

Exhibit A

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LOCAL COASTAL PROGRAM AMENDMENT - PLN150149

DEL MONTE FOREST LAND USE PLAN POLICY 20 & COASTAL IMPLEMENTATION PLAN PART 5, SECTION 20.147.040.D.2

Local Coastal Program Amendment Description and Background

The purpose of this Local Coastal Program (LCP) Amendment is to continue the long-standing protection of indigenous Monterey Cypress habitat, while allowing reasonable land use to occur in an area zoned for residential use, provided the development results in a net improvement to the overall value of the Monterey cypress habitat. County staff, in cooperation with Coastal Commission staff, has prepared the proposed text amendments.

Policy 20 within the Del Monte Forest LUP identifies the indigenous Monterey cypress habitat as ESHA and regulates use and development in or adjacent to indigenous Monterey cypress habitat areas. The policy requires development to be compatible with the objective of protecting this environmentally sensitive coastal resource. The current text of Policy 20 was adopted by the Board of Supervisors on January 24, 2012, and certified by the California Coastal Commission (CCC) on May 9, 2012. The CCC certification was acknowledged on May 22, 2012, by the Board of Supervisors with the amendment of the Del Monte Forest LCP. The amended LCP became effective on June 22, 2012. The text of the original Policy 20 language (previously identified as Policy 21 in the DMF LUP adopted in 1984), and the text of the existing Del Monte Forest LUP Policy 20 are included at **Exhibit D**, as an appendix to the Initial Study.

The original 1984 Policy 20 language stated, “[w]ithin the perimeter of the habitat area as defined by the driplines of the outermost indigenous Monterey cypress trees on the site, removal of native trees or other indigenous vegetation, grading, paving, building construction activity, landscape alterations and summer water shall be prohibited.” This text effectively prohibited all development (or any changes to existing development) west of 17-Mile Drive between Pescadero Point and Cypress Point.

The practical application of this policy by both the County and the Coastal Commission has allowed projects on developed parcels to proceed so long as the proposed development did not increase hardscape coverage or harm any cypress trees. This No Net Loss interpretation was the standard applied to approve numerous demolition and rebuild projects within the Monterey cypress habitat; including Roberts (PLN040662), Barrett (PLN040727), Blackstock (PLN070289), and Byrne (PLN100579).

In the 2012 LCP Amendment, Policy 20 was modified to maintain the same prohibition on development within the driplines of indigenous Monterey cypress trees, but also suggests that the only remodels in native cypress habitat area that can be approved are those which stay within existing hardscape footprints. The undesired consequence of this language change is a lack of flexibility to consider projects which may modify existing encroachments into native cypress habitat but result in a beneficial result to the overall habitat. This limits the County and Coastal Commission ability to approve projects which would have a net benefit but cannot be approved because the project would modify the existing hardscape footprint. The LCP’s primary objective is to, “[p]rotect, maintain, and, where feasible, enhance and restore the overall quality of the coastal zone environment and its natural and artificial resources.” Under this policy there

is room to allow modifications to the footprint of development where there is an enhancement of the oval habitat value. The modification to Policy 20 and the associated Coastal Implementation Plan is to develop criteria to evaluate such projects.

The LCP Amendment would amend Policy 20 of the Del Monte Forest Area Land Use Plan (LUP) and Section 20.147.040.D.2 of Part 5 of the Monterey County Coastal Implementation Plan (CIP) regulating development within the indigenous Monterey cypress habitat (see Vicinity Map at **Exhibit E**). Changes to the text would further focus the LUP as a policy document, and expand and clarify the implementing detail in the CIP to make the development standards and requirements clear.

The overarching policy goal is contained in Policy 20 which is to protect the individual trees and habitat to the maximum extent feasible and where development or redevelopment is allowed to materially enhance Monterey cypress habitat without harming any individual Monterey cypress provided a project:

- Increases Monterey cypress habitat area by reducing net hardscape area; and
- Restores the remaining Monterey cypress habitat area on the subject parcel; and
- Places the Monterey cypress habitat area on the subject parcel into a permanent conservation easement; and
- Funds off-site mitigation to improve Monterey cypress habitat.

The proposed development standards in the CIP provide a clear, albeit higher, standard for re-development of sites. Specifically, the amended text would:

- Require submittal of coordinated arborist and biological technical reports which identify and rank habitat sensitivity, and recommend measures to restore and enhance the habitat value of the entire site. The reports would also expand upon the existing dripline standard to include calculation of critical root zone areas to improve protection of habitat.
- Improve tree protection measures and require a pre-construction habitat protection meeting.
- Direct the development envelope to the least sensitive area on the parcel.
- Require restoration and enhancement of Monterey cypress habitat both on- and off-site.

The intent of the CIP is to provide the policy implementing instructions in a manner that clearly defines the requirements and expectations of property owners, consultants, and the County. The proposed amendment ensures that sensitive Monterey cypress growing within its indigenous range, as mapped in Figure 2a of the Del Monte Forest LUP, will be protected and preserved, while allowing residential development, including modifications to legally established development. These competing objectives will be accomplished by carefully siting and designing development within the Monterey cypress habitat to avoid adverse impacts, and potential damage and degradation to both individual Monterey cypress trees and cypress habitat. The proposed amendment will over the long-term increase the protection, preservation, and restoration requirements for undeveloped and previously developed parcels located within the Del Monte Forest native Monterey cypress habitat area.

The proposed modification is consistent with the requirement to protect, maintain, and, where possible, enhance and restore environmentally sensitive habitat areas (ESHA) in the Del Monte Forest. ESHA is defined as those areas in which plant or animal life or their habitats are either rare or especially valuable due to their special nature or role in an ecosystem and which could be

easily disturbed or degraded by human activities and developments. In the Del Monte Forest, the rare Monterey cypress forest community is an example of a habitat area that has historically been determined to meet the definition of ESHA. Accordingly, this environmentally sensitive habitat area must be protected, maintained, and, where possible, enhanced and restored.

CEQA and LCP Amendment Procedure

The initiation of the LCP Amendment is statutorily exempt pursuant to CEQA Guidelines Section 15265 (Adoption of Coastal Plans and Programs). Per 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, and shifts the burden of CEQA compliance from the local agency to the CCC. 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 that will be 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. However, the County prepared an Initial Study and Negative Declaration (SCH#: 2016051055) for the amendment to provide the County Planning Commission and Coastal Commission staff with the technical background information needed to review the proposed LCP Amendment. The Negative Declaration was circulated for public review from May 16 through June 15, 2016, and identified impacts that are less than significant related to Biological Resources. No comments were received on the Negative Declaration and no unresolved issues remain.

In addition, the Monterey County CIP, Part 6, Appendix 13, Local Coastal Program Amendment Procedures (see **Exhibit G**), provides clear steps for the processing, review, and recommendation on proposed LCP amendments. If staff determines that a Negative Declaration is appropriate, then Step I of Appendix 13 states that the amendment will be set for public hearing before the Planning Commission.

Summary of Resource Impacts – Net Benefit Requirement

The impacts of the proposed LCP Amendment and significance conclusions are discussed in detail in the Initial Study (see **Exhibit D**). The following is the analysis regarding biological resources:

The native Monterey cypress area within the Del Monte Forest is considered an environmentally sensitive habitat area, and must be protected, maintained, and, where possible, enhanced and restored. The proposed amendment will increase the protection, preservation, and restoration requirements for undeveloped and previously development parcels located within the Del Monte Forest native Cypress habitat area, as mapped in the DMF LUP Figure 2a; however short-term impacts could result from on-site modifications and changes (reductions) to hardscape and landscape areas. Future potential landscape and hardscape alterations could present short-term construction impacts to on-site areas. However, the proposed amendment, requires that when modifications are made to a previously developed site, that such modifications result in no net increase in structural/hardscape coverage, and that the areas outside of a newly approved development area be restored to and/or enhanced as high value and self-functioning cypress habitat by removing exotic species, improving growing conditions to provide the bare mineral soil necessary for seed germination, and strategic planting of native

Monterey cypress to promote future germination. Therefore approval, adoption, and implementation of the proposed amendment will have a beneficial impact on native Monterey cypress habitat.

Coastal Act Consistency Analysis of the Proposed LCP Amendment

The relevant analysis for the proposed LCPA is the consistency of the LCP with the Coastal Act. The standard of review for the Land Use Plan (LUP) Amendment is the Coastal Act itself. The standard of review for proposed modifications to the Coastal Implementation Plan (CIP)/Title 20 is that they must be consistent with and adequate to carry out the policies of the LUP. In general, Coastal Act policies set broad statewide directions that are generally refined by local government LUP policies, giving local guidance regarding the kinds, locations, and intensities of coastal development. Typically, CIP and zoning standards then further refine LUP policies to provide guidance.

The proposed LCP Amendment has been designed so that its implementation is consistent with the past practices of the County and Coastal Commission. Overall, the proposed LCP Amendment is more protective of the natural resources of the Del Monte Forest than the existing LCP, specifically with regard to the protection, enhancement, restoration, and maintenance of Monterey cypress habitat. The LCP Amendment ensures a planned and balanced approach to development and preservation within the indigenous Monterey cypress habitat area in the Del Monte Forest.

The following provides a consistency analysis of the proposed DMF LCP Amendment with the Coastal Act:

- Coastal Act, Chapter 3, Article 2, Public Access: “Development does not interfere with the public’s access to the sea.” Consistent: As proposed, the LCP Amendment will not have any impact on existing access policies or development regulations. The amendment does not include construction or land alterations that affect scenic vistas, and will not degrade the visual access to the shoreline.
- Coastal Act, Chapter 3, Article 3, Recreation: “Coastal areas suited for recreation shall be protected.” Consistent: As proposed, the LCP Amendment will not have any impact on existing recreation policies or development regulations. The proposed amendment does not include construction or land alterations that will increase the use of existing neighborhood and regional parks, or require the construction of new recreational facilities.
- Coastal Act, Chapter 3, Article 4, Marine Environment: “Marine resources shall be maintained, enhanced and restored.” Consistent: DMF LUP policies and CIP regulations relative to the protection of marine resources are not affected by the proposed amendment. Moreover, the proposed amendment would result in the protection of additional Monterey cypress forest, which would provide increased area for natural water infiltration. Preserving more of the native Monterey cypress habitat area will not violate water quality or waste discharge requirements, deplete groundwater supplies, alter the drainage pattern of the area, create run off, or degrade water quality.
- Coastal Act, Chapter 3, Article 5, Land Resources: “Environmentally sensitive habitat shall be protected.” Consistent: The proposed amendment ensures that sensitive Monterey cypress habitat growing within its indigenous range will be protected and preserved. The proposed amendment will increase the protection, preservation, and restoration requirements for undeveloped and previously developed parcels located within the Del Monte Forest indigenous Monterey cypress habitat area.

- Coastal Act, Chapter 3, Article 6, Development: “New development shall be located within or near existing developed areas. Scenic resources are to be preserved.”
Consistent: The proposed amendment ensures a planned and balanced approach to development within the indigenous Monterey cypress habitat area. The amendment is intended to protect the habitat to the maximum extent feasible. Careful siting and design will avoid adverse impacts to Monterey cypress habitat and individual Monterey cypress, while allowing residential development, including existing modifications to prior legally established developments, on legal parcels within the mapped area.

Recommendation

Staff recommends that the Planning Commission adopt a resolution (**Exhibit B**) to recommend that the Board of Supervisors adopt the LCP Amendment to amend the text of Policy 20 of the Del Monte Forest LUP, and adopt an ordinance to amend the text of the CIP, Part 5, Section 20.147.040.D.2.

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