# County of Monterey
## Planning Commission

## Agenda Item No.4

**Legistar File Number: PC 26-077**

# Item No.4

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

August 12, 2026

**Introduced:** 8/5/2026
**Version:** 1
**Current Status:** Agenda Ready
**Matter Type:** Planning Item

Public hearing to consider an appeal by Douglas Clay of the June 11, 2026 Zoning Administrator's decision to approve an after-the-fact Use Permit (PLN240358/Clay) to allow a Commercial Vacation Rental for transient lodging of a residential property for a period of 30 calendar days or fewer.

RECOMMENDATION:
It is recommended that the Planning Commission adopt a resolution:

a) Denying the appeal of Douglas Clay of the June 11, 2026, Zoning Administrator's decision to approve an after-the-fact Use Permit to allow a Commercial Vacation Rental.
b) Finding the project qualifies for a Class 1 Categorical Exemption from CEQA Guidelines Section 15301, and that none of the exceptions from Section 15300.2 apply to the project; and
c) Approving an after-the-fact Use Permit for a Commercial Vacation Rental to allow the use of a residential property for transient lodging for a period of 30 calendar days or fewer to clear Code Enforcement Case 26CE00194.

The attached draft resolution includes findings and evidence for consideration (**Exhibit A**). Staff recommends approval, subject to 7 conditions of approval.

PROJECT INFORMATION

**Agent:** Clay Douglas
**Property Owner:** Douglas A. and Heather R. Clay Trust
**APN:** 007-541-008-000
**Parcel Size:** 0.21 acres
**Zoning:** Medium Density Residential with a maximum gross density of 4 units/acre with Building Site District 6, Design Control, and Recreational Equipment Storage in Seaward Zone Overlays or "MDR/B-6-D-RES"
**Plan Area:** Greater Monterey Peninsula Area Plan
**Flagged and Staked:** N/A
**Project Planner:** Fionna Jensen, Principal Planner
JensenF1@countyofmonterey.gov, 831-796-6407

SUMMARY
The project site is located at 2924 Congress Road, a privately maintained road, in the Greater Monterey Peninsula Area of the unincorporated area of the County of Monterey. The site is developed with a 1,821 square foot single-family dwelling with an attached garage, and consists of

three bedrooms, two and a half bathrooms, a living room, a dining room, a kitchen, and a patio. The Applicant has applied for a Use Permit to allow use of the existing single-family dwelling located in a residentially zoned neighborhood as a Commercial Vacation Rental. The Applicant is proposing that the single-family dwelling be occupied by a maximum of seven people overnight and 10 people during daytime hours at the property at a time.

The property is currently operating as a Commercial Vacation Rental. Pursuant to Title 21 section 21.64.290.G, unpermitted vacation rental operators who applied for all required permits and licenses between October 14, 2024 and April 14, 2025 may continue to operate until such time that the County takes action on all necessary permits and licenses. The Applicant/Owner applied for this Use Permit and related Vacation Rental Operations license in November 2024 and January 2025, respectively, and therefore was allowed to continue to operate until this Use Permit and the required license (VR240002) are acted on. However, due to failure to diligently pursue this permit, an administrative citation was issued in March 2026 (Code Case No. 26CE00194). Following this citation, the Applicant continued to pursue the required permit and submit the outstanding materials. Approval of this permit and issuance of the required license would abate the violation.

On June 11, 2026, at a duly noticed hearing, the Zoning Administrator approved the project, subject to 7 conditions of approval. On June 25, 2026, the Appellant, Douglas Clay, timely filed an appeal (**Attachment B**) of the Zoning Administrator's decision to approve the project. The appeal contends that the decision was contrary to law and that project conditions are not supported by the evidence. The specific contentions are further detailed below and in **Attachment A** (Draft Resolution).

Per MCC section 21.80.090, this hearing is heard de novo. Staff has prepared a draft resolution recommending that the Planning Commission deny the appeal, find the proposed use Categorically Exempt from CEQA Guidelines, and approve the Use Permit for a seven-year term.

DISCUSSION:

*Appeal*

The appellant, Douglas Clay, filed an appeal with 12 contentions **(Attachment B)**, which staff has summarized below:

1. The property's deed restrictions already grant the Applicant a license/easement to use the Del Monte Forest roads, making the County's condition unnecessary and unlawful.
2. The deed clearly grants irrevocable private road-use rights to the Applicant, Owner, tenants, and guests without needing additional permission.
3. The County can regulate private road use only for public health and safety; it cannot take away deeded road-use rights.
4. Short-term rental use is still a residential use and complies with the deed covenant limiting the property to the use of one single-family residence.
5. Pebble Beach Company is not an HOA, and Del Monte Forest is not a common interest development; therefore, no HOA rules or CC&Rs exist.
6. The deed restrictions are equitable servitudes and fall outside the County's jurisdiction to enforce.
7. The property's deed restriction resolves the claimed private road conflict, but Condition No. 6

improperly denies those rights and gives Pebble Beach Company authority not supported by law or the deed.

8. Condition No. 6 unlawfully denies property owners their deeded rights to use the private roads.
9. Condition No. 6 gives Pebble Beach Company unilateral power to block compliance and restrict lawful property use despite the deed's express easement.
10. Enforcement of deed restrictions must occur through injunctive relief, not County-imposed conditions; Pebble Beach Company can seek court remedies if it believes a violation exists.
11. Condition No. 6 prevents the property owners from exercising their legal rights to use the property as an approved CVR.
12. The County's authority to regulate or impose conditions on the use of private roads is limited to public health and safety regulations. The County cannot legally strip away our legal right to use private roads as granted by our deeded easement.

Simply, the Appellant, also the Applicant/Owner, is arguing that the County does not have the authority to regulate use of private roads unless for public health and safety reasons, and therefore, requests that Condition No. 6 be removed, which requires that the known dispute over use of the private roads in Pebble Beach be addressed.

*Appeal Response*

Staff has considered the appeal contentions and provides the following responses. In summary, staff finds that application of Condition No. 6 is not only lawfully applied pursuant to County Code but required in this case (see the discussion below). Therefore, staff recommends the Planning Commission deny the appeal on the following grounds and approve the Use Permit:

1. Response to Contention Nos. 1 and 2: While there is an existing private road use agreement, there is also a known, substantive dispute regarding rights to use the subject private roads. Therefore, Condition No. 6 is required pursuant to Chapter 16.80.
2. Response to Contention Nos. 3 and 12: Application of Condition No. 6 is allowable and required by County Code in this case. Chapter 16.80 was adopted for the purpose of 1) assuring that development is compatible with surrounding neighborhoods and incorporates provisions for adequate access for occupants, residents, and emergency services; and 2) clarifying that the County is not a party to such agreements, does not enforce their terms and conditions, nor has jurisdiction to adjudicate a dispute among the parties to such agreements.
3. Response to Contention Nos. 7, 8, and 11: Application of Condition No. 6 does not deny Property Owner applicable rights to use the private roads, nor does it prevent the Property Owner from applying for or obtaining necessary permits and licenses to operate a Commercial Vacation Rental. Similarly, Condition No. 6 does not prevent the Property Owner from operating a CVR and does not give the Pebble Beach Company "unilateral power" to restrict use of the property. Instead, it requires the Property Owner to demonstrate that the known private road use dispute has been resolved. Once this condition, and others, are satisfied, the required license will be issued, and the Property Owner can commence use.
4. Response to Contention Nos. 4, 5, and 6: The County does not enforce private deed restrictions or CC&Rs. Here, the Pebble Beach Company enforces the property's deed restrictions and CC&Rs.

5. <u>Response to Contention No. 10</u>: Per Chapter 16.80, a condition of approval is required to ensure that substantive disputes regarding the use of a private road are resolved. This Chapter identifies that resolution of the known dispute may include withdrawal of objections or a final settlement or final judicial determination. Condition No. 6 has been applied to carry out the procedures of Chapter 16.80
6. <u>Response to Contention No. 11:</u> A Commercial Vacation Rental is an allowed use in this zoning district, subject to the granting of a Use Permit, compliance with applicable conditions of approval, and issuance of the Vacation Rental Operations License. Pursuant to Title 21 section 21.74.050.C, the Appropriate Authority (here, the Planning Commission) has the authority to apply conditions it deems necessary to secure compliance with Monterey County Code. The Property Owner appealed the Zoning Administrator's decision to conditionally approve the CVR. Therefore, the Property Owner does not have an approved Use Permit to operate a CVR. Should this appeal be denied and the Use Permit be approved, the project's conditions shall be complied with prior to issuance of the required license and prior to commencement of use.

<u>*Chapter 16.80 (Private Road Regulations)*</u>
Chapter 16.80 (Regulations Relating to Applications Involving Use of Private Roads) was adopted in 2019 through Ordinance No. 5318. The purpose of this Ordinance was to provide "*a uniform, consistent, reasonable and fair manner for addressing disputes regarding the use of a private road, street, or other travelled way as part of the process by which discretionary permits, licenses or other entitlements for a development are considered by the County of Monterey*."

Findings supporting the adoption of this ordinance included:

1. *"The County is charged with, among other tasks, the responsibility of assuring that development is compatible with surrounding neighborhoods and incorporates provisions for adequate access for occupants, residents, and emergency services"*;
2. "*Many of the streets, roads, and other travelled ways in the County are privately owned ("Private Roads") and are governed by agreements among private parties ("Private Road Agreements"). <u>The County is not a party to such agreements and does not enforce their terms and conditions, nor does the County have jurisdiction to adjudicate a dispute among the parties to such agreements</u>*" (<u>emphasis</u> added);
3. *"Issues have arisen during the County' s consideration of discretionary land use permit applications as to whether the issuance of certain land use related permits, licenses, entitlements and other approvals are consistent with any applicable Private Road Agreement. <u>The County wants any issues that may arise over the use of Private Roads to be resolved by the parties to the applicable Private Road Agreement</u>. <u>The County also wants to provide certainty to the applicant and public in the planning process as to the manner in which the County will address disputes among parties to a Private Road Agreement that arise in connection with land use related applications</u>*" (<u>emphasis</u> added).

In simple terms, the County recognized that many roads in Monterey County are privately owned, that these roads are sometimes needed to support new development projects, and that such reliance on private roads may lead to disputes with road owners or parties to existing roadway agreements. The County also recognized that it cannot enforce private road agreements or step in when disputes arise since the County is not a party to the privately held agreements and does not have an ownership interest in private roads.

Accordingly, the County developed regulations to give applicants and the public clearer guidance and more certainty when these situations occur. Chapter 16.80 applies to all projects that propose to intensify the use of a private road, except for those outlined in Title 16 section 16.80.040.D: first single-family dwelling, emergency permits, projects with access via a public road, routine and ongoing agricultural activities, accessory dwelling units, federal projects, and other limited project times. All other projects requiring use of a private road are required to submit copies of private road agreements, private road maintenance agreements, and/or written permission to use the private road from the private road governing structure. Once this information is submitted, HCD-Planning staff determines what tier or category the project is:

1. Tier 1: the project is not subject to a private road agreement or a private road maintenance agreement;
2. Tier 2: the project is not subject to a private road agreement, but is subject to a private road maintenance agreement;
3. Tier 3: the project is subject to a private road agreement, but not a private road maintenance agreement; or
4. Tier 4: the project is subject to a private road agreement and a private road maintenance agreement.

For all projects involving use of a private road, HCD-Planning staff provides written notice of the application to all parties to a private road and interested parties of the private road or project. However, noticing is not required for those projects with access via a private road(s) that are subject to a legally established private road governing structure such as a homeowners' association or similar organization where said governing structure is authorized to
make determinations regarding the use, maintenance, and related matters regarding the private road(s). "*Examples of projects within this exception may include but are not limited to projects considered allowed uses within the <u>Del Monte Forest area</u>, the Monterra and Tehama subdivisions, and similar subdivisions with previously contemplated allowed uses and private road governing structures*" (Title 16 section 16.80.040.C.1.g; <u>emphasis</u> added).

The notice provides the opportunity for any party to a private road to object to the use of the private road. Ideally, this also then provides an opportunity for resolution of disputes prior to consideration of the project by the Appropriate Authority. In situations where a substantial dispute over the use of a private road is not resolved before the Appropriate Authority considers the project, Section 16.80.050 outlines how the County should proceed:

1. Denial of the project;
2. Approval of the project, but with conditions of approval to resolve the dispute (whether it be an access dispute or cost of repairs and maintenance dispute).

If a substantial dispute occurs, these are the only two potential outcomes the County may proceed with. **Exhibit C** contains a flow chart illustrating the procedures and steps of Chapter 16.80.

*Applicability of Chapter 16.80 to this Project*

The property is within the Pebble Beach and utilizes private roads, which are maintained and owned by the Pebble Beach Company. Pebble Beach Company is authorized to make determinations regarding the use, maintenance, and related matters regarding the private road.

The Applicant has provided documentation that the property is subject to deed restrictions that include various conditions, covenants, or restrictions (**Exhibit D**). The property's deed restrictions are privately enforced by the grantor of the deed restrictions, the Pebble Beach Company. While the County does not enforce or regulate CC&R's, these documents may include provisions that serve as private road agreements and/or private road maintenance agreements. The County reviews these documents only to understand whether such private road agreements exist and how to proceed pursuant to Chapter 16.80. Beyond this limited use, the County has no role in enforcing the deed restrictions or resolving disputes related to them; enforcement remains entirely a private matter between the affected parties.

Here, the project is considered a Tier 3 project (the project is subject to a private road agreement, but not a private road maintenance agreement) given that the property's deed restriction clearly allow the Property Owner, their family*, "tenants and guests occupying or visiting said premises"* access to *"all roads and bridle paths now or hereafter owned by Grantor in Del Monte Forest",* subject to paying an annual fee of $100.00 (**Exhibit D**). However, this document, nor any other document available to the County, provides evidence that a maintenance agreement of such roads exists with the subject property owner.

Although the deed allows "*tenants and guests occupying or visiting said premises"* to use the private roads within Pebble Beach, the deed restriction also includes other conditions that govern the conveyance of the land and, in turn, the granting of access. These conditions include, but are not limited to, requirements such as: "*No trade, business or profession of any description shall be conducted on said premises. Said premises shall not be used for any purpose whatever except solely and exclusively for the purpose of construction and maintenance of not more than one private single-family residence…*" (**Exhibit D**). One could interpret the plain language of the deed to permit guests or visitors of a private single-family residence to use the private roads, but not guests or visitors of a commercial business/event operated within a residence, since commercial activity is not allowed on the property. This is typically the Pebble Beach Company's position. However, HCD-Planning staff is aware of multiple situations where the Pebble Beach Company has not opposed short-term rentals (including but not limited to PLN220057) and has supported other commercial events within single-family dwellings, even though the same deed restrictions apply to those properties. For example, hosting of events at private residences during Monterey Car Week, AT&T Pro-Am, U.S Open, and other events have been supported by Pebble Beach Company, including but not limited to PLN260088, PLN240173, PLN240172, PLN240216, which were all approved on July 30, 2026, by the Zoning Administrator.

Here, the Pebble Beach Company has submitted letters opposing the project, claiming it does not authorize use of its private roads for this project because it constitutes a business within a home and is in conflict with applicable deed restrictions (**Exhibit D**).

Title 16.80.050 states "If the Appropriate Authority finds, based on substantial evidence in the record, that a substantive dispute exists regarding the use of a private road for a project, said authority may approve the project but shall require as a condition of project approval that the applicant provide the County with proof of access demonstrating that the dispute has been satisfactorily resolved."

The Appellant argues they have legal rights to use the private roads for the proposed Commercial Vacation Rental based on the plain language of the deed restriction. The Pebble Beach Company, the governing body of the private road, argues otherwise (**Exhibit E**). Given that the County is not a party to the subject private road agreement, does not enforce the applicable CC&Rs, and does not have jurisdiction to adjudicate a dispute among the parties to such agreements, there are two possible next steps for the Planning Commission to consider regarding this matter:

1. Approval of the project with a condition of approval that requires the dispute to be resolved prior to issuance of the required Vacation Rental Operations License; <u>or</u>
2. Denial of the project because the project has not demonstrated adequate access for occupants and residents.

Since adoption of the County's Commercial Vacation Rental Regulations, Title 21 section 21.68.290, the Appropriate Authority has considered numerous applications in the Pebble Beach area, all of which were subject to Chapter 16.80 requirements and with known opposition from the Pebble Beach Company. In all cases, staff recommended application of a condition to resolve the dispute, and the Appropriate Authority concurred. Over 40 Commercial Vacation Rental projects have been approved with this condition.

Therefore, staff recommends the Planning Commission also apply Condition of Approval No. 6 to ensure that the substantial dispute regarding the plain language of the private road agreement is resolved prior to the applicant commencing the use of their property as a commercial vacation rental. Evidence demonstrating compliance must be submitted within 60 days of project approval (should it be approved). If not timely received, the required Vacation Rental Operations License (License) will be denied. Such denial would not change the effect of this Use Permit and would not prohibit the Property Owner from reapplying for the License once necessary documents are obtained to satisfy this condition or any other outstanding conditions. Should the property continue to operate as a Commercial Vacation Rental without obtaining the required License, the property will be subject to fines and enforcement by the County's Code Compliance Division.

<u>CEQA</u>:
The project qualifies as a categorical exemption from environmental review pursuant to CEQA Guidelines section 15301. This exemption applies to the operation of existing private structures, involving negligible or no expansion of an existing use. The Applicant/Owner proposes to use a residential single-family dwelling for transient lodging where the term of occupancy, possession, or tenancy of the property by the person entitled to such occupancy, possession, or tenancy for a period of 30 consecutive calendar days or fewer. This project does not propose or authorize any additional exterior development and/or expansion of the existing structure currently on the project site.

The subject property will be limited to one rental contract at any given time. All facilities, as planned and approved, have been confirmed by County agencies to be adequate for this use. Therefore, the proposed use is consistent with the CEQA Guidelines Section 15301. None of the exceptions under CEQA Guidelines Section 15300.2 apply to this project. Additionally, there will be no significant effect on the environment due to unusual circumstances. Further, there is no evidence that "the cumulative impact of successive projects of the same type in the same place, over time is significant."

The County prepared a FEIR for the Vacation Rental Ordinances project, which was certified by the Board on August 27, 2024 (SCH# 2022080643). The FEIR analyzed the project for environmental impacts and did not identify any significant impacts of Commercial Vacation Rentals up to the Commercial Vacation Rental cap set for each County of Monterey Planning Area. This Commercial Vacation Rental does not exceed the cap on Commercial Vacation Rentals in the Greater Monterey Peninsula Area Plan. It would be the 30th Commercial Vacation Rental in the Greater Monterey Peninsula Area Plan. The FEIR did address public comments that vacation rentals have the potential for negative side effects, including nuisance issues such as traffic, parking, and noise. However, no significant environmental effects were identified. County regulations have been developed and are in effect to ensure that vacation rentals remain compatible with existing residential uses. Cumulative impacts of the regulations, taken together with other past, present, and probable future projects, were analyzed, and no significant effects were identified. There is no evidence suggesting that approving this project would result in significant environmental impacts.

<u>OTHER AGENCY INVOLVEMENT</u>:
The following agencies have reviewed the project, have comments, and/or have recommended conditions: Monterey County Environmental Health Bureau

<u>LAND USE ADVAISORY COMMITTEE:</u>
The project was not referred to the Del Monte Forest LUAC as it does not meet the referral guidelines of the Board of Supervisors adopted LUAC procedures.

Prepared by: Fionna Jensen, Principal Planner
Approved by: Melanie Beretti, AICP, Chief of Planning

The following attachments are on file with HCD:
Exhibit A - Draft Resolution including:

- Recommended Conditions of Approval
- Operational Plan
- Site & Floor Plans
- Home Inspection Checklist

Exhibit B - Notice of Appeal
Exhibit C- Private Road Regulation Flow Chart
Exhibit D - Property's Deed Restrictions & Private Road Agreement
Exhibit E - Public Comment
Exhibit F - Zoning Administrator Resolution No. 26-057

cc: Front Counter Copy; HCD-Planning; Fionna Jensen, Principal Planner; Douglas Clay and Heather Clay, Property Owner/Appellant; Josh Ohanian, Agent; The Open Monterey Project (Molly Erickson); Laborers International Union of North America (Lozeau Drury LLP); Christina McGinnis, Keep Big Sur Wild; LandWatch; Planning File PLN240358.