

Attachment B

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**ATTACHMENT B
DRAFT RESOLUTION TO AMEND
THE LOCAL COASTAL PROGRAM**

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

RESOLUTION NO. 17 -

Resolution of the Monterey County Board of Supervisors to amend the text of Policy 20 of the Del Monte Forest Area Land Use Plan regulating development within the Indigenous Monterey cypress habitat, Del Monte Forest, Coastal Zone.

An amendment to the Del Monte Forest Area Land Use Plan (LUP) to amend the text of Policy 20, and to amend the text of the Coastal Implementation Plan (CIP), Part 5, Section 20.147.040.D.2, Title 20 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, and December 12, 2017. 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 and Zoning 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 Area LUP 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 CCC.
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 CCC 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 CCC for certification. The CCC 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 CCC to no more than three per calendar year. The submission of the 2016 amendment for certification was the second submission by the County during 2016.
14. Pursuant to Public Resources Code section 21080.9 and California Environmental Quality Act (CEQA) Guidelines Section 15265, an amendment to a LCP 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. Amendment of the LCP is exempt from CEQA pursuant to Public Resources Code Section 21080.9 and CEQA Guidelines Section 15265. However, to provide information sufficient for a thorough and complete review, 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 and considered by the Board of Supervisors. The County provided the Initial Study to the CCC as technical background information needed 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 Area 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 existing text of Policy 20 in the Del Monte Forest Area 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 Area 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).
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. On May 10, 2017, the California Coastal Commission certified, with suggested modifications, the proposed amendments to the Del Monte Forest Land Use Plan and Coastal Implementation Plan as part of Monterey County's Local Coastal Program. (California Coastal Commission resolution approving the Monterey County Local Coastal Program (LCP) Amendment No. LCP-3-MCO-16-0070-2 (Monterey Cypress Habitat Development Standards) with suggested modifications.)
21. On October 25, 2017, the Monterey County Planning Commission held a duly noticed public hearing to consider and make recommendations to the Board of Supervisors regarding approving amendments to the text of Policy 20 of the Del Monte Forest Area Land Use Plan and to amend the text of the Coastal Implementation Plan, Part 5, Section 20.147.040.D.2, with the modifications made by the Coastal Commission. At least 10 days before the first public hearing date, notices of the hearing before the Planning Commission were published in the Salinas Californian and were also posted on and near the affected property area. The Planning Commission recommended approval of the LCP amendments with minor modifications to the proposed amendment to section 20.147.040.D.2, by a vote of 6 to 0 (Planning Commission Resolution No. 17-046). Coastal Commission staff has informed County staff that the modifications are acceptable to staff, and those modifications are incorporated into the amendment as presented to the Board of Supervisors.
22. On December 12, 2017, 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.
23. Per State regulations and Section 20.94.030.D.7 of the Monterey County Code (Title 20), in order for the LCP amendments to take effect, the Board must acknowledge receipt of the Coastal Commission certification of amendments, formally adopt the certified amendments, and transmit the amendments to the CCC for confirmation.
24. The proposed Del Monte Forest Area 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 1 and incorporated herein by reference. The Board of Supervisors is considering adoption of the proposed ordinance amending section 20.147.040.D.2 of the Coastal Implementation Plan by separate action concurrent herewith.
25. This amendment is intended to be carried out in a manner fully in conformity with the California Coastal Act.

DECISION

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

- a. Acknowledge receipt of the California Coastal Commission resolution approving the Monterey County Local Coastal Program (LCP) Amendment No. LCP-3-MCO-16-0070-2 (Monterey Cypress Habitat Development Standards) with suggested modifications;

- b. Find that the action, adoption of a local coastal program amendment, qualifies for a Statutory Exemption pursuant to Public Resources Code Section 21080.9 and Section 15265 of the CEQA Guidelines;
- c. Adopt a resolution to amend the text of Policy 20 of the Del Monte Forest Area Land Use Plan, modifying standards of development within indigenous Monterey cypress habitat, attached hereto as Exhibit 1 and incorporated herein by reference;
- 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 Land Use Plan amendment and the ordinance amending the Coastal Implementation Plan to the California Coastal Commission for confirmation that County's action satisfies the specific requirements set forth in the Commission's certification order.

PASSED AND ADOPTED this 12th day of December, 2017, 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 December 12, 2017.

Dated:

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

By _____
Deputy

EXHIBIT 1 TO ATTACHMENT B

DRAFT TEXT AMENDMENT TO DMF LUP POLICY 20

Policy 20 of the Del Monte Forest Land Use Plan shall be amended as follows:

Strikethrough/Underline:

Indigenous Monterey cypress habitat is an environmentally sensitive habitat area within the Del Monte Forest, and is presumed present within and adjacent to the area mapped in Figure 2a. All proposed development in this area shall be accompanied by the biological reports described in a coordinated biological/arborist report prepared in consultation with the Del Monte Forest Conservancy and consistent with Policies 12 and 16, a primary purpose of which shall be to determine: the Monterey cypress habitat portion of the site; the “critical habitat area” for the site (i.e., the portion of Monterey cypress habitat on the site that is to be avoided to protect against potential damage or degradation of cypress habitat, including the microhabitat of individual cypress trees); 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 cypress habitat portion of the site, the critical habitat area 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 on-site (and potentially off-site) restoration and enhancement measures. The critical habitat area shall at a minimum be defined by a 10-foot buffer applied to the outermost driplines (i.e., the tree canopies) of all of the Monterey cypress trees on and adjacent to the site, but shall also include any other areas on site that are deemed critical to preservation of existing cypress trees on and off site, or that are to be avoided due to high habitat sensitivity and/or cypress habitat preservation purposes for other reasons.

All development in and adjacent to the Monterey cypress habitat mapped in Figure 2a shall be carefully sited and designed to avoid potential damage or degradation of Monterey cypress habitat, including the microhabitat of individual cypress trees, and shall be required to include measures that will enhance Monterey cypress habitat values. All use and development in or adjacent to indigenous Monterey cypress habitat areas shall be compatible with the objective of protecting this environmentally sensitive coastal resource. All improvements (such as structures and driveways, etc.) shall be carefully sited and designed to avoid potential damage and/or degradation of Monterey cypress habitat, including the microhabitat of individual cypress trees, and must be located within existing hardscaped areas and outside of the dripline of individual cypress trees. Within the perimeter of the identified habitat area for a site, including at a minimum 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 watering shall be prohibited. On the inland side of 17 Mile Drive, driveways shall be allowed in this area where the driveway does not come within the dripline of individual Cypress trees. Underground residential utilities and fences shall be allowed in this area on the inland side of 17 Mile Drive. Open space conservation and scenic easements are required for all undeveloped areas of a site parcel within the Monterey cypress habitat area, and such easements shall be secured consistent with Policy 13.

Clean:

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