

Attachment A

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ATTACHMENT A DISCUSSION

Overview

To address water conservation and prevent waste, the State of California passed Assembly Bill 1881 – Water Conservation in Landscaping Act (“AB 1881”), with the basic premise that “landscape design, installation, maintenance, and management can *and* should be water efficient.” As outlined in AB 1881, an update to the State Model Water Efficient Landscape Ordinance (“MWELo”) was developed and adopted by the state. Local governments were then required to either adopt the MWELo or an ordinance that is *at least* as effective in conserving water by January 1, 2010. If neither occurred by that date, the local agency was required to enforce the MWELo. Monterey County has enforced the MWELo since that date.

Subsequently, the Governor of the State of California issued Executive Order B-29-15 (Executive Order) on April 1, 2015. The Executive Order required the State Department of Water Resources (“DWR”) to revise the MWELo to further increase water efficiency standards. The California Water Commission approved the latest revision on July 15, 2015, and local governments are now required to either adopt the revised MWELo or a local ordinance that is at least effective in water conservation by December 15, 2015. It is proposed that the County adopt local ordinances in order to create regulations specific for this County while meeting the purpose and obligations of AB 1881.

Pursuant to Section 65596 of the Government Code, specific elements were included within the MWELo. Those state-specified requirements for the MWELo have been incorporated within the proposed ordinances, while supplemental information and technical requirements are explained in the landscape manual.

RMA – Planning staff, in conjunction with subject matter experts and with consultation with County Counsel, have developed a draft *Coastal Water and Energy Efficient Landscape Ordinance* (coastal ordinance – **Attachment B**), draft *Inland Water and Energy Efficient Landscape Ordinance* (inland ordinance – **Attachment C**) and a draft *Monterey County Landscape Manual – Standards, Guidelines, and Specified Performance Requirements for Landscape Water Use and Irrigation* (landscape manual – **Attachment D**) to provide standards for landscaping. The primary focus of these regulations is to increase water and energy conservation consistent with the requirements of state law and existing County regulations as well as promote responsible landscaping design relative to fire protection and eradication of invasive plant species. This report introduces the proposed ordinances for the Board of Supervisors to consider and adopt at a subsequent date because state law requires that the ordinances be adopted at least five days after their introduction. A draft companion landscape manual is provided for consideration by the Board of Supervisors.

Once the local ordinances and landscape manual have been adopted, the County is required to submit an initial report to DWR to document how the ordinances differ from the revised MWELo, how they are as effective in water conservation, and what exemptions have been

specified. Reporting on procedure such as which County department is responsible for implementation, project review to verify compliance, and enforcement is also required.

After implementation of the proposed ordinances the County will also be required to submit an annual report to DWR outlining the number and type of projects (i.e.: new housing, new commercial, and landscape retrofits) subject to the ordinances, as well as the total acreage.

Existing Regulations

Existing County regulations relative to landscaping can be found in various County governing documents. Regulations related to water use are also enforced by the Monterey County Water Resources Agency (“WRA”), the Monterey Peninsula Water Management District (“MPWMD”), and the Marina Coast Water District (“MCWD”) for projects located within their jurisdictional areas. Fundamentally, all regulations call for the use of drought tolerant plants, native plants, and the use of low precipitation timed irrigation systems as part of landscape designs and require review and approval of applicable projects to ensure consistency. Furthermore, existing County policies encourage the use of native and fire resistant plants, the eradication of invasive plant species, erosion control and stormwater management. Although regulations containing water conservation measures are already in place, adoption of the proposed ordinances would bridge the gap between existing County regulations and the state’s revised model ordinance, as the proposed ordinances implement the newer state regulations.

The existing process for review, approval and verification for landscape projects is similar to what is proposed. An applicant is required to submit planting and irrigation plans drawn and certified by a licensed professional for review. Once approved and installation is complete, verification is performed through a final inspection by RMA-Planning staff.

The proposed coastal ordinance is consistent with the 1982 Monterey County General Plan, the Monterey County Local Coastal Program, applicable chapters of the Monterey County Code, the Monterey County Zoning Ordinance (Title 20), and the supplemental regulations of WRA, MPWMD and MCWD.

The proposed inland ordinance is consistent with the 2010 Monterey County General Plan, applicable chapters of the Monterey County Code, the Monterey County Zoning Ordinance (Title 21), and the supplemental regulations of WRA, MPWMD and MCWD. Furthermore, adoption of the inland ordinance would implement six policies of the 2010 Monterey County General Plan: PS-2.8; PS-3.11; PS-3.12; OS-5.6; OS-5.14 and S-4.28 (LRP Work Program Task Nos. 42, 61, 89 and 97), because the regulations require the following: water conservation; drought tolerant native/native compatible and fire resistant planting; water efficient irrigation systems; maintaining stormwater onsite; and exclusion and eradication of invasive plants.

Projects found to be exempt from the proposed inland or coastal ordinances are still required to be consistent with the above existing County regulations. Furthermore, projects subject to the existing regulations, but not the proposed inland or coastal ordinances, will not be affected by the adoption of the ordinances or approval of the landscape manual.

Proposed Ordinances – New Regulations

As previously stated, the proposed regulations are contained within the proposed ordinances and detail as to implementation is found within the landscape manual. Although the two ordinances (coastal zone and inland) apply to different areas of the County, their language and regulations mirror one another. The landscape manual, applicable to the coastal and inland areas, is designed to be a useful tool to assist the public, landscape designers, and staff by providing a clear explanation of the regulations, technical information and the submittal and review process. The manual is also intended to be useful in instances where a landscape project is not subject to the proposed ordinances, as it provides information to facilitate education in water conservation measures and techniques in landscaping to the general public. The ordinances enable the manual to be adopted by resolution; this will allow future modifications, without an ordinance(s) amendment, as new technology for water and energy efficiency becomes available or if plant statuses change.

The applicability thresholds of the proposed ordinances are identical to those contained in the MWEL. The initial step in determining applicability is to focus on 1) the type of landscaping and 2) the amount of landscape area. The two types of landscaping are “new” and “rehabilitated¹.” New landscape projects have an applicability threshold of 500 square feet while rehabilitated landscape projects have an applicability threshold of 2,500 square feet. Once a project is identified to be subject to the ordinance, then it must be determined if the project qualifies as a Minor Landscape or Major Landscape project.

Minor Landscape projects are new landscapes with an aggregate landscape area between 500 to 2,500 square feet or a rehabilitated landscape of at least 2,500 square feet. These types of projects require submittal of a Minor Landscape Package consisting of a planting and irrigation plan incorporating a limited amount of information, when compared to a Major Landscape Package. However, the plans are required to be in enough detail demonstrating a project’s water and energy efficiency. Verification of consistency with the approved plans will be done through submittal of a Minor Certificate of Completion prepared by the project applicant and a final inspection by staff.

Major Landscape projects are new or rehabilitated landscapes with an aggregate landscape area greater than 2,500 square feet. These types of projects require more detailed documentation submitted with the Major Landscape Package. Planting plans and irrigation plans, required to be drawn by a licensed professional, will need to incorporate soil amendments recommended through a soils analysis and delineate plant spacing, plant type and irrigation design consistent with the water efficient requirements. In order to document a project’s water efficiency, water budget calculations will need to be performed and submitted as part of the package. Verification of consistency with the approved plans will be done through the applicant’s submittal of a

¹ Rehabilitated landscape means any re-landscaping of existing landscapes where the modified landscape area is equal to or greater than 2,500 square feet.

Certificate of Completion, prepared by either the person(s) who signed the planting and/or irrigation plan or the licensed landscape contractor who installed the landscape, and a final inspection by staff.

Differences Between the Proposed Regulations and the MWELO

The MWELO was organized in a way that is confusing for the reader. In addition to the mandatory elements, MWELO contains supplementary provisions, which were analyzed by staff. It was determined that not all were appropriate for Monterey County. Presentation (format and location) of the regulations in the proposed ordinances differ from the MWELO but should lend a better understanding to the reader.

The MWELO contains complex regulations and technical information. To improve readability, technical information was placed in the landscape manual while regulatory language is found in the ordinances. Furthermore, the technical information available today has a high probability of evolving as new techniques are identified, and including this information in the manual will allow a simpler amendment process.

The MWELO includes supplementary provisions for existing landscapes. Staff proposes these provisions be made available through public education that encourages participation in programs available by their respective water purveyor and/or incorporating water-wise design techniques to the greatest extent feasible.

The list of exempt projects in MWELO has been expanded to meet the specific needs of Monterey County (see table below). For instance, agriculture is a vital industry in the County, and the purpose of MWELO is to address water use for landscapes that are ornamental in nature.² Therefore, staff recommends exempting agricultural cultivation activities. On a related note, and recommended by the Planning Commission, areas dedicated to private edible gardens and/or orchard are also exempt from inclusion within the calculated landscape area to avoid unnecessarily penalizing an owner for supporting ecological sustainability.

The exempt activities have been analyzed relative to their potential effects on water conservation. The table below identifies said activities and explains why their inclusion will have little to no impact on the County’s efforts in water conservation.

Exempt Activity	Comment
Agricultural cultivation activities	Agricultural cultivation is for food production and not for providing an aesthetically pleasing outdoor area for commercial or residential uses.
New, existing or rehabilitated	The main point of the ordinances is to

² Urban landscapes account for significant amounts (30%-50%) of outdoor water use in California and the DWR included provisions in MWELO to target this sector.

stormwater quality projects that are not irrigated and used solely for the purpose of improving runoff quality and/or retaining runoff onsite	conserve water through smart planting and irrigation. If the activity does not include irrigation, it is outside the scope of these regulations.
Changes in use of an existing structure that do not include changes to existing landscape	Although this activity may be exempt from the new regulations of the proposed ordinance, water conservation programs for existing landscapes are available.
Private edible plant gardens and/or orchards for personal and individual consumption	Similar to agricultural cultivation, this activity provides for personal food production and not ornamental landscaping.
Constructed wetlands or other landscaped areas that are not irrigated and used solely for on-site wastewater treatment	The main point of the ordinances is to conserve water through smart planting and irrigation. If the activity does not include irrigation, it is outside the scope of these regulations.
Existing cemeteries	The County's ordinance follow state law.
Natural areas including, but not limited to: open space, native vegetative areas, and pervious or non-pervious hardscapes with no permanent irrigation system	If the activity does not include irrigation, it is beyond the scope of these regulations.
Erosion control activities with no permanent irrigation systems such as hydroseeding	If the activity does not include irrigation, it is beyond the scope of these regulations.
Construction of structures that do not include changes in existing landscape	Although this activity may be exempt from the new regulations of the proposed ordinance, the water conservation programs for existing landscapes are available.

Public Outreach

Once the ordinances and landscape manual contained the mandatory elements, staff began public outreach to vet the regulations with the public. The Planning Commission conducted public workshops on December 12, 2012 and April 9, 2014. On November 8, 2012 and March 27, 2014, the concept and approach for the landscape regulations were presented to the Board of Supervisors Alternative Energy and Environment Committee for input. Additionally, over the three years, staff presented the State's requirements and potential options to various stakeholders for comment.

To ensure the technical information contained within the landscape manual was appropriate, staff distributed it to County agencies and over 20 local plant nurseries, landscape contractors and landscape architects for review and comment. Recommended changes were considered and incorporated as appropriate.

RMA-Planning staff met with California Coastal Commission staff to discuss the concept of the proposed landscape regulations and required actions for adoption of these regulations in the coastal zone. Correspondence from the California Coastal Commission dated August 7, 2014 states that the "...existing regulations of the LCP appear to adequately cover the issue of water conservation/water efficiency in landscaping without the need to add any references to this new ordinance..." Therefore, adoption of the coastal ordinance and approval of the landscape manual will not require an amendment to the Local Coastal Program and certification by the California Coastal Commission.

Planning Commission Recommendation

On March 25, 2015, the Planning Commission conducted a public hearing to consider the *Inland Water and Energy Efficient Landscape Ordinance*, the *Coastal Water and Energy Efficient Landscape Ordinance* and the *Monterey County Landscape Manual – Standards, Guidelines and Specified Performance Requirements for Landscape Water Use and Irrigation*. The Commission recommended that the Board of Supervisors adopt the ordinances and approve the landscape manual (**Attachment E**).

CEQA

Adoption of the ordinances and landscape manual are exempt from environmental review pursuant to Sections 15307 and 15308 of the CEQA Guidelines. Applying landscape requirements to projects will result in improving water and energy efficiency, thereby reducing water and energy consumption through landscape design. Consistent with Sections 15307 and 15308 of the CEQA Guidelines, adoption and implementation of the ordinances and landscape manual are an action taken by the County, as authorized by state law, to assure the maintenance, restoration, or enhancement of a natural resource and the environment (water and energy) through a regulatory process involving procedures (landscape and irrigation design requirements and the submittal and required approval of a landscape package) for the protection of the environment.

Conclusion

Staff recommends the Board of Supervisors introduce, waive reading and consider adding Chapters 16.63 and 163.64 to the Monterey County Code to establish regulations for water and energy efficient landscaping in the coastal and inland areas of Monterey County. It is further recommended that the Board of Supervisors set March 8, 2016 as the date and time to find the action categorically exempt under CEQA and adopt the ordinances and the companion landscape manual.