



**COUNTY OF SANTA BARBARA
PLANNING AND DEVELOPMENT**

MEMORANDUM

TO: County Board of Supervisors

FROM: Noel Langle, Management Specialist
Development Review Division – North County (934-6264)

DATE: December 2, 2004

RE: Additional information regarding zoning ordinance text amendments;
Case Nos. 04ORD-00000-00021, -00022 & -00023

The purpose of this memorandum is to summarize the action of the County and Montecito Planning Commissions on the proposed general package of ordinance amendments, Case Nos. 04ORD-00000-00021, -00022 & -00023. This information supplements the material contained in the Board Agenda Letter prepared on November 23, 2004.

Revised copies of the ordinance amendments are attached to this memorandum. These ordinances reflect the recommendations of the County Planning Commission as approved at their hearing on December 1, 2004 regarding Articles II and III, and the recommendations of the Montecito Planning Commission at their hearing of November 17, 2004 regarding Article IV.

1. ***Amateur radio antenna height:*** Clarify that the height of an amateur radio antenna, in the case of an adjustable-height antenna, is measured when the antenna is in the lowered position provided that the antenna is maintained in the lowered position except when actively being used by the amateur radio operator.

Both Planning Commissions recommended approval of this revision.

2. ***Agricultural retail sales:*** Add new provisions allowing for agricultural products produced off-premises and related non-plant products to be sold on land where the primary use is agricultural, including new development standards and noticing requirements; allow for agricultural retail sales in additional zone districts.

Articles II and III, but not IV, currently allow agricultural retail sales in the R-1, R-2, DR and CH zone districts with a minor CUP provided the products being sold are produced on the premises. The proposed amendment would expand this by also allowing products grown on other property within a 25 mile radius of the lot where the sales occur, provided that agriculture is the primary use of the subject lot.

The Montecito Planning Commission recommended approval of the revised language with the added language that within the Montecito Planning area, agricultural sales occurring on lots zoned AG-I, R-1, R-2, DR and CH would continue to be restricted to

the current requirement that the products be grown on the lot, and not have the ability to import products from off-site. Their reasoning was that the existing restriction has not proven to be a problem, and that there are other local venues (e.g., farmer's markets) available in the nearby vicinity.

At the County Planning Commission hearing of December 1, 2004, they recommended approval of the revised language for Articles II and III, but specifically to Article II they did not include the exclusion for the Montecito Planning Area recommended by the Montecito Planning Commission. The County Planning Commission reasoned that since agriculture sales of any type were not allowed in the Article IV portion of the Montecito Planning Area, that in this instance it was more important to provide consistency within the Article II coastal zoning by not including the recommended prohibition against the importation of products grown offsite within the Montecito Planning Area.

3. ***Animal keeping:*** Clarify that in residential zones animal keeping is a use accessory to the primary residential use of the property; disallow roosters and peacocks in residential zones on lots less than one acre (gross); add the keeping of household pets as a permitted use in the Planned Residential Development (PRD) zone district; add permitting requirements and development standards for animal husbandry projects in residential zones; add additional development standards for animal-keeping in residential zones relating to odor/vector control, manure disposal, erosion/sedimentation control, and drainage; add permitting requirements and development standards for wildlife species rehabilitation.

PRD Zone District

The Montecito Planning Commission was concerned with allowing animal keeping in the PRD zone district; these concerns primarily related to the possibility of keeping animals in the common open space areas, and whether allowing large animals such as horses would be consistent with the purpose and intent of the zone district. In response to this, new language was proposed that restricted animal-keeping to only household pets (e.g., birds, cats, dogs, and fish). The Montecito Planning Commission recommended approval of the amendment with this revised language. The County Planning Commission also recommended approval of the revised language with further clarification to the definition of household pet to specifically exclude horses, cows, goats, pigs and animals of similar size.

Animal Husbandry

The Montecito Planning Commission was concerned with making additional allowances for animal-husbandry projects, and how such projects would fit with the existing regulations regarding the keeping of domestic animals. In response to this, new language was proposed that responded to these concerns. However, their recommendation is that for the Montecito Planning Area that the existing regulations pertaining to domestic animal keeping not be revised so that the existing 20,000 square foot minimum lot size would still apply to all livestock animals including goats, pigs and sheep. Animal husbandry projects involving small animals could still be allowed under the existing

regulations allowing for the keeping of small animals. Their recommendation was based on the reasoning that the existing restriction has not been identified as a problem for animal husbandry projects within the Montecito Planning Area.

At their hearing on December 1, 2004, the County Planning Commission recommended approval of revised language that would:

- maintain the existing 20,000 minimum lot size for large animals (e.g., horses and cows)
- allow small hoofed animals (e.g., goats, pigs and sheep) as animal-husbandry projects on lots with a minimum size of 10,000 square feet for a six-month period except within the Montecito Planning Area.
- allow small animals husbandry projects (e.g., rabbits, guinea pigs) under the existing regulations allowing for the keeping of small animals.

In this instance the County Planning Commission included the Montecito Planning Area exclusion for small-hoofed animals in order to keep the regulations consistent within the Montecito Planning Area.

Wildlife Rehabilitation

At the County Planning Commission hearing on October 27, 2004, several members of the public testified that the proposed permit requirements for wildlife species rehabilitation were too onerous and expensive, and if adopted by the County would force most of the wildlife care volunteers to cease their rehabilitation activities. Based on this testimony, the County Planning Commission directed staff to revise the language so that it would be more aligned with how the keeping of animals is treated in general. The revised language was recommended for approval by the Montecito Planning Commission at their hearing of November 17, 2004. This same language was also recommend for approval by the County Planning Commission at their hearing of December 1, 2004. Representatives of the Wildlife Care Network reviewed the revised language and they are supportive of it.

4. ***Conditional Use Permit/Development Plan interface:*** Specify that if a development plan (DP) is required in addition to a conditional use permit (CUP), then, in limited situations, where the CUP would be under the jurisdiction of the Zoning Administrator (ZA), then the DP would also be under the jurisdiction of the ZA. This is to prevent the “up-shifting” in jurisdiction from the ZA to the Planning Commission for development that is purposely under the jurisdiction of the ZA (e.g., child care facilities).

Both Planning Commissions recommended approval of this revision.

5. ***Definition – Commercial Kennel:*** Clarify that commercial kennels means the breeding, boarding, and training of animals for commercial purposes and not including the private enjoyment by residents of the property.

Both Planning Commissions recommended approval of this revision.

6. **Definitions – Dwelling:** Amend the existing definitions of Dwelling, Dwelling, One-Family, Dwelling, Two-Family, and Dwelling, Multiple to make the zoning ordinances consistent with each other and also to clarify what constitutes a dwelling; add new definitions of Habitable Room and Interior Access to clarify what constitutes acceptable access throughout a dwelling; amend the amend language regarding separation between habitable and non-habitable structures to clarify what structures are subject to this provision; add language to Accessory Structures in the General Regulations sections of the zoning ordinances that:

- 1) Clarifies that an accessory structure may be constructed prior to the construction of the principle structure if the accessory structure is accessory to a principle use (e.g., construction of a barn accessory to the principle agriculture use of a property).
- 2) Clarifies that the prohibition against constructing accessory structures (not including residential second units) between the principle structure and the street on corner lots only applies to corner lots with a width less than 100 feet.
- 3) Allows the Director to determine when an accessory structure constitutes a dwelling to provide a mechanism whereby a permit may be denied if the proposed development too closely resembles an additional dwelling that would be inconsistent with the zoning district requirements.

Both Planning Commissions recommended approval of these revisions.

7. **Definition – Environmental Review:** Include a definition of environmental review since that term is referenced in the ordinances.

Both Planning Commissions recommended approval of this revision.

8. **Definition – Floor area, gross and net:** Clarify the existing definitions of Floor Area, Gross, and Floor Area, Net by better specifying what aspects of a structure are included in each definition, and to clarify how floor area is measured.

Both Planning Commissions recommended approval of this revision.

9. **Definition – Zoning Administrator:** Clarify the definition of Zoning Administrator as referenced in the zoning ordinances.

Both Planning Commissions recommended approval of this revision.

10. **Development Plans:** Clarify the 20,000 square feet threshold that triggers the requirement for a development plan; Clarify language regarding processing of an “as-built” development plan.

Both Planning Commissions recommended approval of this revision.

11. ***Fences, Walls, Gates and Gateposts:*** Clarify the permit requirements for fences, walls, gates and gateposts depending on their location (relative to setback areas) and height; include gates within the regulations and subject to the same height requirements as the fence or wall; include standards for interior lots.

Both Planning Commissions recommended approval of this revision.

12. ***Guest Houses/Cabaña/Artist Studio:*** Clarify how the floor area of a guest house, etc., is measured; clarify that a loft counts as a story; clarify use of artist studio as part of a home occupation; clarify that commercial sales or transactions are allowed in an artist studio only in connection with an issued home occupation permit.

Both Planning Commissions recommended approval of this revision.

13. ***Home occupations:*** Clarify that home occupations must be conducted entirely within the dwelling or artist studio, and may not alter the residential character of the neighborhood; add new development standards; specify that certain businesses are not permitted as home occupations.

The County and Montecito Planning Commissions were concerned that the proposed text regarding a limited number of prohibited home occupations could be misread to mean that only those that were identified in the section were prohibited. The language was revised to clarify that the home occupations identified as being prohibited were only examples. Both Planning Commissions recommended approval of this revision.

14. ***Legal Procedures (Zoning Enforcement):*** Revise the text to allow collection of administrative costs in all cases instead of just situations where a permit is not required; add language regarding cost recovery by way of imposing liens against property that may be collected with the property taxes (based on Gov't. Code Sec. 54988).

Both Planning Commissions recommended approval of these revisions.

15. ***Lot Area/Width:*** Revise the existing definition of lot; add new definitions of lot width, net and lot width, gross, due to the use of these terms in the ordinances; allow lots that are nonconforming as to width to be building sites.

Both Planning Commissions recommended approval of these revisions.

16. ***Nonconforming Structures and Uses:*** Revise existing definitions of nonconforming structures and uses for clarity and accuracy; add language allowing structural alterations to historical landmarks and structures within the Isla Vista area that are threatened by coastal erosion.

Both Planning Commissions recommended approval of these revisions.

17. ***Open space uses:*** Clarify existing language in the DR Design Residential Zoning District regarding the allowable uses within open space areas within residential subdivisions.

Both Planning Commissions recommended approval of this revision.

18. ***Permitted uses/accessory uses:*** Clarify distinction between permitted uses and accessory uses; allow for accessory structures and uses in zoning districts that presently lack this provision: add certain permitted uses based on past Planning Commission use determinations; allow for limited agricultural uses in Planned Residential Zone (Article III only) districts due to land that is designated as such but is still under cultivation.

The proposal to allow accessory structures on land zoned Resource Management (RES) that is characterized by steep topography and other resource constraints raised a concern with the Montecito Planning Commission whether this would allow for large accessory structures such as barns, garages and workshops that would be inconsistent with the purpose and intent of the zone district, e.g., located on land where slopes exceed 30 percent. Revised language to the Article IV amendment was proposed to address this concern by requiring that the following additional findings be adopted in order to approve a permit for an accessory structure:

- The project does not require extensive alteration of the topography.
- The project does not cause erosion, sedimentation, runoff, siltation, or an identified significant adverse impact to downstream water courses or water bodies.
- The project will not cause any significant adverse effect on environmentally sensitive habitat areas, plant species, or biological resources.

However, the Montecito Planning Commission still felt that land zoned RES was too sensitive to allow for accessory structures, and recommends that such structures not be allowed in the Article IV RES zone district.

The County Planning Commission recommended approval of the amendments as originally proposed by staff which include allowing accessory structures in the Articles II and III RES zone district. There is no property zoned RES within the Coastal Zone portion of the Montecito Planning Area.

19. ***Residential Second Units:*** Clarify the advisory role of Special Problems Committee; clarify height restrictions on second units; specify that the development standard regarding the entrances of second units not being visible from abutting streets only applies to attached second units.

Both Planning Commissions recommended approval of these revisions.

20. ***Setbacks:*** Clarify language regarding yards and setbacks, how to determine variable setbacks, and the required distance between structures; specify that the restriction on the location of accessory structures relative to the primary structure only applies to corner lots less than 100 feet in width; add new provisions to allow certain structures within front and

side setback areas; move the setback measurement method for triangular lots from the definition of Yard, Rear, to the General Setback Regulations section.

Both Planning Commissions recommended approval of these revisions.

21. **Temporary uses/special events:** Provide regulations for temporary uses of property (e.g., special events) besides carnivals, circuses, etc. that are currently covered in Articles II and III.

The County Planning Commission felt staff's recommendation to limit to five times a year the number of non-commercial, charitable events that could occur without a permit on larger lots was inappropriate. In response to this concern, the proposed language was revised to specify that for lots five acres or greater in size that there is no limit on the number of charitable events that could occur in any given year and still remain exempt from a land use permit, provided the owner receives no remuneration and the number of persons at the event does not exceed 300. If the property is less than five acres in size, then the five times per year limit is retained in order to be exempt.

The Montecito Planning Commission recommended that within the Montecito Planning Area, the use of property for charitable and other noncommercial functions be restricted in all cases to three times per year in all cases regardless of the size of the lot. This is based on the narrowness of the road system within Montecito which in the past has lead to a public safety problems due to on-street parking associated with such events.

At their hearing of December 1, 2004, the County Planning Commission recommended approval of the revised language proposed by staff, and included, for the Article II amendment, the recommendation of the Montecito Planning Commission to restrict in all cases the number of charitable events to three per year per lot for properties located within the Montecito Planning Area. Their reasoning was that in this instance the regulations regarding temporary uses should be consistent within the Montecito Planning Area. However, they also recommended that the Board of Supervisors look carefully at this restriction.

22. **Trailer Use:** Clarify and correct the general regulations language regarding trailer use; delete the requirement to renew minor conditional use permits for farm employee housing every five years and replace with requirement that sufficient documentation regarding the farm employee residence use be provided every five years instead; clarify that the height of a trailer, stored on property as a use accessory to the residential use, is measured to the top of the roof of the trailer; clarify that a permit is not required to store a trailer on property as a use accessory to the residential use; extend the period of time that a trailer may be used in an emergency after an un-planned destruction of a dwelling from 90 to 180 days; allow the use of a trailer as a temporary sales office for a subdivision.

Both Planning Commissions recommended approval of these revisions.

23. ***Vision clearance:*** The purpose of this amendment is to revise existing language to clarify location of vision clearance area, especially in regards to where streets intersect on a curve as opposed to a right angle.

Both Planning Commissions recommended approval of this revision.