

CITY OF CARMEL-BY-THE-SEA

DEPARTMENT OF COMMUNITY PLANNING AND BUILDING

CITY COUNCIL FINDINGS FOR DENIAL

APP 19-251/UP 19-411 (Dolores LLC)

Pamela Silkwood, Esq.

Location: Dolores, 3 SE 7th

Block: 91, Lots: 12

APN: 010-411-003

Date of Action: September 1, 2020

PROJECT DESCRIPTION:

Consideration of an Appeal (APP 19-251) of the denial of a Transient Rental Business License Application for an existing condominium and denial of a Use Permit Amendment (UP 19-411) to allow for the operation of a Transient (Short Term) Rental located on Dolores, 3 SE of 7th in the Service Commercial (SC) Zoning District.

FINDINGS OF FACT:

1. On March 11, 2019, a Business License Application was submitted to the Community Planning and Building Department to operate an existing second story condominium unit in a two-unit building as a transient rental unit.
2. On March 20, 2019, staff issued a zoning approval of the business license application subject to acceptance of the Business License Conditions of Approval, completion of the 5-day appeal period, and completion of the required business license site inspection. The signed Conditions of Approval were returned to City Hall on March 25, 2019, and the business license site inspection was completed on May 24, 2019.
3. Prior to the business license being issued, it was discovered that the subject property has an associated Use Permit (UP 99-31) which prohibits the use of either of the two residential units in the building as a transient rental. On June 12, 2019, the property owner/applicant was contacted to inform them of the existing use permit and the subsequent denial of the Business License.
4. Condition of Approval #7 of UP 99-31 states: "No commercial use shall be operated from any second story unit within this project. No unit shall be partitioned, divided, or subdivided to create more than the 2 units authorized by this permit. No unit shall be leased, subleased, occupied, rented, or let for, or in connection with, any time-sharing or time interval ownership agreement. No unit may be rented, leased, subleased, or otherwise made available for remuneration to any person or persons for any period of time of 30 consecutive calendar days or less."

5. On June 18, 2019, the applicant appealed the denial of the Business License application (APP 19-251) and requested that the condominium unit be permitted as a transient rental unit.
6. The appeal was scheduled to be heard at the August 14, 2019 Planning Commission hearing, however, the item was continued at the applicant's request. On October 1, 2019, the applicant submitted an application for a Use Permit Amendment (UP 19-411) to allow for the operation of a transient rental unit.
7. The Planning Commission denied the Use Permit Amendment (UP 19-411) application at the November 13, 2019 meeting.
8. On November 22, 2019, the applicant appealed the Planning Commission's denial of the application (APP 19-251) and Use Permit (UP 19-411) and requested the item be considered by the City Council.
9. The appeal was scheduled to be heard at the February 4, 2020 City Council hearing, however, the item was continued at the applicant's request.
10. On January 7, 2020, the City Council adopted Ordinance 2019-003 which established regulations for transient rentals in the commercial and multifamily zoning districts. The Ordinance was certified by the California Coastal Commission on July 9, 2020.
11. Pursuant to Section 15270 (Projects Which Are Disapproved) of the California Environmental Quality Act (CEQA), CEQA does not apply to projects which a public agency rejects or disapproves.

FINDINGS FOR DECISION:

General Findings Required for All Use Permits (CMC 17.64.010):

Use Permit Application UP 19-411 fails to meet Findings: 1 and 3

1. The proposed use is not in conflict with the City's General Plan.

Evidence: The proposed transient rental use is in conflict with General Plan Goal G3-1, Program 3-2.1.b, and Policy 3-5.3 which are intended to preserve existing housing stock and create affordable housing opportunities.
2. The proposed use will comply with all zoning standards applicable to the use and zoning district.

3. The granting of the Use Permit will not set a precedent for the approval of similar uses whose incremental effect will be detrimental to the City, or will be in conflict with the General Plan.

Evidence: Granting the amendment of the Use Permit to remove the prohibition of the transient (short term) rental use will set a precedent for other Use Permits to be amended which will have an incremental effect of continual loss of existing housing stock. This is detrimental to the city as it contributes to the continual loss of existing long term housing stock and affordable housing opportunities. For this reason, Finding #3 cannot be made.

4. The proposed project will not make excessive demands on the provision of public services, including water supply, sewer capacity, energy supply, communication facilities, police protection, street capacity and fire protection.
5. The proposed project will not be injurious to public health, safety or welfare.
6. The proposed project will be compatible with surrounding land uses and will not conflict with the purpose established for the district within which it will be located.
7. The proposed project will not generate adverse impacts affecting health, safety, or welfare of neighboring properties or uses.

General Findings Required for Commercial Use Permits (CMC 17.64.020):

8. The proposed use will not conflict with the City's goal of achieving and maintaining a balanced mix of uses that serve the needs of both local and nonlocal populations.
9. The proposed use will provide adequate ingress and egress to and from the proposed location.
10. The capacity of surrounding streets is adequate to serve the automobile and delivery truck traffic generated by the proposed use.