County of Monterey
Planning Commission

Agenda Item No.2

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Item No.2

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

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PLN220358-DEP - RESOURCE CONSERVATION DISTRICT OF MONTEREY COUNTY

Public hearing to consider approval of an Environmental Enhancement Streamlining Program Master Permit for the Resource Conservation District of Monterey County and a waiver of fees for Master Permit and subsequent project-specific County permits related to each year's set of Program projects.

Project Location: Throughout County of Monterey

Proposed CEQA action: Adopt a Mitigated Negative Declaration pursuant to Section 15074 of the CEQA Guidelines

RECOMMENDATION:

It is recommended that the Planning Commission:

a. Adopt a Mitigated Negative Declaration and find that no further environmental review is warranted pursuant to Section 15074 of the CEQA Guidelines;

b. Approve a Combined Development Permit to allow for an Environmental Enhancement Streamlining Program Master Permit consisting of:

1. Use Permit to allow development on slopes in excess 25 percent;
2. Use Permit to allow development within 100 feet of the Carmel River floodway and floodway fringe;
3. Use Permit to allow the removal of landmark and native trees;
4. Administrative Permit and Design Approval to allow development in the VS district and S district;
5. Design Approval to allow small accessory structures in a D district;
6. Coastal Administrative Permit to allow restoration activity and environmental enhancements;
7. Coastal Development Permit to allow development within 50 feet of a wetland, estuary, or stream;
8. Coastal Development Permit to allow development within 100 feet of environmentally sensitive habitat;
9. Coastal Development Permit to allow development on slopes in excess of 30 percent;
10. Coastal Development Permit to allow development within the Big Sur Critical Viewshed;
11. Coastal Development Permit to allow development within 750 feet of archaeological resources;
12. Coastal Development Permit to allow the removal of landmark and native trees; and

c. Adopt a Condition Compliance and Mitigation Monitoring and Reporting Plan; and

d. Approve a Fee Waiver for 100% of Combined Development (Master) Permit fees and 50% of all other related permit fees (grading, construction, encroachment).

PROJECT INFORMATION:
Applicant: Resource Conservation District of Monterey County
Property Owners: Various
APNS: Throughout County of Monterey excepting California Coastal Commission Original Jurisdiction.
Planning Areas: All Planning Areas

SUMMARY:
On December 21, 2022, the Resource Conservation District of Monterey County (RCD) submitted its application for a Combined Development Permit to establish an Environmental Enhancement Streamlining Program (EESP) Master Permit (PLN220358-DEP). This EESP Master Permit would permit certain restoration and environmental enhancement projects, coordinated by RCD, that are environmentally beneficial for watersheds, such as restoring and enhancing habitats (upland, wetland, stream, and critical areas), controlling erosion and runoff (through planting, road work, and constructed structures), and improving water quality (through construction of basins, bioreactors, and other infiltration systems). There are 13 Program Practice Types that would be authorized under this Master Permit: 1) Restoration of rare and declining habitat, 2) Critical area planting, 3) Upland wildlife habitat management, 4) Road and trail improvement, relocation, or decommissioning, 5) Lined waterway, 6) Underground outlet, 7) Water and sediment Control Basin, 8) Bioreactor, 9) Infiltration basin, 10) Fire breaks needed to support otherwise permitted habitat improvement projects, 11) Grade stabilization structure, 12) Stream habitat improvement, and 13) Wetland management. The Master Permit constitutes County approval for the conduct of the 13 Program Practice Types within a set of up to five EESP projects per year, with RCD's Programmatic General Conditions (PGCs) applied as part of project design. See **Attachment 2 to Exhibit B** for detailed program information. County's applicable Conditions of Approval (COA) and Mitigation Measures shall also be applied on a project-by-project basis. (See **Attachment 1 to Exhibit B.)** By design, projects are environmentally beneficial for watersheds, and any potential adverse impacts are controlled by the PGCs, COAs and Mitigation Measure. The projects will occur on public lands, agricultural and other private land throughout unincorporated Monterey County (except within the "original jurisdiction" of the California Coastal Commission - i.e., primarily areas below the mean high tide line).

The Master Permit would constitute County approval of the required programmatic Use Permits and Administrative Permits for inland areas, and Coastal Development Permits and Coastal Administrative Permits in the coastal zone. The Program would also streamline local permitting for ministerial permits required to implement the qualified EESP projects. The Master Permit is not transferrable. The EESP Master Permit initial term is for a period of five years with option to extend the program upon request and dependent upon review and approval by the Planning Commission. **Attachment 2 to Exhibit B** displays a workflow for the planning of each project and how the Program would be implemented, agency oversight, and measures of success.

Staff request that the Planning Commission adopt a Mitigated Negative Declaration, approve the EESP Master Permit, and approve a partial fee waiver to streamline small restoration and environmental enhancement projects.

DISCUSSION:

In 2019, the RCD received grant funding to coordinate with the County of Monterey and partner agencies to develop streamline permitting for conservation and environmental enhancement projects within Monterey County. On November 16, 2021, the Board of Supervisors received a presentation on the Santa Cruz County Master Permit for Environmental Enhancement Projects, and directed HCD staff to coordinate with the RCD to develop a similar streamlined permit program for environmental enhancement projects within unincorporated Monterey County.

Resource Conservation Districts were developed by federal legislation to address concerns regarding the capacity of federal agencies and their responsiveness to address agricultural and rural community needs. The role of an RCD is to guide programmatic priorities of the United States Department of Agriculture Natural Resource Conservation Service (NRCS). The RCD of Monterey County was established in 1942 as a non-regulatory special local district, authorized under Article 9 of California Public Resources Code and tasked with managing soil, water resources, water quality, and wildlife habitat. The 13 Program Practice Types to that are described in the EESP (Attachment 2 to Exhibit B) consist of a suite of 30 established NRCS Conservation Practice Standards that are official NRCS technical documents for baseline requirements adapted through the State Field Office Technical Guide (accessible online) to address local soils, climate, topography, and regulations. Therefore, the EESP streamlined permitting is relying on a conservation planning process and conservation standards already vetted by the NRCS.

For example, the EESP Program Practice Type #5 is Lined Waterways. The suite of NRCS conservation practices that may be integrated in the design of this Program Practice Type include Lined Waterways (#468), Grassed Waterway (#412), and Diversion (#362). Conditions applied to the practices are safe and stable outlet where outflow will not cause damage, not involving diversion of water from a waterway or redirection to a different waterway or subwatershed, and not resulting in the conversion of a wetland by changing hydrology. The Lined Waterways Program Practice Type would reduce the amount of sediment and related pollutants delivered to streams and wetlands and would prevent or slow the formation of gullies in lands adjacent to agricultural irrigation.

Consistency with County Plans and Policies

The Program is consistent with the 2010 and 1982 General Plans and with the inland area plans and coastal land use plans. Restoration and habitat enhancement activities that the Program supports are generally encouraged by these plans. The Program's structure of standardized conditions for project-by-project design and requirements balanced with conservation best management practices aligns County’s local permitting with the State’s “cutting the green tape” and similar streamlining frameworks. In fact, the County has intended to initiate a program such as the EESP. 2010 County of Monterey Open Space and Conservation Element Policy OS-5.15 directs the County to implement a fee waiver program for environmental restoration projects.

The projects facilitated under the Master Permit would be consistent with the County General Plan, General Plan Area Plans, and Local Coastal Land Use Plans. See **Exhibit A**, continued Discussion.

Site Suitability, Health and Safety, and Code Compliance

Because the Master Permit covers many future sites rather than a single location, the Site Suitability and Health and Safety Findings consider that only sites that are physically suitable for the proposed

RCD-sponsored environmental enhancement work and that can have Programmatic General Conditions (PGCs) applied to avoid impacts and conform to County standards will actually be enrolled; unsuitable project sites shall be excluded from coverage. The Planning Commission can find that the Program's operation would not be detrimental to the health, safety, or general welfare of surrounding property owners or the community because the Program includes 102 PGCs that RCD will apply during project design, then HCD will check are completely and accurately applied, as discussed in Exhibit B, Attachment 2. If properties are proposed for inclusion in the Program that may not currently be in full code compliance, they are allowed to participate in the Program if the work proposed in the project proposed helps to clear the violations.

Development on Slopes
The EESP will require development in physically constrained areas to be subject to specific conditions (PGCs). Development on slopes exceeding 25 percent inland and 30 percent in most coastal areas (25 percent in North County) can be permitted based on the evidence that the restoration benefit better fulfills the goals and policies of the County.

Development in Floodplains, Streams, Wetlands and Environmentally Sensitive Habitat Areas
Work within the Carmel River floodway and floodway fringe, and within or near wetlands, estuaries, and streams would be consistent with the applicable flood and stream protection ordinances and coastal land use plans, and provide that projects are designed to avoid impeding waterways and to minimize effects on coastal water bodies. Development in or near Environmentally Sensitive Habitat Areas (ESHA) may be required in order to implement the Program. Impacts to such habitat would be minimized consistent with the applicable general plan policies, zoning ordinances, and coastal land use plans, with project-specific biological surveys and mitigation adhering to local, State and Federal law required where habitat cannot be avoided. Two mitigation measures for biological resources reinforce the Program’s correct following of State and Federal laws regarding permitting and special status species handling and ensure that reporting on the outcomes of the EESP projects demonstrates adaptive improvements.

Archaeological and Cultural Resources
Inland and coastal findings address protection of archaeological, historical, and tribal cultural resources. The application included a Cultural Resources Assessment Report prepared by Sarah Nicchitta et al of Albion Environmental Inc. (December 1, 2022, HCD-Planning Library Document No. LIB230005), which modeled the likelihood of buried resources across the project area on a five-level scale and refined the County’s criteria for when a project-specific Phase 1 archaeological study is required. Projects shall be designed to avoid the potential to impact these resources, and if that is not possible, PGCs require tribal notification and consultation, a discovery protocol if unknown resources or human remains are encountered during construction, and confidentiality of sensitive site information, consistent with CEQA, the Public Resources Code, and Assembly Bill 52. Two mitigation measures for cultural resources better align the RCD PGCs to HCD’s documentation and reporting requirements.

Viewshed Protection and Design Review
A dedicated finding addresses protection of Big Sur's Critical Viewshed, the county's Visually Sensitive (VS) zoning overlay, and the Design Control "D" district. Because the specific location of

future structures, roads, and grading under the Program cannot be known in advance, the Master Permit provides a general framework in which RCD staff perform a visual impact assessment for any project proposing road relocation or structures in the Critical Viewshed or VS district. A PGC requires RCD to ensure there are no visual impacts from vista points. County staff confirm that assessment, and, if the development is in public viewshed, follow standard criteria from the related code to confirm the project can be accepted into the Program. Structures anticipated under the Program, such as fencing, water troughs, and water tanks up to 5,000 gallons, are treated as small or accessory structures eligible for streamlined design approval. If development has the potential to negatively impact protected viewsheds, the project shall not qualify for the Program and will be separately permitted.

Fee Waiver Request

When RCD applied for the Master Permit, the HCD Director did not require RCD to pay for the planning permit fees in the application process. The Director reviewed the proposal against the Director-level criteria and found that the RCD qualifies as a not-for-profit agency proposing to provide public benefit. HCD did charge standard level fees for the preparation and circulation of an Initial Study. The RCD expressed an interest in all related fees to be waived, except County inspection fee ($585) and Fire Protection District Fee ($120+), as shown in **Exhibit F**. This is beyond the purview of the Director. Staff reviewed the request and found that waiving of Planning permit fees is inherent to the Program, but waiving of construction permits such as grading permits and building permits is nuanced. Staff, including the Assistant Director of HCD support that a portion of the grading and building permit fees are waived. However, due to the challenging fiscal environment through the County and nation, the Assistant Director did not support the request from RCD to waive all grading and building permit fees. The Assistant Director could support waiving 50 percent of all future grading and building permit fees, which is less than the almost full fee waiver requested by RCD, but this will still be an ongoing fee waiver expense that impacts HCDs budget in throughout the next five years. The number of hours required to inspect and guide any remedy any issues is not known in advance and is generally anticipated to be minimal. Therefore, staff recommend waiving 50 percent construction permit fees, and encroachment permit fees, only.

Advisory Committees

Land Use Advisory Committee (LUAC). The Master Permit was not brought forward for review by the Land Use Advisory Committees. The majority of practices included in the program do not require review by a LUAC. Many projects will be located in farmlands of Central Salinas Valley and Greater Salinas, which do not have LUACs. The Board of Supervisors' LUAC Guidelines indicate that the LUACs should review development requiring CEQA review, Lot Line Adjustments (LLA), Variances, and Design Approvals for projects subject to review by the Zoning Administrator or Planning Commission. The EESP would allow future projects that, by meeting criteria for inclusion in the Program, would not require project-specific CEQA review. The projects would not include LLA, Variances, or Design Approvals. Therefore, no LUAC review is necessary.

Agricultural Advisory Committee (AAC). The Master Permit was not brought forward for review by the Agricultural Advisory Committee. The primary reason for AAC review of projects in or adjacent to agricultural lands is to review for consistency with agricultural use in advisory role to discretionary decision. The majority of restoration practices in the typical zoning districts are allowed

uses and would not require a discretionary permit. Future projects brought forward by RCD and found to meet the criteria for inclusion in the EESP would likely not be subject to the AAC's review, but the Chief of Planning may decide on a case-by-case basis that a project should be referred, then it can be referred during project PCN review

CEQA:

A Draft Mitigated Negative Declaration ("MND") for PLN220358-DEP was prepared in accordance with CEQA and circulated for extended public review from September 11, 2023 through November 9, 2023 (SCH#2023090196). The document reflects the independent judgment of the County. Issues that were analyzed in the MND include: aesthetics, agriculture and forest resources, air quality, biological resources, cultural resources, energy, geology/soils, greenhouse gas emissions, hazards/hazardous materials, hydrology/water quality, land use/planning, noise, population/housing, public services, recreation, transportation/traffic, tribal cultural resources, utility/service systems and wildfires. Potentially significant impacts were identified in the areas of Aesthetics, Agriculture and Forestry Resources, Air Quality, Biological Resources, Cultural Resources, Energy, Geology/Soils, Greenhouse Gas Emissions, Hazards & Hazardous Materials, Hydrology/Water Quality, Noise, Transportation/Traffic, and Tribal Cultural Resources. EESP projects would be required to implement RCD's PGCs. Implementation of BMPs and PGCs would ensure that most potential impacts remain less than significant. Five proposed mitigation measures will reduce the effects to a point where no significant impacts will occur.

Two comments were received (**Exhibit D**). One was from Paul Robins, Executive Director of RCD, requested minor edits to one mitigation measure. The second letter was from the California Department of Fish and Wildlife, Region 4 CEQA Support Team. Their comment letter expressed that the Initial Study (IS) was not specific enough for them to provide specific feedback on potential direct and indirect impacts to resources, and that they wished CDFW to be specifically included in the early design of projects before they are noticed to County in the EESP PCNs. Lastly, the CEQA Region 4 staff found the name of program as it was written in the application ("Programmatic Restoration Permit") to be misleading, because they do not classify drainage basins as "restoration projects." HCD-Planning staff met with the Region 4 CEQA Support Team upon receipt of the letter to address their overall concerns and their 12 specific comments. The CDFW staff wished to see their early involvement in project design more explicitly described. The CDFW staff raised the possibility that an Environmental Impact Report would be a more defensible environmental review document for a program that does not specify project locations and impacts specific to the locations in the program description. Staff considered the mitigation by design of the program, and that NRCS conservation practices that are the foundation of all project activities are already vetted and approved by the State, and that RCD had intended CDFW to be involved early in the planning process but it was not highlighted in the IS text. In sum, staff found the comments would best be handled with responsive errata edits in the text of the IS and clarifications of biological mitigation measures. The responsive edits are in a redline version of the IS/MND (**Exhibit C**). It is this version which staff recommends the Planning Commission adopt. A separate discussion of the edits to the IS/MND is found in **Exhibit E**.

In conclusion, the mitigation measures and conditions of approval effectively address all potential project issues that might arise after the EESP standard conditions for each project are applied and mitigate all potentially significant impacts to less than significant. The project will provide necessary

restoration and environmental enhancement in the region. The project sites are included only in those cases where the Program PCN has been found fully compliant with the limitations of the EESP, where regulatory agencies have been fully noticed and allowed to assist in design, and the project will not negatively impact the surrounding land uses.

OTHER AGENCY INVOLVEMENT:
Santa Cruz County Planning
Natural Resources Conservation Service (NRCS)
California Department of Fish and Wildlife (CDFW)

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Reviewed by: Fionna Jensen, Principal Planner, Current Planning
Approved by: Melanie Beretti, AICP, Chief of Planning

The following attachments are on file with HCD:
Exhibit A - Discussion
Exhibit B - Draft Resolution

- Draft Conditions of Approval and Mitigation Measures
- EESP and three attachments, including NRCS conservation practices, RCD Pre-Construction Notification implementation process, and draft Cumulative Impact Evaluation Memo

Exhibit C - Draft Initial Study/Mitigated Negative Declaration (post-circulation) for review & approval
Exhibit D - Comments on the public draft IS/MND
Exhibit E - Discussion of Responses and Responsive Edits to the IS/MND
Exhibit F - Fee Waiver Request
Exhibit G - Draft Standard Operating Procedure for the EESP

Cc: Front Counter Copy, Planning Commission, Melanie Beretti, AICP, Chief of Planning; Josh Bowling, Assistant Director; Mary Israel, Program Planner; Resource Conservation District of Monterey County, Applicant; HCD-Environmental Services; HCD-Engineering Services; Environmental Health Bureau; HCD-Building Services; Laborers International Union of North America (Lozeau Drury LLP); The Open Monterey Project (Molly Erickson); LandWatch (Executive Director).

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