

## Attachment 17

### MONTECITO PLANNING COMMISSION

#### Staff Report for the Like-for-Like Rebuild (Debris Flow) Ordinance Amendments

**Hearing Date:** April 17, 2018

**Staff Report Date:** March 29, 2018

**Case Nos.:** 18ORD-00000-00005 and  
18ORD-00000-00006

**Environmental Document:** CEQA Exempt  
Montecito LUDC – CEQA Guidelines  
Sections 15061(b)(3), 15302, and 15305  
Article II - CEQA Guidelines Sections  
15061(b)(3), 15265, 15302, and 15305

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The Montecito Land Use and Development Code (MLUDC) Ordinance Amendment would be applicable to the Montecito Community Plan area, First Supervisorial District. The Article II (Coastal Zoning Ordinance) Amendment is applicable to the coastal areas of the County of Santa Barbara, including Montecito. The map above shows the areas of the County that are at Extreme Risk (Red) or High Risk (Yellow) for debris flow. For the most up-to-date debris flow risk areas map, please visit <https://readysbc.org/>.

## 1.0 REQUEST

Hearing on the request of the County of Santa Barbara Planning and Development Department, as directed by the Board of Supervisors during the March 13, 2018 Board of Supervisors hearing, that the Montecito Planning Commission:

### **1.1 Case No. 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 MLUDC, of Chapter 35, Zoning, of the Santa Barbara County Code, as set forth in Attachment C; and

### **1.2 Case No. 18ORD-00000-00006**

Adopt by resolution a recommendation to the County Planning Commission that the County Planning Commission 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, as set forth in Attachment F.

The proposed ordinance amendments revise existing regulations, development standards, permit procedures, and definitions in order to accommodate the rebuilding of structures that were damaged or destroyed during a debris flow event or other natural event resulting in a significant change in topography or alteration of drainage features (i.e., creeks, streams, and/or waterways). 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.

## **2.0 RECOMMENDATION AND PROCEDURES**

### **2.1 Case No. 18ORD-00000-00005**

Follow the procedures outlined below and recommend that the Board of Supervisors approve Case No. 18ORD-00000-00005 as shown in Attachment C based upon the Amendment's consistency with the Comprehensive Plan, including the Montecito Community Plan, and based on the ability to make the required findings.

Your Commission's motion should include the following:

1. Make the required findings for approval of the project specified in Attachment A of this staff report, 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; 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).

## **2.2 Case No. 18ORD-00000-00006**

Follow the procedures outlined below and recommend to the County Planning Commission that they recommend to the Board of Supervisors that the Board of Supervisors approve Case No. 18ORD-00000-00006 as shown in Attachment F based upon the Amendment's consistency with the Comprehensive Plan, including the Coastal Land Use Plan and applicable community plans, and based on the ability to make the required findings.

Your Commission's motion should include the following:

- a. Make the required findings for approval of the project specified in Attachment D of this staff report, 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;
- b. 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; and,
- c. 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).

Refer back to staff if the Montecito Planning Commission takes other than the recommended action for the development of appropriate materials.

### **3.0 JURISDICTION**

#### **3.1 Case No. 18ORD-00000-00005**

This project is being considered by the Montecito Planning Commission based on the County Code, Section 2-25.1(b), the California Government Code, Sections 65854 to 65857, and Chapter 35.494 of the Santa Barbara County MLUDC. The County Code, Government Code, and the MLUDC require that the Montecito Planning Commission, as the designated planning agency for the unincorporated area of the County within the Montecito Community Plan Area, review and consider proposed amendments to the MLUDC and provide a recommendation to the Board of Supervisors.

#### **3.2 Case No. 18ORD-00000-00006**

This project is being considered by the Montecito Planning Commission in compliance with Section 2-25.2 of Chapter 2 of the Santa Barbara County Code. Section 2-25.2 provides that the Montecito Planning Commission may make recommendations to the County Planning Commission on text amendments to Article II that will affect land use decisions within the Coastal Zone portion of the Montecito Planning Area.

### **4.0 ISSUE SUMMARY AND PROJECT INFORMATION**

The Thomas Fire incident began on December 5, 2017 and burned 281,893 acres, including mountainous areas in south Santa Barbara County adjacent to the communities of Montecito, Summerland, and Carpinteria. Subsequent storm and debris flow events took place on January 9, 2018 that affected numerous areas throughout southern Santa Barbara County and damaged and/or destroyed approximately 468 structures in the Montecito area. An additional 156 structures were initially inspected but were determined to have zero percent damage. Of the 468 damaged and/or destroyed structures from the debris flow events on January 9, 2018, 57 structures were 100 percent destroyed in the inland portion of the County and two structures were 100 percent destroyed in the coastal zone. Please refer to Table 4.1 for information on structural damage associated with the January 9, 2018 debris flow events that was identified during initial inspections.

**Table 4.1 – Structural Damage based on Initial Inspections**

	<b>Coastal</b>	<b>Inland</b>
<b>Destroyed</b>	2 structures	57 structures
<b>Red</b>	67 structures	114 structures
<b>Yellow</b>	80 structures	85 structures
<b>Green</b>	23 structures	40 structures
<b>TOTAL</b>	<b>172 structures</b>	<b>296 structures</b>

Currently, not including the 100 percent destroyed structures, there are 42 “unsafe to occupy” (red tag) structures in the coastal zone and 80 “unsafe to occupy” structures in the inland portion of the County; 64 “limited entry” (yellow tag) structures in the coastal zone and 92 “limited entry” structures in the inland portion of the County; and, 64 “habitable” (green tag) structures in the coastal zone and 67 “habitable” structures in the inland portion of the County. Please refer to Table 4.2 for current posting information associated with the January 9, 2018 debris flow events.

**Table 4.2 – Structural Damage based on Current Posting**

	<b>Coastal</b>	<b>Inland</b>
<b>Destroyed</b>	2 structures	57 structures
<b>Red</b>	42 structures	80 structures
<b>Yellow</b>	64 structures	92 structures
<b>Green (original posting)</b>	23 structures	40 structures
<b>Green (changed to green after initial posting)</b>	41 structures	27 structures
<b>TOTAL</b>	<b>172 structures</b>	<b>296 structures</b>

In addition to structural damage, the January 9, 2018 debris flow events also resulted in significant changes to topography, expanded creek beds and banks, and general alteration of drainage features. As a result, the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps (FIRM) for Santa Barbara County are no longer representative of on-the-ground conditions.

The topographical and drainage feature changes will result in new base flood elevations for numerous properties in the Montecito area. To address changes to floodways, flood hazard areas, and base flood elevations, FEMA is preparing new FIRM maps for the Santa Barbara County area, which is anticipated to take three to five years. In the mean-time, the County of Santa Barbara is working with FEMA to produce Flood Hazard/Recovery Mapping (which will include advisory base flood elevations, among other items) that is anticipated to be completed in June

2018. This map will provide property owners with critical data needed for rebuilding on their lot, so that rebuilding can occur prior to the completion of new FIRM maps.

Two types of permitting paths exist for property owners that choose to rebuild their structure(s) after a disaster:

1. **“Like-for-Like:”** A “like-for-like” rebuild is the replacement or restoration of a permitted structure or structure pre-dating zoning regulations that required a land use entitlement for the structure, and which was damaged or destroyed by a disaster, with a structure which has substantially the same footprint, height, floor area, and bulk as the structure to be replaced or restored. A like-for-like rebuild for a conforming structure may include increases in floor area and/or height of up to 10 percent. However, a non-conforming structure is required to be re-built to the same or lesser size and in the same general footprint location. The like-for-like rebuild option is exempt from planning permit requirements, pursuant to the MLUDC, Section 35.420.040(b)(5) and Article II, Section 35-51B(9)(a). In the event the exterior design of the structure changes as a result of the rebuilding process, the restored or replaced structure currently may be subject to Design Review.
2. **Land Use Permit/Coastal Development Permit:** A Land Use Permit in the inland area (MLUDC, Section 35.472.110), Coastal Development Permit in the coastal zone (Article II, Section 35-169), or Coastal Development Permit with Hearing in the appeals jurisdiction of the coastal zone (Article II, Section 35-169) is required for construction of a structure that was damaged or destroyed by a disaster but results in a different footprint, height, floor area, and/or bulk than what was originally permitted. In addition, if a structure was not previously permitted by the County of Santa Barbara under a Land Use Permit, Coastal Development Permit, or other land use entitlement and the structure does not pre-date zoning regulations that required such land use entitlements, the replacement or restoration of the structure would require a new Land Use Permit, Coastal Development Permit, or Coastal Development Permit with Hearing. Structures that require a Land Use Permit, Coastal Development Permit, or Coastal Development Permit with Hearing for construction are subject to Design Review.

Unlike rebuilding after a fire, rebuilding after a debris flow event poses unique challenges. In reviewing the permitting paths for property owners interested in rebuilding their damaged or destroyed structure(s), it has become evident that additional flexibility should be provided for like-for-like rebuilding efforts after a debris flow event or other natural event resulting in a significant change in topography or alteration of drainage features. As stated above, these types of disasters may result in a new base flood elevation and/or new setbacks from top-of-bank for a

lot. Changes to topography and drainages should be taken into consideration when reviewing the location and height of a structure that is being re-built to be substantially the same as it was before the debris flow event.

Therefore, the proposed MLUDC Ordinance Amendment provides specific standards for the like-for-like replacement or restoration of a structure that was damaged or destroyed as a result of a debris flow event or other natural event resulting in a significant change in topography or alteration of drainage features. The Amendment specifies that the replaced or restored structure 1) may be relocated, as necessary, on the lot to meet top-of-bank setbacks; 2) may exceed the height of the destroyed or damaged structure (as measured from existing grade) if necessary to account for the post-event grade (i.e. the grade on the lot after the debris flow or other catastrophic event that resulted in a change in topography) and comply with the base flood elevation that exists for the lot after a debris flow event; and 3) shall not require Design Review unless the exterior design of the structure is substantially different from the prior structure. Thus, if a structure needs to be relocated on the lot or have a higher finished floor elevation, and is otherwise substantially the same as it was before the event, it may be considered to be within the like-for-like rebuild exemption.

Planning and Development Department staff discussed the proposed Article II Ordinance Amendment with Coastal Commission staff, who indicated that Public Resources Code Section 30610(g)(1) limits exemptions from CDPs for the replacement of structures destroyed by disaster to those “sited in the *same location on the affected property* as the destroyed structure” [emphasis added] and those that do “not exceed either the floor area, height, or bulk of the destroyed structure by more than 10 percent.” As such, the Coastal Commission staff recommended that the County consider amending Article II to allow the Planning and Development Department Director to grant a De Minimis Coastal Development Permit Waiver, similar to those issued by the Executive Director of the Coastal Commission, instead of expanding the parameters for like-for-like exemptions.

Public Resources Code Section 30624.7 states that the “*commission may, after a public hearing, by regulation adopt procedures for the issuance by the executive director of waivers from coastal development permit requirements for any development that is de minimis. A proposed development is de minimis if the executive director determines that it involves no potential for any adverse effect, either individually or cumulatively, on coastal resources and that it will be consistent with the policies of Chapter 3*” (Public Resources Code, commencing with Section 30200).

Therefore, the proposed Article II Ordinance Amendment specifies that the Planning 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) that was damaged or destroyed as a result of a debris flow event or other natural event resulting in a significant change in topography or alteration of drainage features on the same lot. A De Minimis Waiver may be granted for a structure relocated on the same lot if the construction does not result in adverse coastal resource impacts and is consistent with the Santa Barbara County Local Coastal Program, as applicable. Similar to the MLUDC, the Article II Ordinance Amendment specifies that, through a De Minimis Waiver, the replaced or restored structure 1) may be relocated, as necessary, on the lot to meet top-of-bank setbacks; 2) may exceed the height of the destroyed or damaged structure (as measured from existing grade) if necessary to account for the post-event grade and comply with the base flood elevation that exists for the lot after a debris flow event; and 3) shall not require Design Review unless the exterior design of the structure is substantially different from the prior structure.

The Ordinance Amendments are being proposed throughout the County (i.e., the County Land Use and Development Code (LUDC), the MLUDC, and Article II) so that the exemption from permitting or waiver of a Coastal Development Permit due to impacts from a debris flow event or other similar natural event exists for rebuilding efforts at this time as well as in the future, should any future debris flow events impact Santa Barbara County.

The County LUDC is being reviewed separately by the County Planning Commission, who will make a recommendation to the Board of Supervisors to amend the County LUDC. The County Planning Commission will also receive the Montecito Planning Commission's recommendations to amend Article II and will make a recommendation to the Board of Supervisors to amend Article II. Please see Section 2 of this staff report, dated March 29, 2018, for information on the recommendations that staff suggests the Montecito Planning Commission take regarding the MLUDC and Article II Amendments.

Article II will not become effective until the Coastal Commission certifies the Board of Supervisors' adoption of the Ordinance Amendment to Article II. The Coastal Commission staff has received draft language of the proposed Ordinance Amendment to Article II; however, County staff has not received comments back from the Coastal Commission as of the date of this staff report. County staff will provide your Commission with any comments received from the Coastal Commission staff at your April 17, 2018 Montecito Planning Commission hearing.

## **5.0 PROJECT INFORMATION**

The proposed Ordinance Amendments for the MLUDC and Article II will:

- Add language in the MLUDC to the exemption for damaged or destroyed structures to clarify that a structure damaged or destroyed by a debris flow or other event resulting in a



significant change in topography or alteration of drainage features may be relocated on the lot to meet applicable setbacks from top-of-bank and to reduce flood hazards;

- Add language in the MLUDC to the exemption for damaged or destroyed structures to clarify that the height of the new structure may exceed the previous height of the damaged or destroyed structure in order to comply with the base flood elevation that exists for the lot after the debris flow event;
- Add language in Article II to allow the Director to grant a De Minimis Waiver in the coastal zone for damaged or destroyed structures that are being rebuilt after a debris flow or other catastrophic event resulting in a change in topography or alteration of drainage features to 1) be relocated on the lot to meet applicable setbacks from top-of-bank and to reduce flood hazards and/or 2) exceed the previous height of the damaged or destroyed structure in order to comply with the base flood elevation that exists for the lot after the debris flow event;
- Clarify in the MLUDC and Article II that for the purposes of measuring height after a debris flow or other event resulting in a significant change in topography, “existing grade” shall be considered to be the natural grade that has been established on the lot after said event, either through the permanent deposition of soil or the removal of debris and other material to re-establish the prior grade; and
- Add language in the MLUDC and Article II that specifies that Design Review is not required for structures damaged or destroyed as a result of a debris flow or other event resulting in a significant change in topography, so long as the exterior design or specifications are not substantially different from the prior structure(s).

The complete texts of the Ordinance Amendments are contained in Exhibit 1 of Attachment C (Montecito LUDC) and Exhibit 1 of Attachment F (Article II). Proposed deletions are shown by striking through the text and proposed additions are underlined.

## **6.0 PROJECT ANALYSIS**

### **6.1 Environmental Review**

The proposed Ordinance Amendments, Case No. 18ORD-00000-00005 and Case No. 18ORD-00000-00006, can be found exempt from environmental review based upon Sections 15061(b)(3), 15302, and 15305 of the CEQA Guidelines.

CEQA Guidelines Section 15061(b)(3) [Review for Exemption] states that a project is exempt from CEQA if “the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be

seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.”

CEQA Guidelines Section 15302 [Replacement or Reconstruction] states that a project is exempt from CEQA if “replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced.”

CEQA Guidelines Section 15305 [Minor Alterations in Land Use Limitations] states that a project is exempt from CEQA if the activity consists of “minor alterations in land use limitations in areas with an average slope of less than 20%, which do not result in any changes in land use or density[.]”

In addition to the exemptions discussed above, Case No. 18ORD-00000-00006 can also be found exempt from environmental review based upon Section 15265 of the CEQA Guidelines. CEQA Guidelines Section 15265 [Adoption of Coastal Plans and Programs] states that CEQA does not apply to activities and approvals, pursuant to the California Coastal Act, by “any local government, as defined in Section 30109 of the Public Resources Code, necessary for the preparation and adoption of a local coastal program.” Section 15265 also states, “CEQA shall apply to the certification of a local coastal program or long-range land use development plan by the California Coastal Commission” and that this exemption “shifts the burden of CEQA compliance from the local agency... to the California Coastal Commission.” Therefore, Section 15265 states that compliance with CEQA is the responsibility of the California Coastal Commission.

See Attachments B and E to this staff report for a detailed discussion of these exemptions.

## **6.2 Comprehensive Plan Consistency**

This section addresses the Ordinance Amendments’ consistency with the Comprehensive Plan, including the Coastal Land Use Plan and Montecito Community Plan. The proposed Ordinance Amendments do not alter the purpose and intent of any policies or development standards of the Comprehensive Plan, including the Montecito Community Plan, or the Coastal Land Use Plan, and the adoption of the proposed Ordinance Amendments will not result in inconsistencies with applicable adopted policies and development standards.

The following discussion focuses on the Ordinance Amendments’ consistency with policies related to land use, visual and aesthetic resources, biological resources, and water quality. However, in order for a development permit to be approved or an exemption or waiver to be

issued based on these proposed Amendments, it still must be determined that the project, exemption, or waiver is consistent with the policies and development standards of the Comprehensive Plan, including the Montecito Community Plan, and the Coastal Land Use Plan, as applicable. As part of this process, staff will review each application for consistency with applicable policies.

REQUIREMENT	DISCUSSION
<b>LAND USE DEVELOPMENT</b>	
<p><b>Coastal Act Policy 30250. (a):</b> <i>New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases, for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels. (b) Where feasible, new hazardous industrial development shall be located away from existing developed areas.</i></p> <p><b>Land Use Element, Land Use and Development Policy #4 and CLUP Policy 2-6:</b> <i>Prior to issuance of a development permit, the County shall make the finding, based on information provided by environmental documents, staff analysis, and the applicant, that adequate public or private services and resources (i.e., water, sewer, roads, etc.) are available to serve the proposed development.</i></p>	<p><b>Consistent:</b> The Ordinance Amendments would allow structures that are damaged or destroyed by a debris flow or similar event to be constructed on the same lot, but in a different location, if the previous footprint of the structure is no longer viable. Construction would be in close proximity to existing developed areas or areas that were previously developed and would still be required to comply with the Comprehensive Plan and Community Plan policies (e.g., policies related to development in Environmentally Sensitive Habitat or removal of native trees).</p> <p>The development, including construction in a new location on the lot, would be required to be served by adequate public services (e.g., water, sewer, utilities). If the structure is served by a private septic system, Environmental Health Services (EHS) would review the proposed rebuild project, and the applicant would need to obtain necessary EHS permits. Therefore, the proposed Ordinance Amendments are consistent with these policies.</p>
<b>BIOLOGICAL RESOURCES &amp; HILLSIDE AND WATERSHED PROTECTION</b>	
<p><b>CLUP Policy 2-11:</b> <i>All development, including agriculture, adjacent to areas designated on the land use plan or resource maps as environmentally sensitive habitat areas, shall</i></p>	<p><b>Consistent:</b> Debris flow events, or other events that result in a change in topography or drainage features, can alter existing parcels, such that conditions on the site that direct</p>

*be regulated to avoid adverse impacts on habitat resources. Regulatory measures include, but are not limited to, setbacks, buffer zones, grading controls, noise restrictions, maintenance of natural vegetation, and control of runoff.*

**CLUP Policy 3-14:** *All development shall be designed to fit the site topography, soils, geology, hydrology, and any other existing conditions and be oriented so that grading and other site preparation is kept to an absolute minimum. Natural features, landforms, and native vegetation, such as trees, shall be preserved to the maximum extent feasible. Areas of the site which are not suited for development because of known soil, geologic, flood, erosion or other hazards shall remain in open space.*

**Land Use Element, Hillside and Watershed Protection Policy #1 and CLUP Policy 3-13:** *Plans for development shall minimize cut and fill operations. Plans requiring excessive cutting and filling may be denied if it is determined that the development could be carried out with less alteration of the natural terrain.*

**Land Use Element, Hillside and Watershed Protection Policy #2 and CLUP Policy 3-14:** *All development shall be designed to fit the site topography, soils, geology, hydrology, and any other existing conditions and be oriented so that grading and other site preparation is kept to an absolute minimum. Natural features, landforms, and native vegetation, such as trees, shall be preserved to the maximum extent feasible. Areas of the site which are not suited to development because of known soil, geologic, flood, erosion or other hazards shall remain in open space.*

**Montecito Community Plan Policy BIO-M-1.3:** *Environmentally Sensitive Habitat (ESH)*

development (e.g., setbacks from top-of-bank, site topography, hydrology, and base flood elevation) have changed. As a result, the Ordinance Amendments clarify that a permit exemption or De Minimis Waiver may be allowed for a structure that is being rebuilt, and the structure may be located in a different area of the site to meet applicable setbacks from top-of-bank and to reduce flood hazards. The development would still be required to comply with applicable regulatory measures, such as setbacks from Environmentally Sensitive Habitat and protection of native trees where appropriate. Upon submittal of an application for an exemption or De Minimis Waiver, staff would review the proposed project to determine whether the project results in conflicts with Comprehensive Plan policies, such as policies that direct development away from Environmentally Sensitive Habitat and/or native trees.

Reconstruction of damaged or destroyed structures would occur outside of environmentally sensitive habitat areas to the maximum extent feasible to avoid adverse impacts on habitat resources. These Ordinance Amendments provide clarification for structures that are being rebuilt “like-for-like.” The restored or replaced structure(s) would be allowed to be rebuilt using the grade that exists on the lot at the time of application submittal (i.e., the post-event grade, or grade on the lot after the debris flow or other catastrophic event that resulted in a change in topography). Therefore, while the structure may exceed the height of the previous destroyed or damaged structure to comply with the new base flood elevation, or be relocated to another area of the site to comply with new creek setbacks, grading and site preparation shall be kept to a minimum.

Applications for a like-for-like rebuild (permit exemption or De Minimis Waiver) would be

<p><i>areas within the Montecito Planning Area shall be protected, and where appropriate, enhanced.</i></p> <p><b>Montecito Community Plan Policy BIO-M-1.8:</b> <i>The minimum buffer strip for development near streams and creeks in Rural Areas shall be presumptively 100 feet from top of bank and for streams in Urban Areas, 50 feet. These minimum buffers may be adjusted upward or downward on a case-by-case basis but shall not preclude reasonable development of a parcel...</i></p> <p><b>Montecito Community Plan Policy BIO-M-1.16:</b> <i>All existing native trees regardless of size that have biological value shall be preserved to the maximum extent feasible.</i></p>	<p>reviewed in conjunction with the Flood Control District to ensure that the structure(s) complies with applicable flood hazard standards (i.e., setbacks from top-of-bank and base flood elevation). Therefore, the proposed Ordinance Amendments are consistent with these policies.</p>
<p><b>STREAMS AND CREEKS</b></p>	
<p><b>Land Use Element, Streams and Creeks Policy #1:</b> <i>All permitted construction and grading within stream corridors shall be carried out in such a manner as to minimize impacts from increased runoff, sedimentation, biochemical degradation, or thermal pollution.</i></p>	<p><b>Consistent:</b> As stated above, if damage or destruction occurs as a result of a debris flow or similar event and the impacted structure is located in a flood hazard area, the structure may be relocated on the lot, which would reduce construction and grading within stream corridors. Projects would be reviewed upon application submittal to ensure that impacts from increased runoff, sedimentation, biochemical degradation, or thermal pollution are minimized through proper siting of the rebuilt structure(s). Therefore, the proposed Ordinance Amendments are consistent with this policy.</p>
<p><b>FLOOD HAZARD AREA</b></p>	
<p><b>Land Use Element, Flood Hazard Area Policy #1 and CLUP Policy 3-11:</b> <i>All development, including construction, excavation, and grading, except for flood control projects and non-structural agricultural uses, shall be prohibited in the floodway unless off-setting improvements in accordance with federal regulations are provided. If the proposed development falls within the floodway fringe, development may be permitted, provided creek setback requirements are met and finished floor elevations are two feet above the projected</i></p>	<p><b>Consistent:</b> As stated in Section 4.0 of this staff report, the County of Santa Barbara and FEMA are producing Flood Hazard/Recovery Mapping for the Santa Barbara County area after the January 9, 2018 debris flow events, which will provide property owners with an advisory floodplain boundary and advisory base flood elevations. This map will assist property owners and County staff with ensuring that new development, including construction, excavation, and grading for the rebuilding of existing structures that were damaged or destroyed as a result of a debris</p>

<p><i>100-year flood elevation, and the other requirements regarding materials and utilities as specified in the Flood Plain Management Ordinance are in compliance.</i></p> <p><b>Land Use Element, Flood Hazard Area Policy #2 and CLUP Policy 3-12:</b> <i>Permitted development shall not cause or contribute to flood hazards or lead to expenditure of public funds for flood control works, i.e., dams, stream channelizations, etc.</i></p> <p><b>Land Use Element, Flood Hazard Area Policy #3:</b> <i>All development shall be reviewed in accordance with the requirements of County Code Chapter 15A-Floodplain Management and 15B-Development Along Watercourses.</i></p> <p><b>Montecito Community Plan Policy FD-M-2.1:</b> <i>Development shall be designed to minimize the threat of on-site and downstream flood potential and to allow recharge of the groundwater basin to the maximum extent feasible.</i></p>	<p>flow or other event, is prohibited in the floodway or contains off-setting improvements in accordance with federal regulations.</p> <p>The Planning and Development Department will coordinate project review with the Flood Control District to ensure that development complies with the requirements of County Code Chapter 15A-Floodplain Management and 15B-Development Along Watercourses. In addition, while the Ordinance Amendments allow impacted structures to be moved on the site under a like-for-like permit exemption or De Minimis Waiver, the restored or replaced structure would still be required to comply with the setback and height requirements of the applicable zone, as well as applicable setbacks from top-of-bank, as appropriate.</p> <p>The Ordinance Amendments would not result in development that would cause or contribute to flood hazards, as it streamlines the permit process for re-development to occur outside of flood hazard areas. Further, the Ordinance Amendments allow development to be designed to minimize the threat of flooding. Therefore, the proposed Ordinance Amendments are consistent with these policies.</p>
<p><b>VISUAL AND AESTHETIC RESOURCES</b></p>	
<p><b>Coastal Act Policy 30251:</b> <i>The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas.</i></p> <p><b>Land Use Element, Visual Resources Policy #2 and CLUP Policy 4-3:</b> <i>In areas designated as rural on the land use plan maps, the height, scale, and design of structures shall be</i></p>	<p><b>Consistent:</b> Debris flow events and other catastrophic events visually degrade properties and can affect the aesthetics of entire communities.</p> <p>The Ordinance Amendments would provide property owners whose structures were damaged or destroyed during a debris flow or other event resulting in a significant change in topography with an expedited permit process through a like-for-like permit exemption or De Minimis Coastal Development Permit Waiver. The exemption in the inland area of the County and waiver in the coastal zone allow owners to make modifications to structures for safety and flood hazard prevention, including changes in</p>

*compatible with character of the surrounding natural environment, except where technical requirements dictate otherwise. Structures shall be subordinate in appearance to natural landforms; shall be designed to follow the natural contours of the landscape; and shall be sited so as not to intrude into the skyline as seen from public viewing places.*

**Land Use Element, Visual Resources Policy #3 and CLUP Policy 4-4:** *In areas designated as urban on the land use plan maps and in designated rural neighborhoods, new structures shall be in conformance with the scale and character of the existing community. Clustered development, varied circulation patterns, and diverse housing types shall be encouraged.*

**Montecito Community Plan Policies LU-M-1.2 and GEO-M-1.6:** *Excessive grading for the sole purpose of creating or enhancing views shall not be permitted.*

**Montecito Community Plan Policy LU-M-2.1:** *New structures shall be designed, sited, graded, and landscaped in a manner which minimizes their visibility from public roads.*

**Montecito Community Plan Policy VIS-M-1.3:** *Development of property should minimize impacts to open space views as seen from public roads and viewpoints.*

the footprint (i.e., the structure's location on the lot) and overall height.

Specifically, a restored or replaced structure may be moved on the site if necessary to comply with applicable setbacks from top-of-bank and to reduce flood hazards, as long as the structure complies with the setback requirements of the applicable zone.

Similarly, the overall height of a structure may exceed the height of the destroyed or damaged structure if necessary in order to comply with the base flood elevation that exists for the lot after a debris flow or other event resulting in a significant change in topography or alteration of drainage features. A structure's height may also appear different since a debris flow or other catastrophic event could result in a change in grade on the subject lot (i.e. the post-event grade may be different from the previous "existing" grade). The Ordinance Amendments specify that the height of the structure(s) would still be required to comply with the height maximum for the applicable zone district (i.e. for single family dwellings, the height maximum in the inland area of the County is 35 feet, unless otherwise specified, and the height maximum for the coastal area of the County is 25 feet, unless otherwise specified), and the height of the structure from finished floor to the highest part of the structure, excluding chimneys, vents and noncommercial antennas, would substantially conform to the height of the destroyed structure. Therefore, re-development of property would minimize impacts to open space views and visibility from public roads.

While the overall height of the structure may exceed the height of the destroyed or damaged structure, the scenic and visual qualities of the community, natural environment, and coastal areas would still be protected since the structure would be required to comply with the

	<p>height requirements of the applicable zone district. Further, the height of the structure from finished floor to peak roof height would not change beyond 10 percent of the previous height of the structure, and property owners would only be allowed to modify their height through the “like-for-like” permit exemption or De Minimis Coastal Development Permit Waiver if a change in topography and/or base flood elevation occurred on their lot (i.e. changes to a structure’s height solely for the purpose of creating or enhancing views would not be allowed). Therefore, the Ordinance Amendments would ensure that the height, scale, and design of structures shall be compatible with the character of the surrounding environment to the maximum extent feasible, while also complying with the Flood Hazard/Recovery Mapping.</p> <p>By providing flexibility to property owners through the like-for-like permit exemption or De Minimis Coastal Development Permit Waiver process for damaged or destroyed structures, properties can begin to rebuild, thus enhancing and restoring visual quality in disaster area(s). Therefore, the Ordinance Amendments are consistent with these policies.</p>
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### **6.3 Zoning: Ordinance Compliance**

The proposed ordinances are consistent with the remaining portions of the MLUDC and Article II that would not be revised by these ordinance amendments. In order to approve a development project based on these proposed amendments, it still must be determined that the project is consistent with the whole of the Montecito LUDC and Article II as applicable. Article II, Section 35-51B, and the MLUDC, Section 35.420.040, state that exemptions to permitting are allowed if “the use, activity, or structure is established and operated in compliance with the setback requirements, height limits, parking requirements, and all other applicable standards of this Article/Development Code, the required provisions and conditions of any existing, approved permits for the subject lot and, where applicable, Division 10 (Nonconforming Structures and Uses)/Chapter 35.491 (Nonconforming Uses, Structures, and Lots).” Further, the zoning ordinances state that any permit or approval required by regulations other than the zoning ordinances would still be required to be obtained (e.g., a Building Permit and/or Grading Permit).



The proposed ordinance amendments do not modify this requirement and a structure that is relocated to reduce flood hazards or its finished floor changed to comply with a new base flood elevation would still be required to comply with ordinance requirements including setbacks, height, parking, site coverage, and all other applicable requirements.

## **7.0 PROCEDURES**

**MLUDC:** The Montecito Planning Commission may recommend approval, approval with revisions, or denial of the proposed ordinance to the Board of Supervisors.

**Article II:** The Montecito Planning Commission may recommend approval, approval with revisions, or denial of the proposed ordinance to the County Planning Commission.

## **8.0 APPEALS PROCEDURE**

Ordinance Amendments recommended for approval or denial are legislative acts that are automatically forwarded to the Board of Supervisors for final action. Therefore, no appeal is required.

## **ATTACHMENTS**

- A. 18ORD-00000-00005 (MLUDC) Findings
- B. 18ORD-00000-00005 (MLUDC) Notice of Exemption
- C. 18ORD-00000-00005 (MLUDC) Resolution and Proposed Ordinance
- D. 18 ORD-00000-00006 (Article II) Findings
- E. 18 ORD-00000-00006 (Article II) Notice of Exemption
- F. 18 ORD-00000-00006 (Article II) Resolution and Proposed Ordinance
- G. Guidance to Property Owners, Montecito Debris Flow Rebuilds, located here:  
<http://www.sbcountyplanning.org/pdf/misc/Guidance%20for%20Rebuilding03.13.2018.pdf>