



County of Monterey Planning Commission

Item No.6

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

Agenda Item No. 6

Legistar File Number: PC 24-072

June 26, 2024

Introduced: 6/18/2024

Current Status: Agenda Ready

Version: 1

Matter Type: Planning Item

PLN230261 - 3196 LLC

Public hearing to consider a restoration plan for the removal of 14 Monterey Cypress trees and 8 Monterey Pine trees from a sensitive habitat area/archaeological easement.

Project Location: 3196 17 Mile Drive, Pebble Beach

Proposed CEQA action: Find that the project qualifies as a Class 8 Categorical Exemption pursuant to Section 15308 of the CEQA Guidelines

RECOMMENDATIONS

It is recommended that the Planning Commission adopt a resolution to:

- 1) Find that the protection of the environment qualifies for a Class 8 Categorical Exemption pursuant to CEQA Guidelines section 15308 and that none of the exceptions from Section 15300.2 apply; and
- 2) Approve a Restoration Plan per Section 20.90.130 of the Monterey County Coastal Implementation Plan Part 1 (Title 20 Zoning Ordinance) consisting of 1:1 replanting of Monterey Cypress (14 trees) within a Conservation and Scenic Easement onsite, 1:1 of Monterey Pine (8 trees) offsite, and 2:1 Monterey Cypress habitat understory restoration of approximately 6,150 square feet offsite.

The attached draft resolution includes findings and evidence for consideration (**Exhibit A**). Staff recommends approval subject to 10 conditions of approval.

PROJECT INFORMATION

Agent: Gail Hatter

Property Owner: 3196 LLC

APN: 008-491-010-000

Parcel Size: 2.72-acres

Zoning: Low Density Residential with a maximum gross density of two acres per unit with a Design Control overlay within the coastal zone or "LDR/2-D(CZ)"

Plan Area: Del Monte Forest Land Use Plan

Project Planner: Kayla Nelson, (831) 796-6408, nelsonk@countyofmonterey.gov

SUMMARY

The subject property is located at 3196 17 Mile Drive in Pebble Beach, within the Del Monte Forest Land Use Plan. The project site is west of 17 Mile Drive on the coastal bluff overlooking the Pacific Ocean and surrounded by indigenous Monterey Cypress forest. On February 22, 2017, a Combined Development Permit (HCD-Planning File No. PLN150548; Planning Commission Resolution No.

17-006) was granted for the subject property to demolish and rebuild a single family dwelling, remove one 30-inch dead Monterey Pine tree, perform restoration, and expand an existing Conservation and Scenic Easement to include an additional 3,201 square feet of native Monterey Cypress habitat. After demolition was completed (Permit No. 18CP02649, finalized May 16, 2019) and construction was allowed to begin (Permit No. 18CP02694 issued May 17, 2019), County received a code violation complaint about unpermitted removal of 22 protected trees consisting of 14 indigenous Monterey Cypress and 8 Monterey Pine trees. The permit holder stated the trees were damaged and removed during construction of the single family dwelling, and 1:1 replacement of trees damaged by construction was anticipated in the conditions of approval for the project. According to Google Earth imagery, from 2021 to 2022, disappearance of the 22 protected trees from the property without the benefit of a Coastal Development Permit is evident. Additionally, there appeared to be construction equipment stored within the area planned for expansion of the Conservation and Scenic Easement. The code investigation (23CE00332) triggered by the undocumented tree removal resulted in a proposed Restoration Plan. **(Exhibit A)** Staff recommends the Planning Commission approve a Restoration Plan as conditioned by staff with 1:1 replanting of the Monterey Cypress onsite (14 trees) and 1:1 replanting of the Monterey Pine offsite (8 trees). In addition, to align with Del Monte Forest LUP Policy 20 and CIP section 20.90.130, as part of the Restoration Plan, 2:1 offsite Monterey Cypress forest understory restoration is required for the habitat area impacted by the tree removal. This restoration must be performed offsite because the onsite grounds outside of the development footprint are already required to be fully restored by the previous entitlement.

DISCUSSION

Violations

On April 25, 2023, the project agent self-reported unpermitted tree removal to HCD-Planning which happened during the condition compliance phase of HCD-Planning File No. PLN150548. During restoration efforts (Condition No. 10 of the project Mitigation Monitoring and Reporting Plan), one Monterey Cypress tree was planted within a known archaeological easement. A Restoration Plan was discussed to remedy the impacts made on protected resources. On June 28, 2023, a violation was reported to the County by a member of the public for the unpermitted removal of 22 protected trees consisting of 14 indigenous Monterey Cypress and 8 Monterey Pine trees. On June 29, 2023, HCD-Building Services issued a Compliance Order Letter requiring that the property owner apply for and gain approval of a Restoration Plan pursuant to Section 20.90.130 of the Monterey County Coastal Implementation Plan (Part 1). On August 15, 2023, the project agent submitted a Restoration Plan with associated assessments prepared by qualified biologist Patrick Regan to the County for consideration. **(Exhibit B)** The owner's proposed Restoration Plan only proposes to replace 14 Monterey Cypress trees onsite and continue the Monterey Cypress understory restoration already underway as required for the property pursuant to the previous permit. It does not fully mitigate for the damage done.

The proposed Restoration Plan, as conditioned, would remedy impacts to the unpermitted tree removal in Cypress habitat by requiring 1:1 replanting of the Monterey Cypress onsite (14 trees) and 1:1 replanting of the Monterey Pine (8 trees) at an offsite location. In addition, to align with Del Monte Forest LUP Policy 20 and CIP section 20.90.130, offsite Monterey Cypress forest understory restoration is required at a 2:1 ratio for the habitat area impacted by the tree removal. The Plan will

also bring the permit approval (HCD-Planning File No. PLN150548; Planning Commission Resolution No. 17-006) and conditions of approval No.10 (Restoration of Natural Materials) and No.13 (Biologist and Arborist Certification) into compliance with the approved planning entitlement. A Restoration Plan has been reviewed by the Director of HCD-Planning, and project Conditions of Approval Nos. 8 and 10 were applied. When implemented, the project will bring the subject property into compliance with all rules and regulations pertaining to the property and the nature of the violation. On September 29, 2023, the code violation case was closed by Code Enforcement as a result of the submitted Restoration Plan. (**Exhibit A**)

Cultural Resources

County records identify the project site as within an area of high sensitivity for prehistoric cultural (archaeological) resources, and within an area of positive archaeological reports. An archaeological report (HCD-Planning Document No. LIB160109) prepared for the previous project (HCD-Planning File No. PLN150548; Planning Commission Resolution No. 17-006) confirmed that the proposed development would not impact archaeological resources in the area. These archaeological resources are protected from disturbance through the establishment of a Conservation and Scenic Easement. However, over the course of construction for the single family dwelling, the unpermitted removal of 22 protected trees occurred and the replacement of one of those trees was planted within a known archaeological easement. Therefore, the potential for inadvertent impacts to cultural resources was not limited. Removal of the one tree planted in this sensitive area would cause further disturbance to the existing easement. The planted tree would need to be dug out of the ground with a shovel which requires going deep below the stem to keep the root ball intact for transplanting. The Restoration Plan, as proposed and conditioned, will be controlled by the use of a County standard project condition of approval to provide a contract with a Registered Professional Archaeologist for on-call archaeological services should resources be discovered during construction activities (**Exhibit A**).

Environmentally Sensitive Habitat Area (ESHA)

Per DMF CIP Section 20.147.050.6.C.3.a, within a forest consisting of an Environmentally Sensitive Habitat Area (ESHA), or for any individual tree considered ESHA, tree removal shall be prohibited unless it is part of restoration and enhancement efforts. The unpermitted tree removal involved a potential risk of adverse environmental impacts to the indigenous Monterey Cypress habitat which is identified as ESHA. In accordance with the applicable policies of the DMF LUP and the Monterey County Zoning Ordinance (Title 20), a Restoration Permit is required. DMF LUP Policies 8, 20, and 72 require development adjacent to ESHA be compatible with the long-term maintenance of the habitat area and not disrupt habitat values, protect Monterey Cypress trees within their indigenous range, and avoid potential damage or degradation of Monterey Cypress habitat. As previously conditioned under HCD-Planning File No. PLN150548, the restoration plan would enhance 10,868 square feet of Coastal Bluff scrub habitat, provide germination of 5,955 square feet of Monterey Cypress habitat, include the conservation of 47,887 square feet of Monterey Cypress habitat. The current Restoration Plan would comply with the work described above and replant Monterey Cypress trees at a 2:1 ratio within the Conservation and Scenic Easement and at an offsite location agreed upon by the permit holder and the Del Monte Forest Conservancy. The project was sited and designed to avoid adverse impacts to both individual Monterey Cypress trees and the Cypress habitat. The arborist and biological reports (HCD-Planning Document Nos. LIB160112 and LIB160113, respectively) previously prepared for the property (HCD-Planning File No. PLN150548; Planning

Commission Reso. No. 17-006) concluded that development of the single family dwelling would not result in impacts to sensitive species or habitat, and that Monterey Cypress habitat would be enhanced and improved for seed germination and development. Consistent with DMF LUP policies regarding protection of ESHA, the County had applied Condition No. 7 to ensure protection of Monterey Cypress trees adjacent to the construction area, Condition No. 10 to require restoration of areas disturbed during construction activities, and Condition No. 13 to require arborist and biologist certification that all development had been constructed in accordance with the recommendations in the reports prepared for HCD-Planning File No. PLN150548. In addition, Condition No. 8 had been applied based on the Applicant's proposal to increase the existing conservation and scenic easement area by 3,201 square feet.

Recommendations made within the proposed Restoration Plan did not fully comply with the intent of the DMF CIP Section 20.147.050.C.3.d.6 regarding forest resources. Pursuant to this section, where removal of native trees is allowed for development, such removal shall be mitigated through replanting or forest preservation either on or offsite, whichever is better overall for forest resources. Mitigation allows for tree planting of an equal number of trees of the same variety and/or preservation of an equal area of forest offsite in the Del Monte Forest; payment of an in-lieu fee to an appropriate conservancy; or other similar tree replacement or forest preservation strategy within the Del Monte Forest including a combination of any of the above strategies. The DMF CIP does not take into account the repercussions of unpermitted tree removal and replacement. The unpermitted tree removals had negative impact on the area of the root zones as understood to be 10 feet out from the extent of the canopy driplines. In sum, this area is estimated at 6,150 square feet. This restoration must be performed offsite because the onsite grounds outside of the development footprint are already required to be fully restored by the previous entitlement. Therefore, staff finds it necessary to require both on and offsite restoration by applying Condition of Approval No. 10 which requires offsite mitigation to restore and enhance Cypress habitat. (**Exhibit A**)

Environmental Review

California Environmental Quality Act (CEQA) Guidelines Section 15308 categorically exempts actions taken by regulatory agencies as authorized by state law or local ordinance to assure the maintenance, restoration, or enhancement of natural resources where the regulatory process involves procedures for protection of the environment. This Restoration Plan includes on and offsite restoration of Monterey Cypress from the unpermitted removal of 14 indigenous Monterey Cypress trees and 8 Monterey Pines. Therefore, the restoration qualifies for a categorical exemption as a restoration activity pursuant to Section 15308 of the CEQA guidelines.

None of the exceptions under CEQA Guidelines Section 15300.2 apply to this project. The project does not involve a designated historical resource, a hazardous waste site, development located near or within view of a state-designated scenic highway, unusual circumstances that would result in a significant effect, or development that would result in a cumulatively significant impact. The parcel is located within the area of indigenous Monterey Cypress habitat (as depicted on the Del Monte Forest Land Use Plan Figure 2a) which is designated as a sensitive biological environment. The unpermitted removal of protected trees negatively impacted Cypress habitat resulting in the application for a Restoration Permit. As proposed and conditioned, the Restoration Plan would provide a 1:1 replanting of the Monterey Cypress onsite (14 trees) and 1:1 replanting of the Monterey Pine offsite (8 trees),

and 2:1 offsite Cypress forest understory restoration for the habitat area impacted by the tree removal. The overall restoration would result in an increase in protected indigenous Cypress habitat. (**Exhibit A**)

OTHER AGENCY INVOLVEMENT

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

HCD-Engineering Services

HCD-Environmental Services

Prepared by: Kayla Nelson, Associate Planner, x6408

Reviewed by: Mary Israel, Supervising Planner

Approved by: Melanie Beretti, AICP, Acting Chief of Planning

The following attachments are on file with HCD:

Exhibit A - Draft Resolution, including:

Recommended Conditions of Approval

Replanting Plan

Exhibit B - Restoration Plan (HCD-Planning Document No. LIB230281)

Exhibit C - Vicinity Map

cc: Front Counter Copy; HCD-Environmental Services; HCD-Engineering Services; California Coastal Commission; Kayla Nelson, Planner; Mary Israel, Supervising Planner; 3196 LLC, Property Owner; Gail Hatter, Agent; Monterey Land Group; The Open Monterey Project; LandWatch (Executive Director); Lozeau Drury LLP; Planning File PLN230261.

This page intentionally left blank