



Monterey County

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

Board Report

Legistar File Number: RES 20-062

May 05, 2020

Introduced: 4/28/2020

Current Status: Scheduled PM

Version: 1

Matter Type: BoS Resolution

Continued from April 28, 2020. Public hearing to consider an appeal by The Open Monterey Project from the January 29, 2020 decision of the Monterey County Planning Commission to approve an application to: 1) allow a Lot Line Adjustment merging 3 lots totaling 17,956 square feet into 2 lots of 9,369 square feet lot (Lot A) and 8,587 square feet lot (Lot B); 2) demolish an existing single-family dwelling; 3) construct a one-story single-family dwelling on resulting Lot A); 4) remodel an existing one-story single-family dwelling on resulting Lot B; and 5) allow development within 750 feet of known archaeological resources.

Project: PLN180434 (Timothy Haley and Ethna McGourty Trust)

Project Location: 26226 Isabella Avenue, Carmel, Carmel Area Land Use Plan, Coastal Zone

Proposed CEQA Action: Adopt Mitigated Negative Declaration

RECOMMENDATION:

It is recommended that the Board of Supervisors adopt a resolution to:

- a. Deny the appeal of The Open Monterey Project from the Planning Commission's January 29, 2020 environmental determination and approval of a Combined Development Permit;
- b. Adopt a Mitigated Negative Declaration;
- c. Approve a Combined Development Permit consisting of:
 - (1) Coastal Development Permit to allow a Lot Line Adjustment, including a lot merger, between three legal lots of record, resulting in two lots of 9,369 square feet (Lot A) and 8,587 square feet (Lot B);
 - (2) Coastal Administrative Permit and Design Approval to allow the demolition of an existing one-story single-family dwelling (approximately 815 square feet) and construction of a 3,218 square foot one-story single-family dwelling, inclusive of a 557 square foot attached garage, and remodel of an existing 865 square foot single-family dwelling and construction of a 225 square foot trellis carport addition; and
 - (3) Coastal Development Permit to allow development within 750 feet of known archaeological resources (on resulting Lots A and B); and
- d. Adopt a Condition of Approval and Mitigation Monitoring and Reporting Plan.

A draft resolution, including findings and evidence, is attached for consideration (**Attachment B**). Staff recommends approval subject to seventeen (17) conditions, including two (2) mitigation measures.

PROJECT INFORMATION:

Property Owner: Timothy Haley & Ethna McGourty Trust

Agent: Anthony Lombardo & Associates

APN: 009-451-013-000

Zoning: Medium Density Residential, 2 units per acre, Design Control Overlay, 18-foot height limit (Coastal Zone) [MDR/2-D (18)(CZ)]

Flagged and Staked: Yes

SUMMARY:

The Haley project involves a lot line adjustment (including a lot merger, between three legal lots of record, resulting in two lots), demolition of an existing single-family dwelling and construction of a one-story single-family dwelling on one of the resulting lots, remodel of another existing one-story single-family dwelling (including the construction of a trellis carport addition) on the other resulting lot, and development within 750 feet of known archaeological resources. The properties are located at the intersection of Isabella Avenue and San Antonio Drive in the unincorporated area of Carmel.

Staff finds the project, as proposed, is consistent with the Coastal Subdivision Ordinance (Title 19); the Carmel Area Land Use Plan; and the Coastal Implementation Plan, Parts 1 and 4 (Title 20). This project requires excavation and re-compaction of the top three (3) feet of soil to support new structures and foundations according to the geotechnical engineer's recommendations. The site is currently developed, meaning it was previously disturbed.

Archaeological reports and testing (LIB180382, LIB180383, and LIB180401) prepared for the project determined that the potential for impacts to archaeological resources on this particular site is low. However, given the parcels' location in the archaeologically sensitive Carmel Point area, the reports recommend the presence of an archaeological monitor during all excavation activities. Based on tribal consultation, the conditions of approval also require the presence of a tribal monitor during excavation activities.

On January 29, 2020, the Planning Commission adopted a Mitigated Negative Declaration pursuant to CEQA and approved a Combined Development Permit to allow the proposed development (Monterey County Planning Commission Resolution No. 20-002; **Attachment G**). As a result of Planning Commission direction, mitigation measures mitigating potential impacts to archaeological and tribal cultural resources if discovered during construction were amplified and clarified.

The Appellant, The Open Monterey Project, timely filed an appeal from the January 29, 2020, decision of the Planning Commission. The Appellant is challenging the Planning Commission's environmental determination and approval of the Combined Development Permit, and contends that the actions are not supported by the evidence, and that the decision was contrary to law. The specific contentions raised by the Appellant are identified below and are addressed in more detail in the Project Discussion (**Attachment A**) and the Draft Resolution (**Attachment B**) of this report.

The Appellant requested, and the Applicant concurred with, a continuance to allow time to review the staff report materials prepared for the appeal. Therefore, on April 28, 2020, the Board approved a continuance of the appeal public hearing to May 5, 2020.

The appeal hearing on the project at the Board is de novo. Staff recommends denial of the appeal and upholding the Planning Commission action. Staff has prepared a draft resolution denying the appeal, adopting a mitigated negative declaration, and approving the project. If the Board desires to take a

different action, the Board could adopt a motion of intent and continue the hearing to a date certain for the staff to prepare a resolution with modified findings.

DISCUSSION:

On October 9, 2018, Anthony Lombardo & Associates (applicant's agent and representative) submitted an application on behalf of the Timothy Haley & Ethna McGourty Trust for a Lot Line Adjustment to merge three parcels into two parcels, to demolish an existing 815 square foot residence, to build a new 3,218 square foot single-family dwelling on one of the resulting lots (Lot A), and to remodel a 865 square foot cottage on the other lot (Lot B). The remodeled unit on Lot B would include the installation of a kitchen, thereby making it the first single-family dwelling on that lot.

On January 29, 2020, the Planning Commission adopted the Mitigated Negative Declaration and approved the project. At the hearing, the Planning Commission requested additional detail in the resolution and clarifications of the archaeological and tribal cultural mitigation measures. Revisions requested by the Planning Commission are reflected in the Planning Commission resolution (**Attachment G**), and incorporated in the draft resolution before this Board.

The Appellant, The Open Monterey Project, filed an appeal raising a number of contentions (**Attachment C**). County staff has grouped and summarizes the contentions as follows:

- A) The mitigations proposing monitors are inadequate because there is no accountability for failure to have one or both monitors;
- B) The current conditions are ambiguous or ineffective on the issue of monitors being present for patio or flat work;
- C) The plans intended to be approved are inadequately identified in the approval resolution;
- D) If resources are found, all work on all projects within 50 meters should be stopped - on the project parcel as well as on all parcels within the 50 meter radius;
- E) The positive archeological report means further research is required;
- F) The amount of grading is not adequately quantified or capped, which could allow the applicant to excavate an undetermined amount;
- G) The mitigations require action only if "intact" cultural features are discovered, and incentivizes destruction of resources;
- H) The Carmel Point is a significant historic resource, and the County should complete additional environmental review before approving any new projects in the area;
- I) The County has failed to consider the cumulative impacts of this project and other known projects;
- J) The proposed mitigations are ambiguous, inequitable with other Carmel Point projects, and do not mitigate the impacts to less than significant;
- K) The initial study is not consistent in the discussion of excavation;
- L) That the County should require redesign of the project to avoid any potential impacts to archeological and/or tribal cultural resources; and
- M) The mitigations and conditions should be dated on each page as to the version of the approval documents, and the approval resolution should clearly describe the date of the attached mitigation and condition document.

Staff has reviewed the contentions and has determined that the project is adequately designed and

mitigated to minimize potential impacts to resources at the site. A more detailed Project Discussion is included as **Attachment A**, in which County staff has provided a summary of contentions and responses. Detailed responses to the contentions are included in the Draft Resolution at **Attachment B**.

ENVIRONMENTAL REVIEW:

Pursuant to Public Resources Code Section 21083 and California Environmental Quality Act (CEQA) Guidelines Section 15063(a), Monterey County as Lead Agency completed environmental review to determine if the project may have a significant effect on the environment. The County prepared an Initial Study and proposed Mitigated Negative Declaration (MND) for this project (**Attachment F**). The Initial Study/proposed MND was filed with the County Clerk on November 19, 2019, and circulated for public review and comment from November 20 to December 20, 2019 (SCH No. 2019119074). The County received only one comment from the Applicant's agent, requesting a one-word deletion from Mitigation Measure No. 2. The County considered the comment received, and it did not conflict with or challenge the analysis and conclusions of the Draft Initial Study or MND.

The Initial Study identified potentially significant impacts to cultural resources and tribal cultural resources. The Initial Study proposed mitigation measures to reduce the identified impacts to a level of less than significant, and the Planning Commission directed further amplification and clarification of those measures. Mitigation Measures Nos. 1 and 2 would reduce potential impacts by requiring the presence of an on-site archaeological monitor and an on-site tribal monitor, respectively, during all excavation activities. All other standard topics of environmental analysis were found less than significant or no impact.

OTHER AGENCY INVOLVEMENT:

The following agencies have reviewed the project, have comments, and/or have recommended conditions:

- Environmental Health Bureau
- RMA-Public Works
- RMA-Environmental Services
- Water Resources Agency
- Cypress Fire Protection District

The Carmel Highlands/Unincorporated Land Use Advisory Committee (LUAC) reviewed the proposed project on November 5, 2018. The LUAC voted 4 - 1 to support the project with recommended alterations of the project proposal (**Attachment E**). The LUAC recommended the lots be combined/merged into a single lot, and a variance granted to allow the second unit to remain as an accessory dwelling unit. The Applicant chose to move forward with the project as initially proposed, and did not revise the project per the LUAC's recommendations. Staff has addressed the LUAC's concerns in the Initial Study and recommended findings and conditions.

FINANCING:

Funding for staff time associated with this project is included in the FY2019-20 Adopted Budget within RMA-Planning's General Fund 001, Appropriation Unit RMA001.

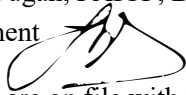
BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

This action represents effective and timely response to our RMA customers. Processing this application in accordance with all applicable policies and regulations also provides the County accountability for proper management of our land resources.

Check the related Board of Supervisors Strategic Initiatives:

- Economic Development
- Administration
- Health & Human Services
- Infrastructure
- Public Safety

Prepared by: Joseph Sidor, Associate Planner, x5262
Reviewed by: Craig Spencer, RMA Planning Services Manager
Approved by: John M. Dugan, FAICP, Deputy Director of Land Use and Community
Development



The following attachments are on file with the Clerk of the Board:

- Attachment A - Project Discussion
- Attachment B - Draft Resolution, including:
 - Draft Conditions of Approval
 - Project Plans
- Attachment C - Notice of Appeal
- Attachment D - Vicinity Map
- Attachment E - Carmel Highlands LUAC minutes for 11-5-18
- Attachment F - Final Initial Study/Mitigated Negative Declaration
- Attachment G - Planning Commission Resolution No. 20-002, dated 1-29-20
- Attachment H - Correspondence, including:
 - Anthony Lombardo & Associates Letter, dated 4-21-20
 - LandSet Engineers, Inc. Letter, dated 4-24-20
 - Stamp/Erickson Attorneys at Law Letter, dated 4-28-20

The staff report and all attachments are also available for review on the RMA-Planning public website at the following link: <https://www.co.monterey.ca.us/government/departments-i-z/resource-management-agency/planning>

cc: Front Counter Copy; California Coastal Commission; Brandon Swanson, Acting RMA Chief of Planning; Craig Spencer, RMA Services Manager; Joe Sidor, Project Planner; Mary Israel, Associate Planner; RMA Public Works and Facilities; Environmental Health Bureau; RMA Environmental Services; Cypress Fire Protection District; Timothy Haley and Ethna McGourty, Applicant/Owner; Anthony Lombardo and Associates, Agent; Greg Klein, Interested Party; Lenore Thornton, Interested Party; The Open Monterey Project (Molly Erickson), Appellant; LandWatch (Director); Project File PLN180434