



**BOARD OF SUPERVISORS  
AGENDA LETTER**

Agenda Number:

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

Department Name: Planning & Development  
Department No.: 4390  
For Agenda Of: 11/21/2006  
Placement: Administrative  
Estimate Time: 15 minutes on 12/5/06  
Continued Item: NO  
If Yes, date from:  
Vote Required: Majority

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**TO:** Board of Supervisors  
**FROM:** Department Director(s) John Baker, Director, 568-2085  
Contact Info: Dianne M. Black, Assistant Director, 568-2086  
**SUBJECT:** Set a hearing for December 5, 2006 to consider amending the County Code regarding vegetation removal within portions of the Goleta Community Plan Area zoned Mountainous Area - Goleta.

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**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 December 5, 2006 to consider the recommendations of the County Planning Commission and:

- A. Adopt findings for approval of the proposed ordinance (Attachment A).
- B. Find that 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).
- C. Adopt an Ordinance (Case No. 06ORD-00000-00004) amending Chapter 9A and Chapter 35 of the Santa Barbara County Code (Attachment C).

**Summary:**

The proposed ordinance was considered by the County Planning Commission on October 25, 2006, and recommended for approval by your Board by a vote of three to two. The two negative votes were cast due to concerns regarding the lack of review of the proposed ordinance by the County Fire Department, and the lack of clarity in the language in one section of the ordinance.

The purpose of this amendment is to provide additional protections to the resources that occur on land zoned Mountainous Area - Goleta (MT-GOL). The effect of this amendment is twofold as it would amend both Chapter 9A of the County Code, the Brush Removal ordinance, and the Environmentally Sensitive Habitat - Goleta (ESH-GOL) overlay of Chapter 35, Zoning. The proposed revisions to both Chapter 9A and Chapter 35 would only apply to the area within the Goleta Community Plan that is

zoned MT-GOL; this area lies south of West Camino Cielo Road and north of the Los Padres National Forest boundary.

The MT-GOL zone is a resource protection zone; its purpose is to protect the mountainous lands in the Goleta Planning Area that are unsuited for intensive development by regulating the type and scope of allowed land uses. The purpose and intent of the ESH-GOL overlay zone is “to protect and preserve specified areas in which plant species, animal species, and/or their habitats are rare or are especially valuable because of their role in the ecosystem, and which could be easily disturbed or degraded by human activities and developments” and to “ensure that any and all projects permitted in such areas are designed and carried out in a manner that will provide maximum protection to sensitive habitat areas.”

### Chapter 9A

Chapter 9A of the County Code regulates the removal of brush and vegetation in the unincorporated area of the County of Santa Barbara bounded by Ventura County, the Santa Ynez Mountains and Highway 101 at Gaviota. Section 9A-6 of Chapter 9A provides several exemptions from the application, review and permit requirements of Chapter 9A including subsection (f) that exempts “The removal or destruction of vegetation by agricultural preparation methods known as ‘discing’ or ‘rotary shredding’ or chemical means or by hand tools.” Because subsection (f) does not contain any limitation on the area that can be cleared, this exemption can allow for the removal of substantial amounts of vegetation without any review by the County provided it is done by discing, rotary shredding, chemical means or by hand tools. In mountainous terrain, such as where the MT-GOL zone is used, this can create negative impacts to the watersheds located in these areas. The language does not require that the removal be done in association with an agricultural operation, only that it be done using “agricultural preparation methods.”

The proposed revision to Chapter 9A, Section 9A-6(f) would restrict the use of this exemption to situations where the removal or destruction of vegetation is necessary, as determined by the Building Official in consultation with the Agricultural Commissioner, to allow for the expansion or enhancement of an active productive agricultural use of the property.

One of the negative votes cast by the Planning Commission was due to a concern that the proposed revision to Section 9A-6(f) was not specific enough and could lead to the incorrect application of the exemption. Subsequent to that hearing, the language was revised to clarify the language. This new language has been reviewed by the Commissioner who has stated that the revision addresses his previous concern. Attachment C of this agenda letter incorporates the new language.

There was also a concern raised at the Planning Commission hearing regarding the lack of review of the ordinance amendment by the County Fire Department since the danger of wildland fire in the Goleta foothills is a significant concern. The amendment was not sent to the County Fire Department for review since (1) the existing exemption in Chapter 9A for brush removal to reduce fire danger was not proposed to be modified by this amendment, and (2) that the amendment to the ESH-GOL overlay (see below) included an exemption to the permit requirement for fire safety purposes. Subsequent to the Planning Commission hearing staff circulated the language of the proposed ordinance to the County Fire Department for their review; they indicated that they do not have any problems with the proposed ordinance amendment.

## ESH-GOL Overlay

The proposed ordinance would also revise the language of the ESH-GOL overlay zone that exempts certain activities from having to comply with the permit requirements and resource protections of this overlay.

The existing language of the overlay requires the submission of an application for a Land Use Permit (which provides the mechanism to review the proposed activity and to condition the permit so that environmentally sensitive habitats are protected) if the scope of the proposed work would trigger any one of five thresholds. These thresholds are:

- The removal of vegetation from an area greater than 5,000 square feet.
- The removal of a significant amount of vegetation along 50 linear feet of creek bank.
- The removal of vegetation that, when added to the previous removal of vegetation within the affected habitat, would total more than 5,000 square feet, or longer than 50 linear feet of vegetation along a creek bank.
- Grading in excess of 50 cubic yards of cut or fill.
- The removal of any native tree greater than six inches in diameter measured four feet above existing grade, or more than six feet in height, or non-native trees that are used as habitat by the Monarch Butterflies for roosting, or by nesting raptors, unless (1) the tree is either dead or is not of significant habitat value, or (2) it prevents the construction of a project for which a Land Use Permit has been issued and project redesign is not feasible, or (3) the tree is diseased and poses a danger to healthy trees in the immediate vicinity, or (4) the tree is so weakened by age, disease, storm, fire, excavation, removal of adjacent trees, or any injury so as to cause imminent danger to persons or property.

However, because the existing language of the overlay uses the term “development” to determine when the submission of an application for a Land Use Permit is required, activities that do not qualify as development are not subject to the requirements of this overlay. Since “agriculture” is defined as not constituting development, agricultural activities such as brushing and grading would not be reviewed for compliance with the requirements of the overlay.

The proposed revision to the ESH-GOL overlay would (1) add a new subsection that applies to the MT-GOL zone only and (2) would regulate activities (as opposed to “development”) using the same five criteria as described above. Thus, any vegetation removal, grading or tree removal that would exceed the threshold amounts would now be regulated by this overlay.

The revision to the ESH-GOL overlay also includes two exemptions to the requirement to obtain a Land Use Permit for qualifying activities on land zoned MT-GOL. These exemptions, which were requested to be included by the Agricultural Advisory Committee, are for:

- Natural Resources Conservation Service (NRCS) Federal Cost Share projects.
- The removal of vegetation required by the County Fire Department.

The exemption regarding NRCS projects reflects the language of a recent addition to Chapter 14 of the County Code, the County’s grading regulations, regarding projects that are exempt from a grading permit requirement. The second exemption reflects the existing language of Chapter 9A of the County Code, (see Attachment F, Section 9A-6.b).

Please refer to Sections 4.0 and 5.0 of the attached Planning Commission staff report (Attachment E) for a more detailed background and analysis of the proposed ordinance amendment.

**Background:**

This amendment was developed at the request of the Board of Supervisors in response to citizen concerns regarding large scale brush and vegetation removal that was occurring on land located within the Goleta Community Plan area zoned Mountainous Area - Goleta (MT-GOL).

Originally this amendment only addressed the Environmentally Sensitive Habitat - Goleta (ESH-GOL) overlay zone. The amendment to the ESH-GOL overlay was first considered by the County Planning Commission on April 26, 2006; at this hearing they recommended that your Board approve the amendment. However, due to concerns raised by the Agricultural Advisory Committee (AAC) regarding the potential adverse effects the amendment might have on agricultural operations, your Board continued the hearing so that the amendment could be reviewed by the AAC. Subsequent to the April 2006 Planning Commission hearing, the scope of the amendment was also broadened to include revisions to Chapter 9A of the Santa Barbara County Code. The existing language of Chapter 9A, commonly known as the Brush Removal ordinance, is included as Attachment F.

The language of the proposed ordinance (Attachment C) was reviewed by the AAC at their meeting of October 12, 2006. At this meeting the AAC, by a unanimous vote, approved a motion to support the revisions contained in the attached ordinance.

**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 budget for fiscal year 2006 - 2007. 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-00000-00004)

D. Planning Commission staff report (w/o attachments)

E. Chapter 9A of the County Code

**Authored by:**

Noel Langle, Planner (568-2009)