

**SANTA BARBARA COUNTY
BOARD AGENDA LETTER**



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

Agenda Number:
Prepared on: 7/14/05
Department Name: CEO
Department No.: 012
Agenda Date: 9/27/05
Placement: Departmental
Estimate Time: 90 Minutes
Continued Item: Yes
If Yes, date from: 7/26/05

TO: Board of Supervisors

FROM: Michael F. Brown County Executive Officer Stephen S. Stark County Counsel

STAFF CONTACT: Ron Cortez, Deputy County Executive Jason Stilwell Project Manager

SUBJECT: Consider amendments to Chapter 2, Article V of the Santa Barbara County Code relating to creating Regional Boards of Architectural Review

Recommendation(s):

That the Board of Supervisors:

- a) Consider the introduction (first reading) of an ordinance amending sections of Chapter 2, Article V relating to the creation of regional County Boards of Architectural Review (Attachment A);
- b) Adopt boundaries for regional Boards of Architectural Review as noted in the proposed ordinance;
- c) Find that this is not an activity subject to CEQA pursuant to CEQA Guidelines sections 15060 (c) (3) and 15378;
- d) Direct staff to make necessary amendments to Article III and other governing documents for consideration by the Planning Commission as necessary;
- e) Set hearing for November 22, 2005 to consider amendments to Article III and other governing documents as required to enable the proposed changes to Chapter 2, Article V to be implemented;
- f) Set second reading of an ordinance amending sections of Chapter 2, Article V relating to the creation of regional County Boards of Architectural Review for November 22, 2005.

Alignment with Board Strategic Plan:

This recommendation is primarily aligned with having an efficient government able to anticipate and respond effectively to the needs of the community.

Executive Summary and Discussion:

The County Board of Architectural Review (BAR) is designed to encourage development that exemplifies the best professional design practices to enhance the visual quality of the environment, benefit surrounding property values, and prevent poor quality of design. It is important periodically to consider if the BAR is meeting its goals as best as it can be or to determine if there are options for process improvements.

On April 26, 2005 the Board of Supervisors “directed the County Executive Officer to proceed with necessary steps to create a North County BAR. The Board requested that the Fourth and Fifth District Supervisors be involved in determining the boundaries, protocol for implementations and process. The Board further directed staff to review the possibility of an independent BAR for the Santa Ynez Valley.” One of the first determinations of the Fourth and Fifth District Supervisors was that the process required the involvement of the Third District Supervisor. As such the Third District Supervisor worked with the Fifth District Supervisor as a Board Subcommittee to make the requested determinations. The Fourth District Supervisor deferred so as to not conflict with the requirements of the Brown Act.

Staff solicited input and comment from the Board of Architectural Review. These comments were presented to the Board Subcommittee. The Subcommittee made certain determinations and these determinations were drafted as a proposed ordinance. This ordinance was presented to the Planning Commission and presented in summary version to the Board of Architectural Review for their input and comment. Below are a summary of the determinations of the Board Subcommittee and a staff summary.

SUMMARY OF THE DETERMINATIONS OF THE BOARD SUBCOMMITTEE

The attached proposed ordinance (Attachment A with notations included in Attachment B) includes the determinations of the Board Subcommittee. The goal of the changes is to maintain architectural review in order to ensure good quality architecture compatible with community standards throughout the county, and to improve access of applicants and architects to conveniently located boards of review, by establishing North County, Central County and South County Boards of Architectural Review and maintaining the Montecito Board of Architectural Review (map attached as Attachment C). The proposed ordinance does not change the existing provisions for the Montecito BAR. These Boards are abbreviated NBAR, CBAR, SBAR and, MBAR respectively.

The Board Subcommittee determined membership requirements for the Boards. The structure is summarized in the following table.

	NBAR	CBAR	SBAR	MBAR (unchanged)
Number of Members	5 with option for 2 alternates	5 with option for 2 alternates	7	7
Member Appointment Process	Appointed by the Fourth and Fifth District Supervisor and approved by the Board of Supervisors	Appointed by the Third District Supervisor and approved by the Board of Supervisors	Appointed by the First, Second, and Third District Supervisors and approved by the Board of Supervisors	Appointed by the First District Supervisor and approved by the Board of Supervisors
Member Qualifications	3 licensed architects or landscape architects; 1 "public member" and 1 member who is either the Fourth or Fifth District Planning Commissioner or a "public member." The alternates shall be licensed architects, licensed landscape architects or a community member skilled in reading plans	3 licensed architects or landscape architects; 1 "public member" and 1 member who is either the Third District Planning Commissioner or a "public member." The alternates shall be licensed architects, licensed landscape architects or a community member skilled in reading plans	3 licensed architects; the remaining 4 must live within the boundaries of the SBAR; at least 2 of the 4 must be licensed landscape architects and the remaining members are "public members"	5 licensed architects or landscape architects; 2 "public members" residing within the boundaries of the MBAR
Member Compensation	\$150 per meeting plus mileage	\$150 per meeting plus mileage	\$150 per meeting plus mileage	No compensation
Meeting Frequency	One regular monthly plus special meetings as BAR determines	One regular monthly plus special meetings as BAR determines	One regular monthly plus special meetings as BAR determines	One regular monthly plus special meetings as BAR determines

The "public members" are defined in the ordinance to be an individual who "shall be skilled in reading and interpreting architectural drawings and able to judge the effects of a proposed building, structure, or sign upon the desirability, property values, and development of surrounding areas." Members of the NBAR, CBAR, and SBAR are proposed to have four-year terms coinciding with the terms of the appointing Supervisor; members of the MBAR have staggered terms. Members of the NBAR, CBAR, SBAR and MBAR may be removed by a three-fifth vote of the Board of Supervisors.

The powers and duties of the BARs were left unchanged except in two areas where the Board Subcommittee determined changes were required for the NBAR. These changes are:

- 1) Individual single family dwellings shall be reviewed by the NBAR no more than three times or for no longer than three months from the date of filing an application, whichever occurs first unless project changes or requests for a continuance initiated by the applicant require further review; the project would then go the decision-maker;
- 2) Individual single family dwellings and commercial/industrial projects not open to the public which cannot be viewed from public roadways or other areas of public use are exempt from review by the NBAR. Landscape screening shall not be taken into consideration when determining the view from public roadways.

The Board Subcommittee determined this ordinance should have a review period to allow an assessment of the changes after implementation. As such, before January 1, 2008 the Board shall review the provisions of this ordinance relating to the effectiveness of the creation of the NBAR, the CBAR, and the SBAR, and may extend or modify the terms of this ordinance (See Attachment B which includes the ordinance with original footnotes and internal notes for explanatory purposes)

STAFF SUMMARY

Upon first reading by the Board on September 27, staff will proceed with seeking interested members, developing information handouts for the public, revising application forms, and implementing the logistics of the BAR restructuring. If the Board directs staff to proceed with implementing the creation of regional BARs certain ordinance amendments will be required. Staff will work with the Planning Commission to amend the necessary land use ordinances. Staff presented to the Planning Commission on August 10, 2005 the potential changes they will be asked to consider should the Board proceed with creating regional Boards of Architectural Review (Attachment D). Should the Board adopt staff's recommendations creating regional BARs, the Planning Commission will consider ordinance changes at their October 26, 2005 hearing and the changes will be submitted to the Board for final approval at the Board's November 22, 2005 meeting. In addition, a second reading will be scheduled for November 22, 2005 after which time the changes will become effective on January 1, 2006.

Staff analyzed the financial impacts of the proposed changes and these are highlighted below in the Fiscal and Facilities Impact of the Board letter.

Planning Commission Input

The Planning Commission unanimously adopted three motions forwarding their recommendations relating to the regional BAR proposal. These are included in Attachment E. In summary, their first action was a unanimous vote to support: a single NBAR combining the proposed CBAR and NBAR (map of this proposal is included as Attachment F); a 1 year review of the ordinance changes; 2 year BAR member terms to coincide with the terms of the Planning Commissioners; all appointments to require a vote of the Board; and the NBAR be advisory with final decision by the decisionmaker. Subsequently the Board Subcommittee agreed with the Planning Commission recommendation to require all appointments to be approved by a vote of the Board and this change is included in the provided ordinance (Attachment A).

The second action of the Planning Commission was a unanimous vote to support three member appointment options for the NBAR. They listed these as Plan A, Plan B, and Plan C. They include:

- Plan A. 3 licensed architects, 1 licensed landscape architect, 1 Planning Commissioner for each district (the Planning Commissioner of either the Third, Fourth, or Fifth Supervisorial District would serve this role depending on the district in which the project is located) - 5 NBAR MEMBERS TOTAL;
- Plan B. 3 licensed architects, 1 licensed landscape architect, 1 Planning Commissioner for each district (the Planning Commissioner of either the Third, Fourth, or Fifth Supervisorial District would serve this role depending on the district in which the project is located) and 2 contractors - 7 MEMBERS TOTAL;
- Plan C. 2 who must either be licensed architects or licensed landscape architects and 3 community members or landscape designers - 5 MEMBERS TOTAL

The third action of the Planning Commission was a unanimous vote to support in concept three facets of the ordinance with the suggestion to refine the verbiage. These are: 1) the provision 2-33.12(a)(3) regarding the three residential visit limit, 2) the four sub-part 2s of Section 2-33.12(a), (b), (c), and (d) relating to BARs review of County projects (the Commission suggested the word “may” should be replaced with “shall”), and 3) the provision 2-33.12(a)(4) relating to exempting certain projects not visible from a public location.

Board of Architectural Review Input

After the Board of April 26, 2005 took action to examine the feasibility of regional Boards of Architectural Review, staff presented the decision to the County Board of Architectural Review for their comments. The Board of Architectural Review was primarily concerned with maintaining professionals on the BARs who are licensed architects or otherwise skilled at reading and comprehending complex planning documents. They prepared a letter to the Subcommittee outlining their suggestions and concerns. This letter is attached as Attachment G.

On July 15, 2005 staff followed up with the BAR and presented to them the proposals of the Board Subcommittee. After due discussion the BAR determined they would attend this hearing to convey their views.

Mandates and Service Levels:

None from the requested action.

Fiscal and Facilities Impacts:

The Fiscal Impact is detailed in Attachment H. In summary the proposed ordinance would result in increasing the cost of operating the County BARs by \$84,073 annually. These costs are primarily the cost of staff to prepare and attend the additional BAR meetings and for member stipends for the added members. In addition to the \$84,073, there will be costs with implementing the ordinance and amending certain other ordinances that are affected by these proposed changes.

The Fiscal Year 2005-2006 impact is projected to be \$42,000. Funding will come from the General Fund contingency. Staff will monitor the Planning and Development budget throughout the year and complete a mid-year budget transfer if necessary.

The second spreadsheet in Attachment H includes the proposed costs if the Planning Commission suggestions were implemented and the proposed CBAR were combined with the proposed NBAR. The annual costs in this scenario are projected to be \$58,152 annually. Both spreadsheets include provision for eighteen annual SBAR meetings; this is beyond the one per month minimum outlined in the ordinance but is a more conservative cost estimate given projected SBAR caseload.

Special Instructions: None

Concurrence: None

- Attachments:**
- A. Proposed revised ordinance amending sections of Chapter 2, Article V relating to the creation of regional County Boards of Architectural Review
 - B. Proposed revised ordinance amending sections of Chapter 2, Article V relating to the creation of regional County Boards of Architectural Review (with notes)
 - C. Map of regional Boards of Architectural Review as proposed by the Board Subcommittee
 - D. Memo to the Planning Commission “Required revisions to the Article III zoning ordinance to allow for advisory status of regional BARs”
 - E. Planning Commission action summary
 - F. Map of boundaries as suggested by the Planning Commission
 - G. June 6, 2005 letter from the BAR to the Board Subcommittee
 - H. Fiscal analyses

cc: Dianne Meester, County Planning and Development Assistant Director
Mary Ann Slutzky, Deputy County Counsel

Exhibit _____

ORDINANCE NO. _____

AN ORDINANCE AMENDING ARTICLE V OF CHAPTER 2 OF THE SANTA BARBARA COUNTY CODE TO ESTABLISH THE NORTH COUNTY, CENTRAL COUNTY, AND SOUTH COUNTY BOARDS OF ARCHITECTURAL REVIEW

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

WHEREAS, The County Board of Architectural Review was established by Ordinance No. 1695, and the Montecito Board of Architectural Review was established by Ordinance No. 4468; and

WHEREAS, The Board of Supervisors desires to maintain architectural review in order to ensure good quality architecture compatible with community standards throughout the county, and to improve access of applicants and architects to conveniently located boards of review, by establishing North County, Central County and South County Boards of Architectural Review and maintaining the Montecito Board of Architectural Review; and

WHEREAS, the Board of Supervisors desires to evaluate the efficiency and effectiveness of regional boards of architectural review including whether an advisory or decision-making board better promotes the goals of achieving quality design without unnecessary intrusion of government, and declares that a two-year pilot program is necessary to adequately compare and evaluate the alternatives:

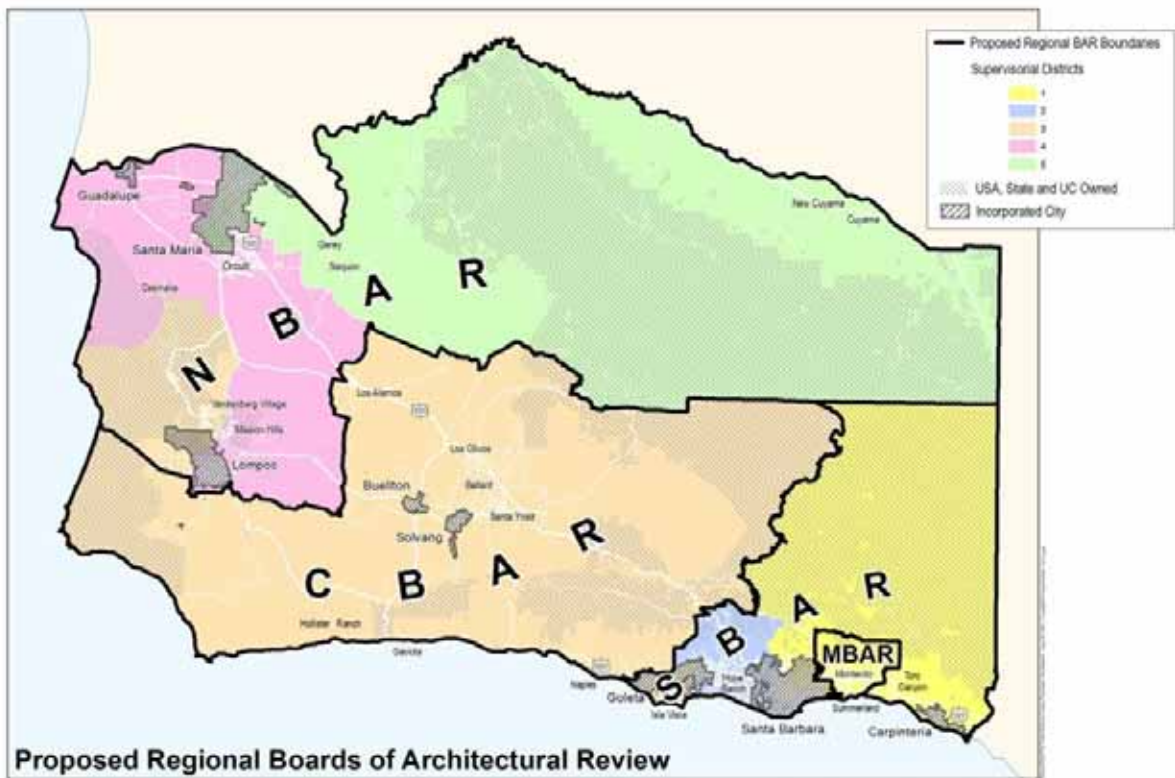
THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA BARBARA ORDAINS AS FOLLOWS:

SECTION 1. Chapter 2, Article V, Section 2-33.2 of the Santa Barbara County Code is amended to read as follows:

Sec. 2-33.2. North County, Central County, South County and Montecito boards of architectural review--Established.

- (a) The county board of architectural review in and for the portions of the county located north of the southern boundary of the City of Lompoc, hereinafter called the North County Board of Architectural Review or NBAR, is hereby established.
- (b) The County board of architectural review in and for portions of the County south of the City of Lompoc and west of the City of Goleta, hereinafter called the Central County Board of Architectural review or CBAR is hereby established.
- (c) The County board of architectural review in and for the portions of the County outside of the Montecito planning area, as designated in the Montecito community plan, and located east of the western boundary of the City of Goleta, including Isla Vista, hereinafter called the South County Board of Architectural Review or SBAR, is hereby established.

- (d) The Montecito board of architectural review in and for the portion of the County located within the Montecito planning area, as designated in the Montecito community plan, hereinafter called the Montecito Board of Architectural Review or MBAR, is hereby established.
- (e) Said boards are the successor bodies to the county architectural board of review and whenever land use regulations of this county, heretofore issued, enacted, or adopted in ordinances, conditional use permits, conditions of variances, or other forms of land use regulations, refer to said architectural board of review, said references shall henceforth be read to refer to the NBAR, CBAR, SBAR or the MBAR depending on the location of the property subject to the land use regulation.
- (f) The geographic boundaries of said boards are as depicted below. The original map is located in the files of the Clerk of the Board.



SECTION 2. Chapter 2, Article V, Section 2-33.3 of the Santa Barbara County Code is amended to read as follows:

Sec. 2-33.3. Same--Members; appointments; quorums.

- (a) The NBAR shall be composed of five persons, residents of the county, appointed by the fourth and fifth district supervisors and approved by the Board. The persons need not live in the district of the appointing supervisor. Three of the persons shall be licensed architects or licensed landscape architects. These licensed members need not be residents of the County if their professional business is located within the boundaries of the NBAR. The remaining two persons may be a member of the County Planning Commission appointed by the

fourth or fifth district supervisors and/or may be one or two persons, depending on whether a planning commissioner is appointed, who reside north of the southern boundary of the City of Lompoc who shall be skilled in reading and interpreting architectural drawings and able to judge the effects of a proposed building, structure, or sign upon the desirability, property values, and development of surrounding areas. Three persons shall constitute a quorum; one member of the quorum must be either a licensed architect or a licensed landscape architect. Two alternates may be appointed, one by the fourth district supervisor and one by the fifth district supervisor and approved by the Board. The alternates shall be licensed architects, licensed landscape architects or a community member skilled in reading plans. The alternates shall be available to fulfill the requirements of a quorum.

- (b) The CBAR shall be composed of five persons, residents of the County, appointed by the third district supervisor and approved by the board of supervisors. Three of the persons shall be licensed architects or licensed landscape architects. The persons need not live in the boundaries of the CBAR. The remaining two persons may include a planning commissioner appointed by the third district supervisor and/or may be one or two persons, depending on whether a planning commissioner is appointed, who shall reside in the area south of the City of Lompoc and west of the City of Goleta and shall be skilled in reading and interpreting architectural drawings and able to judge the effects of a proposed building, structure, or sign upon the desirability, property values, and development of surrounding areas. Three persons shall constitute a quorum; one member of the quorum must be either a licensed architect or a licensed landscape architect. Two alternates may be appointed by the third district supervisor and approved by the Board. The alternates shall be licensed architects, licensed landscape architects or a community member skilled in reading plans. The alternates shall be available to fulfill the requirements of a quorum.
- (c) The SBAR shall be composed of seven persons, residents of the county, appointed by the first, second and third district Supervisors and approved by the Board of Supervisors pursuant to Section 2-33.4(b). Three of the persons shall be licensed architects. The persons need not live in the district of the appointing supervisor. The remaining four persons shall reside east of the western boundary of the City of Goleta, including Isla Vista, but outside the Montecito planning area, as designated in the Montecito Community Plan, and shall be skilled in reading and interpreting architectural drawings and able to judge the effects of a proposed building, structure, or sign upon the desirability, property values, and development of surrounding areas, and shall include, at a minimum, two licensed landscape architects. Four members shall constitute a quorum; two members of the quorum must be either a licensed architect or a licensed landscape architect.
- (d) The MBAR shall be composed of seven persons who are residents of the county. The members of the MBAR shall be appointed by the supervisor of the first supervisorial district with approval of the board of supervisors. Five of the members shall be licensed architects or licensed landscape architects. The persons need not live in the district of the appointing supervisor. The remaining two members shall reside within the Montecito planning area as designated in the Montecito community plan, and shall be skilled in reading and interpreting architectural drawings and able to judge the effects

of a proposed building, structure, or sign upon the desirability, property values, and development of surrounding areas. Four persons shall constitute a quorum; two members of the quorum must be either a licensed architect or a licensed landscape architect.

SECTION 3. Chapter 2, Article V, Section 2-33.4 of the County Code is amended to read as follows

Sec. 2-33.4. Same--Term of office and reappointment of members.

- (a) All members of each BAR shall be appointed for four-year terms. Members shall serve until their successors are approved by the board of supervisors or they are removed or their term changed by a three-fifths vote of the board of supervisors. The district representative members' and planning commissioners' BAR term shall coincide with the election years of the appointing supervisor's for that district. The at large members shall be approved by the entire board of supervisors during non-election years.
- (b) The current (those sitting as of the effective date of the ordinance codified in this section) BAR members' terms may be shorter than four years in order to align the BAR members' appointments with those of the Board of Supervisors' member whose district the BAR member represents as follows:

January 2006

- 1st district: Appointments for three years for one member of SBAR;
- 2nd district Appointments for one year for two members of SBAR;
- 3rd district: Appointments for three years for two members of SBAR and three members of CBAR. Two alternates for the CBAR may be appointed by the 3rd district;
- 4th and 5th districts: Mutually agreed upon appointments for three members of NBAR, two of whom will serve for three years and one of whom will serve for one year. Two alternates may be appointed, one by the 4th district and one by the 5th district.

January 2006 Appointments for one landscape architect and one community member for each BAR;

January 2007 Appointments for four years for three members by the 1st district for MBAR, for two members by the 2nd district for SBAR and for one member by the 5th district with the mutual agreement of the 4th district, for NBAR

January 2008 Appointments for one landscape architect and one community member for each BAR;

January 2009 Appointments for districts 3 and 4 (with the mutual agreement of the 5th district); and for two members by the 1st district

January 2010: Appointments for one landscape architect and one community member for each BAR.

Once this alignment has been achieved, appointments (or reappointments) shall be made every four years, with appointments (or reappointments) of the 4th and 5th districts to be mutually agreed upon by the supervisors of those districts.

- (c) Members shall serve until their successors are appointed by the board of supervisors.

SECTION 4. Chapter 2, Article V, Section 2-33.6 of the County Code is amended to read as follows:

Sec. 2-33.6. Same--Removal of members.

A member of the NBAR, the CBAR, the SBAR or the MBAR may be removed or a term may be changed by a three-fifths vote of the board of supervisors.

SECTION 5. Chapter 2, Article V, Section 2-33.7 of the County Code is amended to read as follows:

Sec. 2-33.7. Same--Compensation; reimbursement for mileage.

- (a) Members of the NBAR, the CBAR, and SBAR shall receive compensation in the amount of one hundred fifty dollars per meeting attended, whether regular or special. Members shall be reimbursed by the county of Santa Barbara for their round-trip mileage from their places of business within this county to the place of the meeting of the BAR at the rate per mile allowed to county officers and employees. Round-trip mileage for site visits shall be reimbursed at the rate per mile allowed to county officers and employees as well.
- (b) Members of the MBAR shall serve without compensation.

SECTION 6. Chapter 2, Article V, Section 2-33.8 of the County Code is amended to read as follows:

Sec. 2-33.8. Same--Officers.

The NBAR, the CBAR, the SBAR and the MBAR shall elect its chairman and vice chairman from among its voting members. A designee(s) of the director of the planning and development department shall serve as secretary of each BAR.

SECTION 7. Chapter 2, Article V, Section 2-33.9 of the County Code is amended to read as follows:

Sec. 2-33.9. Same--Voting; disqualification from voting in certain cases.

No member of the NBAR, the CBAR, SBAR or MBAR may make, participate in making, or influence a decision on a building, structure, sign or landscape plan if he/she has a qualifying conflict of interest, unless he/she falls within a qualifying exception (as provided in Government Code §§ 87100 et. seq. (Political Reform Act) and Cal. Code of Regs. §§ 18700 et. seq.) He/she will have a conflict if the decision will have a reasonably foreseeable material financial effect on his/her economic interest. A member of the Planning Commission who is also a member of a BAR shall comply with the provisions of Government Code § 87105 upon identifying a conflict of interest or potential conflict of interest.

SECTION 8. Chapter 2, Article V, Section 2-33.10 of the County Code is amended to read as follows:

Sec. 2-33.10. Same--Adoption of rules and bylaws; records to be public.

Each BAR shall recommend rules or bylaws, not inconsistent with any provisions of these Sections 2-33.1 to 2-33.16, governing its procedure and the transaction of business. Any such BAR rules or bylaws shall be reviewed by the BAR and adopted by resolution by the board of supervisors. The secretary of the BAR shall keep a public record of the BAR's resolutions, transactions, findings, and determinations. The record of all actions of the BAR that are appealed to the county planning commission or Montecito planning commission shall be submitted to the appropriate commission in written form and shall include the reasons for the BAR's action. The bylaws of the NBAR, CBAR, SBAR and MBAR shall generally be consistent with each other.

SECTION 9. Chapter 2, Article V, Section 2-33.11 of the County Code is amended to read as follows:

Sec. 2-33.11. Same--Meetings.

The NBAR, CBAR, SBAR and MBAR shall each hold a minimum of one regular meeting each month; the bylaws may provide for more frequent regular meetings; a special meeting may be called at any time by the chairman of the BAR or by a majority of the members of the applicable BAR.

SECTION 10. Chapter 2, Article V, Section 2-33.12 of the County Code is amended to read as follows:

Sec. 2-33.12. Same--Powers and duties.

(a) North County Board of Architectural Review.

(1) (i) Zoning clearance, sign certificates of conformance, land use permits, or coastal development permits for any development or use located north of and including the City of Lompoc, requiring BAR approval under Articles I through III of Chapter 35 of this Code shall not be issued by the planning and development department until final BAR recommendations have been obtained from the NBAR. The powers and duties shall also include those given to the BAR in Articles I, II and III for projects located outside of the Montecito planning area as designated by the Montecito community plan.

(ii) Development Plans within the jurisdiction of the Planning commission, previously approved subdivision maps requiring BAR approval and previously approved ministerial and discretionary permits requiring BAR approval in order to mitigate visual impacts or provide for consistency with the general plan shall obtain final approval and shall not be subject to subsection (3) below.

(2) County projects (projects proposed by any entity governed by the board of supervisors or by an entity whose governing body is appointed by the board of supervisors) located north of the southern boundary of the City of Lompoc that exceed fifty thousand dollars in estimated construction costs may be reviewed by the NBAR and a recommendation must be made. The decision-maker for county projects may

require NBAR approval.

(3) Individual single family dwellings, not subject to (1)(ii) above, shall be reviewed by the NBAR no more than three times or for no longer than three months from the date of filing an application, whichever occurs first unless project changes or requests for a continuance initiated by the applicant require further review; the project would then go to the decision-maker. The NBAR shall seek to complete its review of all projects within its purview as expeditiously as possible.

(4) Individual single family dwellings and commercial/industrial projects, other than those in section (a)(1)(ii) above, not open to the public which cannot be viewed from public roadways or other areas of public use are exempt from review by the NBAR. Landscape screening shall not be taken into consideration when determining the view from public roadways.

(b) Central County Board of Architectural Review

(1) Zoning clearance, sign certificates of conformance, land use permits, or coastal development permits for any development or use located south of the City of Lompoc and west of the City of Goleta requiring BAR approval under Articles I through III of Chapter 35 of this Code shall not be issued by the planning and development department until final BAR approvals have been obtained from the CBAR. The powers and duties shall also include those given to the BAR in Articles I, II and III for projects located outside of the Montecito planning area as designated by the Montecito community plan.

(2) County projects (projects proposed by any entity governed by the board of supervisors or by an entity whose governing body is appointed by the board of supervisors) located south of the City of Lompoc and west of the City of Goleta that exceed fifty thousand dollars in estimated construction costs may be reviewed by the CBAR and a recommendation must be made. The decision-maker for county projects may require CBAR approval.

(c) South County Board of Architectural Review.

(1) Zoning clearance, sign certificates of conformance, land use permits, or coastal development permits for any development or use located east of the City of Goleta, including Isla Vista, and outside of the Montecito planning area as designated by the Montecito community plan, requiring BAR approval under Articles I through III of Chapter 35 of this Code shall not be issued by the planning and development department until final BAR approvals have been obtained from the SBAR. The powers and duties shall also include those given to the BAR in Articles I, II and III for projects located outside of the Montecito planning area as designated by the Montecito community plan.

(2) County projects (projects proposed by any entity governed by the board of supervisors or by an entity whose governing body is appointed by the board of supervisors) located east of the City of Goleta and outside of the Montecito planning area as designated by the Montecito community plan, which exceed fifty thousand dollars in estimated construction costs may be reviewed by the SBAR and a

recommendation must be made. The decision-maker for county projects may require BAR approval.

(d) Montecito Board of Architectural Review.

(1) Zoning clearance, sign certificates of conformance, land use permits, or coastal development permits for any development or use located within of the Montecito planning area as designated by the Montecito community plan requiring MBAR approval under Articles I, II and IV of Chapter 35 of this Code shall not be issued by the planning and development department until final MBAR approvals have been obtained. In addition, the MBAR shall assume the powers and duties given to the BAR in Articles I, II and IV of Chapter 35 of this Code for projects located within the Montecito planning area as designated in the Montecito community plan.

(2) County projects (projects proposed by any entity governed by the board of supervisors or by an entity whose governing body is appointed by the board of supervisors) located within the Montecito planning area as designated by the Montecito community plan that exceed fifty thousand dollars in estimated construction costs may be reviewed by the MBAR and a recommendation must be made. The decision-maker for county projects may require MBAR approval.

(e) The duties of the NBAR, CBAR, the SBAR and the MBAR are to review and recommend or approve, as applicable, as submitted, recommend, disapprove or approve subject to conditions, specified changes, or additions, the exterior architecture, including landscaping as it affects the exterior architecture, of buildings, structures, and signs which are within the jurisdiction of the BAR. When requested, the NBAR, the CBAR, the SBAR or the MBAR shall also render its advice on exterior architecture of buildings, structures, and signs to the planning and development department (or Director), zoning administrator, planning commission or board of supervisors.

SECTION 11. Chapter 2, Article V, Section 2-33.13 of the County Code is amended to read as follows:

Sec. 2-33.13. Same--Application for approval and fees.

Applications for NBAR, CBAR, SBAR or MBAR recommendation or approval, as applicable, shall be filed with the Planning and Development Department. Any fee required by a resolution of the board of supervisors for an application for NBAR, CBAR, SBAR or MBAR recommendation or approval, as applicable, shall be paid as provided in the fee resolution. An application for recommendation or approval, as applicable, of a building or structure shall contain the information required under the zoning ordinances, as well as any other information deemed necessary by the Planning and Development Department. An application for recommendation or approval, as applicable, of a sign shall contain the "required information" pursuant to the sign regulations of the county, or as deemed necessary by the planning and development department.

SECTION 12. Chapter 2, Article V, Section 2-33.14 of the County Code is amended to read as follows:

Sec. 2-33.14. Same--Aspects considered in review.

The NBAR, the CBAR, the SBAR and the MBAR, as appropriate, shall review the project for conformity with the purpose of these Sections 2-33.1 through 2-33.16, and the applicable

comprehensive plan policies and zoning regulations. The BAR's review shall include:

- (a) Height, bulk, and area of buildings and structures;
- (b) Colors and types of building materials and application;
- (c) Physical and architectural relation with existing and proposed structures on the same site and in the immediately affected surrounding area;
- (d) Site layout, orientation, and location of buildings, and relationship with open areas and topography;
- (e) Height, materials, colors, and variations in boundary walls, fences, or screen planting;
- (f) Location and type of landscaping including, but not limited to, off-street parking areas and exposed structures on the downhill side of buildings; and
- (g) Appropriateness of sign design and exterior lighting to the site and surrounding area.

SECTION 13. Chapter 2, Article V, Section 2-33.16 of the County Code is amended to read as follows:

Sec. 2-33.16. Same--Appeals; hearings.

Decisions of a BAR are final, unless appealed pursuant to the county zoning ordinances. Appeals of decisions of the NBAR, CBAR and the SBAR shall be under the jurisdiction of the county planning commission. Appeals of decisions of the MBAR shall be under the jurisdiction of the Montecito planning commission.

SECTION 14. This ordinance shall expire on March 1, 2008 unless extended. Before March 1, 2008 the Board shall review the provisions of this ordinance relating to the effectiveness of the creation of the NBAR, the CBAR, and the SBAR, including the advisory nature of the NBAR, and may extend or modify the terms of this ordinance. If this ordinance expires pursuant to this Section 14, the amendments made by Sections 1-13 of this ordinance shall be of no effect, and the terms of the pre-existing provisions in County Code Chapter 2 Article V relating to architectural review shall be in effect. The Board of Supervisors shall provide as necessary for the composition of the membership of the County BAR.

SECTION 15. Except as amended by this ordinance, Article V of Chapter 2 of the Santa Barbara County Code shall remain unchanged and shall continue in full force and effect.

SECTION 16. This ordinance shall become effective January 1, 2006; and before the expiration of 15 days after its passage it, or a summary of it, shall be published once, together 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 _____, 2005, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

SUSAN ROSE
Chair, Board of Supervisors
County of Santa Barbara

ATTEST:

APPROVED AS TO FORM:

MICHAEL F. BROWN
Clerk of the Board of Supervisors

STEPHEN SHANE STARK
County Counsel

By _____
Deputy Clerk

By _____
Deputy County Counsel

ORDINANCE NO. _____

AN ORDINANCE AMENDING ARTICLE V OF CHAPTER 2 OF THE SANTA BARBARA COUNTY CODE TO ESTABLISH THE NORTH COUNTY, CENTRAL COUNTY, AND SOUTH COUNTY BOARDS OF ARCHITECTURAL REVIEW

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

WHEREAS, The County Board of Architectural Review was established by Ordinance No. 1695, and the Montecito Board of Architectural Review was established by Ordinance No. 4468; and

WHEREAS, The Board of Supervisors desires to maintain architectural review in order to ensure good quality architecture compatible with community standards throughout the county, and to improve access of applicants and architects to conveniently located boards of review, by establishing North County, Central County and South County Boards of Architectural Review and maintaining the Montecito Board of Architectural Review; and

WHEREAS, the Board of Supervisors desires to evaluate the efficiency and effectiveness of regional boards of architectural review including whether an advisory or decision-making board better promotes the goals of achieving quality design without unnecessary intrusion of government, and declares that a two-year pilot program is necessary to adequately compare and evaluate the alternatives:

THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA BARBARA ORDAINS AS FOLLOWS:

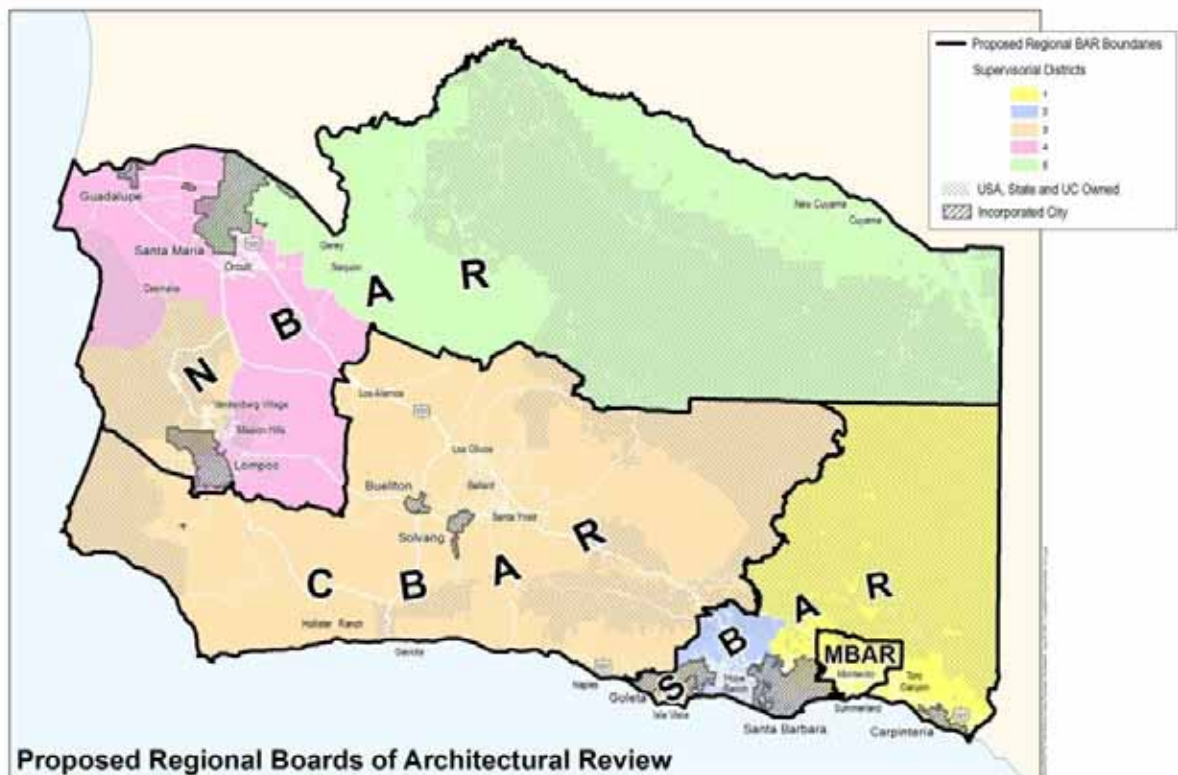
SECTION 1. Chapter 2, Article V, Section 2-33.2 of the Santa Barbara County Code is amended to read as follows¹:

Sec. 2-33.2. North County, Central County, South County and Montecito boards of architectural review--Established.

- (a) The county board of architectural review in and for the portions of the county located north of the southern boundary of the City of Lompoc, hereinafter called the North County Board of Architectural Review or NBAR, is hereby established.

¹ The basic purposes and standards for architectural review, stated in § 2-33.1 are unchanged. They apply equally to all BARs. “The board of supervisors finds that inappropriateness or poor quality of design in the exterior appearance of buildings, structures or signs adversely affect the desirability of the immediate area and neighboring areas for residential, business or other purposes and by so doing, impairs the benefits of occupancy of existing property in such areas, impairs the stability and value of both improved and unimproved real property in such areas, prevents the most appropriate development and use of such areas, produces degeneration of property in such areas with attendant deterioration of conditions affecting the health, safety and general welfare of the county and destroys a proper relationship between the taxable value of real property in such areas and the cost of public services provided therefore . It is the purpose of these Sections 2-33.1 through 2-33.16 to prevent these and other harmful effects of such exterior appearance of buildings, structures or signs erected or altered in any neighborhood or on any site subject to architectural review and thus to promote the health, safety and general welfare of the county, conserve the value of buildings and encourage the most appropriate use of land within the unincorporated portion of this county.”

- (b) The County board of architectural review in and for portions of the County south of the City of Lompoc and west of the City of Goleta, hereinafter called the Central County Board of Architectural review or CBAR is hereby established.
- (c) The County board of architectural review in and for the portions of the County outside of the Montecito planning area, as designated in the Montecito community plan, and located east of the western boundary of the City of Goleta, including Isla Vista, hereinafter called the South County Board of Architectural Review or SBAR, is hereby established.
- (d) The Montecito board of architectural review in and for the portion of the County located within the Montecito planning area, as designated in the Montecito community plan, hereinafter called the Montecito Board of Architectural Review or MBAR, is hereby established.
- (e) Said boards are the successor bodies to the county architectural board of review and whenever land use regulations of this county, heretofore issued, enacted, or adopted in ordinances, conditional use permits, conditions of variances, or other forms of land use regulations, refer to said architectural board of review, said references shall henceforth be read to refer to the NBAR, CBAR, SBAR or the MBAR depending on the location of the property subject to the land use regulation.
- (f) The geographic boundaries of said boards are as depicted below. The original map is located in the files of the Clerk of the Board.



SECTION 2. Chapter 2, Article V, Section 2-33.3 of the Santa Barbara County Code is amended to read as follows:

Sec. 2-33.3. Same--Members; appointments; quorums.

- (a) The NBAR shall be composed of five persons, residents of the county, appointed by the fourth and fifth district supervisors and approved by the Board.² The persons need not live in the district of the appointing supervisor. Three of the persons shall be licensed architects or licensed landscape architects. These licensed members need not be residents of the County if their professional business is located within the boundaries of the NBAR. The remaining two persons may be a member of the County Planning Commission appointed by the fourth or fifth district supervisors and/or may be one or two persons, depending on whether a planning commissioner is appointed, who reside north of the southern boundary of the City of Lompoc who shall be skilled in reading and interpreting architectural drawings and able to judge the effects of a proposed building, structure, or sign upon the desirability, property values, and development of surrounding areas. Three persons shall constitute a quorum; one member of the quorum must be either a licensed architect or a licensed landscape architect. Two alternates may be appointed, one by the fourth district supervisor and one by the fifth district supervisor and approved by the Board. The alternates shall be licensed architects, licensed landscape architects or a community member skilled in reading plans. The alternates shall be available to fulfill the requirements of a quorum.[Note: Bylaws to address 2-2 vote]
- (b) The CBAR shall be composed of five persons, residents of the County, appointed by the third district supervisor and approved by the board of supervisors. Three of the persons shall be licensed architects or licensed landscape architects. The persons need not live in the boundaries of the CBAR. The remaining two persons may include a planning commissioner appointed by the third district supervisor and/or may be one or two persons, depending on whether a planning commissioner is appointed, who shall reside in the area south of the City of Lompoc and west of the City of Goleta and shall be skilled in reading and interpreting architectural drawings and able to judge the effects of a proposed building, structure, or sign upon the desirability, property values, and development of surrounding areas. Three persons shall constitute a quorum; one member of the quorum must be either a licensed architect or a licensed landscape architect. Two alternates may be appointed by the third district supervisor and approved by the Board. The alternates shall be licensed architects, licensed landscape architects or a community member skilled in reading plans. The alternates shall be available to fulfill the requirements of a quorum.[Note:

² BARs are not mandatory. Design review is an exercise of the police power authorized by the Constitution and the Planning and Zoning Law. The terms of design review, including the appointment and tenure of board members, is discretionary with the entity that creates the board, i.e. the board of supervisors. Where the Legislature has provided for the board to appoint a county officer, the appointment and removal power cannot be delegated. Where there is no such statutory restriction, the board of supervisors may delegate the appointment or removal of members of boards that it creates. See *French v. Senate of California* (1905) 146 Cal. 604, 609. "The sovereign power which created the office can also fix the terms upon which it is held and can delegate the power of removal." Number of BAR members may be based on caseload, availability, or expediency (it is rational to conclude that a person will get a faster decision of no worse value with 3 than with 5 or 7). 3 seems like the minimum number, and unless there is a way to ensure a quorum of at least 2 (e.g. alternates), may be unworkable.

Bylaws to address 2-2 vote]

- (c) The SBAR shall be composed of seven persons, residents of the county, [**NOTE; WE ARE GOING FROM NINE TO SEVEN**] appointed by the first, second and third district Supervisors and approved by the Board of Supervisors pursuant to Section 2-33.4(b).³ Three of the persons shall be licensed architects. The persons need not live in the district of the appointing supervisor. The remaining four persons shall reside east of the western boundary of the City of Goleta, including Isla Vista, but outside the Montecito planning area, as designated in the Montecito Community Plan, and shall be skilled in reading and interpreting architectural drawings and able to judge the effects of a proposed building, structure, or sign upon the desirability, property values, and development of surrounding areas, and shall include, at a minimum, two licensed landscape architects. Four members shall constitute a quorum; two members of the quorum must be either a licensed architect or a licensed landscape architect.
[NOTE: By laws to address 2-2 vote.]
- (d) [**NOTE: MBAR is unchanged.**] The MBAR shall be composed of seven persons who are residents of the county. The members of the MBAR shall be appointed by the supervisor of the first supervisorial district with approval of the board of supervisors. Five of the members shall be licensed architects or licensed landscape architects. The persons need not live in the district of the appointing supervisor. The remaining two members shall reside within the Montecito planning area as designated in the Montecito community plan, and shall be skilled in reading and interpreting architectural drawings and able to judge the effects of a proposed building, structure, or sign upon the desirability, property values, and development of surrounding areas. Four persons shall constitute a quorum; two members of the quorum must be either a licensed architect or a licensed landscape architect.
[NOTE: Bylaws to address 2.2 vote.]

SECTION 3. Chapter 2, Article V, Section 2-33.4 of the County Code is amended to read as follows

Sec. 2-33.4. Same--Term of office and reappointment of members.

- (a) All members of each BAR shall be appointed for four-year terms. Members shall serve until their successors are approved by the board of supervisors or they are removed or their term changed by a three-fifths vote of the board of supervisors. The district representative members' and planning commissioners' BAR term shall coincide with the election years of the appointing supervisor's for that district. The at large members shall be approved by the entire board of supervisors during non-election years.
- (b) The current (those sitting as of the effective date of the ordinance codified in this section) BAR members' terms may be shorter than four years in order to align the BAR members' appointments with those of the Board of Supervisors' member whose district

³ To avoid the problem of having three supervisors arrive at a collective consensus on appointment of BAR members outside of a noticed meeting, which would violate the Brown Act, the Board may wish to provide for the appointment of a certain number of individual members by the First, Second, and Third District Supervisors, with approval of the whole Board.

the BAR member represents as follows:

January 2006

- 1st district: Appointments for three years for one member of SBAR⁴;
- 2nd district Appointments for one year for two members of SBAR;
- 3rd district: Appointments for three years for two members of SBAR and three members of CBAR. Two alternates for the CBAR may be appointed by the 3rd district;
- 4th and 5th districts: Mutually agreed upon appointments for three members of NBAR, two of whom will serve for three years and one of whom will serve for one year. Two alternates may be appointed, one by the 4th district and one by the 5th district.

January 2006 Appointments for one landscape architect and one community member for each BAR;

January 2007 Appointments for four years for three members by the 1st district for MBAR, for two members by the 2nd district for SBAR and for one member by the 5th district with the mutual agreement of the 4th district, for NBAR;[at this point the terms are aligned for these districts]

January 2008 Appointments for one landscape architect and one community member for each BAR;

January 2009⁵ Appointments for districts 3 and 4 (with the mutual agreement of the 5th district); [at this point the terms for these districts are aligned] and for two members by the 1st district [the first district staggers the appointments without consideration of alignment]

January 2010: Appointments for one landscape architect and one community member for each BAR.

Once this alignment has been achieved, appointments (or reappointments) shall be made every four years, with appointments (or reappointments) of the 4th and 5th districts to be mutually agreed upon by the supervisors of those districts.

- (c) Members shall serve until their successors are appointed by the board of supervisors.

SECTION 4. Chapter 2, Article V, Section 2-33.6 of the County Code is amended to read as follows⁶:

Sec. 2-33.6. Same--Removal of members.

A member of the NBAR, the CBAR, the SBAR or the MBAR may be removed or a term may

⁴ Because the 1st District Supervisor appoints 5 of the 7 members of the MBAR, we have provided for only one 1st District appointee to the SBAR.

⁵ This assumes the ordinance will be extended. See Section 14.

⁶ Section 2-33.5, relating to vacancies, does not need amendment.

be changed by a three-fifths vote of the board of supervisors.⁷

SECTION 5. Chapter 2, Article V, Section 2-33.7 of the County Code is amended to read as follows:

Sec. 2-33.7. Same--Compensation; reimbursement for mileage.

- (a) Members of the NBAR, the CBAR, and SBAR shall receive compensation in the amount of one hundred fifty dollars per meeting attended, whether regular or special. Members shall be reimbursed by the county of Santa Barbara for their round-trip mileage from their places of business within this county to the place of the meeting of the BAR at the rate per mile allowed to county officers and employees.⁸ Round-trip mileage for site visits shall be reimbursed at the rate per mile allowed to county officers and employees as well.
- (b) Members of the MBAR shall serve without compensation.

SECTION 6. Chapter 2, Article V, Section 2-33.8 of the County Code is amended to read as follows:

Sec. 2-33.8. Same--Officers.

The NBAR, the CBAR, the SBAR and the MBAR shall elect its chairman and vice chairman from among its voting members. A designee(s) of the director of the planning and development department shall serve as secretary of each BAR.

SECTION 7. Chapter 2, Article V, Section 2-33.9 of the County Code is amended to read as follows:

Sec. 2-33.9. Same--Voting; disqualification from voting in certain cases.

No member of the NBAR, the CBAR, SBAR or MBAR may make, participate in making, or influence a decision on a building, structure, sign or landscape plan if he/she has a qualifying conflict of interest, unless he/she falls within a qualifying exception (as provided in Government Code §§ 87100 et. seq. (Political Reform Act) and Cal. Code of Regs. §§ 18700 et. seq.) He/she will have a conflict if the decision will have a reasonably foreseeable material financial effect on his/her economic interest. A member of the Planning Commission who is also a member of a BAR shall comply with the provisions of Government Code § 87105 upon identifying a conflict of interest or potential conflict of interest.⁹

⁷ It is possible that in a future case, a BAR member was removed immediately before or during the pendency of a matter, an interested party could complain that individual supervisors exercised undue influence on the NBAR and thus the proceedings did not meet due process standards. Although similar challenges to board decisions have been made in other contexts, there is no binding precedent that stands for this proposition.

⁸ Policy issue whether members should continue to receive mileage in light of reduction of cross county travel.

⁹ Gov. Code § 87105 requires a person who holds an office specified in § 87200, including planning commissioners, and who has a financial interest in a decision, upon identifying a conflict of interest or a potential conflict of interest and immediately prior to the consideration of the matter, to (1) publicly identify the financial interest that gives rise to the conflict in detail sufficient to be understood by the public, except for disclosure of the exact street address of a residence; (2) recuse himself or herself from discussing and voting on the matter, or otherwise acting in violation of Section 87100; and (3) leave the room until after the discussion, vote, and any other disposition of the matter is concluded, unless the matter has been placed on the portion of the agenda reserved for uncontested matters. Notwithstanding paragraph (3), a public official with a conflict may speak on the issue during the time that the general public speaks on the issue.

SECTION 8. Chapter 2, Article V, Section 2-33.10 of the County Code is amended to read as follows:

Sec. 2-33.10. Same--Adoption of rules and bylaws; records to be public.

Each BAR shall recommend rules or bylaws, not inconsistent with any provisions of these Sections 2-33.1 to 2-33.16, governing its procedure and the transaction of business. Any such BAR rules or bylaws shall be reviewed by the BAR and adopted by resolution by the board of supervisors. The secretary of the BAR shall keep a public record of the BAR's resolutions, transactions, findings, and determinations. The record of all actions of the BAR that are appealed to the county planning commission or Montecito planning commission shall be submitted to the appropriate commission in written form and shall include the reasons for the BAR's action. The bylaws of the NBAR, CBAR, SBAR and MBAR shall generally be consistent with each other.¹⁰

SECTION 9. Chapter 2, Article V, Section 2-33.11 of the County Code is amended to read as follows:

Sec. 2-33.11. Same--Meetings.

The NBAR, CBAR, SBAR and MBAR shall each hold a minimum of one regular meeting each month; the bylaws may provide for more frequent regular meetings; a special meeting may be called at any time by the chairman of the BAR or by a majority of the members of the applicable BAR.

SECTION 10. Chapter 2, Article V, Section 2-33.12 of the County Code is amended to read as follows:

Sec. 2-33.12. Same--Powers and duties. [NOTE: The various zoning articles may be amended to provide for additional exemptions that would apply throughout the applicable article.]

(a) North County Board of Architectural Review.

(1) (i) Zoning clearance, sign certificates of conformance, land use permits, or coastal development permits for any development or use located north of and including the City of Lompoc, requiring BAR approval under Articles I through III of Chapter 35 of this Code shall not be issued by the planning and development department until final BAR recommendations have been obtained from the NBAR. The powers and duties

¹⁰ Compliance with this principle is mandatory; it is preferable to include the specific language in the ordinance. An architect or owner shouldn't be subject to different operating rules in different parts of the county. If a community plan provides a different design standard requiring different review, having different procedures that facilitate achievement of the standard with minimum intrusion or finer scrutiny, as desired, is permissible. (See Montecito.) But if the county has one substantive standard – projects shall be of good design, consistent with objective criteria and harmonious with the surrounding community – the process must be uniform throughout the county. “The Constitution itself confers upon all cities and counties the power to “make and enforce *within [their] limits* all local, police, sanitary, and other ordinances and regulations not in conflict with general laws.” (Cal. Const., art. XI, § 7.) A [county's] police power under this provision *can be applied only within its own territory* and is subject to displacement by general state law but otherwise is as broad as the police power exercisable by the Legislature itself. *Birkenfeld v. City of Berkeley* (1976) 17 Cal.3d 129, 140. See also Cal. Const. Art. IV § 16 “All laws of a general nature have uniform operation.”

shall also include those given to the BAR in Articles I, II and III for projects located outside of the Montecito planning area as designated by the Montecito community plan.

(ii) Development Plans within the jurisdiction of the Planning commission, previously approved subdivision maps requiring BAR approval and previously approved ministerial and discretionary permits requiring BAR approval in order to mitigate visual impacts or provide for consistency with the general plan shall obtain final approval and shall not be subject to subsection (3) below. [NOTE: Individual single family dwellings arising from previously approved subdivisions will not be subject to the three times or three months rule. I believe the NBAR will need the additional time given all the recently approved maps relying on BAR review]

(2) County projects (projects proposed by any entity governed by the board of supervisors or by an entity whose governing body is appointed by the board of supervisors) located north of the southern boundary of the City of Lompoc that exceed fifty thousand dollars in estimated construction costs may be reviewed by the NBAR and a recommendation must be made. The decision-maker for county projects may require NBAR approval.

(3) Individual single family dwellings, not subject to (1)(ii) above, shall be reviewed by the NBAR no more than three times or for no longer than three months from the date of filing an application, whichever occurs first unless project changes or requests for a continuance initiated by the applicant require further review; the project would then go to the decision-maker. [NOTE: There should be some reference to the need for complete plans] The NBAR shall seek to complete its review of all projects within its purview as expeditiously as possible.

(4) Individual single family dwellings and commercial/industrial projects, other than those in section (a)(1)(ii) above, not open to the public which cannot be viewed from public roadways or other areas of public use are exempt from review by the NBAR. Landscape screening shall not be taken into consideration when determining the view from public roadways.

(b) Central County Board of Architectural Review

(1) Zoning clearance, sign certificates of conformance, land use permits, or coastal development permits for any development or use located south of the City of Lompoc and west of the City of Goleta requiring BAR approval under Articles I through III of Chapter 35 of this Code shall not be issued by the planning and development department until final BAR approvals have been obtained from the CBAR. The powers and duties shall also include those given to the BAR in Articles I, II and III for projects located outside of the Montecito planning area as designated by the Montecito community plan.

(2) County projects (projects proposed by any entity governed by the board of supervisors or by an entity whose governing body is appointed by the board of supervisors) located south of the City of Lompoc and west of the City of Goleta that exceed fifty thousand dollars in estimated construction costs may be reviewed by the CBAR and a recommendation must be made. The decision-maker for county projects may require CBAR approval.

(c) South County Board of Architectural Review.

(1) Zoning clearance, sign certificates of conformance, land use permits, or coastal development permits for any development or use located east of the City of Goleta, including Isla Vista, and outside of the Montecito planning area as designated by the Montecito community plan, requiring BAR approval under Articles I through III of Chapter 35 of this Code shall not be issued by the planning and development department until final BAR approvals have been obtained from the SBAR. The powers and duties shall also include those given to the BAR in Articles I, II and III for projects located outside of the Montecito planning area as designated by the Montecito community plan.

(2) County projects (projects proposed by any entity governed by the board of supervisors or by an entity whose governing body is appointed by the board of supervisors) located east of the City of Goleta and outside of the Montecito planning area as designated by the Montecito community plan, which exceed fifty thousand dollars in estimated construction costs may be reviewed by the SBAR and a recommendation must be made. The decision-maker for county projects may require BAR approval.

(d) Montecito Board of Architectural Review. **[NOTE: This is unchanged.]**

(1) Zoning clearance, sign certificates of conformance, land use permits, or coastal development permits for any development or use located within of the Montecito planning area as designated by the Montecito community plan requiring MBAR approval under Articles I, II and IV of Chapter 35 of this Code shall not be issued by the planning and development department until final MBAR approvals have been obtained. In addition, the MBAR shall assume the powers and duties given to the BAR in Articles I, II and IV of Chapter 35 of this Code for projects located within the Montecito planning area as designated in the Montecito community plan.

(2) County projects (projects proposed by any entity governed by the board of supervisors or by an entity whose governing body is appointed by the board of supervisors) located within the Montecito planning area as designated by the Montecito community plan that exceed fifty thousand dollars in estimated construction costs may be reviewed by the MBAR and a recommendation must be made. The decision-maker for county projects may require MBAR approval.

(e) The duties of the NBAR, CBAR, the SBAR and the MBAR are to review and recommend or approve, as applicable, as submitted, recommend, disapprove or approve subject to conditions, specified changes, or additions, the exterior architecture, including landscaping as it affects the exterior architecture, of buildings, structures, and signs which are within the jurisdiction of the BAR. When requested, the NBAR, the CBAR, the SBAR or the MBAR shall also render its advice on exterior architecture of buildings, structures, and signs to the planning and development department (or Director), zoning administrator, planning commission or board of supervisors.

SECTION 11. Chapter 2, Article V, Section 2-33.13 of the County Code is amended to read as follows:

Sec. 2-33.13. Same--Application for approval and fees.

Applications for NBAR, CBAR, SBAR or MBAR recommendation or approval, as applicable, shall be filed with the Planning and Development Department. Any fee required by a resolution of the board of supervisors for an application for NBAR, CBAR, SBAR or MBAR recommendation or approval, as applicable, shall be paid as provided in the fee resolution. An application for recommendation or approval, as applicable, of a building or structure shall contain the information required under the zoning ordinances, as well as any other information deemed necessary by the Planning and Development Department. An application for recommendation or approval, as applicable, of a sign shall contain the "required information" pursuant to the sign regulations of the county, or as deemed necessary by the planning and development department.

SECTION 12. Chapter 2, Article V, Section 2-33.14 of the County Code is amended to read as follows¹¹:

Sec. 2-33.14. Same--Aspects considered in review.

The NBAR, the CBAR, the SBAR and the MBAR, as appropriate, shall review the project for conformity with the purpose of these Sections 2-33.1 through 2-33.16, and the applicable comprehensive plan policies and zoning regulations. The BAR's review shall include:

- (a) Height, bulk, and area of buildings and structures;
- (b) Colors and types of building materials and application;
- (c) Physical and architectural relation with existing and proposed structures on the same site and in the immediately affected surrounding area;
- (d) Site layout, orientation, and location of buildings, and relationship with open areas and topography;
- (e) Height, materials, colors, and variations in boundary walls, fences, or screen planting;
- (f) Location and type of landscaping including, but not limited to, off-street parking areas and exposed structures on the downhill side of buildings; and
- (g) Appropriateness of sign design and exterior lighting to the site and surrounding area.

SECTION 13. Chapter 2, Article V, Section 2-33.16 of the County Code is amended to read as follows:

Sec. 2-33.16. Same--Appeals; hearings.

Decisions of a BAR are final, unless appealed pursuant to the county zoning ordinances. Appeals of decisions of the NBAR, CBAR and the SBAR shall be under the jurisdiction of the county planning commission. Appeals of decisions of the MBAR shall be under the jurisdiction of the Montecito planning commission.

SECTION 14. This ordinance shall expire on March 1, 2008 unless extended. ¹² Before March

¹¹ Section 2-33.25, which provides for the findings to be made by a BAR, is not to be amended.

¹² In order to justify having one advisory regional BARs and three decision-making BARs, we have structured the ordinance as a two-year pilot project intended to compare and analyze the various modes of regulation. Such a

1, 2008 the Board shall review the provisions of this ordinance relating to the effectiveness of the creation of the NBAR, the CBAR, and the SBAR, including the advisory nature of the NBAR, and may extend or modify the terms of this ordinance. If this ordinance expires pursuant to this Section 14, the amendments made by Sections 1-13 of this ordinance shall be of no effect, and the terms of the pre-existing provisions in County Code Chapter 2 Article V relating to architectural review shall be in effect. The Board of Supervisors shall provide as necessary for the composition of the membership of the County BAR.

SECTION 15. Except as amended by this ordinance, Article V of Chapter 2 of the Santa Barbara County Code shall remain unchanged and shall continue in full force and effect.

SECTION 16. This ordinance shall become effective January 1, 2006; and before the expiration of 15 days after its passage it, or a summary of it, shall be published once, together 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.

pilot program is consistent with constitutional requirements. See *McGlothlen v. Superior Court* (1977) 71 Cal.App.3d 1005. The Court of Appeal held that a legislative scheme providing for alternative treatment in four counties did not violate the constitutional principles of equal protection and uniform application of laws. As to equal protection: "If no 'suspect classification' or 'fundamental interest' is involved, legislation which establishes different treatment for different groups of persons is vested with a presumption of constitutionality and will be upheld if the **basis of differentiation bears a rational relationship to the purposes of the statute.** (*Westbrook v. Mihaly*, 2 Cal.3d 765, 784-785 . . ., vacated on other grounds in 403 U.S. 915 . . .; *Sail'er Inn, Inc. v. Kirby*, 5 Cal.3d 1, 16 . . .).".... That the demonstration project is **not palpably arbitrary** is evidenced from the background studies on which it is based. That it has a sound basis in reason is clear [because] it is necessary to secure an analysis of the results of the proposed program before abandoning or modifying, statewide, the present deterrent effect of license suspensions on those convicted of driving while under the influence. Equal protection considerations will not preclude the legislative branch from prescribing experimental programs." *Id.* at 1017. (Emphasis added.) By similar reasoning, the Court held that the pilot program was consistent with the requirement that general laws be uniform in nature (Cal. Const. Art. IV § 16). *Id.* at 1024. See fn. 11, *supra*.

PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this _____ day of _____, 2005, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

SUSAN ROSE
Chair, Board of Supervisors
County of Santa Barbara

ATTEST:

APPROVED AS TO FORM:

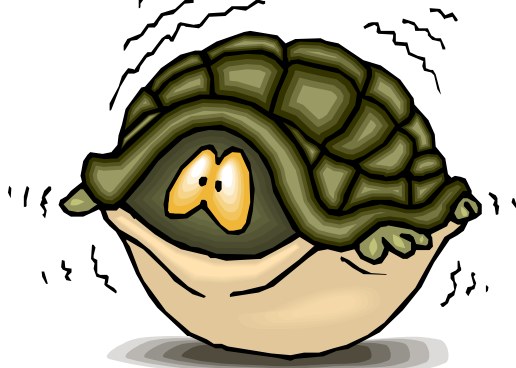
MICHAEL F. BROWN
Clerk of the Board of Supervisors

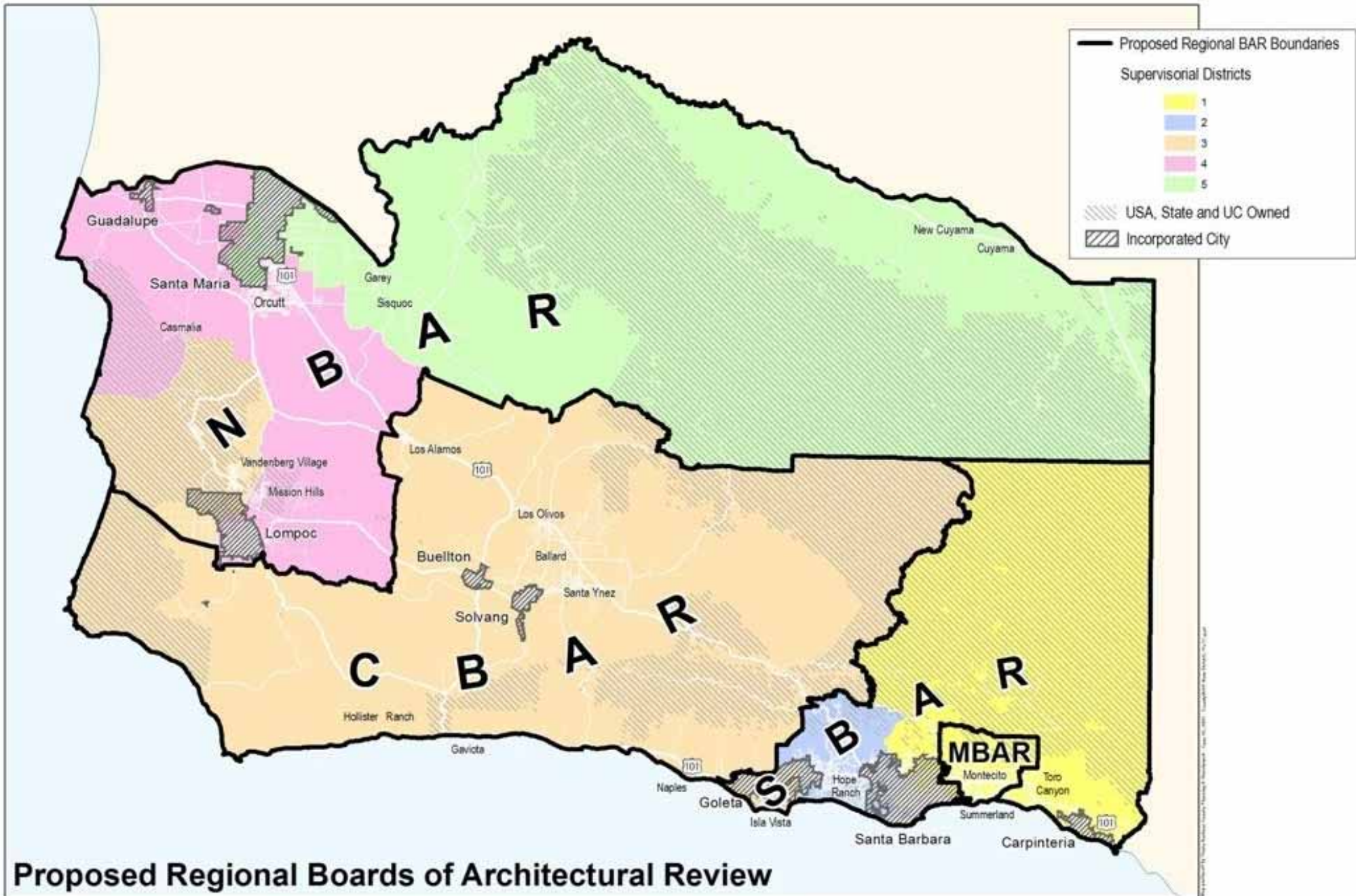
STEPHEN SHANE STARK
County Counsel

By _____
Deputy Clerk

By _____
Deputy County Counsel

NOTE: Committee members suggest two modifications to the substantive standards of the BAR ordinance. (1) The NBAR exemptions be expanded to include certain small residential projects and certain industrial/commercial projects that cannot be viewed from a public location. If pursued, Local Coastal Program, Community Plan, and Zoning Ordinance provisions need to be checked and amended if necessary. (2) Limit the number of hearings of the NBAR to three for residential projects, after which the most recent submission by the applicant would be deemed approved unless changes have been initiated by the applicant. The county has the discretion to adopt local permit streamlining ordinances, including a limit on the number of times the BAR can consider a project. The right to appeal from a deemed approval should be the same as the right to appeal from a decided approval. Because these provisions go to the substance of design review rather than the establishment of regional boards, we are noting the suggestions rather than include them in the draft ordinance text.





Proposed Regional Boards of Architectural Review

August 19, 2005

TO THE HONORABLE BOARD OF SUPERVISORS
COUNTY OF SANTA BARBARA, CALIFORNIA

PLANNING COMMISSION
HEARING OF JULY 13, 2005

RE: *Formation and Operation of Regional Boards of Architectural Review*

Planning Commission staff briefing on the formation and operation of Regional Boards of Architectural Review.

Dear Honorable Members of the Board of Supervisors:

At the Planning Commission hearing of July 13, 2005, the Commission took the following action:

Commissioner Valencia moved, seconded by Commissioner McGinnes and carried by a vote of 5-0 to recommend that the Board of Supervisors:

1. Combine the North County Board of Architectural Review (NBAR) and Central County Board of Architectural Review (CBAR), creating the NBAR;
2. Review the provisions of the ordinance relating to the creation of the NBAR in one year;
3. Set term of office for a two year appointment;
4. Appoint members of the NBAR by a vote from the entire Board of Supervisors; and
5. Create the NBAR as an advisory body with final decision by the decision maker.

Commissioner Valencia moved, seconded by Commissioner McGinnes and carried by a vote of 5-0 to recommend that the Board of Supervisors consider the following options:

1. **Option A:** NBAR (fifth, fourth and portion of third district) to consist of five members: three licensed architects, one licensed landscape architect and district planning commissioner;
2. **Option B:** NBAR (fifth, fourth and portion of third district) to consist of seven members: three licensed architects, one licensed landscape architect, two contractors and district planning commissioner; and

3. **Option C:** NBAR (fifth, fourth and portion of third district) to consist of five members: two licensed architects and three community members skilled at reading plans and/or landscape design.

Commissioner Boysen moved, seconded by Commissioner Cooney and carried by a vote of 5-0 to conceptually recommend that the Board of Supervisors:

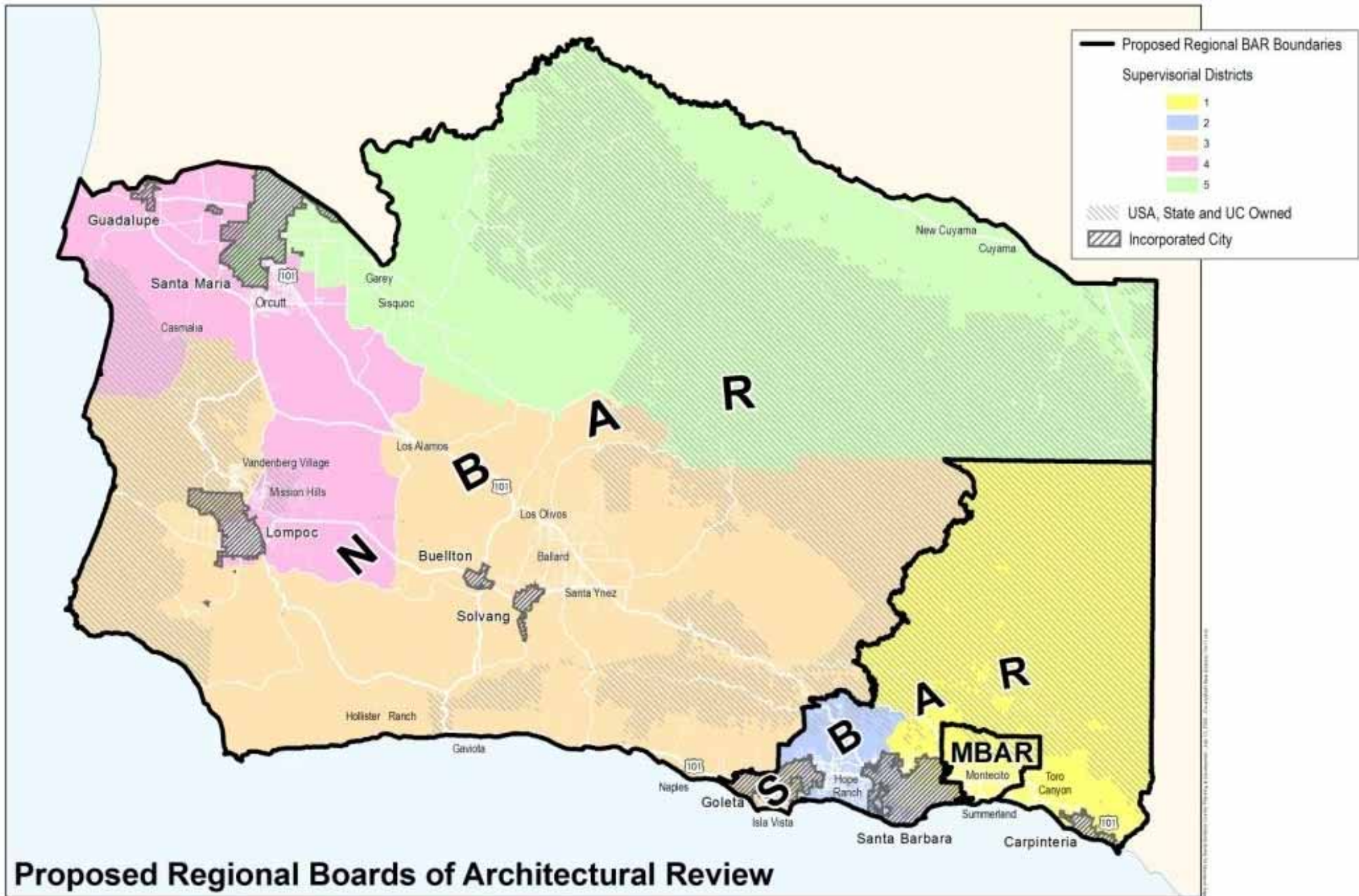
1. Accept that residential projects shall be reviewed by the NBAR no more than three times or for no longer than three months from the date of filing an application (unless project changes initiated by the applicant require further review);
2. Review county projects to see if they are subject to the same consideration as private projects; and
3. Accept that residential projects or commercial/industrial projects not open to the public which cannot be viewed from public roadways or other areas of public use are exempt from review by the NBAR.

Sincerely,

Steve Chase
Secretary Planning Commission

xc: Planning Commission File
Records Management
Dianne Meester, Assistant Director, Planning and Development
Steve Chase, Deputy Director, Development Review, South County
Zoraida Abresch, Deputy Director, Development Review, North County
Jason Stilwell, Project Manager, County Administrator
Ron Cortez, Deputy County Executive Officer
Mary Ann Slutzky, Deputy County Counsel

SC:cnm



Proposed Regional Boards of Architectural Review

Cost Estimates to Establish the NBAR, CBAR and reduction of the SBAR

NBAR, CBAR and SBAR 12 meetings Per Year				Optional SBAR ⁴ 24 meetings	MBAR ⁵
	NBAR ¹	CBAR ²	SBAR ³		
Labor ⁶ , Service and Supplies	\$ 49,818	\$ 49,818	\$ 74,727	\$ 99,637	\$ 107,917
Stipends, Mileage,	6,072	10,121	21,253	28,337	
Total	\$ 55,891	\$ 59,939	\$ 95,980	\$ 127,974	\$ 107,917
Estimated Annual Caseload	40	45	110	110	150

Cost Comparison with Existing BAR						
	Current		Proposed		Net	
	Costs	Cases	Costs	Cases	Cost	Cases
County BAR	\$ 131,737	195	\$ 95,980	110	\$ (35,756)	(85)
MBAR	\$ 107,917	150	\$ 107,917	150	\$ -	-
NBAR	0	-	\$ 55,891	45	\$ 55,891	45
CBAR	0	-	\$ 59,939	40	\$ 59,939	40
Office Setup			\$ 4,000		\$ 4,000	
Total	\$ 239,653	345	\$ 319,727	345	\$ 84,073	

Notes:

Meeting costs were based on current costs and workload levels. Workload estimates are based on prior 12 month filed cases. NBAR and CBAR costs were reduced based on lower projected caseloads from the current County-wide BAR. The NBAR and CBAR will be staffed from Foster Rd office.

1- Three members; stipend is \$150 each meeting; monthly meeting; 45 miles reimbursed; no mailed notices.

2- Five members; stipend is \$150 each meeting; monthly meeting; 45 miles reimbursed; no mailed notices.

3- **Seven** members; stipend is \$150 each meeting; **18 annual meetings** ; 45 miles reimbursed; caseload will decrease 44% with creation new BARs; no mailed notices.

4- Increases hearings to **bi-weekly**, if needed based on length of hearing of backlog of projects.

5-No change; members serve uncompensated; costs for mailed notices during conceptual review is included. The cost for mileage and reimbursement would be approximately \$26,000 per year.

6- Labor includes overhead of 0.4070 of direct labor costs, based on cost plan.

**Cost Estimates to Establish the NBAR and reduction of the SBAR
County Planning Commission Recommendation July 13, 2005**

	NBAR ¹	Option 1 NBAR ¹⁸ meetings	SBAR ²	MBAR ³
Labor ⁴ , Service and Supplies	\$ 49,818	\$ 74,727	\$ 74,727	\$ 107,917
Stipends, Mileage,	10,121	15,181	21,253	
Total	\$ 59,939	\$ 89,908	\$ 95,980	\$ 107,917
Estimated Annual Caseload	85	85	110	150

Cost Comparison with Existing BAR							
	Current		Proposed		Net	Option 1	
	Costs	Cases	Costs	Cases	Cost	Cost	
County BAR	\$ 131,737	195	\$ 95,980	110	\$ (35,756)	\$ (35,756)	
MBAR	\$ 107,917	150	\$ 107,917	150	\$ -	\$ -	
NBAR	0	-	\$ 59,939	85	\$ 59,939	\$ 89,908	
Office Setup			\$ 4,000		\$ 4,000	\$ 4,000	
Total	\$ 239,653	345	\$ 267,836	345	\$ 28,183	\$ 58,152	

Notes:

Meeting costs were based on current costs and workload levels. Workload estimates are based on prior 12 month filed cases. NBAR and CBAR costs were reduced based on lower projected caseloads from the current County-wide BAR. The NBAR and CBAR will be staffed from Foster Rd office.

1- Five members; stipend is \$150 each meeting; monthly meeting; 45 miles reimbursed; no mailed notices.

2- **Seven** members; stipend is \$150 each meeting; **18 annual meetings** ; 45 miles reimbursed; caseload will decrease 44% with creation new BARs; no mailed notices.

3-No change; members serve uncompensated; costs for mailed notices during conceptual review is included. The cost for mileage and reimbursement would be approximately \$26,000 per year.

4- Labor includes overhead of 0.4070 of direct labor costs, based on cost plan.