

Attachment B-2

Draft Ordinance- CLEAN Version

Non-Coastal- REF100014

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA, AMENDING TITLE 19 AND TITLE 21 OF THE MONTEREY COUNTY CODE RELATING TO THE APPROPRIATE AUTHORITY TO CONSIDER APPLICATIONS FOR SUBDIVISIONS AND LOT LINE ADJUSTMENTS

County Counsel Summary

This ordinance amends Title 19 (non – coastal subdivision ordinance) and Title 21 (non-coastal zoning ordinance) of the Monterey County Code to change the process for consideration of applications for subdivisions and lot line adjustments in the unincorporated inland area of the County of Monterey. Changes to the process include dissolution of the County of Monterey's Minor and Standard Subdivision Committees, elimination of the Director of Planning's authority to decide upon minor subdivisions and lot line adjustments, and designation of the Monterey County Planning Commission as the appropriate authority to consider applications for subdivisions and lot line adjustments in the inland unincorporated area of the County.

The Board of Supervisors of the County of Monterey ordains as follows:

SECTION 1. The Table of Contents of Chapter 19.01 of Title 19 (inland) of the Monterey County Code is amended to read as follows:

Chapter 19.01 -- GENERAL PROVISIONS

Sections:

- 19.01.005 Citation and authority.
- 19.01.010 Purpose.
- 19.01.015 Consistency.
- 19.01.020 Exceptions.
- 19.01.025 Technical Review.
- 19.01.030 [Reserved]
- 19.01.035 Planning Commission.
- 19.01.040 Board of Supervisors.

- 19.01.045 Fees and forms.
- 19.01.050 [Repealed.]
- 19.01.055 Public notice.
- 19.01.060 Applicability.
- 19.01.065 State pre-emption.
- 19.01.066 Compliance with local, State, and Federal laws.
- 19.01.070 Appropriate decision making bodies to consider housing needs of region.
- 19.01.075 Limitation on improvement requirements under a parcel map.
- 19.01.080 Designated remainder parcel improvement requirements.
- 19.01.090 Conditions for mobilehome parks.

SECTION 2. Section 19.01.025 of Title 19 (inland) of the Monterey County Code is amended to read as follows:

19.01.025 – Technical Review.

A. County staff, including designated representatives from Planning, Building Services, Public Works, Environmental Health, Parks, and Housing, with legal advice from County Counsel and technical input from the Monterey County Fire Warden or representative of a local fire district as applicable and the Monterey County Water Resources Agency, shall conduct a Technical Review (TR) of all applications for tentative maps, vesting tentative maps, and lot line adjustments. The designated representative from Planning shall facilitate the review.

B. The purpose of the Technical Review shall be the following:

1. To serve in a technical capacity and make recommendations on the design, improvements, and application of state law and County plans, ordinances, and regulations to subdivision applications and lot line adjustment applications; and
2. To develop recommendations to the appropriate decision making body.

SECTION 3. Section 19.01.030 of Title 19 (inland) of the Monterey County Code is repealed and the section number is reserved for future use.

SECTION 4. Section 19.01.035 of Title 19 (inland) of the Monterey County Code is amended to read as follows:

19.01.035 -- Planning Commission.

A. Pursuant to section 66415 of the California Government Code, the Planning

Commission is hereby designated the appropriate decision making body for lot line adjustments and tentative maps, tentative parcel maps, and vesting tentative maps for standard or minor subdivisions, unless otherwise provided by this Title or Title 21.

B. The Planning Commission shall be the appropriate decision making body for the reconsideration of tentative maps for subdivisions and requests for reconsiderations of conditions of subdivisions prior to recordation of the final map.

C. The Planning Commission shall be charged with the duty of making recommendations to the Board of Supervisors to reduce, alter, or add to the provisions of this Title.

SECTION 5. The Table of Contents of Chapter 19.02 of Title 19 (inland) of the Monterey County Code is amended to read as follows:

Chapter 19.02 - DEFINITION OF TERMS.

Sections:

- 19.02.005 - Advisory agency.
- 19.02.010 - Advisory committee.
- 19.02.015 - Allocation.
- 19.02.016 - Appropriate decision making body.
- 19.02.020 - Building envelope.
- 19.02.025 - Building setback line.
- 19.02.030 - Building site.
- 19.02.035 - Certificate of compliance.
- 19.02.040 - California Environmental Quality Act (CEQA).
- 19.02.045 - Citizen's Subdivision Evaluation Committee.
- 19.02.050 - Common interest development.
- 19.02.055 - Community apartment project.
- 19.02.060 - Condominium plan.
- 19.02.065 - Coastal land use plan.
- 19.02.070 - Coastal zone.
- 19.02.075 - Condominium project.
- 19.02.080 - County.
- 19.02.085 - Combined development permit.
- 19.02.086 - Development.
- 19.02.090 - Density.

19.02.095 - Density (Gross).
19.02.100 - Density (Slope).
19.02.105 - Design.
19.02.107 - Director.
19.02.110 - Easement.
19.02.115 - Environmental impact report (EIR).
19.02.120 - Findings.
19.02.125 - Reserved.
19.02.127 - General Manager.
19.02.130 - General Plan.
19.02.135 - Grading.
19.02.137 - Health officer.
19.02.140 - Improvement.
19.02.143 - Long term water supply (safe yield).
19.02.145 - Lot.
19.02.150 - Lot line adjustment.
19.02.155 - Map Act.
19.02.160 - Map (final).
19.02.165 - Map (parcel).
19.02.170 - Map (preliminary).
19.02.175 - Map (preliminary project review).
19.02.180 - Map (tentative).
19.02.185 - Map (vesting tentative).
19.02.190 - Merger.
19.02.195 - Open space.
19.02.200 - Owner.
19.02.205 - Parcel.
19.02.207 - Person.
19.02.210 - Planned development.
19.02.215 - Planning area.
19.02.220 - Remainder parcel.
19.02.225 - Residential allocation zone.
19.02.230 - Specific plan.
19.02.235 - Stock cooperative.
19.02.240 - Street.

- 19.02.245 - Structure.
- 19.02.250 - Subdivider.
- 19.02.255 - Subdivision.
- 19.02.256 - Technical Review.
- 19.02.260 - Zoning Ordinance.

SECTION 6. Section 19.02.256 is added to Title 19 (inland) of the Monterey County Code to read as follows:

19.02.256 Technical Review.

Technical Review (TR) means the staff level technical review of applications described in section 19.01.025 of this Title.

SECTION 7. Subsection C of Section 19.03.025 of Title 19 (inland) of the Monterey County Code is amended to read as follows:

C. Staff shall conduct a Technical Review to consider the proposed development and to review or recommend proposed findings, recommend conditions of approval, or recommend disapproval to the Planning Commission.

SECTION 8. Subsection D of Section 19.03.025 of Title 19 (inland) of the Monterey County Code is amended to read as follows:

D. The Director of Planning shall set the matter for public hearing before the Planning Commission to review and consider the proposed development. The matter shall not be set for hearing until the Technical Review has been conducted. The Planning Commission may approve or deny, in whole or in part, the proposed development with appropriate findings, evidence and conditions.

SECTION 9. Subsection C of Section 19.04.025 of Title 19 (inland) of the Monterey County Code is amended to read as follows:

C. The Planning Commission is the appropriate decision making body to consider minor subdivisions.

SECTION 10. Subsection F of Section 19.04.025 of Title 19 (inland) of the Monterey County Code is amended to read as follows:

F. A minor subdivision shall be referred to the Planning Commission for consideration at a public hearing. The public hearing shall be noticed and conducted pursuant to the public hearing provisions of Section 19.01.055.

SECTION 11. Subsection A of Section 19.04.030 of Title 19 (inland) of the Monterey County Code is amended to read as follows:

A. Upon completion of the environmental documents, the Director of Planning shall set the matter for consideration by the appropriate decision making body which may approve, disapprove, or conditionally approve the tentative parcel map in conformance with standards set forth in the Subdivision Map Act and this Title. A tentative parcel map may not be denied without a public hearing before the Planning Commission. Such action shall take place within the applicable time limits of this Title.

SECTION 12. Subsection A of Section 19.05.055 of Title 19 (inland) of the Monterey County Code is amended to read as follows:

A. Upon completion of the required environmental documents, the Director of Planning shall refer the application for Technical Review for review and comment. Such action shall take place within the applicable time limits.

SECTION 13. Subsection F of Section 19.07.025 of Title 19 (inland) of the Monterey County Code is amended to read as follows:

F. Technical Review:

Staff shall conduct Technical Review to consider the proposed development and to review or recommend proposed findings, recommend conditions of approval, or recommend disapproval to the Planning Commission. The Technical Review by staff shall review the proposed project only from a technical standpoint and will not evaluate the project to confirm scoring a development.

SECTION 14. Subsection G of Section 19.07.025 of Title 19 (inland) of the Monterey County Code is amended to read as follows:

G. Action by the Planning Commission:

1. The Director of Planning shall set the matter for public hearing before the Planning Commission to review and consider the proposed development. The matter shall not be set for hearing until the Technical Review has been conducted.

2. The Planning Commission shall review the preliminary project review map and make recommendations relating to technical matters, subdivision design and consistency of the map with the land use element and provisions of the applicable General Plan, Local Coastal Program, Area Plan, Land Use Plan or Master Plan documents.

3. The Planning Commission shall make a finding, based on substantial evidence, upon the recommendation of the Health Officer, pursuant to Section 19.03.015L, 19.05.040L, or 19.07.020K that the source capacity and water quality for all lots proposed to be created through the subdivision meets the requirements of all applicable health and safety regulations prior to approval of the standard subdivision tentative map, or vesting tentative map, or tentative parcel map.

4. The Appropriate Authority shall make a finding, based on substantial evidence, upon the recommendation of the Health Officer, pursuant to Section 19.03.015 that the source capacity and water quality for all lots proposed to be created through the subdivision meets the requirements of all applicable health and safety regulations prior to approval of the tentative parcel map.

SECTION 15. Subsection E of Section 19.09.005 of Title 19 (inland) of the Monterey County Code is amended to read as follows:

E. The Planning Commission is the appropriate decision making body to consider lot line adjustments.

SECTION 16. Subsection H of Section 19.09.005 of Title 19 (inland) of the Monterey County Code is amended to read as follows:

H. A lot line adjustment shall be referred to the Planning Commission for consideration at a public hearing. The public hearing shall be noticed and conducted pursuant to the public hearing provisions of Section 19.01.055.

SECTION 17. Section 19.16.010 of Title 19 (inland) of the Monterey County Code is amended to read as follows:

19.16.010- Applicability

The provisions of this Chapter apply to discretionary decisions made pursuant to the provisions of this Title by the Director of Planning and the Planning Commission.

SECTION 18. Section 19.16.020 of Title 19 (inland) of the Monterey County Code is amended to read as follows:

19.16.020 -- Designation of appeal authorities.

A. The Board of Supervisors is the Appeal Authority to consider appeals from the discretionary decisions of the Director of Planning made pursuant to this Title.

B. The Board of Supervisors is the Appeal Authority to consider appeals from the decisions of the Planning Commission.

SECTION 19. Section 21.02.040 of the Monterey County Code is amended to read as follows:

21.02.040 – Nature of Zoning Ordinance.

The Zoning Ordinance consists of the establishment of various districts, regulations and permit processes for the unincorporated territory of the County of Monterey.

The zoning districts list the uses which are allowed or may be allowed subject to discretionary permit processes. Those listed uses and other uses which are consistent with the Monterey County General Plan and applicable area plans may be allowed subject to appropriate permits. Other uses are prohibited. Further, the districts provide the regulation of structural height, bulk, and setbacks, as well as prescribing other site development amenities and requirements such as parking, landscaping, and lighting control.

This Title is not intended and shall not be construed as authorizing the County of Monterey, through the Board of Supervisors, Planning Commission, Zoning Administrator or Director of Planning, acting pursuant to this Title, to exercise its power to grant or deny a permit in a manner which will take or damage private property for public use without the payment of just compensation therefor. (Ord. No. 5135, §§ 90. 91, 7-7-2009)

SECTION 20. Subsection A of Section 21.76.030 of the Monterey County Code is amended to read as follows:

A. The Appropriate Authority to consider a Combined Development Permit shall be the Planning Commission, Zoning Administrator, or Board of Supervisors. The basis of the designation shall be that the body established under State Law, Title 19 (Subdivisions) of the Monterey County Code, or Title 21 (Zoning) of the Monterey County Code, as the decision making body for the principal land use shall be the decision making body for the Combined Development Permit. Should the Combined Development Permit include any permit normally considered by the Planning Commission, then the Planning Commission shall consider the entire Combined Development Permit, including variances.

SECTION 21. The first sentence of Section 21.84.130 of the Monterey County Code is

amended to read as follows:

No application for a discretionary land use permit under the authority of the Director of Planning, the Zoning Administrator, the Planning Commission or the Board of Supervisors shall be deemed complete if there is a violation on said property of a County ordinance which regulates grading, vegetation removal or tree removal until that property has been restored to its pre-violation state.

SECTION 22. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

SECTION 23. EFFECTIVE DATE. This ordinance shall become effective on the thirty-first day following its adoption.

PASSED AND ADOPTED on this ____ day of _____, 2012, by the following vote:

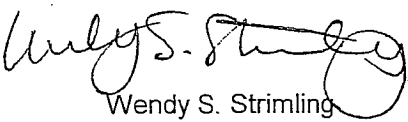
AYES: Supervisors
NOES:
ABSENT:
ABSTAIN:

Dave Potter, Chair
Monterey County Board of Supervisors

A T T E S T:

GAIL T. BORKOWSKI
Clerk of the Board of Supervisors

By: _____
Deputy

APPROVED AS TO FORM:

Wendy S. Strimling
Senior Deputy County Counsel