



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: 1/16/2007  
Placement: Set Hearing  
Estimate Time: 15 minutes on 2/20/2007  
Continued Item: NO  
If Yes, date from:  
Vote Required: Majority

**TO:** Board of Supervisors  
**FROM:** Department Director John Baker, Director (805) 568-2085  
Contact Information Dianne Black, Assistant Director (805) 568-2086

**SUBJECT: Resource Management Zone Accessory Structures and Uses Ordinance Amendment**

**County Counsel Concurrence:**

As to form:  Yes  No  N/A

**Auditor-Controller Concurrence:**

As to form:  Yes  No  N/A

**Other Concurrence: N/A**

As to form:  Yes  No  N/A

**Recommended Action(s):**

That the Board of Supervisors set for hearing of February 20, 2007 to 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. 06ORD-00000-00021) 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:**

The purpose and intent of the Resource Management Zone in the Montecito Land Use and Development Code is to protect lands that are unsuited for intensive development, limit development because of extreme fire hazards, minimum services, and/or environmental constraints, and encourage the preservation of these areas for uses including grazing, scientific and educational study, and limited residential uses. When the Resource Management Zone was added to the Article IV Montecito Zoning Ordinance (the predecessor to the Montecito Land Use and Development Code) it did not include as an allowed use accessory structures and uses that are customarily incidental to the primary uses of the zone as a way of limiting residential development within the zone.

In October of 2004, the Planning and Development Department proposed as part of a larger ordinance amendment package (Case No. 04ORD-00000-00023) that accessory structures and uses be allowed in the Resource Management Zone. However, the Montecito Planning Commission, citing concerns regarding the constrained nature of lands located in this zone and the potential for visual impacts resulting from grading necessary to site accessory structures, determined that land zoned Resource Management was too sensitive to allow for accessory structures and recommended that the Board of Supervisors not follow the Department's proposal. The Board followed this recommendation such that when 04ORD-00000-00023 was adopted in December 2004, accessory structures and uses within the Resource Management Zone were still not allowed.

However, during the Montecito Planning Commission's recent discussion of an appeal of a denied land use permit (Case No. 06APL-00000-00023, Largura), members of the Commission voiced their desire to be able to approve accessory structures and uses such as swimming pools and water storage tanks in the Resource Management Zone since they would provide additional water storage in an area with a high fire hazard potential.

The recommendation of the Montecito Planning Commission in regards to this ordinance amendment is to allow accessory structures and uses, but to restrict them to swimming pools and water storage tanks. In order to approve a permit for such accessory structures, findings that provide protection for land zoned Resource Management Zone would be required to be made by the review authority. Please refer to Attachment D, Montecito Planning Commission staff report for further analysis.

**Background:**

On December 20, 2006, by a unanimous vote, the Montecito Planning Commission recommended that your Board approve Case No. 06ORD-00000-00021 amending Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the County Code. At this hearing the Montecito Association indicated their support for the amendment, but requested that the language of the ordinance be revised to more clearly state the circumstances where approving such accessory structures would be appropriate. Attachment C, the draft ordinance as recommended for approval by the Montecito Planning Commission, reflects the requested revisions. Please refer to Attachment D, Montecito Planning Commission staff report for further background information.

**Fiscal and Facilities Impacts:**

Budgeted:  Yes     No

**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 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 to the Planning and Development Department, attention Noel Langle.

**Attachments:**

- A. Findings
- B. CEQA Exemption
- C. Ordinance (Case No. 06ORD-00000-00021)
- D. Planning Commission staff report (w/o attachments)
- E. Planning Commission action letter (w/o attachments)

**Authored by:**

Noel Langle, Planner (805) 568-2009

## ATTACHMENT A: FINDINGS

### CASE NO. 06ORD-00000-00021

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 approval of pools and water storage tanks that will provide additional water storage in an area with a high fire hazard potential, while balancing this increased development potential with the requirement to adopt specific findings that serve to implement the purpose and intent of the Resource Management Zone 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 not result in any inconsistencies with the adopted policies and development standards of the County's Comprehensive Plan and the Montecito Community Plan. Requiring that the additional findings must be made in order to approve a Land Use Permit for a pool or water storage tank will serve to implement the purpose and intent of the Resource Management Zone. Additionally, in order to approve any Land Use Permit the proposed development 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 Land Use Permit for a pool or water storage tank it still must be determined 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**

**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.:** 06ORD-00000-00021

**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 Accessory Structures and Uses Ordinance Amendment.

**Project Description:** 06ORD-00000-00024 proposes to amend Section 35.422.030.E of Division 35.422, Resource Protection Zones, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code.

This amendment would revise the existing regulations by allowing the approval of pools and water storage tanks with a Land Use Permit on land zoned Resource Management (RMZ) provided that certain findings that serve to implement the purpose and intent of the RMZ zone are made.

**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:** This amendment would allow for the approval of a Land Use Permit for pools and water storage structures provided that the findings that are specific to the RMZ zone and are required in order to approve a Conditional Use Permit in the RMZ zone can be made.

These findings, which are presently required for conditionally allowed uses such as low intensity recreational uses, new or expanded areas of cultivated agriculture, campgrounds, etc., and that serve to implement the purpose and intent of the RMZ zone are as follows (see Montecito LUDC, Section 35.472.050.E.2):

- The project will not require extensive alteration of the topography.
- The project will 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.

Pools and water storage tanks, as accessory structures, would be required to go through the design review process and be approved by the Montecito Board of Architectural Review. This will provide the mechanism to ensure that the visual and aesthetic resources of land zone RMZ will be protected.

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

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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 35-2, 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 MANAGEMENT ZONE ALLOWABLE LAND USES, OF CHAPTER 35.422, RESOURCE PROTECTION ZONES, AND CHAPTER 35.472, PERMIT REVIEW AND DECISIONS, TO ALLOW FOR THE APPROVAL OF CERTAIN ACCESSORY STRUCTURES AND USES IN COMPLIANCE WITH AN APPROVED LAND USE PERMIT SUBJECT TO ADDITIONAL FINDINGS.

Case No. 06ORD-00000-00021

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 Section 35.422.030.E, Accessory Structures and 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 the 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 35.472.100 (Land Use Permits).

### 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 Table 2-4, Allowed Land Uses and Permit Requirements for Montecito Resource Protection Zones, of Chapter 35.422, Resource Protection Zones, to designate the permit requirement for a Residential Accessory Use or Structure as a P, Permitted Use, Land Use or Coastal Development Permit Required, subject to the requirements of Section 35.422.030.E, Resource Management Zone Allowable Land Uses, Accessory structures and uses.

### 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 Section 35.472.100.E, Findings Required for Approval, of Chapter 35.472, Permit Review and Decisions, to read as follows:

**E. Findings required for approval.** A Land Use Permit application shall be approved or conditionally approved only if the Director first makes all of the following findings:

1. Findings for all Land Use Permits:
  - a. The proposed development:
    - (1) Will conform to the applicable provisions of the Comprehensive Plan including the Montecito Community Plan and this Development Code; or
    - (2) Falls within the limited exception allowed in compliance with Chapter 35.491 (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 uses, subdivisions, setbacks, and any other applicable provisions of this Development Code, and any applicable zoning violation enforcement 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 35.491 (Nonconforming Uses, Structures, and Lots).
2. Additional findings for swimming pools and water storage tanks on sites zoned RMZ (Resource Management).
  - a. The project will require only minimal alteration of the topography.
  - b. The project will not cause erosion, sedimentation, runoff, siltation, or an identified significant adverse impact on downstream water courses or water bodies.
  - c. The project will not cause any significant adverse effect on environmentally sensitive habitat areas, plant species, or biological resources.
  - d. The project will be screened from public view.

**SECTION 4:**

Except as amended by this Ordinance, Division 35.2 and Division 35.7 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 6<sup>th</sup> day of February, 2007, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

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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

**SANTA BARBARA MONTECITO PLANNING COMMISSION**  
**Staff Report for Resource Management Zone Accessory Structures and Uses**  
**Ordinance Amendment**

**Hearing Date: December 20, 2006**

**Assistant Director: Dianne Meester Black**

**Staff Report Date: December 1, 2006**

**Staff: Noel Langle**

**Case Nos.: 06ORD-00000-00021**

**Phone No.: 568 - 2009**

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

## **1.0 REQUEST**

Hearing on the request of the Planning and Development Department that the Montecito Planning Commission consider and adopt a recommendation to the Board of Supervisors that they adopt an ordinance (Case No. 06ORD-00000-00021) amending the text of 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 County Code as set forth in Attachment C regarding accessory structures and uses allowed in the Resource Management zone (RMZ).

## **2.0 RECOMMENDATION AND PROCEDURES:**

Follow the procedures outlined below and recommend that the Board of Supervisors approve Case No. 06ORD-00000-00021 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 these amendments are 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 06ORD-00000-00021, 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 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 Montecito Planning Commission based upon Section 65855 of the Government Code and the County's zoning ordinance process requirements for zoning ordinance text amendments. The Government Code and the County's zoning ordinances 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 and provide a recommendation to the Board of Supervisors.

## **4.0 ISSUE SUMMARY**

Presently the RMZ zone in the Montecito Land Use and Development Code does not allow, as do all other zones, accessory structures and uses that are customarily incidental to the allowed primary uses. The recommendation of the Department in regards to this ordinance amendment is to allow accessory structures and uses, but to restrict them to swimming pools and water storage tanks. In order to approve a permit for such accessory structures, findings that provide protection for land zoned RMZ would be required to be made by the review authority.

## **5.0 PROJECT INFORMATION AND ANALYSIS**

### **5.1 Background**

When the Resource Management zone (previously abbreviated RES) was added to Article IV (the predecessor to Section 35-2, the Montecito Land Use and Development Code) it did not include as an allowed use accessory structures and uses that are customarily incidental to the primary uses of the zone. In October and November of 2004, the Planning and Development Department proposed, as part of a larger ordinance amendment package (Case No. 04ORD-00000-00023), that accessory structures and uses be allowed in the RES zone. However, the Montecito Planning Commission, citing concerns regarding the constrained nature of lands zoned RES and the potential for visual impacts resulting from grading necessary to site such structures, determined that land zoned RES was too sensitive to allow for accessory structures and recommended that the Board of Supervisors not follow the Department's proposal. The Board followed this recommendation such that when 04ORD-00000-00023 was adopted in December 2004 accessory structures and uses within the RES zone were still not allowed.

During the discussion of an appeal of a denied land use permit at the November 15, 2006 Montecito Planning Commission hearing (Case No. 06APL-00000-00023, Largura), members of the Commission discussed the desire to be able to approve accessory structures and uses such as swimming pools and water storage tanks in the RMZ zone since they would provide additional water storage in an area with a high fire hazard potential.

### **5.2 Ordinance Discussion**

Section 35.422.020 of the Montecito LUDC states that the purpose and intent of the RMZ zone is to protect lands that are unsuited for intensive development, limit development because of extreme fire hazards, minimum services, and/or environmental constraints, and encourage the preservation of these areas for uses including grazing, scientific and educational study, and limited residential uses.

There are at least three options that may be pursued in amending the Montecito LUDC to allow for water storage tanks in the RMZ zone. They may be summarized as follows:

1. Allow swimming pools and water storage tanks with a Land Use Permit (LUP) with no restrictions or special standards.
2. Allow swimming pools and water storage tanks with a LUP, subject to findings.
3. Allow swimming pools and water storage tanks subject to the approval of a Conditional Use Permit (CUP).

Option 1 is not recommended due to the sensitive nature of land zoned RMZ and, as stated in the

purpose and intent, the need to limit development and to protect such land from intensive development. Although all Land Use Permits must be determined to be consistent with the County's Comprehensive Plan, the Montecito Community Plan, and the Montecito LUDC, the Department feels that additional guidance should be provided in determining what development is and is not appropriate to be approved in the RMZ zone.

Option 3, which would require your Commission to conduct a public hearing for all swimming pools and water storage tanks in the RMZ zone, is also not recommended due to the additional processing time and fees that would be required for such structures which are much smaller in scale and have less potential for impact than the primary dwelling (which does not require a CUP) to which they would be accessory.

Instead, the Department recommends that your Commission recommend Option 2 which would allow for swimming pools and water storage tanks with the approval of a Land Use Permit, provided that the specific findings for the RMZ zone that are presently required in order to approve a CUP for all conditionally allowed uses (e.g., low intensity recreational uses, new or expanded areas of cultivated agriculture, campgrounds) can be made. These findings, which serve to implement the purpose and intent of the RMZ zone, are shown below (see Montecito LUDC, Section 35.472.050.E.2):

- The project will not require extensive alteration of the topography.
- The project will 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.

Retaining walls associated with swimming pools and water storage tanks would be required to go through the design review process and be approved by the Montecito Board of Architectural Review. This will provide the mechanism to ensure that the visual and aesthetic resources of RMZ zoned land will be protected.

Language reflecting Option 2 is included in Attachment C which shows the proposed revisions to the Montecito LUDC. Language proposed to be added is underlined; language proposed for deletion is struck through.

## **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. Requiring that the additional findings must be made in order to approve a Land Use Permit for a swimming pool or water storage tank will serve to implement the purpose and intent of the RMZ zone. Additionally, in order to approve any Land Use Permit, the proposed development still must be found consistent with the Comprehensive Plan and the Montecito Community Plan. 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. In order to approve a Land Use Permit for a pool or water storage tank it still must be determined that the project is consistent with the whole of the Montecito LUDC.

## **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. 06ORD-00000-00021