

SANTA BARBARA COUNTY PLANNING COMMISSION
Staff Report for Amendments to the Coastal and Inland Zoning Ordinances to
Identify Specific Exemptions to Applicable Height Limitations

Hearing Date: August 23, 2006
Staff Report Date: August 11, 2006
Case Nos.: 06ORD-00000-00007 & 8

Deputy Director: Doug Anthony
Division: Energy
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Environmental Document: Negative Declaration 06NGD-00000-00022

OWNER/APPLICANT/AGENT/ENGINEER: Planning & Development

GEOGRAPHIC LOCATION: Countywide

1.0 REQUEST

Hearing on the request of Planning and Development to consider recommendation of amendments to the Coastal and Inland Zoning Ordinances (Articles II and III, respectively, of Chapter 35 of the Santa Barbara County Code). These proposed amendments would exempt certain types of structures and equipment from applicable height restrictions, including those of individual zone districts and the 50-foot restrictions established in Sections 35-127.1 and 35-276.1 (General Height Regulations) of Articles II and III, respectively. Exempt structures and equipment would include temporary oil/gas drilling rigs, oil/gas workover/pulling rigs, stripper and distillation columns associated with gas processing and ethanol manufacturing, flare stacks, industrial storage silos, commercial wind turbines for generating electricity, and industrial structures associated with mining operations.

2.0 RECOMMENDATION AND PROCEDURES

Recommendation: Follow the procedures outlined below and recommend to the Board of Supervisors that it adopt the proposed ordinance amendments to exempt certain structures and equipment from applicable height limitations.

Procedures: If the Planning Commission approves staff's recommendation, the Commission's motion should be to (1) adopt the Planning Commission Resolution, included herein as Appendix 1, and (2) transmit the following recommendations to the Board of Supervisors for consideration.

1. Amend the Coastal Zoning Ordinance (Article II, Chapter 35, of the County Code, by revising Division 2, "Definitions," to add definitions for structures and equipment that typically exceed applicable height limits, and revise Section 35-127, "Height," to exempt such structures from applicable height limits where adherence would be technically infeasible.
2. Amend the Inland Zoning Ordinance (Article III, Chapter 35, of the County Code, by revising Division 2, "Definitions," to add definitions for structures and equipment that typically exceed applicable height limits, and revise Section 35-276, "Height," to exempt such structures from applicable height limits where adherence would be technically infeasible.

3. Accept the CEQA document, Negative Declaration 06NGD-00000-00022, included as Appendix 2 of this staff report, as adequate environmental review for the proposed ordinance amendments.

3.0 JURISDICTION

The Planning Commission conducts this hearing pursuant to the authority vested in local government by the State of California to regulate land use, plan for orderly development, and protect public health, safety, and welfare in a manner consistent with federal and state laws. Section 65854 of the California Government Code requires the Planning Commission to hold a public hearing on proposed amendments to the zoning ordinance.

4.0 ISSUE SUMMARY

The question for the Planning Commission's consideration today is whether the County should amend its ordinances to allow limited exemptions to applicable height limits for specific structures and associated equipment where it would be technically infeasible for these structures to function otherwise. Although the ordinances anticipate such structures, and many have been permitted in the past, recent re-interpretation of the 50-foot general height limit would prohibit these structures and their associated land uses in the future.

5.0 PROJECT INFORMATION

5.1 Setting & Background

The Coastal and Inland Zoning Ordinances, adopted in 1982 and 1983, respectively, provide permitting procedures, findings, and development standards for certain types of land uses that often require structures or equipment that exceed applicable height limitations to be able to function at all. These land uses include:

- Drilling for oil and gas, which often requires rigs that exceed height restrictions.
- Processing of natural gas and natural gas liquids produced in or offshore the County, which use stripper and distillation columns and require gas flares that exceed height restrictions.
- Refining of crude oil (inland area only), which may require several structures, including reactors, regenerators, columns, boiler and furnace stacks, decoking rigs, conveyors, etc. that exceed height restrictions.
- Generating electricity from wind, which requires wind turbines that exceed height restrictions.
- Processing of diatomaceous earth, chemical manufacturing (e.g., ethanol plants), asphalt hot-mix plants, and concrete ready-mix plants, which require silos, columns or buildings that exceed height limits.

Some of these land uses have been permitted under the Coastal and Inland Zoning Ordinances in the past with structures that exceed applicable height restrictions, including the 50-foot height restriction found in the general regulations. In these cases, staff and decision-makers relied on

various findings supporting interpretations of the ordinance that allowed limited exceptions to the general height regulation.

The zoning ordinances currently extend authority to decisionmakers to modify applicable height restrictions of the zone districts only in the approval of Development Plans (Sections 35-174.8.1 and 35-317.8.1) and Conditional Use Permits (35-172.12.1 and 35-315.12.1). More recent interpretation of the general height regulations of these two ordinances in 1999 determined that this authority does not extend to the 50-foot height limitations found in sections 35-127 and 35-276 of the Coastal and Inland Zoning Ordinances.¹

The effects of this new interpretation on other types of land uses became apparent during the public's review of the draft reformatted version of the zoning code. Members of the oil industry noted that, if not corrected, the general height restriction of 50 feet would prohibit new oil/gas drilling, even on State-designated oil/gas fields. Operators of asphalt hot-mix plants, concrete ready-mix plants, and industrial process of diatomaceous earth also noted structures that they operate which exceed the general height restriction of 50 feet.

Additionally, the Celite Corporation has proposed upgrades to its diatomaceous earth mining and processing facility near Lompoc, which has several buildings and structures that exceed applicable height limits. Pacific Renewable Energy Generation LLC is proposing a wind farm southeast of Lompoc with turbines that greatly exceed applicable height limits, and American Ethanol plans to propose an ethanol plant west of the City of Santa Maria.

5.4 Description

5.4.1 Proposed amendments to the Coastal Zoning Ordinance

The Planning and Development Department proposes amendments to the Coastal Zoning Ordinance to exempt certain structures and associated equipment from the applicable height limits of the individual zone districts, and from the general height regulation of 50 feet found in Section 35-127. The activities and associated structures include:

- **Oil/gas exploration, production, & gas storage.** Temporary oil/gas drill rigs and workover/pulling rigs used in exploration and production of oil and gas, and in storage of natural gas.

Exploration and production of onshore oil/gas reservoirs are permitted uses in the Agriculture II, Coastal-Dependent Industry, and Coastal-Related Industry zone districts. A Major Conditional Use Permit is required if proposed locations are subject to either the Environmentally Sensitive Habitat Area or View Corridor Overlay District. (Sections 35-152 and 153.)

Additionally, exploration and production of onshore oil/gas reserves may be permitted with a Major Conditional Use Permit in the Resource Management, Rural Residential,

¹ The context of the determination involved an FM radio broadcasting antenna, wherein it was interpreted that no structure and equipment could exceed the maximum 50-foot height limitation found in the General Regulations of Articles II and III unless explicitly exempted.

Industrial/Research Park, Light Industry, and General Industry zone districts of the Coastal Zone. (Sections 35-152 and 153.)

Exploration and production of offshore oil and gas reserves from an upland drillsite is a permitted use in the Coastal-Related Industry zone district, but requires a Major Conditional Use Permit if the location is subject to an Environmentally Sensitive Area or View Corridor Overlay District. Additionally, it may be permitted in the Agricultural II zone district with approval of a Major Conditional Use Permit. (Section 35-158.)

Lastly, the Southern California Gas Company uses temporary rigs to drill and service wells at its La Goleta Storage Area at the southern end of Patterson Avenue in the unincorporated area between the cities of Goleta and Santa Barbara. This facility is located in the Public Utilities zone district. (Section 35-88.11.)

- **Oil & gas processing.** Stripper and distillation columns and flare stacks used to remove impurities and separate byproducts. These facilities are permitted uses in the Coastal-Dependent Industry and Coastal-Related Industry zone districts, but are subject to a Major Conditional Use Permit if the location is subject to a View Corridor Overlay District. (Section 35-154.)
- **Oil & gas transportation.** Gas flare stacks associated with consolidated pipeline terminals. These facilities are permitted uses in Coastal-Related Industry and Agriculture II zone districts, but are restricted to sites designated as Consolidated Pipeline Terminals in the Coastal Plan. (Section 35-159.) Only one such site is currently designated: the Plains Exploration & Production terminal located on the mountainside of U.S. 101 at Gaviota.

5.4.2 Proposed Amendments to the Inland Zoning Ordinance

The Planning and Development Department proposes amendments to the Inland Zoning Ordinance to exempt certain structures and associated equipment from the applicable height limits of the individual zone districts, and from the general height regulation of 50 feet found in Section 35-276. The operations and their associated structures include:

- **Oil/gas exploration & production.** Temporary oil/gas drill rigs and workover/pulling rigs used in exploration and production of oil and gas. Exploration and production of onshore oil/gas reservoirs is a permitted use in the Agriculture II, Coastal-Related Industry, and General Industry zone districts. (Section 35-295.) These activities may also be permitted with a Major Conditional Use Permit in the Agriculture I, Resource Management, Residential Ranchettes, Retail Commercial, General Commercial, Industrial/Research Park, Light Industry, and Recreation zone districts (County parks only).
- **Oil & gas processing.** Stripper and distillation columns and flare stacks used to remove impurities and separate byproducts. Oil and gas processing is a permitted use in the General Industry and Coastal-Related Industry zone districts, but is subject to a Major Conditional Use Permit if the location is subject to a View Corridor Overlay District. (Section 35-296.) They may also be permitted in Agriculture I and II zone districts with a Major Conditional Use Permit, provided that they receive oil and gas obtained solely from an onshore area.

- **Wind energy systems.** Wind turbines associated with commercial conversion of wind energy to electricity. These facilities may be permitted in all agricultural and industrial zones with approval of a Major Conditional Use Permit. (Section 35-300.2.3.)
- **Concrete mixing.** Industrial silos used to store and load concrete mix. These plants are permitted uses in the Light Industry and General Industry zone districts. (Section 35-234.4.3.)
- **Asphalt hot-mixing, oil/asphalt refining, ethanol manufacturing, mineral processing.** Asphalt hot-mixing operations use industrial silos to mix, store, and load asphalt for delivery. Ethanol manufacturing uses stripper and distillation columns, as well as storage silos to receive corn and convert it into ethanol for use as an alternative motor fuel or additive to gasoline. Oil refineries use various structures, including reactors, regenerators, boiler stacks, and decoking stacks, to convert oil into gasoline, asphalt and other products. Operations associated with mining of diatomaceous earth near Lompoc use buildings, conveyors, and other structures to process diatomaceous earth. All of these uses may be permitted in the General Industry zone district with approval of a Major Conditional Use Permit. (Sections 35-235.5 and 35-297.)

5.4.3 Description of Structures

Most of these types of facilities are currently a part of the County's spectrum of land uses. Oil and gas drilling is frequently carried out on State-designated oil/gas fields in the northern section of the County, typically in remote locations. The temporary drilling rigs must be over 50 feet in height to function at all, and may occasionally exceed 100 feet. Drilling rigs used to develop offshore reservoirs from onshore drillsites may surpass 200 feet in height.



Photo to the left depicts a typical drill rig used in onshore operations. Photo to the right illustrates the drill rig used for the Molino Gas Project, which reached 185 feet in height in order to drill several miles offshore.

Stripper and distillation columns used in processing natural gas and refining of crude oil exceed 50 feet, in some cases reaching as high as 140 feet. Flare stacks used in these facilities have been as high as 170 feet to ensure adequate safety and dispersion of emissions into the atmosphere. Examples include ExxonMobil's Las Flores Canyon processing facility, PXP's Lompoc processing facility, the former Gaviota processing facility (which now functions as a pipeline terminal with an emergency gas flare stack), and Greka's Santa Maria Asphalt Refinery. Two similar columns may be proposed as part of an ethanol manufacturing plant – one would reach 80 feet in height and the other would reach 120 feet.



Photo on the left shows the former Gaviota oil and gas processing facility with several tall columns between 100 and 140 feet high. Photo on the right shows an ethanol manufacturing plant, similar to one to be proposed west of Santa Maria.

Silos to store, mix, and load asphalt hot-mix and concrete mix have long been used in the County. These silos, along with their conveyors, reach 75 feet in height in order to perform their function and accommodate truck loading underneath. Examples include the operations of Union Asphalt near Garey and Granite Construction near Buellton. Similar industrial silos are contemplated for the ethanol manufacturing operation mentioned above.



Granite Construction's asphalt hot-mix silos with truck loading underneath

Celite Corporation mines and processes diatomaceous earth near Lompoc and has many buildings and structures that exceed 50 feet in height (31 buildings total and 3 stacks). The processing facility is located behind mountains in a manner that shields these structures from public view.



Photo shows an example of tall structures at Celite's diatomaceous earth processing operations near Lompoc.

Lastly, a recently proposed wind energy system would employ approximately 60-80 wind turbines at a remote location southeast of Lompoc. The precise turbines have not yet been chosen by the applicant, but are estimated to range between 315 to 490 feet in height, including the blades.



Photo shows wind turbines similar to those proposed for the Lompoc Wind Energy Project.

5.4.4 Limited Scope of Proposed Amendments

The scope of these proposed amendments is very limited in focus in order to effect timely corrections to the zoning code that became apparent as part of the Zoning Ordinance Reformatting Project (ZORP), Phase I. This narrow scope should not be construed to prohibit, restrict, or unduly bias any future proposed amendments to exempt other structures or equipment from applicable height limitations. Rather, such proposals should be considered on their respective merits when they are processed.

5.4.5 Public Comments on Draft Language

Staff received one comment on the proposed amendments that were attached to the draft Negative Declaration. The Western States Petroleum Association (WSPA) requested two revisions (see Appendix 3) as follows:

- Revise the proposed definition of workover/pulling rigs to ensure understanding that, occasionally, these rigs may require more substantive support structures when servicing or abandoning wells directionally drilled into offshore areas. In these cases, the support structure would be similar to a drilling rig, rather than a wheel-based structure.

Staff agrees with this revision and has incorporated into the proposed amendments included as Appendix 1.

- Revise the period of time for which temporary drilling and workover/pulling rigs may be allowed to remain in place in the Coastal Zone to accommodate potentially longer drilling periods for developing offshore oil/gas reserves from onshore drill sites. This period was defined as being four years, which the Director of Planning and Development could extend two one-year extensions. It was established by amendments in 1996 adopted concomitantly with approval of permits for the Molino Gas project.

Staff recommends a partial revision to the language circulated in the draft Negative Declaration. We have removed reference to workover/pulling rigs in this subject provision, because servicing and abandoning wells are likely to occur many years after initial discovery of economically recoverable hydrocarbons and completion of production wells. We have inserted a subsequent provision to exempt workover/pulling rigs from the applicable height limits.

Staff has not, however, eliminated the two-year limit on Director-approved extensions. While there may be merit to this request, it falls beyond the limited scope, schedule, and budget of our proposed amendments. The request adds another level of complexity, and potentially a level of controversy, not considered in the Negative Declaration. We note that a WSPA member may submit a formal initiation for such an amendment, pursuant to Section 35-180.3.1.

6.0 PROJECT ANALYSIS

6.1 Environmental Review

The County has prepared and circulated for public comment a Negative Declaration (06NGD-00000-00022), finding that the proposed amendments will not have a significant effect on the environment.

The most critical concern rests with adverse visual impacts to the environment, by allowing structures to exceed 50 feet in height. A review of County policies, regulations, and environmental guidelines indicates that 50 feet does not establish a threshold above which a structure would significantly impact view sheds. Past practice indicates that structures less 50 feet may adversely affect view sheds, and structures more than 50 feet in height may not, depending upon location. Therefore, location is the primary factor in determining visual impacts. The Negative Declaration finds that the County's Comprehensive Plan, including its Coastal Plan and its zoning code has adequate policies and regulations to examine impacts to sensitive views via its discretionary permit processes, to protect those views, and to influence alternative project locations that would minimize impacts to views. The proposed amendments do not restrict the applicability of these policies, regulations, and guidelines.

Safety is another concern that relates to a tall structure collapsing and landing beyond the boundary of its land use. Here again, the County has adequate protective policies, regulations, and discretionary permitting processes to identify and mitigate such a risk where it is found to pose a significant public risk or to be incompatible with surrounding land uses.

Upon circulation of the draft Negative Declaration for public comment, the Energy Division received two comment letters: one from American Ethanol, Inc. and the other from the Western States Petroleum Association. Both comment letters expressed support for the findings of the draft Negative Declaration.

6.2 California Coastal Act Consistency

The proposed amendments are consistent with the California Coastal Act, considering the following policies.

1) ***The proposed amendments do not reduce or exempt the applicability of Coastal Act Section 30251 – Protection of Scenic & Visual Quality.*** Visual impacts are addressed under Section 30251 of the California Coastal Act, which reads:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural lands forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually downgraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

The proposed amendments seek to exempt from the 50-foot height limit, those facilities that, by their very nature, must exceed 50 feet to function. The facilities in the Coastal Zone include (1) temporary oil/gas drilling rigs, and (2) columns and gas flares associated with gas processing/transportation. Any developer proposing such facilities must still comply with Section 30251, which may be accomplished by either finding an appropriate location or qualifying as a coastal-dependent use, as discussed below.

2) *The proposed amendments are consistent with Coastal Act treatment of coastal-dependent uses (Section 30260).* The Coastal Act defines “coastal-dependent development or use” as any development or use which requires a site on, or adjacent to, the sea to be able to function at all (Section 30101). Section 30260 provides opportunity to approve coastal-dependent industrial facilities even if they do not comply with the coastal-protective policies of the Act, provided certain conditions are met. It reads:

Coastal-dependent industrial facilities shall be encouraged to locate or expand within existing sites and shall be permitted reasonable long-term growth where consistent with this division. However, where new or expended coastal-dependent industrial facilities cannot feasibly be accommodated consistent with other policies of the division, they may nonetheless be permitted in accordance with this section and Section 30261 and 30262 if (1) alternative locations are infeasible or more environmentally damaging; (2) to do otherwise would adversely affect the public welfare; and (3) adverse environmental effects are mitigated to the maximum extent feasible.

Therefore, structures or equipment that exceed 50 feet in height and are not consistent with the coastal-protective policies of the Act may be approved, provided they are considered to be a component of coastal-dependent industrial facilities and meet the provisions of Section 30260.

Past experience also demonstrates that the proposed amendments are consistent with the Coastal Act. The County has permitted a temporary gas drilling rig and a gas processing facility in the Coastal Zone in compliance with the Coastal Act. In 1985, the County approved the Gaviota gas processing facility, with 12 columns and a gas flare that greatly exceeded 50 feet in height. In this case, the project was considered to be a coastal-dependent industrial facility at the time. In 1996, the County approved a temporary 185-foot gas drilling rig at Gaviota (the Molino gas project). In this case, the drill rig was located within a designated consolidated planning area in proximity to the Gaviota processing facility. These cases demonstrate that, depending upon project-specific circumstances, oil/gas drilling rigs and gas processing facilities may be approved in a manner that is consistent with the California Coastal Act.

6.3 Comprehensive Plan Consistency

The proposed amendments are primarily intended to avoid inconsistencies of specific sections within the two ordinances. Sections 35-152, 153, 154, and 159 of the Coastal Zoning Ordinance apply to and enable oil and gas land uses that, by their very nature, use structures and equipment that exceed fifty feet in height (e.g., oil/gas drilling rigs, distillation and stripper columns, and gas flare stacks). Such land uses are also contemplated in policies of Chapter 3.6 of the Coastal Land Use Plan (specifically, Policies 6-1, 6-2, 6-3, 6-4, 6-5, 6-6A through 6-6F, and 6-13A through 6-13C). These policies also require consolidation of production and processing facilities that support development of offshore oil and gas as a means of reducing visual impacts of such

activities. Moreover, such facilities have been permitted in the past, including the Gaviota oil and gas processing facility, through an earlier interpretation of the Coastal Zoning Ordinance; that is, height limits could be modified for any specific project by the decision-maker during the approval of a Conditional Use Permit or Development Plan (Sections 35-172.12.1 and 35-174.8.1, respectively).

In 1999, in the context of a dispute over a proposed FM antenna that exceeded 50 feet, the County changed its interpretation of Section 35-127 so that it is now interpreted to prohibit such structures from exceeding the 50-foot maximum height limit, except where explicitly exempted in the ordinance. The proposed amendments respond to the new interpretation by again enabling certain oil and gas development that would otherwise be prohibited because it would be technically infeasible to function under the fifty-foot maximum height limitation. In so doing, the amendments enhance internal consistency in the ordinance by clarifying competing interpretations over the years.

Similarly, Sections 35-235 (General Industry), 35-295 (Oil Drilling and Production), 35-296 (Treatment and Processing Facilities), 35-297 (Refining), and 35-300 (Wind Energy Systems) of the Inland Zoning Ordinance provide for land uses that, by their very nature often use structures and equipment that exceed fifty feet in height. The Agriculture, Coastal-Related Industry, and General Industry land use designation, and the Mineral Resource Industry and Petroleum Resource Industry overlays of the County's Land Use Element provide for these uses. The Land Use Element also contemplates development of conventional and alternative energy. However, the 1999 re-interpretation of Section 35-276 of the Inland Zoning Ordinance prohibits such land uses where heights of structures and equipment exceed fifty feet for the same reason explained above. As previously noted, the proposed amendments enhance internal consistency within the ordinance and reconcile the change in interpreting height restrictions with other sections of the ordinance that provide for development with structures and equipment that, due to technical requirements, exceed such restrictions.

Coastal Plan Policy 4-3 and Land Use Element Visual Resources Policy 2 read identically:

*In areas designated as rural on the land use plan maps, the height, scale, and design of structures shall be compatible with the character of the surrounding natural environment, **except where technical requirements dictate otherwise.** Structures shall be subordinate in appearance to natural landforms; shall be designed to follow the natural contours of the landscape; and shall be sited so as not to intrude into the skyline as seen from public viewing places. (emphasis added.)*

The proposed amendments would provide an exemption to height limitations where a land use would otherwise be technically infeasible, consistent with the foregoing policies. These amendments affect the height of structures and equipment associated with land uses that are predominantly located in rural areas. Currently, all such operations are located in the rural area (e.g., Las Flores Canyon and Lompoc oil/gas processing facilities, Gaviota pipeline terminal, Celite's diatomaceous earth processing near Lompoc). None of these structures are projected to be proposed in Urban Areas.

6.4 Consistency with Ordinances

These proposed amendments are intended to ensure consistent application of the County's zoning ordinance with past practice of permitting certain land uses with structures and equipment that necessarily exceed applicable height limitations in order to function feasibly. These amendments are also intended to ensure internal consistency with the zoning ordinances and to remove specific uncertainties in interpreting applicability of height limitations.

7.0 APPEALS PROCEDURE

Ordinance Amendments recommended for approval or denial are automatically forwarded to the Board of Supervisors for final action, therefore no appeal is required.

APPENDICES

1. Draft Planning Commission Resolution to transmit recommended ordinance amendments and findings to the Board of Supervisors.
2. Negative Declaration 06NGD-00000-00022
3. Comment letter from Western States Petroleum Association (WSPA)