERICO

Public hearing to consider an after-the-fact approval legalizing establishment of the transient use of a residential property (single-family dwelling) for remuneration, commonly known as a short-term rental.

Project Location: 1138 Josselyn Canyon Road, Monterey

Proposed CEQA action: Find the project categorically exempt pursuant to Section 15301, Existing Structures, of the CEQA Guidelines.

RECOMMENDATION:

It is recommended that the Planning Commission adopt a Resolution:

1. Finding that the project qualifies for a Class 1 Categorical Exemption pursuant to Section 15301 of the CEQA Guidelines, and there are no exceptions pursuant to Section 15300.2; and
2. Approving an after-the-fact Administrative Permit to allow the transient use of a residential property for remuneration and abate Code Enforcement Violation No. 23CE00179.

PROJECT INFORMATION:

Property Owner: David and Debra Federico

APN: 101-161-004-000

Parcel Size: 21,345 square feet (0.49 Acres)

Zoning: Medium Density Residential, 1 unit per acre with Urban Reserve and Design Control district overlays (MDR/1-UR-D)

Plan Area: Greater Monterey Peninsula Area Plan

Flagged and Staked: No

Project Planner: Marlene Garcia, (831) 755-5114, garciam19@co.monterey.ca.us

SUMMARY/DISCUSSION:

The project is located at 1138 Josselyn Canyon Rd, Monterey, and is subject to the policies and regulations of the 2010 Monterey County General Plan, Greater Monterey Peninsula Area Plan and the Monterey County Zoning Ordinance - Title 21. The proposed project includes the use of an existing single-family dwelling as a short-term rental.

On April 14, 2023, an inquiry letter from HCD-Code Compliance was sent to the property owner stating that the property may possibly be in violation with Monterey County Code through the operation of a short term rental and that immediate action shall be taken to bring the property into compliance. In response, the property owner filed an application requesting an Administrative Permit to allow the transient use of their residential property on May 1, 2023. Approval of this permit would

legalize the use and abate the violation.

Based on staff review of the planning application materials, once the violation is abated, the property will comply with all rules and regulations pertaining to zoning uses and other applicable provisions of the 2010 Monterey County General Plan, Greater Monterey Peninsula Area Plan, and applicable sections of the Monterey County Inland Zoning Ordinance (Title 21). The parcel is zoned Medium Density Residential, 1 unit per acre with Urban Reserve and Design Control district overlays (MDR/1-UR-D) which allows for transient use of an existing residential property (single-family dwelling) for remuneration, subject to an Administrative Permit.

Monterey County Code (MCC) Section 21.64.280.D.2 establishes the requirements and regulations for which a property operating as a transient use for remuneration must abide by. As detailed in the draft resolution (**Exhibit A**), the applicant has provided evidence of compliance with the applicable requirements. The Operations Plan, as attached to the draft resolution, 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 6 individuals. The proposed occupancy does not exceed the limits set forth in the California Housing Code and are within the abilities of the existing septic system. Adequate parking spaces will be provided (6 total), all parking spots are located on the property, no street parking is proposed. The owner resides on the property and will occupy the guest unit during transient use of the main dwelling. During times when the owners will not stay on the property, both the main dwelling and guest unit will be rented under one single contract. Pursuant to MCC Section 21.64.280.D.2.d, the attached Operational Plan identifies the owners will be the 24-hour point of contact for all guests. An additional local property manager, who resides within 25 miles of the property will also be available to respond tenant and neighborhood questions or concerns if and when the owners are not onsite or cannot be contacted during transient use. Contact information for the all property managers has been provided to HCD-Planning and will be available to renters. The property manager will be available twenty-four hours a day seven days a week to respond to tenant and neighborhood questions or concerns and to otherwise be responsible for assuring that the rental unit complies with the requirements of the Administrative Permit.

To ensure the proposed use will not affect the residential character of the neighborhood Condition #5, No Events Allowed, has been implemented. This will ensure the property will only be used as a short-term rental, and not an event space.

Public Comment

A letter from the public was received on August 8th, 2023. This letter was submitted by immediate neighbors James and Dina Zapanta expressing complete support of the subject applicants operating a short-term rental. They have been aware of the property being used previously as a short-term rental and have no problem to continue.

Another letter from the public was received on August 8th, 2023. Fred Steudler immediate neighbor expressed their support of the administrative approval of PLN230117.

Both letters are included in **Exhibit B**.

At this time, those standards include regulations for Transient Use of Residential Property for Remuneration found in Section 21.64.280 of the Monterey County Code. As described in the preceding evidence, this project is consistent with the rules and regulations in place.

Health and Safety

The property receives water via public utilities, and has an onsite wastewater system:

- The property currently has a Cal Am water connection and sufficient credits to support the proposed project.
- The sewer utility bills were provided to determine the property has adequate water and sewage management to serve the proposed short-term rental. EHB has reviewed the submitted application materials and indicated no concerns with the proposed use.

This project was reviewed by the Monterey County Regional Fire Protection District and was found to be safe and suitable for the use proposed. No conditions were applied as applicant provided the proper number of smoke alarms. The Monterey County Regional FPD reviewed the project and found, as conditioned, the property is suitable for transient use for remuneration.

Violations:

Staff reviewed Monterey County HCD-Planning and HCD-Building Services records and is aware of a violation existing on subject property which will be corrected with the approval of this application. The applicant submitted an application for an Administrative Permit to allow transient use of a residential property for remuneration to bring their property into compliance with the Monterey County Code.

CEQA:

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 use (lease) an existing residential single-family dwelling for transient use for remuneration and does not propose any additional exterior development and/or expansion of the existing structure. The main dwelling in question is existing and has been confirmed by County agencies to be adequate for this use. The use of the single-family residence as short-term rental will not substantially change the intensity of use of the property and the existing structure. The potential impact of short-term rentals on long-term housing is not a unique circumstance which would disqualify the use of a categorical exemption. Potential social and economic impacts of short-term rentals are not required to be addressed in CEQA. Therefore, the proposed use is consistent with the CEQA Guidelines Section 15301. None of the exceptions under CEQA Guidelines Section 15300.2 apply to this project.

OTHER AGENCY INVOLVEMENT:

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

- HCD-Engineering Services
- HCD-Environmental Services
- Environmental Health Bureau
- Monterey County Regional FPD

LUAC:

Based on the short-term rental project review preferences expressed by the Planning Commission during 2023 reviews and the Land Use Advisory Committee (LUAC) guidelines adopted by the Monterey County Board of Supervisors, this application warranted referral to the Greater Monterey Peninsula LUAC. On August 15, 2023, staff routed the project to the LUAC for the September 5, 2023 meeting but the meeting was cancelled due to lack of quorum. The project was not referred again because the LUAC guidelines state that a project continued by the LUAC twice and not heard does not require LUAC hearing prior to review by decision makers.

Prepared by: Marlene Garcia, Assistant Planner x5114

Reviewed by: Anna Quenga, AICP, Principal Planner

Approved by: Melanie Beretti, AICP, HCD Acting Chief of Planning

The following attachments are on file with the HCD:

Exhibit A - Draft Resolution including:

- Recommended Conditions of Approval
- Site Plans, Floor Plans & Operation Plan

Exhibit B - Public Comment

Exhibit C - Vicinity Map

cc: Front Counter Copy; Marlene Garcia, Planner; Anna Quenga, AICP, Principal Planner; David and Debra Federico Property Owner; The Open Monterey Project (Molly Erickson); LandWatch; Lozeau Drury LLP; Project File PLN230117