

Limited rentals can be rented un-hosted up to three times per year, i.e., for special events, and require an operator permit, annual HCD permit, and treasurer/tax collector registration.

Home Stays are rooms rented within a home that is also occupied by the owner, require an annual permit from HCD, and treasurer/tax collector registration.

At the meeting on August 27th, the BOS also adopted a resolution of intent to adopt the same permitting requirements for the coastal zone, however Coastal Commission certification is needed for the requirements to take effect. Tomorrow the BOS will consider regulations that implement the annual licensing requirements. Revisions to the adopted ordinance would need BOS approval to move forward.

Melody Pfungsten inquired how the new ordinance(s) would be enforced. Mr. Spencer stated that lack of adopted regulations is an enforcement challenge: Now that regulations are adopted, and once implemented, they can be enforced by a county-wide two-person dedicated enforcement staff that use specific provisions for fines and penalties of ½ or more the advertised rental rate (if high); or a minimum of \$1,000 first, ~\$2,500 second, and \$5,000 for third or subsequent offenses. A provision in the code requires every short-term rental be permitted within 6 months from October 6, 2024, or cease operating. An electronic system is used by enforcement to monitor advertised rentals. Coordination with STR hosting platforms allows advertisements for unpermitted STRs to be removed. Both HCD and treasurer/tax collector have the ability to find unpermitted STRs. In May 2023, there were 83 coastal advertised STRs in the Del Monte Forest Area with 3 permitted, and 155 advertised in the Greater Monterey Peninsula Area.

Commercial rental applicants follow a noticed hearing process: property owners within 300' of the proposed rental receive a notice; the Land Use Advisory Committee (LUAC) then reviews the application; and the LUAC recommendation informs the Zoning Administrator's decision. The process allows for public input, and the ability to appeal a decision to the Planning Commission. Limited and Home Stay applicants are not subject to the discretionary process however complaints will be investigated, enforcement meted, and permits not renewed.

There are 57 STRs total allowed in the coastal zone per the ordinance with currently no concentration policy. Concern was expressed over concentrations of rentals in many neighborhoods.

The ordinance and all the attachments can be found on the County website with specific data on rentals in the Forest. Budgetary measures are being taken to procure funding to implement and enforce the ordinance. The ordinance will be routinely reviewed for input and amendments. The County plans to have a website map of locations of permitted rentals; HCD should be contacted if a rental is discovered that is not on the map. Mr. Verbanec suggested HCD more directly involve LUAC in assisting with the discretionary process early on.

Regarding ADUs: both a main house with its ADU can be rented together on a STR basis, but not separately. Home Stays cannot be managed by a rental company. Commercial STRs are required to affix an exterior sign stating that designation.

Ms. Spitz requested a Greater Monterey Peninsula Planning Area map be provided. President Anderson noted the board would be discussing monitoring the HCD website.

5. Minutes: Minutes of the August 12, 2024 meeting were approved as presented.

6. Reports of Representatives & Observers

7. Reports of Representatives & Observers

- a. **Architectural Review Board (ARB):** Katie Spitz anticipated a very full agenda so, in the interest of time, did not prepare a report.
- b. **County Land Use Advisory Committee (LUAC):** Director Bruno reported on the meeting held September 5th; one item on Riata Road was heard and continued until more information was provided.
- c. **Community Advisory Board (CAB):** President Anderson reported the next meeting is scheduled for December.
- d. **Pebble Beach Community Services District (PBCSD):** Director DeWitt reported there was no meeting held in August.
- e. **Open Space Advisory Committee:** Director Ogle reported next meeting September 11th.

7. Accept Reports of Officers and Committees

- a. President Anderson reported the County distributed a letter explaining why they lifted the hold on the permit for Equestrian Center demolition and will have DMFPO Administrator Paxton include the letter in the minutes of this meeting. Mr. Stivers, PBC President/CEO called President Anderson to inform her that demolition had begun and that PBC still had no definitive plans for the cleared area.
- b. Secretary Rothstein was absent.
- c. Treasurer Van Roekel reported for the fiscal (calendar) year through August 31, 2024; the reports were accepted by consensus.
- d. Membership – Chair Huntley provided a report of membership through August 31, 2024. Membership is down 5% from last year, and donations are up 8%.
- e. Presentations/Semiannual Meeting – Chair Huntley reported high attendance at the Age Well Drive Smart Workshop on August 25th. The flu shot clinic will be held Monday, October 7th. Nicole Nedeff, author of “Monterey Pine Forest” is the featured speaker to bring awareness to forest trails, health, and upkeep at the November 17th semiannual meeting. Directors Goupil and Caldwell will staff a DMFPO table at the Zombie Run on October 26th.
- f. Newsletter – Chair Van Roekel reported production in process for the October issue.
- g. Website – Chair Abercrombie had no report.
- h. Nominations/Bylaws – Chair Lyon reported working on positions for 2025. A board application form will be presented at the next board meeting.
- i. Safety – Chair DeWitt reported no crimes occurred in August. A meeting will be held with PBCSD and PBC to review EMS services, security, and law enforcement in preparation for the winter season.
- j. Roads and Traffic – Chair Bruno provided minutes and reported on the meeting held August 22nd. Peter Brown reported PBC is focusing on optimizing management of the large volume of vehicle traffic during car week.

- k. Hiking and Equestrian Trails (HETC) – Chair Ogle and Katie Spitz reported there will be a weeding event on September 15th along Fire Road 29 to remove French broom from the Green Trail—by hand is preferred over the goats to remove the entire plant with root system. Licorice plants have returned to Crocker Grove and need to be removed – Director Ogle to schedule a weeding group. Ms. Spitz suggested the HETC meetings precede or follow other scheduled meetings for easier scheduling. Director Ogle reported Shawn Casey is planning to meet with MPCC to clarify the Green Trail Path along 17-mile Drive: whether on the ocean side up to China Rock, crossing over the road to the MPCC side inside the fence to the beach house and then recrossing back to the ocean side Green Trail; or cross to the MPCC inside fence at Bird Rock all the way to the beach house. The next HETC meeting is October 9, 2024.
8. **Pebble Beach Community Services District:** General Manager Becker reported on the large fuel reduction project underway off Haul Road from the Corporation Yard to Hwy 68 to remove spindly pine trees. The goats continue in the forest for two more weeks in Majella/Navajo Tract. PBCSD will assist DMFC with fuel reduction on the Hermann Lot on 17 Mile Drive. Fire Roads 21, 22, and 23 will be cleared of dead and downed debris. Defensible space inspections are 75% complete. Household Hazardous Waste Event is on September 14th from 9am-2pm. Zombie Run is October 26th. Undergrounding of overhead utilities Phase IV, 2-year design followed by 2-year construction, is a 4-mile project from Forest Lake Road up Lopez to Spruance Road and along the Spruance extension to Del Ciervo and Midwood Roads ending on Crespi Lane.
9. **Pebble Beach Company (PBC):** Peter Brown reported the Pure Insurance Championship with Monterey Peninsula Foundation is in two weeks. The demolition of the Equestrian Center is in progress; there are concepts but no plans for the area. PBC has significant concerns with the STR regulations and is awaiting language developments by the County. President Anderson requested PBC present their views on the STR ordinance issue in coming months.
10. **Del Monte Forest Conservancy (DMFC):** The next board meeting is September 18th.
11. **Old Business:** None
12. **New Business:** Director Abercrombie provided Goals for Selection of New Management Software and gave an overview. He stated that administrative processes for membership, property inventory, and accounting are antiquated. He is investigating software that is more integrated and has 3rd party support for approximately \$700 per year. He suggested perhaps a committee lead the evaluation. First approach would be to determine what is available, then have a committee look at what is recommended. President Anderson suggested a meeting be held with Directors Huntley, Van Roekel, Abercrombie, and Administrator Paxton to determine need, then Director Abercrombie and Administrator Paxton explore options.
13. **Closed Session:** None
14. **Adjournment:** The meeting adjourned at 5:26 p.m.

Respectfully submitted by Laura Paxton for Secretary Hy Rothstein



County of Monterey

HOUSING AND COMMUNITY DEVELOPMENT

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Memorandum

Date: September 3, 2024

To: Pebble Beach Company, the Alliance of Monterey Area Preservationists, Buchalter, and other interested parties

From: Melanie Beretti, Chief of Planning, County of Monterey Housing and Community Development Department and Robert I. Brayer, Deputy County Counsel, Office of the County Counsel *MSB* *RJB*

Subject: **Pebble Beach Equestrian Center and its Demolition Permit Application (24CP01567)**

cc:

INTRODUCTION

In May 2024, Pebble Beach Company (PBC) applied for a permit to demolish the Pebble Beach Equestrian Center. HCD-Planning has received and reviewed the materials submitted by the Alliance of Monterey Area Preservationists (AMAP) and legal arguments against releasing the permit provided by Alicia Guerra, an attorney at the Buchalter firm. HCD-Planning also reviewed and analyzed local, state, and federal historical listing law, planning and zoning law, and the California Environmental Quality Act, in performing its analysis. On August 27, 2024, the County completed its analysis and notified all interested parties that it released its hold on the demolition permit (permit application 24CP01567). This memo is intended to set forth the County's analysis that led to that decision.¹

RELEVANT HISTORICAL RESOURCE LAW

A demolition permit is ministerial, meaning if the code requirements to issue the permit are met, the permit is issued. No discretion is involved in that decision. HCD-Planning opted to put a hold on the permit, however, to review and investigate claims that the property to be demolished is a historical

¹ This analysis is being provided by HCD-Planning and the Office of the County Counsel as a courtesy to both interested parties and the public. It is not intended to waive attorney-client privilege between the County and its attorneys as to any issue discussed herein or otherwise.



resource, as authorized by Monterey County Code section 18.25.060.A. However, that same section provides that no property can be so designated “without the consent of the property owner.” On July 19, 2024, Pebble Beach Company formally objected to any such designation via a letter to HCD-Planning.

However, AMAP had already advised HCD-Planning of its intent to get the property listed as a historical resource on the state register. As with local law, a property owner objection would preclude the property from being listed in the California Register until the objection is withdrawn. Assuming, however, both withdrawal of the objection and that the property is otherwise eligible for listing, “the commission shall nevertheless designate the property as eligible for listing.” (Publ. Resources Code, § 5024.1.)

But even if the property were found eligible for listing, that finding “is not by itself a substantive restriction on the owner's use of the property. [Citations]. With respect to privately owned historical property, these statutes ‘provide only for the registration of state historical sites [,] impose no restraints on use of those sites and do not require preservation in any particular form. The only purpose of the state program is to list and mark significant sites.’ [Citation.] “ (*Prentiss v. City of South Pasadena* (1993) 15 Cal.App.4th 85, 94–95.) Federal law is equivalent. (See 36 C.F.R., § 60.2 [“[l]isting of private property on the National Register does not prohibit under Federal law or regulation any actions which may otherwise be taken by the property owner with respect to the property”].

CALIFORNIA ENVIRONMENTAL QUALITY ACT REVIEW REQUIREMENTS

Regardless, a historical resource may still have limited protection under the California Environmental Quality Act (CEQA). A property need not be listed to be evaluated under CEQA as a potential historical resource. (See 14 CCR, §15064.5(a)(4).) But this assumes that CEQA is applicable. Here, the County concluded it is not because neither the proposed demolition nor claims of historicity trigger CEQA review.

As noted above, the act of issuing the demolition permit is ministerial. No discretion is involved in that decision. CEQA only applies to discretionary decisions. (CEQA Guidelines section 15002(i)(1), 15369.) Additionally, there has already been an Environmental Impact Report (EIR) that covers the subject property, which was certified by the County of Monterey Board of Supervisors concurrently with project approval on June 19, 2012, in Resolution No. 12-248. 12-148 That EIR expressly analyzed the historicity of the Equestrian Center, concluding, based in part on a previous evaluation for listing in the California Register, that neither the complex nor the Equestrian Center “is considered a historical resource for the purposes of CEQA.” (See Pebble Beach Company Project FEIR at 3.5-9 and 3.5-10.)

Once a project has received environmental review and approval, only limited circumstances justify additional review. (Pub. Resources Code, § 21166; CEQA Guidelines, §15162(a).) Additional CEQA review is not appropriate unless “further discretionary approval on that project is required.” (CEQA



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Guidelines, § 15162(c).) That is the case only if certain conditions are met, including that 1) major revisions to the EIR would be required due to either new significant impacts/significantly exacerbated existing impacts or a change to project conditions; or 2) new information of substantial importance that was previously unknown (and unknowable) shows potentially new or exacerbated existing impacts. (Pub. Resources Code, § 21166; CEQA Guidelines, § 15162(a).)

Finally, the possibility that the Equestrian Center might be recognized as a historical resource is not “new information” that would require additional CEQA review. As noted above, the relevant EIR already analyzed historicity. There was no indication by either AMAP or Ms. Guerra of any new information “of substantial Importance” relevant to this inquiry that was not known or reasonably knowable at the time of the EIR’s certification, much less of any potentially significant impacts. (See CEQA Guidelines, § 15162(c).)

RESTRICTIONS UNDER THE GENERAL DEVELOPMENT PLAN AND COMBINED DEVELOPMENT PERMIT

A letter from Alicia Guerra, an attorney at the Buchalter firm, suggests that PBC’s decision not to rebuild the equestrian center violates the general development plan, requiring amendment of the combined development permit, and consequently, subsequent CEQA review. The County disagrees. Permits are land use entitlements. They authorize the applicant to construct a project and its constituent parts, but they do not require the applicant to construct the project, much less as approved. At best, they set outer limits on development.

Put simply, the GDP and CDPs authorize the demolition of the equestrian center. They also authorize PBC to rebuild it, but PBC is not obligated to take either step by virtue of these entitlements.

CONCLUSION

The demolition permit was ministerial. HCD-Planning put a cautionary hold on its issuance, however, to allow time to review arguments submitted by the public against its issuance. None of these arguments would justify non-issuance. Historical Resource law does not offer any substantive protection against demolition of the Equestrian Center. CEQA is not triggered because the permit is ministerial and because there is no trigger for supplemental CEQA review for the overall project, approved on June 19, 2012, concurrent with the Board of Supervisors’ certification of the project EIR.



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