

## MONTEREY COUNTY PLANNING COMMISSION

<b>Meeting:</b> June 27, 2012    Time: 9:00 A.M	<b>Agenda Item No.:</b> 2 & 3
<p><b>Project Description:</b> Hold Public Workshops to consider and provide direction to staff on a coastal and an inland draft ordinance amending the following zoning texts by adding a new chapter/section associated with the processing of inactive applications for entitlements:</p> <ol style="list-style-type: none"> <li>1) The Monterey County Coastal Implementation Plan, Part 1 (Title 20, Zoning Ordinance) and Title 19 (Coastal Subdivision Ordinance); and</li> <li>2) Title 19 (Inland Subdivision Ordinance) and Title 21 (Inland Zoning Ordinance) of the Monterey County Code.</li> </ol> <p>The purpose of the ordinances are to create a more efficient development review process and provide the necessary tools for both staff and the applicants to move forward in the development review process.</p>	
<b>Project Location:</b> N/A	<b>APN:</b> County-wide
<b>Planning File Number:</b> REF120032 (Coastal) and REF100058 (Inland))	<b>Applicant:</b> County of Monterey
<b>Planning Area:</b> County-wide	<b>Flagged and staked:</b> N/A
<b>Zoning Designation:</b> : N/A	
<b>CEQA Action:</b> Exempt per Section 15262	
<b>Department:</b> RMA - Planning Department	

**RECOMMENDATION:**

Hold Public Workshops to consider draft ordinances and provide direction to staff on coastal and inland draft ordinances amending the following zoning texts by adding a new chapter/section associated with the processing of inactive applications for entitlements:

- 1) The Monterey County Coastal Implementation Plan, Part 1 (Title 20, Zoning Ordinance) and Title 19 (Coastal Subdivision Ordinance); and
- 2) Title 19 (Inland Subdivision Ordinance) and Title 21 (Inland Zoning Ordinance) of the Monterey County Code.

The purpose of the ordinances are to create a more efficient development review process and provide the necessary tools for both staff and the applicants to move forward in the development review process. For the coastal draft ordinance (REF120032) refer to **Exhibit B**. For the inland draft ordinance (REF100058) refer to **Exhibit C**.

**PROJECT OVERVIEW:**

On February 28, 2012, the Monterey County Board of Supervisors adopted a Resolution of Intention (Resolution No. 12-050, see **Exhibit E**) to initiate amendments to text provisions of Titles 19 (both Coastal and Inland Subdivision Ordinances), Title 20 (Coastal Zoning Ordinance) and Title 21 (Inland Zoning Ordinance) to establish procedures for processing inactive applications for land use entitlements. The Board recognized that the retention of backlog land use project applications, that are not moving forward, creates negative impacts to land use department/agencies and applicants. Such impacts of inactive applications are as follows: exhausted processing fees and costs as a result of extended application timelines; diversion of resources that impact the processing of current projects; and inactive applications that have been in the system for several years with no activity have the potential of having outdated analytical reports because of change in circumstances.

At the February 28, 2012 Board of Supervisors Hearing, staff presented a report to the Board that summarized the research, discussion with the County Streamlining Task Force (stakeholder group) and introduced the conceptual approach for development of the inactive application ordinances. The Board endorsed the approach and as a result, two draft ordinances have been prepared and attached herein: a coastal ordinance (**Exhibit B**) for those applications for development in the County's coastal zone and an inland ordinance (**Exhibit C**) for those applications for development in the County's non-coastal areas. Both ordinances require the recommendation of the Planning Commission before proceeding to the Board of Supervisors for consideration and adoption. The coastal ordinance requires certification by the California Coastal Commission before it can be codified.

The Planning Commission Workshop is Statutorily exempt per Section 15262 of the California Environmental Quality Act (CEQA), because the Planning Commission is not considering approving, adopting, or funding the draft ordinances at this time and there will be no legally binding effects of the actions of the Commission at this time. The ordinances will be evaluated pursuant to the requirements of CEQA prior to consideration of adoption of the ordinance as staff proceeds through the process.

See **Project Discussion** in **Exhibit A** for an in-depth discussion of the draft ordinances for the processing of "inactive applications".

**OTHER AGENCY INVOLVEMENT:** The following agencies and departments reviewed this project:

- √ RMA - Public Works Department
- √ Environmental Health Bureau
- √ Water Resources Agency
- √ Parks Department
- √ County Counsel


The project was referred to the County Streamlining Task Force (Task Force) on January 6 and February 3, 2012. On February 3, 2012, staff presented a preliminary draft ordinance outlining in concept an approach for handling inactive applications. The Task Force found the approach acceptable with minor changes, which have been incorporated into the Draft Ordinances in **Exhibits B and C**. The minutes from the Task Force meetings are included in **Exhibit D**.

/s/ 

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May 12, 2012

cc: Front Counter Copy; Planning Commission; James McPharlin, Fire Protection Representative; Public Works Department; Parks Department; Environmental Health Bureau; Water Resources Agency; California Coastal Commission; Jacqueline R. Onciano, Planning Services Manager; Nadia Amador, Project Planner; Carol Allen, Senior Secretary; The Open Monterey Project; LandWatch; John S. Bridges, Fenton & Keller; Planning File REF100058 (Inland); and Planning File REF120032 (Coastal).

- Attachments: Exhibit A Project Discussion  
Exhibit B Draft Coastal Ordinance (File No. REF120032)  
Exhibit C Draft Inland Ordinance (File No. REF100058)  
Exhibit D Minutes from the County Streamlining Task Force, January 6, 2012 and February 3, 2012  
Exhibit E Board of Supervisors Resolution 12-050, Resolution of Intention to initiate amendments to text provisions of Titles 19, Title 20 and Title 21  
Exhibit F Memorandum to the Board of Supervisors, May 30, 2011

This report was reviewed by Jacqueline R.  Onciano, Planning Services Manager (Advanced Planning).

## **EXHIBIT A**

### **PROJECT DISCUSSION**

#### **Background**

On December 7, 2010, Supervisor Parker requested that staff examine options for adopting an ordinance which would establish a deadline for acting on inactive discretionary permit applications and provide information to the Board regarding implications of such an ordinance. The reasoning behind the referral stemmed from applications that have come before the appropriate authority at public hearings, several years after the application was filed. Staff found that these applications are ones that take an extraordinary amount of time for processing because applicants and staff explore ways to resolve critical issues such as water, wastewater or access, sometimes resulting in unresolved matters.

In February of 2011, staff presented a report to the Board that included a number of recommendations. The Board directed staff to further research the matter and report back. A memorandum was distributed to Board members on May 30, 2011 (see **Exhibit F**) which outlined the analysis and additional options. On November 15, 2011, staff presented a report to the Board that summarized the research and options and described the proposed stakeholder public outreach meetings. At that time, the Board identified the Permit Streamline Task Force (Task Force), generally comprised of representatives from the development industry, as the appropriate stakeholder group to discuss the development of an ordinance addressing inactive applications. The Board directed staff to conduct the stakeholder meetings and report back to the Board.

On January 6<sup>th</sup> and February 3<sup>rd</sup>, 2012, staff met with the Task Force. On February 3<sup>rd</sup>, staff presented a preliminary draft ordinance outlining in concept an approach for handling inactive applications. The Task Force considered the approach and found it acceptable with minor changes. Finally, on February 28, 2012, the Monterey County Board of Supervisors adopted a Resolution of Intention (Resolution No. 12-050, see **Exhibit E**) to initiate amendments to text provisions of Titles 19 (both Coastal and Inland Subdivision Ordinances), Title 20 (Coastal Zoning Ordinance) and Title 21 (Inland Zoning Ordinance) to establish procedures for processing inactive applications for land use entitlements.

#### **Why are inactive applications an issue?**

State law requires that an application for a development project be determined either “complete” or “incomplete” within 30 days of the application submittal, with limited exceptions. An application is deemed “complete” by staff when an applicant has provided all the information specified by staff to begin processing the application. Staff deems an application “incomplete” when an applicant has not provided all the information specified in order to proceed with the processing of the application. A large number of “incomplete” applications require some minimal information or changes to design. Those applications tend to slowly move through the process.

However, the Department currently has a large backlog of “complete” and “incomplete” applications that have had no activity by the applicant and remain dormant. These “inactive” applications are usually ones with difficult land use issues that cause years of debate and meetings between the applicants and County staff in an effort to resolve issues. Government

Code section 65956 (c) allows a local agency to disapprove development project applications based on an applicant's failure to provide complete or adequate information. In this regard, staff has recently initiated a practice to take stalled applications to the Planning Commission for consideration of denying the application and/or provide direction regarding disputed issues.

On the other hand, past County practices have afforded applicants the ability to keep applications open indefinitely. As a result, there are numerous applications that have had no activity for multiple years. The County is obligated to continue to process the application at some point in the future, unless some action is taken. When/if an applicant decides to move forward, no new revenue is collected, although the application fees and costs have been exhausted by the extended timelines.

Retaining a backlog of projects that are not moving forward impacts all land use departments. These impacts include: workload without revenue in the year in which the work is being done; this causes a heavy workload burden on land use departments' staff that impacts other, more current projects. Furthermore, retention of inactive applications also has the potential of analyses and reports prepared for the application growing stale due to change in circumstances.

### **RMA-Planning Department's Backlog of Inactive Applications**

The following outlines the RMA-Planning Department's categories of inactive applications as presented in a Memorandum to the Board of Supervisors (see **Exhibit F**) and the current Department's practices in dealing with these types of inactive applications:

- **Incomplete Applications.** An application that has been deemed incomplete for purposes of the Permit Streamlining Act. Applicants with an "Inactive" incomplete application have been allowed by the Planning Department to continue to work to resolve issues when issues are discovered through the application review process. There is currently no specific procedure in the Monterey County Code for staff to address these applications. As such they remain "on the books" indefinitely. If an applicant decides to move forward there is no new revenue required to pay for the service to process the application. Often times, however, the issues causing the application to be incomplete are substantial and substantial amount of staff time is expended working with applicants on finding solutions. Up to the point staff deems an application "incomplete or complete", the applicant may request a refund that shall not exceed 50% of the application fee. Per the County Code, no refund may be granted once an application is deemed incomplete/complete.
- **Complete, Tabled and Suspended Statuses.** An application that has been deemed complete for the purposes of Permit Streamlining Act. An "inactive" complete application may be those that were deemed complete but require additional information, such as time sensitive biological survey, in order to initiate environmental review (Initial Study). Currently the Department's practice is to work with the applicant until the applicant is ready to submit the additional information for environmental review. Staff has also applied the status of "tabled" or "suspended" to complete applications, when significant issues arise that prevents the process from moving forward. The majority of the backlog is in this category, having approximately 800 of these types of inactive applications with a timeframe ranging from 132 days (4+ months) to 14 years.

### **Solution: Inactive Application Ordinances**

Staff has conducted extensive analysis, including meetings with stakeholders on the development of an Inactive Application Ordinance and has found that such an ordinance will be beneficial to both the Planning Department and applicants because it will allow for a more efficient development review process by providing the necessary tools for both staff and the applicants to move forward with applications. The Inactive Application Ordinance will be applicable to those Planning applications made for any entitlements under Title 19, Inland Subdivision Ordinance; Title 19, Coastal Subdivision Ordinance; Title 21, Inland Zoning Ordinance; and Title 20, Coastal Zoning Ordinance, where the project applicant has not submitted information, documents and/or fees requested by the County for a period of more than six (6) consecutive months. The Inactive Application Ordinance if adopted, would not apply to those applications made for subdivisions under Title 19 (Coastal and Non-Coastal Subdivision Ordinances) that have been deemed "complete" prior to the adoption of the Inactive Application Ordinance, pursuant to Government Code Section 66474.2.(a) which states:

*Except as otherwise provided in subdivision (b) or (c), in determining whether to approve or disapprove an application for a tentative map, the local agency shall apply only those ordinances, policies, and standards in effect at the date the local agency has determined that the application is complete pursuant to Section 65943 of the Government Code.*

The concept of the ordinances was presented to the Board of Supervisors on February 28, 2012. The Board found the concept acceptable and adopted a Resolution of Intention (Resolution No. 12-050, see **Exhibit E**) to initiate amendments to text provisions of Titles 19 (both Coastal and Inland Subdivision Ordinances), Title 20 (Coastal Zoning Ordinance) and Title 21 (Inland Zoning Ordinance) to establish procedures for processing inactive applications for land use entitlements.

The draft ordinances are herein attached as **Exhibit B** (coastal) and **Exhibit C** (inland).

#### Recommendation

Staff recommends that the Planning Commission hold a Public Workshop to consider and provide direction to staff on a coastal and an inland draft ordinance amending referenced zoning texts for the purpose of adopting a coastal and inland inactive application ordinance.

**EXHIBIT B**  
**DRAFT COASTAL ORDINANCE**  
**(FILE NO. REF 120032)**

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

**AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA, AMENDING TITLE 19 (COASTAL SUBDIVISION ORDINANCE) AND TITLE 20 (COASTAL ZONING ORDINANCE) OF THE MONTEREY COUNTY CODE TO ADD A NEW SECTION AND CHAPTER ASSOCIATED WITH THE PROCESSING OF INACTIVE APPLICATIONS FOR ENTITLEMENTS UNDER TITLES 19 AND 20.**

**County Counsel Summary**

*This ordinance amends Title 19 (Coastal Subdivision Ordinance) and the Monterey County Local Coastal Program, Part 1, Title 20 (Coastal Zoning Ordinance) by adding a new Section to Title 19 and a new Chapter to Title 20 for the processing of inactive applications for entitlements under Titles 19 and 20 in order to create a more efficient development review process and provide necessary tools for both staff and the applicants to move forward in the development review process.*

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

**[Chapter 19.01-General Provisions-(Table of Contents)]\*\***

SECTION 1. The Table of Contents of Chapter I. of the Monterey County Code is amended to read as follows:

**Chapter I:**

**GENERAL PROVISIONS**

19.01.005	Citation and authority
19.01.010	Purpose
19.01.015	Consistency
19.01.020	Exceptions
19.01.025	Minor Subdivision Committee
19.01.030	Standard Subdivision Committee
19.01.035	Planning Commission
19.01.040	Board of Supervisors
19.01.045	Fees and forms

\*\*Titles inserted for context only and will not be included in the final ordinance.

19.01.050	Appeals
19.01.055	Public Hearings
19.01.060	Applicability
19.01.065	State pre-emption
19.01.066	Compliance with local, state, and Federal laws
19.01.070	Minor Subdivision Committee, Subdivision Committee, Planning Commission and Board of Supervisors to Consider Housing Needs of Region
19.01.075	Limitation on Improvement Requirements under a Parcel Map
19.01.080	Designated remainder parcel improvement requirements
19.01.090	Inactive applications

**[19.01.090- Title 19; NEW SECTION-Inactive Applications]\*\***

SECTION 2. Section 19.01.090 of the Monterey County Code is added to read as follows:

19.01.090-Inactive applications.

An inactive application is an application made for entitlements under this Title, where the project applicant has not submitted information, documents and/or fees requested in County correspondence, for a period of at least six (6) consecutive months. An example of such correspondence includes, but is not limited to: a Complete or Incomplete Letter from a land-use agency or department. This Section shall not apply to applications for subdivisions which have been deemed “complete” prior to the adoption of this Section, pursuant to Government Code Section 66474.2. (a). The process for deeming an application “inactive” shall be as follows:

A. Prior to deeming application for an entitlement “inactive”.

Prior to deeming an application for an entitlement “inactive”, the Director of Planning or his/her designee, shall mail by certified mail with return receipt, to the owner, as reported on the latest assessment roll, and the applicant and/or agent on file with the application, a courtesy notice alerting that the application will become “inactive” within 30 days of the date of the courtesy notice. The courtesy notice shall include the description of the proposed project, the outstanding information required and/or fees required. The courtesy notice shall outline the following options that the applicant may take:

1. Applicant may withdraw their application in writing. Any unexpended fees shall be refunded to the applicant;

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2. Applicant may submit required information and/or fees within no more than 30 days from the date of notice of inactive status. Additional fees to re-activate the application shall be required and the amount shall be specified in the certified courtesy notice to the applicant.
3. Applicant may request in writing that his/her application be kept active. Such written request shall be made to the Director of Planning with detail of the reason(s) for the request and the additional time needed with a specific date, to provide additional information and/or fees. Request to keep an application active may include, but not be limited to the following:
  - i. Additional time needed for a seasonal survey required; and
  - ii. Additional time to secure a professional consultant to carry out an analysis required.

Written request shall be reviewed by the Director of Planning or his/her designee and a determination letter will be sent to the applicant with a decision, including the additional time granted, if the request is approved.

B. Deeming an application "inactive".

An application shall be deemed "inactive" if:

1. The applicant does not respond within 30 days of the date on the courtesy notice as described in Section A. with their written request to withdraw their application; or
2. The applicant's written request to keep the application active is denied; or
3. The applicant's written request to keep the application active was granted, but the time allotted by the Director of Planning or his/her designee expired and the required information, documentation and/or fees were not submitted.

C. Once the Director of Planning or his/her designee, deems an application "inactive" the following shall be required:

1. The Director of Planning or his/her designee, shall mail by certified mail with return receipt, to the owner, as reported on the latest assessment roll, and the applicant and/or agent on file with the application, a notice alerting that the application has been deemed "inactive". The notice shall include the description of the proposed project, the outstanding information required and/or fees required. The notice shall outline the following options that the applicant may take:
  - i. Applicant may withdraw their application in writing. If the application is

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withdrawn within no more than 30 days from the date of notice, any unexpended fees shall be refunded to the applicant; or

ii. Applicant may submit required information and/or fees within no more than 6 months from the date of notice of inactive status. Additional fees to re-activate the application shall be required and be the amount shall be specified in the certified notice to the applicant.

2. If after the subsequent six (6) months of the date of notice deeming the application inactive, the project applicant does not withdraw his/her application in writing, nor does the applicant provide the required materials and/or fees, including a re-activation fee, the application will be taken forward for denial “without prejudice” pursuant to Section D.

D. Action by Appropriate Authority.

1. An inactive application shall be taken forward for “denial without prejudice” through an Administrative Hearing process, after six (6) months of the date of notice deeming the application inactive, due to the failure of applicant to provide the required materials and/or fees to process the application. “Without prejudice” means that the applicant would not be subject to County Code provisions that prohibit the filing of a new application that is substantially the same as the application denied within one year.

2. The Director of Planning is the Appropriate Authority to consider Inactive Applications which have been taken forward for denial “without prejudice”.

3. Public notice of the Administrative Hearing to Deny an Inactive Application shall be conducted not less than 10 days prior to the consideration of the denial of the application. The Director of Planning, shall give notice of such consideration by publishing notice in at least one newspaper of general circulation and mailing notice of such consideration to the real property owner, applicant and/or agent and to persons owning property within 300 feet of the exterior boundaries of the subject property. The notice for Administrative Hearing shall include information that a request for public hearing before a separate authority shall be required in writing.

4. Shall a written request for a public hearing be granted, the public notice shall be conducted pursuant to Section 19.01.055 and the public hearing shall be before the Planning Commission. If the public hearing is granted, it shall be noticed and conducted subject to Section 19.01.035.

5. If no public hearing is granted, the Director of Planning shall render his or her determination. The applicant shall be notified in writing of the denial without

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prejudice of their inactive application. Said notice shall include information relative to appeal rights pursuant to Section E.

6. The Appropriate Authority may deny the application for entitlement subject to making the following finding based on substantial evidence:

i. The applicant has failed in providing the required materials and/or fees to process the application within the allotted time pursuant to Section 19.01.090.

E. Appeals.

An appeal to the Board of Supervisors from the action of the Appropriate Authority may be taken by the aggrieved applicant. The appeal procedures shall be conducted pursuant to Section 19.01.050.

**[Table of Contents-Title 20]\*\***

SECTION 3. The Table of Contents of Title 20 Zoning Ordinance of the Monterey County Code is amended to read as follows:

**MONTEREY COUNTY  
TITLE 20 TABLE OF CONTENTS**

<b>CHAPTER</b>	<b>TITLE</b>
Chapter 20.02	General Provisions
Chapter 20.04	Zoning Administrator
Chapter 20.06	Definitions
Chapter 20.08	Establishment and Designation of Zoning Districts
Chapter 20.10 Districts	Regulations for High Density Residential Zoning Districts or "HDR"
Chapter 20.12 Districts	Regulations for Medium Density Residential Zoning Districts or "MDR"
Chapter 20.14 Districts	Regulations for Low Density Residential Zoning Districts or "LDR"
Chapter 20.16 Districts	Regulations for Rural Density Residential Zoning Districts or "RDR"
Chapter 20.17	Regulations for Watershed And Scenic Conservation Zoning Districts Or "WSC(CZ)" Districts
Chapter 20.18	Regulations for Coastal General Commercial Zoning Districts or "CGC"

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	(CZ)" Districts
Chapter 20.20	Regulations for Moss Landing Commercial Zoning District or "MLC (CZ)" District
Chapter 20.21 District	Regulations for Institutional Commercial Zoning Districts or "IC (CZ)" District
Chapter 20.22	Regulations for Visitor Serving Commercial "VSC (CZ)" District
Chapter 20.24 Districts	Regulations for Agricultural Industrial Zoning District or "AI (CZ)" Districts
Chapter 20.26	Regulations for Light Industrial Zoning District or "LI" Districts
Chapter 20.28	Regulations for Heavy Industrial Zoning Districts or "HI (CZ)" Districts
Chapter 20.30 Districts	Regulations for Coastal Agricultural Preserve Districts or "CAP (CZ)" Districts
Chapter 20.32	Regulations for Agricultural Conservation Zoning Districts or "AC (CZ)" Districts
Chapter 20.36 Districts	Regulations for Resource Conservation Zoning District or "RC (CZ)" Districts
Chapter 20.38 Districts	Regulations for Open Space Recreation Zoning District or "OR (CZ)" Districts
Chapter 20.40 Districts	Regulations for Public/ Quasi-Public Zoning Districts or "PQP (CZ)" Districts
Chapter 20.42	Regulations for Building Site Zoning Districts or "B" Districts
Chapter 20.44	Regulations for Design Control Zoning Districts or "D" Districts
Chapter 20.48	Regulations for Limited Agricultural Zoning Districts or "A" Districts
Chapter 20.54	Regulations for Historic Resources Zoning Districts or "Hr" Districts
Chapter 20.56	Regulations for Improvement Zoning Districts or "Z" Districts
Chapter 20.58	Regulations for Parking
Chapter 20.60	Regulations for Signs
Chapter 20.62	Height and Setback Exceptions
Chapter 20.64	Special Regulations
Chapter 20.64.010	Senior Citizen Units
Chapter 20.64.020	Guesthouses
Chapter 20.64.030	Caretaker Units
Chapter 20.64.040	Manufactured Housing Units Installed on a Permanent Foundation
Chapter 20.64.050	Mobilehomes Existing with Discretionary Permit
Chapter 20.64.060	Mobilehomes Existing without Discretionary Permit
Chapter 20.64.070	Temporary Residence During Construction of Dwelling

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Chapter 20.64.080	Emergency Facilities for Public Utilities
Chapter 20.64.090	Home Occupations
Chapter 20.64.095	Regulations for Cottage Industry
Chapter 20.64.100	Bed and Breakfast Facilities
Chapter 20.64.110	Timeshare Uses
Chapter 20.64.120	Wind and Energy Conservation Systems
Chapter 20.64.140	Location and Siting of Genetic Experiments
Chapter 20.64.150	Special Events at County Parks
Chapter 20.64.160	Public Utility Distribution and Transmission Facilities
Chapter 20.64.170	Water Facilities in Approved Subdivision
Chapter 20.64.180	Density of Development
Chapter 20.64.190	Transfer of Development Credits
Chapter 20.64.200	Adult Entertainment Facilities
Chapter 20.64.210	Regulations for Mobilehome Parks
Chapter 20.64.220	Relocated Structures and Mobilehomes
Chapter 20.64.230	Regulations for Development in Excess of 30%
Chapter 20.64.240	Standards and Procedures used in Determining Claims for Vested Rights
Chapter 20.64.250	Regulations for the Reduction of Vehicle Trips for Certain Developments
Chapter 20.64.260	Public and Quasi Public Uses
Chapter 20.64.280	Easements, Offers of Dedication, Deed Restrictions and Notices
Chapter 20.64.300	Regulations for Historic Resources
Chapter 20.64.310	Regulations for the Siting, Design and Construction of Wireless Communications Facilities
Chapter 20.66	Development Standards
Chapter 20.66.010	Standards for Ridgeline Development
Chapter 20.66.020	Standards for Development in Environmentally Sensitive Habitats
Chapter 20.66.030	Standards for Agricultural Uses
Chapter 20.66.040	Standards for Hazardous Areas
Chapter 20.66.050	Standards for Archaeological Resources
Chapter 20.66.060	Standards for Farm Employee and Farm Worker Housing
Chapter 20.68	Legal Nonconforming Uses
Chapter 20.70	Coastal Development Permits
Chapter 20.76	Coastal Administrative Permits
Chapter 20.78	Variances
Chapter 20.79	Emergency Permits
Chapter 20.80	Renewal of Permits Approved Prior to Adoption of the Coastal

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Chapter 20.82	Implementation Plan
Chapter 20.83	Combined Development Permits
Chapter 20.84	<u>Inactive Applications</u>
Chapter 20.86	Public Hearings
Chapter 20.88	Appeals
Chapter 20.90	Appeals To Administrative Interpretations
Chapter 20.92	Enforcement, Administrative and Legal Procedures, Penalties
Chapter 20.94	Airport Approaches Zoning
Chapter 20.96	Amendments to Title
Chapter 20.96	Monterey County Ordinances Incorporated by Reference

**[20.83-Title 20; NEW CHAPTER-Inactive Applications.]\*\***

SECTION 4. Chapter 20.83 of the Monterey County Code is added to read as follows:

Chapter 20.83  
Inactive Applications

Sections:

20.83.010- Purpose.

20.83.020- Applicability.

20.83.030- Definition of Inactive Application.

20.83.040- Prior to Deeming an Application Inactive.

20.83.050- Deeming and Processing Inactive Applications.

20.83.060- Action by the Appropriate Authority.

20.83.070- Appeals.

20.83.010-Purpose.

The purpose of this Chapter is to increase efficiency in the processing of inactive applications for entitlements under this Title by providing the necessary tools for both staff and the applicant to move forward in the development review process.

20.83.020-Applicability.

The provisions of this Chapter are applicable to all types of applications for entitlements under this Title.

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20.83.030-Definition of Inactive Application.

An inactive application is an application made for entitlements under this Title, where the project applicant has not submitted information, documents and/or fees requested in County correspondence, for a period of at least six (6) consecutive months. An example of such correspondence includes, but is not limited to: a Complete or Incomplete Letter from a land-use agency or department.

20.83.040- Prior to Deeming an Application Inactive.

Prior to deeming an application for an entitlement “inactive”, the Director of Planning or his/her designee, shall mail by certified mail with return receipt, to the owner, as reported on the latest assessment roll, and the applicant and/or agent on file with the application, a courtesy notice alerting that the application will become “inactive” within 30 days of the date of the courtesy notice. The courtesy notice shall include the description of the proposed project, the outstanding information required and/or fees required. The courtesy notice shall outline the following options that the applicant may take:

1. Applicant may withdraw their application in writing. Any unexpended fees shall be refunded to the applicant;

2. Applicant may submit required information and/or fees within no more than 30 days from the date of notice of inactive status. Additional fees to re-activate the application shall be required and the amount shall be specified in the certified courtesy notice to the applicant.

3. Applicant may request in writing that his/her application be kept active. Such written request shall be made to the Director of Planning with detail of the reason(s) for the request and the additional time needed with a specific date, to provide additional information and/or fees. Request to keep an application active may include, but not be limited to the following:

a. Additional time needed for a seasonal survey required; and

b. Additional time to secure a professional consultant to carry out an analysis required.

Written request shall be reviewed by the Director of Planning or his/her designee and a determination letter will be sent to the applicant with a decision, including the additional time granted, if the request is approved.

20.83.050- Deeming and Processing Inactive Applications.

A. An application shall be deemed “inactive” if:

1. The applicant does not respond within 30 days of the date on the courtesy notice as described in Section 20.83.040 with their written request to withdraw their application; or

2. The applicant’s written request to keep the application active is denied; or

3. The applicant’s written request to keep the application active was granted, but the time

\*\*Titles inserted for context only and will not be included in the final ordinance.

allotted by the Director of Planning or his/her designee expired and the required information, documentation and/or fees were not submitted.

B. Once the Director of Planning or his/her designee, deems an application “inactive” the following shall be required:

1. The Director of Planning or his/her designee, shall mail by certified mail with return receipt, to the owner, as reported on the latest assessment roll, and the applicant and/or agent on file with the application, a notice alerting that the application has been deemed “inactive”. The notice shall include the description of the proposed project, the outstanding information required and/or fees required. The notice shall outline the following options that the applicant may take:

a. Applicant may withdraw their application in writing. If the application is withdrawn within no more than 30 days from the date of notice, any unexpended fees shall be refunded to the applicant; or

b. Applicant may submit required information and/or fees within no more than 6 months from the date of notice of inactive status. Additional fees to re-activate the application shall be required and be the amount shall be specified in the certified notice to the applicant.

2. If after the subsequent six (6) months of the date of notice deeming the application inactive, the project applicant does not withdraw his/her application in writing, nor does the applicant provide the required materials and/or fees, including a re-activation fee, the application will be taken forward for denial “without prejudice” pursuant to Section 20.83.060.

20.83.060- Action by the Appropriate Authority.

1. An inactive application shall be taken forward for “denial without prejudice” through an Administrative Hearing process, after six (6) months of the date of notice deeming the application inactive, due to the failure of applicant to provide the required materials and/or fees to process the application. “Without prejudice” means that the applicant would not be subject to County Code provisions that prohibit the filing of a new application that is substantially the same as the application denied within one year.

2. The Director of Planning is the Appropriate Authority to consider Inactive Applications which have been taken forward for denial “without prejudice”.

3. Public notice of the Administrative Hearing to Deny an Inactive Application shall be conducted not less than 10 days prior to the consideration of the denial of the application. The Director of Planning, shall give notice of such consideration by publishing notice in at least one newspaper of general circulation and mailing notice of such consideration to the real property owner, applicant and/or agent and to persons owning property within 300 feet of the exterior boundaries of

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the subject property. The notice for Administrative Hearing shall include information that a request for public hearing before a separate authority shall be required in writing.

4. Shall a written request for a public hearing be granted, the public notice and public hearing shall be conducted pursuant to Chapter 20.84.

5. If no public hearing is granted, the Director of Planning shall render his or her determination. The applicant shall be notified in writing of the denial without prejudice of their inactive application. Said notice shall include information relative to appeal rights pursuant to Section 20.83.070.

6. The Appropriate Authority may deny the application for entitlement subject to making the following finding based on substantial evidence:

a. The applicant has failed in providing the required materials and/or fees to process the application within the allotted time pursuant to Chapter 20.83.

20.83.070- Appeals.

An appeal to the Board of Supervisors from the action of the Appropriate Authority may be taken by the aggrieved applicant. The appeal procedures shall be conducted pursuant to Chapter 20.86.

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 \_\_\_\_\_, 2012, by the following vote:

AYES: Supervisors

NOES:

ABSENT:

ABSTAIN:

---

  
\*\*Titles inserted for context only and will not be included in the final ordinance.

Dave Potter, 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:

Wendy S. Strimling  
Senior Deputy County Counsel

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**EXHIBIT C**  
**DRAFT INLAND ORDINANCE**  
**(FILE NO. REF 100058)**

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

**AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA, AMENDING TITLE 19 (INLAND SUBDIVISION ORDINANCE) AND TITLE 21 (INLAND ZONING ORDINANCE) OF THE MONTEREY COUNTY CODE TO ADD A NEW SECTION AND CHAPTER ASSOCIATED WITH THE PROCESSING OF INACTIVE APPLICATIONS FOR ENTITLEMENTS UNDER TITLES 19 AND 21.**

**County Counsel Summary**

*This ordinance amends Title 19 (Inland Subdivision Ordinance) and Title 21 (Inland Zoning Ordinance) of the Monterey County Code to add a new section (Title 19) and chapter (Title 21) associated with the processing of inactive applications for entitlements under Titles 19 and 21 in order to create a more efficient development review process and provide necessary tools for both staff and the applicants to move forward in the development review process.*

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

**[Chapter 19.01-General Provisions-(Table of Contents)]\*\***

SECTION 1. The Table of Contents of Chapter 19.01 of the Monterey County Code is amended to read as follows:

**Chapter 19.01 - GENERAL PROVISIONS**

Sections:

- 19.01.005 Citation and authority.
- 19.01.010 Purpose.
- 19.01.015 Consistency.
- 19.01.020 Exceptions.
- 19.01.025 Minor Subdivision Committee.
- 19.01.030 Standard Subdivision Committee.
- 19.01.035 Planning Commission.
- 19.01.040 Board of Supervisors.

\*\*Titles inserted for context only and will not be included in the final ordinance.

- 19.01.045 Fees and forms.
- 19.01.050 Repealed.
- 19.01.055 Public notice.
- 19.01.060 Applicability.
- 19.01.065 State pre-emption.
- 19.01.066 Compliance with local, state, and federal laws.
- 19.01.070 Appropriate decision making bodies to consider housing needs of region.
- 19.01.075 Limitation on improvement requirements under a parcel map.
- 19.01.080 Designated remainder parcel improvement requirements.
- 19.01.090 Conditions for mobilehome parks.
- 19.01.100 Inactive applications.

**[19.01.100- Title 19; NEW SECTION-Inactive Applications]\*\***

SECTION 2. Section 19.01.100 of the Monterey County Code is added to read as follows:

19.01.100-Inactive applications.

An inactive application is an application made for entitlements under this Title, where the project applicant has not submitted information, documents and/or fees requested in County correspondence, for a period of at least six (6) consecutive months. An example of such correspondence includes, but is not limited to: a Complete or Incomplete Letter from a land-use agency or department. This Section shall not apply to applications for subdivisions which have been deemed "complete" prior to the adoption of this Section, pursuant to Government Code Section 66474.2. (a). The process for deeming an application "inactive" shall be as follows:

A. Prior to deeming application for an entitlement "inactive".

Prior to deeming an application for an entitlement "inactive", the Director of Planning or his/her designee, shall mail by certified mail with return receipt, to the owner, as reported on the latest assessment roll, and the applicant and/or agent on file with the application, a courtesy notice alerting that the application will become "inactive" within 30 days of the date of the courtesy notice. The courtesy notice shall include the description of the proposed project, the outstanding information required and/or fees required. The courtesy notice shall outline the following options that the applicant may take:

1. Applicant may withdraw their application in writing. Any unexpended fees shall be refunded to the applicant;
2. Applicant may submit required information and/or fees within no more than 30 days from the date of notice of inactive status. Additional fees to re-activate the application shall be required and the amount shall be specified in the

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certified courtesy notice to the applicant.

3. Applicant may request in writing that his/her application be kept active. Such written request shall be made to the Director of Planning with detail of the reason(s) for the request and the additional time needed with a specific date, to provide additional information and/or fees. Request to keep an application active may include, but not be limited to the following:

- i. Additional time needed for a seasonal survey required; and
- ii. Additional time to secure a professional consultant to carry out an analysis required.

Written request shall be reviewed by the Director of Planning or his/her designee and a determination letter will be sent to the applicant with a decision, including the additional time granted, if the request is approved.

B. Deeming an application “inactive”.

An application shall be deemed “inactive” if:

1. The applicant does not respond within 30 days of the date on the courtesy notice as described in Section A. with their written request to withdraw their application; or
2. The applicant’s written request to keep the application active is denied; or
3. The applicant’s written request to keep the application active was granted, but the time allotted by the Director of Planning or his/her designee expired and the required information, documentation and/or fees were not submitted.

C. Once the Director of Planning or his/her designee, deems an application “inactive” the following shall be required:

1. The Director of Planning or his/her designee, shall mail by certified mail with return receipt, to the owner, as reported on the latest assessment roll, and the applicant and/or agent on file with the application, a notice alerting that the application has been deemed “inactive”. The notice shall include the description of the proposed project, the outstanding information required and/or fees required. The notice shall outline the following options that the applicant may take:
  - i. Applicant may withdraw their application in writing. If the application is withdrawn within no more than 30 days from the date of notice, any unexpended fees shall be refunded to the applicant; or
  - ii. Applicant may submit required information and/or fees within no more

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than 6 months from the date of notice of inactive status. Additional fees to re-activate the application shall be required and be the amount shall be specified in the certified notice to the applicant.

2. If after the subsequent six (6) months of the date of notice deeming the application inactive, the project applicant does not withdraw his/her application in writing, nor does the applicant provide the required materials and/or fees, including a re-activation fee, the application will be taken forward for denial “without prejudice” pursuant to Section D.

D. Action by Appropriate Authority.

1. An inactive application shall be taken forward for “denial without prejudice” through an Administrative Hearing process, after six (6) months of the date of notice deeming the application inactive, due to the failure of applicant to provide the required materials and/or fees to process the application. “Without prejudice” means that the applicant would not be subject to County Code provisions that prohibit the filing of a new application that is substantially the same as the application denied within one year.
2. The Director of Planning is the Appropriate Authority to consider Inactive Applications which have been taken forward for denial “without prejudice”.
3. Public notice of the Administrative Hearing to Deny an Inactive Application shall be conducted not less than 10 days prior to the consideration of the denial of the application. The Director of Planning, shall give notice of such consideration by publishing notice in at least one newspaper of general circulation and mailing notice of such consideration to the real property owner, applicant and/or agent and to persons owning property within 300 feet of the exterior boundaries of the subject property. The notice for Administrative Hearing shall include information that a request for public hearing before a separate authority shall be required in writing.
4. Shall a written request for a public hearing be granted, the public notice shall be conducted pursuant to Section 19.01.055 and the public hearing shall be before the Planning Commission. If the public hearing is granted, it shall be noticed and conducted subject to Section 19.01.035.
5. If no public hearing is granted, the Director of Planning shall render his or her determination. The applicant shall be notified in writing of the denial without prejudice of their inactive application. Said notice shall include information relative to appeal rights pursuant to Section E.
6. The Appropriate Authority may deny the application for entitlement subject to making the following finding based on substantial evidence:

\*\*Titles inserted for context only and will not be included in the final ordinance.

i. The applicant has failed in providing the required materials and/or fees to process the application within the allotted time pursuant to Section 19.01.100.

E. Appeals.

An appeal to the Board of Supervisors from the action of the Appropriate Authority may be taken by the aggrieved applicant. The appeal procedures shall be conducted pursuant to Section 19.16.

**[Table of Contents-Title 21 Zoning Chapters)]\*\***

SECTION 3. The Table of Contents of Title 21 Zoning Ordinance of the Monterey County Code is amended to read as follows:

Chapters:

Chapter 21.02 - GENERAL PROVISIONS

Chapter 21.04 - ZONING ADMINISTRATOR

Chapter 21.06 - DEFINITIONS

Chapter 21.08 - ESTABLISHMENT AND DESIGNATION OF ZONING DISTRICTS

Chapter 21.10 - REGULATIONS FOR HIGH DENSITY RESIDENTIAL ZONING DISTRICTS OR "HDR" DISTRICTS

Chapter 21.12 - REGULATIONS FOR MEDIUM DENSITY RESIDENTIAL ZONING DISTRICTS OR "MDR" DISTRICTS

Chapter 21.14 - REGULATIONS FOR LOW DENSITY RESIDENTIAL ZONING DISTRICTS OR "LDR" DISTRICTS

Chapter 21.16 - REGULATIONS FOR RURAL DENSITY RESIDENTIAL ZONING DISTRICTS OR "RDR" DISTRICTS

Chapter 21.18 - REGULATIONS FOR LIGHT COMMERCIAL ZONING DISTRICTS OR "LC" DISTRICTS

Chapter 21.20 - REGULATIONS FOR HEAVY COMMERCIAL ZONING DISTRICTS OR "HC" DISTRICTS

Chapter 21.22 - REGULATIONS FOR VISITOR SERVING/PROFESSIONAL OFFICE ZONING DISTRICTS OR "VO" DISTRICTS

Chapter 21.24 - REGULATIONS FOR AGRICULTURAL INDUSTRIAL ZONING DISTRICTS OR "AI" DISTRICTS

Chapter 21.26 - REGULATIONS FOR LIGHT INDUSTRIAL ZONING DISTRICTS OR "LI" DISTRICTS

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Chapter 21.28 - REGULATIONS FOR HEAVY INDUSTRIAL ZONING DISTRICTS OR "HI" DISTRICTS

Chapter 21.30 - REGULATIONS FOR FARMLANDS ZONING DISTRICTS OR "F" DISTRICTS

Chapter 21.32 - REGULATIONS FOR RURAL GRAZING ZONING DISTRICTS OR "RG" DISTRICTS

Chapter 21.34 - REGULATIONS FOR PERMANENT GRAZING ZONING DISTRICTS OR "PG" DISTRICTS

Chapter 21.36 - REGULATIONS FOR RESOURCE CONSERVATION ZONING DISTRICTS OR "RC" DISTRICTS

Chapter 21.38 - REGULATIONS FOR OPEN SPACE ZONING DISTRICTS OR "O" DISTRICTS

Chapter 21.39 - REGULATIONS FOR COMMUNITY PLAN ZONING DISTRICTS OR "CP" DISTRICTS

Chapter 21.40 - REGULATIONS FOR PUBLIC/ QUASI-PUBLIC ZONING DISTRICTS OR "PQP" DISTRICTS

Chapter 21.41 - REGULATIONS FOR SPECIFIC PLAN ZONING DISTRICTS OR "SP" DISTRICTS

Chapter 21.42 - REGULATIONS FOR BUILDING SITE ZONING DISTRICTS OR "B" DISTRICTS

Chapter 21.44 - REGULATIONS FOR DESIGN CONTROL ZONING DISTRICTS OR "D" DISTRICTS

Chapter 21.45 - REGULATIONS FOR SITE PLAN REVIEW ZONING DISTRICTS OR "S" DISTRICTS

Chapter 21.46 - REGULATIONS FOR VISUAL SENSITIVITY ZONING DISTRICTS OR "VS" DISTRICTS

Chapter 21.48 - REGULATIONS FOR LIMITED AGRICULTURAL ZONING DISTRICTS OR "A" DISTRICTS

Chapter 21.50 - REGULATIONS FOR URBAN RESERVE ZONING DISTRICTS OR "UR" DISTRICTS

Chapter 21.52 - REGULATIONS FOR RESIDENTIAL ALLOCATION ZONING DISTRICTS OR "RAZ" DISTRICTS

Chapter 21.54 - REGULATIONS FOR HISTORIC RESOURCES ZONING DISTRICTS OR "HR" DISTRICTS

Chapter 21.56 - REGULATIONS FOR IMPROVEMENT ZONING DISTRICTS OR "Z" DISTRICTS

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- Chapter 21.57 - REGULATIONS FOR PARKING AND USE OF MAJOR RECREATIONAL EQUIPMENT STORAGE IN SEAWARD ZONE OR "RES" DISTRICTS
- Chapter 21.58 - REGULATIONS FOR PARKING
- Chapter 21.60 - REGULATIONS FOR SIGNS
- Chapter 21.61 - REQUESTS FOR REASONABLE ACCOMMODATION
- Chapter 21.62 - HEIGHT AND SETBACK EXCEPTIONS
- Chapter 21.64 - SPECIAL REGULATIONS
- Chapter 21.65 - DENSITY BONUS AND INCENTIVES
- Chapter 21.66 - DEVELOPMENT STANDARDS
- Chapter 21.68 - LEGAL NONCONFORMING USES
- Chapter 21.70 - ADMINISTRATIVE PERMITS
- Chapter 21.72 - VARIANCES
- Chapter 21.74 - USE PERMITS
- Chapter 21.75 - EMERGENCY PERMITS
- Chapter 21.76 - COMBINED DEVELOPMENT PERMITS
- Chapter 21.77- INACTIVE APPLICATIONS
- Chapter 21.78 - PUBLIC HEARINGS
- Chapter 21.80 - APPEALS
- Chapter 21.82 - APPEALS TO ADMINISTRATIVE INTERPRETATION OF THE ZONING ORDINANCE
- Chapter 21.84 - ENFORCEMENT, ADMINISTRATIVE AND LEGAL PROCEDURES—PENALTIES
- Chapter 21.86 - AIRPORT APPROACHES ZONING
- Chapter 21.88 - AMENDMENTS TO TITLE
- Chapter 21.90 - REGIONAL DEVELOPMENT IMPACT FEE

**[21.77-Title 21; NEW CHAPTER-Inactive Applications.]\*\***

SECTION 4. Chapter 21.77 of the Monterey County Code is added to read as follows:

Chapter 21.77  
INACTIVE APPLICATIONS

Sections:

21.77.010-Purpose.

21.77.020-Applicability.

21.77.030-Definition of Inactive Application.

\*\*Titles inserted for context only and will not be included in the final ordinance.

21.77.040-Prior to Deeming an Application Inactive.  
21.77.050-Deeming and Processing Inactive Applications.  
21.77.060-Action by the Appropriate Authority.  
21.77.070-Appeals.

21.77.010-Purpose.

The purpose of this Chapter is to increase efficiency in the processing of inactive applications for entitlements under this Title by providing the necessary tools for both staff and the applicant to move forward in the development review process.

21.77.020-Applicability.

The provisions of this Chapter are applicable to all types of applications for entitlements under this Title.

21.77.030-Definition of Inactive Application.

An inactive application is an application made for entitlements under this Title, where the project applicant has not submitted information, documents and/or fees requested in County correspondence, for a period of at least six (6) consecutive months. An example of such correspondence includes, but is not limited to: a Complete or Incomplete Letter from a land-use agency or department.

21.77.040- Prior to Deeming an Application Inactive.

Prior to deeming an application for an entitlement “inactive”, the Director of Planning or his/her designee, shall mail by certified mail with return receipt, to the owner, as reported on the latest assessment roll, and the applicant and/or agent on file with the application, a courtesy notice alerting that the application will become “inactive” within 30 days of the date of the courtesy notice. The courtesy notice shall include the description of the proposed project, the outstanding information required and/or fees required. The courtesy notice shall outline the following options that the applicant may take:

1. Applicant may withdraw their application in writing. Any unexpended fees shall be refunded to the applicant;
2. Applicant may submit required information and/or fees within no more than 30 days from the date of notice of inactive status. Additional fees to re-activate the application shall be required and the amount shall be specified in the certified courtesy notice to the applicant.
3. Applicant may request in writing that his/her application be kept active. Such written

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request shall be made to the Director of Planning with detail of the reason(s) for the request and the additional time needed with a specific date, to provide additional information and/or fees. Request to keep an application active may include, but not be limited to the following:

- a. Additional time needed for a seasonal survey required; and
- b. Additional time to secure a professional consultant to carry out an analysis required.  
Written request shall be reviewed by the Director of Planning or his/her designee and a determination letter will be sent to the applicant with a decision, including the additional time granted, if the request is approved.

21.77.050-Deeming and Processing Inactive Applications.

A. An application shall be deemed "inactive" if:

1. The applicant does not respond within 30 days of the date on the courtesy notice as described in Section 21.77.040 with their written request to withdraw their application; or
2. The applicant's written request to keep the application active is denied; or
3. The applicant's written request to keep the application active was granted, but the time allotted by the Director of Planning or his/her designee expired and the required information, documentation and/or fees were not submitted.

B. Once the Director of Planning or his/her designee, deems an application "inactive" the following shall be required:

1. The Director of Planning or his/her designee, shall mail by certified mail with return receipt, to the owner, as reported on the latest assessment roll, and the applicant and/or agent on file with the application, a notice alerting that the application has been deemed "inactive". The notice shall include the description of the proposed project, the outstanding information required and/or fees required. The notice shall outline the following options that the applicant may take:

- a. Applicant may withdraw their application in writing. If the application is withdrawn within no more than 30 days from the date of notice, any unexpended fees shall be refunded to the applicant; or
- b. Applicant may submit required information and/or fees within no more than 6 months from the date of notice of inactive status. Additional fees to re-activate the application shall be required and be the amount shall be specified in the certified notice to the applicant.

2. If after the subsequent six (6) months of the date of notice deeming the application inactive, the project applicant does not withdraw his/her application in writing, nor does the applicant provide the required materials and/or fees, including a re-activation fee, the application will be taken forward for denial "without prejudice" pursuant to Section 21.77.060.

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21.77.060- Action by Appropriate Authority.

1. An inactive application shall be taken forward for “denial without prejudice” through an Administrative Hearing process, after six (6) months of the date of notice deeming the application inactive, due to the failure of applicant to provide the required materials and/or fees to process the application. “Without prejudice” means that the applicant would not be subject to County Code provisions that prohibit the filing of a new application that is substantially the same as the application denied within one year.

2. The Director of Planning is the Appropriate Authority to consider Inactive Applications which have been taken forward for denial “without prejudice”.

3. Public notice of the Administrative Hearing to Deny an Inactive Application shall be conducted not less than 10 days prior to the consideration of the denial of the application. The Director of Planning, shall give notice of such consideration by publishing notice in at least one newspaper of general circulation and mailing notice of such consideration to the real property owner, applicant and/or agent and to persons owning property within 300 feet of the exterior boundaries of the subject property. The notice for Administrative Hearing shall include information that a request for public hearing before a separate authority shall be required in writing.

4. Shall a written request for a public hearing be granted, the public notice and public hearing shall be conducted pursuant to Section 21.78.

5. If no public hearing is granted, the Director of Planning shall render his or her determination. The applicant shall be notified in writing of the denial without prejudice of their inactive application. Said notice shall include information relative to appeal rights pursuant to Section 21.77.070.

6. The Appropriate Authority may deny the application for entitlement subject to making the following finding based on substantial evidence:

a. The applicant has failed in providing the required materials and/or fees to process the application within the allotted time pursuant to Chapter 21.77.

21.77.070- Appeals.

An appeal to the Board of Supervisors from the action of the Appropriate Authority may be taken by the aggrieved applicant. The appeal procedures shall be conducted pursuant to Chapter 21.80.

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

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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 \_\_\_\_\_, 2012, by the following vote:

AYES: Supervisors

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Dave Potter, 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:

Wendy S. Strimling  
Senior Deputy County Counsel

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## EXHIBIT D

# The County Streamlining Task Force

January 6, 2012 @ 9:30 a.m.  
2<sup>nd</sup> Floor, Asilomar Room, County Administration Building

## MINUTES

### Attendance:

**Staff:** John A. Huntley – Management Specialist, Monterey County Building Services Department, John Villalpando – Building Official, Monterey County Building Services Department, Carl Holms, Tom Harty – Storm Water, Mike Novo - Planning, Richard LeWarne – Environmental Health, Dorothy Priolo – Salinas Rural Fire, Dawn Vest – Building Services

**Absent:** *Paul Greenway, Benny Young*

**Community:** Ernie Mill – President, Mill Construction, Maureen Wruck – Planning Consultant, Michael Waxer – Vice President, Carmel Development Company, Rob Carver – Carver & Schicketanz Architects, Brian Finegan – Attorney at Law, Frank Pierce – Consulting Engineer, Richard Rudisil – RCA Enterprises, Christie Cromeenes – Executive Director, Salinas Valley Builder's Exchange, Don Chapin – President The Don Chapin Company, Peter Winters – President PH Winters Construction,

**Absent:** *Beverley Meamber, Nathan Stoopes, Norm Groot*

1. **Call to Order:** *Ernie Mill 9:35am*
2. **Self Introductions:** *New members Peter Winters & Dawn Vest, Norm Groot apologized for not making the meeting he had a previously schedule executive board meeting that he could not reschedule.*
3. **General Discussion:**
  - a. Confirm / Discuss meeting format:
    - Minutes being taken by: *Dawn Vest – Building Services*
    - Filling any vacancies in the current Task Force Seats:
      - **Salinas Chamber Exec.** – Beverly Meamber (Acting)
      - **Salinas Builders Exchange Exec.** – Christie Cromeenes
      - **Salinas Chamber Member** – Frank Pierce
      - **Salinas Builders Exchange Member** – Don Chapin
      - **Monterey Builders Exchange Member** – Richard Rudisill
      - **Commercial Contractor** – Ernie Mill
      - **Residential Contractor** – Peter Winters
      - **Land Use Consultant** – Maureen Wruck
      - **Land Use Attorney** – Brian Finegan
      - **Engineer** – Nathan Stoopes
      - **Commercial Architect** – Rob Carver
      - **Residential Architect** – Michael Waxer
      - **Ag Industry** – Norm Groot

- b. *Confirming again that we are meeting the 1<sup>st</sup> Friday of the month from 9:30am – 11:00am.*
- c. *Anything else:*
  - *It was discussed and confirmed that having the County Building Services closed over the Christmas Holidays was not a problem with the industry folks. Most of the offices are either closed or with limited staffing minimizing the amount of business that is going on. Reiterated our purpose and desired intent for meetings to new members.*

**4. New Business:**

- a. *New RMA Director – Summary of Organization Changes*
  - *Receive / Review / Discuss County RMA organization chart*
    - *With Benny's absence, this was tabled until next meeting*
- b. *Board of Supervisors "Stake Holders" input on Inactive Discretionary Permit Applications & Ordinances.*
  - *Mike Novo confirmed that the staff is drafting the ordinance for our review. The draft will be distributed for our review prior to our February 3<sup>rd</sup> meeting.*
- c. *Storm Water Issues: Tom Harty handed out "Water Quality Newsflash from CASQA and summarized the status.*
  - *Recommendations & comments:*
    - *Need to start-up / create a group of staff and several from the industry to meeting and proactively prepare for the new mandates:*
      - *Have plans reviewed for compliance during plan-check*
      - *Have a simple check-list of items for Design Professionals*
      - *Educate inspectors so deficiencies can be caught and corrected before there is a problem*
      - *Brainstorm "Proactive Approach" to the upcoming mandates.....*
      - *Richard Rudisil, Michael Waxer, and Ernie Mill would like to attend these meetings and offer our help*
    - *It was requested to see if staff could produce a "Local" map of impact areas.*
- d. *Cal Green: John Huntley & Carl reviewed*
  - *County needs to work with the General Plan and to include an amended version of the 2010 version of Cal Green.*
  - *Draft of amendment the County contracted out and should be available for review*
  - *Need to have the draft provided to the Task Force for review*
- e. *Community Participation on interview panels to fill vacancies:*
  - *Carl noted the several vacancies that the County is trying to fill. Some of which the interviews have already taken place, and the rest the County will utilize several panelists from the industry.*

- f. *General Plan Implementation & Amendments were discussed:*
  - *Bullet Point Updates should be produced for the use of the industry*
- g. *Loss of Redevelopment Department & moneys was discussed:*
  - *It was recommended that the County should partner with the Industry to maintain current County Redevelopment projects so they are not lost.*
  - *It was suggested that there should be some meetings with the Industry to help with this.*
- h. *OTC - Permitting was discussed:*
  - *John H. confirmed that the County is issuing OTC Permits (water heater replacement, photo-vocalic installations, re-roofs.....)*
  - *It was suggested that many of the OTC Permits being issued Should / Could be "On-line" mostly eliminating staff time.*
  - *OTC Permits were to include Small Additions, T.I's, Remodels, ....*
  - *The Task Force will provide the current staff with the original OTC Permit format and Vision.*
- i. *OTC – Back Check Process was discussed:*
  - *John H. noted that due to having very limited staffing this process is not being offered or used.*
  - *It was suggested that this process could save staff time and County Plan Check \$'s if handled properly.*
  - *The Task Force will provide the current staff with the original OTC – Back Check Process and Vision.*
- j. *Plan check & Permitting Process:*
  - *It was recommended that Staff provide the task force with the current process and flow to see if there might be a way it could be simplified or modified to re-introduce some of the earlier plan check / permitting options.*
- k. *LUAC performance:*
  - *Carl mentioned that the processes modified by this Task Force appear to be in use and working. No additional issues to discuss at this point. They are not being videotaped.*

**5. Future topics:**

- a. *Status of the OTC – Permits Process*
- b. *Status of the OTC – Back Check Process*
- c. *Status of LUAC performance*
- d. *Update/Status on Tree Ordinance Waiver process*
- e. *Update/Status on Vegetation Management*

**Meeting adjourned 11:00am and Next Meeting Date: .....Friday 2/3/12 at 9:30am**



# The County Streamlining Task Force

February 3rd, 2012 @ 9:30 a.m.  
2<sup>nd</sup> Floor, Asilomar Room, County Administration Building

## MINUTES

### Attendance:

**Staff:** Mike Rodriguez, CBO –Building Services; Carl Holm – RMA; Tom Harty – Public Works; Mike Novo – Planning; Richard LeWarne – Environmental Health; Dorothy Priolo – Salinas Rural Fire, Nadia Amador-Planning; Karen Riley-Olms – Building Services; Lori Kapwell – Building Services

**Absent:** *Paul Greenway, Benny Young*

**Community:** Ernie Mill – President, Mill Construction, Michael Waxer – Vice President, Carmel Development Company, Rob Carver – Carver & Schicketanz Architects, Brian Finegan – Attorney at Law, Frank Pierce – Consulting Engineer, Richard Rudisil – RCA Enterprises, , Peter Winters – President PH Winters Construction, Norm Groot

**Absent:** *Maureen Wruck-Planning Consultant; Beverley Meamber, Nathan Stoores, Christie Cromeenes – Executive Director, Salinas Valley Builder's Exchange; Don Chapin – President The Don Chapin Company*

1. **Call to Order:** *Ernie Mill 9:30am*
2. **Self Introductions:** Mike Rodriguez, new Chief Building Official
3. **General Discussion:**
  - a. Confirm / Discuss meeting format:
    - Minutes being taken by: *Lori Kapwell – Building Services*
  - b. Anything else:
    - *Karen Riley-Olms discussed the implementation of the new IVR (online) inspection scheduling. There will also be the ability to schedule by Touch Tone, Voice Mail, or speaking to an operator. Handouts for instruction will be available at next meeting; schedule to go live next month.*
4. **New Business:**
  - a. New RMA Director – Summary of Organization Changes
    - Receive / Review / Discuss County RMA organization chart
      - *With Benny's absence, this was tabled until next meeting*
  - b. Board of Supervisors “Stake Holders” input on Inactive Discretionary Permit Applications & Ordinances.
    - *Nadia Amador, Assistant Planner, presented a preliminary draft ordinance outlining in concept an approach for handling inactive planning applications and gave a background on the referral from the Board of Supervisors: the Board of Supervisors requested that the Planning Department examine options for an ordinance which would establish a deadline for action on planning applications and provide information to the Board regarding implications of such a rule. The purpose of an inactive application ordinance is to streamline and update the planning application*

process. The Board of Supervisors directed Planning staff to consult with stakeholders and found the Streamline Taskforce as the appropriate stakeholder group to discuss the development of an ordinance. The Taskforce considered the approach and found it acceptable with minor changes, such as including a 30 day notice be given before a project status is changed in "inactive" (suggested by Michael Waxer). Also suggested was sending notice of pending "inactivity" and then 2<sup>nd</sup> notice of "inactivity" determination by certified mail to all involved parties (i.e. owner, applicant, agent, etc). There was discussion of having a standard letter to the owners/applicants on how to proceed, to include a checklist. Planner Amador took suggestions and stated Planning Department would integrate suggestions in the Preliminary Draft Ordinance. The concept of the Inactive Application Ordinance will be presented to the Board of Supervisors in late February 2012 where Planning staff will seek direction from the Board to proceed with the formal ordinance adoption which would require a public hearing first with the Planning Commission and then with the Board of Supervisors for final approval.

- c. Storm Water Issues: Michael Waxer & Norm Groot
  - Reference the attached back-up for your review:
    - Civil, Municipal, State, Construction, Cal Trans...Permits
  - Norm Groot discussed that Salinas is the only Phase 1 in our region. It will be six months to continue the hearing to refinance costs for the implementation for the city. This item will be placed back on the agenda in July. The County of Monterey is in Phase II as issued by the State Board. He also stated the State has taken over the Stormwater issues of Ag land and discussed the Regional Board's proceedings on the Ag Order earlier that week.
  - Tom Harty explained how the procedures for the Municipal Permit are similar but separate in jurisdictional requirement. Approximately 90% of the requirements of Phase 1 permits will be included in the Phase II program. He also explained the difference in types of permits and the requirements of each. The Joint Effort is another stormwater program that will require Low Impact Development and Hydrograph Modification for new development and redevelopment in all municipalities throughout the Central Coast, scheduled to be finalized in December of 2012.
- d. Cal Green amended draft?
  - Carl & John H. were producing a draft for our review?
  - Draft to be presented at next meeting
- e. Community Participation on interview panels to fill vacancies:
  - Need to wait for Benny's new organization chart and attendance.
- f. On line permits:
  - What currently exists and how is that working
  - What's next
    - Held for next meeting

- g. Over the Counter
  - o Permits
    - o What currently exists
    - o How is that working
    - o How can we add more
  - Back Check
    - o What currently exists
    - o How is that working
    - o How can we add more
      - *Held for next meeting.*

**5. Future topics:**

- a. *Tree Ordinance*
- b. *Fire Clearance Ordinances*
- c. *Status of LUAC performance*
- d. *Counter – customer friendly & efficiencies*

**Meeting adjourned 11:00am and Next Meeting Date: .....Friday 3/2/12 at 9:30am**

EXHIBIT E

Before the Board of Supervisors in and for the  
County of Monterey, State of California

Resolution No. 12-050

- Resolution of the Monterey County Board of Supervisors to: )
- a. Consider report from staff on proposed approach for processing "inactive" applications for land use entitlements; and )
- b. Adopt a Resolution of Intention to initiate amendments to text provisions of Titles 19 (both Coastal and Inland Subdivision Ordinances), Title 20 (Coastal Zoning Ordinance) and Title 21 (Inland Zoning Ordinance) of the Monterey County Code to establish procedures for processing "inactive" applications for land use entitlements. )
- (Inactive Applications/REF100058) )

RECITALS

WHEREAS, Supervisor Parker requested that staff examine options for adopting an ordinance which would establish a deadline for action on planning permit applications and provide information to the Board regarding the implications of such an ordinance.

WHEREAS, it was identified that the retention of backlog of projects that are not moving forward has impacts by creating workload without revenue in the year in which the work is being done. This workload burden on land use departments' staff impacts other, more current projects. Furthermore, retention of inactive applications also has the potential of analyses and reports prepared for the application growing stale due to change in circumstances.

WHEREAS, on February 15, 2011, Planning staff presented a report to the Board that included a number of recommendations. The Board directed staff to further research the matter and report back. A memorandum was distributed to the Board members on May 30, 2011 which outlined the analysis and additional options.

WHEREAS, on November 15, 2011, staff presented a report to the Board that summarized the research and options and described the proposed stakeholder public outreach meetings. At that time, the Board identified the Permit Streamline Taskforce (Taskforce), generally comprised of representatives from the development industry, as the appropriate stakeholder group to discuss the development of an ordinance addressing inactive applications and directed staff to conduct the stakeholder meetings and report back to the Board by February of 2012.

WHEREAS, on January 6<sup>th</sup> and February 3<sup>rd</sup>, 2012, staff met with the Taskforce. On February 3<sup>rd</sup>, staff presented a preliminary draft ordinance outlining in concept an approach for handling inactive applications. The Task Force considered the approach and found it acceptable with minor changes.

WHEREAS, on February 28, 2012, staff presented a report to the Board that summarized the research, discussion with the Permit Streamlining Taskforce and introduced the conceptual approach for development of the inactive application ordinance. Staff requested the Board accept the concept for drafting inactive application ordinances and adopt a Resolution of Intention to initiate amendments to text provisions of Titles 19 (both Coastal and Inland Subdivision Ordinances), Title 20 (Coastal Zoning Ordinance) and Title 21 (Inland Zoning Ordinance) for the purpose of establishing procedures for the processing "inactive" applications for land use entitlements.

WHEREAS, the Board endorses the approach generally outlined in Exhibit 1 to the February 28, 2012 Staff Report.

WHEREAS, pursuant to Statutory Exemption Section 15262 (Feasibility and Planning Studies), this project is exempt from CEQA because the project involves the feasibility and/or planning analysis for possible future actions (i.e. direction to staff to initiate amendments to Titles 19, 20 and 21 to establish procedures for inactive applications) which the Board has not approved or adopted.

### DECISION

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

- a. Received the report from staff on proposed approach for processing "inactive" applications for land use entitlements; and
- b. Adopted Resolution of Intention 12-050 to initiate amendments to text provisions of Titles 19 (both Coastal and Inland Subdivision Ordinances), Title 20 (Coastal Zoning Ordinance) and Title 21 (Inland Zoning Ordinance) of the Monterey County Code to establish procedures for processing "inactive" applications for land use entitlements under these Titles.

PASSED AND ADOPTED on this 28<sup>th</sup> day of February, 2012, upon motion of Supervisor Parker, seconded by Supervisor Salinas, and carried by those members present, by the following vote, to-wit:

AYES: Supervisors Armenta, Calcagno, Salinas, and Parker

NOES: None

ABSENT: Supervisor Potter

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 76 for the meeting on February 28, 2012.

Dated: February 28, 2012

Gail T. Borkowski, Clerk of the Board of Supervisors  
County of Monterey, State of California

By Denise Hancock  
Deputy

## PROOF OF SERVICE

I am employed in the County of Monterey, State of California. I am over the age of 18 years and not a party to the within action. My business address is 168 W. Alisal Street, 2<sup>nd</sup> Floor, Salinas, California.

On **March 2, 2012** I served a true copy of the following document:

**Board Resolution No. 12-050, Agenda Item S-3 on February 28, 2012 for Inactive Applications (REF100058)**

on the interested parties to said action by the following means:

- (BY HAND-DELIVERY)** By causing a true copy thereof, enclosed in a sealed enveloped, to be hand-delivered.
  
- (BY MAIL)** By placing a true copy thereof, enclosed in a sealed envelope, for collection and mailing on that date following ordinary business practices, in the United States Mail at the Resource Management Agency Planning Department, 168 W. Alisal Street, 2<sup>nd</sup> Floor, Salinas, California, addressed as shown below. I am readily familiar with this business's practice for collection and processing of correspondence for mailing with the United States Postal Service, and in the ordinary course of business, correspondence would be deposited with the United States Postal Service the same day it was placed for collection and processing.
  
- (BY OVERNIGHT DELIVERY)** By placing a true copy thereof, enclosed in a sealed envelope, with delivery charges to be billed to the Resource Management Agency, Planning Department, to be delivered by Overnight Delivery.
  
- (BY FACSIMILE TRANSMISSION)** By transmitting a true copy thereof by facsimile transmission from facsimile number (831) 757-9516 to the interested parties to said action at the facsimile number(s) shown below.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on March 2, 2012, at Salinas, California.

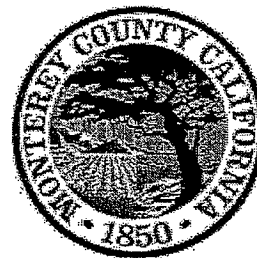
  
Linda M. Rotharmel

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Molly Erickson  
The Open Monterey Project  
479 Pacific Street, Suite 1  
Monterey, CA 93940

Land Watch Monterey  
Attn: Amy White  
PO Box 1876  
Salinas, CA 93902

**MONTEREY COUNTY**  
 RESOURCE MANAGEMENT AGENCY – PLANNING DEPARTMENT



**MEMORANDUM**

**Date:** May 30, 2011

**To:** Board of Supervisors

**From:** Carl P. Holm, AICP, Assistant Director of Planning  
 Mike Novo, AICP, Director of Planning

**Subject:** Discretionary Permits  
 Board Referral No: 2010.26

**cc:** Lew Bauman, Charles McKee, Les Girard, Mike Novo, John Ramirez, Richard LeWarne, Yazdan Emrani, Paul Greenway, Curtis Weeks, Bill Phillips, Mary Zurita

**SUMMARY:**

At times, Monterey County Planning Commission and Board of Supervisors are asked to vote on an application that was submitted years prior to the vote. This potentially creates procedural complexities and policy issues, especially when the application includes a subdivision where the voting body must apply the rules in existence at the time the application was deemed complete. Chair Parker requested that staff examine options for adopting an ordinance that would establish a deadline of three years for acting on discretionary permit applications, and provide information to the Board regarding the implications of such a rule.

**Board Hearing**

The following information was presented to the Board of Supervisors at the February 15, 2011 meeting. Staff researched the current status of discretionary applications. As of January 2011, out of about 30,000 applications:

- |    |  |        |        |
|----|--|--------|--------|
| -  | Approved   | 21,000 | (70%)  |
| -  | Denied   | 1,700  | (5.6%) |
| -  | Condition Compliance   | 1,900  | (6.3%) |
| -  | Inactive Categories for an extended period of time:  | 1,200  | (4.0%) |
| 1) | Pre-Submittal (Pre-Application, Given Out) - 303 where a checklist was presented to an applicant, but no application has been submitted for over one year.   |        |        |
| 2) | Incomplete - 80 where an application was deemed incomplete and there has been no change in status for over one year. The number of applications that have remained incomplete for more than three years is 57. |        |        |
| 3) | Tabled/Suspended - 809 where the application has been in "tabled" or "suspended" status from 4.5 months to 13 years.   |        |        |

There are various reasons why a project can take an extraordinary amount of time to complete the application process. County practice has been to afford applicants the ability to keep applications open indefinitely. As a result, there are numerous applications that have had no activity for multiple years. They remain "on the books," and the County is obligated to continue to process the application at some point in the future. When/if an applicant decides to move forward, no new revenue is collected, unless it was applied for as a "deposit" project, which pays for all of staff time.

Retaining a backlog of projects that are not moving forward impacts all of the land use departments by an unknown, but substantial, workload without revenue in the year in which the work is being done. For many applications that are processed over multiple fiscal years, the revenue was realized several years earlier, that application fee was substantially smaller compared to today's fees and costs, and the amount of time spent over several years is much greater than an application that proceeds at a steady pace to hearing. In years when development applications resulted in substantial revenue, any excess revenue realized during that time was returned as general revenue, not kept within the departments' budgets. Meanwhile, the Department retains a large backlog that impacts workloads resulting in extended timelines for processing recent applications, increased cost for services that are not realized in the fees paid, and staffing imbalances. An analysis done in November 2008 by the Planning Department showed that 59.3% of the revenue for that current year workload (FY 08-09) had been submitted at least 1.5 years prior to that year. As most applications proceed within a few months of application to a decision, this analysis reflected that the majority of staff hours were spent on projects that were not proceeding due to some substantial issue.

At the Board of Supervisors meeting on February 15, 2011, staff presented much of this information and sought direction from the Board of Supervisors. The Board provided the following direction:

- No automatic expiration of inactive permits
- Identify the causes of delays
- Provide information on relevant regulations
- Review how other counties handled older permits
- Conduct outreach to stakeholders
- Notify permit holders in "Incomplete" status of hearings and any proposed changes

#### Next Steps

The Director and Assistant Director of Planning will be discussing options with other land use departments, the County Counsel Office, stakeholders, and affected permit holders (Incomplete and Tabled) on how to address this issue for four different types of "inactive" applications:

- Presubmittals over six months old
- Pre-application Requests
- Incomplete Applications over one year old
- Tabled/Suspended Applications over one year old

Some ideas we will explore include:

- Ordinance changes to allow automatic clearance of inactive applications
- When and how to apply a "continuation/reinstatement" fee, potentially where the project converts to a time and materials ("deposit") basis
- Credit for fees paid on pre-application requests
- How to clear the backlog so the Land Use Departments can better meet timelines
- Notification to applicants when application status changes to an inactive category

After the discussions are completed, we will present options at a future Board of Supervisors meeting for consideration. See attached discussion for details on the four categories described above.



## ATTACHMENT TO MEMO

### DISCUSSION:

State law requires that an application for a development project be determined either "complete" or "incomplete" within 30 days of the application submittal, with limited exceptions. An application for a discretionary permit is deemed "complete" by staff when an applicant has provided all the information specified by staff to begin processing the application. For applications that involve a subdivision, State law requires, with some exceptions, that the rules in effect when the application is determined "complete" remain with the project until a decision is made on the application. Other types of applications are subject to the rules in effect when the decision is made on the application.

There are multiple stages of processing an entitlement and there are various reasons why an application may not progress timely. The most significant group of applications that affect the County workload is those in "incomplete" status. A large number of "incomplete" applications require some minimal new information or changes to the design. Those applications tend to keep moving through the process. However, often times, many "incomplete" applications cause years of debate and meetings between the applicants and staff trying to resolve difficult issues. This takes staff time away from processing other projects, resulting in processing delays for other applicants. In addition, it increases the cost of processing the application without an ability to realize additional revenue to cover these increased costs.

In Staff's experience, as long as the applicant continues to progress the matter, they should be afforded the ability to continue the process as long as it takes. However, some projects do not progress timely due to a disagreement between staff and the applicant. Government Code section 65956(c) allows a local agency to disapprove development project applications based on an applicant's failure to provide complete or adequate information. Staff has recently brought forward stalled applications with a recommendation to deny the applications and/or provide direction regarding the disputed issue(s). The direction thus far has been to allow the applicants to continue expending money to solve their particular constraint. However, there is no additional revenue for staff to continue to review this new information, and the excess energy for this type of project takes time away from other applications that have met the applicable requirements.

Staff sizes are based on current budget year revenues. When a significant amount of processing work is done years after the revenue is realized, an imbalance occurs between the number of staff needed to do the work versus the number of staff budgeted for that year. With discretionary permit revenue down substantially, staff reductions have occurred. However, the workload from many of these older projects remains, causing a heavy workload burden on land use departments' staff that impact other, more current, projects. As staff reductions have occurred over the last several years, this problem has compounded, throwing land use permit revenues significantly out of balance with land use department workloads.

There are four stages of the process where it is the applicant's sole responsibility to progress the project. Staff would like to explore ways with stakeholders to reduce the number of applications submitted that have not solved critical issues, such as water, wastewater, or access. However, staff would recommend developing a process to avoid stalled projects remaining in the application process when there is no solution in sight because there is currently no such mechanism in our County Code. We cannot prevent someone from applying, so technically they could reapply even if these issues are not resolved.

Staff would like to explore options with stakeholders for how the County could close out certain projects that have stalled, and to develop ordinances establishing a process to close out some of these cases on a more regular basis. Where applications may be denied due to issues preventing timely progress, applicants could be afforded the ability to reapply when the issues that are keeping the project from moving forward have been addressed. The intent is to move toward a process that encourages applications that demonstrate solutions to critical issues, such as long-term sustainable water supply. We firmly believe that this would

benefit the applicants as much as, if not more than, it would benefit staff. An overview of what staff would like to explore is included below.

#### A. PRE-SUBMITTAL

Applicants are encouraged to submit an Application Request with conceptual plans. Planning Department Staff reviews the plans and the site to see whether the project meets County policies and regulations, and offers suggestions for good planning practices that may better meet County objectives for development and natural resource protection. When a property owner submits an Application Request, the application is considered to be in the "Request" stage.

In response to an Application Request, Planning staff develops a checklist to inform an applicant as to what materials/documents are to be submitted with an application. When staff delivers the checklist to the applicant, the application is in what is considered the "Given Out" stage of the process. At this point, responsibility to progress the application lies solely with an applicant until an application is submitted. Depending on the project, the applicant is encouraged to discuss their project with other land use departments prior to expending substantial funds on application materials and technical reports.

Monterey County has approximately 385 projects that are considered to be in the pre-submittal stages (pre-application, request, given out). The timeframe for applications at this stage of the process ranges from recent applications to 10 years. Staff researched the number of applications either at the "Request" stage or with a status of "Given Out" (application checklist given out but no application submitted):

Less than 6 months	62
6 months to 1 year	15
1-3 years	101
Over 3 years	202

#### Options being reviewed:

Applications filed within six months receive 100% of the Application Request fee applied to the application fee. Applications filed after six months have no part of the application request fee applied to the application fee. The reasoning is that circumstances can change in six months, especially while we are in the process of updating Code relative to the 2010 General Plan.

- No change and require a new application after six months.
- Draft an ordinance establishing a process for future applications whereby the Director of Planning could issue applicants a notice of intent to close the file for all applications in the "request" stage or with a status of "given out" if there has been insufficient activity by the applicant (e.g.; more than six months). This removes the project from "active" status.
- Eliminate the Application Request step in the process for design professionals, or for all submittals

Since the Application Request fee is not applied to an application after six months, these actions create no financial impact to the applicant. There is nothing to prevent an owner from initiating the application process again when they are ready.

#### B. PRE-APPLICATION

A formal pre-application meeting with County land use agencies is offered to applicants, typically for larger or more complex projects. The County requires a deposit up front, and each agency charges their actual time to attend, and prepare for, this meeting. This meeting is designed to give an applicant an opportunity to

interact directly with County agencies early in the process and for the agencies to offer insight as to any issues/constraints relative to their project. Immediately following the pre-application meeting, an application checklist is prepared and presented with minutes of the meeting; however, no part of the pre-application is applied to the application fee. Since this is an added cost and optional process, few applicants select this process.

Options being reviewed:

- Amend the fee resolution so that a portion of the pre-application fee is applied to the application fee.
- No changes
- Apply the entire pre-application fee to the application. Other departments will need to analyze the benefits of this pre-application process to determine if a reduction of staff hours results.

**C. INCOMPLETE APPLICATIONS**

Applications deemed “incomplete” have been allowed to continue to search for a solution when issues are discovered through the application review process. There is currently no specific authority in Code for staff to do anything with these applications. As such, they remain “on the books” indefinitely. If an applicant decides to move forward, there is no new revenue required to pay for the service to process the application. Often times, however, the issues causing the application to be incomplete are substantial and substantial amount of staff time is expended working with the applicants on finding solutions.

Up to the point staff deems an application “complete/incomplete,” the applicant may request a refund that shall not exceed 50% of the application fee. Per the County Code, no refund may be granted once an application is deemed Complete/Incomplete.

Monterey County has approximately 111 projects that are deemed “incomplete.” The timeframe for applications at this stage of the process ranges from the recently deemed incomplete to 10.3 years. Staff researched the number of applications that are in “incomplete” status:

Less than 1 year	31
1 - 2 years	15
2 - 3 years	8
Over 3 years	57

Options being reviewed:

Staff finds that projects that have remained incomplete for three years or more have significant issues that cannot be easily resolved or the applicant has lost interest in pursuing the application. In either case, staff would recommend developing a process for clearing this backlog.

Options to be discussed include:

- Identify which projects are still active and are working toward resolution. For applications incomplete for a short time, take no action.
- For projects where a solution is not foreseeable, after one year an applicant is notified of the County’s intent to take the matter forward for denial “without prejudice” unless all issues are resolved within a limited amount of time. Denial “without prejudice” would mean that the applicant would not be subject to County Code (e.g. Section 21.76.090 MCC) provisions that prohibit a new application that is substantially the same as the application denied within one year.
- Offer the ability to withdraw the application. This includes the possibility of code changes to allow a refund of all unexpended fees.

- Amend the fee resolution to include a fee to “extend application review” where a project has been deemed incomplete for some extended time period, such as more than one year. The project becomes a deposit project and is charged on a time and materials basis for all direct costs.

#### **D. TABLED/SUSPENDED**

Where projects have been deemed complete and then a significant issue arises that prevents the process from moving forward positively, staff has applied a status of “tabled” or “suspended.” Monterey County has approximately 809 projects that are considered to be in “tabled” or “suspend” status. The timeframe for projects to be in this status ranges from 132 days (4+ months) to 13 years.

##### Options being reviewed:

Staff finds that projects that have remained tabled or suspended for one year or more generally have significant issues that cannot be resolved or the applicant has lost interest to progress the matter. In either case, staff would recommend developing a process similar to that described above for incomplete applications.