



BOARD OF SUPERVISORS  
AGENDA LETTER

Agenda Number:

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

**Department Name:** Planning & Development  
**Department No.:** 053  
**For Agenda Of:** May 1, 2007  
**Placement:** Set Hearing  
**Estimated Tme:** 30 minutes on May 15, 2007  
**Continued Item:** No  
**If Yes, date from:**  
**Vote Required:** Majority

---

**TO:** Board of Supervisors  
**FROM:** Department John Baker (805.568.2085)  
Director  
Contact Info: Dianne Black, Assistant Director (805.568.2086)  
**SUBJECT:** Coastal Development Permit, Conditional Use Permit and Development Plan Process

---

**County Counsel Concurrence**

As to form: Yes

**Other Concurrence:** N/A

**Auditor-Controller Concurrence**

As to form: N/A

**Recommended Actions:**

That the Board of Supervisors set for hearing of May 15, 2007 to consider the recommendations of the County and Montecito Planning Commissions and:

- A. Adopt findings for approval of the proposed ordinances (Attachment A);
- B. Find that adoption of these ordinances are categorically exempt from the California Environmental Quality Act pursuant to Section 15061(b)(3) and Section 15625 of the Guidelines for Implementation of CEQA (Attachment B);
- C. Adopt an Ordinance (Case No. 07ORD-00000-00001) amending Section 35-1, the Santa Barbara County Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code (Attachment C); and
- D. Adopt an Ordinance (Case No. 07ORD-00000-00002) amending Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code (Attachment D).

**Summary Text:**

The Board of Supervisors directed the Planning and Development Department and the Process Improvement Oversight Committee in May 2005 to explore ways to improve the permit review process by making it "easier to navigate, and more time efficient and cost effective, while maintaining the quality of development in the County." Since that time, several ordinance amendments have been

approved to implement the direction of the Board, including improving the noticing and appeal processes within the Inland portions of the County (a companion amendment is awaiting certification by the Coastal Commission), and instituting a new Zoning Clearance process outside of the Montecito Community Plan area to provide a more streamlined process to allow the construction of residences on subdivisions that were approved subsequent to January 1, 1990.

#### Coastal Development Permit Associated With A Discretionary Application

Under the existing zoning ordinance requirements, the issuance of a Coastal Development Permit (CDP) is required to allow the actual commencement of a project following the approval of a discretionary permit [e.g., Conditional Use Permit (CUP) or Development Plan (DP)] for projects located in the Coastal Zone. The purpose of this requirement is to verify that any conditions of approval of the discretionary permit that require completion prior to construction have been satisfied. This amendment proposes to process the CDP concurrently with the discretionary application so that if an appeal is filed, the appeal would be heard simultaneously by the Board of Supervisors and, if the proposed project is subject to appeal to the Coastal Commission, by the Coastal Commission. For projects that may be appealed to the Coastal Commission, this will mean that the same project may only be appealed to the Coastal Commission once instead of twice as is allowed under the current process. The Coastal Commission has strongly encouraged the County to make this process revision.

#### Zoning Clearance Following Conditional Use Permit and Development Plan Approvals

This amendment also proposes to utilize the Zoning Clearance process to allow the actual commencement of the project following the approval of a CUP or DP, instead of a CDP (as noted above) or a Land Use Permit (LUP). The only exception to this would be in instances where revisions to the project are proposed that are significant enough to require the approval of a Substantial Conformity Determination (SCD). The application submittal requirements and review process for a Zoning Clearance is the same as a CDP or LUP, and this process is used to verify that any conditions of approval of the CUP or DP that require completion prior to construction have been satisfied. However, unlike a CDP or LUP, Zoning Clearances are not required to be noticed nor may they be appealed. If revisions to the project are significant enough to require the approval of a SCD, then the issuance of a LUP would still be required. No other jurisdiction in Santa Barbara, San Luis Obispo and Ventura counties requires a follow-up CDP or LUP after CUP or DP approval.

#### Planning and Development Director Action on Coastal Development Permits with Waived Hearings

The proposed amendment would also shift the jurisdiction over CDPs located in the Appeals Jurisdiction of the Coastal Zone to the Director of Planning and Development in instances where the normal requirement for a public hearing has been waived. Currently the county's Coastal Zoning Ordinance provides an expedited hearing process for "minor development" located in the Appeals Jurisdiction that does not otherwise require a discretionary permit. In such cases, the Director may waive the hearing requirement provided that a request for a hearing is not received in response to mailed notice to surrounding owners and residents. Currently, if a request for hearing is not received, then the Zoning Administrator will take action on the CDP outside of a public hearing. However, this process does not work in the Montecito Community Plan area since the Montecito Planning Commission acts as the Zoning Administrator within the Plan boundaries and they cannot take action on a project outside of a public hearing setting. This amendment proposes that the Director take action on these minor projects in the Coastal Zone provided a request for a public hearing has not been made.

### Oversight Committee and Planning Commission Recommendations

The Process Improvement Oversight Committee reviewed these proposals on several occasions and recommends their adoption. The Montecito Planning Commission reviewed the proposed amendments at their hearing on March 29, 2007 and by a unanimous vote also recommends their adoption. Lastly, the County Planning Commission, at their hearing of April 11, 2007, unanimously recommended adoption of the amendments.

Please refer to Attachment G, Montecito Planning Commission staff report, and Attachment H, County Planning Commission staff report, for further background information and analysis.

#### **Fiscal and Facilities Impacts:**

Budgeted: Yes

#### **Fiscal Analysis:**

Funding for this ordinance amendment work effort is budgeted in the Planning Support program of the Administration Division on page D-286 of the adopted Planning and Development Department's budget for fiscal year 2006-07. There are no facilities impacts.

#### **Staffing Impacts:**

Legal Positions:  
0

FTEs:  
0

#### **Special Instructions:**

1. The Planning and Development Department will satisfy all noticing requirements.
2. The Clerk of the Board will send a copy of the signed and numbered ordinance to the Planning and Development Department, attention Noel Langle.

#### **Attachments:**

- A. Findings
- B. CEQA Exemption
- C. Ordinance (Case No. 07ORD-00000-00001)
- D. Ordinance (Case No. 07ORD-00000-00002)
- E. Montecito Planning Commission action letter (w/o attachments)
- F. County Planning Commission action letter (w/o attachments)
- G. Montecito Planning Commission staff report (w/o attachments)
- H. County Planning Commission staff report (w/o attachments)

#### **Authored by:**

Noel Langle (805.568.2009)

## ATTACHMENT A: FINDINGS

### CASE NOS. 07ORD-00000-00001 & 07ORD-00000-00002

The Board of Supervisors shall adopt the following findings in order to approve a text amendment to the County and Montecito Land Use and Development Code, in compliance with Section 35.104.060 (Findings Required for Approval of Amendment) of Section 35-1, the Santa Barbara County Land Use and Development Code, and Section 35.494.060 (Findings Required for Approval of Amendment) of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code:

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 create a more efficient permitting process for:*

- 1.1 *Development allowed in compliance with an approved Conditional Use Permit, Minor Conditional Use Permit or Development Plan where changes to the approved plan do not require the approval of a Substantial Conformity Determination such the issuance of a Zoning Clearance is appropriate, while maintaining the requirement for the issuance of Land Use Permit following the approval of a Conditional Use Permit, Minor Conditional Use Permit or Development Plan where changes to the approved plan do require the approval of a Substantial Conformity Determination, thus preserving the public's ability to appeal the Land Use Permit.*
- 1.2 *Coastal Development Permits associated with Conditional Use Permits, Minor Conditional Use Permits and Development Plans by approving the Coastal Development Permit at the same time that the Conditional Use Permit, Minor Conditional Use Permit or Development Plan is approved, thus eliminating the possibility of redundant appeals to the Coastal Commission for the same development project.*
- 1.3 *Minor development proposed in the appeals jurisdiction of the Coastal Zone by shifting the jurisdiction for Coastal Development Permits where the hearing has been waived from the Zoning Administrator to the Director.*

2. The request is consistent with the Comprehensive Plan and applicable Community Plans, the requirements of State planning and zoning laws, and the County Land Use and Development Code.

*Adoption of the proposed ordinance amendment will not result in any inconsistencies with the adopted policies and development standards of the County's Comprehensive Plan and applicable Community Plans. Processing requirements for Coastal Development Permits, Land Use Permits and Zoning Clearances require that the review authority determine that the development allowed by said permits is consistent with the Comprehensive Plan and applicable Community Plans. The proposed ordinance amendment is consistent with the remaining portions of the County and Montecito Land Use and Development Code that would not be revised by this amendment. In order to approve a Coastal Development Permit, Land Use Permit or Zoning Clearance the review authority still must determine that the project is consistent with the whole of the County or Montecito Land Use and Development Code. Therefore, this amendment may be found consistent with the Comprehensive Plan and applicable Community Plans, the requirements of State Planning and Zoning Laws, and the County and Montecito Land Use and Development Codes.*

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

*The proposed amendment is consistent with sound zoning and planning practices to regulate land uses for the overall protection of the environment and community values. As discussed above in Finding 2, the amendment is consistent with the Comprehensive Plan and applicable Community Plans, and the County and Montecito Land Use and Development Codes.*

## ATTACHMENT B

### NOTICE OF EXEMPTION

**TO:** Santa Barbara County Clerk of the Board of Supervisors

**FROM:** Noel Langle, Planner  
Planning and Development Department

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(s):** Not applicable.

**Case No.:** 07ORD-00000-00001 & 07ORD-00000-00002

**Location:** The proposed ordinance amendments would apply throughout the unincorporated areas of Santa Barbara County.

**Project Title:** County Land Use and Development Code Coastal Development Permit, Conditional Use Permit and Development Plan Process Amendment

#### **Project Description:**

1. 07ORD-00000-00001 proposes to amend Sections 35.80.020, 35.82.050, 35.82.060, 35.82.080, 35.82.100 and 35.82.210 of Division 35.8, Permit Planning Procedures, of Section 35-1, the Santa Barbara County Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code.
2. 07ORD-00000-00002 proposes to amend Section 35.434.040, 35.420.020, 35.472.050, 35.472.070, 35.474.030, 35.474.040, 35.474.060, 35.492.020, 35.492.040, and add a new Section 35.472.180 to Division 35.7, Montecito Permit Planning Procedures, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code.

These amendments would revise the existing regulations by:

1. Allowing development allowed in compliance with an approved Conditional Use Permit (CUP), Minor Conditional Use Permit (MCUP) or Development Plan (DP), where changes to the approved plan do not require the approval of a Substantial Conformity Determination (SCD), with the issuance of a Zoning Clearance (ZC), while maintaining the requirement for the issuance of Land Use Permit (LUP) following the approval of a CUP, MCUP or DP where changes to the approved plan do require the approval of a SCD.
2. Approving Coastal Development Permits (CDP) associated with CUPs, MCUPs and DPs at the same time that the CUP, MCUP or DP is approved, thus eliminating the possibility of redundant appeals to the Coastal Commission for the same development project.
3. Shift the jurisdiction for CDPs where the hearing has been waived from the Zoning Administrator to the Director.

**Exempt Status:** No Possibility of Significant Effect CEQA Guidelines Section 15061(b)(3)

**Cite specific CEQA Guideline Section:** Section 15061(b)(3), the general rule exemption, states that where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment that the activity is not subject to CEQA.

**Reasons to support exemption findings:**

- 1. Allow development allowed in compliance with an approved CUP, MCUP or DP, where changes to the approved plan do not require the approval of a SCD, with the issuance of a ZC.** The proposed ordinance amendment will create a more efficient permitting process for development allowed in compliance with an approved CUP, MCUP or DP where changes to the approved plan do not require the approval of a SCD such the issuance of a ZC is appropriate, while maintaining the requirement for the issuance of LUP following the approval of a CUP, MCUP or DP where changes to the approved plan do require the approval of a SCD, thus preserving the public's ability to appeal the LUP.

Processing requirements for both LUPs and ZCs require that the review authority determine that the development allowed by said permits is consistent with the Comprehensive Plan and applicable Community Plans. Additionally, in order to approve a LUP or ZC the review authority still must determine that the project is consistent with the whole of the County Land Use and Development Code.

Discretionary projects subject to either the LUP or ZC process have already undergone a complete environmental analysis as part of the CUP, MCUP or DP processing. In order to approve either a LUP or ZC the review authority must find that all the required conditions of approval of the discretionary permit, including those that are required for mitigation purposes, are implemented through the LUP or ZC.

- 2. Approving CDP associated with CUPs, MCUPs and DPs at the same time that the CUP, MCUP or DP is approved.** Full environmental analysis is performed as part of the processing of the discretionary CUP, MCUP or DP. Approving the CDP along with the discretionary permit, and allowing the construction of the development project through a follow-on LUP or ZC instead of a CDP, will only eliminate the possible of two appeals of the same project to the Coastal Commission for appealable development. Again, in order to approve either a LUP or ZC the review authority must find that all the required conditions of approval of the discretionary permit, including those that are required for mitigation purposes, are implemented through the LUP or ZC.
- 3. Shift the jurisdiction for CDPs where the hearing has been waived from the Zoning Administrator to the Director.** The Coastal Act provides a waived-hearing process for minor development located in the Appeals Jurisdiction of the Coastal Zone. In order to approve a CDP for a waived-hearing project, the review authority, including the Director, must adopt several findings which include that the project is consistent with the Local Coastal Program and thus the Coastal Zone resource protection policies.

Therefore, no significant environmental impacts are expected to result as a consequence of this ordinance revision.

---

Department/Division Representative

Date

Acceptance Date: \_\_\_\_\_

Date Filed by County Clerk: \_\_\_\_\_

Note: A copy of this form must be posted at Planning and Development six days prior to a decision on the project. Upon project approval, this form must be filed with the County Clerk of the Board and posted by the Clerk of the Board for a period of 30 days to begin a 35 day statute of limitations on legal challenges.

Distribution:

Hearing Support Staff  
Project file

ATTACHMENT C

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 SECTION 35.80.020, AUTHORITY FOR LAND USE AND ZONING DECISIONS, SECTION 35.82.050, COASTAL DEVELOPMENT PERMITS, SECTION 35.82.060, CONDITIONAL USE PERMITS AND MINOR CONDITIONAL USE PERMITS, SECTION 35.82.080, DEVELOPMENT PLANS, SECTION 35.82.100, LAND USE PERMITS, AND SECTION 35.82.210, ZONING CLEARANCE, TO PROVIDE THAT COASTAL DEVELOPMENT PERMITS FOR WHICH THE PUBLIC HEARING HAS BEEN WAIVED SHALL BE UNDER THE JURISDICTION OF THE DIRECTOR, TO PROVIDE THAT THE APPROVAL OF A CONDITIONAL USE PERMIT, MINOR CONDITIONAL USE PERMIT, OR DEVELOPMENT PLAN SHALL ALSO CONSISTUTE THE APPROVAL OF A COASTAL DEVELOPMENT PERMIT IN CERTAIN INSTANCES, AND TO ALLOW FOR THE APPROVAL OF A ZONING CLEARANCE TO PERMIT DEVELOPMENT APPROVED BY A CONDITIONAL USE PERMIT, MINOR CONDITIONAL USE PERMIT OR DEVELOPMENT PLAN IN CERTAIN INSTANCES, AND MAKE OTHER MINOR MODIFICATIONS.

Case No. 07ORD-00000-00001

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

SECTION 1:

ARTICLE 35.8, Planning Permit Procedures, 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 8-1 (Review Authority) of Section 35.80.020, Authority for Land Use and Zoning Decisions, of Chapter 35.80, Permit Application Filing and Processing, to read as follows:

**Table 8-1 - Review Authority**

Type of Action	Role of Review Authority (1)			
	Director	Zoning Administrator	Planning Commission	Board of Supervisors

**Administrative and Legislative**

Development Code Amendments			Recommend	Decision
Comprehensive Plan Amendments			Recommend	Decision
Interpretations	Decision		Appeal	Appeal
Local Coastal Program Amendments			Recommend	Decision
Specific Plans and Amendments			Recommend	Decision
Zoning Map Amendments			Recommend	Decision

**Planning Permits**

Coastal Development Permits Without a Hearing Required (2)	Decision		Appeal	Appeal
Coastal Development Permits With a Hearing Required		Decision	Appeal	Appeal
Conditional Use Permit			Decision	Appeal
Design Review	See Footnote (3) below			

Type of Action	Role of Review Authority (1)			
	Director	Zoning Administrator	Planning Commission	Board of Supervisors
Development Plans	See Table 8-2(Development Plan Review Authorities) in <a href="#">Section 35.82.080 (Development Plans)</a> for applicable Development Plan Thresholds			
Emergency Permits	Decision			
Hardship Determinations		Decision		
Land Use Permits	Decision		Appeal	Appeal
Limited Exception Determinations			Decision	Appeal
Minor Conditional Use Permits		Decision	Appeal	Appeal
Modifications		Decision	Appeal	Appeal
Nonconforming Status & Extent of Damage Determinations		Decision		
Oil and Gas Exploration and Production Plans			Decision	Appeal
Oil/Gas Land Uses - Abandonment and Removal Procedures	Decision		Appeal	Appeal
Overall Sign Plans		Decision	Appeal	Appeal
Reclamation and Surface Mining Permits			Decision	Appeal
Road Naming		Decision	Appeal	Appeal
Sign Certificates of Conformance	Decision		Appeal	Appeal
Sign Modifications		Decision	Appeal	Appeal
Use Determinations			Decision	Appeal
Variances		Decision	Appeal	Appeal
Zoning Clearances	Decision			

**Notes:**

- (1) "Recommend" identifies that the review authority makes a recommendation to a higher decision-making body; "Decision" identifies that the review authority makes the final decision on the matter; "Appeal" identifies that the review authority may consider and decide upon appeals to the decision of an earlier decision-making body, in compliance with [Chapter 35.102 \(Appeals\)](#).
- (2) This includes Coastal Development Permits where a hearing has been waived by the Director in compliance with Section 35.82.050.H.
- (3) The Board of Architectural Review with jurisdiction in compliance with Chapter 2 of the County Code shall make decisions on Design Reviews within the County. The decision of the Board of Architectural Review is appealable to the Commission. All Commission decisions are appealable to the Board.

**SECTION 2:**

ARTICLE 35.8, Planning Permit Procedures, 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 35.82.050.D (Processing) of Section 35.82.050, Coastal Development Permits, of Chapter 35.82, Permit Review and Decisions, to read as follows:

**D. Processing.**

- 1. Coastal Development Permit, not appealable to the Coastal Commission.** This Section provides the processing requirements for applications for Coastal Development Permits



that are not subject to Subsection D.2 below, or if subject to Subsection D.2 the requirement for a public hearing has been waived in compliance with Subsection H., or are not submitted in conjunction with a Conditional Use Permit, Minor Conditional Use Permit or Development Plan.

- a. The Director shall review the Coastal Development Permit application for compliance with the Comprehensive Plan, including any applicable community or area plan, this Development Code and other applicable regulations and approve, conditionally approve or deny the Coastal Development Permit.
- b. Within the Montecito Coastal Zone, each Coastal Development Permit shall include a specific written condition that requires all development to comply with the approved plans.
- c. The action of the Director is final, subject to appeal in compliance with [Chapter 35.102 \(Appeals\)](#).
- d. A Coastal Development Permit approved in compliance with this Section shall not be issued and deemed effective in compliance with [Section 35.82.020 \(Effective Date of Permits\)](#):
  - (1) Prior to expiration of the appeal period or, if appealed, prior to final action on the appeal by the review authority in compliance with Chapter 35.102 (Appeals).
  - (2) All conditions of the Coastal Development Permit that are required to be satisfied prior to the issuance of the Coastal Development Permit have been satisfied.
  - (3) All necessary prior approvals have been obtained.
  - (4) On lands located within the Montecito Coastal Zone, the Director shall not issue Coastal Development Permits for grading of roads and individual building pads until the structure that will utilize the road and/or building pad has received final Design Review approval in compliance with [Section 35.82.070 \(Design Review\)](#).
  - (5) On lands located within the Summerland Community Plan area, the Director shall not issue Coastal Development Permits for grading of individual building pads until the structure that will utilize the building pad has received final Design Review approval in compliance with [Section 35.82.070 \(Design Review\)](#).
  - (6) In the case of a development which is heard by the Board on appeal, or which otherwise requires a public hearing and final action by the Board and is appealable to the Coastal Commission, the Coastal Development Permit shall not be issued within the 10 working days following the date of receipt by the Coastal Commission of the County's notice of final action, during which time an appeal may be filed in compliance with [Chapter 35.102 \(Appeals\)](#).

- (7) The applicant has signed the Coastal Development Permit.
- e. In the case of a development which requires a public hearing and final action by the Commission or Zoning Administrator, or final action by the Director, the Director shall not approve any subsequently required Coastal Development Permit within the 10 calendar days immediately following the date that the review authority took final action, during which time an appeal of the action may be filed in compliance with [Chapter 35.102 \(Appeals\)](#).
  - f. If a Coastal Development Permit is requested for property subject to a resolution of the Board initiating a Zoning Map Amendment or an Amendment to this Development Code, a Coastal Development Permit shall not be approved or conditionally approved while the proceedings are pending on the amendment unless the proposed uses or structures will conform to both the existing zone and existing provisions of this Development Code and the amendment initiated by the Board or unless a Preliminary or Final Development Plan in compliance with [Section 35.82.080 \(Development Plans\)](#) was approved before the adoption of the Board's resolution.
  - g. Before approval of a Coastal Development Permit, the Department shall establish a date for posting of public notice and commencement of the appeal period, in compliance with Chapters [35.102 \(Appeals\)](#) and [35.106 \(Noticing and Public Hearings\)](#). If a date is not identified, the required date of mailing and posting notice shall be the first working day following the date of approval of the Coastal Development Permit.
  - h. On lands located within the Toro Canyon Plan area that are within or adjacent to an Environmentally Sensitive Habitat area, where unpermitted grading or development has occurred, a Coastal Development Permit application for any new development shall include a detailed biological study prepared by a County qualified biologist or resource specialist. This study shall include an analysis of the unauthorized development, including grading or vegetation removal that may have contributed to the degradation or elimination of habitat areas or species that would otherwise be present on the site in a healthy condition.
- 2. Coastal Development Permit, appealable to the Coastal Commission.** This Section provides the processing requirements for applications for Coastal Development Permits for projects located in a Geographic Appeals Area where a public hearing is not otherwise required. The following additional requirements shall apply to such applications, in addition to those listed in Subsection D.1 (Processing) above, except that Subsection D.1.a. and Subsection D.1.c. shall not apply unless the Director is the review authority in compliance with Subsection D.2.c below:
- a. After receipt of the permit application, the Department shall review the application in compliance with the requirements of the California Environmental Quality Act.
  - b. For residential structures on lots adjacent to the sea, the application shall be subject to Design Review in compliance with [Section 35.82.070 \(Design Review\)](#).

- c. The Zoning Administrator shall hold at least one noticed public hearing, unless waived, on the requested Coastal Development Permit and approve, conditionally approve, or deny the request.
  - (1) The requirement for a public hearing for a project located in a Geographical Appeals Area may be waived by the Director, in compliance with Subsection H. (Waiver of public hearing requirement) below.
  - (2) If the requirement for a public hearing is waived, the Director shall be the review authority for the Coastal Development Permit.
- d. Notice of the time and place of the hearing shall be given and the hearing shall be conducted in compliance with [Chapter 35.106 \(Noticing and Public Hearings\)](#).
- e. The action of the Zoning Administrator is final subject to appeal in compliance with [Chapter 35.102 \(Appeals\)](#).
- f. A Coastal Development Permit approved in compliance with this Section shall not be issued and deemed effective in compliance with [Section 35.82.020 \(Effective Date of Permits\)](#) until all of the provisions of Section 35.82.050.D.1.d have been satisfied.

- 3. Coastal Development Permits processed as part of a Conditional Use Permit, Minor Conditional Use Permit, or Development Plan.** A Coastal Development Permit application that is processed as part of a Conditional Use Permit, Minor Conditional Use Permit or Development Plan shall be processed in compliance with the requirements of Section 35.82.060 (Conditional Use Permits and Minor Conditional Use Permits) or Section 35.82.080 (Development Plans) as applicable.

### SECTION 3:

ARTICLE 35.8, Planning Permit Procedures, 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 delete existing Subsection 35.82.050.E (Special processing for appealable development) of Section 35.82.050, Coastal Development Permits, of Chapter 35.82, Permit Review and Decisions, in its entirety.

### SECTION 4:

ARTICLE 35.8, Planning Permit Procedures, 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 35.82.050.F (Findings required for approval) of Section 35.82.050, Coastal Development Permits, of Chapter 35.82, Permit Review and Decisions, to read as follows and renumber as Subsection 35.82.050.E.

### **E. Findings required for approval.**

1. A Coastal Development Permit application that is subject to Subsection D.1 above shall be approved or conditionally approved only if the Director first makes all of the following findings:
  - a. The proposed development:
    - (1) Will conform to the applicable provisions of the Comprehensive Plan, including any applicable community or area plan and with the applicable provisions of this Development Code; or
    - (2) Falls within the limited exception allowed in compliance with [Chapter 35.101 \(Nonconforming Uses, Structures, and Lots\)](#).
  - b. The proposed development is located on a legally created lot.
  - c. The subject property is in compliance with all laws, regulations, and rules pertaining to zoning uses, subdivisions, setbacks, and any other applicable provisions of this Development Code, and any applicable zoning violation enforcement fees and processing fees have been paid. This Subsection shall not be interpreted to impose new requirements on legal nonconforming uses and structures in compliance with [Chapter 35.101 \(Nonconforming Uses, Structures, and Lots\)](#).
  - d. The development complies with the standards of Section 35.30.100 (Infrastructure, Water and Sewer Service).
  - e. Within the Summerland Community Plan area, the development will not adversely impact existing recreational facilities and uses.
2. A Coastal Development Permit application that is subject to Subsection D.2 above shall be approved or conditionally approved only if the review authority first makes all of the following findings:
  - a. Those findings specified in Subsection F.1 above.
  - b. The proposed development:
    - (1) Will not significantly obstruct public views from any public road or from a public recreation area to, and along the coast;
    - (2) Will be compatible with the established physical scale of the area; and
    - (3) Will comply with the public access and recreation policies of this Development Code and the Comprehensive Plan.
  - c. Within the Summerland Community Plan area, if the project will result in a net increase in water use, there is sufficient water supply available to serve existing commitments.

3. A Coastal Development Permit application that is subject to Subsection D.3 above shall be approved or conditionally approved only if the review authority first makes all of the findings required for the Conditional Use Permit, Minor Conditional Use Permit or Development Plan of which it is a part.

#### SECTION 5:

ARTICLE 35.8, Planning Permit Procedures, 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 35.82.050.G (Permit expiration) of Section 35.82.050, Coastal Development Permits, of Chapter 35.82, Permit Review and Decisions, to read as follows and renumber as Subsection 35.82.050.F.

#### **F. Permit expiration.**

1. A Coastal Development Permit shall remain valid only as long as compliance with all applicable requirements of this Development Code and the permit continues.
2. A Coastal Development Permit not subject to Subsection D.3 (Coastal Development Permit processed as part of a Conditional Use Permit, Minor Conditional Use Permit, or Development Plan) above, shall expire two years from the date of issuance if the use and/or structure for which the permit was issued has not been established or commenced in compliance with the effective permit unless a time extension is approved in compliance with [Section 35.84.030 \(Time Extensions\)](#).
3. The approval of a Coastal Development Permit subject to Subsection D.2 (Coastal Development Permit, appealable to the Coastal Commission) shall be valid for 12 months unless a time extension is approved in compliance with [Section 35.84.030 \(Time Extensions\)](#).
4. The approval of a Coastal Development Permit subject to Subsection D.3 (Coastal Development Permit processed as part of a Conditional Use Permit, Minor Conditional Use Permit, or Development Plan) above, shall be valid for same time period, including any time extensions, as the Conditional Use Permit, Minor Conditional Use Permit or Development Plan of which it is a part.

#### SECTION 6:

ARTICLE 35.8, Planning Permit Procedures, 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 renumber Subsection 35.82.050.H (Coastal Commission changes to the County's action on Coastal Development Permits) of Section 35.82.050, Coastal Development Permits, of Chapter 35.82, Permit Review and Decisions, as Subsection 35.82.050.G.

#### SECTION 7:

ARTICLE 35.8, Planning Permit Procedures, 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  
C:\Documents and Settings\kbrennan\Local Settings\Temporary Internet Files\OLK5B3\Board Agenda Letter 4-18-07.docBoardLetter2006.dot v 1106c

Subsection 35.82.050.I (Waiver of public hearing requirement) of Section 35.82.050, Coastal Development Permits, of Chapter 35.82, Permit Review and Decisions, to read as follows and renumber as Subsection 35.82.050.H.

**H. Waiver of public hearing requirement.**

1. For the purposes of this Subsection, "minor development" means a development which the Director determines satisfies all of the following requirements:
  - a. The proposed development complies with the County's Local Coastal Program (as defined in Public Resources Code Section 30108.6).
  - b. The proposed development does not require any discretionary approvals other than a Coastal Development Permit.
  - c. The proposed development will have no adverse effect either individually or cumulatively on coastal resources or public access to the shoreline or along the coast.
2. The requirement for the public hearing for an application for a Coastal Development Permit, in compliance with Subsection D.2 above may be waived for a "minor development" (as defined in Subsection H.1 above) by the Director only if both of the following first occur:
  - a. Notice that a public hearing shall be held upon request by any person is provided to all persons who would otherwise be required to be notified of a public hearing as well as any other persons known to be interested in receiving notice.
  - b. No written request for public hearing is received by the Department within 15 working days from the date of sending the notices in compliance with Subsection 2.a above.
3. The notice provided in compliance with Subsection 2.a above, shall include a statement that failure by a person to request a public hearing may result in the loss of that person's ability to appeal any action taken by the County on the Coastal Development Permit application to the County and the Coastal Commission.
4. A listing of pending Coastal Development Permit applications for which the public hearing may be waived shall be provided on:
  - a. The Zoning Administrator's hearing agenda if the project is located outside of the Montecito Community Plan area.
  - b. The Montecito Planning Commission if the project is located within the Montecito Community Plan area.

**SECTION 8:**

ARTICLE 35.8, Planning Permit Procedures, 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 renumber Subsection 35.82.050.J. (Minor changes to Coastal Development Permits), Subsection 35.82.050.K. (Notice of final action for Coastal Development Permits appealable to the Coastal Commission), Subsection 35.82.050.L. (Permit revocation), and Subsection 35.82.050.M. (Post approval procedures) of Section 35.82.050, Coastal Development Permits, of Chapter 35.82, Permit Review and Decisions, is renumbered as Subsection 35.82.050.I. (Minor changes to Coastal Development Permits), Subsection 35.82.050.J. (Notice of final action for Coastal Development Permits appealable to the Coastal Commission), Subsection 35.82.050.K. (Permit revocation), and Subsection 35.82.050.L. (Post approval procedures)

## SECTION 9:

ARTICLE 35.8, Planning Permit Procedures, 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 35.82.060.D. (Processing), of Section 35.82.060, Conditional Use Permits and Minor Conditional Use Permits, of Chapter 35.82, Permit Review and Decisions, to read as follows:

### **D. Processing.**

1. After receipt of an application for a Conditional Use Permit, the Department shall review the application in compliance with the requirements of the California Environmental Quality Act.
2. The Department shall refer the application for a Conditional Use Permit to the Subdivision/Development Review Committee for review and recommendation to the review authority.
3. The review authority shall hold at least one noticed public hearing on the requested Conditional Use Permit and approve, conditionally approve, or deny the request. For Conditional Use Permits requested for properties located within the Coastal Zone, approval or conditional approval in compliance with this Section also constitutes approval of a Coastal Development Permit in compliance with the Local Coastal Program and the California Coastal Act except as follows:
  - a. The Coastal Commission issues the Coastal Development Permit when the development is:
    - (1) Located within the retained permit jurisdiction of the Coastal Commission.
    - (2) Located in areas where the County's Local Coastal Program has not been certified by the Coastal Commission.
4. Notice of the time and place of the hearing shall be given and the hearing shall be conducted in compliance with [Chapter 35.106 \(Noticing and Public Hearings\)](#).
5. The action of the review authority is final subject to appeal in compliance with [Chapter 35.102 \(Appeals\)](#).

6. Conditional Use Permits may be granted for a period of time and upon conditions and limitations as may be required to protect the public health, peace, safety, and general welfare of the community. The conditions may be more restrictive than those required in the specific zones.
7. In the case of a Conditional Use Permit application where the project is subject to Development Plan requirements, a Development Plan shall be required in addition to obtaining a Conditional Use Permit, except for the following:
  - a. Commercial telecommunication facilities that are permitted by a Conditional Use Permit pursuant to [Section 35.44.010 \(Commercial Telecommunication Facilities\)](#) provided that any structure constructed or erected as part of the telecommunications facility shall only be used as part of the telecommunication facility and shall be removed pursuant to [Section 35.44.010.E.4 \(Project abandonment/site restoration\)](#).
8. Notwithstanding the requirements of Subsection [35.80.020.B \(Applications subject to more than one review authority\)](#) and [Section 35.82.080 \(Development Plans\)](#), if a Development Plan is required in compliance with Subsection D.7 above, then the Development Plan shall also be under the jurisdiction of the Zoning Administrator if the Conditional Use Permit would be under the jurisdiction of the Zoning Administrator provided:
  - a. The use of the site proposed to be allowed by the Minor Conditional Use Permit is the only proposed use of the site, or
  - b. On a developed site, no new development is proposed beyond that applied for under the Minor Conditional Use Permit.

#### SECTION 10:

ARTICLE 35.8, Planning Permit Procedures, 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 35.82.060.G. (Requirements prior to commencement of conditionally permitted uses and permit expiration), of Section 35.82.060, Conditional Use Permits and Minor Conditional Use Permits, of Chapter 35.82, Permit Review and Decisions, to read as follows:

#### **G. Requirements prior to commencement of conditionally permitted uses and permit expiration.**

1. **Land Use Permit or Zoning Clearance required.** Before the commencement of the development and/or authorized use allowed by a Conditional Use Permit a Land Use Permit or a Zoning Clearance authorizing the development and/or use shall be issued in compliance with [Section 35.82.100 \(Land Use Permits\)](#) or [Section 35.82.210 \(Zoning Clearances\)](#).
  - a. **Land Use Permit required.** The issuance of a Land Use Permit in compliance with [Section 35.82.100](#) shall be required if:



- (1) The approval of a Substantial Conformity Determination in compliance with Section 35.84.040.C (Changes to an Approved Project, Substantial Conformity Determinations) is required as a result of changes to the project allowed by the Conditional Use Permit, or
  - (2) The project requires a Coastal Development Permit issued by the Coastal Commission.
- b. Zoning Clearance required.** The issuance of a Zoning Clearance in compliance with Section 35.82.210 shall be required if:
- (1) The approval of a Substantial Conformity Determination in compliance with Section 35.84.040.C (Changes to an Approved Project, Substantial Conformity Determinations) is not required as a result of changes to the project allowed by the Conditional Use Permit, and
  - (2) The project does not require a Coastal Development Permit issued by the Coastal Commission.
- 2. Time limit.** At the time of approval of a Conditional Use Permit, a time limit shall be established within which the Land Use Permit or Zoning Clearance shall be issued.
- a. The time limit shall be a reasonable time based on the nature and size of the proposed development or use.
  - b. If a time limit is not specified, the time limit shall be 18 months from the effective date of the Conditional Use Permit.
  - c. The review authority that approved the Conditional Use Permit may extend the time limit in compliance with [Section 35.84.030 \(Time Extensions\)](#).
  - d. If the required time limit in which to obtain the required Land Use Permit or Zoning Clearance has expired and an application for an extension has not been submitted, then the Conditional Use Permit shall be considered void and of no further effect.
- 23. Conditional Use Permit void.** A Conditional Use Permit shall become void and be automatically revoked if the development and/or authorized use allowed by the Conditional Use Permit is discontinued for a period of more than 12 months. The time limit for discontinuance may be extended by the review authority that approved the Conditional Use Permit in compliance with [Section 35.84.030 \(Time Extensions\)](#).

## SECTION 11:

ARTICLE 35.8, Planning Permit Procedures, 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 35.82.080.D, Processing, of Section 35.82.080, Development Plans, of Chapter 35.82, Permit Review and Decisions, to read as follows:

#### D. Processing.

1. Within the Inland area, any application filed in compliance with this Section that is determined to be inconsistent with the use and/or density requirements of this Development Code or the Comprehensive Plan shall be accompanied by an application that, if approved, would make the project consistent. Within the Inland area, the Department may refuse to accept for processing any application the Director finds to be inconsistent with the use and/or density requirements of this Development Code or the Comprehensive Plan, unless accompanied by an application that, if approved, would make the project consistent.
2. An applicant may file a Preliminary and then a Final Development Plan, or just a Final Development Plan. When only a Final Development Plan is filed, it shall be processed in the same manner as a Preliminary Development Plan.
3. After receipt of an application for a Development Plan, the Department shall review the application in compliance with the requirements of the California Environmental Quality Act.
4. After receipt of an application for a Development Plan, the Department shall refer the Development Plan to the Subdivision/Development Review Committee and the Board of Architectural Review for review and recommendations to the review authority. This requirement may be waived by the Director in the following situations:
  - a. A Final Development Plan that is submitted subsequent to the approval of a Preliminary Development Plan where there is no change from the approved Preliminary Development Plan and the project received final approval from the Board of Architectural Review; or
  - b. A Final Development Plan that is submitted for projects that were legally permitted and developed without a Development Plan provided that any exterior alterations can be determined to be minor by the Director in compliance with Subsection [35.82.070.C](#) (Exemptions to Design Review requirements).
5. The Department shall transmit one copy of a Development Plan application to the Air Force Missile Flight Safety Office (WSMC SE) USAF, Vandenberg, for all proposed development located within the Coastal Zone between Gaviota Beach State Park and the Santa Maria River upon receipt of a Development Plan application. The Air Force may submit to the Department available information regarding missile debris hazards for the County to consider in reviewing the Development Plan. In order to be considered in the review of the project, the information shall be provided to the County within 30 days of the date of transmittal and the County shall immediately send a copy to the applicant.
6. A public hearing shall not be required if the Director is the review authority for the Development Plan.
  - a. Notice of the pending decision of the Director on a Development Plan shall be given at least 10 days before the date of the Director's decision in compliance with [Chapter 35.106 \(Noticing and Public Hearings\)](#).

- b. The Director may approve, conditionally approve, or deny the Development Plan. For Development Plans requested for properties located within the Coastal Zone, approval or conditional approval of a Final Development Plan in compliance with this Section also constitutes approval of a Coastal Development Permit in compliance with the Local Coastal Program and the California Coastal Act except as follows:
    - (1) The Coastal Commission issues the Coastal Development Permit when the development is:
      - (a) Located within the retained permit jurisdiction of the Coastal Commission.
      - (b) Located in areas where the County's Local Coastal Program has not been certified by the Coastal Commission.
  - c. The action of the Director is final subject to appeal in compliance with [Chapter 35.102 \(Appeals\)](#).
7. A public hearing shall be required if the Commission or Zoning Administrator is the review authority for the Development Plan.
- a. The review authority shall hold at least one noticed public hearing on the required Development Plan and approve, conditionally approve, or deny the request. Approval or conditional approval of a Final Development Plan in compliance with this Section also constitutes approval of a Coastal Development Permit in compliance with the Local Coastal Program and the California Coastal Act except as follows:
    - (1) The Coastal Commission issues the Coastal Development Permit when the development is:
      - (a) Located within the retained permit jurisdiction of the Coastal Commission.
      - (b) Located in areas where the County's Local Coastal Program has not been certified by the Coastal Commission.
  - b. Notice of the hearing shall be given and the hearing shall be conducted in compliance with [Chapter 35.106 \(Noticing and Public Hearings\)](#).
  - c. The action of the review authority is final subject to appeal in compliance with [Chapter 35.102 \(Appeals\)](#).
8. If a Development Plan application is considered in conjunction with a Zoning Map Amendment application or other application requiring legislative approval, the Commission may recommend approval, conditional approval, or denial to the Board.

## SECTION 12:

ARTICLE 35.8, Planning Permit Procedures, 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 add a new Subsection 35.82.080.F (Requirements prior to commencement of development authorized by a Development Plan), of Section 35.82.080, Development Plans, of Chapter 35.82, Permit Review and Decisions, to read as follows:

**F. Requirements prior to commencement of development authorized by a Development Plan.**

- 1. Land Use Permit or Zoning Clearance required.** Before the commencement of the development and/or authorized use allowed by a Final Development a Land Use Permit or a Zoning Clearance authorizing the development and/or use shall be issued in compliance with [Section 35.82.100 \(Land Use Permits\)](#) or Section 35.82.210 (Zoning Clearance).
  - a. Land Use Permit required.** The issuance of a Land Use Permit in compliance with Section 35.82.100 shall be required if:
    - (1) The approval of a Substantial Conformity Determination in compliance with Section 35.84.040.C (Changes to an Approved Project, Substantial Conformity Determinations) is required as a result of changes to the project allowed by the Final Development Plan, or
    - (2) The project requires a Coastal Development Permit issued by the Coastal Commission.
  - b. Zoning Clearance required.** The issuance of a Zoning Clearance in compliance with Section 35.82.210 shall be required if:
    - (1) The approval of a Substantial Conformity Determination in compliance with Section 35.84.040.C (Changes to an Approved Project, Substantial Conformity Determinations) is not required as a result of changes to the project allowed by the Final Development Plan, and
    - (2) The project does not require a Coastal Development Permit issued by the Coastal Commission.

**SECTION 13:**

ARTICLE 35.8, Planning Permit Procedures, 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 renumber Subsection 35.82.080.F. (Conditions, restrictions, and modifications), Subsection 35.82.080.G. (Time limits and extensions), and Subsection 35.82.080.H. (Post approval procedures), of Section 35.82.080, Development Plans, of Chapter 35.82, Permit Review and Decisions, as Subsection 35.82.080.G. (Conditions, restrictions, and modifications), Subsection 35.82.080.H. (Time limits and extensions), and Subsection 35.82.080.I. (Post approval procedures).

**SECTION 14:**

ARTICLE 35.8, Planning Permit Procedures, 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 35.82.100.A (Purpose and intent), of Section 35.82.100, Land Use Permits, of Chapter 35.82, Permit Review and Decisions, to read as follows:

**A. Purpose and intent.** This Section establishes procedures and findings for the issuance of, and effective time periods for, Land Use Permits. The intent of this Section is to ensure that development proposals are in compliance with the provisions of this Development Code, the Comprehensive Plan, including any applicable community or area plan and any conditions established by the County.

**1. Properties located within the Coastal Zone.** This Section establishes procedures and findings for approval of Land Use Permits in cases where the County approves certain discretionary permits for new development and either the County or the Coastal Commission issues the Coastal Development Permit under the following circumstances:

**a. Coastal Development Permits issued by the Coastal Commission.** The Coastal Commission issues the Coastal Development Permit when the development is:

- (1) Located within the retained permit jurisdiction of the Coastal Commission.
- (2) Located in areas where the County's Local Coastal Program has not been certified by the Coastal Commission.

**b. Coastal Development Permit issued by the County.** The County issues the Coastal Development as part of the approval of a Conditional Use Permit, Minor Conditional Use Permit or Development Plan provided the development is not subject to Subsection A.1.a above.

**c. Land Use Permit following Coastal Development Permit.** In the cases identified in Subsection 1.a above, the approval of a Land Use Permit is required following approval of the Coastal Development Permit by the Coastal Commission.

#### SECTION 15:

ARTICLE 35.8, Planning Permit Procedures, 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 35.82.210.B (Applicability), of Section 35.82.210, Zoning Clearances, of Chapter 35.82, Permit Review and Decisions, to read as follows:

**B. Applicability.**

**1. Zoning Clearance required.** A Zoning Clearance shall be approved by the Director where a Zoning Clearance is required in compliance with this Development Code, unless other requirements of this Development Code specify that the Zoning Clearance is not required or the activity is exempt from the approval of a planning permit in compliance with [Section 35.20.040 \(Exemptions from Planning Permit Requirements\)](#).

2. **Zoning Clearance approval.** The approval of a Zoning Clearance certifies that the land use or development will satisfy all applicable provisions of this Development Code, including the conditions of approval of any existing approved permits for the subject property, including applicable discretionary projects (e.g., Conditional Use Permit, Final Maps, Development Plans, Parcel Maps). In cases where a construction permit is required by Chapter 10 of the County Code, the Zoning Clearance is processed and approved as part of the construction permit application and approval process. Approval of a Zoning Clearance may also enable the establishment of a land use or structure that does not require a construction permit but is still subject to the standards of this Development Code.

SECTION 16:

Except as amended by this Ordinance, Article 35.8 of Section 35-1, the Santa Barbara County Land Use and Development Code, of Chapter 35, Zoning, of the County Code, shall remain unchanged and shall continue in full force and effect.

SECTION 17:

This ordinance shall take effect and be in force 30 days from the date of its passage and before the expiration of 15 days after its passage 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 \_\_\_\_\_, 2007, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

---

BROOKS FIRESTONE  
Chair, Board of Supervisors  
County of Santa Barbara

ATTEST:

MICHAEL F. BROWN  
Clerk of the Board of Supervisors

By \_\_\_\_\_  
Deputy Clerk

APPROVED AS TO FORM:

STEPHEN SHANE STARK  
County Counsel

By \_\_\_\_\_  
Deputy County Counsel

ATTACHMENT D

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING SECTION 35-2, THE SANTA BARBARA COUNTY MONTECITO LAND USE AND DEVELOPMENT CODE, OF CHAPTER 35, ZONING, OF THE COUNTY CODE, BY AMENDING SECTION 35.434.040, LANDSCAPE AGREEMENT AND PERFORMANCE SECURITY, 35.470.020, AUTHORITY FOR LAND USE AND ZONING DECISIONS, SECTION 35.472.050, CONDITIONAL USE PERMITS AND MINOR CONDITIONAL USE PERMITS, SECTION 35.472.070, DEVELOPMENT PLANS, SECTION 35.474.030, TIME EXTENSIONS, SECTION 35.474.040, CHANGES TO AN APPROVED PROJECT, SECTION 35.474.060, REVOCATIONS, SECTION 35.492.020, GENERAL APPEAL PROCEDURES, SECTION 35.492.040, APPEALS TO THE MONTECITO COMMISSION, AND TO ADD SECTION 35.472.180, ZONING CLEARANCE, TO ALLOW FOR THE APPROVAL OF A ZONING CLEARANCE TO PERMIT DEVELOPMENT APPROVED BY A CONDITIONAL USE PERMIT, MINOR CONDITIONAL USE PERMIT OR DEVELOPMENT PLAN IN CERTAIN INSTANCES, TO ADD A ZONING CLEARANCE PROCESS, AND MAKE OTHER MINOR MODIFICATIONS.

Case No. 07ORD-00000-00002

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

SECTION 1:

DIVISION 35.3, Montecito Site Planning and Other Project Standards, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is amended to amend Subsection 35.434.040.A. (Landscape agreement and performance security required) of Section 35.434.040, Landscape Agreement and Performance Security, of Chapter 35.434, Landscape Standards, to read as follows:

- A. Landscape agreement and performance security required.** Prior to the issuance of a Land Use Permit in compliance with [Section 35.472.100](#) (Land Use Permit) or a Zoning Clearance in compliance with Section 35.472.180 (Zoning Clearances), a signed and notarized landscape agreement and a performance security that guarantees the installation of plantings, walls, and fences, in compliance with the approved landscape plan, and provides for adequate maintenance for a designated time period shall be filed with the Department in compliance with [Section 35.474.020](#) (Performance Guarantees) and [Section 35.474.070](#) (Post Approval Inspections).

SECTION 2:

DIVISION 35.7, Montecito Planning Permit Procedures, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is amended to amend Table 7-1 (Review Authority) of Section 35.420.020, Authority for Land Use and Zoning Decisions, of Chapter 35.470, Permit Application Filing and Processing, to read as follows:



**Table 7-1 - Review Authority**

Type of Action	Role of Review Authority (1)		
	Director	Montecito Planning Commission	Board of Supervisors

**Administrative and Legislative**

Development Code Amendment		Recommend	Decision
Comprehensive Plan Amendment		Recommend	Decision
Interpretations	Decision	Appeal	Appeal
Specific Plans and Amendments		Recommend	Decision
Zoning Map Amendment		Recommend (2)	Decision

**Planning Permits**

Design Review	See Footnote (3) below		
Development Plan	See Subsection <a href="#">35.472.070.B.3</a> (Applicable review authority) for applicable Development Plan Thresholds		
Emergency Permits	Decision		
Hardship Determinations		Decision	Appeal
Land Use Permit	Decision	Appeal	Appeal
Conditional Use Permit		Decision	Appeal
Minor Conditional Use Permit		Decision	Appeal
Modification		Decision	Appeal
Overall Sign Plans		Decision	Appeal
Reclamation and Surface Mining		Decision	Appeal
Road Naming		Decision	Appeal
Sign Certificates of Conformance	Decision	Appeal	Appeal
Sign Conditional Use Permits		Decision	Appeal
Sign Modifications		Decision	Appeal
Use Determinations		Decision	Appeal
Variance		Decision	Appeal
Zoning Clearance	Decision (4)		

**Notes:**

- (1) "Recommend" identifies that the review authority makes a recommendation to a higher decision-making body; "Decision" identifies that the review authority makes the final decision on the matter; "Appeal" identifies that the review authority may consider and decide upon appeals to the decision of an earlier decision-making body, in compliance with [Chapter 35.492 \(Appeals\)](#).
- (2) The decision of the Montecito Commission to recommend denial of a Zoning Map Amendment is not transmitted to the Board absent the filing of an appeal.

- (3) The Montecito Board of Architectural Review shall make decisions on all Design Reviews. The decision of the Montecito Board of Architectural Review is appealable to the Montecito Commission. The decision of the Montecito Commission is appealable to the Board.
- (4) The decision of the Director to issue a Zoning Clearance is final and not subject to appeal.

### SECTION 3:

DIVISION 35.7, Montecito Planning Permit Procedures, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is amended to amend Subsection 35.472.050.G. (Requirements prior to commencement of conditionally permitted uses and permit expiration), of Section 35.472.050, Conditional Use Permits and Minor Conditional Use Permits, of Chapter 35.472, Permit Review and Decisions, to read as follows:

#### **G. Requirements prior to commencement of conditionally permitted uses and permit expiration.**

- 1. Land Use Permit or Zoning Clearance required.** Before the commencement of the development and/or authorized use allowed by the Conditional Use Permit, a Land Use Permit or Zoning Clearance authorizing the development and/or use shall be issued in compliance with [Section 35.472.100 \(Land Use Permits\)](#) or Section 35.472.180 (Zoning Clearances).
  - a. Land Use Permit required.** The issuance of a Land Use Permit in compliance with Section 35.472.100 shall be required if the approval of a Substantial Conformity Determination in compliance with Section 35.474.040.C (Changes to an Approved Project, Substantial Conformity Determinations) is required as a result of changes to the project allowed by the Conditional Use Permit.
  - b. Zoning Clearance required.** The issuance of a Zoning Clearance in compliance with Section 35.472.180 shall be required if the approval of a Substantial Conformity Determination in compliance with Section 35.474.040.C (Changes to an Approved Project, Substantial Conformity Determinations) is not required as a result of changes to the project allowed by the Conditional Use Permit.
- 2. Time limit.** At the time of approval of the Conditional Use Permit, a time limit shall be established within which the Land Use Permit or Zoning Clearance shall be issued.
  - a. The time limit shall be a reasonable time based on the nature and size of the proposed development or use.
  - b. If a time limit is not specified, the time limit shall be 18 months from the effective date of the Conditional Use Permit.
  - c. The Montecito Commission may extend the time limit in compliance with [Section 35.474.030 \(Time Extensions\)](#).
  - d. If the required time limit in which to obtain the required Land Use Permit or Zoning Clearance has expired and an application for an extension has not been submitted, then the Conditional Use Permit shall be considered void and of no further effect.

3. **Conditional Use Permit void.** A Conditional Use Permit shall become void and be automatically revoked if the development and/or authorized use allowed by the Conditional Use Permit is discontinued for a period of more than 12 months. The time limit for discontinuance may be extended by the Montecito Commission in compliance with [Section 35.474.030 \(Time Extensions\)](#).

#### SECTION 4:

DIVISION 35.7, Montecito Planning Permit Procedures, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is amended to add a new Subsection 35.472.070.F. (Requirements prior to commencement of development authorized by a Development Plan), of Section 35.472.070, Development Plans, of Chapter 35.472, Permit Review and Decisions, to read as follows:

#### **F. Requirements prior to commencement of development authorized by a Development Plan.**

1. **Land Use Permit or Zoning Clearance required.** Before the commencement of the development and/or authorized use allowed by a Final Development a Land Use Permit or a Zoning Clearance authorizing the development and/or use shall be issued in compliance with [Section 35.472.100 \(Land Use Permits\)](#) or Section 35.472.180 (Zoning Clearance).
  - a. **Land Use Permit required.** The issuance of a Land Use Permit in compliance with Section 35.472.100 shall be required if the approval of a Substantial Conformity Determination in compliance with Section 35.474.040.C (Changes to an Approved Project, Substantial Conformity Determinations) is required as a result of changes to the project allowed by the Final Development Plan.
  - b. **Zoning Clearance required.** The issuance of a Zoning Clearance in compliance with Section 35.472.180 shall be required if the approval of a Substantial Conformity Determination in compliance with Section 35.474.040.C (Changes to an Approved Project, Substantial Conformity Determinations) is not required as a result of changes to the project allowed by the Final Development Plan.

#### SECTION 5:

DIVISION 35.7, Montecito Planning Permit Procedures, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is amended renumber Subsection 35.472.070.F. (Conditions, restrictions, and modifications), Subsection 35.472.070.G. (Time limits and extensions), and Subsection 35.472.070.H. (Post approval procedures), of Section 35.472.070, Development Plans, of Chapter 35.472, Permit Review and Decisions, as Subsection 35.472.070.G. (Conditions, restrictions, and modifications), Subsection 35.472.070.H. (Time limits and extensions), and Subsection 35.472.070.I. (Post approval procedures).

#### SECTION 6:

DIVISION 35.7, Montecito Planning Permit Procedures, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is amended to add a new Section 35.472.180, Zoning Clearance, to Chapter 35.472, Permit Review and Decisions, to read as follows:

### **35.472.180 - Zoning Clearance**

- A. Purpose and intent.** This Section provides procedures and findings to allow for the approval of, and effective time periods for, Zoning Clearances which may be required in compliance with Subsection B. (Applicability) below. The intent of this Section is to ensure that development conforms to the provisions of this Development Code, the Comprehensive Plan, including the Montecito Community Plan and any conditions or development standards established by the County.
- B. Applicability.**
- 1. Zoning Clearance required.** A Zoning Clearance shall be approved by the Director where a Zoning Clearance is required in compliance with this Development Code, unless other requirements of this Development Code specify that the Zoning Clearance is not required or the activity is exempt from the approval of a planning permit in compliance with [Section 35.420.040 \(Exemptions from Planning Permit Requirements\)](#).
  - 2. Zoning Clearance approval.** The approval of a Zoning Clearance certifies that the land use or development will satisfy all applicable provisions of this Development Code, including the conditions of approval of any existing approved permits for the subject property, including applicable discretionary projects (e.g., Conditional Use Permit, Final Maps, Development Plans, Parcel Maps). In cases where a construction permit is required by Chapter 10 of the County Code, the Zoning Clearance is processed and approved as part of the construction permit application and approval process. Approval of a Zoning Clearance may also enable the establishment of a land use or structure that does not require a construction permit but is still subject to the standards of this Development Code.
- C. Contents of application.** An application for a Zoning Clearance shall be submitted in compliance with [Chapter 35.470 \(Permit Application Filing and Processing\)](#).
- D. Processing.**
- 1. Review for compliance.** The Director shall review the Zoning Clearance application for compliance with the Comprehensive Plan, including any applicable community or area plan, this Development Code, and other applicable conditions or regulations, including any discretionary approvals applicable to the site and issue, conditionally issue or deny the request. A Zoning Clearance shall not be issued by the Director until:
    - a. All necessary prior approvals have been obtained;
    - b. The Director has determined that the subject property is in compliance with all laws, regulations, and rules pertaining to zoning uses, subdivisions, setbacks, and any other applicable provisions of this Development Code, and if applicable, zoning violation enforcement and processing fees, as established from time to time by the Board, have

been paid. This Subsection shall not be interpreted to impose new requirements on legal nonconforming uses and structures in compliance with [Chapter 35.491 \(Nonconforming Uses, Structures, and Lots\)](#).

2. **Decision not subject to appeal.** The action of the Director to issue, conditionally issue or deny a Zoning Clearance, approve or deny a time extension to an issued Zoning Clearance, or approve or deny a minor change to an issued Zoning Clearance is final and not subject to appealed.
3. **Design Review required.** A Zoning Clearance for any structure that requires Design Review shall not be issued until the structure receives final Design Review approval in compliance with [Section 35.472.060 \(Design Review\)](#).
4. **Development Plan required.** The approval of a Development Plan in compliance with [Section 35.472.070 \(Development Plans\)](#) shall be required before the issuance of any Zoning Clearance for a structure that is not otherwise required to have a discretionary permit and is 20,000 square feet or more of gross floor area or is an attached, or detached addition that, together with the existing structures on the lot will total 20,000 square feet or more of gross floor area.
5. **Zoning Clearance subject to resolution of the Board.** If a Zoning Clearance is requested for property subject to a resolution of the Board initiating a Zoning Map Amendment or an Amendment to this Development Code, a Zoning Clearance shall not be issued while the proceedings are pending on the Amendment, unless the proposed uses or structures will conform to both the existing zoning and existing provisions of this Development Code, and Amendment initiated by the Board unless a Conditional Use Permit ([Section 35.472.050](#)) or Preliminary or Final Development Plan ([Section 35.472.070](#)) was approved before the adoption of the Board's resolution.

**E. Zoning Clearance expiration.**

1. A Zoning Clearance shall remain valid only as long as compliance with all applicable provisions of this Development Code and the Zoning Clearance conditions continues.
2. A Zoning Clearance shall expire two years from the date of issuance if the use or structure for which the Zoning Clearance was issued has not been established or commenced in compliance with the issued Zoning Clearance unless a time extension is approved in compliance with [Section 35.474.030 \(Time Extensions\)](#).

**F. Minor changes to Zoning Clearances.** Minor changes to an issued Zoning Clearance shall be allowed in compliance with [Section 35.474.040 \(Changes to an Approved Project\)](#).

**G. Zoning Clearance revocation.** A Zoning Clearance issuance may be revoked or modified in compliance with [Section 35.474.060 \(Revocations\)](#).

**SECTION 7:**

DIVISION 35.7, Montecito Planning Permit Procedures, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County

Code, is amended to amend Subsection 35.474.030.D. (Processing), of Section 35.474.030, Time Extensions, of Chapter 35.474, Post Approval Procedures, by adding a new Subsection 35.474.030.D.5 (Zoning Clearance), to read as follows:

**D. Processing.**

- 5. Zoning Clearances.** The Director may extend the approval of a Zoning Clearance one time for 12 additional months for good cause shown provided:
- (a) That the time extension request is filed at least 30 days before the expiration of the Zoning Clearance that is the subject of the Time Extension request.
  - (b) That the determination required in compliance with Subsection 35.472.180.D.1 (Review for compliance) that was made in conjunction with the initial approval of the Zoning Clearance can still be made.

**SECTION 8:**

DIVISION 35.7, Montecito Planning Permit Procedures, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is amended to amend Subsection 35.474.040.B. (Minor Changes to Land Use Permits), of Section 35.474.040, Changes to an Approved Project, of Chapter 35.474, Post Approval Procedures, to read as follows:

**35.474.040 - Changes to an Approved Project**

**B. Minor changes to Land Use Permits or Zoning Clearances.** Minor changes to an approved or issued Land Use Permit, or issued Zoning Clearance, may be allowed provided; the changes substantially conform to the approved or issued permit or clearance. A request shall be processed in the following manner:

1. The Director may approve a minor change to an approved or issued Land Use Permit, or issued Zoning Clearance, subject to all of the following:
  - a. The Director determines that the minor change substantially conforms to the approved plans and the originally approved or issued permit;
  - b. There is no change in the use or scope of the development;
  - c. The minor change does not result in a change to the Director's conclusions regarding the project's specific conformance to development standards and findings;
  - d. The Land Use Permit or Zoning Clearance has not expired; and
  - e. The minor change is exempt from Design Review in compliance with [Section 35.472.060 \(Design Review\)](#).
2. Where a minor change of an approved or issued Land Use Permit or issued Zoning Clearance is approved, the permit shall have the same effective and expiration dates as the

original permit and no additional public notice shall be required.

3. Where it cannot be determined that the minor change materially conforms to an approved or issued Land Use Permit or issued Zoning Clearance in compliance with the above criteria, a new Land Use Permit or Zoning Clearance shall be required.
4. The determination to allow a minor change to an approved or issued Land Use Permit, or issued Zoning Clearance is final and not subject to appeal.

#### SECTION 9:

DIVISION 35.7, Montecito Planning Permit Procedures, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is amended to amend the opening paragraph, and Subsection 35.474.060.A. (Revocation of Land Use Permits), of Section 35.474.060, Revocations, of Chapter 35.474, Post Approval Procedures, to read as follows:

#### **35.474.060 - Revocations**

This Section provides procedures for revocation or modification of issued Land Use Permits and Zoning Clearances and approved Conditional Use Permits. The County's action to revoke a permit or approval shall have the effect of terminating the permit and denying the privileges granted by the original approval.

- A. Revocation of Land Use Permits or Zoning Clearances.** Issuance of a Land Use Permit or Zoning Clearance is contingent upon compliance with all conditions imposed as part of the project approval and with all applicable provisions of this Development Code. If it is determined that development activity is occurring in violation of any or all such conditions or provisions, the Director may revoke the permit and all authorization for development.
1. **Notification.** Written notice of such Revocation shall be provided to the permittee.
  2. **Appeal.** The action of the Director to revoke a Land Use Permit or Zoning Clearance is final subject to appeal in compliance with [Chapter 35.492 \(Appeals\)](#).

#### SECTION 10:

DIVISION 35.9, Montecito Land Use and Development Code Administration, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is amended to amend Subsection 35.492.020.H. (Special processing requirements), of Section 35.492.020, General Appeal Procedures, of Chapter 35.492, Appeals, to read as follows:

- H. Special processing requirements.** The following requirements apply to applications for Land Use Permits and Zoning Clearances that also require review by the Montecito Board of Architectural Review:
1. **Projects requiring Land Use Permits.**

- a. If a preliminary approval by the Montecito Board of Architectural Review is appealed, then the hearing on the appeal shall be held after the approval of the Land Use Permit, but before the issuance of the Land Use Permit for the project.
- b. If a preliminary approval by the Montecito Board of Architectural Review is appealed, and the approval of the Land Use Permit is appealed, then the appeal of the preliminary approval by the Montecito Board of Architectural Review shall be processed concurrently with the appeal of the Land Use Permit.
- c. If a decision of the Montecito Board of Architectural Review to deny preliminary or final approval is appealed, a hearing shall be held on the appeal of the decision of the Montecito Board of Architectural Review before the decision on the Land Use Permit.

## **2. Projects requiring Zoning Clearances.**

- a. If a preliminary approval by the Montecito Board of Architectural Review is appealed, then the hearing on the appeal shall be held before the issuance of the Zoning Clearance for the project.
- b. If a decision of the Montecito Board of Architectural Review to deny preliminary or final approval is appealed, a hearing shall be held on the appeal of the decision of the Montecito Board of Architectural Review before the decision on the Zoning Clearance.

### SECTION 11:

DIVISION 35.9, Montecito Land Use and Development Code Administration, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is amended to amend Subsection 35.492.040.A. (Decisions appealed to the Montecito Commission), of Section 35.492.040, Appeals to the Montecito Commission, of Chapter 35.492, Appeals, to read as follows:

**A. Decisions appealed to the Montecito Commission.** The following decisions may be appealed to the Montecito Commission provided the appeal complies with the requirements of Subsections [35.492.020.C](#) through Subsection [35.492.020.E](#) above.

- 1. Montecito Board of Architectural Review decisions.** The following decisions of the Montecito Board of Architectural Review may be appealed to the Montecito Commission:
  - a. Any decision of the Montecito Board of Architectural Review to grant or deny preliminary approval.
  - b. Any decision of the Montecito Board of Architectural Review to grant or deny final approval in compliance with Section [35.492.020.C.2.c](#) (Appeals of final decisions of the Montecito Board of Architectural Review) above.
- 2. Director decisions.** The following decisions of the Director may be appealed to the Montecito Commission:



- a. Any determination on the meaning or applicability of the provisions of this Development Code.
- b. Any determination that a discretionary permit application or information submitted with the application is incomplete as provided by Government Code Section 65943.
- c. Any decision of the Director to revoke an approved or issued Land Use Permit.
- d. Any decision of the Director to approve or deny an application for a Land Use Permit except for a Land Use Permit approved in compliance with [Section 35.442.130 \(Temporary Uses and Trailers\)](#) except for trailers approved in compliance with Subsection 35.442.130.G. (Trailer use).
- e. Any decision of the Director to revoke an issued Zoning Clearance.
- f. Any decision of the Director to approve, conditionally approved, or deny an application for a Development Plan.
- g. Any decision of the Director to approve, conditionally approved, or deny any other discretionary application where the Director is the designated review authority.
- h. Any other action, decision, or determination made by the Director as authorized by this Development Code where the Director is the review authority, except when specifically provided that the action, decision, or determination is final and not subject to appeal.

#### SECTION 12:

Except as amended by this Ordinance, Division 35.3, 35.7 and 35.9 of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the County Code, shall remain unchanged and shall continue in full force and effect.

#### SECTION 13:

This ordinance shall take effect and be in force 30 days from the date of its passage and before the expiration of 15 days after its passage 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 \_\_\_\_\_, 2007, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

---

BROOKS FIRESTONE  
Chair, Board of Supervisors  
County of Santa Barbara

ATTEST:

MICHAEL F. BROWN  
Clerk of the Board of Supervisors

By \_\_\_\_\_  
Deputy Clerk

APPROVED AS TO FORM:

STEPHEN SHANE STARK  
County Counsel

By \_\_\_\_\_  
Deputy County Counsel

## ATTACHMENT E

**TO THE HONORABLE BOARD OF SUPERVISORS**  
COUNTY OF SANTA BARBARA, CALIFORNIA

MONTECITO PLANNING COMMISSION  
HEARING OF MARCH 29, 2007

*RE: Proposals to Allow Zoning Clearances following Conditional Use Permit and Development Plan Approvals and Revisions to the Coastal Development Permit Process*

Hearing on the request of the Planning and Development Department that the Montecito Planning Commission consider ordinance amendments on proposals to amend the County and Montecito Land Use and Development Codes to allow Zoning Clearances following Conditional Use Permit and Development Plan approvals and revisions to the Coastal Development Permit process as follows:

- a) **07ORD-00000-00001**, to adopt a recommendation to the County Planning Commission that they recommend to the Board of Supervisors that the Board of Supervisors adopt an ordinance amending the text of Article 35.8, Planning Permit Procedures, of Section 35-1, the Santa Barbara County Land Use and Development Code, of Chapter 35, Zoning, of the County Code;
- b) **07ORD-00000-00002**, to adopt a recommendation to the Board of Supervisors that they adopt an ordinance amending the text of Division 35.7, Montecito Planning Permit Procedures, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the County Code.

and recommend that the Board of Supervisors find that Case No. 07ORD-00000-00002 is exempt from environmental review pursuant to Section 15061(b)(3) of the State Guidelines for Implementation of the California Environmental Quality Act.

These amendments relate to:

- Use of the Zoning Clearance process to allow development following Conditional Use Permit and Development Plan approvals;
  - Revisions to the Coastal Development Permit process; including designating the Director as the review authority for Coastal Development Permits with waived public hearings. (Continued from 3/21/07)
- 
-

Dear Honorable Members of the Board of Supervisors:

At the Montecito Planning Commission hearing of March 29, 2007, Commissioner Gottsdanker moved, seconded by Commissioner Overall and carried by a vote of 5 to 0 to recommend that the Board of Supervisors:

1. Adopt the findings for approval and recommend that the Board of Supervisors adopt the findings for approval of the proposed amendment included as Attachment A of the staff report dated March 2, 2007;
2. Recommend that the Board of Supervisors find that this amendment is categorically exempt from the California Environmental Quality Act in compliance with Section 15061(b)(3) of the Guidelines for Implementation of CEQA included as Attachment B of the staff report dated March 2, 2007;
3. Recommend that the County Planning Commission recommend to the Board of Supervisors that the Board adopt Case No. 07ORD-00000-00001, an amendment to Section 35-1, the Santa Barbara County Land Use and Development Code, of Chapter 35, Zoning, of the County Code included as Attachment C of the staff memo dated March 13, 2007; and
4. Recommend that the Board of Supervisors adopt 07ORD-00000-00002, an amendment to Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the County Code included as Attachment D of the staff memo dated March 13, 2007.

Sincerely,

---

Dianne M. Black  
Secretary Planning Commission

xc: Case File: 07ORD-00000-00001, 07ORD-00000-00002  
Montecito Planning Commission File  
Records Management  
John Baker, Director, Planning and Development  
Dianne M. Black, Assistant Director, Planning and Development  
Deputy County Counsel: David Allen  
Planner: Noel Langle  
Planner: Pat Saley

Attachments: A - Findings  
C - 07ORD-00000-00001  
D - 07ORD-00000-00002

## ATTACHMENT F

**TO THE HONORABLE BOARD OF SUPERVISORS**  
COUNTY OF SANTA BARBARA, CALIFORNIA

PLANNING COMMISSION  
HEARING OF APRIL 11, 2007

*RE: Proposals to Allow Zoning Clearances following Conditional Use Permit and Development Plan Approvals and Revisions to the Coastal Development Permit Process, 07ORD-00000-00001.*

Hearing on the request of the Planning and Development Department that the County Planning Commission consider ordinance amendments on proposals to amend the County Land Use and Development Code to allow Zoning Clearances following Conditional Use Permit and Development Plan approvals and revisions to the Coastal Development Permit process as follows:

- a) **07ORD-00000-00001**, to adopt a recommendation to the Board of Supervisors that they adopt an ordinance amending the text of Article 35.8, Planning Permit Procedures, of Section 35-1, the Santa Barbara County Land Use and Development Code, of Chapter 35, Zoning, of the County Code, and recommend that the Board of Supervisors find that Case No. 07ORD-00000-00001 is exempt from environmental review pursuant to Section 15061(b)(3) of the State Guidelines for Implementation of the California Environmental Quality Act.

These amendments relate to:

- Use of the Zoning Clearance process to allow development following Conditional Use Permit and Development Plan approvals;
- Revisions to the Coastal Development Permit process; including designating the Director as the review authority for Coastal Development Permits with waived public hearings.

---

Dear Honorable Members of the Board of Supervisors:

At the Planning Commission hearing of April 11, 2007, Commissioner Brown moved, seconded by Commissioner Blough and carried by a vote of 4-0 to recommend that the Board of Supervisors:

1. Adopt the findings for approval and recommend that the Board of Supervisors adopt the findings for approval of the proposed amendment (Attachment A of the staff report dated March 9, 2007);
2. Recommend that the Board of Supervisors find that this amendment is categorically exempt from the California Environmental Quality Act in compliance with Section 15061(b)(3) of the

Guidelines for Implementation of CEQA (Attachment B of the staff report dated March 9, 2007);  
and,

3. Recommend that the Board of Supervisors adopt Case No. 07ORD-00000-00001, an amendment to Section 35-1, the Santa Barbara County Land Use and Development Code, of Chapter 35, Zoning, of the County Code (Attachment C of the staff report dated March 9, 2007).

Sincerely,

---

Dianne M. Black  
Secretary Planning Commission

xc: Case File: 07ORD-00000-00001  
Planning Commission File  
John Baker, Director, Planning and Development  
Dianne M. Black, Deputy Director, Development Review  
David Allen, Deputy County Counsel  
Noel Langle, Planner  
Pat Saley, Planner

Attachments: Attachment A – Findings  
Attachment C – Ordinance 07ORD-00000-00001

## ATTACHMENT G

**MONTECITO PLANNING COMMISSION**  
**Staff Report on Proposals to Allow Zoning Clearances**  
**following Conditional Use Permit and Development Plan Approvals and**  
**Revisions to the Coastal Development Permit Process**

Public Hearing Date: March 21, 2007

Staff Report Date: March 2, 2007

Case Nos.: 07ORD-00000-00001 & -00002

Environmental Document: CEQA Guidelines Section 15061(b)(3)

Assistant Director: Dianne Meester Black

Staff Contact: Pat Saley/Noel Langle

Phone No.: 805.568.2009

### 1.0 REQUEST

Hearing on the request of the Planning and Development Department that the Montecito Planning Commission consider and:

- 1.1 Adopt a recommendation to the County Planning Commission that they recommend to the Board of Supervisors that the Board adopt an ordinance (Case No. 07ORD-00000-00001) amending the text of Article 35.8, Planning Permit Procedures, 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.
- 1.2 Adopt a recommendation to the Board of Supervisors that they adopt an ordinance (Case No. 07ORD-00000-00002) amending the text of Division 35.7, Montecito Planning Permit Procedures, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the County Code as set forth in Attachment D.

These amendments relate to:

- Zoning Clearances following Conditional Use Permit and Development Plan approvals;
- Revisions to the Coastal Development Permit process; including designating the Director as the review authority for Coastal Development Permit with waived public hearings.

### 2.0 RECOMMENDATION AND PROCEDURES:

- 2.1 Follow the procedures outlined below and recommend that the County Planning Commission that they recommend to the Board of Supervisors that the Board adopt Case No. 07ORD-00000-00001, an amendment to Section 35-1, the Santa Barbara County Land Use and Development Code, of Chapter 35, Zoning, of the County Code (Attachment C).
- 2.2 Follow the procedures outlined below and recommend that the Board of Supervisors approve Case No. 07ORD-00000-00002 based upon the ability to make the appropriate findings. Your Commission's motion should include the following:
  - Adopt the findings for approval and recommend that the Board of Supervisors adopt the findings for approval of the proposed amendment (Attachment A);

- Recommend that the Board of Supervisors find that this amendment is categorically exempt from the California Environmental Quality Act in compliance with Section 15061(b)(3) of the Guidelines for Implementation of CEQA (Attachment B);
- Recommend that the County Planning Commission recommend to the Board of Supervisors that the Board adopt Case No. 07ORD-00000-00001, an amendment to Section 35-1, the Santa Barbara County Land Use and Development Code, of Chapter 35, Zoning, of the County Code (Attachment C); and,
- Recommend that the Board of Supervisors adopt 07ORD-00000-00002, an amendment to Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the County Code (Attachment D).

Please refer the matter to staff if your Commission takes other than the recommended action for the development of appropriate materials.

### **3.0 JURISDICTION**

This project is being considered by the Montecito Planning Commission based upon Section 65855 of the Government Code and the County's Land Use and Development Codes process requirements for zoning ordinance text amendments. The Government Code and the County's Land Use and Development Codes require that the Montecito Planning Commission, as the designated planning agency for the inland portion of the Montecito Community Plan area, review and consider proposed ordinance amendments to the Santa Barbara County Montecito Land Use and Development Code, and provide a recommendation to the Board of Supervisors. Additionally, Chapter 2 of the County Code provides that the Montecito Planning Commission may make recommendations to the County Planning Commission regarding proposed amendments to the Santa Barbara County Land Use and Development Code that will affect the Coastal Zone portion of the Montecito Planning Area.

### **4.0 ISSUE SUMMARY AND BACKGROUND**

In May 2005, the Board of Supervisors directed the Planning and Development Department and the Process Improvement Oversight Committee to explore ways to improve the review process to make the process "easier to navigate, and more time efficient and cost effective, while maintaining the quality of development in the County." Since that time the noticing and appeal processes have been improved throughout the Inland portions of the County, including in Montecito. Outside of Montecito, the new Zoning Clearance process has been established that requires the same submittal information and staff analysis as a Land Use Permit, but does not require public notice nor allow an appeal. The proposed amendment would add the Zoning Clearance process to the Montecito Land Use and Development Code. The amendment would apply this process to the follow-up approval after a Conditional Use Permit (CUP) or Development Plan (DP) approval. If a Substantial Conformity Determination is made on the follow-up project, a Land Use Permit or Coastal Development Permit would still be required.

The proposed amendment also revises the review process for CUPs and DPs that are located in the Coastal Zone. Currently a Coastal Development Permit (CDP) is required to be approved, following the discretionary approval of the CUP or DP, to allow the construction of the project. We propose that the CDP be processed concurrent with the discretionary application such that, if



there are appeals filed, they would be heard simultaneously by the Board of Supervisors and, if located in the geographic appeals area, by the Coastal Commission. The follow-up permit to allow construction would shift to either a Land Use Permit or a Zoning Clearance, again depending on whether the approval of a Substantial Conformity Determination was required.

Lastly, the amendments also propose to modify the Coastal Development Permit process where a waived hearing may occur for minor projects. Elsewhere in the Coastal Zone, where public notice of a minor project is provided and no public input is received, the Zoning Administrator may waive the hearing and approve the project. Because the Montecito PC serves as the Zoning Administrator in the Montecito coastal area, the CDP hearing cannot be waived as the Montecito PC (as Zoning Administrator) can only meet to review projects at noticed public hearings. The amendment proposes that the Director waive the public hearing and approve the project, similar to what is done elsewhere in the Coastal Zone of the County.

The Montecito Planning Commission staff report from the public workshop held on January 17, 2007 is included as Attachment E. This report has more information about the background on the County's process improvement effort.

The Process Improvement Oversight Committee has reviewed these proposals on several occasions and has recommended that the Zoning Clearance process be extended to CUPs and DPs except where there is a Substantial Conformity Determination. In that case, they believe that a Land Use Permit, with notice and potential for appeal, is the appropriate follow-up permit. They have also endorsed the revised CDP process that pairs the CDP with the discretionary application so that, if appeals are filed, they are heard concurrently and not consecutively. Finally, they are in support of providing for a waiver of the CDP hearing process if issues have not arisen once notices have been sent out.

Santa Barbara County is the only jurisdiction in the County, as well as in Ventura and San Luis Obispo Counties, that has an appealable process that follows a discretionary approval such as a CUP or DP. Apparently this County is also the only jurisdiction that has consecutive rather than concurrent appeals of decisions in the Coastal Zone.

## **5.0 PROJECT INFORMATION AND ANALYSIS**

### **5.1 Zoning Clearance following Conditional Use Permit and Development Plan Approvals**

The Zoning Clearance process has been established to allow for a streamlined review process where appropriate. CUP and DP approvals are two categories of discretionary approvals that have been suggested for follow-up Zoning Clearances. CUPs and DP approvals have a set time period, usually from one to five years, during which the follow-up CDP or LUP must be obtained. Assuming the follow-up submittal conforms to the discretionary approval such that a substantial conformity determination (SCD) is not required, a second round of noticing and the potential for appeal would not occur if the amendment discussed in this report is ultimately approved.

#### **5.1.1 Conditional Use Permits**

In Montecito, the process for Major CUPs (now called CUPs) and Minor CUPs (now called

MCUPs) is the same. Typical MCUPs are Detached Residential Second Units, Farm employee dwellings (four or fewer employees), septic systems in Special Problems Areas and Special Care Homes. Typical CUPs are for churches, commercial riding facilities, golf courses, larger telecommunication facilities, museums and educational facilities. The existing process for a CUP includes:

1. Application & environmental review
2. Noticed MPC hearing
3. Appeal to the Board, if filed
4. Noticed Board of Supervisors hearing
5. Land Use Permit or Coastal Development Permit process
6. Noticed appeal hearings at MPC and Board, if filed

The process discussed in this report would eliminate the last two steps above and substitute the Zoning Clearance process unless a Substantial Conformity Determination has been made.

In the seven year period from 2000 through 2006, the Montecito Planning Commission approved 28 CUPs (6 major and 22 minor), an average of four per year. Thirteen of the approved CUPs were in the non-coastal area of Montecito and fifteen were in the Coastal Zone. Four appeals were filed: Music Academy, a seawall, a telecom project and Westmont College. There are also three CUPs that are still active, i.e., the follow-permit (Coastal Development or Land Use Permit) has not been issued: Music Academy, a seawall and Westmont. If the proposed amendment were in place, a CDP or LUP would not be required for the follow-up applications (unless a SCD finding is required).

The attached staff report from the January 17<sup>th</sup> meeting provides more background information on the CUP approvals since 2000.

### **5.1.2 Development Plan (DP) Approvals**

The Development Plan Approval process is very similar to the Conditional Use Permit:

1. Application & environmental review
2. Noticed Montecito PC hearing
3. Appeal to the Board, if filed
4. Noticed Board of Supervisors hearing
5. Land Use Permit or Coastal Development Permit process
6. Noticed appeal hearings at MPC and Board, if filed

As with the CUP proposal, the proposed amendment would eliminate the last two steps in the process (if a SCD is not required).

Between 2000 and 2006, there were six Development Plans approved, an average of one per year. Four of these were in the Coastal Zone and two in the non-coastal area. One Substantial Conformity Determination was made for the Coral Casino. As proposed, the follow-up permit for that project would have still been a Coastal Development Permit.

The proposed ordinance amendment providing for Zoning Clearance following Development

Plan approval would apply to one DP that is still active (a country club on East Valley Road).

## **5.2 Coastal Development Permit Appeal Process**

Currently, a discretionary application for a project located in the Coastal Zone is reviewed at a noticed public hearing before the Montecito PC. Appeals may be filed, first to the Board, then to the Coastal Commission (for CUPs and projects in the geographic appeals area). The follow-up CDP may also be appealed to both the Board and Coastal Commission, which was the case with the Coral Casino project where essentially the same project was appealed twice (CUP and CDP). If this change were approved, the appeal of the CDP would have been heard with the CUP appeal, rather than consecutively. Coastal Commission staff has strongly encouraged the County to amend their process as two appeals are redundant. Santa Barbara County is apparently the only jurisdiction with this double appeal process in the Coastal Zone.

The proposed change to the coastal process is simply to move the approval of the CDP to be coincident with the discretionary action so that all important questions about a project are resolved at as part of one public hearing process, followed by the possibility of appeal to the Board of Supervisors and Coastal Commission. This would address the perceived “double jeopardy” that an aggrieved person has two chances to appeal the same project. After the discretionary approval and appeals, including to the Board and Coastal Commission, a second appeal to the Coastal Commission would not be possible.

## **5.3 Coastal Development Permit Waived Hearing Process**

In 1996, the Coastal Commission revised their regulations to allow for a waived public hearing for minor projects located in the Appeals Jurisdiction of the Coastal Zone. Where a minor project requires public notice and no comments are received, the hearing can be waived and the project approved. For projects in the Coastal Zone outside Montecito, the Zoning Administrator waives the public hearing, where no comments have been received, and approves the project. In Montecito, that process doesn't work as the Commission also serves as the Zoning Administrator. The Montecito Planning Commission, regardless of whether they are sitting as the Planning Commission or Zoning Administrator, can only meet in noticed public hearings, therefore there is no way for them to waive a hearing on a minor project as the Coastal Commission intended. Therefore, the proposed amendment recommends that where a waived public hearing is appropriate for a minor project, the P&D Director would have the authority to waive the hearing and approve the project. At the public hearing on March 21<sup>st</sup>, Staff will present information about the number of minor projects you have reviewed in recent years that would qualify for a waived hearing.

## **6.0 ENVIRONMENTAL REVIEW**

The proposed amendment is recommended to be determined to be exempt from environmental review pursuant to Section 15061(b)(3) of the California Guidelines for Implementation of the California Environmental Quality Act (CEQA). Section 15061(b)(3), the general rule exemption, states that where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment that the activity is not subject to CEQA. No significant environmental impacts would occur as a result of this ordinance

amendment as explained in Attachment B.

## **7.0 POLICY CONSISTENCY**

Adoption of the proposed ordinance amendment will not result in any inconsistencies with the adopted policies and development standards of the County's Comprehensive Plan and the Montecito Community Plan. Utilizing a Zoning Clearance rather than a Land Use Permit following a CUP or Development Plan Approval allows for the same level of staff review and analysis, with the main criterion being consistency with the approved plans that were already subject to a public review process. Having a Coastal Development Permit be reviewed concurrent with a discretionary application is standard practice throughout the coastal portions of California. Additionally, in order to approve any Zoning Clearance, the proposed development still must be found consistent with the Comprehensive Plan and the Montecito Community Plan. Finally, the revision to the waived hearing process for minor projects in the Coastal Zone protects the public's ability to comment on a project and provides for a more efficient process. Therefore, this amendment may be found consistent with the Comprehensive Plan and the Montecito Community Plan.

## **8.0 ORDINANCE COMPLIANCE**

The proposed ordinance amendment is consistent with the remaining portions of the Montecito LUDC that would not be revised by this amendment. The findings for approval of a Conditional Use Permit, Development Plan and Coastal Development Permit include consistency with the Comprehensive Plan including the Montecito Community Plan.

## **9.0 PROCEDURES**

The Planning Commission may recommend approval, approval with revisions, or denial of staff's recommendations for the proposed amendment to the Montecito LUDC.

## **10.0 APPEALS PROCEDURE**

Ordinance amendments are automatically forwarded to the Board of Supervisors for final action, therefore no appeal is required.

## **11.0 ATTACHMENTS**

- A. Findings
- B. CEQA Exemption
- C. 07ORD-00000-00001
- D. 07ORD-00000-00002
- E. Montecito Planning Commission staff report, January 17, 2007

## ATTACHMENT H

**SANTA BARBARA COUNTY PLANNING COMMISSION**  
**Staff Report on Proposals to Allow Zoning Clearances**  
**following Conditional Use Permit and Development Plan Approvals and**  
**Revisions to the Coastal Development Permit Process**

**Public Hearing Date: March 28, 2007**

**Staff Report Date: March 9, 2007**

**Case Nos.: 07ORD-00000-00001**

**Environmental Document: CEQA Guidelines Section 15061(b)(3)**

**Assistant Director: Dianne Meester Black**

**Staff Contact: Pat Saley/Noel Langle**

**Phone No.: 805.568.2009**

### 1.0 REQUEST

Hearing on the request of the Planning and Development Department that the County Planning Commission consider and adopt a recommendation to the Board of Supervisors that they adopt an ordinance (Case No. 07ORD-00000-00001) amending the text of Division 35.8, Planning Permit Procedures, 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.

These amendments relate to:

- Zoning Clearances following Conditional Use Permit and Development Plan approvals; and
- Revisions to the Coastal Development Permit process; including designating the Director as the review authority for Coastal Development Permits with waived public hearings.

### 2.0 RECOMMENDATION AND PROCEDURES:

Follow the procedures outlined below and recommend that the Board of Supervisors approve Case No. 07ORD-00000-00001 based upon the ability to make the appropriate findings. Your Commission's motion should include the following:

- Adopt the findings for approval and recommend that the Board of Supervisors adopt the findings for approval of the proposed amendment (Attachment A);
- Recommend that the Board of Supervisors find that this amendment is categorically exempt from the California Environmental Quality Act in compliance with Section 15061(b)(3) of the Guidelines for Implementation of CEQA (Attachment B); and,
- Recommend that the Board of Supervisors adopt Case No. 07ORD-00000-00001, an amendment to Section 35-1, the Santa Barbara County Land Use and Development Code, of Chapter 35, Zoning, of the County Code (Attachment C).

Please refer the matter to staff if your Commission takes other than the recommended action for the development of appropriate materials.

### **3.0 JURISDICTION**

This project is being considered by the Planning Commission based upon Section 65855 of the Government Code and the County's Land Use and Development Codes process requirements for zoning ordinance text amendments. The Government Code and the County's Land Use and Development Codes require that the Planning Commission, as the designated planning agency for the unincorporated area of the County outside the non-Coastal Zone portion of the Montecito Planning Area, review and consider proposed ordinance amendments to the Santa Barbara County Land Use and Development Code, and provide a recommendation to the Board of Supervisors.

### **4.0 ISSUE SUMMARY AND BACKGROUND**

In May 2005, the Board of Supervisors directed the Planning and Development Department and the Process Improvement Oversight Committee to explore ways to improve the review process to make the process "easier to navigate, and more time efficient and cost effective, while maintaining the quality of development in the County." Since that time the noticing and appeal processes have been improved throughout the Inland portions of the County. Outside of Montecito, the new Zoning Clearance process has been established that requires the same submittal information and staff analysis as a Land Use Permit, but does not require public notice nor allow an appeal. The proposed amendment would apply the Zoning Clearance process to the follow-up approval after a Conditional Use Permit (CUP) or Development Plan (DP) approval. If a Substantial Conformity Determination is made on the follow-up project, a Land Use Permit or Coastal Development Permit would still be required.

The proposed amendment also revises the review process for CUPs and DPs that are located in the Coastal Zone. Currently a Coastal Development Permit (CDP) is required to be approved, following the discretionary approval of a subdivision, CUP, DP or other discretionary permit, to allow the construction of the project. We propose that the CDP be processed concurrent with the discretionary application such that, if there are appeals filed, the appeals would be heard simultaneously by the Board of Supervisors and, if the proposed development is subject to appeal to the Coastal Commission, by the Coastal Commission. The follow-up permit to allow construction would shift to either a Land Use Permit or a Zoning Clearance, again depending on whether the approval of a Substantial Conformity Determination was required.

The County Planning Commission staff report from the public workshop held on December 6, 2007 is included as Attachment D. This report has detailed information about CUP and DP approvals since 2000.

The Process Improvement Oversight Committee has reviewed these proposals on several occasions and has recommended that the Zoning Clearance process be extended to CUPs and DPs except where there is a Substantial Conformity Determination. In that case, they believe that a Land Use Permit, with notice and potential for appeal, is the appropriate follow-up permit. They have also endorsed the revised CDP process that pairs the CDP with the discretionary application so that, if appeals are filed, they are heard concurrently and not consecutively. Finally, they are in support of providing for the Director to approve a waiver of the CDP hearing process if issues have not arisen once notices have been sent out. These proposals are being reviewed by the Montecito Planning Commission at their March 21<sup>st</sup> meeting. Their

recommendations will be forwarded to your Commission at your March 28<sup>th</sup> hearing.

Santa Barbara County is the only jurisdiction in the County, as well as in Ventura and San Luis Obispo Counties, that has an appealable process that follows a discretionary approval such as a CUP or DP. Apparently this County is also the only jurisdiction that has consecutive rather than concurrent appeals of decisions in the Coastal Zone.

## **5.0 PROJECT INFORMATION AND ANALYSIS**

### **5.1 Zoning Clearance following Conditional Use Permit and Development Plan Approvals**

The Zoning Clearance process has been established to allow for a streamlined review process where appropriate. CUP and DP approvals are two categories of discretionary approvals that have been suggested for follow-up Zoning Clearances. CUPs and DP approvals have a set time period, usually from one to five years, during which the follow-up CDP or LUP must be obtained. Assuming the follow-up submittal conforms to the discretionary approval such that a substantial conformity determination (SCD) is not required, a second round of noticing and the potential for appeal would not occur if the amendment discussed in this report is ultimately approved.

#### **5.1.1 Conditional Use Permits**

Typical Minor CUPs (now called MCUPs) are Detached Residential Second Units, Farm employee dwellings (four or fewer employees), septic systems in Special Problems Areas and Special Care Homes. Typical Major CUPs (now called CUPs) are for churches, commercial riding facilities, golf courses, larger telecommunication facilities, museums and educational facilities. The existing process for both types of CUPs is similar:

1. Application & environmental review
2. Noticed hearing:
  - Zoning Administrator hears MCUP cases
  - Planning Commission hears CUP cases
3. Minor CUPs:
  - May be appealed to the Planning Commission
  - Planning Commission holds a noticed public hearing
4. All CUPs – Decision of Planning Commission may be appealed to Board
5. Noticed Board of Supervisors hearing (if appeal filed)
6. Land Use Permit or Coastal Development Permit process
7. If LUP or CDP is appealed, noticed appeal hearings at PC and Board, if filed

The process discussed in this report would eliminate the last two steps above and substitute the Zoning Clearance process unless a Substantial Conformity Determination has been made.

In the seven year period from 2000 through 2006, a total of 263 CUPs were approved by the Planning Commission and Zoning Administrator as follows:

- 47 Major CUPs (average of 7/year)
- 216 Minor CUPs (average of 31/year)

- 10 appeals were filed – 8 were appeals of CUP approvals and 2 involved follow-up Land Use Permits (where CUP was also appealed)
- 8 Substantial Conformity Determinations were made on approved projects (and therefore would still require LUP as proposed)
- 26 are still active, i.e., the follow-up LUP has not been issued as shown in Table 1.

**Table 1**  
**Active Conditional Use Permits**  
**Note: CUPs approved by PC in bold**

<b>Year Approved</b>	<b>No LUP filed</b>	<b>LUP In Progress</b>	<b>Appeal of LUP</b>
<b>2002</b>	<ul style="list-style-type: none"> <li>• Farm Employee Dwelling in 5<sup>th</sup> (CUP will expire 3/25/07)</li> </ul>		None
<b>2003</b>	<ul style="list-style-type: none"> <li>• 2 Farm Employee Dwellings - 1 in 4<sup>th</sup> (new CUP applied for; review in progress) &amp; 1 in 3<sup>rd</sup> (LUP filed &amp; withdrawn)</li> </ul>	<ul style="list-style-type: none"> <li>• Mixed Use building in 3<sup>rd</sup></li> </ul>	None
<b>2004</b>	<ul style="list-style-type: none"> <li>• DRSU in 3<sup>rd</sup> District (Time Extension approved)</li> <li>• Farm Employee Dwelling – 4<sup>th</sup></li> </ul>		None
<b>2005</b>	<ul style="list-style-type: none"> <li>• DRSU in 3<sup>rd</sup></li> <li>• 3 Septic Systems in 1<sup>st</sup></li> <li>• <b>Special Event in 4<sup>th</sup></b> (new CUP has been filed)</li> </ul>	<ul style="list-style-type: none"> <li>• DRSU in 3<sup>rd</sup></li> <li>• <b>Mixed Use project in 3<sup>rd</sup></b></li> </ul>	None
<b>2006</b>	<ul style="list-style-type: none"> <li>• <b>Telecom facility in 2<sup>nd</sup></b></li> <li>• 2 Farm Employee Dwelling – 1 in 2<sup>nd</sup> &amp; 1 in 4<sup>th</sup></li> </ul>	<ul style="list-style-type: none"> <li>• <b>Equestrian facility in 3<sup>rd</sup></b></li> <li>• <b>Church in 2<sup>nd</sup></b></li> <li>• 3 Farm Employee Dwellings in 3<sup>rd</sup></li> <li>• 4 DRSUs in 3<sup>rd</sup></li> </ul>	<ul style="list-style-type: none"> <li>• <b>Telecom facility in 2<sup>nd</sup></b></li> </ul>

Staff believes it would be appropriate to allow a Zoning Clearance to follow the approval of Conditional Use Permits. The staff process in reviewing the follow-up permits would be the same as if a Land Use Permit were required. The primary focus of that review is ensuring that the plans submitted conform to those approved by your Commission or the Zoning Administrator and that all the conditions of approval are incorporated or have been addressed. Given that most CUP approvals are for 18 months (or longer with time extensions), typically an applicant pursues the conditionally approved project fairly quickly after its approval. If the project has changed and a Substantial Conformity Determination is required, a Land Use Permit would be required as it seems appropriate that neighbors and interested parties should know about and have a chance to comment on the changes to the plan. An appeal could be filed on that Land Use Permit.

### 5.1.2 Development Plan (DP) Approvals

Development Plan approvals are required for all development in many residential, commercial,



industrial and special purpose zones (e.g., Public Utility), and where the cumulative building area on a parcel exceeds 20,000 sq. ft if a discretionary permit is not otherwise required. The Development Plan approval process is very similar to the Conditional Use Permit process:

1. Application & environmental review
2. Noticed Planning Commission or Zoning Administrator hearing
3. Appeal to the Planning Commission of Zoning Administrator decision, or appeal to the Board of Planning Commission decision, if filed
4. Noticed Board of Supervisors appeal hearing
5. Land Use Permit or Coastal Development Permit process
6. If LUP or CDP is appealed, noticed appeal hearings at PC and Board, if filed

As with the CUP proposal, the proposed amendment would eliminate the last two steps in the process (if a SCD is not required).

Between 2000 and 2006, there were 95 Development Plans approved as follows:

- Average of 14 DPs approved per year
- Two appeals were filed in seven years – Lane’s End in the Lompoc area in 2000 and a telecom project in the Solvang area in 2004.
- 14 Substantial Conformity Determinations were made on approved projects (and therefore would still require LUP as proposed)
- 13 are still active, i.e., the follow-up LUP has not been issued as shown in Table 2 below.

**Table 2**  
**Active Development Plans**  
**Note: Development Plans approved by PC in bold**

<b>Year Approved</b>	<b>No LUP filed</b>	<b>LUP In Progress</b>	<b>Appeal of LUP</b>
<b>2003</b>	• <b>Winery in 4<sup>th</sup></b> (expires 2013)	None	None
<b>2004</b>	• Telecom in 3 <sup>rd</sup> District • <b>Restaurant in 3<sup>rd</sup></b> (Time extension approved)	• Telecom facility in 3 <sup>rd</sup>	None
<b>2005</b>	• 2 Wineries - 1 in 3 <sup>rd</sup> & <b>1 in 4<sup>th</sup></b> • <b>Nursery in 2<sup>nd</sup></b> • Telecom facility in 3 <sup>rd</sup> • <b>Subdivision in 4<sup>th</sup></b> (map clearance in progress)	• Mixed Use project in 3 <sup>rd</sup> • Equipment cabinets in 2 <sup>nd</sup>	None
<b>2006</b>	• <b>Subdivision in 4<sup>th</sup></b>	• <b>Vet clinic in 3<sup>rd</sup></b>	None

As discussed above under CUPs, staff believes it would be appropriate to allow a Zoning Clearance to follow the approval of Development Plans. The staff process in reviewing the follow-up permits would be the same as if a Land Use Permit were required. Most DP approvals are for five years (or longer with time extensions), and typically an applicant pursues the project fairly soon after its approval. In the seven year period between 2000 and 2006, 14 Substantial

Conformity Determinations were made and, in each case, a Land Use Permit would be required. Neighboring properties would receive mailed notice and an appeal could be filed on that LUP.

## **5.2 Coastal Development Permit Appeal Process**

Currently, a discretionary application for a project located in the Coastal Zone is reviewed at a noticed public hearing before the Planning Commission or Zoning Administrator. Appeals may be filed, first to the Board, then to the Coastal Commission (for CUPs and projects in the geographic appeals area). Current regulations require the approval of a follow-on CDP to allow the actual development to proceed. The follow-up CDP may also be appealed to both the Board and Coastal Commission, which was the case with the Coral Casino project where essentially the same project was appealed twice (CUP and follow-up Coastal Development Permit). If this change is approved, the discretionary application and CDP would be heard by your Commission at the same time and, if an appeal of the project approval is filed, the discretionary permit and CDP appeals would be heard together, rather than consecutively. The follow-up permit would be a Zoning Clearance unless a Substantial Conformity Determination is made. Coastal Commission staff has strongly encouraged the County to amend their process as two appeals are redundant. Santa Barbara County is apparently the only jurisdiction with this double appeal process in the Coastal Zone.

The proposed change to the coastal process is simply to move the approval of the CDP to coincide with the discretionary action so that all important questions about a project are resolved at as part of one public hearing process, followed by the possibility of one appeal to the Board of Supervisors and Coastal Commission. This would address the perceived “double jeopardy” that an aggrieved person has two chances to appeal the same project. After the discretionary approval and appeals, including to the Board and Coastal Commission, a second appeal to the Coastal Commission would not be possible.

## **5.3 Coastal Development Permit Waived Hearing Process**

In 1996, the Coastal Commission revised their regulations to allow for a waived public hearing for minor projects located in the Appeals Jurisdiction of the Coastal Zone. Where a minor project is noticed and no requests for a public hearing are received in the 15 working day period following the mailing of the notice, the hearing requirement can be waived by the Director of Planning and Development and the project is approved by the Zoning Administrator outside of a public hearing. The decision of the Director may still be appealed to the Planning Commission. The proposed amendment would simplify the process by providing that when the Director waives the hearing, the authority to approve or deny the project remains with the Director, rather than with the Zoning Administrator as is also proposed in Montecito.

## **6.0 ENVIRONMENTAL REVIEW**

The proposed amendment is recommended to be determined to be exempt from environmental review pursuant to Section 15061(b)(3) of the California Guidelines for Implementation of the California Environmental Quality Act (CEQA). Section 15061(b)(3), the general rule exemption, states that where it can be seen with certainty that there is no possibility that the

activity in question may have a significant effect on the environment that the activity is not subject to CEQA. No significant environmental impacts would occur as a result of this ordinance amendment as explained in Attachment B.

## **7.0 POLICY CONSISTENCY**

Adoption of the proposed ordinance amendment will not result in any inconsistencies with the adopted policies and development standards of the County's Comprehensive Plan and the various community plans. Utilizing a Zoning Clearance rather than a Land Use Permit following a CUP or Development Plan approval allows for the same level of staff review and analysis, with the main criterion being consistency with the approved plans that were already subject to a public review process. Having a Coastal Development Permit be reviewed concurrent with a discretionary application is standard practice throughout the coastal portions of California. Additionally, in order to approve any Zoning Clearance, the proposed development still must be found consistent with the Comprehensive Plan and any community plans. In approving a Coastal Development Permit where the hearing requirement has been waived, the Director would still have to find that the development proposed by the Coastal Development Permit is consistent with the County's Comprehensive Plan and applicable community plans. Therefore, this amendment may be found consistent with the Comprehensive Plan.

## **8.0 ORDINANCE COMPLIANCE**

The proposed ordinance amendment is consistent with the remaining portions of the County's LUDC that would not be revised by this amendment. The findings for approval of a Conditional Use Permit, Development Plan and Coastal Development Permit include consistency with the Comprehensive Plan.

## **9.0 PROCEDURES**

The Planning Commission may recommend approval, approval with revisions, or denial of staff's recommendations for the proposed amendment to the LUDC.

## **10.0 APPEALS PROCEDURE**

Ordinance amendments are automatically forwarded to the Board of Supervisors for final action, therefore no appeal is required.

## **11.0 ATTACHMENTS**

- A. Findings
- B. CEQA Exemption
- C. 07ORD-00000-00001
- D. Planning Commission staff report, December 6, 2006