



Monterey County

168 West Alisal Street,
1st Floor
Salinas, CA 93901
831.755.5066

Board Report

Legistar File Number: 14-1346

December 16, 2014

Introduced: 12/3/2014

Current Status: Agenda Ready

Version: 1

Matter Type: General Agenda Item

Consider adopting a resolution to amend the County of Monterey Condition of Approval and Mitigation Monitoring and Reporting Program ("Program"), adopted on January 24, 2012, that: includes detailed procedures for tracking, monitoring, enforcement, and reporting on conditions of approval; fulfills the requirements of the California Environmental Quality Act (CEQA) for monitoring and reporting of mitigation measures imposed under CEQA; and sets forth the responsibilities of County Departments for various aspects of monitoring, reporting, and enforcement of conditions of approval. The proposed amendment to the Program establishes procedures for electronic tracking of conditions of approval, clarifies applicability of the Program to discretionary land use entitlements that are approved with mitigation measures, and clarifies administration and implementation of the Program.

(Condition of Approval-Mitigation Monitoring and Reporting Program - REF140079)

PROJECT INFORMATION:

Planning File Number: REF140079

Project Location: County-wide

APN: County-wide

Plan Area: County-wide

Flagged and Staked: No

CEQA Action: Exempt per CEQA Guidelines 15378 (b)(5)

RECOMMENDATION:

It is recommended that the Board of Supervisors adopt a resolution to amend the County of Monterey Condition of Approval and Mitigation Monitoring and Reporting Program ("Program"), adopted on January 24, 2012, that: includes detailed procedures for tracking, monitoring, enforcement, and reporting on conditions of approval; fulfills the requirements of the California Environmental Quality Act (CEQA) for monitoring and reporting of mitigation measures imposed under CEQA; and sets forth the responsibilities of County Departments for various aspects of monitoring, reporting, and enforcement of conditions of approval. The proposed amendment to the Program establishes procedures for electronic tracking of conditions of approval, clarifies applicability of the Program to discretionary land use entitlements that are approved with mitigation measures, and clarifies administration and implementation of the Program.

SUMMARY:

On December 5, 2000 the Monterey County Board of Supervisors adopted Ordinance No. 04087, thereby incorporating into the Monterey County Code the existing State CEQA Guidelines as they may be amended from time to time. Ordinance No. 04087, codified at Chapter 16.70 of the Monterey County Code, became effective on January 5, 2001. On October

9, 2001, the Board of Supervisors adopted a Mitigation Monitoring and Reporting Program delineating procedures to guide County land use departments in ensuring the implementation of mitigation monitoring and reporting requirements under CEQA (Resolution No. 01-391). As a result of a settlement of litigation with the Save Our Peninsula Committee (“SOPC”) and with the goal of improving compliance with CEQA, its related mitigation monitoring and reporting procedures, and the ability of the public to review and monitor compliance with CEQA and its own procedures, the County updated the 2001 Mitigation Monitoring and Reporting Program (“Program”) in 2012 to include Conditions of Approval. Staff has proposed amendments to the 2012 Mitigation Monitoring and Reporting Program to establish procedures for electronic tracking of conditions of approval, clarify applicability of the Program to discretionary land use entitlements that are approved with mitigation measures, and clarify administration and implementation of the Program. (**Attachment B**).

DISCUSSION:

The County of Monterey routinely applies a variety of conditions to projects requiring environmental review and discretionary approval by the Appropriate Authority with jurisdiction to consider such matters. Such conditions include, but are not limited to, mitigation measures identified in a mitigated negative declaration (“MND”) or an environmental impact report (“EIR”) prepared pursuant to CEQA and other conditions, both standard and unique, that are not mitigation measures (collectively “Conditions of Approval”).

In addition, the CEQA Guidelines (Title 14, Section 15000 *et seq.*, of the California Code of Regulations) contain provisions for local agencies’ monitoring and reporting of mitigation measures imposed on projects for which a MND or an EIR has been prepared and adopted or certified. On December 5, 2000 the Monterey County Board of Supervisors adopted Ordinance No. 04087, thereby incorporating into the Monterey County Code (Chapter 16.70) the existing State CEQA Guidelines as they may be amended from time to time.

On October 9, 2001, Monterey County revised its CEQA Guidelines and the Board of Supervisors adopted Resolution No. 01-391, “Resolution Adopting a Mitigation Monitoring and Reporting Program for the County of Monterey in Accordance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines.” On January 24, 2012, as a result of a settlement of litigation with the Save Our Peninsula Committee (“SOPC”), and with the goal of improving its compliance with CEQA, its related mitigation monitoring and reporting procedures, and the ability of the public to review and monitor compliance with CEQA and its own procedures, the County updated the 2001 Mitigation Monitoring and Reporting Program.

As part of its ongoing efforts to monitor and enforce mitigation measures that are imposed as conditions of approval, County staff has rigorously reviewed the existing Program and is suggesting amendments to provide greater clarity and more detailed guidance to all County land use departments involved in monitoring and reporting on condition compliance. The amendments clarify that the Program is applicable to discretionary land use entitlements that are approved with mitigation measures. The amendments also update the names of Responsible Departments and Advisory Agencies, clarify roles and responsibilities, and clarify administration and implementation of the Program. Staff is recommending renaming the “Verification of Compliance/Non-Compliance” form (“VCCNC”) to Condition Compliance

Form ("CCF"). The amendments also permit use of an electronic database to compile data on condition compliance. The amendment would allow the preservation of CCFs electronically in the Accela database in addition to paper copies. The amendments would require each Responsible Department to maintain a hardcopy file for each project for which that department has recommended a Condition of Approval, which would include a hard copy of the CCF with supporting documentation for each such condition of approval. Pursuant to the settlement agreement with SOPC in *Save Our Peninsula Committee v. County of Monterey* (Monterey Superior Court Case No. M110694), County staff has met and conferred with attorney Richard Rosenthal, representing SOPC, regarding the proposed amendments and has made revisions to its original proposal as a result of that consultation. County staff also sent out the proposed amendments to representatives in the local land use community prior to the hearing. Should the Board approve the amendment to the Program on December 16, the revised program would go into effect on January 1, 2015.

The amendments to the Program are an administrative activity of the County that will not result in direct or indirect physical changes in the environment and are therefore not a project under CEQA, pursuant to CEQA Guidelines section 15378 (b)(5).

OTHER AGENCY INVOLVEMENT:

County Counsel advised staff and, together with staff, met and conferred with the attorney for SOPC. RMA-Planning has consulted the other County land use departments and advisory agencies that are involved in County processing of land use applications regarding the proposed amendments to the Program.

FINANCING:

Funding for staff time associated with this project is included in the FY 14-15 Adopted Budget for RMA-Planning.

Due to late submission of this Board Report, the CAO Budget and Analysis Division was not provided adequate time to fully review for potential fiscal, organizational, policy, or other implications to the County of Monterey.

Prepared by: Laura Lawrence, RMA Services Manager, ext. 5148

Approved by: Mike Novo, Director, RMA-Planning, ext. 5192

Carl Holm, Acting Director Resource Management Agency

cc: Front Counter Copy; Laura Lawrence, RMA Services Manager; Wendy Strimling, County Counsel; RMA-Public Works; RMA-Environmental Services; Environmental Health Bureau; Parks Department; Economic Development Department; MCWRA; Aromas Tri-County Fire Protection District; Cachagua Fire Protection District; CAL-FIRE Coastal; CAL-FIRE Central Valley; CAL-FIRE South County; Carmel Highlands Fire Protection District; Cypress Fire Protection District; Carmel Valley Fire Protection District; Gonzales Rural Fire Protection District; Greenfield Fire Protection District; Mission Soledad Rural Fire; North County Fire Protection District; Monterey County Regional Fire Protection District; Pebble Beach Community Services District; Richard Rosenthal, representing Save Our Peninsula Committee; Michael Weaver; The Open Monterey Project (Molly Erickson); LandWatch (Amy White).

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

Attachment A - Draft Board Resolution

Attachment B - Tracked Changes version of the Condition of Approval and Mitigation Monitoring and Reporting Program

Attachment B-1 - Agreement to Implement a Condition of Approval/Mitigation Monitoring and Reporting Program

Attachment B-2 - Condition Compliance Form template

Attachment C - Clean version of the Condition of Approval and Mitigation Monitoring and Reporting Program

Attachment C-1 - Agreement to Implement a Condition of Approval/Mitigation Monitoring and Reporting Program

Attachment C-2 - Condition Compliance Form template