



MONTEREY COUNTY

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MEMORANDUM

Date: September 27, 2021

To: Monterey County Board of Supervisors

From: Craig Spencer, Chief of Planning
Kayla Nelson Planner, HCD-Planning

Subject: Agenda Item Number 14 on the September 28, 2021 Board Agenda
PLN160131 (PG&E)-- Revisions to Draft Resolution (Attachment B to the September 28, 2021 staff report)

HCD – Planning is requesting that the Board of Supervisors consider changes to the draft resolution and conditions of approval and adopt the resolution with the changes described more fully below. These changes do not change the project or the analysis. The changes primarily clarify that the revised Grading and Habitat Restoration Plans (which are attached to the resolution), are specifically referenced throughout. These revisions are made in response to comments received on the draft resolution from the Appellant, Friends, Artists, and Neighbors of Elkhorn Slough represented by attorney Molly Erickson, and have been agreed to by the applicant, PG&E.

Edits are indicated by ~~Strikethrough~~ for deletions and Underline for additions.

ITEM	LOCATION IN DOCUMENT	CHANGES
Resolution Recital	Page 1	<p>The appeal by Friends Artists and Neighbors of the Elkhorn Slough (“FANS” or “Appellant”) from the decision of the Zoning Administrator on December 6, 2018, to adopt a Mitigated Negative Declaration and approve a Coastal Administrative Permit for development within 100 feet of ESHA and on slopes of 25 percent (PG&E/PLN160131) came on for a public hearing before the Monterey County Board of Supervisors on September 28, 2021, February 26, 2019, and March 26, 2019, and <u>September 28, 2021</u>. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Board of Supervisors finds and decides as follows:</p>
Resolution	Finding 1, Evidence g	<p>Since that time, PG&E has consulted with FANS, the California Native Plant Society-Monterey County (CNPS), neighboring property owners Mr. and Mrs. Pennycook, and with Mark Silberstein of the Elkhorn Slough Foundation. Revisions to the project plans have been made as a result of consultation. On May 17, 2021, a revised restoration plan was submitted by PG&E to the HCD-Planning Division addressing the appellant’s concerns regarding potential environmental impacts and strengthening mitigation measures. <u>A finalized modified version of the Habitat Restoration Plan and Grading Plan, that further clarified restoration efforts was provided on both dated September 16, 2021, are attached hereto as Exhibits 2 and 3 to this resolution and incorporated herein by reference, and these plans are part of the project as approved by this resolution.</u></p>

ITEM	LOCATION IN DOCUMENT	CHANGES
Resolution	Finding 2, Evidence j	On May 17, 2021, a revised grading and restoration plan was submitted by PG&E, and again on September 16 7 , 2021, to the HCD-Planning Division addressing the appellant's concerns regarding potential environmental impacts and proposed mitigation measures. Since March 26, 2019, PG&E has consulted with FANS, the California Native Plant Society-Monterey County, neighboring property owners Mr. and Mrs. Pennycook, and with Mark Silb ve stein of the Elkhorn Slough Foundation. Revisions to the project plans have been made as a result of consultation. The new project plans propose to reduce the cut slope of the habitat restoration area from 2:1(106 cubic yards) to 3:1 (400 cubic yards) by increasing the grading area from approximately 895 square feet to approximately 2,855 square feet. Additionally, revisions to the revegetation plan have been agreed upon. <u>The project as modified by the Habitat Restoration Plan and the Grading Plan, both dated September 17, 2021 are incorporated in this project and part of the project approved by this resolution.</u>
Resolution	Finding 2, Evidence k. 5th sentence	Correct typographical error Waddles <u>wattles</u>
Resolution	Finding 3, Evidence a, 5th bullet	Habitat Restoration Plan prepared by Arcadis, Concord, California, April 2021 and September 17, 2021.

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Resolution	Finding 8, Evidence b	<p>Success criteria have been added to the Mitigation Measures. The updated Biological Assessment (Revised October 2018, LIB180398) included the requirement to monitor restoration efforts over a three year period. The proposed Habitat Restoration Plan (September 17, 2021) has increased monitoring to a five-year period to ensure the success rate of approximately 180 replanted special-status plants. Inspections of the grading site would be conducted twice yearly by a qualified biologist for identification and removal of invasive weed cover and to evaluate erosion control and soil stabilization measures. Corrective measures would be implemented as needed. Inspections would be conducted annually to evaluate the quantity of native plant cover and quantity of special-status species. A Summary Report must be completed at the end of each year and submitted to the HCD documenting the monitoring results. An Adaptive Management Plan is included with the Success Criteria that allows the restoration efforts to respond to local conditions, such as increased weeding or non-native plant removal or planting additional special-status plants, if needed to meet the Success Criteria benchmarks. This plan would be implemented as needed to ensure that the recovery of the disturbed area was meeting the targets established as described in the Biological Assessment (Revised October 2018, LIB180398) and the Habitat Restoration Plan (April 2021 and September 17, 2021).</p>

ITEM	LOCATION IN DOCUMENT	CHANGES
Resolution	Finding 9, Evidence b, Paragraph 1	<p>County staff initially filed a draft initial study and MND with the County Clerk on September 5, 2021, for public review. An Initial Study was circulated for public review from September 5, 2018 through October 5, 2018. No public comments were submitted during this review period. However, receipt of initial comments were submitted four days after the 30-day review period ended. Review of late comments resulted in County staff clarifying and amplifying the initial study on November 29, 2018. Following PG&E’s subsequent revisions to plans that were an outgrowth of consultation with appellants, staff revised the initial study in August of 2021. The Board of Supervisors will has considered the revised initial study and MND, along with the Combined Development Permit, at a duly noticed public hearing held on September 28, 2021. The revisions incorporated in the revised initial study provide clarification and additional detail. Minor revisions were made to the draft mitigation measures to strengthen and clarify restoration efforts. These changes are equal to or more effective and have been agreed to by the applicant.</p>
Resolution	Finding 12, Evidence b Last 5 sentences	<p>There is no substantial evidence supporting a fair argument of an environmental impact. FANS submitted a letter dated December 31, 2018, from Nicole Nedeff, “Consulting Ecologist,” as an expert. However, Ms. Nedeff submitted comments to the Zoning Administrator as an advocate for the Monterey Bay Chapter of the California Native Plant Society listing concerns about the project. Nonetheless, Revisions to the project, revegetation plan including the Grading Plans and Habitat Restoration Plans both dated September 17, 2021 and revisions to mitigation measures have been incorporated into the project to address contentions raised comments received on the Initial Study. As revised in the plans dated September 17, 2021, and with the proposed mitigation measures, will ensure that impacts are mitigated to a less than significant level.</p>

The following changes to the conditions of approval/mitigation measures are also proposed:

Condition 7 –

Upon completion of the grading, the area disturbed shall be restored in compliance with the Performance Criteria described in the Habitat Restoration Plan dated ~~April 2021 and September 17, 2021,~~ subject to the approval of the HCD Chief of Planning.

Condition 9 –

The applicant shall submit a grading plan that includes contour intervals and cross-sections that identify the existing grade, proposed grade, and the extent of any proposed excavation and/or fill. The grading plan shall be consistent with the Grading Plans provided for this project by PG&E dated September 17, 2021. (HCD-Environmental Services)

Condition 13 –

The applicant shall have a qualified biologist or ecologist collect special -status seedlings and cuttings that will be harvested and salvaged from the project site. The cuttings shall be grown in an off-site nursery, and monitored on a monthly basis until replanted at the site. In addition to the salvaged seedlings and cuttings, the applicant shall have a minimum of 180 special-status seedlings grown at an off-site nursery consisting of 20 hooker's manzanita, 30 pajaro manzanita, 80 eastwood's goldenbush, 25 black sage, and 25 bush monkeyflower planted under the supervision of the qualified biologist or ecologist at the site following completion of grading activities which are planned to occur during Fall 2021 as identified in the Habitat Restoration Plan (~~April 2021 and~~ dated September 17, 2021).

Condition 16 –

Following completion of grading activities, vegetation restoration and enhancement efforts shall be monitored quarterly in the first year and on an annual basis for 4 years thereafter for a minimum of five (5) years. The monitoring shall include observation of the health of the affected special-status plants and quantities of invasive plants within the Limits of Disturbance, documentation of compliance with the success criteria contained in the Habitat Restoration Plan (~~April 2021 and~~ September 17, 2021), and any corrective measures taken to obtain compliance with the success criteria. Such information shall be documented in an annual report and submitted for a minimum of five years, or until the success criteria of 75% survivability rate is met, to the HCD Chief of Planning for review and approval.

Condition 17 -

Prior to issuance of building or grading permits, a notice shall be recorded with the Monterey County Recorder which states:

"A Biological Assessment (Library No. LIB180398), was prepared by Arcadis on August 2016 and revised October 2018, including a Habitat Restoration Plan prepared by Arcadis on ~~April 2021 and~~ September 17, 2021, and is on file in Monterey County HCD - Planning. All development shall be in accordance with this report and corresponding restoration plan."

(HCD - Planning)

END

cc: Erik Lundquist, AICP, HCD Director; Craig Spencer, Chief of Planning;
Paul Morado, Applicant's Agent; Molly Erikson, Appellant