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Appeal Filed: 7/27/2017
Action Deadline: None
Staff: Katie Butler - SC
Staff Report: 6/22/2018
Hearing Date: 7/12/2018

STAFF REPORT: DE NOVO HEARING

Application Number: A-3-MCO-17-0038

Applicants: Chris and Sara Bardis

Project Location: 1525 Riata Road, Del Monte Forest Area, Monterey County (APN 008-341-026)

Project Description: Driveway improvements, including a retaining wall, at an existing single family residence

Staff Recommendation: Approval with Conditions

SUMMARY OF STAFF RECOMMENDATION

The Applicants propose to expand an existing motor court area and construct a 68-foot-long and up to 12-foot-high retaining wall at an existing residence at 1525 Riata Road in the Del Monte Forest area of Monterey County. The proposed motor court improvements are necessary to accommodate a hammerhead-style turnaround for emergency access at the residence as directed by the Pebble Beach Community Services District (PBCSD) and California Department of Forestry and Fire Protection (CAL FIRE). The project also involves conversion of the entire driveway to pervious pavers; restoration of an existing turnaround area to native habitat; an existing rock slab water feature in the upper patio; and a 0.56-acre conservation and scenic easement over the northern one-third of the parcel.

On August 14, 2017, the Commission found that the County's action approving the project raised a substantial issue of conformance with the LCP due to questions about development on steep slopes and watershed protection requirements and took jurisdiction over the CDP application.

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Specifically, the project involves cut into a 30+ percent slope, which is prohibited by the LCP unless no feasible alternative exists. Also, it appeared then that an adequate emergency turnaround had already been approved by the County at a different location along the existing driveway under a 2013 CDP for remodel of the residence. The project site was also inconsistent with the LCP's 9,000-square-foot impervious surface limit for all development that drains to the Carmel Bay because the site appeared to include impervious coverage of approximately 17,000 square feet.

In the time since the Commission took jurisdiction over the CDP for the project, the Applicants have revised the project to address the Commission's concerns and meet the requirements of the LCP. Specifically, PBCSD/CAL FIRE determined that the 2013-approved turnaround would not meet the applicable fire code requirements because it was too far from the residence and did not meet the required surface slope parameters. Accordingly, the proposed project now clearly includes a hammerhead turnaround at the motor court area as required by the PBCSD/CAL FIRE for a driveway of this length, but construction of this turnaround will require a cut into a 30+ percent slope. The project includes a retaining wall to support the slope cut as well as conversion of the existing asphalt driveway to pervious pavers to reduce the site's impervious surface coverage to below the LCP-required 9,000-square-foot limit.

In order to approve development on a 30+ percent slope, the LCP requires a finding that no feasible alternative exists or that the development better achieves the goals, policies, and objectives of the LCP than other alternatives. The parcel is mostly comprised of steep slopes with the exception of a flat area that contains the house and motor court. The site is also largely wooded with remnant Monterey pine forest, including a vegetated canyon that comprises the northern one-third of the property. The applicable fire code requires turnarounds on driveways that exceed 150 feet in length to be located within 50 feet of the primary building. Only two possible locations on the driveway exist within 50 feet of the residence: the motor court (proposed) and the area just south of the residence fronting the garage. Both locations would necessitate similar impacts to 30+ percent slopes and would necessitate retaining walls of roughly the same length to support the turnaround. The potential garage area location includes a grade differential that, absent re-grading and flattening of the existing driveway, would cause a firetruck to bottom out while turning. In contrast, the motor court area would not necessitate any additional grading or flattening (aside from the hillside cut to accommodate a wide enough hammerhead). Location of the turnaround at the garage area would necessitate tree removal and is also limited by the presence of existing electrical utilities on the eastern side of the driveway. The turnaround at the garage would impact the existing house itself because insufficient height exists for a 12-foot-tall fire truck to turn around. In contrast, at the motor court location no existing mature vegetation or utilities would be impacted and adequate height exists for a fire truck to pull up and turn around without impacting the house. The Applicants also explored different configurations for the hammerhead at the motor court to reduce or eliminate the need for the slope cut, but these were not feasible due to unknown stability/strength of an existing retaining wall on the west end of the motor court.

In sum, no feasible alternative or configuration exists that would allow the hammerhead turnaround to be located on less than a 30 percent slope. The proposed project is preferred from both environmental and fire protection standpoints (as compared to the garage alternative)

because it would involve less overall grading of the existing driveway; would not impact any existing mature trees; would not impact or require relocation of any existing development (i.e. utilities and roof of house); and best meets the applicable fire department requirements.

PBCSD/CAL FIRE approved the proposed project as the location and design that best meets their applicable emergency turnaround requirements. Therefore, staff recommends that the Commission find, as required by the LCP, that there is no feasible alternative to the proposed project which would allow development to occur on slopes of less than 30 percent. The proposed retaining wall will ensure stability and structural integrity of the slope cut as required by the LCP.

Therefore, as conditioned (including for final plans showing the turnaround, retaining wall, and pervious pavers; a construction condition that requires protection of marine and groundwater resources through Best Management Practices; and recordation of the proposed conservation and scenic easement over the northern one-third of the parcel), the proposed project can be found consistent with the requirements of the certified Monterey County LCP and the public access and recreation policies of the Coastal Act. The motion and resolution to approve the project subject to the staff recommendation are found on page 5 of this report.

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EXHIBITS

Exhibit 1 – Regional Location Map

Exhibit 2 – Site Photos

Exhibit 3 – Proposed Project Plans

Exhibit 4 – County-Approved Project

Exhibit 5 – PBCSD/CAL FIRE communications and requirements

Exhibit 6 – Garage area option for turnaround

Exhibit 7 – Proposed open space and conservation easement area

Exhibit 8 – Applicable Monterey County Del Monte Forest LCP policies and regulations

Exhibit 9 – Commission Staff technical memo on retaining wall

CORRESPONDENCE

I. MOTION AND RESOLUTION

Staff recommends that the Commission, after public hearing, **approve** a coastal development permit for the proposed development. To implement this recommendation, staff recommends a **YES** vote on the following motion. Passage of this motion will result in approval of the CDP as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

***Motion:** I move that the Commission **approve** Coastal Development Permit Number A-3-MCO-17-0038 pursuant to the staff recommendation, and I recommend a **yes** vote.*

***Resolution to Approve CDP:** The Commission hereby approves Coastal Development Permit Number A-3-MCO-17-0038 and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with Monterey County Local Coastal Program policies and Coastal Act access and recreation policies. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.*

II. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

- 1. Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the Permittees or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
- 2. Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
- 3. Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
- 4. Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
- 5. Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the Permittees to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. **Final Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittees shall submit two sets of revised Final Plans for the Executive Director's review and approval. The Final Plans shall be prepared by a licensed professional(s) (i.e., architect, surveyor, geotechnical engineer, etc.), shall be based on current professionally surveyed and certified topographic elevations for the site, and shall include a graphic scale. The Final Plans shall be in substantial conformance with the plans dated June 13, 2018 (prepared by International Design Group, and dated received in the Coastal Commission's Central Coast Office on June 19, 2018). The Final Plans shall clearly show the following, including through elevation and site plan views:
 - a. **Motor court.** The hammerhead-style turnaround shall not exceed 60 feet in length at the top of the hammerhead and shall be clearly shown in site plan view in the motor court and patio area.
 - b. **Retaining wall.** The Final Plans shall show a retaining wall over the entirety of the cut slope. Associated drainage features shall be in the minimum footprint necessary to address runoff at the wall.
 - c. **Patio improvements.** The Final Plans shall show the patio area adjacent to the house entrance and motor court, and shall indicate all improvements in this area, including the water feature, any permanent furniture, planters, gates, etc. Any patio improvements (such as fencing or permanent structures) that would in any way impede emergency vehicle turnaround are prohibited.
 - d. **Restoration of existing driveway turnout.** The Final Plans shall include a landscaping plan that shows the existing driveway turnout area (located on the south side of the driveway at approximately the halfway point along its length) restored with plants native to the Monterey pine forest habitat of the Del Monte Forest.
 - e. **Pervious pavers.** The Final Plans shall show the entirety of the existing driveway (with the exception of the existing turnout area that will be restored to native habitat pursuant to **Special Condition 1(d)** above), motor court, and patio to be converted from impervious paving to pervious material(s), including but not limited to pervious pavers, decomposed granite, etc.
 - f. **Designation of conservation easement area.** The Final Plans shall show the northern one third of the subject parcel (identified in **Exhibit 7**) as protected easement area where no development is allowed to occur (except as allowed in accordance with **Special Condition 3**).

All requirements above and all requirements of the approved Final Plans shall be enforceable components of this coastal development permit. The Permittees shall undertake development in accordance with the approved Final Plans unless the Commission amends this CDP or the

Executive Director determines that no amendment is legally required for any proposed minor deviations.

2. **Construction Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittees shall submit two copies of a Construction Plan (Plan) to the Executive Director for review and approval. The Plan shall, at a minimum, include the following:
 - a. **Construction Areas.** The Plan shall identify the specific location of all construction areas, all staging areas, and all construction access corridors in site plan view. All such areas within which construction activities and/or staging are to take place shall be minimized to the maximum extent feasible in order to have the least impact on coastal resources. Construction (including but not limited to construction activities, and materials and/or equipment storage) is prohibited outside of the defined construction, staging, and storage areas.
 - b. **General BMPs.** The Plan shall identify the type and location of all erosion control/water quality best management practices that will be implemented during construction to protect coastal water quality, including the following: (1) silt fences, straw wattles, or equivalent apparatus shall be installed at the perimeter of the construction site to prevent construction-related runoff and/or sediment from discharging to coastal waters or to areas that would eventually transport such discharge to coastal waters; (2) the contractor shall ensure that good construction housekeeping controls and procedures are maintained at all times (e.g., clean up all leaks, drips, and other spills immediately; keep materials covered and out of the rain (including covering exposed piles of soil and wastes); dispose of all wastes properly, place trash receptacles on site for that purpose, and cover open trash receptacles during wet weather; remove all construction debris from the site).
 - c. **Construction Site Documents.** The Plan shall provide that copies of the signed coastal development permit and the approved Construction Plan be maintained in a conspicuous location at the construction job site at all times, and that such copies are available for public review on request.
 - d. **Construction Coordinator.** The Plan shall provide that a construction coordinator be designated to be contacted during construction should questions arise regarding the construction (in case of both regular inquiries and emergencies), and that his or her contact information (i.e., address, phone numbers, etc.) is conspicuously posted at the job site.
 - e. **Notification.** The Permittee shall notify planning staff of the Coastal Commission's Central Coast District Office at least 3 working days in advance of commencement of construction, and immediately upon completion of construction.

Minor adjustments to the above construction requirements may be allowed by the Executive Director in the approved Construction Plan if such adjustments: (1) are deemed reasonable and necessary; and (2) do not adversely impact coastal resources. All requirements above and all requirements of the approved Construction Plan shall be enforceable components of this

coastal development permit. The Permittees shall undertake construction in accordance with the approved Construction Plan.

3. Open Space Conservation and Scenic Easement.

A. No development, as defined in Section 30106 of the Coastal Act, shall occur within the open space conservation area, which shall include that portion of the property shown on **Exhibit 7**, except for removal of non-native, diseased, or dead vegetation; habitat restoration; and necessary drainage and utility work (and where such drainage/utility work cannot be located elsewhere, is the minimum amount necessary, and does not impair Monterey pine forest habitat values).

B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittees shall execute and record a document(s) in a form and content acceptable to the Executive Director irrevocably offering to dedicate to a public agency or private entity, approved by the Executive Director, an open space conservation and scenic easement for the purpose of habitat conservation and visual resource protection in perpetuity.

C. The recorded document shall include a legal description and corresponding graphic depiction of the legal parcel subject to this permit and a metes and bounds legal description and a corresponding graphic depiction, drawn to scale, of the easement area prepared by a licensed surveyor based on an on-site inspection of the easement area.

D. The irrevocable offer to dedicate shall be recorded free of prior liens and any other encumbrances that the Executive Director determines may affect the interest being conveyed.

E. The “offer to dedicate” shall run with the land in favor of the People of the State of California, binding successors and assigns of the applicant or landowner in perpetuity and shall be irrevocable for a period of 21 years, such period running from the date of recording, and the restrictions on the use of the land shall be in effect upon recording and remain as covenants, conditions and restrictions running with the land in perpetuity, notwithstanding any revocation of the offer.

4. Liability for Costs and Attorneys’ Fees. The Permittees shall reimburse the Coastal Commission in full for all Coastal Commission costs and attorneys’ fees (including but not limited to such costs/fees that are: (1) charged by the Office of the Attorney General; and (2) required by a court) that the Coastal Commission incurs in connection with the defense of any action brought by a party other than the Permittees against the Coastal Commission, its officers, employees, agents, successors and assigns challenging the approval or issuance of this permit. The Permittees shall reimburse the Coastal Commission within 60 days of being informed by the Executive Director of the amount of such costs/fees. The Coastal Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission, its officers, employees, agents, successors and assigns.

5. Deed Restriction. PRIOR TO ISSUANCE OF THE CDP, the Permittees shall submit to the Executive Director for review and approval documentation demonstrating that the Permittee

has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this CDP, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the special conditions of this CDP as covenants, conditions and restrictions on the use and enjoyment of the property. The deed restriction shall include a legal description and site plan of the entire parcel or parcels governed by this CDP. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this CDP shall continue to restrict the use and enjoyment of the subject property so long as either this CDP or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

IV. FINDINGS AND DECLARATIONS

In this de novo review of the proposed CDP application, the standard of review is the Monterey County certified LCP and, because the project is located between the first public road and the sea, the public access and recreation policies of the Coastal Act.

A. PROJECT LOCATION AND DESCRIPTION

The project is located on a 1.86-acre lot at 1525 Riata Road in the unincorporated Del Monte Forest (i.e., Pebble Beach) area of Monterey County. The site is surrounded by single-family residences on large lots and is situated approximately three-quarters-of-a-mile inland and north of Stillwater Cove (the northern end of Carmel Bay). The southern two-thirds of the project site are developed with an existing single-family residence and driveway, and the northern one-third of the site consists of a wooded canyon with slopes up to 60 percent. The property is zoned Low Density Residential (LDR/1.5-D), allowing for residential development at a maximum of 1.5 units per acre and requiring design approval, in addition to CDP approval, for the construction of any structures.

The proposed project involves the construction of improvements to the existing residential driveway, including expansion of the existing motor court to accommodate an emergency vehicle hammerhead-style turnaround required by the Pebble Beach Community Services District (PBCSD)/California Department of Forestry and Fire Protection (CAL FIRE). The motor court expansion would involve an approximately 20-foot deep and 15-foot long excavation (458 square feet and 125 cubic yards of cut) into the adjacent hill on the east side of the motor court to accommodate the fire truck turnaround hammerhead.¹ As shown in **Exhibit 3**, the hammerhead would extend over the existing motor court, into the hillside, and over the courtyard pavers. The

¹ The project began as a motor court expansion to regain area lost by conversion of a portion of the existing motor court to a landscaped courtyard. In its approval of the project, the County stated that the project was intended to accommodate ADA and emergency vehicle access, but after the project was appealed to the Commission, it was discovered that the County-approved expansion for emergency purposes did not in fact meet the applicable PBCSD/CAL FIRE emergency access requirements. Namely, it did not include adequate area or design for a required hammerhead turnaround. Hence, the project has been revised to reflect those requirements.

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project also includes a 68-foot long and 1- to 12-foot-high retaining wall to support the cut slope.

The project also proposes a number of site improvements, including the removal of existing asphalt and replacement with pervious pavers over the entire length of the driveway and motor court; restoration of an existing parking/turnaround area approximately halfway up the driveway (885 square feet); a previously-installed rock slab water feature in the upper patio; and recordation of an open space conservation and scenic easement over the northern one-third (approximately 0.56 -acres) of the parcel.

See **Exhibit 1** for a regional location map; **Exhibit 2** for photos of the project site; and **Exhibit 3** for the proposed project plans.

B. SITE AND PROJECT HISTORY

The CDP for the existing residence on the site was approved in December 1988 by the Coastal Commission (CDP No. 3-87-265, Yakobovich).² That approval, which was subject to five special conditions,³ allowed for the construction of an approximately 5,000- to 6,000-square-foot residence and motor court area, as well as tree removal and approximately 3,000 cubic yards of grading to accommodate the residential and driveway development. In 2012, the Applicants purchased the property, and in 2013 they applied to the County for a CDP for a remodel of and addition to the existing residence, including an emergency vehicle turnaround area at the halfway point of the driveway (County file number PLN120663, Commission file number 3-MCO-13-0384; see **Exhibit 3** for the location of that turnaround). The County Zoning Administrator approved that CDP on May 30, 2013 subject to 11 conditions. On December 10, 2014, the County Planning Commission approved a minor and trivial amendment (County file number PLN140715, Commission file number 3-MCO-15-0048) to the 2013 CDP to allow for a roof deck and for other adjustments to the previously approved site plan. The County has granted two other administrative approvals (non-CDP design approvals) for the site as well (PLN150379 and PLN170482). In addition, the County made an administrative decision in 2016 that the Applicants did not need CDP approval for conversion of a portion of the motor court area to a courtyard.

The Monterey County Board of Supervisors (BOS) approved a CDP for driveway improvements on July 11, 2017 subject to seven special conditions. The driveway improvements included cutting into the hillside on the eastern side of the property to allow for a larger motor court area that would also provide a turnaround area for emergency vehicles in an area closer to the house. The County conditioned its approval to require a retaining wall along this hillside area only if

² The Del Monte Forest Area Land Use Plan (LUP) was certified by the Coastal Commission on September 24, 1984 and the Del Monte Forest Area Coastal Implementation Plan (CIP) was certified on December 10, 1987. Application number 3-87-265 was submitted to and approved by the Commission (instead of the County) because the LCP had not yet been certified at the time of application submittal and acceptance for filing.

³ One of the special conditions required the recordation of an offer-to-dedicate (OTD) an open space conservation easement over the northern approximately one-third of the property in the area of the wooded canyon, which the Commission found constituted environmentally sensitive habitat (ESHA). The OTD was recorded on June 9, 1988 but was not accepted within the past 21 years following recordation. As such, no open space conservation easement currently exists on the property. The current owner/applicant now proposes as part of this project to record a new OTD to effectuate this special condition required under CDP 3-87-265.

deemed necessary during construction. See **Exhibit 4** for the County-approved project. On July 17, 2017, Tracy Alford (Appellant), the Applicants' next door neighbor to the east, appealed the BOS decision on the CDP to the Coastal Commission. The appeal contended that the project was inconsistent with the Monterey County LCP's provisions related to Carmel Bay (Pescadero Watershed) protection requirements and development on a 30+ percent slope and that the County's approval raised CEQA and code violation issues as well. On September 14, 2017, the Coastal Commission heard the appeal and took jurisdiction over the CDP for the project after finding that the County's approval raised a substantial issue with respect to development on 30 percent slopes and Pescadero Watershed protection requirements. The Commission's primary concern involved the need for the project, given that the LCP prohibits cut into 30+ percent slopes unless no feasible alternative exists, and it appeared that an adequate emergency turnaround had already been approved at the halfway point of the driveway under the 2013 County CDP for the house remodel and addition. The Commission also found the project site to be inconsistent with the LCP's 9,000-square foot impervious surface limit.

After the Commission found substantial issue, the Applicants modified the project design to address Commission concerns. Specifically, PBCSD/CAL FIRE determined that the 2013-approved turnaround would not meet the fire code requirements because it was too far from the residence, and this agency deemed the motor court area the preferred location for an emergency turnaround (see **Exhibit 5**). Accordingly, the proposed project now includes the turnaround in the area of the motor court as required by PBCSD/CAL FIRE for a driveway of this length, and the amount of hillside excavation (to allow for development of the turnaround) has been reduced by approximately half compared to that approved by the Monterey County BOS on July 11, 2017. The project now also includes construction of a 12-foot-high and 68-foot-long retaining wall along the area of hillside excavation, as well as the conversion of the existing impervious driveway to pervious pavers to address the previous consistency issues with the LCP's Pescadero Watershed policy. See **Exhibit 3** for proposed project plans.

All relevant correspondence and reports from the Appellant in this matter (Tracy Alford, the Applicants' next door neighbor to the east), as well as correspondence and reports from the Applicants, since the time of the Substantial Issue hearing is included at the end of this report.

C. HAZARDS AND 30 PERCENT SLOPES

The certified LCP includes requirements to minimize hazards and ensure the stability of a site, and contains specific protections for land with slopes of over 30 percent. Applicable provisions include:

***LUP Policy 38 (in relevant part):** New development shall be sited and designed to minimize risk from geologic, flood, or fire hazards; to assure stability and structural integrity; and to not threaten the stability of a site, contribute significantly to erosion, geologic instability, or destruction of the site or surrounding areas. ... Mitigation of hazards shall be demonstrated by detailed technical reports specific to the hazard type in question (e.g., soils, geologic, geotechnical, erosion control, fire hazard, etc.) that are prepared by persons who are appropriately qualified in the hazard field in question (e.g., civil engineers and engineering geologists familiar with coastal processes, geotechnical engineers, etc.) and that are submitted as part of any permit application. All technical*

reports shall be prepared consistent with County criteria for such reports ... All technical reports and analyses shall accompany development applications and/or be part of any required environmental documentation (e.g., that associated with CEQA).

CIP Section 20.147.060.A. Report Requirements (in relevant part): *Mitigation of hazards shall be demonstrated by detailed technical reports specific to the hazard type in question (e.g., soils, geologic, geotechnical, erosion control, fire hazard, etc.) that are prepared by persons who are appropriately qualified in the hazard field in question (e.g., civil engineers and engineering geologists familiar with coastal processes, geotechnical engineers, etc.) and that are submitted as part of any permit application. All technical reports and analyses shall accompany development applications and/or be part of any required environmental documentation. ...*

1. Geologic Report Requirements (in relevant part): ... ***(b) Regardless of a parcel's seismic hazard zone, a geologic report shall be prepared for any development project located in the following areas:***

(4) on slopes greater than 30%.

LUP Policy 78. *Development on slopes of 30% or more is prohibited unless such siting better addresses LUP objectives as a whole when compared to other possible siting alternatives on slopes of less than 30% associated with projects and/or sites.*

CIP 20.64.230 Development on Slopes in Excess of 30% - E. Action of the Appropriate Authority

1. In order to approve development on slopes of 30% or more, the Appropriate Authority must find, in addition to other necessary findings, based on substantial evidence, that:

a) there is no feasible alternative which would allow development to occur on slopes of less than 30%; or

b) that the proposed development better achieves the goals, policies and objectives of the Monterey County Local Coastal Program than other development alternatives.

Analysis

The project site is located in a forested, residential area with varying topography that includes flat areas as well as steep slopes and canyons. The residence on the site was originally constructed in the late 1980s on the most level area of site, requiring approximately 3,000 cubic yards of grading. The northern approximately one-third of the project site is a steep, wooded canyon that contains steep slopes and acts as a primary natural drainage course for the area. The residence and motor court were constructed up to the edge of this canyon. The existing approximately 530-foot long driveway travels up from Riata Road to terminate at the flat motor court area. The existing flat motor court area is also immediately adjacent to the hillside that

extends upward to the east. A neighboring residence is located at the crest of this hillside, approximately 50 feet to the east of the Applicants' property. See **Exhibit 2** for photos of the project site.

LUP Policy 38 requires that new development shall be sited and designed to minimize geologic risk, and shall not threaten the stability of a site or contribute significantly toward erosion. LUP Policy 78 prohibits development on slopes over 30 percent unless such siting better addresses LCP objectives as a whole when compared to other siting alternatives on slopes less than 30 percent. CIP Section 20.64.230, in providing more specific direction regarding implementation of this policy, states that in order to approve development on slopes of 30 percent or more, the decision-making body must find, based on substantial evidence, that: a) there is no feasible alternative which would allow development to occur on slopes of less than 30 percent, or b) that the proposed development better achieves the goals, policies and objectives of the LCP than other development alternatives.

The proposed project involves a 458-square-foot cut into 30 to 60 percent slopes on the east side of the motor court to accommodate the 60-foot-wide (at the top of the "T") emergency access hammerhead turnaround required by PBCSD/CAL FIRE (see **Exhibit 3** for project plans). Because the project involves cut and excavation of 30+ percent slopes, the LCP requires a finding that no feasible alternative exists that would allow development on slopes less than 30 percent or that the proposed project better achieves LCP objectives as a whole than other alternatives.

As part of the feasibility evaluation required by the LCP, the parcel's topography, the location of natural features (such as drainages and mature vegetation), the location of existing development and utilities, and the applicable fire requirements need to be considered to determine if any alternatives exist to the proposed project that would allow it to occur on less than 30 percent slopes. First, as described above, the parcel is mostly comprised of slopes with the exception of a flat area that contains the existing residence and motor court. As previously described, the northern one-third of the site consists of an undeveloped steep, vegetated canyon that the Commission designated as environmentally sensitive habitat area, or ESHA, in its original 1987 CDP approval. Given that only resource-dependent uses are allowed in ESHA, and because the Applicants propose to restrict development in this area via re-recordation of a new conservation easement, this entire portion of the parcel is precluded from consideration as a project site alternative. And aside from the residence and narrow driveway located on the remaining two-thirds of the site, the site is largely wooded with remnant Monterey pine forest, including mature pine and oak trees. Thus, the site is largely constrained by existing slopes, the canyon, and existing vegetation. And because the turnaround must be connected to the existing driveway, it is further limited to integration with the existing driveway. Thus, there is no other location to site the driveway/motor court improvements that does not include significant impacts to sensitive coastal resources.

The applicable fire requirements include standards for road and driveway access, gates, signage, and water systems for fire-fighting purposes, among other things (see pages 14-18 of **Exhibit**

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5).⁴ PBCSD/CAL FIRE require turnarounds on driveways that exceed 150 feet in length. Their requirements state that such turnarounds “shall be located within 50 feet of the primary building” and “if a hammerhead/T is used, the top of the “T” shall be a minimum of 60 feet in length.” In terms of allowable slopes, their requirements state that “the grade for all driveways shall not exceed 15 percent.”⁵

The project site is fairly restricted as to where a turnaround of this size can be located. As described above, the parcel is steep and wooded, and the existing driveway is narrow, thereby physically limiting where a new turnaround (which is essentially an expansion of the existing driveway/motor court area) can be located. And because PBCSD/CAL FIRE requires the turnaround to be within 50 feet of the residence, the potential locations are further limited. As such, only two possible locations on the driveway exist within 50 feet of the residence: the motor court (proposed) and, as shown in **Exhibit 6**, the area just south of the residence fronting the garage.

The Applicant surveyed the site and prepared plans for both locations to demonstrate feasibility for the turnaround. Both locations would necessitate impacts to 30+ percent slopes in the form of cut (motor court: 458 square feet in size requiring 125 cubic yards of cut) or fill (garage area: 785 square feet in size requiring 104 cubic yards of fill). Both locations would necessitate retaining walls of roughly the same length (motor court: 68 linear feet; garage area: 65 linear feet) to support the turnaround. The 30+ percent slope areas that would be impacted under both options are shown on page 2 in **Exhibit 3** and in **Exhibit 6**. In terms of driveway/turnaround surface area, the survey results show that the garage area presents a grade differential that, absent re-grading and flattening of the existing driveway, would cause a fire truck to bottom out while turning. In contrast, the motor court area would not necessitate any additional grading or flattening (aside from the hillside cut to accommodate a wide enough hammerhead).

Locating the turnaround at the garage area would have additional impacts. Specifically, this location of the turnaround would necessitate removal of three oak trees six inches or greater in diameter. This location is also limited by the presence of existing electrical utilities on the eastern side of the driveway, necessitating the westerly (oak trees) impacts. Absent re-grading and flattening of the existing driveway at the garage area, the turnaround in this area would impact the existing house itself because insufficient height exists for a 12-foot-tall firetruck to turn without hitting the existing second story terrace above. In contrast, at the motor court no existing mature vegetation or utilities would be impacted and adequate height exists for a firetruck to pull up and turn (without the need for alterations to the house).

⁴ PBCSD/CAL FIRE maintains requirements for residential uses that are applied as conditions of approval on Monterey County CDPs for residential projects. The applicable requirements in this case are those under PBCSD/CAL FIRE condition FIRE007-Driveways.

⁵ In this case, the “T” or hammerhead-style turnaround was selected over other allowable options because a circular turnaround would be larger (80 feet in diameter) and the other option, i.e. a left or right side (off the driveway) turnaround, would present the same or similar impacts at the motor court area and would be problematic from a slope perspective at the garage area (steep incline approaching garage, then an uneven/steep area in front of garage, and an additional steep incline beyond the garage continuing up the driveway).

In regards to this case, PBCSD/CAL FIRE staff stated that for this particular driveway, they will not approve any driveway or turnaround that exceeds a 15 percent slope surface and that the turnaround should be on the flattest surface possible.⁶ They have also stated that, for this site, while the motor court option would require cutting into the hillside, placement of the turnaround at that location would be at a more desirable grade than areas below the residence.⁷ In sum, despite their review and approval in 2013 of the originally intended turnaround at the approximate halfway point of the driveway, PBCSD/CAL FIRE staff has determined that the emergency turnaround at this site must be within 50 feet of the residence and must not exceed 15 percent slopes for fire truck safety and maneuverability purposes, which leaves only the proposed motor court location. On June 8, 2018, PBCSD/CAL FIRE approved the proposed project as the location for the emergency vehicle turnaround (see pages 1-3 of **Exhibit 5**).

In terms of additional configurations or designs at the motor court to reduce or eliminate the proposed cut into 30 percent slopes, the Applicants investigated other potential arrangements of the hammerhead. The Applicants' house (to the south) and the canyon (to the north and west) limit the area within which the hammerhead would fit, but the Applicants looked at the possibility of shifting it further west to reduce the slope cut on the east. The western edge of this motor court area is cantilevered over the canyon and is supported by an existing retaining wall that was constructed at the time the original house was built and is footed on the canyon slope (see page 2 of **Exhibit 3**). The Applicants' engineers stated that the original design criteria for this existing retaining wall is unknown, and it cannot be assumed that it is designed to take anything greater than the surcharge load of a passenger car, if any. The engineers stated that it is very unlikely that the existing retaining wall can be relied on to support the large surcharge loads of a firetruck and they recommend that the wheels of a firetruck do not come closer than a minimum of 15 feet from the retaining wall.⁸ The Applicants also explored the possibility of reinforcing/buttrussing the existing retaining wall with new concrete footings, columns and beams to support emergency vehicles. The engineers noted that while this is possible, the initial purpose of the cantilevered portion of the motor court was to address steep slopes and avoid root disturbance of a double-stemmed (21-inch and 22-inch diameter) Monterey pine tree. The Applicants' biologist concluded that excavation at this location (to reinforce the existing wall) would likely damage or kill this tree. As such, the hammerhead cannot be shifted any further westward to reduce the slope cut without incurring safety and stability concerns with respect to the existing supporting retaining wall. Moreover, installing a new retaining wall to address these safety and stability concerns would involve cutting, grading, and other slope and tree disturbances which would obviate the benefit of shifting the turnaround westward.

In sum, locating the required turnaround at either the garage or motor court would involve cutting into 30+ percent slopes. As such, no feasible alternative exists that would allow the hammerhead turnaround to be located on less than 30 percent slopes. The proposed project is

⁶ Email from PBCSD/CAL FIRE Battalion Chief Mark Mancini to Coastal Commission staff Katie Butler on January 29, 2018. See **Exhibit 5**.

⁷ Letter from PBCSD/CAL FIRE Battalion Chief Mark Mancini to Anthony Lombardo (Applicants' representative) dated August 29, 2017. See **Exhibit 5**.

⁸ Letter from Geoffrey Clifford, S.E., BCA Structural Engineering Incorporated, to Chris Bardis (one of the Applicants) and Anthony Lombardo (Applicants' representative) dated March 15, 2018.

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preferred from both environmental and fire protection standpoints because it would involve less overall grading of the existing driveway area; would not impact any existing mature trees; would not impact or require relocation of any existing development (utilities and roof of house); and best meets the applicable fire department requirements for this length of driveway. Therefore, the Commission finds, as required by the LCP, that there is no feasible alternative to the proposed project which would allow development to occur on slopes of less than 30 percent.

The proposed retaining wall will ensure structural integrity of the cut slope by providing support for the weathered top layer of bedrock, thereby minimizing risk to both the Applicant's property as well as the upslope neighbor's property. The Commission's Staff Coastal Engineer, Dr. Lesley Ewing, and Staff Geologist, Joe Street, concur that a retaining wall is necessary to minimize potential erosion and failure of the slope (see **Exhibit 9**). **Special Condition 1** requires submittal of final plans for the motor court turnaround and associated retaining wall that are in substantial conformance with the plans dated June 13, 2018 that identify the project's limits, the maximum size and outline of the hammerhead, retaining wall specifications necessary to support the cut slope, patio improvements, and restoration of the existing driveway turnaround (that is located midway down the driveway) with appropriate native plants. As proposed and conditioned, the project has been sited and designed to minimize hazard risks and will assure stability and structural integrity on the site, and is thus consistent with the above-cited LCP's hazards and 30 percent slopes provisions.

And finally, some of the other project elements (conversion of existing impervious driveway to pervious pavers and restoration of an existing parking/turnaround area approximately halfway up the driveway) would also involve work on 30+ percent slopes. In the case of both, the conversion of the impervious driveway to pervious pavers and the restoration of the existing paved turnaround area of the driveway to a native landscaped area would better meet the LCP objectives as a whole. Specifically, these project elements would reduce site runoff and hardscaping, thereby reducing sedimentation and erosion to better protect the Carmel Bay over existing conditions (see also "Other" Section below).

Conclusion

In sum, the project site contains numerous constraints that require the proposed driveway/fire turnaround to be located within an area of 30 percent slopes. And while development on such steep slopes is strongly discouraged, the LCP does allow it in certain circumstances and when certain findings are made. In this case, the necessity that the fire turnaround be located immediately adjacent to the existing residence, and the coastal resource issues engendered by moving the driveway entirely to an alternative location (including because of steep slopes and ESHA) results in the conclusion that the proposed project location best meets LCP objectives overall.

D. PUBLIC ACCESS AND RECREATION

Coastal Act Section 30604(c) requires that every CDP issued for any development between the nearest public road and the sea "shall include a specific finding that the development is in conformity with the public access and public recreation policies of [Coastal Act] Chapter 3." The

proposed project is located seaward of the first through public road (Highway 1).⁹ Coastal Act Sections 30210 through 30224 specifically protect public access and recreational opportunities. Specifically:

Section 30210: *In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

Section 30211: *Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

Section 30212(a): *Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects....*

Section 30213. *Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.*

Section 30220. *Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.*

Section 30221. *Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.*

Section 30223. *Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.*

Analysis

While the project site is located well inland from the coast, all roads within the Del Monte Forest are private roads, with the nearest public road being Highway 1. Thus, although it is well inland, the site is located seaward of the first public road. As described above, the proposed project is in an established residential neighborhood approximately three-quarters-of-a-mile inland and north of Stillwater Cove (the northern end of Carmel Bay) – see **Exhibit 1**. It is surrounded by single-family residences and, as a driveway improvement project on an existing developed parcel, does not involve any elements that would adversely impact or interfere with public access and recreation. All project work would be contained onsite. The project would thus not be required to provide or facilitate public access to or along the shoreline because it does not involve any potential impacts to public coastal access. Thus, the project is consistent with the above-cited Coastal Act public access and recreation policies.

⁹ The Del Monte Forest and its roads are privately owned (by the Pebble Beach Company). As such, Highway 1 is the first through public road.

E. OTHER

The Del Monte Forest LCP protects water quality in the Carmel Bay, among other ways, by requiring residential development to be limited to a maximum of 9,000 square feet of impervious surface coverage (CIP Section 20.147.030.A.1.b – see **Exhibit 8**). Existing impervious surface coverage on the site is 17,185 square feet. The proposed project includes removal of existing asphalt and replacement with pervious pavers over the entirety of the approximately 530-foot long driveway (including the motor court). This change will result in a total impervious surface coverage on the site of 6,532 square feet, consistent with the requirements of CIP Section 20.147.030.A.1.b. **Special Condition 1(e)** requires final plans that show this reduction in impervious coverage.

The LCP also requires construction measures to reduce sedimentation and avoid polluted runoff, including through LUP Policies 1 through 7 (see these policies in **Exhibit 8**). This project would involve grading and earthwork that has the potential to adversely impact the water quality of coastal waters. Potential impacts associated with construction can be contained through a construction plan condition that includes requirements for identifying the specific location of all construction areas, all staging areas, and protecting marine and groundwater resources through Best Management Practices. Therefore, to provide consistency with LUP Policies 1 through 7, **Special Condition 2** is required to ensure Best Management Practices are carried out during construction to limit these anticipated impacts.

The proposed project includes an open space conservation and scenic easement offer-to-dedicate (OTD) over the northern one-third of the parcel (0.56-acre) (see **Exhibit 7**). As described above (in footnote 3), the original 1988 Coastal Commission CDP for development of the residence identified this wooded canyon as an environmentally sensitive habitat area (ESHA) and a major drainage swale. To ensure its protection consistent with the LCP's ESHA policies, the easement OTD was required as a condition of approval. The OTD was recorded on June 9, 1988 but was not accepted within the past 21 years following recordation. As such, the Applicants propose to again record an OTD over this area to ensure its protection in perpetuity. Therefore, **Special Condition 3** requires the recordation of an open space conservation and scenic easement OTD for the purpose of habitat conservation and visual resource protection in perpetuity.

Coastal Act Section 30620(c)(1) authorizes the Commission to require Applicants to reimburse the Commission for expenses incurred in processing CDP applications. Thus, the Commission is authorized to require reimbursement for expenses incurred in defending its action on the pending CDP application in the event that the Commission's action is challenged by a party other than the Applicants. In this case, the next-door neighbor (appellant) has been actively involved with opposition to this project since the initial application at the County and it is possible that they could bring action against the Commission in relation to its approval of the application. Therefore, consistent with Section 30620(c), the Commission imposes a condition requiring reimbursement for any costs and attorneys' fees that the Commission incurs in connection with the defense of any action brought by a party other than the Applicants challenging the approval or issuance of this permit (**Special Condition 4**).

Finally, to ensure that future property owners are properly informed regarding the terms and conditions of this approval, this approval is also conditioned for a deed restriction to be recorded

against the property involved in the application (see **Special Condition 5**). This deed restriction will record the conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the property.

F. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 13096 of Title 14 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

Monterey County, as the lead CEQA agency, concluded that the development was categorically exempt under Section 15304 of the CEQA Guidelines because the project is a minor private alteration in the condition of land, water, and/or vegetation which did not involve the removal of healthy, mature, or scenic trees. The Coastal Commission's review and analysis of land use proposals has been certified by the Secretary of Resources as being the functional equivalent of environmental review under CEQA. The Commission has reviewed the relevant coastal resource issues associated with the proposed project, and has identified appropriate and necessary modifications to address adverse impacts to such coastal resources. All above findings are incorporated herein in their entirety by reference.

The Commission finds that only as modified and conditioned by this permit will the proposed project avoid significant adverse effects on the environment within the meaning of CEQA. As such, there are no additional feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse environmental effects that approval of the proposed project, as modified, would have on the environment within the meaning of CEQA. If so modified, the proposed project will not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A).

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APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

- Monterey County Resource Management Agency – Planning File Numbers:
 - PLN140715-AMD1, Resolution Number 17-222 (Coastal Commission File Number A-3-MCO-17-0038)
 - PLN140715, Resolution Number 14-047 (Coastal Commission File Number 3-MCO-15-0048)
 - PLN120663, Resolution Number 13-020 (Coastal Commission File Number 3-MCO-13-0384)
 - PLN150379
 - PLN170482
- Coastal Commission File Number 3-87-265 (Yakobovich)

APPENDIX B – STAFF CONTACT WITH AGENCIES AND GROUPS

- Pebble Beach Community Services District/California Department of Forestry and Fire Protection (PBCSD/CAL FIRE) – Fire Protection and Planning Staff