



Monterey County

Item No.11

Board Report

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

Legistar File Number: RES 21-006

January 12, 2021

Introduced: 12/23/2020

Current Status: Scheduled PM

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Matter Type: BoS Resolution

Public hearing to consider an appeal by Lidia Woytak from the November 4, 2020, decision of the Monterey County Chief of Planning approving a Minor and Trivial Amendment to a previously approved Combined Development Permit (PLN160608/Bailey) to reduce the overall development footprint of the previously-approved project within the same general footprint of the previously approved project and within existing disturbed and hardscape areas.

[PLN160608-AMD1/La Resaca LLC, 3257 17-Mile Drive, Pebble Beach (APN: 008-461-010-000)]

Proposed CEQA Action: Consider Addendum to previously adopted Mitigated Negative Declaration

RECOMMENDATION:

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

- a. Deny the appeal of Lidia Woytak from the Chief of Planning’s November 4, 2020, environmental determination and approval of a Minor and Trivial Amendment to a previously approved Combined Development Permit (PLN160608/Bailey);
- b. Consider an Addendum together with a previously adopted Mitigated Negative Declaration for the Combined Development Permit (PLN160608/Bailey);
- c. Approve a Minor and Trivial Amendment (PLN160608-AMD1/La Resaca LLC) to a previously-approved Combined Development Permit (PLN160608/Bailey) for reduction of the overall development footprint by changing from the previously approved project consisting of 2,717 square feet of first floor additions to an existing single-family dwelling and a one-story 1,135 square foot attached 3-car garage, to the amended project consisting of a one-story 1,412 square foot addition to an existing single-family dwelling and an attached 1,326 square foot two-car garage/storage/utility room with a 1,092 square foot game room above the proposed garage, within the same general footprint and within the parcels existing disturbed and hardscape areas; and
- d. Adopt a revised Condition of Approval and Mitigation Monitoring and Reporting Plan (MMRP) for the amended project (PLN160608-AMD1/La Resaca LLC) replacing the MMRP for PLN160608/Bailey.

A draft resolution, including findings and evidence, is attached for consideration (**Attachment B**).

Staff recommends approval subject to twenty-one (21) conditions from the original approval, including seven (7) mitigation measures.

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PROJECT INFORMATION:

Property Owner: La Resaca LLC (formerly Bailey)

Agent: Anthony Lombardo & Associates

Zoning: Low Density Residential, 2.5 acres per unit, Design Control Overlay (Coastal Zone)
[LDR/2.5-D (CZ)]

Planning Area: Del Monte Forest, Land Use Plan

Flagged and Staked: Yes

SUMMARY:

The La Resaca LLC project, as amended by the proposed Minor and Trivial amendment, authorizes the construction of a one-story 1,412 square foot addition to an existing single-family dwelling and an attached 1,326 square foot two-car garage/storage/utility room with a 1,092 square foot game room above the proposed garage, within the same general footprint and within the parcels existing disturbed and hardscape areas. Approval of the Minor and Trivial Amendment (PLN160608-AMD1/La Resaca LLC) would replace the prior approval (PLN160608/Bailey) as the active entitlement. The property is located on the east side of 17-Mile Drive, within the area of indigenous Monterey cypress habitat between Cypress Point and Pescadero Point identified in the Del Monte Forest Land Use Plan. The site is currently developed with structural, hardscape, and landscape areas.

On March 28, 2018, the Monterey County Planning Commission adopted a Mitigated Negative Declaration and approved a Combined Development Permit to allow the originally proposed development (Resolution No. 18-013 (for PLN160608/Bailey); **Attachment I**). As part of that process, County staff consulted Coastal Commission staff on identifying an edge of cypress habitat to find the project was not located within environmentally sensitive habitat (ESHA).

Following the County's appeal period for that prior approval, County staff prepared and sent a Final Local Action Notice (FLAN) to the California Coastal Commission (CCC) to provide notification of the subject Combined Development Permit approval. Upon receipt of the FLAN, the CCC staff informed County staff of Coastal Commissioners' intent to appeal the County's action based on the opinion that the entire undeveloped area of the parcel was comprised of Monterey cypress habitat. County staff withdrew the FLAN pending completion of discussions between the applicant and CCC staff. Following discussions with CCC staff, the applicant agreed to revise the proposed project per CCC staff recommendations and submitted an application for a Minor and Trivial Amendment to the County. Staff finds that the proposed amendment is in keeping with the previous action of the Planning Commission and is minor and trivial in nature. As such, staff determined that the application qualified as a Minor and Trivial amendment for which the Chief of Planning is the appropriate authority. The Chief of Planning approved the amendment on November 4, 2020. (Chief of Planning Resolution No. 20-049, dated November 4, 2020, attached as **Attachment G**.) The property is now owned by La Resaca LLC.

The Appellant, Lidia Woytak represented by attorney Pam Silkwood, timely filed an appeal from the November 4, 2020, decision of the Chief of Planning. The Appellant is challenging the Chief of Planning's environmental determination and approval of the Minor and Trivial Amendment to the previously-approved Combined Development Permit; she contends that there was a lack of a fair or impartial hearing, the actions are not supported by the evidence, and that the decision was contrary to

law. The specific contentions raised by the Appellant are the project: 1) does not constitute a minor and trivial amendment; 2) proposes prohibitive development within ESHA; 3) requires further environmental review under CEQA; and 4) fails to adequately address cultural resources. These contentions are addressed in more detail in the attached Discussion (**Attachment A**) and Draft Resolution (**Attachment B**).

The hearing on the appeal at the Board is de novo. Staff finds that the project meets the parameters of a Minor and Trivial Amendment, which if approved would serve as the active entitlement on the property. The project as amended is located within previously disturbed areas, so staff finds that it would not impact ESHA or cultural resources. As the project is reduced from what had been reviewed in the previously adopted Mitigated Negative Declaration (MND), staff has prepared an Addendum for the Board to consider together with the previously adopted MND.

Therefore, staff recommends denial of the appeal and approval of the amendment to the previously approved permit. Staff has prepared a draft resolution to deny the appeal, certify that the Board considered an Addendum together with the previously adopted Mitigated Negative Declaration, approve the amendment to the Combined Development Permit, and adopt a Mitigation Monitoring and Reporting Program. 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:

An in-depth discussion covering project analysis, historic resources, and detailed responses to appeal contentions has been included as **Attachment A**.

ENVIRONMENTAL REVIEW:

The County prepared, circulated, and adopted a Mitigated Negative Declaration (MND) (**Attachment F**) for the original Combined Development Permit that allowed for construction of 2,717 square feet of additions to an existing single-family dwelling and a one-story 1,135 square foot attached 3-car garage, and development within 100 feet of environmentally sensitive habitat area (HCD-Planning File No. PLN160608; Resolution No. 18-013 adopted by the Planning Commission on March 28, 2028). The MND concluded that the project as designed and mitigated had reduced potential impacts to a less than significant level.

- e. The current proposal does not alter the analysis or conclusions reached by this MND since the project is located within areas that were evaluated and revised to remain within the footprint of existing developed/disturbed areas. As revised, the project does not raise any new potential significant impacts or increase the severity of impacts as compared to the impact analysis in the MND. An Addendum (**Attachment E**) has been prepared for the proposed amendment because only minor technical changes are necessary and none of the conditions described in Section 15162 of the CEQA Guidelines calling for preparation of a subsequent EIR or negative declaration have occurred; there are no new significant environmental effects or increase in the severity of previously identified significant effects, and there is no new information of substantial importance that was not known at the time the previous MND was adopted. The project, as proposed, is consistent with applicable policies regarding protection of environmental resources. Best

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management practices and technical recommendations (Condition Nos. 3, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 20) will be applied to ensure protection of natural resources. Additionally, all seven of the original mitigation measures have been carried forward as conditions of approval to address the potential impacts to Monterey cypress habitat associated with project construction. This revised Condition of Approval and Mitigation Monitoring and Reporting Plan (MMRP) for the amended project (PLN160608-AMD1/La Resaca LLC) replaces the MMRP for PLN160608/Bailey.

OTHER AGENCY INVOLVEMENT:

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

- Environmental Health Bureau
- Public Works
- HCD-Environmental Services
- Water Resources Agency
- Pebble Beach Community Services District (Fire Protection)

Land Use Advisory Committee:

The Del Monte Forest Land Use Advisory Committee (LUAC) reviewed the originally-proposed project on October 5, 2017, and voted 4 - 0 (4 yes, 0 no, with 3 absent) to support the project as proposed (**Attachment K**).

The current proposal is a minor and trivial amendment to the previously approved Combined Development Permit; therefore, based on the current LUAC Guidelines, staff did not refer the revised project to the LUAC. Further, staff determined that LUAC review was not necessary in this case due to the fact the original project was recommended for approval, and this minor amendment serves to reduce the footprint and overall impacts of the original project.

Historic Resources Review Board:

The Monterey County Historic Resources Review Board (HRRB) reviewed the originally-proposed project on October 5, 2017, and voted 5 - 0 (5 yes, 0 no, with 2 absent) to find that the proposed work is consistent with applicable Monterey County Regulations for Historic Resources and will neither adversely affect the significant architectural features of the historic resource nor adversely affect the character, historical, architectural, or aesthetic interest or value of the historic resource and its site; and that the use and exterior of the new improvements, addition, building or structure upon a historic resource will neither adversely affect nor be incompatible with the use and exterior of existing historical resources, improvements, buildings and natural features of the site (**Attachment J**).

The HRRB also reviewed the revised project on October 1, 2020, and voted 7 - 0 (7 yes and 0 no) to find that the proposed work is consistent with applicable Monterey County Regulations for Historic Resources and will neither adversely affect the significant architectural features of the historic resource nor adversely affect the character, historical, architectural, or aesthetic interest or value of the historic resource and its site; and that the use and exterior of the new improvements, addition, building or structure upon a historic resource site will neither adversely affect nor be incompatible with the use and exterior of existing historical resources, improvements, buildings and natural features of the site

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(Attachment H).

FINANCING:

Funding for staff time associated with this project is included in the FY2020-21 Adopted Budget for HCD-Planning

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

This action represents effective and timely response to our HCD 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:

X Administration

 Economic Development

 Health & Human Services

 Infrastructure

 Public Safety

Prepared by: Joseph Sidor, Associate Planner, x5262

Reviewed by: Brandon Swanson, HCD-Planning Services Manager

Approved by: Carl P. Holm, AICP, Director of Housing and Community Development

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BS

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CPH

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

Attachment A - Discussion

Attachment B - Draft Resolution, including:

- Draft Conditions of Approval
- Project Plans

Attachment C - Notice of Appeal

Attachment D - Vicinity Map

Attachment E - Addendum

Attachment F - Previously-adopted Mitigated Negative Declaration

Attachment G - Chief of Planning Resolution No. 20-049, dated November 4, 2020

Attachment H - HRRB Resolution No. 20-005, dated October 1, 2020

Attachment I - PC Resolution No. 18-013, dated March 28, 2018

Attachment J - HRRB Resolution No. PLN160608, dated October 5, 2017

Attachment K - Del Monte Forest LUAC minutes for October 5, 2017

The staff report and all attachments are also available for review on the HCD-Planning public website at the following link:

<<https://www.co.monterey.ca.us/government/departments-i-z/resource-management-agency-rma-/planning/committees-agendas>>

cc: Front Counter Copy; California Coastal Commission; Brandon Swanson, HCD-Planning Services Manager; Chief of Planning; Joe Sidor, Project Planner; Public Works and Facilities; Environmental Health Bureau; HCD-Environmental Services; Pebble Beach Community Services District (Fire

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Protection); La Resaca LLC, Applicant/Owner; Anthony Lombardo and Associates, Agent; John Moore, Project Architect; Lidia Woytak, Appellant; Pam Silkwood, Appellant's Representative; The Open Monterey Project (Molly Erickson); LandWatch (Director); Project File PLN160608-AMD1