

Attachment L

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**RESOLUTION TO RECOMMEND AMENDMENT OF
LOCAL COASTAL PROGRAM
PLN200314/STEWART FRANCINE A & RODRIGUEZ DAVID JOHN**

**Before the Planning Commission in and for the
County of Monterey, State of California**

Resolution No. 21-040

Resolution of the Monterey County Planning Commission recommending that the Board of Supervisors:

- 1) Find that the project qualifies as Statutory Exemption under Section 15265 of the CEQA Guidelines;
- 2) Adopt a Resolution amending Figures 5 and 6d of the Del Monte Forest Land Use Plan to change the land use designation on a 0.497 acre parcel from Open Space Forest to Medium Density Residential;
- 3) Adopt an ordinance amending Sectional District Map 20-16 of Section 20.08.060 of Title 20 (Monterey County Coastal Implementation Plan) of the Monterey County Code to change the zoning classification on a 0.497 acre parcel from Resource Conservation with a Design Control overlay (Coastal Zone) [RC-D (CZ)] to Medium Density Residential, 4 units per acre, with a Design Control overlay (Coastal Zone) [MDR/4-D (CZ)];
- 4) Find that the proposed amendment to the Local Coastal Plan is intended to be carried out in a manner fully in conformity with the Coastal Act; and
- 5) Submit the Local Coastal Program amendment to the California Coastal Commission for certification

[PLN200314 STEWART FRANCINE A & RODRIGUEZ DAVID JOHN, 4209 Sunridge Road, Pebble Beach (Assessor's Parcel Number 008-053-001-000), Del Monte Forest Land Use Plan, Coastal Zone]

An amendment to Figures 5 and 6d of the Del Monte Forest Land Use Plan to change the land use designation on a 0.497 acre parcel from Open Space Forest to Medium Density Residential, and amend Sectional District Map 20-16 of Section 20.08.060 of Title 20 (Monterey County Coastal Implementation Plan) of the Monterey County Code to change the zoning classification on a 0.497 acre parcel from Resource Conservation with a Design Control overlay (Coastal Zone) [RC-D (CZ)] to Medium Density Residential, 4 units per acre, with a Design Control overlay (Coastal Zone) [MDR/4-D (CZ)] came on for a public hearing before the Planning Commission on November 10, 2021. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Planning Commission hereby makes a recommendation to the Monterey County Board of Supervisors with reference to the following facts and findings:

RECITALS

1. Circa 1949, a single-family dwelling, guest house, and minor accessory structures totaling approximately 1,767 square feet were constructed on the 0.497 acre (21,668 square foot) parcel (“Property”), located at 4209 Sunridge Road.
2. On September 16, 1969, the Board of Supervisors adopted Ordinance No. 911, applying the Residential – 1 “R-1” zoning classification to the Property. R-1 zoning allowed single-family residences with a maximum lot coverage of 35 percent.
3. Section 30500 of the Public Resources Code requires each County and City to prepare a Local Coastal Program (LCP) for that portion of the coastal zone within its jurisdiction.
4. On July 17, 1984, the Board of Supervisors adopted the Del Monte Forest Land Use Plan (“Land Use Plan”) as part of the Local Coastal Program in the Coastal Zone pursuant to the California Coastal Act. This Land Use Plan replaces policy guidance for most policy topics found in the General Plan and is applied in the Coastal Zone. The primary policy topics of noise and housing (to include other minor Monterey County specific policies) are not addressed under the LCP - Coastal Act mandate although they are still applicable in the Coastal Zone under the jurisdiction of the General Plan – Planning Zoning and Development law mandate.
5. On September 24, 1984 the California Coastal Commission (Coastal Commission) acknowledged certification of the Del Monte Forest Land Use Plan “Land Use Plan” as part of Monterey County’s Local Coastal Program.
6. On May 22, 2012, the Monterey County Board of Supervisors adopted a comprehensive amendment to the Del Monte Forest Land Use Plan and on May 9, 2012, the California Coastal Commission certified the amendments.

7. Figure 5 (Land Use Plan) and Figure 6d (Pescadero Planning Area) of the Del Monte Forest Land Use Plan “Land Use Plan” provide graphic representation of the general distribution, location, extent and intensity of land uses and transportation routes in this planning area.
8. The Property has a land use designation of Open Space Forest in Figures 5 and 6d of the Land Use Plan. This land use designation encompasses forest and inland areas considered generally not appropriate for development other than that associated with resource enhancement and limited low-intensity public recreational facilities such as trails.
9. On January 5, 1988, Monterey County adopted the Coastal Implementation Plan (CIP) of the LCP consistent with Section 30512.1 of the Public Resources Code. Part 1 of the CIP is Title 20, the zoning ordinance for the coastal zone.
10. The Sectional District Map “The Zoning Map” provide a graphic representation of the zoning classifications of the properties within the planning area. Pursuant to Planning & Zoning law, zoning must be consistent with the General Plan land use designation.
11. The Zoning Map shows the property with a zoning classification of Resource Conservation with a Design Control Overlay (Coastal Zone) “RC-D(CZ).” The RC zoning district principally allows resource dependent educational and scientific research facilities, and low intensity recreation uses, up to a building site coverage of 5 percent consistent with the current Open Space Forest land use designation.
12. A single-family dwelling, guest house, and associated accessory structures are not allowable uses within the RC zone. Due to the legal establishment of these uses prior on the site prior to the application of the RC zoning on the property, these are considered “legal nonconforming uses” under the current land use and zoning designations. Legal Nonconforming uses are subject to the regulations contained in Section 20.68 of Title 20.
13. Pursuant to Title 20 Section 20.68.030(C.), a structure maintaining a legal residential nonconforming use may be increased for the expansion of the use by 120 square feet, or 10% of the floor area, whichever is greater. On December 6, 2006 the Director of the Resource Management Agency (now Housing & Community Development) adopted Resolution 060320, approving the Combined Development Permit PLN060320, which increased the floor area by approximately 180 square feet, to a total of approximately 1,921 square feet. This increased the structural coverage on the Property by slightly more than 10%, meaning that no further expansion of the use may be allowed onsite.
14. In 2008, the property owner submitted a request for an application to allow a 380 square foot second story addition to the existing single-family home, planning file PLN080536. On April 2, 2009, planning staff provided an administrative determination that this expansion would be inconsistent with the Title 20 Section 20.68.030(C.) as it would allow the expansion of a legal non-conforming residential use more than 10% of the floor

area and beyond the building stie coverage permitted in the RC zone. This determination indicated that the property owner may pursue options including:

- a. Withdraw the request;
 - b. Proceed with the request, in which case staff must recommend denial;
 - c. Appeal staff's determination; or
 - d. Apply for a Local Coastal Program amendment and rezone the property.
15. Circa 2010, Coastal Commission staff reviewed the land use designation and zoning maps and determined that they had in fact been applied to the property, rather than being a mapping error.
 16. On July 24, 2020, the property owner submitted an application to amend the Land Use plan to change the land use designation of the property from Open Space Forest to Medium Density Residential, and amend Sectional District Map 20-16 of Section 20.08.060 of Title 20 (Monterey County Coastal Implementation Plan) of the Monterey County Code to change the zoning classification on a 0.497 acre parcel from Resource Conservation with a Design Control overlay (Coastal Zone) [RC-D (CZ)] to Medium Density Residential, 4 units per acre, with a Design Control overlay (Coastal Zone) [MDR/4-D (CZ)].
 17. Having reviewed the physical characteristics of the property and surrounding land uses, staff is recommending that the medium density residential land use designation and Medium Density Residential (MDR) zoning district are more appropriate for the subject property than the Open Space Forest land use designation and Resource Conservation zoning district. The description of the Open Space Forest designation indicates it encompasses areas "generally not appropriate for development other than that associated with resource enhancement and limited low-intensity public recreational facilities..." Similarly, the intent of the Resource Conservation zoning district is to provide a district "to protect, preserve, enhance, and restore sensitive resource areas in the County of Monterey." The property was formerly zoned residential and has been developed with a residential use. The property is bounded on all sides by roadways and development to the north, northwest, and east, limiting its contiguous habitat value.
 18. Technical reports were prepared which address the presence of sensitive biological resources and archaeological resources onsite. County staff has reviewed these reports and independently concurs with their conclusions.
 19. A biological report was prepared by Toyon Consultants dated May 7, 2020, and is available in HCD-Planning Library File LIB210233. This report identified the presence of Monterey pine forest. While not observed, two special status wildlife species also have the potential to be present onsite within the Monterey pine habitat, Hoary Bat (*Lasiurus cinerius*) and Monarch Butterfly (*Danaus plexippus*). In addition, nesting and migratory birds may also use the Monterey pine forest as habitat. Despite the presence or potential presence of these resources onsite, the report analysis concluded that the proposed change

in zoning would be unlikely to have a significant environmental impact to biological resources. The parcel has already been developed with a residential use, and the new land use designation and zoning will not significantly alter or intensify the existing use onsite. Reasonably foreseeable future development would include additions or modifications to the residence, or potentially redevelopment of the site, which would still be subject to the Del Monte Forest Land Use Plan polices and accompanying Coastal Implementation Plan (CIP) regulations regarding the protection of Environmentally Sensitive Habitat (ESHA) and Forest Resources. Pursuant to CIP Section 20.147.040(C).(1.), “Within environmentally sensitive habitat areas, land uses shall be limited to those that are dependent on the resources therein,” which restricts future non-resource dependent development, i.e. residential, to those portions of the site which are not environmentally sensitive habitat.

20. An archaeological report was prepared for the property by Susan Morley, M.A. in June 2006, available in HCD-Planning Library File LIB060432, which did not identify any evidence of historic or pre-historic resources onsite.
21. The Property is in an area that is designated as visually sensitive and is viewable from Highway 68, a scenic freeway. However, the proposed change in land use designation and zoning would have a less than significant impact on scenic resources. The site is already developed with a single-family residence, comparable to development within the neighborhood. Reasonably foreseeable future development would include additions or modifications to said residence, and potentially re-development of the site. The change in zoning from RC to MDR zoning would allow an increase in site coverage from 5% to 35%, meaning there is the potential for additional structures and improvements within the viewshed. Some other site and development standards would also be made slightly more permissive, such as the front setback requirement being reduced from 30 to 20 feet. However, the overall allowable height of main structures would be reduced from 30 feet to 27 feet, and non-habitable accessory structures from 35 feet to 15 feet, meaning that the height of new or modified structures would not impact the viewshed more than what is presently allowable. Additionally, any new development would be subject to the design review requirements of the “D” overlay district and the Land Use Plan policies protecting Visual Resources.
22. The project planner conducted a site visit on October 26, 2021 and did not identify any sensitive resources which would be impacted by the change in land use designation and zoning.
23. There are violations on the property, which are described in an administrative citation dated June 26, 2019, including an expired building permit BP070245, an unpermitted addition to the guest house, and a garage converted to habitable space without a permit. According to oral testimony from the property owner, the addition to the guest house and the conversion of the garage, were done prior to their purchase of the property, circa 2006. The two potential paths to address these violations would be restoring the property to its former condition or to seeking permits to legalize these modifications. In this case,

additional residential square footage would not be allowable under the present RC zoning, and any proposed addition would be over the maximum building site coverage of the zoning, so the change in land use designation and rezoning would be pre-requisites for pursuing after-the-fact permitting. A land use plan amendment and rezoning are policy and legislative actions, rather than discretionary permits. Therefore Title 20 section 20.90.120 is not applicable in this case.

24. At a noticed public meeting on February 24, 2021, the Del Monte Forest Land Use Advisory Committee voted 6 to 0 with 2 members absent to recommend approval of the project as proposed. Committee member Church voiced concern of future development due to the change of zoning, however, voted to support the project after the property owner Francine Stewart responded clarifying no future development was planned.
25. Section 30514 of the Public Resources Code provides for amendments to adopted Local Coastal Programs (LCP's), including the Land Use Plan (LUP) and the Coastal Implementation Plan (CIP), which the zoning ordinance Title 20 is a part of. Additionally, on September 24, 1985 the Monterey County Board of Supervisors adopted procedures for amending the LCP-CIP. The procedures include: the County's Planning Commission hold a noticed public hearing and make a recommendation to the Board of Supervisors; the Board of Supervisors hold a noticed public hearing, adopt an ordinance, and submit the proposed amendment to the California Coastal Commission for certification together with materials sufficient for a thorough and complete review and the Coastal Commission confirm the County's action. Accordingly, the proposed amendments will not go into effect until after certification by the Coastal Commission and it will not become operative until the Coastal Commission's certification is final and effective.
26. State law requires the Planning Commission to hold a noticed public hearing on proposed amendments to zoning ordinances and to make a written recommendation to the Board of Supervisors.
27. On November 10, 2021, the Planning Commission held a duly noticed public hearing to consider making a recommendation to the Board of Supervisors on the proposed land use map amendment and ordinance amending the zoning (Attachment 1). At least 10 days before the hearing on November 11, 2021, notices of the hearing before the Planning Commission were published in The Monterey County Weekly.
28. State law provides a statutory exemption from the California Environmental Quality Act (CEQA) for consideration and adoption of local coastal programs. CEQA Guidelines Section 15265(a)(1), apply to activities and approval undertaken by a local government necessary for the adoption of a local coastal program. The proposed amendment to the Local Coastal Program requires certification by the California Coastal Commission prior to taking effect.

29. These amendments are intended to be carried out in a manner fully in conformity with the California Coastal Act (Public Resources Code Sections 30512, 30513, and 30519).

DECISION

The Planning Commission of the County of Monterey, State of California, hereby recommends that the Board of Supervisors:

- 1) Find that the project qualifies as Statutory Exemption under Section 15265 of the CEQA Guidelines;
- 2) Adopt a Resolution amending Figures 5 and 6d of the Del Monte Forest Land Use Plan to change the land use designation on a 0.497 acre parcel from Open Space Forest to Medium Density Residential;
- 3) Adopt an ordinance amending Sectional District Map 20-16 of Section 20.08.060 of Title 20 (Monterey County Coastal Implementation Plan) of the Monterey County Code to change the zoning classification on a 0.497 acre parcel from Resource Conservation with a Design Control overlay (Coastal Zone) [RC-D (CZ)] to Medium Density Residential, 4 units per acre, with a Design Control overlay (Coastal Zone) [MDR/4-D (CZ)];
- 4) Find that the proposed amendment to the Local Coastal Plan is intended to be carried out in a manner fully in conformity with the Coastal Act; and
- 5) Submit the Local Coastal Program amendment to the California Coastal Commission for certification

PASSED AND ADOPTED this 10th day of November, 2021 upon motion of Commissioner Diehl, seconded by Commissioner Daniels, and passed by the following vote:

AYES: Ambriz, Gonzalez, Mendoza, Coffelt, Roberts, Daniels, Getzelman, Monsalve, Diehl

NOES: None

ABSENT: None

ABSTAIN: None

Craig Spencer

Craig Spencer, Planning Commission Secretary

COPY OF THIS DECISION MAILED TO APPLICANT ON NOV 17 2021

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE CLERK TO THE BOARD ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE NOV 29 2021

This decision, if this is the final administrative decision, is subject to judicial review pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6. Any Petition for Writ of Mandate must be filed with the Court no later than the 90th day following the date on which this decision becomes final.

ATTACHMENT 1
ORDINANCE TO AMEND COUNTY CODE
PLN200314/STEWART FRANCINE A & RODRIGUEZ DAVID JOHN

ORDINANCE NO.

AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA AMENDING SECTION 20.08.060 OF TITLE 20 (ZONING) OF THE MONTEREY COUNTY CODE (MONTEREY COUNTY COASTAL IMPLEMENTATION PLAN) TO AMEND THE ZONING CLASSIFICATION OF CERTAIN PROPERTY IN THE COUNTY OF MONTEREY.

County Counsel Summary

This ordinance amends Section 20-16 of the Zoning Maps of the Coastal Implementation Plan to rezone a 0.497 acre parcel located directly south of the intersection of Crest Road and 17-Mile Drive, and bounded on the east and west by Highway 68 and 17-Mile Drive, respectively (APN: 008-053-001-000) from Resource Conservation with a Design Control Overlay (Coastal Zone) [RC-D(CZ)] to Medium Density Residential, 4 units an acre, with a Design Control Overlay (Coastal Zone) [MDR/4-D (CZ)].

The Board of Supervisors of the County of Monterey ordains as follows:

SECTION 1. ZONING DISTRICT MAP. Section 20-16, Sectional District Maps, of Section 20.08.060 of the Monterey County Code is hereby amended as shown on the map attached hereto as Exhibit A and incorporated herein by reference. Said amendment reclassifies a 0.497 acre parcel located directly south of the intersection of Crest Road and 17-Mile Drive, and bounded on the east and west by Highway 68 and 17-Mile Drive, respectively (APN: 008-053-001-000) from Resource Conservation with a Design Control Overlay (Coastal Zone) [RC-D(CZ)] to Medium Density Residential, 4 units an acre, with a Design Control Overlay (Coastal Zone) [MDR/4-D (CZ)].

SECTION 2. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this Title is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Title. The Board of Supervisors hereby declares that it would have passed this Title and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

SECTION 3. EFFECTIVE DATE. Following certification by the California Coastal Commission pursuant to Chapter 6, Article 2 of the California Coastal Act, this Ordinance shall become effective after formal adoption by the Board of Supervisors.

PASSED AND ADOPTED on this ___ day of _____ 2022 by the following vote:

AYES: Supervisors
NOES:
ABSENT:
ABSTAIN:

Wendy Root Askew, Chair
Monterey County Board of Supervisors

Attest:
VALERIE RALPH, Clerk
to the Board of Supervisors

By: _____
Deputy

APPROVED AS TO FORM
WENDY STRIMLING Assistant to County Counsel

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