

## MONTEREY COUNTY BOARD OF SUPERVISORS

<b>Meeting:</b> October 26, 2010		<b>Agenda Item No.</b>
<b>Project Description:</b> Public Hearing (continued from October 12, 2010) for the Board of Supervisors to consider:		
<ul style="list-style-type: none"> <li>a. Adopting a resolution certifying the Final Environmental Impact Report (EIR) and adopting CEQA findings, a Statement of Overriding Considerations; and a Mitigation Monitoring and Reporting Program;</li> <li>b. Adopting a resolution adopting the 2010 Monterey County General Plan;</li> <li>c. Providing direction to staff for implementation of the 2010 General Plan; and</li> <li>d. Providing direction to staff for an interim ordinance.</li> </ul> (General Plan Update – PLN070525/County of Monterey)		
<b>Project Location:</b>	Unincorporated County (non-coastal)	<b>APN:</b> Countywide
<b>Planning Number:</b>	PLN070525	<b>Name:</b> County of Monterey
<b>Plan Area:</b>	Cachagua, Carmel Valley, Central Salinas Valley, Greater Monterey Peninsula, Fort Ord, Greater Salinas, North County (Inland), South County, Toro, Agricultural and Winery Corridor	<b>Flagged and Staked:</b>  N/A
<b>Zoning Designation:</b>	Multiple	
<b>CEQA Action:</b>	Environmental Impact Report prepared (EIR #07-01, SCH#: 2007121001)	
<b>DEPARTMENT:</b> RMA – Planning Department; County Counsel		

**RECOMMENDATION:**

It is recommended that the Board:

- a. Adopt a resolution (***Exhibit B***):
  - 1. Certifying the Final Environmental Impact Report (EIR)
  - 2. Adopting CEQA findings
  - 3. Adopting a Statement of Overriding Considerations, and
  - 4. Adopting a Mitigation Monitoring and Reporting Program;
- b. Adopt a resolution adopting the 2010 Monterey County General Plan (***Exhibit C***);
- c. Provide direction to staff for implementation of the 2010 General Plan; and
- d. Provide direction to staff for an interim ordinance.

**SUMMARY:**

On October 12, 2010, the Board concluded discussion of the draft 2010 Monterey County General Plan, and continued the public hearing to October 26, 2010 with direction for staff to return with a final General Plan, final environmental impact report (EIR), and necessary resolutions and findings for consideration and potential action on that date. Staff has prepared draft resolutions for the Board’s consideration. One resolution provides for certification of the EIR and addresses other required CEQA actions (***Exhibit B***), and the second provides for adoption of the General Plan (***Exhibit C***). A summary of changes made by the Board of Supervisors to the General Plan subsequent to the Planning Commission recommendation (dated August 11, 2010) is included as ***Exhibit D***. These changes are incorporated into the copy of the General Plan before the Board for adoption.

**DISCUSSION:**

The primary actions for Board consideration are summarized above, and further discussed in ***Exhibit A***. In addition, however, the General Plan requires completion of an implementation plan within three months of the General Plan adoption. Staff has started work on this program

and, on August 31, distributed a matrix that provided a priority list for implementation. Staff is seeking Board direction on staffing options as well as options for an interim ordinance while staff works on completing the implementation.

A. *Implementation.* Staff has identified four options for the Board to consider:

1. Hire sufficient staff to complete the Work Program.
2. Hire contract staff.
3. Use consulting services.
4. A combination of staff and contract or consulting help where staff would do as much as possible within the existing staffing levels and contract out the rest.

When the formal implementation plan is presented to the Board, it will include a refined staffing proposal. (See also *Exhibit E*, Implementation Matrix)

B. *Interim Ordinance.* Staff investigated how other jurisdictions have addressed implementation of a general plan during the time that final ordinances are being prepared. The manner in which jurisdictions choose to address inconsistencies between a newly adopted General Plan and existing ordinance requirements fall into three basic approaches:

1. Implement the General Plan without an interim ordinance. This approach basically relies on the General Plan to guide future development and addresses inconsistencies as an interpretation of the General Plan. Interpretation would be handled ad hoc by the Planning Department and considered by hearing bodies.
2. Implement General Plan with an Interim Ordinance requiring GP Consistency. This interim approach would require a formal determination that a project is consistent with the General Plan, which could be either from the Director of Planning or the Planning Commission.
3. Interim Ordinance which has specific restrictions. This type of ordinance could include an outright, but temporary, moratorium, or a detailed set of specific, but interim, development criteria from the General Plan to be implemented as part of the Interim Ordinance. These interim measures would be supplanted by final ordinances adopted at a later time.

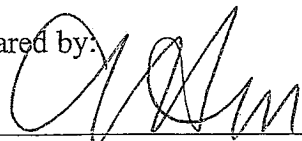
Based on the Board direction, staff will draft an ordinance applicable to Monterey County for consideration.

See *Exhibit A* for a more detailed discussion.

#### FINANCING:

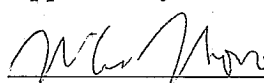
There is no financial impact associated with this action at this time. There will be costs associated with implementation of the General Plan; however, this report provides options, and staff is seeking Board direction, for implementation. Based on Board direction, staff will develop a more detailed cost assessment for the preferred option.

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October 14, 2010

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cc: Front Counter Copy; Board of Supervisors (16); County Counsel, RMA-Public Works; Water Resources Agency; Environmental Health; Parks Department; RMA-Redevelopment and Housing Office; Agricultural Commissioner; Carl Holm; Alana Knaster, Project File PLN070525; Planning Department Website; Interested Parties

Attached: Ex A- Discussion

Exhibits: *The following exhibits are on file with the Clerk to the Board of Supervisors.*

Ex B- EIR Resolution; Ex C- GP Resolution; Ex D- Summary of Board changes; Ex E- Implementation matrix; Ex F- Interim Ordinance Examples; Ex G- Board Order/Implementation; Ex H- Board Order/Interim

NOTE: *All documents are available for public review also at the Monterey County Planning Department public counter. All documents are available electronically via the County website at <http://www.co.monterey.ca.us/planning/>.*



## EXHIBIT A

### Discussion

#### A. BACKGROUND

The background for the certification of the environmental impact report (EIR) and adoption of the 2010 Monterey County General Plan is more fully and specifically set forth in the resolutions before the Board (*Exhibits B and C*). In summary, a draft General Plan was released in December 2007 for public review. A draft EIR was initially released on September 5, 2008, with the comment period finally closing on February 2, 2009. The County received 120 comment letters totaling almost 1,100 pages. Responses to those comments include 12 “master responses” that focus a single, comprehensive response for similar issues raised in multiple comments. Responses also include individual responses to comments.

A final EIR was released to the public in March 2010. A March 2010 draft General Plan was also released to the public with redline tracking to illustrate changes to address DEIR comments, ensure conformance with State general plan law, and make corrections and clarifications.

Beginning March 10, 2010, the Planning Commission held 11 public hearings. On August 11, 2010, the Planning Commission unanimously voted to recommend the August 11, 2010 draft General Plan to the Board of Supervisors for consideration. During the Planning Commission’s review, approximately 40 letters/emails were submitted that included comments on both the General Plan and the EIR.

Changes made by the Planning Commission were presented to the Board of Supervisors for consideration. Beginning August 31, 2010, the Board has held five hearings not including the hearing scheduled for October 26, 2010. During the Board’s review period, approximately 60 letters/emails have been submitted that include comments on both the General Plan and the EIR.

Supplemental information and materials to the March 2010 final EIR, prepared in response to comments submitted since the close of the EIR review period, was previously released in mid-September but has been revised to address further comments that have been received. These supplemental materials (“Revised Supplemental Materials”) have been included in the EIR before the Board for certification. The final EIR for the General Plan thus consists of the March 2010 final EIR and the Revised Supplemental Materials. Full and complete copies of the 2010 Monterey County General Plan and the final EIR have been placed on file with the Clerk of the Board, and are available at the Planning Department for inspection. Most feasible mitigation measures identified in the EIR have been integrated as General Plan policy, and a Mitigation Monitoring and Reporting Plan (MMRP) is to be adopted with the EIR resolution (*Exhibit B*). Since there are impacts that cannot be fully mitigated, the Board must adopt a Statement of Overriding Considerations. The EIR resolution includes findings and a Statement of Overriding Considerations for the Board’s consideration.

The Board has directed certain changes be made to policy language, and a summary of these changes are reflected in *Exhibit D*. Since release of the General Plan in 2007, a number of changes have been made to Figures (maps and drawings) in the draft General Plan. A matrix summarizing the changes made to the General Plan figures was distributed on August 31, 2010. All of these changes have been incorporated into the 2010 General Plan (October 26, 2010) for the Board’s consideration. If adopted, a copy of this General Plan would be attached to the general plan resolution (*Exhibit C*). Staff has provided copies of the General Plan only to the Board of Supervisors, and has copies available for public review at the Clerk to the Board, the

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**Discussion**

Planning Department counter, and on the Planning Department's website. Staff will have a limited number of copies available for purchase if the Plan is adopted on October 26, and can make additional copies if needed. Meanwhile, copies are readily available on CD or via the County website.

**B. GENERAL PLAN IMPLEMENTATION**

The General Plan includes a policy (LU-9.1) that requires the County to adopt an implementation plan within three months of adoption of the General Plan.

There are approximately 100 action items required to implement the General Plan. Some of these will be fairly straightforward, without controversy, while others will be very complicated and involve a great deal of public discussion. In order to manage this volume, staff prepared a draft 5 Year Implementation Schedule (*Exhibit E*).

In order to accomplish this work, staff time will need to be dedicated to these tasks. Staff has identified three options for the Board's consideration summarized as follows:

1. **Hire Staff (County)**. The County would hire employees to complete the work needed to implement the General Plan. In order to accomplish the tasks in the timeline outlined in the matrix, it is estimated that the following departments would need staff added beyond current staffing levels: Planning (3-4 positions), Public Works (1 position), Water Resources (1 position), Environmental Health (1 position) and County Counsel (2 positions). Other departments would require staff time, but that time is estimated at less than half a position to complete the work necessary so no new positions are currently anticipated.
2. **Hire Contract Staff**. This would involve hiring contract staff with expertise to complete the necessary work, which could mean going through one or more consulting firms or the County hiring contract staff. The work would involve coordination with County staff, but people with specialized technical competence could be brought in to work on discrete projects and produce ordinances or other policy documents ready for public review.
3. **Consultant**. A consulting firm or firms would be contracted to complete all or parts of the work program. The work would involve coordination with County staff to manage the program and process documents drafted by the consultant.

Staff prepared a general cost of what each option entails and are seeking Board direction for which option to pursue further. The following Table is a cost comparison of the three alternatives:

<b>Options</b>	<b>Preparation<sup>1</sup></b>	<b>Administration<sup>2</sup></b>	<b>Consultant<sup>3</sup></b>	<b>Total</b>
Staff	\$3,600,000	\$600,000	\$1,500,000	\$5,700,000
Contract Staff	\$7,500,000	\$1,350,000	\$750,000	\$9,600,000
Consultant	\$3,800,000	\$2,100,000	\$750,000	\$6,650,000

<sup>1</sup> Staff preparation assumes staff time needed to complete General Plan Implementation ordinances and would involve hiring new temporary or permanent staff. Contract Staff would be brought in rather than permanent staff. Consultant is a cost estimate of what a consultant would charge to complete the project. The current Consultant estimate does not include work with stakeholders in public meetings or processing anything through the hearing process. That cost will be added if this option is selected.

<sup>2</sup> County staff costs associated with completing the work. In each option, County Counsel will be involved in review of ordinances and their time is allocated here. Contract Staff will require County staff to give direction

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and coordinate the work. It is assumed that 20% of total staff time assumed under staff alternative will be needed for administrative purposes under the contract staff and consultant options.

3 Consultant costs are related to technical studies that can not be accomplished by staff. Some of this work can be done by contract staff or consulting firms who have expertise in those areas. There will be a need for technical studies beyond the abilities of most consultants and contract staff; for this reason, an allocation has been given even when contract staffing or consultants are being provided. The Administration cost under the Consultant option is higher than the Contract staff cost because the Preparation cost does not account for time needed for stakeholders meetings and work on Community Plans.

These estimates have been provided to inform the Board of Supervisors of the relative costs. Each option has different implication on County staff time. Doing everything in house requires hiring new people. Hiring contract staff, who would work in house, would alleviate the need for hiring additional staff, but would still require a significant amount of staff time to manage the work. A consulting firm would alleviate some of this management responsibility by managing the work flow external to County functions. However, Administration costs would be split by County staff and the Consultant.

The advantage of hiring Contract Staff or Consultants is that the implementation program could be completed in a substantially reduced amount of time because that would be the focus of their work program. Without hiring more help, it would be difficult to complete the implementation program within the five year timeframe due to other competing priorities.

Staff is requesting direction from the Board of Supervisors regarding staffing options for the General Plan Work Program. Based on this direction, staff will return with a proposed implementation plan for Board consideration within 60-90 days.

#### C. INTERIM ORDINANCE

As outlined in the prior section, it will take a few years to complete all of the implementation tasks for the 2010 General Plan. In the meantime, there could be inconsistencies between the General Plan and existing ordinances. Staff is seeking direction from the Board relative to how to address this matter. The manner in which jurisdictions choose to address inconsistencies between a newly adopted General Plan and existing ordinance requirements fall into three basic approaches as follows:

1. **Implement the General Plan without an interim ordinance.** This approach basically relies on the General Plan to guide future development and addresses inconsistencies as an interpretation of the General Plan. Examples include:

City of Sacramento. Included conformity policies in the General Plan. Projects which have no entitlements (no discretionary actions) are processed under existing zoning requirements. Where a discretionary action is required, Staff is required to make a finding of General Plan Consistency. The City is in a multi year process of updating their zoning codes.

2. **Implement General Plan with an Interim Ordinance requiring GP Consistency.** The basic idea behind these ordinances is to require a formal determination that the project is consistent with the General Plan. The ordinances affect projects from ministerial to discretionary projects. Examples include:

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El Dorado County. Ordinance imposes a restriction on all development including ministerial permits (Building and Grading) unless there is a General Plan consistency review. The Director of Development Services is responsible for developing a Policy Compliance Checklist and for performing the Policy Compliance Determinations.

City of Redding: This interim ordinance applies to all "Applications" and requires that they be reviewed based upon consistency with the General Plan, even if inconsistent with the Zoning Ordinance. The Development Services Director is responsible for making these determinations, which can be appealed to the Planning Commission and City Council.

City of Oakland. Adopted Guidelines for determining General Plan Conformity. They basically invested Planning Director with responsibility of determining project conformance with General Plan.

These are all the responsibility of the Planning Director. Alternatively these ordinances could be written to give this authority to the Planning Commission.

3. **Interim Ordinance which has specific restrictions.** This type of ordinance could include an outright moratorium or specific development criteria from the General Plan to be implemented as part of the Interim Ordinance. An example includes:

City of Emeryville. Adopted interim ordinance with very specific provisions to be implemented until Zoning Ordinance could be updated.

This Emeryville ordinance is very lengthy and would take a longer period of time to develop because it has an ordinance level of detail. Staff finds that with the controversy expected for certain ordinances, this option would have needed to begin sooner and is not a viable option at this time.

Staff has provided copies of some of the different options for informational purposes (*Exhibit F*). If so directed, staff will draft an ordinance applicable to Monterey County for consideration within 30 days since that is the timeframe required before a new General Plan can be implemented. For a more complex interim ordinance, staff would request that the Board consider an interim ordinance (e.g. 60-90 days) applying a complete prohibition of processing new applications while staff prepares the draft interim ordinance in coordination with the implementation plan discussed above.