



## Zoning Administrator

Legistar File Number: ZA 24-020

May 09, 2024

**Introduced:** 4/26/2024

**Current Status:** Agenda Ready

**Version:** 2

**Matter Type:** Zoning Administrator

### **PLN200315 - PACKARD JULIE E TR**

Public hearing to consider expanding a stormwater detention pond (0.99 acres in total) and improving the existing water level control structure and outlet structure within 100 feet of Environmentally Sensitive Habitat Area.

**Project Location:** No address assigned. Located immediately south of parcel with addresses of 1957 & 1965 Highway 1, North County Land Use Plan.

**Proposed CEQA Action:** Adopt a Mitigated Negative Declaration pursuant to CEQA Guidelines section 15074.

### RECOMMENDATION:

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

- 1) Adopting a Mitigated Negative Declaration pursuant to CEQA Guidelines section 15074;
- 2) Approving a Coastal Development Permit to allow expansion of a stormwater detention pond (0.99 acres in total) and improvements to an existing water level control structure and outlet structure within 100 feet of Environmentally Sensitive Habitat Area; and
- 3) Adopting a Mitigation Monitoring and Reporting Plan.

A draft resolution with findings and evidence supporting this recommendation is attached for consideration (**Exhibit A**).

### PROJECT INFORMATION:

**Owner:** Julie Packard

**Applicant:** Megan Barker c/o Resource Conservation District of Monterey County

**APN:** 413-081-004-000

**Zoning:** Coastal Agriculture Preserve (CAP(CZ)), Agriculture Conservation (AC(CZ)), Resource Conservation (RC(CZ)), Coastal Zone

**Parcel Size:** 97 acres

**Plan Area:** North County Land Use Plan

**Flagged and Staked:** No

**Project Planner:** Fionna Jensen, (831) 796-6407, [JensenF1@co.monterey.ca.us](mailto:JensenF1@co.monterey.ca.us)

### SUMMARY:

The Proposed Project is located on the Packard Ranch ("Ranch"), an approximate 1,100-acre multi-use ranch in the Elkhorn Slough watershed, located just north of Moss Landing between Highway One and the Elkhorn Slough. The subject property, located on a 97-acre portion of the Ranch which supports farming, cattle, and horses, and hosts over 40 stockwater ponds constructed

for wildlife use. Several agricultural fields were retired from production between 1998 and 2004 and restored to native habitat by the property owner, including a 3-acre field, located just south of Struve Road. In 2017, a 0.1-acre pond was constructed on the east side of the 3-acre retired field to capture stormwater runoff and provide habitat for birds, wildlife, and the special status amphibians known to occur on the property. This pond has a depth of approximately 5 feet and a capacity of 0.35-acre feet. The existing 0.1-acre detention pond captures runoff from approximately 38.6 acres of meadow and irrigated land on the Ranch. The existing detention pond is operated by using an outlet pipe that releases water down a small gully that flows east towards Elkhorn Slough. The 0.1-acre detention pond is currently undersized to adequately capture the runoff from approximately 38.6 acres of agriculture production and restored grassland and lacks both the hydroperiod and infrastructure to be managed for amphibian breeding.

The applicant proposes to expand the existing detention pond to cover an area of approximately 0.99 acres. The proposed project would also include enlarging the adjacent earth berm and replace an existing water level control structure to ensure runoff is contained. The water level control structure would have weir boards that could be raised so the pond can be periodically drained or lowered to the desired height to hold water for future amphibian habitat. The Proposed Project would disturb approximately 1.2 acres and require 8,100 cy of cut and 1,635 cy of fill (including the construction of the berm). The estimated life span of the Proposed Project would be at least 20 years. Maintenance of the Proposed Pond and its components (outlet pipe, water level control structure, and lined waterway) would be conducted on an as need and periodic basis. Maintenance or repair activities would be limited to September 1 to October 15 and required to follow the recommendations of the prepared Operations and Maintenance Plan (Condition No. 14; Monterey County Library No. LIB240044). The Proposed sediment basin would remove, collect, and provide temporary storage of sediment and water. The Proposed Pond would reduce sediment transport and slow the transport of flow to Elkhorn Slough from adjacent organic, agricultural fields. It is also intended to maintain a 4-ft deep pool in a portion of the pond until mid-July to support amphibian breeding, to ensure the pond can be drained to control non-native predators, such as bullfrogs, and to provide shallow depth areas for amphibian egg-laying, waterfowl food sources, and a mix of open water and vegetated areas for cover from predators.

### DISCUSSION

Staff has reviewed the project for consistency with the 1982 General Plan, North County Land Use Plan and Coastal Implementation Plan (Part 2), and the Coastal Zoning Ordinance (Title 20).

#### Land Use

The Proposed Project site is located on two parcels; APN: 413-081-004-000 includes the expanded detention pond and APN: 413-081-003-000 includes the outlet structure. The western parcel (APN: 413-081-004-000; detention pond) is designated as “Agricultural Conservation - 40 acres minimum” and primarily zoned Coastal Agriculture Preserve (Coastal Zone) (“CAP (CZ)”). The subject property is under a Williamson Act contract. A small southern portion of this parcel is zoned Agriculture Conservation (Coastal Zone) (“AC (CZ)”). The eastern parcel (APN: 413-081-003-000; outlet structure) is designated as “Agricultural Conservation - 40 acres minimum” and “Resource Conservation - Wetlands and Coastal Strand,” and split zoned: CAP (CZ), AC (CZ), and Resource Conservation (Coastal Zone) (“RC (CZ)”).

#### Environmentally Sensitive Habitat Area

The prepared Biotic Report, dated June 18, 2020 and revised on July 5, 2022 and November 7, 2023 (HCD - Library No. LIB220120; **Exhibit C**) identified the project site and surrounding area as containing two habitat types: coyote brush scrub and California bulrush marsh. This portion of the property is dominated by coyote brush (*Baccharis pilularis*) and a groundcover of native perennial grasses including tufted hairgrass (*Deschampsia caespitosa*) and red fescue (*Festuca rubra*). Coyote brush is not a special-status or sensitive plant species, but rather a very common plant. In this case, California Department of Fish and Wildlife (CDFW) identifies the coyote brush's association with tufted hair grass as a sensitive plant alliance on their Natural Communities List, with a sensitive ranking of S1 (Sensitive). The Proposed Project area supports 27 stands of tufted hairgrass (0.522 acres) (including stands that also intermix with coyote brush), a sensitive plant community. Coyote brush scrub habitat shall be avoided to the greatest extent feasible. A total of 0.144 acres will be impacted by implementation of the Proposed Project. Mitigation Measure No. 4 would require that the Applicant/Owner, in consultation with a qualified biologist, develop and implement a Tufted hairgrass salvage and re-planting plan with a 1:1 replacement ratio. Additionally, this mitigation measure would require that the Project Biologist supervises installation of protective fencing and monitor the site at least once per week until construction is complete to ensure that the protective fencing remains intact.

The Packard Ranch has over 40 stock water ponds, nearly half of which have been previously documented to support California red-legged frogs (CRLF) and historically, California tiger salamander (CTS). The CRLF is listed as a federally threatened species and is also a CDFW species of special concern, while CTS is a federally and state-threatened species. Although CRLF has not been documented at the project site, protocol-level surveys have not been completed and known breeding locations are within 2,000 linear feet. As such, the species is considered to have a moderate potential to occur within the project area. In 2021, one CTS was documented in a pond located 3,000 linear feet to the west of the Proposed Project site through both aquatic sampling and eDNA analysis. This was the first detection of CTS in the area since the species was found at the Proposed Project site in 1973. Subsequent aquatic and eDNA sampling of the subject pond was completed in 2022 and detected no CTS. While the Proposed Project area is within dispersal distance for CTS, the subject pond lacks the characteristics (low vegetation, regular disturbance, etc.) typically associated with ponds inhabited by CTS. The project biologist, in consultation with USFWS and CDWF, determined that the potential for this species to occur within the project area would be very low.

The Proposed Project activities would be authorized by U.S Fish and Wildlife Service under the 10(a)(1)(A) permit (Federal Recovery Permit No.: TE42300D-0), which permits Camara Environmental Consulting (the Project Biologist) to take and handle CTS and CRLF in conjunction with surveys, and research and recovery activities, and associated Biological Opinion (BO). Implementation of the Proposed Project would have potential indirect benefits to several aquatic species, including CRLF and CTS, by creating additional breeding and upland habitat. However, the prepared draft Initial Study determined that construction activities, including vegetation removal and trenching, may result in direct mortality of CRLF. Implementation of Mitigation Measures No. 1, 2, and 3 would ensure that impacts to CRLF would be reduced to a less than significant level. These mitigation measures require that the project biologist conducts a pre-construction biological education program and monitors all construction and ground-disturbing activities (and dewatering activities, if required), and

implementation of best management practices to ensure impacts to special status species and water quality are less than significant. Adherence to these mitigation measures would also avoid the take of CTS in the very unlikely event that CTS is within the project site. Mitigation Measures No. 1, 2, and 3 are consistent with the conditions of approval for the 10(a)(1)(A) permit and associated BO. Implementation of Mitigation Measures 1 through 4 ensure compliance with Chapter 2.3 of the North County LUP, which establishes policies for the protection and enhancement of biological resources.

The Applicant has prepared an Operation and Maintenance Plan (O&M Plan) for the Proposed Project (**Exhibit D**). The O&M Plan includes monitoring requirements and ongoing recommendations relating to maintenance and repair activities within the Pond, management of the pond (i.e., the addition or removal of weir boards), and upland habitat maintenance activities. Adherence to the O&M Plan, as required through the application of Condition No. 14, would ensure potential impacts on CTS and CRLF associated with the ongoing operation and maintenance of the Proposed Pond are less than significant.

Although the property is within the McClusky metapopulation for the Santa Cruz Long Toed Salamander (SCLTS), a fully protected species by CDFW and the USFWS, the present agricultural uses between the McClusky Slough and the Proposed Project site present a significant barrier to dispersal of this species into the Proposed Project site. eDNA sampling of several ponds on the Ranch resulted in negative findings for SCLTS. Based on this information and input from USFWS, CDFW, and experts (Mori, 2023 and Mitcham, pers. Comm., 2023), SCLTS is considered extremely unlikely to occur within the Proposed Project site and therefore potential impacts would be less than significant and no mitigation would be required.

#### Cultural and Tribal Resources

Although the project site is indicated on Monterey County GIS as being within a high archaeological sensitivity area, the Proposed Project site has been utilized for agricultural cultivation for an extended period of time. Based on the observations detailed in the Phase 1 Archaeological report (HCD - Library No. LIB220121), no archaeological resources or indicators of such resources were identified within the project site or the adjacent service road grades or farm fields. Though the site is heavily disturbed, it is possible that unrecorded archaeological resources are present beneath the ground surface and that such resources could be exposed and damaged during construction. Therefore, Mitigation Measure No. 5 requires that the Applicant/Owner enter into a contract with a qualified archaeologist to conduct a pre-construction cultural resources training program with all construction crew and serve as an on-call monitor for the duration of initial ground-disturbing activities.

The Proposed Project site is also not identified in a local register as defined in Public Resources Code Sec. 5020.1(k). Moreover, the NAHC review of their Sacred Lands Files did not yield any results for the project site. As required by Public Resources Code section 21080.3.1 et seq., Monterey County HCD-Planning conducted consultation with local Native American tribes. During consultation, representatives of both tribes requested the on-site presence of a Native American monitor to observe all excavation activities associated with development of the site. The Esselen Tribe representative also requested that construction crew members be provided with cultural resources training. Given the historic site disturbance associated with prior use, it is unlikely that the Proposed Project would affect an unknown or previously unidentified tribal cultural resources. However, Mitigation Measure No. 6

requires that a tribal monitor, who is locally and culturally affiliated with the project site, be on-site and monitor project-related excavation to identify findings with tribal cultural significance.

ENVIRONMENTAL REVIEW:

Pursuant to Public Resources Code Section 21083 and California Environmental Quality Act (CEQA) Guidelines Sections 15063(a) and 15063(b)(2), Monterey County as Lead Agency completed environmental review to determine if the project may have a significant effect on the environment. The County prepared a draft initial study and mitigated negative declaration (IS/MND) for this project (**Exhibit B**). County staff filed the draft IS/MND with the County Clerk on February 29, 2024; and circulated for public review from February 29, 2024 through April 1, 2024 (State Clearinghouse Number 2024021238). The draft IS/MND identified potentially significant impacts to biological resources, cultural resources, and tribal cultural resources. Pursuant to Public Resources Code section 21080.3.1 et seq., Monterey County HCD-Planning conducted consultation with local Native American tribes. Six mitigation measures have been proposed to reduce the identified impacts to a level of less than significant, as described above (see “Discussion”). No comments were received during the CEQA public review period or prior to distribution of this report.

OTHER AGENCY INVOLVEMENT

The following County agencies have reviewed this project, have comments, and/or have recommended conditions: HCD-Engineering Services, HCD-Housing, HCD-Environmental Services, Environmental Health Bureau, North County Fire Protection District.

LAND USE ADVISORY COMMITTEE

On May 1, 2024, the North County Land Use Advisory Committee (LUAC) considered the project project and voted in support of the application as proposed (5 - 0). No comments were raised. The May 1, 2024 LUAC minutes were not available prior to the distribution of this staff report.

AGRICULTURE ADVISORY COMMITTEE

On August 26, 2021, the Agriculture Advisory Committee reviewed the project and voted eight to zero to recommend approval of the project to the Appropriate Authority (**Exhibit E**). No comments were raised by the Committee members or public members.

Prepared by: Fionna Jensen, Senior Planner, x6407

Reviewed and Approved by: Anna Ginette Quenga, AICP, Principal Planner

The following attachments are on file with HCD:

Exhibit A - Draft Resolution

- Draft Conditions of Approval
- Project Plans

Exhibit B - Draft Initial Study/Mitigated Negative Declaration

Exhibit C - Biological Report

Exhibit D - Operations and Maintenance Plan

Exhibit E - Agriculture Advisory Committee minutes (August 26, 2021)

cc: Front Counter Copy; North County Fire Protection District; HCD-Engineering Services; HCD-Environmental Services; Environmental Health Bureau; Fionna Jensen, Project Planner; Anna Ginette Quenga, AICP, Principal Planner; Julie Packard E. Trust, Property Owner; Megan Barker, Resource Conservation District of Monterey County (Applicant); Christina McGinnis, Interested Party; The Open Monterey Project; LandWatch (Executive Director). Lozeau Drury LLP; Planning File PLN200315