

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
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**ADDENDUM****W10a**

DATE: November 13, 2007
TO: Commissioners and Interested Parties
FROM: South Central Coast District Staff
SUBJECT: Agenda Item 10a, Wednesday, November 14, 2007, County of Santa Barbara Major Amendment 2-06 (Noticing and Appeals)

The purpose of this addendum is to: (1) make corrections and clarifications to Suggested Modifications 1, 2, 4, 9, 18, and 22; and (2) replace Exhibit 7 of the staff report with a revised Exhibit 7 to make clarifications to ensure consistent implementation of the appeals and noticing procedures.

Note: Double ~~strike through~~ indicates text deleted from the October 29, 2007 staff report pursuant to this addendum and double underline indicates text added to the October 29, 2007 staff report pursuant to this addendum.

1. Suggested Modification 1 on page 8 of the October 29, 2007 staff report shall be modified as follows:

1. Residential Second Unit Noticing Requirements

Sec. 35-142.8. Noticing.

1. Notice of the application and pending decision on a 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 (Noticing) requirements for discretionary decision-maker actions. The notice shall state that the grounds for appeal of an approved or conditionally approved Coastal Development Permit are limited to the demonstration that the project is inconsistent with the standards set forth in the certified local coastal program or does not conform to the public access policies set forth in the Coastal Act (Public Resources Code, Division 20). ~~applicable provisions and policies of this Article and the Coastal Land Use Plan.~~

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).

2. Suggested Modification 2 on page 9 of the October 29, 2007 staff report shall be modified as follows:

2. Large Family Day Care Home Noticing

Sec. 35-143.2. Large Family Day Care Homes.

~~The approval~~ Review of Large Family Day Care Homes pursuant to this Section ~~shall be deemed~~ is ~~a ministerial action which~~ is exempt from the California Environmental Quality Act. Notice of the

~~application and pending decision shall be given of the proposed use at least ten (10) days prior to the date of the Zoning Administrator's decision to all owners shown on the last equalized assessment roll as owning real property within a three hundred (300) foot radius of the exterior boundaries of the proposed Large Family Day Care Home in compliance with Section 35-181 (Noticing). No hearing on the application shall be held unless a hearing is requested by the applicant or other affected person. The action of the Zoning Administrator's decision may be appealed to the Board of Supervisors pursuant to the provisions of final unless appealed in compliance with Section 35-327182-3 (Appeals).~~

3. Suggested Modification 4 on page 10 of the October 29, 2007 staff report shall be modified as follows:

4. Coastal Development Permit Noticing

Sec. 35-169.4 Processing

~~9. Notice of the application and pending decision on a Coastal Development Permit shall be given in compliance with Sec. 35-181 (Noticing).~~

This Section shall be modified as provided in Exhibit 7, pursuant to Suggested Modification 24 (This Section has been renumbered and superseded by Section 35-169.4.1.g, Section 35-169.4.2.d, and Section 35-169.4.3.g and h in Exhibit 24).

4. Suggested Modification 9 on page 16 of the October 29, 2007 staff report shall be modified as follows:

9. Noticing for Coastal Development Permits and Land Use Permits

Sec. 35-181.4 Contents of Notice.

...

3. Notice for projects that do not require a public hearing or other discretionary decision-maker action. The following shall be included in all notices for projects that do not require a public hearing or discretionary action by a decision-maker.

a. All information required by Subsection 1, above.

b. A general description of the County procedures concerning the review of the application for the Coastal Development Permit or Land Use Permit, including:

1) How to participate in the review of the application for the Coastal Development Permit or Land Use Permit;

2) How to receive notification of any pending review by the Board of Architectural Review, if applicable, and action to approve or deny the Coastal Development Permit or Land Use Permit;

3) How to submit comments either in writing or orally before review by the Board of Architectural Review, if applicable, or action to approve or deny the Coastal Development Permit or Land Use Permit;

4) Requirements regarding the procedure to appeal the decision of the Board of Architectural Review, if applicable, or action by the Director to approve or deny the Coastal Development Permit or Land Use Permit.

c. ~~If applicable, the~~ The date of the pending decision on the Coastal Development Permit or Land Use Permit, and where applicable, the date of expiration of the appeal period.

- d. A statement that the public comment period commences upon the date that such notice is given and allows for submission by mail, in advance of the decision, of public comments on the ~~requested~~ subject Coastal Development Permit or Land Use Permit application, excluding Land Use Permits that follow a previous discretionary approval, excluding permits that follow a previous discretionary approval.
5. Suggested Modification 18 beginning on page 21 of the October 29, 2007 staff report shall be modified as follows:

18. Appeal Procedures For Local Decisions

Sec. 35-182.2 General Appeal Procedures

...

C. Requirements for Contents of an Appeal.

...

- 2. Additional requirements for certain appeals.** The following information is required to be submitted for the appeals listed below in addition to the information required to be submitted by Sec. 35-182.2.C.1.a, ~~35-182.2.C.1.b, and where applicable 35-182.2.C.1.d.~~

...

D. Acceptance of Appeal. An appeal may ~~shall not be rejected~~ shall not be rejected ~~accepted~~ by the Director under the following circumstances: unless

1. The appeal was not submitted by an applicant or an aggrieved party in compliance with Section 35-182.2.A; or
2. The appeal was not timely submitted in compliance with Section 35-182.2.B; or
3. it is complete and The appeal does not comply with all the applicable requirements of Sec. 35-182.2.C.

The decision of the Director is final and not subject to appeal.

6. Suggested Modification 22 on page 26 of the October 29, 2007 staff report shall be modified as follows:

22. Appeals to the Coastal Commission

Sec. 35-182.56. Appeals to the Coastal Commission.

1. For developments which are subject to the appeals jurisdiction of the Coastal Commission under PRC Section 30603, an final action on a Coastal Development Permit application or claim of exemption by the Board of Supervisors may be appealed to the California Coastal Commission within 10 working days from the date of receipt by the Commission of the County's notice of final action.
2. Any appealable action on a coastal development permit application or claim of exemption may be appealed to the Coastal Commission by the an applicant, an aggrieved person, or any two members of the Coastal Commission. Appeals must be made in writing and be received by the appropriate Coastal Commission district office by the deadline listed in the prior section. No appeal may be filed with the Coastal Commission until local appeals have been exhausted on the project permit; except that exhaustion of all local appeals shall not be required where a project is appealed by any two Commissioners or if any of the following occur:

...

23. In accordance with Public Resources Code Section 30603(a), an action taken by the County of Santa Barbara on a Coastal Development Permit application for any of the following may be appealed to the Coastal Commission:

- ~~d.~~ Any development which constitutes a major public works project or a major energy facility. The phrase, "major public works project or a major energy facility," as used in ~~Public Resources Code Section 30603(a)(5) and this Article shall mean any proposed public works project or energy facility exceeding \$50,000 in estimated cost of construction.~~ facility that meets the definition in California Code of Regulations, Title 14, Section 13012(b). ~~Consistent with California Code of Regulations, Title 14, Section 13012(b).~~

...

34. Grounds of Appeal.

- a. The grounds of appeal to the Coastal Commission for any development appealable under ~~23-a,~~ of this Section shall be limited to ~~one or more of the following:~~
 - 1) an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access policies set forth in the Coastal Act, which is codified in Public Resources Code, Division 20, except that a denial of a permit for development included in subsection 3.e above, shall be limited to an allegation that the development conforms to the standards set forth in the certified local coastal program and the public access policies set forth in the Coastal Act and codified in Public Resources Code, Division 20.

...

- 7. Exhibit 7 shall be replaced with the attached revised Exhibit 7. Additional changes to Exhibit 7 following the October 29, 2007 staff report are indicated in **double** underline text or **double** strike through text.

Sec. 35-169. Coastal Development Permits.

Sec. 35-169.1 Purpose and Intent.

This Section establishes procedures and findings for the approval, issuance and effective time periods for Coastal Development Permits that are required by this Article. The intent of this section is to ensure that development ~~proposals are~~ is in conformity with the provisions of this Article, the Comprehensive Plan including the Coastal Land Use Plan, and any applicable Community Plans and any permit conditions established by the County, and to provide public hearing opportunities for development that is defined as appealable to the Coastal Commission in compliance with Sec. 35-182 (Appeals).

Sec. 35-169.2 Applicability.

1. Before using any land or structure, or commencing any work pertaining to any development or use in the Coastal Zone of the County, wherein permits are required under the provisions of this Article, a Coastal Development Permit shall be issued unless other regulations of this Article specifically indicate that such activity is exempt. Activities which are exempt from the issuance of a Coastal Development Permit shall comply with all applicable regulations of this Article including but not limited to use, setback, and height, as well as all required provisions and conditions of any existing approved permits for the subject property. The following activities shall be exempt from the issuance of a Coastal Development Permit:

The existing language of subsection a. through subsection p. is not revised.

Sec. 35-169.3 Contents of an Application. The existing language of this section is not revised.

Sec. 35-169.4 Processing.

1. **Coastal Development Permits for development that is not appealable to the Coastal Commission in compliance with Section 35-182 (Appeals) and is not processed in conjunction with a Conditional Use Permit or Development Plan.** This Section provides the processing requirements for applications for Coastal Development Permits that are not subject to Section 35-169.4.2 or Section 35-169.4.3 below.
 - a. After receipt of the Coastal Development Permit application, the Planning and Development Department shall review the application in compliance with the requirements of the California Environmental Quality Act, unless the development is determined to be exempt from CEQA in compliance with Guidelines Section 15268.
 - b. The Director shall review the Coastal Development Permit application for compliance with the Comprehensive Plan including the Coastal Land Use Plan and any applicable community or area plan, this Article, and other applicable regulations, and approve, conditionally approve, or deny the Coastal Development Permit.
 - c. The action of the Director is final subject to appeal in compliance with Section 35-182 (Appeals).
 - d. A Coastal Development Permit approved, or conditionally approved, in compliance with this Section shall not be issued ~~and or~~ deemed effective:
 - 1) Prior to the expiration of the appeal period or, if appealed, prior to final action on the appeal by the decision-maker in compliance with Section 35-182 (Appeals).
 - 2) Until the applicant has signed the Coastal Development Permit.

~~23)~~ Until all conditions of the Coastal Development Permit that are required to be satisfied prior to the issuance of the Coastal Development Permit have been satisfied, and

~~24)~~ Until all other necessary prior approvals have been obtained.

No entitlement for development shall be granted prior to the effective date of the Coastal Development Permit.

- e. If a Coastal Development Permit is requested for property subject to a resolution of the Board of Supervisors initiating a rezoning or amendment to this Article, a Coastal Development Permit shall not be approved or conditionally approved while the proceedings are pending on such rezoning or amendment unless the proposed uses or structures ~~will~~ conform to both the existing zoning and existing provisions of this Article and the rezoning or amendment initiated by the Board of Supervisors, or unless a Preliminary or Final Development Plan was approved by the County before the adoption of the Board's resolution and the proposed uses or structures are in conformance with the approved Preliminary or Final Development Plan.
- f. On property located within the Montecito Community Plan area, Coastal Development Permits shall include a specific written condition that requires all development be in conformance with approved plans.
- g. Prior to approval or conditional approval of a Coastal Development Permit, notice of the pending decision shall be given in compliance with Section 35-181 (Noticing).

2. **Coastal Development Permit for development that is appealable to the Coastal Commission in compliance with Section 35-182 (Appeals) and is not processed in conjunction with a Conditional Use Permit or Development Plan.** This Section provides the processing requirements for applications for Coastal Development Permits for development that is appealable to the Coastal Commission, in compliance with Section 35-182 (Appeals) and that is not subject to Section 35-169.4.3 below.

- a. After receipt of the Coastal Development Permit application, the Planning and Development Department shall review the application in compliance with the requirements of the California Environmental Quality Act, unless the development is determined to be exempt from CEQA ~~in compliance with Guidelines Section 15268.~~
- b. For residential structures on lots adjacent to the sea, the application shall be subject to Design Review in compliance with Section 35-184 (Board of Architectural Review).
- c. The Zoning Administrator shall hold at least one noticed public hearing unless waived in compliance with Subsection 2.e below on the requested Coastal Development Permit and approve, conditionally approve, or deny the request.
- d. Notice of the time and place of the hearing shall be given in compliance with Section 35-181 (Noticing).
- e. The requirement for a public hearing may be waived by the Director in compliance with all of the following requirements:

- 1) The project qualifies as "minor development" which for the purposes of this Section means a development which the Director determines satisfies all of the following requirements:
 - a) The development is consistent with the Local Coastal Program (as defined in Public Resources Code Section 30108.6) of the County of Santa Barbara.
 - b) The development does not require any discretionary approvals other than a Coastal Development Permit.
 - c) The development would have no adverse effect either individually or cumulatively on coastal resources or public access to the shoreline or along the coast.
- 2) Notice that a public hearing shall be held upon request by any person is provided to all persons who would otherwise be required to be notified of a public hearing as well as any other persons known to be interested in receiving notice.
 - a) The notice shall include a statement that failure by a person to request a public hearing may result in the loss of that person's ability to appeal any action taken by the County of Santa Barbara on the Coastal Development Permit application to the County of Santa Barbara and the Coastal Commission.
- 3) A written request for public hearing is not received by the Planning and Development Department within 15 working days immediately following the date the notice, required in compliance with Section 35-169.4.2.e.2 above, is mailed.

If the requirement for a public hearing is waived, then the Director shall be the decision-maker for the Coastal Development Permit. A listing of pending Coastal Development Permit applications for which the public hearing may be waived shall be provided on the Zoning Administrator's hearing agendas.

- f. The action of the decision-maker is final subject to appeal in compliance with Section 35-182 (Appeals).
- g. A Coastal Development Permit approved in compliance with this Section shall not be issued ~~and~~ or deemed effective:
 - 1) Prior to the expiration of the appeal period or, if appealed, prior to final action on the appeal by the decision-maker, including the Coastal Commission, in compliance with Section 35-182 (Appeals).
 - 2) Until the applicant has signed the Coastal Development Permit.
 - 3) Until all conditions of the Coastal Development Permit that are required to be satisfied prior to the issuance of the Coastal Development Permit have been satisfied.
 - 4) Until all other necessary prior approvals have been obtained. and
 - 5) Within the 10 working days following the date of receipt by the Coastal Commission of the County's Notice of Final Action during which time an appeal of the action may be filed in compliance with Section 35-182 (Appeals).

No entitlement for development shall be granted prior to the effective date of the Coastal Development Permit.

- h. If a Coastal Development Permit is requested for property subject to a resolution of the Board of Supervisors initiating a rezoning or amendment to this Article, a Coastal Development Permit shall not be approved or ~~issued~~ conditionally approved while the proceedings are pending on such rezoning or amendment, unless the proposed uses, ~~buildings~~ or structures ~~will~~ conform to both the existing zoning and existing provisions of this Article, and the ~~said~~ rezoning or amendment initiated by the Board of Supervisors, or unless a Preliminary or Final Development Plan was approved by the County before the adoption of ~~said~~ the Board's resolution and the proposed uses or structures are in conformance with the approved Preliminary or Final Development Plan.
- i. On property located within the Montecito Community Plan area, Coastal Development Permits shall include a specific written condition that requires all development be in conformance with approved plans.

3. **Coastal Development Permits processed in conjunction with a Conditional Use Permit or Final Development Plan. This Section provides the processing requirements for applications for Coastal Development Permits for development that also require a Conditional Use Permit (Sec. 35-172) or Final Development Plan (Sec. 35-174).**

- a. An application for a Coastal Development Permit shall be processed concurrently and in conjunction with any associated applications for a Conditional Use Permit or a Final Development Plan.
- b. The decision-maker for the Conditional Use Permit or Final Development Plan as applicable shall be the decision-maker for the Coastal Development Permit.
 - 1) The Zoning Administrator shall be the decision-maker for Coastal Development Permits associated with Final Development Plans under the jurisdiction of the Director (Sec. 35-174) for development that is appealable to the Coastal Commission in compliance with Section 35-182 (Appeals).
- c. After receipt of the Coastal Development Permit application, the Planning and Development Department shall review the application in compliance with the requirements of the California Environmental Quality Act, unless the development is determined to be exempt from CEQA in compliance with Guidelines Section 15268.
- d. The decision-maker shall review the Coastal Development Permit application for conformance with the Comprehensive Plan including the Coastal Land Use Plan and any applicable community or area plan, this Article, and other applicable regulations.
- e. For residential structures on lots adjacent to the sea, the application shall be subject to Design Review in compliance with Section 35-184 (Board of Architectural Review).
- f. For development that is not appealable to the Coastal Commission in compliance with Section 35-182 (Appeals) the decision-maker shall approve, conditionally approve, or deny the requested Coastal Development Permit ~~without a public hearing~~. A public hearing is not required unless required in compliance with Section 35-174.6.6.b.
- g. For development that is appealable to the Coastal Commission in compliance with Section 35-182 (Appeals) the decision-maker shall hold at least one public hearing on the requested

Coastal Development Permit and approve, conditionally approve, or deny the requested Coastal Development Permit.

- ~~1) Notice of the time and place of said hearing shall be given in compliance with Section 35-181 (Noticing).~~
- h. Notice of the time and place of ~~the~~ any applicable public hearing shall be given in compliance with Section 35-181 (Noticing).
- i. The action of the decision-maker on a Coastal Development Permit is final subject to appeal in compliance with Section 35-182 (Appeals).
- 1) In compliance with Public Resources Code Section 30603, a Coastal Development Permit approved in conjunction with a Conditional Use Permit (i.e., any development approved by a coastal county that is not designated as the principal permitted use under the zoning ordinance or zoning district map) is appealable to the Coastal Commission in compliance with Section 35-182 (Appeals).
- 2) In compliance with Public Resources Code Section 30603, a Coastal Development Permit approved in conjunction with a Final Development Plan for appealable development is appealable to the Coastal Commission in compliance with Section 35-182 (Appeals).
- j. A Coastal Development Permit approved in compliance with this Section shall not be issued ~~and~~ or deemed effective:
- 1) Prior to the expiration of the appeal period or, if appealed, prior to final action on the appeal by the decision-maker, including the Coastal Commission, in compliance with Section 35-182 (Appeals).
- 2) Until the applicant has signed the Coastal Development Permit.
- 3) Until all conditions of the Coastal Development Permit that are required to be satisfied prior to the issuance of the Coastal Development Permit have been satisfied.
- 4) Until all other necessary prior approvals have been obtained. and
- 5) Within the 10 working days following the date of receipt by the Coastal Commission of the County's Notice of Final Action during which time an appeal of the action may be filed in accordance with Section 35-182 (Appeals).

No entitlement for development shall be granted prior to the effective date of the Coastal Development Permit.

- k. If a Coastal Development Permit is requested for property subject to a resolution of the Board of Supervisors initiating a rezoning or amendment to this Article, a Coastal Development Permit shall not be approved or ~~issued~~ conditionally approved while the proceedings are pending on such rezoning or amendment, unless the proposed uses, ~~buildings~~ or structures ~~will~~ conform to both the existing zoning and existing provisions of this Article, and the ~~said~~ rezoning or amendment initiated by the Board of Supervisors, or unless a Preliminary or Final Development Plan was approved by the County before the adoption of said the Board's resolution and the proposed uses or structures are in conformance with the approved Preliminary or Final Development Plan.

1. On property located within the Montecito Community Plan area, Coastal Development Permits shall include a specific written condition that requires all development be in conformance with approved plans.

Sec. 35-169.5 Findings Required for Approval of a Coastal Development Permit.

1. A Coastal Development Permit application that is subject to Section 35-169.4.1 above shall be approved or conditionally approved only if the decision-maker first makes all of the following findings:
 - a. The proposed development conforms:
 - 1) To the applicable policies of the Comprehensive Plan, including the Coastal Land Use Plan, and
 - 2) With the applicable provisions of this Article or the project falls within the limited exceptions allowed under Section 35-161 (Nonconforming Use of Land, Buildings and Structures).
 - b. The proposed development is located on a legally created lot.
 - c. The subject property and development on the property is in compliance with all laws, rules and regulations pertaining to zoning uses, subdivisions, setbacks and any other applicable provisions of this Article, and any applicable zoning violation enforcement fees and processing fees have been paid. This subsection shall not be interpreted to impose new requirements on legal nonconforming uses and structures in compliance with Division 10 (Nonconforming Structures and Uses).
2. A Coastal Development Permit application that is subject to Section 35-169.4.2 above shall be approved or conditionally approved only if the decision-maker first makes all of the following findings:
 - a. Those findings specified in Section 35-169.5.1 above.
 - b. The development will not significantly obstruct public views from any public road or from a public recreation area to, and along the coast.
 - c. The development is compatible with the established physical scale of the area.
 - d. The development will comply with the public access and recreation policies of this Article and the Comprehensive Plan including the Coastal Land Use Plan.
3. A Coastal Development Permit application that is subject to Section 35-169.4.3 above shall be approved or conditionally approved only if the decision-maker first makes all of the findings:
 - a. **Coastal Development Permits for development that is not appealable to the Coastal Commission in compliance with Section 35-182 (Appeals):** Those findings specified in Section 35-169.5.1 above.
 - b. **Coastal Development Permits for development that is appealable to the Coastal Commission in compliance with Section 35-182 (Appeals):** Those findings specified in Section 35-169.5.2 above.

Sec. 35-169.6 Expiration.

- ~~1. A Coastal Development Permit shall remain valid only as long as all provisions of this Article~~

~~and the Permit are met.~~

21. Coastal Development Permits approved in compliance with Section 35-169.4.1 and 35-169.4.2.

- a. The approval or conditional approval of a Coastal Development Permit shall be valid for one year from the date of decision-maker action. Prior to the expiration of the approval, the decision-maker who approved the Coastal Development Permit may extend the approval one time for one year if good cause is shown and the applicable findings for the approval required in compliance with Section 35-169.5 can still be made.
- b. A Coastal Development Permit shall expire two years from the date of issuance if the use, building or structure for which the permit was issued has not been established or commenced in conformance with the effective permit. c. Prior to the expiration of such two year period in 1b above, the Director may extend such period one time for one year for good cause shown, provided that the findings for approval required in compliance with Section 35-169.5, as applicable, can still be made.

32. Coastal Development Permits approved in compliance with Section 35-169.4.3.

- a. The approval or conditional approval of a Coastal Development Permit shall be valid for one year from the date of decision-maker action. Prior to the expiration of the approval, the decision-maker who approved the Coastal Development Permit may extend the approval for one year if good cause is shown and the applicable findings for the approval required in compliance with Section 35-169.5 can still be made.
 - 1) Prior to the expiration of a time extension approved in compliance with Subsection 3.a above, the decision-maker who approved the time extension may approve two additional time extensions for two years each if good cause is shown and the applicable findings for the approval required in compliance with Section 35-169.5 can still be made.
- b. A Coastal Development Permit shall expire two years from the date of issuance if the use, ~~building~~ or structure for which the permit was issued has not been established or commenced in conformance with the effective permit.
- c. A Coastal Development Permit whose expiration date has been extended in compliance with Subsections 3.a and/or 3.b above will nevertheless expire at the earlier of: (1) the expiration of the most recent time extension or (2) the expiration of the associated Conditional Use Permit or Development Plan (as modified by any extension thereto).

Sec. 35-169.8 is renumbered as *Sec. 35-169.7*.

Sec. 35-169.9 is renumbered as *Sec. 35-169.8*.

Sec. 35-169.10 is renumbered as *Sec. 35-169.9*.

Sec. 35-169.12 is renumbered as *Sec. 35-169.10*.

Sec. 35-172. Conditional Use Permits.

Sec. 35-172.1 Purpose and Intent. *The existing language of this section is not revised.*

Sec. 35-172.2 Applicability. *The existing language of this section is not revised.*

Sec. 35-172.3 Jurisdiction. *The existing language of this section is not revised.*

Sec. 35-172.4 Minor Conditional Use Permits. *The existing language of this section is not revised.*

Sec. 35-172.5 Major Conditional Use Permits. *The existing language of this section is not revised.*

Sec. 35-172.6 Contents of Application.

1. As many copies of a Conditional Use Permit application as ~~may be~~ required by the Director shall be submitted to the Planning and Development Department. Said application shall contain all or as much of the submittal requirements for a Development Plan (Section 35-174.5) as are applicable to the request.
 - a. If an application for a Conditional Use Permit is submitted for a property located in the Coastal Zone, then an application for a Coastal Development Permit for the development requested by the Conditional Use Permit application shall also be submitted and shall be processed concurrently and in conjunction with Conditional Use Permit application except as follows:
 - 1) The Coastal Commission approves the Coastal Development Permit when the development is located:
 - a) Within the retained permit jurisdiction of the Coastal Commission pursuant to Public Resources Code Section 30519(b); or
 - b) In areas where the County's Local Coastal Program has not been certified by the Coastal Commission.
- The application for the Coastal Development Permit shall contain all of the submittal requirements for a Coastal Development Permit (Section 35-169) that the Director of the Planning and Development Department determines to be applicable to the request.
2. In the case of a Conditional Use Permit application where the project is subject to Development Plan requirements (Section 35-174), a Development Plan shall be required in addition to obtaining a Conditional Use Permit except for those uses listed in Section 35-172.6.3. Notwithstanding the requirements of Section 35-144B (General Regulations - Applications That Are Within The Jurisdiction Of More Than One Final Decision Maker) and Section 35-174 (Development Plans), if the Conditional Use Permit would be under the jurisdiction of the Zoning Administrator, then the development plan shall also be under the jurisdiction of the Zoning Administrator provided:
 - a. The use of the site proposed to be allowed by the Conditional Use Permit is the only proposed use of the site, or
 - b. On a developed site, no new development is proposed beyond that applied for under the minor Conditional Use Permit.
3. A Development Plan shall not be required in addition to a Conditional Use Permit for the following:
 - a. Commercial telecommunication facilities that are permitted by a Conditional Use Permit

pursuant to Section 35-144F.3.3 provided that any structure constructed or erected as part of the telecommunications facility (1) shall only be used as part of the telecommunication facility and (2) shall be removed pursuant to Section 35-144F.5.4 (Project Abandonment/Site Restoration).

Sec. 35-172.7 Processing.

1. After receipt of an application for a Conditional Use Permit, the Planning and Development Department shall review the application in compliance with the California Environmental Quality Act.
2. For residential structures on lots adjacent to the sea, the application shall be subject to Design Review in compliance with Section 35-184 (Board of Architectural Review).
3. The Planning and Development Department shall refer the Conditional Use Permit application to the Subdivision/Development Review Committee for review and recommendation to the decision-maker.
4. The decision-maker shall hold at least one public hearing on the requested Conditional Use Permit and Coastal Development Permit, if applicable, and approve, conditionally approve, or deny the request.
5. Notice of the time and place of said hearing shall be given in the manner prescribed in Section 35-181 (Noticing).
6. The action of the decision-maker is final subject to appeal in compliance with Section 182 (Appeals).
 - a. In compliance with Public Resources Code Section 30603, a Coastal Development Permit on a conditionally permitted use is appealable to the Coastal Commission in compliance with Section 182 (Appeals).
7. Conditional Use Permits may be granted for such period of time and upon such conditions and limitations as may be required to protect the health, safety, and general welfare of the community. Such conditions shall take precedence over those required in the specific zone districts.
8. If a Revised Conditional Use Permit is required as provided in Section 35-172.11, it shall be processed in the same manner as the original permit. When approved by the decision-maker, such revised permit shall automatically supersede any previously approved permit.

Sec. 35-172.8 Findings Required for Approval.

A Conditional Use Permit application shall be approved or conditionally approved only if the decision-maker first makes all of the following findings:

1. That the site for the project is adequate in size, shape, location and physical characteristics to accommodate the type of use and level of development proposed.
2. That adverse environmental impacts are mitigated to the maximum extent feasible.
3. That streets and highways are adequate and properly designed to carry the type and quantity of traffic generated by the proposed use.
4. That there are adequate public services, including but not limited to fire protection, water supply, sewage disposal, and police protection to serve the project.

5. That the project will not be detrimental to the health, safety, comfort, convenience, and general welfare of the neighborhood and will not be incompatible with the surrounding area.
6. That the project is in conformance with the applicable provisions and policies of this Article and the Coastal Land Use Plan.
7. That in designated rural areas the use is compatible with and subordinate to the scenic and rural character of the area.
8. That the project will not conflict with any easements required for public access through, or public use of the property.
9. That the proposed use is not inconsistent with the intent of the zone district.

Sec. 35-172.9 Requirements Prior to Commencement of Conditionally Permitted Uses and Permit Expiration.

1. Prior to the commencement of the development and/or authorized use permitted by the Conditional Use Permit, a Coastal Development Permit authorizing such development and/or use shall be obtained.
2. **Land Use Permit required.** Before the commencement of the development and/or use authorized by a Conditional Use Permit a Land Use Permit authorizing the development and/or use shall be issued in compliance with Section 35-178 (Land Use Permits).
 - a. Where the Coastal Development Permit required by Subsection 1 above has been approved by the Coastal Commission because the development is located within the retained permit jurisdiction of the Coastal Commission, the Land Use Permit shall be issued following approval of the Coastal Development Permit by the Coastal Commission.
3. **Time limit.** At the time of approval of a Conditional Use Permit, a time limit shall be established within which the Land Use Permit shall be issued.
 - a. The time limit shall be a reasonable time based on the nature and size of the proposed development or use.
 - b. If a time limit is not specified, the time limit shall be 18 months from the effective date of the Conditional Use Permit. The effective date shall be the date of expiration of the appeal period on the approval of the Conditional Use Permit, or, if appealed, the date of final action on the appeal by the County or the Coastal Commission.
 - c. The decision-maker with jurisdiction over the project in compliance with Section 35-172.3 (Conditional Use Permits, Jurisdiction) may extend the time limit one time for good cause shown provided:
 - 1) A written request that includes a statement of the reasons for the time extension request is filed with the Planning and Development Department prior to the expiration date.
 - 2) The approved time extension shall not extend the time in which to obtain the required Land Use Permit beyond the maximum potential expiration date of the Coastal Development Permit approved in conjunction with the Conditional Use Permit.
 - d. A Conditional Use Permit shall be considered void and of no further effect if:
 - 1) The required time limit in which to obtain the required Land Use Permit has expired and an extension has not been approved, or

- 2) The Coastal Development Permit approved in conjunction with the Conditional Use Permit has expired.

4. **Conditional Use Permit void.** A Conditional Use Permit shall become void and be automatically revoked if the development and/or authorized use allowed by the Conditional Use Permit is discontinued for a period of more than 12 months. The time limit for discontinuance may be extended by the decision-maker with jurisdiction over the project, in compliance with Section 35-172.3 (Conditional Use Permits, Jurisdiction), one time for good cause shown provided a written request that includes a statement of the reasons for the time extension request, is filed with the Planning and Development Department prior to expiration date.

Sec. 35-172.10 Revocation. The existing language of this section is not revised.

Sec. 35-172.11 Substantial Conformity, Amendments and Revisions.

Changes to a Conditional Use Permit shall be processed as follows:

1. **Substantial Conformity.** The Director may approve a minor change to a Conditional Use Permit, if the Director determines that the change is in substantial conformity with the approved Conditional Use Permit, pursuant to the County's Substantial Conformity Guidelines.
 - a. No public noticing or public hearing shall be required for Substantial Conformity Determinations.
 - b. The action of the Director is final and not subject to appeal.
 - c. Prior to commencement of the development and/or use authorized by the Substantial Conformity Determination, the issuance of a Coastal Development Permit in compliance with Section 35-169 (Coastal Development Permit) or a Land Use Permit in compliance with Section 35-178 (Land Use Permits), as determined below, shall be required to allow the development and/or use authorized by the Substantial Conformity Determination.
 1. **Coastal Development Permit required.** If the development and/or use allowed by the Conditional Use is appealable to the Coastal Commission in compliance with Section 35-182 (Appeals), then prior to commencement of the development and/or use authorized by the Substantial Conformity Determination, the approval of a Coastal Development Permit in compliance with Section 35-169.4.2 (Coastal Development Permit for development that is appealable to the Coastal Commission in compliance with Section 35-182 (Appeals)) shall be required subsequent to the approval of the Substantial Conformity Determination. Prior to the approval of such Coastal Development Permit, an additional finding in addition to Coastal Development Permit findings required in Section 35-169 (Coastal Development Permits), shall be made by the review authority that the development and/or use allowed by the Coastal Development Permit substantially conforms to the Conditional Use Permit.
 2. **Land Use Permit required.** If the development and/or use allowed by the Conditional Use Permit is not appealable to the Coastal Commission in compliance with Section 35-182 (Appeals) and is located within the retained permit jurisdiction of the Coastal Commission; or located in areas where the County's Local Coastal Program has not been certified by the Coastal Commission, then prior to commencement of the development and/or use authorized by the Substantial

Conformity Determination, the approval of a Land Use Permit in compliance with Section 35-178 (Land Use Permits) shall be required subsequent to the approval of the Substantial Conformity Determination. Prior to the approval of such Land Use Permit, an additional finding in addition to the Land Use Permit findings required in Section 35-178 (Land Use Permits), shall be made by the review authority that the development and/or use allowed by the Land Use Permit substantially conforms to the Conditional Use Permit.

2. Amendments.

Where a change to an approved Conditional Use Permit is not in substantial conformity with the approved permit, the Director, or in the case of a Revocation hearing the decision-maker with jurisdiction over the project, may approve, or conditionally approve an application to alter, add, replace, relocate or otherwise amend a Conditional Use Permit, providing:

- a. The area of the parcel(s) that is under review was analyzed for potential environmental impacts and policy consistency as part of the approved permit.
- b. All of the following additional findings can be made:
 - (1) In addition to the findings required for approval of a Conditional Use Permit set forth in this Sec. 35-172.8., the Amendment is consistent with the specific findings of approval, including CEQA findings, that were adopted when the Conditional Use Permit was previously approved.
 - (2) The environmental impacts related to the proposed change are determined to be substantially the same or less than those identified for the previously approved project.
- c. A public hearing shall not be required for amendments to an approved Conditional Use Permit. However notice shall be given at least ten (10) days prior to the date of the decision as provided in Sec. 35-181 (Noticing). The decision-maker may approve, conditionally approve, or deny the Amendment.
- d. Prior to commencement of the development and/or use authorized by the Amendment to the Conditional Use Permit, the issuance of a Coastal Development Permit in compliance with Section 35-169 (Coastal Development Permit) shall be required to allow the development and/or use authorized by the Amendment.
 1. Coastal Development Permit required. Prior to commencement of the development and/or use authorized by the Amendment, the approval of a Coastal Development Permit in compliance with Section 35-169.4.2 (Coastal Development Permit for development that is appealable to the Coastal Commission in compliance with Section 35-182 (Appeals)) shall be required subsequent to the approval of the Amendment.

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Sec. 35-172.12 Conditions, Restrictions, and Modifications. The existing language of this section is not revised.

Sec. 35-172.13 Additional Requirements. The existing language of this section is not revised.

Sec. 35-174. Development Plans.

Sec. 35-174.1 Purpose and Intent. The existing language of this section is not revised.

Sec. 35-174.2 Applicability

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2. The following shall be under the jurisdiction of the Director and shall be processed as set forth herein:

- a) In the Highway Commercial (CH), Limited Commercial (C-1), Retail Commercial (C-2), General Commercial (C-3), Industrial Research Park (M-RP), Light Industry (M-1), General Industry (M-2), Shopping Center Commercial (SC), Service Industrial Goleta (M-S-GOL), and Professional and Institutional (PI) zoning districts, Preliminary and Final Development Plans for buildings and structures which do not exceed a total of 10,000 square feet when combined with all outdoor areas designated for sales or storage and existing buildings and structures on the site.
- b) In all zone districts, Final Development Plans for projects that were legally permitted and developed without an effective Development Plan where the project is now considered nonconforming due to the absence of a Development Plan provided that no revisions to the existing development are proposed in connection with the Final Development Plan application. If revisions to the existing development are proposed, then the application shall be processed as if it were an application for a new project and the jurisdiction shall be determined pursuant to Section 35-174.2.
- c) Communication facilities as specified in Section 35-144F.
- d) In all zones, Final Development Plans for projects where the Board of Supervisors, Planning Commission, Zoning Administrator, or Director approved the Preliminary Development Plan and the conditions of approval of the Preliminary Development Plan do not specify a decision-maker for the Final Development Plan other than the Director.

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Sec. 35-174.3 Contents of a Preliminary Development Plan. The existing language of this section is not revised

Sec. 35-174.4 Processing of Preliminary Development Plans.

1. For all development within the Coastal Zone proposed between Gaviota Beach State Park and the Santa Maria River, upon receipt of the Preliminary Development Plan, the Planning and Development Department shall transmit one copy of the plan to the Air Force Missile Flight Safety Office (WSMC-SE), USAF, Vandenberg. The Air Force may submit to the Planning and Development Department available information regarding missile debris hazards for the County to consider in reviewing the Preliminary Development Plan. Such information shall be provided to the County within 30 days of the date of transmittal and the County shall immediately send a copy to the applicant.
2. After receipt of an application for a Preliminary Development Plan, the Planning and Development Department shall review the application in compliance with the requirements of the California Environmental Quality Act.

3. The Planning and Development Department shall refer the application to the Subdivision/Development Review Committee and the Board of Architectural Review for review and recommendation to the decision-maker.
4. **Notice, public hearing and decision.**
 - a. **Preliminary Development Plans under the jurisdiction of the Director.** A public hearing shall not be required if the Director is the decision-maker for the Preliminary Development Plan in compliance with Section 35-174.2.
 - 1) Notice of the pending decision of the Director shall be given at least 10 days before the date of the Director's decision in compliance with Section 35-181 (Noticing).
 - 2) The Director may approve, conditionally approve, or deny the Preliminary Development Plan.
 - 3) The action of the Director's decision is final subject to appeal in compliance with Section 35-182 (Appeals).
 - b. **Preliminary Development Plans under the jurisdiction of the Planning Commission or Zoning Administrator.** A public hearing shall be required if the Planning Commission or Zoning Administrator is the decision-maker on the Preliminary Development Plan.
 - 1) The decision-maker shall hold at least one noticed public hearing on the requested Preliminary Development Plan and approve, conditionally approve, or deny the request.
 - 2) The action of the decision-maker is final subject to appeal in compliance with Section 35-182 (Appeals).
5. If the Preliminary Development Plan is processed in conjunction with a rezone application, the Planning Commission shall recommend approval, conditional approval or denial of the Preliminary Development Plan, or Final Development Plan and Coastal Development Permit if applicable, to the Board of Supervisors.
6. If a Revised Preliminary Development Plan is required as provided in Section 35-174.10, it shall be processed in the same manner as the original plan. When approved by the Board of Supervisors, Planning Commission, Zoning Administrator, or Director, such revised plan shall automatically supersede any previously approved plan.

Sec. 35-174.5 Contents of Final Development Plan.

1. As many copies of the Final Development Plan as may be required shall be submitted to the Planning and Development Department. Unless specifically waived by the Director, the information submitted shall consist of the following:
 - a. All information and maps required under Section 35-174.3, Preliminary Development Plan submittal.
 - b. Floor plans of each building indicating ground floor area and total floor area of each building.
 - c. Proposed landscaping indicating type of irrigation proposed, irrigation plan indicating existing and proposed trees, shrubs, and ground cover, and delineating species, size,

placement. Where the provisions of this Article require a Landscape Plan in conjunction with proposed development the following shall apply:

- 1) The Planning and Development Department shall review the landscape plan and may approve or conditionally approve said plan. Said landscape plans shall be prepared by a registered landscape Architect.
 - 2) Prior to the issuance of the Coastal Development Permit for the development, a performance security, in an amount to be determined by the Planning and Development Department to guarantee the installation of plantings, walls, and fences, in accordance with the approved landscape plan, and adequate maintenance of the planting shall be filed with the County, if deemed necessary by the Planning and Development Department.
- d. Description of proposed Homeowners Association (if applicable), indicating major elements to be included in the CC&Rs, deeds, and restrictions and methods of open space maintenance.
 - e. The proposed method of fulfilling all conditions of approval required on the Preliminary Development Plan.
 - f. If an application for a Final Development Plan is submitted for a property located in the Coastal Zone, then an application for a Coastal Development Permit for the development requested by the Final Development Plan application shall also be submitted and shall be processed concurrently and in conjunction with Final Development Plan application except as follows:
 - 1) The Coastal Commission approves the Coastal Development Permit when the development is located:
 - a) Within the retained permit jurisdiction of the Coastal Commission; or
 - b) In areas where the County's Local Coastal Program has not been certified by the Coastal Commission.

The application for the Coastal Development Permit shall contain all of the submittal requirements for a Coastal Development Permit (Section 35-169) that the Director of the Planning and Development Department determines to be applicable to the request.

- g. Any other supplementary information requested by the Planning and Development Department.

Sec. 35-174.6 Processing of Final Development Plans.

1. After receipt of an application for a Final Development Plan, the Planning and Development Department shall review the application in compliance with the requirements of the California Environmental Quality Act.
2. The Planning and Development Department shall refer the application to the Board of Architectural Review for final review and recommendations, if necessary. "As built" Development Plans that include exterior alterations shall be subject to the provisions of Section 35-184 (Board of Architectural Review).

3. The Planning and Development Department shall refer the application to the Subdivision/Development Review Committee for review and recommendation to the decision-maker.
4. When the Board of Supervisors, Planning Commission, Zoning Administrator, or Director has approved the Preliminary Development Plan, the Director shall be the decision-maker for the Final Development unless:
 - a. Conditions of the Preliminary Development Plan indicate otherwise; or
 - b. The Preliminary Development Plan is appealable to the Coastal Commission in compliance with Section 35-182 (Appeals), then the review authority shall be the Zoning Administrator.
5. When an application for a Final Development Plan is submitted for development that is appealable to the Coastal Commission in compliance Section 35-182 (Appeals), the Zoning Administrator shall be the decision-maker for the Final Development Plan if the Director is otherwise designated as the decision-maker in compliance with this Article.
6. **Notice, public hearing and decision.**
 - a. **Final Development Plans under the jurisdiction of the Director.** A public hearing shall not be required if the Director is the decision-maker for the Final Development Plan.
 - 1) Notice of the pending decision of the Director on the Final Development Plan shall be given at least 10 days before the date of the Director's decision in compliance with Section 35-181 (Noticing).
 - 2) The Director may approve, conditionally approve, or deny the Final Development Plan.
 - 3) The action of the Director on the Final Development Plan is final subject to appeal in compliance with Section 35-182 (Appeals).
 - 4) The Director may approve minor changes to the Final Development Plan. If the Final Development Plan has any substantial changes from the Preliminary Development Plan approved by the Board of Supervisors, Planning Commission, or Zoning Administrator, the Director shall refer the Final Development Plan to the decision-maker with jurisdiction for approval.
 - b. **Final Development Plans under the jurisdiction of the Planning Commission or Zoning Administrator.** A public hearing shall be required if the Planning Commission or Zoning Administrator is the decision-maker for the Development Plan.
 - 1) The decision-maker shall hold at least one noticed public hearing on the requested Final Development Plan and approve, conditionally approve, or deny the request.
 - 2) Notice of the hearing shall be given in compliance with Section 35-181 (Noticing).
 - 3) The action of the review authority is final subject to appeal in compliance with Section 35-182 (Appeals).
7. When a Preliminary Development Plan has not been filed as provided in Section 35-174.2.3, the Final Development Plan shall be processed in compliance with Section 35-174.4 (Processing of Preliminary Development Plan).

8. **Coastal Development Permit processed in conjunction with a Final Development Plan.** The related Coastal Development Permit shall be processed in compliance with Section 35-169 (Coastal Development Permits) including the requirement that the decision-maker shall hold at least one noticed public hearing for the related Coastal Development Permit where the Final Development Plan includes development that is appealable to the Coastal Commission in compliance with Section 35-182 (Appeals).

Sec. 35-174.7 Findings Required for Approval.

A Preliminary or Final Development Plan application shall be approved or conditionally approved only if the decision-maker first makes all of the following findings, as applicable:

1. Findings for all Preliminary or Final Development Plans.
 - a. That the site for the project is adequate in size, shape, location, and physical characteristics to accommodate the density and level of development proposed.
 - b. That adverse impacts are mitigated to the maximum extent feasible.
 - c. That streets and highways are adequate and properly designed to carry the type and quantity of traffic generated by the proposed use.
 - d. That there are adequate public services, including but not limited to fire protection, water supply, sewage disposal, and police protection to serve the project.
 - e. That the project will not be detrimental to the health, safety, comfort, convenience, and general welfare of the neighborhood and will not be incompatible with the surrounding area.
 - f. That the project is in conformance with 1) the Comprehensive Plan, including the Coastal Land Use Plan, and 2) with the applicable provisions of this Article and/or the project falls with the limited exception allowed under Section 35-161.7.
 - g. That in designated rural areas the use is compatible with and subordinate to the scenic, agricultural and rural character of the area.
 - h. That the project will not conflict with any easements required for public access through, or public use of a portion of the property.
 - i. Additional findings, identified in Division 15 (Montecito Community Plan Overlay District), are required for those parcels identified with the MON overlay zone.
2. **Additional findings for Final Development Plans that follow an approved Preliminary Development Plan.** A Final Development Plan that follows an approved Preliminary Development Plan shall be approved or conditionally approved only if the decision-maker first makes all of the following :
 - a. The Final Development Plan is in substantial conformity with any approved Preliminary or Revised Preliminary Development Plan
 - 1) If the Final Development Plan is under the jurisdiction of the Director, and the Director cannot find that the Final Development Plan is in substantial conformity with the Preliminary Development Plan, then the Director shall refer the Final

Development Plan to the decision-maker that approved the Preliminary Development Plan.

Sec. 35-174.8 Conditions, Restrictions, and Modifications. *The existing language of this section is not revised.*

Sec. 35-174.9 Requirements Prior to Commencement of Development Allowed by a Final Development Plan and Development Plan Expiration.

1. **Coastal Development Permit required.** Prior to the commencement of the development and/or authorized use permitted by the Final Development Plan, a Coastal Development Permit authorizing such development and/or use shall be obtained.
2. **Land Use Permit required.** Before the commencement of development and/or use allowed by a Final Development Plan a Land Use Permit authorizing the development and/or use shall be issued in compliance with Section 35-178 (Land Use Permits).
 - a. Where the Coastal Development Permit required by Subsection 1 above has been approved by the Coastal Commission because the development is located within the retained permit jurisdiction of the Coastal Commission, the Land Use Permit shall be issued following approval of the Coastal Development Permit by the Coastal Commission.
2. **Time limit.**
 - a. A Preliminary Development Plan shall expire two years after its approval, except that, for good cause shown, it may be extended for one year from the date the extension is granted by the Director, Zoning Administrator, or Planning Commission. The Preliminary Development Plan shall expire one year from the date the extension was granted or two years from the expiration date of the originally approved Development Plan, whichever comes first. A written request to extend the life of the Preliminary Development Plan must be received prior to the expiration of such Plan.
 - b. Except as provided in Section 35-174.9.3 below, Final Development Plans shall expire five years after approval unless, prior to the expiration date, substantial physical construction has been completed on the development or a time extension has been applied for by the applicant. The decision-making body with jurisdiction for the development project may, upon good cause shown, grant a time extension of one year. The Development Plan shall expire one year from the date the extension was granted or two years from the expiration date of the originally approved Final Development Plan, whichever comes first. A written request to extend the life of the Final Development Plan must be received prior to the expiration of such Plan.
 - c. In the designated Rural Area, for parcels with a base Zone District of AG-II and no designated Coastal Plan or Zoning overlays, Final Development Plans for Agricultural Development shall expire 10 years after approval unless, prior to the expiration date, substantial physical construction has been completed on the development or a time extension has been applied for by the applicant. The decision-making body with jurisdiction for the development project may, upon good cause shown, grant a time extension of one year from the date the extension was granted for the Final Development Plan. The Development Plan shall expire one year from the date the extension was granted or two years from the expiration date of the originally approved Final Development Plan, whichever comes first. A written request to extend the life of the Final Development Plan

must be received prior to the expiration of such Plan.

- d. The limitation imposed by this section requiring time extensions to expire two years from the expiration date of the originally approved preliminary or final development plan shall not apply to applications for time extensions filed before July 18, 1996.

Sec. 35-174.10 Substantial Conformity, Amendments and Revisions.

Changes to a Preliminary or Final Development Plan, shall be processed as follows:

1. **Substantial Conformity.** The Director may approve a minor change to a Final Development Plan if the Director determines that the change is in substantial conformity with the Final Development Plan, pursuant to the County's Substantial Conformity Guidelines.

- a. No public noticing or public hearing shall be required for Substantial Conformity Determinations.

- b. The action of the Director is final and not subject to appeal.

- c. Prior to commencement of the development and/or use authorized by the Substantial Conformity Determination, the issuance of a Coastal Development Permit in compliance with Section 35-169 (Coastal Development Permit) or a Land Use Permit in compliance with Section 35-178 (Land Use Permits), as determined below, shall be required to allow the development and/or use authorized by the Substantial Conformity Determination.

1. **Coastal Development Permit required.**

- a. **Appealable development.** If the development and/or use allowed by the Final Development Plan is appealable to the Coastal Commission in compliance with Section 35-182 (Appeals), then prior to commencement of the development and/or use authorized by the Substantial Conformity Determination, the approval of a Coastal Development Permit in compliance with Section 35-169.4.2 (Coastal Development Permit for development that is appealable to the Coastal Commission in compliance with Section 35-182 (Appeals)) shall be required subsequent to the approval of the Substantial Conformity Determination.

- b. **Non-appealable development.** If the development and/or use allowed by the Final Development Plan is not appealable and where the County has previously issued a Coastal Development Permit, then prior to commencement of the development and/or use authorized by the Substantial Conformity Determination, the approval of a Coastal Development Permit in compliance with Section 35-169.4.1 (Coastal Development Permit for development that is not appealable to the Coastal Commission in compliance with Section 35-182 (Appeals)) shall be required subsequent to the approval of the Substantial Conformity Determination.

- c. **Findings.** Prior to the approval of such Coastal Development Permit, an additional finding in addition to Coastal Development Permit finding required in Section 35-169 (Coastal Development Permits), shall be made by the review authority that the development and/or use allowed by the Coastal Development Permit substantially conforms to the Final Development Plan.

2. **Land Use Permit required.** If the development and/or use allowed by the Final Development Plan is not appealable to the Coastal Commission in compliance with

Section 35-182 (Appeals) and is located within the retained permit jurisdiction of the Coastal Commission; or located in areas where the County's Local Coastal Program has not been certified by the Coastal Commission, then prior to commencement of the development and/or use authorized by the Substantial Conformity Determination, the approval of a Land Use Permit in compliance with Section 35-178 (Land Use Permits) shall be required subsequent to the approval of the Substantial Conformity Determination. Prior to the approval of such Land Use Permit, an additional finding, in addition to Land Use Permit findings required in Section 35-178 (Land Use Permits), shall be made by the review authority that the development and/or use allowed by the Land Use Permit substantially conforms to the Final Development Plan.

2. Amendments.

Where a Final Development Plan is not in substantial conformity with the approved plan, the Director may approve, or conditionally approve an application to alter, add, replace, relocate or otherwise amend a Final Development Plan, providing:

- a. The area of the proposed new development that is under review was 1) analyzed for potential environmental impacts and policy consistency as a part of the approved permit and an addendum to the previous environmental document could be prepared, or 2) was not analyzed in a previous environmental document and policy consistency was not considered as part of the approved permit, but the proposed new development could be found to be exempt from CEQA.
- b. All of the following additional findings can be made:
 - (1) In addition to the findings required for approval of a Final Development Plan set forth in this Sec. 35-174.7., the proposed Amendment is consistent with the specific findings of approval, including CEQA findings, if applicable, that were adopted when the Final Development Plan was previously approved.
 - (2) The environmental impacts related to the proposed change are substantially the same or less than those identified for the previously approved project.
- c. A public hearing shall not be required for Amendments to a Final Development Plan. However, notice shall be given at least ten (10) days prior to the date of the Director's decision as provided in Sec. 35-181 (Noticing). The Director may approve, conditionally approve, or deny the Amendment.
- d. Prior to commencement of the development and/or use authorized by the Amendment, the issuance of a Coastal Development Permit in compliance with Section 35-169 (Coastal Development Permit) or a Land Use Permit in compliance with Section 35-178 (Land Use Permits), as determined below, shall be required to allow the development and/or use authorized by the Amendment.

1. Coastal Development Permit required.

- a. Appealable development. If the development and/or use allowed by the Final Development Plan is appealable to the Coastal Commission in compliance with Section 35-182 (Appeals), then prior to commencement of the development and/or use authorized by the Amendment, the approval of a Coastal Development Permit in

compliance with Section 35-169.4.2 (Coastal Development Permit for development that is appealable to the Coastal Commission in compliance with Section 35-182 (Appeals)) shall be required subsequent to the approval of the Amendment.

b. Non-appealable development. If the development and/or use allowed by the Final Development Plan is not appealable and where the County has previously issued a Amendment, then prior to commencement of the development and/or use authorized by the Amendment, the approval of a Coastal Development Permit in compliance with Section 35-169.4.1 (Coastal Development Permit for development that is not appealable to the Coastal Commission in compliance with Section 35-182 (Appeals)) shall be required subsequent to the approval of the Amendment.

2. Land Use Permit required. If the development and/or use allowed by the Final Development Plan is not appealable to the Coastal Commission in compliance with Section 35-182 (Appeals) and is located within the retained permit jurisdiction of the Coastal Commission; or located in areas where the County's Local Coastal Program has not been certified by the Coastal Commission, then prior to commencement of the development and/or use authorized by the Amendment, the approval of a Land Use Permit in compliance with Section 35-178 (Land Use Permits) shall be required subsequent to the approval of the Amendment.

...

3. Revisions.

- a. A Revised Development Plan shall be required for changes to a Preliminary or Final Development Plan where the findings cannot be made in compliance with Section 35-174.10.2 for Amendments and substantial conformity in compliance with Section 35-174.10.1 cannot be determined.
- b. A Revised Development Plan shall be processed in the same manner as a new Preliminary or Final Development Plan.

Sec. 35-178. Land Use Permits.

Sec. 35-178.1 Purpose and Intent.

1. **Purpose.** This Section establishes procedures and findings for the issuance of, and effective time periods for, Land Use Permits, where the County approves certain discretionary permits for new development and either the County or the Coastal Commission approves the Coastal Development Permit under the following circumstances:
 - a. **Coastal Development Permits approved by the Coastal Commission.** The Coastal Commission approves the Coastal Development Permit when the development is:
 - 1) Located within the retained permit jurisdiction of the Coastal Commission; or
 - 2) Located in areas where the County's Local Coastal Program has not been certified by the Coastal Commission.

The approval of a Land Use Permit by the County is required following the approval of the Coastal Development Permit approved by the Coastal Commission.

- b. **Coastal Development Permits approved by the County.** The County approves a Coastal Development Permit in conjunction with the approval of a Conditional Use Permit or Development Plan, provided the development is not subject to Section 35-178.1.a above. In these cases, the Land Use Permit is the final permit required by the Planning and Development Department to represent compliance with any conditions established by the County in the Conditional Use Permit or Development Plan, and does not have any effect on the associated Coastal Development Permit

2. **Intent.** The intent of this Section is to ensure that development proposals are in compliance with the provisions of this Article, the Comprehensive Plan, including the Coastal Land Use Plan and any applicable community or area plan, and any conditions established by the County.

Sec. 35-178.2 Applicability.

The provisions of this Section shall apply to all development and uses listed within this Article as requiring a Land Use Permit, including development and uses identified in Section 35-178.1 above.

Sec. 35-178.3 Contents of the Application. The existing language of this section is not revised.

Sec. 35-178.4 Processing.

1. The Director shall review the Land Use Permit application for compliance with the Comprehensive Plan, including the Coastal Land Use Plan and any applicable community or area plan, this Article, and other applicable regulations, and approve, conditionally approve, or deny the Land Use Permit.
2. The action of the Director is final subject to appeal in compliance with Section 35-182 (Appeals).
3. A Land Use Permit approved in compliance with this Section shall not be issued and deemed effective:
 - a. Prior to the expiration of the appeal period or, if appealed, prior to final action on the appeal by the decision-maker in compliance with Section 35-182 (Appeals).
 - b. Until all conditions of the Land Use Permit that are required to be satisfied prior to the issuance of the Land Use Permit have been satisfied.
 - c. Until all necessary approvals, including issuance of a Coastal Development Permit by the California Coastal Commission if required, have been obtained.
4. In the case of a development which requires a public hearing and final action by the Planning Commission or the Zoning Administrator, or final action by the Director, any subsequently required Land Use Permit shall not be approved or issued within 10 calendar days following the date that the Planning Commission, Zoning Administrator, or Director took final action, during which time an appeal may be filed in compliance with Section 35-182 (Appeals).
5. If a Land Use Permit is requested for property subject to a resolution of the Board of Supervisors initiating a rezoning or amendment to this Article, a Land Use Permit shall not be approved or conditionally approved while the proceedings are pending on such rezoning or amendment, unless the proposed uses or structures will conform to the existing zoning and existing provisions

of this Article and the rezoning or amendment initiated by the Board of Supervisors unless a Preliminary or Final Development Plan was approved by the County before the adoption of the Board's resolution.

Sec. 35-178.5 Findings Required for Approval of a Land Use Permit.

A Land Use Permit shall be approved or conditionally approved only if the decision-maker first makes all of the following findings:

1. The proposed development conforms:
 - a. To the applicable policies and provisions of the Comprehensive Plan, including the Coastal Land Use Plan and,
 - b. With the applicable provisions of this Article; or falls within the limited exception allowed under Section 35-161 (Nonconforming Use of Land, Buildings and Structures).
2. The proposed development is located on a legally created lot.
3. The subject property is in compliance with all laws, rules, and regulations pertaining to zoning uses, subdivisions, setbacks and any other applicable provisions of this Article, and any applicable zoning violation enforcement fees and processing fees have been paid. This subsection shall not be interpreted to impose new requirements on legal nonconforming uses and structures in compliance with Division 10 (Nonconforming Structures and Uses).

Sec. 35-178.6 Expiration. The existing language of this section is not revised.

Sec. 35-178.7 Revocations. The existing language of this section is not revised.