

Attachment B  
California Coastal Commission Resolution  
Adopted May 9, 2012  
With cover letter

Daniel J. Keig Trust  
And  
Rebecca Dazai Costa Trust  
PLN110318

**CALIFORNIA COASTAL COMMISSION**

CENTRAL COAST DISTRICT OFFICE  
725 FRONT STREET, SUITE 300  
SANTA CRUZ, CA 95060  
PHONE: (831) 427-4863  
FAX: (831) 427-4877



May 21, 2012

Laura Lawrence  
Planning Services Manager  
Monterey County Planning Department  
168 W. Alisal Street, 2<sup>nd</sup> Floor  
Salinas, CA 93901

**Subject: Coastal Commission Action on Monterey County LCP Amendment Number 1-12  
Part 2 (Carmel Highlands Rezone)**

Dear Ms. Lawrence:

This letter is to inform you that the California Coastal Commission reviewed the above-referenced Monterey County Local Coastal Program (LCP) amendment request at their May 9, 2012 meeting, and that this request was approved as submitted. Please see the attached adopted Coastal Commission staff report from the May 9 hearing. The exhibits did not change from the hearing version of the staff report (previously provided to the County) to the adopted version; as such, the attached only includes the body text of the staff report.

Please don't hesitate to contact me at (831) 427-4863 if you should have any questions regarding this matter.

Sincerely,

A handwritten signature in cursive script that reads "Mike Watson".

Mike Watson  
Coastal Planner

Attachment

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PHONE: (831) 427-4863  
FAX: (831) 427-4877  
WEB: WWW.COASTAL.CA.GOV

**ADOPTED**

Prepared April 26, 2012 (for May 9, 2012 hearing)

**To:** Commissioners and Interested Persons

**From:** Dan Carl, Central Coast District Director  
Mike Watson, Coastal Planner

**Subject:** Monterey County LCP Amendment Number 1-12 Part 2 (Carmel Highlands Rezone)

**Summary**

Monterey County is proposing to amend its Local Coastal Program (LCP) Implementation Plan (IP) to rezone two parcels totaling approximately 610 acres within the Carmel Highlands area inland of Highway 1 between Wildcat and Mal Paso Creeks. The proposed rezone would decrease the density of development allowed on one of the parcels and change the allowed density on the second parcel to reflect the actual size of that parcel. These proposed changes reflect the zoning densities identified in a specific plan prepared for the property that was approved by the Commission and the County and they will protect sensitive habitats, steep slopes, and public views of the hills and ridges on these properties.

The 610-acre site is made up of one roughly 599-acre parcel (Parcel 1) and a second roughly 11-acre parcel (Parcel 2). Past CDP actions have designated three building envelopes for future development on Parcel 1, one of which has been developed, and identified that the rest of Parcel 1 be preserved for conservation. Parcel 2 is already developed with single-family residence. The proposed amendment would change the allowed zoning density on Parcel 1 from split zoning (40 to 80 acres per unit) to a minimum 199 acres per unit, thus significantly reducing the maximum allowed units, and conforming allowed maximum density to the density already accounted for through past actions and the three building envelopes. The smaller parcel would be zoned to allow one unit maximum for similar reasons.

The proposed changes are the final step in a long property planning process that has required the preservation and protection of the majority of the affected properties, including all of the extreme slopes and those areas in critical public viewsheds, from potential development. They have been narrowly tailored to conform the zoning to the density approved for the sites in the plan prepared for them. Staff recommends that the amendment be approved as submitted. The amendment conforms to and is adequate to carry out the LUP policies requiring the protection of ESHA, steep slopes, and public views. The required motion and resolution is found on page 2.

**Staff Note: LCP Amendment Action Deadline**

This proposed LCP amendment was filed as complete on March 13, 2012. It is IP only and the 60-day action deadline is May 12, 2012. Thus, unless the Commission extends the action deadline (it may be extended by up to one year), the Commission has until May 12, 2012 (i.e., up to and including the May 2012 Commission meeting scheduled for May 9-10 in San Rafael) to take a final action on this proposed LCP amendment.



California Coastal Commission

ADOPTED MCO-1-12 Part 2 (Carmel Highlands Rezone) stfrpt 5.9.2012 hrg.doc

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### **I. Staff Recommendation – Motion and Resolution**

Staff recommends that the Commission, after public hearing, approve the proposed amendment as submitted. The Commission needs to make one motion in order to act on this recommendation. Staff recommends a **NO** vote on the motion below. Following the staff recommendation will result in certification of the implementation plan amendment as submitted and the adoption of the following resolution and findings.

**Motion.** I move that the Commission **reject** Major Amendment Number 1-12 Part 2 to the Monterey County Local Coastal Program Implementation Plan as submitted by Monterey County. I recommend a no vote.

**Resolution to Certify the IP Amendment as Submitted.** The Commission hereby certifies Major Amendment Number 1-12 Part 2 to the Monterey County Local Coastal Program Implementation Plan as submitted by Monterey County and adopts the findings set forth below on the grounds that the amendment is consistent with and adequate to carry out the certified Land Use Plan. Certification of the Implementation Plan amendment complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the plan on the environment, or 2) there are no further feasible alternatives or mitigation measures which could substantially lessen any significant adverse impact which the Implementation Plan amendment may have on the environment.



## **II. Findings and Declarations**

The Commission finds and declares as follows:

### **A. Proposed LCP Amendment**

#### **Background**

The proposed LCP amendment affects two parcels totally about 610 acres in the Carmel Highlands area of Monterey County inland of Highway 1 and between Wildcat and Mal Paso Creeks (see Exhibit A). Parcel 1 is 598.41 acres and is located at 200 Crest Road,<sup>1</sup> and Parcel 2 is 11.46 acres and is located at 30 Mentone Drive (APN 243-201-013). Carmel Highlands is located in the hills above Highway 1 just south of Point Lobos State Reserve. The hills of this area represent the northern extent of the Santa Lucia Mountain Range, and the terrain is characterized by dense vegetation and very steep slopes, especially in the canyon areas. Wildcat Creek flows generally from east to west along the northern segment of Parcel 1. The property rises in elevation from 500 feet to 1,400 feet. Vegetation on site includes a mix of varied plant communities including grassland, closed cone pine forest, oak woodland, riparian, and maritime chaparral. The vegetation is extremely dense, making access to Wildcat Creek nearly impossible. There is a 6-acre in-holding parcel developed with an existing single-family residence within the boundaries of Parcel 1 that is unaffected by this LCP amendment. A 60-foot easement between Crest Road and the in-holding parcel contains a roadway that runs to the top of the property. The roadway provides access to this separate in-holding, as well as to the three building envelopes (one of which is developed) identified on Parcel 1 (see also below).

In 1982, the Commission approved a coastal development permit (CDP) for a three-story single-family residence, a well, a water storage tank, and a septic system on Parcel 1 (CDP 3-82-146). Shortly thereafter, in 1983, the Commission certified the Carmel Area Land Use Plan (LUP) which assigned a Watershed and Scenic Conservation (WSC)<sup>2</sup> LUP designation for the roughly 610 acres of land (i.e., APNs 241-221-007, 243-201-012, and 243-201-013). The LUP established the maximum density for new land divisions at 1 unit per 40 acres for properties below the 1,000-foot elevation, and at 1 unit per 80 acres for those above the 1,000-foot elevation as a means to protect the rural character and scenic resources of the coastal hills and ridges east of Highway 1. The LUP further required all properties greater than 50 acres in size to prepare a management plan to guide future development of the site.

In 1986, the Commission approved an amendment to CDP 3-82-146, which permitted revisions to and relocation of the previously approved single-family residence and included the addition of a caretaker unit (CDP amendment 3-82-146-A1). Conditions of approval required the property owner to provide a property management plan for Parcel 1 (APN 241-221-007) in accordance with LUP policies regarding

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<sup>1</sup> Made up of two APNs, APN 241-221-007 (160.3 acres) and APN 243-201-012 (438.11 acres).

<sup>2</sup> LCP zoning was not established for the site until the LCP Implementation Plan was certified in 1987.



development on large properties and ranches, and for that plan to include recordation of scenic and conservation easements over the portions of the property in the public viewshed, and/or in areas of sensitive habitat and steep slopes. To comply with this condition, the property owner submitted, and the County and Commission approved, the Wildcat Mountain Ranch Management Plan (WMRMP) in 1991. The WMRMP included a detailed survey of sensitive resources on the site, it included recommendations on the maximum allowed density for the property, the location of potential future development envelopes, and reference to the CDP requirement for recordation of scenic and conservation easements.<sup>3</sup>

In February 1996, Monterey County approved a CDP for a lot line adjustment between Parcels 1 and 2, increasing the size of Parcel 1 from roughly 450 acres to 598.91 acres, and decreasing the size of Parcel 2 from roughly 160 acres to 11.46 acres (County CDP LL95032).<sup>4</sup> That CDP included a condition requiring the property owner to request that the County rezone the properties to limit the maximum density on Parcel 1 to three dwelling units and on Parcel 2 to one dwelling unit in conformance with the WMRMP. As required, the property owner requested the rezoning in 1996, but the County did not at that time pursue the request. The new lot lines were recorded, and Parcel 2 was subsequently sold.

In June 2003, the County approved a CDP for another lot-line adjustment between Parcel 1 and a different adjoining parcel, adjusting Parcel 1 from 598.91 acres to 598.41 acres<sup>5</sup> and adjusting an adjoining parcel (not Parcel 2) (APN 241-221-002) from 1 acre to 1.65 acres (County CDP PLN020110).<sup>6</sup> Because the rezoning did not occur back in 1996, the County's approval again required the property owner to request that the County rezone the site.<sup>7</sup> The approval was also conditioned upon the property owner recording an open space easement (OSE) over all areas of the adjoining parcel with steep slopes (i.e., > 30% slope) consistent with LCP and WMRMP guidance. In 2004, the County approved a CDP amendment to remove the OSE requirement from the adjoining parcel (County CDP PLN030539). In 2006, a deed restriction implementing the development restrictions on slopes greater than 30% was a requirement of the County approval of a CDP for the construction of a single family residence on the adjoining parcel.

See Exhibit A for site location and Exhibit B for site photos.

Thus, because the WMRMP requirements for scenic and conservation easements have not been entirely fulfilled, there is a violation of CDP 3-82-146 (as amended) on this point. This violation is being

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<sup>3</sup> The required scenic and conservation easements have not yet been recorded, and this matter is being tracked as a violation by the Commission's enforcement unit.

<sup>4</sup> Note that the CDP refers to the parcel sizes being 598.68 acres and 11.69 acres, but the subsequent record of survey for the lot line adjustment showed parcel sizes that were slightly different, 598.91 and 11.46 acres, but in substantial conformance to the CDP. The 598.91 and 11.46 acre figures are used herein for the properties.

<sup>5</sup> As with the prior case, the record of survey was slightly different than the CDP identified acreage for Parcel 1. The CDP identified 598.26 acres, but the final survey showed 598.41 acres. The latter acreage is used herein for Parcel 1.

<sup>6</sup> In 2006, the County subsequently issued a CDP for a new single-family residence and garage on the 1.65 acre property and included a condition requiring the property owner to record a deed restriction over that portion of property with slope exceeding 30%.

<sup>7</sup> The property owner so requested in October 2004, but the County again did not at that time pursue the request.



researched by the Commission enforcement unit, and further action may be pursued. However, that violation does not alter the basic framework of the Commission and County intentions with respect to the WMRMP, and does not affect consideration of this LCP amendment. Yes, there is an outstanding issue of recording easements that must be resolved, but the areas where such easements are required are outside of the established building envelopes, and this LCP amendment only limits allowable density down to that prior approved level associated with the envelopes, and not in the required easement areas.

### **LCP Amendment Description**

The proposed amendment would modify Sections 20 through 22 of the LCP's Sectional District Maps (Section 20.08.060 of the Coastal Implementation Plan) to rezone Parcels 1 and 2 as follows:

**Parcel 1** would be rezoned from Watershed and Scenic Conservation, 40 acres per unit and 80 acres per unit, Coastal Zone (WSC/40 (CZ) and WSC/80 (CZ)), and Watershed and Scenic Conservation, 40 acres per unit and 80 acres per unit, Special Treatment Overlay, Coastal Zone zoning classifications (WSC/40 SpTr (CZ) and WSC/80 SpTr (CZ)) to Watershed and Scenic Conservation, 199.47 acres per unit, Coastal Zone (WSC/199.47 (CZ)) zoning classification.

**Parcel 2** would be rezoned from Watershed and Scenic Conservation, 40 acres per unit, Special Treatment Overlay, Coastal Zone zoning classifications (WSC/40 SpTr (CZ)) to Watershed and Scenic Conservation, 11.46 acres per unit zoning classification (WSC/11.46 (CZ)).

Exhibit C for the proposed rezonings.

## **B. Consistency Analysis**

### **1. Standard of Review**

The proposed amendment affects the LCP's IP component only. The standard of review for IP amendments is that they must be consistent with and adequate to carry out the policies of the LCP's LUP.

### **2. Applicable Policies**

The following LUP policies require the protection of environmentally sensitive habitat and scenic resources, and limits allowed development on steep slopes:

*2.3.3.1 Development, including vegetation removal, excavation, grading, filling, and the construction of roads and structures, shall be avoided in critical and sensitive habitat areas, riparian corridors, wetlands, sites of known rare and endangered species of plants and animals, rookeries and major roosting and haul-out sites, and other wildlife breeding or nursery areas identified as critical. Resource-dependent uses, including nature education and research, hunting, fishing, and aquaculture, shall be allowed within environmentally sensitive habitats and*



*only if such uses will not cause significant disruption of habitat values. Only small-scale development necessary to support the resource-dependent uses may be located in sensitive habitat areas if they can not feasibly be located elsewhere.*

*2.3.3.2 Land uses adjacent to location of environmentally sensitive habitats shall be compatible with the long-term maintenance of the resource. New land uses shall be considered compatible only where they incorporate all site planning and design features needed to prevent habitat impacts and where they do not establish a precedent for continued land development which, on a cumulative basis, could degrade the resource.*

*2.3.3.3 New development adjacent to environmentally sensitive habitat areas shall be allowed only at densities compatible with the protection and maintenance of the adjoining resources. New subdivisions shall be approved only where potential impacts to environmentally sensitive habitats from development of proposed parcels can be avoided.*

*2.2.3.9: Landowners will be encouraged to donate scenic easements to an appropriate agency or nonprofit organization over portions of their land in the viewshed, or, where easements already exist, to continue this protection. Viewshed land protected by scenic easements required pursuant to coastal permits shall be permanently free of structural development unless specifically permitted at the time of granting the easement.*

*2.3.2.4: To protect environmentally sensitive habitats and the high wildlife values associated with large areas of undisturbed habitat, the County shall maintain significant and, where possible, contiguous areas of undisturbed land for low intensity recreation, education, or resource conservation use. To this end, parcels of land totally within sensitive habitat areas shall not be further subdivided. On parcels adjacent to sensitive habitats, or containing sensitive habitats as part of their acreage, development shall be clustered to prevent habitat impacts.*

*2.3.3.6 The County shall require deed restrictions or dedications of permanent conservation easements in environmentally sensitive habitat areas where development is proposed on parcels containing such habitats. Where development has already occurred in areas supporting sensitive habitat, property owners should be encouraged to voluntarily establish conservation easements or deed restrictions.*

*2.2.3.3 New development on slopes and ridges within the public viewshed shall be sited within existing forested areas or in areas where existing topography can ensure that structures and roads will not be visible from major public viewpoints and viewing corridors. Structures shall not be sited on non-forested slopes or silhouetted ridgelines. New development in the areas of Carmel Highlands and Carmel Meadows must be carefully sited and designed to minimize visibility. In all cases, the visual continuity and natural appearance of the ridgelines shall be*





*protected.*<sup>8</sup>

Lastly, while not technically the standard of review here, for background purposes, the County and Commission approved Wildcat Mountain Ranch Management Plan also recommends measures to protect viewsheds, habitat, and steep slopes.

*2.1.2.1 The property owner agrees to place into scenic easements those portions of the ranch determined to be in the public viewshed, as illustrated in Figure 5 of the Wildcat Mountain Ranch Management Plan, and all areas containing slopes greater than 30%. ...*

*2.1.4.3 The areas occupied by Maritime Chaparral shall be placed in environmentally sensitive species easements if located on slopes that are less than 30 percent. Areas of Maritime Chaparral that area located in areas that contains slopes greater than 30 percent are protected through implementation of separate easements required for areas that contain slopes greater than 30 percent. The environmentally sensitive species easements will be recorded prior to occupancy of any future development on the ranch.*

*2.2.5 Prior to occupancy of any future development on the ranch the following easements shall be recorded as discussed elsewhere in this management plan:*

- *Scenic easements for areas of the ranch visible from major public viewpoints and zones as indicated on Figure 5 of this management plan.*
- *Scenic easements for areas of the ranch that contain slopes greater than 30 percent (30%).*
- *Environmentally sensitive species easements for Maritime Chaparral that are located in areas of the ranch that contain slopes less than 30 percent (30%).*

### **3. Analysis**

The proposed amendment would change the LCP zoning density on two parcels totaling about 610 acres within the Carmel Highlands area of Monterey County. Both properties are designated Watershed and Scenic Conservation (WSC) with various modifiers. The purpose of the WSC district is to provide for low-intensity, residential development of the more remote or mountainous areas in the coastal zone while protecting highly sensitive coastal resources such as the viewshed, watershed, plant and wildlife habitats, streams and riparian corridors. The base WSC designation would not change, but the allowed maximum density for Parcel 1 would be reduced under the proposed amendment.

The 610-acre area includes significant resources, including mixed Monterey pine and coast live oak forest, maritime chaparral, native grasslands, and riparian vegetation that together support a whole host of insect, avian, and animal species which are dependent upon a particular habitat type for its survival.

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<sup>8</sup> Implemented by IP Section 20.146.120.A.6 that states: As a condition of development approval, all areas of a parcel in slopes of 30% and greater shall be required to be placed in a scenic easement.



Many of these areas constitute ESHA under the LCP. LCP policies prohibit development within ESHA, protect against any disruption to ESHA, and require that new development adjacent to ESHA be compatible with the continuance of said habitat areas.

The sites are also characterized by steep slopes and visually sensitive hills and ridgelines rising up above Yankee Point. These hills and ridgelines are visible from Highway 1 and various other public viewing locations, including from Point Lobos, Yankee Point and Garrapata State Beach. The LUP requires that development on slopes and ridges within the public viewshed to be sited and designed to not be visible from major public view points. (The LCP's IP further requires that as a condition of development approval, all portions of property with slopes greater than 30% must be placed in a scenic easement.) The WMRMP required by CDP 3-82-146 as amended requires scenic and conservation easements to be recorded on all slopes greater than 30%, all sensitive habitat areas, and on all portions of the sites visible from public spaces.

The proposed amendment is intended to address the resource protection requirements of the LCP by reducing the maximum allowed zoning density on Parcel 1 to reflect the constraints of the site and past permitting and planning for it, including with respect to habitat, scenic resources, and steep slopes. The proposed amendment would also ensure that there could be no more than one residence developed on Parcel 2. The amendment would bring the zoning density of both parcels into conformance with past County and Commission actions that adjusted lot lines, identified building envelopes, and identified conservation areas.<sup>9</sup> In addition, the zoning change is designed to reflect the requirements of the WMRMP.

#### **4. Conclusion**

The proposed zoning changes reduce the maximum density of development on Parcel 1 and ensure that only one residence can be constructed on Parcel 2. These changes are consistent with LUP policies that protect steep slopes, ESHA, and visual resources. Thus, the Commission finds the proposed zoning amendment to be consistent with and adequate to carry out the certified LUP.

### **C. California Environmental Quality Act (CEQA)**

The Coastal Commission's review and development process for LCPs and LCP amendments has been certified by the Secretary of Resources as being the functional equivalent of the environmental review required by CEQA. Therefore, local governments are not required to undertake environmental analysis

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<sup>9</sup> Note that for Parcel 2, the amendment leads to what is actually a more dense allowed maximum density. However, the intent of the proposed amendment is to bring the zoning designation of the property into conformance with past actions by the County, which adjusted the lot lines of Parcel 2 to maximize the amount of property in Parcel 1 that would be set aside for resource conservation. The lot line adjustment from 160 acres to about 11 acres reduced the maximum development potential of Parcel 2 from four units to one unit. Thus, although the zoning change reduces the minimum parcel per unit size, it does not create any additional entitlement on the property because the density change is matched to the lot size. In short, Parcel 2 is 11.46 acres in size, and would be zoned at 11.46 acres per unit, translating to one single unit.



of proposed LCP amendments, although the Commission can and does use any environmental information that the local government has developed. CEQA requires that alternatives to the proposed action be reviewed and considered for their potential impact on the environment and that the least damaging feasible alternative be chosen as the alternative to undertake.

The County, acting as lead CEQA agency, found the proposed LCP amendment to be exempt under CEQA. This staff report has discussed the relevant coastal resource issues with the proposal. All public comments received to date have been addressed in the findings above. All above findings are incorporated herein in their entirety by reference.

As such, there are no additional feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse environmental effects which approval of the amendment would have on the environment within the meaning of CEQA. Thus, the proposed amendment will not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A).

