



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.: 053
For Agenda Of: 12/6/11
Placement: Departmental
Estimated Tme: 45 minutes
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Dr. Glenn Russell, Ph.D., 568-2085
Director(s)
Contact Info: Doug Anthony, Deputy Director, 568-2046
SUBJECT: Hydraulic Fracturing Permit Path – Zoning Code Amendments

County Counsel Concurrence

As to form: Yes

Other Concurrence:

As to form: No

Auditor-Controller Concurrence

As to form: N/A

Recommended Actions: Consider the recommendations of the County Planning Commission to approve Case Nos. 11ORD-00000-00022 and 11ORD-00000-00023, to amend the County Land Use and Development Code and the Article II Coastal Zoning Ordinance, to specify the appropriate permit requirements for hydraulic fracturing of any new or existing well.

On December 6, 2011, the Board's action should include the following:

A. Case No. 11ORD-00000-00022 (County Land Use and Development Code Amendment):

1. Make the findings for approval, including CEQA findings, of the proposed ordinance;
2. Determine that the adoption of this ordinance is categorically exempt from the California Environmental Quality Act in compliance with Section 15308 of the Guideline for Implementation of CEQA; and
3. Approve Case No. 11ORD-00000-00022, an ordinance amending Section 35-1, the Santa Barbara County Land Use and Development Code, of Chapter 35, Zoning, of the County Code.

B. Case No. 11ORD-00000-00023 (Article II Coastal Zoning Ordinance):

1. Make the findings for approval, including CEQA findings, of the proposed ordinance;

2. Determine that the adoption of this ordinance is categorically exempt from the California Environmental Quality Act in compliance with Section 15308 of the Guidelines for Implementation of CEQA; and
3. Approve Case No. 11ORD-00000-00023, an ordinance amending Article II, the Santa Barbara County Coastal Zoning Ordinance, of Chapter 35, Zoning, of the County Code.

Summary Text:

The Board of Supervisors received three briefings about hydraulic fracturing, after which it directed staff to process amendments to the zoning code. These amendments were deemed prudent to require that any producer proposing to conduct hydraulic fracturing in the inland unincorporated area of the County must first obtain approval of an Oil Drilling and Production Plan from the County Planning Commission.¹ As currently worded, the ordinance does not explicitly identify hydraulic fracturing, and the Land Use and Development Code (LUDC) gives discretion to the Planning and Development Director to determine the specific permit path for conducting hydraulic fracturing, based on its potential to result in adverse impacts. On November 9, 2011, the Planning Commission unanimously approved proposed amendments to the LUDC as described below, and also approved amendments to the Coastal Zoning Ordinance as proposed by staff for the purpose of clarifying permit requirements with regard to hydraulic fracturing.

Case No. 11ORD-00000-00022 – Land Use and Development Code.

1. Definition of Hydraulic Fracturing.

The proposed amendments to the Land Use and Development Code include the addition of a definition for hydraulic fracturing to Section 35.11, Glossary. The definition reads: *A well stimulation technique that consists of pumping fluid, typically with a propping agent such as sand, down the wellbore under pressure to create or enlarge fractures in a targeted formation.* This definition is designed to be sufficiently broad to meet the stated expectations of the Board, while remaining sufficiently narrow to avoid encompassing operations that are not hydraulic fracturing (e.g., waterflooding, wellbore cleaning).

2. Required Permit Path for Hydraulic Fracturing.

The proposed amendments revise Section 35.5 as follows:

- Amend footnote (4) of Table 5-2, to clarify that accessory equipment not requiring Land Use Permits if incidental to operations does not apply to hydraulic fracturing.
- Add subsection 11 to Section 35.52.050.A, Applicability, to clarify that the regulations of Section 35-52.050 apply to hydraulic fracturing of any new or existing well. Amendment language reads: *c. hydraulic fracturing of any new or existing well.*

¹ These briefings occurred on June 7, August 2, and September 20, 2011. Copies of Board letters and written public testimony may be accessed at <http://santabarbara.legistar.com/Calendar.aspx#current>. Additionally, replays of the briefings may also be accessed at the same website address.

- Add text to Section 35.52.050.C, Criteria and standards for exemption of oil/gas drilling projects from approval of Oil Drilling and Production Plan, to clarify that permitted development is restricted to that described in approved permit. Any change must be approved pursuant to Section 35.84.040, which provide procedures for Substantial Conformity Determinations, Amendments, and Revisions. Amendment language reads: Development or land uses authorized through a Land Use Permit or Oil Drilling and Production Plan shall be established only as approved by the review authority and in compliance with the project description and any conditions of approval, except where a change to the project is approved pursuant to Section 35.84.040 of this Code.
 - Add text to Section 35.52.050.C, Criteria and standards for exemption of oil/gas drilling projects from approval of Oil Drilling and Production Plan, to clarify that hydraulic fracturing triggers the requirement for an Oil Drilling and Production Plan. The amendment adds item 2.c, hydraulic fracturing to the list of uses not proposed in order to qualify for an exemption to the Oil Drilling and Production Plan.
3. *Potential for Significant Environmental Impact Determined by Director.*

The proposed amendments revise text in Section 35.52.050.C.4, Criteria and standards for exemption of oil/gas drilling projects from approval of Oil Drilling and Production Plan – No other significant impacts. This amendment clarifies that preliminary determination of significant adverse impacts associated with a proposed project shall be made by the Director, and deletes language that suggest that such determinations must be made “during a site visit.” The preliminary determination is used to decide if a proposed project is exempt from an Oil Drilling and Production Plan, and only subject to approval of a Land Use Permit. The specific revision reads: **4. No other significant impacts.** The project shall not result in other potentially significant adverse impacts as determined by the Director ~~identified during a site visit~~. While site visits are routinely made to help inform such determinations, other factors used in making any such determination occur separately from a site visit, such as quantification of air emissions, preliminary assessment of potential impacts to public safety, and the potential to use fresh water from over-drafted groundwater basins.

Case No. 11ORD-00000-00023 – Article II Coastal Zoning Ordinance.

1. Definition of Hydraulic Fracturing.

The proposed amendments to the Coastal Zoning Ordinance include the addition of a definition for hydraulic fracturing to Division 2, Definitions. It is the same definition as that added to the LUDC. The definition reads: A well stimulation technique that consists of pumping fluid, typically with a propping agent such as sand, down the wellbore under pressure to create or enlarge fractures in a targeted formation.

2. Required Permit Path for Hydraulic Fracturing.

The proposed amendments revise Division 9, Oil and Gas Facilities, as follows:

- Subsection 1, Applicability of Section 35-152, Onshore Exploratory Oil and Gas Drilling, is amended to state that hydraulic fracturing is not a permitted use under exploration. The amendment reads:

“The specific regulations contained within this section shall apply to all equipment, buildings, and appurtenance necessary for the exploration for oil and gas resources from an onshore hydrocarbon area outside the limits of an established oil field. Drilling operations utilizing hydraulic fracturing of any new or existing well is not be a “permitted use” under this section. For all districts in which exploratory drilling is a permitted use or a use permitted with a Conditional Use Permit, the district regulations of Division 4 shall be inapplicable to said use.”

- Subsection 1, Applicability of Section 35-153, Onshore Oil and Gas Production, is amended to add hydraulic fracturing as a use that falls under the permitting requirements of this section. The amendment reads: i. Hydraulic fracturing of any new or existing well. These permit requirements apply to all production in the Coastal Zone. This amendment clarifies that hydraulic fracturing is subject to the same permit processes – approval of a Production Plan, Coastal Development Permit, and in some zone districts, a Conditional Use Permit.
- Subsection 1, Applicability of Section 35-158, Onshore Exploration and/or Production of Offshore Oil and Gas Reservoirs, is amended to add hydraulic fracturing as a use that falls under the permitting requirements of this section. The amendment reads: 7) Hydraulic fracturing of any new or existing well. This amendment clarifies that hydraulic fracturing is subject to approval of a Production Plan, Coastal Development Permit, and in some zone districts, a Conditional Use Permit.

Fiscal and Facilities Impacts:

Funding is provided under the Permitting and Compliance Function (Program 3000 – Administration) of Planning and Development Development Review – North Division, budgeted on page D-316 of the FY 2011-12 budget book.

Special Instructions:

The Planning and Development Department will satisfy all noticing requirements. The Clerk of the Board will forward a certified copy of each executed ordinance to Doug Anthony of Planning and Development.

Attachments:

Case No. 11ORD-00000-00022, County LUDC Amendment

- A. Findings
- B. CEQA Notice of Exemption
- C. Ordinance Amendment (showing proposed revisions)

Case No. 11ORD-00000-00023, Article II Coastal Zoning Ordinance Amendment

- D. Findings
- E. CEQA Notice of Exemption
- F. Ordinance Amendment (showing proposed revisions)

Planning Commission Resolutions and Staff Report

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