

Attachment 18

COUNTY OF SANTA BARBARA PLANNING AND DEVELOPMENT

MEMORANDUM

TO: Montecito Planning Commission

FROM: Jeff Wilson, Deputy Director
Staff Contact: Tess Harris, Planner

DATE: April 16, 2018

RE: Case No. 18ORD-00000-00006
Like-for-Like (Debris Flow) Ordinance Amendment

Staff received comments from the Coastal Commission staff on April 12, 2018 regarding the proposed Article II Coastal Zoning Ordinance Amendment (via phone call between Megan Sinkula and Tess Harris). Based on the Coastal Commission's comments, staff requests that your Commission consider the following changes to Section 35-51C. De Minimis Waiver of Coastal Development Permit and revise Section 1 of the Article II Coastal Zoning Ordinance Amendment (Attachment F of the staff report, dated March 29, 2018) to clarify the noticing requirements, confirm that the waiver is not available to projects that would normally be appealable to the California Coastal Commission, and clarify that the waiver is not effective until it is reported to the California Coastal Commission at their next regularly scheduled meeting. The specific changes are shown below in strikethrough and underline format.

Additionally, staff proposes one minor change to the applicability of the rebuild provisions to specify that a damaged or destroyed structure would be subject to the ordinance provisions if the significant change in topography or alteration of drainage features occurred on the lot or *affected* the lot in question. This change would be made to the relevant sections of the Article II Ordinance Amendment and the Montecito Land Use and Development Code Ordinance Amendment.

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 or affecting 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 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 (as measured from the post-event grade to peak roof height) may exceed the height of the destroyed or damaged structure by more than 10 percent if 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, as long as the structure otherwise complies with this Chapter and with the applicable policies of the Coastal Land Use Plan. 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, 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 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.
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 ~~no later than one week after the action by the Director to waive the requirement for a Coastal Development Permit.~~
6. **Effective Date of Waiver.** Upon receipt of notice 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 is 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.