

MONTEREY COUNTY ZONING ADMINISTRATOR

Meeting: September 8, 2005, 9:50 am	Agenda Item: 7
Project Description: Coastal Development Permit to allow the removal of seven (7) Monterey pine trees (36", 31", 30", 25", 20", and 19" diameter at breast height), including five (5) landmark trees.	
Project Location: 25683 Hatton Road, Carmel	APN: 009-211-009-000
Planning Number: PLN040547	Name: Biegel
Plan Area: Carmel Area Land Use Plan	Flagged and Staked: N/A
Zoning Designation: MDR/2-D (CZ), Medium Density Residential, Design Review District, Coastal Zone.	
CEQA Action: Statutorily Exempt per §15270 (a)	
Department: Planning and Building Inspection (PBI)	

RECOMMENDATION

Staff recommends denial of described project based on Findings and Evidence (**Exhibit "C"**) and subject to proposed conditions (**Exhibit "D"**).

OVERVIEW

This project calls for the removal of seven native Monterey pine trees in a mixed forest area, where the predominant vegetation is composed of an pine overstory and an understory dominated by Coast live oak. The seven trees requested for removal as a part of this application are older trees which may pose a hazard to the property at some time in the future although the arborist report states that currently the trees proposed for removal are generally in good health. The applicant proposes that they be removed to allow further enhance the oak tree habitat and encourage the growth of oaks on the property. As part of an earlier application the applicant has already received approval to remove the one Monterey pine which was determined to constitute an immediate hazard.

Staff recommends denial of this application because it conflicts with policies in the Carmel Area Land Use Plan and Coastal Implementation Plan. These policies state that the removal of trees must be in keeping with the broad resource protection objectives of the plan and the maintenance of the area's natural character. They also limit the cutting of trees to those necessary for proposed development or necessary for forest health, and require the replanting of trees of the same variety for those removed. Staff concludes there is a conflict because the pine trees proposed for removal are integral to the area's natural character and because the trees are generally in good health related to the surrounding forest and do not need to be removed for proposed development.

The County may want to consider alternatives which would allow the removal of large older trees which may pose a potential hazard and require their replacement with younger trees. The replacement of older trees would help insure the continued vigor of native forests. Solutions such as this may be able to be considered within general plan and land use plan revisions. The Cities of Monterey and Carmel have a history of investing significant resources into their urban forests. Copies of some of their regulations and review sheets are attached as Exhibit "I" to this staff report.

If the Zoning Administrator decides to consider project approval it must first be returned to staff to prepare and initial study and complete environmental review. The focus of the review will be to assess the cumulative impact of approving the removal of large Monterey pines which may result in significant impacts.

OTHER AGENCY INVOLVEMENT

- ✓ Water Resources Agency (WRA)
- ✓ Environmental Health Division (EHD)
- ✓ Parks Department (Parks)
- ✓ Public Works Department (PWD)
- ✓ Cypress Fire Prevention District (CFPD)

All have reviewed the project. None have recommended conditions.

Note: This project is appealable to the Board of Supervisors and the California Coastal Commission.

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cc: Zoning Administrator; County Counsel; Scott Hennessy; Dale Ellis; Jeff Main;
Thom McCue; Linda Rotharmel; Applicant/Representative; Owners

Attachments:	Exhibit "A"	Project Data
	Exhibit "B"	Overview
	Exhibit "C"	Recommended Findings and Evidence
	Exhibit "D"	Vicinity Map
	Exhibit "E"	Project Plans
	Exhibit "F"	Letter accompanying application from Larry and Tina Biegel,
	Exhibit "G"	Photographs accompanying application
	Exhibit "H"	Petition in Support of Biegel Tree Removal Application
	Exhibit "I"	Tree Regulations from the Cities of Monterey and Carmel

This report was reviewed by Jeff Main, Planning & Building Services Manager

EXHIBIT “B”

OVERVIEW **PLN040547**

This project calls for the removal of seven native Monterey pine trees in a mixed forest area, where the predominant vegetation is composed of an pine overstory and an understory dominated by Coast live oak. The parcel is located at the corner of Mt. View Avenue and Hatten Road in the Hatten Fields neighborhood of unincorporated Carmel.

APPLICANT REPORTS

The applicant had three studies conducted which looked at trees and habitat on the property. These studies were:

- An Evaluation of Selected Trees at the Biegel Property, 25683 Mt. View Avenue [sic], Carmel California, by Michael L. Bench, Consulting Arborist, August 6, 2004;
- Biological Assessment, APN 009-211-009-000, by Nicole Nedeff, August 12, 2004; and
- Forest Management Plan, Monterey Co. Assessor’s Parcel 009-211-009, 25683 Hatton Road, Carmel, California, by Roy Webster, December 2004.

Arborist Report: The Arborist Report states that the property contains a total of 67 trees: 46 Coast live oaks, 16 Monterey pines, and 5 Blackwood acacia. Mr. Bench rated the health and structure of each of the pines and acacias on a scale of “1” (Exceptional/Excellent) to “5” (Poor/Extremely Poor). Nine of the pines were categorized as “3” (Fair) and the remaining seven were categorized as “5” (Poor). He stated that “several of the Monterey pine trees have dead branch tips with persistent cones. This is the typical result of a bark beetle attack. Presently this attack does not appear to have significantly weakened any of these Monterey pine trees.” He also noted that one additional pine (listed at #12 on the plan) had been recently uprooted.

Mr. Bench made the following conclusions of the Monterey pines on the property:

1. *They are mature specimens, possibly reaching the end of their life span.*
2. *They are more susceptible to wind throw, partially because they have little or no protection from adjoining trees. The wind, which comes predominantly from the west, tends to flow over the tops of the clusters of coast live oak trees. These Monterey pine trees, which are scattered throughout the landscape, have little or no protection and, thus, are vulnerable to wind throw.*
3. *The tall canopies of these Monterey pine trees partially shade the adjoining coast live oak trees. The result is awkward branching and sparse canopy development of some of the adjoining oak trees.*

Subsequent to the completion of the Arborist’s Report, and following a site visit by consulting Forester Roy Webster, the homeowners requested and were granted a waiver of a Coastal Development Permit to remove the one pine (identified as #5 on the plans) of the 17 which was judged to meet the criteria for such a waiver. This criteria requires that the tree poses “an immediate danger to life or structures or where the diseased tree is determined by a qualified professional forester to represent a severe and serious infection hazard to the rest of the forest.”

Biological Assessment: The biological assessment noted that the property had been mechanically grubbed prior to the arborist's visit in order to facilitate the arborist's reconnaissance. According to the owner this was also needed as the property had been overtaken by German ivy, poison oak, and black acacia. The biologist noted that other than the pine and oak overstory the property was essentially devoid of native vegetation. She also noted that a dense cover of German ivy, which was evident in the duff, was unlikely to support many native plants.

Forest Management Report: The FMP, prepared by Roy Webster, stated that only one tree met the County's requirements for a waiver of a Coastal Development Permit as a dangerous or diseased tree. This is tree #5 for which a waiver was granted. The document outlines the purpose of the application:

As new owners of this property, the Biegels ... are ... concerned that one of the large Monterey Pines on the property will fail causing injury to persons or damage to structures. The native forest onsite is comprised of Monterey Pine and Coast Live Oak trees. Monterey Pine is relatively short lived (average life span about 80 years), grows tall and wide (80 to 100 feet tall, 3 feet or more in diameter), subject to many pest infestations, and has a high wind throw hazard. The bigger problem from a management standpoint is that they very often fail with no apparent visible symptoms. The objective of this management plan will be to phase out over time the Monterey Pine component and replace them with Coast Live oak seedlings. Coast Live Oaks are longer lived and smaller than pines and thus constitute a reduced safety hazard. The area of native forest will be the same as before, only it will be entirely oaks.

The FMP goes on to state that this application is strictly for the first phase in which eight of the 15 remaining pines would be removed. Six of these trees were rated as "poor" specimens, and the other two are proposed because of their proximity and lean relative to existing structures. The removal of the remaining seven trees would constitute the second stage and would occur no sooner than five years after Phase One; the second phase would require a separate Coastal Development Permit application.

COUNTY POLICIES

The Carmel Area Land Use Plan includes the following section within the overview for Environmentally Sensitive Habitat Area:

The Carmel Coastal Segment supports a variety of rare, endangered, or sensitive terrestrial species and habitats: riparian corridors, Monterey cypress forest, Gowen cypress woodland, significant stands of Monterey pine, coast redwood forest, north coastal prairie, and dwarf coastal chaparral. These environmentally sensitive habitats should be protected for a variety of reasons: their high scientific and educational values, their scenic values, their high wildlife values and/or their importance in watershed protection.

The Carmel Area Land Use Plan includes the following section within the overview for “Forestry and Soils Resources”:

The Carmel area supports a diversity of forest resources. Coast redwood grows in thick groves along canyon bottoms and on steep north facing slopes. An extensive forest of Monterey pine occurs along the frontal slopes facing Highway 1.

The Carmel Land Use Plan contains the following policies:

- 2.5.3.2 All cutting or removal of trees shall be in keeping with the broad resource protection objectives of this plan. Specific policies, criteria and standards of other sections of this plan shall govern both commercial and noncommercial tree removal.
- 2.5.3.3 Restoration of native forest resources is encouraged for public agencies and residents as a means of maintaining and enhancing the Carmel area's natural character. Removal of non-native tree species is encouraged except where such vegetation provides important wildlife habitat.
- 2.5.3.7 Applicants for use permits shall be required to certify through a qualified biologist that the proposed commercial timber harvesting activity will contribute to the stability and diversity of the forest and will be carried out in a manner that has no effect on environmentally sensitive habitat areas.

Section 20.146.060 of the Carmel Area Coastal Implementation Plan requires the preparation of a Forest Management Plan for the removal of any native tree in excess of 12” dbh (diameter at breast height). It also lists development standards which must be included within this FMP. These include the following:

1. Landmark trees of all native species shall not be permitted to be removed. A landmark tree is a tree which is 24 inches or more in diameter when measured at breast height, or a tree which is visually significant, historically significant, exemplary of its species, or more than 1000 years old.

An exception may be granted by the decision-making Body for removal of a landmark tree within the public right-of-way or area to be purchased for the right-of-way where no feasible and prudent alternatives to such removal are available, subject to obtaining a coastal development permit.

An exception may be granted by the decision-making body for removal of a tree that is 24 inches or greater in diameter (measured at breast height) and not also visually or historically significant, exemplary of its species or more than 1000 years old, provided that a finding may be made that no alternatives to development (such as resiting, relocation, or reduction in development area) exists whereby the tree removal can be avoided.

3. Removal of native trees shall be limited to that which is necessary for the proposed development. Prior to the application being considered complete, the development shall be adjusted for siting, location, size and design as necessary to minimize tree removal.

4. Removal of native trees other than directly necessary for the proposed development shall be limited to that required for the overall health and long-term maintenance of the forest, as verified in the Forest Management Plan.

6. Native trees to be removed which are 12 inches or more in diameter when measured at breast height shall be replaced on the parcel. Replacement shall be at a rate of one tree of the same variety for each tree removed, except where demonstrated in the Forest Management Plan or Amended Plan that this would result in an overcrowded, unhealthy forest.

CONSISTENCY ANALYSIS

The applicants propose to change the composition of the native forest on their property by removing all Monterey pines, a tree species which has a tendency to grow tall and the fall unpredictably. While they intend to retain a native forest on their property their proposal is to have this forest be composed solely of Coast live oak, one of the two existing overstory species. This proposal conflicts with the policies listed above.

Monterey pines:

The Carmel Land Use Plan states that significant stands of Monterey pine constitute environmentally sensitive habitat, and that the significance of the pines on any site should be determined on a case by case basis. While the pines on this parcel do not appear to constitute a significant stand, or a portion of a significant stand, they still constitute native Monterey pines.

Monterey pine forest is a natural community of special concern identified by the California Department of Fish and Game (CDFG) in the natural diversity database. Natural communities of special concern are habitats that are especially diverse, regionally uncommon, or of special concern to local, state, and federal agencies. Elimination or substantial degradation of these communities would be an adverse effect. Monterey pine is considered by CNPS to be “rare, threatened, or endangered in California” (CNPS List 1B), but the species is not listed as rare, threatened, or endangered by the state or federal government. Monterey pine forests frequently exist in association with other plants. The Monterey pine/Coast live oak association has been identified as one of the most common native associations existing in Monterey County. While the understory has been eliminated on this site the pines are within the mapped native stand of Monterey pines. The Monterey County supports the largest extant natural occurrence of Monterey pine forest, approximately 9,400 acres). The other remaining native stands of Monterey pine forest are far smaller than those on the Monterey Peninsula: Año Nuevo, San Mateo County (1,500 acres), Cambria, San Luis Obispo County (2,300 acres), Cedros Island, Baja California (370 acres), and Guadalupe Island, Baja California (220 trees in 2001)

Deborah L. Rogers, PhD, Director of the Monterey Pine Forest Ecology Cooperative at U.C. Davis was asked to comment on the conceptual proposal of removing the mature pines on a residential parcel within a mixed pine/oak forest. She stated that removing mature pines would potentially have ecological impacts, such as removing bird habitat, removing food source for squirrels, and reducing moisture (from fog that condenses on pine canopy) to the soil in summer. It also exposes contiguous trees to new edge effects which would compromise the ecosystem value in the remaining forest near this new edge and relocate the hazard related to “wind-throw”

to this new edge.

Species diversity:

LUP Policy 2.5.3.3: The existing character of the Hatten Fields area is of a native forest co-dominated by Monterey pines and Coast live oaks. This policy states the County’s policy of restoring “native forest resources” and “enhancing the Carmel area’s natural character.” The application would eliminate Monterey pines on the parcel in order to promote Coast live oaks.

LUP Policy 2.5.3.7: While this policy relates primarily to timber harvests it does state a preference for forest diversity; the application would create a monoculture of Coast live oak in what is currently a mixed native forest.

The preservation of native trees:

CIP Standard 3: This standard specifically states that the “removal of native trees shall be limited to that which is necessary for the proposed development. “ The only development which is anticipated in this application is the removal of Monterey pines in order to avoid the possible future damage these trees may cause if they fall and to benefit the site’s native oaks.

CIP Standard 4: This standard states that the “removal of native trees other than directly necessary for the proposed development shall be limited to that required for the overall health and long-term maintenance of the forest...” The existing forest is a mixed forest. This proposal would change the nature of this forest rather than maintain the existing forest. There is no indication in the Forest Management Plan that this proposal will improve the forest’s health.

CIP Standard 6: “Native trees to be removed which are 12 inches or more in diameter when measures at breast height shall be replaced on the parcel. Replacement shall be at a rate of one tree of the same variety for each tree removed, except where demonstrated in the Forest Management Plan or Amended Plan that this would result in an overcrowded, unhealthy forest.” The proposal does not propose the replacement of the removed trees and the intent is specifically to remove Monterey pines from the property. The FMP does not state that the maintenance of Monterey pines on the parcel would result in either an overcrowded or unhealthy forest.

The preservation of landmark trees:

CIP Standard 1: This standard is very specific in not allowing the removal of landmark trees, which includes all native trees with a diameter of 24” or more at breast height, except in clearly defined circumstances. These circumstances include the situation where “no alternatives to development (such as resiting, relocation, or reduction in development area) exist whereby the tree removal can be avoided.” That is not the case with this application which includes the proposed removal of five landmark trees.

ENVIRONMENTAL REVIEW & CUMULATIVE IMPACT

This project is being brought to hearing with a recommendation of denial prior to initiating environmental review. This is allowed by the State CEQA Guidelines which specifically allow

for “an initial screening of projects on the merits for quick disapproval prior to the initiation of the CEQA process where the agency can determine that the project cannot be approved.”
[§15270]

If this project were to undergo environmental review it would need to have an initial study. The focus of the review will be to assess the cumulative impact of approving the removal of Monterey pines which may result in significant impacts.

ALTERNATE APPROACHES

If the Zoning Administrator decides to consider approval of this application it must first be returned to staff to complete environmental review.

An alternative proposal, suggested by the applicant, would allow the removal of Monterey pines but require replacement of these trees with new Monterey pines grown from local native stock. The applicant has suggested that unless new pines are planted “no young trees will be planted and the pines will eventually disappear, whether by falling in the night or by one-by-one removal as hazardous.” While this proposal has “common sense” merit, and would eliminate several of the inconsistencies with the land use plan and coastal implementation plan, it would remain inconsistent with existing County policy in particular the policy relating to landmark trees. Deborah Rogers suggested that if this approach were to be pursued the replacement trees should outnumber the trees planned for removal, to allow for natural selection, they should be from the same genetic stock as nearby trees, and they should be planted at least five years prior to the planned removal to allow their development.

The applicant may desire that this application be tabled pending revisions to the General Plan and Land Use Plans which may allow this application, as proposed or amended, to be consistent with County policy.

EXHIBIT “C”

RECOMMENDED FINDINGS AND EVIDENCE

PLN040547

1. **FINDING: CONSISTENCY** - The Project is **not** consistent with applicable plans and policies of the Carmel Area Land Use Plan and Coastal Implementation Plan (Part 4).

- EVIDENCE:**(a) Project planner conducted an on-site inspection on May 17, 2005 to verify that the project on the subject parcel conforms to the plans listed above.
- (b) Coastal Implementation Plan Section 20.146.060.D.3 specifically states that the “removal of native trees shall be limited to that which is necessary for the proposed development. “ The only development which is anticipated in this application is the removal of Monterey pines in order to avoid the possible future damage these trees may cause if they fall and to benefit the site’s native oaks.
- (c) The Carmel Area Land Use Plan Policy 2.5.3.3 states that the County’s policy of restoring “native forest resources” and “enhancing the Carmel area’s natural character.” The existing character of the Hatten Fields area is of a native forest co-dominated by Monterey pines and Coast live oaks. The application would eliminate Monterey pines on the parcel in order to promote Coast live oaks.
- (d) The Carmel Area Land Use Plan Policy 2.5.3.7 states a preference for forest diversity; the application would create a monoculture of Coast live oak in what is currently a mixed native forest.
- (e) Coastal Implementation Plan Section 20.146.060.D.4 states that the “removal of native trees other than directly necessary for the proposed development shall be limited to that required for the overall health and long-term maintenance of the forest...” The existing forest is a mixed forest. This proposal would change the nature of this forest rather than maintain the existing forest. There is no indication in the Forest Management Plan that this proposal will improve the forest’s health.
- (f) Coastal Implementation Plan Section 20.146.060.D.6 states that “Native trees to be removed which are 12 inches or more in diameter when measures at breast height shall be replaced on the parcel. Replacement shall be at a rate of one tree of the same variety for each tree removed, except where demonstrated in the Forest Management Plan or Amended Plan that this would result in an overcrowded, unhealthy forest.” The proposal does not propose the replacement of the removed trees and the intent is specifically to remove Monterey pines from the property. The FMP does not state that the maintenance of Monterey pines on the parcel would result in either an overcrowded or unhealthy forest.
- (g) Coastal Implementation Plan Section 20.146.060.D.1 is very specific in not allowing the removal of landmark trees, which includes all native trees with a diameter of 24” or more at breast height, except in clearly defined circumstances. These circumstances include the situation where “no alternatives to development (such as resiting, relocation, or reduction in

development area) exist whereby the tree removal can be avoided.” That is not the case with this application which includes the proposed removal of five landmark trees.

- (h) The application, plans, and support materials submitted by the project applicant to the Monterey County Planning and Building Inspection Department for the proposed development, found in Project File PLN040547.

2. **FINDING: SITE SUITABILITY** - The site is suitable for the use proposed.

EVIDENCE:(a)The project has been reviewed for suitability by Planning and Building Inspection, Public Works, Water Resources Agency, Environmental Health, Parks, and the Cypress Fire Prevention District. None of these departments are recommending conditions of approval.

- (b) Project planner conducted an on-site inspection on May 17, 2005.

- (c) No public facilities are required for this proposal.

3. **FINDING: CEQA (Exempt)** - The project is exempt from environmental review.

EVIDENCE:(a) CEQA Guidelines Section 15270 statutorily exempts projects which are disapproved.

4. **FINDING: NO VIOLATIONS** - The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision and any other applicable provisions of the County’s zoning ordinance. No violations exist on the property. Zoning violation abatement cost, if any, have been paid.

EVIDENCE: (a) Staff reviewed Monterey County Planning and Building Inspection Department records and is not aware of any violations existing on subject property.

5. **FINDING: PUBLIC ACCESS** - The project is in conformance with the public access and public recreation policies of the Coastal Act and Local Coastal Program, and does not interfere with any form of historic public use or trust rights (see 20.70.050.B.4). No access is required as part of the project as no substantial adverse impact on access, either individually or cumulatively, as described in Section 20.70.050.B.4.c of the Monterey County Coastal Implementation Plan, can be demonstrated.

EVIDENCE:(a) The subject property is not described as an area where the Local Coastal Program requires access.

- (b) The subject property is not indicated as part of any designated trails or shoreline access as shown in Figure 15, the Recreational Facilities Map, and Figure 16, the Shoreline Access Map, of the Del Monte Forest Area Land Use Plan.

- (c)No evidence or documentation has been submitted or found showing the existence of historic public use or trust rights over this property.

- (d) Staff site visit on May 17, 2005.

6. **FINDING: HEALTH AND SAFETY** - The establishment, maintenance or operation of the project applied for **will** under the circumstances of this particular case, be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.

EVIDENCE: (a) Preceding findings and supporting evidence.

7. **FINDING: APPEALABILITY** - The decision on this project is appealable to the Board of Supervisors and the California Coastal Commission.

EVIDENCE: (a) Sec. 20.86.030 of the Monterey Co. Coastal Implementation Plan.
(b) Section 20.86.080.A.1 of the Monterey County Coastal Implementation Plan.