

SANTA BARBARA COUNTY BOARD AGENDA LETTER



Clerk of the Board of Supervisors
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Santa Barbara, CA 93101
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TO: Board of Supervisors

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SUBJECT: Status report on upcoming zoning ordinance amendments and related work.

Recommendation:

Receive and file a status report regarding the Planning & Development Department's current ordinance amendment work program including an amendment to Chapter 21 (County's Subdivision Regulations), revisions to the permitting process and development standards for wineries, and revisions to Article II (Coastal Zoning Ordinance), Article III (Inland Zoning Ordinance) and Article IV (Montecito Non-coastal Zoning Ordinance).

Alignment with Board Strategic Plan:

The recommendation is primarily aligned with Goal No. 1, *An Efficient Government Able to Respond Effectively to the Needs of the Community*.

Executive Summary and Discussion:

See the attached discussion.

Mandates and Service Levels:

California Government Code Section 65800 provides for the adoption and administration of zoning laws, ordinances, rules and regulations by counties and cities.

Fiscal and Facilities Impacts:

The work effort associated this ordinance amendment is accounted for in Planning & Development's budget for fiscal year 2003 – 2004 in the Development Review North subdivision on page D-290. There are no facilities impacts.

Special Instructions: None.

Concurrence: None.

EXECUTIVE SUMMARY AND DISCUSSION

Planning and Development's current work program includes the preparation of several amendments to the county's zoning ordinances that relate to the ongoing maintenance of the ordinances. These amendments are summarized as:

- An amendment to Chapter 21, the County's Subdivision Regulations, to provide a process to modify conditions and other limitations placed on lots that resulted from an unrecorded County approved lot split.
- Revisions to the permitting process and development standards for wineries.
- A general package of revisions to Article II (Coastal Zoning Ordinance), Article III (Inland Zoning Ordinance) and Article IV (Montecito Non-coastal Zoning Ordinance) to update and clarify the existing zoning regulations.

The scope of the amendments, the projected level of environmental review and estimated schedule for public hearings is discussed below.

This work effort is different from the ordinance restructuring program that was recently funded by your Board. The ordinance restructuring program entails a comprehensive review of all of the County's zoning ordinances as opposed to the more minor amendments discussed in this status report. Staff assigned to these amendments will coordinate closely with the consulting team doing the comprehensive review in order to minimize the potential for any duplication of work.

1. Chapter 21 County's Subdivision Regulations

On November 20, 2001 your Board adopted Ordinance No. 4436 that made various technical changes to the County's Subdivision Regulations, Chapter 21 of the Santa Barbara County Code (Case No. 01-OA-008). One of these changes created a process to allow the County Zoning Administrator to approve modifications to conditions that regulate the development of lots that were created by unrecorded maps (i.e., lot splits approved by the County prior to February 16, 1966). The amendment as adopted would have allowed a modification to an unrecorded map to result in an increased number of dwelling units or a greater density than shown on the unrecorded lot split map provided the modification was determined to be consistent with the County's Comprehensive or Coastal Plan. This was challenged in court with the result that the unrecorded lot split modification process was invalidated on the basis of inadequate CEQA review.

Environmental Review/Estimated Schedule: The current work effort involves the preparation of a Negative Declaration (ND) and a rehearing in front of the Board of Supervisors. A draft ND was released for public review on November 21, 2003, and the public comment period is scheduled to close on December 12, 2003. A public hearing on the amendment will be scheduled to be held before the Board of Supervisors on January 27, 2004.

2. Winery Permitting Process Ordinance Amendment

On February 25, 2003 your Board directed Planning & Development to work with the Wine Industry Task Force (WITF) to develop a new tiered permit process for winery development

applications. Since that time, representatives of P&D and the WITF Winery Sub-Committee have met on several occasions to draft the proposed ordinance amendment language.

The draft language of the ordinance amendment has been prepared; the proposed permit process includes:

- A tiered permit process for winery applications that would allow wineries pursuant to a ministerial Land Use Permit, a Development Plan under the jurisdiction of the Zoning Administrator, or a Development Plan under the jurisdiction of the Planning Commission. Permit jurisdiction would be determined by the amount of vineyard acreage located on the winery premises, the amount of structural development, the production capacity of the winery, and whether there would be a tasting room or special events on the winery premises.
- Development standards that address: increased setbacks from neighboring residential development; design standards regarding exterior appearance, landscape screening, height, and lighting; parking requirements; tasting rooms and special events.

Environmental Review/Estimated Schedule: Work on the preparation of a Negative Declaration to address the potential for any environmental impacts to occur as a result of the proposed ordinance amendment has commenced and the draft should be available for public review in late January. During the public review period for the Negative Declaration, a minimum of two public workshops will be held in February to acquaint the public with the proposed ordinance amendment language. Subsequent to those workshops, public hearings will be held before both the County Planning Commission and Board of Supervisors beginning in March.

3. General Package

The following provides a summary of the different revisions that are being considered in the current amendment package:

Summerland Overlay: Revise definitions and methodology for measuring understory, floor/area ratios, and plate height.

Discussion: The existing regulations contained in the Summerland Overlay need to be revised to reduce the level of complexity and provide clarity and uniform implementation. Revising these sections will require review by the Summerland Citizens Association.

Building Height Definition: Develop new methodology for measuring the height of buildings, including how to account for decks and other architectural features abutting the building, and to include standards for what qualifies as an architectural projection.

Discussion: The existing definition does not work well when applied to a sprawling floor plan on a sloped lot, and can result in a design that presents a building elevation much higher than the height limit would normally allow for. Also, it only refers to flat and gable roofs, and does not address any other common roof styles (e.g., gambrel, A-frame). The methodology for calculating building height needs to be able to address situations where decks, planters, raised patios, etc., are used to artificially reduce the calculated building height. The ordinance also needs to better

define what qualify as architectural projections and include standards regarding the maximum allowable roof area of the projection as it relates to the overall mass of the building.

As-built Development Plans: Clarify how nonconforming structures are to be treated when approving an as-built development plan. Clarify procedures for substantial conformity determinations and amendments that relate to an as-built development plan.

Discussion: The as-built development plan process was developed to simplify the permitting for additions to existing buildings that were built prior to the imposition of the requirement for a development plan. Staff has encountered problems when reviewing applications for as-built development plans when the project has features that do not conform to the current regulations (e.g., height, setbacks) yet were legal when constructed. There also needs to be clarification as to how to process substantial conformity determinations and amendments that relate to as-built development plans.

Structural Changes to Nonconforming Structures: Develop allowances for structural alterations to nonconforming structures when required for ADA purposes or when the structure is threatened by coastal erosion and deemed hazardous by the Building Official; also allow, in limited circumstances, nonconforming structures that are designated as having historic merit by the Historical Landmarks Advisory Commission to not have to fully comply with ordinance standards (e.g., interior access throughout a residence).

Discussion: Buildings that do not conform to the existing ordinances typically cannot be structurally altered. However, the continuing erosion of the bluff south of Del Playa Drive in Isla Vista has required that certain structures that do not conform with the existing requirements regarding number of bedrooms and parking requirements be remodeled in order to abate a hazardous situation. A strict reading of the current zoning language precludes this, however, there is a need to maintain the housing stock. Similarly, the County also desires to maintain the historic integrity of landmarks and structures of historic merit. However, if the structures are nonconforming, the ability to preserve and protect such structures can be compromised by the restriction on allowing structural repairs.

Setbacks (Articles II, III & IV): Develop language addressing the potential for overlapping variable side and rear setbacks; clean up language regarding use of setbacks and yard, average lot width, lot depth, front line; include standards for allowing certain structures within setback areas (e.g., backflow devices, utility panels, landscaping features, flatwork, underground structures, small storage buildings); revise existing language regarding placing accessory structures between street and main residence; clarify when retaining walls are considered “walls” exempt from permit requirements if located within setback areas.

Discussion: The ordinance is confusing as to how determine required setback areas when dealing with overlapping variable side and rear setback calculations. The ordinance is also inconsistent in the use of the terms “yard” versus “setback.” The ordinance also needs to address how utility structures with setbacks are to be treated, and to expand the definition of “structure” to exempt other flatwork beside sidewalks. Currently the zoning ordinances require that with minor exceptions the front and side yard setback areas must be unobstructed from ground to sky. However, it is quite common throughout the County for property owners to locate small storage

sheds within side yard areas to store garden tools and other belongings. This amendment would allow for such storage sheds subject to limitations on the area, height, and separation from the principal building. The ordinance also needs to be revised to address the question of allowing retaining walls within setback areas.

Conditional Use Permits (CUP) that also require the processing of a Development Plan (DP): Revise language requiring processing of a companion DP with CUPs when the effect is to require a CUP under the jurisdiction of the Zoning Administrator to instead be under the jurisdiction of the Planning Commission.

Discussion: Recent amendments had the unintended consequence of changing the jurisdiction on some minor CUPs from the Zoning Administrator to the Planning Commission due to the requirement to process a companion DP.

Special Events: Expand carnival permit provisions to include other temporary events and allow in zone districts other than commercial and industrial; clarify what special events may occur in residential zones or as accessory to the residential use and under what permit requirement (e.g., weddings, fundraisers).

Discussion: The existing provisions are not comprehensive enough and do not allow for permitting temporary events in agricultural areas (e.g., small rodeos). The ordinance also needs to address what the permit requirement should be for special events that occur in conjunction with the residential use of property.

Accessory Uses: Allow for accessory uses in conjunction with principal uses in the Neighborhood Commercial (CN), Shopping Center (SC), Heavy Industry (M-2), Coastal Resource Industry (M-CR), Resource Management (RES) and Mountainous Area-Goleta (MT-GOL) zone districts.

Discussion: Language that allows for accessory uses in conjunction with principal uses currently appears in all zone districts except for those named above; without this language, strictly speaking structures and uses that are routinely accessory to a permitted use cannot be allowed (e.g., a dog house or a tool shed accessory to a single family residence in a RES zone district).

Produce Stands: Allow produce stands on other than agriculturally zoned properties where agriculture is a permitted use.

Discussion: Produce stands are currently only allowed on property provided that it is agriculturally zoned. However, several other zone districts (e.g., industrial) allow agriculture as a permitted use but do not allow for food grown on the property to be sold from a produce stand.

Open Space Development Rights: Clear up present confusion as to what can be developed in common open space areas associated with design (clustered) residential projects.

Discussion: The existing text of the zoning ordinances requires that title to the common open space areas "shall be held by a non-profit association of homeowners on such reasonable terms and

conditions as the Board of Supervisors may prescribe which may include conveying to the County of Santa Barbara the rights to develop such property with anything except open space or noncommercial recreation.” This has been interpreted by some to mean that the County can construct additional development within the common open space area. However, the intent of this requirement is to restrict the use of the area to open space and noncommercial recreation typically for the benefit of the homeowners. This amendment would clarify the intent of the requirement.

Amateur Radio Height Definition: The existing regulations provide that if the total height of an antenna and antenna support structure associated with an amateur radio station is 65 feet or less then it may be permitted subject only to the issuance of a ministerial Land Use Permit. However, if the height of the antenna and support structure exceeds 65 feet, then the approval of a discretionary Development Plan by the Zoning Administrator in a public hearing is required.

Discussion: The ordinance does not clearly delineate that in the case of an antenna that is raised to its maximum height only during operation of the amateur radio station that the antenna height is measured when the amateur radio station is not operating and the antenna is lowered to its “at rest” position. In response to requests of local amateur radio operators, this amendment is proposed to clearly indicate that the antenna height is measured when the antenna is in its lowered position.

Wild Animal Rehabilitation: Include in the zoning ordinance a process to permit wildlife care facilities.

Discussion: There are a number of private facilities within the County that provide for the temporary care and rehabilitation of sick, injured or infant wild animals so that they may returned to the wild. However, there are no provisions in the zoning ordinance to allow for this use. This amendment would provide a permit path such that these types of facilities may be allowed to operate.

Environmental Review/Estimated Schedule: The scope of the revisions is minor enough such that the amendments are proposed to be found exempt from the California Environmental Quality Act (CEQA). Public workshops, including meetings with the Summerland Citizens Advisory Committee, to acquaint the public with the proposed amendments will commence in early March followed by public hearings before the County Planning Commission and the Montecito Planning Commission beginning later that same month, and the Board of Supervisors in April.