

MONTEREY COUNTY PLANNING COMMISSION

Meeting: April 9, 2014 Time: 10:30 AM	Agenda Item No.: 6
Project Description: Adoption of an ordinance amending Title 21 (Monterey County Zoning Ordinance, Inland Areas) to incorporate a general plan amendment process into the Monterey County Code.	
Project Location: Inland Area Only (Non-coastal)	APN: Inland Area Only (Non-coastal)
Planning File Number: REF130066	Owner: N/A
Planning Area: Inland Area Only (Non-coastal)	Flagged and staked: N/A
Zoning Designation: Inland Area Only (Non-coastal)	
CEQA Action: Statutorily Exempt per Section 15060 (c)(3) and 15378 (b)(5)	
Department: RMA - Planning	

RECOMMENDATION:

Staff recommends that the Planning Commission adopt a resolution (Exhibit A) 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 A, Attachment 1) amending Title 21 (Monterey County Zoning Ordinance, Inland Areas) to incorporate a general plan amendment process into the Monterey County Code.

PROJECT OVERVIEW:

This proposed amendment to Title 21 provides a process to amend the Monterey County General Plan. It would add a new Chapter 21.91 (General Plan Amendments).

Information about this proposed amendment was presented to a workshop of the Planning Commission on July 10, 2013. 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.

DISCUSSION:

This item is Task #76 and 77 of the Long Range Planning Work Program and implements General Plan Policies LU-9.6 and LU-9.7. Adoption of this ordinance would create a process to amend the general plan in non-coastal areas.

Analysis and Proposed Code Amendment

The proposed ordinance would create a new Chapter 21.91, General Plan Amendments, providing a process to make amendments to the Monterey County General Plan consistent with the policy directions set forth in General Plan Policies LU-9.6 and LU-9.7. Policy LU-9.6 calls for an amendment process that:

- Establishes the right of an individual to apply;
- Requires collectively review plan amendments in a comprehensive, cumulative and timely manner;

- Requires an early assessment of plan amendment requests to determine the suitability of the request and provide early feedback to applicants before embarking on an extensive, expensive amendment process; and,
- Limits the number of general plan amendment packages that the Board of Supervisors may consider to two packages per year.

Policy LU-9.7 specifies the circumstances under which a general plan amendment may be considered, as follows:

- There is a demonstrable error or oversight in the adopted plan; or,
- There is a clear change of facts or circumstances; or,
- The amendment better carries out the overall goals and policies of the general plan and the amendment is in the public interest.

The proposed new Chapter 21.91 closely follows the directions contained in Policies LU-9.6 and LU-9.7, providing additional details regarding process where necessary for clarity.

Environmental Review

This proposed addition to Title 21 is statutorily exempt under the California Environmental Quality Act (CEQA) per CEQA Guideline Sections 15060 (c)(3) and 15378 (b)(5) because the process enacted by this ordinance is an organizational or administrative activity of government that will not result in direct or indirect physical changes in the environment. Any actual proposal to amend the general plan would be subject to review under the California Environmental Quality Act.

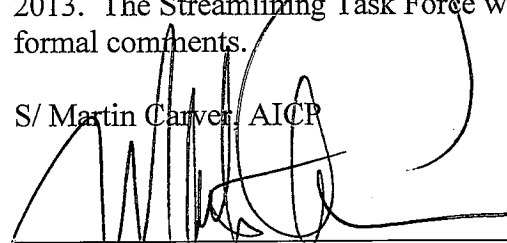
Conclusion/Recommendation

The proposed new Chapter 21.91, General Plan Amendments, is an appropriate and accurate implementation of General Plan Policies LU-9.6 and LU-9.7. Staff recommends that the Planning Commission recommend to the Board of Supervisors adoption of the inland ordinance attached as Exhibit A, Attachment 1.

OTHER AGENCY INVOLVEMENT:

The proposed ordinance amendment was provided to the Streamlining Task Force on September 6, 2013. The Streamlining Task Force was supportive of the proposed amendment and offered no formal comments.

S/ Martin Carver, AICP



Martin Carver, AICP, Management Specialist
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 March 27, 2014

cc: Front Counter Copy; Planning Commission (10); LUACs (11), Fire Protection District; RMA-Public Works Department; RMA-Environmental Services; Parks Department; Environmental Health Bureau; Water Resources Agency; Jacqueline R. Onciano, RMA Services Manager; Martin Carver, Project Planner; Marti Noel, Assistant RMA

Director; Wendy Strimling, County Counsel; The Open Monterey Project (Molly Erickson); LandWatch (Amy White); John H. Farrow; Janet Brennan; Refinement Group (Nancy Isakson), Streamlining Task Force (Ernie Mill); William Perkins; Planning File REF130066

Attachments: Exhibit A Draft Resolution with Attachment 1—draft ordinance amending Title 21 (Monterey County Zoning Ordinance, Inland Areas) to incorporate a general plan amendment process into the Monterey County Code

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



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 Title 21)
 (Monterey County Zoning Ordinance,)
 Inland Areas) in order to incorporate a)
 general plan amendment process into)
 the Monterey County Code.)
 [REF130066, Ordinance Creating MCC)
 Sections 21.91 (General Plan Amendments).)
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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. 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 protects the public health, safety, and welfare of Monterey County citizens by supporting the overall integrity of the General Plan in the periods between comprehensive updates of the General Plan.

C. This proposed addition to Title 21 implements *2010 Monterey County General Plan* policies LU-9.6 and LU-9.7 by providing a process that, with certain exceptions, limits the consideration of general plan amendments to two times per year, requires comprehensive and cumulative review of these general plan amendments, and provides a process for early assessment of these general plan amendments.

D. This proposed addition to Title 21 is statutorily exempt under the California Environmental Quality Act (CEQA) per CEQA Guideline Sections 15060 (c)(3) and 15378 (b)(5) because the process enacted by this ordinance is an organizational or administrative activity of government that will not result in direct or indirect physical changes in the environment. Any actual proposal to amend the general plan would be subject to review under the California Environmental Quality Act.

E. On July 10, 2013 a Planning Commission workshop was conducted where staff presented a proposed amendment to Title 21 (non-coastal zoning). The Planning Commission 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 January 29, 2014 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 April 9, 2014.

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 general plan amendment process into the Monterey County Code.

PASSED AND ADOPTED on this ninth day of April, 2014, 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 GENERAL PLAN AMENDMENTS

County Counsel Summary

This ordinance adds Chapter 21.91 (General Plan Amendments) to Title 21 (non-coastal zoning) of the Monterey County Code to establish procedures to amend the 2010 Monterey County General Plan. The new chapter establishes a process, as directed by the 2010 Monterey County General Plan, that would limit consideration of amendments to the General Plan to two times each year, with certain exceptions. The new chapter also requires comprehensive and cumulative review of general plan amendments, and provides a process for early assessment of general plan amendments. This ordinance applies only to general plan amendments in the non-coastal unincorporated area of the County of Monterey.

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 protects the public health, safety, and welfare of Monterey County citizens by supporting the overall integrity of the General Plan in the periods between comprehensive updates of the General Plan.

C. This proposed addition to Title 21 implements *2010 Monterey County General Plan* policies LU-9.6 and LU-9.7 by providing a process that, with certain exceptions, limits the consideration of general plan amendments to two times per year, requires comprehensive and cumulative review of these general plan amendments, and provides a process for early assessment of these general plan amendments.

D. This proposed addition to Title 21 is statutorily exempt under the California Environmental Quality Act (CEQA) per CEQA Guideline Sections 15060 (c)(3) and 15378 (b)(5) because the process enacted by this ordinance is an organizational

or administrative activity of government that will not result in direct or indirect physical changes in the environment. Any actual proposal to amend the general plan would be subject to review under the California Environmental Quality Act.

SECTION 2. The Table of Contents of Title 21 of the Monterey County Code is amended to add Chapter 21.91 as follows:

Chapter 21.91 General Plan Amendments

SECTION 3. Chapter 21.91 is added to the Monterey County Code to read as follows:

Chapter 21.91
GENERAL PLAN AMENDMENTS

Sections:

- 21.91.010 Purpose
- 21.91.020 Applicability
- 21.91.030 Early Assessment of Proposed Amendments
- 21.91.040 Evaluation Criteria
- 21.91.050 Public Hearing
- 21.91.060 Reapplication
- 21.91.070 Fees

21.91.010 Purpose

The primary purpose of this Chapter is to set forth regulations governing amendments to the *2010 Monterey County General Plan* and future comprehensive updates to the *2010 General Plan* ("General Plan"). Because the *2010 Monterey County General Plan* is applicable only in the non-coastal, unincorporated area of the County, these regulations apply only to general plan amendments affecting the non-coastal unincorporated area of the County. These regulations are intended to maintain the overall integrity of the General Plan, as may be periodically comprehensively updated, by requiring early assessment of proposed amendments, requiring comprehensive and cumulative review of proposed amendments, limiting the number of times each year the plan may be amended,

and by identifying the limited circumstances under which plan amendments may be approved.

21.91.020 Applicability

- A. The provisions of this Chapter shall apply in addition to State law to proposed amendments to the *2010 Monterey County General Plan* and future comprehensive updates to the *2010 Monterey County General Plan*, unless the amendment is exempt under subsection B below. These regulations apply to amendments initiated by any of the following methods:
1. Application by an individual property owner to amend the general plan designation(s) of the owner's property;
 2. Application by an individual or individuals to amend the text provisions of the General Plan; or
 3. Resolution of Intention by either the Planning Commission or the Board of Supervisors of the County of Monterey to consider amendments to either the general plan designations for property or properties or the text provisions of the General Plan, or both.
- B. The provisions of this Chapter shall not apply to the following categories of general plan amendment:
1. Periodic comprehensive updates of the Monterey County General Plan;
 2. General plan amendments initiated by either the Planning Commission or the Board of Supervisors when such an amendment is necessary to address a threat to the public health or safety; or
 3. General plan amendments instituted by citizen initiative.

21.91.030 Early Assessment of Proposed Amendments

- A. No application for a general plan amendment shall proceed to hearing until completion of the early assessment process described in this Chapter.
- B. The Resource Management Agency (RMA) – Planning shall conduct a generalized early assessment of each application for general plan amendment to determine the suitability of the requests for a general plan amendment.
- C. RMA's assessment of the general plan amendment shall be presented to the Planning Commission, which shall provide an early assessment of whether the proposed amendment meets the evaluation criteria set forth in this Chapter.
- D. The early assessment by RMA and the Planning Commission shall not be construed as approval of the amendment or a guarantee of the ultimate outcome,

nor shall a negative early assessment preclude the applicant from pursuing his/her/its general plan amendment. In addition to the early assessment process, all general plan amendments shall be subject to all appropriate environmental review and procedures required by law for consideration of general plan amendments.

- E. The early assessment may be undertaken prior to environmental review under the California Environmental Quality Act (CEQA) based on the recognition that the early assessment is not a commitment to the general plan amendment and does not excuse preparation of environmental review as appropriate under CEQA,
- F. Early assessment by RMA and the Planning Commission of applications for a general plan amendment may be undertaken at any time and as frequently as deemed appropriate by the Director of Planning.

21.91.040 Evaluation Criteria

The decision to approve a general plan amendment remains in the discretion of the Board of Supervisors in accordance with state law. If the Board of Supervisors in its discretion chooses to approve an amendment to the General Plan, the amendment must at a minimum satisfy all of the following criteria in addition to any other relevant considerations:

- A. The amendment is not in conflict with the goals, objectives, and policies of the General Plan that are not proposed for amendment;
- B. The applicant demonstrates, based on substantial evidence, one or more of the following:
 - 1. There is a demonstrable error or oversight in the adopted General Plan,
 - 2. There is a clear change of facts or circumstances, or
 - 3. The amendment better carries out the overall goals and policies of the General Plan.
- C. The Resource Management Agency – Planning has reviewed the proposed general plan amendment—along with any other general plan amendments that are being considered in the same time frame—in a comprehensive, cumulative, and timely manner and provided a written analysis of such review to the Appropriate Authority.

21.91.050 Public Hearing Process

- A. The Planning Commission and Board of Supervisors may consider general plan amendments no more than two (2) times each year and only after completion of the early assessment as prescribed by Section 21.91.030. General plan amendments may be grouped together in a package for the twice-yearly consideration. The public hearing on proposed general plan amendments at the Planning Commission must begin in either February or August. The public hearing on the proposed general plan amendments at the Board of Supervisors must begin in either April or October. Once a public hearing has commenced, the Appropriate Authority may continue the hearing from one meeting date to another without restriction until a decision is reached.
- B. Within the confines of Section 21.91.050.A, the process by which the Planning Commission makes recommendations to the Board of Supervisors for approval or denial of the proposed amendment shall be as governed by state law.
- C. Within the confines of Section 21.91.050.A, the process by which the Board of Supervisors approves or denies a proposed amendment shall be as governed by state law.

21.91.060 Reapplication

When an application for an amendment is denied by the Board of Supervisors, no new application for an amendment substantially the same as the one denied shall be considered for a period of one (1) year following such denial.

21.91.070 Fees

The fee for an application to amend provisions of the General Plan shall be set by the Board of Supervisors by resolution. The fee shall generally not be refundable, except the resolution may provide for partial refunds in the case where proposed amendments are withdrawn by the applicant as a result of early assessment by the RMA – Planning.

SECTION 4. 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 5. EFFECTIVE DATE. This Ordinance shall become effective on the thirty-first day following its adoption.

PASSED AND ADOPTED on this ____ day of _____, 2014, by the following vote:

AYES: Supervisors

NOES:

ABSENT:

ABSTAIN:

Louis R. Calcagno, 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