



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: 5/6/2008
Placement: Departmental
Estimated Tme: 30 minutes
Continued Item: Yes
If Yes, date from: 4/15/2008
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Director John Baker (805.568.2085)
Contact Info: Dianne Black, Development Services Director (805.568.2086)
SUBJECT: Montecito Resource Management Zone Development Plan Requirement Ordinance
Amendment

County Counsel Concurrence
As to form: Yes

Auditor-Controller Concurrence
As to form: N/A

Other Concurrences: N/A

Recommended Actions:

That the Board of Supervisors consider the recommendation of the Montecito Planning Commission and:

- A. Adopt findings for approval of the proposed ordinance (Attachment A);
- B. Find that the adoption of this ordinance is categorically exempt from the California Environmental Quality Act pursuant to Section 15061(b)(3) of the Guidelines for Implementation of CEQA (Attachment B); and
- C. Adopt an Ordinance (Case No. 08ORD-00000-00002) amending Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the County Code (Attachment C).

Summary Text:

On April 15, 2008 your Board continued the hearing on this proposed amendment to the Montecito Land Use and Development Code to May 6, 2008. The purpose of this continuance was so that the Planning and Development Department could prepare a revised ordinance that includes an exemption from the Development Plan requirement for residences on lots created by recent subdivisions that were subject to environmental review and were conditioned to provide mitigation for any negative impacts that might result from the development of those lots. Accordingly, the revised draft ordinance attached to this Board letter contains the following added language:

Development Plan exemption. Final Development Plan approval in compliance with Section 35.472.080 (Development Plans) is not required prior to the approval of a Land Use Permit in compliance with Section 35.472.110 (Land Use Permits) or the issuance of a Zoning Clearance in

compliance with Section 35.472.190 (Zoning Clearances) for the construction, reconstruction, or remodeling of a structure located on a lot created by a Parcel or Final Map recorded prior to June 6, 2008 where specific conditions of the recorded map, as determined by the Director, mitigate the size, visibility, building materials and colors, and erosion and flooding.

This is the same language that is used in the Montecito Hillside (H-MON) Overlay to exempt proposed development from the development standards of that overlay. This overlay is mainly used in connection with the Resource Management Zone.

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-280 of the adopted Planning and Development Department's budget for fiscal year 2007-08. There are no facilities impacts.

Staffing Impact(s):

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 and minute order to the Planning and Development Department, attention Noel Langle.

Attachments:

- A. Findings
- B. Notice of Exemption
- C. Ordinance (Case No. 08ORD-00000-00002)

Authored by:
Noel Langle (805.568.2067)

ATTACHMENT A FINDINGS

CASE NO. 08ORD-00000-00002

The following findings shall be made by the Montecito Planning Commission in order to recommend approval of a text amendment to the Montecito Land Use and Development Code, and the Board of Supervisors shall adopt the following findings in order to approve a text amendment to the Montecito Land Use and Development Code, in compliance with Section 35.494.060 - Findings Required for Approval of Amendment:

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 allow for the discretionary analysis, including review in compliance with the California Environmental Quality Act, of projects proposed in the Resource Management Zone area of the Montecito Community Plan. Discretionary review is appropriate in this area given the sensitivity of the area that results from the steep topography, habitat and watershed value, and that this area provides a highly scenic backdrop to the community of Montecito and the region in general. This increased level of review will ensure that the purpose and intent of the RMZ zone will be fully implemented such that community values, environmental quality, and the public health and safety will not be compromised.

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

Adoption of the proposed ordinance amendment will only change the permitting process from a Land Use Permit to a Development Plan, with a concurrent change in jurisdiction from the Director to the Montecito Planning Commission. This will not result in any inconsistencies with the adopted policies and development standards of the County's Comprehensive Plan and the Montecito Community Plan. In order to approve any Development Plan it still must be found consistent with the Comprehensive Plan and the Montecito Community Plan.

The proposed ordinance amendment is consistent with the remaining portions of the Montecito LUDC that would not be revised by this amendment. In order to approve a Development Plan the review authority still must determine that the project is consistent with the whole of the Montecito LUDC.

Therefore, this amendment may be found consistent with the Comprehensive Plan and the Montecito Community Plan, the requirements of State Planning and Zoning Laws, and the Montecito Land Use and Development Code.

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 Community Plans, and the County Land Use and Development Code.

ATTACHMENT B: NOTICE OF EXEMPTION

NOTICE OF EXEMPTION

TO: Santa Barbara County Clerk of the Board of Supervisors
FROM: Noel Langle, Senior 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.: 08ORD-00000-00002

Location: The proposed ordinance amendment would apply solely to the unincorporated areas of Santa Barbara County within the inland portion of the Montecito Planning Area.

Project Title: Resource Management Zone Development Plan Requirement Ordinance Amendment

Project Description: 08ORD-00000-00002 proposes to amend Section 35.422.030 (Resource Protection Zone Allowable Land Uses), Section 35.472.080 (Development Plans) and Section 35.472.110 (Land Use Permits), of Section 35-2, the Montecito Land Use and Development Code, of Chapter 35, Zoning, of the County Code.

This amendment would revise the existing regulations to require that a Development Plan be approved for all structures instead the existing language that only requires the approval of a Development Plan for structures when the proposed is 20,000 or more square feet in gross floor area or is an attached or detached addition that together with existing structures on the same lot will total 20,000 square feet or more in gross floor area, and a discretionary permit (e.g., a Conditional Use Permit) is otherwise required. The draft ordinance also proposes to move the special findings required for approval of Land Use Permits for swimming pools and water storage tanks on sites zoned RMZ from Section 35.472.110 (Land Use Permits) to Section 35.472.080 (Development Plans) so that these findings are made coincident with the approval of the Development Plan.

Exempt Status: (Check one)

- Ministerial
- Statutory
- Categorical Exemption
- Emergency Project
- No Possibility of Significant Effect 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: Adoption of the proposed ordinance amendment will only change the permitting process from a Land Use Permit to a Development Plan, with a concurrent change in jurisdiction from the Director to the Montecito Planning Commission. Additionally, the

amendment will allow for the discretionary analysis, including review in compliance with the California Environmental Quality Act, of projects proposed in the Resource Management Zone area of the Montecito Community Plan. Therefore, no significant environmental impacts are expected to result as a consequence of this ordinance revision.

Department/Division Representative

Date

Acceptance Date (date of final action on the project): _____

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: (for posting six days prior to action, and posting original after project approval)

Hearing Support Staff
Project file

ATTACHMENT C: ORDINANCE

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 35.422.030, RESOURCE PROTECTION ZONE ALLOWABLE LAND USES, OF CHAPTER 35.422, RESOURCE PROTECTION ZONES, AND SECTION 35.472.080, DEVELOPMENT PLANS, OF CHAPTER 35.472, PERMIT REVIEW AND DECISIONS, TO REQUIRE THE APPROVAL OF A DEVELOPMENT PLAN FOR ALL DEVELOPMENT LOCATED ON LOTS ZONED RESOURCE MANAGEMENT.

Case No. 08ORD-00000-00002

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

SECTION 1:

DIVISION 35.2, Montecito Zones and Allowable Land Uses, 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 35.422.030.C, Development Plan approval required, of Section 35.422.030, Resource Protection Zone Allowable Land Uses, of Chapter 35.422, Resource Protection Zones, to read as follows:

- C. Development Plan approval required.** Final Development Plan approval in compliance with Section 35.472.080 (Development Plans) is required prior to the approval of a Land Use Permit in compliance with Section 35.472.110 (Land Use Permits) or the issuance of a Zoning Clearance in compliance with Section 35.472.190 (Zoning Clearances) for all development, including grading, except as provided in Subsection C.1., below.
- 1. Development Plan exemption.** Final Development Plan approval in compliance with Section 35.472.080 (Development Plans) is not required prior to the approval of a Land Use Permit in compliance with Section 35.472.110 (Land Use Permits) or the issuance of a Zoning Clearance in compliance with Section 35.472.190 (Zoning Clearances) for the construction, reconstruction, or remodeling of a structure located on a lot created by a Parcel or Final Map recorded prior to June 6, 2008 where specific conditions of the recorded map, as determined by the Director, mitigate the size, visibility, building materials and colors, and erosion and flooding.

SECTION 2:

DIVISION 35.2, Montecito Zones and Allowable Land Uses, 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 35.422.030.E, Accessory Structures and Uses, of Section 35.422.030, Resource Protection Zone Allowable Land Uses, of Chapter 35.422, Resource Protection Zones, to read as follows:

- E. Accessory Structures and Uses.** Accessory structures and uses that are customarily incidental to the primary use allowed by Table 2-4 (Allowed Land Uses and Permit Requirements for Resource Protection Zone) are not allowed except as follows:
- 1. Swimming Pools and Water Storage Tanks.** Swimming pools and water storage tanks shall be approved or conditionally approved as accessory structures in compliance with Section 35.472.080 (Development Plans) and Section 35.472.110 (Land Use Permits) as applicable.

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 add a new Subsection 5, Additional findings required for Preliminary or Final Development Plans for sites zoned RMZ (Resource Management Zone) to Subsection E, Findings required for approval, of Section 35.472.080, Development Plans, of Chapter 35.472, Permit Review and Decisions, to read as follows:

- 5. Additional findings required for Preliminary or Final Development Plans for sites zoned RMZ (Resource Management Zone.** A Preliminary or Final Development Plan application that includes a proposed swimming pool(s) and/or a water storage tank(s) shall be approved or conditionally approved only if the review authority first makes all of the following findings:
- a. The development of the swimming pool(s) and/or water storage tank(s) will require only minimal alteration of the topography.
 - b. The development of the proposed swimming pool(s) and/or water storage tank(s) will not cause erosion, sedimentation, runoff, siltation, or an identified significant adverse impact on downstream water courses or water bodies.
 - c. The development of the proposed swimming pool(s) and/or water storage tank(s) will not cause any significant adverse impact on environmentally sensitive habitat areas, plant species, or biological resources.
 - d. The proposed swimming pool(s) and/or water storage tank(s) will be screened from public view.

SECTION 4:

Except as amended by this Ordinance, Division 35.2 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 5:

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 6th day of May, 2008, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

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:

DANIEL J. WALLACE
County Counsel

By _____
Deputy County Counsel