



County of Monterey

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Board Report

File #: 19-0457, **Version:** 1

Public hearing to consider accepting the 2018 Annual Report, pursuant to the County of Monterey Condition of Approval and Mitigation Monitoring and Reporting Program, on the status of condition compliance for land use projects with mitigation measures approved by the County in 2018.

Planning File No: REF190003

Project Location: Countywide

CEQA Action: Not a Project per California Environmental Quality Act (CEQA) Guidelines Section 15378(b)(5)

RECOMMENDATION:

It is recommended that the Board of Supervisors adopt a resolution (attachment A) to:

- a. Accept the 2018 Annual Report pursuant to the County of Monterey Condition of Approval and Mitigation Monitoring and Reporting Program on the status of condition compliance for land use projects with mitigation measures approved by the County in 2018.

SUMMARY:

Pursuant to Section III.E of the County of Monterey Condition of Approval and Mitigation Monitoring and Reporting Program ("Program"), staff has prepared the 2018 Annual Report (**Attachment B**) to report on the status of condition compliance for all projects approved in 2018 which relied on an Environmental Impact Report (EIR) or Mitigated Negative Declaration (MND) under the California Environmental Quality Act.

The Annual Report has been prepared with an updated format and scope as agreed upon with the Save Our Peninsula Committee (SOPC). RMA staff has been in continued discussions with SOPC to clarify and update the current Program. Staff expects to bring proposed amendments to the Program to the Board of Supervisors this summer.

BACKGROUND & DISCUSSION:

Condition of Approval and Mitigation and Monitoring Reporting Program Background

On October 9, 2001, the Board of Supervisors adopted a Mitigation Monitoring and Reporting Program (Resolution No. 01-391) delineating procedures for monitoring and tracking mitigation measures required by the County for land use projects in compliance with the California Environmental Quality Act (CEQA). On January 24, 2012, the County replaced the prior procedures with a more detailed Condition of Approval and Mitigation Monitoring and Reporting Program. (Resolution No. 12-021) ("Program"). The primary intent of the Program is, "to set forth the responsibilities of County departments for various aspects of monitoring, reporting, and enforcement to ensure full compliance with Conditions of Approval," in particular, mitigation measures required as conditions of approval under CEQA (Program, Section I). The adoption of the program in 2001 and again in 2012 fulfilled the terms of settlement agreements in lawsuits brought by Save Our Peninsula Committee (SOPC).

Modifications to the Program were adopted in 2014 and included the electronic tracking of conditions of approval and clarifications regarding the applicability of the program to discretionary land use entitlements approved with mitigation measures. The 2014 update also included revised instructions for 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) to include requirements for staff training, tracking, and reporting of conditions of approval and compliance of mitigation measures.

The Program as adopted and amended in 2017 (**Attachment C**) requires an annual report to be presented to the Board of Supervisors to report on the status of condition compliance for all projects approved in the prior calendar year where a mitigation monitoring program was adopted and for older projects “for which an EIR was certified where the Plan has not been fully implemented or, in the case of a subdivision, where the final map has not yet been filed.” (Section III.E.) The annual report is also required to report on any related code enforcement actions, trainings provided pursuant to the Program, and any proposed action to modify conditions of approval for a project in the previous calendar year.

Throughout 2018 and this year, RMA staff and County Counsel have been in discussions with Save Our Peninsula Committee regarding implementation of the Program and revisions of the Program to clarify the Program and facilitate its implementation. Staff expects to present proposed amendments to the Program to the Board of Supervisors for consideration at a future Board meeting.

Pursuant to the discussions with SOPC, County staff and SOPC agreed to postpone the date for presentation of the 2018 Annual Report to the Board of Supervisors to June 18, 2019. The previous 2017 Annual Report was accepted by the Board of Supervisors on June 19, 2018. Additionally, SOPC and County staff agreed upon the format and scope for this year’s Annual Report. This year’s report does not report on the status of condition compliance of projects approved *prior* to 2018 “which relied on an EIR for which conditions have not been fully met” because staff and SOPC have been working to clarify what subset of the older projects can reasonably be reported on in the annual report and whether Responsible Departments have additional reporting responsibilities to RMA. The proposed revisions to the Program which are under discussion will be presented to the Board in the future and will provide clarification going forward for future annual reports.

Revisions to the Annual Report

RMA has developed a format for this year’s annual report which is intended to provide thorough information on the status of condition compliance of the relevant projects and provide accountability through departmental certification, while eliminating unnecessary paper. Last year’s annual report to the Board attached every Condition Compliance Form (CCF). In lieu of attaching all the CCFs of each project listed to this annual report, the 2018 Annual Report has attached the revised Responsible Departments’ Annual Reports that include:

- 1) A signed memo from the department head or his/her designee, verifying compliance with the Program;
- 2) The 2018 Project List required for verification; and
- 3) The Responsible Department’s Condition Compliance Certification Report (CCCR), certifying and verifying the status of each Condition of Approval and Mitigation Measure.

The updated Responsible Departments’ Report directly reinforces the intent of the Program by “ensuring the responsibilities of County departments for various aspects of monitoring, reporting, and enforcement of project-specific Conditions of Approval” (Section I) and simplifies the Annual Report by not attaching all the CCFs and supporting documentation. The underlying CCFs and supporting documentation continue to be available for public review online via the County of Monterey’s electronic database Accela Automation, “Accela,” specifically in the Documents Module for each individual project in Accela Citizen Access. If electronic storage is infeasible, the document(s) shall be retained in hard copy with a note in Accela indicating where the document is kept. In addition, the Responsible Department reporting on the condition are required by the

current Program to retain a hard copy of the CCF along with supporting documentation.

2018 Annual Report Summary

The 2018 Annual Report reports on the eight projects approved by the County in 2018 which adopted mitigation measures based on reliance on a Mitigated Negative Declaration or EIR. In 2018, the County adopted seven Mitigated Negative Declarations and considered one previously certified EIR together with an Addendum, respectively, for these eight land use applications. The 2018 Annual Report provides the status of condition compliance for these eight projects. The projects comply with, or are currently working towards compliance with, their conditions of approval and mitigation measures. Except for the amendment to a condition in the Amaral Ranches Et Al & Morisoli Partnership project (PLN02006-AMD1), which is one of the eight projects in the Annual Report, no modifications to the conditions of approvals were requested. There was no code enforcement action required for compliance with the conditions of approval or mitigation measures for these projects. The Annual Report also documents staff training on the Program that was provided in 2018.

CEQA:

This report is not a project under CEQA Guidelines section 15378(b)(5) because it is an administrative activity that will not result in direct or indirect physical changes in the environment.

OTHER AGENCY INVOLVEMENT:

The Planning Unit of the Land Use and Community Development Division of RMA (formerly known as RMA-Planning), through the Chief of Planning, has primary responsibility for implementation, compliance and enforcement of the Condition of Approval and Mitigation Monitoring and Reporting Program. RMA worked with County Counsel on the Annual Report, development of revisions to the Condition of Approval and Mitigation Monitoring and Reporting Program which will be brought forward separately to the Board of Supervisors for the Board's consideration, and communications with SOPC. Several divisions of RMA, other 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 FY18-19 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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Reviewed by: Brandon Swanson, RMA Interim Chief of Planning

Approved by: John M. Dugan, FAICP, RMA Deputy Director of Land Use and Community

Development

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

Attachment A - Draft Resolution

Attachment B - Reporting Program 2018 Annual Report including;

- 2018 Project Summary Chart
- 2018 Responsible Departments Report
- 2018 Program Training Sign-In Sheet Dated Feb. 9, 2018

Attachment C - Resolution No. 17-049 adopted February 14, 2017

cc: Front Counter Copy; Save Our Peninsula Committee (Richard Rosenthal; Mike Weaver); Carl P. Holm, Director of RMA; Leslie J. Girard, Chief Assistant County Counsel; Wendy Strimling, Senior Deputy County Counsel; Brandon Swanson, Acting Chief of Planning; The Open Monterey Project (Molly Erickson); LandWatch (Michael DeLapa, Executive Director); Project File REF190003