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Court Finds That Adoption of Three Ordinances is not Considered a Single Project under CEQA

The Sixth District Court of Appeal in California recently held that three ordinances did not constitute a single project under the California Environmental Quality Act (CEQA). *Aptos Council v. County of Santa Cruz* 10 Cal. App. 5th 266. In 2010, the Santa Cruz County board of examiners adopted an ordinance which authorized administrative approval of "minor exceptions" to zoning site standards. In September 2013, the planning department adopted an ordinance which amended standards for hotel development. In October 2013, the board passed an ordinance which would allow administrative approvals of sign exceptions with a public notice and a public hearing for exceptions that exceeded certain limits.

In March 2014, the Aptos Council filed a petition for a writ of mandate. The Council argued that the sign ordinance was not exempted from CEQA review, the County's negative declaration prepared for the hotel ordinance should have taken into consideration future developments, and that the County had improperly engaged in unlawful piecemeal review of the environmental impacts of the various ordinances. In September 2015, the trial court denied Aptos Council's petition for a writ of mandate.

The court first considered the Aptos Council's argument that the three ordinances consist of a single project under CEQA thereby conducting a piecemeal review of environmental impacts when it independently and individually considered each ordinance. The court found that the key issue is whether changing or reforming certain zoning regulations are reasonable foreseeable *consequences* of the other regulatory reforms challenged by the Aptos Council. The Aptos Council stated all of the subject ordinances serve the same goal: modernize the County Code, loosen standards, and reduce barriers to development. However, the Court held that each of the contemplated ordinances are separate and apart from each other and serve different purposes. The "objective" of modernizing the County Code is vague and the court held that is not the type of objective that has been found to be the basis of a CEQA project.

The court next considered the issue of whether the negative declaration prepared for the amendments to the hotel ordinance was inadequate because it failed to take into consideration the inevitable future developments the ordinance would permit. The court agreed with the negative declaration that the hotel ordinance would have no significant environmental impact. The court also found that the potential for

future developments to be too speculative to be reasonably foreseeable. Finally, the court agreed with the County that the Aptos Council failed to satisfy its burden to show there is an argument that significant environmental effects would result from the ordinance. As such, the court denied the Aptos Council's writ of mandate.

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