

Item W 16g

STATE OF CALIFORNIA -- THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, Governor

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
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Filed: 11/20/04
49th Day: 1/8/05
180th Day: 5/19/05
Staff: CAREY
Staff Report: 4/21/05
Hearing Date: 5/11/05



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STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-04-104

APPLICANT: Dan Voss

AGENT: Moffat and Nichol Engineers

PROJECT LOCATION: Adjacent to vacant property at 4490 Eastbourne Bay
(Adjacent to Reliant Energy Canal), City of Oxnard, Ventura County

PROJECT DESCRIPTION: Construction of an 11 foot-long concrete bulkhead wall extension, including temporary cofferdam with steel sheetpiles and earthen dike, excavation of 65 cu. yds. of material, use of 45 cu. yds. of fill to create earthen dike, replacement of 59 cu. yds. of material after construction, and restoration of mudflat and upland habitat area with native vegetation.

SUBSTANTIVE FILE DOCUMENTS: City of Oxnard Local Coastal Program

STAFF NOTE

This application was filed on November 20, 2004. Under the provisions of the Permit Streamlining Act, the latest possible date for Commission action is May 19, 2005. As such, the Commission must act on Application 4-04-104 at the May 2005 Hearing.

SUMMARY OF STAFF RECOMMENDATION

The standard of review for this proposed project is the Chapter 3 policies of the California Coastal Act. While the proposed project site is located within the City of Oxnard and the city has a certified local coastal program, the proposed development site is in an area subject to the retained permit jurisdiction of the Commission.

Staff recommends approval of the proposed project with special conditions relating to construction phase erosion and sediment runoff control plans, revised plans to delete the placement of excess material on a site north of the project site, and revegetation plans. As conditioned, the proposed development will minimize impacts to wetlands, environmentally sensitive habitat areas, and water quality, consistent with Sections 30230, 30231, 30233, and 30240 of the Coastal Act.

STAFF RECOMMENDATION:

I. Approval with Conditions

MOTION: *I move that the Commission approve Coastal Development Permit No. 4-04-104 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. Standard Conditions

- 1. Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
- 2. Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
- 3. Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.

4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. Special Conditions

1. Construction Phase Erosion and Sediment Runoff Control Plan.

Prior to issuance of the coastal development permit, the applicant shall submit, for the review and approval of the Executive Director, an erosion and sediment control plan and a Storm Water Pollution Prevention Plan for the construction phase of the project. The approved plan(s) shall be subject to the following requirements and include the following components, at a minimum:

- a. The project site shall be in compliance with State Water Resources Control Board NPDES Permit Waste Discharge Requirements for Construction Activity and shall not cause or contribute to significant adverse impacts on coastal resources.
- b. No construction materials, debris, or waste shall be placed or stored where it may enter a storm drain or be subject to erosion and dispersion;
- c. Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of construction;
- d. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of construction-related materials, and to contain sediment or contaminants associated with construction activity, shall be implemented prior to the on-set of such activity. BMPs and GHPs which shall be implemented include, but are not limited to: stormdrain inlets must be protected with sandbags or berms, all stockpiles must be covered, and a pre-construction meeting should be held for all personnel to review procedural and BMP/GHP guidelines. Selected BMPs shall be maintained in a functional condition throughout the duration of the project.
- e. Construction debris and sediment shall be properly contained and secured on site with BMPs, to prevent the unintended transport of sediment and other debris into coastal waters by wind, rain or tracking. Construction debris and sediment shall be removed from construction areas as necessary to prevent the accumulation of sediment and other debris which may be discharged into coastal waters. Debris shall be disposed at an appropriate debris disposal site outside the coastal zone. If the disposal site is located within the coastal zone, a coastal development permit must be in place for that site before disposal can take place.

2. Revised Plans

Prior to issuance of the coastal development permit, the applicant shall submit revised plans that delete the proposed placement of excess cut material north of Eastbourne Bay Street. Any excess cut material shall be removed from the site consistent with the provisions of Special Condition No. 3.

3. Removal of Excavated Material

The applicant shall remove all excess excavated/cut material from the subject properties to an appropriate disposal site located outside the Coastal Zone, or an approved site located in the Coastal Zone with a valid Coastal Development Permit to import fill.

4. Revegetation Plan.

The applicant shall implement all revegetation measures necessary to revegetate all tidal and upland habitat areas impacted by the project with native plants appropriate for these habitat areas. Prior to issuance of the permit, the applicant shall submit, for the review and approval of the Executive Director, a planting plan, prepared by a qualified biologist or resource specialist, showing details regarding the types, sizes, and location of plants to be placed within the impacted area. The plantings shall be sufficient to establish ninety (90) percent cover within five (5) years.

The applicant shall retain a qualified biologist, or other resource specialist to monitor the mudflat, tidal, and upland revegetation for a period of five (5) years minimum. An annual monitoring report on the revegetation area shall be submitted for the review and approval of the Executive Director for each of the five years. If replacement plantings are required, the applicant shall submit, for the review and approval of the Executive Director, a replacement planting program, prepared by a qualified biologist, or other resource specialist, which specifies replacement plant locations, size, planting specifications, and a monitoring program to ensure that the replacement planting program is successful

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description

The applicant proposes the construction of an 11 foot-long concrete bulkhead wall extension. This 11 foot long portion of bulkhead will complete the wall that was constructed in the past along the eastern property line of the project site and will allow for the docking of boats along the full 70-foot width of the parcel. In order to carry out the construction, the applicant proposes the excavation of 65 cu. yds. of material from

the adjacent mudflat and upland area to the east of the proposed wall, and the creation of a temporary cofferdam with steel sheetpiles and earthen dike, (45 cu. yds. of the excavated material will be used as fill to create the earthen dike). A turbidity curtain will be maintained around the work area during the construction and removal of the cofferdam and dike in order to ensure that the project does not adversely impact the waterways with sediment. The cofferdam and dike will allow the bulkhead wall area to be dewatered. The dewatering is necessary to allow the concrete wall to be poured in place. The water within the cofferdam will be pumped into a "Baker" tank where sediment will be settled out and the water filtered. The water will be replaced back into the channel. Construction staging and stockpiling of material will be located on the upland area of the project site.

After construction, 59 cu. yds. of material will be replaced to restore the profile of the mudflat and channel areas. The finish elevation of the upland area will result in a more gentle slope than the existing slope. The proposed project will result in 6 cu. yds. of excess cut material and the applicant proposes to place this material on an adjacent parcel on the north side of Eastbourne Bay Street. After construction, the applicant proposes to revegetate the upland habitat area with native vegetation. The applicant's agent estimates that the proposed construction will take two to three months to complete.

The proposed project site is located at the east end of Eastbourne Bay (Street), adjacent to the Reliant Energy Canal. The site is located in an area developed with waterways and narrow peninsulas of streets and residences. These waterways are an extension of Channel Islands Harbor and contain private boat docks for the use of nearby residents. The waterways were created from dry land and connected to the waterways of Channel Islands Harbor. Construction of the development in this area was carried out throughout the 1970's. Aerial photos show that the area was graded and homes were constructed in the southern portion (near Channel Islands Boulevard) by 1972. The waterways and residences were completed throughout the area (including immediately adjacent to the project site) by 1979. Staff would note that additional water-oriented development has been carried out to the east and northeast of the project site. A development called "Harbour Island" was built to the east in the 1980's. More recently, the Commission approved the "Westport" project (CDP 4-OXN-00-172, and 4-00-241) and the "Seabridge" project (CDP A-4-OXN-03-014) for the development of water-oriented residential and commercial projects northeast of the project site. These projects included the extension of waterways across dry land.

The proposed project site is located on the end of the northernmost peninsula, although there is only a waterway on the southern edge. The applicant's agent states that at the time the subdivision and bulkheads were constructed in this area, the developers intended to construct additional phases of waterways and residential development north of the project site. Such additional development would have included extension of the bulkhead on the project site to the north. However, no additional development was ever constructed to the north of the site and so the bulkhead was never extended.

The applicant is proposing the construction of 11 feet of concrete bulkhead in order to extend the bulkhead the entire length of the eastern property boundary. Such bulkhead walls form the boundaries between the waterways and the residential development throughout the area. The bulkheads retain the cut slope at the edge of each channel and allow for the construction of the boat docks. The applicant's agent states that the terms of the subdivision permit that created the subject site require that the bulkhead extend along the entire length of the parcel before the lot can be developed or sold.

B. Wetlands and ESHA.

Section 30233 of the Coastal Act states that:

(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:

(1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.

(2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.

(3) In wetland areas only, entrance channels for new or expanded boating facilities; and in a degraded wetland, identified by the Department of Fish and Game pursuant to subdivision (b) of Section 30411, for boating facilities if, in conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland. The size of the wetland area used for boating facilities, including berthing space, turning basins, necessary navigation channels, and any necessary support service facilities, shall not exceed 25 percent of the degraded wetland.

(4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.

(5) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.

(6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.

(7) Restoration purposes.

(8) Nature study, aquaculture, or similar resource dependent activities.

(b) Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation. Dredge spoils suitable for beach replenishment should be transported for such purposes to appropriate beaches or into suitable long shore current systems.

(c) In addition to the other provisions of this section, diking, filling, or dredging in existing estuaries and wetlands shall maintain or enhance the functional capacity of the wetland or estuary. Any alteration of coastal wetlands identified by the Department of Fish and Game, including, but not limited to, the 19 coastal wetlands identified in its report entitled, "Acquisition Priorities for the Coastal Wetlands of California", shall be limited to very minor incidental public facilities, restorative measures, nature study, commercial fishing facilities in Bodega Bay, and development in already developed parts of south San Diego Bay, if otherwise in accordance with this division.

For the purposes of this section, "commercial fishing facilities in Bodega Bay" means that not less than 80 percent of all boating facilities proposed to be developed or improved, where such improvement would create additional berths in Bodega Bay, shall be designed and used for commercial fishing activities.

(d) Erosion control and flood control facilities constructed on water courses can impede the movement of sediment and nutrients which would otherwise be carried by storm runoff into coastal waters. To facilitate the continued delivery of these sediments to the littoral zone, whenever feasible, the material removed from these facilities may be placed at appropriate points on the shoreline in accordance with other applicable provisions of this division, where feasible mitigation measures have been provided to minimize adverse environmental effects. Aspects that shall be considered before issuing a coastal development permit for such purposes are the method of placement, time of year of placement, and sensitivity of the placement area.

Section 30240 states:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.

Section 30107.5 of the Coastal Act, defines an environmentally sensitive area as:

"Environmentally sensitive area" means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

The applicant proposes the construction of an 11 foot-long concrete bulkhead wall extension. This 11 foot long portion of bulkhead will complete the wall that was constructed in the past along the eastern property line of the project site and will allow

for the docking of boats along the full 70-foot width of the parcel. In order to carry out the construction, the applicant proposes the excavation of 65 cu. yds. of material from the adjacent mudflat and upland area to the east of the proposed wall, and the creation of a temporary cofferdam with steel sheetpiles and earthen dike, (45 cu. yds. of the excavated material will be used as fill to create the earthen dike). The cofferdam and dike will allow the bulkhead wall area to be dewatered. After construction, 59 cu. yds. of material will be replaced to restore the profile of the mudflat and channel areas. The finish elevation of the upland area will result in a more gentle slope than the existing slope. The proposed project will result in 6 cu. yds. of excess cut material and the applicant proposes to place this material on an adjacent parcel on the north side of Eastbourne Bay Street. After construction, the applicant proposes to revegetate the upland habitat area with native vegetation.

The proposed development includes temporary work in both wetland areas and open water areas to complete the existing bulkhead wall that allows for boating facilities. The proposed grading will result in temporary impacts to approximately 105 square feet of mudflat habitat and approximately 196 square feet of disturbed upland habitat. Additionally, the open water area adjacent to the site will be temporarily subjected to filling and diking through the use of the proposed cofferdam and earthen dike to allow for dewatering of the bulkhead construction area. After construction, the cofferdam and earthen dike will be removed, and the mudflat profile will be restored. Given that the final slope gradient will more gentle than the existing slope, there will be a slight increase in the area of mudflat area. Finally, the upland habitat area will be revegetated with native plant species. Section 30233 provides that new or expanded boating facilities are allowable in open coastal waters. The proposed project is consistent with this allowable use, because it is a completion of the bulkhead system that retains the channels, allowing boating use of the waterways and the construction of boating facilities like docks. At such time as the project site is developed with a residential use, it is likely that a private boat dock will be constructed adjacent to the bulkhead.

Although the waterways in this area were created from dry land, not existing wetlands, the channels are subject to tidal influence and in areas where the channel walls are comprised of soil, there is wetland habitat in many instances. Many areas of the earthen banks of the Reliant Energy Canal contain wetland and upland habitat areas in three general zones. There are mudflats in the lowest elevations of the bank that are tidally influenced. Above the mudflat areas, there is a zone of saltmarsh of varying widths. Vegetation in the saltmarsh areas includes pickleweed, Jaumea and alkali heath. Upland scrub vegetation occurs upslope and consists of both native and non-native vegetation.

The applicant has provided a biological report (Delineation of Waters of the United States and Sensitive Species Survey, dated April 2003, prepared by Impact Sciences) addressing the vegetation and habitat areas that exist on the proposed project site. The project biologist has identified the vegetation on the project site as on-native ruderal vegetation (primarily mowed grass). The report states that:

A dirt road separates the property boundary and a coyote brush scrub community in the north. This scrub is dominated by coyote brush (*Baccharis pilularis*) and mustard (*Hirschfeldia incana*). Tidal plant species include pickleweed (*Salicornia bigelovii*). Along the top of the existing bank is ruderal vegetation with ice plant (*Carpobrotus edulis*) separating the tidal zone.

No rare, threatened, or endangered plant or animal species were identified as existing or having the potential to exist on the proposed project site.

The proposed project will not result in any permanent diking, filling, or dredging of open coastal waters or wetlands. As previously described, the project does include the temporary dredging, and diking of a portion of the existing open water channel adjacent to the project site in order to create a temporary coffer dam around the bulkhead wall construction area. This will allow the area to be dewatered so that the concrete bulkhead can be poured in place. The proposed grading will result in temporary impacts to approximately 105 square feet of mudflat habitat and approximately 196 square feet of disturbed tidal and upland habitat. After construction, the earthen dike and cofferdam will be removed from the channel. Of the 65 cu. yds. of material that will be removed from the bank and mudflat area, 59 cu. yds. will be replaced in this area to restore the profile of the slope, mudflat, and channel areas. The finish elevation of the upland area will result in a more gentle slope than the existing slope. This is because the material cannot hold the same slope angle after the grading. Given that the final slope gradient will be more gentle than the existing slope, there will be a slight increase in the area of mudflat area.

Therefore, the proposed project will not result in any permanent loss of wetland habitat. The applicant has proposed to revegetate the tidal and upland areas impact by the proposed project with native vegetation. If successful, the proposed revegetation will minimize erosion and sedimentation that could result from bare slopes, and actually enhance these habitat areas as they are currently comprised primarily of non-native invasive plants. In order to ensure that the proposed revegetation will be successful, the Commission finds it necessary to require the applicant to submit a revegetation plan that provides details regarding the species, location, and sizes of the plants that will be utilized. Additionally, the revegetation area must be monitored in order to ensure success. The Commission finds it necessary to require the applicant to implement the revegetation plan, and to monitor the site for a period of no less than five years, providing an annual report to staff on the success of the revegetation. This is required in Condition No. 1.

The proposed project also includes the placement of 6 cu. yds. of excess cut material on an adjacent parcel to the north of Eastbourne Bay Street that is also owned by the applicant. This material would be spread to a depth of approximately $\frac{3}{4}$ inch deep over a disposal area of 7,586 sq. ft. adjacent to the existing road. This fill would be placed in this area only as a means to dispose of excess cut material resulting from the proposed bulkhead construction. Typically, the Commission has not permitted the alteration of landforms solely for the purpose of disposing of excess material. In this case, the landform alteration would not be substantial. However, review of the City of Oxnard

Local Coastal Program indicates that the property to the north of Eastbourne Bay Street is zoned "Resource Protection". The stated purpose of the Resource Protection zone is to: "protect, preserve, and restore environmentally sensitive habitat areas within the coastal zone of the City of Oxnard". Within this resource protection area, there is dune habitat. While the proposed disposal area directly adjacent to Eastbourne Bay Street appears to be disturbed and does not contain dune habitat, the "Resource Protection" zone district does not provide for the placement of fill as a permitted use. As such, the Commission finds it necessary to require the applicant to delete this portion of the proposed project and to dispose of the 6 cu. yds. of excess cut material off-site, either on a site where placement of fill has been authorized through a coastal development permit, or on a site or landfill that is outside of the Coastal Zone. Special Condition No. 2 requires the applicant to submit revised plans that delete the fill placement portion of the project. Special Condition No. 3 requires the applicant to dispose of the excess cut material in an appropriate manner.

As conditioned to revegetate the disturbed areas, to submit revised plans and to dispose of the excess cut material, the Commission finds that the proposed project is consistent with Sections 30233 and 30240 of the Coastal Act.

C. Water Quality.

Section 30231 of the Coastal Act states that:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

The proposed project has the potential to adversely impact water quality during construction. The project includes grading within the waterway, including the removal of bank material and the addition of an earthen dike within the channel. This grading could have temporary adverse impacts to water quality during construction. The proposed excavation and the placement of the dike would result in a substantial increase in turbidity in the main channel and tributary channels.

As part of the project, the applicant has proposed to install a turbidity curtain, consisting of filter fabric, weighted to the bottom of the canal with floats at the water surface. This turbidity curtain will be placed around the entire construction area. This measure will contain the increased turbidity within the construction area. The turbidity curtain will be maintained throughout construction and until the turbidity levels in the construction area have reduced to a level equal or below the surrounding area in the channel. This measure will ensure that turbidity impacts to the Reliant Energy Canal and tributary channels are minimized.

A Storm Water Pollution Prevention Plan (SWPPP) implemented during construction incorporating other best management practices for construction activities, including management of construction materials and debris, will serve to minimize the potential for adverse impacts to water quality resulting from drainage runoff during construction. The Commission finds that it is necessary to require the implementation of a SWPPP for the project site during the construction phase to ensure the proposed development will not adversely impact water quality or coastal resources. Special Condition No. 1 specifies the details to be included in this plan in order to minimize water quality impacts resulting from the construction of the proposed development. The Commission finds that, as conditioned, the proposed project is consistent with Section 30231 of the Coastal Act.

D. CEQA

Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The Commission finds that, the proposed project, as conditioned will not have significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970. Therefore, the proposed project, as conditioned, has been adequately mitigated and is determined to be consistent with CEQA and the policies of the Coastal Act.

VICINITY MAP

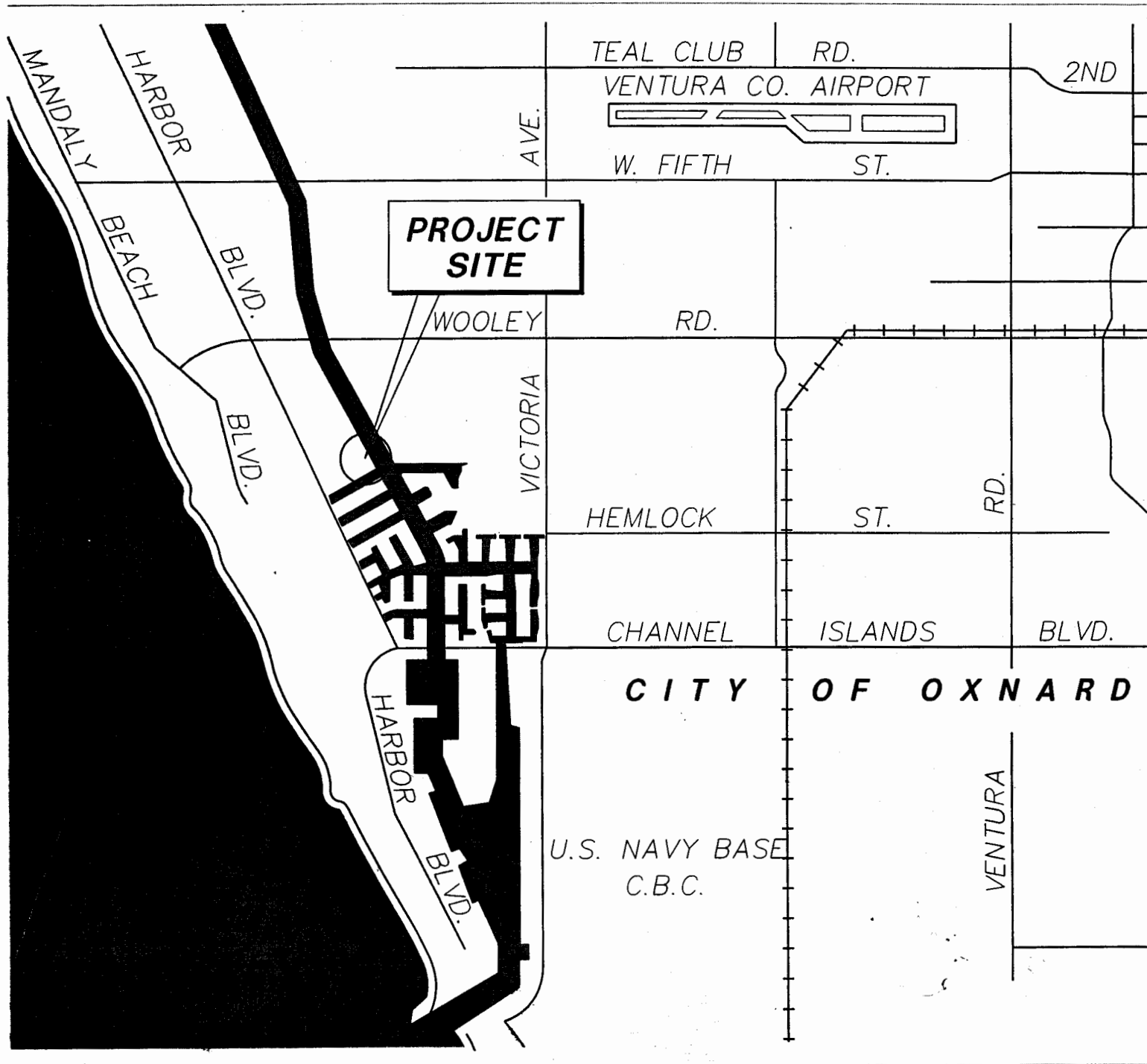
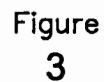
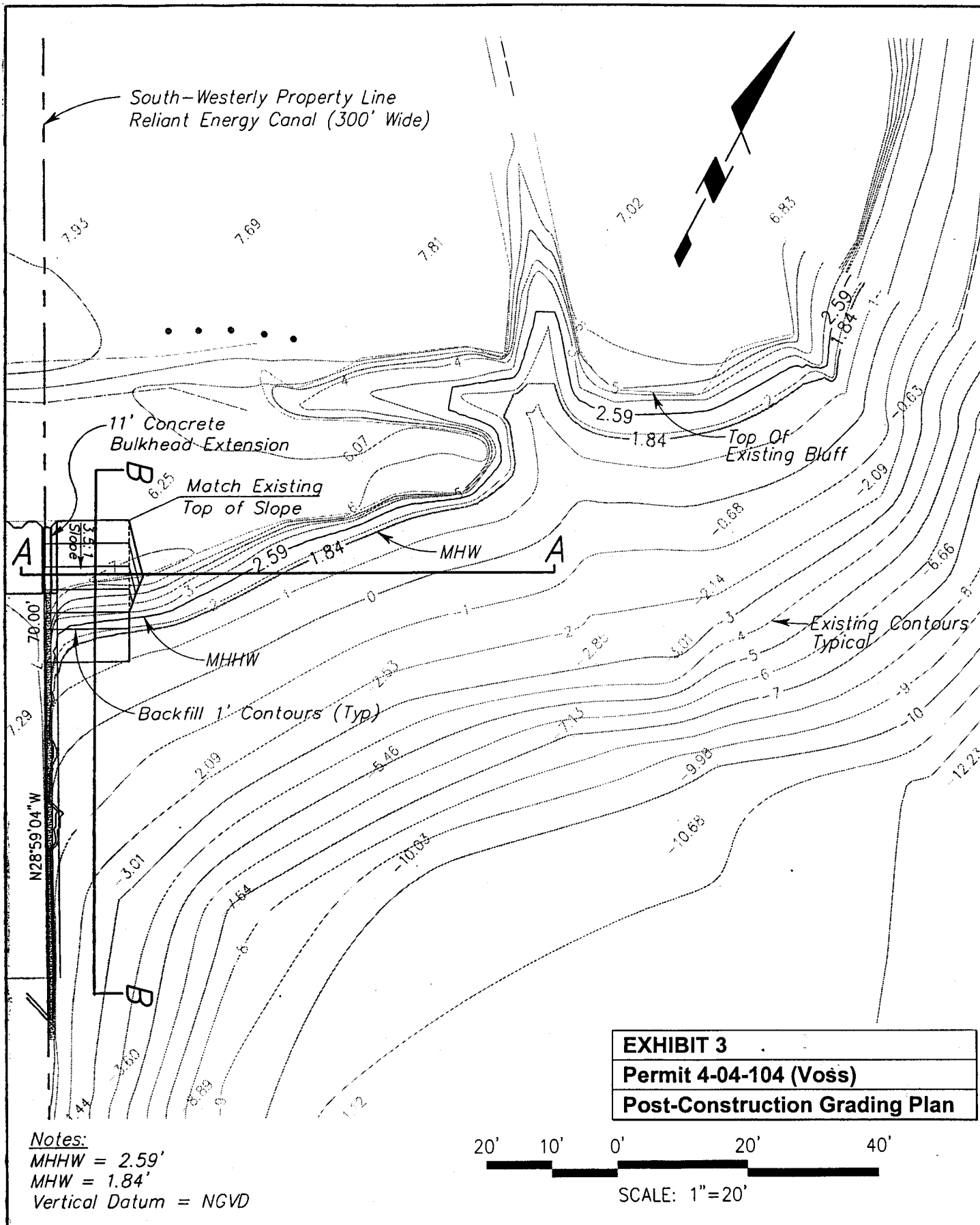


EXHIBIT 1

Permit 4-04-104 (Voss)

Vicinity Map

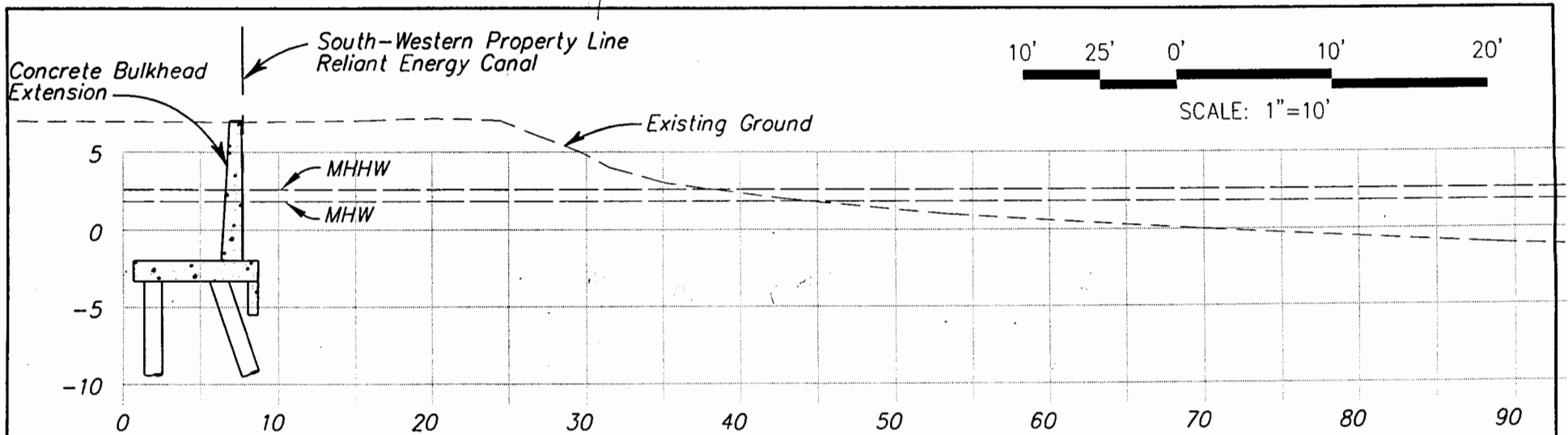




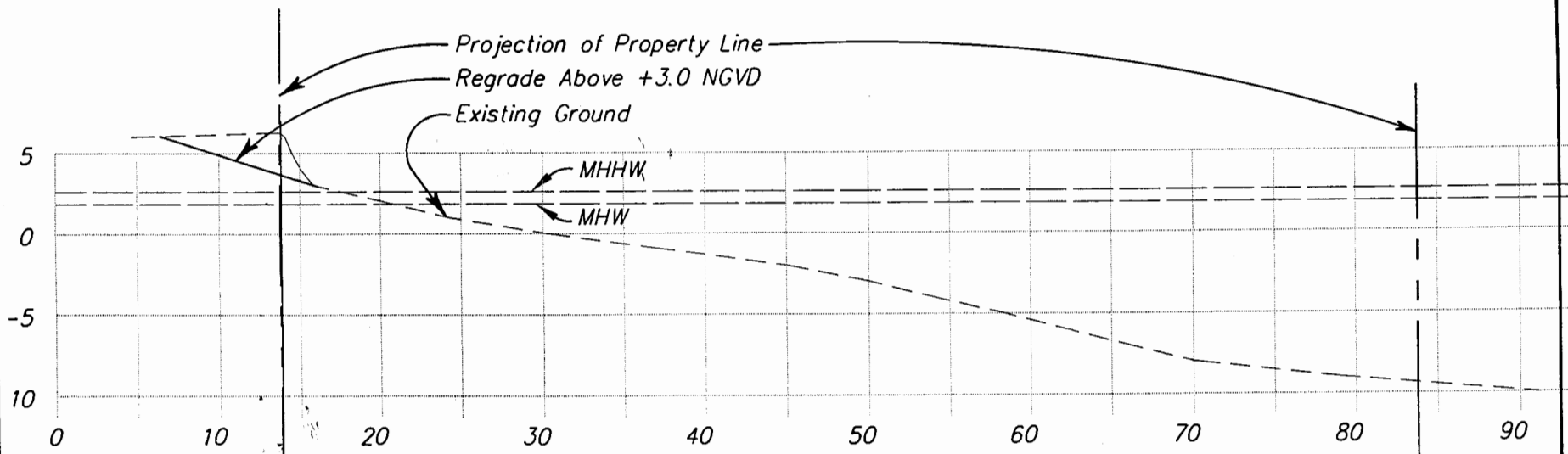
DAN VOSS BULKHEAD PROJECT
4490 EASTBOURNE BAY

Plan

Figure
1



Section A-A



Section B-B

EXHIBIT 4
Permit 4-04-104 (Voss)
Cross Sections

DAN VOSS BULKHEAD PROJECT
4490 EASTBOURNE BAY

Typical Sections

Figure
2

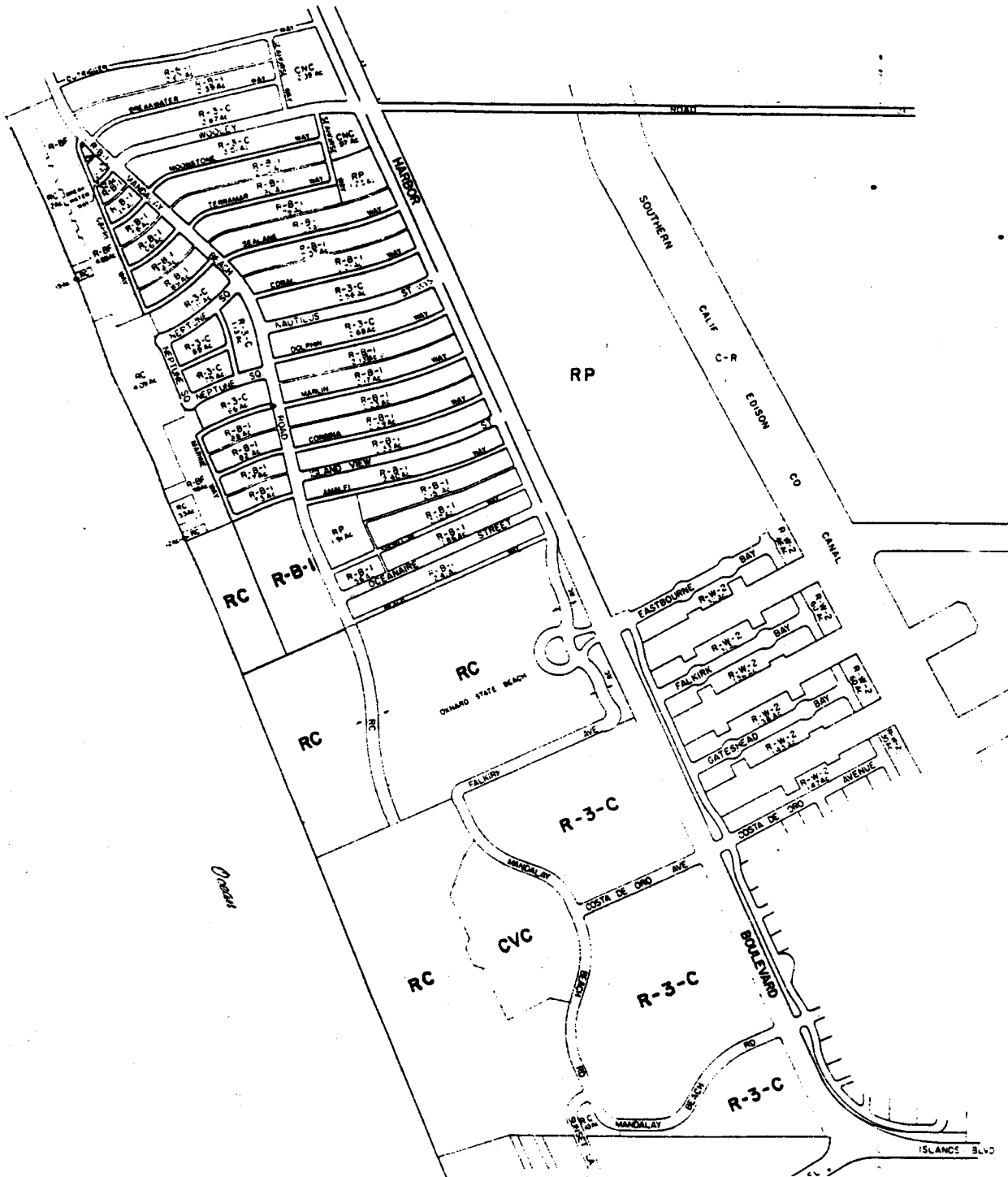


EXHIBIT 5
Permit 4-04-104 (Voss)
City of Oxnard Coastal Zone Map



CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 585-1800

**RECORD PACKET COPY**

DATE: April 26, 2005
TO: Commissioners and Interested Persons
FROM: Jack Ainsworth, Deputy Director
Gary Timm, District Manager *AT*
Steve Hudson, Supervisor, Planning and Regulation
Shana Gray, Coastal Program Analyst

SUBJECT: Revised Findings for Santa Barbara County Local Coastal Program Amendment No. MAJ-2-03 (Residential Second Unit) for Public Hearing and Commission Action at the May 11, 2005, Commission Meeting in Stanford.

DATE OF COMMISSION ACTION: March 16, 2005 in Newport Beach

COMMISSION DECISION: Certified with Suggested Modifications

COMMISSIONERS ON PREVAILING SIDE: Commissioners Caldwell, Burke, Iseman, Neely, Peters, Potter, Reilly, Secord, Orr, and Wan

DESCRIPTION OF THE SUBMITTAL

Santa Barbara County is requesting an amendment to the Coastal Zoning Ordinance/Implementation Plan (CZO/IP) portion of its certified Local Coastal Program (LCP) to revise the existing regulations regarding the permitting and appeal procedures for residential second units (RSUs). The submittal was deemed complete and filed on January 15, 2004. At its March 2004 Commission meeting, the Commission extended the time limit to act on Local Coastal Program Amendment 2-03 for a period not to exceed one year. The Commission approved the amendment with suggested modifications at the March 16, 2005 hearing.

PROCEDURAL NOTE: Adoption of the revised findings requires a majority vote of the members from the prevailing side present at the March 16, 2005 hearing, with at least three of the prevailing members voting. Only those Commissioners on the prevailing side of the Commission's action are eligible to vote on the revised findings. The associated **motion and resolution** are located on **Page 4** of this report.

SUMMARY OF STAFF RECOMMENDATION: Staff recommends that the Commission **adopt** the following revised findings in support of the Commission's decision on March 16, 2005, to certify the LCP amendment subject to six (6) suggested modifications. The standard of review for adoption of the revised findings for the proposed LCP amendment is consistency with the Commission's March 16, 2005 approval.

EXECUTIVE SUMMARY: The proposed LCP amendment combines the existing separate ordinances for *attached* and *detached* residential second units (RSUs). The resulting RSU ordinance incorporates many of the existing development standards and adds some additional requirements for RSUs in residential zone districts. Additionally, some of the existing submittal requirements, development standards, and findings that apply to all RSUs have been modified to apply solely to RSUs on agricultural properties in an effort to eliminate discretionary decision-making in residential zone districts. The ordinance increases the allowable maximum size of all RSUs except in Montecito. The ordinance also removes the requirement for a Conditional Use Permit (CUP) for detached RSUs on residentially zoned properties, but still requires CUPs for detached units in agricultural zone districts. Further, the ordinance removes the public hearing requirement for all attached RSUs and for detached RSUs in residential zone districts. Public hearing requirements for *detached* RSUs in agricultural zone districts remain unchanged.

The proposed LCP amendment implements the RSU requirements under AB 1866. AB 1866 added provisions to the Government Code that impact the review of proposed second units in residential zones. The law requires local governments that adopt second unit ordinances to consider such second unit applications ministerially without discretionary review or a hearing. Additionally, AB 1866 specifies that nothing in the law shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act, except that the local government may not hold public hearings for coastal development permit applications for second units in residential zones. The Commission has interpreted this law to be a procedural change within the coastal zone, i.e., the elimination of local public hearings for RSUs in residential zone districts. AB 1866 has not been interpreted to change the substantive standards that apply to coastal development permits for second units.

At the March Commission Hearing, the County objected to suggested modifications recommended by Commission staff that relate to second units in agricultural zones. Though the stated intent of the proposed ordinance was to facilitate the implementation of AB1866 (which applies solely to RSUs in residential zone districts) and the County found that modifications to the ordinance made no changes to the agricultural provisions of the LCP, the amendment was organized in a manner which incorporated the *attached* and *detached* RSU ordinances which applied to *all* RSUs, including those located on agricultural properties. As a result, the new ordinance language proposed by the County, where it generally states *residential second units* and does not specify whether it applies to an agricultural or residential zone district, applies to agriculturally zoned properties as well as residentially zoned properties. For instance, the proposed increase in the maximum size of RSUs would apply in agricultural zones. Additionally, attached RSUs on agriculturally zoned lots located within the geographic appeals area, would no longer require a public hearing. At the March hearing, the Commission approved the LCP amendment with changes to the suggested modifications recommended by staff, including a provision that proposed Development Standard No. 20 reflect existing LCP language for agricultural zone districts only, with the result that previous Suggested Modification 2 be eliminated and that Development Standard 24 (current Suggested Modification 2) apply to residential zone districts only.

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EXHIBITS

Exhibit 1. Board of Supervisors Resolution 03-370

Exhibit 2. Santa Barbara County Ordinance 4517

Substantive File Documents: Santa Barbara County Coastal Plan; Santa Barbara County Coastal Zoning Ordinance, Article II, Chapter 35 of the County Code; Resolution No. 03-370 of the Board of Supervisors, County of Santa Barbara, State of California, *In the Matter of Approving Amendments to the Santa Barbara County Local Coastal Program to Amend the Coastal Zone Ordinance to Revise the Existing Regulations Regarding the Permitting and Appeal Procedures for Residential Second Units*, passed, approved and adopted December 2, 2003; Ordinance 4517, Case Number 03-ORD-00000-00002, adopted by Board of Supervisors December 2, 2003;

I. STAFF RECOMMENDATION TO ADOPT REVISED FINDINGS

MOTION: *I move that the Commission adopt the revised findings in support of the Commission's action on March 16, 2005, certifying Amendment STB-MAJ-2-03 to the Coastal Zoning Ordinance (Implementation Plan) of the County of Santa Barbara Local Coastal Program (LCP) if modified as directed by the Commission.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote on the motion. Passage of this motion will result in the adoption of revised findings, as set forth in this staff report. The motion requires a majority vote of the members from the prevailing side present at the March 16, 2005, hearing, with at least three of the prevailing members voting. Only those Commissioners on the prevailing side of the Commission's action are eligible to vote on the revised findings.

RESOLUTION TO ADOPT REVISED FINDINGS:

The Commission hereby adopts the findings set forth below for certification of Amendment STB-MAJ-2-03 to the County of Santa Barbara Local Coastal Program (LCP) if modified as directed by the Commission on the ground that the findings support the Commission's decision made on March 16, 2005 and accurately reflect the reasons for that decision.

II. SUGGESTED MODIFICATIONS ON THE IMPLEMENTATION PLAN/COASTAL ZONING ORDINANCE (IP/CZO)

The County's proposed LCP ordinance language is shown in straight type. Language recommended by Commission staff, in the February 24, 2005 staff report and March 15, 2005 addendum, to be deleted is shown in ~~striketrough~~. Language proposed by Commission staff, in the February 24, 2005 staff report and March 15, 2005 addendum, to be inserted is shown underlined. Deletions to the language as a result of the March 16, 2005 hearing are shown in ~~double line striketrough~~ and additions to the language as a result of the March 16, 2005 hearing are shown in double underline.

1. Development Standards -- General

Sec. 35-142.6. Development Standards.

The following standards shall apply to all residential second units.

1. Pursuant to Government Code, Section 65852.2(b)(5), the County finds that residential second units are consistent with the allowable density and with the general plan and zoning designation provided the units are located on properties with R-1/E-1, EX-1, RR, AG-I-5, AG-I-10, or AG-I-20 zoning designations.

2. Residential second units shall be consistent with the provisions of the applicable zoning district and the policies and development standards of the certified Local Coastal Program.

Revise subsequent number sequence.

~~2. Development Standards - Prime Agricultural Soils~~

***Note: The revised modifications shown below effectively eliminate Suggested Modification #2 of the February 24, 2005 staff report.*

Sec. 35-142.6. Development Standards.

The following standards shall apply to all residential second units.

...

~~20. The development of a detached RR~~ The development of a detached residential second units in agricultural zone districts shall be sited and designed to avoid or minimize or minimize significant impacts to agricultural and biological resources to the maximum extent feasible by:

~~a. Avoiding Avoiding Residential second units shall be prohibited on prime soils on agricultural parcels, or WW or where there are no prime soils, residential second units shall be sited so as to minimize impacts to ongoing agriculturally-related activities.~~

b. Including buffers from sensitive areas.

c. Preserving natural features, landforms and native vegetation such as trees to the maximum extent feasible.

2. Development Standards

Sec. 35-142.6. Development Standards.

The following standards shall apply to all residential second units.

...

~~24. In residential zone districts, aA~~ In residential zone districts, all development associated with the construction of a detached residential second units shall be located no less than 50 feet from the outer edge of a designated environmentally sensitive habitat area in urban areas and no less than 100 feet from the outer edge of a designated environmentally sensitive habitat area in rural areas. If the habitat area delineated on the applicable zoning maps is determined by the County not to be located on the particular lot or lots during review of an application for a permit, this development standard shall not apply.

25. All development associated with the construction of residential second units shall be located a minimum of 100 feet from the periphery of wetlands consistent with the requirements of Sec. 35-97.9.

26. Residential second units shall not significantly obstruct public views from any public road or from a public recreation area to, and along the coast.

27. Residential second units shall not obstruct public access to and along the coast, or public trails.

3. Findings for Approval

Sec. 35-142.7. Findings for Approval.

A Coastal Development Permit application for residential second units shall only be approved or conditionally approved if, in addition to the findings required under Sec. 35-169 (Coastal Development Permits), all of the following findings are made:

1. The proposal conforms to the development standards in Section 35-142.6.

In addition to the findings under DIVISION 10, Section 35-172 (Conditional Use Permits), prior to the approval of detached residential second units located on a lot zoned AG-I-5, AG-I-10, or AG-I-20, the Zoning Administrator shall make the following findings:

1. The detached residential second unit is compatible with the design of the adjacent residences and the surrounding neighborhood and will not cause excessive noise, traffic, parking or other disturbance to the existing neighborhood.
2. Provisions for on-site parking are adequate for existing and proposed uses.
3. The detached residential second unit will not substantially change the character of the neighborhood in which it is located, or cause a concentration of second units sufficient to change the character of the neighborhood in which it is located.
4. The detached residential second unit does not significantly infringe on the privacy of surrounding residents.

4. Grounds for Appeal & Appeals to Coastal Commission

Sec. 35-142.8. Noticing.

1. Notice of an approved or conditionally approved Coastal Development Permit for an attached residential second unit, or a detached residential second unit not located in an AG-I zone district, shall be given consistent with Sec. 35-181.3 or Sec. 35-181.4 as appropriate. In addition, a copy of the approved Coastal Development Permit shall be mailed, at least ten calendar days prior to the date on which the Coastal Development Permit is to be issued, to property owners within 300 feet of the exterior boundaries of the parcel that the project is located on and to any person who has filed a written request to receive notice with Planning & Development. The notice shall state that the grounds for appeal are limited to the demonstration that the project for which the Coastal Development Permit was approved or conditionally approved is inconsistent with the development standards contained in Sec. 35-142.6 applicable provisions and policies of this Article and the Coastal Land Use Plan.

Sec. 35-142.9. Appeals.

The decision of the Planning and Development Department to approve or conditionally approve an application for a residential second unit is final subject to appeal to the Planning Commission; the grounds for appeal are limited to the demonstration that the project for which the land-use-coastal development permit was approved or conditionally approved is inconsistent with the development standards contained in Sec. 35-142.6 applicable provisions and policies of this Article and the Coastal Land Use Plan. The decision of Planning and Development to deny an application for a residential second unit is final subject to appeal to the Planning Commission in accordance with procedures set forth in DIVISION 12, Section 35-182 (Appeals). The decisions of the Zoning Administrator to approve, conditionally approve or deny an application for a detached residential second unit in agricultural areas is final subject to the Board of Supervisors in accordance with the procedures set forth in DIVISION 12, Section 35-182 (Appeals).

All decisions to approve, or conditionally approve, residential second units shall be subject to appeal to the California Coastal Commission.

Sec. 35-182.2. Appeals to the Planning Commission.

...

2. Notwithstanding Sec. 35-181.2.1d, the decision of the Planning and Development Department to approve or conditionally approve a Coastal Development Permit for a residential second unit pursuant to Sec. 35-142 is final subject to appeal to the Planning Commission; the grounds for appeal are limited to the demonstration that the project for which the land-use-coastal development permit was approved or conditionally approved is inconsistent with the development standards contained in Sec. 35-142.6 applicable provisions and policies of this Article and the Coastal Land Use Plan. The decision of Planning and Development to deny an application for a residential second unit is final subject to appeal to the Planning Commission in accordance with procedures set forth in DIVISION 12, Section 35-182 (Appeals).

5. Special Problems Areas

Sec. 35-142.4. Exclusion Areas.

1. Because of the adverse impact on public health, safety, and welfare, residential second units shall not be permitted in Special Problems Areas, designated by the Board of Supervisors, except as provided in Sec. 35-142.4.2 ~~and or~~ 35-142.4.3 below based upon the finding that Special Problems Areas by definition are areas "having present or anticipated flooding, drainage, grading, soils, geology, road width, access, sewage disposal, water supply, location or elevation problems."

2. Notwithstanding the above, an attached residential second unit may be approved within a designated Special Problems Area where Planning and Development can make all of the following findings:

- a. The project application involves two contiguous lots under one ownership, at least one of which is vacant.
- b. The owner has submitted an offer to dedicate a covenant of easement pursuant to Article VII of Chapter 35 of the County Code over the vacant lot for so long as a residential second unit is maintained on the developed lot.
- c. The vacant lot is determined to be residentially developable pursuant to the following criteria:

...

5) The Special Problems Committee has reviewed the lot and has determined that the site conditions would not cause the Committee to deny recommend denial of development of the site for residential purposes.

3. Planning and Development may approve a residential second unit within a designated Special Problems Area where all of the development standards in Section 35-142.6 and applicable provisions and policies of this Article and the Coastal Land Use Plan can be met and the project has been reviewed and recommended by the Special Problems Committee.

6. Development Standards – Owner Occupancy

Sec. 35-142.6. Development Standards.

The following standards shall apply to all residential second units.

...

3. The owner of the lot shall reside on said lot, in either the principal dwelling or in the residential second unit except when a) disability or infirmity require institutionalization of the owner, or b) Planning Director or Director's designee approves in writing owner's written request for a temporary absence due to illness, temporary employment relocation, sabbatical, extended travels, or other good cause. Prior to the issuance of the Coastal Development Permit, the owner-occupant shall sign and record an agreement with the County of Santa Barbara requiring that the owner reside on the property. Upon resale of the property, the new owner shall reside on the property or the use of the residential second unit shall be discontinued and the residential second unit shall a) if attached, be converted into a portion of the principal dwelling or b) if detached, the residential second unit shall be removed or converted into a legal accessory structure. This requirement for owner-occupancy is not required for consistency with the Coastal Act or Land Use Plan policies; however, it is included by the County pursuant to state housing law.

III. FINDINGS FOR DENIAL AS SUBMITTED AND APPROVAL OF THE LOCAL COASTAL PROGRAM IF MODIFIED AS SUGGESTED

Note: The language shown in straight type is the original language from the February 24, 2005 staff report and March 15, 2005 addendum to the staff report. Deletions to the language as a result of the March 16, 2005 Commission Hearing are shown in ~~double line-strike-through~~ and additions to the language as a result of the March 16, 2005 hearing are shown in double underline.

The following findings support the Commission's denial of the LCP amendment as submitted, and approval of the LCP amendment if modified as indicated in Section III (*Suggested Modifications*) above. The Commission hereby finds and declares as follows:

A. GOVERNMENT CODE (AND AB 1866) SECOND UNIT REQUIREMENT BACKGROUND

Signed by former Governor Davis on September 29, 2002, AB 1866 added three new provisions to Section 65852.2 of the Government Code that are particularly significant for the purposes of reviewing proposed second units in residential zones within the coastal zone. The law now:

- 1) Requires local governments that adopt second unit ordinances to consider second unit applications received on or after July 1, 2003 "ministerially without discretionary review or a hearing." (Government Code Section 65852.2(a)(3))
- 2) Requires local governments that have not adopted second unit ordinances to "approve or disapprove the [second unit] application ministerially without discretionary review." (Government Code Section 65852.2(b)(1))
- 3) Specifies that "nothing in [Section 65852.2] shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act ... except that the local government shall not be required to hold public hearings for coastal development permit applications for second units." (Government Code Section 65852.2(j))

Thus, AB 1866 significantly changes one component of local government procedures regarding coastal development permits for second units in residential zones (public hearings), but does not change the substantive standards that apply to coastal development permits for such second units.

Pursuant to AB 1866, local governments can no longer hold public hearings regarding second units in residential zones. This prohibition applies both to initial local review and any subsequent local appeals that may be allowed by the LCP. The restriction on public hearings, however, does not apply to the Coastal Commission itself. The Commission

can continue to conduct public hearings on proposed second units located in areas where the Commission retains permitting jurisdiction and when locally approved coastal development permits are appealed to the Commission.

AB 1866 does not change any other procedures or the development standards that apply to second units in residential zones located within the coastal zone. Rather, it clarifies that all requirements of the Coastal Act apply to second units, aside from requirements to conduct public hearings. Thus, for example, public notice must be provided when second unit applications are filed and members of the public must be given an opportunity to submit comments regarding the proposed development. When a second unit application is appealable, local governments must still file a final local action notice with the Commission and inform interested persons of the procedures for appealing the final local action to the Commission. In addition, all development standards specified in the certified LCP and, where applicable, Chapter 3 of the Coastal Act apply to such second units.

B. AMENDMENT DESCRIPTION

Santa Barbara County is requesting an amendment to the Coastal Zoning Ordinance (Implementation Plan) portion of its certified Local Coastal Program (LCP) to revise the existing regulations regarding the permitting and appeal procedures for residential second units.

Specifically, the County proposes to (see Exhibit 2, Ordinance 4517):

1. Amend Section 35-58, *Definitions*, of the Zoning Code to define *Residential Second Unit*, *Attached Residential Second Unit*, and *Detached Residential Second Unit*.
2. Amend DIVISION 4, *Zoning Districts*, to list detached residential second units as permitted uses consistent with the provisions of Sec. 35-142 (Residential Second Units) in the following zone districts: RR Rural Residential, R-1/E-1 Single Family Residential, and EX-1 One-Family Exclusive Residential.
3. Amend Sec. 35-142, *Residential Second Units*, to combine the existing separate ordinance sections concerning attached and detached residential second units into one section, to allow residential second units to be located in Special Problems Areas under certain circumstances, to increase the maximum allowable floor area of residential second units except for in the Montecito Planning Area, to require a two acre minimum lot size for residential second units proposed to be served by on-site sewage disposal systems unless the lot has particularly favorable soil conditions, to require the property owner to live on-site, to require notice to property owners within 300 feet of the project, and to revise and add development standards.
4. Amend Sec. 35-144.3, *Ridgelines and Hillside Development Guidelines*, and to exempt residential second units from BAR review but require approval from the Chair or designee of the Board of Architectural Review.

5. Amend Sec. 35-144B, *Applications That are Within the Jurisdiction of More than One Final Decision Maker*, to exempt Emergency Permits, Land Use Permits, and CDPs that are not within the Commission's appeal jurisdiction, from the requirement that the highest jurisdiction would process all applications related to the same development project.
6. Amend Sec. 35-169, *Coastal Development Permits*, to delete the public hearing requirement for residential second units located in the geographic appeals jurisdiction of the Coastal Zone. [Note, detached RSUs in agricultural zone districts require a Condition Use Permit which entails a public hearing.]
7. Amend Sec. 35-182, *Appeals*, and Sec. 35-184, *Board of Architectural Review*, to restrict the ability to appeal the approval of a coastal development permit for a residential second unit to situations where it can be demonstrated that the project is inconsistent with the development standards and to require approval from the Chair or designee of the Board of Architectural Review.
8. Amend Sec. 35-210, *Accessory Structures*, of the Montecito Community Plan Overlay District, to clarify that the restrictions on the floor area of combined accessory structure do not apply to residential second units.
9. Add Appendix G to include development standards for residential second units on lots of less than two acres that would be served by on-site sewage disposal systems.

C. EFFECT OF THE PROPOSED AMENDMENT

The certified LCP presently contains a separate ordinance section for attached residential second units and a separate section for detached residential second units. The proposed amendment consolidates these sections into one ordinance for both attached and detached residential second units. Many of the development standards within the ordinance will not change but will be applied to both attached and detached second units, or will continue to apply only to RSUs in agricultural zone districts.

A Residential Second Unit (RSU) is a dwelling unit on a permanent foundation that provides complete, independent living facilities for one or more persons in addition to a principal one-family dwelling. The residential second unit may either be an attached residential second unit or a detached residential second unit. The residential second unit shall not be sold or financed separately from the principal dwelling but may be rented or leased. It shall contain permanent provisions for living, sleeping, eating, cooking, water and sanitation, and shall be located entirely on the same lot that contains the principal dwelling. An attached RSU shares a common wall with the principal single family dwelling, and a detached RSU is not attached to the principal single family dwelling by a common wall.

1. Permitted Areas and Size

Attached RSUs currently may be permitted in the Agriculture I (AG-I-5, AG-I-10, AG-I-20), Rural Residential (RR), Single Family Residential (R-1/E-1) and the One-Family Exclusive Residential (EX-1) zone districts. There is a 7,000 square foot net lot area

minimum lot size required for an attached RSU unless the lot was created prior to June 2, 1966, in which case the minimum lot size is 6,000 square feet.

Detached RSUs currently may be permitted in the Agriculture I (AG-I-5, AG-I-10, AG-I-20), Rural Residential (RR), Single Family Residential (R-1/E-1) and the One-Family Exclusive Residential (EX-1) zone districts provided the lot area is 10,000 square feet or greater (net) if located outside of the Montecito Planning Area. Gross lot area includes portions of the property within easements for public right-of-ways.

The proposed amendment increases the maximum size of RSUs from 1,000 sq. ft. to 1,200 sq. ft., except within the Montecito Planning Area. Additionally, the amendment modifies the sliding scale to allow larger (gross floor area) second units in comparison to the required minimum lot size, see Table 1 below.

Table 1. Existing and Proposed Maximum Floor Area for RSUs in Santa Barbara County, (with the exception of the Montecito Planning Area)

Attached Residential Second Units		
Lot Size	Existing Max. Floor Area	Proposed Max. Floor Area
6,000 – 9,999 sq. ft.	400 sq. ft.	600 sq. ft.
10,000 – 19,999 sq. ft.	600 sq. ft.	800 sq. ft.
20,000 sq. ft. – 1 acre	800 sq. ft.	1,200 sq. ft.
Over 1 acre	1,000 sq. ft.	1,200 sq. ft.
Detached Residential Second Units		
Lot Size	Existing Max. Floor Area	Proposed Max. Floor Area
10,000 – 19,999 sq. ft.	600 sq. ft.	800 sq. ft.
20,000 sq. ft. – 1 acre	800 sq. ft.	1,200 sq. ft.
Over 1 acre	1,000 sq. ft.	1,200 sq. ft.

Attached RSUs in the Montecito Planning Area may currently be permitted in the Single Family Residential (R-1/E-1) zone district. There is a 7,000 sq. ft. net lot area minimum lot size required for an attached RSU unless the lot was created prior to June 2, 1966, in which case the minimum lot size is 6,000 square feet. In the Montecito Planning Area, detached RSUs are presently only allowed on lots of five acres or more and are limited to a floor area of 1,000 square feet. This would not change under the proposed amendment.

The stated purpose of the increase in floor area is to allow for the construction of more attractive units from the standpoint of the residents of the second unit. It also may allow an owner to achieve a faster rate of return on their investment by realizing a higher rental rate to offset the construction costs, County required development impact mitigation fees, and other fees including schools and water and sewer utility district connection fees. Increasing the floor area would allow a greater number of existing illegal or nonconforming units to be permitted as conforming units. The RSU would be required to meet the same setbacks that are applicable to the principal dwelling.

These revisions are proposed to stimulate the development of residential units in order to partially address the severe housing crisis that is affecting Santa Barbara County by better utilizing residential areas. ~~Also, reducing the minimum lot size for detached RSUs~~

~~within the Coastal Zone portion of the Montecito Planning Area to 10,000 square foot will allow existing illegal or nonconforming second units to be permitted provided that they can comply with the development standards. This would help maintain the existing housing supply.~~

2. Processing Requirements

Currently, *attached* RSUs may be approved subject to a ministerial permit process and detached RSUs are required to obtain a discretionary, minor conditional use permit. With the exception of detached RSUs located on property zoned AG-I, the proposed amendment would delete the minor conditional use permit requirement so that both attached and detached RSUs would be subject to only a ministerial permit process in residential zone districts. A detached RSU within an AG-I zone ~~district~~ ~~district~~ would still require the approval of a minor conditional use permit. The text of AB 1866 is specific in establishing the applicability for the creation of secondary units in single-family and multi-family residential zones only.

Applications for *attached* RSUs that are located in the appeals jurisdiction of the Coastal Zone currently require a coastal development permit that are considered by the Zoning Administrator in a public hearing. The amendment would delete the public hearing requirement and require only the approval of a coastal development permit under the jurisdiction of the planning staff for attached RSUs in residential and agricultural zone districts and for detached RSUs in residential zone districts. CDPs for RSUs are still subject to the Coastal Commission, however.

3. Appeals

Under the exiting regulations, the decisions by staff on a coastal development permit for an attached RSU may be appealed to the Planning Commission, and the decision of the Zoning Administrator on a conditional use permit for a detached RSU may be appealed to the Board of Supervisors. Under the proposed amendment, the responsibility for approval of a coastal development permit for a RSU in a residentially-zoned district is assigned to the Planning and Development Department. The decision of the Planning and Development Department to approve or conditionally approve an application for a residential second unit is final subject to appeal to the Planning Commission. The proposed grounds for appeal are limited to situations where the appellant can demonstrate that the project is inconsistent with the development standards contained in the RSU Ordinance. The decision of the Zoning Administrator to approve, conditionally approve, or deny an application for a detached residential second unit in agricultural areas is final subject to appeal to the Board of Supervisors. Regardless, approval of any CDP for a RSU is appealable to the Coastal Commission on the basis that it is not the principle permitted use in a coastal County (see discussion under Section D Consistency Analysis, below).

4. Noticing

The existing language requires that notice of an approved coastal development permit for an attached RSU be posted on the project site in three conspicuous places for a ten

day period prior to the issuance of the coastal development permit. For detached RSUs, since they are currently subject to a conditional use permit process, owners of property located within 300 feet of the lot boundaries of the proposed detached RSU would receive mailed notice of the public hearing on the requested conditional use permit.

Under the proposed amendment, notice of approved coastal development permits for attached and detached RSUs located within residential zone districts, and attached units located within agricultural zone districts, are required to be posted on the project site in three conspicuous places for a ten day period prior to the issuance of the coastal development permit. In addition, notice of an approved coastal development permit shall be mailed, at least ten calendar days prior to the date on which the coastal development permit is to be issued, to property owners within 300 feet of the exterior boundaries of the parcel that the project is located on. The notice shall state that the grounds for appeal are limited to the demonstration that the project for which the coastal development permit was approved or conditionally approved is inconsistent with the development standards contained in the RSU ordinance.

5. Exclusion Areas

RSUs may not be permitted currently in areas that are designated by the Board of Supervisors as being Special Problem Areas. Special Problem Areas are, by definition, areas having present or anticipate flooding, drainage, grading, soils, geology, road width, access, sewage disposal, water supply, locations or elevation problems. The amendment proposes to potentially allow RSUs in Special Problems Areas when all of the following circumstances are met: the project application involves two contiguous legal lots under one ownership, at least one of which is vacant; the owner has submitted and irrevocable offer to dedicate a covenant of easement that prevents development on the vacant lot as long as the RSU is maintained on the developed lot; and a determination is made that the vacant lot could be developed with a dwelling. This revision would allow for a transfer of development potential from a vacant parcel that could be developed separately to a contiguous developed lot so that an increase in the residential density within the Special Problems Area would not otherwise result. A RSU within a Special Problems Area may, alternately, be approved where all of the development standards of the Second Unit Ordinance can be met (including evidence of water and sewer) and the project has been reviewed and recommended by the Special Problems Committee.

D. CONSISTENCY ANALYSIS

The certified LUP contains provisions for new development, visual resources, environmentally sensitive habitat, water quality, public access and recreation policies, and other policies and provisions to protect coastal resources. In addition, all Chapter 3 policies of the Coastal Act have been incorporated in their entirety in the certified County LUP as guiding policies pursuant to Policy 1-1 of the LUP.

LCP Implementation

The County of Santa Barbara has interpreted AB 1866 in the following manner (Board of Supervisors, Staff Report dated 6/17/03):

The primary effect [of AB1866] will be to make permitting of second units ministerial...

II. Effects of AB 1866

A. Provisions that support County discretion

- 1. The County may continue to prohibit second units in specific areas if it makes necessary findings to protect health, safety, and welfare of the community.**
- 2. The County can restrict second units on the basis of adequacy of water and sewer services and impact of second units on traffic flow.**
- 3. Local Agencies may establish minimum and maximum unit size requirements.**
- 4. Local agencies may impose standards on second units that include but are not limited to parking, height, setbacks, lot coverage, and architectural review maximum size of unit and actions that limit adverse effects on properties listed on the California Register of Historic Places.**

B. Provisions that reduce County discretion

- 1. Second units must be considered ministerial without discretionary review or hearing.**
- 2. No decision-maker either the Director nor the Zoning Director can place conditions on specific units to mitigate apparent issues or problems not addressed by development standards.**
- 3. Parking standards are delineated.**

In order to fulfill the requirements of AB 1866 as interpreted above, the amendment proposes the following (Board of Supervisors, Staff Report dated 6/17/03):

A. Staff has prepared ordinance amendments to prevent conflict between state law and local ordinances necessary to implement state law:

- 1. Eliminate discretionary review**
- 2. Propose new definitions of second units to be consistent with AB1866**
- 3. Propose unified regulations and development standards in one place for all districts**
- 4. Revise noticing procedures**

5. Provide for ministerial appeals in accordance with state law

6. Eliminate Coastal Permit hearing requirements

B. Staff has prepared ordinance recommendations consistent with promoting affordable housing:

1. Proposed second units in Special Problem Areas under certain circumstances

2. Increased maximum allowable size of units

[N/A]...

4. Revise size restrictions based on lot size

C. New development standards proposed by staff:

1. Require a two acre minimum lot size requirement for residential second units that do not connect to a public sanitary district unless the property has particularly favorable soil conditions (as determined by the Environmental Health Services Division) in which case the minimum lot size may be reduced to one acre. This is proposed in order to implement existing Regional Water Quality Control Board requirements regarding new dwelling units.

2. Require that the entrance for the residential second unit not be visible from abutting streets. This is proposed in order to help maintain the single family residential character of existing neighborhoods.

County of Santa Barbara further stated (Planning Commission Staff Report dated 9/12/03):

Policy Consistency

Adoption of the proposed ordinance amendments will not result in any inconsistencies with the adopted policies and development standards of the County's Comprehensive Plan (including the community plans) and the Coastal Land Use Plan. Pursuant to Government Code Section 65852.2.B.5, a RSU shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use consistent with the existing general plan and zoning designations for the lot. In order to approve a land use permit for a RSU, it still must be determined that the project is consistent with the policies and development standards of the Comprehensive Plan and Coastal Land Use Plan. Additionally, a RSU will be required to pay development impact mitigation fees to offset the cost of any infrastructure improvements required to serve the RSU. Therefore, these amendments may be found consistent with the applicable coastal, community and comprehensive plans.

The Department of Housing and Community Development, Division of Housing Policy Development, has provided additional guidance in evaluating how these new provisions of State law affect communities. This guidance specifically states:

Does Second-Unit Law Apply to Localities in the Coastal Zone?

Yes. The California Coastal Act was enacted to preserve our natural coastal resources for existing and future Californians. While second-units utilize existing built areas and usually have minimal environmental impact, the need for second-units should be balanced against the need to preserve our unique coastal resources. For these reasons, second-unit law shall not supersede, alter or lessen the effect or application of the California Coastal Act (Division 20 of the Public Resources Code), except that local governments shall not be required to hold public hearings for coastal development permit (CDP) applications for second-units (Government Code 65852.2(j)). As stated in correspondence, dated January 13, 2003 from the California Coastal Commission to all coastal communities, local governments in the coastal zone should amend their Local Coastal Program (LCP) to not require a public hearing in the consideration of second -unit applications. Further, local appeals should be handled in an administrative manner. (Memorandum dated August 6, 2003, re: Second-Unit Legislation Effective January 1, 2003 and July 1, 2003.)

The proposed ordinance is specific to the coastal zone (Article II of the Coastal Zoning Ordinance); however, as proposed, the ordinance does not take into consideration the special circumstances within the coastal zone in which AB 1866 provides that the RSU ordinance shall not be construed to supersede or in anyway alter or lessen the effect or application of the California Coastal Act. The Commission, through previous second unit ordinance approvals, has interpreted AB 1866 to allow changes to the *procedural* aspect of the LCP in order to remove the public hearing requirement. However, the residential second unit must still be in compliance with all other applicable development standards of the LCP (e.g., ESH setbacks, new development requirements) and must make the finding that the project is consistent with the LCP in order to issue a coastal development permit.

As a result, the proposed ordinance does not adequately implement the Land Use Plan (LUP) policies with regard to protection of coastal resources. To ensure that coastal resources are protected consistent with the LUP, Suggested Modification One (1) re-inserts previous language from the current ordinance which requires that residential second units be consistent with the provisions of the applicable zoning district and the goals and policies of the Coastal Land Use Plan. Additionally, because coastal development permits are subject to all other standards of the certified LCP during the processing of residential second units, Suggested Modification ~~Five (5)~~ Four (4) clarifies that the grounds for appeal must demonstrate that the coastal development permit is inconsistent with the applicable provisions and policies of the Coastal Zoning Ordinance as well as the Land Use Plan. Finally, Suggested Modification ~~Six (6)~~ Five (5) allows residential second units within Special Problems Areas only where the applicable provisions and policies of the Coastal Zoning Ordinance and the Land Use Plan are met. Note, the other administrative changes in Suggested Modification ~~7~~ 5 were at the request of County staff in order to clarify that the Special Problems Committee is not a regulatory body but instead provides recommendations to decision-makers.

The Commission further finds that Suggested Modification ~~Four (4)~~ Three (3) is necessary to ensure implementation of the applicable provisions of the LUP. The Commission requires Suggested Modification ~~5~~ 3 to make additional findings for all coastal development permits that approve, or conditionally approve, residential second units. The modifications to Section 35-142.7 of the RSU Ordinance (Findings for Approval) ensure that, for all second units, the unit will not be approved unless the decision-maker provides detailed findings that it complies with every Development Standard listed in Section 35-142.6. ~~These findings are similar to the findings that are presently made for detached residential second units under the current certified ordinance.~~

New Development / Cumulative Impacts

Coastal Act Section 30250, as incorporated into the certified LUP, provides a framework for new development to concentrate structures, minimize road lengths through site design, and avoid individual or cumulative impacts to coastal resources. In order to ensure that new development is sited in areas able to accommodate it and where it will not have significant cumulative impacts on coastal resources, as required by Section 30250 of the Coastal Act, siting and design of new development must also take into account the requirements of other applicable policies of Chapter 3 of the Coastal Act, including public access, recreation, land and marine resources, and scenic and visual quality.

Sections 30250 and 30252 of the Coastal Act, as incorporated into the certified LCP, address the cumulative impacts of new developments. Section 30250 (a) of the Coastal Act states:

New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

Section 30252 of the Coastal Act, as incorporated into the certified LCP, states:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing non-automobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of

development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

Section 30250 of the Coastal Act, as incorporated into the certified LCP, requires that new development be located within, or within close proximity to, existing developed areas able to accommodate such development. Consistent with Section 30250, Policies 2-1 and 2-6 of the LCP require that new development must ensure adequate public services (i.e., water, sewer, roads, etc.) are available. In addition, Policy 2-12 of the LCP provides that the densities specified in the land use plan are maximums and shall be reduced if it is determined that such reduction is warranted by site specific conditions.

Pursuant to LUP and Coastal Act Sections 30250 and 30252 cited above, new development raises issues relative to cumulative impacts on coastal resources. Construction of a second unit on a site where a primary residence exists intensifies the use of the subject parcel. The intensified use creates additional demands on public services, such as water, sewage, electricity, and roads. Thus, second units pose potential cumulative impacts in addition to the impacts otherwise caused by the primary residential development. To reduce cumulative impacts as a result of residential second units, the proposed ordinance includes requirements for minimum lot size, maximum second unit size, and demonstration of sewer and water capacity to serve the proposed development.

The issue of second units on lots with primary residences has been the subject of past Commission action in certifying the Santa Barbara County Coastal Land Use Plan. In its prior certification of the LUP, an upper limit on the size of second units (1,000 sq. ft.) was determined to be necessary in order to meet the requirements in the LUP and Coastal Action Sections 30250 and 30252, given the cumulative impacts such as traffic and infrastructure constraints and given the abundance of potential developable residential lots throughout the County. In past actions, the Commission has found that limiting the size of the structures to a degree wherein RSUs would be more likely to be occupied by one, or at most two people, would have less impact on the limited capacity of roadways (as well as infrastructure constraints such as water, sewage, and electricity) than an ordinary single family residence.

The second unit issue has also been raised by the Commission with respect to statewide consistency of both coastal development permits and Local Coastal Programs (LCPs). Statewide, additional dwelling units on single family parcels take on a variety of different forms which in large part consist of: 1) a second unit with kitchen facilities including a granny unit, caretaker's unit, or farm labor unit; and 2) a guesthouse, with or without separate kitchen facilities. Past Commission action has consistently found that both second units and guesthouses inherently have the potential to cumulatively impact coastal resources. Thus, conditions on coastal development permits and standards within LCP's have been required to limit the size and number of such units to ensure consistency with Chapter 3 policies of the Coastal Act.

Residential second units are not considered the principle permitted use in coastal counties. Moreover, RSUs are not designated the principle permitted use in Santa

Barbara County zone districts. However, to meet the spirit of the recent legislation (AB 1866), conditional use permits, and thus discretionary public hearings, are not required. This should not be interpreted to lessen the intent of Coastal Act requirements. Within the coastal zone, AB 1866 provides that the RSU ordinance shall not be construed to supersede or in anyway alter or lessen the effect or application of the California Coastal Act.

The proposed amendment lists detached residential second units under *Permitted Uses* in each residential zone district, which means that a Condition Use Permit is not required. As a result, only a coastal development permit (CDP) is required for residential second units. Under the County's LCP, all development that requires a CUP can be appealed to the Commission. By only requiring a CDP, the County's proposal removes the blanket appealability of detached second units that currently applies. AB1866 does not limit appeals to the Commission, nor does it limit the *Commission's* authority to conduct public hearings on appeals. Further, AB1866 does not modify any requirements for RSU's to be consistent with the provisions of the Coastal Act, and thus the certified LCP. In past action, the Commission has not recognized RSUs as the "principle" permitted use in coastal counties. The principle permitted use in the County's residential zone districts is the main residential structure. Second residential units may also be "permitted uses" but they are not the principle permitted use. However, since AB1866 prohibits public hearings at the local level, staff notes that given the format of the current LCP, allowing detached units as *permitted uses* fulfills AB1866 in a manner consistent with the Coastal Act only if the appealability of RSUs is retained as required in Suggested Modification Four (4). Therefore, to ensure implementation of the LCP requirements and minimize cumulative impacts to coastal resources to the maximum extent feasible while continuing to allow residential second units in the spirit intended under AB 1866, the Commission requires that all residential second units be appealable to the Coastal Commission, as described in Suggested Modification ~~Five (5)~~ Four (4). AB 1866 does not hinder the Commission's ability to have public hearings regarding residential second units.

Additionally, the proposed ordinance requires that the owner occupy either the principal dwelling or the residential second unit, with limited exceptions. This requirement for owner-occupancy is included by the County in order to meet state housing law requirements for affordability. The requirement for owner occupancy is not required for consistency with the Coastal Act or Land Use Plan policies and would not be an acceptable grounds for appeal to the Commission. This is clarified through Special Condition ~~Seven (7)~~ Six (6).

Prime Agricultural Soils

~~The Coastal Act policies provide for the continuation of coastal agriculture on prime agricultural lands. The LCP contains several policies regarding protection of agricultural resources. Sections 30241 and 30242 of the Coastal Act require that all agricultural lands be protected and maintained and that conversion of such lands shall be limited. Consistent with Sections 30241 and 30242, Policy 8-2 of the LCP provides that parcels designated for agricultural use located in rural areas shall not be converted unless such~~

~~conversion would allow for another priority use under the Coastal Act such as public access, recreation, habitat protection, etc. Policy 8-4 of the LCP requires that land division of agricultural land shall not diminish the long term agricultural viability of the parcels involved.~~

~~Section 30241 of the Coastal Act requires that the maximum amount of prime agricultural land be maintained in agricultural production, and Section 30243 of the Coastal Act states "the long term productivity of soils...shall be protected..." These policies are incorporated as guiding principles of the certified LUP agricultural policies. Combined, these policies require maximum protection of prime soils and the productivity of these soils. Residential second units cannot be interpreted as maintaining agriculture land in production and such structures may result in the hardscape/foundation or other development associated with the residential second unit on prime agricultural soils, effectively removing it from use.~~

~~Therefore, the Commission requires Suggested Modification Two (2) to protect prime soils consistent with Section 30241 and 30243, of the LUP. Suggested Modification 3 clarifies that residential second units, as accessory to the principal residence, on agricultural parcels shall be prohibited on prime agricultural soils, even if there are no other feasible location on the property. Furthermore the requirement to avoid significant impacts to agricultural and biological resources shall be applied to all residential second units, rather than limiting the requirement to detached residential second units in agricultural zone districts.~~

ESHA

The Coastal Act requires the protection of environmentally sensitive habitat areas (ESHA) against any significant disruption of habitat values. No development may be permitted within ESHA, except for uses that are dependent on the resource. Section 30240 (incorporated by reference into the certified LUP) of the Coastal Act further requires that development adjacent to ESHA is sited and designed to prevent impacts that would significantly degrade ESHA and to be compatible with the continuance of the habitat areas. LUP Policy 2-11 requires all development adjacent to environmentally sensitive habitat areas be regulated to avoid adverse impacts on habitat resources. Regulatory measures include, but are not limited to, setbacks, buffer zones, grading controls, noise restrictions, maintenance of natural vegetation, and control of runoff.

The existing certified LCP provides general policies which require development adjacent to areas designated on the land use plans or resource maps as ESHA, to be regulated to avoid adverse impacts on habitat resources, including measures such as setbacks, buffers, grading and water quality controls. Additionally the LUP and Zoning Ordinance provide specific development standards by ESHA type.

In the proposed ordinance, detached residential second units in residential zone districts are restricted 50 to 100 feet from the boundaries of environmentally sensitive habitat. ~~However, the LUP and Zoning Code already provide more specific guidance that applies to all new development including residential second units. To ensure that all of the ESHA policies apply to all new RSU development is consistent with the~~

environmentally sensitive habitat protection policies of the certified LCP, the Commission requires Suggested Modification ~~Three (3)~~ Two (2) which ~~applies the development standard to all residential second units. Further, for clarification, Suggested Modification 4~~ inserts a new development standard which states that in no case may a RSU be permitted within 100 feet of a wetland.

Addition of Development Standards 26 and 27 (Suggested Modification Two)

Development standards 26 and 27 are added to the second unit Development Standards in Section 35-142.6 to ensure that second units will not block public views of the coast protected by the LCP and Coastal Act (Section 30251) and will not interfere with public access to and along the coast or to public trails, as required by the LCP and Coastal Act (Section 30210; 30211). ~~At the same time, these requirements are deleted from the suggested modifications to Section 35-142.7 set forth in the February 24, 2005 Staff Recommendation. The modifications to Section 35-142.7 ensure that, for all second units, the unit will not be approved unless the decision-maker finds that it complies with all of the Development Standards in Section 35-142.6. The requirement of specific findings 1 through 11 that was previously proposed in Section 35-142.7 is deleted, as these findings are encompassed by the Development Standards in Section 35-142.6 (with the addition of Standards 26 and 27, discussed above).~~

Visual

Coastal Act Section 30251 (incorporated by reference into the certified LUP) requires that visual qualities of coastal areas be protected, landform alteration be minimized, and where feasible, degraded areas shall be enhanced and restored. This policy requires that development be sited and designed to protect views to and along the ocean and other scenic coastal areas. This policy also requires that development be sited and designed to be visually compatible with the character of surrounding areas. New development must also minimize the alteration of natural landforms, and, where feasible, include measures to restore and enhance visual quality where it has been degraded. Furthermore, Policy 4-3 of the certified LUP requires that new development in rural areas be compatible with the character of the surrounding natural environment in height, scale, and design. Additionally LUP Policy 3-14 requires that new development be designed to fit the topography, soils, geology, hydrology, and any other existing conditions and be oriented so that grading and other site preparation is kept to an absolute minimum. Policy 3-14 further requires that areas of the site which are not suited for development because of known soil, geologic, flood, erosion or other hazards shall remain in open space. To ensure that visual resources are protected consistent with the existing LUP policies described above, Suggested Modification Two (2) requires that residential second units not significantly obstruct public views from any public road or from a public recreation area to, and along the coast. Further, as provided under Suggested Modification Three (3), the decision-maker would be required to make a detailed finding that the proposed RSU complies with this development standard for all coastal development permits that approve, or conditionally approve, residential second units.

Public Access/Recreation

To carry out the requirement of Section 4 of Article X of the California Constitution, Coastal Act Section 30210 (incorporated by reference into the certified LUP) provides that maximum access and recreational opportunities be provided consistent with public safety, public rights, private property rights, and natural resource protection. Coastal Act Section 30211 (also incorporated by reference into the certified LUP) requires that development not interfere with the public's right of access to the sea with certain exceptions. Section 30240 of the Coastal Act (incorporated by reference into the certified LUP) further requires that development adjacent to parks and recreation areas be sited and designed to prevent impacts. To ensure that public access and recreation are protected consistent with the existing LUP policies described above, Suggested Modification Two (2) requires that residential second units not obstruct public access to and along the coast, or public trails. Further, as provided under Suggested Modification Three (3), the decision-maker would be required to make a detailed finding that the proposed RSU complies with this development standard for all coastal development permits that approve, or conditionally approve, residential second units.

For the reasons above, the Commission finds that the proposed IP amendments are not consistent with or adequate to carryout the provisions of LUP Policies with respect to new development, prime agricultural soils, environmentally sensitive habitat areas, and implementation unless modified as suggested above.

IV. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Pursuant to Section 21080.9 of the California Environmental Quality Act ("CEQA"), the Coastal Commission is the lead agency responsible for reviewing Local Coastal Programs for compliance with CEQA. The Secretary of Resources Agency has determined that the Commission's program of reviewing and certifying LCPs qualifies for certification under Section 21080.5 of CEQA. In addition to making the finding that the LCP amendment is in full compliance with CEQA, the Commission must make a finding that no less environmentally damaging feasible alternative exists. Section 21080.5(d)(2)(A) of CEQA and Section 13540(f) of the California Code of Regulations require that the Commission not approve or adopt a LCP, "...if there are feasible alternative or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment."

The proposed amendment is to the County of Santa Barbara's certified Local Coastal Program Implementation Ordinance. The Commission originally certified the County of Santa Barbara's Local Coastal Program Land Use Plan and Implementation Ordinance in 1981 and 1982, respectively. For the reasons discussed in this report, the LCP amendment, as submitted is inconsistent with the applicable policies of the Coastal Act, as incorporated by reference into the Land Use Plan, and the certified Land Use Plan and feasible alternatives and mitigation are available which would lessen any significant adverse effect which the approval would have on the environment. The Commission has, therefore, modified the proposed LCP amendment to include such feasible measures adequate to ensure that such environmental impacts of new development

are minimized. As discussed in the preceding section, the Commission's suggested modifications bring the proposed amendment to the Land Use Plan and Implementation Plan components of the LCP into conformity with the certified Land Use Plan. Therefore, the Commission finds that the LCP amendment, as modified, is consistent with CEQA and the Land Use Plan.

RESOLUTION OF THE BOARD OF SUPERVISORS
COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA

IN THE MATTER OF APPROVING AMENDMENTS)
TO THE SANTA BARBARA COUNTY)
LOCAL COASTAL PROGRAM TO AMEND) RESOLUTION NO.: 03-370
THE COASTAL ZONE ORDINANCE, ARTICLE II) CASE NO.: 030RD-00000-00002
OF CHAPTER 35 OF THE SANTA BARBARA)
COUNTY CODE TO REVISE THE EXISTING)
REGULATIONS REGARDING THE PERMITTING)
AND APPEAL PROCEDURES FOR RESIDENTIAL)
SECOND UNITS; AND)
)
SUBMITTING THESE AMENDMENTS TO THE)
VARIOUS TEXTS OF THE SANTA BARBARA)
COUNTY LOCAL COASTAL PROGRAM TO THE)
COASTAL COMMISSION)
)
)

WITH REFERENCE TO THE FOLLOWING:

- A. On January 7, 1980, by Resolution No. 80-12, the Board of Supervisors of the County of Santa Barbara adopted the Santa Barbara County Coastal Land Use Plan; and
- B. On July 19, 1982, by Ordinance 3312, the Board of Supervisors of the County of Santa Barbara adopted the Santa Barbara County Coastal Zoning Ordinance, Article II of Chapter 35 of the Santa Barbara County Code; and
- C. It being deemed to be in the interest of orderly development of the County and important to the preservation of the health, safety, and general welfare of the residents of said County, the Board of Supervisors has amended the Local Coastal Program as specified below:

030RD-00000-00002: Amend Article II of Chapter 35 of the Santa Barbara County Code, as follows:

- 1. DIVISION 2, Definitions, to revise the existing definitions of Attached Residential Second Unit and Detached Residential Second Unit, and to add a new definition for Residential Second Unit.
- 2. DIVISION 4, Zoning Districts, to incorporate new definitions and the combined ordinance section for attached and detached residential second units.
- 3. DIVISION 7, General Regulations, to combine the existing separate ordinance sections concerning attached and detached residential second units into one section, to allow residential second units to be located in Special Problems Areas under certain circumstances, to increase the maximum allowable floor area of residential second units except for in the Montecito Planning Area, to require a two acre minimum lot size for

EXHIBIT 1
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County Resolution 03-370

residential second units proposed to be served by on-site sewage disposal systems unless the lot has particularly favorable soil conditions, to require the property owner to live on-site, to require notice to property owners within 300 feet of the project, to revise and add development standards and to require approval from the Chair or designee of the Board of Architectural Review.

4. DIVISION 11, Permit Procedures, to delete the public hearing requirement for residential second units located in the geographic appeals jurisdiction of the Coastal Zone.
 5. DIVISION 12, Administration, to restrict the ability to appeal the approval of a coastal development permit for a residential second unit to situations where it can be demonstrated that the project is inconsistent with the development standards and to require approval from the Chair or designee of the Board of Architectural Review.
 6. DIVISION 15, Montecito Community Plan Overlay District, to clarify that the restrictions on the floor area of combined accessory structure do not apply to residential second units.
 7. Appendix G that includes development standards for residential second units on lots of less than two acres that would be served by on-site sewage disposal systems.
 8. Minor corrections and clarifications.
- D. Public officials and agencies, civic organizations, and citizens have been consulted on and have advised the Planning Commission on the said proposed amendments in duly noticed public hearings pursuant to Section 65353 and 65854 of the Government Code, and the Planning Commission has sent its written recommendations to the Board by its Resolution No. 03-1 pursuant to Section 65354 and 65855 of the Government Code.
- E. This Board has held duly noticed public hearings, as required by Section 65355 and 65856 of the Government Code, on the proposed amendments, at which hearings the amendments were explained and comments invited from the persons in attendance.
- F. These amendments to the Local Coastal Program are consistent with the provisions of the Coastal Act of 1976, the Santa Barbara County Coastal Plan, and the requirements of State Planning and Zoning laws as amended to this date, and are attached as Exhibit 1 dated December 2, 2003, and incorporated as though fully set forth herein.
- G. The Board now wishes to submit these amendments to the California Coastal Commission.

NOW, THEREFORE, IT IS HEREBY RESOLVED as follows:

1. The above recitations are true and correct.
2. Pursuant to the provisions of Section 65356 and 65857 of the Government Code and section 30514 of the Public Resources Code, the above described changes are hereby adopted as amendments to the Coastal Zoning Ordinance of the Santa Barbara County Local Coastal Program.
3. The Board certifies that these amendments are intended to be carried out in a manner fully in conformity with the said California Coastal Act.


4. The Board submits these Local Coastal Program amendments to the California Coastal Commission for review and certification.
5. The Chair and the Clerk of this Board are hereby authorized and directed to sign and certify all maps, documents and other materials in accordance with this resolution to reflect the above described action by the Board of Supervisors.

PASSED, APPROVED, AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this 2nd day of December, 2003, by the following vote:

AYES: Supervisors Schwartz, Rose, Marshall, Gray, Centeno


NOES: None

ABSENT: None


NAOMI SCHWARTZ
Chair, Board of Supervisors
County of Santa Barbara

ATTEST:

Michael F. Brown
Clerk of the Board of Supervisors

By: 
Deputy Clerk

APPROVED AS TO FORM:
STEPHEN SHANE STARK
County Counsel

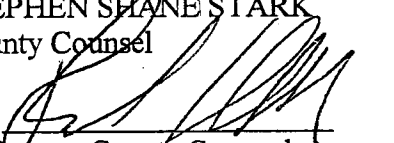
By: 
Deputy County Counsel

Exhibit 1

ORDINANCE NO. 4517

AN ORDINANCE AMENDING ARTICLE II, OF CHAPTER 35 OF THE SANTA BARBARA COUNTY CODE BY AMENDING DIVISION 2, DEFINITIONS, DIVISION 4, ZONING DISTRICTS, DIVISION 7, GENERAL REGULATIONS, DIVISION 11, PERMIT PROCEDURES, DIVISION 12, ADMINISTRATION, DIVISION 15, MONTECITO COMMUNITY PLAN OVERLAY DISTRICT, AND TO ADD A NEW APPENDIX G, DEVELOPMENT STANDARDS FOR RESIDENTIAL SECOND UNITS ON LOTS LESS THAN TWO ACRES IN SIZE SERVED BY ON-SITE SEWAGE DISPOSAL SYSTEMS, TO REVISE THE EXISTING REGULATIONS REGARDING THE PERMITTING AND APPEAL PROCEDURES FOR ATTACHED AND DETACHED RESIDENTIAL SECOND UNITS.

Case No. 03ORD-00000-00002

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

SECTION 1:

DIVISION 2, Definitions, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend the existing definitions of Attached Residential Second Unit and Detached Residential Second Unit as follows:

ATTACHED RESIDENTIAL SECOND UNIT: A residential second unit that shares a common wall with the principal single family dwelling.

DETACHED RESIDENTIAL SECOND UNIT: A residential second unit that is not attached to the principal single family dwelling by a common wall.

SECTION 2:

DIVISION 2, Definitions, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to add a definition of Residential Second Unit as follows:

RESIDENTIAL SECOND UNIT: A dwelling unit on a permanent foundation that provides complete, independent living facilities for one or more persons in addition to a principal one-family dwelling. The residential second unit may either be an attached residential second unit or a detached residential second unit. The residential second unit shall not be sold or financed separately from the principal dwelling but may be rented or leased. It shall contain permanent provisions for living, sleeping, eating, cooking, water and sanitation, and shall be located entirely on the same lot that contains the principal dwelling.

EXHIBIT 2

STB-MAJ-2-03

**Residential Second Unit
Ordinance No. 4517**

SECTION 3:

DIVISION 4, Zoning Districts, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-68.3.9 of Section 35-68, AG-I Agriculture I, to read as follows:

9. One attached residential second unit per legal lot zoned AG-I-5, AG-I-10 or AG-I-20 subject to the provisions of Sec. 35-142 (Residential Second Units).

SECTION 4:

DIVISION 4, Zoning Districts, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-68.5.2 of Section 35-68, AG-I Agriculture I, to read as follows:

2. One detached residential second unit per legal lot zoned AG-I-5, AG-I-10 or AG-I-20 subject to the provisions of Sec. 35-142 (Residential Second Units) and Sec. 35-172 (Conditional Use Permits).

SECTION 5:

DIVISION 4, Zoning Districts, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend to Section 35-70.3.9 of Section 35-70, RR Rural Residential, as follows:

9. One attached or detached residential second unit per legal lot subject to the provisions of Section 35-142 (Residential Second Units).

SECTION 6:

DIVISION 4, Zoning Districts, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to delete Section 35-70.5.2 of Section 35-70, RR Rural Residential.

SECTION 7:

DIVISION 4, Zoning Districts, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend to Section 35-71.3.8 of Section 35-71, R-1/E-1 Single Family Residential, as follows:

8. One attached or detached residential second unit per legal lot subject to the provisions of Sec. 35-142. (Residential Second Units).

SECTION 8:

DIVISION 4, Zoning Districts, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-71.5 of Section 35-71, R-1/E-1 Single Family Residential, to delete existing Section 35-71.5.4 and renumber existing Section 35-71.5.5 as Section 35-219.5.4.

SECTION 9:

DIVISION 4, Zoning Districts, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-71.13 of Section 35-71, R-1/E-1 Single Family Residential, as follows:

Sec. 35-71.13 Maximum Gross Floor Area (Floor Area Ratio or FAR)

None, except that where a residential second unit has been approved, the total gross floor area of all covered structures shall be subject to the requirements of DIVISION 7, GENERAL REGULATIONS, Section 35-142.6.6. (Development Standards) for residential second units.

SECTION 10:

DIVISION 4, Zoning Districts, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-73.3.9 of Section 35-73, EX-1 One-Family Exclusive Residential, as follows:

9. One attached or detached residential second unit per legal lot subject to the provisions of Sec. 35-142. (Residential Second Units).

SECTION 11:

DIVISION 4, Zoning Districts, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-73.4.2. of Section 35-73, EX-1 One-Family Exclusive Residential, to delete existing Section 35-73.4.2.c and renumber existing Section 35-73.4.2.d as Section 35-73.4.2.c.

SECTION 12:

DIVISION 7, General Regulations, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-142 to read as follows:

Sec. 35-142. Residential Second Units.

Sec. 35-142.1. Purpose and Intent

The purpose of this section is to establish procedures and standards for both attached and detached residential second units pursuant to §65852.2 of the California Government Code. The intent is to encourage a more efficient use of single family, Rural Residential and Agricultural zone districts where because of the decrease in household size as a result of changing social patterns, homes are being underutilized. Residential second units provide housing opportunities for the varying needs of the elderly, low-income and other economic groups. The intent is also to ensure a safe and attractive residential environment by promoting high standards of site development to preserve the integrity of single family, Rural Residential and Agricultural areas.

Sec. 35-142.2. Applicability.

Section 35-142 shall apply to the R-1/E-1, EX-1, RR, AG-I-5, AG-I-10 and AG-I-20 zone districts only except that within the Montecito Planning Area, Sec. 35-142 shall only apply to the R-1/E-1 zone district.

Sec. 35-142.3. Submittal Requirements.

1. In addition to the information required under Sec. 35-169.3 (Coastal Development Permit – Contents of Application), the following information shall also be submitted in conjunction with an application for a residential second unit:
 - a. A floor plan drawn to scale of the principal dwelling and the residential second unit.
 - b. Documentation verifying that the principal dwelling is owner-occupied.
 - c. The proposed method of water supply and sewage disposal for the residential second unit.
2. In addition to the information required under Sec. 35-172.6 (Conditional Use Permit – Contents of Application), the following information shall also be submitted in conjunction with a application for a detached residential second unit that is proposed on property zoned AG-I:
 - a. A floor plan drawn to scale of the principal dwelling and the residential second unit.
 - b. Documentation verifying that the principal dwelling is owner-occupied.
 - c. The proposed method of water supply and sewage disposal for the residential second unit, including "can and will serve" letters from a public sewer or water district or an existing mutual water company, where appropriate.

Sec. 35-142.4. Exclusion Areas.

1. Because of the adverse impact on the public health, safety, and welfare, residential second units shall not be permitted in Special Problems Areas, designated by the Board of Supervisors, except as provided in Sec. 35-142.4.2 and 35-142.4.3 below based upon the finding that Special Problems Areas by definition are areas "having present or anticipated flooding, drainage, grading, soils, geology, road width, access, sewage disposal, water supply, location or elevation problems."
2. Notwithstanding the above, an attached residential second unit may be approved within a designated Special Problems Area where Planning and Development can make all of the following findings:
 - a. The project application involves two contiguous legal lots under one ownership, at least one of which is vacant.
 - b. The owner has submitted an offer to dedicate a covenant of easement pursuant to Article VII of Chapter 35 of the County Code over the vacant lot for so long as a residential second unit is maintained on the developed lot.
 - c. The vacant lot is determined to be residentially developable pursuant to the following criteria:
 - 1) The lot was legally created, it is not a fraction lot, and the documents reflecting its creation do not preclude the lot from being used for residential purposes or designate the lot for a non-residential purpose including but not limited to well sites, reservoirs and roads.
 - 2) The lot has adequate water resources to serve the estimated interior and exterior needs for residential development as evidenced by a) a letter of service from the appropriate district or company that documents that adequate water service is available to the lot and that such service is in compliance with the Company's Domestic Water Supply Permit or b) the owner demonstrates that the lot could be served by an on-site or off-site well or shared water system that meets the applicable water well requirements of the Environmental Health Services Division of the Public Health Department.
 - 3) The lot a) is served by a public sewer system and a letter of available service can be obtained from the appropriate public sewer district or b) the

lot can be served by an individual sewage disposal system that meets all septic system requirements of the Environmental Health Services Division of the Public Health Department.

- 4) The lot a) is currently served by an existing private road that meets all applicable fire agency roadway standards that connects to a public road or right-of-way easement or b) can establish legal access to a public road or right-of-way easement meeting applicable fire agency roadway standards.
 - 5) The Special Problems Committee has reviewed the lot and has determined that the site conditions would not cause the Committee to deny development of the site for residential purposes.
3. Planning and Development may approve a residential second unit within a designated Special Problems Area where all of the development standards in Section 35-142.6 can be met and the project has been reviewed and recommended by the Special Problems Committee.

Sec. 35-142.5. Density/Lot Size.

1. Attached Residential Second Units.

- a. The minimum lot size on which an attached residential second unit may be located shall be 7,000 square feet, except that for parcels legally created prior to June 2, 1966, the minimum net lot size on which attached residential second units may be located shall be 6,000 square feet.
- b. Except for lots located within the Montecito Planning Area, the maximum residential second unit size shall not exceed the following standards for the specified ranges in lot sizes.

<u>Lot Size (Net Lot Area)</u>	<u>Maximum 2nd Unit Size (Gross Floor Area)</u>
6,000 - 9,999 sq. ft.	600 sq. ft.
10,000 - 19,999 sq. ft.	800 sq. ft.
20,000 sq. ft. or more	1,200 sq. ft.

- c. For lots located within the Montecito Planning Area, the maximum residential second unit size shall not exceed the following standards for the specified ranges in lot sizes.

<u>Lot Size (Net Lot Area)</u>	<u>Maximum 2nd Unit Size (Gross Floor Area)</u>
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6,000 - 9,999 sq. ft.	400 sq. ft.
10,000 -19,999 sq. ft.	600 sq. ft.
20,000 -1 acre	800 sq. ft.
Over one acre	1,000 sq. ft.

2. Detached Residential Second Units

- a. The minimum net lot size on which a detached residential second unit may be located shall be 10,000 square feet except that within the Montecito Planning Area the minimum lot size on which a detached residential second unit may be located shall have a gross lot area of five acres.
- b. Except for lots located in the Montecito Planning Area, the maximum residential second unit size shall not exceed the following standards for the specified ranges in lot sizes.

<u>Lot Size (Net Lot Area)</u>	<u>Maximum 2nd Unit Size (Gross Floor Area)</u>
10,000-19,999 sq. ft.	800 sq. ft.
20,000 or more sq. ft.	1,200 sq. ft.

- c. The maximum size of a detached second unit located within the Montecito Planning Area shall not exceed 1,000 square feet (gross floor area).
3. No more than one attached or detached residential second unit shall be permitted on any one lot. If a residential second unit exists or has current approval on a parcel, a second residential second unit may not also be approved.

Sec. 35-142.6. Development Standards.

The following standards shall apply to all residential second units.

1. Pursuant to Government Code, §65852.2(b)(5), the County finds that residential second units are consistent with the allowable density and with the general plan and zoning designation provided the units are located on properties with R-1/E-1, EX-1, RR, AG-I-5, AG-I-10, or AG-I-20 zoning designations.
2. The lot shall contain an existing single family dwelling at the time an application for a residential second unit is submitted or the application for the second unit shall be in conjunction with the principal dwelling.
3. The owner of the lot shall reside on said lot, in either the principal dwelling or in the residential second unit except when a) disability or infirmity require institutionalization of the owner, or b) Planning Director or Director's designee approves in writing owner's

written request for a temporary absence due to illness, temporary employment relocation, sabbatical, extended travels, or other good cause. Prior to the issuance of the Coastal Development Permit, the owner-occupant shall sign and record an agreement with the County of Santa Barbara requiring that the owner reside on the property. Upon resale of the property, the new owner shall reside on the property or the use of the residential second unit shall be discontinued and the residential second unit shall a) if attached, be converted into a portion of the principal dwelling or b) if detached, the residential second unit shall be removed or converted into a legal accessory structure.

4. An attached residential second unit shall be located within the living area of the principal dwelling, or if an increase in floor area is requested, the increase in floor area shall not exceed 30 percent of the existing living area. The floor area of a garage attached to the principal dwelling may be included in the calculation of existing living area provided the garage is to be converted to living area as part of the same permit to allow the attached residential second unit.
5. The gross floor area of residential second unit shall be a minimum of 300 square feet and shall not exceed 1,200 square feet unless the residential second unit is located in the Montecito Planning Area in which case the gross floor area shall not exceed 1,000 square feet. Gross floor area includes only the residential second unit and its directly accessible appurtenant interior spaces, and shall not be considered to include any existing floor area not contained within the second unit, nor shall it include the floor area of storage or other accessory structures or spaces not directly accessible from the living area of the second unit.
6. The total gross floor area of all covered structures, including the residential second unit, shall not exceed 40 percent of the gross lot area.
7. A residential second unit shall not exceed a mean height of 16 feet except when the portion of an attached residential second unit that would exceed a mean height of 16 feet would be wholly contained within the existing principal dwelling. A detached residential second unit may be permitted as part of another detached structure provided that the building height of the entire structure shall not exceed 25 feet.
8. A residential second unit shall have a separate entrance. The entrance to the residential second unit shall not face an abutting street unless the entrance is structurally shielded so as not to be apparent when viewed from the abutting street unless this prohibits construction of the second unit in which case the front door may be visible from the abutting street.

9. A residential second unit shall not be permitted on a lot in addition to a) a guest house, b) dwellings other than the principal dwelling determined to be nonconforming as to use, or c) a farm employee dwelling. If a residential second unit exists or has been approved on a lot, a guest house or similar structure may not subsequently be approved unless the residential second unit is removed.
10. A residential second unit shall contain its own kitchen and bathroom facilities.
11. A residential second unit shall comply with the setback regulations that apply to the principal dwelling as set forth in the applicable zone district.
12. In addition to the required parking for the principal dwelling, a minimum of one off-street parking space shall be provided on the same lot that the residential second unit is located on for a) each bedroom in the residential second unit; and for b) each studio unit. The additional parking shall be provided as specified in the base zone district and in DIVISION 6, PARKING REGULATIONS. The Director may grant modifications to allow the additional parking required by these provisions to be located within the setbacks based on a finding that, because of the topography of the site and the location of the principal dwelling on the site, the setback requirements cannot be met. In no case shall the number of additional parking spaces required for a residential second unit be reduced, nor shall any modification be granted to allow parking within the front setback area.
13. Where public water service is available, the residential second unit shall be required to be served by the appropriate district. If the principal dwelling is currently served by a public water district or an existing mutual water company, not subject to moratorium for new connections, the residential second unit shall be served by the appropriate district or company. If the principal dwelling is currently served by a water district or an existing water company subject to a moratorium for new connections, or if the existing service is by a private well or private water company, and if the property is not located in an overdrafted water basin, the residential second unit may be served by a private well or private water company subject to Public Health Department review and approval.
14. Where public sewer service is available, the residential second unit shall be required to be served by the appropriate district. If the principal dwelling is currently served by a public sewer district not subject to moratorium for new connections, the residential second unit shall be served by the public sewer district. If the principal dwelling is currently served by a public sewer district subject to moratorium for new connections, or if the existing service is

by a private septic system, the residential second unit may be served by a private septic system subject to Public Health Department review and approval.

15. A residential second unit proposed to be served by an on-site sewage disposal system may not be permitted in addition to the principle dwelling on a lot less than two gross acres in size unless soil and other constraints for sewage disposal are determined to be particularly favorable by the Environmental Health Services Division of the Public Health Department. If determined to be particularly favorable the minimum lot area may be reduced to one gross acre. In order to be determined to be particularly favorable, all of the criteria as found in Appendix G, *Development Standards For Residential Second Units On Lots Less Than Two Acres In Size Served By On-Site Sewage Disposal Systems*, must be satisfied. That appendix is hereby incorporated by reference.
16. Upon approval of a residential second unit on a lot, the lot shall not be divided unless there is adequate land area to divide the lot consistent with the applicable Comprehensive Plan designation and zone district.
17. The residential second unit shall not be sold or financed separately from the principal dwelling.
18. Where there are conflicts between the standards set forth in this section and those set forth in Sec. 35-119 (Accessory Structures) and DIVISION 4 Zoning Districts, the provisions of this section shall prevail.
19. Pursuant to the provisions of ordinances and resolutions adopted by the County, the applicant will be required to pay development impact mitigation fees prior to approval of the Coastal Development Permit or prior final building permit inspection as determined by the adopted ordinances. The amount of the required fee shall be based on the fee schedules in effect when paid.
20. The development of a detached residential second unit in agricultural zone districts shall avoid or minimize significant impacts to agricultural and biological resources to the maximum extent feasible by:
 - a. Avoiding prime soils or where there are no prime soils be sited so as to minimize impacts to ongoing agriculturally-related activities.
 - b. Including buffers from sensitive areas.
 - c. Preserving natural features, landforms and native vegetation such as trees to the maximum extent feasible.

21. For detached residential second units in agricultural zone districts the Zoning Administrator may add other conditions, consistent with general law and applicable State and County standards, as necessary to preserve the health, safety, welfare and character of the residential neighborhood provided that such conditions do not conflict with applicable policies and provisions of the Local Coastal Program.
22. In residential zone districts, except where the proposed detached residential second unit is to be located in a permitted structure existing on July 1, 2003, and no exterior alterations are proposed, a detached residential second unit shall not be located closer to the principal abutting street than the principal dwelling unless other provisions of this Article, such as setback requirements, prohibit construction of the second unit in the rear of the lot on parcels one acre or less in size.
23. In residential zone districts, except where the proposed detached residential second unit is to be located in a permitted structure existing on July 1, 2003, and no exterior alterations are proposed, the exterior appearance and architectural style of the residential second unit shall reflect that of the principal dwelling, and shall use the same exterior materials, roof covering, colors and design for trim, windows, roof pitch and other exterior physical features on parcels one acre or less in size.
24. In residential zone districts, all development associated with the construction of a detached residential second unit shall be located no less than 50 feet from a designated environmentally sensitive habitat area in urban areas and no less than 100 feet from a designated environmentally sensitive habitat area in rural areas. If the habitat area delineated on the applicable zoning maps is determined by the County not to be located on the particular lot or lots during review of an application for a permit, this development standard shall not apply.

Sec. 35-142.7. Findings for Approval

In addition to the findings under DIVISION 10, Section 35-172 (Conditional Use Permits), prior to the approval of a detached residential second units located on a lot zoned AG-I-5, AG-I-10 or AG-I-20, the Zoning Administrator shall make all of the following findings:

1. The detached residential second unit is compatible with the design of the adjacent residences and the surrounding neighborhood and will not cause excessive noise, traffic, parking or other disturbance to the existing neighborhood.
2. Provisions for on-site parking are adequate for existing and proposed uses.

3. The detached residential second unit will not substantially change the character of the neighborhood in which it is located, or cause a concentration of second units sufficient to change the character of the neighborhood in which it is located.
4. The detached residential second unit does not significantly infringe on the privacy of surrounding residents.
5. The proposal conforms to the development standards in Section 35-142.6.

Sec. 35-142.8. Noticing.

1. Notice of an approved or conditionally approved Coastal Development Permit for an attached residential second unit, or a detached residential second unit not located in an AG-I zone district, shall be given consistent with Sec. 35-181.3 or Sec. 35-181.4 as appropriate. In addition, a copy of the approved Coastal Development Permit shall be mailed, at least ten calendar days prior to the date on which the Coastal Development Permit is to be issued, to property owners within 300 feet of the exterior boundaries of the parcel that the project is located on and to any person who has filed a written request to receive notice with Planning and Development. The notice shall state that the grounds for appeal are limited to the demonstration that the project for which the Coastal Development Permit was approved or conditionally approved is inconsistent with the development standards contained in Sec. 35-142.6.
2. Notice of projects that require a conditional use permit shall be provided in a manner consistent with the requirements of Sec. 35-181 (Noticing) and shall include mailed notice to property owners within 300 feet of the exterior boundaries of the parcel that the project is located on and to any person who has filed a written request to receive notice with Planning & Development.

Sec. 35-142.9. Appeals.

The decision of the Planning and Development Department to approve or conditionally approve an application for a residential second unit is final subject to appeal to the Planning Commission; the grounds for appeal are limited to the demonstration that the project for which the land use permit was approved or conditionally approved is inconsistent with the development standards contained in Sec. 35-142.6. The decision of Planning and Development to deny an application for a residential second unit is final subject to appeal to the Planning Commission in accordance with procedures set forth in DIVISION 12, Section 35-182 (Appeals). The decisions of the Zoning Administrator to approve, conditionally approve or deny an application for a detached

residential second unit in agricultural areas is final subject to appeal to the Board of Supervisors in accordance with the procedures set forth in DIVISION 12, Section 35-182 (Appeals).

Sec. 35-142.10. Revocation.

As provided in DIVISION 11, Section 35-169.9 (Coastal Development Permits - Revocation) and Section 35-172.10 (Conditional Use Permits - Revocation).

SECTION 13:

DIVISION 7, General Regulations, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to delete Section 35-142A, Detached Residential Second Units, in its entirety.

SECTION 14:

DIVISION 7, General Regulations, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-144.3, Ridgelines and Hillside Development Guidelines, to read as follows:

Sec. 35-144.3. Development Guidelines.

The Board of Architectural Review shall have the discretion to interpret and apply the Ridgelines and Hillside Guidelines.

Urban Areas:

- A. The height of any structure should not exceed 25 feet wherever there is a 16 foot drop in elevation within 100 feet of the proposed structure's location. (See definition of building height, page 3).
- B. Proposed structures should be in character with adjacent structures.
- C. Large understories and exposed retaining walls should be minimized.
- D. Landscaping should be compatible with the character of the surroundings and the architectural style of the structure.
- E. Development on ridgelines shall be discouraged if suitable alternative locations are available on the parcel.

Rural and Inner Rural Areas:

- A. The height of any structure should not exceed 16 feet wherever there is a 16 foot drop in elevation within 100 feet of the proposed structural location.
- B. Building rake and ridge line should conform to or reflect the surrounding terrain.

- C. Materials and colors should be compatible with the character of the terrain and natural surroundings of the site.
- D. Large, visually unbroken and/or exposed retaining walls should be minimized.
- E. Landscaping should be used to integrate the structure into the hillside, and shall be compatible with the adjacent vegetation.
- F. Grading shall be minimized, in accordance with the Comprehensive Plan goals.
- G. Development on ridgelines shall be discouraged if suitable alternative locations are available on the parcel.

Exemptions:

In order for a proposed structure to be exempted from these guidelines, the BAR or Planning and Development Department (P&D), as stipulated below, must make one or more of the following findings:

1. Due to unusual circumstances, strict adherence to these guidelines would inordinately restrict the building footprint or height below the average enjoyed by the neighborhood. For example, significant existing vegetation, lot configuration, topography or unusual geologic features may necessitate exceeding the height limit in order to build a dwelling comparable to other structures in the neighborhood. (BAR Finding)
2. In certain circumstances, allowing greater flexibility in the guidelines will better serve the interests of good design, without negatively affecting neighborhood compatibility or the surrounding viewshed. (BAR Finding)
3. The proposed site is on or adjacent to a minor topographic variation (i.e. gully), such that the 16 foot drop in elevation is not due to a true ridgeline or hillside condition. (P&D Finding)
4. Windmills and water tanks for agricultural purposes are exempt. (P&D Finding)
5. Poles, towers, antennas, and related facilities of public utilities used to provide electrical, communications or similar service. (P&D Finding)
6. Residential second units are exempt from BAR review but approval from the BAR Chair, or designee, is required.

SECTION 15:

DIVISION 7, General Regulations, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-144B, Applications That are Within the Jurisdiction of More than One Final Decision Maker, to read as follows:

Sec. 35-144B. Applications That are Within the Jurisdiction of More than One Final Decision Maker

1. When two or more discretionary applications are submitted that relate to the same development project and the individual applications would be under the separate jurisdiction of more than one decision-maker, all applications for the project shall be under the jurisdiction of the decision-maker with the highest jurisdiction as follows in descending order:
 - a. Board of Supervisors
 - b. Planning Commission
 - c. Zoning Administrator, except in the Montecito Planning Area
 - d. Director
2. If the Board of Supervisors is the decision-maker for a project due to a companion discretionary application(s) (e.g., a Development Plan and a Rezone), then the Planning Commission shall make an advisory recommendation to the Board of Supervisors on each project.
3. With the exception of applications for Coastal Development Permit that are subject to the regulations of Sec. 35-169.5, this section shall not apply to applications for Coastal Development Permits submitted pursuant to Sec. 35-169 or Emergency Permits submitted pursuant to Sec. 35-171 or Land Use Permits submitted pursuant to Sec. 35-178.

SECTION 16:

DIVISION 11, Permit Procedures, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-169.5 to read as follows:

Sec. 35-169.5. Special Processing for Coastal Development Permits within a Geographic Appeals Area or for a Major Public Works Project.

A Coastal Development Permit application under the Permitted Uses section of any Zone District for a) a project located in a Geographic Appeals Area (as shown on the County Appeals Map), or b) a Major Public Works project, where a public hearing is not otherwise required, shall

be subject to the following requirements, in addition to those listed in Section 35-169.4, above. However, this section shall not apply to a Coastal Development Permit application for a residential second unit submitted pursuant to Sec. 35-142.

1. After accepting the application for processing, the Planning and Development Department shall process the project through environmental review.
2. For residential structures on lots adjacent to the sea, the application shall be referred to the Board of Architectural Review.
3. The Zoning Administrator shall hold at least one noticed public hearing, unless waived, on the requested Coastal Development Permit and either approve, conditionally approve, or deny the request. Notice of the time and place of said hearing shall be given in the manner prescribed in Sec. 35-181. (Noticing). The Zoning Administrator's action shall be final subject to appeal to the Board of Supervisors as provided under Sec. 35-182. (Appeals). The requirement for a public hearing for a project located in a Geographical Appeals area may be waived by the Director, pursuant to Sec. 35-169.11. If such hearing is waived, the Zoning Administrator shall still be the decision-maker for the Coastal Development Permit.
4. An approval of a Coastal Development Permit by the Zoning Administrator shall be valid for one year. Prior to the expiration of the approval, the Zoning Administrator may extend the approval one time for one year if good cause is shown and the applicable findings for the approval required pursuant to Section 35-169.6., can still be made. A Coastal Development Permit approved pursuant to this Section shall not be considered to be in effect and shall not be issued until a) all conditions and provisions which are required to be complied with prior to issuance of the permit are complied with, b) the applicant has signed the Coastal Development Permit, and c) the applicable appeals period has expired or if appealed, final action has been taken on the appeal by the appropriate body, either the County or the California Coastal Commission.

SECTION 17:

DIVISION 12, Administration, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-182.2 to read as follows:

Sec. 35-182.2. Appeals to the Planning Commission.

1. Except for those actions on Coastal Development Permits which may be appealed to the Coastal Commission as provided for under Sec. 35-182.4., the decisions of the Planning and

Development Department on the approval, denial, or revocation, of Coastal Development Permits, final approval of projects under the jurisdiction of the Director, or decisions of the Board of Architectural Review may be appealed to the Planning Commission by the applicant, an aggrieved person (see definition) or any two members of the Coastal Commission. The appeal, which shall be in writing, and accompanying fee must be filed with the Planning and Development Department as follows:

- a. Within the ten calendar days following the date of decision for projects under the jurisdiction of the Director.
- b. Within the ten calendar days following the posting date for the notice of Coastal Development Permit approval, as required by Section 35-181.3., or if denied, within the ten calendar days following the decision of the Planning and Development Department to deny such permit application.
- c. Within the ten calendar days following the date of final decision by the Board of Architectural Review. If final approval by the Board of Architectural Review is appealed, the hearing on the appeal shall only be held after the decision on the Coastal Development Permit but, prior to the issuance of the Coastal Development Permit for such project. The Board of Architectural Review appeal shall be processed concurrently with any appeal of the Coastal Development Permit. If a denial by the Board of Architectural Review is appealed, a separate hearing shall be held on the Board of Architectural Review appeal prior to the decision on the Coastal Development Permit. No permits shall be issued until all appeals have been heard and/or resolved.
- d. The appellant shall state specifically in the appeal how 1) the decision of the Planning and Development Department on a Coastal Development Permit, or the decision of the Director or the Board of Architectural Review, is not in accord with the provisions and purposes of this Article or 2) there was an error or an abuse of discretion by the Planning and Development Department, Director or the Board of Architectural Review. If the approval of a Coastal Development Permit required by a previously approved discretionary permit is appealed, the appellant must identify how the Coastal Development Permit is inconsistent with the previously approved discretionary permit, how the discretionary permit's

conditions of approval have been unfulfilled, or how the approval is inconsistent with Sec. 35-181. (Noticing).

2. Notwithstanding Sec. 35-181.2.1d, the decision of the Planning and Development Department to approve or conditionally approve a Coastal Development Permit for a residential second unit pursuant to Sec. 35-142 is final subject to appeal to the Planning Commission; the grounds for appeal are limited to the demonstration that the project for which the land use permit was approved or conditionally approved is inconsistent with the development standards contained in Sec. 35-142.6. The decision of Planning and Development to deny an application for a residential second unit is final subject to appeal to the Planning Commission in accordance with procedures set forth in DIVISION 12, Section 35-182 (Appeals).
3. Prior to the hearing on said appeal, the Planning and Development Department shall transmit to the Planning Commission copies of the permit application including all maps and data and a statement setting forth the reasons for the decision by the Planning and Development Department, Director, or Board of Architectural Review.
4. The Planning Commission hearing shall be de novo and the Commission shall affirm, reverse, or modify the decision of the Planning and Development Department, Director, or Board of Architectural Review at a public hearing. Notice of the time and place of said hearing shall be given in accordance with Sec. 35-181.2 (Noticing) and notice shall also be mailed to the appellant.

SECTION 18:

DIVISION 12, Administration, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-184.3 to read as follows:

Sec. 35-184.3. Exceptions.

No Board of Architectural Review approval is required for the following:

1. Interior alterations.
2. Decks
3. Swimming pools, hot tubs, and spas.
4. Fences or walls six (6) feet or less and gateposts of eight (8) feet or less in height when located in the front yard setback. Fences and walls of eight (8) feet or less and gateposts of ten (10) feet or less in height when located outside of front yard setback areas and not closer

than twenty (20) feet from the right-of-way of any street. However, when a part of the overall plans of a new residence, a remodeling, or an addition to a structure requiring architectural review, such structures shall be included as part of the architectural review of the project.

5. Solar panels.
6. Any other exterior alteration determined to be minor by the Director.
7. Residential second units are exempt from BAR review but approval from the BAR Chair, or designee, is required.

SECTION 19:

DIVISION 15, Montecito Community Plan Overlay District, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-210, Accessory Structures, to read as follows:

Sec. 35-210. Accessory Structures.

1. Accessory structures, except barns and stables shall not exceed 16 feet in height and shall conform to the front and side yard setback regulations of the district. An accessory structure may be located in the required rear yard setback provided that it is located no closer than ten feet to the principal structure; and that it occupies no more than 30 percent of the required rear yard; and that it does not exceed a height of 12 feet.
2. Accessory structures containing one or more accessory use shall not exceed a building footprint area of 800 square feet as measured to the interior surface of exterior, perimeter walls, excluding barns and stables. For the purpose of this subsection, footprint refers to how the building sits on the ground as viewed perpendicularly from above, and includes any cantilevered portions of the structure. This limitation shall not apply to projects that have received preliminary or final approval from the County Board of Architectural Review, and have not been constructed, as of May 16, 1995.
3. Sec. 35-210.1 and Sec. 35-210.2 shall not apply to residential second units that meet the development standards of Sec. 35-142.6 (Residential Second Units – Development Standards).

SECTION 20:

Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to add Appendix G, Development Standards For Residential Second Units On Lots Less Than Two Acres In Size Served By On-Site Sewage Disposal Systems, to read as follows:

APPENDIX G - DEVELOPMENT STANDARDS FOR RESIDENTIAL SECOND UNITS ON LOTS LESS THAN TWO ACRES IN SIZE SERVED BY ON-SITE SEWAGE DISPOSAL SYSTEMS

A residential second unit proposed to be served by an on-site sewage disposal system may not be permitted in addition to the principle dwelling on a lot less than two gross acres in size unless soil and other constraints for sewage disposal are determined to be particularly favorable by the Environmental Health Services Division of the Public Health Department. In order to be determined to be particularly favorable, all of the following criteria must be satisfied. These criteria may be amended from time to time by the Environmental Health Services Division in consultation with the Regional Water Quality Control Board.

1. Environmental Health Services shall receive a satisfactory soil percolation test report for the new disposal area prepared by a registered civil or soils engineer. An acceptable report shall include the following information and shall conclude that a septic system of suitable design and capacity can be installed with approved building plans and without resultant future contamination of usable groundwater.
 - a. A description of the methodology employed in the performance test.
 - b. A site plan showing the location of the test.
 - c. A table of data obtained for the performance test at each test location.
 - d. A log of the subsurface soil and groundwater conditions encountered.
 - e. A statement as to which soil zones will be those utilized by the installed system.
 - f. A statement that the test locations are representative of and apply to the proposed septic system location and the 100 percent expansion area.
 - g. A site plan indicating the septic system location, the 100 percent expansion area, all required setbacks and the area designated for development.
 - h. A statement that the parcel can be developed as proposed and that the septic system can be expected to function satisfactorily with normal use and routine maintenance.

All septic systems shall be in compliance with the Regional Water Quality Control Board prohibitions (effective March 15, 1984). If conditions do not allow for compliance with the prohibitions as required by the Regional Water Quality Control Board, a waiver may be requested. The applicant shall supply a copy of the Regional Water Quality Control Board's determination to Environmental Health Services.

NOTE: The proposed area for the installation of the subsurface effluent disposal system cannot exceed 30 percent slope within 100 feet of the disposal field (as defined in the Basin Plan using a 20 percent down gradient from the discharge pipe to the 30 percent slope). Drywells may be utilized only if leach lines are not feasible, as determined by the soil engineer with concurrence of Environmental Health Services. If utilized, drywells must be installed and performance tested to meet the minimum requirement of dissipating five times the septic tank capacity within 24 hours.

2. Environmental Health Services shall review and approve an application for the septic system serving the second residential unit that contains the following:
 - a. An analysis by the soil engineer indicating the soil zone(s) proposed for sewage disposal do not exceed 60 percent clay content.
 - b. A statement from the soil engineer regarding the presence, if any, of soil mottling indicative of previous saturation with groundwater.
 - c. A plot plan showing the existing sewage disposal system for the main house, including the area required to be reserved for the 100 percent expansion area, and the proposed system for the second unit.
 - d. The on-site sewage disposal system for the proposed residential second unit shall include both the initial and 100 percent expansion areas interconnected with a diverter valve to allow alternate dosing of the two fields.
 - e. For leach line disposal:
 - 1) For soil percolation rates between five and twenty-nine minutes per inch, the engineering report shall include a statement, supported by field data and a boring log, that the proposed disposal area will maintain a minimum separation of twenty feet from highest known groundwater.
 - 2) For soil percolation rates between thirty and sixty minutes per inch, the engineering report shall include a statement, supported by field data and a

boring log, that the proposed disposal area will maintain a minimum separation of eight feet to highest known groundwater.

- 3) Soil percolation rates less than five minutes per inch and greater than sixty minutes per inch shall not be considered particularly favorable.

f. For drywell disposal:

- 1) The engineering report shall include a statement, supported by field data and a boring log, that the bottom of the drywell will have a minimum separation of fifteen feet from highest known groundwater, including perched groundwater.
- 2) A minimum of twenty feet of lateral separation, sidewall to sidewall, shall be maintained for new drywells.

SECTION 21:

Except as amended by this Ordinance, Divisions 2, 4, 7, 11, 12 and 15 of Article II of Chapter 35 of the Code of the County of Santa Barbara, California, shall remain unchanged and shall continue in full force and effect.

SECTION 22:

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.

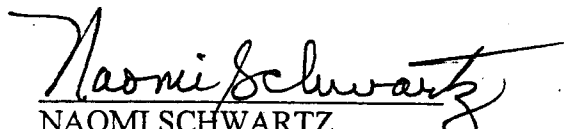
PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this 2nd day of December, 2003, by the following vote:

AYES: Supervisors Schwartz, Rose, Marshall, Gray, Centeno

NOES: None

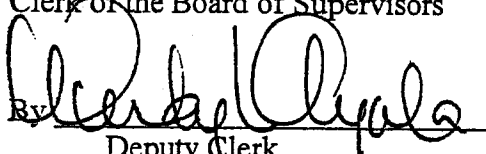
ABSTAINED: None

ABSENT: None


NAOMI SCHWARTZ
Chair, Board of Supervisors
County of Santa Barbara

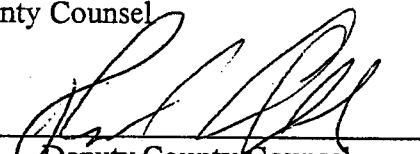
ATTEST:

MICHAEL F. BROWN
Clerk of the Board of Supervisors

By 
Deputy Clerk

APPROVED AS TO FORM:

STEPHEN SHANE STARK
County Counsel

By 
Deputy County Counsel