



Monterey County

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Board Report

Legistar File Number: 15-0409

April 28, 2015

Introduced: 4/21/2015

Current Status: Agenda Ready

Version: 1

Matter Type: General Agenda Item

Public Hearing to consider:

- a. Addendum No 3 to the Final Environmental Impact Report for the 2010 Monterey County General Plan together with (#7-01, SCH #20071212001)("FEIR"); and
- b. Amendments to the 2010 Monterey County General Plan to implement litigation settlement agreements with LandWatch Monterey County and The Open Monterey Project.
(REF150010/General Plan Amendment No. 3)

PROJECT INFORMATION:

Planning File Numbers: REF150010

Applicant: County of Monterey

Project Location: County-wide (non-coastal)

CEQA Action: Addendum No. 3 to EIR#07-01, SCH#2007121001

RECOMMENDATION:

It is recommended that the Board of Supervisors consider the proposed amendments to the 2010 Monterey County General Plan ("General Plan") that would implement a settlement of litigation regarding the General Plan.

An ~~underline~~ ~~strikeout~~ version and summary of the proposed amendments are enclosed as **Attachments A and B**, respectively. A draft Addendum No. 3 is enclosed as **Attachment C**.

SUMMARY:

On October 26, 2010, by Resolution Nos. 10-290 and 10-291, the Board of Supervisors adopted the General Plan, certified its accompanying FEIR, and adopted findings, a Statement of Overriding Considerations and a Mitigation, Monitoring and Reporting Program. Subsequently, a total of four lawsuits were filed challenging the adoption and certification. Two lawsuits were settled, resulting in amendments to the General Plan in 2013. The remaining two lawsuits were filed in the name of LandWatch Monterey County and The Open Monterey Project challenging the adoption and certification of a variety of policies, including one of the 2013 amendments to the General Plan and its associated Addendum No. 1 to the Environmental Impact Report (EIR).

In December of 2014, the Board entered into settlement agreements with the remaining two litigant parties. This agreement requires the County to consider amendments to the 2010 General Plan, generally as follows:

- Long Term Sustainable Water Supply; Policy PS-3.1
- Agricultural Slope - Conversion of Previously Uncultivated Lands; Policies OS-3.5, OS-3.1, OS-3.9

- Wildlife Corridors; Policies OS-5.15, OS-5.24
- Agricultural Winery Corridor Plan (AWCP); Chapter 9-J, Glossary

Copies of the settlement agreements, which are identical except for the names of the settling party, are enclosed as **Attachments E** and **F**.

DISCUSSION:

Proposed amendments affect policies as follows:

- PS- 3.1 (long term sustainable water supply). Adds criteria for the 5-year study. Proposed changes do not conflict with amendments pursuant to a prior settlement agreement.
- OS-3.5 (agricultural conversion of uncultivated land on slopes). Prohibits conversion of lands over 25% in all areas except the AWCP and Cachagua planning area. Creates limitations for the amount of land that can be converted (100 acres/year, 15 acres per application, contiguous). Currently lands over 25% can be converted, subject to a discretionary permit. Area specific policy for North County (NC-3.10) adds criteria for Agricultural conversions.
- OS-3.1 (erosion control). Clarifies that the Best Management Practices would also address the prevention and remediation of other effects of erosion such as sedimentation and water quality impacts.
- OS-3.9 (conversion of hillside rangeland to cultivated croplands). Clarifies that the program is to be designed to avoid or minimize cumulative impacts and meet water quality standards.
- OS-5.16 (biological report) and OS-5.24 (wildlife corridors); Adds requirements for biological reports and studies, and creates/adds an illustrative map as part of the 2010 GP. If an ordinance is not adopted within 12 months of adopting this policy, no permits for projects requiring a corridor survey and mitigation recommendations shall be approved until the implementing ordinance is adopted.
- Agricultural Winery Corridor Plan; Removes the three (3) stand-alone restaurants and eight (8) stand-alone inns from the AWCP process along with adjunct winery uses and deletes related definitions in the Glossary. Clarifies creation of so-called "small lots" and places additional limits on how many of such small lots may be created by subdivision.

See **Attachment B** for details regarding the proposed amendments.

These proposed amendments were presented to the Planning Commission for consideration and recommendation to the Board on February 25 and March 25, 2015. On March 25, 2015, by a unanimous vote of 9-0; with one Commissioner absent, the Planning Commission adopted a resolution recommending that the Board deny the proposed amendments. The general basis for this action is that the 2010 GP was a compromise of policy adopted by the Board, so amending that compromise is a Board policy matter. A copy of the Planning Commission's resolution is enclosed as **Attachment G**.

In addition, these amendments were presented to the Board-appointed Agricultural Advisory Committee (AAC) on February 26 and March 26, 2015. They voted 8-0 to recommend that the Board of Supervisors not accept the proposed amendments. Some of the reasoning:

- Wildlife corridor changes create unknown requirements (consequences) with criteria and standards to be defined later by ordinance. Vineyard row could be considered a

"fence" and dictating direction of rows is not acceptable. "Illustrative" map seems very detailed (thorough), but at too small a scale to consider impact on existing row crops in the valley - corridors going through existing row crops.

- Impact on economic (winery) development. AWCP has not been implemented due to lack of infrastructure. AWCP was designed with food (restaurants, delis) and ability to stay over (Inns) along corridor as part of the infrastructure. Proposal removes possibility to get infrastructure in place - guts economic viability (eliminates connection with hospitality that was part of the plan).
- More restrictive than Groundwater Sustainability Act (GSA); e.g. 2030 vs 2040.
- Zone 2C property outside AWCP pays for water, but slope conversion more restrictive than under existing policy.
- "Grapes on bench lands better than homes"
- Adjunct uses were included in the AWCP for assurance when ordinance got developed.
- A lot of hard work went into 2010 GP and compromises were made.
- Proposed amendments create ambiguity and raise questions.

OTHER AGENCY INVOLVEMENT:

The County Counsel's Office headed negotiations regarding the settlements. The Resource Management Agency (RMA); RMA-Planning; Monterey County Water Resources Agency and Environmental Health Bureau provided input into the settlements. At the request of several community groups, staff was invited to provide information regarding the proposed amendments. Over the last few weeks, staff met with the Refinement Group, the Grower Shipper Association that included representatives from the agricultural community at large, and the Community Housing Improvement Systems and Planning Association, Inc. (CHISPA).

FINANCING:

Funding for staff time related to processing these amendments is included in the FY 14-15 Adopted Budgets for the Office of County Counsel and the Resource Management Agency. The settlement agreements provide for the payment of attorney's fees if the agreements are implemented; those fees would be paid out of the General Liability ISF.

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cc: Front Counter Copy; Board of Supervisors; Wendy Strimling, County Counsel ; RMA-Public Works; RMA-Environmental Services; Environmental Health Bureau; Water Resources Agency; Les Girard, Chief Assistant County Counsel; Carl Holm, Acting RMA Director; Jacqueline R. Onciano, RMA Services Manager; Melanie Beretti, RMA Services Manager; The Open Monterey Project (Molly Erickson); LandWatch (Amy White); John H. Farrow; Janet Brennan; George Brehmer; Nancy Isakson; Pam Silkwood; Norm Groot; Darlene Din; Abby Taylor - Silva; Kevin Piearcy; Christine Kemp; Dale Ellis; Dick Cameron; Sasha

Gennet; Rachel Saunders; Tanya Diamond; Planning File REF150010

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

- Attachment A Underline/strikeout of Policies
- Attachment B Summary with Figure OS-1: Draft Monterey Wildlife Corridors/Linkages Illustrative Map and Project Fact Sheet & Executive Summary
- Attachment C Draft Addendum No. 3 to certified Final EIR
- Attachment D CD of Final Environmental Impact Report (FEIR), Addenda, and related legislative documents (incorporated by reference)
- Attachment E Settlement Agreement LandWatch Monterey County
- Attachment F Settlement Agreement The Open Monterey Project
- Attachment G Planning Commission Resolution No. 15-026
- Attachment H Letters of Correspondence
- Attachment I Amendment No. 1 - Carmel Valley Association - Carmel Valley Master Plan
- Attachment J Amendment No. 2 - Salins Valley Coalition Et Al - 2010 Monterey County General Plan

Note: If you would like to access the 2010 Monterey County General Plan you may do so at:
<http://www.co.monterey.ca.us/planning/gpu/GPU_2007/2010_Mo_Co_General_Plan_Adopted_102610/2010_Mo_Co_General_Plan_Adopted_102610.htm>