



# Monterey County

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## Board Report

Legistar File Number: ORD 17-017

December 12, 2017

**Introduced:** 11/29/2017

**Current Status:** Agenda Ready

**Version:** 1

**Matter Type:** Ordinance

### **PLN150149 - Del Monte Forest Area Local Coastal Program Amendment (Policy 20)**

Public hearing to consider amendments to the County's Local Coastal Program (LCP) including:

- a. Acknowledging receipt of the California Coastal Commission resolution approving the Monterey County Local Coastal Program (LCP) Amendment No. LCP-3-MCO-16-0070-2 (Monterey Cypress Habitat Development Standards) with suggested modifications;
- b. Adoption of a resolution to amend Policy 20 of the Del Monte Forest Area Land Use Plan to modify standards of development within the indigenous Monterey cypress habitat; and
- c. Adoption of an ordinance to amend corresponding text of Section 20.147.040.D.2 of the Coastal Implementation Plan (Title 20 of the Monterey County Code), Part 5, regulating development within the indigenous Monterey cypress habitat in the Del Monte Forest Land Use Plan area.

**Proposed CEQA Action:** Statutorily Exempt per Section 21080.9 of the Public Resources Code and Section 15265 of the CEQA Guidelines.

**Project Location:** Del Monte Forest Indigenous Monterey Cypress Habitat Area, Pebble Beach, Del Monte Forest

#### RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Acknowledge receipt of the California Coastal Commission resolution approving the Monterey County Local Coastal Program (LCP) Amendment No. LCP-3-MCO-16-0070-2 (Monterey Cypress Habitat Development Standards) with suggested modifications;
- b. Find that the action, adoption of a local coastal program amendment, qualifies as a Statutory Exemption pursuant to Section 21080.9 of the Public Resources Code and Section 15265 of the CEQA Guidelines;
- c. Adopt a resolution to amend the text of Policy 20 of the Del Monte Forest Area Land Use Plan modifying standards of development within indigenous Monterey cypress habitat;
- d. Adopt an ordinance to amend the text of Section 20.147.040.D.2 of the Coastal Implementation Plan (Title 20 of the Monterey County Code), Part 5, regulating development within the indigenous Monterey cypress habitat in the Del Monte Forest Land Use Plan area;
- e. Certify that the amendments are intended to be carried out in a manner fully in conformity with the Coastal Act; and
- f. Direct staff to transmit the amendments to the California Coastal Commission for confirmation by the Coastal Commission at their next regular meeting and incorporation into the County's Local Coastal Program.

A draft resolution supporting this recommendation and the draft ordinance are attached for consideration (**Attachments B and C**).

SUMMARY:

The purpose of this proposed Local Coastal Program (LCP) Amendment is to continue the long-standing protection of indigenous Monterey Cypress habitat in the Del Monte Forest area of the coastal zone, while allowing reasonable land use to occur in an area zoned for residential use, provided the development results in a material net improvement to the native Monterey cypress habitat. On December 6, 2016, the Board of Supervisors adopted a Resolution of Intent to approve the amendments, and directed County staff to further refine the text of this amendment to address written comments from the California Coastal Commission (CCC) staff. On May 10, 2017, the CCC approved the amendments with suggested modifications. County staff then presented the amendments to the Planning Commission to make a recommendation to the Board. The Planning Commission, on October 25, 2017, voted unanimously (6 - 0) to recommend the Board approve the amendments with the modifications suggested by the CCC, with minor modifications. The amendments have now been scheduled before the Board of Supervisors for a final decision.

If the Board of Supervisors approves the proposed text amendments with the suggested modifications, County staff would transmit this LCP Amendment to the CCC staff for confirmation by the CCC and incorporation into the County's Local Coastal Program. If the Board of Supervisors makes additional substantive changes to the amendments, then the amendments must go back to the CCC again for certification.

DISCUSSION:

The Del Monte Forest (DMF) Land Use Plan (LUP) includes policies for protecting resources, including but not limited to, the indigenous Monterey cypress habitat. The goal of DMF LUP Policy 20 specifically is to protect indigenous Monterey cypress habitat to the maximum extent feasible. Prior to the 2012 amendment to Policy 20, applicants were permitted to relocate hardscape outside the existing footprint so long as the proposed development did not increase total net hardscape. Following the 2012 amendment, Policy 20 allows modifications to existing development only when the changes remain completely within existing hardscape areas. Over the last five years, both County staff and CCC staff have recognized development proposals which materially enhance Cypress habitat but encompass some minor modification of existing legal hardscape. The purpose of the proposed amendment is to recognize residential projects in the Del Monte Forest that may alter the existing legal hardscape footprint following confirmation that project will materially improve existing Monterey cypress habitat through a set of specific criteria.

On December 6, 2016, the Board of Supervisors adopted a Resolution of Intent (**Attachment F**; Board Resolution of Intent No. 16-321) to amend the text of the Del Monte Forest Area Land Use Plan and to adopt an ordinance to amend the text of Section 20.147.040.D.2 of the Coastal Implementation Plan regulating development within the indigenous Monterey cypress habitat. When the Board adopted the Resolution of Intent, they directed County staff to further refine the text of this amendment to address written comments from the California Coastal Commission staff. On May 10, 2017, the California Coastal Commission approved the LCP amendment with modifications coordinated between Coastal Commission and County staff (**Attachment E**).

The proposed amendment to Policy 20, as approved by the California Coastal Commission, restores limited flexibility for development to modify existing legal hardscape footprints but clarifies and refines

these circumstances to assure the outcome is a material net enhancement of Cypress habitat which does not harm individual Cypress trees. The proposed amendment codifies best management practices to ensure protection - and enhancement - of this special resource area including:

- Coordinating biological and arborist reports with input from the Del Monte Forest Conservancy;
- Requiring restoration to promote germination;
- Making development siting discretionary to avoid the most sensitive habitat areas;
- Only recognizing existing legal hardscape as opposed to unpermitted hardscape;
- Requiring alternative construction methods to avoid Cypress tree impacts; and
- Requiring preconstruction meetings to ensure Cypress protection conditions are properly implemented.

On parcels which have been previously developed, the proposed amendment to Policy 20 further clarifies that projects may minimally alter their existing legal hardscape/footprint if the overall project will significantly reduce existing hardscape and materially improve existing Monterey cypress habitat. This determination will be made subject to specific criteria outlined in the policy ensuring the project:

- Does not harm any individual Monterey cypress tree
- Increases Monterey cypress habitat area on site by significantly reducing net hardscape;
- Restores the remaining Monterey cypress habitat area on the subject parcel;
- Places development within a defined and surveyed development envelope, and places Monterey cypress habitat area into a permanent conservation easement; and
- Funds off-site mitigation to improve Monterey cypress habitat.

Substantive modifications requested by the CCC staff to address their prior November 8, 2016 comments to the Board of Supervisors include increasing the protection area of each individual Cypress tree from just the existing dripline canopy to the existing dripline canopy plus an additional 10-foot buffer and limiting total site coverage. This coverage limitation expands the definition of the existing 15 percent structural coverage limitation to also include hardscape and landscape coverage.

On October 25, 2017, the Planning Commission voted unanimously (6 - 0) to recommend the Board approve the amendments with the modifications suggested by the CCC (**Attachment D**). The Planning Commission also recommended a minor change to emphasize the following text of the ordinance under Section 20.147.040(D)(2)(c)(2)(a) to highlight the importance of reducing the existing hardscape on developed lots:

- (a) Construction, use, and maintenance of the new and/or modified development shall significantly reduce existing hardscape;

This added reference to reduction of hardscape is consistent with the CCC-approved wording, and is retained in Section 20.147.040(D)(2)(c)(2)(c)(1). Pursuant to state regulation, CCC staff determines if the County's action satisfies the specific requirements in the CCC's certification order and reports that determination to the CCC. CCC staff confirmed that the change recommended by the Planning Commission is a non-substantive change that CCC staff believes satisfies the CCC's certification order.

ENVIRONMENTAL REVIEW:

The initiation of the LCP Amendment is statutorily exempt pursuant to CEQA Guidelines Section 15265 (Adoption of Coastal Plans and Programs). Per Public Resources Code section 21080.9 and CEQA Guidelines Section 15265, CEQA does not apply to activities and approvals pursuant to the California Coastal Act by any local government necessary for the preparation and adoption of a local coastal program. Furthermore, CEQA Guidelines Section 15251(f) identifies the CCC as a certified regulatory program which meets the requirements of Public Resources Code Section 21080.5 involving the preparation, approval, and certification of local coastal programs. As such, the CCC staff report prepared for the LCP Amendment qualifies as a functional equivalent environmental review document with regard to CEQA. Therefore, the County is not required to take formal CEQA action on the proposed LCP Amendment.

See **Attachment A** for a more technical project discussion.

OTHER AGENCY INVOLVEMENT:

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

- RMA-Planning
- County Counsel (approved ordinance as to form)
- Coastal Commission (staff consult)

FINANCING:

Funding for staff time associated with this project is included in the FY2017-18 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

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Approved by: Carl P. Holm, AICP, RMA Director

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

- Attachment A - Discussion
- Attachment B - Draft Resolution with amended text of the Del Monte Forest

Land Use Plan Policy 20 attached as Exhibit 1  
Attachment C - Draft Ordinance amending Section 20.147.040.D.2 of Part 5 of the Coastal Implementation Plan (Title 20 of the Monterey County Code)  
Attachment D - Planning Commission Resolution No. 17-046, October 25, 2017  
Attachment E - California Coastal Commission May 10, 2017 Staff Report, Exhibits, and Addendum (Adopted)  
Attachment F - Board of Supervisors Resolution of Intent No. 16-321, December 6, 2016, and November 8, 2016 CCC Staff comments  
Attachment G - Vicinity Map (Del Monte Forest LUP Figure 2a)  
Attachment H - Initial Study

cc: Front Counter Copy; Board of Supervisors; California Coastal Commission; Jacqueline Onciano, RMA Chief of Planning; Brandon Swanson, RMA Services Manager; Joseph Sidor, Project Planner; The Open Monterey Project (Molly Erickson); LandWatch; Aengus Jeffers, Interested Party; Mark Blum, Interested Party; Jeannette Ewing, Interested Party; Dale Ellis, Interested Party; Del Monte Forest Conservancy, Interested Party; Planning File PLN150149