

MONTEREY COUNTY ZONING ADMINISTRATOR

Meeting: October 29, 2009	Time: 1:50 P.M.	Agenda Item No.: 5
Project Description: Coastal Development Permit to allow the removal of three (3) trees: One planted Monterey cypress (26 inches diameter at breast height) and two planted Monterey pine (28 and 32 inches diameter at breast height).		
Project Location: 4133 Sunridge Road, Pebble Beach		APN: 008-071-018-000
Planning File Number: PLN090134		Owner: Neil Rains
Planning Area: Del Monte Forest Land Use Plan		Flagged and staked: NA
Zoning Designation: Medium Density Residential, 4 units per acre, with a Design Control Overlay (Coastal Zone) [MDR/4-D (CZ)]		
CEQA Action: Categorically Exempt per CEQA Guidelines Section 15304(i)		
Department: RMA - Planning Department		

RECOMMENDATION:

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

- 1) Categorically exempt PLN090134 per CEQA Guidelines Section 15304(i); and
- 2) Approve PLN090134, based on the findings and evidence and subject to the conditions of approval (**Exhibit B**):

PROJECT OVERVIEW:

The applicant proposes the removal three trees on a small residential lot in the Del Monte Forest. The parcel is approximately 12,507 square feet, and has an existing 2,810 square foot residence and approximately 3,407 square feet of impervious surface coverage. The project, as proposed, is consistent with the applicable policies of the Del Monte Forest Land Use Plan and Coastal Implementation Plan.

The project has been designed to minimize tree removal. The trees proposed for removal are only those identified as either in poor health or posing a potential hazard to the existing residence on the parcel. Per Coastal Implementation Plan Section 20.147.050.B, a Tree Assessment report was prepared by Frank Ono, a qualified forester and arborist (LIB090366). All work shall be in accordance with this report (Condition No. 3). In addition, an Investigation of Residential Foundations report (LIB090367) was prepared by Robert Crosby, Structural Engineer. The Monterey cypress (No. 77) is only 8 feet away from, and one of the Monterey pines (No. 83) is only 4 feet away from, the foundation of the existing residence. According to the report prepared by the structural engineer, these trees may affect the safety of the existing foundation and pose a potential structural hazard to the existing residence. The second Monterey pine (No. 82) is identified as dead/dying and an imminent hazard to the existing residence. The property owner is requesting removal of these trees to prevent further damage to the existing residence. Furthermore, tree replanting is not recommended because the property is overcrowded, and has a large number of small Monterey pine that will benefit from the proposed removal.

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

- RMA - Public Works Department
- Water Resources Agency
- California Coastal Commission

Agencies that submitted comments are noted with a check mark (“√”). Conditions recommended by the RMA-Planning Department have been incorporated into the Condition RAINS (PLN090134)

Compliance/Mitigation Monitoring and Reporting Plan attached as Exhibit 1 to the draft resolution (**Exhibit B**).

The project was not referred to the Del Monte Forest 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 it does not include development requiring CEQA review, does not involve a lot line adjustment, does not require the issuance of a Variance, and does not include a Design Approval subject to review by the Zoning Administrator or Planning Commission.

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

Joseph Sidor, Associate Planner
(831) 755-5262, SidorJ@co.monterey.ca.us
September 30, 2009

cc: Front Counter Copy; Zoning Administrator; Public Works Department; Water Resources Agency; California Coastal Commission; Laura Lawrence, Planning Services Manager; Joseph Sidor, Project Planner; Carol Allen, Senior Secretary; Neil Rains, Owner; Pebble Beach Company; Planning File PLN090134

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

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:

RAINS (PLN090134)

RESOLUTION NO. 090134

Resolution by the Monterey County Zoning
Administrator:

- 1) Categorically exempting PLN090134 per CEQA Guidelines Section 15304(i); and
- 2) Approving a Coastal Development Permit to allow the removal of three (3) trees.
(PLN090134, Rains, 4133 Sunridge Road, Pebble Beach, Del Monte Forest Land Use Plan, Coastal Zone, APN: 008-071-018-000)

The Rains application (PLN090134) came on for public hearing before the Monterey County Zoning Administrator on October 29, 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,
 - Del Monte Forest Land Use Plan,
 - Del Monte Forest Coastal Implementation Plan (Part 5), and
 - 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 at 4133 Sunridge Road, Pebble Beach (Assessor's Parcel Number 008-071-018-000), Del Monte Forest Land Use Plan. The parcel is zoned MDR/4-D (CZ). Per the Del Monte Forest Coastal Implementation Plan, Section 20.147.050, tree removal may be allowed with a Coastal Development Permit. Therefore, the project is an allowed land use for this site.
- c) The project planner conducted a site inspection on May 6, 2009, to verify that the project on the subject parcel conforms to the plans listed above.
- d) Tree Removal. The project minimizes tree removal in accordance with applicable goals and policies of the Del Monte Forest Land Use Plan and

Coastal Implementation Plan (see Finding No. 7).

- e) The project was not referred to the Del Monte Forest 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 it does not include development requiring CEQA review, does not involve a lot line adjustment, does not require the issuance of a Variance, and does not include a Design Approval subject to review by the Zoning Administrator or Planning Commission.
- f) 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 PLN090134.

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 – Public Works Department, RMA - Planning Department, 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 identified potential impacts to Forestry Resources. Technical reports by outside consultants indicated that there are no physical or environmental constraints that would indicate that the site is not suitable for the use proposed. County staff independently reviewed these reports and concurs with their conclusions. The following reports have been prepared:

- Tree Assessment (LIB090366) prepared by Frank Ono, Pacific Grove, California, July 12, 2009.
- Investigation of Residential Foundations (LIB090367) prepared by Robert Crosby, Structural Engineer, San Mateo, California, July 21, 2009.

c) Staff conducted a site inspection on May 6, 2009, to verify that the site is suitable for this use.

d) 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 PLN090134.

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 RMA – Public Works Department, RMA - Planning Department, 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) Necessary public facilities are available. The existing structural development on the property has public water and sewer connections.
- c) Preceding findings and supporting evidence for PLN090134.

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 May 6, 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) 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 PLN090134.

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 15304(i) categorically exempts fuel management activities within 30 feet of structures to reduce the volume of flammable vegetation.
 - b) PLN090134 involves the removal of three trees which are in close proximity to an existing residential structure (approximately 2, 3, and 16 feet, respectively). Therefore, the project is consistent with the Class 4 categorical exemption per Evidence 5a above.
 - c) No adverse environmental effects were identified during staff review of the development application during a site visit on May 6, 2009. The home is in a heavily forested area, and the removal of three trees will not make the residence more visible within the surrounding viewshed. Furthermore, this area of the Del Monte forest is not identified as indigenous Monterey cypress habitat (Figure 2 of the Del Monte Forest LUP). A field survey by a qualified forester identified the subject Monterey cypress as planted.
 - d) Exceptions to exemptions listed in Section 15300.2.a-f are inapplicable. The project does not involve: a designated historical resource, a hazardous waste site, development located near or within view of a scenic highway, unusual circumstances that would result in a significant effect, development that would result in a cumulatively significant impact, nor development in a particularly sensitive environment.
 - e) See Finding Nos. 1, 2, and 7; 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 20.147.130 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 (Figures 15 and 16 in the Del Monte Forest 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 PLN090134.
- e) The project planner conducted a site inspection on May 6, 2009.

7. **FINDING:** **TREE REMOVAL** – 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 three trees. In accordance with the applicable policies of the Del Monte Forest Land Use Plan, the Coastal Implementation Plan (Section 20.147.050.A.1), and the Monterey County Zoning Ordinance (Title 20), a Coastal Development Permit is required and the authority to grant said permit has been met.
- b) The project, as proposed, is consistent with the Del Monte Forest Land Use Plan and Coastal Implementation Plan policies related to Forestry and Soil Resources.
- c) The Del Monte Forest Coastal Implementation Plan, Section 20.147.050.D.2 states that Monterey cypress located in areas other than its indigenous habitat are to be treated like Monterey pine. The removal of Monterey pine shall be in accordance with the forest management plan for that site.
- d) Per Coastal Implementation Plan Section 20.147.050.B, a Tree Assessment report was prepared by Frank Ono, a qualified forester and arborist (LIB090366). All work shall be in accordance with this report (Condition No. 3). In addition, an Investigation of Residential Foundations report (LIB090367) was prepared by Robert Crosby, Structural Engineer.
- e) The project has been designed to minimize tree removal. The trees proposed for removal (Tree Nos. 77, 82, and 83 identified in the Tree Assessment report) are only those identified as either in poor health or posing a potential hazard to the existing residence on the parcel. According to the report prepared by the structural engineer, these trees may affect the safety of the existing foundation and pose a potential structural hazard to the existing residence. The second Monterey pine (No. 82) is identified as dead/dying and an imminent hazard to the existing residence. The property owner has requested removal of these trees to prevent further damage to the existing residence. Per the forester's report, removal of the damaging roots will likely cause deterioration of the tree, resulting in limb loss or tree failure.
- f) The removal will not involve a risk of adverse environmental impacts. The property is located in an area of Del Monte Forest that is heavily

forested, so the removal of three trees will not significantly impact visual resources identified on the Visual Resources Map (LUP Figure 2C). The project, as proposed, is consistent with the policies regarding environmentally sensitive habitat, water and marine resources, and scenic visual resources (LUP Policy 31).

- g) Staff conducted a site inspection on May 6, 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.
- h) 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 PLN090134.

8. **FINDING:** **APPEALABILITY** - The decision on this project may be appealed to the Board of Supervisors and the California Coastal Commission.

- EVIDENCE:**
- a) Board of Supervisors: Section 20.86.030 of the Monterey County Zoning Ordinance allows an appeal to be made to the Board of Supervisors by any public agency or person aggrieved by a decision of an Appropriate Authority other than the Board of Supervisors.
 - b) Coastal Commission: Section 20.86.080.A.3 of the Monterey County Zoning Ordinance (Title 20). The project is subject to appeal by/to the California Coastal Commission because it involves development 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 PLN090134 per CEQA Guidelines Section 15304(i); and
- B. Approve a Coastal Development Permit to allow the removal of three (3) trees, 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.

PASSED AND ADOPTED this 29th day of October, 2009.

MIKE NOVO, Zoning Administrator

COPY OF THIS DECISION MAILED TO APPLICANT ON _____.

THIS APPLICATION IS APPEALABLE TO THE BOARD OF SUPERVISORS.

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 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 may 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 090134 - EXHIBIT 1
Monterey County Resource Management Agency
Planning Department
Condition Compliance and/or Mitigation Monitoring
Reporting Plan

Project Name: Rains

File No: PLN090134

APNs: 008-071-018-000

Approved by: Zoning Administrator Date: October 29, 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>
RMA – Planning Department						
1.		<p>PD001 - SPECIFIC USES ONLY This Coastal Development Permit (PLN090134) allows the removal of three (3) trees: one Monterey cypress (26 inches diameter at breast height) and two Monterey pine (28 and 32 inches diameter at breast height). The trees are identified in the Tree Assessment report prepared for the project as Tree Nos. 77, 82, and 83. The property is located at 4133 Sunridge Road, Pebble Beach (Assessor's Parcel Number 008-071-018-000), Del Monte Forest 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. (RMA-Planning Department)</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>	Ongoing unless otherwise stated.	

<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.		PD002 - NOTICE-PERMIT APPROVAL The applicant shall record a notice which states: "A permit (Resolution 090134) was approved by the Zoning Administrator for Assessor's Parcel Number 008-071-018-000 on October 29, 2009. The permit was granted subject to four (4) conditions of approval which run with the land. A copy of the permit is on file with the Monterey County RMA - Planning Department." (RMA-Planning Department)	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 tree removal.	
3.		PDSP001 – NOTICE OF REPORT (FORESTRY) (NON-STANDARD) Prior to removal of trees, a notice shall be recorded with the Monterey County Recorder which states: "A Tree Assessment report has been prepared for this parcel by Frank Ono, dated July 12, 2009, and is on record in the Monterey County RMA - Planning Department , Library No. 090366. All development shall be in accordance with the recommendations of this report." (RMA – Planning Department)	Proof of recordation of this notice shall be furnished to the RMA - Planning Department.	Owner / Applicant	Prior to tree removal.	
			Submit proof that all development has been implemented in accordance with the report to the RMA - Planning Department for review and approval.	Owner / Applicant	Within 30 days after completion of tree removal.	
4.		PD032(A) - PERMIT EXPIRATION The permit shall be granted for a time period of four years, to expire on October 29, 2013, unless use of the property or actual construction has begun within this period. (RMA – Planning Department)	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.	

END OF CONDITIONS