

## MONTEREY COUNTY PLANNING COMMISSION

<b>Meeting:</b> October 9, 2013 Time: 10:30 A.M.	<b>Agenda Item No.:</b> 6
<b>Project Description:</b> CONTINUED FROM THE AUGUST 28 <sup>TH</sup> PLANNING COMMISSION HEARING. Adoption of an inland ordinance amending Title 21 (Monterey County Zoning Ordinance, Inland Areas) in order to incorporate a minor and trivial amendment process into the Monterey County Code.	
<b>Project Location:</b> Inland Area Only (Non-coastal)	<b>APN:</b> Inland Area Only (Non-coastal)
<b>Planning File Number:</b> REF130068	<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> Statutorily Exempt per Section 15060 (c)(3) and 15378 (b)(5)	
<b>Department:</b> RMA - Planning Department	

**RECOMMENDATION:**

Staff recommends that the Planning Commission adopt a resolution (Exhibit B) recommending that the Board of Supervisors take the following actions:

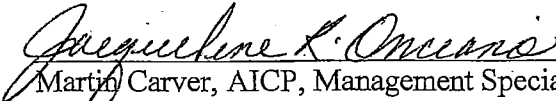
- 1) Find the ordinance statutorily exempt per Section 15060 (c)(3) and 15378 (b)(5) of the CEQA Guidelines; and
- 2) Adopt the ordinance (Exhibit B, Attachment 1) amending Title 21 (Monterey County Zoning Ordinance, Inland Areas) in order to incorporate a minor and trivial amendment process into the Monterey County Code.

**PROJECT OVERVIEW:**

This proposed addition to Title 21 provides a process to make minor and trivial amendments to permits that have already been approved and issued by RMA-Planning. It would add new subsections to Section 21.70 (Administrative Permits), Section 21.74 (Use Permits), and Section 21.76 (Combined Development Permits). The process establishes the same process that already exists in Title 20 (Coastal Zoning Ordinance) that allows for minor and trivial amendments in the Coastal Zone: (See Exhibit A – Discussion).

**OTHER AGENCY INVOLVEMENT:** Information about this proposed amendment was presented to the Permit Streamlining Task Force (Task Force) in June 2013 and to a workshop of the Planning Commission in July 2013. The Task Force was supportive of the proposed amendment and offered no formal comments. The Planning Commission was supportive of the proposal and directed staff to return the item for formal action without substantial changes to what was presented at the workshop.

S/ Martin Carver, AICP

  
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 Martin Carver, AICP, Management Specialist  
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 September 27, 2013

cc: Front Counter Copy; Planning Commission (10); LUACs (11), Jacqueline R. Onciano, Planning Services Manager; Martin Carver, Project Planner; Marti Noel, Assistant

RMA Director; Wendy Strimling, County Counsel; The Open Monterey Project (Molly Erickson); LandWatch (Amy White); Refinement Group (Nancy Isakson), Streamlining Task Force (Ernie Mill); William Perkins; Planning File REF130068

Attachments: Exhibit A Discussion  
Exhibit B Draft Resolution with Attachment 1—draft ordinance amending Title 21 (Monterey County Zoning Ordinance, Inland Areas) in order to incorporate a minor and trivial amendment process into the Monterey County Code

This report was reviewed by Jacqueline R. Onciano, Planning Services Manager, Long Range Planning Team

## EXHIBIT A DISCUSSION

### Background

This item is Task #121 of the Long Range Planning Work Program and responds to a request by Current Planning staff to provide a streamlined method to process minor or trivial changes to approved permits. Adoption of this ordinance would create a consistent approach across coastal and non-coastal areas.

### Analysis and Proposed Code Amendments

This item was considered by the Planning Commission on August 28, 2013. At that hearing there was concern expressed regarding the proposed language and how staff applies and defines "minor and trivial" amendments to entitlements. De minimus language to guide staff in their analysis has been incorporated into the Draft Ordinance. This item provides a process to make minor and trivial amendments to permits that have already been approved and issued by RMA – Planning. It would add new subsections to Section 21.70 (Administrative Permits), Section 21.74 (Use Permits), and Section 21.76 (Combined Development Permits).

The standards to be applied by the Planning Director to approve such minor or trivial changes are as follows:

- The change must not involve any impact not already assessed as part of environmental review, and
- The change must be generally in keeping with the original action of the decision making body.

The new process would require the Planning Director to provide 10-day notice by mail to interested parties and posted at the project site.

This is one (rare) case where inland regulations are currently more restrictive than coastal zone regulations. By putting in place the same process and standards as already exists for minor and trivial amendments in the Coastal Zone, the County is creating a more streamlined permitting approach for the inland area that has been tested by time and circumstance in the Coastal Zone.

### Environmental Review

The proposed addition to Title 21 is statutorily exempt per Sections 15060 (c)(3) and 15378 (b)(5) of the California Environmental Quality Act (CEQA) Guidelines because it is an organizational or administrative activity of government that will not result in direct or indirect physical changes in the environment. By its terms, the ordinance applies only to amendments: 1) with no impacts not already assessed in the original permit action, 2) generally in keeping with the action of the appropriate authority, and 3) that would have only a de minimus effect on land or would involve only the nondiscretionary application of objective standards.

**Conclusion/Recommendation**

Staff believes that the proposed code amendment will result in a more streamlined approach for land use permits in the inland area of Monterey County. Staff recommends that the Planning Commission recommend to the Board of Supervisors adoption of the inland ordinance attached as Exhibit B, Attachment 1.

**Exhibit B**

**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 the ordinance statutorily exempt )  
per Section 15060 (c)(3) and 15378 )  
(b)(5) of the CEQA Guidelines; )  
2) Adopt the ordinance amending Title 21 )  
(Monterey County Zoning Ordinance, )  
Inland Areas) in order to incorporate a )  
minor and trivial amendment process )  
into the Monterey County Code. )  
[REF130068, Ordinance Amending MCC )  
Sections 21.70 (Administrative Permits), )  
21.74 (Use Permits), and 21.76 (Combined )  
Development Permits). )

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. The Monterey County Code contains Sections 21.70 (Administrative Permits), 21.74 (Use Permits), and 21.76 (Combined Development Permits), which set forth the process for considering certain development permits.

B. The above cited process for considering certain development permits does not include provisions to allow for the administrative approval by the Planning Director of minor or trivial amendments to previously approved permits in specified circumstances.

C. Creating a process to allow for the administrative approval by the Planning Director of minor or trivial amendments to previously approved permits in specified circumstances would streamline the permit processing system and lower costs to both the applicant and the County of Monterey.

D. The proposed addition to Title 21 is statutorily exempt per Sections 15060 (c)(3) and 15378 (b)(5) of the California Environmental Quality Act (CEQA) Guidelines because it is an organizational or administrative activity of government that will not result in direct or indirect physical changes in the environment. By its terms, the ordinance applies only to amendments: 1) with no impacts not already assessed in the original permit action, 2) generally in keeping with the

action of the appropriate authority, and 3) that would have only a de minimus effect on land or would involve only the nondiscretionary application of objective standards.

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), where this amendment was one of the items presented. The Planning Commission was supportive of the proposal and directed staff to return the item for formal action without substantial changes to what was presented at the workshop.

F. 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, and the Planning Commission held the public hearing on the ordinance on August 28, 2013. At that hearing, the Planning Commission allowed an opportunity for public testimony, discussed the proposed ordinance, and then continued the hearing until October 9, 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 Title 21 (Monterey County Zoning Ordinance, Inland Areas) in order to incorporate a minor and trivial amendment process into the Monterey County Code.

PASSED AND ADOPTED on this ninth day of October, 2013, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

\_\_\_\_\_  
Mike Novo, Secretary

## Attachment 1

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

### AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA, AMENDING TITLE 21 OF THE MONTEREY COUNTY CODE RELATING TO MINOR OR TRIVIAL AMENDMENTS TO PREVIOUSLY APPROVED LAND USE PERMITS.

#### County Counsel Summary

*This ordinance amends Title 21 (non-coastal zoning ordinance) of the Monterey County Code to add sections 21.70.130 (Amendment to Administrative Permits), 21.74.120 (Amendments to Use Permits), and 21.76.120 (Amendments to Combined Development Permits) to provide procedures for amendments to previously approved land use permits. The new sections would allow for administrative approval by the Director of Planning of "Minor or Trivial Amendments" to previously approved permits under specified circumstances. If a proposed amendment does not qualify as a Minor or Trivial Amendment, the ordinance would require consideration of the proposed amendment by the original hearing body at a noticed public hearing.*

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

#### SECTION 1. FINDINGS AND DECLARATIONS

A. Pursuant to Article XI, section 7 of the California Constitution, the County of Monterey may adopt and enforce ordinances and regulations not in conflict with general laws to protect the public health, safety, and welfare of its citizens.

B. This proposed addition to Title 21 provides procedures for administrative approval by the Director of Planning of amendments to previously approved land use permits that are "minor or trivial" in nature. The procedure serves the public welfare by streamlining the process for consideration of permit amendments that would have only a de minimus effect on land, thereby lowering costs in specified circumstances for the applicant and the County of Monterey.

C. This proposed addition to Title 21 is statutorily exempt per Sections 15060 (c)(3) and 15378 (b)(5) of the California Environmental Quality Act (CEQA) Guidelines because it is an organizational or administrative activity of government that will not result in direct or indirect physical changes in the environment. By its terms, the ordinance applies only to amendments: 1) with no impacts not already assessed in the

original permit action, 2) generally in keeping with the action of the appropriate authority, and 3) that would have only a de minimus effect on land or would involve only the nondiscretionary application of objective standards.

SECTION 2. Section 21.70.130 is added to the Monterey County Code to read as follows:

**21.70.130 Amendments to Administrative Permits**

Proposed amendments to any permit issued under the provisions of this Chapter shall be submitted to the Planning Department in writing and in sufficient detail to adequately assess the nature of the amendment and any potential impacts of the amendment. Proposed amendments shall be handled in the following manner:

- A. If, in the opinion of the Director of Planning, the amendment is of a minor or trivial nature: 1) with no impacts not already assessed in the original permit action, 2) generally in keeping with the action of the appropriate authority, and 3) that would have only a de minimus effect on land or would involve only the nondiscretionary application of objective standards, then the amendment shall be considered to be a "Minor or Trivial Amendment" and may be approved by the Director of Planning. The Director shall post notice of pending approval at the project site and by mail to all parties that the Director has reason to know may be interested in the application. If no written objections are received by the Planning Department within ten days of posting such notice, the pending approval of the amendment shall be final. If objections are received, the amendment shall be considered under Section 21.70.130.B below.
- B. If, in the opinion of the Director of Planning, the proposed amendment does not qualify as a "Minor or Trivial Amendment", the proposed amendment shall be taken to the decision making body of the original permit and processed consistent with the original permit procedures.

SECTION 3. Section 21.74.120 is added to the Monterey County Code to read as follows:

**21.74.120 Amendments to Use Permits**

Proposed amendments to any permit issued under the provisions of this Chapter shall be submitted to the Planning Department in writing and in sufficient detail to adequately assess the nature of the amendment and any potential impacts of the amendment. Proposed amendments shall be handled in the following manner:



- A. If, in the opinion of the Director of Planning, the amendment is of a minor or trivial nature: 1) with no impacts not already assessed in the original permit action, 2) generally in keeping with the action of the appropriate authority, and 3) that would have only a de minimus effect on land or would involve only the nondiscretionary application of objective standards, then the amendment shall be considered to be a "Minor or Trivial Amendment" and may be approved by the Director of Planning. The Director shall post notice of pending approval at the project site and by mail to all parties that the Director has reason to know may be interested in the application. If no written objections are received by the Planning Department within ten days of posting such notice, the pending approval of the amendment shall be final. If objections are received, the amendment shall be considered under Section 21.74.120.B below.
- B. If, in the opinion of the Director of Planning, the proposed amendment does not qualify as a "Minor or Trivial Amendment," the proposed amendment shall be taken to the decision making body of the original permit and processed consistent with the original permit procedures.

SECTION 4. Section 21.76.120 is added to the Monterey County Code to read as follows:

**21.76.120 Amendments to Combined Development Permits**

Proposed amendments to any permit issued under the provisions of this Chapter shall be submitted to the Planning Department in writing and in sufficient detail to adequately assess the nature of the amendment to any potential impacts of the amendment. Proposed amendments shall be handled in the following manner:

- A. If, in the opinion of the Director of Planning, the amendment is of a minor or trivial nature: 1) with no impacts not already assessed in the original permit action, 2) generally in keeping with the action of the appropriate authority, and 3) that would have only a de minimus effect on land or would involve only the nondiscretionary application of objective standards, then the amendment shall be considered to be a "Minor or Trivial Amendment" and may be approved by the Director of Planning. The Director shall post notice of pending approval at the project site and by mail to all parties that the Director has reason to know may be interested in the application. If no written objections are received by the Planning Department within ten days of posting such notice, the pending approval of the amendment shall be final. If objections are received, the amendment shall be considered under Section 21.76.120.B below.
- B. If, in the opinion of the Director of Planning, the proposed amendment does not qualify as a "Minor or Trivial Amendment", the proposed amendment shall be

taken to the decision making body of the original permit and processed consistent with the original permit procedures.

SECTION 5. 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 6. EFFECTIVE DATE. This Ordinance shall become effective on the 31st day following its adoption.

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

AYES: Supervisors  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
Fernando Armenta, Chair  
Monterey County Board of Supervisors

A T T E S T:

GAIL T. BORKOWSKI  
Clerk of the Board

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

APPROVED AS TO FORM BY:

Wendy S. Strimling  
Senior Deputy County Counsel