



# County of Monterey Zoning Administrator

Item No. 3

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

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February 13, 2025

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## PLN170932 - EVANS PETER H TR

Public hearing for after-the-fact consideration of development on slopes in excess of 30% and removal of six protected trees, and construction of a 1,324 square foot single family dwelling, an 838 square foot porch, demolition of an existing 64 square foot shed, and associated site improvements including removal of two protected trees, and development on slopes exceeding 30 percent.

**Project Location:** 38793 Palo Colorado Rd, Carmel

**Proposed CEQA Action:** Find the project qualifies for a Class 3 Categorical Exemption pursuant to CEQA Guidelines section 15303, and there are no exceptions pursuant to Section 15300.2.

### RECOMMENDATION:

It is recommended that the Zoning Administrator adopt a Resolution:

- 1) Finding the project Categorical Exempt pursuant to CEQA Guideline section 15303, and there are no exceptions pursuant to Section 15300.2; and
- 2) Approving a Combined Development Permit consisting of a:
  - a) After-the-fact Coastal Development Permit to allow development (grading) on slopes in excess of 30%;
  - b) After-the-fact Coastal Development Permit to allow removal of six protected trees;
  - c) Coastal Administrative Permit and Design Approval to allow construction of a 1,324 square foot single family dwelling with a 838 square foot porch, demolition of an existing 64 square foot storage shed, and associated site improvements;
  - d) Coastal Development Permit to allow the removal of two protected trees; and
  - e) Coastal Development Permit to allow development on slopes exceeding 30 percent.

The attached draft resolution includes findings and evidence for consideration (**Exhibit B**). Staff recommends approval subject to 9 conditions of approval.

### PROJECT INFORMATION:

**Agent:** Hunter Eldridge, Hunter Porter Eldridge Architecture

**Property Owner:** Evans Peter H Tr

**APN:** 418-161-006-000

**Parcel Size:** 351,093 Square Feet (8.06 Acres)

**Zoning:** Watershed and Scenic Conservation with a density of 1 unit per 40 acres with Design Control overlay district in the Coastal Zone

**Plan Area:** Big Sur Coast Land Use Plan

**Flagged and Staked:** Yes

SUMMARY:

The project is located at 38793 Palo Colorado Road, Carmel. The proposed project includes: 1) after-the-fact development (grading) on slopes in excess of 30% and after-the-fact removal of six protected trees; 2) construction of a 1,324 square foot single family dwelling with an 838 square foot porch and approximately 1,650 cubic yards of cut and 10 cubic yards of fill; 3) the removal of two protected trees; and 4) development on slopes in excess of 30%.

Based on staff's analysis, the project is consistent with applicable goals and policies in the 1982 General Plan, policies in the Big Sur Coast Land Use Plan (Big Sur LUP), and regulations and development standards contained in the Big Sur Coast Coastal Implementation Plan (Big Sur CIP) and Title 20 Zoning Ordinance.

The previous residence on this property burned down in the 2016 Soberanes fire so the homeowners have applied to build a new single-family dwelling. The proposed design increases the previous residence's floor area by more than 300 square feet and thus does not qualify as a fire rebuild project. Attempting to make the residence more fire-resilient, the applicant proposes to incorporate a different foundation design (slab-on-grade vs pile foundation). Further, the proposed materials (stucco siding and standing seam metal roofing) were also chosen to increase the residence's fire resiliency. This design and the selected building site require grading on slopes in excess of 30% and tree removal. However, as described below, the required findings to allow development on steeper slopes and tree removal can be made in this case.

DISCUSSION:

*Land Use & Development Standards*

The property is zoned Watershed and Scenic Conservation with a density of 1 unit per 40 acres with Design Control overlay district in the Coastal Zone or "WSC/40D(CZ)". This zoning allows construction of the first single-family dwelling on a plot of land, development on slopes in excess of 30%, and tree removal, subject to the granting of appropriate discretionary permits. The proposed project is consistent with the applicable development standards for WSC zoning. The applicant proposes a height of 16 feet and 9 inches from the average natural grade, consistent with the allowable 24-foot maximum. The proposed structure meets all the required setbacks and exceeds the required 30-foot front setback and 20-foot side and rear setbacks.

*Violations*

Following the 2016 fires, the homeowner previously graded a small area flat where they would intermittently camp while obtaining permits for the proposed development. This grading was on slopes in excess of 30% and thus required a Coastal Development Permit. An after-the-fact Coastal Development Permit has been applied to address this violation. Restoration of this area would be counterproductive as the selected building site minimizes tree removal and development on slopes by being located next to the existing access road. Therefore, the proposed and after-the-fact development on slopes better meets the Big Sur Coast Land Use Plan's policies relating to the preservation of native trees and minimizing the alteration of natural topography.

The proposed project includes the removal of eight protected trees. Six of these trees were removed by the homeowner removed following the 2016 fires. Although it is unknown how fire-damaged these trees were, the arborist report (**Exhibit C**) describes these trees as being scorched and in poor structural condition. The homeowner failed to obtain a hazardous tree removal waiver from the County, and therefore, an after-the-fact Coastal Development Permit is being sought. Based on the current condition of the surrounding trees, it is presumed that these six trees were fire-damaged and/or structurally compromised. Accordingly, after-the-fact authorization to remove these trees is warranted in this case. The remaining two trees proposed for removal still exist on the property; see the below *Tree Removal* discussion.

In addition to the unpermitted grading on steeper slopes and tree removal, the homeowner constructed a 64-square-foot storage shed onsite without obtaining the necessary permits. Accordingly, the project includes demolition of the structure. The removal of this structure will address the unpermitted construction.

#### *Design Review*

The proposed development's design, size, and placement are consistent with the goals and policies of Title 20 (Zoning Ordinance), Big Sur Coast LUP, and the surrounding neighborhood character. The proposed colors and materials are consistent and compatible with the surrounding neighborhood character, these include: bronze standing seam metal roof, tan smooth-finish stucco siding, brown board and batten exterior siding, brown metal-clad wooden windows, and a concrete patio and wood entry deck. The property is very remote and not visible from Highway 1 or any public viewing area. Condition No. 4 requires an exterior lighting plan be provided and approved before the issuance of building permits; this condition shall ensure compliance with applicable policies of the Big Sur Coast LUP, Big Sur CIP, and Title 20.

#### *Tree Removal*

Six protected trees were previously removed without a permit. One of the trees included a 24-inch landmark Madrone. All six trees previously removed would have been within the proposed construction footprint of the dwelling and site improvements. The applicants also propose to remove two additional protected trees (an 18-inch Coast live oak and a 12-inch Madrone tree). The arborist report found almost all trees within and adjacent to the proposed building footprint, including those two trees proposed for removal, as being in poor condition, either killed by the 2016 fires or severely scorched. The two proposed trees for removal are located within site improvements and are currently showing signs of failure and significant lean. Removal of these trees will not create an environmental impact and is required to construct the proposed residence. The proposed tree removal is the minimum number of trees to be removed under the circumstances considering other restrictions on the property including dense tree coverage, steeper slopes, wildfire risk, and access to the existing driveway.

The tree assessment mentions tree stumps that must also be removed, these are not considered protected and do not require a discretionary permit. The arborist stated many of the trees that were lost in the fire have started to regrow from the stumps on site and thus does not recommend replanting. These sprouts are located outside of the construction and grading footprint and will offset the replanting requirements that are otherwise required by County Code. Other recommendations of the

arborist include installing protective fencing around the critical root zone of trees that will remain on the property during and following construction and ensuring soil compaction, parking of vehicles or heavy equipment and stockpiling of construction materials does not occur within or near fenced areas. These recommendations are incorporated into Condition No. 5. This condition, together with the County's standard Raptor and Bird Nesting Survey condition (Condition No. 9), the forest resources on the property will not be significantly impacted.

*Development on Slopes in excess of 30%*

The lot is steeply sloped and impacts to 30% slopes cannot be avoided to construct the 1,324 square foot residence. The single-family dwelling has been sited on the flattest portion of the property, close to the eastern property line to avoid extending the driveway to other portions of the property that would require additional development on slopes over 30%. This flatter portion of the property consists of the existing parking pad (associated with the previous residence) and the unpermitted graded area. Although the proposed residence takes advantage of the previously graded level area, additional development on slopes is required to construct the proposed single-family dwelling. The previous residence was constructed on a hillside and utilized a stilt and pile foundation; this design allowed for the 2016 fires to spread under the residence. In contrast, the proposed residence incorporates a grade on-slab foundation. To achieve this design, the project involves excavating approximately 1,650 cubic yards and cutting into the adjacent hillside. As previously stated, the applicant prefers this foundation design because it eliminates the possibility of a fire spreading under the residence. Not only does this design make the residence more fire resilient, but there is no alternative that would allow an appropriately sized residence with a slab-on-grade foundation to be constructed entirely on slopes less than 30%. Additionally, the proposed location of the residence utilizes an area of the property that contains a minimal number of healthy trees. Accordingly, the proposed project better meets the resource protection goals and policies of the Big Sur Coast LUP.

The submitted geotechnical report (County of Monterey Library No. LIB180195) concluded that the proposed development is suitable for the site and did not identify any potential hazards onsite. Adherence to Chapter 16.12 of Monterey County Code will ensure that grading takes place outside of the winter months (October 15-April 15) to reduce erosion potential during the rainy season.

CEQA:

The project is categorically exempt from environmental review pursuant to Section 15303 of the CEQA Guidelines, "New Construction". This exemption applies to the construction of new small structures. This project qualifies for a Class 3 exemption because it includes the construction of a single-family dwelling on a vacant lot. The proposed associated site improvements, including tree removal, development on slopes, and removal of a unpermitted shed, are ancillary actions associated with the development of the single-family dwelling. No exceptions pursuant to CEQA Guidelines section 15300.2 apply in this case. No evidence of significant adverse environmental effects were identified during staff's review of the development application.

OTHER AGENCY INVOLVEMENT:

The project was reviewed by HCD-Planning, HCD-Engineering Services, HCD-Environmental Services, the Environmental Health Bureau, and Mid-Coast Volunteer Fire Brigade. The respective agencies have recommended conditions, where appropriate, to ensure that the project will not have an

adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood.

LUAC:

The project was referred to the Big Sur Coast Land Use Advisory Committee (LUAC) for review. The LUAC reviewed the project at a duly noticed public meeting on December 10, 2024 and voted unanimously to support the project as proposed (**Exhibit D**). A few concerns and comments were discussed at this meeting, the LUAC members inquired about the proposed landscape plan for the graded hillside. Condition of Approval No. 7 requires the applicants to submit a landscape plan prior to issuance of building permits. This plan will be available to the public for review. The LUAC also raised concerns about the proposed windows and their potential to create glare and light that impact neighboring residences. All exterior lighting will be downlit and unobtrusive, however, internal lighting is not regulated by the County. The LUAC also requested that exterior fire sprinklers to the residence.

Prepared by: Zoe Zepp, Associate Planner

Reviewed and Approved by: Fionna Jensen, Principal Planner (WOC)

The following attachments are on file with the HCD:

Exhibit A - Project Data Sheet

Exhibit B - Draft Resolution, including:

- Recommended Conditions of Approval
- Site Plan, Floor Plans, Elevations & Colors and Materials

Exhibit C - Tree Assessment

Exhibit D - LUAC Minutes

Exhibit E - Vicinity Map

cc: Front Counter Copy; Planning Commission; Pebble Beach Community Services District; HCD-Environmental Services; HCD-Engineering Services; Environmental Health Bureau; Zoe Zepp, Associate Planner, Fionna Jensen, Principal Planner (WOC); Evans Peter H Tr, Property Owner; Hunter Eldridge, Agent; The Open Monterey Project; LandWatch (Executive Director); Christina McGinnis, Keep Big Sur Wild; Lozeau Drury LLP; Project File PLN170932