

## MONTEREY COUNTY PLANNING COMMISSION

<b>Meeting:</b> August 28, 2013	<b>Time:</b> 10:30 a.m.	<b>Agenda Item No.:</b> 5
<b>Project Description:</b> Public hearing to consider an ordinance to amend Section 21.70.060.A.5. (Referral to Public Hearing) of Title 21 of the Monterey County Code to clarify the criteria that trigger referral of Administrative Permit applications to public hearing.		
<b>Project Location:</b> Inland Area Only (Non-coastal)		<b>APN:</b> Inland Area Only (Non-coastal)
<b>Planning File Number:</b> REF130069		<b>Owner:</b> N/A <b>Agent:</b> N/A
<b>Planning Area:</b> Inland Area Only (Non-coastal)		<b>Flagged and staked:</b> N/A
<b>Zoning Designation:</b> Inland Area Only (Non-coastal)		
<b>CEQA Action:</b> Ordinance not a project under the California Environmental Quality Act (CEQA) per CEQA Sections 15060 (c)(3) and 15378 (b)(5)		
<b>Department:</b> RMA - Planning Department		

### RECOMMENDATION:

Staff recommends that the Planning Commission adopt the following resolution recommending that the Board of Supervisors take the following action:

- 1) Find that the ordinance is not a project under the California Environmental Quality Act (CEQA) per CEQA Sections 15060 (c)(3) and 15378 (b)(5) because the ordinance is an organizational or administrative activity of government that will not result in direct or indirect physical changes in the environment; and
- 2) Adopt the ordinance (**Exhibit A, Attachment 1**) amending Monterey County Code Section 21.70.060 A.5.

### PROJECT OVERVIEW:

The proposed ordinance would amend Monterey County Code (MCC) Section 21.70.060.A.5 relating to Administrative Permit applications and the process for referral of these applications to a public hearing. This amendment would make the wording in the code consistent with the recent actions by the Board of Supervisors on June 25, 2013 on amendments to Title 19, non-coastal subdivision ordinance (Planning File No. REF100058- Elimination of the Subdivision Committees, non-coastal ordinance), where language was deleted to clarify that a public hearing request can be made by any member of the public (individual or entity) and not only by “owners or residents in the area.”

Administrative Permit applications provide a process whereby certain Administrative Permit applications can be considered at an administrative level by the Director of Planning without a public hearing. An Administrative Permit application may be referred to a public hearing, in which case the appropriate authority would be the Zoning Administrator. The section that speaks to referral of an Administrative Permit application is covered under MCC Section 21.70.060. Below is MCC Section 21.70.060 and the proposed amendment is shown in strikethrough (with emphasis added):

#### **21.70.060 REFERRAL TO PUBLIC HEARING.**

- A. An Administrative Permit shall be referred to the Zoning Administrator for consideration at a public hearing if there is evidence of public controversy or public opposition to the proposed use or development. Such evidence includes, but is not limited to:

1. A staff recommendation for denial;
  2. The project is not categorically exempt under the California Environmental Quality Act;
  3. The applicant or applicant's representative requests, in writing, a public hearing;
  4. Zoning violations exist on the property;
  5. Written request, based on substantive issue, for a public ~~hearing by one or more owners or residents in the area.~~
- B. If a public hearing is required, it shall be noticed and conducted pursuant to the public hearing provisions of Chapter 21.78.

#### **PLANNING COMMISSION WORKSHOP ON JULY 10, 2013:**

On July 10, 2013 a Planning Commission workshop was conducted where staff presented four (4) proposed minor amendments to Title 21 (non-coastal zoning), including this amendment. At the conclusion of the workshop, there was no public comment or comments from the Planning Commission.

**OTHER AGENCY INVOLVEMENT:** Information about the proposed amendment was presented to the Permit Streamlining Task Force (Task Force) in June 2013. The Task Force had no comments due to the non-substantive nature of the proposed amendments.

#### **ENVIRONMENTAL REVIEW:**

The proposed draft ordinances are not a project under the California Environmental Quality Act (CEQA) per Sections 15060 (c)(3) and 15378 (b)(5) because the ordinances are an organizational or administrative activity of government that will not result in direct or indirect physical changes in the environment.

#### **CONCLUSION:**

Staff recommends that the Planning Commission adopt the resolution (**Exhibit A**) recommending that the Board of Supervisors adopt the subject ordinance (**Attachment 1 to Exhibit A**) amending MCC Section 21.70.060.A.5.. Although Title 20 (coastal zoning) also has a chapter for Coastal Administrative Permits (MCC Chapter 20.76), no amendments are necessary in the coastal zone since there is no text that states that "owners or residents of the area" are ones that could request a public hearing.

/S/ Nadia Amador



Nadia Amador, Associate Planner

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August 21, 2013

cc: Front Counter Copy; Planning Commission (10); LUACs (11), Jacqueline R. Onciano, Planning Services Manager; Marti Noel, Assistant RMA Director; Wendy Strimling, Deputy County Counsel; The Open Monterey Project; LandWatch; Refinement Group; Streamlining Task Force; Carmel Valley Association; Planning File REF130069.

#### **Attachments:**

Exhibit A      Draft Resolution with Attachment 1- Draft Ordinance amending MCC Section 21.70.060.A.5.

REF130069- Ordinance Amending

MCC Section 21.70.060.A.5.

Referral to Public Hearing (Administrative Permits)

**Exhibit A**

**Before the Planning Commission in and for the  
County of Monterey, State of California**

**Resolution No.**

Resolution of the Monterey County Planning )  
Commission recommending that the Board of )  
Supervisors: )  
1) Find that the ordinance is not a project )  
under the California Environmental )  
Quality Act (CEQA) per CEQA )  
Sections 15060 (c)(3) and 15378 )  
(b)(5); )  
2) Adopt the ordinance amending )  
Monterey County Code Section )  
21.70.060.A.5. of Title 21 (non-coastal )  
zoning) by deleting the reference that )  
only owners or residents of the )  
project's area can request a public )  
hearing on Administrative Permit )  
applications. )  
[REF130069, Ordinance Amending MCC )  
Section 21.70.060.A.5.- Administrative )  
Permits.] )

The proposed ordinance (REF130069) amending the Monterey County Code, Title 21 (Zoning Ordinance, Inland Areas) Section 21.7.060.A.5. came on for public hearing before the Monterey County Planning Commission on August 28, 2013. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Monterey County Planning Commission forwards the following recommendation to the Board of Supervisors with reference to the following facts:

**RECITALS**

A. Section 21.70.060 of Title 21 provide a process whereby certain Administrative Permit applications can be considered at an administrative level by the Director of Planning without a public hearing. An Administrative Permit application may be referred to a public hearing, in which case the appropriate authority would be the Zoning Administrator.

B. Under the current Monterey County Code Section 21.70.060.A.- *Referral to Public Hearing*- an Administrative Permit shall be referred to the Zoning Administrator for

consideration at a public hearing if there is evidence of public controversy or public opposition to the proposed development. Such evidence includes, but is not limited to:

1. A staff recommendation for denial;
2. The project is not categorically exempt under the California Environmental Quality Act;
3. The applicant or applicant's representative requests, in writing, a public hearing;
4. Zoning violations exist on the property;
5. Written request, based on substantive issue, for a public hearing by one or more owners or residents in the area.

C. The subject ordinance amendment, which is attached hereto as Attachment 1 and incorporated herein by reference, would delete the following text from item no. 5 above (emphasis added) “...by one or more owners or residents in the area” in order to be consistent with the recent actions by the Board of Supervisors on June 25, 2013 on amendments to Title 19, non-coastal subdivision ordinance (Planning File No. REF100058-Elimination of the Subdivision Committees, non-coastal ordinance), where the same language in other sections of Title 21 was deleted to clarify that a public hearing request can be made by any member of the public (individual or entity) and not only by owners or residents in the area, consistent with Planning Department interpretation of this regulation and practice.

D. This ordinance is statutorily exempt from the California Environmental Quality Act (CEQA) per CEQA Guidelines Sections 15060 (c)(3) and 15378 (b)(5) because the ordinance is not a project under CEQA, as it is an organizational or administrative activity of government that will not result in direct or indirect physical changes in the environment.

E. On July 10, 2013 a Planning Commission workshop was conducted where staff presented four (4) proposed minor amendments to Title 21 (non-coastal zoning), including this amendment.

F. A public hearing on the proposed ordinance was duly noticed for August 28, 2013 in the Monterey County Weekly at least ten days prior to the hearing, and the Planning Commission held the hearing on the ordinance on August 28, 2013.

### **DECISION**

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

- a. Find that the ordinance is not a project under the California Environmental Quality Act (CEQA) per CEQA Sections 15060 (c)(3) and 15378 (b)(5) because the ordinance is an organizational or administrative activity of government that will not result in direct or indirect physical changes in the environment; and
- b. Adopt the ordinance, attached hereto as Attachment 1, amending Section 21.70.060.A.5. of Title 21 (non-coastal zoning) of Title 21.

PASSED AND ADOPTED on this twenty-eighth day of August, 2013, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

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Mike Novo, Secretary



Attachment 1

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA, AMENDING SECTION 21.70.060.A. OF TITLE 21 OF THE MONTEREY COUNTY RELATING TO REFERRAL TO PUBLIC HEARING.**

**County Counsel Summary**

*This ordinance amends Section 21.70.060. A.5. of Title 21 (Non-Coastal Zoning Ordinance) of the Monterey County Code to clarify the criteria that trigger referral of applications for Administrative Permits for consideration at a public hearing. Current County regulations provide that such applications may be referred to the Zoning Administrator for public hearing applications to the Zoning Administrator for public hearing if, among other reasons, there is a written request, based on a substantive issue, for a public hearing made by "one or more owners or residents in the area." This ordinance deletes the words "one or more residents in the area," thereby amending regulations to conform to the Planning Department practice of referring such applications to hearing if a request is made based on a substantive matter, regardless of who makes that request.*

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

SECTION 1. Subsection A. of Section 21.70.060 is amended to read as follows:

**21.70.060 Referral to public hearing.**

- A. An Administrative Permit shall be referred to the Zoning Administrator for consideration at a public hearing if there is evidence of public controversy or public opposition to the proposed use or development. Such evidence includes, but is not limited to:
1. A staff recommendation for denial;
  2. The project is not categorically exempt under the California Environmental Quality Act;
  3. The applicant or applicant's representative requests, in writing, a public hearing;
  4. Zoning violations exist on the property;
  5. Written request, based on a substantive issue, for a public hearing, ~~by one or more owners or residents in the area~~

SECTION 2. 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 3. EFFECTIVE DATE. This ordinance shall become effective on the thirty-first day following its adoption.

PASSED AND ADOPTED on this \_\_\_\_ day of \_\_\_\_\_, 2013, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
FERNANDO ARMENTA, CHAIR  
Monterey County Board of Supervisors

A T T E S T:

GAIL T. BORKOWSKI  
Clerk of the Board of Supervisors

APPROVED AS TO FORM:

Wendy S. Strimling  
Senior Deputy County Counsel

By \_\_\_\_\_  
Deputy