



County of Monterey

Item No.

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: RES 23-133

July 25, 2023

Introduced: 7/17/2023

Current Status: Agenda Ready

Version: 1

Matter Type: BoS Resolution

PLN210228 - BIXBY ROCK LLC

Public hearing to consider:

- 1) Adopting a Mitigated Negative Declaration pursuant to CEQA Guidelines section 15074;
- 2) Accepting the amended Conservation and Scenic Easement Deed for the Bixby Rock LLC property;
- 3) Authorizing the Chair to execute the amended Conservation and Scenic Easement Deed;
- 4) Directing the Clerk of the Board to submit the amended Conservation and Scenic Easement Deed and Map to the County Recorder for recording with all applicable recording fees paid by the applicant;
- 5) Approving a Combined Development Permit consisting of:
 - a) Coastal Administrative Permit and Design Approval to allow demolition of a 4,952 square foot single family dwelling and construction of a 6,092 square foot single family dwelling and associated site improvements;
 - b) Coastal Development Permit to allow development within the Critical Viewshed;
 - c) Coastal Development Permit to allow development within 100 feet of Environmentally Sensitive Habitat Areas ESHA;
 - d) Coastal Development Permit to allow development within 50 feet of a coastal bluff;and
- 6) Adopting a Condition Compliance and Mitigation Monitoring and Reporting Plan.

Project Location: 39140 Highway 1, Monterey, Big Sur Coast Land Use Plan, Coastal Zone

Proposed CEQA Action: Consider and adopt a Mitigated Negative Declaration and a Mitigation Monitoring and Reporting Plan pursuant to CEQA Guidelines section 15074.

RECOMMENDATION

It is recommended that the Monterey County Board of Supervisors:

- a) Adopt a Mitigated Negative Declaration pursuant to CEQA Guidelines section 15074;
- b) Accept the amended Conservation and Scenic Easement Deed for the Bixby Rock LLC property;
- c) Authorize the Chair to execute the amended Conservation and Scenic Easement Deed;
- d) Directing the Clerk of the Board to submit the amended Conservation and Scenic Easement Deed and Map to the County Recorder for recording with all applicable recording fees paid by the applicant;
- e) Approving a Combined Development Permit consisting of: 1) a Coastal Administrative Permit and Design Approval to allow demolition of a 4,952 square foot single family dwelling and construction of a 6,092 square foot single family dwelling and associated site improvements; 2) a Coastal Development Permit to allow development within the Critical Viewshed; 3) a

Coastal Development Permit to allow development within 100 feet of Environmentally Sensitive Habitat Areas (ESHA); and 4) a Coastal Development Permit to allow development within 50 feet of a coastal bluff; and

- f) Adopt a Condition Compliance and Mitigation Monitoring and Reporting Plan.

A draft resolution, including findings and evidence, is attached for consideration (**Attachment B**). Staff recommends approval subject to 20 conditions, including nine mitigation measures.

PROJECT INFORMATION:

Property Owner: Bixby Rock LLC

Agent: Law Office of Aengus L. Jeffers c/o Laura Lawrence

Architect: Daniel Fletch Architects

APN: 418-121-051-000

Zoning: Watershed and Scenic Conservation, 40 acres per unit, Design Control Overlay (Coastal Zone) [WSC/40-D (CZ)]

Parcel Size: 7.77 acres

Flagged and Staked: Yes

SUMMARY:

The project site is currently developed with a 4,952 square foot house constructed in 1959 and a detached 1,025 square foot guesthouse over a 793 square foot garage constructed in 1967. The proposed project involves the demolition of the existing single-family dwelling and construction of a 6,092 square foot single family dwelling and associated site improvements on the parcel located at 39140 Highway 1 (Assessor's Parcel Number 418-121-051-000) in the Big Sur area of unincorporated Monterey County. The Pacific Ocean is located directly to the north, south, and west. Land uses in the immediate vicinity consist primarily of single-family residential homes and accessory structures further to the north, and Highway 1 and undeveloped land owned by the State of California directly to the east. The property owner also owns the parcel immediately east (APN:418-221-050-00), which spans Highway 1. The project site and adjacent parcels are zoned for watershed and scenic conservation. The 7.7-acre parcel has a limited buildable area, as an existing Conservation and Scenic Easement (CSE) covers the entire property other than the existing development footprint. Applicant seeks an amendment to this CSE deed and corresponding map to site the new residence further away from the Critical Viewshed. The existing residence is visible from the Critical Viewshed. Although the proposed replacement dwelling will still be visible from the Critical Viewshed, its visibility will be reduced when compared to the current residence. The project also involves development within 100 feet of an environmentally sensitive habitat area, and within 50 feet of a coastal bluff.

Staff reviewed the application and determined that the project, as proposed, is consistent with the Big Sur Coast Land Use Plan (LUP) and Coastal Implementation Plan, Part 3. County staff also prepared a draft Initial Study (IS), which concluded that any potential adverse impacts would be less than significant with mitigation measures applied. The IS recommends nine mitigation measures that would reduce the project's potentially significant impacts to biological resources and ensure consistency with the applicable land use and planning policies.

Pursuant to Monterey County Code section 20.82.030.B, the Planning Commission shall act as the recommending body to the Board of Supervisors when the Board is the Appropriate Authority to consider a Combined Development Permit. The proposed Combined Development Permit would include a Conservation and Scenic Easement Amendment. The Board of Supervisors is the Appropriate Authority to consider such and is therefore the Appropriate Authority to consider the proposed Combined Development Permit. On June 14, 2023, the Monterey County Planning Commission adopted a resolution recommending the Board of Supervisors approve the project as proposed (Resolution No. 23-018; **Attachment D**).

DISCUSSION:

The project involves the demolition of a 4,952 square foot single family dwelling and construction of a 6,092 square foot single family dwelling in its place. Associated site improvements include the removal of an existing propane tank, stone retaining wall, wood fence, installation of a new patio, gravel path, underground propane tank, green roof, roof mounted solar panels, the replacement of utility lines and septic system, and resurfacing the driveway with asphalt and the auto court with pavers to withstand the weight of a fire truck. Associated grading would involve approximately 120 cubic yards of cut and 30 cubic yards of fill (90 cubic yards of net export).

Critical Viewshed.

The project site is located on a coastal bluff between Highway 1 and the Pacific Ocean, within the Big Sur Coast LUP area and is subject to that LUP's Critical Viewshed policies. A site visit on April 1, 2022, confirmed that, due to existing mature Monterey Cypress trees, topography, and elevation changes, the existing residence is not visible from Highway 1 when traveling south. However, when traveling north on Highway 1, portions of the south and eastern façades of the existing residence are visible for approximately 1.2 miles (Hurricane Point turnout to Bixby Creek Bridge north turnout). Additionally, a small portion of the existing residence (primarily the roof) is visible from the cliff edge of the Bixby Creek Bridge turnout. The proposed residence is primarily within the existing residence footprint and therefore will be visible from similar Highway 1 vantage points as the existing residence. However, when compared to the existing residence, the proposed residence will have a narrower design, a flat green (vegetated) roof, be sited 10.5 feet further west, and have colors and materials that better blend with the surrounding natural environment. These project components will reduce the project's visual impacts. Siting the residence further west and away from Highway 1 will both reduce the proposed residence's visibility and is consistent with the intent of the Conservation and Scenic Easement (see the below *Conservation and Scenic Easement Amendment* discussion).

Siting the residence on a portion of the property where it would be entirely screened from Highway 1 views would result in greater impacts to biological resources, removal of mature Monterey cypress trees, and unnecessary disturbance of the property's current landscape and topography. Additionally, it would require the residence to be fully within the property's Conservation and Scenic Easement area. Siting the residence entirely outside of the Critical Viewshed would hence be inconsistent with both Big Sur LUP resource policies and the purpose of the Conservation and Scenic Easement. Therefore, alternative siting was not considered. As proposed, the project has been designed to better achieve the goals and policies of the Big Sur Coast LUP. See **Attachment A** for a more detailed discussion.

Conservation and Scenic Easement Amendment.

In 1968, Applicant's predecessor-in-interest conveyed a Conservation and Scenic Easement (CSE) to the County. (**Exhibit A of Attachment E**) The CSE was intended to preserve the property's natural scenic beauty. Based on staff research, the granting of this easement appears to be voluntary, as it was not required as a Condition of Approval of the establishment of either the single-family dwelling or guesthouse, which were both constructed prior to 1968.

As currently written, the CSE prohibits new structures (except for the existing residence and garage with a second story guesthouse), restricts advertising, and requires landscaping, vegetation, and topography to remain in their present conditions. These restrictions limit Applicant from installing ornamental landscaping, conducting routine fuel management, removing invasive plant species, and replacing the existing septic system, which is located within the easement boundaries. Therefore, Applicant seeks an amendment to the CSE to allow invasive plant species removal, fuel management, placement of new utilities (including an alternative on-site wastewater treatment system), and restoration activities. The amended easement deed would still prohibit new structures, alteration of the topography and landscape, and advertising, thus ensuring preservation of the property's natural scenic beauty and natural condition in perpetuity. The proposed project also would site the residence further west from its current location, placing the new structure partially within existing easement boundaries. However, this proposed location would reduce visibility from Highway 1. As such, an amendment to the CSE's boundaries is proposed to allow a 3-foot buffer around the proposed residence and existing guesthouse footprint. Reducing the visibility of development is consistent with the intent of both the Conservation and Scenic Easement and the LUP's Critical Viewshed policies. The draft Amended Conservation and Scenic Easement deed and plat map are attached as **Attachment E**. The proposed amended boundaries and deed language of the Amended Conservation and Scenic Easement will be consistent with easement restrictions placed on similarly situated properties with similar resource constraints.

Cultural Resources.

Although the site is in an area of high sensitivity and known resources, the Phase I Archaeological Assessment (Monterey County Document No. LIB220113) determined that no culturally modified soils are present and found no evidence of historic or pre-historic cultural activity on the site. The report concluded that the potential for impacts to archaeological resources on the project site is low and, consequently, did not recommend additional archaeological review, monitoring, or mitigation. Therefore, the potential for inadvertent impacts to archaeological resources is limited, and any potential impact will be controlled by application of the County's standard condition (Condition No. 3), which requires the contractor to stop work if previously unidentified resources are discovered during construction.

Historical Resources.

As determined by the project specific Phase One Historic Assessment (Monterey County Document No. LIB220112), the project parcel is not considered a historical site and therefore is not eligible for listing. The existing main residence, "The Bixby House", was designed by Gregory Ain in 1959. The guesthouse, designed by a local architect, was added to the property in 1967. The Historic Assessment determined that the main residence is historically significant under the theme of Residential Architecture for Gregory Ain but, due to extensive renovations in the 1980's, the main residence does

not maintain its historical integrity. Although the Historical Assessment determined that the 1967 guesthouse retains historical integrity and significance, the guesthouse is not part of the project scope and therefore will remain unaltered and is not recommended for listing.

Environmentally Sensitive Habitat Area (ESHA).

The project seeks a Coastal Development Permit to allow development within 100 feet of ESHA. The site is currently developed with a single-family dwelling, guesthouse, driveway, and ornamental landscaping. According to the biological report prepared for the project (Monterey County Document No. LIB220100), three sensitive plant species were found on the subject parcel (Monterey Indian paintbrush, Ocean bluff milkvetch, and Little sur manzanita). The parcel also supports Seacliff buckwheat, which is the host plant for the federally endangered Smith's blue butterfly. Therefore, in areas where the Seacliff buckwheat is present, staff assumes that Smith's blue butterflies are present and mitigation measures have been applied based on that assumption. Environmentally sensitive habitats observed on the subject parcel include northern coastal bluff scrub and central maritime chaparral. Sensitive animal species within the subject parcel include the Monterey dusky footed woodrat and peregrine falcon, with potential for additional listed species to occur in the vicinity, including Monarch butterfly and Western bumble bee, and those associated with sea caves and marine resources such as black swift, California brown pelican, and southern sea otter. Although sensitive species have been identified or have the potential to live close to the project site, the proposed residence would be entirely within the existing footprint, hardscape, and/or ornamental landscaped areas. Policies in Chapter 3.3 of the Big Sur Coast LUP are directed at maintaining, protecting, and where possible enhancing, sensitive habitats. As designed, conditioned, and mitigated, the project would minimize its impacts to environmentally sensitive habitat in accordance with the applicable goals and policies of the Big Sur Coast Land Use Plan and MCC. See **Attachment A** for a more detailed discussion.

Coastal Bluff.

Monterey County Code (MCC) section 20.70.120.B.1, requires a Coastal Development Permit for improvements to any structure within 50 feet of a coastal bluff edge because of potential environmental impacts. A site-specific Geological Report (Monterey County Document No. LIB220101) prepared for the project concluded that approximately 2 feet of natural bluff erosion and retreat has occurred over the last 47 years and, therefore calculated that approximately 3 feet of recession could occur at the subject property over the next 75 years. As proposed, the residence, existing guesthouse, and all site improvements, including the wastewater treatment system, would be sufficiently setback from the bluff. Therefore, the project, as proposed and conditioned, is consistent with applicable policies of the Big Sur Coast Land Use Plan regarding resource protection. See **Attachment A** for a more detailed discussion.

ENVIRONMENTAL REVIEW:

Pursuant to Public Resources Code section 21083 and California Environmental Quality Act (CEQA) Guidelines sections 15063(a) and 15063(b)(2), the County as Lead Agency completed environmental review to determine if the project may have a significant effect on the environment. The County prepared a draft initial study and mitigated negative declaration (IS/MND) for this project (**Attachment F**). County staff filed the draft IS/MND with the County Clerk on April 21, 2023, and circulated the draft IS/MND for public review and comment from April 21 through May 22, 2023

(SCH No. 2023040558). The draft IS/MND identified potentially significant impacts to biological resources and inconsistencies with the applicable land use and planning policies. Staff has proposed nine mitigation measures to reduce these impacts to a less-than-significant level. Implementation of Mitigation Measure Nos. 1 through 9 would require Applicant to contract with a project biologist, install protective fencing, conduct pre-construction surveys, prepare and implement a Northern Coastal Bluff Scrub Restoration Exotic Species Removal Plan, and coordinate with the project engineer to determine appropriate drainage outflow locations. These mitigation measures have been incorporated into the project as conditions of approval (Condition Nos. 11 through 19). All other standard topics of environmental analysis affected by the project were found not to create potentially significant impacts. Potential impacts to known archaeological sites and any unknown or undiscovered resources within the project site would be reduced to a less-than-significant-level by implementing the County's standard Condition of Approval for cultural resources, applied as Condition No. 3.

On May 23, 2022, the Initial Study was revised to clarify the existing and proposed main residence ridge height, specify plant species of concern, include source capacity water quality results, and correct typos. The revisions responded to verbal comments received by the project representative. The revisions include only insignificant modifications to the IS/MND, which serve to clarify its analyses. They neither change the IS/MND's conclusions nor identify or cause a new significant environmental impact. Therefore, pursuant to CEQA Guidelines section 15073.5, recirculation of the revised Initial Study is not required. Tracked revisions are attached as **Attachment F**. No additional CEQA comments were received during the public review period.

LAND USE ADVISORY COMMITTEE:

Staff referred the project to the Big Sur Land Use Advisory Committee (LUAC) for review on April 26, 2022 (**Exhibit G**). The LUAC reviewed the proposed project and voted 4 - 0 (4 yes and 0 no) to support the project with changes including confirmation that windows and roof mounted solar panels are non-reflective and the west elevation of the residence will not block ocean views, and the addition of native vegetation to screen the western elevation. In response to the LUAC recommendations, the applicant agreed to plant native trees along the western façade to reduce impacts to the Critical Viewshed. Condition No. 10, Exterior Lighting Plan, requires all exterior lighting be downlit and constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. Additionally, interior lighting is not regulated under MCC.

HISTORICAL RESOURCE REVIEW BOARD:

The project was referred to the Historic Resource Review Board (HRRB) for review on June 2, 2022. The HRRB voted 6 - 0 to find that 1) the main residence does not retain historical integrity; 2) the project will not adversely affect the remaining historic guesthouse or remnants of the Monterey Lime Company infrastructure; and 4) recommend approval of the project as proposed to the Board of Supervisors (**Attachment H**).

OTHER AGENCY INVOLVEMENT:

The following agencies have reviewed the project, have comments, and/or have recommended conditions:

Environmental Health Bureau
Carmel Highlands Fire Protection District

Office of the County Counsel

FINANCING:

Funding for staff time associated with this project is included in the FY2023-24 Adopted Budget within Community Development General Fund 001, Appropriation Unit HCD002, Unit 8543.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

This action represents effective and timely response to our HCD 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:

☒ Administration


☐ Economic Development

☐ Health & Human Services

☐ Infrastructure

☐ Public Safety

Prepared by: Fionna Jensen, Senior Planner, x6407

Reviewed and Approved by: Craig Spencer, Chief of Planning 

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

Attachment A - Discussion

Attachment B - Draft Resolution, including:

- Conditions of Approval
- Project Plans

Attachment C - Vicinity Map

Attachment D -- Planning Commission Resolution No. 23-018

Attachment E Draft Amended Conservation and Scenic Easement Deed

- Exhibit A: 1968 Conservation and Scenic Easement Deed
- Exhibit B: Amended Conservation and Scenic Easement Map

Attachment F - Initial Study/Mitigated Negative Declaration, as revised on May 23, 2023

Attachment G - Big Sur LUAC minutes for August 24, 2021

Attachment H - Historical Resource Review Board Resolution No. 22-005

cc: Front Counter Copy; California Coastal Commission; Anna Ginette Quenga, AICP, Principal Planner; Fionna Jensen, Senior Planner; HCD-Engineering Services; Environmental Health Bureau; HCD-Environmental Services; Carmel Highlands Fire Protection District; Bixby Rock LL, Applicant/Owner; Laura Lawrence, Agent; The Open Monterey Project (Molly Erickson); Lozeau Drury LLP; LandWatch; Project File PLN210228