

## MONTEREY COUNTY ZONING ADMINISTRATOR

<b>Meeting:</b> August 27, 2009 Time: 1:40 P.M	<b>Agenda Item No.:</b> 4
<b>Project Description:</b> Coastal Development Permit for the removal of one oak tree (5-prong cluster) within a County right of way for the purpose of providing emergency access into Manzanita Park.	
<b>Project Location:</b> Within a County right of way located at the end of Dyer Road	<b>APN:</b> 129-021-037-000
<b>Planning File Number:</b> PLN090206	<b>Owner:</b> Monterey County Parks Department
<b>Planning Area:</b> North County Land Use Plan	<b>Flagged and staked:</b> No
<b>Zoning Designation:</b> : "LDR/2.5 (CZ)" [Low Density Residential, 2.5 acres per unit (Coastal Zone)]	
<b>CEQA Action:</b> Categorically Exempt per Section 15305 (b)	
<b>Department:</b> RMA - Planning Department	

### RECOMMENDATION:

Staff recommends that the Zoning Administrator adopt a resolution (**Exhibit B**) to:

- 1) Categorically Exempt per Section 15305 (b); and
- 2) Approve PLN090206, based on the findings and evidence and subject to the conditions of approval (**Exhibit B**):

### PROJECT OVERVIEW:

Applicant requests the removal of a five-prong Oak tree which is located within the County right of way at the end of Dyer Road. Removal of the Oak tree would allow emergency access into Monterey County Manzanita Park. Currently, the existing access road is encroaching into a neighboring property.

Although the Oak tree consists of a five-prong cluster, it could be considered a landmark tree. In accordance with 20.144.050.C.1 (CIP), an exception may be granted by the decision making body for the removal of a Landmark tree within the public right of way where no feasible and prudent alternatives to such removal are available, subject to obtaining a coastal development permit.

No other issues were identified on the right of way property.

**OTHER AGENCY INVOLVEMENT:** The following agencies and departments reviewed this project:

- √ RMA - Public Works Department
- √ Environmental Health Division
- √ Water Resources Agency
- √ North County Fire Protection District

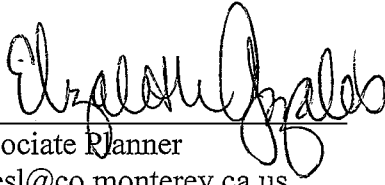
Agencies that submitted comments are noted with a check mark. A condition recommended by Public Works has been incorporated into the Condition Compliance/Mitigation Monitoring and Reporting Plan attached as Exhibit 1 to the draft resolution (**Exhibit B**).

The project was not referred to the North County Coastal Land Use Advisory Committee (LUAC) for review. Based on the LUAC Procedure guidelines adopted by the Monterey County

Board of Supervisors per Resolution No. 08-338, this application did not warrant referral to the LUAC because there are no environmental issues relating to the project nor is there any controversy that would require discussion with the LUAC.

Note: The decision on this project is appealable to the Board of Supervisors and the Coastal Commission.

/S/ Elizabeth Gonzales

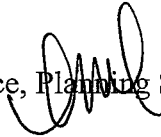


Elizabeth Gonzales, Associate Planner  
(831) 755-5102, [gonzalesl@co.monterey.ca.us](mailto:gonzalesl@co.monterey.ca.us)  
July 21, 2009

cc: Front Counter Copy; Zoning Administrator; North County Fire Protection District; Public Works Department; David Lutes, Parks Department; Environmental Health Division; Water Resources Agency; California Coastal Commission; Laura Lawrence, Planning Services Manager; Elizabeth Gonzales, Project Planner; Carol Allen, Senior Secretary; Planning File PLN090206

Attachments: Exhibit A Project Data Sheet  
Exhibit B Draft Resolution, including:  
1. Conditions of Approval  
2. Site Plan,  
Exhibit C Vicinity Map

This report was reviewed by Laura Lawrence, Planning Services Manager



**EXHIBIT B  
DRAFT RESOLUTION**

**Before the Zoning Administrator in and for the  
County of Monterey, State of California**

In the matter of the application of:

**COUNTY OF MONTEREY (PLN090206)**

**RESOLUTION NO. 090206**

Resolution by the Monterey County Zoning  
Administrator:

- 1) Categorically Exempts CEQA per Section 15305 (b); and
- 2) Approves Coastal Development Permit (PLN090206) to allow the removal of one oak tree (5-prong cluster) for the purpose of providing emergency access into Manzanita Park based on the findings and evidence and subject to the conditions of approval (**Exhibit B**):

(PLN090206, County of Monterey, right of way located at the end of Dyer Road, North County Land Use Plan (APN: 129-021-037-000)

**The Coastal Development Permit application (PLN090206) came on for public hearing before the Monterey County Zoning Administrator on August 27, 2009. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Zoning Administrator finds and decides as follows:**

**FINDINGS**

1. **FINDING:** **CONSISTENCY** – The Project, as conditioned, is consistent with the applicable plans and policies which designate this area as appropriate for development.  
**EVIDENCE:** a) During the course of review of this application, the project has been reviewed for consistency with the text, policies, and regulations in the:
  - Monterey County General Plan,
  - North County Land Use Plan;
  - Monterey County Coastal Implementation Plan (Part 2);
  - Monterey County Zoning Ordinance (Title 20)No conflicts were found to exist. No communications were received during the course of review of the project indicating any inconsistencies with the text, policies, and regulations in these documents.  
b) The property is located within the County right of way at the end of Dyer Road (Assessor's Parcel Number 129-021-037-000) North County Land Use Plan. The parcel is zoned LDR/2.5 (CZ) which allows development of an emergency access road. Therefore, the project is an allowed land use for this site.

- c) Applicant requests the removal of a five-prong Oak tree which is located within the County right of way at the end of Dyer Road. Removal of the Oak tree would allow emergency access into Monterey County Manzanita Park. Currently, the existing access road is encroaching into a neighboring property.
- d) The project planner conducted a site inspection on July 2, 2009 to verify that the project on the subject parcel conforms to the plans listed above.
- e) The parcel is not located within a public viewshed and there is no environmentally sensitive habitat on the parcel. The parcel is not described as an area where the Local Coastal Program requires access, and it is not indicated as part of any designated trails or shoreline access as shown in Figure 4 (Public Access and Recreation) of the North County Land Use Plan (NCLUP). Based on information and materials provided, plus site visits, staff finds that this project has no issues relative to archaeological, historic or biological resources and is consistent with the policies of the North County Land Use Plan (**See Finding Nos. 2 and 6**).
- f) Although the Oak tree consists of a five-prong cluster, it could be considered a landmark tree. In accordance with 20.144.050.C.1 (CIP), an exception may be granted by the decision making body for the removal of a Landmark tree within the public right of way where no feasible and prudent alternatives to such removal are available, subject to obtaining a coastal development permit. (**See Finding No. 7**)
- g) The project was not referred to the North County Coastal Land Use Advisory Committee (LUAC) for review. Based on the LUAC Procedure guidelines adopted by the Monterey County Board of Supervisors per Resolution No. 08-338, this application did not warrant referral to the LUAC because there are no environmental issues relating to the project nor is there any controversy that would require discussion with the LUAC.
- h) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN090206.

2. **FINDING: SITE SUITABILITY** – The site is physically suitable for the use proposed.

- EVIDENCE:**
- a) The project has been reviewed for site suitability by the following departments and agencies: RMA - Planning Department, North County Fire Protection District, Public Works, Environmental Health Division, and Water Resources Agency. There has been no indication from these departments/agencies that the site is not suitable for the proposed development. Conditions recommended have been incorporated.
  - b) Staff conducted a site inspection on July 2, 2009 to verify that the site is suitable for this use.
  - c) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN090206.

3. **FINDING: HEALTH AND SAFETY** - The establishment, maintenance, or

operation of the project applied for will not under the circumstances of this particular case be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.

- EVIDENCE:** a) The project was reviewed by the RMA - Planning Department, North County Fire Protection District, Public Works, Environmental Health Division, and Water Resources Agency. The respective departments/agencies have recommended conditions, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood.
- b) See Preceding Finding Nos. #1, #2, #4 and #7 and supporting evidence for PLN090206.

4. **FINDING:** **NO VIOLATIONS** - The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of the County's zoning ordinance. No violations exist on the property.

- EVIDENCE:** a) Staff reviewed Monterey County RMA - Planning Department and Building Services Department records and is not aware of any violations existing on subject property.
- b) Staff conducted a site inspection on July 2, 2009 and researched County records to assess if any violation exists on the subject property.
- c) There are no known violations on the subject parcel.
- d) Zoning violation abatement costs, if any, have been paid. A condition is included to assure that all zoning abatement costs, if any, have been paid.
- e) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN090206.

5. **FINDING:** **CEQA (Exempt):** - The project is categorically exempt from environmental review and no unusual circumstances were identified to exist for the proposed project.

- EVIDENCE:** a) California Environmental Quality Act (CEQA) Guidelines Section 15305(b) categorically exempts issuance of minor encroachment permits.
- b) Applicant requests the removal of a five-prong Oak tree which is located within the County right of way at the end of Dyer Road. Removal of the Oak tree would allow emergency access into Monterey County Manzanita Park. Currently, the existing access road is encroaching into a neighboring property.
- c) No adverse environmental effects were identified during staff review of the development application during a site visit on July 2, 2009.
- d) See preceding and following findings and supporting evidence.

6. **FINDING:** **PUBLIC ACCESS** - The project is in conformance with the public access and recreation policies of the Coastal Act (specifically Chapter 3 of the Coastal Act of 1976, commencing with Section 30200 of the

Public Resources Code) and Local Coastal Program, and does not interfere with any form of historic public use or trust rights.

- EVIDENCE:**
- a) No access is required as part of the project as no substantial adverse impact on access, either individually or cumulatively, as described in Section 20.70.050.B.4.a of the Monterey County Coastal Implementation Plan can be demonstrated.
  - b) The subject property is not described as an area where the Local Coastal Program requires public access (Figure 4 in the North County Land Use Plan).
  - c) No evidence or documentation has been submitted or found showing the existence of historic public use or trust rights over this property.
  - d) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN090206
  - e) The project planner conducted a site inspection on July 2, 2009.

7. **FINDING: TREE REMOVAL - COASTAL** The subject project minimizes tree removal in accordance with the applicable goals and policies of the applicable land use plan and the Coastal Implementation Plan.

- EVIDENCE:**
- a) The project includes application for the removal of one Oak tree. In accordance with the applicable policies of the North County Land Use Plan and the Monterey County Zoning Ordinance (Title 20), a Coastal Development is required and the authority to grant said permit has been met.
  - b) The removal will not involve a risk of adverse environmental impacts. Removal of the Oak tree would allow emergency access into Monterey County Manzanita Park. Currently, the existing access road is encroaching into a neighboring property.
  - c) Landmark trees of all native and non-native species shall not be permitted to be removed. A landmark tree is a tree which is 24 inches or more in diameter when measured at breast height, or a tree which is visually significant, historically significant, exemplary of its species, or more than 1000 years old.
  - d) Although the Oak tree consists of a five-prong cluster, it could be considered a landmark tree. In accordance with 20.144.050.C.1 (CIP), an exception may be granted by the decision making body for the removal of a Landmark tree within the public right of way where no feasible and prudent alternatives to such removal are available, subject to obtaining a coastal development permit.
  - e) Oak trees to be removed which are 6 inches or more in diameter when measured 2 feet above the ground shall be replaced on the parcel. Replacement shall be at a rate of one tree of the same variety for each tree removed. (20.144.050.C.5) A condition of approval will require the applicant to plant an Oak tree on the property. Because the existing tree is in the way of the emergency access road, the applicant does not have to plant in the same location. **(Condition #4)**
  - f) Staff conducted a site inspection on July 2, 2009, to verify that the tree removal is the minimum necessary for the project and to identify any potential adverse environmental impacts related to the proposed tree removal.
  - g) The application, plans and supporting materials submitted by the project

applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN090206.

8. **FINDING:** **APPEALABILITY** - The decision on this project may be appealed to the Board of Supervisors and the California Coastal Commission
- EVIDENCE:** a) Section 20.86.030 of the Monterey County Coastal Implementation Plan - Part 1 (Board of Supervisors).
- b) Section 20.86.080 Monterey County Zoning Ordinance (Coastal Commission). The project is subject to appeal by/to the California Coastal Commission because any approved project involving development that is permitted in the underlying zone as a conditional use.

### DECISION

**NOW, THEREFORE**, based on the above findings and evidence, the Zoning Administrator does hereby:

- A. Categorically Exempt PLN090206 per (CEQA) Guidelines Section 15305 (b); and
- B. Approve Coastal Development Permit PLN090206, in general conformance with the attached sketch (**Exhibit 2**) and subject to the conditions (**Exhibit 1**), both exhibits being attached hereto and incorporated herein by reference.

\_\_\_\_\_  
Mike Novo, Zoning Administrator

COPY OF THIS DECISION MAILED TO APPLICANT ON \_\_\_\_\_

THIS APPLICATION IS APPEALABLE TO THE BOARD OF SUPERVISORS AND THE CALIFORNIA COASTAL COMMISSION.

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE CLERK TO THE BOARD ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE \_\_\_\_\_.

THIS PROJECT IS LOCATED IN THE COASTAL ZONE AND IS / IS NOT APPEALABLE TO THE COASTAL COMMISSION. UPON RECEIPT OF NOTIFICATION OF THE FINAL LOCAL ACTION NOTICE (FLAN) STATING THE DECISION BY THE FINAL DECISION MAKING BODY, THE COMMISSION ESTABLISHES A 10 WORKING DAY APPEAL PERIOD. AN APPEAL FORM MUST BE FILED WITH THE COASTAL COMMISSION. FOR FURTHER INFORMATION, CONTACT THE COASTAL COMMISSION AT (831) 427-4863 OR AT 725 FRONT STREET, SUITE 300, SANTA CRUZ, CA

This decision, if this is the final administrative decision, is subject to judicial review pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6. Any Petition for Writ of Mandate must be filed with the Court no later than the 90th day following the date on which this decision becomes final.

### NOTES

- 1. You will need a building permit and must comply with the Monterey County Building Ordinance in every respect.

Additionally, the Zoning Ordinance provides that no building permit shall be issued, nor any use conducted, otherwise than in accordance with the conditions and terms of the permit granted or until ten days after the mailing of notice of the granting of the permit by the appropriate authority, or after granting of the permit by the Board of Supervisors in the event of appeal.

Do not start any construction or occupy any building until you have obtained the necessary permits and use clearances from the Monterey County Planning Department and Building Services Department office in Salinas.

2. This permit expires 4 years after the above date of granting thereof unless construction or use is started within this period.



**RESOLUTION NO. \_\_\_\_\_ EXHIBIT 1**  
**Monterey County Resource Management Agency**  
**Planning Department**  
**Condition Compliance and/or Mitigation Monitoring**  
**Reporting Plan**

**Project Name:** Monterey County Parks Department  
**File No:** PLN090206 **APNs:** 129-021-037-000  
**Approved by:** Zoning Administrator **Date:** August 27, 2009

*\*Monitoring or Reporting refers to projects with an EIR or adopted Mitigated Negative Declaration per Section 21081.6 of the Public Resources Code.*

<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (name/date)</i>
<b>RMA – Planning Department</b>						
1.		<p><b>PD001 - SPECIFIC USES ONLY</b>            This Coastal Permit (PLN090206) allows for the removal of one oak tree (5-prong cluster) within a County right of way for the purpose of providing emergency access into Manzanita Park. The property is located within a County right of way located at the end of Dyer Road (Assessor’s Parcel Number 129-021-037-000), North County Land Use Plan. This permit was approved in accordance with County ordinances and land use regulations subject to the following terms and conditions. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. <b>(RMA-Planning Department)</b></p>	<p>Adhere to conditions and uses specified in the permit.</p> <p>Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of the RMA - Planning Department.</p> <p>To the extent that the County has delegated any condition compliance or mitigation monitoring to the Monterey County Water Resources Agency, the Water Resources Agency shall provide all information requested by the County and the County shall bear ultimate responsibility to ensure that conditions and mitigation measures are properly fulfilled.</p>	<p>Owner/ Applicant</p> <p>RMA - Planning</p> <p>WRA  RMA - Planning</p>	<p>Ongoing unless otherwise stated</p>	

<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (name/date)</i>
2.		<b>PD002 - NOTICE-PERMIT APPROVAL</b> The applicant shall record a notice which states: "A permit (Resolution 090206) was approved by the Zoning Administrator for Assessor's Parcel Number 129-021-037-000 on August 27, 2009. The permit was granted subject to 5 conditions of approval which run with the land. A copy of the permit is on file with the Monterey County RMA - Planning Department." <b>(RMA-Planning Department)</b>	Obtain appropriate form from the RMA-Planning Department.  The applicant shall complete the form and furnish proof of recordation of this notice to the RMA - Planning Department.	Owner/ Applicant  RMA- Planning	Prior to the issuance of grading and building permits or commencement of use.	
3.		<b>PD032(A) - PERMIT EXPIRATION</b> The permit shall be granted for a time period of four years, to expire on August 27, 2013 unless use of the property or actual construction has begun within this period. <b>(RMA – Planning Department)</b>	The applicant shall obtain a valid grading or building permit and/or commence the authorized use to the satisfaction of the Director of Planning. Any request for extension must be received by the Planning Department at least 30 days prior to the expiration date.	Owner/ Applicant	As stated in the conditions of approval	
4.		<b>PDSP001 - TREE REPLACEMENT (NON STANDARD)</b> The applicant shall plant a 5-gal Oak tree on the property. Because the existing tree is in the way of the emergency access road, the applicant does not have to plant in the same location. <b>(Condition #4)</b>	The applicant shall provide proof of planting to the Director of Planning	Owner/ Applicant	Prior to Clearing this Coastal Permit	
<b>RMA – Public Works Department</b>						
5.		<b>PW0005 – ENCROACHMENT (STD DRIVEWAY)</b> Obtain an encroachment permit from the Department of Public Works and construct a standard driveway connection to Dyer Road. <b>(Public Works)</b>	Applicant shall obtain an encroachment permit from DPW prior to issuance of building permits and complete improvement prior to occupancy or commencement of use. Applicant is responsible to obtain all permits and environmental clearances.	Owner/ Applicant	Prior to Building/ Grading Permits Issuance	

**END OF CONDITIONS**

Monterey Co.  
Parks Dept.  
subject property  
APN 129-021-037

APN 129-021-037  
MONTEREY COUNTY  
MANZANITA PARK

APN 129-021-036

FOUND REBAR W/ CAP  
LS4448

NOTES:  
DISTANCES AND DIMENSIONS SHOWN ARE EXPRESSED IN FEET AND DECIMALS THEREOF.  
BOUNDARY LOCATIONS SHOWN HEREON WERE DETERMINED WITH THE BENEFIT OF A FIELD SURVEY SUPPLEMENTED BY RECORD DATA. ALL BOUNDARY SHOWN IS FROM RECORD DATA. THIS MAP DOES NOT CONSTITUTE A BOUNDARY SURVEY. THERE MAY BE EASEMENTS OR OTHER RIGHTS, RECORDED OR UNRECORDED, AFFECTING THE SUBJECT PROPERTY WHICH ARE NOT SHOWN HEREON.  
DIAMETERS OF TREES ARE SHOWN IN INCHES. TREES SMALLER THAN 6" WERE NOT NECESSARILY LOCATED AS PART OF THIS SURVEY.

APN 129-021-017

10" OAK  
13" OAK  
12" OAK  
12" OAK  
12" OAK

WELDED WIRE FENCE

OAK TREE REMOVAL  
REQUESTED IN ORDER  
TO GAIN EMERGENCY  
ACCESS INTO  
MONTEREY COUNTY  
MANZANITA PARK

12/16" OAK  
11/15" OAK  
6" HIGH LIMB

Existing shared  
roadway encroaching  
over Wilson property  
APN 129-021-021

APN 129-021-021

24" PINE

FOUND 1" IP  
ILLEGIBLE

FOUND 3/4" IRON PIPE  
ILLEGIBLE

S88°08'53"E 40'  
24/8" PINE  
S88°18'53"E

PAVEMENT

APN 129-021-005

DYER ROAD



REVISIONS:		
NO.	DATE	DESCRIPTION

MANZANITA PARK  
MONTEREY COUNTY, CALIFORNIA

PLAT OF SURVEY

DATE: Nov 13, 2008  
SCALE: 1" = 20'  
DRAWN BY: G.P.  
JOB #: 2248.00

WHITSON ENGINEERS  
9139 Blue Lakespar Lane • Suite 105 • Monterey, CA 93940  
831.848-8225 • FAX 831-373-5065  
CIVIL ENGINEERING • LAND SURVEYING • PROJECT MANAGEMENT

County Parks requested  
Survey




# NORTH COUNTY

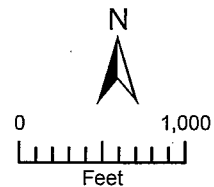


APPLICANT: COUNTY OF MONTEREY PARKS DEPT - DYER RD

APN: 129-021-037-000

FILE # PLN090206

 300' Limit     2500' Limit     City Limits



PLANNER: GONZALES