



## Board Report

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**File #:** PC 20-041, **Version:** 2

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### **REF120030 - DEVELOPMENT EVALUATION SYSTEM PROGRAM**

Public hearing (continued from June 24, 2020) to consider making a recommendation to the Board of Supervisors regarding the final draft Development Evaluation System (DES) program and an ordinance adding Chapter 21.92 to Title 21 (non-coastal zoning ordinance) of the Monterey County Code and amending multiple sections of Title 21 to establish regulations for the Development Evaluation System.

**Project Location:** Non-Coastal Unincorporated area of the County

**Proposed CEQA action:** Consider an Addendum together with certified Final Environmental Impact Report (FEIR) for the 2010 Monterey County General Plan.

#### **RECOMMENDATION:**

It is recommended that the Planning Commission adopt a resolution (Exhibit A) recommending the Board of Supervisors:

- a. Consider Addendum No. 3 together with the previously certified Final Environmental Impact Report (FEIR) for the 2010 General Plan (SCH #2007121001);
- b. Adopt an ordinance adding Chapter 21.92 to Title 21 (non-coastal zoning ordinance) of the Monterey County Code and amending multiple sections of Title 21 to establish regulations for the Development Evaluation System; and
- c. Approve the County of Monterey Development Evaluation System Manual.

#### **PROJECT INFORMATION:**

**Planning File Number:** REF120030

**Project Location:** Non-Coastal Unincorporated area of the County

**Plan Area:** Cachagua Area Plan, Carmel Valley Master Plan, Central Salinas Valley Area Plan, Greater Monterey Peninsula Area Plan, Greater Salinas Area Plan, North County Area Plan, South County Area Plan, and Toro Area Plan.

#### **SUMMARY:**

Implementation of the 2010 General Plan includes establishment of a Development Evaluation System (DES) program to implement Land Use Element Policy LU-1.19 (see Exhibit **D**). After numerous meetings/workshops with the public, DES Focus Group, Planning Commission, and Board of Supervisors, the program has been refined and is being presented for final consideration and recommendation by the Planning Commission.

Staff seeks the Commission's recommendation of the final draft DES program to the Board of Supervisors. The program includes an ordinance that establishes DES regulations by adding a chapter to the County's inland zoning ordinance. The ordinance also amends several sections of Title 21 to include reference to the DES regulations in most inland zoning districts. The ordinance also authorizes the Board of Supervisors to adopt by resolution a program manual that contains detailed information and forms. Staff has prepared a draft resolution (**Exhibit A**) to memorialize the Commission's recommendation to the Board of Supervisors. Attached to the draft Planning Commission resolution is the draft DES ordinance (Attachment 1 to **Exhibit A**) and the draft Manual (Attachment 2 to **Exhibit A**).

#### **DISCUSSION:**

On December 4, 2019, the Planning Commission held a workshop on the draft DES program, consisting of a draft ordinance (implementing regulations) and a draft manual. The Commission found the concept of the draft program acceptable, and only had minor technical changes as part of the final workshop. Prior to presenting the draft DES program to the Board of Supervisors, the Commission recommended the following minor modifications:

- Specify that projects with failing scores will be brought before the decision-making body with a staff recommendation of denial.
- Clarify that criteria for improvements are *beyond* the minimum required.
- Modify a section in the job/housing balance section.

The following is a brief summary of workshops and outreach that led up to the December 2019 Planning Commission:

- July 31, 2013 - 1st Planning Commission Workshop.
- February 11, 2015 - 2nd Workshop. Staff presented a 3-part DES evaluation system and options for exempting certain projects.
- December 2015 to January 2016 - DES Focus Group formed consisting of various local stakeholders (development and non-development groups). This group met 3 times.
- November 29, 2017 - 3rd Planning Commission Workshop.
- May 30, 2018 - 4th Planning Commission Workshop.

Most recently, On May 5, 2020, the Board of Supervisors held a workshop on the draft DES program, as modified by the Planning Commission. The Board directed staff to modify the language in the ordinance to clarify that a failing score and staff recommendation for denial does not circumvent the discretionary process afforded to the applicant. In other words, a failing score is not an automatic denial. In addition, the Board directed staff to create an executive summary document as part of the overall DES Program that would provide a simplified explanation of the DES process for the public.

Section 21.92.D.6 of the draft DES ordinance has been modified based on the recommendations from the Planning Commission and Board of Supervisors. The section reads as follows:

*'Presentation of Scores to the Appropriate Authority. The project's final post-CEQA DES score shall be attached to the hearing staff report for the appropriate authority's consideration. A project's respective scores shall provide additional information for the County decision maker to evaluate the project at the hearing. Projects receiving a passing score of 70 points or more are considered "passing" but are not automatically approved. Projects receiving a failing score of 69 points or less are considered "failing" but are not automatically denied. Projects with a failing score shall receive a staff recommendation of denial when staff brings the project to hearing before the appropriate hearing authority. Projects subject to the DES are also subject to a discretionary permit process. In recognition that the DES scoring is part of a discretionary process for land use entitlements in which the Appropriate Authority serves in a quasi-judicial capacity, the DES score does not and is not intended to limit the exercise of discretion by the Appropriate Authority in rendering a decision on any particular project application.*

The DES regulations will be codified through adoption of an ordinance. The ordinance creates a new chapter:

Chapter 21.92 - *Regulations for Projects Subject to the Development Evaluation System*, within Title 21 as well as amends zoning districts to refer to the DES regulations. The draft ordinance is attached as Attachment 1 to the proposed Planning Commission resolution.

A DES Procedure Manual has also been created to serve as a tool that thoroughly explains the regulations, provides examples, and contains the necessary forms used in the program. The draft manual has been provided as Attachment 2 to the Planning Commission resolution. It would be adopted, when finalized, through a resolution by the Board of Supervisors.

CEQA:

On October 26, 2010, the Board of Supervisors adopted the 2010 Monterey County General Plan and certified its accompanying Final Environmental Impact Report (FEIR #07-01, SCH #2007121001) (“FEIR”). Since then, two Addenda to the FEIR were approved. “Addendum 1” to the FEIR was considered for amending policies in the Carmel Valley Master Plan (Board of Supervisors Resolution No. 13-029). “Addendum 2” to the FEIR was considered for amending Public Services policies of the 2010 Monterey County General Plan (Board of Supervisors adopted Resolution No. 13-028).

An Addendum to the Certified FEIR (“Addendum No. 3, **Exhibit B**) has been prepared to implement Policy LU-1.19 and adopt the DES regulations. Pursuant to Public Resources Code section 21166 and the California Environmental Quality Action (“CEQA”) Guidelines section 15164(d), an Addendum may be prepared when evidence in the record shows that the conditions requiring a Subsequent Environmental Impact Report (“EIR”) or Supplement to the EIR do not exist. This ordinance provides an evaluation of proposed development outside of priority areas to support orderly growth and development and preserve and conserve open-space land and natural resources as addressed in the General Plan. Implementation of this ordinance would not result in an increase to the build-out projections identified in the General Plan. This ordinance will not require major revisions to the FEIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. All projects subject to the DES will require their own independent CEQA analysis.

OTHER AGENCY INVOLVEMENT:

Staff consulted with public utilities for water and wastewater, water management districts, and State agencies to draft the DES. Consultation with the following County agencies also occurred:

- RMA-Public Works and Facilities
- Bureau of Environmental Health
- RMA-Building Services
- Economic Development and Housing
- Workforce Development
- Office of County Counsel

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

The following attachments are on file with the RMA and attached to the staff report:

- Exhibit A - Draft Resolution, including:
  - Attachment 1 - DES Ordinance

Attachment 2 - DES Procedure Manual

Exhibit B - Addendum to the FEIR for the 2010 General Plan (2010 General Plan EIR can be found here:

<https://www.co.monterey.ca.us/government/departments-i-z/resource-management-agency->

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Exhibit C - Policy LU-1.19

cc: Front Counter Copy; Planning Commission; Land Use Advisory Committees (11); The DES Focus Group: Lino Belli, Janet Brennan, Dana Cleary, Sherwood Darrington, Alfred Diaz-Infante, Dale Ellis, Brian Finegan, Aaron Johnson, Pam Silkwood, Juan Uranga, Pris Walton, and Amy White; The Open Monterey Project (Attn: Molly Erickson); LandWatch Monterey County (Attn: Executive Director); Richard Rudisill; Rob Carver; Michael Waxer; Carl Holm, AICP, RMA Director; John Dugan, FAICP, Deputy Director of Land Use and Community Development; Brandon Swanson, RMA Planning Services Manager; Craig Spencer, RMA Planning Services Manager; Wendy Strimling, County Counsel; Anna V. Quenga, Senior Planner; Planning File REF120030.