



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 and
Development
Department No.: 053
For Agenda Of: 10/23/2007
Placement: Administrative
Estimated Time: 5 min on 11/6/2007
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Director(s) John Baker (568-2085)
Contact Info: Doug Anthony, Deputy Director, Energy (568-2046)
**SUBJECT: An Ordinance Amending the County Land Use and Development Code
Concerning Cogeneration Facilities**

County Counsel Concurrence

As to form: Yes

Other Concurrence: N/A

As to form: No

Recommended Actions:

Set a hearing for November 6, 2007, to consider Planning Commission recommendations, as follows:
(time estimate 5 minutes)

1. Adopt by ordinance, included herein as Attachment A, an amendment to Section 35.58.020 of the Santa Barbara County Land Use and Development Code, as recommended in Planning Commission Resolution #06-06, included herein as Attachment E.
2. Adopt the CEQA finding included herein as Attachment B, determining that the proposed amendments are not subject to the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15061(b)(3).
3. Adopt the legislative findings of approval included herein as Attachment C.

Summary Text:

The proposed ordinance amendment would improve the permitting process for cogeneration facilities proposed within oil and gas projects in the inland zone of the County. The amendment would eliminate potentially duplicative permitting requirements and correct an inconsistency in noise standards for such projects, while assuring appropriate discretionary and environmental review and development standards.

The Planning Commission voted unanimously to recommend adoption of the proposed amendment in a duly-noticed public hearing on December 6, 2006. Staff has circulated the amendment to representatives of the oil and gas industry and environmental groups, and no adverse comment has been received.

Background:

Chapter 35.58 of the County Land Use and Development Code requires a Conditional Use Permit (CUP) for most cogeneration facilities. This is appropriate for stand-alone cogeneration facilities that are not part of larger oil and gas facilities. The CUP provides the needed mechanism for discretionary review of cogeneration facilities proposed adjacent to potentially incompatible land uses. However, the regulations also require a CUP for cogeneration units installed within an oil and gas facility that must also be permitted under a Development Plan or similar discretionary permit. In this setting a CUP is inappropriate, because cogeneration facilities are inherently compatible with oil and gas land uses. In such cases the CUP is duplicative and serves no useful purpose. The extra process required may run counter to Comprehensive Plan Energy policies, which encourage installation and use of cogeneration.

Fiscal and Facilities Impacts:

Budgeted: Yes, page D-298 of the FY07-08 budget under “Long Range Planning,” program 5080.

Fiscal Analysis:

<u>Funding Sources</u>	<u>Current FY Cost:</u>	<u>Annualized On-going Cost:</u>	<u>Total One-Time Project Cost</u>
General Fund			
State			
Federal			
Fees			
Other:	\$ 4,300.00		\$ 4,300.00
Total	\$ 4,300.00	\$ -	\$ 4,300.00

Staffing Impacts:

Legal Positions:

N/A

FTEs:

N/A

Special Instructions:

Planning and Development will perform the legal noticing for this item. Clerk of the Board shall forward certified copies of the Minute Order and executed Ordinance to John Day in Planning and Development Department. The Clerk of the Board shall also forward a copy of the Minute Order to Planning and Development Hearing Support staff, Attn: David Villalobos.

Attachments:

- A. Ordinance Amending Chapter 35.58 of the County Land Use and Development Code
- B. CEQA Finding
- C. Legislative Findings
- D. CEQA Notice of Exemption
- E. Planning Commission Action Letter and Resolution #06-06 recommending adoption of the proposed amendment
- F. Planning Commission staff report

Authored by: John Day, Planner, Energy Division, 568-2045

ATTACHMENT A

**Ordinance Amending Chapter 35.58
of the
County Land Use and Development Code**

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE SANTA BARBARA COUNTY CODE
BY REVISING SECTION 35-1 OF CHAPTER 35,
TITLED "COUNTY LAND USE AND DEVELOPMENT CODE"

CASE No.: 06-ORD-00000-00019

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

SECTION 1:

Chapter 35.58 of the Santa Barbara County Code "Cogeneration Facilities – Inland Area" is hereby amended, by revising Section 35.58.020 "Applicability" to read:

35.58.020 – Applicability

The regulations contained in this Chapter shall apply to cogeneration facilities where allowed in compliance with Section 35.58.030 (Allowed Zones and Permit/Plan Requirements), *except for cogeneration facilities that are ancillary to the following land uses: Oil Drilling and Production subject to a Drilling and Production Plan (Sec. 35.52.050), Treatment and Processing (Sec. 35.52.060), Refining (Sec. 35.52.070), and Oil and Gas Pipelines – Inland Area (Sec. 35.52.080).*

SECTION 2:

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 sixth day of November, 2007, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

Brooks Firestone, 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

ATTACHMENT B

CEQA Finding

The proposed amendment exempts cogeneration facilities that are ancillary to certain oil and gas land uses from Santa Barbara County Land Use and Development Code, Chapter 35.58 (Cogeneration Facilities – Inland Area). The purpose of the proposed amendment is to eliminate duplication of permitting process and correct inconsistencies in the Land Use and Development Code. The affected land uses are as follows: Oil Drilling and Production, Treatment and Processing, Refining, and Oil and Gas Pipelines – Inland Area. Chapter 35.58 currently requires that most cogeneration facilities that are subject to a discretionary permit be permitted by means of a Conditional Use Permit. The chapter also includes development standards for noise emissions.

All land uses to which the proposed exemption applies are, independent of Chapter 35.58, subject to a Drilling and Production Plan, Development Plan, or Conditional Use Permit. These discretionary permits ensure full environmental review and appropriate conditioning of permits. Such land uses are also subject to development standards, including noise standards, established for the particular type of use or zone district. These noise standards apply to an entire facility and limit the noise emissions from the facility as a whole. Exemption of a cogeneration unit within a facility from the Chapter 35.58 noise standards will not affect the allowable noise emissions for the facility as a whole or weaken noise limits at or beyond the facility perimeter.

The amendment would neither affect environmental review of projects to which it applies nor reduce the development standards for affected land uses. It has no potential to result in either a direct physical change or foreseeable indirect physical change in the environment. Therefore, the amendments are not subject to CEQA pursuant to CEQA Guidelines §15061(b)(3), which states:

(3) The activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. 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, the activity is not subject to CEQA.

ATTACHMENT C

Legislative Findings

Legislative Findings.

a) In adopting these ordinance amendments, The Board of Supervisors recognizes the following intent and purpose.

The intent and purpose of this amendment is to improve the County's permitting process by avoiding unnecessary, duplicative processes. The amendment will exempt cogeneration units installed at certain oil and gas land uses from Chapter 35.58 of Santa Barbara County Land Use and Development Code.

The existing code (Sec. 35.58.030) requires that cogeneration facilities be permitted by means of a Conditional Use Permit in most cases where a discretionary permit is required. As a consequence, facilities that are subject to a Drilling and Production Plan, Development Plan, or Conditional Use Permit must obtain a Conditional Use Permit in addition to the already-required discretionary permit, which results in an unnecessarily duplicative permitting process. The Drilling and Production Plan, Development Plan, or Conditional Use Permit alone assures adequate discretionary review, environmental review, and application of appropriate development standards and conditions of approval.

The existing code (Sec. 35.58.040) specifies two development standards, both of which pertain to noise. These standards are inconsistent with existing noise standards for the oil and gas land uses to which the proposed exemption applies. For such facilities, application of the cogeneration noise standards would not effectively reduce overall facility noise, because the overall noise emission from a facility is governed by the standards designated for the applicable land use. The inconsistent standards are a potential source of confusion

The proposed exemption would have the following effect. A cogeneration unit would be considered an ancillary use and be subject to approval under the facility's primary discretionary permit. A cogeneration unit installed at a later date would be subject to approval under a permit revision, amendment, or substantial conformity determination, same as required for the other component parts of the project. Thus, the exemption will eliminate unnecessary duplication of permit process, without diminishing discretionary review of the cogeneration facility. It would also resolve the inconsistency in development standards.

b) The amendment is in the interests of general community welfare.

The County of Santa Barbara adopted its Inland Zoning Ordinances in 1983 (now reformatted as the Land Use and Development Code) to protect and promote the general welfare of its citizenry, among other things. The proposed amendment will remedy inconsistencies in permitting requirements for cogeneration facilities. The existing code (Chapter 38.58) requires a separate Conditional Use Permit for cogeneration facilities within oil and gas facilities. These facilities are subject to discretionary permitting under a Production Plan, Development Plan, or Conditional Use Permit. The additional requirement for a Conditional Use Permit in such cases is duplicative and serves no useful purpose. In addition, the development standards for cogeneration facilities are inconsistent with those specified for the land uses that the amendment would exempt, as discussed above. The

Board finds that timely correction of internal inconsistencies in the Land Use and Development Code once they become known is in the best interest of the general welfare.

- c) The amendment is consistent with the Comprehensive Plan, the requirements of the State planning and zoning laws, and the Santa Barbara County Land Use and Development Code.**

The proposed amendment modifies the County's Land Use and Development Code Chapter 35.58. It corrects a duplication of permitting requirements for cogeneration facilities ancillary to oil and gas land uses that are also subject to discretionary permits under Chapter 35.52. The amendment modifies the code for clarity and consistency, as is consistent with County policies and State law.

In eliminating unnecessary, duplicative process and clarifying applicable development standards, the amendment supports Policy 5.3 of the Comprehensive Plan Energy Element, which states: "The County shall encourage installation and use of cogenerating systems where they are cost effective and appropriate."

- d) The amendment is consistent with good zoning and planning practices.**

The proposed amendment corrects a provision of the Land Use and Development Code that results in a duplicative permit process for cogeneration facilities in oil and gas facilities subject to discretionary permits. It also resolves an inconsistency in development standards. Duplicative permit processes and confusing or inconsistent standards are contrary to good planning practice. Clarity in zoning regulations enhances good planning practices by ensuring consistency and good communications to developers and the public.

ATTACHMENT D: NOTICE OF EXEMPTION

TO: Santa Barbara County Clerk of the Board of Supervisors
FROM: John Day, Planner
Planning and Development Department, Energy Division

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.: 06GPA-00000-00019
Location: Inland Area – Countywide
Project Title: Amendment to Santa Barbara County Land Use and Development Code Chapter 35.58 – Cogeneration Facilities
Project Description: Amendment to the County Land Use and Development Code exempting cogeneration facilities within oil and gas land uses permitted with discretionary permits under Chapter 35.52 from the requirements of Chapter 35.58, which are substantially duplicative.

Name of Public Agency Approving Project: County of Santa Barbara

Exempt Status: (Check one)
 Ministerial
 Statutory Exemption
 Categorical Exemption
 Emergency Project
 No possibility of Significant Effect

Cite specific CEQA and/or CEQA Guideline Section: §15061(b)(3)

Reasons to support exemption findings:

The proposed amendment exempts cogeneration facilities that are ancillary to certain oil and gas land uses from Santa Barbara County Land Use and Development Code, Chapter 35.58 (Cogeneration Facilities – Inland Area). The purpose of the proposed amendment is to eliminate duplication of permitting process and correct inconsistencies in the Land Use and Development Code. The affected land uses are as follows: Oil Drilling and Production, Treatment and Processing, Refining, and Oil and Gas Pipelines – Inland Area. Chapter 35.58 currently requires that most cogeneration facilities that are subject to a discretionary permit be permitted by means of a Conditional Use Permit. The chapter also includes development standards for noise emissions.

All land uses to which the proposed exemption applies are, independent of Chapter 35.58, subject to a Drilling and Production Plan, Development Plan, or Conditional Use Permit. These discretionary permits ensure full environmental review and appropriate conditioning of permits. Such land uses are also subject to development standards, including noise standards, established for the particular type of use or zone district. These noise standards apply to an entire facility and limit the noise emissions from the facility as a whole. Exemption of a cogeneration unit within a facility from the Chapter 35.58 noise standards will not affect the allowable noise emissions for the facility as a whole or weaken noise limits at or beyond the facility perimeter.

The amendment would neither affect environmental review of projects to which it applies nor reduce the development standards for affected land uses. It has no potential to result in either a direct physical change or foreseeable indirect physical change in the environment. Therefore, the amendments are not subject to CEQA pursuant to CEQA Guidelines §15061(b)(3), which states:

(3) The activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. 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, the activity is not subject to CEQA.

Lead Agency Contact Person: John Day, Planner Phone: (805)568-2045

Department/Division Representative: _____ Date: _____

Acceptance Date: _____

Note: A copy of this form must be posted at P&D 6 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 (when P&D permit is required)

Date Filed by County Clerk

ATTACHMENT E

**Planning Commission Action Letter
and Resolution #06-06
Recommending Adoption of the Proposed Amendment**



COUNTY OF SANTA BARBARA CALIFORNIA

PLANNING COMMISSION

COUNTY ENGINEERING BUILDING
123 E. ANAPAMU ST.
SANTA BARBARA, CALIF. 93101-2058
PHONE: (805) 568-2000
FAX: (805) 568-2030

TO THE HONORABLE BOARD OF SUPERVISORS
COUNTY OF SANTA BARBARA, CALIFORNIA

PLANNING COMMISSION
HEARING OF DECEMBER 6, 2006

RE: Cogeneration Facilities Zoning Ordinance Amendment, 06ORD-00000-00019

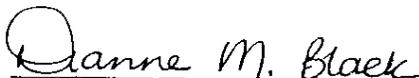
Hearing on the request of Planning and Development to consider a proposed amendment to Santa Barbara County Land Use and Development Code Chapter 35.58 (Cogeneration Facilities – Inland Area); and to accept the Exemption pursuant to Section 15060(c) of the State Guidelines for Implementation of the California Environmental Quality Act. The proposed amendment would exempt cogeneration facilities within certain oil and gas land uses from Chapter 35.58.

Dear Honorable Board of Supervisors:

At the Planning Commission hearing of December 6, 2006, Commissioner Brown moved, seconded by Commissioner Boysen and carried by a vote of 5-0 to recommend that the Board of Supervisors:

1. Adopt the legislative and CEQA findings contained in Attachment A of the staff report dated November 17, 2006, determining that the recommended amendment is not subject to CEQA, pursuant to CEQA Guidelines §15060(c); and
2. Adopt the proposed amendment to Santa Barbara County Land Use and Development Code Chapter 35.58.020 contained in Exhibit A of Attachment A of the staff report dated November 17, 2006.

Sincerely,


Dianne Meester Black
Secretary to the Planning Commission

xc: Case File: 06ORD-00000-00019
Planning Commission File
Records Management
Bill Dillon, Deputy County Counsel
John Day, Planner

Attachments: Attachment A: Planning Commission Resolution No. 06-06

DMB:tlc

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RESOLUTION OF THE SANTA BARBARA COUNTY PLANNING
COMMISSION
COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA

IN THE MATTER OF RECOMMENDING AN
AMENDMENT TO SANTA BARBARA COUNTY
LAND USE AND DEVELOPMENT CODE
CHAPTER 35.58 – CONCERNING PERMITTING
OF COGENERATION FACILITIES

RESOLUTION NO: 06-06

Case No. 06ORD-00000-00019

WITH REFERENCE TO THE FOLLOWING:

- I. The Planning Commission, pursuant to the California Government Code, §§ 65351 and 65353, has held a duly noticed public hearing, at which a specifically proposed amendment to Santa Barbara County Land Use and Development Code Chapter 35.58 (Cogeneration Facilities – Inland Area) was presented and public comments were received and considered.
- II. The Planning Commission now finds that it is in the interest of the orderly development of the County consistent with the previous practice of the County to recommend the following amendment to Section 35.58.020.

35.58.020 – Applicability

The regulations contained in this Chapter shall apply to cogeneration facilities where allowed in compliance with Section 35.58.030 (Allowed Zones and Permit/Plan Requirements), except for cogeneration facilities that are ancillary to the following land uses: Oil Drilling and Production subject to a Drilling and Production Plan (Sec. 35.52.050), Treatment and Processing (Sec. 35.52.060), Refining (Sec. 35.52.070), and Oil and Gas Pipelines – Inland Area (Sec. 35.52.080).

- III. The Planning Commission hereby recommends adoption of the foregoing amendment in accordance with the legislative and CEQA findings shown in Exhibit A.

NOW, THEREFORE, IT IS HEREBY RESOLVED AS FOLLOWS:

1. The above recitations are true and correct.
2. Pursuant to the Provisions of Sections 65354 and 65855 of the Government Code, this Commission recommends that the Board of Supervisors of the County of Santa Barbara,

State of California, following the required noticed public hearing, approve and adopt the above mentioned recommendations of this Commission.

3. A certified copy of this resolution shall be transmitted to the Board of Supervisors.
4. The Chair of this Commission 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 Planning Commission.

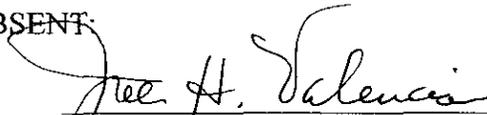
PASSED, APPROVED, AND ADOPTED this 6 day of December, 2006, by the following vote:

AYES: C. Michael Cooney, Cecilia Brown, David Smyser, Joe H. Valencia, Jack Boysen

NOES:

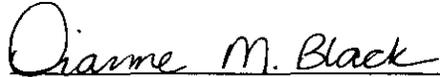
ABSTAINED:

ABSENT:



Joe H. Valencia, Chair
Planning Commission of the County of Santa Barbara
State of California

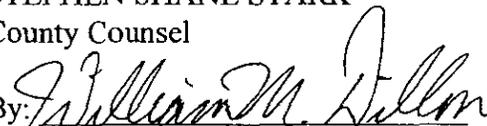
ATTEST:



DIANNE MEESTER BLACK
Secretary to the Planning Commission

APPROVED AS TO FORM:

STEPHEN SHANE STARK
County Counsel

By: 

Deputy County Counsel

ATTACHMENT F

Planning Commission Staff Report

SANTA BARBARA COUNTY PLANNING COMMISSION
**Staff Report for Amendment to Santa Barbara County Land Use and
Development Code Chapter 35.58 – Cogeneration Facilities**

Hearing Date: Dec. 6, 2006
Staff Report Date: Nov. 17, 2006
Case No.: 06ORD-00000-00019

Deputy Director: Doug Anthony
Division: Energy
Staff Contact: John Day
Phone #: 568-2045

Environmental Document:

APPLICANT: Santa Barbara County

Countywide – Inland Zone

1.0 REQUEST

Hearing on the request of Planning and Development to consider a proposed amendment to Santa Barbara County Land Use and Development Code Chapter 35.58 (Cogeneration Facilities – Inland Area) and to accept the Exemption pursuant to Section 15060(c) of the State Guidelines for Implementation of the California Environmental Quality Act. The proposed amendment would exempt cogeneration facilities within certain oil and gas land uses from Chapter 35.58.

2.0 RECOMMENDATION AND PROCEDURES

Staff recommends that your Commission recommend to the Board of Supervisors that it adopt the proposed amendment.

If the Planning Commission approves staff's recommendation, the Commission's motion should be to adopt the Planning Commission Resolution included as Attachment A of this staff report, recommending the following to the Board of Supervisors:

1. Adopt the legislative and CEQA findings contained in Attachment A of this staff report, determining that the recommended amendment is not subject to CEQA, pursuant to CEQA Guidelines §15060(c).
2. Adopt the proposed amendment to Santa Barbara County Land Use and Development Code Chapter 35.58.020 (Applicability) contained in Exhibit A of Attachment A of this staff report.

The proposed actions consist of Planning Commission recommendations to the Board of Supervisors. The Planning Commission's recommendations, along with the public record leading to those recommendations, will be transmitted to the Board of Supervisors and the Board will consider those recommendations in a duly noticed public hearing. In so doing, the Board will consider whether or not to concur with those recommendations, or a revised version thereof. The Planning Commission would reconsider any substantial revisions, as directed by the Board.

3.0 JURISDICTION

The Planning Commission conducts this hearing pursuant to the authority vested in local government by the State of California to regulate land use, plan for orderly development, and protect public health, safety, and welfare in a manner consistent with federal and state laws. Section 65854 of the California Government Code requires the Planning Commission to hold a public hearing on proposed amendments to the zoning ordinance.

4.0 ISSUE SUMMARY

The ordinance amendment we ask the Planning Commission to consider today improves the permitting process for cogeneration facilities within oil and gas land uses. The existing regulations require a Conditional Use Permit (CUP) for most cogeneration facilities. This makes sense for stand-alone cogeneration facilities that are not part of larger oil and gas facilities; the CUP provides the needed mechanism for discretionary review. However, the regulations also require a CUP for cogeneration units installed within an oil and gas facility that is required to be permitted under a Development Plan or similar discretionary permit. This results in a duplicative permitting process that serves no useful purpose.

5.0 PROJECT INFORMATION

5.1 Setting & Background

5.1.1 Cogeneration Facilities

Cogeneration, as defined in the County Land Use and Development Code, is “The sequential use of energy for the production of electrical and useful thermal energy, as provided by Public Resources Code 25134.” Typical cogeneration units produce electricity from natural gas and use the waste heat to produce steam. Cogeneration units offer very significant environmental advantages in terms of efficient use of fuel and potentially low air emissions.

Cogeneration is well-suited for oil and gas facilities, which consume large amounts of electricity and gas. Cogeneration can provide the heat and electrical power needed for oil heating, pumping, and process equipment. Such facilities also often have a ready supply of natural gas from associated production operations. ExxonMobil’s oil and gas processing facility at Las Flores Canyon includes a 49 megawatt cogeneration facility, which provides heat and electricity for operations and supplies excess generated power to the utility grid. PXP’s pipeline terminal at Gaviota includes an 18.5 megawatt cogeneration facility. In the recent Tranquillon Ridge Project EIR (October, 2006), a 3.5 megawatt cogeneration facility is discussed as a possible mitigation to reduce consumption of electricity and gas. Cogeneration facilities may also be installed at oil drilling and production sites, where they can provide steam for use in enhanced oil recovery (steam-flood injection). In that application, the electricity generated can power electric pumps, which may replace more-polluting internal combustion engines. Cogeneration also has potential applications in refineries and in pump stations, which consume large amounts of energy for oil heating pumping.

The cogeneration facilities focused on here, and which are affected by the proposed amendment, are ancillary uses to the main land use under which facilities are permitted. These specific uses are: Oil Drilling and Production (where subject to a Drilling and Production Plan), Treatment and Processing, Refining, and Oil and Gas Pipelines – Inland Area. The cogeneration facility is generally a small component of the overall facility, as is apparent for the Las Flores Canyon facility, shown in the illustration..



The main potential impact of a cogeneration facility, provided it meets the air quality criteria required for permitting, would be noise. Cogeneration units vary widely in noise levels depending on generation capacity, design, and location. For many of the facilities considered here, a cogeneration unit would generate only a fraction of total facility noise and have little or no effect at the facility perimeter. For production facilities and pump stations ancillary to pipelines, a cogeneration facility might require substantial mitigation to ensure noise is within the noise standards applicable to those land uses.

5.1.2 Existing Regulations

Applicability. Santa Barbara County Land Use and Development Code Chapter 35.58 (Cogeneration Facilities – Inland Area) currently applies to cogeneration facilities in the inland area of the County. There is no comparable ordinance applicable in the Coastal Zone.

Permit Requirements for Cogeneration Facilities. Cogeneration facilities are allowed in several zones, with permit requirements that vary by zone as follows (Sec. 35.58.030 – Allowed Zones and Permit/Plan Requirements):

Zone	Proximity to Other Zones	Required Permit
AG-I, AG-II, and M-1	n/a	Conditional Use Permit
M-2	more than 1,000 feet from another zone	Development Plan
	within 1,000 feet of another zone	Conditional Use Permit
M-CR	more than 1,000 feet from another zone	Land Use Permit
	within 1,000 feet of another zone	Conditional Use Permit

These permit requirements apply to cogeneration facilities of any size, and do not differentiate between stand-alone cogeneration facilities and cogeneration units that are part of a larger facility that is already subject to a discretionary permit.

Permit Requirements for Oil & Gas Facilities affected by proposed amendment.

Land Use	Reference	Permitted Zones	Plan / Permit Requirement
Drilling and Production	35.52.050	AG-II, M-2, M-CR	Drilling and Production Plan
		other zones	Drilling and Production Plan + CUP
Treatment and Processing	35.52.060	M-2, M-CR	Final Development Plan
		AG-I, AG-II ⁽¹⁾	Final Development Plan + CUP
Refining	35.52.070	M-II	Final Development Plan + CUP
Oil & Gas Pipelines	35.52.080	All zones identified in Chapter 35.2	Final Development Plan

(1) onshore-produced oil only

Development Standards. Section 35.58.040 contains two development standards applicable to cogeneration facilities, both of which concern noise mitigation. Development standards for noise applicable to each land use category affected by the proposed amendment are included in Sections 35.52.050 – 080.

5.2 Description

The Planning and Development Department proposes the following amendment to Santa Barbara County Land Use and Development Code Chapter 35.58 (Cogeneration Facilities – Inland Area).

35.58.020 – Applicability

The regulations contained in this Chapter shall apply to cogeneration facilities where allowed in compliance with Section 35.58.030 (Allowed Zones and Permit/Plan Requirements), except for cogeneration facilities that are ancillary to the following land uses: Oil Drilling and Production subject to a Drilling and Production Plan (Sec. 35.52.050), Treatment and Processing (Sec. 35.52.060), Refining (Sec. 35.52.070), and Oil and Gas Pipelines – Inland Area (Sec. 35.52.080).

6.0 PROJECT ANALYSIS

6.1 Summary Analysis

Santa Barbara County Land Use and Development Code, Chapter 35.58 (Cogeneration Facilities – Inland Area) requires that, in most cases, a cogeneration facility subject to a discretionary permit be permitted with a Conditional Use Permit. The chapter includes development standards for cogeneration facility noise emissions. The amendment proposed here would exempt cogeneration facilities that are ancillary to certain oil and gas land uses from Chapter 35.58. These affected land uses (“affected land uses”) are as follows: Oil Drilling and Production, Treatment and Processing, Refining, and Oil and Gas Pipelines – Inland Area. The amendment would not affect cogeneration facilities that are not ancillary to one of these uses.

The amendment would have the following two effects:

Eliminate duplicative permit processes. In most cases under current regulations, permitting of a cogeneration facility within an existing oil and gas facility requires a Conditional Use Permit (CUP) for the cogeneration unit, in addition to the discretionary plan or permit required for the land use. These include Drilling and Production Plan, Development Plan, or Conditional Use Permit, as summarized in the foregoing table. These discretionary plans and permits ensure full environmental review and appropriate permit conditions. The additional permitting process required under Chapter 35.58 is unnecessary. With the proposed amendment, a cogeneration unit within a new oil and gas facility would be considered an ancillary use and would be subject to approval under the facility’s primary discretionary permit. A cogeneration unit installed at a later date would be subject to approval under a permit revision, amendment, or substantial conformity determination, same as required for the other component parts of the project. Thus, the proposed exemption will eliminate unnecessary duplication of permit process, without diminishing discretionary review of the cogeneration facility.

Correct inconsistency in development standards for noise. The noise standards specified for cogeneration facilities (Sec. 35.58.040) are inconsistent with those applicable to the affected land uses. The Sec. 35.58.040 standards are roughly comparable to, but different than, those applicable to *Drilling and Production* and to *Oil & Gas Pipelines*, and are more restrictive than those applicable to *Treatment and Processing* and *Refining*. However, in permitting a cogeneration facility within a larger oil and gas facility, the operative and meaningful standards are those that limit the noise emissions from the facility as a whole. The noise levels of individual facility components are not at issue, provided the overall facility noise meets the standards established for the zoning district and land use, and complies with facility permit conditions. To apply the Sec. 35.58.040 standards in such cases would have no effect on the allowable noise emissions for the facility as a whole or the noise experienced in surrounding areas. By exempting ancillary cogeneration facilities in affected land uses from Chapter 35.58, the proposed amendment will remedy the inconsistent noise standards, but will not reduce standards for noise emissions from affected land uses.

6.2 Environmental Review

The proposed ordinance amendment exempts cogeneration facilities ancillary to certain oil and gas land uses from County Land Use and Development Code, Chapter 35.58. The exemption eliminates duplication of permit process, but does not diminish discretionary review, environmental review, or required mitigation of environmental impacts. Proper review is assured by the existing discretionary permit requirements for the affected land uses, all of which are subject to a Drilling and Production Plan, Development Plan, or Conditional Use Permit. The proposed amendment will also exempt cogeneration facilities in the affected land uses from the noise standards for cogeneration facilities specified in Chapter 35.58.040. However, the exemption would not allow noise emissions from the facility as a whole to exceed the applicable standards at or beyond the facility perimeter, as established for the zoning district, land use, and in facility permit conditions.

It should be noted that CEQA Guidelines specifically exempt from environmental review cogeneration facilities of less than 50 megawatt capacity installed in existing industrial facilities, provided they comply with air quality laws and do not increase net emissions (CEQA Guidelines Sec. 15329).

The proposed amendment is administrative in nature, and entails a change in permit procedures designed to eliminate duplication of process and to correct inconsistencies in the Land Use and Development Code. The amendment would neither affect environmental review of projects to which it applies, nor reduce the development standards for affected land uses. It has no potential to result in either a direct physical change or foreseeable indirect physical change in the environment.

Therefore, the amendment is not subject to CEQA pursuant to CEQA Guidelines §15060(c), which states in part:

- (c) ... *An activity is not subject to CEQA if:*
 - (1) ...
 - (2) *The activity will not result in a direct or reasonably foreseeable indirect physical change in the environment; or*

6.3 Comprehensive Plan Consistency

Policy 5.3 – Cogeneration of the Comprehensive Plan Energy Element states: “The County shall encourage installation and use of cogenerating systems where they are cost effective and appropriate.” The proposed amendment seeks to reduce unnecessary, duplicative permit procedures that affect cogeneration facilities in certain oil and gas facilities.

6.4 Consistency with Ordinances

The purpose of the proposed amendment is to eliminate duplication of process and create consistency between Chapter 35.58 (Cogeneration Facilities – Inland Area) and the inland oil and gas land uses regulated under Chapter 35.52. No side effects or interaction with other ordinances are anticipated.

7.0 APPEALS PROCEDURE

Comprehensive Plan amendments recommended for approval are automatically forwarded to the Board of Supervisors for final action, therefore no appeal is required.

ATTACHMENTS

- A. Planning Commission Resolution recommending to the Board of Supervisors adoption of an amendment to Santa Barbara County, including Exhibit A (Findings).
- B. CEQA notice of exemption.

ATTACHMENT A

**Resolution of the
Santa Barbara County Planning Commission**

RESOLUTION OF THE SANTA BARBARA COUNTY PLANNING
COMMISSION
COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA

IN THE MATTER OF RECOMMENDING AN
AMENDMENT TO SANTA BARBARA COUNTY
LAND USE AND DEVELOPMENT CODE
CHAPTER 35.58 – CONCERNING PERMITTING
OF COGENERATION FACILITIES

RESOLUTION NO:

Case No. 06ORD-00000-00019

WITH REFERENCE TO THE FOLLOWING:

- I. The Planning Commission, pursuant to the California Government Code, §§ 65351 and 65353, has held a duly noticed public hearing, at which a specifically proposed amendment to Santa Barbara County Land Use and Development Code Chapter 35.58 (Cogeneration Facilities – Inland Area) was presented and public comments were received and considered.
- II. The Planning Commission now finds that it is in the interest of the orderly development of the County consistent with the previous practice of the County to recommend the following amendment to Section 35.58.020.

35.58.020 – Applicability

The regulations contained in this Chapter shall apply to cogeneration facilities where allowed in compliance with Section 35.58.030 (Allowed Zones and Permit/Plan Requirements), except for cogeneration facilities that are ancillary to the following land uses: Oil Drilling and Production subject to a Drilling and Production Plan (Sec. 35.52.050), Treatment and Processing (Sec. 35.52.060), Refining (Sec. 35.52.070), and Oil and Gas Pipelines – Inland Area (Sec. 35.52.080).

- III. The Planning Commission hereby recommends adoption of the foregoing amendment in accordance with the legislative and CEQA findings shown in Exhibit A.

NOW, THEREFORE, IT IS HEREBY RESOLVED AS FOLLOWS:

1. The above recitations are true and correct.
2. Pursuant to the Provisions of Sections 65354 and 65855 of the Government Code, this Commission recommends that the Board of Supervisors of the County of Santa Barbara,

State of California, following the required noticed public hearing, approve and adopt the above mentioned recommendations of this Commission.

3. A certified copy of this resolution shall be transmitted to the Board of Supervisors.
4. The Chair of this Commission 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 Planning Commission.

PASSED, APPROVED, AND ADOPTED this day of December, 2006, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

Joe H. Valencia, Chair
Planning Commission of the County of Santa Barbara
State of California

ATTEST:

DIANNE MEESTER BLACK
Secretary to the Planning Commission

APPROVED AS TO FORM:

STEPHEN SHANE STARK
County Counsel

By: _____
Deputy County Counsel

EXHIBIT A

Recommended Legislative and CEQA findings

1. Legislative Findings.

a) In adopting these ordinance amendments, The Board of Supervisors recognizes the following intent and purpose.

The intent and purpose of this amendment is to improve the County's permitting process by avoiding unnecessary, duplicative processes. The amendment will exempt cogeneration units installed at certain oil and gas land uses from Chapter 35.58 of Santa Barbara County Land Use and Development Code.

The existing code (Sec. 35.58.030) requires that cogeneration facilities be permitted by means of a Conditional Use Permit in most cases where a discretionary permit is required. As a consequence, facilities that are subject to a Drilling and Production Plan, Development Plan, or Conditional Use Permit must obtain a Conditional Use Permit in addition to the already-required discretionary permit, which results in an unnecessarily duplicative permitting process. The Drilling and Production Plan, Development Plan, or Conditional Use Permit alone assures adequate discretionary review, environmental review, and application of appropriate development standards and conditions of approval.

The existing code (Sec. 35.58.040) specifies two development standards, both of which pertain to noise. These standards are inconsistent with existing noise standards for the oil and gas land uses to which the proposed exemption applies. For such facilities, application of the cogeneration noise standards would not effectively reduce overall facility noise, because the overall noise emission from a facility is governed by the standards designated for the applicable land use. The inconsistent standards are a potential source of confusion

The proposed exemption would have the following effect. A cogeneration unit would be considered an ancillary use and be subject to approval under the facility's primary discretionary permit. A cogeneration unit installed at a later date would be subject to approval under a permit revision, amendment, or substantial conformity determination, same as required for the other component parts of the project. Thus, the exemption will eliminate unnecessary duplication of permit process, without diminishing discretionary review of the cogeneration facility. It would also resolve the inconsistency in development standards.

b) The amendment is in the interests of general community welfare.

The County of Santa Barbara adopted its Inland Zoning Ordinances in 1983 (now reformatted as the Land Use and Development Code) to protect and promote the general welfare of its citizenry, among other things. The proposed amendment will remedy inconsistencies in permitting requirements for cogeneration facilities. The existing code (Chapter 38.58) requires a separate Conditional Use Permit for cogeneration facilities within oil and gas facilities. These facilities are subject to discretionary permitting under a Production Plan, Development Plan, or Conditional Use Permit. The additional requirement for a Conditional Use Permit in such cases is duplicative and serves no useful

purpose. In addition, the development standards for cogeneration facilities are inconsistent with those specified for the land uses that the amendment would exempt, as discussed above. The Board finds that timely correction of internal inconsistencies in the Land Use and Development Code once they become known is in the best interest of the general welfare.

c) The amendment is consistent with the Comprehensive Plan, the requirements of the State planning and zoning laws, and the Santa Barbara County Land Use and Development Code.

The proposed amendment modifies the County's Land Use and Development Code Chapter 35.58. It corrects a duplication of permitting requirements for cogeneration facilities ancillary to oil and gas land uses that are also subject to discretionary permits under Chapter 35.52. The amendment modifies the code for clarity and consistency, as is consistent with County policies and State law.

In eliminating unnecessary, duplicative process and clarifying applicable development standards, the amendment supports Policy 5.3 of the Comprehensive Plan Energy Element, which states: "The County shall encourage installation and use of cogenerating systems where they are cost effective and appropriate."

d) The amendment is consistent with good zoning and planning practices.

The proposed amendment corrects a provision of the Land Use and Development Code that results in a duplicative permit process for cogeneration facilities in oil and gas facilities subject to discretionary permits. It also resolves an inconsistency in development standards. Duplicative permit processes and confusing or inconsistent standards are contrary to good planning practice. Clarity in zoning regulations enhances good planning practices by ensuring consistency and good communications to developers and the public.

2. CEQA Finding

The proposed amendment exempts cogeneration facilities that are ancillary to certain oil and gas land uses from Santa Barbara County Land Use and Development Code, Chapter 35.58 (Cogeneration Facilities – Inland Area). The purpose of the proposed amendment is to eliminate duplication of permitting process and correct inconsistencies in the Land Use and Development Code. The affected land uses are as follows: Oil Drilling and Production, Treatment and Processing, Refining, and Oil and Gas Pipelines – Inland Area. Chapter 35.58 currently requires that most cogeneration facilities that are subject to a discretionary permit be permitted by means of a Conditional Use Permit. The chapter also includes development standards for noise emissions.

All land uses to which the proposed exemption applies are, independent of Chapter 35.58, subject to a Drilling and Production Plan, Development Plan, or Conditional Use Permit. These discretionary permits ensure full environmental review and appropriate conditioning of permits. Such land uses are also subject to development standards, including noise standards, established

for the particular type of use or zone district. These noise standards apply to an entire facility and limit the noise emissions from the facility as a whole. Exemption of a cogeneration unit within a facility from the Chapter 35.58 noise standards will not affect the allowable noise emissions for the facility as a whole or weaken noise limits at or beyond the facility perimeter.

The amendment would neither affect environmental review of projects to which it applies nor reduce the development standards for affected land uses. It has no potential to result in either a direct physical change or foreseeable indirect physical change in the environment. Therefore, the amendments are not subject to CEQA pursuant to CEQA Guidelines §15060(c), which states in part:

(c) ... An activity is not subject to CEQA if:

(1) ...

(2) The activity will not result in a direct or reasonably foreseeable indirect physical change in the environment; or

ATTACHMENT B: NOTICE OF EXEMPTION

TO: Santa Barbara County Clerk of the Board of Supervisors
FROM: John Day, Planner
Planning and Development Department, Energy Division

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.: 06GPA-00000-00019
Location: Inland Area – Countywide
Project Title: Amendment to Santa Barbara County Land Use and Development Code Chapter 35.58 – Cogeneration Facilities
Project Description: Amendment to the County Land Use and Development Code exempting cogeneration facilities within oil and gas land uses permitted with discretionary permits under Chapter 35.52 from the requirements of Chapter 35.58, which are substantially duplicative.

Name of Public Agency Approving Project: County of Santa Barbara

Exempt Status: (Check one)
 Ministerial
 Statutory Exemption
 Categorical Exemption
 Emergency Project
 No possibility of Significant Effect

Cite specific CEQA and/or CEQA Guideline Section: §15060(c)

Reasons to support exemption findings:

The proposed amendment exempts cogeneration facilities that are ancillary to certain oil and gas land uses from Santa Barbara County Land Use and Development Code, Chapter 35.58 (Cogeneration Facilities – Inland Area). The purpose of the proposed amendment is to eliminate duplication of permitting process and correct inconsistencies in the Land Use and Development Code. The affected land uses are as follows: Oil Drilling and Production, Treatment and Processing, Refining, and Oil and Gas Pipelines – Inland Area. Chapter 35.58 currently requires that most cogeneration facilities that are subject to a discretionary permit be permitted by means of a Conditional Use Permit. The chapter also includes development standards for noise emissions.

All land uses to which the proposed exemption applies are, independent of Chapter 35.58, subject to a Drilling and Production Plan, Development Plan, or Conditional Use Permit. These discretionary permits ensure full environmental review and appropriate conditioning of permits. Such land uses are also subject to development standards, including noise standards, established for the particular type of use or zone district. These noise standards apply to an entire facility and limit the noise emissions from the facility as a whole. Exemption of a cogeneration unit within a facility from the Chapter 35.58 noise standards will not affect the allowable noise emissions for the facility as a whole or weaken noise limits at or beyond the facility perimeter.

The amendment would neither affect environmental review of projects to which it applies nor reduce the development standards for affected land uses. It has no potential to result in either a direct physical change or foreseeable indirect physical change in the environment. Therefore, the amendments are not subject to CEQA pursuant to CEQA Guidelines §15060(c), which states in part:

- (c) ... An activity is not subject to CEQA if:
 - (1) ...
 - (2) The activity will not result in a direct or reasonably foreseeable indirect physical change in the environment; or ..

Lead Agency Contact Person: John Day, Planner Phone: (805)568-2045

Department/Division Representative: _____ Date: _____

Acceptance Date: _____

Note: A copy of this form must be posted at P&D 6 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 (when P&D permit is required)

Date Filed by County Clerk