



Board Report

File #: RES 19-049, **Version:** 1

PLN150755-AMD1/SCOTT AND CHARLYSE RAVEN

Public hearing to consider an Amendment to previously approved Combined Development Permit for a single family dwelling and attached garage (PLN150755-RAVEN). The amendment will allow minor site plan modifications and include enhanced findings for development within 100 feet of environmentally sensitive habitat (ESHA).

Proposed CEQA Action: Consider a Negative Declaration previously adopted for the Combined Development Permit

Project Location: 3213 Whitman Lane, Pebble Beach, Del Monte Forest Land Use Plan, coastal zone.

RECOMMENDATION:

It is recommended that the Board of Supervisors adopt a resolution to:

- a. Consider a Negative Declaration previously adopted for the Combined Development Permit; and
- b. Approve an amendment to a previously approved Combined Development Permit (PLN150755) to allow the following modifications:
 - a. Relocation of the fire pit away from property line
 - b. Removal of the gate entrance in the fence along the creek side of the property
 - c. Revisions to the underground drainage plan which move the holding tanks away from the property line
 - d. Inclusion of additional evidence regarding ESHA (Finding 6, Evidence 'd')

A draft resolution including findings and evidence, is attached for consideration (**Attachment B**). Staff recommends approval subject to eighteen (18) conditions.

PROJECT INFORMATION:

Agent: Anthony Lombardo, Attorney

Property Owner: Scott and Charlyse Raven

APN: 008-401-010-000

Parcel Size: 0.262 acres (11,413 square feet)

Zoning: "LDR/1.5-D (CZ)" Low Density Residential/1.5 units per acre-Design Control in the Coastal Zone

Flagged and Staked: Yes

SUMMARY:

On July 10, 2018, the Board of Supervisors heard the appeal of Ted Muhs and Elizabeth McGinnis, Glen and Angela Charles, Richard and Kathleen Doerr, Charles and Helen Schwab, and Sally Lucas from the April 26, 2018 Zoning Administrator's approval of the Raven's application (PLN150755) for a Combined Development Permit. The Board denied the appeal, adopted a Negative Declaration for the project, and approved the Raven application consisting of the following:

- 1) a Combined Development Permit consisting of:
 - Coastal Administrative Permit and Design Approval to allow the construction of a single family dwelling consisting of 2,306 square foot two story, 1,690 square foot basement and a 298 square foot garage;
 - Coastal Development Permit to allow development within 750 feet of an archaeological resource; and

- Variance to exceed lot coverage by 3.9% (totaling 18.9%); and
- Variance to exceed floor area ratio FAR by 5.3% (totaling 22.8%).

(Board of Supervisors' Resolution No. 18-215.) The County sent a Final Local Action Notice (FLAN) to the California Coastal Commission (CCC) on August 30, 2018. On September 21, 2018, several of the aforementioned prior appellants appealed the County's decision to the CCC, and CCC staff issued notice of a pending appeal of the Raven application (CCC Appeal No. A-3-MCO-18-0061). Prior to the appeal being scheduled before the Coastal Commission, the applicant notified the County and the Coastal Commission staff of their desire to modify certain portions of the project contested during the appeal. As a result, in coordination with Coastal Commission staff, County staff withdrew the Final Local Action Notice. Withdrawing the FLAN does not rescind the Board's adoption of the Negative Declaration or the Board's approval of the original Combined Development Permit (PLN150755). Accordingly, applicant's request to modify the project comes before the Board of Supervisors as an amendment to the previously adopted Combined Development Permit.

Proposed project revisions include moving the fire pit away from property line, removal of a gate entrance in the fence along the creek side of the property, and revisions to the underground drainage plan that move the holding tanks away from the property line.

Additionally, one of the original appeal contentions was that there would be impacts to sensitive species near the property and trees on adjacent parcels. However, peer reviews of both biological and arborists reports confirm that the impacts would be less than significant. At the recommendation of the Coastal Commission staff, County staff has enhanced the environmentally sensitive habitat area (ESHA) finding to confirm that the reach of the actual delineable wetland is only in the very bottom of the canyon.

DISCUSSION:

On July 10, 2018, the Board of Supervisors considered and approved the Raven application. A Final Local Action Notice (FLAN) (File No. 3-MCO-18-0969) was sent to California Coastal Commission (CCC) staff on August 30, 2018. On September 21, 2018, CCC staff notified the County of Monterey and the applicant via mail of a pending appeal of the Raven application (CCC Appeal No. A-3-MCO-18-0061). Prior to the application being scheduled before the Coastal Commission on appeal, the applicant notified the County and Commission staff of their desire to modify certain portions of the project contested during the appeal including the placement of a fire pit, gate access to the canyon, and location of development near trees on neighboring properties.

Monterey County staff coordinated with the Coastal Commission staff and the FLAN was withdrawn and the appeal was subsequently closed by CCC staff. Withdrawal of the FLAN and removal of the appeal to the Coastal Commission does not rescind the Board of Supervisors' July 10, 2018 adoption of the Negative Declaration and approval of the project. A new FLAN will be required to be sent to the Coastal Commission after action by the Board of Supervisors.

Proposed Modifications:

Based on discussions with the County and Coastal Commission staffs, the applicants have revised the application to include:

- Moving the proposed fire pit away from property line and into the back patio.
- Removing the gate originally in the fence line along the creek side of the property, and
- Revising the underground drainage plan to move the holding tanks away from the property line to avoid any tree root damage; and

The draft resolution presented with this amendment clarifies and amplifies the finding related to development within 100 feet of ESHA.

Fire Pit and Gate:

Moving the fire pit further from the property line and removing the gate altogether from the fence would better meet the goals and policies of the Del Monte Forest Land Use Plan for allowing development within 100 feet of ESHA. Originally, both project components were closer to the canyon; and the gate could have potentially impacted canyon access. Moving the fire pit closer to the house also reduces the potential for nuisance from noise impacting the closest neighbors. Therefore, at the recommendation of the Coastal Commission staff, the applicant proposes these revisions to the location of the firepit and gate.

Underground Drainage:

During the Board's hearing on the original Combined Development Permit, the appellants submitted an arborist report prepared by Frank Ono, stating that the proposed development on the Raven property would impact the neighboring trees. Applicants had Pat Regan prepare a peer review of the Ono report. The peer review stated the Ono report is inaccurate and misleading and that there would be no impact to the surrounding trees. Of the eight trees that Mr. Ono identified as being at "highest risk", five of those trees are located in the Pebble Beach right of way, not on the subject parcel. Despite this, the underground drainage has been moved farther away from the property line to further avoid potential conflict with existing tree roots. The Coastal Commission staff have also stated they were not concerned about the neighboring trees.

Enhanced ESHA Finding:

Setback requirements from ESHA may be reduced only if it is clearly demonstrated that a narrower setback/buffer is sufficient to protect riparian vegetation and associated wildlife values and other ecological functions (Policy 23 of the Del Monte Forest Land Use Plan). Although Stillwater Creek is considered a wetland, which does qualify as ESHA, the reach of the actual delineable wetland is located only at the very bottom of the canyon. The canyon that Stillwater creek flows through is old enough and incised enough that the vegetation growing at the top and down each side is not dependent upon the stream flow for survival. The proposed house will be less than 100 feet from ESHA, when measured on a straight line from the structure to a point in midair over the canyon bottom where the wetland vegetation begins. The ground plane distance from the southwest corner of the house to the beginning of the daylighted creek "canal" and actual wetland plants begins to occur at 97 feet. Staff finds that the project as designed will not impact the physical attributes or vegetation of the creek canyon; and therefore, the narrower setback is sufficient. Staff has amplified and clarified the ESHA finding with additional evidence explaining that although the house is still within 100 feet of ESHA, the reach of the actual delineable wetland is at the very bottom of the canyon (Finding 6, Evidence 'd'). Based on the site conditions, topography, and the placement of the house, there is no impact to ESHA.

ENVIRONMENTAL REVIEW:

An Initial Study was prepared for the previously approved project and a Negative Declaration was adopted on July 10, 2018 (Attachment C). Modifications to the project do not affect the analysis of the Negative Declaration. The new information merely clarifies and amplifies and does not change the conclusion of the Negative Declaration.

OTHER AGENCY INVOLVEMENT:

The following agencies have reviewed the project:

- ✓ RMA-Planning
- ✓ RMA-Environmental Services

- ✓ RMA Public Works
- ✓ Environmental Health Bureau
- ✓ Water Resources Agency
- ✓ Pebble Beach Community Services District
- ✓ California Coastal Commission

The project was not referred to the Del Monte Forest Land Use Advisory Committee (LUAC) for review of the minor modifications.

On October 26, 2018, Charles, Muhs, McGinnis and Lucas (Petitioners) filed a Petition for Writ of Mandate challenging the County's July 10, 2018 adoption of the Negative Declaration and approval of the project. On November 8, 2018, the Petitioners, County, and the Ravens as Real Parties in Interest entered into a tolling agreement through June 30, 2019 to enable the County to consider the applicant's proposed revisions to the project, and the litigation has been stayed through June 30, 2019 per stipulation and court order.

FINANCING:

Funding for staff time associated with this project is included in the FY2018-19 Adopted Budget within RMA-Planning's General Fund 001, Appropriation Unit RMA001.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

This action represents effective and timely response to our RMA customers. Processing this application in accordance with all applicable policies and regulations also provides the County accountability for proper management of our land resources.

Check the related Board of Supervisors Strategic Initiatives:

- Economic Development
- Administration
- Health & Human Services
- Infrastructure
- Public Safety

Prepared by: Elizabeth Gonzales, Senior Planner x5102

Reviewed by: Brandon Swanson, Interim RMA Chief of Planning

Approved by: John M. Dugan, AICP, RMA Deputy Director of Land Use and Community Development

The following attachments are on file with the Clerk of the Board:

- Attachment A Project Data Sheet
- Attachment B Draft Resolution, including:
 - B1 - Recommended Conditions of Approval
 - B2 - Site Plan, Floor Plans, Elevations
- Attachment C Vicinity Map
- Attachment D Request from Coastal Commission 10-17-18
- Attachment E Negative Declaration
- Attachment F Resolution No. 18-215

The staff report and all attachments are also available for review on the RMA-Planning public website at the following link: <http://www.co.monterey.ca.us/government/departments-i-z/resource-management-agency-rma>

-/planning

cc: Front Counter Copy; Zoning Administrator; Pebble Beach Community Services District; RMA-Public Works Department; RMA-Environmental Services; Environmental Health Bureau; Water Resources Agency; California Coastal Commission; Brandon Swanson, Acting Chief of Planning; Craig Spencer, Acting RMA Services Manager; Elizabeth Gonzales, Project Planner; Scott and Charlyse Raven, Owners; Anthony Lombardo, Attorney, Agent; Eric Miller, Architect; Pam Silkwood, Prior appellants' attorney; The Open Monterey Project; LandWatch; Planning File PLN150755-AMD1.