

MONTECITO PLANNING COMMISSION, SANTA BARBARA COUNTY
Staff Report for Zaleski Lot Line Adjustment and Rezone

Hearing Date: February 9, 2006

Staff Report Date: January 26, 2006

Case Nos.: 05LLA-00000-00014 and 05RZN-00000-00009

Environmental Document: Exempt
pursuant to §15305 of State CEQA Guidelines

Deputy Director: Steve Chase

Division: Development Review

Staff Contact: Errin Briggs

Phone #: (805) 568-2047

Supervising Planner:
Peter Imhof

OWNER:
MAP

VICINITY

James Zaleski
1474 East Mountain Drive
Montecito, CA 93108
(805) 695-8282

AGENT:

Susan McLaughlin
800 Santa Barbara St.
Santa Barbara, CA 93101
(805) 966-2758



Assessor Parcel Numbers 011-060-032 and -033, located approximately 500 feet west of San Ysidro Lane at 1478 and 1474 East Mountain Drive in the Montecito area, First Supervisorial District.

1.0 REQUEST

Hearing on the request of Susan McLaughlin, agent for the owner, James Zaleski, to consider: (1) Case No. 05LLA-00000-00014 in the 2-E-1/3-E-1 zone districts of Article IV (Montecito), for approval of a Lot Line Adjustment under the provisions of the Santa Barbara County Code Chapter 21, Subdivision Regulations, to adjust the boundaries between two parcels of 2.63 acres and 3.41 acres, creating two parcels of 3.59 acres and 2.45 acres, respectively; and (2) Case No. 05RZN-00000-00008 for a Rezone to ensure that the zoning district boundaries correspond to the adjusted lot lines and resulting parcel sizes; and (3) to accept the exemption pursuant to §15305 of the California Environmental Quality Act (CEQA) Guidelines.

Application Filed: September 23, 2005
Application Complete: November 15, 2005
Processing Deadline: 60 days from Notice of Exemption

2.0 RECOMMENDATION AND PROCEDURES

Follow the procedures outlined below and recommend to the Board of Supervisors conditional approval of Case Nos. 05LLA-00000-00014 & 05RZN-00000-00009 marked "Officially Accepted, County of Santa Barbara February 3, 2006 Montecito Planning Commission Attachments A-E", based upon the project's consistency with the Comprehensive Plan, including the Montecito Community Plan, and based on the ability to make the required findings.

The Montecito Planning Commission's action should include the following:

1. Recommend that the Board of Supervisors adopt the required findings for the Lot Line Adjustment, Case No. 05LLA-00000-00014, specified in Attachment A of this staff report, including the California Environmental Quality Act (CEQA) findings, and;
2. Recommend that the Board of Supervisors adopt the required findings for the rezone, Case No. 05RZN-00000-00009, specified in Attachment A of this staff report, including the CEQA findings, and;
3. Recommend that the Board of Supervisors accept the Notice of Exemption pursuant to Section 15305 of the State CEQA Guidelines, included as Attachment B, and;
4. Recommend that the Board of Supervisors approve the Lot Line Adjustment, Case No. 05LLA-00000-00014, subject to the conditions included as Attachment C, and;
5. Recommend that the Board of Supervisors adopt an Ordinance Rezone for APN's 011-060-032 & 011-060-033, amending the Montecito Zoning Map, Exhibit Number 35-404.7.2.

Refer to staff if the Montecito Planning Commission takes other than the recommended action for appropriate findings and conditions.

3.0 JURISDICTION

Both the lot line adjustment and the rezone are being considered by the Planning Commission for recommendation to the Board of Supervisors for final action based on the following.

1. ***Article IV, Section 35-487.4.3 Rezones (Zoning Map Amendments)/Action.*** *The Planning Commission's action shall be transmitted to the Board of Supervisors in the form of a written recommendation, which shall include the reasons for such recommendation.*

2. ***Subdivision Regulations, Section 21-6(a) Discretionary Decision-Maker Jurisdiction and Designation of Responsibility. Planning Commission or Zoning Administrator.*** *The Santa Barbara County Planning Commission shall be the decision-maker, except that the Zoning Administrator shall be the decision-maker for the following:*
 - (3) *Lot Line Adjustments, as defined in State Subdivision Map Act, California Government Code Section 66412.(d), and modification of approved lot line adjustments, of parcels located within the Urban and Inner-Rural Areas as designated by the Santa Barbara County Comprehensive Plan that result in four or fewer parcels.*
3. ***Article IV, Section 35-474. Applications that are Within the Jurisdiction of More Than One Final Decision Maker*** - *When two or more discretionary applications are submitted that relate to the same development project and the individual applications would be under the separate jurisdiction of more than one decision-maker, all applications for the project shall be under the jurisdiction of the decision-maker with the highest jurisdiction.*

The lot line adjustment is under the jurisdiction of the Montecito Planning Commission, whereas the rezone falls under the purview of the Board of Supervisors. As a result of the involvement of more than one decision-maker, the Planning Commission shall provide a recommendation to the Board of Supervisors for both the lot line adjustment and the rezone.

4.0 ISSUE SUMMARY

1. The subject parcels are adjacent to one another (Parcel 1 is north of Parcel 2) and located on the north side of East Mountain Drive in Montecito, west of San Ysidro Road. Both properties support residential development. The applicants are proposing a Lot Line Adjustment to transfer approximately 0.97 acres of unimproved land from Parcel 1 to Parcel 2 in order to preserve an existing landscape buffer used for privacy of parcel 2.
2. The 0.97 acre area of adjustment currently contains a private septic system that serves Parcel 1. This private septic system would be abandoned in accordance with Environmental Health Services requirements and prior to recordation of the Lot Line Adjustment. The owner proposes to replace the private system with a connection to the Montecito Sanitary District. An easement across Parcel 2 in favor of Parcel 1 for the sewer lateral has been proposed and is identified on the site plan. The proposed Lot Line Adjustment would not affect access or any other existing services.
3. Parcel 2 is currently zoned 2-E-1 and at 2.63 acres is conforming as to size. Parcel 1 is currently zoned 3-E-1 and at 3.41 acres is also conforming as to size. As a result of the lot line adjustment, parcel 2's zoning designation would be split along the adjustment line. In order to avoid creating a split zone on parcel 2, as well as to avoid a non-conforming lot size on parcel 1 (the 3.41 acre

lot would be reduced in size to 2.44 acres), the applicants are proposing to rezone the two properties (application No. 05RZN-00000-00009). The rezone would result in Parcel 1 having a 2-E-1 zoning designation and Parcel 2 having a 3-E-1 zoning designation. This will not result in “island” or “spot” zoning because both of the properties are currently adjacent to each of the proposed zone districts.

No further development is proposed on either parcel as part of this project. Additionally, no further development potential would be created for either parcel as part of the proposed project.

5.0 PROJECT INFORMATION

5.1 Site Information

Site Information	
Comprehensive Plan Designation	Parcel 1: Urban area, Single Family Semi-Rural Residential, 3 acre minimum parcel size Parcel 2: Urban area, Single Family Semi-Rural Residential, 2-acre minimum parcel size
Ordinance, Zoning District	Parcel 1: 3-E-1 under Article IV (inland Montecito) Parcel 2: 2-E-1 under Article IV (inland Montecito)
Site Size	Parcel 1: 3.41 acres (gross) Parcel 2: 2.63 acres (gross)
Present Use & Development	Parcel 1: single-family residential Parcel 2: single-family residential
Surrounding Uses/Zoning	North: Single-family residential, 2-E-1 (vacant) South: Single-family residential, 2-E-1 East: Single-family residential, 3-E-1 West: Single-family residential, 2-E-1
Access	Parcel 1: 15-foot wide private driveway off East Mountain Drive Parcel 2: 15-foot wide private driveway off East Mountain Drive
Public Services	Parcel 1: Water Supply: Montecito Water District

Site Information	
	Sewage: Private Septic System (to be abandoned) Montecito Sanitary District Fire: Montecito Fire District
	Parcel 2: Water Supply: Montecito Water District Sewage: Montecito Sanitary District Fire: Montecito Fire District

5.2 Project Description

The project includes a Lot Line Adjustment between two parcels, located at 1478 (Parcel 1) and 1474 (Parcel 2) East Mountain Drive (APNs 011-060-032 and -033, respectively) in the Montecito Area, First Supervisorial District. The purpose of the Lot Line Adjustment is to adjust the property line between the two subject parcels to protect a landscape buffer which affords privacy for 1474 East Mountain Drive (parcel 2). Parcel 2 is zoned 2-E-1 and Parcel 1 is zoned 3-E-1 (these zoning designations will switch as a result of the concurrently proposed rezone 05RZN-00000-00009). As a result of the Lot Line Adjustment, Parcel 2 would increase in size from 2.63 acres to 3.59 acres (gross) and Parcel 1 would decrease in size from 3.59 acres to 2.45 acres (gross). The 0.97 acre area of adjustment currently contains a septic system that serves Parcel 1 which will be abandoned in accordance with Environmental Health Services requirements. The owner proposes to replace the private system with a connection to the Montecito Sanitary District, the location of which is defined on the project site plan. Access for both parcels is taken from East Mountain Drive via a private driveway.

As a result of the lot line adjustment, Parcel 2's zoning designation would be split along the original property line. In order to avoid creating a split zone on Parcel 2, as well as to avoid a non-conforming lot size on parcel 1 (currently in the 3-E-1 zone district but will become 2.44 acres), the applicants are proposing to rezone the two properties (application No. 05RZN-00000-00009). The rezone would result in Parcel 1 having a 2-E-1 zoning designation and Parcel 2 having a 3-E-1 zoning designation. This would not result in "island" or "spot" zoning because both of the properties are currently adjacent to each of these zone districts.

There is an existing shed located in the southeast corner of Parcel 1 which intrudes into both the side and front yard setbacks. This shed will be relocated or removed as a condition of approval attached to the project.

There are several easements on the subject properties, most of which are required for utilities and road access. All of the current easements will be maintained and will not be affected by the proposed Lot Line Adjustment. Additionally, a new sewer easement will be established on the east side of Parcel 2 in favor of Parcel 1.

5.3 Background Information

Parcels 1 and 2 were created as part of the Port. Pueblo Lands Tract Map No. 30 on December 13, 1962 as recorded in Book 54, Page 85, identified as lots B and A respectively, of Official Records.

Parcel 1 is currently developed with a 5,000 square foot single-family residence, a pool cabana, a two-story garage and guest house structure, and a swimming pool. The main residence and garage structure were constructed in 1959 under building permit #9794. The pool cabana was constructed in 1960 under building permit #9987.

Parcel 2 is currently developed with an 11,497 square foot single family residence, a 300 square foot accessory structure used for storage, a second accessory structure, a detached restroom, a cabana, and a pool. The main residence was constructed in 1969 under building permit #46180. The detached restroom was permitted under 01LUP-00000-00842 and the storage building under 02LUP-00000-00478. The pool and cabana were permitted in 1992 and 1994 under permit Nos. 249738 and 243386 respectively.

6.0 PROJECT ANALYSIS

6.1 Environmental Review

The proposed Lot Line Adjustment and associated Rezone is found to be exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to Sections 15305 of the State CEQA Guidelines. Section 15305 categorically exempts minor alterations in land use limitations in areas with an average slope of less than 20% which do not result in any changes in land use and density. The proposed project would allow the common boundary between the two adjacent parcels to be adjusted and rezoned accordingly. The area under consideration supports average slopes of 20% or less. No new parcels or building sites would be created as a result of this Lot Line Adjustment and Rezone. The Lot Line Adjustment and Rezone would not have any adverse impacts on the environment, as no new development is proposed or authorized by this project. A categorical exemption from CEQA is appropriate. Refer to Attachment B for a more detailed discussion.

6.2 Comprehensive Plan Consistency

REQUIREMENT	DISCUSSION
<p>Land Use Development Policy 4: <i>Adequate services and resources shall be available to serve the proposed development.</i></p>	<p>Consistent: Adequate services are in place to serve both parcels involved in the proposed project. As per condition #8 of the project, Parcel 1 would be required to abandon the existing private septic system and connect to the Montecito Sanitary District. Parcel 2 would continue to be served by the Montecito Sanitary District. Water would continue to be provided to both parcels by the Montecito Water District and fire protection would continue to be provided by the Montecito Fire Department. Both parcels take access via a private driveway from East Mountain Drive.</p>
<p>Land Use Development Policy 5: <i>Within designated urban areas, new development other than that for agricultural purposes shall be serviced by the appropriate public sewer and water district or an existing mutual water company, if such services are available.</i></p>	<p>Consistent: As discussed above, Parcel 1 would be required to abandon the existing private septic system and connect to the Montecito Sanitary District before recordation of the lot line adjustment. All other services are already provided by the appropriate public districts.</p>
<p>Land Use Development Policy 7: <i>Lot line adjustments involving legal, non-conforming parcels as to size may be found consistent with the Comprehensive Plan if:</i></p> <ul style="list-style-type: none"> • <i>No parcel involved in the lot line adjustment that is conforming as to size prior to the adjustment shall become non-conforming as to size as a result of the adjustment;</i> 	<p>Consistent: The proposed project does not involve legal, non-conforming parcels as to size prior to the adjustment. Additionally, the lot-line adjustment would be conditioned for recordation only if the subject parcels were approved for the concurrently proposed rezone (05RZN-00000-00009) which would avoid the parcels becoming non-conforming as to size as a result of the adjustment.</p>

6.3 Ordinance Compliance

With the approval of this Lot Line Adjustment, Parcel 2 would be in conformance with the minimum parcel size and setback requirements of the 2-E-1 zone district of the Article IV Zoning Ordinance but would contain a split zone along the adjusted lot line. All other aspects of Parcel 2 conform to the Article IV requirements including parking, setbacks, and height.

As a result of the lot line adjustment, Parcel 2’s zoning designation would be split along the original property line. In order to avoid creating a split zone on Parcel 2, as well as to avoid a non-conforming lot size on parcel 1 (currently in the 3-E-1 zone district but will become 2.44 acres), the

applicants are proposing to concurrently rezone the two properties (application No. 05RZN-00000-00009). The rezone would result in Parcel 1 having a 2-E-1 zoning designation and Parcel 2 having a 3-E-1 zoning designation. As a result, both parcels would be conforming as to parcel size. This would not result in “island” or “spot” zoning because both of the properties are currently adjacent to each of these zone districts.

The purpose of the single family residential district is to reserve appropriately located areas for family living at a reasonable range of population densities consistent with sound standards of public health, welfare, and safety. It is the intent of this district to protect the residential characteristics of an area and to promote a suitable environment for family life. The project would preserve a landscape buffer and increase privacy for Parcel 2. Therefore, the project would perpetuate the intent and purpose of the residential zone district by increasing neighborhood compatibility.

There is an existing shed located in the southeast corner of Parcel 1 which intrudes into both the side and front yard setbacks. This shed would be relocated or removed as a condition of approval attached to the project. All other aspects of Parcel 1 would conform to the Article IV requirements including parking, setbacks, and height. Parcel 1 would become non-conforming as to parcel size (2.44 acres in the 3-E-1 zone district) but would be corrected as part of the concurrently proposed rezone.

6.4 Subdivision/Development Review Committee

The project was reviewed by the Subdivision/Development Review Committee on October 13, 2005. Recommended conditions of approval are listed in Attachment C.

6.5 Board of Architectural Review

This project is not subject to review by the Montecito Board of Architectural Review.

7.0 APPEALS PROCEDURE

- A rezoning recommended for approval is automatically forwarded to the Board of Supervisors for final action, therefore no appeal is required.
- A rezoning denied by the Commission must be appealed to the Board within five (5) days after the Commission's report is filed with the Clerk of the Board of Supervisors.
- The action of the Board of Supervisors on the lot line adjustment and associated rezone is not subject to appeal.

ATTACHMENTS

Zaleski Lot Line Adjustment and Rezone, Case Nos. 05LLA-00000-00014 & 05RZN-00000-00009

Hearing Date: January 18, 2006

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- A. Findings
- B. Notice of Exemption
- C. Conditions of Approval with attached Departmental letters
- D. Draft Ordinance for Rezone
- E. Tentative Lot Line Adjustment/ Site Plan

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ATTACHMENT A: FINDINGS

1.0 CEQA FINDINGS

Find that the project is exempt from environmental review pursuant to CEQA Guidelines Sections 15305. A more detailed discussion of the exemption is provided in Attachment B to this staff report.

2.0 ADMINISTRATIVE FINDINGS

2.1 REZONE FINDINGS

Pursuant to Article IV, Section 35-474, in order for the Planning Commission to recommend approval or for the Board of Supervisors to approve a Rezone request, the following findings shall be made by the Planning Commission and Board of Supervisors:

2.1.1. The request is in the interests of the general community welfare.

The rezone will bring the adjusted parcels into conformance with the current Zoning Ordinance, allowing for orderly processing of any future proposals on the lots. The rezone will not cause an intensification of use, since the properties are developed with dwellings, nor will it provide a benefit that is not enjoyed by the surrounding parcels. Therefore, the project is consistent with this finding.

2.1.2. The request is consistent with the Comprehensive Plan, the requirements of State planning and zoning laws, and Article IV.

The project site is designated as Semi-Rural Residential (SRR-0.5) under the Montecito Community Plan. Upon approval of the concurrently proposed rezone and removal/relocation of the shed on Parcel 1 there would not be any inconsistencies with the Comprehensive Plan policies or Article IV zoning requirements. Therefore, the project is consistent with this finding.

2.1.3. The request is consistent with good zoning and planning practices.

The project involves a lot line adjustment between two existing lots which would result in Parcel 1 becoming non-conforming as to parcel size (2.44 acres in the 3-E-1 zone district). The application for rezone would alleviate the non-conforming status of Parcel 1.

Additionally, Parcel 2 would gain a landscape buffer as a result of the project. This buffer would increase privacy and result in greater neighborhood compatibility for the subject parcels. Rezoning Parcel 2 to 3-E-1 (would become 3.60 acres) would result in a more appropriate zoning designation. Therefore, the project is consistent with this finding.

2.2 LOT LINE ADJUSTMENT FINDINGS

The County Subdivision Regulations (Chapter 21 of the County Code) provide that a Lot Line Adjustment should not be approved unless all of the standards for approval of a Lot Line Adjustment as stated in Section 21-93 are met. Pursuant to the standards of approval set forth below, the project is consistent with the policies and provisions of the Comprehensive Plan, Montecito Community Plan, and Chapters 21 and 35 of the County Code:

2.2.1. The Lot Line Adjustment is in conformity with the County General Plan and the purposes and policies of Chapter 35 of this code, the Zoning Ordinance of the County of Santa Barbara.

The project involves an adjustment between two existing legal lots which would result in 1.) a split zone on Parcel 2 (3-E-1 and 2-E-1) and 2.) Parcel 1 becoming non-conforming as to parcel size (2.44 acres in the 3-E-1 zone district). The Lot Line Adjustment is conditioned for recordation only after approval of the concurrently proposed rezone (05RZN-00000-00009). The project is also conditioned to remove or relocate a shed which intrudes into the front and side yard setbacks of Parcel 1 prior to map recordation. After approval of the concurrently proposed rezone and removal/relocation of the shed on Parcel 1 there would not be any inconsistencies with the Comprehensive (General) Plan policies or Article IV zoning requirements.

2.2.2. No parcel involved in the Lot Line Adjustment that is conforming as to size prior to the adjustment shall become nonconforming as to size as a result of the adjustment.

The project involves an adjustment between two existing lots which would result in Parcel 1 becoming non-conforming as to parcel size (2.44 acres in the 3-E-1 zone district). The Lot Line Adjustment is conditioned for recordation only after approval of the concurrently proposed rezone (05RZN-00000-00009) which would alleviate the non-conforming status of Parcel 1.

2.2.3 Except as provided herein, all parcels resulting from the Lot Line Adjustment shall meet the minimum parcel size requirement of the zone district in which the parcel is located. A Lot Line Adjustment may be approved that results in nonconforming (as to size) parcels provided that it complies with subsection a or b:

The project involves an adjustment between two existing lots which would result Parcel 1 becoming non-conforming as to parcel size (2.44 acres in the 3-E-1 zone district). The Lot Line Adjustment is conditioned for recordation only after approval of the concurrently proposed rezone (05RZN-00000-00009) which would alleviate the non-conforming status of Parcel 1.

2.2.4. The Lot Line Adjustment will not increase any violation of parcel width, setback, lot coverage, parking or other similar requirement of the applicable zone district, or make an existing violation more onerous.

The purpose of the Lot Line Adjustment is to preserve a landscape buffer between the two properties which affords privacy for parcel 2. The existing shed on Parcel 1 is located within the front and side yard setbacks. However, this structure will be removed/relocated as a condition of approval of the project. Therefore, no violations of setback or other zoning requirements would be created from the proposed Lot Line Adjustment.

2.2.5. The subject properties are in compliance with all laws, rules and regulations pertaining to zoning uses, setbacks, and any other applicable provisions of [Chapter 21] or the Lot Line Adjustment has been conditioned to require compliance with such rules and regulations and such zoning violation fees imposed pursuant to applicable law have been paid.

Parcel 1 is currently inconsistent with setback regulations due to the location of the shed in the southeast corner. However, this structure will be removed/ relocated as a condition of approval of the project. Any future development will be subject to all rules and regulations of the Santa Barbara County zoning and building codes, and any applicable provisions of Chapter 21 Subdivision Regulations.

2.2.6. Conditions have been imposed to facilitate the relocation of existing utilities, infrastructure and easements.

The area of adjustment currently contains a private septic system which serves Parcel 1. This private septic system will be abandoned in accordance with Environmental Health Services requirements and prior to recordation of the Lot Line Adjustment. The owner proposes to replace the private system with a connection to the Montecito Sanitary District. An easement for this extension has been proposed and is identified on the site plan. The proposed Lot Line Adjustment would not affect access or any other existing services.

ATTACHMENT B: NOTICE OF EXEMPTION

NOTICE OF EXEMPTION

TO: Santa Barbara County Clerk of the Board of Supervisors

FROM: Planning and Development

The project or activity identified below is determined to be exempt from further environmental review requirements of the California Environmental Quality Act (CEQA) of 1970, as defined in the State and County Guidelines for the implementation of CEQA.

APN(s): 011-060-032 and 011-060-033 Case No.: 05LLA-00000-00014 & 05RZN-00000-00009

Location: 1478 and 1474 East Mountain Drive, west of San Ysidro Lane

Project Title: Zaleski Lot Line Adjustment & Rezone

Project Description:

The project proposes a Lot Line Adjustment between two parcels, located at 1478 (Parcel 1) and 1474 (Parcel 2) East Mountain Drive (APNs 011-060-032 and -033, respectively) in the Montecito Area, First Supervisorial District. The purpose of the Lot Line Adjustment is to adjust the property line between the two subject parcels to protect a landscape buffer which affords privacy for 1474 East Mountain Drive (parcel 2). Parcel 2 is zoned 2-E-1 and parcel 1 is zoned 3-E-1 (These will switch as a result of the concurrently proposed rezone 05RZN-00000-00009). As a result of the Lot Line Adjustment, Parcel 2 would increase in size from 2.63 acres to 3.59 acres (gross) and Parcel 1 would decrease in size from 3.59 acres to 2.45 acres (gross). The 0.97 acre area of adjustment currently contains a septic system that serves Parcel 1 which will be abandoned in accordance with Environmental Health Services requirements. The owner proposes to replace the private system with a connection to the Montecito Sanitary District. Access for both parcels is taken from East Mountain Drive via a private road.

There are several easements on the subject properties, most of which are required for utilities and road access. All of the current easements will be maintained and will not be affected by the proposed Lot Line Adjustment.

Name of Public Agency Approving Project: County of Santa Barbara

Name of Person or Agency Carrying Out Project: James Zaleski

Exempt Status: (Check one)

- Ministerial
- Statutory Exemption
- Categorical Exemption
- Emergency Project
- Declared Emergency

Cite specific CEQA and/or CEQA Guideline Section: 15305

Reasons to support exemption findings: Section 15305 categorically exempts minor alterations in land use limitations in areas with an average slope of less than 20% which do not result in any changes in land use and density. The project area does have an average slope of less than 20% and there are no environmental impacts associated with the proposed lot line adjustment and rezone. The project would not impact any trees, native vegetation, or archaeological resources. The project would not require any grading, and no native vegetation or specimen trees are proposed to be removed. The project would not authorize any physical development. Therefore, the project is consistent with this categorical exemption and no further environmental review is required.

Lead Agency Contact Person: Errin Briggs, Planning & Development, Phone #: (805) 568-2047

Department/Division Representative: _____ Date: _____

Acceptance Date: _____

Note: A copy of this form must be posted at P&D 6 days prior to a decision on the project. Upon project approval, this form must be filed with the County Clerk of the Board and posted by the Clerk of the Board for a period of 30 days to begin a 35 day statute of limitations on legal challenges.

distribution: Hearing Support Staff
 Project file (when P&D permit is required)

Date Filed by County Clerk

ATTACHMENT C: CONDITIONS OF APPROVAL

1. Approval of Lot Line Adjustment 05LLA-000000-000014 is based upon and limited to compliance with the project description, Montecito Planning Commission Staff Report dated February 3, 2006 and conditions of approval set forth below. Any deviations from the project description or the conditions must be reviewed and approved by the Planning and Development Department for conformity with this approval. Deviations from the project description or conditions of approval may require a modification to project conditions and further environmental review.

The project description is as follows:

The project proposes a Lot Line Adjustment between two parcels, located at 1478 (Parcel 1) and 1474 (Parcel 2) East Mountain Drive (APNs 011-060-032 and -033, respectively) in the Montecito Area, First Supervisorial District. The purpose of the Lot Line Adjustment is to adjust the property line between the two subject parcels to protect a landscape buffer which affords privacy for 1474 East Mountain Drive (Parcel 2). Parcel 2 is zoned 2-E-1 and parcel 1 is zoned 3-E-1 (These will switch as a result of the concurrently proposed rezone 05RZN-00000-00009). As a result of the Lot Line Adjustment, Parcel 2 would increase in size from 2.63 acres to 3.59 acres (gross) and Parcel 1 would decrease in size from 3.59 acres to 2.45 acres (gross). The 0.97 acre area of adjustment currently contains a septic system that serves Parcel 1 which will be abandoned in accordance with Environmental Health Services requirements. The owner proposes to replace the private system with a connection to the Montecito Sanitary District and the proposed easement is identified on the site plan. Access for both parcels is taken from East Mountain Drive via a private road.

There are several easements on the subject properties, most of which are required for utilities and road access. All of the current easements will be maintained and will not be affected by the proposed Lot Line Adjustment.

The grading, development, use, and maintenance of the property, the size, shape, arrangement, and location of structures, parking areas and landscape areas, and the protection and preservation of resources shall conform to the project description above and the conditions of approval below. The property and any portions thereof shall be sold, leased or financed in compliance with this project description and the conditions of approval hereto.

2. Prior to filing a Record of Survey or other documents used to record the Lot Line Adjustment, the applicant shall pay all applicable P&D permit processing fees in full.

3. Prior to filing a Record of Survey or other documents used to record the Lot Line Adjustment, the shed on the southeast corner of Parcel 1 shall be removed or relocated out of the front and side yard setbacks.
3. A notice of the Lot Line Adjustment shall be recorded with the deed of each property to be adjusted. Said notice shall include the following:
 - a. Legal description for each adjusted parcel; and
 - b. Statement of the findings and conditions approving the Lot Line Adjustment.

4. The following language shall be included on the deeds arising from the Lot Line Adjustment:

This deed arises from the Lot Line Adjustment 05LLA-00000-00014 and defines a single parcel within the meaning of California Civil Code §1093. Any document used to record the Lot Line Adjustment shall include a statement that the document arises from a Lot Line Adjustment that is intended to identify two legal parcels.

5. Two copies of the Record of Survey or other documents used to record the Lot Line Adjustment and required review fees in effect at the time shall be submitted to Planning and Development (P&D) for compliance review of P&D conditions before P&D will issue final clearance to the County Surveyor.
6. Lot Line Adjustment 05LLA-00000-00014 shall expire three years after approval or conditional approval by the final decision-maker unless otherwise provided in the Subdivision Map Act, Government Code §66452.6.
7. Compliance with the following condition letters:
 - a. County Public Health Department: December 13, 2005
8. Prior to filing a Record of Survey or other documents used to record the Lot Line Adjustment, the applicants shall submit a copy of the adopted ordinance for 05RZN-00000-00009 in order to avoid creating a split zone on Parcel 2 and to avoid Parcel 1 becoming non-conforming as to parcel size.
9. In the event that any condition imposing a fee, exaction, dedication or other mitigation measure is challenged by the project sponsors in an action filed in a court of law or threatened to be filed therein which action is brought in the time period provided for in section 66499.37, this approval shall be suspended pending dismissal of such action, the expiration of the limitation period applicable to such action, or final resolution of such action. If any condition is invalidated by a court of law, the entire project shall be reviewed by the Montecito Planning Commission and no approval shall be issued unless substitute feasible mitigation conditions/measures are imposed.

10. Developer shall defend, indemnify and hold harmless the County or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees, to attack, set aside, void, or annul, in whole or in part, the County's approval of 05LLA-00000-00014. In the event that the County fails promptly to notify the applicant of any such claim, action or proceeding, or that the County fails to cooperate fully in the defense of said claim, this condition shall thereafter be of no further force or effect.

ATTACHMENT D

ARTICLE IV (REZONE ONLY)
ORDINANCE NO. _____

AN ORDINANCE REPEALING ALL ZONING MAPS AND ZONE DESIGNATIONS ADOPTED PURSUANT TO THE PROVISIONS OF ARTICLE IV AS THEY APPLIED TO ASSESSOR'S PARCEL NUMBERS 011-060-032 & 011-060-033 AND ADOPTING NEW ZONING MAPS PURSUANT TO THE PROVISIONS OF SECTION 35-404. ADOPTING NEW ZONING ORDINANCES AND MAPS, OF ARTICLE IV OF CHAPTER 35 OF THE CODE OF THE COUNTY OF SANTA BARBARA, CALIFORNIA, BY ADOPTING ZONING MAP IDENTIFIED AS BOARD OF SUPERVISORS EXHIBIT NO. 35-404.7.2. TO REZONE ASSESSOR'S PARCEL NUMBER 011-060-032 FROM 2-E-1 TO 3-E-1 AND TO REZONE ASSESSOR'S PARCEL NUMBER 011-060-033 FROM 3-E-1 TO 2-E-1.

Case No. 05RZN-00000-00009

The Board of Supervisors of the County of Santa Barbara ordains as follows:

SECTION 1.

All zoning maps and zoning designations previously adopted under the provisions of Article IV and pursuant to provisions of Sections 35-401 and 35-404, "Adoption of New Zoning Maps," of Chapter 35, Montecito Zoning Ordinance, of the Code of the County of Santa Barbara, California, are hereby repealed as they relate to Assessor's Parcel Numbers 011-060-032 and 011-060-033, located at 1474 (2.63 acres) and 1478 East Mountain Drive (3.41 acres).

SECTION 2.

Section 35-404, "Adopting New Zoning Ordinances and Maps," of Article IV of Chapter 35 of the Code of the County of Santa Barbara, California, is hereby amended to add Zoning Maps identified as Board of Supervisors Exhibit No. 35-404.7.2, dated January 26, 2006, which rezones Assessor's Parcel Number 011-060-032 from 2-E-1 to 3-E-1, which rezones Assessor's Parcel Number 011-060-033 from 3-E-1 to 2-E-1, and shall have the same force and effect as if the boundaries, locations, and lines of the districts and territory therein delineated and all notations, references, and other information shown on said Zoning Maps were specifically and fully set out and described in Section 35-404..

SECTION 3.

The Chairperson of the Board of Supervisors is hereby authorized and directed to endorse said Exhibit No. 35-404.7.2., to show that said maps have been adopted by this Board.

SECTION 4

Except as amended by this Ordinance, Section 35-404 of the Code of Santa Barbara County, California, shall remain unchanged and shall continue in full force and effect.

SECTION 5.

This ordinance shall take effect and be in force thirty (30) days from the date of its passage; and before the expiration of fifteen (15) days after its passage it, or a summary of it, shall be published once, with the names of the members of the Board of Supervisors voting for and against the same in the Santa Barbara News Press, a newspaper of general circulation published in the County of Santa Barbara.

PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this ____day of _____, 2006, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

ATTEST:
CLERK OF THE BOARD

By: _____
Deputy

Chairperson, Board of Supervisors
of the County of Santa Barbara
State of California

APPROVED AS TO FORM:
STEPHEN SHANE STARK
COUNTY COUNSEL

By: _____
Deputy County Counsel