

**PLANNING COMMISSION  
COUNTY OF MONTEREY, STATE OF CALIFORNIA**

RESOLUTION NO. 03069

A.P. # 007-401-008-000

**FINDINGS AND  
DECISION**

In the matter of the application of  
**Mark and Joann Donangelo (PLN030159)**

for a Use Permit in accordance with Title 21 (Zoning) Chapter 21.74 (Use Permits) of the Monterey County Code, to allow for the removal of seven (7) Coast Live Oaks (ranging from 8 to 12 inches in diameter), with Design Approval to allow for the construction of a 3,616 square foot two-story single family dwelling, located at 3137 Bird Rock Road, Pebble Beach, northerly of the intersection of Indian Village and Bird Rock Road, Monterey Peninsula Country Club, Greater Monterey Peninsula Area, came on regularly for hearing before the Planning Commission on October 29, 2003.

Said Planning Commission, having considered the application and the evidence presented relating thereto,

**FINDINGS OF FACT**

1. **FINDING: CONSISTENCY & SITE SUITABILITY** - The Donangelo Use Permit and Design Approval (PLN030035), as described in Condition #1 and as conditioned are consistent with applicable plans, policies, requirements, and standards of the Monterey County General Plan, the Greater Monterey Peninsula Area Plan, and the Monterey County Zoning Ordinance (Title 21). The property is located at 3137 Bird Rock Road (Assessor's Parcel Number 007-401-008-000), Monterey Peninsula Country Club Area. The parcel is zoned "MDR/B-6-D-RES" or Medium Density Residential, Building Site, Design Control and Recreational Equipment Storage Control. The site is physically suitable for the use proposed.

- EVIDENCE:**
- (a) The Planning and Building Inspection Staff has reviewed the project for consistency with:
    - Monterey County General Plan
    - Greater Monterey Peninsula Area Plan
    - Chapter 21.64, Regulations for Preservation of Oak and Other Protected Species (Title 21)
    - Chapter 21.12, Regulations for Medium Density Residential Zoning Districts (Title 21)
    - Chapter 21.42, Regulations for Building Site Zoning Districts (Title 21)
  - (b) Project planner conducted an on-site inspection on July 17, 2003, to verify that the project on the subject parcel conforms to the plans listed above.
  - (c) The removal of seven oaks is allowed with the approval of a Use Permit in accordance with Section 21.64.260 of Monterey County Code (Title 21).
  - (d) The parcel is zoned Medium Density Residential, 4 units per acre, Design Control District, ("MDR/4-D"). The project is in compliance with Site Development Standards for Medium Density Residential Districts and Building Site Zoning Districts in accordance with Sections 21.12 and 21.42 which allow single family dwellings.
  - (e) The project has been reviewed for suitability by Planning and Building Inspection, Public Works Department, Water Resources Agency, Environmental Health Division, Parks Department and California Department of Forestry (CDF). Conditions recommended have been incorporated.

- (f) Design Approval request form, with recommendation for approval of the project by the Del Monte Forest Land Use Advisory Committee on July 17, 2003 (5-1).
- (g) An Archaeological Report was prepared for this project by Archaeological Consulting on March 13, 2003. The report concludes that there is no evidence of cultural resources within the area currently proposed for development. A condition is included to stop work in the event cultural resources are discovered during grading and/or construction activity.
- (h) A Geotechnical Soils-Foundation and Geoseismic Design Report was prepared for this project by Grice Engineering and Geology, Inc. on May, 2003. The report states that the site is suitable for the proposed structure provided recommendations in the report are incorporated into the project design.
- (i) A Forest Management Plan (FMP) was prepared for this project by Rob Cain on June 24, 2003. The objective of the FMP is to minimize erosion, prevent soil loss, preserve natural habitat (including native forest under story and wildlife habitat), prevent forest fires, preserve scenic forest canopy, and preserve landmark trees. The FMP states that all trees proposed for removal are small to medium in size and are not exemplary of the species. The FMP also states that the number of trees proposed for removal is the minimum required for the circumstances. Tree replacement was recommended at a two for one ratio for the Coast Live Oaks (15 Gallon Minimum), and at a one to one ratio for the Monterey Pines. While the Monterey Pines are not a protected species under Monterey County Code, replacement is necessary to maintain the character of the surrounding forest. Tree protection measures for the preservation of the remaining forest have been recommended by the consulting forester and are mandated as conditions of approval.
- (j) The application, plans, and support materials submitted by the project applicant to the Monterey County Planning and Building Inspection Department for the proposed development, found in Project File PLN030159.

2. **FINDING: CEQA (Exempt):** - The project is exempt from environmental review.

- EVIDENCE:** (a) CEQA Section 15304. No potentially adverse environmental impacts were identified during review of the proposed project to remove seven oak trees.
- (b) CEQA Section 15303(a). No potentially adverse environmental impacts were identified during review of the proposed project to construct a two-story single family dwelling.

3. **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. Zoning violation abatement cost, if any, have been paid.

- EVIDENCE:** (a) Staff reviewed Monterey County Planning and Building Inspection Department records and is not aware of any violations existing on subject property.
- (b) Section 21.14 and 21.44 of the Monterey County Code (Title 21).

4. **FINDING: TREE REMOVAL** – The tree removal is the minimum required under the circumstances of the case; and the removal will not involve a risk of adverse environmental impacts such as: soil erosion; water quality; ecological impacts; noise pollution; air movement; and wildlife habitat.

- EVIDENCE:** (a) The FMP states that the number of trees proposed for removal is the minimum required for the circumstances. The plan also states those proposed for removal are small to medium in size and are not exemplary of the species.

- (b) Tree replacement is recommended at a two for one ratio for the Coast Live Oaks (15 Gallon Minimum), and at a one to one ratio for the Monterey Pines. While the Monterey Pines are not a protected species under the Greater Monterey Peninsula Area Plan and the Zoning Ordinance (Title 21), replacement is necessary to maintain the character of the surrounding forest.
- (c) The potential impact to native trees close to the proposed development was assessed in the Forest Management Plan. Measures for tree protection during construction have been incorporated as conditions and include tree protection zones, trunk protection, hand excavation and bridging roots.
- (d) A condition has been added that the applicant record a notice stating that a Forest Management Plan has been prepared and any tree removal be in accordance with the approved plan.
- (e) Forest Management Plan prepared by Rob Cain, dated June, 2003, contained in Project File PLN020373.

5. **FINDING: HEALTH & 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) Preceding findings and supporting evidence.

6. **FINDING: APPEALABILITY** - The decision on this project is appealable to the Board of Supervisors.

**EVIDENCE:** (a) Section 21.80.040.D of the Monterey County Zoning Ordinance (Title 21).

### **DECISION**

THEREFORE, it is the decision of said Planning Commission that said application be granted as shown on the attached sketch, subject to the following conditions:

1. The subject Use Permit consists of the removal of seven oak trees (ranging 8 to 12 inches in diameter), and Design Approval for the construction of a 3,616 square foot, two-story single family dwelling, and associated grading (approximately 34 cubic yards cut, 5 cubic yards fill). The project is located at 3137 Bird Rock Road, Pebble Beach (Assessor's Parcel Number 007-401-008-000), Monterey Peninsula Country Club Area, Greater Monterey Peninsula Area Plan. The proposed project is in accordance with County ordinances and land use regulations, subject to the following terms and conditions. Neither the use 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 Planning and Building Inspection. 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. **(Planning and Building Inspection)**

### **Prior to the Issuance of Grading and Building Permits:**

2. The applicant shall record a notice which states: "A permit (Resolution 03069) was approved by the Planning Commission for Assessor's Parcel Number 007-401-008-000 on October 29, 2003. The permit was granted

subject to 21 conditions of approval, which run with the land. A copy of the permit is on file with the Monterey County Planning and Building Inspection Department." Proof of recordation of this notice shall be furnished to the Director of Planning and Building Inspection prior to issuance of building permits or commencement of the use. **(Planning and Building Inspection)**

3. Prior to the issuance of building or grading permits, tree protection fencing shall be erected and maintained during all phases of development. Areas beyond the fence shall not be used to park cars, store material, pile debris or place equipment. The location of the fence, once installed, shall be inspected and approved by the recommending forester. Written confirmation of this installation shall be provided by the recommending forester to the Planning and Building Inspection Department. **(Planning and Building Inspection)**
4. Prior to the issuance of building or grading permits, all construction contracts for the project shall include a provision requiring that all contractors and subcontractors performing work on this project be given a copy of the forest management plan and conditions of approval and agree to implement the provisions of the forest management plan and conditions of approval. In addition, the contracts shall also identify a County of Monterey approved arborist or forester to be present or consulted under circumstances where the provisions of the forest management plan or conditions of approval require that the arborist or forester be present or consulted. Prior to issuance of building and grading permits, a copy of these contracts shall be supplied to the Planning and Building inspection department. **(Planning and Building Inspection)**
5. Prior to issuance of building or grading permits, a notice shall be recorded with the Monterey County Recorder which states: "A Forest Management Plan has been prepared for this parcel by Rob Cain dated June 24, 2003 and is on record in the Monterey County Planning and Building Inspection Department Library. All development shall be in accordance with this report." **(Planning and Building Inspection Department)**
6. Prior to issuance of any grading or building permits, the applicant shall provide the Water Resources Agency a drainage plan addressing on-site and off-site impacts. Drainage improvements shall be constructed in accordance with plans approved by the Water Resources Agency. **(Water Resources Agency)**
7. Prior to issuance of any building permits, the applicant shall obtain from the Monterey County Water Resources Agency, proof of water availability on the property, in the form of an approved Monterey Peninsula Water Management District Water Release Form. **(Water Resources Agency)**
8. Prior to issuance of any grading or building permits, the applicant shall provide the Water Resources Agency information on the well to serve the project including a map showing the well location and any available well logs/e-logs. **(Water Resources Agency)**
9. When construction begins, temporary or permanent address numbers shall be posted. Permanent address numbers shall be posted prior to requesting final clearance. All address numbers (permanent and temporary) shall be posted on the property so as to be clearly visible from the road. Where visibility cannot be provided, a post or sign bearing the address numbers shall be set adjacent to the driveway or access road to the property. Address numbers posted shall be Arabic, not Roman or written out in words. Address numbers posted shall be a minimum number height of 3 inches with a 3/8 inch stroke, and contrasting with the background colors of the sign. **(Pebble Beach Community Services District/CDF)**
10. Prior to issuance of any grading or building permits, the size of letters, numbers and symbols for addresses shall be a minimum of 3 inch letter height, 3/8 inch stroke, contrasting with the background color of the sign. **(Pebble Beach Community Services District/CDF)**

11. The building(s) shall be fully protected with automatic fire sprinkler system(s). The following notation is **required on the plans** when a building permit is applied for:

"The building shall be fully protected with an automatic fire sprinkler system. Installation, approval and maintenance shall be in compliance with applicable National Fire Protection Association and/or Uniform Building Code Standards, the editions of which shall be determined by the enforcing jurisdiction. Four (4) sets of plans for fire sprinkler systems must be submitted and approved prior to installation. Rough-in inspections must be completed prior to requesting a framing inspection." (Garage Included) **(Pebble Beach Community Services District/CDF)**

**Prior to Final Building Inspection/Occupancy:**

12. All exterior lighting shall be unobtrusive, harmonious with the local area, and constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. The applicant shall submit 3 copies of an exterior lighting plan which shall indicate the location, type, and wattage of all light fixtures and include catalog sheets for each fixture. The exterior lighting plan shall be subject to approval by the Director of Planning and Building Inspection, prior to the issuance of building permits. **(Planning and Building Inspection)**
13. The applicant shall comply with Ordinance No. 3932 of the Monterey County Water Resources Agency pertaining to mandatory water conservation regulations. The regulations for new construction require, but are not limited to:
- a. All toilets shall be ultra-low flush toilets with a maximum tank size or flush capacity of 1.6 gallons, all shower heads shall have a maximum flow capacity of 2.5 gallons per minute, and all hot water faucets that have more than ten feet of pipe between the faucet and the hot water heater serving such faucet shall be equipped with a hot water recirculating system.
  - b. Landscape plans shall apply xeriscape principles, including such techniques and materials as native or low water use plants and low precipitation sprinkler heads, bubblers, drip irrigation systems and timing devices. **(Water Resources Agency)**
14. Prior to final inspection, the applicant shall plant 14 Coast Live Oaks (*Quercus agrifolia*, 15 gallon minimum) and three Monterey Pines (*Pinus radiata*). The location and method of installation shall be approved by the consulting forester and incorporated into the landscape plans required in condition 15. **(Planning and Building Inspection)**
15. The site shall be landscaped. At least three weeks prior to occupancy, three copies of a landscaping plan shall be submitted to the Director of Planning and Building Inspection for approval. A landscape plan review fee is required for this project. Fees shall be paid at the time of landscape plan submittal. The landscaping plan shall be in sufficient detail to identify the location, specie, and size of the proposed landscaping materials and shall be accompanied by a nursery or contractor's estimate of the cost of installation of the plan. Before occupancy, landscaping shall be either installed or a certificate of deposit or other form of surety made payable to Monterey County for that cost estimate shall be submitted to the Monterey County Planning and Building Inspection Department. **(Planning and Building Inspection)**
16. Prior to final inspection, a post-construction evaluation shall be performed by a qualified arborist or forester to certify that the work was completed in accordance with the forest management plan submitted with the project application. This report shall record, assess and recommend mitigation measures for impacts not anticipated or permitted in the original forest management plan. **(Planning and Building Inspection)**

**Continuous Permit Conditions:**

17. No land clearing or grading shall occur on the subject parcel between October 15 and April 15 unless authorized by the Director of Planning and Building Inspection. **(Planning and Building Inspection)**
18. Tree removal activities shall be limited to the following times: Monday through Friday between the hours of 8:00 a.m. and 6 p.m. or sunset, whichever is earlier. **(Planning and Building Inspection)**
19. Site access, vegetation removal and construction activities (including the parking of vehicles and the storage of equipment and portable toilets) shall not encroach onto the greenbelt adjacent to the southern edge of the property. **(Planning and Building Inspection)**
20. A qualified arborist or forester should be on site during all trenching and excavation within the drip line of all retained Oaks or Monterey Pines. Trenching shall occur as far from retained trees as possible. If it becomes necessary to cut roots within the drip line of an oak, a qualified arborist or forester shall be consulted to determine if cutting the roots will significantly affect the stability or vitality of the tree. If the arborist or forester determines that cutting the roots will either be bridged over or tunneled under if the arborist determines it is feasible to do so. In the event that it is not possible to do so, the arborist or forester shall determine whether there are other feasible measures to protect the tree and such measures shall be implemented. **(Planning and Building Inspection)**
21. If during the course of construction activity on the subject property, cultural, archaeological, historical, paleontological resources are uncovered at the site (surface or subsurface resources) work shall be halted immediately within 50 meters (165 feet) of the find until it can be evaluated by a qualified professional archaeologist. The Monterey County Planning and Building Inspection Department and a qualified archaeologist (i.e., an archaeologist registered with the Society of Professional Archaeologists) shall be immediately contacted by the responsible individual present on-site. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery. **(Planning and Building Inspection)**

**PASSED AND ADOPTED** this 30th day of October 2003, by the following vote:

AYES: Errea, Sanchez, Hawkins, Padilla, Brennan, Parsons, Diehl, Salazar, Rochester, Wilmot  
NOES: None  
ABSENT: None

Original Signed By:

JEFF MAIN, SECRETARY

Copy of this decision mailed to applicant on

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

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 90<sup>th</sup> 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 and Building Inspection Department office in Marina.

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