



# County of Monterey

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

## Legislation Details (With Board Report)

**File #:** ZA 18-071 **Name:**  
**Type:** Zoning Administrator **Status:** Agenda Ready  
**File created:** 11/27/2018 **In control:** Monterey County Zoning Administrator  
**On agenda:** 12/6/2018 **Final action:**  
**Title:** PLN160131 - PG&E  
Public hearing to consider vegetation removal and grading on slopes in excess of 25 percent and within an area designated as environmentally sensitive habitat to increase the ground clearance for existing PG&E overhead electrical lines.  
Project Location: Royal Oaks, between Strawberry Canyon Rd. and Tucker Rd.  
Proposed CEQA Action: Adopt a Mitigated Negative Declaration.

### Sponsors:

### Indexes:

### Code sections:

**Attachments:** 1. Staff Report, 2. Exhibit A - Project Data Sheet, 3. Exhibit B - Draft Resolution, 4. Exhibit C - North County LUAC Minutes, 5. Exhibit D - Vicinity Map, 6. Exhibit E - Revised Initial Study (MND), 7. Exhibit F - Biological Assessment (LIB160313), 8. Exhibit G - Updated Biological Assessment (LIB180398), 9. Exhibit H - Correspondence, 10. RESza\_18-070\_PLN160131\_120618, 11. LET\_ZA\_PLN160131\_120618

Date	Ver.	Action By	Action	Result
12/6/2018	1	Monterey County Zoning Administrator		

### PLN160131 - PG&E

Public hearing to consider vegetation removal and grading on slopes in excess of 25 percent and within an area designated as environmentally sensitive habitat to increase the ground clearance for existing PG&E overhead electrical lines.

**Project Location:** Royal Oaks, between Strawberry Canyon Rd. and Tucker Rd.

**Proposed CEQA Action:** Adopt a Mitigated Negative Declaration.

### RECOMMENDATION:

It is recommended that the Zoning Administrator:

- a. Adopt a Mitigated Negative Declaration; and
- b. Approve a Combined Development Permit consisting of:
  1. Coastal Development Permit to allow development within 100 feet of environmentally sensitive habitat, consisting of grading approximately 106 cubic yards over an area of approximately 895 square feet; and;
  2. Coastal Development Permit to allow grading on slopes in excess of 25 percent;

A draft resolution, including findings and evidence, is attached for consideration (**Exhibit B**).

Staff recommends approval subject to 16 conditions, including 4 Mitigation Measures.

### PROJECT INFORMATION:

**Project Owner:** Pacific Gas & Electric (easement over various parcels, various property owners)

**APNs:** 129-281-007-000, 129-281-008-000, 129-281-009-000, and 129-281-017-000.

**Zoning:** Rural Density Residential, 5 acres per unit (Coastal Zone) [RDR/5 (CZ)]

**Parcel Size:** Four parcels with a cumulative 28.54 acres (1,101,871 square feet).

**Flagged and Staked: N/A**

**SUMMARY:**

The purpose of the project is to increase the vertical clearance between the ground and the existing overhead powerlines to meet Federal safety guidelines which help to prevent wildfires created by downed power lines sparking surrounding vegetation. The project site is located in North County, in an area known as the Elkhorn Highlands, within the greater Royal Oaks area, approximately two (2) miles east of the Elkhorn Slough, between Strawberry Canyon Road and Tucker Road, on private property with no public access. The scope of this project proposal includes grading activities of 106 cubic yards of soil removed over an area of approximately 895 square feet transecting four (4) parcels. The limit of disturbance (LOD), which includes the area utilized for stockpiling reserved topsoil and plants, the redistribution of the cut (graded soils) on an existing service road, and the area for maneuvering equipment, is approximately 6,880 square feet. Although the maximum depth of grading of the rising landform may reach 10 feet, the top soil, (approximately 6 inches), will be separated and stockpiled on site, then redistributed over the disturbed area. Vegetation removal includes approximately 10 Coast live oak seedlings with diameters of approximately one (1) inch, and two (2) Eucalyptus seedlings less than one (1) inch diameter at breast height (DBH). These seedlings are incorporated with various plant species, including non-native plants. Included in this vegetation mix are three plant species of special status from the California Natural Diversity Database (CNDDB): Hooker's Manzanita, Pajaro Manzanita, and Eastwood's goldenbush. A total of 20 of these plants would be removed from the disturbed area and replanted after the stockpiled topsoil has been redistributed. An Initial Study (**Exhibit E**) was prepared for this project and circulated for a 30 day review period, from September 5, 2018 to October 5, 2018. No public comments were received during this period, nor were there any comments received from the various public agencies or private oversight groups. RMA did receive comments from the Open Monterey Project and the California Native Plant Society on October 9, 2018, and again from the California Native Plant Society on November 7, 2018. These comments were related to the consideration of cumulative impacts of this project with any other similar projects in the North County Coastal area, a clerical error related to the Mitigated Negative Declaration, and a request for similar projects undertaken by PG&E in the North County Coastal area. The latest comments articulated concerns over appropriate preservation and restoration measures. The consulting biologist, Arcadis, has responded to many of the concerns by including Success Criteria within the scope of the project, including expanding restoration efforts over the grading area and habitat enhancement over the entire LOD.

**DISCUSSION:**

**Development Standards**

There is no structural development associated with this project. No part of the project includes structural development that would be subject to setback requirements, height limitations, or mass or bulk standards. The scope of the project is limited to grading activities, approximately 106 cubic yards over an area of approximately 895 square feet at the confluence of four (4) individually owned parcels. The purpose of the project is to comply with Federal safety guidelines as they relate to ground clearance of overhead powerlines, thus enhancing public safety. The ground clearances are summarized below:

<b>Ground Clearance:</b>	<b>Existing</b>	<b>Required</b>	<b>PG&amp;E Standard</b>
(Ground to overhead power line)	30 ft. 6ft.	36 ft. 4ft.	40 ft.

**Development on Slopes Exceeding 25 Percent**

The project includes an application for grading on slopes exceeding 25 percent. The slope in question is, in part, a historic man-made cut slope with gradients of 1:1, the result of grading activities in the 1940s relating to the installation of the existing powerline. The toe of this slope transitions to the PG&E service road associated with powerline poles 004/024 and 004/025, and would still be present after the grading is completed. A

geotechnical investigation and evaluation prepared by Krazan & Associates, Inc. (LIB180189) for the project determined that the site is suitable for the proposed grading (cut). The results of the study indicate there are no adverse geotechnical hazards (such as liquefaction, landsliding, expansive soils) which would preclude the grading operation of this project, or that the proposed grading activities would cause or increase any geotechnical hazards. Furthermore, the project, by design pursuant to the grading plans, Sheet EC1, would remove the existing top soil and set it aside on site on a plastic sheet so as to isolate the top soil from potential contamination from weed seeds. Once the grading has established the ground clearance objective, the salvaged top soil would be redistributed over the disturbed area, reseeded with local seed stock, and blanketed with a mulch or loose-fiber mat to prevent erosion and to foster regeneration of vegetative cover. The seed stock will be germinated in an off-site nursery under the direction of a qualified biologist. There would be no loss of topsoil relating to this project and conditions would be such that the disturbed area could return to a natural state, characterized by Maritime chaparral, and not be subject to erosive episodes.

#### Development within an environmentally sensitive habitat (ESHA)

The project area is designated as an ESHA (Maritime chaparral) but the project location is characterized by fragmented Maritime chaparral and oak forestation. The chaparral in this area is compromised because it is interspersed by non-native trees (Eucalyptus) and other non-native plants and grasses, forestation (Coast live oak), cleared private land, a dirt road, and agriculture. The cumulative area of the ESHA over the four (4) parcels is approximately 109,386 square feet. The proposed Limit of Disturbance (LOD) is approximately 6,880 square feet, or approximately 6 percent of this ESHA while the specific grading location accounts for approximately 895 square feet, or approximately 0.8 percent of this ESHA. Present within the LOD of the project are three (3) plants of special-status from the California Natural Diversity Database (CNDDB): Hooker's Manzanita, Pajaro Manzanita, and Eastwood's Goldenbush. The limits of disturbance associated with the project, including the grading location, do not contain any mature trees; the trees identified for removal - approximately 10 Coast live oak and two (2) eucalyptus - are juvenile and are typically about one (1) inch in diameter at breast height, and are located within the grading boundaries. Removal of these seedlings is consistent with the MCC and the North County Coastal Land Use Plan (not protected because of trunk diameter), and is prudent powerline maintenance as it maintains ground to powerline clearance and increases public safety, including the prevention of wildfires.

The Initial Study addresses how the potential impacts caused by grading are being mitigated by design through restoration efforts following the grading activity (Section 4 of the Study). Furthermore, the mitigation measures have since been updated pursuant to section 15074.1(d) of CEQA to increase the restoration efforts and increased enhancement of the vegetative area in the vicinity of the grading activities, including within the Limits of Disturbance (LOD), thus further reducing potential impacts to less than significant. Section 15074.1 provides the local agency the ability to substitute or alter any mitigation measure described in a Mitigated Negative Declaration prior to the adoption of such measures. If the measure(s) are altered prior to adoption of the Initial Study and Mitigated Negative Declaration, and the changes in mitigation are "equivalent or more effective," then the IS and MND do not have to be recirculated for public review. In this case, these updates meet that test.

Based on public comments and concerns relating to the project and potential impacts to the ESHA, Staff and the Applicant have determined that additional mitigation measures would not only protect, but also increase and enhance the existing ESHA beyond the current baseline conditions. These updates serve to make the mitigations more expansive than previously described and now include removing non-native and invasive vegetation contained within the LOD, including pampas grass, French broom, and eucalyptus trees. The result would be improved local conditions so that native plant species would not be crowded out of the existing environment. Additionally, any special-status plants located within the LOD that could be disturbed during equipment maneuvering would be extracted, potted, and replanted once the grading activities are concluded.

Any recovered plants in the LOD would be included in the Success Criteria associated with this project and the mitigation measures. Twenty special-status plants would be removed from the grading area along with the top six (6) inches of topsoil and stockpiled for reintroduction over the disturbed area once grading operations are completed. The top soil would be stockpiled on a plastic sheet to prevent contamination with weeds and the recovered 20 special-status plants would be placed temporarily in pots during the grading activities.

### LUAC

The project was referred to the North County Land Use Advisory Committee (LUAC) for review (**Exhibit C**). The LUAC reviewed the project at a duly-noticed public meeting on April 18, 2018, at which all persons had the opportunity to be heard, and voted 7 - 1 (7 ayes; 1 no); seven votes to support the project as proposed with one vote against the project as proposed with concerns over erosion control. The project includes incorporation of Best Management Practices (BMPs) during the grading activities followed by restorative measures described above at the conclusion of the grading activity as a means of minimizing possible erosion.

### PUBLIC COMMENTS:

No public comments were received during the mandatory 30 day review period of the Initial Study, nor were there any comments received from the various public agencies or private oversight groups. RMA did receive comments from the Open Monterey Project and the California Native Plant Society on October 9, 2018, and again from the California Native Plant Society on November 7, 2018. The basic contentions are described below, and followed by Staff response:

- **The Open Monterey Project noted that the Federal ground clearance requirements were not disclosed in the Initial Study or Mitigated Negative Declaration.**
  - The existing clearance is 30' 6". The minimum Federal standard is 36' 4" and the PG&E standard, which will be implemented as part of this project is 40 ft.
- **Open Monterey contends that this specific project did not consider the impacts within the context of cumulative impacts of similar projects pending within an ESHA in the North County Coastal area, including Fort Ord, or other PG&E projects in the North County Coastal area.**
  - There is no cumulative impact associated with this project. The scope of the project is limited - 895 square feet, or about the size of a typical 3-car garage, and the project is responding to mandated safety measures. Reasonably, due to the minimal size and scope of this project, it would not add to a cumulative impact when combined with past, present, and reasonably probably future other projects with similar impacts in the area. Additionally, the project has been mitigated so that all impacts are at a less than significant level. The scope of this project is not an elective undertaking and is being performed to comply with mandated Federal safety standards designed to increase public safety. As discussed above, the cumulative area of existing ESHA over the four (4) parcels is approximately 109,386 square feet. The proposed LOD is approximately 6,880 square feet, or approximately 6 percent of this ESHA while the specific grading location accounts for approximately 895 square feet, or approximately 0.8 percent of this ESHA. The scope of the project, in both volume and area, are negligible in relation to the North County Coastal plan area.

The project site is approximately 12 miles from the northern boundaries of Fort Ord and cannot be considered related to that area because of the spatial separation. The presence of agricultural operations between the Fort and the project site has long displaced the native environment. Thus, Fort Ord and the general project area are considered unique and separate biological spheres with no physical or ecological relationship between the two areas. Furthermore, future development potential of the project site is limited and unlikely; the lands between the project site and Fort Ord are dedicated to agriculture and unlikely to intensify in use. Therefore, any

conclusions regarding cumulative impacts would not be based on meaningful information, and only speculative information.

- **Different Mitigated Negative Declarations.**

- The Open Monterey Project initiated questioning the of the Mitigated Negative Declaration (MND) over the phone with staff, and it became apparent during the conversation that Open Monterey and Staff were looking at two versions of the MND. The different versions were attributed to a clerical error regarding the project description - remnants of the draft version posted to the public site - and did not change the conclusions, substance, or mitigation measures relating to the project. Staff confirmed that the correct version of the MND was circulated to the public for the correct amount of time in accordance with CEQA. The correct version of the MND was placed on Accela as part of the public record.

- **Request for similar projects, specifically along Long Valley Road and San Miguel Canyon Road.**

- The Open Monterey Project (OMP) requested application numbers for similar projects that involved grading and/or tree/vegetation removal along these two roads. OMP contends that there were major projects in the vicinity of these two roads since 2017, projects that were “controversial,” and requested project specifics. Staff conducted extensive research into these contentions and did not find any permits. PG&E does have a broad permit to perform maintenance of their power lines and natural gas lines that are located within the public right of way. Such maintenance activities are not considered projects under CEQA and do not require County land use entitlements. Such maintenance activities are Categorical Exempt from CEQA, Section 15301(b). The only entitlements requires would be encroachment permits from RMA-Public Works if located within the public right of way.

- **Success Criteria.**

- At the Zoning Administrator hearing of October 11, 2018, the Zoning Administrator questioned how the applicant would determine if the any restoration proposals would be determined successful. In a related concern, the California Native Plant Society (CNPS) letter dated November 4, 2018 notes that a restoration plan and Criteria for Success were not part of the analysis in the Initial Study. The Applicant has responded to these concerns by crafting Success Criteria that describe the restorative efforts, establish a minimum level of restoration, and a time table for implementing the restoration efforts. Included with the Success Criteria is an Adaptive Management component that evaluates the over-all progress and quality/success of the restoration efforts at a given time, and a means to make adjustments, as needed, to the efforts so that the Success Criteria goals would be obtained. Staff has reviewed the recommendations and standards described in the Success Criteria and has determined that the Criteria are relevant to the project and would provide meaningful restoration and enhancement to the environment in the area of the project. These components are now included in the revised Biological Assessment dated October 2018 and included in the Conditions of Approval associated with this project.

- **Special-Status plants.**

- The California Native Plant Society (CNPS) raised concerns regarding the removal of 20 special -status plants and their subsequent replanting in the area they were removed from. The CNPS notes that the long-term success of transplanting has not been documented. The lack of documentation is not a reason to block such efforts. Indeed, this transplanting activity may provide scientific evidence regarding the success or failure of such attempts. Moreover, the

project mitigation now includes Success Criteria that establish a specific performance criteria and would be monitored by a qualified biologist spanning a minimum of three (3) years. The restoration efforts would be surveyed twice a per year for the over-all health of the transplanted and newly introduced plants. The enhancement activities - the removal of non-native plants and weeds - would be performed during these visits. A report would be prepared and submitted to RMA at the end of each year describing the over-all quality of the restorative efforts and if the restoration goals are being met. Included with the Success criteria is an Adaptive Management component that would respond, as needed, to the restorative and enhancement efforts as weighed against the Success Criteria. The restorative efforts could be adjusted as needed so that the restorative efforts meet or exceed the Success Criteria. The mitigation measures have been updated to include transplanting. The plants would be removed from their location and placed in pots while the grading operation is carried out, then replanted in the general vicinity they were removed from.

The CNPS also raised concerns with the removal of the 10 Coast live oak seedlings, all with diameter at breast height of approximately 1 inch. From a safety standpoint, it is bad practice to have trees growing in close proximity of overhead power lines. Indeed, the Thomas fire in Ventura and Santa Barbara Counties in 2017 was caused by powerlines arcing and sparking. The recent fires that destroyed neighborhoods in Santa Rosa and Napa Valley were caused by sparking overhead powerlines. Additionally, the zoning ordinance does not have provisions regulating the removal of seedlings.

#### CEQA:

Because of the project's location in a designated environmentally sensitive habitat, an Initial Study was prepared pursuant to Section 15102. This study identified less than significant impacts to the environment and a corresponding Mitigated Negative Declaration was prepared pursuant to 15070(b) with mitigation measures incorporated into the project by design. The mitigation measures have been incorporated into all applicable construction plans. The measures include stockpiling the upper (6) inches of top soil removed, on site and on plastic sheets so as to isolate the soil from any weed seeds, and then reapplying the soil to the disturbed area once the grading objectives are met. Additionally, the project does require the removal of approximately 20 special-status plants. As mitigation, the construction plans call for these plants to be salvaged, stored in pots, and replanted over the disturbed area once the top soil has been redistributed. The project now includes Success Criteria as discussed earlier in this summary report.

The proposed grading does not alter the land form in any significant way, but does increase the vertical distance between the ground and the existing overhead powerlines over an area of approximately 895 square feet to meet Federal safety guidelines. Additionally, the grading will eliminate an existing cut-slope with 1:1 slope that is currently retreating and subject to erosive events. Once the grading is completed, the cut-slope would be eliminated and a slope capable of supporting vegetation would remain, thus reducing the existing erosive conditions. No evidence of significant adverse environmental effects were identified during staff review of the development application or in the Initial Study prepared for this project. Furthermore, pursuant to Section 15105, the Initial Study was subject to a public review period of 30 days which commenced on September 5, 2018 and concluded on October 5, 2018. No public comments or outside agency comments were made to Monterey County RMA during this review period. However, comments were received October 9, 2018, two (2) days before the public hearing. The comments related to cumulative impacts of other similar projects in the North County Coastal Zone, a clerical error regarding the Mitigated Negative Declaration, and a request for other projects recently undertaken by PG&E in the North County Coastal area. These comments and concerns are addressed earlier in this report.

#### OTHER AGENCY INVOLVEMENT:

The following County agencies or departments reviewed this project:

RMA-Public Works  
RMA-Environmental Services  
Environmental Health Bureau  
North County Fire Protection District  
Water Resources Agency

The project was referred to the North County Land Use Advisory Committee (LUAC) for review. The LUAC, at a duly-noticed public meeting on April 18, 2018, voted 7 - 1 to support the project as proposed, with the one objection stating concerns regarding possible erosion.

Prepared by: R. Craig Smith, Associate Planner, x6408

Reviewed by: Brandon Swanson, RMA Planning Services Manager

Approved by: John M. Dugan, FAICP, RMA Deputy Director of Land Use and  
Development Services

The following attachments are on file with the RMA:

Exhibit A	Project Data Sheet
Exhibit B	Draft Resolution, including: <ul style="list-style-type: none"><li>• B-1 Recommended Conditions of Approval</li><li>• B-2 Site Plan, grading plan</li><li>• B-3 Erosion &amp; Sediment Control / Vegetative Restoration Plan</li></ul>
Exhibit C	North County LUAC Minutes (April 18, 2018)
Exhibit D	Vicinity Map
Exhibit E	Revised Initial Study (Mitigated Negative Declaration)
Exhibit F	Biological Assessment (LIB160313)
Exhibit G	Updated Biological Assessment (LIB180398)
Exhibit H	Correspondence

cc: Front Counter Copy; Monterey County Fire Protection District; RMA-Public Works; RMA-Environmental Services; Environmental Health Bureau; Water Resources Agency; R. Craig Smith, Associate Planner; Brandon Swanson, RMA Services Manager; Pacific Gas & Electric / Paul Marotto, project owner; The Open Monterey Project (Molly Erickson); LandWatch; Project File PLN160131