

COUNTY OF MONTEREY

HOUSING AND COMMUNITY DEVELOPMENT

Craig Spencer, Director



HOUSING, PLANNING, BUILDING, ENGINEERING, ENVIRONMENTAL SERVICES

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MEMORANDUM

- Date:** December 18, 2024
To: HCD Planning and Permit Center Staff and Other Interested Parties
From: Phil Angelo, Senior Planner
Subject: Updated Del Monte Forest Land Use Plan Policy 20 and Coastal Implementation Plan section 20.147.040.D.2 – Indigenous Monterey cypress Habitat
Attachments: Attachment 1 – Updated Del Monte Forest Land Use Plan Policy 20
Attachment 2 – Updated Coastal Implementation Plan section 20.147.040.D.2
Attachment 3 – Original approval documents: Board of Supervisors Order 17-017, Board of Supervisors Resolution No. 15-522, and County of Monterey Ordinance 5295

On December 15, 2017 the County of Monterey adopted a Local Coastal Program Amendment updating Policy 20 of the Del Monte Forest Land Use Plan (DMF LUP), and the accompanying regulations in Monterey County Coastal Implementation Plan (CIP), Part 5, regulations for Development in the Del Monte Forest Land Use Plan area, section 20.147.040.D.2. The County approval of these amendments are attached for reference (Attachment 3). The original Local Coastal Program HCD-Planning File No. is PLN150149 and the California Coastal Commission File No. was LCP-3-MCO-16-0070-2.

This policy and these regulations relate to development within and adjacent indigenous Monterey cypress habitat, a designated environmentally sensitive habitat area in the DMF LUP and presumed present in figure 2a of this plan.

The updated DMF LUP Policy 20 and accompanying CIP section 20.147.040.D.2 are effective and replace those in the pdf version of the DMF LUP and CIP on the County website, both of which were adopted on May 22, 2012. Please use the attached versions for this policy and these regulations on an interim basis until the pdf versions of the entire DMF LUP and CIP can be updated.

Attachment 1

POLICY 20 OF THE DEL MONTE FOREST LAND USE PLAN (effective February 7, 2018)

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 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. Open space conservation and scenic easements are required for all undeveloped areas of a site within the Monterey cypress habitat area, and such easements shall be secured consistent with Policy 13.

Attachment 2

SECTION 20.147.040.D.2

(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)) [effective February 7, 2018]

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 and adjacent to the area mapped in LUP Figure 2a. All proposed development in this area shall be accompanied by a coordinated biological/arborist report in consultation with the Del Monte Forest Conservancy and consistent with Section 20.147.040.A, 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 offsite) 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.

(b) Within and adjacent to their indigenous range (see LUP Figure 2a), indigenous Monterey cypress habitat shall be protected to the maximum extent possible. All development in and adjacent to the Monterey cypress habitat mapped in Figure 2a shall be carefully sited and designed to avoid adverse impacts and potential damage or degradation of Monterey cypress habitat, including the microhabitat of individual cypress trees, and shall be required to include measures identified pursuant to the biological/arborist report that will protect and enhance Monterey cypress habitat values. These measures may include, but are not limited to: siting development in any non-Monterey cypress portions of the site to the maximum degree possible; prohibiting all irrigation of Monterey cypress habitat areas; improving growing conditions to provide a bare, mineral soil necessary for seed germination; and increasing sunlight to prevent soil borne fungi from inhabiting seedlings. Trees identified by the biological/arborist as at risk from construction shall be surrounded by exclusionary fencing located outside of the critical habitat area. Grading, demolition, and construction permits shall not be issued and construction shall not commence until it is confirmed in writing by the project biologist/arborist that all tree protection measures have been installed, and that a preconstruction cypress habitat protection meeting (with the project general contractor, demolition and grading subcontractors, the project civil engineer, and the biologist/arborist, as applicable) has been completed. All use and

development in or adjacent to identified Monterey cypress habitat areas shall be compatible with the objective of protecting this environmentally sensitive coastal resource.

(c) 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 micro-habitat of individual trees, including as described below.

(1) On undeveloped lots (i.e., those without an existing legally established residence), within the perimeter of the critical habitat area for a site, development (including removal of native trees or other indigenous vegetation, grading, paving, building construction activity, landscape alterations, and summer watering) 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 (which 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)), and only if this area cannot possibly be avoided and if such development does not harm individual cypress trees. All otherwise allowable development shall be sited, designed, and limited as necessary to protect cypress trees and habitat as much as possible, including being sited in the non-cypress habitat portions of the site (if there are any) to the maximum degree possible, and all such development (e.g., residential structures, hardscape (such as decks, patios, driveways, paths, etc.), and landscaping) shall be confined within a defined and surveyed "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), shall be located entirely outside of the critical habitat area, and, within the Monterey cypress habitat portion of the site, shall be no larger than 15% of the cypress habitat area. Open space conservation and scenic easements are required for all undeveloped areas of the Monterey cypress habitat area (i.e., all Monterey cypress habitat outside of the defined development envelope), and such easements shall be secured consistent with LUP Policy 13. In addition to the above described requirements, for all development on undeveloped lots containing cypress habitat, including for development approved pursuant to Section 20.02.060(B), the restoration and siting requirements specified in Sections 20.147.040(D)(2)(c)(2)(d), (e), and (f) shall also apply.

(2) On developed lots (i.e., those with an existing legally established residence), new and/or modified development shall be located within the existing legally established structural and/or hardscape area (i.e., all areas of the site covered with a structure, or covered by pervious or impervious hardscape (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 habitat area.

New and/or modified development outside of such areas is prohibited unless each of the following findings can be made:

- (a) Construction, use, and maintenance of the new and/or modified development shall significantly reduce existing hardscape;
- (b) 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 habitat area, higher sensitivity portions of the site, and adjacent and surrounding habitat areas);

(c) The new and/or modified development will be confined within a defined and surveyed development envelope. The development envelope shall contain all improvements and structural development (i.e., all uses and development that are not Monterey cypress habitat), and shall, within the Monterey cypress habitat area portion of the site, be no larger than 15% of the cypress habitat area; however, limited additional coverage above 15% may be allowed for a driveway only if an existing driveway cannot be reconfigured to achieve full compliance with this standard, in which case the existing driveway shall be reduced in width, length, and overall coverage as much as possible. All development on the site:

(1) Shall significantly reduce hardscape;

(2) Shall be sited in the non-cypress habitat portions of the site (if there are any) to the maximum degree possible; and

(3) Shall be sited in such a way as to maximize 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);

(d) All Monterey cypress habitat area outside of the approved development envelope shall be: restored to and/or enhanced as high value and self-functioning Monterey cypress habitat (including through measures identified pursuant to the biological/arborist report, such as removal of exotics species, improving growing conditions to provide a bare, mineral soil necessary for seed germination, and increasing sunlight to prevent soil borne fungi from inhabiting seedlings), with all initial restoration/enhancement initialized prior to occupancy of any approved development; and placed within an open space conservation and scenic easement secured consistent with Policy 13;

(e) All areas of new coverage (i.e., areas that would be covered with structures and/or hardscape and/or other non-cypress habitat restoration and enhancement that are not already 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 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 a public agency or private group acceptable to the County effectively able to administer such a fee 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 initialized prior to occupancy of any approved development or, in the case of a fee, the fee paid prior to issuance of any demolition, grading, or construction permits;

(f) The new and/or modified development has been sited and designed to avoid the critical habitat area and the most sensitive habitat parts of the site as much as possible (including through required siting in the non-cypress habitat portions of the site (if there are any) to the maximum degree possible), and to minimize any incursion into

this area as much as possible. If any non-habitat related development is proposed within the defined critical habitat area, the biological/arborist report must identify all possible alternatives to avoid such siting, and must provide alternative construction methods or preconstruction treatments to avoid impacts in the case such development ultimately proves unavoidable. The alternative methods and treatments 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 biological/arborist report and the approving body conclude removal will further enhance Monterey cypress habitat values or avoid adverse impacts, potential damage, or degradation to both healthy individual cypress trees and cypress habitat; and

(g) The project results in greater cypress habitat value on the site (and in relation to adjacent and surrounding habitat areas) than the existing baseline habitat value, and the project enhances Monterey cypress habitat values overall.

(d) The Del Monte Forest 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 by the Del Monte Forest Conservancy.



Attachment 3

Monterey County Board of Supervisors

168 West Alisal Street,
1st Floor
Salinas, CA 93901
831.755.5066

Board Order

Upon motion of Supervisor Adams, seconded by Supervisor Parker and carried by those members present, the Board of Supervisors hereby:

PLN150149 - Del Monte Forest Area Local Coastal Program Amendment (Policy 20) Held a Public hearing for amendments to the County's Local Coastal Program (LCP) including:

- a. Acknowledging 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. Adopted Resolution 17-522 to amend Policy 20 of the Del Monte Forest Area Land Use Plan to modify standards of development within the indigenous Monterey cypress habitat; and
- c. Adopted Ordinance 5295 to amend corresponding text of Section 20.147.040.D.2 of the Coastal Implementation Plan (Title 20 of the Monterey County Code), Part 5, regulating development within the indigenous Monterey cypress habitat in the Del Monte Forest Land Use Plan area; Proposed CEQA Action: Statutorily Exempt per Section 21080.9 of the Public Resources Code and Section 15265 of the CEQA Guidelines. Project Location: Del Monte Forest Indigenous Monterey Cypress Habitat Area, Pebble Beach, Del Monte Forest

PASSED AND ADOPTED this 12th day of December 2017, by the following vote, to wit:

AYES: Supervisors Alejo, Phillips, Salinas, Parker and Adams

NOES: None

ABSENT: None

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 80 for the meeting December 12, 2017

Dated: December 15, 2017
File ID: ORD 17-017

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

By Denise Hancock
Deputy

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

Resolution No. 17 - 522

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. Acknowledges 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. Found 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. Adopted 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. Certified that the amendments are intended to be carried out in a manner fully in conformity with the Coastal Act; and
- e. Directed 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 upon motion of Supervisor Alejo, seconded by Supervisor Salinas and carried this 12th day of December 2017, by the following vote, to wit:

AYES: Supervisors Alejo, Phillips, Salinas, Parker and Adams
NOES: None
ABSENT: None

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 80 for the meeting on December 12, 2017

Dated: December 15, 2017
File Number: ORD 17-017

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

By Denise Hancock
Deputy

EXHIBIT 1 TO RESOLUTION

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 Version to Exhibit I of Resolution
AMENDMENT TO DMF LUP POLICY 20

Policy 20 of the Del Monte Forest Land Use Plan is amended as follows.

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 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 drip lines (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. Open space conservation and scenic easements are required for all undeveloped areas of a site within the Monterey cypress habitat area, and such easements shall be secured consistent with Policy 13.

ORDINANCE NO. 5295

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 and adjacent to the area mapped in LUP Figure 2a. All proposed development in this area shall be accompanied by a coordinated biological/arborist report in consultation with the Del Monte Forest Conservancy and consistent with Section 20.147.040.A, 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 offsite) 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.

(b) Within and adjacent to their indigenous range (see LUP Figure 2a), indigenous Monterey cypress habitat shall be protected to the maximum extent possible. All development in and adjacent to the Monterey cypress habitat mapped in Figure 2a shall be carefully sited and designed to avoid adverse impacts and potential damage or degradation of Monterey cypress habitat, including the microhabitat of individual cypress trees, and shall be required to include measures identified pursuant to the biological/arborist report that will protect and enhance Monterey cypress habitat values. These measures may include, but are not limited to: siting development in any non-Monterey cypress portions of the site to the maximum degree possible; prohibiting all irrigation of Monterey cypress habitat areas; improving growing conditions to provide a bare, mineral soil necessary for seed germination; and increasing sunlight to prevent soil borne fungi from inhabiting seedlings. Trees identified by the biological/arborist as at risk from construction shall be surrounded by exclusionary fencing located outside of the critical habitat area. Grading, demolition, and construction permits shall not be issued and construction shall not commence until it is confirmed in writing by the project biologist/arborist that all tree protection measures have been installed, and that a preconstruction cypress habitat protection meeting (with the project general contractor, demolition and grading subcontractors, the project civil engineer, and the biologist/arborist, as applicable) has been completed. All use and development in or adjacent to identified Monterey cypress habitat areas shall be compatible with the objective of protecting this environmentally sensitive coastal resource.

(c) 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 micro-habitat of individual trees, including as described below.

(1) On undeveloped lots (i.e., those without an existing legally established residence), within the perimeter of the critical habitat area for a site, development (including removal of native trees or other indigenous vegetation, grading, paving, building construction activity, landscape alterations, and summer watering) 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 (which 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)), and only if this area cannot possibly be avoided and if such development does not harm individual cypress trees. All otherwise allowable development shall be sited, designed, and limited as necessary to protect cypress trees and habitat as much as possible, including being sited in the non-cypress habitat portions of the site (if there are any) to the maximum degree possible, and all such development (e.g., residential structures, hardscape (such as decks, patios, driveways, paths, etc.), and landscaping) shall be confined within a defined and surveyed "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), shall be located entirely outside of the critical habitat area, and, within the Monterey cypress habitat portion of the site, shall be no larger than 15% of the cypress habitat area. Open space

conservation and scenic easements are required for all undeveloped areas of the Monterey cypress habitat area (i.e., all Monterey cypress habitat outside of the defined development envelope), and such easements shall be secured consistent with LUP Policy 13. In addition to the above described requirements, for all development on undeveloped lots containing cypress habitat, including for development approved pursuant to Section 20.02.060(B), the restoration and siting requirements specified in Sections 20.147.040(D)(2)(c)(2)(d), (e), and (f) shall also apply.

(2) On developed lots (i.e., those with an existing legally established residence), new and/or modified development shall be located within the existing legally established structural and/or hardscape area (i.e., all areas of the site covered with a structure, or covered by pervious or impervious hardscape (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 habitat area.

New and/or modified development outside of such areas is prohibited unless each of the following findings can be made:

(a) Construction, use, and maintenance of the new and/or modified development shall significantly reduce existing hardscape;

(b) 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 habitat area, higher sensitivity portions of the site, and adjacent and surrounding habitat areas);

(c) The new and/or modified development will be confined within a defined and surveyed development envelope. The development envelope shall contain all improvements and structural development (i.e., all uses and development that are not Monterey cypress habitat), and shall, within the Monterey cypress habitat area portion of the site, be no larger than 15% of the cypress habitat area; however, limited additional coverage above 15% may be allowed for a driveway only if an existing driveway cannot be reconfigured to achieve full compliance with this standard, in which case the existing driveway shall be reduced in width, length, and overall coverage as much as possible. All development on the site:

(1) Shall significantly reduce hardscape;

(2) Shall be sited in the non-cypress habitat portions of the site (if there are any) to the maximum degree possible; and

(3) Shall be sited in such a way as to maximize 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);

(d) All Monterey cypress habitat area outside of the approved development envelope shall be: restored to and/or enhanced as high value and self-functioning Monterey cypress habitat (including through measures identified pursuant to the biological/arborist report, such as removal of exotics species, improving growing conditions to provide a bare, mineral soil necessary for seed germination, and increasing

sunlight to prevent soil borne fungi from inhabiting seedlings), with all initial restoration/enhancement initialized prior to occupancy of any approved development; and placed within an open space conservation and scenic easement secured consistent with LUP Policy 13;

(e) All areas of new coverage (i.e., areas that would be covered with structures and/or hardscape and/or other non-cypress habitat restoration and enhancement that are not already 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 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 a public agency or private group acceptable to the County effectively able to administer such a fee 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 initialized prior to occupancy of any approved development or, in the case of a fee, the fee paid prior to issuance of any demolition, grading, or construction permits;

(f) The new and/or modified development has been sited and designed to avoid the critical habitat area and the most sensitive habitat parts of the site as much as possible (including through required siting in the non-cypress habitat portions of the site (if there are any) to the maximum degree possible), and to minimize any incursion into this area as much as possible. If any non-habitat related development is proposed within the defined critical habitat area, the biological/arborist report must identify all possible alternatives to avoid such siting, and must provide alternative construction methods or preconstruction treatments to avoid impacts in the case such development ultimately proves unavoidable. The alternative methods and treatments 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 biological/arborist report and the approving body conclude removal will further enhance Monterey cypress habitat values or avoid adverse impacts, potential damage, or degradation to both healthy individual cypress trees and cypress habitat; and

(g) The project results in greater cypress habitat value on the site (and in relation to adjacent and surrounding habitat areas) than the existing baseline habitat value, and the project enhances Monterey cypress habitat values overall.

(d) The Del Monte Forest 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 by the Del Monte Forest Conservancy.

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 12th day of December 2017, by the following vote:

AYES: Supervisors Alejo, Phillips, Salinas, Parker and Adams

NOES: None

ABSENT: None

ABSTAIN: None

/s/ Mary L. Adams

Mary L. Adams, Chair
Monterey County Board of Supervisors

A T T E S T:

GAIL T. BORKOWSKI,
Clerk of the Board of Supervisors

By: /s/ Gail T. Borkowski
Deputy

APPROVED AS TO FORM

/s/ Wendy S. Strimling

WENDY S. STRIMLING
Senior Deputy County Counsel