



**COUNTY OF SANTA BARBARA
PLANNING AND DEVELOPMENT**

MEMORANDUM

TO: Montecito Planning Commissioners

FROM: Noel Langle, Planner

DATE: September 19, 2012

RE: September 26, 2012 continued hearing on 12ORD-00000-00003 (Montecito Land Use and Development Code) and -00004 (Article II Coastal Zoning Ordinance); Temporary Uses (Special Events) Ordinance Amendments

This memorandum contains (1) a summary of the existing zoning regulations that pertain to the temporary use of property for special events, (2) a review of the proposed ordinance amendments presented to both the Montecito and County Planning Commissions at recent public hearings and the outcomes of those hearings, and (3) options that your Commission may want to pursue regarding the regulation of special events what are presented at the end of this report.

1.0 Background.

The Montecito Land Use and Development Code and the Article II Coastal Zoning Ordinance (collectively, the zoning ordinances) allow the temporary use of property and structures located in the Montecito Community Plan area (including the Coastal Zone) for charitable and other noncommercial events (including private gatherings of family and friends) on all properties provided they comply with the following:

EVENT TYPE	PERMIT REQUIREMENT	OPERATIONAL STANDARDS
Charitable/Noncommercial Event	Exempt	<ul style="list-style-type: none">• No compensation for use of property• No distinction based on lot size• Maximum of 3 events per year• Maximum of 300 event attendees at any one time

The zoning ordinances also allow property to be used as commercial reception facilities for parties, receptions, weddings, and other similar gatherings provided that a Conditional Use Permit is approved by the Montecito Planning Commission for that use. For these types of facilities the zoning ordinances do not contain any restrictions on lot size, the number of times per year an event could be held or the number of attendees; however, these restrictions would be established through the CUP review and approval process.

At the hearing on July 25, 2012, Planning and Development Department staff proposed several amendments to the existing language of the zoning ordinances that were primarily intended to allow the use of property for charitable and other noncommercial events as a use that is accessory, ancillary

and incidental to the residential use of the property, and to not allow events associated with the short-term rental (i.e., 30 days or less) of property as charitable or other noncommercial events. In summary these amendments proposed to:

- Add a “purpose and intent statement” to Subsection F.3 (Charitable and other noncommercial events) to affirmatively state that the purpose of this subsection is to allow private property to be used for charitable and other noncommercial events as a use that is accessory, ancillary and incidental to the residential use of the property, but to not allow events associated with the short-term rental of property as charitable or other noncommercial events.
- Add a new “applicability” subsection to Subsection F.3 (Charitable and other noncommercial events) that states that the permit requirements and operational standards for charitable and other noncommercial events do not apply to events where the number of attendees at the event does not exceed 50. This establishes a minimum number of attendees required to be at an event in order to be regulated as an event, and would apply to situations where a homeowner hosts small noncommercial, private gatherings that may occur on a more regular basis than the existing three times per year allowance for noncommercial events.
- Require that a permit for a commercial reception facility be approved for any event associated with the short-term rental of property.
- Require that all exterior activities associated with both charitable/noncommercial events and commercial events are limited to the hours of 7:00 am through 10:00 pm; also that interior activities may occur after 10:00 pm only if they do not generate any noise that exceeds 60 decibels at the property line.
- Not allow any fee or charge or payment for use of the event site for charitable/noncommercial events with the exception that the owner or tenant may be reimbursed for costs incurred in allowing the property to be used for the event (e.g., security, site clean-up).
- Require that for charitable events that 100 percent of the net proceeds from the event go to the charitable organization.
- Require that to qualify as a charitable event the event must be held by or sponsored for the benefit of an IRS 501(c)(3) nonprofit organization, but also give the Director the authority to determine that similar nonprofit organizations that are not 501(c)(3) organizations may still be allowed as a charitable event.
- Not allow any noncommercial events to have any commercial component including an admission fee, product promotions, public advertising, or short-term rental of a lot.
- Require that a telephone contact number of a representative who is able to respond to neighbor concerns regarding a commercial event be provided to all neighbors.
- Add a new type of discretionary called a “Special Event Use Permit” that would be under the jurisdiction of the Director. This Special Event Use Permit would allow property to be rented for use as a commercial reception facility without having to obtain a Conditional Use Permit provided that the use of the property for such an event occurs no more than four times within a calendar year. A public hearing on the permit would not be required; however, neighbors would receive

notice of the submittal of an application for such a permit as well of the pending decision of the Director, and the decision of the Director could be appealed to the Montecito Planning Commission.

Following Department's staff presentation regarding proposed amendments and after listening to several public speakers, your Commission continued the hearing until September 26, 2012, and provided Department staff with several comments and recommendations regarding potential revisions to the draft amendments, including:

- Increasing the threshold regarding the number of attendees for charitable and other noncommercial events that do not count towards the limit on the number of events per year from 50 to 75.
- Keeping the existing limit on the number of charitable and other noncommercial events, where the number of attendees is 300 or less, at three per year, but add an allowance for an additional charitable event where the number of attendees may exceed 300.
- Reducing the number of commercial events allowed through the Special Event Use Permit process to one (there was not unanimous agreement that any commercial events should be allowed).

Your Commission also directed the Department to try to simplify the amendment so that the public could better understand the process and limitations on events.

The County Planning Commission met twice on similar ordinance amendments subsequent to your Commission's hearing on July 25th; the discussions that occurred at these meetings are summarized below. Options that your Commission may want to pursue regarding the regulation of special events are presented at the end of this report.

2.0 County Planning Commission Hearings.

2.1 August 15, 2012 Hearing.

Ordinance amendments similar to those discussed at your July 25th hearing were presented to the County Planning Commission on August 15, 2012. At that hearing, after listening to a substantial amount of public testimony, the County Planning Commission discussed the concept of eliminating the distinction between charitable/noncommercial events and commercial events, and instead simply allowing for a set number of events (regardless of their commercial or noncommercial nature) that would be tied to such parameters as the size and/or location of the property. There was also discussion regarding adding additional operational standards to help ensure that events would not have a negative impact on neighbors, including addressing such potential nuisance factors as event duration and hours of operation, lighting, parking, safety and traffic, and sound. The County Planning Commission then continued the hearing until September 5, 2012 so that Department staff could develop options under this new approach.

2.2 September 5, 2012 County Planning Commission Hearing.

At the September 5, 2012 hearing, Department staff presented the following three options to the County Planning Commission for their consideration.

Option 1: Maintain the distinction between commercial and noncommercial events. This option would maintain the existing distinction between commercial and noncommercial events

(as discussed with your Commission at the July 25th hearing) but could also include additional revisions to the proposed language such as:

- limiting the number of days an event can span, and specify that the event includes setup, breakdown and cleanup
- including a procedure for revoking a Special Event Use Permit for noncompliance with conditions of approval
- limiting the time that a Conditional Use Permit or Special Event Use Permit is valid; that is, at the time of approval of the permit, the review authority would determine the appropriate time limit using such factors as neighborhood compatibility, site location, suitability of the site for ongoing events, the cost of site improvements required to comply with site design standards.

Option 2: Allow fixed number of events based on zoning. This option does not distinguish between commercial and noncommercial events, but would (1) allow a limited number of events based on the zoning of the lot the event is located on, and (2) provide a permit path to allow additional events and/or higher numbers of event attendees. Permits that allow additional events beyond the numbers listed in the following table could be conditioned to require that events may not occur within a certain number of days of each other to provide a separation period between events. This option could also include the revisions listed under Option 1, above.

The following provides an example of what this might look like. Under this scenario an event is defined to only include gatherings where the total number of attendees exceeds 75. Gatherings where the total number of attendees is 75 or fewer, since they would not be defined as events, would not be subject to the operational standards of this amendment. However, they would still be subject to other County regulations, for example, the nighttime noise restrictions of Chapter 40 of the County Code.

Zoning	Permit	Maximum # Attendees	# Events per Calendar Year	Additional Events or Attendees
Lots other than lots zoned AG-II	Exempt	300	3	Minor Conditional Use Permit
Lots zoned AG-II	Exempt	300	6	Special Event Use Permit

This option has the advantage of greatly simplifying the regulations in that all events are treated the same regardless of whether they are commercial or charitable/noncommercial events.

Option 3: Allow fixed number of events based on lot size. This option also does not distinguish between commercial and noncommercial events, but would (1) allow a limited number of events based on the size of the lot the event is located on, and (2) provide a permit path to allow additional events and/or higher numbers of event attendees. However, as proposed, lots less than 20,000 square feet could not hold events unless the total number of attendees is 50 or fewer. As included in Option 2, permits that allow additional events beyond the numbers listed in the following table could be conditioned to require that events may not occur within a certain number of days of each other to provide a separation period between events. This option could also include the revisions listed under Option 1, above. As with Option 2, above, this option would greatly simplify the regulations since all events would be treated the same.

The following provides an example of what this might look like. Under this scenario an event is defined to only include gatherings where the total number of attendees exceeds 50 on lots of less than 20,000 square feet, or 75 if the lot is 20,000 square feet or greater. As discussed above, gatherings that are not defined as events would not be subject to the operational standards of this amendment, but would be subject to other County regulations.

Lot Size	Permit	Maximum # Attendees	# Events per Calendar Year	Additional Events or Attendees
Less than 20,000 sq. ft.	n/a	Greater than 50	None	n/a
20,000 sq. ft. or greater, but less than 5 acres	Exempt	150	3	Minor Conditional Use Permit
5 acres or greater, but less than 40 acres	Exempt	300	3	Special Event Use Permit
40 acres or greater	Exempt	300	6	Special Event Use Permit

Additional operational standards. In response to the discussion at the August 15th hearing regarding adding additional operational standards to help ensure that events would not have a negative impact on neighbors, Department staff included examples of additional operational standards that could be included. The actual language would be developed based on input from the Planning Commissions if the Commissions choose to include them.

Event duration and hours of operation

1. Events are limited to three consecutive days which includes all site facility set-up, take down and clean-up.
2. All exterior activities associated with the event shall occur between the hours of 7:00 a.m. and 10:00 p.m. All attendees, except for those who will be accommodated overnight on the site, shall vacate the site by 10:30 p.m.

Lighting

1. Any outdoor lighting used during events shall be downcast and shielded so that neither the lamp nor reflector interior surface is visible from any adjoining property under separate ownership.

Parking

1. Parking shall be provided at a ratio of one space per 2.5 event attendees; this parking may be provided either on-site or in approved off-site parking areas with shuttle service provided between the parking area and the event site.
2. Written consent shall be obtained from the owners of all off-site parking areas.
3. A minimum of one parking attendant shall be present at each unimproved lot used for parking to assist in parking vehicles. For each off-site unimproved parking lot containing 50 or more vehicles, one parking attendant for each 50 vehicles shall be provided.

Safety and traffic

1. Events shall provide a minimum of at least one unobstructed vehicle access from a publicly maintained road to the event site that meets Fire Department standards.
2. All vehicle access points shall meet current Public Works Department standards for driveway approaches and sight distance.
3. Internal site vehicle circulation shall be provided which meets the Fire Department standards, and shall be signed to direct vehicles to the location of event parking, if parking is provided on the event site, and any exits.
4. These requirements may be modified provided the applicable agency (Fire Department or applicable fire district, and/or Public Works Department) verifies in writing that the proposed access is adequate for safe ingress and egress of the site during events.
5. For any event where the number of attendees exceeds 150 the applicant shall contact the County Sheriff and the California Highway Patrol to determine if any special road and traffic control measures are required.

Sound

1. Any amplified sound associated with the event may only occur between the hours of 10:00 a.m. to 10:00 p.m. and shall not exceed a maximum sound level of 65 dB when measured at the property lines of an adjacent lot under separate ownership. All loudspeakers shall be oriented away from residences located on adjacent lots under separate ownership to the maximum extent feasible.

Following Department staff's presentation and public testimony the County Planning Commission continued the hearing until October 17, 2012. Although the Commission did not collectively provide any direction, individual Commissioners gave comments on the options presented at the hearing. In general the comments addressed the following:

- There should be a fixed number of events that relate to the size of the lot, except that the number of events on very large lots (e.g., 1000 acres) should not be limited.
- The number and size of events should distinguish between urban and rural areas.
- The permit process cost and time needs to be reasonable, especially for smaller lots hosting smaller events.
- The number of days that an event can span should be limited.
- The allowed number of attendees should be the cumulative number allowed in any one event day.
- Do not distinguish between commercial versus noncommercial (charitable) events; however, short term rentals should be addressed, and perhaps regulated differently.
- Need regulations addressing signage, e.g., where allowed, how long allowed?

- Small lots (e.g., lots less than 20,000 square feet) should at least have a permit path available in order to hold events.
- Hosting special events should not be allowed to supplant agricultural uses of property.

Transient Occupancy Tax. County Code Chapter 32 (Taxation), which is authorized through Section 7280 of the California Revenue and Taxation Code, provides that a TOT is collected when a transient occupies or has the privilege to occupy a room or rooms within a structure for dwelling, lodging or sleeping purposes. Thus, the focus of the TOT program is on the occupancy or privilege to occupy a structure for dwelling, lodging or sleeping purposes as opposed to the use of property for an event or other temporary use. The ability to collect a TOT in these latter cases depends on the specific circumstances of the occupancy of a room or rooms within a structure.

The County Planning Commission was interested in learning how the County might be able to collect additional transient occupancy taxes (TOTs) associated with the hosting of special events. Clint Donati, representing the County Tax Collector's Office, attended the September 5th hearing to answer the County Planning Commission's questions regarding when the payment of a TOT would be required.

3.0 Options for the Montecito Planning Commission

The following options are presented for your consideration. Based on your comments regarding the following, staff will develop revised ordinances and return to your Commission.

3.1 Option 1: Retain distinction between commercial and noncommercial events.

This option would continue the regulatory scheme as outlined in the ordinance amendments presented at your July 25th hearing. This option would maintain the current distinction between commercial and noncommercial events, and could include revisions discussed under Option 1 as presented to the County Planning Commission regarding limiting the number of days an event can span, including a procedure for revoking a Special Event Use Permit, and limiting the time that a Conditional Use Permit or Special Event Use Permit is valid.

The following provides an example of what this might look like, and includes the suggestions from your July 25, 2012 hearing regarding:

- Increasing the threshold for charitable and other noncommercial events that do not count towards the limit on the number of events per year from 50 to 75.
- Keeping the existing limit on the number of charitable and other noncommercial events, where the number of attendees is 300 or less, at three per year, but add an allowance for an additional charitable event where the number of attendees may exceed 300.
- Reducing the number of commercial events allowed through the Special Event Use Permit process to one.

Event Type	Permit	Maximum # Attendees	# Events per Calendar Year
Charitable/Noncommercial Event	Exempt	300	3
Charitable/Noncommercial Event	Exempt	More than 300	1, restricted to charitable events
Commercial Event	Special Event Use Permit	300	1
Commercial Event	Conditional Use Permit	Specified by permit	2 or more, specified by permit

This assumes that an event is defined to only include gatherings where the total number of attendees exceeds 75. Gatherings where the total number of attendees is 75 or fewer are not considered events.

Option 2: Do not distinguish between commercial and noncommercial events. Similar to Option 3 presented to the County Planning Commission at the September 5th hearing, this option does not distinguish between commercial and noncommercial events, but would (1) allow a limited number of events based on the size of the lot the event is located on, and (2) could provide a permit path to allow additional events and/or higher numbers of event attendees. As included in Options 2 and 3 presented to the County Planning Commission, permits that allow additional events beyond the numbers listed in the following table could be conditioned to require that events may not occur within a certain number of days of each other to provide a separation period between events. This option could also include the revisions regarding limiting the number of days an event can span, including a procedure for revoking a Special Event Use Permit, and limiting the time that a Conditional Use Permit or Special Event Use Permit is valid.

The following provides an example of what this might look like.

Lot Size	Permit	Maximum # Attendees	# Events per Calendar Year	Additional Events or Attendees
Less than 20,000 sq. ft.	n/a	Greater than 75	None	Land Use Permit, limited to one event per year and 150 maximum attendees
Greater than 20,000 sq. ft. but less than 1 acre	Exempt	150	3	1 additional event or more than 150 attendees allowed by a Special Event Use Permit
1 acre or greater	Exempt	300	3	1 additional event allowed by a Special Event Use Permit
1 acre or greater	Exempt	Not limited	1, restricted to charitable events	n/a
1 acre or greater	Conditional Use Permit	Specified by permit	Specified by permit	n/a

As with Option 1, above, this assumes that an event is defined to only include gatherings where the total number of attendees exceeds 75.