

RESOLUTION OF THE SANTA BARBARA COUNTY PLANNING COMMISSION
COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA

IN THE MATTER OF RECOMMENDING TO THE BOARD OF SUPERVISORS THE ADOPTION OF AN AMENDMENT TO SECTION 35-1, THE SANTA COUNTY LAND USE AND DEVELOPMENT CODE, OF CHAPTER 35, ZONING, OF THE COUNTY CODE, AMENDING ARTICLE 35.5, OIL AND GAS, WIND ENERGY AND COGENERATION FACILITIES, AND ARTICLE 11, GLOSSARY, TO CLARIFY REQUIRED PERMITS FOR HYDRAULIC FRACTURING.

RESOLUTION NO.: 11- 27

CASE NO.: 11ORD-00000-00022

WITH REFERENCE TO THE FOLLOWING:

- A. On November 27, 2007, by Ordinance 4660, the Board of Supervisors adopted the Santa Barbara County Land Use and Development Code, Section 35-1 of Chapter 35 of the Santa Barbara County Code; and
- B. The County Planning Commission now finds that it is in the interest of the orderly development of the County and important to the preservation of the health, safety and general welfare of the residents of the County to recommend that the Board of Supervisors adopt an ordinance (Case No. 11ORD-00000-00022) amending Section 35-1 of Chapter 35 of the Santa Barbara County Code, the Santa Barbara County Land Use and Development Code, to make a clarification.

Said Ordinance is attached hereto as Exhibit 1 and is incorporated herein by reference.

- C. The proposed Ordinance is consistent with the Santa Barbara County Comprehensive Plan including the Community Plans, and the requirements of the State Planning, Zoning and Development Laws.
- D. The proposed Ordinance is in the interest of the general community welfare since it will serve to clarify the development permit process without compromising community values, environmental quality, or the public health and safety. The proposed ordinance amendments will clarify the existing permit process for proposals to conduct hydraulic fracturing.
- E. This County Planning Commission has held a duly noticed public hearing, as required by Section 65854 of the Government Code, on the proposed Ordinance at which hearing the proposed Ordinance was explained and comments invited from the persons in attendance.

NOW, THEREFORE, IT IS HEREBY RESOLVED as follows:

1. The above recitations are true and correct.

2. In compliance with the provisions of Section 65855 of the Government Code, this County Planning Commission recommends that the Board of Supervisors of the County of Santa Barbara, State of California, following the required noticed public hearing, approve and adopt the above mentioned recommendation of this Commission, based on the findings included as Attachment A of the County Planning Staff memorandum (report) dated October 11, 2011.
3. A certified copy of this resolution shall be transmitted to the Board of Supervisors.
4. The Chair of this County Planning Commission is hereby authorized and directed to sign and certify all maps, documents, and other materials in accordance with this resolution to show the above mentioned action by the County Planning Commission.

PASSED, APPROVED AND ADOPTED this 9th day of November, 2011 by the following vote:

AYES: Cooney, Brown, Brooks, Blough

NOES:

ABSTAIN:

ABSENT: Valencia

Chris Cooney Vice-Chair

~~JOE H. VALENCIA, Chair~~
Santa Barbara County Planning Commission

ATTEST:

Dianne M. Black

DIANNE MEESTER BLACK
Secretary to the Commission

APPROVED AS TO FORM:

DENNIS A. MARSHALL
COUNTY COUNSEL

By *William M. Dillon*

William M. Dillon
Deputy County Counsel

EXHIBITS: 1. 11ORD-00000-00022

RESOLUTION OF THE SANTA BARBARA COUNTY PLANNING COMMISSION
COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA

IN THE MATTER OF RECOMMENDING TO THE BOARD OF SUPERVISORS THE ADOPTION OF AN AMENDMENT TO THE SANTA BARBARA COUNTY ARTICLE II COASTAL ZONING ORDINANCE, OF CHAPTER 35 OF THE COUNTY CODE, AMENDING DIVISION 2, DEFINITIONS, AND DIVISION 9, OIL AND GAS FACILITIES TO CLARIFY REQUIRED PERMITS FOR HYDRAULIC FRACTURING.

RESOLUTION NO.: 11 - 28

CASE NO.: 11ORD-00000-00023

WITH REFERENCE TO THE FOLLOWING:

- A. On July 19, 1982, by Ordinance 3312, the Board of Supervisors adopted the Coastal Zoning Ordinance, Article II of Chapter 35 of the Santa Barbara County Code; and
- B. The County Planning Commission now finds that it is in the interest of the orderly development of the County and important to the preservation of the health, safety and general welfare of the residents of the County, to recommend to the County Planning Commission, to recommend that the Board of Supervisors adopt an ordinance (Case No. 11ORD-00000-00023) amending Article II of Chapter 35 of the Santa Barbara County Code, the Coastal Zoning Ordinance, to make A clarification.

Said Ordinance is attached hereto as Exhibit 1 and is incorporated herein by reference.

- C. The proposed Ordinance is consistent with the Coastal Act of 1976, the Santa Barbara County Coastal Plan, the Santa Barbara County Comprehensive Plan (including the Community and Area Plans), and the requirements of the State Planning, Zoning and Development Laws.
- D. The proposed Ordinance is in the interest of the general community welfare since it will serve to clarify the development permit process without compromising community values, environmental quality, or the public health and safety. The proposed ordinance amendments will clarify the existing permit process for proposals to conduct hydraulic fracturing.
- E. This County Planning Commission has held a duly noticed public hearing, as required by Section 65854 of the Government Code, on the proposed Ordinance at which hearing the proposed Ordinance was explained and comments invited from the persons in attendance.

NOW, THEREFORE, IT IS HEREBY RESOLVED as follows:

1. The above recitations are true and correct.
2. In compliance with the provisions of Section 65855 of the Government Code, this County Planning Commission recommends that the Board of Supervisors of the County of Santa Barbara, State of California, following the required noticed public hearing, approve and adopt the above mentioned recommendation of this County Planning Commission, based on the findings included as Attachment D of the County Planning Staff memorandum (report) dated October 11, 2011.

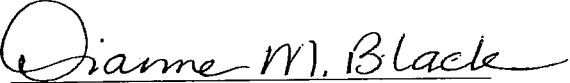
3. A certified copy of this resolution shall be transmitted to the Board of Supervisors.
4. The Chair of this County Planning Commission is hereby authorized and directed to sign and certify all maps, documents, and other materials in accordance with this resolution to show the above mentioned action by the County Planning Commission.

PASSED, APPROVED AND ADOPTED this 9th day of November, 2011 by the following vote:

AYES: Cooney, Brown, Brooks, Blough
NOES:
ABSTAIN:
ABSENT: Valencia

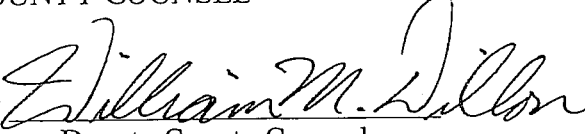

~~JOE H. VALENCIA, Chair~~
Santa Barbara County Planning Commission

ATTEST:


DIANNE MEESTER BLACK
Secretary to the Commission

APPROVED AS TO FORM:

DENNIS A. MARSHALL
COUNTY COUNSEL

By 
Deputy County Counsel

EXHIBITS:

1. 11ORD-00000-00023

SANTA BARBARA COUNTY/MONTECITO PLANNING COMMISSION
Staff Report for Identifying Permit Processes for Hydraulic Fracturing of Any
New or Existing Oil/Gas Well

Hearing Date: November 9, 2011

Staff Report Date: October 11, 2011

Case Nos.: 11ORD-00000-00022 &

11ORD-00000-00023

Environmental Document: Categorical Exemption

Deputy Director: Doug Anthony

Division: Development Review North

Staff Contact: Doug Anthony

Staff Phone #: 934-6559/568-2046

1.0 REQUEST

Hearing on the request of the Planning and Development Department to consider the adoption of amendments to the Land Use and Development Code, Case No.11ORD-00000-00022, and the Coastal Zoning Ordinance, Case No. 11ORD-00000-00023 as follows below, and determine that the project is exempt from CEQA pursuant to Section 15308 of the State Guidelines for Implementation of the California Environmental Quality Act.

- 1.1 Case No. 11ORD-00000-00022.** Adopt a Resolution, recommending to the Board of Supervisors that it adopt an ordinance, amending Article 35.5, Oil and Gas, Wind Energy and Cogeneration Facilities, and Article 35.11, Glossary, of Section 35-1, the Santa Barbara County Land Use and Development Code, of Chapter 35, Zoning, of the County Code, as set forth in Attachment C; and
- 1.2 Case No. 11ORD-00000-00023.** Adopt a Resolution, recommending to the Board of Supervisors that it adopt an ordinance, amending Division 2, Definitions, and Division 9, Oil and Gas Facilities, of Article II, the Santa Barbara County Coastal Zoning Ordinance, of Chapter 35, Zoning, of the County Code, as set forth in Attachment F.

The proposed ordinances would clarify the discretionary permit process for any proposal to conduct hydraulic fracturing on any new or existing wells. The proposed amendment to the Land Use and Development Code would also revise criteria for determining when an inland oil and gas production proposal requires an Oil Drilling and Production Plan, changing the determination of such permit from a determination of potential significant adverse impacts identified during a site visit to a determination by the Director.

2.0 RECOMMENDATION AND PROCEDURES

- 2.1 Case No. 11ORD-00000-00022.** Follow the procedures outlined below and recommend that the Board of Supervisors approve Case No. 11ORD-00000-00022, based upon the amendments' consistency with the Comprehensive Plan and based on the ability to make the required findings. Your Commission's motion should include the following:
 1. Make the required findings for the project specified in Attachment A of this staff report, including CEQA findings.
 2. Determine the project is exempt from CEQA pursuant to Section 15308 of the Guidelines for Implementation of the California Environmental Quality Act, included as Attachment B.

3. Adopt a Resolution recommending that the Board of Supervisors adopt Case No. 11ORD-00000-00022, an ordinance amending Section 35-1, the Santa Barbara Land Use and Development Code, of Chapter 35, Zoning, of the County Code (Attachment C).

2.2 Case No. 11ORD-00000-00023. Follow the procedures outlined below and recommend that the Board of Supervisors approve Case No. 11ORD-00000-00023, based upon the amendments' consistency with the Comprehensive Plan and based on the ability to make the required findings. Your Commission's motion should include the following:

1. Make the required findings for the project specified in Attachment D of this staff report, including CEQA findings.
2. Determine the project is exempt from CEQA pursuant to Section 15308 of the Guidelines for Implementation of the California Environmental Quality Act, included as Attachment E.
3. Adopt a Resolution recommending that the Board of Supervisors adopt Case No. 11ORD-00000-00022, an ordinance amending Article II, the Santa Barbara Coastal Zoning Ordinance, of Chapter 35, Zoning, of the County Code (Attachment F).

Refer back to staff if the County Planning Commission takes other than the recommended action for appropriate findings.

3.0 JURISDICTION

3.1 Case No. 11ORD-00000-00022, amending the County Land Use and Development Code. This project is being considered by the County Planning Commission based on Section 35.104.050, Action on Amendments, of County Land Use and Development Code which states:

“A. Commission’s recommendation.

1. **Public hearing required.** The Commission shall hold at least one noticed public hearing on the proposed Amendment. Notice of the time and place of the hearing shall be given and the hearing shall be conducted in compliance with Chapter 35.106 (Noticing and Public Hearings).
2. **Commission’s recommendation for all Amendments.** The Commission’s recommendation shall be transmitted to the Board by resolution of the Commission carried by the affirmative votes of a majority of its total voting members.”

3.2 Case No. ORD-00000-00023, amend Article II the County Coastal Zoning Ordinance. This project is being considered by the Planning Commission based on Section 35-180, Amendments to a Certified Local Coastal Program, which states: “The Planning Commission shall hold at least one public hearing on the proposal (Sec. 35-180.4.3),” and Section 35-180.5, Action, which states: “The Planning Commission’s action shall be transmitted to the Board of Supervisors by resolution of the Planning Commission carried by the affirmative votes of a majority of its voting member.”

4.0 ISSUE SUMMARY

Hydraulic fracturing, also called fracking, is a process applied to some, relatively impermeable, hydrocarbon-bearing formations to stimulate the flow of oil and/or gas. This process involves the pumping of fluids under pressure through the wellbore into the targeted formation; pressures used are high enough to cause the formation to fracture. Water is a typical component of the fracking fluid, along with propping agents, such as sand, to hold the fractures open. Chemicals also are used frequently for a variety of reasons.¹

Supervisor Farr requested staff to present a briefing to the Board of Supervisors after learning that an oil producer had conducted hydraulic fracturing on two oil wells north of Los Alamos, using a total of 235,200 gallon of groundwater from the over-drafted San Antonio groundwater basin. Chemicals were stored onsite and used in the fracking fluid. The two wells were permitted with Land Use Permits, which did not regulate or authorize hydraulic fracturing. The Planning and Development Director subsequently gave notice to local producers that approval of an Oil Drilling and Production Plan would be required to perform any future hydraulic fracturing on new or existing wells where not already explicitly authorized by permit.

After receiving three briefings on hydraulic fracturing, the Board of Supervisors unanimously directed staff to process amendments to the zoning code to require that any producer proposing to conduct hydraulic fracturing in the inland unincorporated area of the County must first obtain approval of an Oil Drilling and Production Plan from the County Planning Commission.² As currently worded, the ordinance does not explicitly identify hydraulic fracturing, and the Land Use and Development Code gives discretion to the Planning and Development Director to determine the specific permit path for conducting hydraulic fracturing, based on its potential to result in adverse impacts.

5.0 PROJECT INFORMATION

5.1 Setting

Santa Barbara County hosts 13 designated oil and gas fields, excluding historic fields that have been abandoned. The County had 937 producing onshore wells in 2010, and another 1,194 onshore idle wells (shut-in) in 2010 according to the California Department of Conservation, Division of Oil, Gas, and Geothermal Resources (DOGGR). Planning and Development is processing several permits for new wells, and is aware that producers have been reactivating some of the idled wells.

¹ Typical reasons to add chemicals include: elimination of bacteria in water, maintain viscosity of fluid as temperature rises, enhance flow of fluid by reducing friction, inhibit corrosion, thicken water to carry particles for propping fractures open, stabilize product, and help dissolve minerals and initiate cracks.

² These briefings occurred on June 7, August 2, and September 20, 2011. Copies of Board letters and written public testimony may be accessed at <http://santabarbara.legistar.com/Calendar.aspx#current>. Additionally, replays of the briefings may also be accessed at the same website address.

Some of the County's groundwater basins in or near onshore oil and gas fields are in overdraft status, accordingly to the latest review by the Public Works Department. These include the Cuyama, Santa Maria, and San Antonio, and the Lompoc Uplands (Santa Rita subarea) Groundwater Basins.³

5.2 Description

5.2.1 Case No. 11ORD-00000-00022 – Land Use and Development Code.

5.2.1.1 Definition of Hydraulic Fracturing. The proposed amendments to the Land Use and Development Code include the addition of a definition for hydraulic fracturing to Section 35.11, Glossary. The definition reads: A well stimulation technique that consists of pumping fluid, typically with a propping agent such as sand, down the wellbore under pressure to create or enlarge fractures in a targeted formation. This definition is designed to be sufficiently broad to meet the stated expectations of the Board, while remaining sufficiently narrow to avoid encompassing operations that are not hydraulic fracturing (e.g., waterflooding, wellbore cleaning).

5.2.1.2 Required Permit Path for Hydraulic Fracturing. The proposed amendments revise Section 35.5 as follows:

- Amend footnote (4) of Table 5-2, to clarify that accessory equipment not requiring Land Use Permits if incidental to operations does not apply to hydraulic fracturing.
- Add subsection 11 to Section 35.52.050.A, Applicability, to clarify that the regulations of Section 35-52.050 apply to hydraulic fracturing of any new or existing well. Amendment language reads: c. hydraulic fracturing of any new or existing well.
- Add text to Section 35.52.050.C, Criteria and standards for exemption of oil/gas drilling projects from approval of Oil Drilling and Production Plan, to clarify that permitted development is restricted to that described in approved permit. Any change must be approved pursuant to Section 35.84.040, which provide procedures for Substantial Conformity Determinations, Amendments, and Revisions. Amendment language reads: Development or land uses authorized through a Land Use Permit or Oil Drilling and Production Plan shall be established only as approved by the review authority and in compliance with the project description and any conditions of approval, except where a change to the project is approved pursuant to Section 35.84.040 of this Code.
- Add text to Section 35.52.050.C, Criteria and standards for exemption of oil/gas drilling projects from approval of Oil Drilling and Production Plan, to clarify that hydraulic fracturing triggers the requirement for an Oil Drilling and Production Plan. The amendment adds item 2.c, hydraulic fracturing to the list of uses not proposed in order to qualify for an exemption to the Oil Drilling and Production Plan.

³ Ground Water Report 2008, <http://www.countyofsb.org/pwd/pwwater.aspx?id=3144>

5.2.1.3 Potential for Significant Environmental Impact Determined by Director. The proposed amendments revise text in Section 35.52.050.C.4, Criteria and standards for exemption of oil/gas drilling projects from approval of Oil Drilling and Production Plan – No other significant impacts. This amendment clarifies that preliminary determination of significant adverse impacts associated with a proposed project shall be made by the Director, and deletes language that suggest that such determinations must be made “during a site visit.” The preliminary determination is used to decide if a proposed project is exempt from an Oil Drilling and Production Plan, and only subject to approval of a Land Use Permit. The specific revision reads: **4. No other significant impacts.** The project shall not result in other potentially significant adverse impacts *as determined by the Director ~~identified during a site visit.~~* While site visits are routinely made to help inform such determinations, other factors used in making any such determination occur separately from a site visit, such as quantification of air emissions, preliminary assessment of potential impacts to public safety, and the potential to use fresh water from over-drafted groundwater basins.

5.2.2 Case No. 11ORD-00000-00023 – Article II Coastal Zoning Ordinance.

5.2.1.1 Definition of Hydraulic Fracturing. The proposed amendments to the Coastal Zoning Ordinance include the addition of a definition for hydraulic fracturing to Division 2, Definitions. It is the same definition as that added to the LUDC. The definition reads: *A well stimulation technique that consists of pumping fluid, typically with a propping agent such as sand, down the wellbore under pressure to create or enlarge fractures in a targeted formation.*

5.2.1.2 Required Permit Path for Hydraulic Fracturing. The proposed amendments revise Division 9, Oil and Gas Facilities, as follows:

- Subsection 1, Applicability of Section 35-152, Onshore Exploratory Oil and Gas Drilling, is amended to state that hydraulic fracturing is not a permitted use under exploration. The amendment reads:

“The specific regulations contained within this section shall apply to all equipment, buildings, and appurtenance necessary for the exploration for oil and gas resources from an onshore hydrocarbon area outside the limits of an established oil field. *Drilling operations utilizing hydraulic fracturing of any new or existing well is not be a “permitted use” under this section.* For all districts in which exploratory drilling is a permitted use or a use permitted with a Conditional Use Permit, the district regulations of Division 4 shall be inapplicable to said use.”
- Subsection 1, Applicability of Section 35-153, Onshore Oil and Gas Production, is amended to add hydraulic fracturing as a use that falls under the permitting requirements of this section. The amendment reads: *i. Hydraulic fracturing of any new or existing well.* These permit requirements apply to all production in the Coastal Zone. This amendment clarifies that hydraulic fracturing is subject to the same permit processes – approval of a Production Plan, Coastal Development Permit, and in some zone districts, a Conditional Use Permit.

- Subsection 1, Applicability of Section 35-158, Onshore Exploration and/or Production of Offshore Oil and Gas Reservoirs, is amended to add hydraulic fracturing as a use that falls under the permitting requirements of this section. The amendment reads: 7) Hydraulic fracturing of any new or existing well. This amendment clarifies that hydraulic fracturing is subject to approval of a Production Plan, Coastal Development Permit, and in some zone districts, a Conditional Use Permit.

5.3 Background Information

Some of the literature and video on hydraulic fracturing reveals growing concern nationwide about the potential to cause adverse impacts to public health and the environment, particularly with regard to shale gas fracturing. Expressed concerns include:

- a potential release of pollutants from the toxic chemicals used in the fracking fluids and/or the constituents of the oil and natural gas into surface water, groundwater, and the atmosphere;
- a lack of disclosure of chemicals used in the fracking fluids;
- a potential increase in seismic activity, including earthquakes, as a result of fracking;
- the use of large amounts of groundwater to conduct the hydraulic fracturing;
- the increase in air emissions related to transport of water and chemicals to and from the wellhead; and
- a lack of sufficient regulatory oversight.

The federal government's regulation of hydraulic fracturing is relatively limited. The Clean Water Act regulates disposal of waterborne wastes, such as fracking fluids, into lakes, streams, or sewage treatment facilities, and the Hazardous Materials Transportation Act regulates the transport of hazardous chemicals.⁴ However, hydraulic fracturing is exempt from the federal Safe Drinking Water Act, the Resource Conservation and Recovery Act, and the Emergency Planning and Community Right to Know Act, which address treating, storage, and disposal of hazardous wastes, protection of groundwater from injection wells, and disclosure of toxic chemicals, respectively. Congress has been considering legislation that would mandate disclosure of chemicals used in fracking fluids; that legislation has been delayed until next year. Additionally, the EPA recently prepared a draft plan to study whether or not hydraulic fracturing has the potential to contaminate drinking water, and if it does, what are the predominant circumstances of such occurrence.⁵ The study will consider contamination from toxic chemicals in the fracking fluids as well as any mobility of natural occurring substances in the subsurface potentially caused by hydraulic fracturing (e.g., methane, metals, and naturally occurring radioactive material).⁶ It is scheduled for completion by the end of 2012

In California, The Department of Conservation, Division of Oil, Gas, and Geothermal Resources, regulates the down-hole component of oil and gas drilling and production, including well casing

⁴ Spence, David, *Op. Cit.*, page 3.

⁵ *Ibid*, entire document.

⁶ *Ibid*, page 30.

and cementing to prevent oil, gas, drilling muds, etc. from entering into groundwater reservoirs. In a letter to Senator Pavley, however, Ms. Elena Miller, Oil and Gas Supervisor states that, while DOGGR has statutory jurisdiction to regulate hydraulic fracturing under Section 3106, "... it has not yet developed regulations to address this activity." Her letter also states that DOGGR has not tracked the extent to which hydraulic fracturing occurs throughout California. Meanwhile, District 3 of DOGGR has requested Santa Barbara County to take the lead agency role under the California Environmental Quality Act (CEQA) when permitting oil and gas operations in the County.

6.0 PROJECT ANALYSIS

6.1 Environmental Review

The proposed amendments are recommended to be determined as exempt from environmental review pursuant to Section 15308 of the California Guidelines for Implementation of the California Environmental Quality Act (CEQA). It reads:

Class 8 consists of actions taken by regulatory agencies, as authorized by state or local ordinance to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment. Construction activities and relaxation of standards allowing environmental degradation are not included in this exemption.

The proposed amendments represent steps to protect the environment by clarifying that hydraulic fracturing may not be legally conducted in Santa Barbara County without approval of the appropriate discretionary permit(s), as opposed to occurring under existing permits that did not consider hydraulic fracturing of wells or via a new Land Use Permit. The required discretionary permit(s) process would include full analysis and disclosure of environmental impacts, including what might occur from the addition and use of chemicals in the fracking fluids. Such environmental review would identify potentially significant impact to the environment (including public health and safety, and groundwater overdraft), and would examine and apply all feasible alternatives and mitigation to avoid or reduce such impacts. Permit applications that result in unavoidable impacts would require decision-maker approval of a statement of overriding considerations to find the benefits of the proposed project to outweigh the impact. Decision-makers may choose to deny discretionary projects. Therefore, the amendments represent a clarification of heightened regulation, rather than a relaxation of standards.

6.2 Comprehensive Plan Consistency

The proposed amendments do not alter the purpose and intent of any Comprehensive Plan, Coastal Land Use Plan and Community Plan policies and development standards, and adoption of the proposed ordinance amendments will not result in any inconsistencies with the adopted policies and development standards of the County's Comprehensive Plan, Coastal Land Use Plan and Community Plans. The proposed ordinance amendments primarily involve clarifying existing permit-processing procedures to explicitly state that hydraulic fracturing requires

approval of appropriate discretionary permit(s) before a producer may conduct such operation in the unincorporated area of Santa Barbara County where oil and gas development is an allowable use, or conditionally allowable use. These amendments further revise the preliminary determination of potential adverse impacts of a proposed oil/gas project subject to Section 35.52.050 of the LUDC. These determinations help to determine the appropriate permit path – Oil Drilling and Production Plan versus Land Use Permit. These amendments make clear that such determination is made by the Director, rather than during a site visit, so that all environmental factors are considered.

The authorized decision-maker still must determine that any proposed project is consistent with the policies and development standards of the Comprehensive Plan, Coastal Land Use Plan and Community Plans, as applicable, in order to approve any such project based on these proposed amendments. As part of this process, a policy consistency analysis will be performed during the review of the application, and projects will not be approved unless they are determined to be consistent with applicable policies, and the findings required for approval can be made. Therefore, this amendment may be found consistent with the adopted Comprehensive Plan, the Coastal Land Use Plan, and the Community Plans.

6.3 Zoning Ordinance Compliance

The proposed ordinances are consistent with the remaining portions of the County LUDC and Article II that would not be revised by these ordinances. The authorized decision-maker still must determine that any proposed project is consistent with the whole of the County LUDC and Article II, as applicable, in order to approve any such project based on these proposed amendments.

7.0 PROCEDURES

The County Planning Commission may recommend approval, approval with revisions, or denial of the proposed ordinance amendments to the Board of Supervisors.

8.0 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.

ATTACHMENTS

- A. Findings (Land Use and Development Code)
- B. Notice of Exemption (Land Use and Development Code)
- C. 11ORD-00000-00022 Resolution and Ordinance
- D. Findings (Coastal Zoning Ordinance)
- E. Notice of Exemption (Coastal Zoning Ordinance)
- F. 11ORD-00000-00023 Resolution and Ordinance

ATTACHMENT A: FINDINGS (Land Use and Development Code)

CASE NO. 11ORD-00000-00022

1.0. CEQA FINDINGS

1.1 CEQA Guidelines Exemption Findings

1.1.1 The County Planning Commission finds, and recommends that the Board of Supervisors find, that the proposed project, 11ORD-00000-000212, is exempt from environmental review under the California Environmental Quality Act (CEQA), pursuant to CEQA Guidelines Section 15308, Actions by Regulatory Agencies for Protection of the Environment. Please see Attachment B, Notice of Exemption.

2.0 ADMINISTRATIVE FINDINGS.

In compliance with Section 35.104.060 (Findings Required for Approval of Amendment) of the Santa Barbara County Land Use and Development Code (LUDC), the following findings shall be made by the County Planning Commission in order to recommend approval of a text amendment to the LUDC, and the Board of Supervisors shall adopt the following findings in order to approve a text amendment to the LUDC:

2.1 The request is in the interests of the general community welfare.

The proposed ordinance amendment is in the interest of the general community welfare since the amendment will serve to clarify the discretionary development permit process without compromising community values, environmental quality, or the public health and safety. The proposed ordinance amendments will clarify that, in all applications of hydraulic fracturing to new or existing wells, discretionary approval of an Oil Drilling and Production Plan by the County Planning Commission is required. This process will result in full disclosure of potential impacts and potential alternatives and mitigation to avoid or minimize any potentially significant impacts. These amendments further revise the preliminary determination of potential adverse impacts of a proposed oil/gas project subject to Section 35.52.050, clarifying that such determination is made by the Director, and deletes language that suggests that such determination is made during a site visit, for reasons described in the staff report.

2.2 The request is consistent with the Comprehensive Plan, the requirements of State planning and zoning laws, and the County Land Use and Development Code. If the Amendment involves an Amendment to the Local Coastal Program, then the request shall also be found to be consistent with the Coastal Land Use Plan.

Adoption of the proposed ordinance will provide more effective implementation of the State planning and zoning laws by clarifying the permit process for conducting hydraulic fracturing on new or existing wells. The proposed ordinance will not result in any inconsistencies with the adopted policies and development standards of the Comprehensive Plan including the Community and Area Plans, but merely clarifies the applicability of those policies and development standards with regard to hydraulic fracturing. The proposed ordinance amendment is also consistent with the remaining portions of the County Land Use and Development Code

that would not be revised by this ordinance. Therefore, this ordinance may be found consistent with the Comprehensive Plan including the Community and Area Plans, the requirements of State Planning and Zoning Laws, and the County Land Use and Development Code.

The proposed ordinance does not involve an amendment to the Local Coastal Program.

2.3 The request is consistent with good zoning and planning practices.

The proposed ordinance is consistent with sound zoning and planning practices to regulate land uses for the overall protection of the environment and community values since it will clarify the discretionary permit process required for hydraulic fracturing. This process requires adequate environmental review to identify and disclose potential significant environmental impacts, including those to public health and safety, along with an examination of alternatives and mitigation to avoid or minimize such impacts. These amendments further revise the preliminary determination of potential adverse impacts of a proposed oil/gas project subject to Section 35.52.050, clarifying that such determination is made by the Director, and deletes language that suggests such determination is made during a site visit, for reasons stated in the staff report.

As discussed in Finding 2.2, above, the amendment is consistent with the Comprehensive Plan including the Community and Area Plans, and the County Land Use and Development Code.

ATTACHMENT B – NOTICE OF EXEMPTION (Land Use and Development Code)

TO: Santa Barbara County Clerk of the Board of Supervisors

FROM: Doug Anthony, Planning & Development

The project or activity identified below is determined to be exempt from further environmental review requirements of the California Environmental Quality Act (CEQA) of 1970, as defined in the State and County Guidelines for the implementation of CEQA.

APN: not applicable

Case No.: 11ORD-00000-00022

Location: The proposed ordinance amendment would apply solely to the unincorporated area of Santa Barbara County located outside the Montecito Community Plan Area and not including the Coastal Zone.

Project Title: Clarification of Permit Process for Hydraulic Fracturing

Project Description: 11ORD-00000-00022 proposes to amend Article 35.5, Oil and Gas, Wind Energy and Cogeneration Facilities, and Article 35.11, Glossary, of Section 35-1, the Santa Barbara County Land Use and Development Code, of Chapter 35, Zoning, of the County Code, to clarify discretionary permitting requirements for hydraulic fracturing, and to clarify that preliminary determination of potential adverse impacts of a proposed oil/gas project for purposes of determining the appropriate permit process is made by the Director of the Planning and Development Department.

Name of Public Agency Approving Project: County of Santa Barbara

Name of Person or Agency Carrying Out Project: Board of Supervisors

Exempt Status: (Check one)

- Ministerial
- Statutory Exemption
- Categorical Exemption
- Emergency Project
- Declared Emergency

Cite specific CEQA and/or CEQA Guideline Section: Guideline §15308, Actions by Regulatory Agencies for Protection of the Environment.

Reasons to support exemption findings: Hydraulic fracturing, a method to stimulate production of oil and/or gas, has the potential to cause significant impacts to air quality, water resources, geology, and public health and safety. The proposed text amendments clarify that any producer within the unincorporated area of Santa Barbara County who desires to employ hydraulic fracturing in existing or new wells must first obtain the County Planning Commission’s approval of an Oil Drilling and Production Plan. An Oil Drilling and Production Plan is a discretionary permit that requires adequate environmental review of potential impacts pursuant to CEQA, along with identification of mitigation for significant impacts to the

environment. These amendments further revise the preliminary determination of potential adverse impacts of a proposed oil/gas project subject to Section 35.52.050 to clarify that such determination is made by the Director, and deletes language that suggests the determination is made during a site visit, so that all environmental factors are considered.

There is no substantial evidence that there are unusual circumstances (including future activities) resulting in (or which might reasonably result in) significant impacts which threaten the environment. The exceptions to the categorical exemptions pursuant to Section 15300.2 of the State CEQA Guidelines are:

- (a) **Location. Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located -- a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.**

The Categorical Exemption applied to this project is Class 8; therefore, this exception does not apply to the proposed project.

- (b) **Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.**

The Categorical Exemption applied to this project is Class 8; therefore, this exception does not apply to the proposed project.

- (c) **Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.**

The proposed project clarifies the zoning code permit process as being a discretionary Oil Drilling and Production Plan under the approval authority of the County Planning Commission, which must be supported by adequate review of potential environmental impacts pursuant to CEQA. The zoning code requires that the Planning Commission make several findings in order to approve an Oil Drilling and Development Plan (§ 35.55.030) including: a) there are no feasible alternative location for the proposed drilling of an onshore reservoir that are less environmentally damaging; b) significant adverse environmental effects will be mitigated to the maximum extent feasible; and c) the project will not be detrimental to health safety, and general welfare of the neighborhood and will be incompatible with uses of the surrounding area. The proposed clarification to the zoning code avoids significant effects by ensuring that hydraulic fracturing is subject to a permitting process with full CEQA review.

- (d) Scenic Highways. A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. This does not apply to improvements which are required as mitigation by an adopted negative declaration or certified EIR.**

The proposed text amendment does not influence any approval of future hydraulic fracturing in a manner that damages scenic resources. As noted above in (c), the discretionary permit process clarified by the amendment requires avoidance and full mitigation of environmental effects, including consideration of lesser damaging locations for any proposed hydraulic fracturing in the future.

- (e) Hazardous Waste Sites. A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code.**

The proposed text amendment does not influence any approval of future hydraulic fracturing in a location listed as a hazardous waste site. As noted above in (c), the discretionary permit process clarified by the amendment requires avoidance and full mitigation of environmental effects, including consideration of lesser damaging locations for any proposed hydraulic fracturing in the future.

- (f) Historical Resources. A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.**

The proposed text amendment does not influence any approval of future hydraulic fracturing in a manner that causes substantial adverse change in the significant of a historical resource. As noted above in (c), the discretionary permit process clarified by the amendment requires avoidance and full mitigation of environmental effects, including consideration of lesser damaging locations for any proposed hydraulic fracturing in the future.

Lead Agency Contact Person: Doug Anthony Phone #: (805) 934-6559

Department/Division Representative: _____ Date: _____

Acceptance Date: _____

distribution:

Hearing Support Staff
11ORD-00000-00022 file

Date Filed by County Clerk: _____.

ATTACHMENT C: 11ORD-00000-00022 RESOLUTION AND ORDINANCE

**RESOLUTION OF THE SANTA BARBARA COUNTY PLANNING COMMISSION
COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA**

IN THE MATTER OF RECOMMENDING TO THE BOARD OF SUPERVISORS THE ADOPTION OF AN AMENDMENT TO SECTION 35-1, THE SANTA COUNTY LAND USE AND DEVELOPMENT CODE, OF CHAPTER 35, ZONING, OF THE COUNTY CODE, AMENDING ARTICLE 35.5, OIL AND GAS, WIND ENERGY AND COGENERATION FACILITIES, AND ARTICLE 11, GLOSSARY, TO CLARIFY REQUIRED PERMITS FOR HYDRAULIC FRACTURING.

RESOLUTION NO.: 11-_____

CASE NO.: 11ORD-00000-00022

WITH REFERENCE TO THE FOLLOWING:

- A. On November 27, 2007, by Ordinance 4660, the Board of Supervisors adopted the Santa Barbara County Land Use and Development Code, Section 35-1 of Chapter 35 of the Santa Barbara County Code; and
- B. The County Planning Commission now finds that it is in the interest of the orderly development of the County and important to the preservation of the health, safety and general welfare of the residents of the County to recommend that the Board of Supervisors adopt an ordinance (Case No. 11ORD-00000-00022) amending Section 35-1 of Chapter 35 of the Santa Barbara County Code, the Santa Barbara County Land Use and Development Code, to make a clarification.

Said Ordinance is attached hereto as Exhibit 1 and is incorporated herein by reference.

- C. The proposed Ordinance is consistent with the Santa Barbara County Comprehensive Plan including the Community Plans, and the requirements of the State Planning, Zoning and Development Laws.
- D. The proposed Ordinance is in the interest of the general community welfare since it will serve to clarify the development permit process without compromising community values, environmental quality, or the public health and safety. The proposed ordinance amendments will clarify the existing permit process for proposals to conduct hydraulic fracturing.
- E. This County Planning Commission has held a duly noticed public hearing, as required by Section 65854 of the Government Code, on the proposed Ordinance at which hearing the proposed Ordinance was explained and comments invited from the persons in attendance.

NOW, THEREFORE, IT IS HEREBY RESOLVED as follows:

- 1. The above recitations are true and correct.
- 2. In compliance with the provisions of Section 65855 of the Government Code, this County Planning Commission recommends that the Board of Supervisors of the County of Santa

Barbara, State of California, following the required noticed public hearing, approve and adopt the above mentioned recommendation of this Commission, based on the findings included as Attachment A of the County Planning Staff memorandum (report) dated October 11, 2011.

3. A certified copy of this resolution shall be transmitted to the Board of Supervisors.
4. The Chair of this County Planning Commission is hereby authorized and directed to sign and certify all maps, documents, and other materials in accordance with this resolution to show the above mentioned action by the County Planning Commission.

PASSED, APPROVED AND ADOPTED this 9th day of November, 2011 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

JOE H. VALENCIA, Chair
Santa Barbara County Planning Commission

ATTEST:

DIANNE MEESTER BLACK
Secretary to the Commission

APPROVED AS TO FORM:

DENNIS A. MARSHALL
COUNTY COUNSEL

By _____
William M. Dillon
Deputy County Counsel

EXHIBITS: 1. 11ORD-00000-00022

Hydraulic Fracturing/Case #s 11ORD-00000-00022 & -00023 – Attachment C
Hearing Date: November 9, 2011
Page C-3

EXHIBIT 1: 11ORD-00000-00022 COUNTY LUDC ORDINANCE AMENDMENT

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 35-1, THE SANTA BARBARA COUNTY LAND USE AND DEVELOPMENT CODE, OF CHAPTER 35, ZONING, OF THE COUNTY CODE BY AMENDING ARTICLE 35.5, OIL AND GAS, WIND ENERGY AND COGENERATION FACILITIES, AND ARTICLE 11, GLOSSARY, TO CLARIFY THE REQUIRED PERMIT FOR HYDRAULIC FRACTURING OF ANY NEW OR EXISTING OIL AND/OR GAS WELL.

Case No. 11ORD-00000-00022

The Board of Supervisors of the County of Santa Barbara ordains as follows:

SECTION 1: ARTICLE 35.5, Oil and Gas, Wind Energy and Cogeneration Facilities, of Section 35-1, the Santa Barbara County Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is amended to amend Table 5-2, Allowed Uses and Permit/Plan Requirements for Oil and Gas Facilities in the Inland Area, of Section 35.52.040, Allowed Uses and Permit/Plan Requirements, of Chapter 35.52, Oil and Gas Facilities - Inland

TABLE 5-2												
Allowed Uses and Permit/Plan Requirements for Oil and Gas Facilities in the Inland Area		P <u>Permitted use, Land Use Permit or Development Plan required</u> CUP <u>Conditional Use Permit required</u> = <u>Use Not Allowed</u>										
LAND USE (1)	PERMIT REQUIRED BY ZONE											Specific Use Regulations
	AG-I	AG-II	RES	RR	C-2	C-3	REC	M-1	M-2	M-RP	M-CR	
Drilling and Production of Onshore Oil and Gas Reservoirs	CUP	P (2)(3)(4)	CUP	CUP	CUP	CUP	CUP (5)	CUP	P (2)(3)(4)	CUP	P (2)(3)(4)	35.52.050
Treatment and Processing Facilities	CUP (6)(7)	CUP (6)(7)	—	—	—	—	—	—	P (6)	—	P (6)	35.52.060
Refining	—	—	—	—	—	—	—	—	P (6)(8)(9)	—	—	35.52.070
Oil and Gas Pipelines	Allowed in all zones identified in Article 35.2 (Zones and Allowable Land Uses) P(6)											35.52.080

Notes:

- (1) Sections 35.52.050, 35.52.060, 35.52.070 and 35.52.080 further describe and define the uses allowed as Drilling and Production of Onshore Oil and Gas Reservoirs, Treatment and Processing Facilities, Refining, and Oil and Gas Pipelines.
- (2) Oil Drilling and Production Plan in compliance with Section 35.52.050 required. See Section 35.53.040 for specific application requirements. In the M-2 and M-CR zones a Development Plan in compliance with Section 35.82.080 is not required in addition to the Oil Drilling and Production Plan.
- (3) See Subsection 35.52.050.C (Criteria and standards for exemption of oil/gas drilling projects from approval of Oil Drilling and Production Plan).
- (4) In the AG-II, M-2, or M-CR zones, accessory equipment, excluding the installation of *hydraulic fracturing*, water flooding or steam injection systems using fresh groundwater, incidental to existing production facilities, shall not require Land Use Permits when the installation of the equipment shall not require grading or expansion of the site.
- (5) Use may be approved only within a County park and subject to the requirements of County Code Section 25-4(d) (Permits generally-Prohibited) (Petroleum Ordinance).
- (6) Final Development Plan in compliance with Section 35.82.080 required. See Section 35.53.030 for specific application requirements.
- (7) Conditional Use Permit in compliance with Section 35.82.060 is also required for treatment and processing facilities for oil and gas obtained from an onshore area.
- (8) Conditional Use Permit in compliance with Section 35.82.060 is also required.
- (9) Based on Commission Resolution 67-22, adopted by the Board on April 12, 1967, facilities for oil refining shall not be allowed in the portion of Santa Barbara County east of Point Conception and south of the ridge line of the Santa Ynez mountains.

Area, to read as follows:

SECTION 2: ARTICLE 35.5, Oil and Gas, Wind Energy and Cogeneration Facilities, of Section 35-1, the Santa Barbara County Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is amended to amend Subsection A, Applicability, of Section 35.52.050, Oil Drilling and Production, of Chapter 35.52, Oil and Gas Facilities - Inland Area, to read as follows:

- A. Applicability.** The regulations contained within this Section shall apply to equipment, structures, and appurtenances necessary for the exploration and production of oil and gas resources from an onshore area including:
1. The drilling of a new well.
 2. Facilities for the new production of oil and gas from a well.
 3. Reentering a previously abandoned well for the production of oil and gas.
 4. Structures, equipment, or facilities necessary and incidental to the separation of oil, gas, and water obtained from an onshore area (e.g., oil and gas separation plant).
 5. Injection wells and incidental equipment necessary for enhanced oil recovery or disposal of production wastes including equipment and facilities necessary for waterflooding, steam injection, air injection, carbon dioxide injection, or introduction of polymers or other agents.
 6. Pipelines that are incidental to production operations.
 7. Storage tanks necessary or incidental to oil and gas separation, or temporary storage of separated hydrocarbons, and equipment for transfer of the produced hydrocarbons to pipelines or tanker trucks.
 8. Proposed access roads.
 9. Oil spill containment and recovery equipment including central office space and vehicles for the storage of floating air/water separators, pumps, generators, hosing, assorted absorbent materials, steam cleaners, storage tanks, and other land and wildlife cleanup equipment.
 10. Collocated treatment and processing facilities located on the drill site in AG-II, M-2 and M-CR, zones determined by the Commission to be incidental to proposed production operations.
 11. Hydraulic fracturing of any new or existing well.

SECTION 3: ARTICLE 35.5, Oil and Gas, Wind Energy and Cogeneration Facilities, of Section 35-1, the Santa Barbara County Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is amended to amend Subsection C, Criteria and standards for exemption of oil/gas drilling projects from approval of Oil Drilling and Production Plan, of Section 35.52.050, Oil Drilling and Production, of Chapter 35.52, Oil and Gas Facilities - Inland Area, to read as follows:

- C. Criteria and standards for exemption of oil/gas drilling projects from approval of Oil Drilling and Production Plan.** Only a Land Use Permit in compliance with Section 35.82.110 (Land Use Permits) shall be required for oil and gas drilling that meets all of the criteria and standards listed

below. See Subsection 35.53.030.D (Alternative filing requirements for Land Use Permit applications) below. For oil and gas drilling projects that do not meet the listed criteria, approval of an Oil Drilling and Production Plan shall be required. Development or land uses authorized through a Land Use Permit or Oil Drilling and Production Plan shall be established only as approved by the review authority and in compliance with the project description and any conditions of approval, except where a change to the project is approved pursuant to Section 35.84.040 of this Code.

1. Location.

- a. The project is located on AG-II, M-2, or M-CR zoned property.
- b. The project is located within a State designated oil field.
- c. The project is located not closer than 100 feet to the top of the bank of a watercourse (shown as intermittent or perennial on U.S.G.S. 7.5 minute series topographic maps) or 200 feet from the top of the bank of the Santa Ynez, Santa Maria, Sisquoc, or Cuyama River.
- d. The project is located not closer than 1,000 feet to a zone other than AG-II, M-2, or M-CR.
- e. The project is not located on mapped historical or archaeological sites as maintained by the Department or identified during a site visit.
- f. The project is not located within a Scenic Highway corridor as designated on the Scenic Highway Element Map (GP-23).
- g. The project, if over one-half acre in site size, is not located on prime agricultural lands. However, if a drilling site of a project is less than one-half acre in size and the land is classified as prime agricultural land, the project may exceed the site size during the period of drilling operations but in no case for longer than 90 days. After drilling is complete, the site shall be restored for agricultural use. For the purposes of this provision, prime agricultural land shall mean land having a soil capability classification of I or II.

2. Uses not proposed.

- a. Treatment or processing facilities are not proposed.
- b. Water flooding or steam injection using fresh groundwater for enhanced oil recovery is not proposed.
- c. Hydraulic fracturing.

3. Resource conservation.

- a. The project shall not disturb mapped locations of rare or endangered, unusual or delicate habitats, prime examples of ecological communities, or scientific study areas, as maintained by the Department or identified during a site visit.
- b. The project shall not cause disruption to mapped historical or archaeological sites as maintained by the Department or identified during a site visit.

4. No other significant impacts. The project shall not result in other potentially significant adverse impacts as determined by the Director identified during a site visit.

SECTION 4: ARTICLE 35.11, Glossary, of Section 35-1, the Santa Barbara County Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is amended to amend Section 35.110.020, Definitions of Specialized Terms and Phrases, of Chapter 35.110,

PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this _____ day of _____, 2011, by the following vote:

AYES:
NOES:
ABSTAINED:
ABSENT:

JONI GRAY
Chair, Board of Supervisors
County of Santa Barbara

ATTEST:

CHANDRA L. WALLAR
Clerk of the Board of Supervisors

By _____
Deputy Clerk

APPROVED AS TO FORM:

DENNIS A. MARSHALL
County Counsel

By _____
William M. Dillon
Deputy County Counsel

ATTACHMENT D: FINDINGS (Coastal Zoning Ordinance)

CASE NO. 11ORD-00000-00023

1.0. CEQA FINDINGS

1.1 CEQA Guidelines Exemption Findings

- 1.1.1** The County Planning Commission finds, and recommends that the County Planning Commission recommend that the Board of Supervisors find, that the proposed project, 11ORD-00000-00023, is exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15308. Please see Attachment E, Notice of Exemption.

2.0 ADMINISTRATIVE FINDINGS.

In compliance with Section 35-180.6 of the Santa Barbara County Article II Coastal Zoning Ordinance, the following findings shall be made by the County Planning Commission in order to recommend approval of a text amendment to Article II, and the Board of Supervisors shall adopt the following findings in order to approve a text amendment to Article II:

2.1 The request is in the interests of the general community welfare.

The proposed ordinance amendment is in the interest of the general community welfare since the amendment will serve to clarify the discretionary development permit process without compromising community values, environmental quality, or the public health and safety. The proposed ordinance amendments will clarify that, in all applications of hydraulic fracturing to new or existing wells, discretionary approval of an Oil and Gas Production Plan and Coastal Development Permit by the County Planning Commission is required (a Condition Use Permit may also be required in certain zone districts). This process will result in full disclosure of potential impacts and potential alternatives and mitigation to avoid or minimize any potentially significant impacts.

2.2 The request is consistent with the Comprehensive Plan, the Coastal Land Use Plan, the requirements of State planning and zoning laws and this Article.

Adoption of the proposed ordinance will provide more effective implementation of the State planning and zoning laws by clarifying the permit process for conducting hydraulic fracturing on new or existing wells. The proposed ordinance will not result in any inconsistencies with the adopted policies and development standards of the Comprehensive Plan including the Community and Area Plans, and the Coastal Land Use Plan. The proposed ordinance amendment is also consistent with the remaining portions of Article II that would not be revised by this ordinance. Therefore, this ordinance may be found consistent with the Comprehensive Plan including the Community and Area Plans, the Coastal Land Use Plan, the requirements of State Planning and Zoning Laws, and Article II.

2.3 The request is consistent with good zoning and planning practices.

The proposed ordinance is consistent with sound zoning and planning practices to regulate land

uses for the overall protection of the environment and community values since it will clarify the discretionary permit process required for hydraulic fracturing. This process requires adequate environmental review to identify and disclose potential significant environmental impacts, including those to public health and safety, along with an examination of alternatives and mitigation to avoid or minimize such impacts. As discussed in Finding 2.2, above, the amendment is consistent with the Comprehensive Plan including the Community and Area Plans, the Coastal Land Use Plan, and Article II.

ATTACHMENT E – NOTICE OF EXEMPTION

TO: Santa Barbara County Clerk of the Board of Supervisors

FROM: Doug Anthony, Planning & Development

The project or activity identified below is determined to be exempt from further environmental review requirements of the California Environmental Quality Act (CEQA) of 1970, as defined in the State and County Guidelines for the implementation of CEQA.

APN: not-applicable

Case No.: 11ORD-00000-00023

Location: The proposed ordinance amendment would apply solely to the unincorporated area of Santa Barbara County located within the Coastal Zone.

Project Title: Clarification of Permit Process for Hydraulic Fracturing

Project Description: 11ORD-00000-00023 proposes to amend Division 2, Definitions, and Division 9, Oil and Gas Facilities, of the Santa Barbara County Article II Coastal Zoning Ordinance, of Chapter 35, Zoning, of the County Code, to clarify discretionary permitting requirements for hydraulic fracturing.

Name of Public Agency Approving Project: County of Santa Barbara

Name of Person or Agency Carrying Out Project: Board of Supervisors

Exempt Status: (Check one)

- Ministerial
- Statutory Exemption
- Categorical Exemption
- Emergency Project
- Declared Emergency

Cite specific CEQA and/or CEQA Guideline Section: Guideline §15308, Actions by Regulatory Agencies for Protection of the Environment.

Reasons to support exemption findings: Hydraulic fracturing, a method to stimulate production of oil and/or gas, has the potential to cause significant impacts to air quality, water resources, geology, biology, and public health and safety. The proposed text amendment clarifies that any producer within the unincorporated area of Santa Barbara County who desires to employ hydraulic fracturing in existing or new wells must first obtain the County Planning Commission’s approval of applicable discretionary permits as required in Sections 35-153 and 35-158. These discretionary permit requirements also include adequate environmental review of potential impacts pursuant to CEQA, along with identification of mitigation for significant impacts to the environment.

There is no substantial evidence that there are unusual circumstances (including future activities) resulting in (or which might reasonably result in) significant impacts which threaten the

environment. The exceptions to the categorical exemptions pursuant to Section 15300.2 of the State CEQA Guidelines are:

(g) Location. Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located -- a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.

The Categorical Exemption applied to this project is Class 8; therefore, this exception does not apply to the proposed project.

(h) Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.

The Categorical Exemption applied to this project is Class 8; therefore, this exception does not apply to the proposed project.

(i) Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.

The proposed project clarifies the zoning code permit process as being a discretionary permit(s) under the approval authority of the County Planning Commission, which must be supported by adequate review of potential environmental impacts pursuant to CEQA. The zoning code requires that the Planning Commission make several findings in order to approve the applicable discretionary permits (§35-176.10) including: a) there are no feasible alternative location for the proposed drilling of an onshore reservoir that are less environmentally damaging; b) significant adverse environmental effects will be mitigated to the maximum extent feasible; and c) the project will not be detrimental to health safety, and general welfare of the neighborhood and will be incompatible with uses of the surrounding area. The proposed clarification to the zoning code avoids significant effects by ensuring that hydraulic fracturing is subject to a permitting process with full CEQA review.

(j) Scenic Highways. A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. This does not apply to improvements which are required as mitigation by an adopted negative declaration or certified EIR.

The proposed text amendment does not influence any approval of future hydraulic fracturing in a manner that damages scenic resources. As noted above in (c), the discretionary permit process clarified by the amendment requires avoidance and full mitigation of environmental effects,

including consideration of lesser damaging locations for any proposed hydraulic fracturing in the future.

(k) Hazardous Waste Sites. A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code.

The proposed text amendment does not influence any approval of future hydraulic fracturing in a location listed as a hazardous waste site. As noted above in (c), the discretionary permit process clarified by the amendment requires avoidance and full mitigation of environmental effects, including consideration of lesser damaging locations for any proposed hydraulic fracturing in the future.

(l) Historical Resources. A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.

The proposed text amendment does not influence any approval of future hydraulic fracturing in a manner that causes substantial adverse change in the significant of a historical resource. As noted above in (c), the discretionary permit process clarified by the amendment requires avoidance and full mitigation of environmental effects, including consideration of lesser damaging locations for any proposed hydraulic fracturing in the future.

Lead Agency Contact Person: Doug Anthony Phone #: (805) 934-6559

Department/Division Representative: _____ Date: _____

Acceptance Date: _____

distribution:
Hearing Support Staff
11ORD-00000-00023 file

Date Filed by County Clerk: _____.

ATTACHMENT F: 11ORD-00000-00023 RESOLUTION AND ORDINANCE

**RESOLUTION OF THE SANTA BARBARA COUNTY PLANNING COMMISSION
COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA**

IN THE MATTER OF RECOMMENDING TO THE BOARD OF SUPERVISORS THE ADOPTION OF AN AMENDMENT TO THE SANTA BARBARA COUNTY ARTICLE II COASTAL ZONING ORDINANCE, OF CHAPTER 35 OF THE COUNTY CODE, AMENDING DIVISION 2, DEFINITIONS, AND DIVISION 9, OIL AND GAS FACILITIES TO CLARIFY REQUIRED PERMITS FOR HYDRAULIC FRACTURING.

RESOLUTION NO.: 11 - _____

CASE NO.: 11ORD-00000-00023

WITH REFERENCE TO THE FOLLOWING:

- A. On July 19, 1982, by Ordinance 3312, the Board of Supervisors adopted the Coastal Zoning Ordinance, Article II of Chapter 35 of the Santa Barbara County Code; and
- B. The County Planning Commission now finds that it is in the interest of the orderly development of the County and important to the preservation of the health, safety and general welfare of the residents of the County, to recommend to the County Planning Commission, to recommend that the Board of Supervisors adopt an ordinance (Case No. 11ORD-00000-00023) amending Article II of Chapter 35 of the Santa Barbara County Code, the Coastal Zoning Ordinance, to make A clarification.

Said Ordinance is attached hereto as Exhibit 1 and is incorporated herein by reference.

- C. The proposed Ordinance is consistent with the Coastal Act of 1976, the Santa Barbara County Coastal Plan, the Santa Barbara County Comprehensive Plan (including the Community and Area Plans), and the requirements of the State Planning, Zoning and Development Laws.
- D. The proposed Ordinance is in the interest of the general community welfare since it will serve to clarify the development permit process without compromising community values, environmental quality, or the public health and safety. The proposed ordinance amendments will clarify the existing permit process for proposals to conduct hydraulic fracturing.
- E. This County Planning Commission has held a duly noticed public hearing, as required by Section 65854 of the Government Code, on the proposed Ordinance at which hearing the proposed Ordinance was explained and comments invited from the persons in attendance.

NOW, THEREFORE, IT IS HEREBY RESOLVED as follows:

- 1. The above recitations are true and correct.
- 2. In compliance with the provisions of Section 65855 of the Government Code, this County Planning Commission recommends that the Board of Supervisors of the County of Santa Barbara, State of California, following the required noticed public hearing, approve and adopt the above mentioned recommendation of this County Planning Commission, based on the findings included as Attachment D of the County Planning Staff memorandum (report) dated October 11, 2011.

3. A certified copy of this resolution shall be transmitted to the Board of Supervisors.
4. The Chair of this County Planning Commission is hereby authorized and directed to sign and certify all maps, documents, and other materials in accordance with this resolution to show the above mentioned action by the County Planning Commission.

PASSED, APPROVED AND ADOPTED this 9th day of November, 2011 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

JOE H. VALENCIA, Chair
Santa Barbara County Planning Commission

ATTEST:

DIANNE MEESTER BLACK
Secretary to the Commission

APPROVED AS TO FORM:

DENNIS A. MARSHALL
COUNTY COUNSEL

By _____
Deputy County Counsel

EXHIBITS:

1. 11ORD-00000-00023

EXHIBIT 1

ORDINANCE NO. _____

AN ORDINANCE AMENDING ARTICLE II, THE SANTA BARBARA COUNTY COASTAL ZONING ORDINANCE, OF CHAPTER 35, ZONING, OF THE COUNTY CODE BY AMENDING DIVISION 2, DEFINITIONS, AND DIVISION 9, OIL AND GAS FACILITIES, TO CLARIFY THE REQUIRED PERMIT FOR HYDRAULIC FRACTURING OF ANY NEW OR EXISTING OIL AND/OR GAS WELL.

Case No. 11ORD-00000-00023

The Board of Supervisors of the County of Santa Barbara ordains as follows:

SECTION 1:

DIVISION 2, Definitions of Article II, the Santa Barbara County Coastal Zoning Ordinance, of Chapter 35, Zoning, of the Santa Barbara County Code, is amended to amend Section 35-58, Definitions, to add the definition of “Hydraulic Fracturing” to read as follows:

OIL/GAS HYDRAULIC FRACTURING. *A well stimulation technique that consists of pumping fluid, typically with a propping agent such as sand, down the wellbore under pressure to create or enlarge fractures in a targeted formation.*

SECTION 2:

DIVISION 9, Oil and Gas Facilities, the Santa Barbara County Coastal Zoning Ordinance, of Chapter 35, Zoning, of the Santa Barbara County Code, is amended to amend Subsection 1, Applicability, of Section 35-152, Onshore Exploratory Oil and Gas Drilling, to amend the existing definitions of “Oil and Gas Exploration” to read as follows:

- 1. Applicability.** The specific regulations contained within this section shall apply to all equipment, buildings, and appurtenance necessary for the exploration for oil and gas resources from an onshore hydrocarbon area outside the limits of an established oil field. *Hydraulic fracturing of any new or existing well shall not be an allowed use under this section.* For all districts in which exploratory drilling is a permitted use or a use permitted with a Conditional Use Permit, the district regulations of Division 4 shall be inapplicable to said use.

SECTION 3:

DIVISION 9, Oil and Gas Facilities, the Santa Barbara County Coastal Zoning Ordinance, of Chapter 35, Zoning, of the Santa Barbara County Code, is amended to amend Subsection 1, Applicability, of Section 35-153, Onshore Oil and Gas Production, to amend the existing definitions of “Oil and Gas Exploration” to read as follows:

- 1. Applicability.** For all districts in which oil and gas production and related facilities are permitted uses or uses permitted with a Conditional Use Permit, the district regulations of Division 4 shall be inapplicable to said use.

The specific regulations contained within this section shall apply to the production of oil and gas from an onshore hydrocarbon area and related facilities, equipment, buildings, or appurtenances including:

- a. Drilling a new well or re-entering a previously abandoned well for the production of petroleum.
- b. Structures, equipment, or facilities necessary and incidental to dehydration and/or separation of oil, gas and condensate obtained from an onshore hydrocarbon area.
- c. Injection wells and incidental equipment necessary for enhanced oil recovery or disposal of production wastes.
- d. Equipment and facilities necessary for enhanced oil recovery including waterflooding, steam injection, air injection, carbon dioxide injection, or introduction of polymers, or other agents.
- e. Pipelines located within an onshore oil and gas lease area which are necessary for oil and gas production operations.
- f. Storage tanks necessary or incidental to separation/treatment of oil and gas, or temporary storage of separated hydrocarbons, and equipment for transfer of the produced hydrocarbons to pipelines or tanker trucks.
- g. Access roads.
- h. Oil spill containment and recovery equipment including central office space and vehicles for the storage of floating oil/water separators, pumps, generators, hosing, assorted absorbent materials, steam cleaners, storage tanks, and other land and wildlife clean-up equipment.
- i. *Hydraulic fracturing of any new or existing well.*

SECTION 4:

DIVISION 9, Oil and Gas Facilities, the Santa Barbara County Coastal Zoning Ordinance, of Chapter 35, Zoning, of the Santa Barbara County Code, is amended to amend Subsection 1, Applicability, of Section 35-158, Onshore Exploration and/or Production of Offshore Oil and Gas Reservoirs, to amend the existing definitions of “Oil and Gas Exploration” to read as follows:

1. Applicability. *(Amended by Ord. 4602, 3/21/06)*

- a. Onshore exploration and/or production of offshore oil and gas reservoirs within the South Coast Consolidation Planning Area shall be restricted to sites designated in the Coastal Plan as consolidated oil and gas processing sites.
- b. The specific regulations contained within this section shall apply to all equipment, buildings, activities and appurtenances necessary for the exploration and production of offshore oil and gas reservoirs from an onshore location including:
 - 1) Collocated structures, equipment, or facilities necessary and incidental to drilling,

dehydration and separation of oil, gas and condensate obtained from an offshore oil and/or gas reservoir including secondary recovery methods as set forth in Section 25-31 of the County Code.

- 2) Injection wells and incidental equipment necessary for gas reinjection or disposal of oil and gas exploration and production wastes.
- 3) Surge tanks necessary or incidental to separation and dehydration of oil and gas at the drill site and pipeline transportation to processing facilities.
- 4) Temporary storage facilities required during exploration, during emergency circumstances, during remediation of contaminated soils, and during abandonment.
- 5) Access roads and staging areas.
- 6) Oil spill containment and recovery equipment including central office space and vehicles for the storage of floating oil/water separators, pumps, generators, hosing, assorted absorbent materials, steam cleaners, storage tanks, and other land and wildlife clean-up equipment.
- 7) Hydraulic fracturing of any new or existing well.

- c. The specific regulations contained within this section shall not apply to the injection, storage or withdrawal of natural gas from the Southern California Gas Company's storage field in Goleta, as described in Section 35-88.11 and regulated under the PU Zone District.

SECTION 5:

All existing indices, section references, and figure and table numbers contained in Article II, the Coastal Zoning Ordinance, of Chapter 35. Zoning, are hereby revised and renumbered as appropriate to reflect the revisions enumerated above.

SECTION 6:

Except as amended by this Ordinance, Division 2, Definitions, and Division 9, Oil and Gas Facilities, of Article II, the Santa Barbara County Coastal Zoning Ordinance, of Chapter 35, Zoning, of the County Code, shall remain unchanged and shall continue in full force and effect.

SECTION 7:

This ordinance and any portion of it approved by the Coastal Commission shall take effect and be in force 30 days from the date of its passage or upon the date that it is certified by the Coastal Commission pursuant to Public Resources Code 30514, whichever occurs later; and before the expiration of 15 days after its passage, it, or a summary of it, shall be published once, together with the names of the members of the Board of Supervisors voting for and against the same in the Santa Barbara News-Press, a newspaper of general circulation published in the County of Santa Barbara.

PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this ____ day of _____, 2011, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

JONI GRAY
Chair, Board of Supervisors
County of Santa Barbara

ATTEST:

CHANDRA L. WALLAR
Clerk of the Board of Supervisors

By _____
Deputy Clerk

APPROVED AS TO FORM:

DENNIS A. MARSHALL
County Counsel

By _____
William M. Dillon
Deputy County Counsel