



**COUNTY OF SANTA BARBARA
PLANNING AND DEVELOPMENT**

MEMORANDUM

TO: Board of Supervisors
FROM: John Baker, Director
DATE: April 19, 2007
RE: Franklin Veterinary Clinic Appeal

This memorandum updates the Board of Supervisors Set Hearing Agenda Letter dated February 20, 2007 for the Appeal of the Montecito Planning Commission's Denial of the Franklin Veterinary Clinic (Home Occupation), Case Number 06APL-00000-00038. Staff continues to recommend that your Board uphold the Montecito Planning Commission's denial of the proposed clinic. However, there are recent changes and new information that affect some aspects of the decision.

I. FINDINGS/DEVELOPMENT STANDARDS FOR HOME OCCUPATIONS:

The "Summary" in the Board of Supervisors Set Hearing Agenda Letter dated February 20, 2007 includes a brief project description (first paragraph, page 2) and outlines the reasons why the Montecito Planning Commission denied the proposed veterinary clinic (second through sixth paragraphs, page 2). The Montecito Planning Commission concluded that the project did not comply with Findings #3 (employees), #6 (noise) and #10 (neighborhood compatibility) for home occupations in Section 35-121.2 of the July 2004 Coastal Zoning Ordinance (Article II). These three Findings have been changed to Development Standards #3, #6 and #10, respectively, in the recently published Section 35-121.4 of the September 2006 Article II (Attachment A). Your Board should base its decision on the new Development Standards since this will be a *de novo* hearing.

There have been no substantive changes to Findings #3 and #10 in former Section 35-121.2 (now Development Standards #3 and #10 in Section 35-121.4). Therefore, staff does not recommend any changes to the Montecito Planning Commission's conclusions regarding Findings #3 and #10. In contrast, Finding #6 in former Section 35-121.2 (now Development Standard #6 in Section 35-121.4) now includes a noise threshold. Development Standard #6 states,

A home occupation shall not use any electrical or mechanical equipment that would create any visible or audible radio or television interference or create noise audible beyond the boundaries of the lot that contains the home occupation. Noise levels associated with the home occupation shall not exceed 65 dBA outside the dwelling that contains the home occupation.

In part, the Montecito Planning Commission denied the project because, "The proposed practice would not conform to Section 35-121.4.6 because it could create noise (barking dogs) audible beyond the boundaries of the premises." The applicant submitted a noise study this week that assesses the potential noise that would be generated by barking dogs inside the den of the dwelling (Attachment B). The study was prepared by a noise consultant who is included on the County's Consultant List. It assumes several

acoustic mitigation measures will be taken to reduce sound transmission, including (1) the window in the den will remain shut during hours of operation, (2) an inner 3/8 inch thick Plexiglas pane will be attached to the window in the den, (3) a soundproof curtain will be placed on the interior side of the window in the den and (4) the interior doors to the den will be fitted with sound-proofing transom seals. These mitigation measures are not included in the project description. The noise study concludes, "The addition of potential home occupation sounds from a dog barking within the acoustically insulated interior space of the subject property will result in exterior sound levels that are well below the required standard of 65dBA outside the dwelling and which are not audible or perceptible at the property boundary." Based on this new information and the proposed acoustic mitigation measures, the project appears to comply with the noise standards in Development Standard #6.

II. FINDINGS FOR APPROVAL OF COASTAL DEVELOPMENT PERMIT:

Staff has revised the Montecito Planning Commission's Finding 1.a in the "Findings Required for Approval of a Coastal Development Permit" (Attachment C) to reflect the new Development Standards in Section 35-121.4. We also deleted references to noise. Finding 1.a now states that the project would not comply with the Development Standards in Section 35-121.4 because (1) the clinic would not be conducted solely by the occupants of the residence and (2) the clinic would detrimentally affect the residential character of the neighborhood.

The Montecito Planning Commission's Finding 1.c stated, "County records show that outstanding building violations exist on the subject property . . ." A recent Permit History Report shows that no zoning or building violations exist on the property (Attachment D). Staff revised Finding 1.c to reflect that the property is in compliance with all laws, rules and regulations pertaining to zoning uses, subdivisions, setbacks and other applicable provisions of Article II.

III. RECOMMENDED ACTIONS:

Staff recommends that your Board take the following action:

1. Deny the appeal, Case No. 06APL-00000-00038, thereby upholding the Montecito Planning Commission's decision to uphold the Planning and Development Department's denial of the proposed Franklin Veterinary Clinic;
2. Adopt the required findings for denial of the proposed veterinary clinic specified in Attachment C to this memorandum; and
3. Deny the proposed project, Case No. 05HOC-00000-00008.

Attachments:

Board of Supervisors Hearing of March 20, 2007
Appeal of the Montecito Planning Commission's Denial of Franklin Veterinary Clinic
April 19, 2007
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Attachment A: Section 35-121.4 of Article II, Development Standards for Home Occupations

Attachment B: Sound Level Assessment, Audibility and Sound Level Determination for Compliance with Coastal Zoning Ordinance, 1396 Greenworth Place, Montecito, CA; 45dB.com Acoustics Consulting, April 16, 2007

Attachment C: Findings

Attachment D: Permit History Report, Parcel Number 009-190-009, 1396 Greenworth Place, Santa Barbara; Planning and Development Department, April 17, 2007

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cc: Case File (Allen Bell, Planner)
Bonnie Franklin, Applicant (1396 Greenworth Place, Montecito, CA 92108)
Dianne Black, Assistant Director, P&D
June Pujo, Supervising Planner, Development Review Division – South, P&D

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ATTACHMENT A: SECTION 35-121.4 of ARTICLE II
DEVELOPMENT STANDARDS FOR HOME OCCUPATIONS

Sec. 35-121.4 Development Standards.

A home occupation shall comply with the following development standards:

1. Only one home occupation shall be allowed on any one lot. The home occupation shall be conducted either entirely within not more than one room of the dwelling not including garages or entirely within an artist studio. A home occupation may not be conducted outside of the dwelling or the artist studio.
2. The home occupation shall not alter the residential character of the dwelling or the lot that contains the home occupation. There shall be no internal or external alterations to the dwelling that are not customarily found in such structures, and the existence of the home occupation shall not be discernible from the exterior of the dwelling unit.
3. The home occupation shall be conducted solely by the occupant(s) of a dwelling located on the lot that contains the home occupation. No employees other than the dwelling occupant(s) shall be permitted for business purposes on the lot that contains the home occupation. The home occupation may have off-site employees or partners provided they do not report for work at the lot that contains the home occupation.
4. No displays or signs naming or advertising the home occupation shall be permitted on or off the lot that contains the home occupation. All advertising for the home occupation, including but not limited to telephone directories, newspaper or other printed material, or on equipment or vehicles associated with the home occupation shall not divulge the location of the home occupation. Business cards and letterhead may list the address of the home occupation.
5. There shall be no more than five customers, patients, clients, students, or other persons served by said home occupation upon the lot that contains the home occupation at any one time.
6. A home occupation shall not use any electrical or mechanical equipment that would create any visible or audible radio or television interference or create noise audible beyond the boundaries of the lot that contains the home occupation. Noise levels associated with the home occupation shall not exceed 65 dBA outside the dwelling that contains the home occupation.
7. No smoke or odor shall be emitted that occurs as a result of the home occupation.
8. There shall be no outdoor storage of materials related to the home occupation.
9. No vehicles or trailers except those incidental to the residential use and those allowed under Section 35-71.11 shall be kept on the lot that contains the home occupation.
10. A home occupation shall be strictly secondary and subordinate to the primary residential use and shall not change or detrimentally affect the residential character of the dwelling, the lot that contains the home occupation, or the neighborhood.
11. Where a home occupation will be conducted within a dwelling or artist studio that relies on a septic system, written clearance from the Santa Barbara County Public Health Department will be required prior to approval.
12. No hazardous materials other than those commonly found within a residence shall be used or stored on the site. Such materials and equipment shall be limited to quantities that do not constitute a fire, health or safety hazard.

13. Business-related deliveries shall be limited to a maximum of two per week. United States Mail and commercial parcel carriers' deliveries are exempted from this limitation.
14. A home occupation shall not create vehicular or pedestrian traffic that changes the residential character of the neighborhood and dwelling unit where the business is being conducted, or create a greater demand for parking than can be accommodated on-site or on the street frontage abutting the lot that contains the home occupation.
15. The home occupation shall at all time be conducted in compliance with the conditions and limitations of the foregoing subsections 1 through 14 and any other conditions and/or limitations that may be part of the Coastal Development Permit issued to allow the home occupation. Failure to comply with said conditions and limitations shall be cause for revocation of the Coastal Development Permit.
16. Occupations that cannot comply with all of the development standards listed in Section 35-121.4 may not be permitted as home occupations. Such prohibited occupations include, but are not limited to:
 - a. On-site automotive repair or service.
 - b. Painting of vehicles, trailers, boats or machinery.

ATTACHMENT B: SOUND LEVEL ASSESSMENT

**SOUND LEVEL ASSESSMENT, AUDIBILITY AND SOUND LEVEL DETERMINATION FOR
COMPLIANCE WITH COASTAL ZONING ORDINANCE, 1396 GREENWORTH PLACE,
MONTECITO, CA**

**45dB.com Acoustics Consulting
April 16, 2007**

ATTACHMENT C: FINDINGS

FINDINGS REQUIRED FOR APPROVAL OF A COASTAL DEVELOPMENT PERMIT

Section 35-169.6, Coastal Zoning Ordinance (Article II)

- 1. A Coastal Development Permit, not subject to Section 35-169.5., above, shall be issued only if all of the following findings are made:**
 - a. That the proposed development conforms to 1) the applicable policies of the Comprehensive Plan, including the Coastal Land Use Plan, and 2) with the applicable provisions of this Article and/or the project falls within the limited exception allowed under Section 35-161.7.**

The proposed veterinary clinic does not conform to three of the 16 development standards for home occupations in Section 121.4 of the Coastal Zoning Ordinance (Article II). It also does not conform to Land Use Goal LU-M-1 in the Montecito Community Plan. Contrary to Section 35-121.4.3., the proposed clinic would not be conducted solely by the occupants of the dwelling. The proposed clinic would not conform to Section 35-121.4.10 and Land Use Goal LU-M-1 because it would detrimentally affect the residential character of the neighborhood. Therefore, this finding cannot be made.

- b. That the proposed development is located on a legally created lot.**

The subject property is a legal lot. It was included in a Record of Survey that was approved by the County Surveyor and filed with the Santa Barbara County Recorders Office on April 25, 1957 (Book 38, Page 63). Therefore, this finding can be made.

- c. That the subject property is in compliance with all laws, rules and regulations pertaining to zoning uses, subdivisions, setbacks and any other applicable provisions of this Article, and such zoning violation enforcement fees as established from time to time by the Board of Supervisors have been paid. This subsection shall not be interpreted to impose new requirements on legal non-conforming uses and structures under Section 35-160 *et seq.***

County records show that no outstanding zoning violations exist on the subject property. The property owner does not owe any zoning violation enforcement fees. Therefore, this finding can be made.

ATTACHMENT D: PERMIT HISTORY

**PERMIT HISTORY REPORT
PARCEL NUMBER 009-190-009**

**Planning and Development Department
April 17, 2007**