

# **REPORT TO THE CITY COUNCIL**

## ***City of Salinas, California***

DATE: December 6, 2016

FROM: Megan Hunter, Director of Community Development

THROUGH: Tara Hullinger, Planning Manager, Advanced Planning Division, Community Development Department

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SUBJECT: **SUBDIVISION ORDINANCE UPDATE (CITY CODE AMENDMENT 2015-001)  
AND NEGATIVE DECLARATION**

### **RECOMMENDATION:**

It is recommended that the City Council adopt a Negative Declaration (ND), and then adopt an ordinance approving City Code Amendment (CCA) 2015-001, replacing Chapter 31 (Subdivisions) of the Salinas Municipal Code, in its entirety.

### **DISCUSSION:**

On August 30, 2016, a “Notice of Availability” of the Draft Subdivision Ordinance Update (herein referred to as the “Draft Ordinance”) was posted on the City website and mailed to sixty agencies and interested parties, such as developers in the North of Boronda Future Growth Area (FGA) and professional organizations such as the American Public Works Association/Monterey Bay Chapter, California Land Surveyors Association/Monterey Bay Chapter, American Council of Engineering Companies/Monterey Bay Area Chapter, and the California Society of Professional Engineers/Monterey Bay Area Chapter. The Notice announced a 30-day public comment period, ending September 30, 2016.

The Draft Ordinance was posted on the City website, emailed upon request, and reference copies were made available at the three City libraries, City Hall, and office of the Community Development Department.

Several meetings were held by City staff to provide an opportunity for interested parties and the public to review and comment on the Draft Ordinance as follows: On September 2, 2016, staff gave a brief presentation on the Draft Ordinance at the Salinas Valley Chamber of Commerce (SVCC) Business Development Committee. On September 14, 2016, a meeting was held with SVCC members and interested parties to review the document. A Public Workshop was held in the City Council Chambers on September 19, 2016. Staff also gave a presentation on October 13, 2016 to the North of Boronda FGA developers and representatives. The comments received on the Draft Ordinance are attached and described further below.

The Library and Community Services Commission met on November 9, 2016 to review Article 8, Dedications and Reservations of the Draft Ordinance, regarding land within subdivisions for parks, libraries, and recreation facilities. The Library and Community Services Commission recommended that the City Council adopt Article 8 of the Draft Ordinance.

The Planning Commission met and held a public hearing on November 16, 2016, which is discussed in the Planning Commission Review section of this report.

### Purpose of Updating Chapter 31 of the Salinas Municipal Code

The existing Subdivision Ordinance (Chapter 31) in the City's Municipal Code dates from the 1990s. Updates are periodically required due to the Legislature's revisions to the State Subdivision Map Act, together with other State updates and new City regulations such as the National Pollutant Discharge Elimination System (NPDES) permit requirements. The attached table describes those changes mandated by changes in the Subdivision Map Act since 2009.

The overall goal of the Subdivision Ordinance Update is clean-up and clarification. The document has been organized to clarify processes and requirements, and to improve existing procedures. The Draft Ordinance does not create any new fees or modification of fees. Once adopted by the City Council, the Draft Ordinance would replace Chapter 31 of the Salinas Municipal Code, in its entirety.

The action to update the Ordinance is not tied to any specific development or project, it is the administrative regulations regarding the processing of project approvals.

### Contents of the Ordinance

The Articles (Chapters) of the Draft Ordinance include:

#### *Article 1. General Provisions*

This article ensures that the Draft Ordinance conforms to the State Subdivision Map Act, the City General Plan, any Specific Plans, and the City Zoning Code. It also applies to annexed areas. Several types of actions are excluded from the ordinance.

#### *Article 2. Definitions and Responsibilities*

A comprehensive "Definitions" section is contained in this article. The authority of the City Attorney, City Engineer, City Planner, City Building Official, Planning Commission, and City Council is also clarified.

#### *Article 3. Application Procedures and Environmental Review*

The application process, timeframes, compliance with the California Environmental Quality Act, public notices for hearings, and appeals procedures are described in this article.

#### *Article 4. Tentative and Final Maps*

Tentative and final maps are required for all subdivisions creating five or more lots or five or more condominium units. The procedures and requirements for creating these maps are described in this

article. Most of the regulations in the Draft Ordinance apply to subdivisions of land into five (5) or more parcels.

#### *Article 5. Vesting Tentative Maps*

A vesting tentative map may be filed instead of a tentative map in order to confirm development rights. Approval or conditional approval confers a vested right to proceed with development in compliance with the City's standards in effect at the time the map is complete. The procedures and requirements governing vesting maps are described in this article.

#### *Article 6. Parcel Maps*

This article describes the process for approval of parcel maps used for subdivisions creating four or fewer lots or condominiums.

#### *Article 7. Condominium and Mobile Home Park Conversions*

The requirements for processing condominium conversions and mobile home park conversions, such as required reports and tenant notifications, are described in this article.

#### *Article 8. Dedications and Reservations*

The requirements and procedures to dedicate or reserve land for public facilities such as schools, parks, libraries, and fire stations, are described in this article. This article is subject to the review of the Commission as further discussed below.

#### *Article 9. Improvement and Design Standards*

The required improvements and improvement responsibility for both on-site and off-site according to approved standards are discussed in this article.

#### *Article 10. Improvement Plans and Improvement Security*

The City may enter into Agreements for improvements and security to make sure the construction costs of improvements are covered. This article addresses those procedures and requirements.

#### *Article 11. Lot Line Adjustments, Lot Consolidations, Reversions to Acreage, and Mergers of Substandard Lots*

This article describes the procedures and regulations for adjusting lot lines between parcels, removing individual parcels and reverting the land to acreage, and merging lots when the lots are substandard.

#### *Article 12. Corrections and Amendments*

After the final map or parcel map is filed at the Monterey County Recorder, it may be amended or corrected according to certain procedures, which are described in this article.

### *Article 13. Certificates of Compliance and Enforcement*

This article addresses the enforcement of parcel or lot divisions that do not comply with the ordinance and the powers of the City Attorney to enforce.

#### **AGENCY/PUBLIC REVIEW:**

The City received the following comments on the Draft Ordinance in advance of the Planning Commission's public hearing:

- 1) Brian Finegan, Esq., emails of September 28, 2016.
- 2) California Department of Transportation (Caltrans) letter of September 29, 2016.
- 3) Louise J. Miranda Ramirez, Tribal Chairwoman, Ohlone/Costanoan-Esselen Nation (OCEN) letter of September 29, 2016.
- 4) Meeting of October 13, 2016 between the developers and representatives of the North of Boronda FGA and City staff.

These comments are attached to the staff report and briefly summarized below:

Brian Finegan commented that he had submitted comments on the 2009 Administrative Draft of the Subdivision Ordinance. All of his prior comments were incorporated into the 2016 draft, as noted in the attached document from the City's counsel (Goldfarb and Lipman), who prepared both the 2009 version and the subsequent 2016 Draft Ordinance.

The Caltrans letter suggested that it would be appropriate to specify applicable regional fees such as the development impact fee of the Transportation Agency for Monterey County (TAMC). The Draft Ordinance does not create any new fees or modification of fees and refers to the payment of all applicable fees.

The letter from Louise J. Miranda Ramirez (the OCEN tribe) is further discussed in the Environmental Review section below.

At the October 13, 2016 meeting with Brian Finegan and developers of the North of Boronda FGA, they requested language be added to the beginning of Article 9 clarifying that Specific Plans take precedence over the standards further described in that Article. Staff is in agreement with this modification and have added the following language to the Draft Ordinance: "Section 31-901: "Development standards contained in an approved Specific Plan will take precedence over the standards described in this Article 9."

#### **PLANNING COMMISSION REVIEW:**

The Planning Commission held a public hearing on November 16, 2016. During the public comment period, one person spoke, Brian Finegan. Mr. Finegan raised three concerns with the Draft Ordinance as follows:

1. Section 603.2 needs to clarify when Parcel Maps are referred to the Planning Commission for decision, rather than approved administratively by the City Planning and City Engineer.
2. The definition of “dedication” is not provided in Article 8, Dedication and Reservation, nor in the State Subdivision Map Act.
3. There is no explicit language stating that the subdivider must be reimbursed by the City for “oversizing” infrastructure to accommodate other development.

To address his first comment, staff suggested deleting the potentially confusing text regarding the administrative approval by the City Planner and City Engineer for parcel maps, and to update accordingly the list of City Planner’s authorities in Section 31-202.3.

The Planning Commission did not request a response to his second comment, regarding the definition of dedication, but staff has recommended adding the following text to Section 31-201. Definitions: “Dedication: A dedication is the surrender of an interest in real property for some public use by or on behalf of the public” to clarify the meaning of the word.

The oversizing of infrastructure (his third comment) is addressed in City of Salinas Resolution No. 12963 (N.C.S), entitled “Establishing policy regarding the provision of public facilities for new development,” which states the City’s policy on oversizing in Section 1.H: “Developers shall provide: *A proportionate* (emphasis added) share of necessary off-site public works-type facilities (such as streets, sewers, storm drains, and utilities) to mitigate negative impacts on other facilities. Developer shall be eligible for reimbursement or unit credits from the appropriate development fee fund, assessment district funds, or other City funds. For traffic facilities, reimbursement will be limited to the extent developer exceeds reasonable mitigation requirements.” The Planning Commission recommended adding to the text in Section 31-1001, Improvement Agreements, that would reference Resolution No. 12963 to clarify the subdivider’s responsibility in this regard.

After consideration, the Planning Commission voted 6–0 to approve a resolution (see attached) recommending that the City Council adopt the ND and adopt an ordinance (approving City Code Amendment 2015-001) replacing Chapter 31: Subdivisions of the Salinas Municipal Code, in its entirety, with modifications to address the above-stated issues. These modifications have also been incorporated into the draft Council ordinance (see attached).

## **ENVIRONMENTAL REVIEW:**

The potential environmental impacts of the City of Salinas Subdivision Ordinance Update have been analyzed in accordance with the California Environmental Quality Act (CEQA) and an Initial Study (IS) and Negative Declaration (ND) have been prepared for the project. The Initial Study evaluates the potential impacts associated with the project and tiers upon the Salinas General Plan Final Environmental Impact Report (EIR) (2002) No. 1987012703 and the Final Supplement for the Salinas General Plan Final Program EIR (2007) No. 2007031055.

The Initial Study found that the proposal would not create any significant environmental impacts beyond those previously analyzed and mitigated in the prior EIRs. The Initial Study and ND were routed to responsible agencies and posted at the County Clerk’s Office on October 25, 2016. Copies were available on the City website and reference copies made available at the three City libraries, City Hall, and office of the Community Development Department.

Pursuant to AB 52, on April 20, 2016, City staff met with Louise J. Miranda Ramirez, Tribal Chairwoman of the Ohlone/Costanoan-Esselen Nation (OCEN) to introduce the prospective project of

the Subdivision Ordinance Update. On July 27, 2016, the City sent a Consultation Notification to the OCEN tribe, who responded with a request for consultation. The City met with the tribal chairwoman on September 13, 2016. She sent a letter on September 29, 2016 in response to the City's "Notice of Availability" of the Draft Ordinance. Her letter stated that the OCEN "objects to all excavation in known cultural lands, even when they are described as previously disturbed, and of no significant archeological value...Our definition of respect is no disturbance."

In response to the letter of September 29, 2016, City staff included discussion in Section 4.5 (Cultural Resources) in the Negative Declaration: a summary of the trial consultation process and the OCEN comments of September 29, 2016 with the following statement: "The proposed Draft Ordinance is a policy level document that does not cause or authorize excavation, soil disturbance, or alteration of any cultural resources. Therefore, the project would not result in a potential impact on archeological, paleontological, or other cultural resources and/or human remains. Any subsequent proposed projects that would be subject to the Subdivision Ordinance would be subject to project-level environmental screening to determine their potential to result in any significant effects."

The deadline for comments on the ND was November 14, 2016. On November 11, 2016, Ms. Ramirez emailed a similar comment letter that was received by City staff on November 14, 2016, voicing the same concerns. Staff presented the letter, attached, at the Planning Commission public hearing on November 16, 2016 and advised that this is addressed in the discussion in ND Section 4.5, Cultural Resources.

As noted above, the Planning Commission recommended that the City Council adopt the Negative Declaration prepared for the project at their November 16<sup>th</sup> meeting.

#### **FINDINGS:**

Findings in support of the proposed City Code Amendment and Negative Declaration are incorporated in the attached City Council ordinance.

#### **ISSUE:**

Shall the City Council adopt a Negative Declaration (ND) and an ordinance that updates the Salinas Municipal Code to conform to the California Subdivision Map Act and other regulations?

#### **FISCAL IMPACT:**

There is no direct fiscal impact to the General Fund, the Measure V Fund or the Measure G Fund with the City Council's adoption of the proposed ordinance. There are no new fees proposed.

#### **TIME CONSIDERATIONS:**

The work program of the Department of Community Development in the City's Fiscal Year 2016-2017 Budget shows adoption of the Subdivision Ordinance in the second quarter, by December 31, 2016. Timely action by the City Council would continue the approval process within the preferred timeframe for adoption.

## **ALTERNATIVES/IMPLICATIONS:**

The City Council has the following alternatives:

1. Affirm the findings, and adopt the Negative Declaration (ND) and adopt the Subdivision Ordinance Update (CCA 2015-001) with modifications;
2. Find that the ND and Draft Subdivision Ordinance Update (CCA 2015 -2015) is not appropriate, identify specific concerns, and refer the matter to staff for additional work.
3. Choose not to adopt the ND and the Draft Ordinance.

## **CITY COUNCIL GOALS:**

The City Council's adoption of the proposed ordinance supports the Council's goal of a Well Planned City and Excellent Infrastructure by ensuring the City's regulations governing subdivisions (Chapter 31 of the Municipal Code) are consistent with the State of California Subdivision Map Act and other applicable City regulations (e.g. NPDES permit, etc.)

## **CONCLUSIONS:**

The proposed Subdivision Ordinance Update (CCA 2015-001) is important to streamline and "clean up" Chapter 31 of the Salinas Municipal Code in order to ensure consistency with the California Subdivision Map Act, the City NPDES and other regulations. The Initial Study did not identify significant environmental impacts associated with the proposed City Code Amendment.

Back Up Pages:

Draft Ordinance

Exhibit 1 - Draft Subdivision Ordinance Update (CCA 2015-001) and Addendum

Initial Study/Negative Declaration for the Subdivision Ordinance Update

Planning Commission Resolution

Planning Commission Draft Minutes of November 16, 2016

Summary Table of Changes: California Subdivision Map Act Changes since 2009

Public Comments Received