

## MONTEREY COUNTY PLANNING COMMISSION

<b>Meeting:</b> February 26, 2014    Time: 10:00 a.m.	<b>Agenda Item No.:</b> 4
<b>Project Description:</b> Ordinance amending Title 19 (Non-coastal subdivision ordinance) and Title 21 (Non-coastal zoning ordinance) of the Monterey County Code to establish notification and hearing procedures to address inactive land use discretionary permit applications.	
<b>Project Location:</b> Non-coastal areas, County-wide	<b>APN:</b> Non-coastal areas, County-wide
<b>Planning File Numbers:</b> REF100058 (Non-coastal ordinance)	<b>Owner:</b> N/A
<b>Planning Area:</b> Inland, County-wide	<b>Flagged and staked:</b> No
<b>Zoning Designation:</b> : N/A	
<b>CEQA Action:</b> This ordinance is not a project under the California Environmental Quality Act (CEQA) per CEQA Sections 15060 (c)(3) and 15378 (b)(5).	
<b>Department:</b> RMA - Planning	

### RECOMMENDATION:

Staff recommends that the Planning Commission adopt the following resolution (**Exhibit A**) recommending that the Board of Supervisors take the following action:

- 1) Find that the ordinance is not a project under the California Environmental Quality Act (CEQA) per CEQA Sections 15060 (c)(3) and 15378 (b)(5) because the ordinance is an organizational or administrative activity of government that will not result in direct or indirect physical changes in the environment; and
- 2) Adopt the ordinance amending Title 19 (Non-coastal subdivision ordinance) and Title 21 (Non-coastal zoning ordinance) of the Monterey County Code to establish notification and hearing procedures to address inactive land use discretionary permit applications.

### OVERVIEW:

On February 28, 2012, the Monterey County Board of Supervisors adopted a Resolution of Intention (Resolution No. 12-050, **Exhibit B**) to initiate amendments to text provisions of Titles 19 (both coastal and inland subdivision ordinances), Title 20 (coastal zoning) and Title 21 (non-coastal zoning) to put in place procedures by means of an ordinance that would establish a deadline for acting on inactive applications. The Board recognized that indefinite retention of inactive applications creates several problems, including: creation of a backlog of applications whose status is uncertain; diversion of resources away from processing active applications; technical reports and information becoming outdated prior to the application being heard; inefficiencies in processing the application; and excess costs not covered by the application fee.

As of July 1, 2013, the Monterey County Resource Management Agency-Planning Department has 2,925 land use discretionary project applications which had no activity for at least 6 months, but which applicants had not withdrawn. Although these applications have had no activity for 6 months, the actual inactivity timeframe vary from application to application, some being inactive for over 15 years.

This ordinance, attached in **Exhibit A-Attachment 1**, is intended to establish consistent and fair procedures to enable the County to make a final disposition of inactive applications while providing notification and opportunity to applicants to take the necessary steps to keep their

applications active if they so choose. A flow chart of the process is shown in **Exhibit C**. The proposed ordinance only includes amendments to the non-coastal zoning texts Title 19 (non-coastal subdivision ordinance) and Title 21 (non-coastal zoning ordinance). Staff will be processing a coastal ordinance in the near future.

Outreach conducted thru the Streamlining Task Force (STF) and Planning Commission Workshop:

A preliminary draft ordinance came before the STF in February of 2012. At that time, the STF found the ordinance acceptable with suggested changes that included noticing to all parties involved (i.e. owner, agent, etc.) when an application was identified as a stagnant and again, when the application is deemed “inactive”. These changes were incorporated into the draft ordinance and staff proceeded to go before the Planning Commission for a public workshop on June 27, 2012.

At the conclusion of the public workshop, the Planning Commission directed staff to further revise the ordinance in order to make the steps clearer as they believed the draft ordinances were redundant as to when the subject applications would be deemed “inactive”. The suggested revisions have been integrated in the attached draft ordinance.

Additional Changes:

Staff has integrated additional changes to the draft ordinance (see **Exhibit A- Attachment 1**), that were not incorporated in the preliminary draft ordinance reviewed by the STF. These changes include the following with an explanation in italic font:

- Staff has deleted sentences under “Courtesy Notice Prior to Deeming an Application Inactive” sections referring to a refund from the County if an applicant would withdraw his or her application. The refund was in accordance with the County Code.
  - *Explanation: After careful analysis, staff found that according to the County Code, a refund of 50% of the filing fee would be reimbursed **if** the refund is requested in writing concurrent with the withdrawal of the permit application **and** provided that the applicant has not been sent a written notice of complete or incompleteness. This refund criteria would never apply to inactive applications, since a complete or incompleteness letter would be sent to the applicant by the County within no less than 30 days of application filing, pursuant to State law (884 letter) making inactive applications not candidates for refund since it takes at least 6 months from date of filing of the application to determine if the application has been inactive. Referring to County Code for refund policy on this inactive ordinance, would only provide “false hope” of a refund to the applicant.*
- Staff has changed the Appropriate Authority to consider inactive applications from the Director of Planning deciding on all inactive applications to the corresponding Appropriate Authority according to the application type. For instance, if the application filed is for a discretionary permit that would require the approval of such permit by the Zoning Administrator, the inactive application would go before the Zoning Administrator for consideration.
  - *Explanation: Staff had initially suggested an administrative denial process where inactive applications, regardless of the type of application, would be considered by the Director of Planning, similar to the Administrative Permit application*

*process where public noticing is required but not public hearings, unless a public hearing was requested, than the application goes before a public hearing. This process was analyzed further by staff and staff found that the process would be very complicated if the matter was referred to a public hearing by petition of the applicant or neighbors, costing the County additional time and resources for noticing and staff reports. Therefore, staff is now proposing that the Appropriate Authority to consider the inactive applications is the same Appropriate Authority that would consider that type of application in the first place. This would alleviate the unnecessary redundancies of staff report writing and noticing. Furthermore, this process also provides due process.*

**ENVIRONMENTAL REVIEW:**

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

**CONCLUSION:**

Staff recommends that the Planning Commission adopt the attached resolution (**Exhibit A**) recommending that the Board of Supervisors take the following action:

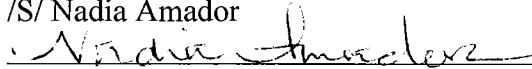
- 1) Find that the ordinance is not a project under the California Environmental Quality Act (CEQA) per CEQA Sections 15060 (c)(3) and 15378 (b)(5) because the ordinance is an organizational or administrative activity of government that will not result in direct or indirect physical changes in the environment; and
- 2) Adopt the ordinance (**Attachment 1 of Exhibit A**) amending Title 19 (Non-coastal subdivision ordinance) and Title 21 (Non-coastal zoning ordinance) of the Monterey County Code to establish notification and hearing procedures to address inactive land use discretionary permit applications.

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

- RMA-Public Works Department
- Water Resources Agency
- Parks Department
- Fire Department

County Counsel has approved the ordinance as to form.

/S/ Nadia Amador



Nadia Amador, Associate Planner

Long Range Planning Team

(831) 755-5114, amadorn@co.monterey.ca.us


February 14, 2014

cc: Front Counter Copy; Planning Commission; All LUACs; Fire Protection District Representatives; RMA-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 (Molly Erickson); LandWatch (Amy White); Streamlining Task Force (Ernie Mill); John S. Bridges, Fenton & Keller; Christine Williams; Planning File REF100058 (Inland).

Attachments: Exhibit A Draft Planning Commission Resolution, including:

- Attachment 1- Draft Non-Coastal Ordinance

Exhibit B Board of Supervisors, Resolution of Intention No. 12-050  
Exhibit C Inactive Application Flowchart

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

# **Exhibit A**

## **Draft Planning Commission Resolution**

This page intentionally left blank.

## EXHIBIT A- DRAFT RESOLUTION

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

#### RESOLUTION NO. ----

Resolution by the Monterey County Planning Commission recommending that the Board of Supervisors take the following action:

- 1) Find that the ordinance is not a project under the California Environmental Quality Act (CEQA) per CEQA Sections 15060 (c)(3) and 15378 (b)(5) because the ordinance is an organizational or administrative activity of government that will not result in direct or indirect physical changes in the environment; and
- 2) Adopt the ordinance amending Title 19 (Non-coastal subdivision ordinance) and Title 21 (Non-coastal zoning ordinance) of the Monterey County Code to establish notification and hearing procedures to address inactive land use discretionary permit applications.

[REF100058, Ordinance for Inactive Land Use Discretionary Permit Applications, Non-Coastal Ordinance, County-wide]

**The proposed ordinance (REF100058) amending Title 19 (Non-coastal subdivision ordinance) and Title 21 (Non-coastal zoning ordinance) of the Monterey County Code to establish notification and hearing procedures to address inactive land use discretionary permit applications, came on for public hearing before the Monterey County Planning Commission on February 26, 2014. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Planning Commission forwards the following recommendation to the Board of Supervisors with reference to the following facts:**

#### RECITALS

1. As of July 1, 2013, the Monterey County Resource Management Agency-Planning Department has 2,925 applications for discretionary entitlements for land use projects which had no activity for at least six consecutive months but which applicants had not withdrawn.
2. Indefinite retention of such inactive applications creates several problems, including: creation of a backlog of applications whose status is uncertain; diversion of resources away from processing active applications; technical reports and information becoming outdated prior to the application being heard; inefficiencies in processing the application; and excess costs not covered by the application fee.

3. On February 28, 2012, the Monterey County Board of Supervisors adopted a Resolution of Intention (Resolution No. 12-050) to initiate amendments to text provisions of Title 19 (both coastal and inland subdivision ordinances), Title 20 (coastal zoning), and Title 21 (inland zoning) to put in place procedures for acting on inactive applications.
4. This ordinance is intended to establish consistent and fair procedures to enable the County to make a final disposition of inactive applications while providing notification and opportunity to applicants to take the necessary steps to keep their applications active if they so choose.
5. The establishment of notification and hearing procedures for inactive applications serves the public health, safety, and welfare by addressing the problems associated with indefinite retention of inactive applications while providing notice and opportunity to applicants to be heard.
6. This ordinance is not a project under the California Environmentally Quality Act (CEQA) per CEQA Guidelines Sections 15060(c) (3) and 15378(b)(5) because the ordinance is an organizational or administrative activity of government that will not result in direct or indirect physical changes in the environment.
7. A public hearing on the proposed ordinance was duly noticed for February 26, 2014 in the Monterey County Weekly at least ten days prior to the hearing. Notice was also given to interested parties.

### DECISION

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

- 1) Find that the ordinance is not a project under the California Environmental Quality Act (CEQA) per CEQA Sections 15060 (c)(3) and 15378 (b)(5) because the ordinance is an organizational or administrative activity of government that will not result in direct or indirect physical changes in the environment; and
- 2) Adopt the ordinance amending Title 19 (Non-coastal subdivision ordinance) and Title 21 (Non-coastal zoning ordinance) of the Monterey County Code to establish notification and hearing procedures to address inactive land use discretionary permit applications.

**PASSED AND ADOPTED** this 26th day of February, 2014 upon motion of \_\_\_\_\_, seconded by \_\_\_\_\_, by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

---

Mike Novo, Secretary



**Attachment 1 to Exhibit A**

**Draft Ordinance**

This page intentionally left blank.

**Attachment 1 to Exhibit A  
Draft Non-Coastal Ordinance**

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

**AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA, AMENDING  
TITLE 19 (NON-COASTAL SUBDIVISION ORDINANCE) AND TITLE 21 (NON-COASTAL  
ZONING ORDINANCE) OF THE MONTEREY COUNTY CODE TO ADD REGULATIONS  
RELATED TO INACTIVE DISCRETIONARY LAND USE PERMIT APPLICATIONS.**

**County Counsel Summary**

*This ordinance amends Title 19 (non-coastal subdivision ordinance) and Title 21 (non-coastal zoning ordinance) of the Monterey County Code to establish notification and hearing procedures to address inactive discretionary land use permit applications.*

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

**SECTION 1. FINDINGS AND DECLARATIONS.**

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

B. As of July 1, 2013, the Monterey County Resource Management Agency-Planning Department has 2,925 applications for discretionary entitlements for land use projects which had no activity for at least six consecutive months but which applicants had not withdrawn.

C. Indefinite retention of such inactive applications creates several problems, including: creation of a backlog of applications whose status is uncertain; diversion of resources away from processing active applications; technical reports and information becoming outdated prior to the application being heard; inefficiencies in processing the application; and excess costs not covered by the application fee.

D. On February 28, 2012, the Monterey County Board of Supervisors adopted a Resolution of Intention (Resolution No. 12-050) to initiate amendments to text provisions of Title 19 (both coastal and inland subdivision ordinances), Title 20 (coastal zoning), and Title 21 (inland zoning) to put in place procedures for acting on inactive applications.

E. This ordinance is intended to establish consistent and fair procedures to enable the County to make a final disposition of inactive applications while providing notification and opportunity to applicants to take the necessary steps to keep their applications active if they so choose.

F. The establishment of notification and hearing procedures for inactive applications serves the public health, safety, and welfare by addressing the problems associated with indefinite retention of inactive applications while providing notice and opportunity to applicants to be heard.

G. This ordinance is not a project under the California Environmentally Quality Act (CEQA) per CEQA Guidelines Sections 15060(c) (3) and 15378(b)(5) because the ordinance is

an organizational or administrative activity of government that will not result in direct or indirect physical changes in the environment.

SECTION 2. The Table of Contents of Chapter 19.01 of Title 19 (non-coastal subdivision ordinance) of the Monterey County Code is amended to add section 19.01.100 as follows:

19.01.100 Inactive applications.

SECTION 3. Section 19.01.100 of Title 19 (non-coastal subdivision ordinance) of the Monterey County Code is added to read as follows:

19.01.100 Inactive applications.

- A. When an applicant for a discretionary land use entitlement under this Title has not submitted information, documents, or associated land use application fees requested by the County for a period of at least six (6) consecutive months, the process outlined in this section shall be followed to determine if the application is inactive.
- B. **Courtesy Notice Prior to Deeming an Application Inactive.**  
Prior to deeming an application for an entitlement inactive, the Director of Planning shall mail a courtesy notice providing notice that the application will become inactive within thirty (30) calendar days of the date of mailing of the courtesy notice, unless the applicant takes one of the options outlined in the notice. The courtesy notice shall include the description of the proposed project and the outstanding information required and/or application fees required, if applicable. The courtesy notice, as well as further correspondence from the Director of Planning required by this subsection, shall be mailed to all of the following: the property owner as shown in the latest assessment roll; the applicant (if different from the owner); and the applicant's authorized agent, if any. The courtesy notice shall outline the options available to applicant as set forth in subsection C. below.
- C.
  1. The applicant may withdraw his/her/its application in writing.
  2. The application shall remain in active status if the applicant takes one of the following steps:
    - a. The applicant may submit the outstanding information (required information and/or outstanding application fees, as identified by the County in the courtesy notice) within no more than thirty (30) calendar days from the date of mailing of the courtesy notice together with such additional application fees as County may require to reactivate the application.
    - b. The applicant may request in writing within thirty (30) calendar days from the date of mailing of the courtesy notice that his/her/its application be kept active. Such written request shall be made to the Director of Planning with a detailed explanation of the reason(s) for the request and the additional time needed to provide the requested information and/or application fees. Such reasons may include by way of example and not by limitation, additional time needed to

conduct a required seasonal biological survey or to secure a professional consultant to carry out a required analysis. The Director of Planning shall review the written request and provide the applicant a written determination, approving or denying the request. If the Director of Planning grants the applicant's request, the written determination shall specify the additional time granted.

3. If a change of ownership of the property that is the subject of the application has occurred between the submittal of the application and the receipt of the courtesy notice, the new owner may reactivate the application only upon payment of such new application fees and update of the application as the County may require and submittal of such outstanding information as County has identified. Change of ownership means a change of ownership as determined by the County Assessor pursuant to the California Revenue and Taxation Code.

D. Deeming an Application Inactive.

An application shall be deemed inactive under any of the following circumstances:

1. The applicant takes none of the steps outlined in Section 19.01.100 (C) above within thirty (30) calendar days from the date of mailing of the courtesy notice;
2. The applicant within thirty (30) calendar days from the date of mailing of the courtesy notice makes a written request to keep the application active, but the Director of Planning denies applicant's request;
3. The applicant within thirty (30) calendar days from the date of mailing of the courtesy notice makes a written request to keep the application active and the Director of Planning grants the request, but the applicant does not submit the required information, documentation and/or application fees within the time allotted by the Director of Planning;
4. The applicant fails to pay such application fees as County may require to reactivate the application.

E. Notice of Inactive Application.

After the Director of Planning has deemed an application inactive, the following steps are required prior to the County denying an application on the basis of inactivity:

1. The Director of Planning shall provide written notice to the property owner as shown in the latest assessment roll, the applicant (if different from the owner), and the applicant's authorized agent, if any, that the application has been deemed inactive. The notice shall include the description of the proposed project, the outstanding information required and/or application fees required. The notice shall outline the options available to the applicant or set forth in subsection E.2 below.
2.
  - a. The applicant may withdraw his/her/its application in writing within one hundred and eighty (180) calendar days of the date of mailing of the notice of inactive application;
  - b. The applicant within no more than one hundred and eighty (180) calendar days of date of mailing of the notice of inactive application may submit required information and/or outstanding application fees together with such additional application fees as County may require to reactivate the application.

3. If after more than one hundred and eighty (180) calendar days of the date of mailing of the notice of inactive application the applicant does not withdraw his/her/its application in writing or does not provide the required information and/or application fees, including a reactivation fee, staff will schedule the application for a public hearing by the Appropriate Authority with a recommendation of denial.

F. Action by Appropriate Authority.

1. The Appropriate Authority to hear inactive applications shall be the person, official, or body designated by Title 19 of the Monterey County Code as the Appropriate Authority to act on the type of permit that is the subject of the inactive application.
2. Notice of the public hearing on the inactive application shall be given pursuant to Section 19.01.055 of Title 19 (non-coastal) of the Monterey County Code.
3. The Appropriate Authority may deny the inactive application if the Appropriate Authority finds, based on substantial evidence, that the applicant has failed to provide complete or adequate information or failed to provide application fees required by the County to process the application.

G. Appeals.

An appeal may be taken from the action of the Appropriate Authority pursuant to Chapter 19.16 of this Title.

H. Notwithstanding any other provision of this Section 19.01.100, if an inactive application for a subdivision or lot line adjustment is part of a Combined Development Permit, the County shall process the inactive application in accordance with Chapter 21.77 of Title 21 of the Monterey County Code.

I. Exemption.

This Section 19.01.100 shall not apply to applications for subdivisions which have been deemed complete prior to the effective date of Ordinance No. ~~XXXXXX~~ adopting Section 19.01.100.

SECTION 4. The Table of Contents of Title 21 of the Monterey County Code is amended to add Chapter 21.77 as follows:

**Chapter 21.77- INACTIVE APPLICATIONS**

SECTION 5. 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 Inactive application.

### **21.77.010 Purpose.**

The purpose of this Chapter is to increase efficiency in the processing of applications for entitlements under this Title by establishing consistent and fair procedures to enable the County to make final disposition of inactive applications while providing notification and opportunity to applicants to take the necessary steps to keep their applications active if they so choose.

### **21.77.020 Applicability.**

The provisions of this Chapter are applicable to all types of land use entitlements under this Title.

### **21.77.030 Inactive application.**

- A. When an applicant for a discretionary land use entitlement under this Title has not submitted information, documents, or associated land use application fees requested by the County for a period of at least six (6) consecutive months, the process outlined in this section shall be followed to determine if the application is inactive.
  
- B. **Courtesy Notice Prior to Deeming an Application Inactive.**  
Prior to deeming an application for an entitlement inactive, the Director of Planning shall mail a courtesy notice providing notice that the application will become inactive within thirty (30) calendar days of the date of mailing of the courtesy notice, unless the applicant takes one of the options outlined in the notice. The courtesy notice shall include the description of the proposed project and the outstanding information required and/or application fees required, if applicable. The courtesy notice, as well as further correspondence from the Director of Planning required by this subsection, shall be mailed to all of the following: the property owner as shown in the latest assessment roll; the applicant (if different from the owner); and the applicant's authorized agent, if any. The courtesy notice shall outline the options available to applicants as set forth in Section 21.77.030.C below.
  
- C.
  - 1. The applicant may withdraw his/her/its application in writing.
  - 2. The application shall remain in active status if the applicant takes one of the following steps:
    - a. The applicant may submit the outstanding information (required information and/or outstanding application fees as identified by the County) within no more than thirty (30) calendar days from the date of mailing of the courtesy notice together with such additional application fees as County may require to reactivate the application.
    - b. The applicant may request in writing within thirty (30) calendar days from the date of mailing of the courtesy notice that his/her/its application be kept active. Such written request shall be made to the Director of Planning with a detailed explanation of the reason(s) for the request and the additional time needed to

provide the requested information and/or application fees. Such reasons may include by way of example and not by limitation, additional time needed to conduct a required seasonal biological survey or to secure a professional consultant to carry out a required analysis. The Director of Planning shall review the written request and provide the applicant a written determination, approving or denying the request. If the Director of Planning grants the applicant's request, the written determination shall specify the additional time granted.

3. If a change of ownership of the property that is the subject of the application has occurred between the submittal of the application and the receipt of the courtesy notice, the new owner may reactivate the application only upon payment of such new application fees and update of the application as the County may require and submittal of such outstanding information as County has identified. Change of ownership means a change of ownership as determined by the County Assessor pursuant to the California Revenue and Taxation Code.

D. Deeming an Application Inactive.

An application shall be deemed inactive under any of the following circumstances:

1. The applicant takes none of the steps outlined in subsection (C) above within thirty (30) calendar days from the date of mailing of the courtesy notice;
2. The applicant within thirty (30) calendar days from the date of mailing of the courtesy notice makes a written request to keep the application active, but the Director of Planning denies applicant's request;
3. The applicant within thirty (30) calendar days from the date of mailing of the courtesy notice makes a written request to keep the application active and the Director of Planning grants the request, but the applicant does not submit the required information, documentation and/or application fees within the time allotted by the Director of Planning;
4. The applicant fails to pay such application fees as County may require to reactivate the application.

E. Notice of Inactive Application.

After the Director of Planning has deemed an application inactive, the following steps are required prior to the County denying an application on the basis of inactivity:

1. The Director of Planning shall provide written notice to the property owner as shown in the latest assessment roll, the applicant (if different from the owner), and the applicant's authorized agent, if any, that the application has been deemed inactive. The notice shall include the description of the proposed project, the outstanding information required and/or application fees required. The notice shall outline the options available to the applicant or set forth in subsection E.2 below.
2.
  - a. The applicant may withdraw his/her/its application in writing within one hundred and eighty (180) calendar days of the date of mailing of the notice of inactive application;
  - b. The applicant within no more than one hundred and eighty (180) calendar days of date of mailing of the notice of inactive application may submit required information and/or outstanding application fees together with such additional application fees as County may require to reactivate the application.



3. If after more than one hundred and eighty (180) calendar days of the date of mailing of the notice of inactive application the applicant does not withdraw his/her/its application in writing or does not provide the required information and/or application fees, including a reactivation fee, staff will schedule the application for a public hearing by the Appropriate Authority with a recommendation of denial.

F. Action by Appropriate Authority.

1. The Appropriate Authority to hear inactive applications shall be the person, official, or body designated by Title 21 of the Monterey County Code to act on the type of permit that is the subject of the application.
2. Notice of the public hearing on the inactive application shall be given pursuant to the notice requirements applicable to the specific type of land use application (i.e., Chapter 21.70 (Administrative Permits) or Chapter 21.78 (other permit types).
3. The Appropriate Authority may deny the inactive application if the Appropriate Authority finds, based on substantial evidence, that the applicant has failed to provide complete or adequate information or failed to provide application fees to process the application.

G. Appeals.

An appeal may be taken from the action of the Appropriate Authority pursuant to Chapter 21.80.

SECTION 6. 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 7. EFFECTIVE DATE. This ordinance shall become effective on the thirty-first day following its adoption.

PASSED AND ADOPTED on this \_\_\_ day of \_\_\_\_\_, 2014, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

---

LOUIS R. CALCAGNO, CHAIR  
Monterey County Board of Supervisors

ATTEST:

GAIL T. BORKOWSKI  
Clerk of the Board of Supervisors

APPROVED AS TO FORM:  
  
Wendy S. Strimling  
Senior Deputy County Counsel

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

**Exhibit B**

**Board of Supervisors**

**Resolution of Intention No. 12-050**

This page intentionally left blank.

**Exhibit B**  
**Board of Supervisors,**  
**Resolution of Intention**  
**No. 12-050**

S-3

**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

# **Exhibit C**

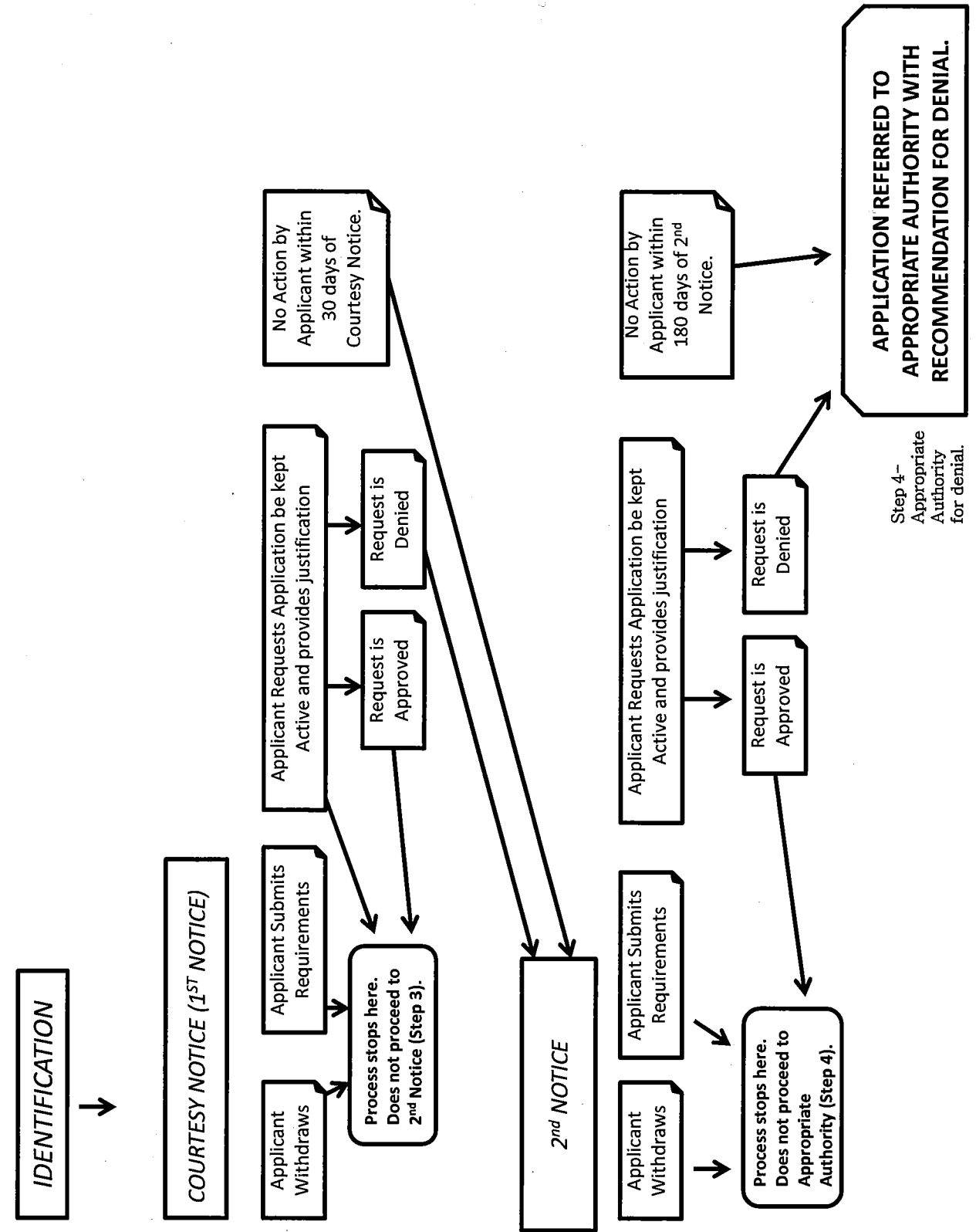
## **Inactive Application Flowchart**

**This page intentionally left blank.**



## EXHIBIT C

# Flowchart of the Inactive Discretionary Permit Application Process



Step 1-  
**IDENTIFICATION:**  
 Planning staff identifies if filed discretionary application has had no activity for 6 months.

Step 2-  
**COURTESY NOTICE:**  
 1<sup>st</sup> Notice sent with options to applicant to act upon within 30 days of notice.

Step 3- **2<sup>ND</sup> NOTICE:**  
 30 days after **COURTESY NOTICE** is sent, a **2<sup>ND</sup> NOTICE** is sent if applicant did not withdraw, submitted required application materials, or request for active request was denied (see Courtesy Notice options). This **2<sup>nd</sup> Notice** gives applicant another opportunity to choose from options stated here. If at 180 days of **2<sup>nd</sup> Notice**, application is deemed inactive, the application proceeds to **APPROPRIATE AUTHORITY** with recommendation for denial.

Step 4-  
 Appropriate Authority for denial.