

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

Resolution No.

Resolution of the Monterey County Board of Supervisors to:)
a. Find the ordinance categorically exempt under the California Environmental Quality Act (CEQA) Guidelines Section 15301 (Existing Facilities))
b. Adopt a Resolution of Intent to adopt an ordinance adding Section 320 to Chapter 20.64 of Title 20 (Monterey County Coastal Implementation Plan, Part 1) of the Monterey County Code to establish special regulations for the issuance of land use permits and entitlements for development utilizing private streets, roads, and other travelled ways.)
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)
[Private Road Ordinance/REF130084,)
County-wide])

The proposed ordinance (REF130084) adding Section 320 to Chapter 20.64 of Title 20 (Coastal Implementation Plan, Part 1) to the Monterey County Code to establish regulations for the issuance of permits and entitlements for development on properties utilizing private streets, roads and other travelled ways came on for public hearing before the Monterey County Board of Supervisors on December 17, 2013. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Monterey County Board of Supervisors hereby finds and decides as follows:

RECITALS

1. Pursuant to Article XI of the California Constitution, the County of Monterey (“County”) may adopt and enforce ordinances and regulations to protect and promote the public health, safety, and welfare of its citizens; and
2. The County is charged with, among other tasks, the responsibility of assuring that development is compatible with surrounding neighborhoods and incorporates provisions for adequate access for occupants, residents and emergency services; and
3. Many of the streets, roads, and other travelled ways in the County are privately owned (“Private Roads”) the use of which is governed by agreements among private parties (“Private Road Agreements”). The County is not a party to such agreements and does not

enforce their terms and conditions, nor does the County have jurisdiction to adjudicate a dispute among the parties to such agreements. Applications for development that require discretionary permits or other entitlements have, in some instances, proposed to use Private Roads, and, also in some instances, other parties to the applicable Private Road Agreement, or adjoining landowners, have disputed the legal authority of the applicant to use the Private Road in the manner proposed by the development application; and

4. The County wishes to ensure that the issuance of certain land use related permits, licenses, entitlements and other approvals is consistent with any applicable Private Road Agreement, and that any issues that may arise over the use of Private Roads are resolved by the parties to the applicable Private Road Agreement and adjoining landowners prior to the issuance of such permits, licenses, entitlements or other approvals or, if disagreements arise later, prior to the commencement of use pursuant to the applicable land use approval. The County also wishes to provide certainty to the applicant and the public in the planning process as to the manner in which the County will address disputes among parties to a Private Road Agreement that arise in connection with land use related applications; and

5. In view of the foregoing and to protect the public health, safety, and welfare, it is necessary for the County to enact this ordinance to set forth the required proof of access for the use of Private Roads in conjunction with certain land use related applications; and

6. The proposed ordinance, attached to this Resolution as **Exhibit 1** and incorporated herein by reference, would amend Title 20 of the Monterey County Code; Title 20 is the Monterey County Coastal Implementation Plan, a part of Monterey County's Local Coastal Program certified by the California Coastal Commission; and

7. Pursuant to the Coastal Act, the County may amend the certified Local Coastal Program, provided the County follows certain procedures. The procedures include: that 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 take subsequent final action on the ordinance after the Coastal Commission acts; and that the Coastal Commission confirms County's action. Accordingly, the ordinance will not go into effect until after certification by the California Coastal Commission and 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; and

7. The Board finds that the proposed ordinance is consistent with the California Coastal Act because it establishes procedures for the protection of the public health, safety, and welfare and assures orderly development for the economic and social well-being of the people living and/or working in the coastal zone consistent with the legislative intent of the Coastal Act; and

8. The Board intends to carry out the ordinance in a manner fully in conformity with the California Coastal Act; and

9. The adoption of the attached ordinance is categorically exempt pursuant Section 15301 of the California Environmental Quality Act (CEQA) Guidelines. This section (Class 1) of the CEQA Guidelines categorically exempts operation, maintenance or minor alteration of existing public or private structures and facilities involving negligible or no expansion of use. The proposed

ordinance would require proof of access for the use of existing private roads, but would not involve any physical change to existing conditions; and

10. The Monterey County Planning Commission considered an earlier draft of the ordinance at a duly noticed public hearing on November 9, 2011. The Planning Commission continued the November 9, 2011 hearing to December 14, 2011, and on December 14, 2011, the Planning Commission continued the item to January 25, 2012. On January 25, 2012, the Planning Commission provided direction to staff and continued the item to a date uncertain. A public hearing on the proposed ordinance at the Planning Commission was duly noticed for August 28, 2013 in the Monterey County Weekly at least ten days prior to the hearing. On August 28, 2013, the Planning Commission continued the hearing to September 11, 2013. On September 11, 2013, the Monterey County Planning Commission recommended adoption of the ordinance on a vote of 8-0 with direction to staff to make edits to clarify the applicability of the ordinance regarding “undocumented access roads.” Clarification to the definition of “Private Road Agreement” was added to the attached ordinance in response to the Planning Commission direction; and

11. On December 17, 2013, the Board of Supervisors 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.

DECISION

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

- a. Find the ordinance categorically exempt under the California Environmental Quality Act (CEQA) Guidelines Section 15301 (Existing Facilities);
- b. Adopt a Resolution of Intent to adopt an ordinance adding Section 320 to Chapter 20.64 of Title 20 (Monterey County Coastal Implementation Plan, Part 1) of the Monterey County Code to establish special regulations for the issuance of land use permits and entitlements for development utilizing private streets, roads, and other travelled ways.
- c. Certify that the ordinance 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 together with materials sufficient for a thorough and complete review.

PASSED AND ADOPTED on this 17th day of December, 2013, by the following vote:

AYES:

NOES:

ABSENT:

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 ___ for the meeting on _____.

Dated:

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

By _____
Deputy