

Exhibit B
to
Attachment A

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ORDINANCE NO. _____

AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA, AMENDING SECTION 20.147.040.D.2 OF TITLE 20 (MONTEREY COUNTY COASTAL IMPLEMENTATION PLAN) OF THE MONTEREY COUNTY CODE RELATING TO REGULATIONS FOR DEVELOPMENT IN THE DEL MONTE FOREST LAND USE PLAN AREA.

County Counsel Summary

This ordinance amends the standards for development within Monterey cypress habitat in the Del Monte Forest Land Use Plan area of the coastal zone of the County of Monterey. Specifically, the ordinance amends Subsection 2 of Subsection D of Section 20.147.040 of Part 5, Regulations for Development in the Del Monte Forest Land Use Plan Area, of Title 20 (Monterey County Coastal Implementation Plan) of the Monterey County Code. The amendment establishes new procedures and requirements for development in and adjacent to Monterey cypress trees and habitat.

The Board of Supervisors of the County of Monterey ordains as follows:

SECTION 1. Subsection 2 of Subsection D of Section 20.147.040 of Part 5, Regulations for Development in the Del Monte Forest Land Use Plan Area, of Title 20 (Monterey County Coastal Implementation Plan) of the Monterey County Code is amended to read as follows:

2. Monterey Cypress Habitat

(a) Indigenous Monterey cypress habitat is an environmentally sensitive habitat area within the Del Monte Forest, and is presumed present within the area mapped in LUP Figure 2a. All proposed development in this area shall be accompanied by coordinated a-biologist and arborist reports in consultation with the Del Monte Forest Conservancy pursuant to Section 20.147.040.A., a purpose of which is to determine: the “critical root zone” for the site; the relative habitat sensitivity of all parts of the site, ranked from the highest sensitivity to the lowest sensitivity in terms of potential adverse impacts from development; the ways in which the critical root zone and the relative habitat sensitivity rankings relate to adjacent and surrounding habitat areas; and the measures to best protect Monterey cypress habitat on the site and overall (including in terms of on-site (and potentially offsite) restoration and enhancement measures). The arborist report shall calculate the critical root zone for each Monterey cypress tree on the site based on the British Standards Institute (BSI) method developed in 1991 and as modified by N. Matheny and J. Clark, *Trees and Development: A Technical Guide to Preservation of Trees During Land Development* (1998), to reflect species tolerance, tree architecture, existing site constraints including room for future growth, trunk diameter, tree age and vigor to determine the distance from the trunk that comprises the critical root zone. The critical root zone may not always represent a simple radius around the tree and may also include other areas where proposed development may damage or degrade Monterey cypress trees (this

analysis may include the need to preserve associated coarse root and feeder root zones, as well as soil type and condition). The County may also elect to define the critical root zone as a buffer around the dripline of each Monterey cypress tree on the site.

(b) General Development Parameters. Within their indigenous range (see LUP Figure 2a), Monterey cypress trees shall be protected to the maximum extent possible. All allowable development in and adjacent to the ~~that would impact~~ Monterey cypress trees and/or Monterey cypress habitat mapped in Figure 2a in this area shall be sited and designed to avoid adverse impacts and potential damage or degradation to individual cypress and cypress habitat, and shall be required to include measures, performance standards, and monitoring recommendations to prohibit all irrigation of Monterey cypress habitat areas, improve growing conditions to provide a bare, mineral soil necessary for seed germination, and increase sunlight to prevent soil borne fungi from inhabiting seedlings that will enhance Monterey cypress habitat values. Trees identified by the arborist as at risk during construction shall be surrounded by sturdy exclusionary fencing (welded wire or chain link) and supported by either metal or wood posts securely embedded in the ground. Trees within 30 feet of site disturbance must be protected by a row of straw bales secured with rebar through the bale and into the ground either just inside or outside the protection fences. Grading, demolition, and construction permits shall not be issued until an applicant has demonstrated proper installation of all tree protection measures and completion of a preconstruction cypress habitat protection meeting.

(c) Undeveloped Parcels. ~~All use and development in or adjacent to indigenous Monterey cypress habitat area shall be compatible with the objective of protecting this environmentally sensitive coastal resource.~~ On undeveloped parcels (i.e., those without an existing legally established residence), development (including removal of native trees or other indigenous vegetation, grading, paving, building construction activity, landscape alterations, and summer watering) within the perimeter of the critical root zone for a site shall be prohibited, other than: development associated with cypress habitat enhancement and/or restoration; and on the inland side of 17-Mile Drive only, driveways, underground residential utilities and fences if this area cannot possibly be avoided and if such development does not come within the critical root zone of, and does not harm, individual cypress trees. All otherwise allowable development shall be sited, designed, and limited as necessary to protect cypress habitat as much as possible, and all such development (e.g., residential structures and hardscape (such as decks, patios, driveways, paths, etc.)) shall be confined within a defined “development envelope”. With the exceptions specified above, the development envelope shall contain all improvements and structural development (i.e., all uses that are not Monterey cypress habitat), be located entirely outside of the critical root zone, and shall be no larger than the allowable building site coverage for the applicable zoning district. Open space conservation and scenic easements are required for all undeveloped areas of a parcel (i.e., all areas outside of the defined development envelope) within the Monterey cypress habitat area mapped in Figure 2a, and such easements shall be secured consistent with Policy 13. The restoration requirements specified in Sections 20.147.040(D)(2)(d)(3) - (4) and the alternative construction methods specified in Section 20.147.040(D)(2)(d)(5) below, shall apply.

(d) Developed Parcels. ~~All improvements (such as structures and driveways, etc.) shall be carefully sited and designed to avoid potential damage or degradation of Monterey cypress habitat, including the micro-habitat of individual trees, and must be located within existing hardscaped areas and outside of the dripline of individual cypress trees. On developed~~

parcels (i.e., those with a legally established residence), new and/or modified development shall be located within the development envelope, which shall consist of all existing legally established structural and/or hardscaped coverage (i.e., all areas of the site covered with a structure, or other pervious or impervious hardscape areas (such as decks, patios, driveways, and paths, but not including landscaped areas, fence areas, or underground or over ground utility areas)), and outside the critical root zone of individual cypress trees unless each of the following findings can be made:

(1) Construction, use, and maintenance of the new and/or modified development will accommodate the health and vitality, and will not harm, any existing individual Monterey cypress tree regardless of size (this determination will be made based on the type of development, the particulars of its siting and design, and its location in relation to individual trees, the critical root zone, higher sensitivity portions of the site, and adjacent and surrounding habitat areas):

(2) The new and/or modified development will be confined within a development envelope that reduces structural/hardscaped coverage as compared to the existing legally established baseline amount of coverage (i.e., the new development envelope consists of a lesser amount of structural and/or hardscape coverage as the existing development envelope), and that is sited in such a way as to be located within the least environmentally sensitive location (as determined by the coordinated biologist and arborist reports), and maximizes Monterey cypress habitat values, including in relation to adjacent and surrounding areas (e.g., clustering new and/or modified development on the site near to existing and/or adjacent residential developments so as to provide as much of a contiguous, undisturbed, and unfragmented habitat area as possible on and off site);

(3) All areas outside of the approved development envelope will be: restored to and/or enhanced as high value and self-functioning Monterey cypress habitat by taking into consideration removal of exotics species, consolidation of fragmented Monterey cypress habitat, improving growing conditions to provide a bare, mineral soil necessary for seed germination, increasing sunlight to prevent soil borne fungi from inhabiting seedlings, and strategic planting of native Monterey cypress to promote future germination with all initial restoration/enhancement implemented prior to occupancy of any approved development; and placed within an open space conservation and scenic easement secured consistent with Policy 13;

(4) All areas of new coverage (i.e., areas that would be covered with structures and/or hardscape that are not so covered in the existing legally established baseline condition) shall be offset through restoration and/or enhancement (as high value and self-functioning Monterey cypress habitat) of an off-site area (including within any right-of-way) located within the Monterey cypress habitat area mapped in Figure 2a at a ratio of 2:1 (and/or payment of a mitigation fee, commensurate with the cost to restore/enhance such an area, to an acceptable public agency or private group effectively able to both manage such a fee (including through established interest bearing and earmarked accounts, etc.) and to implement such measures). Such off-site restoration/enhancement areas shall be selected for their potential to result in the greatest amount of overall benefit to the native Monterey cypress habitat in the Del Monte Forest, and all initial restoration/enhancement of the offsite area shall be implemented prior to occupancy of any approved development or, in the case of a fee, the fee paid prior to issuance of the construction permit; and

(5) The new and/or modified development has been sited and designed in such a way as to avoid the critical root zone and the most sensitive habitat parts of the site as much as possible, to result in greater cypress habitat value on the site (and in relation to adjacent and surrounding habitat areas) than the existing baseline habitat value, and to enhance overall Monterey cypress habitat values. If development is proposed within a Monterey cypress critical root zone, the arborist must provide alternative construction methods or preconstruction treatments to avoid impacts. The alternative methods can include supplemental irrigation, hand digging or grading, root pruning or modification to traditional construction methods, such as spanning roots, pier and above grade beams or cantilevering structures. However, in no case shall Monterey cypress trees be removed unless they are dead or declining, and the arborist and biologist reports conclude removal will further enhance Monterey cypress habitat values or avoid adverse impacts or potential damage or degradation to both healthy individual cypress trees and cypress habitat.

~~(e) Removal of native trees or other indigenous vegetation, grading, paving, building construction activity, landscape alterations and summer watering are all prohibited within the perimeter of the identified cypress habitat area for a site, including at a minimum as defined by the driplines of the outermost indigenous Monterey cypress trees on a site.~~

~~(f) On the inland side of 17 Mile Drive within the indigenous Monterey cypress habitat area, driveways are allowed only where the driveway does not come within the dripline of individual cypress trees.~~

~~(g) Within the indigenous Monterey cypress habitat area:~~

~~(1) Underground residential utilities are allowed on the inland side of 17 Mile Drive.~~

~~(2) Fences shall be designed with see through materials or spaced in a manner to protect views of the natural habitat from 17 Mile Drive (e.g., wrought iron with openings).~~

~~(h) Open space conservation and scenic easements are required for all undeveloped areas of a parcel within the Monterey cypress habitat area.~~

~~(i) The Del Monte Forest Foundation Conservancy shall be encouraged to maintain an interpretive and educational program at Crocker Grove. Said program shall be under careful supervision and designed for the protection of the indigenous Monterey cypress habitat. The type and intensity of access to Crocker Grove shall be carefully regulated.~~

SECTION 2. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of Supervisors hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

SECTION 3. EFFECTIVE DATE. This Ordinance shall become effective on the 31st day following its adoption or the day certification by the California Coastal Commission becomes final and effective, whichever occurs later.

PASSED AND ADOPTED this ____ day of _____, _____, by the following
vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Chair, Monterey County Board of Supervisors

A T T E S T:

GAIL T. BORKOWSKI,
Clerk of the Board of Supervisors

By: _____
Deputy

APPROVED AS TO FORM

WENDY S. STRIMLING
Senior Deputy County Counsel

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