

SANTA BARBARA COUNTY BOARD AGENDA LETTER



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

Agenda Number:
Prepared on: 11/23/2004
Department Name: P&D
Department No.: 053
Agenda Date: 12/7/2004
Placement: Departmental
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If Yes, date from: 10/19/2004 (set hearing)
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TO: Board of Supervisors

FROM: Valentin Alexeeff, Director
Planning & Development

STAFF CONTACT: Noel Langle, Management Specialist
934-6264

SUBJECT: Hearing to consider adoption of zoning ordinance text amendments to Articles II, III and IV of Chapter 35 of the Santa Barbara County Code, and submittal of the amendment to Article II, the Coastal Zoning Ordinance, to the California Coastal Commission for review and certification as an amendment to the Local Coastal Program: Case Nos. 04ORD-00000-00021 (Article II Coastal Zoning Ordinance); 04ORD-00000-00022 (Article III Inland Zoning Ordinance); 04ORD-00000-00023 (Article IV Montecito Zoning Ordinance).

Recommendations:

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

- A. Find that these amendments are categorically exempt from the California Environmental Quality Act pursuant to Section 15061(b) (3) of the Guidelines for Implementation of CEQA (Attachment A).
- B. Adopt findings for approval of the proposed amendments (Attachment B).
- C. Adopt a Resolution and Ordinance 04ORD-00000-00021 amending Article II, Coastal Zoning Ordinance (Attachment C) and direct staff to submit this amendment to the Local Coastal Program to the California Coastal Commission.
- D. Adopt 04ORD-00000-00022 amending Article III, Inland Zoning Ordinance (Attachment D).
- E. Adopt 04ORD-00000-00023 amending Article IV, Montecito Zoning Ordinance (Attachment E).

Alignment with Board Strategic Plan:

The recommendation is primarily aligned with Goal No. 1, *An Efficient Government Able to Respond Effectively to the Needs of the Community*, and is required by law or routine business necessity.

Executive Summary and Discussion:

In 1991, the Board of Supervisors approved a reformation plan for Planning & Development which included a cyclical update program for zoning and other ordinances which fall under Planning & Development's jurisdiction as lead agency. The purpose of the program is to, on a regular basis, update, streamline, clarify, and maintain consistency in the permit process. It is also intended to ensure that regulations keep pace with current trends and policies, as well as changes in State Law. In 1997, the County recommitted itself to this cyclical update program.

The proposed amendments that are the subject of these ordinances were suggested by decision-makers, citizen groups, staff, and other Board of Supervisors constituents. These amendments should not be confused with the Zoning Ordinance Reformatting Project (ZORP) that is currently underway. The purpose of ZORP is to re-organize the existing ordinances into a format that is clearer and more easily understood by decision-makers, planning staff and the public alike, but not to make substantive changes to the existing text.

The proposed package of amendments was reviewed by the Montecito Association Land Use Committee at their meeting of October 5, 2004. Public workshops were conducted on October 7, 2004 in Santa Barbara and on October 11, 2004 in Santa Maria. Additionally, the proposed amendment regarding agricultural retail sales was reviewed by both the Agricultural Advisory Committee and the Agricultural Preserve Advisory Committee.

The proposed amendments were heard by the County Planning Commission and Montecito Planning Commission. The County Planning Commission provides recommendations to your Board on Article II, the Coastal Zoning Ordinance, and Article III, the Inland Zoning Ordinance. The Montecito Planning Commission provides recommendations to your Board on Article IV, the Montecito Zoning Ordinance, and to the County Planning Commission on amendments to Article II that would affect land use decisions within the Montecito Planning Area.

The Montecito Planning Commission conducted two public hearings on the proposed amendments to Article II, and Article IV. At the second hearing on November 17, 2004 they:

- forwarded the amendment to Article II to the County Planning Commission with several recommended revisions to the proposed text, and
- forwarded the amendment to Article IV to your Board, also with several recommended revisions to the proposed text.

The County Planning Commission considered the proposed amendments to Articles II and III at their initial hearing on October 27, 2004. However, the final County Planning Commission hearing will not occur until December 1, 2004, which is after the deadline to docket materials for your hearing on December 7, 2004. Therefore, the recommendation of the County Planning

Commission on the amendments to Articles II and III will be need to be transmitted as a late docket distribution following their hearing.

The following provides a summary of the proposed amendment topics; please refer to the following documents for additional information and analysis regarding the proposed amendments:

- Attachment F County Planning Commission staff report dated 10-27-2004 (w/o attachments)
- Attachment G County Planning Commission memo dated 12-19-2004
- Attachment H Montecito Planning Commission staff report dated 10-20-2004 (w/o attachments)
- Attachment I Montecito Planning Commission memo dated 11-9-2004.

Text amendments that do not change the existing regulations and serve only clarify or correct the existing ordinance language are not included in this summary. The complete text of the ordinance amendments is contained in Attachments C through E. Please refer to these exhibits as necessary to review the detailed text amendments.

1. ***Amateur radio antenna height:*** Clarify that the height of an amateur radio antenna, in the case of an adjustable-height antenna, is measured when the antenna is in the lowered position provided that the antenna is maintained in the lowered position except when actively being used by the amateur radio operator.

The Montecito Planning Commission recommended approval of this revision. The County Planning Commission did not have any questions regarding this change.

2. ***Agricultural retail sales:*** Add new provisions allowing for agricultural products produced off-premises and related non-plant products to be sold on land where the primary use is agricultural, including new development standards and noticing requirements; allow for agricultural retail sales in additional zone districts.

The Article II zoning ordinance currently allows agricultural retail sales in the R-1, R-2, DR and CH zone districts with a minor CUP provided the products being sold are produced on the premises. The proposed amendment would expand this by also allowing products grown on other property within a 25 mile radius of the lot where the sales occur, provided that agriculture is the primary use of the subject lot. The Montecito Planning Commission recommended approval of the revised language with the added revision that within the Montecito Planning area that agricultural sales occurring on lots zoned AG-I, R-1, R-2, DR and CH be restricted to the current requirement that the products be grown on the lot, and not include the ability for products to be brought in from off-site. The reasons for this is that there are only a few properties within the Montecito Planning Area where the primary use of the lot is agriculture, that the existing restriction has not proven to be a problem, and that there are other local venues (e.g., farmer's markets) available in the nearby vicinity.

3. ***Animal keeping:*** Clarify that in residential zones animal keeping is a use accessory to the primary residential use of the property; disallow roosters and peacocks in residential

zones on lots less than one acre (gross); add the keeping of household pets as a permitted use in the Planned Residential Development (PRD) zone district; add permitting requirements and development standards for animal husbandry projects in residential zones; add additional development standards for animal-keeping in residential zones relating to odor/vector control, manure disposal, erosion/sedimentation control, and drainage; add permitting requirements and development standards for wildlife species rehabilitation.

The Montecito Planning Commission recommended approval of the amendments as proposed except as discussed below:

- They were concerned with allowing animal keeping in the PRD zone district; these concerns primarily related to the possibility of keeping animals in the common open space areas, and whether allowing large animals such as horses would be consistent with the purpose and intent of the zone district. In response to this, new language was proposed that restricted animal-keeping to only household pets (e.g., birds, cats, dogs, and fish). The Montecito Planning Commission recommended approval of the amendment with this revised language.
- The Montecito Planning Commission was also concerned with making additional allowances for animal-husbandry projects, and how such animal husbandry projects would fit with the existing regulations regarding domestic animal keeping. They recommended that the amendment be revised to not apply to the Montecito Planning Area so that the existing 20,000 square foot minimum lot size would still apply to all livestock animals including goats, pigs and sheep. This recommendation is based on the situation that the existing restriction has not proven to be a problem for animal husbandry projects within the Montecito Planning Area. At their hearing on October 27, 2004, the County Planning Commission was supportive of allowing small hoofed animals (e.g., goats, pigs and sheep) as animal-husbandry projects on lots with a minimum size of 10,000 square feet.

The Montecito Planning Commission also recommended deleting the prohibition against keeping roosters and peacocks on lots of less than one acre within the Montecito Planning Area until the Montecito Association has had more time to consider the situation.

At the County Planning Commission hearing on October 27, 2004, several members of the public testified that the proposed permit requirements for wildlife species rehabilitation were too onerous and expensive, and if adopted by the County would force most of the wildlife care volunteers to cease their rehabilitation activities. Based on this testimony, the County Planning Commission directed staff to revise the language so that it would be more aligned with how the keeping of animals is treated in general. The revised language was recommended for approval by the Montecito Planning Commission at their hearing of November 17, 2004. Representatives of the Wildlife Care Network reviewed the revised language and they are supportive of it.

4. ***Conditional Use Permit/Development Plan interface:*** Specify that if a development plan (DP) is required in addition to a conditional use permit (CUP), then, in limited situations,

where the CUP would be under the jurisdiction of the Zoning Administrator (ZA), then the DP would also be under the jurisdiction of the ZA. This is to prevent the “up-shifting” in jurisdiction from the ZA to the Planning Commission for development that is purposely under the jurisdiction of the ZA (e.g., child care facilities).

The Montecito Planning Commission recommended approval of this revision. The County Planning Commission did not have any questions regarding this change.

5. **Definition – Commercial Kennel:** Clarify that commercial kennels means the breeding, boarding, and training of animals for commercial purposes and not including the private enjoyment by residents of the property.

The Montecito Planning Commission recommended approval of this revision. The County Planning Commission did not have any questions regarding this change.

6. **Definitions – Dwelling:** Amend the existing definitions of Dwelling, Dwelling, One-Family, Dwelling, Two-Family, and Dwelling, Multiple to make the zoning ordinances consistent with each other and also to clarify what constitutes a dwelling; add new definitions of Habitable Room and Interior Access to clarify what constitutes acceptable access throughout a dwelling; amend the amend language regarding separation between habitable and non-habitable structures to clarify what structures are subject to this provision; add language to Accessory Structures in the General Regulations sections of the zoning ordinances that:

- 1) Clarifies that an accessory structure may be constructed prior to the construction of the principle structure if the accessory structure is accessory to a principle use (e.g., construction of a barn accessory to the principle agriculture use of a property).
- 2) Clarifies that the prohibition against constructing accessory structures (not including residential second units) between the principle structure and the street on corner lots only applies to corner lots with a width less than 100 feet.
- 3) Allows the Director to determine when an accessory structure constitutes a dwelling to provide a mechanism whereby a permit may be denied if the proposed development too closely resembles an additional dwelling that would be inconsistent with the zoning district requirements.

The Montecito Planning Commission recommended approval of this revision. The County Planning Commission did not have any questions regarding this change.

7. **Definition – Environmental Review:** Include a definition of environmental review since that term is referenced in the ordinances.

The Montecito Planning Commission recommended approval of this revision. The County Planning Commission did not have any questions regarding this change.

8. **Definition – Floor area, gross and net:** Clarify the existing definitions of Floor Area, Gross, and Floor Area, Net by better specifying what aspects of a structure are included in each definition, and to clarify how floor area is measured.

The Montecito Planning Commission recommended approval of this revision. The County Planning Commission did not have any questions regarding this change.

9. **Definition – Zoning Administrator:** Clarify the definition of Zoning Administrator as referenced in the zoning ordinances.

The Montecito Planning Commission recommended approval of this revision. The County Planning Commission did not have any questions regarding this change.

10. **Development Plans:** Clarify the 20,000 square feet threshold that triggers the requirement for a development plan; Clarify language regarding processing of an “as-built” development plan.

The Montecito Planning Commission recommended approval of this revision. The County Planning Commission did not have any questions regarding this change.

11. **Fences, Walls, Gates and Gateposts:** Clarify the permit requirements for fences, walls, gates and gateposts depending on their location (relative to setback areas) and height; include gates within the regulations and subject to the same height requirements as the fence or wall; include standards for interior lots.

The Montecito Planning Commission recommended approval of this revision. The County Planning Commission did not have any questions regarding this change.

12. **Guest Houses/Cabaña/Artist Studio:** Clarify how the floor area of a guest house, etc., is measured; clarify that a loft counts as a story; clarify use of artist studio as part of a home occupation; clarify that commercial sales or transactions are allowed in an artist studio only in connection with an issued home occupation permit.

The Montecito Planning Commission recommended approval of this revision. The County Planning Commission did not have any questions regarding this change.

13. **Home occupations:** Clarify that home occupations must be conducted entirely within the dwelling or artist studio, and may not alter the residential character of the neighborhood; add new development standards; specify that certain businesses are not permitted as home occupations.

The County and Montecito Planning Commissions were concerned that the proposed text regarding a limited number of prohibited home occupations could be misread to mean that only those that were identified in the section were prohibited. The language was revised to clarify that the home occupations identified as being prohibited were only examples. The Montecito Planning Commission recommended approval of this revision.

14. ***Legal Procedures (Zoning Enforcement)***: Revise the text to allow collection of administrative costs in all cases instead of just situations where a permit is not required; add language regarding cost recovery by way of imposing liens against property that may be collected with the property taxes (based on Gov't. Code Sec. 54988).

The Montecito Planning Commission recommended approval of this revision. The County Planning Commission did not have any questions regarding this change.

15. ***Lot Area/Width***: Revise the existing definition of lot; add new definitions of lot width, net and lot width, gross, due to the use of these terms in the ordinances; allow lots that are nonconforming as to width to be building sites.

The Montecito Planning Commission recommended approval of these revisions. The County Planning Commission did not have any questions regarding these changes.

16. ***Nonconforming Structures and Uses***: Revise existing definitions of nonconforming structures and uses for clarity and accuracy; add language allowing structural alterations to historical landmarks and structures within the Isla Vista area that are threatened by coastal erosion.

The Montecito Planning Commission recommended approval of this revision. The County Planning Commission did not have any questions regarding this change.

17. ***Open space uses***: Clarify existing language in the DR Design Residential Zoning District regarding the allowable uses within open space areas within residential subdivisions.

The Montecito Planning Commission recommended approval of this revision. The County Planning Commission did not have any questions regarding this change.

18. ***Permitted uses/accessory uses***: Clarify distinction between permitted uses and accessory uses; allow for accessory structures and uses in zoning districts that presently lack this provision; add certain permitted uses based on past Planning Commission use determinations; allow for limited agricultural uses in Planned Residential Zone (Article III only) districts due to land that is designated as such but is still under cultivation.

The proposal to allow accessory structures on land zoned Resource Management (RES) that is characterized by steep topography and other resource constraints raised a concern with the Montecito Planning Commission whether this would allow for large accessory structures such as barns, garages and workshops that would be inconsistent with the purpose and intent of the zone district, e.g., located on land where slopes exceed 30 percent. Revised language to the Article IV amendment was proposed to address this concern by requiring that the following additional findings be adopted in order to approve a permit for an accessory structure:

- The project does not require extensive alteration of the topography.
- The project does not cause erosion, sedimentation, runoff, siltation, or an identified significant adverse impact to downstream water courses or water bodies.

- The project will not cause any significant adverse effect on environmentally sensitive habitat areas, plant species, or biological resources.

However, the Montecito Planning Commission still felt that land zoned RES was too sensitive to allow for accessory structures, and recommends that such structures not be allowed in the Article IV RES zone district.

19. **Residential Second Units:** Clarify the advisory role of Special Problems Committee; clarify height restrictions on second units; specify that the development standard regarding the entrances of second units not being visible from abutting streets only applies to attached second units.

The Montecito Planning Commission recommended approval of this revision. The County Planning Commission did not have any questions regarding this change.

20. **Setbacks:** Clarify language regarding yards and setbacks, how to determine variable setbacks, and the required distance between structures; specify that the restriction on the location of accessory structures relative to the primary structure only applies to corner lots less than 100 feet in width; add new provisions to allow certain structures within front and side setback areas; move the setback measurement method for triangular lots from the definition of Yard, Rear, to the General Setback Regulations section.

The Montecito Planning Commission recommended approval of this revision. The County Planning Commission did not have any questions regarding this change.

21. **Temporary uses/special events:** Provide regulations for temporary uses of property (e.g., special events) besides carnivals, circuses, etc. that are currently covered in Articles II and III.

The County Planning Commission felt staff's recommendation to limit to five times a year the number of non-commercial, charitable events that could occur without a permit on larger lots was inappropriate. In response to this concern, the proposed language was revised to specify that for lots five acres or greater in size that there is no limit on the number of charitable events that could occur in any given year and still remain exempt from a land use permit, provided the owner receives no remuneration and the number of persons at the event does not exceed 300. If the property is less than five acres in size, then the five times per year limit is retained in order to be exempt.

The Montecito Planning Commission recommended that within the Montecito Planning Area, the use of property for charitable and other noncommercial functions be restricted in all cases to three times per year in all cases regardless of the size of the lot. This is based on the narrowness of the road system within Montecito which in the past has lead to a public safety problems due to on-street parking associated with such events.

22. **Trailer Use:** Clarify and correct the general regulations language regarding trailer use; delete the requirement to renew minor conditional use permits for farm employee housing every five years and replace with requirement that sufficient documentation regarding the

farm employee residence use be provided every five years instead; clarify that the height of a trailer, stored on property as a use accessory to the residential use, is measured to the top of the roof of the trailer; clarify that a permit is not required to store a trailer on property as a use accessory to the residential use; extend the period of time that a trailer may be used in an emergency after an un-planned destruction of a dwelling from 90 to 180 days; allow the use of a trailer as a temporary sales office for a subdivision.

The Montecito Planning Commission recommended approval of these revisions. The County Planning Commission did not have any questions regarding these changes.

23. ***Vision clearance:*** The purpose of this amendment is to revise existing language to clarify location of vision clearance area, especially in regards to where streets intersect on a curve as opposed to a right angle.

The Montecito Planning Commission recommended approval of these revisions. The County Planning Commission did not have any questions regarding these changes.

Mandates and Service Levels:

Amendments to Articles II, III and IV of Chapter 35 of the County Code are legislative acts under the jurisdiction of the Board of Supervisors. Sections 35-180, 35-325 and 35-487 (Article II, III and IV respectively) provide that the recommendation of the Planning Commission shall be transmitted to the Board of Supervisors and that the Board shall schedule and hold a public hearing on the matter. Additionally, the Public Resources Code requires that any amendments to a Local Coastal Program be submitted to the California Coastal Commission for review and certification.

Fiscal and Facilities Impacts:

The work effort associated this ordinance amendment is accounted for in Planning & Development's budget for fiscal year 2004 - 2005 in the Development Review North subdivision. There are no facilities impacts.

Special Instructions:

Planning & Development will satisfy all noticing requirements.

Concurrence:

County Counsel

Attachments:

- A. CEQA Guidelines Section 15061(b)(3) Notice of Exemption
- B. Findings for Approval
- C. Resolution and 04ORD-00000-00021 (Article II) Ordinance Amendment

- D. 04ORD-00000-00022 (Article III) Ordinance Amendment
- E. 04ORD-00000-00023 (Article IV) Ordinance Amendment
- F. County Planning Commission staff report dated 10/27/2004 (w/o attachments)
- G. County Planning Commission memo dated 12/1/2004
- H. Montecito Planning Commission staff report (w/o attachments) dated 10/20/2004 (w/o attachments)
- I. Montecito Planning Commission memo dated 11/17/2004