



COUNTY OF SANTA BARBARA CALIFORNIA

MONTECITO PLANNING COMMISSION

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

MONTECITO PLANNING COMMISSION
HEARING OF APRIL 17, 2018

RE: *Like-for-Like Rebuild (Debris Flow) Ordinance Amendments; 18ORD-00000-00005, 18ORD-000000-00006*

Hearing on the request of the County of Santa Barbara Planning and Development Department, that the Montecito Board of Architectural Review and the Montecito Planning Commission jointly review and provide feedback on the proposed ordinance amendments, and that the Montecito Planning Commission:

- a) **18ORD-00000-00005.** Adopt by resolution a recommendation to the Board of Supervisors that the Board of Supervisors adopt an ordinance (Case No. 18ORD-00000-00005) amending Division 35.2, Montecito Zones and Allowable Land Uses, Division 35.7, Montecito Planning Permit Procedures, Division 35.9, Montecito Land Use and Development Code Administration, and Division 35.10, Glossary, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code; and
- b) **18ORD-00000-00006.** Adopt by resolution a recommendation to the County Planning Commission that they recommend to the Board of Supervisors that the Board of Supervisors adopt an ordinance (Case No. 18ORD-00000-00006) amending Division 1, In General, Division 2, Definitions, Division 10, Nonconforming Structures and Uses, and Division 12, Administration, of Article II, the Santa Barbara County Coastal Zoning Ordinance, of Chapter 35, Zoning, of the Santa Barbara County Code.

The above proposed Ordinance Amendments revise existing regulations, development standards, permit procedures, and definitions in order to accommodate the rebuilding of structures that have been damaged or destroyed during a debris flow event or other natural event resulting in a significant change in topography or alteration of drainage features. Pursuant to Section 35-180.3 of Article II, the Director formally initiated the Ordinance Amendments, including the Amendment to the Local Coastal Program, following direction provided by the Board of Supervisors during their March 13, 2018 meeting.

Dear Honorable Members of the Board of Supervisors:

At the Montecito Planning Commission hearing of April 17, 2018, which included a joint workshop with the Montecito Board of Architectural Review, Commissioner Keller moved, seconded by Commissioner Senauer and carried by a vote of 4 to 0 to:

1. Recommend that the Board of Supervisors suspend final action on the proposed Ordinance Amendments until the FEMA Flood Hazard/Recovery Mapping (Recovery Mapping) is available in June 2018 to the County, Montecito property owners, and the general public. Specifically, recommend that the Board of Supervisors wait to take action on the proposed Ordinance Amendment to the Montecito Land Use and Development Code (MLUDC) and recommend that the County Planning Commission recommend that the Board of Supervisors wait to take action on the proposed Ordinance Amendment to Article II, the Coastal Zoning Ordinance, until resiliency plan and adaptive management strategies have been considered, and members of the public have had sufficient time to review the Ordinance Amendments in context with the advisory Recovery Mapping. After the public availability in June 2018 of the Recovery Mapping data, the Montecito Planning Commission respectfully requests that the Ordinance Amendments be referred back to the Montecito Planning Commission at the next regularly scheduled hearing or during a special meeting, as necessary, for further review and final recommendations.

This recommendation to wait until the FEMA Recovery Mapping is publicly available in June reaffirms the County's cautionary guidance to property owners in its March 13, 2018, Memorandum entitled "Guidance to Property Owners on Montecito Debris Flow Rebuilds."

2. In the alternative, if the Board of Supervisors decides not to follow the Montecito Planning Commission's recommendation above, the Montecito Planning Commission recommends that the Board of Supervisors take the following actions:

18ORD-00000-00005

1. Make the required findings for approval of the project specified in Attachment A of the staff report dated March 29, 2018, including California Environmental Quality Act (CEQA) findings, and recommend that the Board of Supervisors make the findings for approval of the proposed Ordinance Amendment;
2. Recommend that the Board of Supervisors determine the Ordinance Amendment is exempt from CEQA pursuant to CEQA Guidelines Sections 15302, 15305, and 15061(b)(3), included as Attachment B of the staff report dated March 29, 2018; and,
3. Adopt a Resolution recommending that the Board of Supervisors approve Case No. 18ORD-00000-00005, an ordinance amending Section 35-2, the Santa Barbara County MLUDC, of Chapter 35, Zoning, of the Santa Barbara County Code (Attachment C of the staff report dated March 29, 2018, including the changes identified at the April 17, 2018 Montecito Planning Commission hearing, shown below).

18ORD-00000-00006

1. Make the required findings for approval of the project specified in Attachment D of the staff report dated March 29, 2018, including CEQA findings, and recommend to the County Planning Commission that the County Planning Commission make the findings

for approval and recommend that the Board of Supervisors make the findings for approval of the proposed Ordinance Amendment;

2. Recommend to the County Planning Commission that the County Planning Commission recommend to the Board of Supervisors that the Board of Supervisors determine that the Ordinance Amendment is exempt from CEQA pursuant to CEQA Guidelines Sections 15302, 15305, 15061(b)(3), and 15265, included as Attachment E of the staff report dated March 29, 2018; and,
3. Adopt a Resolution recommending that the County Planning Commission adopt a Resolution recommending that the Board of Supervisors approve Case No. 18ORD-00000-00006, an ordinance amending Article II, the Santa Barbara County Coastal Zoning Ordinance, of Chapter 35, Zoning, of the Santa Barbara County Code (Article II) (Attachment F of the staff report dated March 29, 2018, including the changes identified at the April 17, 2018 Montecito Planning Commission hearing, shown below).

Revisions to the MLUDC Ordinance Amendment (Attachment C)

If the first alternative above is not adopted by the Board of Supervisors, then, as an alternative, the Montecito Planning Commission recommends the following modifications to the MLUDC and Article II Ordinance Amendments. The changes are included in Attachments C (MLUDC Ordinance Amendment) and F (Article II Ordinance Amendment) of this Action Letter.

SECTION 1:

DIVISION 35.2, Montecito Zones and Allowable Land Uses, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is hereby amended to change Subsection B.5, Exempt activities and structures, Damaged or destroyed structure, of Section 35.420.040, Exemptions from Planning Permit Requirements, of Chapter 35.420, Development and Land Use Approval Requirements, to read as follows:

5. **Damaged or destroyed structure.** The replacement or restoration of a conforming structure damaged or destroyed by a disaster, as determined by the Director in consultation with the Flood Control District as applicable.
 - a. The replaced or restored structure shall comply with all requirements of the applicable zone (including permitted uses), shall be for the same use, shall be in the same general footprint location, and shall not exceed the floor area, height, or bulk of the destroyed structure by more than 10 percent, or 250 square feet, whichever is less. For the purposes of this Subsection B.5, bulk is defined as total interior cubic volume as measured from the exterior surfaces of the structure.
 - b. If the structure was damaged or destroyed as a result of a debris flow or other catastrophic event resulting in a significant change in topography or alteration of drainage features (e.g., creeks, streams, waterways, etc.) located on the lot on which the replaced or restored structure would be located, the replaced or restored structure

may be relocated on the lot to the minimum distance necessary to meet applicable setbacks from top-of-bank, as determined by the Director in consultation with the Flood Control District and reduce flood hazards, as long as the structure otherwise complies with Subsection 5.a above and with applicable policies of the Comprehensive Plan.

- c. If the structure was damaged or destroyed as a result of a debris flow or other catastrophic event resulting in a significant change in topography or alteration of drainage features located on the lot on which the replaced or restored structure would be located, the replaced or restored structure shall not may-exceed the equivalent height of the destroyed or damaged structure by more than 10 percent (as measured from the post-event grade to peak roof height). If meeting -by more than 10 percent if necessary to comply with the base flood elevation that exists for the lot after the debris flow or other event requires an increase in height greater than 10 percent of the equivalent height of the destroyed or damaged structure, the height may be increased to meet the base flood elevation, but the replaced or restored structure shall not exceed the equivalent height of the destroyed or damaged structure (as measured from the lowest finished floor to the highest part of the structure, excluding chimneys, vents, and noncommercial antennas). However, -in no case shall the height of the structure, as measured from post-event grade, the lowest, finished floor to the highest part of the structure, excluding chimneys, vents, and noncommercial antennas, exceed the equivalent height of the damaged or destroyed structure by more than 10 percent or exceed the height of the applicable zone.

1. For the purposes of this Subsection 5.c, post-event grade is defined as the existing grade on the lot at the time of application submittal.

- b.d. Except as provided in Subsection B.5.d.(1), below, If the Director determines that the exterior design or specifications are proposed to be changed, then the restored or replaced structure shall require Design Review in compliance with Section 35.472.070 (Design Review).

(1) If a structure has been damaged or destroyed as a result of a debris flow or other catastrophic event resulting in a significant change in topography or alteration of drainage features located on the lot on which the replaced or restored structure would be located, the restored or replaced structure, even if relocated on the lot or increased in height, shall not require Design Review unless the exterior design or specifications of the replaced or restored structure are substantially different from the prior structure(s), as determined by the Director.

SECTION 2:

DIVISION 35.7, Montecito Planning Permit Procedures, of Section 35-2, the Santa Barbara

County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is hereby amended to change Subsection C, Exceptions to Design Review requirements, of Section 35.472.070, Design Review, of Chapter 35.472, Permit Review and Decisions, to read as follows:

C. Exceptions to Design Review requirements. Design Review approval shall not be required for the following:

1. Decks.
2. Fences, gates or walls six feet or less and gateposts of eight feet or less in height; however, fences, gates, gateposts and walls that are integral to the structure (e.g., are connected to the structure or form a courtyard adjacent to the structure) shall be included as part of the Design Review of a new structure or a remodeling or an addition to a structure requiring Design Review in compliance with this Section.
3. Hot tubs, spas, and swimming pools.
4. Interior alterations.
5. Solar panels.
6. Other exterior alterations determined to be minor by the Director.
7. Residential second units; however approval from the Montecito Board of Architectural Review Chairperson, or designee, is required unless the residential second unit would only require exterior alterations to an existing structure that are determined to be minor by the Director.
8. The replacement or restoration of structures that were damaged or destroyed as a result of a debris flow or other catastrophic event resulting in a significant change in topography or alteration of drainage features (e.g., creeks, streams, waterways, etc.) located on the lot on which the damaged or destroyed structures were located; unless the Director determines that the exterior design or specifications of the replaced or restored structure are substantially different proposed to be changed from the prior structure(s), as determined by the Director.

SECTION 3:

DIVISION 35.9, Montecito Land Use and Development Code Administration, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is hereby amended to change Subsections E, Damage, of Section 35.491.020, Nonconforming Uses of Land and Structures, of Chapter 35.491, Nonconforming Uses, Structures, and Lots, to read as follows:

E. Damage. This Section identifies the standards for allowing the continuation of a

nonconforming use in a structure or other development that is damaged or destroyed by earthquake, fire, flood, vandalism, or other calamity beyond the control of the owner of property on which the nonconforming use occurs.

1. Non-residential uses.

a. Damage 75 percent or more. If structure or other development dedicated to a non-residential nonconforming use is damaged by earthquake, fire, flood, vandalism, or other calamity beyond the control of the owner of property on which the nonconforming use occurs to an extent of 75 percent or more of the replacement cost of the total structure before the damage, as determined by the Director, then the nonconforming use shall be discontinued and the damaged structure or other development thereafter used only in compliance with regulations of the zone in which it is located, unless allowed to continue by the Montecito Commission, in compliance with Section 35.472.100 (Hardship Determination).

b. Damage less than 75 percent.

(1) Except as provided below in Subsection E.1.b.(2), if the damage caused by earthquake, fire, flood, vandalism, or other calamity beyond the control of the owner of property on which the nonconforming use occurs is less than 75 percent of the replacement cost of the total structure before the damage, as determined by the Director, the structure or other developments may be restored to the same or lesser size and in the same general footprint location.

(2) **Damage caused by debris flow or other catastrophic event resulting in a significant change in topography or alteration of drainage features.** If the damage caused by debris flow or other catastrophic event resulting in a significant change in topography or alteration of drainage features (e.g., creeks, streams, waterways, etc.) of the lot on which the nonconforming use occurs is less than 75 percent of the replacement cost of the total structure before the damage, as determined by the Director, then:

(a) The restored or replaced structure may be relocated on the lot to as the minimum distance necessary to comply with applicable setbacks from top-of-bank and to reduce flood hazards as determined by the Director, in consultation with the Flood Control District, as long as the structure complies with the setback requirements of the applicable zone and with the applicable policies of the Comprehensive Plan.

(b) The height of the structure may exceed the height of the destroyed or damaged structure if only as necessary to comply with the base flood elevation that exists for the lot following a debris flow or other catastrophic event, as long as the structure complies with the height requirements of the applicable zone. However, the height of the structure as measured from the lowest, finished floor to the highest part of the structure, excluding chimneys, vents and noncommercial antennas, shall not exceed the equivalent height of the damaged or destroyed structure it is replacing.

(3) The nonconforming use may be resumed and continued as before, or on a lesser scale, but shall not be enlarged or intensified.

2. Residential uses.

a. Structures Except as provided in Subsection E.2.b, below, structures dedicated to nonconforming residential dwelling uses (e.g., one-family, two-family, and multi-family units, and second residential units) that are damaged or destroyed by earthquake, fire, flood, vandalism, or other calamity beyond the control of the owner of property on which the nonconforming use occurs may be reconstructed to the same or lesser size and in the same general footprint location.

b. **Damage caused by debris flow or other catastrophic event resulting in a significant change in topography or alteration of drainage features.** If the structure is damaged or destroyed by a debris flow or other catastrophic event resulting in a significant change in topography or alteration of drainage features, then:

(1) The restored or replaced structure may be relocated on the lot to the minimum distance if necessary to comply with applicable setbacks from top-of-bank and to reduce flood hazards, as determined by the Director in consultation with the Flood Control District, as long as the structure complies with the setback requirements of the applicable zone and with the applicable policies of the Comprehensive Plan.

(2) The height of the structure may exceed the height of the destroyed or damaged structure if only as necessary to comply with the base flood elevation that exists for the lot following a debris flow or other catastrophic event, as long as the structure complies with the height requirements of the applicable zone. However, the height of the structure as measured from the lowest, finished floor to the highest part of the structure, excluding chimneys, vents and noncommercial antennas, shall not exceed the equivalent height of the damaged or destroyed structure it

is replacing.

- c. The nonconforming residential dwelling use may be resumed and continued as before, or on a lesser scale, but shall not be enlarged, expanded, or intensified (e.g., increase in gross floor area, increase in the number of bedrooms).
- 3. Reconstruction shall commence within 24 months.** The restoration of a nonconforming use allowed in compliance with Subsection E.1 (Non-residential uses) and Subsection E.2 (Residential uses) above, shall commence within 24 months of the time of damage and be diligently carried out to completion.
- a. The 24-month time limit may be extended by the Director for a maximum of 12 months for good cause, provided a written request, including a statement of reasons for the time extension request, is filed with the Department before the expiration of the 24-month period.
 - b. If the restoration of the nonconforming use does not commence within 24 months or the extended time period that may be granted by the Director, it shall not be restored except in full compliance with the applicable zone regulations and other provisions of this Development Code.
- 4. Applicability of permit requirements.**
- a. **Exempt from the Development Code permit requirements.**
 - (1) Except as provided in Subsection E.4.a(2), below, the The restoration or reconstruction of a structure or other development dedicated to a nonconforming use that is damaged or destroyed by earthquake, fire, flood, vandalism, or other calamity beyond the control of the owner of property on which the nonconforming use occurs shall be exempt from the permit requirements of this Development Code only if the structure or other development complies with the provisions of this Chapter and if the structure or other development conforms to the specifications documented to exist before the damage or destruction.
 - (2) The relocation of a structure and/or a change to its finished floor elevation following a debris flow or other catastrophic event resulting in a significant change in topography or alteration of drainage features may be allowed if the Director, in consultation with the Flood Control District, determines the relocation or change in the finished floor elevation to be the minimum distance necessary to comply with applicable setbacks from top-of-bank and to comply with the base flood elevation after the debris flow event and to reduce flood hazards, and the structure complies with the provisions of this Chapter

and applicable policies of the Comprehensive Plan.

(3) Full compliance with applicable Building Code provisions is still required.

b. **Design Review required.** ~~If~~ Except as provided in Subsection E.4.b(1), below, if the Director determines that the exterior design or specifications are proposed to be changed or the footprint of the structure is relocated, then the replaced or restored structure shall be subject to the provisions of Section 35.472.070 (Design Review) if the structure is otherwise subject to Design Review.

(1) If a structure has been damaged or destroyed as a result of a debris flow or other catastrophic event resulting in a significant change in topography or alteration of drainage features located on the lot on which the replaced or restored structure would be located, and the restored or replaced structure must be, even if relocated on the lot to comply with minimum top-of-bank setbacks or increased in height to comply with base flood elevation, the restored or replaced structure, shall not require Design Review unless the Director determines that the exterior design or specifications of the replaced or restored structure are proposed to be changed substantially different from the prior structure(s), as determined by the Director.

c. **Subject to Development Code permit requirements.** ~~If~~ Except as allowed herein, if the structure or other development is proposed to be altered from the original specifications, as determined by the Director, then the reconstruction or restoration shall be subject to all applicable permit requirements of this Development Code.

SECTION 4:

DIVISION 35.9, Montecito Land Use and Development Code Administration, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is hereby amended to change Subsection B, Damage, of Section 35.491.030, Nonconforming Structures, of Chapter 35.491, Nonconforming Uses, Structures, and Lots, to read as follows:

B. **Damage.** This Section identifies the standards for allowing the reconstruction or restoration of a nonconforming structure that is damaged by earthquake, fire, flood, vandalism or other calamity beyond the control of the owner of the structure.

~~1. Coastal Zone.~~

~~a. One family dwellings. Nonconforming one family dwellings that are damaged~~

~~or destroyed by earthquake, fire, flood, vandalism, or other calamity beyond the control of the owner of the structure may be reconstructed to the same or lesser size in the same general footprint location.~~

~~b. Structures other than one-family dwellings.~~

~~(1) Damage 75 percent or more. A nonconforming structure that is damaged by earthquake, fire, flood, vandalism, or other calamity beyond the control of the owner of the structure to an extent of 75 percent or more of the replacement cost of the total structure before the damage, as determined by the Director, may not be reconstructed unless allowed by the Montecito Commission, in compliance with Section 35.472.100 (Hardship Determinations).~~

~~(2) Damage less than 75 percent. Where a nonconforming structure, other than a one-family dwelling, is damaged by earthquake, fire, flood, vandalism, or other calamity beyond the control of the owner of the structure to an extent of less than 75 percent of the replacement cost of the total structure before the damage, as determined by the Director, the structure may be reconstructed to the same or lesser size in the same general footprint location.~~

21. ~~Inland area.~~ Nonconforming structures that are damaged or destroyed by earthquake, fire, flood, or other natural disaster may be reconstructed to the same or lesser size in the same general footprint location except that if a nonconforming structure is damaged by a debris flow or other catastrophic event resulting in a significant change in topography or alteration of drainage features (e.g., creeks, streams, waterways, etc.), then:

- a. The restored or replaced structure may be relocated on the lot the minimum distance if necessary to comply with applicable setbacks from top-of-bank and to reduce flood hazards, as determined by the Director in consultation with the Flood Control District, as long as the structure complies with the setback requirements of the applicable zone and with the applicable policies of the Comprehensive Plan.
- b. The height of the structure may exceed the height of the destroyed or damaged structure if only as necessary to comply with the base flood elevation that exists for the lot following a debris flow or other catastrophic event, as long as the structure complies with the height requirements of the applicable zone. However, the height of the structure as measured from the lowest, finished floor to the highest part of the structure, excluding chimneys, vents and noncommercial antennas, shall not exceed the equivalent height of the damaged or destroyed structure it is replacing.

32. **Hotel reconstruction.** Any portion of an existing hotel that is damage or

destroyed may be replaced with new construction of the identical size of that damaged or destroyed on the same site and in the same general location, except that if an existing hotel structure is damaged or destroyed as a result of a debris flow or other catastrophic event resulting in a significant change in topography or alteration of drainage features, then:

- a. The structure may be relocated on the lot the minimum distance if necessary to meet applicable setbacks from top-of-bank and reduce flood hazards, as determined by the Director in consultation with the Flood Control District, provided the structure complies with the setback requirements of the applicable zone and with the applicable policies of the Comprehensive Plan.
- b. The height of the structure may exceed the height of the destroyed or damaged structure if only as necessary to comply with the base flood elevation that exists for the lot following a debris flow or other catastrophic event, as long as the structure complies with the height requirements of the applicable zone. However, the height of the structure as measured from the lowest, finished floor to the highest part of the structure, excluding chimneys, vents and noncommercial antennas, shall not exceed the equivalent height of the damaged or destroyed structure it is replacing.

43. Reconstruction shall commence within 24 months.

- a. The reconstruction or restoration of a nonconforming structure that is required due to damage by earthquake, fire, flood, vandalism, or other calamity beyond the control of the owner of the structure allowed in compliance with Subsection B. (Damage) above shall commence within 24 months of the time of damage and be diligently carried out to completion.

b. Extensions.

(1) **Initial time extension.** The 24-month time limit may be extended by the Director one time for a maximum of 24 additional months for good cause, provided a written request, including a statement of the reasons for the request, is filed with the Department before the expiration of the initial 24-month period.

(2) **Additional time extension.**

- (a) In addition to an extension granted by the Director in compliance with Subsection B.4.b.(1), above, the Director may extend the time limit for good cause a second time for a maximum of 36 additional months, provided:

- (i) An application for the extension, including a statement of the reasons for the request, is filed with the Department in compliance with Chapter 35.470 (Permit Application Filing and Processing) either prior to the expiration of a time extension allowed under Subsection B.4.b.(1), above, or within the 180 days following the expiration of said time extension.
 - (ii) Notice of the application for the time extension shall be provided in compliance with Section 35.496.050 (Land Use Permits).
 - (iii) The Director determines that the requirement for completion of substantial offsite infrastructure improvements has prevented the commencement of the reconstruction of the nonconforming structure within the time limit as extended in compliance with Subsection B.4.b.1), above.
- (b) The action of the Director to approve, conditionally approve, or deny the application to extend the time limit in compliance with Subsection B.4.b.(2)(a), above, is final subject to appeal in compliance with Chapter 35.492 (Appeals).
- c. If the reconstruction or restoration of the structure does not commence within 24 months, or the extended time period that may be granted by the Director, it shall not be restored except in full compliance with the applicable zone regulations and other provisions of this Development Code.

54. Applicability of permit requirements.

a. Exempt from Development Code permit requirements.

- (1) The—Except as provided in Subsection BE.4.5.a.(12), below, the restoration of a nonconforming structure that is damaged by earthquake, fire, flood, vandalism or other calamity beyond the control of the owner of the structure shall be exempt from the permit requirements of this Development Code only if the structure complies with the provisions of this Section and if the structure conforms to the specifications documented to exist before the damage or destruction, as determined by the Director.
- (2) The relocation of a structure and/or a change to its finished floor elevation following a debris flow or other catastrophic event resulting in

a significant change in topography or alteration of drainage features may be allowed if the Director, in consultation with the Flood Control District, determines the relocation and/or change in the finished floor elevation to be the minimum distance necessary in order to comply with applicable setbacks from top-of-bank and to reduce flood hazards the base flood elevation that exists after the debris flow event, and the structure complies with the provisions of this Chapter and applicable policies of the Comprehensive Plan.

(3) Full compliance with applicable Building Code provisions is still required.

b. **Design Review required.** If Except as provided in Subsection B.5.b.1. below, if the Department determines that the exterior design or specifications are proposed to be changed or the footprint of the structure is relocated, the restored structure shall be subject to the provisions of Section 35.472.070 (Design Review).

(1) If a structure has been damaged or destroyed as a result of a debris flow or other catastrophic event resulting in a significant change in topography or alteration of drainage features located on the lot on which the replaced or restored structure would be located, and the restored or replaced structure, must be even if relocated on the lot or increased in height to comply with the minimum top-of-bank setbacks or increased in height to comply with base flood elevation, the restored or replaced structure, shall not require Design Review unless the Director determines that the exterior design or specifications of the replaced or restored structure are substantially proposed to be changed different from the prior structure(s), as determined by the Director.

c. **Subject to Development Code permit requirements.** Except as allowed herein, if the structure is proposed to be altered from the original specifications, as determined by the Department Director, then the restoration shall be subject to all applicable permit requirements of this Development Code.

Revisions to the Article II Ordinance Amendment (Attachment F)

SECTION 1:

DIVISION 1, In General, of Article II, the Santa Barbara County Coastal Zoning Ordinance, of Chapter 35, Zoning, of the Santa Barbara County Code is hereby amended to add Section 35.51C, DeMinimis

Waiver of Coastal Development Permit, to read as follows:

Section 35-51C. De Minimis Waiver of Coastal Development Permit.

A. General requirements for De Minimis Waiver. If a structure was damaged or destroyed as a result of a debris flow or other catastrophic event resulting in a significant change in topography or alteration of drainage features (e.g., creeks, streams, waterways, etc.) located on the lot on which the replaced or restored structure would be located, and is not otherwise exempt pursuant to Section 35.51B, Exemptions from Planning Permit Requirements, the Director may waive the requirement for a Coastal Development Permit through a De Minimis Coastal Development Permit Waiver to replace or restore the structure(s) on the same lot in compliance with this Section, upon a determination that the development meets all of the following criteria and procedural requirements. Such decision is not locally appealable.

1. No Adverse Coastal Resource Impacts. The development has no potential for adverse effects, either individually or cumulatively, on coastal resources;

2. LCP Consistency. The development is consistent with the certified Santa Barbara County Local Coastal Program, including the resource protection policies, as applicable;

- a. The replaced or restored structure may be relocated on the lot to the minimum distance necessary if the Director, in consultation with the Flood Control District, determines the relocation to be necessary to comply with applicable setbacks from top-of-bank and to reduce flood hazards, as long as the structure otherwise complies with this Chapter and with the applicable policies of the Coastal Land Use Plan.
- b. The height of the replaced or restored structure shall not (as measured from the post-event grade to peak roof height) may exceed the equivalent height of the destroyed or damaged structure by more than 10 percent (as measured from the post-event grade to peak roof height). If meeting the Director, in consultation with the Flood Control District, determines the change in the finished floor elevation to be necessary to comply with the base flood elevation that exists for the lot after the debris flow or other catastrophic event requires an increase in height greater than 10 percent of the equivalent height of the destroyed or damaged structure, the height may be increased to meet the base flood elevation, but the replaced or restored structure shall not exceed the equivalent height of the destroyed or damaged structure (as measured from the lowest finished floor to the highest part of the structure, excluding chimneys, vents, and noncommercial antennas). For nonconforming structures or uses, the height of the structure (as measured from the post-event grade to peak roof height), excluding chimneys, vents, and noncommercial antennas, shall not exceed the equivalent height of the damaged or destroyed structure, unless required to meet the base flood elevation that exists for the lot after the debris flow or other event. as long as the structure otherwise complies with this Chapter and with the applicable policies of the Coastal Land Use Plan. However, in no case shall the height of the

structure, as measured from the ~~lowest, finished floor to the highest part of the structure, excluding chimneys, vents, and noncommercial antennas~~ post-event grade, exceed the ~~equivalent~~ height of the ~~damaged or destroyed structure by more than 10 percent or exceed the height limit of the applicable zone.~~

1) For the purposes of this Subsection A.2.b, post-event grade is defined as the existing grade on the lot at the time of application submittal.

c. The restored or replaced structure, ~~even if including structures relocated on the lot or increased in height,~~ shall not require Design Review unless- the Director determines that the exterior design or specifications of the replaced or restored structure are substantially different from the prior structure(s), as determined by the Director proposed to be changed.

3. **Not Appealable to CCC.** The development is not of a type or in a location where an action on the development would be appealable to the Coastal Commission (For development appealable to the Coastal Commission, see Section 35-169.4(2)).
4. **Posting of Public Notice.** At the time the application is submitted, public notice of the proposed De Minimis Waiver for a Coastal Development Permit shall be conspicuously posted at a minimum of one location on the subject lot with at least one notice posted in a location that can be viewed from the nearest street. If the subject lot is a through lot, then the applicant shall conspicuously post a notice adjacent to each street frontage in a location that can be viewed from the street. The notice shall remain onsite until the effective date of the De Minimis Waiver.
5. **Director Determination.** The Director shall provide a notice of determination of the De Minimis Waiver determination to the Executive Director of the Coastal Commission.
6. **Effective Date of Waiver.** Upon receipt of a De Minimis Waiver determination by the Director, the Coastal Commission staff shall report the De Minimis Waiver to the Coastal Commission at the next regularly scheduled meeting. If the Coastal Commission requests at this meeting that the waiver not be effective, the applicant shall be advised that a Coastal Development Permit is required for the development. Otherwise, the waiver becomes effective immediately after the Coastal Commission meeting.
7. **Waiver Expiration.** A De Minimis Waiver shall expire and be of no further force and effect if the authorized development is not commenced pursuant to a valid Grading and/or Building Permit, as applicable, within five years of the effective date of the waiver. If expired, a Coastal Development Permit shall be required for the replaced or restored structure.

SECTION 3:

DIVISION 10, Nonconforming Structures and Uses, of Article II, the Santa Barbara County Coastal

Zoning Ordinance, of Chapter 35, Zoning, of the Santa Barbara County Code is hereby amended to change Subsection 5, Damage, of Section 35.161, Nonconforming Uses of Land, Buildings and Structures, to read as follows:

5. **Damage.** The purpose of this Section is to identify the standards for allowing the continuation of a nonconforming use in a building, structure, or other development that is damaged or destroyed by fire, flood, earthquake or other natural disaster.

a. **Non-residential Uses.**

- 1) Where buildings, structures, or other development dedicated to a non-residential nonconforming use are damaged by fire, flood, earthquake, or other natural disaster to an extent of 75 percent or more of replacement cost at the time of damage, as determined by the Planning and Development Department, the nonconforming use shall be discontinued and the damaged building, structure, or other development thereafter used in accordance with regulations of the district in which it is located unless the Zoning Administrator finds that the adverse impact upon the neighborhood would be less than the hardship which would be suffered by the owner of the building, structure, or other development should restoration of the nonconforming use be denied.
- 2) Except as provided below in Subsection 5.a.2.a., ~~Where~~ damage caused by fire, flood, earthquake, or other natural disaster is to an extent of less than 75 percent at the time of damage, such building, structure, or other developments may be restored to the same or lesser size and in the same general footprint location, provided however that restoration shall commence within 24 months of the time of damage and be diligently carried to completion~~and~~.

a. **Damage caused by debris flow or other catastrophic event resulting in a significant change in topography or alteration of drainage features.** If the damage caused by debris flow or other catastrophic event resulting in a significant change in topography or alteration of drainage features (e.g., creeks, streams, waterways, etc.) of the lot on which the nonconforming use occurs is less than 75 percent of the replacement cost of the total structure before the damage, as determined by the Director, then the restored or replaced structure(s) may be eligible for a De Minimis Coastal Development Permit Waiver pursuant to Section 35.51C of this Chapter.

- 3) The nonconforming use may be resumed and continued as before, or on a lesser scale, but shall not be enlarged or intensified.

- b. **Residential Uses.** Except as provided below in Subsection 5.b.1., ~~Where~~ buildings or structures dedicated to nonconforming residential dwelling uses (i.e., single and multi-family units, second residential units, residential uses in the SR-M or SR-H Zone District), except in industrial zones, are damaged or destroyed by fire, flood, earthquake, or other

natural disaster, such structures may be reconstructed to the same or lesser size and in the same general footprint location provided that reconstruction shall commence within 24 months of the time of damage and be diligently carried to completion. The nonconforming residential dwelling use may be resumed and continued as before, or on a lesser scale, but shall not be enlarged, expanded, or intensified (e.g., increase in gross floor area, increase in the number of bedrooms). If the building or structure dedicated to a nonconforming residential dwelling use is located in an industrial zone the damage standards of Section 35-161.5.a shall apply.

1) Damage caused by debris flow or other catastrophic event resulting in a significant change in topography or alteration of drainage features. If the structure is damaged or destroyed by a debris flow or other catastrophic event resulting in a significant change in topography or alteration of drainage features, then the restored or replaced structure may be eligible for a De Minimis Coastal Development Permit Waiver pursuant to Section 35.51C of this Chapter.

- c. Except as provided in Subsection 5.c.1., below, the ~~The~~ restoration or reconstruction of a building, structure, or other development dedicated to a nonconforming use that is damaged or destroyed by fire, flood, earthquake or other natural disaster shall be exempt from the permit requirements of this Article only if the building, structure, or other development complies with the provisions of this Section and if the building, structure, or other development conforms to the specifications documented to exist prior to the damage or destruction as determined by the Planning and Development Department.

(1) The relocation of a structure and/or a change to its finished floor elevation following a debris flow or other catastrophic event resulting in a significant change in topography or alteration of drainage features may be eligible for a De Minimis Coastal Development Permit Waiver pursuant to Section 35.51C.

- d. Except as provided in Subsection 5.d.1., below, if ~~If~~ the Planning and Development Department determines that the exterior design or specifications are proposed to be changed or the footprint of the building or structure is relocated, then the restored or replaced structure, shall be subject to the provisions of Section 35-184., Board of Architectural Review, if otherwise subject to such review (e.g., the site is within the D-Design Control Overlay District).

(1) If a structure has been damaged or destroyed as a result of a debris flow or other catastrophic event resulting in a significant change in topography or alteration of drainage features located on the lot on which the replaced or restored structure would be located, and the restored or replaced structure, must be even if-relocated on the lot or-increased-in-height to comply with minimum top-of-bank setbacks or increased in height to comply with base flood elevation, the restored or replaced structure, shall not require Design Review unless the Director determines that the exterior design or specifications of the replaced or restored structure are substantially different from the prior structure(s) proposed to be changed, as determined by the Director.

- e. Except as allowed herein, if ~~If~~ the building, structure, or other development is proposed to be altered from the original specifications, as determined by the Planning and Development Department, then the restoration or reconstruction shall be subject to all applicable permit requirements of this Article.

SECTION 4:

DIVISION 10, Nonconforming Structures and Uses, of Article II, the Santa Barbara County Coastal Zoning Ordinance, of Chapter 35, Zoning, of the Santa Barbara County Code is hereby amended to change Subsection 2, Damage, of Section 35.162, Nonconforming Buildings and Structures, to read as follows:

- 2. **Damage.** The purpose of this section is to identify the standards for allowing the restoration or reconstruction of a nonconforming structure that is damaged by fire, flood, earthquake or other natural disaster.
 - a. Except for single family residential buildings or structures and greenhouses, packing and shipping facilities, shade and hoop structures, ~~and greenhouse related development in the Carpinteria Agricultural Overlay District, and buildings or structures damaged by a debris flow or other catastrophic event resulting in a significant change in topography or alteration of drainage features (e.g., creeks, streams, waterways, etc.),~~ where a nonconforming building or structure is damaged by fire, flood, earthquake, or other natural disaster to an extent of 75 percent or more of the replacement cost at the time of damage, as determined by the Planning and Development Department, such structure may not be reconstructed unless the Zoning Administrator finds that the adverse impact upon the neighborhood would be less than the hardship which would be suffered by the owner of the structure should reconstruction of the nonconforming structure be denied.
 - b. Where damage to a nonconforming, non-single family residential building or structure is to an extent of less than 75 percent of the replacement cost at the time of damage, as determined by the Planning and Development Department, such structure may be restored to the same or lesser size in the same general footprint location, ~~except that if an existing non-single family residential building or structure is damaged as a result of a debris flow or other catastrophic event resulting in a significant change in topography or alteration of drainage features, the restored or replaced structure may be eligible for a De Minimis Coastal Development Permit Waiver pursuant to Section 35.51C of this Chapter.~~
 - c. If a nonconforming single family residential building or structure is damaged or destroyed by fire, flood, earthquake, or other natural disaster, such building or structure may be reconstructed to the same or lesser size in the same general footprint location, ~~except that if an existing single family residential building or structure is damaged or destroyed as a result of a debris flow or other catastrophic event resulting in a significant change in topography or alteration of drainage features, the restored or replaced structure may be eligible for a De Minimis Coastal Development Permit Waiver pursuant to Section 35.51C of this Chapter.~~
 - d. Notwithstanding the above, additional provisions exist in Section 35-214 of Division 15 (Montecito Community Plan Overlay District) for parcels identified within the Montecito

Community Plan Overlay zone, and in Section 35-194 of Division 16 (Toro Canyon Plan Overlay District) for parcels identified within the Toro Canyon Plan Overlay zone, which, in the case of conflict, shall take precedence over this Section. However, if a structure needs to be relocated on the lot as a result of a debris flow or other catastrophic event resulting in a significant change in topography or alteration of drainage features, this Section takes precedence over the above-mentioned Overlay Districts.

- e. Where damage to a nonconforming greenhouse, packing and shipping facility, shade and hoop structure, or greenhouse related structure in the Carpinteria Agricultural Overlay District, by fire, flood, earthquake, or other natural disaster, is to an extent of 75 percent or more, such structure may be reconstructed in accordance with the provisions of Section 35-102F (Carpinteria Agricultural), thereby becoming a conforming structure.
- f. The restoration permitted above shall commence within 24 months of the time of damage and be diligently carried to completion. If the restoration of such building or structure does not commence within 24 months it shall not be restored except in conformity with the applicable zone district regulations and other provisions of this Article.
- g. Except as provided in Subsection 2.g.1., below, the restoration of a nonconforming building or structure that is damaged by fire, flood, earthquake or other natural disaster shall be exempt from the permit requirements of this Article only if the building or structure complies with the provisions of this Section and if the building or structure conforms to the specifications documented to exist prior to the damage as determined by the Planning and Development Department.
 - 1) The relocation of a structure and/or a change to its finished floor elevation following a debris flow or other catastrophic event resulting in a significant change in topography or alteration of drainage features may be eligible for a De Minimis Coastal Development Permit Waiver pursuant to Section 35.51C.
- h. If Except as provided in Subsection 2.h.1., below, if the Planning and Development Department determines that the exterior design or specifications are proposed to be changed or the footprint of the building or structure is relocated, the restored structure shall be subject to the provisions of Section 35-184, Board of Architectural Review, if otherwise subject to such review (e.g., the site is within the D-Design Control Overlay District).
 - (1) If a structure has been damaged or destroyed as a result of a debris flow or other catastrophic event resulting in a significant change in topography or alteration of drainage features located on the lot on which the replaced or restored structure would be located, and the restored or replaced structure must be, even if relocated on the lot or increased in height to comply with minimum top-of-bank setbacks or increased in height to comply with base flood elevation, the restored or replaced structure shall not require Design Review unless the Director determines that the exterior design or specifications of the replaced or restored structure are substantially different from the prior structure(s) proposed to be changed, as determined by the Director.
- i. If Except as allowed herein, if the building or structure is proposed to be altered from the

original specifications, then the restoration shall be subject to all applicable permit requirements of this Article.

SECTION 5:

DIVISION 12, Administration, of Article II, the Santa Barbara County Coastal Zoning Ordinance, of Chapter 35, Zoning, of the Santa Barbara County Code is hereby amended to change Section 35-184.3(1), Exceptions, General, of Section 35.184, Board of Architectural Review, to read as follows:

1. **General.** Board of Architectural Review approval is not required for the following:
 - a. Interior alterations.
 - b. Decks.
 - c. Swimming pools, hot tubs, and spas.
 - d. Fences, gates, gateposts and walls as follows; however, fences, gates, gateposts and walls that are integral to the structure (e.g., are connected to the structure or form a courtyard adjacent to the structure) shall be included as part of the architectural review of a new residence, a remodeling, or an addition to a structure requiring architectural review:
 - 1) Fences, gates, and walls six feet or less in height and gateposts of eight feet or less in height, when located in the front setback area.
 - 2) Fences, gates, and walls of eight feet or less in height and gateposts of 10 feet or less in height when located outside of front setback areas and not closer than 20 feet from the right-of-way line of any street.
 - e. Solar panels.
 - f. Any other exterior alteration determined to be minor by the Director.
 - g. Residential second units; however approval from the Board of Architectural Review Chair, or designee, is required.
 - h. The replacement or restoration of structures that were damaged or destroyed as a result of a debris flow or other catastrophic event resulting in a significant change in topography or alteration of drainage features (e.g., creeks, streams, waterways, etc.) located on the same lot on which the damaged or destroyed structures were located; unless the Director determines that the exterior design or specifications of the replaced or restored structure are substantially different proposed to be changed from the prior structure(s), as determined by the Director.

The Findings and the Resolutions reflect the Montecito Planning Commission's actions of April 17, 2018 and are included in this letter as Attachments A, C, D, and F.

Sincerely,



Jeff Wilson
Secretary to the Montecito Planning Commission

cc: Case File: 18ORD-00000-00005, 18ORD-00000-00006
Planning Commission File
Dianne M. Black, Director
Jenna Richardson, Deputy County Counsel
Tess Harris, Planner

Attachments: Attachment A – 18ORD-00000-00005 (MLUDC) Findings
Attachment C – 18ORD-00000-00005 (MLUDC) Resolution and Proposed Ordinance
Attachment D – 18ORD-00000-00006 (Article II) Findings
Attachment F – 18ORD-00000-00006 (Article II) Resolution and Proposed Ordinance

DMB/dmv

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