

SANTA BARBARA COUNTY BOARD AGENDA LETTER



Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

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TO: Board of Supervisors

FROM: Dianne Meester, Assistant Director
Planning and Development Department

STAFF CONTACT: Noel Langle, Planner III 568-2009
Pat Saley, Planner 568-2000

SUBJECT: Hearing to consider adoption of zoning ordinance text amendments to Articles II, III and IV of Chapter 35 of the Santa Barbara County Code:

1. Case Nos. 05ORD-00000-00016 (Article II), 05ORD-00000-00017 (Article III) and 05ORD-00000-00018 (Article IV) to revise the permit noticing process;
2. Case Nos. 05ORD-00000-00019 (Article II) and 05ORD-00000-00020 (Article IV) to revise the permit appeals process; and
3. Case No, 05ORD-00000-00021 (Article III) to implement the Orcutt Pilot Program to streamline review of small projects.

RECOMMENDATION

Consider the recommendations of the County and Montecito Planning Commissions and:

- A. Find that these amendments are categorically and statutorily exempt from the California Environmental Quality Act pursuant to Sections 15061(b)(3) and 15378(b)(5) of the Guidelines for Implementation of CEQA (Attachment A).
- B. Adopt findings for approval of the proposed amendments (Attachment B).
- C. Adopt a Resolution and direct staff to submit the following Local Coastal Program amendments to the California Coastal Commission for certification:
 1. Amendment to the Article II, Coastal Zoning Ordinance, regarding revisions to noticing procedures (05ORD-00000-00016 - Attachment C); and
 2. Amendment to the Article II, Coastal Zoning Ordinance, regarding revisions to appeals procedures (05ORD-00000-00019 - Attachment F).

- D. Adopt an Ordinance amending Article III, Inland Zoning Ordinance, regarding revisions to noticing procedures (05ORD-00000-00017 – Attachment D).
- E. Adopt an Ordinance amending Article IV, Montecito Zoning Ordinance, regarding revisions to noticing procedures (05ORD-00000-00018 – Attachment E).
- F. Adopt an Ordinance amending Article IV, Montecito Zoning Ordinance, regarding revisions to appeal procedures (05ORD-00000-00020).
- G. Adopt an Ordinance amending Article III, Inland Zoning Ordinance, to add the new Orcutt Pilot Program (05ORD-00000-00021 - Attachment H).
- H. Approve the Orcutt Pilot Program Checklist as an appendix to Article III (Attachment I).

ALIGNMENT WITH BOARD STRATEGIC PLAN

The recommendations are primarily aligned with Goal No. 1, An Efficient Government Able to Respond Effectively to the Needs of the Community; Goal No. 4, A Community that is Economically Vital and Sustainable; Goal No. 5, A High Quality of Life for All Residents; and Goal No. 6, A County Government that is Accessible, Open, and Citizen-Friendly.

I. BACKGROUND

The Planning & Development Department began a process improvement effort nearly three years ago that included the formation of four Steering Groups with staff and community members involved in the development review process. Early in 2005, the four Steering Groups were consolidated into an Oversight Committee that has met frequently to discuss general priorities for process improvement and specific recommendations. On October 18, 2005, your Board approved the first set of process improvement revisions relating to appeals procedures, establishing a new streamlined Zoning Clearance process, and applying the new Zoning Clearance process to new homes on vacant lots in tracts approved since 1990. All of these amendments applied to Article III only (Inland Zoning Ordinance).

This report addresses the second set of improvements relating to improved noticing (Articles II, III and IV), revisions to appeals procedures (Articles II and IV) and a new pilot program in Orcutt to streamline the review of small projects that are consistent with the Orcutt Community Plan (Article III). The County Planning Commission held a workshop on November 30, 2005. Both the County and Montecito Planning Commissions unanimously supported the changes. Once these amendments have been approved by the Coastal Commission for the Article II area, virtually all of the County will be subject to the same noticing and appeals procedures.

II. REVISIONS TO NOTICING PROCEDURES

A common concern about the review process, especially for small projects, is that the noticing occurs very late in the process after the applicant has spent considerable time and money on working drawings. Because noticing occurs late, appeals also occur late as discussed in the next section of the report. There has been an average of 10 Land Use Permit appeals in each of the last five years based on issues including second story additions, new accessory structures of more than 120 square feet, and changes of use. The following is a summary of the changes to noticing proposed:

- A. Timing of Land Use Permit and Coastal Development Permit Notices** – Currently the last step before a LUP is issued is the mandatory posting of three (3) notices on the project site. At this point, an appeal may be filed. We propose that, once an application is accepted for processing, a mailed notice be provided to adjacent property owners in a two-tiered system. For all LUPs, owners that abut the site would receive a mailed notice that describes the proposal and its process and how to get information. Notices for LUPs for projects that have sometimes been controversial (e.g., second story additions and changes of use) would go to all property owners within 300 feet of the property boundary. The intent is that providing earlier notice to neighbors would allow the applicant and neighbors to discuss the specifics of the project before the drawings are nearing completion. CDPs are also proposed to have the same two-tier noticing system.
- B. Timing of Board of Architectural Review (BAR) and LUPs and CDPs** – The appeals revisions discussed in the next section recommend that BAR preliminary approvals be appealable which is earlier in the process before detailed working drawings are prepared. We are proposing that the timing of the BAR preliminary approval and LUP approval be coordinated so that if an appeal is filed on either or both one appeal would be heard by the Planning Commission together.
- C. Revisions to discretionary application notices** - Several minor changes are proposed to discretionary notices including clarifying language regarding the submission of comments in writing or orally.
- D. Recommendations** – The Oversight Committee is very supportive of the noticing changes as they should improve neighbor input and reduce the number of appeals that are filed. On December 21, 2005, the Montecito Planning Commission recommended that the amendments relating to noticing in Articles II and IV. On January 11, 2006, the County Planning Commission recommended that the Board approve noticing amendments in Articles II and III.

III. REVISIONS TO APPEALS PROCEDURES

Concerns expressed about appeals at the County include that virtually anyone can appeal anything, without necessarily being involved in the process or articulating the reason for the appeal. Existing County ordinances require that an appellant state the reason for the appeal, however, there is no mechanism to reject an appeal if a reason is not given or it is not valid. The definition of “aggrieved person” who can file an appeal is very broad and may include someone who has never participated in a hearing on the project. The following amendments strive to revise existing procedures to address these and other concerns. These changes were adopted into the Article III (Inland) Zoning Ordinance in October 2005 and now are proposed for inclusion in Articles II (Coastal) and IV (Montecito).

- A. Who may file an appeal?** In the Coastal Zone (Article II), an appellant must be an aggrieved person who has participated in a hearing or let the decision-maker know of their concerns before the decision is reached. That definition and requirement has been added to the Zoning Ordinance for the Inland area (Article III) and is proposed to be added for Montecito (Article IV). The intent is that, before appealing a decision, the potential appellant should attempt to affect a change in that decision by testifying at a hearing, writing a letter, etc.
- B. Grounds for appeal** – Currently, the ordinance specifies two valid reasons for an appeal, that the project is not in accord with an ordinance or that there was an error or abuse in discretion.

We are proposing that an additional ground for appeal be allowed relating to the availability of significant new information that could not have been presented at the time of the decision being appealed

- C. Rejection of appeals** – In the Coastal Zone (Article II) and Inland area (Article III), appeals can be rejected if they do not meet one of the provisions of the appeals ordinance. We are proposing that the same provisions apply to Article IV.
- D. Appeal of BAR preliminary approval** – Currently, only BAR final approval can be appealed after working drawings have been prepared. We are proposing that the opportunity for appeal be moved up to preliminary BAR approval before detailed drawings are prepared. Appeal of BAR final approval would be allowed if the plans are not in substantial conformance with the preliminary plans.
- E. Appeals of CDP approvals following previously approved discretionary permits** – Where an approved discretionary project is followed by a CDP, an appeal would only be allowed if the plans are not in substantial conformance with the discretionary approval, where the conditions of approval have not been met, or noticing requirements were not met.
- F. Recommendations** – The Oversight Committee is supportive of the appeals changes as, especially coupled with the noticing revisions proposed, they should result in better input in the process, and reduce the number of appeals that are filed. On December 21, 2005, the Montecito Planning Commission recommended that the amendments in Articles II and IV be approved. The Montecito PC also recommended that the appeals changes to Articles II and IV be changed. On January 11, 2006, the County Planning Commission recommended that the Board approve the appeal amendments in Article II.

III. NEW ORCUTT PILOT PROGRAM

An important goal of the process improvement effort is to streamline the process for small projects such as new single family homes. P&D and the Oversight committee developed a pilot program whereby the policies and development standards in the Orcutt Community Plan are placed in a checklist against which small projects would be evaluated. If a project meets all the standards in the checklist and is consistent with zoning ordinance requirements, it would obtain a Zoning Clearance and be ready for submittal for building permit. A Land Use Permit, with its noticing requirement and potential for appeal, would not be required.

The Orcutt Community Plan was adopted in 1997. It covers 14,650 acres in the unincorporated area south of Santa Maria. The community plan covers many issues and includes development standards that implement the plan's policies. Orcutt is an ideal community for a pilot program as it is entirely outside the Coastal Zone and within Article III and there is a relatively high level of permit activity.

- A. Orcutt Community Plan Checklist** - The Orcutt Pilot Program checklist includes ten questions that address the major issues in the Community Plan and the associated review process. Maps from the plan are provided to assist in answering the questions:

1. **New home on a vacant lot** – The new Zoning Clearance process applies to new homes on vacant parcels in recently approved tracts, including those in Orcutt. As these tracts have already been found to be consistent with the community plan, these proposed new homes would go through the streamlined Zoning Clearance process and would not need to complete the rest of the checklist. Consistency with the conditions of approval on the tract in which the proposed home is located and consistency with zoning requirements would have to be demonstrated.
2. **Old Town Orcutt** – Projects in this area require approval by the Old Town Orcutt BAR and a Land Use Permit, therefore the rest of the checklist need not be completed.
3. **Two or three-story homes** – If new two or three-story homes that were not already covered in #1 above were proposed, they would automatically require a LUP as these projects tend to raise neighborhood compatibility and other issues. This would also apply to two or three-story additions to any home.
4. **Agriculture** – Depending on a proposed project's proximity to land zoned for or in agricultural use, a LUP may be required.
5. **Airport Zones** – Depending on a proposed project's proximity to the Airport and the proposed use, a LUP may be required.
6. **Biological Resources** – This is a five-part question that lists types of biological resources present on the property that would trigger a LUP. If those resources are not present, the applicant would complete the rest of the checklist to see if a LUP or Zoning Clearance is required.
7. **Flooding and Drainage** – If a project is located next to Orcutt or Pine Creeks, a LUP is required.
8. **Geology, Topography and Soils** – Similar to biological resources, this five-part question helps determine whether a LUP is required.
9. **Noise** – If a project is located within an existing high noise corridor, a LUP is required in order to ensure that appropriate design and construction methods are employed.
10. **Open Space** – Depending on a proposed project's proximity to designated open space areas, a Land Use Permit may be required.

If the answer to the ten questions is 'No,' then the project will receive a Zoning Clearance and would be able to be submitted for a building permit. If the answer to any question is 'Yes,' then a LUP is required but the scope of its review would be more focused based on the results of the checklist.

The Orcutt Pilot Program will be referenced in the Article III section that addresses the Orcutt Community Plan (see Attachment F). The checklist (Attachment G) will be adopted by Board minute action which will enable us to make revisions more easily as the pilot program gets underway.

B. Recommendations – The Oversight Committee has spent a lot of time refining the checklist and is very supportive of the pilot program. Two other meetings were held in Orcutt with various residents and people familiar with the Orcutt Community Plan to gather input. The County Planning Commission held a workshop on the checklist on November 30, 2005 and, on January 11, 2006, they recommended that the Board approve the Orcutt Pilot Program as listed in Attachments F and G.

IV. CONCLUSION

The ordinance amendments addressed in this report are important components in the County's efforts to streamline the review process and make it more efficient. The noticing and appeals changes, taken together, are significant steps forward to help applicants through the process and involve neighbors in projects in a timely fashion. The Orcutt Pilot Program will be an important test to help small projects through the process without unnecessary delay. If successful, there are several other community plan areas where the same concept could be applied. These proposals have been developed with community input and have been discussed at many public meetings. We look forward to implementing these changes and seeing the positive results.

Mandates and Service Levels: Amendments to Article III of Chapter 35 of the County Code are legislative acts under the jurisdiction of the Board of Supervisors. Section 35-325 of Article III provides that the recommendation of the Planning Commission shall be transmitted to the Board of Supervisors and that the Board shall schedule and hold a public hearing on the matter. Amendments to Article II of Chapter 35 of the County Code are legislative acts under the jurisdiction of the Board of Supervisors. Section 35-325 of Article III provides that the recommendation of the Planning Commission shall be transmitted to the Board of Supervisors and that the Board shall schedule and hold a public hearing on the matter.

Fiscal and Facilities Impacts: The work effort associated this ordinance amendment is accounted for in Planning & Development's budget for fiscal year 2005-06. There are no facilities impacts.

Special Instructions: Planning & Development has satisfied all noticing requirements by placing display ads in both the Santa Barbara News-Press and Santa Maria Times as well as posting notices in County buildings.

Concurrence: None.

Attachments:

- A. CEQA Guidelines Sections 15061(b)(3) and 15378(b)(5) Notice of Exemption
- B. Findings of Approval
- C. 05ORD-00000-00016 Resolution and Draft Ordinance Amendment (Article II re Noticing)

- D. 05ORD-00000-00017 Draft Ordinance Amendment (Article III re Noticing)
- E. 05ORD-00000-00018 Draft Ordinance Amendment (Article IV re Noticing)
- F. 05ORD-00000-00019 Resolution and Draft Ordinance Amendment (Article II re Appeals)
- G. 05ORD-00000-00020 Draft Ordinance Amendment (Article IV re Appeals)
- H. 05ORD-00000-00021 Draft Ordinance Amendment (Article III for Orcutt Pilot Program)
- I. Draft Orcutt Pilot Program checklist
- J. Montecito Planning Commission staff report, December 21, 2005 (without attachments)
- K. County Planning Commission staff report, January 11, 2006 (without attachments)

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