

SANTA BARBARA COUNTY BOARD AGENDA LETTER



Clerk of the Board of Supervisors
105 E. Anapamu Street, Room 407
Santa Barbara, CA 93101
(805) 568-2240

Agenda Number:
Prepared on: June 8, 2006
Department Name: Planning & Development
Department No.: 053
Agenda Date: June 20, 2006
Placement: Departmental
Estimate Time: 15 minutes on July 11, 2006
Continued Item: No
If Yes, date from:
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TO: Board of Supervisors

FROM: Dianne Meester, Assistant Director
Planning and Development

STAFF CONTACTS: Noel Langle (568-2009)
Administration Division

SUBJECT: Set hearing to acknowledge receipt of the California Coastal Commission's certification of the County's amendment to the Coastal Zoning Ordinance with suggested modifications and adoption of the Local Coastal Program Amendment MAJ-3-04 with the modifications

Recommendations:

That the Board of Supervisors set for hearing of July 11, 2006 to:

- A. Receive notice of the California Coastal Commission's certification of the County's amendments to the Coastal Zoning Ordinance and Local Coastal Program Amendment (MAJ-3-04) with suggested modifications; and
- B. Adopt a Resolution to acknowledge receipt of the California Coastal Commission's certification with modifications, adopt the Local Coastal Program Amendment with the suggested modifications, and authorize Planning & Development to transmit the adopted Resolution to the Coastal Commission.

Alignment with Board Strategic Plan: The recommendations are primarily aligned with Goal No. 1., *An Efficient Government Able to Respond Effectively to the Needs of the Community*, Goal No. 4., *A Community that is Economically Vital and Sustainable*, Goal No. 5., *A High Quality of Life for All Residents*, and is required by law or routine business necessity.

Estimated hearing time: staff presentation five minutes; total time 15 minutes.

Executive Summary and Discussion: The subject amendment to the Article II Coastal Zoning Ordinance was adopted by the Board of Supervisors on December 7, 2004 (Ordinance 4557), and was submitted to the Coastal Commission on December 21, 2004 as a proposed amendment to the County's certified Local Coastal Program (LCP). This amendment represents a general package of revisions to update and clarify Article II in regards to accessory structures, fences/walls/gates, setback areas, amateur

radio antennas, animals, zoning violation fee collection, home occupations, relationship between primary and accessory uses, nonconforming structures, as well as add new provisions for agricultural retail sales, wildlife care rehabilitation, and regulating temporary uses (special events).

The submittal was deemed complete and filed by Commission staff on January 6, 2005. In February 2005 the statutory deadline to act on the amendment was extended by the Commission for a time period not to exceed one year to February 2006.

The Coastal Commission considered the County's amendment for certification at their February 8, 2006 hearing, and approved the amendment with modifications which are summarized below. These modifications are now being initially presented for consideration by your Board. Planning & Development reviewed the modifications certified by the Commission and recommends that your Board find that the modifications are acceptable, and accept and agree to the certified modifications. The actual text of the modifications is shown in Attachment A, Coastal Commission certification action letter dated February 22, 2006. Language added by the Coastal Commission is shown as underlined; language deleted by the Commission is struck-through.

PROPOSED MODIFICATIONS

Modification 1: Definitions (Article II Section 35-58)

- 1.1 Definition of *Lot*. This modification inserts language that requires the issuance of a Coastal Development Permit for a lot that is created by a certificate of compliance or conditional certificate of compliance if the certificate or conditional certificate is recorded after the effective date of the Coastal Act or predecessor initiative unless the lot created prior to the effective date of the Coastal Act or predecessor initiative in compliance with the Subdivision Map Act and predecessor ordinances and statutes and local ordinances.

The purpose of this modification is to provide that lots that are created through the certificate of compliance process after the effective date of the Coastal Act or predecessor initiative are in compliance with the Coastal Act and the County's LCP.

This modification is recommended to be accepted since it will not affect the processing of certificates of compliance since within Santa Barbara County the certificate of compliance process is not used to "create" new divisions of land.

- 1.2 Definition of *Environmental Review*. This modification inserts language requiring that the environmental review of proposed development also be performed in compliance with the provisions of the applicable zone district and the policies and development standards of the certified LCP, and deletes language referencing the County's Environmental Thresholds and Guidelines Manual.

The purpose of this modification is to broaden the scope of review to include any specific environmental processing provision contained within the County LCP including the Coastal Zoning Ordinance. The reference to the County's Environmental Thresholds and Guidelines Manual is deleted since this document was never certified by the Coastal Commission.

This modification is recommended to be accepted since it will not change current procedures for conducting environmental review on a particular project. A definition of environmental review was added to Article II since that term is utilized in the ordinance. Any specific provisions regarding environmental review in the LCP (including Article II) has, and will continue to apply to the processing of a development project. Staff will also continue to use the County's Environmental Thresholds and Guidelines Manual in determining potential impacts of a specific development project.

- 1.3 Definition of *Temporary Use*. This modification includes a new definition of Temporary Use to accompany the Board approved regulations on temporary uses and to regulate proposed exclusive uses of public spaces (e.g., professional volleyball tournaments on public beaches).

The purpose of this modification is to clarify the meaning of the term as used in the temporary use regulations.

This modification is recommended to be accepted since it does not conflict with the range of temporary uses (special events) that are regulated under the temporary use provisions.

Modification 2: Permit requirements and exemption provisions for fences, walls, and gates (Article II Section 35-123)

This modification revises the language of Section 35-123 to specify that a fence or wall that is normally exempt from the issuance of a Coastal Development Permit is exempt only when it meets all the three following criteria:

- a) It is not located within or adjacent to a wetland, beach, environmentally sensitive habitat area, or on or within 50 feet of a coastal bluff.
- b) It will not result in any potential adverse effects to public access to the beach or public hiking and equestrian trails (including where there is substantial evidence of prescriptive rights).
- c) It will not result in significant adverse impacts to scenic views from beaches, parklands, public viewing areas, and public roadways

The purpose of this modification is to require review of such fences and walls that may negatively impact coastal resources including environmentally sensitive habitats, coastal access and coastal views due to their location.

This modification is recommended to be accepted since it will serve to implement the policies of the County's LCP regarding the protection of coastal resources, and given that all three requirements must be triggered, will only affect a minimal number of proposed fences and walls.

Modification 3: Permit requirements and exemption provisions for agricultural sales (Article II Sections 35-131.3 and 35-131.4)

This modification includes the following additional criteria that must be complied with for agricultural sales to be exempt from having to obtain a Coastal Development Permit:

- a) It is not located within or adjacent to a wetland, beach, environmentally sensitive habitat area, or on or within 50 feet of a coastal bluff.
- b) It will not result in any potential adverse effects to public access to the beach or public hiking and equestrian trails (including where there is substantial evidence of prescriptive rights).
- c) It will not result in significant adverse impacts to scenic views from beaches, parklands, public viewing areas, and public roadways.

This modification also includes additional language that requires that parking areas associated with the agricultural sales activity shall be constructed of permeable or semi-permeable materials (e.g., concrete pavers, decomposed granite) except when non-permeable materials are required to comply with disabled access requirements.

The purpose of this modification is to require review of agricultural sales that may negatively impact coastal resources including environmentally sensitive habitats, coastal access and coastal views due to their location, and to reduce the potential for adverse impacts to groundwater resources through the use of impermeable materials for parking surfaces.

This modification is recommended to be accepted since it will serve to implement the policies of the County's LCP regarding the protection of coastal resources, and will minimal, if any, impact on potential new sites for agricultural sales stands. The use of semi-permeable materials, provided they are correctly maintained, will still serve to control dust generation, which was the original purpose of the requirement for a permanently improved parking surface.

Modification 4: Permit requirements and exemption provisions for trailer use (Article II Section 35-132.10).

This modification includes the following additional criteria that must be complied with for the storage of trailers accessory to a residential use to be exempt from having to obtain a Coastal Development Permit:

- a) The trailer is not used for human habitation.
- b) It is not located within or adjacent to a wetland, beach, environmentally sensitive habitat area, or on or within 50 feet of a coastal bluff.
- c) It will not result in any potential adverse effects to public access to the beach or public hiking and equestrian trails (including where there is substantial evidence of prescriptive rights).
- d) It will not result in significant adverse impacts to scenic views from beaches, parklands, public viewing areas, and public roadways.

The purpose of this modification is to require review of trailer storage that may negatively impact coastal resources including environmentally sensitive habitats, coastal access and coastal views due to their location, as well as to ensure that the residential density requirements are complied with.

This modification is recommended to be accepted since it will serve to implement the policies of the County's LCP regarding the protection of coastal resources, and because Article II already prohibits the use of such trailers for habitation.

Modification 5: Permit requirements and exemption provisions for temporary uses.

This modification includes the following additional criteria that must be complied with for temporary uses to be exempt from having to obtain a Coastal Development Permit:

- a) The temporary use will not occupy any portion of a sandy beach, public park area, or other public use areas between Memorial Day weekend and Labor Day unless either the event will be of less than one day in duration, or the location is sufficiently remote such that there is minimal demand for public use.
- b) A fee is not charged if the temporary use will occupy any portion of a sandy beach, public park area, or other public use areas where a fee is currently not charged for the use of the same area, or, if a fee is charged, then it is for preferred seating only and more than 75 percent of the provided seating is available free of charge for general public use.
- c) The temporary use has been reviewed in advance by the Planning & Development Director who has determined that:
 - (1) The temporary use will not result in an adverse impact on the public use of or access to the area as a result of the proposed location or timing of the event.
 - (2) There will not be any direct or indirect impacts from the temporary use on environmentally sensitive habitat areas, rare or endangered species, significant scenic resources, or other coastal resources.
 - (3) The temporary use has not previously required a Coastal Development Permit to address and monitor associated impacts to coastal resources.
- d) The Director of Planning & Development has determined that the temporary use does not have unique or changing circumstances relative to the specific event that have the potential to cause significant adverse impacts on coastal resources.

The modification also deletes the special expedited appeals process for temporary uses and replaces it with the normal appeal process that includes noticing and a public hearing before the Planning Commission and potentially the Board of Supervisors.

The purpose of this modification is to exclude certain types of temporary uses from the requirement to obtain a Coastal Development Permit only if the temporary use will not result in any direct or indirect impacts from the temporary use on environmentally sensitive habitat areas, rare or endangered species, significant coastal scenic resources, public access, public views, or other coastal resources. This modification will also allow the Article II temporary use provisions to be consistent with (1) Section 30610(i) of the Coastal Act regarding temporary use exclusions, and (2) the Guidelines for the

Exclusion of Temporary Events from Coastal Commission Permit Requirements (adopted by the Coastal Commission May 12, 1993. This modification is expected to have minimal impacts on temporary uses since it is primarily targeting large-scale events such as professional volleyball tournaments that to date have not occurred within the County's coastal zone.

Modification 6: Exemptions for fences, walls and gates (Article II Section 35-169.2.1.B)

In concert with Modification 2, this modification revises the language of Section 35-169.2 (Exempt development) to specify that a fence or wall that is normally exempt from the issuance of a Coastal Development Permit is exempt only when it meets all the three following criteria:

- a) It is not located between the first public road and the sea or within or adjacent to a wetland, beach, environmentally sensitive habitat area, or on or within 50 feet of a coastal bluff.
- b) It will not result in any potential adverse effects to public access to the beach or public hiking and equestrian trails (including where there is substantial evidence of prescriptive rights).
- c) It will not result in significant adverse impacts to scenic views from beaches, parklands, public viewing areas, and public roadways

As described under Modification 2 above, the purpose of this modification is to require review of such fences and walls that may negatively impact coastal resources including environmentally sensitive habitats, coastal access and coastal views due to their location.

This modification is recommended to be accepted since it will serve to implement the policies of the County's LCP regarding the protection of coastal resources, and given that all three requirements must be triggered, will only affect a minimal number of proposed fences and walls.

Modification 7: Recovery of costs for processing applications for development after-the-fact (Article II Section 35-185.6.4)

This modification adds language that clarifies that additional permit processing fees that are paid as a penalty are not to be construed to be in-lieu of any other penalties that may otherwise be assessed for the un-permitted development pursuant to any other section of the County's Local Coastal Program or the Coastal Act itself.

This modification is recommended to be accepted since it merely clarifies additional means of cost recovery are still available.

PROCESSING

Your Board has the following three options in responding to the Coastal Commission certified modifications:

1. No response. If your Board does not respond to the Coastal Commission's certified modifications, then the County's ordinance amendment, then the Coastal Commission's

certification will expire six months from the date of their certification (February 8, 2006) and the amendments would have to be resubmitted to the Coastal Commission.

2. Reject or propose revisions to the Coastal Commission. Your Board could act to reject or propose revisions to the modifications approved by the Coastal Commission. The rejection and/or revision of certain modification would be submitted to the Coastal Commission for their consideration.
3. Approve the attached Resolution accepting the Coastal Commission's certification of the amendment as modified. After receipt of the Board of Supervisor's resolution acknowledging and accepting the Coastal Commission's resolution of certification including modifications, the Executive Director of the Coastal Commission will make a determination in writing and present this determination to the Coastal Commission at its next regularly scheduled public meeting. If for some reason a majority of the Commission members object to the Executive Director's determination, the Commission shall review the local government's action and notice as if it were resubmitted. **Staff recommends this option for the reasons outlined above.**

Mandates and Service Levels: Amendments to Article II of Chapter 35 of the County Code are legislative acts under the jurisdiction of the Board of Supervisors. The administrative regulations of the Coastal Commission require that the Board of Supervisors review and accept any certified modifications of amendments to the County's LCP that have been previously adopted by the Board.

Fiscal and Facilities Impacts: Funding for this ordinance amendment work effort is budgeted in the Planning Support program of the Administration Division on page D-290 of the adopted Planning & Development's budget for fiscal year 2005-06. There are no facilities impacts.

Special instructions: Planning and Development will transmit a resolution and signed Board letter to the Coastal Commission and other copied parties.

Concurrence: County Counsel

Attachments:

- A. Coastal Commission certification action letter, June 8, 2005
- B. Santa Barbara County resolution to accept the Coastal Commission's certification of the Local Coastal Program amendments with modifications
- C. Letter from the Board of Supervisors transmitting the resolution to the Coastal Commission

ATTACHMENT B

**RESOLUTION OF THE BOARD OF SUPERVISORS
COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA**

IN THE MATTER OF APPROVING AN AMENDMENT)	
TO THE SANTA BARBARA COUNTY LOCAL)	RESOLUTION NO. 06-_____
COASTAL PROGRAM TO AMEND THE COASTAL)	
ZONING ORDINANCE, ARTICLE II OF CHAPTER 35)	County Case No.:
OF THE SANTA BARBARA COUNTY CODE, TO)	04ORD-00000-00021
TO ADOPT THE ORDINANCE AMENDMENT AS)	
AS MODIFIED BY THE CALIFORNIA COASTAL)	
COMMISSION)	
_____)	

WITH REFERENCE TO THE FOLLOWING:

- A. On December 7, 2004, the Board of Supervisors of the County of Santa Barbara approved an amendment to the County's Local Coastal Program to amend several section of the Coastal Zoning Ordinance, Article II of Chapter 35 of the County Code, and on the same day by Resolution No. 04-351 submitted this amendment for consideration by the California Coastal Commission; and
- B. On February 8, 2006 the California Coastal Commission approved a resolution of certification with suggested modifications for this Local Coastal Program Amendment (Coastal Commission Case No. MAJ-3-04); and
- C. Whereas the Board of Supervisors finds the suggested modifications to be acceptable;

NOW THEREFORE, IT IS HEREBY RESOLVED AS FOLLOWS:

- 1. The above recitations are true and correct.
- 2. The Board of Supervisors acknowledges receipt of the Coastal Commission's resolution of certification with suggested modifications and accepts those modifications through amendment of the Coastal Land Use Plan and Implementation Program (Coastal Zoning Ordinance) as required in Section 13544(a) of the Commission's Administrative Regulations.
- 3. The Board will submit this acknowledgment to the California Coastal Commission to demonstrate satisfaction of the specific requirement of the Commission's certification order, pursuant to Section 13544(b) of the Commission's Administrative Regulations.
- 4. The Chair of this Board is hereby authorized and directed to sign and certify all documents and other materials in accordance with this resolution to show the above mentioned action by the Board of Supervisors.

PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this 11th day of July, 2006, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

JONI GRAY
Chair, Board of Supervisors
County of Santa Barbara

ATTEST:

MICHAEL F. BROWN
Clerk of the Board of Supervisors

By _____
Deputy Clerk

APPROVED AS TO FORM:

STEPHEN SHANE STARK
County Counsel

By _____
Deputy County Counsel

ATTACHMENT C

July 11, 2006

Peter Douglas, Executive Director
California Coastal Commission
South Central Coast Area
89 South California Street, Suite 200
Ventura, California 93001

Dear Mr. Douglas:

On behalf of Santa Barbara County, the Board of Supervisors has executed the attached resolution to accept your Commission's certification of the County's amendment to its certified Local Coastal Program, Amendment MAJ-3-0.

Thank you for your cooperation on this project. Please contact County staff if you have any questions.

Sincerely,

Joni Gray, Chair
Board of Supervisors