

Attachment 15

COUNTY OF SANTA BARBARA  
PLANNING AND DEVELOPMENT

MEMORANDUM

TO: County Planning Commission

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

DATE: April 24, 2018

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

<u>AGENDA ITEMS</u>	
ITEM #:	<u>2</u>
MEETING DATE:	<u>4-25-18</u>

Staff presented the Like-for-Like Rebuild (Debris Flow) Ordinance Amendments for the Montecito Land Use and Development Code and Article II, the Coastal Zoning Ordinance at the Montecito Planning Commission and Montecito Board of Architectural Review joint hearing on April 17, 2018. At the hearing, the Montecito Planning Commission voted to recommend that your Commission recommend that the Board of Supervisors wait to take action on the proposed Ordinance Amendment to Article II, the Coastal Zoning Ordinance, until the Flood Hazard/Recovery Mapping comes out in June 2018, members of the public have had sufficient time to review the Ordinance Amendments in context with the new advisory base flood elevations, and resiliency and adaptive management strategies have been considered.

If your Commission or the Board of Supervisors chooses not to follow the Montecito Planning Commission's recommendation, the Montecito Planning Commission provided an alternative recommendation that includes changes to the Ordinance Amendment language proposed by staff regarding height, location, and Design Review. Please refer to Attachment 1, the Montecito Planning Commission April 17, 2018 Action Letter for additional information regarding the changes proposed and for the two Resolutions adopted by the Montecito Planning Commission.

The Montecito Planning Commission made the same recommendations to the Board of Supervisors regarding the Montecito Land Use and Development Code.

Attachments

Attachment 1 – Montecito Planning Commission April 17, 2018 Action Letter



# 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.

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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.(42), 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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Amendments\Montecito PC\04-17-18actltr.doc



## **ATTACHMENT A: 18ORD-00000-00005 MLUDC FINDINGS**

### **1.0 CEQA FINDINGS**

The Montecito Planning Commission finds, and recommends that the Board of Supervisors find, that the proposed project, 18ORD-00000-00005, is exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15061(b)(3), 15302, and 15305. Please see Attachment B, Notice of Exemption.

### **2.0 ADMINISTRATIVE FINDINGS**

In compliance with Section 35.494.060 of the Santa Barbara County Montecito Land Use and Development Code (MLUDC), the following findings shall be made by the Montecito Planning Commission in order to recommend approval of a text amendment to the Montecito LUDC, and the Board of Supervisors shall adopt the following findings in order to approve a text amendment to the Montecito LUDC:

#### **2.1 The request is in the interest of the general community welfare.**

The proposed Ordinance Amendment is in the interest of the general community welfare since it will expedite rebuilding a structure, through the like-for-like exemption process, that was damaged or destroyed by a debris flow or other catastrophic event resulting in a significant change in topography or alteration of drainage features. This will help to expedite the rebuilding of the Montecito community, which is in the interest of the general community welfare. Different than other natural disasters, such as wildfires, debris flow events can change conditions on a site that direct development (e.g., setbacks from top-of-bank, site topography, hydrology, base flood elevation). This Ordinance Amendment clarifies that the permit exemption process would enable an impacted structure to be rebuilt in a different location than its previous footprint, subject to some limitations, if necessary to meet applicable setbacks from top-of-bank and to reduce flood risk. The development would still be required to comply with the regulatory measures of the applicable zone, such as setback requirements, as well as applicable Comprehensive Plan and Community Plan policies. Therefore, this finding can be made.

#### **2.2 The request is consistent with the Comprehensive Plan, the requirements of the State planning and zoning laws, and this Development Code.**

Adoption of the proposed Ordinance Amendment will provide the capability for property owners impacted by a debris flow or similar catastrophic event to rebuild on their lot in an expedited manner, bearing in mind changes to topography and base flood elevation. The development would still be required to comply with the applicable regulatory measures of the zone district, such as setback requirements. As stated in Section 6.2 of the staff report, dated March 29, 2018 and incorporated herein by reference, the Amendment is consistent with policies and standards of the Comprehensive Plan, including the Montecito Community Plan.

As stated in Section 6.3 of the staff report, dated March 29, 2018 and incorporated herein by reference, the proposed Ordinance Amendment is also consistent with the remaining portions of the MLUDC that would not be revised by this Amendment. Further, a planning permit exemption cannot be issued based on this proposed Ordinance Amendment until staff has determined that the project is consistent with the applicable policies and development standards of the Comprehensive Plan, including

the Montecito Community Plan. This Amendment is consistent with the Comprehensive Plan, including the Montecito Community Plan, the requirements of State Planning and Zoning Laws, and the MLUDC. Therefore, this finding can be made.

**2.3 The request is consistent with good zoning and planning practice.**

The proposed Ordinance Amendment is consistent with good zoning and planning practices to regulate land uses for the overall protection of the environment and community values since it streamlines the permit process for re-development of damaged or destroyed structures after a debris flow or other similar catastrophic event to occur away from flood hazard areas. The proposed Ordinance Amendment does not alter the purpose and intent of any policies or development standards of the Comprehensive Plan, including the Montecito Community Plan, and the adoption of the proposed Ordinance Amendment is consistent with the adopted policies and development standards, as indicated in Sections 6.2 and 6.3 of the staff report, dated March 29, 2018 and incorporated herein by reference. Therefore, this finding can be made.

**ATTACHMENT C: MONTECITO LUDC RESOLUTION AND ORDINANCE AMENDMENT**

**RESOLUTION OF THE SANTA BARBARA COUNTY MONTECITO PLANNING COMMISSION  
COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA**

IN THE MATTER OF RECOMMENDING TO THE BOARD )  
OF SUPERVISORS THE ADOPTION OF AN AMENDMENT )  
TO SECTION 35-2, THE SANTA BARBARA COUNTY )  
MONTECITO LAND USE AND DEVELOPMENT CODE, OF )  
CHAPTER 35, ZONING, OF THE COUNTY CODE, ) RESOLUTION NO.: 18 - \_\_\_\_  
AMENDING DIVISION 35.2, MONTECITO ZONES AND )  
ALLOWABLE USES, DIVISION 35.7, MONTECITO ) CASE NO.: 18ORD-00000-00005  
PLANNING PERMIT PROCEDURES, DIVISION 35.9, )  
MONTECITO LAND USE AND DEVELOPMENT CODE )  
ADMINISTRATION, AND DIVISION 35.10, GLOSSARY, TO )  
IMPLEMENT NEW REGULATIONS AND DEVELOPMENT )  
STANDARDS REGARDING EXEMPTIONS FROM )  
PERMITTING FOR 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. )

**WITH REFERENCE TO THE FOLLOWING:**

- A. On November 27, 2007, by Ordinance 4660, the Board of Supervisors adopted the Santa Barbara County Montecito Land Use and Development Code, Section 35-2 of Chapter 35 of the Santa Barbara County Code.
- B. The Montecito Planning Commission now finds that it is in the interest of the orderly development of the County and important to the preservation of the health, safety, and general welfare of the residents of the County to recommend that the Board of Supervisors adopt an ordinance (Case No. 18ORD-00000-00005) amending Section 35-2 of Chapter 35 of the Santa Barbara County Code, the Santa Barbara County Montecito Land Use and Development Code, to implement new regulations regarding the permitting of structures that have been damaged or destroyed during a debris flow or other event resulting in a significant change in topography or alteration of drainage features.

Said Ordinance is attached hereto as Exhibit 1 and is incorporated herein by reference.

- C. The proposed Ordinance is consistent with the Santa Barbara County Comprehensive Plan including the Montecito Community Plan, and the requirements of the State Planning, Zoning, and Development Laws, as discussed in Section 6.2 of the staff report, dated March 29, 2018 and incorporated herein by reference.
- D. The proposed Ordinance is in the interest of the general community welfare since it will serve to expedite the permitting process for the re-building of structures that were damaged or destroyed during a debris flow or other event resulting in a significant change in topography or alteration of drainage features in the Montecito Community Plan area, and allow structures to be rebuilt in safer and more resilient locations.



- E. This Montecito Planning Commission has held a duly noticed public hearing, as required by Section 65854 of the Government Code, on the proposed Ordinance at which hearing the proposed Ordinance was explained and comments invited from the persons in attendance.
- F. Whereas Section 65855 of the Government Code requires inclusion of the reason for the recommendation which is to expedite the permitting process for the re-building of structures that were damaged or destroyed during a debris flow and the relationship of the proposed amendment to applicable general and specific plans, which is hereby identified as consistent, as stated in Section 6.2 of the staff report, dated March 29, 2018, and incorporated herein by reference.

NOW, THEREFORE, IT IS HEREBY RESOLVED as follows:

1. The above recitations are true and correct.
2. This Montecito Planning Commission re-affirms the guidance provided to property owners included in the March 13, 2018 Memorandum entitled "Guidance to Property Owners on Montecito Debris Flow Rebuilds," in particular the fourth paragraph on the first page. Consistent with this guidance, recommend that the Board of Supervisors wait to take action on the proposed Ordinance Amendment to the Montecito Land Use and Development Code (MLUDC) until the Flood Hazard/Recovery Mapping comes out in June 2018, members of the public have had sufficient time to review the Ordinance Amendment in context with the new advisory base flood elevations, and resiliency and adaptive management strategies have been considered. Upon receipt of this information, the Montecito Planning Commission requests that the Ordinance Amendment be referred back to the Montecito Planning Commission for further review and recommendations.
3. Alternatively, in compliance with the provisions of Section 65855 of the Government Code, this Montecito Planning Commission recommends that the Board of Supervisors of the County of Santa Barbara, State of California, following the required noticed public hearing, approve and adopt the above mentioned recommendation of this Commission, based on the findings included as Attachment A of the Montecito Planning Commission Staff Report dated March 29, 2018 and the changes made at the April 17, 2018 Montecito Planning Commission hearing, included as Exhibit 1.
4. A certified copy of this resolution shall be transmitted to the Board of Supervisors.
5. The Chair of this Montecito Planning Commission is hereby authorized and directed to sign and certify all maps, documents, and other materials in accordance with this resolution to show the above mentioned action by the Montecito Planning Commission.

PASSED, APPROVED AND ADOPTED this April 17, 2018, by the following vote:

AYES:

NOES:

ABSTAIN:

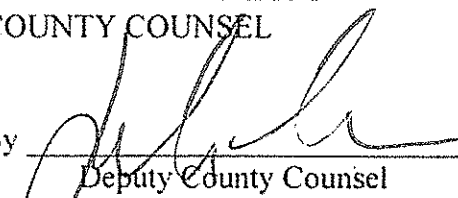
ABSENT:

  
\_\_\_\_\_  
JOE COLE, CHAIR  
SANTA BARBARA COUNTY MONTECITO PLANNING COMMISSION

ATTEST:

  
\_\_\_\_\_  
JEFFREY WILSON  
SECRETARY TO THE MONTECITO PLANNING COMMISSION  
APPROVED AS TO FORM:

MICHAEL C. GHIZZONI  
COUNTY COUNSEL

By   
\_\_\_\_\_  
Deputy County Counsel

EXHIBITS:

1. 18ORD-00000-00005

## EXHIBIT 1: MONTECITO LUDC ORDINANCE AMENDMENT

### ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING SECTION 35-2, THE SANTA BARBARA COUNTY MONTECITO LAND USE AND DEVELOPMENT CODE, OF CHAPTER 35, ZONING, OF THE COUNTY CODE BY 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, TO IMPLEMENT NEW REGULATIONS AND DEVELOPMENT STANDARDS REGARDING EXEMPTIONS FROM PERMITTING FOR 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.

18ORD-00000-00005

The Board of Supervisors of the County of Santa Barbara ordains as follows:

#### **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, 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 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 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 the post-event grade, 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. 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).

## **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 proposed to be changed from the prior structure(s).

### **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 the minimum distance necessary to comply with applicable setbacks from top-of-bank, 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 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 the minimum distance necessary to comply with applicable setbacks from top-of-bank, 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 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 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 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.

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 necessary to comply with applicable setbacks from top-of-bank, 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 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 necessary to meet applicable setbacks from top-of-bank, 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 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 B.5.a.(1), 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 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 relocated on the lot 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 proposed to be changed.
- 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.

**SECTION 5:**

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, is hereby amended to change Section 35.500.020, Definitions of Specialized Terms and Phrases, of Chapter 35.500, Definitions, to add new definitions of "Base Flood Elevation" and "Debris Flow" to read as follows:

**Base Flood Elevation.** The computed elevation to which floodwater is anticipated to rise during the base flood, which is a flood having a one percent chance of being equaled or exceeded in any given year. This is the regulatory standard also referred to as the "100-year flood." Base Flood Elevations (BFEs) are shown on Flood Insurance Rate Maps (FIRMs) which may be supplemented by studies for other areas which allow implementation of Chapter 15A of the County Code and which are recommended to the board of directors by the floodplain administrator and on the flood profiles. The BFE is the regulatory requirement for the elevation or flood-proofing of structures.

**Debris Flow.** A saturated mass of loose particles, including rock, earth, and other debris, that travels down a slope and often into creek and/or stream channels.



**SECTION 6:**

All existing section references contained in Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the County Code, are hereby revised and renumbered as appropriate to reflect the revisions enumerated above.

**SECTION 7:**

Except as amended by this Ordinance, Divisions 35.2, 35.7, 35.9 and 35.10 of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the County Code, shall remain unchanged and shall continue in full force and effect.

**SECTION 8:**

This ordinance shall take effect and be in force 30 days from the date of its passage and before the expiration of 15 days after its passage a summary of it shall be published once together with the names of the members of the Board of Supervisors voting for and against the same in the *Santa Barbara News-Press*, a newspaper of general circulation published in the County of Santa Barbara.

PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this \_\_\_\_\_ day of \_\_\_\_\_, 2018, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

\_\_\_\_\_  
DAS WILLIAMS, CHAIR  
BOARD OF SUPERVISORS  
COUNTY OF SANTA BARBARA

ATTEST:

MONA MIYASATO, COUNTY EXECUTIVE OFFICER  
CLERK OF THE BOARD

By \_\_\_\_\_  
Deputy Clerk

APPROVED AS TO FORM:

MICHAEL C. GHIZZONI  
COUNTY COUNSEL

By \_\_\_\_\_  
Deputy County Counsel

## **ATTACHMENT D: 18ORD-00000-00006 ARTICLE II FINDINGS**

### **3.0 CEQA FINDINGS**

**The Montecito Planning Commission finds, and recommends that the County Planning Commission find and recommend that the Board of Supervisors find, that the proposed project, 18ORD-00000-00006, is exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15061(b)(3), 15265, 15302, and 15305. Please see Attachment E, Notice of Exemption.**

### **4.0 ADMINISTRATIVE FINDINGS**

In compliance with Section 35-180.6 of the Santa Barbara County Article II Coastal Zoning Ordinance (Article II), the following findings shall be made by the Montecito Planning Commission in order to recommend approval of a text amendment to Article II to the County Planning Commission, and the County Planning Commission and the Board of Supervisors shall adopt the following findings in order to recommend approval of or approve a text amendment to Article II:

#### **2.1 The request is in the interests of general community welfare.**

The proposed Ordinance Amendment is in the interest of the general community welfare since it will expedite rebuilding a structure, through the De Minimis Coastal Development Permit Waiver process, that was damaged or destroyed by a debris flow or other catastrophic event resulting in a significant change in topography or alteration of drainage features. This will help to expedite the rebuilding of a community impacted by a debris flow or other catastrophic event, which is in the interest of the general community welfare. Different than other natural disasters, such as wildfires, debris flow events can change conditions on a site that direct development (e.g., setbacks from top-of-bank, site topography, hydrology, base flood elevation). This Ordinance Amendment clarifies that the De Minimis Coastal Development Permit Waiver process would enable an impacted structure to be rebuilt in a different location than its previous footprint, subject to some limitations, if necessary to meet applicable setbacks from top-of-bank and to reduce flood risk. The development would still be required to comply with the regulatory measures of the applicable zone, such as setback requirements, as well as applicable Comprehensive Plan and Community Plan policies. Therefore, this finding can be made.

#### **2.2 The request is consistent with the Comprehensive Plan, the Coastal Land Use Plan, the requirements of the State planning and zoning laws, and this Article.**

Adoption of the proposed Ordinance Amendment will provide the capability for property owners impacted by a debris flow or similar catastrophic event to rebuild on their lot in an expedited manner, bearing in mind changes to topography and base flood elevation. The development would still be required to comply with the applicable regulatory measures of the zone district, such as setback requirements. As stated in Section 6.2 of the staff report, dated March 29, 2018 and incorporated herein by reference, the Amendment is consistent with policies and standards of the Comprehensive Plan, including applicable community plans and the Coastal Land Use Plan.

As stated in Section 6.3 of the staff report, dated March 29, 2018 and incorporated herein by reference, the proposed Ordinance Amendment is also consistent with the remaining portions of Article II that would not be revised by this Amendment. Further, a De Minimis Coastal Development Permit Waiver cannot be issued based on this proposed Ordinance Amendment until staff has determined that the project is consistent with the applicable policies and development standards of the Comprehensive Plan, including applicable community plans and Coastal Land Use Plan. This Amendment is consistent with the Comprehensive Plan, including applicable community plans,



Coastal Land Use Plan, the requirements of State Planning and Zoning Laws, and Article II. Therefore, this finding can be made.

**2.3 The request is consistent with good zoning and planning practices.**

The proposed Ordinance Amendment is consistent with good zoning and planning practices to regulate land uses for the overall protection of the environment and community values since it streamlines the permit process for re-development of damaged or destroyed structures after a debris flow or other similar catastrophic event to occur away from flood hazard areas. The proposed Ordinance Amendment does not alter the purpose and intent of any policies or development standards of the Comprehensive Plan, including applicable community plans and the Coastal Land Use Plan, and Article II. The adoption of the proposed Ordinance Amendment is consistent with the adopted policies and development standards, as indicated in Sections 6.2 and 6.3 of the staff report, dated March 29, 2018 and incorporated herein by reference. Therefore, this finding can be made.

## ATTACHMENT F: ARTICLE II RESOLUTION AND ORDINANCE AMENDMENT

### RESOLUTION OF THE SANTA BARBARA COUNTY MONTECITO PLANNING COMMISSION COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA

IN THE MATTER OF RECOMMENDING TO THE COUNTY )  
PLANNING COMMISSION THAT IT RECOMMEND TO )  
THE BOARD OF SUPERVISORS THE ADOPTION OF AN )  
AMENDMENT TO THE SANTA BARBARA COUNTY )  
ARTICLE II COASTAL ZONING ORDINANCE, OF ) RESOLUTION NO.: 18 - \_\_\_\_  
CHAPTER 35, ZONING, OF THE COUNTY CODE, )  
AMENDING DIVISION 1, IN GENERAL, DIVISION 2, ) CASE NO.: 18ORD-00000-00006  
DEFINITIONS, DIVISION 10, NONCONFORMING )  
STRUCTURES AND USES, AND DIVISION 12, )  
ADMINISTRATION, TO IMPLEMENT NEW )  
REGULATIONS AND DEVELOPMENT STANDARDS )  
REGARDING PERMITTING REQUIREMENTS FOR )  
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. )

#### WITH REFERENCE TO THE FOLLOWING:

- A. On July 19, 1982, by Ordinance 3312, the Board of Supervisors adopted the Coastal Zoning Ordinance, Article II of Chapter 35 of the Santa Barbara County Code.
- B. The Montecito Planning Commission now finds that it is in the interest of the orderly development of the County and important to the preservation of the health, safety, and general welfare of the residents of the County to recommend to the County Planning Commission that it recommend that the Board of Supervisors adopt an ordinance (Case No. 18ORD-00000-00006) amending Article II of Chapter 35 of the Santa Barbara County Code, the Coastal Zoning Ordinance, to implement new regulations regarding permitting requirements for structures that have been damaged or destroyed during a debris flow event or other event resulting in a significant change in topography or alteration of drainage features.  
  
Said Ordinance is attached hereto as Exhibit 1 and is incorporated herein by reference.
- C. The proposed Ordinance is consistent with the Coastal Act of 1976, the Santa Barbara County Coastal Land Use Plan, the Santa Barbara County Comprehensive Plan including the Community and Area Plans, and the requirements of the State Planning, Zoning, and Development Laws, as discussed in Section 6.2 of the staff report, dated March 29, 2018 and incorporated herein by reference.
- D. The proposed Ordinance is in the interest of the general community welfare since it will serve to expedite the permitting process for the re-building of structures that were damaged or destroyed during a debris flow or other event resulting in a significant change in topography or alteration of drainage features in the unincorporated Santa Barbara County, and allow structures to be rebuilt in safer and more resilient locations.
- E. This Montecito Planning Commission has held a duly noticed public hearing, as required by

Section 65854 of the Government Code, on the proposed Ordinance at which hearing the proposed Ordinance was explained and comments invited from the persons in attendance.

- F. Whereas Section 65855 of the Government Code requires inclusion of the reason for the recommendation which is to expedite the permitting process for the re-building of structures that were damaged or destroyed during a debris flow and the relationship of the proposed amendment to applicable general and specific plans, which is hereby identified as consistent, as stated in Section 6.2 of the staff report, dated March 29, 2018, and incorporated herein by reference.

NOW, THEREFORE, IT IS HEREBY RESOLVED as follows:

1. The above recitations are true and correct.
2. This Montecito Planning Commission re-affirms the guidance provided to property owners included in the March 13, 2018 Memorandum entitled "Guidance to Property Owners on Montecito Debris Flow Rebuilds," in particular the fourth paragraph on the first page. Consistent with this guidance, recommend that the Board of Supervisors wait to take action on the proposed Ordinance Amendment to Article II, the Coastal Zoning Ordinance, until the Flood Hazard/Recovery Mapping comes out in June 2018, members of the public have had sufficient time to review the Ordinance Amendment in context with the new advisory base flood elevations, and resiliency and adaptive management strategies have been considered. Upon receipt of this information, the Montecito Planning Commission requests that the Ordinance Amendment be referred back to the Montecito Planning Commission for further review and recommendations.
3. Alternatively, in compliance with the provisions of Section 65855 of the Government Code, this Montecito Planning Commission recommends to the County Planning Commission that it recommend that the Board of Supervisors of the County of Santa Barbara, State of California, following the required noticed public hearing, approve and adopt the above mentioned recommendation of this Commission, based on the findings included as Attachment D of the Montecito Planning Commission Staff Report dated March 29, 2018 and the changes made at the April 17, 2018 Montecito Planning Commission hearing, included as Exhibit 1.
4. A certified copy of this resolution shall be transmitted to the Board of Supervisors.
5. The Chair of this Montecito Planning Commission is hereby authorized and directed to sign and certify all maps, documents, and other materials in accordance with this resolution to show the above mentioned action by the Montecito Planning Commission.



PASSED, APPROVED AND ADOPTED this April 17, 2018, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

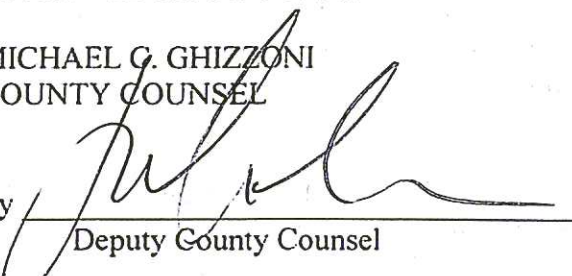
  
\_\_\_\_\_  
JOE COLE, CHAIR  
SANTA BARBARA COUNTY MONTECITO PLANNING COMMISSION

ATTEST:

  
\_\_\_\_\_  
JEFFREY WILSON  
SECRETARY TO THE MONTECITO PLANNING COMMISSION

APPROVED AS TO FORM:

MICHAEL G. GHIZZONI  
COUNTY COUNSEL

By   
\_\_\_\_\_  
Deputy County Counsel

EXHIBITS:

1. 18ORD-00000-00006

## EXHIBIT 1: ARTICLE II COASTAL ZONING ORDINANCE AMENDMENT

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING ARTICLE II, THE SANTA BARBARA COUNTY COASTAL ZONING ORDINANCE, OF CHAPTER 35, ZONING, OF THE COUNTY CODE BY AMENDING DIVISION 1, IN GENERAL, DIVISION 2, DEFINITIONS, DIVISION 10, NONCONFORMING STRUCTURES AND USES, AND DIVISION 12, ADMINISTRATION, TO IMPLEMENT NEW REGULATIONS AND DEVELOPMENT STANDARDS REGARDING PERMITTING REQUIREMENTS FOR 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.

18ORD-00000-00006

The Board of Supervisors of the County of Santa Barbara ordains as follows:

### **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, as long as the structure otherwise complies with this Chapter and with the applicable policies of the Coastal Land Use Plan.

- b. The replaced or restored structure shall not 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 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). 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. However, in no case shall the height of the structure, as measured from post-event grade, exceed the height 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, 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 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 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.

## **SECTION 2:**

DIVISION 2, Definitions, 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 35-58, Definitions, to add new definitions of “Base Flood Elevation” and “Debris Flow” to read as follows:

**Base Flood Elevation.** The computed elevation to which floodwater is anticipated to rise during the base flood, which is a flood having a one percent chance of being equaled or exceeded in any given year. This is the regulatory standard also referred to as the “100-year flood.” Base Flood Elevations (BFEs) are shown on Flood Insurance Rate Maps (FIRMs) which may be supplemented by studies for other areas which allow implementation of Chapter 15A of the County Code and which are recommended to the board of directors by the floodplain administrator and on the flood profiles. The BFE is the regulatory requirement for the elevation or flood-proofing of structures.

**Debris Flow.** A saturated mass of loose particles, including rock, earth, and other debris, that travels down a slope and often into creek and/or stream channels.

## **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 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.
- 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. *(Amended by Ord. 4529, 04/20/2004)*
- 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. *(Amended by Ord. 4572, 04/27/2004)*
- 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. *(Amended by Ord. 4529, 04/20/2004)*

- 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 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.
- 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. (Amended by Ord. 4318, 06/23/1998)

## **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 proposed to be changed from the prior structure(s).

#### **SECTION 6:**

All existing section references contained in Article II, the Santa Barbara County Coastal Zoning Ordinance, of Chapter 35, Zoning, of the County Code, are hereby revised and renumbered as appropriate to reflect the revisions enumerated above.

#### **SECTION 7:**

Except as amended by this Ordinance, Division 1, 2, 10, and 12 of Article II, the Santa Barbara County Coastal Zoning Ordinance, of Chapter 35, Zoning, of the County Code, shall remain unchanged and shall continue in full force and effect.

#### **SECTION 8:**

This ordinance and any portion of it approved by the Coastal Commission shall take effect and be in force 30 days from the date of its passage or upon the date that it is certified by the Coastal Commission pursuant to Public Resources Code Section 30514, whichever occurs later; and before the expiration of 15 days after its passage, it, or a summary of it, shall be published once, together with the names of the members of the Board of Supervisors voting for and against the same in the *Santa Barbara News-Press*, a newspaper of general circulation published in the County of Santa Barbara.



PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this \_\_\_\_\_ day of \_\_\_\_\_, 2018, by the following vote:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

\_\_\_\_\_  
DAS WILLIAMS, CHAIR  
BOARD OF SUPERVISORS  
COUNTY OF SANTA BARBARA

ATTEST:

MONA MIYASATO, COUNTY EXECUTIVE OFFICER  
CLERK OF THE BOARD

By \_\_\_\_\_  
Deputy Clerk

APPROVED AS TO FORM:

MICHAEL C. GHIZZONI  
COUNTY COUNSEL

By \_\_\_\_\_  
Deputy County Counsel