

Attachment N  
Request for a continuance by John Bridges,  
Applicant's Representative

PLN110366/PLN110367  
Mozingo (Powell)



**Lawrence, Laura x5148**

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**From:** John Bridges [jbridges@fentonkeller.com]  
**Sent:** Monday, September 24, 2012 2:02 PM  
**To:** Montano, Ramon x5169; 112-Clerk of the Board Everyone  
**Cc:** Lori Powell; McKee, Charles J  
**Subject:** RE: Appeal Hearing - Request to Clerk of the Board for a continuance.  
**Follow Up Flag:** Follow up  
**Flag Status:** Red  
**Attachments:** 2547\_001.pdf

As we have repeatedly explained, neither the applicant nor I will be able to attend a hearing on October, 23, 2012. We have discussed continuance options with you several times and offered many alternate dates for consideration (as reflected in our prior correspondence) and we remain open to scheduling a date that can work for all concerned, namely, my client, staff, the appellant, and the Board. We will commit to do all we can to find an appropriate date as soon as possible.

My client is the applicant for the permit that has been appealed (PLN 110366). I believe the 60 day rule for hearing on an appeal is intended for the benefit of the applicant (so an appellant can not drag out the process and thus delay the applicant). Where, as here, the applicant is requesting a continuance there should be no impediment to the Board granting such. Indeed, Board Policy (see attached) is to automatically grant one continuance as a matter of right to an applicant provided the request is received by the Clerk of the Board by 5 p.m. the Tuesday preceding the hearing date. By copy of this e-mail, the applicant is making such request to the Clerk of the Board. The fact that this is an appeal does not alter the identity nor the rights of the applicant.

In light of the history of this matter, and the fact of staff recommendation for approval, Director of Planning intended administrative approval and then Zoning Administrator approval after public hearing, to set a hearing on a date the applicant can not appear would seem directly contrary to the Board's expressed policy intent to conduct fair hearings and to consider all relevant information before reaching a decision. The applicant needs to be present at the hearing to present her case to the Board and to present a defense of the staff recommendation and ZA approval. This is not a case of undue delay or multiple continuances. In fact, Ms. Powell would like to have the matter heard relatively soon but is willing to extend the hearing date out to even January or February if that is necessary to accommodate the appellant's (Mr. Mazingo) schedule. Also, this is the final step in the administrative process (as the matter is not appealable to the Coastal Commission) which makes the applicant's opportunity to be heard that much more critical.

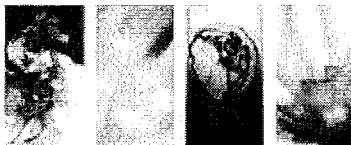
In short, there is no reason not to continue this hearing to a date that all can be present and every reason to do so.

thanks...JOHN

**John S. Bridges**  
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10/11/2012

**From:** Montano, Ramon x5169 [mailto:[montanor@co.monterey.ca.us](mailto:montanor@co.monterey.ca.us)]  
**Sent:** Friday, September 21, 2012 10:39 AM  
**To:** John Bridges  
**Subject:** Appeal Hearing

John, I spoke to Mr. Mozingo yesterday and determined that the meeting scheduled for the 23<sup>rd</sup> will remain the scheduled hearing date. I will be working to complete our staff report in the event the Board does not continue the hearing. I understand your intend to ask for a continuance?

Regards,  
**Ramon A. Montano, Planning Department**  
**Monterey County Resource Management Agency**  
**168 West Alisal St. second floor Salinas, CA 93901**  
**[montanor@co.monterey.ca.us](mailto:montanor@co.monterey.ca.us) VMX 831-755-5169 FAX 831-757-9516**

**BEFORE THE BOARD OF SUPERVISORS IN AND FOR THE  
COUNTY OF MONTEREY, STATE OF CALIFORNIA**

Adopt policy relating to the )  
Continuance of Public Hearings )  
Continued from July 22, 2003 )

The Board of Supervisors considered three policy alternatives for continued public hearings as proposed in the staff report, and presented by Scott Hennessy, Planning and Building Director.

The Board discussed the matter. The Public Hearing was opened, and Lee Lotz and Pat Bernardi offered comments on the issues. The Chair closed the hearing, and the Board continued their discussion.

Following further discussion, Supervisor Johnsen moved Alternative No. 3 (See attached) and Supervisor Potter seconded the motion.

Supervisors Johnsen and Potter offered comments on the chosen alternative. Supervisor Calcagno requested clarification of the time in which to notice applicants and staff contacts. Charles McKee, County Counsel responded. Further discussion ensued. The Chair called for the vote, and the vote was as follows:

PASSED and ADOPTED this 26<sup>th</sup> day of August, 2003, by the following vote, to-wit:

AYES: Supervisors Calcagno, Lindley, Johnsen, Potter and Armenta

NOES: None

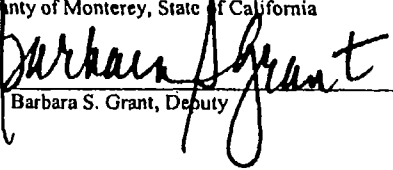
ABSENT: None

I, SALLY R. REED, 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 into the minutes thereof at page X of Minute Book 71, on August 26, 2003.

DATED: August 27, 2003

SALLY R. REED, Clerk of the Board of Supervisors,  
County of Monterey, State of California

By

  
Barbara S. Grant, Deputy

cc: Planning and Building;  
0602.200

### **POLICY ON THE CONTINUANCE OF PUBLIC HEARING (ALTERNATIVE #3)**

It is the policy of the Board of Supervisors to conduct public hearings in a fair and expeditious manner and to consider all relevant information before reaching a decision. The Board recognizes that from time to time continuances may be necessary but that multiple continuances may hinder the public hearing process. Therefore, to minimize the potential detrimental effects of multiple continuances, the Board hereby adopts the following policy:

The Board of Supervisors will allow one continuance of any public hearing item without conducting a full public hearing on the item. A request by the applicant for a continuance must be received by the Clerk of the Board by 5:00 pm. the Tuesday preceding the hearing date. The Clerk of the Board shall note the continuance on the Board's agenda as "To Be Continued to \_\_\_\_\_" and notify the newspaper of local circulation.

The Board of Supervisors will consider a second continuance of any public hearing item. A request for a continuance must be received by the Clerk of the Board by 5:00 pm. the Tuesday preceding the hearing date. The Clerk of the Board shall note the continuance on the Board's agenda as "Request for Continuance to \_\_\_\_\_ Received" and notify the newspaper of local circulation.

After two continuances the Board will conduct a full public hearing on the item and take one of the following actions:

1. Approve the item.
2. Deny the item.
3. Continue the item to a subsequent date with specific direction to the staff as to the information needed for the subsequent public hearing.
4. Return the item to the original hearing body (if any) for reconsideration.
5. Table the item with specific direction to the staff as to the information needed for a subsequent, newly noticed public hearing.

The Board shall return the matter to the original hearing body for reconsideration if the project is significantly changed or if relevant new information becomes available.