



# County of Monterey

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

## Legislation Details (With Board Report)

**File #:** ZA 19-139 **Name:** PLN190147 MARSHALL  
**Type:** Zoning Administrator **Status:** Agenda Ready  
**File created:** 11/22/2019 **In control:** Monterey County Zoning Administrator  
**On agenda:** 12/5/2019 **Final action:**  
**Title:** PLN190147 - MARSHALL DAVID R & LINDA H TRS  
Public hearing to consider a follow-up Coastal Development Permit to an Emergency Coastal Development Permit (PLN190006) that allowed construction of a new foundation under an existing legal non-conforming log cabin straddling Palo Colorado Creek and to allow additional new (non-emergency) improvements including replacement of a deck attached to the main dwelling and replacement of skylights.  
Project Location: 36963 Palo Colorado Road, Carmel, Big Sur Land Use Plan, Coastal Zone  
Proposed CEQA Action: Categorical Exemption per section 15331 of the CEQA Guidelines

### Sponsors:

### Indexes:

### Code sections:

**Attachments:** 1. Staff Report, 2. Exhibit A - Project Data Sheet, 3. Exhibit B - Draft Resolution, 4. Exhibit C - Vicinity Map, 5. Exhibit D - Biological Assessment and Addendum, 6. Exhibit E - Historical Assessment, 7. Exhibit F - Engineering Letter (March 2, 2019), 8. Exhibit G - HRRB Application (April 4, 2019)

Date	Ver.	Action By	Action	Result
12/5/2019	1	Monterey County Zoning Administrator		

### PLN190147 - MARSHALL DAVID R & LINDA H TRS

Public hearing to consider a follow-up Coastal Development Permit to an Emergency Coastal Development Permit (PLN190006) that allowed construction of a new foundation under an existing legal non-conforming log cabin straddling Palo Colorado Creek and to allow additional new (non-emergency) improvements including replacement of a deck attached to the main dwelling and replacement of skylights.

**Project Location:** 36963 Palo Colorado Road, Carmel, Big Sur Land Use Plan, Coastal Zone

**Proposed CEQA Action:** Categorical Exemption per section 15331 of the CEQA Guidelines

### RECOMMENDATION:

It is recommended that the Zoning Administrator adopt a resolution to:

- Find that the project is for the repair maintenance and of an historical resource which qualifies as a Class 31 Categorical Exemption per section 15331 of the CEQA Guidelines; and
- Approve a Follow-up Coastal Development Permit to an Emergency Coastal Development Permit (PLN190006) for the construction of a new foundation under an existing legal non-conforming log cabin straddling the Palo Colorado Creek (within 100 feet of environmentally sensitive habitat area) and to allow new improvements including replacement of a deck and skylights.

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

Staff recommends approval subject to three (3) conditions of approval.

### PROJECT INFORMATION:

**Project Owner:** David and Linda Marshall

**APN:** 418-031-012-000

**Zoning:** Rural Density Residential, 40 acres per unit, with a Design Control overlay in the Coastal Zone

[RDR/40-D (CZ)]

**Parcel Size:** 1.39 acres

**Flagged and Staked:** Not applicable

#### SUMMARY:

Located off Palo Colorado Road east of Highway 1, the project site is situated on a 1.39-acre forested lot approximately half a mile east of the Pacific Ocean. The property fronts on Palo Colorado Road, contains a portion of Palo Colorado Creek (near the road) and slopes up steeply with dense vegetation beyond the creek bed. A 903 square foot log cabin that was built over the top of the Palo Colorado creek bed is situated on the site. The original foundation of the log cabin was locally harvested redwoods laid across the top of the banks of the creek. The redwood log foundation and eroding banks under the foundation resulted in an unsafe situation and the historic log cabin was at risk of collapse. On September 11, 2018, the applicant submitted an application for emergency permit to repair the cabin's deteriorated foundation. Monterey County RMA-Planning considered the application an emergency due to the risk of structural failure that would have likely undermined the existing cabin, and issued an Emergency Coastal Development Permit on April 30, 2019 (PLN190006). At the time of the application, RMA-Planning staff found the work the minimum necessary to prevent imminent slope erosion that could have undermined the existing single-family dwelling. Other proposed improvements to the cabin, including deck replacement, and skylight replacement were deferred to later permits and not included in the Emergency Permit. A permanent concrete foundation spanning between new pier foundation footings on each side of the creek bed has been installed under the Emergency Coastal Development Permit. The applicant is now requesting a follow-up Coastal Development Permit for rebuilding the foundation of the legal non-conforming cabin within 100 feet of environmentally sensitive habitat area (ESHA) and to replace the deck and skylights.

The property is located in the Big Sur Land Use Plan area and is zoned for residential use. Due to the location and age of the cabin, consideration has been given to impacts on sensitive habitat (the streambed and redwoods) and potential impacts to an historic resource (the 100-year-old cabin). Biological recommendations were incorporated during the foundation repair and will be carried forward to the deck repair work. The Historic Resources Review Board has also reviewed and recommended approval of the project. As designed, the project will not have significant impacts on sensitive biological resources and will result in the stabilization and preservation of an historic resources.

#### DISCUSSION:

##### **Project Overview**

This follow-on Coastal Development Permit is for the already completed demolition and reconstruction of an existing log cabin foundation. This permit will also include reconstruction of existing decks around the cabin, replacement of a destroyed footbridge, and replacement of bubble skylights with flat skylights.

##### **Cause of Emergency**

Several factors led to the deterioration of the log cabin's foundation. These include the age of the cabin, large storms that increased water flow over the span of several winters, and debris flow down Palo Colorado Creek following the Soberanes Fire. During the summer of 2016, the Soberanes Fire burned over 130,000 acres near the project site, causing large debris flow through the creek that the cabin straddles. Moreover, heavy rains and large storms from the winters that followed increased water flow of the creek. Finally, the log cabin's foundation was made from original redwood that was constructed 100 years ago. The applicant applied for an Emergency Permit with the RMA on September 11, 2018, to rebuild the foundation of the cabin, and after some delay between County staff and the California Coastal Commission, an Emergency Coastal Development Permit was granted on April 30, 2019. The applicant is now requesting a follow-on Coastal Development Permit to capture the work completed under the Emergency Permit as well as rebuild decks and replace bubble

skylights with flat skylights.

### **Land Use**

The project site falls under the Big Sur Coast Land Use Plan in the Coastal Zone and is designated for residential use. Under Title 20 of Monterey County Code, the first single family dwelling per legal lot of record is a principal use allowed in the Rural Density Residential zoning designation. The location of the current cabin is not in conformance with Big Sur Land Use Plan policies regarding riparian setbacks and it does not meet the required front setback from Palo Colorado Road; however, this log cabin was constructed 100 years ago; therefore, it is a legal nonconforming structure. Staff has reviewed the project for conformance with the Big Sur Land Use Plan Policies dealing with Environmentally Sensitive Habitat and Historic resources. Policy 3.3.3.4 of the Big Sur Land Use Plan requires that development be setback 150 feet from each side of a streambank to protect riparian plant communities unless a narrower corridor can be demonstrated to be sufficient to protect existing vegetation. The site also contains a mature redwood forest and steep slopes on the north side of the creek. In these situations, Policy 3.3.2.4 of the Big Sur Land Use Plan applies to developments approved within environmentally sensitive habitat. This policy states that removal of indigenous vegetation and land disturbance shall be limited to that needed for the structural improvements themselves with a guiding philosophy to maximize maintenance of the natural topography of the site. In this case, repairs to the foundation are considered the least intrusive option. Moving the home would not bring the home into conformance with riparian setback requirements because there is not sufficient building space on the site without significant grading and removal of mature redwood trees. In addition, the cabin has been determined to be an historic resource. Environmentally sensitive habitat policies have been weighed against Policy 3.10.1 of the Big Sur Land Use Plan that require protection, and enhancement of historical buildings. Due to the vegetation and topography at the site and given the historic nature of the cabin, moving the cabin is not recommended in this case and repair and maintenance of the cabin foundation is consistent with the relevant goals and policies of the Local Coastal Program.

### **Coastal Commission**

On September 21, 2018, the project planner informed California Coastal Commission staff of the emergency situation via email. Subsequent conversations between County Staff and Coastal Commission staff took place regarding the risk of foundation failure, and the minimum amount of work required to mitigate the emergency (**Exhibit G**). Pursuant to those conversations, staff requested a letter from the applicant's engineer to confirm this was the case. On March 2, 2019, the County received a letter from Derek Bonsper, a registered professional engineer of Duckbrew Incorporated, stating that existing cabin does not have an adequate foundation and the likelihood of further damage is high (**Exhibit F**). As such, County staff found that based on the specifics of this project and given the unique circumstance of an active stream running directly under the project, combined with the letter from Duckbrew Inc., the work proposed was the minimum necessary to mitigate the emergency despite being permanent. The work also better met the provisions of the Local Coastal Program by avoiding impacts to the creek and habitat in the stream pursuant to 20.79.050.4. Staff found that due to the uniqueness of this situation, it was not appropriate to undergo the regular entitlement process before taking measures to protect the cabin because it would put an undue risk on the property owner. Therefore, the County found that the Emergency Coastal Development Permit is the correct approach in this case.

### **Other Regulatory Agencies & Permitting**

On August 23, 2019, the applicant submitted a Streambed Alteration Program Notification of Emergency Work with the State of California's Department of Fish and Wildlife. The Department of Fish and Wildlife's Fish and Game Code section 1610 exempts certain types of emergency work from the notification requirement,

specifically in emergency work necessary to protect life or property. Emergency means a sudden, unexpected occurrence involving a clear and imminent danger, demanding immediate action to prevent or mitigate the loss of or damage to property.

### **Environmentally Sensitive Habitat Area**

The project includes application for development within 100 feet of environmentally sensitive habitat areas (ESHA). In accordance with the applicable policies of the Big Sur Coast Land Use Plan (LUP) and the Monterey County Zoning Ordinance (Title 20), a Coastal Development Permit is required. Policies in Chapter 3.3 of the Big Sur Coast LUP are directed at maintaining, protecting, and where possible, enhancing sensitive habitats. As designed and installed, the project is consistent with applicable policies regarding protection of habitat.

The project site lies within environmentally sensitive redwood forest, nesting, and riparian habitat. Therefore, the applicant submitted a biological survey and addendum to assess the project impacts (**Exhibit D**). As noted in the survey and the addendum, disturbance to ESHA would be minimal. The project site is located over a streambed; however, due to the type of work proposed, the emergency project will have no significant impact on special-status species, sensitive habitat, or other significant biological resources. The retrofit of the foundation replaced the existing cabin foundation and is the minimum work necessary to ensure stabilization of the structure. At the time of permit issuance, staff found development would minimally impact the creek bed while providing a permanent long-term solution. According to a licensed engineer, the proposed design will have less environmental impact than a temporary foundation system that encroaches into the creek bed, while safely preventing a future foundation failure (**Exhibit F**).

### **Historical Resources**

The Big Sur Coast Land Use Plan as well as the CEQA Guidelines identify the importance of preserving the historical significance of older buildings. A Phase 1 Historic Assessment was prepared on November 15, 2018 by a Monterey County qualified historical consultant (**Exhibit E**). The Phase 1 Historic Assessment determined the house is significant at the local level in architecture for its method of construction, as one of the few remaining examples of vernacular log cabins in the northern part of Big Sur and, therefore, is eligible to be listed on the County's Registry of Historic Resources. The applicant submitted a supplemental letter to the historic assessment dated March 15, 2019 that discussed how exterior modifications (skylights) to the cabin will not cause a significant adverse effect on the historic resource or its environment (**Exhibit E**). Moreover, the owner of the cabin stated the decks were built in 1985 and therefore not part of its original historic fabric, as confirmed by the historian.

This item was presented before the Historical Resources Review Board on April 4, 2019 and was approved by a vote of six to zero with one absence (**Exhibit H**).

### ENVIRONMENTAL REVIEW:

California Environmental Quality Act (CEQA) Guidelines Section 15331 categorically exempts maintenance, repair and stabilization of historic structures. This project involved demolition and reconstruction of the foundation of an existing log cabin that had been destabilized by age and environmental factors. The foundation repair stabilized an unsafe situation that was threatening the stability of the historic resources. Measures were implemented during the emergency foundation repair to avoid impacts to the creek and surrounding habitat to the extent feasible. The foundation repair, deck replacement, and skylight replacement have been determined to be consistent with the Secretary of the Interior's Guidelines for restoration of historic resources by the project historian and by the Historic Resource Review Board. Therefore, the project qualifies for a categorical exemption pursuant to Section 15331 of the CEQA Guidelines and exceptions listed in

15300.2 do not apply to this category of exemption.

OTHER AGENCY INVOLVEMENT:

The following County agencies or departments reviewed this project:

RMA-Public Works  
RMA-Environmental Services  
Environmental Health Bureau  
CALFIRE Coastal (Fire Protection District)

LUAC:

The project was not referred to the Big Sur Coast Land Use Advisory Committee (LUAC) for review. Based on the current LUAC Guidelines, adopted by the Monterey County Board of Supervisors, this application did not warrant referral to the LUAC because the project does not propose a lot line adjustment involving conflicts, a variance, or a Design Approval subject to review by the Zoning Administrator or Planning Commission.

HRRB:

This project was duly noticed and referred to the Historic Resources Review Board on April 4, 2019. Members of the Board adopted a resolution recommending approval of this project (**Exhibit G**) while requesting reconstruction of existing decks with redwood to replace bubble skylights with frames of like colors

Prepared by: Yasmeen Hussain, Associate Planner, x6407

Reviewed by: Craig Spencer, RMA Services Manager

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

The following attachments are on file with the RMA:

Exhibit A - Project Data Sheet

Exhibit B - Draft Resolution, including:

- Recommended Conditions of Approval
- Site Plans

Exhibit C - Vicinity Map

Exhibit D - Biological Assessment and Addendum

Exhibit E - Historical Assessment

Exhibit F - Engineering Letter (March 2, 2019)

Exhibit G - HRRB Application (April 4, 2019)

cc: Front Counter Copy; California Coastal Commission; RMA-Public Works; RMA-Environmental Services; Environmental Health Bureau; Yasmeen Hussain, Associate Planner; Craig Spencer, RMA Services Manager; David and Linda Marshall, Property Owners; The Open Monterey Project (Molly Erickson); LandWatch; Project File PLN190147