

## Monterey County Planning Commission Referrals

<b>MEETING:</b>	9/25/2024	
<b>SUBJECT:</b>	Planning Commission Referrals	
<b>DEPARTMENT:</b>	Housing & Community Development Department	

Item #	PC Ref #	Assignment Date	Referred By	Planner	Item	Report	Status
1	18.08	7/25/18	Diehl/Daniels	Marshall	Request for an update on Tiny Homes. Referral revised 09/08/2021 by Commissioner Diehl requested the matter be revisited in light of recent State and local policy direction on ADUs	A report was provided to the Planning Commission January 11, 2022 on the Inland ADU Ordinance and EHB Policies. A report on tiny homes was presented at a meeting in April 2022. The Planning Commission requested a follow up based upon further analysis by staff. During the October 26, 2022 meeting the Planning Commission requested information on approved and pending ADU applications. Staff presented additional ADU information in conjunction with the periodic housing pipeline report on December 7, 2022. Staff will return to the Planning Commission in 2024 to discuss the County's policy on tiny homes/tiny homes on wheels for use as temporary and/or permanent housing in 2024.	Pending
2	18.11	10/31/18	Duflock/Diehl	Gonzales/Riley-Olms	Request for a report on the rebuild of properties affected by wildfires from 2015 to currently. Commissioner Diehl clarified the need for additional information specific to the number of rebuilds to determine where rebuilding hurdles may exist.	A report was provided to the Planning Commission on April 24, 2024. At this meeting staff received additional questions and direction from the Planning Commission, which continued the item to a date uncertain. Staff is scheduled to provide a follow-up to the Commission at its September 25, 2024 meeting.	Pending
3	19.01	11/13/19	Diehl	Marshall	Request Staff to return with a quarterly status report regarding any workforce housing or affordable housing applications within the County.	A quarterly report will be provided to the Planning Commission on an ongoing basis. Reports were brought before the Planning Commission on March 13, 2024 and June 26, 2024. The next quarterly report is scheduled for the September 25, 2024 meeting.	Ongoing

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4	21.1	9/8/21	Getzelman	Beretti	Request for update to the Wireless Telecommunication Ordinance and establish objective design standards	Planning staff worked with the Planning Commission Ad Hoc committee on an update to the ordinance and the objective design criteria. An Ad Hoc meeting to discuss the draft ordinance was conducted on December 20, 2021. Per Ad Hoc direction, certain sections of the draft ordinance are to be revised and brought back for further Ad Hoc review. The Wireless Telecommunication Ordinance is a priority item on the Long-Range Planning Work Program for the current Year 2023-2024, however, this item has not been assigned to a Planning staff member due to other higher priority assignments and is not active. The Wireless Telecommunications Ordinance will remain a priority task for Year 2024-2025, and a status update was presented to the Planning Commission on April 24, 2024 as part of the General Plan/Housing Element Annual Report and Long-Range Planning Work Program.	Ongoing
5	22.2	3/9/22	Diehl	Price/Scariot	Request for information related to the 1982 General Plan implementation and its approach to an update. Additionally, a request for a status on the required Community Plans for all Community Areas designated in the 2010 General Plan.	Staff is conducting analysis of the 1982 General Plan and Big Sur Coast Land Use Plan (BSLUP) compared to state general plan law, as part of the BSLUP comprehensive update, to evaluate which general plan mandatory requirements may be out of date or deficient. A report will be provided to the Planning Commission tentatively planned for fall 2024 providing the outcome of this analysis and options.	Pending
6	22.3	3/30/22	Diehl	Sanchez	Request for quarterly progress on drafting a Development Evaluation System as directed by General Plan policy and bi-annual updates on land use plans, as appropriate.	The Development Evaluation System (DES) remains a high priority item on the Long-Range Planning Work Program for the current Year 2024-2025. A status update was presented to the Planning Commission on April 24, 2024 as part of the General Plan/Housing Element Annual Report and Long-Range Planning Work Program. Moving forward this referral has been combined with Referral No. 22.7 (Pajaro Levee, Recovery, Planning) into one quarterly report to the PC. Please see No. 22.7 for quarterly report dates.	Ongoing

Item #	PC Ref #	Assignment Date	Referred By	Planner	Item	Report	Status
7	22.5	9/14/22	Diehl	Guthrie	Request status and process for updating the Housing Element including opportunities for public involvement.	The Draft Housing Element Sixth Cycle Update (Draft HEU6) was submitted to the California Department of Housing and Community Development (CA HCD) on August 29, 2024 for CA HCD's 90-day review period ending November 19, 2024.	Ongoing
8	22.6	9/14/22	Diehl	Beretti	Request to consider a draft zoning code amendment providing flexibility for open framework structures to exceed lot coverage and revisit the regulations related to structural connections between primary and accessory structures.	Planning staff will present at future meeting. Any interested party may request an interpretation related to these matters in the interim.	Pending
9	22.7	3/29/23	Diehl & Mendoza	Sanchez	Presentation on Pajaro River Levee improvement plans and a presentation on the proposed crisis for community plans as envisioned in the 2010 General Plan (Pajaro and Chualar as first priorities). Request for continual updates on how we are making progress towards those community plans that are supposed to help us address the infrastructure problems in these areas. Request to be regularly visited.	A quarterly report will be provided to the Planning Commission on an ongoing basis. Reports were brought before the Planning Commission on March 13, 2024 and June 26, 2024 with a July 10, 2024 follow up. The next quarterly report is scheduled for the September 25, 2024 meeting.  PC Referral No. 22.3 (Development Evaluation System) has been combined with this referral in one quarterly report to the PC.	Ongoing
10	23.1	11/8/23	Shaw	Beretti	Request to consider revising County Code to increase public notice requirements for actions requiring public hearings to all owners of real property within three hundred (300) feet of the real property that is the subject of the public hearing for properties, to five hundred (500) feet.	Planning staff will present at a future meeting, in combination with PC Referral 24.3.	Pending
11	23.2	1/10/24	Daniels	Beretti	Request to have a presentation regarding Highway 68 traffic roundabouts.	<b>Complete</b> - TAMC staff presented an overview and status update to the Commission at it's August 14, 2024 meeting.	<b>Complete</b>

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12	24.1	5/29/24	Mendoza/Work	Sanchez	Request presentation regarding rebuild status of property in Pajaro just one bridge along Porter Drive	Planning staff will present at a future meeting.	Pending
13	24.2	6/1/24	Work	Beretti	Request to have a presentation regarding the San Lucas drinking water supply issue and history.	Planning staff will provide background summary documentation of this matter to the Commission in fall 2024.	Pending
14	24.3	6/5/24	Shaw	Beretti	Request to receive information regarding HCD's public outreach and notification procedures for various planning matters, and consider opportunities to improve public engagement and outreach.	Planning staff will present at a future meeting, in combination with PC Referral 23.1.	Pending
15	24.4	6/26/24	Daniels	Beretti	Request for regular updates regarding Pebble Beach Equestrian Center Historic Review	<b>Complete</b> - On August 27, 2024, staff completed its review of the information and documentation provided submitted regarding Permit 24CP01567 PBC Equestrian Center Demolition and the planning hold was removed. 24PC01567 was issued on August 28, 2024. On September 3, 2024, staff distributed the attached memo providing additional information to interested parties.	<b>Complete</b>
16	24.5	8/28/24	Daniels	Price	Keep the Planning Commission apprised regarding the Vacation Rental regulations status and discussions for the Coastal Zone.	Staff will provide updates to Planning Commission as Vacation Rental Ordinance (Title 20) is submitted to and considered by the California Coastal Commission.	Pending
17	24.6	9/11/24	Daniels	Ishii	Request to evaluate and consider San Benancio Road and Corral de Tierra for possible higher priority maintenance by County.	This referral arose out of community feedback and discussion related to agricultural operations on Corral del Cielo Road (Abalone Creek Ranch). HCD staff will coordinate with Public Works, Facilities and Parks Department to consider this referral request and provide a future presentation/discussion regarding this matter.	Pending



# 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.<sup>1</sup>

### 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

<sup>1</sup> 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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