

SANTA BARBARA COUNTY BOARD AGENDA LETTER



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

Agenda Number:

Prepared on: August 4, 2005
Department Name: Planning & Development
Department No.: 053
Agenda Date: August 16, 2005
Placement: Departmental
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Continued Item:
If Yes, date from:
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TO: Board of Supervisors

FROM: Dianne Meester, Assistant Director
Planning and Development

STAFF CONTACTS: Josh McDonnell, Supervising Planner
Comprehensive Planning

SUBJECT: Hearing to acknowledge receipt of the Coastal Commission's certification of the County's Residential Second Unit Ordinance with suggested modifications and adoption of the Local Coastal Program Amendment with the modifications

Recommendation(s):

That the Board of Supervisors:

1. Receive notice of the California Coastal Commission's certification of the Residential Second Unit Ordinance Local Coastal Program Amendment (MAJ-2-03) with suggested modifications;
2. Adopt a Resolution to: acknowledge receipt of the California Coastal Commission's certification with modifications, adopt the Local Coastal Program Amendment with the suggested modifications, and authorize Planning & Development to transmit the adopted Resolution to the Coastal Commission.

Alignment with Board Strategic Plan: The recommendations are primarily aligned with Goal No. 1., An Efficient Government Able to Respond Effectively to the Needs of the Community, Goal No. 4., A Community that is Economically Vital and Sustainable, and Goal No. 5., A High Quality of Life for All Residents.

Executive Summary and Discussion: The Residential Second Unit Ordinance amendments were adopted by the Santa Barbara County Board of Supervisors on December 2, 2003 (Ordinance 4517), and was submitted to the Coastal Commission in January 2004 as a proposed amendment to the county's certified Local Coastal Program (LCP). The Commission staff accepted it for processing on January 15, 2004, and in March 2004 the statutory deadline for action was extended by the Commission for one year, to March 2005.

The Coastal Commission's original staff report was received by county staff on March 1, 2005, and recommended seven separate modifications to the Residential Second Unit Ordinance amendments as approved by the county. While some of the Coastal Commission staff's recommended modifications appeared minor and acceptable to staff, others were substantial and problematic. On March 15, 2005, your Board sent a letter to the California Coastal Commission commenting on Coastal Commission staff's recommendations on the County's request for certification of the Board's adopted amendments.

The Coastal Commission considered the County's amendments for certification at their March 16, 2005 hearing in Long Beach. Your Board's comments were presented by staff at this hearing and considered by the Commission. The County's amendments were subsequently approved by the Commission with suggested modifications. Consistent with the County's requests, the Commission eliminated two major areas of disagreement that the County had with Coastal Commission staff recommendations. These areas of disagreement included the addition of proposed discretionary findings for approval of ministerial permits and proposed revisions to agricultural development standards. These modifications were determined by the Commission to go beyond the scope of AB 1866 and thus eliminated from their final approval. Several remaining Coastal Commission staff-generated modifications were also adopted as part of the approval. County staff has determined the remaining modifications certified by the Commission to be acceptable and recommends that the Board consider the following:

ACCEPT and AGREE TO the following Coastal Commission certified modifications:

- **Modification 1 – Consistency with Local Coastal Program (Section 35-143.6)**
This modification re-inserts language from the county's current ordinance, which requires second units to be consistent with provisions of the applicable zoning district as well as the goals and policies of the Coastal Land Use Plan. This was previously identified as potentially acceptable by your Board.
- **Modification 2a –Public Views (Section 35-143.6.26, 27)**
The Commission included a new development standard that prohibits second units from obstructing public views or access. Specifically, the public views development standard added by the Commission states the following:

Residential second units shall not significantly obstruct public views from any public road or from a public recreation area to, and along the coast.

County staff initially objected to the public views development standard due to its discretionary nature. The Commission recognized this concern in applying the standard to ministerial permits and requested that the County develop an "objective standard" so this standard may continue to be applied ministerially in the Coastal Zone consistent with the Coastal Act. In response, staff has developed the following interpretation to guide staff's application of the design standard ministerially within coastal Santa Barbara County:

The structure shall be sited either directly adjacent to or in line with the primary residential structure, so as not to increase the bulk and scale appearance of the primary residential structure within the public viewshed when seen from surrounding public roads and recreation areas.

- **Modification 2b - Environmentally Sensitive Habitat (Section 34-142.24, 25)**
The Commission revised an existing development standard for environmentally sensitive habitat and added a development standard requiring residential second units to be located a minimum of 100 feet from the periphery of wetlands. These revisions are consistent with Section 35-9.9 and staff recommends that the Board of Supervisors find them acceptable.
- **Modification 3 – Findings for Approval (Section 35-142.7.1)**
The revision requires that RSU proposals must conform to all development standards in the RSU ordinance section for approval. Although some of the development standards in the ordinance apply to residential zone districts and others apply to agricultural zone district, this revision can be interpreted to require only the applicable development standards. With respect to RSUs located on residentially zoned lands, only findings for RSUs on residentially zoned lands will apply.
- **Modification 4 – Revised Grounds for Appeal (Sections 35-142.8, 9 and 35-182.2)**
Revisions are twofold: (1) Appeals for RSU permits are to be based on provisions and policies of the Article and Coastal Land Use Plan, and (2) All decisions on permits for RSUs, including ministerial and conditional use permits, shall be subject to appeal to the Coastal Commission. Because the elimination of local hearings throughout the coastal zone is a requirement for the County to be consistent with AB 1866, the Commission interprets the statute to require all RSUs be appealable to the Coastal Commission to be consistent with the provisions of the Coastal Act.
- **Modification 5 – Special Problems Committee (Section 35-142.4)**
County staff submitted changes to the Coastal Commission staff regarding this section which resulted in the following modifications:

Section 35-142.4.2.c.5 - The Special Problems Committee has reviewed the lot and has determined that the site conditions would not cause the Committee to ~~deny~~ recommend denial of development of the site for residential purposes.

Section 35-142.4.3 - Planning and Development may approve a residential second unit within a designated Special Problems Area where all of the development standards in

Section 35-142.6 and applicable provisions and policies of this Article and the Coastal Land Use Plan can be met and the project has been reviewed ~~and recommended~~ by the Special Problems Committee.

▪ **Modification 6 – Owner Occupancy (Section 35-142.6)**

The Commission inserted a statement that the County's owner occupancy requirement is not required for consistency with the Coastal Act or Land Use Plan policies, but rather it was included by the County to address affordability. This was previously identified as potentially acceptable by your Board.

Coastal Commission Processing: If your Board chooses to forward a resolution acknowledging and accepting the Commission's resolution of certification, including modifications, the Executive Director will make a determination in writing and present this determination to the Coastal Commission at its next regularly scheduled public meeting. If for some reason a majority of the Commission members object to the Executive Director's determination, the Commission shall review the local government's action and notice as if it were resubmitted. Unless the County takes action on the Commission's certification within six months from the date of the Commission's action (September 16th, 2005) the Commission's certification will expire.

Mandates and Service Levels: No immediate change in mandates or service levels. This is an expected part of processing the Residential Second Unit Ordinance amendments, although more extensive than anticipated.

Fiscal and Facilities Impacts: This work effort would have no fiscal or facilities impacts. The costs associated with coordinating with the Coastal Commission on the Residential Second Unit amendment process were anticipated within Planning and Development's FY04-05 budget (page D-290 of the budget book).

Special instructions: P&D will transmit a resolution and signed Board letter to the Coastal Commission and other copied parties.

Concurrence: County Counsel

Attachments:

- A. Coastal Commission certification action letter, June 8, 2005
- B. Santa Barbara County resolution to accept the Coastal Commission's certification of the Residential Second Unit ordinance amendments
- C. Letter from the Board to the Coastal Commission

Hearing to consider Coastal Commission certification of the Residential Second Unit Ordinance amendments

Agenda Date: August 16, 2005

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August 16, 2005

Peter Douglas, Executive Director
California Coastal Commission
South Central Coast Area
89 South California Street, Suite 200
Ventura, California 93001

Dear Mr. Douglas:

On behalf of Santa Barbara County, the Board of Supervisors has executed the attached resolution to accept your Commission's certification of the County's Residential Second Unit ordinance amendments.

Thank you for your cooperation on this project. Please contact County staff if you have any questions.

Sincerely,

Susan Rose, Chair
Board of Supervisors

RESOLUTION OF THE BOARD OF SUPERVISORS
COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA

IN THE MATTER OF APPROVING AMENDMENTS)
TO THE SANTA BARBARA COUNTY LOCAL)
COASTAL PROGRAM TO AMEND THE COASTAL)
ZONING ORDINANCE, ARTICLE II OF CHAPTER 35)
OF THE SANTA BARBARA COUNTY CODE TO)
TO ADOPT THE RESIDENTIAL SECOND UNIT)
ORDINANCE AS MODIFIED BY THE)
CALIFORNIA COASTAL COMMISSION)
_____)

RESOLUTION NO. 05-XXX

County Case Numbers:
03ORD-00000-00002

WITH REFERENCE TO THE FOLLOWING:

- A. On December 2, 2003, the Board of Supervisors of the County of Santa Barbara approved an amendment to the County's Local Coastal Program to incorporate revisions to the permitting Residential Second Unit Ordinance, and on the same day by Resolution No. 03-370 submitted this amendment for consideration by the California Coastal Commission; and
- B. On March 15, 2005 the Board of Supervisors conducted a public hearing to consider the suggested modifications to the Local Coastal Program Amendment; and
- C. On March 16, 2005, the California Coastal Commission approved a resolution of certification with suggested modifications for this Local Coastal Program Amendment (Coastal Commission Case No. MAJ-2-03); and
- D. Whereas the Board of Supervisors finds the suggested modifications to be acceptable; and

NOW THEREFORE, IT IS HEREBY RESOLVED AS FOLLOWS:

- 1. The above recitations are true and correct.
- 2. The Board acknowledges receipt of the Coastal Commission's resolution of certification with suggested modifications and accepts those modifications through amendment of the Coastal Land Use Plan and Implementation Program (Coastal Zoning Ordinance) as required in Section 13544(a) of the Commission's Administrative Regulations.
- 3. The Board will submit this acknowledgment to the California Coastal Commission to demonstrate satisfaction of the specific requirement of the Commission's certification order, pursuant to Section 13544(b) of the Commission's Administrative Regulations.
- 4. The Chair of this Board is hereby authorized and directed to sign and certify all documents and other materials in accordance with this resolution to show the above mentioned action by the Board of Supervisors.

PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this 16th day of August, 2005, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

SUSAN ROSE
Chair, Board of Supervisors
County of Santa Barbara

ATTEST:

APPROVED AS TO FORM:

MICHAEL F. BROWN
Clerk of the Board of Supervisors

STEPHEN SHANE STARK
County Counsel

By _____
Deputy Clerk

By _____
Deputy County Counsel

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 585-1800



June 8, 2005

Susan Rose, Chair
Board of Supervisors
County of Santa Barbara
123 East Anapamu Street
Santa Barbara, CA 93101

RE: Santa Barbara County Local Coastal Program Amendment 2-03 (Residential Second Units)

Dear Chair Rose:

On March 16, 2005 the Coastal Commission approved LCP Amendment MAJ-2-03 with suggested modifications. The Commission's resolution of certification is contained in the staff report dated February 24, 2005, addendum dated March 15, 2005, and final revised findings contained in the April 25, 2005 staff report. The suggested modifications, as approved by the Commission are attached to this correspondence.

Section 13544 of the Commission's Administrative Regulations requires that after certification the Executive Director of the Commission shall transmit copies of the resolution of certification and any suggested modifications and findings to the governing authority, and any interested persons or agencies. Further, the certification shall not be deemed final and effective until all of the following occur:

- (a) The local government with jurisdiction over the area governed by the Local Coastal Program, by action of its governing body: (1) acknowledges receipt of the Commission's resolution of certification, including any terms or modifications suggested for final certification; (2) accepts and agrees to any such terms and modifications and takes whatever formal action is required to satisfy the terms and modifications; and (3) agrees to issue coastal development permits for the total area included in the certified Local Coastal Program. Unless the local government takes the action described above the Commission's certification with suggested modifications *shall expire six months* from the date of the Commission's action.
- (b) The Executive Director of the Commission determines in writing that the local government's action and the notification procedures for appealable development required pursuant to Article 17, Section 2 are legally adequate to satisfy any specific requirements set forth in the Commission's certification order.

- (c) The Executive Director reports the determination to the Commission at its next regularly scheduled public meeting and the Commission does not object to the Executive Director's determination. If a majority of the Commissioners present object to the Executive Director's determination and find that the local government action does not conform to the provisions of the Commission's action to certify the Local Coastal Program Amendment, the Commission shall review the local government's action and notification procedures pursuant to Articles 9-12 as if it were a resubmittal.

- (d) Notice of the certification of the Local Coastal Program Amendment shall be filed with the Secretary of Resources Agency for posting and inspection as provided in Public Resources Code Section 21080.5(d)(2)(v).

Should you have any questions regarding this matter, please contact Shana Gray in our Ventura office. The Commission and staff greatly appreciate the County's cooperation and assistance in this matter.

Authorized on behalf of the California Coastal Commission by:

Peter Douglas
Executive Director

By: Gary Timm
District Manager

cc: Alicia Harrison

I. SUGGESTED MODIFICATIONS FOR LCP AMENDMENT 2-03 (RESIDENTIAL SECOND UNITS)

The staff recommends the Commission certify the following, with the modifications as shown below. The existing language of the certified LCP is shown in straight type. Language recommended by Commission staff to be deleted is shown in ~~line out~~. Language proposed by Commission staff to be inserted is shown underlined. Other suggested modifications that do not directly change LCP text (e.g., revisions to maps, figures, instructions) are shown in italics.

1. Development Standards -- General

Sec. 35-142.6. Development Standards.

The following standards shall apply to all residential second units.

1. Pursuant to Government Code, Section 65852.2(b)(5), the County finds that residential second units are consistent with the allowable density and with the general plan and zoning designation provided the units are located on properties with R-1/E-1, EX-1, RR, AG-I-5, AG-I-10, or AG-I-20 zoning designations.

2. Residential second units shall be consistent with the provisions of the applicable zoning district and the policies and development standards of the certified Local Coastal Program.

Revise subsequent number sequence.

2. Development Standards

Sec. 35-142.6. Development Standards.

The following standards shall apply to all residential second units.

...

24. In residential zone districts, all development associated with the construction of a ~~detached~~ residential second units shall be located no less than 50 feet from the outer edge of a designated environmentally sensitive habitat area in urban areas and no less than 100 feet from the outer edge of a designated environmentally sensitive habitat area in rural areas. If the habitat area delineated on the applicable zoning maps is determined by the County not to be located on the particular lot or lots during review of an application for a permit, this development standard shall not apply.

25. All development associated with the construction of residential second units shall be located a minimum of 100 feet from the periphery of wetlands consistent with the requirements of Sec. 35-97.9.

26. Residential second units shall not significantly obstruct public views from any public road or from a public recreation area to, and along the coast.

27. Residential second units shall not obstruct public access to and along the coast, or public trails.

3. Findings for Approval

Sec. 35-142.7. Findings for Approval.

A Coastal Development Permit application for residential second units shall only be approved or conditionally approved if, in addition to the findings required under Sec. 35-169 (Coastal Development Permits), all of the following findings are made:

1. The proposal conforms to the development standards in Section 35-142.6.

In addition to the findings under DIVISION 10, Section 35-172 (Conditional Use Permits), prior to the approval of detached residential second units located on a lot zoned AG-I-5, AG-I-10, or AG-I-20, the Zoning Administrator shall make the following findings:

1. The detached residential second unit is compatible with the design of the adjacent residences and the surrounding neighborhood and will not cause excessive noise, traffic, parking or other disturbance to the existing neighborhood.
2. Provisions for on-site parking are adequate for existing and proposed uses.
3. The detached residential second unit will not substantially change the character of the neighborhood in which it is located, or cause a concentration of second units sufficient to change the character of the neighborhood in which it is located.
4. The detached residential second unit does not significantly infringe on the privacy of surrounding residents.

4. Grounds for Appeal & Appeals to Coastal Commission

Sec. 35-142.8. Noticing.

1. Notice of an approved or conditionally approved Coastal Development Permit for an attached residential second unit, or a detached residential second unit not located in an AG-I zone district, shall be given consistent with Sec. 35-181.3 or Sec. 35-181.4 as appropriate. In addition, a copy of the approved Coastal Development Permit shall be mailed, at least ten calendar days prior to the date on which the Coastal Development Permit is to be issued, to property owners within 300 feet of the exterior boundaries of the parcel that the project is located on and to any person who has filed a written request to receive notice with Planning & Development. The notice shall state that the grounds for appeal are limited to the demonstration that the project for which the Coastal Development Permit was approved or conditionally approved is inconsistent with the development standards contained in Sec. 35-142.6 applicable provisions and policies of this Article and the Coastal Land Use Plan.

Sec. 35-142.9. Appeals.

The decision of the Planning and Development Department to approve or conditionally approve an application for a residential second unit is final subject to appeal to the Planning Commission; the grounds for appeal are limited to the demonstration that the project for which the land-use-coastal development permit was approved or conditionally approved is inconsistent with the development standards contained in Sec. 35-142.6 applicable provisions and policies of this Article and the Coastal Land Use Plan. The decision of Planning and Development to deny an application for a residential second unit is final subject to appeal to the Planning Commission in accordance with procedures set forth in DIVISION 12, Section 35-182 (Appeals). The decisions of the Zoning Administrator to approve, conditionally approve or deny an application for a detached residential second unit in agricultural areas is final subject to the Board of Supervisors in accordance with the procedures set forth in DIVISION 12, Section 35-182 (Appeals).

All decisions to approve, or conditionally approve, residential second units shall be subject to appeal to the California Coastal Commission.

Sec. 35-182.2. Appeals to the Planning Commission.

...

2. Notwithstanding Sec. 35-181.2.1d, the decision of the Planning and Development Department to approve or conditionally approve a Coastal Development Permit for a residential second unit pursuant to Sec. 35-142 is final subject to appeal to the Planning Commission; the grounds for appeal are limited to the demonstration that the project for which the land-use-coastal development permit was approved or conditionally approved is inconsistent with the development standards contained in Sec. 35-142.6 applicable provisions and policies of this Article and the Coastal Land Use Plan. The decision of Planning and Development to deny an application for a residential second unit is final subject to appeal to the Planning Commission in accordance with procedures set forth in DIVISION 12, Section 35-182 (Appeals).

5. Special Problems Areas

Sec. 35-142.4. Exclusion Areas.

1. Because of the adverse impact on public health, safety, and welfare, residential second units shall not be permitted in Special Problems Areas, designated by the Board of Supervisors, except as provided in Sec. 35-142.4.2 ~~and or~~ 35-142.4.3 below based upon the finding that Special Problems Areas by definition are areas "having present or anticipated flooding, drainage, grading, soils, geology, road width, access, sewage disposal, water supply, location or elevation problems."

2. Notwithstanding the above, an attached residential second unit may be approved within a designated Special Problems Area where Planning and Development can make all of the following findings:

- a. The project application involves two contiguous lots under one ownership, at least one of which is vacant.
- b. The owner has submitted an offer to dedicate a covenant of easement pursuant to Article VII of Chapter 35 of the County Code over the vacant lot for so long as a residential second unit is maintained on the developed lot.
- c. The vacant lot is determined to be residentially developable pursuant to the following criteria:

...

5) The Special Problems Committee has reviewed the lot and has determined that the site conditions would not cause the Committee to ~~deny~~ recommend denial of development of the site for residential purposes.

3. Planning and Development may approve a residential second unit within a designated Special Problems Area where all of the development standards in Section 35-142.6 and applicable provisions and policies of this Article and the Coastal Land Use Plan can be met and the project has been reviewed ~~and recommended~~ by the Special Problems Committee.

6. Development Standards – Owner Occupancy

Sec. 35-142.6. Development Standards.

The following standards shall apply to all residential second units.

...

3. The owner of the lot shall reside on said lot, in either the principal dwelling or in the residential second unit except when a) disability or infirmity require institutionalization of the owner, or b) Planning Director or Director's designee approves in writing owner's written request for a temporary absence due to illness, temporary employment relocation, sabbatical, extended travels, or other good cause. Prior to the issuance of the Coastal Development Permit, the owner-occupant shall sign and record an agreement with the County of Santa Barbara requiring that the owner reside on the property. Upon resale of the property, the new owner shall reside on the property or the use of the residential second unit shall be discontinued and the residential second unit shall a) if attached, be converted into a portion of the principal dwelling or b) if detached, the residential second unit shall be removed or converted into a legal accessory structure. This requirement for owner-occupancy is not required for consistency with the Coastal Act or Land Use Plan policies; however, it is included by the County pursuant to state housing law.