



**COUNTY OF SANTA BARBARA
PLANNING AND DEVELOPMENT**

MEMORANDUM

TO: County Planning Commissioners
FROM: Noel Langle, Planner
DATE: January 23, 2013
RE: January 30, 2013 continued hearing on 12ORD-00000-00002 (County Land Use and Development Code) and -00004 (Article II Coastal Zoning Ordinance); Temporary Uses (Special Events) Ordinance Amendments

1.0 REQUEST

Hearing on the request of the Planning and Development Department that the County Planning Commission:

- 1.1 Case No. 12ORD-00000-00002.** Adopt a recommendation to the Board of Supervisors that the Board adopt an ordinance (Case No. 12ORD-00000-00002) amending Article 35.4, Standards for Specific Land Uses, and Article 35.11, Glossary, of Section 35-1, the Santa Barbara County Land Use and Development Code, of Chapter 35, Zoning, of the County Code, as set forth in Attachment C; and
- 1.2 Case No. 12ORD-00000-00004.** Adopt a recommendation to the Board of Supervisors that the Board adopt an ordinance (Case No. 12ORD-00000-00004) amending Division 2, Definitions, and Division 7, General Regulations, of Article II, the Santa Barbara County Coastal Zoning Ordinance, of Chapter 35, Zoning, of the County Code, as set forth in Attachment F.

The purpose of the proposed ordinances is to modify existing regulations and implement new regulations regarding the use of property for temporary uses (special events), and make other minor revisions.

2.0 RECOMMENDATION AND PROCEDURES

- 2.1 Case No. 12ORD-00000-00002.** Follow the procedures outlined below and recommend that the Board of Supervisors approve Case No. 12ORD-00000-00002 as shown in Attachment C based upon the ability to make the appropriate findings. Your Commission's motion should include the following:
1. Make the findings for approval, including CEQA findings, and recommend that the Board make the required findings for approval of the proposed amendment, including CEQA findings (Attachment A);
 2. Recommend that the Board determine 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); and,
 3. Adopt a Resolution recommending that the Board adopt Case No. 12ORD-00000-00002, an

ordinance amending Section 35-1, the Santa Barbara County Land Use and Development Code, of Chapter 35, Zoning, of the County Code (Attachment C).

2.2 Case No. 12ORD-00000-00004. Follow the procedures outlined below and recommend that the Board of Supervisors approve Case No. 12ORD-00000-00004 as shown in Attachment F based upon the ability to make the appropriate findings. Your Commission's motion should include the following:

1. Make the findings for approval, including CEQA findings, and recommend that the Board make the findings for approval of the proposed amendment, including CEQA findings (Attachment D);
2. Recommend that the Board determine that the adoption of this ordinance is statutorily exempt from the California Environmental Quality Act pursuant to Section 15265 of the Guidelines for Implementation of CEQA (Attachment E); and,
3. Adopt a Resolution recommending that the Board approve Case No. 12ORD-00000-00004, an ordinance amending Article II, the Santa Barbara County Coastal Zoning Ordinance, of Chapter 35, Zoning, of the County Code (Attachment F).

Please refer the matter to staff if your Commission takes other than the recommended actions for the development of appropriate materials.

3.0 JURISDICTION

3.1 Case No. 12ORD-00000-00002. This project is being considered by the County Planning Commission based upon Sections 65854 to 65857, inclusive, of the California Government Code and Chapter 35.104 of the Santa Barbara County Land Use and Development Code (County LUDC). The Government Code and the County LUDC require that the County Planning Commission, as the designated planning agency for the unincorporated area of the County outside of the Montecito Community Plan Area, review and consider proposed amendments to the County LUDC and provide a recommendation to the Board of Supervisors.

3.2 Case No. 12ORD-00000-00004. This project is being considered by the County Planning Commission in compliance with Sections 65854 to 65857, inclusive, of the California Government Code and Section 35-180.5 of the Santa Barbara County Coastal Zoning Ordinance (Article II). The Government Code and Article II require that the County Planning Commission, as the designated planning agency for the Coastal Zone portion of the unincorporated area of the County, review and consider proposed amendments to Article II and provide a recommendation to the Board of Supervisors.

4.0 BACKGROUND AND ISSUE SUMMARY

4.1 County Planning Commission. At the November 7, 2012 regarding the Temporary Uses (Special Events) Ordinance Amendments, after listening to information presented by Planning and Development Department staff and taking testimony from members of the public, your Commission unanimously approved a motion to continue the item until January 9, 2013, and to direct Department staff to return with ordinance amendments that:

1. Specify that special events associated with the short-term rental of property are not considered as noncommercial events that are exempt from a zoning permit.
2. Establish a threshold number of attendees required for a noncommercial event to be subject to the limitation on the number of events allowed within a calendar year.
3. Include definitions of the meaning and effect of terms used in the regulations (e.g.,

“charitable,” “incidental”).

As part of the motion, your Commission also recommended to the Board of Supervisors that the Board consider a work program item for the Department that would consider the issues included in the ordinance presented by Ms. Beth Collins-Burgard on behalf of the special events industry at the November 7, 2012 hearing. This recommendation will be presented to the Board when the Department’s work program is considered by the Board.

At the County Planning Commission of hearing on January 9, 2013, your Commission again continued the item until the January 30, 2013 hearing in order to allow the Montecito Planning Commission to consider the revised ordinances and provide a recommendation to the County Planning Commission regarding the amendment to the Article II Coastal Zoning Ordinance since it will affect the Montecito Community Plan area.

4.2. Montecito Planning Commission. At their hearing on January 16, 2013, after listening the Department staff’s presentation and testimony from interested members of the public, the Montecito Planning Commission adopted two resolutions, each by a three to two vote.

Resolution 13-3: Resolution 13-3 recommends that the Board of Supervisors adopt an ordinance amending the Montecito Land Use and Development Code (Montecito LUDC) that would have the effect, within the Montecito Community Plan area, of:

- Providing that charitable and other noncommercial events where the total number of attendees is 75 or fewer are not subject to the three events per year limitation.
- Keeping the existing allowance for three charitable and other noncommercial events per year where the number of attendees does not exceed 300.
- Adding an allowance for one additional charitable and other noncommercial event where the number of attendees may exceed 300 subject to the approval of a Special Event Use Permit.
- Prohibiting all commercial events outside of commercial zones.
- Specifying that special events associated with the short-term rental of property are not considered to be noncommercial events that are exempt from zoning permits.
- Adding new development standards that apply to charitable and other noncommercial events.
- Adding new definitions and revising existing definitions of the meaning and effect of terms used in the regulations.

The ordinance also (1) includes the deletion of standards and references that only apply within the Coastal zone or merely distinguish between coastal and non-coastal requirements and (2) makes other minor revisions.

Resolution 13-4: Resolution 13-4 recommends that the County Planning Commission adopt a resolution recommending that the Board of Supervisors adopt an ordinance amending the Article II Coastal Zoning Ordinance (Article II). The ordinance revises Article II in a manner similar to the revisions to the Montecito LUDC described above.

The two dissenting Montecito Planning Commissioners voted against adoption of the two resolutions due to the prohibition of all commercial special events within non-commercial zones in the Montecito Community Plan area.

5.0 PROJECT ANALYSIS

The following provides a review and analysis of the proposed text revisions which reflect your direction on November 7, 2012 and focus on (1) specifying that special events associated with the short-term rental of property are not noncommercial events that are exempt from a zoning permit, (2) establishing a threshold number of attendees required for a charitable or other noncommercial event to be subject to the limitation on the number of events allowed within a calendar year, and (3) adding new definitions and revising existing definitions of the meaning and effect of terms used in the regulations.

The language included below is from the proposed amendment to the County Land Use and Development Code (County LUDC). Language from the proposed amendment to the Article II Coastal Zoning Ordinance (Article II) will be provided when required for clarity. Proposed deletions are shown by striking through the text and proposed additions are underlined; the use of an ellipsis (...) indicates sections where the text is unchanged and have been omitted for the sake of brevity.

The County LUDC amendment also includes the deletion of standards and references that only apply within the Coastal zone or merely distinguish between coastal and non-coastal requirements since the Article II Coastal Zoning Ordinance continues to be the implementing ordinance of the County's certified Local Coastal Program. The amendments also include minor language revisions. These revisions, including the deletion of Coastal Zone language, are not discussed in this staff report but are shown through the use of underlines and strikethroughs in the complete texts of the ordinance amendments that are attached as Attachment C (County LUDC) and Attachment F (Article II).

5.1 Applicability. Subsection B.1 of Subsection B, Applicability, of Section 35.42.260 is proposed to be revised as follows: (See SECTION 1, page 1, of Exhibit 1 of Attachment C.)

B. Applicability.

1. ~~Does not apply to wineries or amusements regulated separately—Inland area.~~ Within the Inland area, this Section shall not apply to any use of property that is regulated by Section 35.42.280 (Wineries) of this Article or Chapter 6 (Amusements) of the County Code.

Does not apply to amusements, filming activities or wineries regulated separately. This Section shall not apply to any use of property that is regulated by the following:

- a. Chapter 6 (Amusements) of the County Code.
- b. Chapter 14C (Film Permit Office) of the County Code.
- c. Section 35.42.280 (Wineries) of this Development Code.

***Discussion -** This revision reorganizes and revises Subsection B.1 to further specify that Section 35.42.260 (Temporary Uses and Trailers) that provides the permit requirements and development/operational standards for all temporary uses including special events also does not apply to activities that are regulated under Chapter 14C of the County Code that provides the requirements for filming activities in addition to activities that are regulated under (1) the wineries section of the County LUDC (Section 35.42.280) and (2) Chapter 6, Amusements, of the County Code. Amusements include such activities as billiard rooms, mechanical amusement devices, card games, live entertainment and outdoor festivals.*

5.2 Other approvals required. Subsection B.4 of Subsection B, Applicability, is proposed to be revised as follows: (See SECTION 1, page 2, of Exhibit 1 of Attachment C.)

B. Applicability.

4. **Other approvals required.** All temporary electrical facilities, temporary toilet and plumbing facilities, temporary use of public roads, temporary use of County facilities and temporary

shelters or structures shall receive all necessary approvals from the Community Services Department, the Director, the County Fire Department or applicable fire protection district, the General Services Department, the Public Health Department, the Public Works Department and the Sheriff and the County Fire Department or applicable fire protection district.

***Discussion** - This revision adds additional activities that already require a permit (i.e., temporary use of public roads and County facilities), as well as adding additional County departments that may be involved in the review and approval of permits for temporary uses.*

5.3 Temporary Use permit requirement tables. Tables 4-10 through 4-15 which list the allowed temporary uses and corresponding permit requirements for the different zones are proposed to be revised to change “Charitable functions” to read “Charitable and other noncommercial events” in order to be consistent with the use of the term throughout the remainder of Section 35.42.260 (Temporary Uses and Trailers). (See SECTION 1, pages 2 through 10, of Exhibit 1 of Attachment C.)

5.4 Permit processing. Subsection D.2 of Subsection D, Permit processing, is proposed to be revised as follows: (See SECTION 2, page 11, of Exhibit 1 of Attachment C.)

D. Permit processing.

2. **Referral to other County departments.** After receipt of an application for a temporary use, the Department shall refer the application to other County departments and districts that may be involved in the review of the application including the Community Services Department, the County Fire Department or applicable fire protection district, the General Services Department, the Public Health Department, the Public Works Department, Sheriff and the Treasurer-Tax Collector.

***Discussion** - This revision deletes the existing language regarding special standards for exempt temporary uses in the Coastal Zone (omitted above for brevity) and instead adds language that provides for notification to other Departments and districts that may be involved in the permitting of temporary uses. This helps to implement the County Executive Officer’s directive that County departments coordinate the review of applications for temporary uses.*

5.5 Charitable and other noncommercial events. Subsection F.4, Charitable and other noncommercial functions, is proposed to be revised as follows: (See SECTION 3, page 12, of Exhibit 1 of Attachment C.)

F. Permit requirements and development standards for specific temporary uses.

4. **Charitable and other noncommercial functions events.** ~~The use of a lot for charitable and other noncommercial functions where the owner or tenant of the lot receives no remuneration, including fundraisers, parties, receptions, weddings and other similar gatherings, may be allowed in compliance with the following permit requirements and development standards.~~
The use of a lot or portion thereof, including any structures located on the lot, for charitable and other noncommercial events, including private gatherings of family and friends, may be allowed in compliance with the following requirements.

Permit Requirement	Development Standards
Exempt	For a lot that is less than five gross acres in area: Use of the lot for charitable functions does not exceed five times within the same calendar year. The number of persons present at the event at any one time does not exceed 300.
Exempt	For a lot that is five gross acres or more in area: Use of the lot for charitable functions may exceed five times within the same calendar year. The number of persons present at the event at any one time does not exceed 300.
Coastal Development Permit or Land Use Permit	For a lot that is less than five gross acres in area: Use of the lot for charitable functions may exceed five times within the same calendar year. The number of persons present at the event at any one time does not exceed 300.
Coastal Development Permit or Land Use Permit	For a lot that is five gross acres or more in area: Use of the lot for charitable functions may exceed five times within the same calendar year. The number of persons present at the event at any one time exceeds 300.
Minor Conditional Use Permit	For a lot that is less than five gross acres in area: Use of the lot for charitable functions may exceed five times within the same calendar year. The number of persons present at the event at any one time exceeds 300.

Discussion - The revisions include revising the description of what constitutes charitable and other noncommercial events to include the use of a portion of the lot and any structures located on the lot and to specifically provide for private gatherings of families and friends. Additionally, the prohibition on the owner or tenant receiving any compensation for the use of the lot for the event is deleted from this subsection and moved to a new Subsection F.4.c.(1) that provides development and operational standards for all charitable and other noncommercial events. Lastly, the table that provides the permit requirements and certain development standards for charitable and other noncommercial events is revised and moved from the opening paragraph of Subsection F.4 and to a new Subsection F.4.c (Permit requirements and development and operational standards).

a. Purpose and intent. The purpose and intent of this Subsection F.4 is to allow an owner or non-transient tenant to use private property for charitable and other noncommercial events as a temporary use that is incidental and subordinate to the residential use of the property provided the property is used in compliance with the following permit requirements and development and operational standards. Additionally, the intent is to not allow events associated with the short-term rental of property as charitable or other noncommercial events.

(1) For the purposes of this Subsection F.4:

- (a) Non-transient tenant means any person who uses or possesses, or has the right to use or possess, a lot or portion thereof, including any structures located on the lot, for a period of 31 consecutive calendar days or more, counting portions of calendar days as full days.
- (b) Short-term rental of property means the possession or use of a lot or any portion thereof, including any structures located on the lot, for a period of 30 consecutive calendar days or less, counting portions of calendar days as full days, and including rentals that are subject to the payment of a transient occupancy tax in compliance with County Code Chapter 32 (Taxation).

Discussion - A new Subsection F.4.a (Purpose and intent) is added to specify what is meant by charitable and other noncommercial events and to reinforce that an event held on a lot that is used for residential purposes for less than 31 days or rented for a short term (30 days or less)

does not qualify as a charitable or other noncommercial event.

- b. Applicability.** The restriction on the maximum number of events allowed within a calendar year as provided in Subsection F.4.c (Permit requirements and development and operational standards), below, shall not apply to charitable and other noncommercial events where the total number of attendees at the event, not including event staff, is 50 or fewer.

Discussion - *A new Subsection F.4.b (Applicability) is added that states that the restriction on the maximum number of events allowed within a calendar year as provided by new Subsection F.4.c (Permit requirements and development and operational standards) do not apply to charitable and other noncommercial events where the total number of attendees at the event, not including event staff, does not exceed 50. The purpose of this is to establish a minimum number of attendees required to be present at a charitable or noncommercial event in order for the event to count towards the number of events allowed per year. For example, this would apply to situations where a homeowner who owns a lot that is less than five acres hosts small dinner gatherings, and other noncommercial, private gatherings, in excess of five times per year.*

- c. Permit requirements and development and operational standards.** The use of a lot or portion thereof, including any structures located on the lot, for charitable and other noncommercial events may be allowed in compliance with the following permit requirements and development and operational standards.

<u>Lot Size (1)</u>	<u>Maximum Number of Events (2)</u>	<u>Maximum Number of Attendees (3)</u>	<u>Permit Requirement</u>
<u>Less than 5 acres</u>	<u>5</u>	<u>300</u>	<u>Exempt</u>
		<u>Greater than 300</u>	<u>Minor Conditional Use Permit</u>
	<u>6 or more</u>	<u>300</u>	<u>Land Use Permit</u>
		<u>Greater than 300</u>	<u>Minor Conditional Use Permit</u>
<u>5 acres or more</u>	<u>No maximum</u>	<u>300</u>	<u>Exempt</u>
		<u>Greater than 300</u>	<u>Land Use Permit</u>

Notes:

1. Measured as gross lot area.
2. This number represents the maximum number of events that may be held on the lot within the same calendar year.
3. This number represents the maximum number of event attendees, not including event staff, present at the event at any one time.

Discussion - *As mentioned in the discussion for Subsection F.4 that begins on page 6, above, the permit requirements and certain development standards for charitable and other noncommercial events is revised and moved from the opening paragraph of Subsection F.4 to a new table in Subsection F.4.c (Permit requirements and development and operational standards). The Notes section of the table specifies that the maximum number of attendees is that number present at the event at any one time and does not include event staff.*

- (1) All charitable and other noncommercial events.** The following apply to all charitable and other noncommercial events.
- The owner or tenant of the lot on which the event occurs shall not receive any remuneration associated with such event or use, and there may not be any charge, fee, payment or other compensation for the use of the lot on which the event occurs, except that an owner or tenant may be reimbursed for actual and direct costs incurred by the owner or tenant associated with allowing the lot to be used for an event including providing site clean-up following the event.
 - A permit for a Reception and Similar Gathering Facility (commercial) shall be required to be approved or conditionally approved in compliance with Subsection

35.42.260.F.9 (Reception and similar gathering facilities (commercial)), below, prior to commencement of any event associated with the short-term rental of property.

(c) The duration of the event shall not exceed a single 24-hour period, except that event set-up, breakdown, and clean-up may occur outside of this period.

(2) Charitable events. The following apply to all charitable events.

(a) The event shall be held by or sponsored for the sole benefit of a charitable nonprofit organization(s).

(b) 100 percent of the net proceeds collected for the event, after operational expenses are met, are remitted to the sponsoring charitable organization(s).

(3) Other noncommercial events. Other noncommercial events that are not allowed as a charitable event in compliance with Subsection F.4.c(2), above, may be allowed provided there is no commercial component including:

(1) The payment of any fee including admission fees and membership fees.

(2) Filming for commercial purposes.

(3) Promoting a product.

(4) Public advertising.

(4) Political fundraising events. Subsection F.4.c(3) does not apply to fundraising events whose sole political purpose is to solicit money or pledges for political purposes.

Discussion - The revisions include:

- *As mentioned in the discussion for Subsection F.4 that begins on page 6, above, the existing requirement that an owner or tenant may not receive any compensation for the use of the lot for the event is included in this subsection; however, language is also added that allows the owner or tenant to be reimbursed for costs incurred with allowing the lot to be used for an event (e.g., site clean-up).*
- *A new standard is added to require that a permit for a "Reception and Similar Gathering Facility (commercial)" shall be required to be approved prior to commencement of any event associated with the short-term rental of property. Reception and Similar Gathering Facilities require an approved Minor Conditional Use Permit.*
- *A new standard is added that limits the duration of an event to a single 24-hour period, not including set-up and breakdown.*
- *A new standard is added for charitable events that requires that 100 percent of the net proceeds collected for the event, after operational expenses are met, are remitted to the sponsoring charitable organization(s).*
- *Proposed new Subsection F.4.c(3) restricts noncommercial events that do not qualify as charitable events from having any commercial component.*
- *Proposed new Subsection F.4.c(4) provides that the restrictions contained in new Subsection F.4.c (3) do not apply to political fundraising events.*

5.6 Definitions. Section 35.110.020, Definitions of Specialized Terms and Phrases, is proposed to be revised to amend existing definitions and add new definitions as shown below: (See SECTIONS

5 and 6, pages 14 and 15, of Exhibit 1 of Attachment C.)

Charitable Function Event. ~~An event or activity whose primary purpose is of a charitable or noncommercial nature that is held by or sponsored for the sole benefit of a nonprofit organization(s) established for the purpose of promoting philanthropic goals and social well-being including charitable, educational, religious, or other activities serving the public interest or common good.~~

Discussion - The proposed revision to the existing language provides a stricter definition of what constitutes a charitable event but does not require that the organization be recognized as a 501(c)(3) organization by the federal Internal Revenue Service as was previously proposed.

Calendar Year. A period of a year beginning on January 1st and ending on December 31st.

Discussion - This term is used in the notes to the table that specifies how many events may be held on a particular lot within a year.

Event. Any gathering of individuals, whether on public or private property, assembled with a common purpose, and usually for a specified period of time, including ceremonies, competitions, festivals and parties.

Discussion - This new definition is included to define what is considered an event that would be regulated by the County LUDC.

Incidental Use. A use of a lot and/or structure, or portion of a lot and/or structure, that is subordinate to the principal use of the lot and/or structure, and is developed or operated so as to not significantly alter or adversely affect the appearance, character or operation of the principal use of the lot or structure located on the lot.

Discussion - This new definition describes what is meant by “incidental” as the term is used in Subsection F.4.a (see page 6, above) where it describes the use of property for charitable and other noncommercial events as being incidental to the residential use of the property.

Nonprofit Organization. An organization chartered for other than profit-making activities. Also known as a not-for-profit organization.

Discussion - This new definition is included to define the meaning of the term as the term is used in the definition of “Charitable Event,” above.

Remuneration. Compensation, money, rent, or other bargained for consideration given in return for occupancy, possession, or use of real property and/or portion thereof, including any structures located thereon.

Discussion - This new definition is included to define the meaning of the term as the term is used in Subsection F.4.c(1)(a) (see page 7, above) wherein it prohibits an owner or tenant from receiving any remuneration in exchange for the use of a property for an event.

Attachments:

- A. 12ORD-00000-00002 Findings
- B. 12ORD-00000-00002 Notice of Exemption
- C. 12ORD-00000-00002 Resolution and Proposed Ordinance

- D. 12ORD-00000-00004 Findings
- E. 12ORD-00000-00004 Notice of Exemption
- F. 12ORD-00000-00004 Resolution and Proposed Ordinance
- G. Resolution 13-04 Montecito Planning Commission Resolution regarding 12ORD-00000-00004