

MONTEREY COUNTY PLANNING COMMISSION
MAY 10, 2017
AGENDA ITEM NO. 4



Additional Correspondence

BIG SUR PRESERVATION ALLIANCE LLC
PLN130516

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From: Laura Lawrence <laura@aengusljeffers.com>
Sent: Friday, May 5, 2017 11:13 AM
To: Amy Roberts; Ana Ambriz; Padilla, Cosme; Rochester, Don; Getzelman, Paul C.; Jose Mendez; Keith Vandervere; Luther Hert; Martha Diehl; Melissa Duflock
Cc: Gonzales, Liz x5102; Watson, Michael@Coastal; Swanson, Brandon xx5334; Onciano, Jacqueline x5193; Nickerson, Jacquelyn x5240; Aengus Jeffers
Subject: May 10 PC Hearing: Big Sur Preservation Alliance PLN130516 (Item #4)
Attachments: PLN130516 Planning Commission Letter 05052017.pdf

Dear Honorable Members of the Planning Commission:

Attached you will find a letter on behalf of our client, Big Sur Preservation Alliance. This letter supports staff's analysis and recommendation to approve the Combined Development Permit for the project. This letter also asks the Planning Commission to add two additional conditions of approval that were negotiated with the California Coastal Commission to resolve their CEQA comment letter.

Please do not hesitate to contact me if you should have any questions.

Regards,

Laura

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HEARING SUBMITTAL	
PROJECT NO./AGENDA NO.	PLN130516 / #4
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May 5, 2017

VIA EMAIL

Don Rochester, Chair
Monterey County Planning Commission
168 W. Alisal Street
Salinas, California 93901

**Re: Big Sur Preservation Alliance - Lopez Point (PLN130516)
62200 Highway One, Big Sur (APN: 422-011-029)**

Dear Honorable Members of the Planning Commission:

I am writing on behalf of my client, Big Sur Preservation Alliance, LLC ("Applicant"). The purpose of this letter is to support Planning Staff's analysis and recommendations to approve the Combined Development Permit for the Lopez Point single family residence and accessory dwelling unit (the "Project"). This letter also asks the Planning Commission to approve the Project with the conditions of approval attached hereto requiring the Applicant to grant a 21-Year Irrevocable Offer to Dedicate Public Access Easement along Highway One and to grant a recorded Vegetation Retention Deed Restriction requiring the Applicant to maintain those trees which presently screen the Project. Both of these conditions were negotiated this week with Coastal Commission Staff to resolve their CEQA comment letter.

Property History

The Applicant acquired the former Harlan Ranch ("Ranch") on October 5, 2007. One of the Applicant's objectives in acquiring the Ranch was to extinguish the residential development rights associated with at least two of the Ranch's five legal parcels of record (certified by the County of Monterey on October 4, 2007) while also ensuring that the Ranch's remaining development potential conformed with modern standards for prudent residential development and current regulatory policies.

These objectives were accomplished in two phases. On December 11, 2008 the Applicant donated a comprehensive scenic and conservation easement to the County of Monterey ("County") extinguishing all of the residential development potential associated with the Ranch's 42 acre northern most coastal parcel (APN 422-011-027). This was followed by a second scenic and conservation easement donation to the County completed on December 14, 2010. The second scenic and conservation easement applied to the remaining 343 acres. This scenic and conservation easement extinguished all of the residential development potential associated with the Ranch's 80 acre eastern most parcel (former APN 422-011-025) while also restricting residential development over the remainder of the Ranch to discrete building envelopes that were established in coordination

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with the County Staff and Coastal Staff. The building envelope boundaries were set in the field with Charles Lester, Dan Carl, and Katie Butler from the California Coastal Commission. The Project seeks approval to develop the only bluff top development envelope on the Ranch.

To help secure the preservation intent of the second scenic and conservation easement, a lot line adjustment was approved by the County on March 10, 2011 (Minor Subdivision Committee Resolution No. 11-005 approving PLN100493). This lot line adjustment extinguished the 80 acre eastern most parcel (former APN 422-011-025) and adjusted the Ranch's interior parcel lines to conform with natural topographic breaks.

Project Overview

The Project is a single family residence and accessory dwelling unit ("ADU") for the currently vacant 54-acre Lopez Point Parcel (APN 422-011-029). The proposed residence is 8,135 sqft, with an attached 838 sqft garage, and a detached 813 square foot ADU. The Project was designed and sited to be consistent with the Applicant's original preservation objectives; current land use regulations; and the terms of the second 2010 scenic and conservation easement donated to the County.

With the benefit of so much prior local and regulatory familiarity with the Ranch, I wanted to use the Project to demonstrate the benefits to all parties of investing in substantive and candid pre-planning at the earliest stages of project development. This is the stage when it is easiest to modify a project because expectations remain malleable. In my experience, it is far more difficult to revise a project on appeal after years of delays, permit processing expenses, and fixed expectations. The goal was to reduce staff resources permitting the Project while maximizing opportunities to implement LCP objectives. For the Applicant, the goal was fewer permitting delays and reducing the risk of last minute surprises.

The Project has been reviewed by both the Big Sur and the South Coast LUAC, County staff and California Coastal Commission staff numerous times over the last four years. Informal LUAC presentations started in 2013 with the Project formally reviewed by the South Coast Land Use Advisory Committee on June 23, 2015 (although there was no technical quorum) and July 28, 2015. They voted unanimously to approve the Project. Site visits with Planning Staff started as early August 2013. Coastal Staff communications also started in 2013 and culminated in a July 2015 meeting to resolve their Critical Viewshed concerns. With the benefit of these meetings, the Project was refined to further support current land use regulations. In this regard, we wish to highlight the following:

- **Bluff Setback Compliance:** The single family residence is located over 200 feet from the coastal bluff. The ADU is sited 54 feet from the coastal bluff. The January 2015 Coastal Bluff Recession Study concluded that the area is stable for the proposed development.

- **Viewshed Protection:** Topography and existing vegetative screening will ensure the proposed residence will not be visible from Highway One. Following my July 2015 meeting with Coastal Staff, the Applicant agreed to drop the height of the proposed main residence by 12 inches to make sure no part of the proposed green roof would be visible from the northern turnout. It was also agreed that the shortened ranch road would be double tracked and laid with natural decomposed granite to minimize its visibility.
- **Driveway Realignment:** Archaeological Consulting completed a site survey to confirm no cultural resources will be impacted by the Project. Archaeological Consulting did, however, identify cultural resources located near a portion of the existing driveway. Based upon this recommendation, the Applicant has proposed to realign this driveway to better preserve these cultural resources and reduce existing driveway coverage. The Project results in a 1,109 sqft (4%) reduction in driveway coverage from the existing 30,210 sqft to a proposed 29,101 sqft. With regards to linear feet of driveway, the Project results in a 1,026 foot (33%) reduction from the existing 3,088 feet to just 2,026 feet.
- **Main House Green Roof:** The Applicant hired Fred Ballerini, local biologist and award-winning expert on green roofs, to design a green roof for the main house and detached garage that uses a native plant palette.
- **Conservative Height Limits:** The allowable height for the main house is 24 feet above average natural grade. The proposed single family residence was originally only 13 feet and 2 inches above average natural grade. Following the July 2015 Coastal Staff meeting, the Project has been conditioned to reduce the height by another 12 inches to ensure that the roof is not visible from Highway One. The proposed ADU is only 12 feet and 6 inches above average natural grade while the allowable height for this residence is 15 feet.
- **Unobtrusive Lighting:** The Project incorporates a lighting plan to avoid light pollution from Highway One. This objective is achieved by siting the new main house behind and below existing cypress tree screening and strategically locating windows and downlit exterior lights away from the Highway. Note, due to the topography of Lopez Point, no neighbors will be impacted by light from the proposed residence.
- **Solar Power:** The Project proposes the installation of a photovoltaic system to serve both the single family residence and the ADU. The photovoltaic panels will be located above the house but well below existing slopes and vegetation to shield the panels from any public viewing area.

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- **USC fluxHome:** The 813 sqft ADU proposed is the fluxHome built by University of Southern California students as their entry for the 2013 solar decathlon—a world-wide competition sponsored by the US Department of Energy to design and build full-size, solar-powered homes that are affordable. The USC fluxHome took 10th place out of 19 teams in the competition. The fluxHome is a net zero energy building—meaning, the total amount of energy used by the building on an annual basis is roughly equal to the amount of renewable energy created on the site.

Environmental Review Comments

We would like to address the issues raised in the comment letters received from the California Coastal Commission (CCC) and Caltrans. Note, we were very surprised to receive Coastal Staff's comments given our extensive prior communications, meetings, and project refinements. That said, this week, resolution was reached with Coastal Staff on all of their comments.

California Coastal Commission

Public Access

The CCC letter states that the proposed project should be modified to include a 1.5 mile public access trail dedication along the former Harlan's Ranch's entire bluff top. Without responding to the substance of this comment in terms of constitutional nexus and 'rough proportionality,' requirements, LCP Priority 3 limitations (lowest priority limits on procuring such access), and Coastal permitting precedent, *this week Coastal Staff and the Applicant agreed to resolve this comment by accepting a new condition of approval requiring the Applicant to grant an Irrevocable Offer to Dedicate 21-Year Public Access Easement that is 10 feet in width and runs adjacent to the existing 80 foot wide Highway One right-of-way. The text of this condition was negotiated with Coastal Staff and is attached to this letter.*

Hazards

The CCC letter states that it is difficult to discern whether the ADU will be safe from coastal bluff retreat over the life of the development because the geotechnical report and coastal bluff recession study were not included with the document. The CCC received copies of the geotechnical report and coastal bluff recession study when the project was circulated for Interdepartmental Review in June 2015. The ADU is sited 54 feet from the coastal bluff. The January 2015 Coastal Bluff Recession Study concluded that, based on average annual erosion rates of 0.28 feet per year, a minimum of 14 feet of bluff recession will occur over the next 50 years. Future sea level rise modeling increases that rate by 50% to 21 feet. Over a 100-year development life, the rate of bluff recession expected is 42 feet. The area is stable for the proposed development.

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We discussed this issue during my meeting with Coastal Staff and Coastal Staff appreciated learning that the entirely modular fluxHome site is also designed for a strategic retreat (i.e. to be moved further back) should rates of bluff erosion exceed the geotechnical report's conclusions.

Critical Viewshed

The CCC letter states that the location of the single family residence is not consistent with Big Sur Coast Land Use Plan Key Policy 3.2.1 which prohibits all future public or private development visible from Highway One and major public viewing areas (the critical viewshed). The single family residence is in a building envelope approved by CCC staff based upon site meetings in 2010. A minute amount of flagging from the planted, green roof of the single family residence was visible from the northern turnout with a telephoto lens (the only place any amount of flagging was visible). See Figure 4 in the Mitigated Negative Declaration prepared for the Project. Big Sur Coast Land Use Plan Policy 3.2.3.B.1 states that visibility will be considered in terms of normal, unaided vision in any direction for any amount of time at any season. Further, distant development, although in the technical line of sight, will not be considered visible if sited and designed so as not to be seen from Highway One and other major public viewing areas. Both Planning Staff and the South Coast LUAC have agreed that given the minute amount of flagging visible at a distance of about 900 feet, the Project is consistent with Critical Viewshed policies. Following my July 2015 meeting in Santa Cruz, Coastal Staff agreed they would support this conclusion based upon the distant viewshed exception after taking into consideration the following project elements:

- Utilization of a green roof;
- Recognizing the existing Cypress trees will naturally continue to grow and probably already block the original flagging; and
- Lowering the house an additional 12 inches via a condition of approval. The house could be lowered another 8 inches if we omitted the green roof, but everyone agreed the green roof is a positive project element.

The CCC letter states that the location of the driveway for the ADU should be modified to use the driveway access for the single family residence. The proposed Project has shortened the Ranch's existing driveway by 33% in order to support Archaeological Consulting's recommendation that the existing road avoid the archaeological site it currently crosses. I met with CCC staff on July 8, 2015 to discuss concerns about the road. Once we showed them that the topography from the northern turnout blocks most of the driveway, CCC staff accepted the driveway reduction and location conditioned upon a double-track access road and the use of decomposed granite (DG) which matches the native soil and hills.

After charting resolutions to Coastal Staff's public access and bluff setback comments this week, Coastal Staff acknowledged our prior discussions and resolutions regarding these concerns. We agreed that maintenance of the existing screening trees should be required as a recorded deed restriction (the text of this proposed condition is attached to this letter).

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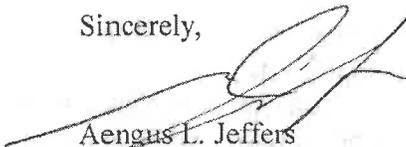
Caltrans

The Caltrans letter states that the proposed development may create conflicts with Highway One northbound traffic and that a site distance analysis is required. Further, work within the State right-of-way will require an encroachment permit from Caltrans. The proposed Project is located on an existing legal lot of record with access through an existing road and tunnel off Highway One. No work will take place within the State right-of-way. *Caltrans has informed the Applicant that the minimum standard site distance is 300'. Based on our existing surveys, the existing main ranch entrance is unique in Big Sur for enjoying south and north site distances in excess of this minimum standard. The Applicant accepts the condition on the project to obtain approval from Caltrans prior to the issuance of construction permits.*

Conclusion

The Project has been extensively reviewed and vetted by County staff and California Coastal Commission staff through site visits and meetings over the past four years. With the application of all of the proposed conditions of approval and mitigation measures, the Project is consistent with the policies of the Big Sur Coast Land Use Plan and regulations in the Coastal Implementation Plan. Approval of this Project will lock down the remaining development potential on the Harlan Ranch's coastal terrace comprising 97 acres and over 1 mile of shoreline by sheltering the Lopez Point Project in two natural "nooks" immediately below Highway One.

Sincerely,



Aengus L. Jeffers

ALJ:lml

Enclosure

cc: Elizabeth Gonzales, RMA-Planning
Mike Watson, California Coastal Commission

Big Sur Preservation Alliance – PLN130516
Additional Conditions of Approval
Applicant Submittal

SPPD008 – IRREVOCABLE OFFER TO DEDICATE (NONSTANDARD)

Prior to issuance of grading and building permits, certificates of compliance, or commencement of use, whichever occurs first and as applicable, the applicant shall execute and record a document(s) in a form and content acceptable to the Director of RMA-Planning, irrevocably offering to dedicate to a public agency or private entity, approved by the Director of RMA-Planning and the Executive Director of the Coastal Commission, a public access easement for public access and recreational uses in perpetuity consistent with Monterey County Code Section 20.64.280. The area of dedication shall consist of an easement 10-feet in width and allow for non-motorized recreational uses only such as hiking, biking, horseback riding, or as a vehicular vista turnout, parallel and contiguous to the entire length of the existing 80-foot Highway One right of way, granted to the State of California by the certain deed recorded on December 24, 1942 in Book 785 Official Records Monterey County at Page 162, which bisects the entirety of the former Harlan Ranch (APN 422-011-027-000; 422-011-029-000; 422-011-030-000; and 422-011-031-000). Said easement may lie on either the inland or seaward side of the existing Highway One right of way, but shall not include any right of public access through the existing tunnel under Highway One at or around Highway One Station 260+/-, nor shall it cross any existing driveway or entrance inland of the Highway One right of way.

No development, as defined in Monterey County Code Section 20.06.310, shall occur within the easement area except as agreed to by the Director of RMA-Planning and the Executive Director of the Coastal Commission.

Prior to recordation, the exact location of the easement area shall be determined in consultation with the Director of RMA-Planning and the Executive Director of the Coastal Commission, where the siting objectives shall be to provide an area that can accommodate public trail access that maximizes coastal views, minimizes intrusion on private residences, optimizes connectivity to future trail links on adjacent properties, and minimizes impacts to sensitive habitats.

The recorded document(s) shall include a legal description and corresponding graphic depiction of the legal parcel(s) subject to this permit and a metes and bounds legal description and a corresponding graphic depiction, drawn to scale, of the perimeter of the easement area prepared by a licensed surveyor based on an on-site inspection of the easement area.

The irrevocable offer to dedicate shall be recorded free of prior liens and any other encumbrances that the Director determines may affect the interest being conveyed. The document shall provide that the offer of dedication shall not be used or construed to allow

anyone to interfere with any rights of public access acquired through use which may exist on the property.

The offer to dedicate shall run with the land in favor of the People of the State of California, binding successors and assigns of the applicant or landowner in perpetuity, and shall be irrevocable for a period of 21 years, such period running from the date of recording. Said restrictions on the use of the land shall be in effect upon recording and remain as covenants, conditions and restrictions running with the land in perpetuity, notwithstanding any revocation of the offer.

SPPD009 – VEGETATION RETENTION DEED RESTRICTION (NONSTANDARD)

At the applicant's expense, any tree (existing/replaced) which screens the development from Highway One and that is destroyed, diseased or significantly damaged or requires removal, shall be immediately replaced with a 24 to 48-inch box specimen to ensure full protection of exposure of any portion of the development within the critical viewshed, pursuant to the Policies of the Big Sur Coast Land Use Plan and the Development Standards of the Coastal Implementation Plan. In the event of any exposure of the development and prior to replacement of a tree, Monterey County RMA-Planning shall be immediately contacted. This deed restriction shall run with the land. (RMA-Planning)

Compliance or Monitoring Action to be Performed:

Prior to issuance of a building or grading permit the applicant/owner shall record a deed restriction, with the County of Monterey subject to review and approval by County Counsel and the Director of RMA-Planning.