



# Monterey County

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## Board Report

Legistar File Number: RES 18-077

June 19, 2018

**Introduced:** 6/8/2018

**Version:** 1

**Current Status:** Scheduled PM

**Matter Type:** BoS Resolution

Public hearing to consider the 2017 Annual Report on the status of compliance with the County of Monterey Condition of Approval and Mitigation Monitoring and Reporting Plans for various land use projects approved by the County, including projects with mitigation measures approved by the County of Monterey in 2017.

(Condition of Approval and Mitigation Monitoring and Reporting Program 2017 Annual Report - REF180006/Countywide)

CEQA Action: Not a Project per CEQA Guidelines Section 15378(b)(5)

### RECOMMENDATION:

It is recommended that the Board of Supervisors hold a public hearing and adopt a resolution (**Attachment C**) accepting the 2017 Annual Report of the status of compliance with the County of Monterey Condition of Approval and Mitigation Monitoring and Reporting Program for various land use projects approved by the County, including projects with mitigation measures approved by the County of Monterey in 2017.

### SUMMARY:

Pursuant to the "Condition of Approval and Mitigation Monitoring and Reporting Program" ("Program" - **Attachment A**), an annual report is to be presented to the Board of Supervisors for consideration at a public hearing before the end of January. In February 2017, staff completed a draft of the 2017 Annual Report pursuant to the County's adopted Condition of Approval and Mitigation Monitoring and Reporting Program (Board Resolution No. 17-049), for consideration at a public hearing. The hearing on this matter was continued from March 13 and April 24, 2018 with the concurrence of Save our Peninsula Committee to facilitate continued discussion on the status and reporting of various land use projects and their compliance with, and discuss clarifications needed in, the Program.

RMA and County Counsel staff met with representatives from the Save Our Peninsula Committee ("SOPC") on March 1, March 29, and May 21, 2018, to clarify reporting requirements under the County's adopted Program and to discuss procedures for monitoring compliance with mitigation measures and conditions of approval on land use entitlements granted by the County. Staff, with concurrence from the SOPC representatives, requested a continuance from April 24, 2018 to June 19, 2018, to allow continued discussions with SOPC prior to this item being presented to the Board.

This report addresses projects approved in 2017 with mitigation measures and includes a detailed project list and a matrix describing the status of each of the conditions and mitigation measures for the projects (**Attachment B**). A resolution (**Attachment C**) accepting the 2017 Annual Report is attached for the Board's consideration. A Condition Status Report for each of the projects is also included in this staff report (**Attachment D**).

#### DISCUSSION:

On October 9, 2001, the Board of Supervisors adopted a Mitigation Monitoring and Reporting Program (MMRP) (Resolution No. 01-391) delineating procedures for monitoring and tracking mitigation measures required by the County for land use projects under the California Environmental Quality Act (CEQA). Subsequently, modifications to the MMRP were adopted in 2014. These modifications included the electronic tracking of conditions of approval and clarifications regarding the applicability of the program to discretionary land use entitlements that are approved with mitigation measures, along with instructions on administration and implementation of the Program. (Resolution No. 14-363.) On February 14, 2017, the Board of Supervisors again approved modifications to the Program. (Resolution No. 17-049.) The amendments include requirements for additional staff training, tracking, and reporting of conditions of approval and compliance of mitigation measures. Added requirements include additional reporting on the status of compliance with conditions of approval and mitigations measures for projects approved in previous calendar years for which an Environmental Impact Report (EIR) was certified and which have ongoing conditions or conditions that have not yet been met. Staff has been having ongoing discussions with SOPC to clarify the subset of older projects to which this requirement was intended to apply and will include report on these older projects in next year's annual report.

RMA and Counsel have provided training on the Program, as amended in 2017, for staff of applicable land use departments and agencies. Staff continues to work with applicants on compliance. To date, no Notice of Violation has been required for lack of compliance.

Section III.E of the Program requires that staff present an annual report to the Board of Supervisors on the status of compliance with conditions of approval/ mitigation monitoring and reporting plans for all land use projects with mitigation measures approved by the County of Monterey in the prior calendar year. The Program also requires reporting for those land use projects for which an EIR was certified where the condition of approval/mitigation monitoring and reporting plan has not been fully implemented, or in the case of subdivision, where the final map has not yet been filed." A report is also required for any related code enforcement actions undertaken, related trainings, and any proposed actions to modify conditions of approval for land use projects approved. As of March 2018, approximately 2,400 land use entitlements with a status of "*Condition Compliance*" and another 808 project applications "*Pending*" (application "*Request/DRC*", "*Given Out*", "*Incomplete*", "*Tabled*", "*Complete*", "*Set for Hearing*", etc.) for a total of 3,208 entitlements are being addressed. This represent a reduction of 1,754 projects from the total entitlements documented in the 2016 report. To manage the Program, RMA-Planning has assigned a Senior Planner as the "Condition of Approval Program Supervisor" ("CAPS") with assistance from two planners and with guidance by the Chief of Planning.

The Program, as amended, requires that the Annual Reports be presented each year on or before the end of January. However, for the 2017 calendar year Save Our Peninsula Committee (“SOPC”) agreed to deferring this Report to the end of June, 2018 because of continued discussions. This report provides the Annual Report for projects approved in 2017 for which a Condition of Approval/Mitigation Monitoring and Reporting Plan was adopted. Seventeen (17) projects meeting this criterion are included in this report. For those projects, the County either adopted or relied upon a previously adopted EIR or Mitigated Negative Declaration (MND) (see **Attachment D**).

Pursuant to a settlement agreement with SOPC, in 2017 staff:

- Met and conferred about revisions to the Program prior to the Board’s consideration and approval of the revisions on February 14, 2017,
- Agreed with SOPC to meet within 12 months of the Program’s amendment to review implementation of the amended Program, and
- Agreed to include a summary of the past year’s conference with SOPC in the Annual Report.

Staff has met with representatives of SOPC on March 1, March 29 and May 21, 2018. As a result of the meetings, modifications that add clarity to the implementation of the Program will be presented to the Board later in this year. Next year’s report will include a condition status report for certain categories of projects approved in previous years.

#### OTHER AGENCY INVOLVEMENT:

County Counsel has worked with RMA-Planning on the Condition of Approval and Mitigation Monitoring and Reporting Program and communications with SOPC. County land use departments, the Monterey County Water Resources Agency, and County Fire agencies all contribute to the condition compliance and mitigation monitoring tracking and reporting. The reporting is done by filling out a “Condition Compliance Form” for each condition and mitigation measure and by providing the status and background information in Accela Automation, the County’s permit tracking database.

#### FINANCING:

Funding for staff time associated with this annual report is included in the FY16-17 Adopted Budget for RMA-Planning.

#### BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Monitoring conditions compliance in accordance with all applicable policies and regulations provides the County accountability for proper management of our land resources.

Check the related Board of Supervisors Strategic Initiatives:

- ☐ Economic Development
- ☒ Administration
- ☐ Health & Human Services
- ☐ Infrastructure
- ☐ Public Safety

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Approved by: Carl P. Holm, AICP, RMA Director

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

- Attachment A - Procedures for the Condition of Approval and Mitigation Monitoring and Reporting Program, adopted February 14, 2017 (Resolution No. 17-049)
- Attachment B - Condition of Approval and Mitigation Monitoring and Reporting Program 2017 Annual Report
- Attachment C - Draft Resolution
- Attachment D - Condition Status Reports for projects approved in 2017 (Also on CD)

cc: Front Counter Copy; Save Our Peninsula Committee (Richard Rosenthal; Mike Weaver); Carl P. Holm, Director of RMA; Leslie J. Girard; Jacqueline R. Onciano; The Open Monterey Project (Molly Erickson); LandWatch (Michael DeLapa, Executive Director); Project File REF180006