



# County of Santa Barbara

## BOARD OF SUPERVISORS

### Minute Order

September 26, 2006

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**Present:** Supervisor Carbajal, Supervisor Rose, Supervisor Firestone, Supervisor Gray and Supervisor Centeno

PLANNING AND DEVELOPMENT

File Reference No. 06-00840

**RE:** HEARING - Consider recommendation from the Planning Commission to amend the Coastal and Inland Zoning Ordinances, exempting specific structures and equipment from adherence to applicable height limits where adherence is technically infeasible, and approve the environmental review and findings for these amendments, as follows: (EST. TIME: 20 MIN.)

a) Adopt an Ordinance Amending Divisions 2 and 7 of the Coastal Zoning Ordinance, as follows:

i) Amend Division 7, "General Regulations," of Article II, Chapter 35, of the Santa Barbara County Code, by revising Section 35-127.A.1 to exempt temporary oil/gas drilling rigs, oil/gas workover/pulling rigs, amine columns, distillation columns, stripper columns, and flare stacks from adherence to applicable height limits, and by repealing section 35-127.D;

ii) Amend Division 2, "Definitions," of Article II, Chapter 35, of the Santa Barbara County Code, by adding definitions for Amine Column or Tower, Distillation Column or Tower, Flare Stack, Oil/Gas Drilling Rig, Oil/Gas Workover/Pulling Rig, and Stripper Column or Tower;

b) Adopt an Ordinance Amending Divisions 2 and 7 of the Inland Zoning Ordinance, as follows:

i) Amend Division 7, "General Regulations," of Article III, Chapter 35, of the Santa Barbara County Code, by revising Section 35-276.A.1 to exempt temporary oil/gas drilling rigs, oil/gas workover/pulling rigs, amine columns, distillation columns, stripper columns, flare stacks, wind turbines, industrial silos, and other general industry structures and equipment from adherence to applicable height limits;

ii) Amend Division 2, "Definitions," of Article III, Chapter 35, of the Santa Barbara County Code, by adding definitions for Amine Column or Tower, Distillation Column or Tower, Flare Stack, Oil/Gas Drilling Rig, Oil/Gas Workover/Pulling Rig, and Stripper Column or Tower, and Silo (Industrial);

c) Approve findings for adoption of the foregoing amendments, as included in the Planning Commission's Resolution 06-05; and

d) Accept Negative Declaration 06NGD-00000-00022, as adequate environmental

**Present:** Supervisor Carbajal, Supervisor Rose, Supervisor Firestone, Supervisor  
Gray and Supervisor Centeno

review for the proposed zoning ordinance amendments.

**COUNTY EXECUTIVE OFFICER'S RECOMMENDATION: POLICY**

A motion was made by Supervisor Firestone, seconded by Supervisor Centeno, that this matter be Acted on as follows:

a) i and ii) Adopted.

**ORDINANCE NO. 4622**

b) i and ii) Adopted Ordinance as amended: Section 35-276.A.1.a, Section 4) is amended to read as follows: "Temporary drilling rigs necessary to explore for and develop oil and gas reservoirs, or to inject gas or fluids into subsurface reservoirs, allowed in compliance with Division 8 of this Article".

**ORDINANCE NO. 4623**

c) and d) Approved.

The motion carried unanimously.

*HEARING TIME: 3:21 PM - 3:25 PM (6 MIN.)*

AN ORDINANCE AMENDING THE SANTA BARBARA COUNTY CODE  
BY REVISING ARTICLE III OF CHAPTER 35, TITLED "INLAND ZONING ORDINANCE"

CASE NO.: 06-ORD-00000-00008

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

**SECTION 1:**

Division 2 "Definitions" of Article III of the Santa Barbara County Code is hereby amended, by adding the following new definitions to read;

AMINE COLUMN OR TOWER: A tall, cylindrical vessel used to remove contaminants, such as hydrogen sulfide and carbon dioxide, from natural gas with the use of amines.

DISTILLATION COLUMN OR TOWER: A tall, cylindrical vessel in which a liquid or vapor mixture of two or more substances is separated into its component fractions of desired purity, by the application and removal of heat.

FLARE STACK: A tall, specially constructed vertical pipe or stack used to safely dispose of hydrocarbon vapors or, in an emergency, to dispose of process feed.

OIL/GAS DRILLING RIG: The derrick or mast, draw works, and attendant surface equipment used to drill for oil, natural gas, or both from underground reservoirs, and to drill injection wells for disposal of fluids into subsurface reservoirs. Drilling rigs are also used to complete (prepare for production) a well, or redrill or rework a well. The derrick consists of a large load-bearing structure, usually bolted construction of metal beams. In drilling, the standard derrick has four legs standing at the corners of the substructure and reaching to the crown block. The substructure is an assembly of heavy beams used to elevate the derrick and provide space underneath to install the blowout-preventive equipment, casing head, and other equipment.

OIL/GAS WORKOVER/PULLING RIG: The derrick or mast, draw works, and attendant surface equipment to service oil/gas or injection wells, including, among other things, running the pump and tubing, replacing parts, fixing casing, and plugging and abandoning a well. These rigs are typically mobile, wheel-based trucks capable of moving from one well to another.

SILLO (INDUSTRIAL): A large, cylindrical vessel used to store processed or unprocessed minerals, powders, plastic raw materials, calcium carbonate, processed grain products, asphalt hot-mix, or concrete ready-mix. Accessory equipment may include light poles, emission-control equipment, walkway access, conveyors, loading and unloading elevators, weighing equipment, and other equipment for filling and emptying the silo.

STRIPPER COLUMN OR TOWER: A tall, cylindrical vessel used to physically remove contaminants from gas or liquid.

**SECTION 2:**

Division 7 "General Regulations" in Article III, Chapter 35 of the Santa Barbara County Code is hereby amended, by revising Section 35-276.A.1 to read:

*Sec. 35-276. Height.*

- A. The following shall apply to structures located outside the Summerland Planning Area.
1. The height of a structure shall be the vertical distance between the existing grade and the uppermost point of the structure directly above that grade. The height of any structure shall not exceed the applicable height limit except as provided below.
    - a. Exceptions. The following structures and equipment may exceed the applicable height limit subject to compliance with F Airport Approach Overlay District.
      - 1) Chimneys, church spires, elevator, mechanical and stair housings, flag poles, noncommercial antennas, towers, vents, and similar structures which are not used for human activity may be up to 50 feet in height in all zone districts. The use of towers or similar structures to provide higher ceiling heights for habitable space shall be deemed a use intended for human activity.
      - 2) Portions of a structure may exceed the applicable height limit by no more than three feet where the roof exhibits a pitch of four in 12 (rise to run) or greater.
      - 3) In order to provide for architectural character, architectural elements, whose aggregate area is less than or equal to 10 percent of the total roof area of the structure or 400 square feet, whichever is less, may exceed the height limit by no more than eight feet when approved by the Board of Architectural Review.
      - 4) Temporary drilling rigs necessary to explore for and develop oil and gas reservoirs, or to inject gas or fluids into subsurface reservoirs, allowed in compliance with Division 8 of this Article.
      - 5) Workover/pulling rigs necessary to service oil/gas and injection wells may exceed the applicable height limit, provided that the use of these rigs is completed in a diligent manner.
      - 6) Amine columns, distillation columns, stripper columns, and flare stacks associated with oil/gas production, gas processing, or oil/gas transportation, allowed in compliance with Division 8 of this Article, may exceed the applicable height limit where compliance would render such facilities technically infeasible.

may exceed the applicable height limit where compliance would render such facilities technically infeasible.

- 7) Wind turbines allowed in compliance with Section 35-300.2.3 of this Article may exceed applicable height limits where compliance would render operations technically infeasible.
- 8) Silos used to store and load concrete ready-mix in the M-1 zone district may exceed applicable height limits where compliance would render operations technically infeasible.
- 9) Structures and equipment associated with facilities in the M-2 zone district may exceed applicable height limits where compliance would render operations technically infeasible.

**SECTION 3:**

Except as amended by this Ordinance, Divisions 2 and 7 of Article III of Chapter 35 of the Code of the County of Santa Barbara, California, shall remain unchanged and shall continue in full force and effect.

**SECTION 4:**

This ordinance shall take effect and be in force thirty (30) days from the date of its passage. Before the expiration of fifteen (15) days after its passage, this ordinance, or a summary of it, shall be published once, together with the names 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.

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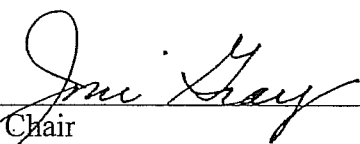
PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this twenty-sixth day of September, 2006, by the following vote:

AYES: Supervisors Carbajal, Rose, Firestone, Gray, Centeno

NOES: None

ABSTAINED: None

ABSENT: None

  
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Joni Gray, Chair  
Board of Supervisors of the County of Santa Barbara  
State of California

ATTEST:

MICHAEL F. BROWN  
County Clerk of the Board

By   
\_\_\_\_\_  
Deputy Clerk of the Board

APPROVED AS TO FORM:

STEPHEN SHANE STARK  
County Counsel

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

## **EXHIBIT A: RECOMMENDED LEGISLATIVE AND CEQA FINDINGS FOR ADOPTION OF EXEMPTIONS TO APPLICABLE HEIGHT RESTRICTIONS**

### **1.0 Legislative Findings**

- A. In adopting these ordinance amendments, The Board of Supervisors recognizes the following purpose and intent and purpose.**

**Purpose:** These amendments explicitly exempt specific structures and equipment from compliance with applicable, fifty-foot height limitations found in the General Regulations of the Coastal and Inland Zoning Ordinances (Sections 35-127 and 25-276, respectively), and applicable zone district height limitations.

Without these amendments, land uses such as oil/gas exploration/production, gas processing, diatomaceous earth processing, oil/asphalt refineries, concrete and asphalt aggregate plants would be outright prohibited, even though these types of land uses exist as legal conforming uses within the County and the zoning code explicitly lists these as allowable uses in certain zone districts.

**Intent:** These proposed amendments are intended to ensure consistent application of the County's zoning ordinance with past practice of permitting certain land uses with structures and equipment that necessarily exceed applicable height limitations in order to function feasibly. These amendments are also intended to ensure internal consistency with the zoning ordinances and to remove specific uncertainties in interpreting applicability of height limitations.

The scope of these proposed amendments is very limited in focus in order to effect timely corrections to the zoning code that become apparent as part of the Zoning Ordinance Reformatting Project, Phase I. This narrow scope should not be construed to prohibit, restrict, or unduly bias any future proposed amendments to exempt other structures or equipment from applicable height limitations. Rather, such proposals should be considered on their respective merits when they are processed.

### **B. Findings of Consistency with the California Coastal Act.**

The proposed amendments are consistent with the California Coastal Act, considering the following policies.

- 1) *The proposed amendments do not reduce or exempt the applicability of Coastal Act Section 30251 – Protection of Scenic & Visual Quality.* Visual impacts are addressed under Section 30251 of the California Coastal Act, which reads:

*The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural lands forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually downgraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.*

The proposed amendments seek to exempt from the 50-foot height limit, those facilities that, by their very nature, must exceed 50 feet to function. The facilities in the Coastal Zone include (1) temporary oil/gas drilling rigs, and (2) columns and gas flares associated with gas processing/transportation. Any developer proposing such facilities must still comply with Section 30251, which may be accomplished by either finding an appropriate location or qualifying as a coastal-dependent use, as discussed below.

2) *The proposed amendments are consistent with Coastal Act treatment of coastal-dependent uses (Section 30260).* The Coastal Act defines "coastal-dependent development or use" as any development or use which requires a site on, or adjacent to, the sea to be able to function at all (Section 30101). Section 30260 provides opportunity to approve coastal-dependent industrial facilities even if they do not comply with the coastal-protective policies of the Act, provided certain conditions are met. It reads:

*Coastal-dependent industrial facilities shall be encouraged to locate or expand within existing sites and shall be permitted reasonable long-term growth where consistent with this division. However, where new or expended coastal-dependent industrial facilities cannot feasibly be accommodated consistent with other policies of the division, they may nonetheless be permitted in accordance with this section and Section 30261 and 30262 if (1) alternative locations are infeasible or more environmentally damaging; (2) to do otherwise would adversely affect the public welfare; and (3) adverse environmental effects are mitigated to the maximum extent feasible.*

Therefore, structures or equipment that exceed 50 feet in height and are not consistent with the coastal-protective policies of the Act may be approved, provided they are considered to be a component of coastal-dependent industrial facilities and meet the provisions of Section 30260.

Past experience also demonstrates that the proposed amendments are consistent with the Coastal Act. The County has permitted a temporary gas drilling rig and a gas processing facility in the Coastal Zone in compliance with the Coastal Act. In 1985, the County approved the Gaviota gas processing facility, with 12 columns and a gas flare that greatly exceeded 50 feet in height. In this case, the project was considered to be a coastal-dependent industrial facility at the time. In 1996, the County approved a temporary 185-foot gas drilling rig at Gaviota (the Molino gas project). In this case, the drill rig was located within a designated consolidated planning area in proximity to the Gaviota processing facility. These cases demonstrate that, depending upon project-specific circumstances, oil/gas drilling rigs and gas processing facilities may be approved in a manner that is consistent with the California Coastal Act.

**C. Findings of consistency with the Comprehensive Plan, the Coastal Land Use Plan, the requirements of State planning and zoning laws, and Coastal and Inland Zoning Ordinances.**

The proposed amendments are primarily intended to avoid inconsistencies of specific sections within the two ordinances. Sections 35-152, 153, 154, and 159 of the Coastal Zoning Ordinance apply to and enable oil and gas land uses that, by their very nature, use structures and equipment that exceed fifty feet in height (e.g., oil/gas drilling rigs, distillation and stripper columns, and gas flare stacks). Such land uses are also contemplated in policies of Chapter 3.6 of the Coastal Land Use Plan (specifically,



Policies 6-1, 6-2, 6-3, 6-4, 6-5, 6-6A through 6-6F, and 6-13A through 6-13C). These policies also require consolidation of production and processing facilities that support development of offshore oil and gas as a means of reducing visual impacts of such activities. Moreover, such facilities have been permitted in the past, including the Gaviota oil and gas processing facility, through an earlier interpretation of the Coastal Zoning Ordinance; that is, height limits could be modified for any specific project by the decision-maker during the approval of a Conditional Use Permit or Development Plan (Sections 35-172.12.1 and 35-174.8.1, respectively).

In 1999, in the context of a dispute over a proposed FM antenna that exceeded 50 feet, the County changed its interpretation of Section 35-127 so that it is now interpreted to prohibit such structures from exceeding the 50-foot maximum height limit, except where explicitly exempted in the ordinance. The proposed amendments respond to the new interpretation by again enabling certain oil and gas development that would otherwise be prohibited because it would be technically infeasible to function under the fifty-foot maximum height limitation. In so doing, the amendments enhance internal consistency in the ordinance by clarifying competing interpretations over the years.

Similarly, Sections 35-235 (General Industry), 35-295 (Oil Drilling and Production), 35-296 (Treatment and Processing Facilities), 35-297 (Refining), and 35-300 (Wind Energy Systems) of the Inland Zoning Ordinance provide for land uses that, by their very nature often use structures and equipment that exceed fifty feet in height. The Agriculture, Coastal-Related Industry, and General Industry land use designation, and the Mineral Resource Industry and Petroleum Resource Industry overlays of the County's Land Use Element provide for these uses. The Land Use Element also contemplates development of conventional and alternative energy. However, the 1999 re-interpretation of Section 35-276 of the Inland Zoning Ordinance prohibits such land uses where heights of structures and equipment exceed fifty feet for the same reason explained above. As previously discussed, the proposed amendments enhance internal consistency within the ordinance and reconcile the change in interpreting height restrictions with other sections of the ordinance that provide for development with structures and equipment that, due to technical requirements, exceed such restrictions.

Coastal Plan Policy 4-3 and Land Use Element Visual Resources Policy 2 read identically:

*In areas designated as rural on the land use plan maps, the height, scale, and design of structures shall be compatible with the character of the surrounding natural environment, **except where technical requirements dictate otherwise.** Structures shall be subordinate in appearance to natural landforms; shall be designed to follow the natural contours of the landscape; and shall be sited so as not to intrude into the skyline as seen from public viewing places. (emphasis added.)*

The proposed amendments would provide an exemption to height limitations where a land use would otherwise be technically infeasible, consistent with the foregoing policies. These amendments affect the height of structures and equipment associated with land uses that are predominantly located in rural areas. Currently, all such operations are located in the rural area (e.g., Las Flores Canyon and Lompoc oil/gas processing facilities, Gaviota pipeline terminal, Celite's diatomaceous earth processing near Lompoc). None of these structures are projected to be proposed in Urban Areas.

**D. Findings of meeting the interest of the general welfare.**

The County of Santa Barbara adopted its Coastal and Inland Zoning Ordinances in 1982 and 1983, respectively, to protect and promote the general welfare of its citizenry, among other things. The proposed amendments reconcile internal inconsistencies between sections of the two ordinances that resulted from a re-interpretation of the applicability of general height restrictions in 1999, as explained below. The Board finds that timely correction of internal inconsistencies once they become known is in the best interest of the general welfare. In this case, the proposed amendments ensure that the applicability of height restrictions do not unknowingly or unintentionally prohibit land uses that are provided for in other sections of the two zoning ordinances.

**C. The request is consistent with good zoning and planning practices.**

The proposed clarifications to the Coastal and Inland Zoning Ordinances clarify the relationship between permissible land uses and the general height restrictions where the former would be effectively prohibited if not explicitly exempted from the latter. Clarity in zoning regulations enhances good planning practices by ensuring consistency and good communications to developers and the public.

**3.0 California Environmental Quality Act (CEQA) Findings**

The County has prepared and circulated for public comment a Negative Declaration (06NGD-00000-00022), finding that the proposed amendments will not have a significant effect on the environment.

The most critical concern rests with adverse visual impacts to the environment, by allowing structures to exceed 50 feet in height. A review of County policies, regulations, and environmental guidelines indicates that 50 feet does not establish a threshold above which a structure would significantly impact views. Past practice indicates that structures less than 50 feet may adversely affect views, and structures more than 50 feet in height may not, depending upon location. Therefore, location is the primary factor in determining visual impacts. The Negative Declaration finds that the County's Comprehensive Plan, including its Coastal Plan, and its zoning code has adequate policies and regulations to examine impacts to sensitive views via its discretionary permit processes, to protect those views, and to influence alternative project locations that would minimize impacts to views. The proposed amendments do not restrict the applicability of these policies, regulations, and guidelines.

Safety is another concern that relates to a tall structure collapsing and landing beyond the boundary of its land use. Here again, the County has adequate protective policies, regulations, and discretionary permitting processes to identify and mitigate such a risk where it is found to pose a significant public risk or to be incompatible with surrounding land uses.

Upon circulation of the draft Negative Declaration for public comment, the Energy Division received two comment letters: one from American Ethanol, Inc. and the other from the Western States Petroleum Association. Both comment letters expressed support for the findings of the draft Negative Declaration.