



Monterey County

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Board Order

Ordinance No. 5217; Resolution of Intent No. 13-283

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

Held a Public hearing:

- a. Adopted Ordinance 5217 amending Title 21 (non-coastal zoning) of the Monterey County Code to classify Cottage Food Operations as a permitted use of residential property for zoning purposes; and
- b. Adopted Resolution of Intent No. 13-283 to adopt an ordinance amending the Monterey County Coastal Implementation Plan, Part 1 (Title 20 of the Monterey County Code) to classify Cottage Food Operations as a permitted use of residential property for zoning purposes, with direction to staff to transmit the proposed ordinance to the California Coastal Commission for certification.

[REF120083 (Inland) and REF130010 (Coastal), Cottage Food Operation Ordinances (AB 1616), County-wide]

PASSED AND ADOPTED on this 11th day of June 2013, by the following vote, to wit:

AYES: Supervisors Armenta, Calcagno, Salinas and Parker

NOES: None

ABSENT: Supervisor Potter

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 76 for the meeting on June 11, 2013.

Dated: August 16, 2013
File Number: 13-0571

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

By Denise Hancock
Deputy

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

Resolution No. 13-283

Resolution of the Monterey County Board of Supervisors to:

- a. Find that the ordinance is not a project under the California Environmental Quality Act (CEQA) per CEQA Sections 15060 (c)(3) and 15378 (b)(5) because the ordinance is an organizational or administrative activity of government that will not result in direct or indirect physical changes in the environment;
b. Adopt a Resolution of Intent to adopt the ordinance (Exhibit 1 to Attachment C) amending Title 19 (coastal subdivision ordinance) and the Monterey County Code and the Coastal Implementation Plan, Parts 1, 2, 3, and 4 (Title 20 of the Monterey County Code) in order to change the process for consideration of applications for subdivisions and lot line adjustments in the unincorporated coastal area of the County of Monterey, including dissolution of the County of Monterey's Minor and Standard Subdivision Committees and designation of the Monterey County Planning Commission as the appropriate authority to consider applications for lot line adjustments and minor subdivisions, and updating the lot line adjustment and filing standards in coastal Title 19 to conform to changes in state law;
c. Certify that the amendment is intended to be carried out in a manner fully in conformity with the Coastal Act; and
d. Direct staff to transmit the proposed ordinance to the California Coastal Commission for certification.

[REF120004, Elimination of Minor and Standard Subdivision Committees, Coastal Amendments, County-wide]

WHEREAS, in January of 2009, the Board of Supervisors requested a review of the Minor Subdivision application process with a detailed analysis of the public notice process for hearings (Board Referral No. 2009-03). The purpose of the review was to identify if the Minor Subdivision Committee was the proper forum to consider controversial Minor Subdivision projects and if due process occurred; and

WHEREAS, on July 13, 2010, the Board of Supervisors conducted a public hearing and accepted a report by the County Resource Management Agency (RMA)-Planning Department on the Lot Line Adjustment and Subdivision application process. The report also included four options for Board consideration relative to processing application for Lot Line Adjustment and Minor Subdivision applications. The Options were presented as follows:

Option 1: Operate as status quo. No change to the both the Inland and Coastal Minor or Standard Subdivision Process.

Option 2: Eliminate the Minor Subdivision (MS) and Standard Subdivision (SS) Committee.

Option 3: Eliminate only the Standard Subdivision (SS) Committee.

Option 4: Eliminate Administrative Approvals of Non-Coastal Zone Lot Line Adjustments and Minor Subdivisions.

The Board of Supervisors passed and adopted a motion on a 5-0 vote to direct staff to proceed with the preparation of amendments to texts with Options 2 and 4 described above; and

WHEREAS, RMA-Planning Department staff prepared the draft ordinances pursuant to the direction that the Board gave on July 13, 2010. On January 11, 2012 the Monterey County Planning Commission conducted a public hearing on the draft non-coastal ordinance and recommended approval to the Board of Supervisors with a vote of 9-0 (PC Resolution No. 12-002); and on June 13, 2012, the Monterey County Planning Commission conducted a public hearing on the draft coastal ordinance and recommended approval to the Board of Supervisors on a vote of 6-0 (PC Resolution No. 12-026); and

WHEREAS, on July 24, 2012 the Board of Supervisors had a public hearing to consider the non-coastal ordinance and on July 31, 2012, the Board conducted a public hearing to consider the coastal ordinance. On both dates, the Board continued the hearing to August 28, 2012 because of public concerns on both the inland and coastal draft ordinances, particularly in respect to the elimination of the Director of Planning's authority to consider non-controversial lot line adjustments and minor subdivisions in the County's inland areas. The Board directed staff to meet with the individuals that voiced concerns in an effort to resolve any public concerns; and

WHEREAS, on August 3, 2012, RMA-Planning Department staff held a meeting primarily with representatives of the agricultural community and a representative of the Prunedale Neighbors Group to discuss the concerns over the proposed draft ordinances; and

WHEREAS, in August 2012, comments were also received by a representative of The Open Monterey Project with support for the proposed draft ordinances; and

WHEREAS, at the August 28, 2012 hearing, RMA-Planning Department staff presented the Board with the comments from the August 3, 2012 meeting as well as comments received from The Open Monterey Project. The comments were primarily concerning the proposed non-coastal ordinance, with the exception to the following comments concerning the proposed coastal ordinance: Suggestion was made that in the coastal zone, “non-controversial” lot line adjustments and minor subdivisions should be subject to the consideration of the Zoning Administrator and those “controversial” lot line adjustment and minor subdivisions be subject to the consideration of the Planning Commission; and

WHEREAS, at the Board of Supervisors August 28, 2012 hearing, the Board remanded the matter to the Planning Commission for a second workshop.

WHEREAS, on September 12, 2012, the Planning Commission held a publicly noticed workshop to consider options regarding the appropriate hearing body to replace the Minor and Standard Subdivision Committees to hear applications for lot line adjustments and subdivisions. RMA-Planning Department staff presented three processing options, developed based on the public comments that had been received by representatives of the agricultural community, The Refinement Group, representatives of The Open Monterey Project, and the Prunedale Neighbors Group. The presented options were as follows:

1. Option 1- Planning Commission Option (original direction). This option would do the following:
 - Eliminate the Minor and Standard Subdivision Committees for both the coastal and inland zones, requiring that those applications once considered by these Committees, now be considered by the Planning Commission.
 - In the inland zone, eliminate administrative approvals of “non-controversial” inland lot line adjustments and “non-controversial” minor subdivisions and move these items to the Planning Commission for consideration.
 - In the inland zone, eliminates the “non-controversial” determination;
2. Option 2- Zoning Administrator/Director of Planning Option. This option would do the following:
 - Eliminate the Minor and Standard Subdivision Committees for both the coastal and inland zones.
 - Leave the Director of Planning as appropriate authority for non-controversial inland lot line adjustments and minor subdivisions (no change to current process).
 - Make the Zoning Administrator the appropriate authority to consider “controversial” inland lot line adjustments and minor subdivisions.
 - Make the Zoning Administrator the appropriate authority to consider all coastal lot line adjustments and minor subdivision applications.

3. Option 3- Compromise Option. This option would do the following:
- Eliminate the Minor and Standard Subdivision Committees for both the coastal and inland zones.
 - Leave the Director of Planning as appropriate authority for non-controversial inland lot line adjustments and minor subdivisions (no change to current process) and would move controversial inland lot line adjustments and minor subdivisions to the Planning Commission.
 - Coastal Zone lot line adjustments and minor subdivisions, controversial or not, would be considered by the Planning Commission.

At the conclusion of the workshop, the Planning Commission recommended that the Board of Supervisors adopt *Option 1*, consistent with the Planning Commission's earlier July 31, 2012 recommendation; and

WHEREAS, on April 16, 2013, the Board of Supervisors held a public hearing to receive a report on the Planning Commission's workshop and consider the three processing options. The Board directed staff to prepare inland and coastal ordinances pursuant to Option 3 (compromise option), which in the coastal zone would mean the elimination of the Minor and Standard Subdivision Committees (Subdivision Committees) and transfer of responsibility from the Subdivision Committees to the Planning Commission to hear all applications for lot line adjustments and minor subdivisions; and

WHEREAS, Option 3 leaves the Director of Planning intact as the appropriate authority over "non-controversial" inland lot line adjustment and minor subdivision applications and transfers those "controversial" inland applications to the Planning Commission for consideration; and

WHEREAS, the ordinance also updates the lot line adjustment and filing standards in the coastal Title 19 to conform to changes in state law; and

WHEREAS, Monterey County has a certified Local Coastal Program pursuant to the California Coastal Act of 1976 (Public Resources Code sections 30000 et seq.) that contains land use development regulations for the coastal areas of the County. The Local Coastal Program includes the Monterey County Coastal Implementation Plan. This ordinance amends the Monterey Coastal Implementation Plan Parts 1, 2, 3, and 4, and will require certification by the California Coastal Commission. The proposed ordinance, which shows the proposed textual amendments via strikethrough and underline, is attached to this resolution as Exhibit -2 and incorporated herein by reference. The proposed ordinance in clean form is attached to this resolution as Exhibit -1 and incorporated herein by reference; and

WHEREAS, the Board finds that the ordinance is consistent with the certified Land Use Plans and the Coastal Act because it is consistent with the Coastal Act intent of providing the widest opportunity for public participation in decisions affecting coastal planning, conservation, and development. (Public Resources Code section 30006.) The ordinance is intended to be carried out in a manner fully in conformity with the California Coastal Act.

WHEREAS, pursuant to the Coastal Act, the County may amend the certified Local Coastal Program, provided the County follows certain procedures. The procedures include: that Coastal Resolution for Elimination of MS/SS Committees

the County's Planning Commission hold a notice public hearing and make a recommendation to the Board of Supervisors; that the Board of Supervisors hold a noticed public hearing, adopt a resolution of intent, and submit the proposed amendment to the California Coastal Commission for certification together with materials sufficient for a thorough and complete review; that the Board of Supervisors adopt the ordinance after the Coastal Commission takes action; and that the California Coastal Commission confirm the action of the County. Accordingly, the ordinance will not go into effect until after subsequent formal adoption by the Board of Supervisors at a duly noticed public hearing, and it will not become operative until the California Coastal Commission's certification is final and effective.

WHEREAS, this ordinance is not a project under the California Environmental Quality Act (CEQA) per Sections 15060 (c)(3) and 15378 (b)(5) because the ordinance is an organizational or administrative activity of government that will not result in direct or indirect physical changes in the environment.

WHEREAS, on June 13, 2012, the Monterey County Planning Commission conducted a public hearing on the draft ordinance. The hearing was duly noticed in the Salinas Californian and the Monterey County Herald at least 10 days prior to the hearing. The Planning Commission recommended adoption of the proposed ordinance on a vote of 6-0.

WHEREAS, on September 12, 2012, the Planning Commission held a publicly noticed workshop at the direction of the Board of Supervisors, to consider options regarding the appropriate hearing body to replace the Minor and Standard Subdivision Committees to hear applications for lot line adjustments and subdivisions. The workshop was noticed in the Monterey County Weekly at least ten days prior to the workshop. At the conclusion of the workshop, the Planning Commission recommended that the Board of Supervisors adopt *Option 1*, consistent with the Planning Commission's earlier July 31, 2012 recommendation;

WHEREAS, on June 25, 2013, the Board of Supervisors of the County of Monterey conducted a public hearing on the proposed ordinance. Notice of the public hearing was published in the Monterey County Weekly at least ten days prior to the hearing in a 1/8 page display ad on June 13, 2013. Notice was also given to interested parties.

DECISION

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors does hereby:

- a. Find that the ordinance is not a project under the California Environmental Quality Act (CEQA) per Sections 15060 (c)(3) and 15378 (b)(5) because the ordinance is an organizational or administrative activity of government that will not result in direct or indirect physical changes in the environment;
- b. Adopt a Resolution of Intent to adopt an ordinance, attached hereto as **Exhibit 1**, amending Title 19 (coastal subdivision ordinance) of the Monterey County Code and the Monterey County Coastal Implementation Plan, Parts 1, 2, 3, and 4 (Title 20 of the Monterey County Code) in order to change the process for consideration of applications for subdivisions and lot line adjustments in the unincorporated coastal area of the County of Monterey. Changes to the process include the dissolution of the County of Monterey's Minor and Standard Subdivision Committees and designation of the Monterey County

Planning Commission as the appropriate authority to consider applications for lot line adjustments and minor subdivisions, and updating the lot line adjustment and filing standards in coastal Title 19 to conform to changes in state law;

- c. Certify that the amendment is intended to be carried out in a manner fully in conformity with the Coastal Act; and
- d. Direct staff to transmit the proposed ordinance to the California Coastal Commission for certification.

PASSED AND ADOPTED upon motion of Supervisor Salinas, seconded by Supervisor Calcagno and carried this 11th day of June 2013, by the following vote, to wit:

AYES: Supervisors Armenta, Calcagno, Salinas and Parker

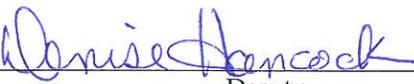
NOES: None

ABSENT: Supervisor Potter

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 76 for the meeting on June 11, 2013.

Dated: August 16, 2013
File Number: 13-0571

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

By 
Deputy