

Attachment A

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DRAFT RESOLUTION OF INTENTION TO AMEND THE LOCAL COASTAL PROGRAM

Before the Board of Supervisors in and for the County of Monterey, State of California

RESOLUTION NO. 16 -

Resolution of Intention of the Monterey County Board of Supervisors to amend the text of Policy 20 of the Del Monte Forest Area Land Use Plan and to adopt an ordinance to amend the text of Section 20.147.040.D.2 of the Coastal Implementation Plan, regulating development within the indigenous Monterey cypress habitat, Del Monte Forest, Coastal Zone.

An amendment to the text of Policy 20 of the Del Monte Forest Area Land Use Plan (LUP), and amendment to Section 20.147.040.D.2 of Part 5 of Title 20 (Coastal Implementation Plan) of the Monterey County Code regulating development within the indigenous Monterey cypress habitat, came on for a public hearing before the Monterey County Board of Supervisors on November 8 and December 6, 2016. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Monterey County Board of Supervisors hereby finds and decides as follows:

RECITALS

1. Section 65300 et seq. of the California Government Code requires each county to adopt a comprehensive, long-term General Plan for the physical development of each county.
2. On September 30, 1982, the Board of Supervisors of the County of Monterey (“County”) adopted a county-wide General Plan (“General Plan”) pursuant to California Planning, Zoning and Development law.
3. Section 30500 of the Public Resources Code requires each County and City to prepare a Local Coastal Program (LCP) for that portion of the coastal zone within its jurisdiction.
4. On July 17, 1984, the Board of Supervisors adopted the Del Monte Forest Land Use Plan as part of the LCP in the Coastal Zone pursuant to the California Coastal Act.
5. On September 24, 1984 the California Coastal Commission (CCC) acknowledged certification of the Del Monte Forest LUP as part of Monterey County’s LCP.
6. On January 5, 1988, consistent with Section 30512.1 of the Public Resources Code, the County adopted the Monterey County Coastal Implementation Plan (CIP) of the LCP as Title 20 of the Monterey County Code, including “Part 5: Regulations for Development in the Del Monte Forest Land Use Plan Area” (Chapter 20.147) of Title 20.
7. Pursuant to section 30514 of the Public Resources Code, local governments may amend adopted LCPs provided the amendments are certified by the Coastal Commission.

8. On September 24, 1985 the Monterey County Board of Supervisors adopted procedures for amending the LCP-CIP.
9. On October 26, 2010, the County adopted the 2010 General Plan, an update of the General Plan for the inland area, but it does not apply in the coastal zone. To the extent the LCP relies on the 1982 General Plan, the adoption of the 2010 General Plan does not change that reliance.
10. On January 24, 2012, the Monterey County Board of Supervisors adopted a resolution of intent to amend the text, policies, and figures of the Del Monte Forest LUP, including the current text of Policy 20; and the text of the Coastal Implementation Plan, Parts 1 and 5, including the text of Section 20.147.040.D.2. The California Coastal Commission certified the LCP amendments on May 9, 2012. On May 22, 2012, the Board of Supervisors adopted the amendments to the Del Monte Forest LCP, including the current Policy 20 of the Land Use Plan and Section 20.147.040.D.2 of the Coastal Implementation Plan. The amended LCP became effective on June 22, 2012.
11. Pursuant to Public Resources Code sections 30000 et seq., and Title 20 of the Monterey County Code, the County may amend the adopted LCP provided the County follows certain procedures, including that the Monterey County Planning Commission hold a noticed public hearing and make a written recommendation to the Board of Supervisors on the proposed amendment of the LUP and CIP portions of the LCP, and that the Board of Supervisors hold a public hearing to determine whether to adopt a resolution of intent to approve, and if affirmative, submit the proposed amendment to the California Coastal Commission for certification. The California Coastal Commission may certify the amendment or may suggest modifications, which, if adopted by the County, are deemed certified upon confirmation of the Executive Director of the Coastal Commission.
12. Pursuant to Government Code sections 65350 et seq., the County may amend the adopted General Plan provided the County follows certain procedures, including that the County Planning Commission hold a noticed public hearing and make a written recommendation to the Board of Supervisors on the proposed amendment of the General Plan. In this case, staff recommended that the proposed amendment is consistent with the policies as established in the LUP, that no changes will occur to General Plan policies or land use designations, and that all changes are otherwise consistent with the 1982 Monterey County General Plan.
13. Public Resources Code Section 30514(b) limits proposed amendment submissions to the California Coastal Commission to no more than three per calendar year. The submission of the amendment for certification would be the second submission by the County during 2016.
14. Pursuant to Public Resources Code section 21080.9 and CEQA Guidelines Section 15265, an amendment to a Local Coastal Program is statutorily exempt from CEQA. CEQA does not apply to activities and approvals pursuant to the California Coastal Act by any local government necessary for the preparation and adoption or amendment of a local coastal program. This section shifts the burden of CEQA compliance from the local agency to the CCC, although County has prepared analysis of environmental impacts sufficient for a thorough and complete review by the CCC.

15. The County prepared an Initial Study/proposed Negative Declaration (State Clearinghouse No. 2016051055) for 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, and the Initial Study/proposed Negative Declaration have been provided to the Board of Supervisors. The Initial Study will provide the CCC with the technical background information it needs to analyze the proposed LCP Amendment.
16. All policies of the 1982 General Plan and the Del Monte Forest LUP have been reviewed by Resource Management Agency - Planning staff for consistency with the County's LCP and 1982 General Plan, and the Board finds that the proposed amendments maintain the compatibility and internal consistency of the General Plan and the Del Monte Forest LUP. The Board of Supervisors finds that:
 - a. The proposed 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.
 - b. The proposed amendment ensures a planned and balanced approach to development and preservation within the indigenous Monterey cypress habitat area.
 - c. The proposed amendment is not expected to increase development potential in the indigenous Monterey cypress habitat area, or lessen protection of environmental resources, and is more likely to result in reduction of environmental impact overall compared to the text of Policy 20 in the existing Del Monte Forest LUP. The key changes in the proposed text of the CIP will provide the policy implementing instructions in a manner that clearly defines the requirements and expectations of property owners, consultants, and the County.
 - d. The proposed amendment is consistent with the Coastal Act.
17. On June 29, 2016, the Monterey County Planning Commission held a duly noticed public hearing to consider and make a recommendation to the Board of Supervisors regarding approving an amendment to the text of Policy 20 of the Del Monte Forest LUP and to amend the text of Section 20.147.040.D.2 of the CIP, Part 5. At least 10 days before the first public hearing date, notices of the hearing before the Planning Commission were published in the Monterey County Weekly, and were also posted on and near the affected property area. The Planning Commission recommended denial of the LCP amendments by a vote of 7 to 1 (Planning Commission Resolution No. 16-020). Revisions to the proposed text of the Coastal Implementation Plan amendment since the Planning Commission made its recommendation are not substantial modifications requiring referral back to the Planning Commission.
18. On November 8, 2016, the Monterey County Board of Supervisors held a duly noticed public hearing to consider providing preliminary direction on the proposed amendment to the text of Policy 20 of the Del Monte Forest LUP and the text of Section 20.147.040.D.2 of the Coastal Implementation Plan. At least 10 days before the first public hearing date, notices of the hearing before the Board of Supervisors were published in the Salinas Californian, and were also posted on and near the affected property area. After public comment and consideration of the proposed amendments, the Monterey County Board of Supervisors directed staff to return on December 6, 2016, with a resolution of intent to adopt the proposed amendments.
19. On December 6, 2016, the Monterey County Board of Supervisors held a duly noticed

public hearing on the proposed amendments. At least 10 days before the first public hearing date, notices of the hearing before the Board of Supervisors were published in the Monterey County Weekly, and were also posted on and near the affected property area.

20. The proposed Del Monte Forest LUP Policy 20, as proposed to be amended, in a version showing the changes with strikethrough and underline and in a “clean” version, is attached hereto as Exhibit A and incorporated herein by reference. The proposed ordinance amending section 20.147.040.D.2 of the Coastal Implementation Plan is attached hereto as Exhibit B and incorporated herein by reference.
21. Monterey County and the California Coastal Commission will collaborate further to clarify the policy intent to clearly define that habitat includes undisturbed areas as well as critical root zone areas.
22. This amendment is intended to be carried out in a manner fully in conformity with the California Coastal Act (Public Resources Code Sections 30512, 30513, and 30519).

DECISION

NOW, THEREFORE, BASED ON ALL OF THE ABOVE FINDINGS, BE IT RESOLVED, that the Board of Supervisors does hereby:

- a. Find the action Statutorily Exempt per Public Resources Code section 21080.9 and CEQA Guidelines Section 15265;
- b. Adopt a resolution of intent to amend the text of Policy 20 of the Del Monte Forest Area Land Use Plan, attached hereto as Exhibit A and incorporated herein by reference;
- c. Adopt a resolution of intent to adopt an Ordinance, attached hereto as Exhibit B and incorporated herein by reference, to amend the text of Section 20.147.040.D.2 of Part 5 of Title 20 (Coastal Implementation Plan) of the Monterey County Code regulating development within the indigenous Monterey cypress habitat;
- d. Certify that the amendments are intended to be carried out in a manner fully in conformity with the Coastal Act; and
- e. Direct staff to transmit the proposed amendments to the California Coastal Commission for certification together with materials sufficient for a thorough and complete review.

PASSED AND ADOPTED this 6th day of December, 2016, by the following vote to-wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book___ for the meeting on _____.

Dated:

Gail T. Borkowski, Clerk of the Board of Supervisors
County of Monterey, State of California

By _____
Deputy