



Legislation Details (With Board Report)

File #: PC 16-023 **Name:** PLN150150 - Lundquist
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Title: PLN150150 - Richard C and Melanie F Lundquist TRS
Public hearing to consider action on an amendment to a Combined Development Permit to allow demolition of an existing residence, construction of a new single family residence, detached garage, and new stone wall within Native Monterey Cypress habitat, requiring the removal of Monterey Cypress Trees, development in a location with archaeological resources and on slopes exceeding 30%.
Proposed CEQA Action: Addendum to previously adopted Mitigation Negative Declaration 3224 17 Mile Drive, Pebble Beach, Del Monte Forest Land Use Plan

Sponsors:

Indexes:

Code sections:

Attachments: 1. Staff Report, 2. Exhibit A - Project Plans, 3. Exhibit B - Vicinity Map, 4. Exhibit C - Flagging and Staking Photos

Date	Ver.	Action By	Action	Result
6/29/2016	1	County of Monterey Planning Commission		

PLN150150 - Richard C and Melanie F Lundquist TRS

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RECOMMENDATION:

It is requested that the Planning Commission provide direction regarding:

1. Whether a Basement on this parcel with identified archaeological resources is acceptable without having completed testing to determine if resources exist under the existing house.
2. Determination of whether the house is consistent with the Local Coastal Program Policies related to scenic viewshed. Specifically:
 - a. Is it acceptable for the house to block more of the ocean view than the existing structure?
 - b. What level of visual impact is acceptable? (Fencing, and impact on scenic vistas)
 - c. Does project degrade visual character of site or surroundings?
3. Determination of whether house height. The Zoning Ordinance requires height to be calculated from average natural grade. What are the appropriate points to measure average natural grade from? Should this be calculated from the average natural grade of the house foundation, or can the proposed underground tunnel be taken into account?

PROJECT INFORMATION:

APN: 008-472-006-000

Agent: Aengus Jeffers

Plan Area: Del Monte Forest Land Use Plan

Land Use: Low Density Residential

Zoning: LDR/2.5-D (CZ)

Flagged and Staked: Yes

Planners: Elizabeth Gonzales and Ashley Nakamura

SUMMARY:

The applicant is requesting a new multistory house on a site that has archaeological and scenic viewshed constraints. The location is very sensitive from an archaeological perspective and the new house would involve excavation at a location where sampling has not been undertaken to determine if there is the potential for resources to be present. The location is in a highly scenic location with views of the Monterey Cypress Forest and the Pacific Ocean. In addition the site is in close proximity to the Lone Cypress. The house is much taller than the existing structure and will block views. The applicant believes that all potential concerns have been addressed and would like to move forward. Staff requests that the Planning Commission provide policy direction relative to archeology and scenic viewshed.

DISCUSSION:

History: On March 13, 2013, a Combined Development Permit (PLN110114-Lundquist) was approved by the Planning Commission to allow the construction of a detached garage, replacement of an existing wood fence with new stone pillars at the driveway entrance, and restoration of existing paths and driveway that affected native Cypress habitat. Other entitlements included development within 100 feet of ESHA, development within 750 feet of a known archaeological resource and development on slopes in excess of 30%. A mitigated negative declaration was prepared and included tree protection measures and a Monterey Cypress Habitat Restoration Plan.

The project was appealed by the California Coastal Commission (CCC) on April 17, 2013. The appeal was based on concern for protection of environmentally sensitive habitat areas (ESHA), visual resources, archaeological resources, forest resources, and marine resources.

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 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. A modification to Policy 20 and the associated Coastal Implementation Plan is being processed to develop criteria to evaluate such projects.

This project triggered the need to amend Policy 20. Upon adoption and certification of Policy 20 as it is currently written, by the CCC, this project can be approved. However, CCC staff has expressed concerns regarding approval of the Lundquist CDP amendment prior to the LUP amendment being certified by the CCC. If the Policy 20 language were to change along the approval process, then the approval may not be consistent with the new language. The CCC staff has indicated an appeal would be filed if the project is approved prior to certification of the LCP amendment.

Revisions: The earlier coastal permits approved the relocation of the driveway, the subterranean garage, and the wall along 17-Mile Drive. This amendment includes the demolition of the existing 2,083 square foot residence and construction of an 8,886 square foot residence, consisting of a main level, upper level, and a basement level with a subterranean tunnel leading to the previously approved garage. The fence/wall design modifications have been revised to allow better visibility from 17-Mile Drive to the ocean.

Wall: The CCC had concerns regarding the height of the wall and the desire to maintain visibility from 17-Mile Drive. The CCC's primary interest was the views south of the existing entrance. They wanted to see more forest to ocean views. The revised fence plan includes lowering the wall to allow drivers to see over the wall. One of the entrance columns were removed create a more transparent entrance area; in addition to, reducing the height by 12-24" along 17-Mile Drive, while still maintaining a level of privacy for the property owners. The portion of the property that provides ocean views has been preserved by incorporating two twelve foot wide, see-through fence openings into the wall design in the areas that currently provide ocean views, which is consistent with the intent of the CIP, which is *"to protect the scenic and visual resources of the Del Monte Forest area, only development that does not block significant public views and does not significantly adversely impact public views and scenic character, including specific attention to the 17-Mile Drive corridor and designated public accessways/vista points, shall be allowed."*, and LUP Policy 59, which specifically requires that *"New development, including ancillary structures such as fences constructed between 17-Mile Drive and the sea . . . be designed and sited to minimize obstruction of views from the road to the sea. Examples of methods to reduce obstruction include, but are not limited to the following: height limits, use of see-through materials for fences, limitations on landscape materials which would block views."*

Driveway and Tree Removal: The approval of the driveway is dependent on the approval of the LCP amendment of Policy 20 and the CCC's certification of the LCP amendment. The proposed driveway and site development is consistent with the amended Policy 20. The proposed driveway re-alignment will impact 3,874 square feet of Monterey cypress habitat; however the project will involve the restoration of 3,110 square feet of existing driveway and 1,412 square feet of gravel walkways, for a total restoration of 4,522 square feet, resulting in a 648 square foot net gain of habitat on the site. According to the arborist report, the planted Cypress trees along the property line adjacent to 17-Mile Drive are detrimental to the native Cypress habitat and should be removed from the property. Removing the planted non-indigenous Monterey cypress trees would also help prevent future adverse visual impacts to the existing viewshed.

New Residence: The existing structure is a modest 2,083 square foot, single-level dwelling that maintains a low profile, and is minimally visible when viewed from 17-Mile Drive. Only the roof of the existing residence is visible from 17-Mile Drive, creating a residence that is harmonious to the surroundings and furthers the intent of the policies.

The proposed structure is a three-level, 8,886 square foot dwelling. The residence is proposed primarily within the footprint of the existing residence; however, requires additional excavation to accommodate a lower level and an upper level, creating a three level residence that will affect the existing viewshed when viewed from 17-Mile Drive by further reducing ocean views and involve excavation that creates a potential to impact archaeological resources.

Viewshed Impacts: The LCP protects the scenic and visual resources of the Del Monte Forest, as required by the following policies related to the 17-Mile Drive corridor:

***LUP Policy 32** - In reviewing requests for tree removal, land clearing, and other development, preservation of scenic resources shall be a primary objective. Because of the regional significance of the forest resources, special consideration shall be given to the ridgeline silhouette, as well as views from significant public viewing areas, such as the corridors along Highway 68 and 17-Mile Drive, and the view from distant publicly accessible shoreline areas such as found at Point Lobos State Natural Reserve.*

- The removal of the non-native Monterey cypress along the property line adjacent to 17-Mile Drive will further enhance views from 17-Mile Drive to the ocean and alleviate the potential for further obstruction to the existing viewshed. Removal of the non-native Monterey cypress will not create any concerns regarding ridgeline development. The project site has the potential to be visible from Point Lobos State Natural Reserve; however, the non-native trees proposed for removal are along the 17-Mile Drive portion of the parcel and will not reduce natural vegetation on the portion of the parcel with the potential to be visible from Point Lobos State Natural Reserve. The removal of the non-native Monterey Cypress trees does not create any inconsistencies with this policy.

***LUP Policy 47**- Views from designated public access areas and vista points, from Highway 68 and 17-Mile Drive corridors, and of ridgelines as seen from the public viewing areas identified on Figure 3, shall be protected as resources of public importance, and development that could adversely impact such views shall only be allowed where it protects, preserves, and if feasible enhances, such scenic resources. Conservation and scenic easements shall be required as one means of protecting such views in perpetuity.*

- The subject parcel is identified on Figure 3. Demolition of a residence that currently minimally obstructs views would be replaced by a larger, taller structure that would be constructed above the height of the existing residence and would further obstruct views from 17 Mile Drive to the ocean. The proposed project would not protect, preserve, or enhance the scenic resources, due to the fact that a taller, larger residence will occupy more viewshed. Therefore, the proposed residence is inconsistent with this policy.

***LUP Policy 52** - Development within the viewshed of visually prominent settings, including those identified on Figure 3, shall include adequate structural setbacks (generally a minimum of 50 feet) from such settings and shall require siting and design of structures to minimize the need for tree removal and alterations to natural landforms. New structures shall be sited and designed to harmonize with the natural setting and not be visually intrusive.*

***LCP Section 20.147.070.B.2** - Development, along with related access roads, within visually prominent settings, including those identified on LUP Figure 3, shall be sited and designed to avoid blocking or having a significant adverse impact on significant public views, including by situating lots, access roads, and/or buildings to maximize the effectiveness of screening vegetation and related viewshed mitigation. Development shall be screened from view using native vegetation and topography. Lots, access roads, and/or buildings should also be sited to minimize tree removal and visually obtrusive*

grading

LCP Section 20.147.070.B.3 - Development within the viewshed of visually prominent settings, including those identified on LUP Figure 3, shall include adequate structural setbacks (generally a minimum of 50 feet) from such settings and shall require siting and design of structures to minimize the need for tree removal and alterations to natural landforms. New structures shall be sited and designed to harmonize with the natural setting and not be visually intrusive. Design and siting of structures in public views of scenic areas should not detract from scenic values of the forest, stream courses, ridgelines, or shoreline. All structures, including fences, shall be subordinate to and blended into the environment, including by using appropriate construction and materials to achieve that effect. Where necessary to meet LCP requirements, modifications shall be required for siting, structural design, shape, lighting, color, texture, building materials, access, and screening to protect such public views.

- The development is next door to the Lone Cypress, a visually prominent setting. 17-Mile Drive is a scenic corridor and considered visually prominent. Increasing the height of the residence on the subject site would reduce ocean views from 17-Mile Drive and potentially block views to the Lone Cypress.
- The new residence is at least 100 feet from the center of 17 Mile Drive as required by code and would be located within the same footprint, which may be appropriate; however, increasing the height beyond the height of the existing residence would be a visual impact that cannot be mitigated through the use of vegetation screening, due to the potential to create additional obstruction.. The proposed residence is inconsistent with this section.

LUP Policy 53 - Design and siting of structures in public views of scenic areas should not detract from scenic values of the forest, stream courses, ridgelines, or shoreline. Structures, including fences, shall be subordinate to and blended into the environment, including by using appropriate materials that will achieve that effect. Where necessary, modifications shall be required for siting, structural design, shape, lighting, color, texture, building materials, access, and screening to protect such public views.

- As evidenced by the photographs below the proposed residence will occupy more airspace than the existing dwelling and will therefore, further reduce the view from this portion of 17-Mile Drive to the ocean. Although the siting of the proposed residence is within the footprint of the existing residence may be considered appropriate (pending additional archaeological investigations), the additional height beyond the roofline of the existing residence is not an appropriate design for this parcel due to the location between 17-Mile Drive and the ocean. The location of this parcel restricts the development potential to a low profile dwelling that is harmonious with the natural setting. Development harmonious with the natural setting would require minimal grading and no additional obstruction of the existing ocean views. The proposed project is inconsistent with this policy.
- The proposed residence should not further degrade the existing view. The siting may be appropriate (pending additional archaeological investigations); however, the height of the proposed residence is not appropriate given the setting, nor is it in compliance with the zoning regulations, which require height measurements to be taken from average natural grade to the highest roof pitch. Review of the proposed elevations and cross sections revealed inconsistencies in the method used for measuring the height. Based on preliminary review of the proposed plans, the proposed residence appears to be greater than thirty feet in height limit. The exterior colors and materials are appropriate for the site; however the bulk and height of the proposed structure does not protect or enhance public views, and is therefore, inconsistent with this policy.

LUP Policy 56 - New development, including ancillary structures such as fences constructed between 17-Mile Drive and the sea (Pacific Grove gate to Carmel gate portion), shall be designed and sited to minimize obstructions of and degradation to views from the road to the sea. Examples of methods to

reduce obstruction include, but are not limited to the following: height limits, use of see-through materials for fences, and limitations on landscape materials that would block views, whether immediately or at maturity.

LCP Section 20.147.070.B.1 - Views from designated public accessways and vista points, from Highway 68 and 17-Mile Drive corridors, and of ridgelines as seen from the public viewing areas identified on LUP Figure 3, shall be protected as resources of public importance, and development that could adversely impact such views shall only be allowed where it protects, preserves, and if feasible enhances, such scenic resources. Conservation and scenic easements shall be required as one means of protecting such views in perpetuity.

LCP Section 20.147.070.B.12 - New development, including ancillary structures such as fences, constructed between 17-Mile Drive and the sea (Pacific Grove Gate to Carmel Gate portion) shall be designed and sited to minimize obstructions of and degradation to views from the road toward the sea. The impact of development upon visual access shall be determined on a case-by-case basis on a site visit by the project planner. Examples of methods to reduce obstruction which may be imposed on the proposed project include, but are not limited to the following:

- (a) re-siting and/or re-design to avoid obstruction and view impacts;
- (b) height limits,
- (c) use of see-through materials for fences and gates;
- (d) limitations on types and amounts of landscape materials which would block views, including requirements for height limits at maturity and required pruning to maintain views; and
- (e) location of proposed developments.

- Proposed fencing would open public views of the ocean and any prominent views from 17 Mile Drive. However, the additional height beyond that of the existing residence will result in degradation of the existing views from 17-Mile Drive toward the sea, which is inconsistent with the LCP.

Please see **Exhibit C** for Flagging and Staking visible from 17-Mile Drive

Archaeological Impacts: In addition to the viewshed impacts, excavation for the lower level of the proposed residence has the potential to affect archaeological resources. The following LCP policies protect archaeological resources and require that new development avoid or minimize impact to such sites:

LUP Policy 59 - Where significant archaeological resources are identified, all available measures including dedication of open space conservation or scenic easements and purchase of development rights shall be considered to avoid development on significant archaeological sites.

- Consistency with this policy cannot be adequately analyzed without further archaeological investigations within the footprint of the existing residence.

- **LUP Policy 60** - When developments are permitted on parcels where archaeological or other cultural resource sites are located, project design shall be required which avoids or mitigates impacts to such sites. Where the site has religious significance, emphasis should be placed on preserving the entire site; likewise, where the site is of known regional significance, consideration shall be given to nominating the site to the National Register and preserving it.

LCP Section 20.147.080.C.1 - When developments are permitted on parcels where archaeological or other cultural resource sites are located, project design shall be required which avoids or mitigates impacts to such sites. Where the site has religious significance, emphasis shall be placed on preserving the entire site. Where the site is of known regional significance, consideration shall be given to nominating the site to the National Register, and preserving it.

- The archaeological investigations provided for the previous approval confirm that archaeological resources do exist on the project parcel. Based on the plain language of this policy and the fact that

archaeological resources have been confirmed on the project parcel, excavation to accommodate a subsurface level is not appropriate, or consistent with this policy. The location of resources must be accurately identified by a professional archaeologist. If subsurface testing within the footprint of the residence doesn't reveal any evidence of cultural resources, then disturbance within the previously disturbed footprint of the existing residence would be considered appropriate with the incorporation of cautionary mitigations measures, such as on-site monitoring. Consistency with this policy cannot be adequately analyzed without further archaeological investigations within the footprint of the existing residence.

LUP Policy 61 - *When sufficient planning flexibility does not permit avoiding construction on archaeological or other types of cultural sites, adequate preservation and mitigation measures shall be required. Preservation and mitigation measures shall be designed by a qualified archaeologist in accordance with current accepted guidelines.*

LCP Section 20.147.080.C.4 - *When sufficient planning flexibility does not permit avoiding construction on archaeological or other types of cultural sites, adequate preservation measures shall be required. Preservation and mitigation measures shall be designed by a qualified archaeologist in accordance with current accepted guidelines, including those of the Register of Professional Archaeologists.*

- *To appropriately site development to avoid resources, the location of resources must be accurately identified by a professional archaeologist. If subsurface testing within the footprint of the residence doesn't reveal any evidence of cultural resources, then archaeological resource concerns, then disturbance within the previously disturbed footprint of the existing residence would be considered appropriate with the incorporation of cautionary mitigations measures, such as on-site monitoring. Consistency with this policy cannot be adequately analyzed without further archaeological investigations within the footprint of the existing residence.*

LCP Section 20.147.080.C.2 - *Where significant archaeological resources are identified, all available measures including dedication of open space conservation or scenic easements and purchase of development rights shall be considered to avoid development on significant archaeological sites.*

- *Prior to making a determination of whether significant archaeological resources are present, a professional archaeologist must perform subsurface testing within the footprint of the existing residence. Consistency with this policy cannot be adequately analyzed without further archaeological investigations within the footprint of the existing residence.*

LCP Section 20.147.080.C.3 - *Development on parcels with an archaeological site and/or archaeological resources, including as identified through an archaeological report prepared for the site, shall be subject to the following conditions of approval to be completed prior to issuance of building or grading permits:*

- (a) The recommended mitigation measures contained in the archaeological survey report prepared for the site shall be made conditions of approval.*
 - (b) The applicant shall request a rezoning of the parcel to add an "HR" (Historical or Archaeological Resources) zoning district to the existing zoning of the parcel. The rezoning shall not necessitate an amendment to the Land Use Plan or this ordinance.*
 - (c) The archaeological site and/or area of archaeological resources shall be placed in conservation easement. The easement shall be required pursuant to Section 20.64.280. Prior to being accepted by the County, the proposed easement area shall be reviewed and verified as adequate to protect the resource by an archaeologist who has been selected from the County's list of archaeological consultants.*
- *Consistency with this section cannot be adequately analyzed without further archaeological investigations within the footprint of the existing residence. Complete archaeological investigation within the footprint of the existing residence will provide the information necessary to provide the*

appropriate mitigation.

- To appropriately site development to avoid resources, the location of resources must be accurately identified by a professional archaeologist. If subsurface testing within the footprint of the residence doesn't reveal any evidence of cultural resources, then archaeological resource concerns, then disturbance within the previously disturbed footprint of the existing residence would be considered appropriate with the incorporation of cautionary mitigations measures, such as on-site monitoring. Consistency with this section cannot be adequately analyzed without further archaeological investigations within the footprint of the existing residence.

In March of 2015, Susan Morley, Registered Archaeologist, performed a preliminary cultural resources reconnaissance of the parcel. The reconnaissance revealed three prehistoric sites located on the project parcel CA-MNT-166, 167, and 168, which extends onto the adjacent Lone Cypress parcel to the south. The archaeologist noted that survey of the site revealed shell midden surrounding the existing residence and that the existing residence appears to have been constructed within the estimated boundaries of site CA-MNT-167, stating that there is evidence across the entire project parcel of a site. The archaeologist states that no cultural deposits are present on the portion of the parcel along 17-Mile Drive, or in the location of the garage. Due to the archaeological resources noted on the parcel, an archaeological auger test report was prepared in January of 2016, by Susan Morley. The introduction states that no cultural resources are within the boundaries of the garage or tunnel. The report provides results for nine auger test holes on the parcel. Of the nine auger test holes, auger test hole no. 5, located on the southwest end of the existing dwelling, yielded cultural materials consistent with a prehistoric abalone gathering site. The conclusion of the report considers this site to most likely be CA-MNT-167, with CA-MNT-168 lying at the southeastern end of the parcel. The report conclusively states that no cultural resources are present in the soils of the area of the garage and tunnel, but does not address soils within the boundaries of the residence. The excavation necessary to accommodate a lower level on this property has the potential to adversely affect cultural resources and should be adequately addressed with the requirement of subsurface testing within the boundaries of the proposed dwelling.

Environmental Review: An Initial Study was prepared for the original project and was circulated from June 27, 2012 to July 26, 2012. Potential issues identified were aesthetics, biological resources, cultural resources, geology, greenhouse gases and land use. Mitigation measures include designing the wall/fence to minimize obstruction of views from the road to the sea, removing the non-indigenous stock from the site for aesthetics; tree protection measures, replanting of sensitive plant species, having the arborist present during all excavation and soil disturbing activities, and implementing a Monterey Cypress Habitat Restoration Plan for biological resources, and for cultural resources, having an qualified archaeological monitor be present during excavation and soil disturbing activities with regard to the detached garage and the fencing along the front property. These mitigation measures are consistent with the revised plans; however, the proposed tri-level dwelling was not analyzed in the Initial Study. The mitigation measures are sufficient for the previous proposal; however, with the new information regarding potential for impacts to archaeological resources and new viewshed impacts associated with the proposed dwelling, additional environmental review is necessary.

Requested Direction: The subject parcel is constrained due to blue water views and cultural resources. The bulk of the current residence proposed is not appropriate for this parcel due to the stated constraints.

Typically, the mitigation for visual impacts would be to create a lower profile structure by utilizing the natural topography of the parcel; however, in this case archaeological resources are present on the project parcel; therefore excavation has the potential to disturb archaeological resources. Mitigation typically applied for archaeological resources is minimal excavation and avoidance of the resource. Applying mitigation minimizing excavation would prohibit the establishment of a lower basement level, which could in turn require the applicant to build vertically, which would affect blue water views from 17-Mile Drive, creating an

inconsistency with the LCP policies.

If further archaeological investigations are performed within the boundaries of the proposed residence, and yield no cultural materials, then allowing a lower level, creating a two-story residence, would not be expected to result in adverse affects to cultural resources and would better achieve the intent of the scenic and visual resource policies of the CIP. However, if the archaeological investigation does result in the discovery of additional cultural resources, then excavation for a lower level would not be appropriate and maintaining a low-profile residence that would not further obstruct views from 17-Mile Drive may be appropriate development for this parcel.

CC: Front Counter Copy; Planning Commission; Pebble Beach CSD; RMA-Public Works; RMA-Environmental Services; Coastal Commission; Environmental Health Bureau; Water Resources Agency; John Ford, RMA Services Manager; Richard Lundquist, Property Owner; Aengus Jeffers, Representative; The Open Monterey Project (Molly Erickson); LandWatch (Amy White); District 5; Project File PLN150150

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Approved by: Carl P. Holm, AICP, Resource Management Agency Director

Attachments:

Exhibit A - Project Plans

Exhibit B - Vicinity Map

Exhibit C - Flagging and Staking Photos

CC: Front Counter Copy; Planning Commission; Pebble Beach CSD; RMA-Public Works; RMA-Environmental Services; Coastal Commission; Environmental Health Bureau; Water Resources Agency; John Ford, RMA Services Manager; Richard Lundquist, Property Owner; Aengus Jeffers, Representative; The Open Monterey Project (Molly Erickson); LandWatch; District 5; Project File PLN150150