

ATTACHMENT M: MONTECITO PLANNING COMMISSION RESOLUTION 14-21

**RESOLUTION OF THE SANTA BARBARA COUNTY
MONTECITO PLANNING COMMISSION
COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA**

IN THE MATTER OF RECOMMENDING TO THE)
COUNTY PLANNING COMMISSION THE ADOPTION)
OF AMENDMENTS TO THE LOCAL COASTAL)
PROGRAM THAT AMEND THE COASTAL LAND USE) RESOLUTION NO. 14 - 21
PLAN AND THE ARTICLE II COASTAL ZONING)
ORDINANCE BY ADDING POLICY AND ORDINANCE) CASE NOS: 14GPA-00000-00013
LANGUAGE THAT WOULD ALLOW THE COUNTY) 14ORD-00000-00009
TO APPROVE LAND USES THAT ARE OTHERWISE)
PROHIBITED BY POLICY 6-5D OF THE COASTAL)
LAND USE PLAN.)

WITH REFERENCE TO THE FOLLOWING:

- A. On January 7, 1980, by Resolution No. 80-12, the Board of Supervisors of the County of Santa Barbara adopted the Santa Barbara County Coastal Land Use Plan.
- B. On July 19, 1982, by Ordinance No. 3312, the Board of Supervisors of the County of Santa Barbara adopted the Santa Barbara County Coastal Zoning Ordinance, Article II of Chapter 35, Zoning, of the Santa Barbara County Code.
- C. The proposed amendments are consistent with the Coastal Act of 1976, the Santa Barbara County Coastal Land Use Plan, the Santa Barbara County Comprehensive Plan, including the Community and Area Plans, and the requirements of California Planning, Zoning, and Development laws.
- D. Citizens, California Native American Indian tribes, public agencies, public utility companies, and civic, education, and other community groups have been provided the opportunity for involvement in compliance with Section 65351 of the Government Code.
- E. This Montecito Planning Commission has held a duly noticed hearing in compliance with Government Code Sections 65353 and 65854 on the proposed amendments at which hearing the amendments were explained and comments invited from the persons in attendance.

NOW, THEREFORE, IT IS HEREBY RESOLVED as follows:

- 1. The above recitations are true and correct.
- 2. The Montecito Planning Commission now finds that it is in the interest of the orderly development of the County and important to the preservation of the health, safety and general welfare of the residents of the County to recommend that the County Planning Commission:
 - a. Adopt a Resolution recommending that the Board of Supervisors adopt a Resolution (Case No. 14GPA-00000-00013) amending the Santa Barbara County Local Coastal Program by amending the Coastal Land Use Plan to add policy language that would allow the County to approve land uses that are otherwise prohibited by Policy 6-5D of the Coastal Land Use Plan provided an Exemption from Measure P2014: Initiative to Ban “High-Intensity Petroleum Operations” allowing said uses applies as provided in compliance with the Coastal Zoning Ordinance, Article II of Chapter 35, Zoning, of the Santa Barbara County Code.

Said Resolution is attached hereto as Exhibit 1 and is incorporated by reference.

- b. Adopt a Resolution recommending that the Board of Supervisors adopt an Ordinance (Case No. 14ORD-00000-00009) amending Santa Barbara County Local Coastal Program by amending the Coastal Zoning Ordinance, Article II of Chapter 35, Zoning, of the Santa Barbara County Code, to add language that would allow the County to approve land uses that are otherwise prohibited by Policy 6-5D of the Coastal Land Use Plan provided an Exemption from Measure P2014: Initiative to Ban "High-Intensity Petroleum Operations" allowing said uses applies as provided in compliance with the Coastal Zoning Ordinance, Article II of Chapter 35, Zoning, of the Santa Barbara County Code.

Said Ordinance is attached hereto as Exhibit 2 and is incorporated by reference.

3. This Montecito Planning Commission recommends that the County Planning Commission, following the required noticed public hearing, approve and adopt the above mentioned recommendation of this Montecito Planning Commission, based on the findings included as Attachment A of the Montecito Planning Commission staff report dated August 18, 2014.
4. This Montecito Planning Commission endorses and transmits a certified copy of this resolution to the County Planning Commission.
5. The Chair of this Montecito Planning Commission is hereby authorized and directed to sign and certify all maps, documents, and other materials in accordance with this resolution to show the above mentioned action by the Montecito Planning Commission.

PASSED, APPROVED AND ADOPTED this August 25, 2014 by the following vote:

AYES: Brown, Burrows, Eidelson, Overall, Phillips
NOES:
ABSTAIN:
ABSENT:

(signed copy on file)

DANIEL EIDELSON, Chair
Santa Barbara County Montecito Planning Commission

ATTEST:

(signed copy on file)

DIANNE BLACK
Secretary to the Commission

APPROVED AS TO FORM:

MICHAEL C. GHIZZONI
COUNTY COUNSEL

By (signed copy on file)
Deputy County Counsel

EXHIBITS:

1. Board of Supervisors Resolution Amending the Coastal Land Use Plan (Case No. 14GPA-00000-00013)
2. Board of Supervisors Ordinance Amending the Article II Coastal Zoning Ordinance (Case No. 14ORD-00000-00009)

EXHIBIT 1

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

IN THE MATTER OF ADOPTING AN AMENDMENT)
TO THE COASTAL LAND USE PLAN OF THE)
SANTA BARBARA COUNTY LOCAL COASTAL) RESOLUTION NO. 14-_____
PROGRAM THAT ADDS POLICY LANGUAGE THAT)
WOULD ALLOW THE COUNTY TO APPROVE) CASE NO: 14GPA-00000-00013
LAND USES THAT ARE OTHERWISE PROHIBITED)
BY POLICY 6-5D OF THE COASTAL LAND USE PLAN.)

WITH REFERENCE TO THE FOLLOWING:

- A. On January 7, 1980, by Resolution No. 80-12, the Board of Supervisors of the County of Santa Barbara adopted the Santa Barbara County Coastal Land Use Plan.
- B. The proposed amendments are consistent with the Coastal Act of 1976, the Santa Barbara County Coastal Land Use Plan, the Santa Barbara County Comprehensive Plan, including the Community and Area Plans, and the requirements of California Planning, Zoning, and Development laws.
- C. Citizens, California Native American Indian tribes, public agencies, public utility companies, and civic, education, and other community groups have been provided the opportunity for involvement in compliance with Government Code Section 65351.
- D. The County conducted consultations with Native American tribes in compliance with Government Code Sections 65352.3 and 65352.4.
- E. The County Planning Commission held a duly noticed hearing, in compliance with Government Code Section 65353 on the proposed amendment at which hearing the amendment was explained and comments invited from the persons in attendance, and has endorsed and transmitted a written recommendation to the Board of Supervisors in compliance with Government Code Section 65354.
- F. This Board has held a duly noticed public hearing in compliance with Government Code Section 65355 on the proposed amendments at which hearing the proposed amendments were explained and comments invited from the persons in attendance.

NOW, THEREFORE, IT IS HEREBY RESOLVED as follows:

- 1. The above recitations are true and correct.
- 2. The Board of Supervisors now finds, consistent with the authority of Government Code Section 65358, that it is in the interest of orderly development of the County and important to the preservation of the health, safety, and general welfare of the residents of said County to amend the Oil and Gas Wells section of Section 3.6.4, Land Use Proposals, of Section 3.6, Industrial and Energy Development, of Chapter 3, The Resource Protection and Development Policies, of the Santa Barbara County Coastal Land Use Plan to add a new Policy 6-5E to read as follows:

Notwithstanding the language of Policy 6-5D and any other reference to Policy 6-5D within the Coastal Land Use Plan regarding prohibitions of land uses in support of High-Intensive Petroleum Operations, land uses in support of High-Intensive Petroleum Operations that are prohibited in accordance with Policy 6-5D within the Coastal Land Use Plan of the Local Coastal

Program may be allowed provided an Exemption from Measure P2014: Initiative to Ban “High-Intensity Petroleum Operations” allowing said uses applies in compliance with the Article II Coastal Zoning Ordinance.

3. In compliance with Government Code Section 65356, the above described change is hereby adopted as an amendment to the Coastal Land Use Plan of the Local Coastal Program and shall take effect and be in force upon the date that Measure P2014: Initiative to Ban “High-Intensity Petroleum Operations” becomes effective pursuant to State law or upon the date that it is certified by the Coastal Commission pursuant to Public Resources Code 30514, whichever occurs later.
4. In compliance with Government Code Section 65357(a), the Clerk of the Board is hereby directed to send copies of the documents amending the Coastal Land Use Plan of the Local Coastal Program, including the diagrams and text, to all public entities specified in Government Code Section 65352 and any other public entities that submitted comments on the amendment to the Coastal Land Use Plan of the Local Coastal Program during its preparation.
5. In compliance with Government Code Section 65357(b), the Clerk of the Board is hereby directed to make the documents amending the Coastal Land Use Plan of the Local Coastal Program, including the diagrams and text, available to the public for inspection.
6. The Chair and the Clerk of this Board are hereby authorized and directed to sign and certify all maps, documents, and other materials in accordance with this Resolution to reflect the above described action by the Board.

PASSED, APPROVED, AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this 7th day of October, 2014 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

STEVE LAVAGNINO, CHAIR
BOARD OF SUPERVISORS
COUNTY OF SANTA BARBARA

ATTEST:

MONA MIYASATO, COUNTY EXECUTIVE OFFICER
CLERK OF THE BOARD

By _____
Deputy Clerk

APPROVED AS TO FORM:

MICHAEL C. GHIZZONI
COUNTY COUNSEL

By _____
Deputy County Counsel

EXHIBIT 2

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE SANTA BARBARA COUNTY COASTAL ZONING ORDINANCE, ARTICLE II OF CHAPTER 35, ZONING, OF THE SANTA BARBARA COUNTY CODE BY AMENDING DIVISION 1, IN GENERAL, AND DIVISION 9, OIL AND GAS FACILITIES, TO IMPLEMENT NEW PROCEDURES REGARDING DETERMINATIONS OF EXEMPTION FROM MEASURE P2014: INITIATIVE TO BAN “HIGH-INTENSITY PETROLEUM OPERATIONS.”

Case No. 14ORD-00000-00009

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

SECTION 1.

DIVISION 1, In General, of Article II, the Santa Barbara County Coastal Zoning Ordinance, of Chapter 35, Zoning, of the Santa Barbara County Code, is amended to amend Subsection B.3, of Section 35-57C, Authority for Land Use and Zoning Decisions, to read as follows:

3. This Section shall not apply to applications for:
 - a. Coastal Development Permits that do not require a public hearing in compliance with Section 35-169 (Coastal Development Permits).
 - b. Design Review submitted in compliance with Section 35-184 (Board of Architectural Review).
 - c. Emergency Permits submitted in compliance with Section 35-171 (Emergency Permits).
 - d. Land Use Permits submitted in compliance with Section 35-178 (Land Use Permits).
 - e. Zoning Clearances submitted in compliance with Section 35-179A (Zoning Clearance).
 - f. Determinations of Exemption submitted in compliance with Section 35-150.3 (Determination of Exemption). See Section 35-150.3 for specific requirements.

SECTION 2.

DIVISION 9, OIL AND GAS FACILITIES, of Article II, the Santa Barbara County Coastal Zoning Ordinance, of Chapter 35, Zoning, of the Santa Barbara County Code, is amended to amend Section 35-150, Purpose and Intent, to add a new Section 35-150.3 titled “Determination of Exemption” and to read as follows:

Section 35-150.3 Determination of Exemption

A. Purpose and Intent. The purpose and intent of this Section is to provide an administrative process for determining whether a land use that is normally not allowed in compliance with Section 35-144O (High Intensity Petroleum Operations Prohibited) or Section 35-150.2 is exempt from the prohibitions of those Sections as allowed by Measure P2014: Initiative to Ban “High-Intensity Petroleum Operations” (“the Initiative”). This Section only codifies an administrative process for claims of exemption that neither enlarges nor narrows the exemptions contained in Section 5 (Exemptions for Certain Projects) of the Initiative which provides that:

1. The provisions of the Initiative shall not be applicable to the extent, but only to the extent, that they would violate the constitution or laws of the United States or the State of California;
2. In the event a property owner contends that application of the Initiative effects an unconstitutional taking of property, the property owner may request, and the Board may grant, an exception to the application of any provision of the Initiative if the Board finds, based on substantial evidence, that both (1) the application of any aspect of the Initiative would constitute an unconstitutional taking of

property, and (2) the exception will allow additional or continued land uses only to the minimum extent necessary to avoid such a taking; and

3. The provisions of the Initiative shall not be applicable to any person or entity that has obtained, as of the effective date of the Initiative, a vested right, pursuant to State law, to conduct a High Intensity Petroleum Operation.

B. Applicability.

1. Persons subject to the Initiative may, but are not required to, file applications for exemption determinations associated with Subsections A.2 and A.3, above. This Section 35-150.3 (Determination of Exemption) applies to any person seeking such exemption determinations.
2. **Decision-maker.** The decision-maker for a Determination of Exemption is identified in Table 9-1 (Determination of Exemption Decision-Makers) below.

Table 9-1 Determination of Exemption Decision-Makers

<u>Type of Exemption</u>	<u>Role of Decision-Maker</u>		
	<u>Director</u>	<u>Planning Commission</u>	<u>Board of Supervisors</u>
<u>Determination of Exemption associated with Subsection 35-150.3.A.2</u>			<u>Decision</u>
<u>Determination of Exemption associated with Subsection 35-150.3.A.3</u>	<u>Decision</u>	<u>Appeal</u>	<u>Appeal</u>

- a. **Applications.** A separate application for a Determination of Exemption shall be filed for each type of exemption requested.

C. Contents of Application. Any application for a Determination of Exemption allowed in compliance with Subsection B. (Applicability) shall be submitted by the applicant seeking the exemption in compliance with Section 35-57A (Application Preparation and Filing).

1. The applicant for any exemption shall submit as part of the application any and all evidentiary support reasonably available sufficient to establish the basis for the claim of exemption.
 - a. The filing of an application for a Determination of Exemption associated with Subsection 35-150.3.A.2 shall be accompanied by an application for the development project for which the exemption determination is requested.
 - 1) The Director may waive the requirement to submit the application for the development project for good cause.
 - 2) Where the Director has waived the requirement for a development application, if the Board determines such an application is necessary to determine if the exemption applies, the Board may require such application to be filed and processed before the County will take a final action on the application for the exemption.

D. Processing.

1. **Applications under the jurisdiction of the Board.** The following applies to the processing of applications for Determinations of Exemption associated with Subsection 35-150.3.A.2.
 - a. **Determination of Exemptions processed in conjunction with a development project.** When an application for a Determination of Exemption is filed concurrently with an application for a development project in compliance with Subsection C.1.a. above, then the application for the Determination of Exemption shall be processed in conjunction with the application for the development project and shall be subject to the same processing requirements and timelines of the development project except as follows:
 - 1) Notwithstanding the provisions of Table 1-1 (Decision-Maker Authority), the Board shall approve or deny the application for the Determination of Exemption and the application for the development project, and the decision-maker identified in Table 1-1 (Decision-Maker Authority) as having decision authority on the application for the development project shall instead make a recommendation to the Board on the

application.

b. Determination of Exemptions not processed in conjunction with a development project. The following applies to applications for Determinations of Exemption where the Director has waived the requirement to submit the application for the development project for good cause in compliance with Subsection C.1.a.1, above.

- 1) Notice of the application for the Determination of Exemption shall be given in compliance with Section 35-181.2 (Notice of Public Hearing and Decision-Maker Action.)
- 2) The Board shall hold at least one noticed public hearing on the application and approve or deny the request.
- 3) The hearing shall be held within 180 days after the application is determined to be complete. The application shall be processed in compliance with Section 35-57A (Application Preparation and Filing).
 - a) For good cause the Director may delay the holding of the hearing for an additional 180 days.
- 4) Notice of the time and place of the hearing shall be given and the hearing shall be conducted in compliance with Section 35-181 (Noticing).
- 5) The Board may continue the hearing to allow or require the applicant or Department to submit additional information or legal analysis.
- 6) The action of the Board shall be final.

2. Applications under the jurisdiction of the Director. The following applies to the processing of applications for Determinations of Exemption associated with Subsection 35-150.3.A.3.

- a. The Director shall approve or deny the application for the Determination of Exemption. A public hearing is not required.
- b. The Director shall act on the application within 60 days after the application is determined to be complete. However, the Director may extend this period of time to allow or require the applicant or Department to submit additional information or legal analysis or other good cause.
- c. The action of the Director is final subject to appeal in compliance with Section 35-182 (Appeals).
- d. Notice of the action of the Director shall be given as follows:
 - (1) **Newspaper publication.** Notice of the action of the Director shall be published in a least one newspaper of general circulation on the day following the day that the Director takes action on the application.
 - (2) **Mailed notice.** Notice of the action of the Director shall be mailed on the day following the day that the Director takes action to any person who has filed a written request for notice and has supplied the Department with self-addressed stamped envelopes.

E. Findings Required for Approval. A Determination of Exemption application shall be approved only if the decision-maker first makes one of the following findings, as applicable.

1. **Applications for Determinations of Exemption associated with Section 35-150.3.A.2.** There is sufficient evidence in the record to determine that approving or conditionally approving the application is required in order to avoid an unconstitutional taking of property and that the application, as approved, will allow additional or continued land uses only to the minimum extent necessary to avoid such a taking.
2. **Applications for Determinations of Exemption associated with Section 35-150.3.A.3.** There is sufficient evidence in the record to establish that the applicant obtained prior to [effective date of the Initiative] a vested right to conduct a High Intensity Petroleum Operation.

F. Enforcement. The Director shall not take any action under Section 35-185 (Enforcement, Legal Procedures, and Penalties) to enforce the Initiative against any owner or operator of an existing facility if an application for a Determination of Exemption has been filed in compliance with this Section 35-150.3 (Determination of Exemption) or final action to deny the application has not occurred.

SECTION 4:

All existing indices, section references, and figure and table numbers contained in the Santa Barbara County Coastal Zoning Ordinance, Article II of Chapter 35, Zoning, of the Santa Barbara County Code, are hereby revised and renumbered as appropriate to reflect the revisions enumerated above.

SECTION 5:

Except as amended by this Ordinance, Division 1, In General, and Division 9, Oil and Gas Facilities, of the Santa Barbara County Coastal Zoning Ordinance, Article II of Chapter 35, Zoning, of the Santa Barbara County Code, shall remain unchanged and shall continue in full force and effect.

SECTION 6.

This ordinance and any portion of it approved by the Coastal Commission shall take effect and be in force upon the date that the Initiative becomes effective pursuant to State law or upon the date that it is certified by the Coastal Commission pursuant to Public Resources Code 30514, whichever occurs later, and before the expiration of 15 days after its passage 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 7th day of October, 2014 by the following vote:

- AYES:
- NOES:
- ABSTAIN:
- ABSENT:

STEVE LAVAGNINO, CHAIR
BOARD OF SUPERVISORS
COUNTY OF SANTA BARBARA

ATTEST:

MONA MIYASATO, COUNTY EXECUTIVE OFFICER
CLERK OF THE BOARD

By _____
Deputy Clerk

APPROVED AS TO FORM:

MICHAEL C. GHIZZONI
COUNTY COUNSEL

By _____
Deputy County Counsel